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STATE OF SOUTH CAROLINA

In The Court of Appeals

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S.C. SUPREME COURT

APPEAL FROM OCONEE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHANE ADAM BURDETTE,

APPELLANT

APPELLATE CASE NO. 2015-000513

RECORD ON APPEAL

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State's Exhibit # 5 (statement); State's Exhibit # 7 (statement);
Defendant's Exhibit # 15 (photograph); Defendant's Exhibit # 16 (photograph);
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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF OCONEE)	
The State,)	
)	TRANSCRIPT OF RECORD
-vs-)	2013-GS-37-01039
)	
Shane Adam Burdette,)	
)	February 23 and 24, 2015
Defendant.)	Walhalla, South Carolina

B E F O R E:

HONORABLE J. CORDELL MADDOX, JR., JUDGE; and a jury

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

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W. WILSON BURR, ESQUIRE
ERICA MARIE SODERDAHL, ESQUIRE
Attorneys for the Defendant

Margaret A. Woods
Circuit Court Reporter

VOLUME 1

THE CLERK: Put your left hand on the Bible, raise your right.

JOHN WILLIAM TOWERY, having been first duly sworn, testified as follows:

THE CLERK: Okay, please come and have a seat.

THE COURT: If you would, state your full name and spell your last name for the court reporter.

THE WITNESS: John William Towery, T-O-W-E-R-Y.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Officer Towery, who you employed with?

A. With Oconee County Sheriff's Department.

Q. How long have you been with the sheriff's office?

A. Been right at little over three years believe.

Q. Were you workin' in, uh, for the sheriff's office back on July 9th, 2013?

A. Yes, sir, I was.

Q. Get a call go out to, uh, Blackjack and Mount Pleasant Road the intersection out there was a brick house and a a church, Mount Pleasant Church?

A. Yes, sir, I did.

Q. Uh, when you got out there, uh, at I guess approximately seven o'clock in the mornin', uh, did ya end up talking to or did you encounter the defendant Shane Burdette? Did you encounter the the defendant Shane, Adam Shane Burdette when you went out there ---

A. Yes, sir, I did.

Q. --- that mornin'? What kinda call was it and wha'd ya find when you got out there?

A. If I remember correctly there'd been shots fired and somebody was layin' in the road bleeding at that, and that's the information I believe that we received, uh, on the initial call.

Q. Okay. At some point in time that mornin' when you first got there, did you, uh, advise the defendant Shane Burdette of his Miranda warnings?

A. Yes, sir, I did.

Q. Let me show what's been marked State's Exhibit No. 1 for identification, do you recognize that?

A. Yes, sir, I do.

Q. What is that?

A. It says "Miranda warnings," uh, mirandized that, uh, the sheriff's department gives out to us to, uh, if we're gonna question anybody we read 'em to 'em and have initial, that we sign it sayin' that they initialed it, they understand it.

Q. Is that the original form that you used that day?

A. Yes, sir, I believe it is.

Q. Has it been altered or tampered with in any manner?

A. No, sir.

Q. Does it bear your signature and the defendant's signature?

A. Yes, sir, it does.
Q. What exactly does it say and how did you go about Mirandizin' him, uh, on that mornin'?
A. On that mornin', uh, like I said we come up, there was a body there, people were screamin' and, uh, he, uh, uttered out that he didn't mean to do it and at that time, uh, we was tryin' to figure out what was going on and I said, you know, by law before I ask ya any questions I would like to, ya know, Mirandize ya and and give you your rights. I read the Miranda to him, uh, he initialed each one statin' that he understood 'em and from that point on I can't honestly say if I ask him anything other than what happened. Uh, me and another officer were the only ones I believe on at that time, we had to get everything roped off. I put him in the back a my patrol car for his safety because the amount of people that was runnin' around didn't, ya know, we still had not found the murder weapon at that time.
Q. Did you Mirandize other people that mornin' on the side a the road, did you talk to other people?
A. Yes, sir, I did.
Q. You Mirandize basically everybody you talk to?
A. Every everyone that we talked to.
Q. And on this particular rights waiver here that you have, is that that's the form that you actually used that day?
A. Yes, sir, it is.

Q. What rights did you read him?
A. I read him, "Before," uh, I read everything on that, do you want me to repeat everything on here?
Q. Yeah, repeat what, exactly what you said.
A. "Before we ask you any questions you must understand your rights. You have the right to remain silent, anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning. If you cannot afford a lawyer, one will be appointed for you before any questions, questions if you wish. If you decide to answer any questions now without a lawyer present, you will still have the right to stop answering at any time." And then the last one I read to him he said the state of my rights, that he understood what my rights are, "I am willin' to make a statement and answer any questions, uh, been made to me and no pressure or coercion or any kind has been used against me," he initialed and signed all seven lines.
Q. Okay. What time did you finish that?
A. Uh, it was proximately 7:30.
Q. Okay. Did you tape record that while you did it with like a pocket tape recorder?
A. Yes, sir, I did.
Q. Did you do that with other people that you talked to ---
A. Yes, sir.

Q. (Indiscernible cross-talk.) Uh, what was his demeanor -- if you -- while you've been in in the law enforcement and how long have you been in, been in law enforcement ---

A. Little over ten years.

Q. Okay. Have you encountered people been under the influence a drugs or alcohol?

A. Yes, sir, I have.

Q. And did he appear to be under the influence of drugs and alcohol to you?

A. Yes, it it seemed like he was, you know, uh, like I said, he shouted out that, I didn't mean to do it, you know, it it was very rushed, very high-type experience he was givin' me like like he didn't really understand what he was talkin', you know, what he was shoutin' out.

Q. Okay, mean he was upset.

A. He was "upset" I guess is ---

Q. Okay.

A. --- the word I'm usin' for it.

Q. Let me ask this: Was he slurrin' his words?

A. Uh, yes, and and and he was.

Q. In in what manner?

A. He just, he he was just runnin' on and on about, you know, he didn't mean to do it that that, you know, that that he did not mean to do, just what I remember is that's that's what he just kept sayin'. He was just, you know, just very

excited.
Q. When you talked to him, did did he seem to understand what you were sayin'?
A. I believe so, yes.
Q. Okay. Did he respond to you in an appropriate manner?
A. Yes, sir, I believe he did.
Q. Did he follow your directions about to settin' him in the car, did he u -- did, you know, did -- when you asked him to do somethin', did he do it?
A. Yes, I had no problem with him followin', you know, the things I was askin' him.
Q. Could he read or write?
A. Uh, he stated that he could.
Q. Okay. And was he able, to your knowledge, to read this rights waiver that's State's Exhibit No. 1?
A. I believe that, uh, he -- well he initialed them and he u -- said he understood 'em. Now whether or not he actually read line for line I can't honestly say that.
Q. Okay, but he initialed that he did.
A. He initialed that he understood 'em.
Q. Okay. Did you ever promise him, hold out any hope for reward?
A. No, sir, I did not.
Q. Did you ever threaten him?
A. No, sir, I did not.

Q. And you did, I believe you did say that you asked him to tell what happened ---

A. Yes, sir, I did.

Q. --- but you really didn't get much into that.

A. No, sir, I didn't. Like I said, we had to rope off everything, there was a lotta people gatherin' and, ya know, we had not found the, uh, weapon at that time and he s -- and he did, you know, shout out, I didn't mean to do it, we put him in the back the patrol car for his safety.

Q. Okay. Uh, think that's all the questions I have on this issue.

THE COURT: Alright. Yes, sir.

MR. BURR: May it please the Court, Your Honor.

CROSS-EXAMINATION BY MR. BURR:

Q. Officer, you say his sple -- speach was slurred ---

A. Yes, I believe it was.

Q. --- and he appeared intoxicated?

A. Uh, I can't say he was intoxicated, you know, I know he was excited. You know, I I've never spoke with him before, I can't honestly say if that was his normal speach.

Q. Okay. You testified on direct that you -- that he did appear intoxicated.

A. Yeah, he di -- he did appear that something was wrong.

Q. Okay. And the written advisement you gave him said, uh, you started with, "Before we ask any questions," da, da, da,

was there -- do you reme -- you were recording ---
A. Yes, sir, I was.
Q. Right. Do you remember the sentence that you led into with before your started rights advisement?
A. I said, By law before we ask any questions I need to---
Q. And ---
A. --- read ---
Q. --- sentence before that, This does not mean anything, it's just somethin' the law we gotta do, do you remember telling him that?
A. I believe so.
Q. Okay, so you sorta took away all the meaning of the rights advisement at that point, it doesn't mean anything, correct?
A. It coulda been ---
Q. And, uh, were, Mr. Burdette and the other witnesses were they all in your car when you're recording 'em?
A. Uh, Mr. Burdette was in my car.
Q. But you took statements, interviewed other people also?
A. Yes.
Q. Did you move around with your recorder or ---
A. Yes, I did.
Q. --- your -- you did? And when you really got into the heart of asking Mr. Burdette what had happened, somebody came up, a female voice and stopped the tape and that was end of

your taping that day, do you remember who that was that had you stop your tape?

A. No, sir, I do not remember.

Q. Okay, was -- when that tape was stopped, was Mr. Burdette taken away from you by somebody else or what was the circumstance ---

A. I I can't remember, I do not recall.

MR. BURR: No further questions, Your Honor.

THE COURT: Anything on redirect?

MR. WAGNER: No, sir. Your Honor, I ask this witness be excused.

THE COURT: Alright, yes, sir. Thank, sir.

THE WITNESS: Thank Your Honor.

(Whereupon, the witness left the stand.)

MR. WAGNER: Call Mandy Tinsley.

(Whereupon, the witness came forward.)

THE CLERK: Put your left hand on the Bible, raise your right.

MARGARET AMANDA TINSLEY,

having been first duly sworn, testified as follows:

THE COURT: Detective, if you would, uh, state your full name, spell your last for the court reporter.

THE WITNESS: It's Margaret Amanda Tinsley, T-I-N-S-L-E-Y.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Detective Tinsley, what -- who do you work for?
A. The Oconee County Sheriff's Office.
Q. How long you been workin' there?
A. For about nine to ten years.
Q. Back on July 9th 2013 were you workin' in the same capacity with the sheriff's office that you are now?
A. Yes.
Q. And what exactly are your job duties now?
A. In investigations, I'm an investigator.
Q. Okay. The night before this happened what have you been tied up doin' and had you had any sleep?
A. Uh, we had worked, I'd worked an attempted murder case and, uh, I'd had about an hour sleep when I got paged for this call.
Q. Okay, so you had to get back up, go back out.
A. Yes.
Q. Okay, 'bout what time did you get out on scene on this case?
A. Pro -- I got there just after Justin Ward did so just probly around 8:35 or so.
Q. Okay. When you got there, where was the defendant?
A. He was in the backseat of John Towery's vehicle.
Q. Okay. Uh, as part a your investigation did you Mirandize him?
A. Yes.

Q. Let me show you what's been marked State's Exhibit No. 2 for identification, do you recognize that?
A. I do.
Q. What is that?
A. It's the Miranda waiver that we had, that I read him. Actually, we -- I took him out of the backseat of John Towery's vehicle and took him, placed him in the, uh, a Crown Vic that the victim advocate Vickie Bottoms had driven at the time and he was in the passenger side front seat, I was in the driver's side front seat and Justin Ward was in the backseat. This is the Miranda waiver we filled out sittin' in that car.
Q. Okay. What time did you fill that out?
A. I began it at 9:46 a.m. and finished it at 9:48 a.m.
Q. Now to your knowledge did you know that he'd already been Mirandized by John Towery?
A. I had but I knew it was before I'd gotten there so I didn't know exactly what time so we went ahead and read his Miranda to him again.
Q. Okay. Uh, and how exactly did you do that, what exactly did you say?
A. I read him his Miranda, this literally what this sheet says word for word.
Q. Okay. Can you read that ---
A. I told him before we ask him any questions we need to re -- need to make sure he understands his rights.

Q. Okay, and would you read what you read to him that day and exactly how you did it.

A. "Before we ask you any questions you must understand your rights. You have the right to remain silent, anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you questions and have him with you during questioning. If you cannot afford a lawyer, one could be appointed for you before questions if you wish. If you decide to answer questions now without a lawyer present, you'll still have the right to stop answering questions at any time." And the bottom part is the waiver and it says that, "I have read this statement of my rights and understand what my rights are. I'm willing to make a statement and answer questions. I understand and know what I'm doing. No promises or threats have been made to me and no pressure, coercion any kind's been used against me." And I explain to everybody I read Miranda rights to that this means this is not a contract, it doesn't mean that they have to continue to talk to us. Once we start talkin' to them that he can choose to stop answering questions at any point in time.

Q. Okay. Uh, and did he sign that he would do that?

A. Yes, ---

Q. Did he agree, ---

A. --- he initialed all of those and signed it and I witnessed it.

Q. --- did he agree to talk to you?
A. Yes.
Q. What time did you finish that rights waiver?
A. 9:48 a.m.
Q. Is that rights waiver the original that you used that day?
A. Yes.
Q. Is it still in the condition that it was when you filled it out?
A. Yes.
Q. You alter or tamper with it any manner?
A. No.
Q. Uh, did he agree to waive his rights and talk to ya?
A. He did.
Q. And did you promise him anything, hold out any hope for reward, uh, threaten him in any manner to get him to do so?
A. No.
Q. Okay. Uh, did you talk to him in a car there on the side a the road?
A. Yes.
Q. What exactly did he say, did you take notes?
A. Yes, I took notes.
Q. Startin' with the notes what what did he tell ya happened?
A. Said that, "Last night Tiffany," his girlfriend/wife, I'm

not exactly sure if they're legally married or not but he refers to her as his wife, uh, said, "Last night Tiffany got off work at Country Care off Highway 59 at approximately 10 p.m. At approximately 5 p.m. before that, that same day Bubba and Evan took the Blazer to pick up Tiffany's kids from her mother's, Bobbie Tyner. Adam asked Evan to bring the kids to Adam's parents' house, Adam needed a saw from his house and when he walked in his house was a mess. He told Nikki who is Ryanne Smith, uh, to come back with him to his parents' house to watch the kids and he would clean the house. Nikki rode with him back to his parents' house, Josh stayed at Adam's house. He closed every door except the front bedroom door which was the, at his parents' house of which is a play room for the kids. He told Nikki he would leave her there, he would go clean the house and would be back later. Evan and Bubba had not gotten to the house with the kids yet. Evan, Bubba and Nikki stayed at Adam's parents' house while Adam cleaned his house. Bubba called from Adam's dad's hou -- house phone and called Adam's cell phone askin' if everything was alright. He told him, Yes, ya'll come on back to the house, which is Adam's house. They got to his house and Adam asked who left a spoon in his bathroom. Bubba claimed that he left the spoon in the bathroom. Adam told them that he would appreciate them not doin' drugs at his house. Adam told them that if they wanted to Josh had a driver's license, he could

take them home, so Evan said he would like to see his sister before they left. Adam said that was fine. Adam left Bubba, Josh, Nikki with the chi -- with the kids while he went to the hog farm. Adam called Ken Sills, a friend, and was askin' about gettin' together and hangin' out. Adam went home and told Ken Tiffany didn't get off work until 10 p.m. so he could be at Ken's house around 10:30 or 10:45 p.m. Ken lives across from Blue Ridge Bank in Walhalla. About the time Tiffany was supposed to get off work Josh and Evan were supposed to pick Tiffany up. Nikki Nikki didn't want Evan to go without her. Adam got mad that they wouldn't just leave to get Tiffany so he drove to pick Tiffany up ---

MR. BURR: Objection, Your Honor. I don't understand the relevance as to whether or not this is admissible. If he was given his rights advisement under *Denno,* all the acts or the substance of everything she has she's got volumes of notes for the next thirty-six hours, we'll be here all afternoon. I don't understand the relevance of what was in there versus whether or not it was -- meets the criteria of *Denno.*

MR. WAGNER: Your Honor, we'll we'll try to be bri -- I mean, I I just wanna make sure we had it on what what we're planning on presenting later on what he said.

THE COURT: Okay, and for my purposes she re-Mirandized him prior to this, right?

MR. WAGNER: Yes, ---

THE COURT: Okay.

MR. WAGNER: --- and she did another rights waiver, that's ---

(Indiscernible cross-talk.)

THE COURT: Well I, I mean, I I'll let you con -- continue.

MR. WAGNER: Okay.

BY MR. WAGNER:

Q. Uh, he gave you basically five, you took five pages a notes what he told you or close to it?

A. I took, I took four pages.

Q. Four pages. So he he was apparently very detailed what he told you.

A. Yes.

Q. How was his speech to you and what did -- how did -- he appear to be under the influence of alcohol or drugs?

A. No, not in my opinion. Uh, he was really seemed agitated the fact they were doin' drugs at his house and he referred to them as meth heads and stuff so I thought he was just ex -- excited and, uh, frustrated at the things that had happened so no, I didn't draw conclusion that he was under the influence of anything.

Q. Did he respond to your questioning?

A. He did. He answered the question in narrative form, he spoke in chronological order, ---

Q. And did he ---

A. --- it made sense.

Q. --- into details and ---

(Indiscernible cross-talk.)

A. He did go into details about the past twenty-four hours or so, that what happened in the past twenty-four hours.

Q. And the notes that you have there that you're referrin' to, that's exactly what he told you orally as far as when you talked to him in front of, uh, ---

A. Well it's exactly as I've written it down ---

Q. Okay.

A. --- but I don't have quotation marks over everything so it's not word-for-word.

Q. Uh, let me show you what's been marked and at any time did you offer him any reward? did you threaten him in any manner? did you try to coerce him to waive his rights to talk to ya?

A. No.

Q. Did you ask him go ahead and give ya a written statement?

A. Yes.

Q. Let me show you been marked State's Exhibit No. 5 for identification. You recognize that?

A. Yes, this is the first statement that he gave.

Q. Okay, and was that statement, uh, written by him?

A. It was.
Q. Was that statement, I mean, it's it's his handwriting and he wrote it?
A. Yes.
Q. Uh, did you promise him anything for that statement?
A. No.
Q. Threaten in any manner?
A. No.
Q. Did you hold out any hope for reward?
A. No.
Q. Threaten his family?
A. No.
Q. He would write that if you did?
A. Yes.
Q. Okay. What exactly did he say? Is that still, that's the original statement that he wrote that day?
A. Yes, it is.
Q. Okay.
A. Do you want me to read this statement?
Q. Yes, quick.
A. "When Tiff got home from work at 10:20ish or 10:30ish," I'm not sure what number that is.

MR. BURR: Object again. Statement itself is not what we're here for on *Denno*. We're here for this whether it's admissible, whether it's voluntarily given.

THE COURT: Yeah, and you're -- and I understand that, I'm, -- this -- how long is this statement?

THE WITNESS: It's two pages.

THE COURT: Okay. No, I'll I'll allow that, that goes, helps me make a decision of voluntariness, etc. so okay.

THE WITNESS: "So when Tiff got home from work at 10:20ish, 10:30 30ish p.m. Monday night planning to take her brother, Nikki and Bubba home and drop me at Bu -- Buddy's home or a buddy's home next door, Ken Sills that I hadn't talked to in a while. She started sayin' how tired she was and they could stay the night. I got a little upset and just took off in my truck to Ken's house where I talked with him while also textin' with Tiffany about a few of a -- our problems or probs. We got gotta get time to work on like phone time but she wouldn't answer my calls until after 1:30 a.m. and was cryin' askin' why I didn't listen to her so I asked Ken to take me home and talk with her awhile and he did but after a few minutes or min, minutes it was try to be heard most time and gettin' loud so we just decided to wait on baby to wake up and I stormed out, run into Evan goin' through door of bedroom and he asked about a text on Tiffany's phone he didn't like and it went back and forth gettin' loud and I told Tiffany I was out and she picked her kind well and Evan said, Go to hell, and Ken went to leave yard. As we pulled out, I couldn't find my phone and turned around to head back in back,

it was found in house and tensions were high so Ken drove to my dad's and I went in and used bathroom, text Tiffany about how her debit card and cash and few cigs in fridge freezer. Showed Ken a saw need needed fixin' and was fixin' to leave when Josh pulled up in Blazer with Evan and Bubba, I handed it to Evan and called Tiff to tell her what I'd sent and we had a great talk and I felt better but I told her those three boys didn't need to call, talk, or even think of askin' to help, me to help them ever and we left, went to Ken's where he and I talked of ways to help bill me and Tiff, then she called sayin' the Blazer had quit on them three and I asked what she wanted me to do, they shouldn't have been drivin' drivin' it, call a tow truck, it went back and forth 'til I gave in and asked Ken to check on his car trailer while I went to see if it was mobile. Ken said be careful and call with what happened to it. I told him if they hadn't left the Blazer I wasn't gonna stop and when I found it on Blackjack Road half mile from Evan's Mom's on Gravel Drive I kept goin' to my house where I woke up Tiffan -- Tiffany, told her that if they couldn't walk half a mile, I didn't have time to tow 'cause hogs were out and left goin', left goin' to my dad's to get rubber boots and that were -- that's where Blazer was at so I got outta the truck and walked under carport to get boots and found my dad's shotgun, back door open so I grabbed it, turned and asked why they were tryin' to make me lose my son and I

was callin' the law, that's when Bubba jumped out and ran across road. Evan and Josh who got out Blazer both talkin' at once so swung gun like a club and Josh went back and tried to get around me and Evan took off. I ran a little ways and said, Take it, Evan, and throwed shotgun causin' it to fire.

Q. Okay, is that where his statement end -- ended?

A. Yes.

Q. Did he sign that?

A. Yes.

Q. Any time durin' your conversations with him in his first rights waiver statement did he ever ask to speak to an attorney?

A. No.

Q. Did he ever ask just to quit question?

A. I'm sorry, what?

Q. Did did he ever ask for you to quit ques, you know, ---

A. No.

Q. --- stop, anyone stop askin' questions?

A. No, while he was writin' this, he agreed to write this voluntary statement after we talked to him and we let him sit in the back seat of John Towery's patrol vehicle and he finished this in the patrol vehicle and actually, actually technically finished it at the sheriff's office 'cause he was transported to the sheriff's office so it was kinda written in transit at the s -- and in but signed at the sheriff's office.

Q. Okay, uh, and what time did he finish the statement?
A. At 1:47 p.m.
Q. Okay. Uh, did ya keep investigatin' after he read ya that statement?
A. Yes.
Q. Okay. Uh, and at some point in time that afternoon did you go back talk to him again?
A. Yes.
Q. Okay. Wha -- what what did ya'll ask him to do? You did -- did -- what led you to talkin' to him again and to give another statement later?
A. Yes, he gave another statement later.
Q. Between the time he finished the first statement and the time that he started or gave a second statement, what was goin' on and what were ya'll doin'?
A. We were talkin' to other people, uh, the investigators were all, we kinda split up and everybody was talkin' to different people so they had different roles. Some people were takin' photographs and collectin' evidence and talkin' to other people who had, who knew information to see if we could find out more kinda what was goin' on or what had happened.
Q. Okay, and where was he while this was goin', while you were talkin' to other people?
A. He was in an interview room at the sheriff's office.
Q. Okay. Did ya'll give him lunch? you feed him?

A. Yes.
Q. Okay. What -- how'd that happen?
A. Uh, an investigator named David Smith went and got everybody hamburgers and drinks and stuff ---
Q. Okay.
A. --- so he got it for, uh, Adam, Evan -- no, Adam, Bubba and, uh, Josh.
Q. Did he ever at any time ask for an attorney or ask you to, tell you he didn't wanna answer anymore questions?
A. No, he said that he would rather have an attorney present with him whenever, uh, before he took a polygraph.
Q. Okay, but ya'll offered him a polygraph.
A. Yes.
Q. Okay. And he declined it.
A. Yes.
Q. Okay. At that point in time did you quit talkin' to him?
A. We did.
Q. Okay, and where did he s -- where did he sit? where did he stay?
A. He stayed in the interview room at the NCID which is in Criminal Investigation Division while rest of us while we talked to people and gathered more investigation.
Q. Okay. At any time that afternoon after ya'll had quit talkin' to him anymore, uh, did he reinitiate your

conversation?
A. He did.
Q. What did he do?
A. He he cut the light off in the interview room. We heard a loud banging, I'm not sure if he banged on the table or on the wall or where the banging come from but made us go around to the door and Captain Gregory opened the door and Adam said that he wants to talk to us, he has some more information he wants to add to his first statement.
Q. Okay, and then had he had said he didn't wanna take a polygraph and he wanted attorney present, did you re-Mirandize him?
A. We did.
Q. Okay. Let me show you State's Exhibit No. 3, do you recognize that?
A. Yes.
Q. And is that the exact form that you used ---
A. Yes, it's ---
Q. (Indiscernible cross-talk.)
A. --- the Miranda waiver that the sheriff's office has.
Q. What time did you, uh, start your Miranda with him on that particular instance?
A. 5:45 p.m.
Q. And that was on July 9th 2013?
A. Yes.

Q. Uh, did you read his Miranda warnings verbatim as they are on that sheet?
A. Yes.
Q. And they are, and are the exact warnings that were on the previous sheet that you read into the record?
A. Yes.
Q. Okay. And did he initial that he understood those?
A. He did and he signed it. I witnessed it and Greg Reed ri -- witnessed it.
Q. Okay. And the reason you were back talkin' to him again is that he asked you to.
A. Yes.
Q. Said he wanted wanted to add more to his statement.
A. Yes.
Q. Okay. Did you promise him anything, threaten him in any manner or hold out any hope for reward to get you to give a sec -- get him to waive his rights and give you a second statement?
A. No.
Q. Did anybody coerce him in any manner?
A. No.
Q. Did he agree give ya a second statement?
A. He did.
Q. Did you give him a form and let him write it?
A. Yes.

Q. Let me show you what's been marked State's Exhibit No. 6 and before he started that actual statement ---

MR. BURR: David, can I see that also?

MR. WAGNER: Yes, I'm sorry.

(Whereupon, a discussion was held off the record.)

MR. BURR: Okay.

THE WITNESS: I see the -- does he wanna see this one?

MR. WAGNER: Six. This is 6, I showed ya 5.

(Whereupon, a discussion was held off the record.)

BY MR. WAGNER:

Q. So what were you doin' and did ya'll talk to him and take more notes 'tween the the time that you Mirandized him on the second instance and the time he started the second statement?

A. Yes.

Q. And he agreed to talk to ya?

A. He did.

Q. But you ya also took notes as to ---

A. Yes.

Q. --- what he told ya. Uh, where did it go from there? Did he go ahead and give you a statement?

A. He did, gave us a voluntary statement.

Q. And is that statement still in the same condition as it was when he gave it to ya that night?

A. It is.

Q. Has it been altered or tampered with in any manner?

A. No.
Q. Was any coercion or any force or promises made to get -- induce him to give ya that statement?
A. No.
Q. To the best a your knowledge did he gave you that statement freely and voluntarily at his ---
A. Yes.
Q. --- own free will? What did he say?
A. In his written statement?
Q. Yes, ma'am.
A. "As I pulled up my father's home I saw that my wife's Blazer was there which was a problem because Evan had called Tiff sayin' it couldn't be drove and I'd just seen it up the road waitin' ten minutes before. As I walked up, I see the door to house is open after I locked it. I went in and walked to mom's room where the door was open and I also had been and also had been locked. As I came back through the house, my daddy's shotgun was in kitchen and not in bedroom. I was worried that they were stealing it or wantin' to hurt me and went outside wanting to know who did it and why sayin' I'd call the law and Bubba jumped outta car and ran into woods. Josh and Evan got out and came to front t -- front of Blazer. Josh was hollerin' and I was tellin' him he was supposed to be my friend and, etc., and Evan spoke. I turned and saw him slippin' up on me and stomped yellin', Don't sneak up on me.

He ran behind car and I went around front and as he was runnin' down the road I held shotgun up above his head and to the left so if he looked back it scare him 'cause it wasn't loaded but then when I pulled trigger to pretend to fire and make myself more safe in mind, the safety wen -- was off and and it discharged. I was so scared, I throwed it away and ran to Evan.

Q. And did he sign that statement?

A. He did.

Q. What time did he finish that statement?

A. 7:54 p.m.

Q. Did Greg Reed notarize it?

A. Greg did.

Q. And did you sign it ---

A. And I witnessed it.

Q. Okay. Uh, while you were goin' over that statement with him did you draw a diagram?

A. I did. I drew that diagram actually before I went in there. I drew just a blank, uh, diagram of an aerial view of the house just so that we could kinda understand from witnesses there on scene where everybody was at the time ---

Q. Let me show ---

A. --- Evan was shot.

Q. --- State's Exhibit No. 9, do you recognize that?

A. I do.

Q. Okay, and is that the diagram that you drew?
A. It is.
Q. And did he tell you in your questioning with him did he indicate where he was and the other people involved in were?
A. Written on here the word "Josh", "me" with a little line, "X", uh, he he wrote that and he signed it and dated it and he also wrote where Evan was, Evan's name and he wrote where Bubba was, Bubba's name. Uh, the other writing and labelin' is my my handwritin' and drawin'.
Q. Now what time, what time did ya'll finish up this second statement?
A. 7:54 p.m.
Q. Okay. Let me show you what's been marked State's Exhibit No. 8, do you recognize State's Exhibit No. 8?
A. I do.
Q. What is that?
A. It's my, the notes I took durin' the second interview.
Q. Okay. Uh, that's your notes what he told you orally as far as the sta -- before he wrote the statement?
A. Yes.
Q. Okay. Uh, and did you have him sign the notes?
A. I did.
Q. Okay.
A. I read it back to him what I had written down to make sure that I'd gotten everything right and, uh, he signed it

and dated it and Greg and I witnessed it.
Q. Why did you have him sign those notes and how did that transpire, the notes?
A. Why did I have him sign it?
Q. Yeah.
A. To make sure I'd written everything down that he told me that he wanted us to clarify because he asked for us to speak to him in reference to addin' or changin' some a the things he put in his first statement.
Q. Okay, uh, and you read 'em back to him word-for-word?
A. I did.
Q. He said that's what I wanna say?
A. Yes.
Q. Okay. Did he sign that?
A. He did sign ---
Q. Do you ---
A. --- it.
Q. Was this goin' on kinda contemporaneously with that second statement?
A. Yes.
Q. Okay. Was he tired at that point?
A. He didn't say he was tired at that point, I'm sure he was, we were all tired.
Q. At some point in time that night time wha -- when did ya'll quit talkin' to him and why?

A. After he wrote that second statement, uh, we started talkin' with him some more tellin' him about some physical evidence and some other statements, they were contradicting to what he was tellin' us. Just told him that a part of our investigation, as part a what we do we look at the physical evidence that we can collect and take into account what everybody says and try to draw conclusions about what happened based on how that physical evidence and the statements what they said and, uh, we told him about, uh, we knew that two rounds had been fired, not just one shot but two had been fired from a single barrel shotgun.

Q. Previously up 'til now how many had he admitted to?

A. He had al -- only admitted to one, firing one round.

Q. Okay, uh, then what happened?

A. And then he said he was tired. We were just askin', you know, to kind of explain some a that physical evidence that we'd found and he said he was tired and he just needed some sleep and we agreed to all go home. I was gonna go home, Greg was gonna go home, sleep on it and allow him to go sleep on it.

Q. Okay, but he was held in custody?

A. He was. We told him at that point he was under arrest for the murder of Evan.

Q. Okay. Did you go back and talk to him the next mornin'?

A. Uh, that 'round lunchtime the a -- second afternoon if I'm not mistaken, that next afternoon.

Q. Okay, and he had told ya that he wanted to talk to you again the next day.

A. Yes, he told us that night before to let him sleep on it and he would be able to, he fel -- felt like he would be able to remember more and talk about it more in the mornin'.

Q. Let me show ya what's been marked State's Exhibit No. 4, do you recognize that?

A. I do.

Q. What is that?

A. It's the Miranda waiver that we read to him and that he signed on July 10th that next day.

Q. Okay. Uh, is that the exact same or does it say the same things that the forms, it's the same co -- copy of the same form that you've already testified ---

A. It's the ---

Q. --- to?

A. --- same form we ---

Q. --- that they ---

A. --- use at the sheriff's office, yes. It's the same form from the another previous Miranda waivers.

Q. What time, what what's the date and time that you start Mirandizin' him again?

A. The next day, it was July 10th at 11:44 a.m.

Q. And did you read him his Miranda rights from that point?
A. We had read read his Miranda rights to him and he signed it and I witnessed it and Gregory witnessed it at 11:50 a.m.
Q. Okay. Did anybody promise him anything and threaten him in any manner or try to coerce him to waive his rights? Did you ask him if he wanted to talk to you again?
A. Yes.
Q. And did he wanna talk to you again?
A. Yes.
Q. Did he talk to you?
A. Yes.
Q. Did he give you another written statement?
A. He did give another written statement.
Q. Let me show you State's Exhibit No 7, do you recognize that?
A. I do.
Q. What is that?
A. It's the third written statement that he'd given.
Q. Okay, is that the same statement that he gave you that day, the actual copy, ---
A. This is the ---
Q. --- actual, ---
A. --- actual copy, yes.
Q. --- the actual --- uh, is it still in substantially the

same condition as it was?
A. It is.
Q. Has it been altered or tampered with in any manner?
A. No.
Q. Has that statement and all the other rights waivers and statements that he's given so far that you've testified to has always been in your custody ---
A. Yes.
Q. --- since this case was started?
A. Yes.
Q. On the third statement, did you promise him anything, hold out any hope of reward, threaten him in any many, try to coerce him into giving you the statement?
A. No.
Q. Did he write it in his own words?
A. He did.
Q. His own handwritin'?
A. Yes.
Q. What did he say?
A. Says, "I, as I pulled up at my parents' house, I saw my wife's Blazer that had been down the road supposedly tore up a few minutes earlier and them three sittin' in it and it worried me that they had sat on dirt road that long and waited if it could be driven and why they didn't go to take it home to my house where it belongs and where my wife was. I tried,

I was tired and aggravated at the whole situation and all their crap so I went up back steps, saw the window open, went in back door, locked it," oh, "unlocked it, found my parents' bedroom door open and it was locked, saw my, that my daddy's shotgun had been moved and that it was, it was, that was it, I wanted them them all to leave and just leave me and Tiff alone so I grabbed shotgun, went outside and shot into the ground, that's when Bubba took off into the woods. I open the shotgun and the shell didn't come out so I was tryin' to get it out. Josh and Evan got outta the car and me and Josh started fussin' 'cause I wanted them to leave and he wanted me to calm down so I'd take them home. I put shotgun down on Blazer, told 'em to walk, I wanted 'em gone, picked up shotgun and started back i -- back into house and he kept on so I shoved the other shell into the shotgun and turned toward Josh closin' it and said, You aint my friend, get away, don't come back. Evan was walking up on me so I turned, stomped my foot and told him, Didn't sneak up on -- don't sneak up on me and he took off down the road. Josh had started towards church. I went in front yard, glanced Bubba in woods so I pointed gun towards graveyard to fire a shot in the air and scare 'em so they would keep goin' and when Evan fell I screamed and threw shotgun and ran to him prayin' he was faking. I didn't know how he'd been hit from that far but when I got there by his side I knew he wasn't fakin' and I begged him don't die

please, that's the only member of Tiffany's family I l -- liked that hadn't put me through hell and drove me crazy for the last year, that was Tiff's baby brother that she had took care of and they were all that kept each other from goin', kept each other goin' when they were abused and neglected as children and sent to foster care then D.A.R. school. Evan was the only person I knew would take care a Tiff if I wasn't around and he was more like my brother than my brother is. I love that boy and now I just killed him, took Tiffany's brother which they took me to jail she wouldn't have nobody to be there for her, she would lose everything she worked for, her family would hate her and I couldn't let the -- let him die. I told Josh call 911 but I grabbed the phone and told him, Take my truck and go and get Tiff. I had to give a stranger the phone 'cause operator couldn't understand me and I kept tryin' to stop the blood. Evan looked so much like Tiff and I knew she wouldn't ever speak to me again, that I ke -- keep seein' his face like it was her's that I'd shot. I don't know why this happened and what's gonna happen but I swear I'd never hurt Evan for no reason or Tiffany and now I ended his life and destroyed her's and she still loves me and even forgave me last night and that makes me feel so much worse. I would swap places with Evan right now it -- if I could. I'm so sorry for what I've done and everybody it's hurt. I don't wanna hurt nobody, I just wanted to be left

alone so I'd get work done and spend time with Tiff and the kids and I'll never get that now.

Q. Was that the end a statement?

A. That's the end a the statement.

Q. Did he sign that as his statement?

A. He did.

Q. Did you sign as a witness?

A. Yes, Greg Reed and I both witnessed it.

Q. At any time durin' the course of talkin' to him that time and the course a him writin' that out, did he ever wanna quit your question and quit talkin' to ya?

A. No.

Q. If he had at any time durin' this whole process all three statements, this, the notes that he signed, rights waivers, if he had asked for an attorney, uh, and asked to quit talkin' to ya, would you have stopped?

A. We would have ended it, we would have ended the conversations.

Q. And, in fact, the one time that he asked to take a polygraph he did ask for an attorney ---

A. Right.

Q. --- or he said he wouldn't take it without an attorney.

A. Right, he wanted attorney there for advice before he took a polygraph.

Q. And ya'll did quit questionin' him then.

A. Yes.
Q. Okay, and then he reinitiated.
A. Yes.
Q. Okay. Did anybody ever promise him anything to give any a these statements or waive any a these rights, ---
A. No.
Q. --- all these exhibits? Uh, did you an -- or anybody else in your pres [sic] use any kinda coercion or try to withhold food, water from him?
A. No.
Q. Best a your knowledge was these statements that he gave and his rights waivers freely and voluntarily given and done by him?
A. Yes.
Q. Thank you, that's all the questions I have.

MR. BURR: May it please the Court, Your Honor.

THE COURT: Yes.

CROSS-EXAMINATION BY MR. BURR:

Q. Officer, two things that you just testified to that I missed you goin' through your notes, the first statement did you say it started on Blackjack Road but was not signed until you transported to the sheriff's office?
A. Yes.
Q. And I didn't see in your notes anything about asking for the attorney, so after the first statement which I guess ended

at 11:25, I'm sorry ended at 1:47, ---

A. Yes, 1:47 p.m.

Q. --- that's when he asked for an attorney, you ---

(Indiscernible cross-talk.)

A. Before taking a polygraph.

Q. But he did ask for an attorney.

A. Before taking a polygraph ---

Q. You stopped ---

A. --- for advice.

Q. --- questioning him.

A. We did.

Q. But ya didn't take him into booking, put him in jail like you normally would?

A. We were still conducting investigation, still talkin' to people, still tryin' to gather information.

Q. You conduct an investigation a year and a half but you still take him and book him in the jail, don't you?

A. We hadn't made a conclusion about what if -- what was gonna be charged, if anybody was gonna be charged, at that moment. We still had ---

Q. What what room, where was he being held after he asked for the attor -- attorney?

A. In a interview room at the sheriff's office in CID which is Criminal Investigations Division.

Q. Okay, and during all this eight hours and thirty-eight

minutes, you guys never videotape, never recorded anything you were saying to him or he was saying to you?

A. You mean the investigators?

Q. I'm sorry?

A. Are you talkin' about the investigators?

Q. I mean you, anybody.

A. No, I ---

Q. I ---

A. --- didn't.

Q. There's no -- you did have a recorder on you though, didn't you?

A. No.

Q. When you're out on Blackjack Road you didn't have a recorder in your purse?

A. No.

Q. You didn't tell the Investigator John, uh, Zamberlin two weeks ago that you had a recorder in your purse?

A. No, I keep it now in my purse.

Q. Oh.

A. If I, if I had had it on me, it woulda been in my purse. I didn't have it on my person.

Q. And that's what you told Mr. Zamberlin you did not have one out there?

A. That's right.

Q. Okay. Uh, ---

(Whereupon, a discussion was held off the record.)

Now on the, what's been referred to as third -- second statement, was your handwritten notes, why did you just do notes and not have him do a statement? I mean, there's a form for the statement with the rights advisement on it, signature blocks that you used every other time, why didn't you have him do a statement?

A. I did have him do a statement. The second time we interviewed him ---

Q. When you said your ---

A. --- was that second statement.

Q. --- your notes, your notes that you have in front of you there you had him sign the bottom of, ---

A. Yes.

Q. --- why didn't you have him put that in a statement?

A. We allowed him to write his statement voluntarily, what went in that statement was out of his own free will.

Q. Okay, uh, one of us is confused. You have in your hand that yours use ---

A. I have my statement, the notes that I took ---

Q. Right, yeah, so why didn't you have him put that information on a statement form?

A. We did. This is the second statement, the second statement that you're referrin' to?

Q. But it does not reflect what you have in your notes right

there.
A. His second statement that he hand wrote is different than my second set of notes.
Q. Right, so I'm ask why you ---
A. He changed his information from when I si -- when I read this -- these notes to him, he changed the information himself when he wrote the notes ---
Q. So that's not ---
A. --- and he wrote his own statement.
Q. --- his statement, that one a your handwritten notes is not his statement, not his statement, it's just your ---
A. It's his ---
Q. --- notes.
A. --- signature ---
Q. Why did you ---
A. --- sayin' that the information that he had just told me was what I had written down. I read it back to him ---
Q. Every ---
A. --- word-for-word.
Q. --- every other occasion when you, after you spend hours interviewing him you have it reduced to writing into a sworn statement, you don't have that reduced to a sworn statement.
A. I do, that's what this second statement is. The second statement was written after he signed my notes.
Q. Did you have him sign any other notes?

A. No.
Q. So what's unique about that for -- why do you have him sign that set a notes and nothing else?
A. I had him sign these notes because many times when people write written statements they do change the information they've told us which is the case here. When he si -- when I wrote these notes, he had told us that he had confronted Josh about makin' meth and Adam had gotten upset so he asked Evan what's the big deal, Adam asked Evan, What's the big deal, and Adam said that he did do, did snort a line of meth on 7/8/2013.
Q. On three separate occasions you had him. You interviewed him for several hours and then gave him opportunity to write a sworn estimate ---
A. That's correct.
Q. --- that one is different, why? What is unique ---
A. You'll have to ask your client why it's different. My notes I read it through word-for-word, I s -- I read his back to him, he signed it as the word-for-word what he told us. When he wrote his written statement, that second written statement, he changed that information that he just told us himself, ---
Q. That's what I'm asking you.
A. --- this is his handwritin'.
Q. When you made notes every other time, did you give 'em to

him and say, Mr. Burdette, would you sign these notes?

A. No.

Q. But you did then.

A. I did then.

Q. Why? What's unique about that one? Had you run out of statement forms?

A. No, it's because I had the statement form. He read -- he wrote his own statement at that time. This is the second statement. Soon as he signed my notes we asked if he would sign, he would write a voluntary statement which he did.

Q. But you still haven't responded to me. Why did you have him sign those notes and none of your other notes?

A. Because I thought it was important that he had admitted that he had snorted a line of meth outta curiosity so I decided to go ahead and have him sign that.

Q. But he was gonna give you a statement, right? I I'm beating this to death, I'll let it go.

THE COURT: Yeah, okay.

A. Yeah.

THE COURT: Anything else?

MR. BURR: No, Your Honor.

THE COURT: Anything on redirect?

MR. WAGNER: No.

THE COURT: Okay, you can step down, thank you.

MR. WAGNER: Your Honor, I got two more witnesses, I

think I can be brief with them.

THE COURT: Okay.

MR. WAGNER: Justin Ward.

THE WITNESS: Want me just leave these up here?

(Whereupon, a discussion was held off the record.)

(Whereupon, the witness came forward.)

THE CLERK: Put your left hand on the Bible, raise your right.

JUSTIN MATTHEW WARD, having been first duly sworn, testified as follows:

THE CLERK: Please go ahead and have a seat.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Sergeant Ward, if you could give us your name, spell your last name for the record.

A. Sure. My name is Justin Matthew Ward, last name is W-A-R-D.

Q. And who do you work for?

A. Work for the Oconee County Sheriff's Office.

Q. How long do you work there?

A. I was, I started working for them in March 2006.

Q. What are your job duties at the sheriff's office?

A. I'm currently assigned to to the Criminal Investigations Division.

Q. And were you workin' in that capacity back on July 9th 2013?

A. Yes, I was.
Q. Did you get called out to the scene and did you arrive, uh, shortly before Ms. Tinsley did at the intersection of, uh, Blackjack and Mount Pleasant Road?
A. I did. I was, I was notified, uh, to be in route there and I responded, I think I arrived there around 8, 8:19 I think, 8:20 in the mornin'.
Q. Were you present when Sergeant Tinsley Mirandized the defendant what previously State's Exhibit No. 2? Let me show you State's Exhibit No. 2.
A. Sure. Yes, I was present. Uh, myself and Sergeant Tinsley, uh, along with the defendant were in Vickie Bottom's patrol car.
Q. Okay. Uh, and did she Mirandize the defendant from that form?
A. Yes, she did. She read this form to him verbatim and then, uh, he initialed the blanks and they both signed it.
Q. In your time in law enforcement you have the opportunity to see people been under the influence of alcohol or drugs?
A. Yes.
Q. You spent a lotta time with the defendant that morning, ---
A. Yes.
Q. --- uh, did he appear to be under the influence of alcohol or drugs to you?

A. He appeared to be very, uh, excited and, uh, uh, outta sorts a little bit but I, you know, I I don't know the defendant personally, it's the first time that I'd met him, uh, so I really couldn't gauge whether that was because he was excited because a what just happened, uh, you know, I mean, there was a dead body laying in the road, uh, or what was goin' on, uh, but he was definitely able to, uh, provide us with lots of detail and a very detailed account of what had happened since about 5 p.m. the time day prior and it was, it was, uh, you know, he had, definitely had complete thoughts and was was makin' sense.

Q. Did, uh, was his speech coherent?

A. Yes. We we understood everything he said. I mean, there was, I don't recall anything that that didn't make any sense to us that threw up any red flags.

Q. Was he able to write the statement, the detailed statement, uh, by himself?

A. Yes.

Q. You take pretty detailed notes too?

A. Yes, I did. I took, I took several pages a notes, uh, as well as Officer Tinsley.

Q. Okay. Uh, did you ever promise him anything, ever hold out any hope for reward, did you ever threaten him or try to coerce him into talkin' to ya'll?

A. No, did not.

Q. The best a your knowledge does he freely and voluntarily waive his rights and give you that statement?
A. Yes.
Q. Let me show you this State State's Exhibit No. 5, do you recognize that?
A. Yes, I do.
Q. What is that?
A. It is the statement that he provided us, uh, that he started out there at the scene.
Q. Okay, uh, do you sign as a witness, notarize it?
A. I notarized it.
Q. Were you there the whole time, uh, where ya'll were questioning him and talkin' to him?
A. Yes, uh, myself and Sergeant Tinsley and the defendant were in the vehicle, uh, we interviewed him, it took a little while. We both took detailed notes. We ask him to provide a written statement. Uh, at that point he was put back in Officer Towery's patrol car and he was workin' on his statement then. He was transported then from the scene to the sheriff's office. He was taken to investigations to an interview room, uh, where he was allowed to finish his statement.
Q. Okay. Did you witness his signature on that?
A. I did. Uh, myself and Captain Reed, uh, went back to talk to, uh, to Mr. Burdette. Uh, uh, Captain Reed asked him

to take, if he would take a polygraph, at that point, uh, Mr. Burdette stated, uh, stated that he thought he needed to speak with a lawyer before he took a polygraph. Uh, at that point I ask him, uh, if he would sign a statement and swear swear to it. He was done writing it, he had completed at that point, uh, which point he agreed and I notarized his statement.

Q. Is that time that ya'll quit talkin' to him anymore?

A. Yes, at that point we we took his statement and we left the room.

Q. Were you present a while after that when he started beatin' on the wall?

A. I was not.

Q. Uh, were you involved in any of the other rights waivers or statements that were read to him, given by him ---

A. No, I was not.

Q. Okay, so other than workin' on the case in other manners was that your involvement at least as far as with him, the defendant himself, did it end at that point?

