

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Saluda County

Honorable R. Keith Kelly, Circuit Court Judge

MICHAEL DURAN WATSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000486

APPENDIX

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF SALUDA

COURT OF GENERAL SESSIONS

3
4
5 STATE)

6 V.)

7 MICHAEL DURAN WATSON)

8 DEFENDANT.)

TRANSCRIPT OF RECORD

07-GS-41-551

07-GS-41-552

07-GS-41-553

9
10 JULY 26 - 29, 2010

11 SALUDA, SOUTH CAROLINA

12
13 B E F O R E :

14 THE HONORABLE WILLIAM P. KEESLEY, JUDGE; AND A
15 JURY.

16
17 A P P E A R A N C E S :

18 H. FRANKLIN YOUNG, III, ASSIST. SOLICITOR
ATTORNEY FOR THE STATE

19 PAUL ANDREW ANDERSON, ESQUIRE
20 ATTORNEY FOR THE DEFENDANT

21
22
23
24 STACY L. SHEPPARD
25 CIRCUIT COURT REPORTER

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1 (The following proceedings were held on July
2 26, 2010.)

3 **THE COURT:** All right. Ladies and gentlemen,
4 what we're going to do now is we're going to turn
5 from the general to the more specific and we're
6 going to qualify a jury for the first case.

7 Remember that you're still under oath. What
8 will be happening is that I'll be asking you
9 questions and the purpose of these questions is to
10 obtain from you any information about any connection
11 you might have to anybody in the case or the type of
12 case, whether you know anything about this matter,
13 if you've got people close to you who have ever been
14 through anything similar or if you, yourself, have
15 ever been through a similar situation.

16 Basically, what we're trying to do is we're
17 trying to get a jury that is fair and impartial. If
18 you keep that goal in mind, I think the questions
19 will make more sense to you.

20 The procedure is going to be very similar to
21 what we've done already, that is if a question
22 applies to you or you have doubt about whether it
23 applies to you, you need to stand. When I call on
24 you, we have to identify who is speaking.

25 Now, in this stage and from now on, it's even

1 more critical that we have an accurate record, so
2 it's really important that Ms. Sheppard take down
3 what you say accurately and it's my job to make sure
4 she can hear you and know who's talking. So the
5 first thing we have to do is to get you identified
6 by your name and juror number, then listen carefully
7 to the question I ask of you and answer that
8 question.

9 Remember that if you prefer to come down front
10 to discuss anything, just let me know that and we'll
11 talk about it over here on the side.

12 All right. Solicitor, call your first case.

13 **MR. YOUNG:** Thank you, Your Honor.

14 Your Honor, the State now calls for trial the
15 charges against Michael Duran Watson as exhibited
16 under grand jury indictment numbers 2007-GS-41-551,
17 552 and 553. These indictments are for murder,
18 possession of a weapon during the commission of a
19 violent crime and pointing and presenting a firearm.

20 **THE COURT:** Mr. Anderson, I assume your
21 client's been arraigned or waives arraignment; is
22 that correct?

23 **MR. ANDERSON:** Yes, sir, Your Honor.

24 **THE COURT:** All right. Ladies and gentlemen of
25 the jury panel, please give me your attention.

1 We're about to qualify a jury that's going to hear
2 three separate and distinct cases, each of which
3 will maintain its position of being separate and
4 distinct throughout the trial. These cases are
5 being tried together purely for purposes of
6 convenience. Each case has to stand or fall on its
7 own merit or lack of merit. Each is captioned the
8 State versus Michael Duran Watson.

9 In one indictment, Mr. Watson is charged with
10 pointing and presenting a firearm. That indictment
11 alleges that Michael Duran Watson did in Saluda
12 County on or about August 5, 2007, willfully and
13 maliciously point and present a firearm,
14 specifically a shotgun, at Andrew Chandler, which is
15 alleged to be in violation of a code section cited
16 in the indictment. Upon his arraignment on that
17 charge of pointing and presenting a firearm,
18 Mr. Watson has entered a plea of not guilty.

19 Another indictment charges murder. That
20 indictment alleges that Michael Duran Watson did in
21 Saluda County on or about August 5, 2007,
22 feloniously, willfully and with malice aforethought
23 kill one Andrew Chandler by shooting him in the face
24 with a shotgun and that the said Andrew Chandler
25 died in Saluda County as a proximate result thereof.

1 Upon his arraignment on that charge of murder,
2 Mr. Watson has entered a plea of not guilty.

3 And, finally, I have an indictment charging
4 possession of a firearm during the commission of a
5 violent crime. That indictment alleges that Michael
6 Duran Watson did in Saluda County on or about August
7 5, 2007, unlawfully have in his possession a
8 firearm, specifically a loaded shotgun, during the
9 commission of a violent crime, which is alleged to
10 be murder. Upon his arraignment on this charge of
11 possession of a firearm during the commission of a
12 violent crime, Mr. Watson has entered a plea of not
13 guilty.

14 Now, ladies and gentlemen, these indictments
15 are not evidence of anything. An indictment has no
16 evidentiary value. It is a charging paper. It is
17 merely the formal means by which someone is charged
18 and brought to trial.

19 Mr. Watson is presumed to be innocent. It is
20 incumbent upon the State of South Carolina having
21 brought these charges against him that the State
22 prove the guilt of the defendant and every material
23 element of the offenses charged beyond a reasonable
24 doubt.

25 I'll be asking you a series of questions. If

1 any of them apply to you or you have doubt about
2 whether they apply to you, please stand and follow
3 the procedure that I discussed earlier.

4 Is Michael Duran Watson in the courtroom?

5 **MR. ANDERSON:** Yes, sir.

6 **THE COURT:** Mr. Watson, I need you to face the
7 jury. Can you stand and face that way?

8 Thank you, sir. You may be seated.

9 Is there any member of the jury panel who is
10 related by blood or marriage or connected by
11 employment with the defendant in this case, Michael
12 Duran Watson; if so, please stand?

13 (Juror stands.)

14 **THE COURT:** Your name, sir?

15 **JUROR:** Johnny C. Hopkins, Jr., number 81.

16 **THE COURT:** All right. Mr. Hopkins, and what's
17 your connection?

18 **JUROR:** His aunt is my aunt.

19 **THE COURT:** So you all are cousins?

20 **JUROR:** Distant cousins.

21 **THE COURT:** All right. Which aunt connects
22 you? What's her name?

23 **JUROR:** Ms. Rosa Lee Anderson. She's married
24 to my uncle.

25 **THE COURT:** I think I've got to set him aside.

1 Do y'all want to be heard?

2 MR. ANDERSON: I'm sorry, Judge?

3 THE COURT: I said I think I have to set him
4 aside. He's related to the defendant. Do y'all
5 want to be heard?

6 MR. ANDERSON: No.

7 THE COURT: Mr. Hopkins, I have to set you
8 aside on this trial. I need for you to get that
9 telephone number and call tonight after 6:00 for
10 possible service on other juries, all right?

11 JUROR: Yes, sir.

12 THE COURT: Thank you. You're free to go.

13 Juror number 81 is excused on the first trial.

14 Mr. Watson will be represented by Mr. P. Andrew
15 Anderson. He's with the firm of Anderson and
16 Anderson in Aiken.

17 The following persons have been identified as
18 potential witnesses for the State. If any of these
19 people happen to be present at this time, I need for
20 the person to stand as his or her name is called and
21 face the jury. And, ladies and gentlemen of the
22 jury, if somebody stands and they're behind you,
23 I'll tell you that somebody's standing and you all
24 can turn and face that way.

25 Octavious Thomas; Jeremy Jarrod Butler; Warren

1 Chandler; Raymond Kirkland; Jarrod Coleman; Tobias
2 Daniels; Keith Turner; Dr. Janet Ross who is with
3 Newberry Pathology; Chief David Farmer; Cody
4 Cockrell with Saluda Police Department, would you
5 face the jury please, thank you, sir; Marcus
6 Robertson of Saluda Police Department; Special Agent
7 Robin Newton with SLED, thank you; Special Agent
8 Vickie Hallman of SLED; Special Agent Kim Denh,
9 D-e-n-h, of SLED; Special Agent Brandon Landrum of
10 SLED; Special Agent Kenneth Whitler of SLED; Special
11 Agent Ali, A-l-i, Simmons of SLED; Lisa McReynolds
12 with SLED; Brett Long of Saluda Police Department;
13 Corddaryl Ouzts.

14 MR. YOUNG: Your Honor, I believe you skipped
15 Commander Charles Holloway.

16 THE COURT: I did. I'm sorry. Commander
17 Charles Holloway, thank you, sir.

18 Are any of you related by blood or marriage or
19 connected by employment with any of the potential
20 witnesses for the State; if so, please stand?

21 (Jurors stand.)

22 THE COURT: Your name please on the front row?

23 JUROR: Mary Kirkland.

24 THE COURT: Kirkland?

25 JUROR: Yes, sir.

1 THE COURT: Mary Kirkland?

2 JUROR: Yes, sir.

3 THE COURT: 92. What's your situation?

4 JUROR: That is my brother-in-law's grandson.

5 THE COURT: Who is your brother-in-law's
6 grandson?

7 JUROR: Raymond.

8 THE COURT: Raymond Kirkland?

9 JUROR: Yes, sir, that's my brother-in-law and
10 the witness is Raymond Dale Kirkland.

11 THE COURT: Who is your brother-in-law?

12 JUROR: Raymond Kirkland.

13 THE COURT: Is that a different person than
14 this Raymond Kirkland?

15 JUROR: Yes, sir.

16 THE COURT: How are they related?

17 JUROR: My brother-in-law is Raymond Kirkland.
18 Okay, he is named after his granddaddy.

19 THE COURT: This man here is your
20 brother-in-law's grandson?

21 JUROR: Yes, sir.

22 THE COURT: Okay. I'll set you aside on this
23 trial, ma'am. Get that number as you go, please,
24 and call tonight after 6:00.

25 92 is set aside on this trial. She's related

1 to a witness.

2 In the grey sweater.

3 **JUROR:** 204, Meredith Hipp.

4 **THE COURT:** All right. Ms. Hipp, what's your
5 situation?

6 **JUROR:** I'm a former SLED agent. And I'm not
7 certain, I may have worked with several of those
8 people. It's been in years past and I'm not exactly
9 sure.

10 **THE COURT:** You were formerly a SLED agent?

11 **JUROR:** Yes, sir, 2001 to 2003.

12 **THE COURT:** Let's assume you did work with some
13 of them, is there anything at all about your
14 relationship or experience with SLED or any of those
15 individuals that might affect your ability to be a
16 fair and impartial juror in the case?

17 **JUROR:** I'd like to think not, but I've never
18 been on a jury since then. I don't really --

19 **THE COURT:** I'll set you aside. If you'll get
20 that number as you leave, please, the telephone
21 number, and call tonight after 6:00.

22 204 is set aside, Ms. Hipp, on this case.

23 In the pink.

24 **JUROR:** Juror 192, Carolyn Chapman. I'm
25 related --

1 **THE COURT:** Hold on a second I've got to find
2 you.

3 All right. Ms. Chapman is 192. Go ahead.

4 **JUROR:** I'm related to Officer Cody Cockrell by
5 marriage.

6 **THE COURT:** All right. I'm going to set you
7 aside on this case. If you'd get that telephone
8 number for me, please, as you leave. Call tonight
9 after 6:00.

10 192 is set aside.

11 Yes, ma'am, your name?

12 **JUROR:** My name is Lana Lawrence.

13 **THE CLERK:** Number 95.

14 **THE COURT:** Ms. Lawrence is juror number 95.
15 What's your situation?

16 **JUROR:** I am related to Warren and Andrew
17 Chandler.

18 **THE COURT:** All right. You said you're related
19 to Warren Chandler?

20 **JUROR:** Warren and Andrew Chandler, yes, sir.

21 **THE COURT:** I have to set you aside. If you'd
22 get that telephone number, please.

23 Number 95 is set aside on the trial of this
24 case.

25 Your name, sir?

1 **JUROR:** James Kneece, number 93.

2 **THE COURT:** Mr. Kneece is juror number 93. And
3 what's your situation?

4 **JUROR:** I'm related to Cody Cockrell.

5 **THE COURT:** All right. I have to let you go on
6 this case. Get that telephone number for me;
7 please. Call tonight after 6:00.

8 Your name, sir?

9 **JUROR:** My name is Teisie Etheredge, juror 48.
10 I'm related to Octavious --

11 **THE COURT:** Wait a second. I've got to find
12 you on my list.

13 You're Mr. Etheredge?

14 **JUROR:** Yes, sir.

15 **THE COURT:** Go ahead, please.

16 **JUROR:** I'm related to Octavious Thomas.

17 **THE COURT:** I'm going to set you aside on this
18 trial. Get that phone number for me, please, and
19 call tonight after 6:00.

20 The State will be represented by the Eleventh
21 Judicial Circuit Solicitor's Office, Assistant
22 Solicitor H. Franklin Young.

23 Thank you, sir. You may be seated.

24 Do any of you know anything at all about this
25 matter? Do you have any knowledge whatsoever about

1 the situation that's alleged here? Have you talked
2 to anyone about any of it? Have you read anything
3 through any media outlets, seen or heard anything
4 through the media outlets? Anybody had any
5 discussions that you overheard that relate to this
6 matter? Do you have any knowledge whatsoever about
7 these cases other than what you heard me read in the
8 courtroom as the allegations in the indictments? If
9 so, please stand.

10 (There was no response.)

11 **THE COURT:** Now, ladies and gentlemen, to the
12 best of my knowledge, I've introduced to you
13 Mr. Watson, his attorney. I've introduced by
14 reading the names and having you see the people who
15 are potential witnesses for the State who are here
16 today, I had you see them, and I read out all the
17 names of the potential witnesses for the State.
18 I've introduced you to Mr. Young for the Eleventh
19 Judicial Circuit Solicitor's Office. I've told you
20 that the Saluda Police Department's involved in the
21 case, that SLED's involved in the case and that the
22 Pathology Department of Newberry is involved in the
23 case.

24 What I need for you to do now is if you've got
25 any connection of any kind with any of these people

1 or any of these entities, you need to disclose that
2 to us, that would include if you are a neighbor, a
3 friend; if you attend the same church or civic
4 clubs; if you're current or former clients of any of
5 these attorneys or anyone with whom they're
6 affiliated; to the best of your knowledge, if you've
7 ever been on the opposite side of a case that was
8 represented by one of these attorneys or anyone with
9 whom they're affiliated; if you've got any
10 connection with SLED, the Saluda Police Department
11 or Newberry Pathology or any entity involved in the
12 case, the Eleventh Judicial Circuit Solicitor's
13 Office, the Anderson and Anderson Law Firm. If
14 you've got any connection of any kind with any of
15 these people or any of these entities, you need to
16 disclose that to us, please stand.

17 (Jurors stand.)

18 **THE COURT:** Yes, ma'am, your name?

19 **JUROR:** Michele Perry-Shealy, 123.

20 **THE COURT:** All right. Ms. Perry-Shealy,
21 what's your situation?

22 **JUROR:** Actually, my parents have a neighbor in
23 their neighborhood that is part of SLED.

24 **THE COURT:** Your parents' neighbor works for
25 SLED?

1 **JUROR:** Yes.

2 **THE COURT:** Is there anything at all about that
3 relationship or your experiences with SLED or those
4 people that would affect your ability to be a fair
5 and impartial juror in this case?

6 **JUROR:** I'm not really sure.

7 **THE COURT:** You have some doubt?

8 **JUROR:** Yes.

9 **THE COURT:** I'll set you aside on this case.
10 123 is set aside. Get that number, please, as you
11 go and call tonight after 6:00.

12 Your name, please.

13 **JUROR:** Tonia Hudson, 220.

14 **THE COURT:** Ms. Hudson is 220. What's your
15 situation?

16 **JUROR:** I have a cousin who works for the
17 Saluda Police Department, but he wasn't named in the
18 case.

19 **THE COURT:** What does he do at the Saluda
20 Police Department?

21 **JUROR:** I think he's an officer, I'm not sure.
22 He may have already resigned. He talked about it
23 one time. Donovan Shealy.

24 **OFFICER:** Just for the record, Your Honor, that
25 would be with the sheriff's office.

1 **THE COURT:** Mr. Shealy still works. He was in
2 the trial last week that we had, but he works for
3 the sheriff's department. Would anything about his
4 employment or your relationship with him affect your
5 ability to be fair and impartial as a juror in the
6 case?

7 **JUROR:** No, sir.

8 **THE COURT:** Any doubt in your mind?

9 **JUROR:** No, sir.

10 **THE COURT:** Thank you.

11 Ms. Hudson is juror number 220. She's eligible
12 to serve.

13 Now, the decedent in this case is Andrew
14 Chandler. Were any of you related by blood or
15 marriage or connected by employment or did you have
16 any connection of any kind, friend, acquaintance,
17 same church, civic club, anything at all of a -- any
18 kind of relationship at all with Andrew Chandler; if
19 so, please stand?

20 (There was no response.)

21 **THE COURT:** Have any of you ever worked in the
22 field of law enforcement in any agency, federal,
23 state, local, military, any type of law enforcement
24 experience; if so, please stand?

25 (Juror stands.)

1 **THE COURT:** Your name, sir.

2 **JUROR:** John Hartline, juror 72.

3 **THE COURT:** All right. Mr. Hartline, what's
4 your situation?

5 **JUROR:** Back in '74, Ware Shoals Police
6 Department.

7 **THE COURT:** You worked at the Ware Shoals
8 Police Department in 1974?

9 **JUROR:** Yes, sir.

10 **THE COURT:** Just that one year?

11 **JUROR:** Yes, sir.

12 **THE COURT:** Is there anything at all about that
13 experience that affects your ability to be a fair
14 and impartial juror in the case?

15 **JUROR:** No, sir.

16 **THE COURT:** Any doubt?

17 **JUROR:** No, sir.

18 **THE COURT:** Thank you.

19 Mr. Hartline is eligible to serve.

20 Do any of you have any immediate family members
21 who are employed in any capacity in the field of law
22 enforcement; if so, please stand?

23 (Jurors stand.)

24 **JUROR:** First cousin is a highway patrolman.

25 **THE COURT:** What's your name, sir?

1 **JUROR:** Ollie F. Salter, Jr., juror number 149.

2 **THE COURT:** Mr. Salter is 149.

3 **JUROR:** Also, I have a family member that
4 retired a magistrate court judge.

5 **THE COURT:** All right. Hold on a second. Your
6 first cousin is a highway patrolman?

7 **JUROR:** Yes, sir.

8 **THE COURT:** In Saluda?

9 **JUROR:** No, sir, Lexington County.

10 **THE COURT:** And who was a magistrate?

11 **JUROR:** Mildred Long retired from Batesburg.

12 **THE COURT:** Is there anything at all about your
13 relationship with either of those individuals or the
14 agencies with which they work that affect your
15 ability to be a fair and impartial juror in the
16 case?

17 **JUROR:** No, sir.

18 **THE COURT:** Any doubt in your mind?

19 **JUROR:** No, sir.

20 **THE COURT:** Thanks very much.

21 Mr. Salter is 149, eligible to serve.

22 Okay. Ms. Hudson, have you already told me
23 everything?

24 **JUROR:** Yes, sir.

25 **THE COURT:** Do you need to add anything?

1 JUROR: No, sir.

2 THE COURT: 220, Ms. Hudson, her cousin is a
3 Saluda County Sheriff's Department employee.
4 In the black shirt.

5 JUROR: Danny Miller, 110.

6 THE COURT: Mr. Miller, 110. What's your
7 situation?

8 JUROR: I have a niece that has a husband that
9 works for Richland County.

10 THE COURT: Anything at all about that
11 relationship or his experiences that affects your
12 ability to be a fair and impartial juror in the
13 case?

14 JUROR: No, sir.

15 THE COURT: Any doubt in your mind?

16 JUROR: No, sir.

17 THE COURT: Thank you.

18 110, Mr. Miller, is eligible to serve.

19 Yes, sir.

20 JUROR: Scott Miller.

21 THE CLERK: 113.

22 THE COURT: Mr. Miller is 113.

23 What's your situation?

24 JUROR: My cousin works narcotics at Greenwood.

25 THE COURT: Your cousin works narcotics in

1 Greenwood County?

2 JUROR: Yes, sir.

3 THE COURT: Anything at all about that
4 relationship or your experiences with him that
5 affects your ability to be a fair and impartial
6 juror in the case?

7 JUROR: No, sir.

8 THE COURT: Any doubt in your mind?

9 JUROR: No, sir.

10 THE COURT: Thank you.

11 113, Mr. Miller, is eligible.

12 In the black, your name, ma'am.

13 JUROR: Wendy Hydrick, juror 221.

14 THE COURT: Okay. Ms. Hydrick, what's your
15 situation?

16 JUROR: My first cousin used to work for Saluda
17 County Police Department. I'm not sure if he still
18 does.

19 THE COURT: What was his name?

20 JUROR: Calvin Ricard.

21 THE COURT: Was that the police or sheriff?

22 OFFICER: He formerly was with the sheriff's
23 office, now he's a state trooper.

24 THE COURT: Okay. Ms. Hydrick, they say he
25 worked with the sheriff's department and he's now

1 with the highway patrol. Is there anything at all
2 about your relationship or experiences with him that
3 affect your ability to be a fair and impartial juror
4 in the case?

5 JUROR: No, sir.

6 THE COURT: Any doubt in your mind?

7 JUROR: No, sir.

8 THE COURT: Thanks very much.

9 221 is eligible.

10 Yes, sir your name.

11 JUROR: Rory Byrd.

12 THE COURT: Juror number 20. What's your
13 situation?

14 JUROR: I have a cousin that's a police officer
15 in Texas.

16 THE COURT: Your cousin is a police officer --

17 JUROR: Brother.

18 THE COURT: Brother, I'm sorry. Your brother
19 is a police officer in Texas. Is there anything at
20 all about your relationship with him or his
21 experiences that affects your ability to be a fair
22 and impartial juror in the case?

23 JUROR: No.

24 THE COURT: Any doubt in your mind?

25 JUROR: No.

1 **THE COURT:** Thank you.

2 Mr. Byrd's eligible to serve.

3 Do any of you live in Saluda Terrace Apartments
4 or have you ever lived there; if so, please stand?

5 (There was no response.)

6 **THE COURT:** Do any of you have any immediate
7 family members who live in Saluda Terrace
8 Apartments; if so, please stand?

9 (Jurors stand.)

10 **THE COURT:** Your name, sir?

11 **JUROR:** Elgin Coleman, number 28.

12 **THE COURT:** Mr. Coleman is juror number 28. Is
13 that where this is alleged to have occurred?

14 **MR. YOUNG:** Yes, sir.

15 **THE COURT:** All right. Mr. Coleman, if this is
16 alleged to have occurred in the Saluda Terrace
17 Apartment area, would that in any way affect your
18 ability to be a fair and impartial juror in the
19 case?

20 **JUROR:** No, it would not.

21 **THE COURT:** Any doubt in your mind?

22 **JUROR:** No, sir.

23 **THE COURT:** And what relationship is the person
24 who lives there?

25 **JUROR:** Sister-in-law.

1 **THE COURT:** You understand if you're on this
2 trial, you're going to be under instructions you
3 cannot discuss this matter in any way with your
4 sister-in-law?

5 **JUROR:** Yes, sir.

6 **THE COURT:** You'll be able to follow that?

7 **JUROR:** Yes, sir.

8 **THE COURT:** She hasn't said anything to you
9 about this as far as you know?

10 **JUROR:** No, sir.

11 **THE COURT:** All right. Thank you.

12 Juror number 28, Mr. Coleman, is eligible to
13 serve.

14 Yes, ma'am, your name.

15 **JUROR:** Gloria Miller, 112.

16 **THE COURT:** Okay. Ms. Miller, what's your
17 situation?

18 **JUROR:** My mother-in-law lived there, but it
19 was a while back.

20 **THE COURT:** Earlier than August of 2007 you
21 think?

22 **JUROR:** Yes, earlier than that.

23 **THE COURT:** Okay. If this incident is alleged
24 to have occurred at the Saluda Terrace Apartments or
25 in that area, would that affect your ability in any

1 way to be a fair and impartial juror in this case?

2 JUROR: No.

3 THE COURT: Any doubt in your mind?

4 JUROR: No.

5 THE COURT: Thank you.

6 Ms. Miller is eligible to serve.

7 Are any of you members of or financial
8 contributors to any organization which has as one of
9 its primary purposes, the enforcement or support of
10 law enforcement or the protection of victims and
11 victims' rights, that would include any
12 organizations such as Mothers Against Drunk Driving,
13 Students Against Drunk Driving, Citizens Against
14 Violent Crime, any type of shelter for abused
15 persons, any relationship of any kind either as a
16 contributor or a volunteer or any other
17 relationship, please disclose that to us by
18 standing?

19 (Juror stands.)

20 THE COURT: Ms. Hudson is 220. What's your
21 situation?

22 JUROR: My husband's aunt is Laura Hudson. She
23 works for victims' rights.

24 THE COURT: Is there anything at all about your
25 relationship with Laura Hudson or any discussions

1 you may have ever had with her or conversations or
2 positions she may have taken that would -- or her
3 ongoing role in that field that would affect your
4 ability to be a fair and impartial juror in the
5 case?

6 **JUROR:** No, sir.

7 **THE COURT:** Any doubt in your mind?

8 **JUROR:** No, sir.

9 **THE COURT:** Thank you.

10 Ms. Hudson is eligible to serve.

11 All right. Ladies and gentlemen, I am informed
12 that this trial may raise issues of self-defense.
13 If an issue of self-defense rises in the case, then
14 the State will have to prove beyond a reasonable
15 doubt that Mr. Watson, the defendant, was not acting
16 in self-defense. A person who is acting in
17 self-defense is protected by an absolute defense.
18 In other words, self-defense is a lawful act and a
19 person is not guilty of any crime if he is acting in
20 self-defense.

21 Is there any member of the jury panel who would
22 be unable to follow the instructions of the Court
23 related to issues of self-defense should they arise;
24 if so, please stand?

25 (There was no response.)

1 **THE COURT:** Have any of you ever been an
2 eyewitness to a crime; if so, please stand?

3 (There was no response.)

4 **THE COURT:** If you're a member of the National
5 Rifle Association, will you please stand?

6 (Jurors stand.)

7 **THE COURT:** Your name, sir.

8 **JUROR:** Jacob Bodie, 201.

9 **THE COURT:** Okay. Mr. Bodie is juror number
10 201. I'm not going to ask the follow-up questions
11 that are asked.

12 **JUROR:** John Hartline, I'm 72.

13 **THE COURT:** Thank you, Mr. Hartline.

14 All right. Ladies and gentlemen, I've got a
15 question that's a fairly standard question. I never
16 know from trial to trial how many responses I will
17 get, so I know what time it is and I always try to
18 -- in gauging how to proceed, I always try to put
19 myself in the position of me sitting out there where
20 you are. So here's what I'm going to do. I'm going
21 to pose the question and then I'm going to see how
22 many of you stand and then I'll tell you where we're
23 going from there.

24 This question is a multiple part question so
25 listen to all the parts. Have any of you, any of

1 your immediate family members, any of your very
2 close, personal friends ever been the victim of any
3 crime of violence, any crime of violence, or have
4 any of you, any of your immediate family members,
5 any of your close -- very close, personal friends
6 ever been accused of committing an act or a crime of
7 violence, whether the -- on either side, whether
8 there was actual criminal charges brought or not?

9 So if any of you have ever been accused of
10 committing a crime of violence or any immediate
11 family member or very close, personal friend has or
12 any of you ever been the victim of a crime of
13 violence or any immediate family member or very
14 close, personal friend has, please stand.

15 (Jurors stand.)

16 **THE COURT:** Would you four folks form a line
17 over here to my left?

18 The lawyers may join me on the side, please.

19 (The following bench conferences were held
20 on the record.)

21 **THE COURT:** What's your name, please?

22 **JUROR:** Edward B. Johnson.

23 **THE CLERK:** 84.

24 **THE COURT:** What's your situation?

25 **JUROR:** I don't remember how many years ago,

1 four or five years ago, I was accused of CDV against
2 my daughter, teenage daughter. I whipped her and
3 took her back to my ex-wife. She called DSS. They
4 brought charges. I went through anger management.
5 They dropped all charges and put the child back in
6 the home with me instead of her mother.

7 **THE COURT:** Anything at all about that
8 experience that affects your ability to be a fair
9 and impartial juror in the case?

10 **JUROR:** No, sir.

11 **THE COURT:** Any doubt in your mind?

12 **JUROR:** No, sir.

13 **THE COURT:** Thanks very much.

14 Mr. Johnson is juror number 84. He's eligible
15 to serve.

16 Yes, sir, tell me your name again.

17 **JUROR:** Ollie Salter, Jr., juror 149.

18 **THE COURT:** Okay. Mr. Salter..

19 **JUROR:** It was my sister. I guess you would
20 call it a victim, I don't know. There weren't any
21 charges brought. It was my ex-wife, like an
22 altercation. My sister brought charges against her.
23 It settled, that's all I can say. I don't know what
24 you call it.

25 **THE COURT:** So you don't know if they ever

1 contacted law enforcement?

2 JUROR: Contacted law enforcement, a small
3 court trial, it was across the street.

4 THE COURT: Okay. Simple assault?

5 JUROR: Yes, sir, must have been what it was,
6 something similar to that.

7 THE COURT: Anything about that experience that
8 affects your ability to be fair and impartial?

9 JUROR: No, sir.

10 THE COURT: Any doubt in your mind?

11 JUROR: No, sir. I just wanted to be honest
12 about it, that's all.

13 THE COURT: Mr. Salter is 149. He's eligible
14 to serve.

15 Yes, sir, Mr. Byrd.

16 JUROR: Yeah, number 20.

17 THE COURT: Okay. Mr. Byrd, what's your
18 situation?

19 JUROR: I'm a victim of a mugging back in
20 Philadelphia.

21 THE COURT: Victim of a mugging?

22 JUROR: Yeah.

23 THE COURT: Did they catch anybody?

24 JUROR: No.

25 THE COURT: Anything about that experience that

1 affects your ability to be a fair and impartial
2 juror in the case?

3 JUROR: No.

4 THE COURT: Any doubt in your mind?

5 JUROR: No.

6 THE COURT: Thank you.

7 Mr. Byrd is juror number 20. He's eligible to
8 serve.

9 Yes, sir.

10 JUROR: Scott Miller.

11 THE CLERK: 113.

12 THE COURT: Number 113. Go ahead, Mr. Miller.

13 JUROR: I was accused, arraigned and charged in
14 this court of CDVHAN in 2007 and took a plea bargain
15 and worked with the DEA Diversion Group, worked with
16 SLED narcotics, it all got dropped.

17 THE COURT: And they dropped all the charges?

18 JUROR: Yes, sir.

19 THE COURT: Is there anything at all about that
20 experience that affects your ability to be a fair
21 and impartial juror in this case?

22 JUROR: I don't think so, sir.

23 THE COURT: Do you have any doubt?

24 JUROR: No, sir.

25 THE COURT: What about your work with SLED? If

1 SLED is involved in this case, would that have any
2 affect on your ability to be fair and impartial?

3 JUROR: I didn't hear Coby Bryant's name.

4 THE COURT: Coby Perry or Coby Bryant?

5 JUROR: Bryant.

6 THE COURT: So you would not have any problem
7 with SLED being involved in this case?

8 JUROR: No, sir.

9 THE COURT: All right. Thank you, sir.
10 113, Mr. Miller, is eligible to serve.

11 Yes, ma'am.

12 JUROR: 112, Gloria Miller.

13 THE COURT: Go ahead.

14 JUROR: I have two. My daughter when she was
15 11 years old, she was raped by someone that used to
16 be on the police force and the trial was here and he
17 was convicted. And then last year my nephew was a
18 victim of a drive-by shooting. He lived, but they
19 haven't caught the perpetrator.

20 THE COURT: Is that Saluda County?

21 JUROR: No, that was in Lexington.

22 THE COURT: All right. Was that Ridge
23 Spring --

24 JUROR: Yes.

25 THE COURT: Is he still in prison?

1 **JUROR:** No. He didn't serve but like a year
2 and a half, Jimmy Brunson.

3 **THE COURT:** It must be a different case I'm
4 thinking about. The one I was thinking about I gave
5 him 20 something years.

6 **JUROR:** He got a lot of years, but he didn't
7 serve it. He got out on good behavior or something.

8 **THE COURT:** He wouldn't have had that much good
9 behavior to get out in a year on a 20 year sentence.
10 It must be somebody else.

11 Is there anything about any of those
12 experiences that affects your ability to be a fair
13 and impartial juror in this case?

14 **JUROR:** I don't know.

15 **THE COURT:** You have some doubt?

16 **JUROR:** They'd probably be guilty..

17 **THE COURT:** Okay. I'll set you aside. That's
18 perfectly understandable. If I was in your
19 position, I'd probably feel the same way, so I'm
20 going to set you aside. You just need to get that
21 number as you leave, okay. Thank you, ma'am.

22 112, Ms. Miller, is set aside on this trial.

23 (The bench conferences were concluded.)

24 **THE COURT:** Have any of you formed or expressed
25 any opinions about these cases; if so, please stand?

1 (There was no response.)

2 **THE COURT:** Are any of you aware of any
3 interest, bias or prejudice that you might have for
4 or against the State, for or against the defendant,
5 Mr. Watson, for or against anyone or any entity in
6 the case; if so, please stand?

7 (There was no response.)

8 **THE COURT:** Can each of you give both the State
9 of South Carolina and the defendant, Michael Duran
10 Watson, a fair and impartial trial? If you know of
11 any reason why you cannot, please stand now.

12 (There was no response.)

13 **THE COURT:** Further questions from the State?

14 **MR. YOUNG:** None from the State, Your Honor.

15 **THE COURT:** Further questions from the defense?

16 **MR. ANDERSON:** No thank you.

17 **THE COURT:** Do you want me to make this a
18 court's exhibit to preserve anything I didn't
19 question?

20 **MR. ANDERSON:** Yes, sir.

21 **THE COURT:** So you want to object to anything I
22 didn't ask in here?

23 **MR. ANDERSON:** I really don't other than just
24 asking you to do it.

25 **THE COURT:** Okay.

1 (Court's Exhibit Number 1, voir dire
2 request, marked for identification purposes.)

3 **THE COURT:** All right. Do y'all want to draw
4 again or do y'all want to use the list in the order
5 we had it? Last week we drew again, is that all
6 right?

7 **MR. YOUNG:** Yes, sir.

8 **THE COURT:** We're going to take who's left and
9 draw again.

10 All right. Ladies and gentlemen, give us just
11 a couple of seconds to get everything organized.
12 And what we're going to do, if I were sitting where
13 you're sitting, I'd want to keep going, we're going
14 to draw the 14 jurors and then we will have them
15 come back, after some more instructions, tomorrow
16 and the rest of you will be on that telephone
17 call-in system. Don't discuss the case. We're
18 going to take a short break, just a couple of
19 minutes, and then we'll draw the jury, all right.
20 Thank you.

21 (Brief Recess.)

22 **THE COURT:** All right. The way we draw juries
23 in criminal court is that the Clerk will draw a
24 name. If it's your name, you need to gather up your
25 personal belongings, come down front, the bailiff's

1 going to show you where to stand, just come and
2 stand right there and the Clerk will ask questions
3 of the State's attorney and the defense attorney.
4 Based on their responses, you'll be told whether to
5 have a seat in the jury box or return to your seat
6 in the courtroom, so you need to bring your personal
7 belongings because your next stop may be over here
8 in the jury box.

9 Madame Clerk, the strikes are five for the
10 State, ten for the defense, give us a jury, please.

11 **THE CLERK:** Stacie M. Goff, 57.

12 (Whereupon, Stacie M. Goff, a white female,
13 was called forward.)

14 **THE CLERK:** What say you for the State?

15 **MR. YOUNG:** Please present Ms. Goff.

16 **THE CLERK:** What say you for the defense?

17 **MR. ANDERSON:** Please excuse Ms. Goff.

18 **THE CLERK:** Please return to your seat.

19 206, Sylvia A. Holsenback.

20 (Whereupon, Sylvia A. Holsenback, a white
21 female, was called forward.)

22 **THE CLERK:** What say you for the State?

23 **MR. YOUNG:** Please present Ms. Holsenback.

24 **THE CLERK:** What say you for the defense?

25 **MR. ANDERSON:** Please swear this juror.

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

2 Number 204 was set aside for the trial of this
3 case. 108, William F. Mercardo.

4 (Whereupon, William F. Mercardo, a white
5 male, was called forward.)

6 **THE CLERK:** What say you for the State?

7 **MR. YOUNG:** Please present Mr. Mercardo.

8 **THE CLERK:** What say you for the defense?

9 **MR. ANDERSON:** Please swear this juror.

10 **THE CLERK:** Please take a seat in the jury box.
11 58, Diane J. Graham.

12 (Whereupon, Diane J. Graham, a black female,
13 was called forward.)

14 **THE CLERK:** What say you for the State?

15 **MR. YOUNG:** Please excuse Ms. Graham from the
16 trial of this case.

17 **THE CLERK:** Please return to your seat.

18 194, John L. Williams.

19 (Whereupon, John L. Williams, a black male,
20 was called forward.)

21 **THE CLERK:** What say you for the State?

22 **MR. YOUNG:** Please excuse Mr. Williams from the
23 trial of this case.

24 **THE CLERK:** Please return to your seat.

25 73, Geneva Highley.

1 (Whereupon, Geneva Highley, a black female,
2 was called forward.)

3 **THE CLERK:** What say you for the State?

4 **MR. YOUNG:** Please excuse Ms. Highley from the
5 trial of this case.

6 **THE CLERK:** Please return to your seat.

7 71, Lisa B. Hartley.

8 (Whereupon, Lisa B. Hartley, a white female,
9 was called forward.)

10 **THE CLERK:** What say you for the State?

11 **MR. YOUNG:** Please present Ms. Hartley.

12 **THE CLERK:** What say you for the defense?

13 **MR. ANDERSON:** Please swear this juror.

14 **THE CLERK:** Have a seat in the jury box.

15 45, Billie B. Ellis.

16 (Whereupon, Billie B. Ellis, a white female,
17 was called forward.)

18 **THE CLERK:** What say you for the State?

19 **MR. YOUNG:** Please present Ms. Ellis.

20 **THE CLERK:** What say you for the defense?

21 **MR. ANDERSON:** Please excuse this juror.

22 **THE CLERK:** Please return to your seat.

23 220, Tonia M. Hudson.

24 (Whereupon, Tonia M. Hudson, a white female,
25 was called forward.)

1 **THE CLERK:** What say you for the State?

2 **MR. YOUNG:** Which juror number? I'm sorry.

3 **THE CLERK:** 220.

4 **MR. YOUNG:** Thank you. Please present Ms.
5 Hudson.

6 **THE CLERK:** What say you for the defense?

7 **MR. ANDERSON:** Please swear this juror.

8 **THE CLERK:** Please have a seat in the jury box.
9 84, Edward B. Johnson.

10 (Whereupon, Edward B. Johnson, a white male,
11 was called forward.)

12 **THE CLERK:** What say you for the State?

13 **MR. YOUNG:** Please excuse Mr. Johnson from the
14 trial of this case.

15 **THE CLERK:** Please return to your seat.

16 54, Cassandra C. Gantt.

17 (Whereupon, Cassandra C. Gantt, a black
18 female, was called forward.)

19 **THE CLERK:** What say you for the State?

20 **MR. YOUNG:** Please present Ms. Gantt.

21 **THE CLERK:** What say you for the defense?

22 **MR. ANDERSON:** Please swear this juror.

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

24 192 has been set aside for the trial of this
25 case. 95 has been set aside for the trial of this

1 case. 221, Wendy A. Hydrick.

2 (Whereupon, Wendy A. Hydrick, a white
3 female, was called forward.)

4 **THE CLERK:** What say you for the State?

5 **MR. YOUNG:** Please present Ms. Hydrick.

6 **THE CLERK:** What say you for the defense?

7 **MR. ANDERSON:** Please excuse this juror.

8 **THE CLERK:** Please return to your seat.

9 205, Jonathan L. Holmes.

10 (Whereupon, Jonathan L. Holmes, a white
11 male, was called forward.)

12 **THE CLERK:** What say you for the State?

13 **MR. YOUNG:** Please present Mr. Holmes.

14 **THE CLERK:** What say you for the defense?

15 **MR. ANDERSON:** Please swear this juror.

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

17 113, Scott C. Miller.

18 (Whereupon, Scott C. Miller, a white male,
19 was called forward.)

20 **THE CLERK:** What say you for the State?

21 **MR. YOUNG:** Please excuse Mr. Miller from the
22 trial of this case.

23 **THE CLERK:** Please return to your seat.

24 100, Garrett Mason.

25 (Whereupon, Garrett Mason, a black male, was

1 called forward.)

2 **THE CLERK:** What say you for the State?

3 **MR. YOUNG:** Please present Mr. Mason.

4 **THE CLERK:** What say you for the defense?

5 **MR. ANDERSON:** Please swear this juror.

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

7 149, Ollie F. Salter, Jr.

8 (Whereupon, Ollie F. Salter, Jr., a white
9 male, was called forward.)

10 **THE CLERK:** What say you for the State?

11 **MR. YOUNG:** Please present Mr. Salter.

12 **THE CLERK:** What say you for the defense?

13 **MR. ANDERSON:** Please excuse this juror.

14 **THE CLERK:** Please return to your seat.

15 150, Jessie M. Salters.

16 (Whereupon, Jessie M. Salters, a white male,
17 was called forward.)

18 **THE CLERK:** What say you for the State?

19 **MR. YOUNG:** Please present Mr. Salters.

20 **THE CLERK:** What say you for the defense?

21 **MR. ANDERSON:** Please swear this juror.

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

23 21, Curtis L. Cameron.

24 (Whereupon, Curtis L. Cameron, a white male,
25 was called forward.)

1 **THE CLERK:** What say you for the State?

2 **MR. YOUNG:** Please present Mr. Cameron.

3 **THE CLERK:** What say you for the defense?

4 **MR. ANDERSON:** Please strike this juror.

5 **THE CLERK:** Return to your seat.

6 Number 81 was set aside for the trial of this
7 case. 201, Jacob S. Bodie.

8 (Whereupon, Jacob S. Bodie, a white male,
9 was called forward.)

10 **THE CLERK:** What say you for the State?

11 **MR. YOUNG:** Please present Mr. Bodie.

12 **THE CLERK:** What say you for the defense?

13 **MR. ANDERSON:** Please swear this juror.

14 **THE CLERK:** Please have a seat in the jury box.
15 218, Paul W. Corley, Jr.

16 (Whereupon, Paul W. Corley, Jr., a white
17 male, was called forward.)

18 **THE CLERK:** What say you for the State?

19 **MR. YOUNG:** Please present Mr. Corley.

20 **THE CLERK:** What say you for the defense?

21 **MR. ANDERSON:** Please excuse this juror.

22 **THE CLERK:** Please return to your seat.

23 109, Caleb W. Miller.

24 (Whereupon, Caleb W. Miller, a white male,
25 was called forward.)

1 **THE CLERK:** What say you for the State?

2 **MR. YOUNG:** Please present Mr. Miller.

3 **THE CLERK:** What say you for the defense?

4 **MR. ANDERSON:** Please swear this juror.

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

6 158, Donald J. Shealy.

7 (Whereupon, Donald J. Shealy, a white male,
8 was called forward.)

9 **THE CLERK:** What say you for the State?

10 **MR. YOUNG:** Please present Mr. Shealy.

11 **THE CLERK:** What say you for the defense?

12 **MR. ANDERSON:** Please swear this juror.

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

14 82, Steven D. Howard.

15 (Whereupon, Steven D. Howard, a white male,
16 was called forward.)

17 **THE CLERK:** What say you for the State?

18 **MR. YOUNG:** Please present Mr. Howard.

19 **THE CLERK:** What say you for the defense?

20 **MR. ANDERSON:** Please strike this juror.

21 **THE CLERK:** Please return to your seat.

22 28, Elgin Coleman.

23 (Whereupon, Elgin Coleman, a black male, was
24 called forward.)

25 **THE CLERK:** What say you for the State?

1 **MR. YOUNG:** Please present Mr. Coleman.

2 **THE CLERK:** What say you for the defense?

3 **MR. ANDERSON:** Please swear this jury.

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

5 **THE COURT:** We'll draw an alternate, one for

6 the State, two for defense strikes.

7 **THE CLERK:** 110, Daniel R. Miller.

8 (Whereupon, Daniel R. Miller, a white male,
9 was called forward.)

10 **THE CLERK:** What say you for the State?

11 **MR. YOUNG:** Please present Mr. Miller.

12 **THE CLERK:** What say you for the defense?

13 **MR. ANDERSON:** Please swear this juror.

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

15 **THE COURT:** Draw another alternate, strikes are
16 one for the State, two for the defense.

17 **THE CLERK:** Number 48 was set aside from the
18 trial of this case. 190, John L. Wertz.

19 (Whereupon, John L. Wertz, a white male, was
20 called forward.)

21 **THE CLERK:** What say you for the State?

22 **MR. YOUNG:** Please excuse Mr. Wertz from the
23 trial of this case.

24 **THE CLERK:** Please return to your seat.

25 Number 20, Rory L. Byrd.

1 (Whereupon, Rory L. Byrd, a black male, was
2 called forward.)

3 **THE CLERK:** What say you for the State?

4 **MR. YOUNG:** Please present Mr. Byrd.

5 **THE CLERK:** What say you for the defense?

6 **MR. ANDERSON:** Please swear him.

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

8 **THE COURT:** Are there any matters to take up
9 including composition of the jury prior to the jury
10 being sworn from the State?

11 **MR. YOUNG:** Nothing from the State, Your Honor.

12 **THE COURT:** Defense?

13 **MR. ANDERSON:** Could I just have one second
14 with my client, Judge?

15 **THE COURT:** Yes, sir.

16 (Pause.)

17 **MR. ANDERSON:** We're good, Judge. Thank you.

18 **THE COURT:** All right. Ladies and gentlemen, I
19 know we're way past the time I told you for your
20 lunch break and some of you might be accustomed to
21 eating much sooner than this in the day, but I have
22 to get some bearings from the attorneys before I can
23 tell you what we're going to do.

24 Mr. Coleman, where are you?

25 **JUROR:** Right here.

1 **THE COURT:** You're going to be the foreman of
2 the jury. Whenever y'all come back in, I want you
3 to be the last person to come in. You take the seat
4 in the front row directly in front of you, that's
5 your seat throughout the trial.

6 **JUROR:** Yes, sir.

7 **THE COURT:** The two alternates, you folks --
8 you gentlemen will sit back there, either one of
9 those seats is fine.

10 The rest of you, ladies and gentlemen, please
11 file all the way down. If you develop a favorite
12 seat during the trial, I prefer that you space
13 yourselves out here so that you get your favorite
14 seat and that you not make people walk across you.
15 We did have an incident in Lexington where a lady
16 broke her ankle and I don't want that happening to
17 any of you.

18 Also, just to tell you about -- each courtroom
19 has its own unique characteristics. And I am
20 thrilled with what Saluda did with this courtroom.
21 Ms. Doris basically sat up here the entire time,
22 every free moment she had to watch and make sure
23 that everything was done like it should have been
24 done and she did a fantastic job. And for a
25 relatively minor expenditure, it's a gorgeous

1 courtroom.. But every courtroom has its quirks.

2 Saluda has these chairs and I like them very
3 much. In Edgefield, we have teal chairs. I do not
4 like those very much, nor does the Clerk of Court,
5 but the person who was there at the time decided to
6 order teal chairs to go with burgundy carpet, so
7 it's just a beautiful site in there.

8 Those chairs have been here long before I came
9 and they'll be here long before I'm gone. There's
10 one thing about them. If you lean back in them,
11 they will make you think you are going to be ejected
12 from an aircraft. They won't flip over, but they
13 will make you think you are going head over heels,
14 so don't lean back too far in them, all right.

15 Now, don't discuss the case, don't talk about
16 the people involved, don't talk about the type of
17 cases that are alleged to be involved in this case,
18 don't talk about the cases at all and I'll get you
19 back out here in just a couple minutes. If you'll
20 follow the bailiff into the jury room, please.

21 (The jury retires to the jury room.)

22 **THE COURT:** Ladies and gentlemen, if you were
23 not selected on this case, then you need to call the
24 number tonight after 6:00 and follow the
25 instructions. If any of you are third shift workers

1 and you need to talk to me, stay and talk to me, all
2 right.

3 If I don't see you again, thank you very much
4 for your service. You're free to go if you're here
5 for jury duty.

6 (The remaining jury panel was excused.)

7 **THE COURT:** All right. As I understand the
8 plan, we're going to do pretrial motions the rest of
9 the day, bring them back tomorrow.

10 **MR. YOUNG:** Yes, sir, I think that's my
11 understanding.

12 **THE COURT:** Depending on the outcome of the
13 motions.

14 **MR. YOUNG:** Yes, sir, that's my understanding.

15 **THE COURT:** All right. Bring the jury back in,
16 please.

17 (The jury returns to the courtroom.)

18 **THE COURT:** All right. Ladies and gentlemen,
19 in about seven minutes, I'm going to let you go home
20 for the day or wherever you want to go and I'm going
21 to ask you to be back in the jury room in the
22 morning at ten o'clock. We're going to stay here
23 after lunch and work on all of the pretrial issues.
24 There are pretrial issues in every trial that cannot
25 be addressed until the jury's impanelled. So that's

1 what we're going to do. Hopefully, we'll get
2 through with everything that we have and we'll get
3 started with you folks at 10:00 in the morning.

4 Now, before I let you go I have to give you
5 some instructions -- I'm sorry. I had forgotten
6 about something. 10:30 in the morning.

7 Now, when you take your oath tomorrow, you're
8 going to be promising us as the trial jury that
9 you're going to decide the cases based on the
10 evidence and the law and so there's some
11 instructions I have to give you that are really
12 important because the evidence and the law is going
13 to come to you here in this courtroom. So, you are
14 not to discuss these cases with anybody; don't talk
15 about them among yourselves until the very end of
16 the trial when I tell you that you can begin your
17 deliberations; don't discuss these cases with
18 anybody else; don't talk about them with family
19 members or friends or anybody at all.

20 When I say don't talk about the cases, I mean
21 don't mention the type of case it's alleged to be,
22 who's in it, when it's alleged to have happened,
23 don't talk about the case. Now, you can tell a
24 friend or a spouse or an employer I got drawn on a
25 jury, but you can't tell them anything about the

1 cases.

2 If anybody attempts to contact you and discuss
3 the cases with you, report that to me so I can deal
4 with it. I don't expect media coverage of the
5 trial, but if there is any, get away from it and
6 report to me at the first opportunity what you may
7 have seen, heard or read through the media.

8 I always give an instruction related to
9 independent investigation and that has gotten to be
10 such an issue that the Chief Justice has actually
11 come out with something that I'm going to read to
12 you in a minute, but before I read to you what the
13 Chief has told us to read to all the juries now, I'm
14 going to give you Billy's version of what I mean.

15 By independent research, I mean that you're not
16 to go out and start investigating the case on your
17 own or anything about the law. So to give you an
18 exam -- some examples of what I mean, don't go on
19 the Internet and try to look up law. It's my job to
20 tell you what the law is that applies to the case at
21 the end of the trial so don't go looking up legal
22 definitions or anything like that. Don't go on the
23 Internet and try to find any kind of archived
24 articles about this matter, don't do that.

25 Once you find out where this is specifically

1 alleged to be, don't go out there and look around.
2 There are provisions for us to allow that to be done
3 if it needs to be done, but don't go out there and
4 look around. Don't do any independent
5 investigation. You are perfectly equipped to do the
6 job you're going to be asked to do. And as I told
7 you earlier, the information is going to come to you
8 here in the courtroom.

9 Now, we're going to ask you to use your common
10 sense so bring your common sense with you, but the
11 evidence and the law and those things are going to
12 come to you here in the courtroom. Don't do any
13 independent investigation.

14 Now, a lot of this came to be a problem with
15 the advent of the Internet and with, particularly,
16 these cell phones that are capable of going on the
17 Internet. And I've got one, I'm not casting
18 aspersions on anybody, but I'm just telling you that
19 that's why the Chief had to get involved because it
20 started getting to be a problem. So I'm going to
21 read to you the directives the Supreme Court has
22 handed down and hopefully they're basically the same
23 things I just told you.

24 During the trial of the case and until your
25 jury service is completely concluded, you are not to

1 discuss the case with others including other jurors
2 except as directed by the Court. You're not to
3 listen or read any news reports about the case.

4 You're not to use a computer, cell phone or
5 other electronic device with communication
6 capability while attending a trial or during
7 deliberations. Those devices may be used during
8 lunch breaks, but you cannot use them to obtain or
9 disclose information prohibited by the Court.

10 You're not to use a cell phone, a computer or
11 any other electronic device with communication
12 capabilities, nor may you use any other method to
13 obtain or disclose information about the case when
14 you're not in court. Information about the case
15 includes but is not limited to information about a
16 party, a witness, an attorney or a court officer,
17 news accounts of a case, information collected
18 through juror research on any topics raised or
19 testimony offered by any witness, information
20 collected through juror research on any topic that
21 the jury might think would be helpful in deciding a
22 case.

23 And obviously, folks, there were situations you
24 probably read about in other states where jurors
25 were tweeting during a trial or they were sending

1 out information during a trial. I don't know that
2 anything like that has happened in South Carolina,
3 some of that's overkill, but basically you get the
4 point.

5 You just need to remain neutral and detached
6 throughout the trial. You need to depend on the
7 system to work and for the information to be put
8 before you and you're not to be communicating any of
9 your ideas, your thoughts to other people about this
10 case during the trial. When the trial is completely
11 over, you can talk to anybody you want to about
12 anything, but during the trial, you're not to do
13 that. And then it gets back to the point that I was
14 telling you about independent research. Don't do
15 independent research on the case.

16 Okay, I think I covered everything. I'm a
17 little bit muddleheaded today so forgive me. I've
18 gotten -- since I've done this so many years, I've
19 gotten to where I depend on my memory almost
20 completely and I just want to double check with my
21 law clerk.

22 All right. Folks, if you have some true
23 emergency that arises that prevents you from being
24 here, please have somebody call up here because
25 until you 14 are here, I can't do anything so I have

1 to know what's going on. If you're not here, I have
2 to start sending people out to find out what's going
3 on so please let us know. .

4 10:30 in the morning, all right. I hope you
5 have a very pleasant evening. I'll look to see you
6 at 10:30 in the morning. And I'll tell you as the
7 trial goes on, how long I think it's going to take
8 so you can plan accordingly, all right. Thank you.

9 When you come back, don't come in the
10 courtroom, come through that door that she's going
11 to show you when you go out, all right. Thank you.

12 (The jury was excused for the day.)

13 **THE COURT:** All right. Ladies and gentlemen,
14 this is an instruction I try to give in every case
15 so please don't think I'm singling anyone out, I
16 have no reason to do so. During this week, you need
17 to be really careful that you don't have any contact
18 with the jurors and that you don't have
19 conversations that in any way relate to the case
20 that might be overheard by a juror.

21 Now, the safest thing to do is not talk about
22 the case at all until you're clear of the courthouse
23 property. And then when you do clear the courthouse
24 property if you go somewhere like a restaurant, make
25 sure you look around because there are not that many

1 places to eat and there's a good chance that the
2 juror may -- there may be some jurors eating at the
3 same place you are. Just be really careful.

4 Also, you may think that you've given jurors
5 plenty of time to clear out. Jurors don't operate
6 like we necessarily think they will. Last week we
7 had a lady who had to wait on a ride. She was out
8 there a long time after each session.

9 Last week we had a couple of incidents and if I
10 have those kind of incidents again, I don't know
11 what might happen, but we had some incidents where
12 people could not control their emotions and they had
13 outbursts that were overheard by jurors or had to
14 have been overheard by the jurors. Thankfully, it
15 was nothing that affected the trial, but just be
16 really careful as you leave that you check around to
17 make sure that you're not talking about the case or
18 anybody in it or what just happened in the courtroom
19 or anything like that in a fashion that may be
20 overheard by a juror.

21 Court's in recess until 2:45. Thank you.

22 (Whereupon, there was a luncheon recess.)

23 (State's Exhibit Numbers 1 through 22 were
24 marked for identification purposes.)

25 **THE COURT:** What pretrial motions do you have?

1 **MR. ANDERSON:** Judge, first, I would move that
2 the witnesses be sequestered in this matter and I
3 know that would include my witnesses as well.

4 **MR. YOUNG:** I believe I actually must join in
5 that, so I would join in that, Your Honor.

6 **THE COURT:** All right. A representative of the
7 victim's family can stay in the courtroom and the
8 chief investigating officer can stay in the
9 courtroom. Obviously, the defendant's in the
10 courtroom.

11 All right. What else?

12 **MR. ANDERSON:** I was going to ask if my client
13 could not be shackled during the trial part.
14 Obviously, if there's any breaks, we would agree for
15 him to be -- they're not extremely noticeable, but
16 my client informs me they're extremely
17 uncomfortable. I've never worn them. Apparently,
18 if he starts running, they lock up on him.

19 **THE COURT:** These are things around knees under
20 his pants?

21 **MR. ANDERSON:** I don't have any (inaudible) --
22 but, yes, sir, that's what he says. He says those
23 are extremely uncomfortable.

24 **THE COURT:** What's the situation with him?

25 **MR. YOUNG:** Your Honor, he's got those as a

1 restraint that will basically give him the ability
2 to wear clothing, ordinary street clothing and not
3 be otherwise apparent to the jury that he's in any
4 form of restraint. So other than possibly draping
5 the front of these tables, and I guess the State's
6 table would have to be equally draped, I don't know
7 of any other means by which to secure him in this
8 courtroom. Given the severity of the charges, Your
9 Honor, we believe it's appropriate for him to remain
10 in that kind of custody status.

11 **THE COURT:** How was he arrested?

12 **MR. YOUNG:** He was arrested, I believe his
13 family was calling saying there were some kind of
14 threats against them out there at their house. Law
15 enforcement had basically by that time singled upon
16 him being a person that was a suspect in the
17 shooting. Law enforcement arrived out there and he
18 walked outside of the house with his hands over his
19 head and sat down, kneeled down and turned himself
20 in. I think his father said he's turning himself
21 in.

22 **THE COURT:** And how are they uncomfortable?

23 **DEFENDANT:** It's, like, I can't, like, bend my
24 knees certain ways and it's like (inaudible) --
25 because they got straps around.

1 **THE COURT:** Say that -- can't bend your knees
2 certain ways and what?

3 **DEFENDANT:** And, like, due to the straps, they
4 bite, like they pinch.

5 **THE COURT:** What's his prior record?
6 You can have a seat.

7 **MR. YOUNG:** I don't believe he has any, Your
8 Honor.

9 **MR. ANDERSON:** Judge, I haven't heard anybody
10 give any complaint about him. He's been in three
11 different jails while we've been building up to this
12 point.

13 **THE COURT:** The motion is denied.
14 What's your next motion?

15 **MR. ANDERSON:** Judge, I just received some
16 evidence. This is a three-year-old case and we have
17 just received some evidence from the State and we
18 would move to exclude that evidence. That evidence
19 would include a gunshot residue finding. And what
20 we had received, there was no positive GSR. We were
21 just informed that that was a typo and there was GSR
22 found on the passenger door. And we just got that
23 within the last, I don't know, couple -- three
24 weeks. We also just got --

25 **THE COURT:** How is that significant?

1 **MR. ANDERSON:** Well, they said there was no GSR
2 and now they say there was GSR.

3 **THE COURT:** Is it going to be a self-defense
4 case or what is it?

5 **MR. ANDERSON:** Well, it is now, Judge, because
6 we've got -- I mean, I didn't know what we were
7 going to be -- how we were going to play the case
8 out. And as you know, the defendant doesn't have to
9 testify, but they've just now given us this
10 additional information on a three-year-old case, so
11 I -- I mean, I don't know how we would have tried
12 the case if they didn't have that, but now they do
13 have it so I'm just trying to deal with it, Judge.
14 It just seems like it's a three-year-old case and I
15 just got the stuff and it seems a little
16 unreasonable.

