

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Fairfield County

Honorable Daniel D. Hall, Circuit Court Judge

RECEIVED

AUG 23 2018

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LARRY CORNISH

APPELLANT

APPELLATE CASE NO. 2017-001866

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
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1 STATE OF SOUTH CAROLINA.

2 -----x

3 STATE,

4 Plaintiff,

5 Case No.

6 -against- 2016-GS-20-414, 415,
7 416

8 LARRY D. CORNISH,

9 Defendant.

10 -----x

11 August 29-31, 2017

12 Winnsboro, S.C.

13

14 B E F O R E:

15 HONORABLE DANIEL D. HALL

16

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22 Attorney for the Defendant

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24 Aileen Butler

25 Official Court Reporter

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E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
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1 MR. HUNTER: It please the Court, the State calls
2 docket number 2016-Gs-20-414, the State versus Larry
3 Cornish for attempted murder; docket 2016-GS-20-415,
4 State versus Larry Cornish, possession of a firearm by
5 a person convicted of a felony, violent crime; and
6 docket number 2016-GS-20-416, State versus Larry
7 Cornish, for possession or display of a firearm or
8 knife during the commission of a violent crime.

9 THE COURT: All right, thank you. State ready to
10 proceed?

11 MR. HUNTER: Yes, Your Honor.

12 THE COURT: Defense ready?

13 MS. ZMROCZEK: We are Your Honor.

14 THE COURT: And we had met in chambers; Miss
15 Zmroczek and Mr. Hunter and I and discussed some
16 preliminary issues in this case and I believe -- we
17 discussed that Miss Zmroczek I believe you have some
18 pretrial issues -- matters on behalf of your client;
19 is that correct?

20 MS. ZMROCZEK: I do Your Honor, and I believe I
21 filed several of them yesterday and so I understand
22 that they would be made part of the record as well.

23 The first motion, Your Honor, is -- let me get it
24 in order -- is a motion to quash or in the alternative
25 to sever the indictment, specifically the indictment

1 number, 2016-GS-20-415; that's Your Honor is the felon
2 in possession of a weapon or person convicted of a
3 violent felony. And Your Honor, when I had filed this
4 we hadn't actually received a copy of the certified
5 conviction. We did receive that yesterday so
6 obviously that first argument fails. But then we had
7 a motion to sever, Your Honor, because what we had
8 believed and now are correct in believing that they
9 were going to rely on was a prior criminal domestic
10 violence, high and aggravated nature conviction which
11 does fall within the statute properly. However, Your
12 Honor, just due to the nature of this case we felt
13 like that fact would prejudice -- would prejudice my
14 client to receive a fair trial in front of the jury
15 since there are allegations of domestic disturbance
16 with this case. And so we would argue, Your Honor,
17 that to allow that indictment to go forward along with
18 these would unfairly prejudice my client.

19 THE COURT: All right. Thank you. Mr. Croom --
20 I'm sorry. I keep wanting to call you Mr. Croom. Mr.
21 Hunter, do you wish to be heard?

22 MR. HUNTER: Yes. Thank you, Your Honor. First
23 off, just sort of housekeeping matter, I did provide
24 Miss Zmroczek with the defendant's rap sheet and it
25 did have this conviction on there. So she did have

1 notice of what the prior conviction was.

2 As far as the motion to sever or quash, I believe
3 that it is properly brought with these other charges.
4 The elements of this specific charge arise from the
5 same set of circumstances that the other two charges
6 Mr. Cornish is facing arise from. The evidence to
7 prove it is essentially the same evidence that will be
8 used to prove the other charges and I don't think it
9 is unduly prejudicial so I do think it is properly
10 brought.

11 THE COURT: Ms. Zmroczek.

12 MS. ZMROCZEK: What I would ask for the Court to
13 do, Your Honor, and I believe that we did discuss this
14 in chambers but just so it is on the record -- is that
15 in the presentation of that element is that we -- that
16 the State would put a witness up to say that he had
17 been convicted of a prior violent felony, but just not
18 to name that, which would I think reduce the
19 prejudice.

20 THE COURT: All right. Thank you, Miss Zmroczek.
21 I am going to deny your motion to sever, however, I
22 will instruct the State to limit any basis for the
23 prior violent crime to be limited to the fact that
24 simply he has a conviction for a violent offense.

25 MR. HUNTER: Your Honor, we would like to go ahead

1 THE COURT: Yes, if you will pass that up and we
2 will make it a Court's exhibit.

3 (WHEREUPON, Indictment was marked as a Court's
4 Exhibit One.)

5 THE COURT: Even though we are marking it a Court's
6 exhibit -- I don't need to tell you how to do your
7 work, but at some point I think we can stipulate that
8 that is a Court's exhibit and then it becomes a part
9 of the evidence in the case.

10 MS. ZMROCZEK: My concern is if it becomes part of
11 the evidence --

12 THE COURT: But I will not let it go back to the
13 jury.

14 MS. ZMROCZEK: Okay. That was my concern. As long
15 as it doesn't go back.

16 THE COURT: It will not go back to the jury but at
17 some point it needs to become a part of the record
18 once we swear the jury. I will leave that up to you
19 how you do that. Miss Zmroczek.

20 MS. ZMROCZEK: The next motion, Your Honor, is a
21 motion to dismiss, or give the included jury
22 instruction regarding spoliation of evidence. So Your
23 Honor, I don't know if Your Honor would like to take
24 testimony because I can testify as to what's missing
25 or we can hear from the officers as to an explanation

1 or we can hear from the officers as to an explanation
2 as to why, but in my motion --

3 THE COURT: Well, let's do it this way. As far as
4 a jury charge on spoliation, I got to hear -- there
5 has got to be something in the record to determine
6 whether to make that charge or not. So that would be
7 premature and so I'd be happy to hear you on the
8 record. I guess -- we're really -- are you combining
9 three and four? We talked about Brady violations and
10 you wanted to hi-light those and I believe all those
11 are intertwined together; is that correct?

12 MS. ZMROCZEK: That's correct.

13 THE COURT: All right, let's just start there and
14 I will be glad to hear from you what you allege are
15 the Brady violations and in addition to that --
16 because of that and anything related to evidence.
17 Your motion to dismiss I will be glad to hear that.

18 MS. ZMROCZEK: Okay, thank you, Your Honor. I
19 filed Discovery in this case which I know is part of
20 the record, but it was officially filed April 21st of
21 2017, Your Honor, when I was retained on this case and
22 I did receive what Discovery the prosecution had
23 related to this case.

24 Your Honor, the very first thing that I received
25 was an incident report and as I am reading the

1 incident report. The reporting officer is Jacob
2 Little. And I will read directly from the incident
3 report. It's on the incident supplemental report. It
4 says in part, "I arrived to find that the victim had
5 been shot in the right side of the face and the round
6 came out the left side. Pictures were taken." So
7 when I read that, Your Honor, I asked Mr. -- I asked
8 the solicitor for a copy of those pictures. A little
9 bit lower in the incident -- supplemental incident
10 report it says, "As the officers were clearing the
11 home they noticed that there was a TV missing from in
12 the living room. Officers spoke with the victim's mom
13 where she stated there was a 55 inch TV there. Then
14 the victim's mom asked if the TV was there when they
15 left the house before the shooting. The boys stated
16 that the TV was there when they left the home. I then
17 took pictures of where the TV was and the rest of the
18 home." So I again have been looking for the pictures
19 of the apartment especially since there is some
20 indication that there was perhaps a fight inside the
21 apartment that instigated this whole thing. Obviously
22 those pictures would help either to refute or
23 establish that evidence.

24 On the next page, Your Honor, and this is actually
25 supplemental report by John Wesley Seibles. It

1 discusses how the vehicle was towed and the door was
2 opened. The 50 inch TV was gone. There was clothes
3 on the floor near the door. No one was there. We
4 secured the apartment. I got a shirt that Omarion the
5 youngest son of the victim was wearing because it had
6 blood on it. The victim parents was there with us
7 during this time. So, obviously I asked for a
8 property list and I asked where that shirt was so we
9 could see where the blood was and examine it. Maybe
10 request to have it tested. It's been reported to me,
11 Your Honor, that they don't know where that is.

12 THE COURT: All right. We are talking about the
13 victim's car that was towed.

14 MS. ZMROCZEK: The victim's car was towed. Yeah,
15 and they did take pictures of that.

16 THE COURT: All right, but there was a --

17 MS. ZMROCZEK: A shirt.

18 THE COURT: A shirt in that car that --

19 Ms. Zmroczek: Or in the apartment. I can't tell
20 from the reading of it. The shirt was either in the
21 car or in the apartment.

22 THE COURT: And that was a shirt that one of the
23 children were wearing.

24 MS. ZMROCZEK: Was wearing.

25 THE COURT: All right. The next thing.

1 MS. ZMROCZEK: The next thing, Your Honor, that we
2 are arguing that should have been or wasn't preserved
3 is Officer Gonzalez apparently viewed some video that
4 began at 1:19 and went to 3:30. I don't know how much
5 of that video was available. All of the video that
6 they have was turned over to me and it's just very
7 small periods of time.

8 THE COURT: And this would be video obtained from
9 whom?

10 MS. ZMROCZEK: The surveillance video from the
11 apartment complex.

12 THE COURT: Okay. All right.

13 MS. ZMROCZEK: So they did turn over. They
14 collected just a little bit. But what they didn't do
15 is preserve the whole thing, Your Honor.

16 Obviously when I was retained I issued a subpoena
17 and they only keep them for so many days. So we would
18 have liked to have had access to the whole video and
19 not just the portions that the State felt was relevant
20 to keep.

21 The next thing, Your Honor, is there were -- SLED
22 was called to process the victim's car and SLED did
23 process the victim's car. There were 428 photos taken
24 and there were some swaps and some other items
25 collected. There was no gunshot residue. None of the

1 items that were photographed were saved. So there
2 were some items Your Honor that had potential
3 evidentiary value on them. I don't know why they
4 weren't collected, but they were noted and
5 photographed, but obviously we didn't have an
6 opportunity to challenge or examine them because all
7 we have are photographs.

8 THE COURT: Well, let me ask you, to be sure about
9 the SLED processing the victim's car, you have the
10 photos. You don't have any of the physical items that
11 they took photos of that were in the car?

12 MS. ZMROCZEK: They took a few of the physical
13 items.

14 THE COURT: But there are other physical items
15 that are missing.

16 MS. ZMROCZEK: Correct. Yes. That had potential
17 evidentiary value.

18 The next thing, Your Honor, is a supplemental
19 report that I am reading from Michael Carrell and
20 indicates, it says myself and Sergeant Ferguson was
21 tasked with locating the defendant, Larry Cornish. I
22 contacted SLED fugitive who did assist in the case.
23 Obviously one of my issues is confrontation. We have
24 asked numerous times who was the SLED fugitive task
25 force assistant and where are their reports and that

1 has not been disclosed or provided.

2 It says we went to an apartment complex off of
3 Interstate 26 based on a tip that we received. One of
4 the later motions that I have Your Honor is, who gave
5 that tip. Because again it comes down to
6 confrontation and under the Sixth Amendment, and so we
7 don't know who gave that tip. But it indicates that
8 they located a female subject who had information on
9 the offender and she stated she was the girlfriend of
10 his. She stated that he had come to her residence,
11 was no longer there and left in her vehicle and his
12 vehicle was there. I contacted the chief and we had
13 the vehicle, meaning his, Mr. Cornish's vehicle towed
14 to the police department for processing. Nothing was
15 located inside the vehicle. Well, Your Honor, I don't
16 have any of that paperwork where it was processed.
17 Who processed it. I have zero pictures. Obviously if
18 they are -- if it's the State's position that my
19 client comes back with a gun and gets in his car,
20 well, I want to know what processing was done. Why we
21 didn't have access to process it. Why there was no
22 gunshot residue. Why don't we have any pictures from
23 that. And additionally Your Honor, they did take two
24 photos while at that apartment. One was a pile of
25 clothes and TV's and its my understanding that the

1 clothes that my client was wearing were actually at
2 the apartment as well. Those were not recovered.
3 Those obviously we would have had tested for gunshot
4 residue. If it's the State's position that my client
5 was wearing those clothes and shot a gun we certainly
6 would want to have that evidence tested.

7 Additionally, they took a picture of a phone, but I
8 don't know where that phone is. We would have liked
9 to have access to that phone especially with the cell
10 phones these days you can get GPS that would have
11 helped kind of establish when a phone was taken. Who
12 used that phone. I do have phone records, Your Honor
13 that I subpoenaed myself and have turned over to the
14 state, but I don't have -- they don't have the actual
15 text messages, emails, all of that evidentiary data
16 that could have been recovered from that phone. I
17 asked the State where that phone was and they
18 responded that they do not know.

19 Your Honor, those would be what we considered the
20 most serious of evidentiary challenges in this case
21 and again we want to be clear that we are not saying
22 that the State has done something intentionally but
23 either through negligence or intent, that officers who
24 processed and who brought this case and have certainly
25 been trained to do so and I even actually got their

1 policy manual and I subpoenaed the policy manual.
2 Interestingly the section on evidence collection and
3 preservation is the largest section and it's 11 pages.

4 Your Honor, they have very specific rules and
5 policies and procedures that they are suppose to
6 follow, as far as evidence collection and
7 preservation. Like I said we were never -- the only
8 property report we ever received is from what SLED
9 collected, the limited temperatures that SLED
10 collected out of the car. And obviously the officers
11 reported taking pictures and collecting things or at
12 least seeing things and we don't have any of that. So
13 that would be the basis for our motion to dismiss
14 based on those violations and the potential
15 exculpatory evidence especially the clothes that he
16 was wearing and the vehicle that he was driving.

17 THE COURT: Well, let me be sure. One, is that
18 you've indicated that there was a photo of clothes in
19 the apartment. At this point you don't have any
20 evidence of anyone testifying that the clothes that
21 were in the apartment were clothes that he was
22 wearing; is that correct?

23 MS. ZMROCZEK: That's correct.

24 THE COURT: All right. At the time.

25 MS. ZMROCZEK: Right.

1 THE COURT: When was he arrested in relation to
2 the incident time?

3 MR. ZMROCZEK: This incident occurred on January
4 20 -- I am sorry, July 27th of 2016 at approximately
5 -- between - right after one a.m.. The video that I
6 have starts at like 1:14 a.m..

7 THE COURT: And when was he arrested?

8 MS. ZMROCZEK: He was apprehended on January --
9 July 28th at -- from what I can tell somewhere around
10 14 hundred.

11 THE COURT: All right. Thank you. Mr. Hunter I
12 will be glad to hear from you.

13 MR. HUNTER: Thank you, Your Honor. I'll try to
14 be brief. As far as the missing pictures, I have been
15 on the hunt for those for a number of months now and
16 the police department as well has searched everywhere
17 they know where to search and the pictures they can't
18 find them. I don't have them. Obviously I can't turn
19 over to Miss Zmroczek what I don't have and what the
20 police department no longer has. The shirt that is
21 referenced in the supplemental report done by Chief
22 Seibles, as well, that shirt is missing. I don't know
23 what happened to the shirt. But again, it's not in
24 evidence with the city and so therefore I can't, you
25 know, address that any further. I do think that these

1 are things that Miss Zmroczek can bring up on cross
2 examination and issues that she can raise, you know,
3 to create the outline to the jury. But as far as any
4 type of misconduct or Brady violation I certainly
5 don't think that it rises to that level simply by
6 virtue of the fact that I can't hand over what I don't
7 have and what can not be found.

8 The SLED inventory of the vehicle that was used in
9 -- the victim was shot in, the SLED agent who
10 inventoried the vehicle is going to be one of our
11 witnesses. Again, questions as to why certain things
12 were collected and certain things were not collected I
13 think are appropriate for Miss Zmroczek to ask the
14 SLED agent on cross examination. But I certainly
15 don't think it's any type of Brady violation that
16 certain things in the car were not collected as
17 evidence and processed.

18 Moving down the list here; the surveillance video
19 from Castlewood Apartments they do cover -- there are
20 three sets of videos. There is a set of videos from
21 immediately prior to the shooting that shows --
22 reportedly shows the victim and the defendant and her
23 two children in her vehicle and then they pull out of
24 the apartment complex. And then the second set of
25 videos shows a man alleged to be the defendant jogging

1 back into the apartment complex, getting into his car
2 and driving away. That happens maybe ten minutes
3 after the initial set of videos. And then the third
4 set of videos is from a couple hours later around
5 three a.m. and it shows who -- we will seek to prove
6 is the defendant along with another individual
7 returning to the apartment complex and entering the
8 apartment, taking two TV's and some other things which
9 we believe are the pile of clothes that were found in
10 the apartment in Columbia or Raintree Apartments.

11 As far as any other surveillance videos for the
12 gaps in time we don't have those. I'm not sure if
13 they were collected. I don't believe they were. I
14 believe I was given all the videos that were collected
15 and I think simply that's because those were videos
16 that had things on them -- that had anything on them
17 relating to the case. I think -- therefore, we have
18 given Miss Zmroczek those videos and again, I think
19 asking the officer why those videos don't cover
20 certain other time periods is valid cross examination
21 but I certainly don't think it's a Brady violation
22 especially since I don't believe those videos would
23 show anything exculpatory.

24 As far as Lieutenant Carrell's supplemental report
25 detailing the search for Mr. Cornish in Columbia and

1 the issue that Miss Zmroczek raises about basically
2 the entrance of that apartment, the pictures that were
3 taken there and the tip that led them there, I simply
4 don't think that those issues are relevant to the case
5 in chief here which is that Mr. Cornish shot Miss
6 Michael two days before. The issue that Miss Zmroczek
7 is raising and she has questions about are merely
8 details of the search to find Mr. Cornish after the
9 crime had occurred. So I don't think those issues are
10 relevant. And I believe that's it.

11 THE COURT: All right. Thank you. Anything
12 further Miss Zmroczek?

13 MS. ZMROCZEK: No, Your Honor. Obviously, I think
14 we'll renew this motion and obviously have a little
15 more to argue for the charge. I agree it's premature
16 at this point but when the testimony comes out, for
17 example, about the other persons involved with
18 searches and things like that.

19 THE COURT: And I'll rule on the spoliation. We
20 will talk about the charge on spoliation later but
21 again I have to have context from the trial to rule on
22 that.

23 I am going to deny your motion to dismiss on the
24 Brady violation and any destruction of evidence. It
25 appears that certainly the failure for whatever reason

1 the officers or investigators to collect certain items
2 that would be an opportunity for cross examination by
3 the defense. It does appear that the majority of
4 material whether it's evidence or not that is not
5 available does appear to have no direct correlation to
6 the alleged act. I do note that certainly the vehicle
7 that the victim was in and anything that was found in
8 that vehicle would -- which would be the shirt
9 apparently that allegedly had some blood on it would
10 have been material to that part of the case. But it
11 does appear that most of the items dealt and then
12 items not collected -- other items not collected from
13 the car may have been of some benefit. Again, we are
14 not sure of that. But regardless the solicitor's
15 office, the State, has complied with -- I find they
16 have complied with the requirements of Brady.
17 Solicitor has indicated they have provided everything
18 that they have and made a diligent search for those
19 items that are allegedly missing and are unable to
20 locate those. So therefore I will deny the motion to
21 dismiss on those grounds.

22 All right. You want to move on to your next
23 motion.

24 MS. ZMROCZEK: I do, Your Honor. The next motion
25 would be a motion for -- and some of these, Your

1 Honor, we can argue after we select the jury so we are
2 not keeping them and maybe if they take an early lunch
3 or something.

4 THE COURT: We're all right. Let's keep moving.

5 MS. ZMROCZEK: Okay. So the next motion we filed
6 was a motion for change of venue.

7 Your Honor, this motion was filed, particularly,
8 Mr. Cornish was being transported by someone from the
9 detention center or with the sheriff's department back
10 to Newberry where he is being housed and it was
11 indicated to him that everybody knew about this case
12 and that his -- you know, he was not --

13 THE COURT: And let me interrupt you here. This
14 is for both counsel and for you Mr. Cornish. I may
15 have my head down some times when your lawyer is
16 talking or the case is going on. I don't mean that to
17 be disrespectful to you and your case or your family
18 or the attorney. I will be looking at some law while
19 they are talking but I can assure you I am listening
20 as we are going forward.

21 Go ahead Miss Zmroczek..

22 MS. ZMROCZEK: Thank you, Your Honor. And again, I
23 did outline the requirements for a change of venue.
24 Your Honor, obviously the town of Winnsboro, the
25 County of Fairfield we're talking about -- it's a very

1 small tight-knit community. I attached a few of the
2 articles that I found. Your Honor, obviously I didn't
3 attach videos, but when I went on line just to google
4 it there were actually videos of news reporters saying
5 that they were -- and I believe this was during the
6 search period and right after he was arrested -- they
7 were saying things like a search is on for a man who
8 shot a Fairfield County Detention worker. So
9 obviously that seemed to generate a lot of attention
10 in this small town. And Your Honor, we understand
11 there's a very high burden of the change of venue and
12 so -- but we made that motion to kind of follow in on
13 the next motion which was the expanded voir dire.
14 Ideally we are one of the very few states that don't
15 have attorney requested voir dire but I do know on
16 occasion allow for expanded voir dire and in this case
17 Your Honor, I submitted several requests and
18 additional requests and inquiries. In addition to my
19 witness list I put some names of people who aren't
20 witnesses but who are tangentially related to the
21 case. For example, Miss Gladney, Evelyn Gladney, who
22 is the mother of the alleged victim. She works at
23 Kraft. She's been here her entire life. She started
24 a GoFundMe page. So there are things that we would
25 ask that the Court inquire of the jurors if you are

1 not inclined to change the venue.

2 THE COURT: Mr. Hunter, do you wish to be heard?

3 MR. HUNTER: Yes, sir. As far as the change of
4 venue motion I will address that. Obviously that is
5 within Your Honor's discretion and the case law states
6 that when there is an allegation -- and I am just
7 quoting from Miss Zmroczek's motion actually -- when
8 there is an allegation of excessive pretrial publicity
9 the judge must insure there's adequate voir dire. I
10 would argue first off that there was not excessive
11 pretrial publicity in this case.

12 You know, any time that there's a crime that occurs
13 and there is a fugitive that that's generally
14 publicized on the news. And I say that happens
15 probably two or three times a week. And the fact
16 that this happened here over a year ago I don't think
17 that is going to excessively bias the jurors or
18 potential jurors against Mr. Cornish receiving a fair
19 trial. Again, the case law that Miss Zmroczek puts in
20 her motion says it's the duty of the trial judge to
21 see that an fair and impartial jury is impaneled. And
22 I think that's the reason why we have voir dire
23 questions that we have, to insure that the jury that
24 is impaneled will be fair and impartial. And
25 assuming that the jury panel comes in here and answers

1 those questions properly and honestly and
2 appropriately and we reach enough jurors to impanel a
3 jury I am not sure what the issue is.

4 THE COURT: All right. Thank you. I will deny
5 the motion for change of venue. It will be up to the
6 Court to seat a fair and impartial jury. We will deal
7 with that through voir dire and we will take up those
8 voir dire questions a little bit later. However, at
9 this point I will deny the motion for change of venue.

10 All right. What is next?

11 MS. ZMROCZEK: The next motion, Your Honor, was
12 the requested voir dire.

13 THE COURT: Let's get through all the other
14 pretrial issues and then we will come back to voir
15 dire.

16 MS. ZMROCZEK: Okay. I believe that I did receive
17 the records on all the potential witnesses and I did
18 give a list of potential witnesses and if I do call
19 them I advised Mr. Hunter that I would provide their
20 date of birth so that he could run their records as
21 well. And we did exchange, so I think seven is
22 handle. Eight, I believe Your Honor, we were going to
23 handle --

24 THE COURT: We will have in camera hearings prior
25 to their testimony assuming the State does call them,

1 but we will deal with that at the end.

2 MS. ZMROCZEK: So, nine would be the motion to
3 reveal the confidential informant, slash, anonymous
4 tip or any alternative excluding certain evidence
5 regarding the arrest.

6 So Your Honor hasn't seen these videos yet but on
7 these body cams that we do have they say that we
8 received tips or we -- or we aren't going to charge
9 you, you know, if you tell us whatever, or if you tell
10 us this. We are more concerned about the anonymous
11 tips that led to his arrest in Columbia.

12 Your Honor, again, he has a right to present a full
13 and fair defense and under the Sixth Amendment
14 challenge and confront each of those witnesses. We
15 still have not been provided those names. So we would
16 ask that the State provide us who gave those tips at
17 this time.

18 THE COURT: All right. And I assume that none of
19 those -- you're not alleging that any of that
20 information, the anonymous tips -- certainly
21 anonymous, they don't know who they are. But
22 confidential informants they are not material
23 witnesses to what took place in this case.

24 MS. ZMROCZEK: We -- I have no idea.

25 THE COURT: Okay. All right, Mr. Hunter I will be

1 glad to hear from you.

2 MR. HUNTER: Judge, as you said they're anonymous
3 tips. I don't have that information. As far as I am
4 aware there were no confidential informants used in
5 this case.

6 THE COURT: All right. He has indicated there are
7 no confidential informants and that there were some
8 anonymous tips about where he may or may not be
9 located after the fact. That's the extent of any
10 reference to any anonymous tips; is that right Mr.
11 Hunter?

12 MR. HUNTER: Yes, sir. And I will say that
13 potentially one of the tips that they found, that they
14 used to find Mr. Cornish in Columbia I believe there
15 maybe some testimony that caller was the owner of the
16 house that Mr. Cornish was found in.

17 THE COURT: How do they know that?

18 MR. HUNTER: And Your Honor, that's what I'm not
19 sure about at this point.

20 THE COURT: Well, I'm not sure what the relevance
21 is to whether one of the tips; who in fact the tipster
22 may have been in locating --

23 MS. ZMROCZEK: And that may bear out.

24 THE COURT: Go ahead.

25 MS. ZMROCZEK: Sorry Your Honor. That may bear

1 out as the trial goes on.

2 THE COURT: Let me ask you this; it appears that
3 the only thing that they would be able -- that a
4 witness may be able to say is, one, that they received
5 an anonymous tip at a certain place and somehow they
6 learned that that anonymous tipster may have been the
7 owner of that place. Or did they receive numerous
8 anonymous tips?

9 MR. HUNTER: As I understand it the SLED Fugitive
10 Task Force led the search for Mr. Cornish with the
11 officers from Winnsboro Public Safety kind of along
12 with them. And the witnesses I have, the officers
13 from Winnsboro, have told me that the information they
14 got came from SLED and I believe SLED's information
15 either came from an anonymous source or it might have
16 been the owner of the house.

17 THE COURT: All right. Are you objecting to them
18 testifying to that?

19 MS. ZMROCZEK: No, Your Honor. Again, we would
20 have liked some of the notes or anything from the SLED
21 Fugitive Task Force but we will address that.

22 THE COURT: Okay. All right. I will allow that.
23 There is no confidential informant so there is no
24 motion in essence to reveal and I will allow the
25 testimony along the lines that you indicated to the

1 Court Mr. Hunter.

2 MR. HUNTER: Thank you. And Your Honor just for
3 the record, we did receive the SLED file in this case
4 and I turned it over to Miss Zmroczek and none of that
5 stuff was in there.

6 THE COURT: All right. Miss Zmroczek I believe
7 that leads us to number ten.

8 MS. ZMROCZEK: To sequester witnesses Your Honor.
9 I believe the officer that signed the warrants was
10 Officer Seibles. The officer who apparently testified
11 in front of the Grand Jury was Officer Carrell, so I
12 would just ask that -- I know that some times they
13 like to keep their one case agent in here.

14 THE COURT: I think they are entitled to the case
15 agent being in here. I don't have any objection to --
16 I mean, I don't have any problem with sequestering any
17 witnesses, do you? Mr. Hunter, do you wish to be
18 heard?

19 MR. HUNTER: Just briefly, Your Honor.

20 THE COURT: That would include both sides.

21 MR. HUNTER: Yes, sir. And I certainly believe
22 that the main investigator is entitled to be here and
23 I believe the victim is entitled to be here by law.

24 THE COURT: Both of those by law.

25 MR. HUNTER: As far as other investigators or

1 officers who worked the case we would like them to be
2 here but we will leave that up to you.

3 THE COURT: I will grant the motion to sequester.
4 They can remain out of the courtroom.

5 MS. ZMROCZEK: And is Seibles, is he the case
6 agent?

7 MR. HUNTER: Your Honor, I am not sure yet since
8 we haven't started if I would like to use Lieutenant
9 Carrell or Chief Seibles as our -- both of them --
10 both of them did substantial amount of work on this
11 case and kind of were working together.

12 THE COURT: Carrell works for Winnsboro, City of
13 Winnsboro?

14 MR. HUNTER: Yes, sir.

15 THE COURT: And Seibles works for the City of
16 Winnsboro?

17 MR. HUNTER: Yes. Chief Seibles is Chief of
18 Police and Lieutenant Carrell is basically headed up
19 the investigation.

20 THE COURT: Are both of them potential witnesses
21 in the case?

22 MR. HUNTER: They are both potential witnesses.
23 Lieutenant Carrell will certainly be a witness. At
24 this point I am not sure whether I will call Chief
25 Seibles, but I would argue for both of them to be in

1 here since they both were the main investigators in
2 the case.

3 MS. ZMROCZEK: And we would just ask that they
4 elect one or the other.

5 THE COURT: One of them can remain. You may make
6 the call of who stays in the courtroom.

7 All right. That brings us to number 11.

8 MS. ZMROCZEK: And I believe I made this motion
9 earlier, and it's my understanding that it was a
10 motion to allow 404(B) evidence. It's my
11 understanding that Mr. Hunter unless my client intends
12 to testify has no information to put forth. So I just
13 wanted to make sure that was on the record.

14 MR. HUNTER: That's correct, Your Honor, we don't
15 intent to introduce evidence of prior bad acts unless
16 it should be become necessary during cross examination
17 should Mr. Cornish testify.

18 THE COURT: All right, thank you.

19 MS. ZMROCZEK: And on that note because of the
20 ruling that you made earlier on the motion to sever we
21 had discussed in chambers how to limit how the two
22 parties met and it is my understanding that the State
23 is going to make sure that they stay within that
24 range.

25 THE COURT: To be sure the record is clear too,

1 what was presented to the Court in chambers is that
2 the State anticipates their evidence would be that the
3 defendant in this case met the victim while the
4 defendant was in the Alvin S. Glenn Detention Center
5 in Richland County and the victim was an employee
6 there at a detention officer. And we have discussed
7 in chambers that fact certainly is admissible. Any
8 other surrounding information as to why he may have
9 been there I would not allow that in. But limit it to
10) establishing a relationship or meeting each other it
11 occurred under those circumstances and not go any
12 further for what he was there for. Is that right Mr.
13 Hunter?

14 MR. HUNTER: Yes, sir.

15 THE COURT: Okay.

16 MS. ZMROCZEK: And that's what we agree to.

17 THE COURT: All right.

18 MS. ZMROCZEK: And I believe I skipped the first
19 one Your Honor. A discussion of -- or introduction of
20 stipulations. Mr. Hunter and I we did subpoena the
21 entire SLED jacket. It was turned over to the State
22 and the State turned it over to us. In that -- in
23 that file there were items that were collected from
24 the vehicle that were sent to latent prints as well as
25 to DNA. They were not able to recover any latent

1 prints off of any of the things, the items that were
2 submitted. They were also not able to recover any DNA
3 that they could use to match to anyone. Instead --
4 and in light of judicial economy, instead of calling
5 those two witnesses, Mr. Hunter and I had discussed
6 typing out a stipulation that the Court could read in
7 at some point that these two things were -- that these
8 two areas -- and he had maybe talked doing it through
9 --

10 MR. HUNTER: I had planned to do it through the
11 SLED agent who actually collected the evidence and
12 just have her testify that to her knowledge the
13 evidence was sent and it was tested and nothing -- no
14 prints or no DNA were found.

15 THE COURT: Were you wanting to stipulate to that?

16 MS. ZMROCZEK: And we were fine with that. We
17 wouldn't object to that coming in through her if it
18 was easier.

19 THE COURT: Then that is not a stipulation. All
20 right.

21 MS. ZMROCZEK: So then moving on to 12, Your
22 Honor, the motion pursuant to suppress an alleged
23 statement to Investigator Carrell under Jackson v.
24 Denno.

25 THE COURT: Are you prepared to go forward with

1 with that?

2 MR. HUNTER: Yes.

3 THE COURT: All right. Let me look at -- we are
4 going to do a Jackson v Denno here in just a minute.
5 Number 13, Miss Zmroczek, some of these seem to be
6 repetitive. Let's go through those, your motion in
7 limine to suppress photographs.

8 MS. ZMROCZEK: And I think that we can argue that
9 the authentication and the foundation, because I think
10 they were repetitive from the previous motion, Your
11 Honor regarding the Brady violation.

12 THE COURT: Okay. All right.

13 MS. ZMROCZEK: And then we can skip down to C which
14 we --

15 THE COURT: We dealt with that.

16 MS. ZMROCZEK: Yes, and E as well. Now B, Your
17 Honor, at some point recently Mr. Hunter gave me two
18 letters that were reported to be written by my client
19 sent to Miss Mickle. Your Honor, that was over a few
20 months ago. There have been no requests. Obviously
21 we would have submitted had there been a request for a
22 handwriting sample. So at this point there is no way
23 to -- unless he testifies, we would argue that those
24 letters there be a lack of foundation and
25 authentication.

1 THE COURT: All right. Mr. Hunter, I will hear
2 you on that.

3 MR. HUNTER: I think that would go to the weight,
4 not the admissibility of the letters. Certainly Miss
5 Mickles can testify that she received these letters at
6 her address. The postmark on the letters is from the
7 detention center and she can testify that, you know,
8 to her knowledge that is Larry Cornish's handwriting
9 in the letter. Certainly Miss Zmroczek can argue,
10 well, how do you know. But I certainly think that
11 goes to the weight not the admissibility.

12 THE COURT: Let me mull over that a little bit. I
13 will deal with that. We will talk about that before
14 the victim testifies. I assume that's the only person
15 that would testify to the letters, right.

16 MR. HUNTER: Yes.

17 THE COURT: I will rule on that before she
18 testifies.

19 MS. ZMROCZEK: And then I believe we discussed and
20 I submitted a very lengthy brief regarding the
21 ballistics' testimony and I referenced to specifically
22 I have no problem with Agent Green testifying. What I
23 do have a problem is him testifying that these bullet
24 fragments that were found in the door can supposedly
25 be linked to some hi-point gun. So we would -- we're

1 not asking that all of his testimony be suppressed but
2 specifically that opinion that these fragments could
3 be only from a hi-point, and it doesn't even say
4 revolver or pistol or anything. The term hi-point,
5 Your Honor, obviously has a stronger indication of
6 malice I think and with that testimony would be
7 certainly more prejudicial than probative. And I
8 outlined in my brief extensively how there are some
9 question about the reliability of these ballistic
10 testing anyway. But that's Your Honor, when they have
11 a gun and a bullet. But here we don't have any gun.
12 There was no gun ever collected. So to have him
13 testify that it could be some hi-point we believe
14 would be more prejudicial than probative.

15 THE COURT: All right. Mr. Hunter.

16 MR. HUNTER: Judge, Mr. Green is the SLED
17 ballistic and firearm expert. In his report he, you
18 know, evaluated the spent cases, the spent bullets --
19 the spent bullet, excuse me -- that were recovered
20 from the door and it's his finding as an expert that
21 that bullet was fired from a hi-point nine millimeter.
22 A hi-point is just a brand of gun. I not sure why I
23 brand would infer any kind of malice. That goes in
24 to, you know, the weight, not admissibility. I think
25 assuming that Mr. Green is properly qualified as

1 expert he is certainly entitled to testify to the
2 findings of his report.

3 MS. ZMROCZEK: And Your Honor, just so the record
4 is clear, he doesn't say hi-point nine millimeter. He
5 just says hi-point.

6 THE COURT: Tell me what does he say? What is he
7 going to say? What does the report say?

8 Do you have that.

9 MR. HUNTER: I can hand up the report Your Honor.
10 (WHEREUPON, the report was handed to the Court.)

11 MS. ZMROCZEK: And I believe it's paragraph three.

12 THE COURT: Well, it doesn't say nine millimeter.
13 It says item three had been fired -- do you all see
14 nine millimeter anywhere?

15 MS. ZMROCZEK: It says hi-point.

16 THE COURT: Well, I'm sorry, at the top it says
17 one fired nine millimeter luger caliber cartridge
18 case. That is item one.

19 MR. HUNTER: We can ask about it in his report.

20 THE COURT: Well, looking at his report, item one
21 is one -- is one cartridge case. Item three is
22 separate. I mean, obviously it's another item. Item
23 three, one fired -- one fired bullet from the driver
24 of the door of the Dodge Journey. And it says, in
25 essence at the bottom, like those exhibited on item

1 three -- well, specifications like those exhibited on
2 item three, hi-point firearms.

3 I don't have any problem with him testifying to
4 that. I think again, it doesn't -- I mean again,
5 that's how you cross examine him on it and how the
6 jury weighs that, but that's an expert opinion. We
7 don't have a firearm. He's indicating on his SLED
8 report what he scientifically, he found on item three.
9 But I will note item three does not have any link
10 toward a nine millimeter. At least not on the report.

11 MS. ZMROCZEK: And I guess if he makes that leap
12 we will argue at that point.

13 THE COURT: All right. All right. Then the only
14 thing left is the Jackson v. Denno and -- and voir
15 dire. Let's talk about voir dire. Let's go ahead and
16 firm up what I'm going to ask on voir dire. We will
17 then bring the jury in and let's try to get a jury.
18 Assuming we get to the point of selecting a jury then
19 we will make a decision about how we are going to
20 follow the rest of the morning. Does that make sense?
21 Let's talk about voir dire.

22 All right, Ms. Zmroczek.

23 MS. ZMROCZEK: And Your Honor, on my potential
24 witness list it looks like I just added a few
25 questions. I had done that after I had done my

1 proposed voir dire and so -- and I guess I did that
2 after my change of venue motion. But Your Honor, I
3 know that you have been a trial attorney as well as a
4 judge and that it's obviously your intention to
5 certainly make sure that we have the most fair and
6 impartial jury. And so some of the things that we ask
7 specifically that deal with this -- and Your Honor, as
8 I am looking at it I am going to withdraw number
9 seven. That is not applicable here. And actually I
10 believe you covered ten yesterday in your general.

11 THE COURT: Right.

12 MS. ZMROCZEK: So we would withdraw ten at this
13 time, but the other ones Your Honor --

14 THE COURT: Well, 10 and 11, the grand jury issue.

15 MS. ZMROCZEK: I didn't hear --

16 THE COURT: Well, I asked them if they done it the
17 last five years.

18 MS. ZMROCZEK: I guess I just didn't hear that
19 question about the grand jury, Your Honor. If you did
20 then we would certainly withdraw that and then the
21 rest, Your Honor, along with any connections to
22 Fairfield County Hospital or the Palmetto Health
23 Richland Hospital would be the only additional
24 questions. And I believe I received an e-mail copy of
25 the witness list from -- their proposed witness list

1 from the State. I don't know if they handed one up.

2 MR. HUNTER: I handed one to the judge and I have
3 an updated one since yesterday.

4 MS. ZMROCZEK: And I will make sure the court
5 reporter has one.

6 THE COURT: All right. Mr. Hunter you have 16 on
7 your potential witness list. Just make sure I got the
8 correct one.

9 MR. HUNTER: That is the correct one.

10 THE COURT: And then Miss Zmroczek you have --
11 well, you actually have 11 -- seven plus some voir
12 dire questions.

13 MS. ZMROCZEK: Yes.

14 MR. HUNTER: And Your Honor --

15 THE COURT: Let me hear you Mr. Hunter on voir
16 dire.

17 MR. HUNTER: Your Honor, I don't have a problem
18 with most of these questions. I do think number 12 is
19 overly broad. I think everybody has had some type of
20 dealing with a law enforcement agency whether it be a
21 speeding ticket or got in an accident or whatever.

22 MS. ZMROCZEK: We would withdraw 12 Your Honor.

23 MR. HUNTER: Number 16, I think that is overly
24 broad as well; anyone affiliated with law enforcement.
25 I think everyone knows someone affiliated with law

1 enforcement.

2 THE COURT: Well, I will ask the question if
3 anybody if related by blood or marriage or have a
4 close personal or business relationship with anyone
5 who works or is employed in law enforcement so that
6 will cover that.

7 MS. ZMROCZEK: Okay.

8 MR. HUNTER: And number then number 24 I think is
9 also overly broad; you, your relatives or close
10 friends ever been the victim of any crime. I think
11 everybody knows somebody who has been a victim of a
12 crime or has been a victim of the crime themselves.
13 Whether it be somebody stealing from them or whatever.

14 I think that is overly broad.

15 THE COURT: Well, I am going to ask 24 in the form
16 that she's presented it. Go ahead.

17 MR. HUNTER: And that's all I have Your Honor. I
18 will leave the rest up to your discretion.

19 THE COURT: I'm not going to ask A through F. I
20 will pick up and you've indicated on your questions I
21 don't have any problem with the things that we have
22 gone through beginning with number one, what you have
23 entitled questions. I will ask those of them other
24 than the ones we have already excluded but I am not
25 going to -- and I'm not going to -- I appreciate your

1 opening remark paragraph -- I'm not going to read your
2 opening remark. I will follow my standard opening
3 remarks. I don't think we have adopted that yet in
4 our state and Judge Hall is not going to adopt it.

5 MS. ZMROCZEK: I don't think we have Your Honor.

6 THE COURT: All right.

7 MS. ZMROCZEK: We keep pushing for it.

8 THE COURT: All right and I have a few other
9 general voir dire questions to that I will ask and
10 some of those may encompass some of these.

11 Anything else as far as voir dire from the defense?

12 MS. ZMROCZEK: Nothing further.

13 THE COURT: From the State?

14 MR. HUNTER: Nothing, Your Honor.

15 THE COURT: All right. Let's bring our --- it's
16 not raining out there is it?

17 DEPUTY: I don't think so judge.

18 THE COURT: Let's do this, lawyers, we will take a
19 break and let's let the jury come in and be seated.
20 In about five or ten minutes be back in place.

21 MR. HUNTER: Thank you, Your Honor.

22 (WHEREUPON, there was a brief recess.)

23 THE COURT: Thank you, please be seated.

24 It's amazing in this world of computers and
25 technology and less paper we have managed to generate

1 more paper that we keep up with. So let me get my
2 papers straight.

3 Will the lawyers approach.

4 (WHEREUPON, there was an off the record
5 discussion.)

6 Ladies and gentleman, we are ready to begin the
7 trial of the State versus Larry D. Cornish. Mr.
8 Cornish has been has been charged with three offenses
9 and I will talk to you about that in just a moment. I
10 explained to you yesterday that we have a three-part
11 process and selection of jurors for cases here in
12 South Carolina. One, is we had the role call
13 yesterday morning in which you gave basic information.
14 The second part of jury selection is where I ask
15 specific questions that I am required to by law to ask
16 you to determine your qualifications. We are now at
17 the third part of jury qualification and that is where
18 I will ask you specific questions about this
19 particular case to determine whether you are qualified
20 to serve as jurors in this particular case.

21 As I told you this is the case of State versus
22 Larry D. Cornish. Mr. Cornish has been charged on
23 Indictment 2016-GS-20-414 with attempted murder. He
24 has been charged on Indictment 2016-GS-20-415 with
25 being in possession of a firearm and having been

1 previously convicted of a violent crime.

2 2016-GS-20-416 is an Indictment alleges that here in
3 Fairfield County on or about July the 27th of 2016 he
4 was armed with or possessed a hand gun during the
5 commission of an attempted murder.

6 These alleged incidences took place allegedly here
7 in Fairfield County on or about July the 27th, 2016
8 out in the area of the 321 Bypass here in Winnsboro
9 around one o'clock in the morning.

10 Is there any member of the jury panel have any
11 personal knowledge or formed any opinion about this
12 case in what I have told you so far or anything you
13 have learned in the past? Any member of the jury
14 panel have any personal knowledge or formed any
15 opinion about this case if so please stand.

16 Thank you. I'm sorry. If you'll come forward.
17 Come right over here.

18 (WHEREUPON, a juror comes forward.)

19 THE COURT: Your number?

20 JUROR: 122.

21 THE COURT: Miss Squirewell. What do you know
22 about this case?

23 JUROR: I think my family is related. Cousin, I
24 think.

25 THE COURT: You think. All right.

1 Would that fact affect your ability to be fair and
2 impartial to both the State and to the defendant.

3 JUROR: No, but I just know that we are distant
4 cousin.

5 THE COURT: Okay. You could still be -- you could
6 listen to all the evidence and render a verdict that
7 would be fair and impartial to both parties?

8 JUROR: Yes, sir.

9 THE COURT: All right. Thank you for that
10 information.

11 JUROR: All right.

12 THE COURT: Representing the State, in this case,
13 is Mr. Croom Hunter. Mr. Hunter if you would stand
14 and introduce those at your table that will be
15 assisting in this case.

16 MR. HUNTER: Good morning ladies and gentleman.
17 My name is Croom Hunter. I am assistant solicitor
18 here in Fairfield County. Seated at the table with me
19 is Riley Maxwell who is deputy solicitor here in
20 Fairfield County, Chief Lewis is an investigator with
21 our office, Lieutenant Mike Carrell who is with the.

22 Winnsboro Department of Public Safety and Chief
23 John Seibles with the Winnsboro Department of Public
24 Safety.

25 THE COURT: All right, is there any member the

1 jury panel related by blood or marriage or have a
2 close personnel, business or social relationship with
3 any of the individuals that have been introduced so
4 far or any of the attorneys? Not only those questions
5 but have you ever been represented by either Mr.
6 Hunter or Mr. Riley, if any of those apply to you
7 would you please stand.

8 THE COURT: Yes, ma'am, your number.

9 JUROR: 141.

10 THE COURT: Yes, Miss Wilkes.

11 JUROR: Yes. I'm family friends with Mr. Croom
12 Hunter.

13 THE COURT: All right, the fact that you are
14 family friends with Mr. Hunter would that affect your
15 ability to be fair and impartial to both the State and
16 the defendant in this case.

17 JUROR: No, sir.

18 THE COURT: All right. Thank you. You may be
19 seated.

20 Representing Mr. Larry Cornish is Amy Zmroczek, an
21 attorney from the Richland County, Lexington County
22 area. If you would introduce yourself and your
23 client.

24 MS. ZMROCZEK: Thank you Your Honor. My name is
25 Amy Zmroczek and as the judge said my main office is

1 in Richland County but I do practice throughout the
2 State and federally, and this is my client. This
3 Larry Cornish. He is also from Columbia.

4 THE COURT: Thank you. You may be seated. Is
5 there any member of the jury panel related by blood or
6 marriage or to either the defendant in this case or
7 have a personal or social or business relationship to
8 the defendant or to the attorney in this case,
9 representing Mr. Cornish if so please stand. Thank
10 you. No one stands.

11 I am going to read a list of potential witnesses
12 in this case and when I read these list I am going to
13 read about five at a time. When I read those five
14 names I will ask you after each of those names if you
15 are related by blood or marriage or have a close
16 business, personal or social relationship with any of
17 these individuals.

18 Potential witnesses are Jacob Little from the
19 Fairfield County Sheriff's Office; Mike Carrell, from
20 the Winnsborro Department of Public Safety; David
21 Ferguson, Winnsboro Department of Public Safety; Tracy
22 Squiwell, Winnsboro Department of Public Safety; John
23 Seibles, Winnsboro Department of Public Safety. Any
24 member of the jury panel related by blood or marriage,
25 have a close business, personal, professional

1 relationship with any of those individuals? If so
2 please stand. Yes, ma'am, I start here on the front,
3 if you will tell me your name and number.

4 JUROR: Tammy Tanner, 127.

5 THE COURT: All right. Hold on just a second.
6 Yes, Miss Tanner.

7 JUROR: I am related to David Ferguson, distant
8 cousin.

9 THE COURT: Would that fact affect your ability to
10 be fair and impartial to both the state and defense in
11 this case?

12 JUROR: No, sir.

13 THE COURT: Thank you. You may be seated.
14 I will start on the wall. Your number?

15 JUROR: 102, James Prioleau.

16 THE COURT: Mr. Prioleau?

17 JUROR: Yes, sir.

18 THE COURT: Yes, sir.

19 JUROR: I'm related to Tracy Squirewell.

20 THE COURT: The fact that you are related to --
21 how are you related to Tracy Squirewell?

22 JUROR: Cousin.

23 THE COURT: Would that fact affect your ability to
24 be fair or impartial to both the State and the defense
25 in this case?

1 JUROR: No, sir.

2 THE COURT: Thank you. You may be seated.

3 All right your number.

4 JUROR: 139.

5 THE COURT: Mr. Whitaker?

6 JUROR: Yes, sir. I'm also related to Tracy
7 Squirewell, cousin.

8 THE COURT: Would that fact affect your ability to
9 be fair and impartial to both the defense and the
10 State in this case?

11 JUROR: No, sir.

12 THE COURT: Thank you. You may be seated.

13 Lashonda Jeter, Baylee Reynolds, Ashley Mickle,
14 [REDACTED] C.M., [REDACTED] O.M. Anyone related by
15 blood or marriage, have a close business or personnel
16 relationship with any of those potential witnesses, if
17 so please stand. No one stands.

18 Jamie Green from SLED; Dr. Adebola Adekanmbe,
19 doctor from Fairfield Hospital; William Gonzales,
20 Winnsboro Department of Public Safety; Jovonya Key,
21 SLED; Maryann Boehm, B-o-e-h-m, from SLED; Kimberly
22 Mears from SLED.

23 Anyone related by blood or marriage, have a close
24 personnel, business relationship or social
25 relationship with any of those individuals, if so

1 please stand.

2 Yes, sir, your number.

3 JUROR: 116.

4 THE COURT: Yes, sir. Is it Schachner?

5 JUROR: Schachner. William Gonzalez and I are in
6 the fire service together.

7 THE COURT: The fact that you are in the fire
8 service together would that affect your ability to be
9 fair and impartial to both the State and the defense
10 in this case?

11 JUROR: I think so, yes.

12 THE COURT: It would affect your ability.

13 Juror: Yes, sir.

14 THE COURT: All right. Thank you. You are
15 excused in this case. Just keep your seat.

16 All right. Taylor Chappell, Angela Cornish, Amy
17 Patton, Christopher Watkins of Watkins Digital
18 Forensic. Anyone on the jury panel related by blood
19 or marriage have a close business, personal or social
20 relationship with any of those individuals, if so
21 please stand. No one stands. Okay.

22 Katie Chambers, M.D., Rachel Houchins, M.D., Tammy
23 Fullwood, from DSS. Anyone related by blood or
24 marriage to any of those individuals or have a close
25 business or personal relationship then please stand.

1 No one stands.

2 Evelyn Gladney, Charles Gladney. Anyone related by
3 blood or marriage to any of those individuals or have
4 a close business or personnel relationship then please
5 stand.

6 Yes, ma'am.

7 JUROR: I'm a cousin.

8 THE COURT: All right, and you had indicated that
9 earlier and your number is?

10 JUROR: 122..

11 THE COURT: Just hold on just a second. Miss
12 Squirewell, that be affect your ability to be fair and
13 impartial to both the State and the defense in this
14 case?

15 JUROR: No, sir.

16 THE COURT: Thank you. You may be seated.

17 Is there any member of the jury panel close
18 personal friends or any one who works in the
19 solicitor's office or law enforcement? If you have a
20 family member who is employed in law enforcement or
21 you are close personal friends with someone in law
22 enforcement or an employee of the solicitors office to
23 include and the solicitor's office those not only
24 directly involved in the solicitor's office but victim
25 services within the solicitor's office. If any of

1 those, if you have relationship, close personal or
2 professional or social relationship with anyone in
3 those areas please stand.

4 Yes, ma'am. Your number.

5 JUROR: 1804.

6 THE COURT: I'm sorry.

7 JUROR: 1804.

8 THE COURT: What is your juror number?

9 JUROR: I didn't bring it.

10 THE COURT: All right, and your name again.

11 JUROR: Rose Truesdale.

12 THE COURT: Hold on just a minute.

13 THE CLERK: 134.

14 THE COURT: Miss Truesdale, who do you know?

15 JUROR: Ronald Moble is my son-in-law.

16 THE COURT: And he is?

17 JUROR: County officer.

18 THE COURT: Would that fact affect your ability to
19 be fair or impartial to both the State and the defense
20 in this case?

21 JUROR: No.

22 THE COURT: All right. Thank you.

23 Anyone else on the jury panel related by blood or
24 marriage, have a close business or personal or social
25 relationship with any one involved in law enforcement

1 then please stand.

2 Yes, sir, your number.

3 JUROR: 33.

4 THE COURT: Mr. Clack.

5 JUROR: Yes, sir.

6 THE COURT: And who do you know?

7 JUROR: Officer Chris Corney (phonetics).

8 THE COURT: Would that -- how do you know him?

9 JUROR: That's my sister's husband.

10 THE COURT: Would that fact affect your ability to
11 be fair and impartial to both sides in this case?

12 JUROR: No, sir.

13 THE COURT: Thank you. You may be seated.

14 In every case that comes to trial a defendant is
15 presumed to be innocent. Is there anyone on the panel
16 who can not assume that the defendant as he sits here
17 today to be innocent of all charges, if so please
18 stand. No one stands.

19 The fact that individual is charged with a crime is
20 not evidence of guilt. Is there anyone on the panel
21 who believes if an individual has been charged that
22 they must have done something wrong. It's likely that
23 that person has done something wrong. If that applies
24 to you would you please stand. Thank you no one
25 stands.

1 Is there any member of the jury panel who donates
2 money to or receives assistance from any community law
3 enforcement or victim advocacy group. That would
4 include, groups like Mother's Against Drunk driving,
5 South Carolina Law Enforcement, Officer's Association,
6 Alcoholics Anonymous, Sister Care, State's Office of
7 Victim Assistance, neighborhood watch groups, or any
8 other organization as well as organizations such as
9 innocence project or the effect of the defendant's
10 rights. If any of those apply to you please stand.

11 Thank you. No one stands.

12 Is there anyone in the jury panel that ever
13 attended or participated in the Fairfield Sheriff's
14 Office Citizens Academy, if so please stand. No one
15 stands.

16 Is there any member of the jury panel by virtue of
17 the past dealings with the State of South Carolina or
18 for any other reason have any bias for or against the
19 State in a criminal case, then please stand. Thank
20 you. No one stands.

21 Is there any member of the jury panel have any
22 close friends or relatives that have worked for
23 county, state or federal government if so please
24 stand.

25 Yes, ma'am your number?

1 JUROR: 146.

2 THE COURT: And you're --

3 JUROR: Patricia Woodward.

4 THE COURT: And have you either worked for --

5 JUROR: I work for the Department of Public Safety.

6 THE COURT: Would that fact affect your ability to
7 be fair and impartial in this case to both the defense
8 and the State?

9 JUROR: No, sir.

10 THE COURT: Thank you. You may be seated.

11 THE COURT: Yes, ma'am, your number?

12 JUROR: 130.

13 THE COURT: Miss Thompson?

14 JUROR: Yes, sir.

15 THE COURT: Your situation.

16 JUROR: I have a son that works for the city.

17 THE COURT: Would that fact affect your ability to
18 be fair and impartial to about the the State and the
19 defense in this case?

20 JUROR: No, sir.

21 THE COURT: Thank you. You may be seated.

22 Is there any member of the jury panel ever been a
23 witness in a criminal case, if so please stand. If
24 you had been a witness in a criminal case? Thank you.
25 No one stands.

1 Is there any member of the jury panel that would
2 believe or have any belief that because an individual
3 who testifies at trial as a witness is a law
4 enforcement officer that that witness should be given
5 more credit or believability than any other witness
6 because they are a law enforcement officer, if so
7 please stand. Thank you no one stands.

8 Has any member of the jury panel read any news
9 articles or commented, like online comments, and news
10 articles pertaining to this case, if so please stand.
11 No one stands.

12 Is there any member of the jury panel ever
13 commented on the internet, on an online news article
14 about any situation that is related to a crime? In
15 other words, have you put anything on the internet
16 about comments on a crime, if so please stand. No one
17 stands.

18 Is there any member of the jury panel who is, or
19 your relatives or close friends, ever been the victim
20 of a violent crime; either you, family, or friends,
21 relatives, been a victim of a violent crime, if so
22 please stand.

23 Yes, sir, your number.

24 JUROR: 150.

25 THE COURT: MR. Young, what is your situation?

1 JUROR: My mother was robbed at gun point many
2 years ago.

3 THE COURT: Would that fact affect your ability to
4 be fair or impartial to both the State and defense in
5 this case?

6 JUROR: No, sir.

7 THE COURT: Thank you. You may be seated.

8 Are there any members of the jury panel who has
9 relatives or close friends that have been the victim
10 of any crime; that have been a victim of any crime, if
11 so please stand..

12 Yes, ma'am, your number.

13 JUROR: 37.

14 THE COURT: Yes, ma'am, Miss Conaway.

15 JUROR: Yes, sir.

16 THE COURT: And what is your situation?

17 JUROR: My parents had their identity stolen.

18 THE COURT: Would that fact affect your ability to
19 be fair and impartial to both the State and the
20 defendant in this particular case?

21 JUROR: No, sir.

22 THE COURT: Thank you. You may be seated. Yes,
23 ma'am again tell me your number.

24 JUROR: 130.

25 THE COURT: Yes, Miss Thomspen.

1 JUROR: I had a son attacked at an ATM machine.

2 THE COURT: Would that fact affect your ability to
3 be fair and impartial to both the state and the
4 defense this case?

5 JUROR: No, sir.

6 THE COURT: Thank you. You may be seated.

7 Is there any member of the jury panel attended any
8 fundraiser or donated on line or attended any prayer
9 vigil for Ashley Mickle, if so please stand. Thank
10 you. No one stands.

11 Again, is there any member of the jury panel who
12 has read any news articles or watched any news or
13 formed an opinion about this case, if so please stand.
14 Thank you. No one stands.

15 Is there any member the jury panel who is aware of
16 any bias or prejudice towards either the State or the
17 the defendant in this case, if so please stand. Thank
18 you. No one stands.

19 Is there any member of the jury panel who has ever
20 served on a Grand Jury, if so please stand.

21 Yes, sir, your number?

22 JUROR: Number 14.

23 THE COURT: Mr. Belton, was that here in Fairfield
24 County?

25 JUROR: That's correct.

1 THE COURT: Would that fact if he can your ability
2 to be fair and impartial to both the State and the
3 defense this this case.

4 JUROR: No, sir.

5 THE COURT: Thank you, you may be seated.

6 Is there any member of the jury panel who has ever
7 served as jury in either state, federal or local
8 courts; if you served as a juror before would you
9 please stand.

10 THE COURT: All right, and your number.

11 JUROR: 50.

12 THE COURT: Would that fact affect your ability to
13 be fair and impartial in this case?

14 JUROR: No, sir.

15 THE COURT: Thank you. Yes, ma'am, your number.

16 JUROR: 107.

17 THE COURT: Just tell me when you served as a
18 juror.

19 JUROR: It was some years ago.

20 THE COURT: Would that fact affect your ability to
21 be fair or impartial to both parties in this case?

22 JUROR: No, sir.

23 THE COURT: Yes, ma'am, your number.

24 JUROR: 113.

25 THE COURT: And where?

1 JUROR: In Berkeley County.

2 THE COURT: Would that a fact affect your ability
3 to be fair and impartial to both the State and the
4 defense in this case?

