

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Sumter County
Hon. W. Jeffrey Young, Circuit Court Judge

RECEIVED

SEP 27 2018

S.C. SUPREME COURT

THE STATE,

Petitioner,

v.

JEFFREY DANA ANDREWS,

Respondent.

Opinion No. 5574 (S.C. Ct. App. filed July 18, 2018)

APPENDIX

ROBERT M. DUDEK, ESQUIRE

S.C. Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia, SC 29211
(803) 734-1343

ATTORNEY FOR RESPONDENT

ALAN WILSON
Attorney General

SCOTT MATTHEWS
Assistant Attorney General

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit

ATTORNEYS FOR PETITIONER

TABLE OF CONTENTS

Record on Appeal	1
Final Brief of Appellant	641
Final Brief of Respondent	674
Opinion No. 5574 (S.C. Ct. App. Filed July 18, 2018)	695
State's Petition for Rehearing	708
Andrews' Petition for Rehearing	718
State's Return to Andrews' Petition for Rehearing	724
Andrews' Return to State's Petition for Rehearing	730
Order denying Petition for Rehearing (September 20, 2018)	733

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEFFREY DANA ANDREWS

APPELLANT

APPELLATE CASE NO 2015-001679

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

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

RANEE SAUNDERS
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit
Post Office Box 836
Sumter, SC 29150-0836

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....	i
TRIAL TRANSCRIPT (dated July 20-24, 2015).....	1
MOTION FOR IMMUNITY FROM PROSECUTION BY MS. COOKE.....	2
- <u>DUNCAN</u> HEARING.....	2
TESTIMONY	
JOHN THOMAS DAVIS, JR.	
Direct Examination by Ms. Cooke	2
OBJECTION BY MR. MEADORS	5
RESPONSE BY MS. COOKE.....	6
QUESTION BY THE COURT.....	6
RESPONSE BY MR. MEADORS	6
TESTIMONY	
JOHN THOMAS DAVIS, JR.	
Continued Direct Examination by Ms. Cooke	6
Cross-Examination by Mr. Meadors	13
OBJECTION BY MS. COOKE.....	27
RULING BY THE COURT.....	27
TESTIMONY	
JOHN THOMAS DAVIS, JR.	
Continued Cross-Examination by Mr. Meadors.....	27
OBJECTION BY MS. COOKE.....	27
RULING BY THE COURT.....	27

TESTIMONY

JOHN THOMAS DAVIS, JR.

Continued Cross-Examination by Mr. Meadors 27

Redirect Examination by Ms. Cooke.....28

OBJECTION BY MR. MEADORS 29

RULING BY THE COURT.....29

TESTIMONY

JOHN THOMAS DAVIS, JR.

Continued Redirect Examination by Ms. Cooke.....29

Re-Cross Examination by Mr. Meadors.....29

JANICE EDWARD ROSS

Direct Examination by Ms. Cooke 31

Cross-Examination by Mr. Meadors 36

Redirect Examination by Ms. Cooke.....39

WHITNEY BERRY

Direct Examination by Ms. Cooke 40

MARY ANN E. BOEHM

Direct examination by Ms. Cooke 44

Cross-Examination by Mr. Matthews.....47

Redirect Examination by Ms. Cooke.....49

WHITNEY BERRY

Cross-Examination by Mr. Meadors 51

Redirect Examination by Ms. Cooke.....57

Re-Cross Examination by Mr. Meadors.....58

JEFFREY DANA ANDREWS

Direct Examination by Ms. Cooke 59

OBJECTION BY MR. MEADORS 82

RULING BY THE COURT.....82

TESTIMONY

JEFFREY DANA ANDREWS

Continued Direct Examination by Ms. Cooke 82

Cross-Examination by Mr. Meadors 85

Redirect Examination by Ms. Cooke.....	110
Re-Cross Examination by Mr. Meador	115
TERRY GAINNEY	
Direct Examination by Ms. Cooke	116
Cross-Examination by Mr. Meadors	123
OBJECTION TO BEING ACCEPTED AS AN EXPERT BY MR. MEADORS.....	125
QUESTION BY THE COURT	126
RESPONSE BY MS. COOKE.....	126
RULING BY THE COURT	126
TESTIMONY	
ROBERT ANDREWS	
Direct Examination by Ms. Cooke	127
Cross-Examination by Mr. Meadors	129
KIMBERLY GRAHAM	
Direct Examination by Ms. Cooke	136
Cross-Examination by Mr. Matthews.....	138
JOHN DAVIS	
Direct Examination by Ms. Cooke	139
Cross- Examination by Mr. Meadors	140
Redirect Examination by Ms. Cooke.....	141
JERRY KELLY	
Direct Examination by Mr. Meadors.....	143
Cross-Examination by Ms. Cooke.....	151
Redirect Examination by Mr. Meadors	154
Re-cross Examination by Ms. Cooke	154
OBJECTION TO SPECULATION BY MR. MEADORS	154
RULING BY THE COURT	154
TESTIMONY	
ERIKA ANDREWS	
Direct Examination by Mr. Meadors.....	155
Cross-Examination by Ms. Cooke.....	170

OBJECTION BY MR. MEADORS	179
RULING BY THE COURT	179
TESTIMONY	
ERIKA ANDREWS	
Continued Cross-Examination by Ms. Cooke	179
Redirect Examination by Mr. Meadors	181
ARGUMENT BY MS. COOKE	182
ARGUMENT BY MR. MATTHEWS	190
REPLY BY MS. COOKE	198
RULING BY THE COURT ON THE DUNCAN HEARING	203
OPENING STATEMENT BY MR. MEADORS BEFORE THE JURY	207
OPENING STATEMENT BY MS. COOKE BEFORE THE JURY	221
TESTIMONY	
JERRY KELLY	
Direct Examination by Mr. Meadors	223
Cross-Examination by Ms. Cooke	238
Redirect Examination by Mr. Meadors	241
SHIRLENE SKIPPER	
Direct Examination by Mr. Meadors	243
KIMBERLY GRAHAM	
Direct Examination by Mr. Meadors	247
Cross-Examination by Ms. Cooke	256
ERIKA ANDREWS	
Direct Examination by Mr. Meadors	259
Cross-Examination by Ms. Cooke	295
JANICE ROSS	
Direct Examination by Mr. Meadors	310
Cross-Examination by Ms. Cooke	323
Redirect Examination by Mr. Meadors	325

ERIKA ANDREWS	
Continued Cross-Examination by Ms. Cooke.....	326
DISCUSSION REGARDING PLAYING OF VIDEOTAPE.....	327
AUDIO INTERVIEW OF ERIKA ANDREWS.....	329
REQUEST BY MR. MATTHEWS TO STOP THE TAPE.....	329
RULING BY THE COURT.....	329
TESTIMONY	
ERIKA ANDREWS	
Continued Cross-Examination by Ms. Cooke.....	330
Redirect Examination by Mr. Meadors.....	331
Re-cross Examination by Ms. Cooke.....	337
ISSUE REGARDING WITNESS BY MS. COOKE.....	339
RESPONSE BY THE COURT.....	340
RESPONSE BY MR. MEADORS.....	340
TESTIMONY	
ROBERT BURNISH	
Direct Examination by Mr. Matthews.....	344
Cross-Examination by Ms. Cooke.....	353
MARY ANN BOEHM	
Direct Examination by Mr. Matthews.....	354
Cross-Examination by Ms. Cooke.....	364
WHITNEY BERRY	
Direct Examination by Mr. Meadors.....	365
Cross-Examination by Ms. Cooke.....	387
Redirect Examination by Mr. Meadors.....	388
CHAD SMITH	
Direct Examination by Mr. Matthews.....	390
Cross-Examination by Ms. Cooke.....	404
WAYNE DUBOSE	
Direct Examination by Mr. Meadors.....	405
Cross-Examination by Ms. Cooke.....	417

Redirect Examination by Mr. Meadors	418
RENEWAL OF OBJECTIONS AND MOTION FOR A DIRECTED VERDICT BY MS. COOKE	419
RESPONSE BY MR. MATTHEWS	420
RULING BY THE COURT	420
DEFENDANT'S RIGHTS BY THE COURT	421
TESTIMONY	
JOHN THOMAS DAVIS	
Direct Examination by Ms. Cooke	422
KIMBERLY GRAHAM	
Direct Examination by Ms. Cooke	431
JOHN THOMAS DAVIS	
Continued Direct Examination by Ms. Cooke	433
Cross-Examination by Mr. Meadors	434
Redirect Examination by Ms. Cooke	444
Re-cross Examination by Mr. Meadors	447
ROBERT ANDREWS	
Direct Examination by Ms. Cooke	447
Cross-Examination by Mr. Meadors	452
JEFFREY DANA ANDREWS	
Direct Examination by Ms. Cooke	460
Cross-Examination by Mr. Meadors	483
CLOSING ARGUMENT BY MR. MATTHEWS	531
CLOSING ARGUMENT BY MS. COOKE	542
OBJECTION BY MR. MEADORS	550
RULING BY THE COURT	551
CONTINUED CLOSING ARGUMENT BY MS. COOKE	551
CLOSING ARGUMENT BY MR. MEADORS	558
OBJECTION BY MS. COOKE	567

RULING BY THE COURT.....	568
CONTINUED CLOSING ARGUMENT BY MR. MEADORS	568
JURY CHARGE.....	583
JURY QUESTION	600
RESPONSE BY THE COURT	600
QUESTION BY MR. MEADORS REGARDING CHARGE	600
RESPONSE BY THE COURT	600
OBJECTION BY MR. MEADORS	601
VERDICT	602
MOTION FOR A NEW TRIAL BY MS. COOKE	605
RULING BY THE COURT	605
PRIOR RECORD BY MR. MEADORS.....	606
STATEMENT BY MR. HOWELL.....	606
STATEMENT BY MS. HOWELL.....	610
STATEMENT BY MR. DUBOSE.....	613
STATEMENT BY MR. MEADORS	613
STATEMENT BY MS. COOKE.....	615
STATEMENT BY THE DEFENDANT	615
SENTENCING	618
INDICTMENT	620
CERTIFICATE OF COUNSEL.....	622

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

EXHIBIT D-31 (INTERVIEW OF ERIKA ANDREWS)

EXHIBIT D-32 (DASHCAM)

EXHIBIT D-33 (PHOTO OF PORCH)

State of South Carolina)
)
County of Sumter)

The State of South Carolina,
Plaintiffs

vs.

Transcript of Record
2014-GS-43-00725

Jeffrey Dana Andrews,
Defendant

July 20th-24th, 2015
Sumter, S.C.

Before the Honorable W. Jeffrey Young, Judge.

A-P-P-E-A-R-A-N-C-E-S

Mr. John P. Meadors,
Assistant Solicitor for the State

Mr. Scott Mathews,
Assistant Solicitor for the State

Ms. Elaine Cooke,
Public Defender

Margaret T. Sullivan
Court Reporter

Investigator John Davis-Direct by Cooke

1 MR. MEADORS: Your Honor, we call
2 indictment 2014-GS-43-0725. The State of South
3 Carolina versus Jeffrey Dana Andrews. It's an
4 indictment for murder and possession of a weapon
5 during the commission of a violent crime.

6 THE COURT: Any motions on the record,
7 Ms. Cooke?

8 MS. COOKE: Yes, Your Honor. I make a
9 motion for immunity from prosecution under Section
10 16-11-448. Also if not found under 448, I'm making
11 a motion under 16-11-440 (c). And if not found
12 under Section 16-11-440 (c), I'm making a motion a
13 under 16-11-450, which allows for other common law
14 provisions; such as, self defense and habitation.

15 THE COURT: You may start calling your
16 witnesses.

17 MS. COOKE: Your Honor, I would call
18 Investigator John Davis to the stand.

19 Investigator John Thomas Davis, Jr. being
20 first duly sworn, testified as follows:

21 THE BAILIFF: State your full name and
22 spell your last name for the record.

23 A. John Thomas Davis, Jr. D-A-V-I-S.

24 DIRECT EXAMINATION by Ms. Cooke:

25 Q. Mr. Davis, can you tell us what your

Investigator John Davis-Direct by Cooke

1 occupation is?

2 A. I'm currently a licensed private
3 investigator for the State of South Carolina. I
4 started my career in this 1984, as a reserve
5 deputy with the Sumter County Sheriff's Office. I
6 was hired, I spent time in with the patrol
7 division with the sheriff's office. I then went
8 to traffic division with the sheriff's office. I
9 was a juvenile investigator for the sheriff's
10 office. And then I spent 4 and a half years as a
11 narcotic's investigator.

12 I then spent one year with the City Police
13 Department. I was hired back in 97, by the
14 sheriff's office to attend polygraph examination
15 training. I did so, and for my remaining time with
16 the sheriff's office, I was a polygraph examiner,
17 and investigator. And I was a supervisor over the
18 juvenile section of investigations. I retired in
19 2001, to enter a private business as a private
20 investigator.

21 Q. Can you tell the court briefly what you --
22 what sort of what you did after you were hired for
23 this particular case?

24 A. On being hired for this particular case, I
25 reviewed the available discovery in it. I have

Investigator John Davis-Direct by Cooke

1 interviewed witnesses. I have photographed the
2 residence which was location of the scene of the
3 shooting; as well as, delivering subpoenas. And
4 I also made an exhibit to show the size of the
5 scene itself.

6 Q. Do you have that exhibit here with you
7 today?

8 A. Yes, I do.

9 Q. And would that be demonstrative evidence
10 to help explain your testimony?

11 A. Yes.

12 MS. COOKE: And may the witness be allowed
13 to step down---

14 THE COURT: Certainly.

15 MS. COOKE: ---and set that up. And
16 would you like me to mark these in the meantime,
17 Your Honor?

18 THE COURT: Yes.

19 MR. MEADORS: Can I see them? I've never
20 seen them.

21 THE COURT: Yes, sir.

22 (Photographs marked Defendant's Exhibit
23 Nos. 1 through 17 for id. only.)

24 Q. Can you explain to the court what the
25 demonstrative evidence is?

Investigator John Davis-Direct by Cooke

1 A. I visited the scene. And just using a
2 regular tape measure, I measured the dimension of
3 the porch. Can I step down there?

4 THE COURT: You certainly may.

5 (Witness steps down from the witness
6 stand.)

7 A. I measured the dimensions of the porch
8 using a tape measure. And I wanted to demonstrate
9 the front door. This would be looking at the
10 house from the street. There is a set of stairs
11 that comes up the front porch. The door is to the
12 left. And there's a bannister that goes around
13 the porch on other side. You go through the front
14 door, and I had the dimensions on my notebook.
15 But practically 8-foot is the door. This would be
16 a bedroom here, a wall after you enter the front
17 door there's a wall. And that's a wall to the
18 bedroom.

19 And this is door is the door that's in
20 question where the defendant was standing when the
21 incident took place. These represent two columns on
22 the porch, two metal columns.

23 MR. MEADORS: Your Honor, I'm going to
24 object when he says where he says where the
25 defendant was standing. That's not been

Investigator John Davis-Direct by Cooke

1 established. I mean, I don't know where he's
2 getting that information from.

3 A. These representative two metal columns on
4 the front porch. And the body of Mr. Howell was
5 found on this porch in a particular position. And
6 so it was made to show the size of the scene.

7 MS. COOKE: And Kimberly Graham was going
8 to be my first witness to put the body in the exact
9 position that he was in, but she cannot testify
10 until tomorrow.

11 THE COURT: Is there a stipulation on
12 that, where the body was?

13 MR. MEADORS: I mean, she asked me to
14 stipulate to the position the body was as far as
15 whether her back was up. She told never told me
16 that she wanted it on a certain place. I guess she
17 didn't want to give this away. So I told her I
18 would stipulate that he was on his back. As far as
19 the exact location, she's probably going to need to
20 get it. Since she didn't tell me that the other day
21 so I could stipulate to it.

22 MS. COOKE: And I may need to call
23 Mr. Davis again tomorrow after she testifies to the
24 position, to finish his testimony.

25 Q. And do you remember the dimensions?

Investigator John Davis-Direct by Cooke

1 A. Yes, I do. The width of the porch was
2 11 foot 1 inch.

3 THE COURT: 11-foot 1 inch?

4 A. I'm sorry?

5 THE COURT: 11?

6 A. 11 foot and 1 inch from the total width.
7 And that's from the corner of the slab. The side
8 of the slab to the side of the slab, to include
9 the bannister. And the width or depth is 5-foot,
10 5 and a quarter inches. And that's from the front
11 edge of the porch or the steps to the wall of the
12 front of the house.

13 Q. Do you have with you how far it was from
14 this bannister to the front door?

15 A. Yes, ma'am. I have it right here. It was
16 from the right front corner of the door to the
17 inside corner of this column. And it's 6-foot
18 10 inches.

19 Q. Thank you.

20 A. And I have one other. Disregard that one.

21 Q. As a result of your investigation in to
22 this case, did you take any pictures?

23 A. I did.

24 (Photographs marked Defendant's Exhibit
25 Nos. 1 through 29 for Id. only.)

Investigator John Davis-Direct by Cooke

1 Q. Defendant's Exhibit No. 8, do you
2 recognize that?

3 A. Yes, I do.

4 Q. Is that a fair and accurate representation
5 of the picture you took?

6 A. It is.

7 Q. And the way that the house appeared on the
8 day you took it?

9 A. It is.

10 Q. But this was not taken on the day of the
11 crime scene. None of these were.

12 A. No, it was not.

13 Q. Can you tell us why you took that
14 particular picture?

15 A. Just to show the position of the porch at
16 the house. The position of the door, the columns,
17 and the approximate size of the porch.

18 MS. COOKE: And, Your Honor, Mr. Meadors
19 has looked at these. I would like to introduce this
20 at this time.

21 THE COURT: Any objection? For the
22 purposes of this hearing?

23 MR. MEADORS: Judge, this incident
24 happened at night. These are pictures in the
25 daytime.

Investigator John Davis-Direct by Cooke

1 THE COURT: Right, I understand that.

2 MR. MEADORS: The porch isn't the same at
3 all, as far as what all is on there. And these
4 pictures I just briefly looked at.

5 MS. COOKE: It's just showing the size of
6 the porch.

7 MR. MEADORS: If Your Honor takes that
8 into consideration. That's fine.

9 THE COURT: It's just showing. The
10 purpose of this picture is just to show the size is
11 the same.

12 MS. COOKE: Yes, Your Honor.

13 Q. Can you tell us if you took that picture?

14 A. Yes, I did.

15 Q. Is that a fair and accurate representation
16 of the picture that you took?

17 A. It is.

18 Q. And this was not taken on the day of the
19 crime scene?

20 A. No, it was not.

21 Q. Can you tell us why you took that picture.

22 A. I wanted to show the interior of the
23 house. And in particular, on the left is the
24 front door as you come up the steps and across the
25 front porch. You enter and then that room to the

Investigator John Davis-Direct by Cooke

1 left, it would be on the right on this photograph,
2 is the door represented, that I showed you
3 earlier, the bedroom door.

4 MS. COOKE: And, Your Honor, I would like
5 to introduce Defendant's Exhibit No. 12 just to show
6 the relationship between the bedroom door and the
7 front door.

8 MR. MEADORS: Again, this is the last time
9 I'll say it, Judge. There were other, I don't want
10 to say debris, but stuff in the floor and all.

11 THE COURT: Sure.

12 MR. MEADORS: Thank you. That's all.

13 THE COURT: This just gives me an
14 opportunity.

15 (Photograph marked Defendant's Exhibit No.
16 12 for Id.)

17 MS. COOKE: Defense exhibit No. 1,
18 Mr. Meadors.

19 MR. MEADORS: Judge, again, I just looked
20 at all these. But if Your Honor, wants to see them
21 all we have no objection.

22 THE COURT: Yeah, okay.

23 MR. MEADORS: She doesn't have to...

24 THE COURT: And again for the purpose of
25 this hearing, I'm must trying to get the dimensions

Investigator John Davis-Direct by Cooke

1 in my mind.

2 Q. Defense Exhibit No. 1, can you tell us if
3 you took that picture?

4 A. I did.

5 Q. Is it a fair and accurate representation
6 of the picture that you took?

7 A. It is.

8 Q. Can you tell us what it is, and why you
9 took it?

10 A. That's the door latch on the storm door on
11 the front door coming off the porch. And it is
12 showing that the eyelet that holds the clasp, is
13 loose and has been somewhat, not ripped open, but
14 widen as if it was some kind of force was applied.

15 MS. COOKE: Your Honor, I would like to
16 admit Defendant's Exhibit No. 1.

17 THE COURT: It's already been stipulated.

18 MR. MEADORS: Your Honor, can I ask him
19 what date he took that picture on? Or could he?

20 THE COURT: 7/16/15. The other day.

21 Q. And Defendant's Exhibit 7, can you, did
22 you take that picture?

23 THE COURT: When this event occur?

24 MR. MEADORS: March.

25 MR. MATHEWS: March 25th 2014, Your Honor.

Investigator John Davis-Direct by Cooke

1 THE COURT: Okay.

2 A. I did.

3 Q. And why did you take that picture, and
4 what is it?

5 A. It was closer view of the eyelet and just
6 showing it was loose.

7 MS. COOKE: Your Honor, I would move to
8 admit Defendant's 7.

9 THE COURT: And I understand this was
10 taken a year and a half after the incident.

11 (Defendant's Exhibit No. 7 admitted for
12 Id.)

13 Q. And Defendant's Exhibit 6, can you tell us
14 if you took that picture?

15 A. I did.

16 Q. Was it a fair and accurate representation
17 of the picture that you took?

18 A. It is.

19 Q. And can you tell what it is, and why you
20 took it?

21 A. It's a view standing from the bedroom door
22 facing the front door of the residence.

23 MS. COOKE: I'd move to admit Defendant's
24 Exhibit 6.

25 THE COURT: They have no objection.

Investigator John Davis-Cross by Meadors

1 Q. And one more, Your Honor. Defendant's
2 Exhibit 5, can you tell us if you took that
3 picture?

4 A. I did.

5 Q. And what it is and why you took it.

6 A. It again shows the relationship between
7 the bedroom door and the front door, but it also
8 shows part of the bedroom itself, as well as a
9 corner of the dresser.

10 MS. COOKE: And I would move to admit
11 Defendant's Exhibit No. 5, Your Honor.

12 (Photograph marked Defendant's Exhibit No.
13 5 for Id. only.)

14 MS. COOKE: Your Honor, I believe at this
15 time, that's all the questions I have for witness.
16 I would like to recall him after Kimberly Graham
17 testifies.

18 THE COURT: Mr. Meadors.

19 Cross Examination by Mr. Meadors:

20 Q. The front step, I mean the, I guess the
21 width or length, Your Honor, can he step down?

22 THE COURT: Yeah.

23 (Whereupon, the witness steps down from
24 the witness stand.)

25 THE COURT: After seeing the pictures, I

Investigator John Davis-Cross by Meadors

1 do have a question. I want to make sure. This is
2 where the columns were. This is the dimensions of
3 the porch. This is the where the columns.

4 A. Yes, sir.

5 THE COURT: Because I notice in the
6 pictures, they don't have it.

7 A. Yes, sir. The outline here would be the
8 bannister.

9 THE COURT: Right.

10 Q. My first question is the length. Is it
11 longer if you include it from here than from here?
12 Were your measurements from here to here?

13 A. My measurements were from one edge of the
14 porch to the other edge of the porch to include
15 the bannister.

16 Q. And that was how long?

17 A. 11-foot one inches.

18 Q. 11 foot one inches that way.

19 A. Correct.

20 Q. And this way you said 5, 5 feet by 5 and a
21 quarter inches.

22 A. 5-foot, 5 and a quarter.

23 Q. And you said that was from the front
24 steps.

25 A. Correct.

Investigator John Davis-Cross by Meadors

1 Q. Is that the top step or the bottom step
2 coming out?

3 A. Well it's from the edge of the front
4 porch. This would be the steps here from this
5 edge of the wall.

6 Q. So it's from the top whatever that step
7 here. You're not going down on the ground. So
8 5 across this way.

9 A. Right.

10 Q. And this back here. What's this door
11 here?

12 A. That represents the door to the bedroom,
13 which was approximately 8 foot from the front
14 door.

15 Q. So you can see out that door out front,
16 can't you?

17 A. Yes.

18 Q. Nothing blocking the view in there from
19 there.

20 A. Not unless the door is shut.

21 Q. Assuming the door was open---

22 A. Right.

23 Q. ---as it was in the pictures. And you saw
24 the pictures in law enforcement. And you can a
25 seat back. Thank you, Judge.

Investigator John Davis-Cross by Meadors

1 (Whereupon, the witness resumes the
2 witness stand.)

3 Q. The scenes law enforcement took, didn't
4 you?

5 A. I had a chance to review them briefly.

6 Q. Well did you look at them?

7 A. I did look at them.

8 Q. And do they show pictures of the porch?

9 A. There were views of portions of the porch.
10 I'd have to look through them again to remember
11 exactly what they did have.

12 MR. MEADORS: I beg the court's
13 indulgence. May it please the court.

14 THE COURT: Yes, sir.

15 MR. MEADORS: Your Honor, the Court
16 Reporter has marked State's Exhibits 1 through 9 for
17 purposes of this hearing, which are pictures of the
18 front of , and pictures of the porch
19 on . And I believe without
20 objection. She's had these.

21 (Photographs marked State's Exhibit Nos.
22 1-9 marked for Id.)

23 MS. COOKE: Without objection, Your Honor.

24 Cross Examination by Mr. Meadors:

25 Q. May it please the court, may I approach?

Investigator John Davis-Cross by Meadors

1 THE COURT: You may.

2 Q. This is State's Exhibit No. 1. Have you
3 reviewed that before?

4 A. I believe I have seen it.

5 Q. And that's the front of ?

6 A. Correct.

7 Q. And State's 2, doesn't that show the porch
8 that you just did that diagram on, on whatever
9 that is out there? State's 2?

10 A. I believe that is the porch. It looks
11 like it.

12 Q. And some of pictures you took, it's really
13 not in the same condition. It doesn't even have
14 the same furniture out there, does it, State's
15 Exhibit No. 8?

16 A. No. The intent of the photograph was not
17 to show the condition on the night of the
18 shooting. The intent was to show the size and
19 relationship.

20 Q. And getting to that, State's 7 and 8, or
21 excuse me, State's 1 and 7, they deal with a lock.
22 So this a picture of a year and a half later of
23 this lock, approximately. March 24th, March
24 25th, to July 16th, correct?

25 A. That's correct.

Investigator John Davis-Cross by Meadors

1 Q. So I mean you don't have no idea what
2 happened to this lock or how it got in this
3 condition.

4 A. I learned as a result of the investigation
5 that that condition was a result of that night.

6 Q. Who did you learn that from?

7 A. Mr. Robert Andrews.

8 Q. Mr. Robert Andrews.

9 A. Yes, sir.

10 Q. He told you what?

11 A. That that was not in that condition prior
12 to Shamar Howell holding the door open.

13 Q. And did you go out there and take a
14 picture? When did tell you that?

15 A. That was approximately the same time I
16 took the photographs.

17 Q. So about a week ago.

18 A. Correct.

19 Q. So as far we know, he hasn't told anybody
20 else in a year and a half until he told you a week
21 ago, that this might be relevant in a shooting, a
22 year and a half earlier, and you go take a
23 pictures of it.

24 A. I don't know if he's told anyone else or
25 not.

Investigator John Davis-Cross by Meadors

1 Q. But you don't know the condition of this
2 on the night March 24th 2014.

3 A. No, sir, I do not.

4 Q. And who was it who told you that?

5 A. Mr. Robert Andrews.

6 Q. And again specifically, what date did he
7 tell you?

8 A. I believe it was the same week anyway,
9 that I took photographs. I'm not sure it was the
10 same day.

11 Q. Where did you meet with him?

12 A. At his residence, at

13 Q. Which is his residence.

14 A. Correct.

15 Q. Did you get a statement from him?

16 A. No, I did not.

17 Q. Did you take notes?

18 A. I took notes, yes, sir.

19 Q. Do you have those with you?

20 A. I don't know if, to be honest with you, I
21 don't know if I noted that in particular, but
22 that's what he told me.

23 Q. You didn't note the fact that he told you
24 this was a door that the suspect had pushed
25 through. And you didn't note that?

Investigator John Davis-Cross by Meadors

1 A. I noted it in the photograph.

2 Q. So you do not your notes in there of your
3 conversation with him. Is that what you're
4 telling the court?

5 A. Let me make sure.

6 Q. Are you reading your notes?

7 A. Yes, sir. I'm not -- I don't think that I
8 noted that specifically, but that was the point of
9 taking the picture.

10 Q. And I'm not trying to pick on you. You
11 know me, we go way back. And you know I'm doing
12 my job. You didn't notice specifically. Do you
13 have any notes there from your conversation from
14 Mr. Andrews?

15 A. I do not have interview notes from him.

16 Q. Do you have any notes?

17 A. Yes, I have notes, investigation notes.

18 Q. About your conversation with him.

19 A. No.

20 Q. Then what are they?

21 A. I am sorry?

22 Q. What are that?

23 A. What are, I don't understand the question.

24 Q. Well we're talking about notes---

25 A. Right.

Investigator John Davis-Cross by Meadors

1 Q. ---Mr. Davis. You said I don't have
2 interview notes, but I have notes from my
3 conversation I took with him. I think that's what
4 you're trying to say.

5 A. I have investigative notes. Notes were
6 taken of the photographs. And I did not note the
7 specific conversation that he told us that. But I
8 took the photograph of it to show it.

9 Q. And you would agree with me that pictures
10 like State's No. -- Defendant's No. 12, I beg the
11 court's indulgence. State's 10 and 11 for these
12 purposes without objection.

13 (Photographs marked State's Exhibit No. 10
14 and 11 for Id. only.)

15 Q. Would you just agree that State's 10 is
16 different than the picture you took as far as the
17 inside?

18 A. That's correct.

19 Q. State's 6 and State's 7, I believe right.
20 State's 12.

21 A. Right.

22 Q. Defendant's 6 and 12, I apologize. Is
23 Defendant's 6 and 12 different from State's---

24 A. That's correct.

25 Q. ---10?

Investigator John Davis-Cross by Meadors

1 A. It shows the other end.

2 Q. I apologize. And 11.

3 A. That shows a closer view of the television
4 with the clothing or the shirt, or whatever it is
5 in front of it.

6 Q. And again for the last time, it's much
7 cleaner in your pictures than it is in here, in
8 the room, correct? The house?

9 A. Correct.

10 Q. Now when you did this diagram, or what do
11 you call this?

12 A. It's just an exhibit to show the
13 relationship and the size of the scene.

14 Q. Did you put any of the items in here in
15 your, like I think there was a State's No. 2. Did
16 you try to position any of the items that were
17 actually at the scene that night in your?

18 A. No, I did not.

19 Q. So all you're trying to establish by this
20 is the distance of the porch.

21 A. The size and the relationship, yes, sir.

22 Q. The size of the porch.

23 A. The size of the porch in relationship to
24 the door, the steps.

25 Q. The front door.

Investigator John Davis-Cross by Meadors

1 A. The interior door. Correct.

2 Q. The front door which is here. The steps
3 are down here, correct?

4 A. Correct.

5 Q. And is that all you did in your
6 investigation as far as porch, trying to determine
7 that size and the relation. That's all you did. /

8 A. That and the photographs.

9 Q. These photographs and that?

10 A. Correct.

11 Q. No other interviews to try to tie with
12 that diagram. Did you interview anybody else
13 besides Mr. Robert Andrews?

14 A. I interviewed the defendant.

15 Q. Who else?

16 A. Virlyn Gardner.

17 Q. Virlyn Darryl Gardner.

18 A. Correct. Not particularly about the
19 porch. But this was an interview I conducted.

20 Q. When did you that?

21 A. On October 14th 2014.

22 MR. MEADORS: And, Your Honor, I know

23 Ms. -- she had moved for sequestration, I have kept
24 all my fact witnesses except for the investigating
25 officer out. I'd assume she's done the same. I'd

Investigator John Davis-Cross by Meadors

1 ask that if she has any witnesses if they're not in
2 the courtroom, if they are, we would ask that they
3 be sequestered.

4 THE COURT: And nobody has asked until
5 now, I will grant.

6 MR. MEADORS: She filed a motion for it.
7 I didn't know if we talked about this morning or
8 not.

9 MS. COOKE: So, yes, sir. These three
10 people on the front row are witnesses.

11 THE COURT: They will need to be out of
12 the courtroom at this time.

13 Q. You were looking for the date where you
14 interviewed Mr. Virlyn.

15 A. It's October 14th 2014.

16 Q. And have you talked to him since?

17 A. No, I have not.

18 Q. And did you get a statement from him?

19 A. I -- correct. I did call him on the phone
20 one other time in reference to court, but I have
21 not talked to him since that time. That's the
22 only thing I talked to him about.

23 Q. When was that?

24 MS. COOKE: Your Honor, can I just ask
25 what the relevance in this is?

Investigator John Davis-Cross by Meadors

1 THE COURT: He's on cross examination.

2 I'll let him have some leeway.

3 A. Bear with me, let me find my notes here.

4 I don't see I made a note of the conversation. So
5 when I called him, the only thing that he talked
6 about was the fact that he was in the Veterans
7 Administration.

8 Q. And did you take a statement from him?

9 A. No, I did not take a written statement.
10 My initial meeting with him I took notes.

11 Q. And just so for future witnesses, you did
12 not take a written or audio. You didn't record
13 any -- did you record anybody, a recorded
14 statement of anybody in your preparation?

15 A. No, I didn't.

16 Q. And did you take any written statement
17 from anybody?

18 A. Yes, I did.

19 Q. Who did you take a written statement from?

20 A. Let's see here, 6, 7, 8, 9.

21 Q. Do you remember who it was before you find
22 it?

23 A. I may not get the name right. I have been
24 working in this, and was not -- Bryan Witherspoon
25 and Martina Farmer Morton, I believe is the last

Investigator John Davis-Cross by Meadors

1 time.

2 Q. They were not at the residence the night
3 this happened at all, were they?

4 A. No.

5 Q. But you have a written statement from both
6 of them.

7 A. Correct.

8 MR. MEADORS: I beg the court's
9 indulgence.

10 Q. Did you talk to Erika Andrews?

11 A. No.

12 Q. The cause of death in this case is a
13 single gunshot wound to the head.

14 A. That's my understanding.

15 Q. Have you seen the autopsy pictures?

16 A. I do believe I've seen the autopsy. Or I
17 may have reviewed it, but I do not have a copy of
18 it. Much of this wasn't available.

19 Q. The house has been available since
20 March 24th.

21 A. Discovery wasn't.

22 Q. Discovery has been fully complied with.

23 A. I haven't seen it.

24 Q. And you haven't reviewed what you did
25 have.

Investigator John Davis-Cross by Meadors

1 A. Not all of it anyway.

2 Q. It's been fully complied with. Let me ask
3 you this, do you do a report? I mean when we get
4 experts, you do a report. Did you do you report
5 in this case?

6 A. I am pretty sure -- the attorney did a
7 report.

8 Q. Do you have a copy of that?

9 A. I don't know if I brought my report with
10 me this morning or not.

11 MS. COOKE: Your Honor, I would object to
12 that, because he's not an expert witness. He's a
13 private investigator. He hasn't been qualified as
14 an expert witness.

15 THE COURT: He's still on the witness
16 stand. Overruled.

17 A. It is not my initial report. It is not
18 completed as of this date.

19 Q. Can I look at what you do have?

20 A. Okay.

21 Q. And tell me, I'm about through. Tell the
22 judge how much are you being paid?

23 A. I'm sorry.

24 Q. How much are you being paid?

25 A. Per hour? Per, the whole thing? I do not

Investigator John Davis-Redirect by Cooke

1 know. I don't the final yet.

2 Q. How are you being paid?

3 A. I'm being paid through the public
4 defender's office.

5 Q. How much are you being paid an hour?

6 A. 50 an hour plus expenses and mileage.

7 Q. And is more for court time?

8 A. No, it's \$19 an hour.

9 MR. MEADORS: Judge, I won't look at this.

10 I beg the court's indulgence. That's all, thank
11 you.

12 THE COURT: Any redirect?

13 MS. COOKE: Yes, sir. Just a few
14 questions.

15 Redirect Examination by Ms. Cooke:

16 Q. You're a former police officer, correct?

17 A. Correct.

18 Q. Would you lie in a court of law to get
19 paid?

20 A. No.

21 Q. Did you attempt to subpoena Virlyn Gardner
22 to come here today?

23 A. I did.

24 Q. Were you successful?

25 A. No.

Investigator John Davis-Recross by Meadors

1 Q. And Witherspoon and Farmer, did you and I
2 talk about Witherspoon and Farmer?

3 A. Correct, we did.

4 Q. And did I tell you that nothing they had
5 to say was admissible, and we didn't need to do
6 with them?

7 MR. MEADORS: Your Honor, I'm going to
8 object. If she's offering her own statement which
9 is hearsay.

10 THE COURT: Yeah, you can't.

11 Q. Have they been subpoenaed to come today
12 for any reason whatsoever?

13 A. No.

14 Q. Do you believe that anything they had to
15 say to you was relevant to this case at all?

16 A. No.

17 MS. COOKE: That's all I have.

18 THE COURT: Any recross, Mr. Meadors?

19 Recross Examination by Mr. Meadors:

20 Q. Those two questions she asked about, did
21 they know any of the parties or say anything about
22 the incident?

23 A. No.

24 Q. Not at all.

25 A. No.

Investigator John Davis-Redirect by Cooke

1 Q. And you took a statement of that.

2 A. That's correct.

3 Q. That they didn't know anything.

4 A. That's correct.

5 MS. MEADORS: Thank you. You may step
6 down.

7 MS. COOKE: I mean, can I have one reply.

8 THE COURT: You can ask one more question,
9 yes.

10 Redirect Examination by Ms. Cooke:

11 Q. What was the substance of what they told
12 you? Why did you interview them?

13 A. The incident that occurred at another
14 time.

15 Q. With who?

16 A. It involved the parties, some of the
17 parties from this incident. But it had nothing to
18 do with this incident.

19 Q. Which party in specific?

20 A. Erika and Shamar.

21 MS. COOKE: Thank you. Your Honor, at
22 this time, I would call my client, Jeffrey Andrews.

23 THE COURT: Just out of curiosity, how
24 long do we think this witness will take?

25 MS. COOKE: Oh, Your Honor, a while.

Dr. Janice Ross-Direct by Cooke

1 THE COURT: Well I guess we can go ahead
2 and start the testimony and go until about a quarter
3 till one and then we will break.

4 MR. MEADORS: Well Your Honor, I don't
5 mind breaking now if you want to break it up.

6 THE COURT: Well why don't we go ahead and
7 break. It will give us time to get lunch before we
8 go. Those of us who want to go to the visitation
9 can do that. And then go to the memorial service.
10 And then we will, court will adjourn now until 3:30.

11 (Whereupon, court breaks.)

12 THE COURT: You may call your next
13 witness.

14 MS. COOKE: I would call Dr. Janice Ross.

15 Dr. Janice Edwards Ross being first duly
16 sworn, testified as follows.

17 THE BAILIFF: State your full name and
18 spell your last name for the record.

19 A. Janice Edwards Ross. R-O-S-S.

20 DIRECT EXAMINATION BY MS. COOKE:

21 Q. Dr. Ross, can tell us about your training
22 background, education and experience?

23 A. Yes, I received my bachelor's degree from
24 the University of South Carolina. And my MD,
25 Doctor of Medicine from upstate medical center in

Dr. Janice Ross-Direct by Cooke

1 Syracuse, New York. I did further training there
2 in pathology, the study of pathology. And I am
3 board certified for three years in pathology.
4 Including anatomical, clinical and forensic
5 pathology.

6 Q. Have you ever been qualified as an expert
7 witness in pathology before?

8 A. Yes.

9 Q. Do you know how many times?

10 A. In the State of South Carolina at least
11 170 times.

12 MS. COOKE: Your Honor, at this time, I
13 would like to offer her as an expert witness in
14 pathology.

15 THE COURT: Any objection?

16 MR. MEADORS: No objection.

17 THE COURT: About 176 times.

18 Q. Dr. Ross, can you tell us when you
19 performed this autopsy if you determined how tall
20 Shamar Howell was?

21 A. We measured him right at 6-foot tall.

22 Q. And how much did he weigh?

23 A. We don't have the scales in the morgue,
24 but we estimated about 180 pounds.

25 Q. And do you recognize this?

Dr. Janice Ross-Direct by Cooke

1 A. Yes. This is the autopsy report on Shamar
2 Howell along with evidence transfers for clothing
3 and for toxicology, some morgue sheets that we use
4 to document weights of organs, et cetera. And a
5 form that we have that shows the levels of
6 different chemicals in the vitreous fluid, and the
7 forensic case information sheet.

8 Q. Are those your findings in the autopsy in
9 this case?

10 A. Yes.

11 Q. Do you also determine Shamar Howell's age?

12 A. Yes, we were given the age of 26.

13 Q. And on page 2 at the bottom, you made a
14 finding about the wound on the last sentence. Can
15 you tell us what you discovered?

16 A. There was no soot, stippling or tattooing
17 around the entrance wound.

18 Q. And can you tell us what that means as far
19 as how away Shamar Howell was from the barrel of
20 the gun when he was shot?

21 A. Well it will depend specifically on the
22 type of gun, the caliber of bullet, the length of
23 the barrel, et. cetera. But in general we say
24 it's more of a distant wound, at least 2 feet
25 away. The barrel of the gun will be 2 feet away

Dr. Janice Ross-Direct by Cooke

1 from the skin.

2 Q. And would that be a minimum measurement?

3 A. Yes.

4 Q. And it could be more?

5 A. Yes.

6 Q. And if the defendant's arm was extended to
7 shoot then he would have been even further away
8 from the shooter.

9 A. Yes.

10 Q. Since his arm is extended?

11 A. Yes.

12 Q. And did you take any blood or other fluids
13 for purposes of determining his blood alcohol
14 concentration?

15 A. Yes.

16 Q. Did you determine what his blood alcohol
17 concentration was at the time of death?

18 A. We send that to sled, and they sent me a
19 report. His blood alcohol level was .123 percent.

20 Q. And did he have any other drugs in his
21 system at the time?

22 A. He had some cannabinoids of marijuana.

23 Q. Would you say that a 5.2 is a high,
24 normal, or low level of tetrahydrocannabinol?

25 A. I am not in expert in that area.

Dr. Janice Ross-Direct by Cooke

1 Q. And if the defendant was in the process of
2 going one way or the another, if he saw a gun and
3 started to step backwards, would he fall backwards
4 after being shot in the head due to the initial
5 inertia?

6 MR. MEADORS: Your Honor, she said the
7 defendant. Did she mean the victim?

8 Q. I apologize. I certainly did. Thank you,
9 Mr. Meadors. If the victim saw a gun and started
10 stepping backward, due the initial inertia of his
11 moving backwards, would he fall backwards from
12 being hit in the head possibly?

13 A. He could possibly. Yes.

14 MS. COOKE: I have no further questions,
15 Your Honor.

16 THE COURT: Mr. Meadors.

17 MR. MEADORS: May it please the court.
18 May I approach the witness?

19 THE COURT: You may. And for the rest of
20 this trial, you don't have to ask to approach. I
21 know you are not going to do anything wrong, so you
22 can go any way you want to.

23 Q. Can I do it once in front of the jury and
24 then no more, so they can hear me?

25 THE COURT: That's fine.

Dr. Janice Ross-Cross by Meadors

1 Cross Examination by Mr. Meadors:

2 Q. Will you stand. Can you show the judge
3 on my body, if you don't mind touching me, where
4 the entrance wound was on the victim?

5 A. It was right above the outside edge of the
6 right eyebrow. About here.

7 Q. And where did the bullet go in?

8 A. It went front to back, and to the left.
9 So it went through the front part of the right
10 side of the brain, and ended up in the middle part
11 of the right side of the brain.

12 Q. And assuming you're right handed, and
13 you're the shooter, stay back. And you said it
14 was 2 feet or more. If I'm looking at you
15 straight ahead, would it have been difficult to
16 make that shot?

17 A. You'd have to turn your head?

18 Q. Like this.

19 A. Yes.

20 Q. And that would be consistent with your
21 findings and looking at the body with the victim's
22 head turned?

23 A. Correct.

24 Q. You don't know how somebody's body is when
25 they're shot, correct?

Dr. Janice Ross-Cross by Meadors

1 A. No.

2 Q. But that would have be one consistent
3 view of potentially how the defendant -- the
4 victim could have received the injury.

5 A. Correct.

6 Q. And you found no stippling on the head of
7 Shamar Howell.

8 A. That's correct.

9 Q. Can you describe the entrance wound?

10 A. It was round and measured .22 inches.
11 Consistent with a small caliber gun.

12 Q. And you recovered the bullet.

13 A. Correct.

14 Q. Would that have killed him instantly?

15 A. It would have caused unconsciousness
16 pretty immediately, but death would take several
17 minutes.

18 Q. Based on your training and your expertise,
19 would he have fallen when he received that bullet?

20 A. Yes. Bullets don't push a body one way or
21 the other. But being unconscious, he would have
22 just fallen and lost muscle control.

23 Q. There was some pictures of the victim's
24 hands you observed. And in your report you said
25 that on his knuckles those were old wounds?

Dr. Janice Ross-Cross by Meadors

1 A. There was just one healing abrasion over
2 the second knuckle of the 4th finger of the right
3 hand.

4 Q. And we've looked at that picture. As a
5 matter of fact, I showed you in your expert
6 opinion was the wound covering? Was that a recent
7 wound?

8 A. It was days old. It had already scarred
9 in.

10 Q. Pardon me, scarred in?

11 A. Yes.

12 Q. I am going to show you what is marked 12
13 and 13. Is that what you, State's 12 for these
14 purposes. Your Honor, I believe these are without
15 objection for this hearing. 12 and 13 a picture
16 of the wound to the head and the knuckle.

17 THE COURT: Any objection?

18 MS. COOKE: I apologize, my client was
19 talking.

20 (PHOTOS State's 12 and 13 marked for Id.)

21 Q. State's 12, is that what you've described
22 to the judge as a healing wound?

23 A. Yes.

24 Q. So that in your opinion would not have
25 been received from an incident that happened the

Dr. Janice Ross-Redirect by Cooke

1 night this incident happened, correct?

2 A. No, it would not.

3 Q. And State's 13, is that the injury to the
4 head of Shamar Howell?

5 A. Yes.

6 Q. And his cause of death was.

7 A. It was a laceration of the brain due to
8 gunshot wound of the head.

9 MR. MEADORS: Thank you. That's all.

10 THE COURT: Any redirect?

11 MS. COOKE: Just a couple of questions.

12 Redirect Examination by Ms. Cooke:

13 Q. So consistent with your earlier testimony
14 about both my hypothetical question and
15 Mr. Meadors hypothetical question about the
16 turning of the head, if the victim was entering
17 the home and saw the gun and started to back up
18 and turn away, then your findings would be
19 consistent with him being shot in the head at that
20 point

21 A. Yes, bullets go straight. So that's
22 either the head is turned or the whole body is
23 turned.

24 MS. COOKE: No other, no further
25 questions, Your Honor.

Whitney Berry-Direct by Cooke

1 THE COURT: Any redirect based on her?

2 MR. MEADORS: No, sir.

3 THE COURT: You may step down.

4 MR. MEADORS: Judge, we're going to have
5 to call her back, obviously, our case in chief. And
6 we make plans for her to be back.

7 THE COURT: Whenever. You are released
8 pending the call of the court.

9 MS. COOKE: Your Honor, at this time, I
10 would call Whitney Berry with sled.

11 THE COURT: Whitney Berry.

12 MS. COOKE: Yes.

13 Whitney Berry, Being first duly
14 sworn, testified as follows:

15 THE BAILIFF: Please state your full name
16 and spell your last name for the record.

17 A. Whitney Berry. B-E-R-R-Y.

18 Direct Examination by Ms. Cooke:

19 Q. Can you tell us where you are employed?

20 A. I'm employed by the South Carolina Law
21 Enforcement Division, also known as sled.

22 Q. And what is your position there?

23 A. I'm a forensic scientist in the trace
24 evidence department.

25 Q. And how long have you worked there?

Whitney Berry-Direct by Cooke

1 A. I worked there for a little over 2 years.

2 Q. And can you tell us about your educational
3 background?

4 A. I have a bachelor of Science in Chemistry
5 from the University of South Carolina. Once I
6 began working at sled, I went through our in-house
7 training program for gunshot residue analyst.
8 That was 9 month program, which included hands on,
9 and written and practical examinations; as well
10 as, journal readings and book readings on the
11 theory of gunshot residue and scan electron
12 microscopy.

13 Additionally, I've gone to Hook College of
14 Applied Science in Wesmont, Illinois, and completed
15 their scan electron microscopy course for gunshot
16 residue analysis.

17 Q. And have you have been qualified as an
18 expert in the court before?

19 A. Yes, I have.

20 Q. Can you tell us about how many times?

21 A. 15.

22 MS. COOKE: I would like to offer her as
23 an expert in gunshot residue.

24 THE COURT: Any objection?

25 MR. MEADORS: No objection.

Whitney Berry-Direct by Cooke

1 THE COURT: I deem her to be an expert in
2 trace evidence.

3 Q. Can you tell us what is gunshot residue?

4 A. Gunshot residue is everything that comes
5 out of the muzzle of a gun when it's fired. What
6 we look for when we say we're doing gunshot
7 residue analysis is actually the primer residue.
8 These are three metallic components: lead, barium
9 and antimony that are unique to primer from a
10 gun.

11 Q. And where -- and how can it be deposited
12 onto a person or an object?

13 A. When someone pulls a trigger of a gun, we
14 expect to find gunshot residue deposited in two
15 different ways. The first way is through the
16 ejection port on a semiautomatic, or the cylinder
17 gap on a revolver. That would be a small plume
18 that would engulf the hands of the person shooting
19 the gun. And then the majority of the gunshot
20 residue is going to follow the projectile towards
21 its intended target. So it will go out in sort of
22 a plume pattern towards the target.

23 Q. And did you do you an analysis in this
24 case?

25 A. Yes, ma'am, I did.

Whitney Berry-Direct by Cooke

1 Q. And can you tell the court if the
2 recognize this, and if this is your analysis and
3 report?

4 A. Yes, ma'am. This is a copy of my report.

5 Q. I am just going to ask you about a couple
6 different results on this report. I am going to
7 go ahead and get to the top of the lab. I don't
8 think there is any dispute here that Jeffrey
9 Andrews shot the gun. Is your findings consistent
10 with Jeffrey Andrews shooting the gun?

11 A. Yes, ma'am.

12 Q. About Robert Andrews, are your findings
13 consistent with him possibly hiding the gun after
14 the incident, because gunshot residue was found on
15 his hands in that report, as I understand.

16 A. Yes, ma'am. It could be possible that
17 that's how he got it on his hands.

18 Q. Also on the report if Mr. Darryl Virlyn
19 Gardner GSR, would GSR, I believe it was one palm
20 of his hand be consistent with either life saving
21 measures on the victim, or possibly holding
22 Jeffrey's hands to console him after Jeffrey shot
23 the gun?

24 A. Yes, ma'am. The amount of GSR on his
25 hands could support that, yes.

Mary Ann Boehm-Direct by Cooke

1 MS. COOKE: That's all the questions
2 have, Your Honor.

3 THE COURT: Mr. Meadors.

4 MR. MEADORS: I beg the court's
5 indulgence.

6 MR. MEADORS: No questions.

7 THE COURT: Thank you. You may step down.
8 Any objection to this witness being excused at this
9 point until later?

10 MS. COOKE: Not from the defense, Your
11 Honor.

12 THE COURT: Mr. Meadors.

13 MR. MEADORS: Have her come back Wednesday
14 at two, Your Honor.

15 THE COURT: See you then.

16 MS. COOKE: Your Honor, I would call Mary
17 Ann Bone.

18 Mary Ann E. Boehm, being first
19 duly sworn, testified as follows:

20 THE BAILIFF: Please state your full name
21 and spell your last name for the record.

22 A. My name is Mary Ann Elizabeth Boehm.
23 B-O-E-H-M.

24 DIRECT EXAMINATION MS. COOKE:

25 Q. Can you tell us where you are employed?

Mary Ann Boehm-Direct by Cooke

1 A. I work for the South Carolina Law
2 Enforcement Division commonly known as sled.

3 Q. And what is your position with sled?

4 A. I am a DNA analyst in the case work -- DNA
5 case work department.

6 Q. And how long have you worked there?

7 A. Approximately 9 and a half years.

8 Q. Can you tell us about your education and
9 background?

10 A. I received a bachelor of Science from
11 James Madison University as in Harrisburg,
12 Virginia. My bachelor's is in Integrated Science
13 and Technology with a concentration in
14 biotechnology. Upon employment at sled, I was
15 trained for approximately a year in the proper
16 procedures and techniques used in our laboratory.
17 I'm also required to have at least 8 hours of
18 continuing education each year. This is fulfilled
19 by having training classes on particular methods
20 used in forensic DNA analysis, or going to
21 conferences.

22 Q. And have you ever been qualified in court
23 as an expert before?

24 A. Yes, I have.

25 Q. And can you tell us about how many times?

Mary Ann Boehm-Direct by Cooke

1 A. Approximately 50 times.

2 Q. And can you tell us, the court, if this is
3 a report of what -- what this is, if you recognize
4 it.

5 THE COURT: What do you want to have her
6 deemed?

7 MS. COOKE: I would like to qualify her as
8 an expert in DNA analysis.

9 THE COURT: Any objection?

10 MR. MATHEWS: None from the State, Your
11 Honor.

12 THE COURT: Thank you. I'll deem her to
13 be an expert in DNA analysis.

14 A. These first three pages are a copy of the
15 report I issued for this case.

16 Q. Now the report says that DNA from Jeffrey
17 Andrews is excluded under DNA analysis. Does that
18 absolutely positively mean that Shamar Howell did
19 not scratch Jeffrey Andrews at all?

20 A. No, ma'am. It does not.

21 Q. And does it mean that he didn't hit him or
22 attempt to hit him with anything?

23 A. I could not tell you that from my
24 analysis.

25 MS. COOKE: That's all the questions I

Mary Ann Boehm-Cross by Mathews

1 / have, Your Honor.

2 THE COURT: Mr. Mathews.

3 Cross Examination by Mr. Mathews:

4 Q. Ms. Boehm, you just testified when
5 Ms. Cooke asked you about, it's a possibility that
6 someone could scratch someone's face or make
7 contact with the face without leaving DNA under
8 the fingernails, is that correct?

9 A. That's correct.

10 Q. And in your experience if someone did
11 break the skin of the individual leaving blood,
12 would that have a possibility of leaving skin
13 cells or DNA under the fingernails?

14 A. Yes, sir, it's possible.

15 Q. And in your opinion, would you expect to
16 see DNA or skin cells under fingernails if the
17 skin of an individual was broken by another
18 individual's fingernails?

19 A. It depends really on time of collection,
20 and what happened in between the scratching and
21 the collection. Things like washing hands could
22 factor into why there is no DNA left behind.
23 However if there was blood and the fingernail
24 scrapings were bloody, then I would expect that
25 the donor of that blood's profile would be doled

Mary Ann Boehm-Cross by Mathews

1 from that.

2 Q. In any event there as no washing of the
3 hands or any other external factors with a break
4 in the skin, you would expect to find DNA under
5 those fingernails.

6 A. Yes.

7 (Photograph marked State's Exhibit No. 14
8 for Id. only.)

9 Q. Ms. Boehm, I am showing you what's now
10 been marked for, actually entered as State's
11 Exhibit No. 14. Would you tell me what that
12 document is?

13 A. This appears to be four photographs of a
14 male individual.

15 Q. And does that male individual appear to
16 you to be the same or substantially similar to the
17 defendant sitting next to Ms. Cooke?

18 A. Yes, very similar.

19 Q. Now I would like to direct your attention
20 particularly to the top left hand corner of this
21 sheet of paper, particularly at that mark right
22 there on his face. Could you tell us at least
23 what that appears to be to you?

24 A. It looks like a piece of skin is missing
25 from that area by the eyebrow line.

Mary Ann Boehm-Cross by Mathews

1 Q. And right underneath that in the bottom
2 left hand corner, could you tell us what that
3 image depicts?

4 A. There's also a portion of skin of the lip
5 area that appears to be missing.

6 Q. Now if in your opinion if those wounds
7 were created by fingernails, is it a possibility
8 that or is likely that DNA skin cells would be
9 found underneath the individual's hands that
10 created that wound?

11 A. It is possible.

12 Q. And do those pictures appear to have the
13 skin broken?

14 A. Yes, sir.

15 Q. And in this analysis you did not find or
16 detect DNA from the defendant Jeffrey Andrews
17 under Shamar Howell's fingernails.

18 A. That's correct.

19 MR. MATHEWS: No further questions, Your
20 Honor.

21 THE COURT: Any redirect?

22 Redirect Examination by Ms. Cooke:

23 Q. Did you receive any DNA samples for an
24 Erika Andrews?

25 A. No, I did not.

Mary Ann Boehm-Cross by Mathews

1 Q. And if you had, you could have matched --
2 you could have seen if they matched the DNA
3 samples you had of Shamar's fingernails.

4 A. Yes, ma'am. Like the two samples I did
5 receive, I would make those comparisons to the
6 mixtures I developed off of those fingernail
7 clippings, and would include or exclude Erika.

8 Q. And you could have matched Erica's DNA to
9 Mr. Andrews sample that you had, showing that she
10 scratched him. Or could have possibly scratched
11 him, if you had Erica's DNA.

12 A. To the fingernail clippings from Shamar?

13 Q. No, ma'am. If you had received a DNA
14 sample from Erika Andrews would you have matched
15 that to Mr. -- my client, Jeffrey Andrews showing
16 that it was a possibility that she scratched him?
17 If you, come you match her DNA to Mr. Andrews?

18 A. No, to his known standard? It's just a
19 single source profile. It's not an evidence
20 sample like the fingernail clippings. The
21 fingernail clippings; yes, I made a comparison.

22 Q. Would you expect to -- are your findings
23 consistent with Shamar Howell punching Jeffrey
24 Andrews?

25 A. No.

Whitney Berry-Cross by Meadors

1 Q. Would you expect to find DNA under his
2 fingernails if he punched him?

3 A. No.

4 MS. COOKE: No further questions.

5 THE COURT: Any recross?

6 MR. MEADORS: Just briefly.

7 THE COURT: Any other questions for this
8 witness?

9 MR. MEADORS: We don't have any questions
10 for this witness.

11 THE COURT: You may step down. And when
12 does she come back?

13 MR. MEADORS: Wednesday. Whitney Berry.

14 Your Honor, we thank the court.

15 Investigative counsel instead of bringing her back
16 tomorrow, when we have our burden of the hearing.

17 Whitney Berry, being previously.
18 sworn, testified as follows:

19 Cross Examination by Mr. Meadors:

20 Q. I have just one question that I just did
21 not ask you. I thought, but I was told it wasn't
22 covered about the victim's hands. Can you tell
23 his honor what if any gunshot residue was found on
24 the victim's hands.

25 A. Yes. On the victim's hands, both tested.

Whitney Berry-Cross by Meadors

1 positive for gunshot residue. The right back of
2 the hand had two particles of gunshot residue.
3 And the left back of the hand had one particle of
4 gunshot residue.

5 Q. Now I'm from the old school when we took
6 those three elements, and you determine how many
7 were on there to see what kind of volume and
8 whether somebody shot or held a gun or there was
9 transfer. What does it mean if there's just one
10 particle on one back and two on the other?

11 A. We moved away from using the ICP to tell
12 us the levels of metal present, because it wasn't
13 as definitive as the scan electron microscope.
14 What the scan electron microscope -- we can take a
15 particle light and dab the back of someone's
16 hands, and pick up any particular particulate that
17 might be there. We then load it on to an
18 instrument and a computerized program directs the
19 instrument to scan back and forth over the top.
20 And when it finds particles of interest that
21 contain lead, barium antimony, it took takes a
22 picture and it also takes an x-ray to tell us what
23 it's made of.

24 So once it's finished, what I do as an
25 analyst is, I go back and manually relocate to each

Whitney Berry-Cross by Meadors

1 and every one of these particles. And I determine
2 whether it's the right shape. So for GSR it has to
3 be round or molten to show it was under high heat
4 and pressure of a gun. And I also determine
5 whether it has the correct elements of lead, barium
6 and antimony. And then I make sure that there is no
7 contaminating element; such as, magnesium which
8 could be from something like fireworks.

9 Q. And as far as far as the victim Shamar
10 Howell's hand, you found one particle on the back.

11 A. One particle on the back of his left hand.
12 So that would be the back of his left hand. And
13 two particles on the back of his right hand.

14 Q. And nothing on the inside.

15 A. No, the palms of his hands were both
16 negative.

17 Q. So would that be consistent with being
18 like this, receiving gunshot residue?

19 A. It could be, yes.

20 Q. And do you have a distance, and it all
21 depends on the weather and the wind and other
22 factors, correct?

23 A. Yes, sir.

24 Q. But how far would you say for gunshot
25 residue could travel?

Whitney Berry-Cross by Meadors

1 A. In this particular case with the 32
2 caliber revolver---

3 Q. Yes, ma'am.

4 A. ---that was used, I would expect the
5 gunshot residue to travel about 3 feet.

6 Q. Compare that one particle and two
7 particles on the victim to the defendants. And I
8 think it's been conceded that he's fired the
9 weapon. Can you tell the judge about specifically
10 what you found on the defendant's hands?