17 **THE COURT:** Well, I understand that argument.
18 The question is does it make any difference in the
19 trial of the case? What's the significance of it?

20 I mean, if he's -- I don't know anything about
21 this case that I can recall. I mean, if he's
22 admitted shooting a gun, how is -- and I don't know
23 if he has or he hasn't --

24 **MR. ANDERSON:** There are three law enforcement
25 officers that say he did, but that's not in writing

1 and there's no tape of that, so you don't -- you
2 don't know how things are going to play out, Judge,
3 as you know. But it's relevant to -- I mean, if I
4 had known two years ago, if I had known nine months
5 ago, it was about six months ago we had the meeting
6 with Your Honor in Lexington, I didn't know this
7 then and that could have impacted how we proceeded
8 at that time. It just doesn't seem right that they
9 can give me evidence three years old right -- a
10 month before the trial.

11 **THE COURT:** It's not right, but it's not an
12 absolute, yes, you've got a deadline and if you pass
13 that deadline, that's it. I think it's a balancing
14 act and it goes to how significant it is whatever it
15 is that they help.

16 What is it that y'all just gave him?

17 **MR. YOUNG:** Your Honor, I went to SLED the end
18 of last month. And when I went to SLED, I met with
19 all of the SLED people about their reports. I met
20 in a single room with them and I said, Do we have
21 everything and do I, you know, what else do I need?
22 And it pretty much was a yes answer to all of that.
23 And I left that room thinking indeed I had
24 everything there was.

25 But there was one lady who was not present.

1 Her name is Ila Simmons. Ms. Simmons is the person
2 who did the GSR examinations. Ms. Simmons called
3 me, she'd just had a death in her family, and she
4 called me to tell me that indeed there was a page,
5 apparently when things printed out, that was
6 missing. And she referred to, I think, item number
7 12 on that list of items that were examined. And
8 she said that on item number 12, they found GSR and
9 this was on the exterior portion of the car on the
10 passenger side that the defendant was allegedly
11 driving.

12 The GSR results, which I then heard about, I
13 picked up the phone and I actually called Andy's
14 office I think either that afternoon or whatever
15 time of day it was. It was in, like, 10 minutes, 15
16 minutes as soon as I knew that. And I told him I
17 would try to get a copy of that and get it to him.

18 I know I faxed it once and I don't guess it
19 went through. I know I had -- I thought I had
20 somebody drop by a copy once, I don't know if I gave
21 you that one or not, it wasn't in that, but I
22 finally sent him everything I had by e-mail. And
23 this was everything I had that was received by SLED
24 in some PDF format. And it confirmed basically what
25 I had verbally told him, that item number 12 did.

1 have gunshot residue on it, that being the exterior
2 portion of the passenger side of the vehicle
3 allegedly driven by the defendant.

4 **THE COURT:** Now, what's the significance of
5 that?

6 **MR. YOUNG:** Well, the State's case is going to
7 be that he presented a shotgun through that window
8 on the passenger side and shot the decedent at very
9 close range and killed him. The statements, which I
10 believe he's referring to which are going to be the
11 subject of a motion here in a moment, have to do
12 with statements he made to Commander Holloway and I
13 believe Agent Newton was present in which he was
14 asked what happened and he said self-defense and
15 that's pretty much all he said.

16 He said I -- and he says, What do you mean
17 self-defense? He was asked to explain it. And he
18 said, Self-defense, that's all I got to say about
19 it, something to that effect. I don't think it was
20 that word, but it was something else he said. I'm
21 paraphrasing, Your Honor. I don't have the precise
22 words. And he said, Just take me to my cell.

23 The second statement was -- also, these both
24 were mirandized. The second statement occurred when
25 he was asked where the shotgun was. There was an

1 effort to locate the shotgun and they were unable to
2 do so. That effort was preceded, I believe, by --
3 either preceded or followed by an effort to talk to
4 him about where the shotgun was and he basically
5 said, I can't tell you where it is. I can't tell
6 you, something to that effect.

7 And there was a third statement made when he
8 was being transported to Greenwood into custody
9 status at that jail. Officer Cockrell was
10 transporting him up there and noticed that he was
11 having some discomfort in the back, essentially
12 asked him something to the effect, you know, how you
13 doing back there or, you know, what's going on? And
14 he said something to the effect of, Where did I hit
15 him at? And then he gave an explanation about how
16 these boys allegedly had crowded around his car or
17 come up to his car and he shot him, he shot one of
18 them, words to that effect, that's why he had to do
19 it.

20 So, Your Honor, within the context of those
21 statements, that's what essentially the State would
22 present on those statements. And I think the
23 evidence we have, we don't have the shotgun, but the
24 GSR we do have it outside the car and we have
25 shotgun shells in the yard which are consistent with

1 the gauge of the wadding found on the ground next to
2 the body, the 20-gauge wadding found on the ground
3 about six to eight feet away from the decedent. And
4 there was, again, there were pellets removed from
5 the head which are consistent with a shotgun. So
6 all of that tends to corroborate the shooting and
7 the sequence of events in terms of the shooting
8 followed by a departure.

9 He immediately left the area and a car matching
10 that description was found at his house and his
11 driver's license was found inside it.

12 THE COURT: Were there any witnesses?

13 MR. YOUNG: I'm sorry, sir?

14 THE COURT: Were there any witnesses?

15 MR. YOUNG: Yes, sir. There were approximately
16 five witnesses to it standing around.

17 THE COURT: Are they going to testify?

18 MR. YOUNG: Yes, sir.

19 THE COURT: What are they going to say?

20 MR. YOUNG: A shotgun came out the window and
21 shot him. They were shocked, dismayed, surprised.
22 One person saw a -- saw him actually in the car
23 driving the car, based upon his angle, saw him
24 extend his forearm, saw a shotgun come up, boom.

25 And there's another matter of the shotgun that

1 I'll take up at a different time. He was also seen
2 with a shotgun earlier in the week.

3 THE COURT: Did the witnesses know the
4 defendant before this?

5 MR. YOUNG: Yes, sir.

6 THE COURT: Did they know the car?

7 MR. YOUNG: Yes, sir. They actually announced
8 as he was driving through this area that there's
9 Rand. They call him Rand. I think his middle name
10 is Duran. They call him Rand I believe. And they
11 were walking up to where he was, where his car was
12 traversing the area.

13 And I'll also mention for the Court they were
14 there smoking marijuana. And the decedent's found
15 on the ground with a lighter in one hand and a -- in
16 his right hand and he has a marijuana cigarette
17 laying on the ground immediately next to him. There
18 was another marijuana cigarette, I believe, also
19 found, rolled, but not smoked.

20 THE COURT: You said it was a missing page or
21 it was a typo?

22 MR. YOUNG: Your Honor, as far as I -- it's on
23 the last page of the document which was printed out
24 by -- or given to us by SLED. And it said, you
25 know, this item had -- they found GSR on it. It,

1 apparently, did not print out when they gave us the
2 report.

3 **THE COURT:** All right. Do you have anything
4 else on this, Mr. Anderson?

5 **MR. ANDERSON:** No, sir, Your Honor.

6 **THE COURT:** Rule 5 of the South Carolina Rules
7 of Criminal Procedure deals with disclosure in
8 criminal cases. It states there's a continuing duty
9 to disclose. What it requires is that the State has
10 to promptly notify the defense or his attorney or
11 the Court of the existence of additional evidence or
12 material.

13 Again, I think all of this has to be done in
14 the context of sort of a balancing act. The request
15 to suppress is not the only option to the Court.
16 The Court can consider other things such as
17 continuances. And I have granted continuances
18 before whenever there was last minute production of
19 information by the State, but in order to make those
20 determinations, the Court has to evaluate how
21 significant the failure to disclose that is, as well
22 as anything that's related to intent.

23 It doesn't appear that any of this was
24 intentionally withheld from the defense. It appears
25 to be some oversight of some type. It was disclosed

1 to the defense and I really haven't heard anything
2 that would allow the Court to determine that the
3 State has been -- I mean, the defense has been in
4 any way unduly prejudiced by the failure to disclose
5 it, so the motion to suppress the gunshot residue
6 evidence is denied.

7 What else do you have?

8 MR. ANDERSON: Within that same context, I'd
9 just gotten the C.D. with all of those photographs
10 in it in the same --

11 THE COURT: Just got what?

12 MR. ANDERSON: The C.D. with the photographs.
13 When did we get that? About a month ago.

14 MR. YOUNG: Yeah.

15 THE COURT: Photographs of what?

16 MR. ANDERSON: The crime scene, Judge. But, I
17 mean, I -- there are photographs in there that are
18 interesting that I don't object to, but it's just,
19 it's just frustrating, Judge. And I can't say how
20 it impacted the defense, but you've ruled, so I'll,
21 you know, do what I have to do.

22 Judge, number two in my motion is the State has
23 put Jarrod Coleman and Tobias Daniels on the witness
24 list. They're numbers five and six. Those are two
-25 juveniles who alleged about a week before this

1 incident that my client pointed a gun at them. One
2 of the boys in his statement, which was taken after
3 this charge not at the time of the alleged incident,
4 but after this murder charge arose, one of the boys
5 said it was a sawed-off shotgun, the other boy just
6 said shotgun.

7 I assume they're going to call those witnesses
8 to try to bolster the fact that my client had a
9 shotgun whether or not it'd be sawed off or regular.
10 And our position on that is that that would be
11 unduly prejudicial and not probative of anything, so
12 we'd ask that that be excluded, not allowed.

13 **MR. YOUNG:** Your Honor, I hand up the case of
14 State v. Holland which deals with a very similar
15 issue.

16 Your Honor, indeed these two individuals are
17 juveniles. Both of them will testify that a shotgun
18 was in the possession of this man on a weekday just
19 prior to the shooting. It was within about Tuesday,
20 I think -- I'm trying to remember -- July 30th of
21 2007. They were walking down the street together
22 and a gentleman pulled up in this car. They
23 recognized that car as being the same one in this
24 case. They saw him present a shotgun at that time.
25 And indeed, Your Honor, it came out the passenger --

1 to the passenger side window.

2 The State probably -- the State believes that
3 we can offer this evidence to identify him as being
4 in the possession of a shotgun, a short shotgun, on
5 the 30th of July prior to this. I have talked with
6 these young men and I don't believe I can present
7 evidence of a sawed-off shotgun because I believe
8 that would be likely prejudicial as the possession
9 of that is a crime. Indeed that same shotgun,
10 however, was used in this case. He has not been
11 indicted on that charge nor charged with it.

12 These two young men will be able to say he was
13 in possession of a shotgun on that day as they saw
14 him with it and he was driving a car when he was in
15 possession of that firearm and that car is the same
16 car as was in this case. Beyond that, the State
17 does not intend to offer their testimony for any
18 purpose just simply to demonstrate that he was, in
19 fact, in possession of a shotgun on July the 30th of
20 2007 just a few days prior to this unfortunate
21 death.

22 The State believes that Holland is dispositive.

23 Your Honor, in further support of that, I do
24 need to mention the fact that we're unable to match
25 shotguns usually by ballistic evidence. However,

1 there is ballistic evidence of a 20-gauge shotgun
2 shell, two of them in fact, being found at the
3 residence of this young man. And I believe there's
4 a box of -- an empty box of shells which are
5 consistent with a 20-gauge shotgun, which is
6 consistent with the wadding found at the scene
7 adjacent to the body. I just mention that as well.

8 **THE COURT:** Do you intend to have these two
9 juveniles testify that the defendant pointed the gun
10 at them?

11 **MR. YOUNG:** No, sir. I'm not going to offer
12 that evidence. He is, in fact, indicted on that
13 separately, but we are not here today to contest or
14 bring in additional evidence that might be more
15 prejudicial than to say he is in possession or was
16 in possession of a shotgun and in a car that matches
17 the same description of the car he was in on the
18 night this happened.

19 **THE COURT:** Was the weapon ever found?

20 **MR. YOUNG:** No, sir, no weapon has ever been
21 recovered.

22 **THE COURT:** Do you have any other evidence
23 about him having possession of the weapon other than
24 on that night of the killing?

25 **MR. YOUNG:** The only other evidence there is

1 are empty cartridges found at the scene of his -- at
2 his home and out in the yard. There were two
3 20-gauge shotgun shells in the yard and there were
4 shotgun shells found in a box, an empty box, in his
5 room.

6 **THE COURT:** And the forensic pathologist is
7 going to testify that it was a gunshot wound that
8 caused the death of the decedent?

9 **MR. YOUNG:** Yes, sir, penetrated to the base of
10 the spine.

11 **THE COURT:** All right. Mr. Anderson, what
12 else?

13 **MR. ANDERSON:** Well, Judge, you heard all of
14 this stuff that Mr. Young said they have to prove
15 that my client is the one that did it. I don't know
16 why they would need this and it's obviously
17 prejudicial if the jury were to think he's riding
18 around, you know, with a shotgun. And on top of
19 that, I'd -- admonishing juvenile witnesses on what
20 they can and can't say seems like that would be an
21 awful risky prospect. I just think it's more
22 prejudicial than probative with all of the other
23 evidence they have.

24 **THE COURT:** Well, if there's any evidence of a
25 prior bad act such as pointing a firearm at the

1 juvenile, I agree it should be excluded under Rule
2 403, but it is relevant based -- this is an in
3 limine ruling which means it's a preliminary ruling.

4 I don't pretend to know the case as well as you
5 all know it. You all apparently have met with me
6 and talked with me about this case before, I don't
7 even remember that. It'll start coming to me in
8 dribs and drabs as things are developed, but because
9 of the volume of cases we do, I just don't recall
10 anything much about the case.

11 I do remember now that y'all are talking about
12 the vehicle and the alleged incident and all of
13 that, some of it's coming back to me, but a
14 preliminary ruling is just that, it's a preliminary
15 ruling. It's based on what I understand at this
16 particular point in time and it may change during
17 the course of the trial, but it seems to me it's
18 relevant to put in evidence that two people can tie
19 this man to a shotgun and it's relevant that it was
20 in a vehicle.

21 The question then becomes even if it's
22 relevant, is it excluded under Rule 403? Those two
23 parts I don't believe are. Anything beyond that, I
24 believe is particularly pointing the weapon at
25 somebody else. So the motion to exclude the

1 evidence about pointing the weapon at those
2 juveniles is granted. The other is denied. And,
3 again, it may come out differently in the trial. I
4 may have a different understanding. It may result
5 in another motion. It may be a mistrial. I don't
6 know.

7 MR. ANDERSON: Well, Judge, if -- based upon
8 your ruling, assuming nothing changes, then I'll
9 probably renew this objection at the time, but if
10 the State will just put each kid up and say did you
11 see him with a shotgun in his car, yes, I wouldn't
12 ask any questions and that would be it, you know,
13 that would be a good compromise. I'd still object
14 to it.

15 THE COURT: I understand.

16 MR. ANDERSON: But the more questions they ask,
17 the greater the chance of something coming out.

18 THE COURT: I understand that, too, but there's
19 nothing I can do about that.

20 What other motions do y'all have?

21 MR. ANDERSON: Well, based on how you've just
22 ruled on the other stuff, I'd just received
23 Investigator Robin Newton's report. Now, granted 95
24 percent of her report is cumulative stuff, but I
25 just now received it. So I don't see any use -- I

1 mean, I would ask that her testimony be excluded
2 based on the fact that she never gave me her report.
3 They never gave me her report.

4 **THE COURT:** Solicitor.

5 **MR. YOUNG:** Your Honor, Investigator Newton
6 informed me I think it was probably two -- three
7 weeks ago, two weeks ago that she is -- she is the
8 child fatality CID agent for this area. And she had
9 done a child fatality report which essentially has
10 described this to accident or whatever is the reason
11 behind the death. She gave me a copy of that report
12 which I gave to Mr. Anderson. And the report --
13 and, again, I think he's going to probably indicate
14 is completely cumulative.

15 I do not intend to ask Agent Newton any
16 questions about that report. She was, however,
17 present at the rights advisement and present during
18 the statements made, the first two statements made
19 by the defendant and she is here primarily for that
20 reason today.

21 I really don't -- unless she's going to be
22 absolutely necessary, I think Commander Holloway is
23 going to be able to cover the statements and
24 everything else. I don't intend on calling her
25 unless an issue comes up regarding a challenge to

1 what was said and how it was said at the statements,
2 that would be the only possible way that I might
3 have to call her to corroborate information
4 Investigator Holloway has related. And it does
5 sound like there might be some challenge to that so
6 it might be necessary for her to remain.

7 **THE COURT:** Well, I've got to know specifically
8 what it is -- as far as the motion to suppress the
9 entirety of her testimony, that's too broad. If you
10 all have specifics that you want me to consider, I'd
11 be happy to consider them.

12 **MR. ANDERSON:** I mean, Judge, I don't know what
13 she's going to say. I know that she was with
14 Commander Holloway at the jail when they talked to
15 my client so it would be nice to exclude that.

16 **THE COURT:** Well, what's in the report that you
17 didn't know before?

18 **MR. ANDERSON:** Nothing really, Judge. Most of
19 it is stuff -- there may be a couple notes here and
20 there, but not much. It's just frustrating to just
21 now get it after all this time again.

22 **THE COURT:** Yes, sir. The motion to suppress
23 her testimony or exclude her testimony is denied.
24 Anything else?

25 **MR. ANDERSON:** Yes, sir, Your Honor. There was

1 -- this really is a horrible case. This young man
2 was shot in the face. And the pictures are not very
3 pleasant at all. And, obviously, we don't want the
4 jury to be inflamed because they're horrible
5 pictures. And there's some color ones. I've made
6 some black and white copies off my computer, but I
7 would move that all of the inflammatory pictures be
8 excluded, maybe put in black and white. And he's
9 not offering it, even from what he's told me, he's
10 not proposing very many, but two of them are pretty
11 bad. I'd just ask that they both be black and
12 white.

13 **MR. YOUNG:** Your Honor, in addition to these
14 photographs, I have yet to make copies, so I'm going
15 to pass up State's Exhibits 1 through I think it's
16 22 -- I apologize -- the photos are Exhibits 3
17 through 22.

18 And, Your Honor, we do have three additional
19 photographs which I have to reproduce. They are
20 x-rays of the head of the decedent. They display
21 the distribution of the shot in his head. And
22 there's also just a facial picture after his face
23 has been cleaned up showing where the shotgun blast
24 struck him and the pattern of the shot that went
25 into his face. I have that on disk. I can show

1 that to the Court off my computer. I do not have it
2 reproduced here.

3 **MR. ANDERSON:** I actually have those. I went
4 to the pathologist myself, so I can get that stuff,
5 Judge, and she showed me those pictures.

6 **THE COURT:** Why do you need Exhibit 22 with him
7 laying in the road?

8 **MR. YOUNG:** Your Honor, can I see Exhibit 22,
9 please?

10 Your Honor, this shows a relationship between
11 the position of his body at the scene, the position
12 of his hands in relation to his body. It shows a --
13 what amounts to the position of a marijuana
14 cigarette which is to the left of his body and I
15 think that's marked as marker -- by a marker. It
16 then shows the position of the shotgun wadding that
17 is to his right. And it also shows the position of
18 shoes and clothing which were left by one of the
19 eyewitnesses. It places him in relation to the body
20 at the scene.

21 The testimony I anticipate will be that given
22 the severity of the wound, he was unable to move at
23 all from the point in time he was struck, so that
24 will be the position of his body, you know,
25 immediately after the shooting unless there's -- I

1 don't have any other evidence that he was moved at
2 all.

3 There's obviously the relationship of the shot
4 wadding in proximity to his hands. There's a
5 further picture in there of his right hand which
6 contains a lighter it's not as visible and I have a
7 blowup of that. The left hand obviously is
8 apparently not -- doesn't have anything in it,
9 however on the left side is that marijuana
10 cigarette. And, of course, the proximity of the
11 body to this other person who was a witness at the
12 scene, that is the best photograph I have to place
13 him in proximity to those items.

14 It also shows the slope unfortunately. Blood
15 is the means by which that's obviously showing us
16 there was a sloperly (sic) ground here. This would
17 have been an uphill walk when people moving in the
18 direction -- well, if he was standing upright in the
19 same direction.

20 **THE COURT:** Do you have a black and white of
21 this?

22 **MR. YOUNG:** I do not.

23 **MR. ANDERSON:** Yes, sir.

24 **THE COURT:** May I see it?

25 **MR. ANDERSON:** Yes, sir.

1 (Pause.)

2 **THE COURT:** All right. Well, with regard to
3 what's been handed up to the Court, State's Exhibit
4 3, 4, 6, 7, 5, 8, 9, 10, 11, 12, 13, 14, none of
5 those have the defendant in them. Exhibit 15 is a
6 long distance shot of what appears to be a body
7 covered in a sheet. You cannot tell anything other
8 than that. You can see the shoe that is shown in
9 State's Exhibit 22. You can see some police
10 vehicles in the background. There's nothing in that
11 that's unduly prejudicial or violates Rule 403.

12 Number 16 appears to be a photograph of an
13 automobile in a parking lot. I don't see anything
14 in that that's violative of 403. Exhibit 17 is a
15 photograph from a different angle which shows the
16 location of a body covered by a sheet. It's at
17 night and that's really all you can tell. It
18 doesn't violate Rule 403.

19 State's 18 is a photograph from a different
20 angle of a body covered by a sheet. I don't know
21 what that red material is that's coming out from
22 underneath the sheet. I don't know if that's...

23 **MR. YOUNG:** It's blood, Your Honor.

24 **THE COURT:** That one does not appear to violate
25 Rule 403. 19 is of some item in the road. 20 is of

1 some clothing and 21 is a picture of what appears to
2 be the decedent's right hand holding a cigarette
3 lighter. None of those violate Rule 403. Exhibit
4 22 however does in color. If that exhibit is to be
5 utilized, it needs to be black and white.

6 **MR. YOUNG:** Which one is that, Your Honor?

7 **THE COURT:** That's the picture of him in the
8 road with all of the blood coming out of his head.
9 The black and white shows all of the same things you
10 told me you needed the exhibit for. Actually,
11 Mr. Anderson's photograph shows more. It shows more
12 of the decedent's legs and just a little bit more of
13 his left hand. So the 403 objection on 22 is
14 granted at this stage.

15 What else?

16 **MR. ANDERSON:** Judge, it was back in October of
17 last year that we had our meeting and Ervin was
18 there instead of Frank, but back at that time, we
19 had a discussion about manslaughter and that is
20 gone. And it is frustrating because we didn't have
21 all this stuff at the time that we weren't able to
22 work the case out and I just think it would only be
23 fair for that offer to exist now that we have all
24 the evidence. And it's just -- I can't say what
25 would have happened back then had we had all this

1 and that's what's so frustrating about this process.

2 This is a horrible case. It's horrible for
3 everybody. And it's one that I think should be
4 worked out, but it's hard to work them out when you
5 don't have all the stuff. And I don't know --
6 actually, I've had motions to enforce plea
7 agreements before, but this is a little unusual. I
8 don't think I've ever made this motion before, but I
9 would ask that the State put that plea out there.

10 **THE COURT:** All right. Well, that's, in my
11 view, is a separation of powers. I don't have -- if
12 there's a plea agreement that the Court's asked to
13 enforce, that's one thing. What you all are telling
14 me is there was no plea agreement and you say that
15 the reason there could not be a plea agreement is
16 because the State had not provided you with the
17 evidence in toto.

18 I understand your argument. I've never heard
19 that one either, Mr. Anderson, but I admire you for
20 making it. I think it'd be violative of the
21 separation of powers if I get involved in that. I
22 can't tell them what they have to offer your client.

23 **MR. ANDERSON:** I can't say that we would have
24 been able to resolve it, but it just is frustrating
25 if you get a plea offer before you have all this

1 stuff.

2 **THE COURT:** Mr. Anderson, believe me I
3 understand your frustration and I've had
4 conversations and -- all the things I don't
5 understand as well, but I have to rule on specific
6 cases and what's brought before me and I've made
7 that ruling or those rulings using my best judgment.
8 I may be wrong, but I've done what I think was
9 appropriate.

10 All right. We've got Denno.

11 **MR. ANDERSON:** That's it, Judge.

12 **THE COURT:** Just Denno?

13 **MR. ANDERSON:** Yes, sir.

14 **THE COURT:** All right. Let's take a five
15 minute break. You got your witnesses here for the
16 Jackson versus Denno hearing?

17 **MR. YOUNG:** I do, Your Honor.

18 **THE COURT:** All right. We're at ease.

19 (Brief Recess.)

20 **THE COURT:** Call your witness.

21 **MR. YOUNG:** Commander Charles Holloway.

22 **CHARLES HOLLOWAY,**

23 having been duly sworn, testified as follows:

24 *****

25 *****

CHARLES HOLLOWAY (IN CAMERA) - DIRECT BY MR. YOUNG

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1 DIRECT EXAMINATION.

2 BY MR. YOUNG:

3 Q Commander Holloway, give us your full and
4 complete name, where you work and for how long.

5 A My name is Charles Holloway. I'm employed at
6 the Saluda Police Department. I've been with Saluda
7 Police Department since 1996.

8 Q Okay, sir. Now, Michael Watson was arrested on
9 the night of August 6th, correct?

10 A Yes, sir, he was.

11 Q All right. And during that timeframe when he
12 was arrested, the day he was arrested, the time he
13 was arrested, you had an opportunity to interview
14 him, did you not?

15 A Yes, sir.

16 Q Okay. And how did you conduct that interview,
17 who was with you, what circumstances were there,
18 where was it conducted?

19 A Myself and SLED Agent Robin Newton went to the
20 Saluda County Detention Center to interview Michael
21 Watson. He was a suspect in a murder case that we
22 were working.

23 Q When I say the night of August 6th, I actually
24 probably ought to refer to that as the morning.

25 When I say August the 5th, the night of August 5th

1 into the morning of August 6th, that's the timeframe
2 you were conducting that investigation; is that
3 correct?

4 A Yes, sir, it was.

5 Q Now, did you advise him of his rights prior to
6 talking to him?

7 A Yes. He was advised of his Miranda warning.
8 His Miranda warning was read to him by me, Agent
9 Newton witnessed and he initialled each block that
10 he understood the Miranda warnings.

11 Q How many times that night did you interview
12 him?

13 A He was interviewed twice that night.

14 Q Okay. And did you do this -- did you use
15 anything to assist you in conducting this interview
16 in terms of completing the Miranda forms?

17 A Yes, sir. We have documentation from the
18 police department that we put it in writing and we
19 have the suspect to sign it.

20 Q Would you be able to recognize those forms
21 again if you saw them?

22 A Yes, sir.

23 Q I'm going to hand up what's been marked as
24 State's Exhibits Number 1 and Number 2 and ask you
25 if you can recognize them.

CHARLES HOLLOWAY (IN CAMERA) - DIRECT BY MR. YOUNG

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1 A (Witness reviewing documents.)

2 Q Do you recognize them?

3 A Yes, sir.

4 Q How do you recognize them?

5 A Well, it's my writing, the date and Agent
6 Newton's handwriting and Michael Watson's
7 handwriting that he initialled at the rights as they
8 were read to him by me.

9 Q All right. And so the form you're holding is
10 -- describe it just for the record very briefly.

11 A It's a waiver of rights. It gives you your
12 basic Miranda warning.

13 Q And does it enumerate each of the warnings that
14 you gave him on both those occasions?

15 A Yes, sir.

16 Q All right. And did he place his initial next
17 to each one of those rights as you read them to him?

18 A Yes, sir.

19 Q Did he have a copy to go along with when you
20 were reading those rights?

21 A Yes, sir.

22 Q Now -- and then at the conclusion of the rights
23 warning, did anyone sign it or initial it?

24 A He signed it. I signed it and Agent Newton,
25 she signed it.

1 Q Did you enter a time and date for the
2 interview?

3 A Yes, sir.

4 Q What times were displayed on those two
5 exhibits?

6 A The first one was August 6, 2007, approximately
7 2:33 a.m. The second one was August 6, 2007, 3:39
8 a.m.

9 Q And are those the forms that you completed and
10 you witnessed him sign?

11 A Yes, sir.

12 Q And you gave him those rights as they appear on
13 that form?

14 A Yes, sir, read it verbatim.

15 Q Okay. Did you make any changes whatsoever?

16 A No, sir.

17 Q But you, however, did complete the portion of
18 the form which indicates what he's being suspected
19 of, correct?

20 A Yes, sir.

21 Q And then you indicated what?

22 A Murder.

23 Q Okay. At the time that you gave him these
24 rights, where did you conduct this again?

25 A This was -- this interview was conducted at the

CHARLES HOLLOWAY (IN CAMERA) - DIRECT BY MR. YOUNG

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1 Saluda County Detention Center.

2 Q So he was in custody at the detention center?

3 A Yes, sir.

4 Q How was he dressed and how was he attired?

5 A He was dressed in their orange jump out gear.

6 Q Was he in cuffs?

7 A He had on leg irons.

8 Q And what time of night did this first interview
9 take place?

10 A The first interview took place at 2:33 a.m.

11 Q And the second one took place at what time?

12 A 3:39 a.m.

13 Q And, essentially, can you just tell the Court
14 from start to finish how long reading of the rights
15 until completion of the interview took?

16 A It probably took about ten minutes.

17 Q And was anyone else other than you and Ms.
18 Newton present?

19 A No, sir.

20 Q All right. Who asked questions of the
21 defendant at that time?

22 A The first interview that was conducted at 2:33
23 a.m. I asked questions of Michael Watson.

24 Q So you asked questions on the first interview?

25 A Yes, sir.

1 Q Now, when you were reading him these rights,
2 did you look for acknowledgment from him that he
3 understood what you were saying?

4 A Yes, sir. Our waiver of rights form, it comes
5 in six different parts. It's six questions. It has
6 blanks out beside it. I read him the first one, ask
7 him if he understands it, if he understands it, he
8 puts his initial in it. I move to number two. If
9 he understands number two, we proceed on down.

10 Q Did he appear to have any difficulty in
11 understanding what you were saying?

12 A No, sir.

13 Q Did you have any outward signs from him that he
14 may have been under the influence of anything,
15 either drugs, alcohol or anything like that?

16 A No, sir.

17 Q Did he have any response to your questions
18 verbally or by actions? When you said, do you
19 understand your rights, how did he act?

20 A He initialled the block.

21 Q So he didn't say yes or no, he just initialled?

22 A Yes, sir.

23 Q At any time did he indicate that he did not
24 want to talk to you after you concluded the rights
25 or even during the performance of the rights

CHARLES HOLLOWAY (IN CAMERA) - DIRECT BY MR. YOUNG

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1 advisement?

2 A No, sir.

3 Q Did he ever ask for an attorney?

4 A No, sir.

5 Q Prior to him answering any questions that you
6 asked, what efforts did you make to try to cajole
7 him, threaten him, influence him, promise him
8 something in return for what he would tell you?

9 A I made no such efforts.

10 Q So you never made a statement like if you'll
11 just cooperate with us, things will go easier on
12 you?

13 A No, sir.

14 Q Never said that either?

15 A No, sir.

16 Q At any time did he ever just simply say -- let
17 me rephrase the question. Just essentially to the
18 best of what you can tell us based upon how you
19 observed him and his actions, did he appear to you
20 to understand what he was doing before he answered
21 those questions?

22 A Yes, sir.

23 Q Did it appear to you to be freely and
24 voluntarily given?

25 A Yes, sir.

1 Q And I'm speaking now about both instances
2 because you read rights in both those cases,
3 correct?

4 A Yes, sir.

5 Q Does any of your answers change to any of the
6 questions I've asked you about what you've told me
7 about either the first or second interview, was
8 there any difference?

9 A No, sir.

10 Q Other than the timeframe?

11 A Right, that's the only difference was the
12 timeframe, same questions.

13 Q What questions, if any, did you ask him?

14 A The interview that was conducted at 2:33 a.m.,
15 after reading him his rights, I asked him, What
16 happened? Mr. Watson replied, Self-defense. I
17 asked him, How was it self-defense? He replied,
18 Because it was self-defense. Then he asked me what
19 was he being charged with. I advised him he was
20 being charged with murder. He just stated, Place me
21 back in my cell so I can lay down.

22 Q Okay. Now, you already told him he was -- you
23 already advised him he was being charged with
24 murder?

25 A Yes, sir.

CHARLES HOLLOWAY (IN CAMERA) - DIRECT BY MR. YOUNG

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1 Q So he just repeated the question?

2 A Yes, sir.

3 Q Was there any doubt in your mind, at that point
4 in time, he didn't understand what he was being
5 charged with?

6 A No, sir.

7 Q And he just asked to go back to his cell?

8 A Yes, sir.

9 Q All right. The second interview you didn't
10 actually ask the questions, did you?

11 A No, sir.

12 Q Okay. But you were present for the answers?

13 A Yes, sir.

14 Q Okay. But you're not the one who actually
15 asked the questions. You did hear the response
16 however?

17 A Yes, sir.

18 Q Do you recall what Agent Newton asked him at
19 that time?

20 A Agent Newton asked him would he tell us where
21 the weapon was. Mr. Watson replied, I can't tell
22 you.

23 Q And that's it?

24 A That's it.

25 Q And this was conducted how long after the first

1 interview?

2 A About an hour.

3 Q And how long did that interview take?

4 A About ten minutes.

5 Q At any time after he said, Just let me go back
6 to my cell, you know, did you stop him from doing
7 that or try to prevent him from doing that?

8 A No, sir.

9 Q Did you deny him any sustenance, food, drink, a
10 Coke? Did you deny him an opportunity to go lay
11 down in his bunk?

12 A No, sir.

13 Q So as soon as he said, Just let me go back to
14 my bunk, that's just what he did?

15 A Yes, sir.

16 Q You let him go back. So when you went to get
17 him the second time, was he asleep or not; do you
18 know?

19 A I don't know if he was asleep or not. Jail
20 personnel went to the back and brought him up to
21 where we were at.

22 Q And how long did it take to get him up there?

23 A Five minutes at the most.

24 Q And then after he gave the answers to Agent
25 Newton, he was returned to his cell?

CHARLES HOLLOWAY (IN CAMERA) - CROSS BY MR. ANDERSON

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1 **A** Yes, sir.

2 **Q** Was there any attempt to ask any other
3 questions in your presence?

4 **A** No, sir.

5 **Q** Did you ask him anymore questions?

6 **A** No, sir.

7 **MR. YOUNG:** Please answer any questions the
8 defense may have for you.

9 **THE COURT:** Cross.

10 CROSS-EXAMINATION

11 **BY MR. ANDERSON:**

12 **Q** Charles, what are the notes to which you were
13 referring when you were testifying?

14 **A** It's a timeline.

15 **Q** When was that prepared?

16 **A** This was prepared the next -- on the 8th.

17 **Q** Who prepared that?

18 **A** Myself and Chief David Farmer.

19 **Q** Did you take any actual handwritten notes about
20 your conversations with Michael?

21 **A** No, sir.

22 **Q** Okay. Now, why didn't you tape your
23 conversations with Michael?

24 **A** At the time we didn't have the tape recorders
25 in the jail, was not equipped with devices to record

1 interviews.

2 Q Well, did you not have any other way to record
3 it, some independent way like your own recording
4 device, cell phone, your radio?

5 A Well, you can't record with a radio. I have a
6 cell phone. I don't think that the -- it would have
7 had enough gigabytes in it to record.

8 Q Were you present when Michael was arrested?

9 A No, sir.

10 Q But there's no question that he was cooperative
11 from what you've learned?

12 A As far as the arrest?

13 Q Yes.

14 A To my understanding, he was cooperative, yes,
15 sir.

16 Q But there's no allegation that he made any
17 statements during his arrest, he just cooperated?

18 A Yes, sir.

19 Q Okay. Did he ever give you any indication that
20 he wanted to talk to you?

21 A No, sir.

22 Q Did he ever tell you he didn't want to talk to
23 you?

24 A No, sir. I advised him of his rights, he --

25 Q Okay. When he wouldn't talk to you the first

CHARLES HOLLOWAY (IN CAMERA) - REDIRECT BY MR. YOUNG

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1 time, what made you think he'd talk to you the
2 second time?

3 A We went back the second time to see if he would
4 tell us where the murder weapon was at because we
5 was preparing a search warrant to execute at his
6 residence.

7 Q Okay. And have you told us everything that you
8 told Michael that night, maybe not verbatim, but in
9 general?

10 A Yes, sir.

11 MR. ANDERSON: Okay. Thank you.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY MR. YOUNG:

15 Q What time was he arrested? Do you know what
16 time he was arrested?

17 A It was around midnight, 2359, by the Saluda
18 County Dispatch CAD.

19 MR. YOUNG: No further questions.

20 THE COURT: Recross.

21 MR. ANDERSON: No thank you.

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

23 MR. YOUNG: Your Honor, since he's the primary
24 investigating officer, I'm going to allow him to
25 remain in the room and proceed with the next

1 witnesses that are sequestered.

2 THE COURT: Yes, sir.

3 ROBIN NEWTON,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. YOUNG:

7 Q Agent Newton, you were present during the
8 rights advisement delivered by Detective Holloway to
9 this defendant on the 6th of August 2007 that night
10 -- well, it was early morning?

11 A That's correct.

12 Q And you acted as a witness in both those cases?

13 A Yes, sir, I did.

14 Q Okay. Would you be able to recognize the form
15 that you signed at that time?

16 A Yes, sir.

17 Q Let me hand you what's State's Exhibit 1 and 2.
18 Can you tell me if you recognize either one of
19 those?

20 A I do.

21 Q How do you recognize them?

22 A These are the forms that we presented to
23 Mr. Watson that he signed at the time that we spoke
24 to him.

25 Q Did your signature appear anywhere on there?

ROBIN NEWTON (IN CAMERA) - DIRECT BY MR. YOUNG

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1 A Yes, sir, I signed as a witness on both.

2 Q Okay. And you were present during the actual
3 rights advisement itself and during the answers to
4 questions, correct?

5 A That's correct.

6 Q All right. Now, since you did not perform the
7 actual rights advisement, did you observe anything
8 in which Detective Holloway or either yourself would
9 have done at the time to prevent this gentleman from
10 understanding what he was doing when he was signing
11 that waiver form?

12 A No, sir.

13 Q And you observed him to sign it?

14 A Yes, sir.

15 Q Did you observe him to also initial it?

16 A Yes, sir.

17 Q All right. Was there any reluctance on his
18 part to initial or to act as he went down the list
19 to initial his rights?

20 A No, sir.

21 Q Was there any attitude or difficulty he was
22 expressing about I don't understand what I'm doing
23 or we should stop right now, ever hear anything like
24 that because he just didn't understand what was
25 going on?

1 A No, sir.

2 Q Okay. About how long did it take from your
3 perspective on both these interviews, the dates --
4 the times are on there, but what -- how long did the
5 interview actually take itself?

6 A Each interview was probably less than five to
7 eight minutes.

8 Q Okay. And you didn't ask any questions at the
9 first interview, did you?

10 A That's correct.

11 Q You just listened to the answers?

12 A That's correct.

13 Q And did you hear the answer he gave?

14 A I did.

15 Q All right. Do you recall what that answer was?

16 A He --

17 Q Do you recall what the question was? What was
18 the question asked?

19 A The question was is that...

20 Q I'm talking about the interview that Commander
21 Holloway was conducting the first one?

22 A Okay. He asked him what had happened.
23 Mr. Watson's reply simply was, It was in
24 self-defense.

25 Q Okay. Did he say anything more really?

ROBIN NEWTON (IN CAMERA) - DIRECT BY MR. YOUNG

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1 **A** No. Oh, he asked him what he was going to be
2 charged with and Sergeant Holloway replied he was
3 going to be charged with murder.

4 **Q** But that's already appeared on the form,
5 correct?

6 **A** Correct.

7 **Q** Did he ask anything be done for him at that
8 time after he said --

9 **A** No, sir.

10 **Q** Where was he taken after that?

11 **A** He was asked to be taken back to his cell.

12 **Q** Now, in terms of the second interview, you
13 actually asked a question in that case, did you not?

14 **A** I did.

15 **Q** And what was the question you asked?

16 **A** The question was I asked him if he would ask us
17 where he had disposed of the weapon -- if he would
18 tell us the location of the weapon.

19 **Q** Okay. And what was his response?

20 **A** He told us that he couldn't tell me that.

21 **THE COURT:** Say that again.

22 **THE WITNESS:** He told me he couldn't tell me
23 that. He wasn't going to tell me that.

24 **BY MR. YOUNG:**

25 **Q** You don't recall the exact words he used?

- 1 A He said he couldn't tell me that.
- 2 Q So, in other words, if I was the person, I
- 3 can't tell you that or I couldn't tell you that?
- 4 A My understanding was is that he wasn't going to
- 5 divulge that information to me, that he knew, but he
- 6 was not going to divulge --
- 7 Q Well, that's how you interpret it, but what did
- 8 he say?
- 9 A He said he was not going -- he said, I can't
- 10 tell you that.
- 11 Q Did you observe anything in either one of these
- 12 interviews that would have been in essence a promise
- 13 to get him better treatment, a better opportunity if
- 14 he just simply cooperated?
- 15 A No, sir.
- 16 Q Did anyone threaten him?
- 17 A No, sir.
- 18 Q Did anyone try to essentially deny him a chance
- 19 to use a restroom or get a drink or take a smoke
- 20 break, anything he asked to do in order to get him
- 21 to say what you wanted to hear?
- 22 A No, sir.
- 23 Q Did you ask him any other questions?
- 24 A No, sir.
- 25 Q And at any time did he ask, I want a lawyer, or

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1 did he say, I want to invoke my right to remain
2 silent, I don't want to talk anymore? Did he say
3 anything to that effect?

4 **A** At the conclusion of the first interview, he
5 asked to be returned to his cell so he could lay
6 down. He did not invoke his right to counsel.

7 **MR. YOUNG:** Your witness, sir.

8 **THE COURT:** Cross.

9 CROSS-EXAMINATION

10 BY MR. ANDERSON:

11 **Q** Did you have a way of recording this
12 conversation? Did you have any way of recording
13 these conversations?

14 **A** I do, but it was not recorded, no.

15 **Q** Why not?

16 **A** At the time I was just there just to assist
17 Sergeant Holloway. I was not the lead investigator
18 at the time. SLED had a protocol at that time that
19 required that if a crime scene agent is dispatched
20 to a scene, that a field agent has to be on scene as
21 well.

22 **Q** Did he ever indicate that he wanted to talk to
23 you guys?

24 **A** When we went to the detention center to speak
25 to him, we were asked that he be brought up. At

1 that time we asked him to sign the form. At no time
2 did he acknowledge to us that he didn't want to
3 speak to us.

4 Q Then you went and talked to him again after he
5 already said he didn't want to talk to you?

6 THE WITNESS: I can't hear him.

7 THE COURT: He said --

8 BY MR. ANDERSON:

9 Q You went and spoke to him again after he
10 already said he didn't want to talk to you, you went
11 back a second time?

12 A Correct.

13 Q But he already said he didn't want to talk to
14 you?

15 A That's correct, but he didn't ask for -- he
16 didn't invoke his right to counsel.

17 Q Okay. Did you write down specifically exactly
18 what was said?

19 A No, I don't believe I did.

20 MR. ANDERSON: Okay. Thank you. No further
21 questions?

22 THE COURT: Redirect.

23 REDIRECT EXAMINATION

24 BY MR. YOUNG:

25 Q Agent Newton, did he say, I don't want to talk

ROBIN NEWTON (IN CAMERA) - REDIRECT BY MR. YOUNG

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1 to you, or did he just say, Take me back to my cell?

2 A He just said take me back -- he said, Just take
3 me back to my cell.

4 Q So are you interpreting he said I just don't
5 want to talk to you anymore, I want to go back to my
6 cell?

7 A Correct.

8 Q Which did he say? What did he actually say?
9 What were his words, not how you interpreted it,
10 what were his words?

11 A He asked what he was being charged with.
12 Sergeant Holloway advised him he was being charged
13 with murder. At that point, he said he didn't want
14 to talk anymore, he wanted to go back to his cell
15 and lay down, I believe.

16 Q He said he did not want to talk anymore?

17 A Correct.

18 MR. YOUNG: No further questions.

19 THE COURT: Recross.

20 MR. ANDERSON: No thank you.

21 THE COURT: Thank you, ma'am. You may step
22 down.

23 Any other witnesses on the Denno from the
24 State?

25 MR. YOUNG: Yes, sir, I have one more witness.

CODY WESLEY COCKRELL (IN CAMERA) - DIRECT BY MR. YOUNG

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1 CODY WESLEY COCKRELL,

2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. YOUNG:

5 Q Sir, give us your full and complete name, where
6 you work and for how long.

7 A My name's Cody Wesley Cockrell. I work for
8 Saluda Police Department. I've been working for
9 them a little over three years.

10 Q Okay. Did you have the responsibility to
11 transport Michael Watson to Greenwood County Jail at
12 some time?

13 A I did.

14 Q Do you know when that was?

15 A August the 7th, 2007.

16 Q Okay. So this is August 7th and this would
17 have been, what, a couple days after the incident?

18 A I believe so.

19 Q All right. And your sole job was just to take
20 him up there?

21 A Right.

22 Q During the course of that trip, did you have
23 occasion to look in the back seat and observe his
24 behavior?

25 A I did.

CODY WESLEY COCKRELL (IN CAMERA) - DIRECT BY MR. YOUNG

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1 Q Okay. What did you see when you looked in the
2 back seat?

3 A He was moving around as if he were
4 uncomfortable trying to maybe get his wrists
5 loosened or handcuffs or shackles bothering him.

6 Q And so did that prompt you to do anything?

7 A I asked him what was on his mind. I thought
8 maybe he was hot, wanted me to turn some air on or
9 needed me to loosen up some shackles.

10 Q And what happened?

11 A Well, once I asked Mr. Watson what was on his
12 mind, he then asked me, Where did I hit him?

13 Q Did you -- were you surprised by that answer?

14 A Yes, sir.

15 Q He said exactly what?

16 A Where did I hit him?

17 Q Okay. And what happened then as a result of
18 that statement?

19 A I asked him what was he talking about because I
20 didn't know anything about the case. I wasn't even
21 working when the incident happened. I just knew I
22 was transporting him. And he asked me -- he began
23 to ask me where did he hit him, Mr. Chandler, when
24 he shot.

25 Q Where did he hit him --

CODY WESLEY COCKRELL (IN CAMERA) - DIRECT BY MR. YOUNG

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1 A Uh...

2 Q And then what else did he say?

3 A Well, I wasn't sure if I was supposed to say
4 anything, so I just told him all I knew was upper
5 body. He then began to say how -- he began -- he
6 went into telling me what happened that evening of
7 the incident. He said he went to drop his child
8 off, I believe it was a little girl, I believe
9 that's what he said, and then he went to cut a lap
10 through the Terrace like most young people do to see
11 who's out.

12 He said he got to the back of the Terrace
13 Apartments and made the turnaround and was coming
14 out when someone tried to wave for him to stop, I
15 don't think he knew who it was, he said, but he
16 stopped and at that time, four or five guys started
17 coming towards his vehicle. And at that time, he
18 told me he didn't know what was going on so he just
19 threw up the gun and shot.

20 Q So -- I'm sorry. Is that your statement,
21 you're finished?

22 A (Witness nodded head.)

23 Q Okay. Was there -- was this a conversation in
24 which you're asking him questions and he's giving
25 answers or he's just talking?

CODY WESLEY COCKRELL (IN CAMERA) - DIRECT BY MR. YOUNG

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1 A He's just talking.

2 Q So how many questions did you ask him and what
3 did you ask him?

4 A I think I asked him two questions. What's on
5 his mind and what are you talking about were the two
6 questions I asked him before he went into telling me
7 what happened that evening.

8 Q Okay. So when what's on his mind, you said was
9 the time, he said, Where did I hit him?

10 A Right.

11 Q And you gave a response upper body?

12 A Right.

13 Q And then when did you ask the next question?

14 A Well, I asked him what was on his mind. He
15 asked, Where did I hit him? And then I asked, What
16 are you talking about, because like I said, I wasn't
17 trying to ask any direct questions. I didn't --
18 honestly didn't want to have anything to do with it
19 because I was unsure of the incident.

20 Q Okay. Now, you didn't stop the car and give
21 him Miranda rights or warnings of any kind, did you?

22 A No, sir.

23 Q The only questions you asked him and the
24 response -- before he gave these responses was two
25 questions?

1 **A** Right. What's on your mind and what are you
2 talking about.

3 **MR. YOUNG:** Your witness.

4 **THE COURT:** Cross.

5 CROSS-EXAMINATION

6 **BY MR. ANDERSON:**

7 **Q** Officer Cockrell, your testimony is that you
8 were able to get more out of this defendant than two
9 highly trained, high ranking investigators?

10 **A** That's the way it seems.

11 **Q** You were driving a brand new vehicle, were you
12 not?

13 **A** No, I wasn't. I was in an older Crown Vic.

14 **Q** Was that your -- are you a patrol officer?

15 **A** Yes, sir.

16 **Q** Is that your patrol vehicle?

17 **A** At that time it was.

18 **Q** And did it not have video taping equipment?

19 **A** I believe so.

20 **Q** Why didn't you video tape your conversation
21 with the defendant?

22 **A** It's not our policy to video tape a transport.

23 **Q** Is it your policy to give people their Miranda
24 warnings before you interview them?

25 **A** It is if I question them in reference to a

CODY WESLEY COCKRELL (IN CAMERA) - CROSS BY MR. ANDERSON

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1 certain incident.

2 Q Okay. I mean, he'd just been arrested for
3 murder, what do you think is on his mind?

4 A Like I said, I asked him what was on his mind
5 because he looked uncomfortable and I ask everyone
6 that because I don't know whether they're hot or
7 cold and I try to accommodate them the best I can.

8 Q So it never entered your mind that he'd say
9 anything that could be useful down the road?

10 A No, sir.

11 Q How hard would it have been once he started
12 talking to turn the equipment on so we could hear
13 exactly what was said?

14 A I would have had to turn on my video camera,
15 then turn it around which would have required me to
16 pull off to the side of the road and stop and that's
17 not something I want to do during a transport not
18 unless I have a serious problem.

19 Q Well, it would still pick up everything he
20 said. You might not see him, but the inside mic
21 would pick up everything that was said, correct?

22 A Possibly.

23 Q Well, how could it not?

24 A I've had interference on my microphone before.

25 Q But all you had to do was hit one button and

1 you could have done that mid-sentence and you could
2 have gotten whatever he said on tape, correct?

3 A Right, but like I said, I wasn't questioning
4 him in reference to the incident.

5 Q I understand, but you could have done it?

6 A Right.

7 Q And then how long after he started talking
8 about the incident, did the conversation go on
9 talking about the incident?

10 A Fifteen or so minutes.

11 Q So why didn't you hit the record button?

12 A It's not my policy.

13 Q So the only reason you didn't do it is because
14 it's not your policy, that's the only reason you
15 didn't do it?

16 A Right. He was just talking. I wasn't
17 questioning him.

18 Q And you didn't think you were going to wind up
19 in court?

20 A Honestly, I did not have any clue. I'd only
21 been with our department for a few months.

22 Q Had you ever been involved in a case this
23 serious before?

24 A No, sir.

25 Q Have you since?

CODY WESLEY COCKRELL (IN CAMERA) - CROSS BY MR. ANDERSON

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- 1 A I've been in a couple cases, yes, sir.
- 2 Q Did the defendant seem remorseful?
- 3 A By saying remorseful, you mean upset?
- 4 Q Like he felt bad about what happened?
- 5 A Yeah.
- 6 Q Did you feel bad for him?
- 7 A He's an adult. He makes his own decisions.
- 8 Q So you weren't talking to him trying to make
- 9 him feel better, you were just talking to him?
- 10 A I was trying -- I asked him one question to see
- 11 if I can make the ride any better for him.
- 12 Q At any time during this 10 to 15 minute
- 13 conversation, did you tell him that you're a law
- 14 enforcement officer and that everything he's saying
- 15 you're going to, to the best of your knowledge
- 16 later, try to remember and use it against him in
- 17 court?
- 18 A I figured that was a given. I'm in full
- 19 uniform, driving a fully marked police car.
- 20 Q You figured it was a given, is that no?
- 21 A No.
- 22 Q Is that your policy?
- 23 A What? Is what my policy?
- 24 Q To not tell people that?
- 25 A I didn't place him under arrest, so I don't --

1 I was just doing as I was told.

2 Q Did anybody tell you to try to get him to talk?

3 A No, sir.

4 MR. ANDERSON: Could I have a moment, Judge?

5 THE COURT: Sure.

6 (Pause.)

7 BY MR. ANDERSON:

8 Q Did you ask Michael if he had any witnesses
9 that could help him?

10 A I tell everybody, I say, if you've got
11 witnesses, you need to -- I said, that's your case.
12 Like I tell everybody, they have their day in court.
13 I'm not the judge.

14 Q You understand this is now shifting from you
15 just asking one question to having a full bore
16 conversation with this guy who's charged with murder
17 about his case. What are you doing?

18 A I didn't have any idea about his charges at the
19 time.

20 Q You didn't know he was charged with murder?

21 A I sure didn't.

22 Q Well, then --

23 A I was called in on my day off to transport.

24 Q You just said that he asked you, Where did I
25 hit him, and you told him, The upper part of the

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1 body. So you didn't know that the young man was
2 dead?

3 A I knew he was dead, but I didn't know what
4 happened. I didn't know his charges.

5 Q Since this incident, have they told you not to
6 do that?

7 A To do what?

8 Q What you did in this case.

9 A Ask him if he's all right, what's on his
10 mind --

11 Q Talking about his case, tell him to get his
12 witnesses rounded up.

13 A I just told him he needed to get his --
14 whatever he needed for court.

15 Q Well, exactly what did you say?

16 A If you've got witnesses, that's going to be a
17 plus for you.

18 Q Okay. The statement that I got from the State
19 is signed by you, but it's typed. Are you familiar
20 with this statement?

21 A Yes, sir.

22 Q Is that your statement?

23 A Yes, sir.

24 Q When did you sign that?

25 A The day I typed it, which was right after I got

1 back from the transport.

2 Q Well, you didn't put in here anything about the
3 witness discussion, correct?

4 A Correct.

5 Q Okay. Is there anything else that you left
6 out?

7 A No, sir.

8 Q So the only thing that's not in here is the
9 discussion about the witnesses, that he should get
10 his witnesses lined up and you're not the judge?

11 A He asked me about witnesses and I told him
12 that's him.

13 MR. ANDERSON: All right. Thank you. No
14 further questions.

15 THE COURT: Redirect.

16 REDIRECT EXAMINATION

17 BY MR. YOUNG:

18 Q The time you asked him the first question, was
19 it your intent to try to figure out what he was
20 going to tell you about a case or was it your intent
21 to try to figure out are you comfortable or not?

22 A My intent was to find out if he needed me to
23 loosen his shackle, if it was cutting off
24 circulation, if he wanted me to turn on any air,
25 heat. I had no intent of having anything to do with

1 this case.

2 **MR. YOUNG:** No further questions.

3 **THE COURT:** Recross.

4 **MR. ANDERSON:** No thank you.

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

6 Any further witnesses from the State?

7 **MR. YOUNG:** No, sir.

8 **THE COURT:** Any witnesses from the defense?

9 **MR. ANDERSON:** No, sir, Your Honor.

10 **THE COURT:** Any argument?

11 **MR. YOUNG:** Yes, sir.

12 **MR. ANDERSON:** Do you want me to go first?

13 **THE COURT:** Sure.

14 **MR. ANDERSON:** Judge, this last young man
15 obviously is a nice young man, but I mean they had a
16 15 minute conversation about the case in a car that
17 has recording equipment in it, none of it was
18 recorded, he wasn't read his rights and we would
19 move that all of that be excluded.

20 As for the other two interviews, I would ask
21 that the second one be excluded because he'd already
22 said he didn't want to talk to them. With that
23 being said, neither officer recorded it, neither
24 officer took any notes about the conversation. I
25 would say that both of them should be excluded just

1 because they can't be sure exactly what was said, no
2 notes were taken and it could have been recorded
3 very easily. All three of these alleged statements
4 could have been recorded very easily. My client
5 doesn't have any control over that stuff. So that
6 will be my motion, Judge, for all three of them to
7 be excluded for those reasons. Thank you.

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

9 **MR. YOUNG:** Your Honor, I don't think there's
10 any issue about the first statement. The first
11 statement he was clearly given Miranda warnings
12 without any question whatsoever. He just makes an
13 allegation of self-defense without any support.
14 He's just asked what -- he was asked, What do you
15 mean about it?

16 At the conclusion of that, he says, Take me
17 back to my cell, I want to get some sleep. Agent
18 Newton says, I don't have anything more to say, take
19 me back to my room, take me back to my cell, take me
20 back to my bunk. I don't think that's an
21 unequivocal indication of the right to remain silent
22 and that is the current standard of law, Your Honor.

23 There are at least two or three different cases
24 of recent date, primarily Berghuis versus Thompkins,
25 which is a Supreme Court opinion issued this year,

1 that follows a situation where a person just
2 essentially first says nothing for a period of three
3 hours during the interview. To cut to the chase on
4 that, the officers involved -- there are two
5 officers interviewing the person for three straight
6 hours and he just sits there during the whole period
7 of time and, finally, the officer just asks the
8 question about invoking almost a moral type
9 situation onto the scene and asks him, you know,
10 what would you do -- if were you going to
11 essentially ask, you know, I pray to God today to
12 forgive me about this, what would you do and have
13 you prayed to forgive you for shooting this person,
14 and he just says yes. And I think the -- that that
15 just stands clearly for that proposition.

16 The State of South Carolina has since issued
17 several opinions, one is Aleksey and the other is
18 Reed. Aleksey is instructive because the person
19 says, That's all I've got to say, and that was the
20 issue in that case as to whether or not rights were
21 involved -- the implication of his right to remain
22 silent was revoked by that particular statement,
23 That's all I've got to say, that is not an
24 unequivocal invocation of the right to remain
25 silent.

1 There's also a case on Reed. Reed is
2 instructive because in its particular situation,
3 Justice Finney wrote -- beg the Court's
4 indulgence -- it was -- if I recall this case, Your
5 Honor, and I may be completely off base, I do
6 believe this is one in which Justice Finney did not
7 find invocation of the right to remain silent.

8 And the person -- they'd gone through a rather
9 extensive discussion with him about cooperating
10 finding the murder weapon. There had been a 20 to
11 30 minute discussion with him about a murder --
12 murders. He never, at that time, invoked his right
13 to remain silent and he just essentially said, you
14 know, when -- who would be my attorney. The Court
15 did not conclude that that type of situation would
16 result in an invocation of the right to counsel or
17 invocation of the right to remain silent.

18 I don't believe that case is as direct on point
19 as I thought it was when I first read it. I'll hand
20 it up. I'm not sure it's instructive.

21 Your Honor, I just don't believe this
22 particular situation was an invocation of a right to
23 remain silent after or at the conclusion of the
24 first statement in which he says, Just take me back
25 to my bunk, I don't have anything more to say.

1 In terms of the third statement, the officer
2 has not made any effort to actually inquire or ask a
3 question likely to elicit an incriminating response
4 by asking this first question. His first question
5 essentially is to try to find out if he's
6 comfortable in the back seat.

7 Even objectively, it doesn't -- it is not
8 likely to begin a response to a question that would
9 result in him incriminating himself. The response
10 is almost a surprise of, Where did I hit him, is
11 almost a surprise in relation to the question. And
12 then when he essentially asks a second question, you
13 know, what do you mean, what are you talking about,
14 to clarify, you know, what are you referring to, at
15 that point, the defendant essentially just begins to
16 explain everything and gives his explanation of the
17 event in his terms.

18 The officer may, in fact, encourage him to get
19 his witnesses together or bring his efforts to bear
20 and defend his own case, but that in and of itself
21 is not anything that's likely to invoke an
22 incriminating response either. He'd already said
23 everything there was to say about what had happened
24 at that point that was asked anyway.