5 JUROR: No.

6 THE COURT: Yes, ma'am.

7 JUROR: 130, Fairfield County years ago.

8 THE COURT: Would that fact affect your ability to
9 be fair or impartial to both parties in this case?

10 JUROR: No, sir, I'll be fair.

11 THE COURT: Thank you. Your number?

12 JUROR: 102.

13 THE COURT: Yes, sir, where were you?

14 JUROR: Fairfield.

15 THE COURT: Would that fact affect your ability to
16 be fair and impartial to both parties in this case?

17 JUROR: No, sir.

18 THE COURT: Thank you. Yes, sir.

19 JUROR: Number 101. It was here in Winnsboro. It
20 was many years ago.

21 THE COURT: Would that fact affect your ability to
22 be fair and impartial to both parties in this case?

23 JUROR: No, sir.

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

1 JUROR: 61, Fairfield County.

2 THE COURT: Would that fact affect your ability to
3 be fair and impartial to both parties in this case.

4 JUROR: No, sir.

5 THE COURT: Thank you. Yes, sir.

6 JUROR: 150, Fairfield County.

7 THE COURT: Would fact affect your ability to be
8 fair and impartial to both parties in this case?

9 JUROR: No, sir.

10 THE COURT: Thank you. You may be seated.

11 Does any member of the jury panel know of any
12 reason whatsoever why he or she should not serve as a
13 juror in this case with particular emphasis being
14 placed on your ability to be fair and impartial to
15 both the state the defendant? If there is any reason,
16 you know any reason why you should not serve on this
17 case then please stand.

18 Thank you. No one stands. Anything further from
19 the State?

20 MR. HUNTER: One quick matter.

21 THE COURT: All right, lawyers approach.

22 (WHEREUPON, there was an off the record decision
23 held at the bench.)

24 THE COURT: Thank you. Ladies and gentlemen, is
25 there anyone on the jury panel who has been employed

1 by or had a family member employed by or have
2 connection to Fairfield County Hospital; you have
3 either been employed by the Fairfield County Hospital
4 or have family members employed or have connections to
5 Fairfield Hospital, if would you stand please.

6 Your number.

7 JUROR: 127

8 THE COURT: Miss Tanner.

9 JUROR: I work PRN in the emergency room there.

10 THE COURT: Would that fact affect your ability to
11 be fair or impartial in this case to both the State
12 and the defense?

13 JUROR: No, sir.

14 THE COURT: Thank you. Your number.

15 JUROR: 23. My mother work there she --

16 THE COURT: Hold on just a second. Miss Brown.
17 Your mother works for the Fairfield County Hospital.

18 JUROR: Yes, sir.

19 THE COURT: And where does she work in the
20 hospital.

21 JUROR: Housekeeping.

22 THE COURT: A housekeeper. Would that fact that
23 your momma works for the Fairfield Hospital affect
24 your ability to be fair or impartial to both sides in
25 this case?

1 JUROR: No, sir.

2 THE COURT: Thank you. You may be seated.

3 THE COURT: Is there any member of the jury panel
4 who is employed by or have a family member employed by
5 or have connections to Palmetto Health Richland
6 Hospital in Columbia; to Palmetto Health Richland
7 Hospital, if so please stand. Thank you. No one
8 stands.

9 Has any member of the jury panel ever resided at
10 Castlewood Apartments?

11 Where is is that located, Castlewood Apartments.

12 MR. HUNTER: It is off of Calhoun Street in
13 Winnsboro.

14 COURT: Yes, ma'am, your number?

15 JUROR: 61

16 THE COURT: Miss Jackson, when did you live there?

17 JUROR: Up until July the first of this year.

18 THE COURT: All right. Would that fact affect
19 your ability to be fair and impartial to both the
20 State and the defense in this case?

21 JUROR: No, sir.

22 THE COURT: Thank you. You may be seated.

23 Is there any member the jury panel who has worked
24 at or who frequents Pops convenience store here in
25 Winnsboro, if so please stand.

1 JUROR: You say work there before?

2 THE COURT: Either worked or frequents there.

3 Your number?

4 JUROR: 99.

5 THE COURT: Yes, ma'am.

6 JUROR: I work at the Pops convenient store here in
7 Winnsboro.

8 THE COURT: Would that fact affect your ability to
9 be fair or impartial to both the State and the defense
10 in this case?

11 JUROR: No, sir.

12 THE COURT: Thank you.

13 Yes, ma'am, 130.

14 JUROR: I have worked there years ago and I still
15 frequent there.

16 THE COURT: Would that fact affect your ability to
17 be fair and impartial to both the State or the defense
18 in this case.

19 JUROR: No, sir.

20 THE COURT: Thank you. Yes, ma'am, your number
21 again.

22 JUROR: 61. I frequent the Pops on the south end
23 of Fairfield County.

24 THE COURT: Would that fact affect your ability to
25 be fair and impartial to both the States and the

1 defense in this case?

2 JUROR: No, sir.

3 THE COURT: Thank you.

4 I am going to ask juror 138, Miss Weldon if you
5 would step forward for just a second.

6 (WHEREUPON, Juror 138 approaches.)

7 One of the questions I asked was if you have ever
8 been a witness in a trial.

9 JUROR: Yes.

10 THE COURT: You have.

11 JUROR: Yeah, I have been a witness.

12 THE COURT: All right. Tell me what kind of a case
13 was it.

14 JUROR: It was a murder.

15 THE COURT: All right. You don't have to go in
16 details. My question was the fact that you were a
17 witness --

18 JUROR: Yes, sir.

19 THE COURT: In the other case would that affect
20 your ability to be fair and impartial in this case.

21 JUROR: No, sir.

22 THE COURT: Thank you.

23 JUROR: Your welcome.

24 (WHEREUPON, juror 138 returns to her seat.)

25 THE COURT: Anything further from the defense?

1 MS. ZMROCZEK: Nothing further.

2 THE COURT: From the State?

3 MR. HUNTER: Nothing.

4 THE COURT: All right, madame clerk, if you will
5 give is a jury.

6 Ladies and gentlemen, the computer will print a
7 list of potential jurors in an order. While she is
8 doing that in the old days the law was that you had to
9 have a blind person or a -- I forgot what the age was.
10 I think it was a child under 14. Would draw a name
11 out of a basket is how we selected jurors. I guess we
12 still have plenty of people under 14. We don't have
13 is to many blind people here in Court so now we have
14 computers that do that. So that's how the technology
15 has affected a little bit the way court is run. So,
16 just be at ease. She will give us that information in
17 just a moment.

18 (WHEREUPON, the clerk prints out the strike sheet.)

19 THE COURT: Madame clerk gives a jury.

20 THE CLERK: When I call your name if you will just
21 stand where you are please.

22 Number 50, Cleveland Hammonds. What says the State?

23 MR. HUNTER: Please present Mr. Hammonds.

24 THE CLERK: What says the defense?

25 MS. ZMROCZEK: Please swear Mr. Hammonds.

1 THE COURT: You will be one of the jurors. You
2 can have a seat right now though.

3 THE COURT: Number 83, Calvin Mobley. What says
4 the State?

5 MR. HUNTER: Please excuse Mr. Mobley.

6 THE CLERK: You are excused from this case Mr.
7 Mobley.

8 Number 14, Willie Belton. What says the State?

9 MR. HUNTER: Please present Mr. Belton.

10 THE CLERK: What says the defense?

11 MS. ZMROCZEK: Please swear Mr. Belton.

12 THE CLERK: You will be one of our jurors Mr.
13 Belton.

14 Juror 128, Jamel Thomas. What says the State?

15 MR. HUNTER: Please excuse Mr. Thomas.

16 THE COURT: You are excused from this case Mr.
17 Thomas.

18 Number seven, Kellie Ballentine. What says the
19 State?

20 MR. HUNTER: Please present Miss Ballentine.

21 MS. ZMROCZEK: Please excuse Miss Ballentine.

22 THE CLERK: You are excused from this case Miss
23 Ballentine.

24 Number 30, Ryan Carter. What says the State.

25 MR. HUNTER: Please present Mr. Carter.

1 THE CLERK: What says the defense?

2 MS. ZMROCZEK: Please swear Mr. Carter.

3 THE CLERK: You will be one of our jurors Mr.

4 Carter.

5 Number 101, Timothy Price. What says the State?

6 MR. HUNTER: Please present Mr. Price.

7 THE CLERK: What says the defense?

8 MS. ZMROCZEK: Please swear Mr. Price.

9 THE CLERK: You will be one of our jurors Mr.

10 Price.

11 Number 107, Lola Bell Robertson. What says the

12 State?

13 MR. HUNTER: Please present Miss Robertson.

14 THE CLERK: What says the defense?

15 MS. ZMROCZEK: Please swear Miss Robertson.

16 THE CLERK: You will be one of our jurors Miss

17 Robertson.

18 Number 86, Kimberlyn Murphy.

19 MR. HUNTER: Please present Miss Murphy.

20 THE CLERK: What says the defense?

21 THE ZMROCZEK: Please swear Miss Murphy.

22 THE CLERK: You will be one of our jurors Miss

23 Murphy.

24 Number 17, Diane Boulware. What says the State?

25 MR. HUNTER: Please present Miss Boulware.

1 THE CLERK: What says the defense?

2 MS. ZMROCZEK: Please excuse Miss Boulware.

3 THE CLERK: You are excused from this case Miss
4 Boulware.

5 Number 102, James Prioleau. What says the State?

6 MR. HUNTER: Please present Mr. Prioleau.

7 THE CLERK: What says the defense?

8 MS. ZMROCZEK: Please excuse Mr. Prioleau.

9 THE CLERK: You are excused from this case. Mr.
10 Prioleau.

11 THE CLERK: Number 138, Aneesha Weldon. What says
12 the State?

13 MR. HUNTER: Please present Miss Weldon.

14 THE CLERK: What says the defense?

15 MS. ZMROCZEK: Please excuse Miss Weldon.

16 THE CLERK: You are excuse from this case Miss
17 Weldon.

18 Number 61, Deborah Jackson. What says the State?

19 MR. HUNTER: Please excuse Miss Jackson.

20 THE CLERK: You are excused from this case Miss
21 Jackson.

22 Number 150, Thomas Young. What says the State?

23 MR. HUNTER: Please present Mr. Young.

24 MS. ZMROCZEK: Please excuse Mr. Young.

25 THE CLERK: You will be excused from this case Mr.

1 Young. That's five to you.

2 Number 73, David Mann what says the State?

3 MR. HUNTER: Please present Mr. Mann.

4 THE CLERK: What says the defense?

5 MS. ZMROCZEK: Please seat Mr. Mann.

6 THE CLERK: You will be one of our jurors Mr.

7 Mann.

8 I'm sorry any challenge for cause?

9 MS. ZMROCZEK: No challenge.

10 THE CLERK: Number 138, Travis Whitaker.

11 MR. HUNTER: Please present Mr. Whitaker.

12 THE CLERK: Any challenge for cause by the
13 defense?

14 MS. ZMROCZEK: May we approach Your Honor?

15 THE COURT: Yes.

16 (WHEREUPON, there was an off the record
17 discussion.)

18 MS. ZMROCZEK: No challenge.

19 THE CLERK: You will be one of our jurors Mr.

20 Whitaker.

21 Number 94, Iesha Patterson. What says the State?

22 MR. HUNTER: Please excuse Miss Patterson.

23 THE CLERK: You are excused from this case Miss
24 Patterson.

25 Number 42, Johnsie Douglas.

1 MR. HUNTER: Please present Miss Douglas.

2 THE COURT: Any challenge?

3 MS. ZMROCZEK: No challenge.

4 THE CLERK: You will be one of our jurors Miss
5 Douglas.

6 Number 146, Patricia Woodward.

7 MR. HUNTER: Please present Miss Woodward.

8 THE CLERK: Any challenge?

9 MS. ZMROCZEK: No challenge.

10 THE CLERK: You will be one of our jurors Miss
11 Woodward.

12 Number 67, Sylvia Lawson. What says the State.

13 MR. HUNTER: Please present Miss Lawson.

14 THE COURT: Any challenge by the defense.

15 MS. ZMROCZEK: No challenge.

16 THE CLERK: You will be one of our jurors.

17 Number 46, Loyvonne Ginyard. What says the State?

18 MR. HUNTER: Please present Miss Ginyard.

19 THE CLERK: Any challenge for cause by defense?

20 MS. ZMROCZEK: Your Honor, may we approach again.

21 THE COURT: Yes.

22 (WHEREUPON, there was an off the record
23 discussion.)

24 MS. ZMROCZEK: No objection.

25 THE CLERK: You will be one of our jurors Miss

1 Ginyard.

2 THE CLERK: This will be for our first alternate.
3 Number 113, Diane Rutland.

4 MR. HUNTER: Please present Miss Rutland.

5 THE COURT: What say the defense?

6 MS. ZMROCZEK: Please seat Miss Rutland.

7 THE CLERK: You will be our first alternate, Miss
8 Rutland.

9 Number 96, Martha Pearson. What says the State?

10 MR. HUNTER: Please present Miss Pearson.

11 THE CLERK: What says the defense?

12 MS. ZMROCZEK: Please seat Miss Pearson.

13 THE CLERK: You will be our second all alternate
14 Miss Pearson.

15 As I call your name if you come down and have a
16 seat in it the jury box; Cleveland Hammonds, Willie
17 Belton, Ryan Carter, Timothy Price, Lola Bell
18 Roertson, Kimberlyn Murphy, David Mann, Travis
19 Whitaker, Johnsie Douglas, Patricia Woodward, Sylvia
20 Lawson, Loyvonne Ginyard. Our alternates Diane
21 Rutland and Martha Pearson.

22 THE COURT: Thank you ladies and gentlemen. Those
23 of you on the jury panel who were not selected in this
24 particular case -- do we need to have them to call in?

25 MR. HUNTER: May I approach real quick.

1 THE COURT: Yes.

2 (WHEREUPON, there was an off the record
3 discussion.)

4 THE COURT: Ladies and gentlemen of the jury, we
5 are going to ask that you call in tonight, madame
6 clerk after -- six.

7 THE CLERK: After six.

8 THE COURT: After six. Call in tonight after six.
9 You'll receive instructions about your rest of the
10 week. So call in tonight after six. While I am going
11 to ask that you be excused. You can leave. Call in
12 after six.

13 Everyone remain seated while the jury panel leaves.

14 (WHEREUPON, jurors exit the courtroom.)

15 THE COURT: Thank you, ladies and gentlemen.
16 Those of you who have been selected as jurors in this
17 case we are going to in just a few moments we will
18 take a lunch break. I will ask that you be back where
19 the bailiff instructs you to be at two o'clock. Ready
20 to go at two o'clock. We have a few other matters to
21 take up before then. We anticipate the trial will
22 start at two o'clock. Here is the most important
23 thing I am going to tell you and you are going to hear
24 me talk about this over and over and over until this
25 case is over. Do not discuss this case, not even

1 among yourselves at all. When you go to jury room or
2 if you go to lunch together do not does this case.
3 Don't talk to anyone about it. Don't allow anybody to
4 talk to you about it. I will instruct you later on.
5 To be sure that it's a fair trial when you deliberate
6 at the conclusion of this case, you are to decide the
7 issues that you will be asked to decide based on what
8 you hear in this courtroom. So when you leave don't
9 pull out your cell phones or your iPads and start
10 googling lawyers or places or news or people. That is
11 not allowed. No electronic investigation on your own.
12 Don't try to figure out things on your own. This case
13 will be determined on what it is heard here in the
14 courtroom. So do not discuss the case even among
15 yourselves. And throughout the trial when you take
16 breaks, when you go back to your jury room you are not
17 to discuss the case.

18 At the appropriate time after all the evidence is
19 in and after I have given you and instructed you on what
20 the law is then you will be able to discuss the
21 details of the case and whatever details that you need
22 to at that time. But nothing up until that point. I
23 anticipate that we go to around 5:00 or 5:30
24 afternoon. Probably start around 9:30 in the morning.
25 We generally try to take about an hour and a half for

1 for lunch. I know that is longer than what most
2 people are accustomed to in your work, however just
3 the mechanics of leaving the courtroom, getting to the
4 car and getting back here we that hour and a half
5 generally we all need that time. So we will take
6 about an hour and a half lunch. We will run until
7 5:00 or 5:30 and I will talk to you about this later,
8 but at any time during the trial you feel the need to
9 take a break just raise your hand and we will allow
10 that opportunity for the jury panel to leave.

11 That's just my basics. Come back at two and we
12 will swear you in and I will give you more detailed
13 instructions and then we will anticipate the trial
14 will get started then. So again, don't talk about the
15 case and your excused to be back in your jury room
16 ready to go at two o'clock. If you will follow the
17 bailiff out. Everyone else remain seated.

18 (WHEREUPON, the jury leaves for lunch.)

19 THE COURT: All right. Anything further from the
20 State at this point?

21 MR. HUNTER: No, Your Honor.

22 THE COURT: Miss Zmroczek?

23 MS. ZMROCZEK: I have several items, Your Honor.
24 I guess I would start with I'm making a Batson motion
25 on the States first two strikes; juror number 83, and

1 juror number 128.

2 Your Honor, Mr. Cornish has certainly a right to
3 have a jury of his peers and the State used four
4 strikes; two of them were on woman, one African
5 American, one not African American and the other two
6 strikes, Your Honor, were for two African American
7 males and at this point which are similarly situated
8 to the defendant, so Your Honor, at this point we
9 would -- in race and gender -- we would ask the State
10 to provide reasons for those two strikes.

11 THE COURT: Mr. Hunter.

12 MR. HUNTER: Yes, sir. Concerning jury number 83,
13 he has a prior arrest record. I don't like to sit
14 people who have previously been arrested on the jury.
15 And then number four -- or excuse me 128. Your Honor,
16 he was unemployed and single and that combined with
17 his age I just felt he wasn't proper for this jury.

18 THE COURT: All right. I find that those are both
19 race neutral and gender neutral reasons for striking
20 so I will deny your Batson motion.

21 MS. ZMROCZEK: Thank you. Your Honor, and I think
22 at this point I have to renew any pretrial motions I
23 made just with regards to venue and jury selection. I
24 do believe that you did go through our voir dire. As
25 we were going through it some of it was duplicative,

1 but just in order to protect the record I would do
2 that at this point in time.

3 THE COURT: Was there a particular voir dire
4 questions you want to put on the record that you
5 believe the Court should ask.

6 MS. ZMROCZEK: Okay.

7 THE COURT: I guess my question what are you --

8 MS. ZMROCZEK: Actually, I am withdrawing that
9 one. I have bigger issues.

10 Your Honor, prior to jury selection the Court had
11 inquired and then we -- I forgot the statute but
12 looked up the statute. I looked it up myself as the
13 jurors were answering questions and I noted that the
14 statute does provide for a very odd, enumerated list
15 of strikes. I was certainly anticipating to get ten
16 strikes especially in a case like this where there
17 were so many people related or that stood up: And I
18 would note just certainly that the Court is following
19 what the legislatures enumerated and with all due
20 respect to them, certainly they have practiced in the
21 court of law -- it was terribly frustrating especially
22 when you look at the forgery and breach of trust and
23 those kinds of grand larcenies which are very minor
24 cases, the defense is afforded ten strikes. In this
25 case where it's a violent, most serious crime of

1 attempted murder Mr. Cornish is facing up thirty years
2 on that charge alone, that we would only get five
3 strikes. And I certainly know that Your Honor is
4 following the statute, but I wanted to make sure that
5 I put that on the record. And also specifically with
6 regards to juror number 16 -- actually juror number
7 139 and juror number 67. Juror 139 I would have
8 struck had I --

9 THE COURT: Let's do this. Let me just address
10 the issue as far as the number of strikes and I think
11 they are two separate issues. Let me put on the
12 record that the Court simply followed the law under
13 1417-1110. It's very clear that in this particular
14 case the defendant was charged with attempted murder,
15 possession of weapon during the commission of a
16 violent crime and then a person who has been convicted
17 of crime of violence in possession of a firearm. That
18 those three charges are not enumerated as crimes for
19 which they're entitled to ten peremptory challenges.
20 It's very clear according to the statute that the
21 defense and the State would be entitled to not
22 exceeding five strikes.

23 All right. So go ahead. Now, on those two
24 particular jurors I will be glad to hear you.

25 MS. ZMROCZEK: Thank you, and we did approach,

1 Your Honor. I specifically with juror number 139 we
2 approached the bench and although I said on the record
3 I had no objection that was because I didn't want the
4 juror to additionally think that I had an objection to
5 him. But Your Honor, we -- that is the juror we would
6 have struck because he was related to a potential
7 witness in this case for the State.

8 THE COURT: All right, and the State and defense
9 did approach the bench and this was after five
10 peremptory challenges had been exercised by the
11 defense and I find that this was not good cause to
12 strike juror number 139. He had indicated -- when I
13 asked the general question about relationship to
14 witnesses he did give the information that he was
15 related. He did indicate at that time that even
16 though he was related he would be able to render a
17 verdict that was fair and impartial to both the State
18 and the defense.

19 MS. ZMROCZEK: Thank you. And then jury number
20 67, Your Honor, we approached the bench again. This
21 was the juror that is employed by the Department of
22 Corrections. I understand that she is in the
23 financial department and yesterday -- I've done so
24 many trials I'm not sure how it was read yesterday but
25 I think if you said if they were a jailor and I guess

1 the way I remember it being read is anyone employed by
2 the Department of Corrections or the Department of
3 Juvenile Justice but that wasn't asked yesterday. So
4 I wasn't sure exactly the wording of the statutory
5 question. I don't have that in front of me. But we
6 would have struck -- we would have moved obviously to
7 have her challenged for cause as well had we
8 additional strikes.

9 THE COURT: All right. The question I asked if
10 anyone was employed as a prison guard or worked in a
11 detention facility. It appears that -- and certainly
12 -- I am sorry, what was that number again?

13 MS. ZMROCZEK: Sixty-seven Your Honor.

14 MR. HUNTER: Forty-six.

15 MS. ZMROCZEK: Forty-six. I'm sorry.

16 THE COURT: Juror 46, Mrs. Ginyard had stated to
17 the Court that she worked in accounts payable for
18 South Carolina Department of Corrections and so she
19 was found qualified and I find that she is not
20 excluded by statute or disqualified simply because she
21 works in accounts payable in the Department of
22 Corrections.

23 Anything else?

24 MS. ZMROCZEK: Nothing further.

25 THE COURT: Anything further from the State?

1 MR. HUNTER: Nothing.

2 THE COURT: All right, we will be at ease until --
3 well, have you got your witnesses here for the Jackson
4 v. Denno.

5 MR. HUNTER: I do.

6 THE COURT: As I remember that is confined to a
7 very brief statement that was given in the patrol car;
8 is that correct?

9 MR. HUNTER: That's correct.

10 THE COURT: Let's do the Jackson v. Denno hearing
11 right now.

12 Can I step out for a minute.

13 THE COURT: Well, do you all want to do it when we
14 come back after lunch. However you want to do it.

15 MS. ZMROCZEK: I can do it now.

16 THE COURT: All right.

17 MR. HUNTER: I just need to step out.

18 THE COURT: Okay.

19 (WHEREUPON, there was a brief recess.)

20 THE COURT: Are you ready?

21 MR. HUNTER: Yes.

22 THE COURT: All right. Mr. Croom (sic) call your
23 witness.

24 MR. HUNTER: Mike Carrell.

25 MIKE CARRELL, called as a witness, having been

1 duly sworn by the clerk, was examined and testified as
2 follows:

3 THE COURT: All right solicitor.

4 MR. HUNTER: Thank you, Your Honor. May it please
5 the court.

6 DIRECT EXAMINATION

7 BY MR. HUNTER:

8 Q Lieutenant Carrell, will you state your name, rank and
9 where you work?

10 A Lieutenant Mike Carrell. I work the criminal
11 investigations in narcotics for the town of the Winnsboro Public
12 Safety.

13 Q And how long have you been in that role?

14 A Full time I took over the division about a year and a
15 half ago but I have done it almost ten years.

16 Q And how long have you been a police officer?

17 A Going on about 12 years.

18 Q Okay. Were you working in that capacity on July 28,
19 2016?

20 A Yes, sir.

21 Q Were you involved in the search for Larry Cornish?

22 A Yes, sir.

23 Q Tell the Court about your involvement in the search for
24 Larry Cornish?

25 A I was assigned to locate Mr. Cornish. We got contacted

1 by the South Carolina Law Enforcement Fugitive Team. We went to
2 several different locations and ultimately ended up locating Mr.
3 Cornish at an residence off of North Main in Columbia.

4 Q Okay. When you located Mr. Cornish what -- were you
5 with other agencies?

6 A Yes, sir. We were actually at a different location
7 when we received a phone call to come to North Main. When we
8 arrived there were Richland County Sheriff's Department, I
9 believe South Carolina Law Enforcement Division, our department,
10 city of Columbia officer. Several agencies on the scene prior
11 to our arrival.

12 Q Were you aware of the manner in which Mr. Cornish's
13 location was found?

14 A Somewhat. We were at a separate location. One of the
15 SLED agents had received an anonymous tip that he was at the
16 location on North Main. Later speaking with him -- and I'm not
17 one hundred percent sure who the tip came from, but I believe it
18 was from the homeowner of that residence on North Main.

19 Q Okay. When you got to the residence where you
20 ultimately apprehended Mr. Cornish explain how you -- how he was
21 apprehended?

22 A When we turned on to North Main there were City of
23 Columbia Officers blocking traffic a couple of the streets down.
24 They flagged us through. When we got near the residence there
25 was a what I would call MRAP located in front of the residence

1 which is an armored vehicle used by Richland County SWAT team.
2 The Richland County SWAT team approached the home. They did
3 emit several commands over the PA system and also a siren system
4 on to the house. No one responded to the commands to exit the
5 residence. We waited on Richland County to make entry into the
6 home which they did.

7 Mr. Cornish was located hiding in a closet area in the back
8 right hand side of the residence. He was brought out of the
9 residence by Richland County. He was placed in to a police
10 vehicle. I'm not sure if it was Richland County or City of
11 Columbia.

12 I walked up to the window. I read him his Miranda rights as he
13 was within the vehicle. At that point in time while the scene
14 was still chaotic he didn't say too much to me. The scene ended
15 up clearing up. The homeowner got there. One of the SLED
16 agents actually stayed a few hundred yards away from residence.
17 We were waiting on a female subject that owned the vehicle that
18 was located at the residence to pick up her vehicle and during
19 that time we had we talked and he was sitting in the back of my
20 Durango.

21 Q Were you wearing a uniform?

22 A Yes, sir. Pretty much what I am wearing now beside I
23 probably had a tactical vest on.

24 Q And he was in a police car?

25 A Yes, sir.

1 Q Okay, was he handcuffed?

2 A Yes, sir, I believe in the front if I'm not mistaken.

3 Q In the front?

4 A Yes, sir.

5 Q Did he ever at any point ask for a lawyer?

6 A No, sir. Not that I recall no, sir.

7 Q And he never told you that he didn't want to speak any
8 more?

9 A No, sir. He was very cordial.

10 Q Were you wearing a body cam?

11 A Yes, sir.

12 Q Did the body cam record you reading his Miranda rights?

13 A I believe so, yes, sir.

14 Q Okay.

15 MR. HUNTER: Your Honor, at this time I am going
16 to just for purposes of the Denno hearing play the
17 Miranda video.

18 THE COURT: All right. Go ahead.

19 MS. ZMROCZEK: Your Honor, does that have a
20 number?

21 MR. HUNTER: I haven't numbered it yet.

22 THE COURT: When you pull it out let's go ahead
23 and mark it as Court's Exhibit Two for purposes of
24 this hearing. If you are going to introduce it in
25 trial you'll have it marked again.

1 (Court's Exhibit Two, Video, marked for
2 identification as of this date.)

3 Q Okay. Lieutenant Carrell, does that appear to be the
4 video from your you are body camera?

5 A Yes, sir.

6 Q Taken that day?

7 A Yes, sir.

8 Q Who is seated in the back seat of that police car?

9 A Mr. Cornish.

10 Q Okay.

11 MR. HUNTER: At this time I'll play the video?

12 (WHEREUPON, the video was played.)

13 Q Lieutenant Carrell, at that time after you read him his
14 Miranda rights what did he say?

15 A He didn't really say too much. You know, he said no.
16 He didn't say too much in the back of that car. I don't recall
17 exactly word for word what he said, but I believe when I asked
18 him where the gun was he just said no. He didn't really say a
19 whole lot.

20 Q Okay, and so the time -- well, let's fast forward a
21 little bit. After some point after this video was taken did Mr.
22 Cornish make a statement about the gun to you?

23 A Yes. We had to stay at the residence for a pretty good
24 bit of time to wait on the female party that owned the vehicle
25 that was located behind the residence. While we were sitting

1 there I explained to Mr. Cornish that we would like to locate
2 that gun so that if he threw it somewhere or what not that
3 somebody didn't just pick it up or end up hurt with it and he
4 stated he left it in the glove box in the vehicle that was in
5 the back yard and that he wasn't sure what had happened to it
6 because he had allowed -- either allowed or someone had without
7 his permission driven that vehicle during the night. When he
8 returned to the vehicle the firearm was no longer there.

9 Q All right. When he made that statement to you where
10 was he located?

11 A Sitting in the back of my car drinking a drink.

12 Q Okay, he was still handcuffed?

13 A I believe so. It may have been possible that we had
14 taken them off and he was just sitting there, but I believe he
15 was still handcuffed in the front.

16 Q You say he was drinking a drink?

17 A Yes.

18 Q How did he get that?

19 A One the SLED agents had went down to the gas station
20 and got us all something to drink. It was pretty hot outside.

21 Q Would you describe Mr. Cornish's demeanor during your
22 conversation?

23 A About like we are having now. Just a regular
24 conversation. Very cordial.

25 Q Did you threaten him in any way?

1 A No, sir.

2 Q Make any promises that if he told you where the gun
3 was, you know, it would be beneficial for him? Anything like
4 that?

5 A No, sir. I told him it would be beneficial for us to
6 help not let some kid end up with that gun if he had left it
7 somewhere.

8 Q Did he ever ask to use the bathroom or have a cigarette
9 or anything like that?

10 A I don't recall. He may have asked. Whatever he would
11 have asked for as long as it was within our means we would have
12 probably given it to him at the time because he was no trouble
13 to us.

14 Q Any other officer with you at the time Mr. Cornish made
15 a statement?

16 A Sergeant Ferguson.

17 Q And he is with Winnsboro Department of Public Safety?

18 A Yes, sir.

19 Q Did Mr. Cornish appear to be under the influence of
20 anything?

21 A No, sir.

22 Q Did you have any problems communicating with him?

23 A No, sir.

24 MR. HUNTER: No further questions.

25 THE COURT: Miss Zmroczek.

1 MS. ZMROCZEK: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MS. ZMROCZEK:

4 Q Lieutenant Carrell, I want to ask you a few questions.
5 I am sorry, I am trying to find your supplemental report. Did
6 you do a supplemental report regarding this statement?

7 A Yes, ma'am.

8 Q Do you have that with you?

9 A It's probably down there with the solicitor either in
10 my case file down there.

11 Q While we are locating that I wanted to ask you a few
12 questions.

13 You said that you were assigned to locate Mr. Cornish,
14 correct.

15 A Yes, ma'am.

16 Q And you said that you were going outside searching for
17 him outside of the town of Winnsboro, with SLED agents?

18 A Yes, ma'am.

19 Q How many?

20 A I am unable to say exact number. It was a large amount
21 of SLED agents.

22 Q What were there names?

23 A I can't recall. I can only recall the main officer
24 that I made contact with.

25 Q And who was that?

1 A That would be Lieutenant Mike Robinson.

2 Q Mike who?

3 A Robinson.

4 Q And he's with SLED?

5 A Yes, ma'am.

6 Q You say the City of Columbia had blocked off the
7 traffic?

8 A Yes, ma'am.

9 Q There was an armed vehicle?

10 A Well, the vehicle wasn't armed. It was an armoured
11 vehicle.

12 Q It was armoured vehicle?

13 A It was armoured standard SWAT vehicle. Special
14 response vehicle.

15 Q And the SWAT team they don't carry little guns? They
16 carry the big rifles, right?

17 A That's speculation. I don't work for Richland County.
18 I don't know what they carry.

19 Q Did you see the rifles out there?

20 A No, ma'am.

21 Q How many officers were out there?

22 A Multiple.

23 Q Were they all armed?

24 A I would assume that they were armed.

25 Q You did not go inside the house?

1 A After the scene was secured I did, yes, ma'am.

2 Q After Mr. Cornish was removed?

3 A Yes, ma'am.

4 Q Okay, so you never saw him inside the house?

5 A I saw him exiting the front of the house with the
6 Richland County Officer but I never saw him inside the house,
7 no, ma'am.

8 Q Okay. They put him in a vehicle?

9 A The vehicle in the video, yes, ma'am.

10 Q And he was in handcuffs?

11 A Yes, ma'am.

12 Q And he was understand arrest?

13 A I am pretty sure, yes, ma'am.

14 Q And you read him his Miranda rights?

15 A I did.

16 Q And you said you don't recall what he said. You don't
17 recall him saying I want my lawyer?

18 A No.

19 Q You don't know what he said?

20 A If he would have said that he wanted a lawyer I
21 wouldn't have continued to question him. I just -- I don't
22 think I would have continued to ask him questions. I mean I
23 kind of know better than that.

24 Q But as the video showed what you did say is okay, you
25 want to go down that road?

1 A That's when he said no.

2 Q He said no. He wasn't going to answer your questions?

3 A He just said, no. I'm not sure what his intent was.

4 Q Okay. What time of day was those Miranda rights given?

5 A I'm not real sure. You probably -- I guess either look
6 at the -- I don't know. I guess around midday.

7 Q Okay. And then you said at some point he was
8 transported to your vehicle?

9 A Yeah, we were just parked just across the street from
10 the Richland County Car. The scene at that time was pretty
11 hectic and we were going to be there a while waiting on the
12 female subject to come so they put him in back seat of my car
13 for transport back to Fairfield.

14 Q How long is a while?

15 A Thirty minutes, forty-five minutes.

16 Q What was the temperature?

17 A He was sitting in the air conditioner. I don't know
18 what the temperature was outside.

19 Q And he was cuffed?

20 A In the front, yes, ma'am.

21 Q And at that point when did you read -- when did you
22 give him his Miranda rights again?

23 A Your stating that I gave his Miranda rights again.

24 Q You only gave it that first time?

25 A Yes, ma'am.

1 Q He say no or something to that effect?

2 A I guess. He didn't ask for a lawyer.

3 Q Okay, and your response was you want to go down that
4 road?

5 A That's what the video shows, yes, ma'am.

6 Q And then you come back, you and Officer Gonzalez?

7 A Gonzalez was not on the scene.

8 Q Who was it?

9 A David Ferguson.

10 Q Ferguson and you both were armed?

11 A Yes, ma'am.

12 Q He was still under arrest?

13 A What's that?

14 Q He was still under arrest?

15 A Yes.

16 Q And not free to leave?

17 A No.

18 Q And you said we need to know where that gun is. You
19 asked him that question?

20 A That's not what I said, no, ma'am.

21 Q What did you say?

22 A I believe I stated it clearly that we were having a
23 cordial conversation with Mr. -- we were having a cordial
24 conversation with him. We got him something to drink. We were
25 sitting there talking. We discussed just things maybe as simple

1 as the weather. Just normal conversation to pass time. And I
2 asked him you know where would the gun be located? We don't
3 want some kid ending up with that gun.

4 Q You asked him that?

5 A Yes, but not in the way that you stated.

6 Q But you asked him where the location of the gun was?

7 A Yes.

8 Q Even though you had previously asked him that on that
9 video, correct?

10 A That was I little bit prior to that.

11 Q About thirty minutes you said?

12 A Possibly.

13 Q And did you find the supplemental report?

14 A I didn't see it in here, no, ma'am.

15 Q Okay, I didn't see one either, but I did receive an
16 e-mail from Mr. Hunter.

17 A There is a copy of the supplemental report in my file.
18 I read it this morning.

19 Q Okay. Do you want to find that because the e-mail that
20 I have says that when you took him -- after he was taken into
21 custody he asked Cornish if he could take him to the gun and he
22 Cornish said, "Nah, it's gone."

23 In your supplemental report does it ever mention a glove
24 compartment?

25 A I'm not sure. I don't have the supplemental report in

1 front of me. Here it is right here, I believe we did locate it.
2 No, it doesn't say anything about a glove compartment. It says
3 we located a vehicle at that residence.

4 Q And does it ever say that Mr. Cornish made a statement
5 about a gun?

6 A I don't see it in this one, no, ma'am.

7 Q But there is no supplemental report other than an oral
8 communication you had with the assistant solicitor, correct?

9 A In this supplement I do have while speaking with the
10 offender and after being given his Miranda warning I asked if he
11 still had the weapon used in the crime. The offender stated he
12 had left the weapon in a glove box of a white vehicle located in
13 the back yard of residence. The offender also stated when he
14 went back to look for it the next morning that it was missing.
15 The conversation took place while waiting on the homeowner of
16 the residence to come and secure the home.

17 Q And that was in response to your question, right?

18 A What is that?

19 Q That was in response to your question?

20 A Yes. Yes, ma'am.

21 Q Okay.

22 MS. ZMROCZEK: Nothing further Your Honor.

23 THE COURT: All right. Thank you. Anything
24 further?

25 MR. HUNTER: Briefly.

1 Q Lieutenant Carrell, so your supplemental report that
2 you filed on June 19th of this year does indicate that you spoke
3 with the defendant and he indicated that he left weapon in the
4 glove box.

5 A Yes, sir. I believe there is one typo where it says
6 something about Major Gonzalez. It should say -- well, no,
7 that's correct. Major Gonzalez went to a residence on Maple
8 street. That's different. Never mind.

9 Q Between the time when you read Mr. Cornish his Miranda
10 rights and the time that he made the statement to you had his
11 custody status changed at all?

12 A Changed vehicles.

13 Q Okay, but he had never walked off and come back?

14 A Oh no. No.

15 Q So he knew he was still under arrest?

16 A Yes, clearly.

17 Q And when he said, no, after you read him his Miranda
18 warnings did you take that as meaning no, he wasn't going to
19 tell you where the gun was or no, he didn't want to talk?

20 A No, he wasn't going to tell me where the gun was
21 because that is the question I just asked.

22 MR. HUNTER: No further questions.

23 THE COURT: All right. Thank you. You may step
24 down.

25 MR. HUNTER: The State calls David Ferguson.

1 DAVID FERGUSON, called as a witness, having been
2 duly sworn by The Clerk, was examined and testified as
3 follows:

4 THE COURT: Mr. Hunter.

5 DIRECT EXAMINATION

6 BY MR. HUNTER:

7 Q Sergeant Ferguson, will you state your name, rank and
8 where you work?

9 A My name is David L. Ferguson Jr., sergeant, Winnsboro
10 Public Safety.

11 Q And how long have you worked with Winnsboro Department
12 of Public Safety?

13 A Seven and a years. Since 2010.

14 Q Okay, and how long have you been a police officer?

15 A Seven years.

16 Q Okay. Were you working with Lieutenant Carrell on July
17 28th of last year?

18 A Yes, sir.

19 Q Okay. Were you all tasked with finding Larry Cornish?

20 A Yes, sir.

21 Q Okay. How about tell the Court about what the two of
22 you all did in your effort to locate him?

23 A We went to one apartment. We were mostly following
24 SLED lead. Went to one apartment over 526 and later we ended up
25 on North Main Street when they said they had -- SLED said they

1 had located him.

2 Q Okay. At that address on North Main street is that
3 where Larry Cornish was apprehended?

4 A Yes, sir.

5 Q Who apprehended him?

6 A It was SLED and Richland County.

7 Q Okay. Did you enter the house?

8 A Not until after they had finished.

9 Q Okay. When did you see Larry Cornish?

10 A When he was sitting in the rear seat of one the
11 Richland County Sheriff's Department cars.

12 Q Okay. Were you present -- to your knowledge was Mr.
13 Cornish read his Miranda rights?

14 A Yes, sir, he was.

15 Q Were you present when those Miranda warnings were read?

16 A Yes. They were read by Lieutenant Carrell.

17 Q Okay. When they were read to him do you recall him
18 ever asking for a lawyer?

19 A No, sir.

20 Q Do you ever recall him ever saying he didn't want to
21 talk to you all?

22 A No, sir.

23 Q Were you in uniform?

24 A Yes, sir.

25 Q Okay. Was he in handcuffs?

1 A Yes.

2 Q Do you remember where he was handcuffed; front or back?

3 A In the front I think if I remember.

4 Q Did he ever indicate that he needed to get out of the
5 car? That he was hot? That he needed to stretch anything like
6 that?

7 A No, sir.

8 Q Did he ever indicate he needed to go to bathroom or he
9 wanted a cigarette or anything like that?

10 A Not that I can recall.

11 Q If he had asked for any of those things would you have
12 let him?

13 A Yes, sir.

14 Q Now, did he eventually make a statement to you all
15 concerning the gun?

16 A I remember him telling Lieutenant Carrell that the gun
17 was in the glove box I guess of the car that was in the back
18 yard which was the ladies's car.

19 Q Okay. Now did he make that statement immediately after
20 you all read him his Miranda rights?

21 A No, sir.

22 Q How long after he had been read his rights did he make
23 that statement?

24 A That was probably approximately 15, 20 minutes later.

25 Q Okay. Where was he when he made that statement?

1 A In the -- we were in front yard in Lieutenant
2 Carrells's Durango.

3 Q So you all had switched cars?

4 A Yes, sir.

5 Q Did he have anything to drink, Mr. Cornish?

6 A We had given him some Gatorade.

7 Q At any point between the time he was read his Miranda
8 warnings and he made that statement did Mr. Cornish indicate he
9 wanted a lawyer?

10 A No, sir.

11 Q Did he ever indicate he didn't want to speak to you
12 all?

13 A No.

14 Q Would you describe his demeanor at the time he made the
15 statement?

16 A He was talking to us just normal tone. I mean, just
17 normal conversation while we were waiting for the lady to get
18 the car.

19 Q Did you make any threats to Mr. Cornish?

20 A No, sir.

21 Q Did you promise him anything?

22 A No, sir.

23 MR. HUNTER: No further questions.

24 THE COURT: Miss Zmroczek.

25 CROSS EXAMINATION

1 BY MS. ZMRZOCZEK:

2 Q Officer Ferguson you were armed?

3 A Yes, ma'am.

4 Q And Lieutenant Carrell was armed?

5 A Yes, ma'am.

6 Q He, Mr. Cornish, was in custody?

7 A Yes, ma'am.

8 Q And he answered that question about the glove
9 compartment in response to a question from Lieutenant Carrell
10 about where is the gun?

11 A Yes, ma'am.

12 Q Okay.

13 MS. ZMROCZEK: I have no further questions Your
14 Honor.

15 THE COURT: All right. Thank you. Anything
16 further?

17 MR. HUNTER: Nothing further from the State.

18 THE COURT: You may step down. Anything further
19 from the State?

20 MR. HUNTER: No.

21 THE COURT: Miss Zmroczek.

22 MS. ZMROCZEK: Yes, Your Honor. I challenge the
23 admissibility of the statement under two kind of
24 principal issues. One, the accuracy of the Miranda
25 warnings that were given. When a suspect is in

1 custody he may not be subject to interrogation unless
2 he is informed that one, he has the right to remain
3 silent. Two, anything he says can be used against him
4 in a court of law. Three, he has a right to the
5 presence of an attorney, and four, if he can not
6 afford an attorney one will be appointed prior to any
7 questioning, and then lastly, he has the right to
8 terminate the interrogation at any time and not to
9 answer any further questions.

10 Your Honor, this language I am quoting from State v
11 Kennedy. It is 325, S.C. 295 at 303,479 S.E.2nd
12 838,842. It's a South Carolina Court of Appeals 1996
13 discussing if appropriate Miranda warnings were given.
14 In this case like usually, we actually have the
15 Miranda warning on video. Your Honor was able to see
16 the commotion that was going around. You could see
17 the officers. You heard the testimony that there was
18 an armed car and that there were several police
19 officers. Mr. Cornish was immediately taken into
20 custody. I don't think there is any question that he
21 was in custody. Lieutenant Carrell walks up. Does
22 not give the adequate Miranda warnings. Doesn't wait
23 for a response and just says tell us where the gun is
24 at. And we can't hear Mr. Cornish's response but you
25 hear Lieutenant Carrell's reaction; "Oh, that's how

1 this is going to go." So, immediately everybody is on
2 notice that he's not cooperating. And then either 15
3 to 20 or 30 minutes later while still in custody, Your
4 Honor, supposedly they're having this random
5 conversation but in response to a direct question
6 about the gun Mr. Cornish allegedly makes this
7 statement. The body cams aren't on. I don't know why
8 they are not on at this time. But there was clear
9 testimony that there was no second Miranda warning
10 given.

11 Your Honor, the 5th Amendment, as you know,
12 guarantees that no person shall be compelled to be a
13 witness against himself and this court -- the Supreme
14 Court and our courts look at the type of questioning
15 to see if it was obtained in a violation and it's not
16 just -- it's not just whether it was response to
17 interrogations. The courts say even if it's any -- if
18 it's circumstances likely to produce the answer to the
19 question that they want. The very first question out
20 of Lieutenant Carrell's mouth, "Where -- tell us where
21 that gun is at." We don't hear the response but we do
22 see and hear Lieutenant Carrell's response to that,
23 "So, it's going to go down that road." So either he
24 said no, or I want a lawyer or clearly indicating that
25 he was not going to be cooperating with them.

1 Your Honor, clearly the questions about locating
2 the gun and whatever response was given by Mr. Cornish
3 and I find it interesting that there are body cams but
4 we don't have a body cam with this and the
5 supplemental report was given and was generated June
6 19th of 2017. Almost a year after the arrest. And
7 when looking at the circumstances surrounding if he
8 even gave this statement it was in response to the
9 police engaging in either expressed questioning or its
10 functional equivalent and Your Honor, this is frowned
11 upon and held to be inadmissible under Rhode Island
12 versus Innis 446 U.S. 291 (1980) Supreme Court case as
13 well as South -- excuse me, State versus Franklin,
14 which is 299 S.C. 133, 382 S.E. 2nd, which is a 1989
15 South Carolina Supreme Court case. Police actions are
16 the functional equivalent of interrogation if the
17 police comments or actions were reasonably likely to
18 result in an incriminating statement.

19 Lieutenant Carrell testified himself he wanted to
20 know where the gun was. He asked him and that was the
21 response to direct questioning.

22 Your Honor, its's our position that if the
23 statement was given that it was given in violation of
24 Miranda and should be suppressed at trial.

25 THE COURT: Thank you. Mr. Hunter.

1 MR. HUNTER: Thank you, Your Honor. Judge, I
2 don't think there is any question that Mr. Cornish was
3 being questioned, interrogated. The issue here is
4 whether the statement that he gave was voluntarily or
5 not. I think the testimony presented by Lieutenant
6 Carrell and Sergeant Ferguson supports the fact that
7 it was voluntarily given. Everybody in the courtroom
8 saw that he read him his Miranda warnings. I'm sure
9 why Miss Zmroczek doesn't believe those are sufficient
10 Miranda warnings but those are the Miranda warnings.
11 And he read him the Miranda warnings. We have
12 testimony from Lieutenant Carrell that at that point
13 in time Mr. Cornish indicated he didn't want to tell
14 them where the gun was. He didn't say he didn't want
15 to talk. He never said he wanted a lawyer. That's
16 all speculation. That's all argumentative on the part
17 of Miss Zmroczek. That is just speculative.

18 He was read his Miranda warnings. There was no
19 change in custody status that would prompt another
20 reading of his Miranda warnings. They don't need to
21 Mirandize him every single time they say anything to
22 him. They both testified that they were just having a
23 conversation some minutes later while Mr. Cornish was
24 sitting in the air-conditioned car, with his hands
25 cuffed in front of him. He clearly knew he was under

1 arrest. There is no question there. And he was
2 drinking a soda that he had been provided with. I
3 don't think there is any evidence of coercion. I
4 don't think there is any evidence of threat being
5 made. So I think that he did make a knowing and
6 intelligent waiver of his Miranda warnings and the
7 statement was voluntary and it should be admitted.

8 THE COURT: All right. Thank you. I find under
9 the totality of the circumstances number one, by the
10 State's admission that he was in custody, it was an
11 interrogation; those two elements are not in dispute
12 here. Again, it has been stated the question is
13 whether he gave the statement voluntarily. It does
14 appear from what has been presented to the Court that
15 he never asked for a lawyer. He never asked that
16 questioning stop. The standard of proof in a Jackson
17 v Denno hearing that a confession may be introduced or
18 a statement may be introduced upon proof of its
19 voluntariness by a preponderance of the evidence. I
20 find by preponderance of the evidence, totality of the
21 circumstances, that he was adequately warned and given
22 his rights under Miranda. That his statement he gave
23 was knowingly and voluntarily made. It was as a
24 result of an interrogation when questioned by the
25 officer, however again, he did not -- there was no

1 evidence that he ever indicated that he wanted the
2 questioning to stop or that he asked for an attorney.
3 So therefore, I will rule that the statement is
4 admissible by a preponderance of the evidence and
5 obviously if we deal with that at trial then his
6 voluntariness will have to be established beyond a
7 reasonable doubt to a jury.

8 All right, thank you.

9 MR. HUNTER: Thank you, Your Honor.

10 THE COURT: I believe that concludes all of our
11 pretrial issues; is that correct Miss Zmroczek?

12 MS. ZMROCZEK: I believe so.

13 THE COURT: I will ask again before we start, but
14 let's be at ease. We will be back ready to go at two
15 o'clock.

16 MR. HUNTER: Thank you, Your Honor.

17 (WHEREUPON, court was in recess for lunch)

18 THE COURT: State ready to proceed?

19 MR. HUNTER: Yes, Your Honor.

20 THE COURT: Defense ready?

21 MS. ZMROCZEK: Yes, Your Honor.

22 THE COURT: All right. Let's bring the jury in.

23 (WHEREUPON, the jury enters the courtroom.)

24 THE COURT: Thank you ladies and gentlemen. I
25 appreciate your patience and your promptness.

1 Madame clerk. If you will swear the jury.

2 THE CLERK: Please stand and raise your right
3 hands. You shall and truly try and true deliverance
4 make between the State of South Carolina and the
5 defendant and true verdict give according to the law
6 and evidence so help you God.

7 JURORS: I do.

8 THE COURT: Thank you, ladies and gentlemen. As
9 far as your sitting feel free to sit anywhere in the
10 jury box accept for the two alternates. I will ask
11 that you all keep those two seats throughout the
12 trial. At some point tomorrow I will ask you to elect
13 a foreperson from among yourselves. You don't have to
14 do that today. Some time tomorrow I will ask that you
15 elect someone to be your foreperson. I'll give you a
16 little bit of instruction on foreperson at that time
17 but the foreperson has no more say then any other
18 juror in a case. As far as deliberations they are no
19 more important than anyone else on the jury panel.
20 However, we do need a foreperson to communicate with
21 the Court on particular matters. So, at some point
22 tomorrow I will ask that you elect a foreperson from
23 among yourselves. When that happens then we are going
24 to ask the foreperson to sit in this end chair down
25 here. Well, I don't know that might not be -- is that

1 comfortable enough in that chair.

2 JUROR: It's all right.

3 THE COURT: Well, I will do this. We will ask the
4 foreperson to sit down on this end in that chair
5 because they need to be in the same chair all the
6 time. But you all might want to fight over who has to
7 sit in that chair or if you draw straws and you do in
8 one hour segments and somebody swaps off. I
9 understand that. So we will ask the foreperson
10 instead of sitting here on my left to sit here on my
11 right and that way hopefully one person won't be
12 confined to that chair. Unless that's what you want
13 to do.

14 What I am going to talk to you now is preliminary
15 instructions. It's an introduction to the trial of
16 this case. They're not a charge about the law in the
17 case but I need to give you an explanation a little
18 bit about the procedure that we are going to follow.
19 As I have read to you earlier we have three
20 Indictments in this case charging the defendant with
21 the crimes that I have -- that I have read to you
22 earlier. Those Indictments, those pieces of paper are
23 not evidence. They're not to be considered as
24 evidence in the case. It is not any evidence of any
25 allegations contained in the Indictments. They are

1 the official documents by which brings a person into
2 the court. And this particular case, the defendant in
3 this case has exercised his right to enter a plea of
4 not guilty to to those charges and he has asked for a
5 trial by jury.

6 Your purpose as jurors is to determine the facts in
7 the case. You are the soul judge of the facts. If at
8 any time I should make any comments that you perceive
9 are about the facts in the case you are to disregard
10 those. Because you alone will be the fact finders
11 about what happened in this case. And again, I
12 instruct you the facts that you find them to be must
13 be based on what you see and hear in this courtroom,
14 nothing outside this courtroom. The same law that
15 makes you the finders of facts makes me the judge of
16 the law. In other words, if there issues, legal
17 issues that need to be taken up then those are issues
18 for me to deal with and not for you. You are the
19 judges -- the finders of fact. I am the judge of the
20 law.

21 As I discussed with you earlier throughout this
22 case do not discuss it with anybody. When you go --
23 now that you have been sworn in, when you go back to
24 the jury room to take breaks don't talk about what you
25 have heard in the courtroom. Don't discuss the case.

1 Okay. You are not to discuss it until all the
2 evidence is in and that's at the end of the trial.
3 Winnsboro is like York. It's a small town. You may
4 know the attorneys involved in this case or other
5 attorneys that work in this courthouse. They are not
6 to talk to you this week. So if you see one of them
7 out and they don't speak to you they're not being
8 stuck up. They are not to have any contact or
9 anything that can be perceived to be communication to
10 you. Don't hold that against the attorneys. If you
11 see them out and about away from the courtroom any
12 time here this week and they don't talk to you they
13 are actually following the law.

14 Don't use any computers, no cell phones, no smart
15 phones, no tablets. Don't ask anybody to look stuff
16 up on the internet for you. We live in a new age
17 where information can be almost instantaneously
18 available to us. That's not allowed for you in
19 determining issues in this case. If you have -- what
20 do they all do with cell phones?

21 BAILIFF: Not allowed.

22 THE COURT: So you all weren't allowed to bring
23 them in. So we shouldn't have an issue with cell
24 phones in the jury room.

25 During the trial don't read or listen to anything

1 or watch any news reports. If there is something in
2 the paper or some type of news reports and you become
3 aware of it please do not listen to it. Do not -- and
4 again in our system it's important that you not be
5 influenced by anything or anyone outside of this
6 courtroom. If you become aware of a violation of that
7 either yourself, directed towards yourself or others
8 than please let one of the bailiffs know to inform me
9 immediately of that. It's important that you keep an
10 open mind and not decide any issue in this case until
11 all the evidence has been presented and the parties
12 have made this closing arguments and I have instructed
13 you on the law. In just a few moments when I've
14 finished the lawyers will be given an opportunity to
15 make opening statements to you. Those statements are
16 not evidence in the case, but that would be their
17 respective positions about the issues in this case.
18 Once they finished that then the State will call
19 witnesses that they deem appropriate. Defense will
20 have opportunity to cross examine those witnesses.
21 Once all the evidence has been presented, is in, then
22 I will instruct you on what the law is in the case.
23 The lawyers will make closing arguments to you and
24 then you begin deliberations. We anticipate that
25 would likely be not likely tomorrow but possibly

1 tomorrow. Probably some time by Thursday. We want
2 both parties to understand and you all to understand
3 we will take as much time as possible on the case
4 because this is extremely important case to everybody
5 here in the courtroom; to jurors, to the defendant, to
6 the State. It is extremely important so we don't need
7 to be pressured by time. On the other hand, the Court
8 will do everything we can to make sure that we are
9 efficient in our use of time as well.

10 It's your solemn responsibility to determine the
11 guilt or innocence of the defendant. And your verdict
12 again must be based solely on the evidence that is
13 presented to you in this courtroom during this trial
14 and the law as I instruct you at the close of the
15 trial. The evidence in this case is going to be
16 presented to you by testimony of sworn witnesses from
17 the witness stand here in the courtroom and any
18 exhibits or any other evidence that is introduced in
19 to the case. From time to time during the trial you
20 may hear lawyers say, Your Honor, I have a question of
21 law or they object and several things happen when they
22 do that. One, I ask you do not hold that against them
23 if they make an objection or have a matter that needs
24 to be taken up outside of your presence. They are
25 doing their job. It's what they are suppose to do to

1 represent their particular interest. And so some of
2 those times if they come up here and I determine there
3 is an issue of law we need to take up outside of you
4 your presence you may have to get up and go to the
5 jury room while we deal with those and then bring you
6 back in here after we have appropriately dealt with
7 those. That might happen a lot depending on the flow
8 of the trial. Don't hold that against either party if
9 that takes place.

10 In determining in your job what the true facts are
11 in this case, you must decide whether or not the
12 testimony of witnesses that you hear is believable.
13 It will be my responsibility again to rule as a matter
14 of law whether certain testimony is admissible at all
15 or not but once it's admitted whether or not you
16 believe it is solely for you to determine. In
17 deciding whether to believe a witness you have the
18 right to consider the interest of any witness, the
19 bias of any witness, the prejudice of any witness, the
20 opportunity for the witness to have seen the matters
21 and things about which a witness may testify and the
22 way the witness acts on the stand. You have a right
23 to consider anything that is in the record that will
24 help you evaluate the testimony of witnesses. That
25 means it's your duty to pay close attention to the

1 witnesses, observe the witnesses, listen to the
2 witnesses, pay close attention to the attorneys and to
3 the Court.

4 During the trial if you -- madame clerk, do we have
5 any rules as far as what jurors can bring in or out of
6 the courtroom as far as refreshments.

7 THE CLERK: They can have refreshments.

8 THE COURT: Don't bring your lunch. Don't bring
9 any snacks. We will provide those for you. But if
10 you like to bring water in the courtroom, the lawyers
11 have water available, we have water. If you look to
12 bring water with you feel free to do that when you
13 come in. Again, we'll probably go an hour, hour and a
14 half and then take a break. But if at any time you
15 feel like you need to take a break, you need to be
16 excused, just simply raise your hand and we will take
17 a break. Everybody will go out and refresh
18 yourselves. So if we get to that point just simply
19 raise your hand and make sure either me or one of the
20 bailiffs see your hand and we will let everybody take
21 a break.

22 Anything further from the State?

23 MR. HUNTER: Nothing from the State.

24 THE COURT: From the defense?

25 MS. ZMROCZEK: Nothing from the defense.

1 THE COURT: All right. Thank you ladies and
2 gentlemen. We will turn this portion over to the
3 attorneys to make their opening statements. Mr.
4 Hunter.

5 MR. HUNTER: Thank you. If it please the Court.
6 Ladies and gentlemen, as you all heard earlier my name
7 is Croom Hunter and I am an assistant solicitor here
8 in Fairfield County. What that means is it's my job
9 along with Mr. Maxwell, who is seated with me, to
10 prosecute all the criminal cases, all the crimes that
11 occur within Fairfield County. It is a job that we
12 take very seriously and it is our job today and over
13 the next couple of days to prove to you beyond a
14 reasonable doubt that Mr. Cornish, who is seated right
15 there in the orange, is guilty of three crimes;
16 attempted murder; possession of weapon during the
17 commission of a violent crime, of which attempted
18 murder is classified as violent crime, and possession
19 of weapon by someone previously convicted of a violent
20 crime.

21 Essentially what we will prove to you is that last
22 year, July 27, 2017 the night of 26th going into the
23 27th that Mr. Cornish was living with his girlfriend,
24 Ashley Mickle, who is is seated right back there.
25 They liven in Castlewood apartments with her two

1 children; **O.M.** who is is six and **C.M.** who is
2 nine. They got into a fight that night. Ashley and
3 Larry got into an argument. Ashley decided she needed
4 to take her children and leave the situation so she
5 told them to go get in the car. They got in the car.
6 Larry ran out of the apartment with a gun, hopped in
7 the car and forced her to drive. They pulled out of
8 Castlewood Apartments on Calhoun Street near
9 Winnsboro, turned right and went up to the
10 intersection where the stop sign at Calhoun and 321
11 where Sonic and Advance Auto Parts are. At that point
12 when the car was stopped at the stop sign Larry opened
13 the a passenger door, he got out and he stood in the
14 door and put a gun to Ashley's head and he pulled the
15 trigger. Both of the children were seated in the back
16 seat and watched their mother get shot in the face by
17 Mr. Cornish. You will hear from them. You'll hear
18 from Ashley. You will hear from some other witnesses
19 who have worked on this case and who you all need to
20 hear from frankly.

