

ORIGINAL

VOLUME II OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYRONE LORENZA ROBINSON,

APPELLANT

APPELLATE CASE NO. 2017-002233

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #4 (C.D. DASH CAM) AND
STATE’S EXHIBIT #6 (C.D. OFFICER CONANT INTERVIEW)

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Proceedings
September 17, 2014

1 MS. SEABROOK: No, Your Honor.
2 THE COURT: Thank you. Mr. Lancaster, have you?
3 MR. LANCASTER: No, sir.
4 THE COURT: Thank you. Mr. Uniejewski?
5 MR. UNIEJEWSKI: No, Your Honor.
6 THE COURT: Thank you. Ms. Hughes?
7 MS. HUGHES: No, Your Honor.
8 THE COURT: Thank you. Mr. Burke, have you?
9 MR. BURKE: No, Your Honor.
10 THE COURT: Thank you, sir. Mr. Dunning?
11 MR. DUNNING: No, Your Honor.
12 THE COURT: Mr. Womack?
13 MR. WOMACK: No, Your Honor.
14 THE COURT: Ms. Boston?
15 MS. BOSTON: No, Your Honor.
16 THE COURT: Thank you. Ms. Mauriocourt?
17 MS. MAURIOCOURT: No, Your Honor.
18 THE COURT: Did I leave out anybody? Thank you,
19 folks. And thank you for reminding me Mr. Stone.
20 MR. STONE: Yes, sir.
21 THE COURT: All right. Mr. Stone?
22 MR. STONE: Yes, sir.
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State v Tyrone Robinson
Doug Seifert-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Investigator Doug Seifert.
2 THE COURT: Come forward Mr. Seifert and be sworn.
3 [Whereupon, Mr. Seifert comes forward]
4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court] -
6 - - - - -
7 DOUG SEIFERT,
8 Having been first duly sworn,
9 Was examined and testified as follows:
10 DIRECT EXAMINATION
11 BY MR. STONE:
12 Q. Investigator Seifert, you're with the Beaufort
13 County Sheriff's Office?
14 A. I am, sir.
15 Q. And on September the 1st, 2012 what was your
16 involvement in the investigation concerning the death of
17 [REDACTED] Minor ?
18 A. I was called out on that day and I responded
19 straight to the [REDACTED] Gum Tree Lane where the other
20 defendants were.
21 Q. And the other defendants were Aaron Young, Jr. and
22 Aaron Young, Sr. is that correct?
23 A. That's correct, sir.
24 Q. We have put into evidence State's exhibit 10.
25 [Whereupon, the witness is shown photograph]

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1 Q. Was that the vehicle they were in?

2 A. Yes, sir.

3 Q. And you actually responded to that scene did you
4 not?

5 A. I did, sir.

6 Q. Let me show you what has been marked as State's
7 exhibit 11 and State's exhibit 15 and ask if these are
8 fair and accurate depictions of the truck bed -- the bed
9 of that Ford F-150?

10 [Whereupon, the witness is shown photographs]

11 A. Yes, sir.

12 MR. STONE: At this time, Your Honor, we'd move
13 these into evidence, State's exhibit 15 and State's
14 exhibit 11.

15 MR. BAX: No objection, Your Honor.

16 THE COURT: In evidence without objection.

17 [Whereupon, State's exhibit numbers 11 and 15 are
18 entered into evidence by the court]

19 Q. [Mr. Stone] Let me first show you what has been
20 marked as State's exhibit 11. Can you tell us what that
21 is please?

22 A. That's the back of the truck of the '95 Ford F-150
23 where there is an empty shell casing right there
24 [indicates].

25 Q. Let me show you what has been marked as State's

State v Tyrone Robinson
Doug Seifert-Direct Examination by Mr. Stone
September 17, 2014

1 exhibit 15 into evidence. Is that a close up picture of
2 those two shell casings?

3 A. It is.

4 Q. Did you, sir, take those shell casings from the
5 truck?

6 A. I did.

7 [Whereupon, State's exhibit number 29 is marked by
8 the court reporter]

9 Q. I'll show you what has been marked as State's
10 exhibit 29 and ask if you could identify that for me
11 please?

12 [Whereupon, the witness is shown exhibit]

13 A. These are the three shell casings, .9mm shell
14 casings that I collected out of the back of the truck
15 bed.

16 Q. Now there is some writing on there on the very
17 front. Did you put that writing in there?

18 A. That is my handwriting yes, sir.

19 Q. Okay. And what is the purpose behind that writing?

20 A. Just for that no one else had collected the actual
21 evidence; it was just me.

22 Q. Did you then put it in that bag and seal it?

23 A. I did, sir.

24 Q. And then what was your process with those shell
25 casings afterwards?

State v Tyrone Robinson
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1 A. Once I sealed the actual top of the actual bag you
2 actually sign your name on both sides and then once I did
3 that I actually handed that over to Corporal Conant.

4 Q. Wendy Conant?

5 A. Yes, sir.

6 Q. Did you change or alter these shell casings in any
7 way when you took them out of the truck bed?

8 A. No, sir.

9 MR. STONE: No further questions of this witness,
10 Your Honor.

11 THE COURT: Thank you. Mr. Bax?

12 MR. BAX: Thank you, Your Honor.

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State v Tyrone Robinson
Doug Seifert-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good morning Investigator Seifert.

4 A. Good morning, sir.

5 Q. A couple of questions for you. You testified that

6 you responded to the scene on Allen Road, is that

7 correct?

8 A. No sir, it was Gun Tree; [REDACTED]

9 Q. Right, I'm sorry. You responded to the location

10 where the Ford F-150 had been pulled over is that

11 correct?

12 A. That is correct, sir.

13 Q. Okay. And that's on one of those main roads coming

14 onto Hilton Head Island, correct; 278?

15 A. That is correct, yes sir.

16 Q. How far is that from [REDACTED] Old Wild Horse Road?

17 A. You can go two different ways. I would say within a

18 mile or mile and a half.

19 Q. Okay. Now you weren't the officer that actually

20 pulled or blue lighted this grey F-150 correct?

21 A. That is correct, sir. I did not blue light it.

22 Q. Okay. When you arrived were you able to determine

23 how long it had been since they were pulled? How long

24 had they been there on the road?

25 A. Not -- as far as my understanding it wasn't long,

State v Tyrone Robinson
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September 17, 2014

1 they weren't pulled over that long.
2 Q. Okay. How many officers were on scene when you
3 arrived?
4 A. There were three when I first responded.
5 Q. And did they each have their own patrol unit? In
6 other words there were three marked patrol units around?
7 A. Yes, sir.
8 Q. Okay. And they had their blue lights activated?
9 A. Yes, sir.
10 Q. Okay. And how many -- did they inform you, did the
11 officers inform you or were you able to determine how
12 many occupants were in that vehicle when it was pulled
13 over?
14 A. Each individual officer stated that they had one in
15 the back of their car.
16 Q. So for a total of three, is that correct?
17 A. That is correct, sir.
18 Q. And who were those individuals?
19 A. As far as officers or the people ---
20 Q. --- the individuals that pulled out of the car.
21 What was their identity?
22 A. It was Aaron Young, Jr., Aaron Young, Sr., and Ebony
23 Campbell.
24 Q. Okay. And you've testified to the exhibits where
25 some shell casings were found in the back of the F-150

State v Tyrone Robinson
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1 correct?

2 A. That is correct, sir

3 MR. BAX: Approach the witness, Your Honor?

4 THE COURT: Yes, sir.

5 MR. BAX: Thank you.

6 Q. [Mr. Bax] I'm going to show you what has been marked
7 as State's exhibit 26. I'm just going to lay that up
8 there. Did you locate anything like this in the truck?

9 [Whereupon, the witness is shown exhibit]

10 A. No, sir.

11 Q. Did any of the other officers locate anything like
12 this in the truck?

13 A. No, sir.

14 Q. Okay. There are some other items associated with
15 it; a clip. I assume the answer is the same that none of
16 these items were found in the truck at that time?

17 A. No, sir.

18 Q. Okay.

19 MR. BAX: And that was State's 28, Your Honor.

20 Q. [Mr. Bax] And finally there is State's 25, which is
21 a black bag.

22 [Whereupon, the witness is shown exhibit]

23 Q. Was there any bags like that that were located in
24 the car?

25 A. No, sir.

State v Tyrone Robinson
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September 17, 2014

1 Q. Okay. Investigator Seifert, obviously yourself and
2 these three officers were on scene. Were the Youngs
3 placed under arrest at that time?

4 A. Yes, they were under arrest as far as they were
5 detained inside the vehicles, yes sir.

6 Q. Okay. And the pictures that the State has
7 introduced, State's 11 and 15 that show the pictures of
8 those casings in the back of the truck. Were those taken
9 there on 278?

10 A. Yes, sir.

11 Q. Okay. So that wasn't taken at a later time?

12 A. No, sir.

13 Q. Because I believe that vehicle was impounded by the
14 police for some period of time, is that correct?

15 A. Yes sir, it was by Duke's Towing.

16 Q. But they are on the road on 278 near Gum Tree did
17 you and the other officers or did the other officers have
18 an opportunity to look through the car incident to that
19 detainment?

20 A. Very briefly due to -- because of the congestion on
21 the road it was a very dangerous area to be at so it was
22 as far as -- we already knew we were going to tow it to
23 the actual impound lot. But as far as the back of the
24 truck we actually collected the casings because obviously
25 the air and everything like that.

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September 17, 2014

1 Q. Okay. Regardless of what y'all looked through
2 there on 278 y'all seized the car in the condition that
3 it was in at that time correct?

4 A. Yes, sir.

5 Q. So whatever was in that truck would have stayed in
6 that truck until you got a chance to search it at the
7 impound?

8 A. Yes, sir.

9 Q. So there wouldn't have been anything that went
10 missing in between?

11 A. No, sir.

12 Q. Okay. So if the gun had been in the car the
13 exhibit I've just showed you y'all would have found at
14 that time?

15 A. Yes, sir.

16 Q. Okay. Investigator Seifert, was that the end of
17 your role in this investigation or did you continue to
18 work on this case that day?

19 A. I continued to work on this case.

20 Q. Did that work include attempting to interview and
21 interviewing the Youngs, Sr. and Jr.?

22 A. Yes, sir.

23 Q. And did that occur just there at the side of the
24 road or were there other times that you were able to
25 interview them that day?

State v Tyrone Robinson
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1 A. Once it was on the side of the road and I also did
2 it at the Hilton Head office.

3 Q. Okay. How far is the Hilton Head office from there
4 at [REDACTED] Gum Tree?

5 A. A mile and a half or two miles I'd guess.

6 Q. So a short transport and they were over there?

7 A. Yes, sir.

8 Q. About what time of the day was it when you arrived
9 on scene?

10 A. Can I refer to my notes?

11 Q. Yes, absolutely please do.

12 [Whereupon, the witness reviews documents]

13 A. It would be 1730 hours, which would be about 5:30 in
14 the evening.

15 Q. Okay. So can you estimate about how long they were
16 on the side of the road before they were taken over to
17 the Hilton Head branch office?

18 A. If I had to guess with myself it probably would have
19 been about 40 or 50 minutes if I had to guess.

20 Q. And just once again Investigator Seifert you were
21 involved in interviewing the Youngs later that day at the
22 Hilton Head branch office, correct?

23 A. That is correct, sir.

24 Q. Okay. And at your interview rooms at the Hilton
25 Head branch office you have interview rooms that are both

State v Tyrone Robinson
Doug Seifert-Cross-Examination by Mr. Bax
September 17, 2014

1 videotaped and audio recorded, is that correct?

2 A. That is correct, sir.

3 Q. To your remembrance were the Youngs placed in rooms
4 similar to that that had those capabilities?

5 A. I believe certain ones were. Our office was
6 actually new at the time so I just knew that the one
7 interview room was mostly used had video that was
8 working.

9 Q. Okay. Thank you very much.

10 MR. BAX: A moment's indulgence, Your Honor.

11 THE COURT: Yes, sir.

12 [Whereupon, Mr. Bax confers with Ms. Saxon]

13 Q. [Mr. Bax] One final question Investigator Seifert.
14 You indicated you reported there to or responded to [REDACTED]
15 Gum Tree. During the course of this investigation did
16 you ever have a chance to go to Allen Road later on for
17 the purposes of any gathering of evidence or looking at
18 the scene?

19 A. I did not as far as that evening or anything like
20 that. Actually I'm actually on the K-9 team and what we
21 did is try to scan for different pieces of evidence
22 throughout the neighborhood but that was it sir.

23 Q. During those searches were you a part of gathering
24 any other evidence? Did y'all find anything?

25 A. No, sir.

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September 17, 2014

1 Q. Thank you Investigator Seifert.

2 MR. BAX: Your Honor, no further questions on cross
3 at this time.

4 THE COURT: Thank you. Redirect Mr. Stone?

5 MR. STONE: No, sir.

6 THE COURT: Thank you ---

7 MR. BAX: --- Your Honor, if I may could I approach
8 briefly?

9 THE COURT: Okay. Investigator Seifert, if you'll
10 stay right there just a minute. I'm not sure whether
11 this involves you or not but hang on a second.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Thank you.

14 [Whereupon, an off the record bench conference is
15 held]

16 THE COURT: Investigator, you can step down. We
17 may need you back at some other later time but I
18 understand you'll be where we can get you.

19 THE WITNESS: Thank you, sir.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

22

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State v Tyrone Robinson
John Adams-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: The State calls John Adams to the
2 stand.

3 THE COURT: Come forward please Mr. Adams to be
4 sworn.

5 [Whereupon, Mr. Adams comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 - - - - -

9 JOHN ADAMS,

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STONE:

14 Q. Investigator Adams, you're with the Sheriff's
15 Office?

16 A. Yes, sir.

17 Q. At some point did you respond to Old Wild Horse --
18 was it Wild Horse Road I believe it is?

19 A. Old Wild Horse, yes sir.

20 Q. And did you respond for the purpose of inspecting a
21 bullet hole in a house?

22 A. Yes sir, I did.

23 [Whereupon, State's exhibit number 30 is marked by
24 the court reporter]

25 Q. Now I will show you these photographs that have

State v Tyrone Robinson
John Adams-Direct Examination by Mr. Stone
September 17, 2014

1 already been entered into evidence as State's exhibit 18,
2 19, 20, and 21 and ask if you recognize that?

3 [Whereupon, the witness is shown photographs]

4 A. Yes, sir.

5 Q. Okay. Is that the house that you inspected?

6 A. Yes sir, it is.

7 Q. Let me first go to State's exhibit -- and I'll put
8 it up on the monitor -- this is State's exhibit 18 and I
9 think we've had testimony that that is Ebony Campbell in
10 the front of this house. Is this the house that you went
11 to to inspect the bullet hole?

12 A. Yes sir, it is.

13 Q. State's exhibit 21 actually has a close up of that
14 bullet hole with a hand in it. Is that you?

15 A. It's my hand sir, yes sir.

16 Q. Did you retrieve a bullet out of that particular
17 spot?

18 A. Yes sir, we did.

19 Q. Let me show you what has been marked as State's
20 exhibit 30 and ask if you can identify that for me?

21 [Whereupon, the witness is shown exhibit]

22 A. Yes, sir.

23 Q. And what is that?

24 A. That is the bag containing the projectile that came
25 out of that hole in the wall.

State v Tyrone Robinson
John Adams-Direct Examination by Mr. Stone
September 17, 2014

1 Q. You got this out of the wall? What did you do with
2 it once you got it?

3 A. The bullet was actually retrieved with the aid of
4 the owner of the residence. It had fallen within the
5 wall itself between the outer siding and the inner
6 drywall. And the bottom portion of the wall was pried
7 open and that bullet dropped on the ground and I picked
8 up, photographed it, and then put it in a tin and it was
9 sealed in that bag and turned over to Investigator
10 Albertin with the Sheriff's Office.

11 Q. And investigator Albertin was with you I believe at
12 the time?

13 A. She was, sir.

14 Q. And in fact I think this is Investigator Albertin in
15 State's exhibit 19 is that correct?

16 A. That is correct, sir.

17 Q. Okay. Did you change or alter the bullet in any
18 way when you took it when you picked it up and handed it
19 to Investigator Albertin?

20 A. No, sir.

21 Q. Okay.

22 MR. STONE: No further questions at this time, Your
23 Honor.

24 THE COURT: All right. Cross-examination?

25 MR. BAX: Thank you, Your Honor.

State v Tyrone Robinson
John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Briefly -- good morning Officer Adams, how you
4 doing?

5 A. Good morning, sir.

6 Q. What was the date that you went over to ■ Old Wild
7 Horse Road and found this projectile?

8 A. September the 10th.

9 Q. And you indicated that there was another officer
10 with you at that date. Who was that?

11 A. Investigator Albertin.

12 Q. And this was the only projectile you took into
13 custody personally yourself. Did Investigator Albertin
14 find any other projectiles that day?

15 A. I don't believe we found any other projectiles. We
16 did find I believe an entire bullet that was over in the
17 ground but that was the only projectile that came out of
18 that residence.

19 Q. Okay. The projectile that was in the ground did
20 y'all seize that as well or take that into evidence?

21 A. I don't think it was a projectile. It was an entire
22 bullet.

23 Q. Oh, it was an unfired ---

24 A. --- an unfired bullet.

25 Q. Okay. Do you recall what caliber that unfired

State v Tyrone Robinson
John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1 bullet was?

2 A. I don't recall, sir.

3 Q. Was that taken into evidence at that time?

4 A. Yes, sir.

5 Q. Obviously the incident that we have had testimony
6 about Investigator Adams occurred on September 1st, 2012
7 is that correct?

8 A. Yes, sir.

9 Q. So this would have been roughly nine days later?

10 A. That is correct, sir.

11 Q. And did you go to do this search after already
12 having talked to the Youngs?

13 A. Yes, sir.

14 Q. Okay. So you had an opportunity at least to
15 attempt to speak with the Youngs and try to get some
16 statements from them, correct?

17 A. Yes, sir.

18 Q. And is that what led you to go to ■ Old Wild Horse
19 Road and look for this projectile?

20 A. It is.

21 Q. Okay. And Investigator Albertin was with you when
22 you went to speak with the Youngs as well is that
23 correct?

24 A. She was.

25 Q. When was it that you spoke to the Youngs? What day

State v Tyrone Robinson
John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1 was that do you recall?

2 A. That was the 6th of September.

3 Q. Was that the first time that you had had the chance
4 to speak with the Youngs? Did you ever talk to them on
5 September 1st when they were first arrested?

6 A. No, sir.

7 Q. That was the first time you had contact with them?

8 A. It was.

9 Q. And you had an opportunity at that time to also
10 serve them with some warrants, is that correct?

11 A. That is correct, sir.

12 MR. BAX: Moment's indulgence, Your Honor.

13 THE COURT: Okay.

14 [Whereupon, Mr. Bax confers with Ms. Saxon]

15 MR. BAX: Briefly, Your Honor. I'd ask that a
16 couple of things be marked as defense for I.D. only.

17 THE COURT: All right.

18 [Whereupon, defendant's exhibit numbers 6, 7, and 8
19 are marked by the court reporter]

20 MR. BAX: Approach the witness, Your Honor?

21 THE COURT: Yes, sir.

22 Q. [Mr. Bax] Investigator Adams I'm just going to hand
23 you a couple of pictures that are marked for I.D. only.

24 [Whereupon, the witness is shown photographs]

25 Q. Do you recognize any of those objects in those

State v Tyrone Robinson
John Adams-Cross-Examination by Mr. Bax
September 17, 2014

1 pictures?

2 A. Yes sir, I do.

3 Q. Can you identify for me what they are in those
4 pictures?

5 THE COURT: Identify them by exhibit numbers if you
6 would please?

7 MR. BAX: Yes sir, thank you.

8 A. Exhibit 6, 7, and 8 are all pictures of the
9 projectile that was collected from the wall.

10 Q. [Mr. Bax] Okay. Thank you very much. Were those
11 shots that you took or were those shots that were taken
12 later on?

13 A. I believe I took those shots right after the bullet
14 was collected.

15 Q. Fantastic. Thank you very much.

16 MR. BAX: Your Honor, the defense would move these
17 at this time into evidence as defense 6, 7, and 8.

18 MR. STONE: No objection.

19 THE COURT: Without objection defense 6, 7, and 8
20 in evidence.

21 MR. BAX: Thank you.

22 [Whereupon, defendant's exhibit numbers 6, 7, and 8
23 are entered into evidence by the court]

24 MR. BAX: No further questions. Thank you.

25 THE COURT: Thank you.

State v Tyrone Robinson
John Adams-Redirect Examination by Mr. Stone
September 17, 2014

1 REDIRECT EXAMINATION
2 BY MR. STONE:
3 Q. When you interviewed the Youngs I think on the 6th
4 where were the Youngs?
5 A. They were at the Beaufort County Detention Center.
6 Q. They were in custody at that time?
7 A. They were, sir.
8 Q. And they had been in custody since they were taken
9 out of the truck?
10 A. I believe so.
11 Q. Okay.
12 MR. STONE: No further questions, Your Honor.
13 THE COURT: Thank you, sir. You can step down Mr.
14 Adams. Thank you.
15 [Whereupon, the witness is excused and exits the
16 witness stand]
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State v Tyrone Robinson
Laurel Albertin-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Laurel Albertin.
2 THE COURT: Ms. Albertin, come forward please ma'am
3 and be sworn.
4 [Whereupon, Ms. Albertin comes forward]
5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]
7 - - - - -
8 LAUREL ALBERTIN,
9 Having been first duly sworn,
10 Was examined and testified as follows:
11 DIRECT EXAMINATION
12 BY MR. STONE:
13 Q. Investigator Albertin you are with the Beaufort
14 County Sheriff's office?
15 A. Yes, sir.
16 Q. You were involved I believe in going to -- let me
17 just show you first what has been marked as State's
18 exhibit 19, a house on Old Wild Horse Road.
19 [Whereupon, the witness is shown photograph]
20 Q. Is that you in this photograph?
21 A. Yes sir, it is.
22 Q. Okay. You were with Investigator Adams when he
23 retrieved a bullet from the wall of this house?
24 A. Yes, I was.
25 Q. Let me show you what has been marked as State's

State v Tyrone Robinson
Laurel Albertin-Direct Examination by Mr. Stone
September 17, 2014

1 exhibit 30 and ask if you could identify that please
2 ma'am?

3 [Whereupon, the witness is shown exhibit]

4 A. This is the bag with a projectile that I collected
5 from the Wild Horse -- ■ Old Wild Horse Road.

6 Q. Now Investigator Adams handed you this and then you
7 took it from him, is that correct?

8 A. Yes, sir.

9 Q. And at what point -- what did you do with it once
10 you took it?

11 A. I then secured the bag into a storage locker with a
12 lock that only I have. I initialed it and I turned it
13 over to our evidence technician.

14 Q. Did you change or alter the bullet in any way while
15 it was in your custody?

16 A. No, sir.

17 Q. And you put this directly into evidence, is that
18 correct?

19 A. Yes, sir.

20 MR. STONE: No further questions for this witness,
21 Your Honor.

22 THE COURT: Thank you. Mr. Bax?

23 MR. BAX: Briefly, Your Honor.
24
25

State v Tyrone Robinson
Laurel Albertin-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good morning.

4 A. Good morning.

5 Q. You testified that you were with and in fact you are

6 in the picture over at ■ Wild Horse Road. Now the house

7 here [indicates] that you are in front of in the picture,

8 State's exhibit number 19 is that ■ Old Wild Horse Road

9 or is that the neighbor of ■ I'll pass that up to you.

10 [Whereupon, the witness is shown photograph]

11 Q. Do you recall from the structure of the neighborhood

12 was that where the Youngs lived or was that where

13 somebody lived next to them?

14 A. That is the house directly in front of the Youngs.

15 Q. Directly in front, okay. And have you had an

16 opportunity to speak with Aaron Young, Jr. and Aaron

17 Young, Sr. before you went over to look for this

18 projectile?

19 A. Yes, sir.

20 Q. Okay. And that was at the Beaufort County

21 Detention Center is that correct?

22 A. Yes.

23 Q. And at that time yourself and Investigator Adams

24 served them with warrants, correct?

25 A. That's correct.

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September 17, 2014

1 Q. Okay. And the reason that you went over there on
2 the 10th was based on at least in part on information
3 that was provided to you by the Youngs during those
4 interviews correct?

5 A. Correct.

6 Q. We have one projectile here and I want to show you
7 these.

8 MR. BAX: Approach, Your Honor?

9 THE COURT: All right.

10 Q. [Mr. Bax] These have been marked defendants exhibits
11 6, 7, and 8 and have been introduced into evidence.
12 Could you take a look at those and see if you can
13 identify those?

14 [Whereupon, the witness is shown photographs]

15 A. Yes, sir. That's the projectile we recovered there.

16 Q. Thank you very much. Was there anything else that
17 you and Investigator Adams recovered that day over there
18 at Wild Horse Road?

19 A. Yes. We recovered two shell casings, we recovered
20 one bullet and we also recovered numerous bottle caps,
21 cans, crushed cans, pennies, coins.

22 Q. Do you recall the caliber of the shell casings that
23 you recovered?

24 A. They were .9 mm.

25 Q. Okay. Was there an unspent cartridge, in other

State v Tyrone Robinson
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1 words a bullet that has not yet been fired that you found
2 outside?

3 A. Yes, sir.

4 Q. What was the caliber of that?

5 A. That was a .9 mm.

6 Q. That was a .9 mm as well? Okay. Anything else
7 that y'all found that day?

8 A. No, sir.

9 Q. Thank you very much.

10 MR. BAX: Moment's indulgence, Your Honor.

11 THE COURT: All right.

12 [Whereupon, Mr. Bax confers with Ms. Saxon and his
13 client]

14 MR. BAX: No further questions, Your Honor. The
15 same request as I had with Investigator Seifert.

16 THE COURT: Thank you.

17 MR. STONE: No objection.

18 THE COURT: All right. Investigator, you said you
19 turned the retrieved bullet put it in your storage locker
20 and then gave it to the evidence custodian. Who was the
21 evidence custodian?

22 THE WITNESS: That was Corporal Padgett.

23 THE COURT: Thank you. All right, anything
24 further Mr. Stone?

25 MR. STONE: Briefly.

State v Tyrone Robinson
Laurel Albertin-Redirect Examination by Mr. Stone
September 17, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. And then you sealed the package actually before you
4 put it into evidence is that correct?

5 A. Yes, sir.

6 Q. When it is in the evidence locker then that seal
7 when it was taken out -- you did not take it out. That
8 was I guess Wendy Conant took it out of the evidence
9 locker, is that correct? Let me hand it to so you can
10 see.

11 [Whereupon, the witness is shown exhibit]

12 A. I sealed the bag, I initialed -- I signed it and I
13 turned it over directly to Corporal Padgett where he
14 signed it.

15 Q. And then at that point that's the last contact you
16 had with it?

17 A. Yes, sir.

18 MR. STONE: Thank you, Your Honor.

19 THE COURT: Thank you. Investigator we may need
20 you back later today or perhaps even tomorrow so don't
21 leave the country.

22 THE WITNESS: Yes, sir.

23 THE COURT: Thank you, ma'am.

24 [Whereupon, the witness is excused and exits the
25 witness stand]

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Captain Bob Bromage.

2 THE COURT: Captain Bromage, come around please and
3 be sworn.

4 [Whereupon, Captain Bromage comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 BOB BROMAGE,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Captain Bromage, you were also involved in the
14 investigation concerning the death of [REDACTED] Minor ?

15 A. I was.

16 Q. And at some point -- let me first show you State's
17 exhibit 17 and ask you if you could identify this for me
18 please?

19 [Whereupon, the witness is shown photograph]

20 A. That's the small duffle bag that contained the .9mm
21 pistol and accessories.

22 Q. And the photograph itself where is the location of
23 this?

24 A. Benny Young's shed behind his house on Wild Horse
25 Road.

State v Tyrone Robinson
Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 Q. All right.

2 MR. STONE: At this time, Your Honor, we offer --

3 Q. [Mr. Stone] And that is a fair and accurate
4 depiction as you saw the scene that night?

5 A. It was.

6 MR. STONE: At this time Your Honor we offer
7 State's exhibit 17 into evidence.

8 MR. BAX: No objection, Your Honor.

9 THE COURT: Thank you. Without objection.

10 [Whereupon, State's exhibit number 17 is entered
11 into evidence by the court]

12 Q. [Mr. Stone] Tell me what we are looking at in this
13 view?

14 A. During the interview of Aaron Young, Sr.?

15 Q. Yes.

16 A. He decided that he was going to cooperate and bring
17 us to the gun that he and his son possessed during this
18 entire gun battle.

19 He led me and Sergeant Simms [phonetic] Trey Simms
20 to his father's residence where he and his son had hid
21 this after the incident. And it was a bag containing
22 what appeared to be a submachine gun, a .9mm submachine
23 gun.

24 Q. Okay. Let me hand you what has been marked as
25 State's exhibit 25 at this point just for identification.

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Bob Bromage-Direct Examination by Mr. Stone
September 17, 2014

1 [Whereupon, the witness is shown exhibit]

2 Q. Can you tell me what that is please?

3 A. That's the bag that contained the .9mm submachine
4 gun.

5 MR. STONE: At this time, Your Honor, we'd move
6 this into evidence as State's exhibit 25.

7 MR. BAX: No objection, Your Honor.

8 THE COURT: Without objection 25 in evidence.

9 [Whereupon, State's exhibit number 25 is entered
10 into evidence by the court]

11 Q. [Mr. Stone] I'll take this out. So this is the bag
12 in that doorway right there [indicates] is that correct?

13 A. It is, sir.

14 [Whereupon, State's exhibit number 31 is marked by
15 the court reporter]

16 MR. STONE: Your Honor, for purposes of the defense
17 all of this was together in the bag. I have just taken
18 it out just making sure we are clear as far as the
19 evidence is concerned.

20 THE COURT: That's fine.

21 Q. [Mr. Stone] Let me show you what has been marked as
22 State's exhibit 31. These items were inside this bag.

23 [Whereupon, the witness is shown exhibit]

24 Q. Was that part of what was inside the black bag?

25 A. It was. I contacted Corporal Cooler to meet me out

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1 at the scene to process, photograph, and collect the
2 evidence. I was not equipped to do so at the time.

3 Q. But you were present during the collection of this?

4 A. Prior to the collection. When he got out there and
5 started photographing I looked in the bag myself with a
6 flashlight prior to him coming out.

7 Q. And these items were in that bag?

8 A. Yes.

9 MR. STONE: Your Honor, at this time we'd move
10 State's exhibit 31 into evidence.

11 MR. BAX: No objection, Your Honor.

12 THE COURT: And what is that?

13 MR. STONE: These are unfired .9mm bullets, a box
14 of them as well as individual ones.

15 THE COURT: Okay. Thank you.

16 [Whereupon, State's exhibit number 31 is entered
17 into evidence by the court]

18 Q. [Mr. Stone] And what has already been introduced
19 into evidence as State's exhibit 26 was this the gun that
20 was in that bag?

21 A. That was the gun in the bag.

22 Q. Okay.

23 [Whereupon, State's exhibit number 32 is marked by
24 the court reporter]

25 Q. [Mr. Stone] Also in this bag of evidence that has

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1 already been put into evidence I will refer to this as
2 State's exhibit 32 for purposes of the record. This is a
3 can of lubricant. Was that in that bag as well?

4 A. Yes, sir.

5 MR. STONE: I want to move this into evidence as
6 well, Your Honor.

7 MR. BAX: No objection, Your Honor.

8 THE COURT: Thank you.

9 [Whereupon, State's exhibit number 32 is entered
10 into evidence by the court]

11 Q. [Mr. Stone] Item number 27 and 28 have also been
12 moved into evidence. This is part of the gun in State's
13 exhibit 26 is that correct?

14 A. That's correct.

15 Q. And this was with the gun at the same time?

16 A. It was.

17 MR. STONE: I don't have any further questions of
18 this witness at this time. Thank you, Captain.

19 THE COURT: Thank you. Mr. Bax?

20 MR. BAX: Thank you, Your Honor.

21

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State v Tyrone Robinson
Bob Bromage-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good morning Captain Bromage.

4 A. Good morning, sir.

5 Q. A couple of questions briefly. You had stated
6 earlier in your direct testimony that this was discovered
7 as a result of Aaron Young, Sr. deciding to cooperate
8 correct?

9 A. That's correct.

10 Q. Okay. So the basic location where you found this
11 came from Aaron Young, Sr. is that correct?

12 A. It did.

13 Q. Okay. And just so that we are clear. I know there
14 is a little confusion about the family relations here.
15 You've also talked about Benny Young.

16 In order to make it clear to the jury who is who in
17 this family who is Benny Young in relation to Aaron
18 Young, Sr. and Jr.?

19 A. Benny Young is Aaron Young, Sr.'s father and Aaron
20 Young, Jr.'s grandfather.

21 Q. Okay. And I believe we've seen some testimony and
22 seen some evidence that Aaron Young, Sr. has been
23 referred to as Bennie as well at certain times, is that
24 correct?

25 A. The people in the community call him Bennie. It is

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1 confusing; there's no question about it.

2 Q. Okay.

3 A. Aaron Young, Jr. who was 17 or 18 at the time.

4 Aaron Young, Sr. I think was 36 or 37 at the time. Benny
5 Young is 65; late 60's.

6 Q. And they can sometimes by people in the community
7 all be referred to as Bennie?

8 A. That's what I understand.

9 Q. And I believe there was some testimony that at some
10 point Benny Young, basically the third generation, the
11 oldest, the grandfather as it were, had some kind of
12 establishment; a bar or some kind of place that people
13 went is that correct?

14 A. Yes, he had Benny's Lounge in the 1990's that was
15 right in that area. As a matter of fact it was active on
16 the weekends.

17 Q. Was it in that same Squire Pope right in there where
18 those houses are?

19 A. Its right at the tip I believe of Wild Horse Road.

20 Q. Okay.

21 A. Which is just down from Squire Pope and Gum Tree and
22 all that; it's in the middle actually.

23 Q. And it's not active any more, is that correct?

24 A. Not that I know of.

25 Q. But a lot of people in the community still associate

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Bob Bromage-Cross-Examination by Mr. Bax
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1 | them with that Benny's Lounge is that right?

2 | A. They do.

3 | Q. And that's kind of where calling them all Benny
4 | comes from?

5 | A. Yes, sir.

6 | Q. Okay. And this building that is in the picture
7 | that is still up and let me refer to it by number,
8 | State's exhibit 17 I think you said this is a shed behind
9 | Benny Young's place?

10 | A. The oldest Benny Young?

11 | Q. Yes?

12 | A. This is on his property and it's a shed behind his
13 | house.

14 | Q. Okay. And how far from [REDACTED] Old Wild Horse Road
15 | where Aaron Young, Jr. and Sr. were living is Benny's
16 | place?

17 | A. I didn't measure it. I stuck around that night to
18 | make sure the gun was being properly collected and left.
19 | I would say within 100 yards or something but I'm just
20 | guessing.

21 | Q. So in close proximity?

22 | A. It's all in close proximity. It's definitely
23 | walking distance from Benny's lounge and from where the
24 | Youngs live.

25 | Q. Okay. And when y'all found this you indicated it

State v Tyrone Robinson
Bob Bromage-Cross-Examination by Mr. Bax
September 17, 2014

1 was in that shed. Was it sitting in that location in the
2 picture or was it inside the shed somewhere?

3 A. It was right there. I went in and actually unzipped
4 it so see what was in it and I said okay, I'm going to
5 back out and let it gets photographed and I opened the
6 bag and looked in it and saw the submachine gun, the .9mm
7 and backed out at that point.

8 Q. Okay. So it was just in the floor right near the
9 door?

10 A. Well, it was hidden in there. It was obviously a
11 hasty throw it in there because we wouldn't have any idea
12 it was there.

13 Q. Okay. During the course of that evening did
14 yourself or any officers under your command get any
15 search warrant for the rest of that shed?

16 A. I'd have to look at Corporal Cooler's -- I believe
17 we had consent but we may have gotten a search warrant.
18 But again it was Benny Young, the oldest Benny Young's
19 property so nobody would have any standing -- any of our
20 defendants wouldn't have any standing with that so give
21 me a second. Can I?

22 Q. Certainly. Take your time.

23 [Whereupon, the witness reviews documents]

24 A. No, we didn't get a search warrant by the report.

25 Q. Well, and not for the issues of challenging anything

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September 17, 2014

1 obviously just from your remembrance did you or the other
2 officers get a chance to look through the rest of that
3 shed; consent or otherwise?

4 A. I would imagine. I instructed Corporal Cooler to do
5 but I did not.

6 Q. Okay. Were you made aware that any other weapons
7 were found on Benny Young's property or in that shed?

8 A. There were no other weapons found in this case.

9 Q. Okay.

10 MR. BAX: Moment's indulgence, Your Honor.

11 THE COURT: Yes, sir.

12 [Whereupon, Mr. Bax confers with Ms. Saxon]

13 Q. [Mr. Bax] One brief follow up, Captain. Earlier in
14 the evening did you have the opportunity to be at least
15 for some small periods of time part of the interviews of
16 Aaron Young, Sr. and Aaron Young, Jr.?

17 A. I oversaw the interviews to make sure that the tone
18 was right and that everything was going forward. Yes I
19 did; I spoke to everybody in this case.

20 Q. Okay. And I believe we've heard some testimony
21 about this from some of the other officers. The Youngs
22 were placed in a room that is audio and videotaped is
23 that correct?

24 A. If I could give you a layout of the office. We had
25 just moved into the new Hilton Head office at that point,

State v Tyrone Robinson
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1 which we had one interview room equipped with video and
2 audio. It was still basically under construction, we
3 were putting it all together so we had to put people in
4 different areas to stage them before we actually did the
5 formal interviews.

6 The formal interviews were done in the interview
7 room where Mr. Robinson was interviewed, Aaron Young, Jr.
8 was interviewed and Aaron Young, Sr. and then they were
9 held in different spots until we could transport them to
10 Beaufort.

11 Q. So you basically had to rotate them through that
12 room in order to do the interviews?

13 A. Unfortunately we did, yes sir.

14 Q. Okay. Now Captain the video feed of that formal
15 interview room is that something that can be viewed
16 outside the room by other officers?

17 A. At that time I don't think so at that time. Again,
18 we had just moved in a few months prior so we were still
19 putting everything together. So to find out what was
20 going on you actually had to go in the room and engage at
21 that point.

22 Q. Were there any windows to see or a window in the
23 door or a window in the wall or anything like that?

24 A. There is a window on the outside but you can't hear
25 what is going on.

State v Tyrone Robinson
Bob Bromage-Cross-Examination by Mr. Bax
September 17, 2014

1 Q. Okay. So you can maybe see but not necessarily
2 hear.

3 A. Unless somebody's yelling you can't really get a
4 grasp of what is going on.

5 Q. Well, there was probably some yelling that night
6 though wasn't there?

7 A. Not that I recall as far as yelling. But there
8 could have been as far as the -- obviously this case
9 brings a lot of passion to it so the tone could have
10 changed several times.

11 Q. Okay. Thank you.

12 MR. BAX: No further questions, Your Honor.

13 THE COURT: Thank you. Mr. Stone?

14 MR. STONE: Nothing else, Your Honor. Thank you.

15 THE COURT: Thank you. Captain, you can step
16 down. Thank you.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

19 [Whereupon, State's exhibit number 33 is marked by
20 the court reporter]

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State v Tyrone Robinson
Derrick Nelson-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Derrick Nelson.
2 THE COURT: Officer Nelson, come forward please and
3 be sworn.
4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]
6 - - - - -
7 DERRICK NELSON,
8 ' Having been first duly sworn,
9 Was examined and testified as follows:
10 DIRECT EXAMINATION
11 BY MR. STONE:
12 Q. Investigator Nelson, you're with the Beaufort County
13 Sheriff's office?
14 A. I am, sir.
15 Q. Specifically on the case involving Tyrone Robinson
16 did you process Tyrone Robinson's car?
17 A. I did.
18 Q. Let me show you what has been marked as State's
19 exhibit 14 and 16 and ask if you could identify those
20 photographs for me.
21 [Whereupon, the witness is shown photographs]
22 A. Yes, sir. These are photographs I took during the
23 execution of the search.
24 Q. Okay. And the car at this point is located at the
25 impound lot, is that correct?

State v Tyrone Robinson
Derrick Nelson-Direct Examination by Mr. Stone
September 17, 2014

1 A. That's correct.

2 Q. That's a fair and accurate depiction of how the car
3 looked that day?

4 A. It is, sir.

5 Q. Now the sticks coming out I guess those are called
6 dowels, is that right?

7 A. Yes, sir.

8 Q. And what's the purpose of that?

9 A. Those are to help us determine the basic trajectory
10 of any projectiles that entered the vehicle.

11 Q. Okay.

12 MR. STONE: At this time, Your Honor, we'd move
13 State's exhibit 16 and 14 into evidence.

14 MR. BAX: No objection.

15 THE COURT: Without objection in evidence.

16 [Whereupon, State's exhibit numbers 14 and 16 are
17 entered into evidence by the court]

18 Q. [Mr. Stone] I'm now putting up on the monitor
19 State's exhibit 14.

20 [Whereupon, the photograph is shown]

21 Q. Is that a photograph -- what is that a photograph
22 of?

23 A. That is a photograph of Tyrone Robinson's vehicle at
24 the time we were processing it.

25 Q. And who are you out there with?

State v Tyrone Robinson
Derrick Nelson-Direct Examination by Mr. Stone
September 17, 2014

1 A. I'm with Staff Sergeant Chapman [phonetic] also with
2 the Investigations Division.

3 Q. And State's exhibit 16?

4 [Whereupon, the photograph is shown]

5 A. That is also the same vehicle.

6 Q. Let me show you what has been marked as State's
7 exhibit 33 for identification and ask you to tell me what
8 is in that bag please.

9 [Whereupon, the witness is shown exhibit]

10 A. These are five projectiles that were taken out of
11 the vehicle at the time we processed it.

12 Q. So these bullets actually were taken out of this car
13 is that correct?

14 A. That's correct.

15 Q. When you took the -- when those bullets were taken
16 out of this car what did you do with them at that point?

17 A. We removed them, photographed them, and then sealed
18 them in small manila evidence bags and then put them in
19 these [indicates] evidence bags, sealed them, and turned
20 them into the Beaufort County evidence station.

21 Q. And do you initial these bags? How does the seal
22 work?

23 A. We do. We place an evidence seal on the top of the
24 bag and then my initials went on the seal of the bag.

25 Q. And these are your initials on each one of these

State v Tyrone Robinson
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September 17, 2014

- 1 seals?
- 2 A. That's correct.
- 3 Q. And that's the clear plastic bag, is that correct?
- 4 A. That's the proof, yes sir.
- 5 Q. And then inside the individual bag is the smaller
6 package that you put ---
- 7 A. --- put the projective in.
- 8 Q. And then what did you do with those projectiles
9 after you sealed the bag?
- 10 A. I turned them into BCSO evidence.
- 11 Q. Into the evidence room?
- 12 A. They went to; yes they went directly into evidence.
- 13 Q. Okay. And who was the evidence custodian on those?
- 14 A. It was Jimmy Padgett.
- 15 Q. Okay. Did you change or alter these in any way
16 from taking them out of Tyrone Robinson's car and putting
17 them into evidence other than to seal them in the
18 packaging and then initial the seal?
- 19 A. No, sir.
- 20 Q. What is the purpose by the way of sealing it with
21 evidence tape and putting your initials on the outside of
22 the evidence tape?
- 23 A. To make sure nothing gets tampered with.
- 24 Q. Okay.
- 25 MR. STONE: No further questions of this witness,

State v Tyrone Robinson
Derrick Nelson-Direct Examination by Mr. Stone
September 17, 2014

1 Your Honor.

2 THE COURT: Thank you. Cross-examine?

3 MR. BAX: Thank you very much, Your Honor.

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State v Tyrone Robinson
Derrick Nelson-Cross-Examination by Mr. Bax
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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. I'm actually going to put these back up.

4 Investigator Nelson, I'm sorry that I'm moving this
5 around; I just want to make sure I get back where you can
6 see the most of it.

7 [Whereupon, the photo is shown on screen]

8 Q. Is that you there in the picture?

9 A. No sir, I'm taking the photographs.

10 Q. Who is in the picture?

11 A. That's Staff Sergeant Chapman.

12 Q. Okay. So he is assisting you -- is he the one who
13 is placing the dowels into the holes?

14 A. In that photograph, yes sir.

15 Q. Okay. Now this is showing the -- what side of the
16 car is this showing?

17 A. That's the driver's side of the vehicle.

18 Q. Okay. And as you said before those dowels are to
19 try and assist with determining the projectile of -- or
20 excuse me; the trajectory of the bullet or projectile is
21 that right?

22 A. That's correct.

23 Q. Okay. How many dowels are we seeing in this
24 photograph?

25 A. In this particular photograph there is only three.

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1 Q. Okay. I also see what appears to be kind of a
2 white dot there above the dowel closest to Chapman. Is
3 that another bullet hole? What is that?
4 A. That's a ricochet.
5 Q. A ricochet? So there is some kind of dent or mark.
6 A. That's correct.
7 Q. Where something possibly struck?
8 A. Correct.
9 Q. Okay. Did that appear to be something that had
10 been caused by a projectile?
11 A. It did because it seemed to have what appeared to be
12 like maybe lead deposits in the indentation.
13 Q. Okay. And so what we are seeing here is evidence
14 of at least four projectiles making contact with the car
15 on this [indicates] side?
16 A. That's correct.
17 Q. Okay. And I noticed that one of the dowels is
18 angled back toward the back of the car whereas the first
19 two are straight out. What does that indicate to you?
20 A. That they were shot from a different position?
21 Q. Okay. And that's why you're putting the dowels in
22 there to try and figure that out.
23 A. It helps us also plot trajectory on the inside of
24 car and helps locate projectiles on the inside for
25 recovery.

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1 Q. Okay. Moving to State's 14 -- and we were just on
2 16 -- this is a view of the back of the car is that
3 correct?

4 A. That is correct, sir.

5 Q. Okay. And these were additional dowels that have
6 been placed into the vehicle by yourself or Chapman in
7 order to do the same thing as we were seeing on the side
8 of the car correct?

9 A. Correct.

10 Q. How many dowels are we looking at here Officer
11 Nelson?

12 A. It looks like five, sir.

13 Q. Five? Okay. They kind of look like a porcupine.
14 They look like they are coming out at a couple of
15 different angles.

16 A. That's correct.

17 Q. Okay. And that would indicate the position not
18 only of the bullet going in the car but wherever the
19 projectile was shot from correct?

20 A. Correct.

21 Q. In your experience bullets travel a straight path
22 basically, correct?

23 A. Until they strike an object.

24 Q. Until they strike something. Now I believe it is
25 State's 33.

State v Tyrone Robinson
Derrick Nelson-Cross-Examination by Mr. Bax
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1 MR. BAX: Approach, Your Honor?

2 THE COURT: Yes, sir.

3 MR. BAX: Thank you, sir.

4 Q. [Mr. Bax] I'm handing you what the Solicitor has
5 already handed you and it's been identified for
6 identification purposes as State's 33.

7 [Whereupon, the witness is shown exhibit]

8 Q. You indicated that was the projectiles you removed
9 from this vehicle is that correct?

10 A. Correct.

11 Q. Can you tell us how many projectiles y'all removed
12 from the car?

13 A. A total of five.

14 Q. A total of five? So between State's 14, which we've
15 stated has approximately five dowels sticking out of the
16 back of the car, there is another three dowels in State's
17 16. There were actually more bullet holes than there
18 were projectiles, is that correct?

19 A. That's correct.

20 Q. So based on this Officer Nelson were you able to
21 determine there might have been some projectiles you
22 weren't able to recover?

23 A. Yes, sir. There was one that went through the
24 bottom of the vehicle and exited the vehicle so it was
25 unrecoverable because its final trajectory couldn't be

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1 determined. Another one would have entered the passenger
2 side rear wheel well and also could not be recovered
3 final trajectory. And that would account for all the
4 dowels.

5 Q. Okay. And so if we look at the dowels we have
6 approximately eight dowels going into this car if you
7 look at the five on the back and the three in this shot
8 correct?

9 A. Correct.

10 Q. And then of course we have the possible projectile
11 that skipped off the side of the car there that wasn't
12 recovered was it?

13 A. No, sir.

14 Q. Because that would have gone somewhere on the scene
15 there on Allen Road is that right?

16 A. It's possible.

17 Q. Possible, okay. And finally let me switch back to
18 this other shot. The back window was shattered in this
19 car, is that correct?

20 A. Correct.

21 Q. Were any of the other windows shattered that you
22 were able to tell?

23 A. No sir, I believe they were all just rolled down.

24 Q. Rolled down? Do you know whether or not they were
25 rolled down on the scene or not?

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1 A. I do not know.

2 Q. Okay. Were you present on the Allen Road scene at
3 all?

4 A. No, sir.

5 Q. Okay. But this car was in impound is that correct?

6 A. Correct.

7 Q. Where was that impound located at?

8 A. Its 120 Shanklin Road. It's behind our garage
9 complex.

10 Q. Okay. And the windows were down when it was in the
11 impound correct?

12 A. Correct.

13 Q. Okay. Typically -- well, this is towed by a private
14 towing company, is that right?

15 A. I'm not certain who towed it that day, sir.

16 Q. Okay. Does law enforcement have their own towing or
17 do they go to an independent contractor to do towing?

18 A. We have a wrecker -- or a rotation service that the
19 Sheriff's Office uses.

20 Q. Okay. Do those towing companies typically change
21 the car in any way or do anything to them at all when
22 they transport them for y'all's purposes?

23 A. No, sir.

24 Q. Okay. So it's possible that with this back
25 windshield being shattered like that a bullet could have

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1 passed through that window and then out an open window
2 correct?

3 A. It's possible.

4 Q. And you obviously can't place a dowel into an empty
5 window that has been shattered, correct?

6 A. Correct.

7 Q. And that back window that was shattered before you
8 looked at it is that right?

9 A. That's correct.

10 Q. So you weren't able to look at it when it was whole
11 to see if there were any additional bullet holes in it?

12 A. No, sir.

13 Q. Okay. Thank you. No further questions.

14 THE COURT: Thank you. Mr. Stone?

15 MR. STONE: No further questions, Your Honor.

16 THE COURT: Thank you. Investigator you can step
17 down. Thank you, sir.

18 [Whereupon, the witness is excused and exits the
19 witness stand]

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State v Tyrone Robinson
Jeff Moran-Direct Examination by Mr. Stone
September 17, 2014

1 422

2 MR. STONE: Investigator Jeff Moran.

3 THE COURT: Investigator come forward please and be

4 sworn.

5 [Whereupon, Mr. Moran comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk

7 of Court]

8 - - - - -

9 JEFF MORAN,

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STONE:

14 Q. Investigator Moran you were involved in the

15 investigation of the death of [Minor] as well,

16 is that correct?

17 A. That's correct.

18 Q. Now I want to specifically talk with you about two

19 events. First, did you attend the autopsy of [Minor]

20 [redacted] ?

21 A. Yes, I did.

22 Q. Where did that autopsy take place?

23 A. The Medical University of South Carolina in

24 Charleston.

25 Q. You traveled up there?

State v Tyrone Robinson
Jeff Moran-Direct Examination by Mr. Stone
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1 A. On Sunday the 2nd, yes.

2 Q. And you were actually present during the autopsy is
3 that correct?

4 A. That's correct.

5 Q. I believe Doctor Tormos was the pathologist, is that
6 correct?

7 A. Yes, sir.

8 Q. Were you present when Doctor Tormos removed the
9 bullet from [REDACTED] Minor ?

10 A. I was.

11 Q. Let me show you what has been marked as State's
12 exhibit -- I've not marked this; I'm sorry.

13 [Whereupon, State's exhibit number 34 is marked by
14 the court reporter]

15 Q. [Mr. Stone] State's exhibit 34 and ask you if you
16 could identify that please, sir.

17 [Whereupon, the witness is shown exhibit]

18 A. It's the evidence bag that I placed the bullet in
19 and a small tin can.

20 Q. Is that the bullet Doctor Tormos removed from [REDACTED] Minor
21 [REDACTED] ?

22 A. That's the same bullet I placed in this can.

23 Q. Pardon me?

24 A. That's the same bullet.

25 Q. And what did you do with the bullet once you

State v Tyrone Robinson
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September 17, 2014

1 received it from Doctor Tormos?

2 A. I returned to the substation on Hilton Head
3 Sheriff's Office locked it in a temporary locker with a
4 lock that only I have. And I think that was Sunday. On
5 Tuesday I transferred it to Investigator Conant who then
6 took some other evidence along and turned it in.

7 Q. Now did you seal the -- you did the actual sealing
8 of the bullet in this, is that correct?

9 A. I did.

10 Q. And then there is evidence tape on the outside I
11 guess of this bag. Is that tape that you put on there?

12 A. Yes, that's my badge number and the date I did it.

13 Q. Okay. And this was -- obviously it's unsealed now
14 but it was sealed at the time I guess in that way is that
15 correct?

16 A. Yes, sir.

17 Q. Prior to putting it in the bag did you change or
18 alter the bullet in any way?

19 A. No, I didn't.

20 Q. And then once it is sealed it's placed into the
21 evidence and you got it back out -- well, you put it in
22 your locker. When you got it back out of your locker was
23 it still sealed with your initial on it?

24 A. Yes, it was.

25 Q. And then you placed it in or you gave it directly to

State v Tyrone Robinson
Jeff Moran-Direct Examination by Mr. Stone
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1 Wendy Conant?

2 A. Investigator Conant.

3 [Whereupon, State's exhibit number 35 is marked by
4 the court reporter]

5 Q. You also I believe went to Bryant Road, ■ Bryant
6 Road I believe Snake Bryant's house, is that correct?

7 A. Yes, sir.

8 Q. And why did you do that?

9 A. On Monday Investigator Nelson and I met with Bennie
10 Hamilton at the substation in Hilton Head. Bennie told
11 us that he was at Snake's house on Saturday when Tyrone
12 came to the house. Bennie told us that he came into the
13 house and ---

14 MR. BAX: --- objection, Your Honor.

15 MR. STONE: That's fine. We've already had Bennie
16 Hamilton's testimony ---

17 THE COURT: --- yes, Mr. Hamilton has already
18 testified about this very thing. As long as he stays
19 within that line he will be fine.

20 Q. [Mr. Stone] As a result of your conversation with
21 Bennie Hamilton you then went to Bryant Road is that
22 correct?

23 A. That's correct.

24 Q. Let me show you what has been marked as State's
25 exhibit 35 and ask if you could identify that please?

State v Tyrone Robinson
Jeff Moran-Direct Examination by Mr. Stone
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1 [Whereupon, the witness is shown exhibit]
2 A. That's a plastic bottle of vinegar that I collected
3 from the table of Mr. Bryant's house.
4 Q. And that was on September the 3rd is that correct?
5 A. That's correct.
6 Q. And this is your evidence tag that you filled out is
7 that right?
8 A. Yes, sir.
9 MR. STONE: Your Honor, at this time we would move
10 State's exhibit 35 into evidence.
11 MR. BAX: No objection.
12 THE COURT: Thank you. Without objection.
13 [Whereupon, State's exhibit number 35 is entered
14 into evidence by the court]
15 MR. STONE: No further questions of this witness,
16 Your Honor.
17 THE COURT: Thank you. Mr. Bax?
18 MR. BAX: No questions for Investigator Moran.
19 THE COURT: Thank you. You can step down
20 Investigator. Thank you, sir.
21 [Whereupon, the witness is excused and exits the
22 witness stand]
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State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: The State calls Wendy Conant to the
2 stand.

3 THE COURT: Ms. Conant, come forward please ma'am.
4 You've already been sworn. Take the stand.

5 [Whereupon, Ms. Conant comes forward]

6 - - - - -

7 WENDY CONANT,

8 Having been previously duly sworn,

9 Was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q. And you've already been sworn ma'am but let me now
13 ask you questions concerning the handling of evidence in
14 this particular case. I want to make sure I've got all
15 the items. You transported a number of items to SLED did
16 you not?

17 A. Yes, I did.

18 Q. And I know you're now involved in the evidence room
19 or the evidence section of the Beaufort County Sheriff's
20 Office?

21 A. Correct. I'm an evidence technician now.

22 Q. But at that time you were an investigator and part
23 of your job was to transport the evidence from here to
24 SLED where it would be tested, is that correct?

25 A. I would not normally transfer it to SLED, but we

State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
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1 were needing the evidence processed quickly so I went up
2 that day at a special request.

3 Q. Now when you gathered the evidence some of the
4 evidence I'm assuming came directly to you and some you
5 actually retrieved from the evidence locker, is that
6 correct?

7 A. The evidence that was brought to Beaufort to be
8 logged in here was transferred to me by investigators of
9 the Hilton Head office and then I brought it here to
10 Beaufort where it was logged in and then it was logged
11 back out to go up to SLED.

12 Q. Okay. Let me first start with State's exhibit 29,
13 three what appear to be .9mm rounds. Did you retrieve
14 that piece of evidence and handle it?

15 A. Yes, I did.

16 Q. And tell me about that process?

17 A. These items were originally collected by
18 Investigator Doug Seifert who turned them over to me on
19 September 4th, 2012 at 10:39. I turned these items over
20 to the Beaufort evidence section on September 4th at
21 12:30.

22 Q. Did you then get them out of evidence and take them
23 to SLED?

24 A. I waited while the evidence technician processed
25 everything here in Beaufort because she had to process

State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
September 17, 2014

1 each individual item in one at a time. And I waited and
2 once they were processed in and logged, pre-logged with
3 SLED, then I took them right up there.

4 Q. Okay. Now this was, and I believe Investigator
5 Seifert testified earlier that he has sealed this when he
6 gave this to you or when you got it, is that correct?

7 A. Yes, sir. You can see his initials on the tape on
8 both sides.

9 Q. Did it remain sealed throughout the process until
10 you took it to SLED?

11 A. Yes, it did.

12 Q. Okay. And the purpose behind the sealing is what?

13 A. The purpose behind sealing is so that nobody can
14 tamper with the evidence. Again, this is the type of
15 tape if you try to peel it off to get in there it's not
16 going to peel; it's either going to break apart or it is
17 going to leave residue behind.

18 And the reason we sign the tape is because if
19 somebody does try to peel it thinking that they won't
20 damage the tape it's hard to get it back in the exact
21 position it was and the initials won't match up. In this
22 case they all match up.

23 Q. So you're dealing basically at this point just with
24 the package itself. You don't go in and touch the...

25 A. I do not.

State v Tyrone Robinson
Wendy Conant-Direct Examination by Mr. Stone
September 17, 2014

1 Q. And in fact to do that you would have had to break
2 the seal?

3 A. I would actually have opened it at a different
4 section; I would have retaped it and initialed it with
5 new tape.

6 Q. Okay. Let me show you what has been marked as
7 State's exhibit 33. Individual packages inside; feel
8 free to look through those if you can and tell me about
9 your evidence handling of those.

10 [Whereupon, the witness is shown exhibit]

11 A. There are one, two, three, four, five items in this
12 bag that came back from SLED. These items were all
13 initially collected by Corporal Derrick Nelson.

14 They were turned over to evidence technician Jimmy
15 Padgett and they are all done on the same date, which was
16 September 6th, 2012 at 10:20 a.m. These items were then
17 processed into evidence and subsequently pre-logged for
18 SLED.

19 And again on this day they requested that I bring
20 the items up to SLED. So I picked up these items and
21 personally brought them to SLED where they were logged in
22 at SLED for processing.

23 Q. And all those packages were sealed when you picked
24 them up?

25 A. They were.

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Wendy Conant-Direct Examination by Mr. Stone
September 17, 2014

1 Q. And they were sealed with I think is that Derrick
2 Nelson's initials?

3 A. Yes, Derrick Nelson.

4 Q. All right. And so you are again dealing with the
5 outside packages not inside is that correct?

6 A. That's correct.

7 Q. And so they were sealed when you received them and
8 then they remained sealed from your time until the time
9 that you handed them to SLED.

10 A. They remained sealed.

11 Q. Go ahead and put them back into State's exhibit 33
12 please.

13 [Whereupon, the witness complies]

14 Q. Did you change or alter them in any way?

15 A. I did not.

16 Q. I'll show you what has been marked as State's
17 exhibit 30, a bullet from the house at Old Wild Horse
18 Road. Did you receive that as well?

19 [Whereupon, the witness is shown exhibit]

20 A. I believe this again was an item that was collected
21 Sergeant Laurel Albertin and turned over to evidence
22 technician James Padgett on September 12th at 10:20. And
23 I would have to refer to my notes to confirm if I brought
24 this to SLED.

25 Q. Sure.

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Wendy Conant-Direct Examination by Mr. Stone
September 17, 2014

1 [Whereupon, the witness reviews documents]

2 A. I do not recall this ever being transferred to me.

3 I haven't signed the bag and I don't see any SLED tags on
4 here so I'm not sure that it was delivered to SLED.

5 Q. Okay. Inside this is a package as well. What is
6 that?

7 A. That is a SLED number. And just so you know it says
8 the description is a projectile from the wall of
9 residence. That is not on my list of what I brought to
10 SLED so I can't say who transferred that.

11 Q. Okay. Finally, let me show you what has been
12 marked as State's exhibit 34, a lead bullet projectile in
13 a small I guess tin container.

14 [Whereupon, the witness is shown exhibit]

15 A. Yes, this was an item that Sergeant Jeffrey Moran
16 collected in the autopsy up in Charleston. He
17 subsequently packaged it in here and turned it over to me
18 on September 4th, 2012 at 10:39.

19 I then transferred it to the evidence technician
20 here in Beaufort on September 4th 2012 at 12:30. Later
21 in the day once everything was processed in I brought
22 this item up to SLED and transferred it to them for
23 processing.

24 Q. And was it sealed at the time that you received it?

25 A. Yes, it was.

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Wendy Conant-Direct Examination by Mr. Stone
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1 Q. And I believe it has initials on the back as well is
2 that correct?

3 A. Yes, it does.

4 Q. And can you tell whose initials those are?

5 A. I can tell by the badge number that it is Jeff Moran
6 and he sealed it on September 2, 2012.

7 Q. Did you change or alter that in any way?

8 A. I did not.

9 Q. I believe you have already testified to this but I
10 want to make sure. This would be State's exhibit 24, the
11 gunshot residue test that you took from Tyrone Robinson.

12 [Whereupon, the witness is shown exhibit]

13 A. That's correct.

14 Q. And that is the actual kit itself is that correct?

15 A. Yes, sir.

16 Q. You created the kit -- what did you actually do?
17 You created the kit and then put it in that particular
18 package?

19 A. We actually have these kits they are given to us
20 just like this in this envelope and inside are numerous
21 tubes and containers that we use along with a bottle of
22 saline solution.

23 When we are given the kit it is not sealed. There
24 is a little red evidence tag inside along with the
25 instructions on how to complete the kit. Once we have

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Wendy Conant-Direct Examination by Mr. Stone
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1 completed the kit per the instructions we seal everything
2 inside the individual containers and then inside this
3 envelope and we place this piece of red tape on the back
4 and we put our initials on it; that way the item is
5 secured and sealed fully.

6 And if somebody tampers with it they are going to
7 have to pull down here [indicates] or rip the tape and
8 we'll know it has been tampered with.

