

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable J. Derham Cole, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TONY LAMETRIUS LEAMON,

APPELLANT

APPELLATE CASE NO 2017-001626

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	2014-GS-23-07832
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
TONY LAMETRIUS LEAMON,	)	VOLUME I
DEFENDANT.	)	
_____	)	

July 17 and 18, 2017
 Greenville, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, JUDGE; and a jury.

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 Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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P R O C E E D I N G S

(WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45 were marked for identification only.)

MS. PARRISH: May it please the Court.

THE COURT: Yes, ma'am.

MS. PARRISH: Your Honor, Lisa Parrish for the State.

This is the State v. Tony Leamon, indictment 2014-GS-23-07832, one count of murder and one count of possession of a weapon during the commission of a violent crime.

It is my understanding that we are headed to a jury trial today. The State is ready to proceed.

THE COURT: Mr. Robinson, you represent Mr. Leamon?

MR. ROBINSON: I do so, Your Honor. We are ready to go, too.

THE COURT: Okay.

MR. ROBINSON: Good morning, Judge.

Nice to see you.

THE COURT: Good morning.

Do we have any matters that need to be addressed prior to jury selection?

MS. PARRISH: Yes, sir, Your Honor.

1 We have a number of things. I believe -- luckily,
2 Mr. Robinson and I have been in touch multiple times.
3 We've met. And we have reviewed a number of items by
4 consent. If I may go ahead and brief the Court on that.

5 THE COURT: Okay.

6 MS. PARRISH: First, Your Honor, I believe that so
7 long as the State does not call witness number 21, Carolus
8 Bellinger, we will stipulate -- there's a stipulation to
9 the admissibility of the 911 calls.

10 MR. ROBINSON: Yes.

11 MS. PARRISH: Okay. So the State will agree to do
12 that.

13 Finally, Your Honor -- or, second, Your Honor, we do
14 have a stipulation agreement regarding the cause and
15 manner of death, the direction of the bullet, the victim's
16 toxicology report, and the height of the parties that the
17 State will admit into evidence at some point during the
18 trial.

19 Your Honor, the State will -- has agreed to not
20 introduce an affidavit accompanying the photo lineup of
21 Eric Jones. However, we do need to have Neal v. Biggers
22 hearings on -- I believe it is five of the eyewitness
23 identifications.

24 Your Honor, the State has proposed a redaction on a
25 video of witness Janetta Kyles. We don't anticipate using

1 that in our case in chief. It would only be for
2 impeachment purposes. I believe Mr. Robinson had a
3 problem with that video. I've asked him to create a
4 redaction of his own.

5 Your Honor, the parties have looked at and examined
6 all of the pieces of evidence that the State intends to
7 introduce. And I believe there are no objections to any
8 of those items, which have already been marked by the
9 court reporter.

10 THE COURT: And what are the numbers of those items?

11 MS. PARRISH: One through...

12 THE COURT REPORTER: 45.

13 THE COURT: 45?

14 THE COURT REPORTER: 45, yes, sir.

15 MS. PARRISH: And there may be a few more. I just
16 received the photo lineups. But we --

17 THE COURT: Well, so far State's Exhibit Nos. 1
18 through 45 have been marked and there's no objection to
19 those, Mr. Robinson?

20 MR. ROBINSON: That is correct, Your Honor.

21 THE COURT: Okay.

22 MS. PARRISH: Your Honor, as to the chain of custody,
23 I believe that so long as the State establishes a proper
24 foundation with the witness who obtained the evidence, the
25 Defense is not going to require us to call the custodian

1 of property and evidence.

2 MR. ROBINSON: That is correct, Your Honor.

3 THE COURT: Okay.

4 MS. PARRISH: And the State has agreed to sequester
5 all witnesses. And the State agrees to the Defense's
6 proposed voir dire.

7 THE COURT: All right. Well, so far as sequestration
8 goes, it's all agreed to. But I don't know who -- I mean,
9 I don't know what witnesses are present. So I'll have to
10 rely upon each of you to know who those witnesses are and
11 be certain that they're not in the courtroom, and they're
12 properly instructed as to what their obligations are
13 during sequestration.

14 MS. PARRISH: Yes, sir, Your Honor.

15 MR. ROBINSON: Yes, sir, Judge.

16 THE COURT: Okay. What else?

17 MS. PARRISH: Your Honor, I believe that we need to
18 have Neil v. Biggers hearings at the request of the
19 Defense. And I believe there's, also, some evidence that
20 Mr. Robinson wants suppressed.

21 THE COURT: Okay.

22 MS. PARRISH: Mr. Robinson can speak to that.

23 THE COURT: Okay. And which of the witnesses
24 identifications are at issue?

25 MS. PARRISH: Your Honor, we have photo lineups from

1 number -- witness number nine, Darrion Boyd; witness
2 number 10, Eric Jones; witness number 11, Enjoli
3 Henderson; victim [sic] number 13, Yasheeki Harper; and
4 witness number 14, Alisha Nikki Taylor.

5 THE COURT: Okay. Mr. Robinson, what -- what is it
6 that you're seeking to have excluded?

7 MR. ROBINSON: May it please the Court, Your Honor.

8 It is a -- a motion in limine. And this is what the
9 issue that I have is, and I need to make this in limine.

10 Mr. Leamon went to Texas after this incident happened
11 at the Black and Mild Club back in 2014. And the State is
12 planning on using that, I believe, in opening statement,
13 as well as throughout this trial to -- to indicate an
14 inference of guilt. And I'd like to have that limited.
15 Because I don't know if they're going to be able to tie
16 that trip to Texas with this incident showing that he was
17 trying to evade prosecution in this case.

18 Because I don't believe that the warrant that they
19 had for him existed tying him going to Texas. And he went
20 to Texas. Then he was brought back to Greenville where
21 he's been in jail ever since. That's the issue I have,
22 the flight issue, Your Honor.

23 THE COURT: All right. Ms. Parrish.

24 MS. PARRISH: Well, I thought we were discussing the
25 photo lineups. But as to the evidence --

1 THE COURT: Well, we're going to discuss those next,
2 because you're going -- we're going to have a hearing on
3 that. But I'm just trying to find out what it is that --
4 you said he wanted to suppress something --

5 MS. PARRISH: Yes, sir, Your Honor.

6 THE COURT: -- so I was trying to find out what that
7 was.

8 MS. PARRISH: Yes, sir.

9 As to the flight as evidence of guilt, the State does
10 intend to introduce information on that in trial and speak
11 of it throughout. The State has two to three proposed
12 witnesses who would testify that Mr. Leamon was very well
13 aware that he was wanted.

14 Warrants were issued for his arrest on June 14th,
15 which was, actually, the date of the homicide. He did not
16 flee to Texas for several weeks after that. And we have
17 the witnesses where he was hiding out up until then. And
18 those would be the same witnesses that then drove him to
19 Texas where they were all, ultimately, extradited back to
20 South Carolina.

21 THE COURT: But these witnesses are going to testify
22 that Mr. Leamon was aware that he was being sought --

23 MS. PARRISH: Yes, sir, Your Honor.

24 THE COURT: -- as a Defendant --

25 MS. PARRISH: And we can proffer their testimony now.

1 THE COURT: Ma'am?

2 MS. PARRISH: We can proffer their testimony now, if
3 you'd like.

4 THE COURT: I mean, as long as --

5 Well, Mr. Robinson, are you aware of those witnesses
6 and what they'd testify --

7 MR. ROBINSON: I am. There's two witnesses, Your
8 Honor. I'm aware.

9 THE COURT: Okay.

10 MS. PARRISH: And he -- they have all provided video
11 statements, which we provided and we, actually, wrote up
12 transcripts of those statements again showing that
13 Mr. Leamon knew he was wanted, saw himself on the news,
14 did not leave the house for two weeks, and then still went
15 to Texas with these individuals.

16 THE COURT: All right. Is that a fair representation,
17 Mr. Robinson?

18 MR. ROBINSON: The representation, yes, it is.

19 THE COURT: Okay. Well, that appears to make that
20 relevant as to flight and guilt -- knowledge of guilt. So
21 I think it's fair game.

22 All right. Now, what about the Biggers hearing?

23 MS. PARRISH: I believe that's a Defense motion, Your
24 Honor.

25 MR. ROBINSON: It is.

1 May it please the Court.

2 Your Honor, the sheriff's office, in this case, what
3 they did, they -- they got these videos. They -- and I've
4 got copies of the videos and have looked at the videos,
5 and so forth. In the one case with Eric Jones, he didn't
6 see the incident, but he signed off on a -- an eyewitness
7 statement saying that he saw the incident where he didn't
8 actually -- he, actually, told Mr. Fortner -- or
9 Investigator Fortner in his interview he didn't see it.

10 But the statement that he -- Mr. Fortner had him
11 write out on the eyewitness thing where he gave a
12 six-person lineup says, I saw Mr. Leamon shoot this
13 individual, and he never said that. That's one issue.
14 That's one issue with Mr. Jones.

15 The other issues -- besides Mr. Jones, the other
16 witnesses Enjoli Henderson, Ms. Alisha -- the other
17 witnesses that they have statements from besides Mr. Boyd,
18 who I believe it would be a violation of Neil v. Biggers
19 because this officer in Mr. Boyd's interview, actually,
20 says "Tony" when he was interviewing him. The person who
21 shot this guy, he, actually, says "Tony" at one point.

22 The other folks that we're talking about -- besides
23 Mr. Jones, the other three people, in this case, they
24 didn't see it. They said, we didn't see it. We turned
25 around, saw something. But none of them saw the incident.

1 And I have an issue with an eyewitness with a
2 six-person lineup being done and that person saying I saw
3 it when in their statement -- in their -- either their
4 written statement or their video, they said, I didn't see
5 it.

6 THE COURT: Well, I can understand fully how that
7 goes to the credibility of the witnesses testimony. But
8 the Biggers hearing is to determine if there's any
9 impermissible suggestiveness on the part of the police
10 that suggested to a potential witness that some particular
11 individual was a person who committed the crime.

12 MR. ROBINSON: Yes, sir, Your Honor.

13 THE COURT: Well -- well, so am I confused?

14 MR. ROBINSON: Your Honor, the only one -- then if --
15 I'm just taking issue with the -- as far as the
16 credibility goes, the weight of the evidence as far as
17 them putting down that they saw it, writing that they saw
18 it when they, actually, didn't see it.

19 THE COURT: Well, I understand. And that's -- that's
20 fair game for examination. But what I'm saying is the --
21 the Solicitor's understanding is that there were five
22 separate --

23 MR. ROBINSON: There was.

24 THE COURT: -- photographic lineups.

25 MR. ROBINSON: Yes, sir.

1 THE COURT: Five separate individuals that looked at
2 the lineups. And those five people picked out someone in
3 a lineup.

4 Do you find that there was something wrong with the
5 lineup? Did the police do something wrong? Did they
6 suggest someone in the lineup?

7 MR. ROBINSON: I think there were two. One was Eric
8 Jones, and the second was Mr. Darrion Boyd where the
9 officer, actually, says my client's name. He didn't say
10 Tony Leamon, but he said "Tony" in this case. There's
11 only one Tony Leamon to talk about.

12 THE COURT: So you just need a hearing on the Boyd
13 and Jones --

14 MR. ROBINSON: Yes, sir.

15 THE COURT: -- identifications?

16 MR. ROBINSON: Under Neil v. Biggers, yes, Your
17 Honor.

18 THE COURT: Okay.

19 MS. PARRISH: Your Honor, we will go ahead and first
20 call Darrion Boyd to the stand.

21 THE CLERK: Raise your right hand and place your left
22 hand on the Bible.

23 WHEREUPON,

24 DARRION SHAMAR BOYD,
25 after first having been duly sworn, testified as follows:

1 THE CLERK: Please have a seat.

2 And will you state your full name for the record?

3 THE WITNESS: Darrion Shamar Boyd.

4 THE CLERK: Thank you.

5 (WHEREUPON, State's Exhibit Nos. 46, 47, 48, 49, and 50
6 were marked for identification only.)

7 DIRECT EXAMINATION

8 BY MS. PARRISH:

9 Q And, Mr. Boyd, we're here, just for your information,
10 to ask you about the photo lineup that you looked at in
11 this case. Okay.

12 A Okay.

13 Q So, Mr. Boyd, can you tell me the highest level of
14 education you completed?

15 A Eleventh grade.

16 Q And were you at the Black and Mild Club on June 13th
17 into the hours of June 14th, 2014?

18 A Yes.

19 THE COURT: Excuse me just a minute.

20 This is called the Black and what club?

21 MS. PARRISH: The Black and Mild Club, Your Honor.

22 THE COURT: Mile, M-I-L-E?

23 MS. PARRISH: M-I-L-D.

24 THE COURT: Oh, Mild. Okay.

25 Thank you.

1 BY MS. PARRISH:

2 Q And at approximately what time did you arrive on June
3 13th? Do you recall?

4 A We got there about 9:30, 10:00, something like that.

5 Q Okay. Did you observe a shooting that evening?

6 A Yeah.

7 Q Do you recall approximately what time that shooting
8 occurred?

9 A Like [inaudible] in the club.

10 Q Okay. And what were you doing immediately prior to
11 hearing the gunshot?

12 A Hold on just a second.

13 Just chilling with my homeboy.

14 Q Okay. And when you say "chilling with your homeboy,"
15 who were you -- who were you standing near?

16 A I was just talking to my boy, Mal.

17 Q Okay. By "Mal," do you mean Jamal Marion?

18 A Yeah.

19 Q What part of the club were you in?

20 A Standing right by the bar.

21 Q Okay. And I'm going to show you what has been marked
22 as State's Exhibit No. 37, I believe. Yes, State's
23 Exhibit No. 37. Is this a fair and accurate
24 representation of the downstairs of the Black and Mild
25 Club, Mr. Boyd?

1 A Yeah.

2 Q So when you say you were by the bar, can you
3 illustrate to the rest of the people in the courtroom
4 approximately where that was, where you might have been
5 standing?

6 A Like right here. Like right here. Right back --
7 away about like right here.

8 Q So that's by the stairs and not by the bar?

9 A It's -- it's -- it's right here.

10 Q In the middle of the club, sir?

11 A It's right here in this area, I think. You know what
12 I'm saying? But I was right here, like right here.

13 Q Okay. And what could you see from your vantage point
14 when you heard the gunshot?

15 A He told me he loved me. You know what I'm saying?
16 My homeboy, Rico, was there --

17 Q Okay.

18 A -- and Tony. I seen him get shot up. You know what
19 I'm saying?

20 Q Okay.

21 A It's as simple as that.

22 Q Okay. Tell me where Mr. Marion was standing in
23 relation to you?

24 A ... Like as far as your desk right there.

25 Q So from here to the desk?

1 A Like right there, from here to your desk.

2 Q And had you been drinking that evening?

3 A Yeah. I was drinking.

4 Q All right. Had your consumption of alcohol impacted
5 your ability to see clearly?

6 A No.

7 Q Tell me about the lighting situation in the club.
8 What kind of lights were available?

9 A I mean, it was just like in the club. Because the
10 lights, you know, came on, you know.

11 Q Okay.

12 A At about close, you know. It was -- you could see.

13 Q All right. Were you able to see the individual that
14 shot Mr. Marion?

15 A Yeah.

16 Q How clearly were you able to see him?

17 A Crystal clear.

18 Q Had you seen him earlier in the night?

19 A We all seen each other earlier that day.

20 Q So you had seen him earlier in the night?

21 A Yeah.

22 Q Did you know the -- did you know of the person who
23 you saw shoot Mr. Marion?

24 A I don't know him know him. But I -- you know, we all
25 like family in there. Everybody cool, you know.

1 Everybody know everybody.

2 Q In the Black and Mild Club, sir?

3 A Yeah. Everybody know everybody. Everybody be in
4 there. It be just a -- it just a cool atmosphere.

5 Everybody know everybody.

6 Q Had you seen him previously in that club, the
7 shooter?

8 A You know what I'm saying? We'd done seen each other
9 plenty of times.

10 Q All right. So you recognized him?

11 A Yeah.

12 Q But you didn't -- did you know his name?

13 A I know his name, yeah. I know his name, yeah.

14 Q Okay. So had you seen him -- I wanted to clarify --
15 earlier in the night of the shooting?

16 A I seen him earlier that night, yeah.

17 Q Okay. And you had, also, seen him previously at the
18 Black and Mild Club; is that correct?

19 A Yeah. We all -- like I say -- like I say, it's just
20 like a neighborhood thing. Everybody -- that's where
21 everybody go chill.

22 Q Okay. Do you recall having met the man that you saw
23 shoot Mr. Marion in the past? Do you remember when you
24 first met him?

25 A We just -- you know, we just -- you know, I mean,

1 he -- you know, just -- you know how it is when you meet
2 somebody, you know. That's how it is, you know. But we
3 just -- I knew him, you know.

4 Q Had you spoken to him the evening of the shooting?

5 A It's like, you know -- it's like, you know, speak,
6 talk, you know. Yeah, we talked. We spoke, you know.

7 Q Okay. So you had seen him --

8 A I just asked him was he all right. Are you all
9 right? You know, that's -- are you all right? And that's
10 it.

11 Q So you had spoken that night --

12 A You all right? Yeah. You all right?

13 Q So that is what you had said to the man that you saw
14 shoot --

15 A Yeah. You all right? You all right? You cool?

16 He said, I'm cool, I mean, just like that, you know.
17 I don't want to put a man out here like just -- it's --
18 make him look bad on his end, or nothing. That would make
19 the others look bad, or nothing. I'm just being honest
20 with you, you know.

21 Q Yes, sir. And we're just trying to establish whether
22 you had seen him earlier in the night or spoken to him?

23 A You know, it was -- everybody speak. It's like, you
24 know.

25 Q Okay. Did you see -- what did you see when you say

1 you saw Jamal get shot?

2 A Like, you know, I don't know what the talk was, you
3 know. I don't know between him and T what the talk was.
4 And both of them had got put out, whatnot, you know. I
5 went and got Jamal from outside. And I said --

6 Q I'm going to interrupt you, Mr. Boyd. I'm just
7 talking about the actual time that you heard the gunshot.
8 What -- what did you see at that moment?

9 A My boy dancing just -- him dancing with his arms up
10 like this, like this. I don't know which way T came. And
11 I -- but I seen him, boom. I mean, my best friend, I
12 mean, my friend since 1990. And it was senseless. You
13 know what I'm saying? But that's all I -- that's what I
14 saw.

15 Q Okay. But you had a clear view of the person that
16 came up and then shot Mr. Marion; is that correct?

17 A Yes, ma'am.

18 Q Okay. Did you speak to the police about what you
19 saw?

20 A The day after.

21 Q Okay.

22 A I had left. Somebody drove me out of the club.
23 Somebody picked me up and drove me out of the club and
24 took me to my momma's house.

25 Q All right. When you spoke to the police, did they

1 ask you to identify the shooter from a photo lineup?

2 A Yes, ma'am.

3 Q Okay. Prior to doing that, had they shown you any
4 photographs?

5 A I didn't see no photographs until I went down to the
6 detention center.

7 Q Okay. Can you tell me how the officer asked you to
8 identify the individual? Did he show you -- well, I'm
9 going to show you what's been marked as State's Exhibit
10 Nos. 46, 47, and 48. And I want you to just tell me if
11 you recognize these documents?

12 A Yeah. I recognize them. I recognize it, yeah. I
13 recognize it. There's my initials.

14 Q You recognize State's Exhibit No. 48?

15 A Yeah.

16 Q Did he show you State's Exhibit No. 47 that had the
17 pictures and the names on it, or no?

18 A I don't know.

19 Q Okay. So you don't remember seeing State's Exhibit
20 No. 47?

21 A No.

22 Q All right. Do you remember looking at State's
23 Exhibit No. 46? Is your signature anywhere on there?

24 A Yeah, that's it.

25 Q So that's your signature?

1 A Yeah. That's my signature.

2 Q When the officer presented you with State's Exhibit
3 No. 48, how did he do that? Do you recall what he said to
4 you?

5 A I think he just slid the paper face down --

6 Q Okay.

7 A -- like that.

8 Q And do you remember what he said to you?

9 A Nah. I think he said, I'm going to turn it over. I
10 don't want you to turn it. I can't remember. But it was
11 face down. He turned it over or either I turned it over.
12 I can't remember all of this. But it was face down at the
13 first.

14 Q Okay. Did the officer tell you for sure that the
15 person who shot Jamal that his photo would be in there?

16 A He didn't tell me none of that.

17 Q Okay. Did he tell you or did he pressure you to pick
18 any one photograph over the others?

19 A He didn't pressure me at anytime.

20 Q Did he pressure you or give you a certain amount of
21 time to identify the person in the lineup?

22 A He just turned it over.

23 Q All right. Were you able to select the person that
24 you saw shoot Jamal Marion when you looked at this
25 photograph lineup?

1 A Yeah.

2 Q And did you -- how did you signal the person that you
3 saw shoot Jamal?

4 A I said this -- I said, That's him right there, just
5 like that, I mean.

6 Q Okay. And did you do anything to indicate that was
7 the person you chose? Did you -- is that your marking on
8 there?

9 A Yeah.

10 Q And what are those markings?

11 A It's my initials.

12 Q Okay. And so that is the person you identified as
13 the shooter?

14 A Yeah.

15 Q Did the officer point to that person? Did the
16 officer do anything to make you think that might have been
17 the shooter?

18 A He didn't do nothing.

19 Q Were you positive that that was the man you saw shoot
20 Jamal Marion earlier that morning?

21 A Yeah.

22 Q How sure were you?

23 A A hundred percent.

24 Q Are you still that sure today?

25 A Yeah.

1 Q Do you have any doubt in your mind about what you
2 saw?

3 A What's to doubt?

4 MS. PARRISH: Okay. I have no further questions for
5 this witness, Your Honor.

6 Mr. Robinson -- please answer any questions
7 Mr. Robinson may have.

8 MR. ROBINSON: May it please the Court.

9 Your Honor, they did a video in this case. And if
10 they can play the video, I have the exact spot. It's
11 minute 4:14 in this case where Officer Fortner talked
12 about his name prior to him doing his lineup. And I think
13 that would help the Court decide this matter as far as the
14 suggestiveness of the -- of Mr. Fortner.

15 THE COURT: All right. Well, you go ahead and
16 examine Mr. Boyd first.

17 MR. ROBINSON: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. ROBINSON:

20 Q Mr. Boyd, do you remember you gave a video interview?
21 Do you remember that, you were on tape? Do you remember
22 that?

23 A I guess they had tape on the table.

24 Q No. Remember -- remember, you had -- you know
25 what -- when someone is recording you?

1 A Yeah.

2 Q You were recorded giving a statement; isn't that
3 correct?

4 A Yeah.

5 Q Okay. Isn't it true in the statement that you --
6 that you said that this happened on the dance floor, not
7 near wherever you pointed out to in that -- in that
8 picture there?

9 A On the dance floor?

10 Q You said he was dancing?

11 A I said he had his hands up like this. He was just in
12 the middle of the floor.

13 Q And you said -- but you said that he was dancing;
14 isn't that right?

15 A Yeah. He was in the middle of the floor. When you
16 walk in the door like that -- like where you're standing
17 at, there's a pole right there.

18 Q Okay.

19 A He was standing right there in the middle of the
20 floor just like this. He had a Bud Light in this hand,
21 and a cup in this hand. See what I'm saying? There ain't
22 no dance floor about it. I just said he was just in the
23 middle of the floor.

24 Q Okay. And I think it's your testimony that you said
25 that you knew Mr. Leamon; is that right?

1 A I know him. I mean, we from the same neighborhood.
2 I know him. He know me. I mean, we -- everybody in that
3 club knows everybody.

4 Q So you don't know him and he doesn't know you; is
5 that right?

6 A Don't know him? What you say? What you trying to
7 say?

8 Q You said you were from the same neighborhood, but you
9 didn't answer my question.

10 A We done spoke to each other, you know. We done
11 spoke, you know, conversate [sic], you know, talk, you
12 know. But as far as like if I like just hung out with
13 him, no, I ain't never done that, you know.

14 Q Now, in terms of the -- you say that you weren't
15 pressured by Officer Fortner in this case?

16 A No.

17 Q But isn't it true that Officer Fortner revealed to
18 you his name prior to looking at these -- this six-person
19 lineup?

20 A I can't remember all of that.

21 Q You can't remember all of that?

22 A I mean, if he did -- but he didn't do all -- he
23 didn't have to.

24 Q- He didn't have to?

25 A No. He didn't have to.

1 Q Okay.

2 A I mean --

3 Q So do you remember whether or not -- because the tape
4 that we're going to play in a second has him saying
5 Mr. Leamon's name.

6 A Okay. That's fine.

7 Q Okay. And so you would agree that he told you he --
8 in his interview with you prior to the six-person lineup
9 that he had you do, he revealed to you the name of Tony
10 Leamon?

11 A I don't agree with none of that.

12 Q You don't?

13 A I don't agree. I don't remember.

14 Q You don't remember?

15 A I mean -- I mean, it ain't -- as far as that, I can't
16 remember that.

17 Q So you can remember a lot of other things, but you
18 can't remember that in this case?

19 A I can't remember that.

20 Q Okay. Now, if I play this tape in a second --

21 A Yeah.

22 Q -- there's a spot that I'm going to point to.

23 A Yeah.

24 Q If that is -- if that's revealed that he says that to
25 you, will that spark your memory of that?

1 A I don't know. I don't know. I can't remember. I
2 mean, but it's crystal clear. But, I mean --

3 Q .. That's all right.

4 A I mean, if he said it, he said it. But that ain't
5 making him -- making me feed into telling a lie on Tony.
6 That didn't mean I made a lie up. I wouldn't never do
7 that. I wouldn't never do that.

8 Q Okay.

9 A I mean, if -- the truth is the truth. I mean, that
10 was my best friend. And I wouldn't never put a man in a
11 position -- if he didn't do it, he didn't do it. But, you
12 know, it was right there in my face. What can I say?
13 What can I say?

14 MR. ROBINSON: All right. Can we play the tape?

15 MS. PARRISH: You're welcome to do it.

16 MR. ROBINSON: I don't know how to do it.

17 MS. PARRISH: Do you have the tape?

18 MR. ROBINSON: I thought you would have it here.

19 MS. PARRISH: I wasn't planning on introducing that,
20 no.

21 MR. ROBINSON: Your Honor --

22 MS. PARRISH: The State would stipulate that
23 Investigator Fortner did say the name "Tony." I believe
24 he said something along the lines of, The person that you
25 saw shoot him, let's call him Tony.

1 However, I don't believe that that's relevant to the
2 photographic lineup as it -- as Mr. Boyd said, he did not
3 see the one with the names on it. He saw the one without
4 the names on it.

5 But if you -- I'll assist Mr. Robinson in playing the
6 tape, if you would like me to, Your Honor.

7 THE COURT: Okay. Well, I mean, the tape speaks for
8 itself.

9 Do you have any other questions you want to ask him?

10 MR. ROBINSON: I don't, Your Honor.

11 THE COURT: Okay. You can step down.

12 THE WITNESS: Okay.

13 THE COURT: We'll finish the testimony, and then
14 we'll deal with the tape.

15 MS. PARRISH: Your Honor, the State would call
16 Investigator Mike Fortner to the stand.

17 THE CLERK: Place your left hand on the Bible and
18 raise your right hand.

19 WHEREUPON,

20 MICHAEL EUGENE FORTNER,
21 after first having been duly sworn, testified as follows:

22 THE CLERK: Please have a seat.

23 And will you state your full name for the record?

24 THE WITNESS: Michael Eugene Fortner.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. PARRISH: -

Q Investigator Fortner, where are you employed and in what capacity?

A I work at the Greenville County Sheriff's Office. And, currently, I work in the -- what they call the office for professional responsibility, which is internal affairs. At the time of this incident, I was working in homicide.

Q And did you begin an investigation into a homicide that occurred in the early morning hours of June 14th, 2014?

A Yes, ma'am, I did.

Q And as part of your investigation into that homicide, did you show a number of witnesses photographic lineups?

A Yes, ma'am.

Q Is one of the people that you showed a lineup to Darrion Boyd, who just testified?

A Yes, ma'am.

Q All right. I'm going to show you -- well, pardon me. Do you recall when you met with Mr. Boyd?

A The date of the incident, June 14th.

Q And was it -- do you remember about what time it was?

A I want to say it was sometime about 1:00 in the afternoon.

1 Q All right. And I'm going to show you what's been
2 marked as State's Exhibit Nos. 46, 47, and 48. I'll let
3 you look at those. And just tell me after you've had a
4 chance to look at them if you recognize those items.

5 A I do.

6 Q How do you recognize State's Exhibit No. 46?

7 A State's Exhibit No. 46 has, actually, got my
8 signature down at the bottom of it.

9 Q Okay.

10 A Plus, my handwriting and name on it.

11 Q All right. And what about State's Exhibit No. 47?

12 A I do, yes.

13 Q And what is State's Exhibit No. 47?

14 A State's Exhibit No. 47 is a photo lineup. It's got
15 the pictures in it. And it's, also, got the individuals
16 that's in the lineup, their name, and booking numbers on
17 it.

18 Q And what is the point of State's Exhibit No. 47?

19 What is the -- the --

20 A If for some reason we needed to reconstruct the
21 lineup, if we were to have lost the lineup, or something
22 like that. Also, we know the names of everybody that's in
23 the lineup, and who [sic] their names are.

24 Q Is State's Exhibit No. 47 something that you show to
25 the individuals who are looking at the lineup? Is that

1 the same?

2 A No, ma'am, it's not.

3 Q How does it differ from State's Exhibit No. 48?

4 A State's Exhibit No. 48 has got no names, no booking
5 numbers, anything like that. It's just simply the photos.

6 Q Is there any identifiable information such as
7 initials on State's Exhibit No. 48?

8 A Just Darrion Boyd's.

9 Q Okay. On State's Exhibit No. 47, would -- did any
10 witness, specifically, Darrion Boyd have a chance to see
11 that prior to looking at State's Exhibit No. 48?

12 A No. It's not shown at all.

13 Q Do you bring it into the room with you?

14 A It could have been in the case file, yes. But it is
15 not shown.

16 Q Okay. And what precautions do you recall taking with
17 Mr. Boyd to limit any influence you would have in showing
18 him State's Exhibit No. 48?

19 A I tell them -- I explain to them I've got six photos
20 for them to take a look at. I tell them that I want them
21 to look at each picture carefully. I always explain to
22 them that the person in question may or may not
23 necessarily be in this lineup, so not to feel like they
24 need to be pressured into identifying anybody at all. And
25 I always hand it to them upside down.

1 Q Which is similar to what Mr. Boyd said that he
2 thought happened?

3 A Yes.

4 Q Do you point to any photograph? Do you give any
5 particular emphasis to any photograph?

6 A No. This is the whole reason for giving it upside
7 down. I just give it to them upside down. And I let them
8 turn it over and look at it.

9 Q Okay. Has -- are there any photographic differences
10 between State's Exhibit No. 47 and State's Exhibit No. 48?

11 A Just simply the fact that I color in the outfits and
12 stuff on the pictures here.

13 Q And what would be the point of that?

14 A Clothing. For example, in the picture --

15 Q In State's Exhibit No. 47?

16 A In State's Exhibit No. 47, Mr. Leamon is wearing an
17 orange jumpsuit, which somebody might, you know, put
18 together with the detention center. So in order to try to
19 keep everything as neutral as I possibly can, I colored
20 all that in.

21 Q And so what color is everyone wearing in State's
22 Exhibit No. 48?

23 A Black.

24 MS. PARRISH: Okay. Your Honor, for the purposes
25 just of this hearing, the State would admit State's

1 Exhibit Nos. 46, 47, and 48 into evidence.

2 THE COURT: They're admitted.

3 (WHEREUPON, State's Exhibit Nos. 46, 47, and 48 were
4 admitted into evidence for purposes of the pre-trial
5 hearing.)

6 BY MS. PARRISH:

7 Q Investigator Fortner, is it possible that you did use
8 the name "Tony" when speaking to Mr. Boyd?

9 A Apparently, I did. I do not recall that. But,
10 apparently, I did, yes.

11 Q Okay. Did Mr. Boyd indicate that he knew or
12 recognized the man that shot Jamal Marion?

13 A The only thing he had indicated to me was that he had
14 just seen him around at the club before.

15 Q Okay. But he did not identify him by name?

16 A No.

17 Q But he indicated that he would be able to identify
18 him from sight --

19 A Yes.

20 Q -- is that correct?

21 A Yes.

22 Q Did Mr. Boyd appear to be under the influence of
23 anything when you spoke to him?

24 A No, he did not.

25 Q Did he appear to have -- was his story consistent?

1 Did it appear to you that he would have been able to see
2 what happened, based on his statement?

3 A Yes.

4 MS. PARRISH: I have no further questions.

5 Please answer any questions Mr. Robinson may have for
6 you.

7 THE WITNESS: Yes, ma'am.

8 MR. ROBINSON: May it please the Court.

9 CROSS-EXAMINATION

10 BY MR. ROBINSON:

11 Q Officer Fortner, you know, you have Tony Leamon being
12 the suspect in this case. Didn't you find it kind of --
13 very suggestive to be putting out the name "Tony" when
14 you're talking to this individual about -- about -- about
15 this case?

16 A No, sir. Because, like I said, I didn't even realize
17 I had used the name. Even after I watched the video in
18 preparation for this case, it never even dawned on me that
19 I used his name.

20 Q But you would agree that you did use his name, didn't
21 you?

22 A Apparently. I mean, like I said, I don't recall it
23 in there. But if you say it was in there, I don't doubt
24 that, yes.

25 Q And when you started this -- you were the lead

1 investigator on this case; is that correct?

2 A Yes, sir.

3 Q Okay. And when you started this case, I think you --
4 I think the Solicitor stated a second ago that you had a
5 warrant on June 14th; correct?

6 A Yes, sir.

7 Q And you talked to this individual on what day?

8 A June 14th.

9 Q June 14th, later in the day?

10 A Later in the day on June 14th?

11 Q Yeah.

12 A Yes, sir.

13 Q Okay. Was the warrant before you went to talk to
14 him?

15 A No, sir. It was not.

16 Q Okay. So the warrant was after you talked to him; is
17 that correct?

18 A Yes. After I talked to Mr. Boyd, yes, sir.

19 Q But you had the -- you had the suspect in your -- in
20 your -- kind of in your line of sight, didn't you?

21 A Yes, sir. I was concentrating on him, I guess you'd
22 say.

23 Q So you had the name Tony Leamon in your sights at
24 that time; correct?

25 A Yes, sir.

1 Q Before you had talked to this individual?

2 A That's correct. Yes, sir.

3 Q So -- so isn't it true that -- when you say "Tony"
4 and you have this investigation into Tony Leamon, isn't
5 that suggestive to you?

6 A Not if he doesn't know who he is, no, sir.

7 Q But of all the names you could have used, Bill, Joe,
8 whatever, you used -- you just happened to use the name
9 "Tony," which is the name of this suspect?

10 A Apparently, yes, sir.

11 Q And can't you see how that would influence the person
12 you spoke to about this -- about Mr. Leamon?

13 A Not if the witness doesn't know who "Tony" is, and
14 there's no names on the pictures. No, sir I don't think
15 so.

16 MR. ROBINSON: That's all I have, Your Honor.

17 Thank you.

18 MS. PARRISH: Your Honor, that would conclude the
19 State's presentation of witnesses for the Neil v. Biggers
20 hearing on this particular issue.

21 We have located a tape that does contain Mr. Boyd's
22 audio and video, if you would like to watch or listen to
23 that.

24 THE COURT: Mr. Boyd's video?

25 MS. PARRISH: Yes, sir. The --

1 THE COURT: Yeah. Well, Mr. Robinson wants me to
2 look at it, so.

3 MS. PARRISH: May I go ahead?

4 THE COURT: Sure.

5 MR. ROBINSON: Your Honor, it's just -- it's just
6 at -- it's at four.

7 (Pause.)

8 MR. ROBINSON: Your Honor, I'm going -- I'm going to
9 withdraw the request to put this in. Because I think for
10 the sake of brevity in this case -- because it is 12:00.
11 I think that they've agreed that -- or I think through
12 testimony, he's agreed that he did use the name "Tony" in
13 this case. And so that's all I would do -- so I don't
14 need to put this in.

15 THE COURT: Okay.

16 MS. PARRISH: Okay.

17 THE COURT: All right. Now, we've got Mr. Jones,
18 also?

19 MS. PARRISH: Yes, Your Honor.

20 Do you want the State to -- do you want us to argue
21 as to Mr. Boyd?

22 THE COURT: Well, you can, if you want to.

23 MS. PARRISH: Your Honor, the State would just say
24 that while Mr. Fortner -- we would stipulate that
25 Mr. Fortner -- Investigator Fortner did use the name

1 "Tony." He did not say Tony Leamon. He -- the names were
2 not on the photographic lineup.

3 And as Mr. Boyd testified, he was familiar with the
4 face and person of the man who shot Jamal. He did not
5 recall his name outright. But there were no names that
6 would lead a suggestive or unduly suggestive -- that would
7 point a finger in Mr. Leamon's direction.

8 Looking at the factors in Neal v. Biggers, he had a
9 clear opportunity to view the individual he saw shoot
10 Mr. Marion. He was paying a lot of attention. As he
11 said, he knew that the victim had his hands in the air.
12 And he even identified that he had a Bud Light in one hand
13 and a cup in the other, and was dancing in place.

14 He knew Mr. Leamon from the neighborhood and from
15 seeing him at the club. And he was 100 percent certain
16 about the individual whose photograph he saw.

17 THE COURT: Mr. Robinson.

18 MR. ROBINSON: May it please the Court.

19 Your Honor, I believe that it was suggestive because
20 Mr. Leamon was the only person that was in the line of
21 sight with Mr. -- with Officer Fortner. And, at that
22 time, it was very fortuitous that he used the name "Tony"
23 in this case, because he was the only "Tony" that
24 Mr. Fortner was talking about.

25 So I believe that it was very suggestive in this

1 case. I don't believe that it was anything but
2 suggestive. And I'd ask the Court to suppress that based
3 on Neil v. Biggers.

4 THE COURT: All right. Well, I don't find that the
5 procedure employed by the police was unduly or
6 impermissibly suggestive, even if the fact that this
7 witness -- Mr. Fortner used the name "Tony" in some
8 context.

9 From what I understood from the testimony is that
10 Mr. Boyd didn't know the name of the person who did the
11 shooting. He simply knew him from the neighborhood and
12 knew who he was, but did not know his name. Otherwise, he
13 would have given the name to the police.

14 So based upon my understanding of the evidence
15 presented, I find that there's no suggestiveness
16 established on the part of the police. And, therefore,
17 the motion to suppress in-court identification by Mr. Boyd
18 is denied.

19 All right. The next one is Mr. Jones?

20 MS. PARRISH: Yes, sir, Your Honor.

21 THE COURT: Do you want to go ahead and do Mr. -- is
22 Mr. Fortner doing that one, too?

23 MS. PARRISH: He is.

24 And may I clarify?

25 The State did agree to not -- we agreed that we would

1 not put in the affidavit, which I believe is the only
2 portion of Mr. Jones' identification that Mr. Robinson
3 objected to. I believe it --

4 THE COURT: Was there -- did he pick somebody out of
5 a lineup?

6 MS. PARRISH: He did, Your Honor.

7 THE COURT: But you're not objecting to that?

8 MR. ROBINSON: Your Honor, I'm going to use -- I'm
9 going to -- I'm not going to object to that.

10 THE COURT: Okay.

11 MR. ROBINSON: Your Honor, I was objecting to --
12 Ms. Parrish --

13 THE COURT: Well, the thing that you're objecting to,
14 she's agreed to keep out?

15 MR. ROBINSON: Yes, sir.

16 THE COURT: All right. You can step --
17 Well, we don't need Mr. Fortner any more?

18 MS. PARRISH: No, sir, Your Honor.

19 THE COURT: Thanks.

20 You can step down.

21 MS. PARRISH: And so, also, I would just like to put
22 on the record that the -- two of the remaining witnesses,
23 Enjoli Henderson and Yasheeki Harper, knew Mr. Leamon.
24 They had grown up with him. I don't believe a Neil v.
25 Biggers hearing would be needed for them, regardless.

1 THE COURT: That's Mr. Henderson and Ms. Harper?

2 MS. PARRISH: Ms. Henderson and Ms. Harper, Your
3 Honor.

4 THE COURT: Ms. Henderson and Ms. Harper.

5 All right. What about Ms. Taylor then?

6 MS. PARRISH: I don't believe that the process was
7 unduly suggestive. I'll let Mr. Robinson decide --

8 THE COURT: Is there an objection to her
9 identification?

10 MR. ROBINSON: There is not, Your Honor.

11 THE COURT: Okay. Are there any other matters we
12 need to address?

13 MS. PARRISH: Nothing from the State, Your Honor.

14 MR. ROBINSON: Nothing from the Defense, Your Honor.

15 THE COURT: Is the jury downstairs?

16 THE CLERK: There is 40, she said. She can have 40
17 for you.

18 THE COURT: Okay.

19 THE CLERK: I just have to let her know.

20 THE COURT: Let her know.

21 THE CLERK: Okay.

22 THE COURT: All right. This event arises out of --
23 or this case arises out of an event occurring at the Black
24 and Mild Club.

25 Where is the Black and Mild Club?

1 MS. PARRISH: 1120 Hampton Avenue Extension, Your
2 Honor.

3 And the State has proposed voir dire, as does the
4 Defense.

5 MR. ROBINSON: He's got it.

6 THE COURT: I have the Defense's.

7 Where is Hampton Avenue Extension?

8 MS. PARRISH: I don't know the best way to describe
9 that, Your Honor. I'll let Investigator Fortner...

10 INVESTIGATOR MICHAEL FORTNER: It's kind of off of
11 Cedar Lane Road area. If you know where the new Parker
12 Fire Department is on Cedar Lane.

13 THE COURT: It's in the vicinity of what community?

14 THE BAILIFF: Monaghan.

15 INVESTIGATOR MICHAEL FORTNER: Yeah, Monaghan, I
16 guess.

17 THE COURT: Monaghan?

18 INVESTIGATOR MICHAEL FORTNER: Do you know Cripple
19 Creek?

20 THE COURT: I don't, no.

21 THE COURTROOM OFFICER: It's near Poe Mill, over that
22 way.

23 THE COURT: Poe Mill?

24 THE COURTROOM OFFICER: Yes, sir.

25 INVESTIGATOR MICHAEL FORTNER: Yeah. It's in the

1 area of Poe Mill approximately.

2 THE COURT: Okay. Poe Mill. That's good. The jury
3 will know, I assume.

4 What's The Avenue Club?

5 MS. PARRISH: Your Honor, after this shooting, the
6 Black and Mild Club was remodeled and renamed The Avenue.
7 They're under the same management, it is our
8 understanding.

9 (Pause.)

10 THE CLERK: How many strikes?

11 THE COURT: 10 for the Defense, and five for the
12 State.

13 THE CLERK: Thank you.

14 MS. PARRISH: Your Honor -- may it please the Court,
15 Your Honor.

16 I'm sorry to do this. There is one brief pre-trial
17 matter that the State, I guess, needs to address.

18 We had personally served and issued a clerk's
19 subpoena for a witness by the name of Janetta Kyles. She
20 has refused to appear.

21 We would ask that a bench warrant be issued for her
22 arrest at this time. And I have prepared a bench warrant
23 for Your Honor. I can, also, have the individual that
24 personally served her testify as to that as well.

25 THE COURT: She was served with a subpoena?

1 MS. PARRISH: Yes, sir, Your Honor, personally.

2 THE COURT: Personally?

3 MS. PARRISH: Personally served, yes, sir, Your
4 Honor.

5 THE COURT: I mean, handed to her?

6 MS. PARRISH: Yes, sir, Your Honor.

7 THE COURT: All right. And you have the affidavit of
8 the person that served that subpoena?

9 MS. PARRISH: We should have the affidavit. We,
10 also, have the individual. And he, also, has a voice mail
11 from her confirming that she was served, she would be
12 here, but she needed a ride. And then she just failed to
13 appear.

14 THE COURT: Well, does she need a ride or --

15 MS. PARRISH: No, sir -- well, Your Honor, we
16 provided her a ride, and she has fled.

17 THE COURT: Oh, I see. Okay. And her name is
18 Janetta Kyles?

19 MS. PARRISH: Janetta Kyles, yes.

20 THE COURT: All right. Issue a bench warrant for
21 Janetta Kyles. Have her come in for failure to comply
22 with the directions of the subpoena.

23 MS. PARRISH: Thank you, Your Honor.

24 And I have that order right here, if you would go
25 ahead and sign that.

1 THE COURT: All right. I'm going to need your
2 affidavit.

3 MS. PARRISH: Yes, sir. We will get that for you.
4 (Pause.)

5 MS. PARRISH: Your Honor, here is a copy of the
6 subpoena with the proof of service.

7 THE COURT: What's your name?

8 MS. PARRISH: This is Jenna Hendricks, Your Honor.

9 THE COURT: She's an assistant solicitor, too?

10 MS. PARRISH: Yes, sir, Your Honor.

11 MR. ROBINSON: And, Your Honor, this is Belinda
12 Robinson. She's my assistant.

13 THE COURT: Belinda Roberts, did you say?

14 MR. ROBINSON: Belinda -- Belinda Robinson, Your
15 Honor.

16 THE COURT: Robinson?

17 MR. ROBINSON: Yes, sir.

18 THE COURT: Is she any kin to Scott Robinson?

19 MR. ROBINSON: I'm not going to say, Your Honor.

20 MS. PARRISH: May it please the Court, Your Honor.

21 It is my understanding that Judge Stilwell excused a
22 number of jurors from being present here on Wednesday. We
23 anticipate that we will go through Wednesday.

24 Would you like those names now or as they are called?

25 THE COURT: No. We need to take a minute.

1 MS. PARRISH: Okay.

2 THE COURT: Is that going to reduce our 40?

3 THE CLERK: Well, that's the thing, she has the list
4 of 40. So you could take those names out, but then we'd
5 have to look at it when they come, so.

6 THE COURT: Do we have more than 40 down there?

7 THE CLERK: I don't know, because Judge Stilwell was
8 striking his jury as well, so.

9 THE COURT: Oh.

10 THE CLERK: They might be back downstairs. I do not
11 know. I'll have to call her and find out.

12 MS. PARRISH: I just wanted to bring it to the
13 Court's attention so that if any of us had to use a
14 strike --

15 THE COURT: Well, do we know which ones -- do we know
16 the 40 that are coming?

17 THE CLERK: I can ask.

18 THE COURT: All right. Do we know the ones that are
19 excused for Wednesday?

20 MS. PARRISH: Yes, sir, Your Honor.

21 THE CLERK: Let me ask first because she might not
22 have put them on the list.

23 THE COURT: Oh, yes. Hopefully, she took them out.

24 (WHEREUPON, Court's Exhibit No. 1 was marked for
25 identification and admitted into evidence.)

1 THE CLERK: She's not answering. She's probably
2 busy.

3 THE COURT: Well, we'll do the best we can.
4 How many were there? Five?

5 MS. PARRISH: Three that we see for Wednesday. One
6 for Thursday. I don't know if we'll go into Thursday or
7 not, Your Honor.

8 THE COURT: Well, is it likely?

9 MS. PARRISH: I believe the State will finish
10 Wednesday.

11 THE COURT: Okay. It might be Thursday then.

12 (Pause.)

13 THE CLERK: She said that there are two on this list.
14 And she said if there was any more, they'd be down towards
15 the end of the list. But she had some more jurors just
16 come back.

17 So do you want her to send more up?

18 THE COURT: Replace those that are not going to be
19 here Wednesday and Thursday.

20 THE CLERK: Okay. And you still want 40?

21 THE COURT: Yes.

22 (Pause.)

23 (WHEREUPON, the jury panel entered the courtroom.)

24 THE COURT: Good afternoon, ladies and gentlemen.

25 My name is Derham Cole. I'm a circuit judge from

1 Spartanburg. I'm here this week presiding over a term of
2 General Sessions court, which I'm sure you've been told is
3 the criminal side of the circuit court.

4 The first case that we have in this courtroom that's
5 going to require some of your participation is the case of
6 the State v. Tony Lametrius Leamon. Mr. Leamon has been
7 accused by the Prosecutor by way of this indictment. An
8 indictment is a charging paper. It's like a warrant. But
9 any case that's tried where the jurisdiction is in circuit
10 court has to be brought here by way of an indictment.

11 And the indictment in this case charges Tony
12 Lametrius Leamon with the crime of murder and possession
13 of a weapon during the commission of a violent crime. The
14 State alleges in this indictment that Mr. Leamon did here
15 in Greenville County on or about June the 14th of 2014,
16 unlawfully and with malice aforethought kill one Joseph
17 Jamal Marion by means of a gunshot wound to the head, and
18 that Mr. Marion died as a proximate result of that wound.

19 In the second count of the indictment, Mr. Leamon is
20 alleged to have possessed a firearm during the commission
21 of that violent crime. That violent crime being the crime
22 of murder alleged in count one.

23 Now, as to those allegations and as to each of those
24 charges, Mr. Leamon has entered a plea of not guilty. A
25 plea of not guilty places upon the State, because they

1 brought the accusation, to prove the allegations set forth
2 in the indictment, to prove each of the essential elements
3 of the crimes alleged against the Defendant. And,
4 therefore, the burden is upon the State to establish the
5 Defendant's guilt to the satisfaction of 12 jurors beyond
6 a reasonable doubt before any verdict of guilty could be
7 returned.

8 So we're going to be selecting 14 of you. There will
9 be 12 primary jurors, and then two additional individuals
10 to serve as alternate jurors. And by way of your
11 participation, you're simply going to be called upon to
12 listen to testimony that will come from the witness stand,
13 and to consider other evidence that will be introduced
14 during the trial of the case.

15 And then at the trial's conclusion, I'll instruct the
16 jury on the law that's applicable in this case. The jury
17 will go back and begin deliberations. You'll decide the
18 facts, apply the law, and arrive at a fair and just
19 decision, whatever that decision may be.

20 Now, before we can begin with jury selection, I've
21 got some people to introduce to you. After I introduce
22 those folks to you, I'll, also, ask you some additional
23 questions in order to determine whether or not any juror
24 has some reason why you could not be fair and impartial if
25 you were selected as a juror in this particular case. And

1 so if you do, you let me know of that fact.

2 But I'm going to be introducing the participants and
3 the potential witnesses in the case. And I'm going to
4 recite those because I need to find out if any juror has
5 any connection with anybody involved in the trial of this
6 case.

7 So I'll introduce the Defendant. I'll let you know
8 who the victim's family is. I will introduce the lawyers
9 to you. I'll, also, introduce each of the potential
10 witnesses that might be called during the trial.

11 And what I need to find out from you is if you have
12 any connection with any of these people by blood or
13 marriage. Do you attend church with any of these people?
14 Are you employed at the same place that any of these
15 people might be employed? Did you go to school with any
16 of these folks? Do you socialize with any of these
17 people, or do you have any connection at all? Do you know
18 them in some way, or do you have some contact with them?
19 And if you do, as that person's name is recited, I'll ask
20 that you, please, stand. And then I'll address that
21 connection with you. And I will determine whether or not
22 it would have any bearing upon your decision in the case.

23 Now, first of all, as I told you, the Defendant, the
24 person who is accused of having committed the crime of
25 murder and possession of a firearm during the commission

1 of that crime, is Tony Lametrius Leamon.

2 Mr. Leamon, if you'll, please, stand and face the
3 jury panel.

4 Thank you.

5 Be seated.

6 Mr. Leamon is represented in this case by Scott
7 Robinson. Mr. Robinson's his lawyer. He'll be assisting
8 him during the trial.

9 Mr. Robinson.

10 MR. ROBINSON: Good morning.

11 THE COURT: Seated next to Mr. Leamon on his other
12 side is Belinda Robinson. She's employed at
13 Mr. Robinson's office. She's here to assist him during
14 the trial, also.

15 Presenting the case on behalf of the State are Lisa
16 Parrish and Jenna Hendricks. They are each assistant
17 circuit solicitors for the Thirteenth Judicial Circuit.
18 That's Greenville and Pickens. And they'll be presenting
19 the case on behalf of the State.

20 The person who is alleged to have been the victim of
21 this event on June the 14th of 2014, is Joseph Jamal
22 Marion.

23 JURY QUALIFICATION

24 THE COURT: Potential witnesses to be called during
25 the trial include Rene Buford, employed by 911; Demetrius

1 Harris -- now, some of these people I don't know what
2 their connection is with the case. And some of them will
3 be witnesses employed by the Sheriff's Department, and
4 things of that nature. I'll tell you that if I know it.
5 Otherwise, I'll just be listing the name of an individual.
6 If you know somebody by that same name, please, stand and
7 we'll try to narrow down that person's identification to
8 determine if it's the same person that you might have some
9 connection with.

10 So Demetrius Harris. I, also, have Sergeant Hamilton
11 with forensics; Robert Parker with forensics.

12 If you don't mind, just remain standing until I get
13 through.

14 James Armstrong, Department of Public Safety; Kara
15 Bennick, Department of Public Safety; Harold, who goes by
16 "Hal," Harris; Janetta Kyles; Darrion Boyd; Eric Jones;
17 Enjoli Henderson; Yolanda Harper; Yasheeki Harper; Alisha,
18 who goes by "Nikki," Taylor; Ashley Sester; Shaun Sester;
19 Michael Fortner, Greenville County Sheriff's Office;
20 Johnny Brown, Greenville County Sheriff's Office; Andrew
21 Sexton, Greenville County Sheriff's Office; Quenton
22 Crummer; and Carolus Bellinger; and Javokeus Hall.

23 So if anybody knows any of those persons, please,
24 stand and we'll determine that connection.

25 All right. Your name and number, please, ma'am?

1 JUROR #76, CHAUNDRA HERRING: Chaundra Herring, #76:

2 THE COURT: All right. And who is it that you know?

3 JUROR #76, CHAUNDRA HERRING: The victim. I'm the
4 caretaker of his grandfather.

5 THE COURT: All right. So you know -- you did know
6 Jamal -- excuse me, Joseph Jamal Marion?

7 JUROR #76, CHAUNDRA HERRING: Yes. And his mother.

8 THE COURT: And his mother, also?

9 JUROR #76, CHAUNDRA HERRING: Yes.

10 THE COURT: Are you familiar or have you been exposed
11 to any of the facts that relate to this particular case?

12 JUROR #76, CHAUNDRA HERRING: Some.

13 THE COURT: And from what source did you receive that
14 information?

15 JUROR #76, CHAUNDRA HERRING: The grandmother and the
16 aunt.

17 THE COURT: All right. And is there anything about
18 your connection with those folks, or any information that
19 you've received that would interfere with your ability to
20 be fair and impartial, if you were selected as a juror in
21 this case?

22 JUROR #76, CHAUNDRA HERRING: I've been knowing the
23 family for a long time.

24 THE COURT: All right. Do you think that might
25 interfere with your ability to be impartial?

1 JUROR #76, CHAUNDRA HERRING: Yes, sir.

2 THE COURT: All right. We'll excuse Juror #76 from
3 service in the case.

4 Have the other jurors been excused?

5 THE CLERK: Yes, sir.

6 THE COURT: For lunch, or what?

7 THE CLERK: Oh, no. They're still downstairs.

8 THE COURT: Oh, they're still downstairs.

9 THE CLERK: Uh-huh.

10 THE COURT: All right. Ma'am, Juror #76, you can go
11 back downstairs.

12 Do you know how to get there?

13 JUROR #76, CHAUNDRA HERRING: Yes, sir.

14 THE COURT: Okay. You can go back downstairs. And
15 if they're excused, you'll be excused. And you follow the
16 same instructions they get. Okay.

17 JUROR #76, CHAUNDRA HERRING: Okay.

18 THE COURT: Thank you, ma'am.

19 JUROR #76, CHAUNDRA HERRING: Thank you.

20 THE COURT: All right. Does anyone else know anybody
21 who's been introduced, or identified for your benefit?

22 And let me include in that, if you know anybody else
23 in the solicitor's office or the sheriff's department, if
24 you have any connection with anybody employed in the
25 solicitor's office or the sheriff's department, I would

1 ask that you, please, stand.

2 All right. Your name and number --

3 JUROR #92, JORDAN JENKINS: Jordan Jenkins, #92.

4 My dad is a detective for Spartanburg County
5 Sheriff's Office. And my mom is the clerk of court for
6 Landrum city.

7 THE COURT: Okay. Would either of those facts have
8 any bearing in your decision?

9 JUROR #92, JORDAN JENKINS: No, sir.

10 THE COURT: Thank you.

11 Be seated.

12 Yes, sir.

13 JUROR #194, MICHAEL STADLER: I work with the fire
14 service. So I associate on a fairly daily basis with a
15 lot of the sheriff's deputies. I haven't heard -- I don't
16 recall any of the names you've mentioned.

17 THE COURT: Okay. You work for what service?

18 JUROR #194, MICHAEL STADLER: I'm sorry.

19 THE COURT: What kind of service do you work for?

20 JUROR #129, DAVID YORK: The fire department.

21 THE COURT: The fire department.

22 Okay. And your name and number?

23 JUROR #194, MICHAEL STADLER: Michael Stadler, #194.

24 THE COURT: Okay. Would that fact have any bearing
25 in your decision?

1 JUROR #194, MICHAEL STADLER: I don't think so.

2 THE COURT: All right. Thank you.

3 Be seated.

4 Yes, sir.

5 JUROR #46, DANIEL DEUTY: Daniel Deuty, #46.

6 I'm in scouts with a sheriff's deputy for the last
7 decade.

8 THE COURT: But not somebody who's been identified in
9 this case?

10 JUROR #46, DANIEL DEUTY: Not to my knowledge. I
11 don't --

12 THE COURT: Well, I mean, he wasn't in the list of
13 witnesses I just recited?

14 JUROR #46, DANIEL DEUTY: No.

15 THE COURT: Okay. Would that have any bearing on
16 your decision?

17 JUROR #46, DANIEL DEUTY: I don't believe so. I
18 don't really talk to him about anything. I just wanted
19 you to know I was -- I've known him for 10 years. So I
20 see him about once a week.

21 THE COURT: Okay. But it wouldn't affect your
22 judgment?

23 JUROR #46, DANIEL DEUTY: Huh-uh.

24 THE COURT: Thank you.

25 Be seated.

1 Yes, ma'am.

2 JUROR #139, NICOLE PERRIN-RUCKER: Nicole
3 Perrin-Rucker, #139.

4 I have a cousin that's a sheriff in Greenville
5 County. And I have an aunt that's a judge in magistrate
6 court.

7 THE COURT: Okay. And would either of those facts or
8 connections have any bearing on your decision?

9 JUROR #139, NICOLE PERRIN-RUCKER: (Juror #139,
10 Nicole Perrin-Rucker, shook her head.)

11 THE COURT: All right. Thank you.

12 Be seated.

13 This is a case which is -- arises out of an event
14 which the State alleges occurred on June the 14th of 2014.
15 It is alleged to have occurred at the Black and Mild Club
16 located on Hampton Avenue Extension. And I'm told that's
17 near the Poe Mill community.

18 Does anybody think you might have been exposed to any
19 type of information that relates to this case? Have you
20 heard about it, seen anything about it, read anything
21 about it, know anything about it from any source
22 whatsoever? If so, please, stand.

23 (WHEREUPON, there was no response.)

24 THE COURT: The club is now called The Avenue Club.
25 It's changed names. Does anybody know about The Avenue

1 Club?

2 All right. I've got two.

3 Do y'all mind standing?

4 All right. Juror #139 is up again.

5 Do you know about The Avenue Club?

6 JUROR #139, NICOLE PERRIN-RUCKER: Yes, sir.

7 THE COURT: Did you know it used to be called The
8 Black and Mild Club?

9 JUROR #139, NICOLE PERRIN-RUCKER: I did.

10 THE COURT: Okay. But you -- have you heard, seen,
11 or read anything about this particular event?

12 JUROR #139, NICOLE PERRIN-RUCKER: Not that I can
13 remember.

14 THE COURT: Okay. Thank you.

15 Be seated.

16 Yes, ma'am.

17 JUROR #139, ASHLEY PATTON: I was just standing up
18 because I knew about The Avenue Club.

19 THE COURT: I know. Tell me your name and number,
20 please.

21 JUROR #137, ASHLEY PATTON: Ashley Patton, #137.

22 THE COURT: #137. And you've heard of the Black and
23 Mild Club?

24 JUROR #137, ASHLEY PATTON: Uh-huh.

25 THE COURT: Have you ever been?

1 JUROR #137, ASHLEY PATTON: No.

2 THE COURT: And you know now it's The Avenue Club?

3 JUROR #137, ASHLEY PATTON: Uh-huh.

4 THE COURT: Okay. Thank you.

5 But you don't know anything about this case?

6 JUROR #137, ASHLEY PATTON: Huh-uh.

7 THE COURT: Is that a "no"?

8 JUROR #137, ASHLEY PATTON: No.

9 THE COURT: Well, I mean, let me say it again. Do
10 you know anything about this case?

11 JUROR #137, ASHLEY PATTON: No.

12 THE COURT: Thank you.

13 I'm going to ask you a question about you or an
14 immediate family member. And I'm going to define an
15 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 that
18 I just described it ever been the victim of any type of
19 violent crime, or have you or that family member ever been
20 accused of having committed any type of violent crime?

21 And I'm going to define a violent crime as those like
22 murder, manslaughter, criminal sexual conduct, armed
23 robbery, burglary, assault and battery of any degree,
24 domestic violence of any degree.

25 Has anyone ever been -- you or a family member ever

1 been the victim of any type of violent crime, and/or have
2 you ever -- you or a family member ever been accused of
3 having committed any type of violent crime? If so,
4 please, stand.

5 All right. I've got four.

6 Now, what I want you to do is tell me whether it was
7 you or a family member, and what was the nature of the
8 crime, and whether or not it would have any bearing on
9 your decision in this case. And if you prefer not to
10 answer the question standing where you are, feel free to
11 step down here. Otherwise, I'll assume you don't mind
12 answering where you are.