21 I am very confident by the end of the testimony you
22 all will believe far beyond a reasonable doubt that
23 Larry Cornish is guilty of the crimes of which he has
24 been charged.

25 It's not a very complicated case. In fact it's a

1 very simple case. I expect to take probably two days
2 hopefully. It may go into a third day, but just
3 evaluate the evidence, listen to the witnesses, but
4 most importantly just use your common sense and we
5 will ask you at the end of the trial for a guilty
6 verdict.

7 Thank you.

8 THE COURT: Thank you, Mr. Hunter. Miss Zmroczek.

9 MS. ZMROCZEK: Thank you. Your Honor, May it
10 please the Court.

11 Desperate times call for drastic measures. I will
12 say that again, desperate times calls for drastic
13 measures.

14 Larry Cornish was moving out. Breaking up with his
15 girlfriend. Larry Cornish did not shoot Miss Mickle.

16 THE COURT: Miss Zmroczek, you need to speak up a
17 little bit so the court reporter can hear.

18 MS. ZMROCZEK: Sorry.

19 The judge said some very important things. He said
20 that you are the judge of the facts. You get to
21 decide. My friends in the solicitor's office told you
22 about their burden and how they welcome that burden.
23 Now I'm going to ask you hold them to that burden.

24 Ladies and gentlemen, I represent Mr. Cornish.
25 But I also represent the constitution and we defend

1 persons accused of crimes. I will come back to that.

2 My dad, a big football player, wanted nothing
3 more in life than to have a son to follow in his foot
4 steps. Football season coming up. My family is
5 already talking about it. My dad tried and tried.
6 Seven daughters. There are seven of us. I am the
7 oldest. And although we don't play football I can
8 assure you we know everything about it. And see,
9 ladies and gentlemen, that's what this case reminds me
10 of. It reminds me of a football game because what you
11 will see is the State trying to present evidence and
12 they will present some evidence but the evidence is
13 never going to be enough to get over the goal line.
14 To get beyond a reasonable doubt. I have a couple of
15 fears that I want to address. I worry that you are
16 going to hold Mr. Cornish's past against him and then
17 I remember you take an oath.

18 Because desperate times call for drastic measures.
19 One of the other fears that I have is in defending the
20 constitution I have to ask some tough questions. Some
21 of those questions are going to be directed towards
22 the police that investigated this case. But in order
23 for you to decide those facts that the judge told you
24 about, you have to answer those questions. Now my
25 friend, Mr. Hunter, and I agree on one thing is that

1 you don't leave your common sense at the front door.
2 Ladies and gentlemen, while you're evaluating this
3 evidence you're listening to it. You are going to see
4 some flags. Things that don't make sense. Things
5 that don't add up. And what the government wants you
6 to do is to just ignore those.

7 So ladies and gentlemen, those are precisely the
8 things that you are here to look for. I have a fear
9 that emotions will way in part of the verdict. These
10 cases are never easy. And they are never easy for
11 either side, but you all were picked. Each one of you
12 individually to uphold your duty to the constitution.

13 I agree this case probably won't take long. And I
14 agree it will probably leave you with a lot of
15 questions. Why are they trying to hide the ball.

16 Ladies and gentlemen, I hope you remember this
17 football analogy throughout the trial because after
18 all the evidence, everything that you have to weigh is
19 put before you, we expect that you will find that
20 Larry Cornish is not guilty of attempted murder,
21 possession of weapon during the commission of a
22 violent crime, or felony possession of a gun.

23 Thank you.

24 THE COURT: Thank you. Solicitor call your first
25 witness.

1 MR. HUNTER: The State calls Jacob Little.

2 JACOB LITTLE, called as a witness, having been
3 duly sworn by the clerk, was examined and testified as
4 follows:

5 THE COURT: Solicitor.

6 MR. HUNTER: Thank you.

7 DIRECT EXAMINATION

8 BY MR. HUNTER:

9 Q Deputy Little, will you state your name and rank and
10 where you work?

11 A Jacob Little. I work for Fairfield County Sheriff's
12 Department. I'm a sheriff's deputy.

13 Q Okay, and how long have you worked with Fairfield
14 County?

15 A Two months now I have been with the county.

16 Q And prior to your work with the county where were you
17 employed?

18 A I was employed with Winnsboro Public Safety.

19 Q And how long were you employed with Winnsboro Public
20 Safety?

21 A I started there 2013, 2014.

22 Q And what was your rank there?

23 A I was street officer, PSO.

24 Q And what were your duties as a street officer?

25 A Routine traffic patrol, criminal intervention and fire

1 fighting.

2 Q Were you working in that capacity on the night of July
3 26th into the 27th of last year?

4 A I was.

5 Q Okay. Did you have occasion to respond to a report of
6 a shooting?

7 A I did.

8 Q And where did you respond initially?

9 A I responded initially to Fairfield Medical Hospital out
10 on 321 North to a call of a victim being shot in the face.

11 Q Okay. And do you know how that call had come in?

12 A It was given to us through central dispatch.

13 Q Before you went to Fairfield Memorial Hospital did you
14 go anywhere else?

15 A The original report was the actual incident occurred at
16 321 and Calhoun Street.

17 Q And what is at that intersection?

18 A If you're facing 321 Bypass you have Sonic on your left
19 hand side and you have Advance auto store on the right.

20 Q All right. And how far is it from that intersection to
21 Fairfield Memorial Hospital?

22 A At 45 miles per hour it approximately takes you 59
23 seconds to get there. It's .50 miles from the intersection to
24 the hospital.

25 Q So you initially went there but then you went to the

1 hospital?

2 A Yes, sir.

3 Q What happened -- what did you observe when you
4 initially entered the hospital?

5 A I was met by a couple of different hospital staff.
6 They escorted me over to where the victim was. When I walked in
7 to the trauma bed -- I guess you can call it -- I observed the
8 offender had a wound to her face.

9 Q The offender or victim?

10 A The victim.

11 Q Okay, and what was the victim's name? Were you able to
12 determine that?

13 A I did not know her name at that time. I did recognize
14 the victim because she was a jailor at Fairfield County
15 detention center.

16 Q Was she conscious?

17 A Yes.

18 Q Was she able to speak?

19 A No, she was not able to speak due to the damage to her
20 face.

21 Q Were you able to communicate with her?

22 A Yes, I was.

23 Q Based on those communications were you able to develop
24 a suspect?

25 A Yes, sir, I was.

1 Q And who was that suspect?

2 A Larry Cornish.

3 Q After you communicated with the victim did you
4 communicate with anyone else?

5 A Once I was able to determine what went on I contacted
6 my supervisor to pass on what we had going on and at that time
7 he contacted the investigators and the other staff that needed
8 to be notified.

9 Q Did you talk to anyone else at the scene?

10 A I talked to her two children that were in the vehicle
11 with her.

12 Q Do you remember their names?

13 A I don't.

14 Q Do you remember their ages approximately?

15 A They were both very young. I would have to say one of
16 them was probably between five and ten and one was may be
17 between 11 and 13. They were fairly young.

18 Q Okay. Were they injured at all?

19 A No, sir.

20 Q Were they both awake?

21 A Yes, sir.

22 Q Both able to communicate?

23 A Yes, sir.

24 Q Both able to speak?

25 A Yes.

1 Q Based on your conversations with them were you able to
2 develop a suspect?

3 A Yes, sir.

4 Q And who was?

5 A The defender, Larry Cornish.

6 Q Is that who is seated right there?

7 A Yes.

8 Q Did you observe -- let me ask you this. Were you able
9 to determine how the victim and her children were able to reach
10 the hospital?

11 A Yes, sir. After speaking -- or I was asking questions
12 to the victim and speaking with the children I was able to
13 determine that the victim drove herself to the hospital after
14 being shot.

15 Q Okay. And where did she drive herself to the hospital
16 from?

17 A Cross streets of 321 bypass and Calhoun Street.

18 Q Was her vehicle still at the hospital?

19 A Yes, sir, it was.

20 Q Did you observe the vehicle there?

21 A I did see the vehicle there, yes.

22 Q Did you observe any damage to the vehicle?

23 A I did not get close enough to the vehicle to inspect
24 it. I was more worried about the victim at the time and getting
25 the suspect and everything lined up for the investigators.

1 Q Did you open the vehicle?

2 A No, I did not.

3 Q You didn't touch the vehicle?

4 A No.

5 Q I am going to approach now and show you what's been
6 marked as State's Exhibit One. Can you identify that?

7 A Yes, sir, I can.

8 Q Okay.

9 MS. ZMROCZEK: No objection Your Honor.

10 Q What is that a depiction of?

11 A That is an overhead map of Calhoun Street and 321
12 bypass area.

13 Q Okay.

14 MR. HUNTER: Your Honor, at this time I would
15 request to move State's Exhibit One into evidence.

16 MR. HUNTER: Without objection.

17 THE COURT: State's Exhibit One is in evidence
18 without objection.

19 (State's Exhibit One, Map, received in evidence
20 as of this date.)

21 MR. HUNTER: At this time I would like to publish
22 it to the jury.

23 THE COURT: Go ahead.

24 Q Deputy Little, is this the imagine I just shown you?

25 A Yes, sir, it is.

1 Q Can you identify this group of buildings right here on
2 Calhoun Street?

3 A Yes, sir, that's Castlewood Apartments.

4 Q And can you identify this intersection?

5 A Yes, sir. Right there would be 321 and Calhoun Street.

6 Q Okay. And do you happen to know through your own
7 experience the distance from Castlewood Apartments to this
8 intersection at 321?

9 A I do. From Castlewood to the intersection would be .40
10 miles.

11 Q Okay, and approximately how long does it take to drive
12 that?

13 A Fifty-four point five seconds.

14 Q Okay. And again what's the distance from this
15 intersection to the emergency room at Fairfield Medical?

16 A Point five zero miles.

17 Q And how long did it take you?

18 A Fifty nine seconds.

19 Q Okay. I believe you testified that when you got to the
20 hospital you observed the victim being worked on in the hospital
21 bed, is that correct?

22 A Yes, sir.

23 Q I am going to show you what has previously been marked
24 as State's Exhibit Two.

25 MS. ZMROCZEK: Your Honor, I believe we have a

1 matter of law.

2 THE COURT: Approach.

3 (WHEREUPON, there was an off the record
4 discussion.)

5 Q Deputy Little were you wearing a body cam?

6 A I was.

7 Q Did your body cam report what you saw when you entered
8 the hospital that night?

9 A Yes, it does have audio and video on it.

10 Q I am going to show you what has been previously marked
11 as State's two, three, four, and five and ask if you will look
12 through those imagines.

13 Okay. Do those imagines accurately represent what you
14 observed that night when you were in the hospital?

15 A Yes.

16 MR. HUNTER: At this point I would move two,
17 three, and four into evidence.

18 THE COURT: Well, two, three, four and five.

19 MR. HUNTER: Excuse me, I meant two, three, four
20 and five.

21 THE COURT: Okay. Miss Zmroczek.

22 MS. ZMROCZEK: Subject to my objection.

23 THE COURT: I will overrule the objection. I will
24 allow them to be admitted into evidence; exhibits two,
25 three, four and five are admitted into evidence.

1 (State's Exhibit Two through Five, photographs,
2 were received into evidence as of this date.)

3 MR. HUNTER: I would like to publish them to the
4 jury.

5 THE COURT: All right.

6 Q Deputy Little, can you explain what we are looking at
7 in this picture?

8 A Yes, sir. You're looking at the victim laying on the
9 hospital bed and her facial area that is actually the gunshot
10 wound.

11 THE COURT: Let's refer to it as the number piece
12 of evidence in the video.

13 MR. HUNTER: Your Honor, this is showing Deputy
14 Little State's Exhibit Number Two, which has been
15 previously admitted.

16 Q But Deputy Little you say that the victim was
17 conscious?

18 A Yes.

19 Q And she was able to communicate with you at this time.

20 A Yes.

21 Q Okay. Now I am going to show you what has been
22 previously admitted as State's Exhibit Number Three. Can you
23 explain what we are looking at there?

24 A That is the physician and his -- I'm assuming that one
25 gentleman is the registered nurse tending to the victim.

1 Q What was the victim's demeanor at this time?

2 A Just going through what she went through she was very
3 calm. She was very collected.

4 Q What are we looking at here?

5 A The physician starting to work on the victim.

6 MR. HUNTER: And Your Honor, I am now showing
7 Deputy Little what has been previously been marked as
8 State's Exhibit Four.

9 Q And now I will show you Deputy Little what has
10 previously been marked State's Exhibit Five. Can you identify
11 that vehicle?

12 A It appears to be the victim's SUV.

13 Q Where is it parked in this picture?

14 A It appears to be parked in front of FMH, the medical
15 hospital right beside the entrance.

16 Q Is that the entrance to the emergency room?

17 A Yes, it's the sidewalk right beside the vehicle.

18 Q All right. Deputy Little is Fairfield Medical Hospital
19 is that in Fairfield County?

20 A Yes, it is on 321 North.

21 Q Is the intersection of Calhoun Street and 321 in
22 Fairfield County?

23 A Yes.

24 Q Are both of those locations within the city limits of
25 Winnsboro?

1 A Yes, sir.

2 MR. HUNTER: No further questions.

3 THE COURT: Thank you, Miss Zmroczek.

4 MS. ZMROCZEK: Thank you.

5 Your Honor, I don't want to break anything, but
6 when they are done showing the exhibits can we bring
7 it back down.

8 THE COURT: Mr. Hunter, if you just be available
9 when she refers to a particular exhibit -- is that
10 what you are asking that he be the one?

11 MS. ZMROCZEK: Well that too. Just so it is
12 not --

13 MR. HUNTER: Do you want me to turn it off?

14 MS. ZMROCZEK: Yes, thank you.

15 THE COURT: Turn it off.

16 MS. ZMROCZEK: Thank you.

17 CROSS EXAMINATION

18 BY MS. ZMROCZEK:

19 Q Good afternoon.

20 A Good afternoon.

21 Q You said that you have been a police officer since
22 2013?

23 A 2012, 2013 when I got hired.

24 Q Okay. What kind of training did you receive?

25 A Criminal Justice Academy.

1 Q You attended the academy?

2 A Yes, ma'am.

3 Q They taught you how to do your duties as a police
4 officer?

5 A Yes, ma'am.

6 Q You graduated from the academy?

7 A Yes, ma'am.

8 Q Got hired by Winnsboro Department of Public Safety?

9 A Yes, ma'am, I was hired.

10 Q When you were at the academy they talked to you about
11 evidence?

12 A Yes, ma'am.

13 Q They talked to you about collecting and preserving?

14 A Yes, ma'am.

15 Q They talked to you about writing reports?

16 A Yes, ma'am.

17 Q And you wrote a report in this case?

18 A Yes, ma'am.

19 Q Do you have a copy of that report with you?

20 A I do.

21 Q Investigator Little, the report reflects that you took
22 some photographs at the hospital?

23 A I did.

24 Q You took photographs of the injuries?

25 A I did.

1 Q Where are those photographs? Can you tell the jury?

2 A I returned back to the office where it's our protocol
3 to download them into the database. Where they go after that
4 I'm not sure. It would be on server somewhere in our office.

5 Q You don't know where they are?

6 A By our protocol I returned to the office. I put them
7 into the computer and after that I don't know.

8 Q Did you also take some additional photos?

9 A I took photos that I put into the database.

10 Q You took some photos of the apartment?

11 A Yes, ma'am. They were all downloaded into database
12 when I returned to the office.

13 Q And do you know where those are?

14 A After they go into the database I couldn't tell you.
15 I'm not a computer person.

16 Q Okay. But you were wearing your body cam?

17 A Yes, ma'am, I was.

18 Q Tell the jury a little bit about body cams. I guess
19 you are wearing one now?

20 A Yes, I am.

21 Q When you were at the department of public safety what
22 were the requirements for body cams?

23 A When you arrived on scene you activated your camera.
24 Any time you were going to have interaction with any type of the
25 public you activated your body camera.

1 Q And that was a requirement?

2 A Yes.

3 Q And who initiated that?

4 A Chief Lorick, if I am not mistaken is the one that put
5 that into protocol.

6 Q Did you pick them up when you checked in every day?

7 A Yes, ma'am. You sign them out you put your body camera
8 on. When you leave you download it and return to the
9 department.

10 Q Every day?

11 A Every day.

12 Q You conducted interviews with the children as well?

13 A I did.

14 Q Have you received any special training on how to talk
15 with children?

16 A No, ma'am.

17 Q You just asked them the questions that you had, right?

18 A Yes, ma'am.

19 Q Did they have any trouble understanding your questions?

20 A No, ma'am.

21 Q Were they very clear in their descriptions?

22 A They were very clear.

23 Q After you left the apartment -- so you left the
24 hospital and you went to the apartment?

25 A When I left the hospital I actually transported the two

1 juveniles to our office and after that is when we went to the
2 apartment.

3 Q And then after the apartment you went back and
4 downloaded all these pictures?

5 A Yes, ma'am.

6 Q We don't know where those are. And did this concluded
7 your role in this investigation?

8 A It did. It was all turned over to investigations after
9 that.

10 MS. ZMROCZEK: Thank you, Your Honor. I have no
11 further questions.

12 THE COURT: Any redirect?

13 MR. HUNTER: Briefly Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. HUNTER:

16 Q Deputy Little, when you were at the hospital what did
17 you take pictures of.

18 A I took pictures of the victim's face, front, left and
19 right side.

20 Q So essentially would the pictures that you took depict
21 very similar --

22 MS. ZMROCZEK: Objection Your Honor.

23 THE COURT: Overruled.

24 Q Would the pictures that you took depict a very similar
25 image to what has been captured by your body camera?

1 A Yes, sir.

2 Q Did you take pictures that wouldn't have been caught on
3 the body camera?

4 A No, sir.

5 Q And of course you had your body camera on the whole
6 time you were there?

7 A Yes, sir.

8 Q And it's is it your job to keep up with the pictures
9 after they have been downloaded to the server?

10 A No, sir. Once you download them to the server I am not
11 real sure whose job it is.

12 Q In fact can you access those images?

13 A No, I can not.

14 Q And when you spoke with the children how clear were
15 they about what had happened?

16 A Very clear.

17 Q And based on what they told you did you have any doubt
18 about who the suspect was?

19 MS. ZMROCZEK: Objection Your Honor.

20 THE COURT: Sustained.

21 A No, I had no --

22 THE COURT: Don't answer the question.

23 THE WITNESS: Okay.

24 MR. HUNTER: Nothing further.

25 THE COURT: Any recross?

1 MS. ZMROCZEK: Just briefly Your Honor.

2 RE CROSS EXAMINATION

3 BY MS. ZMROCEK:

4 Q He asked you about the pictures if they were
5 substantially similar as to what we saw?

6 A Yes.

7 Q Can we see the details of the injury on those?

8 A This is back in 2016. I can't.

9 MS. ZMROCZEK: Thank you.

10 THE COURT: Thank you, Deputy. You can step down.

11 Ladies and gentlemen, this is an appropriate time
12 to take a break. You have been in here about an hour
13 and 15, 20 minutes. We do have some issues to take up
14 outside of your presence. I anticipate that you will
15 be out about 15, or 20 minutes. Hopefully at the
16 most. Don't hold me to any time frame. I am the
17 world's worst at gauging. Some times they are
18 quicker. This is Court of law. Most of times they
19 are longer. But we will ask that you return to your
20 jury room. Make yourself comfortable. Again, do not
21 discuss the case at all among yourselves while you are
22 in the jury room.

23 Everyone remain seated while the jury leaves.

24 THE COURT: All right. Mr. Croom -- I'm sorry,
25 Mr. Hunter, you informed me that your next witness

1 would be a child.

2 MR. HUNTER: That's correct Your Honor.

3 MS. ZMROCZEK: And Your Honor, sorry. I know that
4 we took a break. I just wanted to make sure that I
5 put the basis of the objection on the record.

6 THE COURT: Before we do that, we did have an
7 objection during the last witness. Miss Zmroczek had
8 an objection on the use of the photos that were taken
9 of the screen shots on the camera. I overruled her
10 objection, however I did tell her I would be happy to
11 hear her argument. She can put that on the record.

12 MS. ZMROCZEK: Thank you. And Your Honor this
13 goes back to a lot of the pretrial motions that we had
14 filed regarding evidence and the missing evidence and
15 so the basis for this objection was it violates the
16 best evidence rule. One of the reasons that we really
17 wanted those pictures is so we can see -- the body
18 cams when you pause it is obviously it's on a computer
19 screen. So they aren't as clear as a digital camera.
20 We're not able to see stippling. We're not able to
21 see the mechanics of the injury. And so, Your Honor,
22 that was our objection to allowing those pictures in.

23 THE COURT: All right. Thank you. And I did
24 overrule that objection allowing those photos in and
25 so I note your objection.

1 Anything else?

2 MS. ZMROCZEK: Just one more thing. I was trying
3 to keep count. I counted 32. And I may be off, but
4 32 times the word victim being used and I tried not to
5 make these motions preemptively but now that I see
6 kind of where this is going, one of the motions that I
7 often make pretrial is to refer to -- obviously, the
8 word "victim" is going to come up. But to excessively
9 use it and to characterize Mr. Cornish as a defendant,
10 instead of Mr. Cornish; or a victim instead of Miss
11 Mickle. And I understand there are times that
12 terminology is appropriate, but my concern is that
13 that's all the jury is going to keep hearing. They
14 keep using the word the victim, the victim, the
15 victim. We would ask that the Court ask the State to
16 try to limit its use of that word.

17 THE COURT: Mr. Hunter, do you wish to be heard on
18 that issue?

19 MR. HUNTER: Judge, Miss Mickle is the victim. I
20 don't see any reason I should not be able to refer to
21 her as victim. I'll refer to Mr. Cornish as best as
22 possible but I may slip a few times.

23 THE COURT: Well, I don't think there is any case
24 that law that prohibits you from referring to him as
25 the defendant throughout the trial. There is case law

1 on the other. Descriptions of defendants that might
2 not be admissible, but to refer to him as defendant
3 I'm not going to limit you on that issue. I think
4 there is some discussion about the constant use of the
5 word victim. However, I just caution you not to use
6 the victim to the extent that it might enflame the
7 passions of the jury which would be beyond what we are
8 here for.

9 All right. Anything else.

10 MS. ZMROCZEK: That's fine Your Honor. Thank you.

11 THE COURT: And your next witness is a child.

12 MR. HUNTER: That's correct, Your Honor.

13 THE COURT: All right. And I assume Miss Zmroczek
14 are you questioning the competency of that child.

15 MS. ZMROCZEK: We are Your Honor.

16 THE COURT: All right. Let's bring the child in.

17 MR. HUNTER: Judge, I don't know how you want on
18 to approach this. Do you want to question him.

19 THE COURT: What do you all -- you all approach.
20 Lawyers approach.

21 (WHEREUPON, there was an off the record
22 discussion.)

23 (WHEREUPON, [REDACTED] C.M. takes the witness
24 stand.)

25 THE COURT: How are you doing?

1 C.M. : Good.

2 THE COURT: Look at me a little bit so I can talk
3 to you. Do you know who I am.

4 C.M. : (Shakes head in the affirmative).

5 THE COURT: I have on a robe. What does that make
6 me.

7 C.M. : The judge.

8 THE COURT: All right. What is your name?

9 C.M. : .

10 THE COURT: C.M. And your last name C.M.

11 C.M. : .

12 THE COURT: And C.M. how old are you?

13 C.M. : Ten.

14 THE COURT: And are you in school now?

15 C.M. : No.

16 THE COURT: Well, obviously you are not in school
17 right now. Did you start school this week or last
18 week.

19 C.M. : Yes!

20 THE COURT: What grade are you in now?

21 C.M. : Fifth.

22 THE COURT: And what is your teacher's name?

23 C.M. : Miss Robertson.

24 THE COURT: And do you like school?

25 C.M. : (Nods in the affirmative)

1 THE COURT: What school do you go to?

2 C.M. : .

3 THE COURT: And tell me again what grade your in.

4 C.M. : The 5th.

5 THE COURT: The 5th grade. Do you play any sports?

6 C.M. : Yes.

7 THE COURT: What do you play?

8 C.M. : I play football.

9 THE COURT: What position do you play?

10 C.M. : They didn't tell me my position
11 yet.

12 THE COURT: Did you play last year.

13 C.M. : No, sir.

14 THE COURT: So this is the first year you've
15 played. Do you like it.

16 C.M. : I got football practice Thursday.

17 THE COURT: Good. And tell me what your momma's
18 name?

19 C.M. : Ashley Mickle.

20 THE COURT: And where do you live?

21 C.M. : In Castlewood.

22 THE COURT: Do you know the number of the
23 apartment? Is that apartment or a house.

24 C.M. : Apartment.

25 THE COURT: Do you know the number of it?

1 [REDACTED] C.M. [REDACTED]: [REDACTED].

2 THE COURT: And [REDACTED] C.M. [REDACTED] do you know why you have
3 been asked to be here today.

4 [REDACTED] C.M. [REDACTED]: Not really.

5 THE COURT: Well, let me tell you. You are going
6 to be asked some questions by some of the lawyers and
7 I am asking you some questions. Do you understand
8 that.

9 [REDACTED] C.M. [REDACTED]: Yes, sir.

10 THE COURT: And do you know the difference between
11 telling the truth and telling a lie? Can you tell me
12 what happens if you tell a lie?

13 [REDACTED] C.M. [REDACTED]: If you tell a lie you could go to
14 jail.

15 THE COURT: And do you -- if somebody said,
16 [REDACTED] C.M. [REDACTED], what's the truth?" what would you say?

17 [REDACTED] C.M. [REDACTED]: Like the truth now.

18 THE COURT: Yeah.

19 [REDACTED] C.M. [REDACTED]: I want to just tell the truth.

20 THE COURT: You want to tell the truth?

21 [REDACTED] C.M. [REDACTED]: I would have.

22 THE COURT: All right. Are you willing to come
23 here and answer the questions that these lawyers might
24 have for you?

25 [REDACTED] C.M. [REDACTED]: Yes, sir.

1 THE COURT: What happens in your house if you don't
2 tell the truth at home?

3 C.M. : So you say --

4 THE COURT: If you don't tell the truth at home
5 what happens?

6 C.M. : Well, something could go on.

7 THE COURT: Something could go on.

8 All right. And you are in the Fifth grade, is
9 that right?

10 C.M. : Yes, sir.

11 THE COURT: What is your best subject?

12 C.M. : Science.

13 THE COURT: You like science.

14 C.M. : (Nods in the affirmative.)

15 THE COURT: Do you like to read?

16 C.M. : Yeah.

17 THE COURT: What do you like to read?

18 C.M. : Social studies.

19 THE COURT: You like social studies. And what is
20 the name of the town we live in?

21 C.M. : Winnsboro.

22 THE COURT: Winnsboro. Do you know what state we
23 live in?

24 C.M. : South Carolina.

25 THE COURT: Good. All right. I think under the

1 law that I find that -- certainly under the law he's
2 presumed -- every witness is presumed to be competent.
3 There's been no indication -- well, as far that I
4 heard that he'd not be competent. But I will ask Miss
5 Zmroczek if she would like to ask you some questions. (

6 This is Miss Zmroczek and she will ask you some
7 questions all right?

8 MS. ZMROCZEK: Your Honor, actually, after hearing
9 your questions and his responses we don't have any
10 additional questions regarding his competency.

11 THE COURT: All right, thank you. Then I find
12 that he is competent as a ten-year old he has
13 demonstrated. He certainly knows how old he is.
14 Knows where he is in school, what classes that -- some
15 of the classes he takes and enjoys. That he knows the
16 difference between a lie and truth and that he
17 understands that there are consequences for not
18 telling the truth. I find that he does have the
19 capacity and has the moral and legal accountability to
20 understand what he's doing and to answer the
21 questions. So he is qualified to testify.

22 So we'll take a short break just for about ten
23 minutes and let Mr. **C.M.** get a drink of water and
24 then we will be back in here and hear his testimony
25 many.

1 (WHEREUPON, court had a short recess.)

2 THE COURT: All right, the State ready?

3 MR. HUNTER: Yes, sir. The State calls C.M.

4

5 THE COURT: Hold on. Defense ready?

6 MS. ZMROCZEK: Yes, Your Honor.

7 THE COURT: All right. Let's bring the jury in.

8 (WHEREUPON, the jury enters the courtroom.)

9 THE COURT: You all must had a fight and you lost
10 and you had to end up in the chair.

11 All right. State call your next witness.

12 MR. HUNTER: The State calls C.M.

13 C.M., called as a witness, having been
14 duly sworn by The Clerk, was examined and testified as
15 follows:

16 THE COURT: All right, solicitor.

17 MR. HUNTER: Thank you.

18 DIRECT EXAMINATION

19 BY MR. HUNTER:

20 Q Good afternoon C.M., how are you doing?

21 A Good.

22 Q I am going to ask to you speak into the microphone so
23 these people can hear you.

24 A Okay.

25 Q All right. How old are you?

- 1 A Ten.
- 2 Q Where are you from?
- 3 A Rock Hill Hospital.
- 4 Q From Rock Hill Hospital. Where do you live now?
- 5 A Castlewood.
- 6 Q And where is Castlewood? What town?
- 7 A It's in Winnsboro.
- 8 Q Who do you live there with?
- 9 A My momma.
- 10 Q Anybody else?
- 11 A My little brother.
- 12 Q What's his name?
- 13 A O.M.
- 14 Q How old is he?
- 15 A He's seven.
- 16 Q Okay. Do you go to school?
- 17 A Yes, sir.
- 18 Q Where did you go to school at?
- 19 A [REDACTED]
- 20 Q What grade are you in?
- 21 A Fifth.
- 22 Q Who is your teacher?
- 23 A Miss Robertson.
- 24 Q Do you like school?
- 25 A (Nods in the affirmative.)

1 Q Do you know why we are here today?

2 A No, sir.

3 Q Are we here today to talk about when you momma got
4 shot?

5 A Yes, sir.

6 Q Do you remember when she got shot?

7 A Yeah, I guess so.

8 Q Do you remember was it day or night?

9 A Like it was in the am.

10 Q Like dark time?

11 THE COURT: All right C.M. you need to answer
12 and say yes or no just because this lady takes down
13 everything that you and me say so you need to answer
14 yes or no and not just shake your head. Do you
15 understand that.

16 THE WITNESS: Yes, sir.

17 THE COURT: Good job.

18 Q Was it -- do you remember if it was summertime or
19 wintertime.

20 A It was summertime.

21 Q Hot outside?

22 A Yeah.

23 Q What do you remember about that night?

24 A I remember that when I woke up they was in the living
25 room.

1 Q Who is they?

2 A My momma and Larry.

3 Q And Larry. Was he living there with you all?

4 A Yes.

5 Q All right. Go ahead you woke up and they were living
6 room. What else?

7 A They were in the living room arguing.

8 Q Where was your brother?

9 A He was right beside me.

10 Q Did he wake up too?

11 A Yes.

12 Q Okay. What happened then after you all work up?

13 A My momma told me to go in the room get all our clothes
14 from the basket.

15 Q What were you all getting ready to go?

16 A Get ready to walk out the door.

17 Q Okay. Was Larry going to come with you all?

18 A I didn't know.

19 Q So did you all go out the door?

20 A Yeah. Well, he was blocking the door.

21 Q So, he wouldn't let you all leave?

22 A Yes, sir.

23 Q How did you all get out of the house?

24 A Like when I was getting my clothes he was running back
25 in the room to get the gun.

1 Q Did you see the gun?

2 A No.

3 Q You didn't see it right then?

4 A I didn't see it right then.

5 Q Okay. So when he ran back to get the gun what did you
6 all do?

7 A "O" and mom they ran out the door first.

8 Q Is "O" that's O.M.?

9 A Yes.

10 Q And you ran behind them?

11 A No, I was like a few steps -7 I was still in the house.
12 Like I ran past Larry, because the clothes were heavy. I
13 dropped the clothes right in front of the door.

14 Q Okay.

15 A And then I took off running to the car.

16 Q You just left the clothes?

17 A (Nods in the affirmative.)

18 Q Were you scared?

19 A No.

20 Q When you got in the car where did you sit?

21 A I sit right behind Larry.

22 Q Behind Larry. Okay. Where was he sitting?

23 A In the passenger seat.

24 Q Where was your brother sitting?

25 A He was sitting right behind my momma in the driver's

1 seat.

2 Q So was he sitting next to you?

3 A Yes.

4 Q So you and your brother with in the back seat?

5 A Yes.

6 Q Okay. Was your mom in the driver's seat?

7 A Yes.

8 Q When Larry got in the car what door did he get in?

9 A In the passenger side.

10 Q In the front or the back?

11 A He got through the back where my brother was sitting
12 and climbed and then got in the front.

13 Q Okay. So he got in the back. Did he climb over you
14 all to get to the front?

15 A No, the thing that's right in the middle, he climbed
16 over that to get in the front seat.

17 Q Okay. What happened when he got in the front seat?

18 A They was talking.

19 Q Okay. Did you see a gun then?

20 A Yeah.

21 Q Where was Larry holding the gun?

22 A I think first -- I think he was holding to her head I
23 think.

24 Q So you saw Larry point the gun at her head?

25 A Yes.

1 Q Did you all sit in the car for a while or did you drive
2 off?

3 A We drove.

4 Q Okay. Where did you all go?

5 A We drove like Sonic and then auto parts is right there.
6 He got out the car. He said he was going to get out of the car.
7 So he got out of the car. He turn back around and shot back in
8 the car and shot her in the face.

9 Q Did you see that?

10 A Yeah.

11 Q Did you see the gun pointed at your momma?

12 A Yes.

13 Q Did you see it go off?

14 A Yes.

15 Q Okay, and where was Larry standing when he shot?

16 A Like he was outside the car.

17 Q Was he far away from the car or was he right next to
18 the car?

19 A Right next to the car.

20 Q Okay. Was the gun still in the car or did he have it
21 -- when he was standing was he standing with the gun in the car
22 but his body out of the car?

23 A Yeah.

24 Q Okay. Did you see what happened after your momma got
25 shot?

1 A Yeah. I said, did you get shot? I thought he missed
2 for a minute but then I just heard a noise from her and then I
3 just saw blood everywhere.

4 Q Did you see where Larry went?

5 A No.

6 Q Were you watching your momma?

7 A Yes.

8 Q What did you all do then after your momma got shot?

9 A She drove to the hospital.

10 Q She was awake?

11 A Yes.

12 Q Did it take you all long to get to the hospital?

13 A No, she was like the hospital is just right there.

14 Q When you got to the hospital did you talk to anybody?

15 A Yes.

16 Q Okay. Who did you talk to at the hospital do you
17 remember? Was it an officer?

18 A Yes.

19 Q Did you tell the officer what happened?

20 A Yes.

21 Q Give me just a minute ■ C.M. ■ all right.

22 MR. HUNTER: I don't have anything further. Thank
23 you ■ C.M. ■

24 THE COURT: Miss Zmroczek.

25 MS. ZMROCZEK: Thank you.

1 CROSS EXAMINATION

2 BY MS. ZMROCZEK:

3 Q Hey C.M.

4 A Hey.

5 Q We haven't met before have we?

6 A No.

7 Q Okay. Is it okay if I ask you an a few questions?

8 A Yes.

9 Q How tall are you?

10 A I think four foot eight.

11 Q Four foot eight. Have you grown a little bit since
12 last year?

13 A I guess.

14 Q How tall do you think you were last year?

15 A I don't know.

16 Q You don't remember. Okay, I just want to ask you just
17 a couple of questions. Okay. You remember talking to the
18 officer at the hospital?

19 A Yes.

20 Q And that happened pretty soon after you got to the
21 hospital?

22 A Yes, it was like three or four minutes.

23 Q Okay. And he asked you a bunch of questions, right?

24 A Not too much.

25 Q Not too many. Do you remember him showing you his gun?

1 Asking you to describe what the other gun looked like?

2 A Like the gun that was in the -- the one he shot.

3 Q Well, yeah, that gun?

4 A Yeah, he told me what kind of gun it was cause I didn't
5 know.

6 Q So he, the police officer showed you his gun, right?

7 A No, he didn't. No.

8 Q Oh. But did he -- did you tell him it wasn't like his
9 gun?

10 A Yeah, I said it wasn't like his gun.

11 Q What did you tell him was different about it?

12 A Like it was a little smaller.

13 Q Do you remember saying it had a round thing?

14 A Yeah, it was round.

15 Q Around. It wasn't like a straight gun it had a round
16 part about it, right?

17 A Yeah.

18 Q That's what you told him right?

19 A (Nods in the affirmative.)

20 Q That's what you remember seeing?

21 A Yes.

22 Q Okay. And you told him that Larry was trying to get
23 out of the car, right?

24 A Yeah.

25 Q He wanted to get out of the car, right?

1 A Yes.

2 Q He kept telling your mom that he wanted to get out of
3 the car?

4 A Yes.

5 Q You were talking real quiet so I couldn't hear you.
6 Did you say that -- did you say how loud it was or did you?

7 A No, it wasn't that loud.

8 Q Not that loud. Okay. And you said that you all drove
9 straight to the hospital?

10 A Straight to the hospital.

11 Q Okay. And after the hospital you remember going to the
12 police station?

13 A Yes.

14 Q And did somebody else talk to you then?

15 A Yes.

16 Q Did they write a statement for you?

17 A Yes.

18 Q Okay. And did they ask you to make sure you told
19 everything you could remember, right?

20 A Yes.

21 Q Okay. And you did that, right?

22 A Yes.

23 Q And they read it back to you to make sure you didn't
24 forget anything?

25 A No, they didn't read it back to me.

1 Q They didn't read it back to you?

2 A No.

3 Q But they wrote down what you said?

4 A Yes.

5 Q And a you saw them doing that, right?

6 A Yes.

7 Q And you told them that the window was down in the car,
8 right?

9 A Yes.

10 Q Okay.

11 MS. ZMROCZDK: That's all questions I have for you.

12 Thanks for talking to me.

13 THE WITNESS: Your welcome.

14 THE COURT: Mr. Hunter, any redirect?

15 MR. HUNTER: Very briefly.

16 REDIRECT EXAMINATION

17 BY MR. HUNTER:

18 Q All right. ■ C.M. ■ the gun that Larry had, was it a
19 big long gun or was it a gun you hold in your hand?

20 A It was a gun you hold in your hand.

21 Q Do you know a lot about guns?

22 A No.

23 Q Do you remember if Larry said anything else?

24 A After?

25 Q Any time that night. Anything Larry said do you

1 remember anything?

2 A No.

3 Q You don't remember him saying anything to your momma?

4 A No.

5 Q Anything while were you all in the car?

6 A Yeah. The only thing he said was just let me out of
7 the car.

8 Q Okay.

9

10 MR. HUNTER: Nothing further.

11 THE COURT: All right. Thank you. Any recross?

12 MS. ZMROCZEK: Nothing.

13 THE COURT: I think Mr. C.M. you can step down.
14 Thank you for being here.

15 All right. Solicitor, call your next witness.

16 MR. HUNTER: The State would call Javonya Key.

17 JAVONYA KEY, called as a witness, having been duly
18 sworn by the clerk, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. HUNTER:

22 Q Miss Key, will you state where you work?

23 A Where I work. I am former crime scene agent for the
24 State Law Enforcement Division or SLED.

25 Q Okay. Where are you currently working?

1 A I am currently at the Department of Health and
2 Environmental Control.

3 Q What do you do there?

4 A I'm an investigator.

5 Q What were your duties at SLED?

6 A My duties at SLED are part of the crime scene
7 department. Processing crime scene evidence at the request of
8 the agency.

9 Q Okay. How long did you work for SLED?

10 A I worked for SLED a total of three, almost four years.
11 Particularly in crime scene almost two years.

12 Q And in that two years approximately how many crimes
13 scenes did you process?

14 A Probably more than 50. Up to 60 crime scenes.

15 Q Would that have been as the primary agent or as just
16 total?

17 A That would be total.

18 Q Okay. What kind of -- what is your educational
19 background?

20 A My educational background, I have a bachelors in
21 biology, a minor in psychology and certifications in crime scene
22 investigations and death investigations.

23 Q And what kind of training did you go through to become
24 a SLED agent?

25 A To become a SLED agent of course you have to be

1 certified with the criminal justice academy to be a class one
2 ranges enforcement officer. And crime scene training it ranges
3 from six months up to a year.

4 My training was less than a year of training and that
5 consists of a lot of reading. Specifically in specific areas
6 like foot wear, tire tread, DNA, latent print evidence. How to
7 process that evidence. And you also go out on crime scenes so
8 there's on the job training as well and you are going out as a
9 secondary with the primary agent and after that you go through a
10 mock training and the mock training would be a like a mock crime
11 scene that I would process as primary agent and when I process
12 that I would get feedback on how I did, how I processed the
13 scene and then I would do a mock trial and than after that I
14 would be deemed competent in processing a crime scene on my own
15 as primary.

16 Q Did you also go through any type of continuing
17 education throughout your work there?

18 A Yes. That was a requirement of continuing education.
19 We would do annual training or whatever training were available.
20 I did training with the Newberry Pathology Associates with death
21 investigations, fire investigation, photograph photography and
22 any refresher training that will become available.

23 Q Okay.

24 MR. HUNTER: Your Honor -- Your Honor, at this time
25 I would offer special agent -- former special agent

1 Key as an expert in crime scene investigation
2 technique.

3 THE COURT: Miss Zmroczek.

4 MS. ZMROCZEK: May I voir dire Your Honor?

5 THE COURT: Yes.

6 MS. ZMROCZEK: Thank you.

7 THE COURT: Let her ask some questions.

8 Q Miss Key, you said that you graduated with a degree but
9 then did a lot of in-house training?

10 A I'm sorry.

11 Q You got a lot of training in crime scene
12 investigations?

13 A Yes, ma'am.

14 Q Okay. And how many hours would you say?

15 A Off the top of my head, in-house training?

16 Q Or just training in crime scene and investigations?

17 A If I had to put a number on it was more than 200 hours.
18 I can't exactly give you a specific number.

19 Q And that included how to process and evaluate all kinds
20 of crime scenes?

21 A Correct.

22 Q Okay. And have you been qualified before as an expert?

23 A This is my first time.

24 Q This would be your first time. Did you have any peer
25 -- you said you had some peer review training or peer review?

1 A The mock training?

2 Q Right.

3 A Mock -- that would be peer review. That also would be
4 by the lieutenant, the major of the crime scene department, yes.

5 MS. ZMROCZEK: Your Honor, I have no further voir
6 dire. We don't object.

7 THE COURT: All right. Thank you. I find that
8 she has been properly qualified as expert.

9 Ladies and gentlemen of the jury, normally a person
10 can not give an opinion testimony, normally when they
11 testify they must testify as to what they either saw,
12 heard or sense by smell or something of that nature.
13 However there is exception. When someone is qualified
14 because of education or experience they are permitted
15 to give their opinion in certain areas if the Court
16 qualifies them that way. This witness will be
17 qualified in the area of crime scene investigation.
18 To give opinion testimony in that area does not mean
19 that you must accept the opinion, but it is evidence
20 for you to use in any way you see fit and give the
21 weight and credibility you believe is appropriate.
22 Thank you.

23 Mr. Hunter.

24 DIRECT EXAMINATION

25 CONT'D BY MR. HUNTER:

1 Q Special Agent Key were you working for SLED last year
2 July 27th?

3 A Yes, I was.

4 Q Okay. Did you respond to Winnsboro?

5 A I did.

6 Q What did you respond to Winnsboro in response to?

7 A At the request of the Winnsboro Department of Public
8 Safety I responded to process a vehicle that was involved in a
9 suspected attempted murder.

10 Q When you got to Winnsboro to your knowledge had anyone
11 been in the vehicle from the Winnsboro Department of Public
12 safety?

13 A No, to my knowledge it was locked into the fire bay
14 area of the department.

15 Q Okay, that was my next question. So when you responded
16 to Winnsboro was the vehicle it was no longer at the hospital?

17 A No, it was no longer at the hospital. It was at the
18 fire bay area.

19 Q And where is that?

20 A With Winnsboro Public Safety.

21 Q Okay.

22 A Where their a fire station is.

23 Q Is that right back here behind the courthouse?

24 A Yes.

25 Q Did you respond with anyone else from SLED?

1 A Yes. I responded with another special agent, Denazar
2 (Phonetics) and he was in training at the time.

3 Q Okay. What type of car did you process?

4 A I processed a white Dodge Journey.

5 Q Were you able to determine the owner of the vehicle?

6 A Based on the registration information in the vehicle
7 Ashley Mickle.

8 Q Okay. Now as part of -- will you explain to the jury
9 what it means to inventory a vehicle?

10 A Inventory a vehicle, basically what you do you would
11 break the vehicle into quadrants. We make a "T" of the vehicle.
12 And you will start -- say if I started in the passenger side. I
13 start from the passenger side. I do an overall photograph of
14 the vehicle and I take a photograph as to how things are
15 situated in the vehicle and as I move items out of the vehicle
16 and I photograph those items and document it down in my crime
17 scene notes.

18 Q And did you do that in this case?

19 A Yes, that was done in this case.

20 Q Okay. Did you and Agent Denzard was it?

21 A Denazar.

22 Q Did you all take pictures the vehicle?

23 A Yes, pictures were taken of the vehicle.

24 Q And did you all inventory items that were found in the
25 vehicle?

1 A Yes, items were inventoried.

2 Q At this time I am going to show you what has previously
3 been marked as State's Exhibits six through thirty-nine and if
4 you could just look through those.

5 Do those images appear to be photographs taken by you and
6 Denazar of the vehicle?

7 A That's correct.

8 MR. HUNTER: At this time I would move State's
9 Exhibit six through thirty-nine into evidence.

10 MS. ZMROCZEK: Without objection.

11 THE COURT: State's Exhibit six through
12 thirty-nine are entered into evidence without
13 objection.

14 (State's Exhibit 6-39, photographs, were
15 received in evidence as of this date.)

16 MR. HUNTER: At this time I would like to publish
17 them to the jury.

18 THE COURT: All right.

19 Q Okay. Agent Key, I am going to ask you to go through
20 these photographs and tell them what we are looking at. I am
21 showing you what has been admitted as State's Exhibit Six. What
22 are we looking at in this image?

23 A You are looking at a suspected bullet defect on the
24 door and that would be like a bulging defect. Say for example
25 if have a balloon and you stick your figure in the balloon but

1 you don't pierce it. It bulges through the balloon. That's
2 what you would see there, a bulging defect.

3 Q And I will show you what has been admitted as State's
4 Exhibit Seven. What are we looking at in this picture.

5 A That is more close-up of that bulging defect that was
6 in the previous photograph.

7 Q Okay, and so that would be from a bullet firing from
8 the other side of the door and coming through this way?

9 A Yes, but not completely penetrating the door.

10 Q All right. I am going to move on to what has been
11 admitted as State's Exhibit Eight. And what are we looking at
12 here?

13 A This is just showing you another reference point of the
14 vehicle, and in reference to the rear driver's side door.

15 Q And I'll now show you what has been admitted as State's
16 Exhibit Nine. What are we looking at here?

17 A That is just another angle the vehicle from the
18 passenger side.

19 Q Okay. Now move on to State's Exhibit Ten that has been
20 previously admitted. What is that a picture of?

21 A That is just another overall picture of the vehicle.
22 Say for example as Special Agent Denazar was going around the
23 vehicle he was photographing each angle of the vehicle.

24 Q And what part of the car was that?

25 A That appears to be the driver's passenger. I am sorry.

1 The passenger window. The front passenger window.

2 Q Okay. Now moving on to what has been admitted as
3 State's Exhibit 11. What are we looking at here?

4 A That is showing you the interior of the front passenger
5 side.

6 Q And again the bulging on the front driver's door would
7 that have been -- if were you standing here looking it he door
8 way would that have been approximately straight across, more or
9 less?

10 A More or less straight across. It would have been from
11 the direction from right to left.

12 Q Now I am going to show you what has been previously
13 been admitted as State's Exhibit 12. What are we looking at
14 here?

15 A That is the floor board of the front passenger side
16 showing a purse and toy truck and blue cap.

17 Q Okay. Now, going on what has been admitted as State's
18 Exhibit 13. What are we looking at here?

19 A Is showing you if you are standing in the front
20 passenger doorway it would show you the seat of the passenger
21 and that's cartridge case that's on the front passenger seat and
22 is shows you suspected blood that is on the driver's side of the
23 car. And that is prior to moving any items.

24 Q Okay. So this is the car as it was it was preserved?

25 A Yes.

1 Q Now I move on to State's exhibit 14. What are we look
2 at here?

3 A That is more of a close up or maybe he changed the
4 angle of the camera to show you more of the driver's side door.

5 Q Okay. Now move on to what has been admitted as State's
6 Exhibit 15. And again what are we looking at here?

7 A You are looking at the front passenger seat showing a
8 cartridge case.

9 Q Okay, and again that's where -- when the police took
10 control of the vehicle that's where the cartridge case was?

11 A That is correct.

12 Q Now I move on to what has been admitted as State's
13 Exhibit 16. What is this an image from?

14 A That is a close up of a cartridge case on that front
15 passenger seat.

16 Q Okay. Moving on to State's Exhibit 17. What are we
17 looking at here?

18 A That is showing you the head stamp that is on the
19 cartridge case.

20 Q Okay. What is is this dimple indicate?

21 A I'm sorry.

22 Q What does this dimple indicate?

23 A The dimple indicates based on what I've learned from
24 firearms it's is when the fire pin hits the end and it projects
25 the bullet forward.

1 Q Now I move to State's Exhibit 18. What are we looking
2 at here?

3 A That right there that is a defect.

4 Q By "that right there", you are speaking of this area
5 right here? (Indicating)

6 A Yes, I'm sorry. That small defect there above the
7 visor. That's a defect. It could be a possible ricochet
8 defect. It's is defect that was observed in the vehicle.

9 Q So that could be a ricochet from the bullet -- excuse
10 me from the spent cartridge existing the gun.

11 A It's a possibility.

12 Q Now, moving to what has been marked as State's Exhibit
13 19. What is this?

14 A That's a more close-up of that defect that we just
15 viewed in the previously picture.

16 Q Okay. Now I will move to State's Exhibit 20. What are
17 really we looking at here?

18 A That is showing you a view from the front area of the
19 vehicle to the back seat area of the vehicle as if you were
20 sitting more so in the front passenger seat.

21 Q Okay. Now moving on to what has been admitted as
22 State's Exhibit 21. What are we looking at here?

23 A You are looking at the driver's side door and that is
24 suspected blood there and that defect that you can see.

25 Q This right here (indicating)?

1 A Yes, that right there that would be an entry defect.

2 Q You know what that is right here?

3 A Right there I probably have to see a close up but it
4 appears to be -- because there were also suspected teeth that
5 were on the door as well.

6 Q Now moving on to what has been admitted as State's
7 Exhibit 22. What is this an image of?

8 A That is image of the back seat of the vehicle.

9 Q And moving on to State's Exhibit 23. What are we
10 looking at here?

11 A That is an image showing you as you are were sitting in
12 the rear of the vehicle, the back seat of the vehicle, that will
13 show you how it would look from that angle. From that
14 perceptive.

15 Q Now moving on to State's Exhibit 24. What are we
16 looking at here?

17 A Again, you are looking at the driver's side door with
18 suspected blood coming down. So it's a like a smear of blood.

19 Q Moving on to State's Exhibit 25. What is this?

20 A That is again the driver's side door and that would be
21 an entry defect from the bullet.

22 Q And that's the same defect?

23 A Yes, it is the same defect that we viewed.

24 Q Moving on to State's Exhibit 26. What are we looking
25 at here?

1 A There on the driver's side seat that is suspected teeth
2 fragments.

3 Q Did you collect those?

4 A Those were collected.

5 Q Okay. Moving on to State's Exhibit Number 27. What
6 does this image depict?

7 A That is an imagine of the defect on the driver's door
8 being scaled.

9 Q And explain that?

10 A It gives you a perceptive of the size of the defect
11 based on -- it's a ruler. It is sticker ruler and you would
12 mark it and that is marker A-1. It was marked corresponding to
13 the other bulging defect on the door and that was marker A.

14 Q Now moving on to what has been marked as State's
15 Exhibit 28. Is this just a close-up?

16 A That is a close-up, yes.

17 Q Moving on to State's Exhibit 29. What are we looking
18 at there?

19 A You are looking at the cup holders in the front
20 compartment of the vehicle and there is a few change and there
21 is a cartridge that's in the left side cup holder.

22 Q Moving on to State's Exhibit 30?

23 A And that is showing the imagine of the cartridge that
24 was collected from.

25 Q Okay, now was that cartridge fired?

1 A No, that was unfired.

2 Q And this was collected a well?

3 A That was collected.

4 Q And sent to SLED for processing?

5 A Correct.

6 Q And moving on to State's Exhibit 31. What are we
7 looking at there?

8 A That is documents that was discovered in the vehicle
9 bearing the name Larry Cornish.

10 Q What address is indicated on that?

11 A [REDACTED] Castlewood Drive, Apartment [REDACTED].

12 Q Moving on to State's Exhibit 32. Let me ask you, all
13 of these items were inside the vehicle?

14 A Inside of the vehicle, yes, and some of those items
15 were inventoried from the person as well.

16 Q And what is this that we are looking at?

17 A I would have to see a close up.

18 MR. HUNTER: If the witness would like to move
19 closer if it's okay with the court.

20 THE COURT: If you want to step down. If you want
21 her to step down, she has the Court's permission.

22 Q If you would be willing to step down and tell us what
23 we are looking at.

24 A This looks like it's from the magistrate court. The
25 victim having an eviction.

1 MS. ZMROCZEK: Objection Your Honor.

2 THE COURT: She can testify what it appears the
3 document is. Not necessarily the contents.

4 Q What does the document appear to be?

5 A An eviction notice perhaps from the courts.

6 Q Okay. Thank you. Moving on to State's Exhibit 33.
7 What are we looking at here?

8 A That is the panel of the driver door that was taken
9 away and it shows the defect of the bullet when it entered
10 inside the door.

11 Q So in other words on the other side of all this black
12 plastic is that where that window switches and the leather and
13 all that kind of stuff is?

14 A That's correct.

15 Q So this is looking at it from behind. Moving on to
16 Exhibit 35. What is this?

17 A That showing you another defect from the inside portion
18 of the door.

19 Q Okay. And is that a defect from the bullet penetrating
20 the door?

21 A That's correct.

22 Q Moving on to Exhibit 35. What are we looking at here?

23 A You are looking at the bullet fragment that was
24 collected from the interior of the door and that would be that
25 copper piece.

1 (WHEREUPON, Mr. Hunter points.)

2 A Yes, that is correct.

3 Q And that was collected from inside the door?

4 A Yes.

5 Q Moving on to Exhibit 36? Is that the same?

6 A That is the same.

7 Q And it was sent to SLED?

8 A It was.

9 Q Moving on to Exhibit 37. What are we looking at here?

10 A That is showing you as we are removing the paneling,
11 all the inner works of the door as we are removing it from the
12 door.

13 Q And why did would you all do that?

14 A Because we were attempting to locate the complete
15 bullet inside the door.

16 Q All right. That brings me to what has been previously
17 admitted as State's Exhibit 38. What are we looking at here?

18 A That would be the bullet that we collected.

19 Q Moving on to State's Exhibit 39?

20 A And that's the bullet again. A picture of the bullet.

21 Q So that is from inside the door.

22 MR. HUNTER: Beg the Court's indulgence just a
23 moment.

24 Q Special Agent Key, I am going to -- these items need to
25 be marked.

1 MR. HUNTER: I apologize, Your Honor.

2 (State's Exhibit 45-49, marked for
3 identification as of this date.)

4 Q What has been mark as State's Exhibit 45 through 49 and
5 I would ask you to just look through those briefly and
6 familiarize yourself with them. Do you have a copy of your
7 report?

8 A Yes.

9 Q Now Special Agent Key, after familiarizing yourself
10 with these exhibits do they appear to be items of evidence that
11 you collected from the vehicle?

12 A Yes, accept the last one.

13 Q All right. Go one by one. I will hand you what has
14 been marked as State's Exhibit 46. Could you describe what is
15 contained within that exhibit?

16 A Okay. These would be the fired projectile fragment
17 that was collected from the door and the fire projectile of the
18 bullet that was collected from the door. So those two separate
19 pieces. And this was sent to firearms.

20 Q Now, I am going to hand you what has been previously
21 mark as State's Exhibit 45. And I will ask you if can you
22 identify that.

23 A This is the cartridge case that was collected from the
24 passenger side; the front passenger seat and the cartridge that
25 was collected from the left cup holder.

1 Q Now I am going to hand you what has been mark as
2 State's Exhibit Number 47 and ask you to identify that?

3 A These would be two sets of swabs that was collected
4 from the exterior front passenger door handle and the interior
5 front passenger door handle.

6 Q And finally I will hand you State's Exhibit Number 48
7 and ask you to identify that?

8 A These would be the collections of the teeth -- partial
9 teeth and teeth fragments that was collected from the vehicle.

10 Q Okay.

11 MR. HUNTER: Your Honor, at this time the State
12 would move to admit items 45, 46, 47 and 48 into
13 evidence.

14 MS. ZMROCZEK: Without objection.

15 THE COURT: State's Exhibit Number 45, 46, 47, 48 are
16 admitted into evidence without objection.

17 (State's Exhibits 45-48, are received into
18 evidence as of this date.)

19 Q Special Agent Key, to your knowledge did you send any
20 items of evidence to be tested for fingerprints.

21 A For latent prints?

22 Q Correct.

23 A That is correct.

24 Q Would you explain what latent prints is?

25 A Imagine that you touch a glass of a door and that is

1 print that's left on that would be a latent print because you
2 can see a bit of it but you can't see it completely if it on
3 glass or something like that your. Your fingerprints
4 essentially.

5 Q And to your knowledge were any latent prints found on
6 any of the items?

7 A No.

8 Q And did you send items to be tested for DNA?

9 A Yes.

10 Q What items did you send to be tested for DNA do you
11 recall?

12 A If I may refer to my crime scene notes. The cartridge
13 and cartridge case was sent for DNA.

14 Q And to your knowledge was any DNA found on those items?

15 A No.

16 Q Did you perform any other role in the investigation,
17 the shooting?

18 A No, I only processed the vehicle.

19 Q Were you just there for that one day?

20 A Yes.

21 Q Okay. And after you all processed the vehicle you went
22 back to SLED?

23 A Yes. The vehicle was turned back over to Winnsboro
24 Department of Public Safety and we returned back to SLED with
25 the evidence and submitted it to the forensic lab.

1 Q And have you had any other role since that day since in
2 the investigation?

3 A No, I did not.

4 Q Did you speak to any witnesses?

5 A No, I did not.

6 Q In your training with SLED were you trained gunshot
7 residue, analysis -- or not analysis, but detection?

8 A Yes, I do have training in gunshot residue detection.

9 Q Are you aware of the amount of time after which --

10 MS. ZMROCZEK: Your Honor. I think this might
11 fall outside her expertise.

12 MR. HUNTER: I think she can testify.

13 THE COURT: Overruled.

14 Q Are you aware of the timeframe, the window with which
15 it's possible to recover gunshot residue from an item?

16 A Greater than six hours.

17 Q So in other words after -- past six hours would you be
18 able to test any item for gunshot residue?

19 A It's suggested that we do not. So customarily we do
20 not test after six hours.

21 Q Okay, and that would be six hours after the weapon was
22 fired?

23 A Correct.

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

25 THE COURT: Miss Zmroczek.

1 MS. ZMROCZEK: Thank you.

2 CROSS EXAMINATION

3 BY MS. ZMROCZEK:

4 Q Good afternoon Miss Key. I want to talk to you a
5 little about crime scene because crime scenes are very valuable
6 pieces of information, right?