11 A. Yes, sir. On the defendant's hands I
12 found multiple particles of gunshot residue on all
13 four areas of his hands. So for his right palm, I
14 went and relocated to and put pictures in my
15 report of 4 GSR particles. However I found 7 that
16 would meet the criteria. On the right back of his
17 hand I found 4 particles that I called, but I
18 found an additional 6 that would meet the criteria
19 for gunshot residue. His left palm, I saved four,
20 and found four more that would meet the criteria
21 for gunshot residue. And on the left back, I
22 found four particles of gunshot residue and one
23 round particle of lead, as well as two additional
24 particles of gunshot residue. With gunshot
25 residue we look kind of at a population. And a

Whitney Berry-Cross by Meadors

1 round lead particle would almost be considered a
2 supporting particle to support the idea that it
3 came from gunshot or gunfire.

4 Q. So those findings are consistent with the
5 defendant firing a 32, correct?

6 A. They're consistent with someone being very
7 near to the vicinity of the discharge of a
8 firearm.

9 Q. And the gunshot residue on his left hand,
10 was that consistent with firing it with both
11 hands?

12 A. It could be.

13 Q. And I think -- and I know we went through
14 it quickly. But your findings as far as daddy,
15 Mr. Robert Andrews, are consistent with, there's
16 evidence that he got and hid the gun after it was
17 fired. Is that consistent with your findings?

18 A. Yes, sir.

19 Q. And I think Ms. Cooke said as far as the
20 Mr. Virlyn Darryl Gardner, your findings or
21 particles there are consistent with him either
22 consoling or having transfer?

23 A. They could be. I really have no way to
24 say how they were deposited. They could have --
25 the typical way someone would get gunshot residue

Whitney Berry-Cross by Meadors

1 on their hands would be being in the vicinity to
2 the discharge of a firearm. Or coming into
3 contact with something was in the vicinity to the
4 discharge of a firearm. So that could include the
5 gun itself. Shaking someone's hand who had just
6 fired. Trying to perform life saving measures on
7 a victim. Different things like that.

8 Q. How about picking up -- if I fired a gun
9 and then picked up a rag and then you picked that
10 up, would there be a secondary transfer?

11 A. Yes, there could be.

12 Q. And were your findings on Mr. Virlyn Daryl
13 Gardner consistent? Or there weren't as many
14 markers?

15 A. He did not have as many particles on his
16 hands. He had, let's see. We found four gunshot
17 residue particles on his right palm. His right
18 back was negative. I was able to relocate to one
19 GSR particle on his left palm. And two GSR
20 particles on the left back. There were other
21 particles there, but they didn't meet our criteria
22 because they were non-molten. And normally when
23 we see non-molten particles that can indicate
24 transfer.

25 Q. What does non-molten mean?

Whitney Berry-Redirect by Cooke

1 A. With molten particles they're more
2 rounded.. They're more amorphous. When you have
3 something called non-molten or crystalline, it's
4 more of a square or rectangle or triangle,
5 something that has hard edges and hard points.
6 Which can be consistent with transfer, because GSR
7 is so fragile that if someone had a bunch on their
8 hand, and then I came and grabbed their hand like
9 this, it could possibly break some of the
10 particles. So maybe part of one of the particles
11 is on this hand, and part of it is on this hand.
12 So....

13 Q. Well if defendant Andrews fired a gun,
14 handed it to daddy and daddy handed it to Mr.
15 Gardner, would all that be consistent with your
16 findings?

17 A. It could be.

18 MR. MEADORS: Thank you. That's all.

19 MS. COOKE: Just a short redirect, Your
20 Honor.

21 Redirect Examination by Ms. Cooke:

22 Q. Now from your report, it's my
23 understanding Erika had a lot of gunshot residue
24 on her hands, is that correct?

25 A. Yes, ma'am.

Whitney Berry-Redirect by Cooke

1 Q. And if Erika was found holding the
2 victim's body and law enforcement and EMS had to
3 pull her off of it, then the shotgun residue on
4 the victim could have come from Erica's hands, is
5 that correct?

6 A. Yes ma'am.

7 MS. COOKE: No further questions.

8 MR. MEADORS: Can I follow up on that
9 please?

10 THE COURT: Yes, sir.

11 Recross Examination by Mr. Meadors:

12 Q. Could also that have come if Erika was in
13 the vicinity, Erika Andrews for the record, I am
14 sorry. Of the gun that was fired?

15 A. Yes. It could have come from being in the
16 vicinity to discharge a firearm, as well as the
17 situation which Ms. Cooke just described.

18 Q. Either in front, or how about if she was
19 right behind the shooter, would you, does the
20 gunshot residue come out of the back of the gun
21 too?

22 A. When it comes out of the cylinder gap or
23 the or ejection port, as the cartridge is
24 discharged, some amount of gunshot residue will go
25 out, and it could hit the person behind you, yes.

Jeffrey Dana Andrews-Direct by Cooke

1 Q. And if it's a revolver, would you still
2 get some residue?

3 A. You would most likely still get some
4 residue, yes.

5 MR. MEADORS: Thank you, that's all.
6 Thank you, judge.

7 MS. COOKE: No further questions.

8 THE COURT: Thank you. Now you may go
9 until two on Wednesday.

10 MS. COOKE: Your Honor, at this time, I
11 would call Jeffrey Andrews.

12 Jeffrey Dana Andrews, being first duly
13 sworn, testified as follows being first duly sworn,
14 testified as follows.

15 THE BAILIFF: State your full name and
16 spell your last name for the record.

17 A. Jeffrey Dana Andrews. A-N-D-R-E-W-S.

18 Direct Examination by Ms. Cooke:

19 Q. Mr. Andrews, can you tell us the address
20 that you live at.

21 A. Excuse me?

22 Q. Can you tell us the address that you live
23 at.

24 A. I live at Sumter, South
25 Carolina

Jeffrey Dana Andrews-Direct by Cooke

1 Q. And were you living there on the night of
2 this incident on 3/25/14?

3 A. That's correct.

4 Q. Do you sleep there?

5 A. That's correct.

6 Q. Do you have your own room there?

7 A. That's correct.

8 Q. Who else lives in that house?

9 A. My wife and my dad.

10 MS. COOKE: Your Honor, I have a copy of
11 his driver's license.

12 MR. MEADORS: No objection.

13 (Identification card marked Defendant's 30
14 for Id.)

15 Q. Can you tell us what this is a copy of?

16 A. This is a copy of a South Carolina
17 identification card that I received on February.
18 Actually February 2014.

19 Q. Before this incident occurred.

20 A. That's correct.

21 Q. And can you tell us what address is on
22 that identification card?

23 A.

24 Q. And what city?

25 A. Sumter, South Carolina.

Jeffrey Dana Andrews-Direct by Cooke

1 Q. Can you take us slowly through the
2 evening, in chronological order using this
3 demonstrative diagram here?

4 A. The evening started off, I invited Virlyn
5 and Gordon into my house, cousin to have a drink.
6 We had a fifth of brandy. I was actually
7 celebrating. I had a -- enrolled in school. I
8 got some money back. And my wife and I were going
9 to actually to buy 1.5 acres of land. So we had
10 some money, just kind of having fun and
11 celebrating. So went to the house and my dad
12 wanted to go grab something to eat, some chinese
13 food, you know. And of course, I wanted to give
14 him some money, just to show him that I love him
15 and thank him for, you know, his appreciation for
16 allowing me and my wife, because we just relocated
17 back to Sumter. And just to give him, you know,
18 show him that we appreciate him. Anyway he wanted
19 to grab something to eat, chinese food, so we took
20 him up there.

21 And we took the bottle a fifth of Paul
22 Masson brandy, and we put it on a recliner on the
23 back porch. That back porch is also used as a
24 laundry room. And Virlyn had actually put the
25 bottle on the recliner under some clothing. And I

Jeffrey Dana Andrews-Direct by Cooke

1 didn't pay any attention. Went out, you know, took
2 my dad. Sat and talked. Got the food, came back,
3 and we noticed the bottle was missing.

4 Q. Did you notice anything else?

5 A. Well when we got back, my dad, my dad
6 said, you know, the washer and drier is running.
7 And you know, nobody is really paying any
8 attention, because the only person that comes
9 there is Jenny Bell, Erika and Shamar. They're
10 like family.

11 Q.. Who is Jenny Bell?

12 A.. Jenny Bell is my brother Tafarus also.
13 And she's the only one. And she comes and irons.
14 Before we moved back, she would take care of my
15 father. Iron his clothes, you know, help him out.

16 Q. Is Erika a relative of yours?

17 A. Yes, Erika is my cousin. Actually she is
18 my cousin, but I call her my niece, because her
19 dad and I grew up as brothers, more or less, you
20 know.

21 Q. And are you related to Shamar Howell at
22 all?

23 A. No, I am not.

24 Q. And when you noticed the washer and dryer
25 running, what happened then?

Jeffrey Dana Andrews-Direct by Cooke

1 A. Well when I call Jenny Bell and she said
2 she didn't come down there, you know, I just got a
3 little suspicious. So I went -- Virlyn and I
4 went. I went to the washer and dryer and I saw
5 Shamar's sneakers on top of the dryer. And his
6 clothes, him and Erica's clothes in the dryer.
7 So of course naturally I walked down to the
8 trailer, because they were renting my dad's
9 trailer. It wasn't my trailer, but it's in my
10 dad's name. They live there.

11 Q. Did you notice anything else about the
12 porch before you walked down to the trailer?

13 A. Well again, the bottle was missing. You
14 know, and there's lot of things on that porch.
15 Clothing and stuff, you know. So anyway, we
16 walked down the street.

17 Q. Who walked?

18 A. Virlyn and I. And I knocked on the door
19 and asked Shamar and Erika did you all come by and
20 refer to the bottle as a jug. Did you all come by
21 and take the jug off the porch, you know. And of
22 course they told me, what are you talking about?
23 What size? What kind of bottle? What size was
24 it? We wasn't even down there. Of course, you
25 know, at that time I'm just like, okay you wasn't

Jeffrey Dana Andrews-Direct by Cooke

1 down there but your clothes are in the washer and
2 dryer. And I just chalked it as the kids just
3 being mischievous, you know. So I just keep it.
4 Virlyn and I left and we went and replaced the....

5 Q. Did you get in any kind of physical fight
6 or anything at their house?

7 A. No. Like I said, I just at that time I
8 just chalked it up as the kids being mischievous.
9 You know, they're quite younger than I am. Keep
10 it.

11 Q. At this time where did you go when you
12 left the trailer?

13 A. I went to the bootlegger's house. Me and
14 Virlyn went to the bootlegger's house, and got
15 some more liquor, because the liquor store was
16 closed.

17 Q. And then what did you do after you got the
18 liquor?

19 A. We went to my dad's house, and we sat down
20 in the living room with my father. We'd actually
21 stopped by and picked up a 6 pack. And I won't
22 forget it, because I was picking at Virlyn about
23 Bud Platinum. Bud Lite Platinum. Some new stuff.
24 And I was picking at Virlyn about it. Why did you
25 buy this stuff, you know. So we sat there with my

Jeffrey Dana Andrews-Direct by Cooke

1 father, and we were just having fun with him and
2 enjoying his company.

3 Q. Did anyone show up at the house?

4 A. I would say about 15 or 20 minutes later,
5 Erika showed up at the house.

6 Q. Was she alone?

7 A. She was alone.

8 Q. Did you all have an altercation about the
9 brandy at all?

10 A. Not at all. When Erika came in, she
11 actually came in kind of humble. And at the time,
12 you know, we know were kind of teasing my father
13 about him being a bus stop bandit when he was
14 younger and how he kept his cars clean and had a
15 bunch of girlfriends and stuff. So it's just
16 pretty, you know, it's kind of fun. So we didn't
17 really pay her attention. We were just talking.

18 Q. So there was no animosity at that point.

19 A. Yeah, we just keep talking. And of course
20 one thing I remember us talking about Virlyn was
21 teasing me about having to go to school the next
22 day. Because I had class the next day at Central
23 Carolina College. And he also teased me because
24 it was my time to go walk across the store to get
25 the beer. And he was picking at me, because I had

Jeffrey Dana Andrews-Direct by Cooke

1 some knee surgery. Old man, kind of stuff. We
2 were just picking at each other.

3 Q. Did anyone else show up at the house?

4 A. Moments later Shamar showed up.

5 Q. Tell us about that? That was one of
6 several visits, correct?

7 A. Yes. Shamar showed up. He wanted to sit
8 on the heater, because, I don't know for whatever
9 reason he went to sit on the heater in the living
10 room. I can show it to you if you have a picture.
11 I was like no, Shamar, don't sit on the heater.
12 Shamar was like, I can't really sit down now,
13 because he had an injured leg. I don't what
14 happened to his leg. He told me he had an
15 accident with his military. But he said I can't
16 sit down because my leg will stuff up right now.
17 So he just stood there, you know, and just kind of
18 interacted in the conversation. We asked him to
19 sit on the sofa, you know. And of course, he
20 didn't. He didn't.

21 Q. How many of all you in the family were in
22 the military? Were you all in the military?

23 A. Well my military background is very brief.
24 I didn't even make it out of basic training at
25 Paris Island. I actually got an RA 3-P medical,

Jeffrey Dana Andrews-Direct by Cooke

1 an honorable discharge on a medical condition.

2 But my Erika's father is in the military. My

3 brother was in the military. And both of them

4 served a length of time there.

5 Q. When you say both of them, who do you

6 mean?

7 A. Ray, which is my brother. He passed away.

8 And that's why we moved back home. And then my

9 brother, Eric, my cousin, Eric. Erika's father.

10 Eric was in the military also.

11 Q. So what happened next?

12 A. Shamar decided that he had to use the

13 bathroom. Shamar said I got to use the bathroom,

14 my stomach. And I said well, Shamar, go in the

15 bathroom, you know. Shamar said, no, I stink. Go

16 ahead and ask Erika, I stink. So he left. So

17 at this time after he left, you know, I didn't pay

18 it any attention. I didn't pay any attention at

19 all. After that, it was my time again to go to

20 the store.

21 So, brother, I am going to get beer now.

22 And I went to Young's Market, which is directly

23 across the street. I went to get an 18-pack of

24 Budweiser. And of course Erika followed me. On

25 our way there, I actually gave her some money,

Jeffrey Dana Andrews-Direct by Cooke

1 because I thought the kids were going to do their
2 thing; whatever they wanted to do. And, you know,
3 because we were listening to old music and not the
4 young stuff. And I was hoping that, you know, I was
5 really hoping that she would go. But of course she,
6 after we left the store, and the one thing I
7 remember about the incident at the store, and I'll
8 never forget this. Erika, I gave her the money, but
9 she put her head in somebody's car that she didn't
10 even know, which turned out to be Rosa Mae Wilson.
11 And Rosa Mae, what's going on with you, you know.
12 Why are you walking with him. Where's is his wife.
13 You know, just a neighborhood, childhood friend.
14 So I remember that incident. I was like why is she
15 asking for a lighter and we've got lighters at the
16 house. But of course that was neither here nor
17 there. So I went back home.

18 Q. Did Erika go with you?

19 A. No, ma'am. Erika did not come back until
20 moments later.

21 Q. When did she come back?

22 A. Moments later. I want to say, five. I
23 have to say moments. Moments later. I have to
24 say moments.

25 Q. But she was there very shortly.

Jeffrey Dana Andrews-Direct by Cooke

1 A. Yeah, I mean, 20 minutes max.

2 Q. And was there any animosity between the
3 two of you at this point?

4 A. When she came back?

5 Q. Yes.

6 A. Not at all. I mean because Virlyn and I
7 and dad was still sitting there. And of course
8 the conversation lead from him to the events that
9 surrounded that bottle.

10 Q. And did Shamar show back up at the house?

11 A. Well Erika showed back up. And she sat
12 down and she started drinking. And Erika was
13 drinking pretty heavy, I think. But that's just
14 my opinion. She started drinking real good.
15 Shamar showed back up at the house. Again he
16 wanted to stand up, but he had what appeared to be
17 a appeared 40 ounce bottle in his hand. Of course
18 no one asked him if he wanted a beer and stuff.

19 Q. Let me show you what's been marked State's
20 Exhibit No. 7. Does this appear to be a fair and
21 accurate representation of the bottle that Shamar
22 had?

23 A. The bottle that Shamar had, had a bag on
24 it, yes, ma'am.

25 Q. And what happened after that?

Jeffrey Dana Andrews-Direct by Cooke

1 A. Well, you know, again we started drinking.
2 And somehow just in talking about the events of
3 the night, and I don't know if they took it like
4 we were being sarcastic or not. But dad was
5 saying, you know, I know somebody come on that
6 porch. And the next time I'm going to put a
7 bottle of liquor out there on that porch, if
8 somebody take it then I am going to know who did
9 it. Because that's not right. And Virlyn said
10 something to the effect that, something to the
11 point, the liquor just didn't just get up and walk
12 away. Then I said you know it's ironic that your
13 clothes that wind up in the washer and dryer. And
14 I'm talking to Shamar and Erika now. Your clothes
15 wind up in the dryer and somebody went to follow
16 you all over here, and go into that, you know, go
17 under the clothes on a recliner and take the
18 liquor.

19 Q. How did they react?

20 A. Well at first it wasn't anything. And we
21 just continued to talk. And then Shamar, you
22 know, you all mother fucker's talking about me.
23 Can I Say that?

24 THE COURT: You can say whatever you want
25 to say.

Jeffrey Dana Andrews-Direct by Cooke

1 A. And the first thing we said is hold up,
2 man. You know, don't talk like that in front of
3 daddy. What's going on. You know, I ain't take
4 no take liquor. Okay, brother. Now you calling
5 me a liar. Calling me a liar. We're going to
6 have to go outside. I'm going to have to take you
7 outside. I said, slow down, Shamar. And you
8 know, I said, you damn right. In fact, Shamar, in
9 fact we are talking about you. We think you took
10 the liquor. We think you took the liquor. Now
11 it's time for you to go. You need to leave now.
12 In fact, don't go through the house, go outside.
13 Go around the house and get your clothes and go
14 home. And we'll talk about this another time.
15 But that didn't work out. And then everything
16 just started.

17 Q. What didn't it work out? What happened?

18 A. Well, because you know, Shamar got angry.
19 Erika, Virlyn and I gave each a grip, and we were
20 laughing. And Erika steps up and oh, what are
21 you all doing, some faggot shit. By this time,
22 she's trying to interject. And Shamar said,
23 that's some faggot shit. You know, and it just
24 blew out of hand. The argument got out of hand.
25 That's when I asked Shamar again, look man, it's

Jeffrey Dana Andrews-Direct by Cooke

1 time to go. We started going at it. We started
2 going at, fussing.

3 Q. What do mean going at that?

4 A. Going at it. You need to go. Fuck you.
5 Fuck this, fuck that. You know, you don't run
6 shit around here. And then my daddy finally
7 stepped in. My daddy said Erika, he doesn't call
8 her Erika. He calls her Ereka, Ereka you all need
9 to go now. Jeffrey done told you all to leave.
10 You all need to go ahead and go home. And somehow
11 they didn't want to go home. So I got to fussing
12 with Shamar. And if I can show you what happened,
13 I'll show you what happened.

14 (Whereupon, the witness steps down from
15 the witness stand.)

16 A. I don't know where the doorway is supposed
17 to be. But this is the back door.

18 Q. This is the front door to the house right
19 here.

20 A. This is the front door right here. So I'm
21 inside the house.

22 Q. The steps are in here. And the bedroom
23 door is somewhere back here.

24 A. Well anyway, we got to fussing. We got to
25 fussing again, F. you. F. you. This is the

Jeffrey Dana Andrews-Direct by Cooke

1 porch, am I correct?

2 MR. MEADORS: Your Honor, can he answer
3 the question and not ask him?

4 THE COURT: Yeah, he doesn't need to talk.
5 Ask him the question and then he'll answer it.

6 A. I want to be inside the house right now,
7 in the living room.

8 Q. Did Shamar -- where were you -- when you
9 start where you're talking right now, where were
10 you?

11 A. I just got up off -- me and Virlyn had got
12 up off the sofa. Shamar is standing by the
13 heater.

14 Q. This is inside.

15 A. That's inside the house.

16 Q. Is this where you were?

17 A. Yes, we were inside the house. We were
18 inside the house. The heater is right here, and
19 this is the front door. I'm entering the house.
20 The heater is right -- that room, the heater is
21 right here. Right here. And Shamar, Shamar is
22 right here by the heater. I'm right here. My
23 body is, my back is facing like the sofa. The
24 sofa.

25 Q. Can you demonstrate on this picture right

Jeffrey Dana Andrews-Direct by Cooke

1 here on State's Exhibit No. 10?

2 A. Your Honor, right here. There is a sofa
3 right. My body is here. Right there is a heater
4 right here. Shamar's body was right there in
5 front of this thing right in front of this table
6 right there. I'm right here. Because I was
7 sitting right there. That's where I got up from.
8 That's where the beer was. I'm standing right
9 there. I mean Shamar is standing there. I am
10 here.

11 Q. And what happened at this point, did you
12 get Shamar to leave?

13 A. No, we just got into a big argument. We
14 got into -- I mean, it was huge. Again, it was
15 the F. you word. You don't run nothing here. And
16 Erika is putting two cent in, and it just got out
17 of hand. I asked them to leave again. Leave
18 Shamar.

19 (Whereupon, the witness resumes the
20 witness stand.)

21 Q. Did he ever leave?

22 A. Excuse me.

23 Q. Did he ever leave?

24 A. No, Shamar actually told me he would fuck
25 me up, because he was ready to fight me.

Jeffrey Dana Andrews-Direct by Cooke

1 Q. Did Shamar ever leave, leave the front
2 door and leave your house?

3 A. Oh, well, I got Shamar when he told me all
4 of this, I got Shamar finally. We fussed, he
5 approached me, advanced towards me with that same
6 bottle in his hand, I brace up. Come on now, you
7 need to go young buck. Go on home. I finally
8 got Shamar out the door. I stepped outside the
9 porch, and say, Shamar, go man. Just get your
10 stuff and go. Just leave.

11 Shamar appeared to be walking down the
12 steps. I went back in. Now I'm grabbing Erika,
13 Erika, you need, time for you to go. Daddy done
14 tell you, you need to go. Cussing in front of him,
15 you need to go. So I grabbed Erika's arm. Shamar
16 comes back in the house. When I grabbed Erika's
17 arm, we're like in the doorway. Right in the
18 doorway. I got her arm. Shamar back in the house.
19 Everybody is rasing hell right now.

20 So I pushed Erika. She flings around. I
21 grabbed Shamar's arm. You'd have to see it.
22 Erika's arm. I'm trying to grab Shamar's arm like
23 this. He flings back, hit me in my face. Erika, is
24 flinching away. She turned around going back in the
25 house. And I got hit about my face and my body

Jeffrey Dana Andrews-Direct by Cooke

1 during that altercation at the door.

2 Q. On State's Exhibit No. 14, can you show us
3 where you got hit by whom?

4 A. I know Shamar's face hit me, and I got hit
5 on my right eye. On my right eye right here. I
6 don't know which. I guess this would be right
7 there.

8 Q. So Shamar hit you there. Did anyone else
9 hit you or hurt you in any way at that time?

10 A. Well Shamar, like I'm telling you and it
11 went so fast, all of them swinging. Everybody is
12 swinging now. I know his hand hit me, because he
13 came up like this, because he hit me here. And I
14 know Erika, somehow I got hit in my body. And I
15 know got hit right there.

16 Q. And what -- and did you get Shamar and
17 Erika out of the house?

18 A. No, Erika spin around and went back in the
19 house. She actually took her and her fast behind
20 right over there by the liquor, and started
21 drinking some more. And got Shamar back out the
22 door.

23 Q. So Shamar was outside.

24 A. Shamar is outside.

25 Q. Then what happened?

Jeffrey Dana Andrews-Direct by Cooke

1 A. Well Shamar started cussing. I'll beat
2 your punk ass. Mother fucker. You know, bad
3 words. In my life, I've seen him act like this
4 before. M.F. this. I'll kick your punk ass, this
5 and that. He got the bottle again. Flinching at
6 me. Flinching at me, like he's going to hit me
7 with the bottle.

8 Look, man, go on home now. You need to
9 go. Go on home Shamar. And Shamar talking about,
10 I'll be back. So I came back in the house. I
11 locked the screen door. Shamar did not come. And I
12 remembered because actually I had---

13 Q. Was Shamar inside or outside when you
14 locked the screen door?

15 A. Shamar was outside on the porch.

16 Q. And tell us what happened next.

17 A. I closed the big -- I locked the screen
18 door, and I closed the big door. The door in the
19 house. I closed the big door. And I went and
20 scrambling for the telephone in my dad's room.
21 That house only has one phone, one cordless phone
22 for him because that's all he needs and that's all
23 he has. My phone was down in my room on a
24 charger.

25 Q. Now I completely understand that is not a

Jeffrey Dana Andrews-Direct by Cooke

1 fair and accurate representation of the way things
2 were on that evening. All this shows is, can you
3 tell me Defendant's Exhibit No. 5 is, tell us what
4 that picture shows about where you went looking
5 for the phone.

6 A. Well this is my dad. This is the TV here,
7 and this is dad's room right here. And the
8 telephone is right on this, on the night -- like
9 on a little table right here.

10 Q. And I believe Defendant's Exhibit 6 might
11 show a little bit better picture. Can you explain
12 where you were looking for the phone?

13 A. The phone was right in this room right
14 here.

15 Q. And did you get to the phone? Did you
16 find the phone?

17 A. Well actually I went to the base of phone.
18 I didn't had the phone because not thinking, my
19 dad keeps the phone in his pocket. During the
20 winter time, he wear jackets, so he keeps the
21 phone in his pocket, because he keeps it close to
22 him. And my dad is not in the best of health. He
23 can't see very well, but he can see a little bit.
24 But to keep it to him for convenience, so I didn't
25 find the phone.

Jeffrey Dana Andrews-Direct by Cooke

1 Q. What happened after that?

2 A. Well I hear the commotion. And as I'm
3 going to the room, I see Erika walking towards the
4 door. I see Erika walking towards this door right
5 here.

6 Q. On Defendant's Exhibit what?

7 A. 6. Towards the big door.

8 Q. And what door is that?

9 A. That's the house door. That's the door we
10 use to close the house up. Now I hear the
11 commotion outside, but I don't know, and I can't
12 say Shamar opened that door. I can't say that.
13 But I know Erika was going to the door talking as
14 if she was talking to Shamar. Baby, do you
15 remember this. Do you remember sometime the last
16 time, someone said something. Something, I can't
17 remember everything she said, but I know she went
18 to that door. And I know, I believe she opened
19 that door.

20 Q. The big door.

21 A. The big door.

22 Q. Now what happened to the screen door?

23 A. Well when the big door opened, I was
24 looking for the phone, I was on my way out. I
25 heard the heard the door -- I heard Shamar said,

Jeffrey Dana Andrews-Direct by Cooke

1. yeah, Jeffrey won't come out here because he knows
2 I'll beat his ass. And he snatched the door open.
3 And the weapon was right here on this dresser. On
4 the dresser drawer right by a TV. There's a TV
5 right there.

6 Q. And that is on Defendant's Exhibit No. 6.

7 A. Yes. And when he snatched that door open
8 to come in, I thought Shamar was coming in
9 there -- I thought Shamar was coming in there to
10 hurt me, hurt us.

11 Q. Defendant's Exhibit No. 1 and 7, can you
12 tell us what those are pictures of?

13 A. This is the screen door at my house. This
14 is the screen door that keeps the screen door
15 locked.

16 Q. What does that picture show?

17 THE COURT: This is the one taken a year
18 and a half after the event?

19 MS. COOKE: Yes.

20 Q. Regarding the latch?

21 A. Well you can tell where the latch has been
22 broken.

23 Q. Now you have been living at 12 -- you have
24 been in and out jail because you had trouble
25 paying for your GPS monitoring.

Jeffrey Dana Andrews-Direct by Cooke

1 A. Yes.

2 Q. Do you have any personal knowledge of
3 whether that latch was broken before that evening?

4 A. Well I know it wasn't broken, because my
5 dad wouldn't allow that to happen. He kind of
6 keeps things. He brings people in there, people
7 around, that he will keep it done.

8 Q. But did you see for yourself?

9 A. Yeah, I asked him not to fix it, because I
10 know we needed to show that. And I felt confident
11 that the State didn't get that. The investigators
12 didn't get it. I just felt confident, because
13 they never showed it to me and they never said
14 anything about it.

15 Q. But you personally saw that the latch was
16 not broken before the evening of this incident.

17 A. Yes, ma'am.

18 Q. And then you saw it was broken after this
19 incident.

20 A. Yes, ma'am.

21 Q. And to your knowledge, do you have any
22 personal knowledge of whether you or your dad or
23 any resident of that house has fixed that latch
24 since that evening?

25 A. No one has fixed this latch.

Jeffrey Dana Andrews-Direct by Cooke

1 Q. And has anyone else broken the latch since
2 that evening?

3 A. No, ma'am.

4 Q. To your personal knowledge. Why did you
5 feel in fear of Shamar?

6 A. Well....

7 MR. MEADORS: Your Honor, I didn't know
8 he testified he felt in fear.

9 THE COURT: He hadn't yet.

10 MR. MEADORS: Objection to leading.

11 THE COURT: Sustained. Rephrase your
12 question.

13 MS. COOKE: Okay.

14 Q. Tell us what happened next. What were you
15 feeling at that time?

16 A. When Shamar snatched that door open, I
17 thought he was coming in there to hurt us. I
18 thought he was coming in there to fight me and
19 hurt me. When he snatched that door open, I was
20 in fear of my life. But I was also in fear of my
21 life when he came approaching me, when were
22 fussing, he's advancing towards me with a bottle
23 in his hand.

24 Q. Why were you in fear of your life?

25 A. Because I thought Shamar was going to hurt

Jeffrey Dana Andrews-Direct by Cooke

1 us. He snatched the door open. He wouldn't
2 leave. He was combative. He wanted to argue. He
3 wanted to fight.

4 Q. Is there any other reason why you can
5 explain you were in fear of him when he came
6 through that time?

7 A. Those are the primary reasons. Those are
8 the primary reasons he was in -- I was in fear.

9 Q. Do you need him to say this again
10 Mr. Campbell was?

11 THE COURT: No, I heard him.

12 Q. How was he entering your house at that
13 time?

14 A. He snatched the door open, and he was
15 entering the house. He snatched the screen door
16 open, and he was coming in to the house. Coming
17 in to the door.

18 Q. And was he saying anything?

19 A. I told you the last thing Shamar said,
20 Jeffrey won't come outside because he knows I will
21 beat his ass.

22 Q. And did he say anything else?

23 A. He didn't say anything else. No, not
24 after that.

25 Q. And where were you at this point when he

Jeffrey Dana Andrews-Direct by Cooke

1 snatched the door open and is coming in?

2 A. When he was snatched the door open, I shot
3 Shamar. I brandished that weapon. I picked that
4 weapon up from by the TV, by the dresser drawer.
5 By the TV right here.

6 Q. And you are pointing to?

7 A. Exhibit No. 6 again.

8 Q. Defendant's Exhibit No. 6. And where did
9 you get the gun from, I'm sorry?

10 A. The weapon was by the TV right here on
11 this dresser. On this dresser drawer right here.
12 Right there.

13 Q. And what did you do?

14 A. I grabbed the weapon. I brandished it,
15 and I shot Shamar.

16 Q. Why did you shoot him?

17 A. Because he was entering the house, and I
18 didn't know what he was going to do. I was in
19 fear of my life.

20 Q. When the police arrived, what did you tell
21 them?

22 A. So many police was talking to me. I mean
23 they had a bunch of them talking to me.

24 Q. What did you tell them about who shot
25 Shamar?

Jeffrey Dana Andrews-Cross by Meadors

1 A. Oh, I told them I shot Shamar. I didn't
2 run from them.

3 Q. At any point did you touch Shamar for any
4 reason, after he was shot?

5 A. Yes, ma'am, I did.

6 Q. Why? What did you do?

7 A. I went and touched Shamar's right carotid
8 artery to see if he had a pulse, because I was
9 going to attempt to put CPR on him.

10 MS. COOKE: Your Honor, I think that
11 completes my direct.

12 THE COURT: Mr. Meadors.

13 MR. MEADORS: Please the court.

14 Cross Examination by Mr. Meadors:

15 Q. Do you remember Corporal Kelly coming in
16 the house and said who is Jeffrey, and who shot?
17 The first officer there, the black gentleman that
18 came inside.

19 A. Sir, I remember an officer coming in.
20 There was so many of the officers talking to me
21 that night.

22 Q. Do you remember the officer that took you
23 from the house to his patrol car? The first
24 officer that took you from your house to his
25 patrol car, and put you in the back of his car.

Jeffrey Dana Andrews-Cross by Meadors

1 A. Well I can't tell you how he looked. But
2 I remember.

3 Q. The black gentleman.

4 A. Yeah, the black. Yeah, he was a black.

5 Q. Read his rights to you. Read you your
6 miranda rights when he put you in the car.

7 A. Yeah. I think that's the one that may
8 have taken my phone and my---

9 Q. It could have been. But you remember he
10 read you your rights and miranda rights. And you
11 told Corporal Jerry Kelly that you understood your
12 rights. Do you remember that? The officer took
13 you out and put you in the back of the car there.

14 A. If it was officer Kelly, yeah.

15 Q. You know Officer Kelly.

16 A. I don't Officer Kelly.

17 Q. But you remember an officer taking you out
18 there and reading your rights. And you told him
19 you understood your rights. Do you remember that?

20 A. Okay.

21 Q. I'm not trying to trick you. Do you
22 remember telling Officer Kelly you understood your
23 rights?

24 A. I don't remember saying that. But...

25 Q. Do you remember him reading you your

Jeffrey Dana Andrews-Cross by Meadors

1 rights?

2 A. Again, sir, things was happening fast
3 but....

4 Q. So you can't remember that?

5 A. I remember the officer. And I'll tell you
6 one thing he said. One thing one of the officers
7 said to me is, I found a bottle. So I don't know
8 if that was Officer Kelly or, but it was an
9 officer..

10 Q. Do you remember Corporal Kelly reading
11 your miranda rights, and you telling him you
12 understood those rights on the scene right when
13 you came outside?

14 A. Okay. Yes.

15 Q. And you told him you understood your
16 rights.

17 A. Okay.

18 Q. And you had already told him, I shot him.
19 He actually came in the house. You didn't know
20 him. He didn't know you. He said, whose Jeffrey,
21 because Erika was sitting here screaming, Jeffrey
22 shot him, right? She's screaming.

23 A. Okay.

24 Q. I mean you know that. She's out there
25 screaming, Jeffrey shot him in the head. Remember

Jeffrey Dana Andrews-Cross by Meadors

1 that?

2 A. Okay.

3 Q. Okay, means a yes.

4 A. Yes, she was irate.

5 Q. She was irate.

6 A. Yes, sir.

7 Q. And she was screaming, you shot him in the

8 head. So Corporal Kelly went inside and said,

9 who's Jeffrey. Do you remember that?

10 A. Yes.

11 Q. And you said, I'm Jeffrey, I shot him.

12 A. I said, I'm Jeffrey, yes, sir.

13 Q. And you go back to your patrol car, and he

14 reads you your rights. You said you understood

15 them a minute ago. And then do you remember

16 Corporal Kelly said, why did you shoot him.

17 A. What did I say?

18 Q. Corporal Kelly. What did you say? You

19 said he took something from me. Do you remember

20 telling Corporal Kelly that?

21 A. No, sir.

22 Q. He said why did you shoot. Let me finish.

23 And you said, he took something from me.

24 A. No, I don't remember saying that.

25 Q. And do you remember Corporal Kelly after

Jeffrey Dana Andrews-Cross by Meadors

1 that, he said, you shot him over liquor? Do you
2 remember him saying that?

3 A. No, sir.

4 Q. So you're denying you said that to
5 Corporal Kelly.

6 A. I don't remember saying that.

7 Q. So you could have said it to Corporal
8 Kelly.

9 A. I don't remember saying that.

10 Q. But your first words to him weren't, I'm
11 in fear. He came after me. You didn't say that
12 to anybody down at the scene, did you? Not one
13 time at the scene with Corporal Kelly when they
14 first came up. Oh, he was coming at me. I had to
15 shoot. You didn't tell anybody that to start
16 with, did you? After you told Corporal Kelly, and
17 Corporal Kelly said to you, you killed him over
18 liquor. Then you said well we were arguing, and I
19 told him to leave four times. Right?

20 A. Corporal Kelly didn't say that to me. I
21 don't, no, Corporal Kelly didn't say that to me.

22 Q. You never once told---

23 A. The first officer did not say that to me.

24 Q. Well you said a minute ago you couldn't
25 remember. He could have said that. Didn't say

Jeffrey Dana Andrews-Cross by Meadors

1 what to you?

2 A. That you shot him over liquor, no.

3 Q. You told him he took something. You told
4 him -- he said, why did you shoot him, because he
5 took something from me. What kind of brandy was
6 it?

7 A. Paul Masson.

8 Q. That's good stuff.

9 A. That's what we had time.

10 Q. I mean, I don't like it when somebody
11 takes my drink. You were mad when -- you were mad
12 that somebody took your liquor.

13 A. No, sir.

14 Q. You weren't mad. You and Virlyn actually
15 went up to No. ---

16 A. No, No. 18.

17 THE COURT: Let him finish his question.

18 Q. I'm sorry, is it No. 18? You all went up
19 there looking for him, asking them, why did you
20 all take my liquor.

21 A. No, sir. That's not what I said.

22 Q. Why did you go up?

23 A. I went up there to ask them, did they.

24 Did they.

25 Q. You were angry that you thought they took

Jeffrey Dana Andrews-Cross by Meadors

1 your liquor.

2 A. No, sir. I was not angry.

3 Q. So you were happy about it?

4 A. No, I wasn't happy, but I wasn't angry.

5 Q. Back at the scene, you didn't tell

6 Corporal Kelly right off the bat. You didn't call

7 911. And you didn't tell anybody at the scene,

8 you didn't anybody until today, that he came

9 busting through that door. Or actually a minute
10 ago, didn't you say you weren't sure if it was

11 Erika grabbing at the door or him? And you've

12 never said that before, have you? I mean, have

13 you?

14 A. I told my lawyer that.

15 Q. You didn't call 911, correct?

16 A. Sir,---

17 Q. That's a simple yes or no.

18 A. No, here's the thing. After I shot

19 Shamar, I know, I feel confident that I talked to

20 911. Did I snatch the phone from Erika or did I

21 dial. I don't -- you know, I know I talked to

22 them.

23 Q. Do you remember after you shot Shamar you

24 went up and you telling Erika, oh, they are like

25 bug bites. There is nothing to it. You said,

Jeffrey Dana Andrews-Cross by Meadors

1 it's just like a bug bite.

2 A. I never said that.

3 Q. You didn't say that.

4 A. No.

5 Q. You went down, and touched his face.

6 A. I touched his right carotid artery.

7 Q. Do you remember Erika hitting you.

8 A. Erika hit me in my back.

9 Q. Slapping you. Telling you to get off the
10 body.

11 A. She hit me on my back.

12 Q. She hit you on your face.

13 A. No, she never---

14 Q. You heard the 911. That's her hitting you
15 on the face from the 911.

16 A. I never heard the 911.

17 Q. Now show you where you got hit on your
18 eye, you were showing her a minute ago.

19 A. Right here.

20 Q. So it's the right eye?

21 A. That's correct.

22 Q. Well it's actually the left eye that's got
23 the bruise. That's the left eye.

24 A. I got hit here on my right eye.

25 Q. Well that left has got the -- where did

Jeffrey Dana Andrews-Cross by Meadors

- 1 you get that from?
- 2 A. I don't remember where that came from.
- 3 Q. Well it came from that night, didn't it?
- 4 A. I am not sure. I know the knot on my eye
- 5 came from that night.
- 6 Q. Now tell me about this bottle. And isn't
- 7 it true you went to Young's to get some beer. You
- 8 said Erika came with you. Was Mr. Gardner with
- 9 you?
- 10 A. No, sir.
- 11 Q. So just you and Erika go to Young's?
- 12 A. Yes, sir. She followed me.
- 13 Q. And got some Budweiser.
- 14 A. Yes, sir.
- 15 Q. Bottles, 18 pack?
- 16 A. Correct.
- 17 Q. And you came back. And at that point, you
- 18 said, you told Erika, tell Shamar come on down and
- 19 have something to drink.
- 20 A. No, I didn't.
- 21 Q. You told him, you invited to come down.
- 22 A. No, sir.
- 23 Q. And Erika goes to your house, correct.
- 24 Erika goes to your house.
- 25 A. She showed up, yes.

Jeffrey Dana Andrews-Cross by Meadors

1 Q. Shamar comes a little bit later.

2 A. Correct.

3 Q. You let him in. Ain't no problem.

4 A. No, I didn't let him in. Shamar walked
5 in.

6 Q. You didn't have any objection to him
7 coming in.

8 A. At that point, me and Shamar is still
9 family. I mean, look Shamar had a son, that's my
10 cousin. So he's, you know.

11 Q. And you shoot him in the head over liquor.
12 Yeah, I know.

13 A. No, I didn't shoot him in the head over
14 liquor, sir.

15 Q. He comes in. You don't tell him to leave.
16 You actually tell him to sit on the couch. And
17 then you get upset, because -- he can't get around
18 too good, can he?

19 A. He gets around real good.

20 Q. Well he's got a leg, and he said that's
21 why I sit on the heater. But you didn't want him
22 sitting on the heater.

23 MS.. COOKE: Is he going to ask a question,
24 your Honor. I think he's testifying and leading.

25 THE COURT: They're going back and forth.

Jeffrey Dana Andrews-Cross by Meadors

1 Q. Did you ask him to sit down on the couch?

2 A. The first time Shamar came in, the first
3 time he walked in, we asked him to sit on the
4 couch. The second time he came in, we got back
5 from the store he walked in. He stood by the
6 heater. No one asked him to sit down.

7 Q. You didn't want him to sit on the heater.

8 A. No.

9 Q. But you asked him to sit down. And That
10 shows you were okay with him being inside your
11 house, weren't you?

12 A. The first time. And I told you I didn't
13 have a problem.

14 Q. Where did you see him with the 40? With
15 the bottle of beer?

16 A. He's standing right here by the heater.
17 Again, by the heater. He was standing up. He
18 wouldn't sit down.

19 Q. Well what about that bottle that concerned
20 you?

21 A. I never found it.

22 Q. The fact he had 40 ounce bottle in there,
23 what did that have to do with anything?

24 A. What do you mean? We are arguing now.
25 We're in a full blown argument. He's advancing

Jeffrey Dana Andrews-Cross by Meadors

1 towards me with a bottle.

2 Q. So you're saying he's coming at you with a
3 40 ounce.

4 A. Yeah, he's walking towards me as if we
5 were going to fight.

6 Q. And where were you then?

7 A. I was right as I showed you here. As I
8 showed the judge. I don't see the pictures, but I
9 can show you.

10 Q. Just tell me, State's 10.

11 A. This is the heater right here. Shamar is
12 right here. I'm right here. I got up from here.
13 This is my seat. That is my cigarette. That's
14 the beer right there.

15 Q. And what happened?

16 A. We started arguing. I mean, we were
17 really arguing, about to go it.

18 Q. So you actually put your hands on him.

19 A. Yeah, I squared up when he started coming
20 towards me with the bottle.

21 Q. And you never told that to anybody before
22 that you squared up. You never told that to
23 Dubose or anybody else that you squared up.

24 A. Sir, I asked Dubose for a lawyer 7 times.
25 Seven times when I got there. So I was bombarded.

Jeffrey Dana Andrews-Cross by Meadors

1 I was overwhelmed. That's just the truth.

2 Q. Did you ever tell him you had your hands
3 up?

4 A. I don't remember.

5 Q. Did you ever tell him that he said that,
6 this is pretty big.

7 MS. COOKE: Your Honor, can we approach?

8 THE COURT: Yes, ma'am.

9 (Whereupon, the attorneys approach the
10 bench and confer with judge.)

11 Q. You never told anybody, Mr. Andrews, that
12 he said, I will fuck you up, did you?

13 A. Yes, I did.

14 Q. That's who you did?

15 A. Yes, I did.

16 Q. Who did you tell?

17 A. My lawyer.

18 Q. You didn't tell the police on the scene.
19 You didn't tell 911. You didn't tell Kelly. You
20 told Kelly he took something from you. You didn't
21 tell any law enforcement office he said, I will
22 fuck you up.

23 A. I told my lawyer.

24 Q. And when you said that he was out there
25 and said, Jeffrey knows not to come out here,

Jeffrey Dana Andrews-Cross by Meadors

1 because I'll kick his ass or whatever. You never
2 told any law enforcement that, did you?

3 A. Sir, as I was telling you, I asked
4 Investigator Dubose for a lawyer, because I was a
5 little bombarded.

6 Q. You told Dubose you shot him. Before you
7 said I didn't want to sign the waiver. You
8 admitted that you shot him with your right hand,
9 correct?

10 A. He asked me that, yes.

11 Q. And you admitted that. And that was
12 pre-asking for a lawyer on the wavier. And we'll
13 go over that tomorrow. But you admitted to him
14 you shot him, correct?

15 A. Yes, sir. I never ran.

16 Q. Now the bottle, you said he came at you
17 with the bottle.

18 A. He advanced towards me with the bottle,
19 inside and outside.

20 Q. So then you get up like this.

21 A. Inside.

22 Q. And then where did that bottle end up?

23 A. He had it in his hand when he exited the
24 door. When he was exiting the door. Shamar came
25 in a couple of times. But when I got him to the

Jeffrey Dana Andrews-Cross by Meadors

1 porch, I got -- I went outside after he went on
2 the porch, he still had the bottle in his hand.
3 He was cussing, raising hell. Shamar get your
4 stuff and leave.

5 Shamar appeared to be walking down the
6 steps. That's when I went back in and tried to get
7 Erika out.

8 Q. You didn't see the bottle again.

9 A. No, I didn't.

10 Q. So your testimony is, he came back after
11 that.

12 A. Excuse me?

13 Q. He came back after that?

14 A. After what?

15 Q. What we were just talking about.

16 A. Oh, did he come -- yeah, he came back in
17 after I got him on the steps.

18 Q. And who opened? A minute ago I thought on
19 direct you said you didn't know who opened the
20 door Erika or defendant. Are you saying you know
21 he opened it?

22 A. Shamar opened the door the second time.
23 He opened the screen door and came in himself.

24 Q. Did he push it open? Slam it open?

25 A. No, you can't slam it. You got to pull it

Jeffrey Dana Andrews-Cross by Meadors

1 open. So he had to pull it open and come in.

2 Q. And were you in fear of suffering
3 seriously bodily injury or death right then?

4 A. Well I was a little bit in fear then,
5 because Erika, I got her by the arm. I'm trying
6 to push him. And when he waived his hand, and he
7 tried to get away from me and I got hit. I'm
8 like, hey, you know.

9 Q. And you'd already shot him. You shot him
10 right after that, right? When they were sitting
11 there and then you shot him.

12 A. No, sir.

13 Q. How long after that was it that you shot
14 him?

15 A. When I came back in, I told Shamar the
16 second time, the last time, Shamar, don't come
17 back in here no more. Go home. I tell him to
18 leave. Tell him to leave. I came in. I locked
19 the screen door, and I pushed this big door right
20 here. I closed it.

21 Q. And where did you get the gun?

22 A. When I was going into the room looking,
23 scrambling for the phone to call 911.

24 Q. And you couldn't find the phone, but you
25 found the gun.

Jeffrey Dana Andrews-Cross by Meadors

1 A. The gun was sitting right there on
2 dresser, on the dresser drawer by the TV. Right
3 there.

4 Q. So you went inside this room.

5 A. Correct.

6 Q. Got the gun.

7 A. No, I went inside the room looking for the
8 telephone.

9 Q. But you got the gun.

10 A. I did get the gun from there.

11 Q. Why did you get the gun?

12 A. Because Shamar was snatching my door open,
13 coming in my house.

14 Q. And you never told law enforcement he
15 snatched the door opened, or that the door was
16 closed, or that you closed and locked it. Ever.
17 Today is first day you ever told law enforcement
18 that you closed the door and locked it.

19 A. Sir, I needed to talk to a lawyer at that
20 time, because Mr. O.V. Player, taught me a long
21 time ago, whenever you are in fear or something is
22 wrong, you get a lawyer. I didn't feel
23 comfortable. Things were moving so fast. That's
24 how it happened.

25 Q. I understand that. And I respect the

Jeffrey Dana Andrews-Cross by Meadors

1 lawyer/client more than anybody, I can assure you.
2 But my question for this immunity hearing is, you
3 did not tell them that you claimed that you locked
4 the door and he came back. You didn't even tell
5 them that.

6 A. My question and my answer -- my response
7 to you, sir, is I told him I needed a lawyer,
8 because I knew that I wouldn't be able to put all
9 those statements together. I told him that
10 several times. So whatever I omitted -- whatever
11 I omit, I apologize to the court, but I told my
12 lawyer.

13 MR. MEADORS: I beg the court's
14 indulgence.

15 THE COURT: Yes, sir.

16 Q. That 40-ounce bottle is out on the yard.
17 Did you know that's where law enforcement found
18 it?

19 A. I just heard the officer say he found a
20 bottle. I told one of the officers.

21 Q. But you did tell Investigator Dubose about
22 a struggle you had had with -- that you said
23 somehow he was hitting you about the head. Do you
24 remember telling Dubose that?

25 A. Yes.

Jeffrey Dana Andrews-Cross by Meadors

1 Q. But you didn't tell him the whole rest of
2 the story, that he came in the door, and the door
3 was closed. But you told him that? Why wouldn't
4 you have told him both of them then?

5 A. When we were in the doorway, that's when I
6 got hit about my head, sir.

7 Q. But you see what I'm saying? If you're
8 going to say that, why wouldn't you have said,
9 man, I locked the door and then I closed it. And
10 then he came in after that. You didn't even tell
11 him that. You said I just went to the door, and
12 then he started hitting me about my head. You
13 left out the whole part about the door being
14 closed and locked it and him coming back. You
15 agree with that, don't you? For whatever reason
16 you did it, you didn't tell him that.

17 A. Do I agree with what?

18 Q. That you didn't tell him that.

19 A. It wasn't in the report. So...

20 Q. And you did say on direct and when they
21 were there, invited in, sitting on the couch, that
22 you all did start needling them a little bit about
23 the -- either Virlyn or your dad were taking about
24 the brandy a little bit. And he said you all are
25 talking about me. And you all were. Or they

Jeffrey Dana Andrews-Cross by Meadors

1 were, right?

2 A. Yeah, we were talking about the event, we
3 wasn't talking about him.

4 Q. That's still stirring a little trouble,
5 isn't it?

6 A. I don't necessarily agree with that.

7 Q. At 11:45 in the video with Dubose and
8 there's not a jury here. You say to yourself,
9 man, I fucking, I shot. Fuck that guy. Fucking,
10 I shot that fucker. Do you remember that at
11 11:45?

12 A. No, sir. I don't remember that.

13 Q. And you remember the end of the video
14 sitting in the room there, you said I fucked up?

15 A. I don't remember that. I never received
16 any documentation stating that.

17 Q. You've got that dashcam. Yes, sir, you
18 sure do.

19 A. No, I don't.

20 MS. COOKE: I received one dashcam.

21 THE COURT: You've got it.

22 MS. COOKE: I've got one dashcam, Your
23 Honor.

24 Q. Now a couple of more questions. I'm about
25 through. The victim did not have a gun, did he?

Jeffrey Dana Andrews-Cross by Meadors

1 A. I am not sure what Shamar had, sir.

2 Q. Well you didn't see a gun.

3 A. No, sir.

4 Q. Didn't have any brass knuckles.

5 A. I didn't see one.

6 Q. And why did you ask your daddy to hide the
7 gun.

8 A. I didn't ask my dad to hide the gun.

9 Q. Well why didn't you jus hold it up. He
10 was coming in, here's the gun, I had to use. Why
11 didn't you just say it and show it to law
12 enforcement?

13 A. Well my dad approached me, son, where is
14 the gun. Give me the gun, son. Because he saw
15 that I was little nervous and I was as little.
16 Give me the gun, son. Give me the gun. And I
17 gave my father the gun as he asked.

18 Q. Your dad nor Mr. Gardner saw what happened
19 on the porch, did they? They didn't see you shoot
20 him, did they?

21 A. I didn't shoot him on the porch.

22 Q. He was on the porch when he got shot.

23 A. No, sir, he was entering my house when he
24 got shot.

25 Q. So you're saying your dad and Mr. Gardner

Jeffrey Dana Andrews-Cross by Meadors

1 saw him?

2 A. I'm not saying that. I don't know what
3 they saw.

4 MR. MEADORS: I beg the court's
5 indulgence.

6 THE COURT: All right.

7 Q. Now your dad was never in fear, was he?

8 A. I can't speak for my father, sir.

9 Q. Well you did when you were talking to
10 Dubose. You said one of the reasons you shot him
11 is because you were in fear of your life and fear
12 of your dad's life. You actually wrote that on a
13 statement you wrote yourself.

14 A. Yeah, but I don't know how he feel. I
15 felt like if Shamar would have got in there, he
16 would have hurt my father and myself.

17 Q. And you told somebody, didn't you, if you
18 ask a man to leave your house, you've got a right
19 to do anything you want to make him leave. Do you
20 remember saying that?

21 A. No, sir, I never said that.

22 Q. What did you say?

23 A. I said something to the effect that if a
24 man, if you ask a man to leave your house, you
25 have a right to protect yourself.

Jeffrey Dana Andrews-Cross by Meadors

1 Q. Did you ever physically touch him?

2 A. Shamar?

3 Q. Not with a bullet, but your hands, did you
4 touch him?

5 A. No, sir.

6 Q. And that little mark on his finger didn't
7 come from you, that's a healing wound. So I mean
8 he didn't hit you that hard, did he?

9 A. He hit me hard enough to swell my face up.

10 Q. But that scratch, you're saying he
11 scratched you.

12 A. I didn't say that. I told you Shamar --
13 Erika, it was just -- it was chaotic right here at
14 this door. I was Trying to get him out. Erika
15 flinching this way. Shamar turned around and hit
16 me with his hand trying to get him out the door,
17 and that's how it happened.

18 Q. But you did Investigator Dubose on March
19 25th 2014, you said that he was hitting you. And
20 Investigator Dubose said is that it right there.
21 And you said, you see it, you see it. That's
22 where he hit me. Do you remember telling
23 Investigator Dubose that?

24 A. Well that was this side. I thought he was
25 referring to this side of my face.

Jeffrey Dana Andrews-Cross by Meadors

1 Q. Well you pointed to the side where the...

2 A. I was talking about right here over my
3 right eye, sir. The eye is swollen.

4 Q. So you pointed to the wrong thing on the
5 video too.

6 A. Okay, I never saw the video.

7 Q. Now you've got an aggravated domestic
8 violence conviction. Correct?

9 A. That's correct, sir.

10 MR. MEADORS: And I have certified copies
11 of these, Your Honor. We'll go over later for when
12 the jury is here. And an aggravated assault
13 conviction, correct?

14 A. That's correct.

15 Q. Both of those from Arizona.

16 A. Yes, sir.

17 Q. You also have shoplifting and a petty
18 larceny, I believe.

19 A. Not a petty larceny. Just a shoplifting
20 charge.

21 MR. MEADORS: Thank you, that's all I
22 have.

23 THE COURT: Any redirect?

24 MS. COOKE: Your Honor, I just need to say
25 it. I received two dashcams. They were both the

Jeffrey Dana Andrews-Cross by Meadors

1 same thing. So I guess I was accidentally given the
2 same one twice. I did the transcript of the
3 dashcam, and I don't see anything about what a
4 couple of things that Mr. Meadors is asking here.
5 So that might be on the second dashcam that I didn't
6 get. So I don't what kind of tone he said in. I
7 don't know. I don't have where he said it.

8 MR. MEADORS: Judge, she's got everything
9 we do, the two dashcams. One of them, the audio
10 is there. It goes out towards the end. The next
11 one I think is a continuation of the same audio.
12 There's just no---

13 MS. COOKE: Mr. Scott Mathews came down to
14 my office and looked at what I had. And I believe
15 he'll agree with me that both of my dashcams are the
16 same thing. But I was told that there was no audio
17 on the other one.

18 MR. MEADORS: And there's not, Judge. And
19 we'll look at them. What I was talking about
20 specifically at 11:45, and it's hard to hear. And
21 I'm not -- that's the way I heard it. I played it
22 to some other people. And I wouldn't bring it out
23 in front of here obviously.

24 THE COURT: Right, he said he didn't say
25 it.

Jeffrey Dana Andrews-Redirect by Cooke

1 MR. MEADORS: Yeah, unless we went over
2 it.

3 THE COURT: This is a Duncan hearing.
4 Things are a little differently.

5 MR. MEADORS: But it's 11:45. He goes out
6 of the room. Dubose does. He's talking to himself.
7 I can hear him. Now other people can't, but
8 obviously we can go over that unless we got Your
9 Honor to say we could in front of the jury, I
10 promise you. And he does say at the end I backed up
11 at the end. It's clearly at the end of the tape.

12 MS. COOKE: I didn't hear that.

13 MR. MEADORS: That's the interview room,
14 not the dashcam. The interview room where that's
15 coming from. Thank you. We've been listening to
16 this tape for the last week. But that comes from
17 the interview room at 11:45.

18 THE COURT: Ms. Cooke, redirect.

19 Redirect Examination by Ms. Cooke:

20 Q. Have you ever shot anyone before?

21 A. No, ma'am.

22 Q. What kind of stress does that put a person
23 under? What were you feeling?

24 A. Very overwhelmed. A lot of different
25 mixed emotions. Anxious, nervous, scared. All of

Jeffrey Dana Andrews-Redirect by Cooke

1 the above.

2 Q. How did you feel about what you just had
3 to do?

4 A. Well I certainly didn't feel good about
5 it. But I guess in that context I felt real sad.

6 Q. And earlier you said overwhelmed and
7 bombarded. What exactly do you mean by that?
8 Tell us how you feel like your memory was at that
9 time?

10 A. Well I was just racing, you know. I had
11 several different officers asking questions. A
12 lot of people around the house. I'm in the back
13 of the car. I'm worried about my dad. I'm
14 worried about, you know, a lot of just felt
15 overwhelmed.

16 Q. And Mr. Meadors asked you about, were you
17 in fear, you know, when he had the bottle earlier,
18 when you were pushing him out the door. Were you
19 near the gun at that time?

20 A. No, ma'am.

21 Q. Were you thinking at that time, I'm going
22 to shoot him?

23 A. No, ma'am.

24 Q. What were you looking for what you saw the
25 gun?

Jeffrey Dana Andrews-Redirect by Cooke

1 A. I was looking for the telephone.

2 Q. And he said that you never told anybody
3 that, you know, I believe may missay this. I
4 believe he was saying you never told anybody you
5 were scared. Didn't you write, I am fear for my
6 life four times on your statement?

7 A. Yes, ma'am, I did.

8 Q. And, you know, if you did say, I had to
9 shoot that fucker, or I shot that fucker. Is that
10 what it was? I don't want to misquote it. What
11 did you mean by that? Who kind of tone did you
12 say it in?

13 A. You know, I don't recall saying that. I
14 do not recall saying that.

15 Q. So you don't know if it was in a
16 remorseful tone, or whether it was in a, you know,
17 I'm upset because you had to do it tone, or
18 whether it was in a angry, he deserved it tone?

19 A. Well---

20 Q. Since you don't remember it.

21 A. I don't remember saying that. And I
22 don't, you know, I was in an interview room again.
23 I asked the officer, I want a lawyer. I felt
24 overwhelmed. According to them just now, they
25 left me in a room by myself. I don't remember

Jeffrey Dana Andrews-Redirect by Cooke

1 what I said if I was by myself. I don't remember.

2 Q. And you did tell Dubose, I need to talk
3 about this in the morning. My mind is all mixed
4 up.

5 A. Well according to the report that I
6 received, I told him Investigator Dubose that I
7 need to talk about it in the morning. I'm all
8 twisted.

9 Q. And at the time that he came back in the
10 screen door you didn't know -- did you know if he
11 had the bottle or not?

12 A. That's the thing, I didn't know what
13 Shamar had in his hand. Did he have a bottle.
14 You know, I know a little bit about him. But I
15 didn't know if he had bottle. I didn't know what
16 he was going to do.

17 Q. You said you know a little bit about him.
18 What do you mean?

19 A. Shamar got a little reputation around the
20 neighborhood since I moved back home. Since my
21 wife and I moved back home. Actually Shamar, we
22 were going to allow him and Erika to move out to
23 Arizona with us; that they were having some
24 problems here. And Erika had contacted myself and
25 my wife and I. And we were going to allow them to

Jeffrey Dana Andrews-Redirect by Cooke

1 come out. I actually had a job for him. And my
2 wife had set up a few things for Erika because she
3 was pregnant with the baby. And, of course, I had
4 to contact Eric, which is her father, before that
5 could happen. And Eric advised against that. But
6 I wanted to help Shamar in the neighborhood. You
7 know, I know he got in a fight with Erika a couple
8 of times. Him and Erika fight with people. You
9 know, he has a little reputation, but that wasn't
10 important to me. You know it's just....

11 Q. But you knew that on that evening.

12 A. Oh, yes, ma'am.

13 Q. And just a couple of more things. I'll
14 have to find it. You told Dubose you were afraid
15 of getting things mixed up.

16 A. Yes, ma'am. Well something to that
17 effect.

18 Q. And you did tell Dubose everything that
19 happened that evening. You just kind of mixed up
20 the time line. Is that true?

21 A. Well I felt like I told them in bits and
22 pieces. But then again, I felt overwhelmed. And
23 I just finally said I don't want to talk anymore.
24 But the questions that he were asking, I don't why
25 I didn't tell him. You know, again, I was

Jeffrey Dana Andrews-Recross by Meadors

1 overwhelmed.