13 Will you give me your name and number, please?

14 JUROR #172, LEISA STACK: Leisa Stack, #174.

15 THE COURT: And was it you or a family member?

16 JUROR #172, LEISA STACK: I have been.

17 THE COURT: All right. Were you a victim or accused?

18 JUROR #172, LEISA STACK: Victim.

19 THE COURT: And the nature of the offense was what?

20 JUROR #172, LEISA STACK: Domestic abuse.

21 THE COURT: All right. Would that have any bearing
22 on your decision in this case?

23 JUROR #172, LEISA STACK: I do sometimes have issues
24 with post-- PTSD.

25 THE COURT: All right. Well, let me say this. In

1 this case, I mean, you know what the allegations are that
2 have been made. You know what the charge is. It doesn't
3 arise out of any sort of a domestic violence situation.

4 JUROR #172, LEISA STACK: Okay.

5 THE COURT: So understanding that's your
6 circumstance, do you think that your past experience or
7 present situation would have any bearing upon your
8 decision in this case?

9 JUROR #172, LEISA STACK: No.

10 THE COURT: Okay. Thank you.

11 You may be seated.

12 Yes, sir.

13 JUROR #179, THOMAS TIFFANY: Thomas Tiffany, #179.

14 It was -- my stepdaughter was a victim of domestic
15 violence.

16 THE COURT: Okay. And would that have any bearing in
17 your decision in the case?

18 JUROR #179, THOMAS TIFFANY: No, sir.

19 THE COURT: Thank you.

20 Be seated.

21 Yes, ma'am.

22 JUROR #121, MATTILYN MOSS: Mattilyn Moss, #121.

23 It was a family member. And it was domestic violence
24 and rape.

25 THE COURT: And they were a victim, or they were

1 accused?

2 JUROR #121, MATTILYN MOSS: Victim.

3 THE COURT: Okay. Would that have any bearing on
4 your decision?

5 JUROR #121, MATTILYN MOSS: No, sir.

6 THE COURT: Thank you.

7 Be seated.

8 Yes, sir.

9 JUROR #59, THOMAS FULLER: Thomas Fuller, #59.

10 My father was accused and convicted of manslaughter.
11 He never was a part of my life. So it has no effect on
12 me.

13 THE COURT: Okay. Thank you.

14 You may be seated.

15 Anyone else need to respond to that question?

16 Yes, sir.

17 JUROR #21, BRIAN BLACKSTOCK: I currently have a
18 relative who is awaiting trial for a DUI manslaughter. I
19 don't know what the charge would be.

20 THE COURT: Felony driving under the influence?

21 JUROR #21, BRIAN BLACKSTOCK: I assume. I'm not
22 close enough to the situation to know all the details.

23 THE COURT: Okay.

24 JUROR #21, BRIAN BLACKSTOCK: I felt obligated to
25 share.

1 THE COURT: Okay. Thank you.

2 Your name and number?

3 JUROR #21, BRIAN BLACKSTOCK: Brian Blackstock, Juror
4 #21.

5 THE COURT: It would have no bearing on your
6 decision?

7 JUROR #21, BRIAN BLACKSTOCK: No, sir.

8 THE COURT: Thank you.

9 Be seated.

10 Yes, sir.

11 JUROR #140, THOMAS PERRY: Tom Perry, #140.

12 My daughter was abused by a boyfriend many years ago.

13 It would not have any bearing in this case.

14 THE COURT: Okay. Thank you, sir.

15 You may be seated.

16 Anybody else?

17 (WHEREUPON, there was no response.)

18 THE COURT: All right. Now, I've already talked to
19 Jurors #139 and #137 about that they know something about
20 or have been to the Black and Mild Club on Hampton Avenue
21 Extension.

22 Is -- anybody else on the jury, do you know anything
23 about the Black and Mild Club, which is now The Avenue
24 Club, located on Hampton Avenue Extension? Anybody ever
25 been besides those two who've already indicated?

1 (WHEREUPON, there was no response.)

2 THE COURT: All right. None responding.

3 I asked about the sheriff's department. Let me just
4 go ahead now -- if you've already answered that you know
5 somebody connected with the sheriff's department, you've
6 already answered the question.

7 But does anybody else have any connection with any
8 type of law enforcement officer, whether it be the
9 sheriff's department, or otherwise? Anyone have any
10 connection with any type of law enforcement officer
11 working for any type of department? If so, please, stand.

12 All right. Your name and number?

13 JUROR #164, JARROD SEXTON: Jarrod Sexton, #164.

14 I work with the Greenville County schools. So I'm in
15 contact with a number of different officers.

16 THE COURT: Okay. Thanks.

17 You may be seated.

18 Yes, ma'am.

19 JUROR #80, MICKI HOLDER: Micki Holder, Juror #80.

20 I work for Greenville Technical College. And we have
21 a police force. And then we have county officers.

22 THE COURT: Okay. Thank you.

23 Be seated.

24 Yes, ma'am.

25 JUROR #115, CYNTHIA MILLER: Cynthia Miller. I'm

1 Juror #115.

2 I work for the City of Mauldin. I work in the city
3 hall building where the police department's housed.

4 THE COURT: Okay. Thank you.

5 Be seated.

6 Yes, ma'am.

7 JUROR #33, TERENA COLE: Terena Cole, Juror #33.

8 Benny Durham is my former pastor and now the
9 Greenville County chaplain.

10 THE COURT: Okay. Thank you, ma'am.

11 You may be seated.

12 All right. I've let you know who the purported
13 victim is and I've let you know -- oh, excuse me.

14 Yes, ma'am.

15 JUROR #74, JENNIFER HENSON: That's okay.

16 I'm Jennifer Henson.

17 I work in a middle school. So I -- you know, we have
18 an SRO. But I just wanted to share that.

19 THE COURT: Thank you.

20 What's your number?

21 JUROR #74, JENNIFER HENSON: #74.

22 THE COURT: All right. I've told you who the
23 purported victims is. I've introduced the Defendant to
24 you. I've introduced the potential witness to you. You
25 know who the lawyers are. You've heard, basically, what

1 the case is about. It was a shooting that took place at
2 the Black and Mild Club back in June of 2014, resulting in
3 the death of Mr. Marion.

4 Understanding and knowing all that, does any juror
5 know of any reason why you think you could not be fair and
6 impartial if you were called upon to serve as a juror in
7 this particular case?

8 If you have any reason at all why you think you could
9 not be fair and impartial, I would ask that you, please,
10 stand.

11 All right. Yes, ma'am.

12 JUROR #30, CRYSTAL CHAPMAN-BROWN: Can I share with
13 you --

14 THE COURT: Yes, ma'am.

15 Tell me what your name and number is.

16 JUROR #30, CRYSTAL CHAPMAN-BROWN: Crystal
17 Chapmen-Brown, #30.

18 THE COURT: #30.

19 All right. Now, listen, before you come up here, I
20 might be able to save you some time and energy.

21 JUROR #30, CRYSTAL CHAPMAN-BROWN: Okay.

22 THE COURT: You have a reason that's satisfactory to
23 you as to why you think you could not be fair and
24 impartial in this case?

25 JUROR #30, CRYSTAL CHAPMAN-BROWN: Uh...

1 THE COURT: Just "yes" or "no."

2 JUROR #30, CRYSTAL CHAPMAN-BROWN: I could be fair.

3 THE COURT: You can be fair?

4 JUROR #30, CRYSTAL CHAPMAN-BROWN: I think I could be
5 fair, but I --

6 THE COURT: Okay. Well, come down here.

7 (WHEREUPON, a sidebar was held with Juror #30,
8 Crystal Chapman-Brown, and the Court.)

9 THE COURT: Get as close as you can. And keep your
10 voice down.

11 JUROR #30, CRYSTAL CHAPMAN-BROWN: It was -- my
12 mother was the victim of domestic violence by my father.

13 THE COURT: I understand.

14 Now, your mother was the victim of domestic violence.
15 But that would not have any impact on your decision in
16 this case?

17 JUROR #30, CRYSTAL CHAPMAN-BROWN: It shouldn't.

18 THE COURT: Okay. Thank you.

19 And what was your -- you're Juror #30?

20 JUROR #30, CRYSTAL CHAPMAN-BROWN: Yes, sir.

21 (WHEREUPON, the bench conference was concluded.)

22 THE COURT: Lawyers, approach.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: Are there any other questions requested
25 by the State?

1 MS. PARRISH: None from the State, Your Honor.

2 THE COURT: By the Defendant?

3 MR. ROBINSON: No, sir, Your Honor.

4 THE COURT: All right. Draw us a jury, please,
5 ma'am.

6 The way the jury is selected is your names have been
7 selected randomly by a computer. They're on a list. We
8 have the list.

9 You're going to be asked to come forward. You see
10 where the microphone is right in front of the clerk.
11 You're not going to be asked to say anything, but just
12 come right there, and turn, and face your fellow jurors.

13 Each side has an opportunity to have you excused from
14 serving in the case, or both may agree to have you seated
15 for service in the case. If either side asks that you be
16 excused, you can simply go back and have a seat where you
17 are now. If both agree to have you seated for service in
18 the case, you'll be having a seat in that jury box to your
19 right, and to my left.

20 So, please, come forward as your name is called. And
21 you'll be instructed if you're to be excused from serving
22 or accepted for service in the case.

23 THE CLERK: Okay. And the strikes are five and 10.
24 And alternates?

25 THE COURT: Two.

JURY SELECTION

THE CLERK: Juror #137, Ashley Patton.

(WHEREUPON, Juror #137, Ashley Patton, a black female, came forward.)

THE CLERK: What says the State?

MS. HENDRICKS: Please seat the juror.

THE CLERK: What says the Defendant?

MR. ROBINSON: Please seat this juror.

THE CLERK: You may take your things and have a seat in the jury box.

Juror #78, Danielle Herro.

(WHEREUPON, Juror #78, Danielle Herro, a white female, came forward.)

THE CLERK: What says the State?

MS. HENDRICKS: Please present the juror.

THE CLERK: What says the Defendant?

MR. ROBINSON: Please excuse this juror.

THE CLERK: You may take your seat.

Juror #172, Leisa Stack.

(WHEREUPON, Juror #172, Leisa Stack, a white female, came forward.)

THE CLERK: What says the State?

MS. HENDRICKS: Please present the juror.

THE CLERK: What says the Defendant?

MR. ROBINSON: Please seat this juror.

1 THE CLERK: You may take your seat in the jury box.

2 Juror #181, Terri Vanselow.

3 (WHEREUPON, Juror #181, Terri Vanselow, a white
4 female, came forward.)

5 THE CLERK: What says the State?

6 MS. HENDRICKS: Please present the juror.

7 MR. ROBINSON: Please excuse the juror.

8 THE CLERK: You may take your seat.

9 Juror #34, Jessica Collyer.

10 (WHEREUPON, Juror #34, Jessica Collyer, a white
11 female, came forward.)

12 THE CLERK: What says the State?

13 MS. HENDRICKS: Please present this juror.

14 THE CLERK: What says the Defendant?

15 MR. ROBINSON: Please excuse this juror.

16 THE CLERK: You may take your seat.

17 Juror #87 Dennis Hunt.

18 JUROR #87, DENNIS HURT: It's Dennis Hurt.

19 THE CLERK: Oh, Hurt, yes.

20 (WHEREUPON, Juror #87, Dennis Hurt, a white male,
21 came forward.)

22 THE CLERK: What says the State?

23 MS. HENDRICKS: Please present this juror.

24 THE CLERK: What says the Defendant?

25 MR. ROBINSON: Please seat this juror.

1 THE CLERK: You may take your seat in the jury box.

2 Juror #121, Mattilyn Moss.

3 (WHEREUPON, Juror #121, Mattilyn Moss, a Hispanic
4 female, came forward.)

5 THE CLERK: What says the State.

6 MS. HENDRICKS: Please present this juror.

7 THE CLERK: What says the Defendant?

8 MR. ROBINSON: Please seat this juror.

9 THE CLERK: You may take your seat in the jury box.

10 Juror #72, Robert Henderson.

11 (WHEREUPON, Juror #72, Robert Henderson, a white
12 male, came forward.)

13 THE CLERK: What says the State?

14 MS. HENDRICKS: Please present this juror.

15 THE CLERK: What says the Defendant?

16 MR. ROBINSON: Please excuse this juror.

17 THE CLERK: You may take your seat.

18 Juror #116, Robin Miller.

19 (WHEREUPON, Juror #116, Robin Miller, a white female,
20 came forward.)

21 THE CLERK: What says the State?

22 MS. HENDRICKS: Please present this juror.

23 THE CLERK: What says the Defendant?

24 MR. ROBINSON: Please excuse this juror.

25 THE CLERK: You may take your seat.

1 Juror #30, Crystal Chapman-Brown.
2 (WHEREUPON, Juror #30, Crystal Chapman-Brown, a
3 black female, came forward.)
4 THE CLERK: What says the State?
5 MS. HENDRICKS: Please present this juror.
6 THE CLERK: What says the Defendant?
7 MR. ROBINSON: Please seat this juror.
8 THE CLERK: You may take your seat in the jury box.
9 Juror #179, Thomas Tiffany.
10 (WHEREUPON, Juror #179, Thomas Tiffany, a white
11 male, came forward.)
12 THE CLERK: What says the State?
13 MS. HENDRICKS: Please present this juror.
14 THE CLERK: What says the Defendant?
15 MR. ROBINSON: Please excuse this juror.
16 THE CLERK: You may take your seat.
17 Juror #65, Suzanna Greer.
18 (WHEREUPON, Juror #65, Suzanna Greer, a white female,
19 came forward.)
20 THE CLERK: What says the State?
21 MS. HENDRICKS: Please present this juror.
22 THE CLERK: What says the Defendant?
23 MR. ROBINSON: Please seat this juror.
24 THE CLERK: You may take your seat in the jury box.
25 Juror #159, Kailey Schafer.

1 (WHEREUPON, Juror #159, Kailey Schafer, a white
2 female, came forward.)

3 THE CLERK: What says the State?

4 MS. HENDRICKS: Please strike this juror.

5 THE CLERK: You may take your seat.

6 Juror #46, Daniel Deuty.

7 (WHEREUPON, Juror #46, Daniel Deuty, a white male,
8 came forward.)

9 THE CLERK: What says the State?

10 MS. HENDRICKS: Please present this juror.

11 THE CLERK: What says the Defendant?

12 MR. ROBINSON: Please excuse this juror.

13 THE CLERK: You may take your seat.

14 Juror #4, Heather Allen.

15 (WHEREUPON, Juror #4, Heather Allen, a white female,
16 came forward.)

17 THE CLERK: What says the State?

18 MS. HENDRICKS: Please present this juror.

19 THE CLERK: What says the Defendant?

20 MR. ROBINSON: Please excuse this juror.

21 THE CLERK: You may take your seat.

22 Juror #194, Michael Stadler.

23 (WHEREUPON, Juror #194, Michael Stadler, a white
24 male, came forward.)

25 THE CLERK: What says the State?

1 MS. HENDRICKS: Please present this juror.
2 THE CLERK: What says the Defendant?
3 MR. ROBINSON: Please excuse this juror.
4 THE CLERK: You may take your seat.
5 Juror #140, Thomas Perry.
6 (WHEREUPON, Juror #140, Thomas Perry, a white male,
7 came forward.)
8 THE CLERK: What says the State?
9 MS. HENDRICKS: Please present this juror.
10 THE CLERK: What says the Defendant?
11 MR. ROBINSON: Please seat this juror.
12 THE CLERK: You may take your seat in the jury box.
13 Juror #191, Marcy Yerkes.
14 (WHEREUPON, Juror #191, Marcy Yerkes, a white
15 female, came forward.)
16 THE CLERK: What says the State?
17 MS. HENDRICKS: Please present this juror.
18 THE CLERK: What says the Defendant?
19 MR. ROBINSON: Please seat this juror.
20 THE CLERK: You may have a seat in the jury box.
21 Juror #155, Anita Ritchie.
22 (WHEREUPON, Juror #155, Anita Ritchie, a white
23 female, came forward.)
24 THE CLERK: What says the State?
25 MS. HENDRICKS: Please present this juror.

1 THE CLERK: What says the Defendant?

2 MR. ROBINSON: Please seat this juror..

3 THE CLERK: You may have a seat in the jury box.

4 Juror #103, Kyle Lewis.

5 (WHEREUPON, Juror #103, Kyle Lewis, a white male,
6 came forward.)

7 THE CLERK: What says the State?

8 MS. HENDRICKS: Please present this juror.

9 THE CLERK: What says the Defendant?

10 MR. ROBINSON: Please seat this juror.

11 THE CLERK: You may have a seat in the jury box.

12 Juror #13, Troy Bargerion.

13 (WHEREUPON, Juror #13, Troy Bargerion, a white male,
14 came forward.)

15 THE CLERK: What says the State?

16 MS. HENDRICKS: Please present this juror.

17 THE CLERK: What says the Defendant?

18 MR. ROBINSON: Please excuse this juror.

19 THE CLERK: You may take your seat.

20 Juror #139, Nicole Perrin-Rucker.

21 (WHEREUPON, Juror #139, Nicole Perrin-Rucker, a
22 black female, came forward.)

23 THE CLERK: What says the State?

24 MS. HENDRICKS: Please present this juror.

25 THE CLERK: What says the Defendant?

1 MR. ROBINSON: Please seat this juror.
2 THE CLERK: You may have a seat in the jury box.
3 Juror #150, Janice Rardin.
4 (WHEREUPON, Juror #150, Janice Rardin, a white
5 female, came forward.)
6 THE CLERK: What says the State?
7 MS. HENDRICKS: Please seat this juror.
8 THE CLERK: What says the Defendant?
9 MR. ROBINSON: Please seat this juror.
10 THE CLERK: You may have a seat in the jury box.
11 THE COURT: Let's move for the first alternate.
12 THE CLERK: Juror #101, Steven Lee.
13 (WHEREUPON, Juror #101, Steve Lee, a black male,
14 came forward.)
15 THE CLERK: What says the State?
16 MS. HENDRICKS: Please present the alternate.
17 THE CLERK: What says the Defendant?
18 MR. ROBINSON: Please seat this alternate.
19 THE CLERK: You may have a seat in the jury box.
20 THE COURT: Second alternate.
21 THE CLERK: Juror #164, Jarrod Sexton.
22 (WHEREUPON, Juror #164, Jarrod Sexton, a white male,
23 came forward.)
24 THE CLERK: What says the State?
25 MS. HENDRICKS: Please excuse this juror.

1 THE CLERK: You may take your seat.

2 Juror #129, Audrey Ollison.

3 (WHEREUPON, Juror #129, Audrey Ollison, a white female,
4 came forward.)

5 THE CLERK: What says the State?

6 MS. HENDRICKS: Please present this alternate.

7 THE CLERK: What says the Defendant?

8 MR. ROBINSON: Please excuse this alternate.

9 THE CLERK: Excuse?

10 MR. ROBINSON: Yes.

11 THE CLERK: You may take your seat.

12 Juror #80, Micki Holder.

13 (WHEREUPON, Juror #80, Micki Holder, a white female,
14 came forward.)

15 THE CLERK: What says the State?

16 MS. HENDRICKS: Please present this alternate.

17 THE CLERK: What says the Defendant?

18 MR. ROBINSON: Please excuse this alternate.

19 THE CLERK: You may take your seat.

20 Juror #53, Christopher Edmond.

21 (WHEREUPON, Juror #53, Christopher Edmond, a white
22 male, came forward.)

23 THE CLERK: What says the State?

24 MS. HENDRICKS: Please present this alternate.

25 THE CLERK: What says the Defendant?

1 MR. ROBINSON: Please seat this alternate.

2 THE CLERK: You may take a seat in the jury box.

3 THE COURT: All right. Those who have been selected,
4 I'll ask you to, please, go with the bailiff to our jury
5 room. And I'll bring you back in just a few minutes to
6 excuse you for lunch.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 1:09 p.m.)

9 THE COURT: Are there any matters to be addressed
10 regarding jury selection by the State?

11 MS. PARRISH: None from the State.

12 THE COURT: From the Defendant?

13 MR. ROBINSON: No, sir, Your Honor.

14 THE COURT: All right. Those who were not selected,
15 you're going to be excused right now. I'd ask you to,
16 please, go with the bailiff back down to the jury assembly
17 room to receive further reporting instructions.

18 Thank you for your participation.

19 Have a good afternoon.

20 (WHEREUPON, the remaining jury panel members exited
21 the courtroom.)

22 THE COURT: Bring the jury in, please.

23 (WHEREUPON, the jury came into open court at
24 approximately 1:12 p.m.)

25 THE COURT: I'm going to assume everybody wants to

1 have lunch today. So we're going to excuse you for lunch.

2 Keep in mind now that you've been selected, you are
3 not at any time permitted to talk about the case in any
4 fashion with any person whatsoever. That includes your
5 fellow jurors.

6 You can't talk about the case unless and until you're
7 involved in jury deliberations. And that won't happen
8 until the end of the trial after all the evidence has been
9 received and I've instructed you on the law. So from now
10 on until that time, no discussions with anyone in any
11 fashion whatsoever.

12 Also, you can't allow yourselves to be influenced by
13 any outside considerations. So you can't discuss the case
14 with anybody outside the case when you go home, or go to
15 lunch, or wherever you're going.

16 You've got to base your decision on what you see and
17 hear during the trial of the case. And you can't
18 supplement that wealth of knowledge by talking to other
19 people about it, or consulting any kind of Internet device
20 in order to find out information about the case, should
21 there be some on there.

22 You cannot be exposed to any type of media coverage
23 that relates to the trial, whether it be television,
24 radio, or newspaper. You have to avoid that should there
25 be some. And, as I say, no Internet research in order to

1 find out anything about the case.

2 Also, you can't conduct any research or do your own
3 investigation into any issue that might arise during the
4 trial. Because, as I say, you have to base your decision
5 upon what occurs during the trial of the case. And you
6 can't permit yourselves to consider any other extraneous
7 information. Okay. So no discussions, no media exposure,
8 no research, no investigation, no Internet searching.

9 With that, do have a good lunch. Please report to
10 your jury room this afternoon at 2:45, 2:45 this
11 afternoon. The bailiff will let you know how to get there
12 if you're not sure.

13 Okay. Have a good lunch. We'll see you at 2:45.
14 Follow the bailiff.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 1:15 p.m.)

17 THE COURT: Court is in recess until 2:45.

18 (WHEREUPON, a lunch break was taken.)

19 MS. PARRISH: May it please the Court, Your Honor.

20 THE COURT: Yes.

21 MS. PARRISH: Briefly, before we begin.

22 Ms. Janetta Kyles has now appeared. We would request
23 that you personally serve her with this bench warrant.
24 And we would ask that she be remanded into custody until
25 she's able to testify. Because I don't believe she will

1 come back voluntarily.

2 THE COURT: Do you mean she showed up and she was not
3 served with a bench warrant?

4 MS. PARRISH: She was not served yet. We called her
5 to let her know that we had one in hand.

6 THE COURT: Where is she?

7 MS. PARRISH: She was outside. And now, she is
8 somewhere in the building. I've been trying to locate
9 her. She might be in the restroom, Your Honor.

10 THE COURT: Okay.

11 (Pause.)

12 MS. PARRISH: She's apparently in the restroom, Your
13 Honor.

14 THE COURT: All right. Any matters to address prior
15 to the jury being sworn?

16 MS. PARRISH: Your Honor, just the Janetta Kyles
17 issue whenever appropriate.

18 THE COURT: Well, I don't even have her.

19 Can someone go in the bathroom and get her?

20 MS. PARRISH: I had my paralegal go to get her. But,
21 obviously, we can't drag her out of the bathroom. So we
22 can proceed, if you'd like to, Your Honor.

23 THE COURT: Well, I'm not going to drag her out.

24 THE BAILIFF: She's coming.

25 MS. PARRISH: Would you like the bench warrant, Your

1 Honor?

2 THE COURT: No.

3 (Pause.)

4 (WHEREUPON, Ms. Janetta Kyles entered the courtroom.)

5 MS. PARRISH: That is Ms. Kyles, Your Honor.

6 THE COURT: Ms. Kyles, do you have a vision issue?

7 MS. JANETTA KYLES: A vision issue?

8 THE COURT: Yes, ma'am.

9 MS. JANETTA KYLES: I'm a little color blind.

10 THE COURT: You're color blind?

11 MS. JANETTA KYLES: A little bit.

12 THE COURT: Okay. Well, you're not going to be asked
13 to distinguish anything. So how about taking the
14 sunglasses off so I can see you.

15 You are Janetta Kyles?

16 MS. JANETTA KYLES: Yes, sir.

17 THE COURT: Can you speak up?

18 MS. JANETTA KYLES: Yes, sir.

19 THE COURT: Ms. Kyles, I have before me a copy of a
20 subpoena and an affidavit. It indicates that a subpoena
21 for you to appear in court today was served on you on July
22 the 3rd of 2017.

23 Did you receive service of the subpoena?

24 MS. JANETTA KYLES: Yes, sir.

25 THE COURT: And it instructed you to be here this

1 morning at 8:30 a.m., and to stay until you were released.

2 Did you understand that?

3 MS. JANETTA KYLES: I didn't see that on the
4 subpoena.

5 THE COURT: You didn't read the document when you
6 were served with it?

7 MS. JANETTA KYLES: I read it, but I didn't see that
8 part.

9 THE COURT: Well, do you have your subpoena with you?

10 MS. JANETTA KYLES: I don't. I, actually, lost it.

11 THE COURT: You lost it?

12 MS. JANETTA KYLES: I informed someone about that,
13 and told them that I wasn't aware of what time I was
14 supposed to be here.

15 THE COURT: Well, who did you tell that to?

16 (WHEREUPON, there was no response.)

17 THE COURT: Because the subpoena told you when to be
18 here. So when did you decide to call somebody to check.
19 about it?

20 MS. JANETTA KYLES: I called Friday.

21 THE COURT: Well, who did you call?

22 MS. JANETTA KYLES: Jeff.

23 THE COURT: Who?

24 MS. JANETTA KYLES: Jeff, I believe. Aaron?

25 THE COURT: Well, I don't know. You're asking me. I

1 don't know who you called. I'm asking you. You made the
2 phone call.

3 MS. JANETTA KYLES: I don't know how he looks.

4 THE COURT: You what?

5 MS. JANETTA KYLES: I don't know how he looks. So I
6 don't know.

7 THE COURT: Well, it wouldn't matter how he looked if
8 you called him.

9 Did you call him?

10 MS. JANETTA KYLES: I did.

11 THE COURT: Did you talk to him?

12 MS. JANETTA KYLES: No.

13 THE COURT: You didn't?

14 MS. JANETTA KYLES: But he left me a voice mail.

15 THE COURT: Well, how did you know to call Jeff?

16 MS. JANETTA KYLES: Because -- well, because he was
17 going to help with the transportation to court.

18 THE COURT: Because his name appeared on your
19 subpoena?

20 MS. JANETTA KYLES: No. I didn't say that.

21 THE COURT: Well, then how did you know to call Jeff?

22 MS. JANETTA KYLES: Because I had his number.

23 THE COURT: Who gave you the number?

24 MS. JANETTA KYLES: Oh, he gave me his card.

25 THE COURT: Who gave you his card?

1 MS. JANETTA KYLES: Jeff.

2 THE COURT: Do you have his card?

3 MS. JANETTA KYLES: No.

4 THE COURT: You don't have that either.

5 Okay. Well, where have you been? Because you were
6 supposed to be here at 8:30 this morning.

7 MS. JANETTA KYLES: I wasn't feeling too well.

8 THE COURT: Ma'am?

9 MS. JANETTA KYLES: I wasn't feeling too well.

10 THE COURT: You weren't feeling well. Well, did you
11 call Jeff to tell him you weren't feeling well and
12 couldn't come down here like you were ordered to do?

13 MS. JANETTA KYLES: Well, I didn't plan to be sick.

14 THE COURT: That was not my question, ma'am. I said,
15 did you call anyone to tell them -- like you called Jeff.
16 Did you call him to say, I'm not feeling well today, I
17 can't get there at 8:30 like I'm ordered to do?

18 MS. JANETTA KYLES: What? That was the question?

19 THE COURT: Oh, yes, ma'am. That's very much a
20 question.

21 MS. JANETTA KYLES: I'm sorry. I don't -- okay.

22 THE COURT: You didn't understand my question?

23 MS. JANETTA KYLES: I didn't --

24 THE COURT: All right. Well, you said you were sick
25 and didn't feel well enough to come down here. So I asked

1 you, did you call anybody to tell them that you couldn't
2 come down here today? In other words, that's a question.
3 Did you call -- you see, that's a question mark.

4 MS. JANETTA KYLES: Okay.

5 THE COURT: Well, can you answer the question?

6 MS. JANETTA KYLES: I didn't call Jeff.

7 THE COURT: Did you -- well, did you call anybody?

8 MS. JANETTA KYLES: My mom.

9 THE COURT: You called your mother?

10 MS. JANETTA KYLE: Yes.

11 THE COURT: Well, I don't think she knew anything
12 about you being ordered to come down here, did she? Or
13 did she?

14 MS. JANETTA KYLES: She was aware.

15 THE COURT: She was aware of it. Okay. So you
16 called her to tell her you couldn't go to court?

17 MS. JANETTA KYLES: No. I called her -- I didn't
18 even have to call her. I told her I wasn't feeling well.

19 THE COURT: Okay. Well, ma'am, what I'm trying to
20 find out is, did you tell anybody down here at the
21 courthouse? The place you were supposed to be at 8:30,
22 did you tell anybody down here that you were sick?

23 MS. JANETTA KYLES: No, sir.

24 THE COURT: You didn't?

25 MS. JANETTA KYLES: No.

1 THE COURT: All right. Ms. Parrish, can you shed any
2 light on this? Did y'all try to contact her? Did you
3 give her a call, or go by her house, or --

4 MS. PARRISH: Oh, yes, sir.

5 THE COURT: Tell me about that.

6 MS. PARRISH: Jeff Smith --

7 THE COURT: Listen to what Ms. Parrish tells me,
8 Ms. Kyles.

9 MS. PARRISH: Jeff Smith is an investigator in our
10 office. He is the one that personally served her with a
11 subpoena and, therefore, provided his card on that date.
12 She's, also, spoken with him several times.

13 She left him a message on Saturday that said she
14 would not have transportation. And so they communicated.
15 And then he agreed that he would pick her up at 8:30 to
16 9:00 a.m. this morning from her home.

17 Mr. Smith can come down here, if needed, Your
18 Honor --

19 THE COURT: Well, let's stop right there.

20 Ms. Kyles, did you hear what Ms. Parrish just told
21 me?

22 MS. JANETTA KYLES: Yes, sir.

23 THE COURT: Is all that true?

24 MS. JANETTA KYLES: Yes, sir. It's true.

25 THE COURT: Okay. Continue, please.

1 MS. PARRISH: Mr. Smith went to Ms. Kyles' residence
2 where he spoke to Ms. Kyles' mother, who was aware, Your
3 Honor, as we've been in contact with her. Ms. Kyles and
4 her mother have failed to appear for numerous pre-trial
5 conferences due to transportation issues.

6 So we arranged to have transportation for her to
7 court this morning. She was not home. Her mother did not
8 know where she was and said that she'd left sometime
9 between last night and this morning --

10 THE COURT: Okay. Stop right there.

11 Did you hear what she just said?

12 MS. JANETTA KYLES: Yes, sir.

13 THE COURT: Do you agree with that, or disagree with
14 it?

15 MS. JANETTA KYLES: I agree.

16 THE COURT: Okay.

17 MS. PARRISH: We waited for as long as we could. I'd
18 have to look through my messages, but over an hour to see
19 if Ms. Kyles would come home. She did not.

20 We spoke to her mother. Her mother said that she was
21 not answering phone calls. I called her repeatedly. She
22 did not answer my phone calls.

23 Eventually, we made contact with her mother at about
24 10:30. Her mother said she would have her up here, if
25 possible, within an hour. As Your Honor is aware, that

1 did not happen. I don't know how she ended up getting
2 here.

3 THE COURT: All right. You heard what she just said.
4 Do you agree or disagree?

5 MS. JANETTA KYLES: I agree.

6 THE COURT: Okay. Well, what's your response to
7 that?

8 MS JANETTA KYLES: I said I agree.

9 THE COURT: Okay. Well, where were you that you
10 weren't feeling well? You weren't at home. You weren't
11 where you said you would be when the gentleman came to
12 pick you up, as he told you he would give you a ride.

13 So where were you? At the hospital?

14 MS. JANETTA KYLES: Huh-uh.

15 THE COURT: At the doctor's office?

16 MS. JANETTA KYLES: No.

17 THE COURT: Well, where were you?

18 MS. JANETTA KYLES: I was at a friend's.

19 THE COURT: At a friend's house.

20 Okay. Well, Ms. Kyles, it's -- it's plainly evident
21 that you are not cooperating with the required --
22 requirement of you being here to testify in the trial of
23 this case. You've been served with a subpoena.

24 You were even told you would be provided
25 transportation and help to get to the courthouse, and you

1 weren't there. You didn't comply. You didn't cooperate.
2 You haven't been in touch with anybody. You didn't show
3 up until people were out to pick you up.

4 So you're now -- you can serve that bench warrant.
5 You're now in custody. And you'll be in custody until
6 this trial has been concluded or your services are no
7 longer needed.

8 MS. PARRISH: May it please the Court, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. PARRISH: If possible, we would ask that she not
11 be handcuffed. She has told us -- we don't have
12 documentation, but no reason to disbelieve her -- that she
13 suffers from multiple sclerosis.

14 THE COURT: Well, you can talk to her custodian about
15 that. I don't have any control over it once she's in the
16 custody of the sheriff's department, which you asked me to
17 place her in.

18 MS. PARRISH: Yes, sir, I did.

19 Thank you.

20 THE COURT: Okay. Any other matters we need to
21 address before the jury is brought in?

22 MS. PARRISH: Nothing from the State, Your Honor.

23 MR. ROBINSON: Nothing from the Defense, Your Honor.

24 THE COURT: All right. Bring the jury in.

25 And ask Mr. Perry -- that's Juror #140, Mr. Perry --

1 to take the Foreperson's seat.

2 (WHEREUPON, the jury came into open court at
3 approximately 3:05 p.m.)

4 INTRODUCTORY REMARKS

5 THE COURT: Good afternoon, ladies and gentlemen.

6 We are ready to begin with the trial of the case for
7 which each of you have been selected.

8 And, Mr. Perry, I'm going to ask you to serve as the
9 Foreperson of the jury. And, as the Foreperson, you're
10 going to have three specific duties that none of the other
11 jurors will have.

12 First of all, you'll be asked to serve as the
13 spokesperson for the jury. And that just means if
14 something arises during the trial that needs to be brought
15 to my attention, you or one of your fellow jurors have
16 some difficulty, or problem, or question, you'll be the
17 person to let me know of that fact. And you'll do that
18 directly if you're in the courtroom, and through the
19 bailiff if you're outside of the courtroom.

20 Secondly, you'll be called upon to preside over jury
21 deliberations when that time comes. That, of course,
22 won't be until the end of the trial after all of the
23 evidence has been received and I've instructed you on the
24 law. But when the time does come for jury deliberations,
25 you will be the person to preside over that process in the

1 jury room, simply to ensure that those deliberations are
2 carried out in some orderly fashion.

3 And, thirdly, you'll, actually, write the decision or
4 the verdict of the jury. You'll do that on the verdict
5 form that I'll provide you at the trial's conclusion on
6 which you will indicate the jury's unanimous decision.

7 The Foreperson has those specific duties that I've
8 just indicated. That doesn't mean that he's any more
9 important than any of you other jurors. And that's
10 because the decision of the jury is the unanimous
11 consensus opinion of all 12 jurors.

12 And so all of you and each of you will have an equal
13 say and an equal vote in what the ultimate decision will
14 be in this case. Someone simply has to be delegated those
15 responsibilities that I've just indicated. And I have
16 delegated those to Mr. Perry in appointing him as the
17 Foreperson.

18 But all of you jurors are equally important so far as
19 the ultimate decision in the case is concerned. Because,
20 as I said, the verdict has to be unanimous. All of you
21 must be in agreement.

22 Now, Mr. Lee and Mr. Edmond, each of you have been
23 selected as alternate jurors. And the function of an
24 alternate juror is to take the place of one of the
25 original 12 jurors.

1 If during the trial, one of these 12 or two cannot
2 continue to serve during the course of the trial, then one
3 or both of you would be called upon to take those absent
4 jurors place or places. In that event, you would become
5 the twelfth juror. In that event, you would participate
6 throughout the trial including the jury deliberations,
7 which occur at the trial's conclusion.

8 If when the time comes for jury deliberations and the
9 original 12 are able to perform, then your service would
10 end and you would not participate any further. And that's
11 because the decision of a jury is that of 12. And no more
12 than 12 are permitted to engage in that deliberation
13 process.

14 But it is important that you pay just as careful
15 attention, as we ask of all of the jurors in the case,
16 because it does occur from time to time for one reason or
17 another that one or two of these jurors may be unable to
18 continue. And in that event, one or both of you would
19 become the twelfth.

20 So we do appreciate your participation as alternate
21 jurors, just as we appreciate the participation of each of
22 you jurors who have been selected for the purpose of
23 deciding the verdict in this particular case.

24 You may swear the panel.

25 THE CLERK: Will you, please, stand and raise your

1 right hand. The correct response to the oath is, "I
2 will."

3 (WHEREUPON, the jury was sworn at approximately
4 3:09 p.m.)

5 THE CLERK: Thank you.

6 You may have a seat.

7 THE COURT: All right. Ladies and gentlemen, as you
8 know, you've been selected to decide the verdict in the
9 case of Tony Lametrius Leamon. As you also know, he's
10 been accused by the Prosecution by way of this indictment
11 with having committed the crimes of murder and possession
12 of a firearm during the commission of that violent crime.

13 As you also know, as to those allegations and as to
14 those charges, he has entered a plea of not guilty. As I
15 told you, that plea of not guilty has placed upon the
16 State the burden of proving the allegations that they have
17 made by way of the indictment, the burden of proving each
18 of the essential elements of the crimes alleged against
19 the Defendant. And, therefore, the burden is upon the
20 State to establish his guilt to the satisfaction of each
21 of you jurors beyond a reasonable doubt before any verdict
22 of guilty could be returned.

23 Every person who is accused of a crime is always
24 presumed innocent of the charge. That presumption of
25 innocence remains with any defendant, as it does with this

1 Defendant, from the time that he is placed under arrest,
2 and throughout the course of the criminal process, and
3 even throughout the course of the actual trial in the
4 case.

5 That presumption of innocence will be with Mr. Leamon
6 even as you go back at the trial's conclusion to the jury
7 room to begin with your deliberations in this case. And
8 that presumption of innocence will be with him in that
9 jury room. And it will be with him forever, unless you 12
10 jurors determine that he's no longer entitled to the
11 presumption of innocence.

12 In other words, after you've carefully considered all
13 the evidence in the case and from that evidence you
14 determine the facts that relate to the allegations made,
15 and upon deciding those facts, you apply the law that I
16 will have provided you, if you 12 jurors unanimously
17 determine that his guilt has been proven beyond a
18 reasonable doubt, then he would no longer be entitled to
19 that presumption of innocence. But it is only if unless
20 and until you are satisfied of his guilt beyond a
21 reasonable doubt that the presumption of innocence would
22 no longer be applicable.

23 Now, the way the trial will proceed is that in a
24 moment, the lawyers are going to address you in what are
25 called opening statements. There are two occasions in the

1 trial of the case where lawyers are permitted to address
2 the jury directly, and that is at the beginning of the
3 trial before any evidence has been introduced, then again
4 at the conclusion of the trial after all of the evidence
5 has been received.

6 But keep in mind, as I've just indicated, their
7 statements aren't evidence. The evidence comes in between
8 the opening and the closing statements accomplished by the
9 lawyers.

10 So you're not to consider their statements as being
11 any evidence upon which you would base your decision. And
12 that's because the lawyers don't know anything about this
13 case of their own personal knowledge or perception like
14 witnesses will be testifying to when they take the witness
15 stand. And the lawyers won't be taking the witness stand.
16 They won't be testifying under oath. They won't be
17 subjected to direct and cross-examination like each of the
18 witnesses will be that provide testimony to the Court.
19 And so what they tell you is not to be considered as
20 evidence.

21 But you should listen to what they have to say
22 because those statements do serve a purpose. The opening
23 statements serve to provide you with a basic understanding
24 as to what this case is about from both a perspective of
25 the State and of the Defense so that you'll have some

1 context in which to place the evidence that we will be
2 receiving shortly thereafter.

3 And the closing statements occur after all of the
4 evidence has been received. And, again, while those
5 statements are not evidence, it does afford the lawyers an
6 opportunity to discuss with you the evidence that you have
7 seen and heard during the trial of the case. And through
8 that discussion, each of the lawyers will be trying to
9 persuade you or to convince you that the evidence in the
10 case does or does not support a particular decision. And
11 it's in between those opening and closing statements that
12 we, actually, receive the evidence upon which you will
13 base your decision.

14 As you know, the State has the burden of proof. They
15 made the accusation. They brought the charge. Therefore,
16 they have the burden of proving the Defendant's guilt
17 beyond a reasonable doubt. So they'll go forward first in
18 their presentation of evidence.

19 Once they have concluded with that presentation, any
20 person accused of a crime has an opportunity to take the
21 witness stand and testify, or call some witness, or
22 introduce other evidence. But a defendant in a criminal
23 case is never under any obligation to take the witness
24 stand and testify, or to call any witness, or to produce
25 any evidence.

1 And that's because while the State does have the
2 burden of proof since they've brought the accusation, a
3 defendant doesn't have to prove anything. Because in some
4 cases, it might not be possible for a person to prove that
5 they're not guilty or to prove that they are innocent of
6 some accusation made by another.

7 So the Defendant has no burden of proof and doesn't
8 have to present evidence. But every defendant is afforded
9 an opportunity to testify, or to call witnesses, or to
10 introduce evidence in the event he or she wished to do so.

11 So after the evidence has been received and you hear
12 the final summations of the lawyers, I will then instruct
13 you fully on the law as it relates to the criminal law,
14 generally, and as it relates to these particular crimes
15 specifically.

16 You'll then be asked to go back into the jury room
17 and to begin with your deliberations. And through that
18 process and through the exercise of good judgment and
19 common sense conscientiously apply to the testimony and
20 evidence received during the trial, you're going to be
21 called upon to determine what the facts are, if you can,
22 as they relate to these allegations made against the
23 Defendant.

24 Once you decide the facts, you apply the law that
25 I'll have provided you. And you will determine whether or

1 not the Defendant has been proven guilty beyond a
2 reasonable doubt. And if he has, then your verdict is
3 guilty. And if he has not, then your verdict is not
4 guilty.

5 Now, all we're going to ask for you to do is to pay
6 careful attention throughout the course of the trial.
7 There are a number of witnesses that might be called
8 during the trial. And you never know what witnesses
9 testimony is going to be the most important to the task
10 that you've been called upon to perform.

11 So you've got to listen to every witness when they
12 testify. That, of course, doesn't mean you have to give
13 every witness the same degree of weight to their
14 testimony. But you've got to listen to what they say so
15 that when you do go back to begin your deliberations,
16 you'll be in a proper position to be able to fairly
17 evaluate each witnesses testimony in light of not just
18 that witnesses testimony, but in light of all of the
19 testimony and all the evidence received during the course
20 of the trial.

21 And, of course, it's important that you keep an open
22 mind throughout the course of the trial. And that just
23 means that you're not to begin making up your minds or
24 formulating your opinions as to what you think the
25 ultimate decision in this case ought to be until all the

1 evidence has been received, until I've instructed you on
2 the law, and until you've been asked to begin with your
3 deliberations in the case. That is the process that has
4 been designed over the last 241 years to ensure that you
5 can arrive at a fair and just decision.

6 So I do want to thank you in advance for your
7 participation, as well as for your careful attention.

8 I would ask that you, please, give the lawyers your
9 attention now as they give you their opening statements.

10 Ms. Parrish.

11 OPENING STATEMENTS

12 MS. PARRISH: May it please the Court.

13 Mr. Robinson.

14 Ladies and gentlemen, as I began thinking about what
15 I was going to come up here and say to you about how I was
16 going to explain this case to you, I struggled. I
17 struggled thinking about what I would say. Because there
18 is no rational reason for Joseph Jamal Marion to be dead.

19 This is not a case where a crime has gone wrong.
20 This is not a burglary or a robbery that went wrong. This
21 is not a case about a long-standing feud between the
22 parties. This is not a case about an argument that
23 escalated out of control. This is not even a case where
24 the victim was in a high crime area. This is not a case
25 where he was in the wrong place at the wrong time.

1 Ladies and gentlemen, the evidence will show that
2 this is a case of senseless violence, that the actions on
3 the early morning hours of June 14th, 2014, were malicious
4 and did not need to happen. The worst words you will hear
5 used to describe Mr. Marion, Jamal, were aggravating or
6 annoying. And, ladies and gentlemen, that is the best
7 explanation I can give you as to why he is dead.

8 My name is Lisa Parrish, along with my co-counsel,
9 Jenna Hendricks, we are prosecuting Tony Lametrius Leamon.
10 We are prosecuting Mr. Leamon for the murder of Jamal
11 Marion. And it is our job to prove his guilt beyond a
12 reasonable doubt..

13 As you heard from the Judge, Mr. Leamon has been
14 charged with murder, which is the killing of another with
15 malice aforethought, and possession of a weapon during the
16 commission of a violent crime. The Judge will explain the
17 law to you at the very end of the trial. But there are
18 elements that you need to listen for as the case unfolds.

19 Ms. Hendricks and I have to prove this case in
20 certain ways and through certain witnesses. And so each
21 witness, as the Judge told you, holds a piece of evidence
22 that you need to hear.

23 Now that you know a bit about what this case is
24 about, I want to tell you what you can expect from a jury
25 trial. You heard the Judge earlier read off a long list

1 of names. And he asked you if you knew anybody or had any
2 association with them. Ms. Hendricks and I anticipate
3 calling most of those people. We anticipate you will hear
4 from friends of Mr. Marion, people that were at this
5 establishment, along with law enforcement personnel.

6 The evidence will show that June 13th, 2014, was the
7 Friday before Father's Day. It started off as a good day
8 for Jamal Marion. He woke up. He had some extra money in
9 his pocket. He'd just been offered a newer, better job.
10 And he decided to celebrate by purchasing some bright
11 yellow Nike sneakers, and going out with some of his
12 friends.

13 The evidence will show that later in the evening on
14 June 13th, he ended up at a neighborhood bar known as the
15 Black and Mild Club in Greenville County. It wasn't his
16 initial intended destination. It wasn't his neighborhood
17 bar. But that's where he ended up on June 13th.

18 You will hear from a number of Jamal's friends and
19 people he spent time with on the evening of June 13th, and
20 into the early morning hours of June 14th. And you will
21 hear from his childhood friend, Darrion Boyd, who goes by
22 "Tito," who went with him to the Black and Mild Club.
23 Darrion was a regular there.

24 You will hear from a man named Eric Jones, who, also,
25 knew Jamal and was there that night. You will hear from

1 three sisters, Enjoli Henderson, Yasheeki Harper, and
2 Yolanda Harper, who were like sisters to Mr. Marion. All
3 of these people interacted with him that evening.

4 They will tell you -- or some of them will tell
5 you --

6 MR. ROBINSON: Objection, Your Honor. I think that's
7 hearsay, at this point, in opening statement.

8 THE COURT: Overruled.

9 MS. PARRISH: The evidence will show that, at some
10 point in the evening, Mr. Marion was asked to step outside
11 and sort of chill out. You will then hear that he was
12 welcomed back into the club. And it was sometime after
13 that that this shooting occurred.

14 The evidence will show it was very late at night,
15 well after the bar should have closed, close to 3:00 in
16 the morning when witnesses will explain that Tony Leamon
17 walked up and shot Jamal once in the head. The witnesses
18 will testify Jamal had walked to the bar with Yasheeki
19 Harper, and was sort of just standing there dancing in
20 place when this action occurred.

21 In addition to the people who were at the club and
22 witnessed exactly what happened, you will hear from law
23 enforcement. You will hear from the forensics officers
24 who responded to the scene and then did the autopsy. You
25 will hear from the investigator who went to the scene and

1 then tracked down witnesses.

2 We, also, anticipate you will hear from witnesses who
3 helped Mr. Leamon evade arrest for over a month, and who
4 spent those weeks with him until he was captured in Texas.

5 Ladies and gentlemen, while Ms. Hendricks and I
6 cannot provide you a good, or rational, or reasonable
7 explanation for why Jamal Marion is dead, we can and will
8 prove that Tony Leamon committed this crime beyond a
9 reasonable doubt.

10 Beyond a reasonable doubt is another legal term that
11 the Judge will have to define for you at the end of the
12 trial. But, essentially, it is a burden carried -- that
13 the State carries in this and every criminal case. We
14 have to prove that Tony Leamon committed this crime to the
15 exclusion of any other reasonable explanation. And it is
16 a burden we welcome in this case.

17 I believe you will find the evidence is overwhelming.
18 But we ask -- Ms. Hendricks and I ask that you do what you
19 just swore you would. You wait until you hear from each
20 and every witness. You look at each and every photograph,
21 handle each and every piece of evidence.

22 I will have a chance to come back before you at the
23 end of the trial before you deliberate. And we will speak
24 more about the witness -- the witnesses, and the
25 testimony, and the evidence at that time. Until then, I'm

1 going to let the evidence speak for itself.

2 And I thank you for your service.

3 THE COURT: Mr. Robinson.

4 MR. ROBINSON: May it please the Court.

5 Ms. Parrish.

6 Good afternoon.

7 My name is Scott Robinson. And I'm an attorney in
8 Greenville. It's nice to meet y'all. I still have a
9 little accent.

10 Let me -- let me take you back two years ago,
11 actually, about two years and two months ago. This is a
12 club called the Black and Mild. It's a tiny little club.
13 For some of you that have some mathematical background,
14 you may figure out square footage, and so forth. I was
15 just terrible at math when I was in school. And I'm still
16 terrible at math. But the dimensions of the club are
17 57 feet -- 57 feet and 9 inches times 28 feet and five
18 inches. That's the size of this club. It's not a very
19 big club.

20 But I want to take you back two years, two years and
21 two months, which is when this all happened. Now, this is
22 at nighttime. This is the -- this is at -- starts at
23 night on the 13th, ends on the 14th in the early morning
24 around 2:00 or 3:00 in the morning.

25 When you go in the Black and Mild, you're going to be

1 met -- stick yourself back two years, if you can. I'm not
2 the greatest story teller, but I'm going to do my best.
3 Take yourself back two years. At that time, when you go
4 in the Black and Mild, you're going to be met by security
5 guards. Okay. There were security guards on duty that
6 night. And what they do is they frisk you. They make
7 sure that you have no weapons on you, or anything of that
8 nature. You go in. What you're going to notice when you
9 first go in this place is how dark it is.

10 The investigator in this case, who is Officer Michael
11 Fortner, described it in his report that it was so dark in
12 there that he had to get a fire -- the fire department to
13 come and put a tripod light in there so he could see the
14 lighting.

15 But here's how it's set up. You come in. It's dark.
16 All the windows -- all the windows are blackened. So it's
17 completely black inside. You look to your left. You're
18 going to see the dance floor.

19 Now, if any of you grew up in the 80s, they used to
20 have these little disco lights that used to be on the --
21 in the top that would go -- revolve around, and so forth.
22 This one had a mini light -- a mini disco light that would
23 go around. But you go in and you look to the dance floor
24 to the left. You look to your right, you're going to see
25 the DJ.

1 And as you walk in, you're going to be walking on --
2 two rugs, you're going to walk on. You're going to walk
3 over two rugs. About 20 feet back -- 45 feet back on the
4 left is going to be the bar, a small bar, probably a
5 little bit -- about the size of this table here, maybe a
6 little bit bigger than this table.

7 Then going back further to your right, you're going
8 to see a pool table -- a couple of pool tables. And the
9 bathrooms are in the back. There's an upstairs. When you
10 first come in past the dance floor, there's a door right
11 there to go upstairs.

12 Lighting wise, there's two lights in this place.
13 You're going to see two lights. One is going to be over
14 the pool tables. The next one is going to be, I believe,
15 maybe over the bar. That's it. The rest of the place is
16 pretty much black and dark.

17 And just imagine, this place is set up -- the Black
18 and Mild Club at that time -- this is a place -- it's a
19 private club. So you're going to have -- you're going to
20 see people drinking, smoking, things people do at
21 nighttime, and so forth.

22 According to witnesses, there were between 50 to 200
23 people in this space. So just imagine going into this
24 dark place, say, nighttime. And it's going to be crowded.
25 There's lots of smoke, lots of drinking going on, and so

1 forth. And just in your mind, imagine that -- okay -- if
2 you can. Okay.

3 Now, let's talk about what happens next. I've kind
4 of given you an idea of what the place looked like. You
5 may ask yourselves, don't they have security cameras in
6 this place? They did. They did have eight security
7 cameras in this place. Unfortunately, none of them were
8 working that night. All eight of them were all not
9 working. Okay. The ones over the bar weren't working,
10 and any other place were not working. Okay.

11 But here's what did happen, early in the morning that
12 morning with all this stuff, you have smoke, you've got
13 people drinking, you've got lots of people, between 50 to
14 200 people.

15 And the victim in this case had been kicked out once
16 before. He had been taken out. And they let him back in.
17 Security let him back in. He comes back in. He's
18 doing -- he's doing what they call a crunk [phonetic]
19 dance. He's kind of dancing around on the dance floor.
20 He goes to the bar at some point -- to the bar, and
21 everything.

22 And what happens is he gets in the bartenders faces.
23 There are two bartenders, and possibly another third that
24 may have been there as well. He gets in their faces,
25 points at them like this. He's pointing at them, and so

1 forth.

2 At that point, the shot rings out. Boom. A lot of
3 people think it's fireworks. It's not. He's been hit in
4 the face, not the side, not the back, in the face in the
5 upper lip -- upper lip or nose going upward. The
6 trajectory was upwards. So that's what you have that
7 night.

8 Now, you're going to, also, see in this case -- there
9 was a stipulation in this case that he had drugs in his
10 system. Okay. He had drugs in his system, also, alcohol.
11 He called one of the -- as I said, he called one of the
12 persons -- patrons at the bar -- or not the bar, the place
13 a bitch. He was -- he was rocking. He was going. He
14 gets shot at the bar in the face at the bar.

15 Now, you know, in every case, you're going to have
16 problems. I have -- I have some issues that I think the
17 Prosecutor just talked about that you're going to have to
18 look at. Okay.

19 This thing with Texas where Mr. Leamon went to Texas,
20 you're going to have to look at that. And you're going to
21 have to say to yourself, okay, what does that mean? Does
22 it mean he was trying to evade things? What does it mean?
23 Because you don't know. You don't know -- you don't know
24 why he went to Texas. The Prosecutor doesn't know why.
25 They think -- they put it out there.

1 But here's the thing. Here's the thing in this case
2 that the Judge is going to remind you as well, the burden
3 is not on Tony Leamon and me. It's not on us. Okay.
4 They've got to prove to you beyond a reasonable doubt not
5 just one element, every single thing that they bring up.
6 They've got to prove to you beyond a reasonable doubt that
7 Mr. Leamon is guilty. That's what they have to do.

8 About this Texas thing, they've got to prove to you
9 beyond a reasonable doubt. These witnesses that they
10 have, beyond a reasonable doubt. And you're going to look
11 at these witnesses. Okay. You decide the credibility.
12 You were chosen today because y'all come from different
13 backgrounds. And you have experiences that kind of show
14 you what makes sense and what doesn't make sense. Okay.

15 Now, Tony, who's sitting over here, he is the proud
16 father of two little girls named -- I think I've got this
17 right, Butter, who's 11, and Jelly, who is nine. I think
18 they lost the peanut in there some place. But he's a
19 proud father.

20 He's close to his mom. He loves her to death and
21 makes sure he buys her stuff on father's -- Mother's Day
22 for her. And he's been a long-time Greenville resident.
23 You can call Tony Leamon a lot of things. You can say
24 Mr. Leamon, Tony, dad, son, but you can't call Tony Leamon
25 guilty in this case.

1 The evidence in this case will establish beyond a
2 reasonable doubt that Tony Leamon is innocent. He is
3 worthy of an acquittal in this case. Because you don't
4 have to like him. You don't have to like the facts of
5 this case. It's horrible when someone is killed. But it
6 would be much, much worse if someone were found guilty or
7 acquitted [sic] when they were innocent.

8 And there's an old saying on that. It's worse for
9 one innocent person to be found guilty than a thousand
10 people -- innocent people -- I'm not sure I've got this
11 quote right. But I think y'all understand what I mean in
12 this case.

13 But I want to tell you I appreciate talking to y'all.
14 And I look forward to working with you over the next
15 couple of days.

16 Don't mind my -- this thing. I'm doing my best.

17 Thank you very much.

18 THE COURT: Solicitor.

19 MS. HENDRICKS: The State calls Rene Buford.

20 THE CLERK: Put your left hand on the Bible and raise
21 your right.

22 WHEREUPON,

23 RHONDA RENE BUFORD,
24 after first having been duly sworn, testified as follows:

25 THE CLERK: Please have a seat.

1 And will you state your full name for the record?

2 THE WITNESS: Rhonda Rene Buford.

3 DIRECT EXAMINATION

4 BY MS. HENDRICKS:

5 Q Where do you work?

6 A The Greenville County Sheriff's Office.

7 Q How long have you worked with the Greenville County
8 Sheriff's Office?

9 A 22 years.

10 Q And what did you do before working with them?

11 A I worked for the Spartanburg County Sheriff's Office
12 for 10 years.

13 Q So how long have you been in law enforcement total?

14 A 32.

15 Q Okay. And how long have you had -- or what is your
16 current position?

17 A Well, recently, as of last week, I changed positions.
18 Right now, I'm in NCIC Operations, which is the National
19 Crime Information Center for the FBI doing things with the
20 sheriff's office on that end. But, at this time, I was in
21 a different position.

22 Q What's your previous position?

23 A My previous position, I was doing -- I was a research
24 analyst. And what that meant was doing research within
25 our communications center for information that had come in

1 through the center, whether it be by phone, radio,
2 Teletype, fax.

3 Q And how long did you have that position?

4 A Six years.

5 Q Okay. And what do dispatchers at the call center do?

6 A Dispatchers at the call center, they answer 911.

7 They take and disperse that call out to the proper agency,
8 whether it be for police, fire, ambulance. At the
9 sheriff's office, we only dispatch for the sheriff's
10 office. Those calls are retained there. And they would
11 put a call for service in to the system. And then they
12 would dispatch out to our law enforcement officers.

13 Q So what kind of information did the dispatchers try
14 to get?

15 A The location of the incident is the most important.
16 If we can't get anything else, we need to, at least, know
17 the location. The incident situation, what happened, if
18 there's any weapons involved, telephone number, name of
19 the caller, and the particulars of the situation.

20 Q And are all calls received at the dispatch center
21 recorded?

22 A Yes, ma'am.

23 Q And how are they recorded?

24 A They're -- we have a digital system. They're
25 recorded simultaneously and automatically.

1 Q What does that mean?

2 A That means that we cannot stop and start the
3 recorder. It records everything that comes into the
4 dispatch center by phone. So, simultaneously, that means
5 if one of the dispatchers is answering a call and
6 another -- comes in at the same time or thereafter,
7 they're recorded in chronological order and simultaneously
8 recorded for everything that comes in.

9 Q At what point does a call to 911 begin to be
10 recorded?

11 A At the point where the caller hits the last "1."
12 Before the dispatcher ever picks up, the phone [sic] is
13 being recorded at that time.

14 Q Can a recording be stopped during the recording
15 process?

16 A No.

17 Q And do you, or the dispatcher receiving the call, or
18 anyone else have control over how the call is recorded, or
19 which part of the call's recorded?

20 A No.

21 Q And do the calls -- do the call records accurately
22 reflect the conversations between the caller and the 911
23 dispatcher?

24 A Yes, they do.

25 Q And are these recordings kept?

1 A Yes, they are.

2 Q How are they kept, and how long are they kept?

3 A They're kept on a server that records -- that's for
4 nothing but the recordings of radio and telephone. And
5 they're kept for three years.

6 Q Are they kept in the ordinary course of your
7 operations at the call center?

8 A Yes, they are.

9 Q And do your duties include the responsibility for
10 maintaining records concerning calls received?

11 A Yes, it does.

12 Q And do they -- do your duties, also, include coming
13 to court and bringing copies of the 911 calls for
14 admission into evidence?

15 A Yes, it does.

16 Q Do you go to court regularly to do this?

17 A Yes, I do.

18 Q Okay. Let me take you to the early morning of June
19 14th, 2014, was the recording system working properly on
20 that date?

21 A Yes, it was.

22 Q And were several 911 calls made from 1120 Hampton
23 Avenue Extension?

24 A Yes, there was.

25 Q Is that in Greenville County?

1 A Yes, it is.

2 Q And do you know what phone numbers the 911 calls were
3 made from?

4 A I know two of them that were, actually, documented in
5 our CAD, which is a computer-aided dispatch. It -- like I
6 said before, we put our calls into the computer system for
7 dispatch. And everything that's put into that call
8 information is documented.

9 Two of the phone numbers were documented. The third
10 and last phone call -- they had already gotten two others
11 on it -- was just basic general information calling in.
12 And that telephone number was not documented in the CAD.

13 Q Okay.

14 A On the last call.

15 Q Will you tell us what the first two numbers were?

16 A Yes, ma'am. The very first number that dialed 911 on
17 the first call, that came from telephone number

18 [REDACTED]-4271. And the second call that came in came in
19 from [REDACTED]-7052. And that is in chronological order
20 with the recording system.