9 Q. Okay. And once you seal it then it goes to SLED in
10 that condition is that correct?

11 A. That's correct.

12 Q. And you transported this to SLED yourself?

13 A. I did.

14 Q. And did you change or alter it in any way once you
15 put it in the seal -- in the package?

16 A. I did not.

17 MR. STONE: I think that's all the questions I have
18 of this witness at this point, Your Honor.

19 THE COURT: Thank you. Cross-examine?

20 MR. BAX: Briefly, Your Honor.

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State v Tyrone Robinson
Wendy Conant-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Everything that Solicitor Stone went through with
4 you, you transported up to SLED. Was that all on the
5 same date Officer Conant?

6 A. I went on two different dates.

7 Q. Okay. What were those two different dates?

8 A. If I could just quickly refer to my notes.

9 Q. Sure, take your time.

10 [Whereupon, the witness reviews notes]

11 A. The first time I went was on September 4th, 2012 and
12 the second time was September 7th of 2012.

13 Q. And this State's exhibit 35 was not one of the items
14 that you transported?

15 A. No, sir.

16 MR. BAX: No further questions, Your Honor.

17 THE COURT: Thank you.

18 MR. STONE: Nothing else at this time, Your Honor.

19 THE COURT: Thank you. You can step down Ms.

20 Conant. Thank you.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

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1 MR. STONE: Your Honor, we have our next witnesses
2 are out of town so they are all on the way. But this
3 might be a good time for morning break.

4 THE COURT: We'll do that at this time thank you.
5 Ladies and gentlemen we'll take a morning recess. We'll
6 get you back out at about 10 minutes after the hour.
7 Please do not talk about this case among yourselves while
8 you are in the jury room. Thank you.

9 [Whereupon, the jury exits at 10:15 a.m.]

10 THE COURT: Folks, we'll take about 20 minutes.

11 MR. BAX: Your Honor, if I may approach briefly
12 before we begin the break?

13 THE COURT: Sure.

14 [Whereupon, an off the record bench conference is
15 held]

16 [Whereupon, court is in recess from 10:52 a.m. to
17 11:10 a.m.]

18 THE COURT: Thank you, folks.

19 [Whereupon, an off the record bench conference is
20 held]

21 MR. STONE: We're ready to go, Your Honor.

22 THE COURT: Would you bring us the jury.

23 THE BAILIFF: The jury is entering the courtroom,
24 Your Honor.

25 THE COURT: Thank you.

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1 [Whereupon, the jury enters at 11:15 a.m.]
2 THE COURT: Solicitor, you can call your next
3 witness.
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State v Tyrone Robinson
Roger Heaton-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Roger Heaton.

2 THE COURT: Come forward please, sir and be sworn.

3 [Whereupon, Mr. Heaton comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 - - - - -

7 ROGER HEATON,

8 Having been first duly sworn,

9 Was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STONE:

12 Q. Investigator Heaton, who do you work with, sir?

13 A. Fourteenth Judicial Circuit Solicitor's Office.

14 Q. Let me show you what has been marked as State's
15 exhibit 30 and ask if you can identify that for me, sir.

16 [Whereupon, the witness is shown exhibit]

17 A. Yes sir, I can.

18 Q. And did you transport this item to SLED, which is
19 commonly known as the State Law Enforcement Division?

20 A. I did, sir.

21 Q. And when you received it was this red seal, which is
22 the sealed evidence, was that still intact?

23 A. Yes sir, it was.

24 Q. And when you transported it from the Sheriff's
25 Office to SLED was that seal still intact?

State v Tyrone Robinson
Roger Heaton-Direct Examination by Mr. Stone
September 17, 2014

1 A. It was, sir.

2 Q. And you then turned it into the SLED evidence room,
3 is that correct?

4 A. I did, sir.

5 Q. Did you change or alter this item in any way in the
6 transportation of it?

7 A. Absolutely not, sir.

8 MR. STONE: No further questions at this time, Your
9 Honor.

10 THE COURT: Thank you. Mr. Bax?

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State v Tyrone Robinson
Roger Heaton-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION
2 BY MR. BAX:
3 Q. Good morning, Roger.
4 A. Good morning, sir.
5 MR. BAX: I don't believe I have any questions for
6 Mr. Heaton. Thank you, Your Honor.
7 THE COURT: Thank you. Investigator ,you can step
8 down.
9 THE WITNESS: Thank you, Your Honor.
10 [Whereupon, the witness is excused and exits the
11 witness stand]
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State v Tyrone Robinson
Dr. Lee Marie Tormos-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Doctor Lee Marie Tormos.

2 THE COURT: Doctor Tormos, if you will come forward
3 please ma'am and be sworn.

4 [Whereupon, Doctor Tormos comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7

8 DR. LEE MARIE TORMOS,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Doctor Tormos, what do you do ma'am?

14 A. I'm a forensic pathologist at the Medical University
15 of South Carolina.

16 Q. What exactly is a forensic pathologist?

17 A. A forensic pathology is a doctor that has a
18 specialty degree in the study of disease and also in the
19 study of injury and how it causes death.

20 Q. And you are -- you actually practice pathology, you
21 perform autopsies and that sort?

22 A. I do practice autopsies on the bodies that are
23 referred to us by the coroners or by the doctors.

24 Q. And what type of special education do you have in
25 order to allow you to be a forensic pathologist?

State v Tyrone Robinson
Dr. Lee Marie Tormos-Direct Examination by Mr. Stone
September 17, 2014

1 A. After completing your medical doctor degree, which
2 is four years, you have to do a specialty in pathology,
3 which is an another additional four years and then an
4 extra year in forensic pathology as a subspecialty of
5 pathology.

6 Q. And where did you do those?

7 A. I did my undergrad and my medical school and my
8 pathology specialty in the University of Puerto Rico and
9 then I came to the Medical University of South Carolina
10 where I completed my subspecialty training.

11 Q. How long have you been at the Medical University of
12 South Carolina now?

13 A. Four years.

14 Q. And you performed a number of autopsies during that
15 time?

16 A. Over a thousand, yes sir.

17 MR. STONE: At this time, Your Honor, we move that
18 she be admitted as an expert in the field of forensic
19 pathology.

20 THE COURT: Thank you. Mr. Bax, voir dire?

21 MR. BAX: No voir dire. We stipulate, Your Honor.

22 THE COURT: Thank you. Doctor Tormos is so
23 qualified as an expert. Go ahead.

24 Q. [Mr. Stone] Doctor Tormos, did you perform the
25 autopsy on [Minor] ?

State v Tyrone Robinson
Dr. Lee Marie Tormos-Direct Examination by Mr. Stone
September 17, 2014

1 A. Yes, I did.

2 Q. And that was at the Medical University of South
3 Carolina is that correct?

4 A. That's correct.

5 Q. Tell me first of all what did you -- what were your
6 findings? What exactly did you perform?

7 A. During the course of the examination we perform an
8 external examination and an internal examination. The
9 decedent is a young man of eight years old. He is just
10 over four feet tall.

11 He is 49 and a half inches tall, weighs 55 pounds.
12 And externally other than some very small bruises on the
13 left leg the main external exam finding was a gunshot
14 wound to the left chest.

15 Q. Could you determine the trajectory of that gunshot
16 wound?

17 A. Yes, I can.

18 Q. Tell me about that please?

19 A. The gunshot wound entered the left chest at the
20 seventh intercostal space, which is right under the
21 armpit at the midaxillary line seventh rib.

22 It did scrape the seventh rib and then it proceeded
23 to go through the left lung, the heart, the right lung
24 before exiting the chest cavity. It stayed under the
25 skin, it went through the armpit and it was recovered on

State v Tyrone Robinson
Dr. Lee Marie Tormos-Direct Examination by Mr. Stone
September 17, 2014

1 the soft tissues on the posterior right arm.

2 Q. Now I understand a little of what you're telling me
3 could I get you to come down off the stand. I need you
4 to keep your voice up so she can hear you.

5 A. Absolutely.

6 [Whereupon, the witness steps down from the stand]

7 Q. Obviously I am taller than that but tell me exactly
8 -- you were saying various things. Show me on my body
9 where the bullet entered and where it ended up. First of
10 all was the bullet still in the child when you did the
11 autopsy?

12 A. Yes, the bullet was still there.

13 Q. Okay. Where did the bullet enter on the child if
14 you were using me as the child?

15 A. Okay. The seventh rib is located on the
16 midaxillary line right here [indicates] and the bullet
17 entered about mid chest.

18 It went in an upwards trajectory through the left
19 lung through the apex of the heart through the right lung
20 and it travelled on the armpit soft tissues and it was
21 recovered right here [indicates] on the posterior right
22 arm.

23 Q. Now I'm going to hand you this pointer. Show the
24 jury the trajectory of that bullet. I'm not sure where I
25 was. This angle I guess, yes ma'am.

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1 A. So left to right [indicates] at the mid chest ---

2 Q. --- make sure everybody on the jury can see it.

3 A. The trajectory of the bullet is like this

4 [indicates]. It is left to right slightly upwards and it
5 doesn't have a significant forward or backward deviation.

6 Q. Now let me also show you what has been marked into
7 evidence -- excuse me; marked for identification as
8 State's exhibit 23 and 22. First let me ask you if you
9 could identify those for me please?

10 [Whereupon, the witness is shown exhibits]

11 A. These are x-rays that I took at the autopsy on
12 September 2nd.

13 Q. And these are the x-rays of [REDACTED] Minor ?

14 A. These are the x-rays of [REDACTED] Minor .

15 MR. STONE: At this time, Your Honor we're going to
16 move into evidence State's exhibit 22 and 23.

17 MR. BAX: No objection, Your Honor.

18 THE COURT: Thank you.

19 [Whereupon, State's exhibit numbers 22 and 23 are
20 entered into evidence by the court]

21 Q. Okay. Let me hold that if I could State's exhibit
22 23. And could you show the jury what that depicts
23 please?

24 A. Okay. This is a chest x-ray of the child. The
25 bullet enters right here [indicates], it goes through the

1 intercostal space and it actually goes through the
2 muscles that hold the ribs together. It scrapes the
3 seventh rib and fractures it a little bit but it doesn't
4 fracture it all the way.

5 So it goes in, it goes in an upward trajectory; it
6 perforates the left lung hilum, which is the attachment
7 where all the blood vessels and the main bronchi are. It
8 perforates the atrium of the right heart. So it just
9 scrapes the top of the heart so it's not immediately
10 fatal.

11 It also gets the hilum of the right lung so again it
12 is perforating the area where all the blood vessels are
13 and where the main bronchi are; the airways. And then it
14 travels in an upward trajectory. It actually exits --
15 see this [indicates] is the third rib. It exits right
16 here [indicates], it exits the chest.

17 But this is [indicates] the armpit soft tissues and
18 as you can see it is higher than the armpit so it just
19 travels through the soft tissues of the armpit and it's
20 recovered this is actually behind the arm.

21 It's just that when you do an x-ray it takes 3-D and
22 put it into a two dimensional picture. But this is
23 actually the soft tissue behind the right arm.

24 Q. Now I know trajectory is from the standpoint of into
25 the body the trajectory you showed earlier I guess was

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1 like that [indicates]?

2 A. Like that [indicates].

3 Q. If that appears from that can you tell us where the
4 shot came from? In other words was the shot coming from
5 below the child or above the child?

6 A. Well the ---

7 Q. --- and explain that if you can.

8 A. Absolutely. When we explain trajectories we explain
9 trajectories in the anatomic position like this
10 [indicates]. This is the normal anatomic position. When
11 people are being shot they are not standing like this
12 [indicates]. The torso does move forward, backwards.

13 People tend to duck when they hear gunshots so
14 likely the person is not standing like this [indicates].
15 So I can say that the child was standing or upright and
16 the shot came from the left side of his body. Now which
17 way his body was facing I don't know.

18 What I can tell you is that the upwards trajectory
19 may be easily explained by the child leaning. So it may
20 be a horizontal shot at or above the height where the
21 child is and the child is leaning somewhat and that
22 explains the upwards trajectory.

23 Q. So the shot could have come from horizontal to the
24 child or below the child. Could the shot have come from
25 above the child?

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1 A. If the child was pretty much upside down.

2 Q. Other than that assuming that the child is upright.

3 A. Upright then it would have to be pretty much near
4 the level of the child and the child is four feet tall so
5 the child is this [indicates] high.

6 So I'm thinking that it is a shot that is relatively
7 horizontal to the ground and the child is leaning a
8 little bit when the bullet enters the body. But I don't
9 think it can easily come from ---

10 Q. --- another way ---

11 A. --- higher up it cannot unless the child is pretty
12 much bent over at the waist and nearly upside down doing
13 a cartwheel.

14 Q. Okay. You said that it nicked various organs and
15 that it did not cause immediate death. What did you mean
16 by that?

17 A. Okay. The structures that are perforated by the
18 bullet are structures that are going to bleed in to the
19 chest cavity. And that's exactly what happened. He bled
20 into the right chest cavity from the perforations to the
21 vessels to the left lung and he bled into the right chest
22 cavity from perforations to the right lung.

23 And he also bled from that nicking off the top of
24 the heart as well. Now it's a venous bleed so it's a
25 slow bleed. It did not significantly hit the heart

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1 muscles so it did not cause an arrhythmia to make the
2 heart stop. So while -- so he did have some survival
3 time to explain why he bled into the chest cavity and
4 also while he developed cerebral edema. Cerebral edema
5 does take a minute to happen and it is due to the
6 possible relative hypoxia that he is experiencing as he
7 is bleeding into his airways.

8 So his airways are perforated, his blood vessels
9 near his airways are perforated and as he is bleeding he
10 is bleeding into his airways and he is essentially
11 drowning in his own blood. And that creates a brain
12 edema that we also saw at autopsy.

13 Q. So when he is actually shot he doesn't die
14 immediately. There is going to be some time there.

15 A. Yes.

16 Q. Any way to estimate how much that time is?

17 A. No. People respond in different ways. There is no
18 way to estimate the survival time but it could easily be
19 a minute to two minutes.

20 Q. Thank you, doctor. Go ahead and take the stand
21 back.

22 [Whereupon, the witness returns to the stand]

23 Q. Doctor Tormos, do you have a manner of death and a
24 cause of death that you found as well is that correct?

25 A. The cause of death was determined to be a gunshot

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1 wound to the left lateral chest and the manner of death
2 is homicide.

3 Q. Thank you doctor. I don't have any further
4 questions.

5 THE COURT: Thank you. Mr. Bax, cross-examine?

6 MR. BAX: Thank you, Your Honor. A moment's
7 indulgence to ask Mr. Stone a question.

8 THE COURT: Go ahead.

9 [Whereupon, Mr. Bax confers with Mr. Stone]

10 MR. BAX: I'm going to wait a minute while
11 Solicitor Stone grabs something for me.

12 [Whereupon, Mr. Stone and Mr. Bax set up the
13 mannequin]

14 MR. BAX: Thank you. Excuse the delay, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Doctor Tormos I'm going to ask you to come down
4 again since we have the mannequin rather than use myself
5 if you would step down from the stand please with Your
6 Honor's permission.

7 THE COURT: That's right. Doctor, if you will
8 stand on the other side of the mannequin and face
9 generally in the direction of the court reporter she will
10 be able to hear you better that if your back is to her.
11 Thank you.

12 [Whereupon, the witness steps down from the stand]

13 Q. [Mr. Bax] Obviously Doctor Tormos we've been talking
14 about an injury that was to the left side of the chest
15 correct?

16 A. Yes.

17 Q. So I guess if we rotate this mannequin around that
18 is going to face the left side at you correct?

19 A. That is correct.

20 Q. Okay. A couple of things real quickly Doctor
21 Tormos while I have you down here. You've indicated, and
22 then you showed the jury this on Solicitor Stone that the
23 entry wound was on mid chest left side correct?

24 A. Yes.

25 Q. Can you indicate where that is on the mannequin?

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- 1 A. It's about right here [indicates].
- 2 Q. Okay. And obviously we have a left arm in this
3 situation. [REDACTED] Minor had a left arm. Was the left
4 arm wounded at all?
- 5 A. It was not.
- 6 Q. It was not? Obviously you've stated there was a
7 slightly upward trajectory and the projectile ended up
8 over in this arm [indicates] kind of towards the
9 shoulder?
- 10 A. Yes, that's correct.
- 11 Q. Okay. You talked about the fact that the
12 trajectory as far as its angle can sometimes be explained
13 by the fact that the body moves leaning to one side or
14 the other. Forward also is a way that we can lean as
15 well correct?
- 16 A. Absolutely.
- 17 Q. Okay. And Doctor in your experience a lot of times
18 people tend to lean somewhat forward when they run is
19 that correct?
- 20 A. That is correct.
- 21 Q. Okay. And when they run they also move their arms
22 like this [indicates] sometimes is that correct?
- 23 A. That is correct.
- 24 Q. Okay. So in a leaning forward posture with the
25 arms pumping like that [indicates] would that explain or

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1 could that be a possible explanation for that trajectory
2 and the fact the left arm was not wounded?

3 A. Yes.

4 Q. Okay. Thank you very much. You can have a seat if
5 you'd like.

6 [Whereupon, the witness returns to the stand]

7 Q. Doctor Tormos, a couple of things. First of all you
8 removed the projectile from [Minor] is that
9 correct?

10 A. Yes.

11 Q. Okay.

12 MR. BAX: Approach, Your Honor?

13 THE COURT: Yes, sir.

14 MR. BAX: Thank you very much. Actually first I'd
15 like to have a couple of things premarked.

16 [Whereupon, defendant's exhibit numbers 9, 10, and
17 11 are marked by the court reporter]

18 Q. [Mr. Bax] Doctor, I'm going to hand you what has
19 been premarked for I.D. as defendant's exhibit 9, 10, and
20 11. Would you look at those and see if you can identify
21 what is pictured there?

22 [Whereupon, the witness is shown photographs]

23 A. These are pictures of the bullet that was removed
24 from [Minor].

25 Q. Okay. And those are just of different angles of

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1 that bullet or projectile ---

2 A. --- of the same bullet, yes.

3 Q. Okay. Thank you very much. And were those
4 photographs taken there at the autopsy?

5 A. At the autopsy suite, yes.

6 Q. Okay. And they appear to be in the same condition
7 as -- they appear to be accurate representations of what
8 was taken a picture of at that time?

9 A. Absolutely.

10 Q. All right. Thank you very much.

11 MR. BAX: Your Honor, we'd move to introduce
12 defendant's exhibits 9, 10, and 11 at this time.

13 MR. STONE: No objection.

14 THE COURT: Thank you. 9, 10, and 11 in evidence.

15 [Whereupon, defendant's exhibit numbers 9, 10, and
16 11 are entered into evidence by the court]

17 MR. BAX: Permission to publish to the jury, Your
18 Honor?

19 THE COURT: Yes, sir.

20 [Whereupon, defendant's exhibits 9, 10, and 11 are
21 shown on screen]

22 Q. [Mr. Bax] And Doctor, you had testified earlier that
23 the projectile appeared to have scraped one of the ribs
24 partially cracking it.

25 A. Uh Huh.

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1 Q. Is that also possible that that slightly changed the
2 trajectory of the bullet once it impacted that rib?

3 A. Not significantly. Children do have very soft ribs;
4 they are mostly cartilage at that point. So those
5 bullets tend to have so much energy that the chance of
6 deflection by a child's rib is minimal.

7 Q. Okay. So any deflection would have been minimal
8 correct?

9 A. Absolutely.

10 Q. Now I see on that projectile that there is a slight
11 scraping on the bottom of that projectile. From your
12 experience could that -- the hitting of the rib could
13 explain that slight scraping on the bottom of that
14 projectile?

15 A. Yes.

16 Q. Okay. You've also testified that the both -- that
17 the path of the trajectory basically passed through
18 really three of the most vital organs that we have in our
19 bodies; both lungs and it scraped the heart correct?

20 A. Yes, it did.

21 Q. Okay. So -- I mean this was a deadly wound is that
22 correct?

23 A. It was a deadly wound, yes.

24 Q. Okay. And you've testified that it scraped the
25 heart, which would not have immediately caused -- would

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1 not have caused immediate death is that correct?

2 A. That is correct.

3 Q. However death would have been fairly quick because
4 of the bleeding that happened in the heart and lungs is
5 that correct?

6 A. That is true.

7 Q. Okay. You testified that it can be different for
8 different people correct?

9 A. That is true, yes.

10 Q. Doctor Tormos, doesn't also the level of physical
11 activity that someone has been involved in immediately
12 prior to suffering such a wound also impact how quickly
13 they will die from a wound like this based on the amount
14 of bleeding that is going to happen?

15 A. I do not know the answer to that question.

16 Q. Let me ask you this. If someone is physically
17 exercising or having physical activity such as jumping on
18 a trampoline or running does this often times up the
19 heart rate?

20 A. Yes it does.

21 Q. Okay. And when the heart rate is up its going to
22 pump blood faster is that correct?

23 A. Yes, it will.

24 Q. Okay. So it is possible that if you are in the
25 middle of physical exertion as well as excitement that

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1 you would be -- your heart would be pumping faster?

2 A. Your heart will be pumping faster, yes.

3 Q. Okay. Doctor Tormos, also we have glands in our
4 body correct?

5 A. Yes.

6 Q. Including a gland that secretes adrenalin correct?

7 A. Yes.

8 Q. Tell us a little bit about what adrenalin does.

9 Q. Adrenalin activates your fight or flight system,
10 which basically explains a lot of super things that the
11 body is able to do in an emergency situation.

12 You may have heard of parents lifting cars off of
13 their children in a fight or flight situation or people
14 running where they have a debilitating injury and they
15 would not be able to run. But because their life is in
16 danger they are able to perform tasks that otherwise
17 would not be able to perform under normal circumstances.

18 Q. And Doctor that is not universally -- it doesn't
19 always happen for each person; every person is different
20 correct?

21 A. There are some people that just like deer do they
22 freeze when the headlights are coming and their fight or
23 flight they just freeze so it doesn't happen for
24 everyone. Some people do react and they run or they get
25 out of the way and some people just freeze.

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1 Q. From a chemical aspect, Doctor regardless of the
2 person adrenaline has been known to cause the heart rate
3 also to rise as well as breathing rate to rise is that
4 correct?

5 A. The heart rate and the breathing rate will rise with
6 an adrenaline rush.

7 Q. And so regardless of relative or flight or fight
8 instinct the harder the heart is pumping the harder it's
9 going to bleed out correct?

10 A. Yes.

11 Q. So based on that testimony if the heart was beating
12 faster based on adrenaline, based on physical exercise
13 would that have sped up -- could that possibly have sped
14 up the death in this case?

15 A. I still stand that even with the fight or flight and
16 the adrenaline rush it is likely that he would have
17 survived a minute or two just because the vessels are
18 mostly veins in that area and as such it is a slow bleed
19 whereas the arteries are the ones that are a quick bleed
20 when the heart is pumping fast.

21 Q. Okay. But you have testified that if the heart is
22 beating faster it's going to be pumping blood harder
23 correct?

24 A. Yes.

25 Q. Okay. And this -- the individual in this case [REDACTED]

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1 **Minor** as you've stated before was an eight year boy
2 correct?

3 A. Yes.

4 Q. You've already testified that his bones would have
5 been slightly softer than an adult correct?

6 A. Yes, I have.

7 Q. Obviously his lungs would be smaller than adults
8 correct?

9 A. Absolutely.

10 Q. Okay.

11 MR. BAX: Moment's indulgence, Your Honor.

12 THE COURT: All right.

13 [Whereupon, Mr. Bax confers with Ms. Saxon]

14 Q. [Mr. Bax] A couple of follow up questions, Doctor
15 Tormos. Thank you for your patience. First of all we
16 didn't really get into this in testimony when you're
17 doing an autopsy involving a gunshot victim is there
18 anything that you look for to determine whether the
19 firearm itself was close to the victim or further away
20 from the victim?

21 A. Yes. We look at the characteristics of the entrance
22 wound. The entrance wound will show an abrasion when the
23 bullet perforates the skin. But sometimes it will show
24 soot in the position if the gun is really close to the
25 body surface. And it can show stippling. Stippling is

1 little tiny burns on the skin surrounding the entrance
2 gunshot wound that happens when the gunpowder that is
3 also expelled along with the bullet hits the skin. There
4 were neither in his case.

5 Now I did not get the shirt and if the child was
6 wearing a shirt maybe some of the soot or some of the
7 stippling would have been on the shirt. But I did not
8 get to examine the shirt.

9 Now on the skin there was no soot or no stippling
10 therefore these are classically characterized as distant
11 or undetermined distance gunshot wounds.

12 Q. So from everything that you had in this case there
13 was no way to indicate that it was a wound that was close
14 when the gun was fired?

15 A. There was no evidence that the weapon was close to
16 the skin at all.

17 Q. Secondly, you've also testified that a bullet like
18 this can have a lot of energy.

19 A. Yes.

20 Q. You testified that obviously any deviation from
21 hitting the rib would be very minimal because it has a
22 lot of energy going forward correct?

23 A. Yes.

24 Q. And as we have testified to before **Minor** was eight
25 years old, correct, so he was not a full grown human

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1 being is that correct?

2 A. That's true.

3 Q. How much did he weigh?

4 A. Fifty-five pounds.

5 Q. Fifty-five pounds, okay. In your experience the
6 energy transmuted from this bullet when it struck it can
7 be great. It can be enough to knock someone down is that
8 correct?

9 A. I don't know about knocking someone down, no.

10 Q. But clearly **Minor** in this case is smaller than an
11 adult correct?

12 A. Yes.

13 Q. He weighs only 55 pounds.

14 A. Yes.

15 Q. So the energy imparted from that bullet to a smaller
16 human being just from a physics standpoint would be more
17 than it would be to a larger human being.

18 A. The energy displacement is the same in tissue
19 regardless of the size of the body.

20 MR. BAX: No further questions, Your Honor.

21 THE COURT: Thank you. Mr. Stone, redirect?

22 MR. STONE: Just briefly.

23

24

25

State v Tyrone Robinson
Dr. Lee Marie Tormos-Redirect Examination by Mr. Stone
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1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. First of all I know we talked about a distance shot.
4 Assuming that the shirt is not a factor in this one way
5 or the other when you talk about distance how far? I
6 know there is a contact when you have the stippling and
7 things against the skin is that correct ---

8 A. --- Uh Huh.

9 Q. At what point does a gun no longer leave that type
10 of stippling?

11 A. Generally around three feet.

12 Q. Okay. So anything beyond three feet is going to be
13 considered by you a distance shot is that right?

14 A. That is correct.

15 Q. Okay. And I should have done this on this. Could
16 I get you to come down one more; and I apologize.

17 [Whereupon, the witness steps down from the stand]

18 Q. Obviously this [indicates] is much taller than four
19 feet tall but just assuming from the standpoint of the
20 ribs you showed me or you showed the jury that somewhere
21 in here [indicates] is where the bullet went in. I'll
22 let you just point it.

23 A. Yes. The bullet went in at the mid axillary line so
24 right in the middle of the torso [indicates].

25 Q. Okay. And it ended up here [indicates] is that

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1 correct?
2 A. Okay. And it ended here [indicates] on the
3 posterior right arm.
4 Q. Okay. Right here [indicates]?
5 A. Uh Huh.
6 Q. So that's just about the angle right there
7 [indicates] is that correct?
8 A. Yes, maybe a little bit more.
9 Q. A little bit more?
10 A. Not much.
11 Q. Put it where you think it is and you can bend that
12 wire if you need to.
13 A. [witness indicates]
14 Q. Is that better?
15 A. Yes, it is.
16 Q. Thank you Doctor Tormos.
17 [Whereupon, the witness returns to the stand]
18 MR. BAX: Briefly, Your Honor?
19 THE COURT: Okay.
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Dr. Lee Marie Tormos-Recross-Examination by Mr. Bax
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1 RECROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Just to make sure that we are clear as we talked
4 about before and I think this model will do that. A
5 slight lean forward and the arm here [indicates] is
6 certainly possible for the position of the body?

7 | A. Absolutely.

8 | Q. Thank you.

9 MR. BAX: No further questions. Thank you, Your
10 Honor.

11 THE COURT: Mr. Stone, you've got the last word.

12 MR. STONE: Nothing else. Thank you Doctor Tormos.

13 THE COURT: Thank you Doctor. You can step down
14 and be excused without objection. Thank you so much.

15 THE WITNESS: Thank you.

16 [Whereupon, the witness is excused and exits the
17 witness stand]

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1. MR. STONE: Illa Simmons.

2 THE COURT: Ms. Simmons, come forward please ma'am
3 and be sworn.

4 [Whereupon, Ms. Simmons comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7

8 ILLA SIMMONS,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Ms. Simmons, what do you currently do?

14 A. I am retired from the South Carolina Law Enforcement
15 Division..

16 Q. And when you were with the South Carolina Law
17 Enforcement Division -- and everybody refers to that as
18 SLED is that correct?

19 A. Yes, sir.

20 Q. How long were you with SLED?

21 A. Fourteen years.

22 Q. And in September of 2012 what was your position with
23 SLED?

24 A. I worked in the forensics services laboratory, trace
25 evidence department. I analyzed gunshot residue,

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1 gunpowder residue, we analyzed arsons as well as
2 performing comparisons of glass, paints, and explosives.

3 Q. And what type of background and what type of
4 experience did you have in order to do that? And let's
5 specifically talk about gunshot residue.

6 A. I have a Bachelor of Science degree in Chemistry.
7 After completing that I came to work at where my first
8 three years were spent working with a SLED certified
9 court qualified trace evidence examiner. During that
10 time I had to take written and practical examinations and
11 pass them with 100 percent efficiency.

12 I was also a member of the F-B-I's gunshot residue
13 symposium where gunshot residue analysts from around the
14 world were invited to Quantico to discuss and set up the
15 A-S-T-M standards that would be used for everyone around
16 the world in the analysis of gunshot residue.

17 Q. What does A-S-T-M stand for?

18 A. American Standard Testing Methods.

19 Q. Okay. Now gunshot residue; exactly how do you --
20 tell me where gunshot residue comes from or how do you --
21 what is the purpose of testing for gunshot residue I
22 guess?

23 A. Gunshot residue is a mixture of microscopic
24 chemicals that come out of the gun when it is discharged.
25 It comes from the primer of the cartridge that is placed

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1 into the gun to be fired and it comes out in a cone
2 shaped cloud. It can get on anything in close proximity
3 to the weapon when the weapon discharges including the
4 hands and clothing of someone who is shooting a gun.

5 Q. Now if it gets on the hands for instance is there a
6 certain time that it can stay on the hands before --
7 while you can test or does it stay on the hands forever?

8 A. If it is a living individual we have never found
9 gunshot residue to last more than six hours and it starts
10 to come off immediately. It has a consistency of flour
11 so it is every easily removed if someone were to wash
12 their hands, clean their hands with hand sanitizer or
13 wipe them on a towel it can remove the gunshot residue.

14 Q. And the sweating of the hands as well does that
15 affect it as well?

16 A. Yes, sir.

17 Q. Now have you ever been qualified as an expert in
18 gunshot residue in order to testify in court?

19 A. Yes sir, over 300 times in State, Federal, and
20 General Sessions courts in South Carolina.

21 MR. STONE: At this time, Your Honor we would offer
22 her as an expert in trace evidence; in particular gunshot
23 residue.

24 THE COURT: All right. Mr. Bax?

25 MR. BAX: Voir Dire, Your Honor.

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September 17, 2014

1 VOIR DIRE

2 BY MS. SIMMONS:

3 Q. Ms. Simmons, real quickly. You testified that at

4 one point during your training or one of the things that

5 you listed in your credentials was working with the F-B-I

6 on gunshot residue, correct?

7 A. Yes sir, I went for their symposium.

8 Q. Now you're aware that the F-B-I no longer does G-S-R

9 testing.

10 A. Yes sir, I am.

11 Q. Okay.

12 MR. BAX: No further questions, Your Honor. No

13 objection.

14 Thank you. All right, thank you. Mr. Stone?

15 MR. STONE: We offer her as an expert, Your Honor.

16 THE COURT: She's qualified.

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State v Tyrone Robinson
Illa Simmons-Direct Examination (resumes) by Mr. Stone
September 17, 2014

1 DIRECT EXAMINATION (RESUMES)

2 BY MR. STONE:

3 Q. Now did you do gunshot residue testing and
4 specifically I'm going to hand you up a kit, which has
5 been marked as State's exhibit 24, a gunshot residue test
6 taken from the hands of Tyrone Lorenzo Robinson.

7 [Whereupon, the witness is shown exhibit]

8 Q. Did you analyze that test kit?

9 A. Yes sir, it is marked with our laboratory
10 identification number, the evidence item number as well
11 as my initials and the date that I opened it to begin
12 analysis.

13 Q. And when -- you opened it so I'm assuming it was
14 sealed when you received it is that correct?

15 A. Yes sir, it was.

16 Q. And it was sealed with the I guess the initials of
17 the person from the Beaufort County Sheriff's office that
18 took it to begin with is that correct?

19 A. Yes, sir.

20 MR. STONE: First of all, Your Honor, I would offer
21 that into evidence. We have testimony it was sealed on
22 the front end as well as the back before Ms. Simmons
23 opened it.

24 THE COURT: Any objection?

25 MR. BAX: No, Your Honor.

State v Tyrone Robinson
Illa Simmons-Direct Examination (resumes) by Mr. Stone
September 17, 2014

1 THE COURT: Thank you. Without objection.
2 [Whereupon, State's exhibit number 24 is entered
3 into evidence by the court]
4 MR. STONE: This is State's exhibit 24 into
5 evidence.
6 Q. [Mr. Stone] State's exhibit 24 was the kit taken
7 from the hands of the defendant, Mr. Robinson. What were
8 your results of that test result?
9 A. Gunshot residue was found on the palm and back of
10 the right hand and round lead particles were found on the
11 palm and back of the left hand. Round lead particles are
12 one component of gunshot residue.
13 Q. And then powder itself, what did that consist of?
14 A. The gunshot residue is a mixture of lead, barium,
15 and antimony. When those three elements are found in
16 conjunction with one another in a round form it is
17 consistent to gunshot residue only; specifically to a
18 discharge of a firearm. It hasn't been found anywhere
19 else to be related to any other manmade or naturally made
20 occurrence.
21 Q. What can you tell us from that test result?
22 A. That this person was firing a gun or in close
23 proximity to a gun when it was fired.
24 Q. Thank you. I don't have any further questions.
25 MR. BAX: Briefly, Your Honor.

State v Tyrone Robinson
Illa Simmons-Cross-Examination by Mr. Bax
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Ms. Simmons, you've testified that G-S-R can be
4 present on someone who has either fired a weapon or been
5 in close proximity to a weapon.

6 Are you familiar with transference of G-S-R as well?
7 Can G-S-R be transferred from one object to another or
8 one person to another through physical contact?

9 A. It can.

10 Q. Okay. So if someone fires a gun and then shakes
11 your hand it is possible for you to have gunshot residue
12 on your hand at that point?

13 A. Only on the area of the hand that made contact with
14 the other person.

15 Q. Certainly. And you also testified that G-S-R is a
16 combination of barium, antimony, and rounded lead
17 particles correct?

18 A. Yes, sir.

19 Q. The barium and antimony the science indicates they
20 need to be of elevated levels; in other words they need
21 to be over a certain amount of barium or antimony in
22 order to be considered G-S-R is that correct?

23 A. Actually the analysis that we do we use a microscope
24 and these particles were found together; the lead, the
25 barium, and the antimony were all contained within one

State v Tyrone Robinson
Illa Simmons-Cross-Examination by Mr. Bax
September 17, 2014

1 particle and it was a round particle so that's specific
2 to gunshot residue. It has nothing to do with the levels
3 of each element that is present.

4 Q. But you just testified that is something that you
5 did. Is that the way all labs do it?

6 A. Yes, sir. If gunshot residue is found if a round
7 particle with lead, barium, and antimony are found then
8 gunshot residue is found.

9 Q. So Ms. Simmons it's your testimony that other labs
10 do not also look at the amount of barium and antimony?

11 A. They can look at that but that is generally a
12 screening test and then they go forward to the
13 microscopic tests like we do to confirm that the elements
14 that were found actually were gunshot residue.

15 Q. Because barium and antimony in themselves can be
16 found in other materials correct, in household cleaning
17 products correct?

18 A. Yes sir, they can.

19 Q. Okay. Now moving on Ms. Simmons you've also
20 indicated that gunshot residue these elements that we've
21 talked about they don't necessarily go away unless
22 something actively takes them off such as washing the
23 hands or brushing against something enough to get it off
24 correct?

25 A. Just over time yes, they will come off of the hands.

State v Tyrone Robinson
Illa Simmons-Cross-Examination by Mr. Bax
September 17, 2014

1 Q. In your experience it's certainly possible for
2 gunshot residue to remain on someone's hands for a day or
3 two days or even longer if they don't wash is that
4 correct?

5 A. No, sir. If someone shoots a gun at lunchtime at
6 noon by 6 o'clock there will be no gunshot residue left
7 on their hands.

8 Q. Excuse me?

9 A. A living person, yes sir.

10 Q. Ms. Simmons, so you're not aware of any experts that
11 would tell you that gunshot residue goes not go away
12 unless there is something that actively takes it off?

13 A. Not on a living person, no sir.

14 Q. What happens to the G-S-R on a living person in that
15 six hours, the body absorbs it?

16 A. The body can absorb it, yes sir.

17 MR. BAX: Moment's indulgence, Your Honor. A
18 sidebar please?

19 THE COURT: Sure.

20 [Whereupon, an off the record bench conference is
21 held]

22 MR. BAX: Your Honor, I have no further questions
23 for this witness.

24 THE COURT: Thank you. Mr. Stone, redirect?

25 MR. STONE: Just a couple.

State v Tyrone Robinson
Illa Simmons-Redirect Examination by Mr. Stone
September 17, 2014

1 REDIRECT EXAMINATION

2 BY MR. STONE:

3 Q. The hard round particles how are those formed?

4 A. If you were to take water and throw it in the air
5 and freeze it in mid air you are going to end up with
6 round droplets. It's because the water is molten and
7 it's under pressure; it's being thrown up.

8 If a gun is fired the materials that are coming out
9 of this gun are also molten and they're under pressure
10 and that's why they form the round droplets because when
11 they hit the skin they immediately begin to cool and they
12 solidify into round particles.

13 That's why it is consistent then from a discharge or
14 a small explosion like what comes out of a gun and not
15 just every day contact.

16 Q. And so when we talk about the elements involved
17 that's actually elements that have been molded for lack
18 of a better term into that ball is that correct?

19 A. Yes, sir.

20 Q. So other items that may have barium in them or other
21 things like this are not going to be molded into
22 something unless they've been under that type of pressure
23 and heat is that correct?

24 A. That's correct.

25 Q. Okay. And that's the reason for the microscopic

State v Tyrone Robinson
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1 testing aside from just doing the screen is that right?

2 A. Yes, sir.

3 Q. The other thing I think the defense brought up the
4 area of the hands if they shake hands it can be
5 transferred off that kind of stuff. What areas of the
6 hands did you find gunshot residue on Tyrone Robinson?

7 A. I found it on the palm and back of the right hand
8 and I also found round lead on the palm and back of the
9 left hand.

10 Q. All right. Thank you.

11 MR. STONE: No further questions of this witness,
12 Your Honor.

13 THE COURT: Any follow up with this witness Mr.
14 Bax?

15 MR. BAX: Nothing, Your Honor.

16 THE COURT: Thank you. You can step down.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

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1 MR. STONE: Your Honor, we have one final witness.
2 He is testifying, while this has never happened to me in
3 29 years it's now happened twice in the same trial, he is
4 testifying on the stand in courtroom 2 right now as we
5 are speaking. So it may be best if we take a lunch break
6 or however you would like to handle it. We're prepared
7 to go forward whenever he gets through.

8 THE COURT: I understand. He's your final witness?

9 MR. STONE: Yes, sir.

10 THE COURT: And he will obviously take some time.
11 Unlike the witness yesterday his testimony as an expert
12 will probably take some more time?

13 Yes, sir. MR. STONE:

14 THE COURT: All right folks. We once again have
15 been preempted by another trial. We've got some popular
16 witnesses apparently or at least in this courtroom in
17 this courthouse. The good thing about it is they've only
18 had to make one trip. One of them was already here but
19 this one has only had to make one trip for both
20 courtrooms so that's been efficient. But the upshot of it
21 is obviously the State is not in a position to offer that
22 testimony right this minute because of the witness's
23 unavailability. But after lunch the witness will be
24 available and so we will start back at 1:15. Now it's an
25 early lunch so you'll get to beat the crowd to

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1 restaurants I hope. Please be back in the jury room at
2 1:15. Don't talk about this case with anybody else or
3 among yourselves while you are out of the courtroom.
4 Thank you.

5 [Whereupon, the jury exits at 12:00 p.m.]

6 THE COURT: Ladies and gentlemen please note we're
7 still in session. I appreciate that but we've got
8 something to put on the record before we recess. Madame
9 Reporter, the record should reflect a sidebar conference
10 during the testimony -- during the cross-examination of
11 former agent Simmons regarding the length of time that
12 gunshot residue remains on the hands of a living person.
13 Mr. Bax indicated that her testimony was contrary to his
14 experience and the science that he is aware of insofar as
15 the duration is concerned.

16 He asked to strike her testimony, which I denied
17 because I have no evidence to the contrary at this point
18 in time. He also indicated that he may have to have a
19 continuance to try to get another expert on the other
20 side of that issue. I've asked him to present some
21 evidence which is clearly to the contrary of what she
22 said as the accepted science in this matter before I
23 could continue that. But I did want to make a notation
24 that he made a timely request in that regard. Mr. Bax,
25 does that adequately reflect the sidebar from your

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1 perspective?

2 MR. BAX: It does, Your Honor. I can put on the
3 record that I can specifically cite what case I was
4 referring to, State v Tremaine Wray that was tried in
5 front of Judge Michelle Childs. Myself and Jack Swerling
6 tried that case. Gunshot residue was a primary issue in
7 that case. The State had an expert who testified. I had
8 a consulting expert at the time. I will do my best to
9 contact that expert. I don't recall his name off the top
10 of my head. I'll have to try and see if Jack recalls who
11 that was.

12 THE COURT: That was a State court case?

13 MR. BAX: It was a State court case, that's correct
14 Your Honor.

15 THE COURT: And the defendant's name was?

16 MR. BAX: Tremaine Wray. First name is spelled
17 T-R-E-M-A-I-N-E; last name is Wray W-R-A-Y I believe. In
18 fact he's got a pending P-C-R that Judge Manning can't
19 seem to get scheduled based on Jack's and my schedules.

20 THE COURT: Okay. Was that a reported case? Did
21 it go up on appeal?

22 MR. BAX: I know that Mr. Ray reported it -- or
23 appealed it, which is why the P-C-R took so many years to
24 come back. It's been almost five years ago. I don't
25 recall ever seeing it in the advance sheets though.

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1 THE COURT: Okay. Thank you. Anything further
2 Mr. Stone from the State before we break for lunch?

3 MR. STONE: No, sir.

4 THE COURT: All right, 1:15 folks.

5 MR. STONE: Yes, sir.

6 MR. BAX: Thank you.

7 [Whereupon, court is in recess from 12:02 p.m. until
8 1:15 p.m.]

9 THE COURT: Thank you ladies and gentlemen. All
10 right folks, are both sides ready for the jury?

11 MR. STONE: The State is ready, Your Honor.

12 THE COURT: Mr. Bax?

13 MR. BAX: The defense is ready, Your Honor. Just
14 to put on the record about the issue concerning the last
15 witness of the State. I have consulted with my expert
16 and I believe that Mr. Fife [phonetic] can offer some
17 testimony that that particular part of her testimony is
18 not backed by the science. However, there is also
19 another expert Mr. Robinson that is working on my wife's
20 cases as a defense consultant and I would also like to
21 consult with him just to see if there are some additional
22 elements that Mr. Robinson can add. And I will present
23 that if anything tomorrow with Your Honor's permission.

24 THE COURT: All right. I'll be glad to deal with
25 that after you have a chance to look into it. I have

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1 done just some minimal research in the length of time
2 that we had and I have found at least one of these sites
3 dealing with forensic science that indicates that gunshot
4 residue depending upon activity and things of that nature
5 normally goes away in five hours thereabouts. I'll show
6 you the site if you would like to see it. But I'm sure
7 that probably is not -- she stated it with definitive --
8 the website doesn't come out with that same degree of
9 certainty.

10 But I'm wondering about the relevance in this
11 particular issue because I don't recall whether Mr.
12 Robinson in his statement has referred to shooting. He
13 said he was involved in a shootout but whether his
14 statement referred to him actually firing shots at that
15 point in time or not or whether there is any evidence
16 along those lines that would make this real relevant.
17 Can you help me with that?

18 MR. BAX: Well frankly, Your Honor, it really
19 doesn't matter. I'll be honest with you and that's
20 exactly what I'm going to tell the jury. I just get a
21 little irritated when I have a forensic scientist tell me
22 something that I believe based on my information and
23 studies to be inaccurate.

24 THE COURT: Right.

25 MR. BAX: But based on the information, the

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1 evidence that has been introduced by the State including
2 my client's statements to Sergeant Thomas on the dash cam
3 he says I shot earlier at Wild Horse Road. He's said
4 that so the jury has that evidence that Mr. Robinson has
5 claimed to have shot over at Wild Horse Road, which would
6 certainly -- and my understanding of all the evidence
7 concerning the timeline that's well within six hours
8 anyway.

9 THE COURT: It is.

10 MR. BAX: So from that standpoint it doesn't
11 matter. I just -- I feel that I would be remiss if I let
12 what I felt was scientifically unfounded evidence come in
13 from an expert without trying to challenge it.
14 Ultimately I don't necessarily know that it's going to be
15 relevant to the factual examination by the jury.

16 THE COURT: Right. And of course there are two
17 burdens here; one that it is actually factually
18 inaccurate and of course I understand because I was
19 asking a separate said expert testifying in your wife's
20 case a few minutes or sometime ago that it normally goes
21 away in the six hours too. So apparently that is the
22 protocol that they operate under or at least that other
23 one does too. Is that person whoever he or she is I'm
24 not sure who the expert was.

25 MR. BAX: I'm not sure who that was in that case.

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1 THE COURT: I was just actually talking to the
2 Judge Early about it. So assuming without deciding that
3 it is inaccurate and perhaps not as certain a fact as the
4 expert testified then it becomes an issue of whether your
5 client is prejudiced by that information. And those are
6 the two things that I take into account. But in any ,
7 event if you have a chance to talk to that other expert
8 and of course your case will go into tomorrow I
9 understand at any event, which we can deal with it if it
10 comes up, okay?

11 MR. BAX: Thank you, Your Honor. There was one
12 other matter I wanted to make sure I addressed real
13 quickly because I know the day is moving on and while my
14 mind is on it. The matter that we discussed yesterday on
15 the record was the testimony of Ebony Campbell involved
16 her testifying that she saw a second gun or something
17 that appeared to be a second gun in Mr. Robinson's car.

18 THE COURT: Right.

19 MR. BAX: As I testified -- not as I testified but
20 as I stated to the court yesterday I have not been able
21 to find anything in my discovery as far as an incident
22 report, a witness statement or otherwise that indicated
23 that portion of her testimony. And I know that Solicitor
24 Stone indicated he hadn't found anything yet but he would
25 continue to look I wanted to go ahead and address and

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1 find out if there has been any movement on that because
2 it would affect how I plan for the defense presentation.

3 THE COURT: All right. Mr. Solicitor, have you
4 gotten any more information to share on that particular
5 issue?

6 MR. THORNTON: Judge, if I could? I did some
7 research into it. I have not been able to locate any
8 reference to it. There was a reference frankly in the
9 Solicitor's outline that he and I operate under that said
10 that indicated it was in a previous interview.

11 Based on all the -- I talked to Ms. Hunter Swanson
12 who works with our office who was actually assisting the
13 Solicitor on this case prior to me what we believe
14 happened based on all the people I've talked to and
15 certainly there isn't any other reference in a report;
16 Mr. Bax is correct about that, or any of the interviews
17 or audio in this case that we've listened to.

18 What I think happened was in interviewing with --
19 we've done like one -- I think two interviews with Ebony
20 Campbell the second of which I sat in on. That's what
21 that notation referred to. In other words when we talked
22 to her, we being the Solicitor's office and Hunter
23 Swanson, she indicated that at our previous interview.
24 So it did not appear in any report. She did not write
25 that in any statement as Mr. Bax I think pointed out

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1 yesterday. So the interview that the notation in our
2 outline referred to was a previous interview done with
3 our office.

4 THE COURT: Thank you Mr. Thornton. Also, Mr. Bax I
5 told you that if that issue, the creditability on that
6 issue; of course she is going to say what she is going to
7 say. But if you wanted to call her I was going to let
8 you recall her in the State's case but since you can put
9 up evidence and you can call her on your own if you want
10 her to be cross-examined on that issue -- that's just a
11 strategic decision you'll have to make.

12 MR. BAX: And I would be able to let you know on
13 that decision before the State rests, Your Honor as far
14 as how that goes. And then the only other additional
15 thing I would put on the record is as Your Honor and I
16 discussed at sidebar under the section we discussed in
17 pretrial of Rule 5 if there are any notes that they have
18 from that interview with the Solicitor's office now that
19 she has testified on direct and especially the date at
20 which that occurred because I think it's relevant to know
21 how long after the incident and how many interviews she's
22 already been through before she finally remembered this
23 additional piece of information I would want to have
24 access to that information.

25 THE COURT: Well under the Rule you're entitled to

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1 that after she testifies if she gave a statement.

2 MR. THORNTON: Yes, sir. But I just want to make
3 clear I don't believe he is entitled to any notes of the
4 Solicitor or myself but she didn't provide anything in
5 writing to us. That was all just notes taken by us. I
6 do not believe he is inclined to get any written
7 materials we made in the preparation of the case.

8 THE COURT: Only her written statement ---

9 MR. THORNTON: --- yes, sir which was not done ---

10 THE COURT: --- that's right under the rules.

11 Okay. Now ready for the jury?

12 MR. STONE: The State is ready, Your Honor.

13 THE COURT: Bring us the jury please.

14 MR. THORNTON: Judge, as they are coming in I also
15 just want to mention for Mr. Bax is this issue is still
16 outstanding. We've informed Ms. Campbell and I didn't
17 know if he had her under subpoena or not she is still
18 under subpoena and she's on telephone standby in case Mr.
19 Bax wants her we'll make sure to get in contact with her.

20 THE COURT: Thank you.

21 MR. BAX: And Your Honor, if there is no written
22 materials the only thing I would ask and I don't see why
23 I wouldn't be able to get this information is just the
24 date of the interview. I don't see that that falls under
25 any privileged information.

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1 THE COURT: It probably wouldn't.

2 MR. THORNTON: If I can find out Judge when it was
3 or we've got it notated somewhere I am happy to let him
4 know.

5 MR. BAX: Thank you.

6 THE BAILIFF: The jury is entering the courtroom,
7 Your Honor.

8 THE COURT: Thank you.

9 [Whereupon, the jury enters at 1:27 p.m.]

10 THE COURT: Thank you folks for promptly coming
11 back from lunch. We had a few housekeeping matters that
12 we had to take care of before we were able to get you out
13 here. I apologize for that brief delay. I won't delay
14 you any longer. We will continue now as the State
15 continues to offer evidence and testimony in this case.

16 MR. STONE: Thank you, Your Honor.

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Dan DeFreese-Direct Examination by Mr. Stone
September 17, 2014

1 MR. STONE: Dan DeFreese.

2 THE COURT: Mr. DeFreese, come forward please to be
3 sworn.

4 [Whereupon, Mr. DeFreese comes forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 - - - - -

8 DAN DEFREESE,

9 Having been first duly sworn,

10 Was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Mr. DeFreese first of all what is your rank? I want
14 to make sure I get that right?

15 A. My rank?

16 Q. Yes, sir?

17 A. It's a senior agent right now.

18 Q. And you work with the State Law Enforcement
19 Division?

20 A. I do.

21 Q. And that's what everybody refers to as SLED is that
22 correct?

23 A. Yes.

24 Q. How long have you been with SLED?

25 A. For 47 years.

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Dan DeFreese-Direct Examination by Mr. Stone
September 17, 2014

1 Q. And in what capacity are you currently working with
2 SLED?

3 A. I work I the Firearm and Toolmark Department. I
4 analyze firearm and toolmark evidence in the SLED
5 laboratory in Columbia.

6 Q. And toolmarks what are we talking about as far as
7 that is concerned?

8 A. Most of the toolmark requests we get have to do with
9 compromised physical security devices like locks and
10 safes; things that people attack to get into a building
11 or to get into an area they shouldn't be in to. And they
12 deal with the microscopic analysis of marks left by tools
13 on various different surfaces.

14 And firearms identification is really a subset of
15 that kind of analysis wherein the bullet or cartridge
16 case is the object being marked and the firearm is the
17 tool that marks it and so essentially the same kind of
18 techniques are used in both.

19 Q. I've heard the term ballistics before. Is that the
20 same thing or is that something else?

21 A. People frequently refer to firearms identification
22 as ballistics especially in the northeastern United
23 States. They call it like the ballistics unit. But
24 ballistics is really the study of objects in flight. And
25 ballistics does touch upon what we do to a limited extent

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1 but for the most part most of our requests are to
2 identify fired ammunition components to determine whether
3 a given bullet or cartridge case or what have you was
4 fired from a specific firearm or if two fired components
5 are fired by the same firearm when no gun is recovered.

6 Q. Okay. Now the concept here of tool mark
7 identification and firearm identification you do that in
8 your lab is that correct; in the SLED lab?

9 A. I do.

10 Q. And you've been doing that for how many years?

11 A. With the exception of about five years I've been
12 doing it for the entire time.

13 Q. Okay. So roughly 42 years?

14 A. About 42 years.

15 Q. Have you ever been qualified as an expert in
16 firearms identification and toolmarks in a courtroom
17 before?

18 A. I have.

19 Q. Multiple times I'm assuming?

20 A. I really don't know how many times. I estimate
21 between 600 and 700.

22 Q. What type of training have you received in order for
23 you to testify as to toolmarks and firearms
24 identification?

25 A. Well, my principle training occurred at SLED. After

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1 my employment I was assigned to the firearms laboratory
2 and I undertook a course of instruction that lasted for
3 about two and a half years. I studied under Lieutenant
4 Miller Cate who established the SLED laboratory when SLED
5 itself was established in 1947 and with Lieutenant Carl
6 Stokes.

7 And after a period of studying the techniques under
8 their supervision and working cases with them I began
9 accepting case work on my own and have been doing it
10 essentially every since. I've been testifying since
11 1969.

12 MR. STONE: At this time, Your Honor I would offer
13 senior agent DeFreese as an expert in the field of
14 toolmark identification as well as firearms
15 identification.

16 THE COURT: All right. Mr. Bax, any voir dire?

17 MR. BAX: No voir dire, no objection, Your Honor.

18 THE COURT: Thank you. Without objection agent
19 DeFreese is so qualified.

20 MR. STONE: Thank you.

21 Q. [Mr. Stone] Now agent DeFreese we'll go directly to
22 the piece of evidence that we have in this case. Let me
23 just start by handing you State's exhibit 34 and State's
24 exhibit 30. State's exhibit 30 is what appears to be a
25 bullet pulled from Old Wild Horse Road.

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1 [Whereupon, the witness is shown exhibit]

2 Q. I'll ask you sir that has some evidence tape on it.
3 When you received that -- first of all did you receive
4 that item at SLED?

5 A. Yes sir, I did.

6 Q. And how do you know that?

7 A. By the marks that I left on it and by the marks
8 which I left on the outside and inside packaging.

9 Q. And when you received it it was sealed in that
10 container; you actually were the one that unsealed it?

11 A. I was. This top tape seal was intact at the time I
12 received it.

13 Q. All right. I'll ask you the same question
14 concerning State's exhibit 34, which is a lead projectile
15 retrieved at [REDACTED] Minor's autopsy.

16 [Whereupon, the witness is shown exhibit]

17 A. Yes, sir I likewise received this specimen and it
18 was sealed in the paper bag at the time I received it.

19 MR. STONE: At this time we'd move State's exhibit
20 30 and State's exhibit 34 into evidence.

21 THE COURT: All right. Without objection?

22 MR. BAX: None, Your Honor.

23 THE COURT: Thank you.

24 [Whereupon, State's exhibit numbers 30 and 34 are
25 entered into evidence by the court]

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1 Q. [Mr. Stone] Let me first show you the items from
2 State's exhibit 34, the autopsy bullet and I'll ask you
3 if you made any comparison with that bullet and the
4 bullet retrieved at ■ Old Wild Horse Road, which is
5 State's exhibit 30?

6 A. Yes sir, I did.

7 Q. Now first of all before we go into that defining can
8 you tell me something about as far as how you determine
9 bullet toolmark so to speak?

10 A. To effect an identification or an elimination of a
11 bullet we do a side by side microscopic comparison. We
12 have a microscope, an optical device that permits us to
13 view parts of two different objects at the same time and
14 to move the images we see so that we can attempt to find
15 a match if one exists.

16 In the case where we don't have a firearm we would
17 simply compare two fired bullet specimens with each other
18 or two fired cartridge case specimens with each other.

19 Where we have a firearm we would compare a test
20 bullet or test cartridge case with a recovered bullet or
21 cartridge case to see if the same class characteristics
22 were present and beyond that if the same individual
23 characteristics were present.

24 And if they were we would make a conclusion that
25 both objects were fired by the same firearm or made by

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1 the same tool. In cases where the bullets are too badly
2 damaged or where the firearm itself is so inconsistent,
3 so non repeatable in its markings that we just can't --
4 we can't match the test bullets with each other in those
5 sorts of situations our results might be inconclusive if
6 the class characteristics; that is the number of lands
7 and grooves present on the bullet or certain other class
8 characteristics about cartridge cases are present.

9 Where the class characteristics are different we can
10 conclude almost immediately that the two given bullets or
11 the two given cartridge cases were not fired by the same
12 gun.

13 Q. And the characteristics you're talking about and I
14 think you also mentioned lands and grooves. This is
15 marks made on the bullet itself?

16 A. I should back up and explain that within the barrel
17 of a rifled firearm, which includes rifles, pistols, and
18 revolvers, not usually shotguns even though now there are
19 rifle shotguns.

20 But there are a series of spiraling grooves and the
21 grooves are in there to grip the bullet that the raised
22 section between the grooves are known as the land. The
23 depressed area is called a groove. The bullet is a very,
24 very tight fit within the bore of a firearm so much so
25 that the barrel actually engraves the bullet as it passes

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1 down the bore and out of the gun. The number of lands
2 and grooves and the dimensions of the lands and grooves
3 vary by manufacturer of firearm and even among models of
4 firearms; different numbers of lands and grooves are
5 present within a gun barrel.

6 That is one of the general rifling characteristics
7 of a gun. It's caliber, the number of lands and grooves
8 and beyond that the direction of twists because the lands
9 and grooves will twist either to the right or to the left
10 in order to impart a spin on the bullet; much in the same
11 way that a quarterback puts a spin on a football to keep
12 it from tumbling end over end in flight.

13 The rifling is put there in the gun barrel to make
14 the bullet spin so the bullet will not turn end over end;
15 in essence to make the whole system more accurate.

16 Q. Okay. So you've got two things you are looking for
17 then, the lands and the grooves as well as the spin or
18 the direction of the spin is that correct?

19 A. The direction of twists ---

20 Q. --- excuse me; the direction of twists. You've got
21 a left twist or a right twist and then you have certain
22 number of lands and grooves is that correct?

23 A. Correct.

24 Q. And so that is going to vary on everything from the
25 length of the barrel to how many times they actually bore

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1 it out inside making the gun?

2 A. Well it varies according to the manufacturer's
3 tooling. The tooling they buy is such that for a given
4 manufacturer he is going to make a great many objects, a
5 great many guns that have essentially the same number of
6 lands and grooves and the same direction of twists.

7 Q. Okay. In the bullet taken from the autopsy, and I
8 think that's State's exhibit 30 but I may have that
9 number mistaken; let me make sure.

10 THE COURT: State's 34.

11 Q. [Mr. Stone] 34 okay. From State's exhibit 34 the
12 bullet that was taken from the autopsy how many lands and
13 grooves were in that bullet?

14 A. State's exhibit 34 is a plain lead .38 caliber
15 bullet, which could be fired in a .38 special or a .357
16 magnum caliber firearm. And its rifling is eight grooves
17 with right twists.

18 Q. Eight grooves with a right twist?

19 A. Correct.

20 Q. And item number 30, which was taken from the house
21 at Old Wild Horse how many lands and grooves and twists
22 were on that?

23 A. It's also a .38 special caliber bullet, which can be
24 fired from either a .38 special or a .357 magnum caliber
25 firearm and it has eight grooves with right twist.

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1 Q. Can you tell from either one of those bullets
2 whether or not they were fired by a revolver versus an
3 automatic?

4 A. Both of them have indications that they were fired
5 by a revolver.

6 Q. And I think I understand the difference but the
7 difference between a revolver and an automatic what is
8 that?

9 A. A revolver is a type of handgun that has a revolving
10 cylinder as its central member. Inside the receiver of a
11 revolver there is a rotating cylinder that has a number
12 of individual chambers. And as the gun is fired the
13 cylinder rotates; it revolves to bring a fresh unfired
14 cartridge into alignment with the barrel.

15 There is one barrel and, for instance five or six or
16 however many chambers the gun has so each time the
17 cylinder has to rotate to bring that alignment into
18 effect at which time the firing mechanism initiates the
19 cartridge and the bullet jumps from the cylinder into the
20 back of the barrel and out the gun; the rifling being
21 inside the barrel.

22 Frequently revolvers get a little bit out of time.
23 That is that the cylinder doesn't just perfectly line up
24 the chamber within the cylinder doesn't line up exactly
25 with the bore. And when the bullet jumps that gap from

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1 the cylinder into the back of the barrel frequently you
2 will see an area where the rifling will extend up the
3 nose or up towards the nose of the bullet and it will
4 leave marks that are consistent with it having been fired
5 by a revolver.

6 Q. Okay. And in both of these situations item 30 and
7 34 both of them have some type of characteristics that
8 indicate the revolver was used?

9 A. They do. They both have indications they were fired
10 by a revolver as opposed to like a rifle or a
11 semiautomatic pistol where the chamber and the barrel are
12 all integral, they are all one piece and there is no
13 disconnection between the chamber and the bore of the
14 gun.

15 Q. Okay. And I want to make sure -- you also have two
16 different types of metal in those two bullets is that
17 correct?

18 A. Well item 34 is a plain lead bullet.

19 Q. Okay.

20 A. It's not plated, it's not jacketed; it's just lead.
21 It has some grooves in it that would have contained a
22 lubricant to keep the lead from smearing in the bore.
23 Item 30 is a full metal jacketed bullet but it's actually
24 made in two pieces. It has an outer skin that is made of
25 a copper alloy and the outer drawn jacket has a core that

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1 is placed in the middle of it and then the two parts are
2 crimped together to create what's known as a full metal
3 case or a full metal jacketed bullet.

4 Q. Now in your experience testing various bullets from
5 crime scenes and things throughout your 47 year history
6 is it unusual to find two bullets that could in fact have
7 been fired from the same gun that would be different
8 materials?

9 A. It's not unusual. Sometimes they are the same and
10 sometimes they are different.

11 Q. And is there enough of those bullets to determine
12 whether or not the bullets are matched or were actually
13 fired from the same gun? Could you make a definitive
14 match on that?