2 Q. And I am trying to find one specific area.
3 Now at one point you tried to tell one officer
4 that you were in fear, and they told you that that
5 just wasn't reasonable, isn't that true?

6 A. I don't...

7 Q. Do you remember that?

8 A. What officer was that? Was it in the
9 interview room?

10 Q. I thought so. I'm trying to find it. But
11 do you remember that at all?

12 A. No.

13 MS. COOKE: No further questions, Your
14 Honor.

15 MR. MEADORS: Your Honor, can I ask just
16 one fellow up?

17 THE COURT: Yes, sir.

18 Recross Examination by Mr. Meadors:

19 Q. Do you remember telling Investigator
20 Dubose you were protecting your dad?

21 A. Yes, sir.

22 Q. How much did you have to drink that day?

23 A. I probably had about 2 little bud
24 platinums and just a shot of brandy. Virlyn
25 and....

Terry Gainey-Direct by Cooke

1 Q. All day long?

2 A. Yeah, because I didn't start drinking
3 until we got to my house. And that's what I
4 remember at this time.

5 Q. About how many you were drinking?

6 A. Correct.

7 Q. It could have been more?

8 A. Possibly.

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

10 Terry Gainey being first duly sworn,
11 testified as follows.

12 THE BAILIFF: Please state your full name
13 and name and spell your last name for the record.

14 A. My name, my full name is Terry. Middle
15 name, Randall. Gainey. G-A-I-N-E-Y.

16 Direct Examination by Ms. Cooke:

17 Q. Mr. Gainey, can you tell us what your
18 occupation is now?

19 A. Currently I am a private investigator.

20 Q. And what were you before.

21 A. Police officer.

22 Q. And as a private investigator now, what
23 kind of things do you do?

24 A. Investigate different types of cases.

25 Domestics. I also do criminal work. I also work

Terry Gainey-Direct by Cooke

1 as a death investigator for the Darlington County
2 Coroner's Office.

3 Q. Can you tell the court when I found you?

4 A. This weekend. This past weekend.

5 Q. And is that when you started working on
6 this case?

7 A. Correct.

8 Q. Have you done any sort of written reports
9 or anything for me in this case?

10 A. No.

11 Q. Can you tell the court about your
12 training, education and experience? Do you need
13 to refresh your memory with your CD?

14 A. If I miss anything, refresh me then. In
15 1986, I began as a reserve officer with the City
16 of Darlington. In 1987, I went full time. From
17 1987 until 1992, I worked there. In 1992 until
18 2004, I worked for the City of Hartsville. Also
19 during that time about 1990, I went to work for a
20 training company called Allenton Training. We do
21 firearm's training as well. Time line wise. In
22 2004, I retired from there. And shortly after
23 that, I went to work as a private investigator and
24 as the deputy coroner, working cases for the
25 coroner's office.

Terry Gainey-Direct by Cooke

1 Q. Can you tell me specifically why I was
2 interested in speaking with you about when I found
3 out some information about you, regarding this
4 case?

5 A. Because I had been certified through
6 Science Institute as officer involved shooting
7 related issues and various issues concerning a
8 time line and when you should do interviews.

9 Q. What kind of training have you had on
10 that?

11 A. Most recently as for Science Institute,
12 that was in November of 2014, which was a 40
13 hour-class, consisting of a book work and a lot of
14 foot work there in a lab kind of environment.
15 Prior to that I had been swat trained and received
16 a bunch of this information as early as 1992, 93.

17 Q. And what is the golden rule, I guess I
18 could call it, given to police officers about
19 after shooting someone?

20 A. Currently it is 48 hours. 48 hours or two
21 good sleep cycles before you gave an interview.

22 Q. And can you tell why that is?

23 A. Because of the mind. Your mind just
24 simply doesn't rest. It's a type of event that
25 causes memory fragmentation. And after a couple

Terry Gainey-Direct by Cooke

1 of sleep cycles' you're usually able to consolidate
2 your memories. And it's a little more of an event
3 that you can somewhat remember more clearly.

4 Q. What might happen if a person is
5 interviewed an hour and 13 minutes after they
6 shoot someone?

7 A. I would venture to say that they would
8 be -- their memory would be completely fragmented.
9 There would be things that make absolutely no
10 sense to them. Some things they'll recall
11 seemingly clearly. Some things they will have
12 holes. They won't know exactly why they have
13 holes. They'll have intrusive thoughts. They'll
14 have things that it just simply makes no sense
15 whatsoever.

16 Q. Can you tell us anything about the time
17 line regarding being interviewed before two sleep
18 cycles?

19 A. I'm sorry.

20 Q. That a person being interviewed before
21 they have two good sleep cycles after shooting
22 somebody, might do in a time line of the events
23 that they went through that day?

24 A. Help me just a little bit more. I'm
25 sorry, I'm just kind of drawing a blank myself

Terry Gainey-Direct by Cooke

1 right at the moment.

2 Q. What have you learned regarding a person
3 who is being interviewed after they just shot
4 someone, are they going to tell events in
5 chronological order?

6 A. Oh, absolutely not. The mind itself,
7 most people tend to think of it working in forms
8 of a video camera. With an event starting at one
9 end and ending in another. When in reality, your
10 memory tends to work as a still shot camera.
11 It'll take a snap here and a snap here and a snap
12 here, and snap throughout the entire event. So
13 when you begin to try to recall what that event
14 is, you may very well put those photographs in
15 your mind in a different order. Then just simply
16 you're not able to follow that chronological order
17 at that moment until you've had that little bit of
18 decompression time. You have an adrenaline issue.
19 You have fear and anxiety. You have a lot of
20 things going on in your own mind that are going to
21 cause major, major problems for you to recall.

22 Q. And about the gaps in the memory you
23 mentioned. And tell us what a person might do
24 when they might come about a gap in their memory.

25 A. More times than not when they come about a

Terry Gainey-Direct by Cooke

1 gap in their memory, they tend to create. They
2 don't necessarily want you to let you down during
3 the interview process.

4 MR. MEADORS: With all due respect, has
5 she offered him as an expert?

6 THE COURT: I don't think she has.

7 MS. COOKE: I'll ask him some questions,
8 Your Honor.

9 Q. Do you believe that what you are
10 testifying to would be in a common knowledge of
11 most jurors or a specialized knowledge that you've
12 been trained in?

13 A. It's just not knowledge. It's specialized
14 training.

15 Q. And you've quoted your specialized
16 training and experience in this area. Can you
17 tell us a little bit more about that training and
18 articles on this sort of science.

19 A. The Force Science Institute was officially
20 developed in 2004. And about June of 2004, by a
21 Ph.D. by the name of Bill Lewinsky. Bill Lewinsky
22 had been in this form of work from the early 70's.
23 But in 2004, is when the company itself was
24 formulated. And it was formulated for training,
25 for consultation and for research. What Force.

Terry Gainey-Direct by Cooke

1 Science does is they simply research law
2 enforcement related shootings to find out what is
3 the general consensus of things that happen from a
4 physiological standpoint what happens to the human
5 body. What are the limitations based on physics,
6 what are repeatable, what are common amongst a
7 group of people.

8 It's based on sports science. It's based
9 on accident reconstruction. It's based on research
10 throughout many, many years through a lot of areas
11 of graduate level classes.

12 Q. Has -- do they have a website?

13 A. They do have a website.

14 Q. And on that website, are there examples of
15 cases wherein this science has been applied to
16 specific cases before?

17 A. There's hundreds of different examples of
18 where this type of science has been applied, yes.

19 Q. And is this based on a social science?

20 A. Based on social sciences, primarily.

21 MS. COOKE: Your Honor, at this time, I
22 would move to qualify him as an expert in
23 interrogation and Force Science.

24 THE COURT: For this hearing, do you have
25 any objection to this?

Terry Gainey-Cross by Meadors

1 MR. MEADORS: Has he been qualified
2 before?

3 THE COURT: Yeah, we need voir dire. Why
4 don't you voir dire him.

5 MR. MEADORS: And that was an expert in
6 the field of what? I'll ask him.

7 THE COURT: If he's going to voir dire
8 him, you can step down now.

9 Cross Examination by Mr. Meadors:

10 Q. You're an expert in the field of what?

11 A. Force Science on use of force.

12 Q. Force Science?

13 A. Yeah, use of force issues within law
14 enforcement.

15 Q. Use of force issues within law
16 enforcement.

17 A. Correct.

18 Q. So not interro-- she was offering you as
19 an expert in interrogation and use of force. Are
20 you an expert in interrogation?

21 A. One of the aspects of this class is
22 interviewing and different techniques. In
23 addition to 20 something years of law enforcement
24 of interview and interrogation with various
25 people, suspects, witnesses, victims.

Terry Gainey-Cross by Meadors

1 Q. But that's your personal experience. As
2 far as this training in this, what training did
3 you get in the use, beside your law enforcement
4 training?

5 A. In this particular class we covered
6 cognitive interviewing.

7 Q. How long was that class?

8 A. The whole class was a week long class. A
9 whole day dedicated to cognitive interviewing.

10 Q. So you had one week of training for this
11 particular field of expertise.

12 A. Yes.

13 Q. And how many times have you been offered
14 as an expert in this particular field of
15 expertise?

16 A. This is the first time in the courtroom.

17 Q. So never before in a court of record?

18 A. No.

19 Q. And does this field deal with law
20 enforcement shooting only or?

21 A. I am sorry, go ahead.

22 Q. Well because I noticed you said law
23 enforcement involved shooting. Is that this
24 particular area?

25 A. That is primarily the area, yes.

Terry Gainey-Cross by Meadors

1 Q. That's not what we're dealing with here,
2 is it?

3 A. That -- well you're dealing with the
4 trauma of a shooting as a whole.

5 Q. Well in your particular field that you're
6 an expertise, you didn't receive training on that.
7 It's particularly law enforcement involved
8 shooting, correct? The 40-week class was about
9 law enforcement involved shooting.

10 A. Yes.

11 Q. And that's all you've ever really
12 investigated.

13 A. No.

14 Q. As far as this particular field.

15 A. As far as this particular field goes, yes.

16 Q. So that's, you really don't have any
17 experience as an expert in this field when it's a
18 defendant shooting someone else at all, do you?

19 A. Other than about 20 years concealed
20 weapons training to various people.

21 Q. Concealed weapons training.

22 A. Concealed weapons training, civilians, as
23 well as law enforcement in the area of firearm's
24 use.

25 MR. MEADORS: Your Honor, we'd object to

Robert Andrews-Direct by Cooke

1 him being accepted as an expert.

2 THE COURT: I mean, has he had one week of
3 course?

4 MS. COOKE: I believe.

5 THE COURT: And 20 years of experience? I
6 mean, well tell me about his college. I want to
7 know about his college. What he's done post
8 graduate. You know, things he's done. Because I'm
9 not seeing it. It's almost like I stayed in the
10 Holiday Inn Express last night. And so therefore, I
11 mean one week, are you kidding me? I mean is that
12 correct?

13 MS. COOKE: Yes, Your Honor.

14 THE COURT: No way. He can step down.
15 He's not an expert in this courtroom. He'll have to
16 wait until next time to be an expert.

17 MS. COOKE: Thank you, Your Honor.

18 THE COURT: Who is your next expert?

19 MS. COOKE: Robert Andrews.

20 Robert Andrews, being first duly sworn,
21 testified as follows:

22 THE BAILIFF: Mr. Andrews, would you state
23 your full name and spell your last name for the
24 record, please.

25 A. My full name is Robert Andrews.

Robert Andrews-Direct by Cooke

- 1 THE BAILIFF: Spell your last name for me.
- 2 A. Last name is Andrews.
- 3 THE BAILIFF: Can you spell it for me?
- 4 A. A-N-D-R-E-W-S.
- 5 Direct Examination by Ms. Cooke:
- 6 Q. Mr. Andrews, where do you live?
- 7 A. Where do I live?
- 8 Q. Uh-huh. (Affirmative.)
- 9 A. At
- 10 Q. Were you living there on the night of this
- 11 incident that we are here about?
- 12 A. I was living there for about 55 years.
- 13 Q. And who was over at your house? Do you
- 14 remember who was at your house that evening?
- 15 A. I am sorry, would you repeat that?
- 16 Q. Do you remember who was at your house that
- 17 evening?
- 18 A. Who was at the house?
- 19 Q. Yes, sir.
- 20 A. It was me, Virlyn Gardner, Erika and
- 21 Shamar.
- 22 Q. Was Jeffrey there?
- 23 A. I'm sorry.
- 24 Q. Was Jeffrey your son there?
- 25 A. The difference in what?

Robert Andrews-Direct by Cooke

1 Q. Was Jeffrey your son there? Was he there?

2 A. Yes.

3 Q. Did you ever ask Shamar Howell to leave
4 your house that night?

5 A. Yes, I did.

6 Q. Do remember how many times?

7 A. Two times. I just tell him to go home.

8 Q. Did he leave?

9 A. Did he leave?

10 Q. When you asked him to leave, did he leave?

11 A. The last time he left, and next thing I
12 know, he was back again.

13 Q. Do you remember when he came in the door
14 the last time he came?

15 A. He just snatched the front door open.

16 Q. What happened to the door as a result of
17 that?

18 A. What happened to the door?

19 Q. Uh-huh. (Affirmative.)

20 A. I leave everything just like it is.

21 Q. So what's -- is there anything wrong with
22 the door?

23 A. The latch. The latch, I had a screw type
24 latch on the door.

25 Q. Yes, sir.

Robert Andrews-Cross by Meadors

1 A. It was pulled off, but it's still there.

2 Q. This is Defendant's Exhibit 1 and 7.

3 A. I don't see well, ma'am.

4 Q. We'll leave that alone. Have you been in
5 the house since this incident? You've lived there
6 since this incident?

7 A. Who?

8 Q. You.

9 A. Yeah, I still live there.

10 Q. And have you ever fixed the latch since
11 that night?

12 A. I'm sorry.

13 Q. Have you ever fixed that latch since that
14 night?

15 A. Well I stuck it back in the door and it's
16 still there.

17 MS. COOKE: I don't think I need to ask
18 any more questions, Your Honor.

19 THE COURT: Mr. Meadors or Mr. Mathews.

20 MR. MEADORS: Very briefly.

21 Cross Examination by Mr. Meadors:

22 Q. Good afternoon, Mr. Andrews. How many
23 doors to the front of your house?

24 A. One.

25 Q. Which one?

Robert Andrews-Cross by Meadors

1 A. Well I got a storm door and then a regular
2 door.

3 Q. And how many of those doors -- what door
4 did he snatch open?

5 A. Nothing but the screen.

6 Q. So was the other door closed?

7 A. No.

8 Q. So It wasn't closed, the other door.

9 A. No.

10 Q. And you didn't tell the police that that
11 night when they were talking to you there, did
12 you?

13 A. No.

14 Q. I mean you didn't tell him that he
15 snatched the door open.

16 A. I don't recall.

17 Q. And you weren't afraid of Shamar, were
18 you?

19 A. No. I give him a place to live.

20 Q. I promise you you're not going to get in
21 trouble. I'll give you immunity, okay. What did
22 you do with the gun that Jeffrey gave you?

23 A. I put it right back where it was.

24 Q. That's where it was.

25 A. It was on the dresser.

Robert Andrews-Cross by Meadors

- 1 Q. And that was inside that room, right?
- 2 A. Yes.
- 3 Q. And that's where you always kept it.
- 4 A. Always.
- 5 Q. Was it in a drawer or on the top of the
- 6 dresser?
- 7 A. It was on top of the dresser.
- 8 Q. And whose gun was that?
- 9 A. Mine.
- 10 Q. And you didn't tell the police where you
- 11 had put it, because they were looking for it.
- 12 Remember?
- 13 A. Yes.
- 14 Q. And they actually found it in a drawer,
- 15 didn't they?
- 16 A. Yes.
- 17 Q. So when you come back, you didn't put it
- 18 on the top, you put it in a drawer.
- 19 A. Yes.
- 20 Q. Why did you do that?
- 21 A. I don't know.
- 22 MR. MEADORS: That's all.
- 23 THE COURT: Any redirect?
- 24 MS. COOKE: None, Your Honor.
- 25 THE COURT: Thank you, Mr. Andrews. You

Robert Andrews-Cross by Meadors

1 can step down.

2 MS. COOKE: Your Honor, that's all my
3 witnesses for today. I just have EMS and to put
4 John Davis back on the stand tomorrow.

5 THE COURT: If we start at 9:30 or nine,
6 what time are your witnesses scheduled to be here?

7 MS. COOKE: I don't have Ms. Graham's
8 number, so I have not talked to her. I believe the
9 State talked to her. I can tell John Davis to be
10 here whatever time you need him. He needs to
11 testify after Ms. Graham.

12 THE COURT: And the message is for the
13 jury to call back after 11. Between 11 and 12, is
14 that correct?

15 MR. FINNEY: No, Your Honor, because
16 Mr. Corbett's case plead out, and we need the jury
17 here.

18 THE COURT: So they're going to be here.

19 MR. FINNEY: At 9:30.

20 THE COURT: 9:30.

21 MR. FINNEY: Picking another jury.

22 MR. MEADORS: Judge, I've got at least
23 two, maybe three witnesses.

24 THE COURT: Do you think by one o'clock we
25 can be done with this hearing?

Robert Andrews-Cross by Meadors

1 MR. MEADORS: I apologize, how many did
2 you say you have, two?

3 THE COURT: Two short ones, right?

4 MS. COOKE: I believe they will be fairly
5 short, yes, sir. EMS definitely short. John Davis,
6 it shouldn't take too long.

7 THE COURT: So if we start at 9:30.

8 MR. MEADORS: I beg the court's
9 indulgence. Let me make sure I am not missing. I
10 think we'll have three.

11 THE COURT: Which will take us until noon
12 probably.

13 MR. MEADORS: Probably. Well maybe not
14 quite, but I've got three. Depending on her cross,
15 one of them will be lengthy, but the other two
16 probably won't. I'm sorry, It just hit me, but
17 we've got to go over the Jackson v. Denno too, and
18 the rest of her motions.

19 THE COURT: Yeah, I mean that's still, if
20 we need to.

21 MR. MEADORS: We have narrowed it down,
22 what I think will be presented to you tomorrow. In
23 the interview room Investigator Dubose reads him his
24 rights. He said he understands them. He takes his
25 gunshot residue. The defendant goes to the

Robert Andrews-Cross by Meadors

1 Bathroom. Prior to that Dubose had asked him, what
2 hand did you shoot him with. He said, right hand.
3 Up to that point, we think it's clean. When he came
4 back, there was a -- he said well I'll talk to you,
5 but I don't want to sign the waiver. He said I need
6 a lawyer.. I need a lawyer. I don't want to sign
7 the waiver. I'll give you a statement, but I need a
8 lawyer.

9 We would probably concede from there on.

10 THE COURT: Yeah.

11 MR. MEADORS: But prior to that---

12 THE COURT: It's not too much difference
13 than the case we had a couple of weeks ago. Once
14 you say I want a lawyer, it's stops.

15 MR. MEADORS: Prior to that, we do think,
16 and if she's objecting we'd like the part -- well
17 there is a statement that he gave to Corporal Kelly,
18 at the scene. And then there's a statement that up
19 that point where he admits to Dubose, yeah, I shot
20 him with the right hand, that we think should come
21 in.

22 THE COURT: Why don't we do this. Well go
23 ahead and do the Duncan hearing. Then I'm going to
24 take a break. And I'm going to -- Margaret, you've
25 got real time on your transcript. You can print it

Robert Andrews-Cross by Meadors

1 out for me. And then It will take her awhile, and
2 then I'll make my ruling on this hearing. And then
3 So you want to bring the jury back about three if we
4 need them.

5 MR. FINNEY: We can make that call, Judge.
6 Actually I'm hoping that we'll pull a jury in the
7 morning. Take 14 out. And the balance we can get
8 them to call back between---

9 THE COURT: I mean, they're going to have
10 to be on a short leash. Usually, you know, we have
11 them call back one time a day. This one, because of
12 the nature of this situation, we may need to keep
13 them on a short leash. We'll make that decision
14 after the Duncan hearing.

15 MR. MEADORS: And we'll be ready for
16 openings and have two or three witnesses for
17 tomorrow afternoon. However we need to do it, if we
18 need to.

19 MS. COOKE: And I'm sorry, I missed what
20 time we're starting in the morning.

21 THE COURT: 9:30.

22 MS. COOKE: 9:30. And do I need to call
23 Kimberly Graham, or is the State going to call her?

24 MR. MEADORS: I'll call her.

25 THE COURT: Maybe by then we'll have a

Robert Andrews-Cross by Meadors

1 better idea of where we are going in the case.

2 okay, court is adjourned until 9:30 in the morning.

3 (Whereupon, the trial commences on Tuesday

4 July 21, 2015 at 9:30 a.m.)

5 THE COURT: Anything before we begin?

6 MS. COOKE: No, Your Honor. We would call

7 Kimberly Graham.

8 Kimberly Graham, being first duly

9 sworn, testified as follows:

10 THE BAILIFF: Please state your full

11 name and spell your last name for the record.

12 A. Kimberly A. Graham. G-R-A-H-A-M.

13 Direct Examination by Ms. Cooke:

14 Q. Ms. Graham, where do you work?

15 A. Sumter County EMS.

16 Q. Can you tell us your duties there?

17 A. Paramedic. Provide life saving for the

18 sick and injured.

19 Q. And were you employed on 3/25/14?

20 A. Yes, ma'am.

21 Q. And did you respond to to

22 this incident pursuant to a 911 call regarding a

23 shooting?

24 A. Yes, ma'am.

25 Q. And when you arrived there, we have a set

Robert Andrews-Cross by Meadors

1 up here, demonstrative evidence of the porch and
2 the columns. Can you show us on this piece of
3 demonstrative evidence what position the body was
4 in?

5 A. Yes, ma'am. His head was in this
6 position around in here, with his body facing or
7 his feet facing the front door. His arms were
8 outstretched.

9 Q. And this is State's Exhibit No. 6. Can
10 you, will this help you explain?

11 A. This is where his head is located.

12 Q. And you're pointing to a blood spot.

13 A. To a blood spot, because the blood was
14 coming out of his head.

15 Q. And that blood pool was approximately
16 where on this piece of demonstrative evidence?

17 A. Right in here.

18 Q. Okay. And the direction his body was
19 facing.

20 A. His feet were facing were the front door.
21 His head was facing the railing.

22 MS. COOKE: I thank you. That's all the
23 questions I have.

24 MR. MATHEWS: May it please the court.

25 THE COURT: Yes, sir.

Kimberly Graham-Cross by Mathews

1 Cross Examination By Mr. Mathews:

2 Q. Ms. Graham, we heard you testify about
3 where the body was. What did you see when you
4 first approached the body?

5 A. There was a female that was distraughtly
6 laying over him and screaming.

7 Q. What was she screaming about?

8 A. That somebody shot him and killed him.

9 Q. And did you ask her, inquire as to who
10 shot him?

11 A. I did.

12 Q. And what did she say?

13 A. She pointed the police car, the gentleman
14 in the police car.

15 MR. MATHEWS: No further questions, your
16 Honor.

17 THE COURT: Any redirect?

18 MS. COOKE: No, Your Honor.

19 THE COURT: You may step down. Any
20 objection to this witness being excused until
21 tomorrow?

22 MS. COOKE: No, Your Honor.

23 THE COURT: If we need to go tomorrow.
24 You may call your next witness.

25 MS. COOKE: Investigator John Davis.

Investigator John Davis-Direct by Cooke

1 Investigator John Davis, being
2 first duly sworn, testified as follows:

3 THE BAILIFF: Please state your full name
4 and spell your last name for the record.

5 A. John Thomas Davis, Jr. D-A-V-I-S.

6 Direct Examination by Ms. Cooke:

7 Q. Investigator Davis, you testified for us
8 yesterday about this piece of demonstrative
9 evidence and the measurements.

10 A. Yes.

11 Q. Can you take that testimony and recite the
12 measurements again, and put it with Kimberly
13 Graham's testimony about the position of the body
14 and compare that to your measurements?

15 A. Yes, ma'am. Can I approach?

16 THE COURT: Yes, of course.

17 (Whereupon, the witness steps down from
18 the witness stand.)

19 A. The -- from the street view the width of
20 the porch was 11 foot 1 inches. The depth was 5
21 foot, 5 and a quarter inches. The measurement
22 from the on the interior of the scene from the
23 inside of the door, down the wall to the entrance
24 to the bedroom door was 8-foot, approximately
25 8-foot 2 inches. The distance from the door to

Investigator John Davis-Direct by Cooke

1 the inside corner of this right hand column was
2 about 6-foot 10 inches. And the -- Mr. Howell was
3 laying diagonally between the doorway and this
4 column.

5 Q. And do you know how tall he is?

6 A. I don't have the report. I think he was
7 approximately 6-foot. Which from the corner of
8 the door actually you've got the wrong wood there.
9 That's the corner of the door there. Usually the
10 testimony of the EMS, he was just slightly, his
11 head, the top of his head would have been
12 somewhere in that area right there.

13 Q. Thank you. I don't have any.. Do you feel
14 like there is anything further you need to add
15 that I have asked you? THE COURT: Is there an
16 objection?

17 MR. MEADORS: Yes, Your Honor. The
18 objection is...

19 THE COURT: Yeah, that's not a question.
20 We don't let the witnesses lead. Thank you. Any
21 cross examination?

22 Cross Examination by Mr. Meadors:

23 Q. So he was outside when he was shot.

24 A. Correct.

25 Q. Correct. He was outside when he was shot.

Investigator John Davis-Cross by Meadors

1 A. Correct, in the door. His legs were about
2 in the door. And his head was in this area here.

3 Q. And his legs were, you don't how far.

4 A. Towards the door.

5 Q. You don't where the legs were. I mean you
6 didn't see the body.

7 A. No, just generally using the EMS
8 description said it was in this area. She
9 actually put it closer than what I did, would have
10 put his foot right at the door frame.

11 MR. MEADORS: That's all. Thank you.

12 MS. COOKE: Just two questions on
13 redirect.

14 Redirect Examination of Ms. Cooke:

15 Q. As part of your investigation, did you
16 look through the crime scene photos?

17 A. Yes, I did.

18 Q. Did you see any crime scene photos where
19 anybody took a picture of the position of the body
20 on the porch?

21 A. No, I did not.

22 MS. COOKE: That's all.

23 THE COURT: Any recross?

24 MR. MEADORS: No, sir.

25 THE COURT: Thank you.

Investigator John Davis-Cross by Meadors

1 MS. COOKE: Your Honor, that completes my
2 part of the hearing.

3 MR. MEADORS: Can I just have 5 minutes to
4 get my witnesses here?

5 THE COURT: Sure.

6 MR. MEADORS: They're down the hall.

7 THE COURT: Why don't we just -- I've got
8 to make a phone call to a judge on a thing next
9 week. So why don't we reconvene at 10:00 o'clock.

10 MR. MEADORS: Thank you.

11 (Whereupon, court takes a short recess.)

12 MR. MEADORS: May it please the court?

13 THE COURT: Yes, sir.

14 MR. MEADORS: Your Honor, the State would
15 now call Corporal Jerry Kelly.

16 THE COURT: Corporal Kelly, come forward.

17 Corporal Jerry Kelly, being first duly
18 sworn, testified as follows.

19 THE BAILIFF: Please state your full name
20 and spell your last name for the record.

21 A. Jerry Kelly. K-E-L-L-Y.

22 THE COURT: Mr. Meadors.

23 MR. MEADORS: Thank you, Your Honor. May
24 it please the court.

25 THE COURT: Yes, sir.

Corporal Jerry Kelly-Direct by Meadors

1 DIRECT EXAMINATION by Mr. Meadors;

2 Q. Good morning, Corporal.

3 A. Good morning.

4 Q. On March 25th of 2014, were you on duty in
5 Sumter?

6 A. Yes, sir, I was.

7 Q. And how long have been with the Sumter
8 Sheriff's Department, Corporal?

9 A. 18 years.

10 Q. 18 years. And what do you do for Sheriff
11 Dennis?

12 A. At that time I was working on patrol.

13 Q. And what does that mean?

14 A. I'm serving the community, answering
15 calls..

16 Q. And you're a first responder many times.

17 A. I am.

18 Q. And were you a first responder this day?

19 A. Yes, sir, I was.

20 Q. So you had an occasion to respond to
21 in Sumter County?

22 A. Yes, sir.

23 Q. Can you tell the judge about what time was
24 it when you got to , Corporal?

25 A. It's probably in my notes, but I'm

Corporal Jerry Kelly-Direct by Meadors

1 thinking it should have been around---

2 Q. Well if you're not sure, that's fine.

3 Was it that evening?

4 A. It was late that evening.

5 Q. Can you tell the judge what you observed
6 when you first got there?

7 A. When I first arrived to the scene, I
8 noticed a woman on the porch, holding a gentleman
9 by the head and screaming and crying.

10 Q. Did you know either one of these people
11 prior to this, Corporal?

12 A. I did not.

13 Q. And I am showing you what's marked State's
14 No. 1, is that ?

15 A. It is.

16 Q. And when you say you saw a woman over a
17 body, can you show the judge on State's 1 where
18 that was approximately?

19 A. It was on the front of the porch.

20 Q. Is State's 15, a close up of the porch?

21 A. Yes, sir, it is.

22 MR. MEADORS: State's 15 without objection
23 for these purposes.

24 MS. COOKE: Without objection.

25 (Photograph marked State's No. 15 for Id.

Corporal Jerry Kelly-Direct by Meadors

1 only.)

2 Q. Can you show the judge in a close up view
3 of where the lady was over the body?

4 A. Yes, the body was here. The head was
5 right here where the blood is at. And the woman
6 was on the right side of his body on her knees.

7 Q. You were the first police officer.

8 A. The first on the scene.

9 Q. That's what you saw. Did you hear
10 anything?

11 A. Nah, the woman was screaming and yelling
12 and saying that he shot my boyfriend. He shot my
13 boyfriend. And I asked her who shot your
14 boyfriend. She said Jeffrey shot my boyfriend.
15 And I asked her well where is Jeffrey. And she
16 said he's in the house.

17 Q. Now at this point, Corporal, you're there
18 by myself.

19 A. By myself.

20 Q. Did you how many people were in the house?

21 A. I did not.

22 Q. And you just learned that a person who may
23 have shot this person was in the house, correct?

24 A. Inside the house.

25 Q. So tell the judge, what did you do?

Corporal Jerry Kelly-Direct by Meadors

1 A. I tried to ask the woman how many people
2 was in the house, but she was, you know, still
3 screaming and still crying. So at that time, I
4 opened the screen door with my weapon drawn, and I
5 did like a head peak and saw three guys standing
6 there.

7 Q. Inside the house.

8 A. Inside the house. I walked inside the
9 house with my weapon drawn. At the time I didn't
10 know it was Jeffrey. But he held his hand up, he
11 told me, it's me. You're looking for me.

12 Q. It's me. You're looking for me.

13 A. Uh-huh. (Affirmative.)

14 Q. What did you do after he said that?

15 A. Once he said that, I placed him under
16 arrest and I walked him to my vehicle.

17 Q. Did you handcuff him?

18 A. I did.

19 Q. And was your vehicle outside? It's not
20 pictured here. But can you generally tell us on
21 State's 1 where you were parked?

22 A. I believe it was outside like towards the
23 end of the corner of the fence.

24 Q. When you got the defendant Jeffrey Dana
25 Andrews back to your car, what did you do?

Corporal Jerry Kelly-Direct by Meadors

1 A. At that time, I read him his miranda
2 rights.

3 Q. And do you have anything to aid you in
4 doing that?

5 A. Yes, sir, I do. I keep it in my shirt
6 pocket.

7 Q. Do you have it with you now?

8 A. I do.

9 Q. Can you read it now like you did that
10 night to the defendant, please, for the judge?

11 A. Yes, sir. It states: That you have the
12 truth to remain silent. Anything you say can and
13 will be used against you in a court of law. You
14 have a right to speak to an attorney, and to have
15 an attorney present during any questioning. If
16 you cannot afford a lawyer, one will be provided
17 for you at the government expense. Knowing and
18 understanding your rights as I have explained them
19 to you, are you willing to answer my questions
20 without any attorney present.

21 Q. Did he appear to understand those rights
22 when you read them to him?

23 A. He did. He -- and I'm assuming he read my
24 name tag. He said, I understand. I'll talk to
25 you Kelly.

Corporal Jerry Kelly-Direct by Meadors

1 Q. He said I understand. I'll talk to you
2 Kelly.

3 A. Right.

4 Q. You knew there was a dead body. You've
5 now got the person who says I shot him. What did
6 you ask him? What did you all talk about?

7 A. I asked Jeffrey, I said, you know, what
8 happened. And he did not want to saying anything
9 at first. Then I asked him, because the woman was
10 still on the porch screaming and crying. And I
11 said, who is the young lady on the porch. He said
12 that was my niece. And I said, that's your niece.
13 And he said, yes, it is. And I said, so did you,
14 you shot him. He said yeah, I did. I said you
15 shot your niece's boyfriend. I said, why you shot
16 him. And he said he took something.

17 Q. He took something.

18 A. He took something. I said what did take.
19 And he paused for a minute. He said he took
20 something off the back porch. What did he take
21 off the back porch. And he paused for a minute,
22 then he said, he took my liquor. I said you shot
23 him over a bottle of liquor. And he kind of
24 looked down, and then he said, well I asked him to
25 leave. I asked to leave and he wouldn't leave,

Corporal Jerry Kelly-Direct by Meadors

1 you know. What a man supposed to do when you ask
2 somebody to leave. You know, I've got to protect
3 my house. You know, what am I supposed to do.
4 And then I said well you can call us, we can make
5 him leave. And then I shut the door.

6 Q. And that was right after you had
7 handcuffed him, read him his rights, and right at
8 the scene.

9 A. Yes, sir.

10 Q. And did he stay in your car for awhile
11 there until other officers came?

12 A. He did.

13 Q. Did you have an occasion to talk to him
14 again?

15 A. I did, I went back to the car. And he /
16 asked me was he dead. Then I said I don't know,
17 they're working on him. By that time EMS had him
18 in the back of the ambulance, and they said they
19 was working on him. So I don't know nothing.
20 They are working on him.

21 Q. Would you tell the judge about his
22 demeanor. What he excited, calm?

23 A. He was calm.

24 Q. Did you have any trouble understanding his
25 words when he talked to you?

Corporal Jerry Kelly-Direct by Meadors

1 A. I did not.

2 Q. Did he ever tell you he'd come at me, or
3 he tried to tear down the door?

4 A. He did not.

5 Q. Or I was in fear of my life. Did he ever
6 tell you any of that?

7 A. He did not. I asked him where was the
8 gun. And he told me to ask his dad, because his
9 dad took it from him.

10 Q. And that was a big concern of law
11 enforcement. You all were trying to find the gun
12 right off the bat.

13 A. We was trying to find the gun.

14 Q. So he told you that his dad, what did he
15 say again about the gun?

16 A. He said ask my dad. My dad took it from
17 me. And I told him, because he asked me again
18 about the guy. And I said, he's gone. He said,
19 he's gone. I said, he's gone. And the officer
20 told him that, you know, his dad was not
21 cooperating with us in giving us the gun. He
22 said, let me talk to my dad. I can't take you
23 back out of the car. He said, well bring him to
24 me and let me tell him to to give you all the
25 gun. But we didn't do that.

Corporal Jerry Kelly-Cross by Cooke

1 Q. The gun was eventually found in the drawer
2 in the house, correct?

3 A. It was.

4 Q. And the person that you talked to on the
5 scene that night at , is that him?
6 Jeffrey Dana Andrews next to, he's standing up for
7 you. Next to---

8 A. Yes.

9 Q. That's him. I beg the court's indulgence.
10 Thank you. That's all.

11 THE COURT: Cross examination?

12 MS. COOKE: Yes, Your Honor.

13 Cross Examination by Ms. Cooke:

14 Q. First of all, may I just ask you, since I
15 couldn't see, to show me what you were saying with
16 remarks to the picture about where the body was.

17 A. Looking at this picture here where the
18 blood spot is, that's where his head was. And she
19 was on that right side of him on her knees holding
20 him.

21 Q. And you read him miranda pretty quickly.

22 A. I did.

23 Q. And when you immediately arrived on the
24 scene, he told you, it is me you are looking for,
25 I shot him.

Corporal Jerry Kelly-Cross by Cooke

1 A. Well when I walked in the door, like I
2 said, it was three guys standing. I had my gun
3 drawn. He hold up his hand, and told me it was me
4 you are looking for.

5 Q. Now on in your incident report Jeffrey --
6 it says Jeffrey stated Shamar started pushing and
7 hitting him about the body. So he did tell you
8 that there was a physical altercation.

9 A. Now yes, he did. And with that he
10 actually told me later on after we -- later on in
11 the car. That was the first thing he told. I
12 wish I didn't actually go that night. But that's
13 what I put in my report.

14 Q. He did tell you he got into an
15 altercation.

16 A. He said he was pushing him.

17 Q. Told you that Shamar was pushing and
18 hitting him.

19 A. Right.

20 Q. Told you that he told Shamar to leave over
21 and over.

22 A. Right.

23 Q. And also on the report also states that he
24 told you, Dukes, and Monohan that he was -- he
25 shot the victim after physical confrontation.

Corporal Jerry Kelly-Cross by Cooke

1 A. That's in my report? I don't think that's
2 in my report.

3 Q. It's a 17-page report and your name is on
4 the front page of it. So I don't know y'all's
5 procedure.

6 A. I have my own separate report that I
7 wrote.

8 Q. But the report states that he told you
9 that he shot the victim after a physical
10 confrontation. So the police officer that wrote
11 that, is that not true?

12 A. He may have. Nah, he didn't told me he
13 shot as a physical altercation. He told me he
14 shot about liquor.

15 Q. Because that law police officer is
16 unavailable. Officer Monohan is the one who wrote
17 that. So he's not available for me to ask him.

18 MR. MEADORS: Your Honor, is she asking
19 him questions off another officer's report?

20 THE COURT: Yeah, she trying to find out
21 if he said that. He said he didn't say that.

22 MS. COOKE: Monohan said he said it. So
23 I'm asking -- just asking if he said it.

24 A. He didn't say that to me.

25 Q. Monohan said he said it to him, but

Corporal Jerry Kelly-Redirect by Meadors

1 Monohan is not available. I believe those are all
2 the questions I have for you. Thank you.

3 THE COURT: Any redirect?

4 Redirect Examination by Mr. Meadors:

5 Q. The first thing he told you was when you
6 asked him why he shot was that he took something
7 from me.

8 A. Correct.

9 Q. He took something from me?

10 A. Correct.

11 MR. MEADORS: Thank you. That's all.

12 THE COURT: Thank you, you may step.

13 MS. COOKE: Just one question.

14 Recross Examination by MS. COOKE:

15 Q. Could he have possibly been just talking
16 about the whole thing started, going through the
17 events of the evening?

18 MR. MEADORS: Objection to speculation.

19 THE COURT: That's speculation.

20 Sustained. Thank you, you may step down.

21 MR. MEADORS: Erika Andrews.

22 THE COURT: Any objection to this witness
23 being excused for the day?

24 MS. COOKE: No, Your Honor.

25 MR. MEADORS: He's working in the

Erika Andrews-Direct by Meadors

1 courthouse so we can find them. Your Honor, the
2 State would call Erika Andrews.

3 Erika Andrews, being first duly sworn,
4 testified as follows:

5 THE BAILIFF: Please state your full name
6 and spell your last name for the record.

7 A. Erika Danielle Andrews. A-N-D-R-E-W-S.

8 Direct Examination by Mr. Meadors:

9 Q. Good morning, Ms. Andrews.

10 A. Good morning.

11 Q. What's your relationship to the victim
12 Shamar Howell? What was your relationship?

13 A. He was my boyfriend and the father of my
14 2-year-old son.

15 Q. And how old is your son now?

16 A. Two.

17 Q. And your relationship to the defendant
18 Jeffrey Dana Andrews, is what?

19 A. He's my cousin.

20 Q. Do you call him uncle sometimes?

21 A. Yes.

22 Q. But he is your cousin.

23 A. Yes.

24 Q. So his father and your father are what?

25 A. His father and my father are uncle and

Erika Andrews-Direct by Meadors

1. nephew. My grandfather is his father's brother.

2. Q. I think got that, okay. Where did you
3. live back on March 25th of 2014?

4. A.

5. Q. And who did you stay there with?

6. A. Shamar.

7. Q. Shamar Howell. How far was that from, and
8. we've got maps we'll show you later. But how far
9. was that from the incident location of ?

10. A. My uncle stayed at , which
11. is two lots down.

12. Q. Are there houses between?

13. A. No.

14. Q. So it's just land.

15. A. It's empty land and then my uncle's house.

16. Q. So you're at 18. Uncle or defendant.

17. A. Well my Uncle Robert lived there.

18. Q. When you say uncle, you're talking about
19. uncle Robert, his father.

20. A. Yes.

21. Q. So Robert Andrews that was his house on
22.

23. A. Yes, sir.

24. Q. And did the defendant stay there?

25. A. I don't know. Sometimes. Sometimes he

Erika Andrews-Direct by Meadors

1 did.

2 Q. If you will just speak up a little bit so
3 the judge and court reporter can hear you, please,
4 ma'am. Can you tell the judge about that day.
5 We're not going to go into your background right
6 now. But about that day, what you and Shamar did.
7 I mean you remember that day obviously.

8 A. Yes.

9 Q. Can you tell the judge?

10 A. My friend Stacy came over to the house.
11 And Shamar played a video game for a little while.
12 And then my brother came and picked Stacy up.
13 Well before my brother came and picked Stacy up,
14 Jeffrey had came over there and was asking us
15 about a jug of liquor that was missing.

16 Q. So that's Jeffrey Andrews.

17 A. Yes.

18 Q. Came to your house. What time of day was
19 that?

20 A. About 5:30, six maybe.

21 Q. And who did he come, did he come by
22 himself?

23 A. No, he was Virlyn.

24 Q. That's Mr. Gardner.

25 A. Uh-huh. (Affirmative.)

Erika Andrews-Direct by Meadors

1 Q. And you're going to have to say yes or
2 no---

3 A. Yes.

4 Q. ---just for the court reporter, I'm sorry.

5 So the defendant and Mr. Gardner came to your
6 house and Shamar's house asking about what?

7 A. A jug of liquor.

8 Q. What did they ask you about it?

9 A. Did we see the jug of liquor. And me and
10 Shamar went, no.

11 Q. And did you know what they were talking
12 about?

13 A. No.

14 Q. He thought you or Shamar had taken it?

15 A. Yes.

16 Q. And what happened after that?

17 A. They left.

18 Q. And what did you do after that?

19 A. Nothing, I watched TV. Shamar went down
20 the street to Bryan's house, which was located
21 next to my great grandmother's house. And then
22 Jeffrey came back over to the house and we was
23 about to go get some beer. I was at the house by
24 myself. He said he was about to go get some beer,
25 you know, that he was going to his dad's house.

Erika Andrews-Direct by Meadors

1 So I went over there to the house. Me and Jeffrey
2 walked across the street to Young's, to go get
3 some Budweiser.

4 Q. So your testimony the defendant Jeffrey
5 Andrews came back to your house?

6 A. Yes.

7 Q. And invited you to his house.

8 A. Yes.

9 Q. Did you go to his house before you went to
10 Young's.

11 A. Yes.

12 Q. So you get to his house. How long were
13 you there?

14 A. Not long. We just went there. I think he
15 picked up his wallet or something, and then walked
16 across the street to Young's.

17 Q. And everybody may know. But how far is
18 Young's from your house?

19 A. Right across 15.

20 Q. So who went to Young's?

21 A. Me and Jeffrey.

22 Q. And what was purchased there?

23 A. A 12-pack of Budweiser.

24 Q. Bottles or cans?

25 A. Bottles.

Erika Andrews-Direct by Meadors

1 Q. And what happened next?

2 A. We went to the house. We went back to the
3 house, me and Jeffrey.

4 Q. Who was at the house at this point?

5 A. Uncle Robert, and Viryl, me and Jeffrey.

6 Q. And I don't mean this in any bad way. Was
7 everybody just drinking or relaxing or?

8 A. Yeah, we were just drinking.

9 Q. And Shamar was not there at this point.

10 A. No.

11 Q. And had -- how did it end up that Shamar
12 came back later?

13 A. Jeff had asked me where Shamar was.

14 Q. Jeffrey asked you where he was?

15 A. Uh-huh. (Affirmative.) And I told him he
16 was Bryan's house. And I was like, he might be
17 back at home. And so I went back to the house to
18 go get Shamar. So Shamar came back to my uncle's
19 house.

20 Q. Had Jeffrey said anything about whether or
21 not to go get him and see if he wants to come back
22 over here?

23 A. Yeah. He said go get him to see if he
24 wants to come back over here. Tell him we got
25 some beer. So I was all right, cool..

Erika Andrews-Direct by Meadors

1 Q. So you went. Did Shamar want to go at
2 first?

3 A. No, he didn't. I was like, come on maybe
4 he's trying to apologize for accusing us of
5 stealing the bottle.

6 Q. There ain't no question about it he
7 accused you all of stealing his liquor, didn't he?

8 A. Yeah.

9 Q. So did Shamar come back?

10 A. Yeah, he came back. But when we went over
11 there Shamar was just leaning against the TV. He
12 didn't -- he wasn't really saying nothing. Jeff
13 asked him if he wanted a beer. Shamar said no, he
14 was good. I was already drinking a beer. And
15 then about maybe 5 or 10 minutes later, Jeffrey
16 brought up the liquor again.

17 Q. Jeffrey brought up the liquor?

18 A. Uh-huh. (Affirmative.) And was like,
19 somebody stole my jug of liquor. Shamar was like,
20 man, I didn't take it. I'm looking at Jeffrey
21 like, we didn't take your liquor.

22 Q. That's what you said.

23 A. Yeah. We didn't take your liquor, man.
24 We didn't. And Jeffrey gets real loud, so uncle
25 Robert tells everybody to leave. Get out of his

Erika Andrews-Direct by Meadors.

1 house.

2 Q. And it's just yelling at this point,
3 right?

4 A. Yeah. Nobody is yelling but Jeffrey.
5 Jeffrey is hiked for no reason.

6 Q. Mad about his liquor.

7 A. Mad. Like livid.

8 Q. What happened after that?

9 A. Shamar is getting ready to walk out the
10 door. He said Erika come on, let's go. Right
11 before that, Jeffrey had walked into my uncle
12 Robert's room.

13 Q. Do you know why he did that?

14 A. No. He was in there for about 10, 15
15 seconds maybe. Then he came back out. Shamar
16 tells everybody bye. He's walking out the door.
17 Jeffrey is right behind. I am getting up, walking
18 right there by the cario.

19 Q. By the what?

20 A. By the cario. It's like a little cario
21 with pictures in it, that my uncle had by the
22 door. And that's when I heard the gunshot. And
23 when I heard the gunshot, I started running out
24 the door. And that's when I seen Jeffrey holding
25 up the gun.

Erika Andrews-Direct by Meadors

1 Q. Can you show the judge how you saw Jeffrey
2 holding up the gun?

3 A. (Witness demonstrates.)

4 Q. Was Shamar leaving?

5 A. Shamar was leaving. Shamar was already
6 outside.

7 Q. Where were you in relation to the
8 defendant Jeffrey Andrews?

9 A. I'm in the doorway. And Jeffrey is
10 outside of the door in the doorway, standing like
11 this. Okay, so say this is the doorway.

12 Q. Say, I'm -- this is inside the house.

13 A. Okay, you're me.

14 Q. Okay, I'm you.

15 A. Uh-huh. (Affirmative.) You be me. This
16 is Jeffrey. And Shamar is right there on the
17 floor. And the gun was like right here. So I
18 rush out. And I rush out, and I rush to Shamar to
19 make sure Shamar is okay. Seeing that he's not,
20 he's been shot in the head. Jeffrey at this point
21 Jeffrey is back in the house. I go back in the
22 house to grab a phone to call 911.

23 Q. Do you remember where the phone was?

24 A. Somewhere in the living room. I don't if
25 it was on the hook or I don't know. But I grabbed

Erika Andrews-Direct by Meadors

1 the phone. I run back outside dial 911, and I'm
2 talking to the dispatcher on the phone. While I'm
3 talking to the dispatcher on the phone, Jeffrey
4 is steady trying to touch Shamar. I'm like, leave
5 him alone. You just shot him. And he won't leave
6 him alone. And that's when I proceeded to put my
7 hands on Jeffrey.

8 Q. When you say you put your hands on him,
9 tell the judge what you did.

10 A. I punched him in the face a few times.

11 Q. I mean you were angry.

12 A. Yeah, I was ticked off.

13 Q. You were cussing.

14 A. Yeah, I was cussing.

15 Q. You were mad.

16 A. I was belligerent.

17 Q. They locked you up later on that night.

18 A. Yeah, for breach of peace.

19 Q. And you told them you understood that,
20 didn't you?

21 A. Yes.

22 Q. Did Jeffrey saying anything when he was
23 touching the victim, Shamar?

24 A. He told me that it was nothing but a bug
25 bite.

Erika Andrews-Direct by Meadors

1 Q. And are you, I don't know if steady is the
2 right word. But did you numerous times yell out,
3 Jeffrey shot Shamar?

4 A. Yes.

5 Q. Tell the judge, did Shamar have a gun?

6 A. No, Shamar didn't have nothing. He might
7 have only had the cell phone, you know, the Obama
8 phone in his pocket. That would have been it.

9 Q. Did you ever see Shamar get physically
10 aggressive toward the defendant?

11 A. Shamar wouldn't put his hands on the
12 defendant. He wouldn't, because that's my family.
13 Just like I wouldn't put my hands on his family.

14 Q. Did you ever see Shamar rushing into the
15 house like he was attacking or pulling the door
16 open?

17 A. No.

18 Q. Did you ever see Shamar with a big bottle
19 of beer?

20 A. No.

21 Q. Did he drink any beer in the house?

22 A. No.

23 Q. Had he been drinking earlier?

24 A. I think him and Bryan were probably
25 drinking up the street.

Erika Andrews-Direct by Meadors

1 Q. So were Mr. Robert Andrews, Where were
2 they when this was happening?

3 A. Virlyn was sitting in the chair on the
4 couch next to the cario, and my uncle Robert was
5 sitting on the couch next to the heater. Next to
6 the space heater.

7 MR. MEADORS: I beg the court's
8 indulgence.

9 Q. Describe his physical condition to the
10 judge. Did he have trouble, Shamar I mean. Did
11 he have some issues with his hips or something?

12 A. Yeah, he was in a bad car accident. And
13 he broke his hip, so he walked with a limp on his
14 right side.

15 Q. Had he had hip surgery?

16 A. He had hip surgery, but it didn't do
17 anything. And since he was out of the military,
18 he didn't any insurance anymore. So he couldn't
19 get his hip fixed.

20 Q. So was that some time when he wouldn't
21 want to sit. He'd just want to stand or lean on
22 something.

23 A. He'd just want to stand or lean on
24 something.

25 Q. Was he a runner or a jogger?

Erika Andrews-Direct by Meadors

1 A. He used to run track. That's how we met.

2 Q. But after this, could he do it after that?

3 A. No.

4 Q. And I just showed you, I'm not trying to
5 get you upset. But this is State's 15. This
6 appears to be blood here. Can you just show the
7 judge the area where the victim's body was?

8 A. By the time the police got here, his body
9 was over here. But this is where I found him at
10 right here.

11 Q. That's where his head was.

12 A. This is where his head was. And this is
13 where -- that's my beer bottle right there. I put
14 it down to try to give him CPR.

15 Q. So that was his head.

16 A. Uh-huh. (Affirmative.)

17 Q. That was your beer bottle.

18 A. Yes. I put it down to try to give him
19 CPR.

20 Q. Whose cigarettes are those?

21 A. Probably his cigarettes.

22 Q. Well did he smoke?

23 A. Yes.

24 Q. Did Shamar Howell threaten Jeffrey Andrews
25 that night?

Erika Andrews-Direct by Meadors

1 A. Not at all.

2 Q. Did he have any object or gun with him?

3 A. No.

4 Q. Do you know when Jeffrey Andrews got the
5 gun?

6 A. I am thinking when he went into my uncle's
7 room.

8 Q. But you didn't -- you don't -- did you see
9 the gun out in the main room there?

10 A. No, It was never out in the main room.

11 Q. You're sure of that.

12 A. I am positive.

13 Q. And had you gone over this place a lot?

14 A. Yeah, it was my uncle's house.

15 Q. That was a terrible question. But you
16 frequented there.

17 A. Yes.

18 Q. You socialized there.

19 A. Yes.

20 Q. So had Shamar?

21 A. Yes.

22 Q. And you were invited over there that day.

23 A. Yes. Jeffrey and Shamar used to drink
24 together.

25 Q. And your testimony, he said go get Shamar

Erika Andrews-Direct by Meadors

1 and bring him over here.

2 A. Yeah.

3 Q. And when Shamar came in.

4 A. Jeff offered him a beer.

5 Q. Didn't tell him to leave then.

6 A. No.

7 Q. Welcomed him in.

8 A. Yeah. Jeffrey never told him to leave.

9 Uncle Robert told everybody to leave, including
10 Jeffrey.

11 Q. So Uncle Robert is the one who finally
12 said this is enough, you all can just get out of
13 here.

14 A. Uh-huh. (Affirmative.) Everybody leave.

15 Q. And what were you all doing?

16 A. Getting ready to leave.

17 Q. I beg just two seconds, Your Honor. And
18 is this the person you saw with his arms you said
19 like this?

20 A. Jeffrey Andrews.

21 Q. Yes, with the...

22 A. Yes.

23 Q. And that's the person that shot Shamar
24 Howell?

25 A. There is nobody else.

Erika Andrews-Cross by Cooke

1 MR. MEADORS: Thank you, judge. That's
2 all.

3 THE COURT: Ms. Cooke.

4 Cross Examination by Ms. Cooke:

5 Q. And you've known Shamar a long time.

6 A. Yes.

7 Q. You all were in the Navy together?

8 A. No.

9 Q. You weren't in the Navy together?

10 A. No.

11 Q. I thought I read that in your statement.

12 Do you have a child together?

13 A. Yes.

14 Q. And you've lived together.

15 A. Yes.

16 Q. Now was he your boyfriend or your husband
17 or fiancée?

18 A. My boyfriend.

19 Q. And sometimes you just called him your
20 husband.

21 A. No.

22 Q. Do you remember calling him your husband a
23 couple of times on the tape?

24 A. No, I don't.

25 Q. Now you said earlier that you heard the

Erika Andrews-Cross by Cooke

1 gunshot and run out the door and saw Jeffrey
2 holding the gun.

3 A. Right.

4 Q. Now you've told several inconsistent
5 stories between your testimony here today your --
6 on what you said---

7 A. On the video.

8 Q. ---on the scene and on the audio
9 interview. On the dashcam video---

10 MR. MEADORS: Your Honor, is that a
11 question she asked?

12 THE COURT: Just answer her questions.

13 Q. On the dashcam video you said that you
14 were at the house first and then Shamar came.

15 A. Correct.

16 Q. You kept stating to Robert, y'all going to
17 fucking lie. Y'all going to fucking lie for your
18 own son. So was Robert backing up?

19 A. I was talking in reference to the gun.
20 Where was the gun. He was stating that he didn't
21 know where the gun was. But at that time, no one
22 else was in the house except for my Uncle Robert,
23 Jeffrey and Virlyn. So one of those two of knew
24 where the gun was, and I was pissed off.

25 Q. Now you said on the dashcam video, Jeffrey

Erika Andrews-Cross by Cooke

1 shot my boyfriend in the head and I saw it. But
2 here today you say you heard gunshot and ran out
3 the door and saw Jeffrey holding the gun. So
4 that's two inconsistent statements. In one
5 statement you say you saw him shoot him, and then
6 in the other statement you say that you heard the
7 gunshot and ran out, is what you're saying here
8 today.

9 A. I heard the gunshot, and I saw him holding
10 up the gun. If you hear a gunshot and you see
11 somebody holding up the gun, and the person that
12 he shot is on the floor, that means he shot him.
13 And I saw him shot him. And that's what I meant.

14 Q. But you said Jeffrey Andrews shot my
15 boyfriend in the head and I saw it. Correct?

16 A. First I said I heard it, and then I said I
17 saw it.

18 Q. No, not at this point. At this point on
19 the scene right after it happened, you said,
20 Jeffrey Andrews shot my boyfriend in the head and
21 I saw it.

22 A. Correct.

23 Q. Now also on the dashcam you say that you
24 no idea where the gun came from. You never saw
25 it. You didn't know he had a gun.

Erika Andrews-Cross by Cooke

1 A. Exactly, I didn't know Jeffrey had a gun.

2 I know my Uncle Robert has a gun, but not Jeffrey.

3 Q. Why do you keep saying it's all your
4 fault?

5 A. Because I'm the reason Shamar was in South
6 Carolina. Shamar doesn't have any family down
7 here in South Carolina. He came down here just to
8 be with me.

9 Q. You told Officer Dubose in an interview
10 with Dubose that again you saw Jeffrey shoot him.
11 And then starting laughing at Dubose because he
12 was having trouble opening an envelope, correct?

13 A. I said that I heard Jeffrey shoot. I
14 heard and then I said I saw.

15 Q. You never told Dubose you heard.

16 A. Yes, I did. That's what I said first.
17 You need to go watch the video again, ma'am.

18 MS. COOKE: We can play the video.

19 A. You can. Because at first, I know I say I
20 heard and then I say I saw.

21 Q. Dubose asked you at 12:23 if you saw it.
22 And you said uh-huh. (Affirmative.) Correct? Do
23 you remember that?

24 A. Yes, I do.

25 Q. And then about 12:25, didn't you say you

Erika Andrews-Cross by Cooke

1 saw the gunshot, or didn't you say you were inside
2 and didn't know Jeffrey shot Shamar until Jeffrey
3 started backing up, and you saw Shamar bleeding.

4 A. No.

5 Q. You don't remember saying that at 12:25.

6 A. No.

7 Q. And at 12:26, do you remember saying
8 Jeffrey wouldn't hit Shamar because he wouldn't
9 ever do anything like that?

10 A. No, I said Shamar wouldn't hit Jeffrey,
11 because Shamar wouldn't do anything like that.

12 Q. I'm sorry. You said Shamar wouldn't hit
13 Jeffrey, because Shamar wouldn't do anything like.

14 A. Yes.

15 Q. I mixed it up. I'm sorry. Now in fact
16 that's not true, because you and Shamar beat up
17 Teresa Williams just a few weeks before this
18 incident, didn't you? Because there was a police
19 report filed.

20 A. I do know Teresa Williams. But I don't
21 understand how that's---

22 THE COURT: Overruled.

23 A. I don't understand where that has anything
24 to do with this.

25 THE COURT: Answer the question.

Erika Andrews-Cross by Cooke

1 Overruled. I want to hear it.

2 A. I said I beat her up, not Shamar.

3 Q. Shamar held her while you beat her up.

4 A. No Shamar didn't. Shamar was all the way
5 down the road.

6 Q. Well that's what the police report says.

7 So you're saying that's not true.

8 A. Yes.

9 MR. MEADORS: Again, Your Honor, for the
10 record this -- what's in the defendant's state of
11 mind has nothing to do with this.

12 THE COURT: I understand. There's not a
13 jury here. I am going to listen.

14 MS. COOKE: And case law says if he has
15 knowledge of prior violence of a victim, that's
16 relevant.

17 Q. Now at 12:30 you said you were going to
18 make Jeffrey pay, didn't you? I'm going to make
19 him pay for it. I'm going to make him pay. I'll
20 testify. I am going to make him pay. Do you
21 remember saying that? And then at 12:30 you said
22 all the things he could have done, he shouldn't
23 have killed you. He shouldn't have done that.
24 All the things he could have done. All the things
25 he could have done to stop Jeffrey from attacking.

Erika Andrews-Cross by Cooke

1 him?

2 A. No, I don't understand what you're saying.

3 Q. You said, all the things he could done,
4 all the things he could have done, he shouldn't
5 have killed him. Do you remember saying that?

6 A. Yes. I was saying, all the things that
7 Jeffrey could have done, he could have beat him up
8 or anything, not shoot him. Anything else but
9 shoot him. Shamar, I know Shamar never put no
10 hands on him.

11 Q. Now you for whatever reason you also took
12 evidence from the crime scene that you gave to a
13 Katrina? A Watch of Shamar's. You took a watch
14 from Shamar?

15 A. Shamar didn't have a watch on.

16 Q. You did not give a watch to a Katrina who
17 turned it over to Dubose, and said it came from
18 you. You had picked up from the crime scene.

19 A. She asked me for his belongings and stuff.

20 Q. But that was 3 days later.

21 A. Yes, that's when she showed up. That's
22 his mother.

23 Q. Now when you talked to Dubose, he told you
24 that he didn't really want to a statement from you
25 because of the intoxicated state that you were in,

Erika Andrews-Cross by Cooke

1 right?

2 A. Yes. He told me that he was going to wait
3 until tomorrow.

4 Q. And at 12:18 you said I know for a fact I
5 saw him shoot him. Do you remember that?

6 A. Yes, I do.

7 Q. And then at 12:23 you said something
8 completely different. I don't know. I was
9 inside. I don't if they were arguing or anything.
10 But when I was walking out the door on the porch,
11 my uncle Jeffrey shot my Shamar. So you're saying
12 in half the statements that you saw it. And
13 you're saying in half the statements that you're
14 inside and you didn't know what was going on
15 outside. Do you remember telling those different
16 stories?