25 Your Honor, the State believes all of these

1 statements come into evidence. These were all
2 freely and voluntarily given, but was intelligently
3 waived his rights to counsel. I don't think there's
4 a basis to suppress any of them.

5 **THE COURT:** Mr. Anderson, do you have anything
6 else?

7 **MR. ANDERSON:** I mean, Judge, my client has
8 already said he's not comfortable today with these
9 shackles, but it didn't make any difference. I
10 mean, the officer's not -- I think that's just
11 silly. I mean, I don't want to question the
12 officer's integrity, but, man, all he had to do was
13 just hit record. It's just frustrating, Judge.

14 (Pause.)

15 **THE COURT:** All right. We're going to be at
16 ease for a few minutes. Let me read this stuff some
17 more.

18 (Brief recess.)

19 **THE COURT:** All right. I have reviewed the
20 cases that were handed up, Berghuis,
21 B-e-r-g-h-u-i-s, versus Thompsons, which is an
22 opinion from the United States Supreme Court which
23 was decided June the 1st, 2010, it's 130 S. Ct.
24 2250; State versus Holland, a decision of the South
25 Carolina Court of Appeals, 2009, 385 S.C. 159 --

1 that may have been handed up previously, I don't
2 know if that's on the issue of Denno or not -- State
3 versus Reed, 332 S.C. 35, it's an opinion of the
4 Supreme Court of South Carolina from 1998; State
5 versus Aleksey, A-l-e-k-s-e-y, a 2000 case of the
6 Supreme Court of South Carolina, 343 S.C. 20.

7 All right. Based on what's been presented, the
8 Court finds that with regard to the initial
9 statements about self-defense that were made to
10 Commander Holloway, the Court finds that on August
11 the 6th, 2007 at 2:33 a.m., the defendant was under
12 arrest and in custody at the detention facility. He
13 was properly advised under his rights that he had
14 the right to remain silent -- or under Miranda, that
15 he had the right to remain silent, that anything
16 that he did say could be used against him in court,
17 that he had the right to talk to a lawyer, have a
18 lawyer with him to advise him and help him before
19 and during questioning.

20 He was advised that if he wanted to have a
21 lawyer with him before and during questioning but
22 could not afford to pay for a lawyer, that one would
23 be provided for him at no cost. He was advised that
24 if he should decide to answer questions now without
25 a lawyer, he still had the right to stop answering

1 questions whenever he wanted to. And the defendant
2 was advised that he had the right to stop answering
3 questions until after he had talked to a lawyer.

4 He indicated an understanding of his rights.
5 He stated that he -- a statement that he did not
6 wish -- did not wish to invoke his right to silence
7 and that he did wish to answer questions and that he
8 did not want to have an attorney with him. He
9 acknowledged all of those rights in writing. They
10 were provided to him.

11 And he made the two statements that were -- the
12 State has established by the requisite degree of
13 proof, meaning at least a preponderance of the
14 evidence and beyond that, clear and convincing
15 evidence, that the statements about acting in
16 self-defense that those were made after Miranda
17 warnings were properly given. They were not the
18 product of any promises, threats, any type of undue
19 influence.

20 The defendant was not under the influence of
21 any substance or suffering from any condition that
22 would adversely affect his thinking, that his
23 decision to enter those statements was made freely,
24 voluntarily, intelligently, knowingly and with a
25 full understanding -- or an appropriate understanding of his

1 rights under Miranda versus Arizona, as well as the
2 United States Constitution and the Constitution of
3 South Carolina concerning his right to remain
4 silent, his right to an attorney and other rights.

5 At 2:33 a.m., that Miranda waiver was obtained.
6 Later, at 3:39 a.m., there was a waiver obtained,
7 which is identical except that it does not check
8 whether he is able to read or write. And in this
9 one, the witnesses' names are reversed so that the
10 SLED agent's name is first, the police commander's
11 name is second, but they're just listed as
12 witnesses. And the time, of course, is different,
13 it's 3:39 a.m.

14 Those Miranda warnings were also properly given
15 and the same analysis would apply to what I just
16 went through on the 2:33 a.m. ones. I don't know
17 that they were necessary.

18 The defendant would have to have made a clear
19 statement of his desire to end the interrogation.
20 In the Aleksey case, our Supreme Court stated that
21 when a suspect invokes his right to remain silent,
22 law enforcement officers must scrupulously honor it.
23 However, before law enforcement officers are
24 required to discontinue questioning, the suspect
25 must clearly articulate his desire to end the

1 interrogation. Moreover, law enforcement officers
2 may certainly speak with a suspect who reinitiates
3 communication subject to an invocation of rights.

4 And then it cites Edwards versus Arizona for
5 the proposition that once an accused requests
6 counsel, police interrogation must cease unless the
7 accused himself initiates further communication,
8 exchanges or conversations with the police.

9 Now, with regard to the statements that were
10 made to SLED Agent Newton, they were free and
11 voluntary. They were made -- in the Court's view,
12 the State has met its burden of proof in
13 establishing they were voluntary.

14 But the concern and why I'm taking so long in
15 reading through all of this is because the testimony
16 of Agent Newton was somewhat difficult to follow.
17 She said at one point that the defendant said that
18 he did not want to talk to them and that they took
19 him back to his cell. I think at another point she
20 said that he indicated he did not want to talk to
21 anyone. They brought him back out of the cell.
22 They gave him his Miranda rights again and his
23 statement was that he could not tell her where the
24 weapon was.

25 Now, there was inconsistencies there because

1 she was testifying that he would not divulge where
2 the weapon was. So this is a difficult issue to
3 deal with because in the first instance, you've got
4 the question of whether he had given a clear
5 indication that he wanted to stop talking to law
6 enforcement officers and then they reinitiated the
7 discussions with him. They did give him his Miranda
8 rights again.

9 In my view, however, the evidence supports the
10 proposition that he never unequivocally stated or
11 clearly stated that he wanted to cease talking to
12 them because it was this, I want to just be taken
13 back to my cell. However, his statement that he
14 gave to Agent Newton appears to the Court to be a
15 comment upon his exercise of the right to remain
16 silent, that he's not going to tell them where the
17 weapon is. Therefore, that statement is
18 inadmissible.

19 That gets me over to Officer Cockrell. Now,
20 Officer Cockrell testified that he did ask a
21 question. And as I read to you all earlier from
22 that Aleksey case, our Supreme Court states that law
23 enforcement officers may speak with a suspect who
24 reinitiates communication subsequent to an
25 invocation of rights.

1 Even if he had, even if the defendant had
2 clearly initiated or invoked his right to remain
3 silent, he's being transported on August the 7th,
4 2007 to Greenwood County, to another jail. The
5 officer testified credibly that the defendant was
6 moving around as if he were uncomfortable. He asked
7 the defendant what was on his mind.

8 Now, interrogation can take the form of
9 specific questions related to a case. They can also
10 come in the form of the substantial equivalent of
11 questioning, but the statement, What's on your mind
12 -- or the question, What's on your mind, seems to
13 the Court to be an appropriate question to ask and
14 not impermissible.

15 The defendant had twice been advised of his
16 rights under Miranda. He had clearly understood
17 them because he told them he didn't want to talk to
18 anyone or go back to his cell. Even though there's
19 some level of uncertainty there, the burden is on
20 the State and the State has to prove by the
21 preponderance of the evidence that the rights were
22 given, they were understood and they were not
23 unequivocally invoked.

24 Then a discussion took place which the Court
25 interprets, finds that the State has established

1 that this was initiated by the defendant. The
2 defendant asked, Where did I hit him? The officer
3 stated that he was not involved in the case and he
4 asked the defendant what he was talking about. That
5 does not appear to be the functional equivalent of
6 questioning that would be barred.

7 The defendant, again, knew his Miranda rights.
8 He wanted to know where he had hit Chandler. Then a
9 statement was made by the officer that it was in his
10 upper body, the victim's upper body. From then on,
11 there is no indication that the officer initiated
12 any of the conversation or continued the
13 conversation or questioned the defendant.

14 These appear to be spontaneous statements being
15 made by the defendant to the law enforcement officer
16 not in response to police interrogation or the
17 substantial equivalent of police interrogation. The
18 defendant clearly was in custody. He clearly was in
19 a marked patrol car. He clearly was in that car
20 with a uniformed police officer after having twice
21 been read his Miranda rights.

22 When he said he cut a lap through the Terrace,
23 that someone tried to get him to stop, four or five
24 people approached the car, he threw up the gun and
25 shot, the officer basically asked the two questions,

1 What's on your mind or what are you talking about
2 earlier, none of those things would have been
3 designed to elicit the responses or be the
4 substantial equivalent of police interrogation that
5 would be barred.

6 Now, the statement about the witnesses,
7 apparently the defendant asked the officer about
8 producing witnesses and the officer made a statement
9 to him that does not appear to be a question, does
10 not appear to be a substantial equivalent of
11 incustodial interrogation. The defendant asked
12 about witnesses and he was told by the officer that
13 if he had witnesses, that would be a plus for him.

14 The arguments about the conversation not being
15 recorded even though it could be, the arguments
16 about things could have been done better or
17 differently, the argument about that they could have
18 stopped and given the Miranda warnings again, those
19 are all good arguments, but they don't change the
20 fundamental situation that the defendant was brought
21 in, he was properly advised of his Miranda warnings,
22 he understood them. He gave two statements to the
23 police about the actions were in self-defense.

24 He then said he wanted to go back to his bunk
25 and didn't want to talk with them anymore. He was

1 brought back out because the police did not
2 understand that to be any sort of unequivocal
3 assertion of his right to remain silent. He once
4 again was mirandized. He once again signed a form
5 saying that he would talk with the police, but what
6 he said to the police was that he was not going to
7 tell them where the murder weapon was or the weapon
8 was. And I am excluding that because it is, in my
9 view, too close to a comment on the exercise of the
10 right to silence. I know that's arguable, but
11 that's my ruling.

12 Then on the seventh one, these other
13 conversations took -- other discussions took place,
14 the defendant had properly been advised of his
15 Miranda warnings, he understood them. He brought up
16 -- the only thing that was said that might have
17 prompted the defendant to say anything was, What's
18 on your mind?

19 The argument can be made by the defense to the
20 jury that that was something other than what I have
21 found the State has proven by the greater weight of
22 the evidence, but, in my view, everything that was
23 stated by Officer Cockrell was logical. He was
24 asking the defendant about his comfort level,
25 basically about moving around and if he was having a

1 problem.

2 You know, I would have chosen different words
3 probably, but I can't find any fault in the words
4 that he chose, does not appear to be incustodial
5 interrogation or the functional equivalent of it.
6 The defendant knew he had a right not to talk, he
7 knew he had a right to ask for a lawyer, he knew he
8 had a right to stop talking at any time and he
9 proceeded to talk.

10 The statement, the intervening statement about
11 the witnesses does not change any of the Court's
12 rulings. The fact that it was not video taped does
13 not change the Court's rulings.

14 The U.S. Supreme Court case that was cited to
15 me, I've read it. It seems to acknowledge some
16 relaxation of some of the language of Miranda over
17 the course of precedent that followed Miranda. It
18 was an uncoerced statement by this defendant and a
19 waiver of his right to remain silent what took place
20 in that patrol car going to Greenwood.

21 All right. Court's in recess until 10:30 in
22 the morning. Thank you.

23 (The proceedings were concluded for July 26,
24 2010.)

25 (The following proceedings were held on July

1 27, 2010.)

2 (State's Exhibit Numbers 23 through 26,
3 photographs, marked for identification.)

4 **THE COURT:** State ready for the jury?

5 **MR. YOUNG:** Yes, Your Honor.

6 **THE COURT:** Defense?

7 **MR. ANDERSON:** Yes, sir.

8 **THE COURT:** Bring in the jury.

9 (The jury enters the courtroom at 10:48
10 a.m.)

11 **THE COURT:** Ladies and gentlemen, the first
12 thing I have to do this morning is to get you placed
13 under the oath of a trial jury. So I need you to
14 stand, raise your right hand, the Clerk will
15 administer your oath.

16 (The jury was duly sworn by the Clerk of
17 Court at 10:49 a.m.)

18 **THE COURT:** All right. I'm going to tell you
19 how the case will begin. I won't go through the
20 whole process, but I'll tell you how the case will
21 get started and then I'm going to give you some
22 instructions you'll have to follow throughout the
23 trial.

24 The way the case will begin is that the
25 attorneys will first make their opening statements

1 to you. In opening statements, the attorneys are
2 not permitted to engage in what we call argument.
3 An opening statement can be an introduction, an
4 outline, an overview. It cannot extend into what we
5 call argument.

6 Once the opening statements are finished, then
7 I will call upon the Solicitor to present the
8 State's case. The State brought these charges and
9 the State has the entire burden of proof. The State
10 has to prove every essential element of each offense
11 charged beyond a reasonable doubt, so I'll recognize
12 the State to present evidence in an attempt to meet
13 that burden.

14 Now, this concept of beyond a reasonable doubt
15 is one that has some different definitions, but the
16 definition that I typically use and I'll explain to
17 you at the end of the trial is based on being firmly
18 convinced. You have to be firmly convinced of the
19 defendant's guilt. And the State has the entire
20 burden of proving to you beyond a reasonable doubt
21 that the defendant is guilty. As I've explained to
22 you, the defendant is presumed to be innocent.

23 Once the State has presented its case in chief,
24 the Solicitor will advise me that the State rests.
25 At that point whether you've been in the courtroom

1 for one minute or one hour, I have to send you out
2 of the courtroom and discuss some legal matters with
3 the attorneys. When the attorney -- when that is
4 done and I bring you back in, I'll tell you where we
5 go from there, but that's how we're going to get
6 started, you'll hear the opening statements, then
7 you'll hear the State's case.

8 Now, it's very important that you understand
9 some things. First, that oath that you took was one
10 in which you've promised us that you're going to
11 decide these cases based on the evidence and the
12 law, so you need to know where those things come
13 from.

14 As I mentioned to you yesterday, I -- it's my
15 job to tell you the law. I'm supposed to decide
16 what law applies to the case and tell it to you at
17 the end of the trial, that's where the law comes
18 from.

19 The evidence comes from the sworn testimony of
20 witnesses. Evidence can also come in the form of
21 exhibits. An exhibit can be anything tangible
22 that's marked in the record. It can be a
23 photograph, a map, a chart, anything tangible.

24 If something is an exhibit, you will have it
25 with you in the jury room when you decide the cases.

1 And the reason I'm telling you that is because it's
2 not at all unusual for the attorneys to have
3 something like a photograph and show it to you from
4 a distance or actually hand that photograph into the
5 jury box and ask you to circulate it around so that
6 you're trying to look at the photograph at the same
7 time you're trying to pay attention to what's going
8 on up here, so just understand that all of the
9 exhibits will be back with you in the jury room for
10 you to look at as much as you need to when you
11 decide the cases.

12 What the lawyers say is not evidence. I want
13 you to pay close attention to what they say, but
14 understand that what comes out of their mouths is
15 not evidence. The evidence comes from the witnesses
16 and the exhibits. There's one exception to that
17 rule about what the lawyers saying not being
18 evidence, if we come upon it, I'll tell you about
19 it, otherwise I won't burden you with it.

20 It's also very important that you understand
21 that there are two judges in the courtroom. I'm the
22 judge of the law. I've explained to you now that at
23 the end of the trial, I'm going to tell you the law.
24 It's also my job to preside over the trial, maintain
25 order and to rule on legal issues as they arise.

1 You're the other judge. You must understand
2 that you're the only judge of the facts. Only you
3 are going to get to decide such things as whether
4 evidence is believable or not. Only you get to
5 evaluate what weight any evidence should have, if
6 any weight. That's entirely your prerogative and I
7 will not invade your province.

8 To explain that in a little bit more detail
9 about the difference in our roles, you may notice
10 from time to time throughout this trial that one
11 side or the other feels like the other side is
12 trying to put something before you that's not proper
13 for the jury to consider. And if that's the case,
14 these attorneys have taken on oath, just like you
15 and I have taken an oath, and the attorney has an
16 obligation to stand up and raise an objection and
17 ask for me to rule on it.

18 Now, if I overrule the objection, then I let it
19 come before you and you decide what to do with it.
20 If I sustain the objection, then it does not come
21 before you and anything you may have heard about
22 what was sustained you disregard because it's not
23 proper for the jury to evaluate or consider it.

24 But I want you to understand that when I make
25 those rulings, it will not be crossing my mind to

1 evaluate whether that thing is believable or not
2 because that's not my job. It won't cross my mind
3 to decide whether that thing should have any weight
4 and if so, how much, that's not my job, that's your
5 job.

6 So if I overrule an objection and I let
7 something come before you, please don't think I'm
8 passing upon the facts of the case. All I have done
9 is looked with tunnel vision to see does that thing
10 fit within the rules for the jury to consider. And
11 if I believe it does, I let it come before you and
12 then you decide whether it's believable or not and
13 you decide what weight, if any, to attach to it.

14 So that kind of explains our different roles.
15 I'm looking at legal issues. You're the only judges
16 of the facts.

17 Now, while we have placed you under an oath and
18 you've promised us that you're going to decide these
19 cases based on the evidence and the law and you must
20 do that, as I mentioned to you yesterday, we want
21 you to use your common sense, use your sense of
22 logic and reason and your good judgment. It makes
23 good common sense that you keep an open mind about
24 these cases and you don't make up your mind until
25 you've heard all the evidence and you know what law

1 applies.

2 So we insist upon a rule that's very hard to
3 follow, but you have to follow it and I've mentioned
4 it to you before. That rule is you are not to
5 discuss these cases in any way at all until I tell
6 you that you may begin your deliberations and only
7 then discuss it among yourselves. You cannot
8 discuss the cases with anybody else until the week
9 is completely over and you've been seated on any
10 jury you might possibly be seated on. If anybody
11 attempts to contact you and discuss the cases with
12 you, report that to me so I can deal with it.

13 Now, folks, that's a hard rule to follow
14 because you 14 people may feel that you have little
15 in common except you all live in Saluda County and
16 you all got picked on this trial, so the logical
17 thing you're going to want to talk about during any
18 break is what just happened in the courtroom or how
19 somebody looked or what somebody said. You have to
20 resist all of those temptations and not discuss the
21 cases until I tell you to begin your deliberations
22 and then we wait on you.

23 I don't expect media coverage of the trial, but
24 if there is any, get away from it, report to me at
25 the first opportunity what you saw, heard or read

1 through the media.

2 I've already read to you the Supreme Court's
3 explanation about independent investigation and I've
4 given you my explanation of that. Do not do any
5 independent investigation on this case.

6 And finally, folks, as I mentioned to you
7 yesterday briefly, I want to thank you. I promise
8 you that I will never forget that you have other
9 places to be and other things to do. I know that.
10 I know it's an imposition upon you to be here. I
11 also know how important this is and I appreciate
12 your being here.

13 I cannot promise you that you won't have to
14 wait on us. You've already had to wait on us this
15 morning. The only thing that I can promise you is
16 this, it drives me crazy if I know a jury is sitting
17 back there waiting on us, so if you're waiting,
18 we're working. There's not going to be a situation
19 where we're sitting around out here goofing around,
20 telling jokes, drinking coffee while you're waiting
21 on us, that's not going to happen. If you're
22 waiting, we're working.

23 If I see that the breaks are going to run much
24 longer than I anticipated, I'll try to send word to
25 you periodically. If possible, I'll let you leave

1 the jury room and at least get out of that room for
2 a while, but all I can tell you is I'll do what I
3 can.

4 Now, to honor my commitment to you not to waste
5 your time, I'll be quiet now. I invite your close
6 attention and ask that you please give both
7 attorneys your undivided attention.

8 All right, Solicitor, you're recognized for
9 your opening statement.

10 MR. YOUNG: Thank you, Your Honor. May it
11 please the Court.

12 THE COURT: Yes, sir.

13 OPENING STATEMENT

14 MR. YOUNG: On August 5, 2007 about 10:30 at
15 night at the Saluda Terrace Apartments, that man
16 shot and killed Andrew Chandler. He shot him in the
17 face with a shotgun.

18 I could stop my opening statement right there.
19 There's more to every case and you're going to hear
20 more. You're going to hear evidence today that
21 there were five young men at the Terrace Apartments,
22 drove there in two cars. Andrew was among them.
23 His brother was among them. And you're going to
24 hear from four of them today about where they were,
25 what they were doing. And you're probably going to

1 hear words like went down there to chill, hang out.
2 They were smoking marijuana.

3 One of them left a light on in his car. They
4 were walking back up towards the car to turn the
5 light off. There's a situation where they hear
6 music coming down, this is a hilly area, coming down
7 the hill toward them. They look up, they see the
8 car. They recognize the car as being one that the
9 defendant drives, at least one of them actually
10 recognized the man in the car, turns around at a
11 loop there where the playground is or somehow turns
12 around, drives back and in a drive-by fashion,
13 points a shotgun out a window and kills him.

14 It doesn't end there. The case goes on. The
15 case goes on because law enforcement responds very
16 quickly. They cordon off the crime scene. They
17 find evidence on the ground, shotgun wadding. They
18 find shoes, a shoe. They find a shirt. One of
19 those young men or maybe two of them actually left
20 the shirt there, the shoes.

21 The brother and one of the other men that were
22 with him, I think the brother is Warren Chandler,
23 the young man that was with him is Corddaryl Ouzts,
24 they actually drove off in a car to go look for him,
25 look for the defendant. I think Corddaryl actually

1 comes back to the scene later.

2 The bottom line is while all of this is going
3 on, law enforcement is responding very quickly.
4 They cordon off the scene. They found the wadding.
5 They find the shoes. And, of course, they find
6 Andrew. He's laying on the ground dead. The
7 coroner comes, certificate of death. Autopsy is
8 performed. They find evidence of shot taken from
9 his head. Shots analyzed by SLED comes out to be a
10 certain size shot. They find a wadding, turns out
11 to be what they believe to be consistent with a
12 20-gauge shotgun.

13 They go to the house. He turns himself in.
14 They go to the house where he lives, Mr. Watson
15 lives, and they find some shotgun shells out on the
16 ground. They're 20-gauge. They're expended
17 casings. I think they find a box inside the house
18 that's empty that had shotgun shells in it. And
19 they find, you know, basically that there's a car
20 there and they take that car back and they analyze
21 the car. And the car is analyzed and they find
22 gunshot residue on the outside of the passenger side
23 of the car.

24 The young man's interviewed. He makes a couple
25 statements. He actually is going to say

1 self-defense in one of those statements without
2 really explaining it, claims it.

3 You're going to have the chance to hear from
4 the eyewitnesses who watched this happen, who saw it
5 happen. And, of course, five people in a room might
6 see something differently same thing happens in
7 front of all of them, watch that, pay attention to
8 it.

9 Ladies and gentlemen, you're here today to be
10 the judges of the evidence just as the Judge told
11 you. And it's an extremely important burden on the
12 State to tell you all of the facts within our
13 knowledge we can present to you that are relevant
14 and material. We're going to present that to you
15 and give you the determination to make as to what's
16 the truth. We don't have dominion over the answer
17 in this case, the Judge doesn't, the lawyers don't,
18 you do in terms of the truth.

19 And actually, at the very conclusion of all the
20 evidence when the case goes to you and you go into
21 that room and deliberate on what happened, you will
22 be asked to return something called a verdict. It's
23 an old term from Latin. It simply means veredicto,
24 to speak the truth. And that is what we are here
25 today to do to find the truth and determine the

1 truth as to what happened.

2 It is the State's entire burden to prove him
3 guilty beyond a reasonable doubt. We accept that
4 burden and we welcome it. You will get to hear the
5 evidence. You will get to make the determination.
6 And at the conclusion of all the evidence, you'll
7 get to deliberate, not until we're finished.

8 My words up here, just as the Judge said, are
9 just, they're vacuous in many ways. I appreciate
10 your attention to them. I'm simply trying to give
11 you an outline of what's going to happen, that's
12 what I anticipate.

13 It may take until tomorrow until we hear from
14 the SLED people, it may take a while to get through
15 all of the evidence, but at the conclusion of it,
16 the State, in our opinion, even now will have met
17 completely that burden of proof and not just remove
18 reasonable doubt, but remove any doubt that Andrew
19 Chandler died at the hand of that man over there
20 (indicating) by means of a shotgun blast to his head
21 that killed him premeditated and with malice
22 aforethought. Thank you.

23 **THE COURT:** Thank you, Mr. Young.

24 Mr. Anderson, you're recognized for your
25 opening statement.

1 **MR. ANDERSON:** Thank you. May it please the
2 Court.

3 **THE COURT:** Yes, sir.

4 **MR. ANDERSON:** Mr. Young.

5 All right. This really is a tragedy that
6 brings us here. And I've got ADD, my brain
7 scrambles and a lot of times I joke around to handle
8 stress because I don't do stress well. So if I make
9 a joke, it's not because I think this is funny, it's
10 really just me trying to handle the stress.

11 But this is a horrible case. And we're in this
12 beautiful courtroom that they have fixed up
13 extremely nice. This is the nicest courtroom that I
14 get to go in. And everybody involved in the case is
15 nice. I don't always agree with Mr. Young, but he's
16 got a good heart, he means well. Everybody's nice.

17 And I'm going to tell you this, these are my
18 client's family members over here. And the
19 witnesses are sequestered so the people who are
20 going to testify, that means they can't stay in the
21 courtroom so all of our people aren't here. We
22 don't know if we're going to put up a defense, but
23 in case we're going to call somebody as a witness,
24 they can't be in here. And it's the same with
25 Andrew's family and all the police witnesses so

1 that's why you don't see -- if all of the witnesses
2 were in the courtroom, the courtroom would be a lot
3 more full.

4 But this is my client's family and they're nice
5 people and they love their son. He's a nice person.
6 And this is Andrew's family. It's been very awkward
7 for me, but I'm sure they're nice people and I know
8 for a fact that they love their son. Their other
9 son's involved in this case, he's going to be a
10 witness. And it's just, it's horrible to be all of
11 these nice people stuck here in this nice place
12 doing this horrible thing. This is horrible.

13 We've got a young man who's dead. We've got
14 another young man who's spent three years in jail
15 waiting on his day in court. We've got two families
16 trying to deal with this. It's horrible. It really
17 is horrible. And you know what, nobody's going to
18 win this case. There's no winner. Everybody's a
19 loser, but here we are.

20 Now, what the State wants is the State's asking
21 for a conviction on murder and they're going to call
22 all of these witnesses. And the Judge has already
23 told you guys that the defendant is presumed
24 innocent and I think it's very hard to grasp what a
25 presumption of innocence is. I do this and it's

1 hard to express what a presumption of innocence is.
2 And what we've got in this case is we've got that
3 presumption and then we've got a lot of assumptions.
4 And you're going to hear a lot of testimony from the
5 State about these assumptions. The assumptions are
6 that he's guilty of murder.

7 Well, you're going to hear evidence from the
8 State that he immediately said it was self-defense
9 from the time they got him, that he cooperated with
10 law enforcement, he didn't fight them when they came
11 to get him. He went to his house. They got him at
12 his house. He cooperated.

13 Charles Holloway, who is now Commander
14 Holloway, interviewed him and he said it was
15 self-defense in the jail right after it happened,
16 but the State assumed -- and Charles Holloway is a
17 nice guy, but the State assumed that that's just --
18 I guess they assumed that's B.S., so they assume
19 it's murder.

20 And what's interesting is in this whole case in
21 all of their investigations, they're going on the
22 assumption that it's murder. They're not even
23 looking into the self-defense stuff, which is
24 frustrating. And I'll say this, Michael Watson is a
25 young man, he's not in law enforcement and he's not

1 trained in legal stuff and what he says is
2 self-defense, at the end of this trial, the Judge is
3 going to charge you on the law, but he doesn't
4 elaborate on it.

5 But you're going to hear testimony that I think
6 will explain how this horrible thing happened. And
7 we've got kids and guns and just dumb kids and I
8 don't mean dumb in a bad way, but it is a bad way.
9 And these kids don't understand how serious the
10 things that they do are and one thing leads to
11 another, leads to another, leads to another and
12 things get carried away and it's just horrible.

13 But you've got to look at the State's
14 assumptions because he's presumed innocent. And the
15 State has all of these resources. And there is not
16 -- I don't know how many witnesses they talked to,
17 but they talked to numerous witnesses and they've
18 got all this technology and every word that they got
19 in their investigation is important. How many of
20 these witnesses did they interview on tape? Zero.
21 When they interviewed Michael, did they tape it?
22 Nope.

23 And here we are three years later and they're
24 going by their memories as to what they say people
25 said. Every word is critical and there is no way in

1 the world you can remember every word three years
2 later. And if we had it on tape, all we've got to
3 do is play it. Michael could have said one word
4 that might have made a huge difference in how they
5 perceived things, but they didn't take it down.
6 They're going on their memory.

7 And they don't even take notes on a lot of this
8 stuff. And, again, it's not because they're bad,
9 it's because they made the assumption as to what
10 this was and they went to that assumption instead of
11 thinking about this presumption of innocence.

12 And on top of that, as law enforcement
13 officers, when the defendant says immediately in the
14 most serious case that there is that it's
15 self-defense, wouldn't you make some effort to look
16 into that to give the guy a fair shake? And I guess
17 everybody's just caught up in the tragedy of it. I
18 mean, this young man is dead and it's horrible.

19 And you're going to see a picture that's
20 disturbing. I mean, it's disturbing. It's
21 disturbing to my client's mom. I had to show it to
22 her. It's not nice, but it's reality. And this
23 young man is dead and it is horrible and there's no
24 winner. It's all losers.

25 But when the State's going through their case,

1 just think, wow, it would be nice to have that on
2 tape. It would be nice to have that on tape. And
3 they're going to call these witnesses who are
4 eyewitnesses to what happened, but they're friends
5 of the boy who got killed, one of them is the
6 brother of the boy who got killed. And I don't
7 think the State ever thought about the credibility
8 of their own witnesses because I don't believe they
9 got the whole truth out and it's just unfortunate.

10 But the best way I can, and I'm not trying to
11 be funny, but the best way I can express a
12 presumption of innocence is every time I have an
13 argument with my wife, she's right, that's the
14 presumption of innocence. The presumption of
15 innocence is, in my case, my wife is right. I could
16 actually be right, but she's presumed right and
17 she's going to win the argument and I guess that's
18 the best common sense way I can express it.

19 I mean, he's presumed innocent. He's sitting
20 there innocent right now. And the only way he can
21 be convicted of murder is if you strip away that
22 presumption of innocence, but you've got to be
23 cognizant of it that he is innocent, he's presumed
24 innocent and that's only if they can prove him
25 guilty of murder beyond a reasonable doubt.

1 And, you know, by the end of this case, I don't
2 know what the Judge is going to charge you. I wish
3 I knew right now what he was going to charge you.
4 And a charge is basically at the end of everything,
5 the Judge is going to tell you your options. He's
6 going to tell you the law and your options on what
7 you can do in your verdict. And it could be any
8 number of things and we won't know that until the
9 very end of the case, but one thing he'll tell you
10 no matter what your options are is that Michael
11 Watson's presumed innocent.

12 And, you know, I might be a little mean with
13 some of these witnesses, but it's not -- I'm not
14 trying to attack them personally, it's just, man,
15 this is so serious, I can't believe you didn't put
16 more effort into it. I mean, how hard is it to hit
17 record? Every police car has a camera. Every
18 camera has a recording. Every officer has a
19 microphone on their lapel. And we don't have any,
20 so that's just frustrating.

21 A lot of these witnesses I'm not going to ask
22 them any questions because a lot of it is just
23 uncontroverted. And, again, it is a tragedy. I
24 wish we weren't here or if we were, we were doing
25 something fun. This isn't fun. But just please

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1 remember what Judge Keesley told you that Michael is
2 presumed innocent. He's presumed innocent, that
3 means he sits there innocent right now. Thank you.

4 **THE COURT:** Thank you, Mr. Anderson.
5 Call your first witness, Solicitor.

6 **MR. YOUNG:** Corddaryl Ouzts.

7 **CORDDARYL OUZTS,**
8 having been duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 **BY MR. YOUNG:**

11 **Q** Mr. Ouzts, could you just go ahead and spell
12 your full and complete name so the court reporter
13 will have it correctly on the record?

14 **A** C-o-r-d-d-a-r-y-l.

15 **Q** And your last name.

16 **A** O-u-z-t-s.

17 **Q** Mr. Ouzts, I'm going to direct your attention
18 to the night of August 5th, 2007 about 10:30 in the
19 evening and ask you where you were?

20 **A** Saluda Terrace Apartments.

21 **Q** Where is that located?

22 **A** Off of Bouknight Ferry Road.

23 **Q** Okay. And is that in Saluda County?

24 **A** Yes.

25 **Q** Now, Mr. Ouzts, who was with you, if anyone?

1 **A** Octavious Thomas, Raymond Kirkland, Andrew
2 Chandler, Warren Chandler, Jeremy Butler and that's
3 all.

4 **Q** All right. And if I use the timeframe of
5 10:30, about how long do you suppose you'd been
6 there at that time?

7 **A** Probably 30 minutes.

8 **Q** What were y'all doing?

9 **A** Smoking.

10 **Q** Smoking what?

11 **A** Marijuana.

12 **Q** Can you just tell the Court what happened
13 around 10:30 that evening?

14 **A** Well, we was out there smoking and everything
15 and chilling. And, you know, we hear some music and
16 we see Rand riding down the road and turn around and
17 fires a gun out the window, that's about it.

18 **Q** When he fired the gun out of the window, what
19 happened?

20 **A** My friend got shot.

21 **Q** What friend?

22 **A** Andrew.

23 **Q** And what did Andrew do, anything?

24 **A** He just fell.

25 **Q** Did he say anything else or do anything else?

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1 A (Witness shook head.)

2 Q All right. Let me ask you a question about
3 this particular location. If I showed you a
4 diagram, would that help you explain where you were
5 in relation to certain things on the ground?

6 A Yes.

7 (State's Exhibit Number 27, diagram, marked
8 for identification.)

9 Q Now, prior to coming in the courtroom, I showed
10 you this exhibit, correct?

11 A That's right.

12 Q Okay. And this is marked as Exhibit Number 27
13 and I want to ask you to take a look at this. Now,
14 take a look at that diagram there for a moment. Can
15 you see it accurately? Can you see it entirely?

16 A I see it.

17 Q Now, does this diagram fairly and accurately
18 describe the location of items on the ground at the
19 time of the shooting there at Saluda Terrace
20 Apartments?

21 A Yes.

22 Q Okay. Now, there's some small circles here and
23 what do you -- do you recognize those small circles?

24 A Light pole, I guess.

25 Q And what is this square?

1 **A** The dumpster.

2 **Q** Okay. And there are two other rectangles, what
3 are they?

4 **A** That's me and my friend's car.

5 **Q** Which car would be yours?

6 **A** The first one closer to the curb.

7 **Q** This one?

8 **A** Yes.

9 **Q** And whose car is this one?

10 **A** Raymond.

11 **MR. YOUNG:** Your Honor, I'm going to offer this
12 as State's Exhibit Number 27.

13 **THE COURT:** Any objection?

14 **MR. ANDERSON:** No, sir.

15 **THE COURT:** Mark it in evidence.

16 (State's Exhibit Number 27, diagram,
17 admitted into evidence.)

18 **BY MR. YOUNG:**

19 **Q** Now, if you don't mind, how about step down
20 here and show the Court what you were referring to
21 when you said that's my car and the car beside it.

22 **A** (Witness leaves the witness stand.)

23 **Q** Let me give you something to point with.

24 **A** This is my car. That's my friend's car.

25 That's the dumpster. These are the light poles.

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1 **THE COURT:** He's blocking some of the jurors.

2 **BY MR. YOUNG:**

3 **Q** Okay. How about step a little bit to the back.

4 I'll tell you what, let's put -- you indicated one
5 is your car, this one?

6 **A** Yes.

7 **Q** Two is whose car?

8 **A** Raymond.

9 **Q** Raymond who?

10 **A** Kirkland.

11 **Q** And what's this?

12 **A** The dumpster.

13 **Q** I'll put three on that. And these other little
14 circles are light poles?

15 **A** Yes, sir.

16 **Q** Now, where was Andrew when he got shot?

17 **A** Right by the curb (indicating).

18 **Q** Right by the curb. I'm going to put an X right
19 there. And where were you when that shooting
20 occurred?

21 **A** Right in front of my car.

22 **Q** Right in front of your car?

23 **A** (Witness nodded head.)

24 **Q** So you were over here?

25 **A** Yes.

1 Q And you described someone driving through in a
2 car, did you not?

3 A (Witness nodded head.)

4 Q Can you just use this pen, don't write on it,
5 but just show the general route as far as you recall
6 of that car coming in?

7 A (Witness complies.)

8 Q Okay. And you made kind of a loop circle that
9 went to the right over toward this far right pole
10 and then went back out. Now, where was the car when
11 the shooting occurred?

12 A (Indicating.)

13 Q Somewhere in the middle there, okay. And this
14 is an area where you guys had been for a while,
15 right?

16 A Yes, sir.

17 Q And you said -- what brought you back up --
18 were you down somewhere else in the evening
19 anywhere?

20 A We was at the field.

21 Q How about when you first got here, did you hang
22 out right around your car or did you go back?

23 A We was like down in the woods.

24 Q Down in the woods, okay. And why did you come
25 out of the woods?

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1 **A** He left his light on in his car.

2 **Q** Who did?

3 **A** Raymond.

4 **Q** So y'all just kind of walked up there to check
5 on his light. About what time did you first notice
6 the car that you say was driven by Mr. Watson?

7 **A** I really don't know, but I (inaudible)...

8 **Q** Okay. That's --

9 **COURT REPORTER:** I couldn't hear the last part.

10 **THE COURT:** Keep your voice up, please.

11 **THE WITNESS:** I don't really know what time it
12 was, but --

13 **BY MR. YOUNG:**

14 **Q** Okay. But how long had you been up by your car
15 when you saw him come through?

16 **A** Not long.

17 **Q** So you're still up by your car when you saw him
18 come through?

19 **A** Yes.

20 **Q** Okay. And when Andrew was over here, were
21 there any other people with Andrew?

22 **A** His brother.

23 **Q** You're sure his brother was there with him,
24 okay. So you had an angle then at the rear of your
25 car to look at this other car that came through that

1 you described driven by Mr. Watson?

2 A Yes, sir.

3 Q Would you put a -- let's just put a four by
4 where you were standing or where -- leaning or
5 standing or whatever you were doing.

6 A (Witness complies.)

7 Q Right about there, okay. Now, as this car came
8 through, have you ever seen that car before?

9 A I seen it afterwards at my dad's shop.

10 Q But you've seen that same car later?

11 A (Witness nodded head.)

12 Q Okay. Did you -- did you recognize that car
13 being driven by him before by Mr. Watson?

14 A Yes, sir.

15 Q You've seen him driving that same car before?

16 A Yes, sir.

17 Q Do you think you'll be able to recognize a
18 picture of that car again if you saw it?

19 A (Witness nodded head.)

20 Q Let me show you what's been marked as State's
21 Exhibits 3, 4 and 5. Take a look -- have a seat
22 back in your chair.

23 A (Witness resumes the witness stand.)

24 Q Take a look at State's Exhibit Number 3 and
25 tell me if you can recognize that.

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1 **A** That's the car.

2 **Q** How about this one?

3 **A** Same vehicle.

4 **Q** And that one?

5 **THE COURT:** I'm sorry. I can't understand you.

6 **THE WITNESS:** They're the same vehicle.

7 **THE COURT:** Try to speak into that microphone.

8 BY MR. YOUNG:

9 **Q** Do these pictures fairly and accurately
10 represent the car that you saw the shot come from
11 that night?

12 **A** Yes, sir.

13 **Q** Now, when the car came by, which side of the
14 car did you see the shotgun from?

15 **A** The passenger side.

16 **Q** Okay. And did you see anything inside of the
17 car happen before it passed by or during the event,
18 during the time of the shooting, did you see
19 anything happen?

20 **A** No, sir.

21 **Q** Well, did you see him -- for example, did you
22 see the driver turn the car --

23 **MR. ANDERSON:** Objection. He's already asked
24 the question.

25 **MR. YOUNG:** I'll rephrase.

1 **THE COURT:** Sustained -- well, it was going to
2 be leading I think. Go ahead.

3 **BY MR. YOUNG:**

4 **Q** Well, as he came through the parking lot, okay,
5 did you observe this car drive through the parking
6 lot?

7 **A** Yes, sir.

8 **Q** Okay. What did you see happen inside his car
9 as he was driving through if anything?

10 **A** The turning of the wheel and raising a gun and
11 shooting out the window.

12 **Q** Did you see a gun?

13 **A** A sawed-off shotgun.

14 **Q** You saw a shotgun?

15 **A** Yes, sir.

16 **Q** And you saw it come up?

17 **A** Yes, sir.

18 **Q** And where was this car -- can you lean over and
19 show us on this diagram where you saw the shotgun
20 come up?

21 **A** (Witness complies.)

22 **Q** Right in this area?

23 **A** At that light --

24 **Q** Was this as he was coming by?

25 **A** As he was going back.

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1 Q As he was coming back. And it was in this area
2 where you saw the shotgun come up?

3 A Yes, sir.

4 Q Did you see him do anything else inside the car
5 prior to that time?

6 A No, sir.

7 Q Were you expecting something like this to
8 happen?

9 A No, sir.

10 Q Okay. Now, what did you observe the other
11 people that were with you doing at that time? What
12 did you see them do?

13 A We all was just walking.

14 Q Just walking?

15 A Yeah. At that time after the shot went off,
16 we're just standing around, like, making sure we
17 weren't hit or nothing like that.

18 Q Anybody try to go over and check on Drew?

19 A Me and his brother.

20 Q What did it look like to you?

21 A It wasn't nice.

22 THE COURT: What was your answer?

23 THE WITNESS: It wasn't nice.

24 BY MR. YOUNG:

25 Q How many people were in the car that you saw

1 coming?

2 A One.

3 Q Did you get a clear view of how many people
4 were in the car?

5 A From what I seen?

6 Q Yeah. Did you get a clear view of how many
7 people were in that car?

8 A Yes, sir.

9 Q How many shots did you hear?

10 A One.

11 Q And when the shot went off, what did you do?

12 A Dropped.

13 Q You dropped to the ground?

14 A (Witness nodded head.)

15 Q You were afraid you were being hit?

16 A I mean, a bullet ain't got no name on it.

17 Q All right. As this car came through, how long
18 do you think it took for that car to come through
19 and turn around and go back out?

20 A Two minutes.

21 Q Two whole minutes, going slow?

22 A Two minutes. It's not far just to drive and
23 turn around and go back out.

24 Q So just however long it took him to turn
25 around?

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- 1 A (Witness nodded head.)
- 2 Q Did he ever stop as far as you could tell?
- 3 A No, sir.
- 4 Q Was he going fast or slow when he came through?
- 5 A Like probably ten, ten miles an hour.
- 6 Q After the gunshot, did he speed up or slow
- 7 down?
- 8 A Just went on, just rode on off.
- 9 Q Rode on off. All right. I'm going to show you
- 10 some pictures and ask you if you can recognize any
- 11 of these pictures, okay. Did you come back to the
- 12 scene later?
- 13 A Yes, sir.
- 14 Q Okay. When you came back to the scene, was
- 15 Drew still there?
- 16 A Yes, sir.
- 17 Q Were the police there?
- 18 A Yes, sir.
- 19 Q Let me show you Exhibit Number 15 and ask you
- 20 if you can recognize that. Do you recognize that
- 21 picture?
- 22 A Yes, sir.
- 23 Q What is that picture of?
- 24 A That's where my car was parked at.
- 25 **THE COURT:** I'm sorry. I can't hear you.

1 **THE WITNESS:** That's where my car was.

2 BY MR. YOUNG:

3 **Q** So picture number 15 is the location of your
4 car, which is number one?

5 **A** (Witness nodded head.)

6 **Q** Okay. And you said you were leaning against or
7 in the area of your car at the time of the shooting?

8 **A** (Witness nodded head.)

9 **Q** So is that fairly representative of the kind of
10 angle you would have had?

11 **A** Yes, sir.

12 **Q** Number 16, see if you can recognize that.
13 What's that?

14 **A** Same spot.

15 **Q** There's another car visible there. Do you
16 recognize that car?

17 **A** That's my friend car.

18 **Q** Whose friend?

19 **A** Raymond Kirkland.

20 **Q** Is that car number two up here?

21 **A** Number two.

22 **Q** Exhibit Number 18 and ask if you recognize
23 that?

24 **A** Yeah.

25 **Q** What is that?

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1 **A** The curb right up in this, pointing back
2 (indicating).

3 **Q** I'm sorry. I couldn't hear what you were
4 saying.

5 **A** Like, behind the bush pointing back looking
6 towards my car.

7 **Q** Okay. So that's sort of the reverse angle from
8 where your car was located?

9 **A** Yeah.

10 **Q** Do all these pictures fairly and accurately
11 represent that scene as you came back to it?

12 **A** That's right.

13 **Q** And do these pictures fairly and accurately
14 represent the car that you saw that night?

15 **A** Yeah, that's the car.

16 **Q** So Exhibits 3, 4 and 5 are the car and 15, 16
17 and 18 are what relate to where you were standing or
18 what you could see from that area?

19 **A** (Witness nodded head.)

20 **MR. YOUNG:** We offer these into evidence, Your
21 Honor.

22 **THE COURT:** Any objection?

23 **MR. ANDERSON:** No, sir.

24 **THE COURT:** Mark those in evidence please,
25 ma'am.

1 (State's Exhibit Numbers 3, 4, 5, 15, 16 and
2 18, photographs, admitted into evidence.)

3 BY MR. YOUNG:

4 Q Do you carry a gun?

5 A No, sir.

6 Q Other than the gun that you saw come out of
7 that window on the passenger side of the car that
8 night, other than that gun, did you see anybody else
9 with a gun that night?

10 A No, sir.

11 Q Do you know what Drew had in his hand when he
12 got shot?

13 A Yes, sir.

14 Q What did he have?

15 A A lighter.

16 Q He had a lighter?

17 A A lighter.

18 Q And what was he doing with it?

19 A I told you we were smoking.

20 Q Is there any doubt in your mind that Michael
21 Watson was driving that car that night?

22 A No, sir.

23 Q Is there any doubt in your mind that Michael
24 Watson pointed a shotgun out the window?

25 A No, sir.

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1 Q Is there any doubt in your mind that he fired
2 that shotgun?

3 A No, sir.

4 MR. YOUNG: Your Honor, I ask to publish these
5 photographs for the jury.

6 THE COURT: Yes, sir.

7 (Pause.)

8 BY MR. YOUNG:

9 Q Right after this happened -- your car's not
10 there I see when these pictures were taken. Right
11 after this happened, did you leave in your car?

12 A Yes, sir.

13 Q Did anyone try to call 9-1-1?

14 A I couldn't tell you.

15 Q Okay. What did you do?

16 A Went looking for him.

17 Q Who was with you, if anyone?

18 A His brother.

19 Q His brother's name is what?

20 A Warren Chandler.

21 Q Did you find him?

22 A No, sir.

23 Q So what did you do afterwards?

24 A Go to my grandmama's.

25 MR. YOUNG: All right, sir. Thank you, very

1 much. Would you please answer any questions that
2 Mr. Anderson may have for you?

3 **THE COURT:** Cross-examination.

4 **MR. ANDERSON:** Judge, could I wait until the
5 jury's done looking at the pictures?

6 **THE COURT:** Sure.

7 (Pause.)

8 CROSS-EXAMINATION

9 BY MR. ANDERSON:

10 **Q** Mr. Ouzts, this isn't any fun being here is it?

11 **A** No.

12 **Q** Would it be safe to say that this was one of
13 the worst events of your life?

14 **A** Yes, sir.

15 **Q** Did you know Michael before all this happened?

16 **A** Yeah, I knew him.

17 **Q** How did it get to the point that --

18 **A** I couldn't tell you.

19 **Q** Because y'all had had some problems in the
20 past, had you not?

21 **A** I never had no problem with him.

22 **Q** Maybe not you individually, but your group of
23 friends that you were with and his group of friends
24 and family had had some things back and forth, had
25 they not?

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- 1 A I don't know.
- 2 Q Well, didn't Warren and he have something at
- 3 the park a couple of weeks earlier?
- 4 A Who?
- 5 Q Warren.
- 6 A I don't know. I was in Columbia.
- 7 Q Okay. All right. Well, Andrew was your
- 8 friend?
- 9 A Yes, sir.
- 10 Q And Warren is still your friend, correct?
- 11 A Yes, sir.
- 12 Q You've never seen Warren with a gun?
- 13 A No, sir.
- 14 Q Had you ever heard about him having a gun?
- 15 A No, sir.
- 16 Q You never heard about an incident at the park?
- 17 A No, sir. I was closer to Andrew than Warren.
- 18 Q All right. Have you -- there were five
- 19 eyewitnesses to what happened, correct?
- 20 A Yes, sir.
- 21 Q Have the five of you ever gotten together?
- 22 A Like after this?
- 23 Q Yeah, to talk about the case.
- 24 A No, sir.
- 25 Q Have any number of you ever gotten together in

- 1 one group to talk about the case?
- 2 **A** Three of us.
- 3 **Q** Three of you?
- 4 **A** We still hang together, the three that really
- 5 do.
- 6 **Q** Who is that?
- 7 **A** Me, Duke and Raymond, Octavious and Raymond
- 8 Kirkland.
- 9 **Q** Octavious is Duke?
- 10 **A** Yes, sir.
- 11 **Q** Did y'all ever meet with the prosecutor
- 12 together?
- 13 **A** No, sir.
- 14 **Q** Did you ever go back to the scene?
- 15 **A** Oh, yes. Yes.
- 16 **Q** And who all was there at that meeting?
- 17 **A** Me and Octavious.
- 18 **Q** And the prosecutor?
- 19 **A** And the prosecutor.
- 20 **Q** Okay. Now, isn't it true that all five of you
- 21 guys ended up giving statements to law enforcement
- 22 after this incident?
- 23 **A** Yes, sir.
- 24 **Q** And isn't it true that your statement was
- 25 actually written by a SLED officer? You didn't

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1 write your statement, you just signed it; is that
2 correct?

3 A That's true.

4 Q Okay. Now, you did leave the scene and then
5 you came back?

6 A Yes, sir.

7 Q By the time you came back, was it just covered
8 with police officers and police cars?

9 A Yes, sir.

10 Q All right. Did any police officer question you
11 with either on camera or on tape?

12 A They questioned me, but I don't know if it was
13 recorded or not.

14 Q Okay. How many different officers did you talk
15 to?

16 A I can't remember.

17 Q Did you talk to, at the time, I think he was
18 Sergeant Holloway; the gentleman in the courtroom?

19 A I couldn't remember.

20 Q You know you met with the white female SLED
21 agent?

22 A Some lady.

23 Q And she's the one that actually wrote your
24 statement out?

25 A Okay.

1 Q Correct?

2 A Yes.

3 Q And then did you talk to other uniformed
4 officers at the scene?

5 A I couldn't remember.

6 Q Okay. Well, it was three years ago. It's hard
7 to remember stuff from three years ago, correct?

8 A Yes.

9 Q Now, on top of that in talking to your other
10 friends about this that also gave statements to the
11 police, isn't it true that each of your statement
12 says things a little differently?

13 A I haven't read their statement.

14 Q Well, you've talked to them about it.

15 A We all say the same.

16 Q Exactly the same?

17 A Yeah.

18 Q So some of you don't say that the car stopped?
19 Does anybody say the car stopped?

20 A No. (Inaudible) looking at it, we just talk
21 about what happened. We don't worry about how the
22 car stopped --

23 COURT REPORTER: Can you repeat that?

24 THE WITNESS: Which part?

25 COURT REPORTER: The whole thing.

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1 **THE WITNESS:** I said we don't worry about how
2 the car stopped or nothing. We just know what
3 happened.

4 **BY MR. ANDERSON:**

5 **Q** Sure. Okay. Did anybody approach the car
6 before a shot was fired?

7 **A** No, sir.

8 **Q** Okay. Well, if one of your other eyewitnesses
9 were to say that, would you have an explanation for
10 that?

11 **A** No, sir.

12 **Q** Okay. Did you hear anybody say anything before
13 the incident?

14 **A** No, sir.

15 **Q** If one of your other eyewitnesses were to say
16 that words were exchanged, would you have any
17 explanation for that?

18 **A** No, sir.

19 **Q** Okay. Now, in your statement, you say you were
20 talking to some girls. Did you give law enforcement
21 those girls' names?

22 **A** No, because I ain't -- I ain't even know who
23 they was. I mean...

24 **Q** Do you know if they were interviewed?

25 **A** No, they was gone. They was gone after this.

1 Q Did any of you young men live in those
2 apartments?

3 A I didn't, no, sir.

4 Q Okay. Y'all are just hanging out there?

5 A Yes, sir.

6 Q Now, in your statement, you mentioned that
7 y'all went to look for Rand, but you couldn't find
8 him. Why did y'all go look for him?

9 A Because he shot my friend.

10 Q Well, what were y'all going to do?

11 A Probably shoot him back.

12 MR. ANDERSON: All right. No further
13 questions. Thank you.

14 THE COURT: Redirect.

15 MR. YOUNG: Yes, sir, just one moment.

16 (Pause.)

17 REDIRECT EXAMINATION

18 BY MR. YOUNG:

19 Q You didn't have a gun on you, how were you
20 going to shoot him back?

21 A We could have got one.

22 Q Could have got one?

23 A (Witness nodded head.)

24 Q You didn't have one?

25 A Didn't have one.

CORDDARYL OUZTS - REDIRECT BY MR. YOUNG

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1 Q Did y'all go get a gun?

2 A No, sir. We couldn't find one.

3 Q You were asked a question about did anybody
4 approach the car. Let me just ask this to clarify
5 an area. You were over there by your car, correct?

6 A Yes, sir.

7 Q Okay. And y'all had been down in the woods?

8 A Yes, sir.

9 Q And I believe you testified that you had seen
10 or actually were going up to the car of Raymond
11 because the light was on?

12 A The light was on.

13 Q So at that point. So you continue on up
14 towards your car at some point, correct, because
15 your car is past his, right?

16 A It's like right beside it..

17 Q You go a little bit further up?

18 A Yeah.

19 Q So everybody else -- at what point in that
20 sequence did y'all notice the car coming through?

21 A When we heard the music.

22 Q At what point, though? Where were y'all
23 standing when you heard it come through?

24 MR. ANDERSON: Your Honor, I'm going to object.
25 This is beyond the scope of the cross.

1 **MR. YOUNG:** Your Honor, he asked the question
2 at one point, Did anybody approach the car.

3 **THE COURT:** The objection's overruled. You may
4 continue.

5 **BY MR. YOUNG:**

6 **Q** Going back to what you were talking about, at
7 some point in this sequence of coming up from the
8 hill and coming to Raymond's car, during that
9 timeframe, did y'all then hear the car coming over
10 the hill or hear music from the car?

11 **A** No. We was walking up, you know, then we seen
12 and heard the car when we got, like, by the door.

13 **MR. YOUNG:** Your Honor, I can't even hear his
14 answer because of this air conditioner.

15 **THE COURT:** Try to speak out a little bit
16 louder for me, please.

17 **BY MR. YOUNG:**

18 **Q** I need you to speak up so that the people all
19 the way over here -- I'm going to stand over here
20 and ask the question, talk all the way over here,
21 okay.

22 Let me repeat it. Somewhere in this sequence
23 of you walking up the hill and getting to your car,
24 or actually you going to your car and Raymond going
25 to his car I guess, the group, did it fragment and

CORDDARYL OUZTS - REDIRECT BY MR. YOUNG

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1 separate out a little bit?

2 **A** Yes, sir.

3 **Q** Okay. Were you fragmented out not all in the
4 same little cluster when y'all --

5 **A** No, we weren't all together.

6 **Q** Wait a minute. Let me finish the question.

7 When you heard the car coming over the hill or where
8 were you on the ground when you heard it?

9 **A** I was walking, like, close by my car and
10 Raymond car, you know. We all just, we ain't going
11 to walk, you know, in a white line, you know. We
12 just going to be walking because we just walking.

13 **Q** Right. I understand, but I'm just trying to
14 put you on the ground when you hear the car come
15 over into your area when you first noticed it, where
16 was the other group of people?

17 **A** To my left.

18 **Q** Okay. So if -- remembering the picture of
19 where Andrew was laying, were they in that area when
20 the car came through or walking toward that area?

21 **A** Yes, sir, they was already there.

22 **Q** Pretty much already there?

23 **A** Yes, sir.

24 **Q** Okay. And they just stood there?

25 **A** Just stood there.

1 Q So when the car comes around and the shot's
2 fired, they're just standing there?

3 A No, we all drop then.

4 Q No, wait a minute. You didn't hear my
5 question. My question was when the car came around
6 and shot, the people who were up by closest to the
7 car, including Andrew I assume, are just standing
8 there?

9 A Yes, sir.

10 Q Were they trying to block the car?

11 A No, sir.

12 Q Were they trying to stop the car?

13 A No, sir.

14 Q Were they talking to anybody?

15 A No, sir.

16 Q Just watching?

17 A Just watching.

18 Q And so pretty much everybody had -- would you
19 describe your group as angry?

20 A I don't feel no frustration about it. I don't
21 know --

22 Q At the time, at that time. At the moment in
23 time on August 5th, 2007 when that car came around,
24 was anybody expressing anger?

25 A No, sir.

WILLIE WARREN CHANDLER - DIRECT BY MR. YOUNG

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1 **Q** You didn't see or hear anybody do that?

2 **A** No, sir.

3 **Q** But after the shooting, what happened?

4 **A** Andrew fell and I went to look at him and got
5 in my car.

6 **MR. YOUNG:** No further questions.

7 **THE COURT:** Recross.

8 **MR. ANDERSON:** Nothing, Judge. Thank you.

9 **THE COURT:** Thank you, sir. You may step down.
10 Call your next witness.

11 **MR. YOUNG:** Warren Chandler.

12 WILLIE WARREN CHANDLER,
13 having been duly sworn, testified as follows:

14 **THE COURT:** Try to speak into that microphone
15 for me. What's your name?

16 **THE WITNESS:** Warren Chandler.

17 DIRECT EXAMINATION

18 BY MR. YOUNG:

19 **Q** Mr. Chandler, would you give us your full and
20 complete name?

21 **A** Willie Warren Chandler.

22 **Q** And, sir, how are you related to Andrew
23 Chandler?

24 **A** He's my twin brother.

25 **THE COURT:** He's what?

1 **THE WITNESS:** My twin.

2 BY MR. YOUNG:

3 **Q** Now, let me ask a simple question, sir. Where
4 were you on August 5th, 2007 about 10:30 in the
5 evening?

6 **A** At the Saluda Terrace with my brother.

7 **Q** Who else was with you?

8 **A** Corddaryl Ouzts, Duke Thompson, Jeremy, I
9 think, Butler.

10 **Q** What were y'all doing?

11 **A** Out there just talking like we normally talk,
12 me and my brother just talking, you know, what we
13 going to do when we turn 18, just random stuff what
14 we going to do.

15 **Q** Did y'all smoke anything?

16 **A** They were, you know, about to. I don't smoke.

17 **Q** So some people were smoking, some people
18 weren't?

19 **A** I wasn't smoking.

20 **Q** But there were some people smoking marijuana?

21 **A** Yes, sir.

22 **Q** Was your brother?

23 **A** Yes, sir, they were about to.

24 **Q** Now, when you first got there that evening, who
25 drove and how did you get there?

WILLIE WARREN CHANDLER - DIRECT BY MR. YOUNG

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1 **A** Well, first, you know, we was, like, walking,
2 like, on the ballpark, you know, on, like, the
3 little road Bouknight Ferry before that day, you
4 know, just walking down there, like, you know,
5 people do and just a random, just a random day, you
6 know. I barely came out, so that day...

