THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

The Honorable Diane S. Goodstein

Appellate Case Number: 2018-000970

Lower Case Number: 2015-CP-15-1210

Antwan McMillan,.....Petitioner

v.

State of South Carolina,.....Respondent

APPENDIX - VOLUME 1 OF 2

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WITNESSES

Scott, CCSO

RREST WARRANT NUMBER

103084

June 5, 2010

CTION OF GRAND JURY

TRUE BILL

reperson of Grand Jury

te: 8/25/2011

ERDICT

reperson of Petit Jury

te:

DICT

09-30-11;02:44PM;

DOCKET NO. 2010-GS-15-00501
(Corrective Indictment)

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Antwan Demetric Mcmillian

Indictment for

Attempted Murder

SC Code: 16-03-0029
CDR Code:3410

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:08

721

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS-15-00501 (Corrective Indictment)

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about June 3, 2010, the Defendant, Antwan Demetric Mcmillan, with malice aforethought accompanied by a present ability to complete the act and the intent to kill, either express or implied, did attempt to kill and murder Jesse King, to wit: the Defendant did shoot at the victim; in violation of S.C. Code of Laws §16-03-0029.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

14/ 15

WITNESSES

Scott, CCSO

:REST WARRANT NUMBER

03085

June 5, 2010

:TION OF GRAND JURY

TRUE BILL

eperson of Grand Jury

te: 8/25/2011

RDICT

09-30-11;02:44PM;

eperson of Petit Jury

te:

)ICT

DOCKET NO. 2010-G-[illegible]-00502
(Corrective Indictment)

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Antwan Demetric Mcmillian

Indictment for

Attempted Murder

SC Code: 16-03-0029
CDR Code:3410

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:08

723

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS-15-00502 (Corrective Indictment)

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about June 3, 2010, the Defendant, Antwan Demetric Mcmillan, with malice aforethought accompanied by a present ability to complete the act and the intent to kill, either express or implied, did attempt to kill and murder Jeannine Metzfield, to wit: the Defendant did shoot at the victim; in violation of S.C. Code of Laws §16-03-0029.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

DOCKET NO. 2010-G[illegible]5-00503
(Corrective Indictment)

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Antwan Demetric Mcmillan

Indictment for

Attempted Murder

SC Code: 16-03-0029
CDR Code:3410

WITNESSES

Scott, CCSO

RREST WARRANT NUMBER

103086

June 5, 2010

CTION OF GRAND JURY

TRUE BILL

reperson of Grand Jury

ate: 8/25/2011

ERDICT

reperson of Petit Jury

ate:

IDICT

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:08

09-30-11;02:44PM; # 13/ 15

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS-15-00503 (Corrective Indictment)

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about June 3, 2010, the Defendant, Antwan Demetric Mcmillan, with malice aforethought accompanied by a present ability to complete the act and the intent to kill, either express or implied, did attempt to kill and murder Amanda Metzfield, to wit: the Defendant did shoot at the victim; in violation of S.C. Code of Laws §16-03-0029.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

WITNESSES

Scott, CCSO

REST WARRANT NUMBER

03087

June 5, 2010

TION OF GRAND JURY

TRUE BILL

reperson of Grand Jury

te: 8/25/2011

ERDICT

reperson of Petit Jury

te:

DICT

09-30-11;02:44PM;

DOCKET NO. 2010-G[illegible]6-00504
(Corrective Indictment)

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Antwan Demetric Mcmillan

Indictment for

Robbery / Attempted armed, or allegedly armed, robbery

SC Code: 16-11-0330(B)
CDR Code:0026

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:08

727

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS-15-00504 (Corrective Indictment)

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Robbery / Attempted armed, or allegedly armed, robbery

That on or about June 3, 2010, in Colleton County, South Carolina, the Defendant, Antwan Demetric Mcmillan, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, did attempt to take and carry away goods and/or monies from the person or immediate presence of Amanda Metzfield with the intent to permanently deprive her of possession thereof; in violation of Section 16-11-330(B) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

WITNESSES

Scott, CCSO

:REST WARRANT NUMBER

03088

June 5, 2010

:TION OF GRAND JURY

TRUE BILL

reperson of Grand Jury

te: 8/25/2011

:RDICT

reperson of Petit Jury

te:

DICT

09-30-11;02:44PM;

DOCKET NO. 2010-G [illegible]-00505
(Corrective Indictment)

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Antwan Demetric Mcmillan

Indictment for

Robbery / Attempted armed, or allegedly armed, robbery

SC Code: 16-11-0330(B)
CDR Code:0026

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:09

729

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS-15-00505 (Corrective Indictment)

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Robbery / Attempted armed, or allegedly armed, robbery

That on or about June 3, 2010, in Colleton County, South Carolina, the Defendant, Antwan Demetric Mcmillan, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, did attempt to take and carry away goods and/or monies from the person or immediate presence of Jeannine Metzfield with the intent to permanently deprive her of possession thereof; in violation of Section 16-11-330(B) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

10/ 15

WITNESSES

Scott, CCSO

RREST WARRANT NUMBER

103089

June 5, 2010

CTION OF GRAND JURY

TRUE BILL

reperson of Grand Jury

te: 8/25/2011

ERDICT

reperson of Petit Jury

te:

DICT

09-30-11;02:44PM;

11

DOCKET NO. 2010-[illegible]-15-00506
(Corrective Indictment)

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Antwan Demetric Mcmillan

Indictment for

Robbery / Attempted armed, or allegedly armed, robbery

SC Code: 16-11-0330(B)
CDR Code:0026

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:09

731

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS-15-00506 (Corrective Indictment)

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Robbery / Attempted armed, or allegedly armed, robbery

That on or about June 3, 2010, in Colleton County, South Carolina, the Defendant, Antwan Demetric Mcmillan, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, did attempt to take and carry away goods and/or monies from the person or immediate presence of Jesse King with the intent to permanently deprive him of possession thereof; in violation of Section 16-11-330(B) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

WITNESSES

. Scott, CCSO

ARREST WARRANT NUMBER

M103090

June 5, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 8/26/2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010-GS-15-00507

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2010

THE STATE

vs.

Antwan Demetric Mcmillan

Indictment for

Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

SC Code: 16-23-0490
CDR Code:0549

2010 AUG 26 Fri 2:56

09-30-11;02:44PM;

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

INDICTMENT

2010-GS 15-00507

At a Court of General Sessions, convened on August 26, 2010, the Grand Jurors of Colleton County present upon their oath:

Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

That in Colleton County, South Carolina, on or about June 3, 2010, the Defendant, Antwan Demetric Mcmillan, did possess a handgun or visibly display what appeared to be a handgun during the commission, or attempted commission, of an attempted armed robbery and an attempted murder, violent crimes. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Isaac M. Stone, III, Solicitor

TRUE BILL

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF COLLETON)	CASE NUMBERS - ANTWAN MCMILLAN: 2010-GS-15-501, 502, 503, 504, 505, 506, 507
	CASE NUMBERS - DAVID JAKES: 2010-GS-15-703, 704, 705, 706, 707, 708, 709
STATE OF SOUTH CAROLINA,)	
)	
v.)	
)	
ANTWAN D. MCMILLAN AND)	
DAVID JAKES,)	TRANSCRIPT OF RECORD
)	
DEFENDANTS.)	

August 11TH, 2011
Walterboro, South Carolina
BEFORE THE HONORABLE PERRY M. BUCKNER, III, Judge.

APPEARANCES:

Asst. Sol. Amanda Haselden, Esquire
Asst. Sol. Ben Shelton, Esquire
Fourteenth Judicial Circuit Solicitor's Office
Attorneys for the State of South Carolina

Mr. David S. Mathews, Esquire
Attorney for the defendant McMillan
Public Defender of Colleton County
Walterboro, South Carolina 29488

Mr. Harris S. Beach, Esquire
Attorney for the defendant Jakes
Public Defender of Colleton County
Walterboro, South Carolina 29488

Rebecca H. Hill
Official Court Reporter

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DEFENDANTS MCMILLAN AND DEFENDANT JAKES
MOTION TO QUASH

MOTION TO QUASH 3

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EXHIBITS

NONE.

THE COURT: Solicitor, call your case, please.

ASST. SOL. HASELDEN: Thank you, Your Honor. The State calls the case of State v. Antwan McMillan, who is before you in Indictment Numbers 2010-GS-15-0501, 0502, and 0503 for attempted murder. Indictment 2010-GS-15-0504, 0505, and 0506 for attempted armed robbery. And Indictment 2010-GS-15-0507 possession of a weapon during the commission of a violent crime. He is represented by Dave Mathews of the Public Defender's Office.

Also before you is State v. David Jakes. Mr. Jakes is before you in Indictment 2010-GS-15-0704, 0705, and 0706 for attempted murder. He is also before you in Indictment 2010-GS-15-0703, 0708, 0707 for attempted armed robbery. And finally, in Indictment 2010-GS-15-0709 for possession of a weapon during the commission of a violent crime. He is represented by Harris Beach of the Public Defender's Office.

THE COURT: Both of the defendants then are charged with identical offenses being attempted murder, attempted armed robbery, as well as possession of a weapon during the commission of a violent crime; is that correct?

ASST. SOL. HASELDEN: Yes, Your Honor. Three counts each of attempted murder ---

THE COURT: There are multiple accounts, but the same offense?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: Very well.

ASST. SOL. HASELDEN: It's the defense attorneys' Motion to Quash, Your Honor. Each attorney has filed one.

THE COURT: All right. Let the record reflect that present before me are the defendants, Mr. Jakes and Mr. McMillan, along with their respective counsel, Mr. Mathews and Mr. Beach. I have been provided -- this started with Mr. Mathews making a telephone request to my office, and let me go through that again for the benefit of my lawyers.

I always encourage my lawyers if they have a problem, as Mr. Mathews knows, to make a telephone request, but you will need to speak to my law clerk; don't require that you speak to me. I will not speak to you unless both sides are present in the case. I have a brand new law clerk who did not know that in this case, and who immediately rushed into my office and said that Mr. Mathews wants you on the telephone. Now, Mr. Mathews knows better than that, Hope, but it will not happen again. Now, you know better than that, as well.

However, I did tell my law clerk that I would set a hearing and give the State an opportunity to be present when you wanted to discuss any motion. Now, Hope, it is proper for you to discuss scheduling with an attorney, ex parte; that's an exception to the rule, but only scheduling. And by that, you can get a copy of their motion and you can tell

them you'll see what you can do about working out a hearing, but beyond that, you can't have any discussion unless both sides are present and I want to make sure that's clear for the future, because that's been a general rule with my law clerks.

For those of you who have not met Hope, her actual name is Evelyn, which is her grandmother's name, who is my next door neighbor, and I'm very proud to say she is 96 years old, who I think is about as good a neighbor as anyone could ever want to have. Harris, you will remember Evelyn Bennett, who is the wife of Dr. Marshall Bennett, who is her grandmother. This is Hope Lumpkin, ladies and gentlemen. She's going to be my law clerk. She started on Monday and is going to do a great job. She's going to law clerk school next week in Columbia, while I go to Judicial Conference, and this will be her first criminal hearing. So I wanted all of you to have a chance to meet her. Her name is Evelyn, but we call her Hope. Her mom is Ellen Bennett Lumpkin, who is a native of Walterboro, went to Walterboro High School with me. Harris will remember her. Her father is Mike Lumpkin who is an Episcopal Minister -- David, your denomination, in Summerville.

All right. I've read both Motions to Quash. I'll be happy to hear argument from each of you, although I can tell that the motions are identical. So let's try not to plow

ground that's already been plowed. Who wants to go first?

MR. MATHEWS: I will, Your Honor.

THE COURT: Mr. Mathews, I'll be happy to hear from you.

MR. MATHEWS: Thank you, Your Honor. Your Honor, my problem with the indictments is that they allege things in the alternative and they appear to lessen the standard of what the State has to prove. As to the attempted murder, of course, attempted murder is a new statutory offense, a year old. This statute was in effect one day before the defendants got charged in this.

They are accused of driving up to a car that had been disabled, or they were working on a trailer. There was a woman behind the wheel, apparently, or up at the car, and the allegations -- obviously, this is all denied, but the allegations in the incident report are that Mr. Jakes got out of the car. A third co-defendant alleges that Antwan McMillan was driving the car, that Mr. Jakes got out of the car and approached, produced a gun, and said, "Hand's up, pretty lady," or something to that effect. At the time of saying this, a male, the son-in-law, or the -- the -- the son-in-law has his own gun. He's in the service and he comes out from behind the trailer and he says, "Get back in the car." And he starts firing. I think the allegations are uniformly in the incident report.

THE COURT: Am I not, for purposes of this, I'm not dealing with an incident report; I'm dealing purely with an indictment. So regardless of what's in the incident report as to who was or was not an alleged shooter, Mr. Mathews, for purposes of a Motion to Quash, I think I have to look at the indictment, and I have to look at the law.

MR. MATHEWS: Yes, sir.

THE COURT: You know, and I know you've informed your client, Mr. Jakes, that two people can both be guilty of murder, even though only one has a gun, only one fires a bullet; because as you know, Mr. Mathews, one of the doctrines in the law is that the hand of one is the hand of all; depending on the facts and circumstances that might be adduced at trial insofar as evidence is concerned.

MR. MATHEWS: Yes, sir.

THE COURT: Now, what is it -- let's deal with, first, attempted murder. What is it that you believe is defective on the indictment for attempted murder?

MR. MATHEWS: Two things, Your Honor. One of them is the alleging things in the alternative. The indictment says that the defendant and/or co-defendants committed the act. It doesn't allege who fired the gun of the defendants.

THE COURT: And you believe the indictment is defective because it didn't allege who fired the gun?

MR. MATHEWS: Well, the theories would be different and

how you prepare the case would be different; and the jury may think that you could go under either theory. Obviously, one of the cases ---

THE COURT: Now, you know that I don't submit indictments to the jury, so they wouldn't get the impression from the indictment. However, why, for purposes of due process, that's what we're talking about here, because you're dealing with a Motion to Quash. And that is that you be put on notice of the charge against your client, and that you have the opportunity, because of that notice, to prepare a defense to that charge. What is it about the alternative pleading that you believe is defective in the indictment?

MR. MATHEWS: I would prepare the case differently if the allegation were that Mr. McMillan fired a gun than I would if we were with a co-defendant that fired a gun.

THE COURT: Which is why you went to an incident report to determine who the shooter was to make this argument?

MR. MATHEWS: Well, just to point out the difference between the incident report and what you see in the indictment. The indictment says either of them or somebody else even. Even if there are -- and it says and/or co-defendants, so any one of three people allegedly could have fired a gun at any one of three people.

THE COURT: So what would you say -- I'm still not certain that I understand the argument. You're saying that

because it's pled in the alternative that you believe that's what is defective?

MR. MATHEWS: I do. I do think that's -- that makes it defective.

THE COURT: In other words, you don't think the State can say and/or co-defendants?

MR. MATHEWS: In this instance, because attempted murder requires a specific intent.

THE COURT: It requires an intent to kill and it also requires malice.

MR. MATHEWS: Yes, sir.

THE COURT: But obviously, that's not the issue here. The indictment says that Mr. Jakes and/or co-defendants, with malice aforethought, accompanied by a present ability to complete the act and the intent to kill, both of which are alleged, either express or implied, did attempt to kill and murder Jesse King, to wit the defendant, and/or co-defendants, did shoot at the victim."

Now, you've explained to your client the theory of the hand of one is the hand of all.

MR. MATHEWS: I'm not sure I have. I believe it's ---

THE COURT: But you will before the trial. You've also explained to him that mere presence alone would not be sufficient to make you criminally responsible.

MR. MATHEWS: I have, or I will.

THE COURT: Because there has to be some effort to aid, abet, to do some act, to complete the crime other than just mere presence, and there must be, of course, criminal intent. In this case, both malice and an intent to kill. So what you're saying is that you think on the indictment, if I understand your argument correctly, what you're saying on the indictment for attempted murder, that the allegation and/or co-defendants is defective because you and your client are entitled constitutionally, due process-wise, to an indictment that identifies who actually fired the gun if the State is going to allege the offense of attempted murder?

MR. MATHEWS: Yes, sir; and at whom. It alleges three different ---

THE COURT: Well, now why would, regardless of who was shot at, including any co-defendant, why would at whom be an element if it was shot at anyone?

MR. MATHEWS: Well, because of the specific intent requirement. If you're shooting at one person -- this is not a felony murder case, because nobody was hit. So, you know, it's a different standard than a reckless disregard for human life. It's specific intent to kill a specific person by a specific person, and both, the specific person that fired the shot and the specific person that the shot is being fired at are missing.

I may have to be, perhaps, corrected; I presented a case, which the Court indicates that you've read, of State v. Sweat where it can be fixed before a trial if you put in who it is.

THE COURT: Wasn't that dealing with property, rather than the offense of attempted murder? And it was dealing with the elements of larceny and robbery, rather than -- we're on attempted murder, right now, Mr. Mathews. Obviously, the State can at any time amend and if there's no prejudice to you, the State certainly can change an indictment; I understand that.

What I'm asking you to tell the Court is what you think is fatally defective in the indictment for attempted murder, as to your claim.

MR. MATHEWS: That's it, Your Honor; just what I said.

THE COURT: Mr. Beach, how about you on attempted murder?

MR. BEACH: I agree with Mr. Mathews, Your Honor.

THE COURT: All right. Now, let's turn to the next indictment, Mr. Mathews. I realize there are three for attempted murder. There is also attempted armed robbery. I understand you have a different argument as to why you think, in your Motion to Quash, that the indictment for attempted armed robbery is defective. Let me hear from you.

MR. MATHEWS: Thank you, Your Honor. Now that one, and

that is actually why I submitted the -- I thought that the qualities of State v. Sweat --- but in this case, the problem is ---

THE COURT: Let Becky -- for the record, so you'll know, we're referring to 70 SE 2d 234, which is a 1952 South Carolina Supreme Court case, and interestingly enough, Becky, authored by Judge Fishburne, who is the only person of which I am aware, was a Colletonian to serve on the South Carolina Supreme Court. All right, Mr. Mathews.

MR. MATHEWS: Thank you, Your Honor. Particularly with ---

THE COURT: His picture is in the courtroom, Mr. Mathews, I hope you're aware of that.

MR. MATHEWS: I am, now. I am constantly amazed.

THE COURT: When you go back in the courtroom, look at the portrait that is on the right-hand side as you face the judge's bench, and that will be Judge Fishburne, who authored the opinion in State v. Sweat. Go ahead.

MR. MATHEWS: I will do. Your Honor, in this particular case, you have to, because the elements of armed robbery include the elements of larceny, you have to intend to steal something particular from a particular person. This is alleged -- and it's okay to allege constructive possession of something. You can still commit an armed robbery if you take something that is immediately within the

presence of somebody, as long as it belongs to that person.

In this case, the allegation in the indictment is that property belonging to -- let's see -- belonging to or near, let's see, in the presence of. It's a taking of goods and/or monies from the person or immediate presence of. I mean, under that theory, you could go into rob a bank and every customer in the bank is a potential victim of an attempted armed robbery, because they are in the immediate presence of something, and clearly the law doesn't contemplate that.

In this instance, again, you've got three different indictments alleging three different victims. Clearly, Jesse King was not a victim of an attempted armed robbery. Under no theory -- it alleges that either he or any of the others were, but in this, the only thing it alleges is that property was taken or was supposed to have attempted to have been taken from the immediate presence, and there's no allegation that it belonged to any of these three victims. Nothing was actually taken, but there's not even an allegation that property belonging to any of the three defendants was attempted to be taken.

THE COURT: The defect that you argue as to attempted armed robbery, is the failure of the State to identify in the indictment that the property belonged to another; isn't that correct, Mr. Mathews?

MR. MATHEWS: Yes, sir.

THE COURT: All right. Anything else on those indictments that you want to share with the Court?

MR. MATHEWS: And to a particular person. That was ---

THE COURT: You want some particularity as well as to another.

MR. MATHEWS: As State v. Sweat provided.

THE COURT: Very well. Mr. Beach, as to your client?

MR. BEACH: I agree, Your Honor.

THE COURT: Very well. All right, Mr. Mathews, I believe that covers the grounds in your Motion to Quash; is that correct?

MR. MATHEWS: I think I've covered everything that was in the written thing, but I think so, yes, sir.

THE COURT: Mr. Beach, is there anything else you want to add before I hear from the State, so we can have one response from the Solicitor.

MR. BEACH: I believe that covers everything, Your Honor.

THE COURT: All right, Ms. Haselden. Be happy now to hear from you.

ASST. SOL. HASELDEN: Thank you, Your Honor. In doing my indictment research, you know I passed several cases forward, and unfortunately, they were right before this hearing. So Your Honor, or Hope, hasn't had a chance to

review them, but they're very basic cases.

THE COURT: Have you given copies to opposing counsel?

ASST. SOL. HASELDEN: Yes, Your Honor. I gave them copies.

THE COURT: Let the record reflect I've been handed 611 SE 2d 510; 610 SE 2d 494; 611 SE 2d 510 -- that's the second time; 709 SE 2d 671; and 708 SE 2d 750; none of which I've had the opportunity to look at. Go ahead, Ms. Haselden.

ASST. SOL. HASELDEN: Your Honor, these are all cases that I'm sure Your Honor has heard before, with the exception of one that just recently came out. State v. Gentry is very -- it's been relied on by prosecutors for many years, probably since the moment it was published; and it merely states the indictment is a notice document and when reviewing whether the indictment is sufficient and therefore meets the level of due process required by the Constitution to put an individual on notice of what they're charged merely states that the two prong test should be whether the offense is stated with sufficient certainty and particularity to enable the Court to know what judgment to pronounce and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon, and two, whether it apprises the defendant of the elements of the offense that it intended to be charged.

And a really recent case that I handed you, Bailey v. State, Your Honor, which is 392 SC 2d 422, just came out in May of 2011 and gives us a little more direction, I think, because it states that the judge explained in that case that the purpose of the indictment was to state the charges with enough specificity so that the defendant knows what he has to defend against; breaking it down very clearly.

Your Honor, in this case, I'm a little confused, because each of the indictments does state with particularity the victim involved. I believe if Your Honor pulled those indictments out, it states in each attempted armed robbery indictment, either Jeanine Metzfield, Jesse King, or Amanda Metzfield; the same with the attempted murders. So I think that prong doesn't even need to be discussed further or that part of Mr. Mathews and Mr. Beach's argument because the indictments do clearly on their face state with particularity the intended victim of each case.

Whether or not the defendant ---

THE COURT: Well, hold on a second, because I don't think that was an argument made by the defendant, Ms. Haselden, but it can be argued that that is the effect of the argument. What they say on -- let's deal with it in the order in which we took it from counsel for the defendant.

The first was attempted murder. The argument is that

they do not have in the indictment, not that you don't name someone in the attempted murder indictment, that you do not identify who the shooter was or who they were shooting at, because there is a specific element of that offense with which you are aware, although it is brand new. Only one a little over a year old, now, June of 2010.

Specific intent to kill someone. And in order to prove that, you have to have an intent at least to kill someone. Okay?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: And so they say that this indictment is defective because the indictment does not allege that and that it does not allege who the shooter was or who you were attempting or the person that was attempting to shoot, as I understood his argument. I want to hear from you on that.

ASST. SOL. HASELDEN: Well, Your Honor, I think the second part of that, he doesn't allege who they were shooting at is what I'm addressing. It does state a person's name in those indictments.

THE COURT: So you believe then by alleging a victim, you're giving the name of the person who they were attempting to shoot at?

ASST. SOL. HASELDEN: I think that would be absolutely be the logical -- Your Honor can read the indictments.

THE COURT: Well, there are three different names.

ASST. SOL. HASELDEN: Well, there's one per indictment. We didn't group them together.

THE COURT: I understand; but three different people in there?

ASST. SOL. HASELDEN: Yes.

THE COURT: So you're saying that they were shooting at Jesse King in one indictment. Amanda Metzfield in one indictment; and Jeanine Metzfield in another indictment.

ASST. SOL. HASELDEN: Yes, sir. So the first part that Mr. Mathews and Mr. Beach asserted is that it failed on its face because it used the language "in the alternative." The and/or co-defendants.

Your Honor, the State is merely required to provide sufficient notice of what he is being charged with. Clearly, he knows he is being charged with attempted murder. Not only because of the titling on both the front and the back, but because of the language in the offense is that of the statute of attempted murder.

So the language -- Mr. Mathews claims that he would prepare a case differently be if it alleged who the shooter was. Well, Your Honor, I have to argue with that. Your Honor has already pointed out the hand of one is the hand of all theory. So a defense attorney should probably always be prepared to proceed forward on the hand of one, hand of all, if he's pulled the incident report and done his due

diligence in the case.

I think not only did we let him know that he was being charged of attempted murder, but we also kind of clued him in with the and/or language that we were possibly going forward on a hand of one, hand of all theory; and Your Honor is well aware that under the hand of one, hand of all theory, the indictment can be as the principle offense. I feel like I just took it a step further and put him on notice with the and/or co-defendant. That doesn't relieve him of any culpability to let him know that there were other co-defendants involved. It might change his case preparation, but it does not change on the notice requirement, which is the purpose of the indictment.

So Your Honor, I think he's clearly got notice of what he's charged with and he's clearly got notice that we're alleging he may have fired a gun; his co-defendants may have fired a gun; and who they were firing the gun at. So I believe those were the two prongs as I understood that Mr. Mathews was attacking, and I believe the argument would fail based on those two.

THE COURT: Well, he also argued to the Court, Ms. Haselden that you -- he feels that with an indictment with sufficient particularity that it ought to allege who the actual shooter was. Let me hear from you on that.

ASST. SOL. HASELDEN: Your Honor is well aware, and I

think it's actually in Your Honor's jury charge that it doesn't matter if three people rob a store and one person pulls the trigger, all three are guilty of murder under the hand of one, hand of all. And that is -- I do have case law on that if Your Honor would like me to cite, but I believe Your Honor has already put on the record the whole purpose of that criminal theory in South Carolina, "Hand of one, hand of all," and it's very well established. And Your Honor, I don't believe there is any requirement that an indictment include that language to be on notice that you're being charged with that. Obviously, if you're being charged with that, you're either being charged as a principle, or you're being charged under hand of one, hand of all.

So I don't believe an indictment should ever fail because I do not provide who fired the gun.

THE COURT: Very well. Now, let's deal with attempted armed robbery. Mr. Mathews argues that he's entitled, and Mr. Beach joins him on behalf of his client, that he's entitled, because, obviously, armed robbery includes robbery and robbery includes larceny, and the elements include from the property of another person.

Mr. Mathews argues that your indictments do not allege whose property from which this attempt was made and therefore insufficient to put him on notice in order to adequately defend his client. Let me hear from you on that.

ASST. SOL. HASELDEN: Your Honor, again, I would bring your notice to the actual paper indictment. An individual victim is alleged in each one of those indictments as well, therefore, giving defense counsel adequate notice of who the intended victim was. So that was the second prong similar to the attempted murder. There is an actual victim named in each indictment as to who the State perceives the intended victims were. So therefore, the property belonging to ---

THE COURT: Isn't it true, Ms. Haselden, that although Mr. Mathews argued to me as to who the property belonged to, it doesn't have to be your property. If it's in your presence, it could be Mr. Beach's property, but if it's in your presence and there is an attempt to remove it or take it and carry it away from your presence, that that would be sufficient for the offense?

ASST. SOL. HASELDEN: Your Honor, absolutely. I don't think there's any requirement that I state that defendant intended to rob a gold coin from the pocket of Bill Smith, even though it was Jane Smith's coin. That's ludicrous on its face. The statute and case law, again, only requires that he be put on sufficient notice of the charges against him so that he may defend against such charges. And in one of the cases, it might have been the Evans case, Your Honor, that I passed forward. Although, I think -- it talked about the language in the statute as generally sufficient to

include it in an indictment -- to put an individual on notice of what they're being charged with.

So the immediate present and the specific property, one, not only do I believe -- immediate presence should not even be dealt with right now. I think it's unripe for issue; it's a jury question about what is considered immediate presence, three feet, five feet, ten yards. I think that is completely unripe to be argued. And it's more of an issue that should be dealt with in a directed verdict request by the defense, as opposed to a quashing of an indictment. But the specific property, I think that there's absolutely no requirement that specific property be amended.

THE COURT: Anything else you want to tell me on the attempted armed robbery indictment in response to Mr. Mathews' argument?

ASST. SOL. HASELDEN: None at this time, Your Honor.

THE COURT: All right. Mr. Mathews, briefly, in reply.

MR. MATHEWS: Your Honor, I don't know how you can -- if you know what the property is, then you can guess who the victim is. If you know who the victim is, particularly, I mean, as to -- I have a harder time with -- well, again, that gets into particular facts. I think the property doesn't have to be on somebody if it's constructive possession, but to -- if it -- if the alleged particular property belonged to a particular person, it doesn't matter

if it's on them. It can be in their immediate presence if it belongs to them, but alleging in the alternative, again, you've got the same scenario where you got somebody robbing a bank and every customer in there is close to it, but they are not all the intended victims, clearly. And that's the problem I have with the attempted armed robbery. Hand of one, hand of all, it sounds like the State is arguing there is such thing as an attempted felony murder rule, and maybe there is, I don't know.

THE COURT: Well, hold on a second. Let's don't confuse attempted murder with attempted armed robbery in the argument, so it's clear. I'm looking at the indictment for attempted armed robbery. I happen to have the one that is indictment 07-07, which would be David Jakes. Let me read you the language, because the language is the same whether it be Mr. Jakes or Mr. McMillan.

It says that on -- I'm talking about attempted armed robbery, that on June 3rd, 2010, in Colleton County, South Carolina, at the intersection of McLeod Road and interstate I-95, the defendant, David Jakes, by use of force, threats, or intimidation, and while armed with a deadly weapon, to wit, a handgun, did attempt to take and carry away goods and/or monies from the person or immediate presence of Amanda Metzfield, with the intent to permanently deprive him of possession thereof. I'm not sure the "him" is an Amanda,

but maybe this is an Amanda that is a "him". In violation of 16-11-330(b) of the South Carolina Code of Laws.

Now, you just argued that that indictment was in the alternative. Now, Mr. Mathews, how is the attempted armed robbery alleged in the alternative in that language?

MR. MATHEWS: Well, two things. First of all, I understand the hand of one, hand of all theory as to the ---

THE COURT: But that's not even alleged in the indictment.

MR. MATHEWS: Well, it says the defendant Antwan D. McMillan and/or co-defendants, that's alternative as to who ---

THE COURT: No, it doesn't say one word about co-defendants in the attempted armed robbery indictment.

MR. MATHEWS: Well, I don't have 507, so I don't know. I'm looking at 504.

THE COURT: This isn't 507. This is 707. 2010-GS-15-0707, David Jakes.

MR. MATHEWS: I don't have David Jakes. I'm looking at 504.

ASST. SOL. HASELDEN: Separate motions -- two different motions. One has the David Jakes' indictment attached, I believe, and David's would be the other motion, Your Honor, that has Mr. McMillan's indictment attached.

THE COURT: Well, I don't have -- I just got those

indictments clipped to one. Let me see if they're all -- I thought they were written exactly the same way. This is Mr. Beach's -- oh, my law clerk's got it.

All right. I'm looking now at 504 which does have and/or co-defendants for attempted armed robbery, as to Mr. McMillan. I'm looking at 505, which does have and/or co-defendants as to attempted armed robbery. And I'm looking at 506 which does have and/or co-defendants as to attempted armed robbery; so you're correct, Mr. Mathews. It's interesting that the indictments for Mr. Beach's client do not have that language, so they're not identical.

MR. MATHEWS: That's correct, Your Honor. And that's one alternative, and the other alternative did attempt to take or carry away goods and/or money from the person or immediate presence. "From the immediate presence," if you possess it by constructive possession, that's fine. If you just happen to take property, you know, if I wanted to take the court reporter's computer by threat, force, or intimidation, clearly, the court reporter is the victim. However, the detective sitting next to her is not the victim of that, even though it's also in his immediate presence, because he doesn't own it.

If it's in his constructive possession, it may be. If the court reporter gave it to ---

THE COURT: I could understand that argument, Mr.

Mathews, that you're arguing about preparation of the case defense, if the indictment alleged that both Ms. Hill, the court reporter, and the detective were victims, but in this case, Mr. Mathews, it only alleges one victim; and it says "goods or monies from the person or immediate presence." So how could that possibly limit you in your preparation of the defense?

MR. MATHEWS: Because there are three victims with the identical charges and there is no property alleged. If what was supposed to have been taken was something belonging to one person, then as to that, there can only be one victim; and there are three victims alleged, and the language is exactly the same. In that case, they said as if -- if the court reporter and the detective are both victims of possessing the same piece of property because it's in their immediate possession, then only one can be the true victim.

THE COURT: Well, if it belonged to one person and it wasn't in immediate possession, that would apply. But they can do alternative allegations and I don't quite follow that argument, but I understand that you're saying that you think you're entitled to more information in the indictment. All right. Anything else you want to tell me?

MR. MATHEWS: No, sir.

THE COURT: All right, counsel, here's what I'm going to do. Just to be safe, for the first time, I realized now,

because I thought I had all the indictments attached to one. The indictments are different as to co-defendants. Mr. Beach, you don't have the same language in the indictments for your defendant that Mr. Mathews has for his.

MR. BEACH: That's correct, Your Honor.

THE COURT: I was not aware of that until we got in the course of this argument. I'm going to take a look at the Solicitor's cases. I'm want to look at the case that Mr. Mathews and Mr. Beach provided to me, and I'll notify you shortly of my ruling. Thank you very much for your time.

ASST. SOL. HASELDEN: Your Honor?

MR. MATHEWS: Your Honor?

THE COURT: Hold on; one at a time.

ASST. SOL. HASELDEN: Your Honor, I also notified Mr. Mathews, and I think he spoke about it with Harris, about the State's intent, and I provided them with a copy of State v. Hatcher, and Your Honor a copy of State v. Hatcher. There is a large amount of additional witnesses that are purely chain of custody at both South Carolina Law Enforcement Division and MUSC, and we're talking upwards of 12 people, possibly, and I've done a great deal of research on State v. Hatcher, as far as who all is required to be called to sufficiently prove chain of custody for these items being admitted into evidence, and just putting both defense attorneys on notice now. In accordance with State

v. Hatcher, I will not be calling, or subpoenaing, every single person that had any type of fleeting contact with these items.

THE COURT: Well, Ms. Haselden, I don't know why you think putting it on the record, I mean, you're putting them on notice. You can do that by talking to them. You don't have to do it on the record when we're handling a Motion to Quash. Whether or not that will or will not be sufficient will be a matter for the Court if a motion comes before the Court. But nothing is before me on that at this time.

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: I'll let y'all know my ruling on the motion to quash.

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

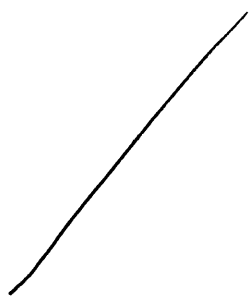
CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the pre-trial motion of the captioned case, in the Court of General Sessions for Colleton County, South Carolina, on the 11th day of August, 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 9, 2011

_____
Rebecca H. Hill,
Official Court Reporter



STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF COLLETON)	CASE NUMBERS - ANTWAN MCMILLAN: 2010-GS-15-501, 502, 503, 504, 505, 506, 507
	CASE NUMBERS - DAVID JAKES: 2010-GS-15-704, 705, 706, 703, 707, 708, 709
STATE OF SOUTH CAROLINA,)	
)	
)	
v.)	
)	
ANTWAN D. MCMILLAN AND)	
DAVID JAKES,)	TRANSCRIPT OF RECORD
)	
DEFENDANTS.)	
)	

August 29th - September 1st, 2011
Walterboro, South Carolina
BEFORE THE HONORABLE PERRY M. BUCKNER, III, Judge.

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Official Court Reporter

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THE COURT: Is the State ready to proceed?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: Are the defendants ready to proceed?

MR. MATHEWS: Yes, Your Honor.

MR. BEACH: Yes, Your Honor.

THE COURT: Very well. All right. Solicitor, call your case.

ASST. SOL. HASELDEN: Thank you, Your Honor. The State is ready to proceed in State v. David Jakes in Indictment 2010-GS-15-0703 for attempted armed robbery; 0704 for attempted murder; 0705 for attempted murder; 0706 for attempted murder; 0707 for attempted armed robbery; 0708 for attempted armed robbery; 0709 for possession of a weapon during the commission of a violent crime; and 2011-GS-15-00598 for possession of a stolen pistol.

The State is also ready to proceed in the State v. Antwan D. McMillan. Indictment 2010-GS-15-00501 for attempted murder; 00502 for attempted murder; 00503 for attempted murder; 00504 for attempted armed robbery; 00505 for attempted armed robbery; 00506 for attempted armed robbery; and 00507 for possession of a weapon during the commission of a violent crime.

May I approach?

THE COURT: You may. So you're proceeding in eight indictments against each of the two defendants?

ASST. SOL. HASELDEN: There is an additional indictment against David Jakes. I believe he has eight.

THE COURT: He has eight and Mr. McMillan has seven?

ASST. SOL. HASELDEN: Yes, sir, Your Honor.

THE COURT: A total of fifteen?

ASST. SOL. HASELDEN: Yes, sir, Your Honor.

THE COURT: And what is the additional indictment against Mr. Jakes that is not charged against Mr. McMillan?

ASST. SOL. HASELDEN: Possession of a stolen pistol.

THE COURT: That would be to your benefit, Solicitor, since I'm holding them and you're not. Indictment 2011 at 598; is that correct?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: All indictments have been true-billed?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: All right. Ladies and gentlemen, if you would give me your attention, I told you earlier that I was going to ask you certain questions today to qualify you and to ask you questions concerning your impartiality to serve as a juror in the trial of the case.

I remind you that the responses you are going to give me now are also under that oath, or affirmation, that you took earlier this afternoon, because I'm going to ask you questions to determine your impartiality to serve as a juror in the trial of the case.

Now, ladies and gentlemen, I want you to first of all meet the lawyers that are going to be trying the case. I'm going to have them stand, turn and face you, introduce themselves, identify who they work for, either represent or work for. I'm going to have them, in the case of the defendant, have their client stand. They are going to introduce their client. They're going to tell you where their clients live. Whether they live in Walterboro, or wherever they're from, so you'll see their face, you'll hear their name, you'll know where they live, because I'm going to be asking you questions, ladies and gentlemen, about the clients, to determine if you have any relationship with the clients.

I'm going to ask you questions about the lawyers to determine if you have any relationship to the lawyers. I'm going to ask you questions about the potential witnesses in the trial of this case to determine if you have any relationship with any potential witness.

If you need to answer one of my questions, as you did before, stand up. Wait on Mr. Grant or Mr. Polk. They are going to pass you a portable microphone. Don't just start talking. I know you have to sometimes wait on it. Give us your name and your juror number, for the court reporter's sake, so she knows who's speaking.

Listen to my question. It's probably going to be a yes

or no for you. You don't need to give an explanation. If you think it's important to give an explanation, I'm going to probably have to ask you to come forward to the court reporter stand for the very reason that I told you about earlier this afternoon in my jury qualification questions to you.

But for now, let's begin the process. The State has called for trial the case of the State V. Antwan McMillan. Mr. McMillan is charged by these pieces of paper that I hold in my hand. Mr. McMillan has one, two, three, four, five, six, seven charges. The charges are attempted murder, one, two, three indictments. Attempted armed robbery, one, two, three indictments, and possession of a weapon during the commission of a violent crime, as to Mr. McMillan.

Mr. McMillan is represented by Mr. Mathews who is going to introduce himself to you in just a moment.

The State has also called for trial the case of the State v. David Jakes. Mr. Jakes is charged in eight indictments. Three charges of attempted murder, three charges of attempted armed robbery, a charge of a possession of a weapon during the commission of a violent crime, just as Mr. McMillan is, and with an additional eighth indictment for possession of a stolen pistol. So there are eight charges against Mr. Jakes; seven charges against Mr. McMillan.

To these indictments, the defendants have pled not guilty. That places the burden on the State of South Carolina to prove each and every element of the offenses charged beyond a reasonable doubt. And if you are selected as a juror in the trial of this case, it will be your job to determine whether or not the State has met that burden.

But you must make that decision solely upon evidence introduced during the trial of the case when both sides are present with the right of cross-examination, and not on any outside influence, such as reading the newspaper, or watching television, or having read or listened to a news account; only upon evidence introduced during the trial of the case.

I will be asking you questions to determine your impartiality. This will not be a long case, ladies and gentlemen. It will conclude the early part of this week.

Now, as I promised you, ladies and gentlemen, this will be a short week, so I don't want you to be concerned about that at all. I will get you home in a timely fashion, but I need for you to pay careful attention now, and I remind you that the answers you give me to my questions concerning your impartiality to serve as a juror are under the oath that you took earlier from the Clerk of Court.

Let's begin by my allowing the lawyers to introduce themselves to you, beginning with counsel for the State of

South Carolina.

ASST. SOL. HASELDEN: Good afternoon, ladies and gentlemen, I'm Amanda Haselden. I'm a prosecutor for Duffy Stone here in Walterboro, and I also occasionally prosecute in Allendale, Hampton, and Jasper Counties.

ASST. SOL. SHELTON: Good afternoon, everyone, again. My name is Ben Shelton. I'm Assistant Solicitor here in Colleton County.

THE COURT: Counsel for Mr. Antwan McMillan.

MR. MATHEWS: Thank you, Your Honor. I'm Dave Mathews and I'm with the public defender's office, and I represent Antwan McMillan. Antwan, if you'll stand up.

(DEFENDANT, ANTWAN McMILLAN, STANDS AND FACES JURY PANEL.)

THE COURT: Turn around and face my jury panel. Ladies and gentlemen, this is Antwan McMillan. Where is he from, Mr. Mathews?

MR. MATHEWS: He is from Smoaks.

THE COURT: Smoaks, South Carolina, ladies and gentlemen. You may be seated. Counsel for David Jakes.

MR. BEACH: Good afternoon, again, ladies and gentlemen. I'm Harris Beach with the Public Defender's Office here in Colleton County. I represent David Jakes. Mr. Jakes lives in Smoaks, South Carolina.

(DEFENDANT, DAVID JAKES, STANDS AND FACES JURY PANEL.)

THE COURT: This is Mr. David Jakes from Smoaks, South Carolina. Thank you. You may be seated.

All right, ladies and gentlemen, my first question to you under oath is any member of my jury panel related by blood, connected by marriage, or a close personal friend of Antwan D. McMillan of Smoaks, South Carolina? Is so, please stand at this time.

(TWO JURORS STAND.)

THE COURT: Let the record reflect, Becky, no one is standing -- Oh, wait a minute. Come on forward. Get a microphone. Stand up, one at a time. You're first, sir. Name and juror number, please.

JUROR: Julius Linder, Jr. One-o-four

THE COURT: Whoa. Start over again. That got blurry through the microphone.

JUROR: Julius Linder, Jr. One-o-four.

THE COURT: I heard the One-o-four, but it's not clear. Julius Linder? Got to say "yes" or "no".

JUROR: Yes, sir.

THE COURT: All right. Mr. Linder, listen to my question. Are you related by blood to Mr. McMillan?

JUROR: No.

THE COURT: Are you connected by marriage to Mr. McMillan?

JUROR: No.

THE COURT: Are you a close personal friend of Mr. McMillan?

JUROR: Correct.

THE COURT: How long have you known Mr. McMillan?

JUROR: A long time; thirteen, fourteen years.

THE COURT: The fact that you're a close personal friend of Mr. McMillan that you've known for thirteen or fourteen years, would that in any way prevent you from giving the State of South Carolina or the defendant in this case, Antwan McMillan, a fair and an impartial trial?

JUROR: Yes.

THE COURT: Thank you, sir. You may be seated.

Yes, ma'am, your name and juror number.

JUROR: Mekesha Herndon,

THE COURT: Counsel, this is juror Eighty-four, Mekesha Herndon. Ms. Herndon, are you related by blood to Antwan McMillan?

JUROR: Yes.

THE COURT: How are you related by blood to him?

JUROR: His father is my mother's cousin.

THE COURT: His father is your mother's cousin. What degree of cousin-ship or kinship is his father to your mother?

JUROR: Well, his grandfather ---

THE COURT: First, second, third?

JUROR: Third.

THE COURT: Third. So his father is your mother's third cousin?

JUROR: Yes.

THE COURT: The fact that his father is your mother's third cousin, would that in any way affect your ability to give the State of South Carolina or the defendant, Antwan McMillan, a fair and an impartial trial?

JUROR: No.

THE COURT: Thank you, ma'am. You may be seated.

Yes, sir, you're name and juror number for the record.

JUROR: One-nineteen.

THE COURT: Willie Mosley?

JUROR: Yes, sir .

THE COURT: Counsel, this is juror number One hundred and nineteen, Willie Mosley. Mr. Mosley, are you related by blood to Mr. McMillan?

JUROR: Yes.

THE COURT: How are you related by blood to Mr. McMillan.

JUROR: Cousin.

THE COURT: A cousin. What degree of kinship are you cousin-wise to Mr. McMillan?

JUROR: About third.

THE COURT: So Mr. McMillan is your third cousin; is

that right?

JUROR: Yes, sir.

THE COURT: Do you live in Smoaks?

JUROR: Yes, sir.

THE COURT: All right. Do you see him every day?

JUROR: Not on an every day basis.

THE COURT: Not every day. All right. Let me ask you this, please approach. Counsel approach, also.

(JUROR APPROACHES THE BENCH, AS WELL AS COUNSEL.)

THE COURT: Come on over here, if you would. Mr. Mosley, I understand you are his third cousin and that you live in Smoaks.

JUROR: Yes, sir.

THE COURT: All right. Now, what I want to know, Mr. Mosley, and the reason we ask this question, of course, is to determine your impartiality to serve as a juror. You're doing exactly what I ask you to do. You're doing the right thing. Now, the fact that he's your third cousin, would that prevent you from giving the State or the defendant a fair trial?

JUROR: I wouldn't want to be in that position.

THE COURT: I'm going to excuse you from service in the trial today. That's what I needed to know. Have a seat back out in the courtroom. I can still use you, just not in this case. Juror number 119 is disqualified from service in

the trial of this case only.

Let the record reflect that no one else is standing in response to my last question concerning related by blood, connected by marriage, or a close personal friend of the defendant, Antwan D. McMillan.

Any member of my jury panel related by blood, connected by marriage, or a close personal friend of the defendant, David Jakes, of Smoaks, South Carolina? Is so, please stand at this time.

(JURORS STAND.)

THE COURT: Name and juror number.

JUROR: One-o-four, Julius Linder.

THE COURT: Counsel, this is Julius Linder, juror number 104. Mr. Linder, are you related by blood to Mr. Jakes?

JUROR: No.

THE COURT: Are you connected by marriage to Mr. Jakes?

JUROR: No.

THE COURT: Are you a close personal friend of Mr. Jakes? JUROR: Yes, sir.

THE COURT: How long have you known him?

JUROR: About thirteen, fourteen years.

THE COURT: Do you live in the community with him, in Smoaks?

JUROR: Yes sir.

THE COURT: All right. The fact that you live in Smoaks, you have known him for thirteen or fourteen years, would that in any way, prevent you from giving the State of South Carolina or the defendant in this case, Mr. David Jakes, a fair and impartial trial?

JUROR: No, sir.

THE COURT: Very well. You may be seated. Anyone else related by blood, connected by marriage, or a close personal friend of the defendant, David Jakes, of Smoaks, South Carolina, whom you have just met? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Have you met the attorneys that are going to be trying this case? Amanda Haselden with the Fourteenth Judicial Circuit Solicitor's Office. Mr. Ben Shelton with the Fourteenth Judicial Circuit Solicitor's Office. Any member of my jury panel related by blood, connected by marriage, or a close personal friend of either Amanda Haselden of the Fourteenth Judicial Circuit Solicitor's Office, or Ben Shelton, whom you just met of the Fourteenth Judicial Circuit Solicitor's Office? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect no one is standing. Any member of my jury panel ever been represented in the

past by Amanda Haselden or Ben Shelton, both now with the Fourteenth Judicial Circuit Solicitor's office or currently represented by them? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect no one is standing. If you have also met counsel for Mr. Antwan D. McMillan of Smoaks, South Carolina, Mr. David Matthews, who is the Assistant Public Defender in Colleton County. Is any member of my jury panel related by blood, connected by marriage or a close personal friend of Mr. David Matthews, Assistant Public Defender of Colleton County. If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Any member of my jury panel ever been represented in the past or currently represented by Mr. David Matthews, assistant public defender of Colleton County? If so, please stand at this time.

(SEVERAL JURORS STAND.)

THE COURT: Pass the microphone. Name and juror number, please.

JUROR: Number 191.

THE COURT: Counsel, this is juror number one hundred and ninety-one, Raymond Whitlock. Mr. Whitlock, are you currently represented by Mr. Matthews or was that in the

past?

JUROR: That was in the past, sir.

THE COURT: That representation has been concluded?

JUROR: Yes, sir.

THE COURT: The fact that you were previously represented by Mr. Matthews who is the attorney for Mr. McMillan in this case, would that in any way affect your ability to give the State of South Carolina, or either one of the defendants, Mr. McMillan or Mr. Jakes, a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, sir. You may be seated. Anyone else ever been represent in the past or is currently represented by Mr. David Matthews, please stand.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. You have also met counsel for Mr. David Jakes of Smoaks, South Carolina, Mr. Harris Beach, who is Assistant Public Defender also for Colleton County.

Any member of my jury panel related by blood, connected by marriage, or a close personal friend of counsel for Mr. David Jakes of Smoaks, South Carolina, who is Mr. Harris Beach, assistant public defender of Colleton County, if so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Is there anyone here for jury service this afternoon who is currently represented or has been represented in the past by Mr. Harris Beach, attorney for Mr. David Jakes of Smoaks, South Carolina. If so, please stand at this time.

(JUROR STANDS.)

THE COURT: Name and number.

JUROR: Number 47, Michael Dopson.

THE COURT: Counsel, this is juror number forty-seven, Michael Dopson. Mr. Dopson, is Mr. Beach currently your attorney or has the representation been concluded.

JUROR: It has been concluded; it was years ago.

THE COURT: The fact that Mr. Beach represented you in the past, Mr. Dopson, would that in any way affect your ability to give the State of South Carolina in this case or Mr. McMillan or Mr. Jakes in this case, a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, sir. You may be seated. Anyone else ever been represented in the past or currently represented by counsel for Mr. David Jakes, Mr. Harris Beach? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is

standing. Now, ladies and gentleman, these indictments that I told you about, eight for Mr. Jakes, seven for Mr. McMillan -- these indictments are just allegations, ladies and gentleman. They are not evidence of any of the allegations contained in the indictment. I tell you that because you must decide this case based on evidence introduced during the trial of this case when both sides are present with the right of cross examination.

So I am going to tell you a little bit about the allegations in order to determine your impartiality served as a juror in trying this case, but it is not evidence, they are merely allegations, and I am only telling you about the allegations to ensure that you can be a fair and impartial juror if you are selected as a juror in the trial of this case.

In indictment 2010 at 501, the State vs. Antwan McMillan, indictment for attempted murder, it is alleged that this offense occurred in Colleton County on about June 3rd, 2010; that the defendant with malice aforethought, accompanied by present ability to complete the act of the intent to kill, either expressed or implied, did attempt to kill and murder one Jesse King by shooting at the victim.

In indictment 2010 at 502, indictment for attempted murder as to Mr. Antwan McMillan, it is alleged that it occurred in Colleton County on about June 3rd, 2010, and

that the defendant Antwan McMillan with malice aforethought -- I will explain the elements of these crimes in my charge to you on the law at the conclusion of the case -- the attempt to kill and murder Jeanine Metzfield, M-E-T-Z-F-I-E-L-D, by shooting at the victim.

In indictment 2010 at 503, the State vs. Antwan McMillan, indictment for attempted murder, it is alleged that this occurred in Colleton County on about June 3rd, 2010, that the defendant, Antwan D. McMillan, did attempt to kill and murder Amanda Metzfield by attempting to shoot at the victim.

In indictment 2010 at 504, the State vs. Antwan McMillan, indictment for attempted armed robbery. This indictment alleges that it occurred on about June 3, 2010 in Colleton County and that the defendant, Antwan D. McMillan, did attempt to take and carry away goods or monies from the person, or immediate presence, of Amanda Metzfield while armed with a deadly weapon with the intent to permanently deprive her of possession of her property.

In indictment 2010 at 505, the State vs. Antwan D. McMillan, indictment for attempted armed robbery, it is alleged that it occurred on about June 3rd, 2010, in Colleton County, that the defendant Antwan D. McMillan, by use of force, threats or intimidation this is while armed allegedly with a deadly weapon to which Antwan did attempt

to carry away goods or monies from the person or presence of Jeanine Metzfield with the intent to permanently deprive her of possession of her property.

In indictment 2010 at 506 the State vs. Antwan D. McMillan, indictment for attempted armed robbery it is alleged that this occurred on about June 3rd, 2010, in Colleton County that the defendant Antwan D. McMillan by the use of force, threats or intimidation and while armed with a deadly weapon alleged to be a hand gun did attempt to take and carry away goods or monies from the person or presence of Jesse King with the intent to permanently deprive him of possession and property.

In the case against Mr. McMillan in indictment 2010 at 507, the State vs. Antwan D. McMillan, an indictment for possession of a weapon during the commission of a violent crime, is it alleged that it occurred in Colleton County, South Carolina on about June 3rd, 2010, that the defendant Antwan D. McMillan did possess a handgun, or visibly displayed what appeared to be a handgun, during the commission of, or attempted commission of, an attempted armed robbery and an attempted murder both of which are alleged in the indictment to be violent crimes under the laws of the State of South Carolina.

Now, I've read you those allegations and that's all they are, they are not evidence. The indictments are simply

the formal written instruments by which the case against Mr. McMillan is brought into this court and the allegations contained in the indictment are not evidence of any of the allegations today there is. I tell you about those allegations to ask you this: has any person here for jury duty read about, heard about, or know anything whatsoever about the allegations which are contained in the indictment involving Antwan D. McMillan of Smoaks, South Carolina? If so, please stand at this time. Mr. Mathews, you don't need to stand. I'm aware of your representation. You're disqualified from service in the trial of this case. Anyone else other than Mr. Mathews who is aware of the allegations as to Mr. McMillan in the trial of this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing that has heard about, read about or knows anything whatsoever about the allegations contained in the indictments involving Antwan D. McMillan and no one is standing in the courtroom at this time.

As to David Jakes of Smoaks, South Carolina, indictment 2010 at 704 charges Mr. Jakes with the offense of attempted murder in this indictment. It is alleged that it occurred in Colleton County, South Carolina, on about June 3rd, 2010, that the defendant David Jakes with malice aforethought

accompanied by the present ability to complete the act and intent to kill, either expressed or implied, did attempt to kill Jesse King, allegedly by shooting at the victim.

In indictment 2010 at 705, the State vs. David Jakes, charging him with attempted murder, it is alleged that the defendant David Jakes in Colleton County, South Carolina, on about June 3rd, 2010, that the defendant David Jakes did attempt to kill one victim, Amanda Metzfield, by shooting at the victim.

In indictment 2010 at 706 the State vs. David Jakes indictment for attempted murder, it is alleged that this occurred in Colleton County on about June 3rd, 2010, and that the defendant David Jakes did attempt to kill and murder one, Jeanine Metzfield, by attempting to shoot at the victim.

In indictment 2010 at 703, the State vs. David Jakes indictment for attempted armed robbery it is alleged that this occurred in Colleton County on about June 3rd, 2010, it is alleged that this occurred at the intersection of McLeod Road at interstate I-95, that the defendant David Jakes, by use of force, threats, or intimidation while armed with a deadly weapon alleged to be a handgun, did attempt to take and carry away goods or monies from the person or presence of Jeanine Metzfield with the intent to permanently deprive the person of possession of their property.