17 A. I am trying -- I already told you once
18 what I was meaning to say, but you kept talking
19 over me.

20 Q. What you were meaning to say?

21 THE COURT: One at a time.

22 A. Would you like me to speak now, so that
23 you can get it through your head clearly?

24 Q. I'm just asking you if you remember
25 telling these consistent stories to the officer.

Erika Andrews-Cross by Cooke

1 MR. MEADORS: Well that's not what the
2 question she just asked before that, Your Honor. If
3 she could finish answering that question she just
4 asked.

5 THE COURT: Rephrase your question.

6 Q. Do you remember telling inconsistent
7 stories to the officer?

8 A. No, I don't. Can I speak?

9 THE COURT: No, ma'am. You are on cross
10 examination.

11 Q. Now at one point you -- and then at 12:25
12 do you remember stating again that you were in the
13 house when the shooting occurred?

14 A. I believe I already answered that
15 question.

16 Q. Can you tell me yes or no?

17 A. Yes.

18 Q. And do you remember on the scene on the
19 dashcam, do you remember screaming to Uncle
20 Robert, I don't even want to talk to you right
21 now. You're trying to cover mother F'er, uncle
22 Robert.

23 A. Yes.

24 Q. So Uncle Robert was apparently backing up
25 Jeffrey's version of the events. When you yelled

Erika Andrews-Cross by Cooke

1 at him, you're trying to cover mother F'er, Uncle
2 Robert, I don't even want to talk to you right
3 now.

4 MR. MEADORS: Your Honor, I'm going to
5 object. There's no way at that point -- there were
6 no version of events from Andrews at that point. I
7 don't know what she's talking about. I object to
8 that.

9 THE COURT: Overruled.

10 A. I was speaking to the fact that, where's
11 the gun. That's what we were talking at that
12 moment. That's what the police were searching
13 for, where's the gun.

14 Q. And do you remember screaming to your
15 Uncle Robert, Jeffrey shot my boyfriend right here
16 in front of you. And you didn't do nothing. You
17 sat here like a fucking stick. You mother fucking
18 bitch.

19 A. Yeah.

20 Q. Now we've established that earlier you
21 stated that he got the gun from the bedroom,
22 correct?

23 A. Yes.

24 Q. However on the dashcam video right at the
25 scene, do you remember saying, I don't know where

Erika Andrews-Cross by Cooke

1 the gun came from. I didn't even know he had a
2 gun. Do you remember saying that on the scene?

3 A. I don't know where he got the gun from.
4 I'm assuming that he got it from out of my uncle's
5 room. But I don't know where he got it from
6 specifically. I don't know, me myself personally.

7 Q. So A few minutes ago you knew he got the
8 gun from the bedroom. And now---

9 A. That's where I assume he got the gun from.

10 Q. Do you remember saying to an officer on
11 the scene that he got shoot in the living room?

12 A. No, I remember saying he got shot right
13 here. When I was (saying right here, I was
14 probably pointing towards the door. But you can't
15 really see the dashcam inside of the house,
16 because it's attached to the car, which was on
17 facing the inside. It was facing the house. The
18 camera is not in the house.

19 Q. That's why you can change your story
20 today?

21 A. I'm not changing my story at all.

22 Q. But you told an officer he was shot in the
23 living room, according to an officer.

24 A. No, I did not.

25 Q. Do you remember that?

Erika Andrews-Redirect by Meadors

1 A. No, I didn't.

2 MS. COOKE: I don't have any further
3 questions.

4 THE COURT: Any redirect?

5 MR. MEADORS: Very briefly.

6 Redirect Examination by Mr. Meadors:

7 Q. You told the officer he was shot right
8 here. And you were meaning what when you told him
9 that?

10 A. I was probably pointing to door,^o like on
11 to the porch.

12 Q. And Jeffrey Andrews, did he shoot Shamar
13 Howell?

14 A. Yes, he did.

15 MR. MEADORS: Thank you. That's all.

16 THE COURT: Any recross?

17 MS. COOKE: Your Honor, I'm sorry. I
18 didn't hear what the questions were, my client was
19 talking to me.

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

21 MR. MEADORS: Your Honor, that's all we
22 have. Thank you.

23 THE COURT: Do you have any reply
24 testimony based on what they have?

25 MS. COOKE: No, Your Honor.

Erika Andrews-Redirect by Meadors

1 THE COURT: I'm going to take this under
2 advisement. And at 2 o'clock, I will let you know
3 my ruling.

4 MS. COOKE: Can I make an argument?

5 THE COURT: You may.

6 MS. COOKE: Your Honor, the elements under
7 16-11-440 (a) are that the victim was unlawfully
8 entering. Which would establish that he was
9 trespassing, because he was asked by both Robert and
10 Jeffrey to leave. And he came back in. At that
11 point he was a trespasser. The door was shut and
12 latched, and he forced himself in. Another element
13 is that he was forcefully entering. Both Robert and
14 Jeffrey testified that he snatched the door and
15 broke the lock that evening, and that it has not
16 been fixed since.

17 Robert also testified to that, in that it
18 was broke that evening by Shamar. And that Robert
19 asked him to leave. Backing up Jeffrey Andrews'
20 version of events.

21 It has to be a dwelling or a residence.
22 We have established through his driver's license and
23 his testimony and Robert's testimony, that he lives
24 at , and has a room there. And
25 resides there and sleeps there. Another element is

1 that the victim does not have the right to be in the
2 residence.

3 He was a trespasser, because he had been
4 told to leave by two different people on multiple
5 times and when he came back in, he came in
6 unlawfully by snatching the door open. The
7 defendant was not engaged in any unlawful activity
8 or use the residence to further illegal activity
9 under Section A. And under Section A, he has a
10 presumption of fear. So that does not even have to
11 be established even though he stated that he was in
12 fear. So I think the limits are met under A, Your
13 Honor.

14 To further the argument, the GSR expert
15 testified that the GSR was consistent with Robert
16 hiding the gun, which Robert said he did. And those
17 things corroborated what Jeffrey Andrews said. She
18 also said that GSR on the victim is consistent with
19 him being 3 feet away, which is consistent with what
20 the pathologist said, 3 feet away from the gun. And
21 or Erika holding him. The pathologist verified it
22 and said that with my hypothetical question that if
23 Shamar was forcefully entering the house and saw the
24 gun and started to back up and turn, that that was
25 absolutely consistent with where his wound was, and

1 him falling backwards the way he fell. That was a
2 hypothetical question that I asked, and she said yes
3 that would be consistent.

4 Jeffrey's story is consistent with the
5 position of the body established by EMS and Ms. --
6 and John Davis, who the link from the column to the
7 front door is 6 feet 10 inches, according to John
8 Davis' testimony. And Shamar is 6 feet tall. And
9 his head was not even at the column, putting his
10 feet practically at the front door. I think that's
11 been established by testimony which is consistent
12 with Mr. Andrews.

13 Robert's testimony was consistent with
14 Jeffrey Andrews. And again under (a) he has the
15 presumption of fear. Under State v. Hendricks, he
16 doesn't have to wait until the assailant gets the
17 drop on him. Under State v. Dickey, Shamar was
18 6 feet, 180. Jeffrey Andrews is 5-foot 6 inches,
19 150. That is 6 inches and 30 pounds difference.
20 And Shamar was 27 and Jeffrey is 52. That's 25
21 years. So under State v. Dickey age, difference and
22 size, agility and prior violence as I was
23 questioning Erika about that the defendant knows of
24 the victim, are all relevant in deciding these
25 issues.

1 Your Honor, Erika stated that the only one
2 yelling was Shamar. Not only did, I know Jeffrey
3 testified that he wasn't the only one yelling. But
4 Robert backed his story up by saying that he was
5 not -- that Shamar was yelling and he asked Shamar
6 to leave. So Robert's testimony backs up Jeffrey.
7 Erika stated that Virlyn was in the chair. And that
8 Robert was on the couch. So both of them were
9 inside.

10 Now in her statement, in one of her
11 statements, she says, you all sit here and watch him
12 kill him. That means if she testified that Virlyn
13 and Robert were inside that Jeffrey had to be inside
14 the house, if she yelled at them, you just sat here
15 and watched him kill my boyfriend, mother F'er.
16 That is consistent with Jeffrey's story, and
17 inconsistent with part of her statements earlier
18 that they were all on out on the porch when he got
19 shot. She said that those were probably his
20 cigarettes that were towards the door. She also
21 testifies that Robert finally said this is enough,
22 you all just get out of here and leave; that Robert
23 asked Shamar to leave, which backs up Jeffrey
24 Andrews story.

25 And, Your Honor, the standard in this

1 hearing is a preponderance of the evidence which is
2 paperclip on the scales of justice. I know the
3 State was wondering why I called the GSR, the
4 pathologist, and the experts. But this case is
5 extremely similar to Duncan and Douglas where
6 immunity was granted. And in those stories forensic
7 science back up the defendant's story. And Robert
8 backs up his story. Some of Erika's testimony and
9 her inconsistencies make her less credible with him.
10 Some of her testimony backs up his story. Some of
11 the things she said on the video and audio interview
12 back up the story when she says that Virlyn and
13 Robert were inside and saw Jeffrey shoot. He had to
14 be inside when she yelled at them. For her to yell,
15 you just sat here and watched him shoot. He had to
16 be inside, because they were inside.

17 I believe a preponderance of the evidence
18 standard has absolutely been met here. This is not
19 beyond a reasonable doubt. It's not a directed
20 verdict burden. It's simply a preponderance of the
21 evidence. I think the forensic evidence based of my
22 hypothetical question backs up his story more than
23 hers. I think we have a greater weight of the
24 evidence. And I think a preponderance of the
25 evidence has absolutely been established. And I've

1 also made a motion under (c) which Douglas allows us
2 to do. And under 450, which allows him immunity
3 under common law habitation. If you would make
4 arguments on those, I will.

5 THE COURT: If you'd like.

6 MS. COOKE: Under (c), Your Honor, State
7 v. Douglas allows us to argue that's under (c) even
8 though it was his residence, overruled in an earlier
9 case. The defendant was not engaged in unlawful
10 activity. There has been no evidence or proof of
11 that. He is in place he has right to be, which
12 Douglas states that his residence can be counted as
13 a place he has a right to be. And that it is proper
14 to argue Subsection (c) in a residence, and
15 Subsection (a) does not fit or the elements are not
16 met. He is allowed to meet force with force.

17 The -- Shamar had snatched the door open
18 and was entering the house in a forceful manner. He
19 had fought with him earlier, physical fight with him
20 earlier. He had seen a 40-ounce beer bottle, which
21 we know exists, because we saw a picture of it. He
22 knew he had a reputation for violence. Case law
23 says that you can act on appearances and can be
24 mistaken, and that the defendant has a right to keep
25 on with his force until the threat is over. And

1 that he doesn't -- he can keep on with his force
2 until he perceives the threat is over.

3 It also says the defendant must reasonably
4 believe it is necessary to prevent death, great
5 bodily or injury or the commission of a violent
6 crime. Here he testified that he was in fear.
7 There's is a age difference. There's an size
8 difference. There is an age difference and size
9 difference. They had fought earlier. He had knew
10 he had a 40-ounce beer bottle. Testified that he
11 didn't know whether or not he had it time he was
12 coming in the door, but he knew he had it when he
13 left. He knew he was drunk and high; that he was
14 coming in the house in an aggressive manner. And it
15 also says to prevent a violent crime.

16 Your Honor, violent crimes include even if
17 you find that it's not reasonable that he was in
18 fear of death or great bodily injury, violent crimes
19 also include ABHAN, ABWIK and burglary first,
20 breaking in a house in the nighttime. So I believe
21 that the elements are met under (c). This case is
22 almost just like Duncan. There was a victim in the
23 guest house, and the victim was asked to leave. The
24 victim left and came back and was a trespasser at
25 that point. He came through the screen door. The

1 defendant came out with a gun. The victim advanced
2 towards him, forcing his way onto the porch in this
3 case, not even inside the door. And the defendant
4 shot him. And immunity was granted. And it was
5 found by a preponderance of the evidence that the
6 elements of Subsection (a) were met. And this case
7 is almost just like that.

8 This case is also very similar Douglas.
9 The victim was at the defendant's house. In that
10 case they were fighting over meds. Here they were
11 fighting over liquor. The defendant told the victim
12 to leave several times. The defendant kept telling
13 the victim to leave. The victim advanced toward the
14 defendant in the house, apparently. The defendant
15 shot the victim. The defendant -- and then immunity
16 was granted. And it was stated that it was okay to
17 ask for immunity under (c) although it was his own
18 home.

19 The court in Douglas also said that they
20 took into consideration the expletives that the
21 victim was using when entering the home, and that
22 took place here also. The court considered the
23 victim slamming the door. Here the victim snatched
24 the door open. The court said that the defendant's
25 appearance with a gun after the victim was acting

1 aggressively in the home, was lawful and he had a
2 right to defend his home and himself. All this is
3 in Douglas. And the court said the defendant's
4 knowledge of recent prior acts of violence by the
5 victim was relevant to their decision.

6 The court said the toxicology of the
7 victim was relevant to their decision. And I
8 believe that either under (a) or (c), Your Honor,
9 that we've established by a preponderance of the
10 evidence, since it is a much lesser standard than
11 beyond a reasonable doubt that Mr. Andrews is
12 entitled to immunity.

13 THE COURT: Thank you.

14 MR. MATHEWS: Your Honor, May it please
15 the court.

16 THE COURT: Yes, sir.

17 MR. MATHEWS: Just a general background on this
18 law, Ms. Cooke is referring to Subsection (a) and
19 Subsection (c). Generally Subsection (a) refers to
20 a home invasion. So home invader is coming through
21 to place serious bodily injury or death upon the
22 homeowner. Subsection (c) refers to an attacker in
23 a place other than a home. Now Ms. Cooke is correct
24 that the court of appeals said that Subsection (c)
25 could also apply to a home. And that that could

1 apply to a attacker. But the State's position in
2 this case is that Ms. Cooke, and by extension, Mr.
3 Andrews, hasn't met the burden on either of these
4 subsections.

5 First, we'll start with Subsection (a)
6 which applies to a home invasion, if someone is
7 forcibly entering your home. We've had conflicting
8 testimony here today. We had Jeffrey Andrews say
9 yesterday well, he went in. He initially came in
10 with my permission. But then he went out, and then
11 he came back in. Then went out and came back in
12 again, and I asked him to leave several times during
13 that course of events. Then we had Erika Andrews
14 testify today, no, Jeffrey Andrews, invited Shamar
15 over. He invited me over. He invited Shamar over.
16 So that alone makes him an invited guest and
17 therefore takes us out of Subsection (a) for a home
18 invasion.

19 Furthermore in regards to any evidence
20 that was presented by a home invasion, we had the
21 assertion by Mrs. Cooke that a latch was broken on a
22 screen door. It was not take -- there was no
23 pictures taken of that until a year and a half
24 later. Mr. Andrews testified that screen door
25 was -- Mr. Jeffrey Andrews testified that screen

1 door was never fixed. Yet Robert Andrews got up
2 right after him and said, oh, yeah, I fixed the
3 door. I popped it back in there. So that's
4 inconsistent on whether there's even physical
5 evidence of a breaking and entering. But we also
6 have Erika Andrews saying, no, he was in fact
7 invited over here. He chose to leave on his own.
8 He said come on Erika let's go. And as they started
9 to walk out, that's when Mr. Andrews shot him.

10 So that certainly doesn't meet the
11 requirements for Subsection (a). But we can also
12 look to whether there's any evidence at all of
13 subsection (c). And that's more of a typical self
14 defense argument, was Mr. Andrews in fact being
15 attacked. We have conflicting evidence of that. We
16 have Erika Andrews testifying yeah, I hit Jeffrey
17 Andrews. I punched him in the face a couple of
18 times. We had a picture entered into evidence
19 showing that Mr. Andrews had a cut above his right
20 eye. And, I'm sorry, excuse me, his left eye. Now
21 when Mr. Andrews was asked about that, he said no,
22 no, no, that cut, I don't know what that was from.
23 It's the cut above my right eye, that's what
24 happened when supposedly Shamar Andrews (sic) hit
25 him. We have a DNA analyst whose testified there

1 is no DNA from the Jeffrey Andrews underneath Shamar
2 Howell's fingernails.

3 So there's certainly inconsistencies on if
4 there any injuries, and if the injuries are there,
5 how did he get them. He says well it was above my
6 right eye. Earlier he said it's above my left eye.
7 There is a photograph in evidence of an injury being
8 above his left eye. Now additionally, Erika Andrews
9 says he never hit Jeffrey Andrews at all. He never
10 came at Jeffrey Andrews at all. In fact, this is a
11 man who walked with a limp, she said. He had a hip
12 injury that happened from a car accident. So he has
13 trouble getting around. He has to sit and lean up
14 against a heater, because it hurts for him to sit
15 down too much. So certainly it's not credible to
16 suggest that that individual would be belligerent
17 and try to attack Jeffrey Andrews. So there is
18 conflicting testimony on that.

19 As to the case law in regards to this,
20 Ms. Cooke mentioned Douglas. Douglas is completely
21 different from this case. Douglas featured two
22 individuals, two men, who came home after a day of
23 drinking and playing golf, and then got into a fight
24 over some medicine. And then there were no other
25 witnesses. So there was an attack with injuries,

1 severe injuries to the defendant, which were
2 documented and put on the record. And nobody else
3 witnessed the attack. So it's the defendant's sole
4 word in that case as to whether an attack had
5 occurred, what exactly happened in that attack. And
6 this case is completely different. We have a
7 witness there who states no, in fact, Shamar Howell
8 did not attack Jeffrey Andrews. There was no
9 physical violence at all. And he was in the process
10 of leaving when he was shot. So that's completely
11 different. This case is completely different from
12 Douglas.

13 Ms. Cooke also mentioned Duncan, which is
14 also does have similar facts to this case. That
15 featured a guest getting rowdy inside the
16 defendant's home. The defendant asked him to leave.
17 They go out on the porch where they engage in an
18 altercation. But there's a third party witness in
19 that case who says, I tried to separate the
20 defendant and the victim. And the defendant shoots
21 the victim. So we have a third party witness in
22 that case saying there actually was a fight. Here
23 we have a third party witness saying, no, there
24 wasn't a fight. Again, making this different from
25 Duncan, and making this more of an issue for the

1 jury.

2 On cases where our State Supreme Court has
3 decided that immunity was properly denied, we have
4 State v. Butler and State v. Isaac. Now in both of
5 those cases, the court noted that there were
6 inconsistencies between -- I'm sorry, the second
7 case was the State v. Curry. State v. Curry and
8 State v. Butler. We have the court noting that
9 there were inconsistencies in the defendant's claims
10 of injury. Specifically, in State v. Butler, the
11 defendant claimed that the victim had hit her with a
12 with a VCR player, and that he had beat her several
13 times and dragged her around the house.

14 The evidence presented at trial tended to
15 contradict her statement, and she was unclear in
16 stating how the fatal stabbing in that case actually
17 occurred. Here we have inconsistencies in the
18 injuries that occurred to Mr. Andrews, much in the
19 same way that there were inconsistencies with this
20 defendant's injuries in State v. Butler. And we
21 have inconsistencies in the defendant's story of how
22 she actually in Butler, she said, well I stabbed him
23 but I think he rolled over onto the knife. Here we
24 have Mr. Andrews saying, well I shot him over liquor
25 initially to Corporal Kelly. But oh, well I asked

1 him to leave and he wouldn't leave. And then well
2 he was coming at me. If somebody is in your house,
3 you have a right to make them leave.

4 So we have the inconsistencies on how he
5 actually attacked, allegedly attacked Mr. Andrews.
6 Immunity in State v. Curry, that is more in line
7 with this case, because that case featured a
8 defendant and a victim getting into an argument.
9 The defendant went to his bedroom to get a gun, and
10 then according to multiple witnesses there, then
11 shot the victim in the back. So that case, the
12 court noted that the defendant should have been
13 entitled to make a self defense argument to the
14 jury, but should not have been granted immunity,
15 because there was conflicting evidence and
16 conflicting testimony.

17 The court ended by noting, given the facts
18 above, we conclude there's evidence to support the
19 trial court analogy of immunity under the act.
20 Appellant's claims of self defense presents a
21 quintessential jury question which most assuredly is
22 not a situation warranting immunity from
23 prosecution. Accordingly find the cases properly
24 submitted to the jury with a claim of self defense
25 being fully presented and the State having the

1 burden to disprove at least one element of self
2 defense beyond a reasonable doubt.

3 Judge, it's our contention that that's
4 where we're at this that point. We've had
5 conflicting testimony one from an eye witness saying
6 that it's not as the defendant described it. We
7 have the defendant describing a version of events,
8 which he can't even keep those version of events
9 straight. We have a -- his own father contradicting
10 what he said about the door being out of place, and
11 we believe at this point it's a jury issue. He
12 hasn't -- she hasn't established by a preponderance
13 of the evidence that there was a home invasion under
14 (a). That's a pretty straightforward point. And
15 then under (c) she hasn't established that
16 Mr. Andrews was even being attacked by Mr. Howell.

17 So at this point, we respectfully ask the
18 court to deny Mr. Andrews motion for immunity. And
19 we proceed with this case to the jury. And then
20 Ms. Cooke may present a self defense case if she
21 wishes.

22 THE COURT: Thank you.

23 MS. COOKE: May I rely to that, Your
24 Honor?

25 THE COURT: You may.

1 MS. COOKE: Under the State's theory we
2 would never have an immunity hearing. If there
3 were any inconsistencies at all, that that doesn't
4 create a quintessential jury question, Your Honor.

5 THE COURT: Well how am I supposed to
6 resolve the inconsistencies and conflicting
7 testimonies in this situation, Ms. Cooke?

8 MS. COOKE: I believe that the evidence
9 backs up Mr. Andrews.

10 THE COURT: Just because Mr. Andrews said
11 it?

12 MS. COOKE: No, I believe that Robert's
13 testimony corroborated what he said. I believe
14 that---

15 THE COURT: How about what he said to the
16 police officer?

17 MS. COOKE: I, what?

18 MR. YOUNG: What your client said to the
19 police officer. Or at least the police officer's
20 testimony that he shot because he took his jug.

21 MS. COOKE: I think he says, many more
22 times than -- I don't think he said I shot because
23 he took the brandy. The police officer was asking,
24 you know, what happened here. And he said, he took
25 my brandy. He didn't say, I shot him because he

1 took my brandy. He said, many more times to the
2 police officer right after this event happened,
3 within two hours of this event happening, that he
4 shot him because he was aggressive; that he shot him
5 because he had a bottle; he shot him because he was
6 fighting him in the house. He shot him because he
7 snatched the door, and was unlawfully entering the
8 house.

9 I just wanted to point out that regarding
10 the latch, I think the testimony was
11 mischaracterized. The latch was still broken. All
12 that Robert testified to, he didn't testify he fixed
13 it. He testified---

14 THE COURT: He stuck back in the hole.

15 MS. COOKE: ---he pushed it back in the
16 hole. And it's still broken, because it keeps
17 falling out of the hole. So that testimony was
18 completely mischaracterized by the State, Your
19 Honor. As far as Curry, this case is absolutely
20 nothing like Curry. In Curry, both were social
21 guests in a third party home. And just because
22 someone is first invited into a house does not
23 remove---

24 THE COURT: No, that's basically what
25 Duncan says.

1 MS. COOKE: Exactly. Duncan and Douglas
2 both say that. So that---

3 THE COURT: You can be invited in and then
4 misbehave--

5 MS. COOKE: And then turn into a
6 trespasser. And in Curry there were, the analysis
7 was under (c) not (a). Both had an equal right to
8 be in the home. There was no presumption like
9 Duncan and Douglas under (a). And the witnesses
10 accounts all vary substantially. Here, I believe
11 we had Jeffrey Andrews, Robert, the pathologist,
12 GSR.

13 THE COURT: I don't know that GSR shows
14 anything other than the fact that he was shot on the
15 back of his hand, or that his hands were down when
16 he was shot. And it was close range. I think all
17 of these things are generally close range, Duncan
18 and Douglas. I mean that's what this is all about
19 is close range shootings. I don't that the GSR
20 confirms anything.

21 MS. COOKE: And just, I believe that the
22 law has stated -- was not stated properly. Under
23 Section (a) you don't have to show that it was
24 intruder or invasion. It's just that he unlawfully
25 a trespasser and forcibly snatching the door open,

1 entering the home. And you can a presumption of
2 fear and that's it.

3 In pictures there is an injury both over
4 the left and the right eye. The one, the scratch is
5 easier to see. I can't remember which eye is which.
6 But the other eye is swollen. So there are injuries
7 over both eyes. So it's not true. You know, that's
8 not as inconsistent as was being laid out by the
9 State. I just -- the weight of this is
10 preponderance of the evidence is a paper clip, Your
11 Honor. And I believe that it's been met, because I
12 believe Robert corroborated it. All of my
13 hypotheticals to the experts said it was consistent
14 with what he said. And, you know, we've at least
15 got another witness who was on the scene, who
16 corroborates Jeffrey Andrews. They don't have
17 another witness that corroborates what Erika said.
18 And she told---

19 THE COURT: Well, it's just like with the
20 jury. We don't count witnesses to determine whether
21 or not I'll believe somebody. I listen to the
22 testimony. And make it more credibility.

23 MS. COOKE: She told me inconsistent
24 stories than Mr. Andrews did. And I that
25 Mr. Andrews rather than telling different versions,

1 I believe his was more of a fragmented telling
2 different pieces in time, than telling different
3 stories. I don't....

4 THE COURT: That's was just your belief.

5 MS. COOKE: It is.

6 THE COURT: There's no evidence of that.

7 Since your expert was---

8 MS. COOKE: Exactly. Yes, Your Honor.

9 THE COURT: Was hardly an expert.

10 MS. COOKE: But I believe we've met the
11 burden by a preponderance of the evidence since it
12 is a such a low burden. And all we have to show is
13 unlawfully he was trespasser, forcefully entering,
14 snatched the door open as testified to by Robert and
15 Jeffrey. And we have a picture of the lock and
16 Robert's testimony, that all he did within the last
17 year was push it back in. And that we definitely
18 established that he lived there through his
19 driver's license and his and Robert's testimony.
20 And that given totally by both Robert and Jeffrey
21 And the door had been shut and latched. And there
22 is no evidence that the defendant was involved
23 unlawful activity.

24 THE COURT: But the father was -- you're
25 basing a lot on the father's testimony. Yet, the

1 father was the one how hid the gun. Is that
2 correct?

3 MS. COOKE: Yes, he was.

4 THE COURT: I am going to take this under
5 advisement and I'll gave you a ruling at two.

6 MR. MATTHEWS: Your Honor, I was remiss in
7 not mentioning that there as an additional
8 inconsistency with the defendant saying that both
9 the doors meaning the heavy door and the screen door
10 were closed. But then later said only the screen
11 door was closed.

12 MR. MEADORS: Well his father said that.

13 MR. MEADORS: I'm sorry, his father said
14 that. So we just wanted to point that out as one of
15 the inconsistencies.

16 MS. COOKE: Your Honor, he said that Erika
17 opened the big door and that Shamar opened the
18 screen door.

19 THE COURT: Very well. I'll see you all
20 at two.

21 (Whereupon, the court breaks for lunch.)

22 THE COURT: I've had an opportunity to
23 read the cases. Although the Duncan case is pretty,
24 I guess, says when you need to have a hearing. The
25 Douglas case is much more on point in this

1 situation. I think the Douglas case was actually
2 written almost like a law school law review article
3 to give judges some advice on how to go on this.
4 The burden clearly is by just the preponderance of
5 the evidence. Not the normal criminal case law
6 beyond a reasonable doubt. But in order to receive
7 the immunity that is established under these acts,
8 it's clear there must be a case, a strong case for
9 self defense. And in this situation from the
10 testimony, there's a lot of questions that are
11 unanswered thus making a clear case for self defense
12 a question for a jury to decide.

13 The testimony in this case from the
14 witnesses and from the defendant have been at least
15 very inconsistent. The testimony has been
16 conflicting as to what the different witnesses saw
17 and what happened on the night in question. And
18 therefore, I find that the defendant has not met its
19 burden of proving to me by a preponderance of the
20 evidence, and therefore a request for immunity is
21 hereby denied. So therefore where we go, he will
22 still have an opportunity to present substantial
23 testimony concerning the self defense claim,
24 affirmative defense that he raises. And we will
25 proceed at 2:30 to strike a jury and proceed with

1 this case.

2 If I can see the attorneys in chambers, to
3 talk about that a little more. Thank you.

4 (Whereupon, court breaks.)

5 MR. MEADORS: May it please the court.

6 THE COURT: Yes, sir.

7 MR. MEADORS: Your Honor, at this time
8 the State of South Carolina does call the case of
9 Sumter County true billed indictment,
10 2014-GS-43-0725. The State versus Jeffrey Dana
11 Andrews. The defendant is present with his
12 attorney, Ms. Elaine Cooke. This is an indictment
13 for murder and possession of a weapon during the
14 commission of a violent crime. Thank you.

15 THE COURT: Ladies and gentlemen, as the
16 solicitor says, we're about to begin the trial of
17 the State versus Jeffrey Dana Andrews, who is
18 charged with murder and possession of a weapon
19 during the commission of a violent crime. The
20 indictment reads as follows: Count 1, and this is
21 all under indictment 2014-GS-43-725. Count 1,
22 murder, that Jeffrey Dana Andrews did in Sumter
23 County on or about March 25th 2014, willfully,
24 feloniously and intellectually kill the victim,
25 Shamar Howell, with malice aforethought either

1 express or implied, by means of shooting the said
2 victim in the head with a handgun and the victim did
3 die as a proximate result thereof on or about
4 March 25th 2014; in Sumter County, in violation of
5 Section 16-3-10 of the South Carolina Code of Laws,
6 1976 as amended.

7 Count 2, reads that Jeffrey Dana Andrews
8 did in Sumter County on or about March 25th 2014,
9 possess a firearm or visibly display what appeared
10 to be a firearm or visibly display a knife during
11 the commission or attempted commission of a violent
12 crime in violation of Section 16-23-490 of the South
13 Carolina Code of Laws 1976 as amended.

14 Now, ladies and gentlemen of the jury,
15 let me remind you that the fact that the defendant
16 was arrested, charged and indicted in no way is
17 indicative that he has committed these crimes. The
18 defendant has pled not guilty. And therefore the
19 State has the burden of proving each and every
20 element of these charges beyond a reasonable doubt.
21 And the defendant doesn't have to prove anything.
22 And, Ladies and gentlemen, the indictment is simply
23 the formal written charges that bring this case into
24 court and is no way as I said, indicative. He is
25 presumed innocent until a jury should find him

1 strict attention to the testimony in this case. So
2 at the end of all of the testimony, after the
3 argument of counsel by the attorneys and the charge
4 on the law by me, you will then be in a position to
5 determine the facts and apply those facts to the law
6 and thus render a just verdict.

7 Now, Mr. Foreman, as I've told you before,
8 it will be your responsibility to preside in the
9 jury room, and be the jury spokesperson here in
10 court. It will also be your duty to write down the
11 verdict on the verdict form that I give you, but
12 I'll give you further instructions on that at the
13 appropriate time. Now I am going to preserve
14 everyone's rights. I will give the parties an
15 opportunity to object to anything that I've stated
16 to you. Does the State have any objection to
17 anything that I've told this jury?

18 MR. MEADORS: No, sir.

19 THE COURT: Does the defense?

20 MS. COOKE: No, Your Honor.

21 THE COURT: Thank you. Would the State
22 like to proceed?

23 MR. MEADORS: May it please the court.

24 THE COURT: Yes, sir.

25 MR. MEADORS: He took something from me.

1 He took something from me. Those are the words that
2 answer that the defendant Jeffrey Dana Andrews gave
3 to Corporal Jerry Kelly when Kelly asked him, why
4 did you shoot him. He took something from me.

5 Ladies and gentlemen, Shamar Howell is
6 dead. Shamar Howell is dead, and he shouldn't be.
7 He's dead because he was shot in the head by the
8 defendant, Jeffrey Dana Andrews, because he was mad,
9 and he thought Shamar Howell had stole a jug of
10 liquor from him. He took something from me. That's
11 what this case is about, the killing, the murder of
12 Shamar Howell by the defendant, Jeffrey Dana
13 Andrews. Good morning.

14 THE FOREMAN: Good morning.

15 MR. MEADORS: My name is John Meadors.
16 I'm the assistant solicitor. I work for you elected
17 solicitor, the Honorable Ernest A. Finney, III.
18 Chip Finney, III. And I'm here with Assistant
19 Solicitor Scott Mathews, representing the people of
20 the State of South Carolina, the people of Sumter,
21 against the defendant, Jeffrey Dana Andrews. I'm
22 here also representing the Sumter County Sheriff's
23 Department, Sheriff Anthony Dennis and his staff,
24 former Sheriff Mims, Wayne Dubose, investigator in
25 this case.

1 And we're here today also representing the
2 family of Shamar Howell, his father, his sister,
3 his mother and his family friend.

4 Ladies and gentlemen, thank you for being
5 here. Thank you for the attention you are going to
6 give this case. As His Honor has said, there is
7 nothing more important in this State in this country
8 than what's going to happen these few days in this
9 courtroom. It's important to the defendant, and
10 it's important to Shamar Howell and his family. It
11 doesn't get any more important. That's why we thank
12 you for the attention. I know you're going to give
13 to everybody.

14 His Honor has said he's the law. There's
15 no question about it. Nobody does it better. He's
16 the law, and he will tell us all what the law is.
17 And we have to follow the law, and he's the judge of
18 the law. But you're also kind of like a judge.
19 You're a judge of the facts. You are, you're a
20 judge of the facts. The judge tells you the law.
21 You decide what the facts are. Mr. Campbell didn't
22 put you through a school, Jamie Campbell, to teach
23 you how to be jurors. Didn't go through a crash
24 course or give you a little cliff note book. But
25 you've been going through that class your whole

1 life. It's life.

2 You've been going through dealing with
3 people. Listening to people. Evaluating people.
4 Judging people. Deciding what the truth is. And
5 you'll bring those same attributes and those
6 experiences in to this courtroom. Your common
7 sense, I like to call it. And you will decide what
8 is true. As His Honor said, the only thing you can
9 consider is what comes through this witness stand
10 and the evidence Your Honor lets in, the facts.
11 And you decide what the facts are. You decide what
12 the truth is. This is a beautiful system. And His
13 Honor doesn't get any better. You decide what the
14 truth is based on what you hear. You take the law
15 the judge gives you, and you come up with a verdict.
16 And that's pure. And we'll know that you do listen,
17 pay attention, and use your common sense. It's
18 credibility and believability, Ladies and gentlemen.
19 Every case, every case goes down to it as this one
20 will. What's the truth.

21 Well the judge will tell you later too,
22 you can evaluate the demeanor and how somebody acts.
23 Listen to their answers. How do they respond. You
24 all are going to watch and observe everybody.
25 That's what the truth is going to be, and you'll

1 make the determination.

2 What's the defendant charged with?

3 Murder. The unlawful, intentional killing of
4 another living, breathing human being with malice
5 aforethought. He's alive. He's dead. What's
6 malice? The word even says it. Malice is a
7 meannesses, a wickedness, an evilness, a
8 spitefulness one person shows to another. Shooting
9 somebody over a jug of liquor. That's malice. It
10 can be express. I'm going to kill you. Depending
11 on the circumstances and the evidence that comes
12 out, it may be able to be inferred under certain
13 circumstances.

14 Now malice aforethought, that's a term of
15 art aforethought. We don't have premeditation in
16 this state. You don't have plan, and I'm going to
17 kill somebody and so and so. That's not the law.
18 Malice aforethought can exist in the instant that a
19 trigger is pulled. You don't have to plan in
20 advance. Dadgum it. That's malice aforethought.
21 It doesn't have to last for any length of time.

22 Now we've got to prove the defendant shot
23 and killed the victim. We've got to prove that that
24 was the cause of death, the bullet that went through
25 this head. We've got to prove that it happened in

1 Sumter county. I think Count 2, is possession of a
2 firearm, a weapon during the commission of a violent
3 crime. That's kind of self explanatory. What have
4 we got to prove this to you by? You've all seen it.
5 Know it. You can say as well I can, we've got to
6 prove the defendant guilty beyond a reasonable
7 doubt. That's the burden on the State in this case
8 and every case that's tried across this great
9 country, beyond a reasonable doubt. Beyond a doubt
10 that that would make reasonable folks hesitate to
11 act. There's really no other way to explain it. We
12 believe we'll meet that burden.

13 The judge will tell you at the end of the
14 trial, the State doesn't have to prove beyond all
15 doubt. You can never prove something beyond all
16 doubt. The law doesn't require that. Beyond a
17 reasonable doubt. If you believe the testimony of
18 the witnesses and the evidence, the State has met
19 its burden beyond a reasonable doubt, you must find
20 the defendant guilty. If we haven't, you don't
21 believe we have, then you find him not guilty.
22 There are several types of evidence Your Honor
23 mentioned, I'll be very brief.

24 Direct evidence is evidence an individual
25 person gathers with one of their senses. They hear

1 something. They feel something. They touch
2 something. They smell something. They come in here
3 and take an oath from Mr. Bradley, and they take the
4 stand. And they say, this is what I heard, what I
5 felt, what I smelled. And they tell you all. You
6 all you all evaluate them, is that true. Does this
7 make sense.

8 Circumstantial evidence or indirect
9 evidence is also competent evidence. It's just as
10 strong as direct evidence. It's a proof of chain of
11 facts and circumstances that establishes another
12 fact. There are several examples in this case,
13 we'll see and I'll explain to you in my closing
14 argument. It's a terrible example to use right now
15 I wish it was. But we went to bed last night, and
16 we got up and it snowed this morning. We didn't see
17 it, but we know it snowed. They'd be snow on the
18 ground. A perfect example of circumstantial
19 evidence. A gun is used, a bullet ends up in
20 somebody's head.

21 Somebody from sled come back and says,
22 hey, this bullet came from this gun. I didn't see
23 it come from that gun, but I can tell you after test
24 and circumstances that that fired from that gun.
25 That's circumstantial evidence. We're going to have

1 some experts witnesses from sled to testify. And
2 they'll be documentary evidence, pictures, 911 phone
3 call. You all are going to hear before lunch. All
4 of these pieces of evidence and testimony you'll
5 have to evaluate what happened.

6 Well at trial, it's like an opening
7 statement, I'm allowed. Your Honor allows us to
8 give you an overview of what we think the evidence
9 will be. Well what's the trial. Well we're going
10 to take you back to March 25th of 2014. Take you
11 back through witness testimony, take you back
12 through pictures. Take you back through 911 phone
13 calls. Take you back to the scene. Let you know
14 through witnesses, this is what happened so you all
15 can decide. So we're going back to March 25th.
16 It's . You probably all know where
17 is. , the home of
18 Robert Andrews, the defendant's father. Robert
19 Andrews is there. The defendant, Jeffrey Andrews is
20 there. A friend of theirs Virlyn Darryl Gardner is
21 there.
22 Now if you go down, I'm facing, we're
23 going to show you pictures. If you get confused
24 right now, we'll show you pictures and areas of
25 this. But if you're facing , if you

1 go down a couple of blocks, there's another house
2 trailer there or another house that's
3 . And in that residence
4 lived Erika Andrews and Shamar Howell. They had a
5 child together. The child is two today, I think.
6 So they lived in close proximity.

7 Erika Andrews, the mother of the child of
8 the victim, cousin of the defendant, Jeffrey Dana
9 Andrews. That's her cousin. His father is her
10 uncle, her great uncle. I'll ask her to explain
11 that. But everybody is related. Everybody knows
12 each other. Everybody has been to everybody's house
13 before. At some point on the afternoon or early
14 evening of March 25th 2014, we believe the evidence
15 will show, Jeffrey Dana Andrews and Mr. Gardner,
16 Virlyn Gardner went down from to
17 , and inquired about some liquor, some brandy
18 that was stolen. And suggested or asked, did you
19 steal my liquor. Did you steal my liquor. She told
20 him, no, we didn't take your liquor.

21 The defendant and his friend go back to
22 . At so point later that afternoon or
23 evening you're going to have witnesses that will be
24 asked the questions. Erika Andrews and the
25 defendant, Jeffrey Andrews, are together at his.

1 house, or Robert Andrews house. At some point the
2 defendant and Ms. Erika Andrews go to Young's, which
3 is right across the street, to get some beer. She
4 had people left after they came down the
5 first time. Erika went back down to see Mr. Jeffrey
6 and her grandfather, Robert Andrews. They go get
7 some beer. We believe the will evidence show, Dana,
8 Jeffrey Dana Andrews told Erika Andrews, his cousin,
9 go and get Shamar and tell him to come back down
10 here. Come on back down here.

11 Erika goes back her to residence,
12 , and says come on down. I think
13 she'll testify he didn't want go at first, but he
14 did. She goes back to first. Some point
15 later in the evening, Shamar Howell comes down back
16 to to , if I misspoke, I'm sorry.

17 So now we've got the scene, bear with me, at

18 . In the later part of the evening of
19 March 25th. Robert Andrews, the defendant's
20 father, the defendant Jeffrey Dana Andrews, Virlyn
21 Gardner, Erika Andrews inside , drinking,
22 having a good time, socializing.

23 Shamar Howell comes. Come on it. Comes
24 into the residence. Nobody tries to keep him from
25 coming in the residence. Come on in, have a beer.

1 Don't want a beer. You'll hear that his hips hurt.
2 Had trouble with his hips. He's already had one
3 operation. Can't sit down. They offer him to sit
4 on the couch. I don't want -- I can't sit on the
5 couch. So he sits up against a heater, I think, on
6 the side, the evidence will show.

7 They're sitting there. Everybody is there
8 voluntarily. All inside. You'll see pictures of
9 Budweiser. Folks drinking, the victim been drinking
10 before. Erika had been drinking. Erika Andrews.
11 You're going to hear from her either now or after
12 lunch. And they're in there, and then something
13 starts about the liquor. Somebody starts saying
14 about the liquor. The defendant, well I know you
15 stole my liquor. I didn't steal your liquor. And
16 then they start to argue, the defendant, the
17 victim, the defendant's daddy. He got up to leave.
18 She's behind him. He's going out the door. She's
19 coming behind him. She'll tell you she was standing
20 near some kind of little piece or furniture that
21 holds pictures. I don't know how to pronounce it.
22 She'll pronounce it.

23 She says Shamar is going out. And at some
24 point, she'll say I saw the defendant go back into a
25 room just for a minute, and he comes back out.

1 We'll show you pictures. Shamar is going out.
2 Jeffrey Dana Andrews is going out. Bam. Shamar is
3 dead. Shamar is dead, leaving the house. And the
4 next thing that you'll hear Erika say is she comes
5 at the door, and she sees his arm like that. Sees
6 his arm like that. And sees Shamar on the ground.
7 She goes to him. She comforts him. Tries to give
8 him CPR. She calls 911. She says at some point the
9 defendant comes over and says, oh, it's just like a
10 bug bite. It's all right. You're going to be able
11 to listen to her. She loses it. She's angry.
12 She's livid. She's yelling, Jeffrey shot my
13 boyfriend. Jeffrey shot my boyfriend. She's saying
14 the F word. She loses it. She gets arrested
15 later on for breach of peace. She was out of
16 control.

17 She had just seen, he was alive one second
18 and leaving, he is dead. That's what the evidence
19 will show. The police come. The first responder
20 on the scene is Corporal Jerry Kelly. And Jerry
21 comes. Comes up. And he's going to describe the
22 body, where he saw it, of Shamar Howell. We're
23 going to see in Erika, we believe the evidence will
24 show. And she said, he shot, Jeffrey shot my
25 boyfriend. Where is Jeffrey. She kind of points in

1 there.

2 Corporal Jerry Kelly goes into

3 He sees three people standing. He's operating in

4 the blind. He doesn't know what's going on. And

5 what's when Jeffrey said, I'm the one you're looking

6 for. Defendant Jeffrey Andrews says, I'm the one

7 you're looking for. Handcuffs him. Takes him back

8 to his car, which is parked outside , the

9 evidence will show. And he pulls out a card, and he

10 reads him his miranda. You are going to be able to

11 watch that in just a little bit. Did he understand

12 his rights; yes, he did. Did he understand what

13 you're saying he did. Did you understand him. I

14 could. Did he talk to you. He said, yeah. I said,

15 you'll hear the corporal say, well who is that up

16 there, well that's my cousin. Well who's that that

17 has been shot.. That's her boyfriend.

18 And you shot. Yes, sir. Why did you

19 shoot him. Why did you shoot your cousin's

20 boyfriend. And Corporal Kelly will say the first

21 words out of his mouth at the scene were, he took

22 something from me. He took something from me. The

23 evidence will say, Corporal Kelly says he took

24 something from me. What did he take. He took some

25 brandy. Some liquor. And the evidence will show

1 Corporal Kelly said, you killed him over liquor.
2 And then he said well I asked him to leave. I
3 asked him to leave.. He wouldn't leave. Then he may
4 have hit me or tussled with me.

5 The first words out of his mouth, he took
6 something from me. That's what this case is about.
7 That's what you've got to decide. Murder is an
8 unjustified killing of another human being.. Shamar
9 is dead, and he didn't need to be. There was no
10 justification for this murder. And that's what
11 we've got to show you beyond a reasonable doubt.

12 Ladies and gentlemen, I don't know what
13 else to say. Thank you again for being here.
14 Please listen. Listen and watch, and you'll make
15 the right decision. That's all we can ask. The
16 word verdict means to speak the truth. And after
17 you have listened to the evidence, heard His Honor's
18 charge on the law, we respectfully submit,
19 respectfully, a verdict that will speak the truth
20 will be on that on March 25th 2014, Jeffrey Dana
21 Andrews shot Shamar Howell in the head, because he
22 was mad. And he thought he killed his liquor -- he
23 thought he stole his liquor. And we're going to
24 find him guilty. Thank you.

25 THE COURT: Thank you. Ms. Cooke, for the

1 defendant.

2 MS. COOKE: I believe it was Sir Edward
3 Cope and King Henry VIII said a man's home is his
4 castle. Shamar Howell violated Jeffrey Andrews'
5 castle when he snatched open a screen door and broke
6 the lock on that door that was put in place to keep
7 him out, and entered the house screaming some
8 version of Jeffrey, ain't coming out here. He knows
9 I'll beat his ass. Come on you punk ass nigger. I
10 will kill you mother fucker. Putting Jeffrey in
11 fear for his life. And his elderly dad's life who
12 was sitting on the couch who was beside him.

13 He went for a cell phone. He did not find
14 a cell phone. What he found was a gun. And as
15 Shamar was entering the house after the snatching
16 the door and breaking the latch, he grabbed, what he
17 did see on the dresser was a gun. And he grabbed
18 the gun, and he aimed it. And he fired it. And he
19 shot Shamar Howell in the head to protect his life
20 and his dad's life. This is a self defense case,
21 Ladies and gentlemen. This is an important day for
22 Jeffrey Andrews. It's a day that 12 citizens, and
23 not cops or lawyers decide his fate.

24 By sitting in that chair over there, he is
25 saying to you, I did not do this. I did not commit

1 murder. Otherwise, we wouldn't be here in a jury
2 trial, we would be standing in front of judge
3 pleading guilty, and he is not doing that. The
4 State has the burden of proof as they told you.
5 They have burden of proof to prove murder beyond a
6 reasonable doubt. But in this case, they also have
7 to disprove that Jeffrey Andrews acted in self
8 defense. Jeffrey Andrews does not have to prove
9 that he acted in self defense. The State has to
10 disprove that he acted in self defense. And another
11 one of Jeffrey's rights; is that, he has the right
12 to remain silent and make the State do their job,
13 and make them prove their case, and has the right
14 not to take that stand. But he is going to waive
15 that right and take this case a step further. And
16 he is going to get on that stand, and he is going to
17 tell you what happened that night.

18 This is self-defense case. Yes, this
19 argument started because Jeffrey and his father came
20 home, walked on to the screened in back porch, where
21 the washer and dryer was. Found Shamar Howell and
22 Erika Andrews clothes in the washer and dryer and
23 their bottle of brandy missing. But it ended with
24 Shamar Howell being kicked out of their house. The
25 door shut. The latch put in place to keep him out,

1 because he didn't want to stay out. He bust
2 through it. He broke the latch. And he screamed
3 some version of, Jeffrey ain't coming out. He knows
4 I'll beat his ass. Come on, punk ass nigger. I'll
5 kill you mother fucker.

6 And I am sorry for saying those words.
7 Jeffrey Andrews is on trial for murder. And what
8 happened that night has to be said, because he is on
9 trial for murder. This is a self defense case. And
10 I am going to come back before you at the close of
11 the case, and ask you to find him not guilty,
12 because he acted in self defense, and he was in fear
13 for his life, and his dad's. Thank you.

14 THE COURT: Is the State ready to call
15 it's first witness?

16 MR. MEADORS: Your Honor, the State of
17 South Carolina would call Corporal Jerry Kelly.

18 THE COURT: Corporal Kelly.
19 Corporal Jerry Kelly, being first duly
20 sworn, testified as follows:

21 THE BAILIFF: State your full name and
22 spell your last name for the record.

23 A. Jerry Kelly. K-E-L-L-Y.

24 DIRECT EXAMINATION by Mr. Meadors:

25 Q. Good morning, Corporal.

1 A. Good morning.

2 Q. Would you please tell the ladies and
3 gentlemen of this jury about Corporal Jerry Kelly.
4 Where you're from, your background and your
5 training; especially, in law enforcement, please,
6 sir.

7 A. I'm from Sumter, South Carolina. I've
8 been in law enforcement going on 18 years. And
9 I've had several trainings through the sheriff's
10 department throughout the years: patrol,
11 warrants. I've worked in the schools and I deal
12 with kids.

13 Q. And you work for Sheriff Dennis?

14 A. Yes, sir.

15 Q. And you worked for what other sheriff?

16 A. Florence for one year back in 98.

17 Q. And your -- what are the different
18 positions you've held in the sheriff's department?

19 A. I've worked in the court system. I've
20 worked with the warrants division. I've worked on
21 patrol. I've also worked SRO. And I've worked
22 with the CADD team which is dealing with the
23 community.

24 Q. And that's a school resource officer, SRO.

25 A. Right.

1 Q. And on March 25th 2014, your role for the
2 sheriff's office was what?

3 A. I was working on patrol.

4 Q. What does that mean?

5 A. I'm answering calls for services.
6 Rendering aid to the public.

7 Q. And did you have an occasion to respond to
8 ?

9 A. Yes, sir, I did.

10 Q. And approximately, do you remember what
11 time that was?

12 A. No, sir, I don't. I believe shortly
13 after 8 o'clock p.m.

14 Q. That evening.

15 A. That evening.

16 Q. We'll have the 911 call coming in, in a
17 minute. When you arrived, you're familiar with
18 the area.

19 A. Yes, sir.

20 Q. So you got dispatched to go to

21 A. Correct.

22 Q. When you get dispatched, do you know what
23 you going to find? I mean, do you know what it is
24 that potentially you're responding to?

25 A. The call, initially came out as a suspect

1 was, shot a victim. So I know it was some
2 gunshots were involved.

3 Q. You knew a shooting was involved.

4 A. Right.

5 Q. And when you to first pulled up to
6 , tell the Ladies and gentlemen of the jury
7 what you observed?

8 A. When I first pulled up, I observed a
9 victim laying on the porch and a female laying on
10 his right side, crying and screaming. When she
11 saw me, she started yelling at me that her uncle
12 killed her boyfriend. Jeffrey shot my boyfriend.
13 Jeff shot my boyfriend.

14 Q. And you could understand that when you
15 were heading up towards the house.

16 A. Yes, sir.

17 Q. And was the person she was over, did you
18 know any of these people?

19 A. I did not.

20 Q. Did the person that was laying down, the
21 man, did he appear dead? Or did you know at that
22 point?

23 A. I didn't know at that point.

24 Q. So this is life real time, right?

25 A. Yes, sir.

1 Q. Are you the first responder?

2 A. Yes, sir.

3 Q. What do you do? You hear, you see a body
4 and a lady over the top of it. And she's yelling
5 my uncle shot my boyfriend. What do you do?

6 A. I screamed at her, and I asked her, where
7 is Jeffrey now. And she stated that he was in
8 the house.

9 Q. And so what do you do then?

10 A. I approached the door and I asked her how
11 many people is in the house. But she was
12 hollering and crying. So I did quick head peek,
13 and saw three gentlemen standing there. Then I
14 went in with my gun drawn. And Jeffrey held his
15 hands, and stated to me, I'm the guy you're
16 looking for.

17 Q. So before you went in, you didn't know
18 what was inside.

19 A. No, sir.

20 Q. And that's why you had your gun drawn.

21 A. Yes, sir.

22 Q. And so the defendant said, it's me, I'm
23 the one you're looking for?

24 A. Yes, sir.

25 MR. MEADORS: Your Honor, State's 1, 2, 6

1 and 10 without objection.

2 THE COURT: State's Exhibits No. 1, 2, 6
3 and 10 admitted.

4 (Photographs marked State's Exhibit Nos.
5 1, 2, 6 and 10 into evidence.)

6 Q. I am going to show you what is marked
7 State's 2. Do you recognize that?

8 A. Yes, sir.

9 Q. And what is that?

10 A. That's the front of the residence.

11 Q. ?

12 A. Correct.

13 Q. State's No. 1.

14 A. It's a picture of the front of the
15 residence.

16 Q. And you have been described a person on
17 the porch and then a female over the top or beside
18 him. That's State's 6. Do you recognize that?

19 A. Correct. That's the actual porch itself.
20 And the victim was laying here. The head first
21 was here where the blood is at. And the female
22 was on his right side.

23 Q. So the victim where this blood spot that's
24 where his head was?

25 A. Correct.

- 1 Q. And he was on his back?
- 2 A. Correct.
- 3 Q. And the female was on the side of him?
- 4 A. Correct, holding him.
- 5 Q. So when you ran up, that's what you saw?
- 6 A. Correct.
- 7 Q. Heard her and then went inside.
- 8 A. As I now appear, but I heard her
- 9 screaming and crying as I was approaching the
- 10 house.
- 11 Q. Now your testimony is you went inside
- 12 , correct?
- 13 A. I did.
- 14 Q. I'm showing you State's 10. Is that it?
- 15 A. Yes, sir.
- 16 Q. Now when you went inside can you tell
- 17 these Ladies and gentlemen, you said there were 3
- 18 people there?
- 19 A. Correct.
- 20 Q. Where were they inside?
- 21 A. They were standing in the, right in the
- 22 middle of the floor. And they were actually
- 23 standing in a line. And Jeffrey was in the
- 24 middle.
- 25 Q. And you're saying Jeffrey now. We've

1 looked at discovery. But you didn't know any of
2 these folks.

3 A. I did not.

4 Q. I believe we'll go, if you don't mind go
5 back, did you handcuff him?

6 A. I did.

7 Q. And where did you take, and you handcuffed
8 the defendant?

9 A. Correct.

10 Q. And where did you take Jeffrey Andrews,
11 the defendant?

12 A. I walked him back to my patrol vehicle.

13 Q. And were you still the first officer
14 there?

15 A. Yes, sir. By the time I was coming out
16 the door with him, the second officer had pulled
17 up.

18 Q. That was a terrible question. You were
19 going to be the first. Was there another officer
20 there then?

21 A. At that time there was.

22 Q. When you get the defendant back to the
23 car, did you have an occasion, and is it your
24 habit to read what we know as miranda rights?

25 A. Yes, sir.

1 Q. And is that just habit? You do that when
2 you in this situation?

3 A. In this situation, I definitely want to
4 make sure I read his miranda rights, and so I did.

5 Q. And do you have a procedure or a form that
6 you use when reading a person their miranda
7 rights?

8 A. I actually keep my card in my right
9 pocket.

10 Q. Could you show these Ladies and gentlemen
11 how you read your rights to Jeffrey Dana Andrews
12 that night? How you read the miranda rights?

13 A. Yes, sir. I actually just pulled from my
14 pocket and I stated to Mr. Jeffrey: You have the
15 right to remain silent.. Anything you say can and
16 will be used against you in a court of law. You
17 have the right to speak to an attorney, and to
18 have an attorney present during any questioning.
19 If you cannot afford a lawyer, one will be
20 provided for you at the government expense.
21 Knowing and understanding your rights as I have
22 explained them to you, are you willing to answers
23 my questions without any attorney present.

24 Q. And, Corporal, how close were you to the
25 defendant when you read his rights?

1 A. I would say probably from here to this
2 table here, which I had my hands on him.

3 Q. Can you describe his demeanor to the jury?

4 A. Yes, sir. Jeffrey was very calm.

5 Q. Calm.

6 A. Calm.

7 Q. And did he appear to understand his rights
8 to you when you read them to him?

9 A. Yes, sir. And I'm assuming he was reading
10 my name tag. He stated to me, yes, Kelly, I'd
11 like to talk to you.

12 Q. Yes, Kelly, I can talk to you.

13 A. Right.

14 Q. So as you were read his rights, he
15 appeared to understand them.

16 A. Correct.

17 Q. And he told you, yes, Kelly, I'll talk to
18 you.

19 A. Correct.

20 Q. So based on your training and experience
21 and being there on the scene on March 25th 2014,
22 did the defendant understand his rights and agree
23 to talk to you?

24 A. Yes, sir.

25 Q. Did you threaten him, or promise him

1 anything to talk to you?

2 A. No, sir.

3 Q. And when you all were communicating back
4 and forth, could you understand his words?

5 A. I could.

6 Q. And did he appear to understand your words
7 based on his answer to your question? Were they
8 content appropriate?

9 A. Yes, sir.

10 Q. Well tell the Ladies and gentlemen of
11 jury, please, Corporal, did you ask him who the
12 players were, or what did you ask him?

13 A. I asked him who was the woman on the porch
14 crying. And he stated to me that it was his
15 niece.

16 Q. His niece.

17 A. His niece. And then I asked him, you
18 know, what happened. And at first he hesitated.
19 Then he said well he took something. And I said,
20 well what did he take. He said, he took something
21 off the back porch. And I asked him again, you
22 know, what did he take off the back porch. And he
23 said, well he took my bottle of liquor. And my
24 question was, you mean you shot him over liquor.
25 And he said well I was asking him to leave, and he

1 wouldn't leave. You know, what's a man supposed
2 to do when you ask someone to leave your home.
3 And I said well you could have just called us, and
4 we could have made him leave. Then he asked me
5 was the victim gone. And I told him I wasn't sure
6 at the time.

7 Q. And that's all he told you about that
8 incident at that time?

9 A. At that time, that's all he spoke about.

10 Q. And you were the first person there.

11 A. Yes, sir.

12 Q. Did you have an occasion to talk to him
13 again there at the scene?

14 A. I did.

15 Q. When was that?

16 A. That was shortly after I learned that the
17 victim had passed.

18 Q. Yes, sir.

19 A. And I actually went back to my patrol car
20 and told him that he had passed.

21 Q. You told him he had passed.

22 A. Correct.

23 Q. And had he told you what relationship if
24 any, there was between his niece and this person?

25 A. I am not sure. But when he told me the

1 female was his niece, and with her screaming that
2 he killed my boyfriend. And I just assumed that's
3 what it was.

4 Q. Corporal, when you went back to the car
5 you said the second time and informed the
6 defendant that Shamar Howell was dead.

7 A. Correct.

8 Q. Did he say anything else then?

9 A. I want to say he may have said something
10 to me about the suspect putting his hands on him
11 or pushing him. But I mean I put it in my
12 reports. I'm assuming he may have. But I don't
13 really recall too much of him saying too much
14 about a struggle or anything.

15 Q. And you filed a -- you made a report and a
16 summary of it, correct?

17 A. I did.

18 Q. Your role this night was what? I mean
19 after you had him in the car, what was your job
20 there at the scene?

21 A. Actually to secure the scene and wait for
22 investigation to get there.

23 Q. And did you do that?

24 A. I did just that, with the help of some
25 other officers.

1 Q. And eventually the defendant was taken to
2 the Sumter/Lee Detention Center, correct?

3 A. Well to the office for investigation.

4 Q. And then to the Sumter/Lee Detention.

5 A. Right.

6 MR. MEADORS: I beg the court's
7 indulgence.

8 THE COURT: Yes, sir.

9 Q. Did you get a look at the body of what we
10 now know is Shamar Howell?

11 A. I did.

12 Q. And it appeared to you to be a gunshot
13 wound?

14 A. Yes, sir.

15 Q. As a part of first responder, were you
16 curious where the gun was?

17 A. I was. And then I asked Mr. Jeffrey and I
18 guess it was just, where was the weapon. And he
19 said that he gave it his father. And I asked him,
20 I said, well where is it. And he said well just
21 go tell my dad to give it to you.

22 Q. So and was that the first time when you
23 talked to him or the second?

24 A. No, that would have been during the second
25 time. The victim was deceased, and we were trying

1 to locate a gun.

2 Q. And you all weren't -- you and law
3 enforcement wanted to find out where the gun was.

4 A. Correct. And he actually offered to talk
5 to his dad for us, to get the gun. But I
6 couldn't let him out of the car.

7 Q. But he told you, I give the gun to my dad.

8 A. Correct. He said, well his dad took it
9 out of his hand.

10 Q. And was that in response to your question
11 about the gun?

12 A. Correct.

13 Q. He didn't volunteer that. You asked him
14 where the gun was.

15 A. I asked him where the gun was at.

16 Q. Now, Corporal, is the individual that told
17 you the reason he killed Shamar Howell, because he
18 took something from me. Is he in courtroom?