7 **COURT REPORTER:** I didn't hear the --
8 **BY MR. YOUNG:**

9 **Q** Okay. I'm talking about when you're at the
10 Saluda Terrace Apartments. What did y'all do
11 when --

12 **THE COURT:** She didn't know what he said.
13 What did you say?

14 **THE WITNESS:** I said it's just a random day.
15 You know, I barely come out, so it just that day, I
16 just went out (inaudible) --

17 **COURT REPORTER:** I still can't understand.

18 **THE COURT:** I don't know what to tell you. I
19 can't understand him either.

20 **BY MR. YOUNG:**

21 **Q** Did you say you barely came out that day?

22 **A** You know, I barely come out the house, so it's
23 just that, you know, I just go out there once in a
24 while. I'm like a home person.

25 **Q** So you went out that day with your brother?

1 A Yes, sir.

2 Q Okay. And what I'm going to ask you back about
3 is on the Saluda Terrace Apartments, okay, when you
4 got to the Saluda Terrace Apartments that night
5 around 10:30, what did y'all first do when you got
6 there and who drove?

7 A It was me, I rode with Ouzts, Corddaryl Ouzts.
8 And they -- in my friend's car rode with Raymond
9 Kirkland out there. So, we went out there and
10 parked, went to, like, the light at the back by the
11 trash can in the woods, they got, like, a long log
12 we just sit out there just talking.

13 Q Okay. So y'all went out there to a log?

14 A Yes, sir.

15 Q Is that outside the parking area?

16 A It's, like, in the woods. We was out there
17 just talking, like, what we going to do before we
18 get 18. And Raymond Kirkland, like, left the lights
19 on, so we're going back up walking towards his car
20 to turn the lights off, heard some music, car came
21 down, seen somebody reach under the seat.

22 I mean, I know the car, you know, so I'm like
23 okay. I had seen it early on that day. I wasn't
24 thinking nothing of it, you know. Me and my brother
25 just went up there by the light pole just talking,

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1 you know, just staying still. And then the car came
2 around, backed in, came back out, like, blocked us
3 in really and then stood there. So me, the way
4 things looking, I couldn't hardly see in the car so
5 I don't know what was what and it just got quiet,
6 you know. And Duke told somebody, If you're going
7 to shoot me, then shoot me. And it got quiet again,
8 bing, the car drove off.

9 Q Bing, what's bing?

10 A A shot went off.

11 Q Let's back it up and start at the beginning.
12 I'm going to show you a diagram of the area. And
13 before you came in the courtroom, I asked you to
14 look at this diagram, correct?

15 A Yes, sir.

16 Q Would you just come up here and -- if you don't
17 mind.

18 A (Witness leaves the witness stand.)

19 Q You mentioned something about going in the
20 woods.

21 A Yes, sir.

22 Q And going to a log. You mentioned something
23 about cars. You mentioned something about a
24 dumpster.

25 A Yes, sir.

1 Q Now, would you tell us where the dumpster is?
2 And I'll give you something to point with, use this
3 to point with. Where is the dumpster and where are
4 the cars?

5 A Right here is the cars. This is the dumpster.
6 Right there is the log in the woods area
7 (indicating).

8 THE COURT: He's got jurors blocked and I can't
9 hear him.

10 MR. YOUNG: Step right back here and talk so
11 the Judge can hear you.

12 THE COURT: You need to talk so the jury can
13 hear you.

14 BY MR. YOUNG:

15 Q I'm going to step over here and ask you these
16 questions. All right, take a look at the diagram,
17 where is the log in the woods?

18 A Like right back here (indicating).

19 Q Behind that dumpster?

20 A Yes, sir, in the woods area.

21 Q Is this flat or hilly or what is --

22 A It's, like, kind of like hilly because you got
23 to go down a little bit, so it's, like, just back up
24 in here.

25 Q So if you left the log and were coming back

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1 towards the cars, would it be uphill or downhill?

2 **A** Going back uphill a little bit. And the cars
3 are, like, right here (indicating). So we're going
4 up to the car to turn off the lights. And so about
5 that time, this is the entrance area (indicating),
6 the car came in, you know, like, the speed bump,
7 like, wasn't there. He came in, went around like
8 this and there's, like, little parking areas at the
9 back, backed in and then came back out, went like
10 this right here (indicating) and stopped, blocked us
11 in.

12 Like, there's the light pole. That's my
13 brother. I'm right beside him and Raymond's right
14 here. I couldn't see him in the car. So about that
15 time, it just got quiet. And Duke was right here,
16 the rest of the fellows, like, back here towards the
17 car. And by that time, If you're going to shoot me,
18 then shoot me. And a shot went off, the car drove
19 off. I'm checking myself and everything, you know.
20 My brother's, you know, hit and I just seen blood is
21 coming out of his face and whatever. And by that
22 time, I lost it. It had happened so fast, you know.

23 **Q** All right. I understand. Now, if you don't
24 mind, take your seat again.

25 **A** (Witness resumes the witness stand.)

1 Q Just to make sure it's clear, you indicated
2 that you saw the driver of the car reach under?

3 A Yes, sir, like sliding, like, kind of like
4 sliding up the seat really, to me, what I seen.

5 Q Was that when he was coming in or --

6 A Coming in.

7 Q Okay. And so when you saw that happen, you
8 were just -- where were you then at that point?

9 A Beside my brother.

10 Q So y'all are standing up there by that light
11 pole you described?

12 A Yes, sir.

13 Q Was anybody angry about anything?

14 A No, sir. We just was out there having a normal
15 regular day just out there talking. We didn't want
16 to be down there at the field so we left.

17 Q Now, the week before on Sunday, something
18 happened where you had to go to court and plead
19 guilty -- not plead guilty, excuse me -- you were
20 found guilty of having discharged a firearm in city
21 limits; is that right?

22 A Yes, sir.

23 Q That was the week before. Did you have a gun
24 on you that night?

25 A No, sir.

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- 1 Q Did anybody in your group have a gun on them?
- 2 A No, sir.
- 3 Q Did anyone make a move toward that car as it
- 4 drove past?
- 5 A No, sir.
- 6 Q Were you trying to block that car?
- 7 A No, sir.
- 8 Q I want to ask you a question. This diagram is
- 9 -- is this a real wide area or a real narrow area?
- 10 How long a walk is it from position four to where
- 11 that X is, is that a very long walk?
- 12 A Yes, sir, kind of, kind of, like, short
- 13 distance. It really -- well, it really, like, short
- 14 distance really.
- 15 Q Well, let's just put it this way --
- 16 A You have to walk --
- 17 Q Is it further from me to you here or about the
- 18 same?
- 19 A Further.
- 20 Q Tell me when to stop.
- 21 A Right there.
- 22 Q Okay. So from position four to where that X
- 23 mark is is about this far?
- 24 A Yes, sir.
- 25 Q I'm going to ask you a question about your

1 brother: Is your brother right handed or left
2 handed?

3 A Right handed.

4 Q I'm going to show you some pictures about the
5 area. Do you know what was in your brother's hand
6 that night when the shooting happened?

7 A Yes, sir.

8 Q What?

9 A A cigarette lighter and a cigar rolled up in
10 marijuana.

11 Q In both hands or in one hand?

12 A In one hand. He had a lighter in one hand and
13 a dooby in the other.

14 Q A what in the other?

15 A The marijuana.

16 Q Would you be able to recognize a picture of
17 your brother's hand again if you saw it?

18 A Yes, sir.

19 Q With that lighter?

20 A (Witness nodded head.)

21 Q Let me show you what's marked as State's
22 Exhibit 21 and ask you if you can recognize it?

23 A Yes, that's my brother's hand, lighter in his
24 hand.

25 Q Does that fairly and accurately represent what

WILLIE WARREN CHANDLER - DIRECT BY MR. YOUNG

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1 your brother's hand looked like right after the
2 shooting?

3 A Yes, sir.

4 Q If you need to take a break just say so. Are
5 you okay?

6 A Yeah.

7 Q All right. I have some more pictures, but I'm
8 going to ask you these simple questions as much as I
9 can. Could you recognize the car that you saw that
10 night if you saw a picture of it again?

11 A Yes, sir.

12 Q Let me show you what's State's Exhibit 3, 4 and
13 5. Can you recognize those pictures?

14 A Yes, sir.

15 Q What are they?

16 A The same car I seen that night.

17 Q Had you seen that car earlier that day?

18 A Yes, sir.

19 Q Who was driving it?

20 A Rand was.

21 Q What did you just call him?

22 A I call him Rand. I don't call him Michael. I
23 call him Rand, that's what we used to call him.

24 Q Is he the gentleman sitting next to Mr. Andrew
25 Anderson?

1 A Yes, sir.

2 Q And you know him as Rand?

3 A Yes, sir.

4 Q Do you know what his full name is?

5 A I think Michael Watson.

6 Q And he was the person driving that car?

7 A Yes, sir.

8 Q Did you see anymore than -- any other persons
9 in the car who was driving that night?

10 A No, sir.

11 Q Right after this happened, what did you do?

12 A Blanked out.

13 Q What do you mean blanked out?

14 A I don't know what they call that. I just ain't
15 never seen nothing like that. I mean, I just went
16 to go try to go find him.

17 Q Did you stay right there or did you go
18 somewhere?

19 A I stayed right there for a minute, holding my
20 brother head up. After that, I left.

21 Q Where did you go?

22 A Try to find him.

23 Q Find who?

24 A Rand, Michael Watson.

25 Q Who did you go with, if anyone?

1 CROSS-EXAMINATION

2 BY MR. ANDERSON:

3 Q Mr. Chandler, I'm sorry for you and your
4 family's loss, okay. And I know this isn't
5 pleasant.

6 A (Witness nodded head.)

7 Q Had y'all been smoking weed, and I know you
8 said you didn't smoke, but your friends had been
9 smoking weed earlier that night?

10 A Well, I just -- basically earlier that night,
11 no, sir.

12 Q Okay. Before this happened, had y'all been
13 down here hanging out?

14 A Yeah. We had just not too long had just got
15 down there.

16 Q And was anybody down there smoking?

17 A No, sir, not when we got down there. We was
18 down there -- we got down there, was down there by
19 ourselves just sitting down just talking, having a
20 nice conversation.

21 Q How long were y'all down there before you
22 realized that Mr. Ouzts had left his car light on?

23 A Not long, I'd say maybe five minutes. It
24 wasn't even long.

25 Q Did any of you guys live there?

WILLIE WARREN CHANDLER - CROSS BY MR. ANDERSON

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1 A No, sir.

2 Q Why did y'all choose that spot to go hang out?

3 A It was just a normal spot we just go hang out
4 at. It was quiet. Nobody wasn't around. We just
5 wanting to get away from all the activity that was
6 going on down at the ballpark.

7 Q Well, the ballpark, a lot of bad stuff happens
8 there. That's where you had your incident with the
9 gun, correct?

10 A Yes, sir.

11 Q And, basically, you had discharged a gun down
12 at the ballpark?

13 A Yes, sir.

14 Q And that was in the direction of Michael Watson
15 and his friends and family, correct?

16 A I mean, at the time of the ballpark, sir, I was
17 found guilty, but I didn't do anything.

18 Q Did you have a gun?

19 A No, sir.

20 Q At the ballpark, you didn't have a gun?

21 A I didn't have no gun, but I was found guilty.

22 Q You testified a minute ago that you had seen
23 Michael Watson earlier in the day. Where did you
24 see him?

25 A Riding down on Bouknight Ferry.

1 Q Did anything happen?

2 A No, sir.

3 Q Would it be safe to say that you and your
4 friends and Michael and his people had had some
5 issues in the past?

6 A Yeah, they had some issues, but it ain't
7 nothing I had nothing to do with.

8 Q Well, in your -- you gave a written statement
9 to law enforcement, correct?

10 A Yes, sir.

11 Q And in your written statement, you mentioned
12 that you were with your brother and his friends?

13 A Yes, sir.

14 Q Were these other guys more Andrew's friends
15 than your friends?

16 A Yes, sir.

17 Q Okay. And as you said, it was extremely dark?

18 A Yes, sir.

19 Q When you gave your statement to law
20 enforcement, was that taped do you know? Did
21 anybody tape it?

22 A It'd been a long time. I can't hardly remember
23 anything really like back then but what happened
24 that night.

25 Q Well, in the statement that you gave, you state

WILLIE WARREN CHANDLER - CROSS BY MR. ANDERSON

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- 1 that Michael's car actually came to a stop?
- 2 **A** Yes, sir.
- 3 **Q** And then what was said?
- 4 **A** If you're going to shoot me, then shoot me.
- 5 **Q** And who said that?
- 6 **A** Duke Thomas.
- 7 **Q** Andrew didn't say anything?
- 8 **A** No, sir.
- 9 **Q** How close -- how close -- strike that -- were
- 10 Duke and your brother standing close together?
- 11 **A** No, sir.
- 12 **Q** Can you show us where Duke was and where Andrew
- 13 was?
- 14 **A** (Witness leaves the witness stand.)
- 15 Duke was back here, like right here in the
- 16 middle where the dumpster was. And me and my
- 17 brother right here towards the light pole.
- 18 **Q** And where was Octavious?
- 19 **A** Back here by himself at the middle dumpster.
- 20 (Witness resumes the witness stand.)
- 21 **Q** Then you state that you ran after the car after
- 22 it happened?
- 23 **A** Yes, sir. I got me and Ouzts, Corddaryl Ouzts,
- 24 got in the car, try to go find him, but they were no
- 25 where in sight.

1 **THE COURT:** I'm sorry. What did you say?

2 **THE WITNESS:** We tried to go find him, but the
3 car was nowhere in sight when we got up to the stop
4 sign up there by Saluda Terrace. So we just went
5 straight down across the road and down to the
6 ballpark.

7 **BY MR. ANDERSON:**

8 **Q** Isn't it true that you eventually ended up
9 across the street from Michael's sister's house,
10 Trisha?

11 **A** Across the street?

12 **Q** Or at her house?

13 **A** No, sir.

14 **Q** Okay. What was your intention to chase after
15 him, to find him?

16 **A** Find out why it happened. I'm still clueless
17 now to today why it happened. I don't know
18 anything.

19 **MR. ANDERSON:** Thank you.

20 **THE COURT:** Redirect.

21 REDIRECT EXAMINATION

22 **BY MR. YOUNG:**

23 **Q** Do you know where Michael's sister's house is?

24 **A** No, sir.

25 **Q** Okay. You said you were there about five

WILLIE WARREN CHANDLER - REDIRECT BY MR. YOUNG

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1 minutes before the shooting?

2 A Yes, sir.

3 Q And you weren't smoking marijuana that night?

4 A No, sir. I don't smoke, period.

5 Q Okay. With regard to that matter of
6 discharging a firearm in the city limits, okay,
7 you're accused of shooting a firearm in the air,
8 weren't you?

9 A Yes, sir.

10 Q And that's what they found you guilty of?

11 A Yes, sir.

12 MR. YOUNG: Okay. Nothing further.

13 THE COURT: Recross.

14 MR. ANDERSON: No thank you.

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

16 All right. Ladies and gentlemen, we'll take a
17 ten minute break and then we'll get you back out
18 here. Don't discuss the case. Follow the bailiff,
19 please.

20 (The jury retires to the jury room.)

21 THE COURT: Court's in recess for ten minutes.

22 (Brief recess.)

23 THE COURT: All right. Is the State ready?

24 MR. YOUNG: The State's ready.

25 THE COURT: Defense?

1 MR. ANDERSON: Yes, sir.

2 THE COURT: Bring in the jury.

3 (The jury returns to the courtroom.)

4 THE COURT: All right. Call your next witness.

5 MR. YOUNG: The State calls Octavious Thomas.

6 OCTAVIOUS THOMAS,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. YOUNG:

10 Q You hear that coming on?

11 (Court Reporter's Note: Air conditioner
12 turned on.)

13 A Yes, sir.

14 Q It's going to be hard to hear you unless you
15 talk up, so I'm going to get all the way over here.
16 Would you go ahead and tell the Court where you were
17 on the night of August 5th, 2007 about 10:30 p.m.?

18 A In Saluda Terrace.

19 Q Were you with people or by yourself?

20 A I was with people.

21 Q Who?

22 A I was with Raymond Kirkland. I was with Drew
23 Chandler, Warren Chandler, Corddaryl Ouzts and
24 Jeremy Butler.

25 Q Now, what were you there and what -- why were

OCTAVIOUS THOMAS - DIRECT BY MR. YOUNG

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1 you there and what were you doing?

2 **A** We had all went over to smoke, get away from
3 what was going on down the street.

4 **Q** When you say smoke, what do you mean?

5 **A** Smoke marijuana.

6 **Q** Okay. Right after you got there, where did you
7 go?

8 **A** We went to the back of the Terrace around by
9 the dumpster down on a little a log down there.

10 **Q** Okay. Is that log behind the dumpster down in
11 a hill?

12 **A** Yes, sir.

13 **Q** Okay. And then, at some point, did y'all's
14 attention become directed toward a car coming into
15 the Terrace?

16 **A** After we was going -- well, Raymond light was
17 left on in his car. After we walked up the hill, a
18 car was coming in the Terrace as we was walking up.

19 **Q** And as you walk up there, do you see a car?

20 **A** Yes, sir.

21 **Q** Do you know what kind of car that was?

22 **A** It was a black, I want to say, Toyota Camry or
23 something like that.

24 **Q** Would you be able to recognize a picture of
25 that car if you saw it again?

1 A Yes, sir.

2 Q Do you know who drives the car?

3 A Do I know who drives the car?

4 Q Yes.

5 A Yes, sir.

6 Q Who?

7 A Who drives it now or --

8 Q Who drove that car on that night?

9 A Michael.

10 Q Did you see Michael that night?

11 A Yes, sir.

12 Q Was he driving that car?

13 A Yes, sir.

14 Q Let me show you what's State's Exhibit 3, 4 and

15 5 and ask you if you can look at them real quickly

16 and tell me if you recognize that?

17 A That's the car, sir.

18 Q That's the car?

19 A Yes, sir.

20 Q And who was driving it?

21 A Michael.

22 Q Is Michael in the courtroom?

23 A Yes, sir.

24 Q Where?

25 A Over there.

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- 1 Q That's Mr. Anderson seated to my left.
- 2 A In the white, sir.
- 3 Q In the white suit, okay.
- 4 A Yes, sir.
- 5 Q With regard to your attire that night, how were
- 6 you dressed?
- 7 A My dress?
- 8 Q Yes, sir.
- 9 A I had on a blue shirt and I had some short jean
- 10 pants and some blue, yellow and green Jordans.
- 11 Q Okay. Would you tell us what you observe
- 12 happen after that car came into the area?
- 13 A As the car came in, I was -- we had made it to
- 14 about Raymond car. The car came in, came down the
- 15 hill, went around onto the side. And as it was
- 16 coming back out, the gun was fired, well, by the
- 17 driver, shot Andrew.
- 18 Q Okay. Just tell us what you observed happen
- 19 when the driver came by Andrew?
- 20 A As he was leaving out?
- 21 Q No. He was coming by you first -- he came in,
- 22 then drove around and he came by Andrew and you said
- 23 he shot?
- 24 A Yes, sir.
- 25 Q What did you observe as he was coming by and

1 the shot occurred, what did you observe?

2 A I observed Michael in the car and a gun, like,
3 the fire from the gun barrel come out as he was
4 speeding out.

5 Q Okay. Was he going fast or slow?

6 A After the shot, he sped up. Before, he wasn't
7 as fast.

8 Q Would you be able to recognize a picture of the
9 part of the clothing you were wearing that night if
10 you saw it again?

11 A Yes, sir, I would.

12 Q Let me ask you if you can identify State's
13 Exhibit Number 20. Take a look at that and tell me
14 if you recognize that.

15 A It's my shoe and my shirt.

16 Q Okay. How did the shoe and the shirt come off?

17 A Afterwards I kind of had a lot on my mind and
18 stuff and I was laying on the ground. And my
19 cousin, as he was picking me up, I came out my shirt
20 and I guess my shoe just came on off, too.

21 Q What did you do after the shooting when you got
22 out of your shirt and your shoes -- shoe?

23 A The girl I was going with at the time, I went
24 to her house.

25 Q Where does she live?

OCTAVIOUS THOMAS - DIRECT BY MR. YOUNG

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1 A She stays in a trailer, like, right there
2 beside the Terrace.

3 Q Okay. Would you just -- outside of the
4 courtroom I showed you this diagram which has been
5 offered as State's Exhibit Number 27. Would you
6 step down here and point out where you were roughly
7 when you lost your shoes and your shirt?

8 A (Witness leaves the witness stand.)

9 I was around here. This is the dumpster.

10 Q Okay. Now, if this is -- first off, let's
11 identify what you're talking about. Number three is
12 what?

13 A It's the dumpster.

14 Q Speak up so the jury can hear you.

15 A Oh, I'm sorry. This is the dumpster and this
16 is the car and that's another car.

17 Q Okay. And whose cars are those; do you know?

18 A Those are Raymond car and Corddaryl car.

19 Q Okay. And where were you in -- and if the X --
20 what does the X represent to you, if anything?

21 A Where Drew was at.

22 Q Okay. And where were you in relation to Drew?

23 A I was, like, a little behind right there.

24 Q Behind him?

25 A Yes, sir.

1 Q Okay. Were you more toward the cars?

2 A No, sir -- what time, like, exactly when?

3 Q I don't know, you tell me. What are you
4 referring to at what time were you behind him?

5 A Oh, before, like, right before the shooting
6 occurred, I was behind him, but afterwards when I
7 lost my shoe and my shirt, I was over here towards
8 the car.

9 Q More toward the cars?

10 A Yes, sir.

11 Q Okay. Return to your seat. Thank you.

12 A (Witness resumes the witness stand.)

13 Q Did you have a gun in your possession that
14 night?

15 A No, sir.

16 Q Did anyone in your group, people that was with
17 you, have a gun in their possession?

18 A No, sir.

19 Q Did you see them display a gun?

20 A No, sir.

21 Q When the shooting occurred, was Drew or Raymond
22 or anybody acting in a threatening manner?

23 A No, sir. I mean, everybody was shocked not
24 knowing really what was going on.

25 Q Everybody was shocked afterwards, but during

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1 the time just prior to the shooting?

2 A Oh, no, sir.

3 Q Did anybody try to block his car in?

4 A No, sir.

5 Q Did anybody try to threaten him?

6 A No, sir.

7 Q So what were y'all doing?

8 A We was just out there smoking just having a
9 good time, well trying to.

10 Q Y'all were angry?

11 A No, sir.

12 Q Loud?

13 A No, sir.

14 Q When you saw the car coming down the hill
15 toward where y'all were located, did you see the
16 driver do anything inside of his car?

17 A Not like when he -- not as he passed by us, no,
18 sir. When he was going around to turn around, I
19 couldn't really see all the way down there, but,
20 like, it might have been on the floor somewhere as
21 he was coming back towards us like he had picked
22 something off the floor.

23 Q What was, Like he picked something off of, what
24 do you mean by that?

25 A Like he had reached down on the passenger side

1 to pick something up or something.

2 Q So he reached down and you saw him make that
3 motion --

4 A Yes, sir.

5 Q -- as if reaching down?

6 A Yes, sir.

7 Q You couldn't see what he was doing, though?

8 A I couldn't see exactly -- I couldn't see past
9 the window level, if you know what I'm saying.

10 Q Okay. And so where was he roughly when you saw
11 that reaching down on this diagram, where was he?
12 Was he more toward this direction or more toward
13 this direction?

14 A More towards this.

15 Q Step down and point out on the diagram.

16 A He was right there (indicating).

17 Q In that area?

18 A Yes, sir.

19 Q Okay. Did anyone around you try to call 9-1-1?

20 A After?

21 Q Yes, sir.

22 A Yes, sir.

23 Q How soon after the shooting?

24 A It might have been maybe five or ten minutes
25 after when people start coming out because I guess

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1 they heard the gunshot.

2 Q Just prior to the shooting, was the car going

3 fast or slow or was it stopping or what?

4 A It was at, like, a medium speed, not

5 necessarily going fast, but it was going a little --

6 it was, I'd say, slow. It was going slow.

7 Q Well, could a person walking keep up with it?

8 A They'd have to walk mighty fast to keep up with

9 it?

10 Q Okay. Does the car make any attempt to speed

11 up or slow down just prior to the shooting?

12 A No, sir.

13 Q Does it go about the same speed as the shooting

14 occurs?

15 A Yes, sir.

16 Q As the car came through this driving area --

17 this parking area, excuse me, were people walking

18 toward the car or were they pretty much stationary?

19 A Everybody was pretty much stationary about the

20 time the car got in front --

21 Q They weren't walking either toward the car or

22 away from it, they were just milling around?

23 A Yes, sir. Like, about the time the car had

24 made it in front of us, they was just -- it was

25 stationary, like, we was stationary. We was already

1 like -- we wasn't walking toward -- in front of the
2 car.

3 Q So as the car got closer, people just stopped?

4 A Yes, sir.

5 Q At least in your group?

6 A Yes, sir.

7 MR. YOUNG: I have no further questions. Would
8 you please answer any questions Mr. Anderson may
9 have for you.

10 THE COURT: Cross.

11 CROSS-EXAMINATION

12 BY MR. ANDERSON:

13 Q You go by the nickname of Duke?

14 A Yes, sir.

15 Q Have you had an opportunity to speak to the
16 other young men that have testified this morning?

17 A Have I had the opportunity to speak to them?

18 Q Yes, after they testified.

19 A Yes, sir.

20 Q Safe to say this is an upsetting thing?

21 A Yes, sir.

22 Q Have you and Michael had some problems in the
23 past?

24 A Have we had some problems in the past, yes, but
25 can I explain?

OCTAVIOUS THOMAS - CROSS BY MR. ANDERSON

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1 Q Sure.

2 A I mean, it was like -- it was like a childhood
3 thing, but it was nothing prior to the accident. It
4 was -- I mean, we didn't have no -- there was no
5 beef. There was no me disliking him, but as a young
6 child, like maybe eight or nine, we had a little
7 scuffle. It was nothing to hold a grudge against.

8 Q Did you get together with the other witnesses
9 before court to talk about this?

10 A No, sir.

11 Q Did you get together with the prosecutor before
12 this?

13 A The prosecutor? Who's --

14 Q Mr. Young.

15 A Yes, sir.

16 Q And y'all actually went out there to the
17 apartments?

18 A Yes, sir.

19 Q Okay. How many different police officers did
20 you talk to after the incident?

21 A I only talked to -- I only talked to Charles,
22 if that's -- like, that's about the only person I
23 talked to. And I don't know the other dude name,
24 but I don't think I talked to one policeman.

25 Q But you did talk to Commander Holloway who is

1 in the courtroom?

2 A Yes, sir.

3 Q Was your interview audio or video taped; do you
4 know?

5 A Not to my understanding. I don't know when I
6 was talking whether I was recorded or not.

7 Q Okay. Do you know your other friend Butler,
8 Jeremy Butler?

9 A Yes, sir.

10 Q Do you know where he is?

11 A No, sir, I haven't seen him.

12 Q He didn't meet with y'all?

13 A No, sir.

14 Q When is the last time you saw him?

15 A Like maybe two weeks ago.

16 Q Okay. Do you know what he was doing?

17 A No, sir.

18 Q Does he have a job?

19 A I have no idea.

20 Q Where did you see him?

21 A Where did I see him?

22 Q Yes, sir.

23 A Down on Bouknight just passing by.

24 Q Do you think he's moved away or you have no
25 idea?

OCTAVIOUS THOMAS - CROSS BY MR. ANDERSON

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1 A I have no idea.

2 Q Okay. Can you point please to about where you
3 were when the shooting happened? If this X is
4 Andrew, about where were you standing when the gun
5 went off?

6 A Right in here (indicating).

7 Q Would it be safe to say -- there were five of
8 you eyewitnesses and obviously y'all talked about
9 the case and y'all met with the prosecutor. Would
10 it be safe to say that lots of details might be
11 different from each of your perspectives?

12 A Yes, sir.

13 Q Talking about the same incident, little details
14 can be a little off?

15 A Yes, sir.

16 Q Okay. But if somebody were to say that at the
17 time that the gun went off you were down here, would
18 that be wrong?

19 A It depends on -- can I get down right quick?

20 Q Sure.

21 A (Witness leaves the witness stand.)

22 Like, it's actually kind of closer. This right
23 here is actually kind of closer. So, I mean, if I'm
24 right here, the dumpster would be a little closer.

25 Q Would it be safe to say when the gun was fired,

1 you were pretty close to Andrew?

2 **A** Yes, sir.

3 **Q** Now, you and Mr. Young didn't talk about any
4 words being exchanged, but did you say anything
5 before the shot was fired?

6 **A** No, sir, I did not.

7 **Q** Okay. So if one of the people, one of the
8 eyewitnesses, were to say that you said shoot, that
9 would not be true?

10 **A** I did not say shoot.

11 **Q** Do you have any explanation why somebody would
12 say that you said shoot?

13 **A** No, sir.

14 **Q** Okay. Did some of your friends go after the
15 car after the shooting?

16 **A** I believe Corddaryl, him and Warren might have
17 (inaudible) --

18 **COURT REPORTER:** I didn't hear you, I'm sorry.

19 **THE WITNESS:** Corddaryl and Warren, they -- I
20 believe they went after him after the shooting.

21 **BY MR. ANDERSON:**

22 **Q** Do you know why they went after him?

23 **A** I guess they was angry, sir.

24 **Q** Okay. I mean, it's pretty upsetting. Do you
25 know if the police ever talked to your girlfriend,

OCTAVIOUS THOMAS - CROSS BY MR. ANDERSON

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1 Ashley?

2 A No, sir.

3 Q That's a bad question, but is that, no, they
4 didn't talk to her or, no, you don't know?

5 A Oh, no, sir, I have no idea if they've talked
6 to them or not.

7 MR. ANDERSON: Your Honor, could I have a
8 second?

9 THE COURT: Sure.

10 (Pause.)

11 BY MR. ANDERSON:

12 Q Do you remember having a little incident with
13 Michael a little earlier than this at Jarvis' house?

14 A No, sir.

15 Q His uncle -- or brother-in-law I should say?

16 A No, sir.

17 Q Where y'all, there was words exchanged and
18 stuff?

19 A No. Like, it was no words or so.

20 Q What was that?

21 A What was that?

22 Q Yes, sir.

23 A It was -- it was something about he had pulled
24 a sawed-off on my little cousin the week before or
25 not and my little cousin was discussing about --

1 **MR. ANDERSON:** Your Honor.

2 **THE COURT:** Hold on just a minute.

3 Sir?

4 **MR. ANDERSON:** Never mind. That's fine.

5 BY MR. ANDERSON:

6 **Q** Did you have words with Michael Watson?

7 **A** Did I have words, confrontation words?

8 **Q** Yes.

9 **A** No, sir.

10 **Q** Okay. Will you acknowledge that it was
11 extremely dark there that night, the night of the
12 shooting?

13 **A** It was dark.

14 **Q** Okay. Do you know -- do you know how far
15 Michael would have to reach down to shift gears in
16 his car?

17 **A** No, sir.

18 **Q** Did anybody -- did he have to back up at any
19 time or was it --

20 **A** It was a turnaround.

21 **Q** But there was no back up?

22 **A** I didn't see him back up.

23 **Q** Okay. Would you have any explanation as to why
24 some of the eyewitnesses said that the car was
25 stopped and some of the eyewitnesses said the car

OCTAVIOUS THOMAS - REDIRECT BY MR. YOUNG

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1 didn't stop?

2 A No, maybe they was confused if it slowed down
3 or did it come to a complete stop.

4 MR. ANDERSON: No further questions. Thank
5 you.

6 THE COURT: Redirect.

7 REDIRECT EXAMINATION

8 BY MR. YOUNG:

9 Q Is there any doubt in your mind that Michael
10 Watson was the person driving that car?

11 A No, sir, there's no doubt in my mind.

12 Q Is there any doubt in your mind that a blast
13 came from that car?

14 A No, sir, there's no doubt.

15 Q Is there any doubt in your mind that your
16 friend, Andrew Chandler, fell on the ground after
17 that blast?

18 A There's no doubt.

19 Q Referring back to the diagram.

20 A Yes, sir.

21 Q When you saw the car turn around --

22 A Yes, sir.

23 Q -- it was at the end of that street?

24 A Yes, sir.

25 Q Or close to the end. Are you familiar with --

1 were there light poles in that area?

2 **A** Yes, sir.

3 **Q** Okay. Would you be able to recognize pictures
4 of the light poles again if you saw them?

5 **A** Yes, sir.

6 **Q** Let me show you what's been marked as State's
7 Exhibit Number 14 and ask you if you can recognize
8 anything in that picture associated with a light
9 pole. Do you recognize anything in there?

10 **A** I recognize a light pole.

11 **Q** Do you recognize a light in there?

12 **A** Yes, sir.

13 **Q** Okay. Does anything in that picture relate to
14 that diagram over there in terms of where that light
15 pole was?

16 **A** The light --

17 **Q** Step down.

18 **A** (Witness leaves the witness stand.)

19 This light pole right here (indicating).

20 **Q** Were there any lights --

21 **THE COURT:** I don't know what he said.

22 **THE WITNESS:** There's a light pole right here.

23 **MR. YOUNG:** And he's pointing to an area near
24 the X on the diagram.

25 **THE COURT:** I can't see the diagram. Go ahead.

OCTAVIOUS THOMAS - RECROSS BY MR. ANDERSON

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1 BY MR. YOUNG:

2 Q Are there any other light poles in the area?

3 A Yes, sir. There's one down here and there's
4 one up here (indicating).

5 Q So there's one basically on the corners and at
6 the end of the driveway, so to speak, a dumpster
7 across the street from the X and at the end of the
8 street where he turned around?

9 A Yes, sir.

10 (Witness resumes the witness stand.)

11 Q Okay. Thank you.

12 MR. YOUNG: The State offers Exhibit 20 into
13 evidence.

14 THE COURT: Any objection to this?

15 MR. ANDERSON: No, sir.

16 THE COURT: Mark it into evidence please,
17 ma'am.

18 (State's Exhibit Number 20, photograph,
19 admitted into evidence.)

20 MR. YOUNG: No further questions.

21 THE COURT: Recross.

22 RECROSS-EXAMINATION

23 BY MR. ANDERSON:

24 Q Wasn't one of those lights out; do you recall?

25 A No, sir. I don't recall any lights being out.

1 **Q** Whether or not one of them was out, it's dark
2 in there, is it not?

3 **A** Yes, sir, it's dark, but you can see where the
4 lights at -- where the lights are, you can see
5 around those areas.

6 **MR. ANDERSON:** Okay. Thank you.

7 **THE COURT:** Anything further of the witness?

8 **MR. YOUNG:** Nothing further, Your Honor.

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

10 All right. Ladies and gentlemen, we're going
11 to break for lunch now. You're on your own for
12 lunch. I need you back in the jury room at 2:15. I
13 hope you have a pleasant lunch. Remember all of
14 those admonitions. 2:15. Thank you.

15 (The jury was excused for lunch.)

16 **THE COURT:** All right. I realize we have some
17 people who are here today who were not here
18 yesterday when I gave this instruction. Those of
19 you who already heard it, it's not going to hurt you
20 to hear it again.

21 You need to be very careful that you not have
22 any contact with a juror, that you not say anything
23 about this case or anybody in it that might be
24 overheard by a juror. As you're leaving, you very
25 likely may be right behind a juror or near a juror,

1 they don't always clear out and leave the courthouse
2 like you think they would. If you go to a local
3 restaurant to eat lunch, there's a high likelihood
4 that there's going to be a juror somewhere near you
5 so you need to be very careful that you don't say
6 anything about the case that might be overheard by a
7 juror and that you don't have any contact with any
8 jurors.

9 Court's in recess until 2:15. Thank you.

10 **MR. ANDERSON:** Your Honor, they've been
11 accommodating with me and my client, but could we
12 use one of the rooms and maybe let his family get
13 some food so we can meet there during the lunch
14 break or does he need to go back to the jail?

15 **THE COURT:** It's up to security, but, I mean,
16 they're not going to let him sit in there with a
17 group of people and no security officer in there it
18 doesn't matter who it is. I just have to leave that
19 up to security. If y'all can work something out,
20 that's fine with me, but they're not going to put
21 y'all in a room by yourselves I can tell you that,
22 not you and a group of people. They might put you
23 and your client in a room by yourself. Thank you.

24 (Whereupon, there was a luncheon recess.)

25 **THE COURT:** Is the State ready?

RAYMOND DALE KIRKLAND - DIRECT BY MR. YOUNG

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1 MR. YOUNG: State's ready.

2 THE COURT: Defense?

3 MR. ANDERSON: Yes, sir.

4 THE COURT: Bring in the jury.

5 (The jury returns to the courtroom.)

6 THE COURT: Call your next witness.

7 MR. YOUNG: Raymond Kirkland.

8 RAYMOND DALE KIRKLAND,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. YOUNG:

12 Q Mr. Kirkland, can you give us your full and
13 complete name?

14 A Raymond Dale Kirkland.

15 Q Okay, sir. Can I direct your attention to the
16 night of August 5th, 2007 about 10:30 in the
17 evening?

18 A Yes, sir.

19 Q Can you tell me where you were?

20 A Terrace Apartments in Saluda.

21 Q Was anyone else with you?

22 A Yes, sir.

23 Q Who?

24 A Andrew Chandler, Corddaryl Ouzts, Duke Thomas,
25 Warren Chandler and Jeremy Butler.

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- 1 Q Do you know where you were in the Saluda
2 Terrace Apartments, what area?
- 3 A Yes, sir, at the back by the dumpsters.
- 4 Q How did you get there?
- 5 A Drove.
- 6 Q Who drove?
- 7 A I drove and Corddaryl drove.
- 8 Q Did you park your cars anywhere?
- 9 A Yes, sir, in the parking lot.
- 10 Q Okay. Prior to coming in the courtroom, I
11 showed you a diagram.
- 12 A Yes, sir.
- 13 Q And it's been over here, marked as State's
14 Exhibit Number 27. And there are numbers and blocks
15 and marks on that. Do you see anything on that
16 diagram you can recognize as the location of where
17 your car was?
- 18 A Yes, sir, number two.
- 19 Q Okay. What would number three be?
- 20 A The dumpster.
- 21 Q Okay. And the X mark, what's that?
- 22 A That's where Andrew was killed at.
- 23 Q You observed that happen?
- 24 A Yes, sir.
- 25 Q Tell the Court what you saw.

1 A I saw a man -- I saw Michael Watson in a black
2 Toyota pull out a sawed-off shotgun out the window
3 and shot and Drew fell.

4 Q Where were you when that happened?

5 A Right beside him.

6 Q Right beside him meaning where?

7 A On his right side.

8 Q Okay. So you're up right to him how far away
9 you suppose?

10 A No more than three feet.

11 Q Okay. When you looked forward and saw this
12 blast, how far away were you from the car?

13 A Maybe 15 feet, 20 feet at the most, if that
14 far.

15 Q That's where you were?

16 A Yes, sir.

17 Q And you're further away from the car than
18 Andrew is?

19 A Yes, sir.

20 Q When this happened, you say you observed the
21 car and the car was being driven by Andrew -- excuse
22 me -- by Michael Watson?

23 A Yes, sir.

24 Q Would you be able to recognize that car again
25 if you saw it?

RAYMOND DALE KIRKLAND - DIRECT BY MR. YOUNG

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- 1 A Yes, sir.
- 2 Q Can I show you State's Exhibits Number 3, 4 and
- 3 5 and ask you if you can recognize what that is?
- 4 A That's the car.
- 5 Q Those pictures would represent the car?
- 6 A Yes, sir.
- 7 Q Would you be able to recognize a picture of
- 8 your car?
- 9 A Yes, sir.
- 10 Q Let me show you State's Exhibit 16 and ask you
- 11 if you can recognize that picture?
- 12 A That's my car.
- 13 Q Is that where it was parked that night?
- 14 A Yes, sir.
- 15 Q All right. Let me go back to that night in a
- 16 little bit of detail. Can you tell me how long
- 17 you'd been there at the point in time the shooting
- 18 happened?
- 19 A Maybe ten minutes, if that -- maybe like ten
- 20 minutes.
- 21 Q Okay. And when you were there at the scene,
- 22 when you first arrived at that location and you
- 23 drove your car in there, did you move your car after
- 24 you drove in there?
- 25 A No, sir.

1 Q Where did you go after you parked your car?

2 A Behind the dumpster to a fallen tree.

3 Q Behind the dumpster. And how long were you
4 down there you suppose?

5 A I was there probably like ten minutes before
6 the shooting happened.

7 Q So y'all were -- what brought you back up to
8 your car?

9 A I noticed an interior light was on inside of my
10 car.

11 Q Did everybody pretty much come up with you?

12 A Yes, sir.

13 Q Where were you when you first saw that black
14 Toyota? Where were you on the map, if you want to
15 call it the diagram, roughly? Do you remember where
16 you were?

17 A Not exactly, but I wasn't maybe -- can I stand
18 up?

19 Q Sure. Point us out on the diagram.

20 A Like right up here when I was walking up and I
21 noticed the car was coming through.

22 Q Had you already gone to your car at that point?

23 A Yes, sir. We was going toward my car at the
24 time.

25 Q That's what I mean. When you saw the car which

RAYMOND DALE KIRKLAND - DIRECT BY MR. YOUNG

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1 you say was driven by Mr. Watson's black Toyota --

2 A Yes, sir.

3 Q -- when you saw that car, had you already gone
4 to your car and turned the lights off?

5 A Yes, sir.

6 Q So you'd already done that?

7 A Yes, sir.

8 Q So you're pretty much up there already?

9 A Yes, sir.

10 Q Now, when you saw Mr. Watson's car come in,
11 what did you do?

12 A Nothing.

13 Q You had to get up closer --

14 A Yes, sir. We walk -- kept on walking forward
15 where the car was.

16 Q Any purpose in going that direction?

17 A No, sir, just walking up.

18 Q Just walking, okay. Was anybody -- the time
19 y'all were walking up to where -- the area where
20 Michael -- excuse me -- where Andrew was shot, did
21 anybody start acting angry or upset?

22 A Duke said, Shoot now.

23 Q When did he say that?

24 A When we was walking up toward the car.

25 Q Where was the car at that time?

1 **A** Turning around.

2 **Q** Wait a minute. The car was turning around when
3 Duke said, Shoot now?

4 **A** He was coming back.

5 **Q** Show us what you mean.

6 **A** We was walking up from the dumpster, from the
7 tree, we was walking up to cut my light off. All
8 right, we heard the car come through with loud
9 music. We kept walking up to see where the car was,
10 then we noticed it was Rand. Then Rand came through
11 and turned around. Then Duke said, Shoot now,
12 something like that. I don't know his exact words,
13 I can't remember.

14 **Q** Where was the car when Duke said that?

15 **A** Somewhere up in here (indicating). It's kind
16 of hard to remember.

17 **Q** Had it already turned around at that point
18 coming back?

19 **A** Yes, sir.

20 **Q** So when the car turned around and was coming
21 back, was it moving slow, fast?

22 **A** Slow.

23 **Q** Was it fast in terms of slow, in terms of so
24 fast in terms of slow that you had to run to keep up
25 with it or was it walking speed?

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- 1 A Walking speed like creeping.
- 2 Q Okay. And you heard Duke say that?
- 3 A Yes, sir.
- 4 Q Was anybody acting aggressive?
- 5 A No, sir.
- 6 Q Why would he say, Shoot now -- well, I withdraw
- 7 that question. I'm not sure you can tell me why
- 8 somebody else said something.
- 9 Let's put it this way. What is it that would
- 10 have prompted such a statement that you saw coming
- 11 from the car of this black Toyota driven by
- 12 Mr. Watson? Did you see something that would prompt
- 13 it?
- 14 A Sir, I seen him when he reached down. Sir, I
- 15 don't know why Duke said that to be honest with you.
- 16 I don't know --
- 17 Q I'm not asking you why because I withdrew that,
- 18 but -- I'm not sure anybody can answer that, but
- 19 what I'm asking you is what is it that would have --
- 20 if you saw any actions by this driver, by
- 21 Mr. Watson, that could have prompted such -- was he
- 22 doing something at that moment that prompted him to
- 23 -- could have prompted him? Did you see something
- 24 at that same time?
- 25 A No, sir, not when Duke says that.

1 Q So he might have seen something you didn't see?

2 A Yes, sir.

3 Q As this car is moving through, about where is
4 it when you see the shotgun blast?

5 A Not far from the light pole at the circle.

6 Q Near the light pole?

7 A Yes, sir. I could see inside of the car and
8 seen when he reached over and I seen clearly who the
9 driver was.

10 Q Did you see -- okay. At the point in time that
11 you saw the shotgun blast, can you tell us roughly
12 how far the shotgun would have been from the victim
13 in this case, Mr. Chandler, about how far from him?
14 You said you were, what, 10 or 15 feet away?

15 A Yes, sir.

16 Q So how far was he roughly?

17 A It's kind of hard to tell, sir, because I can't
18 recall back to the exact day, like, I tried to
19 exclude some stuff from my memory.

20 Q Well, how about this. Was Andrew or anyone
21 close enough to reach out and touch that car?

22 A No, sir.

23 Q Okay. So it's further than that?

24 A Yes, sir.

25 Q All right. What happens after you heard the

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1 shotgun blast?

2 **A** When I heard the blast, I ducked down, looked
3 around, felt myself make sure I wasn't hit, looked
4 down, seen Drew, Andrew, laying on the ground, seen
5 that he was bleeding everywhere, he was shot in the
6 face, gathered myself. That was about it, sir, that
7 I did.

8 **Q** Would you be able to recognize positions --
9 pictures of positions on the ground where Andrew
10 Chandler was laying after the shot?

11 **A** Yes, sir.

12 **Q** Let me show you State's Exhibit 15 and State's
13 Exhibit 18. Take a look at those and tell me if you
14 can recognize them.

15 **A** Yes, sir.

16 **Q** All right. Put them back down for a second.
17 What's in that picture? Is there a sheet on that
18 body in that picture?

19 **A** Yes, sir.

20 **Q** Okay. When you first saw him, there wasn't a
21 sheet on him, right?

22 **A** No, sir.

23 **Q** But were his feet, his hands and arm basically
24 all in the same spot?

25 **A** Yes, sir.

1 Q He didn't get up and move --

2 A He didn't move, sir. Once he was shot, he
3 fell.

4 Q So those pictures fairly and accurately depict
5 the location where he was on the ground in relation
6 to that telephone pole he was near, right?

7 A Yes, sir.

8 MR. YOUNG: The State offers into evidence
9 State's Exhibit Numbers 15 and 18 -- they're already
10 in, Your Honor, I apologize.

11 Q There's also a picture I'd like you to take a
12 look at. When you were walking back up from the
13 dumpster area, you said you came through the woods
14 past the dumpster?

15 A Yes, sir.

16 Q Okay. Would you be able to recognize a picture
17 basically from that angle toward the telephone pole
18 and where Drew's body was?

19 A Yes, sir.

20 Q This is State's Exhibit 17, take a look at that
21 and tell me if you recognize it.

22 A Yes, sir.

23 Q Does that picture fairly and accurately
24 represent a shot from the angle near the dumpster
25 toward where the light was?

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1 **A** Yes, sir.

2 **Q** And where Drew's body was located?

3 **A** Yes, sir.

4 **Q** Thank you.

5 **MR. YOUNG:** State offers into evidence State's
6 Exhibit Number 17.

7 **THE COURT:** Any objection?

8 **MR. ANDERSON:** No, sir.

9 (State's Exhibit Number 17, photograph,
10 admitted into evidence.)

11 **BY MR. YOUNG:**

12 **Q** On the night this happened, you guys had been
13 there you said ten minutes or so when the incident
14 occurred?

15 **A** Yes, sir.

16 **Q** While you're standing there after you walk up
17 to where the -- near where the shooting occurred,
18 did you observe the car leave the area?

19 **A** Yes, sir.

20 **Q** How fast did it leave?

21 **A** It was driving pretty fast, sir.

22 **Q** And did you stay at the scene or leave?

23 **A** I stayed at the scene.

24 **Q** Did anyone leave?

25 **A** Yes, sir.

1 Q Who?

2 A Corddaryl and Warren.

3 Q When they left the scene and you stayed there,
4 did anyone try to call 9-1-1 or try to contact the
5 police?

6 A Yes, sir.

7 Q How soon after the shooting did someone try to
8 make that effort?

9 A Right after.

10 Q Mr. Kirkland, I'm going to ask you a question
11 about things that have happened since this time.
12 You have been convicted in the past, is it not true,
13 of possession with intent to distribute marijuana?

14 A Yes, sir.

15 Q Okay. And you were convicted on January 13th
16 of 2009 of that offense?

17 A Yes, sir.

18 Q And you're currently on probation?

19 A Yes, sir.

20 Q Sir, for purposes of this case, I'm just going
21 to ask you did you have a gun on you that night?

22 A No, sir.

23 Q Did you see anybody with a gun on them other
24 than --

25 A No one else had a gun or any type of weapon.

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1 Q Other than Mr. Watson?

2 A Yes, sir, besides Mr. Watson.

3 Q Did you hear anybody actually threaten to do
4 anything or block his car or act in any way to try
5 to stop him from leaving or acting in a threatening
6 manner toward him at all?

7 A No, sir.

8 MR. YOUNG: Answer any questions Mr. Anderson
9 may have for you.

10 THE COURT: Cross-examination.

11 CROSS-EXAMINATION

12 BY MR. ANDERSON:

13 Q Mr. Kirkland, this is pretty upsetting, was it
14 not?

15 A Yes, sir.

16 Q And it's pretty upsetting being in court
17 talking about all of this, I assume?

18 A Yes, sir.

19 Q There were five of you guys that were witnesses
20 to this, right?

21 A Yes, sir.

22 Q Who's the one that's not here today?

23 A Jeremy Butler.

24 Q When is the last time you saw him?

25 A I haven't seen him in seven or eight months. I

1 don't live in Saluda.

2 Q Pardon me?

3 A I don't live in Saluda.

4 Q Where do you live now?

5 A Batesburg.

6 Q Okay. You lived in Saluda --

7 A Prior, yes, sir.

8 Q Okay. All right. Where had y'all been before
9 you walked up the hill? Were you actually behind
10 the dumpster in the woods back there?

11 A Yes, sir. We was in the woods sitting on a log
12 smoking marijuana.

13 Q Okay. And then the purpose of you guys coming
14 out of there you say was to turn the light off in
15 your car and the other guys just followed you?

16 A Yes, sir.

17 Q Did you guys have plans for the evening? Do
18 you know what you were going to go do?

19 A No, sir. We was just going to enjoy the night.
20 It was a Sunday night. We usually go to the field.
21 There were too many people there, so we went to our
22 usually spot where we usually go and just sit on a
23 log, talk and chill and smoke.

24 Q How many times have you given your statement to
25 the police?

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- 1 A Sir, I honestly don't know.
- 2 Q More than once?
- 3 A I can say, I guess.
- 4 Q Was it ever video taped or audio taped?
- 5 A Not to my knowledge.
- 6 Q And would it be safe to say that you've talked
7 to your friends about this case and about coming to
8 court, haven't you, about testifying?
- 9 A What do you mean as in talk to them?
- 10 Q Well, discuss the fact that it's a trial and
11 we're going to have to testify and stuff like that.
- 12 A Yes, sir. We talked about when we all got
13 served subpoenas.
- 14 Q Okay. Would it be safe to say that there were
15 five of you there and you have five different
16 recollections of some of the details of this?
- 17 A Yes, sir, but we know the facts.
- 18 Q And Mr. Watson was there, that would be six?
- 19 A Yes, sir.
- 20 Q Would it be safe to say there's probably six
21 versions of the same incident?
- 22 A Not version, maybe a little minor detail that's
23 different.
- 24 Q Okay. Well, like, for instance, some people
25 say the car was stopped, some people say it was

1 moving slow. Have you discussed that with your
2 friends?

3 A No, sir.

4 Q Okay. Did anybody approach the car?

5 A No, sir.

6 Q Can you show us again where everybody was? We
7 know where Andrew was and you were over here by your
8 car?

9 A When the shooting took place?

10 Q Yes, sir.

11 A No, sir, I was beside Andrew.

12 Q So you were here and then wasn't Duke over
13 here, too?

14 A Duke was on (indicating), it was Drew, me,
15 Warren and everybody else was over here to this
16 side.

17 MR. ANDERSON: Judge, could I have a second,
18 please?

19 THE COURT: Yes, sir.

20 (Pause.)

21 BY MR. ANDERSON:

22 Q There's absolutely no question, though, that
23 you heard Duke say, Shoot now?

24 A Sir?

25 Q There's no question that you heard Duke say,

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1 Shoot now?

2 A He said something -- he might have said
3 something in that order. It might not have been the
4 exact words.

5 MR. ANDERSON: Okay. Thank you.

6 THE COURT: Redirect.

7 MR. YOUNG: No, sir.

8 THE COURT: You may step down. Thank you, sir.
9 Call your next witness.

10 MR. YOUNG: Officer Brett Long.

11 WILLIAM BRETT LONG,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. YOUNG:

15 Q Sir, will you give us your full and complete
16 name?

17 A William Brett Long.

18 Q Where do you work?

19 A Saluda Police Department.

20 Q How long?

21 A Nine years.

22 Q How long have you been a certified police
23 officer?

24 A Nine years.

25 Q Officer Long, on -- you were on duty at the

1 Saluda Police Department on August 5th of 2007?

2 A Yes.

3 Q About 10:30 that night, did you get a call to
4 respond to Saluda Terrace Apartments?

5 A Yes, I did.

6 Q Do you know the precise time that you got the
7 call?

8 A I'm not exactly sure of the exact time. It
9 was --

10 Q Would it be on your report?

11 A Yes, it would be on the report.

12 Q Would that refresh your recollection?

13 A Yes, if I can see the report.

14 (State's Exhibit Number 28, incident report,
15 marked for identification.)

16 Q I've had marked for identification State's
17 Exhibit Number 28. I hand it up and ask you to take
18 a look at it. Do you know what that is?

19 A Yes, that's the incident report.

20 Q Is that the one you completed on this call?

21 A Yes.

22 Q Having looked at that report, is your
23 recollection refreshed as the time you were
24 dispatched and the time you arrived?

25 A Approximately 10:25 p.m. in the evening.

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1 Q Thank you. In regard to your response to that
2 location when you arrived, can you just generally
3 describe what you saw?

4 A When I pulled up in the -- is the back parking
5 lot of the Saluda Terrace Apartments. When I first
6 came into the apartments, there was a good many
7 people outside just running around in a hysterical
8 state. I went on down to the very back of the
9 apartments at a back parking lot and noticed a guy
10 laying on the ground and a lot of blood coming from
11 his head area. And there was a guy standing off to
12 the side and I asked him -- it was Bernard Hill. I
13 asked him, I said, What's going on? And he told me
14 he was inside. He heard a gunshot. He looked out
15 and seen --

16 Q Okay. Stop right there. You got out there and
17 you're basically canvassing the area?

18 A Yes.

19 Q Okay. Were you the first officer on the scene?

20 A Yes, I was.

21 Q All right. As the first officer on the scene,
22 how long was it until you had other officers arrive
23 behind you?

24 A A minute or two shortly after.

25 Q Okay. So it wasn't very long until you had

1 officers on the scene?

2 A Right.

3 Q Noting that there was a person laying on the
4 ground and bleeding, did you take any actions to
5 determine his condition?

6 A I looked over. I looked at him. I never
7 touched the body or anything, I just looked at him.
8 And from the conditions of the way he looked and the
9 amount of blood, I knew then that he was dead.

10 Q So, at that point, did you take any actions to
11 secure this crime scene, if any?

12 A Yes.

13 Q What did you do?

14 A I got crime scene tape and secured the whole
15 back parking lot area where no one could come inside
16 the area there.

17 Q Okay. So from the time you got the call until
18 you got there, just roughly how long had elapsed
19 from the time you got the call until you arrived at
20 the scene?

21 A Maybe a minute or two at the most.

22 Q Almost immediately, okay. So when you got
23 there and you cordoned off that area, would you be
24 able to recognize pictures of that area again if you
25 saw it?

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1 A Sure.

2 Q Let me show you State's Exhibits Number 13 and
3 14 and ask you if you can recognize that?

4 A 13 is leading down to the back parking lot
5 where the guy was at. And 14 is the back parking
6 lot where my patrol car and the second officer
7 arrived, the patrol car is and where the body's
8 laying.

9 Q Do both of those pictures accurately reflect
10 the location of crime scene tape and your vehicles
11 when you arrived?

12 A Yes.

13 Q Okay. I'm going to ask you to basically do the
14 same thing with these other photographs. I'm going
15 to pass up to you 16, 17, 18 and 15. Take a look at
16 those and I'll ask you again if those fairly and
17 accurately represent the location of items or your
18 -- actually the person on the ground, telephone
19 poles, where your crime scene tape was at the time
20 that you arrived at the scene?

21 A Yes.

22 Q So you're the one that actually put all that
23 crime scene tape around in all those pictures?

24 A Yes.

25 Q And if you would please, sir, I want to ask

1 specific questions about locations of lights and
2 things like that.

3 A Okay.

4 Q There are pictures, for example, in item -- in
5 Exhibit Number 14, there's a picture of one light,
6 appears to be a picture of two lights in 13, a light
7 pole in 18 and in 17. And there's also a light of
8 some kind right there, 15. Is there a way you can
9 take these pictures and relate it to a diagram that
10 I'll talk to you about? First off, let me talk to
11 you about the diagram.

12 The diagram that is to the right, does this
13 represent the locations of any significant items as
14 you might have seen at the time?

15 A Yes.

16 Q What does it represent?

17 A X would be where the body was. 3 is a trash
18 can. I know there was a car parked where 1 is. 4
19 was some clothing on the ground.

20 Q Roughly what you recall, there's some circles
21 drawn around there, too, which are at corners and
22 behind trash cans, does that represent anything?

23 A Light poles.

24 Q Okay. Do some of those light poles appear in
25 these pictures?

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1 A Can I look at them?

2 Q Absolutely.

3 A Yes.

4 Q All right. What I would like for you to do is
5 if you can take a picture and stand up in front of
6 this diagram and relate that picture to something in
7 the picture on the diagram. Is there a way to do
8 that?

9 A Sure.

10 Q All right. For example, let's start with, this
11 is picture number 13, okay. If you would, describe
12 on the diagram first where picture 13 is in relation
13 to where the diagram is.

14 A (Witness leaves the witness stand.)

15 Picture 13 was actually taken from this area
16 here (indicating).

17 Q Okay. And it's looking down toward the
18 dumpster?

19 A Down toward the parking lot area and that's --
20 in this area right here is where the patrol cars are
21 parked in that picture and you can see the light
22 there.

23 Q What light?

24 A That one there.

25 Q The light above this car is --

1 **A** Is that pole there.

2 **MR. YOUNG:** Your Honor, permission to publish
3 to the jury.

4 **THE COURT:** Is it in evidence?

5 **MR. YOUNG:** The State moves to offer into
6 evidence Exhibit Number 13.

7 **BY MR. YOUNG:**

8 **Q** I'll ask does this fairly and accurately
9 represent the scene depicting that area descending
10 down toward the dumpster at the time?

11 **A** Yes.

12 **THE COURT:** Any objection?

13 **MR. ANDERSON:** No, sir.

14 **THE COURT:** Mark it in evidence, please.

15 (State's Exhibit Number 13, photograph,
16 admitted into evidence.)

17 **MR. YOUNG:** I'll just wait a minute, let the
18 jury have a chance to absorb that.

19 (Pause.)

20 **BY MR. YOUNG:**

21 **Q** While they're looking at that, let me ask you
22 to look at Exhibit Number 14. Does that fairly and
23 accurately depict the scene in terms of the location
24 down more toward the -- closer to the dumpster and
25 depicting the light pole? Does that fairly and

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1 accurately reflect that --

2 A Yes.

3 Q -- in relation to the body at the scene?

4 A Yes.

5 Q That's a fair and accurate representation?

6 A Yes.

7 MR. YOUNG: The State moves to admit item
8 number 14, a photograph.

9 THE COURT: Any objection?

10 MR. ANDERSON: No.

11 THE COURT: Mark it in evidence, please.

12 (State's Exhibit Number 14, photograph,
13 admitted into evidence.)