A. Yes, after after I notarize his statement my involvement with Mr. Burdette ended there.

Q. In the best a your knowledge did he freely, voluntarily waive his rights and give ya'll that ---

A. Yes.

Q. --- statement?

A. Yes, he did.
Q. Thank you, that's all the questions I have.
THE COURT: Any questions?
MR. BURR: No questions, Your Honor.
THE COURT: Okay. Thank you, sir.
THE WITNESS: Thank you.
MR. WAGNER: Call Greg Reed.
GREG REED, having been first duly sworn, testified as follows:
THE CLERK: Please go ahead and have a seat.
THE WITNESS: Greg Reed, R-E-E-D.
DIRECT EXAMINATION BY MR. WAGNER:
Q. Who you work for?
A. Oconee Sheriff's Office.
Q. What are your job duties there?
A. I'm captain, uh, over a division that, uh, enjoins six smaller units, uh, ---
Q. Okay. Do you supervise, uh, Mandy Tinsley and Justin Ward?
A. Yes, I do.
Q. Okay. As result of your job duties, did you get called out to the scene at, uh, Mount Pleasant Road, Blackjack Road?
A. Yes, I did.
Q. Were you present, uh, at the initial stages, uh, when ya'll started workin' on this case?

A. Yes, I was.
Q. Were you later present, uh, excuse me, let me borrow those back. Were you later present at the sheriff's office when, uh, you and Sergeant Tinsley were talkin' with the defendant?
A. Yes, I was.
Q. Let me show you State's Exhibit No. 3 and ask you recognize this document.
A. Yes, I do. This is a standard Miranda warning for our department.
Q. Is your signature on that paper?
A. Yes, it is.
Q. Is that paper still in the condition as it was when ya'll filled it out that day?
A. Yes, it is.
Q. Were you present when Sergeant Tinsley Mirandized the defendant, read him his Miranda rights?
A. I was.
Q. She read every word on that page?
A. She did so.
Q. Did he indicate that he understood his rights?
A. Yes, he did.
Q. Did he wanna waive his rights and talk to ya?
A. Yes, he did.
Q. And did he talk to ya?

A. Yes, he did.
Q. Did ya'll give him a statement form, let him fill it out?
A. Yes, we did.
Q. Let me show ya State's Exhibit No. 5, you recognize that?
A. Yes, I do.
Q. What is that?
A. Uh, this is the voluntary statement written, uh, by the defendant and, uh, witnessed by myself and notarized by Justin Ward.
Q. Is that the, this is the first statement that he gave ya'll?
A. Yes, it is.
Q. Okay. Uh, after he gave ya that statement did ya'll ask him take a polygraph?
A. Yes, we did.
Q. What was his response?
A. Uh, he said he'd, he had like to have a lawyer present for advice before he took a polygraph.
Q. At that time did ya'll quit question?
A. We did so.
Q. Did you later talk to him again that afternoon and why did you do so?
A. Uh, there was a noise came from the room, uh, he turned the lights out. I opened the door, uh, he was in the room and he said he wanted to get our attention. I ask him what was

goin' on, he said he wanted to get our attention, he wanted to talk to us again.

Q. Alright, uh, let me show ya State's Exhibit, let's see, 3, think I may . . .

A. This again is the Miranda warnin' that was, uh, read to him by Sergeant Tinsley. At 5:45 he signed it, 5:47 I witnessed it, it was read verbatim.

Q. What time, uh, -- were you present when that was was done?

A. Yes, I was.

Q. Did Sergeant Tinsley read those, uh, rights word-for-word as appear on that statement?

A. Yeah, she did.

Q. And what was the defendant's response?

A. Uh, he acknowledged 'em and agreed to speak with us, ---

Q. Okay.

A. --- waived his rights.

Q. So at that point in time did ya'll talk to him again for a while?

A. Yes, we did.

Q. Were you present when, uh, Sergeant Tinsley had him sign copy her notes?

A. Yes, I was.

Q. Let me show ya what's been marked State's Exhibit No. 8, you recognize those?

A. Yes, I do.
Q. Are those the notes that he signed?
A. They are.
Q. Were you present when he signed them?
A. Yes, I was.
Q. Did she read those back to him word-for-word?
A. Yeah, she did.
Q. Did he say that's what he wanted to change in his statement, that's what he, what he wanted to add?
A. That's correct.
Q. Did you sign as a witness on those?
A. Yes, I did.
Q. Have they been altered or tampered with?
A. No, sir.
Q. Did did anybody promise him anything or try to coerce him any manner sign those those notes, adopt that as his statement?
A. No, they did not.
Q. Let me show you State's Exhibit No. 6, do you recognize that?
A. Yes, I do.
Q. What is that?
A. Uh, this is the statement that, uh, he hand wrote at 7:08 that evenin' cle -- completing at 7:54 and I notarized and Sergeant Tinsley witnessed.

Q. Is that statement that he gave ya'll after he had signed those notes?
A. Yes, it is.
Q. Okay. Is that in his handwritin'?
A. Yes, it is.
Q. Did anybody promise him anything or threaten him in any manner or try to coerce him any manner to give that statement?
A. No, they did not.
Q. Best a your knowledge did he freely and voluntarily write that statement for ---
A. Yes, ---
Q. --- ya'll?
A. --- he did.
Q. Okay. Was he tired at that point? Did ya'll quit talkin' to him that evenin'?
A. Yeah, we quit, uh, speakin' with him. Uh, again, uh, after he wrote the statement durin' the day we'd learned a lotta the facts, uh, about the case and I confronted him about some the discrepancies and he said he was tired, uh, would like to sleep on it over night and, uh, we put him downstairs and come and got him the next day.
Q. Do you and Sergeant Tinsley go back down there and talk to him the next mornin', next next day?
A. We actually brought him back up to CID, that's correct.

Q. Okay. Let me show ya State's Exhibit No. 4.
A. Again, it's your standard Miranda warning.
Q. Do you recognize that?
A. I do.
Q. Has that been altered or tampered with in any manner?
A. No, it has not.
Q. Is that the same form that Sergeant Tinsley read him on what date, what date was that on?
A. This on July the 10th.
Q. Okay, that's the next day.
A. That's correct.
Q. Okay. She read that form, read that form to him verbatimly?
A. That -- yeah, she did and and he signed and I witnessed.
Q. Okay. Did he agree to talk to ya and waive his rights in response to ya'lls rights of waiver there?
A. He did.
Q. Okay, and did he give ya another statement?
A. Yes, sir, he did.
Q. Let me show you State's Exhibit No. 7.
A. Yes, it's the voluntary statement handwritten by the defendant on the 10th and it was notarized by me and witnessed by Sergeant Tinsley.
Q. Okay. Uh, is that still substantially same condition as it was ---

A. Yes, it is.
Q. --- that day? Were you present when the defendant wrote that statement out?
A. I was.
Q. Did anybody promise him or coerce him in any manner or threaten him in any way to give you that statement?
A. No, they did not.
Q. Best a your knowledge did he freely and voluntarily write that statement, sign it?
A. He did so.
Q. Uh, and did you sign as a witness and notarize it?
A. Yes, I did.
Q. That point in time as far as talkin' to him, does your involvement end with the defendant?
A. Yes, sir.
Q. How many years have you been law enforcement?
A. Approximately thirty.
Q. In that time frame thirty years of experience you had an opportunity to see people been under the influence, encounter people under the influence of alcohol or drugs?
A. Many times.
Q. Did he appear to be under the influence of alcohol or drugs or somethin' that would affect his ability to know what he was doin'?
A. Not at any time.

Q. Did he respond to you and Sergeant Tinsley appropriately in your opinion?
A. Yes, he did.
Q. Did he answer your questions?
A. Yes, he did.
Q. Did he give detail as to what he put down in his statements?
A. Yes, he did.
Q. Uh, and did ya'll, ask again, ya'll threaten him or coerce him in any manner?
A. Absolutely not.
Q. Thank you, that's all the questions I have.
MR. BURR: May it please the, Court Your Honor.
CROSS-EXAMINATION BY MR. BURR:
Q. Captain Reed, what was Mr. Burdette arrested for?
A. Murder.
Q. Who arrested him?
A. Uh, Ms. Tinsley I believe.
Q. At what time did she tell him he was under arrest?
A. Late in the afternoon of, uh, the 9th.
Q. After he asked for an attorney and been locked in a room for four hours?
A. Yes, sir, it was after that.
Q. So he was not free to leave when he was locked in the room upstairs.

A. Well all of those rooms up there when you pull the door to they lock so, uh, ---

Q. Was he free to leave?

A. No, sir, I wouldn't think he would be, no.

Q. The warrant was not obtained until July 10th ---

A. True.

Q. --- but when he was booked on the evening of July 9th at nine nine o'clock, uh, he was booked on a murder charge but when was he told that?

A. He was told that night in the evenin' of the 9th.

Q. That evening after he asked for attorney and after he'd been held for eight hours, ---

A. He had ---

Q. --- fifty-three minutes.

A. --- he actually asked for attorney, uh, wanted to talk one before he took a polygraph.

Q. Before he signed that second statement.

A. Yes, but he reapproached us wanted to talk.

Q. According to Mr. Ward or Det -- Investigator Ward, he said he was talkin' to him, he said he wanted an attorney and then he still signed the second statement if I understood him correctly.

A. When we ask him about the polygraph, he said he'd like to have advice of attorney before he took a polygraph. At that time we quit speakin' with him, that was earlier in the day,

probly 2:30, somethin' like that, okay.

Q. You did hear Investigator Ward say that that he still had him sign that statement?

A. I didn't hear Mr. Ward.

Q. Okay, alright. Okay, thank you, Captain.

A. Okay.

THE COURT: Anything else?

MR. WAGNER: No, sir.

THE COURT: Okay, thank you, sir, you can step down.

MR. WAGNER: That's all we have on this issue, Judge.

THE COURT: Alright. Anything from the defense?

MR. BURR: No witnesses, Your Honor.

THE COURT: Okay. In my -- well you you wanna make a brief argument?

MR. BURR: I do, Your Honor. I think, uh, to be first when Sergeant Towery interviewed Mr. Burdette and told him that the warnings he was about to give him did not mean anything and also testified he appeared to be intoxicated slurred speech, that would violate *Denno*. He should not have questioned him so that any statements made was not any good and that tainted everything that happened for the rest of the day then when after he asked for an attorney, if I understood Officer Ward correctly, he still ask him if he go ahead and sign the second statement. Sergeant Tinsley's notes she'd been using the normal form throughout this thing, there's some

notes I can't verify one way or the other as that is not a a sworn statement by defendant and this defendant was locked up and held against his will but never placed or not placed under arrest until eight hours, fifty-three minutes later after all the damage was done so I don't, you know, none a the statements should ow -- be allowed in under either *Denno* or Miranda.

THE COURT: Yes, sir, anything?

MR. WAGNER: Your Honor, I -- the deputy Towery Mirandized him, filled out the form, the defendant initialed it, said he understood that the fact that he told him or said it doesn't really mean anything I think in in in his way a thinkin' that he was necessarily it's for my, you know, they've got to do it so he read 'em to him, defendant said he understood 'em so he signed 'em but there's no written statement in response to anything like that, there's nothin' there that stated he has to try to introduce. He was put in a car and he was left there, uh, while he was ---

THE COURT: Alright, that first statement where, uh, he was told this doesn't mean anything, he was then placed in the car, right, ---

MR. WAGNER: Yes, sir.

THE COURT: --- and then Detective Tinsley re-Mirandized him, ---

MR. WAGNER: Yes, sir.

THE COURT: --- and then these series a statements ---

MR. WAGNER: Yes, sir.

THE COURT: --- flow. And would you agree with, uh, Mr. Burr that if the first statement is thrown out that the remaining statements are thrown out?

MR. WAGNER: No, sir.

THE COURT: I wouldn't either but I think that first one's out. I think you can't tell somebody this doesn't really matter. That first statement I I I don't think is admissible.

MR. WAGNER: Yes, sir, but he really didn't say anything, they ---

THE COURT: Oh, there's ---

(Indiscernible cross-talk.)

MR. WAGNER: --- the written statement there's nothin' there we're trying introduce as far as ---

THE COURT: Right, ---

MR. WAGNER: --- his -- it ---

THE COURT: --- but if there was, I mean, I I I think that the second Mirandization saved it ---

MR. WAGNER: Okay.

THE COURT: --- but, I, you know, and and and I know that how that factually probly happened but ---

MR. WAGNER: I I think well, Your Honor, just our argument would be he did -- I think they did, they crossed all

their T's and dotted their I's on the rights where they they were real specific with him 'bout what he wanted to do up until the point where he even said before I take a polygraph I want an attorney and they quit and durin' that time frame one the officers testified they actually went out got him lunch, fed him lunch in there so he ate, uh, ---

THE COURT: Yeah, I'm not worried about that. I I'm gonna, I mean, I I would not allow anything after between tellin' him this doesn't matter and the next Mirandization, that that wouldn't come in but from that point forward when she re-Mirandized him I think that cleaned it up, woulda been a mess if she hadn't.

MR. WAGNER: Yes.

THE COURT: So I don't think I'm, I don't think I, it's any kind of earth shakin' 'cause you're not gonna use anything from that first one anyway?

MR. WAGNER: No, sir.

THE COURT: Okay.

MR. WAGNER: Like I said, he really, I don't really think he said anything. He started, he started talkin' to him then he got interrupted and he never went back and asked him.

THE COURT: And that's probly real lucky, uh, ---

MR. WAGNER: Your Honor, at at this point in time I guess we would move to introduce the four rights waivers, at least this, the the last waiver. Do you want, I mean, I don't need

to introduce the rights waiver that Deputy Towery gave him.

THE COURT: That's the one I'm talkin' about? no, ---

MR. WAGNER: Yeah.

THE COURT: --- I don't -- you don't do ya, I mean, we can make it a part a the record if you want for appellate purposes.

MR. BURR: The issue asking for the attorney or you rule on that also?

THE COURT: Yeah, I think I -- my understanding of the testimony was that he asked for attorney, they stopped, put him in a room then he turns the lights out, starts bangin' and wants to talk again, right?

MR. BURR: Yeah, put him in a room, locked him in, he wasn't under arrest, wasn't advised what he was charged with that point, supposedly he was free to go, according to Captain Reed indicated was locked in investigative room for hours.

THE COURT: What's your position on that?

MR. WAGNER: Your Honor, I think we would stipulate that he was in a room out there but I said they fed him lunch, he was there talkin', he he banged on the wall to get their attention, said, I have somethin', there's more I want to add to my statement, and he reinitiated wanted to talk with them again.

THE COURT: Yeah, I think that's more of a factual issue quite frankly but I think you're protected for the record.

MR. BURR: Okay, thank Your Honor.

THE COURT: So basically that first little bit since you're not introducing anything doesn't matter, I, but I wouldn't let anything in. Once she re-Mirandized him that comes in, uh, and then, ya know, we're gonna have to deal with all these factual issue of all these changes but that's somethin' we'll have to deal with in fronta the jury.

MR. WAGNER: So we have ---

THE COURT: Okay.

MR. WAGNER: --- State State's Exhibit 2 which is the second rights waiver that the first one that Sergeant Tinsley did, ---

THE COURT: Right.

MR. WAGNER: --- uh, along with s -- uh, State's Exhibit 3 and 4 which are the next two rights waivers.

THE COURT: That's right.

MR. WAGNER: Uh, we have three written statements, ---

THE COURT: And and her notes I ---

MR. WAGNER: --- that would be 5, 6 and 7 and then her notes that he signed and adopted ---

THE COURT: Right.

MR. WAGNER: --- and that the would be S -- uh, Number 8.

THE COURT: That's correct.

MR. WAGNER: We would move for those admission, admission of those exhibits and we will leave ---

THE COURT: Yeah, ---

MR. WAGNER: --- State's Exhibit No. 1 out.

THE COURT: --- and and over their objections and for the reasons that I stated I'll allow those to be admitted so ---

MR. WAGNER: And we also move the diagram in 'cause he signed, ---

THE COURT: What ---

MR. WAGNER: --- he wrote the diagram where where he was and where the people were, it was used.

THE COURT: The defendant wrote it?

MR. WAGNER: Yes, sir. He he, sh -- Sergeant Tinsley testified that she drew the diagram but that he wrote in his handwriting where he was, ---

THE COURT: It was after the ---

MR. WAGNER: --- where they were ---

THE COURT: --- Mirandization, that's okay.

MR. WAGNER: Yes, sir.

(State's Exhibit Nos. 2, 3 and 4, Miranda waivers, admitted into evidence.)

(State's Exhibit Nos. 5, 6 and 7, voluntary statements of defendant, admitted into evidence.)

(State's Exhibit No. 8, notes of Amanda Tinsley, admitted into evidence.)

THE COURT: And again, I'll assume ---

MR. BURR: I object. I ---

given due deliberation. Uh, the State because of his plea of not guilty and because of his constitutional protections has the burden of provin' each and every cause of action in their case beyond a reasonable doubt. Now at the end a this trial I will have a very long discussion about reasonable doubt but I'm gonna read to ya part a that, one sentence that says it best: Proof beyond a reasonable doubt is proof that leaves you firmly convinced of a defendant's guilt. That is a one sentence explanation of proof beyond a reasonable doubt, that is the threshold the State has to meet.

Alright, we will go for an hour, obviously we've gotten started a little late. If at any point durin' the course of this trial you need a break, raise your hand, get my attention, get the attention of anybody in the courtroom and we'll break for any reason whatsoever, if you gotta use the restroom, I'm not gonna ask you why you break, you raise your hand, I'll see ya, ya'll are out, uh, but we will, uh, go for an hour to an hour and a half before we take lunch then we'll take an hour and fifteen minutes for lunch. Thank you for your patience this mornin', thank you for your patience in listenin' to me give you these, uh, sweet threats but they are exactly that and I appreciate the attention that I know you're gonna give us this this mornin' and the rest a the week. Alright, hold on, uh, -- alright, begin your open.

MR. WAGNER: Please the Court, Judge, thank you. This

case began, occurred on July 9th 2013 out in the Westminster area of Oconee County, uh, near the intersection of Blackjack Road and Mount Pleasant where there's a church there, I believe it's Mount Pleasant, I think it's a Baptist Church right there, uh, and a parsonage where the preacher lives who is the father of defendant, uh, the defendant had been stayin' there a little bit off and on, I think the evidence is gonna show his brother-in-law is the victim in this case, Evan Tyner. Uh, Evan died that day, uh, on the road there at the intersection a Mount Pleasant and, uh, Blackjack Road. Uh, the case actually it occurred that day, began a day or two or ti -- sometime prior to that, began with a a rift between two brother-in-laws, uh, over a number of things. I mean, I think you're gonna hear testimony from witnesses that witnessed it, were there. Now the witnesses and all they all have, everybody in this case probly has issues. There was drug use goin' on, uh, at the apartment or the trailer, the house where they were, uh, the victim had drugs in his system, I think you'll hear that. Uh, that bein' said, he didn't deserve to get shot in the back, that's what happened. The rift led, one thing led to another, the defendant became angry, uh, the victim, two other guys that they had parted ways at the trailer prior to this, uh, he left and went with another friend, the defendant did. Victims went to Walmart get cigarettes. They were driving, uh, a vehicle that was

actually registered at the house where this occurred. Uh, there was a bad wheel bearing in the car, car broke down, they were havin' issues, they ended up gettin' it back to the parsonage. Uh, when the victim arrived at the parsonage, there was nobody there. Uh, there were some things that went on between there that you're gonna hear about, the victim drove by, didn't pick him up, the defendant drove by. Uh, anyways the defendant got out, walked by the car, he said somethin', uh, and you're gonna hear that he said basically, I've got somethin' for ya'll, went in the house, he retrieved a shotgun, came out and fired the shotgun into the front, fronta the car, uh, it's a single barrel shotgun, you're gonna see that, uh, had break it open. He had to break it open, reload. When he shot the first round, the victim and one a the other boys jumped out and they ran. One ran that (indicating) way and one of 'em ran the other way, victim ran down the road. Defendant reloaded the shotgun, aimed it and killed him, shot him in the back, one buckshot pellet. You're gonna hear from the, uh, doctor that did the autopsy one buckshot pellet went through the back of his neck, hit his spine, killed him dead. Uh, even if they done drugs that night, things like that, didn't deserve to get what he got, uh, but he didn't make that choice, defendant made it for him.

Uh, he's here on a murder charge. Murder is the unlawful killin' of another with malice aforethought. Malice is

basically a hatred, ill will, bad tidings towards somebody, meanness, do it outta spite, uh, the kinda spite, kinda meanness it would take somebody to take a shotgun, shoot him once, reload it, kill somebody, uh, he thought it out. There was enough time there for him to get the malice in his mind before he killed Evan Tyner. Uh, obviously not gonna hear from Evan Tyner but you are gonna hear from two other people that were standin' there or nearby and saw all or part of it. You're also gonna hear from a number other witnesses that were there before and after and, uh, what they observed, what they saw. You're gonna hear from a doctor who did the autopsy, he may come at a strange time just dependin' on when he gets here and there's some other witnesses that were also involved with the case, worked the case. Uh, Sergeant Tinsley was the lead detective on the case, she'd been up all night workin' on another case, didn't sleep one hour before this happened and it occurred early in the mornin' between 6:30 and 7 on July 9th 23 -- 2013. Uh, she didn't get any sleep either, uh, but she was able to talk to the defendant. They Mirandized him several times, they read his rights, uh, required to by law, they do that make sure he understands. Uh, you're gonna see, uh, the rights waivers that they did where he waived his rights and agreed to talk to him, uh, and they're important so you can know that they protected his rights like they were supposed to and they needed to, uh, which is everybody's

entitled to. Uh, he gave basically three, four different versions of what happened, he changed his story, uh, he was not consistent and, uh, I will submit to you you'll you'll hear those too what he said.

At the end a this case we'll ask you, uh, for a verdict of guilty on both charges. There's a companion charge with all -- with murder which is possession of a firearm durin' the commission of a violent crime. Under law of South Carolina murder is a violent crime, if you commit a violent crime while you're using a a gun or a knife or an ax or, uh, a weapon, uh, can charge, basically charge with shotgun so anyways we're gonna be returnin' and in this case we'll try to move it along with the weather and stuff. I I, you know, I can't tell ya how quick we'll get through things but we'll make the best effort to try to get through and keep you here as little as possible. Appreciate ya comin' out here in the bad weather, appreciate ya volunteerin', uh, brought a jury to hear this case, it's an important case for both sides, uh, we'd ask you just to give everybody your your utmost attention, thank you.

MR. BURR: May it ---

THE COURT: Yes, sir.

MR. BURR: --- please the Court, Your Honor.

THE COURT: Yes, sir.

MR. BURR: Good morning, ladies and gentlemen, we're all very glad you were able to make it in today. I'm not gonna

stand here and tell you what your going to hear over the next couple days because you're going to hear it, it's a waste of time, but I know you did leave yesterday scratchin' your head about that, uh, selection process, what was goin' on. There's no real mystery to it, we don't know who you are, we just have very limited information, both attorneys look at people and try to find out who just by looks we think will have intelligence to comprehend everything that's gonna be presented to 'em, come to a conclusion and would have the integrity to vote their conscience, not just be swayed by the group but what you think happened. In this case you're gonna have two jobs to do; first, you gotta look at all the facts as some of you might have to but you've also gotta become a student of psychology. You're gonna have to figure out what was goin' on in defendant's head and what's goin' on in law enforcement's head 'cause they have different theory than defense, obviously we wouldn't be here, and since we do have different opinions there may be times where I'm bantering, asking questions with law enforcement, please don't think I'm challenging them, I know most these these law enforcement people, they are good people doing a good job. I I was a cop for seven years. Uh, my first job outta law school was a prosecutor, a solicitor in Richland County so I've seen both sides of this. This case is based on facts more so than we're worried about witnesses. When back in time, back October of

2013 there's a probable cause hearing, uh, Investigator Tinsley was there, I asked her if this was, lookin' at evidence, if this was a fluke or freak accident and her response was she didn't know until the, uh, SLED did their their work on the evidence. Year and a half defense is askin', We want to see the gun, we want to see the pellet that was involved. After a year and a half, last month after seein' the docket defense expert, defense team had a chance to go down and look at the weapon under the supervision of a deputy from the sheriff's office. The expert for defense looked at the gun, pointed out what he thinks is wrong with it, the pellet, we took pictures of pellet and the ricochet shot, the defense, sorry the prosecution, after he immediately called called the prosecutor and told him exactly what we'd said it was continued while they had a chance to check it a second time. That report's come back from SLED, there's not one thing in it that contradicts a gun was so old, the safety doesn't work, ejector doesn't work, you can slam it and fire it, coulda been an accident. The pellet, the shape of the pellet we'll show you later our expert there is no doubt it was a ricochet shot, it was, the individual was somewhere between 60 and 70 yards away down a hill 14 feet 10 inches it's physically impossible. The medical examiner that examined the body says exactly where the pellet hit in a upward direction. You will hear that from all this that I'm

tellin' ya from their witnesses and defense witness will come in and tell you and explain to you it's physically impossible for a pellet to go that distance at an arc, hit somebody in a upward direction without it being a ricochet, he'll show you the pellet itself, obviously it was ricochet but we'll keep this moving along as fast as possible. I want you to listen to those few things I pointed out to ya, issue the evidence at the close a trial, hopefully ya'll be able to wrap it up then. Thank you very much.

THE COURT: Alright, yes, sir, you can call your first witness.

MR. WAGNER: Richard Bagwell.

THE CLERK: Mr. Bagwell, if you would, please come forward to be sworn.

(Whereupon, the witness came forward.)

THE CLERK: If you'll place your left hand on the Bible and raise your right hand.

RICHARD DALE BAGWELL, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: Sir, if you would, have a seat, give us your full name and spell your last name for the, uh, court reporter, please.

THE WITNESS: I'm Richard Dale Bagwell, B-A-G-W-E-L-L.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Mr. Bagwell, where you from?
A. I'm fr -- originally from Seneca.
Q. Okay. And where do you live, what do ya do now?
A. I live in Columbia, I work at a, uh, hardware store.
Q. Okay. Uh, back on July 9th 2013 you living here Oconee County?
A. Yes, I was.
Q. Were you friends with, uh, the victim Evan Tyner?
A. Yes, we lived together.
Q. Were you friends with the defendant, uh, Adam Burdette?
A. Acquaintances.
Q. Okay. Uh, prior to July 9, 2013 were you hangin' out with Evan Tyner and when you were around the defendant and some other folks what what were ya'll doin', where were ya, what was goin' on, what's the day prior to this?
A. The day prior?
Q. Yeah.
A. Uh, we were hangin' out. Uh, Evan had wanted to go over and, uh, see his sister and, uh, Adam and, uh, ---
Q. Who is his sister?
A. Tiffany.
Q. Okay, and, uh, what's her last name?
A. Uh, Tyner I think. I don't know if they're married or not.
Q. Okay, uh, where did Tiffany live?

A. Spearo Street I think is the name of it.
Q. What part a the county is that?
A. Um, it's right, uh, Westminister I think, Walhalla, something like that.
Q. Okay, uh, so Evan and and who is Tiffany and what is her relationship with the defendant?
A. Tiffany is, uh, a boyfriend, husband, mother a two children think.
Q. Okay, they have two kids together, ---
A. Yeah.
Q. --- the defendant, Tiffany do?
A. Yes, sir.
Q. Okay, and Evan was her brother.
A. Yes, sir.
Q. And Evan was your friend.
A. That's right, yeah.
Q. Okay. How long ya'll known each other?
A. Uh, we spent about eight or nine months every single day together.
Q. Okay. Do you go by a nickname?
A. Bubba.
Q. Okay. Does everybody call you Bubba?
A. Um, family and family friends, yeah.
Q. Okay. Uh, I mean, were you known by most the folks that were involved in this case as Bubba?

A. Yes, sir.
Q. Alright. Uh, did ya'll go over to Tiffany and Adams' place the day before this happened on the 8th?
A. Yes, sir.
Q. Okay. Uh, and even, I guess even prior to that was there any kind of rift goin' on between the defendant and the victim?
A. Yes, sir, ---
Q. What was it ---
A. --- lotta tension.
Q. --- about, what happened? What ---
A. Uh, when we showed up, uh, the defendant and his friend, uh, Josh, uh, which was there were, uh, makin' drugs when we got there in fronta kids.
Q. Where was that?
A. On Spearo Street.
Q. Okay. What happened?
A. Uh, when we got there, uh, it was a big ordeal about it was bein' done in fronta the kids and Evan didn't like it because it was his sister's kids and it was a big, uh, there was some tension there and ---
Q. Explain the tension, what happened?
A. Uh, well the day before, um, there was a lot of, uh, arguments and within the house ---
Q. Between who?

A. --- and -- between Adam and Evan and Josh. Uh, Josh would take Evan's side when he was around Evan and take Adam's side when he was around Adam, it was just kinda like, uh, in the middle but Evan and Adam had a lot of tension there because it was around his niece and nephew, yeah.

Q. Okay, uh, so the arguments began prior to the 10th ---

A. Yeah.

Q. --- or excuse me, prior to the 8th?

A. Well, yeah, prior to the 8th, about two or three days before that.

Q. Okay. On the 8th, the day before this occurred, what did you witness, what happened, ---

A. Um, ---

Q. --- who was with you?

A. --- there had been, we had been sittin' around, um, Adam had left and, uh, everybody was sayin' he was runnin' off doin' his stuff which meant he was gettin' high and, uh, we're sittin' around the house and, uh, Tiffany was in the bathroom and I know that her and Evan had some kinda conflict and about over at or over the defendant and, uh, Evan had said that when he got there there was gonna be some trouble and Tiffany tried to talk him out of it and he said, Okay, well, you know, that's fine but if there, if he raises his voice or anything like that when he gets here, you know there's gonna be a problem, and so and he was just takin' up for his sister bein'

a brother and when Adam got there wasn't five minutes he was in the room yellin' and screamin', carryin' on, slammin' stuff and Evan took off down the hallway. He went in the bedroom, uh, shut the door. Well I heard yellin' and screamin' and the door opened and I saw Adam run outta the room like this (demonstrating) where Evan had, you know, they were kinda shovin' each other and so, uh, basically we made him leave his own house which didn't sit too well with him but we couldn't, I couldn't let somebody say they're gonna, you know, beat on, uh, my best friend's sister or, you know, I I had to have my friend's back no matter what so . . . Uh, ---

Q. No were ya'll doin' drugs?

A. The days before, yeah, ---

Q. Okay. What kinda ---

A. --- so ---

Q. --- drugs were ya'll doin?

A. Methamphetamines.

Q. Okay. Uh, do methamphetamines make you go to sleep or they make you stay up?

A. Stay up.

Q. Alright, so did ya'll go to sleep that night or did you stay up?

A. Uh, been up for three or four days.

Q. Okay. Uh, did the defendant left the house and ya'll stayed there?

A. Yeah, yeah, we ---

Q. I say, ---

A. --- we -- well we made him leave.

Q. --- I say "ya'll," who who wa -- who was there, ---

A. Me, ---

Q. --- uh, ---

A. --- Josh, Tiffany, Evan.

Q. Okay. Uh, what happened after that?

A. Made him leave. Uh, it started rainin', he showed back up, uh, a couple hours later with somebody named Ken and we met him out front, made him leave again. He stood up outta the car before he left said it wasn't over, kinda screamed, I know he was mad he just got kicked out of the -- out of his own house but, uh, said it wasn't over and left.

Q. Okay.

A. Uh, after that we decided to, uh, if about thirty minutes after that, uh, we decided that we wanna go get some cigarettes and it was, it was, you know, been a lot stress goin' on.

Q. What time was this by that time?

A. Honestly I don't remember what time. I know it was, uh, late that night, early that mornin', you know, one, two o'clock.

Q. Okay, uh, and how did you get or how did you try to go to Walmart? What ---

A. Uh, we borrowed Tiffany's, well ---

Q. Did ---

A. --- what I thought was ---

Q. --- any ---

A. --- Tiffany's car.

Q. --- of ya'll have a car?

A. No, none of us had a car. We had to borrow the green SUV.

Q. Okay, uh, and who did that car belong to?

A. I believe it belonged to Tiffany. I thought it, she had the keys so I assumed it belonged to her.

Q. Alright, so who went to go to Walmart? Where did you go when you left the house?

A. Me and Josh and Evan went. Uh, uh, Josh rode in the back, I rode in the passenger seat and Evan drove and, uh, we got goin' almost down, uh, Blackjack Road, uh, past Evan's mom and dads' house, uh, ---

Q. Did you stop?

A. Yeah, we had, I mean, uh, we stopped, before we, before we went there we had to stop and get the card from Adam.

Q. Wha'd you mean by that? What what ---

A. Had to get ---

Q. --- card?

A. --- a debit card from Adam of Tiffany's bank card or something like that, uh, it's 'cause we didn't ---

Q. You get it from him ---

A. --- have any money to get cigarettes.

Q. --- or what happened there?

A. Well we were gonna stop by the parsonage to get it from him and, uh, somehow he already knew that we were comin' by and Ken had the card I think 'cause he gave it to Evan so somehow he alre -- he was on the phone, he was pacin' back and forth, growlin', gruntin' and I didn't, we didn't really leave the side of the road.

Q. Who was pacin'?

A. Adam.

Q. Okay. Did he speak to ya'll?

A. No.

Q. What was his body language? What was his demeanor like?

A. Very mad, very upset. He was on the phone, I don't know who he was on the phone with but he was pacin' back and forth and growlin' and gruntin' and yellin' and throwin' his hands and very upset.

Q. So ya'll got the card from Ken.

A. Yeah, got the card and we sit ---

Q. What did you need, ---

A. --- talk ---

Q. --- what did you need the card for? The debit card who did it belong to, what did you --

A. I believe it ---

Q. --- need it for?
A. --- belonged to Tiffany but I know, I know Tiffany told us to stop by and get the card if we wanted to pay for the cigarettes.
Q. Okay. Alright, so did you go on to Walmart from there? What did you do?
A. Uh, we went to pull down the road and it sounded like somebody was hittin' the car underneath with a hammer, it was tunk, tunk, tunk, we couldn't go over 10 miles an hour, so we pulled into a dirt road that was there, there was a big long thing a mailboxes right there, and we waited and we didn't have no way of movin' so we found somebody that was some guy leavin' for work I think, it was early in the mornin' so reason I think he was leavin' but, uh, we borrowed his cell phone.
Q. Did ya'll not have a phone?
A. No, we didn't have a phone.
Q. What, uh, alright so what hap -- who made the call, what ha ---
A. Evan made the call and he said, I think he called Tiffany, and he said that, uh, we were broke down, we needed a ride and she said she'd see what she could do, uh, that she'd have us picked up and, uh, he hung up the phone, gave the guy his phone back and it was forever. We ended up fallin' asleep in the car and by the time we woke up, uh, it the sun had

started to come up a little bit, it was daylight and, uh, we waited for a few minutes and we saw Adam drive by, he kinda flipped us a bird and waived and laughed.

Q. Okay, he didn't stop?

A. No, and that made Evan very angry.

Q. Okay, well what did ya'll do next?

A. Uh, Evan had an idea that he wanted to confront him about not stoppin' and so he said he didn't care if the, uh, truck had, uh, was broke down or he didn't care if he had to push it the whole way he was gonna get up there and confront him about it and so, uh, we, it took us like ten minutes go a half mile but we got up there and when we got up there Adam wasn't there.

Q. Did you, did you figure he would be there? I mean, did you anticipate ---

(Indiscernible cross-talk.)

A. Yeah, we figured he would be there 'cause we kicked him out of his house twice, we thought that the on -- and plus he was doin' hardwood floors at his mom and dads' or somethin' like that, we knew that he'd been up there a while and he was more than likely up there so and plus he was drivin' towards there.

Q. How far is the parsonage as you call it ---

A. Um, ---

Q. --- between, how far is it from where, ---

A. --- three-fourths ---
Q. --- uh, ---
A. --- of a mile to a mile, somethin' like that.
Q. I'm talkin' about from from how far is it from where he and Tiffany stayed?
A. Six, seven-minute drive, somethin' like -- nah, no, little longer than that, probly ten, twelve minutes, somethin' like that.
Q. Okay. Uh, so you you drove -- what was wrong with the car?
A. Honestly I thought it was the wheel bearings 'cause the tire didn't wanna turn over. Uh, the rims and stuff were smokin' underneath and I I, I don't know, I mean, I I didn't stop and look at it or I I don't know what was wrong but I just know that it wouldn't go any faster than 10 or 15 miles an hour and sounded like somebody was beatin' it underneath.
Q. Okay. Uh, so where did you go?
A. Uh, we went up to the parsonage, we pulled in the driveway and he's, his truck wasn't there so we waited.
Q. Okay, did anybody get outta the car?
A. No, nobody left the car.
Q. Did anybody ever get out?
A. No, nobody left the car until the shots were fired.
Q. Okay. How long had you been there ---
A. Uh, ---

Q. --- and how ---

A. --- we were there ---

Q. --- long did you wait there?

A. --- probably five minutes and Adam slid his truck in behind us.

Q. Which direction did he come from?

A. He came from the, uh, left hand side from Tiff, towards Tiffany's house. Came in and heard, I heard the gravel and everything sling, uh, up under the car, you know, onto the concrete where he slid in behind us.

Q. Okay. Uh, there were three ya'll sittin' in the car?

A. Yes, sir.

Q. Alright, what happened next?

A. Uh, Adam got outta the car, slammed the door, uh, walked over, him and Evan exchanged words, I couldn't really make out what they were sayin' but honest to God he s -- he he looked so angry, he had the devil in his eyes I I I ---

Q. Did he say anything?

A. He told Evan and me that he had somethin' for us ---

Q. Okay.

A. --- and I I grew up in the country, uh, I I I don't think nothin' about going out in the yard and fightin' some -- you know, I don't, I don't, I don't get scared of a lotta people but he scared me honest to God.

Q. What did he do, what did ya'll do?

A. Uh, I was worried enough to tell Evan I was ready to get outta there. Evan said he wanted to see what he had and I was, I had a really bad feelin' because I saw the look in his face and saw angry he looked and I wanted to get outta there real bad, ---

Q. Okay.

A. --- I wanted Evan to get out but I I wasn't gonna leave Evan.

MR. WAGNER: Your Honor, could, I'd like to ask this witness to step down.

THE COURT: Sure, you can step down.

(Whereupon, the witness left the stand.)

BY MR. WAGNER:

Q. Let me ask you, uh, ---

(Whereupon, a discussion was held off the record.)

You recognize this (indicating) picture?

A. Yes, sir, very very well.

Q. Okay, what is that picture of?

A. Uh, this (indicating) is Blackjack Road. This (indicating) is the parsonage and this (indicating) is graveyard. Uh, Evan's mom and dad live a half mile down here (indicating) on the left and Tiffany's you gotta go straight down this (indicating) way. I know ---

Q. Okay.

A. --- where it's at.

Q. Alright, on the night this happened or early mornin' when this happened that night, uh, which direction were ya'll comin' from when you came down there to look to see if, I mean, drivin' on the bad wheel bearing where did ya'll come from and where did you stop?

A. You talkin' about from Tiffany's or from where we s ---

(Indiscernible cross-talk.)

Q. Where were you on the side of the road where you said ---

A. We were down past, --

Q. --- the defendant drove by?

A. --- we were past Evan's mom and dads' on the right hand side of dirt road.

Q. Okay.

A. Um, Adam was drivin' this (indicating) way and that's why we assumed he was goin' to the parsonage which is his mom and dads' house and, uh, that it took, it took us about like I said ten minutes to get here but, uh, we parked right in the driveway right here (indicating).

Q. Approximately ---

A. We ---

Q. --- where that red vehicle is?

A. Yeah, right, a little bit further back but, yeah, right where the red vehicle is.

Q. Okay. Uh, alright so you pulled in there, again, what happened?

A. Uh, Adam was comin' from this (indicating) road, uh, there's some gravel and stuff right here (indicating). He slid the truck in behind us, kinda prevent us from leaving'. I didn't know if he knew that the truck was broke down or not, uh, then he got out, him and Evan kinda had some words and then, uh, he said he's got somethin' for us and ---

Q. Where did, ---

A. --- he tried ---

Q. --- where did he go from the side of the car?

A. It looked like he he walked in fronta the car, it looked like he tried to go in a door in the carport and then he walked around the house ---

Q. Okay.

A. --- and he stayed gone for eight to ten minutes, it was, it was long enough for me to think, you know, that I, we need to get outta there.

Q. Alright, so and what did you tell Evan?

A. I told him, I'm ready to go, I'm I'm ready to go, and he said he wanted to see what he had and I loved Evan with all my heart, I wasn't gonna leave him.

Q. Would the car have made it?

A. Do what?

Q. I mean, ---

A. The car, the car wasn't drivable at that point.

Q. Alright, so what happened next?

A. Um, Adam came out with a shotgun.
Q. Where did he come from?
A. The carport right here (indicating).
Q. Alright.
A. And he came out, screamed and showed his teeth and yelled and said, You're not takin' my kids, and fired a round and at that point I, uh, heard the gun click and when I s -- it's it happened so fast but I knew it was a single barrel and I knew he had to reload if he was gonna shoot again so I thought listen, you know, we can run so I got outta the car ---
Q. Which side ---
A. --- and I ran ---
Q. What -- where were you sittin' then?
A. I was in the passenger seat ---
Q. Okay.
A. --- so I ran straight from the car into these woods right here (indicating), that fence, and I knew I had a white wife beater on so I didn't run any further, I just kinda got down and covered myself up.
Q. You had a wha -- you had a what on?
A. Uh, a white tank top ---
Q. Okay.
A. --- and, uh, I covered myself up and I I saw Evan from about here (indicating) down runnin' right here (indicating) in the road and just as quick as I noticed who it was I heard

a shot and when I heard a shot I looked back over where it came from and then Adam was standin' here (indicating) so he moved from the left side a the car where he shot the first shot to right here (indicating) and I'm guessin' because Evan was ---

MR. BURR: Objection, ---

A. --- in ---

MR. BURR: --- Your Honor, I don't want him guessing.

THE COURT: That's -- yeah, sustained.

A. Okay, well well -- okay, my observation was Adam moved positions ---

Q. Okay.

A. --- and fired another round.

Q. You're sayin' he fired the first shot from right in fronta car?

A. Yeah, he fired the first shot in -- on the left side of the front of the car.

Q. Do you know where that hit?

A. I don't. I ducked when I saw the, uh, barrel raise up.

Q. Okay, and then you ran one way and Evan ran the other.

A. Uh, honestly I thought Evan was behind me, I was runnin' so fast I I didn't know.

Q. Where did Josh go?

A. Uh, I didn't see Josh until I came back outta the woods and he was standing there yellin' at Adam, screaming, What

you doin', he's cussin' at him, tellin' him to stop and screamin' and yellin'.

Q. Okay. Did you see, did you see Evan fall?

A. Uh, I didn't see E -- I I saw Evan, I saw him disappear but I didn't see, actually see him fall to the ground but I saw, I saw where Adam was standin', I heard the gunshot, it was kinda like he wa -- 'cause I was in the woods but I saw, you know, he was gone. When I came out he was layin' in the road.

Q. Okay, um, and about where was he layin' in the road?

A. About right here (indicating).

Q. In the curb?

A. Yeah, the curb.

Q. Okay, and where where was the defendant standin'?

A. Right here (indicating).

Q. Did he still have a shotgun in his hand?

A. No, when I looked back at him he tossed it down.

Q. Okay. Where did he toss it?

A. Right beside this tree right here (indicating).

Q. What did he do? What did the defendant?

A. Uh, he started puttin' his hands on his head, starin' real hard, grit his teeth.

Q. How long did he stand that way?

A. Uh, as long as I saw him. Uh, when I tried to walk up to Evan, uh, I couldn't at first then I finally got up to him and

I thought there was any life left in him then somebody, you know, he could at least tell his sister 'cause I knew where his sister was and, uh, Nikki was, I did. There was any life left in him they needed to see him so I jumped in Adam's truck and by the -- when I was goin' to Adam's truck he was on the phone.

Q. Did he ever go down there to him while you were there and ---

A. Not while I was there.

Q. Okay.

A. I took off in, uh, Adam's truck which was still running and, uh, Josh got in the truck with me and I left Josh there, I picked up Nikki and Tiffany and brought 'em back. By the time I got back police and paramedics were there.

Q. Did he say anything, defendant?

A. Uh, after I'd gotten there, ---

Q. After ---

A. --- uh, ---

Q. --- the shot, did he, did he say anything?

A. Yeah, he said he's goin' to jail for layin' the law down.

Q. Who he say that to?

A. His mother and father.

Q. That's when you got back ---

A. Yeah, that's when I got back.

Q. So so I'm tryin' to follow you. You got in his truck and drove to Tiffany's house.
A. Yes, sir.
Q. Why did you do that?
A. Because at the time I was delirious and I didn't think about, I knew where they were, I knew they were there and I thought if there was any life left in Evan they'd wanna see him before he died. I ---
Q. And ---
A. --- wasn't thinkin'.
Q. --- and when you got back who was on the scene?
A. Paramedics, I think one police ---
Q. When did his parents get there?
A. Within ten, fifteen minutes I believe.
Q. Okay. Uh, did you talk to the officers after that, tell 'em what you saw?
A. Oh, yeah, I was screamin' at him that he just killed somebody.
Q. Thank you, sir, if you could just have a seat back up there, that's all the questions I have.

(Whereupon, the witness returned to the stand.)

THE COURT: Alright, yes.

MR. BURR: May it please the Court, Your Honor.

THE COURT: Yes.

CROSS-EXAMINATION BY MR. BURR:

Q. Bubba, how long have you been doin' methamphetamines?
A. Um, doin', I'm not doin' at the present, I've been clean for almost two years. Uh, ---
Q. This incident happened less than two years ago and you were on meth methamphetamines when it happened, weren't you?
A. Yeah, I said almost two years.
Q. And isn't true that Tiffany walked in the night of July 7th when this happened and caught you and Josh and Evan and Nikki shooting up meth in her house?
A. That's not true.
Q. She didn't walk in and catch you guys all with syringes pulling meth out of a cotton ball shooting it up and telling you she wanted you gone before the sun came up?
A. No, sir.
Q. But your testimony was that you and Josh and Evan were at Adam's house and confronted him twice and made him leave his own house ---
A. Yes, sir.
Q. --- and then you know whose car that was now, don't ya, that was his car that you took and broke down.
A. Adam's car?
Q. Yes.
A. I didn't know that it was his.
Q. Okay. So you guys came back by, stopped for a second at the house, went, car broke down. One thing you -- the

question threw me a while ago or the answer you said you, nobody got outta the car when you got back, what -- why is that important?

A. Nobody got outta the car when ---

Q. Yeah, ---

A. --- I got back.

Q. --- once you came back to the parsonage and you parked the car, you pulled up the broken car in the driveway you just testified nobody got out of the car.

A. He asked me if anybody got outta the car. Nobody got outta the car.

Q. Isn't it true that you went and broke in the back window and burglarized that house?

A. Absolutely not.

Q. In your -- you signed the notes of offer -- officer interviewing you and you said, I quote, "We we waited because we knew he had left the house at Spearman Road."