In indictment 2010 at 707, the State vs. David Jakes, charging him with attempted armed robbery; it is alleged in this indictment that it occurred on about June 3rd, 2010 in Colleton County at the intersection of McLeod Road at interstate I-95. That the defendant, David Jakes, by use of force, threats, or intimidation and while armed with a deadly weapon alleged to be a handgun, did attempt to take and carry away goods or monies from the person or presence of Amanda Metzfield with the intent to permanently deprive them of possession of their property.

On indictment 2010 at 708, the State vs. David Jakes, indictment for attempted armed robbery is alleged that this occurred on about June 3rd, 2010, in Colleton County at the intersection of McLeod Road at Interstate I-95. That the defendant David Jakes by use of force, threats, or intimidation and while armed with a deadly weapon alleged to be a handgun did attempt to take and carry away goods or monies from the person or presence of Jesse King with the intent to permanently deprive him of possession of his property.

In indictment 2010 at 709, the State vs. David Jakes, charging him with possession of a weapon during the commission of a violent crime. It is alleged that this occurred in Colleton County, South Carolina, on about June - - counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Yes, ma'am, I understand the State has a motion.

ASST. SOL. HASELDEN: Yes, Your Honor. At this time, the State would move to amend the indictment 2010-GS-15-0709 against David Jakes for possession of a weapon during the commission of a violent crime. There is a Scribner's error denoting the date of June 30th, 2010. It should properly be June 3rd, 2010.

THE COURT: Any objection, Mr. Beach, as to the amendment?

MR. BEACH: No, Your Honor.

THE COURT: Any objection, Mr. Mathews, on behalf of your client as to the amendment?

MR. MATHEWS: No, Your Honor.

THE COURT: All right. Solicitor, it is so ordered without objection. Write June the 3rd, place your initials, and hand me the indictment.

(DOCUMENTS ARE CORRECTED AND HANDED UP TO THE COURT.)

THE COURT: Thank you. Now, Ladies and gentlemen, in indictment 2010-GS-15-0709, the State v. David Jakes, charging him with the offense of possession of a weapon during the commission of a violent crime. This indictment alleges that it occurred in Colleton County on or about June

the 3rd, 2010. That the defendant, David Jakes, did possess a handgun or visibly displayed what appeared to be a handgun during the commission of or attempted commission of attempted armed robbery and attempted murder, both alleged to be violent crimes under the laws of the State of South Carolina.

Finally, as to Mr. Jakes, in indictment 2011-GS-15-598, the State v. David Jakes, charging him with possession of a stolen pistol. This indictment alleges that it occurred in Colleton County, South Carolina, on or about June 3rd, 2010. That the defendant, David Jakes, knowingly did buy, sell, transport, pawn, receive, or possess a stolen handgun alleged to be a .50 caliber Desert Eagle handgun in violation of the laws of the State of South Carolina.

Now, those are allegations in the eight indictments against Mr. Jakes. Just as I asked you as to Mr. McMillan, has any member of my jury panel read about, heard about, or know anything whatsoever about the facts which are alleged in the indictments as to Mr. David Jakes of Smoaks, South Carolina? If so, please stand at this time.

Not you, Mr. Mathews, you're disqualified.

Name and juror number, please.

JUROR: Frederick Green, juror Seventy-six.

THE COURT: Counsel, this is juror number Seventy-six, Frederick Green. Mr. Green, come forward, please. Counsel

approach.

This is Mr. Frederick Green, you are number Seventy-six. Mr. Green, have you heard about this case?

JUROR: (SHAKES HEAD.)

THE COURT: Have you read about it?

JUROR: Heard about it and read about it.

THE COURT: Okay. Let's start with this, who did you hear about the case from?

JUROR: I was incarcerated with the defendants.

THE COURT: You were incarcerated with which defendant?

JUROR: The one sitting on the far end.

THE COURT: The one that's sitting on the far end, Mr. Jakes?

JUROR: Yes, sir.

THE COURT: So you were in jail with Mr. Jakes?

JUROR: Yes.

THE COURT: Did you talk to Mr. Jakes about it?

JUROR: We ain't talked, but I heard things about it.

THE COURT: You heard about it. All right. Now, you also said you read about it.

JUROR: Yeah.

THE COURT: So you read it in the paper?

JUROR: Yes.

THE COURT: The fact that you heard from somebody at the jail and the fact that you read about it, can you put

aside anything that you may have read or heard about this case, and decide this case solely upon evidence introduced in this courtroom when both sides are present with the right of cross-examination?

JUROR: Yes, I could.

THE COURT: All right. Now, you won't be influenced by anything anybody may have told you ahead of this trial or anything you read in the paper; is that correct?

JUROR: Yes, sir.

THE COURT: And you would decide it solely upon the evidence?

JUROR: Yes, sir.

BAILIFF: Juror number One hundred Thirty.

THE COURT: How are you doing? Come on over here by Becky. She's got to be able to hear you.

JUROR: Okay.

THE COURT: This is juror number One hundred Thirty, James Pedigo?

JUROR: Yes, sir.

THE COURT: Am I pronouncing that correctly?

JUROR: Yes, sir.

THE COURT: Have you heard something about this case?

JUROR: You mentioned McLeod Road and I-95, and I think I saw it on the news.

THE COURT: That's perfectly normal, Mr. Pedigo.

Everybody watches the news. Can you put aside anything that you heard on the news and decide this case solely upon evidence introduced in ---

JUROR: I don't even know anybody in it.

THE COURT: Well, I will tell you this, Mr. Pedigo, just so you know, I don't know whether it's about this case; but we've had more than one incident occur on McLeod Road. I just tried a case involving McLeod Road and I-95 that was in the papers. I don't know whether what you saw -- what's important is that you decide this case only upon the evidence introduced in this courtroom when both sides are present. Can you do that?

JUROR: Yes, sir. That's not a problem.

THE COURT: Thank you. You're doing exactly what I asked you to do. You may return to your seat.

All right. Let the record reflect that no one else has come forward or is raising their hand or stood up in response to my questions concerning whether they had read about, heard about, or know anything whatsoever involving the allegations against the defendant, David Jakes.

All right. Ladies and gentlemen, I'm advised that the potential witness, and they all may not be here right now, because we're going to start tomorrow, but if they are here, I'm going to ask them to stand and face you so you can hear a name called, and see a face as well as hear a name called.

These are just potential witnesses. They may or may not be called, but they are potential witnesses in the trial of this case. I'm going to give you a home town or an occupation so you can identify something with the name. If they're present in the courtroom when I call your name, stand and face my jury panel, so the jury can see you as well as hear the name and occupation or your place of residence called.

Christy Willis, Colleton County Sheriff's Department. Jason Fernandez, Colleton County Sheriff's Office. Anthony Buchanan, now Ridgeland Police Department. Jacky Lawson, Colleton County Sheriff's Office. Jeff Scott, Colleton County Sheriff's Office. Gean Johnson, Colleton County Sheriff's Office. Allen Inabinett, Colleton County Sheriff's Office. Stephen Sanders, Colleton County Fire and Rescue.

Jerry Davis, Smoaks, South Carolina. Amanda Metzfield, where in Colorado?

ASST. SOL. HASELDEN: They're on a base, sir. I'm not sure.

THE COURT: They're on a military base?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: All right. Colorado. Jesse King, Colorado. Jeanine Metzfield, Virginia. Is she on a base, too?

ASST. SOL. HASELDEN: No, sir, Your Honor. She's just outside of Richmond.

THE COURT: Just outside of Richmond, Virginia. Jody Taylor, Colleton County Sheriff's Office. Standing to my right, your left. Thank you. You may be seated. David Thomas, Colleton County Sheriff's Office. Ruben Carter, standing to my right, Colleton County Sheriff's Office. Thank you. You may be seated. Shaquita Bryant, Smoaks, South Carolina. Angela Arnold, Smoaks, South Carolina. Brittney Jenkins, Smoaks, South Carolina.

Tommy Walker, Colleton County Sheriff's Office. Sheshawn Risher, Walterboro, South Carolina. John Graham, Smoaks, South Carolina. Amanda Webb, W-E-B-B, South Carolina Law Enforcement Division. Suzanne Cromer, South Carolina Law Enforcement Division. Christine Wilson, Beaufort County Sheriff's Office.

James Davis, Sr., Smoaks, South Carolina. Joseph Griffin, G-R-I-F-F-I-N, Smoaks, South Carolina. Montez Jenkins, Smoaks, South Carolina. Andrew Williams, Colleton County Sheriff's Office. Nada Kerstein, Charleston Police Department. David Jakes, Smoaks, South Carolina. Antwan McMillan -- turn around and face my jury panel. Turn all the way around, Mr. McMillan, Smoaks, South Carolina. You may be seated.

David Jakes, stand up and turn around, Smoaks, South

Carolina. You may be seated.

Any additional witnesses from the State?

ASST. SOL. HASELDEN: None, Your Honor.

THE COURT: Any additional witnesses from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any additional witnesses from the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Any member of my jury panel related by blood, connected by marriage, or a close personal friend of any of the potential witnesses in the trial of this case, whose names I have just called? Is so, please stand at this time.

(SEVERAL JURORS STAND.)

THE COURT: All right. Ladies are first. Name and juror number, please, ma'am.

JUROR: Makeisha Herndon, Eighty-four.

THE COURT: Counsel, this is juror number Eighty-four, Makeisha Herndon. Are you related by blood to a witness?

JUROR: Yes.

THE COURT: Which witness? Have you already stood about it? That's the defendant?

JUROR: No.

THE COURT: All right. Which one?

JUROR: Gean Johnson.

THE COURT: Gean Johnson. Mr. Johnson is with the Colleton County Sheriff's Office and is a potential witness. How are you related to him?

JUROR: We are second cousins.

THE COURT: The fact that you're a second cousin of Mr. Johnson, who is a potential witness in the trial of this case, will that in any way affect your ability, Ms. Herndon, to give the State or the defendant in this case a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, ma'am, you may be seated. Yes, sir your name and jury number, please.

JUROR: One o-four, Julius Linder.

THE COURT: Counsel, this is juror number One hundred and four, Julius Linder. Mr. Linder, are you related by blood to any of the potential witnesses?

JUROR: Yes, sir.

THE COURT: Who is that?

JUROR: James Davis.

THE COURT: James Davis. Mr. Davis is -- I've got a James Davis, Sr., and I have a James Davis. So I'm assuming there's two of them, both in Smoaks. You know both of them? Yes or no.

JUROR: Yes.

THE COURT: All right. How are you related to James Davis, Sr. and James Davis?

JUROR: First cousins.

THE COURT: First cousins. I'll excuse you from the trial of this case only. You may be seated.

Yes ma'am, your name and juror number, please.

JUROR: I'm Deborah McMillen, number One eleven.

THE COURT: Counsel, this is juror number one hundred and eleven, Debra McMillan. Ms. McMillen, are you related by blood to any of the potential witnesses?

JUROR: No, sir.

THE COURT: Are you connected by marriage to any of the potential witnesses?

JUROR: No, sir.

THE COURT: Are you a close personal friend of any of the potential witnesses.

JUROR: I'm friends with Mr. Jeff Scott.

THE COURT: All right. You're friends with Mr. Jeff Scott with the Colleton County Sheriff's Office?

JUROR: Yes, sir.

THE COURT: The fact that you are friends with Mr. Scott who is a potential witness in the trial of this case, would that in any way affect your ability to give the State of South Carolina or the defendant McMillan or the defendant Jakes a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, ma'am, you may be seated. Yes, sir, your name and juror number, please.

JUROR: James Pedigo, One thirty.

THE COURT: Counsel, this is juror number one hundred and thirty, James Pedigo. Mr. Pedigo, are you related by blood to any of the potential witnesses?

JUROR: No, sir.

THE COURT: Are you connected by marriage to any of the potential witnesses?

JUROR: No, sir.

THE COURT: Are you a close personal friend of any of the potential witnesses?

JUROR: Yes, sir.

THE COURT: Which witness?

JUROR: Jody Taylor.

THE COURT: Jody Taylor. The fact that you are a close personal friend of Jody Taylor with the Colleton County Sheriff's Office who is a potential witness in the trial of this case, would that in any way, Mr. Pedigo, affect your ability to give the State of South Carolina or the defendant McMillan or the defendant Jakes a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, sir. You may be seated. Let the record reflect no one else is standing in response to my

last question.

Any member of my jury panel formed any opinion whatsoever about the facts which are alleged in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect no one is standing.

Any member of my jury panel formed any opinion about the alleged guilt or innocence of either Mr. Antwan McMillan or Mr. David Jakes? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing.

Any member of my jury panel formerly a member of the Colleton County Grand Jury which found the indictments in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Any member of my jury panel a member of any law enforcement agency, or employed by a law enforcement agency? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Any member of my jury panel been the victim of a violent crime? If so, please stand at this time.

(JURORS STANDS.)

THE COURT: Yes, sir, we have a lady up front. Ma'am, you're first; name and juror number.

JUROR: Christy Garrett, juror number Sixty-eight.

THE COURT: Counsel, this is juror number sixty-eight, Christie Garrett. Ms. Garrett, you were the victim of a violent crime?

JUROR: Yes, sir.

THE COURT: The fact that you were a victim of a violent crime, would that in any way affect your ability to give the State of South Carolina or the defendants in this case a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, you may be seated -- yes, sir, your name and juror number for the record.

JUROR: James Pedigo, One thirty.

THE COURT: Counsel, this is juror number one hundred thirty. Mr. Pedigo, you were the victim of a violent crime?

JUROR: Yes, sir.

THE COURT: The fact that you were previously a victim of a violent crime, would that in any way affect your ability to give the State of South Carolina or the defendant McMillan or the defendant Jakes a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, you may be seated. Yes ma'am, in the back. Your name and juror number, please.

JUROR: Cindy Corley, juror number Thirty-two.

THE COURT: Counsel, this is juror number thirty-two, Cindy Corley. Ms. Corley, you were the victim of a violent crime?

JUROR: Yes, sir.

THE COURT: The fact that you were a victim of a violent crime, would that affect your ability to give the state of South Carolina or the defendant McMillan or the defendant Jakes a fair and impartial trial?

JUROR: I hope not.

THE COURT: You have to tell me "yes" or "no".

JUROR: No.

THE COURT: Thank you, ma'am. You may be seated. Yes, sir, your name and juror number.

JUROR: Raymond Whitlock, juror number One ninety-one.

THE COURT: Counsel, this is juror number One hundred ninety-one, Raymond Whitlock. Mr. Whitlock, you were the victim of a violent crime?

JUROR: Yes, sir.

THE COURT: The fact that you were a victim of a violent crime, would that affect your ability to give the State of South Carolina or the defendant McMillan or the defendant Jakes a fair and impartial trial?

JUROR: No, sir.

THE COURT: Thank you, sir. You may be seated. Let

the record reflect that no one else is standing in response to my last question.

Is any member of my jury panel a member of or a contributor to any group which has as its primary concern, the promotion of law enforcement or victim's rights. These groups would include MADD, SADD, CAVE or CADRE; if so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Any member of my jury panel know of any bias or prejudice they may have about the facts which are alleged in this case, any of the lawyers or officers involved therein, or any of the potential witnesses involved therein, or any of the parties involved therein? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Any member of my jury panel know of any reason whatsoever why they can't give the State of South Carolina or the defendant Antwan McMillan or the defendant David Jakes a fair and an impartial trial? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect that no one is standing. Any additional voir dire from the State of South

Carolina?

ASST. SOL. HASELDEN: No, Your Honor.

THE COURT: Any additional voir dire from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any additional voir dire from the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Counsel, approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: All right, ladies and gentleman of my jury panel, I apologize for the delay. We had to get straight with the clerk because the computers are going to draw names now for those people I found qualified. In fact, I'm going to go ahead and ask them to go ahead and begin a potential. Now, the lawyers want to see this sheet, because it's going -- the computer with no human hand draws it.

Let me tell you what's going to happen. We're going to select the jury. Pat's going to actually do this; she's directing her staff now that's assisting her. When your name is called by the Clerk, bring your belongings with you. Come down the middle aisle, come through the bar, then turn around and face the direction I'm seated in right now, so you're looking just like I am right now.

Pat's going to ask the State whether or not they wish to exercise the juror or excuse the juror and it will be asked of the defendant; each side will have ten strikes. The way strikes are going to be divided up is Mr. McMillan will have five strikes; Mr. Jakes will have five strikes. Mr. Beach will strike first on behalf of Mr. Jakes. Mr. McMillan will strike second with Mr. Matthews until they use their five each. The State will have ten strikes. We will then draw three alternate jurors. In the case of an alternate juror, you will be identified as to alternate one, alternate two, and alternate three. On alternate jurors, Mr. Beach will have one strike, Mr. Matthews will have one strike, the State will have one strike. If I identify you as an alternate, you will be with the jury at all times throughout the trial of the case, and should a juror be unable to conclude their service, an alternate juror would take the juror's place on the jury.

The parties have agreed that the alternates will be used in the order in which they are selected, so if you're alternate number one and a person gets sick on the twelve-person jury, alternate one takes the first person's place that needs to be selected.

It is clear from my conference with the attorneys that the attorneys for Mr. McMillan and Mr. Jakes will strike completely separately from one another. Mr. Jakes, I want

you to pull your chair down by Mr. Beach around the table. Mr. Matthews, you pull your chair around the table and have Mr. McMillan join you on the other side. There is to be absolutely no conference between Mr. Jakes and Mr. McMillan or between Mr. Matthews and Mr. Beach during the selection of the jury. Have I accurately stated what occurred in chambers and at the bench and insofar as counsel for the State of South Carolina is concerned?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: And so far as counsel for Mr. McMillan is concerned.

MR. MATHEWS: Yes, sir.

THE COURT: Insofar as counsel for Mr. Jakes is concerned?

MR. BEACH: Yes, sir.

THE COURT: Madame Clerk, are you ready?

MADAME CLERK: I'm ready.

THE COURT: Give us a jury, please.

(BRIEF PAUSE IN COURTROOM WHILE CLERK PRINTS OUT THE JURY LIST AND GIVES COPIES TO THE COURT, COURT REPORTER, AND ATTORNEYS.)

MADAME CLERK: As I call your name, please come all the way up front to my desk, turn, and face the counsel tables, and please bring all of your personal possessions with you.

Number Ninety-five, Rakime Jenkins.

MADAME CLERK: What say ye for the State?

ASST. SOL. HASELDEN: Please present the juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box on the right.

Sixty- eight, Christie R. Garrett. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant McMillan?

MR. MATHEWS: Please excuse the juror from the trial of this case.

MADAME CLERK: Please have a seat back with the panel. Number eighty-six, Linda C. Hiott. What say you for the State?

ASST. SOL. HASELDEN: Please excuse the juror.

MADAME CLERK: Please have a seat back with the panel. Number One hundred sixty-one, Wesley R. Simpson. What say you for the State?

ASST. SOL. HASELDEN: Please present the juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Please excuse the juror.

MADAME CLERK: Please have a seat back with the panel. Number One hundred sixty-five, Glory R. Smith. What say ye for the State?

ASST. SOL. HASELDEN: Please present the juror.

MADAME CLERK: What say ye for defendant McMillan?

MR. MATHEWS: Please swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number sixty-one, Jamie A. Floyd. What say ye for the State?

ASST. SOL. HASELDEN: Please present the juror.

MADAME CLERK: What say you for defendant Jakes?

MR. BEACH: Please excuse the juror.

MADAME CLERK: Please have a seat back with the panel. Number One hundred ninety-six, Lamonica Williams. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant McMillan?

MR. MATHEWS: Please swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number Twenty-eight, William D. Clark. What say ye for the State?

ASST. SOL. HASELDEN: Please present the juror.

MADAME CLERK: What say you for defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box. One hundred seventy-five, Courtney L. Sweat. What say ye for the State?

ASST. SOL. HASELDEN: Please excuse this juror.

MADAME CLERK: Please have a seat back with the panel. Number One hundred fifty-five, Miles M. Sanders. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant McMillan?

MR. BEACH: Swear the juror.

MR. MATHEWS: Please excuse the juror from the trial of this case.

THE COURT: It's Mr. McMillan's strike.

MR. BEACH: I'm sorry, Your Honor.

MADAME CLERK: Please have a seat back with the panel. One hundred ninety-one, Raymond Whitlock. What say ye for the State?

ASST. SOL. HASELDEN: Please present the juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box. One hundred seven, Terrill D. Matthews.

THE COURT: Counsel, recalling my earlier instruction to you. Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

ASST. SOL. HASELDEN: Please excuse this juror.

MADAME CLERK: Please have a seat back with the panel. Number two hundred, Stephen K. Young. What say ye for the

State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant McMillan?

MR. MATHEWS: Please excuse the juror from the trial of this case.

MADAME CLERK: Please have a seat back with the panel. Number thirty-two, Cindy I. Corley. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Please excuse the juror.

MADAME CLERK: Please have a seat back with the panel. Number One hundred forty-five, Robert R. Risher. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say you for defendant McMillan?

THE COURT: What's say the defendant?

MR. MATHEWS: Please excuse the juror from the trial of this case.

MADAME CLERK: Have a seat back with the panel. Number sixty-three, Jonathan C. Fulford. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number sixty-six, Oleksa A. Gadson. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant McMillan?

THE COURT: Hold on. You're right.

MR. MATHEWS: Please swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number One O-Two, Yvone D. Lightsey. What says the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant Jakes.

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number Seventeen, Elton K. Brown, Sr. What says the State?

ASST. SOL. HASELDEN: Please excuse this juror.

MADAME CLERK: Please have a seat back with the panel. Number One Seventy-Eight, Janice M. Ulmer. What says the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What says the defendant McMillan?

MR. MATHEWS: Please swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number One Thirty-three, Frank A. Pinckney. What says the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number One O-One, Raymond L. Lairmore. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant McMillan?

MR. MATHEWS: Please swear the juror.

MADAME CLERK: Please have a seat in the jury box. Number One, Dawn Allen. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box.

THE COURT: All right, Counsel, this will be Alternate Number One. The strikes are one for the defendant McMillan; one for the defendant Jakes; one for the State. Alternate Number One. Counsel will strike in the order in which we have struck for the jury. First, Mr. Beach, on behalf of Mr. Jakes, and then Mr. Mathews on behalf of Mr. McMillan. Madame Clerk, draw Alternate Number One.

MADAME CLERK: Number One O-Five, Jerome Manigo, Jr. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for the defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box.

THE COURT: Alternate Number Two.

MADAME CLERK: Number Five, Johnathan L. Bazzle. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for the defendant McMillan?

MR. MATHEWS: Please excuse this juror.

MADAME CLERK: Please have a seat back with the panel. Juror number One Twenty-one, Barry C. Murdaugh. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for the defendant Jakes?

MR. BEACH: Swear the juror.

MADAME CLERK: Please have a seat in the jury box.

THE COURT: Alternate Number Three.

MADAME CLERK: Juror Number One Eighty-Eight, Ma'trey A. White. What say ye for the State?

ASST. SOL. HASELDEN: Please present this juror.

MADAME CLERK: What say ye for the defendant McMillan?

MR. MATHEWS: Please swear the juror.

MADAME CLERK: Please have a seat in the jury box.

THE COURT: Are there any matters of law pertaining to the selection of the jury that need to be decided before the jury is sworn, from the State of South Carolina?

ASST. SOL. HASELDEN: None, Your Honor.

THE COURT: From the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Each of you understand that that decision is irrevocable as of today whether the jury is sworn today or in the morning; is that understood from the State?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: From the defendant McMillan?

MR. MATHEWS: Yes, sir.

THE COURT: From the defendant Jakes?

MR. BEACH: Yes, sir.

THE COURT: All right, ladies and gentlemen of the jury panel, now, we're going to take good care of you. The three alternates are just as important as members of the jury. You're in the order in which you were selected; one, two and three. You take the place in that order on the jury by agreement of counsel.

If a member of the jury for some reason becomes ill or for some legal valid reason cannot continue to serve, you will take their place on the jury, so, you're just as important as a member of the jury -- but for right now, you're not eligible to be foreperson. One of the twelve of you that are on the jury, I need for you to select a

foreperson. Now, let me tell you the duties, and listen carefully, because I want you to select somebody that can do this. The foreperson presides in the jury room, just like the chairperson of a committee presides at a committee meeting. It is the foreperson's job to see that each and every member of my jury panel has a full and a fair opportunity to voice their opinions on the jury room once deliberations begin at the conclusion of the case.

It is also the foreperson's job to write and sign the jury's verdict and date it. I will give you instructions about how to do that, and my law clerk who's learning, Hope Lumpkin, she's going to want to meet with whoever you select as foreperson, because whatever you write on your jury, verdict form, she's going to want you to write on the indictment. So whatever your verdict is on the verdict form, she wants you to write as foreperson and sign the exact same verdict on the actual indictments that I talk to you about during jury qualifications.

So, the foreperson presides in the jury room to see that each and every member of the jury has a full and fair opportunity. The foreperson signs and dates the jury verdict and signs the indictment. The foreperson also is the jury spokesperson. The foreperson stands up here in the courtroom and speaks for the entire jury. You publish the verdict and you speak if the jury has a question. The

foreperson speaks for the entire jury.

Now, any of the twelve of you are eligible for being foreperson; my three alternates are not eligible. They will be with you in the jury room, but they can't be elected foreperson.

I'm going to send you to your jury room. When you get in there, my bailiff, Mr. Polk, is going to give you a pad and a pen. I want the twelve of you to quickly select the foreperson from amongst the twelve of you, write the name on a piece of paper, knock on the jury room door, and I will bring all fifteen of you back. It has to be one of the twelve of you. Does everybody understand about the foreperson and the role?

All right. Now, when you're in the jury room, we're not going to start this trial today. I know it's late, but we had to get a jury selected. Do not discuss this case with each other or with anybody else. You have not heard any evidence in this case and it would be improper for you to discuss it amongst yourselves or with anybody else. Each of you took an oath that you would fairly and impartially -- and you will be taking that oath from the Clerk first thing in the morning -- try this case and decide this case solely upon evidence introduced during the trial of this case and not on some outside factor or influence or relationship or emotion.

I'll be right back with you when you've reached the decision as to the foreperson. Write the name on the piece of paper, give it to my bailiff, he'll bring it back. I'll bring you back in the courtroom and I'm going to excuse you for the day. Do not discuss the case. Talk about the weather, talk about sports, talk about anything else you want to talk about, but don't talk about this case. You'll go with Mr. Polk at this time to your jury room.

THE COURT: All right. Ladies and gentlemen, that were not selected as jurors in the trial of my first case, I see that smile on your face out there. Now, ladies and gentlemen, each of you should have in your possession a card that looks just like this, and on this card is a telephone number 549-1775. If you don't have this card with this telephone number on it, hold your hand up for me at this time. I got a customer. I got two, three -- keep your hands up so they can come to you. We got four. I've got plenty. Bring it to them, Mr. Grant.

All right. Does everybody now have one? I want everyone to call that number -- normally, I'll tell you to call it about 6:00, but wait till after 7:00 tonight, because we had to stay late so we could get a jury, so I wouldn't have to bring you back, because I told you I would be mindful of your time and I wouldn't waste your time.

So when you get home after 7:00 tonight, call the

number on that tape. I will have one taped message on that number. If it's busy, just keep calling. There's one message for all jurors telling you when, if at all, I might need you to return. If I do ask you to return, return to the area of the courtroom that you're seated in now.

Please, be on time. If one of you is late, all the rest of you have to sit and wait until everybody is present. If anybody needs transportation to get here on time, let my bailiff's know before you leave the courtroom. I'll provide transportation to get you here on time.

One message for everybody. Keep calling until you get through. It may tell you to report back at 10:00 tomorrow; it may tell you to call back tomorrow night; it may tell you thank you very much for your service, you are excused; I don't know. We'll be working and we're going to work until we're finished.

When I need you, I will put a message on the tape, do not call the number prior to 7:00; wait until after 7:00 tonight and then follow the instructions on the tape message. Any questions about the call-back procedure from any of my jurors? Everybody understands what to do?

On behalf of Colleton County and this Court, I want to thank you for your patience during roll call, jury qualifications and jury selection. You are now excused for the balance of the day. You may leave the courtroom through

this door right here.

(REMAINING JURORS LEAVE THE COURTROOM.)

THE COURT: Mr. Grant just handed me a note from the jury. The jury has chosen Dawn Allen as the foreperson of the jury. Mrs. Allen is juror number one. Any objection to the jury foreperson note being a court's exhibit from the State?

ASST. SOL. HASELDEN: No, Your Honor.

THE COURT: From the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Becky, would you mark it as Court's Exhibit Number One for me.

(COURT EXHIBIT NUMBER ONE, JURY NOTE, IS RECEIVED INTO EVIDENCE.)

THE COURT: Court's Exhibit Number One without objection. Counsel has advised me at the bench that I have a Jackson v. Denno hearing, which we will do. I want counsel here at 9:15 in the morning; we will start it at 9:30. Fred, that involves you, but you don't need to be here according to what I've been told by Amanda. There is also a stipulation that counsel has entered into that we're going to put on the record in the morning; therefore, I'm going to have the jury here at 9:45 with the hopes that we

start by 10:00. Have I accurately stated what occurred at , insofar as counsel for the State is concerned?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: Insofar as counsel for McMillan is concerned?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Insofar as counsel for Jakes is concerned?

MR. BEACH: Yes, Your Honor.

THE COURT: Bring me the jury, please, Mr. Grant.

(6:30 P.M., 8-29-11, WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Congratulations, Ms. Allen; that will be your seat. Madame Foreperson, ladies and gentlemen of the jury, you can sit anywhere you want to. That's the Foreperson's seat, so Ms. Allen will sit there. My alternates sit in the order in which you were selected, as you're doing. The rest of you can sit anywhere you want to.

Let me caution you, on that back row back there, where I've got nine people, there's a step up. What happens is, if you don't slide all the way down, somebody has to crawl over you and step off that ledge and I've had people fall.

Obviously, Bill's standing right there by a ledge when you come off that jury box, you have to step down, so be careful on that back row.

If you want to sit by somebody, line up by them, you

can come in, sit by them, but fill all the way down to the end. Don't make anybody, particularly on the front or the back row, crawl over anybody to get in the jury box, because I don't want anybody falling; I've had that happen.

Now, over the over-night recess, I know people are curious; please just tell them if they try to talk to you that you can't discuss this case. You haven't heard any evidence in this case and it would be improper for you to talk to anybody, even a member of your own family about the case. Just tell them Judge Buckner asked me not to talk about. If somebody persists, and every now and then we have some hard-headed people. If somebody persists in wanting to talk to you about this case, you get their name and you come bring it to me and I'll handle that problem for you, ladies and gentlemen, that person will not bother you anymore, I can assure you of that, so please do not discuss this case.

Now, ladies and gentlemen, I do not know whether there will be anything on television, in the radio, or in the newspaper about this case. I'm instructing you now, do not read such, do not watch such, do not listen to such, you must decide this case when both sides are present on the evidence introduced during the trial of this case when both sides are present with the right of cross examination, so don't watch any TV account, or read the newspaper, or listen to a radio account of the case; that's improper.

Over the over-night recess, I hope everybody has a pleasant night tonight. I'm going to send you home now, but when you come back, I don't want you to come to the courtroom. I want you to report to your jury room, where you just were. The bailiff is going to give you instructions on where to park before you leave; how to get in and out of the courthouse if you need it.

We're going to take good care of you. I want you to be here at 9:45 in the morning. If you want to come a little earlier, that's fine, because we're going to be out here working long before you get here. We're going to be trying to get work done that doesn't involve you, but I want you here no later than 9:45.

When you get here, the clerk's going to hand out a menu for you. I'm going to serve you lunch tomorrow; now lunch will be served for you approximately at One O'clock tomorrow. It's going to be a delicious lunch, I can promise you that; won't it, Pat?

MADAME CLERK: Absolutely.

THE COURT: I don't want you to think I'm going to overwork you. I'm going to give you a break in the morning. We're going to start with you about 10 O'clock; normally, we'd start a little earlier, but we got work to do. So that's why you're not coming until 9:45. We'll give you a midmorning break before lunch so you can stretch your feet,

use the restroom. We're going to give you a mid-afternoon break, so you're going to get breaks in the morning and afternoon.

I ask during the trial that you do not discuss this case with each other, not until I tell you to do so after all the evidence has been presented in this case, you've heard the closing arguments from attorneys, and you've received my charge on the law at the conclusion of this case. So please, don't discuss it with anybody else and don't discuss it with each other.

Now, one more thing, we do not allow juror research. I know many of you have phones or you have computers, don't try to look up anybody in this case, whether it be a party to the case, or a witness, don't try to do any research on your own. Don't text anybody else and ask them about anything. It's improper for a juror to do that. You must decide this case solely upon evidence introduced during the trial of this case. Both of these parties, both defendants and the State, have the right to know exactly what you're relying on and not on some outside source, even though you may think that's very good and important to you. That is improper for you to do as a juror.

You must decide this case solely upon evidence introduced in this courtroom when both sides are present with the right of cross-examination. Now, I want to thank

you for your patience today. I know it took a while; it's 6:25, but I didn't want to make you have to come back for jury selection tomorrow. We wanted to get a jury and let the rest of them go so we can finish this.

This will not be a trial that last all week. This trial will be over by mid-week; we estimate that. I'm going to ask you to give both sides your careful attention. I will swear you in the morning when you come out, but you treat this as a member of the jury now, even though you have not been sworn. Now, does everybody understand that?

When you come back in the morning, be here before 9:45, because you've got to fill out a menu. We'll have something for you to drink and eat in the jury room before you start. Report to your jury room. Do not come to the courtroom, and be here prior to 9:45. Any questions about my instructions from any of the jurors? Does everybody understand what to do?

JURORS: Yes, Your Honor.

THE COURT: Very good. I look forward to seeing each and every one of you before 9:45 in the morning in your jury room and I will bring you out just as quick as I can finish the work that does not involve you, after you've completed filling out your menu for lunch. Thank you for your patience. You may now leave the courtroom through this door. Everyone else remain seated while the jury is

leaving. You may leave at this time.

(WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Anything on the record outside the presence of the jury from the State of South Carolina before we adjourn for the evening?

ASST. SOL. HASELDEN: Nothing, Your Honor.

THE COURT: Anything on the record from the defendant McMillan outside the presence of the jury before we adjourn the meeting?

MR. MATHEWS: No, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: All right. Counsel, I expect you to be here at 9:15 in the morning. We're going to be doing a Jackson v. Denno here starting no later than 9:30. I'll expect you to be prepared to publish your stipulation concerning this trial at 9:30 in the morning. Becky, I will meet you at 9:30 in the morning. Pat, put on the tape for now, the jury's to call back after 6:00 tomorrow night on the tape; after 7:00 tonight. Thank you very much. This Court stands adjourned until 9:30 A.M. tomorrow morning.

(6:45 P.M., 8-29-11, WHEREUPON, COURT STANDS ADJOURNED FOR THE EVENING IN THE TRIAL OF THIS CASE.)

(9:20 A.M., 8-30-11, WHEREUPON, COURT RESUMES IN THE

TRIAL OF THE CASE.)

THE COURT: All right, now, counsel, I'm not going to have us start about twenty minutes behind when I'm making the jury come and start, so when I tell you to be here at 9:15, be here at 9:15. That's not going to happen again, or I will deal with it with my contempt powers.

Now, your clients are present. I told you the first thing we would do this morning at 9:15, we would do two things. The first is a Jackson v. Denno hearing and the other was we would put a stipulation that you've entered into on the record.

Because the Jackson v. Denno hearing requires testimony, I understand that Lt. Inabinett is the sole witness; is that right?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: Now, those of you who are not familiar with the terminology that the Court is using, whenever a statement is proposed to be admitted, and I don't know whether it will or will not in this case, but if the State has one, the defendants are entitled to a Jackson v. Denno hearing to determine the voluntariness of any proposed statement that is to be admitted. That is the purpose of this hearing. If more than one statement is to be submitted, each statement must be ruled on separately on the record.

I understand there is a statement in this case. I know nothing other than that, having been informed by counsel yesterday in my chambers. Let's proceed with the Jackson v. Denno hearing. Solicitor, you may call your first witness.

ASST. SOL. HASELDEN: Thank you, Your Honor. May it please the Court. The State calls Lieutenant Allen Inabinett.

MADAME CLERK: Please come forward and be sworn. Place your left hand on the Bible and raise your right.

(WHEREUPON, LT. ALLEN INABINETT IS DULY SWORN.)

JACKSON V. DENNO HEARING

MADAME CLERK: Please have a seat on the witness stand.

THE COURT: Good morning, Fred. How are you?

LT. INABINETT: Doing well, Sir.

THE COURT: Have a seat. Adjust that microphone for me. State your full name and spell your last name for Becky.

LT. INABINETT: Fred Allen, last name, I-N-A-B-I-N-E-T-T, Inabinett.

THE COURT: Your witness, Counsel.

ASST. SOL. HASELDEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Lieutenant Inabinett, who do you work for?

A Colleton County Sheriff's Office.

Q And what is your position there?
A Lieutenant over Investigations.
Q And as Lieutenant over Investigations, what do you do?
A Supervise the Unit, assign cases, also on an as needed basis, go out and work cases myself.
Q Okay. And as a part of working those cases, do you ever interview suspects?
A Yes, ma'am.
Q And were you involved with this case that we're here about today, State v. Antwan McMillan and David Jakes?
A Yes, I was.
Q And did you have an opportunity as part of your investigation to interview either of these two gentlemen?
A I did, Mr. David Jakes.
Q And when did you do that?
A August the 19th, I believe. I forgot the exact date, but it was in August of this year.
Q Okay. And do you remember where you were?
A The Colleton County Sheriff's Office, The Annex.
Q Okay. And was that interview videotaped?
A It was.
Q Was that videotape entered into evidence?
A Yes, ma'am.
Q Who else was present while you were speaking to Mr. Jakes?

A Just he and I.
Q All right. And this case happened back in June of 2010, correct?
A Correct.
Q Why did you speak to Mr. Jakes in August of 2011?
A Mr. Jakes submitted an Inmate Request Form, which is a form that an incarcerated subject fills out if they wish to speak to law enforcement. They fill out a form, which is a request form. I, in turn, got that form from Mr. Jakes.
Q Okay. And how is that request conveyed to you, that form, how is it?
A Several ways. Sometimes from officer to officer. It's faxed sometimes via the records supervisor at the jail to our office. In this case, it was handed from Jakes to myself, person to person.
Q Okay. And when did he hand it to you?
A At the jail.
Q Okay.
ASST. SOL. HASELDEN: Just a moment's indulgence, Your Honor. May I approach the witness, Your Honor?
THE COURT: You may.
Q Lt. Inabinett, I'm handing you what will be marked as Court's Exhibit -- I think we already have a One. It will be Court's Fourteen.
THE COURT: Court's Fourteen?

ASST. SOL. HASELDEN: With the stipulations that we'll put on the record, Your Honor. There are quite a few attachments.

Q Do you recognize that document?

A I do.

Q Can you tell me what that document is?

A Yes, ma'am. This is the actual request form from David Jakes to myself and it's signed by my name. His name is printed on it; the 2nd of August, 2011.

Q And as a result of that request, you spoke with the defendant, Mr. David Jakes?

A I did, yes, ma'am.

Q Does this document refresh your memory as to when you spoke to Mr. Jakes?

A It does.

Q And what was that date?

A Actually, it was the next day, the 3rd.

Q So August 3rd of 2011?

A That's correct.

ASST. SOL. HASELDEN: May I approach the witness, again, Your Honor?

THE COURT: You may.

Q Lt. Inabinett, I'm handing you what will be marked as Court's Fifteen for identification purposes only. Do you recognize that document?

A I do.
Q Can you tell me what that document is, please?
A Yes, ma'am. This is the Colleton County Sheriff's Office Miranda Form, which I actually Mirandized Mr. Jakes with in this case.
Q Now, you said he asked to speak to you, right?
A He did.
Q So why did you still give a Miranda?
A Because it's protocol. To make sure he's aware of his Miranda protocol, and to make sure that I am aware as well.
Q Okay. So Mr. Jakes was under arrest at the time, correct?
A Yes, ma'am.
Q And did Mr. Jakes already have a lawyer at that time?
A He did.
Q And he still asked to speak to you?
A Yes, ma'am.
Q When you administer Miranda Rights, Lieutenant, do you read them from a card, or from your memory, or from a form?
A From this form.
Q Exactly from that form?
A Yes, ma'am.
Q And how do you know that the defendant understands?
A We ask the defendant, or the individual, to initial by the indicated blocks, and then to confirm that, we ask them

to sign as well.

Q Okay. Did Mr. Jakes appear to be under the influence of any drugs or alcohol at the time that he spoke to you?

A No, ma'am.

Q Did he appear to understand those rights?

A He did.

Q Could you please read those rights as you read it to him that day for the Court?

A Yes, ma'am. "Number one, you have the right to remain silent. Number two, anything you say can and will be used against you in a Court of Law. Three, you have the right to have a lawyer and have him present with you while being questioned. Four, if you cannot afford to hire a lawyer, one will be appointed to represent you before being questioned. Five, you can decide at any time to exercise these rights and not answer any questions or make any statements."

And below there is a spot for a signature. And to the left of each numeric, there is a spot for the actual initials. Further down is the waiver section. "I have read and I have had read to me the above statement of my rights. I understand each of these rights. Having those rights in mind, I waive them and willingly make a statement." Below that is a spot for his signature as well. Corresponding on down is a spot for the officer, the date, the time, and the

actual location of the department.

Q So you mentioned that you had the defendant initial next to each of the rights as you go through them. Did Mr. Jakes initial next to all the rights?

A Yes, he did.

Q Did he sign indicating his willingness to talk to you?

A Yes, ma'am.

Q Did you discuss the fact that he had requested to talk to you on the video?

A I did.

Q And did you also discuss the fact that you knew he was represented, on video?

A I did.

Q And what did he indicate to you that he wished to do, despite the fact that he was under arrest and he had an attorney?

A That he still wished to speak to myself and give his side of the story.

Q Did you threaten him in any way to talk to you?

A No, ma'am.

Q Did you promise him anything? Offer any hope of rewards?

A No, ma'am.

Q Did you force him to stay in there for a long time without anything to drink or using the restroom or cigarette

break?

A No, ma'am. I offered a bathroom break and also provided him something to drink.

Q So what did Mr. Jakes say to you?

A We started off the interview, once again, about his attorney and he wished to go ahead without his attorney being present, and in that, he indicated that he was actually a part of a situation. He wanted to get his side heard. And he indicated that the night of, he didn't give a specific date, but he knew the incident. He told about, spoke about who was in the car, which would have been himself, his friend, James Davis, and guy that he called by a street name of "J-Sneez". That was the subject from the Jacksonboro area. He indicated that they had been drinking a lot that day and were intoxicated. They went to Jacksonboro to hang out with the guy named J-Sneez, who is James Davis, which is a co-defendant; his cousin, I do believe.

In doing so, they came up with the idea to go out that night in Walterboro. He indicated they left Jacksonboro in his Cadillac, or his grandmother's Cadillac. He tried to describe the J-Sneez to the best of his ability. He was a young guy from Jacksonboro. He had a burgundy Cadillac and a burgundy Crown Victoria.

He also said that when he decided to go out to

Walterboro that he wanted his strap, or his gun, so he went back to Smoaks to get his handgun, which is a .50 caliber pistol. He then added that after he retrieved his handgun, he stopped for a second, and I asked him about where was McMillan, the subject McMillan, which is the other co-defendant. He said that he was not in the car with us at all, but he would tell me how McMillan became involved with the situation.

He continued to state that on the way back to Walterboro, headed to Walterboro, he needed some money to go to the club. He called his girlfriend who was due to meet them on a railroad track on Mt. Carmel Road. Well, when himself, Davis, and the J-Sneez got to the railroad tracks, his girlfriend was not there, so they kept on going.

They made a left turn onto McLeod Road off of Mt. Carmel. They passed the on ramp intersection by-pass area, and he then received a phone call from his girlfriend; he didn't call her name. They turned around and was headed back to the meeting location, which was the railroad tracks. At that point, he said that he heard, I guess, the sound of his tire, because earlier that day he had raced the Cadillac in the Smoaks area and had a flat tire and had changed to a donut, a spare tire. So they pulled over onto the on ramp by-pass area of I-95 and McLeod Road, which is Exit 62. When they pulled over, he got out -- he got out -- now, "he"

being Mr. Jakes, exited the vehicle. He said that James Davis was in the front passenger side and the driver was the J-Sneez subject.

He indicated that he saw two vehicles parked on the side of the exit ramp of I-95 and he saw two white vehicles standing by it. He made a comment about, "Hey, pretty lady. Come here, you got a fat butt," or something to that sort; some type of comment to them. And they began to move back, move away from their vehicle.

He also stated that he didn't see a third subject, which would have been a male individual at the time, initially. He indicated that he was very intoxicated and that he wasn't going to harm anybody, but he was just trying to holler at the pretty women.

At that time, the third subject, who was a male victim, a white male, came up from behind the car, or from behind both cars. He assumed that he was working on something. He told -- "he" being the male victim, told the male defendant, Mr. Jakes, to "back up" or "leave his family alone," which he didn't. He continued to make some comments to the young women.

At that point, he said that the male subject then presented a firearm and told him to "get back; leave my family alone." Jakes said that at that point, he wasn't going to hurt anybody still, but he then went back, or

leaned back into his car and grabbed his pistol to let the male subject know that he wasn't the only one who had a gun and he used some profanity in his comment that when he told the male victim that he didn't have a gun, and he was going to show him that he had a gun as well.

At that point, that's when the male victim then fired numerous shots at him, striking him. He fell by the Cadillac, which was by the back -- what he described as the back right side, or the back passenger door. He fell on the ground and he lay there for a few minutes.

At that time, the front passenger, which was Davis, was intoxicated as well.

THE COURT: Was who?

A James Davis, the co-defendant, was intoxicated as well. And he said that they just didn't really understand what happened. Because he kept asking them, "What happened? What happened?" He said, "Man, I'm shot." And at that point, Davis then fired a 9 mm handgun into the direction of the victims, more or less in the defense of Mr. Jakes who lay on the ground.

He then crawled into the car -- excuse me, James Davis was firing the weapon. The shell casings were hitting Mr. David Jakes who was lying on the pavement. Jakes, David Jakes, then, crawled into the car with his own free will, his own power, got into the back seat and then they fled the

area, with J-Sneez driving.

He asked both of his friends to take him to the hospital. They were like, "No, man, we'll take you home." And he again asked to go to the hospital. At that point, he said, "Well, take me to Antwan's house, or McMillan's house." He didn't take him to the hospital. They made a right onto McLeod Road -- a right from McLeod Road onto Mt. Carmel Road, heading back towards Smoaks.

At that point, they passed a blue car, which was being driven by Toya Bryant, or Shaquita Bryant. They turned around and flagged her down, and he indicated that he knew that the girls, or who was in that car, had initially given a false statement to law enforcement about him, because they was scared, and that he wasn't actually walking down the road; he couldn't walk, because the bullets hit him in his chest and leg and he couldn't walk, basically.

He indicated that Joseph Griffin was in the car with Ms. Bryant and I think he called another male subject, Montez, if I'm not mistaken. They then transferred him from the Cadillac to Ms. Bryant's car, and in turn, that car, which was a blue car he described, took him to the hospital, which was Colleton County Medical Center. And he instructed his friends, Davis and J-Sneez to take the Cadillac back to Antwan's house in Smoaks, and he would know what to do with it.

Q Okay. As a part of your investigation, have you ever had the opportunity to interview a suspect named "J-Sneed" or "J J Sneed" from Jacksonboro?

A No, ma'am. I tried to locate that subject, but was unable to.

Q Why were you unable to?

A I couldn't find out who that really was and the only thing that Mr. Jakes could provide was the street name and I tried, but was unsuccessful.

Q So you were unable to locate anybody named "J-Sneed" or "JJ Sneed" in Jacksonboro?

A Yes, ma'am.

Q Okay. Have you ever encountered anybody -- how long have you been at the Sheriff's Office?

A Ten years.

Q Have you worked any cases in Jacksonboro?

A The majority of them.

Q Okay. And you never heard of anybody named "JJ Sneed" or "J-Sneez"?

A I haven't, no, ma'am.

Q Okay. So, in fact, Mr. Jakes told you that Mr. McMillan was never even in the car with them?

A He did, that's correct.

Q And he had no involvement with this attempted armed robbery?

A Correct.
Q Did Mr. Jakes tell you that he intended to rob the victims?
A No, ma'am. He said that he never intended to rob anybody. He was just going to let him know that the male subject, the male victim, was not the only person that had a gun and he didn't know where he was at, at the time.
Q Did Mr. Jakes tell you why he wanted to carry a gun to go out in Walterboro?
A Because of the town itself, and you know, and you got to be strapped when you go out at night, you know.
Q Were you ever able to determine what kind of gun Mr. Jakes had on?
A Jakes? He said that he had a .50 cal.
Q A .50 caliber handgun?
A Correct. Handgun, and he purchased it off the street.
Q Did he tell you how long he had that gun?
A Approximately one week.
Q Okay. He didn't buy it from a gun shop?
A No, ma'am. He also admitted to his involvement with the gun being stolen. He said, "That's my gun. I purchased it and that the gun should still be loaded from the highway, because I never fired it."
ASST. SOL. HASELDEN: A moment's indulgence, Your Honor.

Q You never threatened Mr. Jakes?
A No, ma'am.
Q You never promised him anything?
A No, ma'am.
Q Did you tell him that he had a right to have his attorney present?
A I did.
Q Did you tell him in fact that he could stop the interview at any time?
A I did.
Q I have no further questions. Thank you.

THE COURT: I will permit cross-examination, first, by the defendant Jakes, since this is his statement; Mr. Beach?

MR. BEACH: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION

BY MR. BEACH:

Q Lt. Inabinett, how did he get this form to fill out to ask to see you?
A The forms are kept at the detention center and solely upon request they are furnished to the inmates.
Q Y'all didn't take the form to him?
A No, sir. They're kept at the jail.
Q Okay. And was -- now who all was present when this statement was made?

A He and I. It was recorded in the interview room at the Sheriff's Department.
Q Is this a videotape of the statement?
A Yes, sir.
Q Did y'all tell him it would go easier for him if he made a statement?
A No, sir.
Q And did you promise him anything?
A No, sir.
Q Did you tell him that at any time he had the right to have his attorney there?
A I did.
Q And did you talk to him about the dangers of not having his attorney there?
A I advised him of the Miranda protocol, yes, sir.
Q And at any time did he ask to have his attorney present?
A No, sir.
Q You say he was not under the influence of anything at the time?
A No, sir. Not to my knowledge.
Q How long had he been in jail when you had this conversation with him?
A I'm not certain, but he came from -- when he was discharged from MUSC hospital in Charleston to the infirmary

in Charleston County and then from the Charleston County straight to Colleton County. So it's been a continuous commitment, or continuous detention, for him.

Q So he had been incarcerated for some time?

A Yes, sir. Yes, sir.

Q Do you know if anybody else questioned him prior to your doing this interview?

A No, sir, not to my knowledge.

Q He asked specifically to see you?

A Yes, sir.

Q Had you talked with him in the past?

A No, sir, just the day prior, which was August the 2nd at the jail. He was getting his fingerprints redone.

Q What did y'all talk about at the jail?

A Oh, nothing. He was getting his prints redone and he asked to speak to me. And I said, "Well, sir, to speak with me, you need to do a request form." And he filled it out. That's it.

MR. BEACH: I don't have any other questions, Your Honor.

THE COURT: Very well. Cross-examination by the defendant McMillan.

MR. MATHEWS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MATHEWS:

Q You indicate, Lt. Inabinett, that this was videotaped?
A Yes, sir.
(SOTTO VOICE DISCUSSION BETWEEN MR. MATHEWS AND ASST. SOL. HASELDEN.)
MR. MATHEWS: Your Honor, may I approach?
THE COURT: You may.
(MR. MATHEWS APPROACHES COURT REPORTER AND HAS AN EXHIBIT MARKED.)
Q Lt. Inabinett, this is -- I'm handing you what's been marked as Defendant's Exhibit Number One and I'd like to actually introduce this into evidence. I guess y'all would need a chance to look at it to make sure that it is, in fact, the same copy that y'all gave me, but I received that ---
THE COURT: It's the kind of thing that we'd like to do ahead of a hearing, if you're going to do it.
MR. MATHEWS: Yes, sir.
THE COURT: Just as you require them to provide it to you ahead of time.
MR. MATHEWS: Yes, sir.
THE COURT: Counsel, do you need time to review this since Mr. Mathews wants to introduce it as part of this hearing?
ASST. SOL. HASELDEN: I'd be happy to accept Mr. Mathews at his word.

THE COURT: Very well. Without objection, Defendant's One is admitted for purposes of this hearing.

(DEFENDANT'S EXHIBIT NUMBER ONE, PHOTO, IS RECEIVED INTO EVIDENCE.)

MR. MATHEWS: Thank you, Your Honor. Your Honor, I'd also like to admit it into evidence for the trial. I realize I'm giving up ---

THE COURT: Not at this point. We're in a Jackson Denno hearing. It will be offered during the presence of the jury. This is a Jackson v. Denno hearing; proceed, Mr. Mathews.

MR. MATHEWS: Thank you, Your Honor.

Q Lieutenant Inabinett, when you talked to Mr. Jakes, did you enter a supplemental report that you had talked to him?

A Yes, sir.

Q Okay. And is that pursuant to protocol or why did you do that?

A Because protocol, I wanted to indicate for both counsel, defense and State, that I did interview the subject, yes sir.

Q And it would be accurate, and later on, because when you testified from the stand, you indicated that you couldn't remember without looking at that and when you saw the form that said "this is when I did it" and the supplemental report serves the same purpose?

A Correct.

Q I don't have anything further, Your Honor.

THE COURT: Re-direct?

ASST. SOL. HASELDEN: None, Your Honor.

THE COURT: Call your next witness.

ASST. SOL. HASELDEN: That's the only witness for the State, Your Honor.

THE COURT: Very well. Does the defendant Jakes wish to present any evidence for purposes of the Jackson v. Denno hearing?

MR. BEACH: No, Your Honor.

THE COURT: Does the defendant McMillan wish to introduce any evidence for purposes of the Jackson v. Denno hearing that is not already been introduced by the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Very well. All right, Counsel, I've listened very carefully to the witness and observed the witness. I've considered all the evidence that's been offered by the State and the defendants have chosen, with the exception of Mr. Mathews offering Defendant's Number One. Mr. Mathews, is it your request that I review this tape prior to making this ruling, for any reason?

MR. MATHEWS: No, sir.

THE COURT: So you don't request that I review it for

purposes of this hearing?

MR. MATHEWS: No, sir.

THE COURT: All right. Then, this Court is convinced by a preponderance of the evidence and I so find that before any alleged statement was obtained from the defendant, the defendant was fully advised of his right's under the Fifth and Sixth Amendments to the Constitution of the United States and that the defendant was advised of his Constitutional safeguards required by Miranda vs. Arizona.

The exhibit reflects, and that would be Court's Exhibit Fifteen reflects the detail of the Miranda Rights, which were advised to the defendant with the initials of the defendant, David Jakes, beside each of the Miranda rights, as well as a waiver of his rights, indicating that he had read, or had read to him, the statements of his rights and that he understood each of those rights.

Having those rights in mind that he waived them and willingly made the statement and it was signed by Mr. Jakes and witnessed by Detective Inabinett, and it is dated August 3, 2011 on the Court's Exhibit Fifteen.

I find, therefore, that the defendant knowingly and intelligently waived his rights under the Fifth and the Sixth Amendments of the Constitution of the United States and that the Constitutional safeguards required by Miranda vs. Arizona, and I find that the alleged statement obtained

from the defendant was freely and voluntarily given without duress, without coercion, without undue influence, without reward, without promise, or hope of reward, without promise of leniency, without threat of any injury, and without compulsion or inducement of any kind, and that such alleged statement was the voluntary product of the free and unconstrained will of the defendant, David Jakes.