14 MR. YOUNG: Publish it to the jury, Your Honor.

15 BY MR. YOUNG:

16 Q And, again, item 14 shows what telephone pole
17 in the diagram?

18 A That one there (indicating).

19 Q And that would be closest to the X. And then I
20 think we can take the next three and put them
21 together. 15, 17 and 18, do they depict more than
22 one or just one telephone pole, different angles?

23 A You can only see the one telephone pole, but
24 you can see the street light back up the hill in the
25 middle picture, but that one, the pole that you

1 visibly see is that pole there.

2 Q Nearest the X?

3 A Yeah, near the X.

4 Q So these three photographs, 15, 17 and 18 --

5 A Near the X.

6 Q But you said there's light visible from one
7 other pole?

8 A The middle one back up the hill.

9 Q This would be -- Exhibit Number 17 would be --
10 is it shown on the map here?

11 A It would be that one (indicating).

12 Q That one?

13 A Yes, sir.

14 Q So that portion?

15 A Yes. Right there would be the light that I'm
16 talking about, that pole.

17 Q All right. I'll publish these to the jury.

18 Thank you. Could you retake your seat?

19 A (Witness resumes the witness stand.)

20 Q All right. I don't want to distract the jury
21 from what they're doing. Can you just briefly tell
22 us did you walk up to the body and look for signs of
23 evidence of any kind around the body when you first
24 walked up to it?

25 A Yes.

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1 Q And when you first got there, was there a sheet
2 on the body?

3 A No. There was nothing over the body.

4 Q It was apparent to you?

5 A Yes.

6 Q Did you see items around the body that could be
7 evidence?

8 A Yes. It was a plastic wadding out of a shotgun
9 shell laying within a few feet of the body. And
10 then there was a shoe and a shirt laying off in the
11 parking lot off to -- from the body.

12 Q Okay. Did you notice anything on the ground
13 immediately next to the body?

14 A He had a blunt in his hand and a lighter,
15 cigarette lighter.

16 Q Let me show you a picture, and I'll ask you
17 this question first. Take a look at Exhibit Number
18 26, tell me if you can recognize that.

19 A Yes. That's the body as the way it was when I
20 arrived.

21 Q Okay. If you'll take a look, there's
22 actually -- there were no markers on the ground were
23 there?

24 A No, there was no markers.

25 Q Take a look at this marker number three and is

1 there anything in there that you actually observed
2 when you first walked up?

3 **A** That is the blunt marijuana cigarette laying by
4 the body.

5 **Q** So it was near his left hand?

6 **A** Yes.

7 **Q** And then you saw these other items that had
8 markers on them as well. Which marker represents
9 where you saw the shotgun wadding?

10 **A** Marker number one.

11 **Q** Okay. And what is the other marker?

12 **A** Marker two is the clothing, the shoe and the
13 shirt that I was talking about.

14 **Q** Aside from the markers which are present on the
15 ground, does that picture fairly and accurately
16 represent the scene and the location of those items
17 of evidence when you first arrived?

18 **A** Yes.

19 **Q** Does it also represent a fair and accurate
20 representation of the position of the body when you
21 first got there?

22 **A** Yes.

23 **MR. YOUNG:** The State will move into evidence
24 photograph number 26, which is in black and white.

25 **THE COURT:** Any objection?

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1 **MR. ANDERSON:** No, sir.

2 **THE COURT:** Mark it in evidence, please.

3 (State's Exhibit Number 26, photograph,
4 admitted into evidence.)

5 **MR. YOUNG:** Publish to the jury, Your Honor.

6 BY MR. YOUNG:

7 **Q** Did you happen to look at his right hand, see
8 in his right hand?

9 **A** I'm sure I did, but off the top of my head, I
10 don't remember.

11 **Q** Would you be able to recognize a picture of his
12 right hand?

13 **A** Sure.

14 **Q** Let me show you what's been marked State's
15 Exhibit Number 21. Do you recognize that?

16 **A** Yes, that's the picture -- that's the lighter
17 that was in his hand.

18 **Q** Okay. Does that fairly and accurately
19 represent the position of his hand and the lighter
20 that was in his hand at the time you first arrived?

21 **A** Yes.

22 **MR. YOUNG:** State moves into evidence Exhibit
23 Number 21.

24 **MR. ANDERSON:** No objection.

25 **THE COURT:** Mark it in evidence.

1 (State's Exhibit Number 21, photograph,
2 admitted into evidence.)

3 BY MR. YOUNG:

4 Q And as well Exhibit Number 19, do you recognize
5 that?

6 MR. ANDERSON: There's no objection.

7 THE WITNESS: That would be the shotgun wadding
8 that I was -- the plastic wadding from the shotgun
9 shell that I mentioned.

10 BY MR. YOUNG:

11 Q And that fairly and accurately represents what
12 you saw at the scene there as well?

13 A Yes.

14 MR. YOUNG: The State moves into evidence 19 as
15 well.

16 THE COURT: Without objection, mark it in
17 evidence.

18 (State's Exhibit Number 19, photograph,
19 admitted into evidence.)

20 MR. YOUNG: The State will publish 19 and 21 to
21 the jury, Your Honor.

22 BY MR. YOUNG:

23 Q Officer Long, you remained at the scene or did
24 you leave?

25 A I remained on the scene until everything was

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1 cleared up.

2 Q Okay. After you arrived at the scene, a
3 variety of people showed up no doubt?

4 A Sure.

5 Q Who showed up?

6 A The next officer, Robertson, came up behind me,
7 then Lieutenant Holloway, Commander Holloway, EMS,
8 SLED. Fire department was the last people to show
9 up on scene.

10 Q Did you ever see the coroner there?

11 A Yes, the coroner was there.

12 Q Okay. And, at some point, markers were put
13 down on the ground. You saw that happen?

14 A Yeah, SLED put the markers down.

15 MR. YOUNG: Would you please answer any
16 questions that Mr. Anderson may have for you?

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. ANDERSON:

20 Q You spent a lot of time talking about the
21 lighting?

22 A Yes.

23 Q A lot of the light in the pictures comes from
24 lights that y'all put up, correct?

25 A No. We didn't put any lights up at the scene.

1 Q Car lights on the patrol cars?

2 A No. The only light there was from the street
3 lights in the parking lot.

4 Q I'm showing you Number 14.

5 A Yes, sir.

6 Q Are you saying that the light sideways, that
7 sideways light is coming from up above?

8 A That would probably be from the flash from a
9 camera.

10 Q And reflecting on the side of the patrol cars?

11 A That's reflective tape on the side of the
12 patrol cars.

13 Q From the flash of the camera?

14 A Sure.

15 Q Okay. Wasn't one of these -- was this one the
16 one that was out? Wasn't one of these out? Was it
17 that one (indicating)? I honestly don't remember,
18 but was one of the --

19 A A light out?

20 Q Yes.

21 A I don't remember a light being out.

22 Q Well, let me ask you this because I might be
23 wasting time on it. With or without the lights, was
24 it dark down there?

25 A With the lights on, no. I mean --

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1 Q So you could see just like you can see in here
2 today?

3 A I mean, it wouldn't be as bright as it is in
4 here, but it was lit.

5 Q Let me show you -- I'm going to show you 13.
6 Right up here is one of the lights we're talking
7 about, correct?

8 A Yes, that's up the hill, yes.

9 Q I mean, does that look like a bright light?

10 A In the photograph, no.

11 Q Now, you testified a minute ago that this
12 lighter was in the right hand of the young man, but
13 it was actually in his left hand, wasn't it?

14 A The picture (sic) would be in his right hand.

15 Q I'm going to show you 21 and 26.

16 A Okay.

17 Q Let me show you my picture, see if that helps
18 you any.

19 A Okay. It's in his left hand.

20 Q Okay. And where was the marijuana cigarette?

21 A Right there by his body in the picture.

22 Q To his left?

23 A Yeah. It would be on his left side.

24 Q And this black and white picture, does this
25 fairly and accurately show the scene just like -- is

1 this basically the same as 26, but without his left
2 hand being cut off?

3 **A** Yes.

4 **MR. ANDERSON:** Your Honor, I'd like to offer
5 this into evidence as Defense Number 1.

6 **MR. YOUNG:** No objection.

7 **THE COURT:** Mark it into evidence, please.

8 (Defendant's Exhibit Number 1, photograph,
9 marked and admitted into evidence.)

10 **MR. ANDERSON:** Judge, could I publish it real
11 quick?

12 **THE COURT:** Sure.

13 (Pause.)

14 BY MR. ANDERSON:

15 **Q** So all your headlights were off?

16 **A** I don't remember if I cut my headlights off,
17 but my car was not pointed toward the body.

18 **Q** Well, how many police cars would you say were
19 there at the time these pictures were taken?

20 **A** Honestly, I couldn't -- I'd say I know it was
21 my car, the officer that followed me, Commander
22 Holloway's car, SLED vehicles. I mean, there was a
23 good many vehicles around.

24 **Q** A bunch of cars?

25 **A** Yes.

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1 Q So is it your testimony that they all turned
2 their headlights off or you don't remember or
3 maybe --

4 A I don't know if they turned -- all of them
5 turned their headlights off at the time or not.

6 MR. ANDERSON: Okay. We're going to wait on
7 that to go around.

8 THE WITNESS: Okay.

9 (Pause.)

10 Q All right. So the young man had a lighter in
11 his left hand and there was a blunt next to his left
12 side?

13 A Yes.

14 Q Now, do you notice anything unusual about the
15 way that lighter is being held in his left hand?

16 A I mean, I couldn't say how anybody being shot
17 would hold a lighter in their hand, so.

18 Q I mean, clearly, he -- I mean, it's a horrible
19 thing, but he didn't pick up the lighter after he
20 got shot?

21 A No.

22 Q Does it look unusual to you the way it's in his
23 hand?

24 A Not really.

25 Q Where is the thumb? Where is the thumb, and

1 I'm showing you Number 21, where is the young man's
2 thumb?

3 A You can't see it.

4 Q So, I mean, basically, it would be in his hand.
5 It's not --

6 A Maybe he was holding it that way or something
7 (indicating).

8 Q Okay. Do you notice anything unusual about the
9 young man's left pocket?

10 A It's pulled partially way out, partially pulled
11 out.

12 Q Let me show you a close-up. Is this a close-up
13 of the pocket?

14 A It appears to be.

15 MR. ANDERSON: Your Honor, I'd like to offer
16 that into evidence as Number 2.

17 THE COURT: Any objection?

18 MR. YOUNG: No.

19 (Defendant's Exhibit Number 2, photograph,
20 marked and admitted into evidence.)

21 MR. ANDERSON: And, Judge, this one's big
22 enough, could I just publish it myself?

23 THE COURT: Yes, sir.

24 BY MR. ANDERSON:

25 Q Is it clear that something had come out of that

WILLIAM BRETT LONG - CROSS BY MR. ANDERSON

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1 pocket at some point in time?

2 A I guess. I don't -- I can't say why his pocket
3 would be inside out or partially way out.

4 Q Most people don't walk around with their pocket
5 like this (indicating)?

6 A No.

7 Q Okay. Do you know what came out of his pocket?

8 A I have no idea.

9 Q Do you know when it came out of his pocket?

10 A I have no idea.

11 Q Okay. Now, you know we've had four young men
12 testify this morning?

13 A Yes.

14 Q That were witnesses.

15 A Okay.

16 Q And all the witnesses are sequestered, so you
17 saw them out there?

18 A Okay.

19 Q Is that correct?

20 A Yes.

21 Q Did you talk to any of those four young men on
22 the night of this incident?

23 A Oh, on the night of the incident?

24 Q Yes.

25 A No, I did not speak directly to them. I

1 remember Mr. Kirkland being out there and he was
2 just kind of running around in a hysterical state
3 crying and screaming. Other than that, I don't
4 remember seeing any of the other ones.

5 **Q** Isn't it true about the time that you were
6 getting to the scene, there were also calls about
7 threats against Mr. Watson?

8 **A** That was --

9 **MR. YOUNG:** Your Honor, I'm going to object to
10 that. I don't believe that's within the scope of
11 this witness' knowledge. I think he's trying to get
12 in hearsay through a back door.

13 **THE COURT:** Your objection is hearsay?

14 **MR. YOUNG:** I object on a hearsay ground.

15 **THE COURT:** Do you want to be heard?

16 **MR. ANDERSON:** No, sir. I mean, I think -- I
17 defer to you, Your Honor.

18 **THE COURT:** I have no way of -- it's calling
19 for a hearsay response unless this witness was
20 present at the time. Whether it falls within one of
21 the exceptions to the hearsay rule, I don't know
22 unless I have a hearing outside the presence of the
23 jury. So it's hearsay. If you want me to consider
24 one of the exceptions, I'd be happy to send the jury
25 out.

WILLIAM BRETT LONG - CROSS BY MR. ANDERSON

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1 **MR. ANDERSON:** I can wait on that issue, Judge.

2 I'll just withdraw the question, that's fine.

3 **THE COURT:** All right.

4 BY MR. ANDERSON:

5 **Q** So the only one you remember specifically
6 seeing was Mr. Kirkland?

7 **A** Yes.

8 **Q** Okay. And did you stay at the scene the whole
9 time for the rest of the night or until this case --

10 **A** Until the body was removed and the fire
11 department came and washed the blood and stuff off
12 from the parking lot.

13 **Q** Does your car -- does your patrol car have a
14 camera and -- camera system, video system?

15 **A** I'm pretty sure at the time it did have a video
16 system from -- an in-car video system.

17 **Q** Did you video tape any of this?

18 **A** No.

19 **Q** And it's easy to criticize, so, I mean, but why
20 didn't you?

21 **A** In-car camera is mainly used for traffic stops.
22 It's not anything you could take out of the car and
23 move around and video anything. It's mainly forward
24 facing.

25 **Q** But you can swivel the camera, right?

- 1 A Yeah, you could.
- 2 Q And you were parked in this area?
- 3 A Yes.
- 4 Q So you really could have video taped it?
- 5 A Yeah, I guess I could have.
- 6 Q And then I don't -- are you wearing -- you're
- 7 not wearing your microphone today?
- 8 A No.
- 9 Q But your microphone would come up in here?
- 10 A Not the one I normally wear.
- 11 Q The one you have where is it?
- 12 A It would be on a belt or either I kept it in my
- 13 pocket. It was just a small box.
- 14 Q And even if the video camera is facing a wall,
- 15 that mic still picks stuff up. And we could now
- 16 hear today any of the conversations you had at the
- 17 scene, couldn't we, if you had just left that
- 18 running?
- 19 A It depends on what camera system I had in my
- 20 car because the one I had before was -- the audio
- 21 recording on it wasn't any good. I don't remember
- 22 which one was in my car at the time.
- 23 Q All right. Did you talk to any other people at
- 24 the scene?
- 25 A Yeah.

WILLIAM BRETT LONG - CROSS BY MR. ANDERSON

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1 Q Can you just tell me the names of who else you
2 talked to?

3 A I know I talked to Carolyn Hill, Frederick
4 Gartrell and the rest were officers already, you
5 know, on the scene.

6 Q And Mr. Gartrell?

7 A Yes, Frederick Gartrell.

8 MR. ANDERSON: That's all of the questions I
9 have. Thank you.

10 THE COURT: Redirect.

11 (Pause.)

12 MR. YOUNG: No further questions, Your Honor.

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

14 Ladies and gentlemen of the jury, we'll take a
15 15 minute break. Don't discuss the case.

16 Everybody else remain seated, please.

17 (The jury retires to the jury room.)

18 THE COURT: Court's in recess for 15 minutes.

19 Thank you.

20 (Brief Recess.)

21 THE COURT: Is the State ready for the jury?

22 MR. YOUNG: Yes, sir.

23 THE COURT: Defense?

24 MR. ANDERSON: Yes.

25 THE COURT: Bring in the jury.

1 (The jury returns to the courtroom.)

2 **THE COURT:** Call your next witness.

3 **MR. YOUNG:** The State calls Keith Turner.

4 **KEITH TURNER,**

5 having been duly sworn, testified as follows:

6 **DIRECT EXAMINATION**

7 **BY MR. YOUNG:**

8 **Q** Mr. Turner, would you tell the Court what you
9 do for a living?

10 **A** I'm the Saluda County Coroner and have been
11 since January the 1st, 1993.

12 **Q** Yes, sir. And in your duties as a coroner,
13 were you called to a location of Juniper Drive on
14 the night of August 5th, 2007?

15 **A** Yes, sir.

16 **Q** And what did you observe when you arrived
17 there?

18 **A** When I arrived there, it was -- well, I was
19 called to a shooting. And when I arrived, a body
20 was lying on its back next to a curb there and he
21 was dead at the scene.

22 **Q** And did you issue a certificate of death in
23 this case, sir?

24 **A** Yes, sir, I did.

25 **Q** Okay. What time did you fix the cause of death

KEITH TURNER - DIRECT BY MR. YOUNG

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- 1 to be approximately?
- 2 A Called the death approximately 10:39 p.m.
- 3 Q Was there signs of injury to the person of --
- 4 this person that you declared dead?
- 5 A Yes, sir. He had a wound to his face.
- 6 Q Okay. What was the name of this person?
- 7 A His name was Willie Andrew Chandler.
- 8 Q Were there law enforcement personnel present at
- 9 that scene?
- 10 A They were, yes, sir.
- 11 Q Now, this body was -- this body was ultimately
- 12 moved at some point, was it not?
- 13 A Yes, sir.
- 14 Q All right. Prior to moving it, was any
- 15 protective covering placed around it?
- 16 A Yes, sir. We -- when we bag the body, yes,
- 17 sir. We always bag the body with a sheet and then
- 18 put it in the bag and that was done by myself and
- 19 SLED.
- 20 Q When this body was placed in the bag, SLED was
- 21 present then?
- 22 A Yes, sir.
- 23 Q Okay. Did they -- did law enforcement perform
- 24 tests on the body of any kind?
- 25 A They fingerprinted him after we put him in the

1 bag?

2 Q And they may have done other tests as well?

3 A Yes, they did. Well, that I recall, yes, sir.

4 They did residue and stuff.

5 Q Based upon the shot that you observed to the
6 face, did you make a decision to require an autopsy
7 be performed?

8 A Yes, sir, we did do an autopsy. An autopsy was
9 performed the next morning.

10 Q Were you present for the autopsy?

11 A I was present, yes, sir.

12 Q At the conclusion of the autopsy, did you
13 receive items of evidence, samples from the body
14 that were retrieved by the person performing the
15 autopsy?

16 A Yes, sir, Dr. Ross. And she retrieved the
17 samples and I transported everything directly from
18 the autopsy to SLED myself.

19 MR. YOUNG: Please answer any questions that
20 the defense may have for you, sir.

21 THE COURT: Cross.

22 MR. ANDERSON: No questions. Thank you.

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

24 MR. YOUNG: State calls Dr. Janice Ross.

25 *****

JANICE EDWARDS ROSS - DIRECT BY MR. YOUNG

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1 JANICE EDWARDS ROSS,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. YOUNG:

5 Q Dr. Ross, would you tell the jury where you
6 work and what you do for a living?

7 A It's Janice Edwards Ross. I'm a forensic
8 pathologist at Newberry Pathology Associates in
9 Newberry, South Carolina.

10 Q And, ma'am, as a part of your job and duties,
11 do you perform autopsies on bodies that were
12 submitted to you by coroners and law enforcement?

13 A Yes.

14 Q And, ma'am, what qualifies you to do that job?

15 A I have a board certification in forensic
16 pathology after receiving an undergraduate degree
17 from the University of South Carolina and my M.D.
18 from Upstate Medical Center in Syracuse, New York
19 and doing further training in the study of
20 pathology.

21 Q And how long have you been board certified as a
22 forensic pathologist?

23 A As a general pathologist since 1976 and a
24 forensic pathologist since 1985.

25 Q And how many prosecutions have you performed in

1 the past years approximately?

2 A At least 5,000.

3 Q And how many times have you testified in
4 general sessions court regarding your conclusions
5 and findings?

6 A In the State of South Carolina over 60.

7 MR. YOUNG: Your Honor, the State will offer
8 Dr. Janice Ross as an expert in forensic pathology
9 subject to any questions the defense might have.

10 THE COURT: Any voir dire?

11 MR. ANDERSON: No thank you, Judge.

12 THE COURT: She is so recognized. You may
13 continue.

14 BY MR. YOUNG:

15 Q Dr. Ross, did you perform a prosecution or
16 autopsy upon the body of one Andrew Chandler in
17 August of 2007?

18 A Yes.

19 Q Specifically, on what day did you perform that
20 autopsy?

21 A August 6th, 2007.

22 Q What time of day?

23 A At 8:30 in the morning.

24 Q And did the coroner accompany the body?

25 A Yes.

JANICE EDWARDS ROSS - DIRECT BY MR. YOUNG

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- 1 Q Ma'am, during the course of your examination of
2 the body of Andrew Chandler, did you take
3 ✓ photographs and/or make x-rays of any portions of
4 his body?
5 A Yes.
6 Q Would you be able to recognize copies of those
7 pictures taken of the head area and x-rays of the
8 head area?
9 A Yes.
10 Q I'll hand up three exhibits marked as State's
11 Exhibit Number 23, 24 and 25 and ask you to take a
12 look at them, ma'am, preserving them to yourself,
13 and tell me if you recognize them.
14 A (Witness reviewing documents.)
15 Q Do you recognize them, ma'am?
16 A Yes, I do.
17 Q What are they?
18 A These are photographs of the face of Andrew
19 Chandler and x-rays of his head from the autopsy.
20 Q All right. Now, there are two x-rays of the
21 head?
22 A Yes.
23 Q And there is one photograph of the face?
24 A Yes.
25 Q All right. Do those x-rays and the face --

1 pictures of the face fairly and accurately represent
2 items found as a result of the x-rays and the
3 appearance of the face in terms of the injury to the
4 face during the prosecution?

5 A Yes.

6 Q Is there any question in your mind as to which
7 one of those photographs are, are you straight as to
8 which one's left, right, up, down, so to speak, in
9 terms of the x-rays?

10 A There's no question.

11 MR. YOUNG: I offer these exhibits into
12 evidence, Your Honor.

13 THE COURT: Any objection?

14 MR. ANDERSON: Your Honor, I don't object to
15 the x-rays, but I object to the photograph as we
16 discussed earlier.

17 THE COURT: Rule 403?

18 MR. ANDERSON: Yes, sir.

19 THE COURT: Why do you need the photographs,
20 Solicitor?

21 MR. YOUNG: Your Honor, the State is going to
22 offer these photographs to depict the direction and
23 travel of the shot as it would have related to
24 the -- any weapon that may have been fired in the
25 direction of travel. And, essentially, it will also

JANICE EDWARDS ROSS - DIRECT BY MR. YOUNG

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1 demonstrate the possible spread of shot in relation
2 to the distance between the person and the firearm.

3 **THE COURT:** The objections are overruled. Mark
4 the exhibits in evidence, please.

5 (State's Exhibit Numbers 23 through 25,
6 photographs, admitted into evidence.)

7 BY MR. YOUNG:

8 **Q** Dr. Ross, I'd like to refer to the x-rays
9 first, please. With regard to these x-rays, can you
10 explain to the jury what these x-rays depicted in
11 terms of the direction of travel of shot as might
12 have been found in the head and your findings and
13 conclusions as to the direction of travel in
14 relation to the firearm?

15 **A** Yes. The x-rays showed bird shot from the
16 shotgun wound traveling -- trailing from, slightly
17 from left to right and from front to back slightly
18 upward.

19 **Q** All right. Slightly upward?

20 **A** Yes.

21 **Q** Okay. And that would demonstrate -- do you
22 have an opinion as to what that would demonstrate as
23 to the relationship of the weapon to the person
24 being struck by the shot?

25 **A** Well, generally, the bird shot or any kind of

1 bullets or bird shot goes straight, so it indicates
2 that the barrel of the gun was in front of the
3 person -- in front of the victim with an angle
4 slightly left to right -- to the victim's left to
5 right and it was slightly going upward.

6 Q So would it been -- then be a safe conclusion
7 to reach that the shotgun was lower than the person
8 being struck?

9 A Slightly, yes.

10 Q Slightly lower?

11 A Uh-huh.

12 Q And it was at somewhat of an angle to the
13 person in terms of their face at the time the shot
14 struck the face?

15 A Yes.

16 Q And the travel of this would then have been
17 consistent with that same direction, the travel of
18 the shot through the head?

19 A Yes.

20 Q All right. Ma'am, in terms of your recognition
21 of the injuries in this case, the picture to the
22 injuries to the face do they depict a spread or a
23 pattern of shot that is consistent with what you saw
24 on those x-rays?

25 A Yes.

JANICE EDWARDS ROSS - DIRECT BY MR. YOUNG

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1 Q All right. In terms of the shot to the face,
2 where did the shot enter the face?

3 A Below the nose and just to the left of midline
4 (indicating).

5 Q Midline being the center of the person's face?

6 A Yes.

7 Q Okay. In other words, a line drawn from the
8 top of the head down through the middle of the nose,
9 that would be midline?

10 A Correct.

11 Q And then slightly to the right?

12 A Slightly to the left.

13 Q To the left, I'm sorry. Okay. Now, in terms
14 of distribution of shot in relation to the facial
15 injuries, is there a continuing spreading pattern
16 demonstrated by the travel of the shot through the
17 head once it strikes the face, a larger pattern in
18 the rear of the head as opposed to the entry wound?

19 A The shot from a shotgun will stay together for
20 a certain length of time and then after which time,
21 the shot will start spreading out. And this
22 photograph depicts some spread of these bird shot
23 indicating that the -- a certain distance -- an
24 intermediate distance of the shot.

25 Q So then is it fair to say that fewer shot would

1 be present in a long distance shot as opposed to a
2 close shot in terms of striking the body and being
3 present in the body?

4 A Well, they'll spread out, so it depends on how
5 far away it is.

6 Q Let me rephrase the question. Would you expect
7 to find pure shot in a person that was shot at a
8 distance as opposed to a person who was shot very
9 close?

10 A Yes.

11 Q Okay. And you would expect to see a tighter
12 pattern as it were or less spread from a person that
13 was shot close as opposed to a person who was shot
14 further away?

15 A When they're closer, yes.

16 Q So it's a smaller hole?

17 A Yes.

18 Q In a person -- or a series of holes when a
19 person is shot up close with a shotgun?

20 A Correct.

21 Q Okay. Now, in terms of -- in terms of the nose
22 of the person, were there spots on the nose that
23 didn't actually show penetration all the way through
24 the nose, but just scrapes across the nose?

25 A There were a couple of wounds where the bird

JANICE EDWARDS ROSS - DIRECT BY MR. YOUNG

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1 shot just went across the skin and it showed the
2 direction, which would be, again, left to right and
3 upward.

4 Q Okay. For the jury's edification, the first
5 picture that I'll publish is 24. And, again, what
6 does this depict?

7 A That's an x-ray of the -- through the side of
8 the head of the skull showing the direction of bird
9 shot.

10 Q Okay. And that is from the side of the head?

11 A Yes.

12 Q The camera would be here looking in this
13 direction (indicating)?

14 A Correct.

15 Q With regard to State's Exhibit Number 25, this
16 particular photograph.

17 A It's a photograph of the x-ray that's going
18 front to back, front of the face.

19 Q So, in essence, the x-ray would be what's
20 behind the skin in this photograph, which is Exhibit
21 Number 23?

22 A Correct.

23 Q And Exhibit 23 is the photograph of the face
24 itself?

25 A Yes.

1 Q Showing the injury and the location of injury.
2 Doctor, did you make a conclusion as to the manner
3 of death in this case?

4 A Yes.

5 Q What was the manner of death?

6 A Homicide.

7 Q And the cause of death?

8 A Is a closed head injury due to the shotgun
9 wound of the head.

10 Q Ma'am, how long between the onset of injury
11 until death?

12 A Because of the -- the injuries went to the base
13 of the skull and interfered in the -- around the
14 basal ganglia, the bottom of the brain where there
15 is centers for breathing and heart rate, he would
16 have been unconscious immediately and dead within
17 seconds.

18 Q Okay. Fair to say it was lights out?

19 A Yes.

20 Q Would you expect any movement of a person from
21 the time they receive such an injury until they fell
22 or after they fell?

23 A Not in -- except maybe some reflex, but
24 generally, no.

25 Q Is this wound consistent, therefore, with a

JANICE EDWARDS ROSS - CROSS BY MR. ANDERSON

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1 shotgun injury to the face that caused almost
2 immediate death?

3 **A** Yes.

4 **MR. YOUNG:** Would you answer any questions that
5 Mr. Anderson may have for you?

6 CROSS-EXAMINATION

7 BY MR. ANDERSON:

8 **Q** Hello. Do you remember meeting me and my wife
9 about three years ago when we came to talk to you?

10 **A** Yes.

11 **Q** What is powder stippling, tattooing or powder
12 residue?

13 **A** In any gun, shotgun or regular gun when the
14 bullet comes out, along with it comes soot and some
15 powder stippling. The powder is from the burning,
16 explosive material that pushes the bullet out, but
17 the soot and the powder only go a certain distance,
18 so if you see that on the skin, you can identify
19 that the -- a little bit more about the distance of
20 the injury.

21 **Q** And we did have that in this case, correct?

22 **A** We did not. There was --

23 **Q** Can you look at page three in your report?

24 **A** Yes. We -- in reviewing this before this -- a
25 couple months ago before the trial, we noted that

1 that was an error and there was no soot or
2 tattooing. In the original report, the word no was
3 left out.

4 Q Did you send the corrected report?

5 A We amended it on -- I don't have the date on
6 that. It was recently.

7 Q Okay. But you acknowledge the first one did
8 say there was?

9 A Yes.

10 Q Would it be safe to say you guys can't say
11 exactly the distance between the gun and the young
12 man, can you?

13 A No. To get an exact figure, you need to
14 practice shoot with the same gun, the same
15 ammunition, but in general with this much spread,
16 it's between -- it's at least three or four feet.

17 Q Okay. It was certainly not a very far
18 distance?

19 A No. I don't know what you'd call far.

20 Q But probably no further than you to me or at
21 least in this ball park?

22 A The barrel of the gun would have to be probably
23 at least three to four feet and maybe no more
24 than --

25 Q So I could have been as close as this or maybe

JANICE EDWARDS ROSS - CROSS BY MR. ANDERSON

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1 about as far as this (indicating)?

2 **A** Correct.

3 **Q** Okay. Could you tell the jury what was found
4 in the young man's pocket, please?

5 **A** Yes. We had -- there was a packaged condom and
6 a black lighter.

7 **Q** So there was an actual cigarette lighter in his
8 pocket?

9 **A** Yes.

10 **Q** Okay. And he also had marijuana in his system,
11 did he not?

12 **A** Correct.

13 **Q** And you guys can't tell -- you can't tell
14 whether or not the young man was moving or the gun
15 was moving at the time of the shooting?

16 **A** No.

17 **Q** I never could find which pocket, but do you
18 know which pocket the lighter was in?

19 **A** I don't know that we noted it. Let me see.

20 We don't denote which pocket, no.

21 **MR. ANDERSON:** Thank you, ma'am.

22 **THE COURT:** Redirect.

23 **MR. YOUNG:** No, sir.

24 **THE COURT:** Thank you, Doctor. You may step
25 down.

1 **MR. YOUNG:** Your Honor, may I step in the
2 hallway to see if my witness is out there right now?

3 (Pause.)

4 **THE COURT:** Call your next witness.

5 **MR. YOUNG:** The State calls Tobias Daniels --
6 I'm sorry, Jarrod Coleman. I apologize.

7 JARROD COLEMAN,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. YOUNG:

11 **Q** Sir, give us your name.

12 **A** Jarrod Coleman.

13 **Q** Sir, where do you live?

14 **A** [REDACTED] Dry Dock Circle.

15 **Q** Mr. Coleman, I'm going to ask you if back on
16 the 30th of July 2007, you were in an area on or
17 around East End Drive here in Saluda County, in
18 Saluda, South Carolina, East End Drive?

19 **A** Pringle Street.

20 **Q** Okay. In that area?

21 **A** Yes, sir.

22 **Q** On that day, did you see Michael Watson?

23 **A** Yes, sir.

24 **Q** Okay. Did you see him in a car?

25 **A** Yes, sir.

JARROD COLEMAN - CROSS BY MR. ANDERSON

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1 Q Would you be able to recognize that car again?

2 A Yes.

3 Q Let me show you pictures that are State's
4 Exhibits 3, 4 and 5 take a look at that. Do you
5 recognize that?

6 A Yes sir.

7 Q What is that?

8 A A Toyota.

9 Q Is this the car you saw him in?

10 A Yes, sir.

11 Q Did you see him that day in possession of a
12 shotgun?

13 A Yes, sir.

14 Q Was it short?

15 A Yes, sir.

16 MR. YOUNG: No further questions.

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. ANDERSON:

20 Q Have you been through the DJJ system?

21 MR. YOUNG: Your Honor, I object to that
22 question. May we approach on that?

23 THE COURT: Yes.

24 (Whereupon, a bench conference was held off
25 the record, in the presence of the jury, but out of

1 the hearing of the jury.)

2 THE COURT: Ladies and gentlemen, please step
3 in the jury room. Don't discuss the case.

4 (The jury retires to the jury room.)

5 MR. YOUNG: Your Honor, we retain our right to
6 object, but I think we're at a point where the jury
7 is out, so therefore he can ask his question now
8 without prejudicing the jury.

9 THE COURT: Yes, sir. Go ahead.

10 MR. ANDERSON: Thank you, Judge.

11 EXAMINATION

12 BY MR. ANDERSON:

13 Q Have you been in trouble before?

14 A Yes, I have.

15 Q What did you get in trouble for?

16 A Second degree lynching.

17 Q Sir?

18 A Second degree lynching.

19 Q I'm sorry?

20 A Second degree lynching.

21 Q Okay. And when was that?

22 A 2006.

23 Q And what ended up happening with that?

24 A I got locked up basically.

25 Q Did you go through family court?

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1 **A** Yeah, I think so.

2 **Q** You think so?

3 **A** Yeah, I went through family court.

4 **Q** Did you go maybe in front of that judge
5 (indicating), Judge Sawyer?

6 **A** No. I went through Judge Chewning.

7 **Q** And so did they -- you were convicted. Did you
8 plead guilty?

9 **A** I had to. I mean, it is what it is.

10 **Q** I understand. But it's just a juvenile,
11 that'll be sealed.

12 **MR. ANDERSON:** Judge, I think I ought to be
13 able to cross him on that.

14 **THE COURT:** You got anything else on this,
15 Solicitor?

16 **MR. YOUNG:** Your Honor, the State believes that
17 unless a juvenile conviction bears upon credibility,
18 the type of crime itself is a falsehood or bears
19 upon falsehood, that it's not a matter for
20 cross-examination for the jury.

21 **THE COURT:** When was it?

22 EXAMINATION

23 **BY MR. YOUNG:**

24 **Q** How old were you, sir? When did it happen?

25 **A** It happened in 2006. I don't remember

1 everything --

2 Q How old were you at the time?

3 A Like, 14 or 15 maybe -- well, 13.

4 THE COURT: How old are you now?

5 THE WITNESS: Seventeen.

6 THE COURT: Rule 609 states that evidence of a
7 witness other than an accused that's been convicted
8 of a crime shall be admitted, subject to Rule 403,
9 if the crime was punishable by death or imprisonment
10 in excess of one year under the law under which the
11 witness was convicted. It doesn't have to involve
12 dishonesty or false statement, that's subsection
13 (2). The time limitation is a ten year period.

14 It states under subsection (d) that evidence of
15 a juvenile adjudication is admissible under this
16 rule if conviction of the crime would be admissible
17 to attack the credibility of an adult.

18 What else do y'all want to put on the record?

19 MR. YOUNG: I don't have anything else, sir.

20 He can ask the question apparently then.

21 THE COURT: The objection's overruled.

22 Bring the jury back in.

23 (The jury returns to the courtroom.)

24 THE COURT: The objection's overruled. You may
25 continue.

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1 BY MR. ANDERSON:

2 Q All right. So, Jarrod, you have been in
3 trouble before, right?

4 A Yes, sir.

5 Q You've been convicted of second degree
6 lynching?

7 A Yes, sir, and assault and battery.

8 Q Okay. And you're only 17?

9 A Yes, sir.

10 Q And you get out of this mess, you understand?

11 A Yes, sir.

12 MR. ANDERSON: No further questions.

13 THE COURT: Redirect.

14 REDIRECT EXAMINATION

15 BY MR. YOUNG:

16 Q How old were you when you got convicted?

17 A Like 13, 14, 15.

18 MR. YOUNG: No further questions, Your Honor.

19 THE COURT: Recross.

20 MR. ANDERSON: No thank you, Judge.

21 THE COURT: All right. Thank you, sir. You
22 may step down.

23 Call your next witness.

24 MR. YOUNG: The State calls Commander Charles
25 Holloway.

1 CHARLES HOLLOWAY,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. YOUNG:

5 Q Sir, give us your full and complete name.

6 A Charles Alan Holloway.

7 Q Where do you work and for how long?

8 A Saluda Police Department, been employed with
9 Saluda Police Department since 1997.

10 Q And how long have you been a certified police
11 officer?

12 A Since 1996.

13 Q Were you dispatched to the Saluda Terrace
14 Apartments on the night of August 5th, 2007 in
15 relation to a shooting?

16 A Yes. Sergeant Brett Long contacted me via
17 telephone and advised me that there was a shooting
18 incident at the apartment complex.

19 Q Okay, sir. When you arrived at the scene, what
20 actions did you take?

21 A When I arrived at the scene, I made sure that
22 Sergeant Long had the scene secured. I went and
23 checked the victim, felt for a pulse. There was no
24 pulse. EMS arrived, I advised them. They checked
25 for a pulse. We took a white sheet and covered the

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1 body up.

2 Q That's why there's a white sheet in all those
3 photographs?

4 A Yes, sir.

5 Q In terms of what happened after that, how long
6 did you stay at the scene?

7 A Until the body was removed and the fire
8 department cleaned the blood up.

9 Q All right. And later that evening, did
10 Mr. Michael Duran Watson turn himself in?

11 A Yes.

12 Q Surrender to police?

13 A Yes, sir.

14 Q Out at his house?

15 A Yes, sir.

16 Q And then, subsequently, did you have an
17 opportunity to talk to him and where?

18 A Yes, sir. On August 6th, 2007 at approximately
19 2:33 a.m., I interviewed Michael Watson at the
20 Saluda County Detention Center with --

21 Q Okay. Before you go into the actual interview
22 itself, I need to talk to you about some matters
23 that you took up with him. At some point before you
24 interviewed him at the Saluda County Detention
25 Center, did you advise him of his rights?

- 1 A Yes, sir.
- 2 Q How did you do that?
- 3 A In writing.
- 4 Q In writing, what kind of writing?
- 5 A On a waiver of rights form.
- 6 Q Would you be able to recognize that again?
- 7 A Yes.
- 8 Q Let me show you what's been marked as State's
- 9 Exhibit 1. Do you recognize that?
- 10 A Yes, sir.
- 11 Q Okay. What is that?
- 12 A This is the Saluda Police Department Waiver of
- 13 Rights Form that whenever we interview suspects, we
- 14 fill it out, we read them their rights. And if they
- 15 understand it, we get them to put their initials in
- 16 the block and we move on down to each line item.
- 17 Q Did you use that form to conduct the rights
- 18 advisement of Michael Watson?
- 19 A Yes, sir, I did.
- 20 Q Did you inform him as you completed that form
- 21 as to what he was being charged with?
- 22 A Yes, sir, I did.
- 23 Q What charge did you inform him he was being
- 24 charged with?
- 25 A Murder.

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1 Q And how did you go about advising him of his
2 rights specifically? How did you -- did you employ
3 this form in that regard?

4 A Yes, sir.

5 Q How did you use it?

6 A What I basically do is I take two forms, I give
7 him -- I fill out the top part of this form. And as
8 I read him his rights, as he understands them, he
9 initials them.

10 Q Okay. And you ask him if he understands each
11 one of those rights?

12 A Yes, sir.

13 Q As it appears on the form?

14 A Yes, sir.

15 Q And when you give him these rights, do you
16 change anything in the wording on the form as you
17 read it to him?

18 A No, sir.

19 Q So you read it verbatim right off that form?

20 A Yes, sir.

21 Q And then he initialed it?

22 A Yes, sir.

23 Q And you asked him after you read him each one
24 of the rights, Do you understand it or not?

25 A Yes, sir.

1 Q Did he appear to be at the time you talked to
2 him clearheaded?

3 A Yes, sir.

4 Q Knew what he was doing?

5 A Yes, sir.

6 Q Did he appear to be under the influence of any
7 kind of alcohol or any other thing that might impair
8 him?

9 A No, sir.

10 Q Did he have -- acknowledge your statements to
11 him by either looking at you or signing the form?

12 A Yes, he signed the form that he understood.

13 Q So he had to sign it each time as he went down?

14 A Yes, sir.

15 Q And when he got through signing the form, at
16 any time did he indicate he did not understand what
17 you were saying?

18 A No, sir, he didn't indicate it.

19 Q Did he ever ask you for an attorney?

20 A No, sir.

21 Q Did he ever say I don't want to answer any
22 questions?

23 A No, sir.

24 Q And you put in the date and time on the form?
25 You put the date and time on the form?

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- 1 A No, sir. He puts the date and time on the form
2 when he completes it.
- 3 Q So he completed that portion of the form at
4 what time?
- 5 A 2:33 a.m.
- 6 Q At the Saluda County Detention Center?
- 7 A Yes, sir.
- 8 Q Who else was present at that time?
- 9 A SLED Agent Robin Newton.
- 10 Q And what is she doing there?
- 11 A She was assisting with the murder.
- 12 Q She just acted as a witness in this case then?
- 13 A Yes, sir.
- 14 Q In that regard at the conclusion of the rights
15 warning, did you start to ask him questions?
- 16 A Yes, sir.
- 17 Q And what did you ask him?
- 18 A I asked Mr. Watson what happened.
- 19 Q And what did he answer?
- 20 A He replied, Self-defense. I asked him, How was
21 it self-defense? He just replied, Because it was
22 self-defense.
- 23 In return, he asked me what was he being
24 charged with. I advised him he was being charged
25 with murder.

1 **THE COURT:** That's far enough.

2 **BY MR. YOUNG:**

3 **Q** Stop right there. All right, sir.. That
4 concluded his statement?

5 **A** Yes, sir.

6 **Q** Okay. You also advised him again of his rights
7 later that evening?

8 **A** Yes, sir.

9 **Q** Using the same form --

10 **MR. ANDERSON:** Your Honor, I'm going to object
11 to that.

12 **THE COURT:** Yes, sir.

13 **MR. ANDERSON:** I hate to do it, but could I be
14 heard outside the presence of the jury?

15 **THE COURT:** Ladies and gentlemen, please step
16 in the jury room. Don't discuss the case.

17 (The jury retires to the jury room.)

18 **THE COURT:** Yes, sir.

19 **MR. ANDERSON:** Your Honor, you ruled yesterday
20 that the second statement is inadmissible, so I
21 don't know where they're going with this.

22 **THE COURT:** What do you want to ask the
23 witness?

24 **MR. YOUNG:** I was just going to ask him if he
25 advised him of his rights a second time. I'm not

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1 going to go into any questions. The State has the
2 burden of proving voluntariness in this situation,
3 Your Honor.

4 **THE COURT:** And then what are you going to ask
5 him?

6 **MR. YOUNG:** Just that he advised him again and
7 he signed the form again at 3:39 indicating he
8 understood his rights again, short and sweet.

9 **THE COURT:** Do you still intend to call the
10 witness who drove him to Greenwood?

11 **MR. YOUNG:** Yes, sir.

12 **THE COURT:** Do you have anything else, Mr.
13 Anderson?

14 **MR. ANDERSON:** I just don't want the jury to
15 speculate as to what we're hiding if he read him his
16 rights a second time. I mean, I just don't know
17 what they would think about that. I think that
18 could be prejudicial, Your Honor.

19 **THE COURT:** It goes to the issue about what
20 happened in the car and I'd prefer to stay away from
21 it, but I can't say it doesn't go to that issue.
22 The objection's overruled.

23 Bring the jury in.

24 (The jury returns to the courtroom.)

25 **THE COURT:** All right. The objection's

1 overruled. You may continue.

2 BY MR. YOUNG:

3 Q Commander Holloway, you advised him of his
4 rights a second time in the same fashion about 3:39
5 that night just to be sure, right?

6 A Yes.

7 MR. YOUNG: Answer any questions that the
8 defense may have for you.

9 CROSS-EXAMINATION

10 BY MR. ANDERSON:

11 Q Charles, do you mind if I call you Charles
12 instead of Commander Holloway?

13 A No, sir, that's fine. I'll just call you Andy.

14 Q Please. And let me ask you an unpleasant
15 question to just get it out of the way. You are kin
16 to Andrew's family?

17 A Distant.

18 Q Distantly?

19 A Yes, sir.

20 Q That hasn't impacted you in any way?

21 A No, sir.

22 Q And they haven't put any undue pressure on you
23 and we haven't given you a hard time about it?

24 A No, sir.

25 Q Okay. You agree with me this is a horrible

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1 situation?

2 A Yes, sir.

3 Q None of it's been pleasant?

4 A No, sir.

5 Q You're the chief investigating officer of this
6 case?

7 A Yes, sir.

8 Q So you've pretty much overseen just about every
9 single thing?

10 A Yes, sir.

11 Q You were involved in the interview of the five
12 eyewitnesses?

13 A Yes, sir.

14 Q You took statements from four of them and then
15 you actually witnessed the fifth one which Robin
16 Newton from SLED actually wrote out for Corddaryl
17 Ouzts, but you witnessed that -- I think you
18 witnessed that one too, didn't you?

19 A Just let me look at my notes, unless you've got
20 a copy of it.

21 Q Sometimes I can't read your handwriting.

22 A Yeah, that's Corddaryl Ouzts' statement was
23 written by Robin Newton and I witnessed it.

24 Q Do you know why Robin wrote out his?

25 A If my memory serves me correctly, I think he

1 asked her to write the statement for him.

2 Q Okay. Now, did you guys go out and talk to --
3 do you remember when we got the 9-1-1 tape, there
4 were a bunch of calls?

5 A Yes, sir.

6 Q Did you guys go out and talk to all of the
7 people who called?

8 A No, sir, it was -- I mean, it was just a flux
9 of individuals that called in that night.

10 Q There was a bunch of calls?

11 A Right.

12 Q You heard Officer Long testify that Carolyn
13 Hill came up there, but she didn't see anything,
14 correct?

15 A No, sir. She brought her son -- she came back
16 to the scene and advised us that her son was present
17 during the shooting. She went back and got him and
18 brought him back to us and he provided a statement.

19 Q Which boy was hers?

20 A Corddaryl Ouzts.

21 Q I wasn't trying to trick Officer Long, but even
22 with lights, it's pretty dark down there, is it not,
23 down in that corner?

24 A That area, I mean it's -- it's well lit.

25 Q Well, when you got there, were police car

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1 lights on as well as the overhead lights?

2 A I mean, I can't -- I can't recall.

3 Q Can you, in case any member of the jury is not
4 familiar with that neighborhood, can you describe
5 that neighborhood, please?

6 A You're talking about the apartments?

7 Q Yeah.

8 A It's just basically a general apartment
9 complex. It has about four, I like to call them,
10 dormitories that are broken out into one bedroom,
11 you got two bedrooms and you got three bedrooms.

12 Q Would you characterize it as a high crime area?

13 A Yes, sir.

14 Q And none of the boys that were the eyewitnesses
15 lived there, correct?

16 A No, sir, not to my knowledge.

17 Q And do you know firsthand whether or not there
18 were any other guns there that night?

19 A No, sir.

20 Q Now, I'm going to give you a hard time about
21 the audio tape. There were no audio tapes of any of
22 the witness statements or interviews --

23 A No, sir.

24 Q -- or the defendant's interview?

25 A No, sir.

1 Q And -- I mean, you'll acknowledge that there's
2 any number of ways they could have been -- they all
3 could have been recorded?

4 A Well, some of the cars were equipped with
5 in-car cameras, but we normally use those for
6 traffic stops and stuff like that.

7 Q But then you got actual old-fashion tape
8 recorder?

9 A We didn't actually have any actual old-fashion
10 tape recorders then, so.

11 Q No Dictaphones?

12 A Everybody had cell phones.

13 Q All right, a cell phone. You know, I used to
14 be a prosecutor and I don't know why, but police
15 don't like making tapes, they never have, and I
16 guess that stands true here. But, I mean, one thing
17 I had come up with is you could call 9-1-1 on your
18 cell phone and what happens when you call 9-1-1?

19 A It's recorded.

20 Q And then you could interview the person on your
21 cell phone and then we'd hear it?

22 A That's correct, but that would tie up a
23 dispatcher. And it just -- it just was time
24 consuming.

25 Q And then another thing is that channel --

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1 what's the channel that y'all go to just to trash
2 talk, it's not the official channel on your radio?

3 **A** We have several different channels that we go
4 to --

5 **Q** What happens on that channel?

6 **A** It's not recorded.

7 **Q** So you couldn't have recorded it?

8 **A** No. I mean, the main frequency is recorded,
9 but you've got the police department use it, the
10 sheriff's department, EMS, fire, highway patrol. So
11 you've got five people talking on one channel, so
12 then we'd shut down the radio system in Saluda. And
13 they were very busy that night because we had a lot
14 of calls going in and out.

15 **Q** Definitely that night. Well, I'm probably
16 beating a dead horse, but would you acknowledge that
17 probably this stuff should have been recorded? I
18 mean, we've heard four of the young men testify
19 today.

20 **A** Right.

21 **Q** There were differences in each what they said.

22 **A** Right. Well, I mean, something like that
23 happens, everybody's not going to have the same
24 story because they saw it from a different view.

25 **Q** Sure. And that it was three years ago?

1 **A** True.

2 **Q** Well, as part of your investigation, you talked
3 to this Jeremy Butler kid?

4 **A** Yes, sir.

5 **Q** And his version of what happened is slightly --

6 **MR. YOUNG:** Your Honor, he's going to get into
7 hearsay. I'm going to object.

8 **THE COURT:** All right. Do you want to be
9 heard?

10 **MR. ANDERSON:** Judge, I hate to do it, but if
11 we could --

12 **THE COURT:** Ladies and gentlemen, please step
13 in the jury room. Don't discuss the case.

14 (The jury retires to the jury room.)

15 **THE COURT:** All right. What's the issue?

16 **MR. ANDERSON:** Judge, what we've got is this
17 boy named Jeremy Butler was actually the first one
18 of these kids, if I'm not mistaken, to be
19 interviewed by Charles. And what he says is
20 basically that Duke and Andrew went towards the car
21 and said, Shoot now.

22 Now, the State's in possession of his
23 statement, I actually got it from them, so they're
24 intentionally not calling this kid. And so I don't
25 believe it's hearsay for a number of reasons. I

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1 believe the -- especially the "Shoot now" part would
2 be an excited utterance exception to hearsay.

3 I also think they're all -- there are numerous
4 other hearsay exceptions because it goes to my
5 client's state of mind. It's not to the truth of
6 the matter asserted. It's -- my client hears, Shoot
7 now. He doesn't know the context of it, but it was
8 said. And, again, Charles took the statement. It
9 was the first kid he talked to. So I don't believe
10 it's hearsay. I believe it's admissible, Judge.

11 **THE COURT:** Ask him what it is you want to ask
12 him so I can hear what he's going to say.

13 EXAMINATION

14 BY MR. ANDERSON:

15 Q When you interviewed Jeremy Butler, did he tell
16 you that Duke and Andrew walked towards the car and
17 said, Shoot now?

18 A That's what he provided in the statement.

19 (Pause.)

20 **MR. ANDERSON:** Judge, I've got my trustee South
21 Carolina Evidence. Would it assist you if I made
22 copies of the pages that I --

23 **THE COURT:** No, just tell me what you're
24 relying on.

25 **MR. ANDERSON:** I'm relying on what's not

1 offered for the truth of the matter asserted. It's
2 for the -- one, I think is probably the weakest
3 argument, it could be a criminal conspiracy with all
4 of those boys, one of them saying, Shoot now.

5 I think the stronger arguments probably goes to
6 the defendant's state of mind, which is the actual
7 cause for this whole thing. It could also go to the
8 effect on the hearer of it. And it's also a threat
9 as evidence of ill will. I think also easily you
10 can say it's an excited utterance that was made
11 right after this traumatic event. Again, this is
12 the first person interviewed.

13 **THE COURT:** I hadn't heard all of that. I
14 don't know when it was said, I don't believe.

15 **MR. ANDERSON:** Could I ask him, Your Honor?

16 **THE COURT:** Sure.

17 **BY MR. ANDERSON:**

18 **Q** Charles, your interview sheet or the statement
19 sheet indicates that you talked to him right at
20 midnight after the incident?

21 **A** What statement sheet are you referring to?

22 **Q** On the very top right, his written statement.

23 **A** That's 1720. It would be 5:20.

24 **Q** Okay. So that's 1700 not 1200?

25 **A** No, sir, that's a seven. So he would probably

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1 be one of the last that was talked to.

2 Q So then I'm wrong about when, but you talked to
3 him the next day?

4 A Right.

5 MR. ANDERSON: But, Judge, his -- the boy's
6 statement of, Shoot now, is what he heard which we
7 would argue that is an excited utterance. In
8 addition to that, it's just hearing, Shoot now, the
9 affect it would have on my client. So it goes not
10 to the truth of the matter asserted, but just to his
11 state of mind.

12 (Pause.)

13 MR. YOUNG: Your Honor, may I ask a question of
14 the witness at this point to verify something?

15 THE COURT: Yes, sir.

16 EXAMINATION

17 BY MR. YOUNG:

18 Q Commander Holloway, with regard to the
19 statement recorded as I have it in a statement that
20 you were just shown, Jeremy Jarrod Butler, dated
21 August 6th, 2007 at approximately 1720 or 1700 on
22 that day, if I understand the statement, the way
23 it's worded, quoting from the statement, So he
24 stopped when he got towards us and Duke and Andrew
25 walks toward the car -- walked toward the car and

1 said, Shoot now. He let off a shot and spin wheels
2 and I called 9-1-1. At the time that you heard him
3 make this statement or talked to you or give you
4 this statement, did he indicate to you that the
5 words, Shoot now, were uttered before or after the
6 shot?

7 A I can't remember.

8 Q Well --

9 A By the statement, it was, you know -- it was
10 before he shot, then he drove off.

11 Q The words were, Shoot now, then he shot, is
12 that what you're saying?

13 A Right.

14 Q Okay. And it appears from the written form I'm
15 looking at, is that the same as you're reading?

16 A Yes, sir.

17 Q The words I gave and read just to you are the
18 same words you have in your statement, correct?

19 A Yes, sir.

20 Q So in terms of sequence, Shoot now, is a
21 statement that ends a sentence, then a new sentence,
22 he let off a shot and spin wheels and I called
23 9-1-1. So from the standpoint of an excitement,
24 "Shoot now" preceded the shot, correct?

25 A Correct.

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1 **Q** Did he indicate to you any other kind of
2 condition or moment that would excite him or give
3 him a sense of excitement at that moment?

4 **A** No, sir.

5 **MR. YOUNG:** Your Honor, the State's position is
6 this is not what the defendant -- excuse me -- this
7 is not what the witness said. It is what he heard
8 somebody else say. And now he's asking the Court to
9 offer -- allow into evidence a statement repeated to
10 Mr. Holloway, Commander Holloway, which is now
11 double hearsay. So it's what he's telling -- he's
12 asking Commander Holloway to offer into evidence
13 words that were uttered by a person who's not
14 present in the courtroom that he heard someone else
15 say, that's double hearsay.

16 (Pause.)

17 **MR. YOUNG:** If I could, Your Honor, there's
18 also a question of availability of a witness at this
19 point. And I'd like to get that into the record at
20 this time with regard to Commander Holloway's
21 service of subpoena in efforts to obtain the
22 presence of Mr. Butler.

23 **THE COURT:** Yes, sir.

24 **BY MR. YOUNG:**

25 **Q** Commander Holloway, were you provided a

1 subpoena to have served on Jeremy Jarrod Butler?

2 A Yes, sir.

3 Q Was it served upon him?

4 A Yes, sir.

5 Q Was he contacted last night or yesterday in the
6 effort to have him appear in court?

7 A Yes, sir.

8 Q Okay. Who did you contact?

9 A I spoke with his grandmother. She advised that
10 she would get him the message. He wasn't here this
11 morning. I called her again and she advised that he
12 did not come home last night and she would try to
13 look for him.

14 Q And, at this point, you don't have any idea
15 where he is?

16 A No, sir.

17 Q Did you participate in any effort to try and
18 prevent him from coming to court?

19 A No, sir.

20 Q In defiance of that subpoena?

21 A No, sir.

22 Q How long ago was he served with that subpoena?

23 A A week.

24 Q And was there any doubt in his mind as to what
25 he knew where he should be and how he'd get here?

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1 **A** No, no doubt in my mind.

2 **Q** And you've also talked to him since that time
3 several times, haven't you?

4 **A** Yes, sir.

5 **Q** And all of a sudden last night you can't reach
6 him or he doesn't show up?

7 **A** Correct.

8 **MR. YOUNG:** Nothing further.

9 Your Honor, the witness at this point may
10 become available. The State is making a continuous
11 effort to locate him. And if he becomes available,
12 we'll deliver him to the Court for purposes of
13 testimony, but at this point we have been unable to
14 bring him into the courtroom. And rather than
15 prevent this proceeding from just basically stopping
16 in place, the State believed it could go ahead
17 without his testimony and present its case as we had
18 on the facts.

19 **THE COURT:** Who did Jeremy Jarrod Butler say
20 made the statement, Shoot now?

21 **MR. ANDERSON:** He says Duke and Andrew, Your
22 Honor. Could I make a copy of this and make it a
23 court's exhibit, Your Honor?

24 **THE COURT:** Yes, sir.

25 (Pause.)

1 (Court's Exhibit Number 2, statement of
2 Jeremy Jarrod Butler, marked for identification
3 purposes.)

4 **THE COURT:** Was the 9-1-1 tape available?

5 **MR. ANDERSON:** Yes, sir. I got the 9-1-1.

6 **THE COURT:** And this person, Mr. Butler, is the
7 one who made the 9-1-1 call?

8 **MR. ANDERSON:** I think it was Raymond Kirkland
9 who made 9-1-1, Judge, although he didn't say that,
10 but I don't know that it was him.

11 **THE COURT:** This statement indicates Mr. Butler
12 claims he called 9-1-1. Is there a 9-1-1 call from
13 Mr. Butler?

14 **MR. ANDERSON:** I couldn't identify him, Judge.
15 And as Charles testified, there were a bunch of
16 calls. There's a young man who calls and says, We
17 need an ambulance at Saluda Terrace Apartments,
18 there's -- a shot just happened, he's bleeding. And
19 he won't give his name.

20 Judge, Raymond Kirkland also says he calls
21 9-1-1 in his statement.

22 (Pause.)

23 **THE COURT:** Well, is the first time that he
24 talked to this witness was five o'clock the next
25 morning or seven o'clock the next morning?

1 **MR. YOUNG:** Your Honor, 1720 on the military
2 clock will be 5:20 in the afternoon.

3 **THE COURT:** So he didn't talk to him until five
4 o'clock in the afternoon the day after the incident
5 -- or the following day, is that the only evidence?

6 **MR. YOUNG:** Sir, are you directing the question
7 to me?

8 **THE COURT:** I'm just asking a question. I
9 don't know.

10 **MR. YOUNG:** Sir, the evidence will be, I
11 believe, that since the incident occurred at 10:30
12 at night, that it would be almost 20 hours later.
13 The conditions for excited utterance at the time he
14 gave that expression to Charles would be well past.