15 A. It is possible sometimes to match like a lead bullet
16 with a jacketed bullet. It is possible to do. It's
17 somewhat more difficult because the lead bullet is
18 softer; the outside of the lead bullet surface is softer
19 than the outside of a jacketed bullet.

20 So sometimes there are minor differences in both
21 engagement and in the rifling signature that the gun will
22 leave on them. But when they are in sufficiently good
23 condition it is possible to match them. And when they
24 are not the fact that they are different becomes one more
25 factor that works against you.

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1 Q. Okay. And in these bullets were they in good
2 enough condition to make that type of match?

3 A. Both of them were damaged. Both of them were
4 appreciably damaged; item 34 probably more so than item
5 30. Item 30 looks worse than item 34 in terms of its
6 gross damage.

7 But by being a jacketed bullet a lot of the very
8 fine individual striated marks that represent the
9 signature of a particular gun barrel a lot of those
10 survived better because the jacket surface was somewhat
11 harder.

12 Q. Okay. So in that case though you can't make a full
13 match of those. Can you tell us whether or not those are
14 two consistent bullets? In other words are the twists
15 and the lands and the grooves -- the left twist as I
16 think you described it.

17 A. No, right twist.

18 Q. Right twist; excuse me. Are they consistent with
19 being fired from the same gun?

20 A. They are. Both of these bullets have the same
21 general rifling characteristics and beyond that there are
22 a few individual similarities noted on them, a few
23 individual striated marks that are similar on them. It's
24 just that there is not enough remaining undamaged area to
25 conclude that both of these bullets were fired by the

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1 same gun barrel.

2 Q. And both of them are a .38 is that correct?

3 A. They are.

4 Q. Okay. Now specifically I want to go to item from
5 the autopsy that would be item 34.

6 A. Right.

7 Q. Now speaking strictly in the context of -- well, let
8 me back up and start over. State's exhibit 29 and
9 State's exhibit 33 these items also were delivered to
10 SLED.

11 Did you receive them and were they in -- were they
12 sealed as they are at this time? Well, not at this time
13 but were they sealed when you received them.

14 [Whereupon, the witness is shown exhibits]

15 A. I previously inspected these today so without going
16 through taking every single one of them out the answer is
17 yes, they were sealed when I received them and this is
18 the evidence that I received.

19 Q. And then you opened them up to view them?

20 A. Correct.

21 MR. STONE: Your Honor, at this time we'd move
22 State's exhibit 33 into evidence.

23 MR. BAX: Without objection, Your Honor.

24 THE COURT: Thank you.

25 MR. STONE: And State's exhibit 29 into evidence.

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1 MR. BAX: Same.

2 THE COURT: Both admitted without objection.

3 [Whereupon, State's exhibit numbers 29 and 33 are
4 entered into evidence by the court]

5 Q. [Mr. Stone] Now State's exhibit 29 are the shells
6 that were taken from the bed of the Ford F-150. What
7 type of shells are those? And specifically what caliber
8 are those shells?

9 A. These are .9mm Luger caliber cartridge cases; they
10 are fired.

11 Q. And the items here that were in State's exhibit 33,
12 which were taken from Tyrone Robinson's car; these are
13 the spent bullets. Could you tell us what type of
14 caliber bullets those are?

15 A. They were .9mm Luger caliber bullets.

16 Q. I'll show you part -- well, I'll actually show you
17 State's exhibit 26 and ask if you could identify that.
18 That's already in evidence.

19 [Whereupon, the witness is shown exhibit]

20 A. Yes, I can.

21 Q. And what is that item?

22 A. This is a Masterpiece Arms. It's a I think a model
23 MPA-30 .9mm Luger. It's actually a semiautomatic pistol.

24 Q. What do you mean by semiautomatic pistol?

25 A. I mean it fires once for every pull of the trigger

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1 and it has no shoulder stock and it has a short barrel.

2 Q. And also I think these items as well were submitted.

3 What is this item here? I'm handing you State's exhibit
4 27.

5 [Whereupon, the witness is shown exhibit]

6 A. State's exhibit 27 is what the Masterpiece Arms
7 Company refers to as a safety extension. It's actually a
8 piece of aluminum that has a hole drilled in it. I
9 rather looks like a silencer but it has no baffles; it
10 has nothing in it that would effectively silence the
11 firearm.

12 They call it a safety extension because it keeps you
13 from getting your hand where you could shoot your own
14 hand with it. Or some people may choose to hold it to
15 make the gun steadier.

16 Q. But that item on that gun doesn't make it quieter?

17 A. No.

18 Q. And you fired this gun as well did you not?

19 A. I did.

20 Q. Still pretty loud ---

21 A. --- yes ---

22 Q. --- even with ---

23 A. --- it just moves the sound about that much
24 [indicates] farther than it would have been.

25 Q. All right. And this item here, which is State's

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1 exhibit 28 I'll hand that to you first and that is in
2 this bag here [indicates].

3 [Whereupon, the witness is shown exhibit]

4 Q. What is that?

5 A. This is a magazine assembly that is adapted for that
6 pistol.

7 Q. How many does that hold?

8 A. Normally it holds 32. I was actually able to get 33
9 cartridges in it. So with a fully loaded magazine and
10 one in the chamber the pistol would be capable of firing
11 as many as 34 times between re-loadings.

12 Q. And again the bullets are going to go as quickly as
13 you can pull the trigger is that correct?

14 A. Correct.

15 Q. And you shot it yourself?

16 A. I did.

17 Q. Did it shoot pretty fast?

18 A. As fast as you can let up on the trigger and pull it
19 again.

20 Q. Okay. And this part [indicates] I think goes into
21 here in [indicates] is that correct?

22 A. It does. If it didn't have a wire tie it would fit
23 right in.

24 Q. All right. These items pulled from this bag which
25 is State's exhibit 31 these bullets that were found in

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1 State's exhibit number 25, which is a black bag, what
2 kind of caliber bullet are those?

3 [Whereupon, the witness is shown exhibit]

4 A. One is a 50-Round box of Federal brand cartridges
5 that actually contains 29 cartridges. These are .9mm
6 Luger caliber. They are the correct caliber to use in
7 the Masterpiece Arms pistol or in other .9mm Luger
8 caliber firearms.

9 And the others are RWS brand .9mm Luger caliber
10 cartridges. They are the same caliber but they are made
11 by a different manufacturer and they are loaded with a
12 different weight bullet and a bullet that is constructed
13 differently than the Federals.

14 Q. Is that the same type -- would those bullets also
15 work in this type gun?

16 A. Yes. All of these cartridges can be fired in that
17 gun.

18 Q. Pretty much all of the cartridges that I've handed
19 you up with this gun can be fired in that gun?

20 A. Correct, except these [indicates] cartridges, the
21 RWS brand cartridges, are the same brand of cartridge as
22 these [indicates] fired cartridge cases and they are the
23 same type -- the same type bullet is loaded into these
24 [indicates] cartridges as the remaining fired bullets.

25 Q. Okay.

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1 A. It's an actual steel jacketed bullet and not a
2 copper alloy jacketed bullet.

3 Q. And when you said these just to make sure we're
4 clear that is item State's 29 which are the shells that
5 were taken from the pickup truck?

6 A. Correct.

7 Q. And that is the same type bullets as the shells that
8 were taken out of the bag ---

9 A. --- the same caliber, the same brand, and the same
10 type.

11 Q. But interestingly enough different than the other
12 boxes of bullets right?

13 A. Right. The others are the same caliber but not the
14 same brand and not the same type.

15 Q. Which is what I guess you said earlier it's not
16 unusual for you to see different types of bullets in the
17 same gun?

18 A. Correct.

19 Q. Okay. I want to make sure I'm clear then. This
20 gun [indicates], which is item 26, this gun [indicates]
21 did you do any testing as far as any of these bullets to
22 determine if this gun fired any of these -- could fire
23 any of those bullets?

24 A. I did.

25 Q. And the bullets specifically taken out of Tyrone

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1 Robinson's car could you tell us anything about those?

2 A. I can tell you for sure it was not fired by that
3 gun.

4 Q. Let me back up on that ---

5 A. --- the one -- excuse me; the item 34 bullet, the
6 .38 special caliber bullet this bullet [indicates] was
7 not fired by that gun.

8 Q. And that's the bullet from autopsy?

9 A. That's correct. That's what I meant to say.

10 Q. I'm sorry. And the bullets from Tyrone Robinson's
11 car here [indicates] that were taken out of his car that
12 would be State's exhibit 33 and this gun [indicates]?

13 A. There are five bullets in State's exhibit 33. All
14 five of those bullets were fired by that gun.

15 Q. Okay. Just to make sure I'm clear now because we
16 had a little bit of confusion there. This gun
17 [indicates] fired the bullets that were taken out of
18 Tyrone Robinson's car is that correct?

19 A. Correct.

20 Q. This gun could not have fired the bullet that was in
21 Minor ?

22 A. Correct. It also fired the three fired cartridges.
23 This gun [indicates] also fired the three fired
24 cartridges.

25 Q. And those cartridges that were found in the pickup

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1 truck?

2 A. Yes.

3 Q. And I also want to make sure too the bullet that
4 came out of Wild Horse Road, the bullet I showed you
5 earlier, this [indicates] is also a .38?

6 A. Yes.

7 Q. Is it possible that this bullet was fired by that
8 gun?

9 A. No.

10 MR. STONE: No further questions, Your Honor.

11 THE COURT: Thank you. Mr. Bax, cross-examine?

12 MR. BAX: Your Honor, as previously stated I'd ask
13 for a very, very brief recess.

14 THE COURT: Oh, I'm sorry, yes.

15 MR. BAX: Between direct and cross.

16 THE COURT: All right. Folks, step to your jury
17 room for just a moment. Counsel needs to confer before
18 he cross-examines this witness. Don't talk about this
19 case. We'll get you out in just a few moments and
20 continue.

21 [Whereupon, the jury exits at 1:55 p.m.]

22 [Whereupon, an off the record bench conference is
23 held]

24 THE COURT: Let's see if the jury is ready to come
25 back.

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1 THE BAILIFF: The jury is entering the courtroom,
2 Your Honor.

3 THE COURT: Thank you, ma'am.

4 [Whereupon, the jury enters at 2:07 p.m.]

5 THE COURT: Thank you folks for your patience with
6 us as we worked through that process. Mr. Bax?

7 MR. BAX: Thank you very much, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. BAX:

3 Q. Good afternoon Mr. DeFreese. How are you doing?

4 A. I'm doing fine, thank you.

5 Q. I want to ask you some questions. I know that we've

6 gone through a lot of this in front of the jury already

7 but you've testified that you were comparing -- let's

8 talk about State's 30 and State's 34. Those were the two

9 .38 caliber projectiles that you testified to earlier.

10 Are you familiar with what I'm referring to?

11 A. I am.

12 Q. And if you need me to hand anything to you please

13 let me know; I'm happy to do it. Those were two

14 different .38 caliber projectiles correct?

15 A. They were different in construction, yes sir.

16 Q. Well, just on a basic level they are two different

17 bullets.

18 A. Two different bullets and different composition.

19 Q. Correct. And I do want to ask you about that.

20 Obviously, and I think there are also some photographs

21 that I am going to pass up to you in just a second.

22 But when you say construction in other words what

23 you testified to the jury before they are the same

24 caliber but they actually have a physically different

25 look to them correct?

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1 A. Indeed they do.

2 Q. Okay. And that being because of the fact that one
3 of them has a copper alloy, basically a coat over it or a
4 jacket over it correct?

5 A. Yes. One of them is jacketed and one of them is
6 plain lead.

7 Q. Okay. And that construction has a lot to do with
8 what you've testified to here today that they have these
9 two projectiles appear to have the same general rifling
10 characteristics but you can't firmly conclude that they
11 were fired from the exact same gun correct?

12 A. That's correct.

13 Q. Okay.

14 MR. BAX: Approach the witness, Your Honor?

15 THE COURT: Yes, sir.

16 Q. [Mr. Bax] For the record, Your Honor, I'm handing
17 Mr. DeFreese defendant's exhibit 9 and defendant's
18 exhibit 6.

19 [Whereupon, the witness is shown photographs]

20 Q. Do those appear to be pictures of the projectiles
21 that we are talking about Mr. DeFreese?

22 A. They do.

23 Q. Okay. And in those pictures you can kind of see
24 that physical difference; you see copper on one
25 projectile and nothing but lead on the other projectile

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1 correct?

2 A. Correct. Well, you can see the lead core plainly
3 exposed in the middle of the jacketed bullet as well.

4 Q. Correct.

5 A. But yes the external they are different colors
6 obviously.

7 Q. And some of that core that is exposed on the copper
8 round is based on the damage that it suffered upon impact
9 with whatever it hit is that correct?

10 A. I would say so. It appears to be missing at least
11 part of the bullet.

12 Q. Okay. And there is some damage to basically the
13 nose area and off to the side of that bullet where that
14 jacket seems to be somewhat missing, correct?

15 A. Correct.

16 Q. Okay.

17 A. And I believe there is some damage to the other side
18 of the bullet as well.

19 Q. Okay. In fact I think -- I'm going to hand you what
20 has been marked as defendant's -- actually introduced as
21 defendant's exhibit 7.

22 [Whereupon, the witness is shown photograph]

23 Q. Does that appear to be the opposite side of that
24 same projectile, Mr. DeFreese?

25 A. Yes sir, it does.

1 Q. Okay. And that shows some damage as well, correct?

2 A. It does. It's rather badly abraded on that side.

3 Q. Okay.

4 MR. BAX: Your Honor, permission to publish
5 defendant's 6 and 9 to the jury?

6 THE COURT: Yes, sir.

7 MR. BAX: Thank you.

8 [Whereupon, the photographs are shown on screen]

9 Q. [Mr. Bax] Mr. DeFreese, I'm going to continue to
10 question you while they look at the pictures some. If
11 anybody needs me to stop I'll be happy to stop.

12 There is a combination of things here that I want to
13 talk about. Obviously as you've said there is different
14 construction on these two bullets. One has the jacket
15 and one is plain lead and that affects how the outside
16 surface is affected by the barrel is that correct?

17 A. It does. One is harder than the other.

18 Q. Okay. But in the end those differences and the
19 damage were part of the reason why you can't conclusively
20 say they were fired from the same gun, correct?

21 A. That's correct.

22 Q. Another reason obviously you don't have a gun to
23 compare to correct?

24 A. It would be somewhat easier if we had the correct
25 gun in that if we had the correct gun we could test fire

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1 it with both jacketed test ammunition and with plain lead
2 test ammunition where we might have an increased chance
3 of achieving a match.

4 Q. But it's not guaranteed that you would get a match
5 even with the firearm present?

6 A. Absolutely.

7 Q. Okay. Now in this case Mr. DeFreese after you did
8 your comparisons you issued a report is that correct?

9 A. I did.

10 Q. And in that report you list a number of possible
11 manufacturers whose rifling characteristics would
12 potentially produce what you see on these two bullets is
13 that correct?

14 A. That is.

15 Q. Okay. And in fact you initially only had the soft
16 lead projectile to look at is that correct?

17 A. I believe that's correct.

18 Q. And you later looked at the jacketed round when it
19 was sent to you at a later time?

20 A. Correct.

21 Q. Okay. When you first looked at the first
22 projectile, the lead only projectile, it indicates -- and
23 I'm just going to ask you if this is what you recall from
24 your report that there was approximately I'm seeing about
25 19 or 20 different manufacturers that you listed if I am

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1 counting that correct. Do you have a copy of your report
2 with you Mr. DeFreese?

3 A. I do.

4 Q. In fact actually if you could, could you read out to
5 us the different manufacturers you found that could have
6 possibly manufactured a gun with those same rifling
7 characteristics?

8 [Whereupon, the witness reviews document]

9 A. State's exhibit 34 was my item 1 in the laboratory
10 number L12-10744. And among the brands of firearms that
11 I list, which have general rifling characteristics
12 approximately the same are Arminius, Charter Arms, COP,
13 Rohm, Ruger, Weihrauch, which is also sold under the EAA
14 name, the Bellmore/Crescent, BJT, Burgo, Cheyenne,
15 Dickson, EIG, Gecado, Herbert Schmidt, Liberty Arms,
16 Omega, PIC, which is Precise Imports, and RG Industries.

17 Q. Okay. If I've counted correctly that is 18
18 manufacturers.

19 A. I didn't count them; I read them. But I wouldn't
20 disagree with you.

21 Q. Okay. And so that's based on your training.
22 You're familiar with the manufacturing techniques of all
23 these manufacturers correct?

24 A. That's really based on a database of both bullets
25 and firearms that we know or have measured or others have

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1 measured that have specifications within the range that I
2 saw on this bullet. Bear in mind that our bullet in
3 question, State's exhibit 34, is a lead bullet. It is
4 softer. There is a degree of slippage involved when the
5 bullet jumps out of the cylinder, goes down the barrel
6 and engages the rifling.

7 There is also a great deal of damage to that bullet.
8 And the dimensions that I used for purposes of generating
9 this list of possible makes was very generous because if
10 this list is provided for the investigators as an
11 investigative tool.

12 It's not really provided for the proof of the
13 matter. It's just to say guys when you are out there
14 looking for guns these are some of the brands that you
15 want to be looking for. And I gave it as wide a swath as
16 it looked like it would be beneficial. I could literally
17 have given them everything with eight lands and grooves
18 and right hand twists in .38 special and it wouldn't have
19 been very much bigger than this.

20 When it came down to measuring the other bullet the
21 other bullet was a jacketed bullet and its rifling
22 engagement was a good deal tighter than the engagement
23 that I saw on State's exhibit 34. And it's not uncommon
24 to end up having measured two different bullets and come
25 up with two different dimensions; one of them that you

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1 has a higher degree of confidence in than you do the
2 other; and that's the case here.

3 Q. So you wanted to make sure you gave law enforcement
4 every possibility or at least every reasonable
5 possibility when they are searching for a potential
6 firearm to match what you have examined in your lab
7 correct?

8 A. Correct.

9 Q. And when examining the second bullet you were able
10 to determine that that bullet had tighter grip in
11 whatever barrel that it got fired through necessarily
12 than what the lead projectile had correct?

13 A. It had a range that I had more confidence in then I
14 did on the first bullet.

15 Q. Okay. Now ---

16 A. --- there is a good deal of overlap as well.

17 Q. Okay. And the .38 caliber jacketed round as you've
18 said these are the same calibers and so its ostensibly
19 supposed to be manufactured to have the same diameter as
20 all other .38 caliber ammunition correct?

21 A. They should.

22 Q. They should?

23 A. They should. They don't always but they should.

24 Q. Okay. Now as a result of that, and like I said
25 before they have basically the same rifling

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1 characteristics eight lands and grooves a right twist but
2 you cannot say for certain they were fired from the same
3 gun. And it is possible that they could have been fired
4 from two different .38 caliber revolvers made by any of
5 these manufacturers isn't that true?

6 A. Yes sir that is true.

7 Q. Okay. Now I want to move on to something else that
8 I think is very important. The item number 34, which is
9 the plain lead projectile that you first received and is
10 pictured in defendant's exhibit 9 you indicated there was
11 damage to that.

12 But in your testimony on direct you were specific
13 that it was a different kind of damage because obviously
14 to the naked eye the jacketed round looks a lot more
15 messed up than the plain lead round.

16 A. It does.

17 Q. Okay. So when you're talking about damage you're
18 talking about more microscopic damage along the sides of
19 that lead projectile is that correct; am I saying that
20 right?

21 A. I think that's a fair thing to say. If you look at
22 the bullet closely you can see deformation to it but it's
23 not the degree of deformation that you see with the
24 jacketed bullet. The jacketed bullet has its nose rather
25 completely knocked off and it's torn. This one looks

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1 kind of like a whole bullet but when you look at it
2 microscopically there is a lot of damage to it even
3 though there is not a tremendous amount of deformation.

4 Q. And you when you received this I think the evidence
5 package indicated that the jacketed round was taken from
6 a residence on ■ Old Wild Horse Road or something to
7 that effect.

8 A. I think it's what I recall.

9 Q. Were you in possession of knowledge that the
10 jacketed round was actually recovered after having hit a
11 house; that it was in a wall?

12 A. I don't know whether I knew that at the time of the
13 examination or not.

14 Q. Okay. But obviously you were in possession of the
15 knowledge that item number 34, the plain lead, was taken
16 from the young boy?

17 A. I was.

18 Q. Okay. So obviously we're talking about surfaces
19 that these bullets have struck, correct? One is a house
20 ostensibly and one is a human target correct?

21 A. Correct.

22 Q. Okay. Now obviously a jacketed round -- well, let
23 me ask you this. Is typically a jacketed round
24 associated with higher penetration of hard objects that
25 it stays together through some objects better than a soft

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1 lead projectile?

2 A. All of the things being equal yes, sir.

3 Q. Okay. And so from the appearance of this bullet
4 and the fact that it was taken from a house it certainly
5 corroborates the idea it hit something hard correct?

6 A. Yes. It is perfectly consistent with having hit
7 something substantial.

8 Q. Okay. Now in your experience in the years you've
9 been doing this have you ever looked at bullets that had
10 hit some hard surface and ricocheted; changed their
11 trajectory?

12 A. I have.

13 Q. The bullet that is in State's exhibit 34, the plain
14 lead projectile ---

15 A. --- yes.

16 Q. It's got some damage to it but like you said those
17 are basically damage on the sides, microscopic damage to
18 the surfaces.

19 Is there any major deformation that would indicate
20 that it impacted a hard object such as a rock or a tree
21 or the ground before hitting **Minor**?

22 A. There is no clear cut indication that it hit some
23 other object before ultimately striking the boy.

24 Q. Okay. And in your experience a plain lead
25 projectile doesn't have that jacket over it. It can

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1 suffer pretty large amount of deformation if it strikes a
2 hard object is that correct?

3 A. Its considerably softer and it's usually easier to
4 deform than for instance a full metal jacketed bullet.

5 Q. Okay. And I know on the plain lead projectile
6 there appears to be some visible scuffing on the base of
7 that projectile.

8 The pathologist who has testified in this case said
9 it could have been consistent with hitting a rib. Is
10 there anything from your experience that would contradict
11 her opinion?

12 A. No.

13 Q. Okay. Now I want to talk to you a little bit about
14 the .9mm if you don't mind. You've been able to testify
15 about -- let me see if I can find it -- this firearm here
16 [indicates].

17 There is actually three different pieces to it and
18 they have been marked separately. But as you testified
19 it is a Masterpiece Arms or a weapon that is manufactured
20 by Masterpiece Arms is that correct?

21 A. Yes, sir.

22 Q. And you've testified that that is a semiautomatic
23 .9mm pistol correct?

24 A. Yes, sir.

25 Q. So from that standpoint it's a legal weapon correct?

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1 A. It is.

2 Q. However Mr. DeFreese is that weapon -- it appears to
3 me that that weapon is designed to look like something
4 that would be fully automatic. It seems to be styled
5 after another kind of weapon. Can you give me any...

6 A. There was a fully automatic firearm that looks just
7 like that that is made by another company.

8 Q. What was that firearm called?

9 A. It's called the MAC-11. It was made by Military
10 Armament Corporation. They made a series of guns that
11 all looked similar to MAC 10, 11, and 12. And they were
12 selective fire and they had shoulder stocks or extendible
13 stocks that could be attached to them.

14 Q. And so those weapons that this one is styled after
15 those would have been considered submachine guns is that
16 correct?

17 A. Yes.

18 Q. Okay. And they were able to fire fully
19 automatically correct?

20 A. Fully or semi; either way.

21 Q. And obviously there is an extension on this weapon
22 that makes it the actual physical length of the weapon
23 longer correct?

24 A. Correct.

25 Q. Now you've testified that is not in fact an actual

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1 silencer or suppressor; it is just an extension of the
2 barrel and can be used to steady it if you hold it
3 correct?

4 A. Correct.

5 Q. So in other words this extension does it get hot
6 when fired repeatedly?

7 A. If you were to shoot enough I'm sure it would
8 although you would really have to shoot a lot. It's a
9 fairly heavy piece of aluminum.

10 Q. And that like you said is it a solid piece of
11 aluminum with the bore drilled through it?

12 A. Yes.

13 Q. And is that coated in any way on the inside?

14 A. It appears to be anodized across its whole surface.
15 It's got a black anodized finish.

16 Q. So obviously this weapon appears to be manufactured
17 in order to kind of represent or at least look like those
18 submachine guns iconically the MAC series correct?

19 A. I don't know whether it was exactly made for the
20 purpose of looking like a submachine gun or if it was
21 just something that the company that produced it not
22 having much of a market for fully automatic firearms made
23 it into a semiautomatic firearm so it could be sold
24 easily. I don't know that there is necessarily any
25 emulation of submachine gun but there is a certain

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1 badness factor to it that appeals to some people.

2 Q. And you'd certainly -- that is also -- as you said
3 before by this clip as you said it is ostensibly made to
4 hold 32 rounds but you were able to fit 33 rounds into it
5 is that correct?

6 A. That particular one will hold 33.

7 Q. And not all -- are you aware of whether or not all
8 clips or magazines that are manufactured for this
9 particular firearm are they all 32 round or is there some
10 that is smaller?

11 A. They may make magazines of lesser capacity. I'm not
12 sure what Masterpiece Arms is currently offering. That
13 magazine is actually the magazine that was made for a
14 Sten submachine gun, for a British submachine gun of
15 World War II vintage.

16 And when they designed that series of gun there was
17 a time that Sten gun magazines were really pretty cheap
18 so they more or less built the gun where it would use a
19 Sten gun magazine and that's what that magazine is.

20 Q. And that was something that was manufactured for war
21 time quite a long time ago, correct?

22 A. It was.

23 Q. Okay. Now and finally Mr. DeFreese you testified
24 about the ammunition or the unspent cartridges .9mm in
25 caliber that were also found and shown to you. And there

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1 was actually two different manufacturers, two different
2 makers of that; I think you said RWS and Federal?

3 A. That's correct.

4 Q. And those are both jacketed .9mm rounds is that
5 correct?

6 A. Yes. The Federals -- and I did not pull a Federal
7 for purposes of determining. The Federal could be either
8 a full metal jacket or it could be what they call a total
9 metal jacket. In any event it's a copper alloy jacketed
10 bullet.

11 This is a series of ammunition that carries a
12 catalog number that starts with W-M. This was a
13 promotional round that is made for the Walmart stores and
14 was actually sold more by people other than Walmart than
15 by Walmart.

16 So it is considerably different in its bullet
17 construction than the fired bullets in this case and the
18 unfired ammunition received with the gun. The RWS people
19 make their bullet jackets out of a different material.

20 Q. And what is the RWS jackets made out of?

21 A. They are made out of steel. Now the steel is
22 coated ---

23 Q. --- now the steel certainly gives that idea that
24 they might have even more penetration power than some
25 softer metal such as copper is that correct or not

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1 correct?

2 A. Maybe or maybe not. It could be that the steel is
3 slightly harder than the copper. I don't know what
4 difference it would have to do with penetration. It may
5 have some greater ability than the copper would.

6 Q. Okay. Now Mr. DeFreese obviously you've testified
7 -- we've talked about this Masterpiece Arms and it's clip
8 size. The boxes of ammunition, the .9mm boxes of
9 ammunition how many come in each one of those boxes?

10 A. Well, in this particular box it's a 50-round box
11 with 29 rounds remaining in that box.

12 Q. And obviously ammunition comes in different size
13 boxes I would assume. I'm sure you can probably buy it
14 in even bigger bulk boxes if you wanted to.

15 A. It does. It comes in bulk boxes of 250 and 500 and
16 it comes in boxes as small as 20 rounds. It depends on
17 what the load is.

18 Q. Okay. Obviously with a 50-round box and you're
19 talking about a firearm that holds up to 34 in it you're
20 going to take out more than half that box with one fully
21 loaded weapon if you expend all the shells in it is that
22 correct?

23 A. It would take more than half the box to fill it up
24 obviously.

25 Q. We've had some discussion about revolvers earlier

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1 and you said that the cylinder can have a number of
2 chambers in it. But let me ask you this. Is it very
3 typical for the cylinder in a revolver to have either
4 five or six chambers in it?

5 A. That's the most popular number that we see. Some of
6 them have depending on the caliber like as many as nine.
7 But five and six is probably the most popular numbers for
8 revolvers.

9 Q. And so in a gun that takes ---

10 A. --- at least center fires; excuse me ---

11 Q. --- oh, excuse me.

12 A. For rim fires may have more; I'm sorry.

13 Q. So the -- so a revolver whether it's five or six and
14 those common numbers obviously you're going to be able to
15 reload that out of a 50-round box quite a few times.

16 A. Yes.

17 Q. Okay. And finally Mr. DeFreese we talked about
18 this a little bit before but I want to make sure I've
19 covered it. You named quite a few manufacturers of .38
20 caliber revolvers or .38 caliber weapons that could have
21 fired these two. Is it safe to say that a .38 caliber
22 weapon is a fairly common weapon?

23 A. It's a very popular caliber. And of course it's
24 both .38 special caliber and .357 magnum caliber firearms
25 are potential firers of this since .38 special ammunition

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1 can be used in .357 magnum caliber firearms.

2 Q. And just to make sure we're clear and I want to make
3 sure that I cover this you can fire a .38 special out of
4 a .357 but you can't fire a .357 out of a .38 is that
5 correct?

6 A. It's supposed to be a one-way interchangeability for
7 safety and your assumption is correct.

8 Q. Thank you very much. No further questions at this
9 time. Thank you, Mr. DeFreese.

10 THE COURT: Thank you. Redirect?

11 MR. STONE: Yes, sir.

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Dan DeFreese-Redirect Examination by Mr. Stone
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1 REDIRECT EXAMINATION
2 BY MR. STONE:
3 Q. Just briefly to make sure with this [indicates]
4 magazine in this [indicates] gun and the only gun we have
5 up here is item 26 would that magazine even accept the
6 same type of caliber that was found in [Minor] ?
7 A. No.
8 Q. So it is not possible that this gun [indicates]
9 fired the bullet that killed [Minor] ?
10 A. It is not possible.
11 MR. STONE: No further questions, Your Honor.
12 THE COURT: Thank you.
13 MR. BAX: A brief follow-on, Your Honor?
14 THE COURT: On that yes, sir.
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Q. Mr. DeFreese just quickly, when you talked about that weapon could not have fired the .38 that is well established, correct?

Q. Certainly. One quick question in follow up though. The .38 caliber round, just any round, when a bullet is fired in your experience without hitting something do they turn or change their direction or do they travel a straight path?

And if it is shot in a straight line it will go out for a distance and arch down and eventually hit the earth. If it is shot up in the air the same thing will happen but the arch will be different.

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1 going to travel forward quite a bit further.

2 A. That's my understanding of the physics involved.

3 Q. However, a bullet straight forward pathway not
4 withstanding gravity itself is not going to change unless
5 it's been acted on by some other actor. In other words
6 something hard enough for it to hit and bounce or change
7 trajectory is that correct?

8 A. True. Something has got to interfere with its
9 movement to change its direction; of course gravity being
10 one of the factors. And its trajectory over a short
11 distance is a relatively straight line.

12 Gravity is eventually going to pull it down. But
13 like from you to me you wouldn't detect any -- gravity
14 wouldn't have a chance to act on it to any noticeable
15 extent.

16 Q. And gravity is not going to pull it from side to
17 side from right to left.

18 A. No, wind would do that but not gravity.

19 Q. Thank you.

20 MR. BAX: No further questions, Your Honor.

21 THE COURT: Mr. Stone, you have the last word.

22 MR. STONE: No sir, nothing else. Thank you, Your
23 Honor.

24 THE COURT: Thank you Mr. DeFreese, you can step
25 down.

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1 [Whereupon, the witness is excused and exits the
2 witness stand]

3 MR. BAX: Your Honor, if we could sidebar for a
4 second?

5 THE COURT: Yes, sir.

6 [Whereupon, an off the record bench conference is
7 held]

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1 MR. STONE: Thank you, Your Honor. The State
2 rests.

3 THE COURT: Thank you. Ladies and gentlemen, the
4 State has now rested its case in chief. That means that
5 you have now heard all of the evidence and testimony that
6 you will hear from the State in the presentation of this
7 case.

8 Necessarily at this juncture of every trial of this
9 nature we have to deal with some matters of law outside
10 of your presence. So I'm going to have send you back
11 into the jury room and we will just let this be the
12 afternoon recess at the same time even though you've been
13 back briefly before.

14 We'll get you out after the afternoon recess and let
15 you know what the balance of the work will be for the
16 afternoon. Please do not discuss this case among
17 yourselves while you are in the jury room. We'll get you
18 out, it will probably take a little longer than a normal
19 recess because we've got some things to do but it won't
20 be forever and we'll get you back out here before too
21 much longer. Thank you.

22 [Whereupon, the jury exits at 2:36 p.m.]

23 THE COURT: All right, Mr. Bax I'll be glad now to
24 hear motions.

25 MR. BAX: Thank you very much. Obviously I just

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1 want to make sure we put on the record what we discussed
2 earlier. We discussed the recall of Ms. Ebony Campbell
3 and at the conclusion of that I believe Your Honor's
4 ruling was that I can call her during the defense is that
5 correct, sir?

6 THE COURT: That's right. I had told you when the
7 issue came up about the second gun during her testimony
8 and during the State's case of course I told you that if
9 there was not some other evidence of a second gun present
10 in the State's file somewhere I would allow you to call
11 her back during the State's case for the obvious purpose
12 of not requiring you to lose your right to close and the
13 rights of you not putting up any evidence to deal with
14 that issue.

15 Since you've introduced evidence the prejudice of
16 course in that regard is now no longer a factor so I'll
17 be glad to let you call her during your case for the
18 purpose of cross-examining on that issue.

19 MR. BAX: Thank you, Your Honor.
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1 MR. BAX: Now that the State has rested, Your
2 Honor, obviously we would first and foremost make a
3 motion for a directed verdict in favor of Mr. Robinson.
4 As Your Honor has seen the evidence produced in this case
5 I think it is undisputed that while there has been
6 certainly plenty of evidence that there was some kind of
7 altercation at ■ Old Wild Horse Road, Your Honor, there
8 is also unrefuted evidence that Mr. Robinson withdrew
9 from that.

10 The law does not require that he communicate that
11 withdrawal through words as long as his communication of
12 that withdrawal either through words or actions is clear.
13 And I don't think you can get any clearer than peeling
14 off and leaving the scene as Your Honor is well aware.
15 As a result of the fact that he left the scene he was
16 fleeing.

17 And Your Honor I would argue that it is uncontested
18 that he then -- any felony that he could have been seen
19 as committing at that time whether it was a belief that
20 there was some kind of dispute over some kind of
21 narcotics deal I mean my understanding from the evidence
22 is that that happened some many months before this and
23 that the two individuals were still upset at each other
24 over it. That's what we've had entered into evidence.
25 But regardless even if you were to see it as some kind of

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1 either pointing or presenting or assault or even
2 attempted murder there at Wild Horse Road from a factual
3 standpoint we have to isolate when a felony occurs and
4 when it stops. Him fleeing even if you could say that
5 that at that time was some kind of felony, which it may
6 be his fleeing broke and stopped that action.

7 His intent to leave the scene, his intent to
8 disengage from combat, his intent not to further have any
9 combat at that time was clearly communicated to the
10 Youngs in this case. I would argue that as a result of
11 that Your Honor when, and this is also evidence that has
12 been introduced during the State's case in chief that is
13 undisputed the Youngs decided in agreement with each
14 other and brought Mr. Singleton, Sr. with him they were
15 of the intent to hunt him down and finish this whole
16 thing.

17 Obviously there has been testimony that that
18 occurred throughout that area and then culminated in this
19 situation that we've heard a lot of testimony about on
20 Allen Road and Marshland Road on Hilton Head Island.
21 There has been testimony obviously that has been
22 presented that Mr. Robinson was in possession of a weapon
23 at that time. There has been no direct testimony other
24 than what has been introduced from [REDACTED] J.S. [REDACTED] who
25 said he shot my friend, [REDACTED] Minor [REDACTED]. Now he doesn't say I saw

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1 a gun. He doesn't say -- give a description of exactly
2 what he saw he just says he shot my friend **Minor**.
3 Outside of that piece of evidence we have no evidence
4 that he fired a weapon. But even if Your Honor you took
5 his -- the State's evidence in a light most favorable to
6 the State he had broken off from the felony. He was
7 clearly being shot at. He would be entitled to self-
8 defense. Those elements have been shown through the
9 State's case.

10 As Your Honor is well aware the defense of self-
11 defense must be disproven by the State beyond a
12 reasonable doubt. It's an affirmative defense to that
13 effect. We are here in front of the jury, we presented
14 that evidence. There has been not only no disproven
15 beyond a reasonable doubt there has been no disproving at
16 all. There has been no clearly defined felony that began
17 and occurred that Mr. Robinson was involved in after he
18 left **■** Old Wild Horse Road.

19 The only clearly definable felony that occurred
20 after Wild Horse Road was the conspiracy to commit murder
21 by Aaron Young, Jr. and Aaron Young, Sr. and possible
22 complicity by Jontu Singleton, Sr., possibly accomplish
23 liability on the part of Ms. Campbell. Other than that
24 there is no felony that has been shown proven or any
25 evidence whatsoever of a felony that he was a part of.

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1 And the indictment as we argued at the beginning of this
2 case alleges felony murder; alleges that he was in the
3 commission of an inherently dangerous felony that they
4 labeled an ongoing gun battle.

5 As I argued to the jury and I argue to you now there
6 is no ongoing gun battle. Additionally, Your Honor, gun
7 battle I don't think, no one has ever intended for a gun
8 battle to be applied to someone who is legally asserting
9 self-defense. He's fleeing; he's continuing to flee.
10 He's trying to get away. The evidence that has been
11 presented by the State was that he was trying to get away
12 not only by getting in his car and driving away but by
13 going and trying to find people with Charlese -- she was
14 Jackson when I did all the discovery reading, she's
15 Mitchell now -- borrowing that phone trying to find
16 anybody that can help him get out of town.

17 He was fleeing and he did not, and I would cite this
18 Your Honor, there is absolutely no evidence that has been
19 introduced that he expressed at that time an intent to go
20 find the Youngs; that he was going to get in his car and
21 go back to Old Wild Horse Road. None of that has ever
22 been presented in this case. And I think without that he
23 is entitled to a directed verdict. Not only -- basically
24 on two theories of law, one that they have failed to at
25 all disprove or offer any contradictory evidence to the

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1 idea that he was if he fired a weapon it was in self-
2 defense and he was entitled to self-defense and they have
3 not disproven it and b) because under their indictment
4 they have not met their burden to meet the language of
5 the indictment that they have gone forward on. They have
6 not been able to prove an inherently dangerous felony of
7 any kind that was occurring at the time the child died
8 that Mr. Robinson was involved in; excuse me.

9 THE COURT: All right. Thank you. Give me just a
10 few moments.

11 [Whereupon, the court reviews documents]

12 THE COURT: All right, thank you. The insertion of
13 the words in the indictment an inherently dangerous
14 felony perhaps were put there initially when all of these
15 folks were indicted to deal with the fact that if there
16 was any question as to who actually fired the fatal shot
17 the Solicitor wanted to have the right to claim that this
18 was a dangerous activity that all of them were being
19 involved in.

20 An inherently dangerous felony whatever that
21 happened to have been that all of them were involved it
22 so that in the course of that particular trial had it
23 occurred that way that the jury could have found any or
24 all of them guilty of the crime. Those words are not so
25 relevant in a trial of a case where the evidence that has

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1 been introduced thus far is that Mr. Robinson himself
2 committed the crime. Now the inherently dangerous felony
3 may have been there to try to show evidence of malice, it
4 may have been there for some other purpose; I really
5 can't speak to that.

6 But if those words were not there, if those words
7 were not there and the gun battle stuff and all that was
8 not there and if it just said that on or about September
9 the 1st Tyrone Robinson did willfully and with malice
10 cause him to be shot and killed and he died then those
11 issues of course would be plain and appropriate and the
12 charge would be at least simply made under those
13 circumstances. And if there was evidence to support
14 those charges then it would go forward.

15 The issues that you have raised about the ongoing
16 gun battle may very well give rise to a self-defense
17 charge. I will deal with that of course at the
18 appropriate time. I don't have to deal with it right at
19 this minute. But the validity or the invalidity of a
20 self-defense charge in and of itself of course does not
21 give rise to a directed verdict on a murder case in
22 chief. The testimony in this case in the most favorable
23 light to the State of course if we take nothing other
24 than [REDACTED] J.S. [REDACTED] saying he shot my friend; alone
25 that could send a case to the jury. We have Ms. Brinson

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1 screaming at the scene. I'm not exactly sure where she
2 got her information that he is the one who did it we have
3 the circumstantial evidence of the three sets of shots
4 being fired, two in rapid succession separated by some
5 minutes, which according to the evidence before this jury
6 would most certainly have to have fired by the weapon
7 that is over here on the rail; I think it's State's
8 exhibit 27.

9 There was a third set by all the testimony fired by
10 a separate weapon at a separate rate and from perhaps a
11 slightly different direction. In any event
12 circumstantially of course the State intends to try to
13 tie those three shots to the defendant in this case. And
14 likewise the evidence is that the weapon that killed [REDACTED]
15 [REDACTED] Minor could not have been -- [REDACTED] Minor he's too young
16 to be called Mr.; he never lived long enough to be called
17 Mr., could not have been fired from that gun right there.

18 And so for that reason I find that there is
19 sufficient evidence that if this jury chose to believe it
20 they could convict Mr. Robinson for the crime of murder.
21 So the motion for directed verdict under Rule 19 will
22 respectfully be denied.

23 MR. BAX: If I may be heard briefly Your Honor? In
24 light of the court's ruling the way I understood it, and
25 if I misunderstood it I apologize Your Honor, on the

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1 argument concerning the felony murder inference or felony
2 murder rule language that is in the indictment Your Honor
3 basically ruling that without that language you have a
4 straight murder indictment and they could go forward on a
5 straight murder indictment.

6 THE COURT: What I am saying is that an ongoing gun
7 battle and an inherently dangerous felony are not
8 elements of the crime of murder and are necessary to
9 support the crime of murder.

10 MR. BAX: And as a result Your Honor I understand
11 your ruling but I would argue that in light of Your
12 Honor's ruling I would move that the State not be allowed
13 to argue that -- in light of Your Honor's ruling I would
14 request and argue that would limit the Solicitor both in
15 the charge that goes to the jury as well as his argument
16 that he cannot argue felony murder.

17 The problem I have is that I believe that what I'm
18 dealing with is there is some argument to be made by the
19 prosecution or some intent to make the argument that they
20 don't necessarily have to prove beyond a reasonable doubt
21 exactly how the gun was fired and by who but he was
22 killed because of the actions of all these individuals
23 involved. I think what we've seen here and what Your
24 Honor has ruled on is that they have produced enough
25 evidence to argue that the shot was actually fired by Mr.

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1 Robinson and that that's what they would have to prove.
2 And I feel like in light of Your Honor's ruling that is
3 what we are standing here dealing with; that now I am
4 dealing with a murder indictment and that what they must
5 argue to the jury is that they must prove and have
6 proven, that's what I'm sure they will argue, that Tyrone
7 is the one who fired the bullet that killed **Minor**.

8 THE COURT: Right. And I really don't know what
9 they intend to argue or what the strategy will be from
10 this point on. My point was that from the standpoint of
11 a motion for directed verdict that the inclusion of the
12 words while engaged in an ongoing gun battle, an
13 inherently dangerous felony, which I thought were put
14 there more appropriately when they were dealing with
15 three defendants in this particular case that those words
16 could be taken out of this could be taken out of this
17 particular charge as I indicated and there would be no
18 question about whether or not they would have a right to
19 go to a jury on the charge of murder against Mr.
20 Robinson.

21 Now, I also indicated that they have included those
22 words for reason of implication of malice or evidence of
23 malice I should say, which quite frankly in my view and
24 I've always held that view that the felony murder rule
25 goes more to malice than it does to a separate type of

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1 crime. I realize and I think McInnish says that in
2 several parts of his analysis. I haven't read it
3 recently but I seem to recall that. And I do know that
4 South Carolina has never been famous for a separate
5 felony murder rule but it is treated more as I've said as
6 evidence of malice if you commit the crime of murder
7 while in the course of another event, the commission of a
8 felony.

9 Even though you didn't intend to murder in the one
10 instance the fact that you committed that crime would be
11 evidence of malice sufficient to rise to the level
12 necessary to prove murder on the underlying killing.
13 I've always thought that was a basic premise upon which
14 our courts treated the felony murder rule. And I think
15 frankly that, unless I'm shown otherwise, is going to be
16 the way I'm going to approach this charge to the jury in
17 this case as well.

18 So I'm not granting a directed verdict that the
19 State can't argue one thing or another. I'm simply
20 trying to show and I hope I have showed sufficiently that
21 in this particular case it is not necessary for the
22 indictment to have contained those words. They are not
23 elements of the offense. If they have some probative
24 value on some other issue which might be relevant to the
25 charge that's fine. But they are not necessarily

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1 elements -- they are not at all elements of the offense.
2 If they are evidentiary that's another matter but
3 certainly they are not required in order to prove Mr.
4 Singleton [sic] guilty. And if the evidence is before
5 the court that he shot and killed him and if there is no
6 self-defense issue in this then it is a pretty clean cut
7 issue. Without mudding it up I think trying to equate or
8 educate this jury as to what felony murder really means
9 in this particular case I'm really not that sure in my
10 own mind that it is a necessary part of the elements of
11 this charge that we need to tell this jury about.

12 In any event I think I've indicated I'm not going to
13 hamstring the State in that regard. I don't know what
14 they plan to do. Obviously I will deal with that at the
15 appropriate time at the conclusion of the case when we
16 talk about requested charge and things of that nature.

17 MR. BAX: Thank you, Your Honor. And as always I
18 appreciate you allowing me to note my objection for the
19 record.

20 THE COURT: Certainly.

21 MR. BAX: And I just note that just for a matter of
22 course for future review I just feel that as a defense
23 attorney it is not a proper situation where the defense
24 feels like it has to juggle between alternative theories
25 of prosecution. And I feel strongly that's that what

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1 that puts me in. I certainly understand the ruling and
2 respect that, Your Honor. Thank you, sir.

3 THE COURT: All right.

4 MR. BAX: And I'm sorry my co-counsel reminded me
5 just out of an abundance of caution I renew all previous
6 objections in this case.

7 THE COURT: Okay. And I'll review earlier rulings
8 in that regard without requiring you to restate your
9 motions on the previous rulings unless they are different
10 grounds or additional motions of course we'll simply
11 renew all those other rulings.

12 MR. BAX: I'll think real hard and see if I can
13 come up with some.

14 THE COURT: All right. I know that there is a
15 motion to quash your subpoenas to at least one of the
16 Youngs, which I'll be glad to hear momentarily if
17 everybody is ready to be heard on that. At some point in
18 time Mr. Bax I take it you want me to discuss with Mr.
19 Robinson his right to testify or not to testify is that
20 fair to say?

21 MR. BAX: That is correct, Your Honor. I would
22 submit to the court that I don't feel we're arrived to
23 that point yet.

24 THE COURT: Okay.

25 MR. BAX: I do know that we are going to be calling

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1 some additional witnesses and then if Mr. Robinson
2 chooses to testify it would most likely be the last
3 evidence that I would call barring any other decisions to
4 the contrary. But at the appropriate time I certainly
5 would ask that.

6 THE COURT: You just let me know when.

7 MR. BAX: Thank you, sir.

8 THE COURT: All right. Any further motions then
9 from the defense, Mr. Bax?

10 MR. BAX: Not at this time, Your Honor.

11 THE COURT: Is there anything from the State?

12 MR. STONE: No, sir.

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1 THE COURT: We have Mr. Vaux's motion to quash a
2 subpoena as to Aaron Young, Jr.

3 MR. VAUX: Yes, sir.

4 THE COURT: And Mr. Ferguson you have one likewise?

5 MR. FERGUSON: I do, Your Honor.

6 THE COURT: All right. Gentlemen, is everyone
7 ready for me to hear those motions? Are there are
8 objections to going forward with those?

9 MR. STONE: The State is ready, Your Honor.

10 THE COURT: Okay.

11 MR. BAX: I'm ready, Your Honor.

12 THE COURT: All right. Gentlemen, who wants to go
13 first.

14 THE COURT REPORTER: Judge, could we get them to
15 state their names for the record.

16 THE COURT: I'm sorry, Ms. Rueger. This is Roberts
17 Vaux, V-A-U-X and Robert Ferguson. They represent Aaron
18 Young, Jr. and Sr.

19 MR. VAUX: Vaux, Jr.

20 MR. FERGUSON: Ferguson, Sr.

21 THE COURT: Do you need those indictment numbers?

22 THE COURT REPORTER: Yes, sir.

23 THE COURT: Can we have them?

24 MR. STONE: I think I do, Your Honor.

25 [Whereupon, Mr. Stone reviews documents]

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1 MR. STONE: I do not have them with me, Your Honor.
2 I apologize; I could have them relatively quickly.

3 [Whereupon, Mr. Stone reviews documents]

4 THE COURT REPORTER: Is the caption ---

5 MR. STONE: --- yes ma'am, the State versus Aaron
6 Young, Jr. A-A-R-O-N I believe and then the State versus
7 Aaron Young, Sr. I have 2012-GS-07-2173 charging Aaron
8 Young, Sr. with the offense of murder, 2012-GS-07-1932
9 charging Aaron Young, Jr. with the offense of murder.

10 THE COURT: All right, Mr. Vaux?

11 MR. VAUX: Your Honor, we would move under the
12 applicable State law to quash the subpoena. We have
13 communicated both to the State and to the defense that
14 Aaron Young, Jr. intends to plead the Fifth Amendment,
15 his constitutional rights not to answer any and all
16 questions other than his name and address.

17 I believe the case law is such that neither the
18 State nor the defense can call a witness knowing that the
19 witness intends to stand on his constitutional rights and
20 thereby simply publish to the jury that fact. They can't
21 elicit any information ahead of time that they are going
22 to refuse to answer the question. I can hand you up --
23 actually Mr. Ferguson can hand you up a State site of the
24 most recent case which I think is some 17 or 18 years
25 old.

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1 THE COURT: Okay. I might need to look at that in
2 a minute but I'll come back to that. Mr. Ferguson?

3 MR. FERGUSON: Thank you, Your Honor. And the
4 same holds true for Aaron Young, Sr. He has been
5 subpoenaed upon information believed the sole purpose of
6 him being called to the stand would be so that he
7 exercise his rights under the Fifth Amendment in front of
8 the jury. And the case that has been referred to is
9 State v Hughes and I'll read just a portion of that.

10 It states that neither the State nor the defendant
11 shall be allowed to call witnesses who either side knows
12 will invoke the Fifth Amendment in front of the jury and
13 then be subject to inferences and informed not subject to
14 cross-examination.

15 And upon information we believe this is the exact
16 scenario that we are faced with today, Your Honor and
17 we're asking -- or I ask that Aaron Young, Sr.'s
18 indictment [sic] be quashed for those reasons.

19 MR. VAUX: And on Jr. on the same grounds. I'll
20 pass up that case, Your Honor.

21 [Whereupon, Mr. Vaux provides documents to the
22 court]

23 MR. FERGUSON: And that is the highlighted case I
24 apologize, Your Honor.

25 THE COURT: All right. Mr. Bax?

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1 MR. BAX: Your Honor, I have actually a two part
2 argument because I think that to some degree there is a
3 little bit of a different standing or could be considered
4 different standing but I want to address them in order.

5 Firstly, I have looked up State v Hughes. And State
6 v Hughes does say that you are not required to call a
7 witness solely for the sake of invoking his or her Fifth
8 Amendment privilege. I'm arguing, and I think Your Honor
9 has seen this throughout the course of the trial, that
10 the Youngs statements to law enforcement, obviously
11 statements they've already made not statements that they
12 haven't made aware the prosecuting authorities these are
13 statements that they have given are crucial to my
14 client's right to assert self-defense. They are crucial
15 to his right to a fair trial.

16 This is not the jury that is going to be determining
17 Mr. Young's guilt or Mr. Young's guilt, Sr. or Jr., based
18 on the fact that the trials have been severed. As a
19 result obviously many of the statements of my client that
20 would not have come in in the prior trial have come in in
21 this trial. It violates the idea of fundamental fairness
22 that the severance would prejudice my client especially
23 when my client was the only one who was against the
24 severance. Your Honor, he was representing himself at
25 the time. It may not necessarily have been what I would

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1 have done as an attorney but it is what it is he opposed
2 the severance. He was ready to go forward even that day
3 in front of that jury that we had in April. There are
4 many of us who wished that would have happened at that
5 time.

6 THE COURT: Right.

7 MR. BAX: But either way he was bereft, he was
8 denied at that point based on what's happening now his
9 ability to assert what the Youngs have stated to law
10 enforcement about what their direct intent was, which was
11 to kill him, in his trial. It is crucial to his defense.
12 The intent of the Youngs which they have stated to law
13 enforcement is crucial to his defense.

14 So whether they testify now or not there is a
15 purpose beyond invoking the Fifth Amendment and that is
16 enable to establish that they refuse to testify so that
17 we can -- I can make an attempt to introduce their
18 statements. So there is another purpose behind it and I
19 think that goes crucially to both Aaron Young, Jr. as
20 well as Aaron Young, Sr.

21 THE COURT: Let's suppose for example that we play
22 this thing out as they say it will be played out and we
23 call them and get up here tomorrow and they say I refuse
24 to answer on the grounds that it may incriminate me; or
25 whatever they would say. Of course, at that point in

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1 time what do you intend to do insofar as they are
2 concerned?

3 MR. BAX: Well Your Honor I intend to either ask
4 that I be allowed to ask them about whether they made the
5 statements. They can then say Fifth Amendment if they
6 want or I would ask to be able to call the officers who
7 took those statements after their invoking of the Fifth
8 Amendment in order to get their statements in at that
9 time.

10 THE COURT: All right. Mr. Stone, what says the
11 State on this issue? You might have a dog in this fight
12 after all so you tell me.

13 MR. STONE: I can't decide if I do or not quite
14 frankly, Your Honor. I think the Hughes case is directly
15 on point. I don't think it is proper for the jury to
16 hear that one way or the other. We certainly would not
17 have been in a position nor do we think we should to call
18 either of the Youngs as witnesses knowing that they were
19 going to take the Fifth Amendment.

20 The second part of that is I don't believe the
21 Youngs statements come in. I don't think they come in
22 unless the Youngs are going to testify to do that. I
23 don't think that in this scenario there is any exception
24 that will allow that in. I cannot think of a rule that
25 would permit those statements from coming in and for that

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1 matter that would include a summary by the law
2 enforcement officers of what they would have said.

3 MR. VAUX: Your Honor, may I be heard one additional
4 moment? There is an additional wrinkle in this; their
5 motions on behalf of both Youngs to suppress those
6 statements for having been obtained by coercion.

7 THE COURT: Right.

8 MR. VAUX: And so if are going to travel down this
9 path then we've got to bring the expert witnesses in.
10 Your Honor is going to have to make a determination and
11 the jury is going to have to make a determination whether
12 they were freely and voluntarily given.

13 THE COURT: Right.

14 MR. VAUX: It will turn into a circus.

15 THE COURT: And certainly that would be the --
16 that's the truly critical part of the trial when they are
17 on trial themselves.

18 MR. VAUX: Exactly.

19 THE COURT: It's a somewhat lesser moment in this
20 particular case except for the advanced publicity. Of
21 course everybody in three counties knows what those
22 things are. Everybody watched the tape on them when it
23 happened. So I don't think we would be able to keep that
24 a secret any longer. And certainly they are not in
25 jeopardy in this particular case but you are exactly

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1 right as to whether those statements ever get before a
2 jury is another issue entirely that we will have to deal
3 with sometime down the road. What Mr. Bax is getting at
4 of course is an attempt to -- and I understand this -- if
5 he can't wrest this out of them by examining them himself
6 is being able to declare them as unavailable witnesses
7 under the rule and therefore entitled to introduce
8 somehow under other rules perhaps statements they had
9 previously made is that fair to say?

10 MR. BAX: That's correct Your Honor. And before we
11 get too much further just to make sure I get it on the
12 record if there is no objection from you.

13 THE COURT: Go ahead.

14 MR. BAX: My secondary argument, which actually
15 goes more to Aaron Young, Sr., is that Aaron Young, Sr.
16 has waived his right to assert the Fifth. He has
17 testified in open court in front of you already. I have
18 a transcript of what he said. Now it wasn't in front of
19 a jury but he's not going to be in front of his jury.

20 THE COURT: Right.

21 MR. BAX: So he has been on record. And in fact
22 things that he testified to in that hearing before Your
23 Honor in April, which is in front of the prosecution, in
24 front of everybody here, in front of Your Honor, the
25 courtroom was not closed to the public or to the press at

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1 that time, included testimony that he had made up certain
2 parts of his statement to make Tyrone Robinson look more
3 guilty.

4 THE COURT: Right.

5 MR. BAX: And that he lied initially about my
6 client shooting back at him and that he did not in fact
7 shoot back at him. That's crucial to my defense.

8 THE COURT: And frankly as to that the rule may
9 entitle you to get that before a jury. The salient rule
10 is 804. It's exception to the hearsay rule when a
11 declarant is unavailable. 804(a) defines unavailability
12 of a witness including situations in which the declarant,
13 that would be the witness, is exempted by ruling of the
14 court on the ground of privilege from testifying
15 concerning the subject matter of his statement.

16 Now that's clearly what we're talking about here.
17 We're talking about the Fifth Amendment rule -- Amendment
18 which prevents him from testifying and allows him to then
19 be declared unavailable. And if he is unavailable then
20 the following are not excluded by the hearsay rule if the
21 declarant is unavailable as a witness. And the first
22 part of that rule is former testimony; testimony given as
23 a witness at another hearing of the same or a different
24 proceeding or in a deposition etcetera. If the party
25 against whom the testimony is being now offered had the

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1 opportunity to develop the testimony by direct, cross, or
2 redirect examination. And insofar as Sr.'s testimony and
3 the transcript is concerned it appears to me to fit
4 squarely within the exception. And so if we can get an
5 agreement that he is going to take the Fifth and will not
6 testify so that we won't have to bring him in here and
7 make him testify in light of Hughes then I can declare
8 him unavailable because he is. Just like the rule says
9 he is and that would appear to me to make his former
10 testimony admissible. I'll be glad to hear from anybody
11 else on those particular rules.

12 MR. VAUX: Would you read that one section of the
13 rule again, Your Honor, because as I read it, it would
14 require that Mr. Bax had...

15 MR. BAX: Tyrone had an opportunity to cross-
16 examine and he did.

17 MR. VAUX: Could I see the transcript that you say
18 you have?

19 MR. BAX: Yes.

20 [Whereupon, Mr. Vaux and Mr. Bax review document]

21 THE COURT: We're not talking about the pretrial
22 statement in this case ---

23 MR. BAX: --- I'm just flipping through the
24 transcript of the prior trial ---

25 THE COURT: --- you're talking about the testimony

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1 of the prior trial?

2 MR. BAX: Yes, Your Honor. I reviewed it yesterday
3 evening in order to try to be able to flip through it
4 quicker. I believe that -- and I certainly -- I have a
5 copy that I ordered; Your Honor signed a funding order
6 for me to be able to pay the court reporter. Mona
7 Manley I believe was the court reporter at that time and
8 this is where Mr. Aaron Young, Sr. begins his testimony,
9 that he be allowed to pay for the expedited transcript
10 and you took care of that at that time. Even with that
11 unfortunately Your Honor Ms. Manley was so busy that we
12 were only able to get the transcript about three or four
13 days before the beginning of this trial, but we do have
14 it.

15 MR. VAUX: There is no question Mr. Robinson asked
16 him questions.

17 THE COURT: Mr. Aaron Young, Sr. is not here today
18 is he?

19 MR. FERGUSON: He was, Your Honor, and he is on
20 call because he is still under the defendant's subpoena.

21 THE COURT: Right. I would like to get him here
22 just to put him on the stand out of the presence of the
23 jury and establish that he is going to take the Fifth
24 Amendment so that I can say in compliance with the rule
25 that he will be unavailable to testify.

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1 MR. FERGUSON: I can represent to the court today,
2 Your Honor that is going to plead the Fifth if he is
3 called to the stand.

4 THE COURT: That satisfies me. Now having said
5 that I'll be glad to hear argument. Here we are not
6 talking about the contested statements whose
7 admissibility in any proceeding is still very much a
8 question. We're talking about a statement that was made
9 in court under oath subject to examination and cross-
10 examination which brings it under the Rule that I'm
11 talking about here. Go ahead.

12 MR. BAX: In looking at the Rule Your Honor my eye
13 is drawn to number 3 under -- Your Honor pointed out
14 number 1, which is former testimony; that's under
15 804(b)(1). But my eye is drawn to 804(b)(3) which says
16 statement against interest.

17 THE COURT: Right.

18 MR. BAX: And that clearly goes to the statements
19 that Aaron Young, Jr. made and the ones that I intend to
20 elicit because the statements I'm talking about is him
21 confessing to an intent to kill to which he was actually
22 served a warrant for conspiracy to commit murder against
23 Tyrone Robinson. Now they ended up changing and going
24 forward on a felony murder indictment as Your Honor is
25 well aware but he was actually charged with that crime.

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1 And in that definition of statement against interest
2 which follows what has been defined in the earlier rules
3 and in the criminal rules I believe his statements
4 because he would be unavailable under the Fifth would
5 come in.

6 THE COURT: I'm not sure quite frankly that the
7 voluntariness of that particular statement is not an
8 issue here and the rule doesn't talk about that. I guess
9 for purposes of this particular rule assume that it is a
10 statement which is admissible in court, which means that
11 it has been voluntarily made and therefore -- and that's
12 insofar as Aaron Young, Jr. is what you're talking about.

13 MR. BAX: That's correct, Your Honor. And I would
14 point out obviously we've been through a hearing already
15 where Mr. Vaux and Mr. Ferguson moved on behalf of their
16 clients to suppress the statements and they've asserted
17 those grounds.

18 But in my remembrance of the substance of that
19 hearing a lot of it went to Aaron Young, Sr. more than it
20 did Jr. anyway because it was Aaron Young, Sr. who took
21 the stand to testify that he had been promised that he
22 would be exonerated and made a star witness against
23 Tyrone Robinson if he only gave the gun to law
24 enforcement. And in fact it wasn't until after he had
25 gone off to do that that Aaron Young, Jr. made a lot of

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1 the statements that he made. However, Your Honor I would
2 point out the fact exactly as the State argued and would
3 argue again that Aaron Young, Jr. was properly Mirandized
4 prior to any of these statements. He was in a well lit
5 recorded room. It's all right there to see. They are
6 going to argue to get those statements in as voluntary in
7 their trial and then to be honest with you I have no
8 doubt that they will. I mean that would be what I would
9 bet.

10 THE COURT: Right.

11 MR. VAUX: Junior's motion was never heard, Your
12 Honor. Only Senior's motion was heard and testimony was
13 put up.

14 MR. FERGUSON: And Your Honor we broke before
15 arguments and so I think the proper witnesses to that
16 extent we were going to restart with the arguments in the
17 morning.