7 A Correct.

8 Q And your trained, you have been qualified as an expert
9 to help evaluate and interpret that information, correct?

10 A Correct.

11 Q And once of the things that SLED does is they are
12 available to law enforcement agencies across the state, correct?

13 A Correct.

14 Q And they ask you to come in and help them evaluate the
15 evidence, right?

16 A Correct.

17 Q Do you make the decision on what to test and what not
18 to test or do they make the decision?

19 A I -- we have a discussion after the evidence has been
20 collected based on what we have found from the crime scene and
21 we'll discuss what would be an advisement of what would be of
22 evidentiary value and what would not be.

23 Q And who did you discuss that with in this case?

24 A If it's okay to check my notes.

25 Q Absolutely.

1 A The final was conducted with Major Seibles. He's Chief
2 Seibles right now but Major Seibles.

3 Q And were there other Winnsboro Department of Public
4 Safety represents there?

5 A They were in and out but that conversation was made
6 with Major Seilbes.

7 Q So that was Major Seibles final determination?

8 A That was a discussion that we had, but if there are any
9 changes or anything, they could request any change that they
10 like.

11 Q Now SLED, they have a lot of services that they provide
12 forensically, correct?

13 A Correct.

14 Q Ballistics?

15 A Firearms, yes.

16 Q Firearms. DNA?

17 A Correct.

18 Q Fingerprints?

19 A Correct.

20 Q Blood splatters?

21 A We have -- in crime scene we have a special team, but
22 we have a person that is trained in crime scene to go out if
23 need be for blood splatter.

24 Q Bullet trajectory?

25 A Yes, it could be something that could be done.

1 Q Tell the jury what that is?

2 A Trajectory would show you essentially the angle of the
3 travel, the flight path. Say for an example if you refer back
4 to the vehicle. There was no exit would outside the vehicle but
5 if there were you could send a wooden trajectory rod to show you
6 the flight of travel of the bullet.

7 Q And was that done in this case?

8 A That was not done in this case.

9 Q Okay. And you were doing an arch like a flight travel.
10 Is that typically how bullets project?

11 A I can not respond on that.

12 Q You don't know that?

13 A No.

14 Q There was an area that you say was a suspected defect
15 by the visor?

16 A Correct.

17 Q And it could have been a ricochet you said?

18 A It's a possibility.

19 Q Okay. Could there have been testing done to help us
20 know if there was any ricochet?

21 A Based on the way it was angled it's not a piercing.
22 Like say for example a skip. No, nothing that I know of my
23 knowledge that could have been done.

24 Q Okay. We don't know with what that came from?

25 A No.

1 Q You said that they had secured the vehicle. It was in
2 the position and everything was untouched when you got there?

3 A As far as my knowledge the vehicle was locked. We were
4 given the keys and the vehicle was unlocked by crime scene.

5 Q Did you have to roll any of the windows up?

6 A No.

7 Q So all the windows were up?

8 A I would have to review my notes to see, but I can not
9 determine yes or no because I don't remember.

10 Q Okay. And you took -- or you all took four hundred --
11 over four hundred photographs?

12 A That's correct.

13 Q Photographs help us see something in the state that it
14 is in at that time, right?

15 A Correct.

16 Q Photographs -- you had some close-ups. Does that help
17 provide -- how do they teach you crime scene photography to take
18 pictures?

19 A We are taught to do an overall photograph and we would
20 do a mid-range photograph so we could come in closer and then we
21 would do a close-up and depending on that close-up you could do
22 different angles if you move the item. You do it in place and
23 then you would move the item.

24 Q And you can see things with close-up photography for
25 example like soot and stippling, right?

1 A No, that's not correct.

2 Q You couldn't see any soot or stippling in a photograph?

3 A In a photograph it depends on how close. You can see
4 soot but in this case I didn't see anything.

5 Q Okay. There are also tests that you can do as far as
6 taking measurements within the vehicle. We saw the little paper
7 ruler on the side of the door?

8 A Yes.

9 Q Could you have also taken measurements as far as seats
10 to help may be determine how someone was positioned in the
11 vehicle?

12 A Measurement of say a position of someone, not
13 necessarily. It would require a bit more. Not necessarily as
14 how we the vehicle. No.

15 Q You said it would require a bit more. What do you
16 mean?

17 A Say for example knowing the size of the victim, the
18 height of the victim, the height of the suspect. Those things
19 would have to come in to play.

20 Q Okay, and that would help determine trajectory and may
21 be help give some sort of forensic guidelines as to what
22 happened as well, right?

23 A It could.

24 Q Okay.

25 MS. ZMROCZEK: Your Honor, at this time I need to

1 mark some photographs.

2 THE COURT: All right.

3 (WHEREUPON, 1-11 photographs were marked for I.D.)

4 Q I am going to show you what has been marked for
5 identification as Defendant's one through eleven and ask you to
6 look at them and see if you recognize them.

7 A Okay.

8 Q Do you recognize those photographs?

9 A Yes, ma'am.

10 Q Are those photographs that were taken by you or your
11 team on that day?

12 A It appears to be.

13 MS. ZMROCZEK: Your Honor, at this time we would
14 move Defendant's one through eleven into evidence.

15 THE COURT: Any objection?

16 MR. HUNTER: No objection.

17 THE COURT: Defendant's Exhibit one through
18 eleven, are introduced into evidence without
19 objection.

20 (Defendant's Exhibit 1-11, photographs, received in
21 evidence as of this date.)

22 Q I don't have a fancy screen, so, I will stand over here
23 so that way everybody can see. I am showing Defendant's One.
24 Tell the jury what they are looking at here?

25 A That is showing you a close up of the Dodge emblem on

1 the front the vehicle.

2 Q And were there any exterior spots on the outside of the
3 vehicle?

4 A In that area, no. Just appears to be dirt or bugs.

5 Q Or bugs. It wasn't tested right?

6 A No.

7 Q And defense two, can you show the jury what area you
8 are talking about that problem was with the visor?

9 A I can not see it particularly in this picture but that
10 is just more of an overall area of the cup holder.

11 Q Okay.

12 A This is showing you the back seat of the vehicle from
13 the perceptive of the driver's side.

14 Q And what's here on the bottom?

15 A That's a grey towel.

16 Q Was that collected?

17 A That was not collected.

18 Q Who made that decision?

19 A That was a crime scene decision but that was not
20 collected.

21 Q Okay. All right. I am showing you Defendant's Five.
22 What door is that?

23 A That is your front passenger door.

24 Q Is the window up or down?

25 A From this photograph it's difficult to determine.

1 Q Showing you Defendant's Six?

2 A That is showing you the floor board, showing you
3 suspected blood and suspected teeth and bottle of alcohol.

4 Q A bottle of alcohol?

5 A Can. I'm sorry, a can.

6 Q And what seat was this?

7 A I have to refer to my notes.

8 Q Absolutely.

9 A That would be in perceptive of the driver's side that
10 would be on the floor board.

11 Q Underneath the driver's seat?

12 A Yes, that is correct.

13 Q And Defendant Seven.

14 A That is showing you a floor board with a plastic bag.

15 Q Driver's side?

16 A Yes, driver's side.

17 Q And was there -- did there appear to be blood on that
18 bag as well?

19 A Yes, there was suspected blood on the bag.

20 Q This is Defendant's Eight.

21 A Again, that was that towel and it's just stretched out.
22 That was on the floor board of the driver's side, passenger.

23 Q Does it appear to have any discoloration?

24 A There is some discoloration on it, yes.

25 Q Do we know what that is?

1 A We do not know.

2 Q Defendant's Nine?

3 A That is the exterior. It appears to be driver's door
4 handle with suspected blood on the outside.

5 Q Defendant's Ten?

6 A That is the rear of the vehicle, the rear window.

7 Q And then Defendants 11?

8 A That is showing you the driver's side door with that
9 bulging defect.

10 Q So with that bulging defect and taking the door apart,
11 it would have been possible to see the angle that the bullet was
12 traveling, is that correct?

13 A Not completely, no.

14 Q Okay.

15 A Because there are other items inside of the door that
16 the bullet could have come in contact with.

17 Q And that would have changed the path?

18 A It would have changed the path.

19 Q And is that something that is considered when you do
20 trajectory analysis?

21 A That is considered, yes.

22 Q I want to talk to you lastly about State's 47, or 45
23 through 48. I notice that these are in little evidence bags.
24 Tell the jury why that's important?

25 A You are saying the envelopes.

1 Q Yes.

2 A The envelopes are dry envelopes to preserve the
3 evidence so that you do have any -- lose any evidence. It
4 doesn't sweat in the bag as you are transporting it.

5 Q Okay. And I see that there is some writing on the
6 back?

7 A Correct.

8 Q And who does that writing?

9 A It could be either myself or the special agent there.

10 Q And do you recognize your initials on there?

11 A Yes, that is my initials.

12 Q And what's the date that you see on there?

13 A It is July the 27th of last year.

14 Q And does that indicate when you processed the vehicle?

15 A Correct.

16 Q Okay. And then why is there a different date on the --
17 what's the date on the front of the bag?

18 A On the front of the bag?

19 Q Yes?

20 A That is when we get back to the laboratory. We put all
21 of the evidence inside a heat-sealed envelope and we send it to
22 whatever department that we are going to do further testing on.

23 Q And then before you do that and send it off, do you 'log
24 it in?

25 A Yes, it's logged.

1 Q And what is that called?

2 A We call have System B or I-Lab.

3 Q Is that a way to track evidence?

4 A Yes, it's a way to track. It's a tracking device.

5 Q One of the things that you receive in your training is
6 how to catalog evidence, right?

7 A Correct.

8 Q Provide what we call a chain of custody?

9 A Correct.

10 Q Okay. And you did that in this case for all of your
11 evidence?

12 A Based on the I-Lab, yes, that's correct.

13 Q And then it goes to a different department. So we know
14 what hands are touching what evidence, right?

15 A Correct.

16 Q Miss Key, if it had been asked of you or someone at
17 SLED it would have been possible to determine how someone was
18 positioned in the vehicle, right?

19 A Not particularly asked of me but that would be
20 considered a crime scene reconstruction and that would be at the
21 request of the agency.

22 Q And that is something that SLED does too, right?

23 A Yes.

24 Q Crime scene reconstruction.

25 MS. ZMROCZEK: Beg the Court's indulgence. I have

1 nothing further. Thank you.

2 THE COURT: Any redirect?

3 MR. HUNTER: Briefly Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. HUNTER:

6 Q Crime scene reconstruction that SLED offers, is that
7 something that is commonly asked of SLED in investigations?

8 A In my time of crime scene, no, not to common.

9 Q I want to talk very briefly. Is it possible for a
10 bullet to change its trajectory when it hits something?

11 A Correct.

12 Q So say for example if a bullet that hits someone face
13 is it possible to change its trajectory after hitting that?

14 A Correct. Yes.

15 MR. HUNTER: No further questions.

16 THE COURT: Any recross?

17 MS. ZMROCZEK: No, Your Honor.

18 THE COURT: All right. Thank you. Agent Key, you
19 may step down.

20 Ladies and gentleman, this is an appropriate
21 time for us to take a break. Let's take about ten
22 minutes. Again, do not discuss any testimony that you
23 heard. Do not discuss the case while you are back in
24 your jury room.

25 Everyone remain seated while the jury is excused.

1 (WHEREUPON, the jury leaves the courtroom.)

2 THE COURT: Will the lawyers approach.

3 (WHEREUPON, there was an off the record
4 discussion.)

5 THE COURT: Let's take a ten minute break.

6 (WHEREUPON, there was a brief recess.)

7 THE COURT: State ready to proceed?

8 MR. HUNTER: Yes, Your Honor. Defense.

9 THE COURT: Bring the jury in.

10 (WHEREUPON, the jury enters the courtroom)

11 THE COURT: All right. Thank you ladies and
12 gentlemen. Mr. Hunter call your next witness.

13 MR. HUNTER: The State calls Baylee Reynolds.

14 BAYLEE REYNOLDS, called as a witness, having been
15 duly sworn by the clerk, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. HUNTER:

19 Q Good afternoon Miss Reynolds?

20 A Good afternoon.

21 Q How old are you?

22 A Eighteen.

23 Q Where do you live?

24 A [REDACTED] Cherry Road.

25 Q Okay. And where did you live on July 27th of last

1 year?

2 A [REDACTED] Maple Street.

3 Q Is that in Winnsboro?

4 A Yes, sir.

5 Q Okay. Who did you live there with?

6 A My mother and stepdad.

7 Q Okay. Were you home on the night of July 27, 2016?

8 A Yes, sir.

9 Q Okay. Who were you home with?

10 A The whole family was home; mom, stepbrother and brother
11 and sister.

12 Q Okay. Do you recall anything happening that night?

13 A When I got up to go to bed that night his car was
14 parked outside.

15 Q Okay, and when you say "his car" who are you talking
16 about?

17 A Larry.

18 Q Larry --

19 A I don't know his last name.

20 Q You don't know his last name?

21 A No.

22 Q What time approximately were you up?

23 A I can't tell you exactly what time but it was after
24 midnight.

25 Q Okay. Did something make you look out the window?

1 A When I was in the room, watching TV I had seen
2 headlights through the door and when I got to go to bed his car
3 was out there. Larry's car was out there.

4 Q And at that time -- how long after you saw the
5 headlights did you go to bed?

6 A Probably about an hour later.

7 Q And at that time when you went to bed did you look out
8 the window?

9 A Like 20, 30 minutes after I had actually laid down I
10 seen a second set of headlights pull up.

11 Q Did that cause you to get up?

12 A I looked out window, yes.

13 Q Okay. What did you see at that time?

14 A I'd seen Larry's car and then a silver car that I'd
15 never seen before pull behind his.

16 Q Do you know what kind of car it was?

17 A It was silver.

18 Q Big car? Little car?

19 A It was small.

20 Q Okay. What kind of car did Larry have?

21 A I can't tell you like the model or anything but it was
22 orange colored with chrome rims.

23 Q Okay. Big car? Little car?

24 A It's set up high because of the rims.

25 Q How did you know Larry?

1 A His cousin dated -- I mean, he dated my stepdad's
2 cousin.

3 Q And who is your stepdad's cousin?

4 A Ashley.

5 Q Ashley. Do you remember the last name?

6 A No.

7 Q Okay. So when you went to bed you had already seen
8 headlights through the window?

9 A Through the door, yes. Our front door because it had a
10 glass piece in the middle of it.

11 Q Okay, and at that time when you looked out the window
12 did you see Larry?

13 A No, it was just his car. There was nothing else was
14 out there.

15 Q Okay. Do you know how much later it was when you saw
16 the headlights again?

17 A It was about 20 or 30 minutes.

18 Q Okay. And what -- explain exactly what you saw when
19 you looked out the window?

20 A First time or second time?

21 Q The second time.

22 A The second time when I looked out the window I had seen
23 where the second car had pulled up or whatever and Larry and a
24 female had got out.

25 Q Okay. Did Larry go anywhere?

- 1 A He went around the side of my house.
- 2 Q Okay. For how long?
- 3 A About five minutes.
- 4 Q Okay. Did he come back?
- 5 A Yes, he did.
- 6 Q Okay. What happened when he came back?
- 7 A When he came back he got his keys from the female and
- 8 I'm lying. I'm lying. She couldn't get his door unlocked.
- 9 Like his car or whatever, I'm guessing is what it was. So he
- 10 done it for her and then she got in his car and he got in hers
- 11 and they both pulled off.
- 12 Q Okay.
- 13 A She pulled off first in his car.
- 14 Q Okay. So she drove his car and he drove her car?
- 15 A Yes.
- 16 Q And they left?
- 17 A Yes.
- 18 Q Okay. Did you see Larry again any time?
- 19 A No, sir.
- 20 Q Okay. Is that all you saw that night?
- 21 A Yes, sir.
- 22 Q Okay. Did you tell that to the police?
- 23 A Yes, sir.
- 24 Q Okay. Did you know who the girl was?
- 25 A No, sir.

1 Q Was she black or white?

2 A Black.

3 Q You said she was kind of heavy set?

4 A Yeah.

5 Q Okay.

6 MR. HUNTER: No further questions. Thank you.

7 THE WITNESS: All right. Thank you.

8 THE COURT: Hold on just a minute. Miss Zmroczek
9 any questions for this witness?

10 MS. ZMROCZEK: Yes, just briefly Your Honor.

11 CROSS EXAMINATION

12 BY MS. ZMROCZEK:

13 Q Miss Reynolds, help me with the timeframe?

14 A Okay.

15 Q So you lived at [REDACTED] Maple?

16 A Yes, ma'am.

17 Q And who was there?

18 A My mom, stepdad, my two brothers and my little sister.

19 Q And what time did everybody go to sleep?

20 A I know everybody was asleep before 12 but my youngest
21 little brother was still up with me.

22 Q And what time did you go to sleep?

23 A I honestly can not tell you.

24 Q And -- but before you went to sleep you saw the
25 headlights?

1 A Yes, ma'am.

2 Q And then 20 to 30 minutes you saw another set?

3 A Yeah, because the first set of headlights is what made
4 me get up.

5 Q Okay. And how did the police come to learn this
6 information?

7 A Well, the next morning I was just telling my mother how
8 Larry was outside of our house that late at night.

9 Q So you were telling your mother that Larry was --

10 A Yeah, what had went on that night with his car and the
11 second car and he was with a female.

12 Q Okay, and then what happened?

13 A Well after I told my mom, you know, I guess she knew
14 what had went on and the cops came and asked for my statement
15 and I gave it.

16 Q Okay. So who called the police?

17 A I'm guessing my mother did.

18 Q Okay. And you are related to Ashley?

19 A Through my stepdad, yes.

20 MS. ZMROCZEK: Thank you. I have no further
21 questions.

22 THE COURT: Anything further.

23 MR. HUNTER: No.

24 THE COURT: All right. Thank you. You may step
25 down Miss Reynolds.

1 MR. HUNTER: And we ask that Miss Reynolds be
2 released from her subpoena.

3 THE COURT: Any objection.

4 MS. ZMROCZEK: No objection.

5 THE COURT: She is free to leave. Call your next
6 witness.

7 MR. HUNTER: Your Honor, the State would call
8 Lashonda Jeter.

9 LASHONDA JETER, called as a witness, having been
10 duly sworn by the clerk, was examined and testified as
11 follows:

12 THE COURT: All right solicitor.

13 DIRECT EXAMINATION

14 BY MR. HUNTER:

15 Q Good afternoon Miss Jeter.

16 A Hello.

17 Q Where are you from?

18 A Winnsboro.

19 Q Speak up.

20 A Winnsboro.

21 Q Did you grow up here?

22 A Yes.

23 Q Did you know Larry Cornish?

24 A Yes.

25 Q How do know Larry Cornish?

1 A I met hem when he was working at McDonalds.

2 Q Approximately how long have you known Mr. Cornish?

3 A May be like six months.

4 Q Six months prior to this incident?

5 A Yes.

6 Q So you knew Mr. Cornish in July of last year?

7 A Yes.

8 Q Okay. Did you know Ashley Mickle?

9 A No.

10 Q Did you know who she was?

11 A No.

12 Q Do you remember the night of July 26th going into the
13 morning of the 27th of last year?

14 A Yes.

15 Q Okay, where were you that night?

16 A At the emergency room.

17 Q What were you there for?

18 A I was sick.

19 Q Okay. Did you see anything at the emergency room?

20 A When I was there when I was leaving out the emergency
21 room -- when I was being discharged I did see blood on the floor
22 and I saw the white Journey. It was like -- it wasn't really
23 parked but it was like parked on top of the sidewalk.

24 Q Okay, so you just happen to be at the emergency room.

25 Okay. What did you do when you left the emergency room?

1 A Larry gave me a call.

2 Q Let me ask you this. Do you know what time you left
3 the emergency room?

4 A It was around one a.m.

5 Q Okay.

6 A I don't know the exact time.

7 Q And you said Larry gave you a call?

8 A He gave me a call.

9 Q What did he say?

10 A He asked me could I come get him.

11 Q What did you say?

12 A I said yes.

13 Q Okay. Now, where did you go get him from?

14 A Maple Street.

15 Q Do you remember the exact address?

16 A No, it was at a house on Maple Street.

17 Q Okay. When you got to Maple Street where was Larry?

18 A I saw him coming from -- I don't know if he was in the
19 house but he was like walking around the house.

20 Q Okay, now when you got to Maple Street you saw Larry
21 what did you do then?

22 A He told me to get in his car and he drive my car. He
23 told me to follow him.

24 Q So you drove his car?

25 A Yes.

1 Q And he drove your car?

2 A Yes.

3 Q What kind of car do you have?

4 A A 2014 Chevy sonic.

5 Q Is that a big car or little car?

6 A A small car.

7 Q What color?

8 A Silver.

9 Q What kind of car did Larry have?

10 A An orange Crown Vic. It had rims on it.

11 Q You said it had rims on it?

12 A Yes.

13 Q Did Larry say why he wanted you all to switch cars?

14 A No, he was just like I need to hurry up. I got in some
15 trouble.

16 Q What did you all do?

17 A I took him to Columbia. Well, I drove his car to
18 Columbia and he was in front of me. I followed him. So I
19 followed him to Saint Andrews. It was some apartment on Saint
20 Andrews Road.

21 Q Okay.

22 A I followed him. He packed his car. He got in to my
23 car and we went back to Winnsboro.

24 Q Let's slow down a little bit. Where did you go in
25 Columbia?

1 A Some apartment on Saint Andrews Road.

2 Q Okay. And whose car did you leave there?

3 A He left his car and he got in to my car.

4 Q Okay. Did you drive your car back to Winnsboro or did
5 he drive your car to Winnsboro?

6 A I drove my car back to Winnsboro.

7 Q And he was in the passenger seat?

8 A Yeah.

9 Q Okay. And where did you all go when you all came back
10 from Winnsboro?

11 A We went to Castlewood, to Ashley's apartment.

12 Q And what did you all do there?

13 A I stayed in the car. He got out and he got his
14 clothes, his shoes, and some TV's.

15 Q Okay. Were they like hanging on the wall TV's or big
16 square TV's?

17 A Big square TV's.

18 Q And he put them in your car?

19 A Yes.

20 Q Okay. How long were you all at Castlewood?

21 A Maybe like 15, 20 minutes. Maybe less than that.

22 Q Did he say why he was doing all this at that point?

23 A No.

24 Q What did you all do when you all left Castlewood?

25 A We left Castlewood and I took him back to Columbia at

1 the apartments on Saint Andrews Road.

2 Q Was it same apartment complex?

3 A The same apartment, yes.

4 Q What did he do there?

5 A He unload the items that he put in my car and he put
6 them in a house by the side of the apartment.

7 Q At that point did you leave?

8 A Yes, I left after he unloaded stuff out of my car.

9 Q Now before you left did he say anything?

10 A He said if I said anything then he was going to get me
11 next.

12 Q Get you next. What did you take that to mean?

13 A You say what? Can you repeat that?

14 Q What did you take that to mean? How did you understand
15 that statement?

16 A A threat.

17 Q Okay. Did you ever see Larry with a gun?

18 A No, I didn't see no weapon.

19 Q Okay. But he threatened you?

20 A Yes.

21 Q Now, initially did you -- did the police come to talk
22 to you?

23 A Yes, that's when I was working at the Shell station.

24 Q Is that Pops down here across from Wilsons?

25 A Yes.

1 Q Who came from the sheriff's office and talked to you
2 there, do you remember?

3 A It was Squirewell and I am not sure of the other.

4 Q Okay. Now, when -- how long after that night was it
5 that you talked to them?

6 A I talked to them I think the next day when they came to
7 my job. I think it was like the day after or the next day.

8 Q Okay. Now when you talked to them initially did you
9 tell them the same thing that you just told now?

10 A No, I lied because I was scared.

11 Q Okay. Who were you scared of?

12 A I was just scared. I told them that I took him to
13 McDonalds.

14 Q What exactly did you tell them initially?

15 A I told Squirewell that I took him to McDonalds on Two
16 Notch Road and I dropped him off and then I left. But then when
17 I talked to my sister she told me to tell the truth because, you
18 know, they probably can go back in and roll the cameras back and
19 see my car. So eventually I went up to the police station and I
20 talked to an officer and that's when I told them the truth about
21 what happened.

22 Q How long was it between the first statement you gave
23 and the second statement?

24 A I really can't remember.

25 Q A day, two days, a week?

1 A It wasn't even a week, no.

2 Q So just a few days?

3 A A few days after.

4 Q Okay, and that second statement, what you told them is
5 that what you told today?

6 A Yes.

7 Q When you said you were scared were you scared of Larry?

8 A I mean kind of, yes.

9 Q Okay, did you take his statement -- did he say
10 anything about shooting Ashley?

11 A No, he didn't. He just said he had got into some
12 trouble. Well -- I am sorry. He said he did shoot her because
13 she threatened him is what I was told.

14 Q But he said he shot her?

15 A Yes.

16 Q And he said he would shoot you too?

17 A Yes.

18 Q When you said that you took him to McDonalds in your
19 initial statement who were you talking about?

20 A I was talking about Larry. That I took Larry to
21 McDonalds but that was a lie. I never did take him to
22 McDonalds.

23 Q Okay, you only took him to Saint Andrews?

24 A Saint Andrews and to Castlewood.

25 Q Okay. Is the man you took to Columbia in the courtroom

1 today?

2 A Yes.

3 Q Okay. Where is he seated?

4 A (Pointing)

5 Q Please let the record reflect that Miss Jeter has
6 pointed to Larry Cornish. No further questions.

7 THE COURT: Thank you. Yes. Miss Zmroczek.

8 MS. ZMROCZEK: Thank you.

9 CROSS EXAMINATION

10 BY MS. ZMROCZEK:

11 Q Miss Jeter.

12 A Yes.

13 Q I want to make sure that I heard you correctly and that
14 these jurors heard you correctly. Never seen or talked to Larry
15 again, is that what you said?

16 A Yes.

17 Q That's what you said right there on that stand?

18 A Uh-huh.

19 Q Miss Jeter, you know that's not true, right?

20 A It is. You contacted me yourself.

21 Q Okay. Miss Jeter, you actually went to go visit Mr.
22 Cornish in Charleston county Detention Center, didn't you?

23 A Yes I did.

24 Q You went to go visit him in Charleston County Detention
25 Center?

1 A Yes.

2 Q Okay. So you have seen or talked to him since then?

3 A I did.

4 Q Okay. You didn't just go one time, right?

5 A I didn't.

6 Q You went 16 times, is that right?

7 A I know I went but I didn't calculate how many times I
8 actually went and saw him.

9 Q Okay, and every time you go they take your ID.

10 A Uh-huh.

11 Q And they type in your information?

12 A Uh-huh.

13 Q And then they also video?

14 A Uh-huh.

15 Q Okay. What was your phone number?

16 A [REDACTED]-5827.

17 Q I am sorry, seven --

18 A [REDACTED]-5827.

19 Q And who was your provider?

20 A Straight talk.

21 Q Okay. In addition to going to see Mr. Cornish you also
22 talked to him on the telephone, right?

23 A Yes.

24 Q How many times would you guess?

25 A I don't know. You said I visited him 16 times so I

1 guess throughout the times that I visited him.

2 Q Through out those times. Would it surprise you to know
3 it was over fifty times?

4 A No.

5 Q That wouldn't surprise?

6 A Uh-uh.

7 Q That you were talking on the phone with him over fifty
8 times?

9 A No.

10 Q Okay. And you also sent him pictures?

11 A Uh-huh.

12 Q Of you?

13 A Yes.

14 Q Tell the jury what kind of pictures those were?

15 A He asked me to sent him pictures of me and I didn't
16 know what kind of picture it was. I sent him a picture of me in
17 a black birthday dress with a crown and it was me with my bra on
18 and my panties.

19 Q You also sent some without any clothing on; isn't that
20 true?

21 A After he said without no clothing on.

22 Q Okay. All of this after you dropped him off at the
23 apartment?

24 A Uh-huh. Yeah.

25 Q You have a facebook account?

1 A Yes.

2 Q Okay. You know what Larry's initials are?

3 A No.

4 Q You don't know what his last name starts with?

5 A Oh, C, yes.

6 Q And what his middle name starts with?

7 A No.

8 Q Okay. So, on October 19 -- excuse me, October 16, 2016
9 in Winnsboro when you said "Can't wake until babe call me
10 hashtag taking loving me some LBC", you weren't talking about
11 Larry Cornish?

12 A Yes.

13 Q You were talking about him?

14 A Yes.

15 Q Okay. You also wrote him some letters?

16 A Yes.

17 Q And in those letters you said how much you loved him?

18 A Correct.

19 Q You didn't believe it was possible to love someone so
20 deeply and completely?

21 A Correct.

22 Q And that was on August 16th, 2016, right?

23 A I have the letters at home also.

24 Q Okay.

25 A So I mean, I made copies of the letters that I wrote

1 and I also do have letters that he wrote. So I'm not going to
2 say when exact date because I can't remember the date that I did
3 write him the letters.

4 Q Okay. You also met with Lieutenant Carrell, right?

5 A Yes.

6 Q And what was that for?

7 A If I'm not mistaken I think I met him when he was at
8 the Shell station also. When he came to the Shell station.

9 Q Didn't you also help get Larry's vehicle?

10 A Yes. He -- his momma asked me could I get his vehicle
11 out so I got his vehicle. His momma said he was going to pay
12 me. His momma said she was going to pay me if I get it. If I
13 get the car out she said she'll pay me back when she get her
14 money, her check. And I said okay, because she was like that
15 was her car so she really want the car.

16 Q And who put the car in?

17 A In where?

18 Q Wherever it was?

19 A I'm not understanding who put the car in.

20 Q Was the car at a towing lot? Was it in police?

21 A I think it was like a police thing.

22 Q Okay. His orange car?

23 A Yes.

24 Q That he drove away and then went right back to
25 Castlewood to finish getting his stuff out?

1 A Yes, in my car, my 2014 Chevrolet.

2 Q When you were driving his car back to Columbia tell the
3 jury what kind of gun you saw?

4 A When they asked me I told them I didn't see a gun.

5 Q And you met with the police several times, right?

6 A At my old job, I met -- yeah, at my old job.

7 Q They tell you you could get arrested for helping drive
8 him?

9 A They told me if I didn't come up with the truth I
10 could.

11 Q You didn't come up with the truth that you would get
12 arrested, right?

13 A Uh-huh.

14 Q And they took a statement from you, right?

15 A Yes.

16 Q But before they took a statement from you they read you
17 your rights?

18 A Yes.

19 Q And they had you initial by each one?

20 A Yes.

21 Q You have right to remain silent; all of that, right?

22 A Yes.

23 Q They told you that was just precautionary. That you
24 weren't under arrest, right?

25 A Yes.

1 Q But you had to tell the truth?

2 A Yes, ma'am.

3 Q And they told you that your truth didn't make any
4 sense, didn't they?

5 A They didn't tell me. I don't recall that.

6 Q Okay. Were you crying?

7 A Yes.

8 Q Were you upset?

9 A Yes.

10 Q Did you write your own statement?

11 A Yes, I did.

12 Q All right. Is it your testimony today that this is your
13 statement in your handwriting?

14 A That's the one that Carrell had but I did rewrite the
15 one in my own handwriting.

16 Q So you copied one that he wrote?

17 A He asked me what happened. As I was telling him
18 because I was upset at the time he was writing the statement, so
19 I went back on the same paper and wrote my own statement.

20 Q Okay. Do you know where that statement is?

21 A No. Do you actually have copy of it? I know I had a
22 copy of it but it was in my car.

23 Q Okay.

24 MS. ZMROCZEK: Beg the Court's indulgence. I have
25 no further questions, Your Honor. I do have a matter

1 that we may need to take up.

2 THE COURT: All right. Any redirect?

3 MR. HUNTER: Briefly.

4 REDIRECT EXAMINATION

5 BY MR. HUNTER:

6 Q Miss Jeter, you don't want to be here today do you?

7 A No. I mean I just told what I knew so --- I mean if I
8 did have to be here for any questions or things that I do know
9 then I mean --

10 Q What you told today is the truth?

11 A Yes.

12 Q Is what you told today what happened?

13 A Yes.

14 Q Is that what you told the police almost a year ago?

15 A Yes.

16 Q Over a year ago?

17 A At first -- not in the first beginning. The first
18 beginning when I lied but then I actually came out and told the
19 truth.

20 Q And that was within a few days?

21 A Yes.

22 Q Okay. Have you ever been promised anything in exchange
23 for your testimony?

24 A No.

25 Q Now earlier when you testified that you didn't -- I

1 asked you a question if you spoke to Larry Cornish anymore and I
2 believe you said no. When you made that testimony did you
3 understand my question to mean --

4 MS. ZMROCZEK: Objection Your Honor.

5 A I probably didn't.

6 THE COURT: Sustained.

7 A I probably didn't.

8 THE COURT: All right. Don't answer the question.
9 You can ask another question or rephrase your
10 question.

11 Q When you stated that you didn't speak to Larry Cornish
12 any more, did you mean -- what did you mean by that statement?

13 A I really didn't understand the question.

14 Mr. Hunter: No further questions.

15 MS. ZMROCZEK: Briefly Your Honor.

16 RE CROSS EXAMINATION

17 BY MS. ZMROCZEK:

18 Q Mr. Hunter asked you if you have been promised
19 anything, right?

20 A Yes.

21 Q Have you ever been arrested for accessory?

22 A No.

23 Q Ever been arrested for aiding and abetting?

24 A Mo.

25 Q Ever been threatened to loose your child?

1 A No.

2 Q And you wrote a statement in your own handwriting?

3 A I wrote a statement in my own handwriting and I told
4 you. You contacted me personally by phone. You contacted me
5 yourself and you asked me the same exact questions on the phone
6 when you contacted me. You called me on the cell phone and
7 asked me the same questions.

8 MS. ZMROCZEK: No further questions Your Honor.

9 THE COURT: Thank you. You may step down. Thank
10 you.

11 All right. Call your next witness.

12 MR. HUNTER: Your Honor, I ask that Miss Jeter be
13 released from subpoena.

14 THE COURT: All right. She is released from her
15 subpoena.

16 Lawyers approach.

17 (WHEREUPON, there was an off the record discussion)

18 MR. HUNTER: The State calls William Gonzalez.

19 WILLIAM GONZALEZ, called as a witness, having
20 been duly sworn by The Clerk, was examined and
21 testified as follows:

22 THE COURT: Mr. Hunter.

23 DIRECT EXAMINATION

24 BY MR. HUNTER:

25 Q Mr. Gonzalez, where do you work currently?

1 A Unified Investigations and Sciences.

2 Q What do you there?

3 A I'm a fire investigator.

4 Q How long have you worked there?

5 A Since October of 2016.

6 Q Okay. Where were you working in July of 2016?

7 A Winnsboro Public Safety.

8 Q Okay, and what was your position there?

9 A I was a police officer and firefighter. Held the rank
10 of major.

11 Q Okay, and what were your duties as a major?

12 A I was in charge of training for the department as well
13 as fire department up there and also assisted with
14 investigations when needed.

15 Q Did you do any work in the investigation of the
16 shooting of Ashley Minkle?

17 A I did.

18 Q And what did you do? What was your role?

19 A I was asked to go to Castlewood Apartment and download
20 a copy of the surveillance video from system there.

21 Q And were you able to do that?

22 A Yes, I was.

23 Q So you were able to retrieve the surveillance videos
24 from the apartment complex?

25 A Yes, I was.

1 Q Okay. I am going to approach with what has been
2 previously mark as State's Exhibit 44. Can you identify that?

3 A It's a DVD labeled as Castlewood.

4 Q And have you viewed that DVD?

5 A Yes, I have.

6 Q And can you tell the jury what is on that DVD?

7 A It is videos from the night of the incident, the
8 shooting incident.

9 Q And those are videos that you retrieved from
10 Castlewood?

11 A Yes, they are.

12 MR. HUNTER: At this time I would move State's
13 Exhibit 44 in evidence.

14 MS. ZMROCZEK: What number?

15 MR. HUNTER: Forty-four.

16 MS. ZMROCZEK: Subject to my previous objection.

17 THE COURT: All right, State's Exhibit 44 is being
18 admitted into evidence over objection.

19 (State's Exhibit 44, DVD, received in evidence as
20 of this date.)

21 MR. HUNTER: And Your Honor, at this time I would
22 publish the videos.

23 THE COURT: All right. Go ahead.

24 (WHEREUPON, DVD was played.)

25 Q Okay Mr. Gonzalez, I am going to show you videos. What

1 I'll do is is just let them play through and you can describe as
2 best as you can based on your investigation what you're seeing
3 in this video?

4 MS. ZMROCZEK: Your Honor, I would object to him
5 narrating.

6 THE COURT: Lawyers approach.

7 (WHEREUPON, there was an off the record
8 discussion.)

9 THE COURT: All right. Ladies and gentleman,
10 after talking with the attorneys this appears to be an
11 appropriate time for us to take a break for the
12 evening and so we are going to do that. I will allow
13 you to go in just a few moments. Again, I instruct
14 you do not discuss the case with anybody that you are
15 around or with tonight, or tomorrow. Don't discuss it
16 among yourselves and don't be looking up anything on
17 the internet or googling to try to find things out
18 about the case.

19 So I hope you will follow those instructions. Be
20 back in your jury room ready to go at 9:30. 9:30 in
21 the morning. Everyone remain seated while the jury is
22 excused.

23 (WHEREUPON, the jury leaves the courtroom.)

24 THE COURT: All right, we are at the point in this
25 trial where Mr. Gonzalez who was working for the

1 Winnsboro Police Department was sent to Castlewood
2 Apartments to retrieve a -- any surveillance video
3 that may -- that may -- that were recorded on the
4 night that the incident allegedly took place. His
5 testimony is that he did go there and he retrieved the
6 video. He has since watched that video. I did
7 initially rule that over the defense's objection that
8 would be introduced into evidence. The Court does
9 have concerns about that this witness's ability to
10 testify about anything on the video. It appears that
11 the State has indicated that they wanted to show the
12 video but allow him to testify that he's familiar with
13 that being the location or that actually being
14 Castlewood Apartments that are on the video. I am not
15 sure what is on the video.

16 Initially in chambers we discussed that there maybe
17 some frames in there where the defendant may be able
18 to be seen on that video. I think what I would like
19 to do is revisit the issue about the admissibility
20 through this particular witness about the contents of
21 that video and simply his role was to pick up the
22 videos that someone at Castlewood had or made for him.

23 Would that be accurate statement sort of where we
24 are Miss Zmroczek?

25 MS. ZMROCZEK: Yes.

1 THE COURT: Mr. Hunter, anything you want to put on
2 the record regarding that?

3 MR. HUNTER: Your Honor, just very briefly. It's
4 not the State's intention and I probably inartfully
5 asked the question of Mr. Gonzalez on the stand. It's
6 not the State's intention to have Mr. Gonzalez to
7 narrate the video.

8 The State does believe that admission of the
9 vehicle through Mr. Gonzalez proper. But really the
10 only thing we want Mr. Gonzalez to testify to is that
11 what the video shows is Castlewood Apartments.

12 THE COURT: All right. And is it one camera at
13 Castlewood or is it several cameras scattered at
14 different locations as Castlewood because sometimes
15 they will have six different cameras and then you get
16 compiled into one video.

17 MR. HUNTER: It is three sets of videos from one
18 camera over three different periods of time.

19 THE COURT: One location, one camera. All right.
20 Let me think about that again over night. Miss
21 Zmroczek, anything you wants.

22 MS. ZMROCZEK: Yes, Your Honor. Just obviously
23 part of our issue has been with regards to
24 authentication. Is the time and date, was the machine
25 working properly? These are things that I think that

1 someone from the apartment could testify to. In
2 addition, to what I already put on the record about
3 the time gap and those other issues.

4 THE COURT: Okay. All right. Well, I going to
5 revisit that analysis tonight and we will talk about
6 that first thing in the morning.

7 MR. HUNTER: If I make one more short argument.

8 THE COURT: Yes.

9 MR. HUNTER: I do think also other investigators
10 who worked the case, potentially Seibles or Carrell or
11 somebody else, could watch the video and say whether
12 or not what is occurring in the video matches up with
13 the investigation and what they found essentially.

14 THE COURT: All right. To be honest with you I do
15 have an issue with authentication, because normally we
16 have a picture. We don't have to have the officer who
17 took the picture to testify about a picture. You
18 know, it's a picture, a video, if there is somebody
19 that testifies and says that that picture accurately
20 reflects the scene as it was when this took place then
21 you don't have to have the person who took the video
22 camera operator or the photographer if there is
23 somebody who lays a foundation that fairly and
24 accurately reflects the scene at the time. That would
25 be the concerns that would be almost an impossibility

1 for this defendant -- I mean, for this witness to
2 testify to that. I think I have the issue in my mind
3 and so on that issue we'll take that up tomorrow
4 morning.

5 I will just remind you, Mr. Gonzalez, you are under
6 oath. You will need to be back here tomorrow morning.
7 Because you are under oath you are not allowed to
8 discuss your testimony that you have given in court up
9 to this point with anyone and you are not to discuss
10 any proposed testimony that you might have. It's as
11 if you are still on the stand in regards to your
12 testimony in this case. Is that clear to you?

13 THE WITNESS: Yes, sir.

14 THE COURT: Thank you. You may step down.

15 All right. Miss Zmroczek, did you have something
16 else you wanted to put on the record?

17 MS. ZMROCZEK: I did Your Honor. So Miss Jeter
18 testified that she had written her own statement and
19 so we have body cams of her entire interaction. There
20 are six videos that comprise all of her -- at least
21 some of her interactions with the officers. And on
22 one of those body cams which is Officer Squirewell's
23 camera, number five and number six, he actually just
24 takes the paper and starts writing her statement which
25 is the statement that I have because I've seen it on

1 the body cam. And the State has indicated that there
2 is another one, or that I should have both. I'm not
3 quite sure what. She said she made her own. I only
4 have one copy. It's the same copy that is reflected
5 on the body cam which is Squirewell's writing of her
6 statement.

7 THE COURT: Well, she says she has. We haven't
8 heard from the State about whether they do or not. So
9 Mr. Hunter I will be glad to hear you on that issue.

10 MR. HUNTER: The only statement I have for Miss
11 Jeter is the statement that Miss Zmroczek has that I
12 turned over to her. Miss Zmroczek is correct. In the
13 body cam there was some -- essentially I will describe
14 it as Squirewell -- essentially Miss Jeter told
15 Squirewell what happened. He wrote it down and then I
16 believe she rewrote it. That's on the body cam.

17 THE COURT: She's indicated by her testimony that
18 she took it and then wrote it out. She in fact in her
19 testimony said she had a copy at home. However,
20 that's her testimony. You do with that whatever you
21 see fit.

22 The State has indicated that they do not have a
23 copy of that and has never been provided with a copy
24 of any handwritten separate supplemental statement
25 that she may have given. So again, that's something

1 you can argue but I don't -- at this point there is
2 nothing for the Court to do to be involved in that.

3 All right, anything else?

4 MS. ZMROCZEK: I believe that is all.

5 THE COURT: All right. We will be at ease until
6 9:30 in the morning. Thank you.

7 (WHEREUPON, court was adjourned for the day.)

8 (WHEREUPON, the trial resumed on 8-30-17).

9 THE COURT: All right we are back on the record.
10 In the matter of state versus Larry Cornish. We are in
11 the mist of trial where we ended testimony yesterday
12 with Officer Gonzalez formerly from the Winnsboro
13 Police Department was on the stand. Officer Gonzalez
14 had indicated that as part of his role in this
15 investigation that he had gone to Castlewood Apartments
16 and requested video of surveillance of Castlewood
17 Apartments during the alleged time of the incident. He
18 did collect a DVD that's been marked and previously
19 introduced as State's Exhibit 44. There was some
20 objection -- renewed objection to the introduction of
21 that exhibit while officer Gonzalez is on the stand.
22 That's where we broke for the evening yesterday.
23 After considering the issues and the arguments on the
24 admissibility of State's Exhibit 44 I have reconsidered
25 my ruling and at this point State's Exhibit 44, the

1 DVD, will not be introduced into evidence through this
2 particular witness. All right.

3 Anything else we need to put on the record, from
4 the defense?

5 MS. ZMROCZEK: Nothing.

6 THE COURT: From the State?

7 MR. HUNTER: Nothing.

8 THE COURT: Let's bring the jury in.

9 (WHEREUPON, the jury enters the courtroom.) .

10 THE COURT: All right ladies and gentlemen. Thank
11 you all for being patient. Do we have a new person
12 sitting in the end chair? Were you sitting there
13 yesterday?

14 JUROR: No, sir.

15 THE COURT: Okay. Oh, we got a better chair
16 today. So there is no more fighting over that
17 position any more. Okay. All right.

18 The other thing, it's a little cool in here, but
19 that's fine. I have not requested the temperature be
20 changed. I think I would rather it to be a little bit
21 cooler than a little bit warmer. It looks like you
22 all came prepared for cooler temperatures. So unless
23 you are just extremely uncomfortable I ask the clerk
24 to keep everything just like it is here in the
25 courtroom.

1 We have been taking up some matters outside your
2 presence. However, we are now at the point where we
3 are ready to reassume the trial and so Mr. Hunter this
4 is is your witness.

5 DIRECT EXAMINATION

6 BY MR. HUNTER:

7 Q Mr. Gonzalez, do you recall what day you went to
8 retrieve the videos from Castlewood Apartments?

9 A I do not.

10 Q Okay, I am going to hand you what is a supplemental
11 report that you did. Do you recognize that report?

12 A Yes, I do.

13 Q Okay. If you need to refresh your memory are you able
14 to determine what day you retrieved the videos?

15 A July 27, 2016.

16 Q Okay. And when you went to retrieve --

17 A I am sorry. It was July 28, 2016.

18 Q When you went to retrieve the videos did you request a
19 specific timeframe?

20 A I don't recall.

21 Q Do you recall generally what time period you were
22 seeking videos for?

23 A It was from around one o'clock a.m. till probably close
24 to 3:30 a.m..

25 Q And were you able to retrieve those videos?

1 A Yes, I was.

2 Q And have you viewed those videos?

3 A Yes I have.

4 Q And how long have you been a police officer?

5 A Twenty-five years.

6 Q Okay. And how much of that time have you lived in
7 Winnsboro?

8 A All my live.

9 Q And based on your experience were you able to identify
10 the location in the video?

11 A Yes, I was.

12 Q And where is that location?

13 A It's Castlewood Apartments.

14 MR. HUNTER: No further questions.

15 THE COURT: All right. Thank you. Miss Zmroczek.

16 MS. ZMROCZEK: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MS. ZMROCZEK:

19 Q Mr. Gonzalez, you said that you previously were with
20 the Winnsboro Department of Public Safety?

21 A Yes, ma'am.

22 Q And your job was training?

23 A Training was part of it.

24 Q What did you train?

25 A The police officers and fire fighters.

1 Q What did you train them to do?

2 A We did monthly trainings to help them keep
3 certifications up.

4 Q When you were a member of the police department you
5 were aware that you all had body cameras, correct?

6 A Yes.

7 Q Okay, and did you wear your body camera?

8 A I was not issued one at the time.

9 Q Okay. Was it only for specific people?

10 A Yes. We had a limited number and they were only issued
11 to the patrol officers to use.

12 Q Okay. And you also said that you were in charge of
13 doing -- or at least involved in investigations?

14 A I assisted with investigations when I was requested.

15 Q Okay. And one of the reasons that you -- what are some
16 of the reasons that you investigate?

17 A If we had a crime that involved, also involved in the
18 with any fires that we had.

19 Q Okay. So some of the things that you want to do is
20 learn as much information as you can about a situation, correct?

21 A Yes.

22 Q And gather as much evidence as you can about a
23 situation, correct?

24 A Yes.

25 Q And in this case you testified that you requested the

1 video for a very specific time period?

2 A Yes.

3 Q Was there a reason why you didn't expand that time
4 period?

5 A I don't remember, but I believe I was asked to just
6 collect that certain time period of the video from the apartment
7 complex.

8 Q And who would have asked that of you?

9 A I'm assuming it was one of the investigators. I don't
10 remember who it was.

11 Q Okay. So they were making the decisions as far as
12 which evidence to gather?

13 A Yes.

14 MS. ZMROCZEK: I have no further questions. Thank
15 you.

16 THE COURT: Mr. Hunter any redirect?

17 MR. HUNTER: Just very briefly.

18 REDIRECT EXAMINATION

19 BY MR. HUNTER:

20 Q The videos you collected, do they have a date and time
21 stamp on them?

22 A Yes, they do.

23 MR. HUNTER: Nothing further.

24 THE COURT: Thank you. You may step down.

25 All right. Mr. Hunter, call your next witness.

1 MR. HUNTER: The State calls Adebola Adekanmbi
2 ADEBOLA ADEKANMBI, called as a witness, having
3 been duly sworn by the clerk, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HUNTER

7 Q Good morning, Doctor Adekanmbi?

8 A Good morning.

9 Q Could you state your name and where your from?

10 A My name is Adebola, A-d-e-b-o-l-a, Adekanmbi,
11 A-d-e-k-a-n-m-b-i and I'm from Kannapolis, North Carolina.

12 Q And what is your profession?

13 A I'm a medical doctor.

14 MS.ZMROCZEK: Your Honor, can you ask him to lean
15 into the mic. I can't hear him.

16 THE COURT: Yes, I will ask that you speak up so
17 that one, that court reporter and the folks, all the
18 jurors can hear you and everybody in the courtroom.

19 A I am a physician.

20 Q And where do you currently work?

21 A I work at Fairfield Memorial Hospital.

22 Q And what type of education have you received?

23 A I received my medical education in Nigeria, University
24 of Ibadan in Nigeria. I graduated in 1991.

25 I then proceeded to my rotation internship which is three

1 months in each speciality; surgery, obstetrics any gynecology
2 and pediatrics at University of West Indies in Trinidad and
3 Tobago. After that I entered their training program in surgery
4 in Madison and I immigrated to the United States in 1994 and
5 then I did my residency at Lincoln Medical and Mental Health
6 Center which is in the Bronx, New York in international
7 medicine.

8 Q Okay. Are you board certified in any specialties?

9 A Yes, I am board certified in international medicine.

10 Q Okay. So how have you been a practicing physician?

11 A I have been practicing for 26 years.

12 Q Did you go through continuing education to remain
13 certified?

14 A Yes.

15 Q Okay, what type of continuing training do you have to
16 go through?

17 MS. ZMROCZEK: Your Honor, we can stipulate to his
18 qualifications as an emergency room physician?

19 MR. HUNTER: Your Honor, at this point I would
20 tender Doctor Adekanmbi as expert in emergency
21 medicine.

22 MS. ZMROCZEK: No objection, Your Honor.

23 THE COURT: He is found qualified to testify as
24 expert in internal medicine without objection.

25 MR. HUNTER: Thank you, Your Honor.

1 Q Dr. Adekanmbi, were you working at Fairfield Memorial
2 Hospital on July 27th of last year?

3 A Yes, I was.

4 Q And that night did you happen to treat Ashley Minkle?

5 A Yes, I did.

6 Q Would you describe what -- essentially how she came
7 into the emergency room that night?

8 A I was sitting when I got alerted by one of my nurses
9 that a young lady had came in to the triage room dripping with
10 blood.

11 Q Go ahead.

12 A And then she was of course immediately brought back to
13 the treating room and we started working on her.

14 Q Were you able to determine what had happened to her?

15 A She had sustained what look like a gun injury to the
16 mouth and mandible which is the lower jaw and she was pouring
17 out blood.

18 Q Were you able to determine what caused that injury?

19 A It is consistent with a gunshot wound in my opinion.

20 Q And was she conscious?

21 A She was conscious.

22 Q Were you able to communicate with her?

23 A Yes. She actually drove herself to the emergency room.

24 Q Based on your communications with her were you able to
25 determine what had possibly happened to her?

1 MS. ZMROCZEK: Your Honor, I would object to
2 hearsay at this point.

3 THE COURT: Overruled.

4 A Yes. She told me that about one or two minutes ago she
5 had just been shot.

6 Q Did she tell you who shot her?

7 A She told me it was a boyfriend.

8 Q Okay. Were you able to determine based on her wounds
9 whether the gunshot was at close distance or far away?

10 A It was consistent with close injury.

11 Q What -- could you describe a little more what exactly
12 her injuries were kind of in layman's terms?

13 A So she came in bleeding with blood pouring from her
14 mouth and she had two gush wounds on both sides of her face.
15 The mandible was kind of split partially open.

16 Q What is the mandible?

17 A The lower jaw was split open. Those are the obvious
18 injury that we can see and the approach we have to take is to
19 assume there are more injuries either somewhere within the mouth
20 or within the brain and -- but we couldn't explore that. We
21 have to try to stabilize her and her respiration so we can then
22 take her to where she needs to go for her care.

23 Q Were her -- would you describe the condition of her
24 teeth and her tongue?

25 A It was shattered. So -- so the teeth, the lower teeth

1 were shattered because the mandible was many partially separated
2 and her tongue was also lacerated. Was split open.

3 Q And what type of treatment did you give her?

4 A We tried to apply pressure. Minimize the bleeding by
5 applying pressure to it. We get an IV line which give her IV
6 fluids; antibiotics and we give her pain medicine. And we then
7 I then proceeded to arrange for her to be intubated which is we
8 paralyze her and we take her expiration by inserting a pipe
9 through her mouth into her windpipe.

10 Q So it's is a breathing tube that goes in?

11 A Right and then connects to a machine to breath for her.

12 Q Was she treated entirely at Fairfield Memorial
13 Hospital?

14 A No, she was not.

15 Q Where did -- I guess after you intubated her what did
16 you all do?

17 A Once she was stabilized we airlifted her to Columbia.

18 Q And where did you she go in Columbia?

19 A Palmetto.

20 Q To Richland?

21 A Yes.

22 Q And that was the extent of her treatment of Miss
23 Mickle?

24 A Yes.

25 Q Did she have -- do you know whether or not she had

1 anyone came to the emergency room with her?

2 A She came with her two kids. I did not see the children
3 but she came with her two kids. Can I correct that. I did see
4 them actually. Sorry.

5 Q Just a moment. Were you able to determine which side
6 of her face the bullet had entered through and which side it had
7 exited through?

8 A No.

9 MR. HUNTER: No further questions. Thank you.

10 THE COURT: Miss Zmroczek.

11 MS. ZMROCZEK: Thank you.

12 CROSS EXAMINATION

13 BY MS. ZMROCZEK;

14 Q Doctor, I just have a few questions for you this
15 morning.

16 A Good morning.

17 Q Good morning. Do you recall what medications you
18 prescribed, administered her?

19 A Yes.

20 Q Okay. Do you have your record or would it refresh your
21 recollection to see the medication list?

22 A It may.

23 (WHEREUPON, a document was handed to the witness.)

24 Q Does that refresh your recollection?

25 A Yes.

1 Q Which medications did you administer to Miss Mickle?

2 A Antibiotics and pain medicine, Dilaudid and some
3 medicine to kind of prevent her from vomiting.

4 Q Okay, and are any of those Benzodiazepine?

5 A No, but we did give her Benzodiazepine to incubate her.
6 We give her Versed.

7 THE COURT: Hold on just a second. Miss Zmroczek
8 do you need to check on something?

9 MS. ZMROCZEK: Thank you. Go ahead doctor. I am
10 sorry.

11 THE COURT: Why don't you repeat. You asked the
12 question and he was attempting to answer and then you
13 left.

14 MS. ZMROCZEK: I just need to check on something.
15 Sorry about that.

16 THE COURT: So let's ask the question again.

17 Q Which Benzodiazepine did you administer?

18 A Versed, V-e-r-s-e-d.

19 Q And that was not listed in any of the medication orders
20 was it?

21 A So when we incubate the patient we give her in order to
22 incubate. Is emergency. It is not ordered out. That I
23 particularly write it out. I would give it because that's what
24 I need to incubate. Incubating means putting a tube through the
25 mouth.

1 Q I am going to hand you another one of your records and
2 see if this refreshes your recollection. (Handed)

3 A Yes.

4 Q Okay. So, does that record indicate that you did
5 administer a Benzodiazepine?

6 A Yes.

7 MR. HUNTER: Your Honor, he has already testified
8 He administered --

9 THE COURT: Go ahead. He can answer.

10 A The first one, Versed. That is Benzodiazepine.

11 Q Okay. And under the admin details, what does that
12 state?

13 A It says admin detail --

14 Q I am sorry?

15 A Medicated per lifenet, l-i-f-e-n-e-t. You are asking
16 what that means.

17 Q Right.

18 A I don't know what it means.

19 Q Okay, so when it says administrative details not done,
20 you are not sure what that means?

21 A I don't know what that means. I do not know what that
22 means from a practical standpoint. I do not know. But we do
23 not incubate patients that are breathing, talking, without
24 sedating them and without paralyzing them.

25 Q Okay. And you indicated Miss Mickle had drove herself?

1 A Yes.

2 Q And that she was breathing?

3 A She was breathing, yes.

4 Q And talking?

5 A Talking, yes.

6 Q Okay. And the teeth that were missing they were
7 actually only from the left side of her mouth; isn't that
8 correct?

9 A I can not recall that.

10 Q And you testified that she had indicated to you that
11 this had occurred one to two minutes prior to her coming into
12 the hospital, correct?

13 A That's correct.

14 Q And do you recall what time she came in? Let me
15 refresh your recollection. (Handed)

16 A I don't see any time here. What I see here is
17 biographic information.

18 Q I hi-lighted it for you.

19 A That would be about right.

20 Q And would you let the jury know what time it was.

21 A It is 1:25 a.m..

22 Q 1:25 a.m. and this had occurred approximately one to
23 two minutes prior?

24 A That's what I was told.

25 Q Thank you, doctor. I have no further questions.

1 THE WITNESS: Thank you.

2 THE COURT: Anything further from the State.

3 MR. HUNTER: Briefly.

4 REDIRECT EXAMINATION

5 BY MR. HUNTER:

6 Q Doctor you testified you were able to communicate with
7 Miss Mickle. Was she able to speak clearly?

8 A Yes.

9 Q She was able to speak clearly?

10 A She was -- I mean clearly in the sense that I
11 understood what she was saying.

12 Q You could understand her?

13 A Yes, but her speech was not perfect.

14 Q Okay. And when you spoke with Miss Mickle was that
15 prior to the administration of drugs?

16 A Yes. Yes.

17 MR. HUNTER: Nothing further.

18 THE COURT: Any recross?

19 MS. ZMROCZEK: No recross.

20 THE COURT: Doctor, thank you for being here. You
21 can step down.

22 THE WITNESS: Thank you sir.

23 THE COURT: All right, solicitor call your next
24 witness.

25 MR. HUNTER: The State calls Jammie Green.

1 JAMMIE GREEN, called as a witness, having been
2 duly sworn by The Clerk, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. HUNTER:

6 Q Mr. Green, would you state your name and where you
7 work?

8 A James Greene. I work for the South Carolina Law
9 Enforcement Division, commonly referred to as SLED.

10 Q What is your job there?

11 A I am a forensics firearm examiner in the forensics
12 laboratory.

13 Q And what is your educational background?

14 A I have a Bachelor of Arts from Charleston Southern
15 University. I also have a Masters of Science in Criminal
16 Justice from Charleston Southern. And at SLED I went through
17 the fireman toolmark course instruction which is approximately a
18 three-year course of instruction studied under court qualified
19 fireman examiners learning to do what I do now.