21 Q Okay. And who are the dispatchers who handled these
22 calls?

23 A On call number one, it was taken by Stormy
24 Satterfield. She is one of our dispatchers there. And
25 the second one was taken by Rhonda Lyon. I do know the

1 third one was taken by Genesis Johnson.

2 Q And have you had an opportunity to review these calls
3 since they were recorded on June 14th, 2014?

4 A Yes, I have.

5 Q How so?

6 A I listened to the recording that you have right here,
7 and documented it with my initials, and compared them to
8 the recordings that we had.

9 Q Okay. Do you recognize this?

10 A Yes, I do.

11 Q What is it, and how do you recognize it?

12 A That is a CDR of the recordings. And it's the 911
13 calls. And I recognized it when I listened, and verified,
14 and authenticated it that it was our calls, my initials,
15 RB.

16 Q Did you make an exact copy?

17 A Yes, I did.

18 Q So nothing was added or deleted?

19 A No, it was not.

20 Q So these are exact duplicates of the calls made on
21 June 14th, 2014?

22 A Yes, they are.

23 Q Do the contents of the CD fairly and accurately
24 reflect these calls?

25 A Yes, they do.

1 Q And can you tell us what times the calls came in?

2 A The first call come [sic] in around 2:52. And the
3 next one was like one minute later, around 2:53. I think
4 there was like a minute and four -- or 44 seconds in
5 between the two calls. And then the last call come in
6 around 2:56 in the morning.

7 MS. HENDRICKS: Your Honor, at this time, the State
8 would move to admit State's Exhibit No. 1 into evidence,
9 and publish it to the jury.

10 MR. ROBINSON: May it please the Court.

11 THE COURT: Yes, sir.

12 MR. ROBINSON: We'd like to have it proffered, Your
13 Honor, outside the presence of the jury.

14 THE COURT: You'd like what?

15 MR. ROBINSON: Proffered, Your Honor.

16 THE COURT: Oh, okay. Let me ask the jury to,
17 please, go to your jury room. And I'll address this issue
18 and bring you right back.

19 (WHEREUPON, the jury was excused from open court at
20 approximately 3:44 p.m.)

21 THE COURT: You object to the foundation for the
22 authenticity of the --

23 MR. ROBINSON: Your Honor, may it please the Court.

24 Your Honor, I want to listen to this. And if the
25 Court would listen to it outside the presence of the jury.

1 So I want to make sure there's no hearsay, or anything
2 like that. That's what I'm most concerned about.

3 THE COURT: Well, all of it's hearsay.

4 MR. ROBINSON: Well, but there's some things being
5 said on there that I'm kind of -- I want to make sure are
6 not --

7 THE COURT: Well, you've been given a copy of it,
8 haven't you?

9 MR. ROBINSON: I have.

10 THE COURT: Have you listened to it?

11 MR. ROBINSON: I have.

12 THE COURT: Well, what is it on there that you object
13 to?

14 MR. ROBINSON: I think the person that is -- I think
15 is talking is not seeing it. He's just hearing what --
16 such and such did it. He's hearing it. He didn't see it
17 himself. That's what -- that's what I'm having a problem
18 with. Because he's -- it's hearsay is what --

19 THE COURT: Are the people on the call identified?

20 MS. HENDRICKS: One of them is not. But there is --
21 the calls speak for themselves. There's nothing in the
22 calls that indicate they're hearing something from a third
23 party.

24 And he's been provided a copy. And I thought we
25 stipulated --

1 THE COURT: Now, you're talking about more than
2 one -- well, he apparently hasn't stipulated to it.

3 One person is identified on the 911 call and one's
4 not?

5 MS. HENDRICKS: There's three calls. We know who two
6 of the callers are. The third caller, we know who it is,
7 based on the phone number. But he -- when the dispatch
8 asked who he was, he hung up. So he did not give his
9 name.

10 THE COURT: All right. What about the two that
11 you've -- that have been identified? Are they on the
12 witness list?

13 MS. HENDRICKS: One of them is. Well --

14 MS. PARRISH: May it please the Court, Your Honor.

15 So pre-trial, we -- well, I thought that we addressed
16 this when we agreed to remove Carolus Bellinger from the
17 witness list, and Mr. Robinson would stipulate to the
18 admission of the 911 tape. Mr. Bellinger and Demetrius
19 Harris are two of the three 911 calls. They're both on
20 the witness list. We took Carolus Bellinger off pursuant
21 to our agreement.

22 MR. ROBINSON: Your Honor --

23 THE COURT: Is this State's Exhibit No. 1?

24 MS. HENDRICKS: Yes.

25 THE COURT: Well, now, at the beginning of this

1 trial, I understood that State's Exhibit Nos. 1 through 45
2 were agreed to have been marked and were admitted without
3 objection.

4 MR. ROBINSON: Your Honor, the -- the -- that's
5 correct. But, Your Honor, she just -- she, on the stand,
6 said that there was a third or fourth witness that may not
7 be on the witness list. That's my concern.

8 MS. HENDRICKS: And, Your Honor, there's no
9 requirement that we call the witnesses that -- or there's
10 no requirement that we call the 911 callers as witnesses.
11 I think we've laid a proper foundation through
12 Ms. Buford.

13 THE COURT: All right. Tell me what your exception
14 to it is, Mr. Robinson.

15 MR. ROBINSON: Your Honor, I'm going to withdraw it
16 at this time.

17 THE COURT: Okay. Bring the jury back.

18 (WHEREUPON, the jury came into open court at
19 approximately 3:49 p.m.)

20 THE COURT: All right. Ms. Hendricks.

21 MS. HENDRICKS: May it please the Court.

22 Again, we would ask to admit State's Exhibit No. 1
23 into evidence, and publish it to the jury.

24 MR. ROBINSON: No objection, Judge.

25 THE COURT: It's admitted.

1 (WHEREUPON, State's Exhibit No. 1 was admitted into
2 evidence.)

3 (WHEREUPON, State's Exhibit No. 1 was played in open
4 court.)

5 MS. HENDRICKS: I have nothing further for this
6 witness.

7 Will you, please, ask -- answer any questions the
8 Defense may have for you?

9 MR. ROBINSON: May it please the Court.

10 THE COURT: Mr. Robinson.

11 CROSS-EXAMINATION

12 BY MR. ROBINSON:

13 Q Good afternoon, Ms. Buford.

14 A Hi.

15 Q How are you?

16 Ms. Buford, let me ask a -- let me ask you a
17 question. You've been doing this for how long?

18 A 32 altogether.

19 Q Now, when that call came in identifying Tony
20 Leamon -- let me ask you this. Do you have any mechanism
21 that can ensure that that person, actually, saw it, or if
22 it -- whether he saw it, or it's hearsay? Any mechanism
23 for that?

24 A Just the word of the person on the phone.

25 Q So the person on the phone may not have even seen it,

1 but they put some name in there; correct?

2 A Whatever they say on the phone is all the information
3 I would have. No tracking device.

4 Q Okay. So you can't tell whether or not it's hearsay,
5 or whether the person, actually, saw this; correct?

6 A No.

7 Q And I think you got -- there were two or three
8 recordings there. The 2:52 recording, is this a person
9 who allegedly saw something? The 2:53, those -- those
10 people saw nothing; is that correct? They didn't see who
11 shot the gun?

12 A Correct.

13 MR. ROBINSON: Okay. Those are all the questions I
14 have.

15 Thank you very much.

16 THE WITNESS: Thank you.

17 MS. HENDRICKS: We have nothing further.

18 Can she be excused?

19 THE COURT: She can be.

20 Step down.

21 Thank you.

22 THE WITNESS: Thank you.

23 MS. HENDRICKS: The State calls Demetrius Harris.

24 THE CLERK: Will you put your left hand on the Bible
25 and raise your right?

1 WHEREUPON,

2 DEMETRIUS HARRIS,

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

4 THE CLERK: Please have a seat.

5 Will you state your full name for the record?

6 THE WITNESS: Demetrius Harris.

7 DIRECT EXAMINATION

8 BY MS. HENDRICKS:

9 Q Mr. Harris, how old are you?

10 A 38.

11 Q And do you work or go to school?

12 A I work.

13 Q Where do you work?

14 A Greenville Water.

15 Q How long have you worked at Greenville Water?

16 A 15 years.

17 Q Are you from Greenville originally?

18 A Yes, ma'am.

19 Q I want to take you back to June of 2014. What were
20 you doing at that time?

21 A (There was no response.)

22 Q Were you working at Greenville Water?

23 A Yes, ma'am.

24 Q Okay. And living in Greenville?

25 A Yes, ma'am.

1 Q Did you ever go to the Black and Mild Club?

2 A Yes, ma'am.

3 Q Where was the Black and Mild Club?

4 A Hampton Avenue Extension.

5 Q And how often did you go there?

6 A Back then, probably every weekend.

7 Q Okay. What was the atmosphere like?

8 A A calm neighborhood club.

9 Q Okay. Do you recall going to the Black and Mild Club
10 on June 13th, 2014?

11 A Yes, ma'am.

12 Q And what makes that night memorable?

13 A Jamal got killed.

14 Q Did you go to the Black and Mild Club with other
15 people that night?

16 A Yeah. I was with a friend there.

17 Q Do you remember what time you arrived?

18 A 11:45, 12:00.

19 Q And what did you normally do at the Black and Mild
20 Club?

21 A Have a few drinks, socialize with, you know, friends
22 I grew up with.

23 Q Where did you spend most of your time on June 13th at
24 the Black and Mild Club, like what part of the club were
25 you in?

1 A I was upstairs.

2 Q Can you tell me about the upstairs?

3 A Yeah. They have a few chairs up there, a TV. They
4 cook food upstairs.

5 Q Okay. Did you prefer being upstairs in the club?

6 A Yeah.

7 Q How did you get upstairs?

8 A I went up the steps.

9 Q When you enter the club -- can you kind of walk us in
10 how you get up there, if you remember?

11 A Yeah. You walk in and the DJ booth is to the right.
12 Right before you got to the bar, the stairs were to the
13 left.

14 Q And you said that Jamal was killed there on
15 June 13th. Did you see the shooting occur?

16 A No, ma'am.

17 Q From upstairs, can you see anything that happens
18 downstairs?

19 A No, ma'am.

20 Q Did you see any kind of fight between anyone that
21 evening?

22 A No, ma'am.

23 Q Did you hear the gunshot?

24 A No, ma'am.

25 Q Tell me what you remember about the shooting.

1 A I was sitting upstairs with my friend girl and her
2 cousin. And it was a few people upstairs. And somebody
3 came up and said that they was downstairs shooting --

4 MR. ROBINSON: Your Honor, he's -- he's answered that
5 he was upstairs and did not see or hear the shot. So I
6 would object to this question.

7 THE COURT: Overruled.

8 BY MS. HENDRICKS:

9 Q You can go ahead and answer the question. So
10 somebody yelled out that there was shooting downstairs?

11 A Yeah. So everybody got up and was leaving. The two
12 girls, I didn't let them leave. I told them we didn't
13 want to go towards gunfire.

14 Q What time of night do you think this was?

15 A I don't know, 1:00, 2:00.

16 Q Had there been a -- had anyone announced last call
17 like the club was closing?

18 A No, ma'am.

19 Q How long do you think you stayed upstairs?

20 A A couple of hours.

21 Q Or after you heard the shot and everyone ran out of
22 the club?

23 A Oh, about 10 minutes.

24 Q All right. What did you do after that?

25 A I got up and walked downstairs and seen him laying

1 there bleeding.

2 Q What did you do when you saw the victim?

3 A I called 911.

4 Q And did you stay on the scene until the police
5 arrived?

6 A Yes, ma'am.

7 Q When you came downstairs, were there lights on?

8 A Yeah, by the pool tables.

9 Q At a pool table. And where did you see the victim
10 laying?

11 A By the pool table.

12 Q So you could see clearly in this -- in that area?

13 A Yes, ma'am.

14 Q And how well lit is the area around the bar?

15 A That's where the light is. That's by the pool
16 tables.

17 Q Okay. And did you make the 911 call where you handed
18 the phone off to someone?

19 A Yes, ma'am.

20 Q Okay. And who did you hand that phone -- who did you
21 hand your phone to?

22 A My friend, Shaneeka [phonetic] Smith.

23 MS. HENDRICKS: I don't have any further questions
24 for you. Please answer any questions Mr. Robinson may
25 have.

1 THE WITNESS: Yes, ma'am.

2 CROSS-EXAMINATION

3 BY MR. ROBINSON:

4 Q Mr. Harris, you said you came there for some
5 socializing and some drinking; is that right?

6 A Yes, sir.

7 Q So that -- that -- it's a private club, isn't it?
8 Isn't it called a private club on the outside?

9 A Yes, sir.

10 Q Okay. And there -- you would agree there's a lot of
11 drinking and socializing at this club; correct?

12 A Right.

13 Q Now, you've been to the inside of the club?

14 A Uh-huh.

15 Q How many times have you been there?

16 A Quite a few.

17 Q All right. It's pitch black inside, isn't it?

18 A Not all over the place.

19 Q But near the bar, there's a light; right?

20 A Uh-huh.

21 Q And on the pool table, there's a light; correct?

22 A Uh-huh.

23 Q And the --

24 THE COURT: Excuse me. Please answer "yes" or "no."

25 THE WITNESS: Oh, yes, sir

1 BY MR. ROBINSON:

2 Q Okay. But the dance floor -- let's talk about the
3 walls. They're painted black; isn't that correct?

4 A I don't remember all that.

5 Q You don't remember all that?

6 A Huh-uh.

7 Q Okay. Is it pretty common for people at this bar to
8 be drinking and smoking?

9 A Yeah.

10 Q And -- okay. That night, how many people do you
11 estimate were at that -- at this club?

12 A Could you repeat that?

13 Q How many people do you believe were at the club that
14 night?

15 A I don't know. It was a good -- a good many.

16 Q How would -- can you estimate?

17 A 60 people.

18 Q How many?

19 A 60.

20 Q 60?

21 A Maybe more.

22 Q So was it crowded?

23 A Yeah.

24 MR. ROBINSON: That's all I have.

25 Thank you.

1 MS. HENDRICKS: That's all the questions we have.

2 THE COURT: You can step down.

3 Thank you.

4 MS. HENDRICKS: May he be excused?

5 THE COURT: Yes, he may be.

6 MS. HENDRICKS: The State calls Sergeant Hamilton.

7 THE CLERK: Place your left hand on the Bible and
8 raise your right.

9 WHEREUPON,

10 JONATHAN HAMILTON,
11 after first having been duly sworn, testified as follows:

12 THE CLERK: Please have a seat.

13 And will you state your full name for the record?

14 THE WITNESS: Jonathan Hamilton.

15 DIRECT EXAMINATION

16 BY MS. HENDRICKS:

17 Q Where are you employed?

18 A The Greenville County Department of Safety Forensics
19 Division, Greenville County forensics.

20 Q And is Greenville County's division -- is Greenville
21 Counties forensics a division of the Greenville County
22 Sheriff's Office?

23 A No. We're, actually, one of the only counties that
24 we, actually, are separated from the agencies within the
25 county.

1 Q And what's your current position with the forensics
2 division?

3 A I'm a sergeant.

4 Q And were you a sergeant in forensics in June of 2014?

5 A I was.

6 Q And can you tell us a little bit about your
7 background? How long have you been in law enforcement?

8 A I started law enforcement with the Greenville City
9 Police Department. And I was a road officer for
10 approximately six years. Then I came to the Greenville
11 County Forensics Division. I've been there ever since.
12 I've got about -- a little over 10 years in forensics.
13 And I have six years with the City of Greenville.

14 Q What certificates do you hold?

15 A I am 3D-laser certified, blood spatter analysis
16 certified. I am -- I have intermediate and basic
17 forensics training out of Tampa, Florida, shooting
18 reconstruction. I've got a myriad of different
19 forensics-based related training.

20 Q So do you -- that is your special training is in
21 forensics?

22 A Uh-huh.

23 Q How long have you been receiving specialized training
24 in forensics?

25 A Greenville -- Greenville County is pretty good.

1 We -- we usually go pretty regularly with -- as the
2 training becomes available. In forensics, it's -- it's
3 not as -- there's not as much training out there as -- as
4 a road officer, you know, in doing training for -- for law
5 enforcement.

6 But Greenville County, whenever there's a class that
7 comes up, they try to send and get us a myriad of
8 different training to go into the forensics field. So
9 that way, we can do our job the best we can.

10 Q Were you called to 1120 Hampton Avenue Extension in
11 June of 2014?

12 A I was.

13 Q When was that?

14 A I was, actually, at home in bed. I was the on-call
15 supervisor at the time. And, basically, what that is is
16 that whenever a major scene -- one of my guys are called
17 out to a major scene, they have to contact the on-call
18 supervisor, give them the run down, this is what we've
19 got, you know.

20 And then I make a decision, okay, do I need to go
21 out, you know, or can they handle it? And, of course, on
22 this scene, I made the decision to go out. So I headed
23 out to the scene. And this was probably around 3:00 in
24 the morning, 3:30, I think.

25 Q Can you --

1 A Yeah. We received a call at 3:14. So I would have
2 gotten the call shortly thereafter.

3 Q And can you tell us the date?

4 A It's June 14th.

5 Q And who was on scene when you arrived?

6 A When I arrived on scene, Forensics Officer Hope.
7 He's one of my guys. He was on scene. Investigator
8 Fortner was on scene. Other deputies were on scene that
9 were providing security, and that kind of thing. They
10 were on scene.

11 Q And what did you do when you arrived on scene?

12 A As the supervisor, my first -- my first go to is go
13 to my people, see where they're at, what they're doing,
14 you know, where do we need to start, and that kind of
15 thing. I was advised that they were waiting for a search
16 warrant to go inside the structure at that -- that scene.

17 So we did kind of a cursory walk around of that area.
18 It sits at an intersection. And we began looking around,
19 you know, just checking the scene out to see if there's
20 anything on the outside that we may need to address.
21 Because, you know, if it's outside, you've got weather
22 conditions, people walking around. You want to make sure
23 you keep things secure. So that's the first thing that we
24 did before the search warrant.

25 Q Did you take any photographs of the building?

1 A My guys that -- I was there when they were taking
2 photographs.

3 Q Okay. I'm going to show you what's been marked for
4 identification as State's Exhibit Nos. 2 through 36.

5 A Okay.

6 Q Can you tell us if you recognize those?

7 A Yes. It's going to be the structure at 1120 Hampton
8 Avenue Extension.

9 Q And how are you able to recognize those photos?

10 A Because I was on the scene when these were being
11 taken.

12 Q And do the photos fairly and accurately depict the
13 scene when you arrived?

14 A They do.

15 Q And have these photos been altered in any way?

16 A No. We don't alter our photographs at all.

17 MS. HENDRICKS: Your Honor, at this time, the State
18 offers State's Exhibit Nos. 2 through 36 for admission
19 into evidence.

20 MR. ROBINSON: No objection.

21 THE COURT: They're admitted.

22 (WHEREUPON, State's Exhibit Nos. 2, 3, 4, 5, 6, 7, 8,
23 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,
24 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and
25 36 were admitted into evidence.)

1 BY MS. HENDRICKS:

2 Q Can you go through the exhibits and explain kind of
3 what's depicted in each one for the jury? Just hold them
4 up.

5 A Okay.

6 Q You don't have to go one by one, but just kind of
7 general...

8 A So this is going to be the structure at 1120 Hampton
9 Street Extension. If you're looking at this building,
10 you're standing on the street facing the front of the
11 building at 1120 Hampton Street Extension.

12 Q Can you tell us what number they are as we're looking
13 through, too?

14 A That's State's Exhibit No. 2.

15 Q Okay.

16 A And State's Exhibit No. 3 is, basically, the same
17 one. It's more of a side shot of the front of the
18 building. So it's kind of -- if you're looking at it from
19 the left side, if you're standing at the building. And
20 that's State's Exhibit No. 3.

21 State's Exhibit Nos. 4 and 5 are going to be as
22 you're walking into the club. So if you're standing at
23 the front door facing to the rear of the building, this is
24 what you're looking at. That's State's Exhibit Nos. 4 and
25 5.

1 State's Exhibit Nos. 6 and 7 are, actually, looking
2 from the front -- the -- into the entrance of the door,
3 just slightly looking to the left. We call it the dance
4 floor. It's looking towards that dance floor area. You
5 can see the little ball at the top there.

6 State's Exhibit Nos. 8, 9, and 10 are going to be
7 looking near the DJ area of the -- of the structure. And,
8 basically, that's going to be opposite of the dance floor.
9 So you have the dance floor on the left side. If you're
10 looking down at the structure on the right side, it's
11 going to be the actual DJ area and sitting booth area.
12 That's the seating area that I was speaking of.

13 Now, State's Exhibit No. 10 is, actually, standing at
14 the DJ booth looking outward away from the front of the
15 wall of the building.

16 These are State's Exhibit Nos. 20 and 19. There was
17 a bar area. If I could show you the top of the structure,
18 there's a bar area. As you're walking into the front
19 door, it's going to be center on the left side. And
20 that's what these are. And this is a security cam monitor
21 that has a security video feed on them. And that's in
22 that bar area. It's on a shelving unit in that bar area.

23 State's Exhibit No. 21, now, this is going to be with
24 the DJ booth to your right side, and you're facing the
25 side wall. Our victim is going to be here. So the DJ

1 booth is back here. And there's a stairway door going
2 into a little entrance way with the stairway on this side
3 of the wall. So you're staring kind of at that right back
4 corner of the building.

5 And, actually, State's Exhibit Nos. 22 and 23 -- 22,
6 23, 24, and 25 are going to be that area where the
7 stairway is. So you've got that seating area that you saw
8 earlier. It's going to be directly behind you when you're
9 staring into where that little hallway area is going to
10 the stairway going upstairs. And this is, actually, a
11 side door to the building, to the structure.

12 State's Exhibit No. 23 is the same. It's, actually,
13 going to be that side door. And then, of course, you've
14 got the stairway leading upstairs, just more stairs,
15 carpeted.

16 State's Exhibit No. 26 -- or, actually, State's
17 Exhibit No. 27 is, actually, going to be looking from
18 upstairs down towards that side door area, that little
19 hallway area. This is looking down the stairway.

20 State's Exhibit Nos. 26, 28, 29, 30, 31, 32, 33, and
21 34, these are all going to be upstairs. So this is as you
22 climb -- ascend the stairway. This is a little
23 kitchenette area that sits at the top of the stairs.
24 There's that exit door, the side door hallway I was just
25 pointing out with the stairway going down. It's the same

1 picture just kind of looking a little bit to the left if
2 you're at the top of the stairs. It's a little bit more
3 left from that same picture. So I think the stairway is
4 more to your right. It's the same picture.

5 Now, this is, actually, staring from that room that
6 we just said to the left a little bit. You're looking at
7 the stairway top right here. And this is a door that's
8 leading out to a back porch. And, as you can see, it's
9 boarded up with a two by four across the inside of the
10 door.

11 This is another shot of the kitchen. It's kind of
12 hard to -- this is another shot of the kitchen area at the
13 top of the stairs. And there's, actually, two bedrooms
14 that are on the front upper section of this -- of this
15 structure. And this is the hallway that's leading to
16 those two bedrooms.

17 This is in one of the bedrooms. It was used kind of
18 as a storage area. There was totes, and some shoes, and
19 some miscellaneous things in there, couches, seats, you
20 know, things people could sit in. But it didn't look like
21 a dance area at all in the club. That's what these two
22 are from. But it's still upstairs. There again, still
23 upstairs in one of the front bedroom areas in the upstairs
24 area.

25 Bless you.

1 All right. State's Exhibit Nos. 35 and 11, this is
2 back downstairs. We're at the DJ booth. Same picture.
3 You're sitting behind the DJ booth looking towards the
4 rear of the structure. That is what this one is.

5 And State's Exhibit No. 11 is still behind the DJ
6 booth, if you're staring off to the left just slightly.

7 All right. State's Exhibit No. 36 is in that seating
8 area. It's just a large seating area. And, as you can
9 see, you can see there's cups and, you know, that kind of
10 thing, drinking glasses, and that kind of thing on the
11 table.

12 State's Exhibit No. 12 is going to be with that
13 circular cushion seat that you just saw. It's going to be
14 behind you. And you're facing the pool tables where the
15 victim was lying.

16 This picture is looking back towards the front door.
17 So the victim is going to be to your right rear, and
18 you're looking towards the front door. So this is the DJ
19 area. This is the dance booth -- the dancing area.

20 State's Exhibit Nos. 14 and 15 are going to be from
21 that seating area. It's going to be in just different
22 locations.

23 Actually, State's Exhibit No. 15 is, actually, going
24 to be from where the pool tables are looking back towards
25 the front door. You can see the door is open right now.

1 And State's Exhibit No. 14 is going to be, actually,
2 taken from about right where those cans and bottles can be
3 seen, in that general vicinity facing towards that
4 stairway area that we were discussing earlier.

5 State's Exhibit No. 16 is, actually, going to be
6 almost at the far right corner. If you're coming through
7 the front door of the facility, it's going to be almost
8 the extreme far right corner is where this picture was
9 taken. And it's facing the pool tables, that bar area we
10 were talking where the security cam monitor is. And,
11 actually, the victim would be down here on the ground in
12 between the pool table and the seating area. So that's
13 just another -- another view, except from the far corner.
14 So that way, it gives a better view of the area.

15 And State's Exhibit Nos. 17 and 18 are going to be
16 another shot of the bar -- the bar area where that
17 security monitor was and where that stairway is leading
18 upstairs is going to be right there, if you can see it.
19 So this is just another shot from -- towards the bar from
20 the floor itself.

21 Q All right. Thank you.

22 A Uh-huh.

23 Q And can you tell us what you did once you had a
24 search warrant in hand?

25 A Normal protocol when we have a search warrant on a --

1 first off -- let me back up. When initial officers arrive
2 on scene, they make it safe. They pull people out -- we
3 don't disturb evidence so that things can be secured so a
4 search warrant can be obtained by the investigator.

5 So once the investigator says, I have a search
6 warrant in hand, it's been signed, we're good to go, we
7 normally have very few people who do a walk through.

8 And what that is is myself, the forensics officer
9 that was on scene, investigator, and deputy coroner are
10 about the only people that go into the scene at that
11 point. Because we want to make sure that we don't have
12 a -- you know, a traipse of people just tromping all the
13 way through the scene and stepping on things.

14 So we kind of follow -- it's kind of a line. We
15 follow in a line. And we kind of look at things. We
16 discuss, okay, this is what we're looking at, this is what
17 we need to do. We'll tell the investigator this is what
18 we're going to do, we're going to photograph, video,
19 collect evidence. Is there anything that you see, in
20 particular, that you're looking for that you want us to
21 pay attention to?

22 So we have communication. We kind of work out an
23 action plan, figure out, okay, what are we going to do
24 first, second, and third.

25 Q And had anyone been inside the building already?

1 A I'm assuming that the on scene, but I have no -- I --
2 I don't know for sure. But I'm assuming the -- the
3 initial deputies go inside and secure the area.

4 Q Was EMS on scene when you arrived?

5 A I can't recall if EMS was outside or not.

6 Q So can you describe how a crime scene is processed?

7 A I mean, there's a -- there's a whole different
8 aspect. We've got so many different things we can use.
9 It depends on what we're looking at, what the scene is
10 telling us, what we're going to do.

11 The first thing that we do is we photograph. We want
12 to make sure we take initial photographs of the scene. So
13 that way, we take it as is. There's not any manipulation
14 of anything. It's taken as it was when we first saw it.

15 Then we'll take a video on a scene like this, which
16 means we'll go back through the scene and, actually, do a
17 video of the scene. At that point in time, we'll mark
18 with evidence placards.

19 Have you ever seen on TV the little teepee where it's
20 got the numbers on it? Those are the evidence placards.
21 We'll put those down on evidence items that we're wanting
22 to collect, or that we want to draw attention to in a
23 photograph.

24 At that point, we'll take photographs again and video
25 again. So that way, we capture it both without and with

1 the placards present.

2 Q Are --

3 A Then we're going to collect evidence.

4 Q Excuse me.

5 A I'm sorry.

6 Q Are there any differences on how a scene's processed
7 if it's a homicide?

8 A Yeah. We're going to -- we're going to do more than
9 just take a couple photographs in like an auto breaking,
10 you know, and go on about our business. We're, actually,
11 going to do a little bit more.

12 We're going to -- well, I think, in this case, we,
13 actually, used a chemical in there to take blood for
14 footwear. So we're going -- we're going to do more things
15 because we're really wanting to figure out who did it.

16 Q And how do you determine what evidence to collect?

17 A That is a -- kind of a joint. I need to get with the
18 investigator and the deputy coroner. The deputy coroner's
19 job is to determine the cause of death. The investigator
20 is the one that compiles all the information collected to
21 decide whether enough -- a -- a charge can be made on it.

22 So we get with them and see what they're looking for.
23 And, at that point, we'll -- we'll collect what they need.

24 Q Does the evidence that you collect change depending
25 on the information you have?

1 A Oh, absolutely. I mean, you know, when you're
2 initially at a scene, you're getting, you know, brand new
3 information that -- they don't have all the witness
4 statements down. So you're only getting part of the
5 information at the beginning.

6 So as time progresses forward, you'll get more
7 information, and that kind of thing. So it -- it can
8 change at that point.

9 Q And what information did you have when you processed
10 this scene on Hampton Avenue Extension?

11 A What I was advised was that there was a -- a young
12 gentleman that was shot inside. And he was -- it was
13 during the -- a party of some sort, or there was a
14 gathering in there. And that's, basically, all I had was
15 that it was a shooting. The victim was deceased. He
16 appeared to have injuries to his face. And that was --
17 that was pretty much what we had to begin with.

18 Q And what type of evidence did you collect in this
19 case?

20 A In this case, we -- we got with the investigative --
21 Investigator Fortner. And he -- he requested that we
22 collect glasses, drinking glasses, and that kind of thing
23 from the main sitting area where you saw all those cups
24 sitting around on tables. Because, at that point, we can
25 go further, grab DNA swabs from the cups, get

1 fingerprints, just to make sure we account for everybody
2 that was there, if they were drinking, and that kind of
3 thing.

4 We, also, collect -- I believe we collected -- let me
5 look, take a real quick look.

6 Yeah. We collected -- mainly, we collected the cups
7 and swabs from those cups. So we'll swab the top rim of
8 the cup to get that DNA profile from the lips and from the
9 gums. We, also, collected swabs of blood. That's normal
10 protocol. We, also, collected some swabs of suspected
11 blood from the victim's body itself.

12 Q Is everything that you collected a -- crime scene
13 tested?

14 A The testing -- now, the way that it works is we
15 collect the evidence. We package that evidence and secure
16 it. And then it's up to the agency, whatever agency that
17 is, to take that evidence and have it submitted for
18 testing.

19 So, for instance, this is a Greenville County
20 Sheriff's Office case. I collect the evidence, package it
21 up, seal it, put it in property and evidence where it's
22 secured. And then that agency will go back and get that
23 item and say, okay, we want this processed for this or,
24 you know, sent off for DNA analysis, and that kind of
25 thing.

1 Now, when we collect like the cups, we'll process
2 that at our -- our office because it's still in our
3 possession. The chain of custody has not been broken. So
4 we'll process it there for fingerprints and anything
5 before we put it in property and evidence.

6 Q And why is everything that's collected at a crime
7 scene not tested?

8 A I mean, it could be -- at the time, it appeared it
9 may have some evidentiary value. But after the
10 investigator looks into the case, he may see that that cup
11 didn't have anything to do with it, or that piece of
12 evidence didn't have anything to do with the scene. So
13 that's why some pieces may not and others do. But,
14 mainly, it's up to the agency. They're the ones that make
15 the call on that after their investigation.

16 Q And what else did you do at the scene?

17 A I collected the digital measurements. So, basically,
18 I do a sketch of the scene. And we gather measurements up
19 to make a diagram. These diagrams are used for court
20 purposes and for the investigating officer to look at in a
21 2D version of that scene.

22 So he can look straight down from the roof to the
23 floor. And he can see that scene as best to -- to my
24 capability of that -- that software to make it.

25 Q And did you prepare diagrams in this case?

1 A I did.

2 Q How many did you prepare?

3 A Two diagrams and then one legend. So there's three
4 total from the system, two, actually, have pictures and
5 the other one has writing.

6 Q And I'm going to show you what's been marked as
7 State's Exhibit No. 37. Do you recognize this exhibit?

8 A I do. That's -- that's the downstairs area of the --
9 the club.

10 Q And how do you recognize this exhibit?

11 A The -- as stated in the State's Exhibits of the
12 photos, the front entrance is down at the bottom. So you
13 have the dance floor on the left like I've explained to
14 y'all. The dance floor would be down in the left side as
15 entering into the -- the club. DJ booth is going to be on
16 the right.

17 And if you can remember, I said that seating area is
18 going to be on that right side leading up to where the
19 victim is laying. And then, of course, we'll have the
20 victim laying there as well.

21 Q And do you remember when you prepared this diagram?

22 A June the 26th of 2014.

23 Q And is this drawn to scale?

24 A No. It's not to scale.

25 Q Why not?

1 A Because if I did, we'd have a -- have a really big
2 courtroom. It would be, literally, to scale. I could put
3 the building inside the-- and that's just, you know...

4 Q So other than not being drawn to scale, does it
5 accurately reflect the relationships of objects in the
6 diagram?

7 A Yes, roughly. I mean, it's an approximate, you know.
8 When you start talking about chairs and tables, you know,
9 maybe the same manufacturer, but built in two different
10 years. I mean, the table could be off by three
11 centimeters, you know. Who knows. But as best that I
12 could do with the software that I'm provided, that -- that
13 does depict it, yes.

14 Q Okay. And is this exhibit in the same condition as
15 when you prepared it, other than being enlarged?

16 A It appears so.

17 Q And has anything been added or deleted?

18 A Nope. Everything is exactly the way that I put it
19 in.

20 MS. HENDRICKS: Your Honor, at this time, we'd offer
21 State's Exhibit No. 37 for admission into evidence.

22 MR. ROBINSON: No objection, Judge.

23 THE COURT: It's admitted.

24 (WHEREUPON, State's Exhibit No. 37 was admitted into
25 evidence.)

1 BY MS. HENDRICKS:

2 Q And can you tell us how diagrams are used?

3 A It's mainly used for easy understanding of the crime
4 scene, you know. I'm -- I was sitting up here showing you
5 guys the exhibits. This is exhibit this and this, the
6 photographs. And you guys are getting snapshots of
7 different areas of the -- the building, of the structure.
8 This assists the Court with, actually, seeing the scene
9 from a downward perspective of where everything was in
10 context of the -- of the structure.

11 Q Okay. And did you make any observations or
12 conclusions based on the immediate area around the victim?

13 A We, actually, used leucocrystal violet. And if
14 you'd like, I can explain leucocrystal violet. It's a
15 chemical. And it reacts to blood.

16 Because we saw what we -- what we thought was some
17 footwear or some shoes, impressions in blood. Now,
18 granted, at the time, we were advised that there may have
19 been a large group of people around, or there were people
20 coming in and out. So we were unsure if that blood --
21 bloody footwear or shoe impressions were important. But
22 they were kind of hard to see on the floor.

23 So we used leucocrystal violet. And we sprayed it on
24 the floor. Basically, what that is is leucocrystal violet
25 is a crystal. And it's, actually, a clear looking crystal

1 in -- in a way. And on its own, it doesn't make any
2 reaction to anything. But we add it to hydrogen peroxide.
3 We've all had cuts and put the hydrogen peroxide on our
4 hands. It's the same stuff. We mix that stuff together.
5 And then we lightly spray it.

6 Now, what that does is when that mixture hits the
7 blood, the hemoglobin makes the -- a catalyst. And it
8 turns it to that violet color. That's why it's called
9 leucocrystal violet because it turns purple, purplish.

10 So we -- we sprayed it on there. We did locate some
11 footwear impressions. And we took some scaled photographs
12 of those. It's hard to pull that stuff out without,
13 actually, breaking concrete up and then you're messing up
14 the footwear. So photographs is about as good as we can
15 get at the time.

16 And then, of course, we saw some blood spatter on the
17 side where the body was at, some blood on the floor. We
18 did not locate any cartridge casings or any -- anything
19 related to a cartridge casing on the floor from a gun, a
20 bullet casing.

21 Q So did it appear to be a shooting -- a shooting?

22 A It did. When I -- when -- when we were getting
23 closer to the body and we were photographing the body even
24 closer, I noticed that he had some discolorization around
25 the nose-lip area of his body, which, in my experience, it

1 appeared to be possible -- a burn or something from a gun
2 being fired in close proximity.

3 Q And could you tell what the victim's position was
4 when he was shot, based on the blood evidence?

5 A It's kind of difficult because we've had a lot of
6 traffic going in and out. Some of the blood -- you know,
7 you're starting to get into directionality of the blood
8 and transfer, and that kind of thing. There was blood
9 around him. But, no, you couldn't really tell whether he
10 was moving around or if he fell to the floor and his arm
11 or sleeve might have moved through blood, or left blood
12 behind.

13 I can tell you that where he was laying, a good
14 assumption is he's going to be standing -- or he's going
15 to -- where he was standing is where he ended up laying.
16 He didn't move around. He didn't go to the pool tables,
17 and to the front, and all this -- this stuff. He -- he
18 was where he was when he was shot.

19 Q So you could tell that he was upright when he was
20 shot, based on the blood evidence?

21 A I can't tell you a hundred percent. I can tell you
22 that he was -- it appeared he was -- he was in a vertical
23 position. Now, what height, I don't know. That's -- I
24 don't know about that.

25 Q And do you process the victim's body for evidence?

1 A We -- what happens is once we are done with the
2 victim on the scene, we will put bags on their hands. And
3 what that does is preserves anything that may be on the
4 hands for transport purposes.

5 We -- if y'all remember, I had said that I collected
6 swabs -- or my guys collected swabs off the victim. We
7 collected some blood off of him before we moved him. And
8 I think, in this case, we, actually, put bags up to his
9 knees to preserve the blood.

10 And, now, why do we do that? When we move the body,
11 we put it into a body bag, the coroner's transport service
12 puts it into a body bag. Now, the problem with that --
13 and excuse me if you're a little squeamish. But blood
14 will be seeping out the entire time when they're in the
15 bag.

16 So we didn't want any more blood added to the legs so
17 the pathologist could take a look at it, the coroner could
18 take a look at it. We try to preserve as much as we can
19 on that body for transport. So that way, the autopsy --
20 they can -- they can get more out of the autopsy.

21 Q And were there any particular observations in this
22 scene that you wanted to make sure were well documented?

23 A I mean, the footwear was a big thing, the blood, and
24 the cups. Anything that we collected, I mean, that's --
25 that's definitely what we wanted to -- and we try to show

1 the position of the body as best that I can. Because he
2 was laying on his backside, posterior side. He was supine
3 on the -- on the ground. So we just try to make sure we
4 document that well.

5 MS. HENDRICKS: I have no further questions for this
6 witness.

7 Please answer any questions Mr. Robinson may have.

8 CROSS-EXAMINATION

9 BY MR. ROBINSON:

10 Q Good afternoon, Sergeant.

11 A Hey. How are you?

12 Q Sergeant, looking at the -- the picture you put
13 together, what is the length of this -- this club? I
14 think it 57 point -- 57 --

15 A It's 57 feet and nine inches approximately.

16 Q And the width is?

17 A Approximately 28 feet and five inches.

18 Q Okay. And how do you -- how do figure out the square
19 footage? Do you multiply the two of those?

20 A Well, I don't do the square footage. I just do the
21 length and the width. And then that's up to somebody else
22 to -- if they want to try to get the square footage of
23 each area, that kind of thing.

24 Q I think you put together -- now, so you have the --
25 when you first come in, you have two rugs when you first

1 go in; isn't that right?

2 A Uh-huh.

3 Q Two rugs. Did you find any blood on the rugs?

4 A Yes. Actually -- not on the rug, just inside past
5 the rugs, there was some blood transferred. That came
6 from when the body was, actually, being moved out.

7 Q Okay. So -- so, to your knowledge, before the body
8 was moved, there was no blood on those rugs?

9 A Not to my knowledge. I didn't see any when we first
10 came in.

11 Q Okay. Now, I want to go back to your -- do you have
12 your report with you?

13 A I have Officer Hope's report.

14 Q I want to look at the report. It's Officer Hope
15 and -- I think you were the reporting officer; is that
16 correct?

17 A Yes. Whenever there's more than one officer on scene
18 or more than one person on scene, down at the reporting
19 officer's side, the one that's on the top is the one that,
20 actually, is producing the report. The one at the bottom
21 is like a secondary officer.

22 Q I'm going to go through this report, and you can
23 either agree or not agree. This is -- I'm going through
24 the exact report that you and Officer Hope put together.

25 A Okay.

1 Q Okay. Now, you'd agree with me that the two windows
2 on the lower level were covered; correct?

3 A I agree.

4 Q Okay. That means that they were covered up with some
5 sort of material; is that correct?

6 A Yeah. I believe it was some kind of wood, or
7 something.

8 Q Okay. And, also, too, as far as the -- where the
9 victim's body was found, I think in the report you have
10 said near -- excuse me -- the front of the bar serving
11 area. Does that sound right?

12 A What page are you looking at?

13 Q I'm on -- I'm on Page 2 of 9 on the last paragraph --
14 second to last paragraph. Excuse me. Do you see it, the
15 front of the bar serving area? Do you see it?

16 A Near the sitting area and front of the bar serving
17 area. Yeah. Officer Hope put that in his report.

18 Q Okay. So what you have then, the body would have
19 dropped right there right in front of the -- the bar area;
20 correct?

21 A There again, I'm not a medical professional. But it
22 appeared that where he was shot is where he fell, or close
23 in proximity to that.

24 Q Let me ask you this. When you -- when you were going
25 around looking at the evidence, and so forth, I think in

1 the report it says that the ashtrays and the table tops
2 were observed to be empty; is that correct? It's on
3 the --

4 A Yes. I do see that.

5 Q They were empty; is that right?

6 A That's what he put in his report, yes, sir.

7 Q Okay. And, also, the -- the footwear impressions
8 that we're talking about with the suspect's blood, they
9 were observed between the victim and the first pool of --
10 I'm sorry. I read the wrong thing.

11 The -- you looked at the blood around the victim, but
12 you didn't find anything; correct? You didn't find who
13 the blood -- who the blood belonged to?

14 A There was blood around him. But I didn't know whose
15 blood that belonged to.

16 Q Okay.

17 A I believe that's where -- I'm sorry.

18 Q That's where he --

19 A Yeah.

20 Q It was most probably his blood; correct?

21 A Probably.

22 Q Okay. And you, also, observed a mop bucket with
23 several mops in the small side room leading into -- into
24 the table -- excuse me -- leading into the stairs; is that
25 correct? That's, also, in the first paragraph.

1 A I remember him putting the mops -- he had several
2 mops in the small side room. Yeah, he did put that in
3 there.

4 Q Did you -- when you were going around collecting
5 evidence, did you see full -- four full trash bins?

6 A Officer Hope is the one that collected the evidence.
7 So I -- where are you speaking of the trash bags?

8 Q They would have been outside the building.

9 A Outside the building?

10 Q Yes.

11 A I know I saw multiple trash cans out there, yes.

12 Q Okay. Now, on the inside of the building, did you
13 check through the trash can in the upstairs bar for a
14 weapon?

15 A I didn't personally, no, sir.

16 Q You didn't?

17 A No, sir.

18 Q Okay. Did you see a trash can up on the -- in the
19 upstairs bar?

20 A I'd have to look through the photographs to remind
21 myself.

22 MR. ROBINSON: Okay. That's all I have.

23 Thank you.

24 MS. HENDRICKS: Can I do a brief redirect, Your
25 Honor?

1 THE COURT: Yes.

2 REDIRECT EXAMINATION

3 BY MS. HENDRICKS:

4 Q Did you observe any signs of attempted clean up of
5 the scene?

6 A Not that I could tell. I mean, because you still
7 have the cups and -- it looked like it was an abrupt --
8 you know, that nobody was sitting there cleaning up, or
9 anything. It didn't -- it didn't appear that way to me,
10 no.

11 Q Were there any signs that the body had been moved, or
12 drug?

13 A I didn't see any drag marks or anything leading from
14 the body away. I just saw some blood transfer on the
15 floor.

16 MS. HENDRICKS: Okay. We have no further questions
17 for this witness, Your Honor.

18 MR. ROBINSON: No --

19 THE COURT: All right. You may step down.

20 MS. HENDRICKS: May he be excused?

21 THE COURT: Yes, he may.

22 THE WITNESS: Thank you, Judge.

23 THE COURT: We're going to recess for the afternoon.
24 We'll resume in the morning at 9:45.

25 Keep in mind the instructions I've given you

1 previously, no discussions, no research, no investigation,
2 no Internet search, no media exposure.

3 Have a good evening.

4 Please report to your jury room at 9:45, 9:45 in the
5 morning.

6 Have a good evening.

7 UNIDENTIFIED JUROR: Your Honor, our notes --

8 THE COURT: Oh, let me --

9 UNIDENTIFIED JUROR: For those of us that have notes.

10 THE COURT: All right. Let me address that.

11 How many people have we got -- how many note takers
12 have we got?

13 (WHEREUPON, several jurors indicated in the
14 affirmative.)

15 THE COURT: All right. What I want y'all to do is I
16 want you to give your notes -- put your juror number on
17 the notes, and give them to the bailiff. We'll seal those
18 in an envelope. And you'll open that envelope in the
19 morning and get them back. Okay.

20 UNIDENTIFIED JUROR: Yes, sir.

21 THE COURT: You can't take them with you.

22 UNIDENTIFIED JUROR: Yes, sir.

23 THE COURT: Mr. Cofield, have you got an envelope to
24 put those notes in?

25 THE BAILIFF: I'll find one, sir.

1 THE COURT: Do you have an envelope?

2 THE CLERK: Yes.

3 THE COURT: We have one.

4 Just give them to the bailiff. And be sure your
5 number is on the notes, and give them to the bailiff. And
6 we'll give them back to you in the morning.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 4:51 p.m.)

9 THE COURT: Do we have any matters to address before
10 we recess?

11 MS. PARRISH: No, Your Honor.

12 The State will be -- the very next thing the State
13 will be doing is putting in the stipulation agreement that
14 we would ask to read to the jury, but that's for tomorrow.

15 THE COURT: Okay. Court's in recess until 9:45 in
16 the morning.

17 (WHEREUPON, the proceedings were concluded at
18 approximately 4:52 p.m., to be reconvened
19 on Tuesday, July 18, 2017)
20
21
22
23
24
25

1 TUESDAY, JULY 18, 2017

2 (WHEREUPON, State's Exhibit No. 38 was admitted into
3 evidence.)

4 THE COURT: Good morning.

5 Are we ready to proceed?

6 MS. PARRISH: Yes, sir.

7 Briefly, Your Honor.. It came to the State's
8 attention yesterday that Hal Harris had sat in for part of
9 the testimony. I did let Mr. Robinson know that. I don't
10 believe that that would be an issue for the case. I
11 believe we agreed there was nothing really that contained
12 his testimony.

13 But I did want to make the Court aware that I had
14 failed to notice who he was and keep an eye out in the
15 courtroom.

16 THE COURT: And he's not present now?

17 MS. PARRISH: No, sir, Your Honor. He is not.

18 MR. ROBINSON: Yeah. We spoke about it yesterday,
19 Your Honor. So I'm fine with it.

20 THE COURT: So there's no objection?

21 MR. ROBINSON: No objection.

22 THE COURT: Okay. Bring the jury in, please.

23 (WHEREUPON, the jury came into open court at
24 approximately 9:59 a.m.)

25 THE COURT: Good morning, ladies and gentlemen.

1 As you know, when we recessed yesterday, the State
2 had begun with the presentation of their case. So we'll
3 continue with that presentation this morning.

4 Ms. Parrish.

5 MS. PARRISH: May it please the Court.

6 Your Honor, at this time, the State and the Defense
7 have entered into a stipulation agreement. And we wish to
8 admit that as State's Exhibit No. 38, and publish it to
9 the jury.

10 THE COURT: All right. A stipulation, for those who
11 might not be familiar with it, is an agreement between the
12 parties, the lawyers. They agree that what they're going
13 to stipulate to is a fact in the case, and that that's
14 established -- that fact is established by the stipulation
15 without any further proof needed.

16 MS. PARRISH: May I read it, Your Honor?

17 THE COURT: Yes, ma'am.

18 MS. PARRISH: Now, comes the State, by and through
19 its undersigned representative of the Greenville County
20 Solicitor's Office, and the Defendant, through his
21 attorney, Scott Robinson, of the Greenville County Bar.

22 We stipulate to the following as fact in the trial of
23 this case that the victim, Joseph Jamal Marion, was
24 pronounced dead on June 14th, 2014, at 3:05 am. An
25 autopsy revealed the victim sustained a single close-range

1 gunshot wound to the head with an entrance wound above the
2 lip. The direction of the wounding is slightly upward,
3 slightly left to right, and front to back. The manner of
4 death was deemed to be homicide.

5 At autopsy, the victim's blood did test positive for
6 the presence of THC, cocaine metabolite, and alcohol.
7 Joseph Jamal Marion was approximately 6'2" tall. Tony
8 Leamon is approximately 6'4" tall.

9 The State calls Robert Parker to the stand.

10 THE CLERK: Good morning.

11 Please come forward.

12 Will you put your left hand on the Bible and raise
13 your right?

14 WHEREUPON,

15 ROBERT PARKER, JR.,

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

17 THE CLERK: Please have a seat.

18 Will you state your full name for the record?

19 THE WITNESS: Robert Parker, Jr.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MS. PARRISH:

23 Q Mr. Parker, where are you employed?

24 A Greenville County forensics.

25 Q How long have you worked for Greenville County

1 forensics?

2 A A little over four years.

3 Q What did you do prior to working with Greenville
4 County forensics?

5 A I was a patrolman.

6 Q Where at?

7 A Simpsonville Police Department.

8 Q How long have you been in law enforcement total?

9 A A little over 10 years.

10 Q And tell me a little bit about your background. What
11 kind of education and training do you have?

12 A I have an Associates in Criminal Justice. I received
13 advanced training in blood stain pattern analysis and
14 shooting reconstruction.

15 Q All right. And were you working in forensics on June
16 14th, 2014?

17 A Yes, ma'am.

18 Q Were you called to a homicide scene on that date?

19 A Yes, ma'am.

20 Q Where was the location of that scene?

21 A The location of the scene was 1120 Hampton Avenue
22 Extension, Greenville.

23 Q And what kind of establishment was that?

24 A I believe it was a private club.

25 Q Did you remain at that scene?

1 A Yes, ma'am, for a little while.

2 Q What did you do after you left the scene?

3 A I went to the Greenville County morgue to attend the
4 autopsy.

5 Q Where is the Greenville County morgue located?

6 A 701 Grove Road.

7 Q Who was present when you arrived for the autopsy?

8 A Investigator Fortner. I believe Dr. Fulcher was
9 still there, too.

10 Q Is it a -- is it a normal routine duty for you to
11 attend an autopsy?

12 A Yes, ma'am.

13 Q And what is the role of a forensics officer at an
14 autopsy?

15 A To document, to observe, to collect and preserve any
16 evidence.

17 Q What do you mean by "document"?

18 A Take photographs.

19 Q All right. I'm going to show you what's been marked
20 as State's Exhibit Nos. 39 through 41. Can you, please,
21 tell me if you recognize what these photographs are?

22 A Uh --

23 Q Just tell me if you recognize them.

24 A Yes, ma'am, I do.

25 Q How do you recognize them?

1 A These are photographs I took.

2 Q So you took those photographs yourself?

3 A Yes, ma'am.

4 Q When -- did you take them at the autopsy?

5 A Yes, ma'am, I did.

6 Q What date was that on? Do you recall?

7 A June the 14th.

8 Q Do you remember what time it was?

9 A I'd have to refer back to my report.

10 I arrived there at 12:04 in the afternoon.

11 Q All right. Tell me, has anything been altered or
12 changed in those photographs?

13 A No.

14 Q Do they fairly and accurately depict what you saw at
15 the autopsy on June 14th?

16 A Yes, ma'am.

17 Q Can you please --

18 MS. PARRISH: At this time, the State seeks to admit
19 State's Exhibit Nos. 39 through 41 into evidence.

20 MR. ROBINSON: No objection.

21 THE COURT: They're admitted.

22 (WHEREUPON, State's Exhibit Nos. 39, 40, and 41 were
23 admitted into evidence.)

24 BY MS. PARRISH:

25 Q Can you explain what we can -- what we're looking at

1 in State's Exhibit No. 39?

2 A Yes, ma'am. On the right is going to be the X-ray of
3 the victim's head.

4 Q Now, there are two photographs -- there are two
5 X-rays in that photograph. Are both of them of Jamal
6 Marion?

7 A No, ma'am. The one on the left was from, I believe,
8 a prior autopsy they did.

9 Q And how do you know that that one is Jamal Marion and
10 the other is not?

11 A Their names are printed at the bottom of the X-ray
12 scans.

13 Q Okay. And what is depicted in that X-ray of
14 Mr. Marion?

15 A In his X-ray, there appeared to be a projectile in
16 his skull.

17 Q All right. And can you, please, tell me the
18 difference or -- what is depicted in State's Exhibit
19 Nos. 40 and 41, and the difference between them?

20 A On State's Exhibit No. 41, that picture is depicting
21 the projectile hole that was above his upper lip under his
22 left nostril.

23 Q Okay. And what about State's Exhibit No. 40?

24 A On State's Exhibit No. 40, it appears the projectile
25 hole is not there.

1 Q It's not there.

2 A Well...

3 Q I guess, what is the distinction between them?

4 A (There was no response.)

5 Q Are they at different stages in the autopsy?

6 A No. When I was there, the autopsy was already
7 completed.

8 Q But you took these photographs?

9 A Yes. Now, this could be, I guess, where I zoomed in,
10 I guess, his nostrils kind of covered up the projectile
11 hole here. But, yes.

12 But looking at State's Exhibit No. 41, you can kind
13 of see the suspected gunshot residue that is on his upper
14 lip and his two upper front teeth.

15 Q Can you, also, see that gunshot residue in State's
16 Exhibit No. 40?

17 A Yes, you can.

18 Q And is there more in State's Exhibit No. 40 versus
19 State's Exhibit No. 41?

20 A Yes. It looks like the flash kind of depicted more
21 of the gunshot residue around his nostril and his cheek
22 area.

23 Q All right. You said that in addition to documenting
24 the evidence, you, also, collect evidence from the
25 autopsy; is that correct?

1 A Yes, ma'am.

2 Q Did you collect any evidence from this autopsy?

3 A Yes, I did.

4 Q I'm going to show you what's been marked as State's
5 Exhibit No. 42. Tell me, do you recognize what is in
6 State's Exhibit No. 42? Or do you know -- I'll let you
7 open it.

8 A Yes, ma'am. This is going to be the projectile that
9 Dr. Fulcher had recovered and packaged.

10 Q All right. And how do you know that?

11 A This is the one that I collected from the morgue.
12 And this is going to be the packaging I placed it in.

13 Q Okay. And did you mark either of those things so you
14 could identify them later?

15 A Yes, ma'am. I initialled the packaging myself.

16 Q All right. Can you -- what are your initials just so
17 we can see them?

18 A RSP --

19 Q All right.

20 A -- at the top of the packaging.

21 Q Has anything been done to -- as far as you can tell
22 to change this projectile in any way?

23 A Uh --

24 Q Or is that substantially what it looked like when you
25 picked it up from autopsy?

1 A Yes, ma'am. The only person that would have observed
2 the projectile would be Mr. Armstrong.

3 MS. PARRISH: Your Honor, at this time, the State
4 seeks to admit State's Exhibit No. 42 into evidence.

5 MR. ROBINSON: No objection, Judge.

6 THE COURT: It's admitted.

7 (WHEREUPON, State's Exhibit No. 42 was admitted into
8 evidence.)

9 BY MS. PARRISH:

10 Q What did you learn at and after the autopsy?

11 A Just -- when looking at the gunshot residue on the
12 victim's face, just the amount that was there. It
13 appeared that the firearm was discharged at close range,
14 which close range could be approximately within two feet.
15 Looking at the amount, that could be approximately between
16 one to 12 inches in distance.

17 And the medical staff utilized the trajectory rod in
18 Mr. Marion's head. You could observe that projectile
19 traveling at an upward angle.

20 Q All right. Did Mr. Marion suffer any other injuries
21 or have any other signs of damage to his body?

22 A I just observed there was a scar on his neck. And it
23 didn't appear there were any other visible injuries.

24 Q Did that scar appear fresh or healed?

25 A Healed.

1 MS. PARRISH: I have no further questions. Please
2 answer any questions Mr. Robinson may have.

3 THE WITNESS: Yes, ma'am.

4 MR. ROBINSON: I have no questions, Your Honor.

5 THE COURT: Okay. You may step down.

6 MS. PARRISH: May Mr. Parker be excused?

7 THE COURT: He may be.

8 MS. PARRISH: The State calls James Armstrong.

9 THE CLERK: Raise you right hand and place your left
10 hand on the Bible.

11 WHEREUPON,

12) JAMES WILLIAM ARMSTRONG,
13 after first having been duly sworn, testified as follows:

14 THE CLERK: Please have a seat.

15 And will you state your full name for the record?

16 THE WITNESS: James William Armstrong.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. PARRISH:

20 Q By whom are you employed?

21 A I'm employed with the Greenville County Department of
22 Public Safety forensics division crime laboratory.

23 Q And what position do you hold with the forensics
24 division crime laboratory?

25 A I work in a dual function as a forensic firearm

1 examiner and forensic drug chemist.

2 Q How long have you had that position?

3 A A little over 21 and a half years.

4 Q Is that your entire extent in law enforcement?

5 A No. I, also, had two and a half years in Laurens
6 County as a uniform patrol officer.

7 Q Tell me a little bit about your education and
8 training in firearms examination.

9 A I have a Bachelor of Science Degree in Chemistry from
10 Erskine College. I trained in an apprenticeship-style
11 training process for about two years under the direction
12 of a retired firearm examiner from the Philadelphia PD.

13 I've attended numerous firearm manufacturing
14 facilities to see the raw material -- from raw material to
15 the finished product of a firearm. I've attended numerous
16 ammunition manufacturing facilities to see the same
17 process.

18 I am a member of the Association of Firearm and Tool
19 Mark Examiners. And I've testified in federal and state
20 courts, at least, 54 times as an expert in the area of
21 firearm identification.

22 Q And what tasks do you, typically, perform on a
23 day-to-day basis as a firearms examiner?

24 A I look at anything that's firearm related or tool
25 mark related, such as fired projectiles, fired cartridge

1 casings, and firearms. If I have the -- all three, I will
2 try to determine if the two fired components have -- were
3 fired from a firearm, or if I just have projectiles, tell
4 the officers what type of firearm may have fired that
5 projectile, as well as the caliber.

6 Q How many times have you testified in state court
7 approximately?

8 A In the firearms area --

9 Q Yeah.

10 A -- with federal and state combined, 54.

11 Q And have you previously been qualified as an expert
12 in firearms examination or tool marks?

13 A Yep, in all 54.

14 MS. PARRISH: And, Your Honor, at this point, the
15 State would move to have Mr. Armstrong qualified as an
16 expert in ballistics analysis.

17 MR. ROBINSON: I have no voir dire, Your Honor.

18 THE COURT: All right. He is so qualified.

19 BY MS. PARRISH:

20 Q I'm going to show you what has been marked as State's
21 Exhibit No. 42. Can you tell me if you recognize what
22 this is?

23 A Yes, ma'am, I can.

24 Q How do you recognize what that is?

25 A The outer bag, which has my initials and the date

1 where I, actually, sealed it back. The inner package has
2 my initials and the item number. And I, also, have
3 markings on the projectile that I examined.

4 Q All right. Tell me what kind of markings you would
5 make on that projectile.

6 A I'd either put the item number, or a portion of it,
7 and my initials.

8 Q All right. And has -- aside from those marks that
9 you made to the projectile, has anything been done to it
10 since you examined it?

11 A No, ma'am.

12 Q Is that the projectile that you examined in this
13 case?

14 A Yes, ma'am, it is.

15 Q Can you tell me when you examined it?

16 A I received it on March the 22nd, 2017.

17 Q All right. And tell me about your analysis of a
18 projectile like that. What is your -- what do you do
19 when --

20 A When I receive the projectile, I, first and foremost,
21 clean it and make sure it's safe for me to, actually,
22 handle. And then once I clean the item, I weigh it to get
23 an idea of how much it weighs. Then I look at the
24 construction of it and count the -- what we call lands and
25 grooves that are imprinted on a projectile from the barrel

1 of the firearm, and record that.

2 Then I would measure those lands and grooves and go
3 to a computer program that I have and put that data in
4 there and see what type of firearm may have fired that
5 projectile.

6 Q Did you have a firearm to examine in this case?

7 A No, ma'am, I did not.

8 Q Did you have anything else such as a shell casing to
9 examine in this case?

10 A No, ma'am, I did not.

11 Q What can you learn from just a fired projectile like
12 that?

13 A From the projectile, I can tell the caliber and a
14 possible list of firearms that may have been used to fire
15 it.

16 Q Was that projectile in a sufficiently good condition
17 for you to make those determinations?

18 A Yes, ma'am.

19 Q Did you summarize what were your findings in a
20 report?

21 A Yes, ma'am, I did.

22 Q Is this the type of report that you keep in the
23 regular course of your business?

24 A Yes, ma'am, it is..

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

1 Exhibit No. 43. Can you, please, tell me if you recognize
2 this?

3 A Yes, ma'am, I can. This is a copy of my report for
4 this case.

5 Q And has anyone changed any of your findings? Has
6 anyone altered or deleted anything from that report?

7 A No, ma'am.

8 MS. PARRISH: Your Honor, at this time, the State
9 would seek to admit State's Exhibit No. 43 into evidence.

10 MR. ROBINSON: No objection, Judge.

11 THE COURT: It's admitted.

12 (WHEREUPON, State's Exhibit No. 43 was admitted into
13 evidence.)