18 MR. VAUX: After we had seen and heard the tapes.

19 THE COURT: That's right; I remember that part.

20 MR. VAUX: So there is no res judicata or no ruling
21 of the court on that.

22 THE COURT: I'm not prepared at this juncture Mr.
23 Vaux to say that Junior's statements as being statements
24 against interest are allowed under the rule if there is a
25 question of their voluntariness, if that matter has not

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1 been determined. But as I say as far as Senior is
2 concerned I think there is a clear exception here that
3 allows that to come in. I am going to reserve until I
4 look a little bit further this question because frankly I
5 never have been confronted with this before. That's the
6 wonderful thing about practicing. As we all know when
7 trying cases there is something new that raises its head
8 almost every day. And I'm not sure that that statement
9 against interest applies in a statement if the
10 voluntariness of the statement itself has not been
11 determined.

12 MR. FERGUSON: So Your Honor are we talking about
13 just the statements made during Aaron Young, Sr.'s
14 proffer that a witness could be called to testify as to
15 what he said during his proffer or that that somehow is
16 taking the stand for the limited purpose of voluntariness
17 somehow opens all of his statements for the use by Mr.
18 Bax. I'm confused as to what he is asking to use.

19 THE COURT: Are you talking about Junior or Senior?

20 MR. FERGUSON: Senior, Your Honor.

21 THE COURT: Senior testified on the stand?

22 MR. FERGUSON: He did proffer during the Denno
23 hearing, Your Honor.

24 THE COURT: All right. Whatever he said on the
25 stand is fair game.

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1. MR. FERGUSON: Okay, thank you.

2 MR. BAX: And I would note Your Honor obviously the
3 issue about whether or not Aaron Young, Jr.'s statements
4 have been determined to be voluntary obviously brings up
5 the idea that Mr. Robinson is dealing with this because
6 he is the first to be tried. Obviously if Aaron Young,
7 Jr. for whatever reason had been tried first we would
8 have a ruling by Your Honor or some court to refer to on
9 that issue.

10 THE COURT: Right.

11 MR. BAX: So obviously I would argue that timing
12 should not be the preclusion of my client to assert his
13 defense.

14 THE COURT: And it may not. It may not be an issue
15 at all. But I can't tell you that right this minute.

16 MR. BAX: Certainly, Your Honor. Thank you.

17 THE COURT: If anybody else has done any research
18 on that point you can share it with me right now and I'll
19 be glad to take a minute...

20 MR. STONE: I think -- if I might offer to you Your
21 Honor, this is a first for me as well. I will tell you
22 this. What is a little bit concerning about the rule
23 when it comes to Aaron Young, Sr. I don't think -- I
24 still can't find anything that Aaron Young, Jr. would
25 necessarily apply under 804. Under 804(b) subsection I

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1 don't think there is any question he is unavailable. I
2 don't have any issue with part 1 of that. The second
3 part of that, the hearsay exception, with Aaron Young,
4 Sr.'s former testimony -- and this quite frankly number 1
5 Judge I don't know that I remember it very well and
6 number 2 is I may not have an objection anyway.

7 But what is important I think to that rule is that
8 former testimony has to be not only former testimony but
9 the parties would need to be in the same position
10 basically that they are now, which I don't think is an
11 issue. But it also says and have the same -- have
12 similar motive to develop the testimony by direct, cross,
13 or redirect examination. That I find a little bit
14 problematic because I believe when he testified he
15 testified exclusively to the issue of whether or not he
16 was promised or coerced in order to give a statement; not
17 all of the facts that were underlying.

18 And if this were a former testimony for the purpose
19 of all that coming out that would have been developed and
20 my motivation would have certainly been different as I
21 think everybody's would have been. So that throws me a
22 little bit. Now having said that if I had a better idea
23 of exactly what it is the defense wants to put in I may
24 not have any objection under that. But I do think that
25 causes me some concern as far as us having similar -- and

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1 I say us, I mean all of the lawyers involved would have
2 had to have some type of similar motivation and that
3 would not have been the case necessarily.

4 THE COURT: Right. I don't recall anything we said
5 either. I've got notes on it but I really don't remember
6 what it was all about at the time certainly the substance
7 of it other than going to the issue of whatever promises
8 were made. But that's a clearer issue in any event than
9 I think the statement of interest under 803, which I need
10 to look into quite frankly.

11 Obviously both of them made statements and the
12 statements may have been contrary to their interests and
13 to submit them to criminal liability. I've forgotten
14 what the statements have said quite frankly. The whole
15 issue behind the rule and the reason that it is worded
16 the way it is quite frankly is to try to assure that it's
17 trustworthy. That if somebody says these things under
18 these circumstances there is at least some reason to
19 believe them because nobody is going to testify against
20 his own criminal interest unless it's the truth; and
21 that's the purpose behind the rule.

22 So you know as to whether the voluntariness or the
23 determination of the voluntariness or not is fatal to
24 having that introduced I honestly don't know. I'll have
25 a date tonight with Mr. Westlaw and try to figure it out

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1 by tomorrow.

2 MR. VAUX: If I may add one thing?

3 THE COURT: Right.

4 MR. VAUX: The statement given by Aaron Young, Jr.
5 was not under oath.

6 THE COURT: It was not?

7 MR. VAUX: No, sir.

8 THE COURT: Okay. Well, the statement against
9 interest doesn't necessarily talk about that but number 1
10 does I think. But the statement of interest isn't
11 required to be under the rule, which is another reason
12 that the fact that it's a statement in this case criminal
13 -- in one's criminal interest where subjection to
14 criminal liability is a major factor.

15 In other words the trustworthiness of that
16 particular statement comes not from the fact that it's
17 under oath but from the fact that it's against his own
18 interest which lends some creditability to it. I will
19 look that up overnight and I trust that I am not going to
20 be the only person in this room who is going to be
21 researching.

22 MR. BAX: That's correct, Your Honor. And I can't
23 say -- obviously I have reviewed the transcript. If Your
24 Honor would like a copy I'm more than happy to try to get
25 that for you. Additionally I can say that in the

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1 transcript which I'll be happy to provide to Mr. Stone
2 right now his cross-examination was pretty pointed. He
3 specifically asked Aaron Young, Sr. regardless of what
4 you are saying you told us that your intent was to go and
5 kill Tyrone Robinson and he said yes. And he said that's
6 still what -- and that part was truthful and he says yes,
7 that part was truthful. So he had the opportunity and
8 did take the opportunity to cross-examine Aaron Young in
9 that in-camera hearing about his intent to kill my
10 client.

11 MR. STONE: And I guess the question I would have
12 is that what the defense intends to offer or is it the
13 entire statement. That's the only -- because again I may
14 not have an objection to that even if I have one. I just
15 need to know what we're talking about really.

16 THE COURT: Well, maybe Mr. Bax would share that
17 with you.

18 MR. BAX: Or maybe not.

19 THE COURT: Okay.

20 MR. STONE: Then I'll decide tomorrow if I have an
21 objection or not.

22 THE COURT: All right. Okay. I think at least --
23 gentlemen, I appreciate the fact we have determined for
24 the purposes of the rule that both Aaron Young, Sr. and
25 Aaron Young, Jr. are unavailable within the definition of

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1 804(a)(1) and whatever falls from that will be decided
2 after the future argument. I wish I could tell you
3 something more definitively today. All I can tell you is
4 we don't need your clients.

5 MR. VAUX: Thank you, Your Honor.

6 THE COURT: All right. Thank you. Any additional
7 -- Mr. Ferguson I can give you back...

8 MR. FERGUSON: Thank you, Your Honor.

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1 THE COURT: All right. Obviously we haven't had a
2 break in here and now it's time to change horses. You
3 need a few minutes Mr. Bax?

4 MR. BAX: I would ask for a brief recess, Your
5 Honor. And I would also say just for scheduling purposes
6 I have two witnesses and they are fairly short that I can
7 start my case with so we could at least knock that out.

8 THE COURT: Okay.

9 MR. BAX: But based on giving law enforcement and
10 other people notice I would ask that the other witnesses
11 that we could start with the remainder of the defense's
12 witnesses in the morning, Your Honor.

13 THE COURT: Okay. Who will you be in a position
14 to call this afternoon?

15 MR. BAX: The first would be -- I can't remember
16 her last name -- her name is Kim and she is a very nice
17 lady and she is with 911 dispatch and she is waiting in
18 the hall.

19 THE COURT: Okay.

20 MR. BAX: Hill; I'm sorry, Kimberly Hill. And
21 that's obviously to establish that Mr. Robinson called
22 911 and then Mr. Cedric Campbell who is here in the
23 courtroom and he is going to be a brief witness.

24 THE COURT: Okay, good. We'll do those this
25 afternoon and then gentlemen it's my intention to start

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1 back with the jury at 10 o'clock in the morning so that
2 we can take the time before that to deal with these
3 issues that we raised today, okay?

4 MR. BAX: Thank you very much, Your Honor.

5 THE COURT: Let's take about ten minutes. Well,
6 let's start back quarter of the hour --

7 MR. BAX: Thank you very much, Your Honor.

8 [Whereupon, court is in recess from 3:28 p.m. to
9 3:45 p.m.]

10 THE COURT: All right folks, are we ready for the
11 jury?

12 MR. BAX: Your Honor, I think there is a matter
13 that we need to bring up briefly before we get in front
14 of the jury.

15 THE COURT: Okay.

16 MR. BAX: Unfortunately I need to let the court
17 know that I made a mistake. I just didn't even think
18 about it. Mr. Cedric Campbell is one of the individuals
19 that I named as the two witnesses that I was going to
20 call this afternoon, Your Honor.

21 THE COURT: Right.

22 MR. BAX: And Mr. Campbell has been in the
23 courtroom the whole time. We were the ones obviously
24 that asked for sequestration of witnesses. And that's
25 just purely my mistake. Cedric is Tyrone's uncle. He's

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1 just come in initially when we were doing jury and I just
2 didn't think to tell him to leave so it's certainly my
3 fault. I've explained to Solicitor Stone that I take
4 responsibility for that. I've explained to Solicitor
5 Stone what I intend to ask Mr. Campbell about and I put
6 it in your hands at this time.

7 THE COURT: Okay.

8 MR. BAX: I can't say that I'm not responsible; it
9 did happen. I'm thinking about a lot of things and
10 didn't think about it.

11 THE COURT: Mr. Stone, what says the State?

12 MR. STONE: We had received information that he has
13 been here the whole time too against the order of
14 sequestration. So what I was going to do was bring that
15 to your attention and then after I talked to defense
16 counsel I believe his testimony is going to be that the
17 defendant called him to say people were shooting at me.
18 I don't believe that would be admissible anyway so really
19 from a two-prong objection not just the sequestration but
20 I'm not sure -- I don't believe that that would be
21 admissible testimony regardless. So I would object to
22 his testimony.

23 THE COURT: Is that the essence of what you'll try
24 to elicit from him?

25 MR. BAX: Your Honor, his testimony was and intends

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1 to be that on the date in question during the time in
2 question that Tyrone did call him and said that there was
3 individuals shooting at him and actually asked if Cedric
4 would either pick him up or if he could come to where he
5 lives; in other words supporting the idea that he was
6 trying to flee.

7 And I certainly had it not been for the
8 sequestration issue I believe it is completely
9 admissible. For one thing it is the defendant's
10 statement. It's Tyrone Robinson's statement. He's the
11 defendant in this case. All his other statements have
12 come in.

13 THE COURT: But it's a self-serving statement and
14 unless he is subject to cross-examination self-serving
15 statements are looked at a little bit different than
16 other statements.

17 MR. BAX: Well, and the other thing Your Honor it's
18 not hearsay because I'm not asserting it -- you know the
19 thing is that -- let me backtrack. I guess what I would
20 argue is the statements the State has already introduced,
21 his interview at the Beaufort County Sheriff's office
22 branch in Hilton Head. Those were all self-serving
23 statements if you want to define them that way.

24 THE COURT: Right.

25 MR. BAX: He never says that he did anything. He

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1 says that he was on the receiving end. And this
2 testimony would not be inconsistent with that whatsoever.
3 So in that vein it's just as admissible as his statements
4 that have been introduced by the State.

5 THE COURT: But the statements that were made by
6 the State those statements of course were made by the
7 defendant himself and what you're introducing here is
8 hearsay unless it comes under some exception to the
9 hearsay rule.

10 MR. BAX: I would point out Your Honor because we've
11 had some discussion about this, this week already. He
12 was in the midst of these individuals coming after him
13 and shooting at him. He's very animated according to Mr.
14 Campbell. I would argue it's an excited utterance in the
15 same vein as what we have heard before.

16 There was an ongoing situation. I believe he was
17 being hunted. I don't believe it was an ongoing gun
18 battle but I think he was being shot at by the Youngs and
19 he was fleeing. So I think it would certainly qualify as
20 an excited utterance for that exception to the hearsay
21 rule.

22 THE COURT: Give me just a second.

23 [Whereupon, the court reviews documents]

24 MR. BAX: Your Honor, if I may? I know you're
25 reading; I'm sorry, and it's late. My co-counsel has

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1 pointed out also under (b)(2) excuse me (b)(2)--
2 804(b)(2); excuse me 804(b)(2).

3 [Whereupon, Mr. Bax and Ms. Saxon confer]

4 MR. BAX: Never mind. Sorry, Your Honor.

5 THE COURT: Thank you.

6 [Whereupon, the court reviews documents]

7 THE COURT: There are a couple of ways to go about
8 this analysis. One is State v Golson, G-O-L-S-O-N, 349
9 S.C. 421. This is a case in which the trial court had
10 been asked to admit a defendant's statement to a witness
11 that he and the victim had been fighting over a gun and
12 the gun went off. And the court said I'm not going to
13 let that come in but the defendant subsequently testified
14 in his own defense, was not unavailable as a witness
15 therefore and it was held error for keeping the statement
16 out.

17 But implication in the reverse of that would be that
18 had the defendant not testified and had exercised his
19 constitutional rights under the Fifth Amendment then the
20 statement would have been properly excluded; that is a
21 statement that he gave to a witness, in this case Mr.
22 Campbell about what was going on at the time of the
23 crime. The case of State v Chesbrough stands for the
24 same proposition but it's a slightly different context.
25 It was a statement that a murder defendant, Felix

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1 Chesbrough -- this is a case at 346 S.C. 526. He had
2 been accused of an earlier murder and he had written a
3 letter saying that he was not involved in that. The
4 trial court excluded that as self-serving hearsay. It
5 was offered for proof of the matter asserted and it
6 didn't come under any exceptions of hearsay and he was
7 awaiting trial of course and I did not allow it in in
8 that particular case because it was self-serving
9 exculpatory information, which if the defendant chooses
10 not to testify has a right to do that then the rules of
11 unavailability don't exactly look the same way. He can't
12 introduce those sorts of statements in those instances.

13 So that's not to say that Mr. Campbell can't testify
14 about other matters but he's not going to be able to
15 testify about what Mr. Robinson may have told him about
16 people trying to kill him and trying to run him down.
17 First of all I think there is other evidence in the
18 record that you will be able to get before a jury so I
19 don't think it's critical on that point.

20 And Mr. Robinson has already said the same thing on
21 the tape so it's not it is going to be new -- in other
22 words it's already been introduced properly through Mr.
23 Robinson's statement and I take it there will be some
24 other folks you can get the testimony of either of the
25 Youngs in to say the same thing. But Mr. Campbell can't

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1 say that.

2 MR. BAX: Well, and just for the record Your Honor
3 if he doesn't testify that would obviously then bring it
4 under as you said in that case they declared that would
5 have made him unavailable. Under unavailable declarant
6 then 804 does come into play.

7 And it says statements made when one is in fear of
8 imminent death or under the impression that they may be
9 about to suffer imminent death are admissible for
10 unavailable declarants. And so we would assert that if
11 he testifies obviously excited utterance may apply. If
12 he doesn't testify 804(b)(4) would apply -- or (b)(2)
13 excuse me; would apply.

14 THE COURT: That would be true except for the case
15 of State v Terry found at 339 S.C. at 352. Mr. Terry
16 chose not to testify; he exercised his rights not to
17 testify and then sought to introduce a confession as a
18 statement against his penal interest. The statement in
19 effect tried to exculpate himself with that confession,
20 which the tendency of it was to reduce the crime for
21 murder to manslaughter. He made a confession but it
22 wasn't murder it was manslaughter. And he chose not to
23 testify and so he sought to introduce that confession
24 under the rule that you are talking. Terry said when a
25 defendant tries to do that he is not unavailable under

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1 the rules therefore you can't introduce the information.
2 So a defendant seeking to make an exculpatory statement
3 on the State's cross-examination was the holding in
4 Terry.

5 MR. BAX: Judge, I would ask if Mr. Campbell would
6 be allowed to testify that my client called him but not
7 say what he said, no substance of the statement, that he
8 did call him. I'm just running through my mind that
9 scenario. So I would ask the court would it permissible
10 for me to call Mr. Campbell to say that his nephew, Mr.
11 Robinson called him during the time in question without
12 going into the substance of his statement.

13 THE COURT: He can say that. The existence of the
14 call itself is not hearsay; it's the substance of the
15 call that is hearsay, not the content of it. So that --
16 he can say that. All right. Are we ready for the jury?

17 MR. STONE: The State is ready, Your Honor.

18 MR. BAX: Yes, sir.

19 THE COURT: Thank you. Bring us the jury please.

20 MR. STONE: You cited State v Gary Terry is that
21 right?

22 THE COURT: Excuse me?

23 MR. STONE: You cited State v Gary Terry?

24 THE COURT: Terry.

25 MR. STONE: Out of Lexington?

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1 THE COURT: Sir?

2 MR. STONE: Out of Lexington?

3 THE COURT: I think it was.

4 MR. STONE: It was. I'm quite familiar with that.

5 THE COURT: And I should know about it too. I
6 didn't try it but...

7 MR. STONE: I did.

8 THE COURT: Oh, you did? Then I hope I cited the
9 law right, Solicitor.

10 MR. STONE: Oh, you got it quite right, Your Honor.

11 MR. BAX: Your Honor, may we approach briefly?

12 THE COURT: Okay.

13 [Whereupon, an off the record bench conference is
14 held]

15 THE BAILIFF: The jury is entering the courtroom,
16 Your Honor.

17 [Whereupon, the jury enters at 4:02 p.m.]

18 THE COURT: Folks I'm sorry for the delay. I told
19 you a half hour ago it was going to be 15 minutes and it
20 wasn't. I suppose you all have been sitting back there
21 taking up a collection to buy me a new watch. But when I
22 came back out here and thought it -- something else came
23 up that we had to deal with and I didn't know about it
24 when I got that word to you. I apologize for that delay.
25 We are conscious of your time and we try not to waste it.

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1 And we aren't wasting it really; we're not doing anything
2 unnecessary in this process but I apologize for not being
3 able to anticipate that any better. Before we broke a
4 few moments ago ladies and gentlemen or however long ago
5 it has been now you recall that the State has rested its
6 case in chief. As I told you on yesterday before we
7 started the trial in this case the defendant now has the
8 opportunity to present evidence and testimony but the
9 defendant is under no obligation to do that if chooses
10 not to. Mr. Bax?

11 MR. BAX: Yes, Your Honor. Thank you very much.
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State v Tyrone Robinson
Kimberly Hill-Direct Examination by Mr. Bax
September 17, 2014

1 MR. BAX: The defense would now call Kimberly Hill
2 to the stand please.

3 THE COURT: Ms. Hill, come forward please ma'am and
4 be sworn.

5 [Whereupon, Ms. Hill comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

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9 KIMBERLY HILL,

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BAX:

14 Q. Good afternoon Ms. Hill, how are you doing?

15 A. I'm all right.

16 Q. Can you tell the jury who you work for currently?

17 A. I work for the Beaufort County Sheriff's Office.

18 Q. Okay. In what capacity, ma'am?

19 A. I'm an emergency services dispatcher.

20 Q. Okay. So is part of your role receiving 911 calls?

21 A. It is.

22 Q. Were you in that same job September 1st of 2012?

23 A. I was.

24 Q. Okay. Do you recall receiving some 911 calls as a
25 result of a shooting incident on Hilton Head Island that

State v Tyrone Robinson
Kimberly Hill-Direct Examination by Mr. Bax
September 17, 2014

1 day?

2 A. I do.

3 Q. Did you receive a call from a gentleman I think he
4 was saying his name was T and I think you thought it was
5 Keith that day?

6 A. I do.

7 Q. And that gentleman was saying that he was the one
8 who had been shot at is that correct?

9 A. Yes.

10 Q. And do you recall telling him he needed to go back
11 to Allen Road and go talk to the police that were there?

12 A. Yes.

13 Q. And at the end of the call he said yes, he'll do
14 that.

15 A. He did.

16 Q. Okay. No further questions. Thank you, Ms. Hill.

17 MR. STONE: Just briefly.

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State v Tyrone Robinson
Kimberly Hill-Cross-Examination by Mr. Stone
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. STONE:

3 Q. And during that call Mr. Robinson basically gave the
4 story about what he said happened is that right?

5 A. Yes.

6 Q. Let me ask you a question. The call itself came
7 from I believe ■ Bryant Road or something like or did
8 you actually know that?

9 A. I don't recall where it was really.

10 Q. Before a 911 call is answered -- in other words if
11 I'm calling 911 your recording device actually picks up
12 prior to me hearing you answer the phone, is that
13 correct?

14 A. It does.

15 Q. And there is a few seconds there before so basically
16 I'm calling and you can hear what I am saying things like
17 that is that correct?

18 A. As soon as you dial, yes.

19 Q. On the particular call from Tyrone Robinson could
20 you hear anything prior to you answering the phone?

21 A. Not then.

22 Q. Okay. But then once you -- you've reviewed the tap
23 of that call.

24 A. Right.

25 Q. So now you can hear what ---

State v Tyrone Robinson
Kimberly Hill-Cross-Examination by Mr. Stone
September 17, 2014

1 A. --- yes.

2 Q. Did you hear the caller Tyrone Robinson when he
3 called what he said prior to you answering the phone?

4 A. I did.

5 Q. What was that?

6 A. He said that he also had gunpowder on his hands.

7 Q. Thank you. I don't have any further questions.

8 THE COURT: Redirect?

9 MR. BAX: Nothing further, Your Honor. Thank you.

10 THE COURT: Ms. Hill you can step down. Thank you
11 for coming.

12 [Whereupon, the witness is excused and exits the
13 witness stand]

14 THE COURT: Mr. Bax?

15 MR. BAX: Thank you, Your Honor.

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State v Tyrone Robinson
Cedric Campbell-Direct Examination by Mr. Bax
September 17, 2014

1 MR. BAX: The defense would now call Cedric Campbell
2 to the stand.

3 THE COURT: Mr. Campbell, come forward please and
4 be sworn.

5 [Whereupon, Mr. Campbell comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 - - - - -

9 CEDRIC CAMPBELL

10 Having been first duly sworn,

11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BAX:

14 Q. Good afternoon Mr. Campbell. How are you doing?

15 A. Good. How are you sir?

16 Q. And once again give us your name for the record?

17 A. Cedric Monte [phonetic] Campbell.

18 Q. Okay. And Cedric what is your relationship to
19 Tyrone?

20 A. First cousins.

21 Q. First cousins? Okay. Cedric, do you recall
22 September 1st of 2012 about two years ago?

23 A. Yes.

24 Q. Okay. Do you recall receiving, and without going
25 into what Tyrone said, do you remember receiving a phone

State v Tyrone Robinson
Cedric Campbell-Direct Examination by Mr. Bax
September 17, 2014

1 call from Tyrone on that day in the afternoon?

2 A. Yes, I do.

3 Q. Okay. And in response to what he said did you tell
4 him anything?

5 A. I told him I was busy right then and I couldn't come
6 and get him.

7 Q. Okay. And do you live on Hilton Head Island?

8 A. At that time I lived at Ocean Walk off of South
9 Forrest beach on the south end of Hilton Head Island.

10 Q. You lived on the South end of Hilton Head?

11 A. At that time I did.

12 Q. Okay. Is that a gated community or a community that
13 has some kind of gate system around it?

14 A. Actually it's a five story building and I lived on
15 the fifth floor. It's a building that has 24 hour
16 surveillance and you need a swab to get in the building.
17 It's not gated but it's pretty private.

18 Q. Okay. Thank you, Cedric. No further questions.

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State v Tyrone Robinson
Cedric Campbell-Cross-Examination by Mr. Stone
September 17, 2014

1 CROSS-EXAMINATION

2 BY MR. STONE:

3 Q. Do you know what time that call was?

4 A. I don't recall.

5 Q. Okay. But sometime during that day he called you?

6 A. It was shortly after I heard the news of the tragedy
7 that had happened. It was not long after that or before
8 that.

9 MR. STONE: I don't have any other questions, Your
10 Honor.

11 THE COURT: Thank you. Mr. Bax, redirect?

12 MR. BAX: No, Your Honor.

13 THE COURT: Thank you.

14 THE WITNESS: Your Honor, can I say something to
15 the family?

16 THE COURT: No sir I'm sorry, not in this setting.
17 There might be a time but not here while you are being
18 examined. So nothing keeps you from saying anything you
19 want to outside this courtroom.

20 THE WITNESS: Thank you.

21 THE COURT: Thank you.

22 [Whereupon, the witness is excused and exits the
23 witness stand]

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1 MR. BAX: Your Honor, at this time this is all the
2 witnesses the defense has for this afternoon. I have a
3 number of witnesses but I was not able to really give
4 them an exact timeframe and for notice purposes they will
5 be available tomorrow.

6 THE COURT: All right. Ladies and gentlemen, that
7 means you've heard all the evidence and testimony that
8 you're going to hear today. There is more to hear
9 tomorrow and we will start tomorrow. Since I'm letting
10 you go early this afternoon you know the way government
11 workers do I'm going let you come back late tomorrow.
12 You know you get off early today so you come back late
13 tomorrow. We're trying to make good use of time.

14 Seriously we do have some matters to take up in the
15 morning that are going to be quite lengthy. And rather
16 than get you here at 9:30 and then keep you back there
17 like I did a while ago inadvertently I know better right
18 now so I'm not going to take a chance on that tomorrow.
19 I'm going to get you back here later so that we can be
20 able to not make you wait back there unnecessarily and
21 not have you break your necks to get up here and then sit
22 back there. You can come early if you want to; the place
23 will be open but we're not going to need you until 10
24 o'clock. So just make sure you are in the jury room
25 tomorrow at 10 o'clock and we will get you out thereafter

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1 to resume the trial of this case. As always I remind you
2 not to talk about this case and don't let anybody else
3 talk to you about it. I know you must think that I must
4 think you are the craziest people in the world; I tell
5 you that every time before you leave but I tell you that
6 because it's important.

7 And I tell you that because when it comes to this
8 particular case the State v Tyrone Robinson of all the
9 people on the face of this globe nobody else other than
10 you folks are going to be asked to make a decision about
11 that case. And that's the reason I have to ask you to
12 continue to keep yourself separate and apart from
13 everybody else on the face of this globe when it comes to
14 dealing with issues about this case, okay. Thank you
15 folks, I'll see you tomorrow at 10:00.

16 [Whereupon, the jury exits at 4:11 p.m.]

17 THE COURT: Folks, I'll be here in the morning as
18 usual a little bit before 9:00 and will be available
19 anytime thereafter. I would suggest that we start no
20 later than 9:30 in the morning to deal with those issues
21 involving the testimony of the Youngs and any other
22 pretrial issues that might come up at that time. But I
23 will be here earlier so if something comes up overnight
24 that impacts anything I'll be here so we can talk about
25 it in chambers and then we'll come back and get on the

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1 record about it just as soon as we can. Mr. Bax, that
2 ball is in your court now is there anything further from
3 the defense before we break for the afternoon?

4 MR. BAX: No, Your Honor. And we will be here
5 prior to 9:30 in the morning.

6 THE COURT: Good, thank you. Mr. Stone?

7 MR. STONE: No, sir. Thank you, Your Honor.

8 THE COURT: Okay. 9:30 tomorrow folks. Thank
9 you.

10 [Whereupon, court adjourns at 4:15 p.m.]

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Certificate of the Court Reporter
September 17, 2014

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit 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 and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Beaufort County, South
Carolina on the 17th day of September, 2014.

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

January 23, 2015



Joyce C. Rueger, CVR-M

Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BEAUFORT	)	DOCKET NO. 2012-GS-07-1935
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	
TYRONE ROBINSON	)	
	)	
Defendant	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

September 18, 2014
Beaufort, South Carolina

VOLUME 4 (OF 5)

B E F O R E:

THE HONORABLE THOMAS G. COOPER, JR., JUDGE

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THE COURT: Thank you ladies and gentlemen. Folks I had asked you all yesterday to help me with some research on the issue of admissibility of primarily Aaron Young, Sr.'s statement, which was preserved by way of videotape and whether that would be admissible in Mr. Robinson's case in chief. Who has found some bolt of light that would bring that issue into our focus? Mr. Stone?

MR. STONE: Well, I don't know that I would say I have a legal bolt of lightning but I do have something that would probably affect it.

THE COURT: Okay.

MR. STONE: I don't have any objection to either Aaron Young, Jr. or Aaron Young, Sr.'s testimony coming in. However having said that I think Rule 106 allows me to make sure there is just not what the defense wants in of that statement but also what I want in. So from that standpoint we don't have any objection to them putting in the statements from Junior and Senior. And that would be as far as my legal research extended to Rule 106.

THE COURT: Okay. The Rule of completeness?

MR. STONE: Yes, sir.

THE COURT: That's right. Mr. Bax?

MR. BAX: Thank you, Your Honor. Obviously I had

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1 looked at this issue even before the beginning of the
2 trial and I did look again. And State v Hughes seems to
3 be the most on point when it comes to the issue of Fifth
4 Amendment if you're looking from that standpoint. Any
5 cases that I found that mentioned 804 seemed to be
6 desperate situations from what we're dealing with here
7 today. So I wasn't able to find anything that references
8 804 other than to confirm just repeats of the language in
9 the rule itself, which we all have in front of us and
10 we've all read.

11 I think the arguments that I mentioned yesterday
12 still stand and I think that as Your Honor has pointed
13 out certainly Aaron Young, Sr.'s testimony fits the
14 definition under (b)(1) for former testimony. And since
15 Mr. Robinson was representing himself at that time he
16 exercised his right to cross-examination for what that's
17 worth. And as the defense we're happy to be satisfied
18 with what he did at that time, obviously.

19 My assumption is and what I have planned on is that
20 as far as his testimony is concerned the way that would
21 get into the record I suppose would be some form of a
22 reading. And I don't know whether there is any objection
23 or whether we should put the actual written transcript
24 into evidence or not. Frankly, I'm actually kind of on
25 the fence about that myself. But I don't know that it

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1 would matter either way.

2 THE COURT: I think the appropriate way to do it
3 would be to have it published, have someone read the
4 questions and the answers. My recollection is it was not
5 real lengthy from Mr. Young, Sr.; I can't recall that.

6 MR. BAX: It wasn't terribly lengthy, Your Honor.
7 I believe there is quite a bit of wide spacing in my
8 transcript so what is covered per page is actually fairly
9 short. And my understanding is that on this transcript
10 it starts on page 146 Your Honor and it concludes I
11 believe on page 156 because at that point Aaron Young,
12 Sr.'s father, Bennie Young takes the stand. And
13 certainly that's not what we're seeking to introduce at
14 all.

15 THE COURT: All right. That deals with Senior.
16 You've heard Mr. Stone's position that they don't object
17 to all of Junior's statements coming in, in its
18 completeness of course; not just parts of it.

19 MR. BAX: And I understand that and I expect that.
20 When you ask for something you have to be prepared to
21 take it the good and the bad of it and we certainly
22 understand that. I will say depending on the form of
23 Aaron Young, Jr.'s statements whether it's the video or
24 transcript of the video or any written statements; I
25 don't recall if he signed any written statements or not.

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1 But I know that in the video of his interview on
2 September 1st it's extremely lengthy and there is a large
3 portion of it where Aaron Young is actually just in the
4 room by himself, kind of talking to himself. And I don't
5 know if that is what -- I doubt that is what Solicitor
6 Stone is specifically referring to. I assume that he is
7 referring to the things that Aaron Young, Jr. said about
8 Tyrone Robinson. But if that's not part of what
9 Solicitor Stone seeks I would ask whether we can cut that
10 out just for time purposes because that's like a five
11 hour video.

12 THE COURT: Each of you all --

13 MR. STONE: I can help I think on both of these
14 scenarios Your Honor. My questions would be pointed and
15 very brief. I don't intend to put the entire videos in
16 of any of these people. I think we have transcripts and
17 the defense has transcripts of both of the videos on
18 Senior and Junior.

19 Now Senior in particular -- and I'm withdrawing my
20 objection on either one of those. From Senior's
21 standpoint what would have made it admissible under the
22 hearsay rule being former testimony would have been a
23 situation in which we had the same motive to develop the
24 conversation. Now I still to this day will tell you that
25 my motivation was to ensure that we were getting past the

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1 Jackson Denno hearing; not to develop everything that
2 happened out there. Therefore, whatever testimony we
3 elicit concerning Senior, Aaron Young, Sr., I intend to
4 put information in from any of his statements that are
5 all the same thing instead of just that one limited thing
6 about a Jackson Denno hearing. And I think that solves
7 well, first of all I'm withdrawing my objection so I
8 don't know that we'd have that anyway.

9 But even if we did I think that solves the issue
10 that would normally come with former testimony, which is
11 you should have asked this question when you had the
12 opportunity but that wasn't my motive, so I just wanted
13 to clear. But my questions are pointed. I do not plan
14 on putting in video. I've got the transcripts and quite
15 frankly whichever officer we're going to put up I will
16 just hand them the transcript, let them see it, and make
17 my pointed questions off of that and it will be very
18 brief.

19 THE COURT: All right. Mr. Bax, as you heard Mr.
20 Stone say treat Junior and Senior's statements both
21 alike; video of all of one and all of the other comes in.

22 MR. BAX: I understand, Your Honor. And my
23 understanding of what Solicitor Stone has said is that
24 his intent is or his intent would not be to even use the
25 video but to just elicit the statements from it from

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1 officers.

2 THE COURT: Right.

3 MR. BAX: I don't have an objection to that because
4 I would just do the same basically. And I know we're
5 both going at different portions of their statement and
6 that's fine; I understand that.

7 THE COURT: That's right. But the essence of it is
8 each of you will get in what you feel you need to from
9 your perspective and not the extraneous stuff.

10 MR. BAX: That's correct, Your Honor.

11 THE COURT: All right. Let me hear now from
12 counsel for Aaron Young, Sr. and Aaron Young, Jr.; Mr.
13 Vaux and Mr. Ferguson.

14 MR. VAUX: Your Honor, on behalf of Junior I simply
15 want to make sure that at some point in the future that
16 we don't end up with somebody trying to say that this
17 testimony or these recording or these questions in this
18 court then creates an exception to the hearsay rule in a
19 subsequent proceeding. Otherwise my Fifth Amendment
20 rights are worth about as much as my Enron stock.

21 THE COURT: Right. You're right about that. The
22 fact that these statements might be admissible in this
23 proceeding and not against your client or Mr. Ferguson's
24 client does not make that in a separate setting per se
25 inadmissible in that particular case. It's an entirely

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1 different standard obviously. For example in those cases
2 we have to get first of all by the -- past the issue of
3 voluntariness. That's not an issue here. We have to get
4 past several other evidentiary and constitutional issues
5 in order for those statements to come in the trials of
6 Aaron Young, Jr. and Aaron Young, Sr. None of those are
7 issues here.

8 This is -- really when you boil it right down to it
9 it's really just a clear analysis of Rule 804 and does
10 not implicate Fifth Amendment rights or anything else as
11 far as these are concerned. Aaron Young, Sr. and Aaron
12 Young, Jr.'s rights are not prejudiced in any way by what
13 goes on in this proceeding. They are not part of it and
14 they are not bound by it.

15 So to the extent that that relieves your mind -- now
16 of course we've already talked about the fact that
17 publicity generated from this is another matter. But all
18 of these things have been made a part of the public
19 domain a long time before now. So there is nothing we
20 can do about that. Those rights have already gone by.

21 MR. VAUX: That bell has been rung.

22 THE COURT: That's right. That's exactly right.
23 And I understand as fate may have it I will be trying the
24 case of Aaron Young, Jr. and Senior and I can tell you
25 that this will not be -- a ruling in this case will not

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1 be indicative of a ruling in that case.

2 MR. VAUX: Thank you, Your Honor.

3 THE COURT: Mr. Ferguson?

4 MR. FERGUSON: Nothing to add, Your Honor. Thank
5 you.

6 THE COURT: Thank you gentlemen. All right well,
7 we're early. Is there anything else of a pretrial matter
8 before the jury comes in? We've still got about 15
9 minutes.

10 MR. STONE: I don't believe so.

11 THE COURT: Mr. Bax?

12 MR. BAX: No, Your Honor. I will state for the
13 court that one of my witnesses is Ms. Mary Beth Hefner
14 who interviewed [REDACTED] J.S. [REDACTED] at Hope Haven
15 [phonetic]. She is actually reviewing the video now. I
16 see her in the back room there so I'm just trying to give
17 her a few minutes to refresh her memory as to the video
18 so she can be able to answer those questions.

19 THE COURT: She's got about 15 minutes. If that's
20 not enough you'll let me know.

21 MR. BAX: Certainly Your Honor, I appreciate it.
22 Thank you.

23 THE COURT: All right.

24 MR. THORNTON: Your Honor, obviously we would object
25 to her testifying. Under State v Kromah and State v

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1 Portillo a forensic interviewer cannot testify if the
2 child doesn't testify. And she certainly can't testify
3 as to what anything the child says. And I can give you
4 the sites for that. I apologize; I don't have the cases
5 right in front of me.

6 THE COURT: I'm familiar with that. Is that what
7 Ms. Hefner did?

8 MR. BAX: Ms. Hefner interviewed [REDACTED] J.S.,
9 [REDACTED] Your Honor.

10 THE COURT: All right.

11 MR. BAX: And I would just remind the court the
12 discussion that was had in the previous trial concerned
13 the issue of the fact that [REDACTED] J.S.'s
14 testimony or basically his statements on the dash cam to
15 Sergeant Martin Thomas are in. The jury has seen those.
16 We've had argument about those. But the same position as
17 when Mr. Robinson represented himself is they want those
18 statements in without calling [REDACTED] J.S., which
19 they didn't call him. [REDACTED] J.S. later recants to Ms. Hefner
20 and it's on video.

21 And I feel and the position of Mr. Robinson and my
22 position is, and as Your Honor had discussed with him in
23 the last trial if they are going to get to get his
24 statements on video that it happened without him
25 testifying the defense is entitled to get his recantation

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1 in under the same auspices. Now I have [REDACTED] J.S. [REDACTED],
2 [REDACTED] subpoenaed. The subpoena has actually been served on
3 his step-father, Mr. Dominique Griffin. And my
4 investigator Mr. Chapman had gotten what was portrayed to
5 be a good phone number for Dominique earlier this week.
6 And Mr. Chapman called Dominique last night to say we
7 need you to have [REDACTED] J.S. [REDACTED] here available.

8 So I do have him available, however it is the
9 position of the defense that as stated before the
10 prosecution has entered his statement that it happened
11 without calling him. And the defense is entitled to
12 enter his statement that it didn't happen.

13 THE COURT: Okay.

14 MR. BAX: If there is any way we can avoid putting
15 the young boy on the stand and that's really what I'm
16 trying to do; the same reason as the prosecution didn't
17 want to put him on the stand.

18 THE COURT: All right. Let me look at those cases
19 because that's a different nuance. Mr. Thornton, do you
20 have copies of those I can look at in the back?

21 MR. THORNTON: I'll get them for you Judge,
22 immediately.

23 THE COURT: I could call them up on my computer but
24 if you've got them ---

25 MR. THORNTON: --- I don't have a paper copy Your

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1 Honor but I do have the site I can give you.

2 THE COURT: Okay.

3 MR. THORNTON: State v Kromah is 401 S.C. 340. It's
4 a 2013 -- that one I think is a Supreme Court case.
5 Portillo is 408 S.C. 66 is a Court of Appeals 2014 case.

6 THE COURT: Kromah with a C?

7 MR. THORNTON: No sir, with a K. K-R-O-M-A-H.

8 THE COURT: Okay.

9 MR. THORNTON: Also in play in both of those Judge
10 when you're dealing with video tapes or anything like
11 that onto this is 17-23-175(a) but that's only if they
12 wanted to play the videotape, which also would not be
13 admissible. And the only thing, Judge if I might be
14 heard just very briefly?

15 THE COURT: Okay.

16 MR. THORNTON: The other thing I would point out
17 Your Honor is this. The State was allowed to put in as
18 the statements of [REDACTED] on the video because it
19 fell into a hearsay exception. Just because that is true
20 does not mean every other bit of hearsay that doesn't
21 fall into an exception gets to come in. That's not how
22 it works. Your Honor ruled that both of those statements
23 came in; one under an excited utterance and I believe the
24 other was present sense impression and also excited
25 utterance. There is no such exception for an interview

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1 that takes place I think two days or three days later.
2 And there are two cases directly on point in my opinion.
3 That's all I would add, Judge. And if you cannot pull
4 those up I'll go right now and get you copies.

5 THE COURT: I think I can get them. Thank you.

6 [Off the record momentarily while the court reviews
7 documents]

8 THE COURT: All right folks, if we could go back on
9 the record.

10 MR. BAX: Your Honor, my apologies. Just to make
11 the court aware [REDACTED] JS. [REDACTED] we served a subpoena
12 on his step-father Mr. Griffin as I stated to the court
13 earlier. And both Mr. Griffin as well as [REDACTED]
14 [REDACTED] JS. [REDACTED]'s mother have the subpoena and have spoken
15 with my investigator. But at this point what I have been
16 informed by my investigator is that [REDACTED] JS. [REDACTED],
17 [REDACTED] mother is refusing to bring him. She has indicated
18 that he can't testify. He doesn't have anything to say.
19 And she's asked to try and speak with me. I just
20 found out just now but obviously I've got to come up here
21 and be before the court to do my job. I have asked my
22 investigator, Your Honor, to call the mother back and
23 inform her that he still has to be here. If he doesn't
24 know anything he can say he doesn't know anything.
25 That's his prerogative but he still has to come. And

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1 that may result in them coming; I'm not sure. So I'm
2 just putting that before the court at this time. And I
3 do apologize; I know that we want to move this trial
4 forward.

5 THE COURT: What was the import of Ms. Hefner's
6 testimony going to be?

7 MR. BAX: Well, Your Honor, I wanted to establish
8 that an interview was done. Ms. Heffner can also
9 establish that the interview was done at the request of
10 the State. There was a law enforcement officer present.
11 My understanding was it was Meredith Florencio. Meredith
12 -- I already have Andres Florencio under subpoena.
13 That's actually Meredith's husband. They both work for
14 the Sheriff's Department, Your Honor.

15 THE COURT: Right.

16 MR. BAX: And I have talked to Andres and he has
17 indicated that Meredith is in training on Hilton Head but
18 can be here if we give her enough notice. But she was
19 present for the interview on behalf of the State as law
20 enforcement. And the purpose of the interview was
21 investigatory. The purpose of the interview was for the
22 purpose of prosecution. And she can establish those
23 facts as well as authenticate the video. And as I've
24 stated before Your Honor there are two areas here.
25 Number one, obviously the young boy has been -- [REDACTED]

1 J.S. obviously has been through quite a bit.
2 And if there is a way for me to be able to introduce what
3 his recantation without putting him on the stand I would
4 like to do that to reduce the stress to him. However, I
5 have put him under subpoena in anticipation that there
6 was a ruling contrary to that.

7 However, if he makes himself unavailable it would
8 necessarily change my argument on the issue. Because one
9 way or the other I think that Mr. Robinson in order to
10 have a fair trial and for the jury to have all the
11 information has to hear that at a later time

12 J.S. recanted that he had seen Tyrone Robinson
13 shoot his friend.

14 THE COURT: So the scope of the interview of his
15 testimony would not be a comment upon whether or not she
16 felt that he was telling the truth in the interview or?

17 MR. BAX: That's correct. And I have -- I am very
18 familiar with Kromah. I'm not as familiar with the other
19 case cited by the State. And my understanding of Kromah
20 which I've read a couple of times in anticipation of
21 other cases, C-S-C cases and the like that involved this
22 a lot is that the Supreme Court was commenting on the
23 fact that the prior practice of forensic interviewers
24 being made experts and then offering their opinion on the
25 voracity or truthfulness or compelling nature of the

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1 disclosure was what the Supreme Court has decided was
2 improper and should no longer be done. She is not making
3 any comment as to the truthfulness of his statements at
4 all. It is merely establishing the interview happened
5 and then trying to get in what happened as far as the
6 recantation. And that's it.

7 THE COURT: Kromah gave, of course, a laundry list
8 of things you can and can't say was not exhausted but it
9 did at least set some clear parameters and Portillo
10 really just cited Kromah in many respects. I would
11 prefer to have, as difficult as it might be for the young
12 man, to have him here simply to eliminate an appealable
13 issue upon either side at this point.

14 MR. BAX: I understand completely, Your Honor, and
15 I agree.

16 THE COURT: Let's deal with that. If he's there
17 then -- if he is able to come and refuses to testify then
18 we would have another issue regarding Ms. Hefner's
19 testimony at that point I take it. But in any event
20 let's deal with having him here if we can to begin with.

21 MR. BAX: And I understand, Your Honor. I can say
22 that I do have a couple of witnesses that are present.
23 And they are not lengthy and I know that it has gotten to
24 the point now where I expect that we have a jury back
25 there waiting and none of us want them to be waiting too

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1 long. At this point in time Your Honor though actually
2 as I look at my list it would be one to two witnesses
3 only that I could get to before we would run into the
4 issue of [REDACTED] J.S.

5 THE COURT: All right. Could you set some wheels
6 in motion then to -- do you have time to talk with his
7 mother? Do you have a phone number where you can reach
8 her?

9 MR. BAX: I do actually. My investigator Mr.
10 Chapman was just actually saying do you want to talk to
11 her when Your Honor started back on the record and I
12 needed to come into court. So I can certainly do that
13 and like I said I don't want the jury waiting any more
14 than you do. But I can make that call and it probably
15 shouldn't take more than a couple of minutes if you would
16 like.

17 THE COURT: Let's do that first.

18 MR. BAX: Yes, sir.

19 THE COURT: Okay.

20 MR. THORNTON: Just so I'm clear so the intent is
21 to put Mary Beth up to verify the tape and just play the
22 tape?

23 MR. BAX: That's correct.

24 MR. THORNTON: Because I have an objection to that
25 also under the code section I referenced 17-23-175. It's

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1 not permissible to play one of those tapes unless the
2 child testifies.

3 THE COURT: Right.

4 MR. BAX: Well, and that's what I'm discussing
5 obviously.

6 MR. THORNTON: Anyway I just wanted to make sure I
7 was clear as to what...

8 THE COURT: Okay. Go ahead and make the call and
9 see what we've got.

10 MR. BAX: Thank you, Your Honor. Your Honor, while
11 we still have everybody here if I may Mr. Chapman has
12 just informed me that in his conversation with J.S.'s
13 mother he informed her if he doesn't know anything he
14 doesn't know anything but you've still got to bring him.
15 She has said she will do that but it will not be until
16 around the noon time that that will occur because she
17 sent him off to school.

18 She says she needs to get up, get dressed, go get
19 him from school to bring him here. And obviously Your
20 Honor I do apologize because we did I think give enough
21 notice because we talked to them last night about this.
22 So I do apologize.

23 THE COURT: Well, you know it might be lunch time
24 before we get to him. We'll just have to see about that.

25 MR. BAX: Thank you, Your Honor.

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1 THE COURT: Go ahead and make -- have you made the
2 call or ---

3 MR. BAX: --- that's what Mr. Chapman just informed
4 me is that she is going to bring him and that that's the
5 schedule that she said. She says she is going to bring
6 him but she can't get here any earlier than that and
7 those were the factors that she cited.

8 THE COURT: Okay. Let's work with what we've got
9 then. If he testifies then the tape won't be an issue.
10 We'll have to see what he says and whether Ms. Hefner
11 then becomes a witness that you can call depending upon
12 whether **J.S.** shows up and what he says.

13 MR. BAX: That's correct.

14 THE COURT: Okay. Anybody else got any law review
15 questions or bar exam questions this morning?

16 MR. STONE: I think we're good Judge.

17 THE COURT: All right, good enough. Bring us the
18 jury please.

19 THE BAILIFF: The jury is entering the courtroom,
20 Your Honor.

21 [Whereupon, the jury enters at 10:17 a.m.]

22 THE COURT: Good morning folks. Your concerns have
23 been expressed to me and we have made arrangements to
24 take care of those concerns. You will have escorts
25 during the lunch break and in and out as you are coming

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1 and going during the day and if that does not alleviate
2 those concerns if you will let me know we'll deal with
3 them in a more particularized fashion. The defense is
4 offering evidence and testimony in the case as you know.
5 I've been made aware of the fact that there might be some
6 fits and starts today because one of the witnesses early
7 on who will testify is a student at school and
8 arrangements are being made to get that student out of
9 school to come here and testify. It will be the middle
10 of the day before those things can be done.

11 I don't know how long we will go before we hit that
12 point. I just ask your cooperation as we work in the
13 fits and starts. These things don't always work like a
14 well oiled machine. As you can tell we're depend upon in
15 some cases not the convenience of witnesses so much just
16 the ability to get them here. These folks are under
17 subpoena; they are required to be here. But that doesn't
18 mean they are sitting around here all the time waiting to
19 testify. Some of them have other things that they have
20 to be doing.

21 So I apologize for that. It may cause an
22 interruption but we will not keep you here waiting back
23 there endlessly. We'll take an early lunch break or do
24 whatever we have to do so that -- our schedule might not
25 be exactly what we would normally operate under but we'll

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1 try not to waste your time in any event while you are
2 waiting. Thank you. Ladies and gentlemen, I'll ask you
3 once again as I have before and I ask you this time in
4 mass because I think you have understood the importance
5 of this but nonetheless I want to be sure that overnight
6 none of you have seen anything, heard anything, or have
7 exposed yourself to any publicity. I know you would not
8 have done it on purpose; I realize that.

9 But inadvertently accidentally has anything been
10 thrust before you about this case from any source at all?
11 If so would you please let me know? I'll be glad to talk
12 with you privately about that. I'm not making any
13 accusations; I just want to be sure you've been protected
14 against outside influences. Has anybody been exposed to
15 any publicity otherwise had any contact about this case
16 outside this courtroom.

17 [Whereupon, the jury collectively answers
18 negatively]

19 THE COURT: Thank you very much. I appreciate that
20 and I appreciate your continued adherence to those rules
21 for reasons that you are all aware of the importance of.
22 Mr. Bax, you can call your next witness.

23 MR. BAX: Thank you very much, Your Honor. The
24 defense calls Ebony Campbell to the stand please.

25 [Off the record momentarily]

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1 MR. BAX: My apologies, Your Honor. I know that
2 Ms. Campbell was sitting in the jury assembly room right
3 across the hall with the other witnesses. Apparently
4 there was some confusion about who was going to go get
5 her.

6 THE COURT: I can arrange for somebody to go get
7 her.

8 MR. BAX: And that would be fine, Your Honor.

9 THE COURT: Do I have ---

10 MR. BAX: --- excuse me, Your Honor. She was in
11 there literally I would say about ten minutes ago when I
12 was in there. And I'm being informed that she is not in
13 there. So that is the confusion, my apologies. That's
14 the confusion. Thank you. So I did have eyes on about
15 ten or fifteen minutes ago.

16 THE COURT: Ladies and gentlemen, let me send you to
17 your jury room while I deal with this issue. The witness
18 who is under subpoena is not here. We have to take steps
19 to make sure that that witness is here. It's going to
20 take us a few moments and you don't need to be a part of
21 that. Thank you.

22 [Whereupon, the jury exits at 10:24 a.m.]

23 THE COURT: All right. I want somebody who knows
24 what Ms. Campbell looks like to go to the officer at the
25 back. If she's in the courtroom if you need to take her

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1 into custody you can bring her here otherwise -- and if
2 you need to be here if you can get somebody else to make
3 sure that she is here.

4 MR. BAX: Thank you, Your Honor.

5 MR. STONE: I'll send my victim advocate, Your
6 Honor. She knows what she looks like.

7 THE COURT: Okay. Thank you.

8 [Off the record momentarily]

9 MR. BAX: Your Honor, I can just only relay the
10 information we have so far. Ms. Saxon checked the ladies
11 bathroom and she is not there. There were other officers
12 Officer Seifert and Officer I think it was Albertin as
13 well as Florencio. They've said they saw -- it was
14 actually Aaron Young, Sr. and her sitting on the bench.

15 VICTIM'S ADVOCATE: She's on her way up.

16 THE COURT: Thank you so much. Good job.

17 [Whereupon, Mr. Bax and Mr. Stone confer]

18 MR. STONE: May we approach, Judge?

19 THE COURT: Certainly.

20 [Whereupon, an off the record bench conference is
21 held]

22 [Whereupon, Ms. Campbell enters the courtroom]

23 THE COURT: See if the jury is ready to come in.

24 THE BAILIFF: The jury is entering the courtroom,
25 Your Honor.

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1 THE COURT: Thank you, ma'am.

2 [Whereupon, the jury enters at 10:31 a.m.]

3 THE COURT: Thank you folks. I apologize for this
4 delay. We're ready now to start. Mr. Bax, you can call
5 your witness.

6 MR. BAX: Thank you very much, Your Honor.

State v Tyrone Robinson
Ebony Campbell-Direct Examination by Mr. Bax
September 18, 2014

1 MR. BAX: Once again the defense calls Ebony
2 Campbell to the stand please.

3 THE COURT: Ms. Campbell, come forward please.
4 You've already been sworn; you're still under oath.

5 [Whereupon, Ms. Campbell comes forward]

6 - - - - -

7 EBONY CAMPBELL,

8 Having been previously duly sworn,

9 Was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BAX:

12 Q. Ms. Campbell, you testified earlier in this trial
13 correct?

14 A. I did.

15 Q. Okay. Ms. Campbell, just a couple of questions for
16 you in follow up all right. In your direct testimony and
17 earlier this week you testified that you saw what
18 appeared to be another gun in the car that Tyrone
19 Robinson was driving, correct?

20 A. I did.

21 Q. Okay. Now Ms. Campbell you talked with law
22 enforcement at the time this happened correct?

23 A. I did.

24 Q. Okay. And do you recall actually giving a written
25 statement on September 1st of 2012?

State v Tyrone Robinson
Ebony Campbell-Direct Examination by Mr. Bax
September 18, 2014

1 A. I do. It was rather short but I did.

2 Q. Okay. And do you recall in that written statement
3 you make no mention of another gun in Tyrone Robinson's
4 car?

5 A. No. I had been interrogated or interviewed rather
6 for about an hour maybe an hour and a half before then.
7 And I kind of just was tired of talking about it so I
8 wrote that really quickly and it is possible that I left
9 it out.

10 Q. All right, Ms. Campbell fair enough. Do you recall
11 also speaking with an officer with law enforcement by the
12 name of Brandon Cooler on September 5th of 2012; that
13 would have been roughly four days later?

14 A. Four days later I don't recall. I ---

15 Q. --- oh excuse me; I'm sorry. He actually makes the
16 report four days later. But he spoke with you on
17 September 1st and notes that down. Was Officer Cooler
18 the one that was present with you when you made the
19 written statement?

20 A. He was.

21 Q. Okay. But you did end up speaking with Corporal or
22 Investigator Seifert on September 12th of 2012 which
23 would have been roughly 11 days later. Do you recall
24 that?

25 A. Possibly.

State v Tyrone Robinson
Ebony Campbell-Direct Examination by Mr. Bax
September 18, 2014

1 Q. Do you recall that?

2 A. I don't remember who I spoke with but I do remember
3 speaking with someone.

4 Q. Okay. Now do you remember when you spoke with
5 Officer Seifert whether you informed him or told him
6 about seeing another gun in Tyrone Robinson's car?

7 A. Did I speak to him about it? I don't know at which
8 point I told who but I told someone early in the
9 investigation as soon as my mind flashed back to it.
10 That day I was really traumatized; I was.

11 My whole life was turned upside down in one day. So
12 everything in my mind wasn't working correctly like
13 probably maybe the rational thinker that you are. I'm
14 not that rational of a thinker.

15 Q. All right Ms. Campbell. Can you say with any
16 certainty that it wasn't until on or about February 6th
17 of 2014 when you had an interview at the Solicitor's
18 office that that was the first time you ever said
19 anything about the gun in Tyrone Robinson's car?

20 A. That was not the first time I spoke about the gun.

21 Q. Okay. So can you tell us if that is not the first
22 time that you ever talked about this second gun why it
23 does not appear in any incident report from any
24 investigator involved with this case?

25 A. I don't remember whom I talked to or whom I told but

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Ebony Campbell-Direct Examination by Mr. Bax
September 18, 2014

1 I did. I told someone early on in the case way earlier
2 than February, way earlier than before I met with the
3 Solicitor.

4 Q. Okay. Do you recall whether the person you told
5 was even with law enforcement or whether it was some
6 friend or family?

7 A. I do recall that they were law enforcement. I don't
8 have any friends or family ---

9 Q. --- so it's your testimony that you told law
10 enforcement in this case and they just didn't bother to
11 put that fact into any of their reports?

12 A. I would have to say so but I know that I'm certain
13 that I did.

14 Q. Okay, Ms. Campbell ---

15 A. --- that's not something that I would have
16 forgotten.

17 Q. All right. And just to make sure that we're clear
18 you also testified that on that day after Mr. Robinson
19 left the residence that you never saw --

20 MR. BAX: Let me approach the witness, Your Honor?

21 THE COURT: Yes, sir.

22 MR. BAX: For the record, Your Honor this is
23 State's exhibit number 25.

24 [Whereupon, the witness is shown exhibit]

25 Q. [Mr. Bax] But you never saw either Aaron Young, Sr.

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Ebony Campbell-Direct Examination by Mr. Bax
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1 or Aaron Young, Jr. in possession of this bag?

2 A. I'm certain, very certain.

3 Q. You're certain that on that day you didn't see them
4 carrying this bag?

5 A. Very certain.

6 Q. Okay.

7 MR. BAX: No further questions for Ms. Campbell,
8 Your Honor.

9 THE COURT: Thank you. Mr. Solicitor?

10 MR. STONE: Just briefly.

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State v Tyrone Robinson
Ebony Campbell-Cross-Examination by Mr. Stone
September 18, 2014

1 CROSS-EXAMINATION
2 BY MR. STONE:
3 Q. Ms. Campbell as per your statement that you made to
4 law enforcement right after the event I'm not concerned
5 about that second gun. The gun that you talk of you did
6 talk to the officers the first time about Tyrone Robinson
7 having a revolver in his hand is that correct?
8 A. I did.
9 Q. And in fact you put that revolver in your statement
10 did you not?
11 A. I'm sure I did. I don't remember what's on the
12 statement. I honestly don't.
13 Q. I've circled that part of your statement.
14 [Whereupon, the witness is shown document]
15 A. Yes.
16 Q. So from the standpoint of the second revolver that
17 first time you mentioned that was later on. But as far
18 as the revolver in Tyrone Robinson's hand the day of you
19 mentioned that to law enforcement when they first talked
20 to you, you put that in your statement and every time
21 since is that correct?
22 A. Yes.
23 MR. STONE: I don't have any questions, Your Honor.
24 MR. BAX: Brief follow, Your Honor.
25

State v Tyrone Robinson
Ebony Campbell-Redirect Examination by Mr. Bax
September 18, 2014

1 REDIRECT EXAMINATION

2 BY MR. BAX:

3 Q. Just to make sure we're clear. Ms. Campbell, the

4 only time you saw a gun in Mr. Robinson's hand was on

5 Wild Horse Road correct?

6 A. That's the only time I saw him that day.

7 Q. Correct. And you were not on Marshland Road or

8 Allen Road on that day is that correct?

9 A. I absolutely was not.

10 Q. Okay.

11 MR. BAX: No further questions, Your Honor.

12 THE COURT: Thank you. You can step down Ms.

13 Campbell. Thank you.

14 [Whereupon, the witness is excused and exits the

15 witness stand]

16 THE COURT: Mr. Bax?

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State v Tyrone Robinson
Andres Florencio-Direct Examination by Mr. Bax
September 18, 2014

1 MR. BAX: Your Honor, the defense at this time
2 calls Officer Andres Florencio.

3 THE COURT: Come forward please sir Officer
4 Florencio and be sworn.

5 [Whereupon, Officer Florencio comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 CLERK OF COURT: Would you state and spell your
9 name for the record please?

10 THE WITNESS: Its Andres Florencio, A-N-D-R-E-S
11 F-L-O-R-E-N-C-I-O.

12 - - - - -

13 ANDRES FLORENCIO,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BAX:

18 Q. Good morning Officer Florencio. Thank you for
19 coming here today.

20 A. Good morning.

21 Q. And I apologize I did not try to spell your name for
22 the court reporter; I left that to you, okay. Real
23 briefly; do you recall being a part of an interview of
24 Mr. Tyrone Robinson on September 1st of 2012 about two
25 years ago?

State v Tyrone Robinson
Andres Florencio-Direct Examination by Mr. Bax
September 18, 2014

1 A. Yes, I do.

2 Q. And do you recall whether or not that room was
3 equipped with audio video recording equipment?

4 A. I believe it was, yes.

5 Q. Okay. And in fact the video has been shown to the
6 jury. That video shows an individual wearing what looks
7 like some kind of flax jacket or Sheriff's Department
8 jacket on it. And I believe Ms. Conant has testified she
9 believed that was you. Does that sound right to you?

10 A. That interview was two years ago. I have not seen
11 the interview. I can't say 100 percent that was me but I
12 do remember being there.

13 Q. Okay. I understand. And I do want to make sure
14 that that is clear. You haven't had a chance to review
15 that video and it has been quite a while correct?

16 A. Correct. The only thing I did was review my
17 incident report, which I prepared. And the only thing
18 that it mentions about the interview because I was not
19 the primary interviewer is that I sat in on the
20 interview.

21 Q. Okay. And that's understandable. Let me ask you
22 this and I know like you said it's been two years. Do
23 you recall anything about asking Mr. Robinson to see his
24 shoes?

25 A. I do not. I'd have to review the video tape to do

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Andres Florencio-Direct Examination by Mr. Bax
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1 that.

2 Q. Okay. If the video seems to show something like
3 that would you dispute what is on the video?

4 A. Like I said I'd have to see the video or take your
5 word for it.

6 Q. Okay. And as far as what's on the video if it
7 shows what appears to be you looking at the shoe or
8 taking a picture of the shoe would you have any reason to
9 dispute that at this time outside of being able to look
10 at the video?

11 A. No. I don't remember doing that but...

12 THE COURT: I believe the transcript of that is
13 available if you can get a copy.

14 MR. BAX: I certainly can, Your Honor.

15 [Whereupon, Mr. Bax reviews documents]

16 MR. STONE: Your Honor, we put the video in. I
17 think that's in the video that we put in and if it is we
18 agree that that took place. I think we've already put it
19 into evidence.

20 THE COURT: It is.

21 MR. BAX: It is; it's in evidence.

22 THE COURT: It's in evidence. Instead of looking
23 at the videotape I said ---

24 MR. BAX: --- and Your Honor ---

25 THE COURT: --- and the addressing of that might

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Andres Florencio-Direct Examination by Mr. Bax
September 18, 2014

1 ease his mind.

2 MR. BAX: And that's correct. With permission of
3 Solicitor Stone I'm just going to pass this up just for
4 purely refreshment of memory purposes.

5 THE COURT: Sure.

6 Q. [Mr. Bax] That's a transcript of what occurred. I'm
7 just going to hand you that and see if it refreshes your
8 memory about that portion of the video.