20 Q What exactly is it do you do now?

21 A Firearm's examiner basically what we do is we look at
22 fired bullets, fired cartridge cases and try to determine if
23 they are suitable for identification. Meaning if a firearm was
24 submitted if we could say this bullet was fired by this gun or
25 cartridge case was fired by this gun.

1 If no gun is submitted some times we can look at them, like
2 a bullet and tell what type of firearm may have fired it based
3 on the rifling specifications.

4 Q And have you ever testified in court before?

5 A Yes, sir.

6 Q Approximately how many times?

7 A Fifty-seven.

8 Q And have you ever been qualified as expert?

9 A Yes, sir.

10 Q Approximately how many times?

11 A Fifty-seven.

12 Q Okay.

13 MR. HUNTER: Your Honor, at this time I would
14 tender Mr. Green as expert in the firearm's
15 ballistics.

16 THE COURT: Any objection?

17 MS. ZMROCZEK: No objection Your Honor.

18 THE COURT: All right.

19 THE COURT: The Court finds he is qualified to
20 testify as an expert in firearm's examination.

21 Q Mr. Green were you working for SLED last year?

22 A Yes, sir.

23 Q Okay. Did you have occasion to receive some items of
24 evidence from a shooting that took place in Winnsboro?

25 A Yes, sir.

1 Q I am going to show you what has been marked as State's
2 -- or what has actually been admitted as State's Exhibit 46.
3 Can you identify that item or do you recognize those items?

4 A Yes, sir. State's Exhibit 46 is in a SLED package with
5 the SLED bar code on it. Inside the package there is a fired
6 bullet and a fired bullet jacket bullet fragment.

7 Q And as part of your duties did you receive that fired
8 bullet to examine?

9 A Yes, sir, I did. This would have been SLED item three
10 was the bullet and SLED item four was the jacket fragment?

11 Q And what examinations did you perform on those items?

12 A When we get a fired bullet like this and no firearm is
13 submitted I tried to determine the caliber of the bullet by
14 looking as its observable physical characteristics; its weight,
15 its diameter and overall shape and I was able to come to a
16 conclusion on that and then I looked at SLED item four which is
17 a tiny bullet jacket fragment which weighed less than one grain.
18 It was 0.8 grains. Just for demonstration, a penny weighs
19 about 40 grains, so the little fragment weighed less than 1/40
20 of a penny. That one I was unable to determine the caliber due
21 to the size. So that one was just a small fragment.

22 Q What were you able to determine from the projectile
23 that you could make a determination?

24 A SLED item three was the fired bullet. It was nine
25 millimeter caliber bullet, or most consistent with being a nine

1 millimeter caliber bullet based on it's observable physical
2 characteristics. And I was able to determine the number of
3 lands and grooves on the bullet, which is the rifling inside the
4 barrel and from those specifications, the number of lands and
5 grooves and those which I was able to determine a possible
6 firearm that could have fired that.

7 Q And what type of firearm was that?

8 A Based on the rifling impression the only firearm that
9 we know of could of fired is a high point manufacturer; high
10 point firearm.

11 Q Now would that have been a pistol?

12 A Yes, sir, or a carbine. They have a nine millimeter
13 carbine as well.

14 Q And the pistol and the carbine have the same
15 characteristics?

16 A Yes, sir. They both have nine grooves with a left
17 twist.

18 Q Okay. I am going to show you what has been admitted as
19 State's Exhibit 45 and ask you if you can identify what is in
20 that?

21 A State's Exhibit 45 is a fired nine millimeter Luger
22 caliber cartridge case and unfired 40 S&W caliber cartridge.

23 Q Okay, would you explain -- would you explain to the
24 jury exactly how a bullet and cartridge go together and what
25 happens when a bullet is fired?

1. A Yes, sir. A cartridge is a complete unfired piece of
2 ammunition. My dad calls it bullet, but it's actually a
3 cartridge. The cartridge case is simply the container that
4 holds the bullet, the primer and the powder. When the gun is
5 fired the firing pin or the striker hits the primer. It sets
6 off a little explosion and a flame goes through a little flash
7 hole in the cartridge case. It ignites the powder and the powder
8 starts burning at different rates. It creates a gas and when it
9 reaches its critical point the bullet is expelled out of the
10 cartridge case and goes down the barrel towards the intended
11 target and a pistol or a semi-automatic rifle or carbine, the
12 cartridge case will come back hit the injector and being
13 extracted and ejected from the firearm.

14 Q Okay. So the cartridge casing is what is left after
15 the bullet has fired out of the barrel?

16 A Correct.

17 Q Okay. I am going to show you what has been previously
18 entered as State's Exhibit 16. Can you identify that?

19 A State's Exhibit 16 is a fired cartridge case. It's a
20 cartridge case without seeing the primer. I can't tell if it's
21 fired or not, but it is cartridge case.

22 Q Just a moment please.

23 Mr. Green, State's Exhibit Number 49 can you identify
24 that?

25 A State's Exhibit 49 is firearms' report I issued in this

1 case.

2 Q Is that the report you prepared yourself?

3 A Yes, sir.

4 MR. HUNTER: Your Honor, at this time I moved
5 State's Exhibit 49 into evidence.

6 Ms. ZMROCZEK: May was I approach, Your Honor.

7 THE COURT: Yes.

8 (WHEREUPON, there was an off the record
9 discussion.).

10 THE COURT: All right, solicitor.

11 The Court does note that there was an objection to
12 part of the report. I am overruling that objection.
13 At this point State's Exhibit 49, the firearms's
14 report has been moved into evidence. It is now
15 introduced into evidence over the objection of the
16 defense.

17 MS. ZMROCZEK: Thank you Your Honor.

18 (State's Exhibit 49, Report, was received in
19 evidence as of this date.)

20 Q Mr. Green, was any gun submitted for testing?

21 A No, sir.

22 MR. HUNTER: No further questions. Thank you.

23 THE COURT: All right, Miss Zmroczek.

24 MS. ZMROCZEK: Thank you, briefly.

25 CROSS EXAMINATION

1 BY MS. ZMROCZEK:

2 Q Agent Green, the -- and you lean it will be a littler
3 easier to hear.

4 Were you saying that the item three was a force of the
5 bullet?

6 A No, ma'am. I said the tiny fragment weighed
7 approximately 1/40 of what a penny would weigh.

8 Q Okay.

9 A I was trying to give example of how small it was.

10 Q Okay. And your report identifies several items that
11 you examined, correct?

12 A Yes, ma'am.

13 Q And what was item one?

14 A Item one was the -- SLED item one was the fired nine
15 millimeter Luger caliber cartridge case.

16 Q So that was the cartridge case?

17 A Correct.

18 Q And does a revolver have a cartridge case?

19 A I'm sorry.

20 Q If a revolver is fired would that leave a cartridge
21 case?

22 A No, ma'am.

23 Q Okay. So it would have to be a gun that was not a
24 revolver?

25 A Correct.

1 Q And item two, what is that?

2 A It is unfired 40 S&W caliber cartridge.

3 Q An unfired 40 S&W. Is that a Smith and Wesson?

4 A Yes, ma'am. It stands for Smith and Wesson, but when I
5 say Smith and Wesson people commonly incorrectly think it has to
6 be fired out of a Smith and Wesson.

7 Q It don't have to fired out of a Smith and Wesson?

8 A No, ma'am. That just Smith and Wesson developed the
9 cartridge so they put their name to it.

10 Q And it's unfired 40 caliber?

11 A Yes, ma'am.

12 Q So it was a bullet that was not fired?

13 A Correct. It was unfired cartridge so it had the
14 bullet. The primer was still intact and the powder still
15 inside.

16 Q Is that the same as nine millimeter? What is the
17 differences?

18 A They are different calibers, they are different weight
19 bullets, they are different size bullets. The cartridges cases
20 are different size as well.

21 Q Two guns required for those?

22 A Yes, ma'am.

23 Q Okay, and then you talked a little bit about the
24 mechanisms for how casings exit a pistol, correct?

25 A Yes, ma'am.

1 Q When they exit they typically they follow a pattern?

2 A There's a very general rule they do, yes.

3 Q And tell the jury what that general rule is?

4 A Well, it depends on what type of firearm it is.

5 Q Okay. If it's the ones that you -- either one of the
6 two that you identified as number three?

7 A Yes. Okay. A high point pistol and a carbine has an
8 ejection port on the right. Some of them like Glock's, like
9 police officers carry or some people carry, the injection port
10 is open on the top and the side. So that lends to the cartridge
11 case going different directions. A high point ejection port is
12 on the right side of the pistol. So if a gun is being held
13 properly, or like I was taught how to shoot, held just like this
14 with the butt pointing straight down and the barrel pointing
15 straight that way (indicating) you would think and assume that
16 generally it would go back and to the right.

17 Q Back and to the right?

18 A Yes, ma'am, however I have seen some go left, front,
19 back. It all just depends.

20 Q But generally back and to the right?

21 A As a very general rule, yes.

22 Q So if I am pointing a gun and the specific gun that you
23 identified, it would go back and to the right?

24 A In the absence of any intervening objects, yes, ma'am.

25 Q Okay.

1 MS. ZMROCZEK: Agent Green, I have no further
2 questions for you. Thank you.

3 THE COURT: Redirect.

4 MR. HUNTER: Briefly.

5 REDIRECT EXAMINATION

6 BY MR. HUNTER:

7 Q Agent Green, were you able to draw a conclusion as to
8 the relationship between the spent casing and the fire bullet?

9 A No, sir. Some people do that examination and they'll
10 say this fired bullet was part of this cartridge case at the
11 same time. At SLED we don't feel that is reliable. It hasn't
12 been tested enough, because when the bullet is pushed into the
13 cartridge case the markings the cartridge case leaves on the
14 softer surface of the bullet when the bullet travels down the
15 barrel a lot of those markings are covered over or rewritten --
16 if you will -- by the rifling in the barrel. So that's not an
17 examination we perform.

18 Q If you had the gun is that an examination you could
19 perform?

20 A If I had a firearm I could say possibly this bullet was
21 fired by this gun and this cartridge case was fired by this gun
22 so it would tie both of them back to a firearm if one was
23 submitted.

24 Q And can you determine the way a gun was being held by
25 looking at the casing or the spent bullet?

1 || A No, sir.

2 MR. HUNTER: No further questions.

3 THE COURT: Any recross.

4 MS. ZMROCZEK: Just one follow up question.

5 | RECROSS EXAMINATION

6 BY MS. ZMROCEK:

7 Q He asked if you could determine the way a gun was being
8 held. Are there analyst or do you engage in trajectory
9 analysis?

10 A There are some, however that's not what we do at the
11 SLED firearm's department.

12 Q Okay. So there is people at SLED, but that's not what
13 you do?

14 || A Correct.

15 Q Thank you.

16 MS. ZMROCZEK: No further question.

17 THE COURT: Thank you. You can step down Mr.
18 Green.

19 Call your next witness.

20 MR. HUNTER: The State calls Mike Carrell.

21 I would ask that Agent Green be excused from
22 subpoena.

23 THE COURT: Any objection.

24 MS. ZMROCZEK: No objection.

25 THE COURT: Thank you. He's excused.

1 MIKE CARRELL, called as a witness, having been duly
2 sworn by the clerk, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. HUNTER:

6 Q Mr. Carrell, will you state your name, rank and where
7 you work?

8 A My name is Mike Carrell. I'm a lieutenant for the
9 Winnsboro Police Department in the Criminal Investigations and
10 Narcotic Division.

11 Q Okay. And how long have you worked there?

12 A I've worked there twice. This time I worked there
13 approximately six years.

14 Q Okay. And how long have you been a law enforcement
15 officer?

16 A Going on right at 12, 12 and a half years.

17 Q Where did you work before Winnsboro?

18 A Kershaw County sheriff's department as a criminal
19 investigator.

20 Q Were you working in your capacity as lieutenant with
21 with Winnsboro department of Public Safety July 27th of last
22 year?

23 A Yes, sir, I was.

24 Q And did you work on the Ashley Mickle shooting?

25 A I was responsible for locating Mr. Cornish. That was

1 my responsibilities during this incident.

2 Q Okay. Would you go through with the jury kind of the
3 steps you took to locate Mr. Cornish?

4 A Yes, sir, I was notified by Major Seibles of what had
5 taken place and he asked me to head up the location of Mr.
6 Cornish. At that time I contacted some contacts with SLED
7 fugitive unit which we got several tips through the police
8 department also, but I worked mostly with SLED fugitive unit.
9 We went to a location in Columbia, an apartment complex, where
10 we -- I met SLED at that location where we spoke with the female
11 at that location.

12 Q Do you remember who the female was at that location?

13 A I believe it was Miss Shapel. I believe was her last
14 name if I'm not mistake.

15 Q Shapel or Chappell?

16 A Chappell.

17 Q Do you recall what apartment complex that was?

18 A It was of Interstate 26. An apartment complex off of
19 Interstate 26. I'm not exactly sure of the name, maybe Raintree
20 possibly.

21 Q And what other agencies were you with at that point?
22 Who was with you?

23 A When we arrived on scene there were lots of police
24 officers there already on scene. I believe it was SLED's
25 fugitive team, if I'm not mistaken. Bloodhound unit was also

1 there and there were other officers. In our line of work some
2 of the officers don't wear uniforms. They'll have on police
3 vests and things of that nature so sometimes it's kind of hard
4 to tell what agency they're with. But there was a good many
5 officers there on scene.

6 Q And what day was it that you went there?

7 A I believe it was the 28th of July. I believe.

8 Q So the day after the shooting?

9 A Yes.

10 Q Okay. Did you go inside that apartment?

11 A I did, myself and Sergeant Ferguson.

12 Q Did you observe anything inside that apartment?

13 A As soon as you walked in the door to the right in the
14 apartment was a large pile of clothing laying on the floor that
15 appeared to be male clothing and also two flat screen type
16 televisions were in the living room.

17 Q Okay, and did you all take a picture of that?

18 A Yes, sir, I did.

19 Q Okay. I am going to show you what has been previously
20 marked as State's Exhibit 43. Can you identify this?

21 A Yes, sir. That's the picture I took of the living room
22 area of that apartment.

23 MR. HUNTER: Your Honor, at this time I would
24 move State's Exhibit 43 into evidence.

25 THE COURT: Any objection?

1 MS. ZMROCZEK: Yes, Your Honor, subject to my
2 previous objection which I don't know if you ruled.

3 THE COURT: The objection is noted, however the
4 objection is overruled. State's Exhibit 43 is
5 admitted into evidence.

6 (State's Exhibit 43, Pictures, received in
7 evidence as of this date.)

8 MR. HUNTER: At this time I would like to publish
9 the image.

10 THE COURT: You may go ahead.

11 Q Lieutenant Carrell is this the image I just showed
12 you?

13 A Yes, sir.

14 Q A what are we looking at there?

15 A It appears to be a pile of male clothing and two flat
16 screen televisions that were just inside the entrance to the
17 apartment.

18 Q Okay. Is that consistent with the items that were
19 taken from Miss Mickle's apartment?

20 A Yes, sir.

21 Q Did you all collect any of those items?

22 A I believe the TV's were transported back to the
23 station, but the clothing, no. My main concern was locating Mr.
24 Cornish.

25 Q And about how many hours after the shooting would this

1 have been?

2 A Maybe five or six hours. Something like that.

3 Q So this was early in the morning?

4 A Well, I would say around just before lunch. Maybe
5 around just before lunch when we got there, yes, sir.

6 Q Okay, so if the shooting took place around one a.m. it
7 would be -- would it be more than five or six?

8 A More than six. Around lunchtime. Just before
9 lunchtime.

10 Q Okay. After you all had been Raintree apartments what
11 happened next?

12 A It is kind of hectic. We were getting -- I wasn't, but
13 lieutenant with the SLED fugitive was getting information during
14 the time we were there. He was not at that location and while
15 we were there we got information as to a better lead as to where
16 he was. We all left and SLED actually left a little bit before
17 we did. We made our way to North Main in Columbia where we
18 ended up locating Mr. Cornish.

19 Q Okay. And do you recall the address where you located
20 Mr. Cornish?

21 A I am not sure the exact address. I know it was on
22 North Main in Columbia.

23 Q Was it a house or apartment.

24 A It was residence. A home. House.

25 Q Describe the scene when you reached that house?

1 A When we arrived on scene City of Columbia had the
2 roadway blocked. We were given entrance to the scene. I met
3 with some of the Richland County officers there. Richland
4 County had their armored vehicle in front of the residence.
5 They were on PA requesting Mr. Cornish to come out of the home.
6 They did that for several minutes. No one exited the home. It
7 was a lot officers there at the scene. They made entry and Mr.
8 Cornish was retrieved in a crawl space in a closet in the back
9 the residence.

10 MS. ZMROCZEK: Your Honor, may we approach.

11 THE COURT: Yes.

12 (WHEREUPON, there was an off the record
13 discussion.)

14 THE COURT: There is an objection. This officer
15 has indicated that previously in his testimony that he
16 had no first hand knowledge of where the defendant was
17 located and I am going to ask that his answer to the
18 question about where he was located be stricken from
19 the record. And ladies and gentlemen of the jury
20 please disregard that testimony. Thank you.

21 Q Lieutenant Carrell, did you actually go into the house?

22 A I did, yes.

23 Q But prior to Mr. Cornish's apprehension did you go into
24 the house?

25 A No. Richland County made the apprehension inside the

1 residence.

2 Q So you didn't actually see him in the house?

3 A I did not. I was told where he was.

4 Q I'm going to show you what has been marked as State's
5 Exhibit 40. Can you identify this image?

6 A Yes, sir. That's the residence where we locate Mr.
7 Cornish.

8 Q Okay.

9 MR. HUNTER: At this time I would move State's
10 Exhibit 40 into evidence.

11 MS. ZMROCZEK: Without objection Your Honor.

12 THE COURT: State's Exhibit 40 is entered into
13 evidence.

14 (State's Exhibit 40, picture, received in evidence
15 as of this date.)

16 MR. HUNTER: And Your Honor, at this time I'll
17 publish it to the jury.

18 THE COURT: All right.

19 Q Lieutenant Carrell, once Mr. Cornish was apprehended
20 what happened next?

21 A When he was apprehended he was brought out to a
22 Richland County Sheriff's vehicle and placed in the back of the
23 vehicle. Myself and Sergeant Ferguson approached the vehicle.
24 I read Mr. Cornish his Miranda rights.

25 Q Were you wearing a body cam?

1 A Yes, sir, I was.

2 Q Okay. Did that body camera capture you reading Mr.
3 Cornish's Miranda rights?

4 A Yes.

5 Q I am going to hand you what has been marked Court's
6 Exhibit Two. Are you familiar with that disc?

7 A I believe this is the footage from my body cam.

8 Q Okay.

9 MR. HUNTER: Your Honor, at this time I moved
10 Court's exhibit Two into evidence.

11 MS. ZMROCZEK: Subject to my previously
12 objections.

13 THE COURT: Court's Exhibit Number Two is being
14 introduced over the objection. Overrule the objection
15 of the defendant.

16 MR. HUNTER: Your Honor, at this time I publish
17 that to the jury. Your Honor, I believe we need to
18 put a State's Exhibit on it as well.

19 THE COURT: State's Exhibit 50 which was previously
20 marked as Court's Exhibit Two. State's Exhibit 50
21 will be received in evidence.

22 (State's Exhibit 50, DVD, received in evidence as
23 of this date.)

24 Q Okay. Lieutenant Carrell, does that appear to be
25 footage from your body cam?

1 A Yes, sir.

2 Q Okay. Lieutenant Carrell, at that time did Mr. Cornish
3 make any statement to you?

4 A Not at that particular time he didn't. When I asked
5 him where the gun was I believe he said nah, no. He didn't
6 really say anything at that point in time.

7 Q Did he ever indicate to you that he wanted to speak to
8 an attorney?

9 A No, sir.

10 Q Did he ever indicate to you that he didn't want to
11 speak to you?

12 A No, sir. We had a very cordial conversation later on.

13 Q Okay. You were in uniform?

14 A Yes, sir.

15 Q Okay. Was he -- he was in custody?

16 A Yes, sir.

17 Q Okay. Was he handcuffed in the front or the back?

18 A The front.

19 Q This was in July, correct?

20 A Yes, sir.

21 Q You all had Mr. Cornish seated if the back seat of the
22 vehicle?

23 A He was in a Richland county vehicle initially but we
24 had to wait at the residence for 30, 45 minutes for Miss
25 Chappell to come pick up her vehicle that was located behind the

1 residence and during that time is when we were -- he was
2 transferred to my Durango. My police vehicle. He was placed in
3 the back seat with the door open. We had the vehicle running
4 with air condition on and we sat there and talked with each
5 other for 30, 45 minutes. Normal conversation.

6 Q Did you give Mr. Cornish anything to drink?

7 A I believe we gave him a Gatorade, yes, sir.

8 Q Did he ever indicate he needed a cigarette or go to the
9 to the bathroom or anything like that?

10 A Not that I recall.

11 Q Did you all ever threaten him?

12 A No, sir. We had a conversation as he was sitting
13 there.

14 Q So once you all were in your vehicle I believe you
15 testified that was 30, 45 minutes later?

16 A Approximately.

17 Q Did you all have another conversation about the gun?

18 A Yes, sir. I was kind of expressing to him the
19 importance of locating that gun so a kid or something didn't
20 find it. And Mr. Cornish stated to me that he had left the gun
21 in the glove box of the vehicle that was parked behind the house
22 and that he when he went to sleep that night either -- I don't
23 recall if he said he gave someone permission to drive the
24 vehicle or if someone took the vehicle without his consent, but
25 when he went back the next day to retrieve the weapon from the

1 glove box it was gone. So he did not know where it was. /

2 Q So you all were unable to locate the gun?

3 A No, sir.

4 Q But he did acknowledge that he had the gun?

5 A Yes, sir.

6 Q And who went to Columbia with you?

7 A Sergeant David Ferguson.

8 Q Did Mr. Cornish ever indicate that he didn't understand
9 anything you were saying to him?

10 A No, sir.

11 Q Did you have any trouble communicating with him?

12 A Not at all.

13 Q Did he appear to be under the influence of anything?

14 A No, sir.

15 MR. HUNTER: Nothing further. Thank you.

16 THE COURT: Thank you. All right, Miss Zmroczek.

17 MS. ZMROCZEK: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MS. ZMROCZEK:

20 Q Sergeant Carrell, anything wrong with your body cam'
21 that day?

22 A No, ma'am.

23 Q Okay. It was working all day?

24 A As far as I know, yes, ma'am.

25 Q Okay. And do you recall what the rules are when you

1 are wearing a body cam?

2 A At that time they were pretty much brand new and they
3 hadn't been in effect. We had no policy at that time when they
4 were issued.

5 Q Okay. But what is policy now?

6 A If you are out dealing with someone that you should
7 turn it on all the time.

8 Q All the time, right?

9 A Yes, ma'am.

10 Q And that's so we know what happens?

11 A Sure.

12 Q We know what is said?

13 A Yes, ma'am.

14 Q Right. And I am going to show you Defendant's 12,
15 which is just a CD. But when you submitted evidence for this
16 case how many videos did you download from your body cam that
17 day?

18 A I don't think I downloaded any of them. I put them on
19 a base and they go to whoever does the downloading.

20 Q Okay. Were there two?

21 A I don't recall.

22 Q Okay.

23 A That's the only one I've seen.

24 Q That's the only one you have seen?

25 A I believe so.

1 MS. ZMROCZEK: Your Honor, may we approach.

2 THE COURT: Yes.

3 (WHEREUPON, there was an off the record
4 discussion.)

5 THE COURT: Ladies and gentlemen, it is about five
6 till eleven. It's an appropriate place for us to
7 take a break. I am going to ask that you go back to
8 your jury room. We will be at ease for about 15
9 minutes.

10 Again, do not discuss the case. Don't talk about
11 it among yourselves. I am going to ask that you
12 during this break elect a foreperson from among
13 yourselves and when we come back in if the foreperson
14 just take this far seat on the front row on my right
15 and your left.

16 Everyone remain seated while the jury is excused.

17 (WHEREUPON, the jury exits the courtroom.)

18 THE COURT: All right. The attorneys approached
19 before we took the break. Defense attorney, Miss
20 Zmroczek has indicated she has a video, or a copy of a
21 video or DVD, that was provided to her as part of
22 discovery that would be a second body cam video of
23 Lieutenant Carrell. He has indicated through his
24 testimony that he only knew of one. We are at the
25 point where defense attorney would like to introduce

1 or attempt to introduce that number 12 into evidence.
2 Is that right?

3 MS. ZMROCZEK: That's correct, Your Honor.

4 THE COURT: Lawyers approach.

5 (WHEREUPON, there was an off the record
6 discussion.)

7 THE COURT: We will be at ease for about five
8 minutes. Mr. Carrell, you are still under oath. You
9 are on the stand. Don't discuss any past testimony or
10 future testimony with anybody during this break.

11 THE WITNESS: Yes, sir.

12 (WHEREUPON, there was a brief recess.)

13 THE COURT: All right. This is where we are, the
14 officer answer questions he was asked by defense
15 attorney, Miss Zmroczek, about what she had marked
16 Defendant's Exhibit Number 12. What she asked him if
17 he had another video. He answered no and that's his
18 answer.

19 You had indicated at the bench --

20 MS. ZMROCZEK: Your Honor, what I would like to do
21 and maybe we can do this in front the jury is ask him
22 more in debt questions about if there was a second
23 video or -- he says no. That there wasn't so then I
24 think I can attempt to refresh his recollection prior
25 to showing it and see if that refreshes his

1 recollection.

2 THE COURT: You can ask what questions you deem
3 necessary. At this point he answered no, he didn't
4 know about a the video. And so, you ask whatever
5 questions. I don't know whether you intend to try to
6 introduce the contents of the video through him. I
7 don't know that at this point. You go ahead with your
8 questions, but at this point he answered simply no.
9 He didn't know about a video so that's where we are.

10 All right, anything else?

11 MS. ZMROCZEK: No, Your Honor.

12 THE COURT: Let's bring the jury in.

13 (WHEREUPON, the jury enters the courtroom.)

14 THE COURT: Ladies and gentlemen. Thank you for
15 your patience. Have you selected a foreperson. Your
16 number?

17 JUROR: 101.

18 THE COURT: All right, Mr. Price.

19 JUROR: Yes, sir.

20 THE COURT: Mr. Price, I just ask that you
21 maintain that seat throughout the remainder of the
22 trial and I remind again the jury that a foreperson
23 has no more say about any of the issue in the case
24 then any or juror. Their role is simply to be able to
25 communicate to the Court if that's necessary. That

1 communication would need to go from the Court back to
2 the foreperson if there are issues that came up during
3 the course of trial.

4 THE COURT: All right. Miss Zmroczek, you can
5 continue cross examination.

6 MS. ZMROCZEK: Thank you, Your Honor.

7 CROSS EXAMINATION

8 CONT'D:

9 Q When we broke I was asking you about your body cam and
10 I wanted to maybe clarify with you what I am asking. Okay. You
11 were wearing your body cam on July 28, 2016?

12 A We had a body cam there. I'm not one hundred percent
13 sure if it was mine or if I had got Ferguson's to do the
14 Miranda. At that point in time body cams were kind of scarce.
15 We didn't have that many of them. So I'm not one hundred
16 percent sure if it was one I had or it was Ferguson's.

17 Q Okay. Well, we viewed State's Exhibit Number 50,
18 right?

19 A Yes.

20 Q You just saw that?

21 A Yes.

22 Q Was that your body cam?

23 A It was a body camera that was on me at the time, yes.

24 Q It was a body cam that was on you?

25 A Yes.

1 Q And you were reading Larry his rights?

2 A Off a Miranda card, yes, ma'am.

3 Q And then you had asked him if he wanted to speak to
4 you? You don't recall his answer?

5 A I don't. Not at that time. It was no or nah or
6 something like that. He was just talking.

7 Q So he said he did not want to speak to you?

8 A I don't exactly remember what he said.

9 Q Okay, but then you read him his rights?

10 A Yes.

11 Q And then he said -- and then you said tell me where the
12 gun is at?

13 A Yes.

14 Q And you don't recall what his response was?

15 A I don't. I don't remember what he said.

16 Q But your response was, okay, so we're going to go down
17 that road?

18 A Yes, ma'am.

19 Q Okay. Did that indicate to you that he wanted to
20 answer your question?

21 A Not at that time.

22 Q And he was in custody?

23 A Yes.

24 Q In handcuffs?

25 A Uh-huh.

1 Q So at least you had the body cam on for that part of
2 the day, right?

3 A Yes, ma'am.

4 Q Would you have taken it off and put it on earlier?

5 A It's possible. Like I say I don't know. I may have
6 gotten it off of Ferguson's vest to make sure that I had the
7 Miranda recorded.

8 Q Okay. Do you recall taking any video of the vehicles
9 and the police outside of the house prior to Larry being
10 arrested?

11 A Not that I recall, but I'm not going to say it's
12 impossible. I may have turned it off or Ferguson may have
13 turned his camera on.

14 We weren't all issued body cameras at that point in time.
15 There may have only been one camera on the scene.

16 Q Okay. Are they connected to a number; a police number?

17 A Not at the that time they weren't.

18 Q Okay.

19 MS. ZMROCZEK: Your Honor, I will just move on at
20 this point.

21 Q I want to ask you Lieutenant Carrell about -- let's go
22 back and talk about your -- your involvement with law
23 enforcement. You said you have been in law enforcement for 12
24 years?

25 A Yes, ma'am.

1 Q Okay. And in fact when you work in Kershaw you only
2 did criminal investigations?

3 A I worked the road some as well.

4 Q Okay. The point of investigations is to gather
5 information, right?

6 A Sure. Yes, ma'am.

7 Q You want to learn everything that you can?

8 A Yes, ma'am.

9 Q All right. Collect as much evidence as you can?

10 A If that's what you are assigned to, yes, ma'am.

11 Q Okay. If that's what you are assigned to. And in fact
12 you took some pictures of some evidence, right?

13 A Some clothing and some TV's, yes, ma'am.

14 Q We saw that, right?

15 A Uh-huh.

16 Q And you said that you -- this is States 43, right. And
17 you said you may have collected the TV's?

18 A Yeah, I believe I called the head investigator in this
19 case which would have been Chief Seibles and that's what he
20 asked me to return back to Winnsboro.

21 Q Okay, and so you did that?

22 A I did.

23 Q Okay, and did you keep track of that somewhere?

24 A Yes, ma'am. It was turned over to Seibles as soon as I
25 got back to the police department and I believe turned the TV's

1 to one of the family members or something of that nature.

2 Q So you filled out paper work and you gave it to
3 Seibles?

4 A I would have, yes.

5 Q Okay.

6 A It would have been given to him, yes.

7 Q When you were in at Raintree Apartments on the 28th,
8 you said it was early in the day?

9 A I am guessing it was around lunchtime. I don't recall
10 the exact time.

11 Q Let me ask you about this. When you are doing
12 investigations do you take notes so you can remember later on?

13 A If I am lead for a criminal investigation, yes.

14 Q Okay.

15 A My task for this was locating a fugitive.

16 Q So you didn't take notes during that part?

17 A No, not that part I didn't.

18 Q Okay. So you -- what were you doing right before you
19 went to Columbia? Let me ask it this way. Did you respond to
20 [REDACTED] Maple Street?

21 A Yes, we went over there with Major Gonzales, yes.

22 Q So you were there at [REDACTED] Maple Street?

23 A Yes.

24 Q And do you recall having a conversation with Officer
25 Squirewell?

1 A I don't. It's possible but I don't remember talking to
2 Squirewell at Maple Street.

3 Q Do you recall saying to him we have someone detained in
4 Columbia I got to get down there?

5 A It's possible. I don't recollect but it's possible,
6 yes.

7 Q And then you asked Officer Squirewell to take a
8 statement from Baylee Reynolds?

9 A Again it's possible. I don't recall. Major Gonzalez
10 would have been the lead on that scene. My only task in this
11 was to locate Mr. Cornish.

12 Q So Major Gonzalez would have been the lead. What does
13 that mean?

14 A He's the major. He was on scene. I believe he took
15 that information. I responded as his backup when I arrived.
16 That's who was there.

17 Q Okay. So when you -- if you -- you said it's possible
18 you said you had somebody detained in Columbia. Why would she
19 be detained?

20 A Like I say I didn't say I said anybody was detained. I
21 don't recall making that statement.

22 Q Okay. I want to go back to your training. You have to
23 do annual trainings, right?

24 A Yes, ma'am.

25 Q To make sure you are up with all the requirements of

1 law enforcement, right?

2 A Yes, ma'am.

3 Q And you receive certificates for that?

4 A Yes, ma'am.

5 Q And you learn what as officers what you are suppose to
6 do?

7 A Yes, ma'am.

8 Q You went to the academy?

9 A Yes, ma'am.

10 Q Graduated?

11 A Yes, ma'am.

12 Q Commissioned law enforcement officer?

13 A Yes, ma'am.

14 Q Know how to write reports?

15 A Yes, ma'am.

16 Q Been trained in it for 12 years?

17 A Yes, ma'am.

18 Q Okay. And you wrote a report in this case, right?

19 A Yes, ma'am.

20 Q Do you have that report with you?

21 A I do have my supplemental, yes, ma'am.

22 Q What day is that supplemental?

23 A It is July 27, 2016.

24 Q On July 27, 2016, you had not arrested Mr. Cornish yet,
25 right?

1 A I don't -- I don't think so.

2 Q Okay. So what information is in your July 27, 2016
3 supplemental report?

4 A Where it says -- you want me to read the narrative?

5 Q Just -- does it mention anything about what you were
6 tasked with?

7 A Myself and sergeant Ferguson was tasked with locating
8 the defender, Larry Cornish.

9 Q Okay, and so then when you arrested him did you do
10 another supplemental report?

11 A Yes.

12 Q What day was that?

13 A 7-28-2016

14 Q 7-28-2016. Now the purpose of supplemental reports is
15 to make sure that you put all the information that is important
16 in that report, right?

17 A Yes, ma'am.

18 Q You want to make sure that it is true?

19 A Yes, ma'am.

20 Q Accurate?

21 A Yes, ma'am.

22 Q And complete?

23 A Yes, ma'am.

24 Q Do you have a copy of that in front of you.

25 A Yes, ma'am.

1 Q Tell me what line does it say that Mr. Cornish gave a
2 statement about the gun?

3 A It doesn't in that initial report.

4 Q I am sorry.

5 A It does not in that initial supplemental.

6 Q And the date of that supplemental report?

7 A 7-27-2017, or 7-28.

8 Q 7-28. So the day that you arrested him and filled out
9 your complete true and accurate report there is no mention of
10 it, right?

11 A No, ma'am.

12 Q When is the first time that you did a supplemental
13 report about the statement that Mr. Cornish makes about a gun?

14 A We sat down and talked about the case.

15 Q "We" who?

16 A Myself and Mr. Squirewell. We were going over the
17 details of the case and I was telling him what happened and when
18 I made the statement he said I needed to make sure I noted that
19 and I hadn't noted it initially that he told us the gun was in
20 the glove box so I went back and created another report and then
21 put that information in there.

22 Q And tell the jury what date that was?

23 A It was -- I believe -- I'm not one hundred percent sure
24 but I believe it was June of this year.

25 Q June of this year you remember this very important

1 information?

2 A When I was asked about it, yeah.

3 Q Okay. I want to talk about -- are you familiar with
4 the policies and procedures of the Winnsboro Department of
5 Public Safety?

6 A It's a big one but I try to be as much as I can.

7 Q Okay. And these policies are kind of like guidelines
8 to help make sure as officers that you build good cases, right?

9 A Yes, ma'am.

10 Q Collect the best evidence?

11 A Uh-huh.

12 Q And make sure that everybody is protected?

13 A Yes, ma'am.

14 Q Okay. There is 11 -- would you agree with me that
15 there is 11 pages on evidence collection?

16 A Yes, ma'am.

17 Q Eleven-page policy on evidence collection and
18 preservation?

19 A Yes, ma'am.

20 Q Okay, and the reason that you all outline that is to
21 make sure that there's a proper chain of custody for courtroom
22 presentation?

23 A Yes, ma'am.

24 Q And also to make sure that everybody has an opportunity
25 to see what you see, right?

1 A Yes, ma'am.

2 Q Okay. Because some times we might have questions about
3 it?

4 A Yes, ma'am.

5 Q For example, I have some questions about the apartment.
6 You took a picture of some TV's and clothes. Wasn't there also
7 the uniform that Mr. Cornish was wearing the day before, wasn't
8 that located there?

9 A His uniform?

10 Q Yes.

11 A I'm not sure, a uniform.

12 Q You don't know about any uniform?

13 A I don't recall. I don't recall anything about a
14 uniform.

15 Q Okay. Because that would have been important
16 information to collect, right?

17 A For the case officer, yeah.

18 Q They could have found some gun powder residue on his
19 clothes?

20 A That's possible.

21 Q Because on the skin they say after six hours it goes
22 away but on other materials --

23 MR. HUNTER: Objection. I think she's testifying.

24 THE COURT: Sustained.

25 MS. ZMROCZEK: I will rephrase.

1 Q Are you familiar with the preservation and collection
2 of gun powder residue?

3 A Somewhat.

4 Q Are you familiar with its ability to be located on
5 items other than skin?

6 A Yes.

7 Q Okay, and is there some timeline required for that?

8 A Generally rule is six hours on skin. Clothing I'm not
9 exactly sure what the general rule is on that.

10 Q Okay. And you also had possession of Larry Cornish's
11 vehicle, right?

12 A Eventually, yes, ma'am.

13 Q Eventually. When was that?

14 A Later. I believe it was later that day we ended up
15 having the vehicle towed.

16 Q Do you have a report about that?

17 A I don't, no, ma'am.

18 Q Okay. Did you have it towed?

19 A The Chief of Public Safety did, Freddie Lorke
20 (phonetics).

21 Q Who?

22 A Chief Freddie Lorke that would be his ultimate decision
23 to have the vehicle towed.

24 Q Was that vehicle processed?

25 A I don't recall. My task was to locate Mr. Cornish.

1 Q Even though your task was to locate Mr. Cornish you
2 still seemed to be involved in other areas of the case because
3 you were there when the car was towed, right?

4 A Yes, ma'am. We are a small department and I was on the
5 scene so they asked me to make contact about the vehicle to the
6 chief. When I contacted the chief he requested that the vehicle
7 be towed back to Winnsboro Public Safety.

8 Q Let me ask you this Mr. Carrell, if you are not
9 specifically tasked something but because you are a small
10 department does that mean you do not write a report about it?

11 A No, not necessarily.

12 Q Should you write a report about that?

13 A Yes.

14 Q And did you write a report?

15 A I did not, no, ma'am.

16 Q Okay. You said that again you were tasked with finding
17 him. So you go to the apartment?

18 A Yes, ma'am.

19 Q And what -- and he wasn't there?

20 A No, not at take time.

21 Q Where else did you you go?

22 A To North Main and then I believe that's about it.
23 North Main where we located him.

24 Q Okay. Are you familiar with cell phones?

25 A Somewhat, yes, ma'am.

1 Q And you're familiar -- you know that you can locate
2 people or at least get records to help locate people, correct?

3 A In some cases you can get records from cell phones.

4 Q Okay.

5 A Some of the modern ones it's a little more difficult
6 but I didn't. In some cases you can.

7 Q And in fact you saw a cell phone, right, in this case?

8 A I believe there were cell phones in the apartment on
9 Raintree.

10 Q Did you collect any of those cell phones?

11 A I don't recall that I did.

12 Q Who did you report to in this case?

13 A Major Seibles, Chief Seibles now.

14 Q Chief Seibles now. It was Major Seibles at the time?

15 A Yes.

16 Q And so, that would be who is kind of like your next
17 chain of command?

18 A At that time.

19 Q So everything you would do you preserved those in
20 records and you give to him so that he can provide a case
21 jacket, right?

22 A Yes, ma'am.

23 Q Okay.

24 A Or I would call them and let him know what was going on
25 and he would take notes of it or things of that nature.

1 Q Okay.

2 MS. ZMROCZEK: Beg the Court's indulgence, Your
3 Honor. I have no further questions Your Honor.

4 THE COURT: Any redirect.

5 MR. HUNTER: Yes, sir.

6 REDIRECT EXAMINATION

7 BY MR. HUNTER:

8 Q Lieutenant Carrell, let's clean up the time line a
9 little bit. The shooting occurred -- did the shooting --

10 MS. ZMROCZEK: Your Honor, I would ask that he not
11 lead and ask specific questions.

12 Q Did the shooting occur the night of the 26th going into
13 the 27th?

14 A Yes.

15 Q And was Mr. Cornish apprehended on the 28th?

16 A Yes.

17 Q And so what did you do during the day of the 27th?

18 A The 27th we worked with SLED attempting to locate
19 locations that he possibly could be at. We gathered information
20 about locations where frequented. You know, back and forth on
21 the SLED during that day. Worked with Major Gonzalez when he
22 went to Maple Street to check a location there that we had we
23 were getting anonymous tips. We tried to verify those but
24 nothing local was actually panning out. Basically we spent the
25 day looking for Mr. Cornish.

1 Q Was this a publicized search?

2 A What do you mean?

3 Q Was it in newspapers or TV?

4 A Yes. We ended up on the news because of the search,
5 yes.

6 Q Okay. So by the time you found Mr. Cornish on the 28th
7 had it been about a day and a half since the shooting?

8 A Yes, sir.

9 Q I believe you testified you all are small department?

10 A Yes.

11 Q How many officers do you all have?

12 A I believe at that time we had about -- I want to say
13 approximately 13 officers.

14 Q Okay. So as a small department did you all kind of
15 help each other out, essentially wear many hats?

16 A We have to, yes, sir.

17 Q Can that lead to confusion some times?

18 A Sometimes it can, yes.

19 Q Can it lead to things being overlooked as far as
20 reports?

21 A It very well can when a lot of people are involved with
22 one case, yes.

23 Q When you spoke with me earlier this year about this
24 case did -- when I spoke with you earlier this year about this
25 case, did I tell you what to put in your supplemental?

1 A No, sir. In no way. We had a general conversation and
2 during that conversation I told him about the statement that Mr.
3 Cornish had made.

4 Q And that statement that you told me that he made is
5 that the statement he did make?

6 A Yes. Yes, he did.

7 Q When Mr. Cornish's vehicle was inventoried was there a
8 gun found in it?

9 A No, sir.

10 MR. HUNTER: Nothing further. Thank you.

11 THE COURT: Any recross? Hold on just a second.

12 Any recross?

13 MS. ZMROCZEK: Yes, Your Honor.

14 MS. ZMROCZEK: Thank you.

15 RE CROSS EXAMINATION

16 BY MS. ZMROCZEK:

17 Q He asked you when Mr. Cornish's vehicle was inventoried
18 if there was a gun and you said no?

19 A No, ma'am.

20 Q Where is the inventory sheet for that?

21 A I don't know. I am a not sure.

22 Q Were you there for the inventory?

23 A I don't recall.

24 Q Okay. Is there a separate criminal justice academy for
25 small departments?

1 A I'm pretty sure there's not.

2 Q You attended the same academy that any other police
3 officer does?

4 A Yes, ma'am.

5 Q You have a same requirements?

6 A Yes, ma'am.

7 Q The same training?

8 A Yes.

9 Q And in fact because it is a small department and you
10 help each other out the reason that you take and make reports is
11 so that there is no confusion, right?

12 A I mean, that would be one of the reasons we make a
13 report, yes, ma'am.

14 Q And that would be a good practice, right?

15 A Yes, ma'am.

16 Q So we don't lose evidencē?

17 A Yes, ma'am.

18 Q So that we could show that there was no gunshot residue
19 in a vehicle, right?

20 A Yes, ma'am.

21 Q So that we can show that there was no gunshot residue
22 on some clothes, right?

23 A I didn't take any clothes.

24 Q Right, but that's why we generate reports and collect
25 evidence when we help each other out, correct?

1 A As a general rule, yes, ma'am.

2 Q But we didn't do that in this case?

3 A I didn't, no, ma'am.

4 Q And in this general conversation a month or two months
5 ago that you recalled this information never made it to the
6 report that you did the day of his arrest, correct?

7 A Yes, ma'am.

8 Q Just wasn't in there?

9 A No.

10 Q And you're trained to put all important and complete
11 information in your reports?

12 A Like I say, we had a conversation in the back of the
13 vehicle. When I spoke with Mr. Hunter about it I told him what
14 the conversation consisted of and that then I entered that into
15 another supplemental.

16 Q Well, let me ask you this, when you had that
17 conversation on July 28th did you think that was important at
18 the time?

19 A I thought it was important, but we -- like I say, I was
20 tasked with locating Mr. Cornish. We were having a -- we were
21 just talking. We were treating him very respectfully and he was
22 doing the same with us. We were just having a conversation.

23 Q But we don't have any body cam of that, right?

24 A I'm not sure.

25 Q Thank you.

1 THE COURT: All right. Thank you. You may step
2 down lieutenant.

3 THE WITNESS: All right.

4 THE COURT: Mr. Hunter, call your next witness.

5 MR. HUNTER: The State calls David Ferguson.

6 DAVID FERGUSON, called as a witness, having been
7 duly sworn by the clerk, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. HUNTER:

11 Q Sergeant Ferguson, will you state your name and rank
12 and where you work.

13 A Sergeant David Ferguson, Winnsboro Public Safety.

14 Q Okay. What's your role at Winnsboro Public Safety?

15 A Patrol officer, shift supervisor.

16 Q What are your duties in those roles?

17 A General police duties as well as fighting fire.

18 Q How long have you been with Winnsboro Public Safety?

19 A Since 2002.

20 Q Is that when you became a law enforcement officer?

21 A Yes, sir.

22 Q Were you working in that capacity on July 28th of last
23 year?

24 A Yes, sir.

25 Q Were you with Lieutenant Carrell when he went to

1 Columbia?

2 A Yes, sir.

3 Q Were you involved in the search for Larry Cornish?

4 A Yes, sir.

5 Q Okay. Tell us about that search. What did you all do?

6 A We went to apartment off of I-26 with SLED, then later
7 we ended up --

8 Q Wait. What did you all do at that apartment?

9 A They went in looking for him but was unable to locate
10 him.

11 Q I will show you what has previously been admitted as
12 State's exhibit 43. Do you recognize that?

13 A Yes, sir. That was the clothes and TV that was on the
14 floor of that apartment.

15 Q So that was in that apartment on July 26th?

16 A Yes, sir,.

17 Q Did you find Mr. Cornish at that location?

18 A No, sir.

19 Q What other agencies were you all working with?

20 A SLED, and there was the fugitive force.

21 Q What happened after you left that location?

22 A We ended up they called us back and said that they had
23 located him on North Main.

24 Q Was that a house or apartment?

25 A A house.

1 Q Okay. Describe the scene when you reached that
2 location?

3 A We got there. Richland County as well as SLED was
4 there trying to make contact with Mr. Cornish and make entry
5 into the house.

6 Q Did you go into the house?

7 A With them, no, sir.

8 Q Okay, so when you first saw Larry Cornish had he
9 already been apprehended?

10 A Yes, sir.

11 Q And where was that?

12 A He was sitting in the rear seat of one the Richland
13 County Sheriff Department cars.

14 Q Okay. Did you observe anyone read Mr. Cornish his
15 Miranda rights?

16 A Lieutenant Carrell did read him his right while he was
17 sitting in that vehicle.

18 Q Okay. Did Mr. Cornish at any time indicate that he
19 wished to speak to a lawyer?

20 A No, sir, not that I heard.

21 Q Did he ever tell you -- indicate that he did the not
22 wish to speak with you all?

23 A No, sir.

24 Q Okay. Immediately after he was read his rights did he
25 make any statement?

1 A Not that I can remember, no, sir.

2 Q Okay. Did he eventually make a statement?

3 A When we were sitting -- he was sitting in the vehicle,
4 Lieutenant Carrell's Durango, he made the statement about the
5 gun being in the glove compartment of the vehicle that belonged
6 to this lady.

7 Q All right. At that time Mr. Cornish handcuffed?

8 A Yes, sir.

9 Q Was he handcuffed in the front or the back?

10 A The front.

11 Q Did he have anything to drink?

12 A Yes, sir, we got some Gatorade. He was drinking that.

13 Q Did he ask for a smoke break or go to the bathroom or
14 anything like that?

15 A No, sir.

16 Q Did you all threaten him in any way?

17 A No, sir.

18 Q Did he appear to be under the influence of anything?

19 A No, sir.

20 Q Did he appear to understand your conversation?

21 A Yes, sir.

22 Q Did you have any trouble understanding him?

23 A No, sir.

24 Q Okay. And again did he ever indicate that he wished to
25 speak to an attorney?

1 A No, sir.

2 Q And he never indicated that he did not want to speak to
3 you?

4 A No, sir.

5 Q Okay. And what was his statement?

6 A That the gun -- the last time he saw the gun it was in
7 the glove compartment of that vehicle that was at the rear of
8 the house.

9 Q Were you wearing a body cam that day?

10 A No, sir.

11 Q So was there only one body cam between the two of you
12 all?

13 A Yes, sir.

14 Q Did Mr. Cornish make any other statements?

15 A Not that I can remember, no, sir.

16 Q Was that the extent of your involvement in this
17 investigation?

18 A Yes, sir, just transported him to Winnsboro.

19 MR. HUNTER: Beg the Court's indulgence.

20 Nothing further. Thank you.

21 THE COURT: Miss Zmroczek.

22 MS. ZMROCZEK: Thank you.

23 CROSS EXAMINATION

24 BY MS. ZMROCZEK:

25 Q Sergeant Ferguson, you were at [REDACTED] Maple street earlier

1 that day?

2 A Maple Street, no, ma'am.

3 Q You weren't there?

4 A No, ma'am.

5 Q Okay. You were just in Richland County?

6 A Yes, ma'am.

7 Q In the apartment?

8 A Yes, ma'am.

9 Q So you go to the Apartment at Raintree?

10 A Yes, ma'am.

11 Q With Lieutenant Carrell?

12 A Yes, ma'am.

13 Q And which one of you is wearing the body cam at that
14 point?

15 A I think Lieutenant Carrell.

16 Q And you are with the department, your with Winnsboro
17 Department of Public Safety?

18 A Yes, ma'am.

19 Q What are your policies on body cams?

20 A That we have the camera on when making contact with
21 subjects.

22 Q When you are making contact?

23 A Yes.

24 Q Okay. You don't know if there is any body cam from
25 inside the apartment, right?

1 A No, ma'am.

2 Q You do remember seeing TV's, right?

3 A Yes, ma'am.

4 Q And clothes?

5 A Yes, ma'am.

6 Q You remember being go told that the uniform that Mr.

7 Cornish had been wearing the night before was there right?

8 A I don't remember her saying that those clothes belonged
9 to him. I don't remember about anything what he was wearing the
10 night before.

11 Q Okay. Nothing was collected?

12 A Not by me, no ma'am.

13 Q Was there anything collected by anybody else?

14 A Just the only thing was collected there was the two
15 TV's.

16 Q Okay. Was there an inventory report filled out for
17 that?

18 A As far as I know, yes, ma'am. I didn't do it.

19 Q Okay, because one of the things that is important in
20 your department as well as other departments is to make sure
21 that we document everything, right?

22 A Yes, ma'am.

23 Q Did you do any reports in this case?

24 A No, ma'am.

25 Q Why did you not do any reports in this case?

1 A I was just a transport officer.

2 Q You were just a transport officer?

3 A Yes.

4 Q But you were more than just a transport officer, right?

5 You got to hear words that allegedly came out of Larry's mouth,
6 right?

7 A Yes, ma'am. During transport, yes, ma'am.

8 Q Important words?

9 A Yes, ma'am.

10 Q Those words should make it into your report, right?

11 A Yes, ma'am, if I had to fill out a report but I was
12 just transport officer.

13 Q Okay. So who was in charge of filling out the report?

14 A Lieutenant Carrell.

15 Q Okay. You said that you all spent some time looking
16 for him, right?

17 A Yes, ma'am.

18 Q Did anybody call his phone and say, hey, we need you to
19 come in?

20 A I don't know ma'am.

21 Q All right. Okay. Have you viewed any of the body
22 camera footage from that day?

23 A No, ma'am.

24 Q Thank you.

25 THE COURT: Any redirect?

1 MR. HUNTER: Nothing Your Honor.

2 THE COURT: All right. Thank you Sergeant
3 Ferguson you may step down.

4 MR. HUNTER: Your Honor, may we approach?

5 THE COURT: Yes.

6 (WHEREUPON, there was an off the record discussion
7 held at the bench.)

8 THE COURT: Ladies and gentleman of the jury, we
9 have an issue that we need to take up outside of your
10 presence. I'm going to ask that you return to your
11 jury room. We will deal with that issue and then we
12 will have you brought back in here. We do intend to
13 probably go for another hour or so before we break for
14 lunch, so if you need to refresh yourselves during
15 this break we intend again to go to about quarter to
16 one or one or so before we break.

17 Do not discuss the case. Do not discuss any
18 testimony that you heard or seen in the courtroom.
19 Have no discussion about it whatsoever.

20 Everyone remain seat as the jury retires to the
21 jury room.

22 (WHEREUPON, the jury leaves the courtroom)

23 THE COURT: The State has indicated that the next
24 witness that they intend to call is a minor age eight.
25 Is that right Mr. Hunter, is he eight?

1 MR. HUNTER: I believe he is seven.

2 THE COURT: Seven now. The defense has indicated
3 that they do contest his competency and so we are
4 going to ask that you bring that witness in and we
5 examine him as to his competency. All right.

6 MS. ZMROCZEK: Your Honor, I am going to get the
7 disc out just while he's coming in.

8 THE COURT: Okay.

9 MS. ZMROCZEK: Just because it's still in there.
10 Even though it's not in evidence I think it's marked
11 as ID.

12 THE COURT: Okay.

13 (Omarian Mickle enters the courtroom and takes the
14 witness stand.)

15 For purposes of right now he just needs to come on
16 up here. We are not going to swear him in for this.

17 All right. Thank you.

18 EXAMINATION

19 BY THE COURT:

20 Q Can we turn your chair? Turn your chair around.

21 Hello. What's your name?

22 A O.M.

23 Q O.M. I am going to ask that you speak up so I can
24 hear you. How old are you O.M.?

25 A Seven.

1 Q Are you in school? Do you go to school?

2 A Nod.

3 Q What school do you go to?

4 A Elementary school.

5 Q Do you know the name of your elementary school?

6 A (Shakes head negatively).

7 Q Is it here in Winnsboro?

8 A (Nods in the affirmative.)

9 Q I'm going to ask you, any questions that I may ask or

10 anybody else asks you are going to have to speak up and say yes

11 or no. Do you understand that?

12 A (Nods.)

13 Q Yes or no. You can't shake your head. We need to hear

14 from you. Did you go to school today? Yes or no.

15 A No.

16 Q All right. And how old are you again?

17 A Seven.

18 Q When is your birthday?

19 A [REDACTED].

20 Q [REDACTED]?

21 A The [REDACTED]

22 Q The [REDACTED] Is it usually pretty hot on [REDACTED] the [REDACTED]

23 A No.

24 Q It is not hot. All right. O.M. do you ever get in

25 trouble at home?

1 A Sometimes.

2 Q What happens when you get in trouble?

3 A Sometimes you get a whooping.

4 Q Sometimes you get a whooping. So do you know when you
5 do good things and when you do bad things?

6 A (Nods)

7 Q Yes or no? Answer or yes or no.

8 A Yes.

9 Q All right. And when you do bad things tell me again
10 what happens?

11 A You get whooped.

12 Q When you -- do you know what telling a lie is?

13 A Yes.

14 Q What is telling a lie?

15 A Telling a lie is like when you did it but you blame it
16 on the other person.

17 Q All right. And what might happen if you tell a lie?

18 A Might get butt cut.

19 Q Sometimes we call that a whooping, a whooping too?

20 A (Nods).

21 Q Yes or no?

22 A Yes.

23 Q Do you know why you've been -- why you have been
24 brought here today?

25 A (Nods)

- 1 Q You need to answer yes or no?
- 2 A Yes.
- 3 Q Tell me why?
- 4 A Because my mom got shot.
- 5 Q And some people are going to ask you some questions
6 about that in just a little bit. Do you understand that? Yes
7 or no.
- 8 A Yes.
- 9 Q Let me ask you, what grade -- what grade are you in at
10 school?
- 11 A First grade.
- 12 Q First grade. And what is your teacher's name?
- 13 A Miss Butler.
- 14 Q Miss Butler. What are you all doing in school?
- 15 A Math.
- 16 Q And are you learning math?
- 17 A (Nods).
- 18 Q Yes or no?
- 19 A Yes.
- 20 Q What do you like most math or reading?
- 21 A Reading.
- 22 Q Reading. And have you learned to write?
- 23 A No.
- 24 Q Can you write your name?
- 25 A Yes.

1 Q Really? Can you spell your name?

2 A Yes.

3 Q Tell me how to spell ■ O.M. ?

4 A ■ O.M. .

5 Q Were you in kindergarten last year?

6 A Yes.

7 Q You must have made good grades? Did you get good grade
8 yes on or no?

9 A Yes.

10 Q Thank you.

11 THE COURT: Any other questions from the
12 defense?

13 MS. ZMROCZEK: No, Your Honor?

14 THE COURT: From the State?

15 MR. HUNTER: No, Your Honor.

16 THE COURT: I find that this witness understands
17 the questions that have been asked him by the Court.
18 He can perceived facts. He certainly perceives what
19 he is doing here and knows how to appropriately answer
20 questions. I find that he is capable of expressing
21 himself and that he is capable of understanding his
22 duty to tell the truth and he understands the
23 consequences of not telling the truth. And so I find
24 that he is competent and qualified to be a witness in
25 this particular case.

1 All right. Let's let him step down. Let him have
2 a seat on the front row with the solicitor or somebody
3 in your office so he doesn't have to make this big
4 march all the way back around when the jury come in.

5 O.M. if you will go with Miss Sandra and just
6 have a seat on the front row and I anticipate these
7 next couple of witnesses may take a while so let's
8 take a five-minute break.

9 (WHEREUPON, court was in recess.)

10 THE COURT: State ready?

11 MR. HUNTER: Yes, sir.

12 THE COURT: Defense?

13 MS. ZMROCZEK: Yes, Your Honor.

14 THE COURT: Bring the jury in.

15 (WHEREUPON, the jury enters the courtroom.)

16 THE COURT: All right, solicitor. Call your next
17 witness.

18 MR. HUNTER: The State calls O.M.

19 THE COURT: Come on up and have a seat.

20 O.M., called as a witness, having been
21 duly sworn by The Clerk, was examined and testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. HUNTER:

25 Q Hey. How are you doing today?

1 A Good.

2 THE COURT: Let's pull the microphone as close as
3 it can go. That's good.

4 Q Can you talk into that? Say something?

5 A Hey.

6 Q How old are you ■ O.M. ?

7 A Seven.

8 Q And where do you live?

9 A At Castlewood.

10 Q Is that in Winnsboro?

11 A Yes.

12 Q Who do you live with?

13 A My mom, and my brother.

14 Q Where was grade are you in?

15 A First grade.

16 Q And where did you go to school?

17 A Elementary school.

18 Q In Winnsboro. Who is your teacher?

19 A Miss Butler.

20 Q Do you like her? Is she nice?

21 A (Nods)

22 Q Do you know why you are here today?

23 A Yes.

24 Q Why are we here today?

25 A Because my momma got shot.

1 Q Do you remember when she got shot?

2 THE COURT: You need to answer yes or no?

3 Q Do you remember when she got shot?

4 A Yes.

5 Q Okay. Was that day time or night time?

6 A Night time.

7 Q And what were you doing that night?

8 A I was at the back.

9 Q The back of what?

10 A The seat.

11 Q The back seat. Did anything happen -- who was living
12 in your house when she got shot?

13 A Larry.

14 Q Larry Cornish?

15 A (Nods.)

16 Q And who else?

17 A That's it.

18 Q Was your brother living there?

19 A (Nods.)

20 Q You got to speak?

21 A Yes.

22 Q So was it you and Larry and your momma and your
23 brother?

24 A Yes.

25 Q Okay. Do you remember anything happening in your house

1 that night? If you do say yes.