14 BY MS. PARRISH:

15 Q Mr. Armstrong, what information were you able to
16 gather from the projectile recovered in this case?

17 A I was able to determine that the projectile is a
18 .32-caliber fired bullet specimen. And that the general
19 rifling characteristics are consistent with firearms
20 marketed by Arminius, Burgo, Hawes, Omega, Weihrauch Hans,
21 and possibly others.

22 Q So -- I'm sorry. Could you explain the caliber of
23 the bullet?

24 A A .32.

25 Q And does -- is that significant in any way? Does

1 that limit the number or type of gun that could have been
2 used in this case?

3 A It would have to be a .32-caliber firearm.

4 Q Okay. Does that mean a handgun? A rifle? A
5 revolver?

6 A It's most consistent with a handgun. And with this
7 manufacturers of -- or the listing of manufacturers I
8 gave, those are most consistent with like revolver types.

9 Q All right. Can you tell anything about the size of
10 the handgun that that bullet would have come from?

11 A Not specifically.

12 Q All right. And several witnesses -- witnesses
13 describe seeing a different type of gun. Is that
14 uncommon --

15 MR. ROBINSON: Your Honor, objection. Leading.

16 THE COURT: Sustained.

17 MS. PARRISH: All right.

18 BY MS. PARRISH:

19 Q Did you have a chance to review the photographs of
20 the victim in this case?

21 A No, ma'am.

22 Q I'm going to show you State's Exhibit Nos. 40 and 41.
23 As a firearms and ballistics examiner, do you have
24 training or qualifications in examining or discussing
25 gunshot powder residue?

1 A Yes, ma'am.

2 Q Looking at State's Exhibit Nos. 40 and 41, can you
3 glean any information from the gun powder residue in those
4 photographs?

5 A It's difficult in State's Exhibit No. 40. But
6 State's Exhibit No. 41 appears to have a little bit of a
7 burn mark around, which indicates it's fairly close in
8 distance from muzzle to target.

9 Q When you say "fairly close in distance," is there an
10 approximate range?

11 A Without, actually, doing testing, I can't really say.

12 Q Okay.

13 A I'd, actually, have to have the firearm to try to
14 reproduce the same patterns.

15 Q You noted that the projectile likely came from a
16 revolver manufacturer?

17 A Yes, ma'am.

18 Q What specific tools -- or what specific markings led
19 you to that conclusion?

20 A Well, on -- one of the type of projectiles is a lead
21 projectile. The general rifling characteristics which led
22 me toward the firearm manufacturers -- those manufacturers
23 are most consistent with people that are manufacturing
24 revolvers and not semi-autos.

25 Q When a revolver is fired, is it uncommon for people

1 in a close area to feel or experience a burning sensation?

2 A I really don't know. It depends on, I guess, how
3 close they are to the firearm when it's being fired.

4 Q Would it be impossible?

5 MR. ROBINSON: Objection, Your Honor. At this
6 point --

7 THE COURT: Sustained.

8 He's answered the question.

9 MR. ROBINSON: Okay.

10 MS. PARRISH: All right. I have no further
11 questions. Please answer any questions Mr. Robinson may
12 have.

13 MR. ROBINSON: Thank you.

14 May it please the Court.

15 CROSS-EXAMINATION

16 BY MR. ROBINSON:

17 Q Mr. Armstrong, everything you just told this jury is
18 you say consistent, but you really don't know, do you?

19 A That's correct.

20 Q And everything you're telling this jury as far as
21 your testimony, it may or may not be. You really don't
22 know, do you?

23 A Don't know.

24 Q You don't know whether it's this type of gun or that
25 type of gun. But it's consistent with maybe -- you put

1 down 1, 2, 3 in Exhibit No. -- five or six different
2 manufacturers. And you say "others" in there as well --

3 A Yes, sir.

4 Q -- within that exhibit. So it could be just a whole
5 host of types of guns; correct?

6 A That's correct.

7 Q It could be something other than a revolver as well,
8 couldn't it?

9 A It's very possible.

10 MR. ROBINSON: Thank you.

11 That's all I have.

12 MS. PARRISH: Your Honor, we have no further
13 questions for this witness.

14 May he be excused?

15 THE COURT: He may be.

16 Thank you.

17 MS. HENDRICKS: The State calls Hal Harris.

18 (Pause.)

19 MS. PARRISH: He may not be present yet, Your Honor.

20 The State calls Janetta Kyles.

21 THE CLERK: Raise your right hand and place your left
22 hand on the Bible.

23 WHEREUPON,

24 JANETTA KYLES,

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

1 THE CLERK: Thank you.

2 And will you state your full name for the record?

3 THE WITNESS: Janetta Kyles.

4 DIRECT EXAMINATION

5 BY MS. PARRISH:

6 Q Ms. Kyles, are you able to walk up to the witness
7 stand?

8 A I can do it.

9 THE COURT: Can you unhook those handcuffs?

10 THE COURTROOM OFFICER: Yes, sir.

11 (Pause.)

12 BY MS. PARRISH:

13 Q Ms. Kyles, how old are you?

14 A I'm 23.

15 Q I'm going to put that microphone just a little bit
16 closer.

17 Do you work or go to school?

18 A I go to school right now.

19 Q Where do you go to school?

20 A University of Phoenix online.

21 Q Okay. And what are you studying?

22 A Human services.

23 Q Human services?

24 A Family and children.

25 Q Okay. If I repeat something, I just want to make

1 sure that I'm hearing you correctly, because you have a
2 soft voice. Okay.

3 A Okay.

4 Q Are you from Greenville originally?

5 A No.

6 Q Where are you from?

7 A I'm from Florence.

8 Q Florence?

9 A Florence, South Carolina.

10 Q Okay. Who do you live with?

11 A My mom, sister, and my nephew.

12 Q Okay. And I want to take you back to June of 2014.

13 Who were you living with at that time?

14 A My mother.

15 Q Okay. And were you dating anyone?

16 A Well, yeah, I was dating. I was going [inaudible].

17 Q I'm sorry. I couldn't understand that.

18 A I was going out on dates.

19 THE COURT: Get closer to the microphone or speak up,
20 please.

21 BY MS. PARRISH:

22 Q Was there one person, in particular, that you
23 primarily dated?

24 A Yes.

25 Q Who was that?

1 A Tony.

2 Q Tony who?

3 A Leamon.

4 Q Is Tony Leamon in this courtroom today?

5 A Yes, he is.

6 Q Where is he?

7 A He's right there.

8 Q All right. And tell me when you met Mr. Leamon?

9 A When?

10 Q Yes. When?

11 A It was during the summer, or the spring. It was hot
12 outside. I can't remember exactly.

13 Q Do you remember what year?

14 A 2014.

15 Q Okay. So in June of 2014, how long had you been
16 dating or going on dates with Mr. Leamon?

17 A Four -- about four months.

18 Q All right. How did you meet him?

19 A He was -- he was in the neighborhood. He was living
20 in the neighborhood. He was -- he was in the
21 neighborhood, so.

22 Q He was?

23 A In the neighborhood.

24 Q Did he live in the neighborhood?

25 A I'm not sure. He was around.

1 Q Ms. Kyles --

2 A I'm not sure if he was, actually, residing there.

3 Q Ms. Kyles, you spent last night in the detention
4 center; is that correct?

5 A Yeah.

6 Q Why?

7 MR. ROBINSON: Your Honor, objection. Relevance.

8 THE COURT: Sustained.

9 MS. PARRISH: I'm trying to establish the hostile --

10 THE COURT: Well, we'll get there, perhaps. But you
11 go ahead and just ask your questions for now.

12 BY MS. PARRISH:

13 Q Ms. Kyles, did you want to testify in court today?

14 A I was subpoenaed, so.

15 Q Did you want to testify in court today?

16 A I had to, yeah.

17 THE COURT: Did you understand her question?

18 THE WITNESS: Yeah. Did -- did I want to.

19 THE COURT: That was her question, yes.

20 THE WITNESS: No.

21 BY MS. PARRISH:

22 Q Okay. Have you wanted to talk to police or anyone
23 about this case?

24 A No.

25 Q Have you failed to come to court as subpoenaed?

1 A Yes. I failed to come one time.

2 Q Excuse me?

3 A Yes. I failed to come one time.

4 Q Okay. And is that the reason for your presence in
5 the orange jumpsuit today?

6 A Yes.

7 Q Okay. So I want to take you back to my question
8 about Mr. Leamon. You said you knew him from the
9 neighborhood. Did he live there? Why was he around that
10 neighborhood?

11 MR. ROBINSON: Objection, Your Honor. It calls for
12 speculation.

13 THE COURT: Well, if you know of your own personal
14 knowledge.

15 THE WITNESS: Well, yeah. Family. He had family
16 there.

17 BY MS. PARRISH:

18 Q His family lived in your neighborhood?

19 A Yeah.

20 Q Is that correct?

21 A Uh-huh. I know they lived there. I wasn't -- I'm
22 not -- I can't say if he, actually, lived there at the
23 time.

24 Q All right. And what was your relationship like?

25 A It was -- you know, we'd go out.

1 Q You would go out. Where would you go?

2 A Downtown, clubs, you know, clubs every now and then.

3 Q Okay. Did your friends and family know that you were
4 seeing Mr. Leamon?

5 A Yes.

6 Q Did they approve of the relationship?

7 MR. ROBINSON: Objection, Your Honor. Relevance.

8 THE COURT: Sustained.

9 BY MS. PARRISH:

10 Q How often did you go out with him?

11 A I would say -- I mean, like it would be sometimes
12 food, clubs. It would be -- how often?

13 Q Yes, ma'am. How often?

14 A Like per week? Like I'm trying to....

15 Q Per week, per month. How often did you see him?

16 A It was through -- through the week. Because he was
17 in the neighborhood. So, yeah, I would see him often.

18 Q Are there any particular bars or clubs that y'all
19 would go to?

20 A We would go to the Black and Mild and to -- to
21 Bugatti -- Bugatti Grand.

22 Q Bugatti Grand and the Black and Mild Club, is that --
23 did I hear you correctly?

24 A Yes.

25 Q Did Mr. Leamon ever visit your house?

1 A Yeah, yeah. He would, you know, pass by it all the
2 time.

3 Q Did he ever visit inside your house?

4 A No.

5 Q Okay. He never came inside your house?

6 A No.

7 Q Okay. Did he ever stay at your house?

8 A No.

9 Q So I guess he would have to come over and be inside
10 your house to stay, wouldn't he?

11 A Yeah.

12 Q All right. Are you still in a relationship with
13 Mr. Leamon?

14 A No. I'm not currently in a relationship with him.

15 Q When did that end?

16 A When he wasn't around.

17 Q Okay. When is the last time you recall seeing
18 Mr. Leamon around your neighborhood?

19 A The last time I recall seeing him was July or June.

20 Q Do you remember the last time he came to your house?

21 A I'm -- I'm going to be honest, I'm not good at these
22 dates. So I'm really just --

23 Q That's fine. Well, tell me what you remember about
24 the last time he came to your house?

25 A He was -- he was shirtless.

1 Q Shirtless?

2 A Yeah. He didn't have a shirt on.

3 Q Okay. What was he wearing?

4 A He had on blue pants.

5 Q Blue pants. Do you remember anything else about what
6 he was wearing, shoes, hat, anything?

7 A No, no, just pants.

8 Q Just pants. Was he -- he wears glasses. Do you
9 recall whether he was wearing his glasses that day?

10 A I can't.

11 Q Okay. Do you remember what time of day it was that
12 you saw him at your house last?

13 A It was early -- early morning.

14 Q Early morning. And was it a normal time for you to
15 see him when he came?

16 A We've seen each other around that time before, but it
17 was -- you said was it normal?

18 Q Yes. Was that a normal time for him to come over to
19 your house?

20 A I wouldn't say -- no. It wasn't normal.

21 Q Okay. What about it wasn't not normal?

22 A Well, he needed -- he needed to talk to me. He was
23 calling. He had called -- called earlier. I went back to
24 sleep. He needed some transportation. And I didn't
25 [inaudible].

1 Q So prior --

2 THE COURT: Ma'am, you're going to have to speak up
3 so everyone can hear your responses. Okay.

4 BY MS. PARRISH:

5 Q Do you need some water? Would that help?

6 A I do.

7 Q I had asked you what about the time of day was
8 abnormal. And I believe you were saying that he had been
9 calling earlier?

10 A Yeah. It was still morning.

11 Q Okay. So what -- did he come over earlier than
12 usual?

13 A Yeah.

14 Q Okay. You said he called you earlier before he came
15 over. Do you recall about what time that was?

16 A Maybe 5:00. 5:00 maybe, 5:30, 6:00.

17 Q Is that the call or the visit?

18 A Are you -- which one are you asking about?

19 Q Do you recall what time he started calling you?

20 A Probably around 3:00.

21 Q Okay. Do you recall about what time -- if he called
22 you around 3:00 what time he came over?

23 A Maybe 6:00. I would saying 6:00ish.

24 Q Okay. And he was only wearing blue pants?

25 A Yes.

1 Q What was his demeanor when he arrived? How was he
2 acting?

3 A Antsy --

4 Q Okay.

5 A -- I would say.

6 Q What did he say to you at that time?

7 A He needed a ride.

8 Q He needed a ride. Did he specify where he needed a
9 ride to?

10 A I believe it was -- I believe it was his aunt, his
11 aunt [sic] house.

12 Q Okay. Did you know where his aunt lived?

13 A Yeah. She -- I can't remember the name of the place,
14 but I knew where she had lived..

15 Q Did Tony appear to have driven to your house? Did it
16 appear he drove there?

17 A No.

18 Q Did you provide him a ride to his aunt's house?

19 A My mother, she wouldn't let me go. Well, I was doing
20 hair. I was doing hair. And I needed to be back. So my
21 mom, you know, she went and took him to where he needed to
22 go.

23 Q Your mom took him because you were doing hair that
24 morning?

25 A Yeah. It's not the first time. So it wasn't -- she

1 didn't -- she didn't look at it -- you know, it was just,
2 you know, what I had to do --

3 Q Sure.

4 A -- and the schedule.

5 Q Did you do hair as a profession? Is that something
6 you did for other people for money, a type of work?

7 A Yeah. Like my mom she would do, like, the first
8 part. And I would do the second part as far as cutting
9 it.

10 Q Okay. Did he come inside your house that morning?

11 A No, he did not.

12 Q Did he tell you why he needed a ride at that time?

13 A No.

14 Q Did he say anything about what had happened?

15 A No.

16 Q Did you see him again later that day?

17 A No.

18 Q You did not?

19 A No.

20 Q When did you see him again?

21 A I seen him -- it had to be, at least, a day, like, at
22 least, a day in between, maybe some days.

23 Q Ms. Kyles, do you remember speaking to Investigator
24 Mike Fortner, the man sitting at that table?

25 A I don't. I don't remember his face. I'm going to be

1 honest, I don't.

2 Q Do you remember speaking to law enforcement, though?

3 A Yeah.

4 Q Where did you do that? Do you remember?

5 A Where?

6 Q Uh-huh.

7 A At the police station.

8 Q I'm asking you, do you --

9 A Do I remember where?

10 Q Yes.

11 A Like the location of the place?

12 Q Where you spoke to him, yes, ma'am.

13 A I don't know the location. It's -- that seems like a
14 trick question.

15 Q I'm sorry. I'm not trying to trick you. Is it
16 possible you spoke to him on June 20th, 2014, at the
17 police station?

18 A It's possible.

19 Q Would it have been at 10:30 in the morning?

20 A I wouldn't know.

21 Q I'm going to show you --

22 MS PARRISH: Well, I'll ask to mark this as a Court's
23 Exhibit.

24 (WHEREUPON, Court's Exhibit No. 2 was marked for
25 identification and admitted into evidence.)

1 BY MS. PARRISH:

2 Q Do you recognize this disk, Ms. Kyles?

3 A Yes.

4 Q How do you recognize it?

5 A I signed it.

6 Q You signed it. And can you tell me what date you
7 signed it?

8 A Seven -- 7/17.

9 Q So July 7th of this year, ma'am?

10 A Yes, ma'am.

11 Q Not quite two weeks ago; is that correct?

12 A Uh-huh.

13 Q Did you watch the video?

14 A Uh-huh.

15 Q And what's --

16 THE COURT: Excuse me.

17 Is that a "yes" or a "no"?

18 THE WITNESS: Yes.

19 BY MS. PARRISH:

20 Q And what's on that video? You don't have to tell us
21 what you said. But what's on that video?

22 A It was a recording of -- it was recording of when I
23 talked to an officer, I believe.

24 Q Okay. It was a recording of when you talked to an
25 officer. And when you watched this video, had anybody

1 changed it? Had anybody put words in your mouth, or
2 deleted out parts of it?

3 A Well, when I read the transcript, there were some
4 things I -- that -- that wasn't there.

5 Q Well, I'm not asking about the transcript. I'm
6 asking you about the tape that you watched. Was that you
7 on that tape?

8 A Yes.

9 Q Had anyone done anything to that tape?

10 A Not to my knowledge.

11 MS. PARRISH: Okay. Your Honor, at this time, the
12 State wishes to put -- make this just a -- Court's
13 Exhibit No. 2, please.

14 THE COURT: Okay.

15 BY MS. PARRISH:

16 Q And do you remember what you -- does that help
17 remind you of when or where you spoke to police,
18 Ms. Kyles?

19 A I -- I don't know when or where. My memory is really
20 not that good. I'm sorry.

21 Q Okay.

22 A I can't give you -- you know, I can't elaborate on
23 something I really don't know.

24 MS. PARRISH: I'm going to ask to mark this as a
25 State's Exhibit.

1 (WHEREUPON, State's Exhibit No. 59 was marked for
2 identification only.)

3 MS. PARRISH: Your Honor, may we have a brief hearing
4 outside the presence of the jury, please?

5 THE COURT: Okay. Let me ask the jury to, please, go
6 to your jury room. I'll address this issue and then bring
7 you back. Do not discuss the case in any fashion.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 10:39 a.m.)

10 MS. PARRISH: Your Honor, at this time, the State
11 would seek to publish Ms. Kyles redacted video to the
12 jury. She does make statements about prior charges, prior
13 convictions, an ankle monitor, and things that we -- the
14 State agrees and knows are, clearly, inadmissible and
15 prejudicial. We have redacted those out.

16 But it's my understanding that Mr. Robinson still
17 objects to the tape on other grounds.

18 MR. ROBINSON: May it please the Court.

19 Your Honor, I don't think she's asked really enough
20 questions to get this video in. I mean, she hasn't asked
21 the questions that -- about what Mr. Leamon may have told
22 her. I think she needs to illicit a little bit more
23 testimony before she starts playing this -- plays the
24 tape --

25 THE COURT: Well, let's do this. How long is that

1 video?

2 MS. PARRISH: It is approximately 45 minutes, Your
3 Honor.

4 And we're happy to illicit more. But if she can't
5 even remember the date, or time, or place --

6 THE COURT: Well, let's go ahead and see if she
7 knows -- see if she remembers anything. Maybe her memory
8 will get better in a minute. But ask her what you need to
9 ask her.

10 And you need to get up to that microphone. Because
11 we still need to hear what you have to say. Okay.

12 THE WITNESS: I'm sorry. I was stretching.

13 THE COURT: Yes. I understand.

14 DIRECT EXAMINATION

15 BY MS. PARRISH:

16 Q Ms. Kyles, you don't remember when, or where, or
17 exactly who you spoke to you, but you did speak to police?

18 A Yeah.

19 Q And what did you talk to them about?

20 A About Tony.

21 Q What about Tony?

22 A About [inaudible] --

23 THE COURT: You need to use the microphone.

24 THE WITNESS: About -- at that point in time, it was
25 about -- about -- I'm -- I'm trying to be clear about it.

1 BY MS. PARRISH:

2 Q Do you not remember anything that you spoke to police
3 about?

4 A Well, yeah. There -- there was -- there was a couple
5 of things.

6 Q Do you remember telling police that you paid for a
7 motel room for Mr. Leamon on June 14th?

8 A Yes.

9 Q Which would be the same day that he came over to your
10 house?

11 A He never came to my house -- wait. I mean, he didn't
12 come in my house.

13 Q He came to your house?

14 A Yeah -- no. That wasn't the same day.

15 Q That's not what you told police?

16 A Huh-uh.

17 THE COURT: Is that a "yes" or a "no"?

18 THE WITNESS: No.

19 BY MS. PARRISH:

20 Q Okay. Do you remember telling police --

21 THE COURT: Excuse me just a minute.

22 Do you need to -- do you need to look at this video
23 again so you'll know what you told police? You've
24 identified the video.

25 MS. PARRISH: She just watched it on July 7th, Your

1 Honor.

2 THE COURT: Yes. You watched the video. Are you
3 saying you don't remember what you said on there?

4 THE WITNESS: My memory is not good at all.

5 THE COURT: It's not very good?

6 THE WITNESS: No.

7 THE COURT: Well, do you need to look at that video
8 again so you'll remember what you said?

9 THE WITNESS: If that's what's needed.

10 THE COURT: Well, I don't know if it's needed or not.
11 You have to tell me, ma'am. You're the one that's being
12 asked the questions.

13 THE WITNESS: Yeah.

14 THE COURT: Okay. Show her the video.

15 MS. PARRISH: Would you like me to show her the
16 redacted copy, Your Honor?

17 THE COURT: That will be -- whichever one you want to
18 introduce.

19 She'll need to get back in her chair so she can look
20 at it.

21 Do you need that wheelchair?

22 THE WITNESS: Yes.

23 THE COURT: Okay. Did you bring that with you to the
24 courthouse when you came?

25 THE COURTROOM OFFICER: This is the courthouse's.

1 THE COURT: I know.

2 Did you bring that with you?

3 THE WITNESS: Did I bring it?

4 THE COURT: Yes, ma'am. In other words, when you
5 came to the courthouse yesterday, were you in a
6 wheelchair?

7 THE WITNESS: Yes.

8 THE COURT: You were. Well, where's your chair?

9 THE WITNESS: No. I needed one.

10 THE COURT: So when you came to the courthouse, you
11 were not in a wheelchair.

12 THE WITNESS: No. I --

13 THE COURT: You got one when you got here?

14 THE WITNESS: Someone was escorting me.

15 THE COURT: You got one when you got here?

16 THE WITNESS: Yes, I did.

17 THE COURT: Okay. Put her in the chair.

18 Be sure she's in a location where she can be sure to
19 see everything and hear everything.

20 Can you dim those lights?

21 (WHEREUPON, State's Exhibit No. 59 was played in
22 open court.)

23 THE COURT: We need some more volume.

24 MS. PARRISH: I beg your pardon, Your Honor.

25 THE COURT: We need some more volume.

1 (WHEREUPON, State's Exhibit No. 59 continued to be
2 played in open court.)

3 THE COURT: Ms. Simms, these gentlemen that are
4 coming in and out of the courtroom, if they can't pull
5 their pants up on their waist -- that fellow just about
6 hit the floor. So tell them to dress properly or leave
7 this courtroom. Do not come back in.

8 THE BAILIFF: Okay.

9 THE COURT: Thank you.

10 (WHEREUPON, State's Exhibit No. 59 continued to be
11 played in open court.)

12 MS. PARRISH: Your Honor, Ms. Kyles says that she
13 thinks she remembers now.

14 THE COURT: Oh, that's great. That's great.
15 You remember now?

16 THE WITNESS: This video is helping.

17 THE COURT: Ma'am?

18 THE WITNESS: Yeah.

19 THE COURT: Okay. Good.

20 MS. PARRISH: I'm just going to do this so that if we
21 need to start it back up, it will be at the same place,
22 Your Honor.

23 THE COURT: Okay. Bring the jury in, please.

24 (WHEREUPON, the jury came into open court at
25 approximately 11:00 a.m.)

1 THE COURT: Ms. Parrish, you may continue with the
2 examination.

3 CONTINUED DIRECT EXAMINATION

4 BY MS. PARRISH:

5 Q So, Ms. Kyles, to recap, when did you last see
6 Mr. Leamon at your house?

7 A In June.

8 Q Okay. And do you remember what day of the week that
9 was?

10 A Saturday.

11 Q Okay. And what was he wearing?

12 A Blue sweat pants.

13 Q Did he tell you where the rest of his clothes were?

14 A No.

15 Q He didn't tell you what he'd done with the rest of
16 his clothing?

17 A No.

18 Q Did he tell you where he'd been?

19 A At the club.

20 Q Did he specify, or did he just say at the club?

21 A At the club.

22 Q Okay. And did he tell you about what had happened at
23 the club?

24 A Yes.

25 Q What did he tell you?

1 A There was -- there was some back and forth, I guess
2 you would call it, drama. I don't know.

3 Q Okay.

4 A Between him and an individual.

5 Q Did he know the individual?

6 A Yes.

7 Q How did he know him?

8 A He knew him for a while, childhood.

9 Q Okay. Did he describe the drama, as you called it?

10 A Yeah.

11 Q What was his take on what happened?

12 A It had been -- it had been just, like, ongoing, you
13 know, like, little things through -- through the night.

14 Q Okay. So it was just one night of drama?

15 A Yeah.

16 Q Okay. Did he specify what these little things were?

17 A One of them -- I think he -- I don't know. I think
18 it was talking, or something. I'm not sure what. But
19 some, you know, spit [phonetic] in the face of some sort.

20 Q And did Tony tell you what he did in response to
21 these little things the victim was doing?

22 A Yeah. He -- Tony told me what happened.

23 Q What was that that he told you?

24 A He -- I don't know if it was his or -- I don't know
25 the details on that one. Bu I'm pretty much -- it was --

1 there was a gun fired.

2 Q A gun was fired?

3 A At the individual.

4 Q Can you --

5 A He shot the individual.

6 Q Tony told you he shot the individual?

7 A Yeah. It was a gun fired at that individual.

8 Q Did he tell you how he did that? Did he describe it
9 to you?

10 A How he did it?

11 Q Yes.

12 A I mean, what do you mean how? It's like -- it's kind
13 of a one, two thing. What do you mean how?

14 MS. PARRISH: Your Honor, at this time, the State
15 would seek to put State's Exhibit No. 59 --

16 THE COURT: Just ask her if she told someone whatever
17 you --

18 BY MS. PARRISH:

19 Q Did you tell the investigator that Mr. Leamon reached
20 in his pocket, grabbed the gun, and put it up toward his
21 nose and fired?

22 A Yes.

23 Q You did?

24 A (Witness nodded.)

25 Q Is that what Mr. Leamon told you?

1 A Yeah.

2 Q Okay. And had you -- at what point did Mr. Leamon
3 tell you that?

4 A He told me this...

5 Q Was it Saturday?

6 A No. It wasn't Saturday. It was after. It wouldn't
7 have been the same day, because I was cutting hair.

8 Q You didn't see him after you cut hair?

9 A Not on the same day.

10 Q Did you tell police -- when did you purchase a hotel
11 room for Mr. Leamon?

12 A I don't know the date.

13 Q Do you remember what day it was?

14 A I can't recall.

15 Q But you remember paying for a hotel room for
16 Mr. Leamon?

17 A Yeah.

18 Q And was it that weekend?

19 A Is that what it says?

20 Q I'm asking you a question.

21 A Oh, because I really -- I mean, I guess so. I guess
22 so. I can't be certain about something I'm not certain
23 about.

24 Q Do you need to finish watching your video?

25 A No. Because I don't think that was -- I don't think

1 that was disclosed in the video.

2 Q You don't -- you said, After I had, actually, cut
3 some hair and I went back home, he told me that day?

4 A Okay.

5 Q So it was the same day --

6 A Yeah.

7 Q -- that Saturday?

8 A Yeah.

9 Q And that was a hotel on Poinsett Highway?

10 A Uh-huh.

11 THE COURT: Is that a "yes" or a "no"?

12 THE WITNESS: Yes.

13 BY MS. PARRISH:

14 Q Did you say to the police, He went into more detail
15 when we was at the room. He was feeling it. All the
16 liquor was gone?

17 A Yes.

18 Q So he did go into more detail about what happened in
19 the room?

20 A Yes.

21 Q What details did he tell you?

22 A The ones we just discussed.

23 Q Did you tell the police, He told me the night
24 after -- the night after it happened that he explained
25 pretty much the whole scenario, because he hadn't told me

1 that yet. He told me what had happened, the details --
2 exactly the details of what led up to that. He told me
3 that he had to remove some clothes. And he had to take a
4 bath. He said that he took, like, a bleach bath or
5 something like an alcohol bath. And he had done that
6 before he came and saw me.

7 A Yes.

8 Q Yes, you told the police that. Is that what
9 Mr. Leamon told you?

10 A Yes. I said yes.

11 Q I just want to make sure that we're clear. And you
12 rented the room for him?

13 A Yes.

14 Q How long did you rent a room for him?

15 A A day.

16 Q I beg your pardon?

17 A A day.

18 Q A day. And did you spend the whole day with him at
19 that room?

20 A Yes.

21 Q Okay. Did you see Mr. Leamon after that night at the
22 hotel room?

23 A No, no.

24 Q You didn't see Mr. Leamon again after you left the
25 hotel room?

1 A (There was no response.)

2 Q Let me go back to the time of the hotel room. Did
3 Mr. Leamon know that he was wanted by the police at that
4 time?

5 A Yes.

6 Q How do you know that?

7 A Because he was talking about talking to them first.

8 Q Okay.

9 A Going and talking to them first.

10 Q Okay. So you had discussions and Mr. Leamon knew
11 that he was wanted by police already on Saturday,
12 June 14th?

13 A Yes.

14 Q Or Sunday, June 15th, whenever it was that you had
15 this hotel room?

16 A Yes.

17 Q Okay. And are you saying that you did not see him
18 again after that?

19 A (There was no response.)

20 Q After you spoke to the police, did you see Mr. Leamon
21 again?

22 A Yes.

23 Q When?

24 A Maybe like a week later.

25 Q Okay. And where was it that you saw him?

- 1 A I seen him at -- I'm not sure. I'm not sure of their
2 names.
- 3 Q Okay. Can you describe them?
- 4 A A white couple.
- 5 Q A white couple. By couple, do you mean --
- 6 A Married.
- 7 Q Okay. Was it a man and female? Male and male?
- 8 Female --
- 9 A Oh, yeah, yeah, male and female.
- 10 Q Okay. A male and female, a white male and female
11 couple. Do you remember what kind of house they lived in?
- 12 A A trailer.
- 13 Q Okay. Do you remember where the trailer was?
- 14 A No.
- 15 Q What was around the trailer?
- 16 A Trees.
- 17 Q Okay. And how did you get there?
- 18 A They picked me up.
- 19 Q Do you remember -- from where did they pick you up?
- 20 A My house.
- 21 Q Your house. And why?
- 22 A There was a -- there was an iPad, I believe.
- 23 Q Okay.
- 24 A Yeah. That he wanted.
- 25 Q That who wanted?

1 A That Tony wanted.

2 Q And so they picked you up about a week after you
3 spoke to police?

4 A Uh-huh.

5 Q And did you bring the iPad?

6 A Yes.

7 Q What did you do with the iPad?

8 A I gave it to the couple.

9 Q Okay.

10 A It was for them to go and pawn it.

11 Q Go and pawn it. Were you with them when they pawned
12 it?

13 A Yes. I was in the car.

14 Q Okay. And how long did you stay with that couple and
15 Mr. Leamon at their trailer?

16 A About -- almost two weeks, I believe.

17 Q Okay. So it was about two weeks. And what did you
18 do while you were at the trailer? What kind of
19 activities?

20 A Watched TV, eat, play cards.

21 Q All right. Did you ever leave that trailer while you
22 were there?

23 A No.

24 Q Did Mr. Leamon ever leave that trailer while he was
25 there?

1 A No.

2 Q So y'all were there for over two weeks and you never
3 went outside?

4 A No.

5 Q Did the man and wife leave?

6 A Yes.

7 Q And during that time, were there any discussions of
8 Mr. Leamon being wanted by police?

9 A Well, yeah, yeah.

10 Q Okay.

11 A It was on the news by that time.

12 Q All right. So y'all had -- y'all, also, saw it on
13 the news?

14 A Yeah.

15 Q Okay. At what point did you leave that couple and
16 Mr. Leamon?

17 A After two weeks.

18 Q Okay. Why?

19 A I got dropped off.

20 Q You got dropped off?

21 A Uh-huh.

22 Q Where did you get dropped off, or whereabouts?

23 A I think it was -- I think it was Burger King.

24 Q A Burger King?

25 A Yeah.

1 Q Was it near your house?

2 A Kind of. It was on White Horse Road, I believe.

3 Q Okay. And why did they drop you off?

4 A (There was no response.)

5 Q Could you have gone with them?

6 A No, no.

7 Q Do you know where they were going?

8 A Yes.

9 Q Where were they going?

10 A I heard -- I heard about Texas.

11 Q Texas. So they were going to Texas. And you did not
12 want to go to Texas?

13 A No.

14 Q Okay. So you had them drop you off?

15 A Yeah.

16 Q And where was Mr. Leamon -- how was he acting when
17 they dropped you off?

18 A He was -- I don't know.

19 Q Did you tell police he was slouched down in the seat
20 trying to hide?

21 A Oh, yeah.

22 MS. PARRISH: Okay. One moment, please.

23 (Pause.)

24 MS. PARRISH: I have nothing else of this witness.

25 Please answer any questions Mr. Robinson may have.

1 MR. ROBINSON: May it please the Court.

2 CROSS-EXAMINATION

3 BY MR. ROBINSON:

4 Q Good morning, Janetta.

5 A Good morning.

6 Q I'm sorry all this has happened to you.

7 Are you doing okay?

8 A (There was no response.)

9 Q Janetta, I want to take you back to 2014. Okay. I
10 know you and Tony were dating.

11 A Uh-huh.

12 Q When -- at some point, you were contacted by law
13 enforcement, I believe it was Deputy Hawkins of the
14 Marshals Task Force? Do you remember that?

15 A When I was first contacted?

16 Q Yes.

17 A Yes.

18 Q And Deputy Hawkins, actually, drove around with you,
19 didn't he?

20 A Yes, he did.

21 Q And he kind of fills you in, like, with the case with
22 the -- what was going on with it, and so forth, as far as
23 what they say had happened, and so forth; correct?

24 A Yes.

25 Q So when you -- when you actually -- so as far as your

1 conversations you had before you talked to the police,
2 they filled you in on what happened and what they thought
3 happened, didn't they?

4 A Yes.

5 Q So when you went and talked to Officer Fortner, days
6 later at the law enforcement center, you already knew from
7 Officer Hawkins -- or Deputy Hawkins what had happened;
8 correct?

9 A Yes.

10 Q Okay. So, now, you know that that morning when you
11 saw Tony that he wanted a ride to his aunt's because he
12 was going to her birthday party that day? Do you remember
13 that? Do you remember --

14 A Yeah.

15 Q -- you and he were going to go to her birthday party?
16 Do you remember that?

17 A Yeah.

18 Q Okay. And so that was why he wanted a ride to his
19 aunt's; correct? For the birthday party; right?

20 A That was --

21 Q Does that sound right?

22 A Yeah. I remember the birthday, him mentioning that.

23 Q Now, in terms of the -- in terms of your
24 conversations with Mr. -- or excuse me, with Tony, you
25 don't recall exactly -- these conversations that you're

1 talking about, these were conversations that law
2 enforcement thought happened; isn't that correct?

3 A Yes.

4 Q And law enforcement, actually, had threatened you
5 several times and coerced you, didn't they?

6 MS. PARRISH: Objection.

7 THE COURT: Overruled.

8 THE WITNESS: They pretty much, you know, put me on
9 the spot.

10 BY MR. ROBINSON:

11 Q And they kind of said, listen, if you don't --

12 A You know, in a threatening manner, so.

13 Q In a threatening manner. Okay. So when you went to
14 talk to Officer Fortner, and I think another officer was
15 there as well, and Officer Campbell, you had already been
16 threatened -- or what you thought was threatened?

17 A Yeah. They had already paid me a visit.

18 Q I'm sorry?

19 A They had already paid me a visit by then.

20 Q They had already paid you a visit by then?

21 A Yeah.

22 Q Okay. And that's besides your meeting with -- your
23 ride in the car with Deputy Hawkins; isn't that correct?

24 A Yes.

25 Q So you not only had the information that they wanted

1 you to have about this incident that occurred, you, also,
2 had started to feel threatened by these officers; isn't
3 that correct?

4 A Yes.

5 Q Now, as far as these conversations with -- what
6 you're saying that Tony may have told you, that didn't
7 happen, did it?

8 A That's what was said. That was, initially, hearsay
9 as well.

10 Q Okay. That's what I want to know. So you -- you --
11 Mr. Leamon -- Tony, your ex-boyfriend -- or ex-boyfriend,
12 he never told you that he killed this guy, did he?

13 A Not necessarily in so many words.

14 Q And, actually, the -- what -- actually, the words
15 that you're using -- or you used were words that had been
16 given to you by other people in this case; isn't that
17 right?

18 A There's been some influences.

19 Q So you were receiving -- not only were you
20 felting [sic] -- feeling threatened by law enforcement in
21 this case, you felt -- you had heard hearsay, and so
22 forth; is that right? Hearsay about this case; right? It
23 was from other people --

24 A Yeah.

25 Q -- before you talked to these people? And these

1 purported conversations with Tony where Tony admitted to
2 this or said that to you, those didn't happen, did they?

3 A He -- he said he heard.

4 Q He heard. But he never --

5 A And he wanted to see --

6 Q -- told you -- I'm sorry.

7 A He wanted to talk to the cops.

8 Q Because he wanted to talk to the cops because he
9 wanted to turn himself in and exonerate himself for these
10 malicious charges that they brought against him; isn't
11 that right?

12 A Yes.

13 MR. ROBINSON: That's all I have.

14 Thank you.

15 MS. PARRISH: Redirect, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. PARRISH:

18 Q Ms. Kyles, you recently just said that Deputy Hawkins
19 drove you around?

20 A He --

21 Q Are you a thinking about Deputy Hawkins or Deputy
22 Brown, who spoke to you after you were dropped off at the
23 Burger King?

24 A I've got to see pictures. Are you talking about him?

25 Q No.

1 Who did you just tell Mr. Robinson drove you around
2 and told you all this?

3 A Was it Hawkins?

4 Q I don't know. Mr. Hawkins just drove you to the
5 police department to speak to Officer Fortner; correct?

6 A Yes.

7 Q Who -- and it was an officer -- do you know his name?

8 A No.

9 Q No. You do not want to testify against Tony Leamon;
10 correct? You don't want to be here?

11 A No.

12 Q You spent the night in jail because you have tried to
13 get out of testifying?

14 A No --

15 MR. ROBINSON: Your Honor, objection. Relevance.

16 THE COURT: Overruled.

17 THE WITNESS: No. That was not the case. I got ill
18 and it was delayed. I didn't -- I did not not show up. I
19 was late and that wasn't -- that -- you know, that was
20 enough to get me time, so.

21 BY MS. PARRISH:

22 Q Did you lie to the investigators when you spoke to
23 them on June 20th?

24 A I don't think so. I mean, it was a long time ago.

25 I --

1 Q You just watched the -- part of the video?

2 A Yeah.

3 Q Was that a lie? Did you lie to them?

4 A I don't want to say I did.

5 Q Did they tell you what to say?

6 A No. They didn't tell me what to say.

7 Q So what are you talking about -- did -- did Tony
8 Leamon tell you he knew Jamal Marion, the guy that was
9 shot, that they grew up together?

10 A He told me about -- yeah. He told me that he knew --
11 that he had already known him.

12 Q And did Mr. Leamon, also, tell you that he reached in
13 his pocket, grabbed a gun, and put it towards his nose,
14 and fired it?

15 A That was -- that's what was said.

16 Q By Tony Leamon?

17 A Yeah.

18 Q Tony Leamon told you that?

19 A Yeah.

20 Q Okay. And Tony Leamon, also, told you that he got
21 rid of his clothes afterwards?

22 A Yeah.

23 Q And he told you that he had taken a bath in bleach or
24 alcohol?

25 A Yes.

1 Q These are things that Tony Leamon told you?

2 A Yes.

3 Q When you were with him -- when you were with
4 Mr. Leamon, you heard them come out of Tony Leamon's
5 mouth?

6 A Yes.

7 Q And then you told them to Investigator Fortner, the
8 man you just saw in the tape?

9 A Yeah. I seen the back of his head. That's why I
10 didn't recognize him.

11 Q Okay. And Tony knew that he was wanted by the time
12 you spoke to police?

13 A Yeah. He knew they had -- he knew there had been
14 rumors floating around.

15 Q And he -- as you just told Mr. Robinson again, he,
16 initially, wanted to turn himself in?

17 A To clear his name, I suppose. Because, you know --

18 Q Well, I'm not asking you why. But he talked about
19 turning himself in?

20 A Yeah, before, you know, anything got violent.

21 Q Okay. And you then spent the next two weeks with
22 him. Did he ever try to turn himself in?

23 A It had been an ongoing -- it had been an ongoing
24 thing.

25 Q An ongoing discussion?

1 A Yeah.

2 Q But he never left the house?

3 A No.

4 Q Until he went to Texas with that couple that you
5 didn't know very well?

6 A Yes.

7 MS. PARRISH: No further questions.

8 MR. ROBINSON: I have no recross, Your Honor.

9 THE COURT: Okay. You can step down.

10 We're going to need to take a short break. I'll ask
11 the jury to, please, go to your jury room. Don't discuss
12 the case. We'll bring you back out after that break.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 11:24 a.m.).

15 THE COURT: We're going to take a short break.

16 Before we do that, Ms. Parrish, is -- does the State
17 intend to introduce the video that Ms. Kyles has
18 identified in response to her claim that law enforcement
19 was threatening her?

20 MS. PARRISH: Yes, Your Honor. We will attempt to
21 get that in, again, under Investigator Fortner.

22 THE COURT: Okay. We're going to take 15 minutes.

23 (WHEREUPON, a break was taken.)

24 MS. PARRISH: May it please the Court, Your Honor.

25 THE COURT: Yes, ma'am.

1 MS. PARRISH: Can we address what to do with
2 Ms. Kyles now? Her mother is present and would like her
3 released to her custody and care.

4 THE COURT: Okay. We can do that.
5 Where's her mother?

6 MS. PARRISH: Right here.

7 THE COURT: Are you going to take her home?

8 MS. JANETTA KYLES' MOTHER: Yes, sir.

9 THE COURT: Okay.

10 MS. PARRISH: And we would just ask that she -- if
11 she has to be recalled for some reason, make sure that she
12 is available.

13 THE COURT: Well, no. Let's make that determination
14 now.

15 MS. PARRISH: Okay.

16 THE COURT: Because I'm not going to -- I mean, we
17 can do it that way if you want to. But if she doesn't
18 show and you can't find her, I'm not slowing this trial
19 down because of her unavailability.

20 MS. PARRISH: Yes, sir.

21 MS. JANETTA KYLES' MOTHER: I will make sure.

22 MS. PARRISH: All right. I trust that she will. And
23 I don't --

24 THE COURT: But she can't.

25 MS. PARRISH: I know. I don't anticipate --

1 THE COURT: Did you make sure before? I mean, did
2 you try? Did you make the effort?

3 MS. JANETTA KYLES' MOTHER: I did not know that she
4 would -- she would be as panicked as she was before, sir.

5 THE COURT: Well, I'm not -- I want you to
6 understand, I'm not blaming you for it. She's an adult.
7 She should have been here.

8 But I'm just not certain that you are in a position
9 to be able to make her do anything. I mean, I'm not sure
10 if she's amenable to that. But if you say she is, then, I
11 mean, I trust you to tell me what you know. But I just --
12 I don't have much confidence that you can make her come
13 down here. Because, as I was told, she was supposed to be
14 with you at home and she wasn't.

15 MS. JANETTA KYLES' MOTHER: Yes, sir.

16 THE COURT: All right.

17 MS. PARRISH: I don't anticipate recalling her at
18 this time, Your Honor.

19 THE COURT: Well, will you know by the end of today?

20 MS. PARRISH: I -- I believe I should, Your Honor,
21 yes, sir.

22 THE COURT: Well, let's just keep her here until the
23 end of the day. And then we'll see if you need her. And
24 we'll make that determination then.

25 MS. PARRISH: All right.

1 THE COURT: Can you come back this afternoon?

2 MS. JANETTA KYLES' MOTHER: Yes, sir. I'll be here.

3 THE COURT: Will that be any problem for you?

4 MS. JANETTA KYLES' MOTHER: No, sir. It will not be
5 a problem.

6 THE COURT: All right. Just come back, let's say,
7 around 4:00. And we should know something then.

8 MS. JANETTA KYLES' MOTHER: Yes, sir.

9 Thank you.

10 THE COURT: Thank you.

11 MS. PARRISH: And one more thing, Your Honor. The
12 State has another bench warrant for another witness that
13 has failed to appear. They were, also, personally served.
14 And we do have the affidavit for that, as well as
15 Investigator Fortner who most recently served the witness.
16 His name has been sounded. And he has not appeared.

17 MR. ROBINSON: Who is it?

18 MS. PARRISH: Shaun Sester.

19 He was here yesterday, Your Honor. And then his
20 father called me this morning and said he'd been
21 threatened and was not coming again.

22 THE COURT: Threatened by who?

23 MS. PARRISH: He said threatened by the Defendant's
24 people, but he was unable to specify further. And I don't
25 have any other information, Your Honor.

1 Mr. Sester was present yesterday. We have called,
2 and called, and left every message we could. He has not
3 appeared today. But his father did call and let us know
4 he was not coming because he'd been threatened.

5 THE COURT: All right. The bench warrant is ordered
6 for Mr. Sester.

7 MS. PARRISH: Thank you, Your Honor.

8 THE COURT: Hollie, mark this as a Court's Exhibit,
9 please.

10 THE COURT REPORTER: Yes, sir.

11 (WHEREUPON, Court's Exhibit No. 3 was marked for
12 identification and admitted into evidence.)

13 THE COURT: All right. Are we ready for the jury
14 now.

15 MS. PARRISH: Yes, Your Honor.

16 THE COURT: All right. Bring them in.

17 (WHEREUPON, the jury came into open court at
18 approximately 11:45 a.m.)

19 THE COURT: The jury is present.

20 You may continue.

21 MS. HENDRICKS: The State calls Hal Harris.

22 THE COURT: There's to be no conversation and talking
23 from the gallery. We're in session.

24 THE CLERK: Raise your right hand and place your left
25 hand on the Bible.

1 WHEREUPON,

2 HAROLD LEE HARRIS,

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

4 THE CLERK: Please have a seat.

5 THE WITNESS: Thank you.

6 THE CLERK: And will you state your full name for the
7 record?

8 THE WITNESS: Sure. Harold Lee Harris. I go by
9 "Hal."

10 DIRECT EXAMINATION

11 BY MS. HENDRICKS:

12 Q Mr. Harris, where are you currently working?

13 A I'm currently the director of sales, software sales
14 for Sumuri.

15 Q And what is that?

16 A It's a digital forensic software and hardware company
17 based out of Delaware.

18 Q And how long have you worked there?

19 A About a week and a half now.

20 Q Where were you working in June of 2014?

21 A For the Greenville County Sheriff's Office.

22 Q And what was your position?

23 A I was a digital forensic examiner in the computer
24 crimes unit.

25 Q And what duties did you have?

1 A To conduct digital forensic exams of -- digital
2 prints, acquisitions, and exams. Essentially, what I mean
3 by that is anything that contains a microprocessor -- it
4 could be from a cellular device to an iPad or some type of
5 tablet to a computer, anything that has a microprocessor,
6 we would conduct a forensically sound acquisition and
7 examination of it.

8 And what I mean by forensically sound is,
9 essentially, we make as little footprints as possible.

10 Q And what kind of training did you have to specialize
11 in digital evidence collection?

12 A Wow. Up to that time -- I don't have my CV in front
13 of me, but I can tell you that I spent a -- one week a
14 month for an entire year in Athens, Georgia, going through
15 the National White Color Crime Center digital forensic
16 training. And I've had additional training. But,
17 however, I wouldn't swear to what I've had up to that
18 point in time.

19 Q What kind of equipment did the sheriff's office have
20 to help you collect digital evidence?

21 A It depends on what type of collection that we were
22 conducting at the time. It may be something as much as a
23 laptop. It may be as much as Google and YouTube. It just
24 really depends on what -- the process we were doing. It's
25 such a broad -- a broad area.

1 Q Okay. And how are you taught to use the equipment
2 that assists you?

3 A Through the training that we receive.

4 Q Have you been qualified as an expert in digital
5 evidence collection before?

6 A No, ma'am, I have not.

7 Q Were you asked to examine any electronic evidence in
8 this case?

9 A Yes, ma'am, I was.

10 Q What did you examine?

11 A I want to say there was -- I received a call to
12 respond to the scene for a DVR. And then once at the
13 scene, after that, there was one or two other devices. I
14 want to say one was a mobile phone and the other was an
15 iPad.

16 Q And how -- so you came into contact with the DVR at
17 the scene of the incident?

18 A Correct, I did.

19 Q What about the cell phone and iPad?

20 A The cell phone -- once the -- or post the collection
21 of the DVR, I responded to the LEC and met with Master
22 Deputy Andy Sexton. He had a mobile device there and a
23 consent to search.

24 So I retrieved -- took possession of both of those
25 there, the consent and the device, and transported it to

1 our lab where I conducted the examination of the mobile
2 device. And then I waited for a search warrant obtained
3 by Master Deputy Fortner for the DVR.

4 Q And how are different pieces of electronic evidence
5 analyzed?

6 A Again, it depends on what it is, what you're looking
7 for. So for -- for mobile devices, we have different
8 automated tools. What I mean by that is, essentially,
9 it's a program that runs on a computer or a -- you know, a
10 manufacturer specific piece of hardware. It's hard to
11 explain, but, essentially, it's a program.

12 Most of the time, it's some type of computer-based
13 tool that has a program running and you plug it in. You
14 may have to go through certain steps to put the device in
15 a certain condition where it can read and write back to
16 the computer -- or excuse me, where the computer can read
17 it. But once it's in that condition, it communicates and
18 it goes in -- it, essentially, pulls all the data from the
19 device. And that includes sometimes deleted data.

20 Q So do you examine the digital evidence and the data
21 that you pull from these cell phones and other devices?

22 A I do.

23 Q Did you look through the cell phone and the iPad in
24 this case?

25 A I did. I did.

1 Q You looked through the digital evidence on the cell
2 phone and iPad?

3 A Yes, ma'am.

4 Q And did you find anything?

5 A Without having those reports in front of me, I would
6 not swear one way or the other what was found.
7 Essentially, I conducted the acquisition and then prepared
8 a report on external media, like a DVD or CDR, and made
9 the appropriate copies and passed those along to Master
10 Deputy Fortner. And the remaining went into property and
11 evidence.

12 Q And I'm going to show you what's already been --
13 excuse me, what's already been admitted as State's Exhibit
14 Nos. 19 and 20.

15 A Okay.

16 Q Do those photos accurately depict the scene when you
17 collected the DVR?

18 A Absolutely.

19 Q On June 14th, 2014?

20 A Yes, ma'am.

21 Q Okay.. And did you get any information from the DVR?

22 A No, I did not.

23 Q Did you confirm whether or not the DVR was recording?

24 A It was not recording at the time. This was
25 nothing -- there was no external media plugged into it.

1 And the internal -- when I say external media,
2 essentially, that is something that -- or when I say
3 media, that is something that the device is writing to, if
4 that makes sense. So if we had a VCR, the media for that
5 would be external. And it would be the little VCR tape
6 like you would go get at Blockbuster. If it's a -- if I
7 say CDR, that's a compact disk writable.

8 So, you know, we could -- at one time, there was a
9 big thing with Napster and people were stealing music.
10 They were downloading this music and they were writing it
11 to little writable CDs. And they were playing them in
12 their car.

13 So that's what I mean by media. It's something that
14 it is written to. External or internal is just that. An
15 example of external media would be a CDR, a DVR, some of
16 the external hard drives or thumb drives. Internal media
17 would be a hard drive that would be internal into the
18 computer itself or the DVR itself.

19 Q All right. I'm going to show you what's been marked
20 as State's Exhibit No. 45. Do you recognize this? You
21 might have to open it up.

22 A That is -- the item number convention is one I,
23 typically, use. Forgive me. So if you'll notice on the
24 box, the item number is HH1, which is my initials, and the
25 number one. It's the typical convention that I use for

1 items that I collected.

2 I can tell you by looking at the bagging -- the bag
3 itself, it's my initials or my handwriting. It's
4 identified with this case number, which is 2014-92136.

5 Q Okay. You can go ahead and open it.

6 A Yes, ma'am.

7 Q So as far as you can tell, is this DVR in the same
8 condition as you last saw it?

9 A Yes, ma'am, it is.

10 Q And where did you get the DVR before examining it?

11 A I collected it at the scene of the Black and Mild
12 Club.

13 Q And where did you take it after you examined it?

14 A I placed it in my vehicle. My vehicle went from the
15 scene at 1120 Hampton Avenue Extension to the LEC, where
16 it remained secured and locked while I took possession of
17 the mobile device from one of the witnesses. And then
18 they were both transported to my office at county square.

19 Q And then after you examined it, where did you put
20 them?

21 A It was placed in property and evidence.

22 Q Property and evidence. Did you make any changes to
23 the DVR?

24 A No, absolutely not.

25 MS. HENDRICKS: Your Honor, at this time, we offer

1 State's Exhibit No. 45 into evidence.

2 MR. ROBINSON: May I take a look at it, Your Honor?

3 THE COURT: Sure.

4 I thought it was already in, but.

5 MS. HENDRICKS: Do you want the packaging?

6 MR. ROBINSON: I've seen it.

7 No objection, Your Honor.

8 THE COURT: It's admitted.

9 (WHEREUPON, State's Exhibit No. 45 was admitted into
10 evidence.)

11 THE WITNESS: Your scissors, ma'am.

12 BY MS. HENDRICKS:

13 Q And how did you verify that you examined the DVR
14 properly?

15 A I'm not following you.

16 Q So how did you know how to examine this particular
17 piece of equipment?

18 A First of all, I looked at -- so when I said Google
19 earlier -- the first thing I do if it's something -- a
20 device I haven't touched before, the first thing I do is
21 something that most men never do, I read the owner's
22 manual. So I, actually, pulled up the owner's manual on
23 scene to see what the proper connection was and what the
24 proper disk connection was to see if there was -- to
25 ensure that I did not make any changes.

1 So that's the part of digital forensics that is
2 different than any other forensic science out there.
3 Digital forensics, our first goal is to not make any
4 changes.

5 So if you think of digital media or digital data as
6 being a field of freshly laid snow, then we, obviously,
7 want to look at it. We want to be able to look not only
8 at the snow, but each snow flake all the way down to the
9 grass and the dirt that's under the grass. But what we do
10 is we -- our first goal is to lay down a sheet of glass
11 over that snow so we can walk, and stand over it, and look
12 down into it. But we're not making any footprints.

13 So the first thing we do is we resort back to the
14 owner's manual to ensure that we're following the
15 manufacturer's specifications. The second thing we do is
16 we write block everything. And what I mean by write block
17 is that's laying there on that sheet of glass.

18 Q Okay. And you said there was no external storage
19 connected. Was there anything stored internally on the
20 DVR?

21 A Nothing that was pertaining to this case.

22 Q So there was no-- okay.

23 MS. HENDRICKS: Can we qualify this witness as an
24 expert in digital forensics?

25 THE COURT: Is he going to testify about something?

1 MS. HENDRICKS: We just want him to testify as to
2 whether he has an opinion as to -- if it was possible for
3 the DVR to be recording that night.

4 THE COURT: Well, okay.

5 Any objection?

6 MR. ROBINSON: It --

7 THE COURT: Most any child could say that.

8 MR. ROBINSON: It's pretty much -- it's within the
9 boundaries of what a layperson --

10 THE COURT: Yeah. I think probably so.

11 Anyway, he can answer it. Go ahead and ask him.

12 BY MS. HENDRICKS:

13 Q Do you have any opinion as to whether it was possible
14 that the DVR recorded something that night that you did
15 not find?

16 A Anything is possible. It's -- anything is possible.
17 There could have been an external hard drive plugged into
18 the machine that it was written to. It could be that it
19 was written internally. And someone took the time from
20 the time the shooting happened until the time I arrived on
21 scene, you know, before the building or bar was secure
22 that someone could have went in maliciously and erased the
23 data. However, based on what I saw, I didn't see any
24 evidence of that.

25 MS. HENDRICKS: No further questions. Please answer

1 any questions Mr. Robinson may have.

2 CROSS-EXAMINATION

3 BY MR. ROBINSON:

4 Q So it is possible that someone or some persons
5 between the time of the incident and the time you got
6 there to examine it or the time the police got there, it
7 is possible that someone could have maliciously taken that
8 device and erased it? It is possible, isn't it?

9 A It is possible.

10 MR. ROBINSON: Okay. That's all I have.

11 Thank you.

12 THE COURT: Okay. You can step down.

13 MS. HENDRICKS: May he be excused?

14 THE COURT: He may be.

15 MS. PARRISH: Would you like us to call our next
16 witness, Your Honor?

17 THE COURT: Yes, ma'am.

18 MS. PARRISH: The State calls Darrion Boyd.

19 THE CLERK: Will you place your left hand on the
20 Bible and raise your right?

21 WHEREUPON,

22 DARRION SHAMAL BOYD,

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

24 THE CLERK: Please have a seat.

25 And will you state your full name for the record?

1 THE WITNESS: Darrion Shamal Boyd.

2 DIRECT EXAMINATION

3 BY MS. PARRISH:

4 Q Mr. Boyd, how old are you?

5 A 30.

6 Q And do you work or go to school?

7 A I work, but I'm on medical leave right now.

8 Q Okay. Before going on medical leave, what kind of
9 work did you do?

10 A I worked at Reynolds Company. I was a machine
11 operator tech.

12 Q How long have you worked at the Reynolds Company?

13 A Four years.

14 Q Four years. Are you from Greenville originally?

15 A Yes, ma'am.

16 Q What part of Greenville did you grow up in?

17 A Southern side, West Washington Street.

18 Q Is that sort of near where the Black and Mild Club
19 was?

20 A Yes, ma'am.

21 Q Okay. I want to talk to you about the summer of
22 2014. What was your life like at that point? Where were
23 you working? Who were you living with?

24 A At the time, I was staying with my momma. And
25 everything was good, working at Reynolds Company.

1 Everything was good. Everything was nice.

2 Q Okay. Who did you spend time with around that time?

3 A Just like hanging out wise?

4 Q Uh-huh. Who were your friends?

5 A Jamal.

6 Q When you say "Jamal," do you mean Joseph Jamal
7 Marion?

8 A Yes, ma'am.

9 Q And how long had you known Jamal?

10 A Since 1991.

11 Q And how old were you back in 1991?

12 A I was like about 12, 13. He was younger.

13 Q How much younger was he?

14 A About four years younger.

15 Q All right. And did -- how did you know Jamal?

16 A We met through his cousin.

17 Q And what kind of things did y'all do together in the
18 summer of 2014?

19 A Hang out and, you know -- I mean, when we off, we get
20 together and party, have a good time.

21 Q Did you have mutual friends in common with Jamal?

22 A Oh, yeah.

23 Q And how often do you think you would see him?

24 A Every day. If I didn't see him every day, if he
25 wasn't working, I would talk to him every day.

1 Q And was there a particular bar or place that you
2 liked to go to at that time?

3 A The Black and Mild Club.

4 Q The Black and Mild Club. And what about Jamal, was
5 he a regular at that club?

6 A Yeah. He go to Black and Mild. When he ain't
7 working, he would go to the Black and Mild Club.

8 Q Okay. And tell me a little bit about the Black and
9 Mild Club. What was the atmosphere like?

10 A Cool. Everybody had good relationships. And
11 everybody have a good time, no problem.

12 Q Okay. Did you feel safe there?

13 A Oh, yeah. Everybody in there you mostly grewed [sic]
14 up with.

15 Q Okay. When I hear club -- you know, people have
16 different connotations when they hear club. Would you say
17 that the Black and Mild Club was a club in the traditional
18 pulsing, neon lights and dancing sense?

19 A It had lights. It had lights. You know, like --
20 it's like more or like a social bar, you know.

21 Q Okay. And tell me a little bit about Jamal in the
22 summer of 2014. Where was he working?

23 A He was working at Zaxby's.

24 Q Okay. Did he ever have plans to go anywhere else?

25 A Yeah. He was about to go to HoneyBaked Ham. He was

1 about to be the manager there.

2 Q Okay. And was he excited about that change?

3 A Oh, yeah. Oh, yeah.

4 Q How long had he been working at Zaxby's? Do you
5 recall?

6 A About two years.

7 Q Okay. Did -- did you see Jamal on June 13th, 2014?
8 That was a Friday.

9 A That Friday?

10 Q The Friday before this happened.

11 A No. I didn't see him, but I talked to him. Because
12 he called me and asked if he don't get a -- if his friend
13 girl don't take him to work, he wanted me to pick him up
14 and take him to work. And, obviously, he must have gotten
15 another way to work.

16 Q Okay. Did you see him that night, the night this
17 happened?

18 A The night that -- the night this happened?

19 Q Yes, sir.

20 A We were together.

21 Q Okay. Well, tell me a little bit about how you ended
22 up together. Did you have plans to go out together?

23 A Yeah. He called me at about 6:00 that evening and
24 said he just went and bought some new shoes. And he
25 got -- some unexpected money came to his card. And he

1 said, We're going to go out and turn it up, and buy the
2 bar. That's what he said, Drink with everybody.

3 Q Okay. How would you describe his mood that day?

4 A Super happy.

5 Q Why was he super happy?

6 A Just super happy, just ready to do something.

7 Because he had just got some unexpected money. And he
8 just wanted to go out and have a good time.

9 Q Had he recently heard about the manager position at
10 HoneyBaked Ham?

11 A Yeah. He had been -- I had worked there with them on
12 a seasonal term. And a dude named Chris told me they
13 would let him run the store.