9 [Whereupon, the witness reviews document]

10 A. It says male officer. Like I said I don't remember
11 exactly. I'd have to watch the video and see if that's
12 even my voice. Like I said it's been two years and I
13 can't remember the exact details of what I said or didn't
14 say.

15 Q. Okay.

16 A. And all that says is male officer so I can't tell
17 you that that is me.

18 Q. So that's not really enough to refresh your memory
19 but basically you're saying you don't remember so it
20 could have happened or it could not have happened.

21 A. Correct. I can tell you in detail the specifics of
22 what I remember if that's what you would like me to do
23 now.

24 Q. Okay. I just wanted to stay specific to that. I
25 appreciate your time coming in. And since the video is

State v Tyrone Robinson
Andres Florencio-Direct Examination by Mr. Bax
September 18, 2014

1 in I'm going to leave it at that. Thank you, officer.

2 No further questions.

3 THE COURT: Mr. Stone?

4 MR. STONE: No questions, Judge. Thank you.

5 THE COURT: Officer Florencio you can step down.

6 Thank you.

7 [Whereupon, the witness is excused and exits the
8 witness stand]

9 MR. BAX: Your Honor, approach at this time if I
10 may?

11 THE COURT: All right.

12 [Whereupon, an off the record bench conference is
13 held]

14 THE COURT: We're talking about scheduling matters,
15 folks. That's all it is; no secrets other than that.
16 We're trying to decide the order of things from this
17 point on. Mr. Bax?

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State v Tyrone Robinson
Laurel Albertin-Direct Examination by Mr. Bax
September 18, 2014

1 MR. BAX: Thank you, Your Honor. May it please
2 the court? The defense at this time would call Officer
3 Laurel Albertin to the stand.

4 THE COURT: Folks the witnesses in this case as you
5 all have well concluded by this time have been
6 sequestered. That means they have been kept out of the
7 courtroom and they only appear when they are testifying
8 so necessarily there is a delay while we go down and get
9 them. Officer Albertin if you will resume the stand
10 please ma'am you are still under oath.

11 [Whereupon, Officer Albertin comes forward]

12 - - - - -

13 LAUREL ALBERTIN,

14 Having been previously duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BAX:

18 Q. Good morning Officer Albertin how are you doing?

19 A. Good morning, fine thank you.

20 Q. I always just like Solicitor Stone I don't like to
21 get rank wrong. Is it Sergeant?

22 A. Yes, sir.

23 Q. Okay. Sergeant Albertin, I know you've already
24 been on the stand but let me ask this question I believe
25 again. You were part of the Sheriff's Office

State v Tyrone Robinson
Laurel Albertin-Direct Examination by Mr. Bax
September 18, 2014

1 investigation of the shooting of [Minor] on
2 September 1st of 2012 correct?

3 A. Yes, sir.

4 Q. Okay. And as a part of that investigation did you
5 have the opportunity to attempt to interview Aaron Young,
6 Jr.?

7 A. Yes, I did.

8 Q. Okay. And where did that interview occur at on
9 that day?

10 A. On that date the interview occurred at the Sheriff's
11 Office, the Hilton Head office located at 70 Shelter Cove
12 Lane.

13 Q. Okay. And to your knowledge was that interview
14 room that was recorded video and audio?

15 A. Yes, it was.

16 Q. Okay. Now Mr. Aaron Young, Jr. was in that room
17 for some period of time. Eventually he started making
18 statements about his side of the story, is that correct?

19 A. That's correct.

20 Q. Now in this case there has been a transcription of
21 what happened so I am going to ask you based on that if
22 that's all right.

23 Do you recall during that interview that Aaron
24 Young, Jr. told you that they went looking for Tyrone
25 Robinson? Let me back up just to make sure for

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September 18, 2014

1 completeness. He told you about an incident at ■ Old
2 Wild Horse Road first, correct?

3 A. Yes, he did.

4 Q. Okay. And he said that's where he and his father
5 lived is that correct?

6 A. That's correct.

7 Q. Okay. And then he told you that Tyrone Robinson
8 had fired a weapon over at that residence.

9 A. Yes.

10 Q. Okay. But Aaron Young, Jr. did tell you that
11 Tyrone left, correct; that he drove off?

12 A. That's correct.

13 Q. Okay. And that -- did Aaron Young, Jr. tell you
14 what they did after that after Tyrone Robinson left?

15 A. Yes, he did.

16 Q. Okay. Did he indicate to you that he and his
17 father tried to find Tyrone Robinson?

18 A. Yes.

19 Q. Can you tell us -- I mean without me just leading
20 you through everything here I'm trying not to do that.
21 Tell us what you recall of what he told you they were
22 doing that afternoon, please.

23 A. At which point?

24 Q. After Tyrone Robinson left and he and his father got
25 in their vehicle what did he tell you they did?

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1 A. He stated that they drove down to the Oak View area;
2 they drove down Marshland Road and into the Allen Road
3 area.

4 Q. What did Aaron Young, Jr. tell you their intent was?
5 What was their purpose in doing that?

6 A. He didn't really state what the purpose was. They
7 were very upset at the time over the incident that
8 occurred at Old Wild Horse.

9 Q. Well, did he indicate that they were upset about the
10 shooting that Tyrone Robinson had committed at their
11 house?

12 A. That's correct.

13 Q. Okay. And did he state that he understood that
14 going to follow him with a gun was not the correct thing
15 to do; that that wasn't right?

16 A. Yes.

17 Q. Okay. Now he also did confirm that they had a gun
18 with them correct?

19 A. That's correct.

20 Q. And he confirmed that they were looking for Tyrone?

21 A. Yes.

22 Q. Okay. And did Aaron Young, Jr. tell you what he
23 did with the gun when they found the car that they
24 believed was Tyrone Robinson's?

25 A. He stated that they did shoot the car but there was

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1 nobody around the car.

2 Q. Okay. So he testified there was nobody around the
3 car, correct?

4 A. That's correct; there was nobody in the car or
5 around the car.

6 Q. Okay. And he indicated that he did see that there
7 were children in that area correct?

8 A. Yes. He said the children were a good distance
9 away. They were not in the area of the car. They were
10 down across the street.

11 Q. Okay. And did he indicate to you that after they
12 had shot the car that as they were pulling away they
13 passed by where the children were?

14 A. That's correct.

15 Q. And Aaron Young, Jr. he also told you that he
16 understood or he believed that if they hadn't have gone
17 down there that the boy wouldn't be dead now. He made
18 that statement correct?

19 A. He made that statement, correct.

20 Q. Now obviously you've testified that Aaron Young, Jr.
21 was upset just like his father about what happened with
22 Tyrone correct?

23 A. Yes.

24 Q. Okay. And did Aaron Young, Jr. did he make it
25 clear that he does not like Tyrone Robinson?

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1 A. He made statements indicating that he did not like
2 what he was doing to the community.

3 Q. Okay. So did you get the impression from what
4 Aaron Young, Jr. was saying to you that he believed
5 Tyrone Robinson not to be a good guy?

6 A. That's correct.

7 Q. Okay. And he had not very nice things to say about
8 Tyrone Robinson, correct?

9 A. Correct.

10 Q. Okay. I believe at one point he said that Tyrone
11 Robinson was retarded, correct?

12 A. That's correct.

13 Q. Okay. And I believe he said that it was his firm
14 belief that Tyrone was dangerous.

15 A. I believe in the statement where he said he was
16 retarded he said that they wouldn't kill him because he
17 was retarded and he just did things like that; dumb
18 things like that.

19 Q. That Tyrone Robinson would do things like that
20 because he was retarded is that correct?

21 A. That's correct.

22 Q. Did he also call him crazy at one point?

23 A. I don't recall exactly but he might have called him
24 that.

25 Q. Okay. And like you said before he said that he

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1 believed that he was bad for the community is that

2 correct; to paraphrase what Aaron Young, Jr. ---

3 A. --- he was dangerous to the community, yes.

4 Q. Okay.

5 MR. BAX: A moment's indulgence, Your Honor.

6 THE COURT: All right.

7 [Whereupon, Mr. Bax confers with Ms. Saxon and his
8 client]

9 Q. [Mr. Bax] Sergeant briefly just to make sure I've
10 gone through everything. Aaron Young, Jr. told you that
11 they actually encountered Tyrone again before Allen Road
12 correct? That they encountered him on Oak View Road is
13 that right?

14 A. Yes, sir.

15 Q. Okay. And do you recall that Aaron Young, Jr. told
16 you at that time that they attempted to shoot at Tyrone
17 in his car but that the gun jammed?

18 A. Yes, sir.

19 Q. Okay. And you recall that Aaron Young, Jr. made
20 the statement that if the gun hadn't jammed it would have
21 been all over right then?

22 A. I don't recall that statement in particular.

23 Q. Do you recall that he said the gun jammed?

24 A. Yes, sir.

25 Q. Okay. And do you recall that it jammed when there

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1 was an attempt to shoot at Tyrone while he was driving
2 his car at that time?

3 A. Yes, sir.

4 Q. Okay. And do you recall that Aaron Young, Jr. also
5 told you that after this incident on Oak View Road that
6 actually he and his father returned back to Wild Horse
7 Road?

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

9 MR. BAX: Moment's indulgence, Your Honor.

10 THE COURT: Okay.

11 [Whereupon, Mr. Bax confers with his client]

12 [Whereupon, Mr. Bax reviews documents]

13 Q. [Mr. Bax] Sorry Sergeant, it's a very large
14 transcript it took me a minute to find it. I apologize.

15 MR. BAX: Your Honor, approach the witness?

16 THE COURT: Yes, sir.

17 Q. [Mr. Bax] Just out of making it easier I'm just
18 pulling these pages out. Can you take a look at those
19 and see if those refresh your memory about that portion
20 of the conversation?

21 [Whereupon, the witness reviews document]

22 A. He did state that at one point, yes. But he made a
23 few different statements so.

24 Q. Certainly. But that portion of this interview --
25 and this is -- this refreshes your memory that that

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1 appears to be accurate to what was happening on that day
2 on September 1st, is that correct?

3 A. Yes, sir.

4 Q. Okay. And that he stated that they encountered him
5 on Oak View Road and that the gun jammed at that time
6 correct?

7 A. Correct.

8 Q. Okay. And that after than they actually went home
9 correct, back to Wild Horse Road.

10 A. That's what he said in that statement.

11 Q. Yes. And he says that the gun jammed so we didn't
12 do it at that time.

13 A. Correct.

14 Q. Okay. Thank you very much.

15 MR. BAX: Moment's indulgence, Your Honor.

16 THE COURT: All right, sir.

17 Q. [Mr. Bax] And briefly one follow up. I think this
18 is out there but just to make sure that we are clear.
19 This incident at Oak View Road happened before what
20 happened on Allen Road is that correct?

21 A. That's correct.

22 Q. So the timeline that basically he is saying at that
23 point in his interview is that this happened on Oak View.
24 They went back to their house and then at some point they
25 leave again to go to Allen and Marshland Road.

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September 18, 2014

1 A. That's correct.

2 Q. Okay. Thank you.

3 THE COURT: Thank you. Mr. Stone?

4 MR. BAX: Your Honor, prior to Solicitor Stone I
5 just have one matter at the bench that I'd ask to
6 approach.

7 [Whereupon, an off the record bench conference is
8 held]

9 THE COURT: Mr. Stone, you can cross-examine.

10 MR. STONE: Thank you, Your Honor.

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State v Tyrone Robinson
Laurel Albertin-Cross-Examination by Mr. Stone
September 18, 2014

1 CROSS-EXAMINATION

2 BY MR. STONE:

3 Q. Investigator Albertin let me see if I can make sure

4 that we are -- see if I can help out here. You

5 interviewed or you were involved in a number of

6 interviews with both Aaron Young, Sr. and Aaron Young,

7 Jr. were you not?

8 A. Yes, sir.

9 Q. And you were at the Sheriff's Office in fact even

10 later on you interviewed both of them at the Beaufort

11 County Detention Center and you were involved in those as

12 well.

13 A. Yes, I was.

14 Q. Let's specifically talk and when you were talking

15 when you were down at the Sheriff's Office you've got

16 both Aaron Young, Jr. and Aaron Young, Sr. both of them

17 in two different rooms, is that correct?

18 A. That's correct.

19 Q. I know at one point they were put together but most

20 of the statement -- everything that we are going to talk

21 about happened before they were put together?

22 A. Yes, sir.

23 Q. So they are in two separate rooms and you're

24 involved in both the interview of Senior as well as

25 Junior?

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1 A. That's correct.

2 Q. All right. Let me first start talking about
3 Junior. And I want to make sure that we are clearing up
4 a little bit about what the defense asked you as well.

5 But Junior tells you, in fact I think a number of
6 times, that at his house over on Wild Horse Road and I'll
7 use this [indicates] map to make sure that we're all
8 clear on what we're talking about. Could I get you to
9 come down please, ma'am?

10 [Whereupon, the witness steps down from the stand]

11 THE COURT: Sergeant Albertin, just to remind you if
12 you can kind of face in the general direction of the
13 court reporter in some way -- you can stand wherever you
14 want to just so that your back is not completely to her,
15 okay.

16 THE WITNESS: Yes, sir.

17 Q. [Mr. Stone] And the three points on this map point
18 number one is the White Horse Road -- old Wild Horse
19 Road; excuse me. I think they kept referring to it a
20 good bit as the Squire Pope area but all that up in point
21 one, right?

22 A. Yes, sir.

23 Q. Let me get you to back up because I want to make
24 sure the Foreman can see. Point two is the Oak View area
25 which is the Spanish Wells area on this map, is that

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1 right?

2 A. That's correct.

3 Q. And then number three is the Allen Road area, is
4 that correct?

5 A. Yes.

6 Q. You're talking to Aaron Young, Jr. in the interviews
7 in three or four times it seems that Aaron Young, Jr.
8 told you that here in point one over here at Old Wild
9 Horse Road where they were at their home Tyrone Robinson
10 came to them and got in a fight and shot at them,
11 correct?

12 A. That's correct.

13 Q. He then told you that they went in their house, they
14 got their gun and they chased him right?

15 A. Yes.

16 Q. And they chased him all the way down to the Oak View
17 area, is that right?

18 A. That's correct.

19 Q. And in fact Aaron Young, Jr. said if we could have
20 shot him at Oak Wood [sic] we would have done it then
21 right?

22 A. Yes.

23 Q. And that is pretty much when I guess the gun
24 wouldn't work or they couldn't get the gun to work is
25 that right?

State v Tyrone Robinson
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1 A. He said the gun jammed, yes.

2 Q. Okay. They at some point in time continued on to
3 the Allen Road area, is that correct?

4 A. That's correct.

5 Q. Still chasing after Tyrone Robinson?

6 A. Yes.

7 Q. And I think there was some testimony that Robinson
8 either maybe pointed the gun at him in the Oak View area
9 or what not but when they got to the Allen Road area the
10 car was there but he wasn't, is that correct?

11 A. Yes.

12 Q. When they get to the Allen Road area they find the
13 car, they don't see Tyrone Robinson and Aaron Young, Jr.
14 tells you he shot up the car, right?

15 A. Yes.

16 Q. And in fact I think he also tells you that he used a
17 .9mm gun to do it.

18 A. Yes.

19 Q. And that was the rapid fire gun I think that
20 probably is in evidence but that is the gun that he used
21 when he shot up the car, is that correct?

22 A. He said he swiss cheesed the car.

23 Q. Swiss cheesed the car I think was the term.

24 A. Yes.

25 Q. He tells you and I believe four or maybe five times

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1 in various parts of his statement that as they are
2 leaving the Allen Road area he hears three shots as they
3 are driving by, which is I guess on this model would be
4 Charlese's house is that correct?

5 A. That's correct.

6 Q. And he tells you that once, twice, probably three or
7 four times, is that correct?

8 A. Yes.

9 Q. Aaron Young, Sr. who is in a separate room at this
10 point tells you the same thing does he not?

11 A. Yes, he does.

12 Q. Okay. Go ahead and take the stand for me.

13 [Whereupon, the witness returns to the stand]

14 Q. So Aaron Young, Jr. admitted to going after Tyrone
15 Robinson. He admitted to wanting to shoot him. He
16 admitted to wanting to kill and in fact he pretty much
17 described them chasing him to Allen Road and they also
18 describe Robinson shooting back at them, is that correct?

19 A. Yes. They stated as they drove past away from where
20 the car was shot up they drove down the street and they
21 saw the children playing and they heard the shots being
22 fired from that area.

23 Q. And in fact Junior actually said that he thought
24 that Robinson had put the car in one location and went to
25 another so he could get a shot at them.

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1 A. That's correct.

2 MR. STONE: Nothing else, Your Honor.

3 THE COURT: Thank you. Mr. Bax, redirect?

4 MR. BAX: Yes, Your Honor. Thank you very much.

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State v Tyrone Robinson
Laurel Albertin-Rédirect Examination by Mr. Bax
September 18, 2014

1 REDIRECT EXAMINATION

2 BY MR. BAX:

3 Q. Sergeant, now Aaron Young, Jr. told you that he
4 heard those shots but I don't believe that Aaron Young,
5 Jr. ever told you that he saw Tyrone Robinson. He
6 claimed they were driving away and heard three more
7 shots, is that correct?

8 A. That's correct. They drove past where the children
9 were playing and they heard the shots being fired in that
10 area.

11 Q. Okay. And he was in this -- let me show you this.
12 I'm kind of building up a lot of exhibits at this point.

13 MR. BAX: Moment's indulgence, Your Honor.

14 THE COURT: Okay.

15 Q. [Mr. Bax] Sergeant, I'm going to show you State's
16 exhibit 10 and State's exhibit 9.

17 [Whereupon, the witness is shown photographs]

18 Q. Aaron Young, Jr. confirmed to you that was their car
19 and that was the car they were driving on that day, is
20 that right?

21 A. That's correct.

22 Q. And it was described as a grey F-150 is that right?

23 A. Yes.

24 Q. And in fact State's number 10 is how it was when it
25 was pulled over on 278 and Gum Tree I believe?

State v Tyrone Robinson
Laurel Albertin-Redirect Examination by Mr. Bax
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1 A. Yes, sir. I wasn't at that location.

2 Q. That's what was described to you by other officers
3 as the location of the vehicle when it was pulled over?

4 A. Yes, sir.

5 Q. Okay.

6 MR. BAX: No further questions, Your Honor. Thank
7 you.

8 THE COURT: Thank you.

9 MR. STONE: Nothing else, Your Honor.

10 THE COURT: Thank you. Sergeant Albertin you can
11 step down. Thank you, ma'am.

12 [Whereupon, the witness is excused and exits the
13 witness stand]

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1 THE COURT: Do we have any way of contacting the
2 next witness to see how far and where they are...

3 MR. BAX: We certainly can. I'm not sure if the
4 phone number we have is a mobile number or not, but it
5 may be. So I can certainly myself or my investigator
6 attempt once again to get a progress report, Your Honor.

7 THE COURT: Let's do that before we decide to take
8 an early break okay.

9 MR. BAX: Certainly.

10 THE COURT: Folks, the next witness is the student
11 who is on his way here from school. We realized earlier
12 that it was going to take a while to get here. They are
13 in transit now. If they are real close we'll just take a
14 break and wait. If they're still 45 minutes away then we
15 might just have to take an early lunch break and we won't
16 waste your time in that regard. It's probably going to
17 take them a minute or two to make that call. If you'll
18 step to your jury room while we're checking on that and
19 we'll let you know what the plans are. Thank you.

20 [Whereupon, the jury exits at 11:15 a.m.]

21 THE COURT: Folks it occurred to me that we're the
22 only ones who haven't had a morning recess yet so we'll
23 take it at this point in time. Let's start back at
24 11:30. Let me know as soon as you hear. If it's going
25 to be a while we might just take an early lunch break.

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1 MR. BAX: I will check on that right now, Your
2 Honor.

3 THE COURT: Thank you.

4 [Whereupon, court is in recess from 11:16 a.m. until
5 12:45 p.m.]

6 THE COURT: Folks, are we all ready for the jury?

7 MR. STONE: The State is ready -- well, not for the
8 jury. I think -- don't you have to do the qualification?
9 Were you going to do the qualification in front of the
10 jury?

11 THE COURT: I'll be glad to do it out of presence
12 of the jury.

13 MR. STONE: It doesn't make any difference to me.
14 I just didn't know; I apologize. Yes sir, we're ready.

15 THE COURT: No, as a matter of fact I can do out of
16 the presence of the jury and will be glad to do it out of
17 the presence of the jury if that's okay with everybody.

18 MR. BAX: That's all right with us, Your Honor.

19 THE COURT: That's fine. I didn't know whether
20 that issue of creditability was important for y'all for
21 the jury to see. It suits me to do it out of the
22 presence of the jury. It's easier to do out of the
23 presence of the jury.

24 MR. STONE: Is it? I have no idea, Your Honor.
25 It's been so long since we used that process I don't know

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1 the answer. So whatever you feel more comfortable doing.

2 THE COURT: We'll do it that way. All right. Is

3 J.S. here?

4 MR. BAX: Yes, he's here. Ms. Saxon is going to
5 ask him to come in, sir.

6 THE COURT: All right.

7 [Whereupon, J.S. enters the courtroom]

8 THE COURT: J.S., how are you doing? Can I get
9 you to come sit in this big chair right here?

10 [Whereupon, J.S. takes the witness
11 stand]

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State v Tyrone Robinson

J.S. -In-Camera Examination by the Court
September 18, 2014

1 IN-CAMERA EXAMINATION.

2 BY THE COURT:

3 Q. J.S., I'm going to ask you a few questions before
4 we get the jury in here and start to ask you some
5 questions in your presence. So if you don't understand
6 any of these things you let me know and I'll be glad to
7 put it in another way.

8 A. Okay.

9 Q. What grade are you in J.S.?

10 A. Fourth.

11 Q. Fourth? And how old are you?

12 A. Nine.

13 Q. Nine years old? Do you play baseball?

14 A. No, I don't.

15 Q. You don't play baseball? Do you plan any sports?

16 A. Yes.

17 Q. What kind of sports do you play?

18 A. Football.

19 Q. Football? What position do you play in football?

20 A. Um...

21 Q. Do you run with the ball, do you throw the ball, do
22 you kick the ball or do you do all those things?

23 A. All of them.

24 Q. Do you do that in class or do you do that in the
25 playground after school?

- 1 A. In the playground after school.
- 2 Q. Okay. How many teachers do you have? Do you have
- 3 one teacher in the fourth grade or do you go to separate
- 4 teachers?
- 5 A. Two different teachers.
- 6 Q. Two different teachers? I've got a grandson and
- 7 he's about your age too and so he goes to two different
- 8 teachers this year as well. What's the name of the
- 9 school you go to?
- 10 A. I.B.
- 11 Q. What's that?
- 12 A. In Hilton Head.
- 13 Q. You have rules in that school don't you?
- 14 A. Yes.
- 15 Q. Does the teacher let you run up and down the hall?
- 16 A. No.
- 17 Q. It's against the rules to run down the hall is that
- 18 right?
- 19 A. Yes.
- 20 Q. Does the teacher let you talk out in class when
- 21 anybody else is talking?
- 22 A. No.
- 23 Q. That would be breaking the rule if you did that?
- 24 A. Yes.
- 25 Q. What happens if you break the rules?

State v Tyrone Robinson

J.S. In-Camera Examination by the Court

September 18, 2014

1 A. We either have recess detention or we get suspended.

2 Q. So you realize it's not a good thing to break the
3 rules is it?

4 A. No.

5 Q. It's a bad thing to break the rules. Well, in this
6 place where we are, and we call this a courtroom, we've
7 got rules too. Do you understand that?

8 A. Uh Huh.

9 Q. And one of the rules that we have that is a real
10 important rule is that you have to tell the truth. Do
11 you understand that?

12 A. Yes.

13 Q. And you know the difference between what is the
14 truth and what is not the truth don't you?

15 A. Yes.

16 Q. And what's it best to do; to tell the truth or not
17 to tell the truth?

18 A. To tell the truth.

19 Q. Okay. If you are asked some questions do you think
20 you can tell the truth?

21 A. Yes.

22 Q. Okay. And if you know the answer you will give the
23 answer truthfully?

24 A. Yes.

25 Q. And if you don't the answer you'll say I don't know

State v Tyrone Robinson
J.S. -In-Camera Examination by the Court
September 18, 2014

1 the answer?

2 A. Yes.

3 Q. And that will be the truth too?

4 A. Yes.

5 Q. Okay. So do you promise you will tell the truth in
6 this courtroom?

7 A. Yes.

8 Q. And you understand what it means when you make a
9 promise don't you?

10 A. Yes.

11 Q. That's all we ask you to do. Thank you, J.S.

12 A. You're welcome.

13 Q. We'll get the jury in right now and let them come to
14 meet you and answer some questions when they are here,
15 okay?

16 A. All right.

17 MR. BAX: Thank you, Your Honor. May we, Mr. Stone
18 and I approach real quick?

19 THE COURT: Sure.

20 [Whereupon, an off the record bench conference is
21 held]

22 THE COURT: I was reminded folks with the media
23 please with a young person on the stand you are not to
24 depict him or talk about his name -- reveal his name,
25 okay? Thank you very much.

State v Tyrone Robinson

J.S. -In-Camera Examination by the Court

September 18, 2014

1 THE COURT: We're ready for the jury. J.S.,
2 you've met some of these people in here. This
3 [indicates] is Mr. Bax; he is going to be asking you some
4 questions. Mr. Stone [indicates] who you have met might
5 be asking you some questions too, okay?

6 J.S.: Okay.

7 THE COURT: You might miss the rest of school
8 today. Is that a bad thing or a good thing?

9 J.S.: I don't know.

10 THE BAILIFF: The jury is entering the courtroom,
11 Your Honor.

12 [Whereupon, the jury enters at 1:06 p.m.]

13 THE COURT: J.S. this [indicates] is the jury.

14 They don't have anything to do with you. You don't have
15 to worry about that. They are not judging you. This is

16 J.S. He has gotten out of school and he
17 is going to offer some testimony here today. He's trying
18 to decide whether getting out of school is all that bad a
19 thing or not. I think he's going to be able to bear up
20 under it well. J.S., this is the jury. You've met the
21 people who are going to be asking you questions. You
22 speak right into that microphone so that they can hear
23 you okay? Thank you. Mr. Bax?

24 MR. BAX: Thank you, Your Honor.

25

State v Tyrone Robinson

J.S. Direct Examination by Mr. Bax

September 18, 2014

1 J.S.,
2 Was examined and testified as follows:
3 DIRECT EXAMINATION
4 BY MR. BAX:
5 Q. Good afternoon J.S.
6 A. Good afternoon.
7 Q. Thanks for coming over.
8 A. You're welcome.
9 Q. J.S. I just need to ask you some questions. If
10 you don't understand what I'm asking you let me know.
11 And if you need some time you let me know, okay?
12 A. Okay.
13 Q. J.S. do you remember a couple of years ago --
14 well, let me ask you this. Where do you live at?
15 A. .
16 Q. ?
17 A. Uh Huh.
18 Q. And where is ? Is that on Hilton Head
19 Island?
20 A. Uh Huh.
21 Q. It is?
22 A. .
23 Q. On , okay. Before you lived there did
24 you live near a place called Allen Road?
25 A. Yes.

State v Tyrone Robinson

J.S. Direct Examination by Mr. Bax

September 18, 2014

1 Q. Yes? Now it's 2014 right now; that's the year, is
2 that right?

3 A. Yes, sir.

4 Q. Okay. Do you remember whether or not you were
5 living on Allen Road back in 2012; that would have been
6 about two years ago?

7 A. Yes.

8 Q. Okay. J.S. what grade are you in right now?

9 A. Fourth.

10 Q. Fourth grade. So about two years ago would you have
11 been in second grade? Would that be right?

12 A. Yes.

13 Q. Okay. Were you still going to the same school then
14 as you are now?

15 A. Yes.

16 Q. J.S. back in 2012 do you remember on September 1st
17 something happened to your friend, Minor?

18 A. Yes.

19 Q. Okay. J.S. can you tell us what you remember
20 happened that day, please?

21 A. Me and Minor were jumping on the trampoline and we
22 heard gunshots so we ran. And after we ran Minor just
23 fell down to the ground and I didn't realize what
24 happened. And that's all I remember.

25 Q. Okay. Thank you, J.S. Do you remember seeing

State v Tyrone Robinson

J.S. - Direct Examination by Mr. Bax

September 18, 2014

1 anybody else beside [Minor] that day?

2 A. Yes.

3 Q. Who do you remember seeing?

4 A. My friend Jose and my friends and the person who
5 shot my cousin.

6 Q. Okay. Can you tell us what you saw of that person?
7 What did you see that person do?

8 A. He was shooting at another car -- I mean shooting at
9 somewhere else. And then I think he was running middle
10 of the way. And I don't know. I don't think he did it
11 on purpose.

12 No, he didn't do it on purpose. And he was running
13 and he must have didn't realize it but -- or I didn't
14 realize it but the bullet hit him.

15 Q. Okay. Thank you, J.S. Do you remember that
16 police came after that happened is that right?

17 A. Yes.

18 Q. Okay. And do you remember a couple of days after
19 all this happened do you remember going to talk to a lady
20 named Mary Beth?

21 A. Yes.

22 Q. You do? Okay. And do you remember having a
23 conversation with her in a room talking about what
24 happened to [Minor]?

25 A. Yes.

State v Tyrone Robinson

J.S. -Direct Examination by Mr. Bax

September 18, 2014

1 Q. And do you remember telling her -- well, you told
2 her that you were running and Minor was running a little
3 bit behind you do you remember that?

4 A. Uh Huh.

5 Q. Do you remember telling her that you didn't see any
6 adults around?

7 A. Uh Huh.

8 Q. So you did tell her that? Can you answer yes or no
9 for me J.S.?

10 A. Yes.

11 Q. Okay. Thank you. Why did you tell Ms. Hefner
12 that you didn't see anybody, didn't see any adults?

13 A. Because we really couldn't see any because we were
14 running.

15 Q. Okay. And you didn't tell Ms. Hefner that you saw
16 the person that was shooting is that right?

17 A. [Nods affirmatively]

18 Q. Can you say ---

19 A. --- yes.

20 Q. Yes, okay. Why didn't you tell Mary Beth that you
21 didn't see anything because you were running? I'm sorry;
22 why didn't you tell Mary Beth that you saw the person
23 shooting?

24 A. Because he was right next to the house and I
25 couldn't really see anything because my face was turned.

State v Tyrone Robinson

J.S. -Direct Examination by Mr. Bax

September 18, 2014

1 But all I saw Minor just fall to the ground.

2 Q. Okay. Well, I want to thank you for coming in and
3 talking to all us okay.

4 A. Uh Huh.

5 Q. Thank you.

6 A. You're welcome.

7 THE COURT: Thank you. Now, J.S. Mr. Stone is
8 going to have some questions he is going to ask of you
9 okay.

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State v Tyrone Robinson

J.S. - Cross-Examination by Mr. Stone
September 18, 2014

1 CROSS-EXAMINATION

2 BY MR. STONE:

3 Q. J.S. I just have a few questions. You're in

4 school at Hilton Head, is that right?

5 A. Yes.

6 Q. You're in what they call the I.B. Program is that

7 right?

8 A. Yes.

9 Q. And thank you for coming today and telling us what

10 happened. Can I ask you one thing though? When you saw

11 the guy, and I know you said you didn't think he meant to

12 shoot him he was shooting at somebody else, is that

13 right?

14 A. Yes.

15 Q. Do you remember if he was standing up or crouching

16 down? In other words was he standing up or was he

17 crouching down [indicates] when he shot him? Do you

18 remember that?

19 A. Standing up.

20 Q. Okay. And he was -- okay. And you saw --

21 basically you saw him after your friend fell?

22 A. Yes.

23 Q. Okay. Thank you, J.S. I appreciate it.

24 A. You're welcome.

25 THE COURT: Mr. Bax?

State v Tyrone Robinson

J.S. -Cross-Examination by Mr. Stone

September 18, 2014

1 MR. BAX: No further questions.

2 THE COURT: J.S. thank you so much for coming.

3 You can go back to school now if your folks are going to
4 make you. I think you ought to get them to take you by
5 and get you something, a milkshake or something so you
6 don't have to go back to school. Thank you for coming.

7 J.S. : You're welcome.

8 [Whereupon, the witness is excused and exits the
9 witness stand]

10 THE COURT: All right Mr. Bax, you can call your
11 next witness.

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1 MR. BAX: Thank you, Your Honor. At this time I
2 would -- I think I would want to get into the testimony
3 that we would need to publish previously discussed. And
4 I know we didn't decide on who would read that out so if
5 I may approach so we can discuss that briefly and then we
6 can move on from there.

7 THE COURT: If you want co-counsel to read it that
8 would be fine.

9 MR. BAX: Okay.

10 THE COURT: Any problem with that Mr. Solicitor?

11 MR. STONE: I don't think so.

12 THE COURT: Normally my law clerk would do that but
13 I don't have a law clerk.

14 [Whereupon, an off the record bench conference is
15 held]

16 THE COURT: Mr. Bax?

17 MR. BAX: Thank you, Your Honor. At this time
18 after conference I would call Captain Bromage to the
19 stand.

20 THE COURT: Thank you. Captain, if you will
21 resume the stand please sir? You're still under oath.

22 MR. STONE: I was just going to explain to him real
23 quick ---

24 THE COURT: --- oh, yes do that. Ladies and
25 gentlemen, what we've been talking about is the mechanics

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1 of trying to get this next bit of testimony before you.
2 The next bit of testimony that is going to be offered is
3 sworn testimony of Aaron Young, Sr. who was also charged
4 in this event. Obviously he is not on trial in this
5 particular event but he made certain statements. He
6 testified under oath as to some of those statements in a
7 prior proceeding. He is not here obviously, the
8 testimony is preserved.

9 Captain Bromage was there and was also present on
10 some interviews so that's the purpose of recalling the
11 Captain; to get the testimony of that other person, not
12 here, in the record. This is not necessarily Captain
13 Bromage's testimony per se; it is testimony of what
14 somebody else said and what Captain Bromage heard him
15 say. Thank you. Captain, you can resume the stand
16 please. You're still under oath.

17 [Whereupon, Captain Bromage comes forward and
18 resumes the witness stand]
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State v Tyrone Robinson
Robert Bromage-Direct Examination by Mr. Bax
September 18, 2014

1 MR. BAX: May it please the court?

2 THE COURT: Yes, sir.

3 MR. BAX: Thank you very much.

4 - - - - -

5 ROBERT BROMAGE,

6 Having been previously duly sworn,

7 Was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BAX:

10 Q. All right, Captain, good to see you again.

11 A. Good afternoon.

12 Q. Captain Bromage I want to ask you some questions
13 about statements that were made by Aaron Young, Sr. okay?

14 A. Yes, sir.

15 Q. Okay. And you were present during the time when --
16 you were present there at the Hilton Head branch office
17 when Aaron Young, Sr. was being interviewed, is that
18 correct?

19 A. I was.

20 Q. Okay. And you had a chance to talk to him during
21 this interview, is that correct?

22 A. I did.

23 Q. Okay. During that interview Aaron Young, Sr. he
24 described this event, this altercation that happened at
25 ■ Old Wild Horse Road, correct?

State v Tyrone Robinson
Robert Bromage-Direct Examination by Mr. Bax
September 18, 2014

1 A. He did.

2 Q. Okay. And he did tell you that he said Tyrone
3 Robinson had fired some rounds at his house or in that
4 location?

5 A. In that location, yes sir.

6 Q. Okay. Did Aaron Young, Sr. tell you he was upset
7 about that; that that made him mad?

8 A. They were upset, yes sir.

9 Q. Okay. And did Aaron Young, Sr. tell you that he
10 indicated they were going to go get their guns when he --
11 after this shooting happened they went in the house?

12 A. I don't recall where he said he got the gun. I
13 don't know.

14 Q. Okay. And then I'll look for that and see if I can
15 find that. Now did he testify, not testify, but did he
16 tell you in this interview or did he made statements that
17 he was aware that Tyrone Robinson left ■ Old Wild Horse
18 Road, that he drove off?

19 A. Yes.

20 Q. Okay. And he told y'all at that time that he and
21 his son Aaron Young, Jr., we've already testified about
22 that familial relationship, correct?

23 A. Yes, we have.

24 Q. Okay. That he and his son, Aaron Young, Jr.
25 decided to get in their truck and go try to find Tyrone.

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1 A. He did.

2 Q. Okay. And he did confess to you that they had a
3 gun with them when they went and did that.

4 A. He did. He said a .9mm.

5 Q. A .9mm okay. And ultimately Aaron Young, Sr. was
6 the one who told you where that gun was, correct?

7 A. He actually brought me to the gun in the company of
8 another officer.

9 Q. Okay. And Captain you've been present for the
10 testimony in the trial thus far, is that correct?

11 A. I have, sir.

12 Q. Is that the same gun that the State has entered that
13 is labeled number 26?

14 A. It's that Masterpiece Arms.

15 Q. The Masterpiece Arms?

16 A. The .9mm submachine gun.

17 Q. This right here [indicates] correct?

18 A. Yes, sir.

19 Q. Along with the other various attachments that we've
20 all talked about, correct?

21 A. Yes, sir.

22 Q. And in fact just like your prior testimony he's the
23 one that led you to the shed where the bag was found?

24 A. He did.

25 Q. Okay. Now prior to that Aaron Young, Sr. did tell

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1 you that he was upset and he wanted to go do harm to
2 Tyrone Robinson, correct?

3 A. Yes, he did.

4 Q. Okay. And he confessed that they wanted to go kill
5 Tyrone Robinson?

6 A. Numerous times I believe.

7 Q. Numerous times. And he made statements similar to
8 what his son made that they went out multiple times and
9 had to come back and went back out correct?

10 A. I don't recall that they said they went back out but
11 they were out there looking for Tyrone.

12 Q. Okay. And do you recall if Aaron Young, Sr. said
13 that they had some contact with Tyrone on Oak View Road?

14 A. Yes, I do recall that.

15 Q. Did he also say that the gun jammed that they had
16 and that something happened with the gun?

17 A. I don't recall but that was part of the
18 investigation that something happened with the gun to
19 where they couldn't shoot Tyrone.

20 Q. Okay. And he didn't say anything to refute that?

21 A. No.

22 Q. He was consistent with that?

23 A. Yes.

24 Q. And he testified that at some point later they went
25 out to Allen Road, which is off Marshland Road?

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1 A. He did.

2 Q. And did Aaron Young, Sr. tell you that his son using
3 that gun shot up Tyrone's car?

4 A. Eventually he said that the car got shot up by his
5 son.

6 Q. Okay. Did -- from your recollection Captain did he
7 at first deny that and then kind of shifted back?

8 A. It was a process -- an interview process, an
9 interrogation process with Aaron Young, Sr., yes it was.

10 Q. Okay. His initial statements to you were not
11 really to that effect.

12 A. No, it's like a building block. You get a little
13 and a little bit more and then to a point.

14 Q. And did Aaron Young, Sr. indicate to you that based
15 on what happened that day on Old Wild Horse Road he was
16 very upset with Tyrone Robinson to say the least?

17 A. To say the least he was upset with Tyrone and that
18 continued.

19 Q. Continued?

20 A. Yes.

21 Q. Okay. And did Aaron Young, Sr. say, did he express
22 his opinion that Tyrone Robinson was dangerous and that
23 he was concerned about him?

24 A. Multiple times.

25 Q. Okay. And Aaron Young, Sr. did not think that

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1 Tyrone Robinson was a good guy.

2 A. Not at all. That is an understatement I'd say.

3 Q. Okay. But Aaron Young, Sr. also said he now
4 understood that he should not have gone after him,
5 followed him up, gone down there with a gun.

6 A. He was clear that they should not have gone back out
7 for Tyrone by what happened to the small child, yes he
8 was.

9 Q. Okay. And in fact he said that he was regretting
10 that decision that he made to go out and chase him down
11 that he should have let it go.

12 A. Of all of them he showed the remorse, yes he did.

13 Q. Okay. And in his statements to you at that time on
14 September 1st Aaron Young, Sr. eventually was very clear
15 that if had had the chance to kill Tyrone that day he
16 would have done it is that right?

17 A. That is correct.

18 Q. Thank you, Captain.

19 MR. BAX: A moment's indulgence, Your Honor.

20 THE COURT: Yes, sir.

21 [Whereupon, Mr. Bax confers with Ms. Saxon]

22 MR. BAX: No further questions at this time, Your
23 Honor, but I would ask I think my understanding was we
24 will get into the testimony with a reading by Ms. Saxon
25 after Mr. Bromage is done on the stand. Is that

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1 accurate?

2 THE COURT: However you want to get it.

3 MR. STONE: I have no objection if he wants to go
4 ahead and put that in through Captain Bromage. I think
5 that's perfectly fine, it's testimonial so.

6 MR. BAX: I think if it pleases Your Honor I'm just
7 going to make that separation so that there is that
8 difference.

9 THE COURT: All right. Mr. Stone?

10 MR. STONE: Thank you, Your Honor.

11

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1 CROSS-EXAMINATION

2 BY MR. STONE:

3 Q. Captain Bromage, you also -- so you were involved in
4 the investigation from the very beginning, is that
5 correct?

6 A. Yes, sir.

7 Q. You had Aaron Young, Sr. in one room of the Beaufort
8 County Sheriff's Office and Aaron Young, Jr. in another,
9 is that correct?

10 A. That is correct.

11 Q. And they were being questioned. They were separated
12 when they were making the statements that we are talking
13 about is that correct?

14 A. We kept all three separate, yes sir.

15 Q. And all three being the third one being Tyrone
16 Robinson ---

17 A. --- third being Tyrone Robinson, yes sir.

18 Q. And I know you were present for the testimony but
19 you actually were viewing it in a part of the
20 investigation and as far as the statements from both
21 Aaron Young, Jr. and Aaron Young, Sr., is that correct?

22 A. That's correct.

23 Q. Aaron Young, Sr. in a separate room from Aaron
24 Young, Jr. told you did he not that they went out looking
25 for Tyrone Robinson, they found his car, they shot up his

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1 car, and as they were leaving he heard three shots, is
2 that correct?

3 A. That's correct.

4 Q. And that -- and Aaron Young, Jr. also told you the
5 same thing basically, did he not?

6 A. Yes, he did.

7 Q. Okay. And so Aaron Young, Sr. while I recognize he
8 actually asked about the child, how the child was doing,
9 is that correct?

10 A. He did.

11 Q. And basically said he should not have gone back out
12 after Tyrone is that right?

13 A. Yes, sir.

14 Q. But he did go back after Tyrone as well as Junior
15 through both of their testimonies Aaron Young, Sr. is
16 driving the truck, is that correct?

17 A. That's correct.

18 Q. Aaron Young, Jr. is in the passenger seat?

19 A. That's correct.

20 Q. They both told you independently that Aaron Young,
21 Jr. had the .9mm, which is that machine gun that I think
22 they eventually led you to, is that correct?

23 A. Yes, sir.

24 Q. I say it's a machine gun but it's this gun
25 [indicates] for whatever that's worth.

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1 A. A submachine gun look alike I guess.

2 Q. They found his car, they couldn't find him, they
3 found his car and as they left they heard three more
4 shots, is that correct?

5 A. Yes, sir.

6 Q. Thank you, Captain.

7 THE COURT: Mr. Bax?

8 MR. BAX: Nothing further from the Captain, Your
9 Honor.

10 THE COURT: Thank you Captain, you can step down.

11 [Whereupon, the witness is excused and exits the
12 witness stand]

13 THE COURT: Now are you calling Ms. Saxon to
14 publish the transcript?

15 MR. BAX: I do wish to call Ms. Saxon to publish
16 the transcript. And as she is making her way to the
17 stand, Your Honor I would ask you to take judicial notice
18 that this is sworn testimony that was offered before the
19 court so the individual was under oath during this time.

20 THE COURT: That's right. This was the testimony
21 from a prior proceeding involving Aaron Young, Sr.?

22 MR. BAX: That's correct, Your Honor.

23 THE COURT: And Ms. Saxon is simply going to read
24 the answers given by Mr. Young. Mr. Bax will read the
25 questions of whoever was asking the questions.

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Transcript of prior testimony of Aaron Young, Sr. read into record by Ms. Saxon
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1 [Whereupon, the witness is duly sworn by the Clerk
2 of Court]

3 MR. BAX: I don't have another copy, Your Honor ---

4 THE COURT: --- so you want to read the questions
5 and the answers?

6 MS. SAXON: Sure.

7 THE COURT: That will be fine.

8 MR. BAX: She is just going to read the whole thing
9 and that will be it, Judge. Thank you.

10 - - - - -

11 **PRIOR TESTIMONY OF AARON YOUNG, SR. READ INTO RECORD BY

12 MS. SAXON**

13 MS. SAXON: Aaron Young, Sr. was called as a witness
14 having been first duly sworn, was examined and testified
15 as follows:

16 THE COURT: You are Aaron Young, Sr.?

17 THE WITNESS: Yes, sir.

18 THE COURT: Thank you. Mr. Ferguson?

19 SO BEGINS THE DIRECT EXAMINATION BY MR. FERGUSON:

20 QUESTION: Thank you, Your Honor. Mr. Young, when
21 you first spoke with Deputy Seifert on the side of the
22 road after being pulled over by Corporal Evans.

23 ANSWER: Yes, sir.

24 QUESTION: Were you ever promised or threatened in
25 any way?

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1 ANSWER: Yes, sir.

2 QUESTION: In what way?

3 ANSWER: With some lengthy jail time. And if I
4 were to help them out in the investigation.

5 QUESTION: That was by Detective Seifert directly?

6 ANSWER: Yes, sir.

7 QUESTION: And so would you have given those
8 statements in the absence of those threats or promises?

9 ANSWER: No, sir.

10 QUESTION: Now when you were at the Hilton Head
11 substation did you experience threats or promises or
12 hopes of reward or anything of that nature when they
13 spoke to you at the Hilton Head Law Enforcement Center?

14 ANSWER: Yes, sir.

15 QUESTION: What were they?

16 ANSWER: Bribes, promises, also threats as well as
17 not cooperating lengthy jail time.

18 QUESTION: What was your understanding if you gave
19 them what you wanted or what they wanted?

20 ANSWER: We would be exonerated and made star
21 witnesses against Tyrone Robinson.

22 QUESTION: Who told you that?

23 ANSWER: Bob Bromage.

24 QUESTION: Now is that something that you are
25 hoping for or something that was said to you?

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1 ANSWER: That is something that was said to me.

2 QUESTION: Okay. Now did you ever talk to Captain
3 Bromage outside of what is seen on the audio and
4 videotapes?

5 ANSWER: Yes sir, I did.

6 QUESTION: Were there any promises exchanged during
7 that portion of your conversation with Captain Bromage?

8 ANSWER: Yes, sir. We talked about as far as going
9 to get the weapon, retrieving the weapon, exoneration, us
10 being made star witnesses against Tyrone. I asked him if
11 I gave up the weapon if I could talk to my son and he
12 also said that he would give me the chance to talk to my
13 father once we got to Bryant Road.

14 QUESTION: And did you in fact get an opportunity
15 to talk to your son?

16 ANSWER: Yes sir I did after I gave him the weapon.

17 QUESTION: Okay.

18 ANSWER: He also gave me a chance to talk to my
19 father at Bryant Road.

20 QUESTION: Now about the statements of what
21 occurred on Allen Road was the events as you relayed them
22 was that the way that you remembered it happening or what
23 they wanted to hear you say?

24 ANSWER: That is pretty much a story that I came up
25 with to go along with the exoneration because that was

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1 the only way to get me and my son out of the trouble that
2 we were in.

3 QUESTION: Did anyone suggest that story to you?

4 ANSWER: No, sir.

5 MR. FERGUSON: No further questions, Your Honor.

6 THE COURT: Thank you.

7 CROSS-EXAMINATION BY MR. DUFFIE STONE:

8 QUESTION: You made up the stories in hopes of
9 getting you and your son out of it?

10 ANSWER: Yes, sir.

11 QUESTION: Okay this star witness thing. I have
12 looked at the transcripts and I couldn't find any of
13 that. Is that your phrase or did somebody actually say
14 star witness?

15 ANSWER: When I was being interrogated they came
16 in. At first I was being interrogated by Officer
17 Amundson [phonetic] and Officer Seifert. I gave in the
18 interrogation Bob Bromage came in and said he moved them
19 out and told them hey, I want to talk to you
20 specifically. This is what I have got on you. If you
21 can tell me that you were shooting out there and give me
22 your gun I'll exonerate you and your son and make you a
23 star witness against Tyrone, Tyrone Robinson.

24 QUESTION: Okay. So your testimony is that he
25 said I'll exonerate you and your son and I'll make you a

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1 star witness?

2 ANSWER: Yes.

3 QUESTION: Okay.

4 ANSWER: From that point on I just began to make up
5 a story just to please them. I pretty much knew that the
6 story wasn't going to make any sense. I knew that we
7 didn't kill anybody. We didn't hurt anybody. We simply
8 shot up a car and left. So at that point I don't think
9 that the story would come back to hurt me. I didn't kill
10 anybody but I figured that they would go out and do their
11 own investigation and see that the story did not make any
12 sense at all. So I was comfortable in giving them what
13 they wanted to hear.

14 QUESTION: So you told them stuff that you knew
15 wasn't true and basically to help yourself?

16 ANSWER: Basically to get exonerated to help me and
17 my son.

18 QUESTION: Got you. Got you. But you said that
19 you did the same thing to Seifert when he stopped you or
20 when he ---

21 ANSWER: --- Seifert asked me the same questions.
22 Officer Seifert asked me if I could give me a gun. He
23 knowed that he could help me. He also stated that he was
24 aware of all the crimes and terroristic things that Mr.
25 Robinson was doing on the Island. He said that he was

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1 aware of Mr. Robinson hitting Mr. Snake -- that is his
2 nickname for him, I don't know his real name; I know that
3 he lives off Bryant Road. He also told me about a Joe
4 Miller that Mr. Robinson burned down his house or
5 something somewhere along that. He said if I could come
6 up with a gun and tell him that we were shooting out
7 there then he could help me. At that point he said if I
8 didn't help him he promised me that me and my son would
9 never see the light of day.

10 QUESTION: Seifert told you that?

11 ANSWER: Yes, sir.

12 QUESTION: He told you -- he told that to you on
13 the side of the road?

14 ANSWER: Yes, sir.

15 QUESTION: You have been through the system before
16 have you not?

17 ANSWER: Yes, sir.

18 QUESTION: A couple of times?

19 ANSWER: Just once in my life. I have been
20 arrested in 2000 for possession of crack cocaine.

21 QUESTION: Okay.

22 ANSWER: I did my debt paid my debt to society and
23 I came home. I am an honest working man line cook at
24 Charter House on the Island.

25 QUESTION: At some time during the statement you

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1 actually said that you felt sorry about the child dying.

2 ANSWER: Yes, sir.

3 QUESTION: But you also said at the same time if
4 you had a chance to kill Tyrone Robinson you would do it?

5 ANSWER: Yes, I did say that.

6 QUESTION: All right. And when you got in your
7 car leaving your house, which is Wild Horse Road that was
8 your house right?

9 ANSWER: Yes, sir.

10 QUESTION: If you had a chance to kill Tyrone
11 Robinson you would have done it.

12 ANSWER: Yes, sir.

13 QUESTION: You saw him on Bryant Road and you guys
14 is that when your son's gun wouldn't work? Is that when
15 his gun jammed?

16 ANSWER: Yes, sir.

17 QUESTION: Okay. And I think that you also said
18 later on when you got to Allen Road that he shot at you
19 guys?

20 ANSWER: No, sir.

21 QUESTION: You didn't say that?

22 ANSWER: I said that as part of my whole story.

23 QUESTION: But that was a lie that wasn't the real
24 story?

25 ANSWER: Yes, that was a lie.

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1 QUESTION: Okay.

2 MR. STONE: Nothing else, Your Honor.

3 THE COURT: All right. Mr. Bax?

4 MR. BAX: Yes, sir.

5 THE COURT: All right.

6 SO BEGINS CROSS-EXAMINATION BY ROBERT BAX:

7 QUESTION: Aaron, why did you say that there was a
8 running gun battle?

9 ANSWER: I don't recall saying it was a running gun
10 battle.

11 QUESTION: Or some sort of shoot-out, something
12 like a running gun battle, you don't remember?

13 ANSWER: I didn't make any remarks as far as a
14 running gun battle. I gave them a story of a shoot-out
15 or something called a shoot-out on Allen Road but no
16 running gun battle.

17 QUESTION: How about the shoot-out on Allen Road
18 why that statement?

19 ANSWER: Because I was promised if I could come up
20 with a story about a shoot-out and return to my gun I
21 would be exonerated and be made a start witness against
22 Tyrone.

23 QUESTION: On the search for the gun why did you
24 take Mr. Bromage to your father's house or to the shed
25 behind your father's house?

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1 ANSWER: At that time after me and him being at the
2 police office and being interrogated he offered me
3 exoneration and said if I could take him to the gun and
4 gave that story he would exonerate me.

5 QUESTION: Okay. And then so you took him to your
6 father's house.

7 ANSWER: Yes, sir.

8 QUESTION: Okay. On Red Tip Road?

9 ANSWER: Yes, sir.

10 QUESTION: Did you show him where the gun was
11 before or after you talked to you father?

12 ANSWER: He gave me an opportunity to talk to my
13 father and my girlfriend as well. I asked my father I
14 was I told him that I was in a specific, a specific how
15 do I say this incident with Tyrone and he asked me well,
16 what all did he say. And I say Officer Bromage told me
17 if I could give him the gun and give him the story then
18 he could exonerate me. And my father told me well, if
19 that's what he wants you to do then give him the gun.

20 MR. BAX: I have nothing further.

21 THE COURT: Mr. Robinson, do you have any questions
22 that you want to ask him about statements that he has
23 made today?

24 CROSS-EXAMINATION BY MR. TYRONE ROBINSON:

25 QUESTION: When you testified to I guess in the

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1 last statement that you made you made a statement at
2 Beaufort County Detention Center correct, you explained
3 to them in a statement that you never saw me on Allen
4 Road?

5 ANSWER: Yes.

6 QUESTION: And that we never had -- and we never
7 had a shoot-out on Allen Road.

8 ANSWER: Exactly.

9 MR. ROBINSON: Thank you.

10 THE COURT: Mr. Young, are you saying that the .9mm
11 gun which was found in your father's shed was not
12 involved in any shooting as far as what we are talking
13 about here?

14 THE WITNESS: No, sir.

15 THE COURT: Are you not saying that?

16 THE WITNESS: No, I'm not saying that.

17 THE COURT: So are you saying that gun that was
18 found in your father's shed was involved in the shoot-
19 out, was involved in some of the shooting going on?

20 THE WITNESS: In the shooting of the car, not a
21 shoot-out actual indication of an ongoing gun battle.

22 THE COURT: Thank you. I misunderstood that
23 earlier. I think I have it straight now. Mr. Ferguson,
24 any redirect?

25 MR. FERGUSON: No, sir.

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1 THE COURT: Thank you. You may step down.
2 **CONCLUSION OF TESTIMONY READ INTO RECORD BY MS. SAXON**
3 THE COURT: Thank you, ma'am.
4 [Whereupon, the witness is excused and exits the
5 witness stand]
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1 THE COURT: Mr. Bax?

2 MR. BAX: Your Honor, at this time we would have
3 some matters outside the presence of the jury that we
4 would ask to be addressed briefly before we finish up our
5 case.

6 THE COURT: All right. Ladies and gentlemen, I do
7 have a matter of law that does not involve y'all
8 directly. We'll get you out shortly to continue the
9 afternoon's work. Don't talk about this case while you
10 are in the jury room please. Thank you.

11 [Whereupon, the jury exits at 1:40 p.m.]

12 THE COURT: Mr. Bax?

13 MR. BAX: Thank you, Your Honor. As I've indicated
14 and as comes up in all cases Your Honor I have
15 extensively discussed my client's right to testify with
16 him. Obviously as Your Honor knows Tyrone has had a very
17 active role in his own defense. He represented himself
18 in the last attempted trial and I think he was doing
19 rather well. We all know how that unfortunately did not
20 result in a resolution to the case.

21 At this time we are still in discussions about his
22 right to testify. It is right now my belief that he is
23 leaning towards testifying so I think it is appropriate
24 at this time to ask the court to make sure on the record
25 that Tyrone is aware of his right to testify and what

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1 that means as well as for discussion of what of his prior
2 record would be admissible, Your Honor.

3 THE COURT: All right. Why don't we deal with
4 prior record first of all and see what that entails so he
5 would be able to have a better idea...

6 MR. STONE: I think according to the rules, Your
7 Honor, he has a June of 1996 Grand Larceny, Hit and Run,
8 Burglary that I do not believe would be proper for us to
9 go in. He does however have a 2002 conviction for two
10 counts of Failure to Stop for a Blue Light as well as
11 Possession of Stolen Motor Vehicle. He was convicted at
12 trial for that and actually received maximum penalties on
13 all of that, which is a 13 year sentence. That sentence
14 he maxed out on April the 30th of 2010 therefore I think
15 that is proper for us to go into.

16 MR. BAX: And Your Honor I know we were handed a
17 packet of rap sheets at the beginning of the case. I
18 have not looked through all of them but if Mr. Robinson's
19 was in there we've misplaced it. If we could ask to just
20 take a look at the rap sheet very quickly I would
21 appreciate it.

22 THE COURT: Okay.

23 MR. BAX: Thank you.

24 [Whereupon, Mr. Bax, Ms. Saxon, and the defendant
25 review documents]

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1 THE COURT: 2002 convictions as I understand it are
2 the only ones the State would intend to offer?

3 MR. STONE: That's correct.

4 MR. BAX: And for clarity purpose Your Honor I am
5 looking at it and it was a number of charges. I assume
6 that these had to have been run consecutive in order for
7 that sentence to have occurred. And Mr. Robinson has
8 confirmed that the actual period of time that he did was
9 about seven and half years. It looks like it is
10 indicating a court date of May of 2003. And I see here
11 written down that he was released somewhere in 2010,
12 which he confirms. So if that's it then we are clear on
13 that, Your Honor.

14 THE COURT: Okay. Two counts of Failure to Stop
15 for a Blue Light and Possession of a Stolen Vehicle?

16 MR. STONE: Yes, sir.

17 THE COURT: All right. Thank you.

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Fifth Amendment Rights
September 18, 2014

1 THE COURT: Okay. Mr. Robinson, if you would
2 stand and raise your right hand and let me put you under
3 oath?

4 [Whereupon, the witness is duly sworn by the Court]

5 THE COURT: Mr. Robinson, obviously you have as Mr.
6 Bax has indicated been involved in the trial of this case
7 since this case was made a couple of years ago. Now we
8 get to the stage of the trial where it is a decision for
9 you and Mr. Bax and Ms. Saxon to make as to whether or
10 not you wish to testify.

11 That decision ultimately must be yours because under
12 our Constitution, the Fifth Amendment of United States
13 Constitution and a similar counterpart of our State
14 Constitution it is provided that no person in a criminal
15 proceeding can be forced to testify against himself.
16 That means that you cannot be made to testify in this
17 case. You have a right to remain silent in other words.
18 No one can be forced to testify or admit that you are
19 guilty so you have a right not to testify.

20 And if you choose to exercise that right and not
21 testify I will instruct the jury that they cannot take
22 that into account in their considerations and in their
23 deliberation on the question of your guilt or your
24 innocence. They will be told that they cannot even talk
25 about that in the jury room as they begin to discuss this

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1 case and decide what verdict they will reach. On the
2 other hand if you give up your right not to testify and
3 choose to testify then you will be subject to the same
4 rules that you have seen every other witness here; you
5 will be asked questions not only by Mr. Bax but also by
6 Mr. Stone or by Mr. Thornton.

7 You can be cross-examined and impeached on any issue
8 that is relevant in this case. Your criminal record can
9 be brought up simply for the purpose of impeaching your
10 testimony and the truthfulness of the testimony that you
11 give. So you will give up your right to remain silent in
12 that regard if you take the stand. Do you understand
13 that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you have any questions you want to
16 ask me about your right to testify or not to testify?

17 THE DEFENDANT: No, sir.

18 THE COURT: You understand those rights fully?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And so your decision as to whether you
21 decide to testify or not to testify will be done with a
22 full understanding of your rights is that fair to say?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Thank you.

25

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1 MR. BAX: And Your Honor, we would just ask for a
2 brief five minutes. I think my client needs to make a
3 restroom break and then we will let you know what his
4 decision is.

5 THE COURT: The jury is out for recess. Let's go
6 ahead and take a brief one ourselves at this point in
7 time. In fact we'll start back at 2 o'clock on the hour
8 that's 12 more minutes okay.

9 MR. THORNTON: Thank you, Your Honor.

10 [Whereupon, court is in recess from 1:48 p.m. to
11 2:00 p.m.]

12 THE COURT: Mr. Bax, is the defense ready to
13 proceed?

14 MR. BAX: The defendant is ready to proceed, Your
15 Honor. He has chosen to testify so when you bring the
16 jury out, Your Honor, our intention is to call Mr.
17 Robinson to the stand. Thank you very much.

18 THE COURT: All right. Thank you. Is the State
19 ready?

20 MR. STONE: The State is ready, Your Honor.

21 THE COURT: Bring us the jury please.

22 THE BAILIFF: The jury is entering the courtroom,
23 Your Honor.

24 [Whereupon, the jury enters at 2:04 p.m.]

25 THE COURT: Folks, the defense is continuing to

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1 | offer evidence and testimony in the case. Thank you.

2 | Mr. Bax?

3 | MR. BAX: Thank you, Your Honor.

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1 MR. BAX: The defense calls Tyrone Lorenzo Robinson
2 to the stand.

3 THE COURT: Mr. Robinson, come around please sir
4 and be sworn.

5 [Whereupon, Mr. Robinson comes forward]

6 [Whereupon, the witness is duly sworn by the Clerk
7 of Court]

8 CLERK OF COURT: Please spell your name and state
9 your name for the record.

10 THE WITNESS: Tyrone Robinson, T-Y-R-O-N-E,
11 R-O-B-I-N-S-O-N.

12 - - - - -

13 TYRONE ROBINSON,

14 Having been first duly sworn,

15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BAX:

18 Q. Thank you, Tyrone. Tyrone let's just start out you
19 remember the events that happened on September 1st of
20 2012?

21 A. Yes, sir.

22 Q. Okay. Tyrone, at some point during that day did
23 you meet or come across Mr. Singleton, Sr.?

24 A. Yes, sir.

25 Q. Okay. Tell me when and where did you see Mr.

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1 Singleton?

2 A. I met him I think I know it was at a trailer; I'm
3 not sure of the road because I get them mixed up
4 sometimes, it might have been Old Wild Horse Road at a
5 trailer at Darryl's house I think.

6 Q. Okay. Make sure you pull that microphone right up
7 to you and speak up so the court reporter can hear you.

8 A. It was at a trailer at Darryl's house.

9 Q. Okay. And that's over closer to the Squire Pope
10 area of Hilton Head Island?

11 A. It's around that area.

12 Q. Okay. And Tyrone what were you -- the day before,
13 was the day before your birthday?

14 A. It was the day after my birthday.

15 Q. So September 1st was the day after your birthday?

16 A. Yes. I was celebrating my birthday actually on that
17 day.

18 Q. Okay. Why were you celebrating the day after your
19 birthday?

20 A. Because on my birthday I was getting ready I was
21 going to the club to party but a woman her car had broke
22 down, she was from Florida, and she was stranded.