A. Um-hum.

Q. Spearman Road house is the house where he lived, right?

A. S -- if it's Spear, I don't know if it's Spearman or Spearo.

Q. Assume that it is Spearman Road where you had been staying and where his sister and he lived ---

A. Um-hum.

Q. --- but you did say you knew he left Spearman Road.

A. Um-hum.
Q. How long should it have taken him to get back from Spearman Road to where you were?
A. Did I know that he left Spearman Road ---
Q. How long, ---
A. --- when?
Q. --- should it have taken him ---
A. Um-hum.
Q. --- to get from Spearman Road to the parsonage where you were?
A. Ten, twelve minutes.
Q. Okay. But you knew he had left the house at Spearman Road.
A. I didn't know where he was. Are you speaking of the time when he ---
Q. Sir, ---
A. --- drove by us?
Q. --- no, ---
A. I ---
Q. --- after after he drove by your ---
A. Okay.
Q. --- question a ---
A. After he drove by us.
Q. Yes, and he wasn't at the parsonage when you got there ---

A. Yeah, but it took us ten to fifteen minutes to get there.

Q. Right, but you, later you're sitting waiting on him, ---

A. Um-hum.

Q. --- officers questioned you about it, you signed the statement and you said when you assumed he would be there back at the parsonage by then 'cause you knew he'd left Spearman Road.

A. I -- he wasn't comin' from Spearman Road, I assumed that he was goin' there from wherever he was comin' from because he was drivin' towards there.

Q. Right, I'll give you that. What I'm quoting here though is that you're surprised he wasn't back because you knew he had already left the house at Spearman Road.

A. He wasn't comin' from Spearman Road, how would I know that he was in or ---

MR. BURR: Your Honor, may I approach ---

THE COURT: Sure.

MR. BURR: --- for a second?

BY MR. BURR:

Q. Can you read portion underlined.

A. "He left the house on Spearman Road. Adam showed up, like I say, it was ---

Q. Start a little early here.

A. Okay.

THE COURT: First, what what are you readin' from?

MR. BURR: This is the interview notes of the officer that questioned him, signed by this witness.

THE COURT: Okay. You can ask your question again.

MR. BURR: I'm sorry, Your Honor?

THE COURT: You can ask ---

MR. BURR: Yeah.

THE COURT: --- your ---

MR. BURR: Yeah.

THE COURT: --- question again, I just wanna make sure I knew what it was.

BY MR. BURR:

Q. Start here (indicating), "He left . . .

A. Okay. "He left the house on Spearman Road."

Q. Okay, that's the house where he lived.

A. Uh-huh.

Q. This is while you were there at the parsonage. When the car broke down originally ---

A. Um-hum.

Q. --- and Evan called Tiffany, how'd he call her?

A. From a guy that was pulled in behind us.

Q. You borrowed a cell phone?

A. Yes, sir.

Q. So you didn't, none of you had a cell phone with you ---

A. No, sir.

Q. --- but yet when you're sittin' in a parsonage you knew he was on hi -- on his way back, who did you call to find out?

A. We had no idea that he was on his way back.

Q. So why did you sign this that you knew he was on his way back from Spearman Road?

A. I'm not understandin' the time frames you're talkin' about.

Q. Isn't it true that you or Evan called Adam's house and spoke with Tiffany?

A. A -- I had no clue where Adam was, he led Spearman Road. We were goin' to get cigarettes. We broke down. We borrowed someone's phone that was leavin' for work I'm guessin', uh, it was early, early in the mornin'. We borrowed his phone. Evan called Tiffany or I have no idea what ha -- what words were spoke on the phone, okay. We sit there forever, he drove by. When he drove by, that's when

I -- you're sayin' I knew that he was go -- or he was comin' from there, no, he was comin' from the opposite direction of the Spearman Road. I don't understand what you're tryin' to ask me here.

Q. I'm reading your statement ---

A. I understand that.

Q. --- when he came back to the parsonage he was coming from the direction a Spearman Road.

A. Yes, sir, he was.
Q. Was and you state that you knew he was comin' from Spearman Road. Point I'm making is the only way you coulda called is you burglarized him at the house and called Nikki.
A. Do you, ---
Q. Is that why you broke in the house?
A. --- do you have a phone record where there was a call ---
Q. I'll ask ---
A. --- askin' that?
Q. --- the questions, you just respond to your statement. Did you make this statement or not?
A. I, if I signed it, yeah, but also I just saw my friend get murdered, I was delirious.
Q. And on meth.
A. At the time no, I'd been cl -- I'd been off of it for a day. I mean, I was, I was ---
Q. Okay.
A. --- sober enough to -- I'd slept, oh, yeah, I was sober enough to think.
Q. So you had not been caught that very night shooting up meth by ---
A. No, 'cause I, ---
Q. --- Tiffany.
A. --- I mean, honestly we were out, ---
Q. Okay.

A. --- you want honesty.

MR. BURR: No further questions, Your Honor, thank you.

THE COURT: Alright, anything on redirect?

REDIRECT EXAMINATION BY MR. WAGNER:

Q. So you don't know where Ad -- which way did Adam come when when ya'll are on the side a the road and I believe you testified that ya'll were on the side of the road down here (indicating) where you borrowed the phone.

A. Yes, sir.

Q. Okay. Did he come down there and turn around or he just come by from tha -- this (indicating) direction towards me down from this (indicating) direction ---

A. He came from that (indicating) direction when he drove by.

Q. Okay. And he drove by, flipped ya'll off and waived and laughed.

A. Yes, sir.

Q. Okay. Why did ya'll go to the parsonage here (indicating) and stop?

A. Because we assumed that's where he was and that's as far as we could go. We couldn't make it back to Spearman Road.

Q. Okay, but he wasn't there.

A. No, he wasn't there but like I said, that was as far as we could get and we knew that he was eventually gonna be there.

Q. Okay, so ya'll sat in the car until he ---
A. Yeah.
Q. --- got there.
MR. WAGNER: Nothin' further, Your Honor.
THE COURT: Alright.
MR. BURR: One one ---
THE COURT: You ---
MR. BURR: --- que -- Your Honor, in reference to that.
THE COURT: Alright, for this witness only and then we're gonna keep it to direct, cross and redirect but ---
RECROSS-EXAMINATION BY MR. BURR:
Q. But ---
THE COURT: --- okay, go ahead.
Q. --- do you know where Evan's parents live?
A. Yes, sir.
Q. And isn't it true you rode right by their house to get to the parsonage?
A. Yes, sir.
Q. No more questions.
THE COURT: Alright, anything else? follow-up?
MR. WAGNER: No, sir, and ---
THE COURT: Alright, ---
MR. WAGNER: --- ask for, ---
THE COURT: --- you can step down.
MR. WAGNER: --- we'd ask for this witness to be excused.

THE COURT: Any objection?

MR. BURR: No objection.

THE COURT: Alright, you can step down, you're excused.

(Whereupon, the witness left the stand.)

MR. WAGNER: Call Sam McCall.

THE CLERK: Sir, if you would, please come forward to be sworn.

(Whereupon, the witness came forward.)

THE CLERK: You'll place your left hand on the Bible, raise your right hand.

SAMUEL DRESDEN MCCALL, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: If you would, state your full name and spell your last for the court reporter.

THE WITNESS: Samuel Dresden McCall, M-C-C-A-L-L.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Mr. McCall, where you from?

A. Uh, Westminster.

Q. You live there, uh, how long?

A. Ten years.

Q. Okay. Uh, were you livin' out there in at, in at least in the Westminster area back on July 9th of 2013?

A. Yes, sir.

Q. Uh, where do you work?

A. Uh, Total Environmental Solutions Foxwood Hills.
Q. Okay. Uh, is that anywhere near the parsonage out at Mount Pleasant, I think it's a Baptist Church but I'm not sure, it's a church out there.
A. Couple miles.
Q. Okay. Where this intersection where Mount Pleasant and Blackjack Road.
A. Blackjack Road, yes.
Q. Okay. Do you go through there on a way to work?
A. Just about every day.
Q. What time do you usually go?
A. Uh, the day in question it was at 6:58 in the mornin'.
Q. Okay. How do you know that?
A. Uh, clock on my radio.
Q. Okay. Uh, were you headin' towards Foxwood Hills at 6:58?
A. Yes, sir.
Q. Did you go by that church?
A. Yes.
Q. Let me show ya a aerial photo, uh, I sorry, the easel's not up. Do you recognize, uh, ---
(Indiscernible cross-talk.)
MR. WAGNER: Your Honor, if I could have, ask if he could step down.
THE COURT: Alright, yes, sir, you can step down and come

down. Make sure you ---

MR. WAGNER: Come come around.

THE COURT: --- speak up so the court reporter and everybody else can hear.

(Whereupon, the witness left the stand.)

BY MR. WAGNER:

Q. Do you recognize Blackjack Road, ---

A. Yes.

Q. --- Mount Pleasant Road, this (indicating) intersection?

A. Yes.

Q. Okay. Uh, which direction on that mornin' on the 9th of July 2013, which way were you comin' and which way were you headin'?

A. I was comin' down Blackjack headin', goin' past Mount Pleasant, goin' out to Foxwood but I was in this area right here (indicating), ---

Q. Okay.

A. --- I was headed that (indicating) way.

Q. Alright. What, if anything, did you see?

A. When I was comin' down Blackjack, I noticed Evan runnin' down the road right here (indicating) around this curb and as I was comin' down I seen him fall face first. There's a two-way sign right here (indicating), ---

Q. Okay.

A. --- I seen him fall face first right there (indicating)

and I ---

Q. Like face planted face first?

A. Yes, fell face first.

Q. Did he try to stop himself at all?

A. Uh, he just hit the ground ---

Q. Okay.

A. --- and ---

Q. How did you know him?

A. Uh, ---

Q. Well do you know him or know of him?

A. I know of him slightly, not a whole lot, you know, but I I do know him.

Q. Okay, you knew who he was.

A. Yes, I do know who he was and as I was comin' 'cause I never did slow down 'cause, you know, he was runnin' down the hill and then maybe 50 foot, 50 yards behind me, somethin' like that, 50 foot, uh, the Burdette boy was comin' down behind me.

Q. Did you know him or of him?

A. I never have seen him.

Q. Okay, you you saw a guy there, ---

A. Yes.

Q. --- where where did you see the other guy?

A. He was, Evan was 'bout here (indicating) when he fell and the other guy was 'bout in in this area right here

(indicating).

Q. Okay. Did you see anybody else?

A. Up up next to the house there was a green SUV Blazer sittin' there and there was a guy standin' up there in a white t-shirt.

THE COURT: Hold on just a second. Uh, can you move that out and let him stand to the side so everybody ---

MR. WAGNER: I'm sorry, Judge, ---

THE COURT: --- can see. That's okay.

MR. WAGNER: --- this easel's -- leaves a lot to be desired if I . . .

BY MR. WAGNER:

Q. Okay. Show us again, I'm sorry, one more time on ---

A. There was a, there was a green SUV Blazer sittin' here (indicating) right in fronta the parsonage and there's a guy with a white t-shirt standin' there (indicating). I don't know who he was or nothin' but this is all I seen as I was goin', you know, down this (indicating) direction.

Q. Okay, so you saw Tyner face plant down here (indicating), ---

A. Yes.

Q. --- saw another guy up here (indicating), ---

A. Yes.

Q. --- what what did he do? what was he doing? what was your impression of him?

A. Well when I, when I seen Mr. Tyner runnin' down there and when he fell, the other fella, the other guy right behind him had turned around and went like, you know, like, Dang it, you know, like somethin' was wrong, you know, uh, like he's upset 'cause the other boy fell or sumtin', I don't know, and it was, I mean, it was all in the time that I was drivin' too so I -- that ---

Q. Was anything about him that you noticed?

A. About?

Q. 'bout the guy that was standin' halfway up.

A. Just looked like he was upset or, you know, mad because sumtin' happened 'cause, you know, when he, when Mr. Tyner fell over he was behind me but then when he fell he just, you know, turned all the way around and went like, you know, like sumtin' happened, you know, like dang it with his fist balled up.

Q. Your impression of him was he was what?

A. Looked like he was upset or mad about sumtin', I don't know, ya know.

Q. What did you think had happened?

A. I -- that maybe ---

MR. BURR: Objection, Your Honor.

THE COURT: Alright, now not what he thought happened, you can only ---

MR. WAGNER: Yes.

THE COURT: --- testify what you saw.

BY MR. WAGNER:

Q. Let me ask ya this: Did ya hear a gunshot?

A. No, sir.

Q. Did you, did you see a gun in anybody's ---

A. No, ---

Q. --- hand?

A. --- I did not.

Q. Okay. Uh, what what, if anything, did you do, what what's the next thing you know about the case or did you keep on goin'?

A. Yes, sir, I went on across the hill and on towards work and I just thought he was either fightin' or, you know, doin' sumtin'. I, you know, you didn't never 'cause you'd never known what happened, ya know, it ---

Q. Did you, was anybody workin' with you that you talked to later that mornin', anybody ya work with?

A. Yes, a a fella that works with me he come, he was just right behind me, just a few miles behind me but he come right down that that same road right behind me and I think he stopped there too.

Q. Okay, did you go back up to the scene later on?

A. I did.

Q. Okay. Did you talk to the sheriff's office up there?

A. Yes.

Q. Uh, well who was the guy that worked with ya, what was his name?

A. Matthew Poore.

Q. Thank you, sir, that's all the questions I have, if you could just have a seat back up there, thank you.

(Whereupon, the witness returned to the stand.)

MR. BURR: Your Honor, I don't have any questions for Mr. McCall.

THE COURT: Okay. Alright, uh, can he be excused?

MR. BURR: Yes, Your Honor.

MR. WAGNER: Yes, please.

THE COURT: Alright, you can be excused, thank you.

(Whereupon, the witness left the stand.)

THE COURT: Alright, call your next witness.

MR. WAGNER: Matthew Poore.

THE CLERK: Sir, if you would, please come forward to be sworn.

(Whereupon, the witness came forward.)

THE CLERK: You'll place your left hand on the Bible and raise your right hand.

MATTHEW POORE, having been first duly sworn, testified as follows: sworn.

THE CLERK: Please be seated.

THE COURT: If you would state your full name and spell your last name, please.

THE WITNESS: Matthew Poore, P-O-O-R-E.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Mr. Poore, where where you from?

A. Uh, Seneca, South Carolina.

Q. Do you work with Sam McCall who was just in here?

A. Yeah.

Q. Okay, and where do ya'll work?

A. Uh, Total Environmental Solutions.

Q. How long ya'll worked there?

A. Two or three years.

Q. When ya'll go to work every day, do you go down Blackjack Road headin' towards Foxwood Hills?

A. Yeah.

Q. Back on July 9th 2013 were you headed down Blackjack Road towards Foxwood Hills, uh, around seven o'clock in the mornin' thereabout?

A. Yeah.

Q. Okay. What, if anything, did you see? Your Honor, if I could, uh, ask this this witness step down take a look here.

THE COURT: If you would, you can step down and point but make sure you speak up and step to the side of the easel.

(Whereupon, the witness left the stand.)

BY MR. WAGNER:

Q. Do you recognize Blackjack Road and Mount Pleasant Road ----

A. Yeah.
Q. --- intersection here (intersection)?
THE COURT: Alright, sir, step -- pull -- come here so they can all see, okay. Alright, go ahead.
BY MR. WAGNER:
Q. Okay. Do you u -- do you see that is an aerial picture, do you understand where where that is?
A. Yeah.
Q. Okay. Which direction were you headed?
A. I was goin', I was comin' this (indicating) way and I stopped probly right here (indicating) and Bur ---
Q. Why did, why did you stop?
A. 'cause, uh, Burdette, uh, flagged me down talkin' about 911, Tell ---
Q. And ---
A. --- 'em where we are, tell 'em where we are.
Q. --- what what did you see? What what what -- when when you're comin' down that road, what what did you see?
A. Uh, the the other boy was layin' there on the ground and he was, he was over him and he was just freakin' out tryin' to tell 911 where where he was so I I rolled down the window and I told 'em where we was.
Q. Okay. Did you see, uh, any vehicles up here (indicating)?
A. Uh, think there was a green Blazer.

Q. Okay. Was there a white truck up here (indicating)?
A. No, sir, I don't recall that.
Q. Okay. Did you see anybody else there besides the defendant and the victim?
A. No.
Q. Okay, uh, nobody else standin' around or anything?
A. No.
Q. What was the victim wearing? Did you know Burdette?
A. No, sir.
Q. Did you know who he was?
A. No, sir.
Q. What was he wearin'?
A. I think was a blue stripe shirt.
Q. Okay, uh, and did they -- did he put you on the phone with 911?
A. Yeah, he just hand it to me.
Q. Did you tell the 911 operator what you saw?
A. Yeah.
Q. Did you stay there 'til sheriff's office got there?
A. Yeah.
Q. And did you by chance call Sam McCall?
A. No, he called me on my work phone, asked me where I was, ---
Q. Okay.
A. --- I told him and he turned around and came back.

Q. Do you know how far behind Sam McCall you were?
A. Couple minutes.
Q. Okay. Uh, had you talked to the sheriff's office about what you'd seen?
A. Uh, yeah.
Q. Okay. You could, sir, have a seat back up there, answer any questions the defense may have.
(Whereupon, the witness returned to the stand.)
MR. BURR: May it please the Court, Your Honor.
THE COURT: Yes, sir.
CROSS-EXAMINATION BY MR. BURR:
Q. Mr. Poore, you were interviewed by law enforcement and gave a written statement the day this happened July 7th 2013m and reinterviewed October 14th 2013 ---
A. Yeah.
Q. --- and in both those statements you say that the, uh, Mr. Burdette was was in a panic ---
A. Yes.
Q. --- and he was so panicked and hysterical he couldn't even talk on the phone?
A. Yes, sir.
Q. And on the, and October 14th you stated he kept sayin' he was accidentally shot?
A. Yeah.
MR. BURR: No further questions, Your Honor.

THE COURT: Anything on redirect?

MR. WAGNER: Yes, sir.

REDIRECT EXAMINATION BY MR. WAGNER:

Q. Uh, in your statement that you gave on the 14th, do you remember tellin' them that, uh, he ha -- when h -- when you pulled up that he said he had thrown the gun?

A. I think it was in there.

Q. Okay.

A. He -- Ms. -- uh, Tell me, tell 'em where we at and he's accidentally shot, the gun's layin' over yonder somewhere, it happened all so quick.

Q. Did you understand what he was sayin' when he was -- what was your impression on what he said when he threw the gun?

A. I didn't know what to think, ---

Q. Okay.

A. --- I was just doin' what I thought was right.

Q. No further question.

THE COURT: Alright, you can be excused, thank you, sir.

(Whereupon, the witness left the stand.)

MR. WAGNER: Lisa Honea. Your Honor, I ask Mr. Poore be excused.

THE COURT: Yeah, he he be excused.

THE CLERK: Ma'am, if you would, please come forward be sworn.

(Whereupon, the witness came forward.)

THE CLERK: If you'll place your left hand on the Bible, raise your right hand.

LISA HONEA, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: Ma'am, if you would, state your full name and spell your last for the court reporter.

THE WITNESS: It's Lisa Honea, H-O-N-E-A.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Ms. Honea, what do -- where do you live and what do you do for a livin'?

A. Uh, I'm an EMT by trade but I volunteer for County Emergency Services.

Q. Okay. Were you doin' that back on July 9th 2013?

A. I was.

Q. And where do you live and where do you live in relation to Mount Pleasant Church?

A. Um, I live on Blackjack Road and it's about two-tenths of a mile from Mount Pleasant Church.

Q. Which direction, uh, if you're goin' back towards 11?

A. Back toward 11, yes.

Q. Okay, uh, let me just -- keep your seat but, uh, if this is a blown up picture, here, the church is over here (indicating)?

A. Um-hum.

Q. Here's (indicating) the parsonage, here's (indicating) the intersection a Blackjack and Mount Pleasant, do you live that (indicating) direction?

A. I do.

Q. Okay. Were you home on the mornin' a July 9th 2013?

A. I was.

Q. And, uh, did anything unusual happen to you that day or did you notice anything, hear anything, see anything unusual?

A. I did.

Q. What was that?

A. Um, right around 7, little before 7 that morning I heard a gunshot as I was turnin' my TV off to go to work.

Q. Okay. Uh, did that, ---

A. It ---

Q. --- did that make you wonder or what ---

A. Well it, not hearin' the gunshot but the fact that it was so early, ---

Q. Okay.

A. --- yeah.

Q. Uh, could ya hear anything else?

A. Uh, once I went outside I did hear some voices, some yelling it sounded like to me so I I walked around to my front yard and looked up down the road but I couldn't see anything from my house.

Q. Okay. Uh, what, uh, what did you do and when you were gettin' ready for work, were you already dressed and, I mean, ---

A. Yes, I was already dressed, ---

Q. Alright.

A. --- I was goin' out the door.

Q. Did you receive any kind of a call from ---

A. I did. Uh, we got a ca -- page from the county sayin' we had a cardiac arrest and it was at my pastor's or the church's address and so, uh, I responded to that call at ---

Q. Okay.

A. --- my house.

Q. How far away again was that?

A. Two-tenths, two-tenths of a mile.

Q. So you got there relatively quick?

A. Yes.

Q. Uh, what did you see when you got there?

A. Uh, when I first pulled up, uh, Adam was standing in the roadway and he was flaggin' me down so I stopped and I got out and, uh, I ask him what had happened. Uh, his speech was really jumbled, he wasn't makin' a lotta sense, he s -- like his thoughts were comin' faster than his words.

Q. Do you know him?

A. I do.

Q. Okay. Uh, what did he tell ya?

A. Uh, at that time at first he was just sayin', You gotta help him, you gotta help him, you gotta help him, you need to do somethin' to help him, and then, uh, that's when I kinda put the whole gunshot and what, you know, when I saw the victim layin' in the roadway and the gunshot then I kinda put everything together and, uh, I ask him, I said, Where's the gun, and he said, I throwed it, it went off.

Q. Okay. What did you take it to mean by him sayin' that? What what was your take on what he was tellin' you?

A. My take was that when he throwed the gun it had went off.

Q. Okay, but threw the gun, it hit, goes off, ---

A. Goes off, ---

Q. --- hit hit the victim?

A. --- yes.

Q. Alright.

A. Yes.

Q. Uh, what did you do until who else got there next?

A. Uh, at that time I approached the victim. Uh, I looked, he was face down so I looked and I saw the entry wound. Uh, I noticed that there was very little blood and so I checked for a pulse at this time and, uh, respirations which were absent. Uh, I went back to my car and got my equipment and I came back over and I rolled the victim over, started CPR.

Q. Okay. Was there anybody else on the scene besides the

defendant when you got there?
A. Yes, there was but I do not know who that was, it was a passerby from my understanding.
Q. Okay. Was there any other, any other people? There any other younger males, uh, anybody else there or did you notice a white truck?
A. Not that I can recall, no.
Q. Thank you, ma'am, that's all the questions I have. If you would answer anything ---
MR. BURR: May it please the Court, Your Honor.
THE COURT: Yes, sir.
CROSS-EXAMINATION BY MR. BURR:
Q. Ms. Honea, in your earlier statement you did state that Adam was hysterical?
A. Yes.
Q. And you also stated he simply, you stated, I threw the gun, ---
A. Um-hum.
Q. You didn't say, I threw the gun and it went off but just I threw the gun. No further questions, Your Honor.
THE COURT: Anything on redirect?
MR. WAGNER: Briefly, Your Honor.
REDIRECT EXAMINATION BY MR. WAGNER:
Q. I thought you said earlier that you said he threw the gun and it went off, what ---

MR. BURR: Objection, Your Honor. When she answered that question, she did not say that. He said, Is that what you thought it meant.

THE COURT: Well I -- a -- go ask your question. Don't ask what she said, just let's clear it up, you can ask and I'll give you a little leeway.

BY MR. WAGNER:

Q. Whatever he said to you what was your take on on what he was telling you?

MR. BURR: Objection, Your Honor, simply what he's sayin'.

THE COURT: Well there wasn't objection the first time, I'm gonna let -- his question before was what was your take on it and she said, I think, that he had thrown the gun and it went off. I'll let ya ask that question because I think it's already in. Go ahead.

THE WITNESS: My take was that he threw the gun, it had went off.

MR. WAGNER: Okay, thank you.

THE COURT: Alright, you need any ---

MR. BURR: That's fine, Your Honor.

THE COURT: Alright, you can step down and any -- she can be excused?

MR. WAGNER: Please.

THE COURT: Alright, you're excused.

(Whereupon, the witness left the stand.)

MR. WAGNER: Larry Carter.

(Whereupon, a discussion was held off the record.)

THE CLERK: Sir, if you would, please come forward be sworn.

(Whereupon, the witness came forward.)

THE CLERK: If you'll place your left hand on the Bible, raise your right hand.

LARRY BRUCE CARTER, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE WITNESS: Alright.

THE COURT: If you would, state your full name and spell your last for the court reporter, please.

THE WITNESS: Okay. It's, uh, Larry Bruce Carter, and, uh, Carter C-A-R-T-E-R.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Mr. Carter, uh, where do you live and what do you do?

A. I live on, uh, [redacted] uh, out on Blackjack Road in Westminster and I work for, uh, Lift Technologies.

Q. Okay. Uh, do do you only go to work early?

A. Yes, sir.

Q. Back on July 9th 2013 did you go to work early that day?

A. Uh, yes, sir, I usually try to leave to go to work about

'bout fifteen after 5 to 5, uh, 5:30 usually in the morning.

Q. Uh, do you remember what time ya left approximately day?

A. I left about 5:30 that mornin' to go to work.

Q. Did you notice anything unusual in your driveway?

A. Uh, yes, sir. When I went, when I went out to go to work, uh, there was a vehicle parked at the top a my driveway.

Q. What kinda vehicle?

A. It was a little SUV, a small SUV.

Q. Okay.

A. I drove up to the top a the driveway to to to see what was goin' on. Uh, when I got up to the top a the driveway there was, uh, three guys there at the vehicle, uh, there was two of 'em out. Uh, the driver he was wearin' a hat, he was over lookin' at the vehicle and there was a younger guy, uh, he came, uh, he came down there to me and told me they was havin', uh, vehicle trouble, so I approached the vehicle and the guy asked me if I knew anything about the vehicle and I said, uh, a little bit and I looked and it looked like they was havin' trouble with the right front, uh, the right front tire on it, they was havin' issues with it.

Q. Okay. Uh, did they ask to use your phone?

A. Yes, sir.

Q. And did they make a phone call with with your phone?

A. Yes, sir, they did.
Q. Okay. Did, uh, after they made that phone call were you still there when they left?
A. Uh, yes, sir, they, uh, after the phone call they had, uh, got back in the vehicle and they backed out in the road, they turned the emergency flashers on and they drove down the road really slow just and I watched 'em go all the way outta sight, I sat there and watched them 'til, you know, went outta sight.
Q. Did they appear to you to be really havin' car trouble?
A. Yes, sir, it appeared like that they was havin' issues with like I said with the right front tire.
Q. Okay. Uh, do you know any of the boys involved? You know any of the three that were there?
A. No, sir.
Q. Okay. Have you ever seen 'em before?
A. No, sir.
Q. All of 'em fairly young guys?
A. Uh, the one of 'em seemed to, seemed to be pretty young, the one that approached me, he's kinda dark-headed kinda kid and the other one he was wearin' a hat and there was a heavier-set, uh, guy, he was sittin' in the back a the car, he never got out, it was just ---
Q. Okay.
A. --- those other two.

Q. Okay. Thank you, sir, that's only questions I have.

MR. BURR: May it please the Court, Your Honor.

CROSS-EXAMINATION BY MR. BURR:

Q. Mr. Carter, in your written statement, you said they left at 5:34, how were you so exact on the time?

A. Well 'cause normally I try, I I'm usually leavin' to go to work by 5:30, I always wanna leave and I sittin' there watchin' 'cause I was afraid I was gonna be late.

Q. So it was just an estimate or ---

A. It's just -- yeah.

Q. Okay. No further questions, Your Honor, thank you.

THE COURT: Anything on redirect?

MR. WAGNER: I ask he be re -- excused, Your Honor.

THE COURT: Alright, you can be excused. Thank you, sir.

THE WITNESS: Okay. Thank you.

MR. WAGNER: Keep goin', uh, you want me to.

THE COURT: Uh, as long -- I -- let's go for ten more minutes ---

MR. WAGNER: Yes.

THE COURT: --- you can get what you can in.

MR. WAGNER: Kelcey Dickson.

THE CLERK: Ma'am, if you would, please come forward be sworn.

(Whereupon, the witness came forward.)

THE CLERK: You'll place your left hand on the Bible, raise your right hand.

KELCEY LYN DICKSON, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: If you would, state your full name for the record and spell your last, please.

THE WITNESS: Kelcey Lyn Dickson, D-I-C-K-S-O-N.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Ms. Dickson, where you live?

A. With my ---

Q. Where you from?

A. Here.

Q. Okay. Uh, back on July 9th 2013 were you living, uh, here in Oconee County?

A. No, I had moved. I had been in New Jersey for maybe two weeks, I got outta the hospital and went straight to New Jersey.

Q. Okay. Prior to that had you used to date, uh, the victim in this case Evan Tyner?

A. Yes, sir.

Q. Okay, and how long prior to July 9th 2013 how long did ya'll, what was ya'lls status at that point?

A. We weren't together but we had been on and off since we were kids.

Q. Okay. Uh, do you also know the defendant Adam Burdette?
A. Yes, sir.
Q. Were you talkin' with Adam Burdette in the weeks prior, few weeks prior to July 9th 2013?
A. Yes, sir, when I was in the hospital.
Q. Okay. Uh, did Evan's name come up?
A. Yes, sir.
Q. Okay. What, if anything, did the defendant ---
MR. BURR: Object ---
Q. --- say?
MR. BURR: --- to relevance what was done several weeks before this incident.
THE COURT: Uh, you you gonna tie it in?
MR. WAGNER: Yes, sir, I ---
THE COURT: Alright.
MR. WAGNER: --- believe it's relevant, Your Honor, I ---
THE COURT: Alright, I'll allow you to ask few more questions. Ma'am, you need to really speak up though ---
THE WITNESS: Yes, sir.
THE COURT: --- okay?
BY MR. WAGNER:
Q. Okay. What, if anything, did this defendant tell you about Evan Tyner a few weeks prior to this incident?
A. Uh, I'd asked him if he talked to Evan, uh, 'cause I lost contact with him and he told me that he had spoke to him, when

he saw him his ass was his.
Q. His ass was his.
A. Yes, sir.
Q. Okay. What -- and did they have an ongoing rift between them ---
A. I mean, ---
Q. --- that you know?
A. --- off and on, you know, it was Adam and Evan, they bickered back and forth a couple times, uh, but they were always okay after a little bit, I never, you know, thought anything about it.
Q. Thank you, ma'am, that's the only questions I have.
MR. BURR: I have no questions, Your Honor.
THE COURT: Alright, you can step down.
MR. WAGNER: Your Honor, I ask she be excused.
THE COURT: Yes, ma'am, you can be excused.
(Whereupon, the witness left the stand.)
THE COURT: If you're at a good point for you to stop, that's fine.
MR. WAGNER: Well probably are ---
THE COURT: Okay, ---
MR. WAGNER: --- lookin' at ---
THE COURT: --- they've been waitin'. Alright, ladies and gentlemen, we're gonna break for lunch now, uh, got a couple things to do while you're gone, it's ten after, if

THE CLERK: You'll place your left hand on the Bible, raise your right hand.

JOSHUA FRED ANDERSON, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE BAILIFF: Uh, right there.

THE COURT: If you would, state your full name and spell your last for the court reporter, please.

THE WITNESS: Joshua Fred Anderson, A-N-D-E-R-S-O-N.

THE COURT: Alright, yes, sir.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Mr. Anderson, where you from?

A. From Fair Play.

Q. Okay. Uh, how long you been livin' around these parts?

A. My whole life.

Q. Back on, uh, in July 2013, uh, were you friends with the victim in this case Evan Tyner?

A. Yes.

Q. Were you friends with defendant Adam ---

A. Yes.

Q. --- Burdette? Were you friends with a guy known as "Bubba" Richard Bagwell?

A. Yes, I I hadn't known "Bubba" but probly met him about a week before that.

Q. Okay. Were you also friends with the defendant's

brother?
A. Yes.
Q. Okay, so you've known them, ---
A. Yeah, all of 'em.
Q. --- all all of 'em a pretty good while except for "Bubba".
A. Yeah.
Q. Okay. Uh, on July 9th 2013 day before that, the 8th, were you hanging out, uh, at the residence where the defendant lived with Tiffany?
A. Yes, ---
Q. Let's ---
A. --- we were all there.
Q. --- let's say it's the wife, girlfriend, fiancee, whatever she was at the time, were they -- they lived there together I believe.
A. Yes, in the trailer?
Q. Yeah.
A. Yes, we we were ---
Q. Do you ---
A. --- all there for few days before that ---
Q. Okay.
A. --- I guess.
Q. And what were ya'll doin' there?
A. I mean, just there, hangin' out, you know.

Q. Okay. Was there drugs bein' used?
A. I mean, I -- maybe at times, I don't know.
Q. Well it seems like somethin' you would know. Uh, were ya'll usin' meth?
A. Well, yeah, I mean, there's some of it was done, yeah.
Q. Okay. Uh, at some point in time on the 8th, uh, did you notice anything in regards to the relationship between the defendant and Evan Tyner? What happened?
A. I mean, I don't know. There was arguin' but I don't, I didn't pay it that much attention. I don't know, I didn't didn't get involved in that kinda stuff.
Q. Well who did you, who would you see arguin' with who?
A. What was the question now?
Q. Who did you see arguin' with who?
A. I don't know. I mean, it was just a -- I, like I say, I didn't pay it a whole lot of attention, it just a argument, I don't even know why it was, what was bein' argued about or any a that.
Q. Okay. Was the result a that argument or soon thereafter did anybody leave the residence?
A. Yeah, Adam left ---
Q. Okay.
A. --- the night before that at some point, I don't know.
Q. Yeah, on the I believe the 8th, the night before all this happened.

A. Yeah.
Q. Okay. So at some point in time this happened at seven o'clock in the mornin', it was sometime in the darkness hours or around that time, ---
A. Yeah, I guess.
Q. --- day before?
A. Yeah.
Q. Okay. Uh, after he left and what kinda mood was he in when he left?
A. I I don't know. I mean, like I say, I didn't pay that part of it that much attention, I just know he left, that he wasn't there so . . .
Q. Okay. What did ya'll decide to do?
A. I mean, we just, we just set there. I mean, I don't -- we didn't decide anything really, um . . .
Q. Who's "we"?
A. Any of us. I mean, we were just there. I don't know.
Q. Who all was there at that time?
A. Well everybody but Adam.
Q. Okay. Uh, and I I take that to mean "Bubba", Evan ---
A. Yeah.
Q. --- you, Nikki, Tiffany ---
A. Yeah.
Q. --- and the kids?
A. I don't, I don't know if the kids were there or not. I

guess they were, they woulda been in the bed by then though.
Q. Okay. Uh, at point, any point in time did ya'll decide to go to Walmart to get cigarettes?
A. Yeah, that was in the mornin' though, it was before daylight but it was in the mornin' hours.
Q. Okay. Uh, do you know approximately what time you left to go get these cigarettes?
A. I do -- it's probly around four o'clock I guess.
Q. What kinda vehicle did you use to transport yourselves towards Walmart?
A. We drove the Blazer.
Q. Okay, what color was it?
A. The green Blazer.
Q. Uh, and who did it belong to?
A. I I gu -- I mean, it was Alvin and the Burdettes owned it I guess. I mean, I don't ---
Q. Who gave you permission to take it?
A. I I don't know.
Q. Okay.
A. I mean, we just drove the Blazer. I don't ---
Q. Alright. Who went in the Blazer towards Walmart?
A. Me and Evan and Bubba.
Q. Okay. Did ya'll stop anywhere on the way there?
A. Yeah, we stopped by to get somethin' for Tiffany from Adam, I don't know, I didn't, I didn't get out.

Q. Okay, so was that at the parsonage where you stopped?
A. Yeah.
Q. Alright. Uh, did anybody get outta the car there?
A. Yeah, Evan got out and got whatever we went by there to get for Tiffany and then he got back in, we left.
Q. Okay. Uh, do you remember anything about a debit card?
A. That that that might be what he stopped and got, I don't . . .
Q. Did you see Adam while ya'll were there?
A. Yeah, I mean, Adam got to give Evan the debit card and we left.
Q. Okay. Uh, and where did ya'll go and what happened after that?
A. When we left there, we started down Blackjack Road and that's when the wheel bearin' went out in the Blazer and we didn't make it far so we mighta made it a mile down Blackjack Road and . . .
Q. What happened? Uh, what what kinda -- how did you know the wheel bearin' went out? What was the car doin'?
A. Well you could feel the, you could feel the wheel want kick sideways on it, I mean, it was ---
Q. Was it makin' a lotta racket?
A. Yeah, you could hear the bearin's shootin' pieces off the back and stuff, I mean, it it went bad fast, it ---
Q. Did you ever make it to Walmart?

A. No, we didn't make it. We mighta made it a mile down the road.

Q. Okay. Uh, did you pull over the side a the road?

A. Yeah, we pulled over in a driveway off a Blackjack Road.

Q. And did you encounter anybody there?

A. Yeah, somebody finally come down, whoever lived in the house at the bottom a that driveway, he come down, let Evan use the phone.

Q. Did ya'll not have a phone with you?

A. Nah.

Q. Uh, did Evan make the call?

A. Yeah, I think he called Tiffany.

Q. What happened after that?

A. We pulled, from there down to Blackjack Road, we pulled there on the side a the road so maybe somebody could see us 'cause in the driveway we were in you couldn't see us from the road so we pulled down on the side a the road and we sit there for I don't know how long, it was after daylight we sit there.

Q. Okay. Uh, so after daylight did you see anybody while you were sittin' there?

A. Yeah, Adam drove by and, uh, we sit there for a few more minutes, I don't know how much longer we sit there after he drove by 'cause I didn't know if he was gonna come back or

what so we sit there and then we finally pulled from there to the parsonage.

Q. Okay. Was the car still makin' a pretty bad racket?

A. Well, yeah, I mean, we just, it was still messed up.

Q. What did Adam do when he drove by?

A. I don't know, I mean, he just waived out the window is what I thought he done, I don't know, I mean . . .

Q. Did he stop? slow down?

A. No, he just, he kept goin'.

Q. Okay. Uh, why did ya'll go from there to the parsonage?

A. Well 'cause I, we just sit there and nobody else come by so we just drove from there and I I was gonna walk home from there but I just told Evan to pull it to the parsonage and I'd walk home, they could do whatever they wanted to, I mean, . . .

Q. Alright, so did ya'll pull to the parsonage?

A. Yeah.

Q. And did you pull in, park in the driveway?

A. Yeah.

Q. Did ya'll get out?

A. No, we hadn't, we hadn't sit there two or three minutes, I mean, we didn't sit there long.

Q. What happened in those two or three minutes later after you been sittin' there, what happened?

A. Well that's -- Adam pulled up.

Q. Okay, and what did he do?
A. Well, I mean, he got out and he went through the carport there and come back and that's when he had the shotgun.
Q. Okay. He go around the back a the house?
A. I don't know where he went. He went through the carport, that's all I know. I guess he woulda had to if he went.
Q. Where in the car were you sittin'?
A. I was in the backseat.
Q. Alright.
A. Like I say, I couldn't see a whole lot when he went through, he went in that direction to the carport, I don't know where he went from there.
Q. Alright, so he went in, did he say anything when he went by ya'll?
A. That that I I couldn't hear if he said anything or not. Uh, ---
Q. Alright, so he comes back out with a shotgun.
A. Yeah, I guess, I mean, I just heard the gunshot, the first time he shot up under the Blazer, whatever, I mean, . . .
Q. Okay, so you didn't see him come out with a shotgun.
A. Well, I couldn't see anything, I was in the backseat, I mean, . . .
Q. Then what happened?
A. Bubba, Evan and Bubba they got out and run and then when

I got outta the backseat, I mean, I was just standin' there, I mean, you know, and that's when, I mean, the Evan was roundin' the curve turnin' onto Blackjack Road there, you know, and he fired the gun the second time but, I mean, he just turned and threw the gun, it it went off, you know, I mean, he ---

Q. Okay, uh, he just turned and threw the gun.

A. I mean, he just threw the gun up, I mean, you know. He didn't turn and aim and gun the boy down, you know, I mean, . . .

Q. Okay. You remember talkin' to sheriff's office right after this happened?

A. When the investigator came?

Q. Yeah.

A. Yeah, I talked ---

Q. Well let ---

A. --- to him.

Q. --- me tell you this: A -- after Evan fell did you walk down there and check on him?

A. I walked about halfway down there and then that's as far as I walked.

Q. Wha'd you say to Adam?

A. I didn't say anything to Adam. I mean, I give Adam phones then he called 911.

Q. Where'd you get the phone?

A. I got the phone outta Adam's truck.

Q. Okay, uh, and then he called 911 from there.
A. Um-hum.
Q. What did you do?
A. I s -- I walked back away from where Evan was layin' and then I ended up leavin'.
Q. Okay. Uh, you you endin' up leavin', how did you leave?
A. Bubba took me to the, back to the trailer and then that's when Tiffany and Nikki came, they went back with Bubba and I stayed there with her kids.
Q. Okay. Did they ask you to stay there with the kids?
A. Well they were leavin', somebody had to stay there with the kids, ---
Q. Okay.
A. --- um, . . .
Q. Uh, so immediately after this happened you basically left straight away and went to ---
A. Within minute or two ---
Q. --- to their house.
A. --- yeah, I mean, ---
Q. Okay, ---
A. --- it wasn't long.
Q. --- so you didn't talk to anybody, didn't have any contact with anybody.
A. No.

Q. Uh, and then it wasn't probly long before sheriff's office ended up comin' down there and talkin' to ya.
A. Yeah, I don't know what time it was when they came but ---
Q. Okay, ---
A. --- probly ---
Q. --- talk to any, ---
A. --- a couple hours, whatever.
Q. --- did you talk to anybody between the time you left the scene and the time you talked to David Smith with sheriff's office?
A. No, not that I know of.
Q. Okay. Uh, do you remember givin' him a statement?
A. Yeah, I told, I gave him a statement. He wrote down whatever he wrote, I mean, . . .
Q. Okay. Let me show ya ---
A. I didn't write anything, he wrote it. I just told him and he wrote.
Q. Okay. Uh, you told him what happened.
A. Um-hum.
Q. Alright, and he wrote it, you're sayin' he wrote it for you?
A. He wrote it as I told him. I just told him I wasn't gonna write anything. I told ---
Q. You remember him readin' ---

A. --- him not to ---

Q. --- it back to you?

A. I don't know if he read it back to me or not.

Q. Okay. Do you remember signin' it, uh, four places, two times on each page?

A. I don't know.

Q. Do you remember sayin' that that was your statement and that's what you gave?

A. Well, I mean, I told him what happened, ---

Q. Let me ---

A. --- he wrote it down and I, uh, ---

MR. WAGNER: Your Honor, may I approach?

THE COURT: Yes, sir.

BY MR. WAGNER:

Q. Let me show you the statement here and I, uh, . . .

A. Yeah, I mean that's, I mean, except for where he wrote right there, I mean, that's not what I told him.

Q. Except what?

A. Except where he's wrote that Adam pointed the gun towards Evan, I mean, ---

Q. What what did, what did you say?

A. I mean, Adam just turned in that direction, he didn't necessarily he didn't ---

Q. Well I understand but the way my my question is ---

A. --- he didn't even have the gun all the way up, I

mean, ---

Q. Let ---

A. --- I don't know.

Q. -- let's start at the top a Page 2 here and read -- tell us what you said.

A. Which part? I mean, what do you want?

Q. Let's see here. Uh, this (indicating) whole paragraph. Let's just read the whole paragraph, just just few sentences.

A. "Adam went in the house and he came out with a gun. He came outta the house screamin'". I don't know ---

THE COURT: Hold on a second. Read slower and and read it. Go ahead.

A. "Adam went inside the house and came out with gun. He came outta the house screamin'. Adam shot into Blazer. We got outta the Blazer. Bubba ran one way, Evan ran towards Blackjack down the road," and then this part, this is -- I don't know here it says, "Adam point a gun towards Evan and shot him in the back," but, I mean, that's not what I told him.

Q. Adam pointed the gun towards Adam, shot him in the back, that's what you said.

A. That's what this says, ---

Q. Okay.

A. --- that's not what I said.

Q. And you sign that as your statement.

A. Well I understand that but that's just, I told ---

Q. Okay.

A. --- him then what happened, he wrote it ---

Q. Alright, ---

A. --- and I guess ---

Q. --- but ---

A. --- he handed it to me and I signed it. I ---

Q. Alright. I guess it's a while ago when you told me that you didn't see him come outta the house with a shotgun, you told them that day that you did. Adam went ---

A. I was sittin' ---

Q. --- in the side a the house and came ---

A. --- in the backseat of the ---

Q. --- out with a ---

A. --- Blazer, I mean, I just know he went through the carport towards the house. I mean, I don't know where he actually went.

Q. Okay. And he came outta the house screamin', what was he screamin'?

A. I don't know.

Q. Was he sayin' anything like, ---

A. I don't know.

Q. --- You're not gonna take my kids?

A. Why would any of us take his kids? I don't know what -- I mean, I don't know what he said.

Q. He shot into the Blazer.
A. He shot in that direction, I mean, . . .
Q. Ya'll were sittin' in the Blazer.
A. Yeah.
Q. So at that point in time Evan and Bubba get out, they were bookin' it, right, ---
A. Yeah, that's when they ---
Q. --- they were getting outta there.
A. --- got out and ran.
Q. Okay, you you stayed there ---
A. Well, I mean, by the time I got outta the backseat, I mean, it was, it's only a few seconds, I mean, wasn't, uh, I got outta the ba -- backseat Adam was standin' right there, I mean, there wasn't no point in me runnin', I mean, . . .
Q. Well he didn't have a beef with you, did he?
A. Not that I know of. I don't know, I mean, . . .
Q. You're sayin' you never told David Smith this, at least this once part where you said he pointed a gun at Evan and shot him in the back?
A. That's that part I -- as I've never said that, no.
Q. Okay. If we could, Your Honor, could we ask the witness to step down.

THE COURT: Yes, sir. If you would, step down, he's gonna have somethin' to show ya.

(Whereupon, the witness left the stand.)

BY MR. WAGNER:

Q. You could, Mr. Anderson, if you could stand over here (indicating). Uh, do you recognize what that's a picture of?

A. Yeah, that's the parsonage at the church.

MR. BURR: Your Honor, pardon ---

(Indiscernible cross-talk.)

THE COURT: Hold on a minute. Sir, if you would, uh, can you move that easel up. You need to stand on the side and turn your ---

THE WITNESS: Oh.

THE COURT: --- face to the jury.

(Whereupon, a discussion was held off the record.)

BY MR. WAGNER:

Q. Okay, alright. Now show me on that picture where ya'll pulled in and parked.

A. We woulda pulled in and parked right here (indicating) about where the -- this (indicating) red vehicle's at now.

Q. Okay. Uh, when the defendant pulled in, where did he park?

A. He woulda pulled in from this way down here (indicating). He woulda pulled in right around in here (indicating).

Q. Behind ya'll?

A. Not really behind us, kinda beside of the Blazer I guess.

Q. Okay. Uh, when he came outta the carport and shot, which way did Bubba run, which way did Evan run?

A. Bubba ran into the woods this (indicating) way and Evan runnin' down the road this (indicating) way.

Q. Okay. And where did the defendant go? Where where where was he when he shot the first time?

A. Well first time he woulda been just right outside the carport right in fronta the car ---

Q. Right in the front?

A. Yeah.

Q. Uh, so which way did he go?

A. Well, I mean, he was just standin', he woulda been standin' right around the front porch here (indicating) then when I got out that's where he was. He was like right here (indicating) and I woulda been just right outside the Blazer.

Q. So sh -- he shot the first round toward the fronta the car here (indicating).

A. Yeah.

Q. Okay. Alright, and then which way did he go? He go around this (indicating) way or did he cut across here (indicating)?