19 A. Yes, he is.

20 Q. Would you please point him out for the
21 Ladies and gentlemen?

22 A. He would be gentleman that's standing.

23 MR. MEADORS: We would like the record to
24 so reflect.

25 THE COURT: The record will so reflect.

Corporal Jerry Kelly-Cross by Cooke

1 MR. MEADORS: Thank you.

2 Cross Examination by Ms. Cooke:

3 Q. Corporal Kelly, I'm sorry, I heard what
4 you said that he offered to talk to his dad about
5 the gun. I missed what you said next. What else
6 did you say he said about the gun?

7 A. He wanted to speak to his dad, and tell
8 his dad to go ahead and give us the weapon. And
9 he offered to go back into the house to talk to
10 him himself, because his father wouldn't
11 cooperate.

12 Q. And Jeffrey told you he got into an
13 altercation over brandy.

14 A. At the time he just stated that he had
15 took something. He didn't say it was an actual
16 fight, about him taking. He just said that he had
17 took something.

18 Q. Would it refresh your memory if I showed
19 you a copy of the report that you wrote?

20 A. That would be fine.

21 Q. If you can read that, will that refresh
22 your memory about what he said?

23 A. Yes, ma'am. This would have been probably
24 the second or third time I probably talked to him.
25 And that's what I put in report, because I

Corporal Jerry Kelly-Cross by Cooke..

1 remember him saying something but not during our
2 first conversation.

3 Q. But he did tell you he got into an
4 altercation about brandy.

5 A. Correct.

6 Q. And he also mentions that there was some
7 pushing and hitting going on at some point.

8 A. Correct.

9 Q. And he also mentioned at some point that
10 he told him to leave; told him to leave. Meaning
11 Shamar.

12 A. Correct.

13 Q. And that when you tell a man to leave, you
14 have a right to protect yourself.

15 A. And your property. That's what he said.

16 Q. And he also said, and your property?

17 A. Protect himself of his property, or his
18 house something like that.

19 Q. But you didn't put that part in your
20 report.

21 A. Probably not.

22 Q. Just the part about protecting yourself.

23 A. Probably so.

24 Q. And he admitted to you, I'm the one. It's
25 me. I'm the one you're looking for.

Corporal Jerry Kelly-Cross by Cooke

1 A. Correct. Because I didn't have an idea of
2 which one it was.

3 Q. So he never left the scene.

4 A. No.

5 Q. Even though he knew that 911 had been
6 called, and police were on the way.

7 A. I'm assuming he was waiting.

8 Q. But he told you, I'm the one, I am the
9 one you are looking for.

10 A. Yes, ma'am.

11 Q. And you stated that you asked him you
12 could call us.

13 A. Correct.

14 Q. But you had no way of knowing at that time
15 whether or not he had attempted to call or looked
16 for a phone or anything of that nature.

17 A. I did not.

18 Q. And Jeffrey Andrews asked you, you know,
19 is he gone. He asked about the condition of
20 Shamar. Is he gone. He wanted to know what was
21 going on with him, what had happened to him.

22 A. He did.

23 Q. Now do you remember Erika telling you on
24 the scene that Shamar was shot inside the house?

25 A. No, ma'am.

Corporal Jerry Kelly-Redirect by Meadors

1 Q. You don't remember that?

2 A. No, ma'am.

3 MS. COOKE: Those are all the questions
4 that I have, Your Honor.

5 THE COURT: Any redirect?

6 MR. MEADORS: Very briefly. Just directly
7 in response to her questions regarding your report.

8 Redirect Examination by Mr. Meadors:

9 Q. So your first conversation he didn't
10 mention anything about a struggle. He just
11 mentioned the bottle.

12 A. Correct.

13 Q. And she asked you about him saying, when
14 you tell a man to leave your home and they don't,
15 you have a right to protect yourself.

16 A. Correct.

17 Q. And you put that in your report, right?

18 A. I put that in there.

19 Q. And did he say anything else? Did he say
20 anything else about, about Shamar busting down the
21 door and coming in?

22 A. No, sir.

23 Q. Didn't say anything about that?

24 A. No, sir.

25 Q. And you're the first person on the scene?

Corporal Jerry Kelly-Redirect by Meadors

1 A. Correct.

2 Q. And did he say any -- did he say, I had to
3 protect myself?

4 A. No, sir.

5 Q. Did he say I was in fear for my life?

6 A. No, sir.

7 Q. And you were the first person to talk to
8 him from law enforcement?

9 A. Correct.

10 Q. And he appeared calm?

11 A. Very calm.

12 Q. Did he take you to a door and show you a
13 door that had been damaged or anything?

14 A. No, sir.

15 MR. MEADORS: That's all. Thank you.

16 THE COURT: Any recross based on his
17 redirect?

18 MS. COOKE: No further questions, Your
19 Honor.

20 THE COURT: You may step down.

21 MS. COOKE: May we approach before the
22 next witness.

23 (Whereupon, the attorneys approach and
24 confer with judge.)

25 THE COURT: Ladies and gentlemen, you are

Shirlene Skipper-Direct by Mathews

1 going to get tired of hearing me say this, but
2 please do not discuss anything about the case while
3 you're back there. We'll give you about a 10-minute
4 recess. If you need to smoke, somebody will take
5 you down where you can smoke. Thank you, Ladies and
6 gentlemen.

7 (Whereupon, the court takes a short
8 recess.)

9 THE COURT: Let's bring our jury in.

10 (Whereupon, the following takes place in
11 the presence of the jury.)

12 THE COURT: Is the State ready to call
13 their next witness.

14 MR. MATHEWS: Judge, the State calls
15 Shirlene Skipper.

16 THE BAILIFF: Please state your full name
17 and spell your last name for the record?

18 A. Shirlene Skipper. S-K-I-P-P-E-R.

19 DIRECT EXAMINATION by Mr. Meadors:

20 Q. Good morning, Ms. Skipper, can you tell
21 the jury a little about yourself and what you do
22 for a living?

23 A. I'm from Sumter. I'm a 911 director for
24 Arkansas Data Dispatch Center, which does fire,
25 EMS sheriff's department and police department.

Shirlene Skipper-Direct by Mathews

1 Q. And how long have you been doing that
2 particular job?

3 A. I was hired as a 911 operator in 1977.
4 This will be my 38th year.

5 Q. So you have been doing it for a while now.

6 A. A long time.

7 Q. What are your duties currently in your
8 current position.

9 A. I'm the director of a staff of 28, 911
10 operators.

11 Q. And when a call comes in to 911, does that
12 call get recorded or memorialized in any way?

13 A. Yes, everything is recorded.

14 Q. And tell us, explain that process and how
15 that works.

16 A. From the minute that operator takes her
17 phone off of the hook, whether she's answered it
18 or not, the minute it comes off the hook, it's
19 recorded.

20 Q. And if you were to take a -- how would you
21 take a recording from that data base and put it on
22 a compact disk or USB device?

23 A. We have a server that records 144
24 different channels, to include all of our
25 detective's lines, the 911 lines, or

Shirlene Skipper-Direct by Mathews

1 administrative lines, our radio traffic. I burn
2 that on to a CD disk.

3 Q. Now are you the one that burns these
4 disks?

5 A. Yes.

6 Q. All of them?

7 A. Yes.

8 Q. And do you recall being asked to burn a
9 disk or complete a disk in relation to a shooting
10 at . . . Street on March 25th 2014?

11 A. Yes, sir.

12 Q. And tell us approximately what time that
13 call came in.

14 A. According to CAD, which is our computer
15 aided dispatch, 22:28, which is 10:28 p.m.

16 Q. And what location was that coming from?

17 A.

18 Q. And is that location here in Sumter
19 County?

20 A. Yes, it's located in the county.

21 Q. And did you produce a copy of that
22 recording?

23 A. Yes.

24 Q. Would you recognize a copy of that
25 recording if you saw it here today?

Shirlene Skipper-Direct by Mathews

1 A. Yes, I sign all my work.

2 MR. MATHEWS: Your Honor, I am having this
3 marked State's No. 18.

4 (Tape of 911 call marked State's Exhibit
5 No. 18 for Id.)

6 Q. Ms. Skipper, would you tell us what this
7 item is that I am holding?

8 A. It's copy of the 911 tape, and I labeled
9 it with a case number and indicated that it was
10 telephone.

11 Q. And is that a fair and accurate copy of
12 the tape as you've last seen it?

13 A. Yes.

14 Q. And is that your signature on it?

15 A. Yes, it is.

16 MR. MATHEWS: Your Honor, at this time the
17 State moves to enter State's 18 into evidence.

18 THE COURT: Any objection?

19 MS. COOKE: Renew my objection under Rule
20 403 and improper bolstering, Your Honor.

21 THE COURT: And I'll rule it as
22 admissible.

23 MR. MATHEWS: Thank you, Ms. Skipper.

24 (911 tape marked as State's Exhibit No.
25 18 into evidence.)

Kimberly Graham-Direct by Meadors

1 THE COURT: Any cross examination?

2 MS. COOKE: No, Your honor.

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

4 MR. MEADORS: Your Honor, the State would
5 now call Kim Graham.

6 Kimberly A. Graham, being first
7 duly sworn, testified as follows:

8 THE BAILIFF: State your full name and
9 spell your last name for the record.

10 A. Kimberly A. Graham. G-R-A-H-A-M.

11 Direct Examination by Mr. Meadors:

12 Q. Good afternoon, Ms. Graham. Would you
13 please tell Ladies and gentlemen of the jury about
14 Kim Graham. Specifically, where you're from, your
15 background, your training, and in particular, your
16 training in the field of emergency medicine, or
17 EMS. Emergency Medical Services.

18 A. I graduated in 91. Obtained my basic EMT
19 in 92. I started a career in EMS with Sumter
20 County in 1992. Received my paramedic in 1998.
21 Also certified in Hazmat, CPR, ACOS and pediatric
22 trauma life support.

23 Q. Now do you go straight to a paramedic, or
24 is there something else you do before that in
25 emergency medical services?

Kimberly Graham-Direct by Meadors

1 A. You have to become certified as a basic
2 EMT.

3 Q. And what does that entail?

4 A. That entails learning how to take vital
5 signs and bandage wounds.

6 Q. And does an EMT ride along with a
7 paramedic in every unit?

8 A. Normally.

9 Q. After you have your EMT, you can go on and
10 become a paramedic.

11 A. Yes, sir.

12 Q. What is that training?

13 A. Paramedic takes you right at a year. You
14 learn pharmacology, which is the AOS drugs you
15 give for a cardiac patient. You start IV's. You
16 can shock a patient who is not breathing, who has
17 no heartbeat. You can intubate them, which is
18 sticking the tube down their throat.

19 Q. So is the paramedic in charge when you get
20 to a scene?

21 A. Yes, sir.

22 Q. And the EMT is there to assist.

23 A. Yes, sir.

24 Q. And how many scenes have you -- how long
25 have you been doing this?

Kimberly Graham-Direct by Meadors

1 A. Since 92.

2 Q. How many scenes of emergencies like
3 gunshots or other traumatic wrecks or whatever,
4 have you responded to?

5 A. Thousands.

6 Q. And what's your job when you respond? I
7 mean, what do you do? I know it sounds like a
8 basic question, but what do you do when you get
9 there?

10 A. We triage. We find the most critical
11 patient. We begin life saving advances to that
12 person.

13 MR. MEADORS: Your Honor, we would offer
14 Kim Graham as an expert in the field of emergency
15 medical services.

16 THE COURT: Any objection?

17 MS. COOKE: No, Your Honor.

18 THE COURT: Ladies and gentlemen of jury,
19 normally a witness may only testify as to what
20 they've seen, heard, smelled, tasted or felt.
21 However when somebody has an extraordinary amount of
22 education and experience, they can testify to
23 opinions and conclusions. Now whether or not you
24 want to except her opinions or conclusions, will be
25 up be up to you. And, Ladies and gentlemen, you

Kimberly Graham-Direct by Meadors

1 should not give her testimony any greater weight
2 simply because she's an expert. But I do deem her
3 an expert in emergency medical services. And you
4 may proceed to question her under those rules.

5 Q. Ms. Graham, what time did you respond to
6 ?

7 A. It was toned out to us at 22:29. We
8 arrived on scene at 22:35.

9 Q. So what time is that?

10 A. 6 minutes.

11 Q. Yeah, it's a great response. But what
12 time is that 22, that's military time.

13 A. Oh, I'm sorry. That's 10:00 o'clock.

14 Q. And did you know, you were toned out.
15 That's means, did you know what you were going to?

16 A. Yes, sir. We were toned out to respond to
17 along with the sheriff's department
18 to a gunshot wound.

19 Q. When you first arrive at a scene, would
20 you go up to a location before law enforcement?

21 A. No, sir.

22 Q. And why is that?

23 A. We wait until law enforcement clears the
24 scene to make sure that they have -- if it's a
25 shooting, to make sure they have the shooter. If

Kimberly Graham-Direct by Meadors

1 it's a stabbing, to make sure that they have the
2 person that stabbed them.

3 Q. And that's protocol.

4 A. Protocol.

5 Q. You all just don't go before law
6 enforcement is there.

7 A. Yes, sir.

8 Q. And when you got to Ms. Kim
9 Graham, what did you observe?

10 A. As we were pulling up, I noticed an
11 officer had a subject. He was placing him in the
12 back of his patrol car. It appeared that the
13 subject was already in handcuffs. We pulled
14 around the patrol cars. As I was opening the
15 door, I heard a female screaming and just yelling.
16 Got out of the truck, grabbed my crayate monitor;
17 noticed a black male who was laying on his back on
18 the porch.

19 Q. And was anybody -- did anybody appear to
20 be near, the woman you were screaming -- you heard
21 screaming, where was she?

22 A. She had -- was laying on top of him. She
23 actually had her head on his stomach.

24 Q. I'm going to show you what's been entered
25 as State's 6. And do you recognize that?

Kimberly Graham-Direct by Meadors

1 A. That is the front porch where the victim
2 was at. And the blood stain is where his head was
3 located.

4 Q. And you said also there was a female out
5 there on the porch.

6 A. Yes, sir.

7 Q. And was that the female you'd heard
8 screaming or appeared to be?

9 A. Yes, sir.

10 Q. And did you hear what she was saying?

11 A. She was screaming, he shot him. He shot
12 him. He killed him. At this time we were trying
13 to get her off of the male patient, so that we
14 could see what was going on with him. And she
15 just kept screaming, he shot him. He killed him.
16 I said, who shot him. She said that man. I said
17 what man. And she pointed towards the patrol car.

18 Q. Was that the car you had seen -- the same
19 car you had seen somebody put in?

20 A. Yes, sir.

21 Q. Being put in. Was the woman taken away
22 from the body so you could look at it?

23 A. An officer did come out of the house and
24 get her into the house, and close the door.

25 Q. So you could look at him.

Kimberly Graham-Direct by Meadors

1 A. Yes, sir.

2 Q. Please tell these folks when you're
3 looking at the body of Shamar Howell, what did you
4 observe first, and what did you do?

5 A. As I stated, he was laying on his back on
6 the porch. He had a gunshot wound above his right
7 eye. We noted brain matter and skull that was
8 showing. It was the actively bleeding. He was
9 unconscious, unresponsive. That means he's not
10 able to talk. He had no pulses, no radial pulses.
11 He had a very faint, weak carotid pulse. The
12 carotid pulse is the last pulse to go. My
13 supervisor at that time pulled up, we put him on a
14 back board, and we moved to the unit.

15 At which time, we lost the pulse. We
16 started CPR. Suctioned him, his mouth out. Put an
17 IO, which is a needle in his leg, that we could
18 administer drugs. But due to the fact that he had
19 an injury incompatible with life, we made the
20 decision to call the ER doctor, and the ER doctor
21 granted us permission to stop resuscitation.

22 Q. And did you have to do that once you all
23 had started resuscitation? Do you all have to
24 call an ER doctor?

25 A. We have to call the ER physician and let

Kimberly Graham-Direct by Meadors

1 him know what we have. And he can either grant us
2 permission to stop, or if he feels that he can do
3 something for that patient, we continue on and go
4 to the ER.

5 Q. You basically tell him, doctor, we've done
6 all we can do.

7 A. Yes, sir.

8 Q. And what was the time of death that you
9 reported?

10 A. 22:48 or 10:48.

11 Q. And that was determined after you talked
12 with the doctor and y'all were in the EMS.

13 A. Yes, sir.

14 Q. You mentioned the carotid artery. And you
15 may have generally said this, but you said that's
16 the last pulse to go?

17 A. Yes, sir.

18 Q. And excuse me if I'm being ridiculous, but
19 I mean could he have talked?

20 A. No, sir. When he was shot, the amount of
21 force that it takes to go through and fracture the
22 skull and then go through the brain, my opinion
23 is whenever he was shot, he dropped.

24 Q. And that's based on you looking at this
25 head and the injuries to his brain. And do you

Kimberly Graham-Direct by Meadors

1 describe those injuries in your report?

2 A. Yes, sir. He was noted to have a gunshot
3 wound above his right eye, with skull and brain
4 matter noted. Crepitus was noted around the
5 wound. The back of the patient's head is noted to
6 be mushy and pupils are nonreactive.

7 Q. And would the back of the head being
8 mushy, be consistent with hitting the concrete?
9 Or how would you get that, or is that from the
10 bullet?

11 A. It could be from the concrete. It could
12 also be from the bullet going through.

13 Q. So based on your observation of the body,
14 and your observation of the injury, where was he
15 when he got shot?

16 A. He was standing on the porch.

17 Q. Outside?

18 MS. COOKE: Your Honor, I am going to
19 object to that. Even as an expert, as an EMT, I
20 don't think she's qualified with crime scene
21 reconstruction work.

22 THE COURT: I think based upon her
23 testimony that was not objected, that he dropped
24 right there. I think she can say where he dropped.
25 Overruled.

Kimberly Graham-Cross by Cooke

1 Q. So when his brain was -- head was hit,
2 your testimony is he would have dropped?

3 A. Yes, sir.

4 Q. Now did you know any of these parties
5 involved?

6 A. No, sir.

7 MR. MEADORS: Judge, that's all I have.

8 Thank you, Ms. Graham.

9 THE COURT: Ms. Cooke, cross examination.

10 Cross Examination by Ms. Cooke:

11 Q. Now the bullet actually didn't go through
12 his brain and come out this other side of his
13 head. It was stuck in his brain in this case,
14 correct?

15 A. That I do not know what the autopsy
16 stated. We did not see an exit wound.

17 MS. COOKE: Your Honor, based on the fact
18 that I have Ms. Graham under subpoena, and she said
19 she is willing to come back for testimony under my
20 case, I don't have any further questions for her at
21 this time.

22 THE COURT: Any redirect?

23 MR. MEADORS: No, sir.

24 THE COURT: Thank you. You're still under
25 subpoena.

Kimberly Graham-Cross by Cooke

1 MR. MEADORS: Can we approach.

2 THE COURT: You may.

3 (Whereupon, attorneys approach and confer
4 with judge.)

5 THE COURT: Ladies and gentlemen, after
6 conferring with the attorneys now seems to be a good
7 time to break for lunch. So I am going to send you
8 to lunch. Don't eat a big lunch otherwise you'll be
9 sleepy this afternoon. And we don't want that to
10 happen, because it's very important that you listen
11 to this testimony as you are this morning. Be back
12 here at just a few minutes before 2 p.m. so that we
13 can start the testimony at two.

14 Please don't discuss the case among
15 yourselves. Have a nice lunch.

16 (Whereupon, Jury goes to lunch at
17 12:26 p.m.)

18 (Whereupon, the following takes place
19 outside the presence of the jury.)

20 MR. MATHEWS: Judge, we have the firearm.

21 THE COURT: Is that the gun?

22 MR. MATHEWS: That's the gun. And we need
23 to, I think the witness that's going to enter this
24 gun, he might be the best person to take it out and
25 make sure it has a gun lock on it for safety for

Kimberly Graham-Cross by Cooke

1 everybody in the courtroom. And he's sitting
2 outside Captain Burnish. So if we could have come
3 in and look at it.

4 THE COURT: I mean, have you all looked at
5 it?

6 MR. MATHEWS: We haven't opened it, no.

7 MR. MEADORS: We've seen pictures. But I
8 am, my next witness is, I'm going to show it to her.
9 So I don't know if we'll just -- we need to get that
10 done right now.

11 THE COURT: Let's make it safe. Courtroom
12 safe.

13 MR. MEADORS: Judge, while we're waiting
14 on that, I think the other, my next witness will be
15 Erika Andrews.

16 THE COURT: Right.

17 MR. MEADORS: We have reviewed her prior
18 record. There is nothing that we think is
19 impeachable. There is one offense from another
20 state which Mr. Mathews is researching. It only
21 carries a year, not greater than a year. So I do
22 not believe this is anything impeachable.

23 THE COURT: Do you agree with that,
24 Ms. Cooke?

25 MS. COOKE: I believe, so Your Honor.

Erika Andrews-Direct by Meadors

1 MR. MEADORS: Mr. Mathews is going online
2 and check that, Your Honor.

3 THE COURT: Okay. Let's bring our jury
4 in.

5 (Whereupon, the following takes place in
6 the presence of the jury.)

7 THE COURT: The State ready for your next
8 witness.

9 MR. MEADORS: Yes, sir, Your Honor.

10 THE COURT: You may call your next
11 witness.

12 MR. MEADORS: The State would call Erika
13 Andrews.

14 Erika Andrews, being first duly sworn,
15 testified as follows:

16 THE BAILIFF: Please state your full name
17 and spell your last name for the record.

18 A. Erika Andrews. A-N-D-R-E-W-S.

19 Direct Examination BY Mr. Meadors:

20 Q. Good afternoon, Ms. Andrews.

21 A. Good afternoon.

22 Q. Would you please tell these the ladies and
23 gentlemen of this jury about yourself;

24 specifically, where you were born, where you were
25 raised, your different places you lived? Before

Erika Andrews-Direct by Meadors

1 we do that, the victim Shamar Howell, was your
2 what?

3 A. My boyfriend.

4 Q. Did you all have a child together?

5 A. Yes.

6 Q. And the defendant Jeffrey Dana Andrews, is
7 your what?

8 A. Second cousin.

9 Q. Where were you born?

10 A. Naples, Italy.

11 Q. Please speak up if you can. So...

12 A. Naples, Italy.

13 Q. And when was that?

14 A.

15 Q. . And why were you born in Naples?

16 A. My father was stationed in Sigonella.

17 Q. And he was career military.

18 A. Yes.

19 Q. Did you move around a fair amount growing
20 up?

21 A. Yes, I did.

22 Q. Can you tell these folks where you lived?

23 A. I've lived in Italy, Japan, Virginia, Guam
24 and Bahrain.

25 Q. Where was the last one?

Erika Andrews-Direct by Meadors

- 1 A. Bahrain.
- 2 Q. And when you were in these different
- 3 locations when your family was in the military,
- 4 did you go to schools wherever you were located?
- 5 A. Yes.
- 6 Q. And where did you go to high school?
- 7 A. In Japan. That's where I met Shamar.
- 8 Q. And what was the name of that high school
- 9 in Japan?
- 10 A. Yokota High School.
- 11 Q. And did you finish high school there?
- 12 A. Yes, I did.
- 13 Q. What year?
- 14 A. 2006.
- 15 Q. And you said that's where you meet Shamar.
- 16 A. Yes.
- 17 Q. So you met Shamar in Japan.
- 18 A. Yes.
- 19 Q. And you all went to the same high school.
- 20 A. Yes.
- 21 Q. What was your relationship like then?
- 22 A. We were friends. We were cosher.
- 23 Q. You were what?
- 24 A. We were friends. We were cosher. We
- 25 spoke.

Erika Andrews-Direct by Meadors

1 Q. Were you all like kind of sweet on each
2 other then?

3 A. Yes, sir.

4 Q. How long were you all together to Japan?

5 A. We weren't really together.

6 Q. And I didn't mean that. But I mean how
7 long were you both there at that same school
8 together?

9 A. Two years.

10 Q. After that, where did you go?

11 A. After I left Japan?

12 Q. Yes, ma'am.

13 A. I went to South Carolina State for a year,
14 and then I moved back to Japan.

15 Q. And when you went back to Japan then, how
16 old were you?

17 A. 18.

18 Q. And you still were staying at home?

19 A. Yes.

20 Q. And what were you doing then?

21 A. Substitute teaching, and I was a special
22 education preparer professional.

23 Q. And how long did that last?

24 A. Until 2010. February 2010.

25 Q. And then where did you go?

Erika Andrews-Direct by Meadors

- 1 A. To Texas. I got married.
- 2 Q. And did you have a child of marriage?
- 3 A. Yes.
- 4 Q. And that marriage didn't last long.
- 5 A. At all.
- 6 Q. What were you doing in Texas?
- 7 A. Nothing.
- 8 Q. So you got married, and went to Texas
- 9 because your husband did.
- 10 A. Yes.
- 11 Q. And what did you do after that? Or after
- 12 that marriage?
- 13 A. I came back to South Carolina and that's
- 14 when I decided to go in the military, into the
- 15 Navy.
- 16 Q. And what year was that?
- 17 A. 2010.
- 18 Q. And when you came back to South Carolina,
- 19 where did you come? Did you have a place you came
- 20 back to?
- 21 A. My grandmother's house on South Main.
- 22 Q. And you said that was 2010?
- 23 A. Yes. June of 2010.
- 24 Q. June of 2010.
- 25 A. And then I went in the Navy in June of

Erika Andrews-Direct by Meadors

1 2011.

2 Q. And you had one child.

3 A. Yes.

4 Q. And where did you go in the Navy?

5 A. To the Great Lakes is where I went to boot

6 camp. Then my A school was in Mississippi. My

7 first duty station was in Valley, Nevada.

8 Q. And what did you do in the military?

9 A. I was Aviation Maintenance Administration
10 Unit.

11 Q. And had Shamar come back into your life at
12 this point?

13 A. Yes.

14 Q. Can -- where did you see Shamar again?

15 A. I actually picked him up on my way from
16 South Carolina to Nevada, in Arkansas.

17 Q. And as a result of that did you all -- had
18 you all stayed in touch over the years?

19 A. Of course, yes.

20 Q. So you picked him up where?

21 A. In Arkansas.

22 Q. And did a relationship then really?

23 A. Yes.

24 Q. You all began a relationship.

25 A. Yes.

Erika Andrews-Direct by Meadors

- 1 Q. And where were you living then?
- 2 A. In Nevada.
- 3 Q. And this is 2011?
- 4 A. Yes.
- 5 Q. And how long did you---
- 6 A. No, this is was in the beginning of 2012.
- 7 January of 2012.
- 8 Q. And you're in Nevada.
- 9 A. Yes.
- 10 Q. And he's Nevada. Shamar with you.
- 11 A. Yes.
- 12 Q. And you're still in the military.
- 13 A. Yes.
- 14 Q. And how long did you stay in the military?
- 15 A. A year.
- 16 Q. Tell it all. I mean you got out of the
- 17 military.
- 18 A. Uh-huh. (Affirmative.)
- 19 Q. Say yes or no.
- 20 A. Yes, I did.
- 21 Q. Tell them why?
- 22 A. Because I was smoking marijuana.
- 23 Q. And that's how you got out of the
- 24 military.
- 25 A. Yes.

Erika Andrews-Direct by Meadors

1 Q. And what did you do after that?

2 A. I came back to South Carolina.

3 Q. And did Shamar come with you?

4 A. Yes.

5 Q. Where did you come?

6 A. And then we went to---

7 Q. Wait a minute now. So you came by
8 yourself to start with?

9 A. Yes.

10 Q. Where did you go?

11 A. To my grandmother's house.

12 Q. And what did you do when you come back to
13 Sumter?

14 A. When I came back to Sumter I was working
15 at a -- and then I wasn't working. I wasn't
16 working then.

17 Q. Did you start working at like fast food
18 restaurants?

19 A. I was working at McDonald's when me and
20 Shamar moved back, after I had my son.

21 Q. And when did you have your son with
22 Shamar?

23 A. October 25th 2012.

24 Q. And I'm so sorry, but where were you
25 living then when you had your son?

Erika Andrews-Direct by Meadors

- 1 A. Texas.
- 2 Q. After that, you came back with your son?
- 3 A. Yes.
- 4 Q. South Main.
- 5 A. Yes.
- 6 Q. And then Shamar came later.
- 7 A. Yes.
- 8 Q. When did Shamar come?
- 9 A. In August.
- 10 Q. Of?
- 11 A. Of 2012.
- 12 Q. Say it one more time? I'm sorry.
- 13 A. 2012.
- 14 Q. And then what were you doing? Job wise.
- 15 A. Oh, I was working at McDonald's.
- 16 Q. Which one?
- 17 A. On 15.
- 18 Q. And how long did you do that?
- 19 A. Until about 2 months before Shamar died.
- 20 Q. Where were you and Shamar living in Sumter
- 21 now that you're back?
- 22 A. , at my uncle Robert's
- 23 house.
- 24 Q. And you say your uncle Robert. What is
- 25 uncle Robert's last name?

Erika Andrews-Direct by Meadors

1 A. Andrews.

2 Q. Is uncle Robert Andrews kin to Jeffrey
3 Dana Andrews?

4 A. Yes, that's his father.

5 Q. So Robert Andrews you call uncle.

6 A. Uh-huh. (Affirmative.)

7 Q. Is the defendant's daddy.

8 A. Yes.

9 Q. How far is -- and they live at what
10 ? What's the address?

11 A. .

12 Q. And you lived at what?

13 A. .

14 Q. And what's between and ?

15 A. A lot.

16 Q. Not a lot -- you mean a lot.

17 A. The lot. Like a lot.

18 Q. A lot. So no houses.

19 A. Right.

20 Q. Tell these folks now, and when did you
21 move in to ?

22 A. October.

23 Q. Of?

24 A. 2013.

25 Q. And how many times did you and or Shamar

Erika Andrews-Direct by Meadors

1 go down ?

2 A. Frequently.

3 Q. Would it be unusual to go down there?

4 A. No.

5 Q. For what reason?

6 A. To go check on my uncle. Sometimes Jeff
7 was over there drinking.

8 Q. Would you go over there and drink some?

9 A. Yes.

10 Q. Shamar drink some?

11 A. Yes.

12 Q. So it would it have been unusual for you
13 to visit each other just socializing.

14 A. No, not at all.

15 Q. Are you family?

16 A. Yes, we are.

17 Q. Well on March 25th 2014, do you remember
18 that day?

19 A. Yes.

20 Q. Can you tell the jury what you remember
21 prior to this? Can you remember what you did
22 earlier in the day?

23 A. Earlier that day my friend Stacy was at my
24 house with me and Shamar. And him and Shamar were
25 playing 2K; playing basketball on the play

Erika Andrews-Direct by Meadors

1 station. And then Jeff came over with Virlyn,
2 Vermell.

3 Q. Mr. Gardner?

4 A. Yes.

5 Q. Did you really know Mr. Gardner?

6 A. Not for real, real.

7 Q. Had you see him over?

8 A. That was just Jeff's friend.

9 Q. And you'd seen him over at Robert and
10 Jeffrey's place on occasion?

11 A. Yes.

12 Q. Go ahead. You said they came over?

13 A. Uh-huh. (Affirmative.) And that's when
14 Jeff accused me and Shamar of stealing a jug of
15 liquor.

16 Q. And what time of day was this?

17 A. Maybe 5.

18 Q. Did the defendant Jeffrey Andrews appear
19 to be upset?

20 A. Yes. He was upset about his jug of liquor
21 being missing. And he was saying, you all took my
22 jug of liquor. Like me and Shamar told him, no,
23 we didn't take your jug of liquor. We haven't
24 seen your jug of liquor.

25 Q. And had y'all -- had you or Shamar washed

Erika Andrews-Direct by Meadors

1 clothes at Mr. Robert Andrews and the defendant
2 Jeffrey Andrews house?

3 A. Yes. The washing machine and the dryer
4 are on the back porch.

5 Q. Had you all done that that day?

6 A. Yes, I was washed clothes.

7 Q. So the defendant accused you of stealing
8 jug of liquor that was on the porch?

9 A. I don't know where it was. I still -- it
10 was on the porch?

11 Q. I'm asking. Did he accuse you?

12 A. Yeah.

13 Q. Did you steal a jug of liquor?

14 A. No.

15 Q. Did Shamar as far as you know?

16 A. No.

17 Q. Did you tell the defendant no, we didn't
18 steal your jug of liquor?

19 A. Yes.

20 Q. What happened after that?

21 A. After that Jeff and Virlyn.

22 Q. That's Mr. Gardner.

23 A. Yes. Mr. Gardner left. Then my brother
24 came up and picked up Stacy. And then Shamar
25 walked down the street to Bryan's house, and I

Erika Andrews-Direct by Meadors

1 stayed at home.

2 Q. And these other people you named, weren't
3 involved in or were not present at
4 later, correct?

5 A. No.

6 Q. Ms. Bryan and all these.

7 A. No. About an hour, 2 hours---

8 Q. What did you do then?

9 A. I was just laying down watching TV.

10 Q. Go ahead an hour or two what?

11 A. Well maybe an hour, hour and a half, 2
12 hours later, Jeff came over; like he was about to
13 go get some beer. Come over. So I was like,
14 okay. I'll come over. I went over to his house.
15 Well I went over to my uncle's house, and then we
16 walked across the street to Young's.

17 Q. And that's the same as Jeffrey's house,
18 right?

19 A. Yes.

20 Q. Is that what you're saying, you went over
21 to Mr. Robert Andrews.

22 A. Yes.

23 Q. After Jeffrey.

24 A. I went over to his dad's house.

25 Q. And Jeffrey Andrews said come on over?

Erika Andrews-Direct by Meadors

1 A. Yes. Then me and Jeff walked to Young's,
2 got a 12 pack of budweiser in the bottle. And
3 then we walked back to the house, and we drank. I
4 drank a beer. And then he asked me where Shamar
5 was. I was like, he might still be at Bryan's
6 house, or he might be at home. I can go see. So
7 I went back to my house, and I went and got
8 Shamar. I told Shamar Jeff wanted to see him. He
9 got some beer. It was like, okay, I don't really
10 want to go, but I'll go. I was like, maybe he's
11 trying to apologize for accusing us of stealing
12 his liquor. Obviously that was not the case.

13 Q. Just answer the question, please. Did he
14 go with you then?

15 A. Yes.

16 Q. Shamar went with you then?

17 A. Yes.

18 Q. And you went back to where?

19 A. To

20 MR. MEADORS: Judge, I just have a few
21 brief questions to show her on this, if you will
22 allow her to come down.

23 THE COURT: Yeah, certainly. Be sure to
24 speak up when you go down.

25 (Whereupon, the witness steps down from

Erika Andrews-Direct by Meadors

1 the witness stand.)

2 MR. MEADORS: And I have shown these to
3 Ms. Cooke.

4 THE COURT: Do you have any objection, Ms.
5 Cooke?

6 MS. COOKE: No, Your Honor.

7 Mr. MEADORS: State's 19 and State's 20
8 without objection.
9 (Diagrams marked State's Exhibit Nos. 19
10 and 20 into evidence.)

11 Q. If you will come over here so you can face
12 the court reporter and please speak up, because
13 she's got down everything you say please.

14 A. Yes, sir.

15 Q. Now State's 19, do you recognize this as
16 an aerial view of your house and uncle Robert's
17 and...

18 A. This is my uncle Robert's house, and this
19 is the trailer that we were living in.

20 Q. So that's

21 A. Yes.

22 Q.

23 A. Correct.

24 Q. Sumter County.

25 A. Correct.

Erika Andrews-Direct by Meadors

1 Q. And 20?

2 A. This is our house, and that Robert's
3 house.

4 Q. Now you testified that Jeffrey and
5 Mr. Gardner came over to your house to start with?

6 A. Yes, they knocked on this door.

7 Q. On that door?

8 A. Uh-huh. (Affirmative.)

9 Q. And then later on you went to your uncle
10 Robert's house.

11 A. Yes.

12 Q. And where did you Jeffrey, or you the
13 defendant Jeffrey Andrews go to get the beer, when
14 he came and said, let's go get some beer?

15 A. You can't see Young's off of this picture,
16 but Young's is right over here.

17 Q. Is that kind of the parking lot that's
18 over this way?

19 A. Yes.

20 Q. So you and the defendant walked to
21 Young's.

22 A. Yes.

23 Q. Anything happen during that---

24 A. No.

25 Q. --trip?

Erika Andrews-Direct by Meadors

1 A. No.

2 Q. And then you went back to uncle Robert's
3 and Jeffrey's house?

4 A. Yes.

5 MS. COOKE: Your Honor, I am just going to
6 object to leading.

7 THE COURT: Yeah.

8 MR. MEADORS: Your Honor, we're just kind
9 of---

10 THE COURT: All right.

11 Q. What did you do next?

12 A. Went back to the house, sat down and
13 drank. After -- we drank -- maybe I drank one
14 beer. And then Jeff asked me where Shamar was,
15 and told me to go get him. So I went and got
16 Shamar from the house. Then Shamar came back over
17 to the house. And Jeff asked him if he wanted a
18 beer, and Shamar said no.

19 Q. Now you can take a seat back.

20 (Whereupon, the witness resumes the
21 witness stand.)

22 Q. So had you been at Jeffrey's house for a
23 period of time, drinking alcohol before, and I'm
24 not telling you whether you have or haven't.

25 A. Yes.

Erika Andrews-Direct by Meadors

1 Q. Before Shamar got back.

2 A. Yes.

3 Q. What time of day is it now? Not now, but
4 then when you are back there, what time of day was
5 it?

6 A. It might have been like about 9.

7 Q. How long were you there before Shamar got
8 there the last time?

9 A. We weren't there long. Maybe 10, 15
10 minutes.

11 Q. And what was going on inside
12 then? Who all was inside?

13 A. My uncle Robert, Jeffrey, Virlyn and
14 myself.

15 Q. And where you all sitting?

16 A. Me and Virlyn were sitting on the couch by
17 the curio.

18 Q. What's a curio?

19 A. The little, you know, where you put little
20 sculptures and pictures at.

21 Q. I'm going to show you State's 10. Can you
22 show me where you just said where everybody was
23 sitting?

24 A. I was sitting right here. Virlyn is
25 sitting right there. My uncle Robert was still

Erika Andrews-Direct by Meadors

1 sitting right there. And Jeffrey was just walking
2 around roaming. And Shamar was sitting against --
3 standing up against the TV. Leaning up against
4 the TV right there.

5 Q. Let me ask you then, how did Shamar get in
6 ?

7 A. He was invited in.

8 Q. By who?

9 A. My uncle.

10 Q. How did he physically get in the house?

11 A. He walked in the door.

12 Q. Anybody stop him?

13 A. No.

14 Q. Was he welcome when he got inside?

15 A. Yes.

16 Q. Did anybody offer him a beer?

17 A. Jeffrey offered him a beer.

18 Q. Did he have a beer?

19 A. No, he didn't.

20 Q. Will you tell the ladies and gentlemen of
21 this jury about -- now love Shamar.

22 A. Of course.

23 Q. And your baby was? How old is your baby
24 now?

25 A. Two.

Erika Andrews-Direct by Meadors

1 Q. Tell them about his condition, as far as,
2 his hips, his body. What was his?

3 A. He was in a bad car accident. He drove a
4 Grand Prix under an 18 wheeler back in 2010. 2010
5 or 2009, I am not really sure.

6 Q. And did he -- what happened to his body as
7 a result of that?

8 A. His hip was broke, and he didn't have any
9 insurance to get his hip fixed after he got out of
10 the military.

11 Q. And so as a result of that did...

12 A. He walked with a limp. And sometimes he
13 couldn't sit or stand for long periods of time.
14 He'd rather stand up then sit down most of the
15 time..

16 Q. Did he have trouble getting about?

17 A. Yes.

18 Q. Was he running then?

19 A. No.

20 Q. Jogging?

21 A. No.

22 Q. Ms. Andrews, you were inside
23 did and I'm not suggesting or leading whether it
24 did or not, did the issue of the stolen liquor
25 come up again?

Erika Andrews-Direct by Meadors

1 A. Yes, it did.

2 Q. Tell the jury how that happened.

3 A. Jeffrey started talking to Shamar like
4 everything was okay. And then all of a sudden he
5 brings up well, somebody stole my jug of liquor.
6 Shamar was like, man, I didn't steal it. And I'm
7 looking at Jeffrey, we did not take your liquor.
8 We don't know what you're talking about. Jeffrey
9 said, somebody took it. And Jeffrey gets real
10 loud. That's when uncle Robert just kicks
11 everybody out. Everybody get out of my house.

12 Q. Was Jeffrey Andrews upset about the
13 liquor?

14 A. Yes.

15 Q. Was he yelling?

16 A. Yes.

17 Q. Was Shamar yelling?

18 A. Not, no.

19 Q. Were you yelling?

20 A. No, I wasn't even yelling.

21 Q. Did you all continue to deny that you had
22 taken the liquor?

23 A. I still do to this day.

24 Q. And I was just asking you about then. Did
25 Shamar deny taking it?

Erika Andrews-Direct by Meadors

1 A. Yes.

2 Q. And at some point you said what did
3 Mr. Andrews say?

4 A. He said well somebody took my jug of
5 liquor.

6 Q. And---

7 A. Are you talking about my uncle Robert?

8 Q. I was. I was not very clear, I'm sorry.

9 A. I'm sorry.

10 Q. That's my fault. Go ahead.

11 A. He told -- Jeffrey was getting so loud
12 that he just wanted everybody to leave his house.

13 Q. And what happened?

14 A. Shamar was walking out the door, and
15 Jeffrey was behind him. I was getting up because
16 Shamar told me to come on.

17 Q. Because Shamar told you to what?

18 A. Come on.

19 Q. Are you leaving?

20 A. Yes.

21 Q. What was Shamar doing?

22 A. He was already -- he was leaving too. He
23 was walking out of the door.

24 Q. So who went out first?

25 A. Shamar.

Erika Andrews-Direct by Meadors

1 Q. Who went out second?

2 A. Jeffrey, and then me.

3 Q. Had Jeffrey stayed in this room the whole
4 time you were in there, this State's 10?

5 A. No, he had walked in to my uncle Robert's
6 room.

7 Q. And when was that during all of this that
8 he walked into your uncle Robert's room?

9 A. Right before uncle Robert decided to kick
10 everybody out.

11 Q. And do you know why is he was in there?

12 A. No.

13 Q. How long after he came out of that room
14 that uncle Robert said leave?

15 A. 30 seconds.

16 Q. Where were you on State's 10 when you say
17 that Shamar was leaving?

18 A. I was right there getting up. When I
19 heard the gunshot, I was right here by the Curio.

20 Q. Is that the Curio you are talking about
21 right here?

22 A. Yes.

23 Q. That's something that puts pictures on it.

24 A. Yes. When I heard the gunshot, I was
25 right there by the Curio, and that's when I ran

Erika Andrews-Direct by Meadors

1 out the door. The door is right next to this
2 wooden chair right there.

3 Q. You heard the gunshot and what?

4 A. And ran out the door. And that's when I
5 see Jeffrey holding up the gun and Shamar is
6 laying on the floor.

7 Q. State's 21 premarked. Prior to the
8 gunshot, did Shamar have anything in his hand?

9 A. Shamar didn't have anything in is hands.
10 His hands were actually in his pockets when he was
11 leaning up against TV before he started walking
12 out.

13 Q. Did he have a gun?

14 A. No.

15 Q. brass knuckles?

16 A. No.

17 Q. Had he in your presence, been threatening
18 to the defendant?

19 A. No.

20 Q. Had he cursed at him?

21 A. No.

22 Q. Had he threatened to do bodily to harm to
23 him?

24 A. No.

25 Q. Had you threatened to do bodily harm to

Erika Andrews-Direct by Meadors

1 him?

2 A. No.

3 Q. When you hear the gunshot.

4 A. Yes.

5 Q. You said you were how far from the door?

6 A. Right there by the Curio. Maybe from

7 right here to right there.

8 Q. Right here to right here?

9 A. Uh-huh. (Affirmative.)

10 Q. Say yes or no, please. I'm sorry

11 A. Yes.

12 Q. Is that a matter of a few feet?

13 A. Yes.

14 Q. What is the next thing you saw?

15 A. When I get in the doorway, I see Jeffrey
16 holding up the gun.

17 Q. Show me how you saw him? And how far?

18 A. If you are me. You be me in the doorway.

19 This is what you see.

20 Q. So I am you?

21 A. Uh-huh. (Affirmative.)

22 Q. And you heard the shot, and then you

23 looked in the door and that's what you saw?

24 A. Yes. And Shamar is on the floor.

25 Q. When you're looking at his arm, and that's

Erika Andrews-Direct by Meadors

1 Jeffrey---

2 A. Yes.

3 Q. ---Dana Andrews arm?

4 A. Yes.

5 Q. Did you see him with the gun out pointed?

6 A. Yes.

7 Q. Where was Shamar then?

8 A. On the ground.

9 Q. On the ground?

10 A. Yes..

11 Q. I show you what's marked State's Exhibit.

12 No. 21, do you recognize this?

13 A. That's my uncle Robert's gun.

14 Q. Your Honor, I believe, is this the gun you

15 saw Jeffrey Andrews Dana Andrews pointing at---

16 A. Yes.

17 Q. ---Shamar? In the direction Shamar?

18 A. Yes.

19 MR. MEADORS: Your Honor, we would offer

20 that without objection.

21 THE COURT: Any objection?

22 MS. COOKE: No, Your Honor.

23 THE COURT: Without objection State

24 Exhibit 21 is admitted.

25 (32 pistol marked State's Exhibit No. 21

Erika Andrews-Direct by Meadors

1 into evidence.)

2 Q. And I am going to point with away from
3 everybody obviously, Your Honor. But your
4 testimony is that he was holding the gun out like
5 that?

6 A. Yes.

7 Q. And you saw that.

8 A. Yes.

9 Q. And that was how long after you heard the
10 shot?

11 A. Maybe 5 seconds. It didn't took him long
12 to get to the door.

13 Q. What did you do?

14 A. I said Jeffrey why did you shoot him.
15 Then I ran in the house to get the phone, and I
16 called 911. And I went to give Shamar CPR as best
17 I could..

18 Q. Is this your 911 tape? You called 911?

19 A. Yes.

20 MS. COOKE: Your Honor, I just renew my
21 objection for the record.

22 THE COURT: Sustained. Or objection
23 overruled.

24 (Whereupon, playing State's 18, the 911
25 call.)

Erika Andrews-Direct by Meadors

1 Q. Was that you?

2 A. Yes.

3 Q. Did the defendant ever come out on the
4 porch?

5 A. Yes.

6 Q. After he had shot Shamar?

7 A. He went back in the house.

8 Q. Did he come back on the porch and come to
9 where you were?

10 A. He was trying to touch Shamar, so I
11 punched him in the face a few times.

12 Q. You hit the defendant in the face?

13 A. A few times.

14 Q. Is that we hear on the 911 tape?

15 A. Yes.

16 Q. Were you hitting him then?

17 A. Yes.

18 Q. Where were you hitting him?

19 A. In the face.

20 Q. Were you an -- were you to mad?

21 A. I was livid.

22 Q. And did the defendant say anything about
23 the hole in Shamar's head?

24 A. He said, first that was before I even
25 called 911.

Erika Andrews-Direct by Meadors

1 Q. What did he say?

2 A. He said he had got bit by a mosquito.

3 Q. Where did you get the phone from the 911?

4 A. In the house.

5 Q. Did you try to do CPR on Shamar?

6 A. Yes.

7 Q. Did you give him mouth to mouth?

8 A. Yes.

9 Q. And do you remember the police officer and
10 or the EMS folks got there?

11 A. Yes.

12 Q. Were you able to stay on his body or did
13 someone make you?

14 A. They made me move. They said I had to
15 move so they could help.

16 Q. Was the victim inside or outside when he
17 got shot?

18 A. Outside of the house on the porch.

19 Q. And where was he going?

20 A. He was going home.

21 Q. Did you ever see him with anything in his
22 hand, Shamar, in his hand trying to threaten
23 Jeffrey?

24 A. No.

25 Q. And inside the door when you all were

Erika Andrews-Direct by Meadors

1 leaving was, State's Exhibit No. 1, do you
2 recognize that picture?

3 A. Yeah, that's the front door.

4 Q. And what type of door is there? Like if I
5 am going up to 12 right now, what type of door is
6 there?

7 A. The screen door. Well it's not even a
8 screen door. It's like a glass door. And then
9 the wood door.

10 Q. And that night when you were there, what
11 door was?

12 A. The screen door was closed.

13 Q. Just the screen door?

14 A. Uh-huh. (Affirmative.)

15 Q. How many times -- well how many times did
16 Sham -- before he died, how many times had he come
17 into house and left? Shamar.

18 A. When that night?

19 Q. Yes.

20 A. None. Just one. He came in once, and he
21 got shot trying to leave.

22 Q. So that was the only time he came in
23 there.

24 A. Yes.

25 Q. Now you said he was at somebody's house

Erika Andrews-Direct by Meadors

1 earlier.

2 A. Bryan.

3 Q. That's a friend of his.

4 A. Yeah.

5 Q. Had he been drinking over there?

6 A. He must have been, yeah.

7 Q. And you were drinking?

8 A. Yeah.

9 Q. Jeffrey Dana Andrews, was he drinking?

10 A. Yes.

11 Q. Mr. Robert Andrews, your uncle, was he
12 drinking?

13 A. No.

14 Q. How about Gardner, Mr. Gardner?

15 A. Yes.

16 Q. And there's a picture in here of budweiser
17 bottles, is that what everybody was drinking
18 except Shamar, you said.

19 A. Yes.

20 Q. And there's a picture of a bud bottle on
21 State's No. 6 on the porch.

22 A. Uh-huh. (Affirmative.) That's mine.

23 Q. How did that get there?

24 A. When I came out of the house after Jeffrey
25 shot Shamar in the head, I had my beer in my hand.

Erika Andrews-Direct by Meadors

1 So I put my beer down to get to Shamar.

2 Q. Did you keep getting -- did you kept
3 yelling, Jeffrey shot my boyfriend or maybe say
4 the F word and cuss?

5 A. Yes.

6 Q. Did law enforcement tell you you needed to
7 be quiet?

8 A. Numerous times.

9 Q. And were you able to control yourself?

10 A. No.

11 Q. And did they tell you they might arrest
12 you for breach of peace?

13 A. Yes.

14 Q. And did they arrest you for breach of
15 peace?

16 A. Yes.

17 Q. But you didn't care.

18 A. No. There was no peace there to breach,
19 the peace was gone.

20 Q. I beg the Court's indulgence. How many
21 times had you before been over to that house?

22 A. All my life. That was my grandfather's
23 brother's house.

24 Q. And did you tell the police what happened
25 that night?

Erika Andrews-Direct by Meadors

1 A. Yes.

2 Q. And did you give them a statement later
3 on?

4 A. Yes. He said that he didn't want to take
5 my statement right then because I was inebriated.

6 Q. But you still talked to him at the
7 station.

8 A. Yes.

9 Q. And told him what happened. What you
10 observed.

11 A. Yes.

12 Q. And then you gave him a statement later
13 on.

14 A. Yes.

15 Q. Being Wayne Dubose, for the record. You
16 gave Investigator Dubose a statement?

17 A. Yes.

18 Q. Did you threaten Jeffrey Dana Andrews?
19 Did you threaten him?

20 A. After I put my hands on him?

21 Q. No, before the shooting, I'm sorry.

22 A. No.

23 Q. Did Shamar threaten him?

24 A. No.

25 Q. Were either one of you all trying to

Erika Andrews-Direct by Meadors

- 1 attack him or come in to his house?
- 2 A. No. It wasn't his house to come into.
- 3 Q. Had you been invited in the house?
- 4 A. Yes.
- 5 Q. And who house was it?
- 6 A. My uncle's Robert.
- 7 Q. And when things got loud about the liquor
- 8 and all, what did your uncle Robert say?
- 9 A. Everybody get out, including him.
- 10 Q. And that's your family.
- 11 A. Yes.
- 12 Q. Did you -- what did Shamar do?
- 13 A. He started leaving.
- 14 Q. What did you do?
- 15 A. Started leaving.
- 16 Q. And you said everybody get out. So was---
- 17 A. He was talking to Jeffrey, Virlyn, me and
- 18 Shamar. He didn't want anybody else in his house.
- 19 Q. So Jeffrey got up to leave too.
- 20 A. I don't know what Jeffrey was doing. He
- 21 might have been trying to walk out behind Shamar,
- 22 I don't know.
- 23 Q. But he was behind Shamar. And you were
- 24 behind him.
- 25 A. Yes.

Erika Andrews-Direct by Meadors

1 Q. And how long have you heard the shot did
2 you see his arm out?

3 A. Maybe 3, 4, 5 seconds. Five at the tops.

4 Q. And did you ever see Shamar lunge at him,
5 or yell at him, or cuss at him or anything?

6 A. No, I couldn't hear anything that was
7 going on, on the porch.

8 Q. And when you left, you said there was just
9 one door, the screen door.

10 A. Yes.

11 Q. Or the glass door?

12 A. Yes.

13 Q. And is that defendant Jeffrey Dana Andrews
14 the one that you saw that shot Shamar?

15 A. Yeah, that's Jeffrey.

16 Q. When I asked you earlier a terrible
17 question, were you threatened, were you yelling at
18 him after the shot?

19 A. Yes.

20 Q. Cussing?

21 A. Yes.

22 Q. Is that your mom and dad in the back of
23 courtroom?

24 A. Yes, it is.

25 Q. I beg the court's indulgence. I am almost

Erika Andrews-Cross by Cooke

1 through. If I didn't ask you this and I'm sure I
2 didn't, I apologize. How old was Shamar?

3 A. He had just turned 24. 25.

4 Q. When was his birthday?

5 A. . He was a leap year baby.

6 Q. Would you describe him as slender? How
7 would you describe his weight?

8 A. He was small.

9 Q. How tall was he?

10 A. He wasn't big, but he wasn't little
11 either. He was average size.

12 Q. How tall was he?

13 A. 5'9.

14 Q. How -- do you know how old Mr. Andrews is?

15 Well you don't have to answer that. Never mind.

16 I think that's all I have. Thank you.

17 THE COURT: Ms. Cooke.

18 Cross Examination by Ms. Cooke:

19 Q. So you have known Shamar for a long time?

20 A. Yes.

21 Q. You have a child together?

22 A. Yes.

23 Q. You live together.

24 A. Yes.

25 Q. Now tell me one more time, you called him

Erika Andrews-Cross by Cooke

1 your boyfriend sometime during night, and your
2 husband sometime during night. Are you all
3 married?

4 A. No, we are not.

5 Q. Now you said a few minutes ago you were
6 asked whose house it was, and you said uncle
7 Robert's.

8 A. Yes.

9 Q. But earlier when Mr. Meadors was talking
10 to you, you said that Jeff came over and asked you
11 to come over to his house at
12 correct?

13 A. His father's house. You knew what I
14 meant.

15 Q. But that's not what you said. You said,
16 come over to his house.

17 A. Correct.

18 Q. And Jeffrey does live there, correct?

19 A. Incorrect. He was staying with his mom.

20 Q. Okay. So but you said to his house. Now
21 also earlier you said that Jeffrey was trying to
22 touch Shamar, so you hit him.

23 A. Yes.

24 Q. Now isn't it true that Jeffrey was trying
25 to fill for a pulse to see if he was alive, and

Erika Andrews-Cross by Cooke

1 give him CPR?

2 A. I don't care what Jeffrey was trying to
3 do, he shouldn't have put his hands on him period.

4 Q. Even to give him CPR?

5 A. Jeffrey don't know CPR.

6 Q. Jeffrey was in the military, wasn't he?

7 A. No.

8 Q. He wasn't in the military at all?

9 A. No.

10 Q. Not even a short period of time?

11 A. When was Jeffrey in the military? You
12 probably know better than me. But all my years of
13 living there, I've never known Jeffrey to be
14 nobody's military.

15 Q. You said that Shamar was small.

16 A. He was, he was average height.

17 Q. You described him as small.

18 A. I said he wasn't big. He wasn't small.

19 He was average. That's what I said.

20 Q. You said he was small. Would it surprise
21 you to know that the pathologist weighed him at
22 180 pounds?

23 A. No.

24 Q. And you described Jeffrey as shooting him
25 like this, right?

Erika Andrews-Cross by Cooke

1 A. Yes.

2 Q. With his right hand?

3 A. Uh-huh. (Affirmative.)

4 Q. Now you said earlier that Shamar was
5 outside when he got shot.

6 A. He was.

7 Q. And that you were inside by the curio when
8 you heard the shot,---

9 A. Yes.

10 Q. ---and ran out the door.

11 A. Yes.

12 Q. And saw Jeffrey holding the gun.

13 A. Yes.

14 Q. Now also when you first started answering
15 questions, you answered a question. You said that
16 you and Shamar both went back together to
17 . Do you remember that?

18 A. Yes.

19 Q. It's just a little while ago. And then a
20 short time later you stated that you, Robert, Jeff
21 and Virlyn were in the house. Virlyn and you were
22 on the couch. And then Shamar walked in. So
23 that's two inconsistent stories that you just told
24 on the stand.

25 A. Let me correct you. Can I correct you?

Erika Andrews-Cross by Cooke

1 Q. I'm just asking right now if that's what
2 you said.

3 A. I'm saying, can I correct what you're
4 saying, because you have it misconstrued.

5 Q. I'm asking you remember saying, both went
6 back together to . Do you
7 remember saying that statement?

8 A. Yes, because I went and got him.

9 Q. And then do you remember saying that
10 Robert, Jeff, Virlyn and Erika were -- and I were
11 in the house. Virlyn was on the couch and Shamar
12 walked in. Do you saying that?

13 A. No.

14 Q. You don't remember saying that.

15 A. No.

16 Q. So you -- now so you said you were inside
17 when he was shot.

18 A. Yes.

19 Q. And you didn't see the shot. And that he
20 was shot outside on the porch.

21 A. Yes.

22 Q. Do you remember giving an interview to
23 Officer Dubose on 3/26/14?

24 A. Yes.

25 Q. And do you also remember giving a written

Erika Andrews-Cross by Cooke

1 statement to Officer Mayes?

2 A. Yes.

3 Q. On April the 9th---

4 A. Yes.

5 Q. ---2014, with an attorney?

6 A. Yes.

7 Q. And do you -- you also remembered you of
8 course were on the scene of this incident when --
9 and you know that a dashcam was recording events
10 of that evening.

11 A. Of course.

12 Q. So on the dashcam, do you remember saying,
13 he got shot right here in your house, Uncle.

14 You're going to fucking lie, fucking lie, for your
15 own son. Do you remember saying that?

16 A. Yes, I do.

17 Q. Do you remember saying, shot my boyfriend
18 right here in front of you and you did nothing.
19 You sat here like a fucking stick.

20 A. Yes, I remember saying that too.

21 Q. Do you remember saying that Virlyn was in
22 the chair and Robert was on the couch?

23 A. Yes.

24 Q. And do you remember telling one of the
25 officers on the scene that Shamar was shot in the

Erika Andrews-Cross by Cooke

1 living room?

2 A. I never said that he was shot in the
3 living room.

4 Q. Now so those are several times you said
5 that he was shot in the house. And now today you
6 said that he was shot on the porch.

7 A. You can actually play the video, because
8 I'm pretty sure you can't see what motions---

9 Q. Okay.

10 A. ---I am making with my hands.

11 Q. Right not I'm just asking you some
12 questions.

13 A. Okay.

14 Q. Now when you were interviewed with Dubose
15 you said they went on the porch. I don't know. I
16 was inside. I don't know if they were arguing or
17 anything. Jeffrey shot my Shamar when I walking
18 out the screen door. Do remember saying that?

19 A. Yes.

20 Q. Do you remember saying, they walked out on
21 the porch. Shit pop off. I heard a gunshot.
22 Well I saw a gunshot..

23 A. I said I heard it. Then I said I saw it,
24 yeah.

25 Q. And do you remember Jeff went into Uncle

Erika Andrews-Cross by Cooke

1 Robert's bedroom. Came out, walked on porch where
2 Shamar was standing. You cannot hear what they
3 were talking about. They were there for 20
4 seconds. Jeff shot Shamar.

5 A. I said yes to that question.

6 Q. I haven't finished. Jeff shot Shamar, and
7 I ran to Shamar and held him.

8 A. Yes.

9 Q. So you have stated four times that he was
10 shot in the house. And you have stated three
11 times before today and several times today, that
12 he was shot on the porch? Correct?

13 A. Your question is?

14 Q. That was my question. You stated four
15 different times that he was in shot in the house
16 in different statements. And in three different
17 statements and today, you said he was shot on the
18 porch.

19 A. So your question is?

20 Q. Is that correct?

21 A. Correct.

22 Q. Now you said on the scene, Jeffrey shot my
23 boyfriend in the head. I saw it. Do you remember
24 saying that?

25 A. Yes.

Erika Andrews-Cross by Cooke

1 Q. And you said I know for a fact, I saw him
2 shoot him. Do you remember saying that?

3 A. Yes.

4 Q. Do you remember saying, and Dubose asking
5 you, you saw shoot him. And you said uh-huh.

6 (Affirmative.)

7 A. Yes.

8 Q. But today you said you heard the shot.

9 You were inside. You ran outside.

10 A. Correct.

11 Q. And you didn't see the shot. Correct?

12 A. I did not see the shot, but I saw Jeffrey
13 holding up the gun---

14 Q. After the shot.

15 A. ---and my boyfriend is laying---

16 Q. Correct?

17 A. ---on the ground with a bullet in his
18 head. I knew Jeffrey shot him in the head.

19 Q. And in the pretrial hearing you said you
20 heard the gunshot, and ran out the door and saw
21 Jeffrey holding up the gun, correct?

22 A. That's what I just said.

23 Q. So you saw -- you said three different
24 times that you saw the shot. And you said two 2
25 different times that you were inside when the

Erika Andrews-Cross by Cooke

1 gunshot happened.