23 She didn't have any place to go or anything; she
24 didn't even have any money. So she begged me to give her
25 a ride back to Florida back to her house. And I gave her

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1 and another girl a ride back to Jacksonville, Florida and
2 I didn't get back until like 4:00 or 5:00 that morning.
3 So I had to put my birthday aside and I said I was going
4 to celebrate it the next day.

5 Q. Okay. So when you saw Jontu Singleton, Sr. that
6 day he has testified that y'all had drank some beers is
7 that right?

8 A. Yes, I gave him some beer. I gave him a beer when I
9 saw him ---

10 Q. --- tell me about what happened then.

11 A. Well, I gave him a beer and then I asked him if he
12 wanted to ride with me and he said yes. He got in the
13 car with me and we drove off.

14 Q. Where were y'all riding to? Where were you guys
15 going?

16 A. After I gave him a beer because he drinks a lot and
17 I was celebrating my birthday so I told him we are going
18 to get a bunch of beer. I told him I was going to go to
19 the gas station and get some more beer because he
20 actually asked me for some more beers so I was going to
21 the gas station.

22 Then he was asking me before we go to the gas
23 station to take him Aaron Young, Sr. and Aaron Young,
24 Jr.'s house. But I told him I didn't want to go around
25 there because we had problems and they were some

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1 knuckleheads and they didn't like me. But he kept
2 begging me and begging me to take him there. And I told
3 him like on five different occasions I didn't want to go
4 there.

5 So finally in giving in to kindness I told him okay,
6 I'll take him there because he promised me that if I took
7 him there that they wouldn't do nothing to me because
8 those are his homeboys and they grew up together and he
9 got this. So I basically took him there.

10 Q. And when he was there did you hear him asking Aaron
11 Young, Sr. or Junior for some money?

12 A. He did. He got out and he asked him for some money.

13 Q. Okay. Tyrone and I know I've said this to you but
14 I want to make sure you make sure you speak slowly and
15 loudly and clearly for the court reporter okay.

16 A. Yes, sir.

17 Q. And make sure that the jury can hear what you are
18 saying all right? After you got to Aaron Young, Sr.'s
19 house and Jontu got out tell us what happened then
20 please?

21 A. Well Jontu got out the car. Aaron Young, Sr. is
22 standing in the yard and Aaron Young, Jr. was standing by
23 his truck, the grey truck. It was an older model F-150.
24 It's probably like a 1995 model; it was an older model
25 squared off box shape. Now Aaron Young, Jr. is standing

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1 by the truck. There is two more men standing by the
2 truck. They got dreads like hair style. Jontu, Sr. gets
3 out the car, walks up to Aaron Young, Jr. and they
4 started talking and he asked him for money and all this..

5 Now during this time somebody named Muffie
6 [phonetic] pulls up in another F-150 but he has a newer
7 model F-150 and it's a money green F-150. Muffie pulls
8 up by Aaron, Sr.'s truck, the grey F-150 and he gets out
9 and he's standing by the rest of the fellows.

10 Q. Let me stop you right there Tyrone. By your
11 remembrance how many -- when Muffie joins in how many
12 people were there in the yard besides yourself at that
13 point?

14 A. Including Jontu?

15 Q. Yes, including Jontu?

16 A. It was six people in the yard.

17 Q. Okay. And that included Ebony as well, Ebony
18 Campbell?

19 A. I never saw Ebony there ---

20 Q. --- you never saw Ebony?

21 A. Ebony I think she was by the house but she wasn't in
22 the yard.

23 Q. Okay. Now after Muffie got there what happened
24 then Tyrone?

25 A. Well Jontu, Sr. he's standing by Aaron, Sr. and

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1 they're talking. And I'm just sitting in the car
2 oblivious to all this because I'm just waiting on him
3 because he's my passenger, I'm waiting on him to come
4 back to the car.

5 Then I hear a bunch of commotion. It's a bunch of
6 excuse my language but what the fuck, man? What the
7 fuck. That motherfucker what is he doing around here?
8 Get that motherfucker out my yard. Man get that
9 motherfucker out my yard.

10 So I look up and I see Aaron Young, Sr. walking
11 towards my car. Now I got all the windows down in my car
12 so I hear this clear. So he was like man, get the fuck
13 out my yard. Man, get your ass out my yard; get your ass
14 out my yard.

15 So he's walking up to the car and I was like man,
16 what you talking about man? I thought you said the last
17 time we talked that we were Gucci. And if you want me to
18 go into detail why he said that I can go into detail.

19 Q. Well, let's stop right there. When you say Gucci
20 what do you mean? Can you explain that to us?

21 A. Gucci is a slang term meaning that like if two
22 people got a problem and y'all negotiate a problem out or
23 whatever and y'all okay we all right now. That means
24 that that problem is settled. We're good now; we're back
25 friends or whatever. We good; we don't have any

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1 animosity or anything. That's what Gucci means.

2 Q. And from a prior encounter with Aaron Young, Sr. you
3 thought that you guys were good?

4 A. We were Gucci.

5 Q. But you were still a little worried about being over
6 there in the first place, right?

7 A. Yes, sir.

8 Q. Why were you -- if you were Gucci why were you still
9 worried about Aaron Young, Sr. and his group?

10 A. I know they didn't like me. And Aaron is the type
11 of person he is a compulsive liar. Not to slander him or
12 nothing but I'm just saying he tells a bunch of lies.
13 So he'll tell you something but he won't mean it you know
14 what I'm saying?

15 Like he'll say okay we Gucci and all that but when
16 he gets around a bunch of friends or something then he'll
17 flip on you and try to show off in front of you. So I
18 can no longer trust him like that.

19 Q. Okay. So getting back to what happened Aaron
20 Young, Sr. is coming up to your car and telling you to
21 get out of your yard and you said to him you thought you
22 were Gucci what did he do then?

23 A. He kept man; get the fuck out of my yard. Get your
24 ass out of my yard. Man, get the fuck out my yard. And
25 I told him I said all right man, I'm going to leave, let

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1 me get my passenger. And I started yelling out the
2 window, the passenger window to Jontu, Sr. man, come on
3 man. Get in the car, man come on let's go because I
4 didn't never want to come up there anyway.

5 But he started man, get out my yard. Get out my
6 yard. So he started walking up to my car. So I told him
7 man, I'm going to leave. And I remember him specifically
8 saying man; you're not leaving fast enough you know what
9 I mean.

10 So when he said that he kept walking up to the car.
11 And he got to a point to my car so close I got all the
12 windows down in my car. I got the ignition off; the car
13 is not even running. I'm just sitting there.

14 So he is about to snatch my door open and at that
15 point I know that he is about to snatch my door and I am
16 at a disadvantage inside the car because I am sitting
17 down. There is nothing I can do.

18 If he jump on me in the car he is going to have me
19 pinned down in the car and all the rest of those guys are
20 going to come over there and they are going to lynch me
21 stomp me down I already know this because I'm not ---

22 Q. --- so you were scared about that at that time is
23 that right?

24 A. Of course because I'm not from around there.

25 Q. Well, when you saw that he was coming up on the door

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1 and he might have been grabbing for the door what did you
2 do then?

3 A. I pushed the door open because that would have
4 pushed him back and gave us some distance between each
5 other.

6 Q. Okay. Did you eventually step out of the car?

7 A. I didn't step out of the car because I didn't want
8 to get too far away from the car because that was my safe
9 haven at the time because I was in his yard and all those
10 people were out there. So what I did -- can I stand up?

11 Q. Well, just describe for us right now. Did you stand
12 up?

13 A. Yes, I pushed the car door open wide as I could and
14 I stood up like in the car, not on the car foot panel but
15 just in that little V off right here.

16 Q. In the space between the door and the seat?

17 A. In the car, yes.

18 Q. All right. And this is important Tyrone. Did you
19 have a gun at that time?

20 A. Yes, I did.

21 Q. Okay. And where was the gun at that time?

22 A. I had it wrapped up in a shirt.

23 Q. In a shirt, okay. And when you stood up there where
24 Aaron, Sr. was did you eventually grab that gun? Did you
25 put that gun in your hand at some point?

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1 A. Well, I had the gun behind my back in my hand like
2 this right here [indicates] because Aaron was inching
3 towards the car.

4 Q. Okay. And tell us what happened then Tyrone.

5 A. Aaron is inching towards the car. He don't know I
6 have the gun. He's inching towards the car because he is
7 really trying to get around the door to snatch me or
8 something because he knows the rest of those boys will
9 help him once he starts fighting me or beating me up or
10 whatever.

11 And I say beat me up because once he starts the rest
12 of them are coming and I can't beat up all those people.
13 So after I pushed the door open and put some distance
14 between us Aaron starts like inching making like midget
15 steps toward me.

16 He is still taking but now is skeptical because he's
17 asking me what I got my hand behind my back for. So he
18 wanted to know what actually do I have behind my back so
19 he is skeptical. But he is still inching towards me so
20 he's getting to the point now where he is going to grab
21 me.

22 So instead of me shooting him because I didn't want
23 to shoot; I didn't come up there on somebody else
24 property to shoot them you know what I mean. I ain't
25 looking to shoot nobody. I just fired a shot in the air;

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1 it was a warning shot. And that warning shot stopped him
2 from pursuing towards me. He stopped in his tracks. But
3 he is still talking crazy.

4 What he started talking then is okay you want to
5 play with guns. You want to play with guns I got
6 something for you. I'm going to kill your ass. Stay
7 right here. Be right here when I get back. Be right
8 here when I get back, you know what I'm saying.

9 So he's still right there talking then he started
10 inching back so I fire a shot in the ground. And Aaron
11 walks off to his house and he said he is going to go get
12 his gun and come back and kill me. And be right here
13 when he gets back.

14 Q. Okay. Let me stop you right there Tyrone. Do you
15 recall or were you able to see what Aaron Young, Jr. was
16 doing during this time. Where was he at do you remember?

17 A. He was behind the truck like he had a gun behind the
18 truck like trying to get some leverage on me to shoot me
19 or something. He was over there.

20 Now the other two guys I looked over there and I
21 just saw him; them two they was just standing there like
22 man, what is going on. And Muffie he was just standing
23 out there.

24 Q. What about Jontu Singleton, Sr., what was he doing?

25 A. He is still in the same place that he was out when

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1 he walked up to Aaron, Sr. but he is looking at me. All
2 attention is on me now. Everybody is just looking trying
3 to figure out what's going on.

4 Q. Okay. And so Aaron Young, Sr. after that second
5 shot into the ground he walks into the house is that
6 correct?

7 A. He did.

8 Q. Okay. Now Tyrone what did you do at that point?

9 A. At that point I knew I had to -- I already told him
10 I was going to leave but now I had to get out there even
11 faster. But Jontu came with me so I didn't want to leave
12 him up there because I'm still thinking that he was
13 riding with me.

14 So I'm calling out to him Jontu, hurry up man get in
15 the car. Get in the car. But Jontu he doesn't get in.
16 He's looking at him like I'm crazy like man, these are my
17 home boys. So I noticed then that Jontu had actually
18 flipped on me and he was siding up with Aaron; those are
19 his home boys. So I said bump you, I'm going to leave
20 you right here.

21 So I got in my car, I slammed the door and backed
22 up. And as I backed up I hit some kind of -- it was
23 something there they got now a big rock or something down
24 there so I had to go back forward and that's what took me
25 so long to get out the yard. I went back forward again.

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1 I had to maneuver the car, backed up got to the road, the
2 Wild Horse Road. Let me see I backed out the yard and I
3 backed up like this [indicates]. And as I was riding off
4 Aaron comes out the house and Aaron has got something in
5 his shirt like this [indicates] that is sticking up.

6 Q. Does he have his hand inside his shirt?

7 A. Yes. He comes out like this [indicates]. This is
8 his hand [indicates]. He doesn't really have his hand in
9 the shirt like -- I can't remember like I know he had you
10 could tell he had the gun that he was talking about
11 because his shirt was sticking up.

12 Q. Did it appear to you like he had something like a
13 gun in his shirt?

14 A. It was a gun. He told me he was going to get a gun.

15 Q. Okay. And what happened then Tyrone?

16 A. Well, as I rode off he shot towards my car and the
17 bullet hit in the back by the taillight on the right side
18 where he shot it as I rode off. Now ---

19 Q. --- did you -- let me stop you right there. Did you
20 see him fire the weapon either in your rear view mirror
21 somehow or did you just hear the shot?

22 A. No you could hear the shot ping like in the back of
23 the car toward the right.

24 Q. Did you see at that time what -- did you actually
25 see a gun in Aaron, Sr.'s hand?

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1 A. Did I see the gun? No, I didn't see the gun.
2 Q. Okay. So ---
3 A. --- it could have been from any one of them.
4 Q. Okay. Let me ask you this. So you heard what
5 sounded like a gun go off and something hit your car?
6 A. I heard the ping but I didn't see that.
7 Q. Tyrone, where did you go then? You said you started
8 driving correct?
9 A. I fled down Old Wild Horse Road towards the club
10 Bennie's. Y'all heard about Bennie's in this case.
11 There is a club called Bennie's and I fled toward that
12 toward 278. I was trying to get on Spanish Wells Road.
13 But the road was funny because when you go through
14 the intersection of 278 in order to get to the left where
15 Spanish Wells Road was at I had to take a right turn, go
16 down 278, make a U-turn then come back past Wild Horse on
17 the other lane of 278 and that's what I did.
18 Q. Okay. And ultimately at that point in time did you
19 go somewhere?
20 A. Yes, I went to my cousin Melvin's house.
21 Q. Where is Melvin's house?
22 A. Melvin's house is located on Oak --
23 Q. Okay.
24 THE COURT REPORTER: What's the name of the road
25 again?

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1 A. Oak View Road.

2 Q. [Mr. Bax] Tyrone, about how long did it take you to
3 get from there on Wild Horse where all this stuff
4 happened over to Melvin's house on Oak View Road?

5 A. I can't recall. I was going so fast because I was
6 in flight and I wasn't really paying attention to the
7 time. It didn't took long at all. I mean my car is
8 pretty fast so I got there pretty quick.

9 Q. And just from your own memory of being -- let me ask
10 you this. You've spent a lot of time on Hilton Head
11 Island in your life right?

12 A. Yes.

13 Q. Okay. About how far is those two places from each
14 other? Let me stop you.

15 MR. BAX: I'm just going to refer to, Your Honor,
16 State's number 8.

17 Q. [Mr. Bax] This is an aerial map or an aerial shot of
18 the areas we're talking about. From your looking at it
19 it's been described this way by the Solicitor already is
20 this [indicates] the Squire Pope Wild Horse Road area?

21 A. Yes.

22 Q. And I want to make sure I'm showing it to where the
23 jury can see it. This road right here [indicates] isn't
24 that Spanish Wells Road right down through here
25 [indicates]?

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- 1 A. Yes, it looks funny on the map but...
- 2 Q. Is that right?
- 3 A. Yes.
- 4 Q. And down here [indicates] right before you get to
5 that big yellow number 2 there is kind of a split off
6 where it goes straight here [indicates] where Spanish
7 Wells keeps going. Is that [indicates] Oak View Road?
- 8 A. Yes.
- 9 Q. Okay. And about how -- down that road, obviously
10 that road goes down and then there is a left that you can
11 make at the end of that road, correct?
- 12 A. Yes.
- 13 Q. About how far down that road does Melvin live?
- 14 A. I think like here [indicates] coming down here
15 [indicates]. It's up in here [indicates].
- 16 Q. Okay. So would you say about half to three
17 quarters of the way down that road?
- 18 A. Probably so.
- 19 Q. Okay.
- 20 A. It's down by the curve almost just before you get to
21 the curve it's off to the right.
- 22 Q. All right. So Tyrone would it be safe to say it
23 only took you four or five minutes to get down there?
24 Would that be correct or incorrect?
- 25 A. Yes because I was in flight so I wasn't even driving

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1 the speed limit; I was kind of in a rush.

2 Q. Okay.

3 A. I got there kind of quick.

4 Q. Now Tyrone, tell me and tell the jury what happened
5 when you got to Melvin's house please?

6 A. When I got to Melvin's house I parked the car. I
7 knocked on the door and he answered and I told him I said
8 man, I need to come in the house. I said man, somebody
9 is trying to kill me. And he was like man, what's going
10 on.

11 And I explained to him what had happened and after I
12 explained to him the situation because he is my first
13 cousin. He's my older and my bigger cousin and he
14 started giving me that older cousin lecture. And he
15 started lecturing me saying Tyrone you got to be careful
16 because people will kill you; there is danger out there.

17 So I asked him to use the phone. And I get on the
18 phone and I call Cedric. And I told Cedric I said man,
19 Cedric man I'm really coming -- I'm excited and angry at
20 the same time because of what happened.

21 But I told Cedric the MF'ers I said man, they're
22 trying to kill me. And I said I need to get out of here.
23 I need to come to you house, man. Where you at? He
24 sells shrimp and I was going to park my car and get in
25 his car and kind of hide out while he was selling shrimp

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1 or whatever or stay at his house or whatever. So he told
2 me that he wasn't home so I was like man, where you at.
3 He told me he was at his father's house who is Saul
4 [phonetic] down the road. So he told me to come to him.

5 So I hung out to Melvin's house for awhile to waste
6 time because I know Aaron Young, Sr. and Aaron, Jr. and
7 whoever else they are looking for me; you know what I'm
8 saying. So I'm trying really to hide out to pass time
9 until they come looking for me and go back so it would be
10 safe for me to leave.

11 Q. Okay. Tyrone, let me stop you. Eventually do you
12 leave Melvin's house?

13 A. Yes, I do.

14 Q. Can you tell me, and I know you were in an excited
15 state, but do you have any recollection of exactly how
16 long you were at Melvin's house?

17 A. I would say about 15 or 20 minutes to try and wait
18 it out.

19 Q. Okay, 15 or 20 minutes. So after that period of
20 time do you get in the same car? It's the green Acura
21 that we have seen in the photographs in this case,
22 correct?

23 A. Yes.

24 Q. Okay. That's the car that you were driving, right?

25 A. Yes, that's the car.

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1 Q. Okay. And when you got back in your car what did
2 you do?

3 A. I got in my car and I'm not driving fast I'm driving
4 real slow through these neighbors and the area where I'm
5 at is not paved; it's a dirt road because I'm in the
6 neighborhood area I'm off of Oak View in the neighborhood
7 so I'm driving slow out.

8 Then I make a right turn where Oak View Road is at
9 on the pavement I make a right turn and that's where that
10 curve is at around there. And so I turn I go around the
11 curve and you know when you're just riding down the road
12 and cars come and you figure that's just another car.

13 So I'm riding down the road and a car is coming.
14 But then I look up and I be like oh shit and I noticed it
15 was not just another car. That was the grey F-150 that
16 Aaron, Sr. and Aaron, Jr. was riding in but they had two
17 people in the back of the truck also.

18 Q. Describe what you saw and what happened then Tyrone.

19 A. Well, as I rode past Aaron, Sr. was in the driver's
20 seat. Aaron, Jr. he was in the passenger seat. And two
21 people are sitting in the back of the cab area and they
22 had like dreads.

23 But at the time Aaron, Sr. he had like braids but
24 the rest of them had dreads. I'm riding past the truck.
25 The truck -- you can tell there is a lot of commotion

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1 going on so whatever they are doing they are trying to
2 hurry up and do it before I get to them. But they
3 couldn't do it in time so as I get to the truck where my
4 body was at in my driver's seat I had the window down I
5 passed the driver's side of the truck.

6 And as soon as I did Aaron, Jr. leans out the truck
7 with that gun right there [indicates] but it was bigger
8 than that because he had put the silencer on and the
9 clip. The gun looked like it was like this long
10 [indicates] and the clip was hanging out like this long
11 [indicates].

12 Q. Let me stop you right there Tyrone, okay.

13 MR. BAX: Moment's indulgence, Your Honor. Your
14 Honor, with the court's permission I'm putting the three
15 different exhibits together as we've had before, Your
16 Honor.

17 THE COURT: Okay.

18 MR. BAX: Thank you.

19 [Whereupon, Mr. Bax assembles the gun]

20 Q. [Mr. Bax] Tyrone, does this appear to be the gun
21 that you saw hanging out the window that Aaron Young, Jr.
22 had when he was hanging out the window?

23 A. That's exactly what I seen him hanging out the
24 window with.

25 Q. So this thing [indicates] that is extending down

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1 past my arm that's what you understood to be the clip?

2 A. Yes --

3 Q. Okay. And this block here [indicates] that is
4 black that is sticking out the front that is what you
5 thought were a silencer or you described as a silencer?

6 A. It had all that on it, yes.

7 Q. Okay.

8 A. That's why I was thinking it was an AR-15 or
9 something because it was so big with all that on there.

10 Q. And so this [indicates] is what you saw that you
11 later described to law enforcement was an AR-15?

12 A. Yes that was the gun I was talking about; that gun
13 right there.

14 Q. Okay. So when Aaron Young hangs out the window
15 with this weapon what happens then?

16 A. As I pass them like I said my body part that he
17 wanted to shoot got past the driver's part before he
18 could lean out through the window and actually start
19 shooting.

20 But as I passed the truck he leans out the window
21 with that gun and the back of my car starts to pass as he
22 leans out and he starts shooting into the back of my car
23 at me. And that's why the back of the car is shot up.
24 It started off like on the windshield right here
25 [indicates]. It's the windshield and that metal part on

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1 the side of the car of the back window. And the bullet
2 is coming down hitting from the back of the windshield
3 because his truck is sitting high and as I pass them by
4 he's is shooting down into the car.

5 Q. Let me stop you right there, Tyrone.

6 MR. BAX: Referring to State's exhibit 14, Your
7 Honor.

8 A. I can explain it better with this.

9 Q. [Mr. Bax] I'm going to pass this to you. You see
10 where there is some wooden pieces sticking out of the
11 car?

12 A. Yes.

13 Q. That's not -- you didn't have wooden pieces sticking
14 out of your car did you Tyrone?

15 A. No, no, no.

16 Q. So those wooden pieces those are just what the
17 police put in there. Is that your understanding?

18 A. Right.

19 Q. Okay. In looking at that picture are some of those
20 bullet holes that are depicted by those sticks of wood
21 going into your car ---

22 A. --- yes ---

23 Q. --- did those occur on Oak View Road?

24 A. Yes. This one here [indicates] when I passed the
25 car by when he was leaning out to pass the truck he shot

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1 down. That's why the stick is angled because the truck
2 sits higher than my car.

3 Q. Let me see if we can get a better angle for the jury
4 okay. And you make sure you speak up for the court
5 reporter all right. Which one of these do you say
6 happened there?

7 A. This one [indicates] right here this happened on Oak
8 View Road. This [indicates] happened on Oak View Road as
9 I'm going down. This one happened on Oak View as I
10 passed pow, pow, pow. And this one [indicates] was right
11 behind my head at the driver's seat.

12 Q. Okay. And Tyrone you believe that that's the case
13 because these are angled downward is that correct?

14 A. Right.

15 Q. Okay. Now let me ask you this Tyrone.

16 A. And it ricocheted on the side and that happened when
17 I got a distance he tried to shoot at me but it skipped a
18 little.

19 Q. Now was that on Oak View Road?

20 A. That's Oak View Road.

21 Q. Okay. And was that approximately the last one you
22 remember on Oak View Road when you're further away?

23 A. Yes, that's when I turned and I fled.

24 Q. Okay. Let me ask you this Tyrone. This car
25 [indicates] is an Acura it looks like a sedan is that

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1 right?

2 A. Yes, it's an Acura 3.5RL.

3 Q. Okay. To your remembrance does this car sit lower
4 than that grey F-150?

5 A. Yes, this sits a lot lower than the grey F-150.

6 Q. Okay. All right Tyrone, after this encounter on
7 Oak View Road where you rode past the F-150 and these
8 shots happened where did you go then?

9 A. I fled to Allen Road.

10 Q. Take us through it. Which route did you take do you
11 remember?

12 A. I came to Oak View Road, I took a left. I drove --
13 the place I was trying to go was also on the left at the
14 fruit stand where Cedric was at his daddy's house. But I
15 couldn't do that then because after the F-150 it was
16 trying to shoot me.

17 But let me just say this. When I passed the F-150
18 and I looked back and I saw the two people sitting in the
19 cab area of the truck. I saw Aaron, Jr. hanging out, he
20 was shooting at the car and Aaron, Sr. was holding Aaron,
21 Jr. legs because he had more than half his body out.

22 So he is holding his legs to stop him from falling
23 out the truck. And I could tell he wasn't driving the
24 truck anymore because the truck was at a roll and it ran
25 off into the lane that I was in so that let me know that

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1 he wasn't even steering the truck anymore. He was
2 holding his son's legs.

3 Q. Okay. And Tyrone you're seeing this in the
4 rearview mirror or in a side mirror or a combination of
5 both?

6 A. I looked back. I ducked and I looked in the mirror
7 so I'm seeing this out my own eyes.

8 Q. About how far back was the truck by the time you saw
9 this slowing down and veering?

10 A. When I got to the end of Oak View Road the truck was
11 almost like by the curve.

12 Q. About how many yards -- would that have been like
13 about a football field back or less than that?

14 A. I'm not good with yards like that.

15 Q. Okay. So take us again to after you saw the truck
16 start slowing down and veering to the side of the road
17 where did you go?

18 A. I made a left turn at Oak View Road, that's Spanish
19 Wells Road. I made a left turn and I rode a little ways
20 down; not too far just a little because that new enter
21 expressway it's to the right.

22 And I drove and I made that right on the expressway
23 and the road is kind of curvy so I was speeding because I
24 didn't want them to catch up with me because I knew they
25 were going to kill me. And when I got on that road

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1 traffic on that road is pretty busy because people try to
2 use that expressway so I rode up on a car but I -- like I
3 said I was trying to get past that car because that car
4 was holding me up. And if I didn't get past that car
5 that truck would have probably caught me and I know what
6 they going to do if they caught me.

7 But it was another car coming. So I had -- it was a
8 life or death decision. Either I try to jump in front of
9 that car and risk getting in front of this car but like
10 you ever seen a movie playing chicken with another car
11 but another car was coming so I took that chance, jumped
12 in the other lane, shot past and I made it just in time
13 back in the other lane so that car wouldn't hit me.

14 But I had to do it to get away from them so that's
15 what happened. So I went around the curve, drove around
16 the curve and that's when --

17 THE COURT REPORTER: --- that's when you what; I'm
18 sorry?

19 A. I drove to Allen Road.

20 Q. [Mr. Bax] And after you get around that curve that
21 means that you basically ended up on what is Marshland
22 Road is that right?

23 A. It's Marshland Road.

24 Q. Okay. And so Allen Road is off of Marshland Road
25 correct?

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1 A. Yes. Allen Road is -- from the direction I was
2 traveling Allen Road was off to the right.

3 Q. Okay. So you would have gone down Marshland Road
4 and Allen Road would have been on your right. When you
5 got to Allen Road what did you do?

6 A. Well, I went to -- Allen Road is right here
7 [indicates]. But Charlese's house is on Allen Road like
8 also of Marshland Road because her house is the first
9 house on Marshland Road. And I drove up ---

10 Q. --- Tyrone, let me stop you real quick if you don't
11 mind.

12 MR. BAX: Your Honor, at this time I would like to
13 be able to make use of the model that has been used in
14 the trial if there is no objection.

15 MR. STONE: Not at all.

16 [Whereupon, the model is set up]

17 MR. BAX: Your Honor, may I ask that the witness
18 step down from the witness stand, please.

19 THE COURT: All right. Mr. Robinson, you can step
20 down but please make sure you're facing the court
21 reporter so she can hear what you are saying okay?

22 [Whereupon, the witness steps down from the stand]

23 Q. [Mr. Bax] All right Tyrone, I'm going to -- we don't
24 want to block the view of the jury so you can stand at
25 either side -- actually you stand right over here

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1 [indicates].

2 THE COURT: That's good. That's a good spot to
3 hear it. Stand so that she can hear you.

4 Q. [Mr. Bax] And make sure you keep your voice up so
5 the court reporter can hear you. So this is a model of
6 Marshland Road and Allen Road, correct?

7 A. Yes, sir.

8 Q. Okay. Now is Allen Road paved or is it dirt?

9 A. I think it's kind of paved now depending on what
10 part you're on.

11 Q. Okay. So some parts are dirt as well, is that
12 right?

13 A. Uh Huh.

14 Q. Okay. There is a number of houses depicted on this
15 model. Did you drive to one of these houses on this
16 model [indicates]?

17 A. I drove to this house right here [indicates], this
18 house right here [indicates].

19 Q. Okay. Can everybody see? This house right here
20 [indicates]. Now who do you know that lives in this
21 house or do you know who lives in that house?

22 A. Well, I think there is a girl named Savoya
23 [phonetic].

24 THE COURT REPORTER: It's what ---

25 A. --- its [REDACTED] J.S. [REDACTED]'s mother and Dominique

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1 Griffin.

2 Q. [Mr. Bax] Now you said her name is Savoya is that
3 correct?

4 A. I think that's her name.

5 Q. Okay. Now there is a little car here on this
6 model. Is that [indicates] where you parked the car when
7 you were first there?

8 A. Yes.

9 Q. Is that right?

10 A. Yes.

11 Q. Okay. So tell us what you did. You parked the car
12 there, correct? What did you do when you parked the car
13 Tyrone?

14 A. I parked the car and I had two 40 ounce bottles of
15 beer. Now people in the house are oblivious to me
16 parking the car there because the car is so quiet. They
17 didn't even hear me roll up in the yard.

18 I didn't knock on the door or get anybody up or
19 anything. I was just parking the car there to hide the
20 car from the F-150. So I parked the car right here
21 [indicates] but not thinking that they would come to
22 Allen Road so they could see the car so I'm thinking I'm
23 hiding the car.

24 Q. All right Tyrone, now you said you had two bottles
25 of beer. Those were beers that you had before when Jontu

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1 Singleton, Sr. was with you is that right?

2 A. Actually one of the beers was Jontu, Sr. beer that I
3 gave to him and he left it in the car because when he got
4 out he left the beer in the car.

5 Q. Okay.

6 A. So I just kept that beer and I got out with his
7 beer.

8 Q. Okay.

9 A. I was going to drink his beer too.

10 Q. Now Tyrone, you testified earlier that you had a gun
11 over on Wild Horse Road. Did you still have that gun
12 with you, Tyrone?

13 A. I had it in my pocket.

14 Q. You had it in your pocket. And we've seen the video
15 of your interview over at the Hilton Head office of the
16 Sheriff's Department you had on red shorts, kind of
17 longer shorts, and no shirt on. Is that what you were
18 wearing at that time?

19 A. I had on red shorts, gym shorts, I had on a pair of
20 black, orange, and grey 1995 Air Max's with a pair of
21 white and black mismatched socks.

22 Q. Okay.

23 A. And two beer bottles.

24 Q. Okay. So you get out of the car and you've got two
25 beer bottles and you've got this gun in your pocket. Let

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1 me ask you this million dollar question. What kind of
2 gun did you have?

3 A. It was a revolver.

4 Q. It was a revolver. Was it a .38 caliber revolver?

5 A. A .38 caliber.

6 Q. Okay. When you get out of the car you've got two
7 bottles of beer and you've got this gun in your pocket.
8 Where do you go sir?

9 A. I walk from over here [indicates] and I walked to I
10 walked through this road -- let me make sure -- I think
11 this is Marguerite's house.

12 Q. I believe the testimony -- did you know whether
13 Marguerite and Brittany live in this house here
14 [indicates]?

15 A. Yes, this is Marguerite and that's ■ Allen Road --
16 So I walked through here [indicates] and I walked through
17 here [indicates] right. And I walked over here
18 [indicates] because there used to be a path somewhere
19 over here [indicates] or something. And I walked back
20 here [indicates]. I went to Charlese's house.

21 Q. Okay. This house right here [indicates]?

22 A. Yes, that's my cousin Charlese.

23 Q. Okay. And that's Charlese who testified earlier
24 this week is that right?

25 A. Yes.

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1 Q. Okay. Tell us what happened then Tyrone.

2 A. I went to Charlese's house because I was looking for
3 my other cousin Patrick. So I -- actually to be honest
4 with you when I walked here [indicates] there was some
5 kids out here [indicates].

6 Q. Okay. So you saw kids out there.

7 A. And the kids they all knew me. They knew me from
8 the neighborhood. So one of the kids asked me who was I
9 looking for. And I asked him if Patrick was home. And
10 he said he don't know does he want me to go check and I
11 said yes, go check for me.

12 So he went and asked Charlese -- he told me Patrick
13 wasn't home as a matter of fact and told me that his
14 Momma was home so it had to be her son must be. So from
15 there I just went to Charlese's house.

16 Q. Okay. When you went into Charlese's house was
17 Charlese in there?

18 A. Yes, she was home. She was cooking.

19 Q. Okay. And what did you do when you get into the
20 room with Charlese?

21 A. Well, when I got in the house -- I mean she's my
22 cousin and every time we see each other we can
23 communicate. So at first we were just talking. And she
24 was like Cuz what's going on and all that you know what
25 I'm saying. And I was just talking to her. As a matter

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1 of fact she had two potato chips and she asked me if I
2 wanted something to eat. But she didn't know at the time
3 what was going on and I didn't have any appetite for
4 anything so I told her I didn't want anything at the
5 time.

6 After I was talking to her I asked her for Patrick's
7 phone number and she told me she said hold on she had to
8 get it or something. Once she got the phone number I
9 asked her if I could use the phone and she -- either she
10 called or I called Patrick and I talked to Patrick on the
11 phone.

12 Q. Okay. And how long was that conversation with
13 Patrick? Was it very long?

14 A. It wasn't too long. It could have been five minutes
15 probably so; about five or ten minutes.

16 Q. And Patrick is his last name Young?

17 A. Yes.

18 Q. Okay. But he wasn't there in this area?

19 A. No, he wasn't there at the time. And I asked him I
20 said I asked him I said where you at? And he was like
21 Cuz what's going on; what do you want?

22 And that's when I said somebody is chasing me man.
23 Somebody is trying to kill me man. I said man I need
24 your help. He said man Cuz if somebody is trying to kill
25 you man, what is going on. I said man, I ain't know.

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1 But they chasing me, man. Somebody is trying to kill me
2 man. And he was like -- I said where you at man? And he
3 was like man, I ain't nowhere around at the time. As a
4 matter of fact he told me he was in Savannah, Georgia at
5 the time.

6 Q. Okay. Now at some point do you see Tyrone Delaney
7 I think it was Charlese's boyfriend; she was in a
8 relationship with him at the time is that right?

9 A. Yes, but I called somebody else after that.

10 Q. Oh okay, you called somebody else. Who did you call
11 Tyrone?

12 A. I called my cousin Ernest Bryant.

13 Q. Okay. And why were you calling Ernest Bryant?

14 A. I was calling him also asking him where he was out.
15 I was trying to find someplace to go hide to be honest
16 with you because these boys were trying to kill me. So I
17 called him and I was asking him where he at and I told
18 him somebody was after me trying to kill and all this.

19 And everybody I called they keep wanting me to
20 explain and go into details and all this of what is going
21 on and what's happening. So after I was explaining to
22 them about how Aaron was trying to kill me and all this
23 he also told me that he was in Savannah, Georgia.

24 Q. Okay. And so neither one of these gentlemen were
25 available to help you based on what you understood?

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1 A. As a matter of fact, this is the honest to God
2 truth, he told me to come meet him in Savannah, Georgia
3 and I was going to meet him.

4 Q. Okay. Now what happens after those phone calls
5 Tyrone?

6 A. I'm outside. I walk outside. I'm outside on the
7 phone, as a matter of fact when I was talking to Ernest I
8 was outside actually on the phone talking to Ernest.
9 Charlese boyfriend he pulls up in the yard. And he was
10 telling how -- what was going on and all that ---

11 Q. --- speak up.

12 A. Tyrone Delaney pulls up in the yard. I think he was
13 driving a truck at the time. And he tell me what's up,
14 how I doing and I tell him what's up and we start to
15 talking you know.

16 We talking and I get to the point I ask him if he
17 has seen a grey F-150 and he said yes, he seen that grey
18 F-150. His exact words were that truck was hauling ass
19 and he said it was on Spanish Oak Road.

20 Q. Did he tell you anything about it almost hitting him
21 or anything like that?

22 A. Yes, he said he had -- the truck almost hit him
23 coming off of Spanish Oak Road. But he didn't tell me
24 what direction the truck was going. He said it was on
25 Spanish Oak Road.

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1 Q. All right. Now let me ask you this Tyrone. Up
2 until this point when you'd been on Allen Road and you
3 parked your car and you come over and you talk to
4 Charlese and then you talked to Tyrone Delaney after
5 making those phone calls had you heard any shots in this
6 area [indicates] yet?

7 A. Had I heard any shots?

8 Q. Had you heard any shots?

9 A. Not yet.

10 Q. Okay. Now did you at any point take the gun out in
11 your hand and wave it around or anything like that?

12 A. No.

13 Q. Did your cousin or Tyrone Delaney did they know you
14 have the gun? Did they see it or would they have been
15 able to see it?

16 A. No, they never told me anything about a gun.

17 Q. They didn't tell you anything about the gun but
18 could they have seen it sticking out of your pocket?

19 A. No, it was in my pocket. No one could see that.

20 Q. All right. Now Tyrone, at some point does either
21 Tyrone Delaney or your cousin ask you to leave?

22 A. Charlese might have. I don't really recall nobody
23 asking like that. I remember me and Charlese I did --
24 sometime during that part she might have asked me to
25 leave or what not.

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1 Q. Okay. Now Tyrone at some point do you leave
2 Charlese and Tyrone's?

3 A. Well, I'm about to go to Savannah to meet Ernest.
4 He told me to meet him in Savannah. That was how I was
5 going to get off the island away from Aaron, Sr. and
6 Aaron, Jr. But I don't know man.

7 I'm going to be honest with you man, y'all can say
8 it's religion or whatever but something -- God --
9 something just told me I got that feeling in my mind
10 Tyrone stay right here. Don't move; because I was going
11 right here [indicates].

12 Q. So you were talking to Tyrone Delaney?

13 A. No, I wasn't talking ---

14 Q. --- you were talking to yourself?

15 A. No, listen. When -- Tyrone and me -- Tyrone Delaney
16 and me hadn't talked after he told me that. He went in.

17 Q. Okay.

18 A. I was standing in the yard and I was about to go to
19 here [indicates]. But I just got that instinct that
20 feeling like something just said -- that feeling like
21 Tyrone don't go yet. Don't go. I just got that feeling.

22 And I stayed right there and I was just looking like
23 in a daze staring at Marshland Road because the woods are
24 right here [indicates] and Marshland Road is right here
25 [indicates]. I'm staring at Marshland Road. And just --

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1 because I was about to leave and in that time the F-150
2 pulls up, and as soon as I seen that truck I ran back
3 here [indicates]. And I just heard a gunshot pow, pow,
4 pow, pow.

5 Q. Tyrone, when you were here [indicates] and you saw
6 the grey truck did anybody in the grey truck see you or
7 could you tell?

8 A. They had to have seen me. I was standing in the
9 yard with big red short pants on.

10 Q. Okay. And where exactly using this model did you
11 run to?

12 A. I ran right in back of here [indicates]. That's why
13 my footprints or the bushes and stuff were torn down
14 right here [indicates]. I ran back here [indicates].

15 Q. Now you said you heard shots right then. Was the
16 truck still in front of this house?

17 A. No, I heard the shots, pow, pow, pow, pow. Then I
18 went right here [indicates]. And I'm ducking down with
19 two 40 ounce bottles of beer in my hand.

20 And I look up and then I see the truck over here
21 [indicates]. So the truck done shot down here
22 [indicates] that quick and shooting is going on. And I
23 remember ---

24 Q. --- let's have you stand over to this side so the
25 jury can see where you are pointing okay.

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1 A. This [indicates] is Allen Road.

2 Q. And that's where you saw the truck after that.

3 A. But if you stand behind Charlese's house you can
4 look directly across and you could see Allen Road. And
5 the truck now is directly across from where I was hiding
6 at and they right here [indicates] at Allen Road shooting
7 towards me.

8 So much gun smoke is coming out of the truck it
9 looked like a cloud falling out of the sky and sat on top
10 of the truck. That's how much gun smoke -- and I
11 listened -- I specifically sat there and listened to the
12 gun fire because I wanted to know how many guns were
13 being fired. And I heard that gun [indicates] firing
14 because I already heard that and I heard another pistol
15 being fired on Allen Road.

16 Q. Now Tyrone let me ask you this. You said you can
17 see through there but could you see - could you actually
18 see ---

19 A. --- I could see from right here [indicates] I looked
20 dead exactly at this truck sitting on Allen Road shooting
21 up from Allen Road from right here [indicates].

22 Q. Could you see where the guns were being aimed at?

23 A. They were across from me. They were shooting at me.

24 Q. They were shooting in that direction?

25 A. And after they -- then I looked back down again and

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1 when I looked up again the truck was backing up from here
2 [indicates] and shooting for my car right here
3 [indicates].

4 Q. Now during this period of time could you tell how
5 much time was passing between each of these incidents?

6 A. I wasn't looking at -- I didn't have a watch and I
7 wasn't paying attention to the time.

8 Q. Okay. Well, let's talk about where you were
9 Tyrone. You were back in this area [indicates]. Where
10 did you go from this area [indicates] as this was
11 happening?

12 A. I ran from back here [indicates] and it used to be
13 when I was coming up when I was younger this woods used
14 to be thinned out and we used to play inside this wooded
15 area from Avena's [phonetic] house to Marguerite's house.
16 As a matter of fact we had a path from Avena's [phonetic]
17 house coming over here [indicates]. And me being naïve
18 I'm still thinking that path is over here.

19 So I walk back here [indicates] and I try to get in
20 this woods over here [indicates] to run from the
21 shooting. But it's a briar patch area over here
22 [indicates] and I can't get through the woods. I get
23 stuck up in the briar patch. It was sticking me and I
24 don't have a shirt on or nothing. So I come through here
25 [indicates].

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1 Q. You come through here [indicates]. Now this is a
2 storage building of some kind?

3 A. This [indicates] is 10 Allen Road and this
4 [indicates] is a utilities building.

5 Q. Okay. And you come through there. Now at some
6 point did you see Brittany Brinson?

7 A. I walked through here [indicates] ---

8 MR. STONE: --- he can't see.

9 MR. BAX: I'm sorry. I apologize. ---

10 Q. [Mr. Bax] Let's go through that again. I want you
11 to point out ---

12 A. --- this [indicates] is 10 Allen Road and this
13 [indicates] is the utility house. And I tried to get
14 through these woods over here [indicates] these bushes.
15 I walked through here [indicates], I couldn't get through
16 here [indicates]. So I came back through here
17 [indicates].

18 And when I came through here [indicates] I looked
19 over here [indicates] and I did see Brittany Brinson.
20 She was standing on the porch looking around trying to
21 see what was going on.

22 Q. Okay. At that point in time what did you have in
23 your hands Tyrone?

24 A. I had two 40 ounce bottles of beer. One of them was
25 a Old -- and one of them was Steel Reserve called a 211.

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1 Q. Okay. And did you have -- did you have a gun --
2 did you have that gun that you had in your pocket or was
3 it still in your pocket?

4 A. No absolutely not. It was in my pocket.

5 Q. It was in your pocket. Okay. Did you see -- you
6 had mentioned that you saw the children earlier. At this
7 point do you see any children?

8 A. No. I seen Brittany. I seen Brittany Brinson as I
9 come through here [indicates]. I never see anyone
10 fitting the description of [redacted] Minor or none of
11 that.

12 Q. Okay. What did you do then, Tyrone?

13 A. I walked through here [indicates]. I'm walking
14 slow. I'm looking at Brittany and -- that truck was
15 running around shooting so I'm walking slow. And I got
16 right here [indicates] over here [indicates] and when I
17 did I kind of stopped like this right here [indicates].

18 I stopped and I'm looking at this boy named
19 Dominique Griffin. He is holding a chrome gun in his
20 hand. So I got that feeling in my gut and I stopped you
21 know what I'm saying.

22 I don't know what part he played in this so I
23 stopped just to make sure that he wasn't out there just
24 to shoot me. But after I see he didn't aim the gun at me
25 or fire shots at me or anything I started inching towards

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1 him. He was just standing in the road holding the gun.
2 So when I got up to him he said Tyrone man, what you got
3 going on man? Them boys just come and shoot up your car.
4 I said man, they shot up my car, man. And that's when I
5 walked over there with him and looked at my car.

6 Q. And what did your car look like when you got over
7 there?

8 A. Well, you could tell that they came and this time
9 they shot the car up from the side right here
10 [indicates].

11 Q. Tyrone, I'm going to stop you right there and lets
12 use the photographs, okay.

13 MR. BAX: Your Honor, I'm showing the witness what
14 is marked as State's exhibit 16.

15 Q. [Mr. Bax] Is this to demonstrate those shots that
16 you saw at this time?

17 A. This shot right here [indicates], this shot right
18 here [indicates], this shot right here [indicates]
19 because this came in from Oak View and those are the
20 shots I showed the police officer.

21 Q. Okay. Now there was also you stated not all the
22 shots in the back of the car were originally there but
23 some of them were. Were there additional shots in the
24 back of the car?

25 A. These [indicates] came from Oak View Road. This

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1 [indicates] came from Wild Horse Road, these shots

2 [indicates] came from Allen Road.

3 Q. Okay. Now Tyrone if you would when you got over
4 there to your car and saw that it was shot up did you
5 leave Allen Road at that time?

6 A. Yes, I jumped in my car and I got out of there.

7 Q. Okay.

8 A. But before I left I did -- that little boy ran over
9 there and he said somebody got shot. I heard somebody
10 got shot I jumped in my car and I got out of there. I
11 drove from Allen Road.

12 I drove to Muddy Creek Road, then I turned on Bryant
13 Road. Bryant Road is off of Muddy Creek Road so you have
14 to go down Muddy Creek Road and then go down Bryant Road
15 to get to Bryant Road and that's where Snake's house is
16 at.

17 Q. Okay. Let me ask you to go ahead and take the
18 stand again for me okay since we're kind of done with the
19 model.

20 [Whereupon, the witness retakes the stand]

21 Q. Do you need any water or anything?

22 A. No I'm good.

23 Q. Make sure you speak into the microphone for me okay,
24 Tyrone. Thank you. I know this is -- we're getting
25 through it. Tyrone you've testified that after you left

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1 this scene as depicted in the model you went over to
2 Bryant Road via Muddy Creek Road to Snake's house. Who
3 is that?

4 A. Snake is Joseph Bryant and he is my cousin.

5 Q. Okay. And when you went over there was there
6 anybody else over at -- let me ask you this. Was Joseph
7 Bryant over there at his house?

8 A. He was but he was in the room because he was in an
9 accident and his leg was messed up.

10 Q. Okay.

11 A. So he couldn't really do much walking around.

12 Q. All right. Was anybody else over at Mr. Bryant's
13 house besides Mr. Bryant?

14 A. It was a boy named Bennie Hamilton.

15 Q. And that's the same Bennie Hamilton that has
16 testified in the trial is that right?

17 A. He testified earlier. I think he had braids or
18 something in his hair; light skinned fellow.

19 Q. Okay. Tyrone when you got over to Bryant Road did
20 you still have the gun in your pocket?

21 A. Yes.

22 Q. Okay. What did you do with the gun at that time?

23 A. I threw it behind the house.

24 Q. Threw it behind the house, okay. Did you talk with
25 Bennie Hamilton?

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- 1 A. Yes.
- 2 Q. Did you tell him what was going on?
- 3 A. I told him that I needed his help with something.
- 4 Q. And what did you -- what did you ask Bennie to help
- 5 you with?
- 6 A. Well first he said -- well, I asked him to help me
- 7 with this situation because I said some boys was shooting
- 8 at me and they just shot a little boy.
- 9 Q. Okay. And that's what you heard as you were
- 10 leaving this area is that right?
- 11 A. Yes. I heard somebody got shot.
- 12 Q. Okay. Did you hear that it was a little boy that
- 13 had been shot?
- 14 A. It was another little boy who said that so I figured
- 15 it was a little boy because they were over there by that
- 16 trampoline. It was [REDACTED] was the one that said it.
- 17 Q. All right. At some point do you ask for either
- 18 something to wash your hands with from Bennie?
- 19 A. I asked him if he had anything in there to wash my
- 20 hands.
- 21 Q. Why did you do ---
- 22 A. --- first I asked him for dishwashing detergent.
- 23 And then he said he ain't had none of that and I asked
- 24 him if he had any bleach or whatever.
- 25 Q. And did he have any of that?

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1 A. No, he didn't have any.

2 Q. Did you wash your hands while you were over there?

3 A. I did wash my hands.

4 Q. What did you wash your hands with?

5 A. I washed my hands with that bottle [indicates] of
6 vinegar.

7 Q. Okay. And why did you do that Tyrone?

8 A. Because I had gunpowder on my hands and I knew that
9 whatever happened this situation was going to be crucial.
10 And I was going to -- my plan was to go to the police
11 station. I was going directly to the police station.

12 I was going to report what happened and call the
13 ambulance for the little boy whoever got shot out there
14 and I was going to the police station. And I didn't want
15 to go to the police station with all that.

16 Q. Let me ask you this. You said you had gunpowder on
17 your hands. You have testified that you shot a weapon
18 over at ■ Old Wild Horse Road correct?

19 A. I did.

20 Q. Okay. After Old Wild Horse Road did you ever shoot
21 a gun again that day?

22 A. No.

23 Q. Okay. You're under oath you understand?

24 A. Yes.

25 Q. Did you ever shoot a gun again after Wild Horse Road

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1 that day?

2 A. I shot a gun in Aaron's yard on Old Wild Horse Road.

3 Q. And that was the last time you fired a gun that day,
4 is that correct?

5 A. Yes.

6 Q. Okay. Now Tyrone before we move on I think we need
7 to cover this ---

8 A. --- let me make this straight first off. The gun
9 that I fired this is the honest to God truth. Y'all can
10 believe or not but I'm telling y'all the honest to God
11 truth. I had five full metal jacket rounds for that gun.
12 They were all copper coated. Those were the last five
13 rounds of bullets that I had.

14 And I'm going to tell you how I got that five
15 rounds. I had a Remington box of bullets for this gun.
16 The box of bullets is green and it has tan on it and the
17 writing on it is in white cursive and it says Remington.
18 The bullets are in a black tray.

19 When you pull the tray out they look like a bunch of
20 gold nuggets, gold just like the color of my teeth;
21 that's exactly how they look when they are brand new in
22 the box and they're sitting up right inside it.

23 And I had five more rounds left and they were in a
24 black pouch. And it took me a while to find that black
25 pouch because one night I was riding in my white

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1 Mercedes. The police stopped me and they found the
2 bullets in the black pouch and the police said that they
3 were going to take the bullets from me and I told them to
4 keep it. So I thought that they had took the bullets.

5 But what happened the police never took the bullets.
6 He put the bullets underneath the back seat of my
7 Mercedes because on a Mercedes the battery is not
8 underneath the hood; the battery is in the back
9 underneath the back seat.

10 So one day I was cleaning my Mercedes and I lifted
11 up the back seat and I saw the bullets sitting on back of
12 the battery and that's when I knew the police never took
13 the bullets. They left the bullets and it was five full
14 metal jacket copper coated round of bullets left inside
15 that bag.

16 And those are the five rounds that I had inside that
17 revolver. And I swear to God that's the honest truth.
18 And you can believe it or not but that's the honest
19 truth.

20 Q. And so Tyrone is your testimony that you ever had
21 any plain lead bullets; any that didn't have that jacket
22 on?

23 A. I never had plain lead bullets for that gun. When
24 you buy bullets for a gun they still sell the bullets and
25 they only sell that kind of bullets. And the kind of

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1 bullets that were in that box of bullets were copper
2 coated full metal jacket bullets. They don't sell
3 assorted bullets.

4 Q. Okay.

5 A. For obvious reasons.

6 Q. All right Tyrone. Also we need to get this covered.
7 You have been convicted in 2003 of some Failure to Stop
8 for some Blue Lights and Possession of a Stolen Car in
9 which you were sentenced to about 13 years, is that
10 correct?

11 A. I was.

12 Q. Okay. And as ---

13 A. --- actually 18 years and the Judge reduced it to
14 13.

15 Q. Okay. And out of that you served about seven is
16 that right?

17 A. I did about seven and half years.

18 Q. Okay. So Tyrone you were aware of the fact that as
19 a convicted felon you're not supposed to have a gun is
20 that right?

21 A. Exactly.

22 Q. Now Tyrone is that why you were worried about having
23 a gun and having gunpowder on your hands when you went to
24 the police station?

25 A. It was because if I would have -- they would have --

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1 if I would have went to the police station with that gun
2 they would have gave me a Federal charge and I was facing
3 like 10 years for that gun.

4 Q. Okay. And you were afraid of that, is that right?

5 A. Yes, I was.

6 Q. Okay. Now Tyrone while you were over at Bryant
7 Road did you call 911?

8 A. I did call 911 as soon as I got there and I asked
9 Bennie for help. At first I really I asked him to take
10 me personally to the police station. He said he's not
11 going over to the police station. For some reason a lot
12 of people are scared to go to the police station; they
13 don't want to be around the police.

14 So I asked him for a phone or something and he said
15 he didn't have a phone but he said Snake got a phone. So
16 I asked him to go get Snake's phone. And he went and got
17 Snake's phone for me. It's a cell phone, a flip cell
18 phone.

19 And I walked outside and that's when I called 911
20 and I told them that for them to send a medical team or
21 whatever to Allen Road because I think a boy had got
22 shot.

23 Q. Now Tyrone in that call what do you call yourself
24 when you were saying what your name was what did you say
25 your name was?

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1 A. I think I said T.

2 Q. T? Now do you go by T?

3 A. Yes, some people call me T; some people call me Big
4 T.

5 Q. Okay. So Big T, T, or Tyrone?

6 A. Yes. The kids in the neighborhood call me Big T.

7 Q. All right. I want you to hold on just a second.

8 MR. BAX: Moment's indulgence, Your Honor.

9 THE COURT: Yes, sir.

10 MR. BAX: Thank you very much.

11 [Whereupon, Mr. Bax confers with Ms. Saxon]

12 Q. [Mr. Bax] All right. Thank you, Mr. Robinson. Just
13 finally okay and I'm going to be done and this is very
14 important. Tyrone, did you shoot that boy?

15 A. Absolutely not I did not shoot [Minor] I know I did
16 not shoot [Minor] because when the police affirmed that
17 this boy was shot and killed they specifically told me
18 they said we going back to Wild Horse Road and we're
19 going to get them bullets out of that ground.

20 And he said if those bullets match the bullet we
21 retrieved out of that boy I got your ass for murder. And
22 I knew for a fact that those bullets were not going to
23 match. They couldn't have matched because I knew I
24 didn't shoot [Minor] at all. Aaron, Sr. and
25 Aaron, Jr. honest to God truth I swear to God on my

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1 granddaddy's grave I sat there and watched. I watched
2 Aaron, Sr. and Aaron, Jr. sitting on Allen Road and they
3 been shooting more than one gun. I don't know who killed
4 him; my conscience is clear. But I ain't killed that
5 boy.

6 Q. Thank you.

7 THE COURT: Mr. Stone, cross-examine?
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1 CROSS-EXAMINATION

2 BY MR. STONE:

3 Q. Mr. Robinson, I don't where to start Mr. Robinson.
4 You've been sitting here the whole time listening to
5 everybody's testimony right?

6 A. Yes, sir.

7 Q. Okay. Let me start at the first story you told.
8 When you went back to the scene you talked to Martin
9 Thomas and you told him this was a drug deal gone bad and
10 you had a shoot-out over there. That's not the story
11 we're using tonight right; this is going to be a
12 different story?

13 A. This situation ---

14 Q. --- speak up, sir. I can't hear you.

15 A. This situation is a whole bunch is a different story
16 because its different situations does not mean -- the
17 situation that occurred in here the people are not
18 talking about.

19 Like Aaron, Jr. and Aaron, Sr. we had a falling out
20 like months before and that was over a quarter ounce of
21 powder; months before all this began. And from that date
22 a situation occurred and it was like back and forth drama
23 every since.

24 Q. Okay. Let me go back to my original question.
25 When you went out to the scene that day and you saw

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1 Martin, Thomas, you remember Martin Thomas the police
2 officer right?

3 A. Yes, sir.

4 Q. You remember Officer Thomas is the guy that put you
5 in the patrol car.

6 A. Yes.

7 Q. And you walked up to him and you said let me tell
8 you what this all about. This is about a drug deal. Do
9 you remember telling him that?

10 A. Yes, sir.

11 Q. And do you remember telling him that you had a shoot
12 out over on Squire Pope Road is that right?

13 A. I told him we had a shoot out on Squire Pope Road
14 but I wasn't referring to no Smith and Wesson Billy the
15 Kid type shoot out. Y'all took it like that and
16 manipulated that.

17 Q. And when you told him you had a shoot out over at
18 Squire Pope Road you said you went there to buy cocaine
19 is that right?

20 A. Jontu -- I took Jontu there ---

21 Q. --- I'm sorry, sir. Did you tell Martin Thomas ---

22 MR. BAX: --- Your Honor, I object ---

23 Q. [Mr. Stone] --- that you went there to buy cocaine?

24 THE COURT: Mr. Stone, just a second. He can

25 answer it. You have a right to finish your answer Mr.

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1 Robinson.

2 A. I told him we went there for cocaine but Jontu got
3 out the car and asked for money and Jontu was the one who
4 wanted to get cocaine. I gave Jontu a ride. He asked me
5 to take him there. I told him I did not want to go
6 there.

7 Q. [Mr. Stone] I'm sorry because I didn't hear anything
8 about the cocaine today. So that's different that what
9 you said before?

10 A. Because this thing is not about no cocaine. First
11 of all it's about [Minor] and [Minor] is my cousin. Y'all
12 need to tell them that. It's not about cocaine.

13 Q. By the way you now remember your cousin's name
14 [Minor] ?

15 A. All the people sitting over there are my cousins.

16 Q. Right. But when you were asked about your cousin at
17 the police station you couldn't even remember his name
18 could you?

19 A. I knew his name from the newspaper.

20 Q. Let me get back to Martin Thomas. You went up to
21 Martin Thomas you went up to him and you told him let me
22 tell you what this is about. This is about a coke deal
23 gone bad, is that correct?

24 A. I told him something like that.

25 Q. You told him that there was a shoot out on Squire

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1 Pope is that correct?

2 A. It told him a shoot out on Squire Pope.

3 Q. You told him that you went over there to buy cocaine
4 but Aaron Young, Sr. wouldn't sell you any cocaine, is
5 that correct?

6 A. Jontu supposed to got out and was talking about
7 something like that. He got out and started talking
8 about money. It was never anything about cocaine.

9 Q. And I'm asking you once again. When you told Martin
10 Thomas you told Martin Thomas you went over there to buy
11 cocaine and he wouldn't sell you cocaine right?

12 A. Right he wouldn't ---

13 Q. --- because y'all had a beef?

14 A. Since that beef that day he wouldn't sell -- he
15 don't sell me nothing. He wouldn't do nothing.

16 Q. So he does normally sell you cocaine and he wouldn't
17 sell you cocaine that day?

18 A. I told you this started over like two months ago
19 that was all over.

20 Q. Right. But that's not what you're telling us today.
21 Today you just were sitting in the car and had no idea
22 and all of a sudden Aaron Young comes over and starts
23 getting mad at you.

24 A. Today I'm telling you the truth.

25 Q. Okay. As opposed to what you told Martin Thomas at

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1 the scene that night then?

2 A. You're manipulating what I said.

3 Q. No sir, I don't believe I am. I'm just asking you a
4 question.

5 A. I told them this was over a drug deal gone bad. But
6 if the drug deal that would have occurred two or three
7 months before all this occurred you're trying to put
8 something from months and this situation weeks apart all
9 together in one situation and it's not.

10 And when I talked to Martin Lawrence [sic] I was
11 giving him a quick description of what was going on so
12 they could find the person Aaron, Sr. who are responsible
13 for all this right here and I was just giving him a quick
14 description. It was not like we sat down in an
15 interrogation room and I gave him every detail and
16 explained to him exactly everything I mean.

17 When I talked to him I told him we had a shoot out
18 on Squire Pope Road. I told him Squire Pope Road because
19 I got Squire Pope Road confused with Wild Horse Road. If
20 he would have sat down and we had a detailed conversation
21 I could have explained to him exactly what I meant.

22 And when we did have a detailed conversation I
23 explained to him Bennie. Bennie is not on Squire Pope
24 Road and you know that so obviously I was just giving him
25 a quick detail. Bennie is on Wild Horse Road.

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1 Q. Well I'm glad you brought that up. Since you went
2 and you had a detailed conversation at the Sheriff's
3 Office didn't you?

4 A. Yes.

5 Q. And in fact it last about an hour or hour and a half
6 something like that maybe; maybe even longer?

7 A. It was a while.

8 Q. Yes. And in those detailed conversations at that
9 point at the Sheriff's Office you didn't even have a
10 shoot out at all on Squire Pope Road did you?

11 A. A shoot out at all? It never was a shoot out.

12 Q. So when you told the police when you went to the
13 Sheriff's Office and you told the police at that point
14 you said you didn't even shoot a gun.

15 In fact at that time you said we had a fist fight;
16 see my hands they are swollen because the officer
17 specifically asked you did he not? So you're saying you
18 didn't even shoot at Squire Pope Road ---

19 A. --- I never said ---

20 Q. --- you said no, I used my fist is that right?

21 A. I said I'd rather use my fist when dealing with
22 people. I never said me and Aaron had a fight. Me and
23 Aaron never had any physical contact at all. And I
24 explained it to him. And Aaron came up with that lie. I
25 never had any physical contact with Aaron, Sr., Aaron,

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1 Jr., with Ebony; no one.

2 Q. Okay. So your story today is that you do admit now
3 -- I mean I just want to get this straight. You did
4 shoot at the Squire Pope Road area at Wild Horse Road?

5 A. I shot yes, on Wild Horse Road in the yard. I shot
6 in the air and I shot in the ground.

7 Q. Okay. So the testimony earlier about you shooting
8 it that is true now? You did do that?

9 A. Yes, I did.

10 Q. And you fled and as you were fleeing I think you
11 said just a few minutes ago that you were angry. Is that
12 right you said you were mad? You were excited and you
13 were mad and all that kind of stuff?

14 A. No, I said when I was at Melvin's house.

15 Q. Right.

16 A. When I was at Melvin's house and I was trying to
17 explain what I was talking to Cedric or something. I was
18 cursing also because I was upset. I never said anything
19 about I was fleeing that I was angry. I was fleeing.
20 When I left the yard I did exactly what I was supposed to
21 do.

22 Let me tell you I fled from Aaron, Sr. and Aaron,
23 Jr. on Wild Horse Road. I fled from them again on Oak
24 View Road and I fled from them again in front of
25 Charlese's yard. If they would have put enough effort

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1 into fleeing from me and avoiding me as I put effort into
2 fleeing from them and avoiding them [Minor] would have
3 been in school today, his Momma would have been smiling
4 and laughing and he would be alive today and we would
5 never have been in a courtroom.

6 Q. Right. By the way when you passed them at Oak View
7 I think you said that they were actually having to hold
8 Aaron, Jr. by the legs so he could hang out of the car
9 with this weapon right here [indicates] is that right?