14 Q Okay.

15 A And -- yeah.

16 Q Okay. What time did you first see Jamal that
17 evening? You said he called you around 6:00?

18 A Yeah. He called me and he told me -- I told him --
19 he was brushing his teeth.

20 Q Okay.

21 A He said, Just come on. I went and picked him up,
22 went back to my momma's house and chill out on the porch a
23 minute. And we wasn't supposed to go to that club.

24 Q Where, were you supposed to go?

25 A We were supposed to go to the club End Zone.

1 Q And where is the club End Zone?

2 A That's off of Easley Bridge Road. We was looking for
3 his cousin, but his cousin wasn't over there. So I told
4 him, Let's stay on over here. He'll probably show up.
5 But he was just determined to go to the Black and Mild
6 Club. He said, Let's go back to the Black, go to the
7 Black.

8 Q And were y'all with anyone else that evening?

9 A My girl was with us earlier. She was there, but she
10 had left.

11 Q Okay. Well, tell me about what time you got to the
12 Black and Mild Club.

13 A It was --

14 Q Do you remember?

15 A It was about -- it was about 10:00, about 10:00,
16 something like that, 10:00, 11:00, something around that
17 time, something like that.

18 Q Okay. About what time did most people get to the
19 Black and Mild Club? Was there a particular time when it
20 really got crowded?

21 A Not really. People be there. People there. It get
22 kind of packed around about 11:00, 10:00. 11:00, it start
23 getting packed.

24 Q Okay. How was it when you got there? Was it
25 crowded?

1 A It was a pretty good crowd. A pretty good crowd,
2 yeah.

3 Q Can you describe the club for me? Like when you walk
4 in the doors, what do you see?

5 A You see security at the door.

6 Q Okay.

7 A You get checked. And you see people. I mean, it's
8 just everybody around sitting, you know, drinking,
9 talking.

10 Q Tell me about the security at the Black and Mild
11 Club. How many security people do they, typically, have?

12 A You saw them outside. Like that night, it was
13 probably like -- it was like two outside, I think. And
14 one was at the -- at the door, too, in the inside.

15 Q Okay. Now, were these hired security people that had
16 uniforms?

17 A No. Just like somebody just trying to get by, do a
18 little security job, you know, try to put a little money
19 in their pocket, try to do security for the neighborhood,
20 or something, you know.

21 Q But was it -- were they looking like sort of police
22 officers --

23 A No.

24 Q -- or was it just you or me?

25 A No, nah. It wasn't nothing like that, just normal

1 clothes.

2 Q And what -- what security measures did the Black and
3 Mild Club have? Like tell me, when you go to the club,
4 what does security do?

5 MR. ROBINSON: Your Honor, objection. I think it
6 calls for speculation.

7 THE COURT: Overruled.

8 THE WITNESS: They search you. They search you.

9 BY MS. PARRISH:

10 Q Okay. How do they search you?

11 A Pat you down, hit your waist, just like a cop do.
12 They search you down -- pat you down.

13 Q Okay. Did you get patted down that night?

14 A Oh, yes, ma'am.

15 Q Did you see Jamal get patted down that night?

16 A Yes, ma'am.

17 Q Tell me what happens after you go past the security
18 area.

19 A You go past the security area, we just -- are you
20 talking about that night we went there?

21 Q Yes, sir.

22 A So when we got there, we got some drinks. He bought
23 some drinks. He offered everybody a drink. That's -- you
24 know, everybody was drinking. Everything was cool.
25 Everything -- I mean, he offered everybody drinks. I

1 mean, that's how he do. That's how he do. That's what he
2 did.

3 Q So Jamal offered pretty much everyone he knew a
4 drink?

5 A Do you want a drink? Do you want a drink? He
6 offered people a drink.

7 Q Okay. And did y'all see other mutual friends that
8 you had in common that evening?

9 A Yeah. Cousins and friends -- and friends for -- I
10 mean, friends from his family. I mean, like I say, I know
11 his family. And everything -- everything was cool, I
12 mean.

13 Q Was there ever a point when things were not cool with
14 Jamal? Did he ever get in trouble that night?

15 A No, no. Just nothing -- not at that time, no. Not
16 at the beginning when we went there, no.

17 Q Okay. But, at some point in the night, was he asked
18 to leave?

19 A Yeah.

20 Q Tell me about what happened.

21 A Both of them had been asked to leave. I mean, I
22 don't know how it became. I just went down there and
23 separated him. And I said, Leave him alone. I said,
24 Leave him alone.

25 And then the next thing I know, they got

1 threwed [sic] out. And I went out there and got Jamal.
2 And I was like -- I was like, Leave the dude alone. But
3 he wasn't really -- you know, he didn't put no -- he
4 didn't touch him, or nothing. He just -- he was like,
5 Man, I'm just trying to offer him a drink. You know what
6 I mean?

7 I said, Well, he must don't want nothing. Leave him
8 alone. Don't offer him nothing. Let him -- leave him
9 alone. He cool, man. He chilling.

10 Q Okay. So let me clarify that, you had been upstairs?

11 A Yeah. I had been upstairs.

12 Q How did you know to come downstairs to get Jamal?

13 A He was like, He keep messing with me.

14 Q Jamal kept messing with you?

15 A Talking like, Somebody better get him, man. He keep
16 on messing with me. Like I said, I was talking to the
17 cook. And he was like, Man, somebody better get him, man.
18 He keep on messing with me.

19 And I told the dude to leave me alone. And I told
20 Tony, I said, I've got him, man. I've got my bro. I
21 said, I'm going to go talk to him. I said, I'm going to
22 go talk to him.

23 Q So Tony came upstairs?

24 A Yes, ma'am.

25 Q When you say "Tony," who do you mean?

1 A Tony Leamon.

2 Q Is Tony Leamon in the courtroom today?

3 A Yes, ma'am.

4 Q Where is he?

5 A Sitting right there.

6 Q Okay. So you say you were upstairs talking to the
7 cook?

8 A Yes, ma'am.

9 Q And Mr. Leamon came upstairs?

10 A Yeah. Like, Man, somebody better get the dude. He
11 keep on messing with me. So I told him -- I said, I got
12 it, man. Just calm down. I said, Calm down.

13 He said, He keep on messing with me, man. Just like
14 that. That's the truth.

15 Q So Mr. Leamon reported to you that your friend was
16 messing with him?

17 A He didn't report to me. He just like, Somebody
18 better get him.

19 Q So he told you to take care of your friend?

20 A No. I came to him. I said, What's wrong?

21 He said, Man, he keep messing with me, man.

22 I said, Man, I got him.

23 He said, He need to leave me alone.

24 You know, I don't know what happened downstairs
25 between them, or whatnot.

1 Q Okay. And I don't want you to speculate on that.

2 A Okay.

3 Q But it was after Tony came upstairs that you then
4 went downstairs?

5 A I went downstairs. I said, Man -- I said, I'm going
6 to -- I called my girl. I said --

7 Q Now, let me -- I'm sorry to interrupt you. Was this
8 after you took Jamal outside and spoke to him that you
9 called your girlfriend?

10 A No. I called when -- when I called, I called because
11 from the jump, she had told Jamal not to drink nothing. I
12 said, Calm down. And I was like -- I was like, Man, you
13 done got tight. I said, I'm fixing to call my girl to
14 come pick us up, you know. And, God, I hate I didn't.
15 And she said, Well -- well, at that time, he was just
16 chilling.

17 She said, If he cut back up again, call me, and I'm
18 going to come and get him, you know. And, you know -- and
19 so from then on, that's when -- I don't know. I just came
20 over there. Let me see if I can remember. That's when
21 they had got pulled out.

22 Q Okay.

23 A And I went out and got Jamal like they -- you know, I
24 went and got him.

25 Q Let me ask you. So how long would you say you were

1 outside talking to Jamal?

2 A Actually, I was more talking to the security -- I was
3 trying to talk security into letting him back in.

4 Q Okay.

5 A And I was like, Jamal, you got to calm down, man, you
6 know. He was talking about, I'm going to calm down. I'm
7 going to calm down. So we got back in there. He got --

8 Q So he was welcomed back in?

9 A Yes, yes.

10 Q Do you remember about what time it was this happened?

11 A I can't tell you no time.

12 Q Okay. Do you remember how long you had been there or
13 how many drinks you'd had?

14 A I had a couple of drinks. We had a couple of shots.
15 It was shots. But I was drinking a cup of gin with my
16 homeboy, Fish.

17 Q Okay. So you -- after this interaction that you did
18 not see; correct?

19 A Yes.

20 Q You went -- you spoke to Jamal?

21 A Yes. I was -- I was -- I was like --

22 Q And security?

23 A Yeah. I was like, Jamal, you got to calm down. I
24 said, you know, I mean, everybody know he be hyper. He
25 ain't putting no hands -- he ain't doing nothing physical

1 to nobody. You know, he ain't doing nothing physical. It
2 was just --

3 Q So would you --

4 A It's simply like he would just -- it was more
5 nagging, you know, just nag a person, you be grown, you
6 know.

7 Q So he would be more --

8 A It's just like I'm saying I'm just talking to you.
9 I'm just talking to you, but you might not want to be
10 bothered with me.

11 Q So he would talk to people even if they didn't want
12 him to talk to them?

13 A Yeah. He -- I mean, he do that to everybody, but he
14 don't mean no harm.

15 Q Did you see him -- I think you said a couple of
16 times, but I want to clarify. Did you see him put his
17 hands on anybody that night?

18 A No, no.

19 Q Okay. How long would you say y'all had been back
20 inside the club before the shooting happened?

21 A I don't think -- it wasn't long. It wasn't long. It
22 wasn't long. It wasn't that long.

23 Q Okay.

24 A I can't remember exact time because it done been a
25 minute, you know.

1 Q Okay. You said that Jamal was -- did you say that
2 Jamal was not the only person put outside?

3 A Him and T had got -- him and Tony got put out. Just
4 like he said, like the man said, I'm going to let them get
5 some air.

6 Q The security guard?

7 A Yeah. I said, What's wrong?

8 I'm letting them get some air. I was talking. And
9 he said, They both need some air.

10 I said, Well, okay. I said, Well -- I said, Well,
11 Jamal -- I said, Man, let him in. I'm going to make sure
12 he don't cut up no more.

13 He was like, No. He need to stay out.

14 So I stayed out there and talked to Mal. And I
15 smoked. And then he, finally, let Jamal back in.

16 Q Was Mr. Leamon still outside?

17 A Nah. I didn't see him. I don't remember seeing him,
18 period.

19 Q Did you see him get put outside?

20 A No. I didn't see that either.

21 Q Okay.

22 A But I know he -- the security told me --

23 Q Well -- sorry. Don't tell us what other people told
24 you. I just want to find out what you saw yourself. So
25 you did not see Mr. Leamon get put outside?

1 A No. I didn't see them both, actually, get put out.
2 But I know Mal got put out there first.

3 Q Because you were out there with him?

4 A Yeah. Because I went out there with him.

5 Q After Mal was let back in the club?

6 A Yeah.

7 Q What did you do?

8 A Mostly, I had my arm around him. I'm like, Boy, you
9 need to calm down.

10 And he said, I'm going to be all right, bro. We're
11 fixing to go in here. It's Rico birthday. I'm fixing to
12 go buy some more drinks. And he told me he loved me.

13 He said, I love you, you know. I love you.

14 I said, Yeah, I love you, too, man. You just got to
15 calm down. And we was going to party today because it
16 Rico's birthday, and whatnot.

17 He said, Yeah, I'm going to go buy him some drinks,
18 and whatnot.

19 Q When you say it was Rico's birthday, do you know
20 Rico's last name?

21 A Rico Crummer. It was his birthday.

22 Q Does he work with -- how do you know Rico Crummer?

23 A I've been knowing him just about my whole life, since
24 I was three years old.

25 Q Did he grow up in the same neighborhood as you and

1 Jamal?

2 A No. He didn't grow up -- I didn't know him -- he
3 grewed up in New Town.

4 Q So it was his birthday that night?

5 A Yeah. It was his birthday.

6 Q So you have this exchange with Jamal. And tell me
7 what happens next.

8 A He got -- he went over and talked to other people,
9 and got some drinks, and...

10 Q Did you remain downstairs after they let Jamal back
11 in?

12 A Yeah.

13 Q Okay. Did you try to kind of keep a watch --

14 A Close eye.

15 Q Excuse me?

16 A Close eye.

17 Q Okay. So you were keeping a close eye on him because
18 you told security you would?

19 A Close eye.

20 Q Okay. And tell me what happened --

21 A I just felt like as if he had -- I had to keep a
22 close eye on him. I just felt like -- I just -- after I
23 pulled him and -- I separated them and, you know, I
24 just -- and then everything just popped off.

25 It just feel like I'm just standing there, you know,

1 just standing, me and Fish standing there. I'm just
2 standing there, you know. And then everything -- I mean,
3 it just -- you know, it just happened.

4 Q Okay. I'm going to show you what's been marked as
5 State's Exhibit No. 37. Do you kind of recognize what is
6 in -- do you recognize what that looks like? I'll bring
7 it up to you closer. Do you know what this is showing?

8 A Yeah. That's the club. That's the club. It's out
9 at the club.

10 Q So this is the inside of the Black and Mild Club?

11 A Yeah.

12 Q Can you get down and show us -- just point out
13 approximately where you were when the shooting took place?

14 A Jamal right there. But he -- that's Jamal right
15 there. I was like 10 feet away from him.

16 Q So you were more towards the front door?

17 A I was just right -- right wherever he -- wherever his
18 body laying, he was in front. He was like in front of me.

19 Q So you were facing the back?

20 A I was facing him. When the whole episode happened, I
21 seen it from beginning to end, just put it like that.

22 Q Okay. You can have a seat again.

23 A (Witness complied.)

24 Q You said you were with a man named Fish?

25 A Yeah. Because he held me back. Because I was

1 thinking he was just fixing to just still [phonetic] on
2 him. That man just hit him and he didn't know it. I seen
3 the whole thing. But Fish held me back.

4 Q Okay. So tell me -- you're looking, and what do you
5 see happen? What do you think you see happen?

6 A From the get-go, I'm standing there with Fish. And
7 Fish like -- Fish like -- I said -- Mal said, Big Brother
8 T -- he said, Rico, happy birthday. Big Brother T, I love
9 you. Right there, I seen it. I seen Tony coming and then
10 Fish like, Hold up, wait a minute. If he hit him first or
11 whoever with him --

12 MR. ROBINSON: Objection, Your Honor. Hearsay.

13 THE WITNESS: Fish like, If you --

14 THE COURT: Don't say what somebody else said.

15 BY MS. PARRISH:

16 Q Don't tell us what Fish said --

17 A Okay. Okay.

18 Q -- just tell us what you saw.

19 A What I seen -- I'm up here thinking -- I'm up here
20 thinking he's fixing to just still on him because of
21 whatever altercation Mal caused between him, or bother
22 him, or whatnot. I'm just thinking he just going to punch
23 him, or whatnot, you know.

24 Q And who is it that you see approach Jamal in that
25 manner?

1 A I seen Tony Leamon approach him that way.

2 Q Okay. Go ahead. So you --

3 A And as I -- as I see him approaching, I'm fixing to
4 go to him. I mean, I'm fixing to go. I see the
5 aggressive movement to him. Because I've already done
6 seen him been bothering him, and whatnot. But he ain't
7 put no physical -- he ain't never got no hands, or
8 nothing.

9 But, at the same time, I'm automatically, you know,
10 just like anybody -- just like if somebody with him in the
11 same situation. But I just seen the physical movement,
12 just aggressive movement.

13 Q Okay. Tell me what happened next.

14 A I just got held back.

15 Q Okay.

16 A And I got held back.

17 Q What did you see when you were being held back?

18 A I seen him came across and shoot my boy, boom.

19 Q Okay. What was your line of sight when this
20 happened?

21 A Right in front of my eyes.

22 Q Okay.

23 A I mean -- I mean -- I mean, it messed me up kind of.
24 I mean, really, seriously.

25 Q Prior to hearing the gunshot, did you see a gun?

1 A I didn't see no gun. It's like I say, I thought -- I
2 didn't see no gun. I thought he would just, you know,
3 punch him. I didn't see no gun. I didn't see no gun.

4 Q What happened after you heard that -- that gunshot?

5 A When he shot him, I ran down there to him.

6 Q Okay.

7 A You know, he just over us like this.

8 Q I'm sorry. Could you repeat that?

9 A He's standing over us like this.

10 Q Okay. Who was standing over you like that?

11 A Tony Leamon, just standing over us like this. And I
12 raised up and then somebody -- I'm like, Why you shoot
13 him? And then he just crossed over and walked out the
14 door.

15 Q What did you see as Tony Leamon was standing over
16 you?

17 A I seen my boy brain pouring out. And then I'm
18 sitting like this with him. Somebody grabbed me. Before
19 they grabbed me -- and I'm just staring. I'm asking him,
20 Why you had to kill him? Why did you have to shoot him?

21 And then I got drug out. I ran upstairs. I said,
22 We've got to go back downstairs. We was fixing to go out
23 the top and he said, Nah. He said, We'll just go back
24 downstairs. I said -- and then I went back downstairs. I
25 don't know where Tony went, and whatnot. He was gone.

1 Q Okay. When he was standing over you, did you see
2 anything in his hands?

3 A I was -- to be honest with you, I just seen him just
4 like this. I don't know what type of gun it was, or none
5 of that. But I know for a fact that, I mean, there wasn't
6 no -- there wasn't no -- his raw hand. But I ain't paid
7 attention to what kind of gun it was.

8 But I asked him, I said, Why you had to kill him,
9 man? You know, I mean, just like that. But, at the time,
10 Mal was still like this with his mouth open and blinking
11 and looking at me. Just looking at me, blinking his eyes.

12 Q Did you see what color was in Tony Leamon's hand?

13 A I can't even remember.

14 Q Okay. Did Mr. Leamon say anything to you while he
15 was standing there?

16 A He didn't say nothing. But like he didn't mean --
17 like a situation that you don't want to be in, I know
18 that. The look that he had on his face, like a situation
19 he didn't want to be in, I know that. It was just like
20 scared the hell out of me.

21 Q Okay.

22 A I mean, just...

23 Q Who else was around when this happened that you know?
24 You mentioned Mr. Fish.

25 A Fish. A lot of people around. Mostly everybody. I

1 mean, there was a lot of people around.

2 Q Okay. Did you see Mr. Leamon exit the club?

3 A I didn't see nothing, but him just cross over. At
4 that time, when he crossed over him, I got pulled. I got
5 pulled. Because I just had -- my arm had just been -- I
6 just had been out, so I got pulled.

7 My arm start pouring blood. My arm had been stuck.
8 I got pulled. And I got up and went upstairs. I said, We
9 got -- he said, Let's go back downstairs. I don't know
10 when -- I guess he was gone then. I seen him when he
11 crossed over Mal and went out the door, I guess so.

12 Q Okay. Tell me about that part of the club. Are
13 there any lights around?

14 A Man, it was lit up. It was like the club out, like
15 it was fixing to, you know, shut down.

16 Q Okay. Do you remember what time of -- what time it
17 was?

18 A It was late. It was like -- I want to say about to
19 be 2:00. It was something like that. Because the club
20 was closing. Because they cut on all the lights, you
21 know.

22 Q Okay. Now, would you say that the Black and Mild is
23 fairly dark in some places?

24 A Yeah. When the club -- yeah. It's dark in some
25 places, yeah, yeah.

1 Q What about the area where this shooting happened?

2 A There's lights right there.

3 Q Okay. Did you have any trouble seeing what happened?

4 A A hundred percent, no.

5 Q Did the amount of alcohol that you had consumed
6 affect your vision in any way?

7 A No.

8 Q Do you remember what Mr. Leamon was wearing that
9 night?

10 A I don't remember what he was wearing.

11 Q Okay. Did you call 911?

12 A I didn't have a chance because the people drug me out
13 the door, threw me in the Jeep, and took me to my momma's
14 house. And I went -- my momma and my daddy and all us got
15 back -- we went right back over there.

16 Q You went right back over where, sir?

17 A Right back to the Black and Mild. I didn't have a
18 chance to do nothing. I didn't want to leave. But the
19 person that grabbed me, they was like, Come on, he -- I
20 ain't going to let you get shot, you know, just like that.
21 So he drug me. When I got upstairs, they threw me in the
22 back of the Jeep and took me to my momma's house.

23 Q You said that you went back to the club?

24 A I went right back. I went right back.

25 Q Were police there when you got back?

1 A Full.

2 Q Did you speak to any police officers there?

3 A It was just more like what everybody saw. Everybody
4 saying this, that, and the third. And I'm like, I don't
5 even want to hear it, you know. And I'm like, you know,
6 it was just crazy. It was crazy out there.

7 Q How did you -- how were you feeling as you realized
8 what happened?

9 A It was unbelievable. It's like my --- that's like a
10 brother to me. You know what I mean? It was just -- it
11 wasn't called for, to be honest with you.

12 Q Okay. Did you speak to police later that day?

13 A Yeah. His momma got in touch with me and said I need
14 to go down there and talk to them. So I did what I --
15 anybody else would do when you see your best friend's
16 brains, head get shot like that, you know. I mean, I'm...

17 Q At the time this happened, did you know or remember
18 Tony Leamon's name when you spoke to police?

19 A At the time it happened, yeah. I knew his name.
20 Yeah, I knew his name.

21 Q Did you give police his name or could you remember
22 his name when you talked to police? Do you know?

23 A When I got down there, it wasn't nothing said. It
24 was just -- as I remember, I don't remember them leading
25 me like saying Tony name. They didn't lead me. I don't

1 remember none of that. But the only thing he did, he
2 just -- he had a paper. He slid it out like that. And
3 when he slid it out, it was face down.

4 Q Okay. I'm going to show you some items. Hold on.
5 So I'm going to show you what's been marked as State's
6 Exhibit Nos. 46, 47, and 48?

7 A Okay.

8 Q Now, tell me, do you recognize any of these documents
9 as the ones police showed you that night?

10 A The only one I really remember is this right here.
11 And I signed that right there.

12 Q What about State's Exhibit No. 47? Did the police
13 show you that that night?

14 A I mean, he didn't have to. I don't know, but he
15 didn't have to.

16 Q Okay. You don't remember seeing State's Exhibit
17 No. 47?

18 A I can't remember, but -- I can't remember.

19 Q Okay. But you remember seeing State's Exhibit
20 No. 48?

21 A Yeah.

22 Q And you see your name on State's Exhibit No. 46?

23 A This right here.

24 Q Okay. Tell me how you know that you saw State's
25 Exhibit No. 48 that night. Did you do anything to remind

1 yourself?

2 A It's out of character. He just didn't have the
3 glasses on that night.

4 Q But, I mean, are there any markings on State's
5 Exhibit No. 48 that let you know that was what you saw?

6 A My initials on it.

7 Q Okay. So you initialed it?

8 A Yeah.

9 MS. PARRISH: Your Honor, at this time, the State
10 seeks to admit State's Exhibit Nos. 46 and 48 into
11 evidence.

12 MR. ROBINSON: Your Honor, the same objection I had
13 pre-trial.

14 THE COURT: All right. They're admitted.

15 (WHEREUPON, State's Exhibit Nos. 46 and 48 were
16 admitted into evidence.)

17 BY MS. PARRISH:

18 Q Tell me what you remember about State's Exhibit 48.
19 Tell me how you came to see it and what happened. You
20 just described it, but can you tell us again now that you
21 have it in front of you?

22 A Basically, it was just like this.

23 Q Okay.

24 A When he gave it to me, just like this.

25 Q Who gave it to you upside down?

1 A That homicide detective right there.

2 Q All right. And what did he ask you to do when he put
3 the paper like that? Do you remember?

4 A It was down like this. And he said, I want you to
5 just look at it and tell me who it is you seen shot Jamal.
6 That's, basically, like it right there.

7 Q Okay. Did he point to anybody?

8 A No.

9 Q Did he indicate who anybody on those photos was?

10 A None of that.

11 Q Did he tell you that for sure the person that shot
12 him's picture would be on there?

13 A No.

14 Q Okay. And tell me what happened -- who turned the
15 paper over?

16 A I did, just like this.

17 Q Okay. And what did you do when you turned the paper
18 over?

19 A I turned the paper over like this, and put my
20 initials, and signed it.

21 Q Okay. And who has a circle and your initials by
22 their name?

23 A Tony Leamon.

24 Q Okay. And why?

25 A Because I knew him by face and name. I knew him by

1 name and face, too.

2 Q Okay. So you recognized him as the person that shot
3 Jamal?

4 A Yeah.

5 Q Okay. Was there any doubt in your mind that night
6 that that's who you saw shoot Jamal?

7 A No doubt.

8 Q Okay. You were very upset. Are you certain that is
9 the person that you saw shoot Jamal?

10 MR. ROBINSON: Objection, Your Honor. Leading.

11 THE COURT: Overruled.

12 THE WITNESS: Yeah. I'm a hundred percent sure.

13 BY MS. PARRISH:

14 Q Do you have any doubt in your mind today?

15 A No doubt.

16 Q Okay. Were you able to get a clear look at the
17 person who shot Jamal?

18 A Yeah.

19 Q Did you get a clear look at them when you were on the
20 floor looking up?

21 A Yeah.

22 MR. ROBINSON: Your Honor, asked and answered.

23 THE COURT: Overruled.

24 MS. PARRISH: I have no further questions. Please
25 answer any questions Mr. Robinson may have.

CROSS-EXAMINATION

1
2 BY MR. ROBINSON:

3 Q Mr. Boyd, do you recall having a conversation with
4 Officer Fortner that was recorded?

5 A Yeah. I remember having a conversation.

6 Q You remember that. And when you gave that
7 conversation to him and told him what happened, you were
8 telling him the truth, weren't you?

9 A That's it. Why I going to lie for?

10 Q That's true. Is that right?

11 A Yeah. What happened is true, yeah.

12 Q And there was a recording he made as well; correct?

13 A Yeah. That's what I told him, yes.

14 Q Do you recall telling Officer Fortner that -- two
15 things, one, that the dude that did this went out on the
16 dance floor and killed him? Do you remember saying that?

17 A Dance floor?

18 Q You said to Officer Fortner that the dude -- or that
19 killed --

20 A He was dancing.

21 Q He was dancing. He was shot -- shot him in the
22 middle of the dance floor?

23 A He was dancing. He was dancing.

24 Q So you deny it?

25 A Let me tell you -- let me put it like this. He was

1 dancing. He was dancing with a shot of liquor in this
2 hand and a Bud Light in this hand. He was dancing when he
3 had got shot.

4 Q He was dancing when he got shot?

5 A He was just like this. He was just like this, just
6 like that.

7 Q So when you -- on your recording that you did --

8 A If I said the dance floor --

9 Q Let me finish my question, sir. All right.

10 A All right.

11 Q When you gave a statement to Officer Fortner --

12 A Yeah.

13 Q -- and you told him that it occurred -- that the
14 incident occurred on the dance floor, that was a lie at
15 that time? Were you lying to him then?

16 A I didn't tell him no lie. I didn't tell him no lie,
17 period. It may -- at the time everything was going on,
18 there was no sleep, and everything. But I know for a
19 fact, he was just dancing. That's what I must have meant.
20 I don't know about the dance floor, and all that.

21 Q Okay.

22 A What's the difference? He was dancing. I mean,
23 everybody get out on the floor and dance.

24 Q And why don't you tell the jury where the dance floor
25 is in this place. Where is the dance floor? It's right

1 here; is that right? On 22; is that right?

2 A Yeah. That's the dance floor.

3 Q And, according to your statement to Officer Fortner,
4 that's where the killing took place, didn't it?

5 A I'm telling you that's where -- he was like in the --
6 like right there where he is now. I don't know why they
7 got -- I must have said the wrong thing, but I know for a
8 fact he was just right there dancing. I didn't mean to
9 say no dance floor. But he was just dancing in the middle
10 of the floor with -- he was like dancing with -- he was
11 dancing in the middle of the floor with a shot in his hand
12 and a Bud Light in that hand. And he had his head down
13 like that.

14 Now, if I said dance floor, it just been said dance
15 floor. But, at the same time, he was just dancing.
16 That's what I meant. He was just dancing, period. He was
17 just dancing, period, just dancing, minding his own
18 business.

19 Q So the reason you're saying this now is because now
20 you have a little better memory than when you did back two
21 years ago; is that correct?

22 A No. The reason why I'm just saying it now is because
23 that's what happened.

24 Q And so let me -- I want to clarify something here.
25 Regarding this putting out of Jamal for what he was doing

1 at the club, that argument that you're talking about,
2 you're not saying that Tony Leamon got put out, are you?

3 A It wasn't no argument. It was just, like, you just
4 like -- you know, if I'm talking to you -- okay. And I'm
5 just talking and it wasn't -- there's no argument. It
6 just got put -- I don't know about Tony. But he just got
7 put out. I don't how else to express it.

8 Q Got put out?

9 A Yeah.

10 Q Who got put out? That's what I want to know --

11 A Both got put out.

12 Q -- who got put out?

13 A Both got put out.

14 Q You're saying now --

15 A Both of them got -- like I said before --

16 Q You're saying now -- you didn't say that in the
17 interview that you had with Officer Fortner two years ago,
18 did you?

19 A Because he didn't ask me that, I guess. I can't
20 remember what he asked me. But he must have didn't ask
21 me. If he didn't ask me, I didn't have to tell him.

22 Q So you're telling this Court -- this jury, under
23 oath, that Tony Leamon got put out of the club?

24 A They were right there. They both got put out when I
25 was out there talking to Jamal. But I didn't see him,

1 though.

2 Q Okay. That's what I want to know.

3 A Yeah.

4 Q You're not saying that the argument --

5 A He said --

6 Q Let me finish. That -- the argument that the people
7 got put out with involved Tony Leamon, you're not saying
8 that, are you?

9 A To make the story short, this is what happened. The
10 security say, I put them both out so they could cool off
11 and get some air. And I don't know where he was when he
12 got put out. I wasn't looking for him. I was talking to
13 my homeboy. But that's what I was told.

14 So I went and got -- Jamal was out there. And I
15 talked to Jamal, and I talked to security. Security let
16 him back in. But now, I wasn't focusing on him like that.

17 Q Okay. So the person that you're talking about that
18 went outside and got put out was not Tony Leamon; correct?

19 A They both got put out.

20 MR. ROBINSON: Judge, if you could instruct him to
21 answer the question in this case.

22 THE COURT: Well, I thought he did. He said they
23 were both put out. He said that the security guard put
24 them both out. But when he went outside, he didn't see
25 the Defendant. He saw Jamal.

1 THE WITNESS: That's it.

2 MR. ROBINSON: Okay.

3 BY MR. ROBINSON:

4 Q So wouldn't that kind of indicate to you that
5 Mr. Leamon was not outside -- had not been put out?

6 A Like I said, I wasn't looking for Tony. I was just
7 looking -- I was focusing more on what's happening with my
8 homeboy. I was focused on more what's going on with him.
9 I didn't have reason to be focused on him, like I said.

10 But the security guard told me he put them out so
11 they could get some air and cool off. I didn't put them
12 out. Like he said, just let them get some air and
13 everything cool. But he let Jamal back in with me. We
14 went back in the club. That's how it happened.

15 Q Okay.

16 A Yeah.

17 Q Now, you had said that you had been drinking that
18 night as well; is that correct?

19 A Oh, yeah.

20 Q Okay. And you said you had some gin; is that right?

21 A Yeah. I had a cup of gin.

22 Q Okay. So as far as how this all took place, you said
23 you had crystal clear vision of what happened at that
24 time. You told Officer Fortner that your clothes had
25 blood on them; is that correct?

1 A That came from my arm right here. I had just had
2 like -- I had just had -- see, this is where I had dead
3 skin on my arm. And I had went to the hospital. And my
4 arm had a cyst up under there.

5 So when I was down with Jamal, when I got pulled, it
6 had -- it just like -- it had ruptured because it was
7 stuffed. So they came. The detectives came and got my
8 clothes. They didn't know whether it was Jamal's blood or
'9 my blood.

10 But like I told them, it was my white T-shirt, and
11 some Army fatigue shorts, and it's an Air Force One,
12 white. They just came and got my clothes for evidence
13 because there was blood down my shirt. There was blood
14 down my shirt.

15 But, obviously, it had to be my blood because my arm
16 was running when I got to my momma's house.

17 Q So when you told Officer Fortner in your interview
18 that you got blood from Jamal on your clothes, that was a
19 lie then?

20 A I ain't never tell no lie. I said I don't know -- I
21 said I didn't know -- at the time, I didn't know whether
22 that was my blood or Jamal's. Because I was right there
23 with him. I don't whether it came from him at the time or
24 me.

25 But when I got there, I realized it was my arm. I

1 don't know, like I told him. Like I said, I don't know.
2 I don't know. I didn't know at the time.

3 Q Would it surprise you that there was no blood from
4 Jamal on your clothes? Would it surprise you that --

5 A I --

6 Q Would it surprise you that there was never any blood
7 from Jamal on your clothes?

8 A If there wasn't, there wasn't. I mean, if there
9 wasn't, there wasn't.

10 Q Although, you told Officer Fortner that there was?

11 A I said it could be. Because I was right there with
12 him when he was laying there.

13 Q Okay.

14 A That's what I think this is, it's whatever.

15 Q Let me ask you this, Mr. Boyd. If I were to -- if I
16 were to play this video of what you said --

17 A Okay.

18 Q -- back in 2014, would that refresh your memory?

19 A Play it.

20 Q I'm just asking you.

21 A Play it.

22 Q Do you want me to play it?

23 A Because at the same time, like I told you, everything
24 I'm telling you is the honest to God's truth. I mean, if
25 that's my blood or Jamal's blood, it wouldn't make no

1 difference.

2 Because at the same time -- that's for them to come
3 get my clothes and examine them. But at the same time,
4 how you go about it. That's how you're going to go about
5 it. But at the time, I didn't know whether his blood was
6 on me or not. I ain't going to just stop and look. My
7 friend's laying here, head busted open. And I'm going to
8 stop and say I'm going to make sure his blood don't get on
9 me to make sure, you know. At the time, everything is
10 fast.

11 So I ain't going to stop and boom, just see if I can
12 keep his blood off me. I don't know if I said it or not.

13 Q Right. Right.

14 A But at the same time, I might have said his blood
15 might have been on me. If I said it, I said it. But when
16 they came and got my clothes, that determined everything.
17 Right then, I don't know what I said. But if I said his
18 blood was on me, I said it.

19 Q Okay. And I think that your testimony to Officer
20 Fortner back then -- do you recall telling Officer Fortner
21 that the dude came up behind him on the dance floor while
22 he was dancing and shot him? Do you remember telling him
23 that?

24 A He came across just like this with his arms up, with
25 Jamal's arms up. And he just shot him just point blank,

1 period. That's how it happened. It's clear.

2 Q So when you told Officer Fortner back in 2014 that
3 the dude came from behind him on the dance floor where he
4 was dancing and shot him, that was the truth back then,
5 wasn't it, at that time?

6 A If he -- well, if I said on that tape -- whatever I
7 said, if I said behind, or front, or whatever. But I know
8 he shot him.

9 Q Okay.

10 A If I said he was in the front or behind or he beside
11 him or whatever, he shot him, man.

12 Q Let me ask you this. Do you recall telling Officer
13 Fortner where he shot him? Do you recall that?

14 A From the way I looked, it looked like he just shot
15 him in the side of the head. That's what I was just
16 saying. From what I looked -- from the way -- I'm
17 standing right here in front of him direct.

18 Q Okay.

19 A I mean, I ain't going to sit up here and say this,
20 and that, and all this stuff that's popping off right
21 then. But however you want to put it. However you want
22 to put it. But the simple fact, he got shot. That's it.
23 That's all I've got to say. That's what happened.

24 Q So it's your testimony now that he got shot in the
25 side of the head; right? Is that what you're saying?

1 A Whatever I said. Whatever I said.

2 Q No, no, no. I'm asking you. He got shot -- did he
3 get shot in the side of the head?

4 A From where I see -- the way I see, how it looked, he
5 shot him from the side of the head, or whatever.

6 Q So on the left side or the right side? Do you
7 remember?

8 A I can't exactly remember.

9 Q You're not sure?

10 A I'm not sure.

11 Q Was it -- was it -- from what -- your crystal clear
12 vision you say you had, was it a shot that was just a
13 straight shot? Like if I'm looking at you --

14 A I didn't say it was a straight shot.

15 Q -- and I go like this to the side of your head --

16 A It wasn't no straight shot.

17 Q What was it?

18 A He shot him.

19 Q Where? How? Tell me.

20 A He killed him.

21 Q How? Tell the jury -- show the jury how he shot him
22 in terms of -- in terms of --

23 A I ain't got to lie about it. He just shot him.

24 Q How? You saw it. Explain to the jury how. Did he
25 shoot him --

1 A I'm going to explain to the jury --

2 Q -- like this?

3 A -- my friend was just having a good time and he got
4 shot for, actually, nothing.

5 Q See, we're all --

6 A He got his life snuffed out for nothing, not nothing.

7 Q I understand --

8 A I mean, however you want to twist it or whatever, but
9 he shot him, just point blank like that. However the
10 episode that was popping off and all that, however I put
11 it in the statement.

12 But the simple fact, he just shot him, you know. If
13 he shot him -- from the way I look at it, it look like he
14 just shot him, boom. He just shot him, just like that.

15 And I remember exactly how he was. He just had -- I
16 remember him just dancing. He just come up and shot him,
17 just like that. But however you want to twist it and put
18 it on that tape how I said it. But I'm just saying he
19 shot him.

20 Q I'm asking you, you, Darrion Boyd --

21 A Yeah.

22 Q What I'm asking you -- we've establish you've
23 testified he was shot in the side of the head; right?

24 A That's what it looked like to me. He was shot from
25 the side.

1 Q Your testimony now is he was shot in the side of the
2 head?

3 A That's how it looked like. That's what it looked
4 like to me.

5 Q Well, looked like when you -- how did you --

6 MS. PARRISH: Objection, Your Honor. Asked and
7 answered repeatedly.

8 THE COURT: Well, I think he's stated that more than
9 once.

10 But do you think there's something else you need to
11 ask him about that?

12 MR. ROBINSON: Yeah. Just one more -- I'm not going
13 to go into that. We've already established that.

14 THE COURT: Okay

15 BY MR. ROBINSON:

16 Q You still haven't answered me how he shot him.
17 Because you say you saw --

18 THE WITNESS: Can I stand up and show him what I'm
19 saying?

20 THE COURT: You can, yes.

21 THE WITNESS: The way I was standing, I was standing
22 just like this.

23 BY MR. ROBINSON:

24 Q Okay.

25 A I was standing just like this.

1 Q Right.

2 A He came across from -- just came across from the side
3 just like this. And all I seen, he just -- boom, just
4 like that. And my boy dropping just like this here.
5 Whatever he had in his hand was at the top. And I ran
6 right over there to him.

7 And that's how -- that's how -- but however you want
8 to say. Whatever I said on that tape is just point blank,
9 period. He was just shot right there in front of me. I
10 mean, I don't know. Whatever I said on that tape or
11 what's this, and that, and the third. But he just shot
12 him, you know.

13 Q Okay. So it appeared to me -- when I was watching
14 you demonstrate how he shot him, it appeared to me it was
15 like a straight shot. Is that accurate?

16 A A straight shot? What you mean? Like I'm in front
17 of you like this?

18 Q Yeah. Yeah.

19 A No.

20 Q Well, tell me what it was. Was he --

21 A I just said he just came up and shot him, boom. He
22 didn't even see -- put it like this. This would be the
23 whole thing. If he would have seen him coming like that,
24 it wouldn't be this situation. He was just like he didn't
25 even know -- right now, he don't even know -- he didn't

1 even know what's coming, put it like that. That's how --
2 that's -- he don't even -- he didn't even know it was
3 coming.

4 Q Okay.

5 A But if he would have seen it coming, he would be
6 right here today. He would have had a chance. That's all
7 I've got to say about that right there.

8 MR. ROBINSON: Your Honor, at this time, I'm going
9 to -- I'm going to enter the exhibit -- as an exhibit the
10 video of him that he -- the interview he did with
11 Mr. Fortner. I have the disk back here. I just need a
12 little time to work it, so I can play it.

13 So I'd like to -- I'd like to put that in and show it
14 to him after lunch, if I could.

15 THE COURT: Okay. We'll break for lunch. And we'll
16 do that after lunch.

17 MR. ROBINSON: Yes, sir.

18 THE COURT: Let me ask the jury to remember the
19 caution previously given to you, no discussion, no
20 research, no investigation, no media exposure.

21 Do have a good lunch. Please report to your jury
22 room at 2:30, 2:30 this afternoon. Have a good lunch.

23 Wait just a minute. Mr. Boyd, wait just a minute.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 12:52 p.m.)

1 THE COURT: All right. Mr. Boyd, you can step down
2 and have lunch. But you cannot discuss your testimony
3 with anybody during lunch because you're still on the
4 witness stand. Okay.

5 THE WITNESS: All right, sir.

6 THE COURT: Court is in recess until 2:30.

7 (WHEREUPON, a lunch break was taken.)

8 (WHEREUPON, State's Exhibit Nos. 51, 52, 53, 54, 55,
9 56, 57, and 58 were marked for identification only.)

10 THE COURT: Any matters to address before the jury is
11 brought in?

12 MS. PARRISH: Nothing from the State.

13 MR. ROBINSON: No, Your Honor.

14 MS. PARRISH: Can Mr. Boyd resume his place on the
15 stand, Your Honor?

16 THE COURT: As soon as they come back in.

17 MS. PARRISH: Okay.

18 THE COURT: Mr. Boyd, you might as well come on up
19 and take the first seat on the end. Because you're going
20 to have to come back to the witness stand. You can just
21 sit in that chair right there for a minute.

22 THE WITNESS: What?

23 THE COURT: You can just sit in that chair right
24 there. And you're going to come up as soon as the jury
25 gets in here.

1 What are you going to do about the video?

2 MR. ROBINSON: Your Honor, I spent lunchtime going
3 through it. And I'm not going to put the video up.

4 (WHEREUPON, the jury came into open court at
5 approximately 2:39 p.m.)

6 THE COURT: Good afternoon.

7 As you know, when we recessed, Mr. Boyd was on the
8 witness stand undergoing cross-examination by Defense
9 Counsel. So we'll continue with that this afternoon.

10 Mr. Boyd, if you'll, please, resume your seat on the
11 stand. You're still under oath.

12 (WHEREUPON, Darrion Boyd resumed the witness stand.)

13 THE COURT: Mr. Robinson.

14 MR. ROBINSON: I just have a few more questions, Your
15 Honor.

16 BY MR. ROBINSON:

17 Q Mr. Boyd, I just have a few more questions for you
18 since we had lunch, and so forth.

19 A All right.

20 Q Do you recall that you did give a statement to
21 Officer Fortner sitting here to my right; is that correct?
22 Do you recall that?

23 A I gave him a statement on Saturday.

24 Q On Saturday back in 2014; correct?

25 A Yeah.

1 Q And in that statement, I think we -- I want to make
2 sure this is right. You said that the -- you stated to
3 him that the -- that the killing took place on the dance
4 floor; is that correct?

5 A No, I didn't. I said he was dancing in the floor and
6 he got killed.

7 Q But if you said back then it was on the dance floor,
8 you'd stay with that today, wouldn't you?

9 A I just said he was dancing --

10 Q Okay.

11 A -- in the middle of the floor.

12 Q And, again --

13 A And he got killed.

14 Q Okay. And, again, you said that -- as far as him
15 going outside -- I want to make sure I'm clear on this.
16 You testified before we went to lunch that you saw him go
17 outside. But then you said that he wasn't out there when
18 you were out there with Jamal. Can you explain --

19 A No. I said I didn't see -- I said they both got put
20 out. I said security said he put both of them out to get
21 some air. And I was more concerned about Jamal. I did
22 not see him. I did not see Tony. But I -- but the
23 security told me straight from his mouth to me that they
24 both got put out --

25 MR. ROBINSON: Your Honor, objection. Hearsay on

1 this one, Your Honor.

2 THE COURT: Well, he's just explaining why he had the
3 impression that they were both out. But he says he didn't
4 see him out.

5 THE WITNESS: Yeah.

6 BY MR. ROBINSON.

7 Q Okay. You didn't see him out?

8 A No.

9 MR. ROBINSON: Okay. Got you.

10 That's all I have. Thank you.

11 MS. PARRISH: Brief redirect, Your Honor.

12 THE COURT: Yes, ma'am.

13 REDIRECT EXAMINATION

14 BY MS. PARRISH:

15 Q You said that prior to the shooting, you saw
16 Mr. Leamon upstairs; is that correct?

17 A Yes. He came upstairs.

18 Q And that's how you knew to go downstairs and speak
19 with Jamal?

20 A Yes.

21 Q Okay. And you identified earlier the location where
22 you were standing on that diagram; is that correct?

23 A Yes.

24 Q It was just a little bit closer to the door facing --

25 MR. ROBINSON: Your Honor, objection. Going into new

1 material. I didn't discuss it on cross-examination.

2 THE COURT: Overruled. I'll let you follow-up, if
3 you need to.

4 MR. ROBINSON: Okay.

5 BY MS. PARRISH:

6 Q You were facing Jamal; is that correct?

7 A Yes. I was facing Jamal.

8 Q And you saw Mr. Leamon come from where?

9 A Come from like sideways while Jamal's hand was up,
10 like I described before.

11 Q Right.

12 A He didn't see him. He couldn't see him. It wasn't
13 no front action.

14 Q Okay.

15 A He -- the way -- if he did see him -- I didn't see
16 him in the front of him, period.

17 Q Right.

18 A But Jamal had no notion this was happening to him.

19 Q Do you know from where in the background Mr. Leamon
20 came?

21 A It was like he came from the side of him.

22 MS. PARRISH: Okay. I have no further questions.

23 RECROSS-EXAMINATION

24 BY MR. ROBINSON:

25 Q Mr. Boyd, I understand your testimony in this case.

1 But you realize that no one else can corroborate what
2 you're saying in this case. You understand that, don't
3 you? No one else saw you -- this the way you saw it?

4 A The way I --

5 MS. PARRISH: Objection.

6 THE COURT: I don't know what anybody else saw. They
7 haven't testified. So I sustain the objection.

8 MR. ROBINSON: Withdrawn.

9 That's all.

10 THE COURT: Okay. You can step down.

11 MS. PARRISH: Can Mr. Boyd remain in the courtroom
12 and be excused from his subpoena?

13 THE COURT: He may be.

14 MS. HENDRICKS: The State calls Eric Jones.

15 THE CLERK: Will you come forward and put your left
16 hand on the Bible and raise your right?

17 WHEREUPON,

18 ERIC LAMAR JONES,

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

20 THE CLERK: Okay. You can have a seat, please.

21 Will you state your full name for the record?

22 THE WITNESS: Eric Lamar Jones.

23 DIRECT EXAMINATION

24 BY MS. HENDRICKS:

25 Q Mr. Jones, how old are you?

1 A 44.

2 Q And are you from Greenville originally?

3 A Yes, ma'am.

4 Q Do you work or go to school?

5 A Work.

6 Q Where do you work?

7 A At C.F. Sauer.

8 Q How long?

9 A About six years.

10 THE COURT: Move up to the microphone.

11 BY MS. HENDRICKS:

12 Q I want to take you back a few years to 2014. Were
13 you working at C.F. Sauer's then?

14 A Yes, ma'am.

15 Q And were you living in Greenville?

16 A Yes, ma'am.

17 Q What did -- do you remember June 13th, 2014? Do you
18 remember that day?

19 A June 13th?

20 Q Yes. So it was Friday during the day and into the
21 evening of June -- into the early morning hours of June
22 14th, 2014?

23 A Oh, yes, ma'am.

24 Q Did you work that day?

25 A Yes, ma'am.

1 Q What did you do that night?

2 A I went up to the Black and Mild.

3 Q What did you go to the Black and Mild Club to do?

4 A Shoot pool, and see people that I haven't seen in a
5 while, and just talk.

6 Q Do you remember what time you got to the Black and
7 Mild Club?

8 A About -- I'd say probably 10:00, 11:00, something
9 like that.

10 Q And where is the Black and Mild Club?

11 A In Cripple Creek.

12 Q Is that near where you live?

13 A Yes, ma'am.

14 Q And how would you describe it as -- what kind of club
15 is it?

16 A It's just like a pool hall. You go and see people,
17 and talk, and shoot pool.

18 Q So it wasn't a club as in like, loud music, strobe
19 lights?

20 A No. It's like people have private parties there.
21 They have music every now and then.

22 Q How often did you go?

23 A Like every weekend.

24 Q Every weekend. Did you feel safe there?

25 A Yes, ma'am.

1 Q Did you go with anyone that night, or meet anyone
2 there?

3 A No. I went by myself.

4 Q Did you know anybody there when you got there?

5 A Yeah.

6 Q Who did you know?

7 A Just a lot of friends. That's, basically, it.

8 And -- that's it. A lot of friends I've been knowing for
9 years.

10 Q Did you see Jamal there?

11 A Yeah.

12 Q And did you see Tony Leamon there?

13 A Yeah.

14 Q How do you know Jamal?

15 A I've been knowing Mal since he was probably eight, or
16 younger than that. I've been knowing him for years.

17 Q And what about Tony, how do you know him?

18 A I couldn't quite remember him. It's been years since
19 I've seen him. I didn't really know who he was, so.

20 Q Did you grow up together?

21 A Me and Mal?

22 Q You and Tony?

23 A No.

24 Q Do you know Tony by any other nicknames?

25 A Man.

1 Q And how long has he had that nickname?

2 A I couldn't really tell you. I've been calling him
3 "Man" since I've known him.

4 Q Before June 13th when you saw Tony, had you -- do you
5 remember the last time you saw him before that?

6 A I believe it was probably a week ago, but I didn't
7 know who he was. I was sitting beside him.

8 Q Where did you see him?

9 A At the Black and Mild.

10 Q And do you remember what he was wearing the night of
11 June 13th?

12 A I just remember some bedroom shoes, like, some
13 shorts. I didn't really pay that much attention. I just
14 remember the bedroom shoes.

15 Q And what about Jamal that night, do you remember how
16 he was acting?

17 A Well, when I got there, he was like dancing around.
18 That's Mal, dance around, a little hyper, you know. And I
19 just told him to calm down a little bit. Some people
20 don't know him like that. And he was like, All right.
21 And that was it.

22 Q Did you see any kind of fight between Jamal and Tony?

23 A No. I didn't see that.

24 Q How was Tony acting that night?

25 A Like I said, I didn't really pay that much attention.

1 But when I seen him, he was just quiet, just walking
2 around.

3 Q Were they both there the whole time you were there?

4 A When I got there, they was there. Both of them was
5 there.

6 Q Okay. And did you see either of them go outside
7 while you were there, either Tony or Jamal go outside
8 while you were there?

9 A Mal did. But when I was fixing to go upstairs, I saw
10 Tony coming back in.

11 Q So you didn't see him go out, but you saw him coming
12 back inside?

13 A Yeah. I saw him coming back in.

14 Q What door was that?

15 A The front door.

16 Q The front door. What did you do while you were at
17 the Black and Mild Club that night?

18 A I stood around talking and tried to play pool. I
19 went upstairs and talked to a few people, sat for a while.

20 Q And did you hear a gunshot that evening?

21 A Yeah, I heard one.

22 Q Okay. I'm going to show you State's Exhibit No. 37.
23 Do you recognize this?

24 A Yeah.

25 Q What is it?

1 A It's the inside of the Black and Mild Club.

2 Q Would you mind stepping down and pointing out where
3 you were when you heard the gunshot?

4 A I was at the bar.

5 Q You were at the bar?

6 A Uh-huh.

7 Q Thank you.

8 You can take your seat back.

9 A (Witness complied.)

10 Q So where were you -- you just said where you were
11 when you heard the gunshot. When did you hear the
12 gunshot? Do you remember what time of night it was?

13 A It was probably -- it could have been, like, 1:00, I
14 guess. I didn't pay no attention to the time. But I know
15 it was hours later.

16 Q Later. Where were -- what were you doing when you
17 heard the gunshot?

18 A I was talking to a girl at the bar. As soon as I
19 turned around and talked to her, I heard the noise. And I
20 felt a piece of metal hit me in the shoulder.

21 Q Did you see either Tony or Jamal while you were at
22 the bar?

23 A I had just talked to Mal.

24 Q What about Tony?

25 A I saw him over in the corner.

1 Q So Tony was in the corner, and you saw Jamal near the
2 bar?

3 A Jamal was standing right behind me.

4 Q Right behind you?

5 A Uh-huh.

6 Q What was Jamal doing?

7 A Standing there looking at the dance floor, moving,
8 dancing around.

9 Q What about Tony?

10 A When I glanced over there, he was sitting over there
11 talking in the far corner.

12 Q By the pool tables?

13 A No, by -- back where the bathroom --

14 Q So the back left corner?

15 A Yeah.

16 Q Were you facing the bar when you heard the gunshot?

17 A Yes, ma'am.

18 Q What did you do when you heard the gunshot and felt
19 the fire on your shoulder?

20 A I stood there for a while. Because I was thinking
21 maybe I got hit. Because I've been shot before and I
22 didn't notice. And I turned around and looked and saw Mal
23 hit the floor. And I looked up and I saw Tony standing
24 right there.

25 Q How long do you think it was before you turned

1 around?

2 A About five, six seconds.

3 Q So Jamal was still standing up when you turned
4 around?

5 A He was falling.

6 Q He was falling?

7 A When I turned around.

8 Q How dark was that bar area?

9 A It was light.

10 Q There were lights?

11 A There was lighting around that area.

12 Q And what about around the pool tables, were there
13 lights around the pool tables?

14 A Yeah.

15 Q Did you have any trouble seeing?

16 A No.

17 Q Did you immediately recognize Tony to be the person
18 holding the gun?

19 A Yeah.

20 Q What did the gun look like?

21 A I would just guess probably a .380, or something.

22 Q How big was it?

23 A It was about like that.

24 Q So small?

25 A Yeah.

1 Q And do you remember what color it was?

2 A I really didn't glance at it that much. I was just
3 looking at Mal and him standing there.

4 Q Had you been drinking that evening?

5 A I didn't really get to.

6 Q You hadn't started yet?

7 A I had like one beer. I didn't really get to drink.

8 Q So did the drinks you had affect your ability to see
9 this at all?

10 A No.

11 Q Do you remember anybody else around you at that
12 point?

13 A Nobody. But I think Yasheeki might have been
14 standing near me.

15 Q Near you at the bar?

16 A Yeah.

17 Q What happened after the shooting? How did everybody
18 act?

19 A Everybody started running, hollering, running out the
20 club. I stood there.

21 Q What did you do after the shooting?

22 A I stood and looked at Mal, and I looked at Man. It
23 just -- he looked like he wasn't thinking or something was
24 on his mind. He just didn't look the same.

25 Q So what did you see Tony do after the shooting?

1 A He stood there and looked down at Mal. And he just
2 was standing there with a gun in his hand.

3 Q Did you see him walk away?

4 A Yeah. He looked and stepped over Mal and just walked
5 out.

6 Q Did he run?

7 A No.

8 Q He just walked?

9 A (Witness nodded.)

10 Q Did you call 911?

11 A No. They told me they had called them already.

12 Q Did you wait for the police or an ambulance?

13 A I waited for a while. And they told me just to
14 leave, they're coming. When I got outside, I called his
15 uncle. I called Mal's uncle and told him what had
16 happened.

17 Q Where did you go when you left?

18 A I went home.

19 Q Did you tell the police what you saw?

20 A I didn't get to talk to the police. But when I went
21 down to see the detective, I told him what I saw.

22 Q Right. So not that night, but when you went and met
23 with --

24 A The detective.

25 Q -- the detectives, you told them what you saw?

1 A Yeah.

2 Q And when you went and met with law enforcement, did
3 Investigator Fortner show you a photo lineup?

4 A Yeah.

5 Q He did? Before he showed you this lineup, did you
6 see any other photographs?

7 A No.

8 Q I'm going to show you what's been marked as State's
9 Exhibit No. 49. Is this the lineup that Investigator
10 Fortner showed you?

11 A Yeah, that's it.

12 Q And were you able to identify anyone in that photo
13 lineup as the person who you saw shoot Jamal Marion?

14 A Yeah.

15 Q And who did you pick out of this lineup?

16 A Man, the middle one on the bottom row.

17 Q And how did you -- how did you show that that's who
18 you picked? Did you mark this page?

19 A I just pointed straight to him as soon as he opened
20 it and showed me the picture.

21 Q Right. Did you circle Tony Leamon?

22 A I just know I initialed it.

23 Q And you put your initials --

24 A Yeah.

25 Q -- because that's the one you chose?

1 A Yeah.

2 Q How long did it take you to identify?

3 A It didn't take no time.

4 Q Did you ever select a photograph of anybody else as
5 being the person who you saw the gun -- who you saw
6 holding the gun?

7 A No.

8 Q Were you positive that the person you selected is the
9 man you saw holding the gun?

10 A Yes, ma'am.

11 MR. ROBINSON: Objection, Your Honor. Relevance in
12 this case.

13 THE COURT: Overruled.

14 BY MS. HENDRICKS:

15 Q Are you still positive that you selected the right
16 person? It's been about three years.

17 A Yes, ma'am.

18 Q And who's the person you identified in the photo
19 lineup?

20 A Man.

21 Q Is he in the courtroom today?

22 A Yeah.

23 Q Can you point him out please?

24 A (Witness indicated.)

25 MS. HENDRICKS: Thank you.

1 I have no further questions. Please answer any
2 questions Mr. Robinson may have.

3 MR. ROBINSON: May it please the Court.

4 CROSS-EXAMINATION

5 BY MR. ROBINSON:

6 Q Mr. Jones -- you go by "Eric"; is that correct?

7 A Yes, sir.

8 Q Mr. Jones, do you remember the interview you had with
9 Officer Fortner, the detective over there?

10 A Yeah..

11 Q Do you remember that?

12 A Yeah.

13 Q Let me go back to that interview. You never saw Tony
14 Leamon shoot Jamal, did you?

15 A I saw him holding the gun afterward.

16 Q The question is this -- and I want you to answer it
17 "yes" or "no." Did you ever see Tony Leamon shoot Jamal?

18 A No. I didn't see him walk up and squeeze --

19 Q You didn't see that, did you?

20 A No.

21 Q Now, you just testified a moment ago about where Tony
22 was when you heard the shot?

23 A Yeah.

24 Q Right? Do you remember that?

25 A Yeah.

1 Q Why don't you show the jury where he was. Because I
2 want to make sure I understand -- they need to understand
3 where you say he was when you heard the shot.

4 A He was standing back there by the bathroom.

5 Q And tell the jury in your estimation between from
6 where he was when you heard the shot to where Jamal was,
7 how many feet do you think that was?

8 A From where Tony was?

9 Q Uh-huh.

10 A When he shot him, or before he shot him?

11 Q No. You -- you said Tony was near the bathroom up
12 there; correct?

13 A Yeah, before the shot went off.

14 Q Jamal -- before the shot went off; correct?

15 A Uh-huh.

16 Q I thought you said when the shot went off?

17 A No. Before the shot went off, he was sitting back at
18 the bar, and Mal was standing behind me. After I heard
19 the shot, Tony was standing beside Mal.

20 Q So you're saying that Tony rushed -- how many seconds
21 do you think it was between the time he was at the
22 bathroom and when you heard the shot?

23 A I don't think he was in no hurry. That's the thing.

24 Q Oh, yeah. How many seconds do you think it was?

25 A I can't say.

1 Q You can't say?

2 A I can't say how many seconds it was. Because I don't
3 know when he decided to do what he did.

4 Q Okay. Let me ask you this. Let's talk about this.
5 You said, at some point, that you -- when the shot went
6 off, you had something hit your shoulder; is that right?

7 A Yeah.

8 Q Is that right?

9 A (Witness nodded.)

10 Q Now, which shoulder did it hurt?

11 A It -- just a piece hit me right here in the top
12 shoulder.

13 Q So it's hitting, like, in the back of your shoulder?

14 A Yeah.

15 Q That's the back of your right shoulder; is that
16 correct?

17 A Yeah.

18 THE COURT: Well, that's -- excuse me. That's not
19 his right shoulder.

20 THE WITNESS: That's my left shoulder.

21 THE COURT: That's his left shoulder.

22 MR. ROBINSON: Sorry.

23 BY MR. ROBINSON:

24 Q The back of your left shoulder?

25 A Yeah.

1 Q Now, when you were standing there before this
2 happened, you said you were at the bar; is that correct?

3 A Yeah.

4 Q And you said, I believe, that you were away -- facing
5 away from the bar; is that correct?

6 A Away from the bar?

7 Q Facing -- the bar is here. You were facing this way?

8 A No. I was facing towards the bar. Mal was standing
9 behind me.

10 Q Okay. Now, in terms of -- let me ask you this as far
11 as --

12 THE COURT: You can take your seat.

13 (WHEREUPON, the witness resumed the witness stand.)

14 BY MR. ROBINSON:

15 Q Tell me about security at the Black and Mild Club.
16 Tell me about security.

17 A What do you want to know about it?

18 Q When you first go in -- this is back in 2014. When
19 you first go in, you have security guards at the door; is
20 that correct?

21 A Yeah. You've got somebody checking.

22 Q And they pat people down; is that correct?

23 A Yeah.

24 Q Okay. And so if you were to have, like, a weapon,
25 like, a knife or a gun, they would pat you down, wouldn't

1 they?

2 A Yeah.

3 Q They wouldn't let you in, would they?

4 A They'd tell you to take it off, or whatever.

5 Q Okay. But they would not let you in, would they?

6 A No.

7 Q So if you had a gun, if you came in packing with a
8 gun, they'd say Eric, go back to your car and put the gun
9 in the car and come back; right?