2 A. Is it three times or four times?

3 Q. You three times you saw the shots. And
4 then you said three times you were inside and
5 didn't see the shot. Is that correct?

6 A. I thought you said earlier, you said it
7 was four times that I saw the shot.

8 Q. No, three times you saw the shot. And
9 then at least twice you said that you didn't see
10 the shot; that you were inside when the shot
11 happened and you just heard it, correct?

12 A. Yes. I was inside and I heard the shot.

13 Q. But do you agree to the discrepancy that
14 you told three times? You told in the statements
15 three different times that you actually saw the
16 shot. And then at other times during your
17 statements you said you were inside the house and
18 didn't see the shot, but heard it.

19 A. My written statement said what I saw. It
20 says that I heard the shot, and then I ran
21 outside.

22 Q. But you agree to the discrepancies that
23 three times you said you actually saw the
24 shooting. You actually saw Jeffrey raise the gun
25 and shoot Shamar in the head.

Erika Andrews-Cross by Cooke

1 A. I never said that I saw him raise the gun.

2 Q. You never said that. Thank you. Now
3 they're also you gave discrepancies about
4 whether---

5 MR. MEADORS: Your Honor, I am going to
6 object. She needs to ask her if she said
7 something---

8 THE COURT: Sustained.

9 MR. MEADORS: ---and then give her a
10 chance to answer it before she calls it a
11 discrepancy.

12 THE COURT: Sustained.

13 Q. Do you remember saying that just a little
14 while ago, Jeffrey came over and invited you and
15 Shamar over to the house.

16 A. Yes, but Shamar was not there.

17 Q. Now do you remember saying at the scene, I
18 came over here, and my boyfriend walked in a
19 little while later?

20 A. No, I don't remember saying that.

21 Q. Do you remember saying on the scene,
22 Jeffrey got the gun from this dresser right here?

23 A. Dresser right where? In my uncle's room?

24 Q. I don't know. You said, that's just what
25 you said.

Erika Andrews-Cross by Cooke

1 A. That's where my uncle kept his gun at, in
2 his dresser.

3 Q. Do you remember saying that to an officer,
4 Jeffrey got the gun from this dresser right here?

5 A. Yes.

6 Q. And do you remember also saying to another
7 officer, I don't know where the gun from. I
8 didn't even know he had a gun.

9 A. Jeffrey doesn't have a gun. My uncle
10 Rober has a gun.

11 Q. Do you remember saying to another officer,
12 I don't even know where the gun came from. I
13 didn't know he had a gun.

14 A. Yes.

15 Q. So you're admitting that you told dis --
16 you told one officer you didn't know anything
17 about a gun.

18 MR. MEADORS: Your Honor, I am going to
19 object to her characterization. She said he didn't
20 have a gun. Robert has a gun, but not him. That
21 is consistent as it can be.

22 THE COURT: Sustained. That's what she
23 said.

24 Q. Now you also said to Dubose, they were
25 facing each other. Jeffrey just reaches out and

Erika Andrews-Cross by Cooke

1 shoots him in the head. Do you remember telling
2 Dubose that?

3 A. No, I don't.

4 Q. Because to say that, you would have had to
5 have seen the shot, correct?

6 A. Correct.

7 Q. And do you remember telling Dubose that
8 you were going to make uncle Jeffrey pay for this?

9 A. I said I am going to testify, yes.

10 Q. Do you remember saying, I am going to make
11 him pay for it. I am going to make him pay for
12 it, twice in a row?

13 A. No, I don't. But I'm pretty sure I
14 probably did. I said a lot of stuff that night.

15 Q. And do you remember saying all the things
16 he could have done, he shouldn't have killed you.
17 He shouldn't have did that; all the things he
18 could have done.

19 A. Yes.

20 MS. COOKE: Your Honor, she is denying
21 saying several things in different statements, and
22 has in fact asked me to play the tape. I would ask
23 to introduce her statements at this time.

24 THE COURT: Are you going to need a few
25 minutes to set up?

Erika Andrews-Cross by Cooke

1 MS. COOKE: I believe the audio interview,
2 I can pop in and it will probably play. I can try
3 and see. The other one I might need a few minutes.

4 MR. MEADORS: Is she going to mark that,
5 Your Honor?

6 MS. COOKE: I will.

7 THE COURT: Defense number what?

8 THE REPORTER: 31.

9 (Tape of interview of Erika Andrews marked
10 as State's Exhibit No. 31 into evidence.)

11 MS. COOKE: I believe the State wants me
12 to play the whole tape.

13 THE COURT: Is that correct? You want to
14 go ahead and play the whole thing?

15 MS. COOKE: I believe the prosecution
16 wanted me to play the whole thing.

17 MR. MEADORS: Judge, I'm not going to tell
18 her.

19 THE COURT: I mean earlier.

20 MR. MEADORS: Yeah, but if she doesn't
21 know. We have no objection.

22 MS. COOKE: I believe it would take less
23 if we play the whole thing rather than trying to
24 stop and start it.

25 THE COURT: Why don't we take a short

Erika Andrews-Cross by Cooke

1 recess. Come back in about 10 minutes. Ladies and
2 gentlemen, please don't discuss anything while you
3 we take our recess. Thank you.

4 Ms. Andrews, you may take a break as well.
5 You can take a recess, but you cannot speak to
6 anyone. You are on the stand. You wouldn't be able
7 to talk to anybody.

8 A. Okay.

9 THE COURT: The court is in recess until
10 3:30.

11 (Whereupon, the court takes a short
12 recess.)

13 THE COURT: We are going to let Dr. Ross
14 go ahead and let her testify, and then we will bring
15 you back on the stand. So you can step down now.

16 A. Yes, sir.

17 THE COURT: And she can go back into
18 sequester. Let's bring our jury in and then I will
19 explain to them so they won't get confused.

20 (Whereupon, the following takes place
21 within the presence of the jury.)

22 THE COURT: Ladies and gentlemen, we are
23 going to do a little switch-a-roo on you. The last
24 witness who was up here, they were getting ready to
25 cross examine her, but we've got an expert who is

Dr. Janice Ross-Direct by Meadors

1 here from out of town, and we're going to allow that
2 expert to testify in full. And then we will bring
3 Ms. Andrews back on the witness stand.

4 MR. MEADORS: The State would call Dr.
5 Janice Ross.

6 Dr. Janice Ross, being first duly sworn,
7 testified as follows:

8 THE BAILIFF: State your full name and
9 spell your last name for the record.

10 A. Janice Edwards Ross. R-O-S-S,

11 Direct Examination by Mr. Meadors:

12 Q. Good afternoon, Dr. Ross.

13 A. Good afternoon.

14 Q. Tell the Ladies and gentlemen of this jury
15 about Dr. Janice Ross your background, your
16 education and your training. And in particular,
17 your training in the field of expertise that I
18 have asked you to testify about today, please.

19 A. Yes, sir. I received my bachelor's degree
20 at the University of South Carolina. And my M.D.,
21 Doctor of Medicine from upstate medical center in
22 Syracuse, New York. That's where I did further
23 training in the field of pathology as opposed to
24 surgery or pediatrics. Pathology is the study of
25 disease. We learn how to identify to diseases by

Dr. Janice Ross-Direct by Meadors

1 looking at tissue, and by using the laboratory in
2 a hospital. We also learn how to do an autopsy to
3 find a cause of death.

4 I did further training in medical
5 examiner's offices to become board certified in the
6 field of forensic pathology. The word forensic
7 means legal. We use our pathology knowledge for
8 legal matters; such as, homicides, accidents, rapes.
9 In a lot of cases it turns out to be natural deaths.
10 We do autopsies, forensic autopsies, which are
11 specific in identifying patterns of injury, and
12 collecting specimens for documentation for legal
13 purposes like for the court.

14 Q. Are you board certified?

15 A. Yes. I am board certified in three areas
16 of pathology, including forensic pathology.

17 Q. How long have you been doing this?

18 A. 38 years.

19 Q. And your office, you have your office, but
20 your real office where you do your work is where?

21 A. Newberry, South Carolina.

22 Q. And it's in the morgue?

23 A. Yes.

24 Q. And that's where?

25 A. In the hospital, Newberry County Memorial

Dr. Janice Ross-Direct by Meadors

1 Hospital.

2 Q. And at the request of the coroners, are
3 bodies brought to you for examination?

4 A. Yes.

5 Q. Dr. Ross, how many autopsies do you think
6 you have performed?

7 A. Over 8,000.

8 Q. And have you been offered as an expert in
9 courts of record of this state before in the field
10 forensic pathology?

11 A. Yes.

12 Q. And been so accepted.

13 A. Yes.

14 MR. MEADORS: Your Honor, at this time, we
15 would offer Dr. Janice Ross as an expert in the
16 field of forensic pathology.

17 THE COURT: Any objection, or would you
18 like to voir dire her?

19 MS. COOKE: No, Your Honor. No objection.

20 THE COURT: Ladies and gentlemen, like the
21 other expert we have, she will be able to give her
22 opinion. Whether or not you want to accept her
23 opinion is totally for you as jurors to determine.
24 And you do not have to give her any additional
25 weight of her testimony simply because she is an

Dr. Janice Ross-Direct by Meadors

1 expect. Give it the weight that you think is
2 appropriate. You may proceed.

3 MR. MEADORS: Thank you, sir.

4 Q. In an ideal world, where would you like to
5 first see a victim's body?

6 A. At the scene where it happened.

7 Q. And that's really not realistic and
8 doesn't happen, does it?

9 A. Correct.

10 Q. And do the law enforcement bring you
11 bodies to examine so that you can determine cause
12 of death?

13 A. Yes.

14 Q. And in this case, did you have an occasion
15 to examine the body of Shamar Howell, and perform
16 an autopsy over him?

17 A. Yes.

18 Q. And that was at the morgue in Newberry.

19 A. Correct.

20 Q. Tell the Ladies and gentlemen of the jury,
21 what you usually do, and what did you do with
22 Mr. Howell's body?

23 A. They bring the patient to us in a body
24 bag. We take photographs. We open the body bag
25 and take photographs of the body as it comes to

Dr. Janice Ross-Direct by Meadors

1 us. Take an inventory of the clothing, whatever
2 was on the body. Take the clothing off and look
3 at the external body. Take photographs. Look for
4 evidence of injuries. In this case, there was an
5 obvious gunshot wound, so we did x-rays to
6 identify any metal, lead metal, that was still in
7 the body.

8 Then we proceed with a routine autopsy
9 with particular interest in taking photographs of
10 the specific injury and the bullet.

11 Q. Let's go back. What did you find -- did
12 you find any as far as personal belongings on him?
13 And before you answer, if you'll beg the court's
14 indulgence so the court reporter can mark this
15 exhibit, please.

16 (Photograph marked State's 35 for id.)

17 Q. Okay.

18 A. He had clothing, black denim jeans, a
19 belt. One boot on his left foot. There was a
20 black hat in his pocket. He had a jacket, a navy
21 blue jacket, a cell phone, a visa card and two
22 lighters, along with a little package of green
23 leafy material.

24 Q. And, doctor, what's the first thing you
25 did with his body? You said you examined it. Do

Dr. Janice Ross-Direct by Meadors

1 you weigh it, or can you weigh a body?

2 A. We estimate the weight. We do measure the
3 height.

4 Q. So you estimate the weight.

5 A. Correct.

6 Q. So it's not really not any way to weigh a
7 body.

8 A. Not in our morgue, no.

9 Q. And what did you estimate it to be?

10 A. Approximately 180 pounds.

11 Q. And how -- what did you estimate and what
12 was his height?

13 A. His height was 6 feet.

14 Q. Now you examined the external first,
15 correct?

16 A. Yes.

17 Q. Do you take pictures of that?

18 A. Yes.

19 Q. Did you see anything consistent with a
20 defensive wound? What might be known as a
21 defensive wound in your business or my business?

22 A. No, sir. Nothing recent.

23 Q. And when you say nothing recent, did you
24 see or was there a picture of an old wound that
25 may have healed?

Dr. Janice Ross-Direct by Meadors

1 A. Yes. Defense wounds we look at any kind
2 of injury on the hands or the forearms that would
3 indicate that a person was trying to defend
4 themselves. The only thing that I saw on the back
5 of the fourth finger on the right hand was a
6 healing abrasion that was days, at least days old.

7 Q. And I am going to show you what is marked
8 State's Exhibit No. 12. Is that what you're
9 talking about?

10 A. Yes.

11 Q. And that's an abrasion on the fourth
12 finger?

13 A. Yes, on the knuckle.

14 Q. And what hand is that?

15 A. The right.

16 Q. And you're saying that was from days old.

17 A. Yes.

18 MR. MEADORS: And I believe this is
19 without objection. State's 12.

20 MS. COOKE: Without objection.

21 THE COURT: Without objection.

22 (Photograph marked State's Exhibit No. 12
23 into evidence.)

24 Q. Now you said there was a -- can you
25 describe the bullet hole?

Dr. Janice Ross-Direct by Meadors

1 A. There was an entrance bullet wound in the
2 right forehead, just above the outside edge of the
3 eyebrow. It was round and measured .22 inches in
4 diameter.

5 Q. Do you mind if I touch you, Doctor. Would
6 you get up, please. Can you show on me where the
7 entrance hole was?

8 A. Right here.

9 Q. And where did the bullet go?

10 A. It went from right to left and backwards.
11 So it went through the front lobe of the left side
12 of the brain -- I'm sorry, the front lobe of the
13 right side of the brain. And the middle lobe of
14 the left side of the brain.

15 We found the bullet in the left side of
16 the brain, in the middle part.

17 Q. And what specifically, and you can sit
18 down, Doctor, did that bullet do to Shamar's
19 brain?

20 A. It lacerated it.

21 Q. And I know what lacerated means. But what
22 does that mean when that happens? And
23 specifically here, what did it mean to his body?
24 What happened to his body when that happened?

25 A. Well it causes an increased pressure

Dr. Janice Ross-Direct by Meadors

1 inside the skull. The brain is in a closed space
2 inside the skull and cannot tolerate any extra
3 volume. When it does, then a person becomes
4 unconscious immediately.

5 Q. And what would his body have done once the
6 bullet did that damage to his brain? What would
7 have happened to his body?

8 A. Well when you become unconscientious, you
9 lose control of your muscles, so he would
10 collapse.

11 Q. Fall down.

12 A. Yes.

13 MR. MEADORS: Your Honor, State's 35
14 without objection.

15 THE COURT: Without objection?

16 MS. COOKE: Without objection.

17 (Photograph of bullet marked State's 35
18 for evidence.)

19 Q. What's 35?

20 A. This is a bullet, and well a little
21 fragment of a bullet that we retrieved from the
22 brain tissue of Shamar Howell at the autopsy.

23 Q. I'm showing you what's marked State's 23,
24 do you recognize that?

25 A. Yes, that is that bullet. And the little

Dr. Janice Ross-Direct by Meadors

1 envelope that we put it in, that's labeled and
2 initialed.

3 Q. So this bullet came from Shamar's head.

4 A. Correct.

5 Q. And you retrieved it.

6 A. Yes.

7 Q. And what did you do with it?

8 A. We sealed it, photographed it, and gave it
9 to the investigator there to take to sled.

10 Q. And as far as you know, would that be Jim
11 Atkinson with the Sumter County Sheriff's
12 Department.

13 A. Jim Atkinson, yes.

14 MR. MEADORS: Your Honor, State's 23.

15 THE COURT: Without objection, State's 23.

16 (Bullet marked State's Exhibit No. 23 for
17 evidence.)

18 Q. Did you get anything else from Shamar?

19 A. We always take blood samples; including,
20 what we call a DNA card, which is blood that is
21 dried on a card that can be saved for DNA
22 purposes.

23 Q. And State's 22, is that the card with the
24 blood or the DNA card of the victim Shamar Howell?

25 A. The card would be inside the brown

Dr. Janice Ross-Direct by Meadors

1 envelope.

2 Q. And what did you do with this, after you
3 collected it?

4 A. That went with the investigator.

5 Q. Jim Atkinson.

6 A. Yes.

7 MR. MEADORS: And that's State's 22 I
8 believe without objection.

9 MS. COOKE: Without objection.

10 THE COURT: Without objection.

11 (DNA card marked State's No. 22 into
12 evidence.)

13 Q. This is State's 36. Can you describe
14 bullet hole, if you will. Does that depict the
15 bullet hole of the victim Shamar Howell?

16 A. Yes, and the hair that is underneath is
17 the right eyebrow.

18 Q. And had it been cleaned at that point? Do
19 you call clean the body after you make your
20 initial observations?

21 A. Yes.

22 Q. So this was after Mr. Howle's body had
23 been cleaned?

24 A. Yes.

25 Q. And by clean, your actually wash it down,

Dr. Janice Ross-Direct by Meadors.

1 don't you?

2 A. Yes.

3 Q. And, Doctor, you have been around a long
4 time. And I mean that in the most respectful way
5 possible. I really do. Are you familiar with
6 stippling?

7 A. Yes.

8 Q. Tell the Ladies and gentlemen of this
9 jury, what is that?

10 A. When a bullet comes out of a gun so does
11 soot and powder. The soot and powder only go a
12 certain distance depending on the type of gun and
13 the caliber, et cetera. But if you see soot or
14 stippling on the skin around the entrance wound
15 where the bullet went in, then you can get an idea
16 of how far the gun was from the skin. In this
17 case there was no stippling and no soot. So in
18 general, that means that the end of the barrel of
19 the gun was at least 2 feet away from the skin.

20 Q. Or more.

21 A. Or more.

22 Q. So not to point at you, but if this was
23 the gun, it would be, you're saying the end of the
24 gun would have been 2 feet or more from the
25 victim?

Dr. Janice Ross-Direct by Meadors

1 A. Correct.

2 Q. And I believe as a part of your duties and
3 the State's agreed to stipulate to the toxicology,
4 as far alcohol, do you have that?

5 A. Yes.

6 Q. Of the victim, excuse me.

7 A. The toxicology on the victim of course
8 went to sled. And the report back from sled was
9 his blood alcohol was I believe, let me make sure,
10 .123 percent.

11 Q. And, Dr. Ross, and for the record, do you
12 have an opinion to a reasonable degree of medical
13 certainty as to the cause of death to Shamar
14 Howell?

15 A. Yes.

16 Q. Would you please tell, Ladies and
17 gentlemen what that is?

18 A. It would be laceration of the brain due to
19 the gunshot wound to the head.

20 Q. I know you said that he would have
21 collapsed, but how long would he have lived?

22 A. He could have lived a few minutes. But he
23 would be unconscious immediately.

24 MR. MEADORS: Thank you. That's all.

25 THE COURT: Any cross examination?

Dr. Janice Ross-Cross by Cooke

1 MS. COOKE: Yes, Your Honor.

2 Cross Examination by Ms. Cooke:

3 Q. Dr. Ross, thank you for coming back. You
4 stated your examinations are for law enforcement
5 purposes.

6 A. Yes.

7 Q. And knowing that you would probably have
8 to testify.

9 A. Yes.

10 Q. Am I correct in characterizing your
11 testimony earlier, you did find any defensive
12 wounds on him?

13 A. That's correct.

14 Q. And you found the bullet in the brain. It
15 did not go through the brain or exit the head, is
16 that correct?

17 A. It was in the brain, yes.

18 Q. And the 2 feet that the barrel would have
19 to be away from the skin because of the lack of
20 soot, stippling or tattooing, that's a minimum
21 distance, correct?

22 A. It's going to vary within a couple of
23 inches. To really get an exact distance, you
24 would have to test fire the exact gun with the
25 exact ammunition.

Dr. Janice Ross-Cross by Cooke

1 Q. And to your knowledge that wasn't done in
2 this case, correct?

3 A. Correct.

4 Q. And if -- so the barrel was at least
5 2 feet away from the skin. If the shooter or in
6 this case, Mr. Andrews' arm was extended, then
7 that would put Shamar Howell even further from
8 Jeffrey Andrews.

9 A. Correct. We're talking about the end of
10 the barrel of the gun.

11 Q. And you usually call that a distance
12 wound, is that correct?

13 A. Yes.

14 Q. And I know Mr. Meadors asked you about the
15 BAC level. Did you also find
16 tetrahydrocannabinol, or also known marijuana in
17 Shamar Howell's system?

18 A. Yes.

19 Q. And just one more question. As a
20 hypothetical question since you've been qualified
21 as an expert, if Shamar was entering the house and
22 saw Jeffrey with a gun, and began to back up
23 because of seeing that gun, and simultaneously
24 turn away from Jeffrey as he shot him, that would
25 be consistent with him falling backwards on the

Dr. Janice Ross-Redirect by Meadors

1 porch from the initial inertia of his beginning to
2 back up, correct?

3 A. If he had significant inertia, in other
4 words, you were going in one direction, you might
5 fall that way, yes.

6 Q. And if he were doing that, under the same
7 hypothetical if he was backing up due to the
8 seeing the gun and turning, that would explain the
9 location of the wound on his eyebrow. Where it
10 was on his eyebrow, correct?

11 A. The direction of the bullet, the bullet
12 goes straight. And my findings don't exactly tell
13 me the positions of the shooter and the victim.

14 MS. COOKE: Those are all the questions I
15 have, Your Honor.

16 THE COURT: Any redirect?

17 MR. MEADORS: Very brief.

18 Redirect Examination by Mr. Meadors:

19 Q. A bullet goes straight.

20 A. Correct.

21 Q. Correct? So if I'm straight like this and
22 we're looking at each other, the bullet would go
23 right here.

24 A. Correct.

25 Q. If I'm look away from you and you're

Dr. Janice Ross-Redirect by Meadors

1 there, the bullet would go here, correct?

2 A. Correct.

3 Q. If it was shot straight right here. And
4 if Shamar is leaving like this, leaving, and looks
5 back and gets shot, that would be consistent with
6 your findings, wouldn't it?

7 A. Yes.

8 MR. MEADORS: Thank you.

9 THE COURT: Any recross based on his
10 redirect?

11 MS. COOKE: No, Your Honor.

12 THE COURT: Thank you. You may step down.
13 Any objection to Dr. Ross being excused?

14 MR. MEADORS: We would please ask.

15 MS. COOKE: No, Your Honor.

16 THE COURT: Thank you, Dr. Ross. Have a
17 safe trip back to Newberry.

18 THE COURT: Let's bring Ms. Andrews back
19 for cross examination.

20 Erika Andrews, being previously
21 sworn, retakes the witness stand.

22 THE COURT: Ms. Cooke, you may resume your
23 cross examination.

24 Cross Examination by Ms. Cooke:

25 MS. COOKE: Your Honor, we had it working

Dr. Janice Ross-Redirect by Meadors

1 when we decided to change witnesses.

2 THE COURT: Something about when the jury
3 comes, technical things quit working. Is there a
4 video with this?

5 MS. COOKE: Yes, there is. And it is not
6 starting. IT said they would rush, come back over
7 if I texted them. If I can have a couple of minutes
8 to set this up.

9 THE COURT: I will go ahead and give you
10 all another break. If you will go back. Thank you.
11 Ladies and gentlemen, please don't discuss anything
12 about the case while you're back there.

13 (Whereupon, the following takes place
14 outside the presence of the jury.).

15 THE COURT: The court will be in recess
16 for 10 more minutes. Let's get them over here and
17 get it taken care of.

18 (Whereupon, the court takes a short
19 recess.)

20 MS. COOKE: This video is approximately 15
21 minutes. We can play The whole interview portion
22 of it.

23 THE COURT: Have you all?

24 MR. MATHEWS: Well I think we're almost in
25 agreement on it. I think what we should play is

Dr. Janice Ross-Redirect by Meadors

1 only up until the interview. The interaction
2 between Investigator Dubose and Erika Andrews ends.
3 Because the rest of video which is a good 30
4 minutes, is Ms. Andrews sobbing and crying. And I
5 don't think there is any need for the jury to see
6 that. Ms. Cooke says there is a statement about
7 making the defendant pay there where she is sobbing
8 herself.

9 THE COURT: I think she's already admitted
10 that on the stand. So I don't know that you need to
11 have that, because she admitted that she was upset.

12 MR. MATHEWS: That would be the State's
13 position, Your Honor. That we only play the
14 actually interaction between Investigator Dubose.

15 THE COURT: And I think that would be
16 reasonable.

17 MS. COOKE: Your Honor, I wrote down that
18 she denied that; that she said she didn't say that.

19 THE COURT: She said she said she could
20 have said a lot of things. She said a lot of things
21 she said she could have said.

22 MR. MEADORS: And that's not response to
23 any question. It's just her sitting in there
24 crying.

25 THE COURT: Yeah, I am going to leave that

Dr. Janice Ross-Redirect by Meadors

1 out.

2 MS. COOKE: I'll play just the interview
3 portion.

4 THE COURT: Let's bring our jury. So this
5 is about 15 minutes long?

6 MS. COOKE: No, it will be less than that,
7 Judge.

8 MR. MATHEWS: It's probably about 10
9 minutes.

10 (Whereupon, the following takes place in
11 the presence of the jury.)

12 THE COURT: Thank you. I think they have
13 got it working now so.

14 MS. COOKE: Your Honor, at this time we
15 will play the audio interview with Officer Dubose
16 and Erika Andrews.

17 (Whereupon, playing the audio interview of
18 Erika Andrews by Officer Dubose.)

19 MR. MATHEWS: Your Honor, we would move
20 the video to stop at this point. We would request
21 the video to stop at this point.

22 THE COURT: Sustained.

23 MS. COOKE: And, your Honor, at this time,
24 I just need to clarify if the State wants me to play
25 the whole dashcam or just the impeaching part.

Dr. Janice Ross-Redirect by Meadors

1 THE COURT: Did you all discuss it?

2 MR. MEADORS: I beg the court's

3 indulgence. Can we approach?

4 THE COURT: You may.

5 (Whereupon, attorneys approach and confer

6 with judge.)

7 MS. COOKE: Judge, do you want the jury

8 stay in here while I move to the...

9 THE COURT: Oh, you don't have it already
10 marked?

11 MS. COOKE: It's mark, I've just got to
12 get it to that point.

13 THE COURT: You can't do it silently?
14 Well I'll just turn yours off. Tell me when you're
15 ready.

16 MS. COOKE: Okay. Judge this is first
17 spot.

18 THE COURT: So the State has no objection
19 to just playing the whole thing.

20 MR. MEADORS: Yes, sir, that's correct.

21 (Whereupon, Playing the video.)

22 MS. COOKE: Your Honor, I just have one
23 more cross examination question.

24 Q. Earlier you stated to Mr. Meadors that you
25 had like one beer.

Erika Andrews-Redirect by Meadors

1 A. Yes.

2 Q. But officer---

3 A. I said I had one beer before I went to go
4 get Shamar.

5 Q. But Officer Dubose thought you were too
6 intoxicated to give a statement.

7 MR. MEADORS: Your Honor, I can't hear
8 Ms. Cooke.

9 THE COURT: Yeah, we need to hear your
10 questions too.

11 MS. COOKE: I apologize.

12 Q. You stated to Mr. Meadors you had one
13 beer.

14 A. Before I went to go get Shamar, correct.

15 Q. But Officer Dubose stated that you were
16 too intoxicated to take your statement that
17 evening.

18 A. Your question is?

19 Q. So how many beers did you have?

20 A. I am not sure.

21 MS. COOKE: That's all, Your Honor.

22 THE COURT: Any redirect?

23 MR. MEADORS: Very briefly.

24 Redirect Examination by Mr. Meadors:

25 Q. I think in response to earlier to one of

Erika Andrews-Redirect by Meadors

1 Mr. Cooke's questions about where the defendant
2 lived. Where did you say he lived?

3 A. At my Aunt Wendy's house.

4 Q. So was that his primary residence then?

5 A. No.

6 Q. Where did he live? Where was his primary
7 residence, as far as you know?

8 A. Where his mother lived.

9 Q. Where is that?

10 A. Somewhere off the Boulevard.

11 Q. Now I'll state the obvious, you were
12 pretty upset.

13 A. Yes.

14 Q. He got arrested.

15 A. Yes.

16 Q. When you were telling the officers it
17 happened in response to Ms. Cooke's question, you
18 said it happened right here. There's not a
19 camera inside showing you talking to the officers.

20 A. I was kind of pointing towards the door.
21 Most likely I was pointing towards the door.

22 Q. Were you trying to say it happened here
23 inside the house?

24 A. No.

25 Q. And did it happen inside the house?

Erika Andrews-Redirect by Meadors

1 A. No.

2 Q. And when you're saying Uncle Robert, I
3 believe some of that, were they looking for the
4 gun?

5 A. They're looking for the gun.

6 Q. And were you telling Uncle Robert, you
7 know where the F'ing gun is?

8 A. Yes, and some more stuff. I was mad. I
9 was livid. His son killed my father's son. I
10 mean, my kid's father, so I was mad. Everybody
11 was in my crossfire.

12 Q. And when you were telling him during that
13 emotional outburst, I guess, when you were kind of
14 just talking, you said Uncle Robert you know what
15 happened. Your F'ing son killed you right in
16 front of you, what did you mean by that?

17 A. It was right here on your property. You
18 know what happened.

19 Q. Where was---

20 A. Uncle Robert, if anybody could see Jeffrey
21 in shoot Shamar in the head, it would have been
22 Uncle Robert. But Uncle Robert is legally blind,
23 so I can't say that either.

24 Q. And why do you say that, that he would
25 have been able to see it?

Erika Andrews-Redirect by Meadors

1 A. Because of the view from where he sits at,
2 you can see out, clear out the door, all the way
3 to the other store.

4 Q. To the other what?

5 A. To the store across the street.

6 Q. This is State's No. 10. Can you show on
7 here what you're talking about?

8 A. He sits right here. The door is right
9 there. Right across from.

10 Q. And you're saying that's where you saw the
11 defendant shooting with his arms pointed out?

12 A. Yeah, that's where I saw him holding up
13 the gun.

14 Q. And that's what you're saying you meant
15 when you said uncle Robert you saw it?

16 A. Yes.

17 Q. Let me ask you, did the defendant Jeffrey
18 Dana Andrews, shoot Shamar Howell? Did he do it?

19 A. Yes.

20 Q. He shot him?

21 A. Yes.

22 Q. Did you actually see the bullet coming out
23 of the end of the barrel of the gun?

24 A. No.

25 Q. Who went out the door first?

Erika Andrews-Redirect by Meadors

1 A. Shamar.

2 Q. Who went second?

3 A. Jeffrey.

4 Q. And who going third?

5 A. Me.

6 Q. When you hear the gunshot, what do you do?

7 A. I run from right there by the Curio out
8 the door.

9 Q. And what do you see?

10 A. Jeffrey holding up the gun.

11 Q. What did you think?

12 A. Jeffrey shot Shamar.

13 Q. And in that interview, the first interview
14 I think that was played you said---

15 A. I said I heard it.

16 Q. ---I saw it. And at one point did you say
17 I heard it?

18 A. At first I said I heard. Then I say, no,
19 I saw it. When I say, no, I saw. That means I
20 seen Jeffrey holding up the gun. Not that I saw
21 the gun get fired. Because if you listen I say, I
22 heard the gunshot. Then I say I seen the gunshot.
23 You can't see a gunshot.

24 Q. But you said in there, I heard it. Then
25 you said I saw it.

Erika Andrews-Redirect by Meadors

1. A. Right.

2. Q. But did you see the defendant doing like
3 this?

4. A. Yes, I did.

5. Q. Like this?

6. A. Yes.

7. Q. Was there any damage to that door---

8. A. No.

9. Q. ---coming into the house?

10. A. It's in the video. You can see the
11 officer just open the door clear as day. Nothing
12 is broke on the door or anything.

13. Q. Did Shamar grab the door and try to come
14 in?

15. A. No. What do mean? When?

16. Q. I am just asking you a question. Did he
17 ever do that that night?

18. A. No, probably to get into the house. He
19 had to open the screen door to get in.

20. Q. I didn't mean when he first got there.
21 But later on that evening before he was shot, was
22 he coming into the house when he got shot?

23. A. No.

24. Q. Which way was he going?

25. A. He was leaving off the porch.

Erika Andrews-Recross-by Cooke

1 MR. MEADORS: I beg the court's
2 indulgence.

3 Q. I think I asked this. You hit Robert,
4 didn't you?

5 A. Yeah, a few times. I punched him. I
6 didn't slap him. I was punching him full fist.

7 MR. MEADORS: Thank you. That's all.

8 THE COURT: Any recross based on his
9 redirect?

10 MS. COOKE: Yes, Your Honor.

11 Recross Examination by Ms. Cooke:

12 Q. Now you admitted that you remembered
13 making a statement on April, I believe, that's 9th
14 of 2014. You give a statement to Trip Mays with
15 your attorney.

16 A. Yes.

17 Q. Now you just stated that Jeff lives at, I
18 didn't hear the address, but with his mother?

19 A. Yes.

20 Q. Can you read the highlighted portions of
21 this statement that you wrote?

22 A. By then Jeffrey was living there.

23 Q. Can you read the highlighted portions of
24 the statement that you wrote?

25 A. We had gone over to uncle Robert's house

Erika Andrews-Recross-by Cooke

1 located at Sumter, South
2 Carolina. Jeff, and I walked over to the Young's
3 store right across the street, and purchased a 12
4 pack of budweiser bottle going back to uncle
5 Robert's house, where Jeff also lives.

6 Q. On the day of the incident.

7 A. Uh-huh. (Affirmative.)

8 Q. On the day of the incident.

9 A. Yes, that's what it says.

10 MS. COOKE: That's all I have, Your Honor.

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

12 MR. MEADORS: Can we approach?

13 THE COURT: You may.

14 (Whereupon, the attorneys approach and
15 confer with judge.)

16 THE COURT: These attorneys being the good
17 people they are, thought you all needed to go home
18 at a reasonable time. So we are going to recess at
19 this time. Be back here at 9:30 tomorrow morning.
20 Some of you need to get of good night's rest. The
21 afternoons do get rough. So get a good night's
22 rest, and I'll see you back here at 9:30 tomorrow
23 morning. Please do not discuss the case with
24 anyone, and do not read the newspaper in the
25 morning.

Erika Andrews-Recross-by Cooke

1 (Whereupon, the Jury is dismissed at

2 5:19 p.m.)

3 THE COURT: Ms. Cooke, you had something
4 you wanted to put on the record?

5 MS. COOKE: We don't have to -- no, we
6 don't put on the record, Your Honor, I don't think.
7 Well I just want to make clear. I want to make
8 clear whether I should call Officer Dukes tomorrow,
9 because Dukes is the one that Erika said he was shot
10 inside the house to.

11 And under Rule 801(d)(1)(a) a statement is
12 not hearsay if the declarant testifies at trial and
13 subject to cross examination, and the statement is
14 inconsistent with her testimony. And also under
15 State v. Blaylock the witness did make a clear and
16 unequivocal admission to her prior statement to the
17 detective. So extrinsic evidence of the witness'
18 prior inconsistent statement was admitted.

19 So I'm just trying to clarify if I should
20 call Dukes and ask him if Erika told him.

21 THE COURT: You choose which witnesses you
22 want to call. I am the judge. I don't tell you how
23 to do your case.

24 MS. COOKE: That's the only question I am
25 going to ask him.

Erika Andrews-Recross-by Cooke

1 THE COURT: Then that's up to you to call
2 him or not. I mean not unless they will stipulate
3 as to what he would testify to.

4 MS. COOKE: Okay. But so I was just
5 trying to clarify if it admissible or not under the
6 Blaylock in the rule. Because if it's not---

7 THE COURT: I mean it's clear she's
8 already stated it on the record. They allowed
9 that part to come in. I don't know what it would
10 add by having Dukes say the same thing that she's
11 already said in this statement.

12 MS. COOKE: Okay.

13 MR. MEADORS: And, Judge, I'll help her
14 out, that's not Dukes. It's Self. The microphone
15 was on Self the whole time. You hear everything.
16 And that's -- you hear Self. All the conversation
17 you hear from Ms. Andrews comes from inside, Self.
18 Self is the one telling you, you need to calm down.
19 Self is the one that comes back and actually says
20 that. And then you heard that came out on tape too.
21 And Corporal Kelly said, well he told me he shot him
22 out here right after that. So both of those came
23 out at the end of the tape. We did let it in. I
24 am not sure, but I knew she wanted that in, so we
25 let it in.

Erika Andrews-Recross-by Cooke

1 THE COURT: I mean, I don't know what
2 you're trying to get in that is not already in the
3 record.

4 MS. COOKE: Then I will call Officer Dukes
5 tonight and tell him he is off the hook.

6 THE COURT: That is up to you. I mean you
7 all don't have him under subpoena, do you?

8 MR. MEADORS: No, sir. I'm not saying she
9 shouldn't call him. I am not saying.

10 THE COURT: I mean we're not advising you,
11 Ms. Cooke.

12 MS. COOKE: I understand.

13 THE COURT: You have your own defense to
14 prepare.

15 MS. COOKE: I understand.

16 THE COURT: And so if that's -- if you
17 want to do that, you can do that.

18 MS. COOKE: I am going to let him off the
19 hook. I'm not going to call him. And just -- I
20 just need to know if the State is going to call
21 Whitney Berry or if I need to call her and tell her
22 to be here.

23 MR. MEADORS: She's going to be here.

24 THE COURT: So tomorrow morning we are
25 going go have Burnish and the sled.

Erika Andrews-Recross-by Cooke

1 MR. MATHEWS: And maybe a full chain
2 witnesses. But actually most of the items that
3 really require a chain, got in through either
4 Dr. Ross or various other witnesses.

5 THE COURT: I mean do you have any major
6 problems on with the chain of custody on most of
7 these small items?

8 MS. COOKE: No, Your Honor. I just have
9 to protect the record. I am not even going to ask
10 any cross examination questions that I can't
11 stipulate.

12 THE COURT: So it would highly likely that
13 you would be starting your case tomorrow afternoon,
14 is that correct?

15 MS. COOKE: Yes, I believe we discussed
16 telling my witnesses to be here---

17 THE COURT: Two o'clock.

18 MS. COOKE: ---at 2 o'clock.

19 THE COURT: Whatever time we break, we
20 break. And plan on being back here tomorrow at
21 noon. And we'll start your case at two.

22 MR. MEADORS: Thank you.

23 MS. COOKE: Thank you, Your Honor.

24 (Whereupon, the trial commences on
25 Thursday, July 23, 2015 at 10 a.m.)

Erika Andrews-Recross-by Cooke

1 THE COURT: Anything we need to bring
2 up before we?

3 MS. COOKE: Your Honor, The only thing is
4 that Ms. Held (sic) advised me that I failed to mark
5 defense exhibit -- failed to mark the dashcam video.

6 THE COURT: You mean, Ms. Sullivan?

7 MS. COOKE: Ms. Sullivan advised me that I
8 failed to mark the dashcam video yesterday, and I
9 just need to get enter these into evidence.

10 THE COURT: Well certainly. They're in.
11 And they have asked that they be placed in.
12 Obviously without objection.

13 (Dashcam and photo of porch marked
14 Defendant's Exhibit No. 31 and 32 marked into
15 evidence.)

16 THE COURT: You may bring the jury.

17 (Whereupon, the following takes place
18 within the presence of the jury.)

19 THE COURT: Good morning, Ladies and
20 gentlemen. I hope you had a good night's rest. And
21 I think we're going to try to finish, just so you
22 all have a time line. I think the goal is to try to
23 finish all the testimony today, so that we can argue
24 and charge tomorrow and give you all, all the time
25 you need to deliberate, if necessary. Anything from

Captain Burnish-Direct by Mathews

1 the State or defense before we call our next
2 witness?

3 MR. MATHEWS: None from the State, Your
4 Honor.

5 MS. COOKE: I beg the court's indulgence
6 for one moment.

7 THE COURT: Okay.

8 MS. COOKE: Nothing from the defense, Your
9 Honor.

10 THE COURT: Very good. The State may its
11 next witness.

12 MR. MATHEWS: Judge, the State calls
13 Captain Burnish.

14 Captain Robert Burnish, being first
15 duly sworn, testified as follows:

16 THE BAILIFF: Please state your full name
17 and spell your last name for the record.

18 A. My name is Robert Burnish. B-U-R-N-I-S-H.

19 Direct Examination by Mr. Mathews:

20 Q. Captain Burnish, can you tell the jury a
21 little bit about yourself, where you're from, and
22 what you do?

23 A. I've been in Sumter since 1980. I work
24 with the sheriff's office. I've been there for
25 23 years. I'm currently a captain over the

Captain Burnish-Direct by Mathews

1 criminal investigations and the narcotic's
2 investigations unit.

3 Q. And you said you've been working, how long
4 have you been working at the sheriffs' office?

5 A. 23 years.

6 Q. And what's your current position?

7 A. I'm with the captain over criminal
8 investigations and the narcotic's investigations
9 unit.

10 Q. And were you working with the sheriff's
11 department on March 25th 2014?

12 A. Yes, I was.

13 Q. And were you involved in an investigation
14 related to a shooting at ?

15 A. Yes, I was.

16 Q. Tell the jury a little bit about your
17 involvement and when you first got involved in
18 that case?

19 A. I was notified after it happen -- after
20 the incident occurred, the -- I don't remember who
21 remember who called me at the time. But I was
22 called and I responded. As being me head over the
23 criminal investigation's unit, that was part of my
24 duty to respond to any major crimes whether I'm on
25 call or not. And I went there and helped to

Captain Burnish-Direct by Mathews

1 oversee the investigation.

2 Q. And as part of overseeing the
3 investigations, did you have the opportunity to
4 observe the crime scene and what it looked like?

5 A. Yes, I did.

6 Q. And were photographs taken of that crime
7 scene?

8 A. Yes, there was.

9 Q. Would you recognize those photographs if
10 you saw them here today?

11 A. Yes, I would.

12 MR. MATHEWS: Your Honor, I'm showing
13 Ms. Cooke what's perviously been marked for
14 identification by the State. I believe it's the
15 State's, several exhibit nos.

16 THE COURT: Any objection?

17 MS. COOKE: No objection, Your Honor.

18 THE COURT: Without objection. What
19 numbers are these?

20 MR. MATHEWS: Your Honor, we have State's
21 5, State's 3, 4, 7, 8, 9, 11, 15, 27, 26, 25, and
22 24.

23 THE COURT: All without objection.

24 (Photographs marked State's Exhibit Nos.
25 3-5, 7-9, 11, 15, 24-27 into evidence.)

Captain Burnish-Direct by Mathews

1 Q. Captain Burnish, I am going to show you,
2 start out with a few pictures here. Tell us
3 please, what these items depict.

4 A. These two pictures are roughly the same
5 area of the front porch. This one is before the
6 markings. And what I refer to are markings as
7 No. 2 and No. 3. The porch, that would be the
8 mailbox cover with what appears to bloodstains on
9 it. And I guess this is a leg of a piece of
10 furniture. And again this is the same picture.
11 The only difference is No. 2 and No. 3 markings on
12 them.

13 Q. I'm next going to show you what's been
14 entered as State's 4 and State's No. 8. Can you
15 tell us, tell the jury what these items depict?

16 A. Yes, this is the same area of the front
17 porch only from a different angle. Again you'll
18 see markings No. 2 and No. 3. And on this angle
19 you'll see a budweiser beer bottle and still the
20 leg and the mailbox cover. This picture was also
21 from the front porch only from a different side.
22 Here it has the telephone on the floor. And there
23 is a cigarette butt here, and there is a chair
24 over here in this corner.

25 Q. And finally State's Exhibit No. 15 and

Captain Burnish-Direct by Mathews

1 State's No. 9 also the front porch. Can you tell
2 the jury about those photos?

3 A. Yes, again as you said, it's the front
4 porch. The same bottle, mailbox cover, the chair.
5 A bucket underneath this chair. A pack of
6 Newports. I can't tell what that is there, but it
7 is still the same front porch. Just a picture
8 just taken from a different angle.

9 This one is also on the porch with marker
10 No. 1, which is a blood stain.

11 Q. I am showing you now what has been entered
12 as State's No. 7, could you tell the jury what
13 that is?

14 A. This is the picture of the front yard, and
15 you can see the steps leading up to the porch.
16 And here is what appears to be a bottle wrapped in
17 a brown paper bag in the front yard sitting right
18 here.

19 Q. And I'm showing you State's 11 which
20 appears to be a picture of the inside. Can you
21 tell us what that is, and where that is in
22 relation to everything else?

23 A. This is a picture of the television. It's
24 in the living room up against the wall.

25 Q. I'm finally showing you three pictures,

Captain Burnish-Direct by Mathews

1 26, 25, and 24. Would you tell us about these
2 photos and which room they depict?

3 A. This is a picture of the bedroom where you
4 can see the bed here, this picture was taken from
5 the hallway looking through the doorway into the
6 bedroom.

7 Q. And is that the bedroom that's closest to
8 the door?

9 A. Yes, it is. Here we have another picture
10 of the same room, the same bed. This picture
11 actually was taken from closer standing in the
12 doorway. This picture is of the same bedroom,
13 just a different section of it, up against the
14 wall where the dresser is, with a television and
15 the mirror on the dresser, with several boxes.

16 Q. Now that dresser that's depicted in
17 State's Exhibit No. 24, is that the same dresser
18 where you eventually found the firearm that was
19 involved in this case?

20 A. Yes, it is.

21 MR. MATHEWS: Your Honor, I'm showing Ms.
22 Cooke, what is marked as State's 29, 28, 30, 31, and
23 32.

24 THE COURT: What are the numbers again?

25 MR. MATHEWS: 29 through 32.

Captain Burnish-Direct by Mathews

1 THE COURT: Any objection?

2 MS. COOKE: No objection.

3 THE COURT: Without objection State's 29
4 through 32 are admitted into evidence.

5 (Photographs marked State's Exhibit Nos.
6 29-32 into evidence.)

7 Q. Now I was asking you about the gun. Where
8 did you find the gun located?

9 A. It was in the dresser drawer.

10 Q. I'm showing you State's 31. Tell the jury
11 what that depicts.

12 A. This is the dresser drawer that's
13 partially opened from that dresser that was in
14 that last picture.

15 Q. And State's No. 32.

16 A. This is the drawer where it is fully
17 opened, and it's showing the gun that was laying
18 in the dresser, and the hand was cocked back in a
19 firing position.

20 Q. State's No. 30.

21 A. This is the same gun after it unloaded by
22 us, and showing the serial number to that same
23 gun.

24 Q. And State's No. 28.

25 A. This is a picture of the gun with the

Captain Burnish-Direct by Mathews

1 cylinder opened. And it's showing it was fully
2 loaded with one fired shell casing in it.

3 Q. And finally State's No. 29.

4 A. And this is a photo of a gun with the
5 cylinder open and unloaded. And one spent shell
6 casing and four, or excuse me, five unspent
7 rounds.

8 Q. Now the gun that's in that picture, would
9 you recognize that if you saw it here today?

10 A. Yes, sir.

11 Q. I am going to show you what's been marked
12 as State's Exhibit No. 21. Would you tell us, is
13 this the same weapon that you found that night in
14 that drawer?

15 A. Yes, it's the same weapon. The serial
16 numbers match.

17 Q. Now looking through the house and looking
18 at all the photographs that we've entered in, did
19 you ever see any blood, or notice any blood
20 anywhere in the house?

21 A. No, I did not.

22 Q. And was this house located in Sumter
23 County?

24 A. Yes, it was.

25 MR. MATHEWS: Your Honor, I am marking

Captain Burnish-Direct by Mathews

1 State's 39 and State's 40 for identification
2 purposes.

3 MS. COOKE: No objection, Your Honor.

4 THE COURT: Without objection these are 39
5 and 40.

6 (Fired cartridge and cartridge shells
7 marked State's Exhibit Nos. 39 and 40 for Id.)

8 Q. Captain Burnish, I am showing you what has
9 now been entered as State's Exhibit No. 39. Can
10 you tell us what that is.

11 A. Yes, this is a fired bullet cartridge from
12 a 32 caliber.

13 Q. Does that appear to be the same bullet
14 cartridge---

15 A. Yes.

16 Q. ---of in the same condition as you saw
17 that night?

18 A. Yes.

19 Q. And now I'm showing you State's No. 40.
20 Would you tell us what that item is?

21 A. These there 5 unfired 32 caliber round
22 bullets.

23 Q. Does that appear to the same unfired
24 bullets as you found in the gun that night?

25 A. Yes, it does.

Captain Burnish-Cross by Cooke

1 MR. MATHEWS: No further questions, Your
2 Honor.

3 THE COURT: Ms. Cooke.

4 MS. COOKE: Your Honor, these two pictures
5 of the porch may already be in evidence.

6 THE COURT: I know there's some pictures
7 of the porch in evidence.

8 MS. COOKE: I can mark these as
9 Defendant's Exhibits.

10 (Pictures marked Defendant's Exhibit Nos.
11 33 and 34 for Id. only.)

12 Cross Examination by Ms. Cooke:

13 Q. And, Officer Burnish, Defense Exhibit 33
14 and 34, can you show what these depict?

15 A. Yes. This is a picture of the residence
16 taken from the road. Of course the chain link is
17 showing more of the side the -- or the front porch
18 area and more of the residence. And again, that's
19 taken from the roadway. This one is a closer view
20 of the front porch. As you can see the walkway
21 and the hand rails.

22 MS. COOKE: Thank you. And I would just
23 would like to offer these into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. MATHEWS: No objection from the State,

Mary Ann Boehm-Direct by Mathews

1 Your Honor.

2 THE COURT: Without objection.

3 (Photographs marked Defendant's Exhibit
4 Nos. 33 and 34 into evidence.)

5 MS. COOKE: No further questions, Your
6 Honor.

7 THE COURT: Any redirect?

8 MR. MATHEWS: No redirect.

9 THE COURT: Any objection to this witness
10 being excused for the balance of the trial?

11 MR. MATHEWS: No, Your Honor.

12 MS. COOKE: No, Your Honor.

13 MR. MATHEWS: Judge, our next witness will
14 be Mary Ann Boehm.

15 Mary Ann E. Boehm, being first duly sworn,
16 testified as follows:

17 THE BAILIFF: Please state your full name
18 and spell your last name for the record.

19 A. My name is Mary Ann E. Boehm. B-O-E-H-M.

20 Direct Examination by Mr. Mathews:

21 Q. Good morning, Ms. Boehm, can you tell the
22 jury a little about yourself and what you do for a
23 living?

24 A. Yes, I am employed as a DNA case work
25 analyst at the South Carolina Law Enforcement

Mary Ann Boehm-Direct by Mathews

1 Division, commonly known as sled. I have been
2 there for approximately 9 and a half years. When
3 I first employed at sled, I was trained for
4 approximately a year on the proper techniques and
5 procedures used in our laboratory. I've also
6 attended outside training on specific
7 instrumentations and procedures used in our
8 laboratory.

9 Q. And what does a DNA case work analyst do?

10 A. We analyze evidence that is collected from
11 and dropped off at sled by local law enforcement
12 agencies around the state. We generate DNA
13 profiles from evidence and compare it to DNA
14 profiles generated from known standards.

15 Q. What kinds of education did you have to
16 undergo to become a DNA case worker?

17 A. I received a bachelor of science in
18 integrated science and technology with a
19 concentration in biotechnology from James Madison
20 University. And that was in Harrisonburg,
21 Virginia.

22 Q. And did you have any post graduate
23 education or training before you started working
24 at sled?

25 A. No, sir. I just was trained on the job.

Mary Ann Boehm-Direct by Mathews

1 Q. And do you have any certifications that
2 you hold or any continuing ed. that you have to do
3 as part of your job?

4 A. We are required to have at least 8 hours
5 of continuing education each year. That is
6 fulfilled by bringing someone in to do a group
7 training activity or attending conferences,
8 specifically in DNA forensic analysis.

9 Q. And how times, and this may seem like an
10 unfair question, but generally if you had to
11 guess, I mean how many DNA analysis do you think
12 you've done in your 9 and a half years at sled?

13 A. Approximately 10's of thousands of DNA
14 analysis.

15 Q. And have you ever testified about your
16 work in court before?

17 A. Yes, I have.

18 Q. And have you ever been offered as an
19 expert in General Sessions Court?

20 A. Yes, I have.

21 Q. How many times?

22 A. Approximately 50 times.

23 MR. MATHEWS: Your Honor, at this time,
24 the State tenders Ms. Boehm as an expert in the
25 field of DNA analysis?

Mary Ann Boehm-Direct by Mathews

1 THE COURT: Do you request voir dire her?

2 MS. COOKE: No objection.

3 THE COURT: Without objection. Ladies and
4 gentlemen, again, we have someone who is considered
5 or deemed to be an expert. And therefore, she can
6 give an opinion or a conclusion based on her
7 research. And again, if you decide that her
8 opinions are not based on sound evidence, then you
9 can disregard her testimony. But just give it the
10 weight that you think it deserves. Thank you. You
11 may proceed to question your witness.

12 Q. Ms. Boehm, just if you could, explain kind
13 of in laymen's terms, what is DNA? What is that?

14 A. Sure. DNA stands for deoxyribonucleic
15 acid. It is chemical found within all the cells
16 of our body except for red blood cells. It gives
17 us our physical features like our hair color and
18 our height. It's also important for passing along
19 traits from generation to generation. We get half
20 of our DNA from our mom and half from our father.
21 With the exception of identical twins, no two
22 individuals have the same DNA.

23 In forensic science we are interested in
24 the portions of DNA that different from between
25 individuals. We test 15 different locations. And

Mary Ann Boehm-Direct by Mathews

1 the combination of those test results make up a DNA
2 profile.

3 Q. And if you were testing a DNA profile of
4 an object from let's say a crime scene, what would
5 you go about doing? How would you begin your
6 analysis?

7 A. Well I first make sure that the items I
8 received have been secured. There is a seal.
9 There is no evidence of tampering at all. I then
10 will take a portion of that sample, and put it
11 into a tube to start DNA analysis. We extract the
12 DNA by adding a series of different chemicals and
13 using specific instruments in order to generate a,
14 DNA profile. I do the same kind of test with
15 known standards. These known standards are used
16 to compare the DNA evidence in this case. I do
17 the same series of chemicals and instruments and
18 generate a DNA profile from them. I think will
19 compare the known standard to the evidence, and
20 write a report based on my findings.

21 Q. Now, Ms. Boehm, do you recall being asked
22 to perform an analysis in this case, involving a
23 shooting that occurred at ?

24 A. Yes, I do.

25 Q. And would you recognize some of the items

Mary Ann Boehm-Direct by Mathews

1 you used in your analysis if you saw them here
2 today?

3 A. Yes, I would.

4 MR. MATHEWS: Your Honor, I am showing
5 Ms. Boehm and Ms. Cooke whats already been entered
6 as State's 22, and what's been marked for Id. as
7 State's 33 and 34.

8 THE COURT: Do you have any objection to
9 these being introduced into evidence?

10 MS. COOKE: No objection.

11 THE COURT: Without objection.

12 (Blood standard, fingernail clippings and
13 buccal swab from S.H. marked State's 22, 33-34 for
14 evidence.)

15 Q. Ms. Boehm, can you tell us these items
16 are, and how you used those in your analysis?

17 A. This is Item or sled item 6.1. This is
18 the known DNA blood standard from Shamar Howell.
19 I can identify it by the unique lab number and
20 item number that is given when it comes in the
21 door at sled. My initials and the date that I
22 open it and seal it are also on this package. And
23 my initials and the lab number are also on the
24 item itself.

25 The same thing for Item 18. This is the

Mary Ann Boehm-Direct by Mathews

1 known standard from Jeffrey Andrews. And this is
2 container D, which contained the two evidence items.
3 They are items 16 and 17. Fingernail clippings from
4 Shamar Howell's left hand and right hand.

5 Q. And what did you do specifically in this
6 analysis in comparing DNA between Shamar Howell
7 and Jeffrey Andrews?

8 A. So I generated a DNA profile from the
9 fingernail clippings. And then I also generated
10 DNA profiles from the known standards of Shamar
11 Howell and Jeffrey Andrews. I then compared the
12 known standards to the evidence, and wrote a
13 report based on my findings, whether including or
14 excluding the two known individuals from my
15 evidence.

16 Q. So were you trying to look for -- whose
17 DNA were you looking for on what item?

18 A. I don't necessarily look for certain DNA.
19 I just resolve a DNA profile. And what I get, I
20 make comparisons of what standards were submitted
21 in that case.

22 Q. Let me ask you this, in the item, I
23 believe you said it 16 and 17, did you develop a
24 DNA profile of Jeffrey Andrews on those items, or
25 was he excluded from those items?

Mary Ann Boehm-Direct by Mathews

1 A. He is excluded from both of those items.

2 Q. So just generally, what does mean?

3 A. That his DNA profile could not be found in
4 that mixture. The DNA profiles I did develop from
5 two items, were mixtures. Meaning there was DNA
6 for more than person on each item. And then I
7 make comparisons to known standards. And Jeffrey
8 Andrews can be excluded from both of those items.

9 Q. And so in other words, was Jeffrey Andrews
10 DNA on any of Shamar Howell's fingernails?

11 A. No, sir.

12 Q. Did you summarize your findings in any
13 way?

14 A. Yes, I wrote a report based on my
15 findings.

16 Q. And is it the normal practice, business
17 practice of sled to record those reports?

18 A. Yes, sir.

19 Q. Would you recognize a copy of that report
20 if you saw it?

21 A. Yes, I would.

22 MR. MATHEWS: Your Honor, I am showing you
23 what is marked as State's 37 to Ms. Cooke.

24 MS. COOKE: No objection, Your Honor.

25 THE COURT: Without objection, State's 37

Mary Ann Boehm-Direct by Mathews

1 is admitted.

2 (DNA analysis marked State's No. 37 into
3 evidence.)

4 Q. Ms. Boehm, can you tell us what that this
5 item is I'm handing you.

6 A. This is the DNA report that I issued for
7 this case.

8 Q. And you were talking about getting
9 standards from each of individual testing. You
10 got a DNA standard from Jeffrey Andrews from that
11 buccal swab?

12 A. Yes, sir.

13 Q. And you got the DNA standard of Shamar
14 Howell from where?

15 A. It was a dried blood standard.

16 Q. And then you tested for that DNA standard
17 on Shamar Howell's fingernails.

18 A. And then compare those known standards to
19 the evidence.

20 Q. And just in generally, I think you've
21 already done this. But summarize for the jury
22 what your findings were in that report.

23 A. Sure. It's a DNA profile developed from
24 Item 16, which was fingernails clippings from
25 Shamar Howell's left hand; was a mixture of at

Mary Ann Boehm-Direct by Mathews

1 least two individuals. The DNA profile of the
2 major contributor to this mixture is attributable
3 to Shamar Howell. Jeffrey Andrews can be excluded
4 as a minor contributor to this mixture.

5 Q. Now if hypothetically if someone has, if
6 someone were to scratch, you know, if you were to
7 scratch someone's face, would your DNA, would
8 their DNA necessarily be under your fingernails?

9 A. It's possible. It really depends how hard
10 they scratch the individual. If, you know, what
11 they scratch if they are collecting skin cells
12 underneath their fingernails. So it depends on
13 how many skin cells they did collect. Also if
14 they did activities like washing hands, taking a
15 shower, bathing, but could have cleaned up those
16 cells off of the fingernail clippings.

17 Q. If that same scenario if someone scratched
18 another person's face and actually broke their
19 skin or there was a cut, would you expect to find
20 DNA under the fingernails at that point?

21 A. Yes, I would.

22 Q. If -- you mentioned a possibility where
23 DNA wouldn't be on the fingernails if somebody
24 bathed or washed their hands. If an individual
25 was deceased and nothing -- there was no washing

Mary Ann Boehm-Cross by Cooke

1 of hands, would you expect DNA to be under his
2 fingernails in a skin breaking situation as I
3 described before?

4 A. Yes, if there was no of chance between the
5 scratching and dying that, yes.

6 MR. MATHEWS: No further questions, Your
7 Honor.

8 THE COURT: Ms. Cooke.

9 Cross Examination by Ms. Cooke:

10 Q. And if someone balled up their fist and
11 punched somebody in the eye hard enough for them
12 to form a knot on their eye, would that
13 necessarily transfer DNA?

14 A. Maybe to the skin cells of their fist, but
15 not to the fingernail clippings.

16 MS. COOKE: Thank you. No further
17 questions, Your Honor.

18 THE COURT: Any redirect based on her?

19 MR. MATHEWS: Nothing on redirect.

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

21 Any objection to this witness being excused?

22 MR. MATHEWS: None, Your Honor.

23 THE COURT: Have a safe drive back to
24 Columbia.

25 MR. MEADORS: Your Honor, may it please

Whitney Berry-Direct by Meadors

1 the court, the State would call Whitney Berry.

2 Whitney Berry, being first duly
3 sworn, testified as follows:

4 THE BAILIFF: State your full name and
5 spell your last name for the record.

6 A. My name is Whitney Berry. B-E-R-R-Y.

7 Direct Examination by Mr. Meadors:

8 Q. Good morning, Agent Berry.

9 A. Good morning.

10 Q. And I called you an agent. Are you a
11 forensic scientist?

12 A. Technically I am an agent. But, yes, I am
13 a forensic scientist as well.

14 Q. So you're an agent with the South Carolina
15 Law Enforcement Division.

16 A. Yes, sir.

17 Q. Would you please tell the Ladies and
18 gentlemen of this jury about yourself?

19 Specifically, where you're from, your background,
20 your training, your education. And specifically,
21 your education in the field of trace evidence?

22 A. Yes, sir. I graduated with a Bachelor of
23 Science degree from the University of South
24 Carolina. When I became my employment at sled, I
25 underwent our 9 month in-house gunshot residue

Whitney Berry-Direct by Meadors

1 analysis training course. During this time, I
2 watched court qualified analysts testify. I
3 worked under analyst supervision on actual cases.
4 I did a bunch of readings in journal articles, all
5 the way up to basically books about the operation
6 and the theory of the instrumentation that's used
7 in gunshot residue analysis, as well as its
8 history.