10 A. That gun right there ---

11 Q. --- yes, I know I understand that.

12 A. He ---

13 Q. --- when you passed them at Oak View ---

14 A. --- Aaron, Jr. been out the car like this
15 [indicates]. This leg [indicates] part of this was
16 hanging out and there ain't no way this heavy part going
17 hang out without somebody holding your legs.

18 So his father was holding his legs and the truck was
19 going at a slow because nobody was mashing the gas or
20 anything. It was rolling veering off because his father
21 was holding his legs while he was shooting into the car.

22 Q. And there were two other people in the cab of the
23 truck according to you, is that right?

24 A. It was two people. One sitting on the right, one
25 sitting on the left in the back of the cab and they had

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1 on all black. They had like dreads hair and they were
2 staring at me.

3 Q. The truck is going that way [indicates]?

4 A. And two people Aaron, Sr. and his son in the truck.

5 Q. So I'm assuming are you on the right side of the
6 road and the truck is on the left side of the road?

7 A. I'm in the right lane, the truck in the left lane,
8 the truck passing me by and I'm passing the truck by.

9 Q. I'm just wondering if there was all these other
10 people shooting why somebody else didn't shoot at you on
11 Oak View? Nobody else shot at you on Oak View did they?

12 A. I told you ---

13 Q. --- did anybody else shoot at you on Oak View other
14 than Aaron Young, Jr.?

15 A. I wasn't sitting there watching. They might have
16 did, they might have not. I just glanced at them and I
17 seen what I seen and I ducked down and I drove off.

18 I almost had ran off the road because I was ducking
19 down and couldn't look up because I was scared to put my
20 head up for somebody to shoot me in the head.

21 Q. Got you. Charlese is your cousin correct?

22 A. Yes, she is.

23 Q. It seems like she was pretty nice to you. She
24 actually offered to feed you right?

25 A. Yes.

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1 Q. Tyrone Delaney he's a pretty good guy too. Y'all
2 didn't have any problems did you?

3 A. No, I don't have any problems with him.

4 Q. And you have any problems with let's see Brittany
5 Brinson over here [indicates]?

6 A. No.

7 Q. Okay. How about little [REDACTED] JS. [REDACTED] you
8 got any problems with him? He doesn't like you and you
9 don't like him or anything like that?

10 A. Let me tell you ---

11 Q. --- I'm just asking y'all got any problems?

12 A. No, we don't have any problems.

13 Q. Okay. And then over here [indicates] in this house
14 over here [indicates] Mr. Griffin, the man you said you
15 saw later that day you do admit seeing him that day
16 right; Dominique Griffin?

17 A. He was just standing in Allen Road with a chrome gun
18 in his hand.

19 Q. Got you. And do y'all have any beef?

20 A. No.

21 Q. So when Charlese says she sees the gun does she have
22 any reason to make that up?

23 A. Would she have any reason to make that up? Man, I
24 had the gun in my pocket. I don't know how she could...

25 Q. When Tyrone Delaney says you said, and I quote,

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1 | those motherfuckers don't know who they are dealing with.

2 | I'll fire at them. Is he making that up?

3 | A. You know what? I told him that those motherfuckers
4 | were shooting at me and all that but I never say nothing
5 | about firing at them or none of that. I told him that
6 | they were shooting at me trying to kill me.

7 | Q. But you didn't tell him you'd fire back at them?

8 | A. I never told him I fired back at them.

9 | Q. How about at the Sheriff's Office? Is it possible
10 | at the Sheriff's Office you made the statement they shoot
11 | at me I'm going to shoot at them?

12 | A. At the Sheriff's Office I found out that my cousin
13 | had got hit with a bullet and he was in the hospital. I
14 | was pissed off. If they would have let me out the
15 | Sheriff's Office then I would probably go around looking
16 | for them.

17 | And I told them if they let me go I would go looking
18 | and find out who all those people were in that truck and
19 | relay that information to them because I was pissed off
20 | at the situation that they came around -- they shooting
21 | at me.

22 | They trying to kill me and then in the process
23 | somebody innocent like Minor gets shot and killed. And
24 | that boy is my cousin and now my whole family is pissed
25 | off at me. You don't think I'm going to be mad with

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1 that?

2 Q. You should be mad. I understand they were shooting
3 at you. You were mad weren't you? You were mad weren't
4 you?

5 A. After I find out that ---

6 Q. --- to the point of you saying ---

7 A. --- I was mad after ---

8 MR. BAX: --- objection, Your Honor ---

9 A. --- I find out that. **Minor** was shot yes, I was mad.
10 But while they were shooting at me I was scared for my
11 life; that's the reason that I ran.

12 Q. [Mr. Stone] Okay. Except that when you got over to
13 your cousin's house you were mad then.

14 A. I was scared for my life the whole time. You can
15 put it how you want but if somebody come at you with that
16 gun you would do -- you would shit in your drawers, piss
17 in your pants and run the same way I did.

18 Q. All right. And then you kept the gun and -- I'm
19 sorry; let me go back. So you didn't tell Tyrone Delaney
20 that you were going to shoot at them because they didn't
21 know who they were dealing with?

22 A. I never said nothing about I was going to shoot at
23 them. I was running for that weapon sitting there
24 [indicates] and shooting at me. If I was -- why I shoot
25 at them? I was running from these people. They got

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1 that big gun [indicates] what match I have. I'm one man
2 with four people chasing me, what can I do? I'm supposed
3 to sit there and let them shoot me up? Man, I'm running.

4 Q. I don't expect you to let them shoot you. You had
5 what five or six shots in that revolver?

6 A. I said five.

7 Q. Five shots in that revolver ---

8 A. --- five full metal jackets ---

9 Q. --- and you had already shot a couple of over at
10 that other house ---

11 A. --- five full metal jacket copper coated bullets
12 were inside the gun.

13 Q. You'd already shot two or three.

14 A. Man, I'm ---

15 Q. --- you didn't have any shots left did you ---

16 A. --- I didn't know how much I fired because they
17 fired a bullet inside the house and they said that that
18 bullet matched one of the bullets from another case I
19 don't want to get into.

20 But y'all found -- y'all retrieved like four bullets
21 that y'all claim came from my gun and all four of those
22 bullets were full metal jacket copper coated bullets and
23 all four of those bullets matched. None of those bullets
24 matched the bullet that came out of Minor So y'all
25 know that the bullets in my gun were full metal jacket

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1 bullets. Y'all just coming in here trying to frame me
2 for that boy because y'all want T, me; y'all want to
3 frame me. But y'all know all the bullets in my gun that
4 y'all found did not match that bullet in that boy. So
5 how could I have shot him? But I'm the damn donkey and
6 y'all trying to pin the tail on me.

7 Q. Well it doesn't matter because you didn't shoot over
8 at Allen Road did you?

9 A. I didn't shoot that boy at all.

10 Q. I didn't ask you if you shot the boy ---

11 A. --- I ain't shoot on Allen Road ---

12 Q. --- I asked you if you shot at Allen Road.

13 A. I ain't shoot on Allen Road. If you would have
14 found a bullet inside Minor what that would mean; then
15 you could probably say I would have shot him. You found
16 a plain lead grey bullet in that boy.

17 You need to go find the person who was shooting a
18 plain lead -- or a gun with plain lead grey bullets in it
19 because my gun had full metal jackets in it and you got
20 four full metal jacket bullets that match each other that
21 prove that.

22 Q. That's the gun you threw away?

23 A. That's the gun ---

24 Q. --- that's the gun ---

25 A. --- I threw away because I was scared ---

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1 Q. --- you hid behind Snake Bryant's house ---

2 A. --- to go to the police station because if I did you
3 know just as well as I know I would have had a Federal
4 indictment for unlawful convicted felon and unlawful
5 possession of a pistol.

6 MR. STONE: Excuse me just a moment, Your Honor.

7 THE COURT: Yes, sir.

8 [Whereupon, Mr. Stone confers with Mr. Thornton]

9 Q. [Mr. Stone] When you were down at the Sheriff's
10 Office giving your story at the Sheriff's Office you were
11 saying that you were at Allen Road, they shot at you and
12 you got mad and you got in your car and you went to chase
13 them. And as you were chasing them you went wait a
14 minute; I can't chase them I don't have a gun. Do you
15 remember that?

16 A. I remember saying I don't have a -- what is a pistol
17 compared to that gun [indicates]? That gun holds 34
18 rounds. Anybody would be a fool to sit there with a
19 little revolver.

20 That's like taking a water gun to fight against a
21 gun battle or taking a knife to a gun battle. Who is
22 going to sit there with five little bullets when I done
23 let off some over there on Wild Horse Road and they got
24 all that in there. Those people going to gun me down.

25 Q. Unless you lay and wait for them so you could take a

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1 couple of shots at them as they were leaving.

2 A. Lay in wait for them? Man, you need to go find who
3 was firing that gun [indicates] and no pistol and all the
4 people in that truck that day that boy was shot and
5 killed because I didn't shoot that boy.

6 And the bullets that you got don't match the bullets
7 that came out of the body of that boy that proves I did
8 not shoot him. You can say what you want but God knows
9 the truth and you ain't going to judge me but God will
10 judge you.

11 Q. Which is I guess why you took and threw the .38 away
12 before you called the police, the reason you washed the
13 gunshot residue off your hands before you called the
14 police, and in fact you called the police because
15 everybody in the whole neighborhood had already seen you
16 out there ---

17 MR. BAX: --- objection ---

18 Q. [Mr. Stone] --- is that not true ---

19 MR. BAX: --- this is testimony.

20 A. Mr. Duffie Stone the honest to God truth I did
21 everything in my power to avoid this situation today. I
22 fled from them boys I don't know how many times. Them
23 boys keep coming; they keep trying to kill me and I kept
24 running and I kept running, I kept running. And they
25 didn't stop because they wanted blood and they wanted

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1 death and they did not stop until they got blood and they
2 got death.

3 Q. What are you crying for?

4 A. Because ---

5 Q. --- Sir, what are you crying for? Are you crying
6 for **Minor** or you crying for yourself ---

7 MR. BAX: --- objection ---

8 THE COURT: --- I'll sustain that objection ---

9 A. --- I'm crying for **Minor** I'm crying for my family,
10 I'm crying for all this. Man, I cry for you because you
11 so lost in this..

12 MR. STONE: I don't have anything else, Your Honor.

13 THE COURT: Thank you.

14 MR. BAX: Nothing further, Your Honor.

15 THE COURT: Thank you. Mr. Robinson, you can step
16 down.

17 [Whereupon, the witness is excused and exits the
18 witness stand]

19 THE COURT: Mr. Bax?

20 MR. BAX: Thank you, Your Honor. At this time the
21 defense rests.

22 THE COURT: Thank you.

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1 THE COURT: Ladies and gentlemen, that means that
2 you have now heard all the evidence and testimony that
3 you will hear from the defense in the presentation of its
4 case. The State now has the opportunity to offer reply
5 testimony or rebuttal testimony if it chooses to do so.
6 Mr. Stone?

7 MR. STONE: No sir, we don't have anything else.
8 Thank you.

9 THE COURT: Thank you. Now that means you have
10 now heard all the evidence and testimony that you will
11 hear in the trial of this case. There is yet to be heard
12 the final arguments that the lawyers will present to you
13 and the charge on the law that I will give you after that
14 has done and then you will have this case in your hands
15 to deliberate and to reach a verdict.

16 Obviously the hour is 3:25. The charge on the law
17 and the arguments will together last well past 5 o'clock
18 if we were to start them right this very minute, which we
19 could not do. Clearly we're not going to put a case of
20 this importance or any importance in your hands so that
21 you start deliberating when you're supposed to be on your
22 way home. So we're going to let you go now and ask that
23 you be back in the jury room tomorrow morning at 9:30.
24 At 9:30 we will bring you out for the arguments and the
25 charge on the law. I remind you once again that it is

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1 most important now that you continue to abide by those
2 instructions that I've been giving you about not yet
3 talking about this case among yourselves or with anybody
4 else. You've heard all of the evidence. You're not
5 going to hear any more evidence but you have not yet
6 heard the law. And the verdict must be based on the law
7 and the evidence together. So you're not at liberty yet
8 to start talking about this case among yourselves.
9 You'll have plenty of time tomorrow to talk about it as
10 long as you want to but not until then.

11 And for the same reason folks please once again this
12 will be the lead story tonight on the T.V. the defendant
13 testifying. That's the sort of thing that gets the lead
14 story. It will be there but you've already seen it; you
15 don't need to see it again. So please remember as always
16 not to discuss this case among yourselves and don't
17 expose yourself to any information about this case from
18 any other source at all. I'll see you at 9:30 tomorrow
19 morning. Thank you.

20 [Whereupon, the jury exits at 3:27 p.m.]

21 THE COURT: Folks, I'll note the renewal of all the
22 motions that you made during the course of the trial and
23 the renewal of my rulings as to each of those motions.
24 If there however are additional grounds or additional
25 motions I'll be glad to hear them at this time. Mr. Bax?

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1 MR. BAX: Thank you, Your Honor. Your Honor, the
2 arguments I think remain the same as has been stated
3 before. The only thing I would note is that obviously
4 the defense has added evidence to the case since the last
5 time I've argued. I would state that that evidence has
6 done nothing but support and add to the arguments. We
7 have heard from Tyrone Robinson, we have heard from the
8 other witnesses the defense has called; we've had the
9 statements of the Youngs introduced in one form or
10 another, Your Honor.

11 And I think it is clear and undisputed from the
12 facts that Mr. Robinson was running from these
13 individuals. And that even if you were to take the
14 allegations of the State as true he would have been
15 entitled to self-defense but you've also heard from him
16 that he didn't. So we have the evidence as it stands.
17 So I would renew all my motions and leave that to Your
18 Honor's discretion.

19 THE COURT: Thank you, sir. I'll note that and I
20 do stand by and reaffirm the earlier rulings that I've
21 made as to each of those matters. Folks, why don't we
22 take a few minutes right this minute and sort of get our
23 thoughts together and then come back and let's deal with
24 the charge conference and discussion of verdict forms and
25 things of that nature if y'all are in a position to do

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1 that I'd like to do it. At least let me suggest to you
2 the charges which appear to me to apply in this case.
3 And of course I'll be glad to hear from you on that when
4 we have that discussion. Let's take about 15 minutes and
5 let me get those things together. I think I've got them
6 mostly together, okay.

7 MR. BAX: Thank you very much, Your Honor.

8 THE COURT: We'll start back at quarter of the
9 hour.

10 [Whereupon, court is in recess from 3:30 p.m. to
11 3:45 p.m.]

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1 THE COURT: Folks, let me suggest to you some
2 charges that occurred to me from my view of the
3 proceedings thus far and I'll be glad to hear objections
4 or exceptions to any of these proposed charges. And of
5 course I'll be glad to entertain additional charges if
6 you all think they might apply.

7 My standard felony charge deals of course with proof
8 beyond a reasonable doubt. The definition that I use is
9 from Victor v Nebraska or State v Darby. It's a
10 definition that I referred to in my opening remarks to
11 the jury that proof beyond a reasonable doubt is proof
12 that leaves you firmly convinced of the defendant's guilt
13 and so forth. You are free to argue any reasonable doubt
14 charge which has been adopted and approved by our Supreme
15 Court. That's fine as long as it is one that has passed
16 muster in the past.

17 I just didn't want you to fall in the trap with
18 saying when the Judge talks with you about reasonable
19 doubt he is going to talk about reasonable doubt is the
20 type of doubt that causes a reasonable person to hesitate
21 to act because that's not what I'm going to talk to them
22 about. I charge the normal creditability of the
23 witnesses charge. I charge expert witness testimony. I
24 will charge that the evidence of the prior record of the
25 defendant in this case has been introduced only for

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1 purposes of creditability and so forth. I charge the
2 standard charge on murder and malice. Of course I will
3 not fall into the Belcher trap in this regard about
4 talking about the inference of malice from the use of a
5 deadly weapon. I will stand on more traditional
6 definitions for the malice without regard to that.

7 I will also charge voluntary manslaughter because of
8 the prior difficulties that these folks have had.
9 Unless both sides agree that I should not that would
10 appear to me to be an appropriate charge under the
11 circumstances. I will be glad to hear further from you
12 in that regard.

13 I will charge transferred intent. I will also
14 charge criminal intent, general and specific. I will
15 charge direct and circumstantial evidence. I'll charge
16 self-defense included in that will be a charge on mutual
17 combat and withdrawing in good faith and so forth. I'll
18 charge a statement by a defendant that is as to
19 creditability and voluntariness and so forth.

20 I'll give the jury the same charge on transcripts
21 that I gave to you all earlier and that I gave to them
22 because I'll imagine they'll probably send back either
23 the transcripts themselves or certainly the transcripts
24 that showed up in here as well. There are probably
25 others folks, but I just threw that together during the

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1 day today. It appears right now that the possible
2 verdict forms will be guilty of murder, guilty of
3 voluntary manslaughter or not guilty. Now having said
4 that I'll be glad for any of you to try to convince me
5 that I am wrong; I've been convinced before. So Mr.
6 Stone, any exceptions of those charges or requests for
7 additional charges?

8 MR. STONE: My only request was going to be
9 transferred intent and you're going to cover that so I
10 don't have any problem with that. I am a little -- Your
11 Honor and I haven't researched this well enough perhaps
12 to make this argument but the concern I have on the self-
13 defense claim is that the defendant took the stand and
14 said he didn't shoot.

15 THE COURT: Right.

16 MR. STONE: If he didn't shoot how did he shoot in
17 self-defense? And I haven't -- like I said perhaps I
18 need to do a little bit of research in that area but I'm
19 having a difficult time making that work with the facts
20 as the defendant has laid them out.

21 THE COURT: And you're right and I had considered
22 that. There is somewhere within the law a principal that
23 says that the Judge must charge the law as he or she
24 thinks the facts support. That is to say suppose this
25 jury chooses not to believe the defendant in that

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1 particular case, which it has a right to do, would the
2 law otherwise then support a charge on self-defense.
3 That's I won't say it's a quandary but that's what I took
4 into account. I'll be glad for you to research that
5 overnight and let me know.

6 MR. STONE: I may not actually have an objection to
7 it. That was the part I was having a difficult time as
8 far as wrapping my head around that particular concept.

9 THE COURT: There is inconsistency in that.

10 MR. STONE: Yes, sir.

11 THE COURT: And between part of Mr. Robinson's
12 testimony and that charge but as I say a Judge is not
13 bound to accept all the testimony of the witnesses being
14 credible in my view if the facts of the case overall
15 support a charge. I think that was my rationale. If you
16 will point me to something that says that's not right
17 I'll be glad to look at it.

18 MR. STONE: And I'm assuming that the transferred
19 intent doctrine is what carries the self-defense to

20 [REDACTED] Minor as opposed to -- obviously [REDACTED]

21 [REDACTED] Minor caused no fear in the heart of the ---

22 THE COURT: --- exactly.

23 MR. STONE: Okay.

24 THE COURT: And I'll give you overnight to think
25 about those things.

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1 MR. STONE: Yes sir, thank you. Other than that
2 again, my only request was going to be transferred intent
3 and if you're covering that that would have been all
4 we're requesting.

5 THE COURT: All right. Mr. Bax, I'll be glad to
6 hear from you on any exceptions to those charges or
7 requests for additional charges.

8 MR. BAX: Thank you, Your Honor. I'll start with
9 what you have listed as your intents to charge at this
10 time. I'm -- Ms. Saxon is looking at the firmly
11 convinced reasonable doubt definition. I guess in my
12 experience I've never had it where not to my remembrance
13 where firmly convinced is not tied to hesitate to act
14 because it's kind of -- I've always seen it charged as
15 one and then the other. And the reason for that is
16 because obviously firmly convinced is talking about what
17 it would be described as if you find that it has been
18 proved; that you would be firmly convinced.

19 THE COURT: Right.

20 MR. BAX: But my understanding is there has to be
21 some definition to the opposite of that. In other words
22 the jury has two options; they can either be firmly
23 convinced or they can have some doubt and there has to be
24 some definition to that.

25 THE COURT: There is ---

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1 MR. BAX: --- and the way it's always been
2 described is hesitate to act is a way to define when you
3 find reasonable doubt.

4 THE COURT: The other side of that coin that I
5 should have given you but I did not ladies and gentlemen
6 of the jury after considering all the evidence and
7 testimony in this case you are firmly convinced the
8 defendant is guilty of the crime charged you must find
9 him guilty. On the other hand if after considering all
10 the evidence and testimony in this case you believe there
11 is a real possibility he is not guilty then you must find
12 him not guilty.

13 I commend to you the Supreme Court case, United
14 States Supreme Court case of Victor v Nebraska and the
15 state case of State v Darby, Judge Cottingham's case that
16 he tried in which he thought of Victor v Nebraska and
17 which has been cited with support from that point on.

18 MR. BAX: And Your Honor that is South Carolina
19 case of State v Doughtry?

20 THE COURT: Darby, D-A-R-B-Y.

21 MR. BAX: Oh, Darby; I'm sorry.

22 THE COURT: Let me see if I've got the site.

23 MR. BAX: That's all right, Your Honor, we can find
24 it. There's no need...

25 THE COURT: It's -- well it's a 1996 Supreme Court

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1 being my notes are so old that I don't have a site. It
2 was opinion number 2408, Anthony Darby.

3 MR. BAX: That's all right, Your Honor. I'm sure
4 that's more than enough for us to find the case. Moving
5 on Your Honor we would object to voluntary manslaughter
6 being charged. What I have is -- it seems to be that I
7 believe it is State v Harris if I'm citing that
8 correctly. What I have is 581 -- well the quote that is
9 cited I actually have the case of State v Wharton, that's
10 W-H-A-R-T-O-N citing the Harris case.

11 It cites it at 581 S.E.2d at page 156. It's
12 specifically talking about sufficient provocation for a
13 manslaughter charge to justify -- excuse me; to justify a
14 voluntary manslaughter charge must come from the victim
15 and not transferred from a third party. Any provocation
16 in this case has been from the Youngs. There has been
17 testimony and it's not be refuted that there was no
18 problem between Mr. Robinson and young [REDACTED] Minor .

19 THE COURT: Right.

20 MR. BAX: So based on that we would argue it seems
21 clear and a pretty black and white statement that that
22 provocation has to come from the person that is killed in
23 order to -- the person who is deceased in order to
24 justify a voluntary manslaughter charge. So we would
25 object to a voluntary manslaughter charge based on that

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1 statement of the court.

2 THE COURT: All right. I'll certainly consider
3 that. Obviously I thought you might want it but -- and
4 I'll have to see how that plays out in the whole business
5 of transferred intent if transferred intent has a play in
6 that particular as to provocation as well because
7 obviously transferred intent in this particular case is
8 an essential part of what we're all about.

9 That's always the issue when you have an innocent
10 victim like this; when nobody intended for that victim to
11 get hurt. It's a part of the charge of murder in this
12 regard. And so I'm trying to see why it would also be a
13 part of the charge of voluntary manslaughter but I'll
14 look at that.

15 MR. BAX: Thank you, Your Honor. We do agree and
16 would request a charge on self-defense. And in response
17 to some of the concerns expressed by Solicitor Stone I
18 would state that in my reading of the case law concerning
19 charges Your Honor is correct it is what the facts
20 support.

21 And it's not just the facts from one witness; it has
22 to be the facts in totality. And the facts in totality
23 in this case include testimony from [REDACTED] J.S. [REDACTED] that
24 it was Tyrone Robinson that fired the shot. And I know
25 that's the argument that the State is going to make at

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1 least in part is that he fired a shot and killed the boy.
2 And so the issue of whether he was at all legally using
3 lethal force is also at play. Additionally you have the
4 testimony here today that was put forth by the defense
5 from [REDACTED] J.S. that I don't think he meant to
6 shoot him. He was shooting at the car. That was what
7 the boy testified to without direct questioning of myself
8 in fact.

9 So there is evidence in the record before this jury
10 to which they could infer or decide that from a factual
11 standpoint that he did use force, however that force was
12 in self-defense. To that point and I just want to make
13 sure that I'm clear I have noted down that I heard you
14 say during the charge mutual combat and you were also
15 going to charge withdrawal. Did I hear that correctly,
16 Your Honor?

17 THE COURT: That's right.

18 MR. BAX: Okay.

19 THE COURT: There are -- the mutual combat cases of
20 course are as we know somewhat -- there are certain
21 elements that have to be there and one of them is prior
22 difficulty of the parties and the other is being armed
23 with deadly weapons come into it. But the mutual combat
24 plays into what you have argued as a withdrawal from the
25 event and not being -- thereby being excused from being

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1 the initial aggressor in this case. And the charge reads
2 if the defendant voluntarily participated in a mutual
3 combat for purposes other than protection because
4 normally mutual combat that's no help to anybody. No
5 matter what happens if you're in mutual combat then
6 neither party -- you can't claim self-defense for
7 example.

8 MR. BAX: I understand, Your Honor, and that's why
9 I wanted to make sure I clarified.

10 THE COURT: So if the defendant voluntarily
11 participated in a mutual combat for purposes other than
12 protection the killing of the victim would not be self-
13 defense. This is true even if during the combat the
14 defendant feared death or serious bodily injury.
15 However, if before the killing is committed the defendant
16 withdraws and tries in good faith to avoid further
17 conflict and either by word or by act makes that fact
18 known to the victim he would be without fault in bringing
19 on the difficulty.

20 For mutual combat it has to be a mutual intent and
21 willingness to fight and so forth and so on. So in other
22 words the purpose of it being there is to show that even
23 the aggressor who tries to withdraw is entitled to
24 reassert the defense of self-defense.

25 MR. BAX: Thank you, Your Honor. I think under

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1 those auspices I know that one of the tricky parts of the
2 language of mutual combat to me is the language in the
3 cases about an agreement to be armed. And I guess the
4 problem is that since the honorable dueling that we
5 discussed earlier in this case really has gone by the
6 wayside.

7 THE COURT: That's right.

8 MR. BAX: It does kind of give the idea of two
9 gentlemen with their pistols in a field.

10 THE COURT: That's right.

11 MR. BAX: And we know that that's not really what
12 we're dealing with. But I understand and in light of the
13 withdrawal charge Your Honor I wouldn't have a problem
14 with that.

15 THE COURT: But you're exactly right. That is
16 still an element. As a matter of fact now Chief Justice
17 Toal wrote that into even an opinion that she wrote some
18 time ago that that had to be a part of it.

19 MR. BAX: Your Honor, additionally the defense
20 would request a charge on accident. And the charge found
21 -- I generally use Judge Anderson's black charge book.
22 It's always worked fairly well for me. His charge on
23 accident is very short and can be found at page 453 if
24 Your Honor chooses to use that. I wouldn't have an
25 objection if you wanted to use a different charge; it's

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1 just a suggestion. The reason I would argue that
2 accident can be charged I do have a case here that says
3 that accident and self-defense are not mutually
4 exclusive; that you can charge them in the same case. I
5 think that was State v Smith.

6 [Whereupon, Mr. Bax reviews documents]

7 MR. BAX: Yes, the case I have here Your Honor is
8 State v David Dwight Smith. It's a Supreme Court case
9 2011. I've got an opinion number. I don't know if I
10 have a site on this case; I can certainly give that to
11 you if you'd like. And it has under what is labeled as
12 section C of the opinion it defines accident and the
13 elements I believe that it defines an accident are
14 present here. It says for a homicide to be excusable on
15 the ground of accident it must be shown that the killing
16 was unintentional and the defendant was acting lawfully
17 and due care was exercised in the handling of the weapon.

18 Now obviously the reason I'm arguing that is that in
19 this particular situation accident would flow from self-
20 defense. Obviously the jury would have to find that the
21 defendant was acting in self-defense and that self-
22 defense would make that force lawful. And they would
23 have to find that the -- obviously the victim in this
24 case was the unintentional target. I don't think that is
25 really disputed by anybody. So that element of it is

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1 fulfilled. And then the jury would have to find that due
2 care was exercised in the handling of a weapon. There
3 really hasn't been any specific testimony about that but
4 I think the jury could make an inference from they could
5 either infer that the fact that the unintentional target
6 was hit, they could infer that due care wasn't used with
7 the weapon, or they could decide that it was. But the
8 evidence is there. Once again referring to what [REDACTED]
9 [REDACTED] J.S. testified to that it was accidental; he
10 was firing at the car. So we would ask for the accident
11 charge.

12 And then finally Your Honor we would ask for an
13 involuntary manslaughter charge and we would base that
14 request on State v Light, that's L-I-G-H-T. It talks
15 about the fact that self-defense charge and an
16 involuntary manslaughter charge are not mutually
17 exclusive as long as there is any evidence to support
18 both charges. And it refers to Crosby v State and it
19 does give a site for that at 584 S.E.2d 110; it's a 2003
20 case.

21 THE COURT: How do you argue for involuntary
22 manslaughter in the face of the unintended victim when
23 you argue against voluntary manslaughter?

24 MR. BAX: Well because my understanding, and
25 hopefully I'm interpreting this correctly, but

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1 involuntary manslaughter requires that there be a showing
2 of some neglectful action on the part of the defendant.
3 It's an unintentional killing but as a result of some
4 negligence on the part of the defendant; some reckless
5 disregard or negligence is how he was acting.

6 THE COURT: Right.

7 MR. BAX: And Your Honor as I argued before the
8 jury could either find that he was being -- using due
9 care in the use of his weapon in responding or they could
10 find that he wasn't.

11 THE COURT: Right.

12 MR. BAX: But under involuntary manslaughter if
13 they find that he was acting in self-defense and that it
14 was an unintentional killing but that he was being
15 negligent in the use of his weapon it would lead then to
16 a decision about whether involuntary manslaughter would
17 apply because they could find that he is still criminally
18 liable for the fact that he didn't exercise due care and
19 there was criminal negligence involved.

20 THE COURT: I'm not sure they could do that if they
21 found self-defense.

22 MR. BAX: Well, it would thereby depend on whether
23 or not does self-defense obviate the requirement to use
24 due care in exercising that self-defense. And the reason
25 I bring that up, Your Honor not to interrupt you but to

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1 make sure I give you the reasoning why this is.

2 THE COURT: Right.

3 MR. BAX: This is a tragedy. We all know that.

4 This is a victim that all of us are kind of torn up

5 about. It's a child. It's someone who had nothing to do

6 with this. And I believe that any reasonable person that

7 is placed on this jury including the ones that we have

8 are going to say how is it that we can condone even the

9 use of self-defense if it results in the death of someone

10 who had nothing to do with it; in this fact a boy.

11 THE COURT: Right.

12 MR. BAX: And think to some degree that is a

13 question that that jury is going to have in their mind.

14 And I think under the facts it fits. They could find

15 that Tyrone was running. They could find that he was

16 trying to get away; that he withdrew. They could believe

17 that portion. But they could believe that he is not

18 telling the truth when he says he fired back.

19 But they could also believe that he was only firing

20 at the Youngs in self-defense because he was scared. And

21 so all of that is there and that's why I think it flows

22 from it. I think the idea is unless we decide or unless

23 it's the court's ruling that self-defense thereby

24 obviates your duty to use due care in the use of your

25 weapon when exercising self-defense then otherwise there

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1 would be a question of whether you used due care.

2 THE COURT: It would seem like that would indeed
3 put another requirement, an element into self-defense.
4 Of course the charge is that self-defense is a good
5 defense. It's a complete defense and if it is
6 established entitles the defendant to a verdict of not
7 guilty notwithstanding these other things that you used.
8 I hadn't thought about that. You've obviously given some
9 thought to it Mr. Bax. But it would appear to me that
10 the -- and I can understand the rationale behind it. It
11 would appear to me that in doing that I could be
12 inserting an additional element into the defense of self-
13 defense.

14 But I will think about that. Let me hear from Mr.
15 Thornton excuse me; are you through? Do you have any
16 other additional requests other than accident and
17 involuntary manslaughter and the objection to voluntary
18 manslaughter? I think they are the only ones that I
19 think I need to spend some time on.

20 MR. BAX: Okay, Your Honor. The only thing I was
21 going to add was just to also give you some guidance as
22 to why I even had that thought in my head about
23 involuntary manslaughter was the fact that in the State's
24 original memorandum in opposition to the castle doctrine
25 that was provided to Tyrone when he was representing

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1 himself there was an argument in that memo that even if
2 you're entitled to self-defense it doesn't transfer to an
3 unintentional party.

4 THE COURT: Right.

5 MR. BAX: And so to some degree that really goes to
6 the heart of that.

7 THE COURT: Right.

8 MR. BAX: And I have to somewhat in representing my
9 client I have to try and anticipate what the arguments of
10 the State would be either to Your Honor or to the jury.
11 And that's part of where that came from. So there is
12 precedent in this case as far as that position goes.

13 The final thing Your Honor is I know that you
14 mentioned malice and I believe you mentioned the felony
15 murder malice inference as well. I was just going to ask
16 what language you were going to use on that charge. My
17 position is that if Your Honor charges that they can
18 infer malice from this felony murder concept I wanted to
19 kind of get some clarification as to the language because
20 I believe that in my reading of the statutes and what we
21 have that the jury has to be instructed that they have to
22 find that Mr. Robinson was in the course of an inherently
23 dangerous felony, a clearly definable inherently
24 dangerous felony at the time that [REDACTED] Minor was
25 killed in order to be able to infer malice.

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1 THE COURT: Okay. I have spent a good bit of time
2 last night reading what you all have read before last
3 night and that is McInnish on that very issue. McInnish
4 has a section that says what felony will suffice. I need
5 not repeat that. I'm reading from the bottom of page 105
6 on the Fifth edition. There might have been another one
7 since that time; I haven't gotten it yet if there is the
8 inherent dangerousness of a felony of course and felonies
9 which are *malum in se*; that is those which are inherently
10 and foreseeably dangerous.

11 I'll be glad to look at that again. And frankly I
12 have not made up my mind to charge the commission of a
13 felony because the only commission of a felony that would
14 fit these circumstances is a shoot out. And that is
15 specifically the type of thing that is prohibited by
16 Belcher. You can't talk about an inference of malice
17 from the use of a deadly weapon in a case where there is
18 evidence that would reduce the charge of murder. So
19 frankly I had not intended to talk about felony murder.

20 MR. BAX: And Your Honor I have no objection if you
21 don't talk about it.

22 THE COURT: I'll hear from the State on that. But
23 here's the definition; it's a standard definition y'all
24 have heard hundreds of times. The State is not required
25 to prove any motive for the killing but is required to

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1 prove malice. It is the intentional doing of a wrongful
2 act without just cause or excuse and with an intent to
3 inflict injury. Malice aforethought is a deliberate
4 well- formed purpose, etcetera; they're talking about
5 aforethought. Malice is a word that suggests a
6 wickedness or a hatred or a determination to do what one
7 knows to be wrong without just cause or excuse or legal
8 provocation. It need not be in the mind, etcetera. And
9 we talk about express and inferred.

10 Malice may be inferred where no excuse or legal
11 provocation for the killing appears and when
12 circumstances attending the killing show an abandoned
13 heart or malignant heart fatally bent on mischief. And
14 then there is another sentence somewhere that adds to
15 that -- by showing a total disregard for the rights or
16 the safety of others I think might be the language or
17 something to that effect. That's what I intend to give.

18 MR. BAX: Nothing further, Your Honor.

19 THE COURT: Now Mr. Thornton I'll be glad to hear
20 objections. Tell me first of all let me ask if the State
21 objects to the voluntary manslaughter or thinks it should
22 be murder or nothing. Of course if neither side wants me
23 to charge it I'm not going to charge it. Who is going to
24 argue for me at the Supreme Court if we have to --
25 neither one of you will want it.

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1 MR. THORNTON: Your Honor, I would ask that we be
2 allowed to do a little more research. I want to look at
3 the case cited by Mr. Bax before we answer that question
4 in the morning if that's okay with you.

5 THE COURT: That will be fine.

6 MR. THORNTON: And we will be ready to answer it
7 first thing. It's just something I frankly want to look
8 at the cases he cited before I made that argument if
9 that's okay.

10 THE COURT: Okay.

11 MR. THORNTON: I'll move into accident. Judge, I
12 think you hit it right on the head with involuntary but I
13 think that covers this accident request as well. What
14 the evidence was, and again you have to take into account
15 all of the evidence, which I understand but the defendant
16 gets up and says I didn't do it. Well, if he didn't do
17 it then he's not guilty.

18 THE COURT: Right.

19 MR. THORNTON: If the jury disbelieves that then
20 they have to deal with mutual combat and self-defense.
21 Now if it's self-defense then he's not guilty. If it's
22 not self-defense then he intentionally aimed his gun and
23 fired it at the Youngs. And under the doctrine of
24 transferred intent if he kills [REDACTED] Minor as a
25 result then he's guilty of -- well, under all those

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1 circumstances he would be guilty of murder. There is no
2 way that could end up being an accident.

3 THE COURT: Right.

4 MR. THORNTON: So it's either one of those
5 scenarios based on the evidence we've heard. There is
6 nothing in here that says he dropped the gun and it went
7 off. There has been no evidence that he pulled the gun
8 but didn't intend to shoot but accidentally fired the
9 gun. There has been no evidence that he negligently
10 handled the gun and it went off. There has been nothing
11 that would qualify of any type, direct or circumstantial,
12 that would do either accident or involuntary.

13 That would be the State's position on that. Your
14 Honor, frankly unless Mr. Stone tells me otherwise we are
15 not going to ask you to charge an inference of malice
16 from felony murder. Based on the way this has played out
17 it looks like a straight up or down charge.

18 THE COURT: I think that's right. Mr. Thornton, I
19 don't disagree with you on the accident or I could be
20 convinced on that but most of the time accident does not
21 mean I killed the wrong person.

22 MR. THORNTON: Yes, sir.

23 THE COURT: It means the gun went off and I didn't
24 mean for it to go off or something of that nature.

25 MR. THORNTON: Yes, sir.

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1 THE COURT: Because killing the wrong person if all
2 of the other elements are there the mistaken identity or
3 the wrong victim does not normally give rise to accident
4 itself. I'll look at some of those cases again but I
5 think most of the cases cited -- I'm looking at one now I
6 think it is State v Vincent and State v McCaskill which
7 talks about the fact that the -- here is what McCaskill
8 says. A homicide is excused when caused by the discharge
9 of a gun where the accused is lawfully acting in self-
10 defense and the victim meets death by accident through
11 the unintentional discharge of a gun or the like.

12 On the other hand a homicide is not excusable on the
13 grounds of accident. So normally -- that's State v
14 McCaskill 300 S.C. 256. It's cited in State v Goodson
15 312 S.C. 278 which did stand -- Goodson stands for the
16 proposition that you just mentioned Mr. Bax that just
17 because you unlawfully possess a firearm doesn't mean
18 that you can't raise the defense of accident in a self-
19 defense case. But it normally -- I think McCaskill puts
20 a finer point on that. I'll let you all look at those
21 cases and we'll discuss this again tomorrow.

22 MR. BAX: Your Honor, I'm sorry. That was -- on
23 the McCaskill site for South Carolina that was 3-0?

24 THE COURT: 300 S.C. 256.

25 MR. BAX: Thank you.

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1 THE COURT: All right. Anything further as to
2 matters of law before we break for the evening?

3 MR. THORNTON: None from the State, Your Honor.

4 THE COURT: Thank you. Mr. Bax?

5 MR. BAX: No, Your Honor. Thank you.

6 THE COURT: I'll be here around 9 o'clock tomorrow
7 morning and so if there is -- if you've got any
8 additional information we can have a chambers conference
9 back there and we'll put it on the record eventually of
10 course just to try from keeping the jury back there any
11 longer than necessary before we go immediately to
12 arguments.

13 Mr. Bax, you will make the first of the final
14 arguments and Mr. Stone you'll make the last of the
15 arguments and I'll instruct -- I'll leave it up in the
16 air tomorrow until I hear from you all whether the forms
17 of the verdict will be as I have suggested already or
18 whether it will be guilty of murder or not guilty. We'll
19 talk about that tomorrow. Just to give me some idea
20 about how to plan for lunch and things like that for
21 these jurors and plan breaks I can appreciate the fact
22 that neither of you can rush through these arguments.
23 Does anybody have any idea about how long you think you
24 might take? Mr. Bax, do you have any idea?

25 MR. BAX: Your Honor, even at my, I guess best

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1 approval rating as it were I usually am not going to go
2 longer than 30 minutes. Typically if it weren't a case
3 of this complexity it would be even shorter than that.
4 Obviously there are a number of pieces of evidence that
5 need to be covered. I don't anticipate my argument going
6 longer than 30 but I will tell you I can guarantee you it
7 won't go past 45.

8 THE COURT: Okay. That's fine.

9 MR. STONE: I assure you mine is not going past 30
10 minutes.

11 THE COURT: Okay. Well, gentlemen I think I've
12 had the pleasure of trying cases with you all before and
13 you know I don't ring a bell or blow a whistle when you
14 get to whatever you told me you would take. But I do
15 tell lawyers that if as your argument continues it
16 appears to me you have completely forgotten how long you
17 told me you were going to take I'll try some discrete way
18 to get your attention but that would be it. And the
19 timeframe that each of you have mentioned are more than
20 reasonable. And as I say the only reason I ask is really
21 so I can tell Ms. Roseneau how much time she's got to
22 make the sandwiches for lunch. Okay. All right,
23 anything else before we break for the evening?

24 MR. STONE: No sir, not from the State. Thank you.

25 THE COURT: Thank you all folks. I'll see you

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1 tomorrow morning. I'll be here at 9:00 and we'll start
2 back with the jury at 9:30.

3 MR. BAX: Thank you, Your Honor.

4 THE COURT: Have a good evening.

5 [Whereupon, court adjourns at 4:20 p.m.]
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State v Tyrone Robinson
Certificate of the Court Reporter
September 18, 2014

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit 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 and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Beaufort County, South
Carolina on the 18th day of September, 2014.

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

January 23, 2015


Joyce C. Rueger, CVR-M
Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BEAUFORT	)	DOCKET NO. 2012-GS-07-1935
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	
TYRONE ROBINSON	)	
	)	
Defendant	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

September 19, 2014
Beaufort, South Carolina

VOLUME 5 (OF 5)

B E F O R E:

THE HONORABLE THOMAS G. COOPER, JR., JUDGE

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THE COURT: Good morning. I was looking at my notes overnight. I think you all were to do some studying and deal with whether or not accident would apply in this particular case and involuntary manslaughter. You were also to indicate to me today whether or not on behalf of the State you objected to Mr. Bax's request that I not charge on voluntary manslaughter. Let's start since Mr. Bax has made the motion to get these in let me hear what the response is from the State in regard to those various matters, Mr. Thornton?

MR. THORNTON: Yes sir, Your Honor. We would object to as I did yesterday I think on the record we would object to those involuntary manslaughter and accident on the same grounds. Basically there is no evidence before this jury that would support either charge. As I understand the evidence, and Judge forgive me for plowing the same ground that I did yesterday but they can find that the defendant in this case did not shoot, which is what he said; I did not shoot. And in that case then he's not guilty because he didn't do anything wrong. They could find that he did shoot according to a lot of the circumstantial as well as eyewitness testimony but that he acted in self-defense,

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1 which is a complete defense as Your Honor would charge
2 the jury. Or he could be found to not have the benefit
3 of self-defense in which case he would be guilty of
4 murder or and I will address voluntary manslaughter in a
5 second but certainly there is no evidence of any
6 negligent or criminal negligence that resulted in a death
7 in an unintentional killing. Under the doctrine of
8 transferred intent it's pretty clear based on that if he
9 did shoot he certainly was shooting a loaded weapon at
10 the folks in the vehicle, which is an intentional act.

11 THE COURT: Right.

12 MR. THORNTON: And I think that it is certainly
13 proper for a jury to determine that that would be an
14 intentional killing if someone dies as a result. Of
15 course you have the doctrine of transferred intent in
16 there as well since an unintended victim would have been
17 the person killed in this case, [REDACTED] Minor. But
18 there is no evidence that it is an unintentional killing
19 which would be required for both involuntary manslaughter
20 and I think accident; I just don't think there is
21 anything to deal with accident.

22 With regard to voluntary manslaughter, and Judge I
23 apologize I did not write these down and I didn't have a
24 chance to ask Mr. Bax about this this morning the cases
25 he cited. I pulled up or someone in my office who is a

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1 lot better researcher than I am pulled up two cases. One
2 is State v Childers which was a 2007. It was a plurality
3 opinion which discussed this issue. But I think more on
4 point for us is a later case State v Danny Orlando
5 Wharton, excuse me Judge, which is 381 S.C. 209. And if
6 the court will allow me the holding in that case was in
7 this case the Court of Appeals -- obviously the Wharton
8 court is talking about the other case Childers.

9 In this case the Court of Appeals held that the
10 trial court erred on charging the jury on voluntary
11 manslaughter because there was no evidence of sufficient
12 legal provocation and because transferred intent does not
13 apply to voluntary manslaughter. We find however that
14 Childers was not a majority opinion and the applicability
15 of the doctrine of transferred intent voluntary
16 manslaughter cases where the defendant kills an
17 unintended victim upon sufficient legal provocation
18 committed by a third party remains an unsettled question
19 in South Carolina.

20 Then they go on to say that they didn't find
21 sufficient legal provocation in this case so they
22 declined to answer that question. And I was not able to
23 find anything after that Your Honor. So the State's
24 position -- I say all that to say this Judge, we're going
25 to leave that to your discretion. I think it is

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1 incumbent upon Your Honor to make the final call on this
2 anyway. But we don't take a position. If Your Honor
3 feels like there is evidence of sufficient legal
4 provocation then I think you should charge voluntary
5 manslaughter. If you don't then the State is fine with
6 not charging it.

7 I just wanted to make sure in my own research that
8 we wouldn't be flipped on appeal if it was included based
9 on what Mr. Bax said yesterday and I just don't think
10 that is the case. I think that if you find that the
11 elements could be met by the evidence raised in this case
12 then I think that it would be proper to charge voluntary
13 manslaughter. But the State is fine either way, Your
14 Honor.

15 THE COURT: All right thank you. All right Mr.
16 Bax; let's deal with them in that order if you would
17 please.

18 MR. BAX: Certainly, Your Honor. In thinking about
19 it the evening hours in looking at it and Ms. Saxon has
20 done some research for us on these issues I do believe
21 that accident and involuntary could be confusing to the
22 jury. I have no objection to either or rather than both
23 because I know that they have some overlap and it could
24 be confusing to the jury to charge both of them if Your
25 Honor entertains to charge either. But I would argue

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1 that as to involuntary manslaughter involuntary
2 manslaughter does not require direct intent. In fact it
3 does not have an intent element. What it does have is a
4 requirement that there be reckless disregard and that
5 reckless disregard be defined as part of the charge on
6 involuntary manslaughter.

7 Your Honor, there is evidence in this case that has
8 been presented to the jury during the State's case as
9 well as the defense case that it was the day after my
10 client's birthday, that he had been drinking alcohol.
11 And based on what has been presented about that I think
12 that a jury could find that regardless of whether or not
13 -- we basically say they could find that he was entitled
14 to self-defense. But based on the fact that he had been
15 drinking that day and already made some bad decisions
16 going over to where he thought these guys were they could
17 find that he acted in reckless disregard potentially if
18 they find that he actually fired back.

19 So I think it's supported under the facts because
20 the jury could make that finding based on all the actions
21 involved. We talked about this a little bit yesterday on
22 the record, Your Honor and I pointed out to the court
23 that obviously regardless of the facts concerning this
24 confrontation and this conflict between Aaron Young, Jr.
25 and Sr. and my client even if they see clearly and they

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1 find that self-defense is applicable the fact that an
2 innocent third party, a boy in this case, has died is
3 something that I could see this jury having a lot of
4 heartache when it comes to deciding this case.

5 And I think if they look at it and they say we think
6 he was entitled to self-defense but we still think he
7 bears some responsibility for what happened to this boy
8 they will be looking at it from the standpoint of was he
9 acting recklessly. I don't even think I would have to
10 give them that word for somebody to probably come up with
11 that in the jury room. So I do believe that under those
12 pieces of evidence and that concept that it could fit.

13 So, Your Honor I would ask that you consider
14 charging involuntary manslaughter. If you decide that
15 you agree with the defense and do charge it I have no
16 objection to not charging accident. I think the two of
17 them together could be too confusing and might stand in
18 contradiction to each other. And finally Your Honor
19 moving ---

20 THE COURT: --- before we move can we deal with
21 that?

22 MR. BAX: Yes, sir.

23 THE COURT: All right, thank you. Let's deal with
24 the accident involuntary manslaughter that I kind of need
25 to begin with. First of all the cases that I have read

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1 on accident all seem to flow around truly an accident.
2 It's not an accidental victim; it's an accident of firing
3 the gun.

4 MR. BAX: That's correct, yes sir.

5 THE COURT: And this does not seem to fit that,
6 does not fit that; there is no evidence that it fits that
7 particular category. So I think accident is out in this
8 case as a matter of law.

9 Involuntary manslaughter according to McInnish whose
10 book has been worn out this week by all three of us in
11 this case defines involuntary manslaughter as the
12 unintentional killing of another without malice. That's
13 the premise, unintentional killing of another without
14 malice and while either engaged in an unlawful activity
15 that is not a felony and does not naturally tend to cause
16 death or great bodily harm or is engaged in a lawful
17 activity with a reckless disregard for the safety of
18 others.

19 Now the activity he was engaged in if it's unlawful
20 in this particular case the firing of the weapon we've
21 danced around with what sort of felony could you attach
22 to this because the indictment has the words dangerous
23 felony or words to that effect, I don't have it in front
24 of me right this minute. But nonetheless it talks about
25 that in the terms of a shoot-out. Well, when you shoot a

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1 gun at somebody else with the intent to do them harm
2 unlawfully it is either assault with intent to kill or
3 attempted murder.

4 MR. BAX: Yes, Your Honor.

5 THE COURT: Both of which are felonies. So it
6 doesn't come under that first category of engaged in an
7 unlawful activity that is not a felony and does not
8 naturally tend to cause death to another because that's
9 of course what shooting firearms can do. And so we deal
10 with the second part engaged in a lawful activity with a
11 reckless disregard for the safety of others. And I think
12 that's where your argument really has its focus and I can
13 appreciate that.

14 If he is engaged in a lawful activity; that is the
15 defense of himself, then that is a complete defense. And
16 the jury will be told that that is a complete defense.
17 You've indicated that let's suppose they believe that he
18 is entitled to self-defense but acted with reckless
19 disregard to the others. And I can appreciate that. I
20 can appreciate the strategy of trying to give this jury
21 some way to deal with that concern.

22 But if the jury were to find that he was entitled to
23 self-defense but decided to apply some other area of law
24 they would be disregarding the instructions which I am
25 going to give them. Now we mentioned yesterday in our

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1 discussions that juries don't have to believe everything
2 for example as you client indicated and that was in
3 response I think to some statements and argument by the
4 State. They don't have to believe everything that the
5 witnesses say but they are required by law to believe
6 everything I tell them about the law. And so I presume
7 that they are going to do that.

8 And for that reason they cannot follow the law in my
9 opinion and find that he was engaged in the lawful
10 activity of defending himself, which would entitle him to
11 a verdict of not guilty, and at the same time disregard
12 that and say well he's guilty of something but it's the
13 reckless disregard for the safety of others and therefore
14 involuntary manslaughter. It just doesn't seem to fit
15 either one so I have to deny your request to charge on
16 both of those grounds.

17 MR. BAX: Thank you, Your Honor. And I understand.
18 Let me be clear we would much prefer a verdict of not
19 guilty.

20 THE COURT: I understand.

21 MR. BAX: So I understand. Your Honor, then I
22 believe that leaves us with the remaining issue of
23 voluntary manslaughter is that correct?

24 THE COURT: That's right, yes sir.

25 MR. BAX: Well in the research that we have done

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1 and the case in fact the Wharton case that Mr. Thornton
2 cited was actually the case we also cited yesterday and
3 it refers to State v Harris. And in our research State v
4 Harris is the controlling case on this. It is still --
5 it is good law and has not been overturned in any way
6 that we can find. It is the controlling law and it makes
7 a clear definitive statement in State v Harris that
8 voluntary manslaughter's legal provocation cannot be
9 transferred to a third party. It is clear on that
10 element. It is unequivocal as far as the way that the
11 statement is made in the case law and then State v Harris
12 is controlling.

13 And it is also cited in the Wharton case as well.
14 And while in Wharton they later determined that he wasn't
15 entitled to it for other reasons because of a lack of
16 provocation anyway Harris still stands and it is still
17 cited in Wharton for that reason. I think that at least
18 as to the transference of provocation it is so unless
19 they decide to overrule Harris. And so it is our
20 position that the law is clear that voluntary
21 manslaughter cannot apply in this case. Thank you.

22 THE COURT: All right. Thank you. I'll look at
23 that. I think Wharton at least indicated at one point
24 that that issue had not been finally settled because of
25 the virality or nature of the opinion. But because this

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1 is a case of transferred intent and because there is
2 authority in the case law whether literality or otherwise
3 that means I'm not necessarily bound by it but I can give
4 it persuasive weight in this regard. I will decline to
5 charge as to involuntary manslaughter.

6 MR. BAX: Thank you, Your Honor.

7 THE COURT: I'll note the exceptions in that
8 regard.

9 MR. BAX: Your Honor, if I may?

10 THE COURT: Yes, sir?

11 MR. BAX: Your last statement was you declined to
12 charge I thought I heard you say involuntary but I think
13 you meant voluntary is that correct?

14 THE COURT: You're right. I'm sorry; you are
15 exactly right. Those little two letter syllables can
16 make a right big difference.

17 MR. BAX: I just wanted to make certain. So my
18 understanding Your Honor is that based on those rulings
19 we are looking at as far as charge wise, a charge on
20 murder, self-defense, and the other things that Your
21 Honor discussed; mutual combat but with withdrawals
22 you'll charge.

23 THE COURT: Right.

24 MR. BAX: But not a charge on any lesser such as
25 manslaughter or involuntary manslaughter?

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1 THE COURT: That's exactly right.

2 MR. BAX: Thank you, Your Honor.

3 THE COURT: I'll be glad to hear further from the
4 State in that regard, however Mr. Thornton if you wish to
5 be heard on any of those matters as far as the charge is
6 concerned.

7 MR. THORNTON: No sir, Judge. Nothing else from
8 the State, thank you.

9 THE COURT: Thank you. Gentlemen, are we now ready
10 for the jury?

11 MR. BAX: Your Honor, when I first came into the
12 courtroom we didn't have the exhibits out so if I could
13 just have about five minutes to make sure that I can grab
14 the things that I need to grab and then I'll be ready to
15 go, Your Honor.

16 THE COURT: Okay. That's fine.

17 [Whereupon, Mr. Bax reviews exhibits]

18 THE COURT: Folks, of course as a matter of
19 housekeeping the bullets will not go to the jury room.

20 MR. BAX: Absolutely, Your Honor.

21 THE COURT: At least the unfired bullets.

22 MR. BAX: Right. I know that there are some --
23 just to make sure that I ask permission, there are some
24 spent bullets that are in brown paper bags that are in
25 evidence I did intend to put those on the railing if the

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1 jury wanted to physically look at them. Is there any
2 objection?

3 THE COURT: That's fair game.

4 MR. BAX: Okay. Thank you.

5 [Whereupon, Mr. Bax and Ms. Saxon review exhibits]

6 MR. BAX: Your Honor, I think I have everything in
7 order so at your...

8 THE COURT: Okay. Now folks, are both sides ready
9 for the jury?

10 MR. STONE: The State is ready, Your Honor.

11 THE COURT: Thank you.

12 MR. BAX: Yes, Your Honor.

13 THE COURT: Bring us the jury please.

14 MR. BAX: Your Honor, if I may?

15 THE COURT: Yes, sir.

16 MR. BAX: I just wanted to inquire is Your Honor
17 going to voir dire the jury about media exposure again
18 today.

19 THE COURT: Since you reminded me I'll do it.

20 MR. BAX: Thank you.

21 THE BAILIFF: The jury is entering the courtroom,
22 Your Honor.

23 [Whereupon, the jury enters at 9:42 a.m.]

24 THE COURT: Good morning. Thank you once again for
25 your prompt return. I must ask you once again for the

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1 last time whether or not any of you have been exposed
2 overnight inadvertently or otherwise to any publicity or
3 any information about this case from any source at all.
4 I realize it would have been inadvertent, it would have
5 been accidental; it would not have been intentional on
6 your part. And if so I'll be glad to talk with you
7 privately so we can inquire about those things. If that
8 applies to anyone if any of you have been exposed to any
9 information about the case from any source at all would
10 you let me know now? Then can I assume the answer to
11 that is no on behalf of all of you?

12 THE JURY: That's correct, Your Honor.

13 THE COURT: Thank you very much. You were asked a
14 few moments ago as word got out to me whether or not you
15 could take your notes into the jury room during
16 deliberations. The answer to that is yes, you can. And
17 that's the reason that you were taking them so that you
18 would have those if you needed them at the conclusion of
19 the trial.

20 I will tell you once again however that you cannot
21 take notes during the final arguments because as you
22 might recall the arguments are not evidence and your
23 verdict has to be based on the evidence. And so rely
24 upon your collective memory and on the notes that you
25 have taken. I remind you again that if in your

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1 discussions back there that a person's notes say
2 something different from the collective memory of the
3 jury then try to resolve that among yourselves as to what
4 is right. The notes don't carry any more weight than
5 your collective memory. They are an aid to your memory.
6 They do not replace your memory. And if you can't
7 resolve it on that basis let us know and we will try to
8 help you get through that issue.

9 Now ladies and gentlemen, the final phase of this
10 case will consist of the arguments which the lawyers will
11 present to you. Mr. Bax on behalf of the defendant Mr.
12 Robinson will present the first of these arguments to
13 you. And when he has concluded the argument on behalf of
14 Mr. Robinson then Mr. Stone on behalf of the State has
15 the right to make the final argument. The State has the
16 right to make the final argument because the State has
17 the burden of proof as I will instruct you shortly. And
18 after that has been done as I've said I'll instruct you
19 as to the law.

20 You all have been a good jury. You have been
21 attentive and you have been punctual. And those are the
22 two things that we expect of juries. And we also expect
23 thoughtful deliberation and I'm sure you will have a
24 chance to do that and you will do that indeed when you
25 get a chance finally to begin your deliberations in this

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1 case. The attention that you have given throughout the
2 trial of this case to the witnesses has been important.
3 And it is equally important that you give that same
4 attention now to the attorneys as they make their final
5 arguments and to the court as I instruct you as to the
6 law. Thank you, folks. Mr. Bax?

7 MR. BAX: May it please the court, Your Honor?

8 THE COURT: Yes, sir.

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CLOSING ARGUMENT

BY MR. BAX:

Good morning ladies and gentlemen. First of all thank you once again. As the Judge said this is not an easy thing to come in, take time out of your lives and sit on a jury. I think you have seen throughout the course of this trial how important your job is to make these determinations.

As I spoke to you at the beginning of the trial it is the part of this system that makes it the pride of our government to have the judicial system we do is this jury system. The jury system that is something other countries have always aspired to have and do have as a result of what we do. The reason being you are not the government. You are not a bureaucracy. You are not a computer. You are not a machine; you are people.

You have seen what you have seen and you are going to use your common sense to evaluate everything. And as the Judge has said my final arguments and Mr. Stone's final arguments they are not evidence in the case but it is our take on the evidence and we hope that it aids you in making your decision. So once again we thank you.

Tyrone Robinson was fleeing from Aaron Young, Jr. and Aaron Young, Sr. Tyrone Robinson was running from Aaron Young, Jr. and Aaron Young, Sr. Tyrone Robinson

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1 was hiding from Aaron Young, Jr. and Aaron Young, Sr.
2 But ladies and gentlemen he is not hiding from you. He
3 is not running from you. He's not running from this day
4 in court. And I think that's important and I hope you
5 see that it's important because Mr. Robinson has come
6 before you and he has put his faith in this system, in
7 this jury because he has said I am not guilty. I did not
8 do this.

9 Now Tyrone has come before you, we have come before
10 you on behalf of Tyrone and we have not claimed nor has
11 Tyrone claimed to be a perfect man. He has not come
12 before you as a man without sin in his past. He has not
13 come before you as a man who has not made mistakes and
14 done bad things. You have not heard denial from him
15 about that. He has told you about it even more than he
16 had to under the rules. He has not denied it.

17 But he has put his faith in this system just as I
18 have because he knows as I know and as you will be
19 instructed by the Judge and hopefully you know that in
20 this country we judge you based on what you are accused
21 of now today. It's called due process.

22 If there is a crime many years ago and you faced it
23 and you dealt with it and you did your time on it then
24 that is not to be a factor in anything other than your
25 establishment of creditability. It is not a factor to be

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1 considered when it comes to whether or not he did this.
2 Here you must look at the facts. Tyrone Robinson stands
3 bared to you. Now I talked to you at the beginning of
4 this case and I want to bring this back up again.

5 In the State's opening argument Mr. Stone mentioned
6 that it does not matter who started it; I believe was the
7 statement. And I responded that it does and ladies and
8 gentlemen I stand by that. Not only does it matter who
9 started it, it matters who finished it, it matters who
10 did what throughout the entire process. That is the job
11 of the jury. You must look at it, you must decide based
12 on what you have before you has the State proven who did
13 what and when.

14 And I submit to you the State has not proven that
15 Tyrone Robinson was doing anything more than fleeing from
16 Aaron Young, Jr. and Aaron Young, Sr. In fact the State
17 has put in evidence that Aaron Young, Jr. and Aaron
18 Young, Sr. were trying to kill Tyrone Robinson. And they
19 kept doing it as many times as they could until someone
20 fell.

21 Now I'm going to go through what I have and what I
22 remember. As I said before it's your job to evaluate
23 what you've seen. If I don't touch on something that you
24 found to be important please don't hold that against Mr.
25 Robinson. It's been a long case, it's been a complicated

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1 case and you have a tough job ahead of you. I don't envy
2 you that but I know that you will do it. We have a
3 fairly long story line here. We have a situation that is
4 basically irrefutable what happened down on ■ Old Wild
5 Horse Road. Mr. Robinson was there. Whether it was a
6 mistake or not he was there. You've heard testimony from
7 him that he wasn't really wanting to go but he did.

8 You've heard testimony from Mr. Robinson he
9 certainly regrets that now. You've heard testimony as to
10 why. You've heard testimony from Mr. Jontu Singleton,
11 Sr. who was called by the State that was in line with
12 what Mr. Robinson said. I wanted to go down there
13 because those are my boys and I wanted to get some money
14 so that I could buy whatever; beer, cigarettes, or
15 whatever.

16 You've heard what happened there. You have heard
17 that there was an altercation. Regardless of who started
18 what or who screamed what there was an altercation.
19 Obviously Aaron Young, Sr. did not like that Tyrone was
20 there. And obviously Tyrone fired a gun.

21 Mr. Robinson has testified that he was scared
22 because there was a number of individuals he fired in the
23 air and he fired in the ground. There has been testimony
24 that Aaron Young, Sr. and him tussled over the gun and
25 the gun was fired into the house. They found the bullet

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1 in the house. Yes, he shot a gun on ■ Old Wild Horse
2 Road. And regardless of my opinion about the science of
3 what the G-S-R expert from SLED testified to about it
4 absorbing into your body after six hours it doesn't
5 matter because all of this happened no matter which
6 timeline you look at didn't take more than two hours at
7 the most. So it had only been at most two hours since
8 he'd fired the gun on Old Wild Horse Road. He admitted
9 to that to Sergeant Thomas, the first police officer he
10 came into contact with.