This Court finds all of the forgoing conclusions by a preponderance of the evidence and I, therefore, find that the statement is admissible into evidence in the trial of this case.

All right, Solicitor, I understand now that you and, apparently, Mr. Beach and Mr. Mathews have entered into a stipulation; and apparently that stipulation, because of a number of Court Exhibits -- now, Mr. Mathews, I'm certainly not restricting you. You decided to make an exhibit for the Jackson v. Denno here and that you didn't want me to view, which was just a video of what has been orally described by Detective Inabinett.

However, certainly you have the absolute right to offer into evidence, at the appropriate time, however, you are aware of the consequences of doing so. You would not be subject to those consequences from a Jackson v. Denno hearing, which is an in camera hearing, and there is a distinct difference between offering evidence in a Jackson

v. Denno hearing and the effect on your client of offering it during the trial, which is the reason I caution you about it. I would like for counsel now to publish what stipulations have been entered into for purposes of moving this case forward.

ASST. SOL. SHELTON: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

ASST. SOL. SHELTON: First of all, I'd like to bring to the Court's attention and place on the record, Court's Exhibit Number Twelve, it is entitled State v. Antwan McMillan, and it has all the indictments listed that he's going to trial on.

There are a number of stipulations in this matter; all in regards to physical evidence. One through twenty-nine, some of those have been broken down for the purpose of establishing -- also have Court's Exhibit Number Thirteen ---

THE COURT: Hold on a second. Let's stick with the first one; who signed it?

ASST. SOL. SHELTON: I've signed it and Mr. Mathews has signed it.

THE COURT: So it only involves Mr. Mathews and Mr. McMillan in Court's Exhibit Number Twelve. And the stipulations state what is being stipulated to as to

physical evidence involving the case against Mr. McMillan?

ASST. SOL. SHELTON: Correct, Your Honor. I'll read it to the Court. Basically, it determines that the chain of custody for the items listed and described below, as referenced by the attached exhibits, as complete and accurate.

The attached exhibits for the Court's records, Your Honor, first of all is Court's Exhibit Number One, which are serology analysis from SLED. Items number Twenty-one through Thirty-seven.

Court's Exhibit Number Two, items number Thirty through Thirty-three, that is also an exhibit from SLED.

Court's Exhibit Number Three, which basically just states who was involved with receiving buccal swabs.

Court's Exhibit Number Four, which states SLED items number Thirty-five and Thirty-six.

Court's Exhibit Number Five which states SLED items Twenty-one through Thirty-seven, insomuch as a reference to DNA analysis.

Court's Exhibit Number Six, which references items number Forty through Forty-six.

Again, Court's Exhibit Number Seven, which references buccal swabs from items number Thirty through Thirty-six and also Court's Exhibit 40.1, which are buccal swabs, or scrapings, taken from the items of Forty through Forty-six;

41.1 through 46.1 are the scrapings.

Then, Court's Exhibit Number Eight, which is a latent print examination completed by Christine Wilson of Beaufort County Sheriff's Office.

Court's Exhibit Number Nine which is a latent print examination completed by Nada Kierson of the Charleston Police Department.

And then Court's Exhibit Number Eleven, which is a Property Tracking Report. It was merely a Court's Exhibit that references all the item numbers for the property that was submitted; item numbers issued by the Colleton County Sheriff's Office with property submitted to SLED for analysis, because many of these items have multiple item numbers, I'm including all of these and referencing them all from a list of stipulations, so that we can permanently track the chain of custody for purposes of establishing a record.

Finally, Court's Exhibit Number Ten, which is an internal SLED chain of custody.

That is everything, Your Honor, for defendant McMillan.

THE COURT: All right. Now, is that correct Mr. Mathews?

MR. MATHEWS: Yes, sir.

THE COURT: And you've signed it?

MR. MATHEWS: Yes, sir.

THE COURT: I would like for you to provide my law clerk -- when you put a stipulation into evidence, I want a copy made of the stipulation for my law clerk so the Court can follow the progress of the stipulation during the course of the trial; do you understand that?

ASST. SOL. SHELTON: Yes, sir.

THE COURT: Please see that your staff does that and provides it to my law clerk. Publish the remaining portion of the stipulation. That's everything as to Mr. McMillan?

ASST. SOL. SHELTON: Yes, Your Honor.

THE COURT: Let's move to Mr. Jakes.

ASST. SOL. SHELTON: As for defendant Jakes, I have Court's Exhibit Number Thirteen, and it's already marked as Court's Exhibit Number Thirteen. This is also a list of stipulations with the heading of David Jakes with all of his indictments that we're going forward on listed in the caption. It has been signed by myself and Mr. Harris Beach. It is also a duplicate of everything that is referenced by Mr. McMillan to Mr. McMillan's ---

THE COURT: In Court's Exhibit number?

ASST. SOL. SHELTON: Number Twelve.

THE COURT: All right. So number Thirteen is the duplicate of Number Twelve, but it involves Mr. Jakes rather than Mr. McMillan?

ASST. SOL. SHELTON: Correct, Your Honor.

THE COURT: And it is signed by Mr. Jakes' attorney?

ASST. SOL. SHELTON: Yes, sir.

THE COURT: Mr. Beach, is that correct?

MR. BEACH: That is correct, Your Honor.

THE COURT: And you so stipulate on behalf of Mr. Jakes?

MR. BEACH: Yes, sir.

THE COURT: Very well. I'd like a copy of that one as well, and you're going to hand those to the court reporter now. It's Court's Exhibit -- they're not in evidence?

ASST. SOL. SHELTON: Correct.

THE COURT: And you'll need to publish the stipulation in the presence of the jury; you understand that?

ASST. SOL. SHELTON: Yes, sir

THE COURT: You understand that Mr. Mathews?

MR. MATHEWS: Yes, sir.

THE COURT: You understand that Mr. Beach?

MR. BEACH: Yes, sir.

THE COURT: Very well. All right, anything further on the stipulations, Solicitor?

ASST. SOL. SHELTON: No, thank you, Your Honor.

THE COURT: All right. Counsel, as you're aware, based on the estimate of time that you've given the Court, it is believed that this case would take today and into some portion, if not all, tomorrow, before the jury can actually

receive the case, and it may be that even into Thursday morning, depending on the length of questioning.

Therefore, because of that, I'm going to require that you submit your Requests to Charge in this case by 5:00 this afternoon, since I'm not sure whether the jury will get the case tomorrow or not.

So if you have any Requests to Charge, please copy them, number them, hand them to your opposing counsel, and provide a work copy for me, and a work copy for my law clerk by 5:00 this afternoon do you understand, Mr. Beach?

MR. BEACH: Yes, sir.

THE COURT: Do you understand Mr. Mathews?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Do you understand Ms. Haselden?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: Very well. With that, I think that takes care of the matters that we -- yes, sir, Mr. Shelton?

ASST. SOL. SHELTON: I apologize; May I approach? I have a copy here.

THE COURT: All right. Those are copies of your stipulation?

ASST. SOL. SHELTON: Yes, sir. They have not been signed, but they are duplicates.

THE COURT: You want to look at these, Mr. Mathews and Mr. Beach? He's handing me -- they're not signed copies,

but he tells me that they accurately reflect what's been provided to the court reporter as Courts Twelve and Thirteen?

ASST. SOL. SHELTON: Correct, Your Honor.

MR. MATHEWS: I know Mr. Shelton to be an honorable man. If he says that those are ---

THE COURT: The answer is yes or no, Mr. Mathews.

MR. MATHEWS: Yes, Your Honor.

THE COURT: How about it, Mr. Beach?

MR. BEACH: We don't need to look at, Your Honor.

THE COURT: All right. Which one's Twelve and which one is Thirteen -- McMillan's Twelve? Anything further from the State before I bring the jury?

ASST. SOL. HASELDEN: Your Honor, something I would just like to inquire, a quick matter with the defense attorney that I didn't get a chance to ask him this morning.

THE COURT: All right. Anything further from the State?

ASST. SOL. HASELDEN: Your Honor, at this time, I'd ask that all witnesses on both sides be sequestered. We have ample places for all of our witnesses, both in our office and the conference room.

THE COURT: If I'm going to do it, we're going to designate a room for each side, because we're not going on the proverbial Easter egg hunt during this trial for

witnesses, and that's where they need to stay. And we're also -- obviously, the defendants get to stay, and your case manager gets to stay, the victims get to stay under the Victim's Bill of Rights, but all other witnesses will have to be instructed by respective counsel that they are not to discuss their testimony with anyone if I grant sequestration, and they can't -- until I release them, they can't discuss, even after they've testified with anybody else who is a potential witness in the trial of this case, and for that matter, anybody else. I'm assuming you've advised your witnesses before you made this motion, Solicitor?

ASST. SOL. HASELDEN: Yes, sir. I did let them know that it was likely ---

THE COURT: Where do you intend to put your witnesses?

ASST. SOL. HASELDEN: My witnesses will be in the conference room next to my office, and if there's any overflow, in our office.

THE COURT: How about for the defendant McMillan? Pat, what room do I have for defendant McMillan, because I want him to have a room.

MADAME CLERK: How many witnesses do they have?

THE COURT: They have seven potential witnesses.

MADAME CLERK: Okay. What the bailiff needs to do is use one room for Family Court, and let the other room

downstairs be for defendant McMillan.

THE COURT: Well, but I need to segregate the defendants' witnesses, too; I've got two defendants. I have -- is your only potential witness your client?

MR. BEACH: That's the only one, Your Honor.

THE COURT: Then we only need one room. All right, which room downstairs do you want for Mr. McMillan?

MADAME CLERK: The defendant's room downstairs.

THE COURT: Mr. Mathews, the defendant's room downstairs will be your room. Pat will make it available. Family Court Defendant's Room, that's where all the witnesses that you have on your witness list will have to be located. As you know, I do not know at what point the State will rest; it probably will not be today. It may be tomorrow. However, you have to have your witnesses there and ready to go in that room, so that when the State does rest, you can proceed; do you understand?

MR. MATHEWS: Yes, Your Honor.

THE COURT: It will also be your responsibility to advise your witnesses if I grant sequestration so that they understand the nature of the request. Is there any objection to sequestration, from counsel for defendant McMillan?

MR. MATHEWS: No, sir.

THE COURT: Any objection to sequestration, from

counsel for the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: All right. I'm going to give you both a minute, because I'm ready to go. We're running fifteen minutes behind schedule. The jury's here and has been waiting. I expect you both to readvise your witnesses and usher them out of the courtroom at this time before I bring the jury. Please do so.

(ATTORNEYS ADVISE THE COURTROOM FOR ANY WITNESSES TO GO TO APPROPRIATE DESIGNATED PLACES.)

THE COURT: Is the State ready to proceed?

ASST. SOL. HASELDEN: The State is ready, Your Honor.

THE COURT: Is the defendant McMillan ready to proceed?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Is the defendant Jakes ready to proceed?

MR. BEACH: Yes, Your Honor.

THE COURT: All right. Bring us the jury, please.

(9:45 A.M., TUESDAY, AUGUST 30, 2011, WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Good morning, Madame Foreperson. Good morning, ladies and gentlemen of the jury. Thank you for your patience. We had a little work to do this morning; we're ready to get started. Madame Clerk, would you please swear the jury.

MADAME CLERK: Madame Foreperson, and ladies and gentlemen of the jury, please stand and raise your right hand.

(WHEREUPON, THE JURY IS DULY SWORN.)

MADAME CLERK: Thank you, you may be seated.

THE COURT: All right. Ladies and gentlemen, first of all, let me go over a few matters that I want you to be aware of before we begin. I want to thank you for being on time and I appreciate your patience. I know we're starting a little bit behind, but we've been working and I'll see to it that I keep the train on the track, because I'll be mindful of your time ladies and gentlemen.

First of all, as I told you yesterday, while you're on jury duty, I ask that you do not discuss this case with other people, including other jurors, except when I tell you to at the conclusion of the case; and after I finish these remarks I think you'll understand why.

I ask that you not read or listen to any news accounts in this case. I ask that you do not use a computer, or a cell phone, or any other electronic devices with communication capability during this trial. It is improper, as I told you yesterday, for a juror to use a computer or electronic device to try to do independent research for information such as information about a party, or a witness, or an attorney, or court officer, or news account of the

case, or information collected through juror research on any topic raised or testimony offered during the trial by any witness, even though you might think as a juror that that information is helpful to you in deciding the case.

It is improper for you to do any research. It's improper for you to communicate with anyone about the case on your cell phone, or through your e-mail, or your I-phone, or your text messaging, or on Twitter through any blog or website, including any internet chat room, or by way of any other social networking device, such as Facebook, MySpace, Linked in, or YouTube.

So I want to make everybody know before we start that those things are prohibited, just as I asked you not to listen to the radio, watch television or read the newspaper, I'm going to ask you not to use electronic devices.

It is very important that both sides know what you're basing your decision on and that will be on evidence introduced during the trial of the case, when both sides are present so that they know what you're deciding the case on and they have the right of cross-examination.

Now, before we begin this trial, I want to tell you that this trial is probably going to be different from what many of you probably expect. You know, the truth is ladies and gentlemen, that most people either don't have the time or the chance to attend an actual court session, as each of

you are doing right now as jurors. And most people think from watching television, or going to a movie, or reading in a book that trials, such programs as Cold Case, things of that nature, that trials are always full of high drama and intense action and riveting entertaining circumstances.

While all of those things may be true at times, an actual trial is not like a television program, it is not -- or a movie or a book. An actual trial, ladies and gentlemen, is not for entertainment. An actual trial is a search for the truth. It is a fundamental part of our Democracy. It is a search for the truth to make sure that justice is done between parties before the Court. Searching for the truth and making sure that justice is done is often slow, as it was this morning. It is often repetitive. It is often deliberate. It is the exact opposite of what you may have seen on television, or read in a book, or seen in a movie.

This courtroom, ladies and gentlemen, is a place of honor. I told you yesterday, it's 188 years old. It's on the National Register of Historic places. And the portico that faces Hampton Street is attributed to Robert Mills, who, as you know, is the architect of the Washington Monument.

This courtroom, also, in addition to being a place of honor, is dedicated to the protection, and it's dedicated to

the preservation, of citizen's rights, through what many people call the greatest justice system in the entire world.

The attorneys that are going to appear before you in this trial are advocates for the parties they represent, but first and foremost, the attorneys are officers of this Court, and as officers of this Court, they swore as officers of this Court that they would uphold the integrity, they swore as attorneys that they would uphold the fairness of our judicial system, and they also are here, ladies and gentlemen, even though they're advocates for their prospective clients, to help you, the jury, in a search for the truth.

You should expect the attorneys to be courteous, to each other, to you, to the Court, to the spectators. You should expect the attorneys to be professional, to be prepared, and you should expect the attorneys to be ethical in the representation of their client's interest.

Now, let me remind each of you, that each of you, from our Clerk of Court right here, that each of you just took an oath, just like the attorneys took an oath, just like I took an oath as Judge; and in that oath, you said that you would try this case and you as a juror would reach a fair and a just verdict in this case.

So you, as jurors, just like the attorneys, are also expected to be professional, to be ethical, to be reasonable

in your discharge of your duty under that oath, which each of you just took from the Clerk of Court of Colleton County.

Before we even begin the trial, I want to thank each and every one of you for giving of your times, leaving your families, leaving your jobs, leaving your homes, and accepting this very important responsibility of jury service. I want to thank you, ladies and gentlemen, in advance for your contribution today to our justice system. Without you, ladies and gentlemen of the jury, justice cannot be accomplished in a courtroom, and I thank you for that service.

Now, ladies and gentlemen, Madame Foreperson, the case we're about to try involves what we call co-defendants, meaning more than one. First of all, it's the case of the State of South Carolina v. Antwan D. McMillan.

Mr. McMillan is charged by these indictments that I hold in my hand. You notice I've got a paper clip around them and, Madame Foreperson, you're going to see me hand them back to my law clerk, Hope. She's going to be looking for you at the end of the trial as I told you. She knows that's part of her job.

Now, Mr. McMillan is charged in three indictments with the offense of attempted murder. He's charged in three indictments with the offense of attempted armed robbery. He's charged in one indictment with the offense of

possession of a weapon during the commission of a violent crime.

The elements of -- those are three separate offenses, attempted murder, attempted armed robbery, possession of a weapon during the commission of a violent crime. The elements of each of those offenses, I will explain that to you in my charge to you on the law at the conclusion of the case. You should understand that the indictments as to Mr. McMillan are simply the charges to which the case is brought into this Court and the indictments are not in any sense evidence of any of the allegations that I read to you yesterday from the indictments.

Now, we are also in this trial trying the case of the State of South Carolina v. David Jakes. Mr. Jakes is charged by this set of indictments which I hold in my hand, and so that you can understand better, Mr. McMillan is represented by Mr. Mathews, who you met yesterday; and Mr. Jakes is represented by Mr. Beach, who you met yesterday.

In the indictments against Mr. Jakes, the State of South Carolina charges Mr. Jakes with the following offenses: three counts of attempted murder, and I've read the allegations of the indictment to you yesterday in order to determine your impartiality to serve as a juror. Three counts of attempted armed robbery, and one count in an indictment of a possession of a weapon during the commission

of a violent crime, and also the additional offense of possession of a stolen pistol as to Mr. Jakes. So there's an additional indictment, possession of a stolen pistol, against Mr. Jakes, that is not being charged against the defendant Mr. McMillan.

And as I told you with the defendant McMillan, the elements of the charges against Mr. Jakes, including the additional charge of possession of a stolen pistol, will be explained by me to you in my charge on the law to you at the conclusion of the trial.

For right now, just as to Mr. McMillan, also as to Mr. Jakes, you should understand that the indictments against Mr. Jakes are simply the charges by which the case is brought into this Court and that the allegations and the indictments against Mr. Jakes are not in any sense evidence of any of the allegations contained in the indictment.

Now, each of the defendants, Mr. McMillan and Mr. Jakes, have pled "not guilty" to these indictments. There's seven indictments against Mr. McMillan; there's eight indictments against Mr. Jakes. The State of South Carolina, therefore, has the burden of proving each of the essential elements of the indictments to you beyond the reasonable doubt, and it will be your duty, ladies and gentlemen, to decide whether or not the State has met that burden.

It is, as a juror, your solemn responsibility to

ultimately determine the guilt or the innocence of the defendants in this case, and your verdict as to guilt or innocence must be based solely on the evidence as it is presented to you in this trial, and on the law as I instruct it to you to be during the trial and in my charge to you on the law at the conclusion of the trial.

In just a minute, the Assistant Solicitor will make what is called an opening statement in which she will explain to you the issues in this case, or at least what she contends to be the issues in this case, as an advocate for the State of South Carolina. And following her opening statement, the attorney for each defendant, first, Mr. McMillan, then Mr. Jakes, will each make an opening statement as advocates for their respective clients, the defendants in this case

Now, the attorneys have worked hard to prepare the case for the State of South Carolina and for each of the defendants, and I certainly want you to listen to them. But what the attorneys tell you in opening statement, what the attorneys suggest to you by questions that they ask, what the attorneys argue to you in their closing arguments, at the conclusion of the case, is not evidence in this case.

All of the attorneys are advocates for the parties they represent and what they say, or suggest, is not evidence in this case. It's only their contention as an advocate as to

what an issue might be in this case and not evidence in this case. The evidence in this case, and upon which you will make your decision as a juror in this case, will be presented to you by sworn testimony from this witness stand. You'll notice it's located on the side of the courtroom in closest proximity to you. That's so you can observe the witnesses; you can listen to the witnesses; you can pay close attention to the sworn testimony of the witnesses who will testify from the witness stand.

Evidence may also take the form of an exhibit such as a photograph, a model, or some written document, but as to any exhibit, because you will have those with you in your jury room during your deliberations at the conclusion of the case, as to any exhibit you will hear me say as the presiding judge that "It is in evidence." That means it is available for you for your consideration during your deliberations at the conclusion of the case after you've heard all of the evidence in the case.

So evidence may be sworn testimony or it may be an exhibit, but as to any such exhibit, I will, as the presiding judge, decide whether the exhibit is admissible into evidence or not before you see it as a jury.

Evidence may also take the form of a stipulation. That is an agreement, an understanding between either the parties or their respective attorneys, that a fact is true, and

therefore, it is not necessary to be proved during the trial of the case.

So evidence may be sworn testimony; it might be an exhibit; it might be a stipulation, an agreement, between the sides of the case that a fact is true. As to any such stipulation, the attorneys will publish to you any stipulation, and if there is a stipulation, you will accept that fact as having been proven conclusively for purposes of the trial of this case

Now, in the consideration by you of evidence, you should remember throughout this trial, that under the Constitution of the State of South Carolina, you, and you alone, the members of the jury, are the sole judges of the facts in this case. And the same law that makes you the sole judges of the facts, based on evidence introduced during the trial of the case, makes me the sole judge of the law in the case. I cannot invade your province. I cannot tell you, suggest to you, or comment to you, at any time about what the facts are in this case, and you should not invade my province and differ with me about what the law is.

Everything that I say during the course of this trial is being taken down by my court reporter, Becky Hill, right down here. She likes the fact that I talk loud, ladies and gentlemen. She's grinning right now, believe me. Because we have some people who talk so low, and it's very difficult

for her sometimes to do her job and that's why she likes it, and that's why I'm used to speaking up.

Everything that I say during the course of this trial is being taken down by Becky, and if I make a mistake as to the law, to the detriment of either side in this case, they can appeal the case to an Appellate Court; and if the Appellate Court agrees that I've made a mistake as to the law, they will reverse the case and send it back for a new trial. So don't any of you on this jury worry about whether I have told you the law correctly. That is somebody else's worry. Your job is to take the law as I give it to you, which you swore you would do in your oath and apply it to the facts as you find them to be, based on evidence introduced during the trial of the case.

Now, after doing that, ladies and gentlemen, which means applying the sworn testimony of the witnesses, examining any exhibits, considering any stipulations which may be entered into concerning any facts, and once you consider all of the evidence, you may then render your verdict, a true and just verdict, under that solemn oath that each of you just took from the Clerk of Court of Colleton County.

Now, from time to time during the trial of this case, you may hear one of the lawyers say something like "Your Honor, I believe we have a question of law," or "Your Honor,

I'd like to discuss a matter of law with you," or "Your Honor, may we approach the bench?" or I, myself, might find it necessary -- I might ask them to step down to my side bar over here or I might step down or I might ask you to go to your jury room.

Now, let me tell you, that's going to probably happen. We're not trying to hide anything from you, but we are intentionally talking out of your hearing. Why? The reason for this is just what I just told you, you're the sole judges of the facts; I'm the sole judge of the law.

I can't make any comment to you about the facts and therefore, when I'm ruling on a matter of law, sometimes by necessity, I have to make the comment to the attorneys about the fact in order to determine whether or not a particular piece of the law applies to this case.

So the custom in this State is that when such discussions take place -- you're going to first see me try to do it at the bench. I try to do it quickly for you so I don't have to send you out, or you might see me do it at a sidebar out here, where I talk and whisper to them; but if it's necessary, I'll send you to your jury room so that Becky can take down everything that's said, so that I don't say anything in your presence that might influence you about the facts in this case in ruling on whether or not a particular piece of law applies to this case, and that is

the reason discussions take place out of your hearing during the trial.

And in that connection, let me tell each of you again, that you, and you alone, are the sole judges of the facts in this case, and if you should gather from anything that I might say or do during the course of this trial that I have any opinion whatsoever about the facts in this case, please erase that from your mind, because you, and you alone, are the sole judges of the facts in this case, the members of the jury. I'm the sole judge of the law; you're the sole judges of the facts.

Now, based on the evidence, how are you as a juror to determine what the true facts are? I have jurors ask me that question frequently; but part of your job, ladies and gentlemen, you will, as a juror, of necessity have to pass upon the credibility, which means the believability, of the witnesses who are going to take this witness stand during the trial of this case.

It will be my responsibility as a presiding Judge to rule as a matter of the law whether or not certain testimony is admissible at all or not. Once I've allowed the testimony to be introduced into evidence, whether or not you as a juror believe the testimony, is solely a matter for you, the jury, to determine.

In passing upon the credibility, or the believability,

of the witnesses who will testify during the trial of this case, you have the right as a jury to take into consideration the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have observed the matters about which he or she might testify. You may even take into consideration in deciding the believability of the witness, what we call the demeanor of the witness, the appearance of the witness, while the witness is on the witness stand, which is why you're in such close proximity to the witness stand.

Anything that is in evidence, you, as a jury, have the right to consider. Anything that was in the evidence, or the record of evidence, in this trial that will aid you and assist you as a juror in evaluating testimony of the witnesses who will testify this case, you, as a juror, have the right to consider; and that means, Madame Foreperson, and that means, ladies and gentlemen of the jury, that it is your duty, under that oath which each of you just took from the clerk, to pay close attention to the witnesses, to listen to the witnesses.

Don't let your thoughts wander, but give strict attention to the witnesses, so that in conclusion of all the testimony, after all the witnesses have testified, after you've heard the final arguments of the attorney's and I've charged you all of the law that applies to this case in my

charge to you on the law at the conclusion of the case, you will have placed yourself, by listening and observing and paying careful attention, you would have placed yourself in a position to determine from the evidence what the true facts are and to apply the law as I give it to you at the end of the case to the facts as you find them to be, based on evidence introduced during the trial of the case, and thus render that just verdict.

Now, you must not consider anything that you may have read or heard about this case outside of this courtroom, whether before or during this trial, and until this case is submitted to you by me, and I'll tell you when it's time for you to deliberate at the end; until I submit this case to you, you must not discuss it with anyone, not even your fellow jurors during the break, or at lunch, or anyone else, and after I submit it to you at the conclusion of the trial, you must discuss it only in your jury room with your fellow jurors and no one else.

It's very important, ladies and gentlemen, that each of you on the jury keep an open mind and not decide the case until the entire matter has been submitted to you under my instructions at the conclusion of the case. Why? Because the very last thing that happens in this trial might be important to you, so I ask that each of you keep an open mind and not decide the case until the entire matter has

been submitted to under my instructions.

Now, Madame Foreperson, it will be your added duty, as I told you yesterday, to preside in the jury room and to be the jury's spokesperson, if necessary, out here in the courtroom. It will also be your duty to write the jury's verdict, but Hope and I will be working long after you go home to prepare a verdict form, and she's going to be looking to get your signature and the date on each one of these indictments at the conclusion of the case along with the wording of your verdict that you place on the verdict form.

Now, ladies and gentlemen, a couple of housekeeping matters, and then we're ready to start. As I've told you, it's a beautiful, old courtroom; it's 188 years old. In the acoustics, we've improved -- I'll give you an example and y'all can see it real well.

If you look above the door jam on the far side of the courtroom, you'll see where it looks as if the wallpaper sticks out at the top; that's not wallpaper. That's an acoustical panel trying to improve the hearing in the back of the courtroom, because it's a pretty old building.

If, at any time, a member of the jury cannot hear, raise your hand for me. I'll be watching all fifteen of you throughout the trial, my twelve jurors and my three alternates. I want my jury to be able to hear just like I

want Becky to be able to hear. I want my lawyers and their clients to be able to hear. I want the public to be able to hear. I want you to be able to hear. So if you can't hear, I can turn it up. I'll see to it that you can hear; not everybody talks as loud as I do.

If an exhibit is introduced into evidence, and that's one of the things, ladies and gentlemen, I'm going to tell you right now, here it is such a factor; I'm more sensitive to it because I've lost some of mine.

The lawyers love to turn their backs -- they like to do two things: you see all of the papers they've got on the table. They like to go back and they like to turn their back to Becky, who likes to be able to see everybody's mouth, and they like to go back and look at their file and talk to their client, and then they like to talk with their back to you, and if she can't hear, you can't hear; if you can't hear them, you let me know. I'll make them talk where they can hear you or you can hear them.

They also like to have witnesses step down. You'll notice the witness stand is in front of the court reporter. She can just turn and look at the witness. They want to step down, and we've got a portable microphone as you saw yesterday, but when she can't see the witness she has to really be able to hear. So I might make adjustments with the portable microphone because lawyers like to have them

step down and look at things and talk, and then the court reporter's looking at me, going like this (INDICATING A QUESTIONING LOOK.), and you're looking at me raising your hand.

So if you can't hear at any time, let me know. I'll be watching. If an exhibit is introduced into evidence during the trial of this case and you can't see the exhibit -- now, y'all have already heard me say as the presiding judge, "It is in evidence," because they're not going to show you anything that's not in evidence. It will come through me before you can consider it, and they know that; I'm the gatekeeper.

Whether it's in evidence, or sometimes we have exhibits for what we call demonstration purposes. We call that demonstrative evidence and that won't be shown to you unless I permit them do so; but if you can't see it, raise your hand. I want my jurors to be able to hear and to see at all times throughout the trial of the case.

Now, Madame Foreperson, we do not allow jurors, normally, to ask questions out here in the courtroom. If, at any time, a member of the jury has a question, here's the procedure we have to follow. If you're not already in your jury room, you will retire to your jury room. You will write the question on a piece of paper, knock on the jury room door, give it to my bailiff, Bill or one of my

bailiff's will bring it out to me. I will then have to rule as a matter of law whether or not the question can or cannot be answered, just as I would any question asked by either one of the attorneys during the trial of the case.

We do not permit cell phones or beepers or electronic devices while you're in the jury room. Now, I've already warned you about all that, but I'm going to tell you a story; people think we're strict about that because of noise. Yes, I do have one in my pocket, and I can promise you, my son knows this, it's on vibrate. I've never turned it on ring.

Although, I have to tell you a great story about that. This wasn't Hope, it was my previous law clerk, and I don't know whether any of the present attorneys -- I think Mr. Shelton was present. But, I didn't know when I plug my phone in to charge it into an AC outlet that it automatically changed from vibrate to ring, and of course, we have strict rules, and I'm supposed to confiscate anybody's phone that goes off in the courtroom. So y'all enjoy this story. I like to tell it on myself. My son, who's behind me right now, really likes this story.

So I'm sitting on the bench, ladies and gentlemen, and my phone rings, so I say, "All right, whose phone is that? You've got to turn it off." My law clerk, sitting right where Hope is, he grabbed my robe, and the phone rings a

second time. I said, "All right, whose phone is that?" And my law clerk leaned over and said, "Judge that's your phone."

Now, I'm very careful, ladies and gentlemen, when I come into the courtroom now, if I have to charge my phone, I have a color system on my phone, that orange light is on right now, so I know it's on vibrate. Now, we don't allow phones at all in the courtroom and my phone's gone off probably five times since I've just been talking to you, in my pocket.

I don't take phone calls, and you're not permitted to have a phone, or electronic device, while you're on jury duty. The reason is not just noise interference, let me tell you what happened.

In a county, other than Colleton, we sent a jury out. The jury was doing what jury's do, they were talking about a medical issue, and one of the jurors said, "Well, you know, my brother's a doctor. I'll just call my brother on my cell phone and ask him his opinion about this." Well, that's improper, ladies and gentlemen. You must decide the case solely upon evidence introduced during the trial of the case, when both sides are present. That's one of the reasons we don't permit cell phones or beepers in the courtroom.

Now, I've tried it both ways, ladies and gentlemen, I

ask that you -- you're going to see me writing. I constantly have a pen in my hand. I've got a notebook up here and I'm going to be taking notes, but I'm going to ask that you do not take notes. Why? Because I've found that if the written note taker on the jury makes a mistake in their written notes, that notes can be harmful, rather than helpful, in your deliberations once deliberations begin.

The time-tested system is for each of you on the jury to listen, and listen carefully. So I ask that you do not take written notes on the jury. If you're worried about remembering, Becky is making an audio, not video, an audio recording of witnesses testimony, so, if you want to hear an entire witness's audiotape recording of their testimony, we can play that back for you; so don't worry about remembering.

The time-tested system is for each of you to listen, and listen carefully. Now, I do not intend that you or anyone else should construe what I just told you, out of my remarks to you, as a charge on the law in this case, because it is not that. I'll charge you the law that applies to this case, as I haven't heard any evidence in this case just as you haven't, therefore, I can't charge you the law until we've completed the evidence at the conclusion of the case, because I don't know what law yet applies in this case and to this trial.

This has been merely an attempt on my part to briefly explain to you some of the procedure. We have strict rules which the attorney's know. We have a rule as to who goes first. I told you that the Solicitor would. They have the burden of proof. They'll speak to you first and then you'll have the attorney for the defendants. This has been an attempt on my part to briefly explain the procedure that we will follow in the trial of this case. Once the opening statements are completed, the State will then present its case, first. Followed, if they so choose, by each of the defendants.

I want you to have an idea of what is happening from time to time, so that you'll be better informed as a juror as the trial takes place. Nevertheless, in order to preserve everyone's rights, I will give the parties an opportunity to object to anything that I may have said to you during these brief remarks to you if they have any such objections.

Any exceptions or objections from the State?

ASST. SOL. HASELDEN: No, Your Honor.

THE COURT: Any exceptions or objections, from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any exceptions or objections, from the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury, we will now begin the trial of the case. Solicitor.

ASST. SOL. HASELDEN: Thank you, Your Honor, may it please the Court?

THE COURT: Yes ma'am.

OPENING STATEMENT

BY ASST. SOL. HASELDEN:

Good morning, ladies and gentlemen. This is a case about three people trying to get from Fort Bragg, up in North Carolina, down to Eglin Air Force Base in Florida. They were moving because they were transferred. Three people: Jesse King, his wife Amanda Metzfield, and her mother, Jeanine Metzfield, was along helping them out with her truck.

This is also a case about three other people. The three other people who when the victims had the unfortunate occurrence of breaking down in Colleton County, other people who preyed upon them, who attacked them in the middle of the road in the middle of the night here in Colleton County.

David Jakes, who is seated over here at the table in the white shirt; and Antwan McMillan, seated over here at the table in the blue shirt; and a third individual, James Davis, were in a car, shortly before midnight, driving from Smoaks where they lived into town into Walterboro to meet up

with some females; ;a common occurrence, probably.

They passed by on McLeod Road; through this, they only saw two of them, because Jesse King was crouched down working on some wires. They had to move the U-Haul from one truck to another truck; the first truck that was towing it had overheated.

So all they saw was two women standing on the side of the road in the middle of the night. Antwan, who was driving, tried to pump his people up inside his car, David and James, "C'mon, y'all, easy lick, easy robbery." So, they whipped the car around and come on back to them.

James Davis says, "Unh-unh, I'm having nothing to do with it." David Jakes says, "Sure let's do it." And when he screeched to a halt at the intersection of the off-ramp, off of I-95 and McLeod Road, where those three people were broken down, David Jakes jumped out of the back seat of that car with a .50 Caliber Desert Eagle Handgun in his hand and a black shirt wrapped around his head. He pointed that gun at Jeanine Metzfield, who was standing at the front of her car, and he said, "Give it up, pretty lady," and she's backing away. Her daughter, Amanda, who's standing a little bit further back, runs around the back of the U-Haul.

Thankfully, Jesse stands up with his own gun, active duty military in the army, and he warns the robber and says, "Get back in your car and leave us alone." But the robber

doesn't. Instead, he turns that .50 Caliber Desert Eagle Handgun on Jesse, so Jesse shoots. He shoots several times, and then he shoots several more times, until the individual falls and drops the gun.

At that point, the individual crawls back into his car, leaving his handgun and some of his blood on the ground, crawls back in, and an individual inside the car shoots at the victims further as they huddle behind the U-Haul trailer, on the side of the road in Colleton County in the middle of the night.

Now, they call 9-1-1, and minutes later, law enforcement arrives, secures the scene, starts processing that scene. A few minutes after that, in Walterboro, David Jakes arrives at the hospital to be treated for gunshot wounds in a personal vehicle driven by Angela Arnold.

Through their investigation that evening, they determine that the car the defendants were in, actually David Jakes' grandmother's car, she lives in Smoaks. So very shortly thereafter, they go out to Smoaks and find and secure that car, the silver Cadillac, and have it towed back to the Sheriff's Office Annex, right here across the street, where it was then processed for physical evidence, fingerprints, some other forms of physical evidence, and DNA.

Now, slowly, but surely, the story emerged, as it

always does. The story as to what exactly happened that night. The story as to why these two gentlemen are charged with three counts each of attempted armed robbery, three counts each of attempted murder, a count each of possession of a weapon during the commission of violent crime, and Mr. Jakes has an additional charge of that stolen firearm.

The story as to why we're all here today. You're going to hear a lot of testimonies over the next few days from that stand, like the Judge told you. You're going to hear from the paramedics of fire rescue, you're going to hear from a bunch of law enforcement officers, you're going to hear from the victims, you're going to hear from a couple of professional analysts of DNA, and firearms, and fingerprints, and you're going to hear from the third person in the car that night, Mr. James Davis.

Some of that testimony is going to be technical, so please, like the Judge said, pay close attention to that testimony; it can be pretty confusing. You're also going to review quite a few exhibits, so just take them slowly and use your common sense. We're not asking you to leave that out. In fact, that's the absolute basis of why we're here. Use your common sense. Listen to those people, and review these exhibits carefully, so that at the end of this trial, you can actually return a true and a just verdict. Thank you.

THE COURT: Mr. Mathews.

MR. MATHEWS: May it please the Court?

THE COURT: Yes, sir.

MR. MATHEWS: Thank you, Your Honor.

OPENING STATEMENT

BY MR. MATHEWS:

Madame Foreperson, ladies and gentlemen of the jury, as I mentioned earlier, I'm David Mathews with the public defenders office, and I represent Antwan McMillan.

I believe the evidence is going to show, and I believe what you're going to hear, is that an investigation took place that might could have helped you better to form your opinions, but sadly some of the things that you're going to hear are not going to be as helpful as they could have been.

You're going to see a lot of shells, spent bullet shells coming from different places. You're going to see finger prints and blood; I've got blood on myself. You're going to see DNA evidence and you're going to hear testimony; you're going to hear conflicting testimony.

You're going to hear testimony, or I believe you're going to hear testimony from Detective Inabinett. Allen Inabinett took a statement, took a couple of statements in this case, and one of the statements that he took was from the co-defendant, Mr. Jakes. There was a statement taken from Mr. Jakes explaining exactly what happened, I believe

that will be admitted into evidence and I believe you will have the opportunity to hear in that case what happened.

One of the things you will not hear from Mr. Jakes is that Antwan McMillan was even present when this happened. You may hear conflicting testimony, and sadly, one of the things that you'll -- in all of the DNA, and all the fingerprints, and bullets, and ballistics, and all of these things, one of the things you will not get is evidence of cell phone calls; other than I believe you'll hear Detective Inabinett testify that when he talked to Mr. Jakes, Mr. Jakes said that earlier in the evening he had called his girlfriend. He was in communication with his girlfriend talking from his cell phone.

I believe that you will hear testimony from either Detective Thomas, or one of the other detectives, who was present at the hospital, and took statements at the hospital, also took pictures at the hospital, and in those pictures you'll see at least three people that had cell phones.

One of the things that would have been very helpful that you probably will not see here, I don't expect that you will, is any record of any cell phone calls that were made that day. Some of the events that appear likely, some of the events appear unlikely, but consider closely whether or not this would be helpful in determining what's what.

When you have an opportunity, consider conflicting testimony, physical evidence, cell phone calls, things like that where people who don't have a motive to lie would be helpful in figuring things out. Listen carefully to all of the evidence that you get, look for what's there, also consider what should have been there.

Consider all of that, listen carefully to all of the testimony, and when you do, I believe the evidence will not conclusively show that Mr. McMillan was even present. Thank you.

THE COURT: Mr. Beach.

MR. BEACH: May it please the Court?

THE COURT: Yes, sir.

MR. BEACH: Thank you, Your Honor.

OPENING STATEMENT

BY MR. BEACH:

Ladies and gentlemen, I'm Harris Beach. I represent Mr. Jakes who is also seated over at counsel table, and I will be handling the case for him. I don't represent Mr. McMillan, so I'm not going to be saying a whole lot about him, and I'm going to be concentrating on Mr. Jakes.

I ask you to listen very carefully to the evidence in this case. We will admit to you up front that Mr. Jakes was there; no doubt about it. Mr. Jakes got shot; no doubt about that.

You're going to hear a lot of evidence about that, but we'll tell you up front that's exactly what happened. Mr. Jakes and Mr. Davis and another individual were riding around. They were going from Smoaks, leaving Mount Carmel church and going down McLeod Road toward Highway 15, where they were going to go clubbing. They had been drinking; there was a lot of drinking that night.

They decided to come back to get to the girlfriend of Mr. Jakes, who was supposed to meet them, and turned back around and went back across the interstate. They had one of these donut tires on the car. One of these little tires that you replace your good tire with when you have a flat tire. It was bumping. They stopped the car. When they got out, that's when they saw the other cars, and my client made a rude remark to the women. We'll tell you that up front. He got out and acted like a jackass. He made a rude remark to the women.

The young man who was with them got up and told them to get out of there, and showed him his gun. My client showed him his gun. Whereupon, my client got shot.

Our position is, there was no attempted murder. There was no attempted armed robbery. There was none of that. This was just something that happened on the road; it just happened. It was stupid, but there's nothing to bring it to the point of saying, "So you didn't try to kill anyone?" He

never fired his weapon; never fired once. The firing came later from the car, from the State's own witness, Mr. Davis, that's where the firing came from, and that's what I think the evidence is going to show. I ask you to listen to the witnesses, particularly Mr. Inabinett, as he recalls what Mr. Jakes told him from the State, and also Mr. Davis, who is a co-defendant in this, but who says he had nothing to do with it. We would ask you to look at all of that and come back with a not guilty verdict. Thank you very much.

THE COURT: Call your first witness.

ASST. SOL. HASELDEN: The State calls Christy Willis.

THE COURT: Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

WHEREUPON, CHRISTY WILLIS, IS DULY SWORN.

THE COURT: Watch the stairs for me. Make yourself comfortable. I want you to speak up so everyone can hear you in the courtroom.

MS. WILLIS: My name is Christy Willis. W-I-L-L-I-S.

THE COURT: It's your witness, counsel. Direct examination.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Ms. Willis, who do you work for?

A Colleton County Sheriff's Office, Communications

Division.

Q And what do you do in the Communications Division?

A Sergeant over Dispatch.

Q How long have you been with Dispatch with the Sheriff's Office?

A Seven years.

Q As Sergeant over Dispatch, what do you do?

A Take a ride with my team of two people. We answer 911 calls, dispatch where they go, fire, medical, police. We take the calls. We've got to get their address, name, phone number, pertinent information, in case we lose the call and then go into which kind of call it is, crime, medical, fire; and then ask questions from there pertaining to the type of call that it is, and then dispatch what, you know, whether they need police, ambulance, or a firetruck.

Q Okay. And you said there's only two people on your team; is that common?

A Yes, ma'am. Two, other than myself, before eleven, and then one other than myself after.

Q So what is your typical shift that you're Sergeant over?

A Time wise?

Q Yes, ma'am.

A 7 p.m. to 7 a.m.

Q All right. So there's just two people on between the

hours of seven and seven?

A There's three people on from seven to eleven p.m., and then from eleven p.m. to seven a.m., there's two.

Q Including yourself?

A Including myself.

Q Okay. Were you working in Dispatch on the night of June 3rd, 2010?

A Yes, ma'am.

Q Who else was working with you?

A Melody Hunt, and also, Cindel Lawson, before eleven.

Q Before 11:00 p.m.?

A Yes, ma'am.

Q Did you receive a phone call shortly before midnight on June 3rd, 2010?

A Yes, ma'am.

Q Do you remember exactly what time that first call came in?

A I looked back, and it was at 23:53.

Q In non-military time.

A I'm sorry, 11:53.

Q Were you able to ask your normal questions to determine identity of person and nature of call?

A No, ma'am.

Q Why not?

A Because the call was dropped, either bad cell signal or

-- I'm going to go with that's probably what it was.
Q Okay, the call dropped.
A Yes, ma'am.
Q Did you call them back?
A No, ma'am.
Q Did they call back?
A Yes, ma'am.
Q Do you remember what time that second call came in?
A It was 11:54.
Q Were you then able to determine more information?
A Yes, ma'am.
Q And what information were you able to determine?
A The type of call, the caller, location; just what was going on. If anyone was injured or if they needed the police or ambulance or firetruck.
Q Who was the caller?
A Jesse King.
Q What was the nature of the call?
A Originally, when I took it, it had came in as a shooting. After I had asked more questions and figured out what it was, then it was attempted robbery.
Q Okay. What did you do based on this information?
A I put a call into the system for the dispatcher to get law enforcement en route to them.
Q Were you able to determine a location of these

individuals that called?

A Yes, ma'am.

Q What was that location?

A On McLeod Road, at the exit off of 95.

Q Okay. Just a moment.

ASST. SOL. HASELDEN: Your Honor, may I approach?

THE COURT: You may.

Q Ms. Willis, I'm handing you what's been marked for identification purposes only as State's Ninety-two; do you recognize that item?

A Yes, ma'am.

Q What is that item?

A It's a copy of the 911 call.

Q The 911 calls that you just testified as to receiving on June 3rd, 2010?

A Yes, ma'am.

Q Is that a truthful and accurate depiction of those calls?

A Yes, ma'am.

Q And how do you know?

A I initialed it when I listened to it.

Q Had it been altered in any way from when you took that call?

A No, ma'am.

Q So what did you do after receiving that call?

A I put a call into the system for the dispatcher to have law enforcement en route to it.

Q Did you work the whole rest of that night?

A Until 7 a.m., yes, ma'am.

Q Seven a.m. on the morning of June 4th?

A Yes, ma'am.

Q Did you receive any other shooting calls?

A No, ma'am. Other than from the ER saying that they had a gunshot victim.

Q Is that standard protocol for them to call you?

A Yes ma'am.

Q Did you do anything based on the ER notifying you of a gunshot wound victim?

A I advised the supervisor on the road.

Q Okay. I have nothing further.

THE COURT: Just a moment, Counsel, are you offering Ninety-two into evidence?

ASST. SOL. HASELDEN: Not at this time.

THE COURT: Very well. Anything further?

ASST. SOL. HASELDEN: Nothing for this witness.

Q Ms. Willis, if you'd answer anything the defense counsel has.

THE COURT: Cross-examination by the defendant McMillan?

MR. MATHEWS: Nothing, Your Honor.

THE COURT: Cross-examination by the defendant Jakes?

MR. BEACH: I don't believe we have any questions either, Your Honor.

THE COURT: Very well. As to this witness, Solicitor?

ASST. SOL. HASELDEN: I asked that she be excused.

THE COURT: Any objection of this witness being excused, by the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: By the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: You may step down, Ms. Willis. You are excused from the trial of this case.

Madame Foreperson, ladies and gentlemen of the jury, I'm going to take my one and only mid-morning break at this point. Let you stretch your legs, use the restroom. Please do not discuss the case. You haven't heard all of the evidence in this case, and it would be improper for you to discuss it amongst yourselves and anybody else.

We're not going to take long, but I'll give everybody time to use the restroom, stretch your legs, get something to drink. We'll come right back and continue to work until at least 1:00.

(11:15 A.M., WHEREUPON, THE JURY EXITS, AND THE COURT IS AT RECESS FOR A BRIEF TIME IN THIS CASE.)

THE COURT: Is the State ready to proceed?

ASST. SOL. HASELDEN: The State is ready, Your Honor.

THE COURT: Is the defendant McMillan ready to proceed?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Is the defendant Jakes ready to proceed?

MR. BEACH: Yes, Your Honor.

THE COURT: Bring me the jury, please.

(11:40 A.M., WHEREUPON, THE JURY ENTERS, AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: I hope everyone had a nice break. We will now continue with the trial in this case.

Call your next witness, Solicitor.

THE COURT: All right. Madame Foreperson, ladies and gentlemen of the jury, we'll now continue with the testimony in the trial of this case.

ASST. SOL. HASELDEN: The State calls Jeanine Metzfield.

MADAME CLERK: Please come forward and be sworn.

WHEREUPON, JEANINE METZFIELD, IS DULY SWORN.

MADAME CLERK: Please have a seat on the witness stand and state your name for the record.

THE COURT: Watch your step. My microphone is going to amplify your voice. You can pull the chair up and adjust for that. If you would begin by stating your full name and spelling your last name for my court reporter.

WITNESS: Jeanine Metzfield, M-E-T-Z-F-I-E-L-D.

THE COURT: Your witness, Solicitor.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Ms. Metzfield, where are you from?

A I live in Richmond, Virginia.

Q Have you ever been to Colleton County before?

A Yes.

Q When?

A I was here about a year and a half ago on June the 2nd or 3rd, driving on my way from Richmond, Virginia, to Florida.

Q Okay. And why were you driving from Virginia to Florida?

A My daughter and her husband were moving from Fayetteville to Florida, and I was pulling a U-Haul with my truck for them. And I was following them down there so that we could just do the caravan move, two trucks full of furniture and the U-Haul.

Q Okay. And why did you stop in Colleton County?

A We -- my radiator blew up; not blew up, but started steaming up under my hood, and I called Jesse really quick and told him to pull over at the next exit because the temperature gauge went all the way up to the roof and -- and -- so we pulled off at the next exit that we could come up to, which happened to be -- all I can remember vividly is

the sign that said Road 34. So we pulled off at the exit and I was behind Jesse and Jesse was in front of me with his truck and he pulled up to the end of the ramp, almost close to the stop sign and when we pulled up to the ramp, we had to figure out how to get the U-Haul from Jesse's truck -- from my truck, excuse me, to Jesse's truck. And ---

Q What kind of truck were you driving?

A A Chevy S-10.

Q Do you know what kind of truck Jesse had?

A A Tacoma, I think; something like that.

Q Okay.

A You know, that is a -- I don't the exact make and model of his truck, sorry.

Q That's okay. So you were trying to figure out how to move the U-Haul trailer?

A Yeah. We had made a couple of calls to get a tow truck, but they said they couldn't tow the U-Haul. So were trying to figure out how to not leave the U-Haul there and just leave my truck there until morning, because at midnight, be had no way of getting any help, service stations and stuff like that. So we made that decision and Jesse pulled his truck up, or I pulled my truck up. We unhooked the trailer and we got it all done. We got the electric undone, and Jesse pulled his truck up and -- and he was trying to rig the harness, and I was up stealing pieces

of electrical tape from my electrical harness for the U-Haul, so I crouched down at the back of my truck, pulling off little pieces of electrical tape so we could rig up the U-Haul to the other truck.

Q Well, let me ask you just a quick question. What time -- do you remember about what time it was that y'all stopped?

A It was so late; it was close to midnight.

Q Okay. And so it was dark outside?

A It was dark.

Q How could you see what you were doing with the tape?

A There were lights and we had flashlights, and we had our cell phones, which was like a light.

Q Could you see what you were doing to work on the tape?

A Yeah.

Q All right. And then when did you first become concerned?

A Well, it was at that time when I was crouched down, when right up there, I was one car back from the stop sign, right at the back of my car, and so this car drove up and stopped right in the middle of the intersection. So there's the stop sign and the road going this way, and the car just stopped in the middle really fast. It just stopped.

And this guy jumps out of the back before I had time to

even blink. He jumped out of the back of the car.

Q Do you remember what side of the car he jumped out from?

A The side where -- no. I just remembered that all of a sudden, he was coming out of the car and he was coming towards me.

Q Okay. And was he holding anything?

A Yes, ma'am. He had a very large pistol in his hand and he was holding it with both of his hands and shaking it at me.

Q Okay. Do you have any idea how far away from you he was at that point?

A It was like being across a two -- two -- like two streets. Like if a car is going this way and a car is this way, he was across the street from me, literally, like I was a car length and across the street.

Q So about where I am right now?

A Yes, ma'am.

Q Okay. Were you able to see the man?

A The man had a black t-shirt, or red, or something over most of his head and face and it was drapy-like, and I could see that he was African-American. He was dressed in black clothing, and so I didn't get a good visual, just that.

Q Okay. Did he say anything to you?

A Yes. When he -- when he -- I was still crouched down,

I believe, and he said either "Get up, pretty lady" or "Put'em up, pretty lady," or something, pretty lady, in a very loud voice with -- it was hard to understand, because he was yelling loudly. And he said something else after that as well, but what I remember was the "Put'em up, pretty lady," and at that moment, I stood up, and I was just so scared, honestly. I was so scared, I did not know what to do. I just stood there. And within a few moments, I heard Jesse yell out, "Get in the car and drive away." I remember those distinct words, over and over again, "Get in the car and drive away." At that point, the gun was pointed right at me, at that point, and he turned toward Jesse; at which point, I went between the two cars, towards the side of the road to find my daughter, and get behind the U-Haul. So at that point, as I was backing up, I heard gunshots and I literally grabbed my daughter and ran and hid behind the U-Haul, which was the third -- it was after Jesse's truck, you know, in the far back. So the car was up here and the U-Haul was back here, so we were further away, back behind the U-Haul, but the car was still up here and there were these gunshots, a least a bullet hole sustained in my truck.

Q So your truck was hit?

A Yes, ma'am. I don't know when or where, I just know that my truck has a hole by the mirror and it has a hole in the seat, and the bullet went in the car and through my seat

and into my yoga blanket, that was behind the seat. I mean, the car was full of stuff, so I'm just glad that we moved the truck, and it still had the dog, because we had the dog with us, too.

Q Were you able to determine the type of car these people were in?

A I would not be able to identify the car. All I know is that it was a big four-door sedan and that it was a light color.

Q Okay. Were you able to determine who shot first?

A No, ma'am.

Q Okay. What happened after you ran behind the U-Haul?

A Well, as I was running, Jesse was saying, "Get in the car and drive away. Get in the car and drive away." I had left my cell phone on the bumper of my truck. My daughter's cell phone was out of battery. So we had no way to -- my daughter had -- my daughter had her husband's phone, but not right away. So I'm talking to her, and then Jesse was there, and then we got the cell phone and Amanda tried to call 911, but we were shaky and upset, and it was an unfamiliar phone, so we weren't having a lot of luck with that.

Q When did these -- or were you able to determine when the person left?

A Yes. We were back behind the U-Haul and you could hear

the car go off a ways, and I'm not sure if it went -- it gets foggy right there. I mean, I was really just so afraid and I was just holding my daughter and thanking God that Jesse was there.

Q When this person jumped out of the car and pointed a gun at you and said that to you, what did you think was happening?

A I thought I was being robbed or like -- you know, I thought -- I really thought I was going to die for a moment. I didn't think that I was going to get out of there. I thought that -- I was just so scared. I thought that was the end and here I am in the middle of nowhere, on the road with my daughter, and I -- I don't -- I mean, those thoughts that were there, I just remember being completely dumbfounded, not knowing what to do, not knowing what to say, just -- did I answer the question?

Q Yes. I just have a couple more questions for you, Ms. Metzfield. Did you move your car after the shooting? Did you move your vehicle at all?

A No.

Q Okay. Had you ever been in Colleton County before that incident?

A No.

Q Ever seen either of these two guys before?

A No.

Q So you didn't have any prior history with arguments or any other issues with anybody here in Colleton County?
A No.
Q And other than the two bullet holes that you talked about in your truck, was there any other damage?
A Well, there were actually three bullets that hit the car. My back tire was one, so we had to replace the tire, and then, we still have bullet holes in the side. The seat inside the car where the bullet went through, so it came through the door and into the seat and into the back.
Q Which back tire was hit?
A Interestingly enough, the one that was toward the side of the road. So it would have been on the grass side of the road. So if we were parked here, and here's the stop sign, it would have been that tire, the passenger's back tire.
ASST. SOL. HASELDEN: May I approach the witness?
THE COURT: You may.
Q Ms. Metzfield, I'm showing you what's been marked for identification purposes only as State's Exhibit Two. Can you review that please?
A Yes.
Q Can you identify that scene?
A Yes. That is my truck and Jesse's truck.
Q And is that a truthful and accurate depiction of where your trucks were parked that night?