A. I I don't know. I mean, that -- he woulda been, when I woulda been gettin' out that's when he woulda been ---

Q. Okay.

A. --- doin' that, I mean, I don't know.

Q. Was he, was he reloadin' as he went?
A. I don't know. I di -- like I say, I didn't see him. By the time I got out he was standin' over here (indicating) and I'd a been standin' from here (indicating) to the wall, from you know what I mean.
Q. I mean, you saw him reload though, right, I mean, you watched it ---
A. No, I didn't see him reload. I mean, I was in the back seat the Blazer.
Q. Well he just shot and accordin' what you -- your statement says you thought he shot at the fronta the car and that you're sittin' in the backseat.
A. Well he was in fronta the car when he shot and, I mean, --
Q. Okay, so you ---
A. --- I was in the backseat.
Q. --- di -- you didn't know where those shotgun pellets had gone, right?
A. Yeah, I mean, I just heard gun go off, you know, I mean, I was in the back, I couldn't even see him really.
Q. Alright, so he just shot into fronta the car or near the fronta the car, ---
A. Yeah.
Q. --- far as you know and he come out screamin' and your other two buddies had done taken off and run as fast as they

can get outta there and you're not watching him?
A. Well, I mean, I got out. When I got out, I seen him, he was standin' right there.
Q. Well had he reloaded by that time ---
A. I don't, ---
Q. --- or is he still tryin' to reload?
A. --- I don't know. I mean, I guess if he had reloaded it, he had already reloaded it 'cause it was, you know, I didn't see him do it but . . .
Q. Okay. Did you see him use a pocket knife to get the shell casin' outta there?
A. Well that would be part a reloading, I don't, I didn't ---
Q. Yeah.
A. --- see any of that, I don't ---
Q. Okay.
A. --- understand.
Q. Alright, and then how exactly did he just swing the gun around shoot him again?
A. I mean, he woulda been standin' right here (indicating). By this time Evan was roundin' this curve here (indicating) ---
(Indiscernible cross-talk.).
Q. He was gettin' it, wasn't he? Evan was runnin' as fast ---

A. Yeah, yeah.
Q. --- as he could, wasn't he?
A. Well Adam was lookin' at me, I mean, he just turned and he shot and ---
Q. Um-hum.
A. --- and Evan was down here (indicating) in the middle of the curve, you know, he was gettin' gettin' pretty fast.
Q. And what did he do after he shot?
A. Well Evan fell and Adam dropped the gun and Adam went down there to him.
Q. So how'd the gun end up over underneath a tree?
A. Oh, I I don't know.
Q. Okay, and then you went got the phone let him call 911?
A. I got Adam's phone out of his truck and took ---
Q. Okay.
A. --- it to him and then ---
Q. Then ya'll left.
A. I left, yeah.
Q. Okay. Uh, and your testimony here is today that you did not tell, say those words to David Smith about pointin' it at him and shootin' him in the back?
A. No, that's not what I said, I mean, I ---
Q. Okay. Is everything else in here what you said?
A. Yeah, I mean, everything else I guess ---
Q. Okay.

A. --- what I told him but that part right there, that's not what I told him, you know.
Q. Is this your signature here (indicating)?
A. It is.
Q. And your signature here (indicating)?
A. It is.
Q. Then on page 2 is this your signature here (indicating)?
A. It is.
Q. And your signature here (indicating)?
A. It is.
Q. And your initials there (indicating)?
A. Yes.
Q. Okay. If you could please, sir, have another seat up there, uh, that's all the questions I have.

(Whereupon, the witness returned to the stand.).

THE COURT: Alright, yes, sir, you have any questions?

MR. BURR: May it please the Court, Your Honor.

CROSS-EXAMINATION BY MR. BURR:

Q. Mr. Anderson, how many people you ever seen get shot before?
A. Uh, that's the only time.
Q. Pretty traumatizing, isn't it?
A. Wasn't any fun and, I mean, . . .
Q. There's, uh, testimony earlier that one person and outta

the Blazer earlier the evening was asleep, was that you that was sleeping in the backseat prior to what was happenin'?
A. I mighta fell, I probly fell asleep in the backseat while we were sittin' on the side a the road.
Q. Okay. Tell me what the setting of this statement being taken, you -- this wasn't taken at the crime scene, you testified you had gone back to the Spearman Road trailer to watch children.
A. Yes.
Q. Who came back prior? Who came and took your statement?
A. I don't know, I don't know. His name was Smith, sumtin' I guess is what they said his name was, I don't remember who he was but . . .
Q. Well there there two signatures on it, it looks like David Smith and Freestate, were there two officers there?
A. There was another one there but I think he was outside the whole time that I gave the, that I told the man what happened.
Q. Okay. When they have came back, did they bring Tiffany back with 'em?
A. Yeah, I think her and Nikki both come back to the trailer with the investigators but they were outside while I gave the test -- what I told him what happened there.
Q. On page 2 a the statement you say Adam shot into the Blazer, that's not true, is it? He did not shoot into ---

A. Well he ---
Q. --- the Blazer.
A. --- shot in the direction of the Blazer.
Q. Okay. You also state on here when you were leaving Spearman Road you drove up Highway 11 and down Blackjack Road ---
A. Yeah, ---
Q. --- and ---
A. --- well that he didn't write that down. I mean, that don't even make any sense. We just went straight across Highway 11 onto ---
Q. Thank you for helpin' me, ---
A. Mount Pleasant ---
Q. --- answer the question.
A. --- Road the way we woulda went we woulda went up Spearman Road to the end and crossed Blackjack onto Mount Pleasant Road to the parsonage 'cause we had to go by there.
Q. My point exactly. If you were telling him what to put in here, that's not what you would've told him, is it?
A. If I told him that then I was givin' bad directions because that's not, ---
Q. Okay.
A. --- that don't even make any sense.
Q. Are these the investigator's words or your words?
A. Well most of it's my words but some ---

Q. And ---
A. --- a the stuff he didn't write down right ---
Q. --- that's particular ---
A. --- that's what I'm sayin'.
Q. --- que -- that particular phrase I just asked about, We drove up Highw -- Highway 11 and down Blackjack Road, that was not your your ---
A. No, ---
Q. --- response, was it?
A. --- that's not, that wouldn't ---
Q. Okay.
A. --- been what I said.
Q. And then his his quote over here about shooting in the back, aiming and shooting in the back, that's not your ---
A. Um, ---
Q. --- words, is it?
A. --- that's not what I said to him, no.
Q. In fact, when this shot was fired, and you alluded to it earlier, Adam was actually looking in your direction at ---
A. Yeah, Adam ---
Q. --- some ---
A. --- was -- Adam said somethin' to me, I don't even remember what he said, but he said somethin' to me and then he just turned and then like I say Evan woulda been already roundin' the curve this, at this time and, uh, Adam just

turned and fired the gun.

Q. Were you looking into Adam's face when this shotgun went off?

A. Well, I mean, I was lookin' at Adam until he turned.

Q. So are you saying it was an accident?

A. That Evan got hit?

Q. Yes.

A. Yes, I don't believe for one second that he meant to shoot him.

Q. That's based on what you observed when it happened.

A. Yes.

Q. Mr. Anderson, thank you for your cooperation.

THE COURT: Anything in redirect?

REDIRECT EXAMINATION BY MR. WAGNER:

Q. But you are friends with the defendant, correct?

A. Yes, I was friends with everybody involved, I mean, . . .

MR. WAGNER: That's all I have.

THE COURT: Alright, thank you, sir. Can he be excused?

MR. WAGNER: Yes.

THE COURT: Alright, you're excused.

THE WITNESS: Alright.

(Whereupon, the witness left the stand.)

MR. WAGNER: Dr. Woodard.

THE CLERK: Sir, if you would, please come forward be sworn.

(Whereupon, the witness came forward)

THE CLERK: You'll place your left hand on the Bible, raise your right hand.

BRETT HOUGHTON WOODARD, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: Hey, Doc Woodard, if you would, uh, give us your full name, spell your last for the court reporter.

THE WITNESS: Uh, Brett Houghton Woodard, W-O-O-D-A-R-D.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Dr. Woodard, what, uh, is your occupation, profession?

A. I'm a medical doctor, a pathologist and forensic pathologist by specialty training.

Q. Are you licensed here in South Carolina?

A. Yes, I am.

Q. And what medical school did you attend?

A. Tulane University in New Orleans.

Q. Where'd you complete your residency?

A. At Duke University Medical Center in Durham, North Carolina and then I did fellowship training at the North Carolina Medical Examiner's Office.

Q. Since that time where have you practiced?

A. I practiced in Anderson, South Carolina with Piedmont Pathology Associates.

Q. Is the nature a your practice specialized or general?

A. Uh, I do both general and specialized, uh, practice, specialized practice in the area of forensic pathology.
Q. And are you board certified?
A. Yes, I am in both general pathology and forensic pathology.
Q. And what all does that involve?
A. Uh, that board certification is a testing process by which, uh, the American Board of Pathology determines if y -- uh, first you submit to information, they determine if you have enough experience and education, uh, then they allow you to take a, uh, written, uh, examination, uh, to determine if you have sufficient background knowledge, uh, to be certified.
Q. Are you a member of any specific, uh, medical organizations or groups?
A. I'm a member of the College of American Pathologists, uh, the American Association of, uh, Forensic Sciences, uh, as well as other, uh, not relevant to organizations.
Q. Have you offered any publications, uh, any lectures in your field?
A. Uh, yes, I have.
Q. Have you testified in court before as a pathologist?
A. Uh, yes, I have.
Q. And about how many times?
A. Approximately a, well hundreds of times.

Q. Okay. Uh, are you being compensated for comin' up here today?

A. No, I'm not.

Q. Is it part a your job duties?

A. Uh, yes, it is.

Q. Okay. Uh, approximately how many autopsies have you done over the years?

A. Uh, I've been doing autopsies in South Carolina since 1982 and I do approximately 200, 250 autopsies a year. Uh, approximately 200 a those are, uh, forensic cases at the request of various coroners.

Q. Okay. Uh, and have you testified as an expert witness ---

A. Yes, I have.

Q. --- in pathology?

MR. WAGNER: Your Honor, this time we would proffer Dr. Woodard's qualifications as an expert pathology.

MR. WAGNER: We stipulate he is an expert, Your Honor.

THE COURT: Alright, without without objection he is stipulate as an expert.

BY MR. WAGNER:

Q. In this case did you conduct an autopsy on the victim in this case Evan Tyner?

A. Yes, I did.

Q. And what, when and where did you do that?

A. Uh, at the, uh, autopsy was performed, uh, at Anderson Area Medical Center in the morgue, uh, facility on the, uh, 10th of July 2013 at approximately 10:30 in the morning.

Q. Okay, and what external injuries did you see on Mr. Tyner?

A. Mr. Tyner had various, uh, scrapes and tears to his skin, uh, that were associated with the front of his body, uh, and, uh, additionally, he had a single, uh, shotgun pellet wound to to the back of the right side of his neck.

Q. Okay. And what damage did that shotgun pellet do to the back of his neck? Uh, what did you find durin' the course of your autopsy?

A. That that pellet passed from his right side toward his left side and went across his spinal column, it fractured his first and second, uh, spinal vertebrae, uh, it it bruised and tore, uh, the, uh, spinal cord, uh, and it produced hemorrhage that rose up, uh, from the spinal cord into the base of the brain.

Q. Okay. Uh, so if you could on yourself, I mean, explain where, know you just said but can you point out where the pellett ---

A. Yeah, ---

Q. --- went in.

A. --- the the pellet woulda gone in the back a the neck, excuse me, for not doing the microphone ---

THE COURT: That's alright.

A. --- the, uh, woulda gone in the back of the neck a little over a inch away from the back center line and it went in an upward direction but crossed, uh, the center line, uh, and broke, uh, the high cervical spinal bone, uh, and tore the high cervical spinal cord, the pellet stayed in that area and we retrieved it.

Q. Okay, uh, so it hit, it hit bone at least twice ---

A. That's correct.

Q. --- uh, and it lacerated the spinal cord.

A. That's correct.

Q. What effect would that have had from a medical perspective and to Mr. Tyner?

A. Uh, instantly, uh, he would have loss control of, uh, his upper extremities, uh, his lower extremities and all the core muscles of his body and depending upon how he was leaned, uh, at the time or how at the center of his gravity was at the time he would fall onto the ground surface.

Q. Okay. Would he have been able to stop hisself from falling?

A. No.

Q. Uh, I guess in my mind you're describing basically a lights out event where he just, it hit him and he was gone?

A. Well no he would lose, uh, function of his body, uh, until he hit the ground. Uh, he wouldn't have had lights out,

he would still be awake up until a point that, uh, uh, he blacked out because of a lack of oxygen from not breathing.

Q. Okay, so he was still alive for a short time.

A. That's correct.

Q. Alright, but would it be unresponsive like in a vegetative state? Would he be able respond, blink, anything like that or ---

A. Uh, no he wouldn't have been able to and in this particular case when he falls, uh, not only does he impact and injure the skin surfaces of the front of his body but, uh, as he falls from a heighth, he ends up bruising his brain, uh, uh, because, uh, he's done nothing to prevent the fall or, uh, cushion the fall, he's unable to do that.

Q. Were the other injuries that you saw on him were they consistent with an unsupported fall ---

A. Yes, they would be.

Q. --- like he face planted straight into the pavement?

A. Uh, pretty much, uh, that's, uh, what would have happened, uh, he fell against some paved surface, uh, asphalt, concrete.

Q. And he woulda been conscious to what happened to him but unable to ---

A. Well well when he hits, uh, when he's first shot, he still would be conscious until he falls to the pavement.

Q. Okay. Uh, the pellet that you pulled out of his neck,

his cervical, do -- what was, what was that pellet, what what did you find it to be consistent with ---

(Indiscernible cross-talk.)

A. It was consistent with a buckshot pellet, uh, the large size pellets that shotguns shoot, uh, and, uh, we placed it into evidence and, uh, gave it to the, uh, local sheriff's department to which ultimately went to the state crime lab.

Q. Okay, so you you turned it over to the sheriff's office?

A. That's correct.

Q. Alright. Uh, what's your opinion as to the cause of Mr. Tyner's death?

A. Uh, the shotgun, a a a buckshot wound to, uh, his spinal column.

Q. Okay, label as a homicide?

A. Yes.

Q. The the angle that the pellet went in is is there any way, is there any way to tell which way the pellet was travelin' when it hit or would it depend on the position of his head and the position of his body as he was runnin' away?

A. It it would depend on, uh, how his body was rotated as he was, uh, running, uh, it, the wound -- the shotgun, uh, woulda come, uh, somewhere behind him, uh, and and more off to his right side, uh, but, uh, you can twist and turn, uh, and look in different directions with your head, uh, and so the the

path, uh, would have to be realigned, uh, to where the position the gun was in order to know exactly how his head was relative to the gun at the time was discharged.

Q. Okay. Thank you, Doctor, that's all the questions I have.

A. Sure.

THE COURT: Alright, any questions?

MR. BURR: No further questions.

THE COURT: Okay.

MR. WAGNER: Your Honor, I'd ask if he can be excused.

THE COURT: Yes, sir. Thank you, sir, for comin' up, be careful. You're excused from your subpoena.

THE WITNESS: Thank you.

MR. WAGNER: Ryanne Nichole Smith.

THE CLERK: Ma'am, if you would, please come forward to be sworn.

(Whereupon, the witness came forward.)

THE CLERK: You'll place your left on the Bible, raise your right hand.

THE WITNESS: I'm sorry.

RYANNE NICHOLE SMITH,

having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: Ma'am, if you would, give us your full name and spell your last name for the ---

THE WITNESS: Okay.

THE COURT: --- court reporter.

THE WITNESS: Ryanne, R-Y-A-N-N-E, Nichole Smith, S-M-I-T-H.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Ms. Smith, what do you normally -- where where you from?

A. I'm from Seneca.

Q. Okay, and have you lived here all your life?

A. Yeah, mostly.

Q. Okay. Uh, back on the, uh, 9th of July 2013 ---

A. Um-hum.

Q. --- where were you and I guess the 8th, the day prior to that? Where were you and what were you doin', who were you hangin' out with?

A. Uh, me and Evan was at his sister Tiffany's house.

Q. Okay, and what was your relationship with Evan Tyner at the time when this occurred?

A. My relationship? He's the ---

Q. Yeah.

A. --- father a my children, that's that's who I'm with, ha.

Q. Okay.

A. Yeah.

Q. Uh, were ya'll married at the time?

A. No.

Q. Okay. Ya'll just have children in common?

A. Um-hum. We'd been together almost seven years. This December 26th woulda been seven years.
Q. Woulda been seven years.
A. Yeah.
Q. Okay. Uh, do you know the defendant in this case?
A. Yes.
Q. Okay, and you know him through Evan and Tiffany?
A. Yes.
Q. Uh, where were you on the 8th and 9th? were you at their apartment? where were ya?
A. No, it's a single wide, it's it's it's the house off of -- in Oakway off Spearman, uh, Road.
Q. Okay, and, uh, is that on the same side a Highway 11 as the parsonage or is on the other ---
A. On the opposite.
Q. Alright. How far approximately from the parsonage?
A. I say it was a mile and a half give or take.
Q. Were you present on the day prior to the shooting when Bubba and Josh Anderson and Evan were there?
A. Yes.
Q. And what was goin' on, what were you ya'll do?
A. Um, Tiffany's at work, me and Evan were watching her children while she was at work.
Q. Okay. Uh, was anybody doin' drugs at the house in the day or so prior to that?

A. I never seen anybody do any drugs.
Q. Okay. Did you know them to do drugs?
A. Yeah.
Q. Were you privy to, uh, what was goin' on between the defendant and the victim, uh, that earlier that I guess that day the, on the 8th, later that afternoon?
A. I don't understand.
Q. Well let me ask this: Did -- were you present the, in the trailer the whole time?
A. Yes.
Q. Okay. Did you see any kinda altercations?
A. Uh, later that night Adam had come in and he was showin' out and I remember sayin' be quiet, if ya'll gonna fuss, take it outside and it was rainin' that night because the kids were asleep.
Q. What time was this?
A. It was dark. I wanna say it was was before Tiffany got off a work, I wanna say about eight, nine o'clock, somewhere around there.
Q. Okay, and what exactly happened?
A. Uh, Adam had come in and he was showin' out and, uh, ---
Q. What do ya ---
A. --- he just ---
Q. --- mean by that? What what was -- what is showin' out? What what ---

A. Uh, raisin' his voice, hollerin', like yellin', uh, throwin' stuff then, you know, words were said, I don't really remember specifics in what words were said, I remember that, uh, he had come back outside, he had another gentleman with him, he was in a white S-10 and, uh, he had left and as he was leavin', quote, unquote, he said, "I got somethin' for his ass," and he was talkin' about Evan.

Q. And how do ya know he was talkin' about Evan?

A. He pointed at him.

Q. What was the disagreement about?

A. Um, Adam had put his hands on Tiffany in fronta the kids I believe or the kids were in the vicinity and Adam had, uh, been physical with Evan's sister.

Q. So Evan was standin' up for his sister or he's ---

A. Yes.

Q. Alright, what happened with Adam and did he leave?

A. He left. He ended up leavin' that night.

Q. Did did the rest of the three stay there? did they go?

A. They stayed there for a little while and then we ran outta cigarettes and, uh, Evan was gonna go to Walmart to buy some and that's when him and Bubba and just Josh left in the Blazer.

Q. Okay. Do you know where they went or what happened?

A. Um, I'm assuming they had went to Walmart, they were gonna stop by our house also which is in Bountyland where we

lived, uh, after that I do not know.
Q. Did you see any of them again, uh, the rest a that evenin'?
A. No.
Q. Did you talk to any of them again the rest a that ---
A. No.
Q. Did you see the defendant again that or that evenin' or that mornin'?
A. Yes, Adam had come back into the home, I wanna say it was, it was daylight so I wanna say it was around 'bout 6:30, the sun was just startin' to come up. I was asleep on the couch, Tiffany asleep in her bedroom and I heard the door s -- I don't know if it was kicked or just swung open but it hit the wall and that's what woke me up, it startled me and in come Adam, uh, he was in a rage. He was stompin' through the house, the look in his eye he was evil, ---
Q. What ---
A. --- somethin' was evil in him and it it was not, whatever hi -- was on his mind it wasn't good and and the wheels were turning, you could look at him and tell.
Q. Did he say anything to you?
A. No, he did not speak to me.
Q. Did you hear him say anything?
A. I heard some yellin', some commotion goin' on, I really couldn't understand, you know, I stayed is the living room in

case the kids woke up. Uh, he decided that he was gonna come back outside and we made eye contact but nothin' was ever said. Uh, it looked like then he had made up his mind and whatever he had said had got Tiffany really distraught and upset and in a panic. Uh, she followed him outside, she said, Adam, no, please don't, she was grabbin' her head like, you know, she already knew what was gonna happen in a way like he had told her or he had ---

MR. BURR: Objection, Your Honor.

A. --- said ---

THE COURT: Hold on a minute. What's your objection?

MR. BURR: Think she said what she thought was in his mind and what ---

THE COURT: Yeah, just ---

MR. BURR: --- he might have said ---

THE COURT: --- testify about what you know, don't talk about what might ---

THE WITNESS: Okay.

THE COURT: --- be in somebody else's mind ---

THE WITNESS: Okay, but, ---

THE COURT: --- or what you ---

THE WITNESS: --- uh, ---

THE COURT: --- saw.

THE WITNESS: Okay. Well he, uh, he was very angry. He, it just, it was awful, it was awful, that it seemed like he

just, it was, it was evil. You could look at him and you could see whatever was goin' on, uh, just by his appearance and look in his eye, it was, it wasn't good.

BY MR. WAGNER:

Q. What did he do? Did he, did he leave?

A. Yes, he left. Tiffany followed him outside then he left.

Q. Did you see him again?

A. Not until after, uh, EM -- we had, Josh and Bubba had, uh, come back and Josh jumped outta the truck onto the porch and was screamin', Evan has been shot, Evan has been shot.

Q. How how long between the time he left and the time that they got back and Josh said ---

A. Matter of minutes, maybe twenty minutes tops I wanna ---

Q. Okay.

A. --- say.

Q. Did you go down to the scene?

A. Yes.

Q. Have you got a drug drug convictions in the past?

A. Yes, I have and and, you know, just that is my past, I don't live there anymore. I go to school, I take care a my kids and I'm about to finish my GED program and I graduate in March.

Q. I don't have further questions, please answer anything Mr. Burr might.

MR. BURR: May it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION BY MR. BURR:

Q. Ms. Smith, it's not my desire upset you anymore what you've already been through, uh, you did make two written statements, one July 9th 2013 and one October 15, 2013 and in those statements you never mentioned the episode of Mr. Burdette comin' back to the house that that morning.

A. I believe I did.

Q. I'm not disputing it happened but I was just curious as to why you didn't mention it in your statement.

A. Well the first statement I was shook up, you know, it's right after it happened.

Q. Yeah, that's understandable. Uh, when Tiffany followed Mr. Burdette back outside, you stayed in the mobile home, did you not?

A. Yes.

Q. And she did not take her telephone, her cell phone out with her, did she?

A. I don't know.

Q. Didn't you receive a phone call while she was outside?

A. No.

Q. You're sure?

A. I'm sure.

MR. BURR: No further questions, Your Honor?

THE COURT: Anything on redirect?

MR. WAGNER: No, sir, I ask this witness be excused.

THE COURT: Alright, you can step down and you're excused.

THE WITNESS: Thank you.

(Whereupon, the witness left the stand.)

MR. WAGNER: Tiffany Lee.

THE CLERK: Ma'am, if you would, please come forward to be sworn.

(Whereupon, the witness came forward.)

THE CLERK: You'll place your left hand on the Bible, raise your right hand.

TIFFANY NICOLE LEE, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

(Whereupon, a discussion was held off the record.)

THE COURT: Alright, if you would, give us your full name and spell your last for the court reporter.

THE WITNESS: Tiffany Nicole Lee, L-E-E.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Ms. Lee, uh, where you from?

A. Westminster, South Carolina.

Q. How long you live there?

A. All my life.

Q. Were you related to Evan Tyner?

A. Yes, sir, I was.
Q. How's that?
A. I'm his sister.
Q. Uh, he was your brother?
A. Yes, sir.
Q. Are you related to the defendant Adam Burdette?
A. No, sir.
Q. I know there's been referred to as him bein', ya'll bein' married, were ya'll ever married?
A. No, sir.
Q. Okay. What was your relationship with him prior to July 9th ---
A. We were engaged.
Q. --- 2013? Okay, so he was your fiance?
A. Yes, sir.
Q. Do ya'll have children together?
A. One.
Q. Alright. Were ya'll living together, uh, at this trailer?
A. Yes, sir.
Q. And what was the address there?
A. [redacted]
Q. Describe your relationship with defendant on July 9th 2013 and July 10th 2013. Where were you workin', how much were you there, uh, who was at your house, do ya know, what

was goin' on?
A. Okay, say that one more time.
Q. Well that's probly bad idea. What was goin' on at your house on July 8th and 9th of 2013?
A. At night?
Q. Yeah, and were you workin' either of those days?
A. Yes, ---
Q. Okay.
A. --- I was.
Q. Let's start in the mornin' of the 8th.
A. Okay.
Q. Uh, what were you doin' and when'd ya get home? Where do, where where do ya work?
A. I work at Country Care, uh, it was a assisted living facility on 59.
Q. Okay.
A. I was a caregiver.
Q. Alright. Are you still doin' that?
A. No, sir.
Q. What time did you get home that day?
A. I worked second shift so on July 8th I hadn't went into work yet. I went in at two o'clock.
Q. Okay. Uh, how did you get to work and how'd you get home?
A. Adam, the defendant.

Q. Okay. Uh, what time did he pick you up and what time'd you get home?
A. I normally got off at ten and it took about roughly ten minutes to get home so I'd say ten fi -- 10:10, 10:15 p.m.
Q. Okay, this is on the 8th?
A. Yes, sir.
Q. I believe that's a Monday, does that ---
A. Yes.
Q. --- sound familiar?
A. Was yes.
Q. Okay.
A. Yes, sir.
Q. Uh, when ya got home, was there anybody at your house?
A. Yes, sir.
Q. Who?
A. Uh, Richard Bagwell "Bubba," uh, Josh Anderson, uh, Nikki Smith and Evan Tyner.
Q. Had they been there all day? Had they been there in the days prior to that? What was goin' on with Adam?
A. I got off work Friday, Friday, Saturday or Adam sent me a text message and told me that I needed to come to Evan's house and, uh, because he had stated that my mother, uh, had told my brother that I had hit him and he wanted my brother to see that I hadn't been harmed so I drove to Seneca to my brother's address and told him or sh -- oh, you know, showed him my body

and told him that I was fine and we hung out there because he was supposed to fix the, uh, Bubba's sister's air conditioner and when he, when Adam got done fixin' her air conditioner, uh, Josh and Bubba rode with Adam in the S-10 and Evan drove me home in my Blazer ---

Q. Okay.

A. --- so that's how they ended up at my house and then when I woke up the mornin' of the 8th, some, I can't quite remember but somebody had went and picked Nikki up that night while I was asleep and she wa -- that's how she end up bein' there the morning of the 8th.

Q. Okay. Was there drug use goin' on with them in your apartment or in your trailer that you know of?

A. I never seen anybody personally do anything.

Q. You know them to do, right?

A. Yes, I did.

Q. Were they stayin' up all night?

A. That night?

Q. Yeah.

A. Yes, we were all up that night. Nobody got any sleep that night.

Q. Did you get into any kind of altercation with the defendant on that night?

A. Yes, I did.

Q. Okay, explain that.

A. He was angry at me because I wasn't doing what he wanted me to do. He wanted me to drive my car to take my brother and the rest a the crowd home and I refused to do so because my car was tearin' up.

Q. What was wrong with your car?

A. The wheel bearing was going out.

Q. Is this a green SUV ---

A. A a green '98 Blazer.

Q. Alright. Uh, you said they could stay there?

A. Until the next morning.

Q. Alright, what happened next?

A. I told Adam on my way home that I, that I would take them home in the mornin' and he didn't like that answer so he said he was gonna be -- goin' to his friend's house to hang out because he needed to clear his head and that I needed to make up my mind whether I was gonna pick my family or I was gonna have to pick him and I told him I wasn't gonna choose. I told him that I cared deeply for him and I loved him very much and wanted to be with him but I wasn't gonna kick my brother out.

Q. What happened?

A. He left. He was angry, very angry.

Q. And did you see him again that evenin'?

A. After he left at ten I plugged my phone up, I had a little area that I plug my phone up in hallway 'cause I didn't have a a reachable outlet in my bedroom and I left my phone

there and, uh, he come back at between one or two o'clock and said he had been texting me but I hadn't responded because I hadn't checked my phone. He said that somebody had been texting him and he was angry about it and he and I were tryin' to explain everything to each other, we were tryin' to talk at once, everything got loud, uh, my brother come back there told him he didn't like him speaking to me the way he did and Adam went to leave, uh, they bowed up on each other in the hallway, uh, Bubba stepped in tryin' to run his mouth and Josh spoke up and told them if they were gonna run their mouth they needed to go outside because the kids were asleep. Adam said, That's it, I'm done, I'm leavin', and he tried to get in the truck but everybody was runnin' their mouth so he turned back around to say somethin' ag -- or to come back and get his phone, excuse me, and to tell me that he was done and that I had picked, I had picked my family and whenever I felt like I wanted to work it out with him to give him a call and we'd try again and that's the last time I saw him 'til about 6:45 that mornin'.

Q. Between the time that he left and the time of 6:45 or whenever you saw him again what did Evan and Josh and Bubba do?

A. For a while me and Evan talked about the fact that mine and Adam's relationship was gettin' bad, that if we couldn't work things out that I needed to let it go but if I knew I

could work it out or if I knew that we could work it out that we needed to try but we couldn't continue to fight or we would never make it so we talked for a while and we just sat in the livin' room and spent, you know, y -- my brother was tryin' be my therapist until 'bout 3, 3:30 and then they asked to use my Blazer to go to town.

Q. Did you give 'em the keys?

A. I did.

Q. They leave?

A. Yes, they did.

Q. Did they know it had a bad wheel bearing?

A. Yes, they did.

Q. Uh, did you hear from them again that night?

A. I did.

Q. Okay. As a result of the phone call, what -- whose phone did it come in on?

A. I'm not sure.

Q. Did you recognize the number?

A. No, I never saw it before.

Q. What did you tell Evan to do?

A. When he called me and told me that the car, uh, he told me that the car had shut, had cut off, that it wasn't gonna move or he didn't think that it was gonna move and he asked me to call Adam and tell Adam to come and get him and I said, Alright, that's fine, if you can make it try it. If you don't

see Adam in an hour, try to make it to the parsonage and that's the last time I talked to him.

Q. Did you send him by to pick up the debit card?

A. Yes, I did. Well Adam had text me after they left and told me that, uh, he left my debit card, a few cigarettes in the refrigerator of the parsonage on the carport at the parsonage and I -- Evan had, before Evan left I said, Would you stop by and get 'em.

Q. Okay, that happened before he called you broken down.

A. Yes.

Q. Alright. When you called the defendant and asked him to go get 'em, what did he say?

A. He asked me what he wanted me to do or he he said, Why should I go do it, he said, You let 'em drive your car, they're tearin' up our family and I kept askin' him to and he said fine that that he had to wait until Ken's daughter got home and, uh, they would bring the truck and trailer to come and pick it up, I said, Would you at least go by and get 'em, he said, I'll think about it.

Q. Did you ever hear from your brother again?

A. No.

Q. How did he end up at the parsonage, do ya know that?

A. I'm guessin' he drove, he drove my car.

Q. Did you see Adam again of that early mornin' and ---

A. Yes, I did.

Q. --- what time?
A. Yes, I did.
Q. And what time was that?
A. Six-four -- 'bout -- around 6:45.
Q. And what happened? Wha'd you see?
A. I had just fallen asleep and he come in the door yellin' my name and he said he can't believe that no matter what he does and how hard he tries that I could never seem to wanna do or that I could never seem to want to be in this relationship as much as he did, that I would always pick my family over him and that he was done and I tried to get him to stop 'cause he got in the truck and started down the road and I chased the truck and asked him to stop 'cause he was very angry and I wanted to try to talk talk it out, he wasn't goin' to.
Q. What happened after that?
A. After that Bubba and Josh pulled up in the driveway and told me that Evan had been shot and that Adam had shot Evan and I bogged the truck outta the driveway, and I bogged the truck outta the driveway and drove it to parsonage and I got to Mount Pleasant sign and Bubba told me that Jo -- that Evan was layin' in the middle of the road and I drove the truck slow until I saw Evan's body. Whenever the truck stopped, I got the truck stopped, jumped out and they had to try to stop me from goin' up to Evan's body and I kept fightin' 'em off until I got to his body and I watched Lisa do chest

compressions and whenever she nodded at me told me she wasn't gonna bring him back, I turned around and hit Adam. He told me that, he told me that they were after him and that they were supposed to, that the gun was meant for him but he didn't mean to kill him and I asked him, I asked him why he shot Evan, why he had to shoot my baby brother and he said he didn't know and that's when everybody started gettin' there.

Q. So he told you they were after him and the gun was meant for him?

A. Yes. Yes, sir.

Q. Please answer anything Mr. Burr would have.

THE COURT: Yes.

MR. BURR: Please the Court, Your Honor.

CROSS-EXAMINATION BY MR. BURR:

Q. Ma'am, I only have a couple questions. Uh, you've given numerous statements in this case and then you've talked to me previously. You made a statement 9, July 2013 in reference to the episode where he came in the trailer the night before, when Adam came in the trailer before Evan made him -- had him leave, made him leave, whatever, and you said Evan bowed up and they stood toe to toe, didn't say any about Adam bowing up, whatever bowing up means, it was Evan that confronted him?

A. I don't remember.

Q. Also, earlier I'll show ya direct -- Your Honor, may I approach the witness to show ---

THE COURT: Yes, sir.

Q. --- her statement? This is the September 4th statement, refresh your memory from that, you just said you didn't see 'em do drugs? Did you not give a statement that when you got outta the shower that morning you saw Bubba, Evan, Nikki and Josh shooting up meth?

A. I saw everything layin' on my kitchen counter but I didn't see a needle in anybody's arm.

Q. Okay, what what did you see? What was there? Were syringes there?

A. Yes.

Q. And a substance in the dish with cotton ball in it?

A. No, just a spoon and cotton swab.

Q. Okay. You have seen the, uh, telephone log of a call that Adam made to you that morning and the time was exactly 6:55 when you, when he hung up on his way back to the parsonage, is that correct?

A. Yes, sir.

Q. And you remember his last words to you at 6:55 before he hung up?

A. Yes, I do.

Q. What did he say?

A. Say it just the way he said it?

Q. Uh, please. If you don't wanna use profanity, just the substance of what was said would be fine.

A. Damn it they're in my h -- they're in the -- my daddy's yard, they're in the house.

Q. And that's as he was pulling up to the parsonage just minutes before the shooting he said, They're in my daddy's house.

A. It's what he said.

Q. Excuse me one sec. In these numerous statement you made in your interview with me, you made it perfectly clear that Na -- Adam never hit you.

A. Right.

Q. Okay. I have no further questions, Your Honor.

THE COURT: Anything on redirect?

REDIRECT EXAMINATION BY MR. WAGNER:

Q. Just on the statement he said to you on the phone right before and I guess it's right after he had left the house the last time and you told him not to go ---

A. Yes.

Q. --- and he had gone down, back down to the parsonage, Mr. Burr said he pulled in the yard and your words were that he said, Goddamn it, I guess they are in my daddy's fuckin' yard in the fuckin' house, and hung up ---

A. Yes, sir.

Q. --- so it's, and that's to say or say they were in the house, he said they were in the yard too, in the yard, in the house, then you don't know ---

A. Yes, sir.
Q. --- and right after that this happened.
A. Yes, sir.
Q. Okay. Thank you, ma'am, that's all the questions I have.
MR. BURR: Your Honor, I do -- the statements were ---
THE COURT: Ya'll come to the side over here.
(Whereupon, a bench conference was held off the record.)
THE COURT: Okay, you you can, if you wanna clarify that, I'll just have to allow, I I -- I'll allow you to ---
MR. BURR: Okay.
THE COURT: --- do that, I understand what you're saying.
RECROSS-EXAMINATION BY MR. BURR:
Q. Just for clarification from your statement the last word he said to you, They're in the fucking house, and hung up.
A. Correct.
MR. BURR: Thank you, Your Honor.
THE COURT: Alright, is there anything you wanna ask ---
MR. WAGNER: No, sir, ---
THE COURT: --- in reply to that?
MR. WAGNER: --- uh, but I would need a few minutes for a break.
THE COURT: I understand that. Okay, ma'am, you can step down. Can she be excused?
MR. WAGNER: Yes, please.

I'd do it, I can't so we'll stay till about 5:45 or at a natural break and then we're gonna have a good day tomorrow but there's real possibility that tomorrow may be our last day for the week based upon the forecast. I don't wanna scare you or make you nervous but that's just what keeps flashin' up on this dag compu -- computer. Okay, you call your next witness.

MR. WAGNER: Yes. Uh, David Smith.

THE CLERK: Mr. Smith, please come forward and be sworn.

(Whereupon, the witness came forward.)

THE CLERK: You'll place your left hand on the Bible, raise your right hand.

DAVID SMITH, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: If you would just for the record state your full name and spell your last for the court reporter.

THE WITNESS: Yes, sir. Name is David Smith, S-M-I-T-H.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Can you, uh, state your your rank and your job duties and where where do you work, what do ya do.

A. Yes, I work with the Oconee County Sheriff's Office, I'm a property crimes investigator, uh, is what I'm assigned to but I'm also assigned to work any other cases that, uh, captain issues me.

Q. How long you been workin' with the sheriff's office?

A. Twenty-eight year.
Q. And how long you been in investigations?
A. Uh, since 1995.
Q. Did you get assigned to go out to the scene, uh, at the crossroads of Blackjack Road and, uh, where the church is, ---
A. Yes, ---
Q. --- Mount Pleasant Church?
A. --- Mount Mount Pleasant, ---
Q. Yes.
A. --- I believe that's name of the church.
Q. Yes. Uh, did you, did did you get sent from there to go talk to Joshua Anderson?
A. I was, myself and, uh, Freestate.
Q. Where did you find him?
A. Found him at 161 Spearman Road.
Q. Okay, and who lived there?
A. Uh, to my knowledge it was Tiffany and, uh, I believe Mr. Burdette.
Q. Okay. Uh, what was he doin' there when you got there?
A. He was watchin' two kids, a little girl, uh, she was probly 5 if I remember correctly and a little boy.
Q. You remember approximately the time ya got there that mornin'?
A. It's probly around 9:30, 10:00 maybe.
Q. Okay. Was anybody else there besides him and the kids?

A. No.
Q. Uh, in the process talkin' to did you Mirandize him?
A. Yeah.
Q. Okay, and did he agree to talk to ya?
A. He did.
Q. As a way of talkin', explain how you talked to him, how you went about doin' it and how you about and about takin' a statement from him.
A. First of all, when we arrived we we were talkin' to him and we was askin' him about what happened, uh, at Blackjack at the church, uh, then Mr. Anderson began to tell us the story about what occurred durin' that time. Uh, from there I ended up doin' what we call a "interview sheet" and wrote some notes on it and then, uh, I asked him to get a written statement. He asked me to write that statement for him, uh, and I wrote down exactly what he told me, uh, and at the end of it I read the statement back to him and asked him if it was a, if this is what was said, he stated yes. I had him, uh, uh, put an X, uh, at the end, put his initials at it so nobody can add to or take from his statement and also had him sign it in two places; one, that he was receivin' a copy of the statement and the other was that this was a true statement and he signed it, myself and, uh, Freestate which is another officer, uh witnessed that that signature.
Q. Okay, and, uh, do you have a copy that statement with

you?
A. I do.
Q. Page 2 the fourth line down what did he tell ya that he said, fifth line down, excuse me. Start ---
A. "Adam pointed point a gun towards Evan and shot him in the back."
Q. Is that what he told you?
A. I wrote exactly what he told me to put down.
Q. Okay. Thank you, that's the only questions that I have.
MR. BURR: May it please the Court, Your Honor.
THE COURT: Yes, sir.
CROSS-EXAMINATION BY MR. BURR:
Q. Sergeant Smith, right?
A. Yes.
Q. Where was this statement given?
A. It was given at 161 Spearman Road.
Q. And it started at 10:30 a.m. ---
A. 10:30 a.m., yes.
Q. --- on July 9th?
A. That's correct.
Q. And it ended at 10:50 a.m. July 9th?
A. Yes, that's correct.
Q. And you and, uh, Freestate both signed witnesses?
A. Yes, sir.
Q. Okay, there's another statement given by Tiffany Lee at

161 Spearman Road July 9th 2013, same witness?
A. I don't have a copy a that.
Q. Let me provide you one.
A. Yes, sir.
Q. If I may, Your Honor.
THE COURT: Yes, sir.
A. Yes, sir.
Q. So that's your signature on that one also?
A. Yes.
Q. And and that's the same time period ---
A. Yes.
Q. --- overlappin' this time period? So you guys were takin' two statements at once?
A. She wrote her own statement.
Q. You signed that you witnessed it.
A. Yes.
Q. So where was she writing her statement?
A. At Freestate.
Q. Where where was she? in a different room? in a car?
A. I'm tryin' to recall. I think she, I'm thinkin', uh, Sergeant Freestate got that from her.
Q. Okay, and ---
A. I'm thinkin', ---
Q. (Indiscernible cross-talk.)
A. --- I I I really don't recall, I'm sorry.

Q. What does your signature indicate on there that you witnessed?

A. It indicates that that was her signature and it was a tr, uh, swor -- true sworn statement.

Q. Okay, if I can retrieve that. In the state statement that you said you wrote for Mr. Anderson, when you were called to go over to Spearman Road, where were you?

A. When I was called to go to Spearman Road, I was at the scene a Blackjack and, uh, uh, ---

Q. Mount Pleasant?

A. Mount Pleasant, yes.

Q. That's where the incident took place.

A. Correct.

Q. When you left going there, going to Spearman Road, what was your route? how did you travel?

A. I went with, uh, down Mount Pleasant, went to Highway 11, crossed over Highway 11, Spearman Road is right there and it's probly not even a quarter a mile on left.

Q. And that is by far the most direct route?

A. Correct, ---

Q. Okay, ---

A. --- without havin' to go back around, yes.

Q. Yeah, you would not go back up Highway 11 up Blackjack?

A. No, sir, my car, my vehicle was left at the scene, I rode with, uh, Freestate.

Q. Just you put in this statement for Mr. Anderson that he went up, when he was goin' to the same location that he went up Highway 11 and then came back down Blackjack, why would he tell you that?

A. You'll have to ask him. I, all I know is what he told me and what I put in his statement, sir.

Q. (Indiscernible cross-talk.)

A. You can go both directions.

Q. Under oath he disputed that he told you that.

A. I don't know what he said under oath, sir.

Q. Okay. No chances you were just putting your own thought process ---

A. No, sir.

Q. --- into it? Okay.

A. No, sir, I put exactly what put in here and, uh, I read it back to him and he ---

Q. Okay.

A. --- signed it.

Q. What was his explanation for not writing his own statement?

A. He just asked me just write it for him, sir.

Q. You had seen, had you actually looked at the Blazer before leaving the crime scene, the Blazer that's parked in fronta the parsonage?

A. I never did go to the Blazer, no, sir.

Q. So you didn't know whether it actually been shot or not?
A. No, sir, I don't. I didn't, I did not go inside that part.
Q. If this statement only took took you twenty minutes to write -- back up. Did, uh, Ms. Lee ride over with you and Sergeant Freestate?
A. Ms. Lee? I'm sorry.
Q. Tiffany Lee the other ---
A. Okay, ---
Q. --- statement also.
A. --- I know about Tiffany, I'm sorry.
Q. Tiffany did she ride with the two of you over there?
A. I'm tryin' to recall. I I don't really recall. I remember takin' a statement. I remember goin' to the cri, uh, to the mobile home, I remember goin' inside. I remembered the little girl there 'cause she was up under my arm when I wrote the statement, uh, and on the couch and he was sittin' to the left of me and there was a little boy that was movin' around.
Q. Did you, what rooms did you visit in in that mobile home?
A. The only room I went in is the front. Uh, as you go in the front door there's like a den, there's a hallway down, uh, on the far side, there's a kitchen to the the right it's open.
Q. No indication, no evidence any kinda drug manufacturing,

drug use, ---

A. I didn't see anything, sir.

Q. --- anything else? Uh, Mr. Anderson what was his condition when you got was he sleepy?

A. Didn't appear to be sleepy, sir.

Q. And during your interview with him he didn't appear sleepy, intoxicated, nothing at all?

A. No, sir.

MR. BURR: No further questions, Your Honor. Thank you, Captain. This ---

THE COURT: Anything on redirect?

MR. WAGNER: No, sir.

THE COURT: Alright, thank you, sir, ---

THE WITNESS: Yes.

THE COURT: --- you can be excused.

THE WITNESS: Thank you.

(Whereupon, the witness left the stand.)

(Whereupon, a discussion was held off the record.)

MR. WAGNER: Yes, he ---

THE COURT: Yeah, it -- ya'll have no objection bein' excused ---

MR. BURR: No, Your Honor.

THE COURT: Okay, thank you, sir.

MR. WAGNER: David Philpott.

THE CLERK: Come up here (indicating), please.

(Whereupon, the witness came forward.)

THE CLERK: Put your left hand on the Bible.

DAVID PHILPOTT, having been first duly sworn, testified as follows:

THE CLERK: Please be seated.

THE COURT: If you would, give us your full name and spell your last name for the court reporter, please.

THE WITNESS: Uh, David Philpott, P-H-I-L-P-O-T-T.

DIRECT EXAMINATION BY MR. WAGNER:

Q. Who do you work for, what are your job duties there?

A. I'm currently employed by the Oconee County Sheriff's Office, I've been there approximately thirteen years and currently assigned to CID, Criminal Investigations Division, as a evidence tech, uh, investigating property crimes, uh, anything with serious injuries, homicides, evidence collection and such.

Q. Okay, so you work crimes scenes.

A. Yes, sir.

Q. Uh, did you get called -- how how long you been doin' that?

A. Uh, five years.

Q. What do you do in the course of a a general like crime scene like this, what exactly are your job duties, what are you tryin' to accomplish?

A. In a case such as this, uh, we will get called out to

assist the investigators, uh, we'll do most of the photography, evidence collection, uh, packaging, storing, transportation to SLED, uh, and some a the paperwork involved.

Q. So if sumtin's picked up as potential evidence, how do you handle it, what do ya do?

A. If I was going to collect somethin', of course we're always wearin' gloves, the item would be collected, uh, would be packaged in a suitable container bag, a paper bag, plastic bag, box. We usually will write, you now, some kind of detail on the bag, uh, date, time, our name, where it was collected and what is on there as far as, you know, markings and that such.

Q. Okay. Uh, and did you collect evidence in this case?

A. Yes, I do.

Q. Did you also take pictures?

A. Uh, yes, sir.

(Whereupon, a discussion was held off the record.)

Q. Gonna show you some photographs, uh, starting with Exhibit No. 15 for identification. Does this picture truly and accurately depict the scene or part a the scene as it was when you got there?

A. Uh, yes, sir.

Q. Okay. Uh, when you got there, what's the first thing that you did and how did you go about, this might not been the

first picture you took but how'd you go about photographin' everything and ---

A. Once I arrived, uh, several other officers were already on scene. As you can see in the the back part of the photograph there, crime scene tape had already been placed around the residence, a good part a the road. Uh, in this particular photo you can see the residence on the left, kinda back left side of the photograph. On the right side there's a tree tree and in the center is a shotgun lying on the ground.

MR. WAGNER: Your Honor, may may I hand the witness a a laser pointer so he can designate ---

THE COURT: Sure.

MR. WAGNER: --- what he's lookin' at?

THE COURT: Yeah, that's not a problem.

(Whereupon, a discussion was held off the record.)