10 A Yeah.

11 Q Okay. Now, in terms of when you got there, you said
12 you got there between 10:00 and 11:00; correct?

13 A Yeah.

14 Q Now, this incident allegedly occurred between 2:00
15 and 3:00. So that's, like, almost about a three,
16 four-hour difference, basically; right?

17 A Yeah.

18 Q Okay. So you're saying you didn't have a drink at
19 any time between those three hours?

20 A Yeah. I said I had a beer. I didn't really get
21 started drinking.

22 Q Okay. Did you ever see Tony outside?

23 A No.

24 Q You never saw him outside?

25 A Huh-uh.

1 Q And you said you never saw any argument between Mal
2 and Tony; correct?

3 A That's correct.

4 Q Okay. And, again, you never saw the shooting -- you
5 never saw the actual shooting, but you saw Tony with a
6 gun; correct?

7 A Yeah.

8 MR. ROBINSON: Okay. That's all I have.

9 Thank you.

10 THE WITNESS: All right.

11 MS. HENDRICKS: We have no further questions.

12 THE COURT: You may step down.

13 THE WITNESS: All right.

14 MS. HENDRICKS: May he be excused?

15 THE COURT: He may be.

16 MS. HENDRICKS: The State calls Enjoli Henderson.

17 THE CLERK: Can you come forward and put your left
18 hand on the Bible and raise your right?

19 WHEREUPON,

20 ENJOLI SHANTUN HENDERSON,

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

22 THE CLERK: Please have a seat.

23 And will you state your full name for the record?

24 THE WITNESS: Enjoli Shantun Henderson.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. HENDRICKS:

Q Ms. Henderson, how old are you?

A 37.

Q Are you from Greenville County originally?

A Yes, ma'am.

Q Where'd you go to school?

A Berea and Greenville High.

Q Are you employed?

A Yes, ma'am.

Q Where are you employed?

A The Woodlands at Furman.

Q What do you do for fun?

A Play bingo.

Q Do you ever go to any clubs?

A I do -- well, I have.

Q Is there a particular club you like to go to?

A Now, there's not.

Q Back in the summer of 2014, where would you spend time?

A I used to go to the Black and Mild.

Q How often would you say that you went to the Black and Mild Club in the summer of 2014?

A At least, five days a week.

Q And how would you describe the Black and Mild Club?

1 A It was like everybody was family. It was convenient.
2 My sister stayed across the street. And it was just -- it
3 was free. I didn't have to pay to get in.

4 Q What did you like about the Black and Mild Club?

5 A The fact that everybody that was there was like
6 family. And I was -- I felt safe.

7 Q Was it a club in the sense of, like, a disco club
8 where there's loud music, and strobe lights, and...

9 A Loud music, but no lights.

10 Q Do you -- did you -- do you recall if you went to the
11 Black and Mild Club on the night of June 13th, 2014?

12 A Yes, ma'am.

13 Q And what about that night is memorable?

14 A I arrived about 9:30ish. I left my sister. And I
15 was just having a nice time. And the first person that I
16 seen was a real good friend of mine. He hugged me. He
17 partied like there was no tomorrow. He partied. He
18 walked around. He danced around.

19 I sit in one spot right at the door. And I'm just
20 chitchatting, just a normal night. Nothing alarming.
21 Just the same old night. The only thing different about
22 that night was the fact that I sat at the door. I used to
23 sit at the bar, talk to the bartender. But I sat over at
24 the door partying.

25 Q Who was the bartender?

1 A Nikki and Yolanda.

2 Q And who is Yolanda to you?

3 A Yolanda is my little sister.

4 Q And the good friend that you saw when you walked in
5 the door, who was that?

6 A It was Jamal.

7 Q It was Jamal. Is that Joseph Jamal Marion?

8 A Yes, ma'am.

9 Q And have you ever -- let's see. Did you come with a
10 group of people that night, or plan to meet people there?

11 A Well, my family -- everybody is there. My sister, me
12 and her used to walk across the street, but she wasn't
13 ready to go at that time. So she came on a little later
14 than I did. But there was never a plan to meet anybody
15 there. We just all ended up there. Like I say, it's
16 mostly family.

17 Q And how many people do you think were in the club
18 that night?

19 A I don't know, maybe 75 or a hundred.

20 Q And do you remember recognizing people that were at
21 the club that you regularly saw there?

22 A Yeah. Everybody -- everybody there was pretty much
23 regulars, except for Jamal. Jamal didn't really come
24 there, or I hadn't seen him there a lot.

25 Q So you said you saw Jamal Marion. How do you know

1 him?

2 A I met him -- him and my sisters are the same age --
3 around the same age. I'm older. I met him when he was
4 nine. We moved into the neighborhood. I was dating this
5 guy and they came, and Jamal was with them. And after
6 that day he came, he was at our house every day, every
7 single day. My momma would have to run him home, you know
8 your momma miss you..

9 And he was like, I'm all right, Ms. Bogel. I'm okay.
10 I'm going to go let her know I'm down here and come right
11 back. And he came right back. And he was there. Like,
12 he was the brother that I never had. He was always
13 smiling.

14 I passed him periodically -- because I moved away and
15 I would pass him. He would notice me in the car through
16 tint. He'd say, Sis, what's up? And that night he was
17 dancing around.

18 So I called him. I said, Jamal, are you good?

19 He said, Yeah. I'm good, Bunny.

20 And I said, Yeah, you're good.

21 And he touched me on the cheek and said, I love you.

22 And I said, I love you, too.

23 And he walked off with my sister. They went -- I
24 said, Get me a cup of ice while you're at the bar.

25 He said, Do you want something in it?

1 I said, No, Jamal. I just want a cup of ice because
2 I'm going to crunch the ice.

3 And he walked off. Him and my sister went to the
4 bar.

5 Q Where were you seated that night?

6 A I -- it's a red, like, oval couch near the DJ booth.

7 Q Okay. I'm going to show you State's Exhibit Nos. 36,
8 13, and 11.

9 MR. ROBINSON: No objection.

10 BY MS. HENDRICKS:

11 Q Do these pictures accurately reflect where you were
12 seated that night?

13 A Uh-huh. I was sitting on that couch.

14 Q So you were sitting on the red couch in these photos?

15 A Uh-huh.

16 Q And what part of the club do you face from this
17 angle?

18 A Right -- because I have a phobia. I like to sit
19 where I can see everybody. I don't like nothing behind
20 me. So it's like I could see the whole club from that
21 angle.

22 Q So I'm going to show you what's been marked as
23 State's Exhibit No. 37. Do you recognize this?

24 A Uh-huh.

25 Q What is it?

1 A The -- I guess the scene.

2 Q Is this the layout of the club?

3 A Uh-huh.

4 Q Would you mind stepping down and pointing out where
5 you were seated on that diagram?

6 A I was right here.

7 Q So that's the red couch you were seated on?

8 A Uh-huh.

9 Q Okay. You can take your seat.

10 A (Witness complied.)

11 Q So do you know Tony Leamon, the Defendant in this
12 case?

13 A I don't personally know him, no.

14 Q Did you see him at the club that night?

15 A I did.

16 Q What did you see after Jamal went to the bar to get
17 you a cup of ice?

18 A After probably around maybe five or 10 minutes, I
19 heard a -- it sounded like a balloon pop. And I said, Oh,
20 shit. And I looked and seen Mr. Leamon holding a gun.
21 And it got smoke coming from the tip. He was standing
22 there.

23 I was the first person out of the club. I
24 immediately ran then. Because if somebody shooting,
25 bullets don't have eyes. And the person shooting might

1 not have no sense. So I was the first person out of the
2 club.

3 Q Where did the shooting happen?

4 A Right at the bar -- well, right in front of the bar.

5 Q And how far is the couch where you were sitting from
6 the bar?

7 A I'm not good with -- so if this -- if this is the
8 couch, the bar is probably going to be somewhere over in
9 the -- right over in the stand.

10 Q Like the audience kind of?

11 A Uh-huh.

12 Q Did you see -- did you see anything in Tony's hand?

13 A Yes, ma'am.

14 Q What color -- did you see a gun in Tony's hand?

15 A Yes, ma'am.

16 Q And can you describe the gun?

17 A I can't -- I don't know exactly what it looked like.
18 It looked like a silverish reflection, but that's as much
19 as I seen. So I say when he started walking, I started
20 running.

21 Q How big was it, the gun?

22 A I mean, you could see it out of his hand, not far out
23 of his hand. I'm not familiar with guns.

24 Q And where were Jamal and Tony when you saw the gun?
25 What were Jamal and Tony doing?

1 A When I saw the gun, it was after I heard the --
2 apparently, the gunshot. And I didn't see Jamal. He was
3 already on the floor.

4 Q Okay. And you just -- what did you see the Defendant
5 doing?

6 A Walking out.

7 Q How well were you able to see what happened?

8 A Like I said, I didn't, actually, see what happened.
9 I seen pretty much after it happened.

10 Q So you didn't see -- you did not see the bullet leave
11 the gun; is that correct?

12 A Uh-huh.

13 Q But you saw the Defendant holding the gun and smoke
14 coming from the gun?

15 A Uh-huh.

16 Q Was he pointing the gun at anyone?

17 A No. It was down beside him.

18 Q And how well were you able to see that?

19 A Like with -- like I'm --

20 Q Was it dark?

21 A It was -- it was, like, dim. The lights were dim.
22 It's not as bright as it is in here.

23 Q Were there lights in the bar area? Were there lights
24 above the bar?

25 A They had lights like Christmas lights.

1 Q And were there lights above the pool table?

2 A I can't remember. I didn't shoot pool. I didn't go
3 by the pool tables.

4 Q But it was light enough that you could clearly see
5 what happened?

6 A Yes, ma'am.

7 Q And where did you go when you left the club?

8 A Across the street from the club. My sister was
9 staying in a little apartment, so I ran to her house.

10 Q Was your sister at the club with you as well?

11 A Uh-huh.

12 Q And how long did it take for her to get home?

13 A I -- it wasn't long.

14 Q And what's your sister's name? I know you mentioned
15 you had a sister, Yolanda, that was bartending. But was
16 there another sister there that night?

17 A Yasheeki Harper.

18 Q And how was she when she got home?

19 A Well, her kids' father, he towed her outside and he
20 let -- he stood her up and she fell to the ground crying.
21 And I ran over there to see what was going on with her.
22 And she was just crying and, like, she couldn't talk. She
23 was looking at me like, Bunny, please. And I'm like, It's
24 okay. What's going on? And she just was stuck right
25 there in the middle of the road.

1 Q Do you remember where she was when the shooting took
2 place?

3 A She was at the bar. Because, like I say, her and
4 Jamal walked off from me together to go to the bar.

5 Q And do you remember how Jamal was acting that night?

6 A Knowing him since I've been knowing him for so long,
7 he was just having fun, drinking. He was buying drinks,
8 offering drinks.

9 Q What about the Defendant, Tony Leamon, how was he
10 acting that night? Do you remember?

11 A Just walking around.

12 Q Did you see any argument or fight between Tony Leamon
13 and Jamal?

14 A Huh-uh.

15 Q Did you contact the police to tell them what you saw?

16 A Yes, ma'am.

17 Q Did you end up speaking to the police?

18 A Yes, ma'am.

19 Q Okay. Do you remember when you spoke to them?

20 A No. I can't remember the exact date, but --

21 Q Was it --

22 A -- I think it was -- if I'm not mistaken, it was that
23 Monday on, like, the Monday. I can't remember exactly
24 when it was.

25 Q Was it a few weeks after this happened? It wasn't

1 the next day, was it?

2 A No. It wasn't the next day.

3 Q Did you have any concerns about talking to the
4 police?

5 A No, not really.

6 Q And when you met up with law enforcement, did
7 Investigator Fortner show you a photo lineup?

8 A Uh-huh.

9 Q Before he showed you the photo lineup, did he show
10 you any other pictures of suspects?

11 A I don't think.

12 Q Okay. And I'm going to show you what's been marked
13 as State's Exhibit Nos. 54 and 56. Is this the photo
14 lineup and affidavit that you completed when you met with
15 Investigator Fortner?

16 A Yes, ma'am.

17 Q And how do you know this is what you completed with
18 Investigator Fortner?

19 A Because my signature, and address, and then phone
20 number is on there. And my initials is on that picture.

21 Q And did you, also, sign the back?

22 A Yes, ma'am.

23 Q Okay. Were you able to identify anybody in the photo
24 lineup as the man you saw shoot Jamal Marion?

25 A Yes, ma'am.

1 Q Which number did you choose in the lineup?

2 A Number four.

3 Q Okay. And did you identify number four by circling
4 and initialing it?

5 A Yes, ma'am.

6 Q And did you, also, sign an affidavit of photographic
7 identification?

8 A Yes, ma'am.

9 Q And how long did it take you to choose a picture when
10 you saw it?

11 A Instantly.

12 Q Instantly. And were you a hundred percent sure this
13 is who you saw shoot Jamal Marion?

14 A I was a hundred percent sure that that's who I saw
15 with the gun.

16 Q That you saw holding the gun?

17 A Uh-huh.

18 Q And are you still a hundred percent sure that this is
19 who you saw holding the gun?

20 A Yes, ma'am.

21 Q Is Tony Leamon in the Court -- is the man you saw
22 holding the gun in the courtroom today?

23 A Yes, ma'am.

24 Q Can you, please, point him out?

25 A (Witness indicated.)

1 MS. HENDRICKS: Your Honor, we'd ask to admit State's
2 Exhibit Nos. 54 and 56 into evidence at this time.

3 MR. ROBINSON: Same objection at pre-trial motion --
4 actually, no. I withdraw that objection.

5 THE COURT: They're admitted.

6 (WHEREUPON, State's Exhibit Nos. 54 and 56 were
7 admitted into evidence.)

8 BY MS. HENDRICKS:

9 Q So you said you didn't know Tony Leamon personally.
10 How did you know him?

11 A I mean, just going out. I know a lot of his family
12 members. And the majority of his family hang over in that
13 area. My sister went to school with him.

14 Q So how long have you known of him?

15 A Known of him maybe 10 or more years.

16 Q Okay. And where would you see him?

17 A I'd pass him at the store a couple of times. We have
18 a neighborhood store. I stayed right in Kingston Court in
19 a house and would see him pass by.

20 Q Did he, also, live around Kingston Court?

21 A No. I'm not sure where he lived.

22 Q And how often would you say you saw him?

23 A Not often.

24 Q Would you recognize him by name?

25 A What do you mean?

1 Q If somebody was talking about him, would you
2 recognize his name?

3 A Uh-huh.

4 Q That's what you mean by you know of him?

5 A Uh-huh.

6 Q And how about his face?

7 A Uh-huh.

8 Q So you would recognize him by sight if you saw him
9 out?

10 A Uh-huh.

11 MS. HENDRICKS: I have no further questions. Please
12 answer any questions the Defense may have.

13 (Pause.)

14 THE COURT: She's through.

15 MR. ROBINSON: May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. ROBINSON:

18 Q How do you pronounce your name?

19 A Enjoli.

20 Q Enjoli?

21 A Yes, sir.

22 Q Enjoli, do you remember the interview that you had
23 with Detective Fortner? He's the officer that interviewed
24 you and did a video at the police station. Do you
25 remember?

1 A Uh-huh.

2 Q And do you remember telling him that -- that when you
3 saw Tony pointing his hand towards the -- towards Jamal
4 that you didn't see a gun?

5 A Huh-uh.

6 Q You don't remember telling him that?

7 A No, I didn't.

8 Q So when you -- when you -- so it would be incorrect
9 then -- so you never told that detective that statement?
10 You never told him, I did not see a gun in his hand?

11 A No.

12 Q Okay. And as far as the smoke you talk about, you
13 testified a moment ago that there were 75 to a hundred
14 people in this bar; is that right? Is that right? 75 to
15 a hundred people?

16 A Uh-huh.

17 Q So a pretty good crowd; right?

18 A Uh-huh.

19 Q And this is a place where people drink, they smoke,
20 that kind of thing?

21 A Uh-huh.

22 Q What do people smoke? Cigarettes? What kind of
23 stuff?

24 A That's all they was allowed to smoke in there.

25 Q Cigarettes?

1 A Cigarettes.

2 Q A lot of smoking going on?

3 A I mean, like the average club.

4 Q Like the average club?

5 A Uh-huh.

6 Q And I think you pointed out to the jury that you
7 were, actually, sitting in the red couch. Let's look at
8 this example here. The red couch -- and that's right near
9 the DJ booth; right?

10 A Uh-huh.

11 Q And you say that while you didn't see the -- see
12 Mr. Leamon -- or Tony shoot Jamal, you looked over and saw
13 smoke coming out of a gun; is that right?

14 A Uh-huh.

15 Q So what --

16 THE COURT: Excuse me. Please say "yes" or "no" when
17 you answer.

18 THE WITNESS: Yes.

19 I'm sorry.

20 BY MR. ROBINSON:

21 Q So, at some point -- and you said there's a crowd of
22 people there; correct?

23 A Yes.

24 Q Did the crowd, like, part the red sea, or something,
25 to just part to let you see this? Is that what happened?

1 How did you possibly see smoke coming out of a gun when
2 you're probably a decent bit away in a crowd-filled room
3 with smoking going on? How would you see that?

4 A Well, the crowd, I guess is -- there's upstairs and
5 downstairs.

6 Q Right.

7 A The number I was speaking of was for the entire --

8 Q Okay.

9 A It was people upstairs. It was people downstairs.

10 Q Okay.

11 A The red couch is like a space area.

12 Q The red couch next to the DJ booth?

13 A Uh-huh. The red couch. And it's like a free
14 walkway.

15 Q Okay.

16 A When I heard -- like I told the detective, it sounded
17 like a balloon pop. That's what it sounded like. I
18 looked to see and that's what I saw.

19 Q Okay.

20 A And I said, Oh, shit. That's a gun. And I ran out
21 the door.

22 Q Okay. And I think you testified -- or asked -- you
23 told Officer Fortner that he was still standing when you
24 left the bar; is that right?

25 A I wasn't at the bar.

1 Q I mean, when you left the club, Jamal was still
2 standing?

3 A No. Jamal was laying down.

4 Q Okay. Got you. Now, at the club, in terms of where
5 you were sitting, who was sitting with you and Yasheeki?

6 A Nobody.

7 Q Nobody?

8 A Huh-uh.

9 Q Where was Yolanda?

10 A Yolanda was at the bar -- well, no. Actually, she
11 was closing up. She was upstairs.

12 Q Okay. Now, you are Yolanda and Yasheeki's sister; is
13 that correct?

14 A Uh-huh. Yes, sir.

15 Q And the bartenders were Nikki and Yolanda; is that
16 correct?

17 A Yes, sir.

18 Q Now, there was some security guards there as well; is
19 that correct? Outside the door; is that right?

20 A Yes, sir.

21 Q They pat people down before they come in; correct?

22 A Yes.

23 Q There's, also, security in the club itself. Isn't
24 there like one or two people?

25 A The same security that's outside is the same that

1 walk through the inside.

2 Q Was there anybody else at the bar with Yolanda and
3 Nikki? Was there anyone else in there besides them at the
4 bar?

5 A Not at that particular time, I don't think, no.

6 Q Was there any time during the night that other people
7 were back there?

8 A The security guards would walk back there and get
9 water. They was in and out. They'd check on the
10 bartender. They'd check the bathrooms. They checked
11 everything.

12 Q Okay. But you never saw Jamal and Tony interact, did
13 you? You never saw them together doing anything; correct?

14 A Huh-uh.

15 THE COURT: Is that a "no"?

16 THE WITNESS: I'm sorry. No, sir.

17 MR. ROBINSON: Okay. That's all I have.

18 Thank you.

19 MS. HENDRICKS: We don't have any more questions,

20 Your Honor.

21 THE COURT: Okay. You may step down.

22 MS. HENDRICKS: May she be excused?

23 THE COURT: She may be.

24 MS. PARRISH: The State calls Yolanda Harper.

25 THE CLERK: Will you put your left hand on the Bible

1 and raise your right?

2 WHEREUPON,

3 YOLANDA NICO HARPER,

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

5 THE CLERK: Please have a seat.

6 And will you state your full name for the record?

7 THE WITNESS: Yolanda Nico Harper.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MS. PARRISH:

11 Q Ms. Harper, how old are you?

12 A 31.

13 Q And do you work or go to school?

14 A I work.

15 Q Where do you work?

16 A [Inaudible] of Greenville.

17 Q And how long have you worked there?

18 A For like three months.

19 Q Okay. Where were you working in the summer of 2014?

20 A At the Black and Mild Club and Ameritas in

21 Greenville.

22 Q So you had two jobs?

23 A Yes, ma'am.

24 Q How often did you work at the Black and Mild Club?

25 A Every Friday and Saturday.

1 Q What hours did you typically work?

2 A I normally would get there at 12:00 to about 2:00.

3 Q Is there a reason you got there so late?

4 A Yeah. Because I work second shift at Ameritas.

5 Q And tell me, do you recall whether you were working
6 on June 13th, 2014?

7 A Yes, ma'am, I was.

8 Q And what about that night makes it memorable to you?

9 A My friend was killed.

10 Q Okay. Tell me a little bit about the Black and Mild
11 Club. How long did you work there?

12 A Right then, I worked there -- I probably had been
13 working there for about two months, or so.

14 Q What did you like about working there?

15 A Tips.

16 Q Okay. So it was good money working there?

17 A Yes, ma'am.

18 Q Was it a cash-only establishment?

19 A Yes, ma'am.

20 Q Okay. Did -- tell me a little bit about the
21 atmosphere of the Black and Mild Club.

22 A People just dancing, having a couple drinks, having a
23 good time.

24 Q Okay. Was the -- tell me about the different parts
25 of the club. What area -- when you walked in the club,

1 what did you see?

2 A You seen a dance floor, a little sitting area on the
3 side. There was a pool table, and bar, and bathrooms was
4 over there.

5 Q Were there parts of the club better lit than others,
6 that had more lighting?

7 A Yeah. I would say probably by the bar and pool
8 table.

9 Q Okay. And were lights on there pretty much all the
10 time?

11 A Uh-huh.

12 THE COURT: Please answer "yes" or "no."

13 THE WITNESS: Yes, ma'am.

14 BY MS. PARRISH:

15 Q Tell me about the night of June 13th. Was it busy?
16 How many people would you say --

17 A Yeah. It was busy.

18 Q How many people would you say were there that night?

19 A Oh, Lord, probably like a hundred, or something,
20 maybe more.

21 Q It felt extra busy?

22 A Yeah.

23 Q Okay. Did you recognize anyone as regular customers
24 that night?

25 A Yeah. A lot of people that normally come in there

1 was in there.

2 Q I'm going to ask you, do you know the victim in this
3 case, Joseph Jamal Marion?

4 A Yes, ma'am.

5 Q How do you know Jamal?

6 A I grewed up around him.

7 Q Tell me what you mean by growing up around him.

8 A He used to come to my momma's house every day sitting
9 on the porch, sit in the house with us. He was always
10 around us when we stayed over there.

11 Q How old do you think you were when you met Jamal?

12 A I probably was about 11 or 12, something like that.

13 Q So you grew up with him?

14 A Uh-huh.

15 THE COURT: Is that a "yes"?

16 BY MS. PARRISH:

17 Q "Yes" or "no" answers. I'm sorry.

18 A Oh, yes, ma'am. Sorry.

19 Q Do you know Tony Leamon?

20 A Yes, ma'am.

21 Q Tell me how you know Tony Leamon?

22 A We went to school together.

23 Q Okay. Are y'all the same age?

24 A No. I don't think so. I think he's older than me.

25 Q Okay. What school did you go to with him?

1 A Parker.

2 Q And do you recall when you first went to school with
3 Mr. Leamon?

4 A No, ma'am.

5 Q Okay. When you would see Mr. Leamon -- strike that.

6 Did you see either of those men regularly at the
7 Black and Mild Club?

8 A Tony would come in often.

9 Q Okay. And would you recognize him by name and sight
10 when you saw him?

11 A Yes, ma'am.

12 Q And did -- you said this is the night your friend got
13 killed; is that right?

14 A Yes, ma'am.

15 Q Where were you when you heard the gunshot?

16 A I was in the stairwell.

17 Q Okay. I'm going to show you what's already been
18 admitted as State's Exhibit Nos. 6, 14, 22, 25, and 24.

19 A Yes, ma'am.

20 Q Can you just look at these photos first off. And
21 tell me if you recognize what's in those photographs.

22 A Yes, ma'am.

23 Q Just look through all of them, if you don't mind.

24 A Yes, ma'am.

25 Q And what is in those photographs?

1 A Jamal is in one of them.

2 Q Well, I guess I'm just talking about like what
3 part --

4 A Oh, this is the stairwell I was in.

5 Q At the Black and Mild Club?

6 A Yes, ma'am. And this is where I was standing at when
7 I heard the gunshot.

8 Q So you're pointing to State's Exhibit No. 24?

9 A Yes, ma'am.

10 Q Okay. Could you get down real quick and look at
11 State's Exhibit No. 37 for me?

12 A (Witness complied.)

13 Q Do you recognize what is shown right here?

14 A Yes, ma'am.

15 Q What are we looking at right here?

16 A The Black and Mild Club.

17 Q Okay. And where were you -- where is the stairwell
18 area on this diagram?

19 A Right here.

20 Q So where -- the big side room with the stairway
21 leading upstairs, that's where you were?

22 A Yes, ma'am.

23 Q You can have a seat now.

24 A (Witness complied.)

25 Q And so that area is what is depicted in these

1 photographs; is that correct?

2 A Yes, ma'am.

3 Q Okay. What -- were you on your way upstairs or your
4 way downstairs when you heard that noise?

5 A Down.

6 Q Where had you been?

7 A Upstairs telling everyone we was about to close.

8 Q Do you remember about what time that was?

9 A Around about 2:45.

10 Q Is that what time y'all normally closed?

11 A No, ma'am.

12 Q What time did y'all normally close?

13 A 2:00.

14 Q Was there a reason you stayed open later that night?

15 A I guess because we was so busy and everybody was
16 having a good time.

17 Q Okay. Were there still a number of people upstairs?

18 A Yes, ma'am.

19 Q Did you recognize anybody upstairs?

20 A Yes, ma'am.

21 Q Anybody by name?

22 A Yes, ma'am?

23 Q Who did you recognize upstairs?

24 A Dee was upstairs. Shanika was upstairs. And Tasha
25 was upstairs.

1 Q Okay. Are any of those people in the courtroom right
2 now?

3 A Yes, ma'am.

4 Q Who's in the courtroom?

5 A Dee.

6 Q Okay. And is that Demetrius Harris?

7 A Yes, ma'am.

8 Q So he was upstairs when you went up there?

9 A Yes, ma'am.

10 Q You said you were on the way back down. And what did
11 you hear?

12 A I heard a gunshot.

13 Q Did you know immediately what it was?

14 A Yes, ma'am.

15 Q And where on the stairs were you when you heard that?

16 A I had just stepped off the last step.

17 Q So you were on the floor?

18 A Yes, ma'am.

19 Q Okay. Could you see anything from that particular
20 vantage point?

21 A Yes, ma'am.

22 Q What could you see?

23 A I just seen Tony walk past the door.

24 Q Okay. Now, how did you see that from the stairwell
25 area?

1 A Because I was standing right there in front of the
2 door.

3 Q Okay. So this is exhibit --

4 A And I walked around after I heard the shot.

5 Q So this is State's Exhibit No. 22?

6 A Yes, ma'am.

7 Q And you said that you were in this little vestibule
8 area pictured in State's Exhibit No. 22?

9 A Yes, ma'am.

10 Q Did you see -- could you see Jamal from that angle?

11 A No, ma'am. The door was shut.

12 Q Which door was shut?

13 A This door right here.

14 Q So did you personally open the door?

15 A I did.

16 Q And when you opened the door, what were you facing?

17 A I was facing this -- it was -- I was facing this --
18 it was this bench right here. And I peeped out and I seen
19 Jamal laying by the bar.

20 Q Okay. Can you show us, I guess, a little bit better
21 for the jury right here? Is this the bench you're talking
22 about?

23 A Yes, ma'am.

24 Q Okay. So tell us again -- I guess right here what
25 you were doing.

1 A I stepped out. And I seen Jamal laying there down.
2 And I went back in because I had to get myself together.
3 Because I didn't know what was going on.

4 Q Okay. You said you saw Mr. Leamon?

5 A He walked by.

6 Q Okay. Where was he when you walked out? Can you
7 show us?

8 A Where who was?

9 Q Mr. Leamon?

10 A Oh, I don't know.

11 Q So did you see him or not?

12 A No. I seen him when I was standing in the room. The
13 door was shut. I seen him walk by. He must have walked
14 out the door because I didn't see him when I, actually,
15 came out of the room.

16 Q So how could you see him through the door?

17 A It was a little mirror -- it was a little window on
18 the door.

19 Q Okay. So is that what we see in State's Exhibit Nos.
20 22 and 14?

21 A Yes, ma'am.

22 Q Okay. And so was that a large enough space for you
23 to clearly see Tony Leamon?

24 A Yes, ma'am.

25 Q How did you recognize that it was Tony Leamon through

1 that window?

2 A Because I know what he looks like. And I seen the
3 side of his face.

4 Q Did you see him -- did you see anything else or just
5 the side of his face?

6 A I just seen the side of his face go by the window.

7 Q Did you see anyone else go by?

8 A I seen people running.

9 Q But you just saw Tony Leamon?

10 A Uh-huh.

11 THE COURT: Is that a "yes" or "no"?

12 THE WITNESS: Yes, ma'am.

13 Sorry.

14 BY MS. PARRISH:

15 Q Did you see anyone walking with Mr. Leamon?

16 A No, ma'am.

17 Q Did he go before or after people started running?

18 A He was walking while people was running.

19 Q He was walking. Did you see anything about what he
20 was wearing or --

21 A No, ma'am.

22 Q Okay. Had you seen him earlier that night?

23 A I did.

24 Q How was Mr. Leamon acting that night?

25 A He was just ordering drinks, nothing in particular,

1 just ordering his drinks.

2 Q Okay. What about Jamal? Had you seen him that
3 night?

4 A I did.

5 Q How was he acting that night?

6 A He was having a good time.

7 Q Okay. Did you see any altercation between those two
8 men?

9 A No, ma'am.

10 Q Did you see either of those two men get put outside
11 of the club that night?

12 A I seen Jamal get put out.

13 Q Okay. Did you see either of them enter the club that
14 night?

15 A No -- I seen Jamal come in. Jamal came in when I
16 came in.

17 Q Okay. And is there anything else that you remember
18 seeing that evening that might be helpful to us today?

19 A No, ma'am.

20 MS. PARRISH: Okay. I have no further questions.

21 Please answer any questions Mr. Robinson may have.

22 THE WITNESS: Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MR. ROBINSON:

25 Q Good afternoon.

1 A Good afternoon.

2 Q Yolanda, let me ask you about -- since you worked at
3 the club that night. There were two security guards there
4 that night; is that correct?

5 A Yes, sir. I believe so.

6 Q And they would stand at the front door; is that
7 right?

8 A Yes, sir.

9 Q And their job is to make sure -- or was to make sure
10 that people don't come in with weapons or knives --

11 A Right.

12 Q -- or things like that; right?

13 A Right.

14 Q Now, who else was working that night besides you and
15 Nikki? Who else was working that night?

16 A I think it was me, Bernard --

17 Q Who?

18 A -- Nikki, Dank, and Steve.

19 Q Can you -- say those to me one more time. Bernard?

20 A Yeah.

21 Q And who is Bernard?

22 A He was like the manager of the club.

23 Q Okay. And where does Bernard stand? Where does
24 he -- if he's in the club, where does he stand usually?

25 A He was behind the bar with me and Nikki that

1 particular night.

2 Q He was behind the bar. What's Bernard -- does he
3 have like a nickname?

4 A Nard.

5 Q Nard. And you, also, mentioned Fish?

6 A Yeah.

7 Q What is Fish? What does he do?

8 A He was a regular that came in the club to shoot pool.

9 Q Shoot pool. And you mentioned Steve and Dank?

10 A Uh-huh.

11 Q What's Dank's real name? Do you know?

12 A Carolus, I think.

13 Q Okay. So there's you, Nikki. There's Bernard or
14 Nard behind the bar?

15 A Uh-huh.

16 Q With you and Nikki?

17 A Uh-huh.

18 Q Now, your nickname is Coke; right?

19 A Coki.

20 Q Coki?

21 A Uh-huh.

22 Q Okay. And you said there was a pretty good crowd;
23 right?

24 A Uh-huh.

25 Q Now, is that -- now, this is a private club; is that

1 right?

2 A Yes, sir.

3 Q Private club?

4 A Uh-huh.

5 Q Now, people can book that for parties, and things
6 like that; right?

7 A Yeah.

8 Q Now, it's -- now, you're the bartender. Is there a
9 good bit of drinking going on?

10 A Uh-huh.

11 Q Do people smoke cigarettes at the place?

12 A Yeah.

13 Q They do?

14 A Yeah.

15 Q Is there a lot of smoking going on?

16 A Yeah.

17 Q Now, upstairs there -- it appears that there are some
18 couches?

19 A Uh-huh.

20 Q Some other stuff; correct?

21 A Yeah.

22 Q As far as the number of people -- you testified a
23 moment ago that the number of people there were over a
24 hundred?

25 A Yeah.

1 Q How would a bartender handle that? You have two
2 bartenders and Bernard behind the bar. How would you
3 handle that kind of group of people?

4 A She was working one side, and I was working one side.

5 Q It was pretty hectic, huh?

6 A Yeah, it was.

7 Q Okay. Now, as far as the downstairs and upstairs,
8 out of the hundred plus people that were in that club --
9 okay -- are most of them downstairs or upstairs?

10 A It was probably half and half. Most people was
11 probably upstairs by the bathroom.

12 Q Now, see the picture over there? Do you see that
13 picture right there?

14 A Uh-huh.

15 Q Where do most of the people that are in the club
16 congregate?

17 A Right by the pool table.

18 Q By the pool table?

19 A Uh-huh.

20 Q And -- all right. So when you were upstairs -- when
21 you were upstairs, Bernard told you to go -- we may be
22 closing, go make sure people are ready to go, that kind of
23 thing; right?

24 A Yeah.

25 Q And you go upstairs?

1 A Yes.

2 Q And on the way down, you hear a shot?

3 A Yeah.

4 Q Right?

5 A Uh-huh.

6 Q You didn't see anyone -- you didn't see the shooting
7 take place, or anything like that, did you?

8 A I did not.

9 Q You didn't see anyone shoot Jamal --

10 A I did not.

11 Q -- correct?

12 A I did not.

13 Q And as far as -- do you remember the interview that
14 you had with Detective Fortner?

15 A Yeah.

16 Q Do you remember him?

17 A Uh-huh.

18 Q Do you remember telling him that you didn't see Tony
19 leave the club?

20 A Yeah. I remember telling him that.

21 Q I thought you just said that you saw Tony walking by
22 you?

23 A I seen him walk past the door. I didn't see him
24 leave the club.

25 Q Okay. Just walking past --

1 A I was still inside the club.

2 Q Okay. So you saw him walking past the door, but you
3 didn't see him leave the club?

4 A I didn't see him no more after that.

5 Q Now, Jamal got put out at some point; is that right?

6 A He did.

7 Q Did security put him out?

8 A I don't know who put him out. I was at the bar. I
9 just know they said he got put out.

10 Q You never saw Tony get put out, did you?

11 A No. I never seen Tony get put out.

12 Q Okay. And when you saw Tony walk by, you never saw a
13 gun, did you?

14 A No.

15 MR. ROBINSON: That's all I have..

16 Thank you.

17 MS. PARRISH: Brief redirect, Your Honor.

18 THE COURT: Okay.

19 REDIRECT EXAMINATION

20 BY MS. PARRISH:

21 Q You said that -- Bernard, Dank, Steven, Fish, those
22 were all people that were there that night?

23 A Yes, ma'am.

24 Q And they were -- were they all working there?

25 A No. Fish didn't work there.

1 Q Okay. So between Bernard, Dank, and Steven, do you
2 know how many of those men are related to Mr. Leamon?

3 A I think just one of them is related to him.

4 Q Which one is that?

5 A Dank, I believe.

6 Q Okay. Do you know whether he's related to the other
7 two?

8 A No, ma'am, I don't.

9 MS. PARRISH: Okay. No further questions.

10 MR. ROBINSON: No recross, Your Honor.

11 THE COURT: You may step down.

12 MS. PARRISH: And may she be excused, please, Your
13 Honor?

14 THE COURT: She may be.

15 MS. PARRISH: And remain in the courtroom, if she
16 wants to?

17 THE COURT: Yes.

18 Ladies and gentlemen, we're going to take a short
19 break. So I ask you to, please, go to the jury room.
20 Don't discuss the case. I'll bring you back after the
21 break.

22 Everyone else, remain seated until the jury has left
23 the courtroom.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 3:46 p.m.)

1 THE COURT: We'll be at ease for 15 minutes.

2 (WHEREUPON, a break was taken.)

3 THE COURT: Are we ready for the jury?

4 MS. PARRISH: Yes, sir, Your Honor.

5 THE COURT: Bring them in, please.

6 (WHEREUPON, the jury came into open court at
7 approximately 4:19 p.m.)

8 THE COURT: The jury is present.

9 You may proceed.

10 MS. PARRISH: The State calls Yasheeki Harper.

11 THE CLERK: Will you put your left hand on the Bible
12 and raise your right hand?

13 WHEREUPON,

14 YASHEEKI HARPER,

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

16 THE CLERK: Please have a seat.

17 And will you state your full name for the record?

18 THE WITNESS: Yasheeki Harper.

19 DIRECT EXAMINATION

20 BY MS. PARRISH:

21 Q Ms. Harper, can you tell us how old you are?

22 A 34.

23 Q Do you work?

24 A Yes, ma'am.

25 Q Where do you work?

1 A Columbia Farms.

2 Q And how long have you worked at Columbia Farms?

3 A Well, I've been back for like three weeks.

4 Q Three weeks. What did you do before coming back to
5 Columbia Farms?

6 A I worked at Bojangles'.

7 Q How long did you work at Bojangles'?

8 A Nine months.

9 Q Okay. Were you working anywhere in the summer of
10 2014?

11 A No, ma'am.

12 Q Okay. What were you doing in the summer of 2014?

13 A Enjoying the summer with my kids.

14 Q Okay. I want to take you back to June of 2014. Was
15 there a place that you would spend a lot of time that
16 summer?

17 A Yes.

18 Q Where was that place?

19 A It's called the Black and Mild.

20 Q And what was the Black and Mild?

21 A It's like a bar, club-like scene.

22 Q Okay. Was there a particular reason that you enjoyed
23 going to the Black and Mild?

24 A Listen to good music, and talk to friends.

25 Q What was the atmosphere like?

1 A It was all right. I mean, a lot of people just
2 like -- I don't know.

3 Q Did you feel safe there?

4 A Yeah.

5 Q Okay. And was it close to your home?

6 A Yes.

7 Q How close was it?

8 A Probably a hundred feet.

9 Q Okay. Did you live across the street from the Black
10 and Mild?

11 A Yes, ma'am.

12 Q Okay. Was there -- let me ask -- strike that.

13 Did you see people you knew when you went to the
14 Black and Mild Club?

15 A Yes, ma'am.

16 Q How often would you say that you ran into someone you
17 knew?

18 A Every time I went.

19 Q Okay. Would you know a lot of people there?

20 A Yes, ma'am.

21 Q Okay. Do you know the victim in this case, Jamal
22 Marion?

23 A Yes, ma'am.

24 Q Please tell us how you know Jamal.

25 A I've been knowing Jamal since I was -- he was nine

1 and I was eight.

2 Q Okay. And how did you know him? How did you meet?

3 A We moved to the neighborhood he lived in. And he
4 happened to be at the -- on the sidewalk when we was
5 moving in. And he was like, oh, some more kids in the
6 neighborhood. And from that day forward, he was at our
7 house every day.

8 Q And did y'all remain in touch growing up?

9 A Yes.

10 Q Do you know the Defendant in this case, Tony Leamon?

11 A Yes, ma'am.

12 Q How do you know Mr. Leamon?

13 A We went to school together.

14 Q What school did you go to together?

15 A Parker Middle.

16 Q Parker Middle. And were you as close with Mr. Leamon
17 as you were with Mr. Marion friendship-wise?

18 A We was cool. We was friends. I considered us being
19 all right.

20 Q All right. Did either of those men regularly attend
21 the Black and Mild Club?

22 A Not regularly, no.

23 Q Okay. Did you see one of them more often than the
24 other?

25 A No.

1 Q Okay. On the night of June 13th, did you see either
2 man there that night?

3 A Yes.

4 Q Who did you see?

5 A When I first got there, I seen Jamal. He was at the
6 door when I got there.

7 Q Okay. Do you remember about what time you got there?

8 A It was a little after 10:00 p.m.

9 Q Okay. And do you know if Jamal was just arriving?
10 What was he doing?

11 A He was already inside the club.

12 Q Okay. So he was inside the door when you arrived?

13 A Yes, ma'am.

14 Q Did you see Mr. Leamon that night?

15 A Yes, ma'am.

16 Q Where was he when you got to the club?

17 A I think he walked past me when I first seen him.

18 Q Okay. Did you recognize both of these men
19 immediately?

20 A Yeah.

21 Q When you were at the Black and Mild Club, was there a
22 particular area you liked to spend time at, or hang out
23 at?

24 A I sit in the corner.

25 Q Okay. I'm going to ask you to step down real quick.

1 and look at State's Exhibit No. 37.

2 A (Witness complied.)

3 Q Do you recognize what that is?

4 A The layout of the club.

5 Q And you said you would hang out in the corner. What
6 do you mean by that?

7 A Right here.

8 Q So is that a red bench?

9 A There's a booth, like a round booth.

10 Q Okay. You can sit back down.

11 A (Witness complied.)

12 Q Is that where you spent most of the evening on June
13 13th?

14 A Yes, ma'am.

15 Q And who was with you in that area?

16 A My sister, Enjoli.

17 Q Enjoli?

18 A (Witness nodded.)

19 Q Did Jamal Marion spend any time with you over there?

20 A Yes, ma'am.

21 Q What about Mr. Leamon?

22 A No, ma'am.

23 Q Did you spend any time conversing with Mr. Leamon ^
24 that night?

25 A No, ma'am.

1 Q Okay. Did you witness the shooting that happened
2 that evening?

3 A Yes, ma'am.

4 Q Please tell me what you were doing prior to the
5 shooting taking place.

6 A I was sitting at the table with my sister. And Jamal
7 walked up and asked my sister if she wanted a drink. And
8 she was like, No, I just want a cup of ice.

9 And I said, I'll go get you a cup of ice.

10 He said, We'll get you a cup of ice. You sure you
11 don't want nothing to drink?

12 And me and him walked to the bar to get her a cup of
13 ice. And he ordered him a beer.

14 Q Okay. What happened as y'all were at the bar area?

15 A We ordered the drinks. And I turned around. He
16 walked around, like, back away from the bar, like, facing
17 the bar. And I was, like, facing him. And we were just
18 standing there waiting on the bartender to fix our stuff.

19 Q Okay. Now, how close would you say y'all were to the
20 actual bar counter?

21 A I was leaned up against the counter with my back.

22 Q So your back was to the bar counter?

23 A Yes, ma'am.

24 Q And what about Jamal?

25 A He was a couple feet away from the bar.

1 Q What was he doing?

2 A Just standing there rocking to the music.

3 Q What happened as you had your back to the bar and he
4 was standing there rocking to the music?

5 A I seen Mr. Leamon walking like he was getting ready
6 to walk out of the club. And I was just thinking -- I
7 wasn't thinking. I was just sitting there jamming to the
8 music.

9 And I seen his hand go up. I still didn't think
10 nothing of it. And I heard a shot. And I seen Jamal's
11 body just drop. And I couldn't even move. I was -- he
12 just walked out the door like nothing happened.

13 And I was still just standing there looking at my
14 friend on the floor. And my kids' daddy, like, picked me
15 up and took me outside. And he stood me up in front of
16 the door. And I just fell. When I looked back up, Jamal
17 was still laying there.

18 Q Ms. Harper, do you know from which direction you saw
19 Mr. Leamon walk? Where was he as he walked up?

20 A He come from the left of me walking this way.

21 Q Okay. Where on that diagram would that put him
22 approximately?

23 A Coming from by the pool tables, from that way.

24 Q Okay. On the bathroom side or this other side? He
25 was to your left?

1 A He come across this way, like, I was standing right
2 here.

3 Q Okay. And tell me again what you saw as Mr. Leamon
4 walked in front of you?

5 A Like, he was pointing his finger. It looked like he
6 was pointing his finger fixing to say something. That's
7 what I was looking at. But it wasn't a finger.

8 Q Okay. How do you know it wasn't a finger?

9 A Because I heard the shot.

10 Q Did you hear the shot as he lifted his finger?

11 A Once he lifted his finger, then I heard the shot.

12 Q At that time, did you look closer at his hand?

13 A I was like -- like everything just went numb. I
14 just -- I didn't even know what to think.

15 Q Okay. Where was Mr. Leamon standing in relation to
16 Jamal when he put his hand up?

17 A In front of him.

18 Q He was in front of him?

19 A Yes, ma'am.

20 Q How dark was that area that you were standing in at
21 the time?

22 A It wasn't that dark.

23 Q Okay. Where were there lights at that time?

24 A Like right behind where Jamal was standing. Like
25 some tables behind him, that light was on.

1 Q Okay. Did you have any trouble seeing Jamal?
2 A No, ma'am.
3 Q Mr. Leamon?
4 A No, ma'am.
5 Q Was anyone else standing near Jamal at that time?
6 A I don't remember seeing anybody standing.
7 Q Okay.
8 A I don't.
9 Q Okay. You said that your child's father had to pick
10 you --
11 A He was sitting behind Jamal in the chair.
12 Q In the booths?
13 A The circle table, he was sitting at that table.
14 Q And you said that he had to pick you up --
15 A Like literally pick me up and carry me outside.
16 Q Is your child's father able to be with us today to
17 tell us what happened?
18 A No, ma'am, he's not.
19 Q Why not?
20 A He's deceased.
21 Q Okay. Do you remember anything about what Mr. Leamon
22 was wearing that night?
23 A No, ma'am.
24 Q Do you remember what the gun looked like?
25 A No, ma'am.

1 Q Okay. Did either of the men say anything during,
2 before, or after this happened?

3 A Not that I know of, no, ma'am.

4 Q Okay. Did you wait for police to arrive?

5 A Once I went outside, I stayed outside my house, yes,
6 ma'am.

7 Q Okay. Did you approach the club again to try to
8 speak to police?

9 A No. They told us to stay behind the tape.

10 Q Okay. At some point, did you go and speak to the
11 police?

12 A Yes, ma'am.

13 Q And, at that time, were you asked questions about
14 what you saw?

15 A Yes, ma'am.

16 Q Did you answer those honestly and truthfully?

17 A Yes, ma'am.

18 Q I'm going to show you --

19 MR. ROBINSON: No objection, Judge.

20 BY MS. PARRISH:

21 Q I'm going to show you what's been marked as State's
22 Exhibit Nos. 51 and 53. Do you recognize either of these
23 two documents?

24 A Yes, ma'am.

25 Q How do you recognize them?

1 A Because I signed this one. And I circled this
2 picture and put my initials and name.

3 MS. PARRISH: Your Honor, at this time, the State
4 seeks to admit Exhibit Nos. 51 and 53 into evidence.

5 MR. ROBINSON: No objection, Judge.

6 THE COURT: They're admitted.

7 (WHEREUPON, State's Exhibit Nos. 51 and 53 were
8 admitted into evidence.)

9 BY MS. PARRISH:

10 Q When you were speaking with police, did they ask you
11 to identify the person you saw shoot Mr. Marion?

12 A Yes, ma'am.

13 Q Were you able to identify him by name at that time?

14 A Yes, ma'am.

15 Q Did you, also, choose him out of a photo lineup?

16 A Yes, ma'am.

17 Q Can you tell me a little bit about how the photo
18 lineup process went? What do you remember the officer
19 doing with that photo lineup?

20 A He just told me he was going to show me some pictures
21 of some men. And if one of the men was the man that I
22 seen do it, circle and put my initials by his picture.

23 Q Okay. Did he tell you for sure that the man who shot
24 Jamal would be in those photographs?

25 A No, ma'am.

1 Q Did he give any emphasis to one or more of the
2 photographs?

3 A No, ma'am.

4 Q Did he present it to you face up or face down? Do
5 you remember?

6 A I don't remember.

7 Q Okay. How long did you look at the pictures before
8 being able to identify the man you saw shoot Jamal?

9 A It was like instantly.

10 Q Okay. Were you certain that day when you circled the
11 photograph?

12 A Yes, ma'am.

13 Q Are you still certain today about the person you saw
14 shoot Jamal Marion?

15 A Yes, ma'am.

16 Q Is the person that you circled in the courtroom
17 today?

18 A Yes, ma'am.

19 Q Can you, please, point him out to us?

20 A He's right there.

21 Q Mr. Leamon?

22 A Yes, ma'am.

23 MS. PARRISH: I have no further questions. Please
24 answer any questions Mr. Robinson may have.

25 THE WITNESS: Okay.

CROSS-EXAMINATION

BY MR. ROBINSON:

Q Good afternoon, Ms. Harper.

A Good afternoon.

Q Ms. Harper, do you remember an interview you gave to Officer Fortner in this case? Do you remember you met with him and you gave a video statement?

A Yes, sir.

Q Do you remember that?

A Yes, sir.

Q Now, I know this was two years ago. But do you remember telling Officer Fortner that you never saw Mr. Leamon shoot the victim?

A No, sir. I never told him that.

Q So if Mr. Fortner were to say you said that, that would be a lie?

A Yes, sir.

Q So if there was a recording made, that would be a lie?

A There was no recording made, because I never said I never seen him.

Q But you never saw Tony shoot Jamal, did you?

A Yes. I saw Tony shoot Jamal.

Q So you, actually, watched him shoot Jamal?

A When his finger went up, the gun when off. When his

1 hand went up, the gun went off.

2 Q You saw a finger?

3 A I seen --

4 Q You saw a finger, ma'am. You didn't see a gun, did
5 you?

6 A Not the actual gun, no.

7 Q Okay. So you didn't -- other than seeing a finger
8 pointing at --

9 A I seen a hand go up.

10 Q A hand going up. You didn't see a gun go up at that
11 time, did you?

12 A I don't know what was in his hand.

13 Q So you didn't see him shoot Jamal, did you?

14 A Yes.

15 Q Although you're saying to this jury that you just saw
16 a finger and a hand, but you didn't see a gun, you still
17 are telling this jury that you saw him shoot Jamal?

18 A Yes.

19 Q Okay. Now, let me ask you this, because I want to go
20 back to this. You got hurt, didn't you? You got a graze
21 on your arm, didn't you?

22 A Yes, sir.

23 Q And where -- can you show the jury where you got
24 grazed?

25 A It was, like, right here.

1 Q It's on the back --

2 A Like right here.

3 Q On the back of the --

4 A There's no mark there.

5 Q Back of the left arm? Left arm; right?

6 A Yes, sir.

7 Q Now, can you step down for one second and just -- I
8 want the jury to see how you were standing.

9 Okay. Let's say this is the bar. Okay. Now,
10 according to your testimony, you and Jamal went up to the
11 bar to get some ice; right?

12 A Yes, sir.

13 Q Now, I think you testified that you went to the bar
14 first, got some water, then you turned around; correct?

15 A Yes, sir.

16 Q When you turned -- show me where you were standing.
17 Show the jury where you were standing.

18 A I turned my back this way.

19 Q And you're facing this way and the bar's over here;
20 right?

21 A Behind me. I'm leaning against the bar.

22 Q I know this is a little small for the bar.

23 A Yes.

24 Q And Jamal was in front of you; right?

25 A Yes.

1 Q And you heard a shot go off; right?

2 A Yes.

3 Q And you saw Tony with his finger pointing, and so
4 forth. But you, also, got grazed after that on the back
5 of your shoulder, didn't you?

6 A It wasn't the back of my shoulder. It was right
7 here.

8 Q Near the back of your shoulder; is that right?

9 A It wasn't the back. It was like right here on the
10 side. It wasn't the back.

11 Q It wasn't the front, but it was the side; correct?

12 A Yes.

13 Q Okay. You can step back up there.

14 A (Witness complied.)

15 Q In terms of where the -- now, Yolanda and Enjoli are
16 your sisters; is that correct?

17 A Yes, sir.

18 Q Now, you were sitting with Enjoli on the red couch
19 near the DJ booth; right?

20 A Yes.

21 Q Okay. Excuse me. Where was Yolanda?

22 A She -- at the time, she was working there. So she
23 probably was running around, doing whatever.

24 MR. ROBINSON: Okay. That's all I have.

25 Thank you.

1 MS. PARRISH: No redirect, Your Honor.

2 THE COURT: You may step down.

3 MS. PARRISH: May Ms. Harper be excused, Your Honor?

4 THE COURT: She may be..

5 MS. HENDRICKS: The State calls Alisha Taylor.

6 THE CLERK: Will you put your left hand on the Bible
7 and raise your right?

8 WHEREUPON,

9 ALISHA NICOLE TAYLOR,

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

11 THE CLERK: Please have a seat.

12 And will you state your full name for the record?

13 THE WITNESS: Alisha Nicole Taylor.

14 DIRECT EXAMINATION

15 BY MS. HENDRICKS:

16 Q Ms. Taylor, how old are you?

17 A 30.

18 Q Are you from Greenville originally?

19 A Yes.

20 Q Where did you go to school?

21 A Mauldin.

22 Q Are you employed?

23 A Yes.

24 Q Where are you employed?

25 A Confluence Watersports.

1 THE COURT: You need to get closer and speak up.

2 THE WITNESS: Confluence Watersports.

3 BY MS. HENDRICKS:

4 Q Is that where you were working in the summer of 2014?

5 A No.

6 Q Where were you working then?

7 A The Black and Mild Club.

8 Q And how long did you work at the Black and Mild Club?

9 A Six, seven months.

10 Q What did you do there?

11 A Bartender.

12 Q And what days and hours did you, typically, work?

13 A The majority, Thursdays, Fridays, and Saturdays.

14 Q And how would you describe the Black and Mild Club?

15 A Family oriented, really, family and friends.

16 Q What did you like about working there?

17 A It was a job.

18 Q Had you ever witnessed violence at the club before
19 this incident?

20 A No.

21 Q Were you working on the night of June 13th, 2014?

22 A Yes.

23 Q And what makes that night memorable?

24 A A guy was shot.

25 Q What time did you come in that night?

1 A Around 9:00, 10:00.

2 Q And where were you working in the bar?

3 A Behind the bar.

4 Q Who were you working with?

5 A Coki. I don't know her first name. Yolanda.

6 Q Was anybody else working?

7 A Carolus, Steve, Nard.

8 Q Did the club have security?

9 A Yeah -- well, yes. One guy, the pat down guy at the
10 door.

11 Q Were they from a security company?

12 A No.

13 Q And do you know who was working as security that
14 night?

15 A No. I don't remember his name.

16 Q Were they armed?

17 A No.

18 Q And how had things been that night? Were they busy,
19 or calm?

20 A Busy and calm at the same time.

21 Q So it was a lot of regulars?

22 A Yes.

23 Q How many people do you think were there that night?

24 A 75 to a hundred people.

25 Q And did you recognize any regular customers?

1 A A lot.

2 Q Who did you recognize?

3 A A lot. Tony, Jamal, a lot.

4 Q Did you witness a shooting that night?

5 A Yes.

6 Q Where were you when it happened?

7 A Behind the bar.

8 Q I'm going to show you State's Exhibit No. 37. Do you
9 know what this is, or do you recognize this?

10 A Yes.

11 Q Could you step down and just point out to the jury
12 where the bar is, or where you were standing when the
13 shooting happened?

14 A (Witness indicated.)

15 Q Thank you.

16 You can take your seat.

17 A (Witness complied.)

18 Q What were you doing when you heard a shot?

19 A I was getting ready to count my tips.

20 Q Do you remember what time of night it was?

21 A I'd say 2:00 something in the morning.

22 Q Is it normal for y'all to be opened after 2:00?

23 A Yeah. People tend to stick around.

24 Q Okay. How much of the club can you see from behind
25 the bar?

1 A Anything beyond the wall beside the bar, I couldn't
2 see. But anything on this side and...

3 Q So you couldn't see the right side of the wall
4 where -- the side of the bar that the bar is on; is that
5 correct?

6 A Yes.

7 Q But you could see everything else?

8 A Yes.

9 Q Okay. When you heard the shot, did you know it was a
10 gunshot?

11 A Yes.

12 Q What did you do when you heard the shot?

13 A I looked up and...

14 Q Where did you look up?

15 A Straight ahead.

16 Q And what did you see?

17 A I seen a gun first. And there was smoke. And I seen
18 he was holding a gun. And I seen he was on the floor.

19 Q Who did you see holding the gun?

20 A Tony.

21 Q How was he holding the gun when you looked up?

22 A Like this. His back was turned. But the gun was,
23 like, still in his hand. And it was still on the trigger.

24 Q And who -- who had been shot?

25 A Jamal.

1 Q Did you know the victim, Jamal?

2 A Not personally. I just had met him that night.

3 Q Okay. So you had seen him in the club that night
4 before the shooting?

5 A Yes.

6 Q And how was he acting?

7 A He was aggravating. He aggravated me.

8 Q He aggravated you?

9 A Yes.

10 Q So did he order a lot of drinks from you?

11 A Yes.

12 Q Did the Defendant order any drinks from you that
13 night?

14 A Yes.

15 Q What did -- do you remember what the Defendant was
16 drinking?

17 A Not particularly. I mean, it was --

18 Q You just remember him ordering a lot of drinks that
19 night?

20 A Yes.

21 Q Do you know who the victim was with?

22 A No.

23 Q How do you know the Defendant, Tony Leamon, in this
24 case?

25 A He was a regular.

1 Q How often would you see him as a regular?

2 A Every weekend. .

3 Q Did you see him at the club that night?

4 A Yes.

5 Q How was he acting?

6 A His normal self. But it was different because that's
7 the first night I seen him drink.

8 Q So he was a regular, but this was the first night you
9 saw him drinking?

10 A Yes.

11 Q Who was he with?

12 A I guess his girlfriend at the time.

13 Q Anybody else you remember him being with?

14 A No.

15 Q How -- when you looked up after you heard the
16 gunshot, how far away were you from Tony Leamon?

17 A I'd say like 30 feet from me.

18 Q And how dark was the bar area?

19 A It was lit.

20 Q Y'all had lights?

21 A Lights over the bar.

22 Q Where else were there lights in the club?

23 A Over the pool tables.

24 Q Did you have any trouble seeing the victim or the
25 Defendant?

1 A No.

2 Q Did you have any trouble seeing the gun?

3 A No.

4 Q Did you immediately recognize Tony to be the person
5 holding the gun?

6 A Yes.

7 Q What happened after Tony shot Jamal?

8 A Well, I was told to put my head back down. But, you
9 know, I still looked. He stood there for, it seemed like,
10 five minutes. But he stood there and he walked on.

11 Q What did you do after the shooting?

12 A My boss told me to leave.

13 Q Did you see anybody call 911?

14 A No.

15 Q Did you call 911?

16 A No.

17 Q Did you stick around for the police?

18 A No.

19 Q Why not?

20 A I was going back to North Carolina that night. My
21 daughter was in surgery, so.

22 Q So you left to go back to North Carolina to see your
23 daughter?

24 A Yes.

25 Q Did you ever speak to the police?

1 A Yes, when I got back.

2 Q Do you remember when that was?

3 A Somewhere around, I believe, close to August.

4 Because my daughter was in the hospital for a month, for
5 July.

6 Q So why didn't you come forward before then?

7 A Because I was in North Carolina.

8 Q And your daughter was in the hospital?

9 A Yes.

10 Q Okay. When you did meet with law enforcement, did
11 Investigator Fortner show you a photo lineup?

12 A Yes.

13 Q Before he showed you the photo lineup, did he show
14 you any other photographs?

15 A Yes.

16 Q Besides the lineup?

17 A Yes.

18 Q He showed you photographs other than this?

19 A It was different lineup sheets.

20 Q There's another one besides this?

21 A Yes. He showed me a lot of lineup sheets.

22 Q Oh, were they on different sheets of paper?

23 A Yes.

24 Q Oh, okay. So he showed you six sheets of paper, six
25 full sheets of paper with different photos on them?

1 A I don't know how many pieces it was.

2 Q Okay.

3 A But it was different.

4 Q And you were supposed to pick the Defendant out of
5 those photos?

6 A Yes.

7 Q Do you remember seeing a lineup like this with six
8 photos?

9 A Yes.

10 Q Okay. Is this the lineup that Investigator Fortner
11 showed you?

12 A Yes.

13 Q How do you know this is the lineup that he showed
14 you?

15 A Because there's Tony.

16 Q And did you mark it in any way?

17 A Yes. I initialed it.

18 Q And is this your signature and date on the back?

19 A Yes.

20 MS. HENDRICKS: Your Honor, at this time, we'd ask to
21 admit State's Exhibit No. 58 into evidence.

22 MR. ROBINSON: No objection.

23 THE COURT: It's admitted.

24 (WHEREUPON, State's Exhibit No. 58 was admitted into
25 evidence.)

1 BY MS. HENDRICKS:

2 Q Were you able to identify anyone in the photo lineup
3 as the man who shot Jamal Marion?

4 A Yes.

5 Q Who did you identify?

6 A Tony.

7 Q And how did you indicate on the lineup that you chose
8 Tony Leamon?

9 A Because I seen him holding the gun over Jamal.

10 Q Did you mark this piece of paper, though?

11 A Yes.

12 Q You circled and initialed?

13 A Yes.

14 Q Okay. Did you, also, sign an affidavit of
15 photographic identification?

16 A I believe so.

17 Q Okay. How long did it take you to pick a picture
18 from this photo lineup?

19 A Not very long.

20 Q And did Investigator Fortner tell you that the person
21 who shot Jamal Marion was definitely in this lineup?

22 A No.

23 Q Did he suggest who you should pick from this lineup?

24 A No.

25 Q Did you ever select the photograph of anybody else as

1 being the person who shot Jamal that night?