A Yes, ma'am.

ASST. SOL. HASELDEN: Your Honor, at this time, I'd ask that State's Exhibit Two be moved into evidence.

THE COURT: Any objection as to the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: As to the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Two will be admitted into evidence in the trial of this case. You may publish to the jury.

(STATE'S EXHIBIT NUMBER TWO IS RECEIVED INTO EVIDENCE.)

Q Before I publish, Ms. Metzfield, can you clearly see your truck in that exhibit two?

A Yes, I can.

Q So which tire was it that was ---

A It was the passenger's rear tire, the passenger that had a bullet in it. They actually took the bullet out of it at the repair shop.

ASST. SOL. HASELDEN: May I approach and publish?

THE COURT: You may. It's in evidence, State's Two without objection.

Q Ms. Metzfield, how has this incident affected your life?

A (BECOMES EMOTIONAL.) Emotionally, it's probably been the most traumatic because I've always been a person who

does not have any prejudice and prides myself on that, but it took me probably two months before I could not be afraid of -- of black men that I didn't know. If I was walking into a convenience store or -- or -- or anything. So it's affected me that way, and it's caused me to be a lot more cautious and never drive at night. There were nights when I needed someone to go with me if I went somewhere at night in my car, I couldn't go alone.

ASST. SOL. HASELDEN: A moment's indulgence, Your Honor.

Q I have no further questions for you, Ms. Metzfield. If you would answer anything that the defense attorneys have, I'd appreciate it.

A Yes, ma'am.

THE COURT: Cross examination by the defendant McMillan?

MR. MATHEWS: Thank you, Your Honor.

(BRIEF PAUSE.)

MR. MATHEWS: I have no questions.

THE COURT: Very well. Cross examination by the defendant Jakes.

MR. BEACH: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. BEACH:

Q Ms. Metzfield, were you in the first automobile, the

first truck?

A Well, it depends on what time you wanted to ask that question about, because I was following Jesse.

Q When the shooting occurred?

A When the shooting occurred?

Q Yes.

A My truck was the first to the stop sign, yes.

Q So you were the closest to the car that drove up?

A I was the closest to the car that drove up.

Q And where was your daughter?

A She was behind me at the end or at the door of the next car.

Q So she wasn't with you at your car?

A No.

Q All right. Now, did you actually see any of the firing, any of the shots being fired?

A No, sir.

Q You had already ducked down?

A I was backing up and going to the -- behind the U-Haul. As I stepped backwards, I heard the first shot. The gun was already pointed towards Jesse.

Q All right. Now, the gun was pointed towards you, initially?

A Yes, sir.

Q And then Jesse got up and spoke; is that correct?

A First, the man came out of the car and said, "Get up, pretty lady" with a gun in his hand.
Q Right. Then after that, that's when Jesse got up and he said something to them?
A That is -- and shortly after that, I heard Jesse yell out, "Get in the car and drive away."
Q Okay. That's when you ---
A That's when I retreated.
Q Okay. And was there any other conversation between Jesse and the man that you recall?
A I remember Jesse saying over and over again, "Get in the car and drive away."
Q How many times did he say that, do you know?
A I would say he said it five times.
Q So it was a pretty good time between the first time ---
A This was all during -- yes, because there was a lull in the shooting. There was like a few shots and then there was a lull and then there was more shots, and then there was more shots.
Q All right. Did you see the other car leave or did you just hear it leave?
A I only heard it leave.
Q And when he got out of the car and said, "Hey, pretty lady," what did he say?
A I heard the "pretty lady" part clearly. He said

"Put'em up" or "Get up," something up, pretty lady. "Get up, pretty lady," "Put'em up, pretty lady." Something to that effect, and then he said something else that was inaudible to me.

Q So you're not sure whether he said "Put'em up" or "Get up."

A Get'em up, put'em up - what exactly -- I don't know exactly what was first.

Q Okay. And you were down ---

A I was crouched pulling electrical tape up.

MR. BEACH: I have no further questions, Your Honor. Thank you, ma'am.

THE COURT: Redirect?

ASST. SOL. HASELDEN: Briefly, Your Honor.

REDIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Ms. Metzfield, you said there was a lull in the shooting?

A Yes.

Q And a pause?

A Yes.

Q About how long do you think from the time somebody got out of that car that sped up to the time that car left; any estimate that you can give us?

A I'm sorry, I would be guessing.

Q Okay. That's fine. Thank you.

THE COURT: Recross, limited to redirect by the defendant McMillan?

MR. MATHEWS: None, Your Honor.

THE COURT: By the defendant Jakes?

MR. BEACH: None, Your Honor.

THE COURT: As to the witness, she wishes to remain?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: If you will step down for me, please, ma'am. Watch your step and have a seat in the courtroom.

THE COURT: Call your next witness.

ASST. SOL. HASELDEN: The State calls Amanda Metzfield, Your Honor.

MADAME CLERK: Please place your left hand on the Bible and raise your right.

(WHEREUPON, AMANDA METZFIELD, IS DULY SWORN.)

THE COURT: Come on up here. Watch your step on my stairs. Make yourself comfortable. Pull that microphone closer. It's going to amplify your voice. Speak up so that everyone can hear you in the courtroom. I want you to state your full name and spell your last name for my court reporter.

MS. METZFIELD: Amanda Metzfield, M-E-T-Z-F-I-E-L-D.

THE COURT: Your witness, Counsel. Speak up for me, now.

ASST. SOL. HASELDEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Ms. Metzfield, have you ever been to Colleton County before?

A Yes, I have.

Q And do you remember when it was?

A About a year ago, right around my sister's birthday.

THE COURT: You'll need to speak up, Ms. Metzfield.

A About a year ago, in June.

Q And what were you doing in Colleton County?

A We were moving from Richmond. We were going to be restationed in Pensacola, Florida.

Q And who is "we"?

A Myself and my husband, and my mother was helping us.

Q Okay. So how did you end up stopping in Colleton County?

A We had been driving since Richmond, and my mother's car was having troubles and the radiator blew out, so we had to pull over at the nearest exit, which is where we ended up.

Q What did you do once y'all stopped?

A We switched the cars so that the U-Haul would be on my husband's truck and we could carry it to wherever we needed it. We called a couple of tow places. One man came up in a large truck from the exit and asked if we were all right.

He was very sweet and he warned us that we were in a bad area. And then we were switching the U-Haul over and working on that.

Q So you were able to make contact with a tow truck or a garage nearby?

A We had called Triple A and they said that they were on their way, and we had also called another tow place, and some other places that weren't open. The only place I can remember that was going to help us was Triple A.

Q Okay. Do you remember about what time it was?

A It was late, around midnight, before midnight.

Q What were your impressions about the lighting in the area that you stopped?

A There were like three or four really tall streetlights. They had fire ants at the bottom of them, which was not cool. It was not well lit.

Q Could you see what you were doing?

A Yeah, we could see what we were doing, but, I mean, there were like trees all around, so you couldn't see any further than the road, really.

Q Okay. So when did you first realize that something was wrong?

A I was just hanging out next to the truck, my husband's truck, the Tacoma, while he was doing the wiring, and my mother was up by her truck. And this light-colored car just

comes into the intersection, and this guy jumps out of the back with a gun, and he pointed it at my mom, and that's when I knew something was wrong. He yelled at us, and at first I was going toward the driver's door, because I knew that my husband had a pistol in there, and then my husband jumped out and he was waving at us to get behind the U-Haul, and my mother came towards me and I grabbed her, and we went behind the U-Haul as they were shooting.

Q You say "as they were shooting." Who's "they"?

A I cannot say positively for sure, because I was not looking.

Q Okay. That's fine. Did you hear what a person from that light-colored car said?

A No, I did not hear the words that they said, but I knew that they were yelling in an extremely threatening tone, and I was very scared. They weren't friendly looking. You know, they had their face concealed, and obviously did not want us to be able to know who they were.

Q Were you able to determine anything about the person?

A It was a male, and he was kind of stocky. He had his face covered. He was wearing dark clothing and he was African-American, and that's about it.

Q So what did you do once you ran behind the U-Haul with your mom?

A I ran behind the U-Haul, and my mom didn't have her

phone and my phone was dead from calling the tow places, so I had my husband's phone, which is a Droid, and I don't know how to use those things, because they're touch screen. So I'm in the truck trying to call 911, and the stupid phone won't work.

And I get 911 on the phone, and I don't really know where we are, so I'm trying to tell the lady where we are and what's happening. I told her we were being shot at, and I'm, like, really scared, because my husband is out there, and I just thought he was going to get shot and I didn't know what I was going to do. And so I'm trying to talk to the lady on 911, and then my mother tried to take over for me, but she didn't know how to use the phone either, and we lost the call.

So we were trying to call back, and I finally get it back, and then I'm trying to put it on speakerphone, because the people have gotten back in their car, and my husband is closer back to where we are. So he tells me to put it on speakerphone so he can talk to them as well. And then he pretty much takes over because they drove further down the road. They stopped at, like, the end of the road, and I thought they were going to come back, and that's when I totally broke down and I couldn't talk on 911 anymore, and my husband took over the call.

Q Okay.

ASST. SOL. HASELDEN: Your Honor, may I approach?

THE COURT: You may.

Q Amanda, I'm going to hand you what's been marked for identification purposes already as State's Ninety-Two.

A Okay.

Q When you got here this morning, were you given an opportunity to review your 911 call?

A Yes.

Q And where did you review your 911 call?

A In the Solicitor's Office.

Q And was it a truthful and accurate depiction of your 911 calls, the first time you got disconnected, and then called back?

A Yes.

Q Okay. And do you recognize the disc in front of you?

A Yeah.

Q And that was a truthful and accurate depiction of your 911 call?

A Yes.

Q Amanda, were you hurt physically in any way during this event?

A I was not.

Q Was there any damage to your car?

A I did not have a car there, but my husband's car does have a bullet hole in it.

Q Okay. So how did this event affect you?
A Emotionally. Psychologically.
Q How has it affected you?
MR. BEACH: Your Honor, we would object. I didn't object to the other one, but I don't think it has any relevance.
THE COURT: Counsel approach.
(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)
THE COURT: Objection's overruled. Rephrase the question, Solicitor, consistent with my bench conference, and I will make a record at the appropriate time, outside the presence of the jury. Proceed.
ASST. SOL. HASELDEN: Thank you.
Q Ms. Metzfield, were you in fear?
A Yes.
Q Why were you in fear?
A Well, at first, I thought I was going to get shot, and then I was mostly afraid for my husband, because, for the most part, my mother and I were behind the U-Haul, and my husband was out there and there were a lot of gunshots, and I just kept thinking that, well, what would I do if he got shot?
(WITNESS BECOMES EMOTIONAL.)
Q Amanda, I know it was a very stressful event and there

was a lot going on, but were you able to determine how long this event lasted?

A It was definitely not longer than a half an hour. It was all very fast.

Q And you say a half an hour. Is that how long a person was actually standing out there on the road and gunfire was being exchanged?

A No.

Q How long is that?

A From the time when the car pulled up to the time when the police got there, I would say it was not more than a half an hour.

Q Okay. Do you have any idea of the amount of time how long the car was there, from the time it pulled up to the time it left?

A Guessing, I would say around 15 minutes.

Q Did you ever see any of these two men before?

A No, ma'am.

Q You've never had any history of arguments or disagreements with them?

A No.

Q Never been in a previous altercation with them?

A No.

ASST. SOL. HASELDEN: Just a moment's indulgence, Your Honor.

Q Amanda, I have no further questions for you. If you would answer anything that defense counsel has, I'd appreciate it.

THE COURT: Cross-examination by the defendant McMillan.

MR. MATHEWS: None, Your Honor.

THE COURT: Cross-examination by the defendant Jakes.

MR. BEACH: Just a couple, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BEACH:

Q Did you actually see the gunshots being fired?

A No, sir.

Q Okay. And you were down behind the U-Haul at that time?

A No, I was going towards behind the U-Haul.

Q Okay. But you didn't see who fired?

A No.

Q Now, you say you did not understand what was being said between the gentleman and your mother?

A I do not recall my mother saying anything, and no, I could not understand the man.

Q And what time of night was it again?

A Around before midnight.

MR. BEACH: No other questions, Your Honor. Thank you.

THE COURT: Redirect?

ASST. SOL. HASELDEN: Just briefly.

REDIRECT EXAMINATION

ASST. SOL. HASELDEN:

Q Amanda, you say that you weren't able to understand the exact words, but you were able to determine the tone?

A Yes.

Q What kind of tone was that?

A It was very threatening.

ASST. SOL. HASELDEN: Nothing further, Your Honor.

THE COURT: Recross by the defendant McMillan, limited to redirect?

MR. MATHEWS: Nothing, Your Honor.

THE COURT: Recross by the defendant Jakes, limited to redirect?

MR. BEACH: No, Your Honor.

THE COURT: This witness is going to remain with us, Solicitor?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: You may step down, Ms. Metzfield, and remain in the courtroom with us. Watch your step on my stairs.

MS. METZFIELD: Thank you, Sir.

THE COURT: Call your next witness.

ASST. SOL. HASELDEN: The State calls Jesse King.

MADAME CLERK: Place your left hand on the Bible and raise your right.

(WHEREUPON, MR. JESSE KING, IS DULY SWORN.)

THE COURT: Have a seat. Make yourself comfortable. Adjust that chair, adjust that microphone. Speak into it and speak up for me, if you would, please, and spell your last name for the court reporter after you state your first name.

MR. KING: Jesse Tyler King, K-I-N-G.

THE COURT: Your witness, counsel.

ASST. SOL. HASELDEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Mr. King, where are you from?

A I'm from Richmond, Virginia, ma'am.

Q And what do you do for a living?

A I'm a Specialist in the United States Army.

Q How long have you been doing that?

A Just over four years, ma'am.

Q And how old are you?

A I'm 26.

Q You went in when you were 22, 21?

A Yes, ma'am.

Q And you said you were a Specialist. What kind of Specialist are you?

A I'm an explosive disposal specialist. I work with bombs.

Q And what do you do with bombs?

A Basically, we'll go into a hazardous situation and render them safe so other troops can pass through the area bombs and roadside explosive -- improvised explosive devices, IED's.

Q Have you ever been deployed?

A Yes, ma'am.

Q When and where?

A I was in Baghdad, Iraq, from November of '08 to November -- the end of November '09.

Q And you were working with IED's and other types of things in your specialty at that time?

A We did come into contact with those. At that time, I was actually an Infantryman.

Q Part of your training with the U.S. Army, are you trained how to deal with tense situations?

A Yes, ma'am. There were very strict rules of engagement when we were deployed to Iraq.

Q Okay. And what type of training have you received regarding firearms?

A There's basic rifle marksmanship training during our deployment, and then when I was in Iraq I did some specialized pistol training with the X-Delta Force

Operative.

Q Okay. Have you ever been in a tense situation before where you've had to use firearms?

A No, ma'am. Actually in my whole year in Iraq, I did not have to fire my weapon. However, we were shot at.

Q Have you ever been in Colleton County before today?

A Yes, ma'am.

Q When?

A The night of June 3rd a year ago.

Q Okay. And what were you doing here?

A I was on my way -- I had just had my PCS Orders to travel down to Eglin Air Force Base to start my EOD training.

Q Okay. And who was with you that night?

A My wife was driving with me in my truck and my mother-in-law was with us driving her truck hauling the U-Haul for us, because I didn't have the proper hitch system.

Q What kind of truck do you have?

A I drive a Toyota Tacoma.

Q How did you end up stopping here?

A Basically, we received a phone call from my mother-in-law and she said that her temperature gauge had spiked and that the radiator might have blown; it was steaming. So we decided to pull over at the next available exit just to prevent further damage to her truck, and when we pulled off

at the exit, it was just a deserted exit, you know, led off onto just a country road. And so we pulled over on the side of the road, the right-hand shoulder, and started to try and figure out how we were going to get the trucks to anywhere, calling all the tow trucks and what not.

Q And were you able to get in touch with any tow trucks?

A Yes. Shortly after we pulled over, a guy came off the ramp behind us and stopped and asked if we needed any help. He gave us a couple of numbers of people that he knew that had tow trucks and he warned us that it might have been a dangerous area; it had been in the past.

So basically, we did get in contact with the tow truck and they had one on the way. In the meantime, we had to move the trucks around so that we could put the U-Haul on my truck to get it to our hotel room for the night. And when we were -- after we had done that, I was trying to get the brake lights to work on the trailer for my truck, so I was crouched down behind my truck working with the wiring and I heard a noise like a car coming to a very fast halt, kind of screeching.

And when I looked from behind my vehicle, I saw -- actually, my first thought was, "Wow, that's a really big gun." A man had gotten out of the back passenger side of a silver, four-door type car, and he had it pointed at my mother-in-law; and I was so far back that I didn't hear

exactly what he was saying, but it was kind of yelled in somewhat of a pretty threatening manner.

And so I stood up, and in the process of standing up, I drew my pistol, and I yelled at him, "Get back in your car and drive away." When that happened, he turned towards me, pointed his gun at me, and fearing for my life and that of my mother-in-law, I shot about two or three times. The person was still standing, still pointing his gun at me, and I shot about two or three more times.

At that point, he fell to the ground. There was a lot of yelling from inside the car. They started firing at me from inside the vehicle. I thought that they were probably shooting at me with some sort of automatic weapon. I dropped down behind the tailgate of my truck. The whole time I'm yelling at them to "Get in your car and drive away. Get in your car and drive away."

I only had a very small subcompact pistol, and I dropped the magazine on it and counted how many rounds I had left, which were very few; reloaded my weapon. I was really worried that they were going to fight through where I was behind my truck and attempt to kill my family that was behind me. I just kept yelling at them, "Get in your car, drive away."

I saw the guy get back into the car and I saw him drop the gun in the process and they drove away. I saw them stop

down the road a little ways, and I was really worried that they were going to do a drive-by when they had to turn around to get back onto the interstate. So I got confused on whose truck was whose. I ran up to my mother-in-law's truck to try to find my second pistol that I had in a bag behind my seat; realizing I was at the wrong truck, I ran back to my truck from where I started, grabbed my second pistol from behind my seat, ran back to my mother-in-law and wife to see to make sure that they were okay, and at the same time, I could still see the car. Eventually, the brake lights disappeared, and at that time, I was in the process of talking to 911 on the phone.

Q Okay. Were you able to tell anything about the man that got out of the back of the car?

A When they got out, I noticed that he had dark-colored clothing on, as well as a dark towel, or t-shirt, wrapped around his face, you know, to disguise that. I could also tell that he was a black male. Other than that, I was focused on the threat of the gun.

Q Okay. Were you scared?

A Yes. I was really worried about my mother-in-law. She was the closest to him when everything started happening and after the firing started, I didn't see her anymore, and I was really worried about her.

Q What did you think was happening to y'all?

A When he got out of the car with the gun, I thought that the -- I knew that as I was crouched down behind the truck that they would have only seen my wife and mother-in-law, two white females on the side of the road in the middle of the night, and my mind only travels to the worst things that could have possibly happened to them. And when he pointed a gun at me, I felt my life was in danger as well.

Q Okay. So you spoke on the phone to 911 as well?

A Yes, ma'am.

ASST. SOL. HASELDEN: May I approach the witness?

THE COURT: You may.

Q Mr. King, I'm going to show you what's been marked for identification purposes only previously as State's 92. Did you have an opportunity when you got here this morning to review the 911 call?

A Yes, ma'am, I did.

Q Do you recognize that disc?

A Yes, ma'am, I do.

Q And did that disc contain a truthful and accurate depiction of your conversation with 911 on the night of June 3rd, 2010?

A Yes, ma'am, it did.

ASST. SOL. HASELDEN: Your Honor, at this time, I would move State's Ninety-two into evidence.

THE COURT: Any objection as to State's Ninety-two,

from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: Yes, Your Honor.

THE COURT: Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Objection overruled. I'll make a record at the appropriate time, consistent with the conference at the bench. Proceed Solicitor.

ASST. SOL. HASELDEN: Your Honor, may I approach then?

THE COURT: You may.

ASST. SOL. HASELDEN: Your Honor, State's Exhibit Ninety-two is in evidence.

(WHEREUPON, STATE'S EXHIBIT NINETY-TWO IS RECEIVED INTO EVIDENCE, AND THE SOLICITOR PREPARES EXHIBIT NINETY-TWO FOR PLAY IN THE DVD PLAYER.)

THE COURT: In evidence over objection. You may publish to the jury. Ladies and gentlemen of the jury, State's exhibit Ninety-two will be admitted into evidence in the trial of this case.

(WHEREUPON, STATE'S EXHIBIT NINETY-TWO, 911 CALL, IS PLAYED FOR THE JURY. AUDIO BEGINS AT 12:16 P.M. AND ENDS AT 12:24 P.M.)

Q Mr. King, do you always carry a gun on your person?

A I do, now, ma'am.
Q Did you before this incident?
A Not all the time. Mostly when I was driving or would be in areas that I suspected I might need to have it with me, ma'am.
ASST. SOL. HASELDEN: May I approach the witness?
THE COURT: You may.
Q Mr. King, I'm handing you what's been marked for identification purposes only as State's One, Three, and Four. And what's previously been entered into evidence as State's Exhibit Two. Could you review One, Three, and Four for me, first?
A Yes, ma'am.
Q Do you recognize One, Three, and Four?
A Yes, I do.
Q What are One, Three and Four?
A State's Exhibit One is a picture of my concealed carry permit from the State of Virginia.
Q Is it a truthful and accurate depiction of your concealed carry permit?
A Yes, it is, ma'am. State's Exhibit Three is a picture of my truck and the U-Haul and the scene where we were.
Q Okay.
A And Four is a picture of my two pistols.
Q All right. Are all of those photos a truthful and

accurate depiction of both the scene and your pistols and your concealed weapons permit, as they existed on the night of June 3rd, 2010?

A Yes, they are, ma'am.

ASST. SOL. HASELDEN: Your Honor, at this time, I'd move State's One, Three, and Four into evidence and ask to publish.

THE COURT: As to State's One, Three, and Four, from the defendant McMillan?

MR. MATHEWS: No objection, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No objection, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's One, Three, and Four will be admitted into evidence in the trial of this case without objection.

(STATE'S EXHIBIT ONE, PHOTO OF CONCEALED CARRY PERMIT OF JESSE KING, IS RECEIVED INTO EVIDENCE.)

(STATE'S EXHIBIT THREE, PHOTO OF TRUCK AND U-HAUL AT CRIME SCENE, IS RECEIVED INTO EVIDENCE.)

(STATE'S EXHIBIT FOUR, PHOTO OF TWO GUNS BELONGING TO VICTIM, JESSE KING, IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish, Solicitor.

ASST. SOL. HASELDEN: Thank you.

Q Before publishing, Jesse, could you refer to the, I believe, the second photo there, State's Two, showing the

two trucks; is that correct?
A Yes, ma'am.
Q Did you move your truck at all, or the U-Haul, after the shooting occurred?
A No, I did not.
Q So that, State's Two, is exactly where your vehicles were parked when this shooting occurred?
A Yes, ma'am.
Q And could you look at the photo of your truck, please? I believe that is State's Three. Where were you standing when this shooting occurred, when you returned fire or tried to defend your family?
A When I stood up, I was at the back corner of my truck, between -- so it would be driver's side rear, by the bumper, between the truck and U-Haul trailer.
Q And State's Four, is one of those the firearm that you were using?
A Yes, ma'am.
Q Which one were you using?
A The one with the Number 14 placard.
Q What kind of gun is that?
A It's a Glock 33; it's a .357 Sig; it's their subcompact model.
Q To be able to carry those guns legally, you have to get a permit, correct?

A Yes, ma'am.
Q What did you have to do in the State of Virginia to get that permit?
A For the State of Virginia, I had to show proof of a handgun safety course, or a permit, or equivalent training, and fill out an application and have my fingerprints run through the State Police.
Q And do you also carry a sidearm as part of your military duty?
A No, I do not.
Q Okay. But you have gone through training with them ---
A Yes, ma'am.
Q --- regarding sidearms?
A Yes.
Q Have you gone through training with them about, if engaged, where to shoot somebody?
A Yes, ma'am.
Q And where are you supposed to shoot somebody if you have to defend yourself?
A Center body mass is what I've always been taught, ma'am.
Q Okay. Now, was there any damage to your truck?
A Yes, ma'am. I had one bullet hit the front driver side quarter panel of my truck. It went in, curved around in the wheel well, and then struck the pavement below it.

Q Okay. Any physical damage to you?
A No, ma'am.
Q Did you personally observe any damage to your mother-in-law's truck?
A I saw it as soon as the whole incident was over, yes, ma'am.
Q Okay. How were you able to see to shoot this thing, if it was dark outside?
A There were several, just, street lights at the intersection there.
Q So you could see him pretty clearly?
A Yes, ma'am.
Q Can you give me any type of estimate as to how far away that van was from you when you were shooting?
A Basically, I just describe it as the two truck lengths that were between us.
Q So was it about from me to you?
(SOLICITOR STEPS BACK AWAY FROM THE PODIUM TO DEMONSTRATE.)
A I would say just a little bit farther, ma'am, but that's close.
Q Okay. So just on the other side of this, perhaps?
A Yes, ma'am.
Q You had no problem seeing the gun in this man's hand?
A No, ma'am. That was the first thing that I saw.

Q You said he pointed that gun at you?
A Yes, he did.
Q And then you fired?
A Yes, ma'am.
Q What did you say to this guy?
A At the whole time, all I really wanted them to do was leave. Basically, everything I yelled was, "Get in your car and drive away. Get in your car and drive away." I just pretty much kept saying that throughout the entire time because I just wanted them gone.

ASST. SOL. HASELDEN: Your Honor, may I approach and publish?

THE COURT: You may. One, Three, and Four in evidence.

(ASST. SOL. HASELDEN GIVES THE JURY THE STATE'S EXHIBITS ONE, THREE AND FOUR FOR REVIEW.)

Q Jesse, how did you shoot when you shot this firearm? Was it steady shooting?
A Yes, ma'am. I fired two to three shots, and then basically assessed the situation. He was still standing, as well as still pointing the firearm at me, and that's when they began shooting from the vehicle as well, so I fired two or three more rounds and took cover behind my truck.
Q Okay. Were you able to determine where the shooting was coming from in the car?
A No, ma'am. All I saw were the two people in the front

seat, so I knew it was the front of the vehicle.
Q Okay. Were you able to determine if there was anybody else in the backseat of the car?
A I only saw the three people in the vehicle. The two in the -- the driver, the passenger, and then the man who got out.
Q Okay.
ASST. SOL. HASELDEN: Just a moment's indulgence, Your Honor.
(BRIEF PAUSE IN THE COURTROOM.)
ASST. SOL. HASELDEN: Your Honor, may I approach?
THE COURT: You may.
ASST. SOL. HASELDEN: And Your Honor, prior to marking them, these guns have been made safe by the Sheriff's Office and they are unloaded and have chamber locks through them.
THE COURT: Very well. They are not capable of being used?
ASST. SOL. HASELDEN: They are not capable of being used.
THE COURT: Is it your intention to introduce them?
ASST. SOL. HASELDEN: Yes, Your Honor.
THE COURT: Proceed.
Q Mr. King, I'm handing you what's been marked for identification purposes only as State's Eighty-five, Eighty-five A, Eighty-six and Eighty-six A. Please review those.

THE COURT: Refer to the Exhibit number when you're referring to them, for the record, so the court reporter knows what you're holding by number.

A State's Exhibit Eighty-six, it is my Glock 33, .357 Sig. State's Exhibit Eighty-five, it is my H&K, USP, 9 mm compact.

Q And are you able to determine as to two items in Eighty-five A, and Eighty-six A, are those the ammunition that was with those firearms? Yeah, they're sliced at the bottom. You can take that out if you need to.

A That's okay. Those, Eighty-five A, are the Federal Hydro-shok, two, hollow points, and Eighty-six A are the DPX deep penetrating hollow points.

Q Were both of those guns loaded that night?

A Yes, ma'am.

Q You stated at one point that you had to reload your firearm?

A I dropped my magazine to count the rounds I had left, because they were still there firing. I did not have a lot of ammunition left, so I was really worried that they were going to come closer to try to attack my family, so I stayed where I was and did not fire anymore.

Q Okay. Do you know how many times they fired at you?

A I do not.

Q So more than once?

A They fired -- I know they fired at least four times, because that's how many times our trucks were hit and other than that, I don't know.

Q Okay. And how many times did you fire?

A I fired six times.

Q Did you stop shooting once the man fell and dropped his gun?

A Yes, I did.

Q Why?

A Because at that time, he was no longer a threat or capable of firing his weapon at me.

ASST. SOL. HASELDEN: Just a moment's indulgence.

Q Mr. King, I have no further questions for you. If you'd answer any questions that these attorneys have, I'd appreciate it.

A Yes, ma'am.

THE COURT: Cross-examination by the attorney for defendant McMillan?

MR. MATHEWS: None, Your Honor.

THE COURT: Cross-examination by the attorney for Defendant Jakes?

MR. BEACH: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BEACH:

Q Mr. King, you stated earlier they were shooting at you. The man got out of the car and never fired his weapon, did he?

A I couldn't say for certain. I know it was pointing at me and it was very dark.

Q You testified that he pointed at you and you fired at him.

A I did fire, yes, sir.

Q And you fired twice?

A Two to three rounds, sir.

Q Okay. And then he didn't fall down, so you fired again?

A Yes, he was still pointing his weapon at me.

Q Okay. But you don't recall him actually firing at you?

A There were rounds being fired from that direction, sir.

Q Now, you say, how many guns were firing out of the car?

A I only heard eight gunshots coming from the car, so I couldn't tell you how many pistols there were, sir.

Q All right. Was that coming from the front seat of the car or the back seat of the car?

A It appeared to be from the front, sir.

Q The front seat. And was the person hanging out the car shooting or could you tell?

A I could not tell you, sir.

Q Now, you did not hear what was said earlier between the

man and your mother-in-law; is that correct?

A Not specifically, sir.

Q Was it a threatening ---

A It was definitely a threat, sir.

Q Did anybody else get out of the car?

A No, sir.

Q And were you able to tell whether there were two people in the car or one person in the car, other than the fellow who had gotten out?

A I believe that there were two people in the front seat, sir.

Q One was the driver and the other was the shooter?

A The passenger, sir.

Q Now, he was the passenger in the front seat or the back seat?

A The front seat, sir.

Q The front seat. And that's where the gunshots came from?

A Right, sir.

Q Okay. When he turned and pointed his weapon at you, did he say anything to you?

A No, sir.

Q Did you say anything back to him other than "Get in the car and go"?

A No, I just kept repeating to them to "Get in your car

and drive away."

Q Okay. And I believe somebody earlier had come up and said this was a bad neighborhood?

A Yes, sir.

Q So you were already on edge; is that correct?

A I always have my weapon on me, sir.

Q Did you have it on you at the time or was it in the car?

A Yes, sir. I carry it with me. I have a concealed carry permit.

Q You had a second gun in the car, also?

A Yes, sir.

MR. BEACH: I have no other questions, Your Honor.

Q Thank you, Mr. King.

A No problem, sir.

THE COURT: Redirect?

ASST. SOL. HASELDEN: Just briefly.

REDIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q When the man got out of the car with a large pistol, did he come from the front seat or the back seat?

A The back seat.

Q And you think that there were two people in the front seat of the car?

A Yes.

Q Were you able to see anything about those two people?
A No, ma'am.
Q And you think that that is where the rounds were coming from when gunshots were fired at you?
A The second time when they were being fired from the vehicle, yes, ma'am.
Q Okay. But you weren't able to determine who in that car was shooting at you?
A No, ma'am.

ASST. SOL. HASELDEN: I have nothing further. Thank you.

THE COURT: Recross, by the defendant McMillan, limited to redirect?

MR. MATHEWS: Nothing, Your Honor.

THE COURT: Recross, by the defendant Jakes, limited to redirect?

MR. BEACH: Nothing, Your Honor.

THE COURT: This witness is going to remain with us, Solicitor?

ASST. SOL. HASELDEN: He is going to remain with us.

THE COURT: Very well. Mr. King, you may step down and you may remain with us.

MR. KING: Thank you, Your Honor.

THE COURT: Solicitor, you had left -- without asking to be admitted, so I'm going to ask you to retrieve what has

been marked, and either give it to the court reporter or return it to the case officer.

ASST. SOL. HASELDEN: Yes, sir. If that's okay, I'll leave it up here on the table.

THE COURT: That will be fine.

(ASST. SOL. HASELDEN PLACES EXHIBITS ON TABLE.)

ASST. SOL. HASELDEN: It's all up here, Your Honor.

THE COURT: Madame Foreperson, ladies and gentlemen of the jury, I see that it's 1:00. We've reached our lunch hour and we're going to serve you a delicious lunch in your jury room. If I have any smokers on the jury, smoking is not permitted in the courthouse. If we have any smokers, the bailiffs will take you outside so that you can smoke.

During the lunch hour, please do not discuss the case with anyone amongst yourselves or with anybody else. It would be impermissible for you to do so. I hope everybody has a pleasant lunch. I'm going to try to start back as close to 2:00 as possible. Please bear in mind that I've got to get everybody fed and not just y'all, so that I give all the parties and the lawyers an opportunity, also, to get lunch.

So as soon as we can start back and I know that you've had your lunch and had a break, we'll start back; but during this entire period of time, of course, please do not discuss the case. Thank you very much. You may retire to your jury

room.

Everyone else please remain seated while the jury is leaving.

(1:00 P.M., 8-30-11, WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. I told you that when we broke for lunch that I would make a record of some bench conferences that occurred, so as not to send the jury in and out, with the consent of the lawyers who came to the bench to discuss matters of law with me.

The first bench conference occurred in regards to State's Exhibit Ninety-Two. Well, excuse me; it's not exactly State's Exhibit Ninety-Two. First, the first bench conference was an objection by counsel for the defendant McMillan and the question, or actually by defendant Jakes, counsel for defendant Jakes, excuse me. Question from the witness Ms. Metzfield as to how she felt at the time of this incident.

I reminded counsel of the elements in the indictment concerning whether or not a person was intimidated or placed in fear as an element of one of the offenses charged. I restricted the Solicitor, because the question was open-ended to allow some leading on that, because the question had gotten from the witness actually responded at that point, "Do you mean emotionally?" because she had asked a

question about physical feelings, physical harm, and how it affected her emotionally.

The Solicitor advised me at the bench that she would restrict the question. In fact, she asked whether or not the witness felt intimidated or was placed in fear, which are the elements that we discussed at the bench, and therefore, the objection was overruled, because the Solicitor is entitled to prove the elements of the offense charged.

There was a second bench conference. The second bench conference was because of State's Exhibit Number Ninety-two, which is the tape of the 911 call. Prior to the State seeking introduction of the 911 tape, identified as State's Exhibit Ninety-two, the State put on the witness stand, first, Ms. Christy Willis with the Colleton County Sheriff's Office, second, Jeanine Metzfield and Amanda Metzfield, and then Jesse King, and then sought the introduction of the 911 tape.

Counsel for the Defendant Jakes objected on the basis of hearsay. A conference occurred at the bench, in which the Solicitor opined to the Court that she sought the introduction because all of the declarants on the tape were available as witnesses, and all had been called at that point; Mr. King was on the witness stand.

Although the 911 tape could constitute hearsay, there

are exceptions to the hearsay rule if the declarant is available. The following are not excluded by the hearsay rule, even though the declarant is available as a witness. One would be present sense impression. The statement describing, or explaining, an event or condition made while the declarant was perceiving the event of condition or immediately thereafter.

The other exception under 803 of the Rules of Evidence is the excited utterance, which is 803, subsection 2, which is a statement related to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

I overruled the objection as to hearsay and permitted the introduction of the State's Exhibit Number Ninety-Two on the basis that these two exceptions under Rule 803 of the Rules of Evidence, One and Two, present sense impression and excited utterance, applied to the 911 tape, and I noted that every single participant that was involved in what the jury heard was present and available to counsel for each of the defendants for cross-examination at the bench, and I wanted there to be a record of what occurred.

At this point, counsel, I show the following. Although there was a request for the last witness to identify this last exhibit, which I believe was Eighty-five or Eighty-six, that is not in evidence in the trial of this case at this

point, which is a request for identification, as well as the magazines for the two weapons that were identified. What were the numbers, Becky?

COURT REPORTER: Eighty-five and Eighty-five A, Eighty-six and Eighty-six A.

THE COURT: Eighty-five and Eighty-five A, Eighty-six and Eighty-six A. I show in evidence at this point, State's Exhibits One, Two, Three, Four, and Ninety-two, so that counsel is aware of what is in evidence. Is that what you have, Becky?

COURT REPORTER: Yes, sir.

THE COURT: And that's what the court reporter confirms to me that she has. Now, I want everybody to have a chance to get lunch. I realize that some of you have to leave and I'm also seeing that my defendants are being fed lunch during the time that the jury eats lunch; and so the lawyers can get lunch and get back here, I'd like to start back as close to 2:00 as possible. I realize I have participants and other people here who need to get lunch. I'd certainly like to start no later than 2:15, because I want to get as much accomplished as possible. We'll be in recess until then for our lunch hour. Thank you.

(1:05 P.M., 8-30-11, WHEREUPON, COURT IS IN RECESS FOR LUNCH IN THE TRIAL OF THIS CASE.)

(2:25 P.M., 8-30-11, WHEREUPON, THE COURT RESUMES THE

TRIAL OF THIS CASE.)

THE COURT: All right, ladies and gentlemen, I know we're behind again, but we had a matter come up which I need to put on the record.

First, during lunch, about five after two, my beloved Clerk of Court came to me and told me she had a juror that wanted to talk to her. I told her we couldn't; that we didn't know what it was about, and to have the juror write a note as to what the reasons for talking to the Clerk was, and then I received this note that was two notes on one page.

They wrote it as juror 102, and if y'all look at your notes, that turns out to be Yvonne Lightsey, who is Number 18 on the strike sheet. But it was written in the following fashion: "I need to make sure that I'm a suitable juror for this trial due to the status of my husband," signed, Dawn Allen.

Well, Ms. Allen, who is juror Number One, is my Foreperson. We -- first, I brought the lawyers into chambers. We discussed it. I told them what had occurred. We thought Ms. Allen was referring to herself. We now believe, but we're not positive, that was she was actually doing was signing a note for Juror 102, which is Ms. Lightsey.

The note says -- we asked them to identify, we asked

Ms. Allen to come back to us with a note saying what is it about your husband's status that you think prevents you from being a juror?

She wrote, "My husband is a reserve deputy." I then had Mr. Shelton contact the Colleton County Sheriff's Office and I find out there is no reserve deputy whose last name is Allen, but I do have a reserve deputy whose last name is Lightsey, which would correspond to Juror 102.

I therefore intend to call Ms. Allen, the Foreperson, and Ms. Lightsey into the courtroom. First, ask the Foreperson if she was referring to herself or to Juror 102. If it was Juror 102, I will excuse the Foreperson back to the jury room and then inquire of Juror 102, who is, as I told you, Ms. Yvonne Lightsey, and whether or not she's had any conversations with her husband about this case and whether the fact that her husband being a Reserve Deputy -- I did not ask this in the voir dire about spouses, and I want the record clear on that, whether that would in any way prevent her from giving the State or the Defendant in this case a fair and an impartial trial.

Now, I've been over this entire procedure that I'm putting on the record now with all my attorneys and they're in agreement. Have I accurately stated what occurred in chambers, as far as the Solicitor's Office is concerned?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: Insofar as counsel for McMillan is concerned?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Insofar as counsel for Jakes is concerned?

MR. BEACH: Yes, sir.

THE COURT: All right, Mr. Grant, I'll need Ms. Allen and Ms. Lightsey.

(WHEREUPON, MR. GRANT, BAILIFF, GOES TO JURY ROOM TO GET THE TWO JURORS, MS. ALLEN AND MS. LIGHTSEY, PER THE COURT'S REQUEST.)

THE COURT: Come on in, ladies. Have a seat right down here for me, if you would. Thank you so much. Be comfortable. Have a seat. Now, I'm going to first direct questions to you, Madame Foreperson, because I don't know. Let me tell you the information I received out here. My first information came that the Clerk told me that a juror wanted to speak to the Clerk. And of course, during a trial, once you're on a jury, the Clerk knows that she can't speak without parties being aware and the Court being aware. The Clerk came to me.

I then directed my bailiff to have the juror write a note about this. I thought I was going to receive a note from the juror that wanted to speak to the Clerk. When I got the note, it said at the top, Juror 102, who is Ms. Lightsey, but it was signed -- which I understand my

Foreperson is doing exactly what I said about notes, signed by Dawn Allen, my Foreperson.

And it was written in the first person, meaning "I need to make sure that I'm a suitable juror for this trial, due to the status of my husband, signed Dawn Allen." So my confusion was, was I talking about Dawn Allen and her husband or was I talking about Juror 102 and her husband. Ms. Allen, were you referring to yourself, or were you referring to Juror 102?

FOREPERSON: The bailiffs said that being the Foreperson, I needed to sign it.

THE COURT: The bailiff was absolutely correct. Normally, the Foreperson does that and you are doing exactly what I asked you to do, but this doesn't involve you, it involves the husband of Juror 102; is that correct?

FOREPERSON: Correct.

THE COURT: Well, Ms. Allen, I'm going to excuse you to go back to the jury room.

FOREPERSON: Thank you.

THE COURT: Thank you.

(WHEREUPON, MS. DAWN ALLEN, FOREPERSON OF THE JURY, IS EXCUSED FROM THE COURTROOM BACK TO THE JURY ROOM.)

THE COURT: All right. Now, Ms. Lightsey, I realize that you're Juror 102, and I appreciate so much, you're doing exactly what my Foreperson was doing, that is trying

to be conscientious and let me know if you have any concerns. So don't you feel the least bit concerned about me talking to you out here. You're doing exactly what you should do and I'm trying to make sure there is no problem with my jury; do you understand that?

JUROR LIGHTSEY: Yes, sir.

THE COURT: All right. You are Ms. Yvonne Lightsey?

JUROR LIGHTSEY: Yes, sir.

THE COURT: And you're Juror 102?

JUROR LIGHTSEY: Correct.

THE COURT: All right. Now, I see that I received a second part of this note from either Ms. Allen or through you which said, "My husband is a Reserve Deputy." Were you referring to your husband?

JUROR LIGHTSEY: Yes, sir.

THE COURT: Is that with the Colleton County Sheriff's Office?

JUROR LIGHTSEY: Yes.

THE COURT: Have you had any discussions with your husband about this case?

JUROR LIGHTSEY: No.

THE COURT: All right. The fact that your husband -- how long has he been a Reserve Deputy?

JUROR LIGHTSEY: The first few years, he was prior a full-time deputy with the Sheriff's Office ---

THE COURT: Hold on a second. Let's start with reserve. How long has he been a Reserve Deputy?

JUROR LIGHTSEY: Let's see, maybe, two and a half years.

THE COURT: Two and a half years. All right, was he a full-time deputy before he was a reserve deputy, or he's trying to become a full-time deputy?

JUROR LIGHTSEY: He was a full-time deputy.

THE COURT: Was he a full time deputy in Colleton or somewhere else?

JUROR LIGHTSEY: Colleton.

THE COURT: All right. The fact that your husband previously, more than two and a half years ago, was a full time deputy, and has been a reserve deputy for the past two and a half years, would that in any way affect your ability to give the State of South Carolina or the defendant McMillan, or the defendant Jakes, in this case, a fair and an impartial trial?

JUROR LIGHTSEY: No, it wouldn't.

THE COURT: Thank you, ma'am. You may return to the jury room.

(WHEREUPON, JUROR 102, MS. YVONNE LIGHTSEY, IS EXCUSED BACK TO THE JURY ROOM.)

THE COURT: Any exceptions or objections to the Court's questioning from counsel for the State?

ASST. SOL. HASELDEN: None, Your Honor.

THE COURT: Counsel for the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Counsel for the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: All right. I want the record to be clear that during voir dire, I got several submissions from both sides in this case for voir dire. I asked if any member of the jury had a SLED Commission that gave them a power to arrest. I asked if any member of the jury was employed by any law enforcement agency. I asked if any member of the jury had ever been the victim of a violent crime.

I did not ask if a member of the jury's spouse was a reserve deputy or ever been employed by a law enforcement agency, and that this juror voluntarily decided to disclose this information so that the Court would be aware by thinking that the proper way to do it was through the Clerk of Court, and I appreciate the juror's honesty and forthrightness with the Court.

Any objection to making the juror's note, there's two notes on one exhibit, a Court's Exhibit, from the State?

ASST. SOL. HASELDEN: No, Your Honor.

THE COURT: From the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: It will be Court's Exhibit Number Two.

(COURT'S EXHIBIT NUMBER TWO, JUROR NOTE, IS RECEIVED INTO EVIDENCE.)

THE COURT: All right, Counsel. Is the State ready to proceed?

ASST. SOL. HASELDEN: State's ready, Your Honor.

THE COURT: Is the ---

MR. BEACH: Your Honor? I'm sorry ---

THE COURT: Just a moment. Is the defendant McMillan ready to proceed?

MR. MATHEWS: No, sir, not yet. The Court didn't ask whether or not we object to a juror sitting. I don't know whether I do or not.

THE COURT: I said are there any exceptions or objections to the Court's questions, and you both told me no.

MR. MATHEWS: No, sir. No objections to the Court's questions. I mean, they were appropriate, but I may have used my strike differently had I had that information from the beginning.

THE COURT: Well, you didn't ask a voir dire question for that.

MR. MATHEWS: That's -- I did not. That's true.

THE COURT: Yes, sir. Mr. Beach, is the defendant

Jakes ready to proceed?

MR. BEACH: No, sir.

THE COURT: Why not?

MR. BEACH: Again, we would express an objection to this juror.

THE COURT: Why?

MR. BEACH: The reason for that is under her responses to the questionnaire from the Clerk's Office, she lists her husband as Environmental Health Management, but never said anything about any reserve deputy status.

THE COURT: Well, I don't know that that -- well, now, the one that I'm looking at, which is the pink copy --- counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD.)

THE COURT: Let the record reflect that I've been handed the juror information form by the Clerk of Court which shows that this juror's husband, or spouse's occupation, was Environmental Health Management and reserve deputy on the form. Now, I recognize that you have the one that maybe the Clerk's office did not fill out?

MR. BEACH: This one says that the husband is Environmental Health Management, Your Honor.

THE COURT: We're talking apples and oranges, and the court reporter doesn't know what "this" is.

MR. BEACH: I'm sorry.

THE COURT: You're handing a sheet to me of a number of pages that you obtained from the Colleton County Clerk's Office, and I'm looking at what the juror filled out.

MR. BEACH: Yes, sir.

THE COURT: So the problem is that the Clerk's Office didn't transmit everything that the juror filled out for the clerk sheet that you paid for, and you also did not ask the voir dire question asking me to ask the jury whether the spouse was a reserved deputy, did you?

MR. BEACH: That's correct, Your Honor. And also, I don't recall her saying anything about knowledge of any of the Sheriff's Department witnesses when this thing came up.

THE COURT: She said she's never discussed the matter with her husband, nor has she read about, heard about, or know anything whatsoever about the facts alleged in this case and she does not feel, because of her husband's reserved deputy status, that feels that she could still be fair and impartial both to the State and the defendants.

So, your objection is, when you purchased juror information from the clerk's office, you did not learn about the reserve deputy status, even though it was on the jury information form, you did not ask it that the Court ask the voir dire question, but you want me to excuse the juror because you've learned her husband is a reserved deputy; have I accurately stated your position?

MR. BEACH: That's correct, Your Honor.

THE COURT: Thank you very much. Step back. Let the record reflect that in Colleton County, so that the Appellate Court knows, the lawyers can purchase from the Clerk's Office -- not purchase, they can get a copy of a compilation of information from the juror information forms compiled by employees of the Clerk's Office.

The juror, Ms. Lightsey, wrote out everything her husband did on her form -- and that's why when I read from the juror information form on Juror Number 102, it shows the spouse's occupation on the jury information section as Environmental Health Management and also a reserved deputy, written by Ms. Lightsey. However, when the Clerk's typed up the sheets concerning information from the numerous juror information form, they just put Environmental Health Management and did not put reserved deputy.

Mr. Beach is counsel for Mr. Jakes, and never asked this Court to ask a voir dire question about any spouse. I asked all about the jurors themselves, whether they were with law enforcement, any type of law enforcement. I did not ask about spouses. I did not intend to punish the juror by removing a juror from the jury who has been honest enough to tell us about their husband's status when we did not even inquire of the juror about it.

Now, I recognize it was a Scribner's error in this

case, and that meaning the Clerk's office did not put on the typed up list which the lawyers got every single thing that was written on the juror information form. I decline to excuse the juror on that basis. Is the State ready to proceed?

ASST. SOL. HASELDEN: The State's ready, Your Honor.

THE COURT: Anything else from the defendant McMillan, not on that issue, something new.

MR. MATHEWS: Could I -- not argue a point, Your Honor, but I just want to join in.

THE COURT: Yes, sir. You're going on the same grounds and for the same ruling, you've heard my ruling. Anything else before we bring the jury from you, Mr. Mathews?

MR. MATHEWS: Yes, Your Honor, before the jury gets out and this is just an observation I've made and I know the Court is very careful to make sure the jury is not prejudiced. The last time that Mr. Beach and Counsel for the State came up on the side bars, because I didn't have a dog in that particular fight, I sat and watched the jury and I noticed that they were hanging on every word. They appeared to see every word that happened at the last sidebar, so just for protection purposes ---

THE COURT: I'll take up the sidebars, and you know, Mr. Mathews, you're very conscious about this because you seemed to be very concerned about it and, of course, I'm

concerned about you not being prejudice by me telling the jury to leave the courtroom, because the jury believes you're trying to cover up something when you ask them to step out, so, I have to fight that and balance it as we can. Very often, you want to engage in a lengthy discussion at the bench and then you are the only one in the courtroom that seems to perceive the jury's hearing everything, but you address those concerns, I'll try to take the side bars up, and for the sake of Counsel for the State, I'll step down to the bottom of the steps and take them up at the bottom of the steps to try to prevent the jury from going in and out. Anything further?

MR. MATHEWS: No, sir.

THE COURT: Anything further from the Counsel for defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Bring in the jury, please.

(2:45 P.M., 8-30-11, WHERUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Madame Foreperson, ladies and gentlemen of the jury, we're now going to continue with the testimony in the trial of this case. Thank you for your patience. Solicitor, you may call your next witness.

ASST. SOL. SHELTON: Thank you, Your Honor. The State calls James Davis, Jr.

THE COURT: Mr. Davis, please come around and be sworn by the Clerk.

MADAME CLERK: Please come forward and be sworn.

WHEREUPON, THE WITNESS, JAMES DAVIS, JR., IS DULY SWORN.

THE COURT: Come right on up. Watch these stairs for me. Step up here and have a seat on the witness stand. I want you to pull that chair up to that microphone. I want you to speak in that microphone and speak up so everybody on this jury can hear you, and also, the people in the Courtroom.

I want you to begin by stating your full name and spelling your last name.

MR. DAVIS: James Davis, D-A-V-I-S.

THE COURT: Very good. Your witness, Counsel.

ASST. SOL. SHELTON: Thank you, Your Honor. May it please the Court.

DIRECT EXAMINATION

BY ASST. SOL. SHELTON:

Q Mr. Davis, you got to speak up like the judge said. Can you hear me?

A Yes, sir.

Q Okay, I can hear you if you keep talking like that; all right? You said your name was James Davis, are you a Senior or a Junior?

A Junior.
Q What's your dad's name?
A James Davis.
Q Where do you live?
A Smoaks.
Q Where about?
A 211 Johnsville Road, South Carolina.
Q How do you get to Johnsville Road from Walterboro?
A You can either take -- well, I take Bells Highway. Then merge off of Stokes Road and then you turn and make a right by the post office, then you'll be on Ruffin Road, and you come straight into Smoaks from there.
Q Okay. Have you lived there your whole life?
A Partially.
Q I'm sorry?
A Partially.
Q Now, do you go by any other name besides James Davis?
A Yes, sir.
Q What's that?
A Chippy.
Q How'd you get that name?
A My granddaddy.
Q You're granddaddy give it to you or that's his name?
A He gave it to me.
Q Is that what most of your friends call you?

A Yes, sir.
Q Can I call you Chippy?
A Yes, sir.
Q All right. Would you rather be called Chippy or James?
A You can call me Chippy.
Q Okay. Did you go to high school?
A Yes, sir.
Q Where did you go?
A Colleton High.
Q Did you graduate?
A Yes, sir.
Q What year did you graduate?
A '09.
Q What did you do after high school?
A I tried to enroll in the military.
Q I'm sorry?
A First, I got a job, then later on I resigned from my job, and then I tried to enroll in the military.
Q What job were you working at?
A Husqvarna, it's a plant in Orangeburg.
Q Did you work anywhere before that while you were in high school?
A Yeah, I had a job all through high school. I was working at Subway.
Q Subway?

A Subway in St. George.
Q St. George. What did you do at Husqvarna?
A Well, I was working on an assembly line; painting parts onto a lawnmower.
Q Do you know a guy named David Jakes?
A Yes, sir.
Q Does he have another name?
A Yes, sir.
Q What's his other name?
A Dinky.
Q Dinky, is that his nickname?
A Yes, sir.
Q Do you see Mr. David Jakes in the courtroom today?
A Yes, sir.
Q Will you point him out for the jury?
A (WITNESS INDICATES BY POINTING.)
ASST. SOL. SHELTON: Please let the record reflect that the witness has pointed at the defendant, Mr. David Jakes, sitting next to his counsel, Mr. Harris Beach.
Q Do you know a fellow named Antwan McMillan?
A Yes, sir.
Q Does he have a nickname?
A Yes, sir.
Q What's his nickname?
A Rat.

Q What's that?
A Rat.
Q How do you spell that?
A R-A-T.
Q Is he in the courtroom today?
A Yes, sir.
Q Do you see him in the courtroom?
A Yes, sir.
Q Will you point him out for the jury?
A (WITNESS INDICATES BY POINTING.)

ASST. SOL. SHELTON: Please let the record reflect that Mr. James Davis, Jr., has pointed to Mr. Antwan McMillan who is seated next to his attorney, Mr. David Mathews.

Q Now, Mr. Davis, let's talk about June of last year, okay? That would be in 2010. How well do you know Dinky, or Mr. Jakes, over there?
A I know him pretty good. I've known him about a couple of years. I've known him all my life, basically, we stay in the same neighborhood, so everybody knows everybody; it's a small community.
Q And you say you know him pretty well, do ya'll hang out together? Do you consider yourselves friends, childhood friends? What do y'all do together?
A We hang out every so often.
Q What about Mr. Antwan McMillan?

A I know him from being around the neighborhood. I don't know him too good.
Q You say "around the neighborhood," how far away do you live from David Jakes?
A Like three minutes.
Q Three minutes away driving?
A Driving.
Q What about from Antwan McMillan?
A It's closer.
Q Is there a lot of people who live up there or a few amount of people?
A A few, it's a handful.
Q Do you know a Brenda McMillan?
A Do I know a person? no.
Q Do you who she is?
A I know that's his mother, but I don't know ---
Q Who's mom?
A Antwan.
Q Ms. Brenda McMillan is Antwan's mother?
A Yeah.
Q Does she live with Antwan?
A I assume so.
Q Yes or no?
A Yes.
Q Now, on June 3rd, 2010, do you remember that day?

A Yes, sir.
Q You got in trouble that day, didn't you?
A Yes, sir.
Q Are you ready to talk and tell the jury what happened that day?
A Yes, sir.
Q Are you ready to tell them the truth?
A Yes, sir.
Q Now, June 3rd, 2010, let's take it from the beginning. What did you do that day? Earlier in the day, during the day, what were you doing?
A In the house, with my girlfriend, watching TV and just chilling.
Q What's you girlfriend's name?
A Jasmine Morell.
Q Do ya'll have any babies or kids together?
A We've got one.
Q How old is he?
A He's a newborn.
Q What's his name?
A Keanan Davis.
Q How old is he now?
A Like three months.
Q Are you still with her?
A Yes, sir.