BY MR. WAGNER:

Q. It's that arrow thing on the top.

A. This part here (indicating) is the residence, uh, to the right goin' up here (indicating) is the tree and this right here (indicating) is the shotgun.

Q. Okay. Is that where it lay when you first got there?

A. Yes, sir.

Q. Gonna show you State's Exhibit 16.

A. That there is just a closer in picture of the shotgun right here (indicating).

Q. And 17.
A. And even a closer picture. Obviously this is the buttstock and you can see right here (indicating) looks like an indention to where possibly the the butt -- buttstock hit the ground.
Q. Eighteen.
A. This on the left side is the buttstock of the shotgun again. Uh, the number 6 marker is what we use to identify pieces of evidence that we're collecting so that is marked as, you know, item number 6 and then in our collection log we can reference item number 6.
Q. Nineteen.
A. That's just a close-up picture of the shotgun. Uh, it's kinda hard to tell in the picture but right here (indicating) it says that it's a Savage Model 220, we just use that for identification purposes.
Q. Okay. Twenty.
A. This piece right here is I guess what you would call the "forearm," uh, of the stock to the shotgun, it's attached to the bottom of the barrel, that was just the piece that had come off.
Q. How close is that to the shotgun itself?
A. It was within a couple feet.
Q. Twenty-one.
A. This piece right here (indicating) looked to be like it

was a indention in the ground possibly by the barrel of the shotgun. Uh, I believe there's another picture you'll see that you could actually tell that there was dirt plugged in the barrel of the shotgun and that seemed to be a perfect match, that that was within a couple feet a the shotgun.

Q. Twenty-two?

A. That's just a closer, uh, picture right here of the same hole.

Q. Twenty-three.

A. That is, this here (indicating) is the shotgun, this (indicating) is the barrel end and right in the end you can see that it's completely plugged with dirt or mud, that was just a close-up showin' that.

Q. Now when you processed the scene did you hold the barrel up to the hole that was in the ground, did you compare them?

A. It was in close proximity but it was not placed into the hole, you know, don't wanna touch the end a the barrel in any way.

Q. Alright. Twenty-four.

A. That's the shotgun. Uh, you can barely see right here (indicating) there's a primer indention from the firing pin, that's just a picture documenting that, you know, we opened it up, that there was a shell present and that it was fired.

Q. Twenty-five?

A. And that's just a closer-up photo, same same shotgun.
Q. Twenty-six?
A. That is the backside of the residence. Somewhere in the photo, uh, it should be right around in this (indicating) area, there's actually a a shotgun shell, a red shell, that's a a zoomed out picture to where when we take photographs we go closer and closer in.
Q. There's a red dot there, would that be what you're lookin' for?
A. Possibly. If if I could look at actual picture, I I could make it out for you.
Q. Let me hand you State's, uh, 26.
A. Can you turn the lights on?

MR. WAGNER: Bev, ---

THE CLERK: Yeah.

MR. WAGNER: --- can you turn the lights on for a second?

THE CLERK: Sure.

MR. WAGNER: Thank you.

THE WITNESS: It's right under the kid's toy. I can pick it out if you put it on there. It should be right in here (indicating). It was in line with the the kid's toy and across from that white piece.

BY MR. WAGNER:

Q. Okay. And where is, where is, the point where it's

layin' there where is it in relation to the carport area?
A. This (indicating) is the backside the residence. The carport would be on of this (indicating) side. Uh, next to this riding lawn mower, just to the ride right of that is where you can actually see through the carport.
Q. It's depending on where you were standin' in the carport, could you have thrown it from the carport to that spot?
A. Yes, that's possible.
Q. Twenty-seven.
A. That is just a closer-up picture. Right here (indicating) you can see the red shotgun shell and then it's marked with the number 7 marker.
Q. Twenty-eight.
A. That's also just a closer-up photo the same item.
Q. Twenty-nine.
A. That is one of the bedrooms in the residence, uh, I I'm guessing the master bedroom. This number 8 right here (indicating) is actually marking that little gray box, it's a small shotgun shell box.
Q. Thirty.
A. That's a little closer picture. This is that same box right here (indicating).
Q. Thirty-one.
A. And there's the same box there as well. Some a the pictures have item markers and some do not. We take full

photography without markers and then we retake photography with markers so the pictures are kinda out of order but that's why there is the number 8 in some photos and there wasn't in one a the others.

Q. Thirty-two.

A. That's also just a closer picture, once again basically zoomed in on the shotgun shell box.

Q. Thirty-three.

A. That's the same box that was just a absolute closer picture just to show the make, the model, the gauge so the information in case we need to try to match any a the the details up.

Q. Thirty-four.

A. That's the same box. Once again, uh, that picture's just more or less kinda waist level looking into the open box just to show that there's no shotgun shells in the box, it's just an empty box.

Q. Thirty-five.

A. That was a truck, uh, that was in the road in fronta the residence, uh, at the scene when I arrived.

Q. Thirty-six.

A. That was a kinda close-in picture here (indicating), there's a shotgun shell on the floorboard of the driver's side. I believe that was a picture just shot through the the passenger window.

Q. Beg your pardon, Judge, I'm lookin' for 37, I'm tryin' where it went. Here it is. Thirty-seven.

A. That is a picture kinda the way the scene looked when I arrived. Uh, this truck here (indicating) was in the middle a the road. The residence we've been talkin' about is up here (indicating) and it was just a little bit of an overall shot of how the scene looked.

Q. Where where, can you point one -- where was the shotgun found?

A. The shotgun would have been up in this area (indicating) underneath possibly this (indicating) tree or the tree next to it, I don't recall how many trees were there. The shotgun was up in the the front yard there on the left side of the screen.

Q. Thirty-eight.

A. That's the the same picture just zoomed in a little closer. The the shotgun you were referring to woulda been right up in here (indicating).

Q. Thirty-nine.

(Whereupon, a crying woman exited the courtroom.)

A. That's a picture of the roadway. Basically I kinda woulda been standin' more towards the residence lookin' the opposite direction to where the residence was behind me in that photo.

Q. Forty.

A. That was a copy of a tax receipt and registration, uh, found on the Blazer that was in the driveway of the residence, believe it was in the glove box.

Q. Okay, and where was that car? What address was it registered to?

A. A Mount Pleasant address, uh, the same address of the residence we were at.

Q. [redacted].

A. That was just kind of an overall picture. Uh, you can kind of see there's some marks in the gravel here (indicating) where it looks like somebody left in a hurry. Uh, this (indicating) was the residence that we were speaking of and this (indicating) is the Blazer, uh, for the registration that we were just lookin' at.

Q. Is that the carport that you were discussin' earlier?

A. Yes, sir.

Q. Okay, is there a free -- thruway through there out into the backyard where the shotgun shell was?

A. Yes, sir, what you have, you can kinda see here there's a pillar and then, uh, should be another one on the back but it's completely open both sides and rear to where you could see, walk through, pass through, there there's no wall there.

Q. If somebody's standin' roughly at this position here (indicating) was there a straight line a sight to where that

shotgun shell was?

A. Yes, sir.

Q. Forty-two.

A. That's a picture, uh, showin' these marks in the gravel where someone left in a hurry the residence. Once again the vehicle and the other vehicle, uh, was down here (indicating) in the roadway.

Q. Forty-three.

A. That was a spot in the the gravel there between the vehicle, the S-10 Blazer and the carport. It appeared to look like it had been shot with a shotgun or some other type of firearm to where the gravel had been disbursed, uh, to where you could see the the indentation in the ground.

Q. Forty-four.

A. That is the front of the S-10 Blazer that was sittin' there in the driveway. The picture we were just looking at woulda been, you know, not right here (indicating) but several more feet out from the vehicle there in front of the vehicle.

Q. Forty-five.

A. That's a closer-up photo of the front bumper and grill of that S-10 Blazer. You can start to kinda see in the pictures some of all this, uh, is gravel that is actually thrown up on top a the the bumper and the grill just to where you can tell the vehicle hasn't been moved but there's gravel, you know,

physically sitting on the vehicle.

Q. Forty-six.

A. Uh, that's the same fronta vehicle and this side here (indicating) is your passenger side, uh, lights. You can see there's a a large piece a gravel sitting on top a the bumper. There's, you know, couple smaller pieces here and there and just kind of a fine powder covering the bumper.

Q. Uh, forty-seven.

A. That's just another picture there, uh, you'll see the same piece a gravel here (indicating), it's just a another shot.

Q. Forty-eight.

A. That's a picture lookin' across the front of the hood. All these little kinda specs you see throughout here (indicating) is all gravel that was on top a the hood.

Q. Forty-nine.

A. That's just another picture of the same, uh, just tryin' to to get different parts of it in focus to where you could see different detail.

Q. And fifty.

A. That is the inside of the S-10 or GMC pickup that was in the roadway. You can see right here (indicating) the live shotgun shell that we were lookin' at earlier that was in the floorboard.

(Whereupon, a discussion was held off the record.)

Q. Fifty-one.
A. That is inside the residence. That's just an angle lookin' back towards, uh, this door here (indicating) goes out into the carport area, I guess that would be the back door, uh, it was just a an angle inside the residence in the kitchen.
Q. Lookin' out that door, which way is that green Blazer parked?
A. It would be out that door and to your left.
Q. Okay. Fifty-two.
A. That is a picture also in the kitchen, uh, from the earlier, the one just before. This would be kinda if you turn to your right and looked to your right, uh, this was a, I guess like an added on kind of pantry or storage area.
Q. Fifty-three.
A. That is inside, uh, the back pantry storage area and this was a back door goin' outside of the residence.
Q. That was 53, this 54.
A. That's a picture standing in the hallway looking through the bathroom out the window that looks out over the back deck area behind the residence.
Q. Was that window open?
A. Yes, sir.
Q. Fifty-five.
A. That's in the the same bathroom just a little bit closer

in.

Q. Fifty-six.

A. That is a picture if you're standing in the backyard, basically all this here (indicating) is the back deck area and this (indicating) window is the bathroom window, the prior picture if you're looking out so this is lookin' in the opposite direction.

Q. Fifty-seven.

A. That there (indicating) is the screen that should have been in the bathroom window, it was laying there on the back deck, uh, looked like somebody had pulled it out and then opened the window.

Q. Fifty-eight.

A. That's more of an overall picture showin' the deck. Uh, you can see right here's (indicating) that screen and then this (indicating) is the open window goes into the bathroom.

Q. Fifty-nine.

A. That is a close-up of the bottom edge of the open window just showin' the the damage to the window sill.

Q. Sixty.

A. That's more of an overall shot. Uh, you can see right here (indicating) that damage we were just lookin' at. That's (indicating) the the window goin' into the bathroom there on the back deck.

Q. Are all these pictures were they all taken by you?

A. Yes, sir.
Q. Do they truly and fairly and accurately depict the scene as it looked like when you arrived there that mornin' on July 9, 2013?
A. They do.
MR. WAGNER: Your Honor, at this time we would move to admit State's Exhibits, uh, 15 through 60.
THE COURT: Any objection?
MR. BURR: Yes, Your Honor, object to, uh, Exhibit 36 and 50 the shotgun shell laying in bottom of the truck. By earlier testimony that truck had been driven by at least two other people between the time of the incident and the time this picture been taken.
THE COURT: Alright, it -- yeah, and I -- you're protected for the record. I'll admit all of 'em, that's a factual issue that we'll have to deal with later but over his objection and for the record you're protected, okay.
MR. WAGNER: Yes. Bev, hit the lights.
(State's Exhibit Nos. 15 thru 60, photographs, admitted into evidence.)
BY MR. WAGNER:
Q. Let me show you State's Exhibit No. 10. Your Honor, just for the record the weapon is clear.
THE COURT: Okay, good.
A. Yes, sir.

Q. Do you recognize that?
A. I do.
Q. Okay.
A. This is the, uh, Savage shotgun we had collected that day. Uh, the forearm has been added back onto it, it still has some of the stains, uh, from the dirt on here and has the SLED markings from where it was submitted to SLED.

MR. WAGNER: Your Honor, this time we would move to admit State's Exhibit No. 10.

THE COURT: Any objection?

MR. BURR: No objection, Your Honor.

THE COURT: Alright, without objection.

(State's Exhibit No. 10, shotgun, admitted into evidence.)

BY MR. WAGNER:
Q. Show you what's been marked as State's Exhibit No. 11.
A. Yes, sir.
Q. Do you recognize that?
A. I do. Uh, these are two empty or spent PMC shotgun shells. Uh, one of 'em is what I had marked as item number 7, uh, shell 12-guage collected July 9, 2013 at 11:04. Uh, this one is number 7 which is marked as number 7 in the photo that was behind the residence. The other shotgun shell here is the one that was removed from the chamber of the shotgun prior to it being submitted to SLED for analysis.

Q. And they're still in substantially same condition as they were?
A. Yes, sir. They were collected by me, I packaged 'em into, uh, sealed containers and they stayed that way until they were submitted to SLED.
Q. Which one a those came outta the shotgun; which one came out from behind the carport?
A. The first one here (indicating), uh, this has the SLED marking I-2 for item 2, that was the one that was found in the backyard. This one here (indicating) that is, has SLED item 9 for item 9 was the one that was in the shotgun chamber.
Q. Have you altered or tampered with those in any manner?
A. No, sir.
Q. Other than while they were at SLED for testing, did you, uh, would have been in your care and custody?
A. Yes, sir.
MR. WAGNER: Your Honor, at this time we would move to admit State's Exhibit No. 11.
MR. BURR: No objection.
THE COURT: Without objection.
(State's Exhibit No. 11, spent shotgun shells, admitted into evidence.)
BY MR. WAGNER:
Q. Show you State's Exhibit No. 12 for ID.
A. This is, uh, the empty shotgun shell box that was

collected outta the bedroom a the residence. Uh, I have it marked here as item number 8 collected July 9, 2013 at 11:09 in the morning. Uh, I collected it, packaged it in this sealed, uh, paper e -- uh, bag and then was later submitted to SLED for analysis.

Q. Is that still been in your care and custody since they otherwise while it was at SLED ---

A. Yes, sir.

(Indiscernible cross-talk.)

Q. Has it been altered or tampered with in any manner?

A. No, sir.

MR. WAGNER: Your Honor, at this time we would move to admit State's Exhibit No. 12.

MR. BURR: No objection, Your Honor.

THE COURT: Without objection.

(State's Exhibit No. 12, empty shotgun shell box, admitted into evidence.)

BY MR. WAGNER:

Q. Show you State's Exhibit No. 13.

A. This is what I have marked, uh, sealed too containing projectile. This would be the projectile that was received, uh, at the autopsy at AnMed Hospital by Dr. Woodard staff that was submitted to SLED. The second item here, uh, if you see the second bar code, was actually debris removed from item number 8 which was the projectile which was done by SLED, uh,

and they have it sealed in this package and it has not been or is sealed this time.

Q. Okay, and is it still in substantially same condition as it was, uh, when you recovered it from Dr. Woodard office?

A. Yes, sir.

Q. Were you present when it was taken out of the victim's neck?

A. Yes, sir.

Q. Uh, other than the time that it was at SLED, has, uh, has it been in your care and custody?

A. It has.

MR. WAGNER: Your Honor, at this time we would move to admit State's Exhibit, uh, ---

MR. BURR: No objection, Your Honor.

THE COURT: What number?

THE WITNESS: Thirteen.

MR. WAGNER: Thirteen, sorry.

THE COURT: Hold on. Okay, 13 without objection.

(State's Exhibit No. 13, projectile, admitted into evidence.)

BY MR. WAGNER:

Q. I show you State's Exhibit No. 14.

A. Uh, this is, uh, on a paper bag I have marked as item number 9, a 12-gauge round from white Chevy S-10. I have it dated July 9, 2013 at 11:17. This woulda been the, uh, live

shotgun round that was in the floorboard of the Chevy truck that I collected and packaged and sealed, uh, in this paper bag.

Q. And did you also send that to SLED?

A. Yes, sir, I did.

Q. Other other than the time that it was at SLED, has it been in your care, custody and control since then?

A. It has.

Q. It been altered or tampered with in any manner?

A. No, sir.

Q. Did SLED make some I guess slight alterations to it in process?

A. They did. Uh, in their report they noted that it was cut open. Uh, don't know if ya'll can see but there's a small slit that they cut into it to look at the components of the shotgun shell inside. Uh, ---

Q. What ---

A. --- we submitted it in a sealed condition and they cut it open.

Q. Is that the one you recovered off the floorboard of the truck?

A. Yes, sir.

MR. WAGNER: Your Honor, at this time we would move State's Exhibit No. 14 into evidence.

MR. BURR: No objection, Your Honor.

THE COURT: Alright, no objection.

(State's Exhibit No. 14, live shotgun round, admitted into evidence.)

MR. WAGNER: Beg the Court's indulgence one moment, Judge.

(Pause.)

MR. WAGNER: That's the only questions I have, Your Honor.

THE COURT: Alright. Yes.

MR. BURR: May it please the Court, Your Honor.

(Whereupon, a discussion was held off the record.)

(Photo boards marked Defendant's Exhibit Nos. 1 through 8 for identification.)

CROSS-EXAMINATION BY MR. BURR:

Q. Mr. Philpott, I'll show you what's been marked as Defense Exhibit 1 for identification, can you see that?

A. Yes, sir.

Q. Can you identify that?

A. That is the, uh, back porch. You can see on the lower left corner, uh, right here (indicating), that's that same screen and then you have the open window goin' into the bathroom.

Q. That is an accurate picture what you saw when you were on scene?

A. Yes, ---

Q. Uh, ---

A. --- sir. Yes.

Q. Okay. And I have what's marked as Exhibit 2 for identification, can you identify that picture?

A. Yes, sir. Uh, I think it's upside down but that should be the doorknob goin' into what I would is the master bedroom.

Q. And that is an accurate picture of what you saw when you were at the scene?

A. Yes, sir.

Q. And Exhibit 3, Defense Exhibit 3 for identification.

A. That is a close-up picture of a tire iron that if I'm not mistaken I believe was in the pocket of the door of the S-10 Blazer. I wanna say it was the passenger side door pocket that I had taken pictures of then I removed it form the pocket, set it on the door, on the seat to take a better picture of the the tire iron itself.

Q. That's the Blazer that ---

A. That was in the driveway.

Q. Okay. Defense Exhibit 4 for identification.

A. That is if you're lookin' over here (indicating) to the right side is the carport. Uh, this is the carport itself here (indicating) where the Blazer woulda been on this (indicating) side and then around the back a the house here (indicating).

Q. Fifth -- Defense Exhibit 5 for identification.

A. Down here (indicating) the the bottom right would be where, uh, Tyner and F-2 -- believe it was F-250, the Ford pickup truck were. You look back up the road here (indicating), this is the residence and then you have the Blazer in the driveway in fronta the carport, that's lookin' back towards the residence.

Q. Exhibit 6 for identification.

A. That would be standing front yard the residence lookin' back down the road towards where the vehicle and Tyner were.

Q. Exhibit 7 for identification.

A. Uh, that was another picture from the kitchen lookin' out this doorway here (indicating) to the carport.

Q. And these were all pictures that you took of the crime scene?

A. Uh, two a those I did not take, the rest I did take.

Q. The ones that you did not take were still an accurate picture of what you saw when you were there?

A. Minus the tapes and vehicles bein' removed ---

Q. Okay.

A. --- and the roadway was still correct, yes, sir.

Q. And Exhibit 8 for identification, would you identify that.

A. I did not take the picture. I'm guessing that's the the kitchen here lookin' out the carport. Uh, in my kitchen picture you can barely see a little bit a the microwave, uh,

but that should be lookin' out towards the carport.
Q. The picture you actually took would have cut off part a this picture.
A. Correct, it was a little more to the right.
Q. That is an accurate picture of the kitchen ---
A. As far as I can tell, yes, sir.
Q. Okay. One of the earlier pictures that, uh, Mr. Wagner showed you is a shotgun, this shotgun broken up and the shell still inside of it, ---
A. Yes, sir.
Q. --- did you put that shell back in it?
A. No.
Q. Was found that way?
A. Yes, sir. Well the shotgun was found closed. We -- I opened it, took the picture and then closed it back. I did not remove the shell, didn't put the shell back in, that was just as it was.
Q. Does the shell not normally eject itself when you open it?
A. Depending on make and model, some do, some don't, uh, that one did not.
Q. Uh, so how did you get the shell out?
A. We -- I physically had to remove it at a later date in time before it was submitted to SLED.
Q. Now was either when you sent the stuff to SLED -- first

of all, how many times did the shotgun, the pellet, the shells, the boxes, how many times they been sent to SLED?

A. Twice. Everything was submitted the first time on August 14th 2013, it was resubmitted on January 12th 2015.

Q. The first time was submitted when?

A. August 14, 2013, basically a month after bein' sent.

Q. And when was it returned?

A. When was it returned?

Q. Yeah.

A. Look at my notes?

Q. Yes, please.

A. It was returned January 5th 2015.

Q. Eighteen months later more or less?

A. Yes, sir.

Q. And what was the first opportunity after me contacting you that the defense team and expert was allowed to see the weapon, the pellet, the other exhibits?

A. Would have been January 6th 2015 the day after it was brought back from SLED.

Q. Okay, and it was you supervised my examination of the evidence and my expert's examination?

A. Yes, sir.

Q. And you got the expert's name?

A. Yes, sir.

Q. And soon as I left immediately called prosecutor and told

him what we discussed?
A. Yes, sir.
Q. And that prompted it be sent down a second time?
A. That -- I know I was told to take it back to SLED, that there would be a continuance.
Q. And cert -- certain tests were required or requested each time it went down.
A. Yes, sir.
Q. What tests were -- well were any fingerprints taken?
A. Uh, latent fingerprints were requested on the shotgun, uh, the spent shotgun shell which was item 7 from the backyard, the empty shotgun box and the unfired shotgun shell that was in the S-10 pickup and also on the shotgun shell removed from the chamber.
Q. Were any tests done to see whether the gun is functional, works properly, has a safety?
A. When I -- when we submit a shotgun, firearm, pistol, you know, what have, you to SLED, if we request any kinda firearms analysis, they un -- my understanding will test fire the weapon. Now what they find, uh, I have not heard but I'm under the understanding that they test fire.
Q. And you have not seen results?
A. For a test fire?
Q. Yes.
A. I know that they did test fire it, I don't know what the

their actual results of any function testing were.
Q. Does the results come back to you or who gets results?
A. When we submit somethin' to SLED, there's a investigating officer listed. What will happen when the report is ready, they will usually send an email to the investigating officer stating that there is a report available, officer will then contact us and we can download it from SLED's website called "iLAB" and that's how it's provided to the investigator.
Q. The first time that you allowed me to actually hold this weapon do you remember me closing the weapon and it firing?
A. Yes, sir.
Q. No prints off the shell box, the, Exhibits 36 and 50 the shell was found in the bottom, the floorboard of the truck, was that fingerprinted?
A. I'm sorry, state that again, I was tryin' look at the notes here.
Q. There two different exhibits, one was, uh, the pictures that the prosecution gave ya, 36 and Exhibit 50, was a picture of a one spent shotgun shell on the floorboard of the white pickup, ---
A. Yes, sir.
Q. --- was that, was that tested for fingerprints?
A. It was.
Q. And what was results?
A. The results state no value for identification.

Q. Prosecution Exhibit 53 was the kitchen picture that I -- that we had earlier showing into the little pantry area, ---

A. Um-hum.

Q. --- do you have any idea how many people had been in and out of that house between the time of the incident, the time you took the picture?

A. I have no idea.

Q. And what what, do you have any idea what time a day you took that picture?

A. I could tell ya if you look at the time stamp information in the photo itself, outside a that I arrived on the scene at 8:20, 8:30 and left 12, 12:30 so somewhere in that time frame.

Q. And you were also present in your evidence lock or whatever when the pellet that was here was presented to me.

A. Yes, sir.

Q. And you were there when I had pictures taken with the iPhone for the defense use when it was taken also?

A. Correct.

Q. Excuse me one second, Your Honor.

THE COURT: Sure.

BY MR. BURR:

Q. Uh, Philpott, I may have confused both of us. When the shotgun shell boxes were fingerprinted, they did have fingerprints on 'em, is that correct?

A. The box?

Q. Yes.
A. Yes, sir.
Q. But they did not match the defendant's fingerprints, is that correct?
A. Uh, states, "Latent impression represented on item 3," which means they located the fingerprint, states, "not identified with Tyner, James Evan, not identified with Burdette, Shane," so it was not matched to either one.
Q. Okay. And for the record Adam Burdette, Shane Burdette same person.
A. Yes, sir.
Q. Okay.

MR. BURR: Your Honor, defense would offer exhibits, Defense Exhibit 1 through 8 for identification as Exhibits 1 through through 8.

THE COURT: Any objection?

MR. WAGNER: No, sir.

THE COURT: Alright, without objection.

(Defendant's Exhibit Nos. 1 through 8, photo boards, admitted into evidence.)

MR. BURR: Thank, Your Honor, no further questions.

THE COURT: Alright, anything on redirect?

REDIRECT EXAMINATION BY MR. WAGNER:

Q. The shotgun and the projectile, the shells were sent down to SLED initially by ya'll to test them for what they were

written -- what initial -- what they ended up bein' tested for.

A. Yes, sir, ---

Q. Okay.

A. --- they both times were sent with the same request.

Q. Okay, and SLED, I mean, the request didn't change what they wanted you test it for between the first time they got sent down and the second time.

A. I'm sorry?

Q. I mean, they got sent down for the same test each time.

A. Yes, sir.

Q. Okay. Did you have any control over whether or not SLED could complete their tests in the almost year and a half that they had it?

A. No, sir.

Q. Have you found that your, in your dealings with SLED -- who does -- from your dealings with SLED, how many, not gonna say ho -- not gonna say how many cases they handle but do they handle, place items in evidence from across the whole state?

A. Yes, sir.

Q. In your opinion or in your knowledge of them dealing with them are they backlogged?

A. A tremendous backlog.

Q. Is it unusual for them not to get to stuff within a year and a half?

A. No, sir.
Q. Okay, so was it unusual when certain things became an issue before a trial the first time was it unusual send 'em back down there with a special request to please expedite the test that they didn't finish in the first time?
A. No, sir.
Q. Did they expedite it and did they finish the test that were initially requested and then requested again?
A. They did. Uh, they were submitted the second time January 12th 2015 and the report on that analysis was generated February 6th so within three, three and a half weeks they were able to complete that.
A. Okay, but that was by special request and ---
A. Yes, sir.
Q. Uh, are you trained in takin' fingerprints?
A. Yes, sir.
Q. On a case like this, do ya'll usually send it to SLED for fingerprints though for their analysis?
A. If it's on any item that will go to SLED, we allow them to do everything so we don't want to, for better terms, mess up somethin' that they're better handled to do as far as, you know, if they're gonna do the the firearms examination, everything else, we don't need to be handling the firearm, let them do it all there at their lab.
Q. Is it unusual to not get prints off of items?

A. No.
Q. Is that common?
A. It is.
Q. The fact that they didn't get Shane Burdette's prints or Evan Tyner's prints off the box but there were prints on there, uh, is that unusual?
A. No, sir.
Q. If if a box of shotgun shells, a buckshot is sold in a store down the road, did anybody that walked in there and handled that thing could they leave there prints on it?
A. Possibly yes, sir.
Q. Could the defendant's father?
MR. BURR: Objection, Your Honor, I think that we're leading, not testifying.
THE COURT: Sustained. Yeah, don't don't lead.
BY MR. BURR:
Q. Is it possible that other prints coulda been left on it?
A. Yes, sir, fingerprints they're determined by surface, environment, person. Without the right factors in place fingerprints, you know, many times aren't deposited to the items.
Q. Can a person pick up an item, touch it with their fingerprints and not leave fingerprints?
A. Yes, sir.
Q. Think that's all the questions I have.

MR. BURR: He is here. He actually wanted to interview the defendant, but it's hard for him to be in two places at one time, so we'll just have to sit here.

THE COURT: Okay. You can bring them in.

(WHEREUPON, the jury came into open court at approximately 10:27 a.m.)

THE COURT: All right. Ladies and gentlemen, thank you for coming back today, and we will sort of keep you updated minute by minute. If you need to take a break, just raise your hand.

You can call your next witness.

MR. WAGNER: Thanks, Judge. I call Michelle Eichenmiller.

MICHELLE EICHENMILLER,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: If you would, state your full name and spell your last name for the court reporter.

THE WITNESS: Michelle Eichenmiller, E-i-c-h-e-n-m-i-l-l-e-r.

DIRECT EXAMINATION

BY MR. WAGNER:

Q Ms. Eichenmiller, who are you employed by?

A I work with the South Carolina Law Enforcement Division. I work in the forensic lab in the firearms department.

Q And where are you based out of?
A Columbia.
Q Did you come up from Columbia this morning?
A I did.
Q How long have you worked there?
A I've worked there since 2006, so it would be nine years.
Q What are your job duties there?
A I'm a forensic firearms examiner. I examine any evidence that came from a case, whether it be firearms and anything related to a firearm. So bullets, projectiles, cartridge cases, shot shells. We also do serial number restorations. If the firearm has an obliterated serial number, we try to bring it back. We also do some tool mark examinations.
Q What's your educational background to do the job as you do?
A In order to be a firearms examiner, you just need a bachelor's degree. I have a bachelor's degree in biology. I also have a master of science in forensic science. In addition, you have to go through three to five years of training with court-qualified examiners. So I completed about four years of that at SLED with men and women who work in the department already. I shadowed them, basically kind of like an apprentice,

learned what they do, how they do it. I studied on my own. I did a lot of reading. I did practicals on my own. And at the end, you do a comprehensive exam. After that, they deem you court -- qualified to work on your own.

Q Okay. What kind of classes -- what kind of courses have you taken to specialize in this field?

A We try to go to training at least once a year to the national meeting or the international meeting of forensic firearm examiners. We also do certain other like armors courses. We tour factories to learn how firearms are manufactured so that we can put weight to the marks that we see when we try to make identifications.

Q Have you testified in firearms identification in court in South Carolina?

A I have.

Q Have you been qualified as an expert in that?

A I have.

Q And how many times approximately have you been qualified as an expert in this field?

A About 24.

MR. WAGNER: Your Honor, at this time we would proffer Ms. Eichenmiller as an expert in firearms identification.

THE COURT: Any objection?

MR. BURR: No questions. No objection.

THE COURT: Without objection, she's admitted.

BY MR. WAGNER:

Q Now, you examined the evidence in this case just recently; is that correct?

A Yes, I did.

Q And had you had it down at SLED prior to that for some time?

A I did. It was previously assigned to another examiner who has since retired, so we divided up his caseload. Everybody got a little bit. I was assigned this case.

Q Do y'all handle cases from all over the state?

A We do. Any agency in the state can bring SLED evidence from any crime.

Q Okay. Do you have a lot of cases on y'all's, I'm going to call it a docket, like in court, but as far y'all's list of stuff that y'all have to work on, do you have a lot?

A We do have quite a decent backlog. We try to work the cases that are priority -- going to court. Somebody calls on it and says, "I need to have a lead for this case. Can you work this case now?" So we try to kind of prioritize due to the number of cases that

we take in every year.
Q Okay. Was it previously assigned to Ira Parnell?
A It was.
Q He had it for a little while, but he didn't work on it, and you inherited it from him after he left?
A Correct.
Q On top of your other workload?
A Yes.
Q Y'all had to split it all around the office?
A Yeah, we did.
Q Were you able to get to it prior to January of this year?
A No, I wasn't.
Q Okay. When we resubmitted it to you, were you able to put a priority on it and get the stuff, the tests, done that you needed to do before court this week?
A Yes, I did. As soon as we were notified that it was a priority, we put it on kind of our rush to-do list. And it was on my list, and it got completed.
Q Did you also have -- how many other priorities did you have to work on in the last few weeks?
A We had kind of a bad January at SLED. We had about 100 firearms cases come in in just one month, which is kind of a record. I had 12 cases that needed

to be worked that month priority. They were either going to court or they had court orders or officer-involved shootings, as well as if an investigator needed a lead in order to arrest somebody. So we had a lot of cases that worked, but this one was also a priority due to it was going to court, so.

Q Due to the number of cases that you have, is it unusual for a case to take a year and a half or two years before you can get to it?

A It's not that unusual.

Q Okay. Let me show you State's Exhibit number 10. Do you recognize that?

A Whenever I receive evidence in a case, after I examine it, I'll mark it with the lab number, item number, and my initials, and they're right here. So this is the firearm I examined.

Q Okay. And what was the result -- what kind of tests did you perform on that shotgun, and what did you find?

A When we receive a firearm in casework, we complete a two-page worksheet on it. I test the safeties. I test the function. I document if it looks rusted, if it's old, if it's broken, document the model number, serial number, if there is one. Then we test fire it. We document what kind of test fires we used. We do

trigger pull analysis which is how much weight does it take to pull the trigger. And we utilize the test fires in trying to identify any fire components that came from the scene.

Q What was the status of your test on that shotgun? What did you find out about that shotgun? Does it work?

A Yeah, it works fine. We had a little bit of trouble trying to get shot shell out of it, but it didn't inhibit the function or the test fire of the item.

Q How did you go about test firing? What's your procedure for that?

A We try to choose ammunition as closely as possible that's the same as what was used in the case. We actually went to a couple different stores and couldn't find the exact ammunition that we had. We were forced to use something by the same manufacturer but not the same load. Really all we needed was shot shells, so that was what we were able to obtain from this.

Q And your report says it was found to be in working order. Explain what working order is. You may just have, but if you could.

A Working order just means that it test fired in the way that you would usually fire a firearm. We test it.

Nothing abnormal was wrong with it. Nothing out of the ordinary. If it had too short of a barrel or the barrel was bent or the stock was broken, we would document all that. And if it would inhibit test firing, we would also document that.

Q Does the safety work and the trigger work appropriately?

A They do.

Q Did you compare the shell casings that you test fired with to the primer of that? Did you check one against the other to see? How do you do that? What --

A In order to compare fired ammunition components, especially shot shells or cartridge cases, we examine any marks that were made by the firearm. So there's the firing pin. When it hits the primer, it can make a mark. Also breach face, when it -- when it fires, the cause -- the pressure in there causes it to bounce back against the breach face, so there could be marks there, too.

In this case we looked at the firing pin impression and were able to identify marks that were significant.

Q What kind of marks would be on a firing pin that you would be able to tell, and do you have to use a microscope to look at those sorts of things?

A I do. I have a comparison microscope. It's basically two separate microscopes connected by an optical bridge kind of like binoculars. I can look through them and see one shot shell on one side and one on the other to compare them under magnification.

Q Let me show you what's been marked State's Exhibit Number 11.

A These are my item two and item nine, shot shells that I examined in this case.

Q And what did you examine them for and what were your findings?

A We examined -- these are the fired components that came from, from my understanding, from the scene. So I examined the primer, which is the little silver part that's here that was hit by the firing pin of the shotgun. I examined that, compared it to my test fires to see if I see any marks that are significant. And in this case we saw matching individual identifying characteristics, and we concluded -- I concluded -- I say "we" because at SLED we have a microverification process. After I come up with my opinion, someone else will come after me, another court-qualified examiner, to make sure that we agree. So we identified those two shot shells to the shotgun.

Q Okay. So that particular shotgun fired the two

empty shell casings that you examined from State's Exhibit Number 11, even though you've got them with a different number with your system. But in court, when they labeled that 11, those two shotgun shells, were they fired by that shotgun?

A They were. State's Exhibit 11 were fired by the shotgun.

Q Show you State's Exhibit Number 14.

A This was an unfired shot shell that I received in this case. I actually had to cut it open to view the internal components to see if what I had received was consistent with what was loaded in this shot shell.

Q And what kind -- what kind of shot shell is that?

A It's a PMC brand. They call it One Shot. It's 12-gauge and two and three quarter inches long and double-ought buck.

Q How many pellets are contained in one of those shot shells?

A According to the manufacturer's website, there are nine. I didn't actually take these out of there, but there are nine.

Q And those shotgun shell pellets, are they .33 caliber?

A Around there.

Q Are they about that size?

Tell us about lead, about the kind of pellets that are in a shot shell like that. What's the lead like?

A Lead is generally a soft metal. So when it hits anything, it's softer than normally whatever it hits. So the pellets are in the shot shell, and they're round. When they get shot, they could have any kind of deformation from hitting anything, including each other, coming out of the shotgun. So lead is pretty soft.

Q Is there a test y'all do in just like birdshot when you check to see if it's lead? Is there something you do that's very simple?

A We crush it a little bit to see if it crushes like lead. We make sure it's non-magnetic, make sure it's not steel shot. We scratch it. Lead turns out to be shiny once you scratch it. So just small, little things that we can do to say it's most consistent with lead.

Q Let me show you State's Exhibit Number 12.

A This was an empty ammunition box that was in the container with the shotgun. I didn't do any examination on this other than to note what kind of ammunition came in it.

Q Does the two empty shot shells that you matched the primer to, State's Exhibit -- I think it was 11,

and the live rounds that you just testified to that you cut open, do those three shot shells, are they consistent with the shot shells that would have come from the box by those markings? Based on those markings, are they consistently the same kind?

A They're all marked the same as coming from what the box says it had in it. So they're all double-ought buck two and three quarter by PMC.

Q Did you also examine the projectile that killed Mr. Tyner in this case?

A I did.

Q Let me show you State's Exhibit Number 13.

A This is the pellet I examined. When we package evidence for return, if we're not able to mark the evidence due to its size, I mark the outside containers with my initials, the case number, and the item number. And it's still sealed with my initials, so we know it hasn't been tampered with, and that's the pellet I examined.

Q Okay. And is that pellet consistent with a piece of buckshot, the size, the empty casing that you examined, is it consistent with what might come out of there?

A By its diameter and weight, I determined it was double-ought buck which is consistent with what was in

the shot shells.
Q Can you match a pellet from a shotgun the same way you might match the rifling on a bullet that's fired out of an actual rifle?
A Shotguns are smooth bores. They don't have rifling in them. There's been rare occasions where some have been identified back to the firearm. It would depend on the amount of rust or if the site post is extended in there. If it's sawed off, you might be able to identify that to the shotgun. But in general we can't identify pellets back to the shotgun.
Q Okay. Were there any markings that you saw on that pellet that were either consistent or close to what you might expect to find out of a smooth bore shotgun or that shotgun in question?
A I saw some marks that I thought might have been made by the shotgun. We made tests of just the barrel to see if we could match anything there. They were still kind of -- not what we gave a lot of weight to. So our conclusion is it's inconclusive. We couldn't tell you if it came from that shotgun, but we did see some marks.
Q And were those marks similar to what you might have expected from an older shotgun?
A They were.

Q The deformation in that pellet, what would that be consistent with in your experience?

A In my experience, lead that hits anything, due to its soft nature, could have marks on it. So whether it's hit a wall or hit glass or hit a target or hit somebody, they get marks on them based on coming into contact with something harder than itself.

Q If you saw that pellet pulled out of the victim's spine where it had fractured two vertebrae and went through them and into the spinal cord, would the deformation on that pellet be consistent with what -- hitting a person's neck and killing them? Would you expect it to look similar to that? Would you expect that kind of deformation?

A I would expect to see -- what I saw was what I expected to see if I had -- I knew it came from a spinal column, so that's what I expected to see. Nothing was abnormal about it.

Q Did you do any other -- did you do any other tests or did you find anything else with that particular pellet?

A There were some debris that was on the item. There were a couple of fibers. There was blood. Nothing that I found I thought was inconsistent with coming from autopsy.

Q Okay. And what kind of debris? What did it look like? What did it appear to be to you?
A There were a couple fibers. Could have been a shirt, could have been the gauze it was wrapped in. There was debris, what I considered consistent with blood. There was a small white piece that could have been consistent with bone.
Q Have you read any articles on trajectory and ricochets?
A I have read a couple articles that have been in our journal.
Q And from what -- do you know anything in particular about what you would expect -- how would you expect a pellet, if it ricocheted, what would you expect it to act like?
A From what I read, pellets have a shallow angle. After they hit their target, they don't really go at like 90 degrees. They're shallow, more along the same plane as like the ground.
Q So if that pellet had hit anything, would it continue on basically the same trajectory?
A From what I've read, that's what I understand.
Q Okay. And if it did hit anything, it would not alter its path much?
A From what I've read, they're in the same

direction. So it wouldn't turn left all of a sudden. It would keep going in the same direction.

Q The same direction as it went in, say, the victim?

A Correct.

Q It wouldn't alter and go off like, say, 90 degrees off that way?

A No.

Q If there had been anything strange about this gun, abnormal, would you have noted it in your report?

A I would have.

Q Was anything noted?

A No, I didn't note anything.

Q Thank you, ma'am.

MR. WAGNER: That's all the questions I have.

MR. BURR: May it please the Court, your Honor.

THE COURT: Sure.

CROSS-EXAMINATION

BY MR. BURR:

Q Ma'am, when this shotgun and pellets and stuff were originally sent to SLED, who was in charge of them? Who examined them?

A No examination was done on them. They were assigned to Ira Parnell. We assign cases as soon as they arrive at the lab, and then someone takes custody of the evidence and works it when they can.

MR. BURR: Your Honor, may I approach the witness?

THE COURT: Sure.

BY MR. BURR:

Q Could you identify that form for me?

A It's a lab report from South Carolina Law Enforcement Division, the forensic lab.

Q A results report?

A It is.

Q And what's the date on it?

A October 11, 2013.

Q So somebody did do some examination on this evidence?

A Correct. The forensic scientist in the latent print department -- firearms generally gets evidence last. If there's any fingerprints that need to be developed, if DNA needs to be swabbed for, they have to do their examination first because in order to examine this firearm, I would have to touch it, and my fingerprints and my DNA would get on it. So in order not to contaminate anything, it goes to another department first.

Q But it was examined when it went to SLED originally?

A Correct. They try to get it done as soon as possible if they know it has to come to another

department.
Q But yet SLED held that evidence for an additional 18 months?
A Ira Parnell held on to it. He was working cases as they, as I said before, became a priority, if they were going to court, if someone needed a lead.
Q And I have your results over here. Did anyone tell you what the issues were or what you were looking for?
A I got a little background from one of the investigators, and whatever comes in the -- their paperwork when they submit.
Q And on your written report, there's no discussion of distortion of the pellet, ricochet, nothing at all?
A We don't normally discuss any distortion or other possibilities.
Q But you put a lot of time into whether the gun would fire, correct?
A Correct.
Q You knew a young man had been killed with it. I could have answered that for you. Whether the shells match up or have fingerprints, not really important to this case, is it?
A It's important.
Q Is it?

A Uh-huh.
Q Okay. Do you know Sergeant Philpott?
A I've seen him at the lab, and I've met him once.
Q Because he delivers stuff to you and picks it up?
A Correct.
Q Would you be surprised he testified in this courtroom yesterday that the first time I picked it up, opened it to make sure it was clear and slammed it closed, it went off?
A That would be surprising.
Q Yeah. But you wouldn't indicate he was lying, would you?
A (Witness shaking head.)
Q Are you familiar with slam fire, inertia fire?
A I am.
Q And how old is that gun?
A It was before at least 1964 because it doesn't have a serial number.
Q It's at least 50 years old. And if it doesn't have a serial number, if there is a recall by the manufacturer for a defective part or defective design, there's no way to do a recall, is there?
A No.
Q So you have no way of knowing whether that is a dangerous weapon that should have been recalled. We

just can't determine that?
A In my testing there was nothing abnormal about it. It fired in the way a firearm usually fires.
Q How much time did you spend looking internally to see if the -- how bad the safety is worn?
A I didn't open it up at all to look at the safeties. They worked fine from the outside, and I had no reason to believe there was an internal deficiency.
Q What about when you fire a shot in that model shotgun, the Savage .228, and you open it, what should happen to the shell?
A In general, the shot shell would come out. This one hardly moved. We had to pry it out.
Q So that gun is pretty well worn out?
A Correct.
Q You said you spent time --
MR. BURR: May I approach the witness again, your Honor?
THE COURT: Sure.
BY MR. BURR:
Q The exhibit you had where you cut a section out --
A This one.
Q You mentioned that you actually did some tests to look in the barrel to see if the pellets could be distorted by the barrel?

A No, I just looked at the barrel to see if it had anything that I thought might make marks on a pellet.
Q And this type of shotgun shell, like most all shotgun shells, the pellets are encased in a plastic container that goes out of the barrel, doesn't it?
A The plastic container doesn't come out of the barrel. It stays in the barrel.
Q The plastic container?
A The shot shell stays in the shotgun chamber. The pellets and the filler and the wads all come out.
Q Right. The wad, if you look at this shell, and the jury will have an opportunity to look at it, you can see in front of what in the olden days was referred to as the wad, which is plastic now, there is a plastic cup that the shot is put in. And that's ejected out of the end of the barrel when you fire it.
A That one is not totally encased. That one is just at the base.
Q You didn't see anything unusual about it?
A No.
Q And it was your testimony that when a shotgun is fired on a ricochet, it doesn't make a right turn or a left turn?
A From what I've read and understood in the forensic journals that other people have done research on, the

bullet -- or the projectiles don't ricochet.

Q Just like taking a rock on the lake and skipping it, it keeps going the same way?

A Correct.

Q Nobody told you any indication in this case it was suspected that it went anywhere other than straight?

A I had some discussion with the investigator about possible ricochet, which is why I made sure to read some articles, so that I would be well versed in what happens.

Q If this were a hard surface right here with nothing in our way, and I fired a gun or threw a tennis ball and it ricochetted, it would go right back up to where you are, wouldn't it?

A From what I read, the angle is very shallow. If it hit like this, it would kind of skim parallel to the ground.

Q What if I were standing 14 feet and 10 inches above you, would that have some difference or effect on your judgment?

A It probably would.

Q If I was standing up higher than this ceiling right here and you were where you are now at a distance of 70 yards, it very well may skip right up to you, wouldn't it?

A It's possible. Without doing the testing, I don't know.

MR. BURR: No further questions, your Honor.

THE COURT: Anything on redirect?

REDIRECT EXAMINATION

BY MR. WAGNER:

Q If I were 14 feet 10 inches above you and you were running away from me 50 yards away, would I still have to have that shotgun pointed directly at you or in your direction at you and then discharge it to shoot you?

A You would.

Q So if I pointed it to the graveyard that may or may not exist over there, I wouldn't hit you?

A I wouldn't expect that you would have unless...

Q Okay. Or if I -- let's say I told you or someone told you that you had thrown the gun and it hit and went off, would it ricochet or hit you?

A That's hard to say. Depends on the angles and everything.

Q In fact, the only reason you discussed ricochet with the investigator was because he brought it up because it had been brought up in court?

A Correct.

Q Theoretically, playing around with a shotgun, you want to slam it and press the safety -- show me how

that safety works. How do you --

A You press on the safety back here.

Q Okay. Does it automatically -- when you break it open, and if you had to pry a shell out of there and reload it and you close it, what does the safety do?

A The safety is on.

Q Does it reset itself?

A Yes.

Q Okay. So if you wanted to manipulate a shotgun like that by opening and closing it and pushing the safety at the same time, could you try to make it fire, or could you hold down on the trigger and possibly make it sound like it fired?

A You could. I just held the safety off -- you would have to have the barrel closed before you pull the trigger because the firing pin is sticking out otherwise.

Q But that shotgun worked as it's intended; the safety resets itself?

A Correct.

Q And other than trying to manipulate it to do certain things, it works like it's supposed to?

A Correct.

MR. WAGNER: Nothing further.

THE COURT: All right. Thank you. You can step

down.

Any objection to her being released?

MR. WAGNER: No, sir.

MR. BURR: No, your Honor.

THE COURT: You are released. Thank you so much. Be safe.

MR. WAGNER: We call Mandy Tinsley.

AMANDA TINSLEY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: State your full name and spell your last for the record.

THE WITNESS: Margaret Amanda Tinsley, T-i-n-s-l-e-y.