15 He didn't make the statement. It wasn't an
16 excited utterance he said, it was someone else
17 saying it. Jeremy Jarrod Butler heard someone else
18 and I believe he actually identified two people
19 saying that in his statement.

20 **THE COURT:** All right. The way I'm reading the
21 rules, this is hearsay. The definition of Rule 801
22 that has been cited to the Court about the
23 requirement that in order to be hearsay, the
24 statement has to be offered for the truth of the
25 matter asserted, I don't know what else it could be

1 offered for. I know you said it goes towards the
2 state of mind of the defendant, but the only way to
3 jump to that conclusion is to show that the
4 statement was made and it's true.

5 Now, the way this written statement, which is
6 Court's Exhibit Number 2, is worded, it is not
7 possible to tell whether Mr. Butler is claiming that
8 Duke or the decedent is the one who made the
9 statement or if both of them did, the statement
10 being, Shoot now. There's not enough evidence about
11 a conspiracy for me to admit it in that fashion
12 under 801(d)(2). There's not enough evidence for me
13 to make a determination that it fits within
14 801(d)(2) as not being hearsay because it's a
15 statement of a party opponent.

16 With regard to the exceptions to the hearsay
17 rule, the rules are different when a declarant is
18 unavailable. The declarant is a person who makes a
19 statement. So the declarant in this instance is
20 Mr. Butler who -- I'm sorry -- the declarant in this
21 instance is Andrew and/or Duke and/or Mr. Butler
22 because you've got a hearsay within hearsay
23 situation.

24 So as it regards the statement that Mr. Butler
25 made to the officer, he's the declarant, I've read

1 the rules related to the unavailability of the
2 declarant. Those are in Rule 804. Those exceptions
3 deal with situations where a declarant is
4 unavailable. There's former testimony which does
5 not apply; a statement under a belief of impending
6 death, there's not enough evidence for me to make
7 that determination; a statement against interest,
8 it's not against the interest of Mr. Butler; and the
9 fourth exception is for personal or family history.

10 Then the rules that apply regardless of whether
11 the witness is available or unavailable, the
12 exceptions are found in Rule 803. Rule 803 contains
13 the exceptions you've been talking about related to
14 an excited utterance, a present sense impression,
15 then existing mental emotional or physical
16 condition.

17 There's not evidence enough for me to make a
18 determination that these things fall within a
19 present sense impression because the rule states
20 that it has to be made while the declarant was
21 perceiving the event or condition or immediately
22 thereafter.

23 The excited utterance, I have to have evidence
24 that the declarant was under the stress or
25 excitement caused by the event or condition.

1 The third subsection really doesn't apply.
2 It's the declarant's state of mind, emotion,
3 sensation or physical condition, but does not
4 include a statement of memory or belief to prove the
5 fact remembered or believed unless it relates to the
6 execution, revocation, identification or terms of a
7 declarant's will.

8 Now, either side can apply, if this witness is
9 dodging a subpoena, to have the witness arrested and
10 held until he testifies, but, at this point, I
11 sustain the objection.

12 **MR. ANDERSON:** Your Honor, if you're willing to
13 do that, I mean our position again is it's really
14 not hearsay. We're not offering it for the truth of
15 the matter asserted that somebody was going to shoot
16 now, but more for the effect it had on my client
17 when he heard that. And the whole thing about
18 hearsay is that, you know, we're concerned about the
19 reliability of that evidence. And Raymond Kirkland
20 testified this afternoon to "Shoot now", he heard
21 that as well. So it's not like this is coming out
22 of left field.

23 **THE COURT:** I understand as far as the
24 reliability issue, which is -- I didn't get into
25 that, it's contained in sections of the rule. I

1 understand.

2 Now, I don't know what exactly was said. I
3 don't know if what is being claimed is that the
4 statement was in line with one of the people outside
5 of the car saying, if you're going to shoot, shoot
6 now, which is what I heard before the trial, or if
7 it's one of the people outside the car saying, Shoot
8 now, which would be shoot the defendant. I don't
9 know, I wasn't there.

10 MR. ANDERSON: And our position, Judge, it's
11 the latter. And it -- in fact, in his state of
12 mind --

13 THE COURT: It has to be the declarant. I'll
14 look at 801 again, but I don't think we've got the
15 right person.

16 Subsection (c) of Rule 801, Hearsay is a
17 statement, other than one made by the declarant while
18 testifying at the trial or hearing offered in
19 evidence to prove the truth of the matter asserted.

20 What you're saying is that it's not offered to
21 prove the truth of the matter asserted. It's
22 offered to prove the state of mind of another
23 person.

24 MR. ANDERSON: Who heard it.

25 THE COURT: I don't think it works that way.

1 If your client had said something that was
2 indicative of his state of mind, then I think it
3 falls within this. If somebody else whose state of
4 mind was relevant made a statement, then I think
5 it's indicative of that, but you've got two
6 different people here at a minimum. You've got the
7 declarant is the person who makes the statement.
8 The statement, Shoot now, is attributed to the
9 decedent and/or Duke.

10 In order to allow hearsay within hearsay, both
11 statements, the statement made by Mr. Butler to this
12 officer and the statement that Mr. Butler overheard,
13 have to fit within an exception to the hearsay rule
14 or not be hearsay. I may be wrong, but that's my
15 ruling.

16 Anything you need to proffer outside the
17 presence of the jury before I bring them back?

18 **MR. ANDERSON:** Judge, you've ruled. And I
19 think this witness is going to be on the stand a
20 while. Could I submit something in the morning and
21 we can continue at least for this?

22 **THE COURT:** You can do whatever you like. You
23 can make your proffer any time you like.

24 **MR. ANDERSON:** Can I do that later? It's
25 getting late and my brain's not working great

CHARLES HOLLOWAY - CROSS BY MR. ANDERSON

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1 anyway. If I can finish up.

2 **THE COURT:** All right. Bring the jury in.

3 (The jury returns to the courtroom.)

4 **THE COURT:** All right. The objection's
5 sustained. You may continue.

6 **MR. ANDERSON:** Thank you, Judge.

7 BY MR. ANDERSON:

8 **Q** When you talked to the defendant that night at
9 the jail before he -- he didn't have an attorney, he
10 told you then it was self-defense?

11 **A** Yes, sir.

12 **Q** What efforts did you do to kind of research the
13 issue of self-defense after he told you that?

14 **A** We talked to the witnesses and, you know, I
15 mean, it's still the question, why did it happen.

16 **Q** Yeah. That picture that I put into evidence
17 with the pocket, do you know who took what out of
18 the young man's pocket?

19 **A** No, sir.

20 **Q** You know the picture I'm talking about? It
21 will be Defense Exhibit Number 2.

22 **A** Okay.

23 **Q** Do you have any idea what came out of there?

24 **A** No, sir.

25 **Q** Okay. And then I'll show you -- strike that --

1 so the witnesses you talked to are the ones who
2 testified today who were the brother and then the
3 friends of Andrew?

4 **A** Yes, all with the exception of Mr. Butler.

5 **Q** Okay. You heard one of those young men today
6 said something about a sawed-off shotgun?

7 **A** Yes, sir.

8 **Q** Isn't it true that when you interviewed those
9 five witnesses, none of them said anything about a
10 sawed-off shotgun; isn't that correct?

11 **A** No, sir, none of them mentioned a sawed-off
12 shotgun.

13 **Q** What's the last you heard of that fifth
14 witness, that Jeremy Butler?

15 **A** I contacted his grandmother yesterday, advised
16 her to have him up here today. He wasn't present.
17 I called her back. She said he did not return home.
18 She would do her best to locate him and get him up
19 here.

20 **Q** Do you know if any law enforcement went to go
21 get him?

22 **A** No, sir.

23 **Q** Okay. So of the five people you interviewed,
24 he did give a statement and he's the only one that
25 didn't testify today of the five eyewitnesses?

CHARLES HOLLOWAY - CROSS BY MR. ANDERSON

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1 A Yes, sir.

2 Q And there's no other written statements from
3 any other witnesses?

4 A No, sir, no other written statements.

5 Q Did you do -- you've heard some testimony today
6 about people going after Michael Watson. You heard
7 that first young man say that he was going after
8 Michael Watson to shoot him back.

9 A Yes, sir.

10 Q Did y'all do any investigation following that
11 up, any kind of retaliation?

12 A That's how he turned himself in. I think it
13 was his brother Derrick Harlan called the sheriff's
14 office and advised that someone threatened his
15 18-year-old brother Michael Watson. At that time,
16 the Chief then, David Farmer, advised the sheriff's
17 office that Michael Watson was the shooter and
18 that's when they went out there and arrested him.

19 Q On the radio, he actually said, there's our
20 shooter or that's the shooter or something like
21 that?

22 A Yes, sir.

23 Q So there were threats after this incident to
24 Mr. Watson?

25 A Yes, sir.

CHARLES HOLLOWAY - REDIRECT BY MR. YOUNG

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1 **Q** And isn't it true that he actually had to be
2 removed from the Saluda Jail?

3 **A** Yes, sir.

4 **Q** Taken to Greenwood Jail?

5 **A** Yes, sir, then to Aiken.

6 **Q** He's been in Aiken since?

7 **A** Yeah.

8 **MR. ANDERSON:** That's all the questions I have.

9 **THE COURT:** Redirect.

10 REDIRECT EXAMINATION

11 **BY MR. YOUNG:**

12 **Q** Was a shotgun ever recovered?

13 **A** No, sir.

14 **Q** His house was searched, his car was searched?

15 **A** Yes, sir.

16 **Q** No gun?

17 **A** No gun.

18 **MR. YOUNG:** Nothing further.

19 **THE COURT:** Recross.

20 **MR. ANDERSON:** No thank you.

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

22 All right. How many more witnesses can you
23 hear today, if any?

24 **MR. YOUNG:** Your Honor, we have one witness,
25 but he would probably take the better part of 45

1 minutes to an hour and I would propose to start with
2 him tomorrow morning and the remaining SLED
3 witnesses.

4 **THE COURT:** All right. Ladies and gentlemen, I
5 want you to be here tomorrow at 10:00. I would have
6 you here sooner, but I've got something I need to
7 work on I need to talk to the lawyers about and I
8 don't want you waiting back there on us
9 unnecessarily. So if you'll just be here at ten
10 o'clock, I'm pretty confident we can get to you by
11 then. Don't discuss the case. Please be in the
12 jury room at ten o'clock. Thank you.

13 (The jury was excused for the day.)

14 **THE COURT:** All right. Do y'all have access to
15 the procedure to have somebody locked up who's not
16 appearing for a subpoena?

17 **MR. ANDERSON:** I do not, Judge, but I would
18 make that request. I've actually, when they told me
19 they weren't going to call him, I got a private
20 investigator with a subpoena. We were going to try
21 to get him too, but he can't obviously pick the guy
22 up.

23 **THE COURT:** Did they serve it on him?

24 **MR. ANDERSON:** I don't know.

25 **MR. YOUNG:** Your Honor, I think it's simply an

1 application for a bench warrant, I believe that's
2 what it is, to have the person held until such time
3 as they're made available to testify. I do not -- I
4 believe Mr. Maye has actually completed an
5 application for that report. I am not personally
6 familiar with it, but I believe that's what it is.

7 **THE COURT:** I'm going ask the lawyers to stay
8 here. If you want your client to stay here, that's
9 fine. Let me look at some things on the computer.

10 But now I do need to make an announcement. It
11 was reported to me that, and I have no idea who did
12 it, might be able to find out, but it was reported
13 to me that at some point today, some person or
14 persons who are not authorized to do so was or were
15 holding the door open on the side to allow people to
16 come in that entrance without going through
17 security.

18 Now, I don't care if that's on the defendant's
19 side or the victim's side. It doesn't matter to me.
20 I better not see that done or hear of that being
21 done again because if I do, I plan to either have
22 that person arrested or cite them for contempt of
23 court or both. You have no right to bypass the
24 security measures. Some of the worst incidents that
25 have ever occurred in courtrooms that I've seen were

1 caused by people in very emotional cases where you
2 have a situation similar to this and that's not
3 going to happen on my watch if I can help it.

4 The other thing is, I'm not trying to meddle,
5 here, but I'll tell y'all quite honestly I've been
6 very lax about allowing folks to come up to the
7 defendant. I leave it in the hands of security.
8 They've been right there. They've been watching
9 everything.

10 But I'll tell you, honestly, I've never seen
11 that done before. Generally, in trials, they don't
12 let family and friends and everybody just come up
13 and shake hands and hug and carry on like y'all have
14 been doing. Now, I understand why you're wanting to
15 do it, but that man's in custody and I don't ever
16 recall seeing that done during a trial at a
17 courthouse. We're at ease.

18 (The proceedings were concluded for July 27,
19 2010.)

20 (The following proceedings were held on July
21 28, 2010.)

22 (State's Exhibit Numbers 28 through 33 were
23 marked for identification purposes.)

24 **THE COURT:** All right. I understand that
25 overnight we were able to contact Mr. Butler. Is he

1 here?

2 MR. YOUNG: He is, sir.

3 THE COURT: Where is he?

4 MR. YOUNG: Your Honor, I believe he's
5 downstairs at this very moment.

6 THE COURT: Does he know he can't leave the
7 courthouse?

8 MR. YOUNG: I told him to stay in the
9 courthouse. I told him to stay in my office
10 actually, but I think he stepped out.

11 THE COURT: I mean, he may be a witness and he
12 may need to be sequestered. I just want to make
13 sure he knows not to leave the courthouse.

14 MR. YOUNG: Yes, sir. I told him not to leave
15 the courthouse.

16 Can I ask if you can go down and make sure he's
17 present and have him come sit out in the hallway?

18 THE COURT: State ready for the jury?

19 MR. YOUNG: Yes, sir.

20 THE COURT: Defense?

21 MR. ANDERSON: Yes, sir.

22 THE COURT: Bring in the jury.

23 (The jury enters the courtroom at 10:15
24 a.m.)

25 THE COURT: Call your next witness.

VICKIE HALLMAN - DIRECT BY MR. YOUNG

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1 **MR. YOUNG:** Thank you, Your Honor. The State
2 calls Special Agent Vickie Hallman.

3 VICKIE HALLMAN,
4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. YOUNG:

7 **Q** Would you tell the Court your full and complete
8 name?

9 **A** My name is Vickie Hallman and I work for the
10 South Carolina Law Enforcement Division.

11 **Q** Ma'am, how long have you been doing that?

12 **A** I've been at SLED for approximately six years.

13 **Q** What's your job?

14 **A** I work in the latent prints crime scene unit.

15 **Q** What does that mean you do really?

16 **A** My unit is specifically set up to assist local
17 agencies in the processing of crime scenes. As part
18 of that duty, we respond statewide to assist with
19 the processing of crime scenes. And I also process
20 items for latent fingerprints. I do latent
21 fingerprint comparisons. I do foot wear, tire tread
22 comparisons, blood stain pattern analysis and crime
23 scene reconstruction.

24 **Q** Yes, ma'am. And were you -- in the performance
25 of your particular duties, were you contacted by law

1 enforcement in Saluda County to go to an address, to
2 Juniper Drive on August 5th, 2007?

3 A Yes, sir, I was.

4 Q Do you know about what time you got there?

5 A I think we received the call about 11 o'clock
6 at night. So I would say I was there right around
7 12 o'clock, midnight.

8 Q You started doing what when you arrived?

9 A We made contact with the initial officer who
10 was Lieutenant Holloway with the police department
11 so we could find out basically what had occurred.
12 And from that, we would have documented the scene
13 with photographs, general photographs, before
14 anything is moved or touched. We would have gone
15 back in with evidence markers, which are those
16 little yellow little triangles that you see with the
17 numbers on them, and we would have put those down on
18 pieces of evidence that we felt were relevant. We
19 would have rephotographed the scene and then
20 collected those items of evidence.

21 Q Did you go to more than one location in
22 connection with this case?

23 A Yes, sir, we did.

24 Q How many different locations?

25 A We responded to the initial location at the

VICKIE HALLMAN - DIRECT BY MR. YOUNG

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1 apartment complex. We went back to the sheriff's
2 office to process a vehicle and also an address on
3 Hill Drive.

4 Q Okay. In what order did you do those things?

5 A The order I just told you, the apartment
6 complex, the sheriff's office and then Hill Drive.

7 Q So on that particular night, it was a busy
8 night, a lot to do?

9 A Yes, sir.

10 Q A lot of places to go. All right, do you have
11 a pattern you usually follow when you do this kind
12 of work in terms of how you start processing the
13 scene?

14 A Basically the pattern that I've already
15 described where we go in, we get the general
16 information, we do photographs, we mark evidence and
17 then rephotograph before anything's collected.

18 Q So that is the method?

19 A Yes, sir.

20 Q And so that's what you did at this scene?

21 A Yes, sir.

22 Q In all three places?

23 A Yes, sir.

24 Q All right. Now, I have a diagram up there that
25 may have some bearing on this. Does that diagram

1 bear any semblance to anything you did in the area?

2 A It's very similar to the crime scene sketch
3 that we did that night at the scene.

4 Q Okay. The photographs that you took, would you
5 be able to recognize them again if you saw them?

6 A Yes, sir.

7 Q I'm going to hand up a large quantity of
8 photographs, but I'm going to do it in somewhat an
9 order. I'm going to start with Exhibit 13, 14, 15,
10 16, 17, 18, 19, 20 and 21. Those photographs, I'm
11 going to show them to you now and ask you if you can
12 recognize them?

13 A Yes, sir, I do.

14 Q What are those?

15 A These would be some of the crime scene photos
16 that we took the night at the apartment complex.

17 Q Okay. So that's step one?

18 A Yes, sir.

19 Q That's part of step one in essence of what you
20 did. And then if I can just start at that location
21 then where you initially did things. There are
22 obviously a lot of things displayed in those
23 photographs and so can you tell me did you mark any
24 particular items of evidence as you went through the
25 process of taking these photographs?

VICKIE HALLMAN - DIRECT BY MR. YOUNG

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1 A Well, we would have taken a set of photographs
2 first before we did anything and then we would have
3 gone back and we would have added the markers in and
4 basically rephotographed.

5 Q And where you placed markers, did you collect
6 evidence?

7 A Yes, sir.

8 Q All right. Now, I note that there's a marker
9 one, two and three -- this is Exhibit Number 26.
10 Let me show you this picture.

11 Now, with regard to that picture, do you have
12 anything that you can refer to to say I know exactly
13 what that was or what I collected and why I
14 collected it? In other words, do you keep a track
15 of what your -- do you mark it down in some way?

16 A Yes, sir, I do.

17 Q What do you do?

18 A I actually do crime scene notes and then when I
19 get back to the office, they're usually typed in.
20 And when I log my evidence into the laboratory, if
21 it's something that I collected on a crime scene, I
22 will usually log it in as whatever the item
23 description is from marker one or from marker two so
24 at a later date I can always go back and match
25 everything up.

1 Q And how many markers are in that photograph?

2 A There are three markers in this photograph.

3 Q Okay. I'm going to show you what has been
4 previously marked as State's Exhibit Number 30 and
5 ask you if that bears reference to anything you
6 recognize in connection with the photograph that you
7 were describing having markers in it?

8 A Yes, sir, it does.

9 Q What is that?

10 A It is part of a shotgun wadding.

11 Q Okay. And was that collected at the scene?

12 A Yes, sir.

13 Q And what marker would that bear reference to?

14 A Marker one and I know because of the photograph
15 and I also know because on my container that I used,
16 I put marker one, wadding.

17 Q Okay. And you -- it looks to be some kind of
18 metal box in here.

19 A It's just a metal tin that we use to collect
20 some of our smaller evidence so we don't lose it.

21 Q So you placed it in that box?

22 A Yes, sir.

23 Q Okay. And upon placing it in that box, you
24 sealed the envelope -- excuse me -- sealed it into
25 that particular container?

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1 A It would have been put in this container and it
2 would have been put in my box of evidence. And then
3 the next day when I logged it in at the SLED
4 laboratory, it would have been put in a sealed
5 container to go -- in this case, it would be going
6 to firearms because they would have done an
7 examination on it.

8 Q All right. Thank you. And at that particular
9 scene, did you collect any other evidence?

10 A Yes, sir, we did.

11 Q Okay. Now, I note that -- just so we can count
12 the things that were at the scene, take a look at
13 this and tell me what that is. It has not been
14 marked. I'm just going to refer to it. But does
15 that bear any resemblance to anything that's in the
16 pictures?

17 A It is a blue shirt and a blue shoe that was
18 also at the scene that night.

19 Q This was turned over -- left with the police
20 department?

21 A Yes, sir.

22 Q And then there was perhaps something else found
23 at the scene?

24 A There were two hand-rolled cigarettes that we
25 collected, also.

1 Q Okay. And those hand-rolled cigarettes were
2 taken into custody as well?

3 A Correct.

4 Q Okay. And that pretty much completed what you
5 did there unless you did something else. Do you do
6 anything in collection of -- before a body is
7 removed, anything in connection with a body?

8 A With permission from the coroner, we usually
9 try to collect major case prints, which is a
10 collection of the finger and the palm prints. And
11 if the incident that is involved is a shooting, we
12 also collect a gunshot residue kit.

13 Q Okay. And did you do such a thing as collect
14 gunshot residue and latent prints from this
15 particular situation?

16 A Yes, sir, we did.

17 Q And how did you go about that?

18 A Usually we collect the GSR kit first because
19 the gunshot residue is much more delicate. We would
20 have -- there's two different tests that is included
21 in a GSR kit, one we use swabs for and nitric acid
22 and then the other one, which we do first, is one,
23 and I call it sticky tabs because it's a little
24 container and when you open it up, it has a little
25 dot. It's basically like a little piece of tape and

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1 you dot that around on the -- in the inside of the
2 container, they're marked as left front -- or,
3 excuse me, left palm, left back and you just follow
4 the instructions as to which one goes where and you
5 just kind of do the little tabs and then you go back
6 with the swabs and swab it, also.

7 Q And that's how all these collection kits are
8 done, right?

9 A Yes, sir.

10 Q Okay. And did you do that on the body of one
11 Andrew Chandler?

12 A Yes.

13 Q Okay. And you collected that and did what with
14 that sample?

15 A It would have been taken back to the laboratory
16 and it would have been logged in for our trace
17 department to do an analysis.

18 Q Okay. Do you have that with you just by
19 chance?

20 A Yes, sir.

21 Q And is it in that bag you're holding there?

22 A Yes. This would be the one from Mr. Chandler.

23 Q And that's what you submitted?

24 A Yes.

25 Q Okay. You can put it back in there. And was

1 there any other kind of trace evidence or any other
2 kind of evidence collected at the scene, this scene
3 number one I'll call it?

4 **A** No, sir.

5 **Q** Nothing else. From there, what happened?

6 **A** From there, we went to the sheriff's office
7 because we were advised that a suspect had been
8 taken into custody and they were working on getting
9 us a search warrant to process his vehicle.

10 **Q** Okay. And once that was accomplished, did you
11 go to where the car was located?

12 **A** Yes, sir.

13 **Q** And where was that?

14 **A** It was in the impound lot at the sheriff's
15 office.

16 **Q** And there at the impound lot, what did you do?

17 **A** We would have documented it first with
18 photographs. And I would have taken notes just
19 notating the tag number of the vehicle, a general
20 description of the vehicle and the VIN number and
21 then we would have processed it for whatever type of
22 evidence was necessary.

23 **Q** Okay. I'm going to show you what's been marked
24 as State's Exhibits 3, 4, 5, 6 and 7. Number 6 and
25 Number 7 are marked for identification at this

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1 point. I'll hand them up to you and ask you if you
2 can recognize them?

3 A Yes, sir, I do.

4 Q What are they?

5 A Photographs 3 through 6 are of the vehicle that
6 we completed the search warrant on. And photograph
7 7 is a copy of a driver's license that was found
8 inside the vehicle.

9 Q Okay. Do any of those -- actually, can you see
10 the driver's license where it was located in the car
11 when it was searched?

12 A Yes, I can.

13 Q Okay. And which photograph does that appear
14 on?

15 A That would be in photograph number 6.

16 Q So the picture where the license was located is
17 in 6 and then you have a separate picture of the
18 actual license, correct?

19 A Correct.

20 Q What does the license appear to be of?

21 A It's a South Carolina driver's license issued
22 to a Michael Duran Watson.

23 Q Okay. And do all of those photographs are they
24 fair and accurate representations of what you saw at
25 that time?

1 **A** Yes, sir.

2 **MR. YOUNG:** The State would offer I believe the
3 two matters which are for identification still 6 and
4 7 as evidence. We'd offer these into evidence at
5 this time, Your Honor.

6 **THE COURT:** Any objection?

7 **MR. ANDERSON:** No, sir.

8 **THE COURT:** Mark those in evidence please,
9 ma'am.

10 (State's Exhibit Numbers 6 and 7,
11 photographs, admitted into evidence.)

12 **MR. YOUNG:** I'll publish this to the jury, Your
13 Honor.

14 BY MR. YOUNG:

15 **Q** Ms. Hallman, when you're there at the scene two
16 at the sheriff's office, do you do any further
17 analysis of the car itself?

18 **A** We also collected a gunshot residue kit from
19 the vehicle itself because the information that we
20 were given at the scene was that the suspect never
21 exited the vehicle, that he had just stuck the
22 shotgun out of the --

23 **MR. ANDERSON:** Excuse me.

24 **MR. YOUNG:** Don't go into that information,
25 just tell me --

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1 **MR. ANDERSON:** Judge, I just have to --

2 **THE COURT:** Hold on a second.

3 **MR. ANDERSON:** I just have to renew my
4 objection. I know you've already ruled on it, but I
5 think I need to do that for the record on the GSR.

6 **THE COURT:** All right. The objection is noted
7 and it's overruled.

8 BY MR. YOUNG:

9 **Q** You were testing the outside of the car based
10 upon an allegation that there had been a firing of
11 the shotgun somehow?

12 **A** We tested the inside of the vehicle.

13 **Q** Inside, okay. And did you test the outside of
14 the vehicle as well?

15 **A** No.

16 **Q** Do you have reference to what items
17 specifically -- let's just say do you keep a track
18 of the item numbers in connection with this as well
19 or some way of logging where you checked on the car?

20 **A** With the GSR kit, like I said, when you do it
21 on a person, it specifies whether or not you do left
22 back, left front when it comes to the hand. Because
23 it was a vehicle, we actually used those same, the
24 little sticky tabs, and I don't know the official
25 name, we use those because those are the only things

1 that we've been told by our trace department that
2 they will analyze from a vehicle. And we actually
3 marked out the left back, left front. And we
4 actually marked on the containers themselves where
5 they specifically came from in the vehicle.

6 Q Okay. And so what you did then with regard to
7 this particular item or this particular test you
8 did, would you have some way of pulling out anything
9 out of the bag that you're holding now, and tell me
10 is that the bag that you used?

11 A Yes, sir.

12 Q Is there anything in that bag?

13 A The actual containers are still in the bag.

14 Q Okay. And so would you be able to refer to
15 those and tell me where you checked on which ones?

16 A Yes, sir.

17 Q Would you check and tell me?

18 A Sure.

19 MR. ANDERSON: Judge, while she's doing that,
20 can you just note my continued objection to the GSR?

21 THE COURT: Yes, sir.

22 THE WITNESS: We collected one from the
23 passenger door frame above the window. We collected
24 one from the passenger dash, above the passenger
25 seat on the ceiling and the passenger door below the

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1 window.

2 BY MR. YOUNG:

3 Q Okay. And so all of those were put in that
4 bag?

5 A Yes.

6 Q Were they in that kind of container at the time
7 that you saw it?

8 A Yes.

9 Q In that little thing?

10 A Yes.

11 Q All right. And so each one of those little
12 tubes is where you had some of these tests, each one
13 had each one of those tests separate tube?

14 A Yes.

15 Q Okay. And just as a simple question, I want to
16 make sure I understand it, you marked on each one of
17 them where you collected it?

18 A Correct. Because, as I said, standardly,
19 they're actually marked right palm, right back, left
20 back and left palm, but because it wasn't done on a
21 person, so when trace got it to do the analysis,
22 they would know specifically where it came from, we
23 marked it out and we just wrote on the containers
24 ourselves what location we collected the sample
25 from.

1 Q Okay. So it's your handwriting that you have
2 on there that you can tell where it was taken from?

3 A Yes.

4 Q Okay. And then that's it, you collected it,
5 put it in a bag and then what?

6 A It was sealed closed and it was logged into the
7 forensic lab and forwarded to the trace department.

8 Q I just want you to explain to the jury what
9 that means and I'm going to ask you to explain that
10 in terms of all the evidence that would have been
11 collected here because I'm just going to jump to
12 that now because it may make more sense. Would you
13 go ahead and tell the jury what this really means,
14 if something -- is there a numbering system or how
15 does SLED keep track of all this stuff?

16 A Each case is assigned a lab number and those
17 are done numerically by the -- the first case of the
18 year is -- for this year, it would have been L10
19 00001 and it goes sequentially from there depending
20 on what day somebody brings things into the
21 laboratory. As part of the system, it gives us the
22 agency that submitted the evidence or the agency
23 that the case belongs to. It gives us a cross
24 reference of their case number and the victim's
25 name, the suspect's name if there's a suspect, the

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1 incident type. And then each item is actually given
2 a SLED laboratory item number.

3 Q Okay. But is there one big lab number that
4 everything goes into or each one gets a separate lab
5 number?

6 A It's given one big specific lab number, like,
7 in this case, this one is case number L0711377. And
8 then as the items are logged in, they're given
9 numerical order. Like, usually if it's something
10 that I log in, I log in the CD with my crime scene
11 photos as my first item, so that's always considered
12 item one. And then you go sequentially there
13 depending on how they're listed basically on the
14 log-in sheet.

15 Q So what item number is this bag here that you
16 held up that held the GSR kit from the outside of
17 the car; do you know?

18 A And actually because I did three GSR kits, each
19 GSR kit is given a specific item number, but because
20 all three are going to the same department, I put it
21 in a container. So there's also container numbers
22 that are related to the items of evidence.

23 Q Okay.

24 A I don't mean to get confusing.

25 Q So all the GSR kits are in what container?

1 A They went in container C. And actually on the
2 back of each kit, we actually put the item number
3 label, so the --

4 Q Okay. So what item number do you have for that
5 kit on the outside of the car?

6 A The GSR kit from the vehicle is SLED item
7 number 12.

8 Q Okay. Item 12. Now, how about the GSR kit
9 from Andrew Chandler, what was that item number?

10 A That was item 11.

11 Q Is there another GSR kit in there?

12 A Yes.

13 Q What is its number?

14 A It is item 10.

15 Q And how is it marked on the outside as to what
16 it bears?

17 A You mean whose name is on it?

18 Q Yes, whose name?

19 A It's listed that the suspect -- excuse me --
20 the subject's name is Michael D. Watson.

21 Q Okay. So there's another one there with his
22 name on it?

23 A Yes.

24 Q All right. So did you complete now -- is that
25 everything you did at scene two?

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1 A Yes, sir.

2 Q All done at scene two?

3 A Yes, sir.

4 Q So you've completed actions on the outside of
5 the car and photographs of the car, tested for GSR
6 on the car and that's it?

7 A Correct.

8 Q All right. You bagged up the evidence from
9 scene one, you put it in a separate bag for whatever
10 it was, right? And it was, I believe, a shotgun
11 wadding.

12 A It would have been -- I basically make one big
13 box for my crime scene and usually all of the
14 evidence goes in that one box, but they're usually
15 individually containerized, like the wadding would
16 have been put in this tin and the tin would have
17 gone in my box.

18 Q Do you mark the outside with your name or
19 something?

20 A It's marked with my initial and the initials of
21 the other SLED agent who responded with me.

22 Q So, at this point, you've got everything logged
23 and tabulated or whatever, you're ready to go to the
24 next scene?

25 A Correct.

1 Q All right. And so how long until you got to
2 the next scene?

3 A Right offhand I don't know, probably about -- I
4 think it was about a 20 or 30 minute drive from the
5 sheriff's office.

6 Q Okay. So you go out to this location. Do you
7 remember where it was?

8 A Hill Drive.

9 Q And what address was that? Is it significant
10 in some regard to this case?

11 A The specific address is [REDACTED] Hill Drive, Saluda.
12 And we actually arrived on that scene on the morning
13 of the 6th at approximately 4:25 in the morning.

14 Q Been a long night?

15 A Fairly, yes, sir.

16 Q All right. Now, did you also go through the
17 process of photography?

18 A Yes, sir.

19 Q All right. Now, I'd like to restrict most of
20 your testimony to simply the outside, but you did --
21 because we're going to deal with the issue of what
22 was found outside primarily. You did go inside the
23 house?

24 A Yes, sir.

25 Q You took photographs?

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- 1 A Yes, sir.
- 2 Q And while you were inside the house, you
- 3 collected several items of evidence, but one of
- 4 these is perhaps something you can recognize if I
- 5 show it to you in the picture?
- 6 A Yes.
- 7 Q Did you take a picture of something like this?
- 8 Do you recognize that picture?
- 9 A Yes, sir.
- 10 Q What is that?
- 11 A It is an empty box. It's a Winchester Super X
- 12 and it noted that it had 25 shot shells in it.
- 13 Q Okay. It was a box of shot shells?
- 14 A Yes.
- 15 Q And where did you take that picture?
- 16 A It was actually in one of the bedrooms in the
- 17 residence.
- 18 Q Do you know whose bedroom it was?
- 19 A I don't recall right offhand.
- 20 Q Do you have any notes to that effect?
- 21 A I can double check.
- 22 I just notated in my notes that it was a back
- 23 bedroom.
- 24 Q All right. And did you collect that box of
- 25 shells?

1 A Yes, sir.

2 Q Or the shell box. Did it have any shells in it
3 or not?

4 A No, sir, it was empty.

5 Q Okay. Would you be able to recognize that
6 again if you saw it?

7 A Yes, sir.

8 Q Let me show you what's been marked as State's
9 Exhibit Number 29 and ask if you can recognize that?

10 A Yes, sir.

11 Q Would it assist you if we opened that up so you
12 can take a full and complete look at it because I'm
13 going to ask a question about what you may have been
14 able to see on the box?

15 A Sure.

16 Q And for the record, you're holding a sealed
17 envelope?

18 A Yes, sir. It's a heat-sealed pouch.

19 Q And is that the box that you collected at the
20 scene?

21 A Yes, it is.

22 Q Was it in the pouch when you collected it?

23 A No, sir. I put it in this paper bag and I
24 notated on the paper bag that it was a back bedroom,
25 shoe box in corner. And it's notated, One empty

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1 Winchester 20-gauge, is all I can see, but it was
2 put in the paper bag. And then once I processed it,
3 I put it in the heat-sealed pouch.

4 Q Okay. So you're the one that did that?

5 A Yes, sir.

6 Q Could you open that up and I'd like you to take
7 a look at the box itself.

8 A (Witness complies.)

9 Q I'm going to ask you to refer to any writing
10 that may appear on the exterior of the box as to the
11 size of shot that may appear on the box if it's
12 anywhere.

13 A On the lid of the box, it notates that it's a
14 Winchester Super X heavy game load 20-gauge, two and
15 three quarter inches, two and a half. It's a one
16 ounce and it's a six led shot.

17 Q So a number six size shot?

18 A Yes, sir.

19 Q Okay. Would you return that to the envelope?

20 A Sure.

21 Q Now, it's got all that stuff over it, which is
22 -- what is that kind of black stuff on it, what's
23 that for?

24 A That's fingerprint powder.

25 Q You didn't get any prints off that, did you?

1 **A** No, sir.

2 **MR. YOUNG:** The State would offer into evidence
3 Exhibit Number 29.

4 **MR. ANDERSON:** No objection.

5 **THE COURT:** Mark it into evidence, please.

6 (State's Exhibit Number 29, Winchester Super
7 X box, admitted into evidence.)

8 **BY MR. YOUNG:**

9 **Q** Now, if we could, I would like to proceed to
10 the exterior of the house. Did you go around the
11 exterior of the house and take any photographs in
12 that area?

13 **A** Yes, sir, we did.

14 **Q** Okay. Would you be able to recognize those
15 photographs again if you saw them?

16 **A** Yes.

17 **Q** Let me hand up to you what's been marked as
18 State's Exhibit 9, 10, 11 and 12 for identification.
19 Would you take a look at those please and tell me if
20 you recognize them?

21 **A** Yes, sir, I do.

22 **Q** What are they?

23 **A** These are photographs that were taken from the
24 yard at [REDACTED] Hill Drive. And in basically all of the
25 photographs, it is spent shot shells or fired shot

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1 shells.

2 Q Okay. And that's what you saw on the grounds
3 outside the home?

4 A Yes, sir.

5 Q Now, in connection with that location in
6 finding those particular items, did you do anything
7 to collect them or take them into custody?

8 A We actually did what I told you that we would
9 do at earlier scenes. We actually notated them.
10 They were marked with evidence markers and, yes,
11 they were collected for processing.

12 Q Okay. And did -- how many total shot shells
13 did you collect; do you recall?

14 A I think there was three from outside.

15 Q Okay. And in those pictures are what color
16 shells?

17 A Yellow.

18 Q Okay. Let me hand up what's been marked as
19 State's Exhibit Number 31 and 32 and ask you to take
20 a look at those, please. Do you recognize that?

21 A Yes, sir.

22 Q What is it?

23 A State's Exhibit 31 is the shot shell that we
24 collected from marker two. And State's Exhibit
25 Number 32 is the shot shell we collected from marker

1 one.

2 Q Okay. Now, at the time you did the collection,
3 did you -- is there such a thing on a shell as a way
4 of telling what kind of gauge it is or anything just
5 on the outside of it?

6 A Usually there is, but these are kind of
7 deteriorated and the actual -- the marking is
8 actually faded off of the sides. And I'm trying to
9 see if it's headstamped. But they're actually
10 marked on the headstamp as 20-gauge.

11 Q So those are 20-gauge shells?

12 A Yes, sir.

13 Q And do you know whether or not you can actually
14 visualize the size of shot that might appear, if at
15 all, on any of those shells?

16 A I'm not sure what you --

17 Q In other words, does the shell itself bear a
18 number that would indicate the size of shot on it?

19 A Usually, yes, sir.

20 Q Are you able to see that on these shells?

21 A Not to the point that I would have written it
22 down because they're very faded.

23 Q I understand. Thank you.

24 MR. YOUNG: Your Honor, at this time, the State
25 will offer into evidence State's Exhibits 31, 32,

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1 30, 30 being the wadding collected at the initial
2 crime scene, 31 and 32 are the yellow shot shells,
3 and the photographs, Your Honor, Numbers 9, 10, 11
4 and 12 -- excuse me -- 8, 9, 10, 11 and 12.

5 THE COURT: Subject to previous objections?

6 MR. ANDERSON: That's all, yes, sir.

7 THE COURT: Mark those in evidence, please.

8 (State's Exhibit Numbers 8 through 12 and 30
9 through 32 admitted into evidence.)

10 BY MR. YOUNG:

11 Q Now, this is scene number three, and I'm using
12 that term, scene number three. And you did collect
13 another shotgun shell at that scene?

14 A Yes, sir.

15 Q Okay. Would you be able to identify that again
16 if you saw it?

17 A Yes, sir.

18 Q Let me hand up what's marked as State's Exhibit
19 Number 33. Do you recognize that?

20 A Yes, sir, I do.

21 Q And what is that?

22 A It is one Super X shot shell also from Hill
23 Drive.

24 Q Okay. Was that in the yard area or found
25 somewhere else?

- 1 A It's also in the yard area.
- 2 Q And is that a different gauge?
- 3 A Yes, sir. This one's a 12-gauge.
- 4 Q In connection with all of this then, after you
- 5 collected all this evidence, you took photographs of
- 6 that too as well?
- 7 A Yes, sir.
- 8 Q And where it was. That had its own marker?
- 9 A Yes.
- 10 Q At the conclusion of collection of all this
- 11 evidence then, was that pretty much the end of your
- 12 efforts to collect evidence at the scene?
- 13 A Yes, sir.
- 14 Q All right. Do these shells, shotgun shells,
- 15 have they received the same treatment in terms of
- 16 being brought into -- did these shells receive the
- 17 same treatment in terms of how they were handled and
- 18 brought into custody and processed as evidence at
- 19 SLED?
- 20 A Yes, sir.
- 21 Q So they had separate item numbers?
- 22 A Yes, sir.
- 23 Q But they were all in the same big lab number?
- 24 A Yes, sir.
- 25 Q Okay. And just for the record, can you tell us

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1 the item numbers on the -- item number 31 and 32 --
2 excuse me -- on the two shotgun shells marked as
3 State's Exhibits 31 and 32?

4 A The shot shell for marker one, which is a
5 20-gauge, which is State's 32, is SLED item number
6 16.

7 Q Does that appear on the bag?

8 A No, sir -- actually, it does in the handwriting
9 of the firearms examiner.

10 Q Okay.

11 A And then the shot shell that's marked as
12 State's Exhibit 31 is SLED item number 17.

13 Q And does that also appear on the bag?

14 A Yes, sir.

15 Q All right. Thank you. At any time in your
16 handling of these items of evidence, and I'm going
17 to refer specifically to the GSR kits, did you make
18 any change in the quality, condition or contents of
19 those little tabs you described after you placed
20 them in that bottle?

21 A No, sir.

22 Q Did you allow anyone else to have custody of
23 them until they were turned over into evidence?

24 A No, sir.

25 Q And as far as you know, was there anything that

1 would change the quality or condition from the time
2 you brought them into your custody until you turned
3 them into evidence?

4 A No, sir.

5 MR. YOUNG: Your Honor, I'm going to publish to
6 the jury the items that were just introduced. I
7 pass to the jury item number -- State's Exhibit
8 Number 30 and photographs 6 through 12, three
9 shotgun shells and the Winchester box, empty box of
10 shotgun shells, pass those to the jury now for their
11 review.

12 And for their reference, Your Honor, I'm going
13 to pass back State's Exhibit Number 26, black and
14 white photograph of Andrew Chandler at the crime
15 scene where the markers are displayed, so they'll
16 have that for reference.

17 MR. ANDERSON: Judge, for whatever it's worth,
18 that photograph has already been through one time
19 (inaudible) --

20 COURT REPORTER: I can't hear you.

21 MR. ANDERSON: The photo of the crime scene has
22 already been through the jury once and I don't see
23 why it needs to go be published again.

24 THE COURT: I don't know of any prohibition.

25 MR. ANDERSON: Okay. Thank you.

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1 **THE COURT:** The objection's overruled.

2 (Pause.)

3 BY MR. YOUNG:

4 **Q** All right, one final question. In your visits
5 to three separate crime scenes or incidents where
6 you were collecting evidence, first, at Saluda
7 Terrace Apartments, secondly, at the sheriff's
8 office at the car and, third, in the search of the
9 house and photograph of the house and its
10 surrounding areas, did you recover or come into
11 contact with a shotgun?

12 **A** No, sir, we did not.

13 **MR. YOUNG:** I have no further questions, Your
14 Honor.

15 Please answer any questions that the defense
16 may have.

17 **THE COURT:** Cross.

18 **MR. ANDERSON:** Judge, could I wait until
19 they're done looking at the evidence?

20 **THE COURT:** Yes, sir.

21 (Pause.)

22 CROSS-EXAMINATION

23 BY MR. ANDERSON:

24 **Q** How are you doing today?

25 **A** I'm fine.

1 Q I saw you referring to some of your own
2 documents when you were testifying earlier. Do you
3 actually have a list of your -- on one sheet of the
4 evidence you collected?

5 A I have a copy of the log-in sheet.

6 Q Can I see that, please?

7 A Sure.

8 Q And what's on that sheet is everything you
9 collected. There's nothing that you collected
10 that's not on the sheet?

11 A It would be what I logged in, so it would have
12 been what I collected, yes, sir.

13 Q Did anybody else from SLED collect any other
14 evidence?

15 A I don't think there was anybody from SLED, but
16 I'm sure somebody brought items in from the autopsy.

17 Q Okay. I notice that the two, the hand-rolled
18 cigarettes were on there. Did y'all test those to
19 confirm they were marijuana?

20 A Our drug I.D. department would have done that
21 if it had been completed.

22 Q Do you know if that was done?

23 A I honestly don't know.

24 Q Okay. One of the things you collected was a
25 palm print from the rear passenger door, I think

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1 that's number -- is that 21? And you actually got a
2 print. And then your report indicates that it was
3 negative for Andrew Chandler; is that accurate?

4 **A** Let me double check on my report.

5 That is correct.

6 **Q** So that means you found a palm print and you
7 ran it against Andrew Chandler and then did you run
8 it against anybody else?

9 **A** It means that we found a partial palm print on
10 the vehicle. I had Andrew Chandler's -- or, excuse
11 me, Willie Andrew Chandler, I had his palm prints,
12 so I compared them against him. And because I did
13 not have anybody else's palm prints, it was run
14 through the South Carolina AFIS system, which is the
15 Automated Fingerprint Information System, which is
16 the big database of finger and palm prints, and
17 there was nobody that it matched that was on the
18 system.

19 **Q** Okay. So, like, if somebody had been convicted
20 since then, it wouldn't have been in your check and
21 if somebody hadn't been convicted of anything
22 serious at all, they wouldn't be involved in your
23 check, correct?

24 **A** Well, even, in this case, a lot of agencies
25 don't submit palm prints and the system is dependent

1 on local agencies when they make arrests submitting
2 the palm prints or the fingerprints into the system.
3 So if the agency didn't submit the palm prints, then
4 they wouldn't be in the system.

5 Q Okay. I wasn't even going there. I was just
6 wondering if you ran that palm print against any of
7 the other people involved in this case because there
8 were five young men at the scene?

9 A I did not have palm prints from anybody besides
10 Mr. Chandler to compare it to.

11 Q Okay. So we don't know whose palm print that
12 is?

13 A I know that it's not Mr. Chandler's.

14 Q Okay. You took a whole bunch of photographs.
15 There was one photograph in the defendant's house of
16 an Air Jordan box that was in the corner.

17 A Yes, sir.

18 Q Do you remember that?

19 A Yes, sir.

20 Q I was just wondering when I saw that picture,
21 if you thought that the Air Jordan found at the
22 scene might have been the defendant's Air Jordan and
23 that's why you took a picture of the box?

24 A No, sir.

25 Q That's just a coincidence?

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- 1 A Yes, sir.
- 2 Q Okay. In your notes, there's something you
3 note, the blue shirt and one shoe were in the
4 parking lot with a blunt, which, and your quote is,
5 Which supposedly belongs to a person who is standing
6 near the victim when he was shot. Does that sound
7 right?
- 8 A Yes, sir.
- 9 Q Who told you that because we -- that wasn't in
10 any paperwork whatsoever and it didn't come out
11 until testimony yesterday who that shoe belonged to?
- 12 A That was the information I was given by one of
13 the officers from the police department when I was
14 on the scene.
- 15 Q Do you know why that wouldn't have been in a
16 report anywhere or --
- 17 A I don't have any control over their reports.
- 18 Q Okay. Do you know how that officer found that
19 out?
- 20 A I don't have any idea. That was information
21 that I was given and I didn't ask specifically where
22 it came from.
- 23 Q Okay. Do you remember which officer told you
24 that?
- 25 A It's been almost three years since I worked the

1 scene, no, sir, I don't.

2 Q Well, I wouldn't remember. I'm not fussing at
3 you.

4 A No, sir, I don't.

5 Q Let me show you Defendant's 1 and 2, okay?

6 A Okay.

7 Q And I'm just showing you 1 for the context. So
8 there's 1. And is 2 a blow-up of kind of a pocket
9 area of 1?

10 A 2 is actually a totally different photograph,
11 but it shows more the left-hand pocket of the
12 victim.

13 Q What's up with that left-hand pocket?

14 A It just appeared to us that maybe he had been
15 pulling something out of his pocket. Most people
16 don't walk around with the white part of their
17 pocket showing and it was kind of unusual, so we
18 just documented it with photographs.

19 Q Could that also have happened after he had
20 passed away?

21 A I don't know.

22 Q Okay.

23 A It was there when we got there, so, like I
24 said, we just documented it with photographs because
25 it was unusual.

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1 Q Okay. And then while we were waiting around, I
2 showed you one of the photographs and then we were
3 concentrating on the hand?

4 A Yes, sir.

5 Q Okay. Let me ask you this, and I couldn't
6 print it out --

7 MR. YOUNG: Let me see what you're referring to
8 first.

9 (Pause.)

10 BY MR. ANDERSON:

11 Q And I told you I was pretty bad with computers
12 and it took me a while to blow this up, but you and
13 I kind of -- you watched me blow it up from one of
14 your own photographs?

15 A Yes, sir.

16 Q And I was -- we were talking and that's right
17 when the Judge called the jury in so we never really
18 finished. Doesn't that hand look kind of weird the
19 way it's holding the lighter?

20 A If he was alive, then I would say, yes, it
21 does, but because of the way the muscles in the body
22 change after death, it's not uncommon to find
23 something like that.

24 Q Would it also be consistent with maybe somebody
25 putting that lighter in his hand after this

1 incident?

2 A I wouldn't have any knowledge of that.

3 Q Well, I know that, but it looks unusual,
4 doesn't it?

5 A Somewhat, yes, sir.

6 Q Okay.

7 MR. ANDERSON: Judge, I couldn't print this
8 out, but could I publish this enlarged photograph
9 just to show the jury?

10 THE COURT: Does she have the photograph?

11 MR. ANDERSON: Not this big, Judge. I took her
12 photograph and just kind of zoomed in on the hand.

13 THE COURT: You're going to hand your computer
14 around through the jury box?

15 MR. ANDERSON: Well, Judge, I think it's big
16 enough, if I just kind of stood here with it, they
17 can see it.

18 THE COURT: Is it in evidence?

19 MR. ANDERSON: Yes, sir.

20 MR. YOUNG: Your Honor, I think it would be
21 just as effective if Mr. -- do you have your other
22 two photographs?

23 MR. ANDERSON: Frank, it took me 20 minutes to
24 pull that up.

25 THE COURT: Y'all answer my question. Is it in

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1 evidence?

2 MR. ANDERSON: I think there's a picture --

3 THE COURT: Give me a number.

4 MR. YOUNG: I can't answer because I don't have
5 the photograph.

6 MR. ANDERSON: Actually, Your Honor, State's 21
7 is a picture of the hand, but it's at a different
8 angle.

9 THE COURT: All right. Do you have that other
10 picture?

11 MR. ANDERSON: It's not in evidence, Judge.

12 THE COURT: Well, do you want to put it in
13 evidence?

14 MR. ANDERSON: I can't print it out, Your
15 Honor.

16 THE COURT: She doesn't have it?

17 THE WITNESS: All my photographs are digital
18 and the copies that I have are on C.D.

19 MR. ANDERSON: I went to my office this morning
20 and tried to print it out and I couldn't print it
21 out in an enlarged way, Judge.

22 THE COURT: I understand that. I'm trying to
23 understand what y'all are trying to do exactly.

24 Does the State have any objection?

25 MR. YOUNG: Your Honor, let me take a look and

1 see if I can figure out which one of these it is.

2 **THE COURT:** He just said it's not in that
3 stack.

4 (Pause.)

5 **THE COURT:** Is it in evidence?

6 **MR. ANDERSON:** No, sir.

7 **MR. YOUNG:** No, sir, it's not.

8 **THE COURT:** All right. Is there any objection?

9 **MR. YOUNG:** Your Honor, I object at this point
10 of showing something that we can't later hand to the
11 jury. If we can't reproduce it at this point --
12 well, she may be able to establish that it's a fair
13 and accurate representation. I'll help Mr. Anderson
14 out on that.

15 **THE COURT:** She may be able to do what?

16 **MR. YOUNG:** She may be able to testify that
17 it's a fair and accurate representation of a picture
18 she took, a blow-up of it, but she hadn't done that
19 yet.

20 **THE COURT:** All right. If something is in
21 evidence, then you can use any mechanism you want
22 to, you can use anything to blow it up
23 electronically, you can do anything you want to. If
24 it's not in evidence, then I need to know if -- I
25 apologize if I'm not clear, I need to know if

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1 there's an objection.

2 **MR. YOUNG:** Yes, sir, I object. It is not in
3 evidence and I don't want it going to the jury in
4 that fashion.

5 **THE COURT:** All right. Ladies and gentlemen of
6 the jury, please step in the jury room.

7 Print it out. We're at ease.

8 (The jury retires to the jury room.)

9 (Brief recess.)

10 (Defendant's Exhibit Number 3, photograph,
11 marked for identification purposes.)

12 **THE COURT:** All right. Are you ready, Mr.
13 Anderson?

14 **MR. ANDERSON:** Yes, sir.

15 **THE COURT:** You got what you need?

16 **MR. ANDERSON:** Yes, sir.

17 **THE COURT:** Is there going to be any objection
18 to this being in evidence?

19 **MR. YOUNG:** No, sir. We'll put it on the
20 record, Your Honor. There's no objection to this.
21 It's of poor quality, but I'm not going to object to
22 it.

23 **THE COURT:** Mark it in evidence.

24 (Defendant's Exhibit Number 3, photograph,
25 admitted into evidence.)

1 **THE COURT:** Bring in the jury.

2 (The jury returns to the courtroom.)

3 **THE COURT:** All right. Defendant's Exhibit 3
4 is in evidence, ladies and gentlemen. It's a
5 printout of the photograph that was on the screen
6 while ago.

7 All right. Go ahead, Mr. Anderson.

8 **MR. ANDERSON:** Thank you, Judge, sorry about
9 that.

10 **THE COURT:** No, that's all right.

11 BY MR. ANDERSON:

12 **Q** As we were saying, I'm showing you what's been
13 marked as 3, which is a poor quality picture, but
14 it's the one we were looking at on my computer and
15 that's from the picture you took that you watched me
16 blow up, correct?

17 **A** Yes, sir.

18 **Q** And that picture, this fairly and accurately
19 represents the young man's hand at the time at the
20 scene?

21 **A** Yes, sir.

22 **Q** When you took the photograph?

23 **A** Yes, sir.

24 **MR. ANDERSON:** Your Honor, I'd like to offer
25 this into evidence, please.

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1 MR. YOUNG: Without objection.

2 THE COURT: It's in.

3 MR. ANDERSON: Could I publish it, Judge?

4 THE COURT: Yes, sir.

5 MR. ANDERSON: Thank you.

6 BY MR. ANDERSON:

7 Q And then what I was asking you, this looks
8 weird, it's strange, but it's -- I mean, it's
9 horrible. It's in a young man's hand who's passed
10 away.

11 A And like I -- it's not necessarily strange to
12 me because I work crime scene and I see a lot of it
13 because I know the body does different things. It
14 didn't -- it wasn't anything that totally caught my
15 attention when we processed the scene.

16 Q But you'll acknowledge it is odd looking?

17 A Yes, sir.

18 Q Okay. Kind of like the pocket?

19 A Yes, sir.

20 Q Now, the lighter that's in his hand, did you
21 fingerprint that?

22 A No, sir, we did not.

23 Q Okay. You testified that you printed the shell
24 box that was found at the house. Did you ever --
25 did you print any of the shells?

1 A Yes, sir, they were processed also.

2 Q Were there any fingerprints on them?

3 A No, sir.

4 Q Okay. And then which -- you had three, I think
5 you mentioned three GSR samples or whatever you say.

6 What would you call it, GSR what?

7 A We call them GSR kits.

8 Q Three GSR kits from the passenger door.

9 A Well, actually, in that case, there was
10 actually -- in that case, there were four samples in
11 a GSR kit.

12 Q Okay. From the door area?

13 A Specific areas that I named out, yes, sir.

14 Q And the one that I'm assuming is going to
15 testify about, which one is it?

16 A I have no idea. I just collect the kit and
17 then it goes to a different department for analysis,
18 so I don't have any idea. I didn't even know until
19 this morning that supposedly one of them was
20 positive.

21 Q Okay. Now, did you photograph where the GSRs
22 were taken from?

23 A No, sir. We took general photographs of the
24 vehicle and we marked on the containers where the
25 kits came -- or where the samples came from.

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1 **MR. ANDERSON:** All right. Thank you.

2 **THE COURT:** Redirect.

3 **MR. YOUNG:** No questions.

4 **THE COURT:** Thank you, ma'am. You may step
5 down.

6 **MR. YOUNG:** Your Honor, may I ask this witness
7 to be released. She has an appointment in Pickens.

8 **THE COURT:** You're free to go. Make sure you
9 don't have anything with a sticker on it.

10 **THE WITNESS:** Yes, sir.

11 **MR. YOUNG:** The State calls SLED agent Ila
12 Simmons.

13 ILA SIMMONS,
14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. YOUNG:

17 **Q** Ms. Simmons, would you give us your full and
18 complete name?

19 **A** My full name is Ila Simmons.

20 **COURT REPORTER:** Can you spell your first name?

21 **THE WITNESS:** It's I-l-a.

22 BY MR. YOUNG:

23 **Q** Where do you work?

24 **A** At the South Carolina Law Enforcement Division
25 forensics laboratory's trace evidence department.

1 Q What do you do?

2 A I'm a trace evidence forensic chemist.

3 Q What does that mean?

4 A We analyze gunshot residue. We perform fiber
5 comparisons, glass comparisons, paint comparisons.
6 We analyze arson residues, as well as explosive
7 residue.

8 Q Now, you received evidence in a case with a
9 SLED lab number connected with this particular case
10 and I'll refer to the lab number as L0711377.

11 A Yes, sir.

12 Q You received evidence in that case for
13 examination?

14 A Yes, sir, I did.

15 Q Okay. And what did you receive, in general
16 form, what was it that you were looking for?

17 A Gunshot residue kits.

18 MR. ANDERSON: Judge, I'm sorry, I just renew
19 that objection, please.

20 THE COURT: Subject to the previous objections?

21 MR. ANDERSON: Yes, sir.

22 THE COURT: It's so noted.

23 MR. ANDERSON: Thank you.

24 THE COURT: You may continue. It's overruled.

25 MR. YOUNG: Thank you.

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1 BY MR. YOUNG:

2 Q At the point in time I was asking you a
3 question -- I'm sorry, I just had a complete blank,
4 so let me go back. At the point in time you
5 received this evidence, where was it?

6 A I received it from our evidence technician who
7 brings up our evidence and processes our gunshot
8 residue kits.

9 Q And by chain of custody, you keep chain of
10 custody?

11 A Yes, sir.

12 Q And so from the initial intake, it would have
13 come from Ms. Hallman?

14 A Yes, sir, it would have.

15 Q And went to you and then to someone else,
16 correct?

17 A Yes, sir. It would have come from Vickie
18 Hallman, then to myself and then to our GSR
19 technician that processes the samples for us.

20 Q And the GSR tech is who?

21 A Lisa McReynolds.

22 MR. YOUNG: I understand there is no objection
23 to going ahead at this point? You're awaiting the
24 presence of Ms. McReynolds as I understand it; is
25 that correct, Mr. Anderson?

1 **MR. ANDERSON:** Your Honor, can I talk to
2 Mr. Young?

3 **THE COURT:** Sure.

4 (Pause.)

5 BY MR. YOUNG:

6 **Q** Ms. McReynolds is available, is she not, to
7 come and testify today?

8 **A** Yes, sir.

9 **MR. ANDERSON:** No objection just to that part,
10 the chain part.

11 **THE WITNESS:** She's in the courtroom at the
12 moment, sir.

13 BY MR. YOUNG:

14 **Q** So in essence, ma'am --

15 **THE COURT:** Y'all are just agreeing to leave a
16 chain witness out; is that right?

17 **MR. YOUNG:** Yes, sir, we're stipulating to the
18 chain witness.

19 **THE COURT:** Okay. Somebody got it and somebody
20 gave it to somebody else, that's what y'all are
21 agreeing. All right, go ahead.

22 **MR. YOUNG:** Yes, sir.

23 BY MR. YOUNG:

24 **Q** And when you received this evidence, how was it
25 received?

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1 A It was packaged. It was sealed with evidence
2 tape, which is tape that helps us -- helps to be
3 indicated whether or not something has been tampered
4 with, it's been opened or just messed with in any
5 way.