Q Your girlfriend?
A Yes, sir.
Q You were hanging out with her?
A Yeah, we was at the house -- at my sister's house.
Q Did you ever leave the house?
A At any time? No.
Q You didn't leave the house all day?
A All day? No, we were in the house all day.
Q Did you ever do anything with your dad that day?
A Yeah, he came over there and got me out the house and told me to help him with the yard, my sister's yard.
Q What time was that?
A It had to have been in the afternoon, probably, like mid day.
Q Midday. You said your sister's yard. Where is your sister's yard?
A Next door to my house.
Q So you've got two houses that are right next door to each other?
A Yeah. My parents stay next door to my sister's.
Q Okay. So you went to help cut grass with your dad for your sisters yard.
A Correct.
Q How long were you cutting grass?
A We were cutting grass. We had to edge the trees up.

We were basically, like, rearranging stuff out in the yard, so we had been out there, basically, until dark.

Q So you were cutting grass and working on the yard?

A Uh-huh (affirmative).

Q What time again -- was this June 3rd?

A Yeah, June 3rd.

Q And you were out there until dark?

A Uh-huh (affirmative).

THE COURT: Say "yes" or "no."

A Yes, sir.

Q Please say yes or no. Don't shake your head or nod your head like the judge said, okay? What did you do after you finished mowing the yard; what were you doing?

A Me, my sister, and my girlfriend had walked over to my dad's house and we were over there chilling and eating.

Q Did you receive a phone call from anybody?

A Yeah, I got a phone call.

Q So you were chilling and eating and you got a phone call?

A Correct.

Q Who called you?

A Dinky.

Q Who's Dinky, again?

A David.

Q David Jakes, sitting over there?

A Yes, sir.
Q What did he say?
A He asked me do I want to ride with him to Walterboro to hook up with some girls.
Q With some girls?
A Correct.
Q You had a girlfriend at that time, correct?
A Correct.
Q What were you doing with those girls?
A I'd rather not get into that.
Q Okay. All right. Just got to say that. You were calling these girls and you were going to ride with Dinky to Walterboro?
A Correct.
Q Now, what did you do then? After he called you, what did you do?
A Well, I chilled for like a little minute, then I left. Then me, my sister, and my girlfriend left and walked to her house. Then, my girlfriend left and went back to her house in Ehrhardt, but I just chilled, and I washed up and got ready then he came and picked me up.
Q Who is he?
A David Jakes.
Q What was he driving?
A Cadillac. Gray Cadillac.

Q Gray Cadillac? How many doors does that Cadillac have?
A It was a four door?
ASST. SOL. SHELTON: May I approach, Your Honor?
THE COURT: You may.
Q Mr. Davis, Chippy, I'm going to hand you what has been previously marked for identification purposes, that means you don't show it to the jury, okay?
A Correct.
Q State's Exhibit Number 7; do you recognize that?
A Yes, sir.
Q What is in that picture?
A I recognize it; it's the Cadillac. I recognize the plates.
Q And who's Cadillac is it?
A J.J.'s car. Timothy's.
Q Was that the car that you were picked up in that night?
A Yes, sir.
Q Okay. Who was driving it when they picked you up from your sister's house?
A Dinky.
Q At this point, you know, you might not remember what time it was, but was it dark or light?
A It was dark.
Q It was dark when you finished mowing grass, right?
A Correct.

Q You were eating then you went over to your sister's house, correct?
A Correct.
Q And then you washed, right?
A Correct.
Q And then he came to pick you up?
A Yes, sir.
Q So it's been dark since you got back from the mowing the grass, and he came to pick you up, correct?
A Correct.
Q When he came to pick you up, was there anyone in the car besides him?
A No, just him.
Q Did you get in the car?
A Yes, I got in. Yes, sir.
Q Exactly where did you go directly from your sister's house then?
A To Antwan's house.
Q Where does Antwan live?
A Like ten minutes away from me, 217.
Q On Highway 217?
A Yes, sir.
Q And when you went there, who did you see there?
A Antwan.
Q Did you get out of the car?

A No, sir.
Q Who got out of the car?
A Dinky got out of the car.
Q Why did he get out of the car?
A I guess to talk to Antwan; they were talking.
Q Did anybody else get in the car again besides Dinky?
A When Dinky got in the car, Antwan got in the car back with him.
Q Now, at that point, who got in the driver's seat?
A Dinky got back in the driver's seat.
Q Dinky got back in the driver's seat at that point?
A Correct.
Q Okay. And then where did you go?
A Then we went to Dinky's grandmother's house.
Q Where is that?
A Clatty Farm Road. No more than three minutes from Antwan's house.
Q How did you get from Antwan's house to Dinky's house on Clatty Farm Road?
A Make a right off 217, the first right.
Q You say it only takes a couple of minutes to get there?
A Yeah, only a couple of minutes, if that.
Q Okay. So, when you got to that house, what happened then?
A Dinky went into the house and said he had to grab

something really quick.
Q All right. And how long was he in there for?
A Short amount of time, basically, like a run in and run out thing.
Q When he got back out of the car, what happened? When he got back out of the house, excuse me, what happened?
A By the time he had got back out of the house, Antwan had already switched drivers, he said he was going to drive from there on in, so, he got out the back seat and hopped in the driver's seat. When Dinky came out, Antwan was already in the driver's seat, so Dinky went ahead and got in the back.
Q So Dinky got in the backseat at that point?
A Correct.
Q Antwan got in the driver's seat?
A Correct.
Q Where were you seated?
A Passenger seat.
Q Passenger seat in the front or the back?
A Front.
Q So the front right passenger seat, in that Cadillac that you just saw?
A Correct.
Q Why did Antwan want to drive, do you know?
A I don't know.

Q So, at that point, Antwan was driving?
A Correct.
Q Dinky was in the back seat?
A Correct.
Q You were in the front passenger seat?
A Correct.
Q Where do you go from there?
A We was headed to Walterboro down Clatty Farm Road, headed towards Mount Carmel Road.
Q Okay. So when you get to Mount Carmel Road, how do you get towards Walterboro?
A Make a left at the stop sign -- at the end of Clatty Farm Road make a left.
Q Then, what do you do?
A Keep straight.
Q Did you keep going to Walterboro? Did you turn off? Did you stay on Mount Carmel Road all the way to the end? How did you keep going to Walterboro?
A We turned off; we made a left on McLeod Road.
Q Okay. Why did you make a left on McLeod Road, do you know?
A I guess he figured it was a shortcut -- it is a shortcut.
Q All right. How? Hop on 95?
A No, just to go straight through. You don't need to hop

on 95, when you can just go straight through and merge on 15.

Q Okay. Now, I'm going to get to the nitty-gritty of this. So you're on McLeod Road, correct?

A Correct.

Q You're in that Cadillac that I showed you earlier, right?

A Correct.

Q Antwan's in the front driver seat, David Jakes is in the back seat, you're in the front passenger seat, right?

A Correct.

Q Okay. You're driving down McLeod Road, what is the next thing you remember?

A I remember passing three people on the side of the road like they were having car trouble or tire problems or whatever, on the ramp coming off of 95.

Q Do you remember who they were? You may not remember what they looked like; do you remember whether they were guys, girls, how many there were?

A There were girls and guys.

Q You sure?

A Yeah, I'm sure.

Q And then, after you pass them, what happened?

A What happened after we passed them? Well, after we passed them, I guess like I said, we didn't notice

everybody, because everybody just looked -- you know what I mean? Because the lights was -- Antwan came up with the idea, like, you know what I mean, he was telling us that's an easy lick, you know what I mean ---

Q It's a what?

A Easy lick.

Q What is a "lick"?

A A robbery.

Q Antwan said that?

A Correct.

Q What happened next?

A He asked us if were we down with it, and I was like, "No man, I ain't down. I ain't down with that, man. It's stupid." I was explaining how stupid it was and he was getting Dinky pumped up, Dinky was like, "Yeah, man, I'm down; I'll do it."

Q So Dinky was pumped up?

A Correct.

Q It was Antwan's idea?

A Correct.

Q And you just said, no?

A Correct.

Q Are you telling the truth?

A Correct.

Q Then what happened?

A Then, after we ride, we were down at, like, I don't know, the time felt like it was going by fast ---
Q Did you turn around or did you just keep going? What happened?
A We turned around after they had been planning it out, we had turned around; and by the time we turned around, we stopped -- we stopped like sideways facing ongoing traffic.
Q Okay. You say you stopped sideways, facing ongoing traffic?
A Yeah, anybody that was coming off the ramp, that was ongoing traffic, if you're coming off the ramp at 95 we was parked sideways like blocking them.
Q So you were blocking the ramp off of 95?
A Correct.
Q How many cars were out that you saw?
A I think it was like, like, two.
Q And then what do you remember happened?
A I remember as soon as we stopped, before I could say anything, David had done hopped out the car.
Q You said David?
A Yeah. He hopped out the car running towards, not running towards -- like facing towards the people who was on the side of the road, pointing the gun telling them to "Give it up."
Q He was saying what?

A "Give it up."
Q Did he say anything else?
A All I heard was "give it up."
Q What were you doing at this time?
A I was just like panicking, looking around, and started panicking.
Q Show the jury what you were doing.
A What I was doing? I was just looking around at what was going on, like, dang, and before I could say anything, it happened too quick, and then I just heard gunshots.
Q When you heard gunshots, what did you do?
A I ducked down for cover.
Q How did you duck down for cover?
A Like this. I ducked down to the floorboard of the car on the passenger's side with the glove department. Yeah.
Q Then what happened?
A Then after that, the gunshots didn't cease, and Rat was telling me, "Get out the car. Go get Dinky," telling me to get out the car and go pick him up and go get him, but I was like, "Nah, man, I ain't getting out," you know what I mean? I was scared; and no, I ain't getting out. And he was like, "Man, get out, get out, get out."
Q Then what happened?
A Then after that, I was still down, and Rat, he was reaching over me and started firing shots.

Q He did what?
A Started firing shots.
Q He did what over you?
A Started firing shots.
Q How did he do that? Where were you again?
A I was still in the same position -- same position by the glove department on the floor panel, like this right here, and he just reached over me and started shooting.
Q So, he reached over you and started shooting out the car?
A Correct.
Q How do you know if he was shooting if you weren't looking at him?
A I could hear the gun in my ears.
Q What's the next thing you remember after that?
A I remember -- I just remember silence after that, like everything was silent. After that, I kind of like tried to open the door to see if Dinky was hit, so I reached behind me like the seat in the Cadillac and opened the door.
Q How did you open the door if you were in the front seat like that?
A Well, a Cadillac, you know what I mean, the seats are basically like this right here, so it's easy for me to reach back to the door right here and open it.
Q Was the seat up? Was the seat back? I don't

understand ---

A The seat was kind of slant. It went up the point I couldn't get back, but just like slanted a little bit, so I could reach behind me to open the door, like that, grab the handle and not really shove the door all the way open, but just enough; you know what I mean? For him to get in.

Q Now, at that point, Dinky, David Jakes, was he walking?

A No.

Q Where was he?

A He was squirming, crawling, like fighting it to crawl in.

Q To crawl in the car?

A Correct.

Q Did you help him get in the car?

A The best way I could.

Q Did you get out of the car at any point?

A No, sir.

Q How did you help him get in the car if you didn't get out of the car?

A When he was coming up, by the time he was doing good getting himself in, I tried to grab his hands a little bit and raise his hand up so I could grab him and give him as much help as I could with helping him. He's helping himself and we're helping him because, like, he got to get in.

Q Okay. Did you shut the door for him or did he shut the

door, do you remember?
A To tell you the truth I can't, man, it happened so quick, man, I can't even tell you who shut the door.
Q Why didn't he just walk to get back in the car?
A Because he was shot all over.
Q After you had gotten him in the car, what's the next thing you remember happening?
A Speeding off.
Q Where did you go?
A I thought we were about to go to the hospital, but we were going back towards Smoaks. We went down McLeod Road, going in the same direction that we came in.
Q From the same direction that you came?
A Uh-huh (affirmative).
Q So, how would you have gone to the hospital from there?
A We could -- at the end of McLeod Road, we could have made a left and that would run you in to Bells Highway, right there in Walterboro.
Q But you took a right at the stop, instead?
A Yeah, took a right instead of a left.
Q Who's driving at this point?
A Antwan's still driving.
Q Where's Dinky?
A In the back seat.
Q Where are you?

A Front seat.
Q You hadn't moved from that front seat?
A No, I ain't moved, but I was like turning around, like, trying to keep him company, trying to keep him from going into shock.
Q Okay. Did he say anything?
A Yeah.
Q What did he say?
A He was, like, screaming, like, panicking saying, "Take me to the hospital. Get me to the hospital."
Q But ya'll turned away from the hospital?
A Correct.
Q Did you have a cell phone on you?
A Correct.
Q Did you call 911?
A No, sir.
Q Did Antwan have a cell phone on him?
A I believe so.
Q Did he call 911?
A No.
Q So you're going away from town, away from the hospital, you both have cell phones, you got a fellow that's shot in the backseat, and nobody calls 911?
A Correct.
Q Now, what's the next thing you remember as you're

driving on Mount Carmel Road, away from town?
A I remember just driving down the road; we was just panicking. I'm telling Antwan to get him to the hospital, he's telling Antwan to get him to the hospital, but he said he ain't going to the hospital -- he ain't going to the hospital. And I remember we passing a car, passing like an oncoming car, Toya -- Toya and them's car is a blue -- a blue station wagon and by the time we had recognized that was Toya's car, so we started flashing the lights.
Q You said Toya?
A Yeah.
Q Who is Toya?
A Toya Bryant.
Q How do you know Toya?
A Neighborhood.
Q Okay. So go back, you passed the car and you started doing what?
A Before we passed the car, while the car was oncoming, like we was close to it, we were just flashing the lights like giving the signal to stop, stop, stop. Then, after that, we turned around to look at them and see that they were braking a little bit, but they didn't really know who we was, you know what I mean? Because it was dark, they were like braking a little bit, like, I ain't really gonna stop, so we turn around and got behind them and started

flashing them and pulled onto the ---

Q Did the car stop?

A Yeah, they stopped.

Q What did you do?

A When the car stopped, we was yelling at Toya, and we were like, "Man, get him to the hospital."

Q Hold on. The car stopped, did Antwan pull up behind, next, to the front; how did Antwan pull up?

A He pulled up beside them.

Q Beside him. So did the car stop in the middle of the road, did it stop on the shoulder, did the car stop off the road? Where did the car stop?

A It was on the other side of the road, for sure, and it was kind of like -- -

Q On the right hand side or the left hand side of the road?

A It had to be the left hand side, oncoming traffic side.

Q You saw the oncoming traffic side?

A Did I see?

Q No, I'm confused about which car is which now, okay. You turned around and you're going back towards town, right?

A All right. Yeah, Toya was in the blue station wagon heading towards town; we're headed towards Smoaks. By the time we spotted them out, we flashed the lights at them, and they were braking a little bit. We turned around and we

flashed the lights behind them. We went behind them now, and now, we're pulling over in the ongoing traffic side.

Q Okay. So the car that you're in pulls onto the oncoming traffic side?

A Correct.

Q The car that you say Toya's in, or whoever's car it is, was on the right hand side?

A Yeah, correct.

Q Okay. Now, I understand better. Now, will you say for the jury where exactly, you can use your hands if you want, show them here, here, or wherever it is, where exactly your car, the car that you were in, parked next to the car that stopped after the lights were flashed at them.

A Well, it's probably like this (WITNESS INDICATING WITH HANDS TOGETHER.) Toya's car here; this is our car.

Q Basically, side by side?

A Yeah, this is the passenger side of the car.

Q And you were in the front passenger seat, as you've already told the jury.

A Yes, sir.

Q And who was driving?

A Antwan.

Q And who was in the backseat?

A Dinky.

Q Was there anybody else in that car?

A No, sir.
Q Now, the car that stopped -- did you know the people who were in that car?
A Yes, sir.
Q Who was in that car that you saw?
A It was Toya, Montez ---
Q Montez who?
A Montez Jenkins.
Q Okay.
A Joseph.
Q Joseph who?
A Griffin.
Q Okay.
A There was another girl in there; I don't know her name. I've seen her before, but I don't know her by name.
Q Now, when the car stopped, what did you do?
A We were just panicking. We were just telling Toya to get him to the hospital; get him to the hospital. They -- Toya and them -- the other car, they was still trying to figure out, like, man, what happened? Trying to figure out what happened. They were asking questions and we weren't really talking to them. We were just rushing, so I got out the car, Rat got out the car ---
Q Who got out the car?
A I got out the car, Antwan got out of the car, Joseph

got out the car, the other car -- the station wagon. Montez got out of the car, and that was it, and then they came and helped me and Antwan get David in the backseat of the wagon.

Q How did you get David in the backseat of the wagon?

A Well, like two had the back legs and like two had the front.

Q And you put him in the back of that wagon?

A Correct.

ASST. SOL. SHELTON: May I approach, Your Honor?

THE COURT: You may.

Q Just like last time, I'm going to show you this then ask you if you know what it is, okay? State's Exhibit Number Eight. Do not show it to the jury. It's for identification purposes only, okay? Do you recognize what that is?

A Yes, sir.

Q What is that?

A Ford Taurus station wagon.

Q Have you seen that station wagon before?

A Yes, sir.

Q Was that the station wagon that you put David Jakes in that night?

A Yes, sir.

Q How do you know that? By looking at that picture?

A By the sticker on the window.

Q You recognize that sticker on the window?
A Uh-huh (affirmative); yes, sir.
Q So you said that Rat got out of the car, being Antwan?
A Correct.
Q You put David in the car along with Joseph Griffin and Montez Jenkins and Antwan?
A Correct.
Q Who all -- you saw, in that other car, just repeating what you said, you saw Toya Bryant.
A Yes, sir.
Q You saw Montez Jenkins.
A Yes, sir.
Q You saw Joseph Griffin.
A Yes, sir.
Q And who else?
A I can't really recall the other girl's name. I know her by face, but I don't know her by name.
Q Okay. Now, do you know Joseph Griffin?
A Yeah, I know him.
Q Do you know where he lives?
A Yes, sir.
Q Where does he live?
A Next door to Antwan.
Q Next door to Antwan, meaning "the Rat" that's Antwan?
A Yes, sir.

Q Do you know Montez Jenkins?
A Yes, sir.
Q Do you know where he lives?
A No, sir.
Q And do you know Toya?
A Yes, sir.
Q Do you know where he lives?
A Yes, sir.
Q Where does he live?
A Right down the road from me.
Q So once you got Mr. Jakes, Dinky, into the car, what did you do?
A I got back into the Cadillac with Antwan.
Q Where'd you get in the Cadillac at?
A Same spot.
Q Where is that, front driver seat?
A No, passenger seat.
Q Passenger seat. Who got in the driver seat?
A Antwan.
Q What did you do then?
A Turned around and went to Smoaks.
Q So you go to Smoaks. Where did you go?
A Dropped the car off back at Dinky's grandmother's house.
Q What road is that on?

A Clatty Farm Road.
Q Once you dropped the car off, what did you do?
A We were just panicking then. We jumped out the car. Antwan got up out the car and he started running and I hopped up out of the car and started running, too; running towards our house.
Q Towards your house?
A Yes, sir.
Q How do you get to your house from David's grandmother's house?
A Off of Clatty Farm Road, make a left at the end of Clatty Farm Road.
Q Do you pass Antwan's house?
A To get to my house? Yes, sir.
Q Where did Antwan go?
A He went home.
Q Was he in front of you or behind you?
A In front of me.
Q Where did you go?
A Home.
Q How did you get home from past Antwan's house?
A Past Antwan's house you make a right and I'm the first house on the left.
Q When you got home, did you go to your sister's house or did you go to your parent's house?

A I went back to my parent's house.
Q How did you get inside?
A Knock on the door; beat on the door.
Q You don't have a key?
A No, sir.
Q How did you get inside after beating on the door?
A My daddy answered the door.
Q Why did you go back to your parent's house?
A I was scared. That's where I usually stay at; I stay at my sister's house, but I decided to go to my daddy's house that night.
Q Did you tell your daddy when you opened the door, what happened?
A No.
Q Why not?
A I was telling him like bits and pieces, but I never told him the story.
Q Not that night?
A Not that night.
Q Was he upset with you?
A Yeah, he was upset, but he was basically trying to get to the bottom of it, like, where we were at.
Q Of what?
A What happened.
Q Did you end up going to bed that night?

A Tried to.
Q Did you sleep at all?
A A little bit.
Q What happened the next morning?
A The next morning, just everything, just everything hit the fan. Everybody calling the house and everybody was saying this and saying that, then I finally came to my daddy and I told him what happened. I told him everything that happened.
Q Did you tell him the truth?
A Yeah, I told him the truth.
Q Did you tell him everything you're telling the jury today?
A Yes, I told him everything I'm telling them today.
Q Are you leaving anything out to the jury that you told him that morning?
A No, sir.
Q What happened after you told your daddy what happened?
A He was trying to get in touch -- he was trying to get in touch with, like, any detective, for anybody he know. He couldn't get in touch with a detective and then he tried to get in touch with attorneys and stuff.
Q Did you get in touch with an attorney that day?
A No, we tried to, but my attorney was out of town.
Q What did you do later that day?

A Later that day, I stayed home.
Q And that night, what did you do?
A That night, I was at my sister's house.
Q Did you ever go to the detective's office that day?
A No, they came to me.
Q They came to you. Did they come to you before or after your daddy contacted them?
A After.
Q They came to you; what did you do when they came to you? Did you go with them? Did you stay at your house? Did they pick you up? Did you ride in their car? Did you drive with them? What happened?
A Well, I followed behind them -- I rode with my daddy up there to the station.
Q You rode with your daddy where?
A To the station.
Q When you got to the station, what happened?
A They started questioning me.
Q Now, did you tell them the truth, at first?
A No.
Q What did you tell them at first?
A I told them I wasn't there and I didn't have nothing to do with it.
Q Why?
A Because I was scared and I didn't want to really tell

anybody.

Q So you lied to them?

A Correct.

Q Are you lying today?

A No, sir.

Q So you told them that at first. At some point, did you talk to your parents during that interview?

A Yeah, they came in there with me.

Q What did they tell you to do?

A Tell the truth.

Q Because they knew what the truth was at that point, didn't they?

A Yes, sir.

Q Then after that, did you tell the officers what the truth was?

A Yes, sir.

Q What did you tell them?

A I told them that I was riding with Dinky and Antwan and I was going to hook up with some girls -- we were going to hook up with some girls from Walterboro. And then we were on the way going to Walterboro and we passed by some people on the side of the road and they were having car trouble.

I told them that Antwan had came up with the idea to rob them, trying to get me and Dinky pumped up, but Dinky got pumped up and said he would do it, and we turned around.

Once we stopped the car, before I could say anything, before anybody could say anything, Dinky had done hopped out the car and went towards the people that were on the side of the road telling them to "Give it up."

Q Is that what you told them? Then what did you tell them happened?

A I told them Dinky -- when I heard the gunshots I hit the floorboard of the car, ducking down for cover and I told them Antwan tried to get me out of the car to go pick Dinky up and get him to the car and I told them I said no.

I told them Antwan started shooting across me and I told them how we left there and we were supposed to take him to the hospital, but he didn't want to go to the hospital. Antwan was saying no he's not going to the hospital and we passed -- we was oncoming passing Toya, the blue station wagon, and how we tried to stop them, but they weren't really stopping at the time, but they braked, so we turned around, flashed them from behind and he pulled on the side in oncoming traffic and we switched Dinky -- me, Antwan, Joseph, and Montez switched Dinky into Toya's car and they took him to the hospital.

Q Now. I'm going to show you a map, I'm going to ask you to step off the stand. Before I do that, I'm going to ask that the judge give you a microphone, okay.

THE COURT: Madame Clerk, can you give him a portable

mic? Mr. Mathews, Mr. Beach, you may come around so you can see the board, if you so desire. Counsel, show it to the opposing counsel before you show it to the jury.

ASST. SOL. HASELDEN: Both attorneys have seen it during the break, Your Honor.

THE COURT: Just a moment. Are y'all satisfied?

MR. MATHEWS: Yes, sir.

MR. BEACH: Yes, sir.

THE COURT: All right. Step down for me. She's going to hand you a microphone. Use the microphone, Mr. Davis. Hold it, speak into it, and let me hear you.

A Yes, sir.

THE COURT: All right. Mr. Mathews, you want to come around. Mr. Beach, can you see the board?

MR. BEACH: Yes, Your Honor, I see it.

THE COURT: You're going to have to step back from my jury and Mr. Beach, now. All right, Mr. Shelton, speak up, you don't have a microphone.

ASST. SOL. SHELTON: Thank you, Your Honor.

Q Mr. Davis, Chippy, do you recognize what this is?

A Yes, sir.

Q What is it?

A It's a map.

Q It's a map of what?

A Smoaks.

Q The general area of Smoaks?
A Yes, sir.
Q Can you locate your house on that map? You can use this to circle it once you find it. (HANDS WITNESS A PEN.) Begin by road by road; what's that road? Have you seen this map before?
A I've seen it.
Q We showed it to you, correct?
A Yes, sir.
Q What's this down here?
A Am I looking in the right area?
Q I don't think you are; this is not where you showed me yesterday.
A My house is right here, 211 Johnsville Road.
Q Okay. You can circle, it. That's 211 Johnsville Road, right there?
A Yes, sir.
Q Okay. Will you please show the jury how you got -- that's where Dinky picked you up, correct?
A Correct.
Q Now, show the jury where you went from there, first.
A I went from 211 to 217; when you get on 211, at the stop sign on 211, you want to make a left coming out of 217. Then, we made a stop somewhere up in here on 217.
Q Who's house is that?

A Antwan's house.
Q Antwan's house right there. Okay, then where did you go from there?
A We went from Antwan's house to Clatty Farm Road. Clatty Farm Road is only like two minutes up the street, so, we traveled 217 to the end of -- not to the end of 217, but the first road on your right is Clatty Farm Road, right here, went to David Jakes' house. Dinky said his grandma's house is on Clatty Farm, somewhere up in here.
Q Somewhere right up in there; can the jury see that, because I'm not gonna mark it. Can everyone see that? All right. Then, where'd you go?
A Went from Clatty Farm Road to Mount Carmel Road. So at the end of Clatty Farm Road, you want to make a left at the end of Clatty Farm Road, so you make a left right here, make a left right here and travel down Mount Carmel.
Q And then, where'd you go from there?
A Went from Mount Carmel to McLeod Road.
Q Keep going down Mount Carmel until you find it.
A McLeod Road here. (INDICATING ON MAP.)
Q Did you turn on McLeod Road there?
A Yeah, you make a left on McLeod Road.
Q And then where did you go?
A Headed toward onto 95, towards 15 and the interstate.
Q Where did you see the people that Dinky jumped out and

tried to rob?
A It was down there by the ramp after we swing around here.
Q You can make a big circle around that if you want. So you said you passed them and then you turned around?
A Yes, sir.
Q And you went back the other way?
A Yes, sir.
Q Okay. After what happened, happened you went back the other way. Show the jury which way you went.
A We passed by and then we were coming back towards the other side of the road, so we passed by and made a left and made a U-turn, came back towards them, we were facing them, we were probably right here.
Q Okay. And then where'd you go?
A Then, after we left them, we went to the same direction that I just showed y'all, the same direction that we came in, that's the same direction, we turned around and headed towards Mount Carmel Road, and instead of making a right and going to Walterboro to go to the hospital ---
Q You mean right or left?
A (PAUSES A MOMENT.) We made a left, so ---
Q You can come to this side if you want.
THE COURT: You got to step back so the jury can see.
A So instead of making a left to go back to Walterboro,

we made a right going back towards Smoaks.

Q Okay. Can you show on that map the general area of where you think that you met up with the car that you put David Jakes in?

A I can't give you the exact spot.

Q Somewhere around that area? You don't have to circle it, but can the jury see that? Okay. I ask that he may return, Your Honor.

THE COURT: Step back from the witness stand.

Q Mr. Davis, there were three people in that car, weren't there?

A Correct.

Q Who was in the car again?

A Antwan, Dinky, and me.

Q And you're saying that Antwan reached over you and shot?

A Correct.

Q Did you shoot?

A No, sir.

Q Do you own a gun?

A No, sir.

Q Did you have a gun that night?

A No, sir.

Q Now. Isn't it true that you were charged with pretty much everything -- you are charged with everything they're

charged with. You were charged originally, and then you've been indicted and those indictments still exist for everything they're charged with?

A Correct. We've got the same charges.

Q Now, was there a deal at some point for those charges with us, with the State of South Carolina?

A There was.

Q There was? Do you remember what that deal was?

A Yeah, it was to drop the charges to accessory before and after the fact.

Q Now, what happened to that deal?

A It got gone away.

Q It got gone away, it expired?

A Yes, sir.

Q So testifying here today, you have no deal; is that right?

A No, sir. I still have the same charges.

Q You still have the same charges, but you don't have the deal anymore?

A No, sir.

Q Have I made you any promises?

A No, sir.

Q Has Ms. Haselden made you any promises?

A No, sir.

Q Has anyone from the State of South Carolina made you or

your attorney any promises whatsoever related to these charges?

A No, sir.

Q Why, in earth, are you up here testifying today?

A To tell the truth.

Q Why are you telling the truth?

A Because I feel like it's the right thing to do.

ASST. SOL. SHELTON: That's all the questions I have at this time, Your Honor.

Q I please ask that you answer any questions respectfully that Mr. Mathews and Mr. Beach has.

THE COURT: Cross-examination, by the defendant McMillan.

MR. MATHEWS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MATHEWS:

Q Mr. Davis, when you first went into the police station with your dad, were you charged at that time?

A Yes, sir.

Q You were under arrest at that time?

A Yes, sir.

Q Okay. You only talked to the police after you were under arrest already, correct?

A I don't understand what you're asking me.

Q When you went into the police, you were under arrest at

that time; is that correct?
A Yes.
Q Okay. And the first thing you told me is that your fingerprints would not be in that car, correct?
A Correct.
Q Your DNA would not be in that car, correct?
A Correct.
Q That you weren't in that car, that nobody was in that car, right? You don't know anything about it because you weren't there, right?
A Correct.
Q Okay. Now, Mr. Shelton asked you about no deal at this point, but you didn't do anything wrong, did you?
A No, sir.
Q Okay. So if you're telling the truth, if you're believed, then you escape, right? You didn't do anything wrong?
A Yes, sir.
Q Okay. Now, you said J.J. owned this car. Is that your cousin?
A No, that's Dinky's cousin.
Q Dinky's cousin. Okay, J. J., all right. And you said first of all, that if Dinky's cousin owns the car, you said Dinky at one point got out, didn't he? You got picked up then you went to Dinky's house.

THE COURT: Mr. Mathews, one question at a time, okay? Don't make a statement. Cross-examination, I'll let you lead, but don't ask three questions of the witness and wait on a response. One at a time.

MR. MATHEWS: Yes, sir

THE COURT: Proceed.

Q What did Dinky get from the house?

A I don't know. He ain't told me.

Q What was he wearing?

A I can't remember.

Q You said he went in to get something; what -- he got a gun, right?

A I don't know.

Q Well, there were at least two guns in that car, right? At least two, right?

A Correct.

Q All right. And you didn't see any gun?

A Correct.

Q Okay. So how do you -- okay, what did you think he went to go get?

A I have no idea.

Q Okay. You had a -- you said you had a cell phone, right, that night?

A Yes, sir.

Q Okay. You didn't call 911?

A No, sir.
Q Did you call anybody that night?
A No, sir.
Q Didn't call a soul that night? Why did you have your cell phone?
A I always have my cell phone.
Q You always have your cell phone.
A Uh-huh (affirmative).
Q Okay. How long have you been knowing the people in that other car that stopped?
A Toya's car?
Q Whoever -- Whoever's car; the blue car.
A Well, basically, like partial my life. She stay in the same neighborhood. All of us been staying there, basically, partially, all our life, so I've known her.
Q Okay. You got her cell phone number?
A No, sir.
Q No? What's your cell phone number?
A I don't have a cell phone right now. My cell phone number was -- what was my cell phone number? I can't remember my cell phone number, my old cell phone number. I don't have a cell phone at all, now; but I can't remember my old cell phone number.
Q Okay. All right. When the police talked to you to start with, did you have your cell phone with you then?

A No, sir.
Q Okay. The police did a search of your house, did they not?
A Yes, they searched my house.
Q And they took four cell phones from your house, correct?
A Correct.
Q Okay. Now, when you stopped in the roadway, your window was the one closest to the other people's car; is that correct or is that not correct?
A That's correct.
Q Okay. So you were the one closest to what was going on in the driver's car that was Toya?
A Correct.
Q All right. At some point, when the shots were fired, were -- were -- were y'all driving off during the time that any shots were fired?
A No, we were still parked.
Q You were still parked. Okay. You waited -- you waited until after David was back into the car before you fired?
A No, it was before he got in the car.
Q Before? Okay. All right. You gave your truthful statement, the statement, I guess, you said that was truthful sometime in December of 2010; is that correct?
A I don't recall what month it was, but I know it was

sometime after.

Q Okay. Months, correct?

A Not months, probably like a month.

Q A month, maybe?

A Yeah, it might have been a couple months, maybe. I can't recall.

Q Okay. And at that point, you had retained an attorney, correct?

A Correct.

Q So y'all all three were under arrest and you talked to your attorney and then you gave a statement, correct?

A Correct.

Q Which was completely different from the first statement you gave?

A Correct.

Q And you testified that after you dropped off, you took the car back when you said Antwan took the car back to Dinky's house, because it belonged to J. J.'s cousin, to Dinky's cousin, right?

A Correct.

Q Okay. And then how far -- is it about two miles? You said it was about two minutes or about three minutes from Dinky's house to your house?

A It's a couple miles.

Q Couple miles, okay. So you drove the car back and

dropped it off, and then y'all both ran back to your houses. You went and ran past Antwan's house to your house?

A Correct.

Q Okay. Okay. Did you ask to be dropped off, first?

A No.

MR. MATHEWS: Your Honor, if I might have a moment.

(BRIEF PAUSE IN COURTROOM.)

MR. MATHEWS: No further questions, Your Honor.

THE COURT: Cross-examination by the defendant Jakes.

MR. BEACH: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BEACH:

Q You gave a statement to the police when they first talked to you, correct?

A Correct.

Q And you told them you had nothing to do with anything; is that correct?

A Correct.

Q And you told them you weren't there?

A Correct.

Q That was a lie, wasn't it?

A Yes, sir.

Q And they didn't believe you?

A No, sir.

Q And they arrested you?
A Correct.
Q And you were indicted; is that correct?
A Uh-huh (affirmative).
Q There are charges pending now, is that also correct?
A Correct.
Q All right. Now, you gave another statement and that other statement, didn't you say in there that you were opposed to this supposed robbery?
A I don't understand your question.
Q Didn't you say that you were opposed to what was going on?
A When you say "opposed," do you mean the alarm or know what was going on?
Q You didn't want it to happen.
A Oh, correct. I didn't want it to happen.
Q In that statement where you said it was stupid? Didn't you say that in your statement?
A Correct.
Q And when everything started, you hit the floor?
A Correct, when I heard the gunshots, I hit the floor.
Q Now, when did you open your door?
A I didn't never open my door.
Q You never opened your door?
A unh-unh.

Q How did you help Mr. Jakes get back in the car?
A By the best way I could, best way I could. Leaning over, and the door handle's right here, so I reached over, the door handle's right here.
Q So you got up out of the floor, over the seat, and opened the door?
A No, I didn't really have to go, like, over the seat, I just had to reach right there and open the door. Like crack the door open the best way I could and help him.
Q But you had to get up into the passenger seat?
A Yeah, I had to get up in the seat.
Q And all this time, somebody else was shooting?
A No, nobody was shooting at the time.
Q Nobody was shooting at the time?
A Correct.
Q Now, how long -- you had heard gunshots. This was when Mr. Jakes got shot.
A Correct.
Q How long was it before the person seated beside you started shooting?
A It was like a -- okay, after David got shot, everything was, like, quick and he was just telling me to get out the way. Antwan was telling me to get out the car, go help Dinky, get out the car, and I was telling him, "Man, let's go. Let's leave, man. Get me out of this ride." He was

like, "No, man, ain't going nowhere, I ain't going nowhere without Dinky." So then after that, he started shooting across from me.

Q Who closed the door?

A What door?

Q Who closed the back door?

ASST. SOL. SHELTON: Objection, Your Honor.

THE COURT: Cross-examination. Ask a question, counsel. Overruled.

Q Who closed the back door?

A The back door wasn't open at the time he was shooting, but after the shooting, when he was trying to get in the car, I can't recall who. It was happening so quick, I can't recall if I shut the door or if he shut the door.

Q Well, how -- he was shot, how was he able -- how would he be able to shut the door?

A No, I never said he shut the door.

Q All right. How would you be able to shut the door when you're just reaching around to see? Doesn't that door open out?

A Well, it wouldn't open outward, because I couldn't really open the door outward. I could open the door, like, crack the door open a little bit, like a good little piece. I couldn't open the door outward. The door was just open.

Q How little bit?

A It was a good bit enough for him to get in.
Q But you don't remember whether you closed it or he closed it?
A Unh-unh. I can't recall. It happened so quick.
Q When did the other person start shooting over your head?
A That was before -- before Dinky got in the car.
Q Before he got in the car?
THE COURT: Identify who "he" is for the record, please.
Q The driver of the car.
A Antwan.
Q The driver of the car, when did he start shooting in relation to when Mr. Jakes got in the backseat of the car?
A He started shooting after I said I wasn't getting out to get him. And I wanted to go, let's go, and that's when he started shooting.
Q And this is before he got in the backseat of the car?
THE COURT: Identify -- just a moment. Identify who "he" is in your question.
Q This is before Mr. Jakes got into the car?
A Correct.
Q When the shooting started?
A Correct.
Q And you said he was shooting over your head? That the

driver was shooting from back over your head?
A Pretty much over my back.
Q Now, what kind of car is this?
A It's a Cadillac.
Q Is it a big car or a little car?
A It's like a narrow car, narrow.
Q What size Cadillac is it? What model?
A Deville.
Q A Deville?
A Correct.
Q And that's -- all right. Is the front seat a bench seat or was it bucket seats?
A I don't know what kind of seats.
Q Was there something down the middle between the seats?
A Yeah, it was like a small console.
Q A console was there?
A A small console.
Q So there was a seat for the driver, and a separate seat for the passenger?
A Correct.
Q Now, the driver was in his seat?
A Correct.
Q Shooting over you?
A Correct. He slided over and started shooting.
Q All right. How did he slide past the console?

A I ain't know. He ain't slide past the console. You can't make it past the console.
Q He did make it past the console?
A I just know he slide over.
Q Okay. Now, you say you don't have a deal with the prosecution; is that correct?
A No deal.
Q Now, the first thing you did after you went home was try and get in touch with your attorney, wasn't it?
A No. Unh-unh.
Q All right. Who did you get in touch with first, your attorney or law enforcement?
A I believe it was my daddy. I ain't got in touch with nobody. It was my daddy who tried to get in touch with people. My daddy tried to get in touch with either attorney or law enforcement agent. I don't know which one come first, or anybody else that he know.
Q Did you ever call law enforcement yourself?
A No, sir.
Q Did you ever go to them and say, "This thing happened and I didn't want anything to do with it?" Did you ever do that?
A No, sir.
Q Did you ever call the hospital to check on your friend?
A No, sir.

Q Did you ever go to the hospital to check on your friend?
A No, sir.
Q What did you tell your girlfriend that night about going to see these women?
A What I tell my girlfriend? Well, I'd rather not get into what I told her.
Q Okay. That's fair enough. But y'all were going to go to the club on 15 weren't you?
A No, not me. I ain't know nothing about no club.
Q Where were y'all going?
A Just going to hook up some girls in Walterboro.
Q Okay. But you were headed toward 15?
A Correct.
Q Now, were you drinking that night?
A No, sir.
Q Not at all?
A No, sir.
Q What about the other two people, were they drinking?
A No.
Q Neither one of them?
A I think Dinky was drinking earlier; he was drinking before.
Q Isn't that why Dinky wasn't driving was because he had been drinking?

A Oh, I don't know why he wasn't driving.
Q Is your attorney here with you today?
A Yes, sir.
Q Isn't it true that they're watching your testimony to see if you testify the way the State wants you to?
A I don't understand.
Q In order to get a deal for you?
A No, sir.
Q Well, when are you supposed to be tried?
A I don't know.

MR. BEACH: I don't have any other questions, Your Honor.

THE COURT: Redirect.

ASST. SOL. SHELTON: Briefly, Your Honor.

REDIRECT EXAMINATION

ASST. SOL. SHELTON:

Q Mr. Davis, you told them you made a statement months after the fact, but you told the truth in that statement; is that correct?
A Correct.
Q You wrote that statement down, correct?
A Correct.
Q Now, isn't it also true that the same day, the day after the incident, you went in and you told police the truth then, as well?

A What was that?
Q Sorry, that was a confusing question. The next day, the day after it happened, right?
A Correct.
Q You -- your daddy drove you to the police station, correct?
A Correct.
Q And you first lied to them, didn't you?
A Correct.
Q So then, and that was in the interview room, right?
A Correct.
Q And did you see a camera in that interview room?
A Correct.
Q And there were police officers there asking you questions, correct?
A Correct.
Q And at first, you lied to them, correct?
A Correct.
Q And what did you tell them?
A I told them I wasn't in there. I didn't know what happened. I ain't got nothing to do with it.
Q Right. And then that same night, did your parents come and talk to you in that interview room?
A Yes, sir.
Q And what did he tell you to do?

A Tell the truth.

Q And then that same night, the day after the shooting, after your parents told you to tell police the truth, what did you do?

A Told them the truth.

Q You told them the truth that night, didn't you?

A Correct.

Q You told them everything that you told the jury right here, pretty much, that same night, didn't you?

A Correct, yes, sir.

Q The night after the shooting; not four months afterwards.

A Yeah, it was the night after the shooting.

Q That's just not true, is it?

A What's not true?

Q It's true that you told the truth the night after the shooting; is that true?

A That's true. That night, I told the truth.

Q And you lied at first, but then you told the truth the night after the shooting?

A Yes, sir.

Q And then, four or five months later when you gave that written statement, did you tell the truth again?

A Yes, sir.

Q So you actually gave two truthful statements, correct?

A Yes, sir.
Q Not one?
A Yes, sir.
Q Are you telling the truth today?
A Yes, sir.
Q Thank you, Mr. Davis.
THE COURT: Recross by the defendant McMillan, limited to redirect?
MR. MATHEWS: No further cross.
THE COURT: No further recross?
MR. MATHEWS: That's correct.
THE COURT: Recross by the defendant Jakes, limited to redirect?
MR. BEACH: Thank you, Your Honor

RECROSS-EXAMINATION

BY MR. BEACH:
Q You gave the first statement saying you had nothing to do with it, correct?
A Correct.
Q The second statement saying you had nothing to do with it?
A No, sir.
Q All right. A second statement saying that you did have something to do with it?
A Second statement telling what happened.

Q Telling them what happened. Telling the truth?
A Correct.
Q You told them that was the truth?
A Correct.
Q Did they believe you?
A I assume they believe.
Q Did they indict you?
A I still got indicted.
Q You still got indicted even though you told them what you're telling us is the truth?
A Correct.

MR. BEACH: No other questions, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOL. SHELTON: Ask that he remain under sequestration for purposes of recall.

THE COURT: Have you advised the witness concerning my order of sequestration?

ASST. SOL. HASELDEN: Yes, Your Honor.

THE COURT: Very well. If you'll step down, please, and remain with us in the area that you were asked to stay in prior to testifying, subject to the instructions from counsel for the State.

Madame Foreperson, ladies and gentlemen of the jury, I'm going to take my mid-afternoon break at this point, let you stretch your legs, use the restroom. Please do not

discuss the case. I'll be right back with you just as soon as I can. You may retire to your jury room at this time.

(3:45 P.M., 8-30-11, WHEREUPON, THE JURY EXITS THE COURTROOM AND A BRIEF RECESS IS HELD IN THE TRIAL OF THE CASE.)

(4:00 P.M., 8-30-11, WHEREUPON, COURT RESUMES AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Is the State ready?

ASST. SOL. HASELDEN: Yes, Your Honor, with just a preliminary matter, if I might. During the break, one of my last witness's family members was pushed on the stairwell by an individual in the courtroom. She's been removed from the courtroom and is being talked to by Lt. Inabinett. But I would just appreciate, perhaps, a cautionary word from Your Honor regarding witnesses, intimidation and the like.

THE COURT: Very well. Ladies and gentlemen, I'm now speaking to people that are here in the courtroom as spectators. This Court, or any Court in South Carolina, will not tolerate any spectator, family member, or party, or friend of a party, friend of a victim, anyone, approaching any witness in this case and attempting to intimidate them, influence them, or change their testimony in any way, and I will enforce those rules with the contempt powers of this Court.

I will place anyone who violates those rules in the

custody of law enforcement for obstruction of justice. So if you don't think you can control your actions or your speech toward any potential witness in the trial of this case, I suggest you get up and leave this courtroom at this time, because if any such acts of this nature are reported to me by law enforcement, I intend to use the contempt powers of this Court. Does everyone in the courtroom understand what I've just said? Please indicate by raising your hand.

(HANDS ARE RAISED.)

Very well. Is the State ready to proceed?

ASST. SOL. SHELTON: Yes, sir, Your Honor.

THE COURT: Is the defendant McMillan ready to proceed?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Is the defendant Jakes ready to proceed?

MR. BEACH: Yes, Your Honor.

THE COURT: Very well. Bring us the jury, please. Go ahead and call your next witness. Who is it, Solicitor?

ASST. SOL. SHELTON: Latoya Bryant.

(4:05 P.M., 8-30-11, WHEREUPON THE JURY ENTERS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE RECORD.)

THE COURT: All right. Madame Foreperson, ladies and gentlemen of the jury, we will now continue with the testimony in the trial of this case. Solicitor, you may

call your next witness.

ASST. SOL. HASELDEN: Thank you, Your Honor. The State calls Shaquita, otherwise known as Latoya Bryant.

THE COURT: Come around and be sworn by the Clerk, please.

MADAME CLERK: Please come forward and be sworn. Raise your right hand and place your left hand on the Bible.

WHEREUPON, LATOYA BRYANT, IS DULY SWORN.

THE COURT: Watch your step on the stairs. Have a seat. Be comfortable. I want you to pull the chair up and address that microphone. That microphone is going to amplify your voice. Speak up like I'm doing so they can hear you on the jury and out in the courtroom.

I'd like for you to begin by stating your full name and spelling your last name for the court reporter who is seated below you.

WITNESS: Shaquita Bryant, B-R-Y-A-N-T.

THE COURT: Your witness, counsel.

ASST. SOL. SHELTON: Thank you, Your Honor.

DIRECT EXAMINATION

BY ASST. SOL. SHELTON:

Q How are you, Ms. Bryant?

A Fine. How you doing?

Q Now, your name is Shaquita, but people call you Toya; is that correct?

A Yes, sir.
Q Where are you from?
A Smoaks, South Carolina.
THE COURT: Got to speak up, Ms. Bryant.
A Smoaks, South Carolina.
Q How long have you lived there?
A Basically, all my life.
Q Where do you live now?
A Summerville.
Q I'm sorry?
A Summerville.
Q Where were you living on June the 3rd, 2010?
A 6096 Sunrise Road.
Q Sunrise Road, and I think the jury knows where that is, but will you tell the jury where that is?
A That's in Smoaks, South Carolina.
Q You know the defendant, Mr. Antwan McMillan?
A Yes, sir.
Q How do you know him?
A Well, he kind of grew up with us.
Q Grew up with you?
A Uh-huh (affirmative).
Q Where was your house at the time that you were living on June the 3rd, 2010, in relation to his house?
A Right down the road.

Q Right down the road, being down the road a mile? Down the road ten feet? Down the road, how far down the road? How many houses down?
A Three.
Q How far -- how long would it take you to walk from your house to his house?
A Less than two minutes.
Q On June 3rd, 2010? That's where you were living?
A Uh-huh (affirmative).
THE COURT: You have to say "yes" or "no".
A Yes, sir.
Q Now, how do you know Mr. David Jakes? Do you know him, first of all?
A Yes, sir.
Q How do you know him?
A I used to date his uncle a couple of years back. His mom and my mom are friends.
Q Do you know Mr. James Davis, Jr.?
A Who?
Q James Davis, Jr.
A Yes, sir.
Q Otherwise known as "Chippy"?
A Uh-huh (affirmative).
Q How do you know him?
A I know his parents. I don't really know him like that.

Q Okay. Are you related to any of the people that I just mentioned?

A No, sir.

Q Now, you grew up just down the street from Mr. Antwan McMillan, who is seated over there?

A Yes, sir.

Q Do you remember June the 3rd, 2010?

A Yes, sir.

Q Do you remember what you were doing that day, earlier in the day?

A I was on Drain Road.

Q Sorry?

A I was on Drain Road.

Q How do you spell that?

A Drain Road.

Q Dream Road?

A D-R-A-I-N.

Q Drain Road, okay. At any time that evening, did you leave that road?

A Yes, sir. That night.

Q That night? What were you doing before you left?

A Playing pool and drinking.

Q Were you drinking a lot? Little bit?

A A good bit.

Q When you left, who did you leave with?

A Angie Dicks.
Q Angie Dicks, does she go by anything else?
A Angie.
Q Angie? Is her last name Dicks, though?
A Yes, sir.
Q Does she have any other last name or used to have another last name? Or you know her as Angie Dicks?
A Yes, sir.
Q How do you know Angie?
A She's my cousin.
Q What car did you leave in?
A Her Ford Station wagon.
Q Ford Station wagon? What color is it?
A Blue.
ASST. SOL. HASELDEN: Beg the Court's indulgence. May I approach, Your Honor?
THE COURT: You may.
Q I'm going to hand you a picture, Ms. Bryant, that's been previously marked State's Exhibit Number Eight, for identification purposes. I ask that you don't show it to the jury; just look at it. I ask you if you recognize what that is.
A Yes, sir.
Q What is it?
A Angie's car.

Q Angie's car? How do you know it's Angie's car?
A Because all the stuff that's in the back.
Q All the stuff that's in the back? Be specific.
A That's her kids stuff in the back.
Q Okay. Thank you. So you left with Angie driving in that car?
A Yes, sir.
Q When you left, where did you go?
A We went to my moma's house.
Q Where is your moma's house?
A At 6096 Sunrise Road.
Q The place where you grew up?
A Uh-huh (affirmative).
Q That's four doors down from Antwan?
A Yes, sir.
Q And then what did you do?
A She was waiting on me. We was about to go to town.
Q Why were you going to go to town?
A Because I was going to my cousin Joseph's house to go to Spirits.
Q Do you remember about what time that was?
A Not really.
Q What is Spirit's?
A A club on 15.
Q Okay. So you left, who was in the car at that point?

A Me and my cousin, Angie, my cousin, Joseph, and Montez.
Q Do you know their last names?
A Yes, sir.
Q What are their last names?
A Angela Dicks, Joseph Griffin, and I think -- I don't really know Montez's last name. I'm not sure if it's Jenkins or not.
Q Okay. So when you left your moma's house, who was in what seats in the car?
A Angie was driving. I was in the front passenger side. Montez was behind Angie on the driver's side, and Joseph was behind me on the passenger side.
Q Could you tell just by looking at them, in appearance, and talking to them, if any of those people had been drinking that night?
A Yeah.
Q Who?
A All three of us was drinking. I can't remember if Angie had something to drink or not, but I know Joseph was drunk.
Q What about Montez?
A I can't really say how he was, but I know me and Joseph was like -- I know he was drunk and I was.
Q Okay. So you were in the car together. Now, was Joseph -- Joseph, does he have a nickname?
A Kay.

Q Were they at the house together at your mother's house?
A (NO RESPONSE.)
Q Or did you pick them up someplace else? Do you remember?
A When Angie dropped me off and she came back, Joseph and Montez was with her.
Q Okay. So Angie left and came back and picked you up and Montez and Joseph was in the car?
A Yes, sir.
Q Why were you in the front seat and Joseph and Montez were in the back of the car when she came and picked you up?
A Because they had got out and I wasn't about to sit in the back.
Q Okay. Gotcha. So you were going to sit in the front? That's Angie's car, that's not your car?
A No, sir.
Q You ride in that car often?
A I did.
Q Okay. At that point, you're leaving Sunrise Road, where do you go?
A We made a right on to Clatty Farm Road to go to Walterboro, onto Mt. Carmel Road.
Q On Mt. Carmel Road, did something odd happen?
A Angie was saying that a car was flashing her.
Q Did you see a car flashing her?

A I didn't see it right then, because I was like -- my head was on the side and I was trying to get to town.
Q Gotcha. Did you see the car flashing coming back from behind?
A I saw the car lights.
Q Car lights? Did you tell Angie anything?
A I told her don't stop her car.
Q Why?
A Because we didn't know who it was that was stopping us.
Q Did she stop or did she keep going?
A She stopped.
Q Did her car -- what happened to the car that was flashing its lights behind you?
A It stopped beside us.
Q Who did you see in that car?
A I saw Chippy.
Q Where was Chippy?
A On the passenger side.
Q Front or back?
A Front.
Q Who else did you see?
A David.
Q David who?
A David Jakes, Dinky.
Q Dinky? Where was he?

A They was putting him in the car.
Q Who is "they"?
A Angie got out the car and Chippy got out the car. Montez had to get out to put him in the backseat and he nudged Joseph so he could get in the front seat with me, but we never got out the car.
Q So Angie got out the car?
A Yes, sir.
Q When Angie got out the car, did you hear her say anything?
MR. MATHEWS: Objection, Your Honor. Leading -- I mean, hearsay.
THE COURT: Sustained. Rephrase the question.
ASST. SOL. HASELDEN: I think it depends on the context. I'd ask that a proffer ---
THE COURT: Counsel approach.
(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)
THE COURT: Proceed. Objection is sustained.
ASST. SOL. SHELTON: Thank you, Your Honor.
Q When all those folks were outside of the car that you mentioned, Montez, Joseph ---
A I never said Joseph.
Q You never said Joseph? You said Montez, and Angie; what was the scene like at that point?

A I don't know. It just happened so fast. She got out and they was seeing would we take him to the emergency room.
Q Were people excited? Were they bored? What was going on?
A We was just trying to get him in the car and take him to the emergency room.
Q Why were you trying to get him in the car and take him to the emergency room?
A Because they said he was shot.
Q Were you anxious at the time?
A Anxious like how?
Q Were you worried for him?
A Yeah, because he went into shock.
Q When he was outside the car, were people yelling?
A They was, like, talking, but they was kind of, like, yelling.
Q Kind of like yelling? Were they yelling loud? Were they yelling in short verse or were they yelling in long verse or were they talking in a soft tone like this or were they talking fast and excited?
A Almost fast and excited.
Q Fast and excited. Now, I'm not going to ask you what Angie said; I'm going to ask you when Angie was talking, was she talking loud? Was she talking soft? Was she talking fast and excited? How was she talking?

A She was talking, like, basically, like, what happened.
Q Uh-huh (affirmative). Was she -- I'm sorry. I'll ask the question again. Was she talking fast? Was she talking excited?
A She was talking like she was hysterical.
Q Hysterical. She was hysterical. And while she was talking while she was hysterical, did you hear her say anyone's name?
A Excuse me?
Q When she was hysterically talking like that, talking hysterical, did you hear her say anyone's name?
A I heard her say a name.
Q What name?
A She said Dinky and Rat.
Q Dinky and Rat? Now, what happened after that?
A I told Montez to down the window and push Dinky's legs up so he'd be able to breathe, but then he went into shock three times while we was trying to take him to the emergency room.
Q Now, what happened to the other car? I mean, did it follow you to the emergency room? Where did it go?
A I don't know where it went, but it didn't go to the emergency room.
Q Who was driving to the emergency room?
A Angie.