2 A Yes.

3 Q Okay. What happened in your house that night?

4 A I peeked out. I went -- I tried to go in the kitchen.
5 I saw them arguing.

6 Q You saw them arguing, Larry and your momma?

7 THE COURT: You need to say yes or no.

8 A Yes.

9 Q Did your momma tell you anything?

10 A (Nods).

11 THE COURT: Yes or no.

12 A Yes.

13 Q What did your momma tell you?

14 A Come on.

15 Q Okay. Did Larry say anything?

16 A No.

17 Q Okay. What did you do then?

18 A I went with her.

19 Q Okay. Where did you all go?

20 A In the car.

21 Q Okay. Did your brother come too?

22 A Yes.

23 Q Okay. Where did you momma sit?

24 A In the front.

25 Q And where did you sit?

1 A In the back.

2 Q Which side? Did you sit behind our momma or other the
3 other side?

4 A The other side.

5 Q So the side not behind your momma or behind your momma?

6 A Behind my momma.

7 Q Behind your momma. Okay. And where did your brother
8 sit?

9 A Over there.

10 Q Next to you?

11 A (Nods)

12 Q Okay. Did Larry get in the car?

13 A Yes.

14 Q Okay. Where did he get in the car?

15 A We was at home.

16 Q You got to speak up a little bit.

17 A When we was at home.

18 Q When you were still at home. Do you remember what part
19 of the car he got in to?

20 A The front.

21 Q He got in the front. Did he get into the front by
22 crawling over you all or did he get in the front by getting into
23 the door?

24 A By getting in the door.

25 Q Okay. Did you see anything in Larry's hand?

- 1 A (Nods)
- 2 Q Yes or no.
- 3 A Yes.
- 4 Q What did he have in his hand?
- 5 A A taser.
- 6 Q A taser. What did it look like?
- 7 A It was black.
- 8 Q It was black. Was it big or small?
- 9 A Big.
- 10 Q Was he holding it in one hand?
- 11 A (Nods).
- 12 Q Do you remember what he did with the taser? You got to
- 13 speak up.
- 14 A Yes.
- 15 Q What did he do with the taser?
- 16 A He was pointing it.
- 17 Q Where was he pointing it?
- 18 A Right here. (Indicating)
- 19 Q On your momma. And where is right here? You go to say
- 20 where? Was that at her face? You got to say yes or no.
- 21 A Yes.
- 22 Q Did your momma drive out of the apartment? Yes or no.
- 23 A Yes.
- 24 Q Do you remember where you all went?
- 25 A Yes.

1 THE COURT: O.M., you need to answer either yes
2 or no so everybody can hear you.

3 Q Do you understand?

4 A (Nods)

5 Q Okay, what happened after your momma started driving?

6 A She got shot.

7 Q Okay. Was the car moving or was it stopped when she
8 got stopped?

9 A It was stopped.

10 Q Do you remember where you all were stopped?

11 A (Nods).

12 Q Yes or no.

13 A Yes.

14 Q Where were you all stopped?

15 A At the red sign.

16 Q Okay is that next to Sonic? Yes or no?

17 A Yes.

18 Q What did -- is that when Larry shot your mom? Yes or
19 no?

20 A Yes.

21 THE COURT: All right. Just try not to ask him a
22 yes or no question. You can phrase your question
23 where he certainly can answer your question. Try not
24 to ask a yes or no question.

25 MS. ZMROCZEK: Thank you Your Honor.

1 Q Okay. O.M., when you all got to the stop sign at
2 the Sonic what did Larry do?

3 A He -- my momma got shot.

4 Q Okay. Where was Larry when he shot your momma?

5 A He was near the stop sign.

6 Q Was he -- did Larry -- did Larry stay in the car the
7 whole time?

8 A No.

9 Q What did Larry do?

10 A He got out of the car.

11 Q Okay, and where was he standing when he shot your
12 momma?

13 A Like near the stop sign.

14 Q Was that close to the car; Yes or no?

15 A (Nods).

16 Q Yes or no?

17 A Yes.

18 Q And then what happened?

19 A And then she got shot and we went to the hospital.

20 MR. HUNTER: No further questions. Thank you

21 O.M.

22 THE COURT: All right. Miss Zmroczek.

23 MS. ZMROCZEK: Thank you.

24 CROSS EXAMINATION

25 BY MS. ZMROCZEK:

1 Q Hi ■ O.M. It is okay if we talk? Is that a yes?

2 A Yes.

3 Q Okay. I am going to stand up close so you can hear me.

4 Okay? Is that okay with you?

5 A (Nods).

6 Q And your seven?

7 A Yes.

8 Q Yes. And you remember last year when you were six?

9 A (Nods)

10 THE COURT: All right ■ O.M. you need to answer
11 the question. Try not to shake your head. Just say
12 yes or no, whatever the answer is, okay?

13 THE WITNESS: Okay.

14 Q And I will pull this a little bit closer for you. I
15 know you are nervous. I just have a few questions for you,
16 okay?

17 A Okay.

18 Q Do you remember that you all were going to go to the
19 store that night?

20 A No.

21 Q Do you remember talking to the police officer?

22 A Yes.

23 Q At the hospital?

24 A Yes.

25 Q What did you tell him about where this happened?

1 A We was at the stop sign.

2 Q And did you say that Larry was in the street?

3 A Yes -- no, he wasn't in the street.

4 Q What did you say?

5 A He was on the sidewalk.

6 Q He was on the sidewalk. Okay. Far away from the -- a
7 little bit far from the car?

8 A No.

9 Q Okay. But he was on the sidewalk, right?

10 A (Nods).

11 Q Was any part of him in the car?

12 A No.

13 Q No. And let's talk about this taser. What did it look
14 like?

15 A It was black.

16 Q What else did it look like?

17 A It was a shape.

18 Q I'm sorry.

19 A It was a shape.

20 Q It was a shape. What shape?

21 A It looked like a round circle.

22 Q Like a round circle, right? That's what you told the
23 police that night, right? Yes?

24 A Yes.

25 Q Okay. And you remember telling the police that Larry

1 wanted to get out of the car?

2 A Yes.

3 Q He was trying to get out of the car, right?

4 A Yes.

5 Q ■ O.M. thank you so much for answering my questions.

6 I don't have any more for you, okay?

7 A Okay.

8 THE COURT: Anything further Mr. Hunter?

9 MR. HUNTER: No.

10 THE COURT: Mr. ■ O.M., you can step down and you
11 can walk right on around.

12 All right. Solicitor, call your next witness.

13 MR. HUNTER: The State calls Ashley Mickle.

14 ASHLEY MICKLE, called as a witness, having been
15 duly sworn by the clerk, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. HUNTER:

19 Q Ashley, will you state your name please?

20 A Ashley Mickle.

21 Q And where are you from?

22 A Winnsboro.

23 Q Okay. I.

24 THE COURT: You are going to need to speak up
25 so we can all hear you.

- 1 A Winnsboro.
- 2 Q Where did you go to school?
- 3 A Fairfield Central.
- 4 Q When did you graduate?
- 5 A 2006.
- 6 Q Okay. Where do you work?
- 7 A Fairfield County Detention Center.
- 8 Q And how long have you worked there?
- 9 A Almost five years.
- 10 Q And what do you do there?
- 11 A Correction officer.
- 12 Q Are you married?
- 13 A Yes.
- 14 Q How long have you been married?
- 15 A Eleven years.
- 16 Q Okay. Who is your husband?
- 17 A Clerone Mickle.
- 18 Q Is that who your older son is named for?
- 19 A Yes.
- 20 Q Are you all still together or are you separated?
- 21 A We have been separated for six years.
- 22 Q And do you have any kids? Do you have children?
- 23 A Yes.
- 24 Q Who are your children?
- 25 A Z.M. C.M. and O.M.

1 Q And what are their ages?

2 A Seven, ten and eleven.

3 Q Do they live with you?

4 A Two of them. The boys.

5 Q O.M. and C.M. Where does Z.M. live?

6 A With my mother and father.

7 Q Okay. Do you know Larry Cornish?

8 A Yes.

9 Q Okay. How did you met Larry Cornish?

10 A At Alvin S. Glenn.

11 Q Did you use to work there?

12 A Yes.

13 Q When did you all start dating?

14 A I think maybe May of 2012.

15 Q So how long had you all been together at the time you
16 were shot?

17 A Four years.

18 Q Okay. Did you all live together?

19 A Yes.

20 Q Did he move in with you or did you move in with him?

21 A He moved in with me.

22 Q And where did he move in with you?

23 A We were on Old Airport Road at first next door to my
24 parents.

25 Q Okay, and after that?

1 A We moved to Castlewood Apartments.

2 Q Is that apartment in your name or his name or both?

3 A Mine.

4 Q Okay. How long did you all live there together?

5 A A year.

6 Q Who paid the bills?

7 A The both of us.

8 Q Did Larry work?

9 A Yes.

10 Q Where did he work?

11 A McDonalds.

12 Q What did he do there?

13 A He was a manager.

14 Q Did he work in McDonalds in Winnsboro?

15 A At first he did.

16 Q At some point did you all relationship start sour?

17 MS. ZMROCZEK: Your Honor, I am going to object to
18 leading.

19 THE COURT: Overruled.

20 A Yes.

21 Q Okay. Describe that to the jury.

22 A Well, it was just a lot of lies, cheating.

23 Q And at some point did you decide you didn't want to
24 live with Larry any more?

25 A Yes.

1 Q When was that?

2 A A couple of days before I got shot.

3 Q And what did you tell Larry?

4 A We actually got into altercation the Saturday before
5 and he didn't want to leave until I got an eviction notice for
6 him.

7 Q So did you apply to have him evicted?

8 A Yes.

9 Q Did you actually file that with the Court?

10 A The Tuesday before I was shot.

11 Q Okay. What was his reaction to that?

12 A He never saw it.

13 Q So he didn't know about it?

14 A He didn't know about it.

15 Q Okay. Let's go ahead and talk about the night you got
16 shot. What happened that night?

17 A He came home and I was laying on the couch in the
18 living room.

19 Q What time was that?

20 A I don't know. There is no clock in my living room so I
21 didn't know.

22 Q Was it at night?

23 A It was nighttime.

24 Q What happened?

25 A He came in and he sat down in front of the chair and he

1 started asking me did I get an eviction notice for him yet and I
2 told him no and he started talking about some other things but I
3 didn't want to be bothered because I had to go to work six
4 o'clock that morning so I was trying to sleep. Well, he got up
5 and he went in the washroom and I heard him rumbling around back
6 there and I knew the night before I had washed some of his
7 uniforms and I found a bullet in his pants pocket and I just sat
8 it on top of the dryer. So once he comes out of the washroom he
9 goes down the hall to the bedroom and he cuts on the light.
10 Usually he will get in to bed and go to sleep or take a shower
11 but he cuts the light on in the bedroom and I knew something was
12 off. I got up and I went back there to see what he was doing
13 and he was sitting on the foot of the bed with a sock on his
14 hand with the bullet. And I asked him what was he doing. He
15 told me he was wiping the fingerprints off of the bullet.

16 Q Okay. What did you do then?

17 A I went to wake my kids up because I knew he had a gun
18 and I knew he was -- he just wasn't acting right and I wanted to
19 leave.

20 Q Okay. Do you know what kind of gun he had?

21 A I'm not sure.

22 Q Was it hand gun?

23 A It was hand gun.

24 Q When you woke your kids up what happened next?

25 A We tried to leave but he blocked the front door. He

1 wouldn't let us leave. So I talked to him. He kept on telling
2 me I didn't have any clothes on. I didn't. All I had on was a
3 t-shirt and some bedroom slippers. The kids didn't have any
4 shoes on. So he knew I had to go work so he kept telling me you
5 don't have your work clothes. You don't have anything. So I
6 sent my son to my closet in the bedroom to get my work clothes
7 which were laying on top of basket.

8 Q Was that C.M.?

9 A Yes, C.M.. Instead of him just grabbing the clothes
10 he grabbed the whole basket, and on the way back up to the
11 hallway Larry he looked at me and said I am sick of this shit
12 and he took off running down the hallway and I knew he was going
13 to get the gun because I knew it was in the room. So me and the
14 kids ran out the apartment and we got in the truck. By the time
15 I looked back my youngest son, O.M., had left his door open
16 and Larry was right there. He was getting in the back seat. He
17 got in the back seat with a gun pointed at my head.

18 Q What did he do then?

19 A He told me to drive. He hopped across the console and
20 hopped in the front seat.

21 Q Okay. Did you drive immediately or did you all --

22 A No, I sat there because I thought if I talked to him
23 maybe he would calm down, but he wouldn't.

24 Q Okay. What happened next?

25 A I kept on asking him what was wrong with him. I even

1 asked him was he going to shoot me in front of my kids.

2 Q What did he say?

3 A He told me to shut up before he splattered my brains
4 all over the windshield. He told me to drive.

5 Q And then did you drive?

6 A Yes.

7 Q Where did you go?

8 A I started going up the hill.

9 MS. ZMROCZEK: Your Honor, may was I approach.

10 THE COURT: Lawyers approach.

11 (WHEREUPON, there was an off the record
12 discussion.)

13 Q Do you need to take a minute Ashley. After Larry said
14 that to you what did you do?

15 A I started to driving up the hill. I pulled out of the
16 parking lot and started going up the hill.

17 Q Up towards Calhoun Street?

18 A Towards Sonic and Advance. He started telling me to
19 let him out but I didn't want to let out because I knew I let
20 him out he was going to shoot me. So we started approaching the
21 stop sign and I was going to keep straight through but a car was
22 coming so I had no choice but to stop. As soon as I stopped he
23 hopped out. He turned around and shot me.

24 Q Where was he standing when he shot you?

25 A Outside of the car.

1 Q Was the gun still in the car or was it outside?

2 A It was outside the car I believe.

3 Q Was he right next to the car? How close to the door
4 was he?

5 A Like standing in the door was still open. He was
6 standing in the door.

7 Q Standing in the doorway?

8 A Yes.

9 Q Was there any delay or anything?

10 A Not that I remember.

11 Q Did he say anything else?

12 A No.

13 Q Do you remember what he did after he shot you?

14 A No.

15 Q Your kids were still seated in the back seat?

16 A Yes.

17 Q What did you do after he shot you?

18 A I took off to the hospital.

19 Q Did it take you long to get to the hospital?

20 A No.

21 Q Did you go anywhere else?

22 A No.

23 Q Did you talk to your kids at any time?

24 A When the bullet hit me I screamed out he shot me and

25 **O.M.** he said he shot momma. He shot momma.

1 Q What happened when you got to the hospital?

2 A I walked in and the lady -- I walked up to the window.
3 I was bleeding everywhere and she called to the back and two
4 nurses came out and they took me to the back.

5 Q Okay. What were your injuries?

6 A I had a fractured jaw, missing eight teeth; four on
7 each side of my mouth.

8 Q So you are missing teeth from both sides of your mouth?

9 A Yes.

10 Q Have you had to have any surgeries?

11 A Yes. I had two surgeries the day I was shot and I had
12 additional surgery September the 27th of last year and in
13 November I had dermabrasion done for my scars.

14 Q Are you still having any issues?

15 A Yes.

16 Q What?

17 A Last Tuesday I had to go to the dentist for them to
18 remove a tooth out of my tongue.

19 Q Did you ever hear from Larry again after that night?

20 A Yes.

21 Q When was that?

22 A He wrote --

23 MS. ZMROCZEK: Your Honor.

24 THE COURT: All right. Lawyers approach.

25 (WHEREUPON, there was an off the record

1 discussion.)

2 THE COURT: Ladies and gentlemen of the jury, we
3 need to take up an issue outside of your presence. I
4 will ask that you step out to the jury room. We will
5 have you back in here very shortly.

6 Do not discuss the case or any testimony.

7 (WHEREUPON, the jurors leave the courtroom.)

8 THE COURT: All right. Outside the jurors
9 presence, the last question from the State was from
10 this witness has she heard any more from Larry
11 Cornish. She indicated by answer that he written --
12 he wrote her letters and so the lawyers did approach
13 and I believe Miss Zmroczek you had an objection to
14 the introduction of those letters and contents of the
15 letters. Is that correct?

16 MS. ZMROCZEK: I do. I object to the letters, the
17 context of the letters on the basis of laying a proper
18 foundation and authentication for them.

19 THE COURT: All right, we will have a hearing
20 outside of the presence of the jury.. Mr. Hunter I
21 will allow you to question her. Allow you to question
22 her on the foundation for admission of the letters.

23 MR. HUNTER: Thank you.

24 Q Ashley, did you ever hear from Mr. Cornish after the
25 shooting?

1 A Yes.

2 Q Okay. Did you receive anything in the mail?

3 A Yes.

4 Q What did you receive?

5 A Letters.

6 Q I am going show you what has been marked as State's

7 Exhibit 51 and 51. Do you recognize these?

8 A Yes.

9 Q And what are those?

10 A Letters from Larry.

11 Q Okay. Do you recognize -- can you read the postmark on
12 those letters?

13 A Yes.

14 Q Where are they from?

15 A Charleston.

16 Q And where was Larry at the time you received those
17 letters?

18 A Charleston.

19 Q Okay. Can you recognize his handwriting?

20 A Yes.

21 Q Can you identify whose handwriting is on that envelope?

22 A His.

23 Q Okay. Have you read those letters?

24 A Yes.

25 Q All right. Can you identify the handwriting in the

1 letters themselves?

2 A Yes.

3 Q And whose handwriting is that?

4 A Larry's.

5 Q And are you familiar with his handwriting?

6 A Yes.

7 MR. HUNTER: Your Honor, at this point I would move
8 to put them into evidence.

9 THE COURT: Let me -- any questions for this
10 witness Miss Zmroczek?

11 MS. ZMROCZEK: Yes.

12 CROSS EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Miss Mickle, how many letters prior to these have you
15 received from Mr. Cornish?

16 A I think that's it.

17 Q That's it?

18 A Yeah.

19 Q So never before had you ever received any letters from
20 him?

21 A No.

22 Q And you received them when?

23 A One is September and one says October.

24 Q Right. Is that when you received them?

25 A Yes, I got them out of my mailbox.

1 Q And when did you turn them over?

2 A The one for September I think I took it to Mr. Seibles
3 the day after and the last one I'm not sure when I turned it in
4 to court.

5 Q And you said you took it to Mr. Seibles?

6 A Yes, and he made copies of it and he gave it back to me
7 and I gave it to my mother to put in her safe deposit box.

8 MS. ZMROCZEK: Those are all the questions I have.

9 I would have an objection.

10 THE COURT: I will hear you on your motion.

11 MS. ZMROCZEK: Okay. Thank you, Your Honor.

12 The testimony that we have from the stand is that
13 she had never received letters from Mr. Cornish
14 before. There has been no basis for how she was able
15 to recognize the handwriting. Additionally, Your
16 Honor, there was some mention that she received the
17 first letter and I guess took it to Major Seibles who
18 made a copy of it, I guess, and gave it back. So
19 really, Your Honor, our argument has been the whole
20 time, authentication.

21 Obviously the Court is aware the under Schmerber
22 they can take handwriting samples and compare them and
23 then present them as authenticated to his handwriting.
24 Here the testimony is she just received them. She
25 knew he was in jail and had never received a letter

1 before. So we would argue they are not to be entered
2 on that basis.

3 Thank you.

4 THE COURT: All right. Mr. Hunter I will be glad
5 to hear from you.

6 MR. HUNTER: Judge, she's he testified that she
7 has lived with Mr. Cornish for four years. She
8 testified she's aware -- not aware. She is familiar
9 with his handwriting. She testified that these were
10 postmarked from Charleston when Larry was in
11 Charleston. I'm not sure what else she would have to
12 prove. She lived with him four years. She knows his
13 handwriting. She knows where he was when he sent the
14 letters. Just the fact that he never sent her letters
15 before, he was living with her. Why would he send her
16 letters.

17 THE COURT: I will deny the objection. I will
18 allow the letters number 51, State's 51 and 51 be
19 introduced through this witness. As the State has
20 indicated they did lived together. In a relationship
21 for four years. In fact think split bills according
22 to testimony of this witness which means they
23 conducted their affairs in essence almost as husband
24 and wife. That she recognized his handwriting from
25 living with him and four years and she also indicated

1 that she recognized the address as being from
2 Charleston where she understood he was at the time
3 that the letters were addressed to her.

4 So based upon that I find there is sufficient
5 authentication. I will allow State's Exhibit 51 and
6 52 into evidence.

7 (State's Exhibit 51 and 52, letters, receive in
8 evidence as of this date.)

9 THE COURT: All right, anything else?

10 MS. ZMROCZEK: No.

11 THE COURT: All right, let's bring the jury back
12 (WHEREUPON, the jury enters the courtroom.)

13 THE COURT: All right. Thank you. Mr. Hunter you
14 can proceed with the question.

15 Q Ashley, did you ever receive any letters from Mr.
16 Cornish?

17 A Yes.

18 Q Okay. I am going to show you what has been marked as
19 State's Exhibit 51 and 52, can you identify those items?

20 A Yes.

21 Q Okay, and what are they?

22 A Letters from Larry.

23 Q And how can you tell they are from Larry?

24 A I know the handwriting.

25 Q And where is it postmarked?

1 A From Charleston.

2 Q At the time you received those letters where was Larry?

3 A In Charleston.

4 Q Okay. Have you read those letters?

5 A Yes.

6 Q Could you tell the jury what essentially what the
7 letters say?

8 A That was sorry. He never said what he was sorry for
9 but he was sorry and that he loved me and he missed me and the
10 kids.

11 Q Did you have --

12 MR. HUNTER: And Your Honor, at this point I move
13 State's 51 and 51 into evidence?

14 THE COURT: State's 51 and 51 are introduced into
15 evidence over the objection of defense.

16 (State's Exhibits 51 and 52, letters, received in
17 evidence as of this date.)

18 Q Did you ever have any other communications with Larry?

19 A He got my phone number somehow. I just happened to
20 answer the phone and when I heard his voice I hung up and I
21 automatically just changed my phone number.

22 Q And you haven't heard from him since?

23 A No.

24 Q Okay. Would you describe -- when you got shot would
25 you describe what happened? Essentially where did the bullet go

1 in and where did it come out?

2 A It went in right side and it came out on the left side.

3 Q I am going to show what has been marked as State's
4 Exhibit 44 a disc containing surveillance video from
5 Castlewood's Apartments. Have you viewed those videos?

6 A Yes.

7 Q Can you identify the location in those videos?

8 A It's Castlewood Apartment.

9 Q And what portion of Castlewood apartment is that video?

10 A It's my building.

11 Q And you recognize it?

12 A Yes.

13 Q Is there a date and time stamp on the videos?

14 A Yes.

15 Q Okay. Does that date and time stamp match up with the
16 time the events that happened on July 27th of last year?

17 A Yes.

18 MR.HUNTER: Your Honor, at this point I would move
19 State's 44 into evidence.

20 MS. ZMROCZEK: No objection.

21 THE COURT: State's Exhibit 44 is introduced into
22 evidence without objection.

23 (State's Exhibit 44, video, received in evidence as
24 of this date.)

25 MR. HUNTER: And I will publish it for the jury.

1 THE COURT: Yes.

2 (WHEREUPON, a video was played.)

3 Q Ashley, can you describe what we are looking at here?

4 A That's outside my apartment. Those are my kids getting
5 in the back seat.

6 Q So is this your car right here?

7 A Yes.

8 Q And describe to the jury what is going on right now?

9 A We were sitting in the car. I was trying to talk to
10 him. Calm him down.

11 Q This is continuing. So at this point you are still
12 just talking to Larry?

13 A Yes.

14 Q Okay, and why did the headlights go off there?

15 A They stayed on because when I hit the remote they'll
16 stay on for a while and then they go off automatically. I
17 hadn't turned the lights off.

18 Q Can you identify this vehicle next to your car?

19 A That's Larry's car.

20 Q And what type of car is that?

21 A Chevrolet Caprice.

22 Q And what color is it?

23 A Orange.

24 Q And what kind of wheels does it have?

25 A Chrome.

1 Q Now why did your headlights come back on?

2 A I turned them on.

3 Q Did you crank the car up?

4 A Yes.

5 Q And at this point your kids are in the back seat?

6 A Yes.

7 Q And is Larry in the front seat at this point?

8 A Yes.

9 MS. ZMROCZEK: Your Honor, I would object to
10 leading.

11 THE COURT: Yes, don't ask any leading questions.

12 Q And again, what is going on? Just kind of describe
13 y'all's conversation at this point?

14 A I was trying to figure out what was wrong with him. I
15 was asking him was he really going to shoot me in front of my
16 kids.

17 Q And did he have a gun out at this?

18 A Yes, he did. It was like in his lap.

19 Q Okay, was he holding it?

20 A He was holding it.

21 Q Where was it pointed?

22 A At me.

23 Q Okay. What is going on there?

24 A I'm pulling off.

25 Q And why are you pulling off?

- 1 A He told me to drive.
- 2 Q Would you describe the demeanor at this point?
- 3 A I don't know. I can't describe it.
- 4 Q How was he acting?
- 5 A Crazy.
- 6 Q And the time here, does that match up approximately the
7 time that you left your apartment?
- 8 A Yes.
- 9 Q And where are you turning right there?
- 10 A Going up Calhoun Street.
- 11 Q And approximately how long after this point was it that
12 you were shot?
- 13 A Seconds.
- 14 Q Now I am going to show you the second set. What was
15 Larry wearing that night?
- 16 A His work uniform.
- 17 Q And what color is his work uniform?
- 18 A He had a blue and burgundy shirt and black pants. I
19 don't remember the color shirt that night.
- 20 Q And is this Larry's car right here?
- 21 A Yes.
- 22 Q Okay. And do you recognize that individual in the
23 video?
- 24 A Yes.
- 25 Q Who is that?

1 A Larry.

2 Q And is this approximately four minutes after the
3 previous video?

4 A Yes.

5 Q What is his car doing?

6 A He is pulling out.

7 Q Is the man who shot you that night in this room?

8 A Yes.

9 Q Where is he seated?

10 A Over there.

11 Q And what is he wearing?

12 A Green shirt.

13 MR. HUNTER: Please let the record reflect that
14 Miss Mickle has identified the defendant.

15 No further questions.

16 THE COURT: Thank you. Miss Zmroczek.

17 MS. ZMROCZEK: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MS. ZMROCZEK:

20 Q Miss Mickle, I want to talk about Larry's work
21 schedule. You said he was a manager at McDonalds?

22 A Yes.

23 Q And he worked first at the McDonalds in Winnsboro?

24 A Yes.

25 Q And what were his shifts?

1 A It varies per day. Some times it he would be on one
2 shift. Some times he would be on night shift. He was in that
3 place basically all day long.

4 Q All day long?

5 A Sometimes.

6 Q He worked a lot of hours?

7 A Yes.

8 Q Okay. And then he got transferred or he moved to the
9 McDonalds?

10 A I don't know what happened.

11 Q Okay. Let me ask you this, Miss Mickle, does he have
12 any family from here?

13 A No.

14 Q Okay. He is from --

15 A Columbia.

16 Q So, he got a job at the McDonalds on Gervais Street in
17 Columbia, right?

18 A Yes.

19 Q Do you when that was?

20 A I think it was earlier last year. I don't remember
21 exactly when.

22 Q Okay. And he worked nights there?

23 A Yes.

24 Q Okay. Would usually come home later in -- or early in
25 the morning?

1 A Yes.

2 Q And worked the same amount? He worked a lot of hours?

3 A No.

4 Q Okay. Do you know how many hours a week he worked?

5 A He would usually have to be at work I think around
6 three or four.

7 Q I'm sorry.

8 A I think he had to be at work around three or four and
9 most of the time I think he was suppose to get off at 12 if he
10 didn't have to go work another store.

11 Q Okay. So some times they get moved around?

12 A Yes.

13 Q And you all state you all were having problems?

14 A Yes.

15 Q And he was the cause of those problems?

16 A Yes.

17 Q And in fact he was planning on moving out, right?

18 A I wouldn't say planning on it. His things were packed.
19 He just wouldn't leave.

20 Q His things were packed?

21 A Yeah.

22 Q And you said that you filed the writ of ejection?

23 A Yes.

24 Q You filed it the Tuesday?

25 A I didn't file it. What happened was, I worked that

1 Tuesday. One of the judges when he came to do bond hearing that
2 morning I talked to him about the proper ways to get it done.
3 He told me to come see him later on that day. I went to the
4 Magistrate's Court. What he did was, he did up some paper work.
5 He didn't sign it, but he did up paper work and told me that I
6 could try to get him to move out using that paper work and if he
7 wouldn't go for it then to come back with the forty dollars and
8 file it and it would have an officer come serve it to him.

9 Q Okay. And you said the reason that you had put on that
10 application was that he wasn't paying rent when you asked him
11 to?

12 A That's what they put on there.

13 Q That's what they put on there?

14 A Yes.

15 Q And you said that he had asked you about that that
16 night?

17 A He did that morning because he told me that was the
18 only way he was going on leave.

19 Q Even though he was already packed up?

20 A He was packed up because I wanted him gone.

21 Q Okay. I want to talk about -- so, we see the video?

22 A Yes.

23 Q So Castlewood has two phases I guess?

24 A Yes.

25 Q So there is -- and that's all off of Calhoun Street?

1 A Yes.

2 Q So you live in phase one, right?

3 A Yes.

4 Q So that would be first driveway?

5 A Yes.

6 Q And your apartment building let's say is this table in
7 front of the clerk's area, would this be your apartment
8 building, right?

9 A Yes.

10 Q And so across from your apartment building is like is
11 laundry room?

12 A It's a laundry room.

13 Q Okay. And is that -- if your apartment is kind of
14 where these bags are, is it literally directly across?

15 A No.

16 Q Where is it?

17 A Its diagonal.

18 Q A little to the left?

19 A Yes.

20 Q And it has a camera there?

21 A That's correct.

22 Q And that camera points in the direction right where saw
23 right?

24 A Yes.

25 Q So we can see everything was going on, right?

- 1 A Yes.
- 2 Q And that was the accurate times you said, right?
- 3 A Yes.
- 4 Q And you said that you turned right?
- 5 A Yes.
- 6 Q And let's go back up for a little bit. So, which --
- 7 you left the apartment. There was a fight?
- 8 A No, we never touched each other.
- 9 Q So there was no fight inside the apartment?
- 10 A No.
- 11 Q I'm sorry, I'm was just trying to clear that up.
- 12 A It was just arguing.
- 13 Q So you just decided to leave?
- 14 A Yes.
- 15 Q Okay. And you go to the vehicle?
- 16 A Uh-huh.
- 17 Q And you had backed in?
- 18 A Yes, the previous -- earlier.
- 19 Q You had backed in. So the driver's side is facing away
- 20 from where the camera is?
- 21 A Correct.
- 22 Q And then the passenger side is facing where the camera
- 23 can see, right?
- 24 A Correct.
- 25 Q And you got into the driver's side?

1 A I did.

2 Q And who got behind you?

3 A My son, my youngest son **O.M.**.

4 Q We heard from earlier?

5 A Yes.

6 Q About how tall is, or was he at the time?

7 A I couldn't tell you.

8 Q But he sat directly behind you?

9 A He wasn't directly behind me. He was like in the
10 middle beside his brother.

11 Q And his brother was **C.M.** right?

12 A Yes.

13 Q And we talked to him yesterday?

14 A Yes.

15 Q And so when he got in which side did he get in?

16 A The passenger side.

17 Q So he got in the passenger side?

18 A Yes.

19 Q So was he sitting directly behind that seat?

20 A Yes.

21 Q So **C.M.** was directly behind that seat?

22 A Yes.

23 Q And then **O.M.** is in the middle?

24 A Yes.

25 Q And Larry was where?

- 1 A He got in the back seat beside them.
- 2 Q In the passenger side?
- 3 A Yeah, behind. The door behind me.
- 4 Q Oh, he got in the door behind you?
- 5 A Yes.
- 6 Q All right, and then somehow gets to the front?
- 7 A Yes.
- 8 Q Okay, and then he -- and then you all leave?
- 9 A Yes.
- 10 Q And he's telling you he want to get out of the vehicle?
- 11 A Yes.
- 12 Q Asking you to stop?
- 13 A Yes.
- 14 Q And you wouldn't do that?
- 15 A No.
- 16 Q Okay. And you say that you drove to the corner?
- 17 A Yes, we were approaching.
- 18 Q Approaching the corner?
- 19 A Yes.
- 20 Q Okay. Did you stop?
- 21 A I didn't want to stop.
- 22 Q So he just got out of moving car?
- 23 A I started slowing down. As I approached the stop sign
- 24 I wasn't going to stop. A car was coming. I had no choice but
- 25 to stop, so he jumped out.

1 Q So he jumped out of the vehicle?

2 A Yes.

3 Q Okay, and then you drove straight to the hospital?

4 A Straight to the hospital.

5 Q Okay. And they took you right away?

6 A Yes.

7 Q And then they flew you to another hospital?

8 A Yes.

9 Q Okay. And you talked to those doctors, right?

10 A No.

11 Q You didn't talk to them at all?

12 A No.

13 Q Okay. So you never told them that your boyfriend had
14 held you hostage for five hours on Saturday 7-23-16?

15 A At Richland?

16 Q Yes.

17 A That may have been some time after cause the first
18 couple of days I was at Richland I couldn't talk.

19 Q But -- I am sorry. Inartful question. That's my
20 fault. I'm sorry. Let me try to get it. Eventually did you?

21 A Yes.

22 Q So eventually you had some conversations with the
23 doctors and people there?

24 A They wanted to know what led up to it.

25 Q And so you had told them that the Saturday before he

1 had held you hostage for five hours?

2 A He really held my hostage for a lot longer.

3 Q For a lot longer. How long?

4 A Really all night because he left and went to work and
5 he took my car keys and took them apart. I found one part, the
6 actual key to my truck in the bottom of the hamper and the other
7 keys he found when he came home the next day.

8 Q Okay. So you mean by holding you hostage -- well, it
9 says --

10 A I couldn't go anywhere.

11 Q It says at gun point?

12 A He had a gun that day.

13 Q He had a gun take day?

14 A Yes.

15 Q On that Saturday?

16 A Yes.

17 Q Where he held you hostage?

18 A Yes.

19 Q And what did that gun look like?

20 A Same gun.

21 Q Can you describe it?

22 A Black handheld gun. I really don't know. I'm use to
23 glocks from work. I don't know what caliber or anything that it
24 was. I just know it was an all black gun.

25 Q And said you are use to glocks from work, right?

1 A Yes.

2 Q You went to the academy?

3 A Yes, I did.

4 Q And they trained you there, right?

5 A Yes.

6 Q And that was in back in 2011?

7 A 12.

8 Q 2012. And then you said you found a bullet?

9 A In his pants pocket.

10 Q In his pants pocket?

11 A Yes.

12 Q Do you know where that bullet is now?

13 A No. Wasn't there.

14 Q Wasn't there?

15 A No.

16 Q Do you know what kind it was?

17 A No, it's just a gold bullet. To me it's just a regular
18 bullet. I don't know anything about guns. I don't care for
19 guns. Never have.

20 Q So, he had his car?

21 A Yes.

22 Q The orange car?

23 A Yes.

24 Q And that's what he drove?

25 A Uh-huh.

1 Q And you drove your car?

2 A Uh-huh not all the time.

3 Q Not all the time. But most of the time?

4 A No, not even most of the time.

5 Q Not even most of the time.

6 A He drove my truck a lot. The same way I drove his car
7 a lot.

8 Q So you all switched cars?

9 A Yes.

10 Q Did you receive any counseling?

11 A Yes, at the hospital.

12 Q At the hospital?

13 A Yes.

14 Q And you met with them several times?

15 A Yes.

16 Q And the reason you had met with them is that you were
17 previously hospitalized after a suicide attempt, right?

18 MR. HUNTER: Objection, Your Honor.

19 THE COURT: Sustained.

20 Q Let me rephrase the question. What are some the things
21 that you talked about with the counselors at the hospital?

22 A They mostly did the talking. They asked me how I was
23 sleeping. If I was having nightmares. Mostly things like that
24 from what I can remember.

25 Q Did they give you any medication?

- 1 A Yes.
- 2 Q What kind of medication did they give you?
- 3 A Antidepressant, anxiety medication.
- 4 Q And why did they give you that?
- 5 A Because I couldn't sleep and I was having nightmares.
- 6 Q Okay. Had you ever taken that before?
- 7 A Amitriptyline I had.
- 8 Q And what was that for?
- 9 A I think it was for anxiety.
- 10 Q I'm sorry.
- 11 A Anxiety.
- 12 Q Okay. And then eventually you wrote a statement,
- 13 right?
- 14 A Yes.
- 15 Q The police met with you?
- 16 A Yes.
- 17 Q Who was that, do you remember?
- 18 A Mr. Seibles.
- 19 Q Major Seibles?
- 20 A Yes.
- 21 Q Okay. I guess he's Chief Seibles now?
- 22 A Yes.
- 23 Q And you sat down with him and you talked with him?
- 24 A Yes.
- 25 Q And he asked you to write down everything that was

1 related to this?

2 A Yes.

3 Q And did you do that?

4 A I tried to to the best of my ability.

5 Q Okay. Did he write it for you or did you write it?

6 A No, I wrote it myself.

7 Q You wrote it in your own handwriting?

8 A Yes.

9 Q Did he give you opportunity to read it over?

10 A Yes, I did.

11 Q To make any corrections?

12 A Yes.

13 Q And to add stuff if you needed to add it?

14 A Yes.

15 Q Okay. And so when you wrote that statement did you
16 ever tell them about being held hostage at gun point?

17 A He asked me about it before I ever written that
18 statement but I didn't write a statement on that. He never
19 asked me to.

20 Q So you never wrote it down anywhere?

21 A No.

22 Q Okay. Do you remember meeting with -- later on meeting
23 with the surgeon in the hospital?

24 A No, I never met my surgeon until after I had been
25 discharged.

1 Q Oh, okay, until after. When you met him after did you
2 tell him that the gun was put up to your face and you were shot?

3 A No.

4 Q Never told him that?

5 A No.

6 Q And when you were interviewed with Major Seibles do you
7 remember him asking you did he say anything before he shot?

8 A Ma'am, I really don't remember.

9 Q Certainly. Would it refresh your recollection if I
10 showed you?

11 A Sure.

12 Q Okay. (Handed a paper to witness)

13 A I said no.

14 Q Okay. And you said -- I want to talk about this letter
15 real quick; these letters, State's 51 and 52. What did you do
16 when you received those letters?

17 A The first one I received I didn't even open it.

18 Q You didn't even open it?

19 A I called my best friend to come open it and she read it
20 to me.

21 Q And then what did you do?

22 A I brought it to Mr. Seibles the next day. He made a
23 copy of it and I took it to my parents house.

24 Q Okay. And I believe -- I'm just walking over here.
25 Just wanted to make sure. Did you say it didn't say what he was

1 sorry for?

2 A No, he didn't.

3 Q Okay. And you all had been in a relationship for four
4 years?

5 A Yes.

6 Q And had problems?

7 A Yes.

8 Q Okay. And you let him watch your kids?

9 A Yes. Yes, every now and again.

10 Q Okay. And he was trying to get out of the vehicle that
11 evening, right?

12 A Yes.

13 Q Thank you, Miss Mickle.

14 THE COURT: Any redirect?

15 MR. HUNTER: Very briefly.

16 REDIRECT EXAMINATION

17 BY MR. HUNTER:

18 Q Ashley --

19 A Yes.

20 Q Over the course of your treatment did you meet with
21 many doctors?

22 A Yes.

23 Q Did you have lots of conversations with doctors?

24 A Not really because a lot of times when they would come
25 in early in the morning and I would be asleep.

1 Q And were you medicated most of that time?

2 A Yes.

3 Q Is it possible that you had conversations that you
4 don't remember?

5 A Could have been.

6 MR. HUNTER: Nothing further. Thank you.

7 THE COURT: Any recross?

8 MS. ZMROCZEK: No, Your Honor.

9 THE COURT: Thank you Miss Mickle. You may step
10 down.

11 MR. HUNTER: The State recalls Lieutenant Carrell.

12 REDIRECT EXAMINATION

13 BY MR. HUNTER:

14 Q Lieutenant Carrell, have you reviewed Mr. Cornish's
15 criminal record?

16 A Yes, sir, I have.

17 Q Okay. How are criminal records compiled?

18 A It's forms that contain data on charges that are
19 pending and convictions in a list time form and it would be
20 pages with typed down information on them that we get from NCIC.

21 Q And what is NCIC?

22 A It's the National Criminal Information Center.

23 Q Okay. And in reviewing Mr. Cornish's criminal record
24 did you -- could you determine whether or not he has been
25 convicted of a violent crime?

1 A Yes, sir. He has been convicted of a violent crime.

2 Q And based on that conviction is he prohibited from
3 possessing a firearm?

4 A Yes, sir. At the end of the report it gives an alert
5 to law enforcement that says this individual has been convicted
6 of a violent crime and is not allowed to possess a firearm.

7 Q Thank you. No further questions.

8 THE COURT: Any cross?

9 MS. ZMROCZEK: Nothing.

10 THE COURT: Thank you. You may step down.

11 MR. HUNTER: At this point the State rests.

12 THE COURT: All right. Ladies and gentlemen, it
13 is about one o'clock. The State has indicated that
14 they have rested their case which means that they do
15 not intend to call any more witnesses or present any
16 more testimony or evidence in their case in chief
17 which is what we just finished. So, this will be a
18 good place for us to stop for lunch. We will take up
19 some matters while you are out for lunch. But I will
20 ask that you be back in your jury room at 2:15. That
21 will be about an hour and ten minutes. Be back in
22 your jury room at 2:15. Again, do not discuss the
23 case. Don't do any e-mailing. Don't do any texting.
24 Don't do any googling about this case as all.
25 Everyone remain seated. Be back in the jury room

1 again at 2:15. Thank you.

2 All right. Miss Zmroczek, I'll hear your motion
3 from you at this time.

4 MS. ZMROCZEK: Thank you. And Your Honor, I
5 wanted to also, I know we had approached the bench
6 prior to the recalling of Lieutenant Carrell and you
7 -- am I correct in saying you would allow me to put my
8 objection on the record?

9 THE COURT: Yes.

10 MS. ZMROCZEK: My objection on the record, to put
11 on the record, which I understand you overruled at the
12 bench, was that I objected to them recalling
13 Lieutenant Carrell. They had an opportunity to get
14 that information out through him prior to putting him
15 on the stand and they did not do that, Your Honor.
16 That was their opportunity to admit that evidence. I
17 think that they either realized that they didn't do
18 that or they were trying to somehow frame the
19 testimony so that she wasn't asked about how they met
20 and so, I'm a little bit confused. Obviously, I could
21 have asked her that but since that information wasn't
22 in front the jury, I -- that would just be a poor move
23 for my client at that point because that information
24 was not out, that he had been previously been
25 convicted. And so that was the reason for my

1 objection, is that they had an opportunity to put that
2 information in. They didn't. And they could have
3 called a different witness or whatever, but they
4 didn't. And so that's why I objected to the recalling
5 of Lieutenant Carrell.

6 THE COURT: And whether the Court allows the
7 recall is left at the discretion of the Court. I
8 overruled your objection at the bench and I stand by
9 -- obviously stand by that ruling. And as well as I
10 can recall there had been some discussion about the
11 prior conviction. Did we have a stipulation that the
12 conviction -- do have you have a certified copy of his
13 prior conviction?

14 MR. HUNTER: Yes, sir, I believe it's already been
15 made a Court's exhibit.

16 THE COURT: Yes, we had made that a court exhibit.
17 It was stipulated that there was a prior conviction
18 and simply in effort to avoid any unfair prejudice to
19 the defendant they were not going to name what that
20 particular offense was and certainly that has not been
21 done in this case. So based on that I overrule your
22 objection, allowed the State to recall Lieutenant
23 Carrell to give the basis by which he signed a warrant
24 that lead to the Indictment in this particular case.
25 All right, any other motions?

1 MS. ZMROCZEK: Thank you, Your Honor. At this
2 time under Rule 19 we would move for a directed
3 verdict on all counts. I obviously had a different
4 argument prior to the recalling Lieutenant Carrell,
5 but given the nature of the testimony and Your Honor I
6 know that the standard is -- I believe it changed from
7 scintilla of the evidence. But Your Honor, the
8 problem in this case is that we have basically three
9 eye witness. Three eye witness that say different
10 things. And the one child doesn't even say that it
11 was a gun. He said a taser. I believe he said taser.
12 It was a little difficult. Which is why I was
13 standing up there to hear. So I'm not trying to
14 mischaracterize the testimony if I am, but what I
15 heard was taser. And so there's been no gun found.
16 We would renew our objection to the evidentiary issues
17 at this time as well because again, we are left with
18 these kinds of three eye witness who don't all say the
19 same thing. There has been evidence that has been in
20 the possession and custody and control of the State
21 and none of that was preserved for our review or even
22 examination. And so based on all of those reasons,
23 Your Honor, we would A, renew our motion to dismiss
24 for the violations of evidence and renew our
25 spoliation motion and at the same time move for a

1 directed verdict on all three counts.

2 THE COURT: Mr. Hunter, do you wish to be heard?

3 MR. HUNTER: I will speak on the directed verdict
4 motion, Your Honor. The evidence when viewed in a
5 light most favorable to the State I think it clearly
6 gets us past the directed verdict. I think it's
7 pretty overwhelming. We have three eye witness
8 including the victim who was shot. We have the doctor
9 from emergency room who said the victim told him the
10 defendant shot her. The statement given by the victim
11 and her two children at the emergency room to Deputy
12 Little are consistent with her testimony today.
13 Clearly the injuries could not have been sustained
14 without the presence of a weapon. Especially given
15 the fact that bullet fragments were found in the car
16 as well as the spent casing.

17 We have testimony from the three witnesses that Mr.
18 Cornish did have a gun and did point it at the victim
19 although the youngest witness did refer to the gun as
20 a taser. Clearly Miss Mickle was shot with a gun and
21 not a taser.

22 So Your Honor, I think in a light most favorable to
23 the State we certainly have met that burden.

24 THE COURT: All right. On the prior motion,
25 evidentiary motion, the Court stands by its rulings on

1 those, on each of those motions.

2 As far as the motion for the directed verdict,
3 there is sufficient evidence that reasonably tends to
4 prove the defendant's guilt that has been presented by
5 this case in which his guilt could be fairly and
6 logically deduced. There is sufficient evidence for
7 this case to go to the jury. So I am going to deny
8 the motion. Taking all the evidence in a light most
9 favorable to the State, that's what I am required to
10 do by law, I will deny the motion for a directed
11 verdict.

12 Any other motions? Anything else?

13 MS. ZMROCZEK: Nothing further. Just I think
14 probably housekeeping matters we can talk about.

15 THE COURT: Let's do this. Let's bring Mr.
16 Cornish around and let me talk to him about his right
17 on to testify. I am not going to ask him the ultimate
18 question about his decision to testify or not until
19 after we come back after lunch, but I want to go
20 through all of what I am required to and so all can
21 make a decision about it. You may have already made a
22 decision but I will not ask you to answer that
23 ultimate question about him testifying until after we
24 have lunch.

25 Madam clerk if would you place him under oath.

1 LARRY CORNISH, called as a witness, having been
2 duly sworn by the clerk, was examined and testified as
3 follows:

4 EXAMINATION BY

5 THE COURT:

6 Q You are Larry Cornish, is that correct?

7 A Yes, sir.

8 Q Mr. Cornish, at this time I am going to explain to you
9 certain of your rights, if you do not understand any of those
10 rights please let me know. If you need for me to explain them
11 in more detail let me know. Do you understand that?

12 A Yes, sir.

13 Q We have now reached a stage in the trial where you may
14 present your defense. You have the right to claim the
15 protection given to you by the Fifth Amendment of the
16 Constitution of the United States. That amendment states in
17 part that no person shall be compelled in any criminal case to
18 be a witness against himself. This means you can not be
19 required to testify in this case. You have a right to testify
20 on your behalf, however no one can make you testify. This is a
21 personal right and no one can waive this right, or give up this
22 right accept you.

23 If you decide to testify you will be subject to the same
24 rules that govern other witnesses and you may be examined and
25 cross examined on any relevant issue in this case. In addition,

1 if you have any convictions involving dishonesty or false
2 statements or for crimes punishable by imprisonment for more
3 than one year and the Court determines that the probative value
4 of admitting this evidence outweighs its prejudicial effect to
5 you, the solicitor will be able to introduce your record to
6 attack your credibility.

7 If you decide to testify this decision on your part must be
8 freely, voluntarily, and intelligently made with the knowledge
9 and the protections given to you by the Fifth Amendment and the
10 consequences of your decision to testify. If you decide not to
11 testify I will instruct the jurors that they can not give the
12 fact that you did not testify any consideration whatsoever and
13 that there is to be absolutely no prejudice to you because you
14 did not testify. It is left entirely up to you whether or not
15 you testify. You may talk with your attorney. You can talk
16 with your family and friends or anyone else, but the final
17 decision will be left entirely up to you.

18 Do you understand what I have explained to you?

19 A Yes, sir.

20 Q Do you have any questions about what I have explained
21 to you?

22 A No, sir.

23 Q Have you had plenty of time to talk to your lawyer
24 about whether you should or should not testify?

25 A Yes, sir.

1 Q Well, what I am going to do is we will break for lunch.
2 You can discuss with your lawyer again. When we come back after
3 lunch before the jury comes in I will simply ask you whether you
4 wish to testify or not and I'll also ask your attorney at that
5 time whether she intends to present any evidence or witnesses on
6 your behalf. Do you understand that?

7 A Yes, sir.

8 Q All right. Thank you. You may be seated?

9 A Thank you.

10 THE COURT: All right. We will be as ease. Let's
11 be back in here about ten after two.

12 (WHEREUPON, court was in recess for lunch.)

13 (Defendant's Exhibits 13-20, marked for
14 identification as of this date.)

15 THE COURT: Let's bring Mr. Cornish on in.

16 All right, thank you. State ready to proceed?

17 MR. HUNTER: Yes, sir.

18 THE COURT: The defense read?

19 MS. ZMROCZEK: Well, Your Honor, I will be. I
20 just wanted to maybe clarify a few housekeeping
21 things.

22 THE COURT: All right.

23 MS. ZMROCZEK: As far as my kind of order of
24 witnesses. I have Major Seibles is here and so he is
25 going to go up first. So I was going to recall

1 Officer Little, but apparently he hasn't responded to
2 my text at all. Apparently he is in North Carolina
3 and so we were trying to figure out what to do as far
4 as recalling him.

5 THE COURT: You didn't subpoena him.

6 MS. ZMROCZEK: I didn't and so, you know, that
7 just may be an issue that have I to take up at another
8 time.

9 THE COURT: He is not here. He is not available.
10 You didn't subpoena him.

11 MS. ZMROCZEK: That's fine.

12 THE COURT: Okay.

13 MS. ZMROCZEK: Your Honor, I would in light of
14 them recalling Lieutenant Carrell to put his
15 conviction in I would like to call Miss Mickle and ask
16 her about how she met Mr. Cornish because obviously I
17 didn't go into it because I would have prejudiced my
18 client because that information wasn't before the jury
19 yet.

20 THE COURT: Well, right now nobody knows about any
21 kind of connection from his conviction for a violent
22 offense. The testimony was is that she met him when
23 he was at Alvin S. Glenn.

24 MS. ZMROCZEK: And that's the problem is I don't
25 think that was testified.

1 MR. HUNTER: The testimony was that she met him
2 while she was at Alvin S. Glenn. I don't believe she
3 said he was in Alvin S. Glenn while she worked there.

4 THE COURT: Yeah, while she was there. So
5 obviously it appears there is no context. What would
6 be -- what would be your rationale for now putting her
7 on the stand to talk about his something in his past?

8 MS. ZMROCZEK: Your Honor, the only thing is that
9 I would have, had that information been out about his
10 conviction I would have asked it like I thought we had
11 discussed in chambers that they were going to ask her
12 you met him while he -- you were working at Alvin S.
13 Glenn and he was an inmate. That's what I anticipated
14 the testimony come out. Since it didn't come out that
15 way and since the jury hadn't --

16 THE COURT: Well, it appears -- I mean, you are
17 wanting to call her as a witness and you're not really
18 recalling. You didn't call her as a witness the first
19 time.

20 What's the State's position on the defense being
21 allowed to call someone who has already testified as a
22 witness?

23 MR. HUNTER: We would be against it, Your Honor.
24 First of, Miss Mickel is under our subpoena. She is
25 not even under subpoena I believe, but certainly not

1 under Miss Zmroczek's subpoena. Second of all --

2 THE COURT: Well, she don't have to be under
3 subpoena to be called to testify. She is present in
4 the courtroom. Go ahead.

5 MR. HUNTER: But I mean, certainly that's
6 something that the question was raised, how did they
7 meet when she testified the first time and I believe
8 that is something Miss Zmroczek could have asked her
9 on cross examination. And as far as the discussions
10 we had in chambers regarding the admission of the fact
11 that Mr. Cornish has been convicted of a violent crime
12 I don't think that there was any question that was
13 going to come in at some point.

14 THE COURT: Well, if the defense wants to call her
15 to in essence ask her the line of questioning would be
16 -- is your question going to be what was he doing in
17 Alvin S. Glenn? What was his status in Alvin S.
18 Glenn? I mean, sorry. Tell me again what you want to
19 elicit from Miss Mickle?

20 MS. ZMROCZEK: Your Honor, at this time --

21 THE COURT: Here's the thing. If you want to call
22 her as witness you call her as a witness. I'll let
23 you to do that. You make that decision --

24 MS. ZMROCZEK: Okay.

25 THE COURT: -- about what's in the best interest

1 of your client, Your trial strategy. If you want to
2 call her as witness in your case I am going to allow
3 you to do that. All right.

4 MS. ZMROCZEK: And then, so the other witnesses,
5 Your Honor, just because of trying to get timing, I
6 know that I told my expert witness; my investigator,
7 that I needed him here like now, and so I am trying to
8 get him here. And then I have another witness who can
9 be here at three and the only thing that she is going
10 to testify to, Your Honor, is to put in Mr. Cornish's
11 work records. They were provided in reciprocal
12 Discovery.

13 THE COURT: Well, we will bring the jury in. You
14 call whatever witnesses you have. You have some you
15 intend to call and the none of the rest of them are
16 here we will break until they come.

17 MS. ZMROCZEK: Okay.

18 THE COURT: Well, within reason.

19 MS. ZMROCZEK: Right. They should be here no
20 later than three.

21 THE COURT: All right. Let me have Mr. Cornish
22 back up and let me finish my questioning about him
23 testifying.

24 Mr. Cornish, you were placed under oath before we
25 broke for lunch. It is now right after lunch and I

1 had just completed going through all of the questions
2 about your right to remain silent, your right not to
3 testify. Have you had plenty of time to discuss with
4 your lawyer whether you should, or should not testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And do you wish to talk to your lawyer
7 any more about that issue.

8 THE DEFENDANT: No, sir.

9 THE COURT: Is it your desire to testify or are you
10 not going to testify?

11 THE DEFENDANT: I am not going to testify.

12 THE COURT: All right. Thank you. You may have a
13 seat.

14 MR. HUNTER: Your Honor, I couldn't hear the
15 defendant.

16 THE COURT: He is not going to testify.

17 All right. Are you ready to proceed?

18 MS. ZMROCZEK: I am.

19 THE COURT: Let's bring the jury in.

20 (WHEREUPON, the jury enters the courtroom.)

21 THE COURT: Thank you, ladies and gentlemen of the
22 jury. Miss Zmroczek, you may call your first witness.

23 MS. ZMROCZEK: Thank you, Your Honor. We call
24 Major Seibles.

25 JOHN SEIBLES, called as a witness, having been duly

1 sworn by The Clerk, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MS. ZMROCZEK:

5 Q Good afternoon Investigator or Major Seibles, or Chief
6 now actually, right

7 A Yes, ma'am.

8 Q Chief Seibles. Will you introduce yourself to the
9 jury. Tell them where you work, how long have you been there.

10 A My name is John Seibles. I have been in law for
11 probably about forty years now. I am currently working with the
12 Winnsboro Department of Public Safety where I have the privilege
13 as serving as chief.

14 Q And how long have you worked for the Winnsboro
15 Department of Public Safety?

16 A I came back the first time it was probably three years.
17 Came back in '03 and have been there ever since.

18 Q And were you working there in 2016?

19 A Yes, ma'am.

20 Q What were your duties then?

21 A I was responsible for investigations and narcotics.

22 Q Okay. And what were your duties as far as in charge of
23 investigations? What kind of things were you asked to do?

24 A Basically just oversaw operations, as far as
25 investigating any criminal offenses. Anything that happen in a

1 small department it mostly gets referred to investigations.

2 Q Okay. And were you called in on this case?

3 A Yes, ma'am. I was.

4 Q Was it assigned as your case?

5 A Yes, ma'am.

6 Q You were the lead investigator?

7 A Yes, ma'am.

8 Q As the lead investigator what kind of special duties --

9 what's different about being a lead investigator?

10 A Basically my responsibility is the basic coordination

11 of all activities concerning the investigations.

12 Q Coordinate it?

13 A Assign different duty responsibility.

14 Q And did you do that in this case?

15 A Yes, ma'am.

16 Q And then so when you assigned out duties what is it

17 that you need done to make sure that you know all of the

18 information?

19 A Well, what I ask the officer to do after they complete

20 a task is to do a supplemental report and that's in our

21 computer.

22 Q Okay, and you keep that in your computer system?

23 A Yes, ma'am.

24 Q And what about evidence collection?

25 A Well, when the evidence is collected we're required to

1 do an evidence sheet and it's submitted to the evidence office.

2 Q Did you bring your file with you today?

3 A I did.

4 Q Do you have the evidence sheets?

5 A I may have to look through here.

6 Q Certainly.

7 A Found one.

8 Q What does that one have on it?

9 A This one has a LG flat screen TV and it looks like LED
10 TV.

11 Q May I see that. (Handed) and who collected that
12 evidence?

13 A These two TVs were recovered in Columbia if I'm not
14 mistaken and brought back to the police department.

15 Q And was that information given to the prosecutor's
16 office?

17 A I'm not sure what was given. I didn't transfer any
18 information.

19 Q Who was in charge of transporting information to the
20 solicitor?

21 A Well, when information is requested from us then it
22 goes through our -- my administrative assistant.

23 Q Okay. And do you have any knowledge of a car being
24 collected or processed?

25 A Yes, ma'am.

1 Q Okay. Do you have the sheet for that? Sorry. I
2 asked a very broad question. Do you have any information about
3 an orange car, not the Dodge?

4 A There may been an orange car that we had interest in,
5 but I'm not sure that car was even processed.

6 Q Okay. And so -- but do you recall the Dodge vehicle
7 being processed, right?

8 A Yes, ma'am.

9 Q And did you make the determination -- who made the
10 determination about what evidence to collect and to test?

11 A Well, let me just tell you. When the incident happened
12 the lady drove herself to the emergency room. The car was in
13 the parking lot of the emergency room when I arrived. We
14 secured the car. Had the car towed to our fire department and
15 it was secured in the fire bed. Once I made the determination
16 to call SLED to process the car because I felt like it had to be
17 some in depth searching through the vehicle to acquire what we
18 needed from the car so I called SLED.

19 Q And so did you and the SLED agent discuss what items to
20 collect and submit for testing?

21 A Basically what we asked them to do process the car
22 retrieve any -- we were concerned about a bullet. We certainly
23 wanted to get that and any evidence that would be essential to a
24 shooting case.