6 Q And you received, I believe, three different
7 bags of GSR evidence?

8 A Yes, sir.

9 Q Okay. Would you be able to recognize those
10 bags again if you saw them?

11 A Yes, sir.

12 Q Let me hand up, what's not been marked, but
13 would you take a look at those bags. Are those the
14 bags that you examined?

15 A Yes, sir. These are the evidence that we had.

16 Q And if I can just cut right through that, you
17 got GSR kits on -- with a label on it, Michael
18 Watson?

19 A Yes, sir.

20 Q You got one on it with Andrew Chandler?

21 A Yes, sir.

22 Q And you got one on it from a car?

23 A Yes, sir.

24 Q Is that right? And you analyzed all of it?

25 A Yes, sir, we did.

- 1 Q And you didn't get any GSR off of Mr. Chandler?
- 2 A No, sir.
- 3 Q You didn't get any GSR off the Watson
- 4 submission?
- 5 A No, sir, I did not.
- 6 Q But you got something off the car?
- 7 A Yes, sir.
- 8 Q One item, correct?
- 9 A Yes, sir.
- 10 Q All right. Now, is there a way for you to look
- 11 inside the particular bag and know which one you got
- 12 a positive result from?
- 13 A Yes, sir.
- 14 Q Can you look inside the bag and tell me which
- 15 one of those you have?
- 16 A It was this kit here.
- 17 Q Okay. Now, do you know which one of those in
- 18 the kit you got a positive result off of?
- 19 A I would have to open it up and look at the
- 20 samples inside.
- 21 Q Would you go ahead and do that?
- 22 A It would be this particular sample here.
- 23 Q Okay. You're holding up a sample.
- 24 A Yes, sir.
- 25 Q Will you hand that to me, please?

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1 A Yes, sir.

2 Q On the outside, it reads, Right back, and
3 that's all crossed through and it's a big -- that's
4 how they're normally labeled, though, isn't it?

5 A Yes, sir, it is.

6 Q So someone crossed through that and then wrote
7 on there some other words. It says, Passenger door
8 front and above window.

9 A Yes, sir.

10 Q Is that correct?

11 A Yes, sir.

12 Q Now, you got -- that's the one that you got a
13 positive result off of?

14 A Yes, sir.

15 Q All right. And what was the positive for?

16 A We found one round led particle on this sample.

17 Q Led particle?

18 A Yes, sir.

19 Q And that's consistent then with the presence of
20 some form of gunshot evidence?

21 A Yes, sir, gunshot residue. Led is one
22 component of gunshot residue.

23 Q And, ma'am, there was no gunshot residue found
24 on either Mr. Chandler or Mr. Watson's samples, were
25 there?

1 A No, there was not.

2 Q How do you account for that? If there had been
3 a gun present in somebody's hands, what does that
4 mean?

5 A If someone fires a weapon, they generally do
6 get gunshot residue on their hands because gunshot
7 residue is a mixture of microscopic chemicals that
8 come out of a gun when it's fired. However, gunshot
9 residue can be easily removed. It has the
10 consistency of salt. If someone were to start
11 sweating, if they would put their hands in and out
12 of their pockets, if they would wash their hands,
13 all of these things can remove gunshot residue.

14 And then there's always the chance that someone
15 had not fired a weapon. If you do not fire a
16 weapon, you would not have gunshot residue on your
17 hands or if you weren't in the vicinity of a weapon
18 when it was fired, you couldn't get gunshot residue
19 on you.

20 Q Okay. So it comes off by washing your hands?

21 A Yes, sir.

22 Q All right. The other side of the question is
23 do different types of firearms have a greater or
24 lesser tendency to deposit this kind of residue?

25 A Yes, sir. The larger the caliber of gun, the

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1 more gunshot residue is produced. Something like a
2 large caliber handgun, a 45, or a long gun will
3 produce more gunshot residue going forward out of
4 the muzzle of the gun.

5 However, if someone is shooting a gun with a
6 long barrel like a shotgun or a rifle, the barrel is
7 farther away from the hands of the person shooting
8 the gun than a small handgun so the gunshot residue
9 does not have the same effect as to coming back and
10 getting on the hands of the person shooting the gun.
11 So generally we find less gunshot residue on someone
12 who shoots a long gun like a rifle or a shotgun than
13 a smaller handgun.

14 Q And, ma'am, does in fact the breech mechanism
15 of the firearm have some affect on the kind of -- or
16 amount that might be deposited?

17 A Yes, sir. On a semiautomatic, that is a weapon
18 where the shell that is spent is extracted from the
19 gun, gunshot residue -- a small amount of gunshot
20 residue can come out of that area too, so that can
21 get on the hands of someone that is firing the gun.

22 However, in a mechanism like a revolver or a
23 break breech gun where someone would have to
24 actually open the gun to take the spent shells out,
25 you're not going to get the gunshot residue on the

1 hands from that sort of mechanism.

2 Q Normally?

3 A Normally.

4 Q So it could be the type of weapon has some
5 impact on it?

6 A Yes, sir.

7 Q And, also, the distance of the hand from the
8 end of the muzzle?

9 A Yes, sir.

10 Q Of the weapon. So both of those are factors
11 and then, of course, those other matters you
12 mentioned.

13 Would also there be a greater tendency to
14 deposit more if it was a shorter weapon than a
15 longer weapon in terms of the muzzle itself just
16 because if the weapon had been short in some
17 fashion? In other words, if I had a regular barrel
18 weapon and it's -- let's say I had a 30-inch barrel
19 on a shotgun reduced to a, let's say, a 26-inch
20 barrel from a shotgun, would the 26-inch barrel have
21 a greater tendency to be closer to my hand and
22 therefore be more likely to deposit?

23 A Yes, sir, if you were the shooter of the
24 weapon, yes.

25 Q It might be also lessened by the fact that it

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1 was, you called it a breech weapon. That's actually
2 less of an ability --

3 A Yes, unless someone physically opened it and
4 opened the breech.

5 MR. YOUNG: I have no further questions. Would
6 you answer any question Mr. Anderson has.

7 THE COURT: Cross.

8 MR. ANDERSON: Thank you.

9 CROSS-EXAMINATION

10 BY MR. ANDERSON:

11 Q Hello.

12 A Hello.

13 Q You remember we talked recently.

14 A Yes, sir.

15 Q And you kindly spoke with me. What was my
16 frustration with you?

17 A Where the muzzle of the gun was when it was
18 fired.

19 Q No, but that's next. What was my frustration?

20 A I don't recall.

21 Q About the report.

22 A Where exactly the sample came from?

23 Q No, that's next, too. The thing that your
24 original report had no gunshot residue anywhere,
25 correct?

1 A Yes, sir, it did. It was a corrected report
2 that we had to send out, yes, sir.

3 Q And you just sent it to us, like, recently?

4 A Yes, sir. I sent it to the Solicitor's office
5 in, I believe, in March.

6 Q And this was a three-year-old case?

7 A Yes, sir.

8 Q And I expressed a little frustration at just
9 now getting it because I didn't even have it when we
10 talked.

11 A Oh, okay. No, sir, I didn't realize that.

12 Q Okay. Can you explain how that happened?

13 A Yes, sir. When we printed out the original
14 report, the final result from the vehicle where I
15 found the one round led particle was left off
16 because of a computer error and it was sent out.
17 And then it was found later and then a corrected
18 report was sent out showing that there was one round
19 led particle found.

20 Q And everything else was negative?

21 A Yes, sir.

22 Q Okay. Where exactly on the door was that?

23 A It was labeled as coming from passenger door
24 frame above window.

25 Q Do you know if that was on the inside of the

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1 car or the outside of the car?

2 A I never found that out. Ms. Hallman probably
3 could have testified to that.

4 Q So on the high part of the passenger window,
5 okay. And then you explained to me that if a barrel
6 of the gun had been inside the car, you would have
7 expected a lot of GSR inside the car?

8 A Yes, sir.

9 Q And then the other thing you'd said was it's
10 possible that the particle, the gunshot residue
11 could have been actually bounced back from the young
12 man that was shot. You called it blowback?

13 A Well, when a gun is shot, the blowback can come
14 back from the muzzle of the weapon, yes, sir.

15 Q Okay. Okay. And then the other thing you were
16 telling me, that if the car -- if it was shot from a
17 car, that if the car were moving, you wouldn't
18 expect to find gunshot residue?

19 A You wouldn't expect to find as much gunshot
20 residue, yes. If a car's moving down the road and
21 there's wind or if there's any sort of dew or rain,
22 it can remove the gunshot residue from the exterior
23 of the car, that is a possibility.

24 MR. ANDERSON: All right. Thanks.

25 THE COURT: Redirect.

1 REDIRECT EXAMINATION

2 BY MR. YOUNG:

3 Q So if a car drives away, the outside of the car
4 would basically, just anything that was on the
5 outside of the car would probably disappear pretty
6 quickly?

7 A Yes, sir.

8 MR. YOUNG: No further questions.

9 THE COURT: Recross.

10 MR. ANDERSON: No thank you.

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

13 Do you have any another witness?

14 MR. YOUNG: The State calls Ken Whitler.

15 I ask that Ms. Simmons be excused, Your Honor.
16 She has another appointment.

17 THE COURT: You're free to go. Thank you,
18 ma'am.

19 KENNETH H. WHITLER,

20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. YOUNG:

23 Q Sir, would you give us your full name?

24 A My name is Kenneth H. Whitler.

25 Q Sir, where do you work?

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1 **A** I work for the South Carolina Law Enforcement
2 Division, that's also known as SLED. I'm in the
3 forensic services laboratory in the firearms
4 department.

5 **Q** How long have you been doing that?

6 **A** I have been a qualified firearms examiner since
7 1991. I've been employed by SLED since 1997.

8 **Q** What qualifies you to do that job?

9 **A** There's no college to go to to get a degree in
10 firearms identification. You have to learn it from
11 other qualified examiners.

12 When I was employed by the FBI, I was in the
13 FBI laboratory, that's where I became qualified as a
14 firearms examiner. Their training period takes
15 approximately two years where you work on a number
16 of real cases with qualified examiners. You also
17 work a number of test cases. And then you do what
18 would, I guess, be considered independent study
19 where you do a lot of shooting of guns and
20 examination of bullets and cartridge cases.

21 But anyway, during that period, you're working
22 with examiners and when they feel that you have
23 reached the level of competence, then they give you
24 a series of three tests. If you successfully
25 complete those three tests, then you are qualified

1 to be a firearms examiner. I successfully completed
2 the period and was certified by the FBI in 1991 to
3 conduct examinations for them.

4 In 1997, I retired from the FBI lab and came to
5 SLED in their firearms department doing basically
6 the same job.

7 Q Sir, have you testified before as an expert in
8 ballistics and firearms identification?

9 A Yes, I have.

10 Q How many occasions?

11 A Over 225 in various state, federal and
12 territorial courts.

13 MR. YOUNG: We offer him as an expert, Your
14 Honor, in firearms and ballistics identification.

15 THE COURT: Any voir dire?

16 MR. ANDERSON: No thank you, Judge.

17 THE COURT: He is so recognized. You may
18 continue.

19 MR. YOUNG: Thank you, Your Honor.

20 BY MR. YOUNG:

21 Q With regard to lab -- SLED lab number L0711377,
22 did you receive any evidence for examination?

23 A Yes, I did.

24 Q Okay. Would you be able to recognize that
25 evidence again if you saw it?

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1 A Yes, I would.

2 Q I'd like to hand up to you what's been admitted
3 as State's Exhibits Number 30 through 33 and ask you
4 if you can take a look at each one of those and tell
5 me if you can identify them.

6 A Yes, I have seen all of this.

7 Q Sir, in your examination of those items, did
8 you also receive led and pellets and pellet
9 fragments?

10 A Yes, I did.

11 Q Did you take photographs of those items? And
12 in terms of how they were received, were they in a
13 bottle?

14 A Yes, they were.

15 Q Would you be able to recognize that again if
16 you saw it?

17 A Yes, sir.

18 Q Is that the bottle?

19 A Yes, sir.

20 Q Was it received in that bottle?

21 A It came in this plastic heat-sealed bag. The
22 bottle was inside and the pellets were inside a
23 smaller bag, plastic bag, that was folded up inside
24 the bottle.

25 When I took the pellets out, normally when

1 things come -- this appears to have come from an
2 autopsy, we sanitize the items and we don't put them
3 back in the same item because that would just
4 recontaminate them. So the second heat-sealed zip
5 bag which has my initials on it are the actual
6 pellets that were contained in the small plastic bag
7 that was inside the bottle.

8 Q And you examined those pellets for the purpose
9 of determining what?

10 A Pardon?

11 Q What did you -- why did you examine those
12 pellets? What would they be able to tell you and
13 did you come to any conclusions about the pellets?

14 A The pellets were examined to determine if I
15 could determine the size of them. Pellets come in
16 different sizes. They're assigned a number like
17 one, two, three, four, five, six and so on. It's
18 the number of the size of the shot depends on the
19 weight and the diameter of the pellets. And you
20 take the pellets and you determine the weight and
21 the approximate diameter and you can get a rough
22 idea or an idea of what size shot it was originally.

23 Q And what size were they?

24 A These were most consistent with being number
25 six shot.

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1 Q Now, in terms of the other items, you had an
2 item number marked on your report as 15; is that
3 correct?

4 A Yes, sir. Item 15, which is State's Exhibit
5 30.

6 Q All right. And that is what, sir?

7 A That is a one piece plastic wad, shot shell
8 wad, that's consistent with the kind of wad used in
9 some Winchester brand shot shells, 20-gauge.

10 Q And, sir, for those who are firearms
11 illiterate, and maybe folks over here in a rural
12 county probably know, could you just tell us what a
13 wadding is?

14 A Well, the wadding in a shot shell holds -- does
15 -- in this particular case, it's a one piece wad and
16 it has two purposes. This is the shot shell case or
17 body and this wad fits inside of it. What will go
18 in first is you'll have powder, then the wad will go
19 over the powder and then the shot will be put in
20 this cup area and then the end of the shot shell is
21 folded over. When they're fired, they expand. But
22 this would actually be a little shorter because it
23 would fold over and that would hold the shot in. So
24 this wad has two purposes, to keep the powder down
25 at the bottom of the shot shell and have a place for

1 the pellets to rest.

2 Q Sir, are you familiar with the flak,
3 characteristics of shot and wadding in terms of how
4 they function?

5 A Generally, yes, sir.

6 Q Generally, what happens to the wadding after it
7 leaves the barrel or the muzzle of a shotgun?

8 A Within a few feet or a few yards depending on
9 the style of the wad, they'll generally fall away.
10 The pellets will have more velocity than the --
11 because they have more weight than the wad does and
12 the wad will fall off, basically fall down behind it
13 because of the air friction. It catches the wad and
14 it stops it. So they may -- some wads may go a few
15 feet, some may go a few yards where the pellets may
16 go 50 yards or however depending on how far you're
17 shooting. The wad will never go as far as the shot
18 could.

19 Q Okay. With regard to this particular wadding,
20 it has the appearance of having separate little
21 petals from the top of it. What do those petals
22 represent?

23 A The pellets -- the petals are just merely to
24 let the -- some of these wads are solid all the way
25 around, some are like this that are separate and

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1 that just makes the -- in this case, it would make
2 it fall away faster. It wouldn't hold the shot as
3 it -- as like in a container. Some of the ones that
4 are solid all the way around, the shot would stay in
5 those longer, where this the petal will catch the
6 wind as it's flying through the air and separate a
7 little bit and it lets the pellets get away from the
8 cup.

9 Q So it's safe to say that the petals are closed
10 until it leaves the barrel and they open up as it --

11 A Yes. It's all held together. And if you look
12 at a new one, you'll see it's very solid, but it
13 doesn't take much of the air resistance to catch
14 them and flip them over. And it's a design however
15 they're trying to do. Some places -- some shells
16 are designed to open up faster, some they want the
17 shot to be contained longer so that you get a
18 tighter pattern at farther distances.

19 Q Okay. You have a shot shell wad. Is there any
20 way to determine that that wad came from a certain
21 caliber gauge of weapon?

22 A We can measure it and determine that it's
23 consistent with what is used in a 20-gauge shot
24 shell. There's the base area can be measured and
25 that's consistent with the diameter that would be

1 used in a 20-gauge shot shell.

2 Q And with regard to the shot shells that were
3 expended in casings or hulls, items 16 through 18,
4 were you able to determine anything from those shell
5 casings?

6 A Okay. You had three shot shells that were
7 submitted and those are Exhibits 31, 32 and 33. And
8 I determined that Exhibits 31 and 32 are 20-gauge
9 fired shot shells. Exhibit 33 is a fired 12-gauge
10 shot shell. Doing some microscopic examination, I
11 was also able to determine that Exhibits 31 and 32,
12 the two 20-gauge shot shells, were fired by the same
13 firearm.

14 Q Okay. And you're able to make that
15 determination about the two 20-gauge shot shells
16 being fired by the same firearm, you're being able
17 to make that determination how, how do you do that?

18 A When the shot shell is fired in the shotgun or
19 firearm that fired them, the area of the shot shell,
20 the case head, picks up marks from the breech face
21 of the firearm and those are the marks we're looking
22 for. And if there's sufficient agreement, we're
23 able to say they were fired by it.

24 Q And I'm trying not to be too technical, but a
25 breech face, can you tell the jury what you mean by

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1 a breech face?

2 A The breech face is merely a part or a bolt --
3 actually the bolt in a case of a shotgun that holds
4 the shot shell into the chamber area of the barrel.
5 And when the shot shell is fired, the shot shell is
6 pressed back against the bolt and it picks up
7 whatever marks are on it. This also has the firing
8 pen encased in it so that it picks up any firing pin
9 marks as well, but that's the back end -- it's the
10 back end of the shotgun that holds the shell into
11 the chamber basically.

12 Q Okay. And different types of breech mechanisms
13 hold the shot shell differently?

14 A They generally do about the same job. There's
15 something -- your barrel and your chamber are one
16 item. The shot shell is put in it. When the shot
17 shell goes off, pressure is generated and something
18 has to hold the shot shell in there until all the
19 gas is dissipated or you won't get as much velocity
20 out of your shells. So this is just a mechanism
21 that's built into the gun and there's a variety of
22 ways of doing it, but it's basically a part of the
23 shotgun or firearm that holds the shell or a
24 cartridge in the gun while it's being fired.

25 Q So in the case of a single shot breech action

1 type shotgun or double barrel breech action type
2 shotgun, there wouldn't be a bolt, there would be
3 just a sliding mechanism that would (indicating),
4 the chamber would be closed against the back of that
5 breech face?

6 A Yes. In a single barrel shotgun, there's no
7 bolt, but you've got the breech face is basically
8 where the firing pin comes through the frame. In a
9 shotgun that does have a bolt, then the bolt
10 actually has the firing pin built into it and it
11 also supports the back end of the cartridge or shot
12 shell.

13 Q But in any case like this, you're able to look
14 microscopically at the back or the base of these
15 shells to determine the 20-gauge shells were fired
16 out of the same shotgun?

17 A That's correct.

18 Q Are there markings on the exterior of the shot
19 shell casings that you examined that would indicate
20 gauge, size of shot, drams of powder or anything of
21 that nature?

22 A There's markings on these. They're hard to
23 read. The 20-gauges were -- 20-gauge it looks like
24 they were loaded with one ounce of six shot. The
25 12-gauge is an ounce and an eighth of also six shot.

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1 Q Did you have any firearm to compare any of
2 these shot shells with?

3 A No, sir.

4 Q So you're unable to make any specific
5 comparisons either by a breech mechanism or any
6 other method?

7 A No firearms were submitted. This is all.

8 MR. YOUNG: Would you answer any questions Mr.
9 Anderson has?

10 THE COURT: Cross.

11 MR. ANDERSON: No questions.

12 THE COURT: Thank you, sir. You may step down.
13 Do you have any other witnesses?

14 MR. YOUNG: Yes, sir.

15 THE COURT: Call your next witness.

16 You're free to go. Thank you, sir.

17 MR. YOUNG: Jeremy Butler.

18 JEREMY JARROD BUTLER,
19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. YOUNG:

22 Q Can you give us your full name?

23 A Jeremy Jarrod Butler.

24 Q Now, that mic is going to be funny to deal
25 with, so if you need to lean forward, that's fine,

1 but make sure everybody can hear you, okay?

2 A Yes, sir.

3 Q Mr. Butler, I'm going to direct your attention
4 to the night of August 5th, 2007 about 10:30 in the
5 evening, where were you?

6 A The Terrace Apartments in Saluda.

7 Q That's here in Saluda?

8 A Yes, sir.

9 Q In Saluda County?

10 A Yes, sir.

11 Q And while you were there, were you with anyone?

12 A Yes, sir.

13 Q Who?

14 A Raymond Kirkland, Andrew Chandler, Warren
15 Chandler, Corddaryl Ouzts and Duke Thomas.

16 Q What were y'all doing?

17 A Smoking.

18 Q Would that be marijuana?

19 A Yes, sir.

20 Q All right. When you got there, how did you get
21 there?

22 A We rode in Raymond car and Corddaryl car.

23 Q All of you rode in two separate cars?

24 A Yes, sir.

25 Q All right. And where did you go in the

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1 Terrace?

2 A To the back by the dumpsters.

3 Q Okay. Let me direct your attention over here
4 to State's Exhibit Number 27. And does that diagram
5 represent anything close to what you might have seen
6 in the area of Saluda Terrace Apartments?

7 A Yes, sir.

8 Q All right. Can you point out anything
9 particularly with regard to like, and I'll use the
10 numbers there, one and two, what are they?

11 A Raymond and Corddaryl car.

12 Q And number three?

13 A The dumpster.

14 Q And I've got an X on the ground, but I'll talk
15 about that in a minute. Do you know where you were
16 when you first got there and what did you do?

17 A Yes, sir.

18 Q What did you do?

19 A We were sitting on a tree that had fell,
20 smoking.

21 Q Okay. And is that in the parking area?

22 A No, sir. It's like down in the woods.

23 Q Where is it in relation to that dumpster?

24 A Do you want me to show you?

25 Q Sure, show us.

1 A About right here (indicating).

2 Q The area over to the left and behind the
3 dumpster?

4 A Yes, sir.

5 Q Is it wooded back in there?

6 A Yes, sir.

7 Q Okay. And I'm just going to ask you, when you
8 walk from that area up toward the cars, is that a
9 uphill, downhill or is it level?

10 A It's like uphill.

11 Q Okay. And if I would go from the cars toward
12 -- by the way, where is the entrance to that area of
13 Saluda Terrace Apartments? How do you get into that
14 area? Is there something on the -- what direction
15 would you come, if I use that diagram, what
16 direction would I come from if I was driving into
17 the Saluda Terrace, what area?

18 A Right there (indicating).

19 Q If I walked in that direction from the cars,
20 would I be still going uphill or downhill?

21 A You said if you was coming the direction of the
22 cars?

23 Q If I'm walking from the cars toward the
24 entrance way, which you pointed out, would I be
25 coming uphill, downhill or is it --

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1 A Oh, uphill.

2 Q Okay. So it still goes uphill. Now, on that
3 evening, where were you -- did you hear a car coming
4 in the area and drew your attention to a car? Was
5 your attention drawn to a car as it came into the
6 area?

7 A Yes, sir.

8 Q Okay. What direction did it come from?

9 A Like, it came into the Terrace, like, coming
10 down the hill.

11 Q From the entrance that you just pointed out?

12 A Yes, sir.

13 Q Okay. And where were you when you first heard
14 the car?

15 A Probably like right here (indicating).

16 Q Over by the cars is that what you were pointing
17 to?

18 A About right here on the edge.

19 Q Y'all were coming into the parking area?

20 A Yes, sir.

21 Q Where you were?

22 A Yes, sir.

23 Q And as that car came in, what were y'all doing,
24 walking up the hill or down the hill?

25 A No, we're standing by the cars.

1 Q Okay. Y'all were pretty much standing by the
2 cars?
3 A Yes, sir.
4 Q And as the car came into the area, what did it
5 do? Did you observe it?
6 A Sir?
7 Q Did you observe that car that was coming in
8 there or what did it do?
9 A Like, it just went around. It was, like,
10 making a circle to turn around.
11 Q Okay. Going fast or slow?
12 A Probably just regular speed for a parking lot.
13 Q Okay. Did you recognize that car?
14 A Yes, sir.
15 Q How did you recognize that car? How did you
16 know it?
17 A I seen it around.
18 Q Do you know who drives that car?
19 A Yes, sir.
20 Q Who?
21 A Michael Watson.
22 Q Okay. Did you get a good enough look at it?
23 Do you think you'll be able to recognize it again if
24 you saw it?
25 A What, the car?

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- 1 Q Yeah.
- 2 A Yes, sir.
- 3 Q I'm going to show you State's Exhibits 3, 4 and
- 4 5. Do you recognize those pictures? Do you
- 5 recognize those pictures?
- 6 A Yes, sir.
- 7 Q What are they?
- 8 A A picture of the car.
- 9 Q I'm sorry?
- 10 A A picture of the car he was driving.
- 11 Q That's the car?
- 12 A Yes, sir.
- 13 Q Okay. And I'm going to ask you to generally
- 14 describe the mood of your group as you see this car
- 15 coming through. What was the mood of your group to
- 16 people -- what were y'all -- were y'all excited,
- 17 upset, mad?
- 18 A I don't know how nobody else was feeling, I
- 19 wasn't.
- 20 Q Okay. Did anybody around you look like they
- 21 were mad, upset?
- 22 A No, sir.
- 23 Q Well, I mean, how were they acting? Were y'all
- 24 still smoking?
- 25 A I was.

1 Q Okay. Were the other people smoking, too?

2 A Yes, sir.

3 Q Okay. So, at this point, you just kind of,
4 what, hang out right there or you keep walking
5 forward or what do you do?

6 A Stop right there.

7 Q Did the other people kind of keep walking
8 forward a little bit? Where do they wind up, other
9 people, where do they go?

10 A I think Raymond and Duke -- I mean, Raymond and
11 Corddaryl and Warren was by Corddaryl car. I think,
12 like, Duke and Andrew was up a little further than
13 us.

14 Q Were you particularly paying attention to what
15 they were doing?

16 A Not really.

17 Q Let me ask you a simple question. How were you
18 feeling at that point? Were you feeling pretty
19 good?

20 A Yes, sir.

21 Q Were you kind of -- let's just ask the
22 question, I'm not sure it's the right word. Did you
23 feel like you had a buzz on or high?

24 A Yes, sir.

25 Q Okay. And, at that point, you're standing

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1 there by the car, what did you see -- excuse me --

2 which car did you say you were standing by?

3 A By Raymond's car.

4 Q Okay. And Raymond's car is which one of those,
5 one or two?

6 A Two.

7 Q So you're by car number two, closer to that.

8 Let me just ask this, if I use my finger and I point
9 to this side of two or this side of two or this area
10 around two, which direction were you from two, more
11 toward the telephone pole over here to the right or
12 what?

13 A No, sir.

14 Q Where were you, just point out?

15 A Like, right here (indicating).

16 Q Was it parked with the front end or which --

17 A He was backed in.

18 Q He's backed in, so you're toward the front of
19 his car backed in?

20 A Yes, sir.

21 Q Okay. Now, what did you observe this other car
22 that you say driven by Michael Watson do? What did
23 you see happen?

24 A He came in and he made a loop. And I guess he
25 seen us and he, like, stopped on brakes.

1 Q Where did he stop?

2 A Like, right in here somewhere (indicating).

3 Q All right. Then what happened?

4 A Sir?

5 Q Then what happened?

6 A Then, I mean, he came on around.

7 Q And what did you see happen?

8 A Sir?

9 Q What did you see happen, if anything?

10 A I heard somebody say, Shoot some now, then

11 that's when I seen the gunshot.

12 Q Shoot some what?

13 A Shoot some now.

14 Q Shoot some now?

15 A Shoot something now.

16 Q Shoot something now?

17 A Yes, sir.

18 Q And do you know who said that?

19 A No, sir.

20 Q Who was standing -- did it come from a certain

21 area?

22 A Sir?

23 Q Did it come from an area or a direction?

24 A Yes, sir.

25 Q From what direction? Were there people

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- 1 standing in that direction?
- 2 A Yes, sir.
- 3 Q Who was standing in that direction?
- 4 A Andrew and Duke.
- 5 Q In that direction?
- 6 A Yes, sir.
- 7 Q Okay. You don't know who said it?
- 8 A No, sir.
- 9 Q Did your attention get directed at that point
10 toward what was going on? Did you start looking
11 over there at them or did you stay -- where were you
12 looking?
- 13 A I still was just -- just looking around.
- 14 Q You weren't looking at Duke or Andrew then?
- 15 A No, not then. I was just looking around see
16 what everybody going to do.
- 17 Q Okay. Well, did you think something was going
18 to happen?
- 19 A No, sir.
- 20 Q When somebody says, Shoot now, how did you
21 react?
- 22 A I mean, I didn't think nothing was going to
23 happen.
- 24 Q Okay. Did something happen?
- 25 A Yes, sir.

1 Q What?

2 A Somebody got shot.

3 Q Who got shot?

4 A Andrew.

5 Q Where did the shot come from?

6 A Out of the car.

7 Q Did you see who was in the car?

8 A Yes, sir.

9 Q Who?

10 A Michael Watson.

11 Q Was anybody else in that car?

12 A I don't know.

13 Q You don't know?

14 A No, sir.

15 Q You didn't look that carefully?

16 A I mean, the passenger seat was laid all the way

17 down.

18 Q I'm sorry?

19 A I said the passenger seat was laid all the way

20 down so I couldn't see the passenger seat.

21 Q What side of the car did you see this happen

22 from?

23 A Passenger side.

24 Q What exactly did you see?

25 A I just remember seeing fire come off the gun.

JEREMY JARROD BUTLER - DIRECT BY MR. YOUNG

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- 1 Q And a bang?
- 2 A Yes, sir.
- 3 Q What did you do then?
- 4 A I ran.
- 5 Q Where?
- 6 A Like behind Raymond car.
- 7 Q What were the other people doing that were
- 8 standing there?
- 9 A I remember Raymond, I remember Raymond he was
- 10 ducking too, but I don't know what they was doing.
- 11 Q You just ran for cover?
- 12 A Yes, sir.
- 13 Q So did you see the car leave?
- 14 A Yes, sir.
- 15 Q When it left, how fast did it go or slow did it
- 16 go?
- 17 A He took off fast.
- 18 Q What direction did he take?
- 19 A Like he was leaving out of the Terrace.
- 20 Q Did he go out the same way he came in?
- 21 A Yes, sir.
- 22 Q In a hurry?
- 23 A Yes, sir.
- 24 Q Can you tell me where Andrew was?
- 25 A He was laying, like, right where the X at.

1 Q Laying there?

2 A Yes, sir.

3 Q Did you go over to him?

4 A Yes, sir.

5 Q What did you see?

6 A A lot of blood.

7 Q Did you touch him?

8 A No, sir.

9 Q Did you see anybody touch him?

10 A No, sir.

11 Q Did anybody in your group have a gun?

12 A No, sir.

13 Q Did anybody in your group say they had a gun?

14 A No, sir.

15 Q Did anybody threaten anybody that was in the

16 car?

17 A No, sir, not that I know of.

18 Q When you heard the words, Shoot something now,

19 or whatever you said, was that being directed --

20 well, let me ask you this. How did you take that?

21 What do you think they meant by that? How did it

22 react to you? What did you think?

23 MR. ANDERSON: Your Honor, I'm going to object

24 to the relevance of that question, Judge.

25 MR. YOUNG: I'll rephrase it.

JEREMY JARROD BUTLER - DIRECT BY MR. YOUNG

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1 **THE COURT:** I thought he said he didn't even
2 know who said it.

3 **MR. YOUNG:** That's right.

4 BY MR. YOUNG:

5 **Q** Well, how did you react to it?

6 **A** I mean, I didn't -- I didn't think nothing was
7 going to happen.

8 **Q** Did you think somebody in your group was going
9 to shoot somebody?

10 **A** No, sir.

11 **Q** Did you think somebody in your group was
12 taunting somebody or challenging somebody?

13 **A** Probably like a taunt.

14 **Q** But you don't know who said it?

15 **A** No, sir.

16 **Q** Okay. Now, Raymond (sic), you gave the police
17 a statement, did you not?

18 **A** Yes, sir.

19 **Q** And, in fact, you were actually in custody when
20 you gave that statement, didn't you?

21 **A** Yes, sir.

22 **Q** And that statement you gave to police you gave
23 at a point in time when you committed a probation
24 violation; isn't that right?

25 **A** Yes, sir.

- 1 Q And so you got taken down to the police station
2 and they asked you to give a statement about what
3 you observed?
- 4 A Yes, sir.
- 5 Q But you weren't in custody for anything you did
6 at the scene, were you?
- 7 A No, sir.
- 8 Q You were a witness?
- 9 A Yes, sir.
- 10 Q You're on probation for contributing to the
11 delinquency of a minor, correct?
- 12 A Yes, sir.
- 13 Q And you were convicted of that several years
14 ago?
- 15 A Yes, sir.
- 16 Q And when you gave that statement -- you read
17 your statement, haven't you?
- 18 A Yes, sir.
- 19 Q All right. And didn't you say in your
20 statement that Duke and Andrew said, Shoot now?
21 Didn't you say something to that effect? I showed
22 you your statement today.
- 23 A (No response.)
- 24 Q Do you want to see it again?
- 25 A Yes, sir. (Witness reviewing document.)

JEREMY JARROD BUTLER - DIRECT BY MR. YOUNG

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- 1 Q What does that say?
- 2 A Sir?
- 3 Q What does it say? What did you write?
- 4 A That Duke and Andrew walked towards the car and
- 5 said, Shoot -- Shoot now.
- 6 Q Duke and Andrew walk toward the car and said,
- 7 Shoot now?
- 8 A Yes, sir.
- 9 Q Are you sure -- you're not sure whether it was
- 10 Duke or Andrew or both?
- 11 A It was one person, but I'm not sure which one
- 12 it was, that's why I put both names.
- 13 Q Okay. You're not sure which one, you just put
- 14 both names?
- 15 A Yes, sir.
- 16 Q That was your attempt to try to explain it came
- 17 from over there?
- 18 A Yes, sir.
- 19 Q All right. It also says, He let off a shot and
- 20 spin wheels. Didn't you say that, also?
- 21 A Yes, sir.
- 22 Q And, He let off a shot, was who?
- 23 A Michael Watson.
- 24 Q Okay. When -- were you pretty upset and
- 25 nervous when you made that statement?

1 A Yes, sir.

2 Q Okay. And do you think your ability to
3 recall -- let's just put it this way, your ability
4 to perceive what happened at the time was somewhat
5 influenced by the marijuana you'd been smoking,
6 perception changed a little bit?

7 A Yes, sir.

8 Q Okay. You're sure about Michael Watson,
9 though?

10 A Sure about what?

11 Q Michael Watson being driving that car?

12 A Yes, sir.

13 Q You sure he's the one who shot?

14 A No, sir.

15 Q You're not sure about that, why?

16 A I'm just sure he was driving.

17 Q All right. And you saw a blast come out of
18 that car?

19 A Yes, sir.

20 Q And you didn't see anybody else in the car?

21 A Yes, sir.

22 Q Okay. Fair enough. Specifically, did you see
23 Andrew just prior to the shot happen? Were you
24 looking at him at all or were you looking at the
25 car?

JEREMY JARROD BUTLER - CROSS BY MR. ANDERSON

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1 **A** Looking at the car.

2 **Q** Do you know about how close that car was to
3 Andrew when he was shot? This close, closer
4 (indicating)?

5 **A** No, not that close.

6 **Q** Not that close. Tell me how far from me to
7 you.

8 **A** About some more. A little further. Probably
9 about, I guess, like that right there.

10 **Q** You're standing over by the -- by this car
11 looking back in that direction?

12 **A** Yes, sir.

13 **MR. YOUNG:** Okay. Answer any questions Mr.
14 Anderson may have for you.

15 **THE COURT:** Cross.

16 CROSS-EXAMINATION

17 **BY MR. ANDERSON:**

18 **Q** Mr. Butler, thanks for coming today. I know
19 this isn't pleasant, but what happened to you
20 yesterday?

21 **A** Sir?

22 **Q** What happened to you yesterday?

23 **A** Oh, nobody got in contact with me.

24 **Q** Okay. You know you caused a stir yesterday?

25 **A** Sir?

1 Q You weren't trying to avoid coming?

2 A Oh, no, sir.

3 Q Okay. In the written statement you gave --
4 strike that -- do you think your memory of this
5 event would be better today, three years later, or
6 the next day when you met with Sergeant Holloway?

7 A The next day.

8 Q Okay. And the next day when you met with him,
9 you told him that he stopped when he got towards us
10 and Duke and Andrew walked towards the car and said,
11 Shoot now. That's what you wrote then three years
12 ago; is that correct?

13 A Yes, sir.

14 MR. ANDERSON: All right. That's all the
15 questions I have. Thank you.

16 THE COURT: Redirect.

17 REDIRECT EXAMINATION

18 BY MR. YOUNG:

19 Q Are you sure you know who shot who?

20 A No, sir.

21 Q Okay. But you saw one person driving a car?

22 A Yes, sir.

23 Q And you saw a blast from that car?

24 A Yes, sir.

25 MR. YOUNG: Thank you. Nothing further.

1 **THE COURT:** Recross.

2 **MR. ANDERSON:** No thank you.

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

4 **MR. YOUNG:** Your Honor, the hour is 12:30. I
5 have one remaining witness. I'd like an opportunity
6 to take a break at this time.

7 **THE COURT:** You're saying you think we should
8 take a break is that what you said?

9 **MR. YOUNG:** Yes, sir.

10 **THE COURT:** A lunch break?

11 **MR. YOUNG:** If the Court so elects. I think
12 he'll probably take a little bit longer than the
13 average witness.

14 **THE COURT:** All right. Ladies and gentlemen,
15 we'll recess for lunch and I need you back in an
16 hour and 15 minutes, so 1:45.

17 Everybody else stay seated, please.

18 Need you back at 1:45. Don't discuss the case.

19 (The jury was excused for lunch.)

20 **THE COURT:** All right. Once again, folks, be
21 very careful as you leave that you don't have any
22 contact with a juror, that you not say anything that
23 in any way relates to the case or anybody in it that
24 might be overheard by a juror, be really careful.
25 Court's at ease until 1:45.

1 **MR. YOUNG:** Thank you, Your Honor.
2 (Whereupon, there was a luncheon recess.)
3 **THE COURT:** Is the State ready for the jury?
4 **MR. YOUNG:** Yes, sir.
5 **THE COURT:** Defense?
6 **MR. ANDERSON:** Yes, sir.
7 **THE COURT:** Bring in the jury, please.
8 (The jury returns to the courtroom.)
9 **THE COURT:** Call your next witness.
10 **MR. YOUNG:** The State calls Officer Cody
11 Cockrell.
12 CODY WESLEY COCKRELL,
13 having been duly sworn, testified as follows:
14 DIRECT EXAMINATION
15 BY MR. YOUNG:
16 **Q** Officer Cockrell, give us your full name,
17 please, for the record.
18 **A** Cody Wesley Cockrell.
19 **Q** Okay, sir. Where do you work?
20 **A** Saluda Police Department.
21 **Q** How long?
22 **A** A little over three years.
23 **Q** Were you working for them on August 7th of
24 2007?
25 **A** Yes, sir, I was.

CODY WESLEY COCKRELL - DIRECT BY MR. YOUNG

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1 Q On that day, were you given duties to transport
2 Michael Duran Watson to Greenwood County Jail?

3 A Yes.

4 Q Is he present in the courtroom?

5 A Yes, he is.

6 Q Where is he?

7 A Right there (indicating), blue shirt.

8 Q Sitting there next to Mr. Anderson?

9 A Right.

10 Q Officer Cockrell, on that afternoon, did you
11 observe Mr. Watson in the back seat of your vehicle
12 as you were transporting him?

13 A I did.

14 Q Okay. And during that period of time, did you
15 become concerned about how he was acting or doing?

16 A Yes, sir.

17 Q What was your concern?

18 A I thought either his handcuffs or shackles were
19 too tight or he just may have been uncomfortable as
20 far as the temperature in my car.

21 Q And what was he doing?

22 A Moving around a lot like he was trying to get
23 comfortable.

24 Q Okay. Did you ask him a question?

25 A I did.

1 Q What did you ask him?

2 A What was on his mind.

3 Q What happened?

4 A When I asked him that, he asked me, Where did I

5 hit him?

6 Q I'm sorry, sir, repeat that. We have a large,

7 loud background noise here.

8 A Okay. When I asked him what was on his mind,

9 he then asked me in return, Where did I hit him?

10 Q Okay. Did you say anything after that?

11 A I did. I asked him what was he talking about.

12 Q And what did he say?

13 A He told me -- asked me again where did he hit

14 Mr. Chandler when he shot.

15 Q And what happened after that statement?

16 A I answered his question as best I knew I could.

17 Q What did you say?

18 A I told him he hit him in the upper body.

19 Q At that point, what happened?

20 A He then went on to say how he felt bad about --

21 something about he was kin to the victim somehow.

22 Q Do you recall the words he used?

23 A Not exactly, no, sir.

24 Q You said -- how did he say it or what did he

25 say?

CODY WESLEY COCKRELL - DIRECT BY MR. YOUNG

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1 A He said something to the extreme of, That's
2 messed up, he's my cousin.

3 Q Something like that?

4 A Yes, sir, something -- not exact words.

5 Q Did you make anymore statements?

6 A Mr. Watson then went on to say something about
7 he had witnesses. I told him like I tell everyone
8 else that his day will come in court and he could
9 have his witnesses just like everybody else.

10 Q Did he say anything else about what happened
11 that day?

12 A He went in to tell me about the events of that
13 evening.

14 Q How did he describe that?

15 A He said he was dropping his young child off, I
16 believe it was his little girl, and he was circling
17 through the Terrace Apartments like most young kids
18 do. He got to the back, made the turn to come back
19 out. He said he'd then seen someone trying --
20 looked like they were trying to flag him down to
21 stop. He said he then stopped. And when he
22 stopped, he seen four or five guys coming towards
23 his car and that's when he threw up the gun and
24 shot.

25 Q Did he say anything else beyond that?

1 **A** Sir?

2 **Q** Anything else? Did he say anything else?

3 **A** No, sir.

4 **MR. YOUNG:** Please answer any questions Mr.
5 Anderson may have for you.

6 **THE COURT:** Cross.

7 **MR. ANDERSON:** Thank you.

8 CROSS-EXAMINATION

9 BY MR. ANDERSON:

10 **Q** What kind of recording device do you have in
11 that car that you were driving?

12 **A** I'm unsure what kind of recording device is in
13 it.

14 **Q** Did you have a recording device of some sort, a
15 video camera?

16 **A** I believe so.

17 **Q** And that video camera also has a microphone
18 attached to it on you and in your car as well,
19 correct?

20 **A** Not to me at all times, but as far as my
21 knowledge goes, yes, it does.

22 **Q** So you're driving down the road, can you show
23 the jury, pretend like you're in the driver's seat,
24 could you show the jury what you would have had to
25 do to start recording this conversation you had?

CODY WESLEY COCKRELL - CROSS BY MR. ANDERSON

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1 **A** I would have had to reach up to my -- above my
2 rearview mirror and press a button and then turn my
3 camera around.

4 **Q** Well, let's just say you're going to record
5 what was said not even video tape it.

6 **A** The audio in our car isn't that great, so.

7 **Q** So what would you have had to do just to record
8 it?

9 **A** Hit a button.

10 **Q** Did you ever hit that button?

11 **A** No, sir.

12 **Q** And some time after this, you typed up a
13 statement about what happened?

14 **A** Yes, sir.

15 **Q** You never mention anything in that statement
16 about cousins, do you?

17 **A** I have to check over it, if that's all right
18 with you.

19 No, I didn't.

20 **Q** And what about the fact that he has a son and
21 not a daughter?

22 **A** Like I said, I wasn't sure. I said I believed
23 it was a daughter.

24 **Q** Okay. In your statement that you typed up, you
25 put her?

1 **A** Okay. Like I said, I wasn't sure.

2 **Q** Well...

3 **A** He just said he dropped his child.

4 **Q** Well, let me ask you this. Would it be safe to
5 say that your memory of the exact conversation would
6 have been better three years ago than it is today?

7 **A** I guess you can say so.

8 **Q** And would it be safe to say that -- you said
9 before y'all talked for like 15 minutes?

10 **A** It was not very long, no.

11 **Q** Well, 15 minutes could be a really long time to
12 some and a really short time to others.

13 **A** Right.

14 **Q** But would it be safe to say that it's possible,
15 especially considering that you put her instead of
16 he, that maybe you didn't get every precise detail
17 of what he told you, maybe you got the general idea,
18 but not every precise detail?

19 **A** I got every detail that was said about the
20 crime that had been committed.

21 **Q** You got all that just right, but you messed up
22 whether it was a boy or a girl?

23 **A** That was not important.

24 **MR. ANDERSON:** Thank you.

25 **THE COURT:** Redirect.

1 **MR. YOUNG:** I have no questions, Your Honor.

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

3 **MR. YOUNG:** Your Honor, the State will move to
4 admit State's Exhibits 1 and 2, which are the
5 rights, waiver forms.

6 **MR. ANDERSON:** That's fine.

7 **THE COURT:** Without objection, mark those in
8 evidence.

9 (State's Exhibit Numbers 1 and 2, waiver of
10 rights forms, admitted into evidence.)

11 **MR. YOUNG:** The State rests, Your Honor.

12 **THE COURT:** All right. Ladies and gentlemen, I
13 told you that whenever the State rests, I have to
14 discuss legal matters with the attorneys. I told
15 you that it didn't matter whether you've been in
16 here a minute or an hour whenever this came up. So,
17 at this point, I have to send you out of the
18 courtroom while I do this. This generally takes
19 about 20 minutes. If I see it's going to be
20 substantially longer than that, I'll send word to
21 you. We'll see where we go from there.

22 Don't discuss the case yet. I'll get back to
23 you as quickly as I can. Follow the bailiff,
24 please.

25 (The jury retires to the jury room.)

1 **THE COURT:** Motions.

2 **MR. ANDERSON:** Judge, I believe before we get
3 to that, can I inquire as to scheduling because I've
4 got a witness who's about two hours away and I need
5 to know if I need to go ahead and summon him or if
6 we're going to wait until tomorrow morning.

7 **THE COURT:** Y'all have to tell me. I don't
8 know anything about what you may plan to put up.

9 **MR. ANDERSON:** Well, we're going to put up a
10 few witnesses and it shouldn't take that long what
11 we're going to put up. We're flexible. We don't
12 care if we do that this afternoon or do that in the
13 morning, but if we're going to do it this afternoon,
14 I need to send for that one fellow.

15 **THE COURT:** Do you have witnesses here that we
16 could do and then have that other witness in the
17 morning? Would that mess up your order?

18 **MR. ANDERSON:** I have one witness here and then
19 I have the defendant, obviously, is here. And then
20 I've got -- subpoenaed one individual to come at
21 3:00, which I'm actually shocked at how close that
22 was, and then that other fellow and that's it.

23 **THE COURT:** Well, would it affect the
24 presentation of your case if we do the witnesses you
25 have available today and then break for the day and

1 do your other witness tomorrow, the one that's two
2 hours away?

3 **MR. ANDERSON:** He kind of needs to go before my
4 client, that's the only problem, but we can do he
5 and my client in the morning or we can send for him.

6 **THE COURT:** Well, if he's two hours away and
7 you get in touch with him at 2:30, that means 4:30
8 before he even gets here, that doesn't make a whole
9 lot of sense right now. My preference would be to
10 take whoever you can take today, take that other
11 witness in the morning and then if you want your
12 client, if he wants to testify after that, sure,
13 that's fine with me.

14 **MR. ANDERSON:** Well, let's do that then, Judge.

15 **THE COURT:** Do you want to go ahead and call
16 him and tell him to be here in the morning?

17 **MR. ANDERSON:** I think if somebody could do
18 that, please.

19 What time would that be, Your Honor?

20 **THE COURT:** Just say 10:00. I mean, y'all
21 might want him here sooner than that so you can talk
22 to him or something, but -- why don't we do this.
23 I'll just take a break, you talk to them, decide
24 what you want to do and then I'll hear your motions
25 and then I've got to confer with your client about

1 his rights concerning whether he testifies or not,
2 all right.

3 MR. ANDERSON: Okay. Thank you.

4 THE COURT: We're at ease for a few minutes.

5 (Brief recess.)

6 THE COURT: Motions.

7 MR. ANDERSON: Yes, sir, please the Court.

8 THE COURT: Yes, sir.

9 MR. ANDERSON: My first motion, I would move
10 for a directed verdict of not guilty based upon
11 self-defense. There's certainly a lot of
12 contradictory evidence, but it appears that somebody
13 -- my client had stopped the car, somebody said,
14 Shoot now, and then a gunshot was fired. People
15 were approaching the vehicle. And it's -- while
16 it's extremely unfortunate, we believe the evidence
17 is sufficient for that, Your Honor.

18 THE COURT: All right. It's a jury issue and
19 respectfully denied. The motion is respectfully
20 denied.

21 What else do you have?

22 MR. ANDERSON: Judge, taking all of the
23 evidence in the light most favorable to the State,
24 again with all the contradictory evidence -- with
25 the lack of any other credible evidence other than

1 the shot was fired from the car, with the very vague
2 GSR evidence, with the no fingerprints, with the no
3 audio tapes, no video tapes, again with the
4 contradictory eyewitnesses, we would move for a
5 directed verdict of not guilty.

6 **THE COURT:** All right. Again, there's
7 sufficient evidence to present to the jury on the
8 issue of the defendant's guilt on the charges which
9 he has been indicted.

10 **MR. ANDERSON:** Thank you, Your Honor. That
11 would be the extent of our motions. And I've got
12 two witnesses that I can call relatively quickly and
13 then the other two could be in the morning.

14 **THE COURT:** All right. I've got to cover some
15 things with your client.

16 Mr. Watson, I have to cover some things with
17 you now. I have to do this in every case whether a
18 person's on trial for murder or whether they're on
19 trial for a traffic violation. I need your
20 responses under oath, raise your right hand, please.

21 **MICHAEL DURAN WATSON,**
22 having been duly sworn, testified as follows:

23 **THE COURT:** You can have a seat. Just speak
24 loudly, this lady takes down everything we say.

25 We've reached the stage of the trial now where

1 the State has rested. And the next thing that will
2 happen is that I will give your side the opportunity
3 to present evidence for the jury to consider. You
4 understand where we are in the trial?

5 **DEFENDANT:** Yes, sir.

6 **THE COURT:** Now, in that regard, you may call
7 witnesses to testify. And if you wish, you,
8 yourself, may testify, but you have an absolute
9 right to remain silent and no one can force you to
10 testify. You understand that?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** If you choose not to testify, I'm
13 going to tell that jury that they cannot hold your
14 silence against you, they can't discuss it in the
15 jury room, they're not to let it enter their minds
16 in making their decision on whether you're guilty or
17 not guilty. You understand that?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** This decision about whether you
20 testify or not, it's your decision to make and your
21 decision alone; you understand that?

22 **DEFENDANT:** Yes, sir.

23 **THE COURT:** Now, I expect that you might confer
24 with your attorney, with family members, friends,
25 people whose opinion you value on important

1 decisions, but, ultimately, it's your call to make.
2 You're the one who decides whether you testify or
3 not; you understand?

4 DEFENDANT: Yes, sir.

5 THE COURT: Now, does he have a criminal record
6 that would subject him to impeachment?

7 MR. YOUNG: No, sir.

8 THE COURT: If you take the witness stand,
9 obviously you would be subject to cross-examination;
10 you understand that?

11 DEFENDANT: Yes, sir.

12 THE COURT: The State will get to ask you
13 questions; you understand?

14 DEFENDANT: Yes, sir, I understand.

15 THE COURT: Now, up until this point, has
16 anybody done anything improper to get you to testify
17 or not testify? In other words, has anybody
18 attempted to force you or improperly influence you
19 to get you to testify or not testify?

20 DEFENDANT: No, sir.

21 THE COURT: So whatever decision you make on
22 this, it's yours and yours alone?

23 DEFENDANT: Yes, sir, it's mine alone.

24 THE COURT: Are you under the influence of any
25 kind of medicine or any substance that affects your

1 thinking?

2 **DEFENDANT:** No, sir.

3 **THE COURT:** Do you suffer from any physical or
4 mental problems that affect your thinking?

5 **DEFENDANT:** None at all, sir.

6 **THE COURT:** All right. Mr. Watson, I don't
7 know what your decision is. Your attorney had told
8 me earlier in open court that you intend to testify
9 and that's fine if you wish to. If you change your
10 mind, that's fine as well.

11 I don't know -- and I'm not trying to influence
12 you either way, but whatever decision you make, I'm
13 making this finding now that your decision is free,
14 knowing, voluntary and intelligent; you understand
15 that you have a right to testify, you have a right
16 not to testify; you understand that if you choose
17 not to testify, I'm going to tell that jury they
18 cannot hold your silence against you in any way at
19 all; you understand that the decision about whether
20 you testify or not is your decision to make and
21 yours alone.

22 And I'm going to maintain those findings, so if
23 anybody does attempt to improperly influence you,
24 you let me know right away, okay?

25 **DEFENDANT:** Yes, sir.

1 **THE COURT:** Thank you.

2 Are you ready to put your witnesses up, Mr.
3 Anderson?

4 **MR. ANDERSON:** Yes, sir.

5 **THE COURT:** Solicitor, are you ready for the
6 jury, too?

7 **MR. YOUNG:** We are, Your Honor.

8 **THE COURT:** Bring in the jury, please.

9 (The jury returns to the courtroom.)

10 **MR. YOUNG:** Your Honor, may Mr. Anderson and I
11 approach?

12 **THE COURT:** Yes, sir.

13 (Whereupon, a bench conference was held off
14 the record, in the presence of the jury, but out of
15 the hearing of the jury.)

16 **THE COURT:** All right. Ladies and gentlemen,
17 the next stage of the trial is that the defense is
18 given the opportunity to present evidence for you to
19 consider.

20 Now, this does not change the burden of proof
21 in any way. The burden of proof remains entirely
22 upon the State to prove the guilt of the defendant
23 beyond a reasonable doubt. An accused has no
24 obligation to prove anything at all, but the defense
25 is entitled to present evidence for you to evaluate

1 in deciding whether the State has met its burden of
2 proof or has failed to meet its burden of proof.

3 Now, I've been provided the names of three
4 potential witnesses. You were not asked about these
5 earlier, so I need to ask you now.

6 And if any of these persons are present, I need
7 for them to stand.

8 **MR. ANDERSON:** Two of them are out there.

9 **THE COURT:** Because they're sequestered. Would
10 you bring them in?

11 **MR. ANDERSON:** Judge, you're going to be
12 extremely mad at me and the jury is too, but could I
13 take one other matter up? I'm sorry. I promise it
14 will be very fast.

15 **THE COURT:** Sure. That's fine.

16 Folks, step back in the jury room. I'll get
17 right back to you. Don't discuss the case.

18 (The jury retires to the jury room.)

19 **MR. ANDERSON:** Judge, I was just -- in my
20 motions, I need to make one other motion.

21 **THE COURT:** Go ahead.

22 **MR. ANDERSON:** That since the defense of
23 self-defense has been raised and the State has the
24 burden of disproving that, they have failed to
25 disprove that defense. So I would add that to my

1 motions for a directed verdict.

2 **THE COURT:** Okay. Again, I think they're jury
3 issues and I respectfully deny your motion.

4 **MR. ANDERSON:** And I'm sorry.

5 **THE COURT:** That's okay.

6 **MR. ANDERSON:** Thank you. And here are my two
7 witnesses, Judge.

8 **THE COURT:** Who do I have?

9 **MR. ANDERSON:** Obie Combs and Trish Watson.

10 **THE COURT:** All right. Folks, what's going to
11 happen is when the jury comes in, I'm going to ask
12 you to stand, come a little bit toward me so they
13 can see you. I have to ask them some questions
14 about whether they know you, all right.

15 Bring the jury back in.

16 (The jury returns to the courtroom.)

17 **THE COURT:** All right. Ladies and gentlemen,
18 as I was saying, these names were not read to you at
19 the first qualification process, so I'm going to
20 introduce these potential witnesses to you now and
21 ask you the same basic questions about them that I
22 asked you about the other folks that you were
23 introduced to.

24 Obie Combs. Mr. Combs, would you come over
25 this way so they can see you a little better, just

1 face them. Thank you, sir. And Trish Watson.
2 Would do likewise please, ma'am? Thank you. And
3 there's another witness, Jarvis Stevens, who is not
4 here today. He'll be here in the morning from my
5 understanding if the defense chooses to call him.

6 Are any of you related by blood or marriage or
7 connected by employment with Jarvis Stevens, Trish
8 Watson or Obie Combs; if so, raise your hand?

9 (There was no response.)

10 **THE COURT:** Do any of you have any connection
11 whatsoever with any of those three individuals; if
12 so, please stand?

13 (There was no response.)

14 **THE COURT:** Is the fact that these three
15 individuals may be witnesses in the case, would that
16 in any way affect your ability to be a fair and
17 impartial juror in the case; if so, raise your hand?

18 (There was no response.)

19 **THE COURT:** All right. Which person are you
20 going to call first?

21 **MR. ANDERSON:** Mr. Combs.

22 **THE COURT:** Mr. Combs, if you'll come up here
23 to the Clerk.

24 And, Ms. Watson, if you'll step back out in the
25 hallway for me, please.

OBIE COMBS - DIRECT BY MR. ANDERSON

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1 OBIE COMBS,

2 having been duly sworn, testified as follows:

3 THE COURT: All right. Ladies and gentlemen,
4 as I was saying, the defense gets the opportunity to
5 present evidence for you to consider. It doesn't
6 change the burden of proof. The burden's entirely
7 on the State.

8 All right, Mr. Anderson.

9 MR. ANDERSON: Thank you, Judge.

10 COURT REPORTER: Can you state your full name,
11 please?

12 THE WITNESS: Obie Combs.

13 COURT REPORTER: How do you spell your first
14 name?

15 THE WITNESS: O-b-i-e.

16 DIRECT EXAMINATION

17 BY MR. ANDERSON:

18 Q All right. Have we ever met before today?

19 A Shortly.

20 Q Just now?

21 A Yes.

22 Q Okay. And you have no idea really why you're
23 here other than you've been subpoenaed?

24 A I don't have no idea why I'm here.

25 Q And you don't know what kind of case this is?

1 **A** I have no idea.

2 **Q** Okay. That's a good thing, okay. Your name is
3 Obie Combs and you live in Saluda?

4 **A** (Witness nodded head.)

5 **Q** Yes?

6 **A** Yes.

7 **Q** Okay. Think back three years ago, July of
8 2007, okay. Do you know who Warren Chandler is?

9 **A** Yes.

10 **Q** Did you see him with a gun?

11 **A** On that date.

12 **Q** Yes, in 2007, July of 2007.

13 **A** At a location.

14 **Q** At the park?

15 **A** At the park.

16 **Q** Did you see him with a gun?

17 **A** Yes.

18 **MR. ANDERSON:** Okay. That's all the questions

19 I have.

20 **THE COURT:** Cross.

21 **MR. YOUNG:** I have no further questions.

22 **THE COURT:** Thank you, Mr. Combs. You can step
23 down.

24 Is he free to go?

25 **MR. ANDERSON:** Yes.

TRISH WATSON - DIRECT BY MR. ANDERSON

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1 **THE WITNESS:** I can go home?

2 **THE COURT:** Yes, sir. You can go home, go
3 wherever you want to. Thank you.

4 Would y'all have Ms. Watson step in here?

5 TRISH WATSON,

6 having been duly sworn, testified as follows:

7 **THE COURT:** State your name, ma'am.

8 **THE WITNESS:** Trish Watson.