11 But I think this is important and it goes to the
12 law. The Judge is going to charge you on the law. And
13 one of the things he is going to charge you is regardless
14 of whether or not you're involved in some kind of
15 altercation where you may have been at fault, you may
16 have bore some criminal liability. If you leave before
17 anybody is hurt or killed and that leaving is obvious to
18 everybody that means you've communicated to those
19 individuals that you were in an altercation with I'm out,
20 I'm done; I'm leaving. It's called withdrawal.

21 You don't have to say it in words. You don't have
22 to tell the individual you are in a fight with sir I'm
23 withdrawing. But if they know you're withdrawing and
24 you've communicated it through your actions such as
25 getting in a car and leaving that means the individuals

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1 you were in an altercation with they have a legal
2 responsibility. It means they do not have the ability to
3 chase you down and hunt you down like an animal and shoot
4 at you until you are dead. That can't do it. That's
5 what the Judge is going to charge you on. They had a
6 responsibility to stop at that point and call the police.
7 You heard from the witness stand from the officers that
8 interviewed the Youngs that they admit that. They
9 admitted we were wrong to go after him. We should have
10 left it alone. We should have never gone out there
11 hunting Tyrone. You heard it.

12 You heard it from the people, the two men who took
13 this weapon [indicates] and put it together possibly
14 ineptly and went and hunted him down. You have heard
15 testimony that not only did they go after him, they did
16 it multiple times. You've heard testimony that they
17 encountered him on Oak View Road. You have heard
18 testimony that they went home at least once maybe twice
19 because you heard testimony from [REDACTED] J.S.
20 [sic] that they took him home and they had never found
21 Tyrone.

22 And then they went back out. And you've heard
23 testimony that they eventually find him on Oak View Road
24 after he had been hiding out at his cousin's house for 15
25 or 20 minutes and there is some contact there. Tyrone

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1 has testified they fired at him. They told the police
2 their gun jammed. It's certainly conceivable that the
3 reason they are saying their gun jammed because when they
4 were close enough the gun wouldn't fire. It wasn't until
5 after they were past him that they finally got it
6 working. And that's when they fired that direction. But
7 clearly they knew that he had not been hit because he
8 drove off. And clearly there was a decision because
9 there is testimony in the record that they told the
10 police that they went back to Wild Horse Road again.

11 Each and every time they had the opportunity to cool
12 down and say I'm calling the cops or even the opportunity
13 to say I'm going to go to work. Maybe they will come and
14 arrest me and maybe they won't but I'm done with it.
15 Each and every time the Youngs chose to get back in the
16 truck and go back hunting for Tyrone Robinson; each and
17 every time they did that.

18 And you've heard from Mr. Robinson and you've heard
19 from the witnesses in this case from the State and the
20 defense that each and every time Tyrone tried to flee; he
21 tried to run. Now you've seen on here [indicates] these
22 are the places where these encounters have happened. But
23 you've also heard and the State will argue to you that
24 this is a running gun battle. I submit to you it's not a
25 running gun battle if one person is chasing another. If

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1 one person has fled and is no longer trying to look for
2 them he is running away. That is undisputed. It is not
3 a running gun battle. And in fact you've heard testimony
4 from the stand that Aaron Young, Sr. said under sworn
5 testimony it was not a running gun battle. In fact when
6 I told you that Tyrone Robinson shot back at me on Allen
7 Road I was lying to see if I could get me and my son off
8 and become star witnesses for the State.

9 Now let's talk about Allen Road off of Marshland
10 Road, number three. What you have here [indicates] shows
11 you the scene. You have testimony from Tyrone Delaney
12 that the Youngs were around there and almost hit him, was
13 in his lane. Why would a truck be in the opposite lane?
14 Maybe because it's doing a U-turn to come back around;
15 it's for you to decide.

16 You have had testimony from the State's witnesses
17 about this scene. You've had testimony from Tyrone
18 Robinson about what he has told you happened out there.
19 I submit to you Your Honor; excuse me, the jury -- in a
20 way you are Your Honor because you're the judges of the
21 facts -- there is a couple of things I want to point out.
22 Charlese and Tyrone both said that when they called those
23 boys off that trampoline that they were unharmed at that
24 time. There was no indication there was anything. They
25 both testified that when they called the boys there

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1 hadn't been that last set of shots. They both testified
2 that [X.D.] went to the house and [Minor] and [redacted]
3 [redacted] J.S. [redacted] went home. They went the opposite
4 direction. You've had testimony that [redacted] J.S. [redacted]
5 [redacted] lives here [indicates]. You've had testimony that
6 [Minor] lived up in this direction [indicates]; that's
7 where his grandmother was. Now your common sense will
8 tell you as a young boy if there is something going on
9 adults have yelled at you to go home you're going to go
10 home. That's where you're going to go. And you're going
11 to run most likely. Your friend is running.

12 You've heard testimony from [redacted] J.S. [redacted] who took the
13 stand, you saw him, saying we were running home. They
14 were running in this direction [indicates] this way
15 [indicates] through here [indicates]. Part of this scene
16 as you can see there is Allen Road but there is also a
17 track here [indicates]. It doesn't have a name or any
18 that I am aware of but it's a little road, it's a little
19 dirt road that cars can go on. You've got testimony that
20 they left the trampoline and they headed this way to get
21 to their houses.

22 You also had testimony from Brittany Brinson.
23 Brittany Brinson took the stand for the State. Brittany
24 Brinson was also the one that you've heard on 911. She
25 is a registered nurse. She is related to [Minor] [redacted]

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1 ██████████ She has no reason to lie that I can discern.
2 She places Tyrone Robinson right up here [indicates]
3 between these two buildings right up here [indicates].
4 And she places him with two bottles of beer in his hand
5 seconds after the shots were fired; those last shots.
6 Seconds; that was her testimony. She puts him up here
7 [indicates] with two bottles of beer in his hand seconds
8 after the shots.

9 I would submit to you she is a very credible
10 witness. She does not see a gun in his hand. What's the
11 common sense if he had shot literally seconds before that
12 he would have already put the gun back away and picked up
13 his beers in seconds? It doesn't seem to make a lot of
14 sense that that could be the case. She also testifies
15 that she sees ██████████ Minor fall while he is running in this
16 direction.

17 And that brings me to something that I think is
18 crucial in this case. You've heard the testimony of the
19 pathologist in the case that performed the autopsy. She
20 has testified to you unequivocally that young ██████████ Minor was
21 shot in his left side. His left side. His left side.
22 She's also testified his left arm was uninjured. She's
23 testified that the angle of the bullet could indicate
24 that the individual was leaning. She's testified it
25 would be consistent with someone who is leaning forward

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1 to run. She's testified to the fact that his arm was out
2 of the way is consistent with having your arm raised
3 running. She has testified that it was a basically level
4 shot and it entered the left chest. She's testified that
5 it was a lethal wound. She's testified to the damage
6 that it did to that poor boy.

7 She's testified at most it would have been one to
8 two minutes for young [Minor] to die. But she's also
9 testified that physical exertion such as a trampoline and
10 running makes the heart beat faster. Your breathing rate
11 is higher; it's going to speed that process up
12 unfortunately. She's also testified this is an eight
13 year old boy who only weighs 55 pounds. She's testified
14 that that was a strong bullet.

15 Ladies and gentlemen, you have also not heard any
16 testimony whatsoever that any blood was found on this
17 [indicates] trampoline. You've not heard any testimony
18 from [J.S.] or anyone else that [Minor]
19 seemed in any way harmed anywhere over here [indicates]
20 at this trampoline.

21 The evidence all points to the fact that when [Minor]
22 was struck he was running home. What does that mean?
23 Ladies and gentlemen I submit to you that it means
24 absolutely Tyrone Robinson did not shoot [Minor] because
25 his left side would have been facing the road. If he is

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1 running in this direction his left side would have been
2 facing the road. And every witness that has been put up
3 puts Tyrone Robinson on the right side of where he was
4 running. You've heard testimony from SLED agent Dan
5 DeFreese who has been doing firearms identification,
6 bullet identification for 47 years if I'm getting that
7 number right. And he testified to you that the bullet
8 recovered from [Minor] was a plain lead projectile.

9 He has testified that it does not match the jacketed
10 bullet found on Wild Horse Road. He has testified that
11 there are some similar markings that they both have eight
12 grooves with a right twist but he's also testified that
13 there are over 18 manufacturers that make a gun that
14 makes those markings on a .38. He has testified that .38
15 caliber revolvers are very common. He's testified that
16 .38 caliber ammunition is very common.

17 He also testified that these are two differently
18 constructed bullets. They are not sold together. This
19 is a five to six shot revolver that they have put in
20 Tyrone's hands and Tyrone has confirmed to you yes I had
21 that gun. It was a five shot small .38 caliber revolver.
22 Yes I did, but I did not have any plain lead bullets. I
23 did not shoot that boy. Does it make sense that someone
24 would mix up bullets. Does it make sense that someone
25 would have just a whole bunch of different bullets? Is

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1 it possible? Sure. Is it probable? No. Now you may
2 say well, the Youngs had a couple of different kinds of
3 bullets. But you've heard the testimony from Mr.
4 DeFreese. When you've got a gun that you can put 32 or
5 34 rounds in and you're buying the boxes at 50 you're
6 going to go through the boxes pretty quick. It's going
7 to take more than a box just to do two full loads.
8 You're going to take out more than half that box if you
9 fill that thing up and you Swiss cheese people's cars and
10 you drive around shooting at people on the roads of
11 Hilton Head Island. You'll go through a lot of bullets.

12 You also heard from Mr. DeFreese, and this is very
13 important, bullets don't turn corners ladies and
14 gentlemen. They don't bend. They even made a silly
15 movie about people bending bullets. And I can promise
16 you we talked about Myth Busters at one point during this
17 case bullets don't bend. They tried. We don't have
18 bullets that bend in midair yet, thank goodness. The
19 only thing that they do is drop with gravity over
20 distance. That's what you heard Mr. DeFreese testify to.

21 So the only thing that this bullet would have done
22 once it was fired from whatever gun it was fired from is
23 go straight and down. Period. You heard testimony both
24 from the pathologist as well as Mr. DeFreese that plain
25 lead projectile was not deformed in any way to indicate

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1 that it ricocheted off of anything. Ladies and gentlemen
2 these [indicates] are the bullets; these right here
3 [indicates]. You're going to have them; Wild Horse Road
4 and the one found in [Minor]. Look at them and
5 make your own judgment.

6 And I submit to you you can see just from the fact
7 that that bullet taken at Wild Horse Road that hit a
8 house is busted up. That bullet that was unfortunately
9 removed from [Minor] is not. It did not ricochet
10 off of anything. That means it didn't hit something and
11 bounce back into him. It did not hit a rock. It did not
12 hit a piece of metal, a car, a house and bounce into
13 [Minor]. It flew from his left side, his left
14 side, this [indicates] area.

15 Charlese Jackson even testified that those last set
16 of shots she heard came from around here [indicates].
17 You heard her testify. I pointed to it and made sure and
18 gave her two or three times to say it and she confirmed.
19 This area here [indicates]. That's where she heard it
20 from; right where the truck was going through. Right
21 where the truck was coming through. Right where the
22 truck was coming through.

23 Now you have some things that you have to look at
24 and you have to ask yourself does that make sense. One
25 thing I would ask you you've heard the testimony of what

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1 the Youngs were up to and what they admitted to the
2 police that day; that they were out to kill. You've
3 heard it. So ladies and gentlemen does it make sense
4 that they would have just taken one gun when there was
5 two of them at least. You've heard testimony that Aaron
6 Young, Sr. said I'm going back to get my guns plural when
7 he went back to his house on Wild Horse Road. Does it
8 make sense that maybe they gave up the gun they know
9 didn't shoot the boy and threw the one away that did.

10 There is an exhibit that I have actually misplaced;
11 I apologize, where they have the pickup truck that Aaron
12 Young, Jr. and Aaron Young, Sr. were arrested in and that
13 was the vehicle they were driving when they went down to
14 Allen Road. They confirmed that. Every witness confirms
15 that this grey F-150 is what they were driving.

16 Now Charlese says these windows [indicates] on the
17 passenger side and drivers side were closed. But what is
18 that [indicates] on the back of that truck? That's a
19 sliding open window right there, still open when they
20 were arrested. Charlese couldn't have seen if that back
21 window was open. She couldn't have seen if there was
22 anybody sitting in the back of that truck where they
23 found shell casings. Thirty-eight caliber revolvers are
24 very common. And you know what else .38 caliber
25 revolvers do? They don't drop their shell casings. So

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1 what if the Youngs had another .38? What if the Youngs
2 had another .38? What if they dried up that big old gun
3 over there [indicates] and they wanted to take a few more
4 shots as they were leaving; last chance maybe. That's
5 going to be the one they toss in the marsh. That's why
6 they give the cops that one.

7 Now you've also as I said before you heard from
8 [REDACTED] J.S. [REDACTED]. You heard his testimony. There has
9 been a lot of statements of his that have been introduced
10 where he said he shot my friend [REDACTED] Minor [REDACTED]. He's made those
11 statements; I understand. But think about what he was
12 going through at that time. And think about what he came
13 and testified to here in the court. That's a brave boy.

14 He's nine years old. It's been two years and
15 whether he realizes it or not he's been living with this
16 for those two years. He came in here and testified
17 before you with a good attitude. I was very impressed
18 with him. And he told you yes, I said he shot him. I
19 think he did. And when I asked him well, did you see it?
20 Well, I didn't see it. My face was turned away but I saw
21 him after. I saw him after I heard the shots.

22 That's what he testified to and I respect that. He
23 told you his face was turned away when the shots were
24 heard. He was also turned away from the road as well.
25 If he is running in the same direction [REDACTED] Minor [REDACTED] is his left

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1 side is facing the road too. And who is the first adult
2 that he sees after he sees his friend drop to the ground?
3 Tyrone Robinson; Tyrone Robinson who is also traumatized
4 and thinking that somebody is going to come out anywhere
5 any minute and shoot more bullets at him.

6 Now I'm going to try to wrap up here. I want to
7 talk to you a little bit about the law. Before I do I
8 want to put these [indicates] before you as well. These
9 are exhibits that were introduced by the defense. That's
10 [indicates] a picture of that [indicates]. And that's
11 [indicates] a picture of that [indicates].

12 I want to talk to you a little bit about the law.
13 The Judge is going to charge you on the law of self-
14 defense. He is going to charge you on the law concerning
15 withdrawal that I've already talked to you about. He is
16 going to charge you on the law of mutual combat. He's
17 going to say mutual combat says two people have agreed in
18 some way to be armed and have a fight.

19 But then he is going to tell you if one of those
20 people makes it clear I'm leaving then that ends it and
21 that person then becomes entitled to self-defense. That
22 person has left, broken that situation off and said I'm
23 leaving. I'm done with this. Whatever you want to say I
24 did wrong then it's over now. I'm gone; I'm leaving.
25 And then continue to communicate their desire to not have

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1 the fight, to leave, to withdraw that individual then
2 becomes entitled to self-defense. Now I believe that the
3 facts show that Tyrone Robinson did not shoot [Minor]
4 [REDACTED]. If you as jurors believe other evidence, and
5 you can disagree with me if you like that is your choice.
6 You've got to look at it under your oath and honestly to
7 yourself and only to yourself you think that he did fire
8 you have to look at whether or not he was acting in self-
9 defense at the time that he fired.

10 I submit to you there is absolutely no question that
11 he would have been entitled to defend himself. He met
12 absolutely every element of self-defense. You'll hear it
13 from the Judge. He had withdrawn which gave him clean
14 hands at that point; I'm leaving. They kept after him
15 and he kept fleeing.

16 He even fulfilled the element of retreat. He tried
17 to retreat. The law says if you can retreat safely we'd
18 like you to retreat because we abhor violence. And if we
19 can avoid people killing each other that's what we want.
20 But if you are able to find or if you are able to
21 reasonably see that fleeing is dangerous in and of itself
22 then you no longer have to flee. If anyone established
23 fleeing it was Tyrone Robinson. As he testified to you
24 the other day he fled and he fled and he fled and it
25 wasn't working. I submit to you if you find as a jury

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1 that you believe beyond a reasonable doubt that Tyrone
2 fired the weapon back at the Youngs you heard from [REDACTED]
3 [REDACTED] J.S. even though he didn't see the rounds fired
4 he just heard the shots. Even though he is completely
5 unaware of the fact that [REDACTED] Minor was shot in his left side
6 which was facing the road he also said I don't believe he
7 meant to do it. He was aiming at the car. That's self-
8 defense. That's a complete defense. That is a
9 requirement under the law of not guilty.

10 Does it make it any less a tragedy? Absolutely not;
11 but it is a defense under the law. Now I believe and I
12 don't know because I can't tell the future but I believe
13 that you may hear from the State that this was a running
14 gun battle. And I've already talked about the fact that
15 Aaron Young, Sr. himself denies that it was a running gun
16 battle.

17 You're going to hear from the State I believe that
18 these individuals were in the commission of bad things;
19 that these people including Tyrone Robinson are bad
20 people and they do bad things and they ran around making
21 bad decisions. And as a result of their bad things and
22 their bad decisions [REDACTED] Minor is dead and you
23 should find him guilty because he was a part of that bad
24 act. That's that broad brush that I talked to you about
25 at the beginning of this case. The law is anything but a

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1 broad brush. And anything that is too broad our courts
2 have struck down; absolutely justified to do so because
3 the law is supposed to be a scalpel not a shotgun. It is
4 supposed to be exact. That's why we have self-defense,
5 that's why we have specific charges with elements murder,
6 specific elements that's what the charge is here. We
7 have other crimes and they have specific elements; they
8 are not on trial here today.

9 But if we just wanted to say well, you've been bad
10 and that's what we are going to try you on then why would
11 we have volumes and volumes of books full of the
12 different crimes and their elements specifically
13 enumerated in case after case defining each and every
14 word in those elements because the law is a scalpel, not
15 a shotgun. It's precise. It looks only for who is at
16 fault and no one else.

17 Finally ladies and gentlemen and I'm going to sit
18 down. And this may be difficult for me to say. Minor's
19 death absolutely was a tragedy. Many of you may have
20 children, grown children or young children. I have
21 children. Many of the people in this courtroom have
22 children or have grown children. We are a society like
23 all societies that value our children. No one wants to
24 see an innocent life wasted; no one. Not me, not Tyrone
25 Robinson, not the State; no one. It's a tragedy. And I

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1 promise you if any of us in this room could bring him
2 back we would. But we can't. I ask you now to think
3 about this. Ignoring the law, acting on passion, acting
4 on sadness, acting on rage and convicting an innocent man
5 by ignoring that law creates another tragedy and it does
6 not honor Minor

7 THE COURT: Thank you Mr. Bax. Mr. Stone?

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1 CLOSING ARGUMENT

2 BY MR. STONE:

3 I told you when I walked up here Tuesday morning
4 that I was going to ask you for one thing and one thing
5 only; I was going to ask for the truth. And I told you
6 that that was all I would ever ask for is the truth.
7 Your verdict is supposed to do just that; say the truth,
8 what really happened.

9 You know what's interesting about the truth? It's
10 consistent. Consistent. The truth doesn't change when
11 some fact might not suit it. The truth doesn't alter
12 itself. The truth doesn't say if you don't like this how
13 about this. The truth is consistent. We put up 21
14 witnesses; 21. And although every one of them saw from
15 different angles because of course they are different
16 people and they all had different positions they were all
17 consistent. It all makes sense and what happened out
18 there makes sense. That's the truth and that's what I am
19 going to ask you today and that's what I told you I would
20 ask you for.

21 The first witness that you heard, you heard a lot of
22 witnesses with 911 but one of the first witnesses you
23 heard was the lady who lives in this house right here
24 [indicates], Charlese Mitchell. Charlese Mitchell is
25 Tyrone Robinson's cousin. She offered to feed him. She

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1 has nothing to gain or lose by this. And if she were
2 going to be biased she would be biased for him. She
3 testified and she came in here and she showed you where
4 she was and here's what she said. I heard a set of shots
5 and Tyrone Robinson came to my house. He wanted to use
6 the phone. Did he call the police and say oh my God
7 there are people chasing him? No, he was calling his
8 cousin for backup.

9 And then Tyrone Delaney comes home. And when she
10 finds out he's got a gun she says you got to go. You got
11 to go. And Tyrone Robinson leaves her house. And this
12 is what she says that is so important; he leaves and
13 minutes later I hear rapid gunfire and then I see this
14 truck. I see it so well that I actually recognize the
15 driver. It's Aaron Young, Sr.

16 I couldn't see who was in the passenger seat but
17 they were inside the truck and as they were approaching
18 my house as they were leaving the area I heard not rapid
19 fire like I heard before but boom, boom, boom; three
20 shots, the same three shells that Tyrone Robinson had
21 left in his revolver. Did it come from the truck Ms.
22 Mitchell? No sir, the truck was passing. I could see
23 the truck. Two people were inside the truck. They were
24 leaving and then the three shots. Tyrone Delaney says he
25 sees Tyrone Robinson with the same gun that Charlese says

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1 she sees. He's outside waving it around. And I
2 apologize for the language but this is Tyrone Robinson's
3 language, those motherfuckers don't know who they are
4 dealing with. And then I'll fire back at those
5 motherfuckers with the revolver that he had in his hand.
6 Why would Tyrone Delaney lie about that? What's his
7 motivation? Is that consistent?

8 And then you hear [REDACTED] J.S. [REDACTED] the child
9 who is standing out there and says he shot my friend. I
10 saw him. And he did it with tears in his eyes. And he
11 didn't do it just once; he did it three times out there.
12 He did it to Brittany Brinson. He said that man shot my
13 friend [REDACTED] Minor [REDACTED] He did it to Dominique Griffin who lives
14 here [indicates] in a totally separate setting. And then
15 he did it to Martin Thomas and you heard that on the
16 video.

17 And I'm sorry he had to come to court. You had
18 already heard his voice and I guess the defense was
19 assuming he was going to walk in here and he was going to
20 be so intimidated that he just couldn't say anything.
21 But he did; he said it again. And you know what's
22 interesting not only about what [REDACTED] J.S. [REDACTED] said and
23 not only the fact that this child said he shot my friend
24 what did he also -- what also happened when he did it.
25 He's standing in front of Brittany Brinson. What does

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1 Tyrone Robinson do? Does he say wait a minute no, it
2 wasn't me, I didn't do that. Was it I don't have a gun.
3 Was it no, it was somebody else; let's call an ambulance.
4 What did he do? Nothing. He just kept walking. What
5 about when [REDACTED] J.S. walks with him over here
6 [indicates] to Dominique Griffin with tears in his eyes
7 because that's his step-father and his step-father says
8 what happened? He said a man shot my friend.

9 What did Tyrone Delaney [sic] do then; second
10 opportunity? Did he say no, I didn't? Did he say I
11 don't have a gun? Did he say let's call the police?
12 Let's call the ambulance? No. What did he do? He kept
13 walking with as Dominique said with that look of I gotta
14 go. I gotta go. Why did he have to go? He had to go to
15 get rid of that gun and to get his hands cleaned;
16 something that Bennie Lee Hamilton told you also that he
17 used the vinegar to try to clean his hands. And he had
18 to get rid of that gun.

19 Why did he have to get rid of the gun? Where is
20 that gun by the way? It's the gun that exonerates him
21 the one that he hid, the one that he threw away. The .38
22 caliber, where is it; the one that is going to free him?
23 If it wasn't the gun that killed the child do you think
24 in the two years that he's been sitting here waiting on
25 this trial he couldn't have gotten the gun. He couldn't

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1 have said hey, go get the gun, let's go test it. He
2 could have but he's not going to because he knows he
3 can't. The same reason he took that gun and he hid it
4 that day. The same reason he couldn't wait on the police
5 to get there he had to go just like he told Dominique
6 Griffin. The defense says because he was afraid he was a
7 convicted felon. He didn't want to be charged with a gun
8 charge. If that's the truth then why did he tell Martin
9 Thomas one of the first things out of his mouth was I was
10 involved in a shootout. I had a gun earlier.

11 If he was so afraid of being nailed for a gun charge
12 why did he tell the police officer he had a gun? He had
13 to go. He had to go because he had to clean his hands
14 just like the other witness said, Bennie Lee Hamilton.
15 He came into my house -- or into Snake Bryant's house and
16 he needed some help.

17 He needed to clean his hands. He didn't know he had
18 already thrown the gun in the back. Again, another
19 witness consistent and he didn't want to come testify. I
20 think you could probably tell that. But it does beg the
21 question why did he come back? I mean if he shot this
22 kid why did he come back? Let's take a look at what he
23 said about that.

24 [Whereupon, the C.D. plays]

25 MR. STONE: I called y'all. I called 911. What he

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1 didn't know of course about calling 911 is that it starts
2 recording before he knew the operator picked up. So what
3 he didn't know was on that tape of the 911 call where he
4 called 911 the operator could hear him say because I got
5 gunpowder on my hands too.

6 But what else? I already know I was going to jail.
7 Why? Because his cousin saw him with the gun. Tyrone
8 Delaney sees it and hears him say I'll fire back. The
9 child identifies him in front of not one but two people.
10 Everybody in the neighborhood sees him. He already knows
11 he's going to jail so he better get back and he better
12 blame this on somebody else. But first he needs to clean
13 up. He needs to clean his hands. He needs to clean the
14 gun.

15 Well, he did one of those. He got rid of the gun.
16 He got rid of the gun. But he didn't do such a good job
17 on the hands because not only did we put eyewitnesses up
18 we also put up science. And the science ladies and
19 gentlemen is consistent with everything else you've heard
20 starting with the gunshot residue.

21 The defense said well that stuff is there forever.
22 No, it's not. The expert said he starts coming off
23 immediately. Well, it can be transferred if you shake
24 hands. That's true except that he had it on this palm
25 [indicates], this palm [indicates], and the back of his

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1 hand and the back of his hand over here [indicates]. And
2 you also heard him talk about it on the 911 call and he
3 washed his hands. Gunshot residue is consistent with
4 everything else. And then the ballistics expert Dan
5 DeFreese, an expert who has been doing this for 47 years
6 and who has seen many, many, many cases.

7 And I got to be honest with you maybe the defense
8 heard a different testimony than I did but this is what I
9 heard Dan DeFreese say. First of all the .38's are
10 consistent. They are shot out of the same type of gun.
11 They have the same number of grooves and they have the
12 same twists. They are consistent. They are two types of
13 bullets but they are both .38 calibers. They were made
14 by a different manufacturer. Is that unusual? No.
15 Sometimes we get a case in which all the bullets are the
16 same. Sometimes we get some out of one box and some out
17 of another. How do you know that's true? That's even
18 the case in the .9mm. The .9mm that came out of the
19 Youngs house were not all made out of the same company.
20 They were different.

21 And as Dan DeFreese said that is not unusual at all.
22 We see them all the time. The .38's though are
23 consistent. But what else did he say? This [indicates]
24 isn't. This [indicates] did not kill the child. This
25 [indicates] could not have killed the child. That's

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1 science. Dan DeFreese is a scientist and that's
2 consistent. Then Doctor Tormos; Doctor Tormos offered a
3 couple of things. The first thing she offered was the
4 child did not die immediately. When the bullet hit the
5 child the child did not die immediately. It nicked all
6 the major arteries and he literally drowned in his own
7 blood. It took probably a minute maybe longer; somewhere
8 between one and two minutes.

9 And the defense asked her wait a minute now what
10 about metabolism, what about size? She goes that's fine.
11 It still took between one to two minutes for him to die.
12 He drowned in his own blood. He did not get hit and then
13 drop. Why is that important? Number one because it's
14 consistent with what Brittany Brinson said. She sees him
15 still coming and then he drops. And also enough time for
16 Tyrone Robinson, which I don't know how long you think
17 this [indicates] takes; let me sit my beer down and put
18 my gun in my pocket. How long did that take? Tyrone
19 Robinson said I had the gun in my pocket.

20 He pulls it out -- well, he's got these beers. And
21 by the way a guy that is running for his life, a guy that
22 is really afraid, he had to stop off and get a couple of
23 cold beers before. He's out in the neighborhood running
24 afraid and he's got to get away. Never mind that he
25 doesn't call the police or ask for help when he is over

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1 at his cousin's house he's got a couple of beers he's
2 walking around the neighborhood with. But he's got to
3 set them down. He's got to set them down. He sees the
4 truck, he sees them shoot his car, and he's lying in wait
5 because he doesn't have enough bullets to go man to man
6 with them just like he said on the witness stand. I had
7 the equivalent of a water pistol compared to what they
8 had. They had many more bullets than I did. He only had
9 three; the same three, the same three that Charlese said
10 she heard at the very end.

11 And he has his beer, and he sees the truck, and he
12 sets it down and he pulls his gun out. Now I don't know
13 how he was holding the gun and neither does anybody else
14 whether -- he was hiding so we're assuming he's not
15 standing like this [indicates]. So assume that he is
16 hiding or assume that he is standing there or whatever
17 he's shooting relatively low. He just set his beers down
18 when she shoots across back at that truck.

19 Now that brings up two points. [Minor] was shot in
20 his left side. That's absolutely true; no question about
21 it. If Tyrone Robinson set his beer down and he is
22 shooting its either level or he's below him. But he is
23 shot in his left side; that's true. And the highway,
24 Marshland Road, this road here [indicates] is to his
25 left, that's correct; assuming that an eight year old

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1 goes one direction and one direction only. And I don't
2 know how many eight year olds you've been around but
3 generally they don't. And even if they did, even if they
4 did he forgot his four-wheeler. He was on the trampoline
5 when Charlese said go home, get out, go. He runs this
6 way [indicates]. He left his four-wheeler. Adults may
7 not stop to turn around and go back and get it but a
8 child would. It's consistent.

9 That means the second thing that is consistent about
10 this. The downward angle she said over and over again
11 either level or lower. A man who had set his beer down
12 and was taking aim at somebody in a pickup truck? A
13 pickup truck? Anybody climbed in a pickup truck lately?
14 This [indicates] pickup truck below the child. Tell me
15 exactly how somebody in a pickup truck with a gun up here
16 [indicates] is going to make that [indicates] angle.
17 It's not possible. It's not possible.

18 And it's consistent and it's consistent with
19 everything that every witness said. Go back to Charlese.
20 They were leaving, they were driving, they were
21 approaching my car I could see them. There was no shots
22 coming out of the truck and then I heard it boom, boom,
23 boom. The science, the witnesses, even some of the
24 testimony elicited by the defense is all consistent; all
25 consistent. What's not consistent? What is not

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1 consistent? What doesn't make sense? What changes with
2 whatever Tyrone Robinson hears? Tyrone Robinson's
3 stories; this man who has seen the Angel of Death. The
4 Angel of Death who told him you need to quit prophesying
5 or I'm going to kill all your family members.

6 Now I don't know what he was on when he saw the
7 Angel of Death. I don't know how he can say that but I
8 would submit to you it is pretty hard to believe somebody
9 that tells you that. I'd also submit to you it's hard to
10 believe that Tyrone Robinson is a prophet not with what
11 he does and what he says.

12 What did he tell out there? What did he tell the
13 Sheriff's Office? What did he tell to Martin Thomas and
14 then what did he tell when he came into the courtroom?
15 To Martin Thomas; I had a gun earlier Bro but I didn't
16 have one out here. What does he tell to the Beaufort
17 County Sheriff's Office when he gets there for his much
18 longer interrogation and his much longer conversation? I
19 didn't even have a gun out there. They shot at me. I
20 didn't even have a gun. I didn't have a gun at Allen
21 Road. I didn't have a gun over at White Horse Road
22 either -- Wild Horse Road either.

23 And then he comes into court and says okay, I had a
24 gun. I had a gun and I shot it and I even had a gun at
25 Allen road but I didn't shoot it there and I threw it

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1 behind Snake's house. He had a gun, he didn't have a
2 gun, he shot the gun, he didn't shoot the gun. It's the
3 ever evolving story from Tyrone. It's not the truth.
4 It's just one of his stories or two of his stories or
5 three of his stories. And then what happened at Wild
6 Horse Road? Mr. Robinson, what caused all this? First
7 of all why does it matter? Why does it matter?

8 It certainly doesn't matter to [Minor] why
9 this started but I'll let the defense have this argument.
10 It matters because under their theory he was acting in
11 self-defense. So the problem with self-defense is you
12 can't start the problem and then when the problem gets
13 the better of you, you say whoa, self-defense.

14 So it matters if he shot first. It matters if he
15 started the fight. It matters what he was doing there,
16 which is why when he comes into court he tells you this
17 wasn't a drug deal. No, I wasn't there and a drug deal
18 didn't go bad. I don't even know what you're talking
19 about. But you told that to Martin Thomas. No. You
20 told that to the Sheriff's Office. No, there was no drug
21 deal; I don't know what you're talking about. I bought
22 drugs from them a long time ago not that day. Beaufort
23 County Sheriff's Office:

24 [Whereupon, the C.D. plays]

25 MR. STONE: Down there to get some coke.

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1 [Whereupon, the C.D. plays]

2 MR. STONE: 9 o'clock this morning? Yes.

3 [Whereupon, the C.D. plays]

4 MR. STONE: What did he tell Martin Thomas at the
5 scene?

6 [Whereupon, the C.D. plays]

7 MR. STONE: He came in here and told you there was
8 no coke deal. Why is that important? Because he's had
9 an opportunity to sit here for a whole week and he knows
10 now what everybody is going to say and what everybody
11 said. And he knows what he's got to do; he's got to
12 recraft that story one more time. I had a gun, I didn't
13 have a gun. It was a coke deal, it wasn't a coke deal.
14 He can't even get it straight on his own story. It keeps
15 changing. The truth doesn't work that way. Your stories
16 work that way.

17 And then some more inconsistencies other than those
18 stories he puts up the Youngs or he puts up testimony
19 about the Youngs. To prove what? Self-defense; that he
20 is running for his life. You know what he proved? The
21 same thing that I told you Tuesday morning; this was a
22 shootout just like he described it between the Youngs and
23 between Tyrone Robinson. And before anybody sits here
24 and thinks I'm justifying what the Youngs did I'll tell
25 you the same thing I told you Tuesday; their day will

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1 come. This is the first but their day will come. But
2 you know it's even interesting with their testimony they
3 put in just a little bit to show you hey, really he was
4 running for his life. He was afraid the Youngs were
5 going to try to kill him. They were. There is no
6 question about that, absolutely; unless he got a shot at
7 them. He tried to kill them. Shootout. I didn't say
8 that, he did. So they put in just a little bit to say
9 Tyrone is afraid.

10 But the problem is the Youngs were separated at the
11 Sheriff's Office in two different rooms and they both
12 said the same thing. When we were leaving we heard three
13 shots. Would I put the Youngs up for my case to say
14 believe that because the Youngs told you? No, I don't
15 want you to believe it because the Youngs told you. I
16 want you to believe it because Charlese told you. That's
17 consistent with exactly what Charlese said, exactly;
18 three shots as we were leaving. And they said it in two
19 different rooms.

20 And then they put up testimony to say well, that was
21 really a lie. We were just making that up. You know
22 why? Because they're not fighting me. Why are they
23 fighting me? Because I'm going to prosecute them too.
24 They are not my star witnesses. I didn't even call them
25 as a witness, much less a star witness. They [indicates]

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1 did and that didn't help them much either. That was
2 their attempt at self-defense. And then -- you got
3 another thing about self-defense. And sometimes when you
4 think about what people tell you I would submit to you
5 its very hard to believe much of anything that Tyrone
6 Robinson tells you.

7 But listen to what they tell you and listen to how
8 they tell you. How do they say it? How do they describe
9 the events? What do they say? You know something about
10 police interrogation sometimes it's a lot of hard
11 questions and sometimes it's just letting them talk. And
12 Tyrone had no problem just talking. Self-defense; lets
13 listen to this.

14 [Whereupon, the C.D. plays]

15 MR. STONE: What's that? I'm going to shoot who
16 shoot at me. By everybody's testimony including his they
17 were shooting at him. So what's his reaction? I'm going
18 to shoot at those who shoot at me; never mind that he
19 shot first and then they shot at him and they shot at him
20 as he left Wild Horse according to him. And then of
21 course they were shooting back at him. So even by his
22 own statement he is going to shoot at those who shoot at
23 him. That's what this is all about. That's what this
24 always is about. This is the mentality I shoot at you;
25 you shoot at me; that's how we solve our problems. And

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1 that's how children get killed. And that's him; that's
2 the Youngs and that's him. And just because the Youngs
3 aren't here he doesn't get a pass. He shoots at those
4 who shoot at him. And you know what else that is
5 consistent with? Tyrone Delaney. What did Tyrone
6 Delaney say that Tyrone Robinson said when he was
7 standing out in the yard waving the pistol? I'm going to
8 fire back at those motherfuckers; excuse me. He says the
9 same thing Tyrone Delaney said he said in two different
10 locations. More self-defense? Let's hear what else he
11 has to say.

12 [Whereupon, the C.D. plays]

13 MR. STONE: He didn't have a gun then but he had a
14 gun later because he told you later on he had a gun.
15 He's mad. I'm not afraid I'm mad. Why? Because they
16 shot his car so he's going to go after them, he's going
17 to get a gun, and he's going to kill them. What else?

18 [Whereupon, the C.D. plays]

19 MR. STONE: Does this guy sound like he is fleeing
20 in self-defense or just trying to get a better angle to
21 get them? He said one other thing.

22 [Whereupon, the C.D. plays]

23 MR. STONE: This man who is claiming self-defense
24 shoots at those who shoot at him and he's already said
25 they shot at him. This man who claims self-defense who

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1 says in the courtroom that he is afraid said at the
2 Sheriff's Office he was mad. What was he mad about?
3 They shot my car. Perhaps the most inconsistent thing
4 about Tyrone Robinson's stories is him coming into this
5 courtroom and getting on that witness stand and crying
6 for [Minor] and [Minor]'s family.

7 He cried. Why are you crying Mr.. Robinson? For
8 [Minor] and for his family. His cousin; the cousin that
9 he didn't even know his name. Well, let me ask you a
10 question. When he went and found Martin Thomas how many
11 times did he ask how the boy was doing? When he went out
12 on that scene did he say call the ambulance please and
13 get somebody to help him? How is he doing? Uh Uh, what
14 did he say? Come let me show you how they shot my car.
15 They shot my car man, over and over and over again. It
16 was about his car.

17 You just saw him on the video. Did he seem
18 distraught to you? He was laughing and he was mad. Why
19 was he mad? Because they shot his car. In this hour or
20 so that he was down or two hours or so he was down at the
21 Sheriff's Office how many times did you hear him say how
22 is the child doing? And how many times did you hear him
23 say they shot up my car. I got to get insurance. I got
24 insurance but it's not going to cover this. I got to get
25 a new car. And yet he comes into the courtroom and he

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1 cries for **Minor** It's just yet another inconsistency
2 from Tyrone Robinson. And the final inconsistency is
3 this whole self-defense concept in itself because you got
4 to ask yourself a question. If he didn't shoot the gun
5 how did he shoot in self-defense? Which is it? Funny
6 thing about the truth it doesn't come with options. You
7 don't believe this how about this? You don't buy this
8 how about this? I didn't shoot but if I shot it was in
9 self-defense. Which is it? Which is it? Put it all
10 together what does he say? I mean to put all of his
11 stories together and try to make sense here's how it
12 comes out.

13 I didn't have a gun but if I had it I didn't shoot
14 it. If I shot it I shot it at Wild Horse Road but I
15 didn't shoot it at Allen Road. But at Allen Road I
16 didn't have a gun. But if I had a gun I didn't shoot it.
17 And if I had a gun and I shot it I did so in self-
18 defense.

19 The truth doesn't work like that folks. The truth
20 just doesn't work like that. Tyrone Robinson's stories
21 work like that. And after sitting here for five days
22 listening to everybody he just simply crafts another one.
23 I asked you about the truth. This courtroom is about the
24 truth. It's not about coming up with new and different
25 stories or new and different theories about what

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1 happened. But going back to police interrogation even
2 Tyrone Robinson messes up. In all of his effort to tell
3 all of his stories every once in a while he just -- he
4 got confused. Every once in a while he gets frustrated.
5 And when he gets frustrated you might actually get a
6 pretty decent picture of what happens.

7 He was being hit over and over and over again with
8 all of these people are saying you were there. All these
9 people were saying you had a gun. All of these people
10 are saying you shot. Over and over and over again and he
11 gets frustrated. And what does he say when he gets
12 frustrated?

13 [Whereupon, the C.D. plays]

14 MR. STONE: Me, the shooter singular, and the kids
15 on the trampoline. Me is Tyrone Robinson. The shooter,
16 singular, is Aaron Young. Aaron Young we know was firing
17 this [indicates] and we know that this [indicates] didn't
18 kill the child. And there were two kids. There were
19 three kids; [X.D.] who goes back in the house, [Minor] who
20 doesn't make it, and [J.S.] .

21 The point is to even by a frustrated Tyrone Robinson
22 he is the last guy out there. Me, the shooter, and the
23 kids. Me and the singular shooter. And we know the
24 singular shooter didn't kill the child. I ask you the
25 same thing that I told you I was going to ask you to

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1 return a verdict that speaks the truth. Not one with
2 options, not either or's, one that speaks the truth.
3 Thank you.

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1 THE COURT: Thank you, Mr. Stone. Ladies and
2 gentlemen, we're going to take a brief recess at this
3 point in time before I begin my instructions on the law
4 for a couple of reasons. You've been out here about an
5 hour and a half and that's about as much time as we want
6 to keep you because I'm going to have to instruct you on
7 the law and that's going to last about 30 to 45 minutes
8 roughly. No point in telling you 30 minutes; it's going
9 to be closer to 45. And we have to move some stuff
10 around in the courtroom so we will be in a position to
11 present the charge on the law to you.

12 So I'm going to send you to the jury room. There
13 will be a brief bathroom break. When you tell us you are
14 ready to come back we'll be ready to come back. Please
15 remember not to discuss this case amongst yourselves.
16 When you are finished and ready knock on the door and let
17 the bailiff know and we'll bring you out and conclude the
18 trial. Thank you.

19 [Whereupon, the jury exits at 10:55 a.m.]

20 THE COURT: Folks, it will probably be 10 or 15
21 minutes. We'll be at ease until then.

22 MR. BAX: Thank you, Your Honor.

23 [Whereupon, court is in recess from 10:56 a.m. to
24 11:15 a.m.]

25 THE COURT: Thank you folks. Are both sides ready

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1 for the jury?

2 MR. STONE: The State is ready, Your Honor.

3 MR. BAX: Yes, sir.

4 THE COURT: Thank you. You can bring us the jury.

5 MR. BAX: Your Honor, may I?

6 THE COURT: Yes, sir.

7 MR. BAX: Your Honor, real briefly I know one thing
8 that I -- I'm trying to make sure that I cover my bases.
9 In my memory we haven't discussed the form of the verdict
10 or the verdict form itself.

11 THE COURT: You're right. Here it is right here.
12 This came out when you were in argument and I didn't want
13 to interrupt.

14 [Whereupon, the court provides documents to counsel
15 for review]

16 MR. BAX: Your Honor, no objection other than we
17 just request that you make the standard charge that the
18 order in which they are listed has no significance.

19 THE COURT: I always do that. Thank you. Okay,
20 bring us the jury.

21 THE BAILIFF: The jury is entering the courtroom,
22 Your Honor.

23 [Whereupon, the jury enters at 11:17 a.m.]

24 THE COURT: Thank you folks. I think we are all in
25 agreement whether we've served on a jury in this or any

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1 court or just observed court from where we are here
2 insofar as this beautiful courthouse is concerned it is
3 obviously clear that the architects who put one bathroom
4 in each jury room have never served on a jury in their
5 lives. We understand and we apologize for the
6 inconvenience at creates for you all.

7 Folks you all have been very attentive throughout
8 the trial of this case. You have listened very
9 attentively to the arguments made by Mr. Bax on behalf of
10 Mr. Robinson and by Mr. Stone on behalf of the State and
11 I now ask that you give that same attention to me as I
12 instruct you as to what the law is in this case.

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THE COURT: It is my responsibility as a trial Judge under our Constitution to instruct you or charge you as to what the law is in this case. And it is your responsibility as jurors to accept and apply the law as I state it to you to be the correct law. So as jurors then it is your exclusive duty to decide all issues of fact in the case.

And for that purpose you have to determine the effect and the value and the weight and force of the truth of the evidence that you have seen and heard. Both the State and this defendant have the right to expect that you will conscientiously consider and evaluate the evidence and that you will apply the law of the case to that evidence so that both the State and the defendant receive a fair and impartial trial at your hands.

Throughout the course of this charge ladies and gentlemen when I use the word defendant I'm referring to Mr. Tyrone Robinson. Mr. Robinson has been indicted by the Grand Jury of Beaufort County and he is charged in the indictment with the crime of murder. The indictment as I have read it to you earlier says that in Beaufort County on or about September the 1st of 2012 while engaged in an ongoing gun battle, an inherently dangerous felony, Tyrone Robinson did willfully, unlawfully, and

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1 with malice aforethought cause the victim [REDACTED]
2 [REDACTED] Minor to be shot and killed in the area of Marshland
3 Drive and Allen Road on Hilton Head Island and that
4 [REDACTED] Minor did die in Beaufort County as a
5 proximate result thereof on September the 1st of 2012 in
6 violation of the law.

7 I remind you again as I told you before you were
8 selected as jurors in the trial of this case that this
9 indictment is not evidence nor is it proof of the charges
10 that it contains. It's a legal document. It's a
11 charging document that tells you and me and anybody else
12 who reads it what this case is all about. And as you
13 know to the charges contained in this indictment Mr.
14 Robinson has entered a plea of not guilty and has asked
15 and has received a jury trial at your hands which we're
16 in the midst of still delivering.

17 As you know ladies and gentlemen, the effect of the
18 plea of not guilty which Mr. Robinson has rendered to
19 these charges places the burden of proof on the State to
20 prove by evidence the guilt of the accused beyond a
21 reasonable doubt before you as a jury can convict him and
22 find him guilty. Mr. Robinson is presumed under the law
23 to be innocent of the charges contained in this
24 indictment. It is a fundamental rule of our law of
25 evidence that a defendant regardless of the nature of the

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1 charges or the seriousness of the charges against him
2 will always be presumed innocent for the crime for which
3 he has been indicted unless and until you as a jury reach
4 the conclusion that his guilt has been proven by
5 evidence; evidence that satisfies you of his guilt beyond
6 a reasonable doubt.

7 The presumption of innocence is not a mere legal
8 theory. It is not an empty legal phrase. The
9 presumption of innocence is a substantial right to which
10 every defendant including this one is entitled to
11 receive. The presumption of innocence has been compared
12 to a robe of righteousness which is placed about the
13 shoulders of the defendant and it assigns to that
14 defendant the class known as the innocent.

15 And that presumptive robe of righteousness continues
16 to exist about the shoulders of a defendant unless and
17 until that robe of righteousness, that presumption of
18 innocence has been stripped from his person by evidence
19 that satisfies you of his guilt beyond a reasonable
20 doubt.

21 The presumption of innocence accompanies the
22 defendant from the time of his arrest; it follows him
23 throughout this trial. It even continues to exist to his
24 benefit as you go into the jury room to deliberate and to
25 reach your verdict in this case. The presumption of

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1 innocence continues to exist unless and until you as a
2 jury reach the conclusion that his guilt has been proven
3 to your satisfaction beyond a reasonable doubt. So the
4 State has that burden then of proving the guilt of the
5 defendant beyond a reasonable doubt.

6 Some of you may have served as jurors in other types
7 of cases before. You may have served as jurors in civil
8 cases for example. And if you did in the civil case the
9 Judge told you that the party who has the burden of proof
10 in that particular charge only has to convince you that
11 the evidence on that party's side of the case is more
12 convincing than the evidence is on the other side of the
13 case.

14 We sometimes call that the preponderance of the
15 evidence or the greater weight of the evidence. But in
16 criminal cases the State's burden of proof is more heavy
17 than that, it is different from that. Here in criminal
18 cases the State's burden of proof is more powerful than
19 that. It is proof beyond a reasonable doubt.

20 So what then do we mean by proof beyond a reasonable
21 doubt. Now there are very few things in this world that
22 you and I know with absolute certainty. And in criminal
23 cases the law does not require proof that overcomes every
24 possible doubt. And so if based on your consideration of
25 the evidence you are firmly convinced that the defendant

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1 is guilty of the crime charged you must find him guilty.
2 If on the other hand after considering all of the
3 evidence you think that there is a real possibility he is
4 not guilty then you must give him the benefit of that
5 doubt and find him not guilty.

6 Now reasonable doubt might arise from evidence in
7 the case or it might arise from the lack of evidence in
8 the case. But you ladies and gentlemen have to decide
9 whether or not reasonable doubt exists as to the guilt of
10 this defendant. I tell you that Mr. Robinson is entitled
11 to every reasonable doubt which arises in the whole case
12 or arises in any defenses which have been asserted in
13 this case.

14 So if on any issue of fact which is necessary to a
15 conviction and a verdict of guilty you have a reasonable
16 doubt as to how that issue can be resolved it is your
17 duty to resolve that reasonable doubt in favor of the
18 defendant because the defendant ladies and gentlemen is
19 never required to prove his innocence. But the State is
20 required in the law to prove every essential element of
21 the offense charged against him before you as a jury can
22 convict him beyond a reasonable doubt and that burden is
23 proof beyond a reasonable doubt. And so if then upon the
24 whole case you have a reasonable doubt as to the guilt or
25 the innocence of the defendant he is entitled to that

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1 reasonable doubt and would be entitled to an acquittal
2 and a verdict of not guilty at your hands. But on the
3 other hand if upon the whole case you find that the State
4 has proven by evidence that satisfies you of his guilt
5 beyond a reasonable doubt then in such circumstances it
6 is equally your duty to convict the defendant and to find
7 him guilty.

8 Now during this trial ladies and gentlemen you and I
9 each have our separate duties to perform. As a trial
10 Judge it is my job to preside over the trial of this case
11 and I also have the responsibility of ruling upon or
12 passing upon the admissibility of the evidence which you
13 have seen and heard. And you are to consider only the
14 competent evidence that has been offered; that is the
15 testimony from this witness stand, the items or documents
16 that have been introduced in the course of this trial.

17 I have the additional duty as the trial Judge to
18 charge you as to the applicable law of the case. As the
19 presiding Judge I am the sole Judge of the law in the
20 case and it is your duty to accept the law and to apply
21 it as I now state it to you. You may have brought with
22 you into your service this week as jurors some
23 preconceived idea about what you think the law is. Or
24 you might have some preferences about what you would like
25 the law to be. But I tell you if your preconceived ideas

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1 about the law or if your preferences about the law
2 disagree with what I'm telling you now the law actually
3 is you're obligated under your oath to forget what you
4 think the law is or what you would like the law to be
5 because under your oath you are bound to accept the law
6 precisely as I now state it to you.

7 Now with every case tried in this court before a
8 jury you are the sole and exclusive judge of the facts
9 and I am the Judge of the law as I have said. Our
10 Constitution has said that as a trial Judge I can't
11 comment upon the facts of the case. I can't hint to you
12 or intimate to you or suggest to you what decision you
13 should make in this case and I do not do so.

14 And since you're the sole judges of the facts of
15 this case you are not to gather from anything that I have
16 said during this trial or anything that I am saying to
17 you now as I instruct you on the law that I have an
18 opinion about the facts of this case. I do not. I'm not
19 allowed to have an opinion. That is solely a matter for
20 you as a jury to determine.

21 And so then as jurors it becomes your duty as I have
22 told you to decide the effect and the value and the
23 weight of the truth of the evidence that you have seen
24 and heard. Now in determining what the facts of the case
25 are you must necessarily pass upon the creditability that

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1 means believability of the witnesses who have testified.
2 And you must decide the weight and the value that you
3 would give to the testimony that you have seen and heard.
4 You alone must decide the force and the effect and the
5 truth of the testimony that has been offered in this
6 case.

7 Now there are a lot of things that you can take into
8 account when you decide where the truth of this case
9 lies. You can take into account the appearance the
10 manner of the witnesses as he or she testified from the
11 witness stand. We sometimes call that the demeanor of
12 the witness.

13 You have a right to ask yourself whether that
14 witness was forthright or was the witness hesitant. You
15 can ask yourself whether the testimony of the witness was
16 consistent or did it contain discrepancies. You have a
17 right to ask yourself whether the testimony of that
18 witness was affected by bias or prejudice. In other
19 words did that witness have an interest to be served by
20 his or her testimony.

21 You have a right to consider whether the evidence
22 and testimony offered by a witness was made stronger by
23 other evidence or was it made weaker by other evidence in
24 the case. You have heard in this case testimony of
25 witnesses who have been qualified as expert witnesses.

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1 Under our law normally a lay person cannot offer his or
2 her testimony about the conclusions that that witness may
3 have drawn. A witness can tell you what he or she saw or
4 heard but cannot tell you what opinions they have or what
5 conclusions they drew from the evidence.

6 But expert witnesses are a little different. Expert
7 witnesses are witnesses who have particular knowledge or
8 training or experience in certain fields. And if they
9 are qualified in those fields they are allowed to give
10 you their opinions on those things about which they have
11 been qualified as experts.

12 But I tell you, you judge expert opinion testimony
13 just like you judge any other testimony. That means you
14 give it the weight that you think it is entitled to
15 receive considering the witness's education and the
16 experience and the reasons they have given you for the
17 opinions that they have reached.

18 In this case you have heard testimony of a prior
19 criminal record of the defendant in this particular case.
20 I tell you that you must not consider that evidence as
21 evidence of anything except for the purpose for which it
22 was offered and that is it was admitted and it may be
23 considered by you only for the purpose of evaluating the
24 creditability or the believability of the testimony
25 offered by the defendant himself. You cannot and you

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1 must not consider the prior record of the defendant as
2 evidence on the issue of the charges for which he is on
3 trial in this particular case. You can give it such
4 weight and such value that you think it should receive on
5 the sole issue of his creditability and believability;
6 not as any evidence of guilt of the crime for which he is
7 being tried.

8 Now ladies and gentlemen as jurors you've got the
9 right then to believe a smaller portion of the testimony
10 of a single witness or the larger portion of the
11 testimony of that same witness or the other way around.
12 You can just reverse that and believe the larger and
13 disbelieve the smaller. Or you can believe everything
14 that a witness tells you or you can believe none of what
15 a witness tells you.

16 Now what we ask you to do as jurors in determining
17 this matter of finding the truth is to exercise your
18 mental process and as you decide what you consider to be
19 truth we simply require that you use your good common
20 sense, your sense of logic, your sense of reason, your
21 experiences in life.

22 And that's what qualifies you to be jurors in this
23 case and in any case. And once you've done those things
24 you will be able to discover where the truth of this case
25 is. And once you have found the truth of this case you

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1 will wrap the truth that you have found in the mantle of
2 the law I am now giving you. And those two things will
3 come together to result in a verdict of truth in this
4 particular case. I now instruct you as to what the law
5 is on the charge in this particular case. As you know
6 the defendant is charged with the crime of murder.

7 Murder is defined in the law as the killing of any person
8 with malice aforethought either expressed or implied.

9 And so in order for the State to prove the defendant
10 guilty of murder it must be proven beyond a reasonable
11 doubt that the defendant killed the victim and that the
12 killing was done with malice aforethought. Now the State
13 is not required to prove any motive for the killing but
14 it is required to prove malice and to prove that beyond a
15 reasonable doubt.

16 So what then is malice; that essential element for
17 the crime of murder? Malice is the intentional doing of
18 a wrongful act without just cause or excuse and with an
19 intent to inflict an injury. Malice aforethought is the
20 deliberate and well-formed purpose to do the unlawful
21 act.

22 Now aforethought means that the intention to do the
23 unlawful act was conceived and planned sometime before
24 the actual commission of the act. But the malice need
25 not exist for any particular length of time prior to the

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1 act if it is present in the mind of the act or at the
2 time of the crime that is sufficient as malice
3 aforethought. Now malice is a word that suggests a
4 wickedness or a hatred or a determination to do what one
5 knows to be wrong without just cause or legal
6 provocation. As I have said malice need not be in the
7 mind of the one doing the act for any particular length
8 of time before the act of killing in order to render it
9 murder. If it is present any length of time before the
10 act in its presence would be sufficient to render the
11 killing a murder.

12 Malice might be expressed malice or it could be
13 inferred malice. That's not two different types of
14 malice it's just malice that is shown in two different
15 ways. Malice is said to be expressed malice where there
16 is manifested or expressed a violent, deliberate
17 intention to unlawfully take away the life of another
18 human being.

19 Malice can be inferred where no excuse or legal
20 provocation for the killing appears and when
21 circumstances attending the killing show an abandoned
22 heart or a malignant heart fatally bent upon mischief.
23 Malice may be inferred from conduct showing a total
24 disregard for human life. If facts are proven beyond a
25 reasonable doubt sufficient to raise an inference of

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1 malice then this inference would simply be an evidentiary
2 fact and you would take that into consideration along
3 with any other evidence on the case bearing on the issue
4 of malice and you would give it the weight that you
5 determine it should receive. I tell you again the
6 defendant is not required to prove the absence of malice
7 but the State is required in law to prove the presence of
8 malice and to prove that beyond a reasonable doubt.

9 Now ladies and gentlemen in this particular case we
10 are dealing with the law of transferred intent. Under
11 the facts of this case everyone agrees that the victim
12 was an unintended victim in this particular case. And so
13 the law of transferred intent then applies to the crime
14 of murder. And what that says is if the defendant with
15 malice aforethought attempts to kill another person but
16 by mistake injures or kills a different person the
17 defendant still has the intent to kill.

18 The intent to kill is merely transferred from the
19 original person that the defendant attempted to kill to
20 the actual person who was killed. The defendant would be
21 guilty of murder in that particular case just as if the
22 attempt had resulted in the death of the person that he
23 attempted to kill. Criminal intent then is a necessary
24 element of the crime in this and in every instance and it
25 has to be proven by the State beyond a reasonable doubt.

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1 Criminal intent is always a matter that has to be
2 determined by the jury from circumstances which surround
3 this particular situation. There is no way to prove
4 intent to a mathematical certainty. There is no way that
5 medical science will let us cut off a person's skull and
6 look down into his or her brain to decide what he or she
7 had in mind at the time.

8 And so the law says that criminal intent can be
9 inferred from the circumstances which were shown to have
10 existed at the time of the crime. And that's how you
11 make a determination as to whether or not the element
12 requiring intent was present. Criminal intent then is a
13 state of mind and it operates jointly with an act in the
14 commission of a crime.

15 Criminal intent is a mental state. It is a
16 conscious wrongdoing. And so it's up to you to determine
17 what the defendant intended to do based on the
18 circumstances shown to have existed. I'll tell you the
19 State has to prove criminal intent beyond a reasonable
20 doubt just like it has to prove every other element
21 beyond a reasonable doubt.

22 Now the State seeks to meet its burden of proof in
23 this case by both direct and circumstantial evidence.
24 Direct evidence is normally referred to as eyewitness
25 evidence. Its testimony of a witness who came in and

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1 tells you this is what I heard, this is what I saw;
2 eyewitness testimony. It is direct evidence and it
3 proves the existence of a fact through the eyes of a
4 person who saw what they are telling you about or heard
5 what they are telling you about. In other words it
6 doesn't require any conclusions or deductions on your
7 part.

8 Circumstantial evidence on the other hand is proof
9 of a chain of facts which leads to the conclusion of
10 another fact. An example of the difference between
11 circumstantial evidence and direct evidence that I have
12 given through the years it doesn't have much application
13 down in the south because we never get snow down here
14 very much.

15 But if you can imagine some of you might have come
16 here from a northern climate where you did get it. If
17 you can remember or recall or even imagine in your mind a
18 winter night and before you go to sleep for the night you
19 look out across your front lawn and all you see is the
20 brown dead grass of summer, now grass of winter, and you
21 go to sleep. And the next morning when you get up you
22 look out across your front lawn and you see that it has
23 been covered with snow. And in that snow you see
24 footprints that lead up to your front door. Now what can
25 you conclude from all of that? Well, obviously you can

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1 conclude that after you went to bed last night it snowed.
2 You didn't see a flake fall but you know it has snowed.
3 And you also know that sometimes after it snowed somebody
4 came across your front lawn up to your front door. You
5 didn't see them, you don't know who they were but you
6 know when they came; they came after it snowed. And you
7 reach those conclusions by circumstantial evidence.
8 That's what circumstantial evidence is.

9 The law doesn't make any distinction between direct
10 evidence or circumstantial evidence. It requires no
11 greater weight to be given to one than it does the other.
12 Both are good evidence so long as they meet the test of
13 strict proof. However, to the extent that the State
14 relies on circumstantial evidence all of the
15 circumstances have to be consistent with each other and
16 when taken together they have to point conclusively to
17 the guilt of the accused beyond a reasonable doubt.

18 If these circumstances merely portray the
19 defendant's behavior as suspicious then the proof has
20 failed. The State has the burden of proving the
21 defendant guilty beyond a reasonable doubt and this
22 burden rests upon the State regardless of whether it
23 relies on direct or circumstantial evidence or some
24 combination of the two. Now the defendant in this case
25 has raised the defense of self-defense. Self-defense is

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1 a complete defense and if it is established it entitles
2 the defendant to a verdict of not guilty. The defendant
3 has no burden to prove the defense of self-defense. The
4 burden on the other hand is on the State to prove the
5 absence of self-defense beyond a reasonable doubt; in
6 other words to disprove self-defense beyond a reasonable
7 doubt.

8 And so if you have a reasonable doubt of the
9 defendant's guilt after considering all of the evidence
10 including the evidence of self-defense then you must find
11 the defendant not guilty. If on the other hand you have
12 no reasonable doubt of the defendant's guilt after
13 considering all of the evidence including the evidence of
14 self-defense then you must find the defendant guilty.

15 The following elements are required by law to
16 establish self-defense. First of all the defendant must
17 be without fault in the bringing on the difficulty. If
18 the defendant's conduct was the type which was reasonably
19 calculated to and did in fact provoke a deadly assault
20 then the defendant would be at fault in bringing on the
21 difficulty and would not be entitled to an acquittal
22 based on self-defense. However, if the defendant
23 voluntarily participated in mutual combat for purposes
24 other than protection then the killing of the victim
25 would not be self-defense and this is true even if during

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1 the combat the defendant feared death or serious bodily
2 injury. But on the other hand if before the killing is
3 committed the defendant withdraws and tries in good faith
4 to avoid further conflict and either by word or by act
5 makes that fact known to the victim he would be without
6 fault in bringing on the difficulty and would be restored
7 to the right of self-defense if such withdrawal was
8 communicated either by word or by act to the other side
9 and he would be entitled to the defense of self-defense
10 if all of the other elements of that defense are present.

11 The second element of self-defense is the defendant
12 was actually in imminent danger of death or serious
13 bodily harm or that the defendant actually believed that
14 he was in imminent danger of death or serious bodily
15 harm. Now if he was actually in imminent danger of death
16 or serious bodily harm it must be shown that the
17 circumstances which existed would have justified a person
18 of ordinary firmness and courage to strike the fatal blow
19 in order to avoid or prevent his death or serious bodily
20 injury.

21 If the defendant believed that he was in imminent
22 danger of death or serious bodily harm then it has to be
23 shown in that case that a reasonable person of ordinary
24 prudence and belief would entertain the same belief. And
25 in deciding whether the defendant actually was or