2 A No.

3 Q And were you a hundred percent sure that this is the
4 person you saw shoot Jamal?

5 A Yes.

6 Q Are you still a hundred percent sure?

7 A Yes.

8 Q And who is the person you identified in this photo
9 lineup?

10 A Tony.

11 Q Are you referring to Tony Leamon?

12 A Yes.

13 Q And is he in the courtroom today?

14 A Yes.

15 Q Can you, please, point him out?

16 A (Witness indicated.)

17 MS. HENDRICKS: I have nothing further. Please
18 answer any questions Mr. Robinson may have.

19 CROSS-EXAMINATION

20 BY MR. ROBINSON:

21 Q Ms. Taylor, you would agree that you were counting
22 tips when you heard the shot; is that correct?

23 A Would I agree what? I couldn't hear you.

24 Q You were counting tips?

25 A I was about to start counting my tips.

1 Q When you heard the shot?

2 A Yes.

3 Q So you were facing away from the bar; is that
4 correct? You were facing towards the wall?

5 A No. I was facing out.

6 Q At the bar. Okay.

7 A The bar.

8 Q When you heard the shots, you went down; correct?

9 A I put my head down.

10 Q Now, do you recall talking to Officer Fortner about
11 what you saw?

12 A Yes.

13 Q Do you remember telling Mr. Fortner -- or Officer
14 Fortner that you had to turn around to hear the gunshot,
15 not, actually -- not, actually, just look forward? You,
16 actually, turned around when you heard the gunshot?

17 A I don't recall that.

18 Q You don't recall that?

19 A No, I don't.

20 Q So you're saying that would be a lie? Is that true?
21 Is that what you're saying?

22 A I don't recall that.

23 Q Okay. So you go down. You go down. You stand up;
24 right? You go down --

25 A I don't go down. I didn't go down. I stood there.

1 Q Now, wait a second. I thought you just testified --

2 A I said I put my head down.

3 Q You put your head down?

4 A Head down, not my body.

5 Q So you didn't see -- you didn't see --

6 A I heard the gunshot.

7 Q You heard the gunshot. Okay.

8 A Yes.. I put my head down. But I looked up and I seen
9 Tony with a gun in his hand.

10 Q But you, actually, did not see him shoot Jamal?

11 A I didn't see him shoot him, no.

12 Q But you, actually, signed off on an affidavit with
13 Officer Fortner saying that you did see it, didn't you?

14 A I don't recall.

15 Q Well, two minutes -- or, actually, less than a minute
16 ago, you just told this Solicitor that you signed an
17 affidavit. She identified it for you. This is -- I want
18 you to look at what's been marked as State's Exhibit
19 No. 58 in this case.

20 A I didn't sign --

21 Q You've seen this. And although you didn't see Tony
22 Leamon shoot Jamal, you told officer -- you told this
23 Solicitor a second ago that you did see him shoot Jamal?

24 A No, I did not.

25 Q I'm sorry?

1 A No, I did not. I said when I looked up, I seen the
2 gun in his hand and smoke still coming from the barrel.

3 Q But you didn't see who shot Mr. -- Jamal, did you?

4 A I didn't see him, but you would assume.

5 Q You can't assume here. Okay. Don't assume. You
6 don't know if he shot Jamal or not, do you?

7 A (There was no response.)

8 Q Now, you had mentioned a few moments ago about
9 aggravation. I have a cane that's making a lot of noise.
10 I apologize. Why don't you tell the jury about this
11 aggravation.

12 A He was just very, very talkative. And he kind of
13 aggravated me. It was the first time I ever met him.

14 Q The first time you ever met him. Okay.

15 A But I did ask about him --

16 Q Tell me -- you can't tell what other people say. But
17 you say he's aggravating. There's different ways people
18 aggravate. How was he aggravating you?

19 A He was just talkative, too talkative.

20 Q At the bar?

21 A At the bar, yes.

22 Q Was he standing at the bar aggravating you?

23 A Yes.

24 Q And what was he saying to you?

25 A I cannot remember. That was three years ago.

1 Q At some point -- did he call you a name at some
2 point?

3 A No.

4 Q He never called you any words, any names?

5 A No.

6 Q You don't recall being called the -- an expletive.
7 Do you know what an expletive is?

8 A No.

9 Q That's like a bad word. You don't recall being
10 called a bad word by him?

11 A No.

12 Q He was just aggravating towards you; correct?

13 A Yes.

14 Q And as far as when you looked up, I think you told
15 Officer Fortner that the person that you saw was six-foot
16 tall and weighed about 180 to 200 pounds. Is that about
17 right?

18 A No.

19 Q You didn't say that?

20 A I don't recall saying that. How would I know his
21 height and weight?

22 Q Well, you -- you don't recall ever saying that to
23 Officer Fortner?

24 A (Witness shook her head.)

25 Q Okay. Now, you said there was between 70 to a

1 hundred people there that night; is that right?

2 A Yes.

3 Q Now, as far as with that picture, would it be
4 accurate to say that the lights were above the bar where
5 you worked?

6 A Uh-huh.

7 Q And the pool tables?

8 A Yes.

9 Q Is that correct? That's where the two lights are;
10 correct?

11 A The bright lights, yes.

12 Q Now, the whole inside of the building is painted
13 black; is that right? Black or some dark color?

14 A Yes.

15 Q There's no window; is that right? No windows?

16 A No.

17 Q Okay. And I think you told Officer Fortner that he
18 was talking junk to you?

19 A Who?

20 Q Jamal was talking junk to you?

21 A Aggravating, I mean.

22 Q What's junk? What's junk to you? What's junk? He
23 was talking junk.

24 A He was talking junk, I mean.

25 Q What -- what did he say to you?

1 A Not talking badly. But just I guess because he
2 didn't know me. I don't know.

3 MR. ROBINSON: Okay. That's all I have.

4 Thank you.

5 MS. HENDRICKS: Brief redirect, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. HENDRICKS:

8 Q What did you see that led you to believe that Tony
9 shot Jamal that night?

10 A He had a gun in his hand and the smoke was coming
11 from the barrel.

12 Q And he was holding the gun straight out?

13 A Yes.

14 MS. HENDRICKS: Okay. No further questions, Your
15 Honor.

16 THE COURT: You may step down.

17 MS. HENDRICKS: May she be excused?

18 THE COURT: She may be.

19 All right. We're going to recess for the afternoon.
20 Keep in mind the caution previously given, no discussions,
21 no research, no investigation, no media exposure, no
22 Internet research.

23 Do have a good evening. Please report to the jury
24 room at 9:45, at 9:45 tomorrow morning. I'll see you
25 then. Have a good evening.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 4:55 p.m.)

3 THE COURT: Court is in recess until in the morning
4 at 9:45.

5 (WHEREUPON, the proceedings were concluded at
6 approximately 4:55 p.m., to be reconvened on
7 Wednesday, July 19, 2017.)
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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF GENERAL SESSIONS
2014-GS-23-07832

STATE OF SOUTH CAROLINA,

VS.

TRANSCRIPT OF RECORD

TONY LAMETRIUS LEAMON,
DEFENDANT.

VOLUME II

July 19 and 20, 2017
Greenville, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, JUDGE; and a jury.

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

LISA B. PARRISH, ESQ.
JULIA V. HENDRICKS, ESQ.
Assistant Solicitors

SCOTT D. ROBINSON, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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All Exhibits were retained by the Clerk of Court for
Greenville County.

P R O C E E D I N G S

1
2 THE COURT: All right. This morning upon my arrival,
3 I was informed that we had, perhaps, some issue with one
4 of the jurors in the case. I inquired as to that issue.
5 And, apparently, the juror, it was believed, had some
6 knowledge of or connection with one or more of the
7 witnesses that have testified during the trial of this
8 case.

9 And so I inquired of the lawyers as to what the
10 issues were. And I was informed with the information that
11 they had received. I, also, asked the lawyers if they
12 would agree with me discussing that issue with the juror
13 privately, and then informing them of my discussions. And
14 the lawyers agreed to that procedure being employed.

15 And I did talk with the juror. The juror is Juror
16 #137. I talked with the juror. She did confirm that she
17 did know, at least, three of the witnesses that have
18 testified during the trial of the case. And that while
19 she didn't know about this particular case, she did have
20 knowledge and had had contact with those three witnesses
21 outside of this case.

22 She did not respond to the question of having
23 knowledge or contact with any of the witnesses when they
24 were -- when the witness list was recited, because she
25 says she didn't really know them by name. She simply knew

1 them in the neighborhood, and she knew them by face. And
2 she had, actually, met and talked in some casual way with
3 those persons.

4 Based upon that fact, I inquired with the lawyers to
5 any objection they had to that juror being removed and one
6 of the alternate jurors taking her place.

7 So, Ms. Parrish, is that a fair statement that I've
8 made regarding our conversations this morning?

9 MS. PARRISH: Yes, Your Honor. That's accurate.

10 THE COURT: Mr. Robinson, do you agree with the
11 statement I just made? Is that a fair representation of
12 our discussion?

13 MR. ROBINSON: It is, Your Honor.

14 THE COURT: And is it correct that each of you agree
15 that Juror #137 will be removed, and that the first
16 alternate juror will take her place, that being Juror
17 #101?

18 MS. PARRISH: Yes, Your Honor.

19 MR. ROBINSON: Yes, Your Honor.

20 THE COURT: Okay. I'm going to excuse Juror #137.
21 And then we'll put Juror #101 in her place. I'll excuse
22 her privately.

23 Okay. Any objection to that?

24 MS. PARRISH: No, Your Honor.

25 MR. ROBINSON: No, Judge.

1 THE COURT: Okay.

2 (WHEREUPON, a break was taken.)

3 THE COURT: All right. Any other matters we need to
4 address before the jury is brought in?

5 MS. PARRISH: Nothing from the State, Your Honor.

6 MR. ROBINSON: Nothing from the Defense, Your Honor.

7 THE COURT: Okay. Bring them in and tell Mr. Lee,
8 Juror #101, that he is now the twelfth juror.

9 THE BAILIFF: Okay.

10 (WHEREUPON, the jury came into open court at
11 approximately 10:21 a.m.)

12 THE COURT: Good morning, ladies and gentlemen.

13 As you know, prior to the case -- or the evidence
14 being received, you were told that -- by me that we had
15 alternate jurors for the purpose of taking the place of
16 original jurors if during the trial something happens that
17 one of the original jurors cannot continue to serve for
18 some reason. And that has occurred now.

19 One of your fellow original jurors is unable to
20 continue to participate in the trial. And, as a result,
21 one of the alternates, that being Mr. Lee, is going to now
22 take the place of the -- of the removed juror.

23 And you will now become the twelfth juror.

24 And Juror #53 will still continue as an alternate
25 juror.

1 Okay. As you know, when we recessed yesterday, the
2 State was still in the midst of their presentation of
3 evidence. So we'll continue with that presentation.

4 Ms. Parrish.

5 MS. PARRISH: May it please the Court, Your Honor.

6 Your Honor, the State calls Sean Sester.

7 THE CLERK: Will you, please, put your left on --
8 yeah.

9 WHEREUPON,

10 SEAN ROBERT SESTER,
11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you.

13 And will you, please, state your full name?

14 THE WITNESS: Sean Robert Sester.

15 DIRECT EXAMINATION

16 BY MS. PARRISH:

17 Q Mr. Sester, how old are you?

18 A 29.

19 Q And do you work or go to school?

20 A No.

21 Q What was the last job that you had?

22 A Production worker.

23 Q And when was that?

24 A Two years ago.

25 Q So you've not worked at all in the past two years?

1 A No.

2 Q What do you do?

3 A Stay at people's houses, and stuff.

4 Q Okay. Are you married?

5 A Yes.

6 Q To whom are you married?

7 A Ashley Sester.

8 Q And how long have you been married to Ashley Sester?

9 A About eight years.

10 Q Okay. I want to take you back to June of 2014. Were
11 you working at that time?

12 A No.

13 Q Okay. Where were you living?

14 A Avice Dale Drive.

15 Q And how long had you been living at Avice Dale Drive?

16 A I don't remember.

17 Q Where was Avice Dale Drive?

18 A Off of White Horse Road.

19 Q Okay. Who were you living with?

20 A My wife.

21 Q Did you live with anyone else?

22 A No.

23 Q Do you know the Defendant in this case, Mr. Tony
24 Leamon?

25 A I don't recognize him, but I know him.

1 Q You don't recognize him?

2 A No. It's been a long time.

3 Q What's different about him?

4 A Just -- I know him. I just -- I know who he is.

5 Q You know who he is?

6 A Yes.

7 Q But you -- are you telling me that you do not
8 recognize the person sitting at that chair?

9 A No. I recognize him. Sorry. My bad.

10 Q Are you nervous, Mr. Sester?

11 A Yeah.

12 Q Why are you nervous?

13 A I'm a nervous person.

14 Q Do you want to be here today?

15 A Yeah.

16 Q You do?

17 A Not really.

18 Q Did you -- were you under subpoena to come to this
19 trial?

20 A Yes, ma'am.

21 Q Did you obey your subpoena?

22 A No, ma'am.

23 Q Is that why you were in jail last night?

24 A Yes, ma'am.

25 Q So we have forced you to come in and testify today;

1 is that correct?

2 A Yes.

3 Q Okay. Would you come here if we had -- would you
4 have been here if we had not found you?

5 A No, ma'am.

6 Q Okay. Tell me when you recall meeting the Defendant.
7 What approximate time, day, year, month, whatever you
8 remember?

9 A I can't remember. Probably a couple months before
10 the incident.

11 Q And what did you know the Defendant by? Did you know
12 him as Tony Leamon?

13 A No.

14 Q What did you know him as?

15 A Bailey.

16 Q Bailey. Do you remember where you met him?

17 A Not right offhand, around the neighborhood.

18 Q Okay. Around your neighborhood?

19 A Around the area, Berea area.

20 Q Berea area. Okay. Did you ever work with the
21 Defendant, go to school with the Defendant?

22 A No.

23 Q Okay. I want to ask you when the last time you saw
24 Mr. Leamon was, do you remember?

25 A On a plane coming back from Texas.

- 1 Q Okay. Do you remember when that was?
- 2 A Almost three years ago to the date, ain't it?
- 3 Q Probably just about.
- 4 How long had you been in Texas?
- 5 A A day.
- 6 Q A day. Do you know people in Texas?
- 7 A Yeah.
- 8 Q Who do you know in Texas?
- 9 A My dad.
- 10 Q Were you -- are you from Texas originally?
- 11 A No.
- 12 Q So your dad moved there?
- 13 A Yes.
- 14 Q Okay. Did Mr. Leamon stay at your house in the
- 15 summer of 2014?
- 16 A Yes.
- 17 Q Do you remember approximately when he began staying
- 18 at your house?
- 19 A Sometime around Father's Day.
- 20 Q Around Father's Day. Do you remember what day of the
- 21 week it was, or anything like that?
- 22 A No, ma'am.
- 23 Q What was your understanding of why he wanted to stay
- 24 with you?
- 25 A He was in a bad situation and he just wanted to stay.

1 Q Is that what he said?

2 A Yeah.

3 Q Okay. Did he specify any more than that?

4 A No, ma'am.

5 THE COURT: Excuse me. I didn't understand what he
6 said. What reason did he give?

7 THE WITNESS: He was in a bad situation. He needed
8 somewhere to stay.

9 BY MS. PARRISH:

10 Q Did he specify how long he wanted to stay with you?

11 A No.

12 Q How long did you think, at that time, he might stay
13 with you?

14 A Maybe a week, a couple days, something like that.

15 Q How long did he end up staying with you?

16 A I honestly don't remember.

17 Q Would you say it was more than a couple of days?

18 A Yes.

19 Q Was it more than a week?

20 A Yeah.

21 Q Was it more than two weeks?

22 A Right at it, I think.

23 Q Okay. Is it possible that it was three weeks?

24 A I don't --

25 MR. ROBINSON: Your Honor, objection. Calls for

1 speculation.

2 THE COURT: Well, he's the one that has the
3 information, so she's trying to get it from him.

4 Overruled.

5 BY MS. PARRISH:

6 Q Is it possible it was three weeks?

7 A Possibly.

8 Q Okay. During that time, how did he spend his days?

9 A We played cards, stuff like that.

10 Q Okay. Did he ever leave your house?

11 A No.

12 Q How did he get food?

13 A I cooked.

14 Q How did he -- did he ever -- so he never left that
15 house in three weeks?

16 A Never ever.

17 Q Did he have any visitors?

18 A Yeah.

19 Q Who was his visitor?

20 A Some girl named "Wet."

21 Q A girl named?

22 A Wet.

23 Q Wet. Is that a nickname?

24 A I guess so.

25 Q Did you know her real name?

1 A No.

2 Q And how did Wet come to your house?

3 A I went to pick her up.

4 Q You went to pick her up?

5 A Me and my wife.

6 Q Do you remember when that was?

7 A I don't remember a certain date.

8 Q Where did you get her?

9 A From her place, I believe.

10 Q Was there a reason you went to pick her up?

11 A We was asked to. She was supposed to come over for a
12 couple days.

13 Q You were asked to by whom?

14 A Tony.

15 Q Tony wanted you to pick her up?

16 A Yeah.

17 Q How did you communicate with her? How did she know
18 you were coming to pick her up?

19 A I'm not really sure of all that, to be honest with
20 you.

21 Q You don't remember?

22 A No.

23 Q What did you do after picking up this woman from
24 Furman Place Apartments?

25 A My wife went to pawn an iPad for her.

1 Q Your wife went to pawn an iPad for her?

2 A Yeah.

3 Q Was this an iPad she brought with her?

4 A Yes.

5 Q Did you know that that was something you would be
6 doing with your wife?

7 A No.

8 Q Okay. Where did you pawn that iPad?

9 A First Cash.

10 Q What did you do with the money you got from the iPad?

11 A I'm not sure. I didn't go pawn it, my wife did.

12 Q Did she give you any of the money?

13 A No. We don't -- between the two of us, you know --
14 she never gives me money.

15 Q Your wife didn't give you any money?

16 A I said my wife keeps the money. I don't have no
17 money. I'm bad with money.'

18 Q Your wife controls your purse strings?

19 A Yeah, pretty much.

20 Q Did you and your wife suffer from any substance abuse
21 at this time?

22 A Yes. We're heroin addicts.

23 Q Are you still a heroin addict?

24 A No.

25 Q When was the last time you used any sort of narcotic

1 drug?

2 A Probably a couple weeks.

3 Q A couple weeks ago. How would you say that affected
4 your judgment at this time?

5 A Very poorly.

6 Q Okay. At some point when Mr. Leamon was staying with
7 you, did you learn he was wanted for murder?

8 A Yes.

9 Q Approximately how long had he been staying there when
10 you realized that?

11 A Probably a week or two.

12 Q Okay. Do you know whether Mr. Leamon knew he was
13 wanted for murder?

14 A I didn't know. It was a plasma app on my phone.

15 Q Okay. Did you confront him about that?

16 A Not at first.

17 Q Not at first. At some point, did you discuss with
18 Mr. Leamon that he was wanted for murder?

19 A Yeah. He said people was saying -- he didn't
20 admit -- he didn't say anything to me about he did
21 anything. He said people were saying what happened at the
22 club.

23 Q Okay. Did you watch the -- did you have TV at your
24 place?

25 A I didn't have cable. I watched DVD's all the time.

1 Q Did you have like local news station?

2 A No. All I had was a DVD player and the Internet.

3 Q But you got a notice on your phone, you said, via the
4 news?

5 A Yeah.

6 Q That Mr. Leamon was wanted for murder?

7 A I just looked through it and seen it on there.

8 Q Do you remember what details it said?

9 A Nah, honestly, no..

10 Q Okay. And at some point while Mr. Leamon was staying
11 with you, you had a conversation with him about that?

12 A Yeah.

13 MR. ROBINSON: Objection, Your Honor. Leading.

14 MS. PARRISH: I was trying to confirm what he said,
15 Your Honor.

16 THE COURT: Okay. Overruled.

17 BY MS. PARRISH:

18 Q So did you have a conversation with Mr. Leamon, at
19 some point, that pertained to him being wanted for murder?

20 A Yes. But he never said anything about he did
21 anything.

22 Q I understand that. But he knew he was wanted?

23 A Yes, I suppose so.

24 Q You suppose so. Do you remember speaking to police
25 about this?

1 A Yes.

2 Q And when did you speak to police?

3 A When I got back from Texas.

4 Q And what did you tell police about whether Mr. Leamon
5 knew he was wanted?

6 A I don't recall if he asked me if he knew he was
7 wanted or not.

8 Q Okay. How long after you learned Mr. Leamon was
9 wanted for murder did you go to Texas?

10 A A week or two.

11 Q Okay. So how long was he at your house total?

12 A Three weeks, or more.

13 Q Okay. And you said it was a week or two when you
14 learned he was wanted for murder?

15 A Yeah. It was probably a week and some days.

16 Q Okay. And then you left for Texas after that?

17 A Yeah.

18 Q Okay. Was Wet still there when you decided to go to
19 Texas?

20 A Yes.

21 Q Did she go to Texas with you?

22 A No, ma'am.

23 Q Why not?

24 A Her and my old lady didn't get along. She didn't
25 want to be in the car with her.

1 Q Okay. How did she leave your house?

2 A We dropped her off at the store.

3 Q Okay. Would she have been allowed to go to Texas if
4 she wanted to?

5 A No.

6 Q Okay. Could you have dropped Mr. Leamon off at that
7 time?

8 A It never crossed my mind.

9 Q Did he ask to be dropped off?

10 A No, ma'am.

11 Q Did he ask to go to Texas with you?

12 A No.

13 Q Would you say that you forced him to go to Texas?

14 A I didn't force him, but...

15 Q So he went to Texas voluntarily?

16 A Yeah. I didn't force him anything -- to go with us.

17 Q And you knew he was wanted for murder?

18 A Yes.

19 Q Did you understand that it was illegal for you to
20 help out a fugitive from justice?

21 A Yes, ma'am.

22 Q And you still took him to Texas?

23 A Yes, ma'am.

24 Q Voluntarily?

25 A Yes, ma'am.

1 Q Even though he had an opportunity to leave your car
2 when you dropped off Ms. Kyles?

3 A (There was no response.)

4 Q You could have dropped him off with Ms. Kyles?

5 A Do you mean told him to get out of my car?

6 Q Right. You could have?

7 A Yeah.

8 Q How was Mr. Leamon acting on the drive to Texas?

9 A Very respectful and courteous.

10 Q Okay. How was he when he was at your house?

11 A Very nice.

12 Q Very nice?

13 A He showed a lot of respect.

14 Q You were charged with accessory after the fact; is
15 that correct?

16 A Yes, ma'am.

17 Q And how did you plead to that?

18 A Guilty.

19 Q And have you already been sentenced for that?

20 A Yes.

21 Q All right. Were you offered anything in exchange for
22 your testimony?

23 A No.

24 Q And you were forced to be here today?

25 A Yes.

1 MS. PARRISH: One moment, please.

2 (Pause.)

3 BY MS. PARRISH:

4 Q Did you tell police that the Defendant told you he
5 was wanted?

6 A I don't believe so.

7 Q And you didn't believe him?

8 A I don't believe so.

9 Q Is it possible you said that?

10 A Yeah, it's possible.

11 MS. PARRISH: I have no further questions. Please
12 answer any questions Mr. Robinson may have.

13 MR. ROBINSON: May it please the Court.

14 THE COURT: Mr. Robinson.

15 CROSS-EXAMINATION

16 BY MR. ROBINSON:

17 Q Good morning, Mr. Sester.

18 A How are you?

19 Q Mr. Sester, I listened to your testimony with
20 Ms. Parrish. And I want to make sure I understand this.
21 So -- so Tony Leamon never told you that he did anything,
22 did he?

23 A No.

24 Q He, actually, told you that he had -- people were
25 saying stuff about it, but he didn't do anything; is that

1 correct?

2 A Exactly.

3 Q Okay. And he didn't ask you to go to Texas?

4 A No.

5 Q He just went with you?

6 A Yes.

7 Q And he was cooperative -- not cooperative, he was
8 courteous, and so forth with you; is that correct?

9 A Yes.

10 Q As far as him knowing that he was wanted for murder,
11 you're the one that saw the screen that said he was wanted
12 for murder. You have no knowledge that he ever knew that
13 he was wanted for murder; is that correct?

14 A Not at the time, no.

15 MR. ROBINSON: That's all I have.

16 Thank you.

17 MS. PARRISH: No redirect, Your Honor.

18 THE COURT: You can step down.

19 MS. HENDRICKS: The State calls Johnny Brown.

20 WHEREUPON,

21 JOHNNY MICHAEL BROWN,

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

23 THE CLERK: Please have a seat.

24 And will you state your full name for the record?

25 THE WITNESS: Johnny Michael Brown.

DIRECT EXAMINATION

BY MS. HENDRICKS:

Q Mr. Brown, where are you employed?

A The Greenville County Sheriff's Office.

Q And how long have you been in law enforcement?

A Approximately 20 years.

Q What positions have you held at the Greenville County Sheriff's Office?

A Uniform patrol deputy and then assigned to the warrants division, both in the United States Marshall's Task Force capacity and a unit created within the sheriff's office warrants division called the Leap unit.

Q What was your assignment in the summer of 2014?

A The Marshall's Task Force.

Q And how did you become involved with this investigation?

A Working with Investigator Fortner.

Q Did you find out that a witness in this case was missing at some point?

A Yes, ma'am.

Q Do you remember when that was?

A July, I think, around the 12th.

Q And did you end up meeting with her because Investigator Fortner was unavailable?

A Correct. I did.. I went out -- there was a missing

1 person's report on her. And I went out to the house to
2 make sure that she was okay, that she was, actually, there
3 and that we could take her off what's called NCIC, which
4 is the National Crime Information Center.

5 Q And who is this witness?

6 A Janetta Kyles.

7 Q And did you, also, do a recovery report on her?

8 A I did.

9 Q Can you briefly explain what a recovery report is?

10 A Yes, ma'am. A recovery report is a family member has
11 been missing for a length of time. A report is made at
12 the sheriff's office. That subject is put on NCIC,
13 whereas if she goes to another state or if they're found
14 in another state, they'll be on NCIC and list her
15 particulars, name, date of birth, that kind of stuff. And
16 then we write a report up for that.

17 And then we have to do a recovery report once we're
18 notified that they're found to make sure, number one,
19 they're safe and that they didn't get hurt, and then any
20 idea or particulars about the case that they were involved
21 in.

22 Q And was there anything in particular that you wanted
23 to find out from her since she was a witness in a murder
24 investigation?

25 A Yes, ma'am. Her boyfriend -- friend was the

1 Defendant. So we were looking for him for active
2 warrants. And I was trying to talk to her about where
3 her -- where they were, anything that she might know about
4 trying to locate and apprehend him for the warrant.

5 Q And do you remember when you went to meet with
6 Ms. Kyles?

7 A I believe it was on the 12th. I think it was a
8 Saturday.

9 Q And do you remember where you met with her?

10 A At her mom's apartment.

11 Q And who all was present?

12 A Her uncle, her sister, and her mother.

13 Q And how was her demeanor when you met with her?

14 A When I first met with her, I was trying to find out
15 where she had been the previous -- I think it was two
16 weeks, approximately two weeks. She was very vague as far
17 as where she had been and what she had done.

18 She stated that she had been with Tony, but she
19 didn't -- the Defendant, but she didn't know, you know,
20 anything about -- she couldn't tell me anything about
21 where that might be, or, you know, anything that might
22 assist us in trying to locate the Defendant.

23 Q Would you describe her as being evasive at that
24 point?

25 A Yes, ma'am.

1 Q At this point, had the Defendant been located?

2 A No, ma'am.

3 Q Did she indicate -- so she indicated that she had
4 seen him?

5 A Yes, ma'am.

6 Q And she had been with him for the whole time she was
7 missing?

8 A Correct.

9 Q Did she indicate whether they left -- or did she
10 indicate where they were for those two weeks?

11 A It was only after I talked to her that, you know,
12 Investigator Fortner could bring charges on her that she
13 started coming around with more details as far as where
14 she had been, and what she had done. She stated that --

15 MR. ROBINSON: Objection, Your Honor. Hearsay.

16 THE COURT: Well, is this something she's testified
17 to?

18 MS. HENDRICKS: Yes. I believe so, yes.

19 THE COURT: Okay. I overrule the objection.

20 THE WITNESS: That she had been in a trailer
21 approximately the two weeks watching TV with the
22 Defendant. And that there were two other people that had,
23 actually, picked her up and taken her to the residence.

24 BY MS. HENDRICKS:

25 Q And did she identify those two people?

1 A She identified them as Ashley and Sean. She gave
2 tattoos, descriptions of -- you know, their basic general
3 description. It was only after I actually -- her family
4 was trying to encourage her to let us know where he was,
5 or more information, to be more forthcoming.

6 And I took her -- I, actually, drove her in my car --
7 got permission from her parents and took her in my car to
8 drive around to see if we could locate the trailer, or
9 anything that would be available to us to try to apprehend
10 the Defendant.

11 Q Was she able to locate the trailer at that time?

12 A No, ma'am.

13 Q And did she indicate whether she left the trailer at
14 all during those two weeks?

15 A No, ma'am. She stated she was -- that Ashley and
16 Sean would buy groceries, and that she would watch TV.

17 Q So where did you drive Ms. Kyles?

18 A All around the Westcliffe area. And then, at some
19 point, out on Rutherford Road or Poinsett, we passed a
20 pawnshop, First Cash Pawn. She advised me that she had
21 remembered that Tony, the Defendant, and Ashley and Sean
22 had dropped off or pawned an iPad of Tony's, the
23 Defendant. So she remembered that. She didn't have
24 anything after that.

25 After driving around for about an hour -- and her

1 uncle wanted me to bring her to another location to be
2 safe with him.

3 Q What did you do after she told you that they had
4 pawned the iPad at First Cash?

5 A After I dropped her off, I went to First Cash Pawn.
6 I talked to the clerks, described both Ashley and Sean and
7 the vehicle that Janetta had, also, told us about, a brief
8 description. They both -- the employees at First Cash
9 Pawn remembered Ashley and Sean very well from pawning a
10 lot of items at First Cash Pawn.

11 And they gave me a pawn ticket for the iPad which
12 Ashley Sester had pawned. It had a last name, and
13 address, and I think South Carolina DL number. And then
14 they, also, provided me with another pawn ticket for Sean
15 Sester with his address and vehicle number.

16 Q So I'm going to show you what's been marked as
17 State's Exhibit No. 44. Do you recognize this item?

18 A Yes, ma'am.

19 Q And how do you recognize that?

20 A That's the pawn ticket from First Cash Pawn.

21 Q As far as you can tell, is that in the same condition
22 as you last saw it?

23 A Yes, ma'am.

24 Q And where did you get it from?

25 A First Cash Pawn.

1 Q And what did you do with it after you got it from
2 First Cash Pawn?

3 A I immediately notified Investigator Fortner that this
4 iPad was there, along with the information that -- the
5 last name for Ashley and both Sean Sester. And he -- I
6 believe I let him talk to the employees at First Cash
7 Pawn. And they put the item on hold status so it wouldn't
8 be sold so he could try to pick it up for the case.

9 Q Did you make any changes to this pawn ticket?

10 A No, ma'am.

11 MS. HENDRICKS: Your Honor, at this time, the State
12 offers State's Exhibit No. 44 for admission into evidence.

13 MR. ROBINSON: Objection, Your Honor. Relevance in
14 this case.

15 THE COURT: Well, I understood that it was already in
16 evidence.

17 MS. HENDRICKS: Yes. I think this has been
18 stipulated to.

19 MR. ROBINSON: I'll withdraw my objection.

20 THE COURT: All right. It's admitted.

21 (WHEREUPON, State's Exhibit No. 44 was admitted into
22 evidence.)

23 BY MS. HENDRICKS:

24 Q So you were able to verify the information that
25 Janetta gave to you?

1 A Yes, ma'am, through the place where she said that
2 they had pawned an iPad.

3 Q When you got the Sesters address from the pawn
4 ticket, did you go and look at their trailer?

5 A Correct. I looked at two places for the address on
6 the pawn ticket for the vehicle. I, actually, found the
7 vehicle in the South Carolina Department of Motor Vehicles
8 from the driver license on the pawn ticket.

9 So I went by the East Warren Road address, which is
10 an address they had. But there was another address over
11 off of -- past Tabernacle Baptist Church on White Horse
12 Road. I met with units -- some plain clothes officers on
13 the direct patrol unit with the sheriff's office. And one
14 of them drove by the address to see if the vehicle was
15 there.

16 Q And was that the Avice Dale Drive address?

17 A Yes, ma'am.

18 Q And did that trailer match the description that
19 Janetta had given you?

20 A From a basic description, yes, ma'am. She had given
21 us the location as far as it being up on a hill, and kind
22 of in the woods, and near the edge of the county. Yes,
23 ma'am.

24 Q And what was your next course of action after you
25 determined where they had been staying?

1 A Like I said, we ended up getting with the direct
2 patrol unit and sent plain clothes and an unmarked car by
3 the address to see if the vehicle was there.

4 Q And did you, ultimately, get warrants for the Sesters
5 arrest?

6 A Investigator Fortner obtained the warrants and
7 notified me, yes, ma'am.

8 Q And how long did it take for Mr. Leamon and the
9 Sesters to be located?

10 A I don't remember the time limit. I know that they
11 were picked up in Texas.

12 Q Would it -- do you remember it being within a day?

13 A No.

14 Q Okay. And did that conclude your involvement in this
15 case?

16 A I went with Master Deputy Ron Bishop and Deputy Bruce
17 Edwards on an extradition to Texas to pick all three of
18 them up at the same time and bring them back.

19 MS. HENDRICKS: Okay. Just one moment.

20 (Pause.)

21 BY MS. HENDRICKS:

22 Q To your knowledge, had anyone else driven Ms. Kyles
23 around after July 12th, around the time when you were
24 driving her around?

25 A She had stated that she was dropped off around the

1 .Burger King around the Westcliffe area by Ashley Sester,
2 Sean Sester, and the Defendant.

3 Q Had any law enforcement officers driven her around,
4 besides you, to try to identify where they were staying?

5 A No, ma'am. Once I was notified by Investigator
6 Fortner that she was at her mom's place, I immediately
7 went over there. And I was the only officer.

8 MS. HENDRICKS: Okay. No further questions. Please
9 answer any questions Mr. Robinson may have.

10 THE WITNESS: Yes, ma'am.

11 MR. ROBINSON: I have no questions, Judge.

12 THE COURT: You may step down.

13 MS. HENDRICKS: May he be excused?

14 THE COURT: He may be.

15 MS. PARRISH: The State calls Investigator Mike
16 Fortner to the stand.

17 WHEREUPON,

18 MICHAEL EUGENE FORTNER,
19 after first having been duly sworn, testified as follows:

20 THE CLERK: Please have a seat.

21 And will you state your full name for the record?

22 THE WITNESS: Michael Eugene Fortner.

23 DIRECT EXAMINATION

24 BY MS. PARRISH:

25 Q Investigator Fortner, where are you employed?

1 A The Greenville County Sheriff's Office.

2 Q How long have you been at the Greenville County
3 Sheriff's Office?

4 A This July will be 24 years.

5 Q And is that your entire career in law enforcement?

6 A Yes, ma'am, it is.

7 Q What is your current position at the sheriff's
8 office?

9 A Currently, I work in what's called the office of
10 professional responsibility. Most people would know it as
11 internal affairs.

12 Q How long have you been in internal affairs?

13 A I just started in January when the new sheriff,
14 Sheriff Lewis, stepped over. He asked me to move to
15 internal affairs.

16 Q Where were you working in June of 2014?

17 A At that time, I was working in homicide.

18 Q And were you called to the scene of a homicide on
19 June 14th, 2014?

20 A Yes, ma'am, I was.

21 Q Can you, please, tell me where you responded?

22 A I responded to 1120 Hampton Avenue Extension, which
23 is the Black and Mild Club. And this address is within
24 Greenville County, South Carolina.

25 Q Do you recall who was present when you arrived? Were

1 you the first person on scene?

2 A No. I was not the first person. Uniform patrol
3 deputies had responded first. They were there, as well as
4 Deputy Coroner Soler. Deputy Coroner Soler, he was there.
5 The deputies, when they responded, tended to the victim,
6 made sure there were no other additional victims there.
7 And then they secured the scene until investigators
8 arrived.

9 Q Do you recall approximately what time you arrived at
10 1120 Hampton Avenue Extension?

11 A It would have been -- I got called at 3:15 in the
12 morning about it. And by the time I got there from my
13 house and everything, it was probably 4:00 to 4:15,
14 somewhere along in there.

15 Q Had the victim been pronounced dead on the scene --

16 A Yes. He --

17 Q -- by the time you arrived?

18 A Yes, ma'am, he was. Yes.

19 Q All right. And tell me what the first thing you did
20 was upon arriving at Hampton Avenue.

21 A Well, once I get on scene -- one of the first things,
22 as an investigator, you have to ascertain is whether or
23 not you're going to need a search warrant. In this
24 situation here, I decided to go ahead and get a search
25 warrant.

1 So I called Investigator Hoover, who, also, came out
2 with me to assist in this case, and asked him to obtain a
3 search warrant for me for the business.

4 Q And did you get a search warrant for the business?

5 A Yes, we did.

6 Q What happened after the search warrant was in hand?

7 A Once we got the search warrant -- prior to that,
8 there were some witnesses on scene that I asked to have
9 transported down to the LEC, law enforcement center, to
10 meet with Devon Hoover as well, Investigator Hoover.

11 But once we got the search warrant, myself,
12 forensics, Sergeant Hamilton, who you heard from yesterday
13 was one of them, and Deputy Corner Soler, we do what we
14 call a walk-through going into the business, in this case,
15 the Black and Mild Club, and walk around and look at
16 everything we've got, observed the victim, any evidence we
17 might want to process for. We discuss everything and what
18 it is that we want to look for.

19 Q You mentioned there were some witnesses on scene that
20 you had transported?

21 A Yes.

22 Q Approximately how many people -- witnesses were still
23 on scene when you arrived?

24 A We had four that were, actually, still on scene.

25 Q Do you recall any of their names?

1 A I do. It would have been Latasha Jackson, Shenika
2 Smith, Demetrius Harris, and Quinton Crummer.

3 Q And was Mr. Harris the one who testified on Monday, I
4 believe it was?

5 A Yes, he was.

6 Q That was the same man?

7 A Same man.

8 Q So there were only four non-law enforcement or
9 emergency personnel when you arrived; is that correct?

10 A As far as witnesses are concerned, yes, ma'am. Yes.

11 Q Okay. You said you went on a walk-through with
12 forensics and who else?

13 A Forensics and the Deputy Corner Soler, who was there
14 that night.

15 Q Okay. Have you looked through State's Exhibit Nos. 2
16 through 36?

17 A Well, not those specifically, but I have -- on my
18 system I have at the office, I have pictures.

19 Q Okay. Would you just briefly flip through these and
20 see if they match your recollection of what that the scene
21 looked like?

22 A Okay. They do.

23 Q They do. Do you notice anything -- does anything
24 appear to be out of place in those photographs, or does it
25 fairly and accurately represent what it looked like when

1 you walked through?

2 A They do fairly and accurately represent...

3 Q As you walked through the scene, what did you
4 notice -- or what were you looking for?

5 A We were looking for evidence, anything -- in a case
6 like this, it can be anything. That's one thing about
7 evidence, you've got one chance to get it. So if there's
8 anything that might be there that could be evidence, go
9 ahead and get it.

10 It was a typical club, I guess you could say, as far
11 as tables and chairs laying around, beer cans, cups on the
12 tables. Of course, we observed the victim laying there.
13 And we were looking for anything like shell casings,
14 projectiles, a gun, a weapon in this case, blood spatter,
15 anything along those lines.

16 Q Did you bring in -- let me ask you about the lighting
17 situation in the club. What do you recall it to be when
18 you walked in?

19 A The lighting in the club is definitely dim. I mean,
20 it's not dark. I mean, you could see where you were
21 walking. You're not going to trip over tables, or chairs,
22 or anything like that. You could see people. Like, if we
23 were in the club and her and I were talking, I would be
24 able to see her and tell who she is and everything. But
25 it was definitely dim.

1 And because of that, we asked for some additional
2 lighting to come in. Because when searching for evidence,
3 like I was saying, we're looking for very small items,
4 projectiles, shell casings, and the blood spatter, and
5 anything else there might be. So we wanted to make sure
6 we've got the place well lit so we could see what we were
7 doing.

8 Q So you did bring in additional lighting for that
9 purpose?

10 A Yes.

11 Q Okay. Did you -- what, if anything, did you notice
12 about the scene, about the victim? What stood out to you
13 as you were surveying the downstairs of the club?

14 A The victim laying on the floor.

15 Q Okay. Tell me, did you locate or did forensics
16 locate any shell casings?

17 A No. We did not find any shell casings.

18 Q Did you locate any weapons?

19 A No. We did not locate any weapons. We -- as a
20 matter of fact, one of the things we did after we got the
21 search warrant is we searched around the outside perimeter
22 of the business, garbage cans, in the grass, up and down
23 the side of the road. I even asked for a K9 to respond to
24 do what we refer to as an article search where the dogs
25 would go out and look for, in this case, mainly, a gun.

1 Q Looking in those trash cans, those side streets, did
2 you find anything that appeared to be related to this
3 homicide?

4 A No, we did not.

5 Q All right. Is that uncommon or unusual in an
6 investigation?

7 A No, it's not. I mean, sometimes, we find something.
8 Like, a suspect fleeing the scene might throw something
9 down. But, no, it's not uncommon not to find anything.

10 Q At some point, did you develop -- I guess -- pardon
11 me. When you entered the scene, did you have any suspects
12 or knowledge about who might have done this?

13 A When I entered the scene, no, we did not.

14 Q At some point, did you develop a suspect in this
15 case?

16 A We did, yes.

17 Q Do you know when or how that suspect was developed?

18 A Yes. Some information had come in that the suspect
19 we were looking for was somebody by the name of Tony
20 Leamon. Devon Hoover -- once again, Investigator Hoover
21 was down at the LEC. He went down to dispatch and
22 listened to the 911 calls. And one of the 911 callers
23 does identify the suspect as Tony Leamon.

24 Q Did you listen to that 911 call?

25 A I did not that night. Eventually, I did, yes.

1 Q Okay. Were those the same 911 calls that you -- that
2 we all listened to in the courtroom?

3 A Yes, they are.

4 Q And has anything been altered or changed in those
5 phone calls from that original that you recall listening
6 to?

7 A No, ma'am, it wasn't.

8 Q When you have someone named in a 911 call like that,
9 do you solely focus on that individual?

10 A Not solely, no. I mean, absolutely not. For one, we
11 don't know how accurate that information is. And on top
12 of that, I mean, Tony Leamon -- I mean, how many different
13 Tony Leamon's can there be in this world? Is Tony a
14 middle name? Is it a first name? So, no, we don't just
15 settle in on that, no.

16 Q What did you do after walking through the scene and
17 assisting with the evidence collection?

18 A I'm sorry. What was the question?

19 Q What did you do after finishing at the scene and the
20 evidence collection?

21 A Once we got done processing the scene -- or while we
22 were in the middle of it, actually, I received a phone
23 call from Deputy Coroner Soler that advised me that
24 Dr. Fulcher, who is the pathologist, wanted to get started
25 on the autopsy. So I left the scene and headed down to

1 Greenville Memorial Hospital for the autopsy.

2 Q Did you observe the autopsy?

3 A Most of it, yes. They had started prior to me
4 getting there, but I did join most of it, yes.

5 Q Is that typical as part of your duties as an
6 investigator?

7 A It is, yes.

8 Q After the autopsy -- well, pardon me. Were your
9 autopsy findings the same ones as were read out in the
10 stipulation agreement in court?

11 A Yes.

12 Q Okay. Do you recall seeing anything else unusual
13 about the victim at that time?

14 A Nothing unusual, no, ma'am.

15 Q Any other injuries, aside from the one bullet wound?

16 A No, no other injuries.

17 Q After observing the autopsy, what did you do?

18 A Once I got done with the autopsy -- prior to leaving
19 to go to the autopsy, I had gotten some information that
20 the mother of Jamal Marion was outside. Of course, at
21 that time, we did not know that it was Jamal Marion.

22 I went outside and spoke with her and explained to
23 her that we did not know for a fact that it was her son at
24 that point in time. But she provided me with a name and
25 number of Darrion Boyd, who she said she had gotten

1 information was an eyewitness in what had happened.

2 Q Did you contact Mr. Boyd?

3 A Eventually, yes, I did, that same day.

4 Q That same day?

5 A After the autopsy.

6 Q Okay. Do you recall -- did you meet with Mr. Boyd
7 that same day?

8 A The same day, yes, ma'am.

9 Q Where did you met with him?

10 A I met with him at the law enforcement center. And
11 that was probably around 1:00, 1:15 in the afternoon.

12 Q What was his demeanor when you encountered Mr. Boyd?

13 A He was very emotional, very distraught, very similar
14 like he was yesterday when he was testifying. He was very
15 upset about watching his friend get shot in front of him.

16 Q Was -- your meeting interview with Mr. Boyd, was it
17 recorded via audio or video?

18 A Yes, ma'am, it was.

19 Q All right. And did Mr. Boyd -- was he able, at that
20 time, to provide the name of the person who shot Jamal?

21 A No. He did not know the Defendant. He did not know
22 Tony Leamon by name, or anything.

23 Q Was he able to provide some descriptive factors of
24 the person he saw shoot Jamal?

25 A Height, weight, race, and sex, that kind of thing,

1 yes, ma'am.

2 Q Okay. By the time you spoke to Mr. Boyd, was
3 Mr. Leamon already a suspect -- or was the name Tony
4 Leamon listed as a suspect?

5 A It was through the course of the 911 tape that we
6 talked about just a few minutes ago -- I mean, we had done
7 some research on the name Tony Leamon and had come up with
8 a photo. So I put together a photo lineup for Mr. Boyd to
9 look at.

10 Q All right. And I'm going to show you what's been
11 marked as State's Exhibit No. 47. Do you recognize
12 State's Exhibit No. 47?

13 A I do. It's a photo lineup that contains six photos,
14 one of which is the Defendant's, Tony Leamon.

15 Q All right. And I'm going to show you what's been
16 marked and already entered as State's Exhibit No. 48. Do
17 you recognize that?

18 A I do. It's, also, a photo lineup containing
19 Mr. Leamon.

20 Q And is that the same lineup you showed Darrion Boyd
21 on June 14th?

22 A This one is, yes, ma'am.

23 Q Okay. Now, what about State's Exhibit No. 47 is
24 different than State's Exhibit No. 48?

25 A All right. State's Exhibit No. 47, it's got all the

1 names of the individuals in the pictures. And with the
2 lineup that we show to our witnesses, it does not have the
3 names of the Defendants in them.

4 Q And would you have shown Mr. Boyd the lineup
5 containing the names on it?

6 A No.

7 Q Why not?

8 A Because we don't want them to know the names of the
9 individuals in the photos. And, particularly, if by
10 chance they should know the name of the suspect, we don't
11 want them to see the names listed under the photos. We
12 want the lineup to be as very -- I guess -- I'm not sure
13 what the word is for it -- but.

14 Q Uniform?

15 A As neutral as possible as far as identity of
16 suspects.

17 MS. PARRISH: Your Honor, at this time, the State
18 would seek to admit State's Exhibit No. 47 into evidence.

19 MR. ROBINSON: No objection, Judge.

20 THE COURT: It's in.

21 (WHEREUPON, State's Exhibit No. 47 was admitted into
22 evidence.)

23 BY MS. PARRISH:

24 Q So what did you tell Mr. Boyd? How does a photo
25 lineup process work?

1 A We put the lineup together. I sit down with, in this
2 case, Mr. Boyd. I explain to him I have six photos for
3 him to look at on a single sheet of paper. I ask him to
4 look at each picture carefully before he identifies
5 anybody. I explain to him that the suspect in our case
6 may or may not even be in this lineup. So he did not
7 necessarily have to feel like he had to point to anybody.
8 And I just -- you know, just reiterate to him not to point
9 to anybody unless he's absolutely sure.

10 And then I always turn the lineup over upside down.
11 And I just hand it to them upside down like this. And
12 then I ask them when they're ready to look at it to turn
13 it over and look at the photos.

14 Q Did Mr. Boyd indicate whether he had had a sufficient
15 opportunity to see the shooter in this case?

16 A He did. He had ample opportunity to see him, yes.

17 Q Did you hear Mr. Boyd's testimony in court?

18 A I did, yes.

19 Q Did anything he said in court differ from what he
20 told you on June 14th?

21 A No, ma'am.

22 Q Okay. How long did Mr. Boyd review State's Exhibit
23 No. 48 prior to making an identification?

24 A A few seconds. I mean, long enough to look at each
25 picture. And, I mean, he didn't just flip it over and

1 immediately point to a photo. He turned it over long
2 enough to look at all the photos.

3 Q Did he hesitate in any way?

4 A No.

5 Q Did he choose anyone before circling Mr. Leamon's
6 picture?

7 A He did not, no.

8 Q All right. Did you ask Mr. Boyd -- or was he able to
9 provide any other details of the crime?

10 A Just in his statement telling us about what it was
11 that took place, what happened.

12 Q All right. After speaking with Mr. Boyd, how did
13 your investigation move forward?

14 A After speaking with Mr. Boyd and getting Tony Leamon
15 positively identified in a photo lineup, at that time, I
16 signed the warrants on Mr. Leamon for the murder and the
17 possession of a weapon.

18 Q All right. And tell me about additional witnesses
19 that you located or spoke to. Did you attempt to locate
20 Tony Leamon at this time?

21 A Once we sign a warrant on somebody for, in this case,
22 a murder, generally, what we do, which is what I did in
23 this case, is we get in touch with the Marshall's Task
24 Force. In this case, Johnny Brown was my contact person
25 on that. And I advised him that we do have warrants for

1 this individual on murder.. And we turn the warrants over
2 to him to start a search for him.

3 Q What type of information is provided on a warrant or
4 to the task force to locate an individual?

5 A Family, friends, anything like that that we might
6 have, addresses that we might have for them. And then
7 they take it from there. And they start generating their
8 own leads that they might be able to come up with.

9 Q Do you provide them with specific details of the
10 crime itself?

11 A No, we do not. No.

12 Q And how long was it until an additional witness
13 surfaced?

14 A About a week. I think it was June 20th.

15 Q All right. And who did you speak to on June 20th?

16 A That would have been Janetta Kyles.

17 Q Did you speak to anyone else on June 20th?

18 A I did, Eric Jones as well.

19 Q Tell me about finding Janetta Kyles as a potential
20 witness in this case, please.

21 A Deputy Craig Hawkins, who's, also, on the -- at that
22 time, was on the Marshall's Task Force, while looking for
23 Mr. Leamon, they had come across Janetta Kyles, who was
24 his girlfriend. And she told Deputy Hawkins and them that
25 Mr. Leamon --

1 MR. ROBINSON: Objection, Your Honor. Hearsay.

2 MS. PARRISH: This is what she's already testified
3 to, I believe.

4 THE COURT: Excuse me. Overruled.

5 THE WITNESS: She had told Deputy Hawkins about Tony
6 Leamon, the Defendant, coming over to her residence early
7 that morning at about 6:00 in the morning still on the
8 14th. And he had told her that he had shot somebody at
9 the club, and even to the point of telling her that he
10 shot him right in the nose --

11 MR. ROBINSON: Your Honor, objection. Hearsay.

12 MS. PARRISH: Again, this is just --

13 THE COURT: Is this information that's already been
14 testified to?

15 MS. PARRISH: Yes, Your Honor. This is what
16 Ms. Kyles has already testified to.

17 THE COURT: Okay. Overruled.

18 BY MS. PARRISH:

19 Q Did you, personally, meet with Ms. Kyles on
20 June 20th?

21 A I did, yes.

22 Q And do you remember approximately what time you would
23 have met with Ms. Kyles?

24 A It was about 10:00 in the morning, maybe a little
25 earlier, right around 10:00.

1 Q And do you recall what time you got the call from
2 Deputy Hawkins that he had located this potential witness?

3 A It would have been just 15, 20 minutes or so before
4 that. Because he brought her straight down to the law
5 enforcement center for me to talk to her once he had
6 located her.

7 Q Did Deputy Hawkins drive Ms. Kyles around prior to
8 bringing her to the law enforcement center?

9 A Not that I'm aware of, no, ma'am.

10 Q And you believe that only 15 to 20 minutes would have
11 elapsed between his call and her arrival at the law
12 enforcement center?

13 A Right. Because he had found her at her residence,
14 which is somewhere off of, like, the Duncan Chapel Road
15 area. So it would have taken them about 20 minutes or so
16 to get down to the law enforcement center.

17 Q And was your -- your interview with Ms. Kyles, was
18 that recorded via audio and video?

19 A Yes, ma'am, it was.

20 Q Did you attempt to do that with every witness in this
21 case?

22 A We try to as much as we can, yes.

23 Q All right. Before speaking a little bit more about
24 Ms. Kyles, did you have any digital evidence collected
25 from the Black and Mild Club?

1 A Photographs and probably a video. They usually do a
2 walk-through with the video.

3 Q Okay.. Did you --

4 A And the DVR from the security system that was there.

5 Q Okay. Did you collect that DVR player, State's
6 Exhibit No. 45, yourself?

7 A I did not personally collect it. Forensics would
8 have collected it.

9 Q Did you see investigator -- or former Investigator
10 Harris come in here?

11 A I did, yes.

12 Q Did you call Investigator Harris to collect that?

13 A I did call him to the scene. He may have personally
14 collected it himself. I did ask him to come to the scene
15 because that's his area of expertise.

16 Q Was there a reason you would have not, I guess,
17 disconnected it and collected it yourself?

18 A Because, again, that's not my area of expertise.
19 What we are told by our forensics people that do the
20 electronic data-type stuff like that, they ask us not to
21 touch it and to call them or have them come in. Because
22 we would not want to inadvertently maybe delete something
23 by unplugging something, or whatever. So they just have
24 asked us to call them out there directly.

25 Q You said that your interview with Janetta Kyles was

1 recorded?

2 A Yes, ma'am, it was.

3 Q I'm going to show you what's previously been marked
4 as State's Exhibit No. 59.

5 MR. ROBINSON: Objection, Your Honor. I would ask
6 that we do something outside the presence of the jury.

7 THE COURT: Let me ask the jury to, please, go to
8 your jury room. Don't discuss the case. I'll bring you
9 back shortly.

10 (WHEREUPON, the jury was excused from open court at
11 approximately 11:12 a.m.)

12 THE COURT: All right. Mr. Robinson, what's the
13 issue?

14 MR. ROBINSON: Judge, I object to this video coming
15 in. First of all, she's excused Ms. Kyles from this case.
16 There is information on that video that is testimonial in
17 nature regarding a lot of different things I had no
18 opportunity to cross-examine her on. She had the
19 opportunity yesterday to ask her any questions she wanted
20 to on direct examination. I asked cross-examination in
21 response to her questions. A lot of the stuff on this
22 video that I've reviewed several times has got information
23 that I did not have -- did not talk to her about.

24 THE COURT: Let me ask you this, is this the same
25 video Ms. Kyles looked at yesterday?

1 MS. PARRISH: Yes, Your Honor. And this is the
2 redacted version where we have taken out prejudicial
3 things.

4 THE COURT: What's the necessity for this witness
5 just showing what she's already testified to?

6 MS. PARRISH: Your Honor, it would be the fact that
7 Mr. Robinson elicited the fact that Ms. Kyles was forced,
8 coerced, and coached into her statements and to rebut
9 that.

10 THE COURT: So the purpose of the introduction of the
11 video is to show that she was not threatened or coerced as
12 she testified?

13 MS. PARRISH: Correct. And that she freely and
14 voluntarily provided all sorts of information without --
15 without force or coercion.

16 THE COURT: All right. And, Mr. Robinson, the -- you
17 have -- have you seen the redacted version?

18 MR. ROBINSON: I saw it at the Solicitor's Office
19 Friday, Your Honor. There's stuff in there regarding, for
20 instance, drinking, and some things as far as how he gets
21 many drinks. There's some other things in there that were
22 not talked about in cross-examination. It's testimonial.

23 THE COURT: Well, I understand. But what's the
24 prejudice?

25 MR. ROBINSON: The prejudice to me, Your Honor, is

1 they're trying to establish -- they're trying --

2 THE COURT: No. What I'm saying is, what's the
3 information on that video that she -- statements she makes
4 that are prejudicial to the Defendant that have not been
5 redacted or already introduced into evidence?

6 MR. ROBINSON: It's -- drinking has not been
7 redacted, to my knowledge.

8 THE COURT: Well, everybody was drinking that day.

9 MR. ROBINSON: Yeah. But what she talks about is he
10 gets violent when he starts drinking.

11 THE COURT: Oh.

12 MR. ROBINSON: That's what I have a problem with.
13 And that was not brought out in cross-examination. If
14 she's trying to introduce something to rebut my --
15 about -- as far as how she felt -- this is -- she's the
16 one who testified on the stand that she felt like she was
17 threatened, and so forth.

18 THE COURT: I know.

19 MR. ROBINSON: But the stuff that -- the information
20 that's on that redacted video, I'd like to get a proffer
21 so the Court can review it. There's information on there
22 regarding drinking and getting violent when he drinks.
23 And I've had no opportunity to cross-examine her on that.

24 THE COURT: All right.

25 MS. PARRISH: And, Your Honor, this -- the original

1 video of Ms. Kyles was provided to Mr. Robinson -- well,
2 it was provided to original defense counsel years ago. It
3 was provided to Mr. Robinson weeks ago. He did -- he was
4 unable to view it on his media, so we did show it to him.
5 He expressed some concerns. He did not specify.

6 And because he did not specify, I said, please, tell
7 me what you need me to remove. And he has yet to do so.
8 I asked him if he wanted to make his own redacted version
9 that we could look at.

10 Have you done that?

11 I don't believe that he's done that.

12 MR. ROBINSON: I've --

13 THE COURT: Well, here's the thing. Without
14 Ms. Kyles being available -- and I don't know whether she
15 is or she isn't, because you know how that is. But I'm
16 not comfortable with allowing the video to be introduced
17 that contains other statements made by her that are
18 prejudicial to the Defendant, that the Defendant has not
19 had an opportunity to cross-examine her on.

20 That was not -- the information about him becoming
21 violent when he's drinking, while it might be relevant in
22 this case, it was not elicited on direct or cross, as I
23 understand it.

24 MS. PARRISH: That's correct, Your Honor. And I'm
25 happy to redact additional information --

1 THE COURT: Okay.

2 MS. PARRISH: -- from this video.

3 THE COURT: Well, can y'all determine what needs to
4 be redacted?

5 She's got a redacted version that she believed was
6 taking out all matters that were unduly prejudicial, and
7 not relevant, and should not be admissible in the case.
8 But she doesn't know everything. She doesn't know
9 everything that the Defense wants redacted from that
10 video, Mr. Robinson. Do you have other things that you'd
11 like to have redacted besides the statement that he
12 becomes violent when he's drinking?

13 MR. ROBINSON: That's -- that's really the big thing
14 that I'm worried about with this video.

15 THE COURT: Well, if she redacts that, will that
16 satisfy your concerns?

17 MR. ROBINSON: Yes...

18 THE COURT: Okay.

19 MS. PARRISH: All right. We can either --

20 THE COURT: How long will that take you to do?

21 MS. PARRISH: It will take me a period of time.

22 THE COURT: I know. What's the period of time?

23 MS. PARRISH: I'm thinking probably in order to burn
24 the tape and re-redact it, 30 minutes or so. I can offer
25 it at the end of his testimony instead, and redact it over

1 a break,

2 THE COURT: And somebody will do that for you over a
3 break?

4 MS. PARRISH: Well, I don't know if we have enough
5 people that are computer savvy enough to do that for me.

6 THE COURT: Are you the one that's been doing it?

7 MS. PARRISH: Yes, sir.

8 THE COURT: Well, y'all need a tech person.

9 MS. PARRISH: We had one and he left us.

10 MR. ROBINSON: Your Honor, they're not as
11 technologically advanced as Spartanburg. It's a shame.

12 THE COURT: Well, I hope they're more technologically
13 advanced than I am.

14 MS. PARRISH: We have a transcript, Your Honor. I'm
15 just hesitant to attempt to mute it at the appropriate
16 time for fear of --

17 THE COURT: Yeah. I agree with you on that.

18 MS. PARRISH: For fear of getting anything else out.
19 I can -- I have it saved as is. And I know the part that
20 Mr. Robinson is talking about.

21 THE COURT: Well, he's going to be on the witness
22 stand for a while. That's just -- are you telling me
23 you're the only person that can do this? Or do you, at
24 least, have to supervise it?

25 MS. PARRISH: My supervisor is --

1 THE COURT: No -- you would, at least, have to
2 supervise it since you know what has to be redacted?

3 MS. PARRISH: Yes, Your Honor.

4 THE COURT: Okay. Well, let's just to do that at the
5 end.

6 MS. PARRISH: Sure.

7 THE COURT: And we'll take a break sometime.

8 MS. PARRISH: Thank you, Your Honor.

9 THE COURT: Well, since the jury is already out, do
10 you think you can do it in 30 minutes or so?

11 MS. PARRISH: Yes, sir, Your Honor. I believe I
12 probably can.

13 THE COURT: Let's see what you can do.

14 MS. PARRISH: Yes, sir.

15 THE COURT: Mr. Fortner, you can step down. Don't
16 discuss your testimony during the break. We'll take a
17 break.

18 And, Solicitor, let me know when you've concluded
19 with that.

20 MS. PARRISH: Yes, sir.

21 (WHEREUPON, a break was taken.)