25 Q Okay. Would evidence that had blood on it be essential

1 to a shooting case?

2 A Are you talking about from the car.

3 Q Yes, sir.

4 A Yes, ma'am.

5 Q Okay, and so had there been evidence to your knowledge
6 towels; those sorts of things that had blood on them would you
7 have asked those to be collected?

8 A Well, I left it to them to process the car. I felt
9 like they were more experts with this and they had more tools to
10 be able to do more than we could do as far as retrieving any
11 item from the car and so I didn't just tell them, you know, get
12 this, get this, get that. I just gave them the opportunity to
13 process the car like they normally do.

14 Q So you didn't direct them on what to collect and what
15 not to collect?

16 A No.

17 Q Okay. And then -- you're familiar with the incident
18 reports and the supplemental reports take were filed out?

19 A Fairly familiar, yes, ma'am.

20 Q Okay. Do you do you know what happened to the
21 photographs that would have been uploaded that were taken?

22 A No, ma'am. I certainly don't. And normally what
23 happened when we take photograph of any crime scene they're
24 downloaded in our computer system and they are filed by case
25 number or by folder in our computer.

1 Q Did that happen in this case?

2 A Apparently not because we haven't been able to locate
3 the pictures.

4 Q And pictures were taken, right?

5 A To my understanding, yes ma'am, they were taken.

6 Q Okay, but we don't know where they are?

7 A No, ma'am. When I got to the hospital that night
8 Officer Little was at the hospital. He was the first responding
9 officer and if I'm not mistaken he took some pictures at that
10 point.

11 Q Okay. And you also made the supplemental report,
12 didn't you?

13 A Yes, ma'am.

14 Q Okay. Did you collect any items?

15 A Well, when I went back at looked at the that report it
16 said I collected a shirt that possibly had some blood on it. I
17 have no knowledge of collecting a shirt. Normally when I
18 collect any evidence I will do an evidence form and turn it into
19 our evidence custodian. There's not an evidence form. So I can
20 only assume that if I looked at something I looked at it and
21 determined that I didn't need to collect it. I'm not sure. I
22 can't say because I don't remember.

23 Q Okay, but you do have a copy of the report, right?

24 A Yes, ma'am.

25 Q And it does say that you did collect it, right?

1 A The report does.

2 Q And did you write that report?

3 A Yes.

4 Q Okay. And what did you task Lieutenant Carrell to do?

5 A Well, after we determined who our suspect was then we
6 went back and secured the apartment and did all the preliminary
7 things. His responsibility was to attempt to locate the
8 individual and make an arrest if possible.

9 Q Okay. And did he have a body cam?

10 A Let me tell you those body cameras back during that
11 time we were just first starting off with them. Now we have
12 body cameras for all the officers, but during that time we had
13 probably one or two or three maybe and we was transferring them
14 back and forth and we were having a problem with those things.
15 Keeping a charge on them and staying active for the entire
16 shift. So we were having quite a problem with them. They
17 should of had a body camera, but whether it was working I can't
18 tell you.

19 Q Okay. And then did he provide you with his
20 supplemental report?

21 A I have access to the supplemental.

22 Q You have access to his?

23 A Uh-huh.

24 Q And at any time -- any time before a year ago -- any
25 time before a month or two ago were there any incident reports

1 about any statements that Mr. Cornish had made?

2 A Say that one more time.

3 Q Yeah, that was another inept question. When you first
4 received the supplemental report after Mr. Cornish was arrested,
5 that was receive on the 28th, correct?

6 A Uh-huh.

7 Q And was there any information that Mr. Cornish had made
8 a statement at that time?

9 A When we did this and since this has happened my
10 responsibility have changed back and forth. I hadn't had the
11 opportunity to go back and review you know everything that
12 happened in this case after a certain point. But all the
13 supplements should be dated at the time they were put into the
14 computer.

15 Q And the reason -- what's the reason that you do
16 supplements right when something happens?

17 A Because it's fresh on your mind.

18 Q Fresh on your mind.

19 A If you do it right then you accurately document the
20 details.

21 Q Okay. Document the details, right?

22 A Uh-huh.

23 Q And when a case comes to court that is important
24 because as the case agent you would rely on that, right?

25 A That's correct.

1 Q Okay. And if you reviewed it and saw that there was
2 something wrong you could discuss that with the officer?

3 A Yes.

4 Q Okay. Are you -- did you make the decision for Mr.
5 Cornish;s clothes to not be collected?

6 A No.

7 Q And what about any telephones, was there any testing or
8 anything done on those?

9 A I don't remember anything about telephone. I don't
10 even think we collected a telephone at all.

11 MS. ZMOROCZEK: Thank you. Please answer any
12 questions the State may have.

13 THE COURT: Thank you. Mr. Hunter any questions?

14 MR. HUNTER: Very briefly.

15 CROSS EXAMINATION

16 BY MR. HUNTER:

17 Q Chief Seibles, I believe you stated that you decided to
18 leave most of the evidence collection up to SLED?

19 A Concerning the vehicle, yes, sir.

20 Q Okay. And would pictures taken by I guess individual
21 officers, would those be logged on a evidence sheet, pictures?

22 A Our officers -- well normally, if they take pictures
23 they just come back and they download it into the computer and
24 it should be somewhere indicated that they did take pictures.

25 Q And did you at attempt to locate these pictures prior

1 to this?

2 A My office did. My department did. I didn't personally
3 do it, but my officers were instructed to do it to find
4 everything and turn everything over to your guys.

5 Q And has your office been attempting to locate these
6 pictures for months?

7 A Yes, sir.

8 MR. HUNTER: No further questions.

9 MS. ZMROCZEK: Nothing further.

10 THE COURT: Thank you Chief Seibles, you may step
11 down.

12 Miss Zmroczek, call your next witness.

13 MS. ZMROCZEK: Your Honor, my next witness has
14 indicated that he will be here in 16 minutes.

15 THE COURT: All right, then we will be at sees
16 ease for about 16 minutes or so. You may return to
17 your jury room and we will have you out when we are
18 ready for the next witness. Don't discuss the case.

19 (WHEREUPON, the jury leaves the courtroom.)

20 MS. ZMROCZEK: Both witnesses are here.

21 THE COURT: Are you ready to proceed.

22 MS. ZMROCZEK: Yes.

23 THE COURT: State ready?

24 MR. HUNTER: Yes.

25 THE COURT: Let's bring the jury in.

1 (WHEREUPON, the jury enters the courtroom.)

2 THE COURT: Ladies and gentlemen, Miss Zmroczek
3 call your next witness.

4 MS. ZMROCZEK: Thank you, Your Honor. We call Amy
5 Patton.

6 AMY PATTON, called as a witness, having been duly
7 sworn by the clerk, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MS. ZMROCZEK:

11 Q Miss Patton, will you tell the jury how old you are?

12 A I am 41.

13 Q And make sure you speak up. Maybe lean into the
14 microphone?

15 A Forty-one.

16 Q Thank you. Where do you work?

17 A I work at McDonalds.

18 Q How long have you work at McDonalds?

19 A At this location three years.

20 Q And what are your duties there?

21 A Assistant manager.

22 Q When you -- and you worked there for three years.

23 A Yes, ma'am.

24 Q Did you work -- did Larry Cornish work for you?

25 A Yes, ma'am.

1 Q Did you receive a request for information in this case?

2 A Yes.

3 Q What was that request for?

4 A Information of his work history.

5 Q Okay. And is that something that you keep in the
6 normal course of business?

7 A No, ma'am.

8 Q Okay, is that something that you were able to get --

9 A Yes, ma'am.

10 Q -- from records that you keep in a normal course of
11 business?

12 A Yes, ma'am.

13 Q And did you provide those records?

14 A Yes, ma'am.

15 Q I am going to show you what has been marked as
16 Defendant's Exhibit 21 and ask if you recognize that?

17 A Yes, ma'am.

18 Q And those are the records that you keep in the normal
19 course of business?

20 A Yes, ma'am.

21 Q That you generated at the request?

22 A Yes.

23 Q And do they fairly and accurately reflect Mr. Cornish's
24 work records?

25 A Yes, ma'am.

1 MS. ZMROCZEK: Your Honor, at this time we move
2 Defendant's 21 into evidence.

3 THE COURT: Mr. Hunter.

4 MR. HUNTER: No objection.

5 THE COURT: The States exhibit -- I'm sorry.
6 Defendant's Exhibit 21 moved into evidence without
7 objection.

8 MS. ZMROCZEK: Thank you, Your Honor.

9 (Defendant's Exhibit 21, work records, received in
10 evidence as of this date.)

11 THE COURT: Miss Patton, were you working on July
12 27th, of 2016.

13 A Twenty-seventh, yes, ma'am.

14 Q Okay, and what do you recall about that day working?

15 A Normal day. I worked mid-shift and Larry comes in --

16 Q Make sure you speak up.

17 A I'm sorry. I work mid-shift. I usually leave about 25
18 to six and Larry was our closing manager. He would come in
19 behind me and take over.

20 Q He would come in behind you?

21 A Yes, ma'am.

22 Q Did he come in on the 27th?

23 A Yes, ma'am.

24 Q And he would close the store?

25 A Yes, ma'am.

1 Q And what time was that?

2 A Closing is usually at one. They get out about two
3 o'clock.

4 Q And what if anything -- did Larry always work at that
5 McDonalds?

6 A He transferred from another McDonalds to us.

7 Q And which office -- which location did he transfer
8 from?

9 A As far as I know it was Winnsboro.

10 Q And what information did you have about his living
11 situation?

12 A I know he had spoken about moving to Columbia to get
13 closer to work and be out of the environment that he was in.

14 Q Thank you. Please answer any questions the State may
15 have.

16 THE COURT: Mr. Hunter.

17 CROSS EXAMINATION

18 BY MR. HUNTER:

19 Q So this is just a document essentially showing that
20 Larry Cornish worked at McDonalds?

21 A It should show his hours and the days that he worked.

22 Q Okay. Well, how about explaining this to me. It looks
23 to me like this shows the weeks that he worked not the days?

24 A The week. These are the hours that he work there.

25 THE COURT: You need to speak into the microphone.

1 A It shows the weeks that he did work but it should show
2 the hours.

3 Q So this indicates that the week before the shooting so
4 June 20th of 2016 it indicates he worked forty hours, is that
5 correct?

6 A Yes, sir.

7 Q And then the week before that it shows that he worked
8 42.95 hours, is that correct?

9 A Yes.

10 Q And the week before that he worked 59.45 hours?

11 A Yes.

12 Q And the week before that he worked 40 hours?

13 A Yes.

14 Q Okay. But then it shows that the week of that ended in
15 the 27th he only worked 33.8 hours, is that correct?

16 A Yes.

17 Q So, that would indicate that one day he didn't come to
18 work, is that correct?

19 A Either didn't come in or could possibly left earlier or
20 took longer break.

21 Q And you can remember all the way back last year one
22 week?

23 A Well, I do know that week because I saw it on the news.

24 Q Okay. What exactly are your hours? When do you go in
25 to work?

1 A Me, I have open availability so it is just whenever,
2 but I usually was a mid-shift. Right now I do seven to three
3 and six to close.

4 Q Okay, so on June 27th of last year what were your
5 hours?

6 A I usually --

7 MS. ZMROCZEK: I'm sorry are you saying June or
8 July. Is he saying June or July?

9 Q Excuse me. July.

10 A I was mid-shift manager.

11 Q And so mid-shift manager what would those hours be?

12 A Anywhere from ten a.m. to seven p.m.

13 Q And you say Larry came in after you?

14 A He usually took the shift from me. He was our primary
15 closing manager.

16 Q What time would he have come in?

17 A Probably at five.

18 Q In the afternoon?

19 A Yes, sir.

20 Q Okay. So you can't say where Larry Cornish was around
21 one a.m. on the night of the 27th?

22 A He should have been in the store closing the store.

23 Q The night of the 26th going into the 27th.

24 A He was the closing manager. He should have been there
25 in the store.

1 Q So you are saying that he was at McDonalds?

2 A He took the shift from me, so he was at McDonalds.

3 Q But you weren't there at that time?

4 A No, sir, not at one a.m..

5 Q And you left at what time?

6 A I left between five and six that day.

7 Q So you don't actually know where he was after six
8 o'clock that day?

9 A No.

10 MR. HUNTER: Okay. No further questions.

11 MS. ZMROCZEK: Just briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Are those the records for your store?

15 A Yes.

16 Q So if he were working at another store they would have
17 a different set of records?

18 A Yes.

19 Q Thank you. Those are all the questions.

20 THE COURT: Any recross.

21 MR. HUNTER: No.

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

23 Call your next witness.

24 MS. ZMROCZEK: Thank you. May be she be released,
25 Your Honor?

1 THE COURT: Any objection to her being released.

2 MR. HUNTER: No objection.

3 MS. ZMROCZEK: Your Honor, we call Christopher
4 Watkins.

5 CHRISTOPHER WATKINS: Called as a witness, having
6 been duly sworn by the clerk, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. ZMROCZEK:

10 Q Mr. Watkins, can you please introduce yourself to the
11 jury and tell them where you work?

12 A My name is Christopher James Watkins. I am a private
13 investigator and I own a company named Watkins Digital Forensics
14 and Investigations.

15 Q And how long have you been a private investigator?

16 A So, I am licensed through SLED. I've been licensed as
17 private investigator in the State of South Carolina since
18 February 2010.

19 Q What education and training do you have for -- what
20 kind of things do you do in private investigation?

21 A My company focusses on criminal defense and digital
22 forensic investigations, however we do handle cases of other
23 types.

24 Q Tell the jury a little bit when you say "digital
25 forensics" what is that?

1 A Digital forensics is the area of forensic science that
2 deals in authenticating, discovering, analyzing and reporting of
3 digital information that you might find on any device containing
4 electronically stored information such as a computer, cell
5 phone. Any type of medium that would store data.

6 Q Is there a degree in digital forensics?

7 A There is today, yes. However when I first began there
8 was not. So my background is in IT. I studied at Midlands
9 Tech. I earned a certification as a general computer
10 technician. I applied those skills and that knowledge in the
11 area or in the field of digital forensics and I began
12 professionally in this field in 2010.

13 Q And when you say professionally, what do you do to get
14 training or stay up to date as far as digital forensics?

15 A So digital forensics is still a very young science and
16 as I'm sure many of you are aware there are new technologies
17 coming out every day. So in order for me to be able to do my
18 job and be able to analyze data the way it is stored on these
19 new technologies I have to be familiar with them. So I stay up
20 to date with the information that comes out by working with a
21 group. For example, I'm a member of the American Society of
22 Digital Forensics and e-discovery. So that is an arm that I can
23 use to obtain new information about technologies that are coming
24 out.

25 Q You said that you primarily focus on criminal defense.

1 Do you only work for criminal defense attorneys?

2 A No, I work for private clients as well.

3 Q And have you ever been called as witness by the State?

4 A I have testified as a witness for the State.

5 Q Have you been qualified as expert witness before?

6 A Yes.

7 Q In what field?

8 A I have been qualified as an expert in the digital
9 forensic science in the United States Federal Court, South
10 Carolina Circuit Court, General Sessions, Common Pleas and South
11 Carolina Family Court.

12 Q And have you been appointed by any courts as expert?

13 A Yes, I have been appointed by Family Court judges to
14 assist in those types of cases.

15 Ms. Zmroczek: Your Honor, at this time we would
16 move Mr. Watkins as in as expert if digital forensics.

17 MR. HUNTER: No objection.

18 THE COURT: All right. The Court finds that he is
19 qualified as an expert in digital forensics science.

20 Q Mr. Watkins, what were you asked to do with this case?

21 A In this matter I was hired to assist in reviewing some
22 of the digital information in this case. Specifically to the
23 video that was reported and acquired from the Castlewood
24 Apartments as well as call detail records which are the cell
25 phone records that come from a service provider such as Verizon

1 and AT&T.

2 Q And did you also gather any information with regard to
3 maps.

4 A I did. That was one of the things that I did. I also
5 took measurements and mapped some areas of interest.

6 Q And did you just map them or did you go out and visit
7 the locations as well?

8 A I did go out and visit the locations of interest in
9 this matter.

10 Q I am going to show you -- did you generate any maps to
11 assist your testimony today?

12 A Yes.

13 Q I am going to show you what has been marked for ID
14 Defense Exhibits 14, 15 and 16 and ask if you recognize these
15 exhibits?

16 A Yes, I do. Yes.

17 Q Are these the exhibits that you prepared to assist your
18 testimony today?

19 A I did.

20 MS. ZMROCZEK: Your Honor, at this time we would
21 move defendant's 14, 15 and 16 into evidence.

22 THE COURT: Mr. Hunter.

23 MR. HUNTER: No objection.

24 THE COURT: Defendant's Exhibit 14, 15 and 16 are
25 entered into evidence without objection.

1 (Defendant's Exhibit 14, 15 and 16, pictures,
2 received in evidence as of this date.)

3 MS. ZMROCZEK: Thank you. If I may have, a second
4 to set up the easel and ask Mr. Watkins to step down.

5 THE COURT: All right.

6 Q The first exhibit -- and I would just ask that you keep
7 your voice up and make sure that everybody can see, and maybe
8 you want to stand on this side. I will give you the pointer.

9 So this is Defense Exhibit 16. What areas did you
10 identify?

11 A The addresses that I mapped specifically?

12 Q Yes.

13 A Okay. So this is a map of [REDACTED] North Main Street.
14 This map shows [REDACTED] Monroe Street and this map just shows the
15 area around the Raintree Apartments.

16 Q Okay, and were these addresses of interest provided to
17 you through discovery?

18 A Yes.

19 Q Okay, and I am going to show you -- I want to put a
20 Defendant's Exhibit 15. Explain to the jury what they are
21 looking at here?

22 A So this is a map showing the Castlewood Apartments, the
23 Calhoun Street that passes by those apartments. This the
24 intersection of Highway 321, Calhoun Street where the Sonic
25 drive-in is located.

1 Q And I want to talk about this for a moment. You said
2 the Sonic drive-in. Did you see if there was any video
3 available from the Sonic drive-in?

4 A I did and there are no exterior cameras.

5 Q Did you also see if there were any available from the
6 auto parts store?

7 A I did. I did check around the immediate area for any
8 building establishments that had exterior cameras and I did not
9 find any.

10 Q Can you also see the hospital on this?

11 A On this particular map that would be in this area
12 (indicating). That is not quite mapped.

13 Q And let's talk about the second map.

14 A This map just indicates the distance from the exit of
15 the Castlewood Apartments to the intersection of Highway 321 and
16 Calhoun Street which is a distance of point four miles.

17 Q And did you map that -- not only did you map it but did
18 you drive it as well?

19 A I did.

20 Q And was that accurate?

21 A It is accurate, yes.

22 Q And how long did it take to drive?

23 A Roughly a minute.

24 Q Okay. And then the third map.

25 A This is a map showing the distance from the

1 intersection at Highway 321 and Calhoun to the hospital and that
2 is a distance of a half a mile.

3 Q Okay. And that means all the way turning in, correct?

4 A It does, yes.

5 Q And it's a straight shot?

6 A It is.

7 Q And how long did it take to drive?

8 A Two minutes.

9 Q I want to put Defendant's 14 up. Explain to the jury
10 what this map shows?

11 A This map is another map of the distance from Castlewood
12 Apartments to the intersection of Highway 321, and Calhoun and
13 that is same distance, point four miles, and it shows a walking
14 distance of -- or the time to walk that distance being seven
15 minutes. Having walked that distance it was roughly accurate to
16 seven minutes.

17 This next map here, this is a map from the Castlewood
18 Apartments to [REDACTED] Maple Street and it shows a distance of 1.1
19 miles and it has a drive time of approximated three minutes.

20 Q And did you drive that as well?

21 A I did.

22 Q And what is the bottom one?

23 A The bottom map shows the distance from [REDACTED] Maple Street
24 to [REDACTED] Fernandina Road the Raintree Apartments.

25 Q And how long is that trip?

1 A That is a distance of 29 miles and the estimate drive
2 time is 35 minutes.

3 Q Is that one way?

4 A That is one way, yes.

5 Q Thank you. You can have a seat. You said you also did
6 some work with phone records, right?

7 A Yes.

8 Q Did you receive any phones in this case?

9 A I did not.

10 Q What kind of information can you get from a phone?

11 A Generally you would expect to see contacts, call logs,
12 text messages, multi-media messages and some times depending on
13 the device you might find some application data whether they
14 were using facebook, messenger or another type of messenger.
15 Thing of that nature. Pretty anything that you store on the
16 phone if law enforcement is able to acquire it or someone such
17 as myself is able to acquire it, generally we would like to get
18 everything or as much as possible off that device.

19 Q If you can't have access to the device is there still a
20 way you could get information regarding phones?

21 A Yes, and of course it will be a little more limited.
22 So, in this case since we didn't have the phones to work with
23 the call detail records were subpoenaed and what those are going
24 to show are the details -- the incoming, outgoing calls, text
25 messages between the parties associated with that phone and

1 other parties communicating with that phone. It's not going to
2 contain actual contents of text messages, just the detailed; the
3 time and date of incoming, outgoing.

4 Q Meaning that there were text messages but not what they
5 said?

6 A Right. The search riders do not typically store that
7 information.

8 Q And I am going to hand you Defense's Exhibit 22 and ask
9 if you recognize that?

10 A Yes.

11 Q So, when you received phone records did you ask for
12 records on certain numbers?

13 A Yes, I did.

14 Q Okay. What number did you generate a report for?

15 A This exhibit here reflects call detail records and an
16 analysis thereof for cell phone number [REDACTED] [REDACTED]-5827.

17 Q And to whom did that number belong?

18 A That number is associated with Lashonda Jeter.

19 Q Did you generate a report and put on top a summary of
20 that report?

21 A Well, what this -- this is actually technically two
22 reports. It's all within the same document. But what we have
23 here is the actual call detail records that has everything
24 formatted into a table of all the records that were requested
25 within the day range in the request. However, it is filtered to

1 show only communications with this number and Mr. Larry Cornish
2 and numbers known to be associated with detention tension
3 centers, such as Charleston County Detention Center and Newberry
4 County Detention Center.

5 This page on top this actually reflects the call frequency
6 between between Miss Jeter's number and it's also filtered to
7 show communications with Mr. Larry Cornish and numbers
8 associated with the detention tension centers. And it breaks it
9 down not only with the totals of the entire range but also by
10 month.

11 Ms. ZMROCZEK: Your Honor at this time we would
12 move Defense's 22 into evidence.

13 THE COURT: Mr. Hunter any objection to this?

14 MR. HUNTER: No objection.

15 THE COURT: Defendant's Exhibit 22 is entered into
16 evidence.

17 MS. ZMROCZEK: Thank you.

18 Q Tell the jury what the summary of the top page reflects
19 as far as communications between Miss Jeter and Mr. Cornish?

20 A So I received two numbers. Or had two numbers that
21 were associated with Mr. Larry Cornish. The number that -- the
22 number associated to him that was in contact with Miss Jeter's
23 number was (414)552-0725. That number had a total of 348
24 communications. That's calls. We are dealing with calls. And
25 that's within the range of June 2016 to June 2017. There is

1 also an entry or what I have summarized is that same number but
2 with star 67 dialed before that.

3 Q And what does that indicate, star 67 dialed before
4 that?

5 A Star 67 will allow the caller to hide their identity on
6 caller ID. And that had a total of 245 communications with Miss
7 Jeter's number within that day range.

8 I also have a number for Charleston County Detention Center;
9 (843) 203- 9196 and that reflected 281 total communications
10 between Miss Jeter's number.

11 Q Two hundred eighty-one is that what you said?

12 A Two hundred eighty-one, yes.

13 Q Okay.

14 A Also reflected is a number associated with Newberry
15 County Detention Center, which is (803) 597 -- 3045 and that
16 reflected 94 total communications with that day range.

17 Q And when the jury gets to take this back and look at
18 the records behind the first page, the information is identified
19 and laid out as far as date and time, contact and when it
20 happened, correct?

21 A Yes, and if you like I can explain that.

22 Q Sure.

23 A So the way I have this table set up is in columns so
24 that you can -- anybody reading this can understand the data.
25 The first column is going to be in the very left, is going to be

1 record source. It's going to say where these records came from
2 and this is going to be from Verizon. The next record is going
3 to reflect the subscriber's name which is Lashonda Jeter. The
4 next column is going to reflect the subscriber's number that we
5 subpoenaed. The number that we wanted to request records for.
6 The next column is going to reflect the date and time and that
7 is results of local time. The next would be -- the next column
8 is the contact name and that's going to be associated with the
9 contact number, so the two will be related to each other. The
10 next column is going to reflect the calling party number; that
11 is the person who is initiating the call. The next is the dial
12 digit number. That's going to reflect the person that they are
13 contacting. And the second to last column is the call
14 direction, is going to indicate in-coming, outgoing or forwarded
15 call. And then the column indicates the duration of that call.

16 Q Thank you. And lastly you said that you did some --
17 you received some surveillance videos?

18 A Yes.

19 Q What did you do to see -- what did you do to figure out
20 what those surveillance videos were able to show? Did you go to
21 the location.

22 A I went to the incident location to find the location of
23 the camera, to see the angle. Get an understanding of what was
24 in the background because this video was taken at night, so
25 there's not a real clear view of what is going on in the back

1 ground. It's very dark. When I reviewed this video the idea in
2 mind was to enhance it as much as possible so that we can see as
3 much of the picture that is available to us.

4 Q When you enhance it did that change any of the data on
5 the video?

6 A No. When I enhance video I'm merely trying to make
7 what is already there more visible.

8 Q And did you generate videos and still shots from those
9 videos?

10 A Yes. The way the video was given to us is its in video
11 clips. Because the way the DVR -- and I'm not familiar with the
12 DVR. I haven't gone to the DVR. I'm not familiar with the
13 exact DVR, but speaking from experience the way these video
14 clips were rendered indicates that the DVR most likely was set
15 to a motion sensor. Now I went out to the location to see if
16 there was some sort of trigger because you can set up an actual
17 motion sensor on a DVR, connected to a DVR. This particular DVR
18 did not have that or that was not the set up. So, the way that
19 we achieve motion detection in a DVR is what's called pixel
20 recognition. What it will do is if you use a picture and as it
21 detects changes of the pixels in the video which is going to
22 simulate motion that's when the DVR is triggered to record. So
23 because we have several different clips we don't have a long
24 continuous clip from one a.m. to, you know, earlier or later
25 that morning. So it's broken up.

1 So what I did with the videos I put it all together as best
2 I could to make a one video so we don't have to click each
3 individual video. We just have one video straight through.

4 Q And did you also generate still shots from that?

5 A Yes.

6 Q Okay. I am going to show you what has been marked as
7 defendant's 13, 17, 18, 19 and 20 and ask if you recognize
8 those.

9 A Yes.

10 Q And do those fairly and accurately represent the work
11 that you did in this case?

12 A Yes, they did.

13 Ms. ZMROCZEK: Your Honor, at this time I would
14 move to enter them into evidence.

15 MR. HUNTER: No objection.

16 THE COURT: That's 13, 17, 18, 19 and 20 are
17 entered into evidence without objection.

18 (Defendant's Exhibit 13, 17-20, DVD and pictures,
19 are received in evidence as of this date.)

20 MS. ZMROCZEK: Okay. May I publish to the jury.

21 THE COURT: Yes, you may.

22 Q Okay, defendant's 17, these are still shots. So, what
23 are the jury going to see when they look at these?

24 A So, this is a snap shot of the video where I zoomed in
25 on this particular part of the video to show Mr. Cornish walking

1 or returning to the apartments on foot.

2 Q And does it reflect the time?

3 A This particular snap shot does, yes.

4 Q And is that what you did with the series including 17,
5 18, 19 and 20?

6 A Yes.

7 Q And were you able to zoom in on his hands?

8 A Yes, that was the idea to try and get as clear a shot
9 as we could. Generally when we're zooming in to video we are
10 going to lose quality because we are getting a closer view of
11 those pixels and that is zoomed in the best possible way to be
12 able to view the hands of Mr. Cornish.

13 Q Okay.

14 MS. ZMROCZEK: And Your Honor, at this time we
15 would also like to publish defendant's 13?

16 THE COURT: All right.

17 (WHEREUPON, a video is played.)

18 Q I am going to let you operate this. So go to the video
19 where you zoom in?

20 A The way these clips are divided it's going to reflect
21 and print the time, so these first two is going to be one a.m.
22 to one 15 a.m.. The other abbreviations or codes in parenthesis
23 that you see here are; it will say zoom, zoom in, pan, if there
24 is panning, TS represents timestamp and BC, that's just adjusting
25 the brightness and contrast.

1 Q Can you go ahead and play that one. And this is zoomed
2 in. Are these the two vehicles that you zoomed in on?

3 A Yes.

4 Q Is that camera pointing straight or is it facing at a
5 diagonal?

6 A It's pointing at a angle toward the entrance and exit
7 to the apartments.

8 Q And when you say you a just the bright, you didn't do
9 anything with the lights. Was it just an overall brightness?
10 You didn't add any lights?

11 A When I say adjusting brightness/contrast, I am
12 adjusting that to the entire picture on the video, not one
13 specific area.

14 Q Did you also measure the distance from the apartment
15 door to the vehicle?

16 A Yes.

17 Q And how far was that?

18 A It came to about 35 feet.

19 Q Did you examine the entrance way into Castlewood?

20 A Yes.

21 Q What if anything did you notice after you leave the
22 roadway and enter the entranceway?

23 A There is a speed bump.

24 Q Okay. And that time, that time runs continuous? You
25 didn't change any of the time when you zoomed in did you?

1 A Right. The time stamp in the background is actually
2 the same video just not the zoomed in. It stays with the zoomed
3 in video the entire way.

4 Q Okay. And then take us to the second video; the second
5 set of videos that you worked with.

6 A This one is from 1 a.m to 1:30.

7 Q So go ahead and hit play and then we can skip forward
8 to the parts we have already seen.

9 Now, we see the the scene jump from 1:15 to a period of
10 1:16, did you cut out any video?

11 A Yes. So, as I was trying to explain before and I may
12 not have done a good job, there are several clips and because
13 the DVR I believe is set to motion detect, it's going to record
14 a new video as soon as it detects what it interprets to be
15 motion. And because it does this it's not going to run
16 continuously. It will start whenever it detects motion. So
17 we're actually missing several minutes of video throughout this
18 entire clip because it's set for that. So we will constantly
19 see it jump from several seconds to several minutes and that is
20 why it is doing that.

21 Q So right now when it says 1:17 and then it jumps to
22 1:19 that is because there was no movement?

23 A Correct.

24 Q And are these -- is this the video and zoom from which
25 you got the still shots?

1 A Yes. The only difference is that this video shows the
2 only timestamp at the top where as those pictures don't show
3 that full timestamp.

4 Q Were you trying to show -- focus in on the person?

5 A Yes, and this timestamp was actually added later.

6 Q Okay. Which way does the vehicle turn?

7 A Left out from the apartments.

8 Q If you go out left out of the apartments where does
9 that lead you?

10 A Based on the maps that we saw earlier that would be the
11 best route to take if were you traveling to [REDACTED] --

12 Q Maple Street?

13 A Maple Street, that's right.

14 Q And you mapped that route to be -- to be -- to take
15 three minutes and that was on Defendant's 14?

16 A Yes.

17 Q Okay. And did you drive that as well?

18 A I did.

19 Q Thank you. Mr. Watkins, did you do anything else
20 related to this case for presentation today.

21 A Not that I can recall, no.

22 Q Thank you. Please answer any questions Mr. Hunter has.

23 THE COURT: Mr. Hunter.

24 CROSS EXAMINATION

25 BY MR. HUNTER:

1 Q Mr. Watkins, you don't know where that car went after
2 it left Castlewood, do you?

3 A No, I don't. I can't testify to that.

4 Q Okay. I am going to show you what was marked as
5 Defendant's Exhibit 14. You testified you walked this distance?

6 A Yes.

7 Q Okay, and it took you about seven minutes?

8 A A little longer, yes.

9 Q Okay. Did you run that distance?

10 A No, I didn't. However, I did calculate the running
11 distance just based on the average running speed of a human and
12 it cut it down to a little less than half. So about three
13 minutes.

14 Q What's the average speed of a human?

15 A About five -- well, between five and ten miles per hour
16 and so I just put it to the middle and said about seven and a
17 half.

18 Q So it's just an educated guess?

19 A Just an educated guess, yes. Not based on any
20 measurements that could actually be taken from that video.

21 Q And do you know how fast Larry Cornish can run?

22 A I do know that, no.

23 Q Okay, and you don't know if he ran at all?

24 A Correct, I don't know that.

25 Q Okay. Would it be safe to assume that someone having

1 just shot someone would run from the scene rather than walk?

2 MS. ZMROCZEK: Objection, Your Honor.

3 THE COURT: Sustained.

4 Q I am going to show you what has been marked as exhibit
5 22 for the defense. Do these phone records just basically show
6 that Lashonda Jeter called Larry Cornish a lot while he was in
7 jail?

8 A It's going to reflect both incoming and outgoing calls.
9 It's going to show communications between those particular
10 numbers. Obviously I can't testify that the numbers associated
11 with the detention centers do result to Mr. Larry Cornish
12 however we do know that he was attending those -- or he was in
13 those facilities during those times that these calls were taking
14 place.

15 Q Okay. So essentially this document shows that Lashonda
16 Jeter made lots of calls to where Larry Cornish was?

17 A Yes.

18 Q Okay. You can't tell what is going on in the car in
19 that picture, can you?

20 A You can't at all, and unlike the movies and what you
21 see on television we can't take video and enhance it to such a
22 way that you gain more information, more pixel information to be
23 able to see a clear view inside the vehicle. It doesn't work
24 like that way in the real world.

25 Q Is it your testimony that you can look at these

1 enhanced images and definitively say that there is nothing in
2 Larry -- or in this person's hand?

3 A All I can say is just best guess, it doesn't appear
4 that way but I would leave that for the jury to decide.

5 Q All right. It is fair to say that it's still a fairly
6 fuzzy picture?

7 A Oh, of course. Yes.

8 Q Is it possible to somebody to carry a handgun in the
9 waistband?

10 A Yes, that's very possible.

11 Q Is it possible for someone to carry a handgun in their
12 pocket?

13 A Yes, of course, depending on the size.

14 Q Is it possible for someone who has a handgun in their
15 happened to throw it somewhere?

16 A Of course, yes.

17 MR. HUNTER: Nothing further. Thank you.

18 MS. ZMROCZEK: Very briefly.

19 REDIRECT EXAMINATION

20 BY MS. ZMROCZEK:

21 Q Mr. Hunter asked if you knew at all that Mr. Cornish
22 was running?

23 A Yes.

24 Q And you said you did not, right?

25 A I don't know that, but based on the time that we see

1 the vehicle turning out if I recall it is about 1:15 a.m. and 27
2 seconds and the time he returns to view which is about 1:19. So
3 it's only a difference of about three and a half minutes.

4 Q So either had to be running or he got out of the car
5 before then, right?

6 A Yes, reasonably that would make sense.

7 Q Okay. He asked you if it was possible to conceal a
8 handgun?

9 A Yes.

10 Q Is it also possible that someone walks down the street
11 after getting in a fight and trying to get out of car and not
12 have a handgun?

13 A Yes, of course.

14 Q Is that just as possible?

15 A Yes.

16 MS. ZMROCZEK: Thank you. I have no further
17 questions.

18 THE COURT: Recross?

19 MR. HUNTER: Nothing further.

20 THE COURT: That you Mr. Watkins. You may step
21 down.

22 THE WITNESS: Thank you.

23 THE COURT: Miss Zmroczek, call your next witness.

24 MS. ZMROCZEK: Your Honor, the defense rests.

25 THE COURT: Mr. Hunter, any rebuttal?

1 MR. HUNTER: Nothing.

2 THE COURT: All right. Thank you ladies and
3 gentlemen. It is ten to four. What we have left in
4 the trial is what we call closing arguments and then
5 instructions that I will give you on the law and I
6 anticipate that process will last an hour and a half,
7 two hours before you can go deliberate. We have been
8 urged by the Supreme Court to try and not
9 inconvenience the jurors unless absolutely necessary.
10 So I think it would be appropriate time today for us
11 to break for today. If you will be back tomorrow
12 morning in your jury room at about quarter after nine.
13 About quarter after nine we should hopefully get
14 started with the last part of this trial about 9:30.
15 Again, I am instructing you to not discuss the case
16 among yourselves. You are not to discuss your case
17 with anyone you might be around this afternoon or
18 tonight or in the morning. Not to use any electronic
19 devices to do any type of research on the law and the
20 facts of the case. Again, I instructed you and
21 continue to instruct you at the end of the day when
22 you make a decision it must be based on what you have
23 seen and heard here in this courtroom alone. Again,
24 if you believe that someone has breached that
25 responsibility or tried to approach you then please

1 let me know as soon as possible.

2 I will allow you to be excused now. Be back in
3 your jury room at quarter after nine in the morning.
4 Everyone remain seated while the jury is excused.

5 (WHEREUPON, the jury leaves the courtroom.)

6 THE COURT: Anything further at this point from the
7 defense?

8 MS. ZMROCZEK: Your Honor, at this time I think
9 I'm required to renew all of my previous motions as
10 well as renew -- including, excuse me, my motion for a
11 directed verdict under Rule 19 and based on the same
12 arguments.

13 THE COURT: All right. Thank you. The Court
14 stands by all previous rulings and notes your
15 objection for the record. However, the Court stands
16 by all previous motions. Motion for directed verdict,
17 again, at this point there is sufficient evidence for
18 a jury to make a determination about the ultimate
19 issues in this case.

20 Anything further from the State?

21 MR. HUNTER: Nothing, Your Honor.

22 THE COURT: All right what I'm going -- I'm sorry
23 Miss --

24 MS. ZMROCZEK: Okay, I was going to say nothing.

25 THE COURT: Okay, what I am going to do is we have

1 a preliminary charge. We are going to print those out
2 right now in just a few minutes. I will give you all
3 a copy each and give you a little time to look at them
4 and let's met in about 20 minutes, 15, 20 minutes and
5 go over the charge.

6 Do we have any other business that we can do this
7 afternoon.

8 MR. MAXWELL: None today, Your Honor.

9 THE COURT: All right. Then we will be at ease.
10 As soon as Jordan gets those he will hand them to you
11 and then we have a discussion in chambers.

12 MS. ZMROCZEK: Thank you.

13 (WHEREUPON, the court was in recess.)

14 (WHEREUPON, the trial continued on August 31,
15 2017).

16 THE COURT: Thank you. Please be seated.

17 MS. ZMROCZEK: Your Honor, my client -- there is
18 something I need to hear from him. Could we have a
19 minute so we can finish with the conversation?

20 THE COURT: Go ahead. Can you speak to him here
21 or do you need to go back.

22 MS. ZMROCZEK: Go back.

23 THE COURT: We will be at ease.

24 (WHEREUPON, there was a break in proceedings.)

25 THE COURT: Is the State ready?.

1 MR. HUNTER: Yes, Your Honor.

2 THE COURT: Defense?.

3 MS. ZMROCZEK: There is one thing I do need to put
4 on the record, Your Honor and that is this.

5 Obviously without divulging any confidentiality,
6 this conversation was about a concern my client had.
7 Yesterday he was transported back to the jail, to and
8 from the jail actually by an Officer Harris. Officer
9 Harris was at the jail. Sorry. When he got back.
10 And Officer Harris was talking to him about this case
11 and the things that went on in the courtroom and
12 Officer Harris apparently is not only a co-worker but
13 may be one of the best friends of the alleged victim
14 and what happened was he was concerned that he thought
15 that you had ordered that no one was to talk about the
16 case outside of the courtroom. And that people at the
17 jail were talking about the case. And I told him that
18 when you were talking, you were talking about the
19 jurors not doing outside research and not us not
20 approaching them or anybody approaching them about the
21 case. And may be if you just make an inquiry to make
22 sure that still remains the same that nobody spoke
23 with the jury.

24 THE COURT: Well, I am not going to make an
25 inquiry into that. I made that real plain to the jury

1 throughout.

2 Sometimes individuals may think that what we do
3 here in court is confidential, but it is not.
4 Everything we do in court is open Court. The world
5 can know. Whatever goes on inside a courtroom during
6 a trial is open for the public to hear and see. In
7 fact court room reporters could be here. It could
8 have been reported in the news. The details of what
9 we had done could have reported in the news,
10 individuals that come into the courtroom to observe
11 court, court personnel, can freely talk about the case
12 to anyone. My instructions throughout the trial were
13 always to the jury alone which is, they were not
14 allowed to speak or discuss any details of the case
15 with anyone and I repeatedly told them many times that
16 if that is breached that they are to let me know. No
17 one has let me know that. So I am not going to
18 inquire into it.

19 MS. ZMROCZEK: And I was confident about that too.
20 I just wanted to make sure that I alerted him and I
21 think we were all on the same page.

22 THE COURT: All right thank you.

23 MS. ZMROCZEK: Thank you. And that's all I have.
24 We are read.

25 THE COURT: Let's bring the jury in.

1 (WHEREUPON, the jury enters the courtroom.)

2 THE COURT: Good morning ladies and gentlemen.
3 Thank you for your patience. We are now ready to
4 begin the part of the trial as I explained to you
5 yesterday where the attorneys for the State and for
6 the defense will have an opportunity to make closing
7 statements to you. Once those closing statements or
8 closing arguments are completed then I will instruct
9 you on the law. That means I am going to read you the
10 law that applies in this case, once I come meet that
11 you will have an opportunity to then go back to the
12 jury room and then you will begin discussing and
13 deliberating on this case one I give you those final
14 instructions.

15 The procedure we will follow this morning in just a
16 moment, the solicitor for the State will stand up and
17 talk to you and have an opportunity to address you.
18 Then Miss Zmroczek on behalf the defendant has
19 indicated that she will be addressing you and then
20 once she finishes the prosecution, the State, will be
21 given an opportunity to make what we call rebuttal.
22 That will be the outline that we follow this morning
23 in closing. Again, thank you for your patience and
24 thank you for your attention throughout this trial.
25 And now we are ready to begin closing arguments. Mr.

1 Hunter.

2 MR. HUNTER: Thank you. May it please the Court.
3 Out of the mouth of babes. Ladies and gentleman that
4 phrase sums up this trial. I told you in the
5 beginning of the week that this is a simple case and
6 it is a simple case because if you believe what those
7 two children, what ten year old **C.M.** and seven year
8 old **O.M.** if you believe what they told you then
9 have you to find Larry Cornish of attempted murder.
10 Because what they told you on the night of July 27th
11 of last year they watched him put a gun to his
12 mother's head and pull the trigger.

13 Now, the defense wants you to disregard this
14 testimony. The defense wants you to think that those
15 children are not telling the truth. Ladies and
16 gentlemen, I submit to you when those children were
17 sitting right here they told you exactly what they saw
18 and then their mother came up here and she told you
19 the same thing. And you heard from the doctor. He
20 sat up there and he told you Ashley told him the same
21 thing. Deputy Little sat up there. He talked to the
22 children that night. He talked to Ashley that night.
23 They told him the same thing. There is absolutely no
24 question that that man put a gun to her head and
25 pulled the trigger.

1 Now, they want to make a big deal about some
2 missing pictures and things of that nature. Well,
3 we'll concede, we are missing some pictures. We wish
4 we had them. We always want the most evidence. But
5 the pictures taken at the hospital that night, this is
6 what they would have showed you. They would have
7 shown you Ashley Michael laying in a hospital bed
8 blood pouring out of her face. They would have shown
9 you those two boys sitting in a hospital scared not
10 nothing what was happening to their mother. Not
11 nothing whether she was going to live or die. That's
12 what those pictures would have shown you. Larry
13 Cornish wasn't at the hospital. There was nothing in
14 those pictures that would have helped him. He was
15 gone. He run back to Castlewood Apartments got in his
16 car and driven off. And then he called his other
17 girlfriend. He called Lashonda who clearly has
18 feelings for him. I think we can all dis certain that
19 from the hundreds of phone calls she has made to him.
20 Nobody can really -- I can't explain why she has
21 feelings for him still, but that's her issue. But he
22 called her and she took him to Columbia. He drove his
23 car. He drove hers. They dropped his car off at
24 Raintree Apartments and then he drove back to
25 Winnsboro to Castlewood Apartments in her car. He

1 went in their apartment. Lashonda parked in the
2 driveway. He went into their apartment. He got his
3 clothes. He got the TVs and then he took them back to
4 Raintree Apartments. You've seen them. Right here.
5 This is what he took from their apartment that night
6 -- (Indicating)-- and then what did he tell Lashonda,
7 he told her that if she told anybody what they did he
8 would shoot her too. Now obviously she still has
9 feelings for him. But she still came in here and told
10 you all that he said he would shoot her too.

11 She told a different story to the police the day
12 after it happened. That's true. She told the police
13 that she took Larry to McDonalds in Columbia. Dropped
14 him off there. But within a day, maybe two days she
15 told the police the truth and why did she do that,
16 because she was scared. She was scared of Larry
17 Cornish was still out there. She was scared of what
18 could happen to her. But she told you all she talked
19 to her sister and she said her sister told her you got
20 to tell them the truth. You got to tell them what
21 happened. She didn't want to be here. She didn't
22 want to be embarrassed like that. But she came here
23 and she told you all the truth.

24 Now, let's talk about Bailey Reynolds for a second.

25 THE COURT: Will the lawyers approach.

1 (WHEREUPON, there was an off the record
2 discussion.)

3 MR. HUNTER: Now let's talk about Bailey Reynolds
4 for a second. She knows Ashley. She knows Larry.
5 She didn't know Lashonda. She lives on Maple street.
6 She said that she was going to bed that night. She
7 saw headlights. She looked out and she saw Larry's
8 car there. She said she didn't think anything of it.
9 She didn't see Larry, so she laid down. Sometime
10 later she saw headlights again. She looked out the
11 window. She saw a small silver car. Now what does
12 Lashonda say she drives; a small silver car. It
13 pulled up. Lashonda and Larry got out. Larry walked
14 around the house for a few minutes he came back. He
15 got in Lashonda's car. Lashonda got in his car.
16 Bailey Reynold's testimony backs up Lashonda'a
17 testimony.

18 And they want you to ignore all this. They want
19 you to focus on, you know, problems with the
20 investigation. And I concede there are problems with
21 the investigation. The police could have done a
22 better job. But I submit to you that the night of the
23 shooting the police had three eyewitness who told them
24 exactly what happened. They had two children who had
25 no reason to lie. And they had Ashley Mickle and all

1 of those people told the same thing. They said that
2 Ashley and Larry got into an argument at their
3 apartment at Castlewood. They said that Ashley and
4 the kids tried to leave. That Larry blocked the door.
5 Ashley told [C.M.] to go get his clothes. So he ran
6 back. Ashley and [O.M.] went out the door and then
7 [C.M.] came running back except Larry was still
8 blocking the door. So what did Cl[C.M.] do, he dropped
9 all his clothes because he was scared and he was in a
10 hurry. He was trying to get out of there because his
11 momma said we got to go. And what did Larry do, he
12 ran back to the bedroom. Ashley said that's where
13 Larry kept his gun. She knew that when he ran to that
14 bedroom he was going to get his gun. Why did she know
15 that because she had gone back there a little while
16 earlier and he was sitting there wiping a bullet with
17 a sock. Who does that? That's not normal behavior.

18 She knew that when he ran to that bedroom he was
19 going to get the gun and going to kill her. So she
20 said we got to go. They went out. They got in the
21 car but before she could leave that man came running
22 out with his gun. He jumped in the back seat.

23 [O.M.] was seated in the middle of the back. [C.M.]
24 was seated behind the passenger seat. Larry jumped in
25 the back seat. The back door. He climbed into the

1 front and he held the gun to Ashley and he said drive.

2 You all saw the video of them in the parking lot.
3 She was sitting there four minutes pleading for her
4 life. Saying don't this. Don't do this. But when
5 she had no other choice, when he put that gun to her
6 head and he said if you don't drive I am going to
7 splatter your brains all over the windshield she had
8 no choice. So she had to drive. She testified that
9 she knew if she stopped that car Larry would shoot
10 her. And what happened approximately 59 seconds
11 later, 54 seconds later, they got to the stop sign at
12 Sonic and Advance Auto Parts right over here
13 (indicating), and she stopped the car. She said she
14 didn't want to stop the car because she knew he would
15 shoot her but she had to because there was cross
16 traffic. And as soon as she stopped the car what did
17 he do. He opened the door, he stood out he aimed the
18 gun at her head and he pulled the trigger. Both of
19 those children were sitting two feet away and they saw
20 it.

21 By the grace of God did she survive and she was
22 able to drive to the hospital. Deputy Little
23 testified that drive took 59 seconds at 45 miles an
24 hour. They want you to think that some time during
25 that timeframe Ashley, whose face was essentially

1 blown apart, teeth all over her car. They want you to
2 think that Ashley convinced her children to tell a
3 different story in 59 seconds. That doesn't make any
4 sense. It doesn't make any sense at all. What makes
5 sense is what those children told you. What they told
6 you is that man put a gun to her head and he pulled
7 the trigger. And if you believe, if you believe what
8 those children told you, you have to find him guilty
9 of attempted murder. There is no other explanation.

10 Now, I want to show you all some pictures that have
11 been admitted into evidence. Right her, this spent
12 shell casing, this is where the casing landed after
13 the gun was fired. Now Agent Green from SLED and
14 Agent Key from SLED they told you with specificity
15 exactly where the cartridge would have gone when it
16 left the gun. I submit to you it wouldn't have gone
17 real far. And here it is right here. She was sitting
18 right there. That bullet was fired from a distance no
19 more than a few feet.

20 I want you to pay attention to this. This mark on
21 the headliner. When the bullet is ejected from a gun
22 it comes out and I submit to you that is where that
23 shell casing hit and then it bounced into that seat.
24 I submit to you that Larry Cornish was holding the gun
25 right here inside the car. And where were those

1 children seated, right here (indicating) O.M.

2 C.M. Right there. And that's where they watched
3 their mother get shot from. Those children told you
4 exactly what they saw.

5 Now the defense wants to make a big deal about
6 bullet trajectories. Well Agent Key testified that a
7 bullet can change its trajectory after it hits an
8 object. I asked her Agent Key, if a bullet were to go
9 through somebody's face could that change its
10 trajectory? She said absolutely. That's where the
11 bullet ended up right there. (Indicting.)

12 Now they may want you to think that Ashley was
13 jealous that Larry was leaving her. Well, that
14 doesn't make sense does it. Ashley was trying to
15 evict him. She was the one trying to leave the
16 relationship not him.

17 Now they may want to make a big deal about, you
18 know, maybe Larry had to shoot her because he wanted
19 to get out of the car so bad he had to shoot her.
20 That doesn't make sense either because when they were
21 sitting in the Castlewood Apartments for four minutes
22 he could have gotten out of the car at any time.
23 Nobody was keeping him in that car. He could of got
24 out of that car and walked away and said by, I don't
25 want to speak to you again. And then we wouldn't be

1 here. But he did. He stayed in that car and he put a
2 gun to her and he said drive. She knew he was going
3 to shoot him -- excuse me. She knew he was going to
4 shoot her. When they got to that stop sign he was
5 that desperate to get out of the car, well he did get
6 out of the car. He could have walked away but he shot
7 her. He turned around and he shot her in the face.
8 There is no justification on earth for that. There is
9 nothing they can say that will justify him turning
10 around and shooting her in the face. They want to
11 make a big deal that **O.M.** who was six years old at
12 the time, said Larry had a taser. I'm sorry but a
13 six-year old is not an expert in handheld weapons.
14 The difference between a hand gun and a taser, that's
15 speaks to his innocence.

16 They had the McDonald lady come in. What did she
17 show you all. She bought this piece of paper. Well,
18 all this shows is that Larry Cornish works at
19 McDonalds. It doesn't say he was at work that night.
20 It shows you week by week how many hours he worked.
21 Some weeks he worked 12 hours. Some weeks he worked
22 59 hours. This doesn't tell you anything. You can't
23 draw any conclusions from this. She didn't work the
24 same he shift he worked. She didn't know if he was
25 there. She'd already left. And how could Larry have

1 been at McDonalds if this is him walking back into
2 Castlewood Apartments four or five minutes later. If
3 they want to say oh, well look, he doesn't have a gun
4 in his hand. Well, is it Larry or isn't it. Because
5 if he's at McDonalds then it's not Larry. Then why do
6 they care if this person has a gun in their hand. It
7 doesn't make sense. If this is Larry he wasn't at
8 McDonalds. He was in a car just like those children
9 told you. And you can't see what is in his hand and
10 you can't see what is in his pocket and you can't see
11 what is in his waistband. All you can see is Larry
12 walking back four or five minutes later getting in his
13 car and driving away.

14 Now they want to make a big deal out of the
15 statement that Larry made to Officer Carrell and
16 Officer Ferguson in Columbia. Now I wish that
17 statement had been on body cam but it's not. Let me
18 ask you this; if the police were going to make up that
19 Larry made the statement, if they were just going to
20 make that up why would they say that he left the gun
21 in the glove compartment. That doesn't make any
22 sense. They didn't even find a gun in the glove
23 compartment. If they were going to make up a
24 statement they would say he told us he shot her. That
25 makes sense. It doesn't make sense to make up a

1 statement that doesn't make any sense.

2 Officer Carrell testified that they have 13 people
3 in their police department to cover all of Winnsboro.
4 All the crimes that happen in Winnsboro. Thirteen
5 people. That's for the whole department. That's not
6 for one shift, that's not for one region. That's for
7 the whole department. This isn't Richland County
8 where they have a thousand deputies. This is
9 Fairfield County. They have to make due with what
10 they have. They do their best and sometimes they make
11 mistakes. Don't hold those mistakes against Ashley.
12 Don't hold those mistakes against her children because
13 those mistakes they don't matter in this case.
14 Because those two children got up here and they told
15 you what happened. And if you believe those children
16 then he is guilty of attempted murder.

17 What did we learn from the defense's case. We
18 learned that Larry works at McDonalds. We learned
19 that Lashondra really likes Larry apparently and we
20 learned there is a speed bump at Castlewood
21 Apartments. That's all we learned from their case.

22 Ladies and gentlemen of the jury, at the beginning
23 of this trial I told you this was a simple case and I
24 stand by that. This is a simple case. And I asked
25 you to use your common sense, use your brains, use

1 your hearts. You know what happened that night. What
2 happened is what Ashley got up here and told you. She
3 was crying on the stand but she told you is what
4 happened. What those two children who didn't ask to
5 be here, what they told you is what they saw. They're
6 little children who innocence was taken from them. A
7 piece of their childhood has been robbed from them.
8 They will never get it back. Don't let them get away
9 with that. Hold him accountable. Let your verdicts
10 speak justice.

11 Thank you for your time. I know you all -- I know
12 your verdict will speak the truth and I ask you to
13 find Larry Cornish guilty. Thank you.

14 THE COURT: Miss Zmroczek.

15 MS. ZMROCZEK: Thank you, Your Honor. Could we
16 have about five minutes to get everything arranged.

17 THE COURT: We will be at ease while you get
18 everything arranged.

19 MS. ZMROCZEK: Thank you. Your Honor. May it
20 please the Court.

21 THE COURT: Yes.

22 MS. ZMROCZEK: Good morning. As I sat to get
23 ready for my closing argument last night and thought
24 about how I was going to point out all of these things
25 to persuade you. Stand up here in front of you for

1 about 15 to 20 minutes to talk to you about all the
2 things that Lieutenant Carrell may or may not have
3 done wrong or the things that the small department of
4 public safety could have done better. And then you
5 all can go back in your room and check that guilty box
6 and we can all get on with our day. And then I
7 thought, you know, if I just had -- if I just had that
8 information that I wanted the police to have. You
9 heard me arguing objections and talk about my hiding
10 the ball argument and on to keep things from you and
11 there were often times we would go up to the judge and
12 we are not trying to keep things from you when we do
13 that. This are rules to follow. And the judge is
14 going to instruct you to follow them. The judge is
15 going to give you the law but you are the most
16 important people in this courtroom right now because
17 you have to decide the facts and if they don't give
18 you the facts then you must rely on the law.

19 The judge is going to talk to you about reasonable
20 doubt. Oh well, that's the thing they count on and
21 they rely upon, but ladies and gentlemen it's not --
22 it's the reason that all those statutes are being torn
23 down were fought for. It's the reason that we are
24 here. It's the reason. The constitution isn't just
25 something that I want to argue or waive around. It is

1 the fundamental principal of why we are here. Each
2 and every one of us are sitting here. And that's
3 something that I don't want you to take lightly. When
4 the judge reads you the law he will talk about there
5 are few things that we can be certain beyond a
6 reasonable doubt. And there is no formula. There is
7 no it has to be sixty percent. It has to be ninety
8 percent. It has to be ninety-nine percent. There's
9 no formula. There are different charts and I was
10 looking for my this morning and I lent it out to
11 somebody. There are different charts if you think he
12 may be guilty. But that's still not enough. If he is
13 likely guilty. Still not enough. You have to be
14 firmly convinced beyond a reasonable doubt that there
15 is no -- absolutely no other possible reason or
16 explanation. And that's something that I know you
17 will take lightly -- you won't take lightly.

18 As I was watching the news last night getting ready
19 I took a break. The hurricane has hit in Texas, right
20 from Louisiana. Right where I grew up. And I saw
21 this man. Just a man and his wife. And they had a
22 boat and they were literally going through a
23 neighborhood of people that when they went to sleep 12
24 hours earlier had no flooding and then somehow
25 overnight their whole neighborhood, the area flooded

1 and they woke up to this water in the house. And this
2 man and this woman who owned a boat were going around
3 trying to see on face book asking people to tag
4 themselves so they can come to their house and get
5 them. And that restored a tiny little bit of humanity
6 for me because it reminded me that each and everyone
7 of you will do what you were selected to do. And
8 that's to be fair. And that's listen to the evidence,
9 and as Judge Hall instructs you that is to apply the
10 law.

11 When I sit down Mr. Hunter will have an opportunity
12 to come back up and probably say believe the children
13 a few more times. Maybe he will show you some more
14 pictures because he want you to make that emotional
15 response.

16 Ladies and gentlemen, I do not enjoy cross
17 examining children. That's one of the least favorite
18 things that I do. And I disagree with Mr. Hunter's
19 characterization that I think they are liars. Do I
20 think they are confused. Absolutely. You have to be.
21 Because otherwise she was shot with a taser. If he
22 wants you to believe the children you would have to
23 believe that Larry had a taser. Oh, we just wants you
24 to believe everything that makes sense. That's not
25 what the law requires. I do want you to consider

1 their testimony and I will talk about that in a little
2 bit. How we first came to this perceptive of
3 challenges and believing things goes back to when I
4 grew up. And I will come back to that later hope
5 fully shortly. He says well they said, you have to
6 believe.

7 Ladies and gentlemen, if six sisters get up here
8 and say things and you had to believe them I think
9 surely I wouldn't be standing here because I would
10 still be sitting it out for the whoopings I would have
11 received. If you believed everything they said. All I
12 am asking you to do is to calmly review the evidence
13 without emotion.

14 There are four things that I want to kind of touch
15 on and hopefully sit down and let Mr. Hunter respond
16 and then let you get to your job. The first thing is
17 do not assume. When you get your summons in the mail
18 and you try to think all of the things you can tell
19 Judge Hall to get out of jury duty because nobody
20 wants to sit here and sit in judgement. But you made
21 that choice to fulfill that obligation and for that we
22 thank you but in doing that if you remember if you
23 think back to the questions that were asked of you
24 just because someone is arrested or has an indictment
25 does that mean they are guilty. Can you automatically

1 set aside that is some part of guilt. You all said
2 that you could and we believed you because the judge
3 is going to charge you on intent and presumption and
4 that presumption of innocence. People say it, and the
5 judge will describe it as a robe of righteousness
6 around the defendant. Because that's what it is.
7 Right now as Larry sits right there looking at you
8 hoping and believing that you will protect him under
9 that robe of righteousness. That you not looking at
10 him as a guilty man because none of you have started
11 to contemplate the facts. That's what deliberation is
12 about.