DIRECT EXAMINATION

BY MR. WAGNER:

Q Ma'am, what do you do -- who do you work for and what are your job duties?

A I work with the Oconee County Sheriff's Office. I'm in investigations there at the sheriff's office. I'm an investigator.

Q How long have you been doing that?

A I've been in investigations for about three years. I've been at the sheriff's office for about ten years, been in law enforcement for about 12.

Q Had you been working -- in investigations, were

you working back in the same division back on July 9, 2013?

A Yes.

Q Were you on call that week?

A I was on call that week.

Q What does that mean?

A When you're on call, whatever violent calls come in, maybe a death investigation, things like that, whoever is on call, you get called out at a variety of times to investigate those particular incidents. And those are assigned to you, whether that's like what you predominantly do or not. Predominantly I investigate -- probably the majority of what I investigate is white collar crimes, financial crimes. But if I'm on call, whatever comes in that's potentially volatile, you get assigned as the lead investigator.

Q Does it matter if you get like two or three cases a day or, I mean, repeatedly?

A In my experience, no.

Q All right. Did you get a case the day before this?

A I did. I had an attempted murder case, a stabbing case, the day before and had been home and in bed an hour when I got paged for this call.

Q What time did you get out to the scene?
A I got to the scene probably around 8:30 or so.
Q And did you get initially some feedback from the officer and the people that were there? How did you go about starting the investigation?
A Well, I -- they had already had everything blocked off. I had parked up at the Mt. Pleasant Church in the parking lot and walked down to the scene. I spoke with Karl Addis, the coroner, first, and he kind of gave me a little background on Evan. Told me what hand he wrote with, who he was, who his girlfriend was, who his parents were, that kind of thing.

And then as I walked on down, I had worked a previous case with Nikki, and she was waiting there on the scene in the roadway, just kind of by herself. And she knew me, so she was upset and knew my name and gravitated toward me to talk to me. So at first I talked to Nikki.
Q Okay. Now, the location there where the victim died, is that in Oconee County?
A It is.
Q Who did you initially talk to? Were you able to identify the shooter?
A I was told by other people there on scene that the person in the backseat of John Towery's vehicle had

said that he had shot him, and another person, Bubba, had said that he had shot him. So I just kind of knew maybe who pulled the trigger, but I didn't know the circumstances behind anything.

(WHEREUPON, State's Exhibit Number 61 was marked for identification.)

BY MR. WAGNER:

Q Let me show you what's been marked for identification State's Exhibit 61. Do you recognize that?

A I do.

Q And who's that a picture of?

A That's Adam Burdette.

Q Is that how he looked the morning you got out there?

A He did. The only difference that I can recall is his handcuffs were in the front.

Q But that's who you understood the shooter to be?

A Yes.

Q Okay. Was he wearing that same blue-and-white striped shirt?

A Yes.

Q Does that truly and accurately depict the defendant as he looked that morning?

A Yes.

MR. WAGNER: Your Honor, we ask to move State's Exhibit 61 in.

MR. BURR: No objection, your Honor.

THE COURT: All right. Without objection.

(WHEREUPON, State's Exhibit Number 61 was admitted into evidence.)

BY MR. WAGNER:

Q Did you go about trying to talk to the defendant?

A Yes. After I talked to Nikki, Justin Ward and I took Adam out of the backseat of that patrol car and walked him down to a victim advocate's car, unmarked Crown Vic that doesn't have a cage in the back or anything like that, took him down there to talk to him. He sat in the front passenger seat, I sat in the driver's seat, and Justin sat in the backseat.

Q Before you talk to a suspect, is there anything by law that you do, and would that be Miranda warning?

A Yes. And, actually, conducting this type of death investigation, not knowing where anything is going to lead, I particularly give everyone I talk to their Miranda because I don't know during the course of the investigation where it may lead me to go. So, yes, I read his Miranda to him and we received a Miranda waiver.

BY MR. WAGNER:

Q Okay. Let me show you what's been marked State's Exhibit 2. Do you recognize that?

A I do.

Q What is that?

A That is the Miranda waiver that I was speaking about.

Q How do you go about advising someone of their rights? How did you do it with the defendant that day?

A The sheriff's office has a form. It's got the Miranda print on it, and we read it to the person. Would you like for me to read it?

Q Yes. Exactly how you did to him that day.

A "Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you can say can be used against you in court. You have a right to talk to an attorney for advice before we ask you questions and have him with you during questioning. If you cannot afford a lawyer, one will be appointed for you before questions if you wish. If you decide to answer questions now without a lawyer present, you'll still have the right to stop answering questions at any point in time."

The bottom part in the waiver, it says, "I have read this statement of my rights and understand what my rights are. I am willing to make a statement and

answer questions. I understand and know what I'm doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me."

And what I will do frequently, because this is a written waiver, I'll let people know this is not a contract. It doesn't mean that you have to continue to talk to us. It means that if you stop, you want to talk to us now, that's fine. But if you get to a point where you want to stop talking to us, you can stop talking to us.

Q The form I've got here, is that an exact copy of the form you are using?

A It is, it's just a different time. It was the second interview.

Q Okay. So what time -- what is the place that you have on that one and what time did you read him his rights?

A The place is the roadway, the side of the roadway there, Mt. Pleasant Road/Blackjack Road. Vicki was parked kind of in the gravel back behind the cemetery there on that side of the road. And that's where we sat in that roadway. I talked to him there in the car. The time is 9:46 a.m. when I began the Miranda waiver and he signed it, and I witnessed it at 9:48 a.m.

Q And he initialed that he waived each one of those rights?

A Yes, he initialed it and signed.

Q And do you do that to protect his rights so that he knows?

A Yes. Yes.

Q To the best of your knowledge, did he understand what you were asking?

A Yes.

Q Did he respond to your questions in a cohesive manner? Did he seem to understand what you were saying to him?

A Yes. We just -- we just read this to him and asked him if he can just kind of tell us what happened.

Q Could he read or write?

A He could.

Q In your time in law enforcement, have you had the opportunity to observe people that have been under the influence of alcohol or drugs?

A Yes.

Q Did he act like he was under the influence of alcohol or drugs?

A No.

Q Did you ask if he would waive his rights -- when he signed that, did you go ahead and start questioning

him?

A We did. Really I just kind of left it open. I said, "Can you just tell us what happened?" And while he was talking, I might clarify something that he said. But for the most part, I just allowed him to talk.

Q Okay. What exactly did he tell you? Did you take notes when you talked to him?

A I did.

Q As briefly as you can, what were the highlights of what he told you without having to go through -- how many pages of notes did you take?

A I took four pages.

Q What were the highlights of what he told you?

A We were there for obvious reasons, to conduct this death investigation. I don't think anybody misunderstood, anybody there on the scene, what we were there for.

When he began to tell us what happened, he actually began talking about events that happened like 12 hours earlier. So he told me about the day before, whenever he said that Bubba and Evan took the Blazer to go pick up Tiffany's kids from her mama's house. Adam had asked Evan to bring the kids to Adam's parents' house. Adam needed a saw for his house. And when he walked in, his house was a mess.

Nikki was at his house at the time, so he told Nikki to ride with him back to his parents' house, and he was going to go back and clean his house while she, Evan and Bubba watched the children at his parents' house. So we kind of began with the day before, talking about that.

And, let's see. While he was cleaning his house, he found a spoon in his bathroom which made him mad. He thought somebody was using drugs in his house. So whenever they got back to his house, he confronted them all. He didn't know who had left that spoon in there. Bubba had taken claim of that spoon.

He told them that he would appreciate them not doing drugs at his house, told them if they wanted to, Josh had a driver's license. He could take them home. And Evan had said he would like to see his sister before he left. Nikki -- Tiffany was at work at the time. And Adam said that was fine, he'd wait until Tiffany got off work so they could see each other.

Q Did he get in an argument with the victim?

A He did later. He said that he had called his friend, Ken Sills, and was talking to Ken and wanted to go over there to see Ken that evening. He told Ken that at approximately -- Tiffany would get off work around 10 o'clock or so, so Adam could be at Ken's

around 10:30, 10:45.

About the time that Tiffany was supposed to get off work, Josh and Evan were supposed to go pick Tiffany up. He said that Nikki didn't want Evan to go without her. So Adam got mad that they wouldn't just leave to get Tiffany, so he drove to pick Tiffany up in his dad's white truck.

Adam and Tiffany had gotten into an argument because he wanted her to drive Nikki, Evan, and Bubba home. She didn't feel like it. Adam said he got frustrated about everyone being at his house, so he left and went to Ken's. He drove himself.

He said that he and Tiffany texted back and forth a few times. He called Tiffany several times and she didn't answer the phone. When she did, he asked her why she didn't answer the phone, and she told him because she didn't want to argue. And he said about what, and she said that she had told his parents that he was driving. He had told his parents that he wouldn't drive the truck except to his house and theirs.

He got Ken to drive him back to his house, Tiffany's and his house. When he got home, he asked Tiffany where her phone was, and she said charging. Evan was coming into the bedroom where Tiffany and Adam

were at with her phone. At the same time, Adam was walking out of the bedroom, and he and Evan bumped shoulders and got into an argument. It was approximately 1:30 to 1:35 a.m.

Adam said he was mad because he felt like everyone in the house was high except Tiffany and the kids. He decided to leave with Ken to go back to Adam's parents' house. And he texted her that he had forgotten that he still had her debit card, had used $4 on it, so he told her he would leave $5, some cigarettes, and her card in the freezer on the front porch.

Evan, Josh, and Bubba came back in the Blazer to Adam's parents' house, pulled up. They talked with Ken. Adam talked on the phone with Tiffany and told her he had to get Ken home. He told Tiffany he never wanted to see or speak to Bubba, Josh, or Evan again.

He and Ken left Adam's parents' house at approximately 2:00 a.m. to 3:00 a.m. He said it was closer to 3:00 a.m. About 4:00 to 4:30 a.m., Tiffany called Adam and told him Evan had called and said that the wheel bearing had gone out and Evan needed Adam to pick them up.

Adam said that Evan told Tiffany he was approximately two miles from Evan's mom's house. Adam told Tiffany he wasn't going to pick them up because he

wasn't going to their rescue. They should have to figure it out for themselves. Adam left Ken's house and drove down Blackjack Road to see if he could find the Blazer. He didn't really expect to find it.

He saw the Blazer backed into the dirt driveway maybe a half mile from the church. He saw Bubba standing outside the Blazer, and thought those guys are still waiting at the vehicle instead of walking to Evan's mom's that was just down the road approximately a half mile.

Adam got mad and drove by the Blazer and waved. Adam went home and talked with Tiffany. Adam asked Tiffany what was going on, and she said what? And he said those three are still there instead of walking to Evan's mom's. Adam told Tiffany he didn't have time for them. And I made a note that the Blazer is in Adam's dad's name.

Adam left his house and drove to his parents' house where his boots were that he needed to check the pigs. Adam was on the phone with Tiffany when he saw the Blazer in his parents' driveway. Evan was driving, Josh was in the passenger front, and Bubba was behind him.

As Adam walked by, he held a finger up to them telling them to wait a minute. Adam walked into the

carport, saw his dad's shotgun leaning up against the wall between the refrigerator and freezer, and the door going to the house going from the carport was open.

Adam got mad, asked them why they have been in the house. They looked at him dumbfounded, he said. Adam asked them why or who has been in his parents' house. He told them he was calling the law. Bubba got out of the Blazer and took off running. Bubba ran across the road, Mt. Pleasant Road, and ran into the woods.

Josh and Evan got out of the Blazer, walked toward Adam. Josh was fussing, "Why did you come in fussin' last night waking the kids up?" Evan asked Adam, "Are you scared now?" He didn't exactly know exactly what Evan did say, but knew those words were there. Adam said, "Scared? I got the evidence."

Evan starting running down the road. Adam said, "Ain't none of y'all worth nothing," and threw the gun. When Adam slung the gun, the gun hit the ground and fired. Adam says he thinks he hit the safety when he slung the gun.

Adam said he told Josh to call 911 and go get Tiffany. He took the phone from Josh and told him to go get Tiffany. Adam walked with the -- or talked with sheriff's dispatch. Adam told dispatch he just shot his brother-in-law. "I think he's dead." Adam said he

didn't think dispatch could understand him. He saw a guy in a Tessy truck coming off Dear Run Road. He tried to flag the truck down to tell them to call 911.

The second truck did stop. He asked him to please tell 911 where they are. He left his phone with that guy, went back toward the Blazer to get a shirt to help stop the bleeding. He saw the gun, picked it up, threw it over his shoulder out of frustration. He took the shirt down to where Evan was, going to try to help stop the bleeding but knew there was no use once he saw Evan's face.

Adam called Lisa Honea, who is a nurse, and told her he threw the gun and shot his brother-in-law. Lisa got there before anyone. Then after Lisa got there, Tiffany, Nikki, and Bubba pulled up.

Q After you were done talking to him, did you ask him to write a statement or did you ask him if he wanted to write a statement?

A I asked him if he would give a voluntary statement, and he said yes.

Q Show you State's Exhibit 5. Do you recognize that?

A I do.

Q What is that?

A It's the statement that he wrote after this

interview.

Q Who was present when you took that statement? Where did you start it and where did you end it?

A He said he would write a voluntary statement, and we still hadn't talked to everybody and things, so we put him back in the seat back of John Towery's patrol vehicle. And he began his statement in that patrol vehicle, sitting in that backseat. And he was transported up here to the sheriff's office. And he wrote while in transit and finished it up here at the sheriff's office.

After he got up here, we put him in an interview room in criminal investigations, and he finished it there in criminal investigations.

Q Is that the original statement?

A It is the original statement.

Q On the overhead here, is that a copy of it?

A It is.

Q If you can, when you refer to it, can you -- hand you the pointer. And if you've got anything you want to point out. But it's kind of hard to read, so would you please tell us what he said?

A Okay. "When Tiff got home from work at 10:20-ish, 10:30-ish p.m. Monday night planning to take her brother, Nikki, and Bubba home and drop me at buddy's

home next door, Ken Sills, that I hadn't talked to a while, she started saying how tired she was and they could stay the night. And I got a little upset and just took off in my truck to Ken's house where I talked with him a while.

"I also texted him with Tiff about a few of our problems we got to get time to work on like phone time, but she wouldn't answer my calls until after 1:30 a.m. and was crying asking why I didn't listen to her.

"So I asked Ken to take me home and talk with her a while, and he did. But after a few minutes" -- or "min" -- "it was try to be heard most time and getting loud, so we just decided to wait on baby to wake up and stormed out. Run to Evan going through door of bedroom and he asked about a text on Tiff's phone he didn't like. And it went back and forth getting loud. And I told Tiff, Tiffany, I was out and she picked her kind well. And Evan said, 'Go to hell,' and Ken went to leave yard.

"As we pulled out, I couldn't find my phone and turned around to head back. It was found in house, and tensions were high, so Ken drove to my dad's. And I went in and used bathroom, texted Tiff about how her debit card and cash and a few cigs in freezer, showed Ken a saw needing fixing and was fixing to leave when

Josh pulled up in Blazer with Evan and Bubba.

"I handed it to Evan and called Tiff to tell her what I had sent, and we had a great talk and I felt better, but I told her those three boys didn't need to call, talk or even think of asking me to help them ever. And we left, went to Ken's where he and I talked of ways to help build me and Tiff.

"Then she called saying the Blazer had quit on them three, and I asked what she wanted me to do. They shouldn't have been driving it because it -- call a tow truck. It went back and forth until I gave in and asked Ken to check on his car while I went to see if it was mobile.

"Ken said, 'Be careful and call with what happened to it.' I told him if they hadn't left the Blazer, I wasn't going to stop. And when I found it on Blackjack Road, half mile from Evan's mom's on gravel drive, I kept going to my house where I woke up Tiff, told her that if they couldn't walk half a mile, I didn't have time to tow because hogs were out, and left going to my dad's to get rubber boots, and that's where Blazer was at.

"So I got out of truck, walked under carport to get boots and found my dad's shotgun and back door open. So I grabbed it, turned and asked why they were

trying to make me lose my son, and I was calling law. That's when Bubba jumped out and ran across road.

"Evan and Josh got out of Blazer, both talking at once. So swung gun like a club, and Josh went back and tried to get around me, and Evan took off. I ran a little ways and said, 'Take it, Evan,' and throwed shotgun, causing it to fire."

Q Did his statement there roughly mirror what he had told you orally in your notes?

A Yes.

Q And he said he found a gun in the carport?

A That's correct.

Q I guess in the garage outside the house?

A Yes.

Q And he threw it and it hit and went off and hit the victim?

A Yes, that's what he told us.

Q While this was going on, were y'all and other detectives talking to other witnesses and other people?

A When a death investigation is going on, obviously there's not just one investigator working on it. You have one person that's assigned as lead, but one person can't possibly, reasonably, in a reasonable amount of time, talk to everybody and gain all the evidence in a case, so everybody in investigations was kind of split

up and talking to different people. Different people were taking photographs, collecting evidence and talking to different people that either were there at the scene when it took place, maybe back at the house like Tiffany and Nikki, and Josh was back, you know, with the kids, watching the children, so somebody else had to go split off and go talk to him.

So everybody was in different areas of investigations, so it wasn't until later that, when everybody got back and we were able to kind of compile what everybody kind of knew after talking to people during the course of the investigation that we had a better idea kind of if there were conflicting stories, what some of the physical evidence was and that kind of thing.

Q Did he sign the statement?

A He did sign it, and Justin and I witnessed it.

Q Did you ever promise him --

A I'm sorry. Actually, Greg witnessed it. Justin and Greg witnessed it. They got back there to investigations. And Greg Reed, he's captain over investigations, he and Justin actually witnessed the statement.

Q Okay. And it was two pages?

A It was two pages.

Q While he was writing that, were you able to find out more about the case than you were able to know while you were talking to him?

A Not while this right here, not while he was writing this because he was in transit. It wasn't until several hours later, actually, that we knew more information.

Q Where did you finish up the statement and actually he signed it? Was it at the sheriff's office?

A It was at the sheriff's office in investigations in an interview room.

Q And did he stay in that interview room after the statement was over?

A Yes.

Q Did you later that afternoon approach him again to talk to him again?

A I didn't approach him. He had asked for an attorney, and we stopped questioning him at that point. So while we were talking to other people in investigations, different people were in different interview rooms, and we heard a loud bang from the room he was in, and he cut the light off to the interview room. So I don't know if he hit the table in there, the wall or what, but we could hear a loud bang. So we went over to the door and opened the door, and he said

that there is some things he wants to change or add --

MR. BURR: Objection, your Honor.

THE COURT: Hold on a minute. What's the objection?

MR. BURR: I would like to make it outside the presence of the jury.

THE COURT: Ladies and gentlemen, I need to send you out of the room. Take about five minutes. Please don't discuss the case.

(WHEREUPON, the jury exited the courtroom at 11:24 a.m.)

THE COURT: I don't want to assume anything, but I assume it's a hearsay.

MR. BURR: Yes, your Honor. Also I object to her discussing the request for an attorney, and the only logical reason she would bring that up is if she's going into the discussion of the polygraph. I want to make sure she doesn't bring that up.

MR. WAGNER: She's not, your Honor.

THE WITNESS: No.

MR. WAGNER: We have discussed that, and nobody is bring up the polygraph. I think she has to say what she is saying because he did reinitiate with them and said he wanted to add some more stuff to his statement. I think that's just where she was going.

THE COURT: That's as far as she's going?

THE WITNESS: Yes.

THE COURT: Okay.

MR. WAGNER: Just for the record, your Honor, I made it clear with the other two officers on this we're not mentioning the polygraph at all.

THE COURT: Good.

MR. BURR: It's a Fifth Amendment right. He obviously asked for an attorney, and she brought it up and said he asked for an attorney. I have a real problem.

THE COURT: Well, say that again because I think we're past that. I mean, we're going back to the *Jackson v. Denno*, but she's now saying that he communicated with her through the lights and the banging, and that's why that conversation took place, right? Is that correct?

MR. WAGNER: Yes, sir.

MR. BURR: Her testimony was she gave him a rights advisement out on Blackjack Road. Four hours later, after he was transferred to the sheriff's office, he was not re-advised. That's when he signed the statement. That's when he asked for an attorney. So we're tying my hands to getting into what was going on, why he continued to talk to them.

THE COURT: I may have the timing of all this -- that's not the way I remember the testimony from the *Jackson v. Denno*. Let me ask you this. Tell me what happened -- this is just proffered testimony -- when you realized that the lights were off and the banging, what did you do?

THE WITNESS: We went to open the door to that room, the interview room. Because, honestly, we didn't know what was going on in that room either, whether he was harming himself or what. We could just hear a loud bang. So we went to open that door, and he was right there at the doorway saying, "I got to talk to y'all. I got to talk to you. There's something I got" -- and actually Greg Reed told him --

THE COURT: So you re-Mirandized him then?

THE WITNESS: Yes.

THE COURT: That's what I thought. I thought from the *Jackson v. Denno* at that point you re-Mirandized him, and then he gave another statement.

THE WITNESS: Yes.

MR. BURR: At 9:43 -- I'm sorry, 9:46 she gave him a rights advisement.

THE COURT: Right.

MR. BURR: Talked to him.

THE COURT: And then he invoked his right to an

attorney.

MR. BURR: Transported him to the sheriff's office. He signed that statement four hours and three minutes later at 1:47 and asked for an attorney. Then he was locked into a room somewhere and left for an additional four hours unattended.

THE COURT: Right.

MR. BURR: And started beating. And that's when they said he reinitiated.

THE COURT: Right. And I may be wrong about it. I think that -- I mean, I understand where you're going with the argument, but if -- and it would be a totally different story if they had not re-Mirandized him at that point.

I understand the four hours is where your argument is, but I've already ruled on that with the *Jackson v. Denno*, and somebody may say I'm wrong about that. But what I wanted to make sure, the reason I asked that question is there was a re-Mirandization of this defendant when he blinked the lights and hit the door. And that's right.

For the record, your objection is similar to the objection during the *Jackson v. Denno* --

MR. BURR: I'd like to renew all the objections from Monday.

THE COURT: They're all incorporated in. And, again, I think this whole thing hinges on that ruling anyway.

MR. BURR: Thank you, your Honor.

THE COURT: Thank you.

You can bring them in.

We have got a couple that are -- does anybody need a break? You do? We're going to add five minutes. Now is a good time.

(WHEREUPON, recess taken from 11:28 a.m. to 11:40 a.m.)

THE COURT: Okay. Y'all ready?

MR. WAGNER: Yes, sir.

THE COURT: Okay. You can bring them back in.

(WHEREUPON, the jury came into open court at approximately 11:41 a.m.)

THE COURT: All right. You can continue.

BY MR. WAGNER:

Q Ms. Tinsley, when we left off, I believe your testimony was that there was a loud noise, lights went off in the interview room where the defendant was, and you went and opened the door to check on him?

A Yes.

Q And what, if anything, did he say?

A Greg Reed actually opened the door. A number of

us were in investigations and heard this. Greg opened the door. I was behind Greg, and Adam was in the doorway saying, "I want to talk to y'all. There's something I got to add and change my statement from earlier." And Greg reminded him that he had asked for an attorney, and he said, "No, I want to talk to y'all. I want to talk to y'all. There's some things that I need to tell you that I didn't tell you earlier."

So we went back into the room with him, Greg and I did. We read his Miranda to him again. It's on that form just like earlier.

Q Let me show you State's Exhibit 5.

A And it's got the place, date and time. So we were in investigations at that point. The time was about 5:45 p.m. Read his Miranda to him once again from this form. He initialed all of the things that are on the form, signed it, and Greg and I witnessed it at 5:47 p.m.

Q Is this a copy here on the -- is that the same thing?

A It is.

Q State's Exhibit 5 is the same as this (indicating)?

A Yes.

Q Is that the original that you've got?

A Yes, this is the original.
Q What exactly did you do again?
A We sat down with him, and I take a record of interview, my notes that I took. So we sat back down and started listening to whatever he had to say. And on my notes, I got at the top, "Adam wants to add/change some things he put in his statement." So we listened to him and what he had to tell us.
Q And what did he tell you? Just hit the highlights in your notes.
A It said, "When Adam got to his parents' house, he saw Evan, Josh, and Bubba, he saw the carport door open. His bathroom window was open. Adam went to the kitchen, saw the shotgun leaned up against the door jamb that is between the kitchen and the living room.

"Adam picked the gun up and walked out the carport door with gun in hand -- in his hand. Adam asked them what was wrong with you. He said that yesterday, the day before, on the 8th, he said that he caught them burning what looked like bottles that drugs were made in. He said his brother, Aaron Burdette, and Josh Anderson had gotten caught making meth approximately two months earlier.

"Adam says he and his landlord, Ray Price, were walking in the backyard, and Adam noticed there was

melted plastic bottles in a burn pile and also saw a bag of trash that had Sudafed boxes and Zip lighter fluid.

"Adam said he confronted Josh about making meth. Josh said he didn't know what Adam was talking about. Evan asked Adam to step outside to cool down." And that is why Adam wanted to clean the house up. He wanted to clarify that whenever he went to get Nikki and took Nikki back to his parents' house so she could baby-sit the kids so he could go back and clean the house, that that is why he went back to clean the house.

Let's see. He said that when he initially went to Ken's house and then went back to his and Tiffany's house, he had -- after he had texted Nikki, Adam had handed the debit card, five dollars in cash and cigarettes to Evan. Adam said that he's sure that he locked the carport door before he left.

After Adam passed the Blazer broke down, drove to his house, pulled back into his parents' driveway, walked into the house, saw the gun, he said he thought, "Are they trying to rob or kill me?" "Rob me or kill." So he went outside with gun in his hands asking -- demanding who had been in his parents' house. Adam said, "I'm calling the law." That's when Bubba ran.

Josh and Evan got out of the vehicle. Josh started fussing about him arguing at the house when the kids were sleeping.

Evan said something that had the words "scared now" in it. Adam turned to Evan and said, "Don't sneak up on me," and stomped his foot at Evan. Evan ran around the Blazer and ran down the road. Adam hollered to Evan, "Why are you hurting your sister and stealing from me?" Then Adam threw the gun. That's when the gun went off, once it hit the ground. Adam says he was standing in front of the tall flowers at the corner of the porch closest to the large tree in the front yard.

Adam went to get the gray shirt for Evan's face -- when he went to get the gray shirt for Evan's face, he picked the gun up and threw it back down. And when Adam said -- he said, "You want it, you can have it," and then threw the gun.

He also made a statement to me that he says that after he confronted Josh about making meth and after Evan asked him to step outside to cool down, he asked Evan, "What's the big deal about meth?" Adam said he did snort a line of meth on 7/8. So the day before the shooting incident he had snorted a line of meth because he had asked Evan what's the big deal about it.

And what I did after that, I had to make sure I

had whatever he wanted to add and change to his first statement and make sure I had it correctly, had everything correct, I read him my notes and asked him if he would sign my notes if that was what was true and accurate as to what he wanted to change. And he did do so. He signed my notes, and Greg Reed witnessed the signature.

Q Why did you have him sign those notes and not the notes that you had previously?

A Because I felt like that last especially stood out to me that he had been talking in the first two statements about how angry he was that everybody was using drugs and making drugs and that. It stood out to me as something that whenever -- I knew we were going to ask him to write another voluntary statement.

Many times when people write us voluntary statements, they tend to leave out things that they had verbally told us. So I wanted to make sure that I had that accurate, and I wanted to make sure that that statement that he made to me that he used a line of meth was documented.

Q And when you were talking to him and the notes that he signed, he again said that he had thrown the gun, it had hit, and it had gone off?

A That's correct.

Q But did you ask him to give you another written statement?
A We did. After --
Q Before we go there, let me show you State's Exhibit Number 8. Is that the original of the notes that you just read?
A Yes. This is the original of the notes I took in the second interview.
Q Prior to this, with two rights waivers, a copy of which is on the screen here and the one prior to that, in order to get him to waive his rights and talk to y'all, did y'all ever promise him anything or hold out any hope for reward or did you ever threaten him or try to coerce him in any manner?
A No.
Q He was in the holding cell for quite some time. What was -- were y'all talking to other people while that was going on?
A Yes. We were talking to each other and other people.
Q Was he fed lunch?
A Yes.
Q Okay. Was he --
A Allowed to go to the bathroom? Yes.
Q Y'all didn't deprive him of anything?

A No.
Q Okay. Did he give you a second written statement?
A He did.
Q Let me show you what's been marked as State's Exhibit Number 6. Do you recognize that?
A I do.
Q What is that?
A That's the second statement that he wrote, the original copy.
Q Okay. Did you threaten him in any manner to try to coerce him to give that statement?
A No.
Q Did y'all promise him anything?
A No.
Q To the best of your knowledge, was this statement given freely and voluntarily by him at his request?
A Yes.
Q And he had told you that he wanted to talk to you?
A Yes.
Q Okay. What did he say in his second written statement?
A Do you want to put this up --
Q I can.
A -- so they can read along if they want to.
Q Where did this occur, in the same room, same

interview room?

A Same interview room.

Q Still kind of hard to read, but --

A Says, "As I pulled up at my father's home, I saw that my wife's Blazer was there which was a problem because Evan had called Tiff saying it couldn't be drove, and I just seen it up the road waiting ten minutes before.

"As I walked up, I see the door to the house is open. After I locked it, I went in and walked to mama's room where the door was open and also had been locked. As I came back through the house, my daddy's shotgun was in kitchen and not in bedroom.

"I was worried if they were stealing it or wanting to hurt me and went outside wanting to know who did it and why, saying I'd call the law. And Bubba jumped out of the car and ran into woods. Josh and Evan got out and came to the front of the Blazer. Josh was hollering and I was telling him he was supposed to be my friend and et cetera.

"And Evan spoke. I turned and saw him slipping up on me and stomped, yelling, 'Don't sneak up on me.' He ran behind car, and I went around front. As he was running down the road, I held shotgun up above his head and to the left so if he looked back, it scared him

because it wasn't loaded.

"But then when I pulled the trigger to pretend to fire and make myself more safe in my mind, the safety was off and it discharged. I was so scared, I throwed it away and ran to Evan."

Q So between the written notes right prior to this and this statement, he had changed what happened with the gun?

A That is correct. The written notes, the second interview that we went over and I had gotten him to sign that was true and accurate to what he talked about, he changed what he told me in his written statement.

Q At what time did you finish talking to him, and did he sign the statement, did y'all sign as witnesses?

A He finished signing -- filling out this statement at 7:54 p.m. Greg and I witnessed it. During the course of the day, we had talked to other people who had been there on scene and had been told about what physical evidence had been collected and was there. We knew there had been two rounds fired, two shots fired. We found that empty shell casing in the backyard, and there was an empty shell casing in the chamber still, so we knew there had been two shots fired.

What Josh and Bubba were saying took place were

different than what Adam said took place. And so when he wrote and he finished this written statement, Greg and I explained to him that as, of course, in a criminal investigation, we look at those things. We look at physical evidence, witness statements, and we look to see if we can figure out what happened, what fits what people are saying, what's contradicting.

And we told him about some of this physical evidence that we knew. We knew there had been two rounds fired because there was physical evidence of that. And whenever we told him that, he just -- he said, "I'm tired. I've been up all night. I'm tired. I'm frustrated. I just -- if I can get some sleep, I'll talk to y'all tomorrow about it. I'll talk to tomorrow, and I'm sure after I get some sleep, I'll be able to remember things straight."

So, to be honest with you, I was tired, too. We were good with that. And I told him that he was under arrest for the murder of Evan Tyner. And he said he understood that. And we took him down to detention, and we went home.

Q Let me show you State's Exhibit Number 9. Do you recognize that?

A Yes.

Q Can I borrow that back? I'll put it up here.

A You might want to turn it the other way.
Q Who -- what is that?
A I drew this while he was waiting in the interview room and while we were talking to other people to try and get a better understanding of where everybody was standing when this took place. I just drew a basic overview, overhead shot, aerial shot of the parsonage and the roadway there. It's not to scale or anything like that. It was just to kind of get an idea of where everybody was.

And so we had actually asked -- or I didn't, but I had given it to other investigators, and they had asked other people there at the scene to do the same, to look at this and say kind of where everybody was standing. So I had taken this to Adam and asked if he could tell us about where everybody was when all this took place.

So the overall drawing is mine, but where this is is Adam's handwriting. That's where he said Josh was. This is approximately where he was standing. That's me, X. Here, Bubba. And there, Evan. And that's Adam's handwriting. And that's Adam's signature, and he dated it. And that was during the same second interview before we took him down to detention. That's where he was. This is what he did.
Q Okay. But he had gone from throwing the gun to

having it hit and go off to aiming over his head and to the left to try to scare him and then the gun goes off?

A That's correct.

Q All right. Did you go back down the next morning like he requested, and did you and Captain Reed talk to him again?

A Reed brought him up to investigations from detention and talked to him in investigations in an interview room.

Q Let me show you State's Exhibit Number 4. Do you recognize that?

A I do. It's the Miranda after we brought him up from detention. I used the same Miranda form, read his Miranda rights to him. He signed that he understood it and waived his rights, and he said he wanted to talk to us.

Q And did you promise him anything to get him to waive his rights and talk to you again?

A No. And we -- I brought him up, and we read this to him at 11:44 a.m., the next day, right around lunchtime, and he signed it and we witnessed it at 11:50 a.m.

Q Did he say he wanted to talk to you?

A Yes, he said he did.

Q Did you talk to him again?

A We did.
Q Did you take any notes on that occasion?
A I did. Adam said that he did come out of the house with the gun and fired it at the ground, had trouble getting the shell out of the gun. Josh was walking towards him. Adam had a knife pouch on his belt. It's kind of buckskin in color.

Adam said that he took the knife out of that pouch and jerked -- took the shell out, pried the shell out with that knife, threw that spent casing through the carport behind him. It traveled through that carport out there on that grass where y'all saw that picture over there.

Adam put the other shell in the gun, noticed Evan was coming up behind him, stomped his foot and told Evan, "Don't sneak up on me." That's when Evan ran behind the Blazer and started down the road. Adam said he didn't mean to kill him. He just wanted to scare them all so they wouldn't ever come back.

Adam says when he got to the house, saw the Blazer, the carport door was closed. Adam knew he had locked that door since it was closed. So he went around to the back door that leads to the back deck. He opened the door. You could wiggle the chain. He said you could pick up on the door and wiggle the

chain. It has one of those chains across the doorway from the inside. You all know what I'm talking about?

He said that he could wiggle that chain to unlock it and went inside the house. He stated that the bathroom window was open. Adam says that when he shot towards Evan, he saw they were all running or going different directions away from the house, Josh one way, Bubba into the woods, and Evan down the road.

Josh said he thought if he shot one more time, that would let them know they could either just keep going and not come back.

Q Okay. And did you take another written statement from him?

A We did. We asked him if he would give us another voluntary statement.

Q Let me show you what's been marked as State's Exhibit 7.

A This is that third statement that he wrote.

Q Is that the original that you took that day?

A Yes, this is the original.

Q On all these things, has anything in them been altered or tampered with in any manner?

A No.

Q Did you ever promise him anything or hold out any hope for reward or coerce him to waive his rights in

any of these rights waivers and give you these statements?

A No.

Q What did he say on the third written statement?

A He says, "As I pulled up at my parents' house, I saw my wife's Blazer that had been down the road supposedly tore up a few mins" -- minutes -- "earlier and them three sitting in it. And it worried me that they had sat on dirt road that long and waited if it could be driven and why they didn't go to take it to my house where it belongs and where my wife was. I was tired and aggravated at the whole situation and all their crap.

"So I went back up, went up -- went up back steps and saw the window open, went in back door, unlocked it, found my parents' bedroom door open and it was locked, saw that my daddy's shotgun had been moved and that was it. I wanted them all to leave and just leave me and Tiff alone.

"So I grabbed shotgun, went outside and shot into the ground. That's when Bubba took off into the woods. I opened the shotgun and the shell didn't come out. As I was trying to get it out, Josh and Evan got out of the car, and me and Josh started fussing because I wanted them to leave and he wanted me to calm down so

I'd take them home.

"I put shotgun down on Blazer, told them to walk. I wanted them gone, picked up shotgun and started back in the house. And he kept on. So I shoved the other shell in the shotgun and turned toward Josh, closing it, and said, 'You ain't my friend. Get away. Don't come back.'

"Evan was walking up on me, so I turned, stomped my foot and told him, 'Don't sneak up on me,' and he took off down the road. Josh had started toward church. I went in front yard, glanced Bubba in woods. So I pointed gun towards graveyard to fire a shot in the air and scare them so they would keep going. And when Evan fell, I screamed and threw the shotgun and ran to him praying he was faking.

"I didn't know how he'd been hit from that far. But when I got there by his side, I knew he wasn't faking. And I begged him, 'Don't die, please.' That's the only member of Tiffany's family I liked that hadn't put me through hell and drove me crazy for the last year. That was Tiff's baby brother that she had took care of, and they were all that had kept each other going when they were abused and neglected as children and sent to foster care then DAR school.

"Evan was the only person I knew would take care

of Tiff if I wasn't around. He was more like my brother than my brother is. I loved that boy, and now I just killed him, took Tiffany's brother. When they took me to jail, she wouldn't have nobody to be there for her. She would lose everything she worked for. Her family would hate her, and I couldn't let him die.

"I told Josh, 'Call 911.' But I grabbed the phone and told him, 'Take my truck and get Tiff.' I had to give a stranger the phone because operator couldn't understand me, and I kept trying to stop the blood. Evan looked so much like Tiff, and I knew she wouldn't ever speak to me again, that I keep seeing his face like it was hers and that I had shot.

"I don't know why this happened and what's going to happen, but I swear I'd never hurt Evan for no reason or Tiffany, and now I ended his life and destroyed hers. And she still loves me and even forgave me last night, and that makes me feel so much worse. I would swap places with Evan right now if I could. I'm so sorry for what I've done and everybody it hurt. I didn't want to hurt nobody. I just wanted to be left alone so I'd get work done and spend time with Tiff and the kids, and I'll never get that now."

Q And did he sign that statement?

A He did sign that statement, and Greg and I

witnessed it.

Q And what time did y'all finish that statement, what day?

A On the 10th of July, 2:12 p.m.

Q Did you investigate -- in your investigation, did you determine -- were you able to determine whether there was actually a burglary that occurred at the parsonage?

A I believe that there's evidence that one did. As far as the back window, that screen being pulled off and that window being jerked open, we had asked his parents. They were called to the scene by him, and we asked his parents if they would go into the house and tell us if anything was missing, anything like that. And his mama said that the only thing that she saw out of place was the shotgun was missing. Nothing else was missing out of the house.

Q Who was the only person that you had evidence of that had possession of the shotgun?

A The only person I had evidence of that had been in that house out of the people we're talking about since that Blazer pulled in there broke down was Adam.

Q In between the three statements, did the defendant change where he went in the house, when he would go in the house, what door that he locked, and what was the

difference in the three?

A In the first statement, he said that -- and my second notes -- he said that the gun, the cause of the gun going off was him throwing that gun and it hitting the ground. In those the carport door was open when he got there. All of them consistently said that Bubba, Evan, and Josh were still in the Blazer. He never said that they were outside the Blazer until he pulled up that second time.

Okay. In the second statement, the second time he was telling me about it, in the written statement, he said the gun was leaned up against the door jamb. Instead of finding it in the carport as he said in his first statement, the second statement, he said he found the shotgun inside the house leaned up against the door jamb in between the kitchen and the living room.

In his second written statement, after he signed those interview notes, he said the gun fired because -- he said after he pointed the gun above Evan's head and to the left, Adam pulled the trigger trying to make himself feel more safe in mind, which was different than it hitting the ground and firing because of that.

And his third statement, the carport door was locked when he got there. He knew it had been locked. The gun was -- had been moved, but it was in his

parents' bedroom. And that's when he said, "That was it. I wanted them all to leave."

He said -- in a third statement, he said he did fire a round when he come out that carport door from the house walking towards the Blazer. He did fire a round into the ground in front of the Blazer. Adam entered the house -- he said he entered the house by going in that back door on that back deck and wiggling on that chain on the back door. He said the gun went off when he pointed it toward the graveyard and pulled the trigger.

Q So he went in the first carport door the first two times, went in the back door the third time?

A Right.

Q And the carport door was locked?

A Yes. The third time he said the carport door was locked.

Q Window was always open?

A Yes.

Q Did you find anything consistent physical evidence-wise when y'all found the shotgun shell in the backyard? Was it consistent with somebody firing a shotgun from this point of the carport to throwing it back through?

A Yes. It's because it's completely open. It's

just a carport that's got a roof and some pillars on the side, so it's completely open to the back, backyard.

(WHEREUPON, State's Exhibit Number 62 was marked for identification.)

BY MR. WAGNER:

Q Let me show you what's been marked State's Exhibit 62. Do you recognize that?

A I do.

MR. WAGNER: Your Honor --

Q Does it truly and accurately depict the subject matter of what it shows?

A Yes.

MR. WAGNER: Your Honor, at this time I think we would move to admit 62. I think he's seen it.

MR. BURR: No objection.

THE COURT: All right. Without objection.

(WHEREUPON, State's Exhibit Number 62 was admitted into evidence.)

BY MR. WAGNER:

Q What is this a picture of?

A That's a picture of the back of Evan's neck.

Q Okay. And why -- just that particular picture, what does that show?

A There is a spot right here. The projectile, when

it hit Evan, it traveled through his shirt collar and left a hole where it traveled through that shirt collar, and that's what that's showing.

MR. WAGNER: Thank you, ma'am.

MR. WAGNER: That's all the questions I have.

MR. BURR: May it please the Court.

THE COURT: Yes, sir.

(WHEREUPON, Defendant's Exhibit Number 9 was marked for identification.)

CROSS-EXAMINATION

BY MR. BURR:

Q Ms. Tinsley, give you a chance to stretch your legs. If you would come down. I have what's marked as Defense Exhibit 9 for identification. This is an aerial photograph. Would you mark on here for the jury the intersection of Blackjack Road and Highway 11.

A Circle?

Q Circle.

A (Witness complies.)

Q Now, mark the Mt. Pleasant Road and Blackjack where this incident took place.

A This road. This road is Mt. Pleasant Road. This road is Blackjack road.

Q And where is Spearman Road?

A Spearman Road is right there. So it's across 11.

Q So Spearman Road is where the defendant lived. The intersection is where the incident took place. Do you have Mr. Carter, Trail End Road, where Mr. Carter loaned him the phone?

A Right here.

Q And Mr. Carter testified he gave him his telephone and they left at 5:34?

A Left the --

Q And the next time episode we have is when they were at the parsonage?

A Yes.

Q Well, we know that when defendant was on the telephone with his wife, which was 6:55 --

A So then you're saying -- yes, they traveled from here, what they testified to, to here.

Q One hour and 30 minutes?

A I don't know if it took an hour and 30 minutes.

Q Okay. Take your seat.

Run through a brief timeline. Sergeant Towery, the officer that was, I guess, first on the scene, placed Mr. Burdette in handcuffs at 6:30 -- 7:30 a.m.?

A I don't know when he placed him in handcuffs.

Q You gave him -- your notes started at 9:43 a.m.?

A Yes.

Q And Detective Ward started his at 9:44 a.m. You

gave a rights advisement at 9:46 a.m.?
A Yes.
Q He started a written statement at the incident location at 11:25?
A Yes.
Q He was transported to the sheriff's office. That's when he signs his first statement, and that was at 1:47?
A Yes.
Q At that point you guys discontinued the questioning and locked him in a room and left him for four hours?
A We left him there in investigative detention while we conducted a death investigation, yes.
Q And you brought him back out and started a second written statement at 7:08 that evening?
A He reinitiated contact. We read his Miranda rights to him at 5:45 p.m. After conducting that second interview and talking with him, he began his written statement at 7:08 p.m. and finished that written statement at 7:54 p.m.
Q And he was booked into the jail at 9 o'clock that night. So for 14 hours he was questioned by you, Ward, Towery and Captain Reed?
A I'm not exactly sure what John Towery asked him.

I have no idea. But --
Q Let's limit it to the three that you did know about.
A -- during the course of that entire day, we talked to him during that course of that entire day off and on.
Q And isn't it true that suggestion was made to him such as, "We have an eyewitness that saw what happened"?
A There were eyewitnesses there that saw what happened, Josh and Bubba.
Q No. One of the passers-by allegedly, according to Captain Reed, had seen him and gave a statement?
A Sam McCall saw Evan run down the road and saw him fall --
Q But Mr. Burdette was told --
A -- and Sam McCall gave a written statement.
Q But Mr. Burdette was told something different, that he saw what happened and he saw the gun being pointed.
A You'll have to ask Greg Reed what he told Evan -- I mean what he told Adam. I know that, and I can't remember word for word what we said exactly to him. There was no coercion. We were simply trying to discover what happened, the truth of what happened --

Q Let me interrupt you. So you had 14 hours with three of you working on it and --

A There were more than three of us working on it.

Q -- and you can't recall exactly what happened or what was said?

A No. I know what --

Q But you expect him --

A -- I wrote down in my notes.

Q From the time Mr. Burdette was talking on the phone to his wife and said, "They have broken into my daddy's house," to the time 911 was called -- that would be him pulling up behind them, going up, checking the side door, going in the back door, looking into the house, coming out with a shotgun, firing a shot, them running, Tyner running 70 yards down the road, getting shot, Mr. Burdette running the same 70 yards, picking up his phone, how long does that take?

A Mere minutes, I'm sure.

Q About two minutes and 50 seconds. All this happened in less than three minutes by every witness who is originally on the scene. He was completely traumatized, hysterical, panicked, and you guys held him 14 hours, and now you're saying maybe he said something differently?

A Well, we talked to other people there, too. We

actually took other people back to the sheriff's office, detained them also because we didn't really know exactly what happened. That's a part of investigation. It's what we do. And, unfortunately, that does take a little bit of time. I can't make it in an extremely short amount of time. So, unfortunately, it does take some time. We did allow, and I perfectly understand --

Q Investigator -- investigator --

A -- that he may not remember every detail.

THE COURT: Whoa. Whoa. Whoa. Stop. Make sure that you ask the question; you answer it. Y'all are talking over each other, and the court reporter can't understand and neither can I.

Okay. Go ahead.

BY MR. BURR:

Q How many tape recordings did you take of what was being told to the defendant?

A None.

Q Why?

A Because that's not what any of us do at that time or had done at that time. We didn't record our interviews.

Q But why? Wouldn't that certainly make it better for everybody here if we all knew exactly what was

said?
A It would have been awesome. But I didn't -- we didn't do that. That's not what we did in investigations for any investigation. We didn't record our interviews at the time.
Q So we have no way of knowing what Mr. Burdette was told by you and Captain Reed?
A Exactly word for word, no. I know what I took down in my notes.
Q When you guys arrived on scene, all of the people that were given credit for arriving on radio called in and said "on scene." You never called in, did you?
A I didn't. I got there on scene. I had had about an hour's sleep myself, had been at work before that before I clocked back in for 20-something hours myself. So, no, I just didn't. And it wasn't on purpose. I just failed to pick up the mike and say I'm what we would call 10-23, on scene.
Q And the evidence shows that Mr. Burdette had been up most of the night interrupted by these people calling him, went to a friend's house trying to get sleep. He had been up just like you had, hadn't he?
A Yes. He had been up, too.
Q And a very traumatic event had happened to him?
A That's right.

Q So he was subject to make some mistakes?
A Yes.
Q You say you didn't take notes -- I mean you took notes, but you didn't record anything.
A That's correct.
Q The notes are subject -- you're subject to making mistakes in those, aren't you?
A Sure.
Q In fact, in your original set of notes, you said that he told you his friend Ken lived near the Blue Ridge Bank in Walhalla?
A Yes.
Q And Officer Ward that was right there with you wrote that his friend Ken lived near Blue Ridge Bank in Bountyland.
A And it was the one in Bountyland.
Q So those little mistakes make a difference, don't they?
A I just understood it was the one in Walhalla when he said Blue Ridge Bank.
Q You testified -- hold on. When he was -- when Mr. Burdette was checked out of the jail the following day to give these statements, what time was he checked out?
A Of the jail?