Q Was she driving fast or slow?
A Fast.
Q How fast?
A Fast so we could get him there. We was driving over 90.
Q Did Dinky say anything while he was on the ride to the emergency room?
A He was just screaming.
Q What was he screaming?
A It wasn't like a scream like that; it was like a shock scream.
Q Was he in pain?
A (WITNESS NODS HEAD AFFIRMATIVELY.)
THE COURT: You have to say "yes" or "no".
A Yes, sir.
Q When you got into the emergency room, what did you do?
A I got by the car, I knocked on the door and maybe took about seven and a half minutes for the man to come and get him. And when we got there and came, Montez went inside with him, but then, we turned back around and all the polices were there and they told us that we couldn't go anywhere.
Q Did you give police a statement that night?
A Yes, sir.
Q Did you tell them the truth in that statement?

A I told the truth, but I didn't say, like, who I saw that night.
Q You didn't say who you saw. What did you say in that statement?
A I said that we was riding down the Mt. Carmel Road and a car stopped, we stopped.
Q Did you tell them that, that night?
A On my statement?
Q Uh-huh (affirmative).
A In so many words, yes, sir.
Q "In so many words," what do you mean by that?
A I said everything except for who I saw. I said we stopped on the Mt. Carmel Road.
Q Did you say you picked up Dinky?
A I can't remember.
Q Did you tell them everything you knew that night?
A I told them everything about I knew that night.
Q The next day, did you contact law enforcement?
A No, law enforcement contact me the next day.
Q Is it not true that you called Allen Inabinett?
A Not actually called him. I can't remember calling him, but I know I said that night that I'd rather talk to him, because the police was talking to us. He was like -- he wasn't really talking. He was, like, yelling.
Q Gotcha. Did you end up talking to Allen Inabinett?

A The next day, yes, sir.
Q The next day? Do you remember where?
A I don't know where exactly we went at, but I know we went somewhere down here in Walterboro.
Q What were you in when you talked to him?
A A black Trailblazer.
Q Was it just you and him?
A Yes, sir.
Q Do you remember what day that was?
A The day after.
Q The day after the incident? You remember what time it was?
A No, sir.
Q Do you remember telling him that you saw Rat, Chippy, and Dinky were in the car?
A I told him I never saw Rat's face.
Q Do you remember writing a statement that you saw and in fact said Rat's name first; Rat, Chippy and Dinky in the car?
A Uh-huh (affirmative).
THE COURT: You have to say "yes" or "no".
A Yes, sir. But I also told him I never saw his face.
Q How did you know Rat was in the car?
A I don't know if he was in the car.
Q But you told law enforcement he was in the car that

night?

A I told him I went on what I heard my cousin say "Rat."

Q Did you tell Allen in that statement that you gave to him the next day in his patrol car, did you write that statement down?

A Yes, sir.

Q Was that statement true when you wrote it down?

A Yes, sir.

Q Did you tell him that you didn't feel comfortable talking to police that night, that you wanted to talk to him?

A Yes, sir, because the man was yelling. Instead of talking to me, he was yelling at me.

Q Gotcha. And you pretty much said everything there. You told him as well that there were three people in the car, right?

A Well, I know there was three people in the car, but I just didn't know who the third person was.

Q And you told him that day that it was Rat, didn't you?

A Well, he told me.

Q He told you it was Rat?

A Uh-huh (affirmative). But I also told him that I never saw his face.

Q But you wrote it down that it was Rat?

A Yes, I wrote down that it was him.

ASST. SOL. HASELDEN: Beg the Court's indulgence.

THE COURT: Yes, sir.

ASST. SOL. HASELDEN: Your Honor, may I approach?

THE COURT: You may.

Q Ms. Bryant, I ask that you review this, and once you have a chance to review it, tell me what it is.

A (WITNESS REVIEWS DOCUMENT.)

Q Well, first of all, do you recognize it?

A Yes, sir.

Q What is it?

A It's my statement that I wrote with Allen.

Q Do you remember what day you wrote that statement?

A The day after.

Q The day after?

A Uh-huh (affirmative).

Q Is that statement true?

A Yes, it's true, but I never saw -- you know, I can place the two that was in there, but ---

Q You knew there was a driver?

A I know it was a driver, but I just didn't know who it was.

Q You heard your cousin say Rat's name?

A Yes, sir.

Q That's all the questions I have for you. Thank you so much. Please answer any questions that Mr. Mathews or Mr.

Beach has.

THE COURT: Cross-examination by the defendant McMillan?

MR. MATHEWS: No questions, Your Honor.

THE COURT: Very well. Cross-examination by the defendant Jakes?

MR. BEACH: None, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOL. HASELDEN: Ask that she remain for purposes of possible rebuttal witness, Your Honor.

THE COURT: Have you instructed her concerning my Order?

ASST. SOL. SHELTON: Yes, sir, Your Honor. I ask that she be placed on stand-by.

THE COURT: That's fine. You can leave the courtroom, but you're subject to orders that I issued that you heard about from the Solicitor's Office concerning sequestration of witnesses. You may go back to work, but you're on stand-by to return to the trial of this case if necessary; do you understand?

MS. BRYANT: Yes, sir.

THE COURT: You may leave the courtroom at this time. Call your next witness.

ASST. SOL. HASELDEN: The State calls Stephen Sanders with Colleton County Fire and Rescue.

MADAME CLERK: Please come forward to be sworn. Place your left hand on the Bible and raise your right hand.

WHEREUPON, MR. STEPHEN SANDERS, IS DULY SWORN.

THE COURT: Good afternoon. Have a seat. Make yourself comfortable. Adjust the microphone to your height. It's going to amplify your voice. Speak up so everybody can hear you. State your full name and spell your last name for my court reporter.

MR. SANDERS: Stephen Eugene Sanders, S-A-N-D-E-R-S.

THE COURT: Your witness, counsel.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Mr. Sanders, who do you work for?

A I'm a firefighter/paramedic with Colleton County Fire and Rescue.

Q And as a firefighter/paramedic, what do you do?

A Pretty much, just that we, obviously, do firefighting for the county and we also treat and transport patients within the county.

Q Now, isn't a paramedic the highest level of EMT or is it something different?

A Paramedic is one of the highest in this state, yes.

Q Okay. Can you describe a little bit the differences between the levels?

A An EMT, which is one of the levels, an EMT Basic, they

attend to basic needs, as far as basic medical. And a EMT Intermediate is allowed to start IV's and also they're allowed to push certain medications like D50 for diabetics, and as a paramedic, we can do a full range of life support from cardiac drugs to treating cardiac MI's to trauma, as well as securing airways in the field.

Q Okay. And what kind of education or training did you have to go through to become a paramedic?

A A paramedic basically involved going through EMT school and anatomy and physiology, as well as EMT intermediate paramedic, and then I continued my education on after that.

Q What did you continue your education on in?

A I -- up at Johns Hopkins at UNVC, I'm also a Critical Care paramedic, as well as a Pediatric Neo-Natal Critical Care Transport paramedic.

Q How long have you been a paramedic?

A My career started in 1983 in fire and EMS, paramedic school in '85, and I had a little break in there, but basically my career goes back to '83.

Q Okay. Have you ever testified as an expert here in Colleton County before?

A No, ma'am.

ASST. SOL. HASELDEN: Your Honor, at this time, I'd move that Chief Sanders be recognized as an expert in the field of critical care and emergency medical treatment.

THE COURT: Any objections as to the qualifications from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any objections as to the qualifications from the defendant Jakes?

MR. BEACH: None, Your Honor.

THE COURT: All right. Ladies and gentlemen of the jury, you're about to hear the testimony of a witness who claims to have special knowledge, skill, training, education, or experience in the field of paramedic and critical care treatment.

Normally, the law does not permit witnesses to get on the witness stand and give opinions or testify to conclusions. An exception to this rule is what we call an expert exception. Experts are qualified by the Court are permitted to give opinions to the matters in which they claim to be so skilled and give a reason for their opinion.

In this case, the witness is qualified without objection. You should consider the qualifications and the credibility or believability of the expert, and the reasons given for his or her opinion. You are not bound by any expert opinion. You give it the weight, if any, to which you deem it should be entitled. You may proceed, counsel, without objection.

Q Mr. Sanders, were you working on the night of June 3rd,

2010?

A Yes, ma'am, I was.

Q And right about midnight, or perhaps shortly thereafter, did you respond as part of your duties, to the Colleton Medical Center?

A Yes, ma'am, we were paged to Colleton ER from Station 26.

Q Why were you paged?

A We were paged for an emergency transport for a victim who had gunshot wounds.

Q Okay. And what happened when you got there?

A Our transport -- I'm sorry, our response to that location is only a couple of minutes from the station. We were told that a patient had been brought in with multiple GSW's, or gunshot wounds. The patient had apparently only been there several minutes prior to our arrival. When we came in, I believe he was in room 16 in the ER and we walked in to find the ER Physician, as well as the staff, treating the patient.

Q And when did you become involved?

A Pretty much as soon as we came in. Normally, they don't call us to transport until the patient is stabilized or treatment is finished due to the critical nature of the patient. And the call, we were called right away, as I stated, and Dr. Ward asked us to assist in treatment and

preparing the patient for transport.

Q Were you able to firsthand view this individual's wounds?

A Yes, ma'am, I was.

Q And could you describe the extent of those wounds?

A As I walked into the room, from the patient's feet area, I noticed obvious deformity to the right leg, right upper thigh area, which is the femur. I also noticed deformity to the left arm, as well as a gunshot wound to the right shoulder.

Q And when you say "deformities," what do you mean?

A Well, basically deformities is just that. When you're dealing with long bones as we call them, being a femur or an arm or what have you, everybody is pretty well adept at what a normal bone should look like, so basically a deformity is just that, the bone is lined up properly and is offset and gives obvious deformity to the joint.

Q Okay. And you mentioned that they asked you to help stabilize, get the patient ready for transport. What did you do?

A I instructed my partner, as well as another crew, to go get me a traction splint, as well as another splint used to stabilize the arm. We started with the right femur traction splint device that is attached to the ankle and it is put up into the groin area or under the leg. It's used to pull

traction to realign the bones, stabilize it so that things aren't moving around so much, basically.

Q You say "realigned", would that then indicate it to be a break?

A Yes, ma'am, it would.

Q And were you able to determine exactly how severe the break was in this case?

A The deformity in the leg, when you think about your thigh, it's basically straight down, and the thigh bone, the femur, is the largest bone in the body. It was broke to the point where the leg was shifted out in the thigh region.

Q So a complete break?

A Yes, ma'am. It would appear.

Q Would that leg have been able to support weight?

A No, ma'am.

Q What about the injuries to the arm?

A The arm had, again, obvious deformity to the arm. Again, this is one of the bones that stabilizes the arm and the arm actually was shifted in several different positions upon examination. At that point, again with that, we took a splint to apply and try to stabilize that. We don't want the bone fragments to do any further harm to the patient. So we try to stabilize it the best we can.

Q So throughout your assistance in the ER and then the subsequent transport, were you able to determine what had

caused those bones to break?

A We -- at the ER, the doctor had pointed out, and they were visible, there were multiple entrance wounds. A couple of them had exit wounds, but some just had entrance wounds to the area.

Q Do you remember exactly how many GSW's this person had?

A There was an entrance wound to the right thigh, with no exit wound. There was also a GSW to the right shoulder, and I believe that had no exit wound. And then there was a gunshot wound to the left arm, lower, then it exited higher, so that had an entrance, as well as an exit wound.

Q Okay. Now, as a part of your internal protocol with Colleton County Fire and Rescue, are you required to type up a report and memorialize everything that you do?

A Yes, ma'am, we are, because of the different procedures, as well as the drugs that we use to transport.

Q And as a part of that protocol, do you have to determine the patient's name?

A Yes, ma'am, we do.

Q And were you able to determine a patient's name in this case?

A Yes, ma'am. We were given a copy of a face sheet, which had been filled out, which is one of the things that we ask for during the transport. The receiving facilities, for the most part, would like to know who that patient is

that we're bringing in, and they were able to supply us with that information.

Q And what was the individual's name that you were working on, on the night of June 3rd, the morning of June 4th?

A The individual's name that we were working on and transported to MUSC would be David Jakes.

ASST. SOL. HASELDEN: Just a moment's indulgence, Your Honor. I have no further questions for you at this time. If you would answer anything that the defense attorneys have, I'd appreciate it.

MR. SANDERS: Yes, ma'am.

THE COURT: Cross-examination by the defendant McMillan?

MR. MATHEWS: No questions, Your Honor.

THE COURT: Cross-examination by the defendant Jakes?

MR. BEACH: None, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOL. HASELDEN: Ask that he be excused.

THE COURT: Any objection to this witness being excused by the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any objection to this witness being excused by the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Mr. Sanders, you are excused and you may step down. You may leave the courtroom.

(WITNESS LEAVES THE STAND AND EXITS THE COURTROOM.)

THE COURT: Call your next witness.

ASST. SOL. SHELTON: The State calls James Davis, Sr.

THE COURT: Come around and be sworn by the Clerk of Court.

MADAME CLERK: Please come forward and put your left hand on the Bible and raise your right hand.

WHEREUPON, MR. JAMES DAVIS, SR., IS DULY SWORN.

THE COURT: Watch those stairs. Have a seat for me. Make yourself comfortable. Pull up that chair and adjust that microphone. That microphone is going to amplify your voice. I want you to speak into it and I want you to speak up so everybody in the courtroom can hear you, particularly members of the jury.

Please begin by stating your full name and spelling your last name, including whether there is a Senior, Junior, Third, or Fourth on your name, for the court reporter.

MR. DAVIS: I am James Allen Davis, last D-A-V-I-S.

THE COURT: Are you a Senior or Junior?

MR. DAVIS: No, sir.

THE COURT: Very well.

ASST. SOL. SHELTON: I apologize, Mr. Davis. I thought your son was a Junior and I thought you were a Senior. My

mistake.

DIRECT EXAMINATION

BY ASST. SOL. SHELTON:

Q Do you have a son named James Davis?

A Yes, I do.

Q What's his nickname?

A Chippy.

Q Who gave him his nickname?

A His grandfather.

Q Do you remember June 3rd, 2010?

A Yes, sir.

Q You kind of grimaced there.

A Yeah, I remember it.

Q What were you doing during the afternoon of that day?

A We was cutting grass.

Q You say "we." Who's we?

A Me and my son and my wife. All of us was in the yard. Both of my sons, Chippy, Sammy, my wife was out there, and my mother was out there. All of us was out there together. We was cutting grass, drank sodas, and that's it.

Q Do you work, Mr. Davis?

A I used to work at Eaton Aerospace for 10 years and I'm on medical leave.

Q You're on medical leave, now?

A Yes, sir.

Q Going back to cutting grass; your son was cutting grass, everybody was helping you cut grass. How long did you cut grass for?

A We cut grass until about -- we finished up everything about dusk/dark.

Q And this is June the 3rd. Do you have any idea about what time that would have been?

A Ah, no, I know it was dusk/dark.

Q It was dusk/dark on June the 3rd?

A It was dusk/dark on June 3rd.

Q What do you remember doing next?

A Well, after I put the lawnmower up and everything, and all of us went into the house and sit down.

Q You said "all of us"; who is all of us?

A Me, Chippy, Sammy, and my wife, and my mother.

Q Uh-huh (affirmative).

A And his girlfriend and my daughter, Tamara. All of us went into the house, sit down. We got on the computer. Well, Tamara was on the computer and Chippy and them, we was on the chair, sitting down talking. And then, later on that night, they left out the house and went back next door.

Q What's next door?

A Tamara's house, which is my daughter.

Q Uh-huh (affirmative). Is that James?

A Uh-huh (affirmative). James, and where James stays at,

also. James, his girlfriend, all of them went next door. So then, after that, me and my wife and my son was in the house, and shortly after that, you know, we went to bed. It wasn't bed, bed. We done go and got ready to go to bed.

Q Yeah, went back to your bedroom and got ready to go to bed?

A Right.

Q Do you remember -- you don't have to give us the exact time, but do you have any idea what time you went to bed? What time you fell asleep that night?

A I wasn't asleep, sleep, but it was -- it should have been around, I don't know, right after midnight, or close.

Q Close to it?

A Yeah.

Q And James was with you at dusk/dark after you stopped mowing the grass?

A Right.

Q And then went back to your house for a little bit. Y'all sat down for a while, and then they left and that's the last time you saw him on the 3rd, correct?

A Right.

Q When is the next time you saw James?

A Well, the next time I saw him, he come knocking on the door, and about out of breath.

Q Where were you at the time?

A When he knocked? I was laying in the bed. So when he knocked on the door, I say well, who that is to myself. And I got up and went to the door and opened the door and I wasn't sure who it was at first, and he stated his name, and I opened the door and I said, "What wrong with you?" like that.

Q Why did you ask him what's wrong with you?

A Because he was about out of breath.

Q About out of breath?

A Right. And so we came in and we paused a little bit, and he start, you know, telling me something about him ---

MR. MATHEWS: Objection. Hearsay, Your Honor.

THE COURT: Sustained. Don't refer to what someone else said unless I instruct you. Ask a question, counsel.

Q Please don't say anything that anybody else said. He was out of breath?

A He was out of breath.

Q And what did you say to him?

A I ask him what wrong, like that. And he tell me what was wrong. And he state that ---

MR. MATHEWS: Objection, Your Honor. Hearsay.

THE COURT: Sustained. Do not refer to what someone else said. Only what you saw with your eyesight or your sense of smell or you observed, and not what someone else said. Counsel, ask a question.

ASST. SOL. SHELTON: Yes, sir, Your Honor.

THE COURT: Proceed.

Q Did you let him in the door?

A Yes, I did.

Q Were you happy with him? Upset with him? How did you feel about him?

A I was kind of puzzled, you know, what was going on? Because I felt like something was wrong, you know.

Q Uh-huh (affirmative). Now, don't talk about what he said, but why did you feel like something was wrong?

A Because he was out of breath and I could look in his eyes and he was scared, you know, like, scared. I know my child, so I knew at that point, something was wrong.

Q Uh-huh (affirmative). Did you ask him what was wrong?

A Yes, I did.

Q Okay. Now, that night, were you able to talk to him about it?

A Well, we paused a little bit, and well, he said something that night. So then that was, you know.

Q Y'all went to bed?

A Yeah, I couldn't sleep, because -- I left him on the couch. I couldn't sleep. I went in the bed, but I could feel something was wrong, you know.

Q Uh-huh (affirmative). Were you able to talk to him the next day?

A Yes, I did.
Q Don't talk about the substance of what he talked about, but did you talk about -- were you able to find -- did he tell you more about what happened the day before?
A Yes, he did.
Q At that point, what did you do?
A All right. He told me what was going on. I asked him, "Man, what's going on?" and he told me what was going on. Him, Rat, and David ---
MR. MATHEWS: Objection, Your Honor. He's doing it again.
THE COURT: Solicitor, you're going to have to direct your questions so the witness does not believe you're eliciting statements from another person that they said. The objection is sustained and I expect you to ask a question that does not elicit hearsay.
ASST. SOL. SHELTON: Thank you, Your Honor.
THE COURT: Proceed.
Q What did you do that morning?
A That morning, I got up and went back to him and we start talking.
Q Okay. Then, after that, did you call anyone after you talked to him?
A After I talked to him, I called Ms. Lynah.
Q Ms. Lynah?

A Right.
Q Who is Ms. Lynah?
A Ms. Lynah is a cousin of my wife. She works on the police force.
Q Okay. Were you able to get in touch with her?
A Yes, I got in touch with her.
Q Don't -- and did you try to get in touch with anybody else?
A Yes, I tried to get in touch with Allen.
Q Who is Allen?
A Allen, he is on the police force.
Q He's on the police force. Were you able to get in touch with him?
A No, I wasn't able to get in touch with him.
Q Later that night, did you try to contact anybody else?
A Well, after everything was going on, and all the commotion, I say, well, you know, see what's going on. Then we wait and then the police came to us.
Q Uh-huh (affirmative). When the police came to you, did they arrest your son?
A No, they didn't .
Q Did -- how did -- did you leave with the police on your own accord?
A Yes, I did.
Q Did your son ride with the police or did he ride with

you?
A He ride with me and my wife.
Q Where did y'all go?
A To the sheriff's office.
Q When you got to the sheriff's office, did they put handcuffs on him?
A No, sir.
Q What did they do?
A They were asking -- you know, we went in the room, they were asking what was going on? So I already know what he told me and my wife, so I tell him to tell the truth.
Q At first, was he telling the -- were you in the room with him when they were initially asking him questions?
A Right.
Q Was he telling the truth then?
A Yes.
Q When they first started asking him questions, was he telling the truth?
A Yes, sir.
Q He was telling the truth?
A When we were in the room, I want to say -- I forgot who was in there with us. And they were asking him, you know, what happened. And he still wouldn't say nothing. I tell him, say, man, me and my wife ---
Q Then, after that, did the police leave the room?

A When we were telling him to tell the truth?
Q Uh-huh (affirmative).
A Yeah, they gave us a moment together, you know. Told us to talk.
Q At that point, had you contacted Margie Bright Matthews?
A No, I haven't.
Q Are you the one who ended up hiring Margie Bright Matthews?
A Partly.
Q Partly?
A Yeah.
Q But she represents your son, right?
A Right.
Q At that point, though, you hadn't gotten in touch with her, had you?
A No, I didn't.
Q While you were in the room with your son, did you ever -- was Ms. Matthews there?
A No, she didn't.
Q Was your son talking to the police?
A Yes.
Q And after you told him to tell the truth, did he continue to talk to the police?
A Yes.

Q But that night, June the 4th, the night after it happened, you hadn't retained Margie Bright Matthews as an attorney?

A No.

Q He didn't have an attorney at that time, did he?

A No.

Q When he was in that interview room, did he have cuffs on him?

A No.

Q Were y'all restrained in any way?

A No.

Q Could you have left if you had wanted to?

A Yes.

Q Do you believe your son could have left if he wanted to at that time?

A Yes.

Q That's all the questions I have for you, Mr. Davis. Please answer any questions that Mr. Beach or Mr. Mathews may have for you.

MR. MATHEWS: No questions, Your Honor.

THE COURT: Very well. Cross-examination by the defendant Jakes?

MR. BEACH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BEACH:

Q Mr. Davis, you say you felt like he could have left the room at any time?
A Yes.
Q Did he ever ask to leave the room?
A Well, not in initial way. We were just talking. I mean, you know, I instruct him to stay in there until he tell the truth.
Q When did they put the handcuffs on him?
A Afterwards. We ain't never seen them put the handcuffs on him. When he start telling the truth, we just left.
Q Did he go home with you that day?
A No.
Q He was detained, was he not?
A Well, not in my presence.
Q He was arrested that day; isn't that correct?
A Well, we drove him down there and he was in the office talking to them, but I never did see them put handcuffs on him.
Q But he didn't go home after that?
A No, sir.
Q And he went to jail?
A I assume.
Q After y'all had talked?
A Yes, sir.
Q And this is when he supposedly made his truthful

statement; this was after this, correct?
A Repeat that.
Q After he made what was supposedly his truthful statement, they arrested him?
A Well, after he made a statement, we left. I mean, we instructed him to tell the truth, so while he was telling the truth, we left. We left out the room.
Q Was your son arrested or was he not arrested?
A He wasn't arrested in my presence, because we left him in the room telling the truth, because I didn't want to intimidate him in no way and I didn't want the officer to think I'm trying to tell him something, so we left out the room while he was telling them the truth.
Q Were charges brought against him?
A Yes, sir.
Q Are they still pending?
A Yes, sir.
Q So they didn't believe him, did they?
A I don't know.
Q Did he tell them that he didn't have anything to do with the ---
A No, sir.
Q Okay. But they still arrested him?
A Yes.
Q Did you have anything to do with the plea bargain that

Ms. Mathews had with the State?

A No, sir.

Q You don't know anything about that?

A Well, I know about it, but I wasn't in the room when they was talking, discussing it.

Q But charges are still pending against him; is that correct?

A Yes, sir.

MR. BEACH: No other questions, Your Honor.

THE COURT: Redirect?

ASST. SOL. SHELTON: None for this witness, Your Honor. Thank you.

THE COURT: As to this witness, Solicitor?

ASST. SOL. SHELTON: We ask that he also may remain as a possible rebuttal witness, Your Honor.

THE COURT: Have you advised him concerning my order?

ASST. SOL. SHELTON: Yes, sir, Your Honor.

THE COURT: All right. Mr. Davis, I'm going to ask you to step down and remain in the area in which you were requested to remain prior to testifying, subject to my prior order. Thank you. You may step down from the witness stand.

Call your next witness.

ASST. SOL. SHELTON: The State calls Tony Buchanan.

MADAME CLERK: Please come forward to be sworn. Place

your left hand on the Bible and raise your right.

WHEREUPON, ANTHONY BUCHANAN, IS DULY SWORN.

THE COURT: You know what to do. State your full name and spell your last name for the court reporter, please.

MR. BUCHANAN: Anthony Buchanan, B-U-C-H-A-N-A-N.

DIRECT EXAMINATION

BY ASST. SOL. SHELTON:

Q Thank you, Mr. Buchanan. How are you today?

A Good. How are you doing, sir?

Q People call you Tony sometimes?

A Yes.

Q I apologize. I called your name out as Tony instead of Anthony.

A That's fine.

Q Were do work now?

A Ridgeland Police Department.

Q What do you do there?

A I'm a patrol officer.

Q And where did you used to work before you worked for Ridgeland?

A Colleton County Sheriff's Office.

Q What were you there?

A I was a supervisor over the traffic team.

Q Were you working on the night of June the 3rd into June the 4th 2010?

A I was.
Q Did you have any calls to respond to McLeod Road that night?
A I did.
Q Can you tell us briefly what was that call about?
A We got a call about a possible robbery, shots fired, at McLeod and I-95. I was out with the crime suppression unit that night. We got to the scene.
Q When you got to the scene, were there any other officers there?
A No.
Q You were the first on scene?
A Yes.
Q When you got to the scene and drove up, which way did you come? Did you come off of 95 or did you come on McLeod? Which way -- how did you get there?
A I come down Jefferies Highway to McLeod and made a left on McLeod.
Q Okay. So you came then -- so as you're coming in, when you saw the scene, were the cars parked on the right or the left?
A On the right.
Q When you drove in, the cars were parked on the right, can you describe to the jury what you saw?
A Okay. I seen two pickup trucks, and there was a

trailer, like a U-Haul trailer. Since there was a weapon involved, we had shots fired, I got out of the vehicle. I seen a male behind the trailer. He had two handguns. I drew my weapon, advised him to put the guns on the ground, put the guns on the ground." He laid the guns down. Then I noticed two females. and I started talking to the male and he started explaining what happened.

Q You said it was the intersection of McLeod and ---

A I-95.

Q Is that in Colleton County?

A It is.

Q Now, when you saw the scene, and you saw the guy, did you have a chance to kind of -- what's the next thing you did after they -- they related to you what happened. What's the next thing you did?

A As I was exiting the vehicle, I seen a gun on the ground, probably about 25 yards away from where the victim was, where he had put the guns down. Once we had determined what had happened, we immediately started putting up crime scene tape to go ahead and mark the crime scene off.

Q Why did you do that?

A So we could collect all the evidence and nobody could go over the top of it and ruin our scene.

Q Did you disturb anything that was there?

A No.

Q What did you see on the ground?
A I seen a large pistol laying on the ground, once I first exited the vehicle, and then as I went, I could see some shell casings laying on the road, and also seen bullet holes in the side of the truck.
Q So did you make sure that no one else touched anything?
A Yes.
Q What else did you do on scene?
A I had the two females and the male stay in one little area, so we could talk to them and so they wouldn't mess up anything. Once Det. Scott got there, I assisted Det. Scott in putting placards down and also helping him with taking his photos of the crime scene.
Q The victims related to you what happened? Their account?
A Yes.
Q Did that help you determine on what to do with the crime scene, as far as how to handle the crime scene?
A Yes, it did. I asked where the vehicle was and we had a pretty good, probably, I don't know, a hundred yards blocked off.
ASST. SOL. SHELTON: Beg the Court's indulgence.
THE COURT: Yes, sir.
Q So what's your rank in Ridgeland, now?
A I'm just a patrolman.

Q Patrolman? I'm going to refer to State's Exhibit Number Six. I'd like for you to review it and tell me what that is and if you recognize it.
A I do. That's me holding a flashlight over -- it's either a shell casing; that's the same area that the weapon is laying, that Sgt. Scott asked to hold so he could get a picture of it.
Q Who took that picture?
A Sgt. Scott.
Q Where was Sgt. Scott standing when he took that picture?
A He was probably about 25 yards away from me. He was over where the trailer and the two pickup trucks were.
Q Was he standing between the trailer and pick up trucks; do you remember?
A No, he was standing out beside the trailer.
Q Right beside the trailer in front of the trailer or the back of the trailer?
A The side of the trailer.
Q On the side of the front or the side of the back or right in the middle?
A Kind of in the middle. I mean, he was just standing out.
Q Okay. That's a fair and accurate depiction of the way you remember the scene being that night?

A Yes, it is.

ASST. SOL. SHELTON: Your Honor, at this time, the State moves State's Exhibit Number Six into evidence.

THE COURT: Any objection as to State's Six, from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any objection as to State's Exhibit Number Six from the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's exhibit Number Six will be admitted into evidence in the trial of this case.

(STATE EXHIBIT NUMBER SIX, PHOTO, IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish State Exhibit Six to the jury.

ASST. SOL. SHELTON: Thank you, Your Honor.

Q You said there was a large gun on the ground?

A Yes.

Q Did you -- were you able -- did you manipulate or touch the gun at all?

A No, I did not.

Q Did you visually observe the gun?

A Yes, I did.

Q Did you determine what type of gun it was?

A It was a large caliber weapon.
Q What color was it?
A Black.
Q You said you spoke with two women?
A Yes.
Q Two women were there and one guy was there?
A yes.
Q Do you recognize those people in the courtroom today?
A Yes, they are sitting on the first row right there behind the Solicitor.
ASST. SOL. SHELTON: Let the record reflect that that witness is referencing Ms. Jeanine Metzfield, Ms. Amanda Metzfield, and Mr. Jesse King.
Q Now, how long did you stay, approximately, at the scene, at the original incident scene?
A I was probably there 45 minutes.
Q You obviously saw Det. Scott there, because he took that picture; is that correct?
A Yes.
Q How long were you there before he arrived there?
A Fifteen minutes, twenty minutes.
Q Okay. Were did you go from there?
A We had a fight call over at one of the local clubs on Highway 15. Det. Scott and Sgt. Dunn had the scene taken care of, so we responded to the fight call over on Hwy. 15.

Q And then, where did you go?
A Once we left the fight call, we rode up to the hospital to see how things were going at the hospital.
Q Why did you go to the hospital?
A Well, we knew that there was a crowd up there. We had other officers going, we could hear them on the radio that said there was a crowd up there, so we thought we could give them some assistance. So we rode up to the hospital.
Q At the hospital, did you talk to people?
A I did.
Q Through those conversations, were you able to ascertain any kind of tip of where the car involved in the shooting might be?
A I was.
Q Where was that?
A We were advised that the car that was involved in teh crime was on Clatty Farm Road in Colleton County.
Q In Colleton County. Did you respond to that location?
A I did.
Q When you got there, what did you find?
A We found a white car that had blood on the side of it. I think it was a Cadillac that had blood and everything on the right hand side of it. It had a ---
Q Was it a two door or a four door?
A It was a four door -- four door, white Cadillac. Once

we found out what we had, we went ahead and called for the wrecker to come and get it and notified the detective division of what we had.

Q How long were you there for?

A Twenty or twenty-five minutes.

Q What time were you there?

A It was at night. It was probably 1:00 or 2:00 in the morning. I'm not sure.

Q Okay. While you were there, you saw a Cadillac, there was blood on it. Did you touch that Cadillac?

A No.

Q What did y'all do with the -- who else was there with you, first?

A Myself, Thomas Walker, Major Middelton, and I'm not sure who the other officer was.

Q What did you do once you saw the blood on that car? What did y'all do with the car?

A First, I talked to the owner of the house and advised him that, you know, that the vehicle had been used in a crime, and if I could, come in and check their house and make sure everything was okay. The lady of the house said it was her vehicle. I advised her that we would be taking the vehicle and she gave me the okay to take the vehicle.

Q Did you visually inspect the vehicle, first?

A Yes. From the outside, you can see some -- you could

see a shell casing on the inside. We didn't get into the vehicle too much, because like I say, it was a crime scene.

Q What did you do with the vehicle?

A We called a tow truck and had the vehicle towed to our Sherriff's department Annex, where the criminal detective division is.

Q When the tow truck driver was handling the vehicle, did you tell him to do anything?

A I advised the tow truck driver to put his set of gloves on so he didn't mess with any evidence that was left on the vehicle.

Q Now, once the tow truck driver hooked up the vehicle, did you follow the tow truck driver back? Where was he taking it? Where did you instruct him to take it?

A Well, we followed him back up Bells Highway to -- I mean, excuse me, up Mt Carmel to Bells Highway to the -- to the CID Headquarters, which is ---

Q What is CID? I'm sorry.

A Criminal Investigative Division. We followed him to there and the gate was open and he put it inside and closed the gate.

ASST. SOL. SHELTON: May I approach, Your Honor?

THE COURT: You may.

Q Patrolman Buchanan, I'm going to ask you if you recognize what's in that picture?

A Yeah, that's the Cadillac.
Q You said ---
THE COURT: Identify the exhibit number of that.
ASST. SOL. SHELTON: Excuse me, Your Honor. I apologize. I believe it's Exhibit Number Seven.
Q That's previously been marked as State's Exhibit Number Seven. It's not in evidence. It's for identification purposes only. You say that's a Cadillac. What Cadillac?
A That's the Cadillac that we towed off of Clatty Farm that night.
Q Is that a fair and accurate depiction of that Cadillac?
A Yes, it is.
ASST. SOL. SHELTON: At this time, State moves State Exhibit Number Seven into evidence.
THE COURT: Any objection as to State's Seven, from the defendant McMillan?
MR. MATHEWS: No, Your Honor.
THE COURT: From the defendant Jakes?
MR. BEACH: No, Your Honor.
THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Seven will be admitted into evidence in the trial of this case, without objection. State's Seven in evidence. You may publish.
(STATE EXHIBIT NUMBER SEVEN, PHOTO, IS RECEIVED INTO EVIDENCE.)

ASST. SOL. SHELTON: Thank you, Your Honor.
Q Do you know the actual address at Clatty Farm Road?
A No, I don't.
Q Is there anything that might help refresh your recollection?
A My report.
THE COURT: You may approach. Show it to counsel.
ASST. SOL. SHELTON: Thank you, Your Honor.
Q Do you recognize that?
A Yes.
Q What is it?
A This is my incident report that I made.
Q Take some time to look over it until it refreshes your recollection.
A Okay, 3207 Clatty Farm Road.
Q This refreshes your recollection?
A Yes.
Q And you're certain that that is the address?
A Yes, I am.
Q Thank you.
ASST. SOL. SHELTON: May I approach, Your Honor?
THE COURT: You may.
Q I'm handing you what has previously been marked as State's Exhibit Number Five, for identification purposes only. Will you please review that and let me know what that

is.

A That's the residence that sits at 3207 Clatty Farm Road.

Q Is that daytime or nighttime?

A That's daytime.

Q When you were there that night, was that nighttime?

A Yes, it was.

Q But is that otherwise a true and accurate depiction of what that house looks like?

A Yes, it is.

ASST. SOL. SHELTON: At this time, Your Honor, the State moves State Exhibit Number Five into evidence.

THE COURT: Any objection as to State's Five, defendant McMillan?

MR. MATHEWS: No, sir.

THE COURT: From the defendant Jakes?

MR. BEACH: No, sir.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Five will be admitted into evidence in the trial of this case without objection. State's Five in evidence.

(STATE EXHIBIT NUMBER FIVE, PHOTO, IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish. Proceed.

ASST. SOL. SHELTON: Thank you, Your Honor. Beg the

Court's indulgence.

(BRIEF PAUSE IN COURTROOM.)

ASST. SOL. SHELTON: No more questions for this witness, Your Honor. Thank you very much. I'd ask that you answer any questions that Mr. Beach or Mr. Mathews may have.

THE COURT: Cross-examination, by the defendant McMillan.

MR. MATHEWS: Nothing, Your Honor.

THE COURT: Very well. Cross-examination, by the defendant Jakes.

MR. BEACH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BEACH:

Q When you arrived at the scene, you say you saw a gun on the ground?

A Yes, sir.

Q Did you retrieve that gun or did somebody else do it?

A I did not retrieve it. Somebody else retrieved it.

Q And you say there were some shell casings over on that side of the road?

A Yes, sir, there was.

Q You recall how many there were?

A No, sir, I do not.

Q Did you retrieve those shell casings?

A No, sir, I did not.

Q Do you have any information as to what caliber they were?

A No, sir. I do not.

MR. BEACH: I have no other questions, Your Honor.

THE COURT: Redirect examination?

ASST. SOL. SHELTON: No, Your Honor.

THE COURT: As to this witness?

ASST. SOL. SHELTON: Ask that he may be excused for the remainder of the case.

THE COURT: Any objection to this witness being excused from the defendant McMillan?

MR. MATHEWS: No, sir.

THE COURT: From the counsel for defendant Jakes?

MR. BEACH: No, sir.

THE COURT: Tony, you may step down and you're excused from the trial of the case. You may leave the courtroom. Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Call your last witness for the day, Solicitor.

ASST. SOL. SHELTON: The State calls Thomas Walker. If I may approach, Your Honor.

THE COURT: You may. Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD

AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Madame Foreperson, and ladies and gentlemen of the jury, we're going to stop at this point for the evening. Now, ladies and gentlemen, I anticipate that we're going to finish this trial. I'm not sure exactly when, it may be tomorrow, it may be first thing Thursday morning, but not later than that, so that you can kind of plan your week and you know the best information that I have available.

As I instructed you last night, please do not discuss this case, not even with a member of your own family, with anyone else or with each other. You have not heard all the evidence in this case and it would be improper for you to discuss it with anyone. If someone tries to discuss it with you, just tell them the judge has instructed you not to talk about it, and if they persist, get their names, give it to me, and let me handle that for you. I'll take care of it.

Now, over the overnight recess, please don't watch anything on television, read anything in the newspaper, or listen to anything on the radio. You must decide this case solely upon evidence introduced in this courtroom when both sides are present with the right of cross-examination.

Now, ladies and gentlemen, I'm going to ask you to be in your jury room before 9:30 in the morning. I'm going to try to start as close to 9:30 as I possibly can, but things happen sometimes that I have to take care of first thing in

the morning. They build up overnight and we have to deal with them. As soon as I can start at 9:30, I will. But I can't start at 9:30 unless all of you are present in your jury room at 9:30. I'll have something for you to drink, a snack in there. I know Bill is taking good care of you in there. So please feel free to come prior to 9:30 and we will get started just as soon as we can.

Hope everybody has a pleasant evening. I will see you in the morning. You may leave the courtroom at this time. Everyone else remain seated while the jury is leaving.

(5:20 P.M., 8-30-11, WHEREUPON THE JURY EXITS THE COURTROOM AND THE COURT IS IN RECESS IN THE TRIAL OF THIS CASE UNTIL THE NEXT MORNING.)

THE COURT: The State still has 25 witness on their witness list. The State has put up nine witnesses; we were not able to get to the 10th witness because he had a child to pick up from school, so Mr. Walker was not able to testify this afternoon. The State plans on calling several more witnesses. The defendant McMillan listed seven witnesses, or six; and the defendant Jakes has listed one. So we have a ways to go.

I certainly would like to try to complete the testimony tomorrow, if possible. That does not mean we're going to go into argument and charge tomorrow, so that I'd have time to have a charge conference with you tomorrow and we could do

arguing and charge first thing on Thursday morning. We hope we can get a verdict in time that we can make the investiture of Judge Malphrus for those of you that want to attend at 5:00 in Ridgeland on Thursday afternoon. That obviously affects your planning, Solicitor, when you tell everybody to be here at 2:00, and you were aware of it, too; I hope.

Now, before we adjourn for the evening, is there anything on the record, outside the presence of the jury, from the State of South Carolina?

ASST. SOL. HASELDEN: Nothing, Your Honor.

THE COURT: From the defendant McMillan?

MR. MATHEWS: No, sir.

THE COURT: From the defendant Jakes?

MR. BEACH: No, sir.

THE COURT: All right, then, Mr. Shelton -- the Clerk wants to know what to put on the tape tonight. Counsel approach.

THE COURT: This Court is in recess until in the morning.

(WHEREUPON, COURT IS RECESSED FOR THE EVENING IN THIS CASE.)

(9:15 A.M., 8-31-11, WHEREUPON THE TRIAL IN THIS CASE IS RECONVENED)

THE COURT: I had a meeting this morning with counsel

concerning the verdict form and the charge, which we've been meeting on since 9:15. Mr. Beach has informed me that he has been subpoenaed by the South Carolina Attorney General's Office to be in Beaufort tomorrow for PCR's. I anticipated this conflict, and I informed Matt Friedman, who is handling PCR's for the State of South Carolina that Mr. Beach will be in General Sessions. We were going to have it here, but because the Family Courtroom is in use here, there was no courtroom to have it here. That's why they had to move it back to Beaufort.

Now, they expect Mr. Beach to be in Beaufort at the same time that he's involved in the trial in Colleton. Mr. Beach has made an oral motion in front of me to quash that subpoena. I'm going to have my law clerk, Hope Lumpkin, notify Matt Friedman, with the Attorney General's Office, that the motion has been made, and if he would like to appear and contest it, I will hold a hearing on that motion before the end of business today and he will need to leave Beaufort and come here.

I am not going to put Mr. Beach in the position that he is required by subpoena to be in Beaufort tomorrow, when he's actually involved in General Sessions Court in Colleton, and General Sessions takes priority over Common Pleas, which of course, includes PCR matters. So for those of you with the State who are in contact with the Attorney

General's Office, please see that the message gets delivered.

Hope is going to contact Matt, but since y'all have communication with them, he knew and I knew that this was going to happen; we just didn't know the trial was going to probably last into Thursday, and from what I've learned from the lawyers this morning, it appears that this case probably will not go to the jury before tomorrow; and for that reason there's also no way I'm allowing Mr. Beach to leave and comply with a subpoena for PCR when he's started a trial in General Sessions in Colleton County. Mr. Beach, you leave that to me. You've done all you can do, now; I'll take it from here. Thank you for bringing that to my attention.

MR. BEACH: Thank you, Sir.

THE COURT: All right. I understand from the attorneys now that when the jury comes back, they wish, first, to publish a stipulation, a lengthy one that they've entered into. I will charge the jury what a stipulation is before you publish it. Who is going to publish for the State?

ASST. SOL. SHELTON: (RAISES HAND.)

THE COURT: Mr. Shelton; all right. Then, I'll ask in turn after you publish, counsel for Mr. McMillan and counsel for Mr. Jakes if you're in agreement with the stipulation so the jury understands exactly what the agreement is.

Let the record reflect that Mr. Shelton found an error

in my verdict form this morning on assault and battery of a high and aggravated nature. We're all in agreement as to the lesser included offense that was requested by Mr. Beach and Mr. Mathews of assault and battery in the first degree.

The verdict form is very lengthy, but counsel and I have discussed trying to shorten it, because it's five pages; but because of the lesser included offenses and because of the fact that you can't find a person guilty of possession of a weapon during the commission of a violent crime, unless you find them guilty of a violent crime, because of the fact that both sides, the State and the defendants want the lesser included offense to attempted murder for assault and battery in the first degree charged, and because there are 15 indictments in this case and we have to have a verdict form for each indictment and lesser included offense, the verdict form has swollen to five pages.

Counsel has been over it. They found an error in it this morning. We're in the process of correcting it, and I'll be showing a final verdict form to counsel before we conclude the trial. Yes, sir?

ASST. SOL. SHELTON: May it please the Court? For the lesser included offense of assault and battery in the first degree, just to clarify the State's position, it is if the facts constitute a lesser included offense, we would like it

to be considered as a lesser included offense for the record. If they do not constitute a lesser included offense, of course, we would like to get it straight up and down on attempted murder, just to clarify.

THE COURT: I understand that that is the law, Mr. Shelton. The issue is more than just about the facts. The issue is the title of the statute and the verbs used in the statute as to whether or not the -- and you opine to me in a motion that you made last night, that I made you stay here until after 7:00 last night to complete and give to me and the other side, that you believe I am, depending on the evidence of the case, free to charge assault and battery in the first degree as a lesser included offense to attempted murder, even if there is no proof of what has been traditionally considered a battery; is that correct?

ASST. SOL. SHELTON: That is correct, Your Honor.

THE COURT: All right. With that caveat, I think we're in agreement now as to what occurred in chambers. All right. We're going to work until 1:00, lunch at 1:00; going to take one mid-morning break, but we need to get to work.

Anything further from the State before I bring in the jury?

ASST. SOL. SHELTON: No, sir, Your Honor.

THE COURT: Anything further from defendant McMillan before I bring in the jury?

MR. MATHEWS: No, Your Honor.

THE COURT: Anything further from defendant Jakes, before I bring in the jury?

MR. BEACH: Nothing, Your Honor.

THE COURT: Bring us the jury, please.

(9:45 A.M., 8-31-11, WHEREUPON THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Good morning. All right. Good morning, Madame Foreperson, ladies and gentlemen of the jury. Thank you for being on time. As we did yesterday morning, we started work before you got here and all kinds of things come up, ladies and gentlemen. I'll give you an example of one of the things that held me up this morning, so you'll know.

Lawyers have obviously more work than just this one case, and one of my lawyers involved in the case we're trying has been subpoenaed for another trial tomorrow in Beaufort, so I have to deal with that. That happens sometimes because Court is going on simultaneously in every county in the State and as a balance of process. But General Sessions Court has priority over the type of trial that the lawyer was subpoenaed for, so I don't anticipate that will be a problem, so I want to thank you for your patience.

We're going to continue with the testimony now in the

trial of this case. Each of you have filled out menu now, right? We're going to stop for lunch around 1:00 today.

Now, ladies and gentlemen, before we continue, I've told you at the outset of this case that evidence may take many forms. I told you it may be testimony from the witness stand, it might be an exhibit, you will hear me say as for any exhibit "It's in evidence," and I told you it might take the form of a stipulation, an agreement.

A stipulation is an agreement. It is an admission. I told you, or a concession is made in open court in a judicial proceeding by the parties involved, or their attorney's can make it for the parties. And, of course, stipulations are binding on the parties who make the stipulations.

A stipulation is an understanding, or an agreement, and the Court, myself and the jury, must accept any stipulations as binding upon the parties. If counsel for the parties stipulate to any fact in this case, and of course, that shortens the time when they do that. So they work hard to try to do that because their mindful of your time.

And if counsel for the parties have stipulated to any fact, or any fact has been admitted, you'll regard that fact as being conclusively proved as to the party, or parties, making the stipulation or the admission.

At this time, I'm advised by the counsel that they wish

to publish a stipulation to you. So I ask that you listen carefully to the attorneys. They'll publish it and then I'll inquire of each one and they'll acknowledge to you whether or not they agree to what was published as a stipulation. You will then accept what is stipulated to as a fact that would not need to be proved in the trial of this case. Thank you. Counsel.

ASST. SOL. SHELTON: Thank you, Your Honor. May it please the Court. Madame Court Reporter, I hold in my hand Court's Exhibit Number Twelve, the caption, County of Colleton, the State of South Carolina v. Antwan McMillan, and to publish for the record:

The State and defendant, through his attorney, Mr. David Mathews, Esquire, stipulate by agreement and assent to the following matters in the above captioned case. I'm also holding in my hand, Exhibit Number Thirteen, caption, the State of South Carolina v. David Jakes, the first sentence of this states that the State and the defendant through his attorney Mr. Beach, Esquire, stipulate by agreement and assent to the following matters of the above captioned case for the purposes of judicial economy, I request to the Court, since these are duplicate copies that I only read one for the record.

THE COURT: Very Well.

ASST. SOL. SHELTON: Thank you, Your Honor. The chain

of custody for the items listed and described below and as referenced by the attached exhibits is complete and accurate. Five bullets listed as SLED items number 5 and 29, and Agency Item Eight, each labeled fired bullets projectiles, two from David Jakes, are attached to exhibit.

Number two, fired bullet listed as SLED Items Number Six and Agency Item Number Nine labeled fired bullets projectile from David Jakes on attached exhibit.

THE COURT: Counsel, stop right there for the jury's sake, and I know Mr. Mathews and Mr. Beach agree. They need to understand that when you refer to an Agency Item or a SLED item what you're referring to, and when you say "attached exhibit" explain to them so they understand.

ASST. SOL. SHELTON: Yes, sir, Your Honor.

For the bullets, the attached exhibit is actually an internal SLED chain of custody report. This internal chain of custody report has everyone's name listed that handled the exhibit and it has listed exactly what they did with it. We're stipulating that these people exist and these people handled the evidence. They did not tamper with the evidence, but the evidence is what we state it is.

THE COURT: Any objection to those comments from counsel for McMillan?

MR. MATHEWS: No, sir.

THE COURT: Counsel for Jakes?

MR. BEACH: No, sir.

THE COURT: Proceed.

ASST. SOL. SHELTON: Thank you, Your Honor.

Again, referenced by this internal chain of custody report, furthermore, it also referencing, ladies and gentlemen of the jury, the Colleton County Sheriff's Office evidence trafficking report, which also lists -- this is what is referred to as the "Agency Number". Okay? So the Agency Number is the Colleton County Sheriff's Office. That is the Agency. SLED is the South Carolina Law Enforcement Division up in Columbia. They're the ones who performed the tests and tested the materials, unless otherwise stated, and this is what the South Carolina Law Enforcement Division internal chain of custody is.

This is something created within the Sheriff's Office, this is their internal tracking report. So often times the numbers are different from what the Sheriff's Office assigns a state item and what SLED, South Carolina Law Enforcement Division, assigns the same item. So the same item can have two different numbers.

Sometimes one item with the Sheriff's Office has one number and actually might be two different small items involved in one piece of evidence or one container and SLED will oftentimes then attach it multiple numbers when they test it.

Starting at Number Three, cartridge cases, listed as SLED Items 7, 8, 9, 10, and Agency Items Number 10, 11, 12, 13 labeled cartridge cases 9 mm placard number one through placard number 4, respectively, on attached exhibit. Again, the exhibits that we've already referenced.

Number Four, Cartridge cases listed as SLED items number 11, 12, 13, 14, and Agency Item Numbers 14, 15, 16 and 17 labeled cartridge cases 357 casing; placard number 10, placard number 9, placard number 11, and placard number 12, respectively on attached exhibit.

Fired bullets listed as SLED Items Number 15, 16 and Agency Items Number 18, 19 described as fired bullets projectile; placard number 7 and 8, respectively on attached exhibit.

SLED Items Number 17, 18, 19, and 20; and Agency items Number 20, 21, 22, 23 described as cartridge cases 9 mm casing/Cadillac on attached exhibit described the same way.

SLED Item Number 21 and Agency Item Number 24 described as swabs; placard number 5 from scene.

SLED Item Number 22 and SLED Items Number 25 described as swabs, swabs from Cadillac.

SLED Items Number 23 and Agency Item Number 26 described as swabs from Cadillac.

SLED Items Number 24 and Agency Item Number 28 described as swabs. Swabs from spot number 3, Cadillac.

SLED Items Number 25 and Agency Item Number 29 described as swabs. Swab from spot number 2 from Cadillac.

SLED Item Number 26 and Agency Item Number 35 described as handgun, Desert Eagle, .50 caliber handgun; placard number 6.

SLED Items Number 26 and Agency Item Number 36 described as handgun, Glock, 33, .357 handgun; placard number 14.

SLED Item from Number 28 and Agency Item Number 37 described as handgun H&K, 9 mm handgun; placard number 13.

SLED Item Number 30 and Agency Item Number 003 described as oral swabs. Oral swab from Jesse King, ccso as referenced from Colleton County Sheriff's Office, Item Number 48.

SLED Item Number 31 and Agency Item Number 004 described as oral swabs.

THE COURT: Hold on one second. Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

ASST. SOL. SHELTON: For clarification for the record, I'm going to return to Number 13, that's the stipulation number 13. SLED Item Number 27 and Agency Item Number 36 described as handgun, Glock 33, 357 caliber handgun; placard number 14.

Stipulation Number 14 is SLED Item Number 28 and Agency

Item Number 37 described as handgun, HK 9 mm handgun; placard number 13.

Stipulation Number 15 is SLED Item Number 30 and Agency Item 003 described as oral swabs, oral swab from Jesse King.

THE COURT: Agency Item what?

ASST. SOL. SHELTON: 003, Number 15.

THE COURT: You're on 15?

ASST. SOL. SHELTON: Yes, sir.

THE COURT: Proceed.

ASST. SOL. SHELTON: From Jesse King, Colleton County Sheriff's Office Item Number 48.

Stipulation Number 16, SLED Item Number 31 and Agency Item Number 004, described as oral swabs, oral swab from Amanda Metzfield, Colleton County Sheriff's Office, abbreviated as CCSO and Item Number 49.

Stipulation Number 17, SLED Item Number 32, and Agency Item Number 006, described as swabs, spot number one, CCSO, referencing Colleton County Sheriff's Office Item Number 30, Cadi-passenger rear fender, and Cadi is simply spelled C-A-D-I, passenger rear fender.

Stipulation Number 18, SLED Item Number 33 and Agency Item Number 07, described as oral swabs - James L. Davis - CCSO, referencing, again, Colleton County Sheriff's Office Number 50.

Stipulation Number 19 is SLED Item Number 35 and Agency

Item Number 007, described as oral swabs - David J. Jakes.

Stipulation Number 20 is SLED Item Number 36 and Agency Item Number 008, described as oral swabs - Antwan McMillan.

Stipulation Number 21 is SLED Item Number 37 and Agency Item Number 010, described as swabs - spot number four, center console lid from Cadi, C-A-D-I, in parenthesis, Colleton County Sheriff's Office, Item Number 27.

Additionally, stipulation Number 22, Agency Item Number 31 and SLED Item Number 40 described as one pair of gloves from rear driver's side Cadi, by Agency, and described as a pair of black gloves by SLED.

Subsection A, referring to the same item, but given a different number, as 40.1 described as swabs from inside of gloves from rear driver's side Cadi, Cadillac, excuse me.

Stipulation Number 23, Agency Item Number 32 described as shirt from rear seat of Cadi and South Carolina Law Enforcement Division Item Number 41, described as a black t-shirt. Subsection A, referring to the same item, SLED Item 41.1, described as swab from black shirt from rear seat of Cadillac.

Number 24 of the stipulation, Agency Item 34, described as a blanket/quilt/comforter.

Stipulation Number 25, Agency Item 38, described as shirt from passenger side floor of Cadi, and SLED Item Number 42, described as white t-shirt by SLED.

Subsection A, SLED Item 42.1, referencing the same item as number 42, described as swab from white t-shirt from passenger side floor of Cadillac.

Stipulation 26 is Agency Item Number 39 described as striped shirt and towel from passenger side floor of Cadi, and SLED Item Number 43 described as items from passenger side floor and SLED Item Number 43.1 described as black and white striped shirt and SLED Item Number 43.2 described as pair of black gloves and SLED Item Number 44 described as towel.

Subsection A, SLED Item 43.1.1 described as swab from striped shirt from passenger side floor of Cadillac. Subsection B of 26 stipulation, SLED Item 43.2.1 described as swabs from inside of black gloves found in pocket of Item 43.1 (striped shirt).

Subsection C, SLED Item 44.1, described as swab from towel from passenger side floor of Cadillac.