13 This statement, the judge is going to talk to you
14 about the voluntariness of the statement. Ladies and
15 gentlemen, yes, I was hard on Lieutenant Carrell and I
16 don't apologize for that. Winnsboro, Bamburg,
17 Richland, Federal Court; I cross examine officers
18 everywhere, and I expect the same thing out of
19 everyone and that's just to do their job.

20 Lieutenant Carrell can sit here on this stand under
21 oath and tell you he can't remember if he was wearing
22 a body cam. He can't remember how many videos he
23 downloaded that day. He can't remember anything but
24 less than two months before the trial, less than two
25 months before the trial, he remembers that Larry

1 Cornish confessed to hiding a gun. I submit to you,
2 ladies and gentleman, that that's a convenient
3 recollection. And Mr. Hunter asked you, well, does
4 this make sense. Why would say that. Why would they
5 say that instead of I shot her. Because they can't
6 find the gun. Because someone made sure that you
7 couldn't find that gun.

8 The judge will tell you that you have an
9 opportunity to look at all these videos to help answer
10 any questions. Because individually you have to come
11 to your determination and then collectively you have
12 to come to your determination. But I wanted to show
13 you this video Mr. Hunter talked to you about your
14 common sense does this make sense. He wants you to
15 believe that there are no other possibilities than
16 what the State presents.

17 Bare with me. Technologically challenged this
18 morning. I could stand here all day. I'm not going to
19 do that. So you will have an opportunity by someone
20 who can manipulate it better than I can.

21 But you all recall what it says. He reads him his
22 rights and the first question he says is where's the
23 gun? We can't hear Larry's response but what you do
24 hear is Lieutenant Carrell say, oh, we're going to go
25 down that road. Okay. They want to you believe that

1 15 minutes later, 20 minutes later while Larry is
2 still in handcuffs that they are having a casual
3 conversation and he say, ah, yeah, the gun. I put it
4 in the glove compartment of this car and I don't know
5 what happened to it. No. Sometimes witnesses are
6 confused. Sometimes they are mistaken and sometimes
7 they lie and you get to decide by weighing all the
8 evidence. And the judge is going to tell you can look
9 at their demeanor and you get to use that as the basis
10 of credibility. And I want to talk about that for a
11 little bit because the next thing that I am going to
12 ask you to do when you go back there is ask questions.
13 Ask questions of each other, ask questions of my
14 position, ask questions of the State's position and to
15 do that ask questions of the evidence.

16 If you recall when Miss Mickle was on the stand
17 during direct and she was cheerful, but was able to
18 answer my questions. And some of the things that she
19 said had me confused because they didn't line-up to
20 what the children had said. And sure there can be
21 some mistakes or some confusion, but I want to focus
22 on what all three of them didn't say and I know Mr.
23 Hunter is going to jump on that and say, well, all
24 three of them said he shot her. That's what matters.
25 Well, it's the nuances and it's the details, and I

1 wish that I had those clothes or some gun powder
2 residue to show you why that doesn't match up but I
3 don't. And then I remember the judge is going to
4 charge you, it doesn't matter. It doesn't matter
5 because I don't have to prove his innocence. As he
6 sits this he's innocent. I don't have to prove it and
7 know matter what, I could have sat at that table, not
8 asked one question, not put up one picture, and that
9 burden would still remain with the State. And just
10 because I did it don't shift the burden at all. It is
11 still their position. And so ask questions of these
12 photographs. Make a big deal about certain things.
13 Well, make a big deal implies that it's not important
14 I suppose and may be that's the goal, but I do have
15 some questions. Some of the questions that I have,
16 and maybe you will have some more, we are missing some
17 packs because why was his stuff packed up. Why did he
18 come back to the apartment after driving all the way
19 to drop off his car. How did he know the police
20 weren't going to be there. It doesn't make any sense
21 to me. How is it that a gun ejects a bullet to the
22 back and to the right generally, especially the type
23 of gun that fired the fragments that were found in the
24 door. But even on Ashley's own testimony he was on
25 the sidewalk. Oh, we don't have to believe that part

1 of what she said. Believe [C.M.] part about his
2 hand being inside the car. But then you have to
3 disbelieve [O.M.]'s part where he had a taser. But
4 [C.M.] and [O.M.] both said something that I really
5 found was interesting because they kept describing a
6 revolver. Ladies and gentlemen, a revolver doesn't
7 have a shell casing. What about this, forty caliber
8 bullet that was found in the vehicle. Oh well, that
9 must be Larry's too. Or could it be from a Glock the
10 kind of guns that Miss Mickle said that she is use to.
11 And this beer can in this bag. Why were they in the
12 car. Is it possible -- is it possible that Larry was
13 already disengaged. Is it possible that he left the
14 apartment and was walking down the street and Ashley
15 got mad and told those kids to get into the car. You
16 can watch that video carefully because you don't see
17 someone climbing over. The children both said that
18 Larry came in the passenger side. Is it possible that
19 he was already left. That he was walking away and
20 that she drives down the road. And says get in this
21 car. He's the one that tries to get out of the car.
22 All three of them told you he was trying to get out of
23 the car. So he can shoot her. It doesn't make sense.
24 That doesn't make sense. Ask yourself -- and when you
25 see the inside photos of the car ask yourself could

1 that shell casing placement and that mark that they
2 want you to believe is a casing burn, could that come
3 someone leaning over. Someone who has had a history
4 of depression. Leaning over shooting themselves. All
5 the blood going here (indicting) and the bullet shell
6 casing going front and back. Could it be possible.
7 Well, let's look at the time.

8 All three testified they went immediately to the
9 hospital. Immediately. Fifty-seven seconds Officer
10 Little said. Mr. Watkins says, you know, at the
11 longest he could find is two minutes at Google. Oh,
12 well, you see her car pulling out at 1:15 and you see
13 Larry walking back at 1:19. Four minutes later. Oh,
14 but he must have been running because he just shot
15 somebody. He's running with a gun in his waistband.
16 No, the gun has to be in his pocket with his keys and
17 his phone that he is calling Miss Jeter or is it
18 possible that he didn't have a gun at all. Why is
19 that excused as any possibility. One minute. Even
20 two minutes. So by the time Larry gets back she's
21 already been shot. So even if it took him four minutes
22 to run and he gets back at 1:19 why is it she doesn't
23 get into the hospital and registered until 1:25. And
24 you heard when she comes in they start the paperwork.
25 And she is bleeding profusely and they want you to

1 focus on that blood. But when you are focusing on
2 that blood and that bleeding and that awful picture
3 from the body cam because we don't see any picture of
4 any soot or stippling so we can't see how close the
5 gunshot actually was. Look at that. Look at those
6 pictures of the car and see if that lines up with
7 profuse bleeding while you are driving down the road.
8 See if the time lines, driving to take his car and
9 then coming back to Castlewood to get his stuff, see
10 if that adds up and if that makes sense. Is it just
11 as likely that he was trying to leave.

12 I will ask you to stay calm. That seems pretty
13 common. A pretty common request. But I can assure
14 just as I am standing here right now that the words
15 children, children, children, bleeding and victim are
16 going to be said and I can't respond to that. And
17 that's fine because that's not my burden. The burden
18 is on them. And that's why they get that opportunity
19 to address you lastly. Buy try to stay calm and try
20 to do as the judge instructs and keep emotions out of
21 it.

22 He talked about Lashondra Jeter and what you want
23 to believe. She's credible. Ladies and gentleman, I
24 don't know what to respond to that because she
25 literally sat on the stand and answered my questions

1 three times, you never heard or talked to him. She's
2 so scared that she drives from Winnsboro to Charleston
3 not once, not twice, 16 times. Sixteen times, and she
4 is scared that he is going to shoot her.

5 Ladies and gentleman, I assert that the only reason
6 she ever said in a statement that she didn't write
7 that he threatened to shoot her was because she was
8 being told that she was an accessory. And if you
9 believe the State's position she is an accessory. The
10 letters -- to sit and spend all morning I could do, I
11 would not. Explaining away a few things. But the
12 letters are what they are. A four year relationship
13 came to an end. Did it come to an end by Larry
14 pulling the trigger. Is it just as possible that it
15 didn't come to an end by Larry pulling the trigger.

16 Attempted murder, the judge is going to talk to you
17 about the charges and I started with the gun because
18 without the gun there are no other charges. And he's
19 going to tell you that you have to find for the
20 attempted murder. And he is going to tell you what is
21 required, that Larry assuming -- let's assume for a
22 second that everything Mr. Hunter said to you is the
23 truth and that Larry got out of that car and as Mr.
24 Hunter wants to you believe put his hand back in and
25 shot. That he had a specific intent to kill. You

1 heard from the doctor when Ashley was brought in. She
2 was calm. She was able to speak. And that specific
3 intent has to be found beyond a reasonable doubt by
4 you. He wanted to kill her. That's what that was.
5 So even if you put the gun in his hand and say he
6 pulled the trigger, it was done out of anger or
7 frustration and we have said that it was not. It was
8 done out of desperation. And we submit it was not
9 done by Larry Cornish and they want you to say but the
10 children saw it. You saw those tiny two boys, they
11 walked right in front of you. They came sat on the
12 stand. But from what there vantage point they want
13 you to believe they saw everything. And that's why I
14 put a few of those pictures from what their vantage
15 point would have been. Sure, they're upset. Sure.
16 But we can't fill in the blanks and we can't let
17 emotion fill in the blanks.

18 Mr. Hunter talked about a few things. I want to
19 make sure I cover all that before I sit down and let
20 you all get on with the very important work that you
21 have to do. I told you that I would -- I told you
22 that I would tell you how I became I guess a criminal
23 defense attorney. And it started -- well it started
24 when I was in 5th grade. I'm in 5th grade in
25 Louisiana. Public school, neighborhood school and our

1 teacher had us hatch these little chickens. It was a
2 biology experiment and we learned about reproduction
3 in biology. At the end of it we had five chickens.
4 And the teacher I don't think that she thought it
5 quite all the way through because at the end we had
6 these little five little chickens and she's like, oh,
7 who wants a chicken. So of course I was like dad,
8 dad, dad I really, really want it. And my mom was
9 like, oh, let her have it and my dad was like no. And
10 finally we convinced him to let me have it. And I
11 said I will care for it. I will make sure that
12 everything is fine. My dad is like go on because Lucy
13 who was our dog, she and the chicken aren't going to
14 get along. So you know, go ahead and get your chicken
15 and I am going to teach you a lesson about what
16 happens. So, he builds an elaborate cage for the
17 chicken. I named the chicken I named the chicken
18 Eggburt. I thought it was a boy. Every day once it
19 developed it laid an egg. He just continued to live,
20 just continued to grow. Laid an egg every day. Got
21 so old his little cone flipped over. He could get
22 mean. I still have a scar to this day where he pecked
23 me on the foot. Chased me around the back yard. Much
24 to my dad's amusement. But it got to this habit, see
25 my dad after college became a marathon runner. And

1 although I couldn't play football I became a swimmer.
2 So every morning I would get up. The same routine,
3 four thirty. Get up, go get the egg, wash it off and
4 put it in the fridge. Wait for my dad to come back
5 from the run and go to swim practice. And when I was
6 in 11th grade I get up just like I did every morning.
7 My dad goes on his run. I go to the cage and I go to
8 open the door and there is just blood everywhere and I
9 am horrified and there is no Eggburt. I follow the
10 trail of blood right to the dog house. So there's the
11 dog and there's the head and there's the body. And I
12 am screaming in my neighborhood at the top of my
13 lungs. I can't believe that after all these years
14 this dang dog killed my chicken. And I am screaming.
15 My dad can hear me and cuts his run. Runs back and
16 he's like, what? Stop screaming. What's going on?
17 And I said Lucy did it. Lucy killed it and he is
18 laughing at me and I'm am like, this is not funny.
19 And he says Amy, I take responsibility. He said I
20 woke up this morning and the bird was in the coop and
21 it had been killed he assumed by a possum. He said
22 that there was so much blood that I didn't want to get
23 dirty until after my run when I came back not thinking
24 you would get up. But in between that time Lucy must
25 have gone and gotten his friend and put him in the dog

1 house. He said Amy, they were friends. They didn't
2 hate each other. And I felt like at the time he was
3 just trying to you know, make me feel better. But
4 when I graduated high school just the next year my dad
5 gives me this picture that he had snapped one morning
6 of the dog and the rooster sitting in the dog house as
7 friends and until I saw this picture I didn't believe
8 that that was a possibility. But ladies and
9 gentleman, from that moment I ask you to do the last
10 thing and then I'll sit down. And that's make the
11 argument. Make the argument as to why it is
12 completely not possible that he is guilty because
13 that's what the law requires you to do. He is
14 innocent and you must make that argument and that's
15 what the judge will instruct you to do.

16 And I submit ladies and gentleman, that when you do
17 that and when you have these questions that can't be
18 answered that you will do as the law instructs you.
19 Free from emotion but full of reason and full of
20 justice and you will find Larry Cornish not guilty
21 because they have not proven that he is guilty. And
22 you be proud to come back and find him not guilty
23 beyond a reasonable doubt.

24 Thank you.

25 THE COURT: Thank you. Mr. Hunter.

1 MR. HUNTER: I thought my chickens got along with
2 my dog. We have two chickens and a dog. I got home
3 the other day from work my dog was eating a chicken.
4 I'm not sure what chickens and dogs have to do with
5 this case.

6 I still don't see any other reasonable explanation
7 from what the children said. And she told you I was
8 going to get up here and say children, children,
9 children, blood and victim. That's what I'm saying to
10 you all because that's what happened. Yes they are
11 young. Yes, they don't know about guns because they
12 are kids. What six year old knows about guns other
13 than big gun, little gun, black gun, silver gun. They
14 are kids.

15 She wants to talk about bad intent. Oh, maybe he
16 did it. Maybe he did point a gun at her but he didn't
17 have the intent to kill her. What good -- what
18 possible good intent can come from pointing a gun at
19 somebody's head. And then wants to say well may be he
20 wasn't even this, which is it.

21 Ladies and gentlemen, we are two inches from this
22 being a murder case. Two inches. Two inches from
23 those children telling you about the night they watch
24 there momma die. They were brave. They came in here
25 and they told you what they saw. That's what can kids

1 do.

2 I got a nine year old. If I tell her a secret, if
3 I tell her a story, a fib, if I joke with her do you
4 know what she does she turns and around and tells my
5 wife. Kids, they tell you what they saw. They tell
6 you what happened.

7 They found Larry in Columbia a day and a half, two
8 days later after a well publicized search. SWAT team
9 had to drag him out of the house. Is that the
10 behavior of an innocent person? Did he come yelling
11 and screaming I didn't do anything. I didn't do
12 anything. No. He didn't, because he did.

13 They want to talk about, well, oh, well they should
14 have collected the clothes so they could do gun shot
15 residue testing. This was a day and a half later.
16 Experts testified and told you they don't do testing
17 past six hours. That wouldn't have accomplished
18 anything. They want to say oh Larry was all packed
19 up. He was ready to leave. Well, was he? Cause this
20 picture -- well, it's in there somewhere and you can
21 look at it. That's a giant pile of clothes. That's
22 not a bunch of suitcases. That's not bags packed.
23 That's a giant pile of clothes and a couple of TVs.
24 Why did he go back and get them. I don't know. Was
25 he thinking clearly. I don't know. Does somebody

1 thinking clearly shoot a girlfriend in the face in
2 front of their children. Probably not.

3 Talk about, oh, he wanted her to stop the car.
4 What was he doing in the car. Was he there? I
5 thought they said he was walking down the street. He
6 was in the car. You know what would have happened if
7 he shot her in the head while she was driving, they
8 would have wrecked. That's why he wanted her to stop
9 the car. They want to make a big deal about how from
10 1:19 to 1:25. It's five minutes, six minutes. She
11 got the to the hospital with blood pouring out of her
12 face with two small children who had just watched
13 that. You think the first thing they are going to do
14 is say ma'am, what's your birth date? What's your
15 name? What insurance do you have? No. They took her
16 back in the room. They are working on her and they
17 did the paper work when they had a moment.

18 Ladies and the gentlemen use your common sense.
19 You know what happened. I am not going to take up any
20 more of your time. You have all been here all week.
21 You may be tired. I'm tired, everybody is tired, so
22 come up with a verdict that specks the truth. Is just
23 and let's move on. Thank you.

24 THE COURT: Thank you. Ladies and gentlemen, in
25 just a few moments I am going to instruct you on the

1 law and that will probably take about 15 or 20 minutes
2 to do that. It's probably an appropriate time that we
3 take a quick break to refresh ourselves. No more than
4 ten minutes. I will ask that you go to your jury
5 room, fresh yourselves and we will have you back in
6 here in about ten minutes. Do not discuss the case
7 among yourselves at all. That time has not come yet.
8 No discussion about the case among yourselves at all
9 during this break. Everyone remain seated to allow
10 the jury to go back to the jury room.

11 (WHEREUPON, the jury leaves the courtroom.)

12 THE COURT: We will be at ease no more than ten
13 minutes.

14 (WHEREUPON, the court was in recess.)

15 THE COURT: Ladies and gentlemen of the jury,
16 again, I thank you for your patience. I thank you for
17 your attention. I am now going to charge you in the
18 law in this case. This simply means that I am going
19 to read the law. This will take about 15 to 20
20 minutes. I ask that you listen very carefully.

21 Ladies and gentlemen of the jury, you have seen and
22 heard the evidence presented as well as the arguments
23 of counsel. It is now my duty and obligation to
24 instruct you on the law that is applicable in this
25 case. It will then be your solemn duty and obligation

1 to begin your deliberations through which process you
2 will decide the facts, apply the law as I have
3 instructed and render a fair and impartial decision.

4 It is your exclusive duty to determine what the
5 facts are in this case. You do that based on your own
6 common sense examination and evaluation of the
7 testimony and other evidence received during the trial
8 of this case.

9 You twelve jurors alone will decide what effect,
10 value and weight is to be given to any particular
11 testimony or other evidence received. Quite simply,
12 your ultimate goal is to find the truth in this case
13 and by doing so you will have fulfilled your
14 obligations as jurors giving both the state and the
15 defendant a fair and impartial trial based on the
16 evidence presented and the law applicable to this
17 case. The defendant in this case, Larry D. Cornish,
18 has been indicted on the charge of attempted murder,
19 possession of a firearm during the commission of a
20 violent crime, and unlawful possession of a firearm by
21 a person convicted of a violent offense concerning
22 incidences which are alleged to have occurred on July
23 the 27th of 2016..

24 I remind you that the fact the defendant was
25 arrested, charged and indicted in this case is not

1 evidence in this case and can not be considered by you
2 as evidence of guilt in this case. Nor does it create
3 any presumption or inference of guilt. These
4 documents are simply the formal written instruments
5 which contain the charges made against the defendant.
6 They are the formal documents by which this case is
7 brought into this Court.

8 The defendant has pled not guilty to the
9 indictment, and that plea puts the burden on the State
10 to prove the defendant's guilt beyond a reasonable
11 doubt. A person charged with committing a criminal
12 offense in South Carolina is never required to prove
13 himself innocent.

14 I charge you that it is a cardinal, important and
15 vital rule of law that in a criminal trial no matter
16 what the seriousness of the charge may be for which he
17 stands charged, the defendant will always be presumed
18 to be innocent of the crime for which the indictment
19 was issued unless guilt has been proven by evidence
20 satisfying you of that guilt beyond a reasonable
21 doubt. This presumption innocence does not end when
22 you begin your deliberations, but it accompanies the
23 defendant throughout the trial until you reach a
24 verdict of guilt based on evidence satisfying you of
25 that guilt beyond a reasonable doubt.

1 The presumption of innocence is like a robe of
2 innocence placed about the shoulders of the defendant
3 which remains with the defendant from the moment of
4 his arrest and continues until it has been stripped
5 from the defendant's shoulders by evidence satisfying
6 you of the defendant's guilt beyond a reasonable
7 doubt.

8 The presumption of innocence is not a mere legal
9 theory nor is it a legal phrase. It is a substantial
10 right to which every defendant is entitled unless you
11 twelve jurors are satisfied from the evidence of the
12 defendant's guilt beyond a reasonable doubt.

13 I remind you that during this trial you and I have
14 certain duties to perform. As the trial judge, it is
15 my responsibility to preside over the trial of this
16 case, and I also have the duty to rule on the
17 admissibility of the evidence offered during this
18 trial. You are to consider only the competent
19 evidence before you. If there were any testimony
20 ordered stricken from the record in this case during
21 this trial, you must disregard that testimony. You
22 are to consider only the testimony which has been
23 presented from the witness stand, any exhibits which
24 have been made a part of the record in this case and
25 any stipulations of counsel.

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge, I am
3 the sole judge of the law of this case and it is your
4 duty as jurors to accept and apply the law as I now
5 state it to you. If you already have any idea as to
6 what the law is or what the law ought to be and it
7 does not agree with what I now tell you the law is,
8 you must abandon your idea because you are sworn to
9 accept the law and appear my the law exactly as I
10 state it to you.

11 In every case tried in this Court before a jury,
12 the jury becomes the sole and exclusive judge of the
13 facts in a case. A trial judge can not intimate,
14 state, comment on, or make any statement to a trial
15 jury about the facts in a case. Since you, the jury
16 are the sole judge of the facts in this case, you are
17 not to infer from what I have said during the progress
18 of this trial in ruling upon the admissibility of
19 evidence, or otherwise, or anything that I say now
20 during the course of this instruction to you that I
21 have an opinion about the facts in the case. The law
22 does not allow me to have an opinion about the facts
23 in this case. This is a matter solely for you, the
24 jury to determine. As jurors it is your duty to
25 determine the effect, value, weight, and truth of the

1 evidence presented during this trial.

2 The State has the burden ever proving the defendant
3 guilty beyond a reasonable doubt.

4 Proof beyond a reasonable doubt reasonable doubt is
5 proof that leaves you firmly convinced of the
6 defendant's guilt. There are very few things in this
7 world that we know with absolute certainty, and in
8 criminal cases, the law does not require proof that
9 overcomes every possible doubt.

10 A reasonable be doubt may also be described as the
11 kind of doubt that would cause a reasonable person to
12 hesitate to act. If you have such a doubt as to the
13 guilt of the defendant, then he would be entitled to a
14 verdict of not guilty. Reasonable doubt may arise
15 from evidence which is in the case or from the absence
16 or lack of the evidence in the case.

17 If, based on your consideration of the evidence,
18 you are firmly convinced that the defendant is guilty
19 of the crime charged, you must find him guilty. If on
20 the other hand you think there is a real possibility
21 that he is not guilty, you must give him the benefit
22 of the doubt and find him not guilty.

23 You alone must make the determination of whether or
24 not reasonable doubt exists as to the guilt of the
25 defendant.

1 There are two types of evidence which are generally
2 presented during a trial; direct evidence and
3 circumstantial evidence.

4 Direct evidence is the testimony of a person who
5 claims to have actual knowledge of a fact, such as an
6 eye-witness. It is evidence which immediately stabs
7 the main fact to be proved.

8 Circumstantial evidence is proof of a chain of
9 facts and circumstances indicate go the existence of a
10 fact. It is evidence which immediately establishes
11 collateral facts from which the main fact may be
12 inferred. Circumstantial evidence is based on
13 inference and not on personnel knowledge or
14 observation.

15 The law makes absolutely no distinction between the
16 weight or value to be given to either direct or
17 circumstantial evidence. Nor is a greater degree of
18 certainty required of circumstantial evidence than of
19 direct evidence. You should weigh all of the evidence
20 in the case. After weighing all the evidence, if you
21 are not convinced of the guilt of the defendant beyond
22 a reasonable doubt, you must find the defendant not
23 guilty.

24 To the extent the State relies on circumstantial
25 evidence, all of the circumstances must be consistent

1 with each other, and when taken together, point
2 conclusively to the guilty of the accused beyond a
3 reasonable doubt. If these circumstances merely
4 portray the defendant's behavior as suspicious, the
5 proof has failed.

6 In this case, there are allegations of spoliation
7 or destruction of evidence. The State not only has
8 the burden of proof of guilt but it also has the
9 burden of producing evidence which could establish the
10 innocence of the defendant.

11 When evidence is lost or destroyed by a party, you
12 may infer that the evidence which was lost or
13 destroyed by that party would have been adverse to
14 that party. If you find first that evidence was
15 spoiled or destroyed, and if you further find that the
16 evidence could help establish the innocence of the
17 defendant, you may then consider those facts in
18 deciding whether or not the State has met its burden
19 of proof.

20 Under the constitution of the State of South
21 Carolina, you are the finder of facts in this case.
22 Necessarily, you must determine the credibility of
23 witnesses who have testified in this case.
24 Credibility simply means believability. It becomes
25 your duty as jurors to analyze and to evaluate the

1 evidence and determine which evidence convinces you of
2 its truth.

3 In determining the believability of witnesses who
4 have testified in this case, you may believe one
5 witness over several witnesses or several witnesses
6 over one witness. You may believe apart of the
7 testimony of a witness and reject the remaining part
8 of the testimony of that same witness. You may
9 believe the testimony of a witness in its entirety or
10 reject the testimony the testimony of a witness in its
11 entirety. You may consider whether any witness has
12 exhibited to you any interest, bias, prejudice, or
13 other motive in this case. You may also consider the
14 appearance and manner of a witness while on the
15 witness stand. Was the witness straightforward in
16 answering questions or hesitant in responding to
17 questions? Simply put, do you believe the witness was
18 telling the truth? You may consider how the witness
19 came to know the facts to which he/she testified and
20 whether or not the witness had an opportunity to hear,
21 observe or perceive a fact by means of their senses.

22 Whatever your good judgement and common sense tells
23 you is the most believable testimony is the testimony
24 that you should accept and reject that testimony which
25 you find not to be credible or believable.

1 During this trial, you have heard testimony from a
2 child. Where a witness is a child you must determine,
3 as with any witness, whether that testimony is
4 believable. In deciding believability, you may
5 consider not only matters that I have already
6 discussed with you, but you may also consider the age
7 of the child, the child's ability to observe and
8 remember facts, and the child's ability to understand
9 and answer questions. Because young children may not
10 fully understand what is happening here, it is up to
11 you to decide whether the child understood the
12 seriousness of appearing as a witness in this criminal
13 trial, whether the child understood the questions,
14 whether the child has a good memory, and whether the
15 child understands the difference between lying and
16 telling the truth. In addition, young children may be
17 influenced by the way that questions are asked. It is
18 up to you to decide whether the child understood the
19 questions asked.

20 A statement alleged to have been made by the
21 defendant has been admitted into evidence in this
22 case. While the Court has determined that the
23 statement is admissible, I instruct you that you make
24 the ultimate decision of whether or not the defendant
25 made the statement. If the defendant did make the

1 statement, you must determine whether the statement
2 was made by the defendant voluntarily and of his own
3 free will. This means that the statement was not
4 caused by pressure, force, fear, threats, coercion, or
5 intimidation, or by hope or a promise of leniency or
6 a reward of any kind. In determining whether the
7 statement was voluntary, you should consider both the
8 characteristics of the defendant and the details of
9 the questioning. Some of the factors that you must
10 consider are: One, the age of the defendant; two, the
11 defendant's education or lack of the education; three,
12 the defendant's mental ability or capacity; four, the
13 defendant's I.Q. or intelligence; five, the
14 defendant's background and environment; six, the place
15 and length of detention; seven, the nature of the
16 questioning; and eight, the advice, or lack thereof,
17 to the defendant of his constitutional rights
18 including but not limited to, the right to remain
19 silent. That any statement could be used against him
20 in a Court of law. The right to have a lawyer
21 present. That if he could not afford a lawyer, a
22 lawyer would be appointed to represent him without any
23 cost, and that he could stop making a statement at any
24 time. You must carefully consider all of the
25 surrounding circumstances before you give any weight

1 to an alleged statement.

2 The State has the burden of proving beyond a
3 reasonable doubt that the alleged statement was
4 voluntary. If you determine it was, you may give the
5 statement any further consideration that you deem
6 proper. You must decide what weight, if any, should
7 be given to the alleged statement. If you determine
8 the alleged statement was not the free and voluntary
9 statement of the defendant, you should not consider
10 the statement at all.

11 I instruct you and emphasis that the fact the
12 defendant did not testify is not a factor to be
13 considered by you in any way in your deliberation and
14 in your consideration on the question of the guilt or
15 the innocence of the defendant. It must not be
16 considered by you in any manner whatsoever. A
17 defendant has the constitutional right to remain
18 silent, and that assertion of this right must not be
19 considered by you in your deliberations. I repeat,
20 under your oath, you are to draw no conclusion
21 whatsoever from the fact that the defendant in this
22 case did not testify. The fact that this defendant
23 did not testify should not even be discussed in the
24 jury room. The burden of proof, as I have stated to
25 you, is on the State. The defendant is not required

1 to prove his innocence. The burden of proof remains
2 on the State to prove guilt beyond a reasonable doubt.

3 Criminal intent is a necessary element of each
4 crime that must be proved by the State beyond a
5 reasonable doubt.

6 Criminal intent is always a matter that must be
7 determined by the jury from the circumstances
8 surrounding the situation. There is no way to prove
9 intent to a mathematical certainty. There is no way
10 medical science can dissect a person's brain and
11 determine what he had in mind. So, the law says that
12 criminal intent may be inferred from the circumstances
13 shown to have existed. This is how a jury makes a
14 determination of whether or not the element requiring
15 intent was present.

16 Criminal intent is a state of mind which operated
17 jointly with an act is the commission of a crime.
18 Criminal intent is a mental state, a conscious
19 wrongdoing so it is up to you the jury to determine
20 what the defendant intended to do based on the
21 circumstances shown to have existed. I tell you that
22 the State must prove criminal intent beyond a
23 reasonable doubt just as the state must prove every
24 element beyond a reasonable doubt as I previously
25 explained to you.

1 It is not necessary to establish intent by direct
2 and positive evidence but intent may be established by
3 inference in the same way as any other fact by taking
4 into consideration the acts of the parties and all the
5 facts and circumstances of the case. While the State
6 may prove motive, it is unnecessary the State do so.
7 However, the State must prove intent.

8 The rules of evidence ordinarily do not permit
9 witnesses to testify to opinions or conclusion. An
10 exception to this rule exists for witnesses we call
11 expert witnesses. A witness who, by education and
12 experience, has become expert in some art, science,
13 profession, or calling may state an opinion as to the
14 relevant and material matter, in which the witness
15 claims to be an expert, and may also state the reasons
16 for the opinion.

17 You should consider any expert opinion received in
18 evidence in this case and, like any other evidence,
19 give it the weight you think it deserves. If you
20 decide that the opinion of an expert witness is not
21 based on sufficient education and experience, or if
22 you conclude that the reasons given in support of the
23 opinion are not sound, or that the opinion is out
24 waited by other evidence, you may disregard the
25 opinion entirely.

1 An expert witness' testimony is to be given no
2 greater weight than that of other witnesses simply
3 because the witness is an expert. Further, you are
4 not required to accept an expert opinion, even though
5 it is not contradicted.

6 Ladies and gentlemen of the jury, I instruct you to
7 disregard any stricken testimony. I have determined
8 that it is not proper evidence, and you should not
9 consider it for any purpose during your deliberations.

10 The Indictments in this case allege several
11 different offenses against the person. The charges
12 are: Attempted murder, possession of a weapon during a
13 violent crime, unlawful possession of a firearm by a
14 person convicted of a violent offense.

15 Each indictment charges a separate and distinct
16 offense. You must decide each indictment separately
17 on the evidence and the law applicable to it
18 uninfluenced by your decision as to any other
19 indictment. The defendant may be convicted or
20 acquitted on any or all of the offenses charged. You
21 will be asked to right a separate verdict of guilty or
22 not guilty for each indictment.

23 The defendant is charged with attempted murder. In
24 order to prove this crime, the State must prove the
25 defendant attempted to kill another person with malice

1 aforethought, either express or I am employed. Malice
2 is hatred, ill-will, or hostility towards another
3 person. It is the intentional doing of a wrongful act
4 without just cause or excuse and with an intent to
5 inflict an injury or under circumstances that the law
6 will infer an evil intent.

7 Malic aforethought does not require that malice
8 exists for any particular time before the act is
9 committed, but malice must exist in the mind of the
10 defendant just before and at the time of the act is
11 committed. Therefore, there must be a combination of
12 the previous evil intent and the act.

13 Malice aforethought may be express or inferred.
14 These terms, express and inferred do not mean
15 different kinds of malice but merely the manner in
16 which malice may be shown to exist. That is either by
17 direct evidence or by inference from the facts and
18 circumstances which are proved. Express malice is
19 shown when a person speaks words which express hatred
20 or ill will for another or when the person prepared
21 beforehand to do the act which was later accurately
22 accomplished. For example, lying in wait for a person
23 or any other acts of preparation going to show that
24 the deed was within the defendant's mind would be
25 express malice.

1 Malice may be inferred from conduct showing a total
2 disregard for human life, inferred malice may also a
3 rise when the deed is done with a deadly weapon. A
4 deadly weapon is any article, instrument, or substance
5 which is is likely to cause death or great bodily
6 harm. Whether an instrument has been used as a deadly
7 weapon depends on the facts and circumstances of each
8 case.

9 The following are examples of instrument which may
10 be deadly weapons: A pistol, a shotgun, a rifle, a
11 dirk, a dagger, a knife, a sling shot, metal knuckles,
12 a razor, gasoline, a fire bomb or molotov cocktail,
13 have cocktail, and liter fluid. A gun may be a deadly
14 weapon even if it is not operating.

15 If facts are proved beyond a reasonable doubt
16 sufficient to raise an inference or malice to your
17 satisfaction, this inference would be simply an
18 evidentiary fact to be considered by you, the jury,
19 along with the other evidence in the case, and you may
20 give it the weight you decide it should receive.

21 A specific intent to kill is an element of
22 attempted murder. Intent means intending the result
23 which actually occurs; not accidentally or involuntary
24 intent may be shown by acts and conduct of the
25 defendant and other circumstances from which you may

1 naturally and reasonably infer intent. Evidence of
2 the character of the act, the character of the
3 instrument used, the manner in which it was used, the
4 purpose to be accurate come accomplished, and the
5 resulting wounds or injuries may be considered in
6 determining the intent with which the act was
7 committed. Intent may also be inferred when it is
8 demonstrated that the defendant voluntarily and
9 willfully commits an act, the natural tendency of
10 which is to destroy another's life.

11 The defendant is charged with possession of a
12 weapon during the commission of, or attempt to commit,
13 a violent crime. The State must prove beyond a
14 reasonable doubt that the defendant was in possession
15 of a firearm or visibly displayed what appeared to be
16 a firearm during the commission of a violent crime.

17 A firearm means any machine gun, automatic rifle,
18 revolver, pistol, or any weapon which will, is
19 designed to, or may be readily converted to expel a
20 projectile.

21 In order to find the defendant guilty of possession
22 of a weapon during the commission of a violent crime,
23 you must first find the defendant guilty of either
24 committing a violent crime or attempting to commit a
25 violent crime. Attempted murder is is a violent

1 crime. The State must prove beyond a reasonable doubt
2 that the weapon further, advanced, or head in the
3 commission of the crime.

4 The defendant is charged with unlawful possession
5 of a firearm by a person convicted of a violent
6 offense. The State must prove beyond a reasonable
7 doubt that the defendant was in possession of a
8 firearm, or am in addition, after having been
9 previously convicted of a violent offense.

10 The defendant has a prior record of a conviction of
11 a violent offense. Evidence of prior offenses
12 committed by the defendant was not offered to prove
13 the defendant has a bad character or to prove that the
14 defendant committed the other charges on this
15 occasion. The prior convictions may be considered by
16 you only for the purpose of determining whether or not
17 it satisfies that element of the offense that makes it
18 unlawfully for a person previously convicted of a
19 violent offense to possess or ammunition..

20 In order to find the defendant guilt, you must find
21 beyond a reasonable doubt that the defendant was in
22 possession of a firearm, or ammunition.

23 A firearm means any machine gun, automatic rifle,
24 revolver, pistol, or any weapon which will, is
25 designed to, or may be readily converted to expel a

1 projectile.

2 You have been selected as fair and impartial
3 jurors, sworn to impartially try and determine the
4 facts of this case and when you comply with your oath
5 to do so, then no one will have a right to criticize
6 your verdict and you will have fully discharged your
7 duty as jurors. You are to decide this case according
8 to the testimony that you have heard from the lips of
9 sworn witnesses, along with other evidence interred
10 during the trial.

11 During your deliberations, you may only discuss the
12 case in the jury room with your fellow jurors because
13 you have all seen and heard the same evidence you have
14 seen and heard. However, you must not discuss the
15 case with anyone else until you have returned a
16 verdict and the case is at an end. If at any time a
17 member of the jury requires a break, you need to go to
18 the bathroom, or smoke bread or otherwise, Mr.
19 Foreman, you need to stop deliberations until that
20 person comes back to the room and all 12 jurors are
21 together in the jury room.

22 After your service in this trial has ended, you
23 have the right to either refuse to discuss the verdict
24 or discuss the verdict as much as you choose, and I
25 will talk to you about that later.

1 Ladies and gentlemen, your verdict must be a
2 unanimous one. Mr. Foreman, when the jury agrees on
3 the verdict -- and I will go over the verdict form in
4 just a moment -- you will indicate the verdict on the
5 form provided, indicate your verdict in the space
6 provided on the verdict form and then sign your name
7 and date the verdict form. Knock on the jury room
8 door and inform the bailiff that you have reached a
9 verdict. At that time you will return to the
10 courtroom and the Court will receive your verdict.

11 There are two pages to the verdict form in this
12 case. Let me go over that with you. The verdict form
13 states for counts one, attempted murder. When I say
14 the order that I say them in has no importance I have
15 to simply say guilty or not guilty to get it out
16 there. So just because I say one before the other you
17 should not take any importance from that. Attempted
18 murder there is a blank, it says we the jury find the
19 defendant, Larry D. Cornish, guilty of attempted
20 murder. If you find him guilty then you would proceed
21 to count two. Under attempted murder you have a blank
22 that says we the jury find the defendant, Larry D.
23 Cornish not guilty. If you find him not guilty you
24 would not go to count two and you would go to the next
25 page. However, count two is possession of a weapon

1 during the commission of a violent crime. There is a
2 blank that says we the jury find the defendant, Larry
3 D. Cornish guilty of possession of a weapon during the
4 commission of a violent crime, or blank, we the jury
5 find the defendant, Larry D. Cornish, not guilty. You
6 would sign and date that verdict form.

7 The other verdict form that is attached lists as
8 count three: Unlawful possession of a firearm by a
9 person convicted of a violent offense. There's a
10 blank. It says we the jury find the defendant, Larry
11 D. Cornish guilty of unlawful possession of a firearm
12 by a person convicted of a violent crime, or blank, we
13 the jury find the defendant, Larry D. Cornish, not
14 guilty.

15 So Mr. Foreman, you would check the appropriate
16 blanks, sign your name, and date it once all 12 jurors
17 unanimously agree on the verdict. I am going to allow
18 you to go back to your jury room in just a moment.
19 There are some matters I need to take up with the
20 attorney's before you begin to deliberate so when you
21 go back to the jury room do not start discussing the
22 case until the bailiff brings the evidence that has
23 been submitted in the case back to you. Once that
24 evidence is brought back to you you can begin
25 deliberating. When you reach a verdict -- unanimous

1 verdict, knock on the door. Hold on to the verdict
2 form. You will be brought back here in the courtroom.
3 At the appropriate time I will ask you to pass the
4 verdict form to the bailiff who will then pass it up
5 to the Court.

6 There were some videos that were introduced into
7 evidence in this case. We are not sending them back
8 with you. However, they are available. If there is a
9 discussion and you would like to see any of the videos
10 that you have seen in either part or in whole, simply/
11 knock on the door, tell the bailiff that you would
12 like to see the video. Actually the best thing to do
13 is just write it on -- do they have paper and pencil
14 in the jury room.

15 THE CLERK: Yes, sir.

16 THE COURT: There will be some paper and pencil
17 back. All right. Write it on a piece of paper that
18 you would like to see whatever video you would like to
19 see or whatever portion or entirety of it. Write that
20 on a piece of paper and hand it to the bailiff they
21 will bring you in back in here and we will play it for
22 you herein the courtroom and then you will go back
23 into your jury room and you will continue your
24 deliberating.

25 So let me take up some matters with the attorneys

1 briefly and then we will send the evidence back in
2 just a little bit and we will let you begin
3 deliberations when that comes in.

4 I will ask the two alternates if you will are
5 remain seated while the other 12 jurors return to the
6 jury room. Everyone remain seated.

7 I need a bailiff to escort these two alternates
8 outside the door while I take up some matters and then
9 we will bring them back in. Just let them wait just
10 outside the door.

11 Anything regarding the jury charge from the
12 defense?

13 MS. ZMROCZEK: Nothing from the defense Your Honor
14 regarding the jury charge. I would --

15 THE COURT: Let's do this. When we have everything
16 back I will hear any other motions.

17 MS. ZMROCZEK: Thank you. Anything from the State
18 as far as the jury charge.

19 MR. HUNTER: Nothing.

20 THE COURT: If you all will look and make sure
21 that you agree on the evidence that's going back. You
22 all keep looking and I will have the alternates come
23 back in.

24 (WHEREUPON, the alternates enter the courtroom.)

25 THE COURT: All right, thank you ladies. I

1 appreciate your attention and promptness in being
2 here. We've got to the point in the trial where all 12
3 jurors made it through. We did not need your
4 assistance. So you are now released for the week.
5 You can discuss the case with anybody you would like
6 to. On the other hand if you don't want to talk to
7 anybody about it you don't have to that as well.
8 Sometimes lawyers like to contact jurors to get
9 feedback or input. They are allowed to do that. So
10 that's not wrong for them to do that. On the other
11 hand you don't have to talk to them or anybody if
12 that's what you choose to do.

13 Thank you all for being here. If you would escort
14 these ladies out.

15 (WHEREUPON, the alternates leave the courtroom.)

16 THE COURT: Let's send everything back.

17 MR. HUNTER: Judge, do you want these discs to go
18 back or did you want them to stay out here?

19 THE COURT: Let's let them go back because that way
20 they will know they are available.

21 THE CLERK: And they can begin deliberating?

22 THE COURT: Yes.

23 (Whereupon, the jury starts deliberations at
24 11:30.)

25 THE COURT: All right, Miss Zmroczek.

1 MS. ZMROCZEK: Thank you, Your Honor. The only
2 thing that I would do at this time is renew our
3 previous motions regarding the statement, the evidence
4 that we obviously objected to that came in, and we
5 understand the Court's ruling. We are just trying to
6 make sure that at every stage required that we renew
7 our motions.

8 THE COURT: Thank you, Ms. Zmroczek. I do note for
9 the purpose of the record her your objections on the
10 record seem to be timely made and I am -- all previous
11 rulings the court stands by those rulings and those
12 will not be changed. And so those rulings all remain
13 in place.

14 Anything else we need to put on the record Ms.
15 Zmroczek?

16 MS. ZMROCZEK: Nothing further.

17 MR. HUNTER: Nothing from the State.

18 THE COURT: We will be at ease until the jury tells
19 us otherwise.

20 MS. ZMROCZEK: Oh, Judge, just because it 11:27 are
21 we going to let them break for lunch or let them know
22 that they have that opportunity.

23 THE COURT: We will deal with that, we will leave
24 that alone till something tells us different.

25 We will be at ease.

1 (WHEREUPON, the jury was deliberating and court was
2 took up other matters.)

3 THE COURT: All right. We have been informed the
4 jury has reached a verdict. The defendant is in the
5 courtroom with his attorney. The State is ready. Let's
6 bring the jury in.

7 (WHEREUPON, the jury enters the courtroom at
8 12:25.)

9 THE COURT: All right, thank you ladies and
10 gentlemen. Let the record reflect that all 12 jurors
11 are back in the courtroom.

12 Mr. Foreman, has the jury reached a unanimous
13 verdict?

14 THE FOREMAN: Yes.

15 THE COURT: Would you pass that up to the bailiff
16 and pass that up to the Court.

17 Madam clerk, would publish the verdict.

18 I am making an amendment to the verdict form. It
19 said County of York. I am writing in Fairfield.

20 THE CLERK: The State versus Larry D. Cornish,
21 2016-GS-20-414, 415 and 416; attempted murder,
22 possession of a weapon during the commission of a
23 violent crime. Count one, attempted murder. We the
24 jury find the defendant, Larry Cornish, guilty of
25 attempted murder.

1 Count two, possession of a weapon during the
2 commission of a violent crime. We the jury find the
3 defendant, Larry Cornish, guilty of possession of a
4 weapon during the commission of a violent crime.
5 Signed by the foreperson, August 31, 2017, Fairfield
6 County, South Carolina.

7 Court three, unlawful possession of a firearm by a
8 person convicted of a violent offense, we the jury find
9 the defendant, Larry Cornish, guilty of unlawful
10 possession of a firearm by a person convicted of a
11 violent offense. Signed by the foreperson, August 31,
12 2017, Fairfield County, South Carolina.

13 THE COURT: Again Mr. Foremen, ladies and gentlemen
14 -- generally the clerk --

15 THE CLERK: Do you want me to poll the jury?

16 THE COURT: Yes, if you would poll the jury.

17 THE CLERK: Individually?

18 THE COURT: No.

19 THE CLERK: Ladies and gentlemen, if this
20 was your verdict and is still your verdict please
21 indicate by raising your hand.

22 THE COURT: Thank you.

23 THE CLERK: Let the record reflect all jurors
24 raised their hand. Verdict stands as read.

25 THE COURT: All right, thank you. Anything further

1 at this point while the jury is here from the defense?

2 MS. ZMROCZEK: We would just ask that they be
3 polled individually.

4 THE COURT: Madam clerk, if you would poll them
5 individually.

6 THE CLERK: Juror number 50, was this your verdict?

7 JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR: Yes.

10 THE CLERK: Juror number 14, was this your verdict?

11 JUROR: Yes.

12 THE CLERK: Is it still your verdict?

13 JUROR: Yes.

14 THE CLERK: Juror 30, was this your verdict?

15 JUROR: Yes.

16 THE CLERK: Is it still your verdict?

17 JUROR: Yes.

18 THE CLERK: Juror 101, was this your verdict?

19 JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR: Yes.

22 THE CLERK: Juror 107, was this your verdict?

23 JUROR: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR: Yes.

1 THE CLERK: Juror 86, was this your verdict?

2 JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR: Yes.

5 THE CLERK: Juror 73, was this your verdict?

6 JUROR: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR: Yes.

9 THE CLERK: Juror 139, was this your verdict?

10 JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR: Yes.

13 THE CLERK: Juror 42, was this your verdict?

14 JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR: Yes.

17 THE CLERK: Juror 146, was this your verdict?

18 JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR: Yes.

21 THE CLERK: Juror 67, was this your verdict?

22 JUROR: Yes,

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes.

25 THE CLERK: Juror number 46, was this your verdict?

1 JUROR: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR: Yes.

4 THE CLERK: Thank you.

5 THE COURT: Thank you, ladies and gentlemen. That
6 concludes your service as jurors in this case. I
7 appreciate your attention throughout this case. You
8 are free to talk to anyone about the case if you wish
9 to. It doesn't matter who they are. Sometimes
10 attorneys may contact jurors to try and get input about
11 the case. You can talk to them. It's not wrong for
12 them to do that. On the other hand, you don't have to
13 talk to them or answer anybody's questions. That
14 choice will be left up to you whether you talk to
15 anybody or not. You are certainly free to discuss this
16 case, the details of the case with anybody that you
17 choose to. Again, thank you for your service this
18 week. You are excused. If you'll follow the bailiff
19 out.

20 THE CLERK: We just need to get the foreman to sign
21 these forms.

22 THE COURT: Mr. Foreman if you would just stay
23 right here. We need to get you to sign the
24 indictments. You need to sign it and put the verdict.

25 (WHEREUPON, the jury leaves the courtroom.)

1 THE COURT: Mr. Maxwell, does the State have the
2 sentencing sheets?

3 MR. MAXWELL: Mr. Hunter is getting them now and we
4 are ready to proceed once he gets back.

5 THE COURT: All right. Mr. Hunter, do you have the
6 sentencing sheets?

7 MR. HUNTER: Yes, Your Honor. I will hand them up.

8 THE COURT: All right, let's bring the defendant
9 around. All right, Mr. Hunter, is there anything
10 further the State would like to present before I hear
11 any mitigation?

12 MR. HUNTER: Yes, sir, if you would like to hear
13 his priors.

14 MS. ZMROCZEK: And Your Honor, I am sorry to
15 interrupt. I think before sentencing I needed to make
16 a couple of motions.

17 THE COURT: All right, let's do that. Yes, that's
18 fine. You can do that while he is standing here.

19 MS. ZMROCZEK: I can, thank you. Your Honor, at
20 this time I guess just for I guess preservation and
21 order, that we would make a motion to set aside the
22 verdict. The reasons would be Your Honor, I don't know
23 what time exactly they came back but they did go out at
24 11:27. So It was less than an hour and there were
25 several videos that were included. They did not

1 request to see any of that information, and so just
2 based on the failure to view and watch, or look at all
3 the evidence as well as deliberate for even longer than
4 -- I'm not even sure, like I said, they came back less
5 than an hour. So, that would be the basis for those
6 motions.

7 THE COURT: All right, those motions are denied.

8 MS. ZMROCZEK: Thank you.

9 THE COURT: Anything further?

10 MS. ZMROCZEK: We would just again renew all of our
11 previous motions and I understand the Court's ruling on
12 those.

13 THE COURT: All right, thank you.

14 Mr. Hunter, I will be glad to hear from you and if
15 the victims would like to address the Court I would be
16 glad to hear from them.

17 MR. HUNTER: Yes, sir. I will start with his
18 prior record, Your Honor as far as that goes. He's
19 got a 2003 conviction for sale or possession of a
20 stolen pistol. He has got a 2003 conviction for
21 possession of cocaine. And then he has got a 2012
22 conviction for criminal domestic violence of a high
23 and aggravated nature. And then he has got a 2013
24 conviction for failure to stop for a blue light.

25 Your Honor, I am not going to belabor the point.

1 You sat here, through the whole trial. Clearly this is
2 is an individual who did a terrible thing and has
3 shown no remorse. Shown know empathy. He has got a
4 record of violence in his past. For those reasons the
5 State would ask for the maximum sentence on each
6 charge and we would ask that it be run consecutively.

7 THE COURT: All right. Thank you. Would the
8 victim like to address the Court. They are not
9 required too.

10 MR. HUNTER: No, Your Honor.

11 THE COURT: All right, thank you. They are present
12 in the courtroom and have indicated that they did not
13 wish to address the Court.

14 Miss Zmroczek, I will be glad to hear anything on
15 your client's behalf and then I will e glad to hear
16 from your client.

17 MS. ZMROCZEK: Thank you. My client is in his
18 young thirties. There is no doubt -- well, first of
19 all I want to address something that Mr. Hunter said
20 because I disagree. He said that there has been no
21 remorse, no empathy. Then why put those two letters
22 in saying that I'm sorry. And I don't know that the
23 Court got to read those letters, but if you read those
24 letters you would see just the opposite. In fact I
25 think that is the whole reason that they put them in

1 there was because they were trying to say that he was
2 admitting to this. That he was guilty. And Your
3 Honor, to say that he has shown no remorse because he
4 exercised a constitution right to go to trial I do
5 take issue with that. So, I don't think that's the
6 case. Mr. Cornish hired me after he had the public
7 defenders and I think he felt like frustrated because
8 no one would really just listen to him or give him a
9 chance, or at least challenge some of the evidence.
10 And more importantly challenge the sheriff's
11 department. The town. I'm sorry, the town. The
12 Department of Public safety. Because it is
13 frustrating and it is frustrating to, you know, have
14 to hear over and over how there was a fight in an
15 apartment and bullet and clothes in a basket and know
16 that those pictures were out there and not get to see
17 them. So these things I think were very frustrating
18 to Mr. Cornish. But to say that he has shown no
19 remorse I think is a slight misstatement.

20 He is a young man who met Miss Mickle while he was
21 in the detention center and sure there have been
22 numerous problems with jealousy and girlfriends and I
23 think that we see a lot. But if you look at his
24 overall record, Your Honor, he had a drug problem
25 early on. That came from -- if you notice there is

1 nobody sitting in this courtroom. His mother makes
2 bad choices and continues to make bad choices to this
3 day and the only person who has really been really
4 supporting him is is another girlfriend and the reason
5 she hasn't been here Your Honor is because -- and I
6 actually gave copies of these phone calls to Mr.
7 Hunter -- is the last time she showed up in Court she
8 received threatening texts, calls and hang ups and
9 these were numbers that related back to the victim's
10 family. So that's why she hasn't been here. She's
11 afraid. And she's not involved in law enforcement in
12 Fairfield. But she's been the person who paid my
13 bills, who has been supporting Mr. Cornish and she
14 would be here but she is working. And so, Your Honor,
15 he has no one else to speak on his behalf. His mother
16 is with a man who is doing drugs and Larry doesn't
17 want to be that kind of person. He made some bad
18 choices to get into a relationship and not know how to
19 get out of it. I don't know what happened that night.
20 I wasn't there, so I don't know. But Your Honor, his
21 record is relatively light. The CDV HAN it was a time
22 served probation. It was his the mother of his child
23 and it was over money. He plead because he was offer
24 time served and got out. And sure in hindsight that
25 was a bad choice and I think that's how he ended up

1 here because he did make a bad choice in pleading and
2 couldn't do anything about it and so I think that kind
3 of weighed in his decision to end up here.

4 Your Honor, we would ask that the State -- or the
5 government consider somewhere around 20 years with a
6 concurrent sentence for the gun charges. I believe he
7 would like to speak.

8 THE COURT: Mr. Cornish, I would be glad to hear
9 from you.

10 THE DEFENDANT: Yes, first of all I would like to
11 apologize on behalf. Second of all, sir, sorry they
12 found an innocent man found guilty.

13 THE COURT: All right thank you.

14 Indictment 2016-GS-20-414, State versus Larry
15 Cornish, having been found guilty at trial with
16 attempted murder, the sentence of the Court he be
17 committed to the department of correction for a
18 determinate term of thirty years. Credit for any time
19 served. Indictment 2016-GS-20-416, the State versus
20 Larry Cornish, having been convicted of possession of
21 a weapon during the commission of a violent crime the
22 sentence he be committed to the Department of
23 Corrections for a determinate term of five years.
24 Consecutive to 2016-GS-20-414. Credit for any time
25 served. 2016-GS-20-415, the State versus Larry

1 Cornish, having being found guilty at trial to
2 possession of firearm or ammunition by a person
3 convicted of a violent crime, the sentence he be
4 committed to the Department of Corrections for a
5 determinate term of five years consecutive to 2016-GS-
6 20-414 and 416 credit for any time served.

7 Thank you.

8 MS. ZMROCEK: Thank you, Your Honor.

9 (END OF TRANSCRIPT)

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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for Fairfield County, South Carolina, on the 29-31st day of August, 2017.

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

December 28, 2017

Aileen Butler

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

INDICTMENT

At a Court of General Sessions, convened on October 4, 2016, the Grand Jurors of Fairfield County present upon their oath:

ATTEMPTED MURDER

That Larry Cornish did in Fairfield County on or about July 27, 2016, with intent to kill, attempt to kill Ashley Mickle with malice aforethought, either expressed or implied, by shooting the victim, in violation of Section 16-3-29 of the *Code of Laws of South Carolina, (1976), as amended*.

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



Randy E. Newman, Jr., SOLICITOR

481
WITNESSES

WPS

Carroll

ARREST WARRANT NUMBER/DOA

2016A2020100114 (DOA-07-28-16)

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: 10/4/2016

VERDICT

guilty

3 Timothy M. Price
Foreperson of Petit Jury

Date: 8-31-17

DOCKET NO. 2016-GS-20-414

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

THE STATE

vs.

Larry Cornish

ATTEMPTED MURDER

SC Code: §16-3-29

CDR Code: 3410

Class: Felony A

2016 OCT 4 AM 11 36

FAIRFIELD COUNTY

CLERK OF COURT

BETTY JO BECKHAM

STATE OF SOUTH CAROLINA)

INDICTMENT

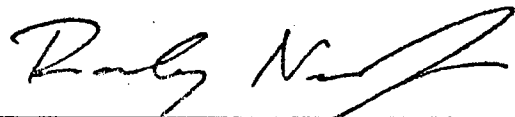
COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on October 4, 2016, the Grand Jurors of Fairfield County present upon their oath:

**POSSESSION OF FIREARM OR AMMUNITION BY PERSON CONVICTED OF
FELONY VIOLENT CRIME**

That Larry Cornish did in Fairfield County on or about July 27, 2016, possess a firearm or ammunition, to wit: a handgun, within this state, the Defendant having been previously convicted of a violent crime defined in Section 16-1-60 of the Code of Laws of South Carolina that is classified as a felony offense in violation of Section 16-23-500 of the *Code of Laws of South Carolina*.

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



Randy E. Newman, Jr., SOLICITOR

483
WITNESSES

WPS

Cerrell

ARREST WARRANT NUMBER/DOA

2016A2020100118 (DOA-07-28-16)

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 8/4/2016

VERDICT

guilty

Foreperson of Petit Jury

Date: 8-31-17

DOCKET NO. 2016-GS-20-415

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

THE STATE

vs.

Larry Cornish

POSSESSION FIREARM OR AMMUNITION BY
PERSON CONVICTED OF FELONY VIOLENT
CRIME

SC Code: §16-23-500

CDR Code: 3434

Class: Felony F

2016 OCT 4 AM 11 36

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

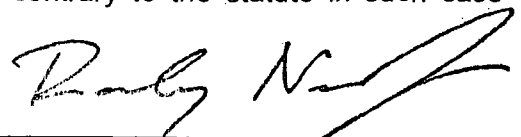
INDICTMENT

At a Court of General Sessions, convened on October 4, 2016, the Grand Jurors of Fairfield County present upon their oath:

**POSSESSION OR DISPLAY OF FIREARM OR KNIFE DURING COMMISSION OF A
VIOLENT CRIME**

That Larry Cornish did in Fairfield County on or about July 27, 2016, possess or visibly display a firearm or knife, to wit: ~~gun~~ handgun during his/her commission of a violent crime, to wit: Attempted Murder, in violation of §16-23-490, *Code of Laws of South Carolina, (1976), as amended.*

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



Randy E. Newman, Jr., SOLICITOR

405
WITNESSES

WPS

Carrell

ARREST WARRANT NUMBER/DOA

2016A2020100119 (DOA-7-28-16)

ACTION OF GRAND JURY

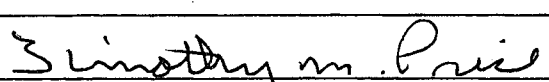
TRUE BILL


Foreperson of Grand Jury

Date: 10/9/2016

VERDICT

guilty


Foreperson of Petit Jury

Date: 8-31-17

DOCKET NO. 2016-GS-20-416

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

THE STATE

VS.

Larry Cornish

Indictment for

Possession or Display of Firearm or
Knife During Commission of a Violent
Crime

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

2016 OCT 4 AM 11 36

FAIRFIELD COUNTY

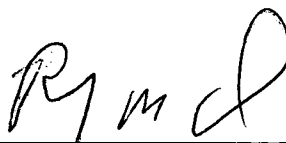
CLERK OF COURT

BETTY JO BECKHAM

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 23rd day of August, 2018.

RECEIVED

AUG 23 2018

SC Court of Appeals