Q Yeah.
A I'm not sure. I can tell you what time I read him his Miranda.
Q What time was that?
A At 11:44 a.m.
Q 11:44?
A A.m.
Q This is --
MR. BURR: Your Honor, if I may approach the witness.
THE COURT: Sure.
BY MR. BURR:
Q Would you identify that.
A It says it's an Oconee County detention center inmate escort sheet.
Q And what time was Mr. Burdette checked out of the jail and taken to investigations?
A They have a question mark there.
Q But they are listed in chronological order, aren't they?
A Time-wise, it looks like it.
Q And what were the two times prior to his question mark?
A At 1353, looks like one person might have been wrote twice. I don't know if that's the same person or

not, but Mitchell or Kenston or --
Q So, obviously, that document has been altered or is wrong. If you had any --
A Somebody didn't write it down. I didn't write this.
Q But not just not writing it down. The fact that you can see from the previous people, the entire thing is in chronological order. There's no way he could have been upstairs and in the jail at the same time, could he?
A No. He was in investigations.
Q October 11, 2013, when we had a probable cause hearing on this case --
A Yes.
Q -- and I asked you if the evidence didn't indicate this was a fluke, a freak accident, and you said you couldn't tell whether it was a fluke or freak accident?
A I don't remember saying that.
Q Do you want me to show you a transcript?
A Sure.
MR. WAGNER: Your Honor, just I have a question.
THE COURT: Ladies and gentlemen, I need to send you out for about three minutes. Please don't discuss the case.
(WHEREUPON, the jury exited the courtroom

at 12:25 p.m.)

THE COURT: Yes, sir.

MR. WAGNER: Your Honor, I've got an objection to the transcript I don't know anything about. They don't do a transcript on prelims. They make a recording of it. I have not been privy to any transcript that's been done, who's done it, whether it's accurate.

THE COURT: What is this a transcript of?

MR. BURR: It's the preliminary hearing. It is a recording. I've had the recording transcribed, and we have the recording.

THE COURT: I guess the only issue is whether or not you would agree that the recording and the transcript are the same, which means you've got to listen to them.

MR. WAGNER: Let me see the transcript.

Who did the transcript?

MR. BURR: The original transcribing was done by Erica Soderdahl. It was later verified by April Sanders.

THE COURT: Who is April Sanders?

MR. BURR: She's a paralegal in our office, your Honor.

THE COURT: Oh, okay.

MR. BURR: Your Honor, I'm not going into great

detail. It's the date of this statement and the date of the lab results is what I'm really trying to get to.

THE COURT: Okay. But I think the question you asked her was about accident, could this have been an accident, and she said, "I don't remember saying that," and then you said, "Well, do you want me to show you the transcript?"

MR. BURR: Right.

MR. WAGNER: Yes, sir. According to the transcript, she said, "Well, I don't know if it's a fluke or freak accident or not, but we haven't had time to test the gun. It's at SLED."

MR. BURR: That's my point. The date is what I'm trying to get at. That's the same date that the report was published.

THE WITNESS: Upon being asked what, did I say that?

MR. WAGNER: You were asked -- Mr. Burr said, "And one pellet just hit him in the neck. That's kind of a fluke or freak accident?" And according to this, you said, "Well, I don't know if it's a fluke or a freak accident or not, but we haven't had time to test the gun. It's at SLED."

THE WITNESS: I mean the spread pattern, talking about the spread pattern. We had no idea what that

might could be or if they could test that or not.

THE COURT: So I guess the question is, do you remember saying that?

THE WITNESS: Yes. And I can explain why. If that first part, what he just said, I can say why I said that.

MR. WAGNER: At that point, your Honor, I'll withdraw my objection. It's just something I didn't know about.

THE COURT: But that answers the question. If you remember that that would have been the real issue. Okay.

You can bring them back in.

THE WITNESS: It's in reference to that one round.

THE COURT: Y'all, look. I understand you get excited. Make sure you answer the questions.

THE WITNESS: So we're just going to talk about that one statement?

THE COURT: I think so.

MR. BURR: Yeah.

(WHEREUPON, the jury came into open court at approximately 12:30 p.m.)

BY MR. BURR:

Q Sergeant Tinsley, I was asking you about a hearing we had back October 11, 2013, in reference to this

case. And your response, you were unable to answer my question because the slab -- I'm sorry, SLED results had not been returned yet.

A And you had asked me what? I'm sorry.

Q I was asking you whether you considered it a fluke or freak accident.

A That one pellet hit him?

Q Right.

A I told you I didn't know. We don't do firearms testing at the sheriff's office as far as like spread pattern. You know, there's nine pellets to a shotgun shell. And I didn't know if it was even possible to get what a pattern would be, spread pattern would be at that distance. We didn't have that evidence back from SLED, so I didn't know what the odds were that one pellet hit him.

Q Okay. But the SLED report was, in fact, published -- even though not presented to you yet, it was published that same day, right, October 11, 2013?

A I'd have to have my case file to know.

(File handed to witness.)

THE WITNESS: The firearms department published theirs, it says February 6, 2015.

BY MR. BURR:

Q That's the second report.

A That's the firearms department. The latent print department was October 11, 2013.
Q Okay. The report that was published October 11, 2013 --
A Was latent prints.
Q Listen to my question. Did you receive that report?
A I did ultimately receive that report, yes.
Q And at that time did you have any reason to believe you were going to receive any other report?
A Yes. We had submitted the firearms testing to SLED.
Q Did you follow up on whether or not it was tested?
A We did.
Q And when was that?
A When the defense asked for the evidence and when I was told this trial was going to come up and we knew we were going to need that evidence for trial.
Q Were you the lead investigator on this case?
A I am the lead investigator on it.
Q And does that make you responsible for everybody's actions, all the evidence, everything that takes place in it?
A I have control of what I do only, period, in anything. That's in this investigation, outside this

investigation. I can control me only and that's it, my circumstances, my responses to things. I cannot control if we submit evidence in August 2013 and SLED doesn't get to it by the time this court date was going to roll around.

Q Did you ever follow up to see whether those tests had been done?

A I had not.

Q Okay. And you knew that the prosecutor had put this on a trial docket in January?

A I had been subpoenaed for several months' worth of trial dockets. I actually didn't know when this was going to -- when this case was going to come up, to be honest with you.

Q From the time -- have you ever looked at this evidence? Have you ever held this gun before?

A No.

Q Have you ever looked at the pellet involved?

A I've looked at it through pictures. I don't touch things that I'm not an expert to be touching. I could take -- I know that those pictures are there. I know the projectile was taken. If I don't -- I'm not qualified to touch it and test it, I don't touch it. Somebody else collected it, they took pictures of it, I can look at it via pictures.

Q Are you qualified to touch and look at the results of a test done?
A Yes.
Q And nothing came in for 18 months and you didn't question it?
A No, because it's not unusual for us not to get things back from SLED for quite a long period of time because they have every law enforcement agency in the state submits stuff to them. So you're on a waiting list. And I think that they just prioritize it according to what they do. I have no control over that.
Q Did you know that the defense had requested this evidence for the entire 18 months and was never allowed to see it?
A No.
Q You heard Sergeant Philpott testified yesterday that once I was allowed to see it, four days before the trial was scheduled to start, within five minutes I picked it up, closed it, and it misfired?
A I didn't hear him say it misfired.
Q It fired is what he said, not misfired. It was a dry fire because, obviously, I checked it to make sure nothing was in it. But he testified when I slammed it closed, it fired.

A Well, I didn't see what you did. I was sitting behind you. So I know you closed it, and he said it fired. To really get specific on it, you'd have to ask David Philpott what he did. I wasn't there.

Q I did ask him. He testified.

A Right. But I can't say what David saw.

Q But you don't think it's worthwhile for somebody else to try that, rather than the expense of what we're going through today?

A To try what?

Q To get to the truth of what happened.

A We did get to the truth, I believe, of what happened.

Q Prior to this case, how many murder cases have you been lead counsel on -- lead investigator on?

A This may be my first investigation. I got into investigations probably about three years ago. So this may be my first murder, my first lead.

Q Are you the person that actually went to the magistrate and obtained the arrest warrant on this case?

A Yes.

Q What date did you do that?

A On the 9th. On July 9th, 2013.

Q Look down at the date towards when it was

presented to the magistrate.

A Oh, the 10th. I'm sorry, the 10th.

Q Then it was served on the 10th?

A Yes.

Q So that was after you had your night's rest. You weren't still tired. Why did you put the wrong case number on it?

A Because the case number on this is that attempted murder case I worked the night before. It's -- the 1323302 is that attempted murder case and it was by mistake.

Q That wasn't the shotgun used in the case, was it?

A This is a typographical error. It's way different than having the wrong weapon in an investigation.

Q When Richard Bagwell was interviewed, he gave a signed statement. Do you know who took his statement?

A Looks like it was David McMahan, Investigator David McMahan.

Q So are you familiar with that statement?

A Yes.

Q And is there not a statement in there where Bubba states they were surprised that Adam had not come back to the parsonage because they knew he had left the Spearman Road address?

A Didn't you get Bubba to clarify that when he was

up here on the stand? What line is it, what page?
Q Sorry?
A What page, the second page?
MR. BURR: If I may, your Honor, I might expedite things.
THE COURT: Sure.
BY MR. BURR:
Q Do you see it?
A No.
Q Let me hold it. I'll try to find it for you.
Who was this statement taken by?
A Investigations-wise, is that what you're asking me?
Q I'm sorry?
A Investigations-wise? It says it was witnessed by David McMahan.
Q Okay. And are those the case -- the notes from McMahan that accompanies that statement and also signed by Mr. Bagwell?
A Well, David didn't sign these notes, but they're notes, it looks like, in reference to that same date and in reference to Bubba's statement.
Q And Bagwell signed those notes, did he not?
A It looks like his signature.
MR. WAGNER: Your Honor, objection as to her

testifying about another witness who's already testified's statement and notes.

THE COURT: Yeah, I agree. Sustained.

MR. BURR: May I retrieve that, your Honor?

THE COURT: Yes.

BY MR. BURR:

Q Sergeant Tinsley, you did interview Tiffany Lee on September 4th, 2013, at her residence on Mt. Pleasant Drive?

A Wait just a second. I'll tell you.

On September 4th, 2013, yes.

Q The second page of her statement, after you -- someone drew some lines on there, what is her statement to you?

A Is this in reference to the same objection we had earlier, me testifying to someone else's statement that someone else has been up here and already testified to?

MR. WAGNER: Your Honor, whose statement is it? He's talking that direction. I couldn't hear his question.

THE COURT: Show him which statement he's talking about.

THE WITNESS: It's Tiffany Lee's.

THE COURT: Show it to Mr. Wagner, I think, first.

MR. WAGNER: Yes, I've seen it.

THE COURT: Okay. And are you objecting?
MR. WAGNER: No, sir. It's in response to something else that was asked earlier.
THE COURT: Go ahead.
BY MR. BURR:
Q And the response to your questioning of Ms. Lee, did she not tell you in that statement that she, the night of July 7th, 2013, she walked in on Josh, Bubba, Tiffany, and Evan, and they had their syringes -- or each had a syringe and they were shooting up meth?
A I don't think anybody is disputing there were several people using methamphetamine involved in this case.
Q "Yes" or "no" is all I need.
A Yes, uh-huh.
Q Thank you.
(WHEREUPON, Defendant's Exhibit Number 10 was marked for identification.)
BY MR. BURR:
Q Sergeant Tinsley, I want to show you what's marked Defendant's 10 for identification. Did you seek and receive a search warrant for Mr. Burdette's telephone?
A Yes.
Q And then subpoenaed the telephone company to get his records?

A Did a search warrant for it, yes.
Q And you have reviewed these records?
A Yes.
Q So the last call on this phone prior to this happening started at 6:55 a.m.?
A I can't see the time from here. That right there in the middle, 6:55?
Q Yes.
A Yes. That's from Tiffany's phone number.
Q 6:55. And lasted for a duration of 52 minutes?
A I need to see more of it to be able to --
MR. BURR: Your Honor, may she step down and look at it?
THE COURT: Sure.
THE WITNESS: I believe that's 52 seconds.
BY MR. BURR:
Q It is. I apologize. I said 52 minutes. It's 52 seconds. So the disconnect would have been 6:56?
A Yes.
Q Okay. Now, I'd like to direct your attention to Prosecution Exhibit 53. Let me -- this is the exhibit, but I think I may need to show it to you more closely. I direct your attention to the lock on that back door.
A Yes, I see that lock.
Q It's locked, isn't it?

A It is.
Q Okay. I have a copy of the statement, voluntary statement, that you got from Adam Burdette July 10th, 2013, at 12:53. Skip down -- one, two, three, four, five -- on the sixth line, where he says, "Saw the window open. Went in the back door and locked it."
A He told us he unlocked it. And that handwriting looks like "unlocked" to me.
Q That looks like "unlocked" to you?
A That little spot before it I understood to mean "unlocked," yes.
Q "Window open. Went in the back door and locked it."
A I understood it to be "unlocked." That's what he told us he did. And if you will notice that "I" and "T" next to the "locked" word, you could almost read that if you want to get technical about the spaces between letters. He had told us he had unlocked it whenever our third interview happened. So when I read this, I understood this to mean "unlocked it." That's why I read it that way.
Q Once again, you did request and obtain a search warrant for the phone found by Evan's body, and through a subpoena have the -- received --
A A forensic analysis.

Q Right.

(WHEREUPON, Defendant's Exhibit Number 11 was marked for identification.)

BY MR. BURR:

Q Now, presenting you what's marked defense Exhibit 11 for identification, directing your attention to the time of the 911 call --

A The outgoing?

Q Yes.

A Says it's 9/7/2013.

Q I'm sorry?

A Says it's September 7, 2013, if we're reading that month and stuff right. Actually, no. Wait. It's 7/9. They have got the -- the one right below that has got 5 -- got the number 24 first, 05 in the middle, and 12 at the end. So the middle number I would imagine would be the month, that first number is going to be the day, and that last number is going to be the year.

Q So that would be July 9, 2013?

A Yes.

Q What was the time of that outgoing call?

A 6:58.

Q 6:58. So we are well within the -- let me have it, please -- within the three minutes of the call from Tiffany to Mr. Burdette?

A They're two separate phones. This phone actually had no cell service. Evan kept it with him, but it didn't have any minutes or anything on it, so the accuracy of the time in either phone, I can't vouch for.

Q Detective Tinsley, you also asked for consent from Mr. and Mrs. Burdette to search their house, didn't you?

A I didn't. I didn't speak to Mr. and Mrs. Burdette, but another officer there at the scene did.

Q As the chief investigator, were you aware of the fact that consent was given to search the residence?

A Yes.

Q And did you personally go through the residence?

A No.

Q You didn't go inside the house?

A No.

Q Did you know they had alleged a burglary?

A I knew that they had allowed them to go in to make sure nothing was missing.

Q But did you know that Mr. and Mrs. Burdette alleged it had been burglarized?

A I think that there was a question that it had been burglarized. There was a possibility that it had been

burglarized because Ms. Burdette -- maybe Mr. Burdette, too -- before I arrived on scene had been inside the house and said that shotgun is missing.

Q Have you ever had --

A So, technically, yes, there was a question of whether a burglary could have taken place.

Q But that was never followed up on?

A It was followed up on.

Q By whom?

A By everyone that conducted this investigation. When they went in and said that nothing was missing but that shotgun, we knew that that back window was open. There was evidence that a burglary had taken place, but there was nothing missing inside that residence but that shotgun. And the only evidence I had that anybody had entered that dwelling was Adam.

Q Have you had occasion to look at Sergeant Philpott's pictures of the residence, crime scene, everything?

A Yes.

Q You saw the picture of the door that was broken into?

A The interior door, the bedroom door --

Q The interior door that had an exterior lock on it.

A Yes.

Q And some large device had been used to force it open. And you saw pictures, the evidence of the bathroom window being broken into?

A Yes.

Q So nobody or did anybody follow up on that at all?

A We conducted those investigations at the same time. The incidents were connected. From what we believed, the only person that had any evidence that he had been in that home was Adam. The only thing missing was the item that he had removed. So they were jointly done.

Q So are you testifying that you were alleging that Mr. Burdette crawled in the window of that residence and broke into the back bedroom?

A I think it's a possibility, yes.

Q I went through the entire scheme of him coming up, going -- less than three minutes he could have done all of that?

A Well, I didn't say all that happened in three minutes. It was mere minutes from the moment he arrived back when Josh, Evan, and Bubba were there in the Blazer. It was mere minutes that it probably took for him to get out of his vehicle and to enter that dwelling, but I don't have an exact minute-by-minute count of that.

Q Were you made aware of the toxicology report returned on Evan?
A Yes.
Q Okay. And was it positive for methamphetamines?
A A small dose.
Q What is a small dose of methamphetamines?
A Well, let me explain. I don't work at the lab at SLED, but from what I understand, they, for toxicology, they run more than one test. You look above that -- I don't know. Is this evidence? Are you going to mark it?

MR. BURR: Yes.

(WHEREUPON, Defendant's Exhibit Number 12 was marked for identification.)

MR. BURR: Do you have the original?

THE WITNESS: I have a copy that I printed.

MR. BURR: Any objection?

MR. WAGNER: No objection.

THE COURT: Without objection.

(WHEREUPON, Defendant's Exhibit Number 12 was admitted into evidence.)

BY MR. BURR:
Q You are looking at a copy of what's previously been marked as Defense Exhibit 12 for identification. Does that -- what is it?

A It's the SLED results from their toxicology department.
Q And does it indicate that --
A It was in reference to a sample of urine and occular fluid of James Evan Tyner.
Q And does it indicate he had methamphetamines in his system?
A It does indicate he had methamphetamine in his system.
Q Sergeant, how soon after you arrived on scene did you make up your mind what had happened?
A I didn't make my mind up at the scene. I didn't really draw any conclusions. I just tried to keep my opinion open until I knew what everyone else was saying, what physical evidence was there. I didn't draw any conclusion really until about -- about the time that Adam got our attention for that second interview, when he banged on the door or wall or whatever it is he did.

What I had done in that timeframe that he sat in that room is I had taken and looked -- gotten other investigators copies of statements from everyone else and looked and was trying to look at the physical evidence and what the eyewitnesses were saying to try to make a determination as to what did happen there.

Q Looked at the physical evidence. Did that include looking at the gun involved or the pellet involved?

A Photographs of the gun. The pellet couldn't be gotten until the next day during the autopsy.

Q Sergeant Tinsley, thank you for your cooperation.

A You're welcome.

THE COURT: Anything on redirect?

MR. WAGNER: Yes, sir. Your Honor, I'll try to be brief.

REDIRECT EXAMINATION

BY MR. WAGNER:

Q Mr. Burr mentioned earlier with this aerial map like a 90-minute time frame between the time the -- if you could, Ms. Tinsley, could you step down?

A Yes.

Q Like a 90-minute time frame between the time they used the phone and the time they ended up showing up, whenever that was, at the parsonage. Mileage-wise --

A That's the parsonage. That's going to be where --

Q But we know from the defendant's second and third statement that it was only ten minutes earlier he had ridden up and seen them on the road somewhere here parked?

A That's correct. Tiffany also told them that to wait about an hour. Y'all remember her talking about

that? Wait about an hour. If they didn't see Adam, to drive on to the parsonage.

Q Okay. So they apparently waited an hour and then drove as fast or slow --

A From what the defendant said, he saw them about ten minutes up the road. And going with what Tiffany said that she told them, if they didn't see him in about an hour, to drive up to the parsonage, yes.

Q And the defendant himself said in his second statement he just seen it up the road, waiting, ten minutes before?

A That's right.

Q Then, again, in his third, said a few minutes earlier them three was sitting in it. It was supposedly tore up a few minutes earlier?

A Yes.

Q So he had just been up there and drove by and either flipped them off or waved, depending whether you believe Bubba or Josh?

A That was in reference to Josh and Bubba's statement, too. They talk about after he passed by, they decided to head on up to the parsonage.

Q There was no 90-minute lag where they could have been breaking into the parsonage?

A No.

Q Thank you. If you would have a seat.

During the interrogation that went on 14 hours, were y'all cordial to the defendant?

A Yes.

Q Did you ever holler at him?

A No. We didn't talk to him 14 straight hours.

Q There was a time when he was just in the room waiting?

A Yes.

Q Did ya'll feed him?

A Yes.

Q Let him go to the bathroom?

A Yes.

Q Give him water?

A Yes.

Q Did he ever complain?

A No.

Q Had you been up all night long, basically, too?

A Yes. And the only time he really did complain is when we confronted him with what physical evidence we had and the statements we had from everyone else and how his wasn't fitting with the physical evidence we had and theirs was, and he said he was tired. And that's when we agreed we were all tired, and we decided to go ahead and take him down to the jail and everybody

sleep on it.
Q As to say at the prelim, when we start talking about "freak accident," what were you explaining to Mr. Burr during that prelim, why did those words come up?
A Because he wanted to know what's the odds that one pellet from a double-ought buck would have hit him fired, and I told him I did not know and we don't conduct those investigations. I'm not a firearms expert. And I didn't know if even SLED could do a pattern like that, a spread pattern test or anything like that, until we could send that evidence and just inquire.
Q So is what you were responding to, if I fire that shotgun, buckshot round, at you and you're 50 to 70 yards away, and I fire nine pellets at you, any one of which can kill you, what you were saying is what are the odds of one pellet hitting versus two or three or what?
A Yes.
Q Was that what your response was to?
A Yes, that's what I was responding to.
Q If this could have been a fluke or freak accident, would you have made the charge of murder?
A No.

Q When we sent the gun off or tried to get it back before Christmas, were we able to get SLED to do a rush job on it?
A After we got it back.
Q But before Christmas, January trial date, were they able to complete it due to the holidays?
A No.
Q According to the defendant's third and last statement, did he go in the carport door?
A When he first got back to the house, no, he did not enter the carport door. It was shut and locked, according to his statement.
Q Where did he get in?
A He says he got in through that back door.
Q But the back door did have the chain back on it per the pictures Mr. Burr shows?
A That's correct. So the only entry that I knew had been made was through that window.
Q Okay. And the only thing listed as missing was the shotgun that he, by his own admission, took out of there and used?
A That's correct.
Q Did you ever have any evidence at all that the three -- those three boys, any of them, got out of the car before the defendant got back?

A No. There was nothing -- it didn't make sense to me trying to drive to someone's house in a vehicle that was barely running, broke down earlier, had broke down at the side of the road, to steal stuff and all three sit in the vehicle waiting on someone to get there, and not one item of anything from within the house would have been in that Blazer. So, no, there was no evidence that any of them conducted any crime, burglarize, steal, anything in reference to this case.

MR. WAGNER: Thank you.

MR. BURR: May I, your Honor?

THE COURT: I will. I'll give you both a chance.

RECROSS-EXAMINATION

BY MR. BURR:

Q If the three of them did not have a telephone with them, which was testified to earlier, and they were stuck there and needed to call somebody, and they knew there was a telephone in the house, isn't it logical they would have broken in to use the telephone?

A There's no evidence that anybody broke in and used that telephone.

MR. BURR: I'll leave it. Thank you.

THE COURT: Anything else?

MR. WAGNER: No, sir.

THE COURT: You can step down.

THE COURT: Okay. I'll see y'all back.

(WHEREUPON, recess taken from 1:09 p.m. to 2:27 p.m.)

THE COURT: How many more witnesses do you have for the State?

MR. WAGNER: Two.

THE COURT: Okay. You can bring them back in.

MR. WAGNER: Your Honor, before we do that, I thought at the previous hearing of this I moved State's 2 through 9 in. The court reporter doesn't show that they were in. If they are not, we would move to admit State's Exhibits 2 through 9.

MR. BURR: The previous objection, your Honor.

THE COURT: Right. Okay. All right. Subject to those objections before.

MR. WAGNER: Thank you.

(WHEREUPON, State's Exhibit Numbers 2 through 9 were admitted into evidence.)

MR. WAGNER: Call Justin Ward.

JUSTIN MATTHEW WARD,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. WAGNER:

Q Give us your name and spell your last name for the record, please.

A Yes. My name is Justin Matthew Ward, W-a-r-d.
Q Who do you work for?
A Oconee County Sheriff's Office.
Q What are your job duties there?
A Currently I'm assigned to the criminal investigations division.
Q Were you working in that capacity back in 2013 on July 9th?
A Yes, I was.
Q Did you go out to the scene of the shooting at the Mt. Pleasant Church?
A Yes, I did.
Q Right about there? Did you get there before Sergeant Tinsley?
A Yes, I did.
Q How long before she arrived?
A Just slightly before, maybe ten minutes or so, I think.
Q Who was on call that week?
A Sergeant Tinsley was on call that week.
Q Did you assist her in the investigation of that case?
A I did. Frequently when we have cases like this, they will page the on-call and then they will also page other investigators to assist.

Q Would part of your assistance there, did it involve talking with the defendant in a police vehicle there at the scene?

A Yes, it did.

Q Let me show you what's marked State's Exhibit Number 2. Do you recognize that?

A Yes, I do.

Q What is that?

A It is a Miranda rights waiver form that we use at the sheriff's office. And, particularly, this one is the one that Sergeant Tinsley filled out in my presence and also in the presence of the defendant as he was advised of his rights by Ms. Tinsley.

Q And your signature doesn't appear on that. Were you present when it was done and just didn't sign as a witness?

A Yes. I was present. I'm not exactly sure, I don't remember why I didn't sign. But particularly in the vehicle, Ms. Tinsley was in the front driver's side, Mr. Burdette was in the front passenger side, and I was behind. So either Ms. Tinsley didn't hand the piece of paper back to me, or for whatever reason I didn't sign that paper.

Q Okay. Did she read him every word that appears on that document?

A Yes, she read it verbatim, and he initialed next to them and signed the bottom.
Q Did he agree to talk to ya'll and waive his rights?
A Yes.
Q Did anybody force or coerce him or promise him anything?
A No.
Q Did he agree to talk to you?
A Yes, he did.
Q Did y'all let him give a written statement?
A Yes, we did.
Q Who wrote the statement?
A He wrote the statement himself.
Q Let me show you State's Exhibit Number 5. Do you recognize that?
A Yes, I do.
Q What is that?
A This is the written statement that he wrote after -- after me and Sergeant Tinsley had interviewed him that morning, he was allowed -- we asked him if he would provide a written statement. He said he would. He was taken from the car that we were in and put in the back of an other officer's car, an Officer Towery, and he wrote this statement in that time, then he was

transported to the sheriff's office. So he wrote that statement during the time of being in the back of that patrol car being transported to the sheriff's office.

Q Prior to actually giving him that statement form and him writing it, did y'all talk to him for a while?

A Yes, we did. We interviewed him for a good little while, and he gave a very detailed account of what happened.

Q Did you take notes on that?

A Yes, I did.

Q Did you witness his signatures on that?

A Yes, I did. I notarized his statement, so I actually swore him that everything was true in this statement.

Q To the best of your knowledge, did he freely and voluntarily give you that statement and waive his rights?

A Yes, he did.

Q Did anybody ever threaten him or anybody -- was anybody mean to him or anything like that?

A No.

Q Okay. What else did you do -- at that point in time when that statement was finished, did you go out to the scene, did you do any other jobs to try to assist Sergeant Tinsley?

A Yes. After this was finished, this was the last contact that I had with Mr. Burdette. I was assigned some other duties to do as part of the investigation. One of those is I went back out to the scene, and I attempted to get some rough distances of from in front of where the Blazer was to the approximate location of where Mr. Tyner was found, and then also from the approximate location of the shotgun to where Mr. Tyner was found.

Q Okay. Were you able to do that?

A Yes, I did.

Q Did you take some photographs, too?

A I did.

Q Did you also take aerial photographs?

A I did. I also work in a tactical flight officer job here at the sheriff's office. And a couple days later -- I believe it was on the 12th -- yes, on the 12th we were up in the helicopter, and I took several aerial pictures of a good overview of the incident location.

Q In front of you should be a laser pointer.

A Sure.

Q Can I put some of these pictures up here and let you take a look at them?

A Sure.

MR. WAGNER: Your Honor, at this time, Mr. Burr and I, I believe, have a stipulation to State's 63 through 77.

THE COURT: Is that correct?

MR. BURR: Yes, your Honor, it is.

THE COURT: All right. Then they're entered without objection.

MR. BURR: Yes, your Honor.

(WHEREUPON, State's Exhibit Numbers 63 through 77 were admitted into evidence.)

BY MR. WAGNER:

Q If you could tell us what we're looking at.

A Yes. This that you can see on the road here is some of the leftover body fluids from Mr. Tyner where he was discovered. This Number 2 is a marker that I placed there to give an approximate location of where that was found.

This brick house, this brick residence up here is the residence where everything happened right here. You can kind of see the green Blazer right there where he encountered the subjects.

Q Can you see the church there, too?

A Yes. The church is this right here behind there.

Q Okay. What distances did you measure?

A You can't see the markers. You will probably see

them in other pictures. There is a marker placed in front of that green Blazer right there, and then there is a marker placed over here near this tree in the approximate location where the shotgun was recovered. So I measured the distance from the front of the Blazer to this Number 2 marker and the distance from where that marker is near that tree to this Number 2 marker.

Q Just for the record, that's 77. I'm counting backwards. This is 76.

A What you're looking at here, this is another picture of that same marker with the approximate location where the body was found. That looks like the marker right there. It's just another view looking back up -- back up from that intersection.

Q 75?

A This is a picture that I took from somewhere up near the house. I was probably using a zoom lens to get there, but it just gives you another perspective of the approximate location of where the body was discovered.

Q 74?

A Okay. This is the location near where the shotgun was found. This is a marker that I put down here.

Q And did you measure from what again? Did you measure from marker to marker?

A Yes.
Q 74?
A This is the other marker that I placed in front of the Blazer. So I measured from this marker Number 1 to the one down on the road, and then from the other marker you saw next to the tree down to the road. The distance from this marker, from the one in front of the Blazer to the approximate location of the body was 76 yards, and the distance from the marker near the tree to the approximate location of the body was 56 yards. It was measured with a laser range finder so it's a line of sight distance.
Q And was it -- your investigation show that the dark gravel there is what had been kicked up with the first shotgun blast?
A Yes. That is what appeared to be where the first shot was fired as it was disturbed and there was gravel thrown or gravel and gravel debris on the Blazer.
Q Is the Blazer still sitting there as it was when y'all got there?
A As far as we know, it was.
Q For the record, that was 73.
THE COURT: All right.
BY MR. WAGNER:
Q 72?

A That's another shot of the Blazer and the marker that I had placed right there.
Q Okay. 71?
A That's another view just giving you a perspective of where the marker was in relationship to the Blazer and the residence.
Q 70?
A That's another shot kind of giving you a perspective. This tree right here is the tree where the shotgun was located.
Q Okay. And the carport?
A Yes, and the carport. That's the carport that Mr. Burdette had told us about.
Q 69?
A That's another shot giving you a view similar to the first one of the approximate location of the body, the tree near where the shotgun was found, and the Blazer.
Q What was your measurement between 2 and 3?
A The measurement 2 and the 3 near the tree was 56 yards. The measurement from here, Number 2, to in front of the Blazer was 76 yards.
Q 68?
A Right. That's kind of giving you a perspective. This, where I'm standing here taking this picture, is

near the tree. There's the branches overhanging from the tree, so the marker is going to be over in here somewhere.

Q 67?

A That's another view from approximately where the body was found to the back to the house.

Q Does that picture make it look closer to what it really was, or does this picture look more like distance-wise?

A It's hard to tell. It's probably the first one is a little closer to what your eye would perceive if you were out there.

Q I guess I'm asking you, does it look further away in some of these pictures than it is?

A Yeah. In that picture it looks a little further away, and that's probably due to the camera lens.

Q 66?

A Right. This is an aerial shot that I took. You can see this is the Blazer right here. This is the residence we're talking about. This is the tree that we've been talking about, and the marker was there, and then the body was discovered over in this general area.

Q 65?

A That's another shot just zoomed in a little bit, giving you another perspective of that.

Q 64?
A Yeah. That's pretty much the same thing. You can see the church here, the church's parking lot, the Blazer, the residence, and the tree.
Q And last, 63?
A Right. So this is just a little bit different perspective. You have the church right here, the residence where it occurred right here, the Blazer is right here, the tree we're talking about is right here, and the body was located somewhere in here. You can see if that picture has got enough resolution, you can tell where the body fluids were left on the road.
Q Did you fly all the way around and take a circular, like a panoramic-type picture?
A We did. We flew a couple -- probably two or three times around at different heights and took several pictures.
Q And basically what you did there as far as photographing and measuring distances, is that your involvement in this case?
A Yes.
Q Thank you.
MR. WAGNER: That's all the questions I have.
MR. BURR: Nothing from the defense, your Honor.
THE COURT: All right. You can step down.

MR. WAGNER: Your Honor, ask he be excused.

THE COURT: Any objection?

MR. BURR: No objection, your Honor.

THE COURT: All right. You can be excused. Thank you.

GREG REED,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: If you would give us your full name and spell your last name for the court reporter.

THE WITNESS: Greg Reed, R-e-e-d.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. WAGNER:

Q Captain Reed, who do you work for?

A Oconee County Sheriff's Office.

Q What are your duties there?

A I'm captain in charge of criminal investigations, evidence, community services, which also incorporates three other specialized units. I'm a commander with the SWAT entry team and also a diver with the evidence underwater recovery.

Q How long have you been in law enforcement?

A Approximately 30 years.

Q Is it your, I guess, principal job duties, would they be to supervise the investigators that are working

the cases?
A That is correct.
Q Okay. And were you at the scene on July 9, 2013, at Mt. Pleasant Church?
A I was.
Q In a supervisory assistory role?
A That's correct.
Q Part of that, did that involve talking with the defendant?
A Yes, it did.
Q Okay. Let me show you State's Exhibit Number 3. Do you recognize State's Exhibit 3?
A Yes, I do.
Q And what is that?
A This is a Miranda warning that our department issued.
Q Is that the standard form that y'all use in every case?
A Yes, it is.
Q Is that the exact form that y'all used that day?
A It is.
Q Is that the -- the second Miranda form, I mean what time --
A That would be correct.
Q What time was that form --

A It was completed at 5:47 p.m.
Q What time did y'all start?
A At 5:45 p.m.
Q Did you sign as a witness in that?
A I did.
Q All right. And were you observing Sergeant Tinsley as she Mirandized the defendant? Does she go over all the rights on that sheet?
A Yeah, she read it verbatim.
Q Did he seem to understand what he was doing?
A Yes, he did.
Q Did he wish to talk to you?
A He sure did.
Q Did he waive his rights and give you a statement?
A Most certainly.
Q Let me show you State's Exhibit Number 6. Do you recognize that?
A I do.
Q Is that a statement that he gave you?
A Yes, it is.
Q What time -- did he write that in his own words?
A Yes, it is written in his handwriting.
Q And what time did he start that and what time did he finish it?
A He started at 7:08 p.m. and completed at 7:54 p.m.

Q Did anybody promise him anything, hold out any hope for reward or threaten him in any manner to get him to waive his rights and give that statement?
A No, they did not.
Q Did you later -- after talking with him, did you later go back and talk to him again the next morning?
A Yes, the next day. Yes, sir.
Q When y'all went to talk to him the next day, did you do another rights waiver?
A We did.
Q And to the best of your knowledge, show you State's Exhibit Number 4. Is that the form y'all used?
A Yes, it is. This is a standard form, and it was started at 11:44 a.m. and completed at 11:50 a.m.
Q And did Sergeant Tinsley, again in your presence, did y'all go over the rights on that form with him?
A It was explained to him, and she read it verbatim, and he initialed and signed the form, waived his rights.
Q What date, time and place did that occur?
A This occurred at Oconee County Sheriff's Office July 10th. 11:44 was the start time and 11:50 a.m. was the complete time.
Q After that, did y'all question him some more?
A Yes, we did.

Q Did he give you another written statement?
A He did.
Q Let me show you State's Exhibit 7. Do you recognize that?
A I do.
Q Is that the last written statement that he gave you?
A It is. It was done on July 10th, started at 12:53 and was completed at 2:12.
Q Did anybody promise him anything, did anybody threaten him in any manner, try to coerce a statement out of him?
A No, they did not.
Q Did anybody hold out any hope for reward or mistreat him in any way?
A No, sir.
Q While all this was going on -- and I know he was down there some time -- was he fed?
A Yes. Yes.
Q Did y'all buy him lunch?
A Yes, he had lunch or -- and anything else that he wanted, bathroom breaks. Anything that he requested was provided for him.
Q Were you also present -- I guess kind of got ahead of myself there, but let me show you State's Exhibit 8.

Do you recognize that?
A I do.
Q And what is that?
A This is Sergeant Tinsley's notes that was taken during the interview.
Q Okay. Was that, I guess, prior to the second statement that he gave?
A That is correct.
Q The day before -- y'all went back --
A This is back on the 9th.
Q Yes, okay. And did you sign as a witness on those notes?
A Yes, I did.
Q Were you present when she read those notes to him and then he signed it as his statement?
A That is correct.
Q After those were all done and he was arrested and a warrant was served on him, did your involvement basically in this case end?
A Yes.
Q Okay. Thank you, sir. That's all the questions I have.
THE COURT: Yes, sir.
MR. BURR: May it please the Court, your Honor.
THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. BURR:

Q Captain Reed, Mr. Burdette was placed in handcuffs or taken into custody early morning hours of July 9th, 2013, wasn't he?

A I think he was placed in investigative detention that morning just after the shooting, yes.

Q And he was later transported up to the sheriff's office and to the investigations section?

A That is correct.

Q And he was held up there for 12 -- all total, from morning until he was moved, 12 to 14 hours, correct?

A Well, the ending of the last statement would be 7:54, would be approximately 8 o'clock. I'd say approximately 12 hours because it was probably around 8:00, 8:30 when the first responding officers arrived on scene.

Q And he was not placed under arrest until the following day?

A The warrant was served on him the following day.

Q When was he placed under arrest?

A That evening.

Q That evening?

A That is correct.

Q Just before leaving. So he was held in a locked

room for part of that time?
A Yes. All of our interview rooms lock.
Q He wasn't arrested, but he wasn't free to leave either, was he?
A He was under investigative detention, yes, sir.
Q Captain Reed, we have worked together on several cases in the past, haven't we?
A We have.
Q And we both know you're good at your job, aren't you?
A I try to be efficient.
Q And you can, given enough time, you can talk the average person into saying just about anything, can't you?
A All I'm after is the truth and the facts.
MR. BURR: I have no further questions, your Honor.
Thank you, Captain Reed.
THE COURT: Anything on redirect?
MR. WAGNER: No, sir.
THE COURT: You can step down and be excused.
MR. WAGNER: Your Honor, if I can have just about two minutes to check the exhibits.
THE COURT: Yes.
MR. WAGNER: Your Honor, I believe, after speaking

be called out of turn. I think generally that witness -- am I speaking correctly --

MR. BURR: Yes, your Honor.

THE COURT: -- would have been last. This witness is going to be called out of turn, and then we'll take a break. It's just hard to tell what it's going to do, but the deputies tell me that it's moving in quickly, so we'll stop after this. I'll let you know what we plan to do, but most likely we're going to call it a day tomorrow and come back on Friday. All right?

You can call your first witness.

MR. BURR: May it please the Court, your Honor. The defense would call as its first witness Dr. Keith Lyle.

KEITH LYLE, Ph.D.,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: Sir, if you would give us your full name and spell your last name for the reporter.

THE WITNESS: Keith Lyle. Last name is L-y-l-e.

THE COURT: All right.

MR. BURR: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. BURR:

Q Dr. Lyle, would you tell the jury where you are currently employed?

A I work at the University of Louisville in Louisville, Kentucky.
Q Your educational background?
A I have a Ph.D. is psychology from Yale University. I have a BS in psychology from Indiana University before that.
Q Your former employment, your employment history?
A So prior to working at the University of Louisville, I was what's called a postdoctoral research fellow at Washington University in St. Louis.
Q Some of your honors and awards?
A Well, there are a few. I've been president of the Southeastern Psychological Association. I've received the Victor Olorunsola Award for Young Scholars at the University of Louisville. Graduate fellowships, grants from the National Science Foundation.
Q What are some of the courses that you commonly teach?
A Cognitive psychology, human memory, and cognitive neuroscience. Also statistics.
Q You have numerous publications?
A I do.
Q Also done -- have papers published?
A Exactly, right. My work is published in what we call peer-reviewed journals, so scientifically

accredited journals.

MR. BURR: Your Honor, the defense would offer Dr. Lyle as an expert in the area of memory and confessions.

THE COURT: Any objection?

MR. WAGNER: Just looking at his CV, your Honor, I don't see anything on there about confessions. Psychology seems to be his background, but I guess, yes, we'd object, but I understand.

THE COURT: All right. Ladies and gentlemen, I need to send you out for just a few minutes. Please don't discuss the case.

(WHEREUPON, the jury exited the courtroom at 3:10 p.m.)

THE COURT: Okay. Go ahead.

MR. WAGNER: Your Honor, just looking -- I was just handed the CV here anyways, and I don't know. Looking at it, I don't see anything where he's got any experience in anything about confessions. He's a psychologist but with memory. What that has to do with confessions, and --

THE COURT: Okay. I'll let you proffer some more.

MR. BURR: I may have misstated. His background is in memory, false memory, and any written recording of a memory which maybe is not a confession, but it

certainly is what we're dealing with here. So I would request the definition of confession and just say memory and any written recording of memories.

MR. WAGNER: If he's going to refer to any papers or anything that he's written or anything like that, I haven't been provided a copy of it.

THE COURT: Is he going to refer to anything?

MR. BURR: No, your Honor.

THE COURT: Any texts, treatises?

MR. BURR: No, just testimony in court.

THE COURT: All right. So basically he's offered as an expert in memory?

MR. BURR: Yes, sir.

MR. WAGNER: Yes, sir.

THE COURT: Okay. All right. With some objection, I'll allow it. I mean, this area is so gray anyway. Okay.

(WHEREUPON, the jury came into open court at approximately 3:12 p.m.)

THE COURT: Subject to the discussion off the record, he is admitted as an expert in memory.

All right.

(WHEREUPON, Defendant's Exhibit Number 13 was marked for identification.)

MR. BURR: Your Honor, I'd like to submit what's

previously been marked as Defense Exhibit 13 for identification as Exhibit 13, which is the curriculum vitae of Dr. Lyle.

THE COURT: Any objection to that?

MR. WAGNER: No, sir.

THE COURT: All right. Without objection.

(WHEREUPON, Defendant's Exhibit Number 13 was admitted into evidence.)

BY MR. BURR:

Q Dr. Lyle, you have had opportunity to sit through a portion of the testimony today, particularly the chief investigator on this case?

A That's correct.

Q And you have had occasion to review the written recordings of the defendant in this case?

A Yes.

Q And also had opportunity to interview and spend time with the defendant himself?

A Yes.

Q Based on that information, is there any -- can you give any logical or scientific explanation of a person changing a story from time to time?

A Yes. So, I am a memory researcher, a memory scientist. So like many of my colleagues, there is a large body of literature on what's called the

malleability of memory or the fallibility of memory. We -- decades and decades of research show us that memory reports are very often subject to change. Memory reports of all kinds and concerning all sorts of issues, personally relevant issues, issues that are not so personally relevant, really covering the entire gamut, members who have studied lots and lots of different topics of different areas that somebody might be trying to remember.

And what you see is that a change is really the norm, and actually stability is fairly rare. So under perfectly sort of ordinary circumstances, you will often see a lot of change in people's memory reports.

Q On a day-to-day process of memory, is that different from a person subjected to a brief period of trauma, excitement, would they have more difficulty accurately remembering what had happened?

A Yeah. We often saw -- I was just describing the fact that malleability or the changeability of memory is commonplace. And that's true under the best of circumstances. So that's true when -- when we're really trying hard to form a good memory and we're paying a lot of attention to what's happening and we're very calm.

When you're talking about extraordinary events of

any kind, there are a lot of factors, I think, that come into play that only increase the likelihood that there's going to be some change to memory potentially. Things like if you're talking about an unexpected event or a confusing event, that can be very difficult to remember. In fact, we know it's extremely difficult for people to remember. So like I said, that would not be the best case scenario.

Also events where we're exposed to a large amount of conversation about the event, a lot of other people's takes on the event. That's notoriously influential in terms of people's memory reports.

Q Hypothetically, if a person is subjected to a trauma, a great deal of excitement, distress, are they more susceptible to be influenced by other people telling them what had happened or asking them what had happened?

A The -- the relationship between trauma and emotion and memory is really complex. The point I often like to make with students is that we shouldn't ever oversimplify it. So some people think that very emotional events are necessarily very well remembered, that they're sort of emblazoned in our memory. But that really is a dramatic oversimplification.

In fact, in many cases emotion can be high, and

high emotions and trauma can be disruptive to memory. There are situations in which it can be conducive to memory, although, again, you have to be really careful what you say about it. So the simplest answer I can give is still a nuanced one. There's no simple relationship between emotion and memory.

Q Hypothetically, in a person who is in a very emotional state, confused about the facts, are they more likely to adopt someone else's explanation as their own than if the person had not been traumatized?

A Well, if you think about the confusion in particular, I mentioned this before, that confusing events are especially hard to keep straight indeed. Even if we put aside the emotionality of it and we simply talk about the fact that it's unexpected or it doesn't fit our ordinary thoughts about what's going to happen, those events are really difficult to remember. And when that's the case, right, we often incorporate other people's memory reports or other people's ideas about what might have happened into our own recollections as we try to make sense of it.

Q Since you did not get to listen to all the testimony in this case, hypothetically, if a person holding a shotgun and it went off unexpectedly, would that cause confusion in their mind as to what really

might have happened?

A I think, in my own opinion as a memory researcher, that would fall within the domain of the types of events that I've been describing, sort of confusing and hard to make sense of, and, hence, potentially prone to memory distortion.

Q Compared to a car accident where a person is not expecting to have a car accident, then later they have a hard time recollecting exactly what did happen, what's the explanation for that?

A Well, so there's two pieces. One is that is unexpected, so the -- so if you think about what -- how much attention you're paying to the events right before the accident. And then, in fact, right after. The -- before the event, before the car accident, you're not really paying a lot of attention to what's going on because you're probably more or less acting sort of on autopilot, right. You're not thinking, "These are events that I'm going to need to have to be able to report on later."

And then after the event, after the car accident, you obviously are in a state of distress, and you're thinking about the accident, per se, so the events that occur after the event can be difficult to remember because they don't really give a proper encoding, we

would say, a proper sort of processing into memory.

So, in fact, what you often find with the events that really stand out in some way because they're unusual is that they are harmful for sort of recollection of what happened right before and harmful for recollection of what happened right after.

Q According to studies, studies that have been done in the area, how does the rate of memory change? Is it a consistent grade or what happens?

A So what a lot of people don't intuitively realize is that for any event that we experience, forgetting is really sharp in the first 24 hours after an event. So if you draw this out, what you just see is this huge dip in the first 24 hours in people's memories and then a levelling out in terms of how much more they're going to forget. So really what we're talking about is what psychologists call forgetting function or the rate of forgetting. The forgetting is really dramatic in the first 24 hours and then levels out. Some people sort of expect it as sort of a linear decrease in the amount of information, but it's not. It has this characteristic big drop in the first 24 hours.

Q Once again, hypothetically, if a person has had sleep deprivation, experienced terrible trauma and exposed to continuous suggestions of what happened, are

they more likely to adopt those suggestions as their own?

A There's recent research, actually very recent research, by leading folks in the field suggesting that sleep deprivation does increase the likelihood of, what we call in the field, a false memory or a distorted memory. More generally, remembering is a biological process. And like anything, like any biological process, it tends to be adversely affected by sleep deprivation. So there are regions in the brain that are particularly important for remembering, and they don't seem to work as well when people haven't been fully rested.