Stipulation Number 27, Agency Item Number 40, described as shoes and hat from rear seat and back dash of Cadi. SLED Item Number 45 described as pair of tennis shoes and SLED Item Number 46 described as baseball cap.

Subsection A to that same stipulation number of 27 is SLED Item Number 45.1 described as swabs from Nike Air Force One of rear seat and back dash and floor of Cadi.

Subsection B of Stipulation Number 27 is SLED Item

Number 46.1 described as swab from black hat from rear seat and back dash of floor of Cadillac.

Stipulation Number 28, Agency Item Number 45 described as prints - latent on vehicle from search warrant, including subsection A, latent print described as Item 1 - latent lift bearing number and labeled "driver's side rear door." with the initials NK, designated as latent two in Beaufort County Sheriff's Office, known as BCSO lab report number FP-11-0007.

Subsection B of 28, latent print described as item 2, latent lift bearing case number and labeled white Cadi South Carolina tag FFB-798, trunk area, with the initials NK, designated as latent four in Beaufort County Sheriff's Office lab report number FP-11-0007.

Number C -- excuse me, Letter C, subsection C of Number 28 is latent print described as Item 3, latent lift, bearing case number and labeled passenger door handle, white Cadi, SC Tag FFV-798 with initials NK, designated as latent five in Beaufort County Sheriff's Office, BCSO, report number FP-11-0007.

Subsection D of stipulation number 28 is latent print described at Item 4, latent lift bearing case number and labeled trunk lid with the initials NK, designated as latent 8 in BCSO report number FP-11-0007.

Subsection E is latent print described as Item 5.

Latent lift bearing case number and labeled driver's side, rear panel near window, with the initials NK, designated as latent 1 in BCSO's report FP-11-0007.

Letter F is latent print described as Item 6, latent lift bearing case number and labeled back glass white Cadi SC Tag FFV-798 and with the initials NK, designated sa Latent 3 in BCSO's report number FP-11-0007.

Subsection G is a latent print described as Item 7 latent lift bearing case number and labeled rear glass Cadi, SC tag FFV-798 and with the initials NK, designated as Latent 6 in BCSO's report number FP-11-0007.

And subsection H, latent print described as Item 8, latent lift bearing case number and labeled rear door white Cadi, SC Tag FFV-798 and with the initials NK, designated as Latent 7 in BCSO's report number FP-11-0007.

Finally, additionally, Stipulation Number 29, Agency Item Number 1 and OCA, which refers to the Agency's Case Number and not the Agency Item number, but the case number, of 1-10-002762, described as two .50 caliber AE casings, edge of field, 150 yards in front of 1834 Sunrise Road for the purposes of internal SLED Chain of Custody. That concludes the list.

THE COURT: All right, Mr. Shelton, before I inquire, explain to the jury, in light of the stipulations, the purpose of the stipulation.

ASST. SOL. SHELTON: The purpose of the stipulation, I'll read the preamble again. That the State and the defendant through his attorney, Mr. Harris Beach, and respectively through his attorney Mr. David Mathews, Esquire, stipulate by agreement and assents to the following matters in the above captioned case.

The chain of custody for the items listed and described below as a reference by the attached exhibits is complete and accurate. What that means is everything listed in these stipulations, the State, along with defense counsel for each respective defendant, has agreed that the chain of custody is proper, that nothing has been tampered with incorrectly, that nothing has been altered in any way, that everything is how they have found it, except for a test that may have been performed on it, which is the natural occurrence of the test.

Otherwise, we're agreeing that nothing improper occurred with any of the evidence from the time that it was found to the time it get's here in the Court today. Everyone who handled it, handled it properly, and we have established who has handled it to the satisfaction of the defense counsel for each defendant. Therefore, they do not come and testify; this serves as establishing that chain of custody, and that's why it's called the chain of custody.

THE COURT: One last matter for the jury, Mr. Shelton,

you published the list of stipulations as to the defendant McMillan, but you have an additional list that you didn't publish that is identical to the one you did publish, that's why you have Court's Exhibit Twelve and Thirteen, as to Mr. Jakes?

ASST. SOL. SHELTON: Correct, Your Honor.

THE COURT: Very Well. Thank you. I ask now, counsel for Mr. McMillan, has the State accurately stated the complete stipulation for purposes of this trial?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Very Well. I ask counsel, now, for Mr. Jakes, has the State accurately stated the complete stipulations for purposes of this trial?

MR. BEACH: Yes, Your Honor.

THE COURT: Thank you very much. Call your next witness.

ASST. SOL. SHELTON: The State calls Thomas Walker.

(WHEREUPON, MR. THOMAS WALKER, IS DULY SWORN]

THE COURT: State your full name and spell your last name for the court reporter, please.

MR. WALKER: Thomas Walker, W-A-L-K-E-R.

THE COURT: Your witness, Counsel.

ASST. SOL. SHELTON: Thank you, Your Honor. May it please the Court.

DIRECT EXAMINATION

BY ASST. SOL. SHELTON:

Q Deputy Walker, may I call you Deputy Walker?

A Sure.

Q Who do you work for?

A Colleton County Sheriff's Office.

Q What's your role there?

A I'm a road corporal -- I'm sorry, Corporal Supervisor over the road.

Q How long have you been working with the Sheriff's Office?

A Approximately six, seven years.

Q What did you do before the Sheriff's Office?

A Before the Sheriff's Office, I was a Corrections Officer at South Carolina Department of Corrections.

Q Did you respond to 3207 Clatty Farm Road, early in the morning on June 4th, 2010?

A I did.

Q Are you ready to tell the jury what you did there?

A Sure.

Q Who did you respond to 3207 Clatty Farm Road with?

A I responded to Clatty Farm with several of the members of the crime suppression unit, I believe it was Cpl. Buchanan, Major Middelton, who is no longer here anymore with us, and also Corporal Buchanan. I believe there might have been one more other person in the vehicle with us, but

I don't really know ---
Q Do you remember who was driving?
A Corporal Buchanan was driving at the time.
Q When you got there, what did you see?
A When we got there to the residents, like I said, there was a old abandoned house toward the front of the property, toward the rear of the property there was a trailer. I believe it had gray shutters or something like that, and there was a Cadillac, or a vehicle, on the far right side. There's an oak tree in the front, and there was also an older shed toward the right front of the old model of the Cadillac.
Q Why did you go there?
A We went there in reference to -- I guess a female told Corporal Buchanan, at that time, that there was a vehicle that the suspects, or the person that was injured, they said that the vehicle was there that he was driving.
Q At 3207 Clatty Farm Road?
A Correct.
Q Did you get a description of that vehicle?
A At the time, yes, we did.
Q Did you find what matched that description at that residence?
A Yes, sir.
Q What was it?

A It was a burgundy in color Cadillac, I guess ---
Q Do you need to refresh your recollection?
A Sure. That would be nice.
ASST. SOL. SHELTON: May I approach, Your Honor?
THE COURT: You may.
Q Corporal Walker, what I'm handing you is State's Exhibit Number Seven, it's already been entered into evidence. Do you recognize what's in that picture?
A Yes.
Q What is that?
A I apologize, it's a silver in color Cadillac.
Q Do you remember it being silver? What time of day or night did you go there, first of all?
A It was around about 3 O'clock in the morning.
Q Around 3 O'clock in the morning. So it was dark outside?
A Yes, sir, it was.
Q Okay. When you got there was that well lit, where the Cadillac was?
A No, sir. It wasn't well lit at all.
Q But was it a four-door Cadillac?
A It was.
Q Is that the four-door Cadillac?
A Yes, sir, it is.
Q Now, continuing, what was your role when you got to the

scene and everyone established what each individual role was, what did you do on scene?

A Well, when I first responded there, I believe Corporal Buchanan and someone else naturally approached the trailer of the residence. I actually stood beside the vehicle to make sure that no one was around the vehicle or anything like that. From there, we confirmed that that was the vehicle that the person that was injured was driving.

Q How did you confirm that?

A From what Corporal Buchanan -- well, from what the people that were inside the residence told Corporal Buchanan.

Q What did you see that helped you confirm that?

A We saw blood in the vehicle. We also saw some live rounds, well, I'm sorry, some spent shell casings.

Q Did you open the door to the vehicle and look inside?

A No, sir.

Q How did you see them?

A The windows were down. Majority of the windows were down, I'm not sure if every window was down inside the vehicle, but the majority of the windows were down.

Q How did you look inside? was it dark outside?

A We had flashlights.

Q So did you visually inspect the vehicle?

A Yes, sir.

Q Do you remember everything that you visually saw inside the vehicle?
A Off hand, I do not.
Q Is there anything that would help refresh your recollection for that?
A I did a tow report for it that night.
Q What was the tow report for it?
A The tow report is basically when we respond to a scene or when we respond to a vehicle accident of some kind, like I said, if the Sherriff's Department has anything to do with actually removing that vehicle off the roadway or off of a property, we do a tow report. We do a detailed inventory of the vehicle -- outside, inside, the tag that's on the vehicle, the VIN number, make and model.
Q You say you do a detailed inventory, outside and inside, -- you said that you didn't go inside this vehicle?
A No, I did not.
Q Why didn't you?
A Because it was possibly involved in a crime, I didn't want to disturb any evidence that might have been there.
Q So the report that you made on your tow report is only in reference from what you could of the outside of the vehicle; is that right?
A No, sir. The report that I did, the tow report, it's from me being outside of the vehicle, but actually looking

inside as well from what I observed inside the vehicle at that particular time and also the damage outside.

Q What all do you put on a tow report?

A They have a particular spot for, as far as the damage to the exterior of the vehicle; they have a slot where you can actually write damaged that is on the interior and exterior, the items that I removed from the vehicle, items that are still remaining inside the vehicle.

Q And you completed a tow report for this case?

A Yes, I did.

Q And you said it would help you remember what you saw inside the vehicle?

A Yes.

ASST. SOL. SHELTON: Beg the Court's indulgence.

THE COURT: Counsel, approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

Q I'm handing you what's been listed as State's Exhibit Number Ninety-Seven, only for identification purposes only; I ask that you just refresh your recollection with ---

THE COURT: Do you want to approach the witness?

ASST. SOL. SHELTON: Yes, sir, Your Honor. May I approach the witness?

THE COURT: You may do so.

ASST. SOL. SHELTON: Thank you, Your Honor.

Q Does that help refresh your recollection?
A Yes, sir, it does.
Q What exactly now -- this is only what you were able to see visually on the outside of the car, correct?
A Correct.
Q And by looking inside the car from the outside with a flashlight, correct?
A Correct.
Q Now, only talk about what you can see from that, not anything that you saw inside the car. First of all, did you open up the trunk or anything when you were searching?
A No, sir.
Q So you didn't actually look inside the trunk and you didn't actually reach inside anything that was contained or anything inside, did you?
A Negative. I did not.
Q So this is only what you could see from the outside of the car. Now, on that property report, is there anything on that property report that is listed to your recollection that it is not something that you can see, only from the outside of the car?
A No, sir.
Q Nothing in that entire report?
A I'm sorry; ask the question again.
Q In the entire report, is there anything listed in that

report that you could not visually inspect by looking from the inside of the car that was found anywhere other than the general cabin of the car by looking inside the car -- and you completed that entire report, correct?

A I did, sir.

Q I'm sorry; I'm gonna repeat the second -- the question I asked you before. So you completed the entire report. Now, is there anything in that report that you completed that was not found in the inside cabin that you could not actually see at the scene from the inside cabin before the car was towed?

A I'm trying to ---

Q Could you just -- everything in that report is what you could see from the outside?

A Yes, it is.

Q Everything?

A Everything that's in here, basically, from me on the outside looking in, I can see from the outside.

Q Okay. What did you see? Does that refresh your recollection now?

A Yes, it does.

Q What did you see?

A If I'm looking from the outside, like I said, I saw that it did have a spare tire. The original tire that was on the car wasn't there. Like I said, I observed a dent in

the rear trunk, front passenger side door had a dent in it as well, missing a front light on the front passenger side, dent on the hood, dent on the front driver side panel. There's also a list of items that are left inside the vehicle, do you want me to read that as well?

Q If that's what you saw from the outside on the scene without going inside the vehicle, yes.

A Okay. One pair or red and black sneakers, one black t-shirt, one open Seagram's gin class container, one light black ball cap in the front center console, two pictures on the driver's dash, several cd's and a black and mild pack, three dvd cases on the rear floorboard, one white t-shirt and one pair of black pin-striped pants, keys also in the ignition ---

Q Keys in the ignition?

A Correct.

Q Okay.

A Two spent shell casings that were observed; I believe they were on the rear passenger seat, spent shell casings, casings that were already fired from a handgun.

Q You said you saw blood inside?

A Yes.

Q You saw spent shell casings. What about the exterior of the vehicle, did you see anything odd about that besides what you've already described?

A No, sir.
Q It was at night, correct?
A Yes, it was.
Q May I approach, Your Honor?
THE COURT: You may.
ASST. SOL. SHELTON: At this time, Your Honor, the State would move State's Exhibit Number Ninety-Seven into evidence.
THE COURT: Any objections from the defendant McMillan?
MR. MATHEWS: No, Your Honor.
THE COURT: From the defendant, Jakes?
MR. BEACH: No, Your Honor.
THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Ninety-Seven will be admitted into evidence without objection.
(STATE EXHIBIT NUMBER NINETY-SEVEN, VEHICLE IMPOUND REPORT, IS RECEIVED INTO EVIDENCE.)
THE COURT: State's Ninety-Seven in evidence, you may publish.
ASST. SOL. SHELTON: Thank you, Your Honor. May I approach the witness?
THE COURT: You may.
Q One more thing I'm going to ask you about that. What time did you complete that tow sheet?
A The time here is exactly 2:55 A.M.

Q Do you know what day it was?
A It was June 4th, 2010.
Q So 2:55 A.M. in the morning on June 4th?
A Correct.
Q How did you get it? Did you tow it? Did you leave it there? What did you do with it?
A I called a wrecker, a tow truck, to come pick up the vehicle. Like I said, we asked the wrecker to extreme caution due to the fact that it was actually possibly involved in a crime at that particular time. We actually issued him gloves and he picked the vehicle up and we followed him back to our CID, or Annex, at the time.
Q You followed the car the entire time as the truck towed it?
A Yes.
Q Did the truck tamper with the car or anything in any way?
A No, sir.
Q You saw it be placed into CID and contained?
A Correct.
Q Thank you. May I approach?
THE COURT: You may.
ASST. SOL. SHELTON: Beg the Court's indulgence.
Q One more thing, when you do a tow report, do you take a VIN number and a tag number?

A Yes, sir.
Q Did you do that on this report?
A Yes, sir.
Q Will you please read into evidence as what that is?
A The vehicle tag number, South Carolina FFV-798, the VIN number is going to be 1G-golf-6KD54414U37542.
Q Thank you.
ASST. SOL. SHELTON: May I approach, Your Honor?
THE COURT: You may.
ASST. SOL. SHELTON: That's all the questions I have for you, Deputy Walker. Please answer any questions Mr. Mathews or Mr. Beach might have for you. Thank you.
THE COURT: Cross-examination by the defendant McMillan.
MR. MATHEWS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MATHEWS:
Q Officer Walker, how are you doing today?
A Pretty good, sir.
Q When you approached the car and you looked in ---
MR. MATHEWS: Your Honor, may I approach the court reporter, first?
THE COURT: You may.
Q Deputy Walker, you were able to look in to the Cadillac?

A Yes.
Q And that's how you were able to see, for example, the Seagram's bottle and a black and red tennis shoe?
A Correct.
Q Was there a console between the -- the front seat, were they bucket seats or bench seats in the Cadillac?
A Bucket seat, bench seats ---
MR. MATHEWS: Your Honor, may I approach the witness?
THE COURT: You may. Give him the exhibit number for the record.
Q Officer Walker, I've handed you what's been marked for identification as to Defendant's Exhibit Number Seven and ask if that refreshes your recollection?
A Correct, it does.
Q Does that appear to be the Cadillac as you saw it?
A I believe so; I'm not honestly sure, like I do know that the Cadillac did have a center console, but I'm not sure if this is the one or not.
Q Okay. Was the center console open or did it appear to be taken off?
A I'm not sure. Like I said, on the tow report, I know it said something as far as the center console, but I'm not really sure.
Q The CD's that you saw that you reflect in there, were they in the center console?

A I'm not sure. Do you mind if I look back at the ---

Q I don't.

MR. MATHEWS: I'm not sure where ---

THE COURT: Right here. Hand Exhibit Ninety-Seven to the witness.

A On the tow report here, if I may ---

Q Sure.

A --- it says one black ball cap in the front center console.

Q Now, looking at that picture and comparing it to the tow report, does that appear to be what you saw?

A It can be.

Q That has a black hat in it?

A It does have a black ball cap in it and it does have a center console, but like I said, I'm not sure if it's the same one or not.

Q Okay. All right.

MR. MATHEWS: May I approach the witness again, Your Honor?

THE COURT: You may. Hand Exhibit Number Ninety-Seven back to the jury, Counsel, unless, do you need this further?

MR. MATHEWS: I do, Your Honor.

THE COURT: All right. You keep the exhibit and I'll give it back to the jury. Proceed.

MR. MATHEWS: Okay.

Q I've handed you what's been marked, I think is that Eight on the back?
A Yes.
Q And ask if you can identify that.
A It's a red, black, and white sneaker. I believe it's the floorboard of a back seat and a Seagram's gin bottle.
Q Doesn't that appear to be what you saw that night?
A From my recollection, I'm not sure, but it looks like it is a red and black sneaker.
Q And a Seagram's bottle.
A And a Seagram's bottle, yes.
Q Both of which are reflected in your report.
A Correct.
Q Okay. The black ball cap you found in the front center console?
A Right.
Q Now, obviously, if the console had been closed, you wouldn't have been able to see it without opening it up, right?
A Yes, sir.
Q So the console had to have been open, then?
A Yes, I assume so.
Q Okay. I don't have anything further.
MR. MATHEWS: Your Honor, would you like me to hand the exhibit ---

THE COURT: Hand that back to the juror.

Cross-examination by the defendant, Jakes.

MR. BEACH: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BEACH:

Q Corporal Walker, the console that was between the two front seats, did it stick up above the seat or was it down below the seat? Do you recall?

A The center console, you're saying was it above the seat?

Q Was the console higher than the seat, the bucket seat?

A I'm not honestly sure; from this picture, it is above the seat, but like I said, I'm not honestly sure of that particular night.

Q Would it obstruct you if you were moving from the driver seat to the passenger seat?

A If it was above the seat, yes.

Q Now, you say also that the car had a problem with one of its tires?

A I didn't say it had a problem with one of its tires, I said it had a spare tire on the rear, I believe, from what the tow report said.

Q That spare tire, is that one of the donut tires?

A I believe it was.

Q Was it a full-size, good, roadworthy tire; is that correct?
A I'm not sure whether it was or not. Like I said, I know it wasn't the original tire that was actually on the vehicle at that particular time. I know it was a spare tire. It didn't have the original hub caps and the original cap for this Cadillac.
Q You found two shell casings inside the car?
A They were spent shell casings, yes.
Q Thank you, sir.
MR. BEACH: No other questions, Your Honor.
THE COURT: Re-direct.

REDIRECT EXAMINATION

BY ASST. SOL. SHELTON: Very briefly, Your Honor.
Q Deputy Walker, you said you found these gun shell cases in the car; are those the two spent shell casings you observed while looking inside the car, correct?
A Correct.
Q Thank you, no other questions.
THE COURT: Re-cross by the defendant McMillan, limited to re-direct?
MR. MATHEWS: Nothing, Your Honor.
THE COURT: Re-cross by the defendant Jakes, limited to re-direct?
MR. BEACH: No, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOL. SHELTON: I ask that he may be excused from the trial of this case.

THE COURT: Any objection to this witness being excused from the defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: Any objection to this witness being excused from the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Very well. Mr. Walker, you may leave my exhibits here, even the ones marked for identification. Step down, be careful, and have a nice day. You are excused from the trial of this case. You may leave the courtroom. Call your next witness.

ASST. SOL. HASELDEN: The State calls Detective Jeff Scott.

MADAME CLERK: Please come forward and be sworn.

WHEREUPON, DETECTIVE JEFF SCOTT, IS DULY SWORN.

THE COURT: State your full name and spell your last name for the court reporter. Use the microphone. Speak up so everybody can hear you, please.

DET. SCOTT: Detective Jeff Scott, last name S-C-O-T-T.

THE COURT: Your witness, Counsel.

ASST. SOL. HASELDEN: Thank you, Your Honor. May it please the Court.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Detective Scott, what do you do for a living?

A I'm currently employed with the Colleton County Sheriff's Office. I'm a deputy assigned to the Investigation Division.

Q And with the Investigation Division, what do you do?

A We are tasked with crime scene processing, crime investigation, evidence processing, meeting with victims, retrieving and collecting evidence, photographs, -- things of that nature.

Q How many people work with you over in investigations?

A We have approximately five investigators, one lieutenant, one evidence custodian, and one sex offender registry investigator.

Q So because there are so many people that work with you, do you divide up the cases?

A Yes, ma'am, we usually do.

Q Is somebody designated, in specific, for every case, as lead investigator?

A No, ma'am, they are not.

Q Are they occasionally, though, on bigger cases?

A On bigger cases, generally, sometimes, a specific investigator can be assigned as lead investigator on that case if they are familiar with that particular type of

event.

Q Are you my lead investigator or also sometimes called case officer on this case?

A That is correct.

Q Okay. And as lead investigator, case officer, did you have an opportunity to respond on June 3rd or June 4th of 2010, out to I-95 on McLeod Road?

A Yes, ma'am, I did.

Q Can you describe to me what you did when you got there, please?

A Certainly. On the night of -- excuse me, on the early morning hours of June 4th, 2010, I was contacted by our central dispatch, who advised me that there was attempted armed robbery, attempted shooting that occurred at the corner block of McLeod Road which is the off-ramp of I-95 on McLeod Road. I then responded to the incident location and met up with on-scene officers who briefed me as to what they observed and what they had. At that point, I did my initial walk through; I did my initial conversation with the victims, and once it was determined what all we had, I proceeded to process the crime scene.

ASST. SOL. HASELDEN: May I approach the witness, Your Honor?

THE COURT: You may.

Q Detective Scott, I'm handing you what's been marked for

identification purposes only, at this point, as State's Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Seventeen, Eighteen, Nineteen, Twenty, Twenty-One, Twenty-Two, Twenty-Three, Twenty-Four, Twenty-Five, Twenty-Six, Twenty-Seven and Twenty-Eight. If you would please take a moment to review those to yourself. Have you had chance to review them all?

A I have.

Q Do you recognize those items?

A Yes, ma'am, I do.

Q What are those items?

A Items twelve through twenty-eight are crime scene photographs from the early morning hours of June 4th, 2010, as I observed it.

Q Did you take those photos?

A Yes, ma'am, I did.

Q Are all those photos a truthful and accurate depiction of the crime scene as it existed early in the morning and late at night on June 3rd and June 4th of 2010?

A Yes, they are.

Q Your Honor, at this time, I'd move States Twelve through Twenty-Eight into evidence.

THE COURT: Inclusive?

ASST. SOL. HASELDEN: Inclusive, yes, Your Honor.

THE COURT: Any objection as to State's Exhibit's

Twelve through Twenty-Eight, from counsel for the defendant McMillan?

MR. MATHEWS: No objection, Your Honor.

THE COURT: Counsel for the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Twelve through Twenty-Eight will be admitted into evidence in the trial of this case without objection.

(STATE EXHIBIT NUMBER TWELVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FOURTEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER NINETEEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY IS RECEIVED INTO

EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-TWO IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-THREE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-FOUR IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-SIX IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-SEVEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER TWENTY-EIGHT IS RECEIVED INTO EVIDENCE.)

THE COURT: You may approach and you may publish, counsel.

ASST. SOL. HASELDEN: Thank you.

Q Before I publish, Detective Scott, would you walk us through those photos?

ASST. SOL. HASELDEN: And if I might add a couple of others, Your Honor, that are already in evidence.

Q And describe to us what they are and why you took those

photos and what they represent, please.

A Certainly. I'll start with Item 12, if that's okay.

THE COURT: Refer to it as Exhibit, now, if you would, because we have other things called "items" in this case.

A State's Exhibit Twelve is going to be a photograph of the on ramp in this picture. You can see the victim's vehicles parked to the left, which is a Chevy S-10, a Toyota Tacoma, and a U-Haul trailer, and you can also observe in the foreground of the picture, placards numbering, it looks like, 1 through 6 in the foreground. This is an overview of the crime scene as I observed it on the morning of the 4th.

State's Exhibit Thirteen is going to be placard numbers 1 through 3 in the foreground, and you can faintly see placards 4, 5 and 6 in the background. These are spent shell casings, which are 1, 2, 3, 4, 5 and 6 in the background. These are spent shell casings, which are 1, 2, 3, 4. Placard 5 is a blood stain and placard 6 is going to be the .50 caliber Desert Eagle Pistol.

State's Exhibit 14, which is going to be placard number 1. This is going to be a close-up of a spent 9 mm shell casing as observed on that morning.

State's Exhibit Fifteen, which is going to be placard number 2, a close-up of a spent shell casing, also located at the scene on the early morning hours of the 4th.

State's Exhibit Sixteen, which is placard number 3,

again, is a close-up of a spent shell casing, as observed on the morning of the 4th.

State's Exhibit Seventeen is going to be placards number 4, 5 and 6. Four and five in the foreground, six in the background. Placard 4 is a spent shell casing. Placard 5 is a stain on the ground, appearing to be blood. Placard 6 is the Desert Eagle .50 caliber that was located at the scene that morning.

State's Exhibit Eighteen, which is placard number 4, is a close-up of a spent shell casing located at the crime scene.

State's Exhibit Nineteen is placard number 5, which is the reddish-brown stain located on the ground, with the appearance of blood, also located at the crime scene on the morning of the 4th.

State Exhibit Twenty, placard number 6, is a close-up picture of the Desert Eagle, .50 caliber, that was located at the crime scene the morning of the 4th

State's Exhibit Twenty-one is going to be a shot of one of the victim's vehicles, which is the Chevy S-10, and part of the Toyota Tacoma, also the second victim's vehicle, which is Placard number 7.

State's Exhibit Twenty-two is a close-up of placard number 7, which is the Chevy S-10, located at the crime scene the early morning hours of the 4th, the victim's

vehicle. As you can see in the photograph, there is a bullet entry just above and to the right of the S-10 emblem at the bottom of the photograph.

State's Exhibit Twenty-three, which is placard number 8, is going to be the front driver's side fender of the Toyota Tacoma, the victim's vehicle, as it sat the morning of the 4th. As you can see, in the bottom of the picture, a entry point just above the tire and just to the right of the park light.

State's Exhibit Twenty-four is going to be placard number 6 again, a close-up, a different angle of the Desert Eagle .50 caliber handgun located at the crime scene that morning.

State's Exhibit Twenty-five is going to be the rear of the Toyota Tacoma, the victim's vehicle, along with the front part of the U-Haul trailer that it was hooked to, which in this picture you can see placard number 10 and you can faintly see placard number 11 in the bed of the truck.

State's Exhibit Twenty-six, which is going to be a close-up of placard number 11 and 12, which are spent shell casings located in the bed of the Toyota Tacoma, which is the victim's vehicle located at the crime scene that morning.

State's Exhibit Twenty-seven is going to be an overview of placard numbers 13 and 14, which these are the two

firearms, the Glock and the H&K 9 mm, the victim's weapons as they lie on the morning of the 4th.

State's Exhibit Twenty-eight is going to be the front seat of the Chevrolet S-10, which was previously identified as placard number 7. In this photograph, you can see a pen, which was my pen, stuck in the seat to identify the entry point of the round that entered into the vehicle.

State's Exhibit Number Two is an overview of the crime scene as observed on the morning of the 4th.

State's Exhibit Number two, you can see there are a few deputies walking around with flashlights kind of canvassing the area for evidence. You can as well see two of the victims located at the rear tire of the S-10, identified as placard number 7. And it looks like the third victim speaking with another officer at the front of the S-10 vehicle on the morning of the 4th.

State's Exhibit Number Three is going to be the Toyota Tacoma and the U-Haul trailer. The Toyota Tacoma is going to be placard number 8, and in this photograph you can see placards 8 and 10 in the foreground and in the extreme background, to the right of the picture, you can faintly see placards 13 and 14, which were the victim's firearms.

State's Exhibit Four are placard numbers 13 and 14, which are the victim's firearms. Placard 14 is the Glock .357. Placard 13 is the H&K 9 mm. Again, this is a close-

up picture of the weapons.

State's Exhibit Six, in this photograph you can see then Cpl. Anthony Buchanan standing immediately next to placard number 6, which was identified as the Desert Eagle .50 caliber. I am actually standing at placard number 10, which is the Toyota Tacoma, the rear of the Toyota Tacoma where the shell casings where located at. Also, placards 11 and 12, to give a indication of exactly how far the suspect would have been standing from the victim.

Q And with regard to that last photo, was that six?

A Yes, ma'am. State's Six.

Q Were you able to measure that distance or can you give an estimate of how far Cpl. Buchanan was standing away from you at that point?

A No exact measurements were taken, but an estimate from the location where I was standing at to the location that Cpl. Buchanan would have been, would be somewhere between 25 and 30 yards, approximately

Q Could you see him clearly?

A Yes, ma'am, I could.

Q How could you see him clearly?

A Located at this intersection of McLeod Road and I-95 are -- right here at this particular exit ramp are numerous street lights. They start at the very base of the ramp and actually proceed all the way up to where they join into 95

where the exit ramp starts.

ASST. SOL. HASELDEN: Your Honor, may I publish at this time?

THE COURT: You may.

ASST. SOL. HASELDEN: May I approach?

THE COURT: Yes. Exhibits Twelve through Twenty-eight in evidence without objection. The previous exhibits have previously been entered into evidence.

Q Now, Detective Scott, we'll go through some of the physical evidence you found out there, and I apologize right now, it's going to take a while.

THE COURT: Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Proceed.

Q Detective Scott, I'm going to hand you what's been marked for identification purposes only as State's Sixty-one, Sixty-two, Sixty-three, Sixty-four, Sixty-five, Sixty-six, Sixty-seven, Sixty-eight, Sixty-nine, and Seventy. If you would please review these items to yourself.

(BRIEF PAUSE IN COURTROOM WHILE WITNESS REVIEWS ITEMS BEING HANDED TO HIM.)

A Yes, ma'am.

Q Did you have an opportunity to review those items?

A I did.

Q And can you please walk through item by item identifying them and tell me what they are?

A Certainly. State's Exhibit Sixty-one is a spent shell casing, a 9 mm spent shell casing, and the placard number 1 is located at the exit ramp of I-95 on McLeod Road.

Q How do you know that is what that is?

A The blue evidence tag located on the front of the envelope on the front of the bag is filled out by myself, signed, and also with my badge number located immediately behind my signature on the envelope.

Also, located at the top of the envelope is going to be the case number or our Sheriff's Office OCA number, just below that is going to be the collection time and just below that is going to be the placard number, and just below that is going to be what the piece of evidence actually is. All of that was done in my handwriting.

Q Is that -- did you collect that item?

A Yes, ma'am. I did.

Q And is that a truthful and accurate depiction of that item as you collected it on the early morning hours of June the 4th?

A Yes, it is. State's Exhibit Number Sixty-two is also going to be a spent 9 mm shell casing. Sixty-two is identified as placard number 2 located at the exit ramp of McLeod Road and I-95.

Q And is that also a truthful and accurate depiction of that item as you collected it that night?
A Yes, it is.
Q And you identify it by the blue evidence tag?
A Yes, I do.
Q is that a truthful and accurate depiction of that spent shell casing as it existed on the early morning hours of June the 4th?
A Yes, ma'am, it is. State's Exhibit Sixty-three is going to be also a spent shell casing, 9 mm. State's Sixty-three is going to be identified as placard number 3. Also, again, collected by myself on the morning of the 4th. And that is a true and accurate depiction of the spent shell casing as collected by myself on the morning of the 4th.

State's Sixty-four is also going to be a spent 9 mm shell casing. State's Sixty-four is identified as placard number 4, collected at the off ramp of McLeod and 95. Also is a true and accurate depiction of the round as I collected it on the early morning of the 4th.

State's Sixty-five is going to be identified as a spent .357 shell casing. State's Sixty-five is identified as placard number 10, which was located at the I-95 exit ramp and McLeod Road and it, too, was collected by myself.

State's Sixty-six is a spent .357 shell casing, also located at McLeod Road and I-95 Exit ramp. State's Sixty-

six is identified as placard number 9, which was also collected by myself.

State's Sixty-seven is a spent .357 shell casing. State's Sixty-seven is identified as placard number 11, which was collected at the off ramp of McLeod and 95. It, too, was collected by myself.

State's Sixty-eight is a spent .357 shell casing. State's Sixty-eight is identified as placard number 12, which was also located at the off ramp of McLeod Road and I-95. It was collected by myself.

State's Sixty-nine is identified as a projectile. State's Sixty-nine is going to be placard number 8, which was located at McLeod Road and I-95 exit ramp on the morning of the 4th, which was also collected by myself.

State's Seventy is going to be identified as a projectile. State's Seventy is placard number 7. State's Seventy was collected from a blanket at the I-95 exit ramp and McLeod Road, which was located in the rear passenger seat of the S-10 vehicle belonging to the victim, which was identified as placard number 7. It, too, was collected by myself.

Q And what did you do with all these items once you collected them?

A Once the items were collected and tagged, they were then turned over to our Criminal Investigation Division

locker to our evidence custodian.
Q And as part of your job as a case officer, do you oversee the -- not the handling of the evidence, the collection, as we know that's contained in the evidence tracking report of your evidence custodian, but rather what's done with that evidence beyond that point after collection?
A After collection, the evidence is logged into our Criminal Investigation Division Evidence Property Locker. If it's a case where evidence needs to be processed or sent to SLED, we will then meet with the evidence tech and advise them on which pieces of evidence need to be submitted to SLED for further analysis.
Q Are you aware if the items in front of you, which are State's Sixty-one through Seventy, was anything additional done with them?
A Yes, ma'am. The items were submitted to SLED for further analysis. As you can tell by the plastic bags they are in, they have written on the front of the envelope the SLED ID, the SLED Lab Number, which was not placed on the envelope by myself.
Q And then when testing is done, what happens to that evidence?
A When final testing is done, they submit a final analysis report to our office, which is made a part of the

case file and the evidence is then returned where it is secured in the property evidence locker until such date and time of trial.

Q And that's all anybody that handles that evidence in the meantime, that's contained in your internal chain of custody or evidence tracking report from your office and the SLED chain of custody report?

A That is correct.

ASST. SOL. HASELDEN: Your Honor, at this time, I'd ask that State Sixty-One through Seventy be entered into evidence.

THE COURT: As to State's Exhibits Sixty-one through Seventy inclusive from the defendant McMillan?

MR. MATHEWS: No objection, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No objection, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibits Sixty-one through Seventy will be admitted into evidence in the trial of this case without objection.

(STATE EXHIBIT NUMBER SIXTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-TWO IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-THREE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-FOUR IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-SIX IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-SEVEN IS RECEIVED INTO EVIDENCE.)

(STATE'S EXHIBIT NUMBER SIXTY-EIGHT IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SIXTY-NINE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY IS RECEIVED INTO EVIDENCE.)

THE COURT: Sixty-one through Seventy inclusive now in evidence. You may publish.

ASST. SOL. HASELDEN: Thank you.

Q Detective Scott, before we publish, I know you've gone through what each of those items were, which we had to do for chain of custody purposes and entering, but can you try and give us a better indication, based on those photos, which I can give back to you if you want, where these items were found at the crime scene in relation to each other. Can you do that?

A Certainly.

Q Would you like me to get the photos back for you?
A No, ma'am. I'm going to start off with State's Exhibit Sixty-one, which is a spent shell casing. This is going to be identified as placard number 1. State's Sixty-two is going to be identified as placard number 2, a spent shell casing. State's Exhibit Sixty-three is also a spent shell casing, which is placard number 3. And finally, State's Sixty-four is a spent shell casing, placard number 4.

These particular pieces of evidence were located at what would be the end of the exit ramp off of Interstate 95 and McLeod Road located almost directly in the middle of the exit ramp. Placards 1, 2, and 3 were located in close proximity of one another. Placard number 4 was located approximately 10 to 15 feet away looking at the interstate with your back to McLeod Road, which would have been on the right side of placards 1, 2 and 3, which was located in the proximity of the Desert Eagle .50 cal and proximity of the stain with the appearance of blood, which placard number 5 and 6 would be the blood stain and the gun.

Q And Detective Scott, if you don't mind, I'm going to interrupt you really quickly. How long have you been investigating crime scenes?
A November 14th, 2006, was my first day in criminal investigations, and I had been doing it since I was released from my field training in February of 2007.

Q And how long have you been in law enforcement?
A I've been in law enforcement since August of 2003 to current.
Q And how many times have you shot a semi-automatic handgun?
A Thousands.
Q And is there anything particular in what your personal semi-automatic handgun that you carry as part of law enforcement does with its shell casings?
A Certainly. As a semi-automatic handgun that we do carry with the Sheriff's Office ---
MR. MATHEWS: Objection, Your Honor.
THE COURT: Just a moment. Yes, sir? Objection?
MR. MATHEWS: Yes, sir.
THE COURT: Counsel approach.
(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)
THE COURT: Rephrase the question. Objection is overruled based on how you asked the question.
Q Detective Scott, can you please testify as to how shell casings are ejected from your handgun that you carry?
A The handgun that we carry with the Sheriff's Office, which is the Glock model .40 caliber. When it is fired, the shell casings are ejected from the ejection port, which is located on the right side of the firearm. The shell casings

are then ejected out of the right side of the firearm.
Q Do you always carry a .40 caliber as part of law enforcement?
A I'm carrying the same weapon I was issued in '03.
Q Do you own any other weapons?
A I do.
Q What other weapons do you own?
A Personal or job?
Q Either. Well, let's eliminate it to semi-automatic handguns.
A Thank you. I own a -- I do also carry as part of my duty weapon, a Glock model 27, which is a .40 caliber. It is a compact. I also own as a personal weapon a semi-automatic handgun, a Smith and Wesson M&P .40 caliber. I believe that's it.
Q And those are three different makes and models?
A They are two different makes. The models are two Glocks and one Smith and Wesson.
Q Okay. And how many times have you shot those guns?
A Numerous times.
Q And do they handle the shell casings any differently?
A No, ma'am. The guns that -- my 27, which is the Glock compact .40 caliber, also ejects the round from the right side of the firearm. The Smith and Wesson, M&P 40, which is also a .40 caliber full-size, does the exact same thing,

ejects the casing from the right side of the weapon.

Q Have you ever had the opportunity to shoot a .50 caliber Desert Eagle handgun?

A No, ma'am. I have not.

Q You ever had the opportunity to shoot a Glock subcompact .357 handgun?

A No, ma'am. I have not.

Q You ever had the opportunity to shoot a Sig 9 mm handgun?

A No, ma'am. I have not.

Q Okay. You can continue on with the items, please.

A Thank you. State's Exhibit Number Sixty-five, a spent shell casing is identified as placard number 10. State's exhibit Number Sixty-six is also a spent 357 shell casing, which is placard number 9. State's Exhibit Sixty-seven is a spent 357 shell casing, which is identified as placard number 11. State's Sixty-eight is a spent .357 shell casing, which is identified as placard number 12. These items are, again, .357 caliber spent shell casings. These items were located at the rear driver's side of the victim's second vehicle, which was the Toyota Tacoma. Actually, some were located on the ground near the rear of the vehicle and some were located in the bed of the Toyota Tacoma.

State's Exhibits Sixty-nine and Seventy are identified as projectiles, which are placard numbers 7 and 8. Number

8, which is going to be a projectile located just behind the driver's side front tire of the victim's second vehicle, the Toyota Tacoma, located on the ground. This is going to be the one that entered the fender and traveled along the wheel well and finally came to rest just behind the front tire.

State's Seventy is a projectile, placard number 7, which was the victim's primary vehicle, the Chevrolet S-10. It was located in the rear seat of the vehicle and it actually entered through the door and exited through the seat of the vehicle and came to rest located in a blanket that was laying in the back passenger compartment of the vehicle.

ASST. SOL. HASELDEN: Your Honor, may I publish and approach?

THE COURT: Sixty-one -- you're referring to Sixty-one through Seventy?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: You may publish. They're in evidence without objection. And you may approach.

Q Detective Scott, before I approach, let me let you know I'm handing you what's been marked for identification purposes only as State's Eighty-four, State's Eighty-five, and State's Eighty-five-A, and State's Eighty-six and Eighty-six-A. All have been made safe. Can you please review these items while I publish?

(BRIEF PAUSE IN COURTROOM WHILE THE WITNESS REVIEWS EXHIBITS HANDED TO HIM AND THE ASSISTANT SOLICITOR PUBLISHES PREVIOUSLY ENTERED EXHIBITS TO THE JURY.)

Q Have you had an opportunity to review State's Eighty-four, State's Eighty-five, and State's Eighty-five -A, and State's Eighty-six and Eighty-six-A?

A Yes, ma'am, I have.

Q And can you identify those items for me, please, by number?

A Certainly, I'm going to start with State's Exhibit Number Eighty-four and State's Exhibit Number Eighty-four A. State's Exhibit Eighty-four is the Desert Eagle .50 caliber handgun, which was located at the crime scene the morning of the 4th, which was McLeod Ramp, the off ramp from I-95.

State's Eighty-four A are going to be the bullets, which were retrieved from the magazine of the firearm of the Desert Eagle .50 caliber, which was located at the crime scene the morning of the 4th, which was McLeod Road and I-95, which I didn't state previously, but State's Eighty-four is actually placard number 6 at the crime scene.

Q Detective Scott, before you move on, how do you know that's the same gun?

A Again, as you can see on the box, we have what's commonly called at the Sheriff's Office, we use our evidence tag, our blue tag, showing on here what exactly the evidence

description was, the evidence was found, a date and time of collection, the crime, the victim, the defendant, as well as the crime itself, and the collecting officer's name located at the bottom of the evidence tag is my signature, also with my badge number located directly behind my signature, which would identify this as being the weapon that I collected on that morning.

Q And Detective Scott, most firearms also have an additional ---

THE COURT: Hold on a second. Detective Scott, explain to the jury the reason that the firearm has been disabled so they will know for purposes of handling it once it's in evidence.

A Okay. We commonly make a weapon safe. It is for your protection. Located in the weapon, the firearm, right here is a gun lock, which is run through the magazine chamber and out of the ejection port on top of the weapon, so even if the slide was engaged, the weapon still could not fire, rendering it completely safe.

THE COURT: Proceed.

ASST. SOL. HASELDEN: Thank you.

Q Detective Scott, there's an additional way to identify most firearms, isn't there?

A Yes, ma'am. Most firearms have what is called, just as any product, usually has a serial number located on that

firearm. Located on this particular firearm is a serial number and I'll read it out, which is going to be MR000503 and generally, when we do our evidence tags, we also like to put the same serial number. I'll read out the serial number on this evidence tag, on State's Eighty-four, as MR000503, which is also the same as on the weapon itself.

Q If you could move on to Eighty-six and Eighty-five, please.

A Certainly. Again, as per Your Honor's instructions, these guns were made safe. As you can tell, with the gun locks in both of them. State's Exhibit Number Eighty-six is going to be the Glock Model 33, .357 caliber compact. Also located on this weapon is a serial number. The serial number on this particular weapon is LKS043. On the evidence tag is LKS043, which matches the firearm. This is going to be State's Eighty-six.

State's Eighty-six A are the rounds that were taken from the weapon. State's Eighty-five, and again, as per Your Honor's instructions, has been made safe. This particular weapon still has the magazine in it, but as you can see, there is a gun lock run through it. There are no rounds in the chamber and no rounds in the magazine and also, it has been rendered completely safe. This is the USP compact 9 mm. It, too, also has a serial number which I will read out as 27-078401. Also located on the Sheriff's

Office evidence tag is H&K USP 9 mm, serial number 27-078401, which matches the same as on the weapon. Again, this is State's Eighty-five.

State's Eighty-five A is going to be the ammunition which was removed from the firearm.

Q Detective Scott, you collected, personally, all of those items, which would be State's Eighty-five A, Eighty-six A, and Eighty-four and Eighty-four A?

A I did.

Q And what did you do with them after you collected them?

A Again, once evidence is collected, it is then rendered safe, secured, and turned over to our evidence tech at the Criminal Investigation Division Annex.

Q And just like when casings that we just saw and the two projectiles, is anything additionally ever done with firearms?

A Yes, ma'am. Again, as with the State's prior exhibits with the shell casings and projectiles, firearms are commonly submitted to SLED for further analysis in an attempt to try to match up the various pieces of evidence that we have. These particular weapons were in fact submitted to the South Carolina Law Enforcement Division for further analysis.

Q And when that further analysis was done, what happened with those items?

A Upon completion of the analysis of the weapons, a SLED report was issued, which was made part of the case file, and the items were then returned to the Sheriff's Office where they were secured in our evidence locker until the date and time of trial.

ASST. SOL. HASELDEN: Your Honor, at this time, I would ask that State's Eighty-four, State's Eighty-five, and State's Eighty-five-A, and State's Eighty-six and Eighty-six-A be moved into evidence.

THE COURT: Mr. Mathews, on behalf of Mr. McMillan, as to State's Eighty-four, Eighty-four A, State's Eighty-five, and State's Eighty-five A, and State's Eighty-six and Eighty-six-A?

MR. MATHEWS: No objection, Your Honor.

THE COURT: Mr. Beach, on behalf of Mr. Jakes as to State's Eighty-four, Eighty-four A, State's Eighty-five, and State's Eighty-five-A, and State's Eighty-six and Eighty-six-A?

MR. BEACH: None, sir.

THE COURT: Ladies and gentlemen of the jury, State's Eighty-four, Eighty-four A, State's Eighty-five, and State's Eighty-five A, and State's Eighty-six and Eighty-six A, will be admitted into evidence in the trial of the case without objection.

As you have been instructed by the witness, the weapons

have been rendered incapable of firing, even though there is also ammunition in the boxes with the weapons. Please handle them carefully. Please proceed.

(STATE EXHIBIT NUMBER EIGHTY-FOUR S RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-FOUR-A IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-FIVE-A IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-SIX IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-SIX-A IS RECEIVED INTO EVIDENCE.)

THE COURT: They are in evidence. You may publish.

Q Before I publish, Detective Scott, when your agency collects firearms in any case, do you do anything additionally with their serial numbers?

A Yes, ma'am, we do. What we do is generally we will run firearms through our NCIC, or basically the national crime database, to determine the origin or to see if there is anything else that may be wrong with the weapon, such as whether it was used in previous crimes or whether it be stolen, missing, lost, and things of that nature.

Q And did you run these three firearms in that manner?
A Yes, ma'am, we did.
Q And what were the results?
A The results of State's Exhibit Eighty-five and State's Exhibit Eighty-six, which are the .357 and the 9 mm, the victim's weapons, it came back clear. We did not receive any hits on these weapons. State's Eighty-four, which is the Desert Eagle .50 caliber pistol. Upon running the serial number through the National Crime Database, we did receive a hit from State's Eighty-four that it was actually stolen from the San Diego Police Department in San Diego, California. Without misquoting, I want to say that it was approximately a 2002 maybe.
Q But you were able to verify that the gun was stolen?
A Upon the hit from the NCIC, I myself did contact the San Diego Police Department to verify that this weapon had been stolen. At that time, a police report was made available to myself in the form of a fax from the San Diego Police Department, which was also made a part of the case file.

ASST. SOL. HASELDEN: May I approach and publish?

THE COURT: You may.

ASST. SOL. HASELDEN: May I approach the witness again?

THE COURT: You may.

ASST. SOL. HASELDEN: Detective Scott, I'm going to show

you now what's been marked for identification purposes only as State's Seventy-One, would you please review this item?

THE COURT: Counsel, approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Madame Foreperson, ladies and gentlemen of the jury, I'm going to take my mid-morning break at this point, so you can stretch your legs, use the restroom.

Don't worry about the exhibits; just put them on the railing. They'll be right here and they'll be with you in your jury room when you're doing deliberations. So, I don't want anyone to feel they won't have an equal opportunity to review anything in evidence.

Please do not discuss the case, I'll be right back with you, I want you to have time to use the restroom so we can start back; I'll be checking with the bailiff once I know all of you had a chance to stretch your legs and take a break then we'll start back. Hopefully no more than about ten or twelve minutes, you may retire to your jury room at this time.

(11:15 A.M., 8-31-11, WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Now, Jeff, you're in the middle of your testimony, that means I want you to be able to take a break with everybody else, but as you know you cannot discuss your

testimony with anybody during the break because you have not been cross examined. Feel free to use the restroom, get up and walk around the courtroom, but do not discuss your testimony with anyone.

Counsel, I want all of the spectators as well as you to be able to take a break, this will be my only midmorning break, so let's take it so we can move forward. We'll take ten minutes.

(WHEREUPON, COURT IS IN BRIEF RECESS.)

THE COURT: Is the defendant McMillan ready to proceed?

MR. MATHEWS: Yes, Your Honor.

THE COURT: Defendant Jakes ready to proceed?

MR. BEACH: Yes, sir.

THE COURT: All right, once again ladies and gentlemen, I've received word that I have a witness, during the break, someone has attempted to influence their testimony.

Mr. Mathews, it is alleged that one of your witnesses on your witness list, a Mr. Jenkins, attempted to influence the testimony of witnesses testified in this case. I don't know whether that's true or not, but I'm going to expect you at the lunch break to get everyone of your witnesses and you advise them in no uncertain terms that if is it proven, that any person, I don't care who it is, for the victim's family or for the defense, it makes no difference, any person attempts to influence anybody's testimony, change anybody's

testimony, I will handle that with my content powers or I will direct law enforcement to charge them with obstruction of justice and I'll see to it that they're dealt with.

I will not tolerate people trying to influence people's testimony during the trial of the case; and you make sure, Solicitor, that your witnesses are aware of that, as well as yours, Mr. Beach. I realize you only have the one who's present, but Mr. Mathews has six or seven on his list.

With that final caveat, because I'm not going to continue to get these side reports. Now, I don't know what's true and what isn't true; I'm receiving those reports that's going on -- the witnesses are supposed to be separated. They're not even supposed to have contact. This allegedly occurred on the stairwell. Your witnesses should be where you designated and I gave you a room in this courthouse and yours should be upstairs, so there shouldn't be any contact going on and certainly no discussion about testimony. Everybody understand? Solicitor?

ASST. SOL. HASELDEN: Yes, sir.

THE COURT: Mr. McMillan?

MR. MATHEWS: Yes, sir.

THE COURT: Mr. Beach?

MR. BEACH: Yes, sir.

THE COURT: Bring me the jury -- you ready to go?

MR. MATHEWS: Yes, sir.

(11:20 A.M., 8-31-11, WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE RECORD.)

THE COURT: All right, Madame Foreperson, ladies and gentlemen of the jury, we will now continue with the testimony in the trial of this case. This is direct examination. Solicitor, your witness.

ASST. SOL. HASELDEN: Thank you. May it please the Court?

DIRECT EXAMINATION CONTINUES

BY ASST. SOL. HASELDEN:

Q Detective Scott, I approached you with what's been marked for identification purposes only as State's Seventy-One, can you identify that?

A As this item is sealed in a bag, I'm not able to identify what's in the envelopes, but I can identify the blue tags which are located out to the side as being swabs collected by various officers.

Q In particular, within that, there should be an item that's identified as Colleton County Sheriff's Office Number Twenty-Four, are you able to identify that tag?

A Yes ma'am. Colleton County Sheriff's Office identify item Number Twenty-Four, which is also part of State's Seventy-One, is identified as two swabs which were located at the I-95, McLeod Road exit ramp on the night of the 4th

of 2010, which was swabs obtained from placard Number Five, which was the blood stains on the ground.

Q Did you take that swab?

A Yes, ma'am, I did.

Q What did you do with that swab when you were done with it?

A Once the swab had been taken, just like any other piece of evidence, they had been tagged, placed into the criminal investigation division evidence locker and turned over to the evidence custodian.

Q Okay. And any further processing on that Colleton County Sheriff's Office Number Twenty-Four, part of State's Seventy-One?

A Yes, ma'am. Again, as I stated, prior to pieces of evidence which I turned into our criminal investigation division evidence locker, can and sometimes usually are submitted to SLED for further processing, Sheriff's Office Item Twenty-Four, State's Seventy-One, which is a swab located from the McLeod Road exit ramp were submitted to SLED for further analysis.

Q Now, you said that there are other items in State's Seventy-One; what are those other items?

A Sheriff's Office Item Twenty-Five, that's part of State's Seventy-One, is two DNA swabs taken from the head rest of the white Cadillac. Sheriff's Office Item Twenty-

Six, also two swabs, these were taken from the steering wheel of the Cadillac, items Twenty-Eight, was one swab which was taken from, what I had identified as spot Number Three, which was the rear seat of the Cadillac, which was, I believe, blood. Sheriff's Office Item Twenty-Nine was one swab, which was taken from what I had identified as spot Number Two, which was the rear passenger side fender of the Cadillac which was also blood.

Q All right. So, you're talking about these swabs that were taken from a Cadillac -- what did you do in regards to this Cadillac?

A Once the Cadillac was then secured on the early morning hours on the fourth of June last year, it was secure at the Criminal Investigation Division Annex in a locked facility that we have there, awaiting for the processing. A search warrant was obtained for the Cadillac at which time the search warrant was executed by myself along with two other detectives from the Sheriff's Office at which time, property therein deemed as evidence, was then collected, tagged and turned into evidence.

Q Your Honor, may I approach the witness?

THE COURT: You may.

ASST. SOL. HASELDEN: Detective Scott, I'm showing you what's been marked for identification purposes only as State's Twenty-Nine through State's Fifty-Six. Please take

a moment to read those items to yourself.

A Yes, ma'am.

Q What are those items?

A These are photographs, State's Exhibits Twenty-Nine through Fifty-Six, from the silver Cadillac, from the search warrant that was executed on the vehicle depicting the Cadillac as it was brought to us through our search warrant process and evidence collections vehicle.

Q Do you remember when you processed that vehicle?

A The vehicle was processed on June 7th, 2010.

Q That's several days later, correct?

A That is correct, approximately three days later.

Q Where had that Cadillac been in the meantime?

A As you get to see in the photographs, the Cadillac was actually secured in our evidence bay that we have located at the Sheriff's Office Criminal Investigation Division Annex which is a climate controlled secured facility.

Q So who all's allowed access to that Cadillac while it's in there?

A The only one's allowed access to this vehicle while it is stationary inside the bay, are the investigators with the Colleton County Sheriff's Office.

Q Okay. Are all those photos, State's Exhibit's marked for I.D., Twenty-Nine through Fifty-Six inclusive, are those all truthful and accurate depictions of the Cadillac as it

existed throughout your process on June 7th, I believe you said?

A That is correct.

Q Your Honor, at this time, I'd move State's Twenty-Nine through Fifty-Six into evidence.

THE COURT: Mr. Mathews, on behalf of Mr. McMillan as to State's Exhibit's Twenty-Nine through Fifty-Six inclusive?

MR. MATHEWS: No objection, Your Honor.

THE COURT: Mr. Beach, on behalf of Mr. Jakes as to State's Exhibit's Twenty-Nine through Fifty-Six inclusive?

MR. BEACH: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Twenty-Nine through Fifty-Six will be admitted into evidence in the trial of this case, without objection.

(STATE EXHIBIT NUMBER TWENTY-NINE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-TWO IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-THREE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-FOUR IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-SIX IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-SEVEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-EIGHT IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER THIRTY-NINE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY-TWO IS RECEIVED INTO EVIDENCE.)

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(STATE EXHIBIT NUMBER FORTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY-SIX IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY-SEVEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY-EIGHT IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FORTY-NINE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY-TWO IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY-THREE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY-FOUR IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER FIFTY-SIX IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish. You may approach.