9 DIRECT EXAMINATION

10 BY MR. ANDERSON:

11 **Q** All right. Trish, you need to be talking to
12 the jury and not to me, okay. All right, you are
13 Michael's sister?

14 **A** Yes, sir.

15 **Q** And you love your brother?

16 **A** Yes, sir.

17 **Q** And you have not been in the courtroom during
18 the real trial because of the order that everybody
19 has to be outside, correct?

20 **A** Yes, sir.

21 **Q** Okay. If you could have been, you would have
22 been in here with him, right?

23 **A** Yes, sir.

24 **Q** Okay. And we're going to talk about three
25 subjects, okay?

1 A Yes, sir.

2 Q First, since Michael's been in jail, what car
3 have you been driving?

4 A Michael's car.

5 Q And just -- is it fast?

6 A No. It actually cuts off on you from time to
7 time. You have to let it roll off to roll and crank
8 back up and start over again.

9 Q Not every time, just sometimes?

10 A Just sometimes.

11 Q And what year is it?

12 A '94, if I'm not mistaken.

13 Q Have a bunch of miles on it?

14 A Yes.

15 Q A bunch of use?

16 A Yes.

17 Q Okay. But you're thankful to have the car to
18 drive?

19 A Yes, sir.

20 Q Next -- and this is three years ago.

21 A Yes, sir.

22 Q Do you remember three years ago Michael's, in
23 general, state of mind about, I guess, anxiety,
24 fear, safety issues?

25 A Yes, sir.

TRISH WATSON - DIRECT BY MR. ANDERSON

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1 **Q** Tell the jury --

2 **MR. YOUNG:** Your Honor, I want to take this
3 matter up outside the jury.

4 **THE COURT:** All right. Ladies and gentlemen,
5 please step in the jury room. Don't discuss the
6 case.

7 (The jury retires to the jury room.)

8 **THE COURT:** Yes, sir.

9 **MR. YOUNG:** Your Honor, this would appear to be
10 a venture into hearsay based upon three years ago
11 and Michael's state of mind. I do not know what
12 she's going to testify to, but in preservation of
13 any problems that might occur, I would ask that an
14 inquiry be done at this time as to what she would
15 testify and...

16 **THE COURT:** What do you want to elicit from
17 this witness?

18 **MR. ANDERSON:** Judge, she's not going to name
19 any names just that Michael was having some problems
20 around back then and that he was fearful for his
21 safety, that's all.

22 **MR. YOUNG:** How is that relevant, Your Honor?
23 The State would object on relevance, that doesn't
24 even relate to this three years ago and being
25 fearful, that's not relevant, certainly not

1 material.

2 THE COURT: Ask her whatever it is you want to
3 ask her about.

4 EXAMINATION

5 BY MR. ANDERSON:

6 Q Do you remember the time leading up to this
7 incident?

8 A Yes, sir.

9 Q How -- what was Michael's state of mind as far
10 as his -- how did he feel about his safety?

11 A He was scared.

12 Q In general?

13 A Yes, sir.

14 Q Okay. And you know this from observations and
15 discussions or what? How do you know?

16 A From discussions with Michael, discussion with
17 family members, just hearing stuff out in general.

18 Q Just simply afraid for his safety?

19 A Yes, sir.

20 MR. ANDERSON: That would be all that I'd ask
21 her, Judge.

22 THE COURT: Solicitor?

23 EXAMINATION

24 BY MR. YOUNG:

25 Q Ma'am, I don't want to berate you on this

TRISH WATSON (IN CAMERA) - EXAMINATION BY MR. YOUNG

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1 point, but how do you know this? How do you know
2 that he was fearful?

3 A Me and my brother have a very close
4 relationship and we talk about any and everything.

5 Q Okay. And in your discussions with him, you
6 came to some belief that he might be afraid?

7 A Yes, sir.

8 Q Of what?

9 A He was having trouble with a group of guys.

10 Q A group of guys?

11 A Yes.

12 Q He was having trouble with a group of guys?

13 A Yes.

14 Q Okay. And did he do anything more than just
15 say a group of guys?

16 A Excuse me?

17 Q Did he say anything more than just a group of
18 guys?

19 A He just said, I'm having some problems with, I
20 can't, you know, people picking at me, bothering me
21 no matter where I'm at, I can be in my cousin's yard
22 or wherever.

23 Q So just a generalized group of guys problem?

24 A Yes.

25 MR. YOUNG: I'm going to object, Your Honor,

1 that doesn't relate to this case. There's no
2 materiality to it.

3 **THE COURT:** Anything else?

4 **MR. ANDERSON:** No, sir. I just say it's
5 relevant to what led up to this unfortunate mess we
6 got ourselves into here.

7 **THE COURT:** It falls under 803 subsection (3).
8 You can ask, and I can't say every question that was
9 elicited is precisely within that rule, but the gist
10 of it is.

11 **MR. ANDERSON:** Thank you, Your Honor.

12 **THE COURT:** Bring in the jury.

13 (The jury returns to the courtroom.)

14 **THE COURT:** The objection's overruled. You may
15 continue.

16 **MR. ANDERSON:** Thank you, Your Honor.

17 BY MR. ANDERSON:

18 **Q** All right. Trish, we were just talking about
19 three years -- I mean, you haven't had a whole lot
20 of interaction with Michael since three years ago?

21 **A** I go see him on visitation.

22 **Q** And that's about it?

23 **A** Yes, sir.

24 **Q** Okay. So, at the period of time leading up to
25 this unfortunate event, what was his state of mind?

TRISH WATSON - DIRECT BY MR. ANDERSON

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- 1 A He was scared.
- 2 Q Okay. And, in general, what was the problem?
- 3 A He had a group of guys that was bothering him.
- 4 Q All right.
- 5 THE COURT: That were what?
- 6 THE WITNESS: Messing with him, bothering,
- 7 picking on him.
- 8 BY MR. ANDERSON:
- 9 Q Bothering him?
- 10 A Yes, sir.
- 11 Q All right. And then, lastly, after what
- 12 happened happened, where were you?
- 13 A I was home.
- 14 Q Okay. Phone calls, people talking, so you knew
- 15 something bad had happened?
- 16 A Yes.
- 17 Q What happened at your house?
- 18 A That night at my house --
- 19 Q Let me ask it this way. Timing-wise, how
- 20 quickly did it happen at your house?
- 21 A I would say probably 30 minutes, an hour.
- 22 Q And what happened?
- 23 A It was a lot of commotion outside around in
- 24 front of my house. I opened the door to look out,
- 25 it was a group of guys across the yard -- across the

1 road from my house on the opposite side of the road
2 saying all sorts of stuff. I then went in the
3 house. I woke my husband up and I told him, I said,
4 You need to get up, you know, it's some guys out in
5 front of the house and they're saying some horrible
6 things and you need to be up with your family
7 because me and my kids we were all scared.

8 Q Okay. I told you three things, so that's all.
9 Now, you love your brother. Are you telling the
10 truth?

11 A Yes, sir.

12 MR. ANDERSON: All right. Thank you. Please
13 answer any questions that the State has.

14 THE COURT: Any cross?

15 MR. YOUNG: I don't have any questions, Your
16 Honor.

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

19 All right. That's all the witnesses we can do
20 today?

21 MR. ANDERSON: I'm sorry, but, yes, sir.

22 THE COURT: All right. Ladies and gentlemen, I
23 need you back here tomorrow in the jury room at two
24 o'clock -- excuse me -- ten o'clock. You should get
25 the case tomorrow. We'll probably order your lunch

1 in. We'll see how things progress and how things
2 balance out, but you definitely should get the case
3 tomorrow absent some extraordinary circumstance I'm
4 not anticipating. And like I said, we probably will
5 order your lunch in for you, either that or we'll
6 send you somewhere to eat, all right.

7 Ten o'clock in the morning. Don't discuss the
8 case. Thank you.

9 (The jury was excused for the day.)

10 **THE COURT:** Do y'all anticipate requesting
11 voluntary manslaughter?

12 **MR. ANDERSON:** I was anticipating that, Judge.
13 I've got some cases and it is interesting. I mean,
14 there's that, I think the word is opprobrious
15 conduct, must be opprobrious conduct that would
16 justify that heat of passion, and I think that would
17 get to these facts. But I've got a whole bunch of
18 cases.

19 With that being said, I think the most
20 important one would be the self-defense one.

21 **THE COURT:** Well, I mean, I've got to hear the
22 case before I can make a final determination. I was
23 just trying to -- I've got it in the draft that I've
24 done, but the draft's far from finished. I was just
25 planning on taking this home with me and working on

1 it overnight. I just wondered if his defense was
2 going to make a request for that if you knew.

3 Obviously, it's -- again, it's something I
4 can't evaluate until I hear all of the evidence, but
5 I'll just plan to have it in there and then if I
6 decide it doesn't apply, I can take it out. It's
7 easier to take it out than put it in.

8 **MR. ANDERSON:** Do you want me to holler out
9 those cases or -- you probably already have it,
10 but...

11 **THE COURT:** It doesn't really matter. I know
12 the concept you're talking about, opprobrious
13 conduct can give rise to sudden heat and passion.
14 The thing that's conflicting is the self-defense
15 concept of being in fear for one's safety and then
16 the sudden heat of passion, which generally is
17 associated with lashing out, but I can't say that
18 they're mutually exclusive, I don't know.

19 **MR. ANDERSON:** I've read so many cases and it
20 all starts to jumble, but there are some where they
21 charge them both and it is confusing, Judge, so.

22 **THE COURT:** Well, if I had to guess right now,
23 I'm probably going to charge them both, but we'll
24 see what happens after I hear all of the evidence.

25 All right. Have you made arrangements for your

1 witness to be here?

2 MR. ANDERSON: Yes, sir.

3 THE COURT: Court's in recess until 10:00 a.m.

4 MR. ANDERSON: Thank you.

5 THE COURT: Thank you.

6 (The proceedings were concluded for July 28,
7 2010.)

8 (The following proceedings were held on July
9 29, 2010.)

10 THE COURT: Defense ready for the jury?

11 MR. ANDERSON: Yes, sir.

12 MR. YOUNG: State's ready.

13 THE COURT: Bring in the jury, please.

14 (The jury enters the courtroom at 10:20
15 a.m.)

16 THE COURT: Call your next witness.

17 MR. ANDERSON: Jarvis Stevens.

18 JARVIS STEVENS,

19 having been duly sworn, testified as follows:

20 THE COURT: Try to speak into that microphone.

21 What's your name?

22 THE WITNESS: Jarvis Stevens.

23 THE COURT: Spell your first name.

24 THE WITNESS: J-a-r-v-i-s.

25 THE COURT: Last name spelled with a p-h or a

1 v?

2 THE WITNESS: V.

3 THE COURT: Thank you.

4 All right. Mr. Anderson.

5 MR. ANDERSON: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. ANDERSON:

8 Q Good morning, Jarvis.

9 A Good morning.

10 Q How are you related to Michael Watson?

11 A First cousin.

12 Q And you know this case is about three years
13 old?

14 A Yes.

15 Q But think back to right before this happened,
16 and I know in talking to you, you don't remember an
17 exact date, but right before this happened, right
18 before Michael got locked up, was there an incident
19 that happened at your house?

20 A Yes.

21 Q Could you tell the jury about that, please?

22 A Well, there was some guys --

23 Q Was Mike -- let me help you. Was Michael at
24 your house?

25 A Yes.

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1 Q Okay. What happened?

2 A There was some guys walking up and down the
3 street antagonizing him, you know, trying to get him
4 to fight or whatever.

5 Q Were they -- was it kind of scary?

6 A Somewhat.

7 Q Did it look intimidating?

8 A Yes.

9 Q If you were to put yourself in Michael's shoes,
10 would it make you fearful for your safety?

11 A Yes.

12 Q How did Michael handle the situation?

13 A He was kind of calm. You know, he was a little
14 bit concerned about it.

15 Q Well, did he go out and engage them?

16 A No.

17 Q Now, you don't know exactly who those fellows
18 were?

19 A No.

20 Q But were they black or white?

21 A They were black.

22 Q And about what age were they?

23 A They were around the same age as Michael.

24 Q Okay. And how many of them were there?

25 A Maybe four or five.

1 Q Okay. And were they being aggressive and
2 saying aggressive things?

3 A Yes.

4 Q Okay. And did you advise Michael to do
5 anything?

6 A Well, I just told him to stay at my house until
7 things calm down until they leave.

8 Q And, eventually, did they leave?

9 A Yes.

10 Q Now, if you would put yourself -- if you could
11 put yourself in Michael's shoes, wouldn't you have
12 been fearful of those people?

13 A Yes.

14 MR. ANDERSON: Okay. That's all the questions
15 I have. Please answer any questions that Mr. Young
16 or the Court might have.

17 THE COURT: Cross.

18 MR. YOUNG: Yes, sir, thank you.

19 CROSS-EXAMINATION

20 BY MR. YOUNG:

21 Q Who do you live with?

22 A With my wife, Debbie Watson.

23 Q Okay. Is she related at all to Mr. Watson?

24 A I don't think so.

25 Q You don't think she's related, okay. Tell me

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1 what these guys were saying.

2 **A** They were saying, you know, come on out in the
3 road, I'll -- I'll F you up and I'm going to do all
4 kind of things to you.

5 **Q** Okay. Why were they saying that; do you know?

6 **A** I don't know.

7 **Q** Did you -- where were you in relation to this
8 conversation by the way, where were you?

9 **A** As regards to what? What you mean?

10 **Q** Where was Michael, where are you and where --

11 **A** We were in my yard.

12 **Q** You were all in your yard?

13 **A** Yes.

14 **Q** Where are the people that are walking?

15 **A** They're out in the road, in the street.

16 **Q** How far were they?

17 **A** They're fairly close.

18 **Q** How did Michael get to your house?

19 **A** He drove.

20 **Q** What kind of car?

21 **A** I think maybe it was a little Toyota or --

22 **Q** Black car?

23 **A** Yes.

24 **Q** Would you be able to recognize it again if you
25 saw it?

- 1 A Yes.
- 2 Q Do you recognize that car?
- 3 A Yes, that's it.
- 4 Q And you're looking at State's Exhibit Number --
- 5 which one is --
- 6 A Number 3.
- 7 Q How about 4?
- 8 A The same vehicle.
- 9 Q Okay. That's the one he was driving?
- 10 A Yes.
- 11 Q Drove to your house in it?
- 12 A Yes.
- 13 Q Okay. Where was his car parked?
- 14 A In the driveway.
- 15 Q Visible from the road?
- 16 A Yes.
- 17 Q Did anybody say anything about him being in
- 18 that car, calling from the road saying, you know, I
- 19 saw you in that car or anything?
- 20 A I don't understand what you mean.
- 21 Q In other words, I saw you in that car earlier
- 22 this week.
- 23 A Oh, I didn't hear anything like that.
- 24 Q Or you had something in that car earlier this
- 25 week?

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- 1 A No, I didn't hear anything like that.
- 2 Q Anything about that?
- 3 A No.
- 4 Q And did you stay outside the whole time?
- 5 A Yes.
- 6 Q Okay. And these kids just walking by?
- 7 A Yeah, walking back and forth.
- 8 Q Okay. Any of them live near there?
- 9 A I'm not sure.
- 10 Q Okay. Well, was it so serious you needed to
- 11 call the law?
- 12 A Well, they hadn't done anything, you know, but
- 13 threatened him, you know, they -- there's only one
- 14 that came in the yard really.
- 15 Q I'm sorry?
- 16 A One of the guys came in the yard.
- 17 Q Came in the yard. Who was that?
- 18 A I don't know the guy.
- 19 Q What do you mean he came in the yard?
- 20 A And sat on Michael's car.
- 21 Q Sat on his car?
- 22 A Yes.
- 23 Q And when he sat on his car, what was he doing?
- 24 A Just kept antagonizing him, wanting him to do
- 25 something.

1 **Q** And they didn't say anything about why they
2 were there? They didn't make one comment about why
3 they came up there or upset about anything Michael
4 might have done?

5 **A** No.

6 **Q** Not a word?

7 **A** Not a word. I didn't hear anything.

8 **MR. YOUNG:** Thank you. No further questions.

9 **THE COURT:** Redirect.

10 **MR. ANDERSON:** No questions.

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

12 Do you have any further witnesses?

13 **MR. ANDERSON:** The defendant.

14 **THE COURT:** Ladies and gentlemen, I need to ask
15 you to step in the jury room briefly and then I'll
16 get you back out here in just a moment, all right.
17 Don't discuss the case.

18 (The jury retires to the jury room.)

19 **THE COURT:** All right. Mr. Watson, you've
20 decided to testify?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** That's your own decision, made of
23 your own free will?

24 **DEFENDANT:** Yes, sir.

25 **THE COURT:** Those things you have on your leg,

1 do they affect your ability to walk? .

2 **DEFENDANT:** Yes, sir. If I step completely,
3 they'll lockup.

4 **THE COURT:** Mr. Anderson, do you prefer that he
5 be on the stand when the jury comes in?

6 **MR. ANDERSON:** It doesn't matter, Judge;
7 honestly. I don't care.

8 **THE COURT:** Walk toward that deputy and let me
9 see what...

10 (Defendant complies.)

11 **THE COURT:** Is it clicking?

12 **DEFENDANT:** That's when it locks up.

13 **THE COURT:** When it locks up.

14 **MR. ANDERSON:** That's part of his appeal,
15 Judge. It's all right.

16 **THE COURT:** Well, I'm giving you an opportunity
17 -- you brought it out before that he'd been in jail
18 for three years.

19 **MR. ANDERSON:** Yes, sir, so it's no secret.

20 **THE COURT:** Right. But I'm giving you an
21 opportunity, if you want to, to have him on the
22 stand so the jury won't be exposed to the fact that
23 he's got some sort of restrictive device on his
24 legs.

25 **MR. ANDERSON:** I don't think that matters. I

1 appreciate it.

2 THE COURT: All right. Are you ready?

3 MR. ANDERSON: Can I do this since we're done,
4 can I invite his sister to come in if she wants to?

5 THE COURT: Sure.

6 MR. ANDERSON: Because she's been sequestered.

7 THE COURT: We're at ease.

8 (Pause.)

9 MR. ANDERSON: All right. We're good, Judge.
10 They're too nervous to come in.

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

12 (The jury returns to the courtroom.)

13 THE COURT: Call your next witness.

14 MR. ANDERSON: Michael Watson.

15 THE COURT: Come around, Mr. Watson.

16 MICHAEL DURAN WATSON,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. ANDERSON:

20 Q All right. You're Michael Watson?

21 A Yes, sir.

22 Q Are you an expert testifier? Have you ever
23 testified in court?

24 A First time, sir.

25 Q All right. You feel kind of nervous up there?

MICHAEL DURAN WATSON - DIRECT BY MR. ANDERSON

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1 A Yes, sir.

2 Q Do you feel exposed?

3 A Yes, kind of.

4 Q Everybody in the whole courtroom is looking at
5 you, that's kind of awkward, isn't it?

6 A Yes, sir.

7 Q Just do your best to try to be yourself, okay?

8 A Okay.

9 Q I'm talking to you, but you're talking to the
10 jury, okay?

11 A Okay. Can I clear up the fact that you don't
12 like to be called yes, sir?

13 Q Yes. Call me Andy, okay?

14 A Okay.

15 Q And if you don't understand the question, it's
16 hard when you're nervous to think sometimes, if you
17 don't understand the question, just say you don't
18 understand the question.

19 A Okay.

20 Q We're in no hurry, okay?

21 A Yes, Andy.

22 Q And if you don't understand, just say you don't
23 understand. And after I question you, Mr. Young is
24 going to question you.

25 A Okay.

1 Q The Judge might even question you. If you
2 don't understand something, just say it, okay?
3 A Okay.
4 Q All right. Tell the jury just a little bit
5 about yourself. How old are you now?
6 A Twenty-one.
7 Q Okay. What were you doing in your life before
8 this incident?
9 A I was working at Saluda Farm and Garden.
10 Q Where is that?
11 A It's located on Newberry Highway.
12 Q And what did you do there?
13 A Pretty much load the trucks and unload trucks
14 and just help people with anything I possibly can
15 when they enter the store.
16 Q Did you like your job?
17 A Yes.
18 Q All right. In addition to that, and I don't
19 like the term "baby mama", but who is Senora?
20 A My baby's mother.
21 Q Okay. So you had a child with Senora?
22 A Yes, sir.
23 Q And how old is your child?
24 A He'll be five in August.
25 Q And he is a son?

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- 1 A Yes.
- 2 Q So it's not a she like Officer Cockrell said?
- 3 A No.
- 4 Q And have you also rekindled -- you have a
5 relationship with Tiffany. You and Senora aren't
6 together?
- 7 A No, sir.
- 8 Q But your lady friend is Tiffany?
- 9 A Yes, sir.
- 10 Q Now, Tiffany has been here, there she is. And
11 you and Tiffany actually have a child together?
- 12 A Yes, sir.
- 13 Q And that child was born while you were in jail?
- 14 A Yes, sir.
- 15 Q Okay. How far did you go in school?
- 16 A Tenth grade.
- 17 Q And have you lived in Saluda your whole life?
- 18 A Yes, sir.
- 19 Q All right. And over here, who are all these
20 folks?
- 21 A Sitting next to Tiffany is my mother and -- the
22 yellow is Tiffany.
- 23 Q This is your mama?
- 24 A Yes, sir.
- 25 Q This is Jarvis' wife?

1 A Yes.

2 Q This is Tiffany?

3 A Yes. Kim.

4 Q Who is she?

5 A That's my cousin's fiancé.

6 Q And who this neat lady right here in the
7 glasses?

8 A Rochelle, she's my first cousin.

9 Q And then the other gentlemen is your friends?

10 A Crews, yes, sir. Quincy, Tyree, Claddy Boy
11 (ph), Tereee, Man.

12 THE COURT: You're going to have to spell some
13 of that.

14 COURT REPORTER: Quincy, Tyree...

15 THE WITNESS: We call him Claddy Boy, that's
16 his nickname.

17 COURT REPORTER: Can you spell that?

18 THE WITNESS: I have no idea, ma'am.

19 THE COURT: I don't know what he's saying.

20 THE WITNESS: Can you spell your nickname?

21 THE COURT: Wait a minute. Y'all can't just
22 talk to the audience.

23 THE WITNESS: Okay. I'm sorry.

24 BY MR. ANDERSON:

25 Q I think it's Fat Boy.

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1 **A** Claddy Boy.

2 **Q** Laddy Boy?

3 **A** Claddy.

4 **THE COURT:** Just do it phonetically, do the
5 best you can.

6 BY MR. ANDERSON:

7 **Q** All right. So, now your sister is too nervous
8 to come in here, but she's been here all week, too.
9 Your sister testified yesterday, correct?

10 **A** Yes.

11 **Q** Okay. All right. So where do you guys --
12 where do you live?

13 **A** Out on Bottom Road. Well, as of right now, I
14 live in Saluda County Detention Center.

15 **Q** Well, but your house, where your mom lives,
16 where you were living?

17 **A** That's out of on Bottom Road.

18 **Q** Okay. On Hill Drive.

19 **A** Yes, sir.

20 **THE COURT:** All right. Mr. Anderson, the court
21 reporter is having trouble understanding him. I'm
22 assuming that if she is, the jury may be too.

23 Try to speak closer to that microphone if you
24 can, please. What did you say last?

25 **THE WITNESS:** My house is located out on Bottom

1 Road.

2 THE COURT: Bottom Road?

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you.

5 MR. ANDERSON: And if the court reporter will
6 raise your hand and I'll re-ask any question that
7 she doesn't understand, okay.

8 THE COURT: She can't raise her hand. She's
9 got to keep her hands on those keys.

10 MR. ANDERSON: She can shake her head or
11 something. I'll try to watch.

12 I'm just used to you -- the way you talk, so I
13 can understand it. I'm sorry. So, Michael, just
14 try to talk clear, okay.

15 THE COURT: Y'all have to understand we're not
16 from here so we might not know the names of streets
17 and things like that. So if you say Bottom Road, it
18 may ring a bell with y'all, it may not ring a bell
19 with us, okay. Just be mindful of that. Speak as
20 clearly and distinctly as you can. Answer Mr.
21 Anderson's questions, please.

22 BY MR. ANDERSON:

23 Q All right. And then we had talked about the
24 stuff on your legs. You got some stuff on your
25 legs?

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1 A Yes.

2 Q And that's just a security measure?

3 A Yes.

4 Q And that's why you're walking funny?

5 A Yes.

6 Q Okay. But you haven't given anybody any
7 trouble since you've been in jail, have you?

8 A None at all.

9 Q Okay. And when the police came, you cooperated
10 with them?

11 A Yes.

12 Q You heard Commander Holloway talk about that?

13 A Yes.

14 Q And you talked to him when he came to the jail
15 to talk to you about the case, didn't you?

16 A Yes.

17 Q And when he did, what did you tell him?

18 A It was self-defense.

19 Q Okay. Let's talk about the incident at your
20 uncle's house. You know, we didn't get into too
21 much detail, but did that testimony accurately
22 describe what happened that day?

23 A Yes. And he's not my uncle, that's my first
24 cousin.

25 Q I'm sorry. But was that pretty accurate?

- 1 **A** Yes.
- 2 **Q** Now, could you identify any of the people that
3 were messing with you that day?
- 4 **A** Octavious Thompson (sic).
- 5 **Q** Okay. And what's his nickname?
- 6 **A** Duke.
- 7 **Q** And is he one of the young men that testified
8 the other day?
- 9 **A** Yes.
- 10 **Q** Okay. Were any of the other boys involved in
11 this case?
- 12 **A** Jarrod Coleman and Tobias James, I think that's
13 his last name.
- 14 **Q** Were there, too?
- 15 **A** Yes, sir.
- 16 **Q** And which is the boy in the white T-shirt that
17 testified the other day, the young man, the
18 17-year-old that had the lynching --
- 19 **A** Jarrod, that's Jarrod Coleman, sir.
- 20 **Q** They were there at your house, or at your
21 cousin's house?
- 22 **A** Yes.
- 23 **Q** Okay. Did they put you in fear?
- 24 **A** Yes.
- 25 **Q** Had you had another incident that put you in

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1 fear?

2 A Yes.

3 Q What incident was that?

4 A It was Sunday at the ballpark.

5 Q Let me go back since -- the thing at your
6 cousin's house, how long before this incident was
7 that?

8 A Four or five days, if that.

9 Q All right. Then the thing at the park was
10 about two weeks?

11 A No, it was -- yes, it was about two weeks.

12 Q All right. So what happened at the park?

13 A We was --

14 MR. ANDERSON: And, Judge, I hate to do this,
15 but is there any way I can turn that fan off?

16 THE COURT: Yes, sir. It was off. I guess, it
17 just caused the thermostat to come back on.

18 (Pause.)

19 THE COURT: Okay. Go ahead.

20 MR. ANDERSON: Thank you.

21 BY MR. ANDERSON:

22 Q All right. The park about two weeks before,
23 what happened?

24 A We was fixing to leave and someone threw a
25 rock.

1 Q Let me ask you this. Who's we?

2 THE COURT: I didn't hear what he said.

3 Say that again, please.

4 THE WITNESS: We was fixing to leave the
5 ballpark and I was in the car with my cousin, Marvin
6 and Reggie Martin, and we was leaving and someone
7 threw a rock at his car. So when we got out and
8 that's when Warren Chandler pulled a gun.

9 THE COURT: Who pulled a gun?

10 THE WITNESS: Warren Chandler.

11 BY MR. ANDERSON:

12 Q And that's the young man who testified the
13 other day that he didn't have a gun, correct?

14 A Yes.

15 Q And that's the man that Mr. Coleman said he saw
16 had a gun?

17 A Yes.

18 Q Okay. Did that incident put you in fear?

19 A Yes.

20 Q All right. So based upon your state of mind,
21 what were you riding around with?

22 A It was a shotgun.

23 Q And you really were riding around with a
24 shotgun?

25 A Yes.

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1 Q Did you ever shoot that shotgun at anybody
2 before this incident?

3 A No.

4 Q Okay. Why did you have the shotgun?

5 A Safety.

6 Q Okay. Now, again, you're talking to me. You
7 need to be talking to the jury, okay?

8 A Okay.

9 Q Did you have a handgun that you can tote?

10 A No. I was underage to have a handgun.

11 Q Okay. So you were toting around a shotgun in
12 your car?

13 A Yes.

14 Q Okay. Can you tell the jury about this
15 incident? Where were you going?

16 A I was going to Saluda Terrace, but I was going
17 to take a friend of mine some money.

18 Q And who was that?

19 A Candace, that's Senora sister.

20 Q So, obviously, she lived in Saluda Terrace
21 Apartments?

22 A Yes, sir.

23 Q So, talk slow and clear.

24 A Okay.

25 Q You pull into the apartments. When you went

1 over to those apartments, did you have any intention
2 of hurting anybody or doing anything bad?

3 A No, none at all.

4 Q So what happened?

5 A Okay. Going through Saluda Terrace, I had to
6 go to the back. So I'm going to the back, turn --
7 it's a loop thing, so I turned around through the
8 loop and I come back by. I see a group of guys. I
9 don't know who they was. It was dark, so --

10 Q Slow down. Why did you go back there?

11 A I didn't -- I went to take Candace the money,
12 but I didn't see her car.

13 Q Okay. So what did you -- you stopped and go
14 knock on her door?

15 A No, sir.

16 Q All right. What did you do?

17 A Okay. So I just continued to go, then I looped
18 back through. Then I coming back by, I see a group
19 of guys. I decided to ask them had they seen her.
20 So the car is completely stopped. I wind down the
21 window and get ready to ask, but before I can ask,
22 that's when two guys rushed the car. I recognized
23 one of them by his voice because he's the one that
24 said, Shoot now.

25 Q And who was that?

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1 **A** That's Octavious Thompson known as Duke.

2 **Q** Okay. So what did you do?

3 **A** I just picked up the gun and shot out the
4 window.

5 **Q** Now, where was the gun?

6 **A** It was in the floor at a slope with the butt on
7 the seat.

8 **Q** So if you can kind of turned sideways and
9 pretend like you're driving, okay?

10 **A** Okay.

11 **Q** And that's going to make it hard to talk
12 because you're away from the microphone, but you
13 don't have to talk for a second. But if this is the
14 driver's seat and here's the steering wheel and this
15 will be the passenger seat here, can you show the
16 jury about where the butt of the shotgun was? You
17 might have to just point.

18 **A** Okay. It was about in this area right up in
19 here (indicating).

20 **Q** Okay. Now, talk about the part where you
21 stopped the car and rolled down the window. How did
22 that happen? Now, you can turn back around so you
23 can get close to the microphone.

24 **A** Okay. I was at a complete stop. I wind the
25 window down.

1 Q Does your car have electric?

2 A No, sir.

3 Q So you were leaning over and undoing the
4 window?

5 A Yes, sir.

6 Q All right. And so what did you see and what
7 did you hear?

8 A I seen two guys rush the car and I heard
9 someone say, Shoot now.

10 Q Okay. And at the time you were slowing down,
11 what was your purpose?

12 A To ask them had they seen Candace.

13 Q Okay. And could you tell exactly who they were
14 when you were slowing down and stopping?

15 A No.

16 Q Did you slow down and stop with the intention
17 of engaging them in any kind of foul play?

18 A No.

19 Q When they came at the car and you heard, Shoot
20 now, how did that make you feel?

21 A I felt threatened, very scared at the moment.
22 I really felt that's when someone was fixing to
23 shoot.

24 Q What did you take it to mean?

25 A Someone that -- the one that yelled, Shoot now,

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1 was telling the other guy to shoot.

2 Q Now, why didn't you just drive off?

3 A They was towards the front of the car, so if I
4 would have drove off, that would have put myself in
5 more danger of them getting a shot out.

6 Q Did you truly feel like you were in danger?

7 A Yes.

8 Q So what did you do?

9 A I shot.

10 Q And how long did that take?

11 A It was a split second decision.

12 Q How long did it take to pick up the gun and
13 fire it?

14 A Everything is just a split second decision.
15 There's no time to think about nothing.

16 Q How big is this shotgun?

17 A It's about three feet.

18 Q And how heavy (inaudible) --

19 A It's not very heavy.

20 COURT REPORTER: I didn't understand the
21 question.

22 MR. ANDERSON: I'm sorry. I asked him how
23 heavy it was.

24 THE WITNESS: It's not very heavy.

25 BY MR. ANDERSON:

- 1 Q Not very heavy?
- 2 A Huh-huh.
- 3 Q You've got to say yes or no.
- 4 A Oh, okay. I'm sorry.
- 5 Q So say.
- 6 A Yes -- I mean, no, it's not heavy.
- 7 Q All right. Now, when you fired out the window,
- 8 did you have a specific target that you were
- 9 shooting at?
- 10 A No.
- 11 Q What was your -- what were you shooting at?
- 12 A Just get the gun out the window as quick as
- 13 possible just to get a shot out.
- 14 Q When you fired the gun, were you aiming at
- 15 Andrew Chandler?
- 16 A No.
- 17 Q What was your target?
- 18 A Just to get the gun out the window.
- 19 THE COURT: Hold on one second.
- 20 Are there people in that hallway having
- 21 conversations? I'm hearing people talking from
- 22 somewhere.
- 23 (Pause.)
- 24 THE COURT: All right. I'm sorry, Mr.
- 25 Anderson.

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1 **MR. ANDERSON:** Judge, you threw me off. I've
2 got to start all over.

3 **THE COURT:** What?

4 **MR. ANDERSON:** I'm kidding.

5 **THE COURT:** I'm not in a kidding mood, Mr.
6 Anderson. People have scheduled more stuff than I
7 can do and I'm not happy about it. Go ahead.

8 **MR. ANDERSON:** I understand, but it's not my
9 fault, right, Judge?

10 **THE COURT:** No, sir, it's not your fault at
11 all.

12 BY MR. ANDERSON:

13 **Q** Michael, I don't know why it is, but young men
14 have a hard time admitting they're afraid. I mean,
15 were you truly afraid?

16 **MR. YOUNG:** Your Honor, I'm going to object to
17 characterization. If he wants to ask a question and
18 not lead the witness, that'll be fine.

19 **THE COURT:** Don't make statements, ask
20 questions, please.

21 **MR. ANDERSON:** Yes, sir.

22 BY MR. ANDERSON:

23 **Q** Were you truly afraid?

24 **A** Yes.

25 **Q** All right. How do you feel about Andrew having

1 been shot?

2 A I truly feel bad because we were friends.

3 Q Were you trying to shoot Andrew Chandler?

4 A No.

5 Q After you fired the gun, did you know what you
6 had hit?

7 A No. I didn't know anyone was shot until I had
8 got home.

9 Q What did you do with the gun?

10 A I took it by a friend house.

11 Q And who was that friend?

12 A Lewis Barnes.

13 Q Lewis, L-e-w-i-s, Barnes, B-a-r-n-e-s; is that
14 correct?

15 A Yes.

16 Q And have you witnessed our efforts to get in
17 touch with Mr. Barnes through letters?

18 A Yes.

19 Q And Lewis hasn't -- y'all haven't heard from
20 Lewis, have you?

21 A No.

22 Q Why did you give Lewis the gun?

23 A Because I had just shot it and I was afraid at
24 the time.

25 Q Okay. Where did you go after -- I mean, where

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1 does Lewis live in conjunction to your house?
2 **A** He stays, like, right down the road from my
3 house.
4 **Q** Okay. So you went to Lewis' house and then
5 where did you go?
6 **A** Straight home.
7 **Q** Okay. By the time you had gotten home, had
8 word gotten out?
9 **A** Yes.
10 **Q** So you knew that something terrible had
11 happened?
12 **A** Yes.
13 **Q** So what did you do?
14 **A** Just stayed there until the police came.
15 **Q** Okay. So you knew -- you knew they were
16 coming?
17 **A** Yes.
18 **Q** Because of what people had told you?
19 **A** Yes.
20 **Q** Okay. And you knew -- you knew that when you
21 shot that gun, that -- what had happened to Andrew?
22 **A** Yes, once I had got home.
23 **Q** Okay. So, at that point in time, could you
24 have run away?
25 **A** If I chose to leave, yes.

1 Q But you stayed there and waited for the police?

2 A Yes.

3 Q What did you do when the police got there?

4 A They pulled up and they got out their car.

5 Then I just walked off the steps with my hand up.

6 When they told me to get on the ground, I got on the
7 ground and I surrendered.

8 Q Okay. Did you truly feel that you couldn't
9 drive away before firing that gun?

10 A There's no way I could have drove off, sir.

11 Q How fast would that car go?

12 A It has a fuel injection problem, so it wouldn't
13 take off very fast.

14 Q How did you -- what do you feel like -- I mean,
15 is it hard to remember exactly every little detail?

16 A It is three years old.

17 Q Did -- how long did you have to decide how to
18 handle this situation?

19 A Everything was a split second decision.

20 Q Leading up to that event, were you afraid for
21 your safety?

22 A Yes.

23 Q Were you afraid of Duke?

24 A Yes.

25 Q So why did you shoot that gun out of that

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1 window?

2 A I shot the gun because I felt threatened. And
3 I just didn't want to harm anyone, so I shot the gun
4 to buy some time so I can just leave.

5 Q Did you truly feel like you were in danger?

6 A Yes.

7 Q And when Charles Holloway came to the jail to
8 talk to you that night, what did you tell him?

9 A I tell him it was self-defense.

10 Q At any time during any of this investigation,
11 did you see any evidence that they were trying to
12 check on self-defense?

13 A None at all, sir.

14 Q When you heard, Shoot now, what did that put in
15 your mind?

16 A That someone -- that the one that said, Shoot
17 now, which is Duke, was telling the other guy to
18 shoot, go ahead and shoot him, shoot him now.

19 Q And him being who?

20 A Unfortunately, Andrew.

21 Q But when they said, Shoot now, who did you
22 think they were talking about getting shot?

23 A Me.

24 MR. ANDERSON: All right. Michael, please
25 answer any questions that Mr. Young or the Judge

1 might have for you.

2 THE WITNESS: Yes, sir.

3 THE COURT: Cross.

4 MR. YOUNG: Yes, Your Honor. Thank you.

5 CROSS-EXAMINATION

6 BY MR. YOUNG:

7 Q Tell me about the shotgun you used.

8 A It was single shot, 20-gauge.

9 Q Okay. Hold up your hands, how long was it?

10 A (Witness complies.)

11 Q How long?

12 A I couldn't tell you.

13 Q Okay. How did it work?

14 A It was -- had a little hammer thing on it that
15 you cock it with I guess.

16 Q Well, how did you put a shell in it?

17 A You got to break it open.

18 Q So you have to break open the shotgun?

19 A Yes.

20 Q Snap it open sort of?

21 A Yes, sir.

22 Q And it's how long?

23 A About three feet.

24 Q So three feet. Three feet's like this

25 (indicating)?

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1 A No, sir. Three feet is not that long.

2 Q Okay. About three feet. And you put a shell
3 in it?

4 A No, sir, it was already loaded.

5 Q Who -- wait a minute. I was asking you how you
6 load it. Let me ask you how you load it. You break
7 it open and you put a shell in it, right?

8 A Yes.

9 Q And then you close it?

10 A Yes, sir.

11 Q Okay. When you close it, what do you have to
12 do after that to make it work?

13 A Pull the little hammer thing back.

14 Q A little what back?

15 A It's like a little hammer thing, whatever you
16 call it.

17 Q The hammer thing, it's on top?

18 A Yes, sir.

19 Q You use your thumb to do that sometimes?

20 A Yes, sir.

21 Q And then when you pull that back, what do you
22 have to do?

23 A Just pull the trigger.

24 Q Just pull the trigger. And that's the shotgun
25 you used to shoot and kill Andrew Chandler?

- 1 A In self-defense, yes, sir.
- 2 Q Did you use it to kill him?
- 3 A I didn't have no intentions of killing him.
- 4 Q Okay. Let's talk about that. How many times
- 5 had you fired that shotgun before?
- 6 A I couldn't tell you, sir.
- 7 Q Did you use it in the backyard?
- 8 A Yes.
- 9 Q Was the shells yellow?
- 10 A Yes.
- 11 Q So when the police came up there and they
- 12 searched the back of your house and recovered all of
- 13 these shells, shells like this?
- 14 A Yes.
- 15 Q So did you have a box of shells at your house
- 16 like this?
- 17 A Yes, sir.
- 18 Q All right. I'm holding up State's Exhibit 29
- 19 and I held up 31 and 32. Did you buy that box of
- 20 shells?
- 21 A Yes, sir.
- 22 Q When did you buy them?
- 23 A I couldn't tell you.
- 24 Q Had them very long?
- 25 A Yes.

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- 1 Q Okay. The box was empty though, right?
- 2 A Yes.
- 3 Q So you shot a good bit?
- 4 A Yeah, you can say that.
- 5 Q Okay. You're the one that shot the shotgun?
- 6 A Yes.
- 7 Q You shot it. When it got shot, you shot it?
- 8 A Yes.
- 9 Q So you knew how to use it?
- 10 A You can say that.
- 11 Q Well, I'm asking, did you know how to use it?
- 12 A I know how to shoot it, but I'm not no expert
- 13 at it.
- 14 Q How many -- outside of this box says it's got
- 15 -- it says it's got 25 shells in it.
- 16 A Well, for the record, I'm not the only one that
- 17 shot that gun.
- 18 Q Okay. Who else shot it?
- 19 A My stepbrother, we used to shoot it together,
- 20 some friends.
- 21 Q Right. So when you had the shotgun in your
- 22 possession, when you practiced with it out in the
- 23 backyard?
- 24 A Yes.
- 25 Q You practiced shooting in the backyard?

1 A We're just shooting. We really wasn't aiming
2 at nothing.

3 Q Not aiming, but just shooting?

4 A Just shooting.

5 Q Okay. And so when you shot in the backyard,
6 did you cut your grass in your backyard?

7 A Yes.

8 Q You do the cutting?

9 A Yes, I help out.

10 Q Okay. This is August, right?

11 A Yes, sir.

12 Q So how long before the shooting did you cut
13 your grass?

14 A I couldn't tell you. I really cannot recall,
15 sir.

16 Q But if you cut the grass and shells were found
17 on the ground outside in the grass, kind of tells
18 you something about how long they'd been there,
19 right?

20 A I also have dogs.

21 Q You got dogs?

22 A Yes, sir.

23 Q They like shotgun shells?

24 A Well, they can, you know, dogs like trash so
25 they pretty much ate anything.

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1 Q You kept this box of shells in your room?

2 A Yes.

3 Q All right. So let me ask a simple question
4 about your car. Now, your car is this one right
5 here that's been shown before, State's Exhibits 3, 4
6 and 5, right? That's your car, right?

7 A Yes.

8 Q And this Exhibit right here, which is State's
9 Exhibit Number 6, is your car too, right?

10 A Yes, that's the inside.

11 Q And that's the car you drove in, that's the car
12 you used to drive around in and you've been driving
13 around in that car for how long?

14 A It wasn't long because the car had
15 actually been --

16 Q No. How long had you been driving this car,
17 period?

18 A I can't recall exactly how long because the car
19 was tore up before that.

20 Q Okay. Let me ask you a question. Please
21 answer the question as to how long you had been
22 driving this car. Was it assigned to you? It was
23 your car?

24 A Yes.

25 Q And how long have you had your car?

1 A It wasn't long.

2 Q You just got this car?

3 A The car was tore up. The car had to be fixed.

4 So, roughly, me being under oath, I can't give you

5 an exact time because then that would be lying. I

6 really can't say.

7 Q Was it a year, six months? How long had you

8 been driving it?

9 A Just roughly two or three months.

10 Q Two or three months?

11 A Yes.

12 Q Okay. So you'd been driving this car for two

13 or three months, okay. Now, I want to show you

14 State's Exhibit Number 6. Look at the driver's seat

15 there, would you, for me?

16 A (Witness complies.)

17 Q It's tilted back?

18 A Slightly, yes.

19 Q Okay. And you're the one that tilted it back,

20 right?

21 A Yes.

22 Q Because you were driving it last, right?

23 A Yes.

24 Q Nobody drove that car after you got home that

25 night after the shooting, did they?

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1 A From my understanding, I guess not because I
2 got locked up.

3 Q Okay. Fair enough. But the car was at your
4 house when you got there, right?

5 A Yes.

6 Q Or when the police got there, I mean?

7 A I guess.

8 Q And in connection with this car, you sat in
9 that seat of that car and somewhere in that car is
10 where you had that shotgun and I'm still not clear
11 where that shotgun was in that car. Where was it?

12 A It was on the passenger side.

13 Q On the passenger side in the seat?

14 A Yes. If you don't mind, can I show the jury?
15 That's a better example.

16 Q Sure. Where was it? I'll hold it for you.

17 A As I was telling you earlier from the slope,
18 the butt of the gun would be like in the middle of
19 the seat.

20 Q In the middle of the seat. Was it between the
21 seats?

22 A It was at a slope. The barrel was in the floor
23 with the butt of the gun on the seat.

24 Q Okay. So it was leaning in the floorboard of
25 -- the muzzle was in the floorboard?

1 A Yes.

2 Q And the butt of the gun was up on the seat
3 itself?

4 A Yes.

5 Q So you kept it right over there where you could
6 just reach over and grab it?

7 A That's all, sir.

8 Q Okay. That's where you had it?

9 A Yes.

10 Q And that's the way it was in the car when you'd
11 been driving around in it for a while, right?

12 A Yes.

13 Q And you kept it right there that whole time?

14 A The gun wasn't always with me when I rode
15 around.

16 Q How long had it been in there?

17 A It was, like, after the incident that happened
18 at the park.

19 Q Okay. What day was that?

20 A It was on a Sunday.

21 Q So Sunday there's an incident at the park and
22 you go in the house and you get yourself a shotgun.
23 It's your shotgun, right?

24 A Yes.

25 Q And you load it?

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- 1 A Yes.
- 2 Q And you take that shotgun and you put it in
3 your car?
- 4 A Yes.
- 5 Q Okay. Now, you're ready.
- 6 A That's right (ph).
- 7 Q Whatever comes along, you're ready, correct?
- 8 A Yes.
- 9 Q If an opportunity presents itself, you can use
10 that shotgun?
- 11 A Yes, sir.
- 12 Q So you were -- Saluda Terrace is people -- when
13 they say they do a lap, they go to the Terrace to do
14 a lap, right? That's kind of a common thing?
- 15 A Yes.
- 16 Q You just go to the Terrace and do a lap. Where
17 do you go when you do the lap?
- 18 A You can either go all the way through and come
19 to the back and loop around or you can go to the
20 middle and loop around.
- 21 Q And a lot of people go there, right?
- 22 A Yes.
- 23 Q And that's a hangout, right?
- 24 A For some, yes.
- 25 Q Okay. And you'd expect to find some people

1 back there in the back, wouldn't you?

2 A At times, yes.

3 Q That time of night particularly?

4 A No.

5 Q People go back there to smoke dope, don't they?

6 A Not all the time.

7 Q But they do sometimes?

8 A Some people.

9 Q Some people do, okay. So when you do a lap,
10 you can expect to see people in the back part of
11 that parking lot, right?

12 A Yes, if it's light enough.

13 Q Okay. Let's talk about lights. State's
14 Exhibit 13, there are two lights in that picture,
15 right? And that's at the Saluda Terrace, isn't it?

16 A Yes.

17 Q And there's a light pole right next to a sheet
18 covered body in that spot, right?

19 A Yes.

20 Q And there's a light behind that down there at
21 the dumpster, isn't there?

22 A Yes.

23 Q And there's another angle here, there's another
24 light right across from where the body is, isn't it?

25 A Yes.

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1 Q With the light pole next to it on the opposite
2 side. And then here's another angle shot showing
3 two lights, right?

4 A Yes.

5 Q And a real close-up of the body and a light
6 pole right next to it?

7 A Okay.

8 Q And so on this diagram that I held up here
9 earlier, this one, I'm going to just hold it up like
10 this for now and try to get out of the way as best I
11 can, there are light poles here in the diagram,
12 which is Exhibit Number 27, behind the dumpster and
13 this is down here toward the playground, right?
14 This one here?

15 A Yes.

16 Q And this light pole at the corner and this
17 light pole right next to the body and there are
18 actually some more over here not in the diagram,
19 aren't there?

20 A If you say so, sir.

21 Q No, I'm asking you.

22 A I really don't know. I don't live there.

23 Q Well, you've been down there before, haven't
24 you?

25 A Yes.

1 Q You've seen the pictures, haven't you?

2 A Yes.

3 Q And the pictures say there's lights there,
4 don't they?

5 A Yes.

6 Q Okay. And so when you came in, you came in
7 just like this, you came in from this direction
8 which would be toward the entrance, right?

9 A Yes.

10 Q You came down the hill, okay. And when you got
11 to this point in the hill, right then is where you
12 could start seeing people?

13 A Yes, but Candace also stays on that right side
14 so my attention was on that side.

15 Q I'm sorry?

16 A I said Candace stays on the right side, so my
17 attention was directed to that side.

18 Q But you could see people down there, couldn't
19 you?

20 A If you're paying attention, that's a
21 possibility.

22 Q Well, you've got headlights on your car, don't
23 you?

24 A Yes.

25 Q And your headlights would have gone down there,

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1 wouldn't it?

2 **A** Yes.

3 **Q** And it would have been downhill toward that,
4 wouldn't it?

5 **A** Yes.

6 **Q** And you would have seen people down there,
7 right?

8 **A** If you was looking, yes.

9 **Q** If you was looking. So you don't look straight
10 ahead when you're driving?

11 **A** I told you Candace stays on the right and my
12 attention was directed to the right.

13 **Q** All right. So when you got to this point right
14 here at the light pole, the first one that's on your
15 right, to where you turn right to go toward the
16 playground, your attention was still looking right?

17 **A** Yes, because I was looking for Candace car.

18 **Q** Okay. So up here at the top of the hill when
19 you look down, you're not looking straight forward
20 at all, ever?

21 **A** If you is going downhill, most people would if
22 you was -- if you was not looking for something in
23 particular.

24 **Q** Isn't there a building right here (indicating)?

25 **A** Yes.

1 Q Okay. So it's kind of hard to see over here,
2 isn't it, to the parking lot area you're talking
3 about to the right?

4 A Yes.

5 Q Okay. So you kind of need to look forward
6 until you get past that, don't you?

7 A But where you pointed at is actually the
8 corner, so that's where the parking lot start at.

9 Q Okay. So here you come in and you turn to your
10 right and you come down toward here and where do you
11 stop? Show me where you stop on this diagram.

12 A Somewhere back up in here (indicating).

13 Q You stop?

14 A To turn around, yes.

15 Q You stopped to turn around. You haven't seen
16 her car so you stopped to turn around?

17 A Yes, that's the end of it.

18 Q Okay. Now, all of a sudden you decide you see
19 some people, right?

20 A As I'm coming back up.

21 Q Where are you when you see the people?

22 A When I first noticed them, I was up in this
23 area (indicating).

24 Q Right there, okay. And you're going how fast
25 or slow?

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- 1 A I really can't recall. I was going slow,
2 though.
- 3 Q I'm sorry?
- 4 A I can't recall how fast, but I was going slow.
- 5 Q Walking speed?
- 6 A Yes.
- 7 Q Okay. And then you say you stop again?
- 8 A Once I got up in this area (indicating).
- 9 Q Okay. And the shotgun is in the right seat?
- 10 A Yes.
- 11 Q Muzzle pointed down, butt pointed up?
- 12 A Yes, sir.
- 13 Q Hammer back?
- 14 A No, it was not cocked.
- 15 Q Not cocked, so you had to cock it?
- 16 A Yes.
- 17 Q When did you cock it?
- 18 A I cocked it at the same time when I heard that
19 guy say, Shoot now.
- 20 Q You brought that shotgun up, pulled the hammer
21 back and shot, boom?
- 22 A Yes. Yes, sir.
- 23 Q Finger on the trigger, hammer back, boom?
- 24 A Yes, sir.
- 25 Q That quick?

- 1 A Yes, sir.
- 2 Q Three-foot long shotgun?
- 3 A Yes, sir.
- 4 Q Pointed out the window of your car?
- 5 A Yes, sir.
- 6 Q Did you point it up?
- 7 A No. I just got -- I really can't recall. I
- 8 just got it out the window as quick as I could.
- 9 Q I'm going to walk towards you until I get close
- 10 enough to be as close as the people were in this
- 11 particular situation to your car when you pull the
- 12 shotgun, I want to walk towards you and you tell me
- 13 when to stop.
- 14 A Okay.
- 15 Q (Walking.)
- 16 A Stop. From the outside of my passenger window,
- 17 they was about that far.
- 18 Q Not from where you were seated, but from the
- 19 outside of the passenger window?
- 20 A Yes.
- 21 Q This is as close as I got?
- 22 A Yes.
- 23 Q Motor running in your car?
- 24 A Yes.
- 25 Q You didn't turn it off?

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- 1 A No, sir.
- 2 Q In gear?
- 3 A Yes, sir.
- 4 Q Foot on the brake?
- 5 A Yes, sir.
- 6 Q And it's easier to just pull up a shotgun and
7 kill somebody?
- 8 A At that time for safety reasons, yes, it was
9 easier.
- 10 Q So you just can't drive away?
- 11 A They was at the front of my car, so if I would
12 have drove off --
- 13 Q It was what?
- 14 A I said they was towards the front of my car.
- 15 Q They who?
- 16 A Andrew and Duke.
- 17 Q I thought you said you didn't know who these
18 people were?
- 19 A I know now.
- 20 Q Andrew and Duke were toward the front of your
21 car and you recognized them at the time, no or yes?
- 22 A No, I did not recognize Andrew. I recognized
23 Duke after he said to shoot now.
- 24 Q Let me ask you a question. What do you see in
25 the hands of the person laying on the ground there?

1 And I'm showing you Defense Exhibit 1.

2 A It's a lighter.

3 Q It's a lighter. And what's in the other hand?

4 A Nothing that I can see.

5 Q You're inside your car. Do you have the lights
6 on inside your car?

7 A No.

8 Q Okay. But there are lights outside?

9 A Yes.

10 Q And you say you can't see people this far away?

11 A No.

12 Q No?

13 A No, sir.

14 Q How long have you known Duke?

15 A We went to school together so I pretty much
16 know him all my life.

17 Q How long have you known Andrew?

18 A Went to school together.

19 Q How long have you known Warren?

20 A Went to school together.

21 Q You know Ray Kirkland?

22 A School together.

23 Q You know all these guys, don't you?

24 A We all went to school together, sir.

25 Q But you don't recognize them?

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1 A No. It was dark.

2 Q And out of all of these people, you hear the
3 word, shoot me or shoot now or shoot or something to
4 the effect that if you're going to shoot, shoot now,
5 something like that?

6 A For the record, it was, Shoot now.

7 Q Okay. For the record, for your record. And
8 you're -- I'm this far away from you and you've got
9 your foot on the gas and you can push the button and
10 go, but you cock a shotgun and point it out the
11 window and kill somebody?

12 A For safety reasons, yes.

13 Q For safety reasons. A shotgun that you put in
14 that car and you've been carrying around with you
15 for over a week?

16 A Is that a question?

17 Q Yes, sir, I'm asking you.

18 A Yes, sir.

19 Q Is that the first time you ever showed somebody
20 else that shotgun?

21 A People have seen me with it, but I haven't
22 shown it to no one.

23 Q You haven't shown it to them?

24 A (Witness shook head.)

25 Q They seen you in that car with that shotgun,

1 haven't they?

2 **A** Yes.

3 **Q** Who would those people be?

4 **A** From my understanding, Jarrod Coleman, Tobias
5 Daniels.

6 **Q** From your understanding. Sir, how about just
7 tell me who they were?

8 **A** Jarrod Coleman and Tobias Daniels.

9 **Q** And they saw you with that shotgun?

10 **A** Yes.

11 **Q** In that car?

12 **A** Yes, sir.

13 **Q** Didn't they?

14 **A** Yes, sir.

15 **Q** Do you think they might have felt threatened?

16 **MR. ANDERSON:** I'm going to object to the
17 relevance of that, Your Honor.

18 **THE COURT:** Are you asking him to say what
19 somebody else thought?

20 **MR. YOUNG:** I'll redirect that.

21 **BY MR. YOUNG:**

22 **Q** Is there any -- let's just put it this way, had
23 you been in their shoes, how would you have felt?

24 **MR. ANDERSON:** Your Honor, I object. It's
25 totally irrelevant to this.

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1 **THE COURT:** It's irrelevant.

2 BY MR. YOUNG:

3 **Q** So tell me exactly what you did when you pulled
4 up the shotgun. I want you to demonstrate for the
5 jury exactly what you did. And if you don't mind,
6 I'm going to be standing over in the direction that
7 you would have been in relation to the person,
8 roughly, or you tell me where I should have been
9 when you fired. You saw people out there, right?
10 You saw people out there?

11 **A** Once I got close enough, yes.

12 **Q** Okay. But when you pulled up that shotgun, you
13 saw them out there?

14 **A** I saw a group, yes.

15 **Q** You saw a group.

16 **A** Yes.

17 **Q** You didn't see individuals just people?

18 **A** Yes, just people.

19 **Q** People you've been around all your life?

20 **A** Yes.

21 **Q** This far away?

22 **A** Yes.

23 **Q** With the headlights on?

24 **A** Well, excuse me, they wasn't -- as a group,
25 they wasn't standing that close.

1 Q Okay. Well, just tell me what you did if I'm
2 -- let's just say I'm in roughly the direction you
3 pointed that shotgun, okay, show me how you did
4 that, show me the motion you made and then what you
5 did.

6 A All I would have had to do is just, gun right
7 here, just pick it up, cock it and I just shot
8 (indicating).

9 Q You turned your head to the left?

10 A Yes.

11 Q So not only do you not look at the people that
12 are in front of you when you come down the street
13 driving into a place, you turn left not to look at
14 somebody you're shooting at?

15 A The gun got a kick, so, yes, sir.

16 Q Is that what you always do when you fire a
17 shotgun, turn your head away?

18 A If you're in a car, yes, sir, I guess. I don't
19 know.

20 Q I'm sorry?

21 A I said if you was in a car with a little bit of
22 room, I guess you would turn your head as a reflex.

23 Q Tobias Daniels -- Tobias Daniels and Jarrod
24 Coleman were outside in the street, weren't they,
25 when you had this little confrontation with Duke,

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1 didn't you?

2 A Yes.

3 Q They were standing out there, weren't they?

4 A Yes.

5 Q They're the ones that saw you with a shotgun,
6 weren't they?

7 A Yes, sir.

8 Q Let me ask you something. That car was sitting
9 right there, wasn't it?

10 A Yes, sir --

11 Q The car you were driving. And the shotgun was
12 in there then, wasn't it?

13 A No, sir.

14 Q Oh, I thought you said you'd been riding around
15 for a week?

16 A Yes, I have, but --

17 Q How long before -- how long then before this
18 incident, did that incident happen with Jarrod
19 Coleman where you were -- you were over at your
20 cousin's house, Jarvis Stevens, when did that happen
21 in relation to the shooting, Monday, Tuesday,
22 Wednesday, Thursday, Friday of that week, what?

23 A Roughly, I would say around Thursday or Friday.

24 Q I thought you just said you had the thing in
25 your car for a week?

1 A Okay. That following day -- well, do I even
2 have to explain myself to you?

3 Q Sir, you can explain anything you want to try
4 to explain.

5 A Well -- what was your question again?

6 Q My question to you was that shotgun in your car
7 parked at Jarvis Stevens' house on the day that
8 Tobias Daniels and Jarrod Coleman were walking by
9 with Duke Thomas and this little confrontation
10 occurred with you?

11 A Okay. No, it was not in the car with me, but
12 later on that day, I did go back and get it.

13 Q You went back to your house and put it back in
14 the car?

15 A Yes, sir.

16 Q Okay. So it was in the car on the day you
17 showed it to Jarrod and Tobias. And what day was
18 that you showed --

19 A I didn't show it. They just saw it.

20 Q Okay. What day was that?

21 A I can't tell you, sir. It's been three years
22 ago.

23 Q Same week?

24 A Yes, I can say that.

25 Q Earlier in that week then?