9 I also have attended the Hook College of
10 applied science in Westmont, Illinois. And I have
11 taken their scanning electron microscopy class, for
12 gunshot residue analysis.

13 Q. What is gunshot residue?

14 A. Gunshot residue is a 3 component particle
15 that we're looking for, that is indicative of gun
16 fire. So it contains metals, lead, barium and
17 antimony. They're all in a molten formation,
18 which indicates it was under high heat and high
19 pressure. And it doesn't contain any
20 contaminants; such as, magnesium or iron.

21 Q. And where does gunshot residue come from?

22 A. Gunshot residue comes from the primer
23 capsule in the cartridge of a bullet.

24 Q. And does it go out kind of in a cone or
25 how does it?

Whitney Berry-Direct by Meadors

1 A. Yes, sir. The majority of it is going to
2 come out of the muzzle end of the gun, and it's
3 going to follow the bullet or the projectile
4 towards the intended target. It's going to come
5 out in sort of like a cone like pattern that's
6 going to open up from the gun.

7 Also a portion of gunshot residue will
8 come out through the cylinder cap area or the slide
9 area depending on what kind of gun you're using.
10 And that little plume that comes out of there, is
11 what would encompass the hand of the person shooting
12 the gun. So if you've ever seen the old Wild West
13 video or movie, where they're pulled the trigger and
14 you see a little poof of smoke around the hand, and
15 then you see some come out the muzzle end, that's
16 where your gunshot residue is going to come from.

17 Q. How long have you been doing this?

18 A. A little over 2 years.

19 Q. And how many comparisons or gunshot
20 residue analysis have you performed?

21 A. Since my training is completed, I have
22 done roughly, probably 150 cases. Maybe 400 or so
23 GSR kits.

24 MR. MEADORS: Your Honor, at this time we
25 would call as Whitney Berry as an expert in the

Whitney Berry-Direct by Meadors

1 field of trace evidence.

2 MS. COOKE: No objection.

3 THE COURT: Ladies and gentlemen, I've
4 already told you about experts, and so you will give
5 her testimony the weight you deem appropriate.
6 Thank you, you may continue to question.

7 MS. COOKE: Without objection.

8 THE COURT: Without objection, 41 is
9 admitted.

10 MR. MEADORS: That would be the gunshot
11 residue kit, Your Honor.

12 (GSR kit marked State's 41 into evidence.)

13 Q. Now how do you get involved in these
14 cases?

15 A. An agency will send an evidence custodian
16 to sled. We'll then meet with our evidence
17 control technician. Every case that comes in to
18 sled, is given its own unique lab identifying
19 number. This number follows the case from the
20 start to the finish while it's there. Each item
21 within that case is given its own unique item
22 number; as well as, some containers or given
23 container numbers.

24 For GSR, what typically happens is, we get
25 a phone call stating that a case is going to court

Whitney Berry-Direct by Meadors

1 in the near future. Or we get a phone call stating
2 that, you know, the suspect wants the evidence
3 analyzed before they determine whether or not to
4 plea. And at that point, we add it to our working
5 list, and then it gets analyzed.

6 Q. With the back log at sled, is it unusual
7 for a prosecution agency or a sheriff's department
8 to call you relatively close to time of trial, and
9 say we need this in preparation?

10 A. No, it is not terribly uncommon for that.
11 We normally ask for about 4 to 6 weeks headway.
12 But it's not uncommon to get a call the week
13 before court and have someone ask me to complete
14 an analysis in time.

15 Q. Now this was done more than a week before
16 court. But this summer were you requested to
17 perform an analysis? A gunshot residue analysis
18 on the deceased Shamar Howell, Jeffrey Andrews,
19 Erika Andrews, and Robert Andrews?

20 A. Yes, sir.

21 Q. Tell the Ladies and gentlemen how you do
22 that.

23 A. Gunshot residue is collected by using this
24 little device here that looks kind of like a
25 stamp. The black part is sticky. It is double

Whitney Berry-Direct by Meadors

1 sided tape. And you would just collect by dabbing
2 the top of the hand or whichever designated area
3 was labeled on the particle lift, until there was
4 no more sticky or tack left on the tape.

5 Each kit comes with four vials. It's for
6 the left palm of the hand, which would cover this
7 area here. The left back, which would cover the
8 front of the hand, including the webbing. And the
9 same for the right palm and the right back. Those
10 are collected by officers, sometimes sled agents;
11 not me personally, out in the field. We issue these
12 kits to any agency who requests them free of charge,
13 because the kits we give out are the kits that we
14 view quality assurance and quality control on.

15 So the company sends me a certain number
16 of samples from that lot, and we test them to make
17 sure there's no contaminants on them already. So
18 we make sure there is no lead, barium or antimony,
19 or anything that could be confused as GSR on these
20 lifts before this log is made.

21 Q. So the lifts are made by?

22 A. They're made by Tri-Tech Forensics.

23 Q. And the actual dabbing of one hands are
24 done by local law enforcement or whoever is
25 sending this in to you, correct?

Whitney Berry-Direct by Meadors

1 A. Yes, sir. Every kit comes with an
2 instruction page, as well as a gunshot residue
3 information sheet, a pair of disposal gloves, and
4 tamper evidence tape, with which to seal the kit.

5 Q. And once they're sealed, are they brought
6 to shed by local law enforcement?

7 A. Yes, sir. They're brought in.

8 Q. Did you get four separate kits in this
9 case?

10 A. I got 5 GSR kits submitted in this case.
11 And they were all logged in through lab number
12 L14-03969 in container C.

13 Q. Can you just, before we get to your
14 results, can you tell us how you do it?

15 A. Yes, sir. I use what's calling a scanning
16 electron microscope with an energy dispersive
17 X-ray detector. That sounds very complicated, but
18 it's really easy to think about. We take this
19 stub, we load it into the instrument. And we have
20 a computer program that tells the instrument what
21 elements we're looking for, what shape we're
22 looking for. So the instrument is going to send a
23 beam down, and it's just going to scan back and
24 forth across the top of that particle lift until
25 it is complete.

Whitney Berry-Direct by Meadors

1 And every single time it sees a particle
2 that we've told it is of interest so lead, barium,
3 antimony, or any combination thereof, it is going to
4 take a picture. And it's also going to take an
5 X-ray. And that X-ray is going to be of a spectrum
6 to verify that that's what that metal is, or that's
7 what that element is. After that automated analysis
8 is complete, I go in and I go through each and every
9 individual little particle that it said was of
10 interest, and I relocate to it. I make sure it
11 meets our size criteria, our shape criteria and our
12 composition criteria. And that's free from
13 contaminants.

14 For size, what we're looking
15 for is a particle between about 1 and 10 microns.
16 So if you pull a hair out of the top of your head,
17 about 100 GSR particles can fit across the diameter
18 of your head, or that hair. That's how small it is.

19 Q. And you did that with each one of these
20 kits.

21 A. Yes, sir.

22 Q. And do you have a copy of your report?

23 A. Yes, sir.

24 Q. I will give it back to you. Can I see it?

25 A. Uh-huh. (Affirmative.)

Whitney Berry-Direct by Meadors

1 MR. MEADORS: Your Honor, 42 without
2 objection.

3 MS. COOKE: No objection.

4 THE COURT: Without objection.

5 (Report of GSR report marked State's
6 Exhibit No. 42.)

7 Q. Is this your report that you prepared in
8 this case for presentation and to the jury like we
9 are doing right now?

10 A. Yes, sir.

11 Q. Let's just straight. And back when I
12 started years ago, you'd look for the 3 particles.
13 You're still doing that, correct?

14 A. Yes, sir. What we used to do is we'd look
15 for quantities. So there would be a threshold,
16 and we would say, a certain amount of lead was
17 found, or a certain amount of barium or antimony
18 were found. And that could be indicative of
19 gunfire.

20 What we're doing now is a little bit more
21 precise. We're physically going to these particles
22 and we're looking at them, and I can tell you how
23 many particles there were. Instead of just saying
24 there were quantities present, I can say there were
25 7 particles of gunshot residue on his hand. And

Whitney Berry-Direct by Meadors

1 gunshot is the only source that could have provided
2 these.

3 Q. Can we start and go straight down in your
4 report?

5 A. Sure.

6 Q. Well I'll tell you what, let's start with
7 the deceased. Like they're listed, the deceased
8 Shamar Howell.

9 A. In the GSR kit from Shamar Howell.

10 Q. And I read it off the names we're going
11 down on the front. I'm sorry.

12 A. That's okay. The right hand particles of
13 gunshot residue were found. And on the left hand
14 one particle of gunshot residue was found.

15 Q. So let's start off. So on the right hand
16 how many particles?

17 A. For reporting purposes, we'd move to say
18 hand as opposed palm versus back. But I can say,
19 because I have -- we have a vin sheet, a sheet
20 that we record this on; that two particles of
21 gunshot residue were found on the back of his
22 right hand.

23 Q. So let me stop you. So two particles were
24 found on the back of the deceased Shamar Howell's.

25 A. Right hand.

Whitney Berry-Direct by Meadors

1 Q. Right hand.

2 A. Yes, sir.

3 Q. Can you see now with this expertise and
4 all these computers were there any particles on
5 the front?

6 A. There were not any particles on the right
7 palm.

8 Q. What about the left hand of the deceased,
9 for the record, Shamar Howell?

10 A. Yes, sir. One particle of gunshot residue
11 was found on the back of the left hand. And no
12 particles of gunshot residue were found on the
13 palm. So it was negative.

14 Q. So two on the back of right hand, and one
15 particle on the back of the left hand.

16 A. Yes, sir.

17 Q. And no particles on the front.

18 A. Yes, sir, that's correct.

19 Q. Again we did it in the old days about
20 quantity. But would that be consistent with him
21 not having a gun? And not firing a gun?

22 A. It could be consistent with him not firing
23 a gun.

24 Q. Because wouldn't you expect some particles
25 on the inside if you were firing a gun?

Whitney Berry-Direct by Meadors

1 A. You would expect to find a larger quantity
2 of particles not just a gunshot residue, but we
3 would find some other supporting particles as
4 well, had someone been firing a weapon.

5 Q. And if based on your expertise, and if you
6 were in the cone, so to speak and were in a
7 defensive posture like that near a gun, would you
8 expect to have some particles like that inside
9 your hands?

10 A. I would, yes.

11 Q. Can we go to, I am reading straight down
12 the front of the page Jeffrey Andrews.

13 A. On the GSR kit taken from Jeffrey Andrews,
14 particles of gunshot residue were found on the
15 right hand. And particles of gunshot residue and
16 one particle associated with gunshot residue were
17 found on the left hand.

18 Q. Let's start I think real quick. Let's
19 start with the right hand. Can you tell us where
20 those particles -- in the right hand of the
21 defendant Jeffrey Dana Andrews, can you tell us
22 where the particles were found -- particles of
23 gunshot residue were found on the right hand of
24 the defendant?

25 A. I found and by sled policy what are

Whitney Berry-Direct by Meadors

1 department protocol, we're only required to
2 relocate to two particles in order to call a
3 positive result. It varies from analyst to
4 analyst someone is going to relocate to call.
5 Personally I go with 4, because that's twice the
6 minimum. So I relocated to four separate gunshot
7 residue particles that were of the right shape,
8 the right size and the right position, and I
9 additionally found three more particles that
10 would considered gunshot residue, that I did not
11 take an image of for my report.

12 Q. So seven total.

13 A. Yes, sir.

14 Q. Where on the hand of the defendant were
15 those?

16 A. They were just on the stuff taken from the
17 right palm.

18 Q. So right palm.

19 A. Yes, sir.

20 Q. Would that be consistent with someone
21 firing a weapon?

22 A. It would be consistent with someone being
23 in the vicinity of a discharge of a firearm. The
24 fight back of the hand also, I found four
25 particles of gunshot residue, and I found an

Whitney Berry-Direct by Meadors

1 additional 6 particles that I did not save from my
2 report. So that would be a total 10 particles.

3 Q. And that's on the back of the right hand?

4 A. Yes, sir.

5 Q. And a total of 7, or the inside, the palm
6 of the right hand.

7 A. Yes, sir.

8 Q. And when you say that would be consistent
9 with someone being within the vicinity. That
10 would also be consistent with someone firing a
11 gun, correct?

12 A. Yes, sir.

13 Q. Now what about the left hand, Special
14 Agent?

15 A. On the left palm we found four particles
16 of gunshot residue. And I also looked and there
17 were an additional four more. So that would have
18 been a total of 8.

19 Q. And that's on the left palm?

20 A. Yes, sir.

21 Q. What about the left back hand of the
22 defendant, Jeffrey Andrews?

23 A. On the left back, I found four particles
24 of gunshot residue that I put in my report. I
25 found an additional 2 particles of gunshot

Whitney Berry-Direct by Meadors

1 residue. And then I found one of the supporting
2 particles, which I mentioned a moment ago, of
3 round lead. And round lead, when it's found with
4 particles of gunshot residue, can support that
5 that's where that came from, it came from gun
6 fire.

7 Q. And that that's consistent with that left
8 hand being in the vicinity of the the firearm?

9 A. Yes, it is.

10 Q. Next just doing down the list, Erika
11 Andrews, please, ma'am. Your results after
12 analyzing the gunshot residue kit of Erika Andrews
13 were what?

14 A. On her right hand, particles of gunshot
15 residue, and one particle associated with gunshot
16 residue were found. And on her left hand,
17 particles of gunshot residue were found.

18 Q. Let's go to the right hand first. Can you
19 start with the right palm?

20 A. Yes, sir. The right palm found my
21 4 particles of GSR that I put in the report, and
22 then I found an additional 6 particles of GSR.

23 Q. What about the back of the right hand?

24 A. The back of right hand had 4 particles of
25 gunshot residue, and one round lead particle.

Whitney Berry-Direct by Meadors

1 Q. Say that again, I'm sorry.

2 A. Four particles of gunshot residue and one
3 round lead particle.

4 Q. And her left hand. This is again of Erika
5 Andrews.

6 A. On her left palm, I found a total of 12
7 particles of gunshot residue, but I only put 4 in
8 the report.

9 Q. And again, that's because it's only two
10 required. You double it to four, but you actually
11 found 12.

12 A. Yes. What we do is, you know, I pick 4 to
13 save for the report. But I also -- I don't just
14 stop looking when I find four. I continue going
15 through all the rest of these particles to see if
16 any more met the criteria. Because it's about a
17 population as well. It's not just, Oh, I found
18 one particle of gunshot residue, they must have
19 been near a gun. If there's nothing else, then I
20 have nothing else that could tie it to that. It's
21 about a population.

22 So in this case, we see a high population
23 of particles of gunshot residue. And then we also
24 see a couple of associated particles, which are
25 single component particles of elements that compose

Whitney Berry-Direct by Meadors

1 gunshot residue.

2 Q. And what does that mean, the single
3 elements again.

4 A. That would be a single particle of round
5 lead, round barium or round antimony.

6 Q. Now finally the left back of Erika
7 Andrews.

8 A. On the left back, I found my four
9 particles and an additional four particles. For a
10 total of 8.

11 Q. I am not going to touch you, but -- well I
12 am going to touch you. If you had been shot, and
13 I am over your body and touching you, and giving
14 you CPR, and mouth to mouth, would I pick up some
15 gunshot residue?

16 A. There would be the potential for transfer.
17 So it would be possible to get GSR off somebody
18 who had been shot.

19 Q. And if you were standing near somebody
20 when it was shot, would you potentially get
21 gunshot residue then?

22 A. Yes, if you are standing in the vicinity
23 of the discharge of a firearm. So that doesn't
24 necessarily mean that you pulled the trigger.
25 That means you could have been in an area near it,

Whitney Berry-Direct by Meadors

1 either behind the person pulling the trigger, to
2 the side, you could have been near the person that
3 was being shot or in between the two. All of
4 these would have lead to the potential for gunshot
5 residue to be deposited on somebody.

6 Q. And you mentioned transfer a minute ago.
7 Are there other ways if there was a cloth or
8 something near it, can somebody pick up a cloth
9 and get gunshot residue from a?

10 A. Yes, you can pick up gunshot residue off
11 of anything that was in the vicinity to discharge
12 of a firearm; including, the gun itself, clothing
13 a person might have been wearing when they were
14 firing. You could pick it up off of cloth. If
15 somebody wiped their hands on it to get the
16 gunshot residue off or wiped a gun with it, and
17 then you came back and touched that cloth later,
18 and it hadn't been laundered, you'd have the
19 potential for it. It stays on clothing pretty
20 much indefinitely until it's laundered. So even
21 if you had clothing, it would.

22 Q. And let's follow up on that. How long
23 does it, if you're a living person, how long if
24 you didn't wash, would it stay on your hands?

25 A. In the scientific community, we accept

Whitney Berry-Direct by Meadors

1 that gunshot residue won't stay on a person -- a
2 living person's hands for more than 4 to 6 hours.
3 That's just because of normal everyday activity.
4 If you rub your hands, put your hands in your
5 pocket, wash them, wipe them on something, if
6 you're out in the wind, if you start to sweat,
7 even some of the particles will be absorbed
8 through the skin. So after 6 hours, we definitely
9 don't expect to find anything relative to that
10 shooting. Which is why sled has a policy that we
11 won't test anything that was left after 6 hours.

12 Q. Now in addition, you all just won't test
13 them if they're not collected in that time period.

14 A. If it's outside of 6 hours, we won't test
15 them. If it's one minute past, we won't test
16 them.

17 Q. And is gunshot residue also susceptible or
18 I don't know what the right word is, to the
19 elements or the wind or anything else?

20 A. Gunshot residue is very fragile. And if
21 you think about being in your kitchen with your
22 hands covered in flour, you can see the flour and
23 it's nice and fine. And every time you clap your
24 hands or you wipe them on something or touch
25 something, you see the little bit of the flour

Whitney Berry-Direct by Meadors

1 comes off. And that's the same premise of
2 gunshot residue. So if you're outside and the
3 wind is blowing really hard, or it's raining or
4 something like that, that would all have the
5 potential to remove GSR off the hands.

6 Q. And this is an obvious question. But if
7 you washed your hands, would it take the GSR off?

8 A. If you washed the hands it could take the
9 GSR off.

10 Q. And if you rubbed yourself, could that
11 potentially do it?

12 A. Yes, sir.

13 Q. Now if I fired this say this wherever this
14 pin is from, but this was a gun and I fired it,
15 and laid it down, and you picked up that gun and
16 put it somewhere, would you expect to have gunshot
17 residue on your hand?

18 A. Yes, I would.

19 Q. Now can move to Robert Andrews. Please.

20 A. The GSR kit, from Robert Andrews the right
21 hand was positive. Particles of gunshot residue
22 were found, and the left hand was positive as
23 particles of gunshot residue were found.

24 Q. And can we go through that again, and
25 maybe start with this right hand?

Whitney Berry-Direct by Meadors

1 A. Yes, sir. On his right palm, I found four
2 particles of gunshot residue with an additional
3 two particles, for a total of 6.

4 Q. The back of the right hand, please.

5 A. On the back of right hand, I found one
6 particle of gunshot residue.

7 Q. And the---

8 A. On the left palm, I found four particles
9 of gunshot residue. And on the left back, I found
10 two particles of gunshot residue.

11 Q. Would -- could that be consistent with
12 somebody picking up a firearm after it had been
13 fired?

14 A. It could be, yes. I can't rule that out.

15 Q. And I believe you said you had 5?

16 A. On which portion?

17 Q. No, no, I'm sorry. You said you had---

18 A. Oh, five kits.

19 Q. Five kits?

20 A. Yes, sir.

21 Q. And let's tell it all. Who was the other
22 kit?

23 A. I had a kit from Darryl Gardner.

24 Q. Please start with the right hand.

25 A. His right hand, I found particles of

Whitney Berry-Direct by Meadors

1 gunshot residue. So I found four particles on the
2 right palm. The right back was negative. And
3 then on the left hand particles of gunshot residue
4 were found. As I found one particle on the left
5 palm. And I found two particles on the left back.

6 Q. Would that small amount of particles,
7 could that be consistent with the transfer?

8 A. It could be. I really have no way of
9 knowing how they were deposited there. But it
10 could be definitely be consistent with transfer.

11 Q. Through some of the ways you said before,
12 either touching the gun or touching something that
13 had touched the gun?

14 A. Yes, sir.

15 Q. Could you transfer, stick your hand out,
16 please. I mean if you just -- if I touched your
17 hand after you shot, would there potentially be a
18 transfer there?

19 A. Yes, sir.

20 Q. And could that be consistent with this
21 finding?

22 A. It could be.

23 MR. MEADORS: Special agent, thank you.

24 Judge, that's all we have.

25 THE COURT: Any questions, Ms. Cooke?

Whitney Berry-Cross by Cooke

1 Cross Examination by Ms. Cooke:

2 Q. And we have established the GSR on
3 Jeffrey Andrews is consistent with him shooting,
4 correct?

5 A. Yes, ma'am.

6 Q. And I believe Mr. Meadors has already
7 asked this question. I'll just ask again to make
8 sure. Is the GSR on Robert Andrews consistent
9 with him hiding the gun after it was shot?

10 A. It would be consistent with either being
11 in the vicinity to the discharge of a firearm, or
12 coming in to contact with something that was in
13 the vicinity to the discharge of a firearm, which
14 could support the idea of him moving the gun.

15 Q. And Mr. Meadors asked Mr. Darryl Virlyn
16 Gardner, asked if the GSR could be consistent with
17 a handshake. Could it also be consistent with him
18 holding Mr. Andrews hand's after Mr. Andrews shot
19 somebody, to console him?

20 A. It could be, yes.

21 Q. And Erika had a lot of GSR on her hands,
22 correct?

23 A. Yes, ma'am.

24 Q. And it's been established that she was
25 holding onto to the body after Shamar had been

Whitney Berry-Cross by Cooke

1 shot. So if Erika had that much GSR on her hands,
2 and she tried to perform CPR on him, and was
3 holding the body, and had to be pulled off of him
4 by law enforcement and EMS, could that explain the
5 GSR found on Shamar?

6 A. It could explain the GSR, yes.

7 Q. And for on Shamar could also be consistent
8 with him being a near a firearm also, right?

9 A. Yes, ma'am.

10 Q. When it was fired. And as far as the
11 distance from that gun, the GSR that was found on
12 him, I believe that you found that it was, that
13 distance would be about 3 feet, is that correct?
14 Three feet from the barrel of the gun?

15 A. Yes, ma'am. We would expect to find GSR
16 not much farther than 3 feet from the barrel of
17 the gun.

18 MS. COOKE: No further questions.

19 THE COURT: Any redirect?

20 MR. MEADORS: Just to follow up on that.

21 Redirect Examination by Meadors:

22 Q. If you had a shot a firearm, and I have
23 been in contact with you after you shot, and
24 picked you about the head, and having contact with
25 you, would that also be a way to get the gunshot

Whitney Berry-Redirect by Meadors

1 residue if you had fired the gun?

2 A. Yes, sir.

3 Q. If I got and started attacking you, and
4 hitting you and touching you, would you expect me
5 to have GSR on me after you fired a gun?

6 A. Possibly on your hands, yes.

7 MR. MEADORS: I beg the court's
8 indulgence.

9 Q. And the only particles that you found on
10 the victim were on his back palms.

11 A. Yes, they were on the back of his hand.

12 Q. And that's it?

13 A. That's it.

14 MR. MEADORS: Thank you. That's all.

15 THE COURT: Any recross?

16 MS. COOKE: No, Your Honor.

17 THE COURT: Have a nice day. Have a safe
18 drive back to Columbia. Let me see the attorneys
19 for just a second.

20 (Whereupon, the attorneys approach and
21 confer with judge.)

22 THE COURT: Ladies and gentlemen, we have
23 to take up a matter outside of your presence.
24 Please don't discuss anything while you are in your
25 jury room. Thank you.

Chad Smith-Direct by Mathews

1 (Whereupon, the following takes place
2 outside the presence of the jury.)

3 (Whereupon, court breaks.)

4 THE COURT: Let's go ahead and bring our
5 jury in.

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

8 THE COURT: The State may call its next
9 witness.

10 MR. MATHEWS: Judge, the State calls Chad
11 Smith.

12 Chad Smith, being first duly sworn,
13 testified as follows:

14 THE BAILIFF: State your full name and
15 spell your last name for the record.

16 A. Chad smith. S-M-I-T-H.

17 Direct Examination by Mr. Mathews:

18 Q. Good morning, Mr. Smith.

19 A. Good morning.

20 Q. Could you tell the jurors a little bit
21 about yourself and what you do for a living?

22 A. I'm employed with the South Carolina Law
23 Enforcement Division, which is commonly known as
24 sled. Specifically, I work in the firearm's
25 department at sled forensic services laboratory in

Chad Smith-Direct by Mathews

1 Columbia. I attended Clemson University where I
2 earned a Bachelor of Science Degree, in biological
3 sciences. And I started working in sled in 2008.
4 When I first joined, I started my training as a
5 firearm's examiner. The training program lasts
6 between 3 to 5 years. It is supervised by the
7 court qualified examiner's of the firearm's
8 department.

9 During this time, there are lots of
10 reading and studying involved. Multiple
11 examinations and and tests were given. And I also
12 had the opportunity to take various seminars and
13 classes. And later in my training, I was able to
14 help the other examiner's prepare their own case
15 work. At the end of my training period, I was given
16 a comprehensive multi part examination, which I
17 successfully passed and then I began to receive my
18 own case work.

19 Q. So in your current position now, what do
20 you do as a case worker or a firearm's examiner?

21 A. A firearm's examiner, the field of study
22 is called firearm's identification. What we're
23 interested in is the markings that are placed on
24 ammunition components; such as, cartridges cases
25 and bullets as they're being fired by our firearm.

Chad Smith-Direct by Mathews

1 And what we try to do is use those markings to
2 actually identify back to the particular firearm
3 that fired it.

4 Q. And is that normally what your job
5 consists of is just determining various bullets
6 and whether they were fired by a particular
7 firearms?

8 A. That's the majority of what we do, that's
9 correct.

10 Q. And if you had to guess or estimate since
11 2008, how many analysis of that type identifying
12 a bullet to a particular gun, do you think you've
13 done?

14 A. I've done probably in the thousands of
15 actual comparisons of various cartridge cases and
16 bullets compared to different firearms.

17 Q. And have you testified about your work in
18 court before?

19 A. Yes, I have.

20 Q. And have you previously been offered as an
21 expert witness?

22 A. Yes, I have.

23 Q. How many times?

24 A. 15 times.

25 MR. MATHEWS: Your Honor, at this time,

Chad Smith-Direct by Mathews

1 the State tenders Chad Smith as an expert in
2 firearms identification.

3 THE COURT: Any objection or would you
4 like to voir dire him?

5 MS. COOKE: No objection.

6 THE COURT: Ladies and gentlemen, I've
7 explained to you about experts. Please give his
8 testimony the weight you deem it so is appropriate.
9 Thank you. You may proceed.

10 Q. Now, Mr. Smith, you've talked a little bit
11 about firearm's examination and what it is. In a
12 typical case when you're doing a firearm's
13 analysis, tell the jury about the steps you
14 perform and how you would begin your initial
15 analysis.

16 A. When I am given a firearm and different
17 ammunition components as well as the cartridge
18 cases submitted on a case, in this case, I was
19 submitted a firearm as well as some unfired
20 ammunition, a fired cartridge case, and a fired
21 bullet, which also had a small lead fragment with
22 it. What I would do is, open up the container
23 with the firearm, do a brief examination to
24 determine if everything was in working order. If
25 there are any signs of obvious defects that would

Chad Smith-Direct by Mathews

1 prevent a firearm from working or any damage.

2 Then I would look at the fired evidence
3 components; such as, the bullets and the cartridge
4 cases. Determine what caliber it possibly could be.
5 And do different examinations with the bullets, such
6 as weigh it, and try to determine the diameter,
7 which would give me a caliber. And then I would
8 test fire the firearm in order to get my test firms.
9 It's those test fires that I actually compare to the
10 fired evidence. And what we use in our department
11 is called a comparison microscope. It's basically
12 two microscopes that are connected together by an
13 optical bridge system, so I can view two samples
14 simultaneously. And I would look at my test fires
15 with each other, to look for markings that are
16 consistent with those. And then I would view my
17 test fires with the actual fired evidence
18 components, and try to look at the markings to
19 determine if that particular ammunition component
20 was fired by that firearm.

21 Q. And would you recognize the firearm and
22 the ammunition that you analyzed in this case
23 relating to a shooting at on
24 March 25th 2014?

25 A. Yes, sir.

Chad Smith-Direct by Mathews

1 Q. And, Mr. Smith, I am showing you what's
2 previously been entered as State's No. 23 and
3 State's No. 21. Would you tell us what these item
4 are?

5 A. Ladies and gentlemen, when I'm handling
6 this firearm, I am examining it make sure that it
7 is safe to handle and it is. There is a cable
8 tire right through the barrel so it cannot be
9 fired. Yes, this is the firearm that was
10 submitted in this case. And how I am able to
11 determine that is, the evidence that we receive we
12 actually engrave. We have a little drill tool
13 engraver, which we put the lab number, the sled
14 lab number, the item number that was submitted as,
15 and our initials. That way we are able to tell
16 that's the actual evidence we examined.

17 Yes, this is the fired bullet with the
18 small fragment that was submitted to me for
19 examination.

20 Q. I am also going to show you what's been
21 marked -- what's been entered as State's Exhibit
22 39 and State's 40. Could you tell us what these
23 items are?

24 A. Yes. State's Exhibit No. 40 are the
25 unfired cartridges that were submitted to me.

Chad Smith-Direct by Mathews

1 They are five, 32 Smith & Wesson long caliber
2 cartridges. State's Exhibit No. 39 is the fired
3 cartridge case, 32 Smith & Wesson long caliber
4 that was submitted to me for examination as well.

5 Q. Now are those the appropriate bullets to
6 be used in that gun?

7 A. Yes, that is the correct caliber for use
8 in that firearm.

9 Q. And did you use those bullets as part of
10 your analysis with the test fire you described, or
11 did you use other bullets?

12 A. We use -- we have a store, a storage of
13 various types of ammunition in our laboratory.
14 And we try to use ammunition that we have before
15 we would use ammunition that was submitted on a
16 case from test fires. Now sometimes we're not
17 able to, due to where there is an odd caliber or
18 something that we don't have, and there is
19 submitted unfired ammunition, then we would have
20 to fired ammunition as our test fires. But we try
21 to avoid that, because you're actually changing
22 the evidence and that sort of thing.

23 So in this particular case, I was able to
24 use the same type of ammunition that we submitted.
25 And it was the ammunition that we had in our

Chad Smith-Direct by Mathews

1 reference collection.

2 Q. And did you -- how did you use that
3 ammunition from the test fires to analyze the
4 bullet fragment in, I believe State's 23, how did
5 use that to make your analysis?

6 A. I'll start with the way we do our actual
7 test fires. We have a -- we're on the second
8 floor of our laboratory. We have a stainless
9 steel vertical tank that goes all the way down to
10 the first floor. And that tank is filled with
11 water. And what we do is, we shoot in to that
12 tank. And we have a chain, with a cup at the end
13 of it. And basically the end of the tank that I
14 am describing is funnel shaped, so that the cup
15 sits down at the bottom. And we shoot into it so
16 that the water slows down the bullet, and the
17 bullet collects in that cup, so we're able to
18 retrieve our test fired bullets.

19 And then once I have my test fires, I mark
20 them so that there is no confusion with what's test
21 fires and what's actual evidence. And then I would
22 use that comparison microscope to look at my test
23 fires and then compare those test fires with the
24 actual submitted ammunition components. And then I
25 am looking for markings that are created by the

Chad Smith-Direct by Mathews

1 firearm itself. In this case the bullets travel
2 through the bore or through the barrel itself, and
3 the barrel marks the bullets. And we're looking
4 for individual markings that are placed on that
5 actual bullet and compare those with the test fires.

6 Q. And in this case with regards to what you
7 noted in reports Item No. 7, which I believe has
8 been entered as State's No. 23 here today, what
9 distinct markings or marks -- markings for lack of
10 a better word, were on that fragment that allowed
11 you to match that with State's Exhibit No. 21, the
12 revolver gun?

13 A. The, again there was actually, I don't
14 know if you can see, but there's actually a bullet
15 itself, a fired lead bullet, which is mostly
16 complete. I mean there's actually just a small
17 lead fragment itself. Well the bullet, I was able
18 to determine, was fired by the actual firearm that
19 was submitted. This firearm. There was enough
20 markings on the even though it was damaged, I
21 submit a bullet was damaged, there was the
22 markings I am looking for, there was enough of the
23 those markings that I could tell that it was fired
24 by that firearm.

25 Now the actual fragment that was

Chad Smith-Direct by Mathews

1 submitted, was so small and it had so many
2 different types of marks on it, I couldn't tell if
3 those marks were actually caused by the firearm, or
4 if it was, more than likely it was just damaged to
5 the actual projectile fragment. Or I couldn't even
6 say for sure that that was a part of that bullet.
7 But there was just a piece of lead that had marks on
8 it. And basically I couldn't really do much with
9 it. I couldn't say it was fired by the firearm or
10 it was actually part of a bullet itself. I
11 couldn't.

12 Q. But in your opinion, what does common
13 sense tell you about whether that was part of the
14 bullet or not.

15 A. More than likely since it came from the
16 same wound area during the autopsy that it was
17 probably just a fragment of that bullet that
18 either when the bullet impacted, that a piece of
19 fragment just came off and it was with the actual
20 bullet itself, or it could have been actually
21 connected to the bullet, and then during
22 transportation to sled or whatever, it could have
23 just broke off. But I can't say that it's
24 definitely part of that bullet, but I can't really
25 say why else it would have been there with it.

Chad Smith-Direct by Mathews

1 Q. Now in reference to the larger piece
2 that's located in State's Exhibit No. 23, can you
3 say to a reasonable degree of scientific certainty
4 whether that bullet came from that gun, State's
5 Exhibit No. 21?

6 A. Correct. Yes. I was able to determine
7 that that actual bullet was fired by the firearm.

8 Q. Now did you summarize your results in any
9 kind written report?

10 A. Yes, sir.

11 Q. And would you recognize a copy of that
12 report if you saw it here today?

13 A. I would.

14 - MR. MATHEWS: Your Honor, I am showing Ms.
15 Cooke's State's Exhibit No. 38 for identification.
16 I believe she doesn't have any objection.

17 THE COURT: Any objection?

18 MS. COOKE: No objection.

19 THE COURT: Without objection it is
20 admitted into evidence.

21 (Firearm's Analysis marked State's Exhibit
22 No.8 into evidence.)

23 Q. Could you tell us what State's No. 38 is?

24 A. What I am doing right now, is I am
25 comparing the State's Exhibit No. 38 report that

Chad Smith-Direct by Mathews

1 he handed me with my report that I've printed off
2 myself to make sure that the wording is correct.

3 Yes, this a copy of my report that I issued.

4 Q. And what was the general conclusion of
5 that report?

6 A. That the State's Exhibit No. 23, which is
7 my Item 7 in my report, was fired by, forgive me,
8 I couldn't remember what the State's Exhibit for
9 the firearm.

10 Q. That's 21.

11 A. 21, which is my Item 8 in my report. Item
12 8 did fire item 7.

13 Q. Were you also asked to do any particular
14 analysis related to any other factors about the
15 gun; such as, trigger pull or the trigger weight?

16 A. During our normal examinations of firearm,
17 we do various examinations; such as, measure the
18 trigger pull weight. And all that is, is how much
19 weight actually is put on the trigger to fire the
20 firearm. And in this particular firearm, is
21 called a double action revolver. It has two modes
22 of fire. You can actually cock the hammer back,
23 and the release the trigger that way. And that
24 would be called single action. Because all you're
25 doing with the trigger is releasing the hammer.

Chad Smith-Direct by Mathews

1 You can also do it in double modifier, which means
2 you would just pull the trigger back and let it
3 go.

4 So that same motion of the trigger cocks
5 the hammer and then releases it. So it has two ways
6 of firing it. And so we would measure both of those
7 ways of trigger pull weights. And again, I would
8 just do any sort of safety checks to make sure that
9 the firearm operated in a proper condition, and
10 there were no issues with this firearm at all.

11 Q. And what were the two trigger weights
12 versus the single action and the double action
13 pulls?

14 A. The single action trigger pull it was
15 determined to be between 4 and 4 and a quarter
16 pounds. The double action trigger pull again,
17 which would be just pulling it back and letting it
18 go, was measured to be around 9 pounds. And so if
19 you put that in perspective of a gallon of water
20 weighs approximately 8 pounds. So if you had a
21 milk jug filled with water and you're picking it
22 up with your index finger, then that would be
23 approximately how much weight it would take to
24 actually fire the firearm. Well it would take 9
25 pounds. So it would take a little more than what

Chad Smith-Direct by Mathews

1 that jug would weigh to operate it in double
2 action. But it would take about half that weight
3 to just operate it in single action.

4 Q. So if you wanted to pull it in double
5 action, you'd have to use more force to pull back
6 the trigger if the gun had not been cocked.

7 A. Correct. It would take more force on a
8 trigger or more weight to actually fire it in
9 double action.

10 Q. And if you wanted to fire it in single
11 action you'd actually have to take the time to
12 cock it back first.

13 A. Correct.

14 Q. Before you fired it.

15 A. That's correct.

16 MR. MATHEWS: Just a moment, please, Your
17 Honor.

18 Q. Mr. Smith, I am showing you what has been
19 entered as State's Exhibit No. 32. Can you tell
20 us what that picture depicts?

21 A. It appears to be either the exact same
22 model or exact same firearm that I have here, or
23 one just like it in this photo. And the hammer is
24 cocked back, which I would assume would be ready
25 for firing a single action.

Chad Smith-Cross by Cooke

1 Q. And what if any significance is that to
2 you, as to why the gun was found with the hammer
3 cocked back?

4 A. Other than it was getting ready to be
5 fired, it would mean no other significance.

6 MR. MATHEWS: No other questions, Your
7 Honor.

8 THE COURT: Ms. Cooke.

9 MS. COOKE: Just one, Your Honor.

10 Cross Examination by Ms. Cooke:

11 Q. I just want to make absolutely sure that
12 with the fragment, we're not saying there were two
13 bullets or two firings, but that fragment came
14 from that bullet.

15 A. Well there was no indication for me to
16 believe that it was a separate bullet. But I
17 can't say for sure that it was part of that bullet
18 or where it had actually originated from. There
19 were no markings on it for me to be able to match
20 it to the firearm or the actual bullet itself, so
21 but I would imagine it would just come -- be part
22 of that bullet. No indication to believe there
23 was two individual billets.

24 MS. COOKE: Thank you. No further
25 questions.

Investigator Wayne Dubose-Direct by Meadors

1 THE COURT: Any redirect based on her
2 cross?

3 MR. MATHEWS: Nothing on redirect.

4 MR. MEADORS: Can we approach?

5 (Whereupon, the attorneys approach the
6 bench and confer with judge.)

7 MR. MEADORS: We would call Investigator
8 Wayne Dubose.

9 Investigator Wayne Dubose, being
10 first duly sworn, testified as follows:

11 THE BAILIFF: Please state your full name
12 and spell your last name for the record.

13 A. Wayne Dubose. D-U-B-O-S-E.

14 Direct Examination by Mr. Meadors:

15 Q. Good morning, investigator. Please tell
16 the ladies and gentlemen of this jury about
17 Investigator Wayne Dubose. Where you're from,
18 your background, your training and your training
19 in law enforcement, please.

20 A. I am originally from Sumter. Born and
21 raised here. I am currently employed with the
22 Sumter County Sheriff's Office as a sergeant in
23 the investigation's division. I have been in law
24 enforcement for 18 years; 17 of those years have
25 been with the sheriff's office. One year with the

Investigator Wayne Dubose-Direct by Meadors

1 Sumter Police Department here in the city.

2 Q. And in March of 25th of 2014, your job for
3 Sheriff Dennis was what?

4 A. I was the on call investigator that night
5 for the investigation.

6 Q. That means what?

7 A. Every investigator, we take call for a
8 week. And for that week any crimes that occur, an
9 investigator that needs to go out and process a
10 scene, or either, you know, interview people, or
11 whatever that investigator's responsibility is to
12 go out and do that overnight. And that was my job
13 that night.

14 Q. So as the on call investigator, you become
15 the lead investigator if you go to a scene,
16 generally.

17 A. It can be, not all the time. But I am in
18 the violent crimes portion and so I went ahead and
19 got this case.

20 Q. Now when you arrived at
21 were other officers already there?

22 A. There were other officers, the patrol
23 division already on the scene.

24 Q. And I think it's in evidence from the
25 dashcam, do we see you coming, arriving, excuse

Investigator Wayne Dubose-Direct by Meadors

1 me?

2 A. You do, a few minutes later.

3 Q. And what did you do when you got the
4 scene?

5 A. Once I got there, I got a briefing from
6 officers on the scene about what had occurred. I
7 was actually at the office when the call came out.
8 I heard the initial call come out on the radio,
9 and I knew there had been a shooting incident and
10 a subject had been shot in the head. So I
11 immediately responding that way. When I got
12 there I started getting details about what
13 occurred. And I arrived on the scene, the victim
14 had already been placed into the ambulance. And
15 I was told then that the suspect, Mr. Andrews, was
16 already in a patrol car and had been taken into
17 custody.

18 Q. So Mr. Howell, Shamar Howell's body was
19 already gone when you got there?

20 A. It was not gone. It was removed from the
21 porch.

22 Q. That's what I mean.

23 A. It was already in the ambulance.

24 Q. But he was in the ambulance.

25 A. Correct.

Investigator Wayne Dubose-Direct by Meadors

1 Q. When you said you were briefed, did you
2 have occasion to talk to Corporal Kelly?

3 A. I did.

4 Q. And at some point at the scene, at
5 , did you come in contact with the
6 defendant?

7 A. Shortly after speaking to Mr. Kelly, I
8 did.

9 Q. And where was the defendant?

10 A. The defendant was in the back seat of
11 Kelley's patrol car. He was in the back passenger
12 seat.

13 Q. And at that time, that was the first time
14 you had seen him that night?

15 A. That is.

16 Q. And did you have an occasion -- were you
17 aware that Corporal Kelly, had already read him of
18 his miranda rights.

19 A. I was. And I was advised by Kelly that he
20 had placed in the car, and that he had already
21 mirandized him.

22 Q. And did you also mirandize him?

23 A. I did.

24 Q. And why is that?

25 A. Just a practice. He said he had

Investigator Wayne Dubose-Direct by Meadors

1 mirandized him and he had gotten information from
2 him about what occurred. And then when I went to
3 the vehicle, I went ahead and mirandized him a
4 second time just to, you know, to be safe.

5 Q. And tell the ladies and gentlemen of jury,
6 how you mirandized him. What did you do?

7 A. I have a card, a miranda card that I keep
8 with me.

9 Q. Will you do it like you did that night,
10 and show these ladies and gentlemen how you read
11 the defendant his rights please.

12 A. And when I approached the vehicle,
13 Mr. Andrews was seating in the back seat of the
14 vehicle, just inside the door, with the door,
15 leaned in. I told him who I was, and then I
16 advised him of his rights: You have a right to
17 silent. Anything you say can and will be used
18 against you in a court of a law. You have a right
19 to take to a lawyer and have him or her present
20 with while you are being questioned. If you
21 cannot afford to hire a lawyer, one will be
22 appointed to represent you before any questioning
23 if you wish. You can decide at any time to
24 exercise these rights and not answer any questions
25 or make any statements. And then I asked him if

Investigator Wayne Dubose-Direct by Meadors

1 he understood his rights and if he wished to talk
2 to me. And he said he would. He was very
3 cooperative.

4 Q. So as you're reading him those rights and
5 you've been around for a while and in this
6 business, did he appear to understand those rights
7 as you read them?

8 A. He did. And he told me he understood
9 them.

10 Q. That was my next question. So he verbally
11 told you, I understand them?

12 A. Yes, sir.

13 Q. And did he agree to talk to you?

14 A. He did.

15 Q. And did he ever say, I don't want to talk
16 to you there at the scene?

17 A. No, sir.

18 Q. Did he ask for a lawyer there at the
19 scene?

20 A. No, sir.

21 Q. Did you threaten or coerce him or hold out
22 any hope of promise of reward there at the scene
23 to get him to talk?

24 A. No, sir.

25 Q. Did you ask him what happened?

Investigator Wayne Dubose-Direct by Meadors

1 A. I did. After I spoke with Corporal Kelly
2 and he told me what was said, I leaned in the car
3 after I mirandized him and I asked him what
4 happened.

5 Q. And what did the defendant tell you?

6 A. The defendant.

7 Q. What did the defendant tell you?

8 A. The defendant told me; asked me that time.
9 I had told him who I was, mirandized him. He
10 understood his rights. And I asked him what had
11 happened, and he had told me that he had asked
12 Shamar, which was the victim, to leave the house
13 several times. And---

14 Q. Look at your -- if you need to refer to
15 your notes, you can. Did you make a summary of
16 what he told you?

17 A. I did. I put it in my. He asked him
18 several times to leave the house. And he asked
19 him over and over. And then he stated that he --
20 that Shamar the victim, came at him with a large
21 beer bottle and tried to hit him. And the -- I
22 asked about the beer bottle. He said it was a big
23 beer bottle. There was a beer bottle in the yard
24 at the time, that was wrapped in a brown paper
25 bag.

Investigator Wayne Dubose-Direct by Meadors

1 Q. And where was that located?

2 A. That was in the front yard.

3 Q. And I think there's a picture of that,
4 correct?

5 A. Yeah, I believe there is.

6 Q. And was that -- that was in the yard.

7 A. Correct. It was off the front porch.

8 Q. Go ahead.

9 A. And at that time, I asked him or he told
10 me that he had came at him with a large beer
11 bottle. I asked him if it was the beer bottle in
12 the yard in the bag. He said, yeah. And at that
13 time, we still could not locate the handgun. They
14 were still looking for a handgun. So at that
15 time, I asked him where the handgun was at. And
16 he did tell me that his father had taken the
17 handgun and put the handgun up.

18 Q. His father.

19 A. His father, Robert Andrews.

20 Q. And at that time you said that he advised
21 you that Shamar came at him with a large bottle
22 and tried to hit him?

23 A. That's right.

24 Q. And did he tell you whether he was not at
25 this point in fear for his life?

Investigator Wayne Dubose-Direct by Meadors

1 A. He did say he was in fear for his life.

2 Q. And did he tell you anything about the
3 liquor?

4 A. He did not tell me anything about liquor.
5 Corporal Kelly told me that.

6 Q. So this was additional information that
7 wasn't told to Kelly, correct?

8 A. That's correct.

9 Q. And is this all he told you at the scene
10 that night at ?

11 A. That's correct.

12 Q. What was his demeanor like?

13 A. He was calm and very cooperative.

14 Q. I am showing you State's 7, Investigator.
15 What is that a picture of?

16 A. This would be a picture of a beer bottle
17 that was in the front yard.

18 Q. And how far is that from the porch?

19 A. I am going to say probably 7 or 8 foot
20 away from the front porch, or the last step on the
21 front of the house.

22 Q. And that's all the information you got
23 from him at the scene.

24 A. Yes, sir.

25 Q. And he talked to Corporal Kelly and he

Investigator Wayne Dubose-Direct by Meadors

1 talked to you.

2 A. That's correct.

3 Q. And he didn't talk to anybody else at the
4 else at the scene. That you're aware of. Law
5 enforcement.

6 A. That I am aware, I am not sure who else he
7 may have talked to, but I know he talked to me and
8 Kelly.

9 Q. And do you see Corporal Kelly taking him
10 from the house on that dashcam video?

11 A. You do.

12 Q. Now did you have occasion, listen to me
13 closely please, sir. Did you have an occasion to
14 take the defendant to the Sumter County Sheriff's
15 Office to get gunshot residue?

16 A. I did. I transported him.

17 Q. And is that on video or audio?

18 A. Both.

19 MR. MEADORS: Your Honor, this is State's
20 17 for this portion we would offer. I don't know if
21 it's in evidence or not. But we'd offer the portion
22 we've talked about, I believe without objection.

23 THE COURT: Is that correct, Ms. Cooke?

24 MS. COOKE: Yes, Your Honor. May we
25 approach real quick?

Investigator Wayne Dubose-Direct by Meadors

1 (Whereupon, attorneys approach and confer
2 with judge.)

3 (DVD marked State's Exhibit No. 17 into
4 evidence.)

5 Q. Now you've listened and looked at this?

6 A. Yes, sir.

7 Q. That what we are about to play are going
8 to accurately reflect when you took the gunshot
9 residue from the defendant?

10 A. Yes, sir.

11 (Whereupon, Playing DVD.)

12 Q. Where did this take place?

13 A. It took place at the Sumter County
14 Sheriff's Office, which is located off North Main.

15 Q. And are the folks that are in there aware
16 that it's being recorded?

17 A. Yes, just behind where I'm sitting, you
18 can actually see on the other side of the room,
19 there is in the back side, there is a red sign.
20 That sign is in Spanish, and it advises anyone
21 that is being audio recorded and video recorded.
22 And then on the wall behind me there is a sign in
23 English where the defendant would have been facing
24 that says the same thing.

25 Q. Is that you taking the handcuffs off of

Investigator Wayne Dubose-Direct by Meadors

1 the defendant?

2 A. Yes, sir.

3 Q. He said the right hand?

4 A. That's correct.

5 Q. And you were talking to a female at the
6 door and talking to her about somebody else using
7 the bathroom.

8 A. That was Lieutenant Lee, and she had Erika
9 Andrews in the back of the building. We just had
10 them separated.

11 Q. And you had told her to be careful when
12 she went to the bathroom, correct?

13 A. She had her, and I told her if she went,
14 to make sure that she watched her; that she didn't
15 wash her hands.

16 Q. And she had said she turned the water off
17 actually when she let her use the bathroom,
18 correct?

19 A. That's right. In our patrol room when
20 someone goes in there, you can cut the water off
21 so it doesn't run.

22 Q. And what you were doing there, was that
23 collecting any potential gunshot residue.

24 A. That's right.

25 Q. On the back of each hand?

Investigator Wayne Dubose-Cross by Cooke

1 A. The GSR kit they spoke to you about
2 earlier, and she described how we did it, that
3 pretty much a demonstration on how we did it.

4 MR. MEADORS: I beg the court's
5 indulgence.

6 Q. Did you physically go, you Wayne Dubose,
7 go inside ?

8 A. I did.

9 Q. Did you see any blood inside the house?

10 A. No, sir. Not inside.

11 Q. Is the individual that you talked to on
12 the side of the road and the individual who said I
13 had the gun in my right hand, is he in the
14 courtroom?

15 A. Yes, sir. Mr. Andrews is sitting over
16 there at the table.

17 THE COURT: Ms. Cooke.

18 MS. COOKE: Very briefly Your Honor.

19 Cross Examination by Ms. Cooke:

20 Q. You talked to Jeffrey's father, Robert
21 Andrews.

22 A. Yes, ma'am, I did.

23 Q. And asked about the gun.

24 A. I did when I went in the residence.

25 Q. And you noted in your report that

Investigator Wayne Dubose-Redirect by Meadors

1 Mr. Andrews seemed very confused.

2 A. He did.

3 Q. And can you tell us if that confusion in
4 your personal opinion, might be age or health
5 related, or whether it was due to drinking?

6 A. He just wasn't real cooperative. I asked
7 him about where the gun was, and he told me that
8 he didn't know where the gun was at.. He just
9 really wasn't responding to the questions that I
10 thought he should.

11 Q. But you did use the term just confused,
12 just confused in your report.

13 A. He did.

14 Redirect Examination by Mr. Meadors:

15 Q. Did he say on the dashcam that he didn't
16 even know they were fighting, and didn't know
17 where the gun was at all?

18 A. In the very beginning when the officers
19 arrived, you will hear him on the tape when
20 officers come in and ask him where the gun is at,
21 because we hadn't located the gun. He does say
22 that he didn't have any idea about they are
23 talking about.

24 MR. MEADORS: Thank you.

25 THE COURT: Any recross?

Investigator Wayne Dubose-Redirect by Meadors

1 MS. COOKE: No, Your Honor.

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

3 MR. MEADORS: I beg Your Honor's

4 indulgence for just one second.

5 MR. MATHEWS: Your Honor, the State of

6 South Carolina rests.

7 THE COURT: Ladies and gentlemen, that

8 makes it a very appropriate time for us to break for

9 lunch. So I am going to send you to lunch with the

10 instruction that you not speak to anyone about this

11 case or each other. And if you could be back at

12 2:00 p.m., we will continue with the case. Thank

13 you, Ladies and gentlemen have a nice lunch.

14 (Whereupon, jury goes to lunch at

15 11:48 a.m.)

16 (Whereupon, the following takes place

17 outside the presence of the jury.)

18 THE COURT: Does the defense have any

19 motions at this time?

20 MS. COOKE: Yes, Your Honor. I would like

21 to renew all my objections made up to this point,

22 and move for a directed verdict based on the fact

23 that I don't feel that the State has met that Mr. --

24 met the elements that Mr. Andrews had killed Shamar

25 Howell with malice aforethought.

1 THE COURT: Let me hear from the State.

2 MR. MATHEWS: Judge, I don't believe
3 there's anything in dispute here about whether
4 Mr. Andrews killed Shamar Howell with malice
5 aforethought. We have testimony of Erika Andrews
6 saying that he did in fact shoot him. We have
7 testimony. We have the murder weapon itself along
8 with the bullets. At this point, in the light most
9 favorable to the State, we certainly presented
10 enough evidence for consideration of the jury that
11 he did in fact kill him with malice aforethought.
12 At this point in the light most favorable to the
13 State, it's a jury question. We ask that you deny
14 her motion for a directed verdict.

15 THE COURT: At this point of the trial,
16 the court is more concerned about the existence of
17 the evidence, not about the weight of the evidence.
18 But it still has to be more than mere suspension.
19 And it's the opinion of the court that the State has
20 provided sufficient evidence to overcome more than
21 just a suspicion, and I will respectfully deny your
22 motion. Thank you.

23 If you all could be back here right at 2
24 o'clock. It will be a few minutes for the jury to
25 get in. I will question your client to testify and

1 did not testify any consideration whatsoever, and
2 there is to be absolutely no prejudice on you
3 because you do not testify. It will be left
4 entirely up to you whether or not you want to
5 testify. I am sure you have already talked to your
6 attorney about it. But again, it is your decision.
7 Have you understood what I've told you?

8 THE DEFENDANT: If I hear you correctly,
9 Your Honor, my previous history can count against
10 me.

11 THE COURT: Absolutely. Those three
12 charges will be brought up by the State if you take
13 this witness stand. Do you understand that?

14 THE DEFENDANT: I am going to testify.

15 THE COURT: Very good. Thank you. Let's
16 bring our jury in.

17 (Whereupon, the following takes place
18 within the presence of the jury.)

19 THE COURT: Ladies and gentlemen, sorry
20 for the delay. We had some technical issues on the
21 sound center to make up. So they needed -- the IT
22 people needed to get in here. Now is that defense
23 ready to present its case?

24 MS. COOKE: Yes, Your Honor.

25 THE COURT: You may call your first

1 witness.

2 MS. COOKE: I would call investigator John

3 Davis.

4 Investigator John Thomas Davis, being

5 first duly sworn, testified as follows:

6 THE BAILIFF: State your full name and

7 spell your last name for the record.

8 A. John Thomas Davis, Jr. D-A-V-I-S.

9 Direct Examination by Ms. Cooke:

10 Q. Investigator Davis, what do you do for a
11 living now?

12 A. I am currently a private investigator. I
13 began my career with Sumter County Sheriff's
14 office back in 1984. I was a reserve deputy. I
15 attended the South Carolina Criminal Justice
16 Academy, and was employed full-time as a deputy
17 with Sumter County. During my career with Sumter
18 County, I was a patrol deputy for the first couple
19 of years. I then transferred to the traffic
20 division where I spent approximately 2 years.

21 I returned to the patrol division as a
22 sergeant. I was there approximately 2 years, and
23 then transferred as an investigator with the
24 juvenile investigations where I was a primarily an
25 investigator: Crimes, children against children,

Investigator John Davis-Direct by Cooke

1 and crimes of adult against children. I left, and I
2 was assigned to the Sumter County Drug Unit, where I
3 spent four years as a drug investigator. I was the,
4 for a short period of about 3 months, I was the
5 commander of the tri-county drug task force. I left
6 the county after that. I went to the city for
7 approximately one year as a patrolman.

8 I was then asked about returning in order
9 to attend polygraph training for the county. I
10 returned to the county. I attended Harvard Life
11 International Polygraph Institute, where I received
12 my polygraph training. Upon returning to the Sumter
13 Sheriff's Office, I completed an internship with
14 sled in polygraph. And my duties with the sheriff's
15 office then was a polygraph examiner. I was also an
16 investigator. And I was the supervisor over the
17 juvenile section.

18 I left Sumter County in 2001, and obtained
19 my private investigator's license. And I have been
20 doing that since that time. Each year since leaving
21 the sheriff's department, I have attended training
22 to keep my training current, attending education
23 each year, both polygraph and investigations.

24 Q. And what are some your duties now as a
25 private investigator?

Investigator John Davis-Direct by Cooke

1 A. I am a polygraph examiner. I also
2 investigate for the public defender's office,
3 criminal defense cases. I also work for other
4 attorneys around the state. Primarily criminal
5 defense cases.

6 Q. And were you hired by the public
7 defender's office on this case?

8 A. Yes, I was.

9 Q. And are you being paid a fee for that?

10 A. Yes, I am.

11 Q. Can you tell us a little bit about your
12 investigation about this case? Some of the things
13 you performed while investigating this case?

14 A. I have reviewed the available evidence
15 that we have, the discovery. I have interviewed
16 witnesses. I have taken photographs at the scene.
17 I have also taken measurements at the scene. And
18 primarily that was about it on this case.

19 Q. And you mentioned taking pictures. Can
20 you tell the date that you took these pictures?

21 A. It's on the back of the photograph.

22 Q. Would it refresh your memory a little at
23 the back of the photograph?

24 A. Yes. On July 16th 2015, I took these
25 photographs.

Investigator John Davis-Direct by Cooke

1 Q. So this wasn't near the time of the crime
2 scene that you took these pictures, was it?

3 A. No, it was not.

4 Q. Did you take these pictures in order to
5 show how the crime scene looked on that evening at
6 all?

7 A. No, I did not. The purpose of the
8 photographs was to show the size of the porch
9 where the incident took place, and it's
10 relationship solely to the components on the
11 porch, like the supports and railings. And also
12 the front door to the residence, to just to give
13 you an idea of how it was laid out.

14 Q. Did you take any pictures of inside the
15 house?

16 A. I did.

17 Q. And why did you take those pictures?

18 A. The same, to show the relationship between
19 the bedroom door in the house and the front door.

20 Q. So these pictures, do they look like
21 the -- do they look like they would have looked at
22 the night of the accident? Or the scene of this
23 incident, I'm sorry, not accident.

24 A. As far as the construction and the size of
25 the porch and the interior, it represents that

Investigator John Davis-Direct by Cooke

1 accurately.

2 MR. MEADORS: Your Honor, as far as 12 -- 5,
3 6 and 12, we have no objection. As far as 1 and 7,
4 we have no objection. But I want to make it clear
5 that this is a picture of the door that he has no
6 idea what condition that was in at the time.

7 MS. COOKE: I think he can handle that in
8 cross examination, Your Honor.

9 MR. MEADORS: I just wanted to make sure
10 of that. He's just testified they're the same.

11 (Photographs marked Defendant's 5, 6, and
12 12 into evidence.)

13 THE COURT: You can put them in but he's
14 already testified that they were made on the 16th of
15 July, and this happened almost a year and a half
16 before.

17 Q. Let me show you State's Exhibit 12. Did
18 you take that picture on the 16th?

19 A. Yes, I did.

20 Q. Can you explain that picture?

21 A. As you enter the front door, there's a
22 living room area. Of course, you see the TV
23 there. And primarily it was to show the
24 relationship between the front door and the
25 bedroom door that you see on the right.

Investigator John Davis-Direct by Cooke

1 Q. And is this picture a fair and accurate
2 representation of when you took the picture on the
3 16th?

4 A. Yes.

5 MS. COOKE: Your Honor, at this time I
6 would like to offer Defendant's Exhibit No. 12 into
7 evidence.

8 THE COURT: I think he said they were
9 fine. They're in.

10 Q. Okay now this one, can you explain that
11 picture?

12 A. Yes. That picture was primarily taken, it
13 also shows the relationship between the bedroom
14 door and the front door. It also shows a small
15 portion of the interior of the bedroom. And
16 looking closely, it's a dresser just inside the
17 door.

18 Q. And that is Defendant's Exhibit No. 5 if I
19 didn't say so before. And this is Defendant's
20 Exhibit No. 6. Can you explain that picture?

21 A. Again, it shows the relationship between
22 the bedroom door and the front door. And it's a
23 clearer view of the dresser.

24 Q. And Defendant's Exhibit No. 7.

25 A. That is the latch on the storm door to

Investigator John Davis-Direct by Cooke

1 the -- that's outside the front door.

2 Q. And what condition was it in?

3 A. It shows it there as it being loose, and
4 something has loosened it.

5 Q. Defendant's Exhibit No. 1.

6 A. That's just another shot of that front
7 latch. You can see it's hanging down as something
8 that jarred it or caused it to be loose.

9 Q. And again, that was on the 16th.

10 A. That's correct.

11 Q. And you mentioned that you took
12 measurements on the porch. Can you tell us what
13 you did with those measurements?