ASST. SOL. HASELDEN: Your Honor, if I might, I'll just remove these firearms first?

THE COURT: That will be fine.

Q Detective Scott, if you would, if you could walk through these photos and explain what each photo shows, but

while you do it, since there's a lot going on with this Cadillac, if you could show it to the members of the jury at the same time and describe what's going on and the process that you're going through.

A Certainly. State's Twenty-Nine, which is the front view of the Cadillac which is standard procedure anytime we do any kind of evidence processing, we take an initial far away picture prior to any evidence collection or any processing of the vehicle.

State's Thirty is going to be, again, a picture of the vehicle showing the donut in the tire of the rear passenger side of the car -- also located in this picture is some stains that you can see right above the wheel well which had the appearance of blood.

State's Thirty-One, same picture, a little different angle, which shows the rear passenger-side donut tire, also in this picture you will notice some stains just above the wheel well which had the appearance of blood.

State's Thirty-Two, same picture, close up. As you can see in the picture, you have those same stains which are located just above the wheel well on both sides that have the same appearance as blood.

State's Thirty-Three, is going to be an interior view shot from the exterior of the vehicle which this is the driver's compartment, just to show how the vehicle sat as we

got it before we removed any evidence or before we tampered with the inside of the vehicle, as far as processing goes.

State's Thirty-Four is going to be the rear driver side of the vehicle, as you can see in this picture here, we have a -- you can see a white tennis shoe in the floorboard of the vehicle, also, you will notice that in the seat area of the vehicle there are several reddish stains having the appearance of blood.

State's Thirty-Five, which is the same picture, a little closer, is a white tennis shoe. Also located to the side of the tennis shoe is an open bottle of alcohol. You will also notice in this picture there are some stains again in this picture having the appearance of blood.

State's Thirty-Six is going to be a view of the rear driver side's seat of the Cadillac as shot from the exterior of the vehicle, and you also notice in this picture there are numerous stains in the backseat of the vehicle.

State's Thirty-Seven is going to the head rest of the driver's side of the Cadillac. As you will notice on the back of the head rest of the Cadillac, you will notice there are some stains again having the appearance of blood.

State's Thirty-Eight is going to be the rear passenger seat of the Cadillac. In this photograph, State's Thirty-Eight, you will notice that there are an actual large stain right here, again, having the appearance of blood. You will

also notice directly located almost in the center of the photograph, is a spent shell casing.

State's Thirty-Nine is a view of the rear seat of the Cadillac. In this picture you will notice a black, I believe, it's a t-shirt, or hoodie, of some sort. Also in this photograph you will notice in the background that there are some reddish stains with the appearance of blood.

State's Forty is a close up of the same shell casing, which was located on the rear seat of the Cadillac. You do also see some of the stains on the back of the car, but this photograph is of the close up of the spent shell casing.

State's Forty-One is going to be a view from the outside rear passenger to the inside of the vehicle, which was the rear passenger compartment. In this photograph, you see the same black article of clothing, as well as you will notice to the left of the picture, in the middle of the photograph, is the center console lid cover; and you will also notice the same stains and in the background you will also notice the tennis shoe on the driver side of the vehicle.

State's Forty-Two is a view from the passenger side of the Cadillac into the passenger compartment of the Cadillac. In this, photograph, you will notice that the center console it shown to not have its lid still attached to it, which it was laying in the backseat.

State's Forty-Three is going to be a photograph of the trunk compartment of the Cadillac, and as you see in this photograph there is a tire with several tear or shred marks along the exterior of the tire.

State's Forty-Four is a close up of a shell casing which is located in the rear of the vehicle passenger side just behind; if you look, this is the center console lid. Just behind that was located a shell casing as well as you do seem some reddish stains here with the appearance of blood.

State's Forty-Five is a view of the center console lid. At this point, it had been turned upside down by myself to photograph the blood which is located on the bottom of the center console lid. Again, this is the rear passenger side of the vehicle and you also can notice those same stains underneath where the console lid was located at.

State's Forty-Six is a view located directly in the center of the photograph. Right in this general vicinity, there is a spent shell casing -- this photograph is actually of the underside of the rear seat. The rear seat was removed from the vehicle. The rear seat was not actually securely attached to the vehicle, so we just picked it up and removed it from the vehicle without any effort whatsoever, but in this photograph you do see a spent shell casing.

State's Forty-Seven, again, is going to be the underside of the rear seat of the Cadillac as observed that day, and directly in the center of the photograph you will observe a spent shell casing located underneath where the seat would have been secured.

State's Forty-Eight is going to be a view of the Cadillac as the crime scene processing started. You will observe that this is the wheel well from earlier photographs and you will notice something different, that written in a black sharpie on the Cadillac fenders is the number "one" and the number "two," this was done for crime scene processing purposes as we take swabs from multiple areas. We like to be able to keep up with where we took the swabs from, so for this particular case, I labeled them "one" and "two" so when I tagged the swabs, I would know that swab number one was lifted from this area and swab number two was lifted from this area, so as to not be confused with any other swabs taken from the vehicle during the process.

State's Forty-Nine is the rear seat as it lie on the floor of our evidence bed. You will also notice in State's Forty-Nine, that there is the number "three" also in sharpie, written on the backseat of the Cadillac. Again, this was done for the collection of the blood for processing, so I would know where swab number three was taken from which was the rear seat of the Cadillac.

State's Fifty, this is the underside of the center console lid, and I apologize for the photo quality, but you can see just right off the tip of my finger is the number "four". Again, this was done so I would know that when the swabs were sent off, this particular piece of evidence, swab Number Four, was collected from the underside of the center console lid. As you can see there are numerous stains with the appearance of blood under the console lid.

State's Fifty-One is the driver side rear door area. In State's Fifty-One, you will notice that we then started with the fingerprint process of the vehicle and there are some fingerprints prior to collection located at the rear door of this Cadillac.

State's Fifty-Two is going to be a view of the rear glass of the Cadillac. This is not the door. This is actually the back glass of the Cadillac if you were just to kind of look out the back window of your vehicle. I believe it was located on the driver side of the vehicle and you can tell in this photograph that we continued with the fingerprint process as we do have some fingerprints located in this area right here.

State's Fifty-Three, again, we continue on with the finger print process. Located in State's Fifty-Three and I apologize, I'm not sure exactly where on the vehicle in particular, these particular prints are, but these are the

Cadillac that was processed on June 7th, and again, you can see some fingerprints, as well as some partial palms, located on the vehicle.

State's Fifty-Four, and again I apologize, I'm not sure of the exact location of these particular prints, but they are located on the Cadillac, and in this picture you can observe that in the center of the photograph there are fingerprints located on the vehicle.

State's Fifty-Five is going to be the rear trunk and rear driver side fender area of the Cadillac as it was observed on June 7th with multiple prints located on this area in this particular vicinity. And finally, State's Fifty-Six is going to be a close-up of some prints that were located on the Cadillac. I believe this is still the trunk area of the Cadillac and you can observe in this general vicinity that there are multiple prints located.

Q Thank you.

ASST. SOL. HASELDEN: Your Honor, may I approach and publish.

THE COURT: You may.

ASST. SOL. HASELDEN: May I approach again?

THE COURT: You may.

Q Detective Scott, I'm going to hand you now what's been marked for identification purposes only, it's State's Seventy-Two and State's Seventy-Three, if will you take a

second to look those over for me please, and let me know when you're done.

A Yes, ma'am.

Q Now, we already know that Sheriff's Office Number Twenty-Four, which was represented by Placard Five in State's Seventy-One, you mentioned there were multiple items in there though. Can you describe what some of those items were, coupled with the two that I just gave you -- first of all, can you identify the two I just gave you?

A Yes, ma'am, I can.

Q What are they?

A Sheriff's Office Item Number, which is also State's Exhibit Number Seventy-Two, is one swab which was taken from spot Number Four, as I previously mentioned in the photographs from the center console lid area. Sheriff's Office Item Number Thirty, State's Seventy-Three, was one swab that was taken from the passenger rear fender of the Cadillac, which was identified as spot Number One in the same photographs.

Q And you had already identified what the other ones were in Seventy-One, correct?

A That is correct.

Q Did you take those two swabs?

A Yes, ma'am, I did.

Q Did you take the other swabs that are in Seventy-One?

A Item Seventy-One, I took swabs -- Sheriff's Office Item Number Twenty-Four, Twenty-Eight, Twenty-Nine, with Detective Thomas taking Twenty-Five and Twenty-Six.

Q Did he take those in your presence?

A Yes, he did.

Q Did you see him take them?

A Yes, ma'am, I did.

Q Did you then take custody of all these items after they were taken?

A All of these items were taken again and placed into evidence as previously mentioned.

Q And along with Seventy-One, did Seventy-Two and Seventy-Three also undergo further testing?

A Yes, they did.

Q What was done with them upon completion of the further testing?

A Upon completion of the analysis at SLED, South Carolina Law Enforcement Division, these items were returned to us which they were then secured in the criminal investigation division locker.

Q Your Honor, at this time I'd ask that State's Seventy-One, Seventy-Two and Seventy-Three be moved into evidence.

THE COURT: Mr. Mathews, on behalf of Mr. McMillan as to State's Seventy-One, Seventy-Two and Seventy-Three?

MR. MATHEWS: Without objection, Your Honor.

THE COURT: Mr. Beach, on behalf of Mr. Jakes as to State's Exhibit Seventy-One, Seventy-Two and Seventy-Three?

MR. BEACH: No objection, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Seventy-One, Seventy-Two and Seventy-Three will be admitted into evidence in the trial of this case without objection.

(STATE EXHIBIT NUMBER SEVENTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY-TWO IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY-THREE IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish.

ASST. SOL. HASELDEN: May I approach?

THE COURT: You may approach.

Q Detective Scott, we saw in those photos that you found other evidence inside the car, though; is that correct?

THE COURT: Refer to the exhibit number for the record.

Q We're going from State's Exhibit's Twenty-Nine through Fifty-Six. You recovered other evidence though than State's Seventy-One, Seventy-Two and Seventy-Three, is that correct?

A That is correct.

Q Did you also recover, physically take, the spent shell casings we observed in Twenty-Nine through Fifty-Six?

A Yes, I did.

Q May I approach?

THE COURT: You may.

Q Detective Scott, I'm handing you what's been marked Seventy-Four, Seventy-Five, Seventy-Six and Seventy-Seven, take a moment to review those, please.

A Yes, ma'am.

Q What are those items?

A State's Seventy-Four through Seventy-Seven are -- Seventy-Four is a spent 9 mm shell casing; Seventy-Five is a spent 9 mm shell casing; Seventy-Six is a spent 9 mm shell casing; and Seventy-Seven is a spent 9 mm shell casing, all retrieved from the Cadillac.

Q How do you know those are the four retrieved items from the Cadillac?

A Again, as stated before, through our Sheriff's Office Evidence Tag, you'll notice at the bottom of the tag my signature, as well as my employee number. Also located within the envelope of a plastic bag is a brown smaller paper bag, located at the top of that is the collection time, as well as a spent shell casing; all of them done within my handwriting.

Q Like we've heard before with other forms of evidence, what did you do with those once they were collected?

A Again, once these were collected, tagged, they were

submitted to the Sheriff's Office Investigation Division Evidence Locker to await further analysis.

Q Did they undergo further analysis?

A They did.

Q Where did they undergo further analysis?

A They underwent further analysis at the State Law Enforcement Division in Columbia, SLED.

Q And when they were done at SLED, what happened to them?

A When these items were done at SLED, they were then returned to the Colleton County Sheriff's Office where they were resecured back in the evidence locker awaiting the trial for this case.

ASST. SOL. HASELDEN: Your Honor, at this time I'd ask that State's Seventy-four, Seventy-five, Seventy-six, and Seventy-seven be moved into evidence.

THE COURT: On behalf of Mr. McMillan, any objections to Seventy-Four, Seventy-Five, Seventy-Six, and Seventy-Seven, Mr. Mathews?

MR. MATHEWS: Without objection, Your Honor.

THE COURT: Mr. Beach, on behalf of Mr. Jakes, any objection to Seventy-Four, Seventy-Five, Seventy-Six, and Seventy-Seven?

MR. BEACH: No objections, Your Honor.

THE COURT: Ladies and gentlemen of the jury State's Exhibit's Seventy-Four, Seventy-Five, Seventy-Six, and

Seventy-Seven will be admitted into evidence in the trial of this case without objection.

(STATE EXHIBIT NUMBER SEVENTY-FOUR IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY-SIX IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY-SEVEN IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish. You may approach.

ASST. SOL. HASELDEN: Thank you.

Q Detective Scott, you recovered those swabs from the Cadillac, right?

A Correct.

Q Why did you recover those swabs from the Cadillac?

A Those swabs were recovered from the Cadillac for them to be submitted for comparison to any other known standard that might be on file with SLED, or any other standard that might be taken throughout the course of this investigation to try to prove or disprove someone's involvement in the case.

Q So you mentioned the standards, is it part of your job as a case officer to secure standards from any possible parties?

A That is correct. If we have an idea that someone is involved in a case, we then try to obtain a standard; which a standard, all it is, is a swab taken from the mouth area of an individual that we feel may be involved in this case to submit to SLED for comparison with other swabs taken.

Q And in this case, were additional standards taken from parties involved?

A Yes, there were.

Q What parties were those?

A We took standards from basically all parties that were alleged to have been on the scene that night, to include victims, we took standards from Jesse King, Amanda and Jeanine Metzfield. We then took standards from James Davis, Antwan McMillan, and David Jakes.

ASST. SOL. HASELDEN: Your Honor, may I approach?

THE COURT: You may.

Q Detective Scott, I'm going to hand you now what's been marked for I.D. purposes only as Seventy-Eight, Seventy-Nine, Eighty, Eighty-One, Eighty-Two, and Eighty-Three. You can take a second to review those items.

A Yes, ma'am.

Q What are those items?

A These items are the DNA standard that were obtained from the six individuals I previously named.

Q Did you ever see the taking of all those items or were

various items taken by members of your investigation team?
A Various items were taken by various detectives from the Sheriff's Office.
Q And were any taken by yourself?
A Yes, there were some taken by myself.
Q Could you identify which are which, please, and if it was not yourself, could you identify who took them for the record?
A Certainly. This oral swab taken from victim, Jesse King; this swab was obtained in Pensacola, Florida, by Detective Dorethea Gathers, you can tell by her signature located at the bottom of the card, as well as her badge number, employee number, located directly behind her signature.
Q What number was that?
A That was State's Seventy-Eight. State's Seventy-Nine was a DNA oral swab taken from Amanda Metzfield, also taken in Pensacola, Florida, on the same day by Detective Gathers.

This is two oral swabs that were taken from James Davis. These swabs were taken by Detective Sergeant Christy Green, from the Sheriff's Office Annex and that would be State's Eighty. State's Eighty-One were DNA swabs taken from Jeanine Metzfield. Those swabs were taken from her home in Richmond, Virginia, by myself. The next were swabs taken from David Jakes which would be State's Eighty-Two.

Those swabs were collected by myself at the Colleton County Detention Center.

Finally, State's Eighty-Three were swabs taken from Antwan McMillan, also collected by myself from the Colleton County Detention Center.

Q What happened to those swabs once they were taken?

A Once the swabs were taken, they were then tagged, placed in evidence and submitted to the State Law Enforcement Division for further analysis.

Q Were they taken to SLED?

A Yes, they were.

Q What happened to them up at SLED?

A At SLED they were then analyzed and compared to the other swabs that were previously submitted from the crime scene that night which was Placard Number Five, the blood, as well as the swabs obtained from the Cadillac on the the 7th that were taken during the course of the search warrant.

Q And when they were done up at SLED what happened to them?

A When they were done at SLED, they were then returned back over to our agency to be resecured in the property locker.

Q Your Honor, at this time I'd move State's Seventy-Eight, Seventy-Nine, Eighty, Eighty-One, Eighty-Two and Eighty-Three into evidence.

THE COURT: Mr. Mathews, as to Seventy-Eight through Eighty-Three inclusive State's Exhibit's on behalf of the defendant McMillan?

MR. MATHEWS: No objection, Your Honor.

THE COURT: Mr. Beach, on behalf of the defendant Jakes as to Seventy-Eight through Eighty-Three?

MR. BEACH: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Seventy-Eight through Eighty-Three, inclusive, will be admitted into evidence in the trial of this case without objection.

(STATE EXHIBIT NUMBER SEVENTY-EIGHT IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER SEVENTY-NINE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-ONE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-TWO IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-THREE IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish and approach.

ASST. SOL. HASELDEN: Thank you, Your Honor.

Q Detective Scott, we saw in State's Twenty-Nine through Fifty-Six that there were various items of clothing and other articles inside the car, were any of those collected?
A Yes, they were.
Q Why?
A Again, these items were collected, as they were deemed to have some type of evidentiary value. Generally, we would collect clothing because of various reasons. Some can be a victim saying the subject was wearing this the night of or another reason is for DNA collection as well. Clothing can have sweat, hair, things of that nature, which can also be collected for DNA processing.
THE COURT: Counsel, approach.
(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE- RECORD AND OUT OF THE HEARING OF THE JURY.)
ASST. SOL. HASELDEN: May I approach?
THE COURT: You may.
Q Detective Scott, I'm now going to show you what's been marked for identification purposes as State's Ninety-Three, Ninety-Four, Ninety-Nine, One Hundred and also Ninety-Five. Can you identify those items, please?
A Certainly.
Q Did you have an opportunity to review Ninety-Three, Ninety-Four, Ninety-Five, Ninety-Nine and One hundred?
A Yes ma'am.

Q Can you tell me what those items are?
A Certainly. State's Exhibit Ninety-Three is a black shirt which was taken from the rear seat of the Cadillac on the day of the processing of the search warrant execution.

State's Ninety-Four are a pair of gloves which were, again, located inside the Cadillac rear driver side, collected on the day of the execution of the search warrant.

State's Ninety-Five is a white towel and a pin striped hoodie also located inside the Cadillac on the day of the execution of the search warrant.

State's Ninety-Nine is going to be a white t-shirt which was also located in the rear of the vehicle on the day of the execution of the search warrant.

And finally, State's One-Hundred is a pair of Nike Air Force One tennis shoes and a hat, also located within the side of the vehicle on the day of the execution of the search warrant.

Q Detective Scott, are these the same items that were seen in State's Twenty-Nine through Fifty-Six, the photographs that we're processing, the Cadillac?
A Yes, they are.
Q Did you collect these items?
A Yes, I did.
Q What did you do with the items when you were done with them?

A When I collected the items they were again tagged, placed in the Criminal Investigation Division Evidence Property Locker, and then further sent to SLED for analysis.
Q Now, when you have larger items, clothing or items such as these, they're treated a little differently than swabs at SLED aren't they?
A Yes, ma'am.
Q And, basically, those items have been altered since you've collected them, haven't they?
A They had been secured within these bags, as well as they have some type of a plastic apparatus in there to keep them straight.
Q Okay, but, can you verify that they are the same item that you recovered from that car?
A Yes, I can.
Q Did you do anything to alter them while they were in your custody?
A No, ma'am, I did not.
Q Once they were secured in the evidence locker, you said they were sent to SLED?
A That is correct.
Q And when they were done at SLED, did you, or someone in your staff, retrieve them?
A Yes, we did.
Q What did they do with them?

A Once the items were retrieved again, they were then resecured in the evidence locker awaiting date, time and trail.

ASST. SOL. HASELDEN: Your Honor, at this time I ask that State's Ninety-Three, Ninety-Four, Ninety-Five, Ninety-Nine and One-Hundred be moved into evidence.

THE COURT: Mr. Mathews, on behalf of Mr. McMillan as to State's Exhibit's Ninety-Three through Ninety-Five, inclusive, and Ninety-Nine and One-Hundred?

MR. MATHEWS: Without objection, Your Honor.

THE COURT: Mr. Beach, on behalf of Mr. Jakes?

MR. BEACH: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Ninety-Three, Ninety-Four, Ninety-Five, Ninety-Nine and One-Hundred will be admitted into evidence in the trial of this case, without objection.

(STATE EXHIBIT NUMBER NINETY-THREE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER NINETY-FOUR IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER NINETY-FIVE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER NINETY-NINE IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER ONE-HUNDRED IS RECEIVED INTO

EVIDENCE.)

THE COURT: You may publish.

ASST. SOL. HASELDEN: Thank you. Your Honor, at this time I would ask that the items remain up here until further testimony and after further testimony, gloves will be given.

THE COURT: Very well. Proceed.

ASST. SOL. HASELDEN: May I approach?

THE COURT: You may.

Q Detective Scott, I'm going to hand you what's been marked for identification purposes only, as State's Ninety-Six. Just take a moment to look over that, please.

A These appear to be samples collected from SLED on the articles of clothing.

Q But you didn't collect those articles?

A No, ma'am.

Q The articles of clothing that you mention, are those what are in State's Ninety-Three, Ninety-Four, Ninety-Five, Ninety-Nine and One-Hundred?

A That is correct.

Q So what do you mean samples?

A When any item is submitted to SLED, they then take a sample from that item to compare to standards, as well as other samples that were collected by the investigating officers.

Q Okay. So you did not personally take those samples

out?

A No, ma'am.

Q But when the items were done, Ninety-Three, Ninety-Four, Ninety-Five, Ninety-Nine and One-Hundred were done being tested at SLED, Did you remember yourself then picked the items up which is State's Ninety-Six?

A Yes, ma'am.

Q And it was returned to Colleton County Sheriff's Office?

A Yes, ma'am, it was.

Q What happened to it there?

A Once it was returned to Colleton County Sheriff's Office, it was then secured in the Criminal Investigation Division Property Evidence Locker, again, when you found and date the trial.

Q Okay. All most done.

ASST. SOL. HASELDEN: Your Honor, may I approach again?

THE COURT: You may.

Q Detective Scott, now I'm going to show you what's been marked for identification purposes only as State's Ninety-Eight and State's One-Hundred One. If you can take a moment to look over those.

A Yes, ma'am, I can identify these items.

Q What are those items, please?

A These items are the prints that were lifted from the

Cadillac during the day of the execution of the search warrant; the processing and the evidence bags are secured in as well as the temp-print cards, which is a standard card that we submit if we have a known, or possibly known, suspect to be processed at the crime lab to compare the list with the cards to see if they match.

Q What State's number is that that your ---

A I apologize; this is State's Ninety-Eight.

Q Okay. So those are the actual latent lifts?

A That is correct.

Q Are you able to identify State's One-Hundred One?

A Yes, ma'am, I am.

Q What is that?

A State's 101 is the property evidence bag that the prints were submitted to the crime lab in.

Q Why is it separate from Ninety-Eight?

A State's 101 is separate from 98 because of -- originally prints were submitted to AFIS, which is located in North Charleston for analysis. They, in turn, then had a tragedy, they were not able to be here today, so therefore, we had to resubmit the prints to Beaufort Crime Lab for complete processing all over again.

Once the prints were submitted to Beaufort Crime Lab, the prints were then returned to me by Sergeant Chris Wilson from Beaufort County Sheriff's Office in State's Ninety-

Eight, this enveloped the temp-print cards and the latent lifts, but do to a mistake, the property evidence bags were actually kept with her. She, then, brought these with her this morning to, again return them to Colleton County Sheriff's Office.

Q Can you verify by identification there that State's Ninety-Eight is the original set or temp-print cards and latent lifts that you took?

A Yes, ma'am, they are.

Q You took those latent lifts from the Cadillac that we saw in State's Twenty-Nine through Fifty-Six?

A Myself, along with Detective Carter, did lift these from the exterior of the vehicle on the 7th of June.

ASST. SOL. HASELDEN: Your Honor, at this time I'd ask that State's Ninety-Eight and One-Hundred One be moved into evidence.

THE COURT: As to State's Ninety-Eight and One-Hundred One, Mr. Mathews?

MR. MATHEWS: Without objection, Your Honor.

THE COURT: Mr. Beach?

MR. BEACH: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Ninety-Eight and One-Hundred One will be admitted into evidence in the trial of this case without objection.

((STATE EXHIBIT NUMBER NINETY-EIGHT IS RECEIVED INTO

EVIDENCE.)

(STATE EXHIBIT NUMBER ONE HUNDRED AND ONE IS RECEIVED INTO EVIDENCE.)

THE COURT: You may publish.

ASST. SOL. HASELDEN: Your Honor, again, I'm going to ask that these remain up here until they are testified to further.

THE COURT: I understand.

Q Now, Detective Scott, as a part of the further processing of that silver Cadillac that we saw in State's Twenty-Nine through Fifty-Six, were you able to determine who owned that car?

A We were able to determine, through running the vehicle identification number on the vehicle, who the car did, in fact, belong to. We attempted to run the tag initially on the car, which was I believe FFV798, but do to that tag being on the wrong vehicle, we had to run the vehicle's identification number, which was located on the dashboard of the vehicle.

ASST. SOL. HASELDEN: May I approach, Your Honor?

THE COURT: You may.

Q Detective Scott, I'm showing you State's Exhibit Seven. Do you recognize that?

A Yes ma'am, I do.

Q What is that?

A State's Exhibit Seven is the Cadillac, as photographed by myself, the rear of the Cadillac, which shows the tag that was on it, the night that we recovered it as evidence.

Q You say that there was a wrong tag on that car?

A Yes, ma'am, that is correct.

Q How did you find that out?

A Again, the tag was ran through our central dispatch. We gave them the tag number; they ran it through the DMV, at which time came back with this particular tag should have been on, I believe, a Trailblazer, not a Cadillac.

Q When you run the vehicle identification number and the tag number, are you just given make and model? Are you just given an addresses, or are you given names?

A When you run a tag or as well as a VIN, you're given make, model and the registered owner of that vehicle.

Q Who was the registered owner of that Cadillac when you ran the VIN?

A Upon running the VIN, the registered owner, I believe, without my notes, I believe it was a Jenkins' subject. Again, I apologize; I don't have my NCIC printout.

MR. BEACH: May we approach, Your Honor?

THE COURT: Counsel approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

THE COURT: Proceed.

ASST. SOL. HASELDEN: May I approach, Your Honor?

THE COURT: You may.

Q Detective Scott, I'm handing you two items. If you could just review those to refresh your memory.

A Yes, ma'am.

Q So who did the Vehicle Identification Number reveal as the owner of the car?

A The VIN number came back to a David Jenkins. His address is listed as 3207 Clatty Farm Road, Smoaks, South Carolina.

Q You stated that the tag on the vehicle was the incorrect tag; is that correct?

A That is correct.

Q Who did that tag come back to?

A The tag that was on the vehicle, as seen in State's Seven, which is FFB798; that tag comes back to Brenda Lee McMillan, 4644 Ruffin Road, Ruffin, South Carolina.

ASST. SOL. HASELDEN: May I approach, again?

THE COURT: You may.

Q Detective Scott, as your position as case officer on this, did I ask you to prepare a map?

A Yes, you did.

Q And how did you prepare that?

A As far as the preparation process, I went to GIS, which is located in the Harrelson Building, across and to the

right, near the tax office, and met with one of their personnel who prepared a rather nice map for us.

Q And what is GIS, do you know?

A No, I don't.

ASST. SOL. HASELDEN: Your Honor, may I approach?

THE COURT: You may. Mr. Mathews, Mr. Beach, you may come around, if you wish to view anything that's going to be shown to the jury. Is it your intention to introduce this?

ASST. SOL. HASELDEN: Yes.

THE COURT: All right, counsel, be aware so that you can take a look at this. It was used earlier. Proceed.

Q And before I reveal it, if you could just look at it. It's been marked for identification purposes as State's Ninety-one. Do you recognize this item?

A Yes, ma'am, I do.

Q What is this item?

A That is a map of the upper portion of the county, which is from the hospital located on Robertson Boulevard to Smoaks, South Carolina. The ending address being, I believe, 251 Johnsville Road, Smoaks, South Carolina.

Q Is this the map I asked you to prepare?

A Yes, it is.

Q And you retrieved this directly from Geological Survey here in Colleton County?

A Yes, I did.

ASST. SOL. HASELDEN: Your Honor, I'd ask at this time that State's Ninety-one be moved into evidence.

THE COURT: Any objection as to State's Ninety-one from defendant McMillan?

MR. MATHEWS: No, Your Honor.

THE COURT: From the defendant Jakes?

MR. BEACH: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number Ninety-one will be admitted into evidence without objection.

(STATE EXHIBIT NUMBER NINETY-ONE, ENLARGED MAP OF UPPER COLLETON COUNTY, IS RECEIVED INTO EVIDENCE.)

THE COURT: State's Ninety-one is in evidence. You may publish. Counsel, you may come around if you wish to view it.

Q Detective Scott, if I could use the microphone at this time. If you would step down off the stand.

THE COURT: Hold on a second. Let me make sure it's working. Counsel, come around. Can everybody on the jury see the board?

(ALL NOD IN AGREEMENT.)

THE COURT: How about my lawyers?

(NOD IN AGREEMENT.)

THE COURT: All right. Jeff, hold the microphone up. You've got your back to Becky now, so speak up. Ladies and

gentlemen of the jury, let me know if anybody cannot see or hear. Proceed.

Q Detective Scott, as a part of this case as case officer, is it also your duty to perhaps draft and serve and execute search warrants?

A Yes, it is.

Q Did you execute search warrants in this case to the home of the two defendants?

A Yes, we did.

Q And was anything of any evidentiary value related to this case found?

A No, there was nothing of any evidentiary value related to this case located in the residence of the two defendants.

Q And where did the defendant, Antwan McMillan, live at the time of this incident?

A The defendant, Antwan McMillan, lived at 1864 Sunrise Road.

Q And are you able to identify that location on the map?

A Yes, ma'am, I am.

Q If you could, please, at this time, in the presence of the jury, mark that location.

A Certainly. (WITNESS MARKS THE MAP.) 1864 Sunrise Road would be located -- if you look, you'll see Southard Lane. It's actually located right there, which this is Sunrise Road right here. This is Clatty Farm Road and this is

Johnsville Road, right here in Smoaks, South Carolina.
Q Did you also -- were you able to determine where the defendant, David Jakes, was living at the time of this incident?
A Yes, we were.
Q And where was that?
A That was 3207 Clatty Farm Road, Smoaks, South Carolina.
Q Are you able to identify it on the map?
A Yes, ma'am, I am.
Q If you would please mark it in the presence of the jury at this time.
A Certainly. 3207 Sunrise Road is going to be in this general vicinity right here. Again, this is Clatty Farm Road, this is Sunrise, and this is Johnsville in Smoaks, South Carolina.
Q Are you able to identify on that map Colleton Medical Center?
A Yes, ma'am, I am.
Q Could you please, in the presence of the jury, mark that location at this time?
A Certainly. Colleton Medical Center is located on Robertson Boulevard, which is located right here. It's already highlighted blue, but I will go ahead and circle it in the presence of the jury, but that is Colleton Medical Center, Robertson Boulevard; I believe the address is 501.

Q Thank you.

THE COURT: Do you need him to return to the witness stand?

ASST. SOL. HASELDEN: Yes, he can return to the witness stand.

THE COURT: All right.

(WITNESS GIVES HANDHELD MICROPHONE BACK TO CLERK.)

THE COURT: State's Exhibit Ninety-one is in evidence, unless you're going to use it on the easel further, it goes to the court reporter. Do you need it?

ASST. SOL. HASELDEN: No, we'll take it down.

THE COURT: Proceed.

Q Finally, Detective Scott, is a part of your job as an investigator of the Sheriff's Office, you interview suspects, don't you?

A Yes, ma'am, I do.

Q Did you have an opportunity on June 4th of 2010 to interview James Davis?

A Yes, ma'am, I did.

Q And you've been sitting in here, haven't you?

A Yes, ma'am, I have.

Q You saw his testimony?

A Yes, ma'am, I did.

Q Did he tell you the same thing on June 4th, 2010 as he testified to on that stand?

A Yes, ma'am, he did.
Q You had another opportunity to meet with him, didn't you, in December of 2010?
A Yes, ma'am, I did.
Q And did he tell you the same thing again that he told on that stand yesterday?
A Yes, ma'am, he did.
ASST. SOL. HASELDEN: Just a moment's indulgence.
Q Detective Scott, I believe I have no further questions for you. If you would answer anything defense counsel has, I'd appreciate it.
THE COURT: Counsel approach.
(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)
THE COURT: Madame Foreperson, ladies and gentlemen of the jury, we're going to stop at this time and take our lunch break. During the lunch break, if I have any smokers, as I told you yesterday, you know they will take you outside. Now, that's during the breaks in the trial because we don't allow smoking in the jury room once deliberations start. Of course, you stay together in the jury room, but I'm happy to provide that outside the courtroom during the break.
Please do not discuss the case with anybody, amongst yourselves or anybody else. I understand your lunch has

arrived. It's going to be served in your jury room for lunch. I'll get back to you just as quick as I know everybody has had a chance to eat. I need to give the parties a chance to have lunch and get back and the spectators, if possible. However, I anticipate we'll start back as close to 2:00 as possible. You may retire to your jury room at this time.

(1:00 P.M., 8-31-11, WHEREUPON THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Detective Scott, once again, although you know that I do not prefer doing this, I'm having to take a break during your testimony. You have not been cross-examined. I want you to feel free to get lunch, but you cannot discuss your testimony with any attorney or any other person. You're in the middle of examination and it would be improper for you to talk about your testimony with anyone.

DET. SCOTT: Yes, sir.

THE COURT: We will start back with cross-examination of Detective Scott at approximately 2:00. Now, I realize that you have to leave to get lunch and get back. So an hour is a little bit flexible, but I definitely don't want to start any later than 2:15, because I want to try to get as much work done as possible. Anything outside the presence of the jury from the State -- does the State

anticipate they can complete their case today?

ASST. SOL. HASELDEN: Yes, sir. I believe we have only about two more hours total of testimony.

THE COURT: All right. This is your two-hour notice, Mr. Mathews and Mr. Beach, that if we started back at 2:00, at approximately 4:00 this afternoon, the defense should be ready, if they so desire, to start presenting evidence in the trial of this case. Everybody understand?

MR. MATHEWS: Yes, Your Honor. Before we get started, I have a question for Antwan. I intend to introduce some evidence either here or through another witness, and I know that will cost Mr. McMillan my final argument. I don't know what effect it has on Mr. Beach. I know we've got a Chinese Wall, so it may not, but I just -- just for clarification when we get along, I just ask that ---

THE COURT: Well, I'll wait until you reach that bridge. That's a "what if" question, Mr. Mathews. I don't know what's going to happen here. I'll deal with it at the appropriate time if it occurs. I know Mr. Beach appreciates you bringing up "what if" as to your concerns tor his client, but frankly, if you put up evidence, you will not get closing argument, and that's as far as it concerns you. Anything else?

MR. MATHEWS: No, sir.

THE COURT: Is the defendant Jakes ready to proceeds?

MR. BEACH: Ready, Your Honor.

THE COURT: All right. Bring us a jury, please.

(2:15 P.M., 8-31-11, WHEREUPON THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Madame Foreperson, ladies and gentlemen of the jury, we'll now continue with the testimony in the trial of this case. Cross-examination of this witness, by the defendant McMillan.

MR. MATHEWS: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION

BY MR. MATHEWS:

Q Good afternoon, Detective Scott, how are you doing today?

A I'm all right. How are you doing?

Q Excellent. You are the case officer, the lead officer in this case, are you not?

A Yes, sir, I am.

Q And that isn't true in every case, but I think you testified way -- it seems like forever ago, but early; is that correct?

A That is correct.

Q As lead officer, you review all the evidence that comes in, in this case?

A That is correct.

Q And determine what things should be sent to SLED and what things should not.
A It's a collective effort sometimes with my supervisor; that is correct.
Q Okay. You had referenced right there at the end that you had gotten a couple of search warrants for the two defendants. One at Sunrise Road, I guess; is that correct?
A That is correct.
Q And one at Clatty Farm Road?
A That is also correct.
Q Okay. And you had -- how hard is it to get a search warrant? How much time does it take?
A Basically, it all depends. I mean, it's a case-by-case basis. You just type up an affidavit for a search warrant, which has all the information in it, the probable cause, the reason you want to search the property, a reason you believe that there is evidence at the property, and then you have a judge review it, and then ultimately, if they deem it's necessary to issue a search warrant, then they'll sign it
Q In this case, at Clatty Farm, you got it, you drafted it up with the affidavit and then you went to Judge Elbert, I think, Judge Duffy, right?
A I believe that's correct.
Q And you were able to do that on the same day?
A I believe that's correct.

Q And you were able to have officers go out and serve it on the same day?
A I believe so, yes, sir. That's correct.
Q Okay. Now you indicate that you were unable to obtain anything of evidentiary value, but that doesn't mean that you didn't seize some; is that correct?
A That is correct.
Q Okay. And, in fact, you seized from Clatty Farm Road, you seized a couple of long guns -- or I'm sorry, you seized a shotgun and a .32 caliber handgun?
A I know we retrieved a shotgun. I'm not sure of the caliber of the pistol, but I know it was a small caliber.
Q Okay.
A It was not a caliber used in this particular incident.
Q I understand; but you didn't seize that?
A We did take that one, yes, sir.
Q And initially, you entered that pistol into evidence, did you not?
A That is correct.
Q But you found it was related to a separate case involving one of the residents of that home?
A I believe so.
Q And which -- who was that?
A I believe -- I don't want to misquote, Bryan Jenkins, maybe.

Q Okay. One of the residents of that home?
A That is correct.
Q So it went into evidence and it was given an evidence number, but then it was removed and put in a different case file?
A I believe what the public defender is referring to is not the pistol, but the shotgun that was seized from the home. It was actually linked to another case, at which time it was then removed from the evidence in this case and assigned a different case number.
Q Okay. So inadvertently, when you said there was nothing of evidentiary value, at one time you felt there was or could have been?
A Again, like I stated before, as to this case, there was nothing of evidentiary value removed from the homes of the two defendants related to this case.
Q Okay. And you also took from, I think, you took nothing from Sunrise Road; is that correct?
A That is correct.
Q And four or five items were taken from Clatty Farm Road?
A That's correct.
Q Including two weapons?
A That is correct.
Q When you say -- there was a third search warrant done

on the Cadillac, correct?

A That is also correct.

Q And you were able to seize that first, because it could go somewhere and then get a search warrant after you had taken the vehicle?

A Yes, sir. That is correct.

Q Okay. In fact, you also had a search warrant issued on Mr. Davis's home, did you not?

A Yes, sir, we did.

Q And although nothing was entered into evidence, various items were seized from that home ?

A Yes, sir, they were.

Q Including in those items were three of four cell phones.

A I'm not sure exactly how many there were, but a couple of cell phones taken as per the search warrant, correct.

Q Okay, a couple.

MR. MATHEWS: May I approach the Court Reporter?

THE COURT: You may?

MR. MATHEWS: May I approach the witness?

THE COURT: You may.

Q Detective Scott, what did I just hand you? What is that marked? What exhibit number?

A This is Defendant's Nine.

Q Okay. And does that reflect the scene at Johnsville

Road?
A Yes, sir. I believe this is a back background at 211 Johnsville Road.
Q Okay. And would you kindly count the number of cell phones that are on that dresser?
A The number of cell phones sitting on the dresser are three.
Q And you took those, but you ultimately sent them back?
A That is correct.
Q Did you send them to SLED?
A No, sir. They were not sent to SLED.
Q Okay. Have you ever in your time as a detective, have you ever gotten a subpoena for cell phone records?
A Yes, sir. We do it all the time.
Q And is that a particularly arduous thing or is it you send it off and they send you the records?
A It is a time consuming thing; we send it off, but we have to have certain types of information before we can send a subpoena off to obtain phone records.
Q Okay. Normally, when you send it off, I mean, a lot of the cell phones you get belong to people other than the person you take them from, right?
A That is correct.
Q So normally, when you send a subpoena for cell phone records, you send it by number?

A Actually, you have to have, for a subpoena for a cell phone record, the subscriber's name, date of birth, social security number, as well as the phone number, is the general rule of when we prepare a subpoena.

Q A general rule?

A For when we prepare a subpoena for cell phone records, that is usually what we place on our subpoenas.

Q Usually, but if you don't have the information, they have records by cell phone number; do they not?

A Generally, when we send a subpoena for cell phone records, I've never had a case to where it comes up to where I only had a phone number, so I can't testify to whether or not they can look it up strictly by phone number or not.

Q Okay. So you don't know, because you've never tried?

A I don't know.

Q Okay. You've never tried?

A I don't know. I've never tried.

Q And would you agree that calls made during the night would be an important thing to know?

A That is correct.

Q Okay. Now as the case officer, you also dispatched people out to the hospital, did you not? Or were aware that your agents or officers were dispatched to the hospital?

A Yes, I was aware.

Q And I think Officer Lawson was one of the people sent

out there?
A Yes, sir, he was one of the officers to respond to the hospital.
Q And he took -- he took pictures on scene?
A Yes, sir. He did.
Q And you had access to those pictures?
A Yes, sir, I did.
MR. MATHEWS: May I approach the witness again?
THE COURT: You may.
Q Detective Scott, what have I handed you?
A This is some photographs numbering Defendant's One, two, three, four, and five.
Q Okay. Would you count the number -- those are people that were at the hospital?
A I never responded to the hospital, so I couldn't tell you exactly who was at the hospital.
Q Well, you're the case office, right?
A Yes, sir. That is correct.
Q And you have to assess the evidence and figure out, so you knew, did you assess that Jacky Lawson was out there and he took pictures?
A Yes, sir. Jacky Lawson was at the hospital and he did take pictures.
Q And those were photos that he submitted into the case file.

A That is correct.
Q Would you count the number of people who are holding cell phones.
A Look's like five.
Q All right. Were any of those cell phones ceased?
A No, sir. They were not.
Q To your knowledge, did anyone bother to flip it open and go through the history?
A We can not do that without a search warrant consent from the owner of the cell phone.
Q To your knowledge was any consent attempted?
A To my knowledge, no sir.
Q May I look at some of the exhibits here ---
THE COURT: Now, don't take them back to Counsel's table.
MR. MATHEWS: No, sir. Okay. May I approach the witness?
THE COURT: You may.
MR. MATHEWS: Detective Scott, I'm handing you what's been marked already as State's Exhibit Number Thirty-Three and has been already entered into evidence and ask if you can identify that?
A Certainly.
Q What is that?
A This is State's Thirty-Three, which is the Cadillac

which was photographed during the search warrant from an exterior view into the driver's side compartment of the vehicle.

Q Okay.

MR. MATHEWS: Your Honor, may I approach the court reporter? I had a couple exhibits that I marked ---

THE COURT: You may approach the court reporter.

MR. MATHEWS: These were the photos that I had. May I approach the witness, Your Honor?

THE COURT: You may.

Q Detective Scott, I'm handing you what's been marked as Defendant's Exhibit Number Seven and ask if -- is that the same picture that was in Thirty-Three?

A Yes, sir, a little close up.

Q You took that picture or someone in your presence took that picture?

A Yes, sir. I did take the pictures during the search warrant.

Q All right.

MR. MATHEWS: May I now approach the witness again, Your Honor?

THE COURT: Yes, you may.

Q Detective Scott, I'm now handing you what's been marked as Defendant's Exhibit Number Six and ask if you recognize that?

A Yes, sir. It's a red Motorola cell phone which was in the interior of the vehicle.

Q In the interior of the vehicle?

A That's correct.

Q Now, that is not in evidence at this time?

A No, sir. I don't believe so.

Q Is that reflected in the State's Exhibit Number Thirty-Three, is that in the console -- there's a little bit of red.

A No, sir.

Q Where do you find that cell phone?

A That cell phone looks like it's actually located in, possibly near the cup holder area, the ashtray area near the dashboard.

Q Okay. Would that have been in plain view?

A Yes, sir.

Q And you had a search warrant -- did you bother to flip that open and check the history of the calls on that phone?

A To my knowledge, the phone battery was actually dead because I do believe we did flip it open, but the battery of the phone was dead.

Q All right. In any of these phones, if you actually take it and open it up, if they give you consent, it will tell you the phone number of the phone, right?

A I'm not a phone expert, I have a hard enough time

figuring out my own phone.
Q All right. You testified just before we broke for lunch about your examination of James Davis; is that correct?
A Yes, sir. That is correct.
Q And you indicated that he told you the truth that night, that he did not lie to you.
A No, sir. I indicated that the same statement he told me that night he did tell me also again at December.
Q But he did lie to you.
A Initially. Yes, sir, he did.
Q Okay. About how long was that interview, probably about an hour?
A Yes, sir. It was an hour or so, approximately.
Q Okay. Initially, I think Christy Green talked to Mr. Davis first, right?
A I'm not sure if she was the one who Mirandized him or not, but I believe she did speak with him, initially.
Q Okay. She's the first one then?
A I believe so, yes.
Q And then Allen Inabinett walked in after that?
A That's correct.
Q And, at some point, James Davis' family was in there early on?
A That's correct.

Q The film was running, but he didn't know it was running or he did know it was running at that point?
A I'm unaware if he knew it was running at that time or not, but the film was running throughout the entire course of that interview.
Q Okay. And, actually, you walked in at about thirty minutes and forty-three seconds into it, does that sound accurate?
A That's approximately.
Q When you walked in first, you handcuffed Mr. Davis?
A I believe so, but again, without reviewing any of the video, I can't recall.
Q Okay. About forty-seven minutes and thirty seconds in, you had told him that his mom and dad were dead set that he didn't do this, but the evidence shows that he was there; is that correct, does that sound accurate?
A I don't remember word for word.
Q You told him -- at that point, who had you had under arrest at the time you were talking to Mr. Davis?
A Can you repeat the question?
Q Who all was under arrest at that time? Was Antwan under arrest at that time?
A No, sir. He was not.
Q But you had him as a suspect at that point?
A Yes, sir. We did have him identified as a suspect.

Q Okay. And David Jakes, you also had identified as a suspect at that point?
A That's correct.
Q So, without talking to him, you already knew you already had three suspects?
A Yes, sir. We did identify three suspects in this case.
Q Okay. And about fifty-five minutes and twenty-one seconds into it, did you tell him you don't want to put your life in the hands of Rat and Dinky?
A Yes, sir. I believe so.
Q Okay. All right, and initially, he told you that his fingerprints -- if we look, get fingerprints on that car, are they going to be him and he said, "no."
A Correct.
Q And if we check for DNA on that car, are they gonna be there and he said, "no."
A Correct.
Q That wasn't true.
A That's correct.
Q It's correct that it was not true.
A That's correct, it was not true.
Q At the conclusion of it, he was arrested and not allowed to go home.
A That is correct.
Q Detective Scott, you were also aware that Detective

Inabinett had taken a statement from David Jakes, as case officer?

A Yes, sir. I am.

Q Was a video taped on of that interview?

A Yes, sir, it was.

Q And, in fact, has that already been marked as a court's exhibit in this case?

A I believe so, earlier on. Yes, sir.

Q Okay.

MR. MATHEWS: Your Honor, I think that's Court's Exhibit Number One?

THE COURT: All right, hold on a second. Counsel, approach.

(WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

MR. MATHEWS: I have nothing further to this witness, Your Honor.

THE COURT: Very well. Cross-examination by the defendant, Jakes.

MR. BEACH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BEACH:

Q Detective Scott, when you arrived on the scene, is it true that had found shell casings?

A That is correct, yes sir.

Q And these are the ones that you listed, you found some .357 shell cases?
A Yes, sir. I did.
Q Those were located where?
A The .357's were located at the rear of the victim's vehicle, which was I believe was Placard Number Eight, the Toyota Tacoma.
Q They were over by the trucks?
A Yes, sir, they were.
Q Okay. They were .357s?
A Yes, sir, they were.
Q The other ones you found were what?
A They were 9 mm shell casings.
Q And where did you find them?
A They were located, three of them right in the middle of the roadway at the base of the exit ramp, with the fourth one located off the side of the shoulder of the road at the exit ramp, located near the spot of blood, as well as the gun.
Q That is close to where you found the .50 caliber handgun?
A That's correct.
Q All right. Now, did the .50 caliber handgun, will it fire a 9 mm shell?
A No, sir. It will not.

Q Okay. As I understand, it's specifically bigger than the 9 mm?

A Yes, sir, very much bigger.

Q Did you find any .50 caliber shells on the road?

A No, sir, we did not.

Q Did you find shells in the Desert Eagle .50 caliber handgun?

A Yes, sir. We found one in the chamber and we found a magazine that was loaded to capacity, minus one.

Q So, there was one shell missing out of the magazine?

A That's correct.

Q Could that have been the shell that was in the chamber?

A I can't testify to that because I really don't know.

Q All right. That's fair enough. So, these shells you found on the road, is it fair to state that they were fairly close to where the Cadillac had been?

A Yes, sir, they were. The 9 mm.

Q Okay. And all you found was 9 mm?

A That's correct. Yes, sir.

Q Nothing else, no .50s?

A No, we found 9 mm and .357s.

Q And .357s, in all probability, came from the victim's gun?

A Yes, sir.

Q No other questions. Thank you detective.

THE COURT: Redirect.

ASST. SOL. HASELDEN: Briefly, Your Honor.

REDIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Detective Scott, when you testified a moment ago, you testified that first Detective Christy Green came in and spoke to James Davis on June 4th, 2010?

A Yes, ma'am.

Q And then Allen Inabinett?

A Yes, ma'am.

Q And then James Davis' parents were allowed in there with him?

A Yes, ma'am.

Q The videos were on the whole time?

A Yes, ma'am, it was.

Q And then you came in and talked to him?

A Yes, ma'am, I did.

Q At first, he lied to you?

A That is correct, he did.

Q Then, he changed his story?

A Yes, ma'am, he did.

Q He changed his story to what he told you in December?

A Yes, ma'am, he did.

Q Then he changed his story to what he told you -- or what you heard him testify to you yesterday on the stand?

A Yes, ma'am.

Q I have nothing further, thank you.

THE COURT: Recross, limited to redirect, by the defendant McMillan.

MR. MATHEWS: Thank you, Your Honor.

RECROSS EXAMINATION

BY MR. MATHEWS:

Q One point of clarification, Detective Scott. You said there was a shell found in the .50 caliber, was that a live round?

A Yes, sir. There was a live round found in the chamber of the .50 caliber.

Q There's no indication that the .50 caliber was fired?

A No indication.

MR. MATHEWS: Nothing further, Your Honor.

THE COURT: Recross by the Defendant Jakes, limited to redirect.

MR. BEACH: Thank you, Your Honor.

RECROSS EXAMINATION

BY MR. BEACH:

Q You talked with Mr. Davis and he first told you a lie, is that correct?

A Yes, sir.

Q Then he told you the new story?

A That is correct.

Q And in that new story, he told you that he basically didn't have anything to do with it, he was just there?
A That is correct. He did state to what he testified to earlier, which was he was the passenger of the vehicle and had no knowledge of what was going down until it actually happened.
Q Then y'all arrested him?
A Yes, sir, we did.
Q So you didn't believe his story, did you?
A No, sir. It's not that we didn't believe him, it was just that he was there and warrants were issued for all three parties, as they were all three participants in the actual crime.
Q He's still charged today; is that correct?
A That's correct.
Q Thank you, sir.

MR. BEACH: No further questions, Your Honor.

THE COURT: As to this witness Solicitor, he's going to remain with us?

ASST. SOL. HASELDEN: As my case officer, yes, sir.

THE COURT: When you step down, if you'll leave all the exhibits with me, including those that have just been marked for identification. Call your next witness.

ASST. SOL. HASELDEN: The State calls Gean Johnson.

THE COURT: Counsel approach, while we're waiting on

the witness.

WHEREUPON, THE WITNESS, MR. GEAN JOHNSON, IS DULY SWORN.

THE COURT: State your full name, spell your last name for the court reporter, please.

CAPT. JOHNSON: My name is Gean Johnson. J-O-H-N-S-O-N.

THE COURT: Your witness, Counsel.

DIRECT EXAMINATION

BY ASST. SOL. HASELDEN:

Q Captain Johnson, isn't it?

A That is correct.

Q Captain Johnson, who do you work for?

A Colleton County Sheriff's Office.

Q What do you do there as Captain of the Sheriff's Office?

A I'm Captain over CID and Criminal Civil Process.

Q How long have you been with the Sheriff's Office?

A Nineteen years.

Q Are you involved in the case that we're here about today in any capacity?

A Yes.

Q What capacity was that?

A I was the one that took the defendant Antwan McMillan to our detention center.

Q How did you come into contact with the defendant Antwan McMillan?
A His mother called me one Saturday night and asked me could I come pick him up, she was at my house and she wanted to turn him into me and me only.
Q What Saturday night?
A I think it was June 5th, 2010.
Q Do you know the defendant's mother?
A Yes.
Q What's her name?
A Brenda McMillan.
Q And she told you what?
A She called me and told me she was at my house and she wanted me to come and pick up Antwan, and of course, I asked can I send one of my investigators and she said no, I want you to come and pick him, you only.
Q So, did you?
A Yes.
Q So, you took him into custody that Saturday night?
A That's correct.
Q What did you do with him after that?
A Nothing. He got in my vehicle, I placed him in cuffs and I took him and put him into the county jail.
ASST. SOL. HASELDEN: Your Honor, may I approach the witness?

THE COURT: You may.

ASST. SOL. HASELDEN: May I approach now, Your Honor?

THE COURT: You may.

Q Captain Johnson, I'm going to show you what's been marked for identification purposes as State's Eighty-Seven and Eighty-Eight, could you please view those items?

A It's these projectiles that I picked up from Department of Public Safety of Charleston.

Q Why did you pick up projectiles from the Department of Public Safety in Charleston?

A It was evidence from this particular incident that was obtained from one of the suspects I think it was and they were at MUSC at the hospital, public safety went onwards and got them from there and contacted our Sheriff's Office and because I was in Charleston, I went ahead and picked them up. They called me and asked me could I go by and get them from Public Safety, which is locked in evidence there.

Q Okay. Is that normal for them to call ya'll about that?

A Yes.

Q And Department of Public Safety at MUSC, is that like their own internal police department?

A There are some public safety officers that do work inside the hospital and next door, of course, is their department themselves.

Q Okay. And they have their own place to keep evidence there?
A Yes.
Q And it's secure?
A That's correct.
Q You said you think it was from one of the suspects?
A Yes.
Q Do you know who?
A Yes. This came from David Jakes.
Q Can you refer to what number that was, Captain Johnson?
A That was State's Exhibit Eighty-Seven and State's Exhibit Eighty-Eight, don't see a victim's name on this one.
Q Did you pick those two items up together?
A Yes, I did.
Q Can you tell me what is it those items, can you see?
A In State's Exhibit Eighty-Eight, there is a projectile from a firearm here ---
Q Just one?
A Yes. In State's Exhibit Eighty-Seven, there's two projectiles in this one.
Q And you were contacted by Department of Public Safety at MUSC to come get those?
A I was called from the Sheriff's Office.
Q Here?
A Yes. The dispatcher knew I was in Charleston for

something else and they contacted me and asked me could I go by and pick these up.

Q So, that's how you got involved?

A Yes.

Q Do you remember looking at those items when you picked them up?

A Yes.

Q Are those items in the same condition as the day you picked them up from MUSC?

A Yes, they are.

Q You said those items are identified into one bag as coming from Defendant David Jakes?

ASST. SOL. HASELDEN: Your Honor, at this time, I'd ask Eighty-Eight and Eighty-Seven to be moved in to evidence.

THE COURT: As to Eighty-Seven and Eighty-Eight, counsel for the defendant McMillan?

MR. MATHEWS: Without objection, Your Honor.

THE COURT: Counsel for the Defendant Jakes?

MR. BEACH: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit's Eighty Seven and Eighty-Eight will be admitted into evidence, without objection, in the trial of this case.

(STATE EXHIBIT NUMBER EIGHTY-SEVEN IS RECEIVED INTO EVIDENCE.)

(STATE EXHIBIT NUMBER EIGHTY-EIGHT IS RECEIVED INTO