22 THE COURT: All right. Are we ready for the jury?

23 MS. PARRISH: I believe so, Your Honor.

24 Do you want to make the additional redaction a
25 Court's Exhibit now that I have re-redacted the video, or

1 just toss it?

2 THE COURT: Well, is that the one that was shown to
3 Ms. Kyles?

4 MS. PARRISH: Yes. This was shown to Ms. Kyles.

5 THE COURT: All right. Make that a Court's Exhibit.

6 MS. PARRISH: Yes, sir, Your Honor.

7 THE COURT: All right. Mr. Robinson, you're
8 satisfied with the redacted version now?

9 MR. ROBINSON: Your Honor, although I haven't seen
10 it, I take the word of the Prosecutor that it's been
11 redacted. And I'm sure it's redacted.

12 THE COURT: All right. And, Ms. Parrish, you did
13 this yourself?

14 MS. PARRISH: I did it myself, Your Honor. I took
15 out all the references to his drinking, his behavior when
16 he was drinking. And I, also, took out some speculation
17 about what he might have done with the gun, which I
18 believe he had problems with before.

19 MR. ROBINSON: I did.

20 MS. PARRISH: So I went ahead and muted that as well.

21 MR. ROBINSON: And the club?

22 MS. PARRISH: Well, my recollection is she says --

23 MS. HENDRICKS: She testified to the clothes.

24 MS. PARRISH: That he wasn't wearing clothes. Do you
25 know what he would have done? I don't know, something,

1 otherwise, he would have been an idiot, something like
2 that.

3 MR. ROBINSON: Okay. As long as she said -- may it
4 please the Court.

5 As long as she's not speculating and I can't
6 cross-examine her. That's what I have an issue with.

7 THE COURT: Well, this is information she's already
8 provided. She was subject to examination on that.

9 MR. ROBINSON: Okay. Yes, sir.

10 THE COURT: All right. Bring the jury in, please,
11 unless they're not -- if they're not through with their --

12 THE BAILIFF: Snacks.

13 THE COURT: -- snacks, just let them stay. Check
14 with them and see. But if they're not through, let them
15 be.

16 (WHEREUPON, Court's Exhibit No. 4 was marked for
17 identification and admitted into evidence.)

18 (WHEREUPON, the jury came into open court at
19 approximately 12:04 p.m.)

20 THE COURT: The jury is present.

21 You may proceed, Solicitor.

22 CONTINUED DIRECT EXAMINATION

23 BY MS. PARRISH:

24 Q Investigator Fortner, I was asking you about your
25 interview with Janetta Kyles on June 20th, 2014.

1 A Okay.

2 Q I believe you had just told us that Investigator
3 Hawkins had brought her down that morning?

4 A That's correct, yes.

5 Q Was Ms. Kyles willingly speaking to you at this
6 point?

7 A She was. She came -- you know, she was driven down
8 there by investigator -- or Deputy Hawkins. But she came
9 down willingly.

10 Q Did you speak to Ms. Kyles about the allegations
11 prior to putting her in the audio and video-recorded room?

12 A No. She was just brought straight to the room.

13 Q Okay. Did you have any discussions with her that
14 were off the record?

15 A No.

16 Q Ms. Kyles testified that she was forced and coerced
17 into speaking with you and answering your questions. Is
18 that true?

19 A No, she was not.

20 Q Ms. Kyles, also, I believe testified that she was fed
21 information and details of the crime; is that true?

22 A No, she was not.

23 Q I'm showing you what's been marked as State's Exhibit
24 No. 59. Do you recognize what this is?

25 A It looks like it's a redacted version of our

1 interview with Ms. Janetta Kyles.

2 Q And aside for parts that have been mooted per the
3 Court's instructions, have any other changes been made to
4 this recording?

5 A Not that I'm aware of.

6 Q Aside from those mooted portions, does it fairly and
7 accurately represent your entire conversation with
8 Ms. Kyles on June 20th, 2014?

9 A It does, yes.

10 MS. PARRISH: Your Honor, at this time, the State
11 would seek to admit State's Exhibit No. 59 into evidence,
12 and publish it to the jury.

13 MR. ROBINSON: May it please the Court.

14 No objection.

15 THE COURT: It's admitted.

16 (WHEREUPON, State's Exhibit No. 59 was admitted into
17 evidence.)

18 (WHEREUPON, State's Exhibit No. 59 was played in
19 open court.)

20 THE COURT: Increase the volume.

21 MS. PARRISH: I believe that's as loud as it will go,
22 Your Honor.

23 (WHEREUPON, State's Exhibit No. 59 continued to be
24 played in open court.)

25 MR. ROBINSON: Your Honor, can -- Your Honor, we need

1 to stop the video for just a second. I have an objection.

2 THE COURT: Let me ask the jury to go to your jury
3 room for one second. Don't discuss the case.

4 (WHEREUPON, the jury was excused from open court at
5 approximately 12:32 p.m.)

6 MR. ROBINSON: Can we approach the bench, Your Honor?

7 THE COURT: Yes.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: All right. Mr. Robinson, what's your
10 objection?

11 MR. ROBINSON: May it please the Court.

12 At the side bar, Your Honor, the objection that I
13 have is that the redaction did not take care of some --
14 some issues -- or some statements that were made by this
15 witness that were testimonial in nature. And that,
16 specifically, she mentions about a gun as far as where he
17 would put a gun. That's first.

18 Second, as far as the clothes, where he would put
19 clothes, and so forth. She talks about lots of different
20 things.

21 But the main thing, Your Honor, that I have an issue
22 with is when she starts talking about his strings at the
23 club, his strings at the club. There was testimony that
24 he allegedly had friends there. But that was not from --
25 I don't know if that was -- that was not from this

1 witness. And because it's testimonial in nature, I think
2 that it was improper to -- to -- not improper, but
3 prejudicial to me and my client to have testimonial
4 evidence come in that I had no opportunity to
5 cross-examine that witness about.

6 And I think that I -- I just don't know what to do
7 about that. Because I think it makes my client look like
8 he had this pull at the club when -- that's what the jury
9 has in front of them now. They have a witness that I
10 can't cross-examine to get this out of her as far as
11 the testimonial part of it as far as the strings at the
12 club.

13 He could have friends at the club, but when she
14 crosses over into this testimonial part where she's saying
15 he has strings at the club, it makes it sound like he has
16 some pull that he can just -- he knows the owners, knows
17 all the people at the club that run the club, that he can
18 do things other people can't do. And that's what I have a
19 big issue with. I think it's extremely prejudicial.

20 THE COURT: Well, I understood it as he had folks
21 that he knew at the club, friends at the club, or family
22 at the club, or whatever. But you can interpret it
23 however you like to.

24 But we can get Ms. Kyles back?

25 MS. PARRISH: Yes, Your Honor. I've, actually,

1 already asked that she be called and brought right back up
2 here.

3 THE COURT: Very good.

4 MS. PARRISH: So we can recall her to amend this.

5 THE COURT: Well, do you want to address -- well, you
6 don't need to address each one of these. Mr. Robinson
7 wants you to address the issue of her making statements
8 about the gun on the video.

9 MS. PARRISH: And, Your Honor, we -- the officer,
10 yes, does ask her, Do you know what he would have done
11 with a gun, you know, what type of gun it was?

12 And her response was, No. He didn't go into those
13 kind of details with me.

14 THE COURT: Is that all that's on the video?

15 MS. PARRISH: Yes, Your Honor. I believe we've taken
16 out everything else.

17 THE COURT: All right. Mr. Robinson, did you
18 perceive there was something else about the gun on this
19 video?

20 MR. ROBINSON: I just thought, Judge, that there was
21 something more as far as she was speculating -- I thought
22 that she was speculating regarding what happened to the
23 gun, what he did to the gun -- with the gun. That's what
24 I was -- that's what I thought there was in there.

25 And as far as the clothes go, I thought the same

1 exact thing, that there was something he may have done
2 with the clothing. I think what she said was that he may
3 have gotten with somebody before he came over there to get
4 rid of his clothes, or something. That was not asked
5 about yesterday.

6 MS. PARRISH: Again, we asked her what he was
7 wearing. We asked her a number of questions. I guess we
8 can replay her testimony if we had to.

9 THE COURT: Well, I'm going to let y'all look at the
10 redacted version to be certain of what was played. Y'all
11 might have to play it again. I mean, I'm not trying to
12 memorize everything that's in this video, because I
13 thought it was agreed to be admitted. So -- but we have
14 objections now.

15 So I don't have a recollection of everything that was
16 said. But, nevertheless, you need to -- you need to --
17 during lunch, y'all need to look at the issues that
18 Mr. Robinson has raised about what she testified -- or
19 what the video reflects of discussions about the gun,
20 about the clothes, and about the strings at the club.

21 MS. PARRISH: Yes --

22 THE COURT: Unless you know that now, then you can
23 address it. But if you need to review the video, that's
24 fine.

25 MS. PARRISH: Yes. And, we will, I guess, stop

1 playing the video at this point. The point about force
2 and coercion, I believe, has been illustrated
3 sufficiently.

4 THE COURT: Okay. Do you have a -- can you mark the
5 point where the video is stopped now?

6 MS. PARRISH: Yes, Your Honor, 24:57. We can pause
7 it here. I can't do anything with the actual video
8 itself.

9 THE COURT: Well, not right now, you can't. But my
10 point is we need to know exactly what was shown to the
11 jury and what was not.

12 MS. PARRISH: Yes, sir. It's currently at 24:57, 24
13 minutes, 57 seconds into the tape.

14 THE COURT: Okay. Now, you've got about 15 more
15 minutes that you can talk to Mr. Fortner with the jury,
16 and then we'll break for lunch.

17 MS. PARRISH: Oh, yes, sir.

18 THE COURT: I mean, I know you've got more to ask
19 him. We may need to break after 15 minutes.

20 MS. PARRISH: That's fine, Your Honor. We'll move on
21 to the other witnesses.

22 THE COURT: All right. Bring the jury in, please.

23 (WHEREUPON, the jury came into open court at
24 approximately 12:45 p.m.)

25 THE COURT: All right. You may continue.

CONTINUED DIRECT EXAMINATION

BY MS. PARRISH:

Q Investigator Fortner, you just saw the video that we played?

A Yes, ma'am.

Q Did the remainder of that video, essentially, go the same way with Ms. Kyles as far as your asking and her answering of questions?

A It did, yes, ma'am.

Q At any point, did you give her additional information about the crime or details of the crime?

A No. I did not do that.

Q You said after -- you spoke with Janetta Kyles on June 20th; is that correct?

A Yes.

Q Did you speak to Janetta Kyles again at any point during this investigation?

A We did, yes, ma'am.

Q We or you? Sorry.

A I did a little bit, as well as Johnny Brown, who was in here earlier.

Q And when did you next speak with her?

A It would have been about three weeks later, sometime after the 4th of July.

Q Okay.

1 A I had become aware -- her mother had reported her as
2 a missing person. Her mother had last seen her on June
3 27th of 2014. And on July 4th of 2014, she reported her
4 as a missing person.

5 I was, actually, gone on vacation during the week of
6 July 4th. When I got back, I learned all about this. And
7 then a couple days later -- well, we started looking for
8 her. And then a couple days later, we learned she had
9 been found.

10 Q And did you and Investigator Brown speak to her after
11 she was found?

12 A Yes, we did.

13 Q And what was the main purpose of you speaking to her
14 at that time? What information were you hoping to glean?

15 A One, where she was at. We learned, of course, that
16 she was with the Sesters, Mr. and Mrs. Sester, as well as
17 Tony Leamon. And that she told us that when she got
18 dropped off that they were on their way to Texas.

19 Q All right. You said that, also, on June 20th, you
20 spoke to somebody else. Who was that?

21 A Eric Jones.

22 Q And did you see Mr. Jones testify?

23 A I did, yes.

24 Q All right. Where did you speak with Mr. Jones?

25 A At the law enforcement center, the same interview

1 room with Ms. Kyles there. It was right afterwards.

2 Q And did he freely and willingly come down to speak
3 with you?

4 A He did, yes.

5 Q And did Mr. Jones report that he was at the Black and
6 Mild Club on June 13th and 14th?

7 A He did. He was present, yes.

8 Q Did Mr. Jones indicate whether or not he had an
9 ability to view the shooting of Jamal Marion?

10 A He did. He said he was standing at the bar when it
11 happened. He turned around and saw Mr. Leamon.

12 Q All right. And did -- did Mr. Jones know Mr. Leamon
13 by name or nickname?

14 A He knew Mr. Leamon by the name of "Man," which is a
15 name that he went by.

16 Q Okay. And so he knew him by a name of sorts?

17 A Yes.

18 Q All right. Did he -- did you, also, ask him to
19 identify him via a photo lineup?

20 A I did, yes.

21 Q All right. I'm going to show you what's previously
22 been marked as State's Exhibit Nos. 49 and 50. Do you
23 recognize State's Exhibit Nos. 49 and 50?

24 A Yes, ma'am, I do.

25 Q And what are State's Exhibit Nos. 49 and 50?

1 A They're photo lineups just like the ones earlier.
2 One of which has got the names on them, and the other one
3 without the names.

4 Q All right. And which one did you show to Mr. Jones?

5 A It would be the one without the names.

6 Q Are you certain that you did not show him the
7 pictures with the names on it?

8 A Right. I did not show him the one with the names on
9 it.

10 Q And how did you go about showing Mr. Jones those
11 photographs without the names?

12 A Just like with Mr. Boyd, I explained to him I had six
13 pictures for him to look at. They're all on the same
14 sheet of paper. I asked him to look at each one of the
15 photos carefully and not to point to anybody unless he was
16 absolutely sure about his identification. I explained to
17 him that the person who did the shooting may or may not
18 even be in here. So he did not have to feel like he had
19 to point to anybody.

20 And, at that time, I gave it to him upside down and
21 asked him when he was ready to look at it to turn it over.

22 Q So did Mr. Jones turn that piece of paper over
23 himself?

24 A Yes.

25 Q And how long did he view those photographs before

1 making an identification?

2 A A few seconds. I mean, long enough to look at each
3 photo.

4 Q Similar to Mr. Boyd?

5 A I'm sorry?

6 Q Similar to Mr. Boyd?

7 A Yes.

8 Q Did Mr. Jones hesitate in any way prior to marking
9 the man that he saw at the Black and Mild Club on June
10 14th?

11 A He did not, no.

12 MS. PARRISH: Your Honor, at this time, the State
13 wishes to admit State's Exhibit Nos. 49 and 50 into
14 evidence.

15 MR. ROBINSON: No objection.

16 THE COURT: They're admitted.

17 (WHEREUPON, State's Exhibit Nos. 49 and 50 were
18 admitted into evidence.)

19 BY MS. PARRISH:

20 Q Did Mr. Jones hesitate in any way prior to circling
21 someone?

22 A No, he did not.

23 Q Did Mr. Jones provide you information that he had a
24 sufficient opportunity to review what he reported he saw?

25 A Yes. I mean, he explained to me that he was standing

1 right at the bar where this takes place at. That when the
2 gunshot goes off, it was such close proximity to him that
3 he could, actually, see the muzzle flash and that it went
4 past him, and that he, actually, felt the muzzle flash.
5 And then when he turns around, he sees the victim laying
6 on the floor and Mr. Leamon standing over him with the
7 gun.

8 Q All right. At this point, how many people had you
9 spoken to regarding the events at the Black and Mild Club?

10 A That I've spoke to, at this point, would be the
11 three, Mr. Boyd, Ms. Kyles, and then Mr. Jones.

12 Q Were you present for Sergeant Hamilton's testimony
13 about all the collection of evidence at the club?

14 A Yes, I was.

15 Q Now, whose decision is it to -- or whose decision is
16 it about what to test, ultimately?

17 A Ultimately, to test items, it would be mine.

18 Q All right. And what, if any, items did you choose to
19 test in this case?

20 A We had the projectile tested to see what caliber
21 projectile it was. And there was some blood spatter
22 collected from one of the other witnesses. I believe it
23 was Mr. Harris, Demetrius Harris. We got some blood off
24 his shirt and we tested that.

25 Q All right. Now, there were a number of cups,

1 bottles, things like that collected; is that correct?

2 A Yes.

3 Q Were any of those tested?

4 A No. We did not test any of those.

5 Q Why did you decide not to test those?

6 A The night of the incident -- I asked Sergeant
7 Hamilton, who testified, that night, I asked him to
8 collect the cans and cups sitting on the tables. And he
9 kind of looked at me like there were a lot of them. And I
10 explained to him, at that point in time, all we had was
11 four witnesses. And the information I was getting from
12 Investigator Hoover and Master Deputy Sexton, who was down
13 at the law enforcement center talking to these people, was
14 that they didn't really see a whole lot.

15 So I was beginning to get a little concerned about
16 what kind of witnesses we were going to have. So I wanted
17 to get those cups and cans collected so maybe we could do
18 latent processing on them to see if we could identify some
19 of the other witnesses that may have been there at the
20 time.

21 During the course of the investigation, we started
22 developing several witnesses, witnesses that, in
23 particular, were right there near where the shooting takes
24 place at. And, because of that, I elected not to have
25 these items processed. Because it's a very tedious

1 process to do the fingerprint latent recovery of it, and
2 then to have these prints compared to try to match them to
3 somebody.

4 Q All right. Did you, as part of your investigation,
5 also, interview the sisters, Enjoli Henderson, Yasheeki
6 Harper, and Yolanda Harper?

7 A I did, yes.

8 Q Where did you meet with them?

9 A At the law enforcement center.

10 Q I'm going to show you what's been marked as State's
11 Exhibit Nos. 55 and 56. Can you tell me if you can
12 identify those two exhibits?

13 A It's another photo lineup, one of which has got the
14 names of the two people in the photos, and the other one
15 without the names.

16 Q Can you tell me who it was that you showed that photo
17 lineup to?

18 A This one probably was -- must be Enjoli Henderson.
19 Because it's got her name signed across the back of it, as
20 well as her initials on the front.

21 Q All right. And, again, with the process for Enjoli
22 Henderson, was it similar to that of the other two
23 witnesses you showed a photo lineup to?

24 A Exactly the same way, yes, ma'am.

25 Q All right. And how long do you recall Ms. Henderson

1 looking at the photographs before being able to make an
2 identification?

3 A Again, just long enough to look at each one of the
4 photos carefully. I mean, it did not take an extended
5 period of time. I mean, she didn't just flip it over and
6 immediately point to a photo.

7 Q Where did Ms. Henderson -- Enjoli Henderson report
8 that she was at the time of the shooting?

9 A Enjoli, if I remember correctly, she was the one that
10 was in the -- seated in the red curved bench that's on the
11 main floor area.

12 Q Did Ms. Henderson -- did -- Ms. Enjoli Henderson, did
13 she know the man she saw shoot Jamal either by name or
14 description?

15 A Let me see here.

16 Yes. She was the one that knew Leamon for several
17 years, as well as the victim, Jamal. She knew him, too,
18 as well.

19 Q And did you -- did Ms. Henderson report that she had
20 a sufficient opportunity and ability to view what happened
21 that night?

22 A Yes, she did. And, plus, on top of that, she was
23 very familiar with Mr. Leamon.

24 MS. PARRISH: Your Honor, at this time, State's
25 Exhibit No. 56 is already in evidence. But the State

1 would seek to admit State's Exhibit No. 55.

2 MR. ROBINSON: No objection.

3 THE COURT: It's admitted.

4 (WHEREUPON, State's Exhibit No. 55. was admitted into
5 evidence.)

6 BY MS. PARRISH:

7 Q Did you, also, speak to Ms. Yasheeki Harper in this
8 case?

9 A I did, yes.

10 Q She is the sister of Ms. Henderson?

11 A Yes.

12 Q Did you speak with them together or separately?

13 A Separately.

14 Q And I'm going to show you what's been marked as
15 State's Exhibit No. 52, and what's already been admitted
16 as State's Exhibit No. 53. Do you recognize those two
17 collections of photographs?

18 A I do. It's another photo lineup containing
19 Mr. Leamon.

20 Q And to whom did you show that photo lineup?

21 A All right. This one went with Yasheeki Harper.

22 Q And the process for Yasheeki Harper's identification,
23 how was that?

24 A The same way as the others. I explained that we have
25 six photos on a single sheet of paper, and that I want her

1 to look at each one of the photos carefully before
2 pointing out anybody. And I explained to her that the
3 person responsible for the shooting may or may not be in
4 here, so she did not feel like she had to point to
5 anybody.

6 Q Did Ms. Harper report where she was when this event
7 happened?

8 A Ms. Harper, I believe, she was standing right there
9 near the bar when it happened. Yeah, she was standing
10 right at the bar with -- with the victim when this
11 happened. And she said that when she turned around, she
12 heard the gunshot and she sees Mr. Leamon -- or, actually,
13 I guess she sees Mr. Leamon approach the victim with his
14 hand outstretched and then the gunshot goes off.

15 Q All right. And did Yasheeki Harper provide
16 sufficient details that made you comfortable she would
17 have had an accurate opportunity to view what happened?

18 MR. ROBINSON: Your Honor, objection. Leading.

19 THE COURT: Sustained.

20 BY MS. PARRISH:

21 Q Based on Ms. Harper's report of where she was, do you
22 believe she would have had a chance to see what happened?

23 MR. ROBINSON: Objection, Your Honor. Speculation.

24 THE COURT: Sustained.

25 MS. PARRISH: Your Honor, at this time, the State

1 wishes to put State's Exhibit No. 52 into evidence.

2 State's Exhibit No. 53 has already been admitted.

3 MR. ROBINSON: No objection.

4 THE COURT: It's admitted.

5 (WHEREUPON, State's Exhibit No. 52 was admitted into
6 evidence.)

7 BY MS. PARRISH:

8 Q In addition to the Harper and Henderson sisters, what
9 other witnesses did you speak to regarding the event at
10 the Black and Mild Club, or potential witnesses?

11 A I spoke to the bartender, Alisha Taylor. She went by
12 "Nikki." And I, also, spoke to Yolanda Harper.

13 Q All right. Did Ms. Harper report that she was able
14 to see what happened?

15 A Yes.

16 Q Yolanda Harper?

17 A Oh, I'm sorry. No, not Yolanda. She was coming down
18 the stairs from upstairs. No. She did not see what
19 happened.

20 Q What about Ms. Taylor?

21 A Yes, Ms. Taylor did.

22 Q And tell me where Ms. Taylor reported she was when
23 this event happened.

24 A Ms. Taylor was the bartender --

25 MR. ROBINSON: Your Honor, objection. Hearsay.

1 THE COURT: This is which witness?

2 MS. PARRISH: This is the bartender, Ms. Taylor,
3 who's testified.

4 THE COURT: Okay. I overrule the objection.

5 THE WITNESS: Ms. Taylor was the bartender. She was
6 standing behind the bar, the counter. She was getting
7 ready to count her tips from the night.

8 BY MS. PARRISH:

9 Q And, based on that, did you believe she would have
10 had an opportunity to see what happened?

11 A Yes.

12 Q And where did you speak to Ms. Taylor?

13 A I, actually, spoke with her at her house. She had
14 transportation issues, so I agreed to meet her at her
15 residence.

16 Q I'm showing you what's already been admitted as
17 State's Exhibit No. 58 and what has been marked as State's
18 Exhibit No. 57. Do you recognize those two exhibits?

19 A I do. Again, it's photo lineups containing
20 Mr. Leamon.

21 Q And to whom did you show those photo lineups?

22 A This here went to Alisha Taylor.

23 Q Which one?

24 A The one without the names, or anything on it.

25 Q Did Ms. Taylor know the Defendant by name?

1 A No. I don't believe so, no.

2 Q Did she state whether she recognized him or had seen
3 him previously?

4 A I think she mentioned that she had seen him around
5 the club a time or two, but that's about it.

6 Q How long did Ms. Taylor review those photographs
7 before being able to make an identification?

8 A Again, just long enough to look at the photos. It
9 did not take her an extended period of time, nor did she
10 just flip it right over and immediately point to a photo.

11 MS. PARRISH: Your Honor, at this time, the State
12 wishes to admit State's Exhibit No. 57 into evidence.

13 MR. ROBINSON: No objection.

14 THE COURT: It's admitted.

15 (WHEREUPON, State's Exhibit No. 57 was admitted into
16 evidence.)

17 THE COURT: Is this a convenient time to break?

18 MS. PARRISH: Yes, sir, Your Honor.

19 THE COURT: We're going to break for lunch. Keep in
20 mind, no discussions, no research, no investigation, no
21 media exposure.

22 Have a good lunch. Please report to the jury room at
23 2:30 this afternoon.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 1:00 p.m.)

1 THE COURT: Can y'all review the redacted video
2 during lunch?

3 MS. PARRISH: Yes, sir, Your Honor.

4 Ms. Hendricks, also, was reviewing our redaction.
5 And it was listed on redirect that --

6 THE COURT: Well, just review it. We'll discuss it
7 after lunch.

8 MS. PARRISH: Okay.

9 THE COURT: Court is in recess until 2:30.

10 You can step down. Don't discuss your testimony
11 during the break.

12 THE WITNESS: Yes, sir.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: All right. Did y'all get it sorted out?

15 MS. PARRISH: Well, Your Honor --

16 THE COURT: Maybe not?

17 MS. PARRISH: We've not had the chance to discuss
18 much. I did tell Mr. Robinson that while reviewing the
19 redaction, there was another sentence I wanted to
20 redact -- or two sentences at the very end. And so I have
21 redone that to meet those.

22 But I think Mr. Robinson had additional things he was
23 not satisfied with.

24 THE COURT: Did it relate to Ms. Kyles' testimony?

25 MR. ROBINSON: It did, Your Honor.

1 THE COURT: It relates to a statement made by
2 Ms. Kyles?

3 And is she available?

4 MS. PARRISH: Yes, Your Honor. She's outside.

5 THE COURT: Okay. So she can be recalled?

6 MR. ROBINSON: Yes, sir.

7 THE COURT: Will that resolve the issue?

8 MR. ROBINSON: It will.

9 THE COURT: Okay. Good.

10 All right. Bring the jury in.

11 MS. PARRISH: Should Investigator Fortner resume the
12 stand?

13 THE COURT: We'll do it when they get in.

14 MS. PARRISH: Yes, sir.

15 (WHEREUPON, the jury came into open court at
16 approximately 2:36 p.m.)

17 THE COURT: Good afternoon, ladies and gentlemen.

18 As you know, when we recessed for lunch, Mr. Fortner
19 was on the witness stand. So we're going to continue with
20 the direct examination of Mr. Fortner by the Prosecution.

21 Mr. Fortner, if you will resume your seat on the
22 stand.

23 You're still under oath, of course.

24 (WHEREUPON, Michael Fortner resumed the witness
25 stand.)

CONTINUED DIRECT EXAMINATION

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BY MS. PARRISH:

Q Investigator Fortner, you had just discussed all the witnesses who provided photographic identification of the Defendant; is that correct?

A Yes, ma'am.

Q In addition to those witnesses that came forward and that we heard from in trial, were there additional people that you spoke to about this case?

A There are, yes, ma'am.

Q Were there additional people that you attempted to speak to about this case?

A Yes.

Q As an investigator with the sheriff's office, is there a mechanism by which you can force people to speak to you?

A No, we cannot. No, ma'am.

Q Did you encounter people that would not cooperate in this investigation?

A Yes, we did.

Q Did you encounter people that could not -- pardon me. Strike that question.

Were there people that you spoke to that would be unable to testify today?

A Yes.

1 Q And for what reason would some of those people be
2 unavailable to testify today?

3 A Deceased.

4 Q All right. Do you recall how many people you spoke
5 to or learned were there that night that have passed away
6 since this incident?

7 A At least one that I'm aware of.

8 Q Is it possible there were more?

9 A Yes.

10 Q Okay. Did you attempt to speak to the owner, or
11 whoever you learned was the owner/manager of the Black and
12 Mild Club?

13 A I did, yes.

14 Q What was that person's name -- purported to you that
15 name?

16 A Bernard Sullivan, maybe. I'm not sure about the last
17 name.

18 Q All right. And what success did you have attempting
19 to speak to him?

20 A Not very much at first. At first, we didn't know
21 exactly what his full name was. But, eventually, we
22 figured it out. And he said he did not see anything.

23 MR. ROBINSON: Objection, Your Honor. Hearsay.

24 MS. PARRISH: I can rephrase so it's more clear.

25 THE COURT: Okay.

1 BY MS. PARRISH:

2 Q Without telling us what he told you, was he
3 cooperative initially?

4 A Only from the standpoint of that he did talk to me,
5 yes.

6 Q How long did it take you to locate this individual?

7 A I just recently spoke with him.

8 Q Okay. Did you try to determine who the security
9 guards were that night?

10 A We did. But they, also, were not on scene when the
11 responding deputies arrived on scene.

12 Q Were any other witnesses able to identify them by
13 name?

14 A No.

15 Q Okay. Were witnesses that you spoke to helpful in
16 aiding you to find additional witnesses?

17 A Yes.

18 Q All right. Was everyone cooperative and helped you
19 find other witnesses?

20 A No.

21 MS. PARRISH: All right. I don't have any other
22 questions. Please answer any questions Mr. Robinson might
23 have.

24 THE WITNESS: Yes, ma'am.

25 MR. ROBINSON: May it please the Court.

CROSS-EXAMINATION

BY MR. ROBINSON:

Q Officer Fortner, I appreciate you being here today.

A Yes, sir.

Thank you.

Q Now, when you got to the club that day -- or that morning, excuse me, you would admit that in your report -- and I think you've got a copy of your report there, don't you?

A Yes, sir.

Q And I'd ask you to look at -- it's Page 6, I believe, of 26, or something like that.

A Page 6 of 16, maybe?

Q I think it's 6 of -- it's where you make a statement regarding how dark it is. I think what -- I think you would agree with me that you say in your report that it was so dark that you had to call the fire department to get a tripod light; is that correct?

A We did ask for a light from the fire department, yes, sir.

Q All right. And you would describe it as being very dark; right?

A It was dark, dim, yes, sir.

Q Dark. Okay. And I think you said as well that all the windows in the downstairs were all painted over, or

1 covered; is that right?

2 A That is correct, yes.

3 Q Okay. And as far as the lighting in this place -- in
4 the Black and Mild Club, you would agree that the only
5 lights that were available or shown were over the bar and
6 over the pool tables; is that right?

7 A I don't know if I would agree with that. Definitely,
8 the area where the pool hall -- or pool tables and the bar
9 area were at was the best lit area of the club, yes, sir.
10 But I believe there was still some other lighting
11 throughout the bar.

12 Q Well, tell me where there was other lighting, if you
13 can tell me. Because I think in your report, you only
14 mention two lights, and that would be above the pool
15 tables and above the bar.

16 A I don't remember ever specifying where the lights
17 were at.

18 Q Well, look in your report.

19 A The only thing I'm seeing in my report regarding the
20 lighting is just where I called the fire department at
21 Sergeant Hamilton's request to get some lighting for the
22 processing, because it was kind of dark inside.

23 Q Okay.

24 A I don't see anything where I specified anything about
25 the location of the lights.

1 Q But you would agree with me -- you could advise the
2 jury it was very dark; is that right?

3 A Not so dark that you can't see. But, yes, it was
4 definitely darker than it is in here..

5 Q Well, you know -- I mean, so you called the fire
6 department to get a tripod light and it was still lit. It
7 was good lighting at that point. So did you think of that
8 as being a problem with that -- maybe for the fire
9 department?

10 A Again, we were looking for small evidence, shell
11 casings, projectiles, blood spatter. And if it wasn't for
12 the fact that the place was so large, we'd probably just
13 use flashlights to look around inside. But with the fact
14 that the place was as big as it was, it was better off to
15 use a larger lighting apparatus, such as a tripod light
16 that they had.

17 Q And the big place that you're talking about is the
18 same place we're all looking at, which is the length of
19 57 feet, nine inches, and 28.5 inches; is that right?

20 A That's correct.

21 Q Now, you heard testimony yesterday from Yolanda
22 Harper. Do you remember her?

23 A Yes.

24 Q She was the one that was a bartender. And I think
25 she may have testified that she was upstairs at the time.

1 She was doing some cleaning. She came downstairs and she
2 peeked out the window. Do you remember that?

3 A Right. Yes, sir.

4 Q Can I show you what's been marked State's Exhibit No.
5 23, and show you the door that she's speaking of? And
6 that would be -- show the jury what door this is, where
7 this door is. If you don't mind stepping down.

8 A Probably -- I'm trying to find where the stairs is
9 at. The stairs was somewhere along in here somewhere.

10 Q Okay.

11 A It's not marked on here, but somewhere along in here.

12 Q And you would recognize this door if you were shown a
13 picture; is that correct?

14 A Yes, sir.

15 Q I'm going to let you look at what's been marked
16 State's Exhibit No. 23.

17 MR. ROBINSON: Approach the witness, Your Honor.

18 BY MR. ROBINSON:

19 Q Is this a picture of the door?

20 A Yes, sir. That would be it.

21 Q Okay. That's already in evidence, so I'll put this
22 back over here. Now, as far as the bar goes -- as far as
23 the actual bar that you saw, how big do you think this bar
24 was?

25 A Are you talking about the actual bar where the --

1 Q Yeah.

2 A -- servers were at?

3 Q When you first go in, you see a dance floor on your
4 left; right?

5 A Yeah.

6 Q DJ booth to your right; right?

7 A Correct.

8 Q Okay. And then up a ways maybe 20 feet -- do you
9 think -- estimate 20 feet up you see the bar; is that
10 right?

11 A Yes, sir.

12 Q As far as the bar itself, where is the cash register
13 on the bar, if you can tell me?

14 A Just off the top of my head, I want to say it was
15 kind of like right there in that little corner area.

16 Do you want me to get up and point to it?

17 Q It's against the wall, isn't it?

18 A It could be. I don't know. I don't recall. That's
19 just off the top of my head where it was at. I might be
20 thinking more about where the video cameras or monitor is
21 at.

22 Q Now, if I showed you a picture of the bar itself,
23 would you recognize it?

24 A Yes, sir.

25 MR. ROBINSON: Approach the witness, Your Honor.

1 BY MR. ROBINSON:

2 Q I'm going to let you look at what's been marked as
3 State's Exhibit No. 18. Is that a picture of the bar?

4 I'm going to hand it up to you. Can you tell the
5 jury where the cash register is there on that bar, if
6 that's a good enough picture?

7 A Yeah. I'm not seeing it in this picture.

8 Q Okay. Let's maybe look at another picture. Yeah.
9 Let's look at State's Exhibit No. 17. Is that a better
10 picture?

11 A I'm still not seeing any cash register.

12 Q Okay. So if you're counting tips on this -- at this
13 bar, where are you counting them?

14 MS. PARRISH: Objection, Your Honor. That calls for
15 speculation. Investigator Fortner was not counting tips.

16 THE COURT: Sustained.

17 MR. ROBINSON: I withdraw the question.

18 BY MR. ROBINSON:

19 Q Let me take this back for a minute, Officer Fortner.
20 Officer Fortner, you had an opportunity to inspect
21 this bar; is that correct?

22 A I'm sorry. What was that?

23 Q You had an opportunity to inspect the bar; is that
24 correct? You looked --

25 A Yes, sir.

1 Q You looked at this when you came in?

2 A Yes, sir.

3 Q Behind the bar itself, behind where the people get
4 served; right? There was an area with a cash register;
5 isn't that correct, an area where they could sit down and
6 count their tips --

7 MS. PARRISH: Objection, Your Honor. Asked and
8 answered. The witness has said he does not recall where
9 the cash register was.

10 THE COURT: If he doesn't know where it is --

11 MR. ROBINSON: I withdraw the question, Your Honor.

12 THE COURT: Okay.

13 BY MR. ROBINSON:

14 Q So here's what we have. We have a door leading up to
15 the second floor, which is a solid door, no -- no window?

16 A Correct.

17 Q We have a bar. We have two pool tables and a
18 bathroom; is that right?

19 A Yes, sir.

20 Q In all the -- to your -- when you went inside all
21 the -- all the walls were painted black; is that correct?

22 A Yes, sir, it is. That's correct.

23 Q So it's a pretty dark little place, isn't it?

24 A I mean, it is dark, but you can see, yes, sir.

25 Q When you went in, did you smell any cigarette smell,

1 and things like that?

2 A Yes, sir.

3 Q Pretty pungent, I'd imagine, for a bar?

4 A You can smell cigarette smoke.

5 Q A lot of cigarette smoke, and so forth?

6 A Yes.

7 Q And as far as -- obviously, it's a club. How many
8 bottles or cups do you think you recovered from that
9 scene? Hundreds?

10 A Not hundreds.

11 Q How many?

12 A A hundred maybe.

13 Q A hundred. So that would kind of tell you -- or tell
14 this jury that there were a lot of people in that --
15 downstairs drinking, and so forth; right?

16 A Sure.

17 Q And smoking; correct? In that area -- in that area
18 we're talking about beside the dance floor, but, also, the
19 other area; correct?

20 A Yes, sir.

21 Q Okay. Now, let's talk about -- I want to talk about
22 your actual investigation collecting items at the scene.

23 A Okay.

24 Q Okay. And, specifically, what I'm interested in is
25 the DVR -- or the security system. You would agree with

1 me that the place had a security system; is that correct?

2 A The cameras and --

3 Q Yeah.

4 A -- monitor, yes, sir.

5 Q And when you looked around the scene -- why don't you
6 tell the jury where all the cameras were, if you can say.

7 A I don't really recall where they were at. I just
8 remember seeing them in the corners of the bar.

9 Q And you saw -- let me ask you this. When you got
10 there, did you see where the DVR was?

11 A Yes.

12 Q Was it on or off?

13 A Whether or not the DVR was on or off, I don't know.
14 The monitor was on and the cameras were working.

15 Q So the cameras were working when you got there?

16 A Yes, sir.

17 Q Is that right?

18 A Yes. They were on. And the monitor is showing what
19 the cameras are showing.

20 Q And let me ask you -- let me let you look at State's
21 Exhibit No. 20, this one. This one.

22 A Yes, sir.

23 Q Do you recognize that?

24 A Yes.

25 Q So that's the picture -- now, where would that scene

1 be located?

2 A That was behind the bar and, I want to say, kind of
3 up on a shelf up above the actual bar where you would pass
4 drinks back and forth across.

5 Q Now, tell me this. Now -- and I want you to look at
6 channel three of the -- of the State's Exhibit No. 20.
7 That shows a picture of the crime scene -- or the actual
8 incident, doesn't it?

9 A Yes, sir, it does.

10 Q It does. Now, you were not able to recover the
11 actual incident itself, a tape of what happened. You were
12 not able to recover that tape, or whatever?

13 A That's correct. Hal Harris wasn't. Investigator
14 Harris that we called in to look at the DVR, he was unable
15 to recover any type of recordings from the DVR.

16 Q Now, you heard Officer Harris -- Hal Harris, excuse
17 me --

18 A Yes, sir.

19 Q -- he said -- and this is -- that it's -- it could
20 have been either -- either, not erased, but maliciously
21 tampered with, I guess is the word for it?

22 A That's what he said, yes, sir.

23 Q That's what he said. Okay. So here's the question I
24 have for you. I've got eight -- how many cameras were in
25 there? How many cameras are there, you think?

1 A Four are, actually, playing.

2 Q Four playing?

3 A Yes. And it's got a place for nine. But four are,
4 actually, showing.

5 Q And those are all over -- to your knowledge, all over
6 the Black and Mild Club?

7 A Are you talking about the camera views?

8 Q Uh-huh.

9 A Yes, sir.

10 Q And, to your knowledge -- when you got there, you got
11 the DVR. You followed the proper protocol. And you had
12 it looked at and tested. And they could not get anything
13 off of it, could they?

14 A That's correct. Yes, sir. They could not get
15 anything off of it.

16 Q And so you don't know whether or not someone erased
17 it or destroyed it, do you?

18 A No reason to believe that somebody did, but no, sir,
19 no way to know.

20 Q Well, it -- you've got to look at that exhibit you've
21 got in front of you. You have a working system there that
22 shows the exact place where this incident took place;
23 agreed?

24 A Yes, sir.

25 Q And now -- now, you cannot -- you cannot recover the

1 tape that would show exactly what happened on the morning
2 of June 14th, 2014?

3 A Correct. There was no recording on the DVR.

4 Q Now, before you -- or, actually, when you arrived
5 there, there were four people there; is that right?

6 A Witnesses, yes, sir.

7 Q And they were all let go; is that right?

8 A Well, they came down to the law enforcement center
9 with us to give statements that morning. But, yes, they
10 were allowed to go home.

11 Q And when you got there, you did not interview any of
12 the bartenders, did you?

13 A There were no bartenders still on scene when the
14 uniform patrol guys arrived.

15 Q You did not contact or try to find out who the owner
16 or the manager was, did you?

17 A I did, yes.

18 Q You did. Did you talk to them?

19 A Later on, yes. Days later.

20 Q Days later?

21 A Yes, sir. I was trying to figure out who it was that
22 was -- basically, what had happened is somebody had bought
23 the bar. And they leased it to somebody who turned around
24 and subleased it to somebody else.

25 Q Right. Okay.

1 A And then the Bernard individual who was, actually,
2 working that night, they called him "Nard," we,
3 eventually, figured out who he was --

4 Q Okay.

5 A -- and talked to him.

6 Q So you would agree with me -- you listened to, I
7 believe it was Yolanda Harper yesterday. You would agree
8 the information that you got was that there were three --
9 there were two bartenders working, Nikki Taylor and
10 Yolanda Harper. And there was, also, a Bernard. Is that
11 his name, Bernard?

12 A It's Bernard. He went by "Nard."

13 Q Nard, also, behind the bar doing whatever he was
14 doing. He was like the manager; is that right?

15 A Yes. He was the manager is the way I understood it,
16 yes.

17 Q And, also, there were -- there were security guards
18 at the front, is that what your information has?

19 A That's what we were told, yes.

20 Q And there were some other people in there as well
21 that worked there. One was called, I believe, Fish?

22 A Right. Yes, sir.

23 Q Did you ever interview him?

24 A Yes.

25 Q Okay. And how about -- there was another one called

1 Nard. Is that his name?

2 A Nard, that would be the manager.

3 Q Okay. That's Bernard; right?

4 A That would be Bernard, yes, sir.

5 Q Now, you said you talked to several witnesses, I
6 believe, in this case. You talked to -- there was some
7 dead witnesses as well. You said there was, at least, one
8 dead witness, and so forth?

9 A Yes, sir.

10 Q At some point, you got -- you contacted a witness
11 that gave you some information on what he saw that night,
12 didn't you? That would be a Melvin Yates?

13 A Yes, sir.

14 Q And from the information of Mr. Yates, I think -- I
15 think you had information, at that point, that he was at
16 the bar?

17 A Uh-huh.

18 Q And --

19 MS. PARRISH: Objection, Your Honor. This sounds
20 like Mr. Robinson is citing from Mr. Yates' statement.

21 THE COURT: Sustained.

22 BY MR. ROBINSON:

23 Q Based on Mr. -- based on Mr. Yates -- based on your
24 investigation and your interview of Mr. Yates, did you
25 interview the bartenders and Mr. Bernard?

1 A Bartenders, yes, sir.

2 Q Okay. You never got to interview Mr. Bernard;
3 correct?

4 A Not until just very recently, yes, sir.

5 Q Okay. And you did not get a chance with the
6 bartenders or Bernard to ever take any sort of gun powder
7 residue, or anything like that from them; correct?

8 A That is correct. Yes, sir.

9 Q Okay. Now, you, also, had testimony -- you heard
10 this yesterday from Nikki Taylor that the -- that the
11 victim in this case, he was harassing the bartenders. You
12 know -- there was information of that as well; correct, in
13 your investigation?

14 A That he was being annoying to them, yes, sir.

15 Q He was being annoying?

16 A Yes, sir.

17 Q And he was also pointing fingers at them, and so
18 forth; correct?

19 A Yes, sir.

20 Q Also, I think there was testimony as well that he may
21 have -- that he called a woman at the club -- I don't know
22 if it was a bartender or whether it was one of the other
23 females an expletive, it begins with a "B"?

24 A That's correct. Yes, sir.

25 Q Okay. And you would agree with me that this -- this

1 victim in this case, he was being very -- very aggressive,
2 partying at the bar that night?

3 A He was happy, I guess you could say, jumping around
4 and doing -- being annoying, as most people put it, yes.

5 Q Okay. And let's talk about the -- the -- you had
6 mentioned earlier about the 911 call that was made. Do
7 you remember that?

8 A Yes, sir.

9 Q Now, in your experience -- you've been working for
10 the sheriff's office, and so forth, 20 something years; is
11 that right?

12 A 24 in July, yes, sir.

13 Q And in your experience -- I think you may have said
14 this. But in your experience, 911 calls are traditionally
15 very unreliable, aren't they?

16 A I don't know if I'd say that. I would never run out
17 and sign a warrant on somebody because somebody on a 911
18 call said Joe Blow did it.

19 Q And the reason for that is because sometimes they
20 either make it up or they're -- they just don't know?

21 A It could be, certainly.

22 Q Okay. Now, in terms of the crowd itself as far as
23 when your investigation took place -- okay. Now, several
24 people said that there were -- this was the testimony from
25 the different people yesterday. They said that the crowd

1 may have been from 50 to 200 people?

2 A 200, yes, sir.

3 Q And in your estimation -- in your estimation, this is
4 a layperson -- what -- how many people do you think there
5 were there on the bottom floor of this place?

6 MS. PARRISH: Objection, Your Honor. That calls for
7 speculation. Mr. Fortner would not --

8 THE COURT: Sustained.

9 MR. ROBINSON: Okay.

10 BY MR. ROBINSON:

11 Q But you would agree it was, at least, between 50 to
12 200 people at this bar?

13 A Based on the witnesses, yes, sir.

14 MR. ROBINSON: I beg the Court's indulgence.

15 (Pause.)

16 BY MR. ROBINSON:

17 Q Now, when you went around and you were looking at the
18 floor of this place -- there's a picture of the victim's
19 blood, of course. But there's, also, a picture of some
20 water that's coming out near the victim's blood. Do you
21 recall that? Do you recall that water?

22 A No, sir.

23 Q Can I approach you with an exhibit, which is State's
24 Exhibit No. 5?

25 A Yes, sir.

1 Q Do you see the -- look at the victim's head. Do you
2 see the blood?

3 A Right.

4 Q Look at the -- the substance past that, doesn't it
5 look like water?

6 A Right along in here?

7 Q Yeah.

8 A It looks like water. I am not a doctor.

9 Q Sure. But it looks like water to you?

10 A When blood lays on the ground for a while, it
11 separates. And that could be part of the blood. But I'm
12 not a doctor, so I couldn't --

13 Q So you don't really know, but it could be water?

14 A It could be.

15 Q And you, also, found at the scene a mop; is that
16 correct? A mop and a mop bucket; is that right?

17 A I don't recall. I'm not saying there wasn't one
18 there, but I don't remember one.

19 Q Did you notice in your report, as the investigator,
20 that the trash cans inside, like the -- like the trash
21 bags, they were all cleaned up and everything was cleaned
22 up? Do you see that?

23 A I do remember there being some garbage bags laying
24 around just like there were outside, yes.

25 Q Did you search those garbage bags?

1 A We did not, no.

2 Q You didn't search --

3 A Not the ones inside, no, sir.

4 Q Okay. Now, since you didn't search that -- those
5 garbage -- whatever they are, you, also, didn't -- now,
6 you listened to Mr. Boyd that testified yesterday. Do you
7 remember him, Mr. Boyd?

8 A Yes.

9 Q Now, he made a statement about his clothes, that he
10 was so close to the victim that he grabbed him and got
11 blood on him from the victim. Do you remember that?

12 A Yes, sir, I do.

13 Q Then he made a statement to you -- or said that his
14 clothes had gotten blood on them from the victim. Do you
15 remember that?

16 A Yes, I do.

17 Q And, in fact, those clothes did not have the victim's
18 blood on them, did they?

19 A I don't know. I don't believe we ever had the blood
20 on his clothes examined to determine if it was his blood
21 or blood of the victim's.

22 Q Well, but wouldn't that help you in terms of
23 credibility, though? Because if it's not the victim's
24 blood and he's telling you that that's the victim's blood
25 and it's not, doesn't that kind of make you kind of pause

1 as far as his credibility and that he may not be telling
2 the truth?

3 A No, sir. Based -- since we had numerous witnesses
4 that were all, basically, telling the same story, I guess
5 you could say, scenario about what it was that took place,
6 no, sir.

7 Q Well, no. You're not correct in terms of telling the
8 same story about what happened. All these witnesses that
9 you talked to have a different place as far as where they
10 were, and so forth. Mr. Boyd, you didn't -- you didn't --
11 you can't tell this jury that you tested these things to
12 make sure that his pants or clothes had blood on them.

13 So, you know, you can't -- they didn't all have the
14 same exact story. You would agree with that?

15 A Well, not the exact story, no. But I would say
16 everybody had a different angle about what it was that
17 took place.

18 Q Correct, correct. And some of the witnesses,
19 actually, that when you talked to -- you talked to like
20 Mr. -- what's his name? Eric Jones?

21 A Jones.

22 Q Do you remember him?

23 A Yes, sir.

24 Q He said that he was in the far corner of the bar, it
25 looks like going to go to the bathroom. He heard a shot.

1 And then all the sudden, he moved -- now, how many feet --
2 if you can tell this jury, how many feet is it from A,
3 which is the back of that bar, to where the victim was?
4 How many feet do you think that was?

5 A I would say that would be 30 to 40 feet.

6 Q 30 to 40 feet?

7 A Somewhere along in there, yes.

8 Q So he went 30 to 40 feet in a very small period of
9 time after he saw this -- after he saw this -- or heard
10 this shot. All of the sudden, he gets to see, Oh,
11 Mr. Leamon shot the guy?

12 A I -- if I remember correctly, Mr. Jones was standing
13 by the bar when Jamal got shot.

14 Q You heard -- you were here yesterday listening to the
15 testimony. He said he was in the corner of that bar when
16 the shot rang out.

17 A I -- the way I understood what he was saying was that
18 Mr. Leamon was in the corner of the bar. And then
19 Mr. Leamon made his way towards the victim.

20 Q Oh, I'm sorry. So I guess it was Mr. Leamon who had
21 his -- had his running shoes on that ran as fast as he
22 could to get up there to shoot the victim in this case?
23 To go 40 feet and -- don't you think it's kind of amazing
24 that Mr. Jones hears a shot and he sees -- minutes ago --

25 MS. PARRISH: Objection, Your Honor. Is there a

1 question?

2 MR. ROBINSON: I'm getting to that, Your Honor. It's
3 cross-examination. I'm getting to a question.

4 THE COURT: Go ahead.

5 BY MR. ROBINSON:

6 Q He's -- let's see, 40 feet away is from you to where?
7 To that side of that jury-box?

8 A It's probably further away than that.

9 Q To the person in yellow -- I can't -- I'm color
10 blind, so the guy in green or yellow?

11 A It was probably further than the wall, a little
12 further.

13 Q So he sees Mr. Leamon back there when the shot goes
14 off. And all of a sudden, miraculously, he goes from
15 40 feet away to right next to him. Now, isn't that --
16 that's kind of odd, don't you think? Don't you think it's
17 kind of like a Herculean run to get there that fast?

18 A I'm not sure if I understand. Mr. Jones was standing
19 by the bar. The way I understand what he's saying is he
20 sees Mr. Leamon in the corner at some point in time.

21 Q He's over there?

22 A Over there.

23 Q Got you.

24 A And then Mr. Jones is going about doing whatever he's
25 doing. And then he hears the gunshot. And when he turns

1 around, there's Mr. Leamon standing right there at the
2 bar. I don't think he's saying Mr. Leamon shot the victim
3 from the corner of the bar.

4 Q Oh, I -- that's not what I'm saying. What I'm saying
5 is he sees him over there. And then almost
6 instantaneously, he's right next to him at the bar.
7 That's what I'm saying.

8 A Yeah. I didn't take it that way.

9 Q But you don't know?

10 A Well, I mean, I wasn't there.

11 Q And in terms of -- you say these stories are all
12 alike. Well, you know, Yolanda Harper didn't see
13 anything. She saw -- you saw the door that -- that I
14 showed you is the exhibit there. She didn't see anything.

15 Yasheeki Harper, she didn't see the shooting, but she
16 said that he was pointing with his hand. That's one
17 story. And she was sitting with her sister, Enjoli, over
18 in the red couch next to the DJ booth. And she allegedly
19 supposedly saw it at some point. Somebody saw it from
20 there. I think Enjoli is the one that said she saw it
21 from there.

22 Now, since we've established that there were like a
23 hundred cups in that downstairs that you recovered that
24 night, it appears that there were a lot of people -- based
25 on what you testified to a moment ago, there were a lot of

1 people between Enjoli Henderson and the bar itself,
2 doesn't [sic] it?

3 A It could have been. I don't know. Some of them,
4 certainly, were probably seated.

5 Q But you would agree that you recovered all of those
6 cups from all that -- a lot of them were from that area
7 right there, weren't they?

8 A Yes, sir.

9 Q Let me show you the area I'm talking about. I want
10 to make sure you all can see. This is the area right
11 here; right?

12 A Yes, sir. That's where the majority of the cups were
13 probably -- the tables that were about in that area there,
14 yes.

15 Q Okay. And you would agree that there was smoking
16 going on, and so forth, in there? Smoking?

17 A I'm sure there was, yes, sir. I mean, I wasn't there
18 when it was all going on, but...

19 Q And, as you said before, there was smoking going on
20 at the bar; is that right? Smoking going on in this
21 place?

22 A Yeah. I'm sure there was.

23 Q Now, when you talked to security at some point -- you
24 talked -- at some point, you talked to someone. And I
25 believe it was either -- I think it was Yolanda Harper or

1 Nikki Taylor told you that the victim had been put out for
2 being rowdy; is that correct?

3 A That is correct, yes, sir.

4 Q Which person told you that? Which bartender or
5 person told you that? Was it one of the three sisters?
6 Do you remember?

7 A Well, for one, Mr. Boyd did, Darrion Boyd. I know
8 for sure he did.

9 Q Okay.

10 A Yeah. I want to say it was Enjoli that brought that
11 up.

12 Q Okay.

13 A But that's just off the top of my head. I'm not a
14 hundred percent sure.

15 Q Okay. And I think Mr. -- I think one of the
16 witnesses told you as well -- or testified that the
17 security guards that were -- there was, at least, one
18 security guard outside checking people. You agree with
19 that; is that correct?

20 A According to the witnesses, yes.

21 Q According to the witnesses. And I think there was --
22 I think Boyd said two at the door and one inside; is that
23 accurate?

24 A I remember him saying something about two at the
25 door.

1 Q Two at the door. And I think Eric Jones -- I think
2 his name is Eric Jones. I think he said he was patted
3 down. They were patting people down before people got in.
4 And if they had anything on them, he would send them back
5 to their car; is that right?

6 A Yes, sir. That's correct.

7 MR. ROBINSON: Okay. That's all I have.

8 Thank you, Officer.

9 MS. PARRISH: Brief redirect.

10 REDIRECT EXAMINATION

11 BY MS. PARRISH:

12 Q Investigator Fortner, can you show us where your
13 understanding of where Mr. Jones said he was is? Can you
14 get down and point to it?

15 A Mr. Jones was saying that he was right here, you
16 know. That the bartenders would be back here. And
17 Mr. Jones was right here in this area right here.

18 Q And did he tell you Mr. Leamon was in the far corner
19 A, or the corner near the restroom?

20 A Over by the bathrooms.

21 Q All right. And would you say -- I guess what would
22 be your approximate distance if the entire bar is
23 57.9 feet long, the approximate distance between the
24 corner where the bathroom is and where the victim is?

25 A I would say probably somewhere between 28 to 29 feet.

1 It's about halfway.

2 Q Okay. You may have a seat..

3 A (Witness complied.)

4 Q You, also, looked at State's Exhibit No. 23.

5 MS. PARRISH: I need the rest of the pictures.

6 MR. ROBINSON: Sure.

7 BY MS. PARRISH:

8 Q Let me ask you this first. Do you recall anything
9 about the stairwell area?

10 A It's very narrow and steep.

11 Q Okay. Is there one door, or are there multiple
12 doors?

13 A Off the top of my head, I don't recall if there's
14 more than one.

15 Q So I'm going to show you State's Exhibit No. 23,
16 which Mr. Robinson showed you. And then I'm going to show
17 you State's Exhibit Nos. 5, and 18, and 22. Looking at
18 all those photographs, how many doors do you see in that
19 stairwell area?

20 A At least, two, possibly three.

21 Q Do any of those doors have windows in them?

22 A One of them does, yes, ma'am.

23 Q And which door is that?

24 A The one that leads directly out to the floor area.

25 Q Okay. Thank you.

1 And so that's depicted in State's Exhibit No. 22.

2 Any others?

3 A This one as well is State's Exhibit No. 18.

4 Q State's Exhibit No. 18?

5 A Yeah.

6 Q And State's Exhibit No. 5. Okay. Mr. Robinson asked
7 you about a man you spoke to named Melvin Yates?

8 A Yes.

9 Q Is Mr. Yates available to testify?

10 A No, he is not.

11 Q Based on Mr. Yates' statement, did you feel the need
12 to perform any additional tests on any additional
13 witnesses?

14 A No.

15 MS. PARRISH: That's all, Your Honor.

16 MR. ROBINSON: I have some recross, Your Honor.

17 RECROSS-EXAMINATION

18 BY MR. ROBINSON:

19 Q But when you talked to Mr. Yates, he had a totally
20 different story than what these other witnesses talked
21 about, didn't he?

22 A No, sir.

23 Q Looking at your report -- what we're looking for is
24 going to be Page 10 of 16. That's where you spoke to
25 Mr. Yates.

1 A Okay.

2 Q Okay. And in the statement that Mr. Yates gave you,
3 that's a different statement than the statement that these
4 other witnesses gave you, isn't it?

5 A I'm not really understanding the question. I mean,
6 it's pretty consistent with everybody else's statement as
7 far as the way the victim was acting that night and
8 hearing the gunshot.

9 Q Well, but he had a different -- from that -- from
10 your interview, which is --

11 MS. PARRISH: Objection, Your Honor. We can't really
12 get into the substance of Mr. Yates' statement.

13 THE COURT: Sustained.

14 BY MR. ROBINSON:

15 Q So it's your -- it's your statement to this jury
16 that -- that that statement -- and I'm looking,
17 specifically, at Page 10 of 16, that that's almost
18 identical to the other witnesses' statements?

19 A I mean, it's not identical. Because, I mean, he saw
20 things the way he saw it. I mean, I'm not sure I'm
21 understanding the question exactly.

22 Q The question is just, is it different or is it the
23 same? That's the question.

24 A His statement is consistent with the other statements
25 that we got.

1 MR. ROBINSON: Your Honor, may we approach?

2 THE COURT: For what reason?

3 MR. ROBINSON: I can ask the Court outside the
4 presence of the jury, Judge.

5 THE COURT: Okay. Let me ask the jury to, please, go
6 to your jury room.

7 Don't discuss the case. And I'll bring you back out
8 in just a few minutes.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 3:17 p.m.)

11 THE COURT: Okay. Mr. Robinson.

12 MR. ROBINSON: May it please the Court.

13 Your Honor, Ms. Parrish kind of pursued him on this
14 Melvin Yates person in terms of what Melvin Yates said in
15 his statement. This statement of Melvin Yates is
16 dramatically different than the statement that the other
17 folks made. And this officer is saying it's consistent
18 with that.

19 And that's my biggest issue right now. I'm having an
20 issue with that. I know the witness is unavailable and
21 it's testimonial, and so forth. But I would like the
22 opportunity to -- as Ms. Parrish kind of opened the door a
23 little bit on Mr. Yates, I'd like the opportunity just to
24 ask him what Mr. Yates said.

25 THE COURT: Well, she didn't bring up Mr. Yates, you

1 did.

2 MS. PARRISH: And may I reply?

3 I would say, Your Honor, Mr. Robinson pursued a line
4 of questioning involving Mr. Yates' statement. He asked
5 about what Mr. Yates told the bartenders. And he,
6 specifically, asked Investigator Fortner if he conducted
7 gunshot residue tests or attempted to after speaking to
8 Mr. Yates.

9 I merely clarified, you know, after speaking to
10 Mr. Yates, did you feel you needed to conduct those tests?
11 It was one question that Mr. Robinson elicited on
12 direct [sic]. If he wants to get in Mr. Yates's statement
13 and wants to start getting into what his statement --
14 that's a different issue. But I believe the witness has
15 answered his question that it was consistent with all the
16 other --

17 THE COURT: Well, I'm sure it's a different issue.
18 Are you wanting him to get into it?

19 MS. PARRISH: Not unless we're going to admit all the
20 witness statements so that the jury can decide for
21 themselves whether they're consistent or not.

22 THE COURT: All of the witness statements. Well, I
23 don't know what other statements we have, and y'all do.
24 But most of the witnesses, I assume, have testified that
25 gave statements.

1 MS. PARRISH: Yes, Your Honor.

2 If we were to start getting into the substance of
3 their actual statements and asking that the jury to
4 determine whether Mr. Fortner was being forthright that
5 they were consistent, I believe that the actual substance
6 of all the witnesses' statements that have testified
7 would, also, be admissible.

8 THE COURT: Well, I'm not suggesting they would not
9 be. But my question to you is, are you wanting to go
10 there?

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

12 THE COURT: All right. Mr. Robinson.

13 MR. ROBINSON: Well, I'm sure wanting to go there,
14 Judge.

15 THE COURT: Well, I understand --

16 MR. ROBINSON: It's crucial. And that's why I was
17 surprised with his answer. I was extremely surprised with
18 the answer.

19 THE COURT: Well, he answered your question based on
20 his opinion. And that's what it is, it's his opinion.

21 MR. ROBINSON: Yes, sir.

22 THE COURT: You can agree with it or disagree with
23 it. You asked him his opinion and he gave it.

24 MR. ROBINSON: Yes, sir.

25 THE COURT: The fact that you don't agree with it