14 A. I'm sorry?

15 Q. What did you do regarding this display
16 that.

17 A. I have the measurements if you would like
18 me to....

19 Q. Did you -- can you tell us how you made
20 this and?

21 A. Yes, I purchased a piece of linoleum, and
22 cut to the size of the measurements of the front
23 porch, so that it would accurately represent that
24 area. I also made some one by one, you'll see the
25 L shaped parts on the porch represents the columns

Investigator John Davis-Direct by Cooke

1 that you will see on the photographs. And I cut
2 two pieces of two by one, or one by two, to show
3 you where the position of the front door is. And
4 also I've got a piece laid out to show the
5 position of the bedroom door in relationship to
6 the porch.

7 Q. But this is Defendant's Exhibit No. 33.

8 THE COURT: Without objection.

9 (Photo of porch marked Defendant's Exhibit
10 No. 33 into evidence.)

11 Q. Investigator Davis, using Defendant's
12 Exhibit No. 33, can you come down and explain the
13 display?

14 (Whereupon, witness steps down from the
15 witness stand.)

16 A. I would be on the side of
17 the residence, looking forward at the residence.
18 There is a set of steps that comes up the center
19 of the porch, and that's where you would enter the
20 porch. And that's shown on this photograph is
21 about four steps. I measured the porch itself
22 using a ruler that I had just purchased from
23 Simpson's Hardware. I wanted to use a new ruler,
24 because the tabs tend to get loose, and you give
25 false readings. But the porch itself, the width

Investigator John Davis-Direct by Cooke

1 or length, if you're looking for the road is
2 11-foot, 1 inches. The depth of the porch is
3 5 foot, 5 and a quarter inches. There are two
4 columns, support columns on the porch. And there
5 is a bannister, a wooden bannister, that goes
6 around from the wall to the steps on each side of
7 the porch. The distance from the -- this is
8 representing the front door. And the distance
9 from the corner of the frame of the front door to
10 the center of this right hand column, is 6-foot 10
11 inches long. In entering the front door, there
12 would be a wall here. That's the wall to the
13 bedroom that you were looking at where the dresser
14 was. And approximately 8 foot 2 inches from the
15 front door is the door to that bedroom that you
16 saw in that photograph.

17 MS. COOKE: Your Honor, I was going to do,
18 at this time was going to stop questioning
19 Mr. Davis, and call EMS and let her testify. And
20 then recall Mr. Davis to finish his testimony.

21 THE COURT: That would be okay. And then
22 I will let the jury file by. Some of all you can't
23 see everything, is that correct? Do you want to
24 cross examine?

25 MR. MEADORS: Do you want me to cross him

Investigator John Davis-Direct by Cooke

1 later after?

2 THE COURT: Yeah, you can cross him on
3 everything after that.

4 MS. COOKE: At this time, I would call
5 Kimberly Graham, Your Honor.

6 Kimberly Graham, being first duly sworn,
7 testified as follows:

8 THE BAILIFF: Please state your full name
9 and spell your last name for the record.

10 A. Kimberly A. Graham. G-R-A-H-A-M.

11 Direct Examination by Ms. Cooke:

12 Q. And, Ms. Graham, where are you employed?

13 A. Sumter County EMS.

14 Q. And I believe we went through this other
15 day. Can you very briefly explain your duties
16 there?

17 A. I am a paramedic. I provide care to the
18 sick and injured.

19 Q. And were you employed on 3/25/14?

20 A. Yes, ma'am.

21 Q. And did you respond to an incident at

22 ?

23 A. Yes.

24 Q. That we're here for today?

25 A. Yes, ma'am.

Investigator John Davis-Direct by Cooke

1 Q. And could you -- when you arrived there,
2 could you please come down and on the display.

3 Let me show you the picture first.

4 THE COURT: Please speak loudly.

5 Q. I am sorry, Ms. Graham, I am going to ask
6 you about the picture first. This is State's
7 Exhibit No. 8. And or I am sorry, State's Exhibit
8 No. 15. State's Exhibit No. 15. Can you tell us
9 within relation to that picture, where Shamar
10 Howell's head was?

11 A. Where the blood spatter is at.

12 Q. Can you point that out to the jury?

13 A. (Whereupon, witness points.)

14 Q. And can you tell us which direction his
15 body and his feet were in?

16 A. This was his head. His body and his feet
17 were pointed towards the door.

18 MS. COOKE: Thank you, and I have no
19 further questions, Your Honor.

20 THE COURT: Any cross examination?

21 MR. MEADORS: No, sir.

22 THE COURT: Thank you. You may step down.
23 And you may recall Mr. Davis.

24 MS. COOKE: I would like to recall
25 Investigator Davis at this time.

Investigator John Davis-Direct by Cooke

1 Investigator Thomas Davis, being
2 previously sworn, retakes the witness stand and
3 testifies as follows:

4 Direct Examination continues by Ms. Cooke:

5 Q. Investigator Davis, can you further
6 explain the measurements on the porch?

7 A. Yes, I can.

8 Q. In relation to Kimberly Graham's
9 testimony?

10 A. Yes. The photograph that showed the pool
11 of blood, I used that to go back and take some
12 measurements. From the front of the porch, the
13 edge of the porch before the steps and from this
14 edge of the support column, to the top of the
15 where it appeared there was a pool of blood. The
16 measurement from the edge of the porch to the
17 other edge of that blood pool was 14 inches. And
18 the distance from the edge of the column,
19 intersecting that first line was 19 inches. And
20 that intersected at the top of that pool of blood.

21 Q. And can you tell us what exactly -- did
22 you make any marks on this exhibit, and what does
23 that mean?

24 A. Yes, I did. I have one line showing the
25 14 inches from the edge of the porch and the

Investigator John Davis-Direct by Cooke

1 intersection from the top. That would be the top
2 edge of that pool of blood.

3 Q. And can you explain the measurements with
4 relation to the pool of blood and the front door?

5 A. Yes. The distance from the intersection
6 of that line to the inside door jam was 6-foot
7 4 inches to the inside of the door jam.

8 MS. COOKE: I don't have further questions
9 for Mr. Davis.

10 THE COURT: Mr. Davis, if you will take
11 the stand and I will allow the prosecution to cross
12 examine you. And before I do that, can all the
13 jurors see the diagram? If you can't, if you want
14 to walk down and file out, that will be fine.

15 THE FOREMAN: Do you want us to wait, or
16 do you want us to do it now?

17 THE COURT: No, go ahead and do it now. I
18 want you to see it before the cross examination.
19 The little podium seems to be right in the way.

20 (Jurors view the exhibit.)

21 Cross Examination by Mr. Meadors:

22 Q. Good afternoon, Mr. Davis.

23 A. Good afternoon.

24 Q. Now you are 11 foot, 1 inches from the
25 edge of the porch to the other side?

Investigator John Davis-Cross by Meadors

1 A. May I step down there?

2 MR. MEADORS: Yes, I am sorry.

3 A. The view of the porch from---

4 Q. The 11-foot 1 inches, where does start
5 from? Is that from here?

6 A. The 11 foot, 1 inch, starts from one end
7 of the porch to the other edge of the porch.

8 Q. The edge.

9 A. Right.

10 Q. And the 5 -- 5, 5 and a quarter?

11 A. 5, 5 and a quarter from the edge of the
12 upper portion of the porch to the wall of the
13 house.

14 Q. And these are the little bannisters on
15 there.

16 A. The bannisters are on the outside, and
17 these are the metal support columns that you see
18 in the photographs.

19 Q. And all of this is approximate. Kim
20 kind of came over and pointed out where the stain
21 was. And that's an approximate obviously,
22 correct?

23 A. It's not exact.

24 Q. It's not exact. Because you went out
25 there the stain had been cleaned up, obviously.

Investigator John Davis-Cross by Meadors

1 A. Correct.

2 Q. You couldn't measure from the stain.

3 A. Correct.

4 Q. So it's all and approximation as far as
5 that's concerned?

6 A. Correct.

7 Q. And the other, I wanted to be clear, I
8 think it was Defendant's 6, you said measuring
9 from the defendant's picture 6, from somewhere on
10 the doorway back. And you said there was a
11 closed or a dresser drawer from the wall that you
12 had just showed them.

13 A. Yes.

14 Q. That's not on the inside is it, the
15 dresser drawer?

16 A. From the inside wall, it's approximately
17 8 foot, 2 inches from that bedroom door, and the
18 dresser sat just to the inside of that door in the
19 bedroom.

20 Q. It's inside the bedroom.

21 A. Right.

22 Q. Not inside of this part of the living
23 room.

24 A. No.

25 Q. So you're saying from right here 8 foot---

Investigator John Davis-Cross by Meadors

1 A. Right.

2 Q. ---to where on that doorway?

3 A. This would be approximately 8-foot
4 2 inches to the leading edge of this doorway.

5 Q. And is that where the gun was found in
6 there?

7 A. I don't know where the gun was found
8 exactly. I couldn't testify to that.

9 Q. But that's previous about that. But
10 that's a part of the report. You looked through
11 all the report, didn't you?

12 A. Right, but I was concentrating on this. I
13 haven't reviewed that.

14 Q. So do you even know if the gun was found?

15 A. My understanding it was.

16 Q. Well they're pictures in the drawer which
17 are part of the investigation, did you look at
18 those?

19 A. I believe I did at some point. I might
20 need to explain that sometimes I am hired to
21 investigate the entire case from beginning to end.
22 Sometimes I am hired to just look at certain
23 aspects of the case, maybe do particular
24 interviews. Do particular things.

25 Q. Did you interview Darryl Virlyn Gardner?

Investigator John Davis-Cross by Meadors

1 A. Yes, I did.

2 Q. You did.

3 A. Yes.

4 Q. And when did you talk to him?

5 MS. COOKE: Your Honor, I am going to

6 object to this.

7 THE COURT: What's your objection?

8 MS. COOKE: He hasn't test -- he's hasn't
9 testified. Hearsay.

10 THE COURT: Hearsay. He won't be able to
11 testify as to what he said.

12 MR. MEADORS: Your Honor, he just
13 testified that he does interviews and takes
14 statements and does different. That was a follow
15 up to that.

16 THE COURT: Right. I mean he can't
17 necessarily -- all he can say is that he interviewed
18 him.

19 MR. MEADORS: Yes, sir. I certainly
20 wasn't going to ask him what he said.

21 Q. You did interview him.

22 A. I did.

23 Q. When was that?

24 A. I do have the date with me.

25 Q. Have you got your folder with you?

Investigator John Davis-Cross by Meadors

1 A. No, I don't.

2 Q. You didn't bring it today? Is it in the
3 courtroom?

4 A. I have it but---

5 Q. Would that help you determine when you
6 interviewed Mr. Gardner?

7 A. Yes, sir.

8 Q. Can I bring it to you? Is this it?

9 A. Yes. If you will give me just a moment.

10 Q. Yes, sir.

11 A. On October 14th 2014.

12 MS. COOKE: My objection at this time,
13 Your Honor, is relevance.

14 THE COURT: He is on cross examination.
15 I'm going to give him a little bit of latitude.

16 Q. Where was Mr. Gardner when the shooting
17 happened?

18 A. At the residence.

19 Q. Is that relevant to this in your opinion?

20 A. That's not to for me to decide.

21 MS. COOKE: I believe that's hearsay, Your
22 Honor.

23 THE COURT: That's not hearsay.
24 Overruled.

25 Q. Did he give you a written statement?

Investigator John Davis-Cross by Meadors

1 A. No, he did not.

2 Q. Where is he now?

3 A. I understand he's in some type of VA
4 program, but I don't know where.

5 Q. When is the last time you've talked to
6 him?

7 A. I talked to him by phone probably 2 days
8 ago.

9 Q. 2 days ago?

10 A. Uh-huh. (Affirmative.)

11 Q. And his relationship with the defendant
12 was what?

13 A. They were friends.

14 Q. Good friends?

15 A. I don't know that.

16 Q. I think is this is No. 6 that I was asking
17 you about a little ago, Mr. Davis. And is that
18 the dresser you're talking about inside that
19 bedroom when you walk in?

20 A. Correct.

21 Q. And why did you take a picture of that?

22 A. Because it was part of the scene.

23 Q. And if you look in the State's 10, I mean
24 have you seen any of the pictures that night from
25 the scene?

Investigator John Davis-Cross by Meadors

1 A. I think some were quickly reviewed. I
2 wasn't involved in all of them. Some of them I
3 paid more attention to like the porch.

4 Q. Have you seen that one before, State's 10.

5 A. I am sure I glanced at it, I don't have
6 any recollection. I believe you showed this one
7 in the Duncan hearing the other day.

8 Q. This week.

9 A. Yeah.

10 Q. Prior to that you haven't seen it?

11 A. Yeah. I might have glanced it, but I
12 don't really recall it.

13 Q. Well the scene is different that night
14 than it is in your pictures, isn't it?

15 A. Correct.

16 Q. I mean, there's a chair under here in
17 State's 10 that's not depicted in your Defense's
18 6.

19 A. Correct.

20 Q. So the scene is not exactly the same as it
21 was.

22 A. Correct.

23 Q. And you have no idea what the scene was on
24 March 25th?

25 A. No, I do not.

Investigator John Davis-Cross by Meadors

1 Q. And these pictures we taken last week?

2 A. The 16th.

3 Q. July 16th of 2005.

4 A. 2015.

5 Q. And this incident happened when?

6 A. 2014.

7 Q. March 25th. And so this picture of this
8 latch you took, you have no idea what condition
9 that latch was in a year and a half earlier, based
10 on your knowledge.

11 A. My personal knowledge, no.

12 Q. Because it's been a year and a half since
13 this incident. Until this picture was taken,
14 correct?

15 A. Correct.

16 Q. And you have no idea where the victim was
17 standing or the defendant was standing the night
18 this happened, do you?

19 A. I'm sorry?

20 Q. You don't have any idea where they were
21 standing that night, do you? You weren't out
22 there.

23 A. No, I was not there.

24 MR. MEADORS: I beg the court's
25 indulgence.

Investigator John Davis-Cross by Meadors

1 Q. And you're being paid by the public
2 defender's office by the hour, correct?

3 A. Yes, sir. But I would like to say that as
4 long I am testifying, I am being paid. I am not
5 being paid just to be in the courtroom.

6 Q. And there is a glass -- that's glass door
7 that front door, correct?

8 A. A storm door. Glass storm door.

9 Q. And then inside of that is a wooden door.

10 A. That's correct.

11 Q. And your picture shows it open, correct?

12 A. You'll have to show me.

13 Q. The wooden door I am talking about. It
14 shows it both. State's 12, does that show the
15 wooden door, open?

16 A. That's correct.

17 Q. And State's, Defendant's, I apologize for
18 the record. Defendant's 12 shows the door open.

19 A. Correct.

20 Q. The wooden door open.

21 A. Correct.

22 Q. Defendant's 5 shows the wooden door
23 closed.

24 A. That's correct.

25 MR. MEADORS: Thank you, Mr. Davis.

Investigator John Davis-Redirect by Cooke

1 That's all.

2 THE COURT: Any redirect?

3 MS. COOKE: Yes, Your Honor.

4 Redirect Examination by Ms. Cooke:

5 Q. Mr. Meadors showed you State's Exhibit
6 No. 10; and compared it to Defendant's Exhibit 12,
7 and asked you if there any differences regarding a
8 chair. Can you tell us, was that chair between
9 the open door and the bedroom door, or was it on
10 the other side of the room?

11 A. I guess you're referring to this wooden
12 chair in the corner.

13 Q. The chair that Mr. Meadors asked you
14 about.

15 A. There is a love seat. There's a couch,
16 and a wooden chair. And that wooden chair is not
17 present in my photograph.

18 Q. But is it -- is that chair in between the
19 front door and the bedroom door, or is it on the
20 other side?

21 A. No, it's on the other side. Correct.

22 Q. So it wouldn't really -- would it effect
23 anything that happened between the bedroom door
24 and the front door then?

25 A. Not that I am aware of.

Investigator John Davis-Redirect by Cooke

1 Q. Now State's Exhibit No. 8 is in evidence.

2 Is this the picture that you used to make the
3 measurements with the blood pool?

4 A. It is.

5 Q. Can you go into detail with that picture
6 on how you came about those measurements?

7 A. Yes, I had to have fixed point, so I used
8 the top of the porch. I used a---

9 Q. Can you show the jury?

10 A. I am sorry. A pool of blood, I used the
11 edge of the porch as a fixed point. I used the
12 division between the brick as kind of a guide, so
13 I could get it straight. You know, I measured it
14 to the top of the blood pool. And then I measured
15 from the edge of the column and intersected that.
16 I believe it was 14 inches from the edge of the
17 porch to the top of the blood pool. And 19 inches
18 was the intersection of the two, and they were
19 both at the -- they intersected at the top of that
20 blood pool.

21 Q. So it wasn't just a complete guess.

22 A. No.

23 Q. And did the defense issue and give you a
24 subpoena for Virlyn Gardner to come testify for
25 the defense?

Investigator John Davis-Redirect by Cooke

1 A. No, they did not. Oh, I am sorry, did
2 you? Yes, you did.

3 Q. And were you able to serve that subpoena?

4 A. No, I was not.

5 Q. And Mr. Meadors asked you if you knew what
6 the condition of the latch was in. And you stated
7 you had no personal knowledge of it. I believe
8 Mr. Meadors may have opened the door. Do you have
9 any knowledge from the interviews what condition
10 the latch was in on that night?

11 A. I learned---

12 MR. MEADORS: Object to hearsay, Your
13 Honor.

14 THE COURT: Sustained.

15 Q. And just a couple of final questions. You
16 stated that you were a former police officer.

17 A. Correct.

18 Q. Would you lie on the stand to earn some
19 money?

20 A. No, I would not.

21 Q. And have you testified for the defense
22 before in cases that were lost?

23 A. Yes, I have.

24 MS. COOKE: No further questions, Your
25 Honor.

Robert Andrews-Direct by Cooke

1 THE COURT: Any recross?

2 Recross Examination by Mr. Meadors:

3 Q. So your measurements were off of that
4 picture basically.

5 A. Yeah, I used the picture as a guide.

6 THE COURT: Thank you. You may step down.
7 Let me see the attorneys real quick.

8 (Whereupon, the attorneys approach and
9 confer with judge.)

10 MS. COOKE: Your Honor, at this time, I
11 would like to call Mr. Robert Andrews.

12 Robert Andrews, being first duly sworn,
13 testified as follows:

14 THE BAILIFF: Please state your full
15 name and spell your last name for the record.

16 A. My name is Robert Andrews. A-N-D-R-E-W-S.
17 Andrews.

18 Direct Examination by Ms. Cooke:

19 Q. Hi, Mr. Andrews, where do you live?

20 A. Where do I live?

21 Q. Yes, sir.

22 A. At

23 Q. Who is Jeffrey Andrews to you?

24 A. That's my son.

25 Q. And where does he live?

Robert Andrews-Direct by Cooke

1 A. At

2 Q. Does he have his own room there? Does he
3 have his own bedroom?

4 A. Yes.

5 Q. Does he sleep there?

6 A. Yes.

7 Q. Was he living there on the night of this
8 incident?

9 A. Yes.

10 Q. And were you home when this happened?

11 A. Yes, ma'am.

12 Q. Do you remember who all was there?

13 A. I was there, Erika Andrews. Erika was
14 there. Shamar was there and Virlyn Gardner was
15 there.

16 Q. And can you tell us what Shamar's demeanor
17 was? How he was behaving?

18 A. Yes, he was just -- well I heard some
19 noise, some talking, some curse words, and I tell
20 them I didn't have that, you go home. And I tell
21 Jeffrey to go in the room.

22 Q. So when you said you go home, who were you
23 referring to?

24 A. Shamar.

25 Q. Did he come back?

Robert Andrews-Direct by Cooke

1 A. Yes.

2 Q. And when he came back, was the screen door
3 open or shut?

4 A. It was closed.

5 Q. And how did he come in the house?

6 A. He snatched the door open.

7 Q. And did anything happen to the latch on
8 that screen door as a result?

9 A. The latch still hanging in the door.

10 Q. What happened that night to it? What
11 happened to the latch that night when he came in
12 the door?

13 A. After he snatched it open, he just leave
14 it there.

15 Q. I mean after he snatched it open, what --
16 what con -- was the latch closed when he came
17 through the door or opened?

18 A. Closed.

19 Q. And after he came through the door with
20 the closed latch, what kind of condition was the
21 latch in?

22 A. It was still hanging in the door. The
23 condition was poor.

24 Q. And have you done anything to fix that
25 latch since that evening?

Robert Andrews-Direct by Cooke

1 A. No, I haven't.

2 Q. I am going to show you what's been marked
3 as Defendant's Exhibit No. 1, can you tell us if
4 the latch in that picture looks the same as it did
5 on the night---

6 A. Ma'am, I don't see very well at all.

7 Q. You don't see well enough. But is the
8 latch now fixed or broken?

9 A. I can feel the latch, you know. Every
10 time I close the door, I can hear it rattling.

11 Q. Did it rattle, and was it broken before
12 the night of this incident?

13 A. Would you repeat that please?

14 Q. Yes, sir. Did the latch rattle, and was
15 it broken before the night of this incident?

16 A. No.

17 Q. Did it rattle, and was it broken before
18 Shamar broke it?

19 A. No.

20 Q. Do you remember how Shamar was acting when
21 he came through the door? Do you remember how
22 Shamar was acting when he broke the latch on the
23 door and was trying to come in?

24 A. He was just cursing.

25 Q. Do you know where he was standing when he

Robert Andrews-Direct by Cooke

1 got shot?

2 A. In the doorway.

3 Q. In the doorway?

4 A. The front door.

5 Q. Do you mean between like the wall?

6 MR. MEADORS: Your Honor, object to
7 leading.

8 THE COURT: Sustained.

9 MS. COOKE: I haven't finished.

10 THE COURT: You're leading. Rephrase your
11 questions.

12 Q. I was going to ask several. Can you
13 explain it a little more where he was standing?

14 A. Okay, like my house has got a front door.

15 Q. Uh-huh. (Affirmative.)

16 A. He was coming. He was in the front door.
17 Standing in the front doorway, where the screen
18 door and the wood door is.

19 Q. That's good. Oh, I forgot one more. Now
20 Jeffrey gave you gun after he shot him?

21 A. Yes.

22 Q. And did you hide the gun?

23 A. No, I just took it and put it right back.
24 Put it in the drawer.

25 MS. COOKE: I don't have any further

Robert Andrews-Cross by Meadors

1 questions.

2 THE COURT: Mr. Meadors.

3 Cross Examination by Mr. Meadors:

4 Q. Good afternoon, Mr. Andrews. Good
5 afternoon.

6 A. How are you doing.

7 Q. I talked to you briefly the other day in
8 that hearing, do you remember? We talked briefly
9 the other day in the hearing, the early part of
10 the week?

11 A. Okay.

12 Q. Do you remember me questioning you?

13 A. No.

14 Q. And at that time, had you said that you
15 had put the latch back in after it had fallen out?

16 A. Yeah, I done put it back in.

17 Q. And do you -- Ms. Cooke asked you about --
18 I'm sorry, I am not trying it around. I can't
19 help myself. When Ms. Cooke asked you about the
20 gun---

21 A. Uh-huh. (Affirmative.)

22 Q. ---just now. You said you took it and put
23 it back where you got it? Or where it was kept?

24 A. It was on the dresser. It was on the
25 dresser, and I took it and put it in one of the

Robert Andrews-Cross by Meadors

1 drawers.

2 Q. So you put it in the drawer.

3 A. Yes, sir.

4 Q. Is that where it's kept usually?

5 A. That's where it usually be at when I
6 sleep.

7 Q. And is that your gun?

8 A. Yes, sir.

9 Q. So is that where it would have been before
10 hand too?

11 A. Yes, sir.

12 Q. In the drawer?

13 A. Yes, sir.

14 Q. You and don't keep it out on top of the
15 dresser, do you?

16 A. Well when no kids at the house, I when I
17 have company sometime, I have it sitting on top of
18 the dresser.

19 Q. Inside your bedroom.

20 A. Yes, in my bedroom.

21 Q. So where was it that day, I guess, is what
22 I am trying to ask you.

23 A. It was on something like a chest of
24 drawer. It was right on top of it.

25 Q. And you put in the drawer.

Robert Andrews-Cross by Meadors

1 A. And then after Jeffrey shot Shamar, and I
2 took it and put it right in the drawer.

3 Q. And why did you put it in the drawer?

4 A. I don't know.

5 Q. Did Jeffrey ask you to take it and put it
6 in there?

7 A. No.

8 Q. If you don't mind, sir, I am just going to
9 show you this State's 32. And I know you said you
10 don't see real well, and I respect that, and I'm
11 not trying to get to close to you, but can you see
12 that?

13 A. No, sir, I really can't.

14 Q. You can't see that?

15 A. I really can't.

16 Q. Well do you remember when you got the gun,
17 was it cocked? Is this your gun?

18 A. I don't know.

19 Q. So when you got it from Jeffrey you didn't
20 mess with it or anything. You just took it and
21 put it in the drawer.

22 A. No, I didn't mess with it at all.

23 Q. And Shamar had been over to your place
24 several times, hadn't he?

25 A. Yes.

Robert Andrews-Cross by Meadors

1 Q. And you all had, and I don't mean this
2 bad, because I like to take a drink every now and
3 then. But you all had been drinking before and
4 socializing before?

5 A. I don't drink.

6 Q. And I respect that. But the rest of them,
7 had they been there?

8 A. I don't know.

9 Q. But had he been there before?

10 A. Yes.

11 Q. And for what purposes, Mr. Andrews?

12 A. They used to come around and dry their
13 clothes. See he was living in another house of
14 mine.

15 Q. Mr. Shamar was.

16 A. Yes.

17 Q. And is that ?

18 A. Yes, sir.

19 Q. And that's your place.

20 A. Yes.

21 Q. And he was staying there with Ms. Erika
22 Andrews.

23 A. Yes.

24 Q. And Erika is your?

25 A. Niece.

Robert Andrews-Cross by Meadors

1 Q. Niece. So you all -- I mean you all are
2 family.

3 A. Were we family?

4 Q. You and Erika are family.

5 A. Yes.

6 Q. And you and Shamar, you've seen him a
7 bunch of times over there.

8 A. Quite a few times. He lived there for
9 about 5 or 6 months.

10 Q. And had a little baby together?

11 A. I believe so.

12 Q. He came -- Shamar came over there, and it
13 started out, everything was fine, wasn't it? When
14 he first got to house, was everybody fine, and
15 somebody offer him a beer?

16 A. No, I never offered no beer, because I
17 never drank. And I didn't approve of that.

18 Q. I understand, and I didn't mean you. Do
19 you know if somebody offered him a beer?

20 A. At my house?

21 Q. Yes, sir.

22 A. No.

23 Q. And do you know where, you had said, I
24 think Ms. Cooke asked you where Shamar was when he
25 got shot.

Robert Andrews-Cross by Meadors

1 A. Yes, sir.

2 Q. And I don't mean this bad. I swear I
3 don't. I'm just trying to do my job. Did you
4 have trouble seeing then? And I don't mean that
5 bad.

6 A. I have trouble seeing about 5 or 6 years.

7 Q. I am right behind you, I promise you. I
8 am not trying to make that, I'm really not. But
9 where was Jeffrey then, that you're saying --
10 where was Jeffrey standing when he shot Shamar?

11 A. In my room door.

12 Q. He was in your room door?

13 A. Yes.

14 Q. So where were you?

15 A. I was sitting down in the chair.

16 Q. So Jeffrey was inside.

17 A. Yes.

18 Q. Now do you remember telling the police
19 that night that you had no idea where the gun is,
20 and you had no idea they were even fighting. Do
21 you remember saying that?

22 A. No, sir.

23 MR. MEADORS: I beg the court's
24 indulgence.

25 THE COURT: Yes, sir.

Robert Andrews-Cross by Meadors

1 Q. I think Ms. Cooke said that you said that
2 when all this fussing happened and all, you said
3 everybody leave. Right? You said everybody
4 leave. Get out of my house, I don't want the
5 arguing.

6 A. Right.

7 Q. It's your house.

8 A. Right.

9 Q. And Mr. Shamar was leaving.

10 A. He been shot then.

11 Q. I don't understand?

12 A. You mean did I ask everybody to leave
13 before he got shot?

14 Q. Is that what you're talking about? I'm
15 just trying to get that clear. I think you said
16 Jeffrey went to his room, or you said go to your
17 room.

18 A. I said go to -- well he went to my room.

19 Q. Where is Jeffrey's room?

20 A. Jeffrey's room is on the back.

21 Q. So he didn't go to his room, he went to
22 your room.

23 A. Right.

24 Q. Do you know why he did that?

25 A. I don't know.

Robert Andrews-Cross by Meadors.

1 Q. You did the tell the police when they
2 asked you where the gun was, that you didn't know,
3 didn't you?

4 A. Right.

5 MR. MEADORS: Mr. Andrews, thank you.
6 That's all I have.

7 THE COURT: Any redirect?

8 MS. COOKE: No, Your Honor.

9 THE COURT: Thank you. You may be step
10 down. Any objection to this witness being excused?

11 MR. MEADORS: No, sir.

12 THE COURT: Ladies and gentlemen of the
13 jury, now is a good time to take a 10 minute recess.
14 Do not talk about the case while you are back there.
15 If you want to smoke, there will be enough time.

16 (Whereupon, the following takes place
17 outside the presence of the jury.)

18 THE COURT: Court will be in recess for
19 about 10 to 15 minutes.

20 (Whereupon, the court takes a short
21 recess.)

22 THE COURT: You may bring our jury please.

23 (Whereupon, the following takes place
24 within the presence of the jury.)

25 THE COURT: Ms. Cooke, you may call your.

Jeffrey Andrews-Direct by Cooke

1 next witness.

2 MS. COOKE: I would call Jeffrey Andrews
3 Your Honor.

4 THE BAILIFF: State your full name and
5 spell your last name for the record.

6 A. Jeffrey Andrews. A-N-D-R-E-W-S.

7 DIRECT EXAMINATION by Ms. Cooke:

8 Q. I want to go ahead and ask you about your
9 background. Do you have any criminal convictions?

10 A. Yes, I do.

11 Q. Can you tell the jury what they are?

12 A. I have an aggravated assault. I have a
13 criminal domestic violence charge. And I have a
14 shoplifting charge.

15 Q. Do you know approximately what years those
16 were?

17 A. Give or take, one is 2004. One is 2008.
18 And I think the other one is 2010.

19 Q. Can you tell us a little bit more about
20 your background?

21 A. Actually I'm a mortician.
22 Apprenticeship -- apprentice mortician. I am also
23 a businessman. I was in the military. I also
24 earned an EMTB license several years ago. So I've
25 been around.

Jeffrey Andrews-Direct by Cooke

1 Q. Now how long were you in the military?

2 A. I did a brief stint in the United States
3 Marine Corps, because I got a medical discharge
4 several days before completing base training.

5 Q. And where did you live on March 25th 2014?

6 A. Sumter, South Carolina.

7 (Identification card marked as Defendant's
8 Exhibit No. 30 for Id.)

9 Q. Defendant's No. 30, do you recognize this?

10 A. Yes, I do.

11 Q. And can you tell us what that is?

12 A. This is my South Carolina identification
13 card.

14 Q. And what is the address on that
15 identification card?

16 A. Sumter, South Carolina.

17 Q. And when was it issued?

18 A. February 18th 2014.

19 Q. Was that after of before this incident?

20 A. That was before.

21 Q. I want to go through the evening very
22 slowly and in chronological order. Can you start
23 us out with how the evening began?

24 A. On March 25th 2014, I guess approximately
25 6:30, 7 o'clock, I picked up my cousin Virlyn

Jeffrey Andrews-Direct by Cooke

1 Gardner to have a drink over at my place, at
2 . I was celebrating. I had gotten some
3 money from school. I enrolled back in school and
4 had gotten some money. And my wife I were going
5 to go buy 1.5 acres of land with that money, and
6 were just celebrating.

7 And of course, I went to the house and I
8 wanted to share it with my father. So we took him
9 out to eat at -- took him to buy chinese food. And
10 upon returning, we noticed the washer and dryer was
11 on at the house. We noticed the washer and dryer
12 was on. And if you look at my porch, it's a
13 screened porch. And it's not enclosed, but it's
14 out. But the washer and dryer is enclosed inside
15 but you can hear it. And we heard the washer and
16 dryer running. So I immediately -- my dad noticed
17 it running. And I immediately, you know, something
18 is going wrong. But anyway with that bottle, I put
19 the bottle on the recliner.

20 Q. What bottle are you talking about?

21 A. A bottle of brandy that were going to
22 drink. Paul Masson brandy. We were going to
23 drink that. That's what we were going to drink.
24 Well anyway prior to going to get the chinese
25 food, we took that, hid it on the sofa on the

Jeffrey Andrews-Direct by Cooke

1 recliner. Put it underneath some clothes just so
2 no one would come and took it. We left of course,
3 went and got something to eat. Came back.
4 Noticed the dryer running, and the bottle,
5 discovered the bottle was missing.

6 Q. And what did you believe about the washer
7 and dryer running?

8 A. Well with the washer and dryer running,
9 you know, I really at that time, I really didn't
10 pay attention. I wanted to start celebrating,
11 actually. But it was running, and with the bottle
12 missing, I called one of my cousin's, Monkey Dew,
13 Jenny Bell, and asked her had she come to house
14 and take the bottle. She said of course not.

15 Q. Why did you call her and ask her?

16 A. Well because she's one of people that
17 helps dad, assists my dad, and we allow to help
18 him. We allow him being to help him. So she was
19 one of the people that we allow to do that. And
20 of course, she said no. So I took it upon myself
21 to go look in the washer and dryer, and discovered
22 that it was Erika and Shamar's clothes in there.

23 Q. And when you discovered that, what did you
24 do?

25 A. Well actually when I discovered it was

Jeffrey Andrews-Direct by Cooke

1 Erika and Shamar's clothes, I went down to the
2 trailer. They actually rent a trailer from my
3 dad. And I went down there just to ask them had
4 they seen the bottle, the missing bottle. Of
5 course, Shamar's response was, what size is it.
6 What kind of bottle are you talking about. Oh, we
7 wasn't even over there. And Erika supported that.
8 So I was like, forget about it, you know. And I
9 left.

10 Q. Where did you go?

11 A. We went to the bootlegger actually, and
12 got, replaced the liquor.

13 Q. And then where did you go?

14 A. I came back home. I went back to my
15 residence at

16 Q. And who all was at your residence at that,
17 at ?

18 A. Just myself, my dad and Virlyn Gardner.

19 Q. And what were the three of you doing?

20 A. Just sitting there chatting and
21 socializing, talking about the events of the day.
22 Actually we were talking about my dad when he was
23 younger. And he loves to brag. When he was
24 younger, he kept his cars clean. He had a lot of
25 girlfriends and stuff. So Virlyn and I get a kick

Jeffrey Andrews-Direct by Cooke

1 out of talking with him about that. So, we just
2 there and, you know, enjoyed drinking and chatting
3 with him.

4 Q. And did anyone else come over to the
5 house?

6 A. I guess approximately 20 minutes later,
7 Erika came; walked into the house. And she came
8 in. Of course Erika's family, so she didn't
9 knock. Just come on in, she's family.

10 Q. Did you all have a problem with that?

11 A. No. No, Erika is family. She's my
12 cousin's -- well she's actually my niece. So she
13 will always be my niece.

14 Q. And then what happened?

15 A. Moments later, Shamar came in. And Shamar
16 came in and proceeded to sit on heater in the
17 house because, of course, you know I asked him not
18 to sit on the heater. But he stood up, I mean he
19 wanted to sit on the heater. And he said, I can't
20 sit down, because my leg gets stiff. And so, you
21 know, he chose to stand up. And I didn't have a
22 problem with that at that time.

23 Q. And had you sent Erika to go get Shamar?

24 A. No.

25 Q. At this point and time, was there any

Jeffrey Andrews-Direct by Cooke

1 animosity going on between anyone in the house?

2 A. Not at all. I don't know where the
3 animosity would come from, but no, there was no
4 animosity at that time.

5 Q. Had Erika and Shamar been over there
6 before?

7 A. Yes.

8 Q. About how many times?

9 A. You know, that's pretty broad. And
10 that's -- they're family. They come there, wash
11 their clothes. If they're hungry, they get
12 something to eat.

13 Q. At this point and time, what would you say
14 the atmosphere of the room was, or the mood of the
15 room?

16 A. Well we were certainly festive at the
17 time, I can assure you of that. We were again, we
18 were socializing, talking and no problems.

19 Q. And when did, did things at some point
20 during the night start to go wrong?

21 A. Well if we're going in sequence, then I
22 got to tell you this.

23 Q. Okay.

24 A. Shamar was standing at the heater. And at
25 some point, Shamar says, hey I got to use, you

Jeffrey Andrews-Direct by Cooke

1 know, I got to go the bathroom. And I said well
2 go to the bathroom Shamar. Shamar said no, I
3 stink. Ask Erika. I need to go to the house. So
4 Shamar left. I don't know if he went to the
5 trailer. I don't know where he went, because I
6 didn't follow him. I don't know, but he left.
7 And during that time, Virlyn, it was my turn, so
8 Virlyn was picking at me. I had got a knee
9 replaced, partial knee replacement. And I had to
10 go school the next day. So that was a topic of
11 discussion at that time. He was laughing, because
12 I had to walk to the store, and I couldn't stay up
13 all night. So I kind of got a kick out of that.

14 So I walked to the store and Erika
15 followed me. Erika was at the house at that time.

16 Q. And continue on.

17 A. We walked to the store. Actually gave
18 Erika some money. We went to the store, and I
19 remember it clearly because we to the store to get
20 a 12 pack. But the Young's Market, doesn't sell
21 12 packs of budweiser in the bottle. We had to
22 get an 18 pack of beer. And I grabbed that, went
23 home. Virlyn and I continued to talk and drink.
24 Erika did not follow me there at that time; sat
25 there for about 10 or 15 minutes and then Erika,

Jeffrey Andrews-Direct by Cooke

1 showed back up.

2 Q. And then what happened after that?

3 A. Well I mean, we sat there and drank.

4 Everything was still good. At least I thought It

5 was. And then Shamar showed back up, and Shamar

6 showed up with his own beer. He had what appeared

7 to be a 40 ounce bottle of beer.

8 Q. I am going to show you what's marked,

9 State's Exhibit 7. Can you tell us if that is or

10 is not the bottle of beer that you're speaking of?

11 A. That appears to be the bottle that Shamar

12 had, because the bottle that he had, had a brown

13 bag on it. And I remember the brown bag, simply

14 because he had a brown bag on it. And I didn't

15 have to offer him any of the beer that we had.

16 MS. COOKE: Your Honor, I would ask to

17 show this to the jury.

18 THE COURT: It's in evidence. You may

19 publish it.

20 Q. And what happened next?

21 A. Again Shamar came in, and everybody is

22 talking with, you know, chatting. And of course,

23 it is kind of a conversation where Shamar and

24 Erika were talking. Virlyn and I and my dad was

25 talking. And my dad and I and Virlyn actually

Jeffrey Andrews-Direct by Cooke

1 said, I mean that bottle couldn't get up and walk
2 away on its own. Then my dad said well, you know,
3 I am going to put a bottle back there.

4 MR. MEADORS: Objection to hearsay.

5 THE COURT: Sustained.

6 Q. Without saying, you can't say what anybody
7 else said. Can you talk about the events of that
8 evening without saying what Virlyn or your dad
9 said?

10 A. Well anyway from that point, excluding
11 what they said, I said well, you know, it's kind
12 of ironic that y'all's clothes would be in the
13 dryer, and the jug, the bottle is missing. The
14 jug is missing, is what I said. And I just kind
15 of left it alone at that. And we continued to
16 talk a little.

17 Q. And at any -- what happened next?

18 A. Well I think when Shamar heard that, he
19 got a little upset.

20 Q. You can't say what you think or what
21 someone else thought. Just what happened.

22 A. I got you. Shamar asked us, are you all,
23 are you mother fucker's talking about me. And
24 that's when it got---

25 THE COURT: Sustained.

Jeffrey Andrews-Direct by Cooke

1 Q. Without saying anything that anyone else
2 said, just talk about the events. Did anyone get
3 upset? What -- did anybody animosity between
4 anybody in the room occur at any point and time
5 during the evening?

6 A. Yes.

7 Q. And who was it between?

8 A. Shamar Howell and myself.

9 Q. And tell us about it without really saying
10 what anybody said did -- tell us about the
11 animosity and the actions. Did you verbally
12 argue? Did you physically fight?

13 A. It was a very intense verbal argument
14 after a period of time. And it got real heated
15 and real intense.

16 Q. And tell us what happened next.

17 A. Well it got to the point where it's about
18 to be fighting words. And I said to Shamar, about
19 me fighting. And in my opinion that it was
20 because of the statement that I made regarding the
21 missing bottle.

22 Q. Was there actually physical alternation
23 between anyone in the house?

24 A. Yes, it was.

25 Q. And who was it amongst?

Jeffrey Andrews-Direct by Cooke

1 A. A physical altercation was with Erika,
2 myself and Shamar, with me trying to get them out
3 the door.

4 Q. Why were trying to get them out the door?

5 A. Because I felt threatened with Shamar, he
6 had a beer bottle. We had a confrontation going
7 on. Shamar actually advanced towards me with the
8 bottle, and we were about to fight. I asked him,
9 it's time to go, buddy. It's time to go. And he
10 kept cursing. Kept cursing. Keep arguing. At
11 that point, Erika said something.

12 Q. You can't say what she said.

13 A. Erika said something, and then my father
14 interjected. My father said, okay, Erika.

15 Q. You can't say what anybody else said. Was
16 anybody asked to leave the house?

17 A. At that point after she interjected, my
18 father gave instruct -- I gave instruction for
19 them to leave; for Shamar to leave and Erika. My
20 dad actually told Erika---

21 Q. You can't say what he told.

22 A. Okay. I'm sorry.

23 Q. Did they leave?

24 A. No, not at that point, no.

25 Q. And what happened next?

Jeffrey Andrews-Direct by Cooke

1 A. The argument continued, continued,
2 continued, continued. And I kept asking them,
3 please leave, go.

4 Q. How many times did you ask them to leave?

5 A. I think I asked myself personally,
6 multiple times. Multiple times before I actually
7 got them to the door. Please leave. To give you
8 an exact number, I know I asked them at least 3 or
9 4 times to leave.

10 Q. And did one of them finally leave, or both
11 of them?

12 A. Shamar, actually I coached Shamar out the
13 door. Got him outside. Got him on the porch.
14 When I got Shamar on the porch, Shamar was still
15 cursing, but then he began threatening and
16 intimidating. That's some punk ass.

17 Q. You can say what he said.

18 A. That's some punk ass shit. You're a punk
19 mother fucker. I'll kick your ass. I'll kill you
20 mother fucker. Shamar go ahead and go. I came
21 back in the house, because he appeared to be
22 leaving, going down the steps. He appeared to be
23 going. So in my mind, I'm saying, one problem
24 solved. And I had to go back in. And I told
25 Erika, Erika it's time to go. But she's over

Jeffrey Andrews-Direct by Cooke

1 there drinking. I mean she's drinking the beer,
2 and she didn't want to hear what I had to say.
3 But eventually I got Erika up, grabbed her by the
4 arm, and was pushing her out the door.

5 Shamar comes back in the house, and that's
6 when the confrontation took place.

7 Q. And by confrontation, explain what you
8 mean.

9 A. Can I show you? I need to stand up and
10 show you.

11 Q. Okay.

12 (Whereupon steps down from the witness
13 stand.)

14 A. This is the front door right in the house.
15 This is the front door. This is the porch. I got
16 Erika all in here. Shamar is entering the house.
17 I got him, and tried to push him out of the way.
18 Erika flings around. That's when I get hit in my
19 face. Shamar swings back with this hand, and hit
20 me over my right eye. And I got him out the door.
21 I said, Shamar, go now. I'm going to call the
22 police. Get out of here. Erika -- I closed the
23 door. I came in; pulled the door, locked the
24 screen door. I put the latch on the door, and I
25 closed the big door. Now I am going to, I am

Jeffrey Andrews-Direct by Cooke

1 going to go back up here now.

2 (Whereupon, the witness resumes the
3 witness stand.)

4 Q. Where is Shamar at this point?

5 A. At this point Shamar is -- Shamar is on
6 the porch. But I---

7 Q. And where is Erika at this point?

8 A. Erika is still in the house. In fact,
9 Erika is back drinking the beer again. So she had
10 a beer in her hand. I noticed that. But Shamar
11 is outside. But I remembered distinctly
12 locking -- putting the latch on the door, closing
13 the big door. I had the presence of mind to know
14 that I was going to my dad's room; that Erika was
15 approaching the door, and yelling and talking and
16 I could hear, you know, probably talking to
17 Shamar.

18 But I went to my father's room looking for
19 a telephone to call the police. And unfortunately
20 the phone wasn't there. Because the only phone in
21 that house, and the base is in his room, because we
22 have cell phones.

23 Q. And what happened after that?

24 A. Well I could hear the door open, the big
25 door being opened. I know that door opened. I

Jeffrey Andrews-Direct by Cooke

1 know it opened. And I could hear Erika and Shamar
2 communicating.

3 Q. Where were you at this point?

4 A. I was still in the room trying to find a
5 phone, you know, I didn't know. I knew that my
6 father had the phone. In the wintertime he
7 normally keeps it in his jacket. So on my way out
8 of the room, Shamar snatched the big door open
9 entering the house again.

10 Q. Which door did he snatch open?

11 A. I mean the storm door.

12 MR. MEADORS: He said the big door.

13 A. The screen door.

14 THE COURT: You can cross examine him.

15 Q. Now who did you say a couple of minutes
16 earlier opened the big door?

17 A. The big door, the wooden door, Erika had
18 to have opened the door---

19 MR. MEADORS: Objection, Your Honor.

20 A. ---because Shamar---

21 MR. MEADORS: Speculation.

22 THE COURT: Sustained, speculation.

23 Q. Now you talked about the screen door. Who
24 opened the screen door?

25 A. Shamar snatched the screen door open

Jeffrey Andrews-Direct by Cooke

1 coming back in the house.

2 Q. Did you see him?

3 A. I heard him. I heard the door snatching
4 open as I was coming out of the room.

5 Q. And what were you feeling and thinking at
6 this point?

7 A. Well I was wondering why Shamar wouldn't
8 leave the house, why he wouldn't go. Because he
9 was been outside two times. And I was thinking
10 why is Shamar forcefully, unlawfully entering this
11 house after I asked him to leave, you know.

12 Q. What affect did that have on you?

13 A. I was afraid.

14 Q. And what happened next?

15 A. As Shamar was entering the house, there's
16 a dresser right there in my dad's room. I'm right
17 at the doorway. I grabbed the pistol. It was
18 sitting on the dresser drawer by the TV, right
19 there. I grabbed that gun. I brandished that
20 weapon and I shot Shamar.

21 Q. Why did you shoot Shamar?

22 A. Again, because Shamar had me scared. I
23 thought something was wrong with him. Because
24 again, I asked him multiple times to leave the
25 house. I asked him to leave. I asked him to go

Jeffrey Andrews-Direct by Cooke

1 home. He forcefully entered the house. I felt in
2 fear of my life.

3 Q. Can you, well you've already done that.
4 Okay. Now on that evening, did you know anything
5 about Shamar's reputation in the community?

6 MR. MEADORS: Objection, Your Honor.

7 THE COURT: Sustained.

8 MS. COOKE: Your Honor, I would just put
9 State v. Day and Rule 405 on the record.

10 THE COURT: Sustained.

11 Q. Did you feel that there was any other way
12 to avoid -- what did you think Shamar was going to
13 do? What were you afraid of?

14 A. Well in my, what I was thinking, I didn't
15 know where the bottle was. And at that time, my
16 dad was still sitting in the chair. And I felt
17 like Shamar would have entered the house, he could
18 have thrown the bottle in. He could have come
19 in, and he scared me in my home. He scared me in
20 my home, and I thought he was going to hurt us.
21 And when I say us meaning my dad and my self.

22 Q. How old are you?

23 A. I am 51 years old.

24 Q. How tall are you?

25 A. I am 5 foot 5.

Jeffrey Andrews-Direct by Cooke

1 Q. And how much do you weigh?

2 A. Probably 180 now.

3 Q. What were on that evening?

4 A. I don't remember. A little bit lighter.

5 Q. The question is, how did you feel after
6 you shot Shamar?

7 A. I felt nervous, anxious, afraid.

8 Extremely emotional, if you will. I felt

9 particularly anxious. I didn't feel good.

10 Q. What did you do after you shot him?

11 A. Well when I -- after I shot him and Virlyn
12 came up to me and grabbed me, my dad got up and
13 said---

14 Q. You can't say what he said.

15 A. Okay.

16 Q. What did you do after you shot him? What
17 happened next after you shot him?

18 A. I gave my dad the gun, and I went
19 immediately to the porch to try to perform CPR on
20 him.

21 Q. And were you able to?

22 A. I was able to be able to check his
23 brachial artery. I'm sorry, radial artery, I mean
24 here. And I was able to check his right carotid
25 artery for a pulse.

Jeffrey Andrews-Direct by Cooke

1 Q. And were you able to perform CPR?

2 A. I wasn't. I was unable to perform CPR,
3 because Erika at this time was very hysterical.

4 Q. Don't say anything she said.

5 A. No. Yeah.

6 Q. Did anyone call 911?

7 A. Erika.

8 Q. And did you hear her call 911?

9 A. Well actually she -- the events happened
10 so fast. They happened so fast. After Shamar got
11 shot, if I can revert, if I can go back. After
12 Shamar got shot, the door, his feet had -- one of
13 his foot had the door open. Erika ran immediately
14 to him and jumped on him. I again was dealing
15 with Virlyn and gave the gun to my father. At
16 some point Erika ran back in, and snatched the
17 phone from my dad. And that's when I went out,
18 and she came out and 911.

19 Q. Did you have knowledge that she was
20 calling 911?

21 A. Yes, I did.

22 Q. So and what did you think would happen as
23 a result of her calling 911?

24 A. Well I knew that the ambulance, EMS and
25 the police would come.

Jeffrey Andrews-Direct by Cooke

1 Q. And did you leave the residence?

2 A. No, ma'am.

3 Q. Did you ever try to hide the fact that you
4 had shot Shamar when the police came?

5 A. No, ma'am.

6 Q. Did you ask your dad to hide the gun?

7 A. No, ma'am.

8 Q. Why didn't you tell the police about the
9 broken latch that night?

10 A. Well in a situation like that, I was just,
11 I was real bombarded. The police were coming.
12 EMS was coming. I still got hit. I tried to
13 mentor laying on the ground with a bullet wound.
14 Things were just moving too fast. And, you know,
15 I apologize. Things were just moving too fast.

16 Q. What was Shamar to Erika?

17 A. That's Erika's boyfriend.

18 Q. Their relationship. And what is Erika to
19 you?

20 A. Erika is my first cousin. My cousin, but
21 she's, I call her niece.

22 Q. And did you want your niece's boyfriend
23 dead?

24 A. No, ma'am.

25 Q. Did you feel like you had any alternative

Jeffrey Andrews-Direct by Cooke

1 that night?

2 A. Well Shamar put me in a bad situation. I
3 can't -- I begged him to leave. Shamar left once.
4 He came back. I put him out again, he came back
5 in. He just scared me in my home. And I can't
6 run. I had no place to run. I couldn't get in my
7 vehicle and drive off. If I'm outside in the
8 street somewhere, I can get in my car and leave an
9 altercation, but I was at home. I had no place to
10 run. He came into my home, and he put me in a bad
11 situation. He scared me in my house.

12 Q. How did he scare you?

13 A. Well anytime somebody is advancing towards
14 arguing, and they're advancing towards you with a
15 beer bottle, that's not a good situation. Anytime
16 you tell a person to leave your home two, three,
17 multiple times and they don't leave, that's a
18 scary situation. For me, that's a scary
19 situation.

20 Then I have 71-year-old dad there,
21 that's frail, fragile, you come in the house with a
22 bottle, I don't know what you're going to do. You
23 know, I chalk it up as a heat of the moment thing
24 right at the end of the day, you're in my house and
25 you scared me.

Jeffrey Andrews-Direct by Cooke

1 Q. Now he didn't actually have the bottle in
2 his hand when he came in the last time, did he?

3 MR. MEADORS: Objection to leading.

4 THE COURT: Sustained. The jury will
5 strike the answer.

6 MS. COOKE: Can we approach before I ask
7 this question?

8 THE COURT: Yeah, if you want to.

9 (Whereupon, attorneys approach and confer
10 with judge.)

11 Q. What was Shamar saying to you as he was
12 entering the house? As he was entering the door
13 the last time before you shot him?

14 A. Jeffrey won't come outside because he
15 knows I will beat his ass.

16 Q. Anything else?

17 A. Again prior to that, and him being
18 outside, he called me all kind of punk mother
19 funk. I'll kill your punk ass. That's some
20 punk ass shit. Punk ass nigger. Things of that
21 nature.

22 Q. And one last question. Can you come down
23 to the display and show the jury where Shamar was
24 standing when you shot him? And explain to them
25 where he was standing when you shot him?

Jeffrey Andrews-Direct by Cooke

1 (Whereupon, the witness steps down from
2 the witness stand.)

3 A. This is my front porch. This is the
4 screen door. When you enter the house, the screen
5 door opens this way. It is big door right here, a
6 wooden door. It goes this way when you open it.
7 You walk straight. The TV here. My dad's room is
8 here. I grabbed the gun, brandished the weapon;
9 shot Shamar right there.

10 Q. You need to show where he was standing.

11 A. Right there coming into the house.

12 Q. Is that inside or outside?

13 A. In the threshold.

14 MS. COOKE: I don't have any further
15 questions, your Honor.

16 THE COURT: Mr. Andrews, you may take the
17 stand back.

18 (Whereupon, the witness resumes the
19 witness stand.)

20 THE COURT: Mr. Meadors, you may cross
21 examine him.

22 Cross Examination by Mr. Meadors:

23 Q. Good afternoon, Mr. Andrews.

24 A. Good afternoon, sir.

25 Q. So Shamar Howell came in your house twice

Jeffrey Andrews-Cross by Meadors

1 that day?

2 A. Actually Shamar came in the house, came
3 in, went to the restroom. Came back.
4 Altercation, went out. Came back in four times.

5 Q. Four times?

6 A. Yes, that I can count.

7 Q. So the first time he came.

8 A. The first time he came, he sat on the
9 heater. I told him not to sit on the heater. He
10 went to the bathroom to his house. And came back.
11 Then we put him out. Came back. Then we put him
12 out. Put him out.

13 Q. So the first time, he is going to the
14 bathroom.

15 A. Correct.

16 Q. What was the second time?

17 A. Went he came back from the bathroom, he
18 came back when he had -- appeared to have the
19 40-ounce beer with him.

20 Q. Where as he then when he appeared to have
21 the 40 ounce?

22 A. He came back in, stood right there by the
23 same heater. He was standing up. He wanted to
24 stand up. He never sat down.

25 Q. And he had the 40 ounce with him then.

Jeffrey Andrews-Cross by Meadors

1 A. Yes, sir.

2 Q. And he wasn't threatening you with it, was
3 he?

4 A. Not at that time, no, sir.

5 Q. So then he left?

6 A. No, sir.

7 Q. But when did he leave the second time?

8 A. The second time when we got into the
9 verbal argument and altercation, that's when he
10 walked out. That would be the second time.

11 Q. And that's when he came in with the
12 40-ounce.

13 A. No, he came in with the 40-ounce when he
14 returned from the restroom.

15 Q. Right. And that's the second time he had
16 been in your house.

17 A. That's the second time he been there.
18 That's correct.

19 Q. Then he left after that.

20 A. Yes, sir.

21 Q. And why did he leave then?

22 A. Because we had a verbal argument, and he
23 was asked to leave.

24 Q. And he left.

25 A. No, we fussed, argument, fight. And

Jeffrey Andrews-Cross by Meadors

1 that's when Shamar, when I had to get him out,
2 Shamar -- we argued. Followed him on the porch,
3 and we argued on the porch.

4 Q. And then he left.

5 A. No, sir. Well he appeared to be. He
6 appeared to have been leaving.

7 Q. And so that was just the second time.

8 A. Well let me think about this. He came and
9 sat on the heater. That's the first time when he
10 arrived when Erika was there. The second time
11 when he came back from using the bathroom, so that
12 would be the second time.

13 Q. And then he left then the second time,
14 because he had to leave to come back. You've got
15 him coming four times.

16 A. I've got him coming four times.

17 Q. So he left the second time. Your house,
18 he just left your house.

19 A. No, he didn't leave. We were argue --
20 well, yes, yes. That's the second time, he came
21 back with the beer. That's when we had the
22 argument. We were out on the porch. He appeared
23 to be going, so that would be the second time.

24 Q. And after that, is that when you came in
25 and closed the wooden door?

Jeffrey Andrews-Cross by Meadors

1 A. No, sir, I came and closed the wooden
2 door. Correct.

3 Q. So that's just the third time.

4 A. Yeah, If I'm am not mistaken, That's the
5 third time, sir.

6 Q. Then he left then?

7 A. Yes. He appeared to have -- appeared to
8 be gone, yes.

9 Q. And what did he do then? What did you
10 then?

11 A. On the third time, I locked the screen
12 door and closed the big door.

13 Q. I am just confused. So then he came back
14 the fourth time?

15 A. Yes, he did.

16 Q. What happened---

17 A. That's when he snatched---

18 Q. ---the third time?

19 A. The third time, I was pushing him out, him
20 and Erika when the altercation happened. When I
21 got.

22 Q. With all due respect, you just said that
23 was the second time.

24 A. No, that was the third time.

25 Q. What happened the second time?

Jeffrey Andrews-Cross by Meadors

1 A. He went to the bathroom.

2 Q. No, sir. He went to the bathroom the
3 first time.

4 A. Okay. Shamar came in, sat on the heater.
5 I told him not to. No arguments. No complaints.
6 That's when he went to the bathroom. Came back
7 with what appeared to be a 40-ounce bottle. We
8 had an argument. We started an argument with
9 that. He left. Came back. Still arguing.
10 Fourth time when he came in, that's when I shot
11 him so, okay.

12 Q. So where did he go the third time?

13 A. I guess he went outside in the yard. I
14 don't know, sir. I do not know.

15 Q. Well the last time he came in, well what
16 were arguing about with the -- well first of all,
17 you were mad that he took the Paul Masson.

18 A. Say that again.

19 Q. You were mad that he took your brandy.

20 A. I don't know If I want to use the word,
21 mad. I was disappointed. Of course, I was. But
22 that wasn't important to me.

23 Q. It was important enough for you to walk
24 down to his house and ask him if he did it.

25 A. Well, yes, sir. I did go down there and

Jeffrey Andrews-Cross by Meadors

1 ask him if he did it. Simply because I needed to
2 know if they -- if the kids didn't take it from
3 the house, then there is someone else coming
4 around and taking it. And I need to know, so I
5 put up barriers to stop that.

6 Q. But he denied he had taken it.

7 A. They denied they took it.

8 Q. And then do you believe they took it?

9 A. The evidence say they -- well things say
10 that they took it. Things say that they took it.
11 It's just, yeah, you know, the dryer wasn't
12 running when I left. No one would bypass a lot of
13 stuff in the yard, and just go under the recliner
14 under some clothing and take a bottle out. That
15 just don't register with me.

16 Q. And you and brother went down. Do you
17 call Mr. Gardner brother?

18 A. Yes, I do.

19 Q. So you and brother went down to
20 to ask Shamar and Erika if they had a taken your
21 liquor.

22 A. If they had taken the bottle. That's
23 correct.

24 Q. And once you were back at your house, and
25 I am not sure if it was second or third time.

Jeffrey Andrews-Cross by Meadors

1 Well the first time you were arguing because he
2 was sitting on the heater.

3 A. Correct.

4 Q. And you didn't like him sitting on your
5 heater.

6 A. No, It didn't matter whether I liked it or
7 not. I mean, he wasn't going to sit -- he
8 shouldn't sit on the heater there. But when he
9 explained that his leg was stiff, it wasn't a
10 problem.

11 Q. So why did he leave the first time then,
12 just to use the bathroom? You all weren't
13 fighting at all?

14 A. Not at that time, no, sir.

15 Q. And the second time he comes back, you
16 said he had the bottle, but he wasn't coming at
17 you, was he, with the bottle?

18 A. No, sir. He was coming in. He went to
19 his spot. Right by the heater there's a -- under
20 the heater there's a wall there, and he was
21 leaning on it.

22 Q. So I mean he never came at you with the
23 bottle.

24 A. Yes, he did advance towards me with the
25 bottle.

Jeffrey Andrews-Cross by Meadors

1 Q. Well where was that?

2 A. In the living room.

3 Q. This second time.

4 A. Later on during the second visit, yes.

5 That's when we started to argue.

6 Q. So he came at you with the bottle?

7 A. Yes, sir. He advanced towards me while we
8 were arguing.

9 Q. And what happened as a result of that?

10 A. We continued to argue. We continued to
11 fuss. Shamar went to the door, got him outside.
12 Shamar, we argued and fussed. Got him outside.
13 That's when Shamar appeared to be going down the
14 steps, leaving.

15 Q. And this 40-ounce bottle that is State's
16 No. 7, that's out in the yard.

17 A. That's correct.

18 Q. So there is no way he had that with you
19 when you say he came in and was advancing at you.
20 He didn't have that when he came in the fourth
21 time, I guess in your scenario.

22 A. Well first of all, when he came back in,
23 when I was trying to put Erika out, he didn't
24 appear to have -- he didn't have it.

25 Q. And that was the second. The third time?