MR. BURR: Excuse me one second.

Dr. Lyle, thank you for your testimony. Please answer any questions the State has.

CROSS-EXAMINATION

BY MR. WAGNER:

Q Dr. Lyle, did you talk to the defendant?

A I did.

Q When is the first time you met him?

A Today.

Q Okay. So you met him today. You weren't out there at the Mt. Pleasant Church -- obviously you weren't -- on July 9, 2013, so you don't know what

happened?
A That's correct.
Q But you met him today. And to be honest with you, I'm a country boy from Greenville. I don't understand a lot of what you just said. I did catch a few things here. You are talking about factors and change of memory.
A Yeah.
Q Now, there is a difference in remembering something and recalling more if you sit there and think about it, recalling more. The story stays the same. But when you -- right, I mean --
A Could you repeat that?
Q There is a difference between recalling more and a change of memory or remembering more, or less, than actually changing your story?
A Certainly there is a difference. I mean, in that, I mean, objectively there's a difference between whether a given fact that was remembered at time one is also remembered at time two and then versus if a second fact is added later. Memory researchers are quite interested in those two different kinds of changes, and they do separate between those two different kinds.
Q Now, you're not a medical doctor, right?
A I'm not a medical doctor, no.

Q You don't have any medical training?
A I don't have any medical training, no.
Q Didn't go to med school?
A No.
Q There is a difference between a psychologist and a psychiatrist?
A That's correct.
Q A psychiatrist is actually a medical doctor --
A That's correct.
Q -- who specializes in -- who goes in people's heads, I think?
A They specialize in the treatment of psychological disease.
Q Okay. But you don't have a medical background as far as what's going on in the brain?
A Not a medical background, but a scientific background. Like I said, I teach cognitive neuroscience and I research in neuroscience.
Q As part of you meeting with the defendant today and listening to the testimony of Sergeant Tinsley, did you also have a chance to read his confessions?
A Yes.
Q Okay. So he had multiple chances, I guess, is your testimony that he recalled stuff?
A Right.

Q But he just didn't recall stuff. He changed facts, correct?

A That's correct. That's why I also mentioned that.

Q He evolved -- from the start -- I mean, you weren't here for all the testimony, but he says some of it in his confessions. From the start, by the time the person he had known, Lisa Honea, who testified -- she is a first responder. She tried to come out and give the victim resuscitation. Too late, but she was there on scene. From the start he started making up a story just like that. Did you ever see the Grinch growing up?

A The Grinch? Who stole Christmas?

Q Yeah. Remember, "He thought of a lie and he thought it up quick"?

A Yeah.

Q Within minutes he was coming up with this story of throwing this shotgun and having it spin through the air and hit and discharge and kill the guy, his friend, 50, 70 yards away. Okay? That to me says that's nothing about memory. That's just trying to get out of what you've just done.

And he evolved that from that to, Well, okay. You understand, as Sergeant Tinsley testified, while they were talking to him, he's giving these stories. He's

seeing other witnesses, other people that were there, coming in and out. And he knows -- or he doesn't know what they're telling them. The gig is up. I mean, people are fixing to tell what they know. There are two people who saw this happen, as you probably know. There was actually, well, three of them. One of them is dead. He morphed his story as he gets more information. That wouldn't have anything to do with memory, would it? That would have something more to do with I'm trying avoid the consequences of my actions?

A So memory researchers, of course, acknowledge, right, there are these two sort of competing explanations when you see a change in a memory report. One is that it is willful change for whatever reason. And the other is that it is memory distortion. And so we have no means of scientifically distinguishing between those two possibilities. But just because the one is possible, that willful change is possible, does not mean that memory change is not possible.

Q So you would say going from "I threw this shotgun," and we're talking about right off the bat, and several hours later he was giving them that version. Along with other discrepancies in the statements about what door he went in, other things. He goes from that version to where he told Sergeant

Tinsley the same version again and then the other thing in her notes where he told her. Then he changes it to he shot over the head at high and to the left to try to scare him, basically. Then he changes that again to where he shot -- if can you see here -- where he shot the guy right here. He changes it to, well, he shot at the graveyard -- totally different direction -- and couldn't believe he fell from that far away. So he changed it again.

A Uh-huh.

Q Okay? That, to me, says nothing about memory. That, to me, and I suggest to you, that that says something about escaping the consequences of murder. So riddle me this. How is, changing facts like that, how is that memory when you're actually changing what is going on?

A What we see in memory research and what I tell my students is that after the fact, all bets are off. So changes may seem more or less plausible to a given observer. However, as a memory researcher, I tend to be very reluctant, extremely reluctant to say that it would be impossible for a certain kind of memory distortion to occur because it is impossible or because it seems implausible or suspicious. Because what we see in the laboratory is all sorts of changes. And, in

fact, a lot of the memory research in the last several decades can be sort of seen as a challenge that memory researchers have taken where people have said, "But I bet you can't get people to sort of misremember things this way." Or, "I bet you can't get people to make this kind of mistake." And memory researchers will say, "I bet if we look for it, we can see those kinds of mistakes." And by and large, the memory researchers demonstrate that they can. Again, I'm not speaking about any particular distortion here, only generally to say as a memory researcher, I don't rule out any type of distortion as a rule.

Q Have you ever done memory research on people that have been on methamphetamine from Oconee County, South Carolina?

A I have not.

Q And if somebody is up all night long or several days on methamphetamine, it amps them up. They don't sleep. They're not tired. But they can pull all kinds of facts and figures. You read these statements and you heard Sergeant Tinsley's testimony. Even specific times, like he went up the road and saw them ten minutes before. He remembers specific times, specific people, specific arguments. He remembers everything except he can't be consistent on when he shot and

killed Evan Tyner.
A Is there a question?
Q Would you not agree?
A I agree that there are things that are consistent in the report. The place I have to quibble with is just given the stability, the fact that something is recalled over and over again doesn't mean that it is necessarily accurate. So you say that he can recall certain times, but memory researchers are always extremely skeptical about times in many, many cases because our ability to remember how long events lasted is really very poor. But it could be consistent, that is true. So I certainly agree with you that in the written record there are facts that are consistent and there are facts that change.
Q Doctor, are you being paid to be here today?
A Yes.
Q Do you mind if I ask how much?
A No. My rate is $175 an hour.
Q Okay. So how many hours have you got?
MR. BURR: Objection, your Honor. That's not relevant in his testimony.
THE COURT: Well, overruled. I mean, it goes to the facts.
BY MR. WAGNER:

Q How many hours you got in this whole mess?
A So far, I would have to add it up. I mean, I'm keeping sort of a tally, but I myself don't trust my memory enough to tell you exactly what it is. I could only give you a ballpark. Would you like me to give a ballpark?
Q Yeah.
A Yeah. I mean, I would guess right now around ten to 12 hours.
Q Okay. $1,750 so far?
A Yes. Right.
Q All right. And first time you ever met the defendant was today?
A That's correct.
Q Thank you.
MR. WAGNER: I don't have any further questions.
THE COURT: Anything on redirect?

REDIRECT EXAMINATION

BY MR. BURR:
Q Dr. Lyle, in your interview with Mr. Burdette, did he describe to you being under a very stressful situation when this happened?
A That's certainly how he described it, yeah.
Q And did he describe to you a very lengthy and aggressive interrogation?

A He described talking to many people and hearing many different ideas about what might have happened.
Q And did he describe to you the interrogators suggesting to him what had happened and telling him what other witnesses have said happened?
A Yes.
Q Okay. And so, hypothetically, is it logical that he would adopt those beliefs as his own?
A We see it in the laboratory and in many field studies as well, which field studies are more realistic studies that occur outside the laboratory. We see that very commonly.

MR. BURR: No further questions. Thank you, your Honor.

THE COURT: All right. Can he be excused?

MR. WAGNER: Can I ask him --

THE COURT: Yeah, I'm giving you a little leeway, but I'll have to go back.

RECROSS-EXAMINATION

BY MR. WAGNER:
Q You weren't present when Sergeant Tinsley and Sergeant Reed -- I mean Captain Reed and Sergeant Ward, you weren't present when any of them talked to him?
A That's correct.
Q And I believe you would agree with me he has a

reason to tell you that?

A The -- I mean, that's beyond my role as a scientist. But, yeah, one could argue that, yeah.

Q Thank you.

MR. WAGNER: That's all the questions I have.

THE COURT: Anything else?

MR. BURR: May he be excused, your Honor?

THE COURT: Yeah, without objection.

Be careful.

Y'all approach over here.

(WHEREUPON, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: As soon as I do this, the temperature is going to go up to 50 degrees. I know that. We're going to stop for today. Unless you're in the military and the weather report can get you killed, the weather can't mess up anything worse than a court week. I mean, it's just really hard to figure out how to do it.

So what we're going to do is I'm going to ask you to be back here Friday at 11:00. We're building in a little bit of time in the morning. Based upon every model we've gotten, that should be fine. The problem is if the Oconee County authorities, who are working completely independent of me, change that, I have to go

we do in civil court.

Okay. My goal is to finish this today. So you're going to have to be patient with me and understand that we're going to push a little harder. If you need a break at any time, let me know. I'm assuming none of you were contacted and none of you read the paper, watched the news or listened to the radio. I trust you. All right.

You can call your first witness.

MR. BURR: The defense calls its next witness, Mr. Allen Cartee.

ALLEN CARTEE,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. BURR:

Q Mr. Cartee, what is your place of employment?

A I work with Clemson Engineering Services. I'm a partner in with the business.

Q And what work do you do there?

A We do surveying and engineering work.

Q And at my request did you go to Blackjack Road and Mt. Pleasant Road and shoot an elevation survey for me?

A I did.

(WHEREUPON, Defendant's Exhibit Number 3 was marked for identification.)

BY MR. BURR:

Q I'll show you what's been marked as defense Exhibit 3. Can you identify that as the location?

A That was.

Q And did you prepare a report for the defense based on your survey?

A I did.

(WHEREUPON, Defendant's Exhibit Number 14 was marked for identification.)

BY MR. BURR:

Q Show you what's been marked as Defense Exhibit 14 for identification. Is that your report?

A That is.

Q Between the two points on this map, what is the difference in the elevation?

A 14 feet.

Q Exactly 14 feet?

A Well, I have to get my glasses out to see. 13.5, I believe is what it is.

Q Okay. Did you also compare that to the county map that shows elevation?

A I did.

Q And is it consistent with what's on that map?

A Yes, sir.

Q So it is your testimony there is a 13-feet-6-inch

difference?
A Yeah.
Q Okay.
MR. BURR: Your Honor, I have no further questions of this witness. I would move to have Defense Exhibit 14 for identification admitted as Defense Exhibit 14.
MR. WAGNER: No objection.
THE COURT: All right. Without objection.
(WHEREUPON, Defendant's Exhibit Number 14 was admitted into evidence.)

CROSS-EXAMINATION

BY MR. WAGNER:
Q Mr. Cartee, did you, looking at your diagram here, which points did you measure from? Did you measure from this one or this one?
A From the -- I'd have to look at it again. I measured both of them.
Q You measured from both?
A Uh-huh.
Q Okay.
A The sidewalk and the spot they showed me at the root of the tree and the end of the pavement.
Q Was it the same drop from both spots to that tree or is it?

A Let's see. No. From the sidewalk it's a little further.
Q The top one here being the sidewalk?
A Right.
Q Okay.
A No, this one being the sidewalk.
Q Okay. I see what you're saying.
A Uh-huh.
Q Okay. Thank you.
MR. WAGNER: That's all the questions I have.
THE COURT: Anything?

REDIRECT EXAMINATION

BY MR. BURR:
Q Mr. Cartee, your numbers are actually on this diagram, correct?
A That's right.
Q The elevation of the --
A That's tied in with the elevations of the county website.
Q The jury can do their own math and figure that out correctly?
A Uh-huh.
MR. BURR: No further questions.
THE COURT: Thank you, sir. You can step down and be released, I assume; is that correct?

MR. WAGNER: Yes, sir.

THE COURT: All right. Thank you, sir.

MR. BURR: Defense calls as its next witness, expert witness, Mr. Richard Belmore.

RICHARD BELMORE,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: All right. Yes, sir. If you would, give us your full name and spell your last name for the court reporter.

THE WITNESS: My full name is Richard Herbert Belmore, Jr., spelled B-e-l-m-o-r-e.

THE COURT: All right. Thank you, sir.

MR. BURR: May it please the Court.

DIRECT EXAMINATION

BY MR. BURR:

Q Mr. Belmore, what is your current employment?

A Currently I'm the owner of Salem Gun & Archery Club and Richard's Firearms. I also work full-time for Allstate Insurance Company.

Q How long have you owned -- you say you're the owner of the firearm training center?

A Correct.

Q How long have you owned that?

A That was opened in 2010, and I've been the owner of Richard's Firearms as an instructor since 1996.

Q That's my next question. What are your duties in those two organizations, those two businesses?
A Salem Gun & Archery Club is a private club opened to members only. It's used to help promote the sport of shooting, the safe sport of shooting. Gives people alternate places to shoot other than public ranges.
Q And by training for the safe use of firearms?
A Uh-huh, correct.
Q And you also have listed here as a gunsmith repair person?
A Correct.
Q What training have you received in gunsmith repair?
A I've received training from the American Gunsmith Institute, which is a correspondence course.
Q What license do you currently hold?
A I currently hold a federal firearms license which allows me to receive firearms for repair or resale. I hold an NRA instructor license for basic pistol and home defense and hold a SLED license for concealed weapon permit training.
Q And your education and training in these areas include?
A Include the NRA instruction is the American Gunsmith Association -- I'm sorry, Institute.

Q And what professional memberships do you currently hold?

A The range is a member of the National Shooting Sports Foundation. That's an organization that is -- promotes the sport of shooting. It also protects and preserves outdoor/indoor ranges and our rights to keep and bear arms.

MR. BURR: Your Honor, the defense would tender Mr. Belmore as an expert in gun, gunsmith and ballistics.

MR. WAGNER: Objection on the ballistics part, your Honor. I don't believe he's got any training in that. A correspondence course in gunsmithing --

THE COURT: I think he's qualified in gunsmith but not in ballistics. Ballistics would be a whole different matter. So I don't have a problem with him being qualified, and I don't guess you do either with the gunsmith part.

MR. WAGNER: Well, I have reservations about a correspondence course, but if he does fix guns and things like that, I understand he probably has more knowledge than your average person. But in ballistics and anything like that, I think from the State's perspective would be out. I just don't think he's got the training of that.

MR. BURR: Your Honor, a 20-year owner of a range, he certainly would have --

THE COURT: Tell you what, let's -- ladies and gentlemen, let me send you out. Let's discuss this outside your presence. Please don't discuss the case.

(WHEREUPON, the jury exited the courtroom at 11:41 a.m.)

THE COURT: All right. Yes, sir.

MR. BURR: Your Honor, ask the Court to remember when the State called their expert from SLED, and she testified as to ballistics, she said at the request of the investigator on ballistics, she went and read an article. And she was allowed to testify as an expert in ballistics. This witness has certainly had more experience than just reading an article.

THE COURT: Well, I think her expertise as a SLED firearms examiner probably is a little bit more than that. But anything you want to add?

MR. WAGNER: Your Honor, she had been to a lot more schools and stuff like that. She did say she read an article on that as far as ricochets, but I don't understand -- to me there is a big difference between, you know, gunsmithing and ballistics, trajectories, things like that. I think it's a totally different area, which I think probably very few people have

training in. No offense to Mr. Belmore.

THE COURT: No, no. No offense at all either.

MR. WAGNER: Looking at his background, I don't think he's qualified to testify to that sort of thing.

THE COURT: I have got to agree. I think he can testify about gunsmith and repair of weapons. But as far as trajectories and ballistics, I don't think that's enough. Under the law in South Carolina, which, as you know --

MR. BURR: If I may, that would go to the weight of his testimony. But the fact that he has worked in the area for 20 years, has owned a range, has seen the results of firearms, he should be qualified certainly more than just reading an article on that. And that was specifically asked of the State's witness after we talked about the ricochet, she said she read an article. There was nothing else offered to qualify her. So that just goes to the weight of her testimony, whether you believe this or not. She did testify to it, no other qualification.

THE COURT: Okay. I understand your objection, but I'm going to limit his testimony to that of a gunsmith. I think he meets that requirement but not ballistics. Ballistics is a whole other matter, and I think her testimony -- did you ask her that question or

did you ask her that question?

MR. WAGNER: I think I asked her that question just as far as --

THE COURT: Because she had examined the pellet, and the question was whether or not the pellet appeared to have any kind of deformity or so. I mean, that's where I thought that was.

But I understand your objection, and you're protected for the record.

MR. BURR: May I continue to voir dire this witness on that area?

THE COURT: If you want to, sure.

VOIR DIRE EXAMINATION

BY MR. BURR:

Q Mr. Belmore, did you have occasion to inspect the pellet involved in this case?

A Yes, I did.

Q And have you had similar experiences owning a range of inspecting ricochet pellets before?

A Yes. May I explain?

Q If the judge will allow it, yes.

A We're required by DHEC to have a lead removal program at my -- at an outdoor range. So our filing with DHEC, that we clean so much of the berm of the backstop every year, we recycle the products either at

the metal recycling center or I melt down the lead myself for future bullet construction.

Most of the projectiles that we have picked up have hit the ground before they hit the berm. They have hit the berm at a dead stop. And being that it's outdoor, several of them hit rocks. What I saw is consistent with what I typically pick up at the range, a projectile striking an abrasive surface.

MR. BURR: Once again, your Honor, his qualifications, that would go to the weight of his testimony, but we still submit that he is an expert in the area.

THE COURT: Okay. And I understand your objection. I still don't think that's enough. I mean, just -- I think the way the law is going in South Carolina regarding experts, that he hadn't met the requirements. But he can testify about the gunsmith and all that business. I assume the question is going to be about the slamming the gun shut, but I understand. I mean, I understand your objection. I just don't think that's enough.

MR. BURR: Your Honor, since he did just answer under voir dire that he has inspected the pellet involved in this case, will the defense be allowed to ask him if that is a picture of the pellet that he saw?

THE COURT: You can ask him if that's a picture of the pellet he saw, but I don't think you can then go ask him if that pellet was a ricochet.

MR. BURR: Very good. Thank you, your Honor.

THE COURT: Okay. All right. You can bring them back in.

(WHEREUPON, the jury came into open court at approximately 11:47 a.m.)

THE COURT: Okay. Yes, sir.

MR. BURR: May it please the Court, your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION (Resumed)

BY MR. BURR:

Q Mr. Belmore, at my request, did you have occasion to inspect what's been marked as State's Exhibit 10? Give me one second and I'll show you to you. Did you have occasion to inspect this weapon?

A Yes, I did.

Q And would you describe the condition of this weapon to the jury.

A The condition of the firearm, it was rusty or is rusty. It's hard to open and close the breach of the barrel. The safety lever, which is up on the top -- can you demonstrate that, please -- is worn, very easy to move.

MR. BURR: Your Honor, may I approach the witness and let him hold this?

THE COURT: Yes, sir. That gun has not been messed with since we left, right, so it's still clear; is that right, Mr. Wagner?

MR. WAGNER: Yes, sir. Yes, sir.

THE COURT: Okay.

BY MR. BURR:

Q What are you describing or pointing to now?

A This is the safety lever. In the downward position, the safety is on. Upwards, the safety is released. It moves very easy without a real positive detemp (phonetic). But also to close the gun, this hinge part right here is very stiff from years of sitting somewhere where it was damp or lack of oil. In closing the firearm, as you can see, you have to slam it to close it. And in doing that, I have just moved the safety to the top or releasing the safety.

Q What is the condition -- let me take that back from you unless you need it again.

A Okay.

Q Upon your inspection, what was or what is the condition of the safety device on this weapon?

A A lot of wear.

Q Okay. How old is this weapon?

A It's difficult to pinpoint the exact age of the firearm. Firearms -- shotguns and .22 rimfire -- rimfire rifles did not require serial numbers until the Gun Control Act of 1968. Gun Control Act was passed October 22, 1968, signed into law by then-president Lyndon Johnson. Guns produced after 1968 were required to have serial numbers.

The best I can tell from this firearm, it was built anywhere from 1938 to 1965. If the '65 is not the correct number, the oldest it can be is 1968 and not have a serial number. Built after October 22, 1968, it would be required to be serialized. So the gun is a minimum of 45, 46 years old.

Q Does this weapon have a serial number on it?

A No, it does not.

Q So if it's found to be a defective design, is there any way to do a recall on this weapon?

A There is no way to trace that firearm to its -- from the manufacturer to the dealer to the buyer.

Q Does the extractor work properly on this weapon?

A No, it does not.

Q You mentioned safety. How does the safety mechanism work in the Savage .228 shotgun?

A With the safety lever in the down position, which was the safety on, it prevents the trigger from

engaging, prevents the gun from being fired.
Q Your testimony is this one is defective?
A That one is extremely worn.
Q How does the trigger mechanism work in the .228?
A The trigger mechanism locks into a sear. And when the trigger is removed, the sear releases. It allows a very strong firing pin spring to strike the primer.
Q Can you compare that catch to anything that the jury may be more familiar with?
A Very similar to a door, the latch on a door. If the door isn't completely closed and the latch doesn't completely go into the striker plate, the door can be opened.
Q But if the door appears to be closed but is not completely, then it will open?
A Correct.
Q Do you remember the date that you were allowed to inspect this weapon?
A I don't recall the date.
Q Within the past few months?
A Yes.
Q You were present, I was there, Sergeant Philpott, Ms. Soderdahl. Do you recall the first time I picked this weapon up and slammed it shut, what happened?
A It fired.

Q To everybody's amazement?
A Uh-huh.
(WHEREUPON, Defendant's Exhibit Numbers 15 16 & 17 were marked for identification.)
BY MR. BURR:
Q The same day you inspected this, you were allowed to inspect the pellet that had been removed from the victim.
Would you step down here for a second, please. Can you identify what's been marked Defense Exhibit 15, 16, and 17 for the record?
A That's the pellet that I examined the day that I examined the shotgun.
Q And how were those pictures -- how and where were these pictures taken?
A These pictures were taken by using a magnifying glass or magnifying app of a cell phone and sent to Wal-Mart to be produced.
Q So it's your testimony the defense took these pictures with a cell phone and they were enlarged at Wal-Mart?
A Yes.
Q Take the stand back.
In summary, Mr. Belmore, is it your testimony that this is a defective and unsafe weapon?

A It is an unsafe weapon.
Q And could fire very easily just by closing it?
A Yes, it can.
MR. BURR: No further questions, your Honor.
THE COURT: All right.
Yes, sir.

CROSS-EXAMINATION

BY MR. WAGNER:
Q You're saying it's unsafe because of the age. It's rusty. It's old. And you're saying it's not safe, but it's not defective, is it?
A It's not safe.
Q But it's not defective, is it?
A I didn't take the gun apart to verify any defects.
Q It works -- the safety works. The safety is worn, but the safety works, doesn't it?
A The safety does work.
Q Okay. And if you pick this gun up and slam it enough and do it hard enough, wearing rubber gloves, which I assume y'all were wearing rubber gloves when ya'll were doing that, probably?
A No.
Q You were not?
A No, using --
Q You didn't have gloves on?

A Using latex gloves, not rubber.
Q Latex gloves. Doing the safety enough, slamming it enough, and you say it fired?
A Uh-huh.
Q Okay. But if the evidence in the case suggests that a person aimed that gun, by the defendant's own statement, if the defendant aimed that gun, took the safety off or thought the safety was off, pulled the trigger and the gun fired, then that gun worked as it was intended, correct?
A If the safety was released and the gun fired, yes, it's working as intended.
Q And that gun worked -- worked pretty well enough -- let me ask you this. Would you want anybody shooting at you 50 yards away with that gun?
A Would I do what, sir?
Q Would you want anybody shooting at you 50 yards away with that gun?
A To be absolutely sure, I wouldn't want anybody to use that gun in the condition that it's in.
Q Let me ask you again. Would you want anybody shooting at you from 50 to 70 yards away with a double-ought buckshot pellet with that gun?
A I wouldn't want anybody to shoot at me, sir.
Q Okay. But it works well enough to kill somebody,

doesn't it?
A I didn't test fire it, sir.
Q So would you ever point a gun -- being an instructor and stuff, would you ever point a gun at anybody and pull the trigger?
A No.
Q Unless you wanted to kill them? The rules of gun handling, you don't ever point it at anything unless it's something that you want to shoot, correct?
A The second rule of the cardinal rules of firearm safety, keep the finger outside the trigger guard until the weapon is pointed at the target and you have made a conscious decision to fire.
Q But you don't point it and pull the trigger at somebody unless you mean to shoot them?
A I have never been in that situation, so I couldn't answer that question truthfully.
Q Now, the extractor, it doesn't work, but would you find it unusual if somebody fired that gun, say, at somebody and they took off running down the road and you wanted to shoot them, to get the fired cartridge out of there, would you have basically either to have had a very strong grip or pry it out with a knife or some sort of object?
A You would have to remove it with some sort of

tool.

Q So you would expect to have to use a pocketknife or something that you could get down underneath the rim to get it out?

A Correct.

Q Okay. That would take some time, wouldn't it?

A It would depend on the person's knowledge of the firearm, having ever done that before and being ready for it, so that how much time it would take, I couldn't answer that question.

Q I don't know whether anybody can. It probably depends on the circumstances.

A Correct.

Q But you would have to make the conscious act to break the gun open, retrieve a tool of some sort from your person or nearby, get it underneath the rim on the chamber here, pull it out, grab another shell, reload, and if you wanted to shoot somebody, you would have to shut it again, which this thing is tight enough you would have to slam it, then you would have to take the safety off because the safety does work as it's supposed to, correct?

A Correct.

Q And then you would have to take aim and shoot?

A Correct.

Q Okay. You would have to go through all those steps to reload it and shoot something?

A That's correct.

MR. WAGNER: That's all the questions I have.

THE COURT: Anything else?

REDIRECT EXAMINATION

BY MR. BURR:

Q Mr. Belmore, Mr. Wagner just went through a scenario of picking this gun up, reloading it and taking aim. If you simply picked it up and put a shell in it and slammed it closed, would it not be in firing order or perhaps even fire when you slammed it without taking aim?

A Yes, it could fire in that manner without taking aim.

Q Okay. Thank you, Mr. Belmore.

MR. BURR: No further questions, your Honor.

THE COURT: All right. Thank you, sir. You can be excused. I assume he can be excused.

MR. WAGNER: Yes, sir.

MR. BURR: Yes, your Honor.

THE COURT: Thank you, sir. Appreciate it.

MR. BURR: Your Honor, at this time the defense would move to admit what's been previously marked as Defense Exhibit 15, 16 and 17 for identification.

THE COURT: Any objection?

MR. WAGNER: No, sir.

THE COURT: Without objection.

(WHEREUPON, Defendant's Exhibit Numbers 15, 16 & 17 were admitted into evidence.)

MR. BURR: Your Honor, the defense would call as its final witness Mr. Alvin Burdette.

THE COURT: While he's doing that, y'all come over here.

(WHEREUPON, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

ALVIN BURDETTE,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

MR. BURR: May it please the Court, your Honor

THE COURT: Yes, sir.

Sir, if you would, give us your full name and spell your last.

THE WITNESS: Alvin Burdette, B-u-r-d-e-t-t-e.

DIRECT EXAMINATION

BY MR. BURR:

Q Mr. Burdette, are you related to the defendant in this case?

A Yes, sir.

Q On July 9th, 2013, were you present at your

residence prior to 6:30 in the morning?
A No, sir.
Q Where were you?
A I was camping.
Q And who had permission to be in your residence?
A Shane.
Q Was he doing anything for you at your residence in your absence?
A Yes, sir.
Q What was he doing?
A He was replacing the floors in the dining room and the kitchen.
Q And did he have a key to your residence?
A Yes, sir.
Q Did you receive a telephone call from your son that morning?
A Yes, sir.
Q Did he -- were you summonsed back to your residence?
A Yes, sir.
Q When you got back, what was the condition of your residence? What unusual had happened at the residence?
A Well, when I arrived, there were policemen there and a lot of people.
Q Okay. But that morning did you actually have

occasion to go inside the residence?
A Yes, sir.
Q Was there any damage to your house, anything unusual?
A Yes, sir.
Q What did you find?
A Well, the bathroom window had been broken into. The screen was on the porch. Our bedroom, which remains locked, had been broken into.
Q Would you explain to the jury what you mean by "locked"? What kind of lock was on your bedroom door?
A I had a lock on my bedroom door like an exterior door would have so I could keep it locked.
Q Okay. And had that been damaged?
A Yes, sir.
Q To what degree?
A It had been pried open apparently. The woodwork around the door was scarred.
Q Is the shotgun in question here, what's marked as State's Exhibit 10, can you identify that shotgun?
A Yes, sir.
Q Tell me how do you identify it.
A It's my gun.
Q Where did you normally keep that weapon?
A In the house in the closet.

Q In the closet. Which closet?
A In the back of the house in the bedroom.
Q The window being broken into in your bathroom and the door being -- was the door damaged when it was broken into, the bedroom door?
A Yes, sir.
Q Did that indicate burglary or a breaking in to you?
A Yes, sir.
Q Did you give the authorities consent to search your house and inspect your house?
A Yes, sir.
Q Has anybody ever followed up with you on any investigation as to any fingerprints taken, any --
A No, sir.
Q -- investigation at all?
A No, sir.
Q For clarification, I've asked you this -- I think you've answered it -- but this gun was kept in a closet in the room that had the exterior lock?
A Yes, sir.

MR. BURR: No further questions, your Honor.

THE COURT: All right.

Yes, sir.

CROSS-EXAMINATION

BY MR. WAGNER:

Q Mr. Burdette, were you there when all this occurred?

A No, sir.

Q Were you there in the day or so prior to when this occurred?

A The day before?

Q Yeah. I mean, had you been at the house?

A The day before.

Q You were there on the 8th?

A Yes, sir.

Q This occurred on the 9th, early morning of the 9th, so Tuesday morning.

A Uh-huh.

Q So you were there that Monday?

A Yes, sir.

Q Okay. About what time?

A Sometime in the morning.

Q Okay. And then you left to go camping?

A Yes, sir.

Q I mean anything after that, you weren't privy to, didn't see, you don't know?

A No, sir.

Q So you don't know who, if anybody, went through that window, do you?

A No, sir.
Q Okay. And it could have just as easily been your son as anybody else, could it not?
A I don't know why he'd go through the window when he had a key.
Q Well, if he pulled up in a rage in his white truck, blocked the three guys who were sitting in the car outside of there and left his keys in the car --
MR. BURR: Objection, your Honor. He's asking for speculation at this point. The witness has answered the question.
THE COURT: Yeah. Don't speculate. Sustained.
BY MR. WAGNER:
Q He had a key. Which key did he have? Did it go to all the doors?
A Went to the back doors.
Q The back doors. Are you talking about the carport door?
A The carport door, yes, sir.
Q Did you keep the back door, though, on the deck, you kept that locked with a chain, didn't you?
A Yes, sir.
Q So you can't use a key to get into that?
A You can use a key if the chain is not hooked.
Q Okay. But the chain was hooked after this. I

mean -- well, you probably didn't --
A I don't know.
Q Let me show you -- bear with me. Take a second to find it. Let me show you what's been marked State's Exhibit 53 for identification. Ask you, do you recognize what that picture is?
A Yes, sir.
Q What is that a picture of?
A That's the utility room.
Q Okay. And the door there, where does that door go?
A It goes out on the back deck.
Q And there is a chain on it?
A Yes, sir.
Q So if that chain is locked, you can't use a key to come in that way, correct?
A No, sir.
Q Okay. And this is State's Exhibit Number 90 -- excuse me, 70. Do you recognize that?
A Yes, sir.
Q And what is that?
A That's my house.
Q Okay. And is that the carport door that you were talking about earlier?
A Yes, sir.

Q So the key fit that door?
A Yes, sir.
Q And then the key fit this back door off the deck, I guess, if the chain wasn't locked? I mean if the chain wasn't on it, right, you could come in it?
A Yes.
Q But the chain is on it here in this picture, right?
A Uh-huh. Yes, sir.
Q Now, did y'all put that chain on it when y'all went back in there that day? Did y'all go ahead and lock it, put the chain on there?
A I don't remember that.
Q So the chain, that picture represents the chain as it was when y'all got home after this incident occurred, doesn't it?
A I don't remember.
Q Okay. So the only person who had permission to be at that house was your son?
A Yes, sir.
Q He had a key, but you don't think he would go in in the window?
A No, sir.
Q Can you think why he would go around and go in the back door?

A No, not really.
Q Why did you feel you needed to lock that particular bedroom with the shotgun in it?
A I kept it locked because I kept papers, important personal effects, in there. I have an office in that room. And our house had been vandalized in 2008, and they went in there and stole a lot of stuff, tore up stuff. Being a parsonage, there's visitors all the time, children in and out, so I just felt the best thing to do was keep that door locked.
Q Okay. But you didn't give him a key to that, did you?
A No, sir.
Q Nothing else was missing, though, was it?
A No, sir.
Q The only thing that was taken out of the house was that shotgun?
A Yes, sir.
Q Thank you.
MR. WAGNER: Nothing further?
THE COURT: Anything on redirect?

REDIRECT EXAMINATION

BY MR. BURR:
Q Mr. Burdette, your landline telephone, is that located in that bedroom?

MR. BURR: We have, your Honor.

THE COURT: Do you think his decision is his own decision?

MR. BURR: It is, your Honor.

THE COURT: And it's free of threat and freely and voluntarily made?

MR. BURR: It is. Yes, sir, it is.

THE COURT: All right. Thank you.

Just for planning purposes, do you have anything in rebuttal?

MR. WAGNER: No, sir.

THE COURT: Okay. So this basically is it?

MR. WAGNER: Yes, sir.

THE COURT: I've got the charge here, which is pretty straightforward. Now, I'm assuming -- and y'all stop me, but I'm trying to save a little time. I have included murder, voluntary and involuntary. Does anybody object to that?

The involuntary concern I had is you have -- and I've also included accident. The problem with accident is it says that you have to be in lawful possession of a weapon. I decided to charge it just in the abundance of caution.

Y'all want to take a minute to look at that?

MR. WAGNER: I believe, your Honor, your clerk, we

had already -- I kind of knew that was coming. So I'm with you on the lawful possession of the thing, but I think under the circumstances, with the different versions of the statements that were introduced and stuff like that, I'm fine with those four choices.

THE COURT: That's kind of where I was. I mean, you know, you could be very strict and say that he wasn't in lawful possession of the weapon because he was on probation, but under the best case scenario, he grabbed somebody else's gun.

They're going to print this for you so you will have it. I'll give you five minutes just to flip through it.

MR. WAGNER: Can we be at ease for five minutes?

THE COURT: Yes, be at ease. I'll give you five or ten minutes to look at this, and, basically, I'll come back and do the closing, and I'll charge them. And I guess we'll have to order lunch.

Is that okay, Lisa?

THE CLERK: That's fine, yes, sir.

THE COURT: All right. Y'all are at ease five or ten minutes.

(WHEREUPON, recess taken from 12:18 p.m. to 12:37 p.m.)

THE COURT: Okay. Y'all have had a chance to

review my charges. Any changes, objections from the State?

MR. WAGNER: No, sir.

THE COURT: From the defense?

MR. BURR: Yes, your Honor. On page 19 of your instructions --

THE COURT: Hold on a second. Okay.

MR. BURR: First full paragraph, second paragraph, "Malice may be inferred from conduct showing a total disregard for human life."

THE COURT: Yep.

MR. BURR: "Inferred malice may also arise when the deed is done with a deadly weapon." I would object to that portion of that instruction, your Honor.

THE COURT: Why?

MR. BURR: I don't think we can infer there was a total -- based on the evidence presented, there's no -- we can't have any inference of total disregard for human life.

THE COURT: Say that again.

MR. BURR: There's been evidence presented on accident which would be in mitigation. So this inference leads to an improper conclusion.

THE COURT: Okay. Let me look at accident. Because, basically, we're giving them the option, and I

took some language out of the accident portion -- hold on a second. Okay. I understand why you'd want that. I mean, it goes to the weight and goes to one of the things they have got to decide is whether or not there was a total disregard, but --

MR. BURR: Your Honor, if I may.

THE COURT: Yeah.

MR. BURR: The footnote that goes with that --

THE COURT: Right

MR. BURR: -- kind of excludes that.

THE COURT: Well, it says, "Where evidence is presented that will reduce, mitigate, excuse or justify." Actually that should not have been in there. That was a note to me. "But with intent to kill, the jury shall not be charged."

Well, there's been evidence potentially that could reduce or mitigate. There's also been evidence that they did not. And I'll be very clear that the State has to prove malice by proof beyond a reasonable doubt. I understand your objection. You actually got a private note to me that was printed, so.

MR. BURR: Thank you.

THE COURT: I'm not going to charge you for that hint in the future. But, I mean, for the record, you are protected. And, again, I think it's factual.

They've got to decide -- Lord knows what they're going to decide, but it's a factual issue.

MR. BURR: Your Honor, if I may, I've got the instructions that were previously prepared, and I provided them to the State. And there is a great deal of overlap with your instructions, but I would still like the Court to look at these and attach these as a court exhibit.

THE COURT: Go ahead and attach them. I trust you that there's overlap. I assumed there was because I have included voluntary, involuntary and accident, and that would be where the argument will come in, and I've just done it out of an abundance of caution.

MR. BURR: They are numbered 1 through 18, your Honor.

THE COURT: Okay.

(WHEREUPON, Court's Exhibit Number 4 was marked for identification.)

THE COURT: But even though you have those, you don't have any objection other than what you --

MR. BURR: Other than what I just brought up.

THE COURT: Y'all ready to do your closing because my intention is to go from your closing directly into the charge.

Just for the audience's purposes, if you want to

you a little bit more information about it, but it is 28 pages' worth of charge right here. Now, only good thing is because of my eyesight over the years, the font continues to grow. So it's probably 18 pages when I first started. By the time I finish, it will probably be 150 pages.

But, anyway, if you need to break for any reason after the closing statements, that's fine. The problem with breaking during the closing argument for any reason is that it breaks up the continuity, and so what I'll do is after the closing arguments, and depending on their length, I might just decide to give you ten minutes so you can stretch and come back in here.

As I've told many a jury and told you earlier, there's two times in my life that I have read to people: Once to my children to make them go to sleep and then to juries in hopes that they don't go to sleep. So it's highly possible, depending on the length of the closing arguments, that I'm just going to give you five minutes to go back there and move around a little bit. But if you need longer, let me know.

All right. And you have all been very patient, and I really appreciate it. Yes, sir.

MR. WAGNER: May it please the Court.

I'm going to speak to you just briefly on the law.

Mr. Burr will be able to give you his closing argument, and then I'll be back to give you my version or my argument on the facts.

Basically we're here for a murder case. Defendant is charged with murder, possession of a knife -- I mean possession of a deadly weapon during the commission of a violent crime. A violent crime, in this instance, would be murder. The judge is also going to charge you voluntary manslaughter. Both of those are considered violent crimes, and I'm going to go over those just briefly with you.

If a person uses a shotgun during the commission of a murder or a lesser degree of, basically, murder would be voluntary manslaughter. Either of those are violent crimes. And the use of a shotgun, both, technically, you could find that they attach, substitute charges.

But he's going to charge murder is the unlawful killing of another person with malice aforethought. Malice is basically hatred, ill will, meanness, something like that. If you have got that, if that exists in your mind and you go after somebody and you kill them, even just briefly -- a few minutes, a few seconds -- and while you're doing that, you do it out of malice.

People a lot of times call it premeditated murder. Premeditated can occur just seconds before you walk in to pick up a gun and come back out and kill somebody. The malice is there and you have thought it through, and it's premeditated.

If for some reason -- basically talking about voluntary manslaughter here -- if for some reason you don't have that malice aforethought, but you -- the definition of voluntary manslaughter, as I said, is the unlawful killing of another in the heat of passion after sufficient legal provocation and without malice aforethought. So if you don't have that mad, meanness, anger, if you're not that way but you come in -- lots of people would determine that as somebody came in, found their spouse in bed with another person. They lose control. Sudden heat of passion. Can't control themselves with sufficient legal provocation there and they kill somebody, that's a little bit lesser degree of murder, and that's what we call voluntary manslaughter. You don't have that malice aforethought element. It just clicks and it happens.

You are also going to be charged involuntary manslaughter. That's the unlawful killing of another person without malice and with criminal negligence. I submit to you that you will be charged that, and you

need to consider that, but I submit to you that the facts of this case, we'll argue that that doesn't apply.

And the last one we charge is accident. An accident is the unintentional killing of a person with reasonable care and handling of the weapon. And I will submit to you again, that would be difficult. I'm going to tell you the reason I don't think that applies.

That's what the judge is going to charge. You have to find beyond a reasonable doubt that the defendant committed elements of either murder, voluntary manslaughter, involuntary manslaughter, or it was an accident. It's a case of -- or find him not guilty.

I will be back to go over the facts. I'll be brief. I know you have been here a long time. You will be asked to find beyond a reasonable doubt, which there's some definition -- the judge is going to charge you this -- it's the kind of doubt that would cause a reasonable person to hesitate to act. One of the others is also -- the other way of saying it, does it make you firmly convinced of the defendant's guilt.

Like I said, I'll be back again in just a few minutes to talk to you about that, and we'll be asking

for a guilty verdict on murder.

MR. BURR: May it please the Court, your Honor.

THE COURT: Yes, sir.

MR. BURR: Ladies and gentlemen, you remember in my opening statement, I told you two things that you needed you to do, both pay attention to the facts and also figure out what was going on in people's heads. That still hadn't changed.

I also told you we selected you just as a gut instinct. We don't have any real research on this, but we wanted somebody that would pay attention, look at all the evidence, and then vote your conscience. This is not a five to seven, whatever. You vote what you think really happened and you stand your ground.

The first, and I'm not going to insult your intelligence by standing here and going through everything that was said. There are 12 of you here. You know better than I what was really said. I'm sitting here thinking about my next witness and stuff, so I will defer to your intelligence as to what was said.

One witness I do want to explain to you, my first witness, Dr. Lyle from Kentucky, discussing memory. We did pay Dr. Lyle to come down here. The judge has instructed you that you have to have evidence from the

witness stand to take into consideration. So I needed memory to be before you as an issue. So that's why he was here. He didn't tell you anything you don't already know. You know how memory works. You have all been scared or excited at one point in your life. Adrenaline gets to pumping. It may be an accident that you were involved in or maybe a child under your car getting hurt. It can be taking wedding vows in front of people in a church. And when it's all over, you look at a friend or spouse and say, "What was just said? Did I cover everything?" Because once that adrenaline stops, your whole process changes.

So what the State has done in this case is the old, old magic trick. And you know what magic is. Magic is, "Look up here," but really I'm doing something down here. They told you about some conflicting statements, none of which ever really changed the story. Nowhere in any of defendant's statements did Adam ever say, "I intended to hurt anybody or kill anybody." They picked up on these little inconsistencies and skipped over 36, 38 hours of intense interrogation.

They made a great thing of all the rights advisement he got, which included "If you want an attorney, one will be provided." You heard testimony

after he was held against his will -- he wasn't arrested. It's investigative detention. He couldn't leave. He was held out at the scene. He was brought back up here. He was questioned, and the statements are in there, times are in there. You could figure out he was held six, eight hours. Finally, out of exhaustion, "I want an attorney." They took and locked him in a room and left him somewhere. He was left for four hours. No way to communicate with anybody, know what's going on. The most traumatic incident of his entire life that just happened. It's hard to even imagine when you've taken somebody's life what is going through your head.

After being locked up with nobody to talk to, nobody to help him, he beat on the door in four hours, and that means he initiated the discussion again. So they continue to question him. It goes on until 9 o'clock at night. Then he's finally booked. There is a lot of confusion as to when he was arrested, when he was told he was under arrest. Sergeant Tinsley said she arrested him, had a warrant that night. When I gave her the warrant, looked at the actual date at the bottom of it, the magistrate didn't see it July 10th, ,so there's no way the warrant was actually served on him until the next day.

He's brought up. I questioned the sign-out log from the jail. What time was he taken back out of the jail? It's not consistent. Something has been changed in there. But he's continually questioned. And there's no recording. What is the only possible reason for not recording an interrogation? Don't want you to know what happened. Recording devices are everywhere now, and there's no reason not to have a video camera unless he's being pressured and told stuff, something to be embarrassing to the State, or they would do it.

The one person, call it star witness out of this case, was the State's witness, Sergeant Philpott. He went out on scene that morning with his camera, and just about every picture that anybody has presented in this evidence was taken from Sergeant Philpott's pictures he took. And there are even more of them. And he wasn't being one-sided or the other. He just took a very objective -- everything he saw, he took pictures of. You can see pictures of the tire iron he found in the Blazer and the picture of the door that was damaged. You know, does he have a theory or is he just trying to present everything to you unlike the interrogation, stuff is being hidden from you.

Sergeant Philpott also testified that he was present after 18 months when I got to look at this

weapon and closed it. And one of those things, it misfired. It fired. Luckily nothing was in it. That is a defective gun. There's no doubt when the gun would go off when you close it, then it shouldn't be used.

He also told you that after my expert and I left, he immediately called the prosecutor's office and left them a message and told them who the expert was and told them our theory, and trial was put on hold after 18 months, and they send it back to SLED for retesting. The State has 77 exhibits back here. Take your time and look at the report that tells you the condition of the gun or the ballistics, that it wasn't a ricochet shot.

I did want to -- I'm not going to go through all the exhibits, but this is a picture that was taken with an iPhone and then sent down to Wal-Mart for the enlargements. If you look -- hopefully you can see -- the straight grooves that go from side to side. No explanation other than a ricochet.

You've heard the testimony from Mr. Cartee today that the elevation of where the gun was to where the victim was hit -- and the numbers are in there -- it's closer to 14 feet. It's taller than this ceiling here down to the ground. 70 yards away.

I don't care if Adam was the American Sniper. You shoot from 14 feet up 70 yards, gravity pulling, hit somebody with it, their witness testified, the medical examiner, that the pellet was going up. Nobody could fire a shot, make it drop or go that distance, that elevation, and then change direction to go up.

Only way it could happen, your common sense will tell you, is that if it was a ricochet. Well, in some way that one magic pellet hit the ground and bounced back up. Only explanation. Throughout the trial you have heard "freak accident." This was a freak accident.

Sergeant Tinsley told you this was her first murder case. And you could tell from her testimony on cross-examination, hopefully, she was struggling to make this case. Not necessarily to get to the facts, but to make this case. Her theory of what happened was that the defendant broke into his own house and did the damage and then came out with the shotgun.

Look at the timelines in here. We have telephone records. Defendant's common law wife said she was on the phone with him, and you have that record. That was initiated at 6:55 and lasted 55 seconds. We're talking 6:56-plus in the morning, and he screamed, "Oh, my God," and even more language than that, "They're in my

daddy's house. They have been in my daddy's house," whatever.

So according to the State's theory, then he stopped his truck, came up by the three guys in the truck, tried to get in the back door, it was locked, went to the back. And even in light of our version, he went in the back door. He says in his statement that he walked in the back door and locked the door behind him. He was concerned that somebody was going to come in behind him.

Sergeant Tinsley misread that. She thought he said he unlocked the door. You have the statement, and you heard her arguing with me. Even after putting it on the screen, she continued to say, "No, no, no. That where it says and, that means unlocked it." He told you he went in, locked the door, walked through the house, again looked at the bathroom, seen it from the outside, saw it from the inside, saw it was broken into, saw that somebody had taken a tool and had broken into his dad's bedroom, came back out, found the shotgun, went out, intentionally fired a shot in the ground.

When he intentionally fired the shot, he didn't throw the gun down. He was expecting the explosion that goes with a .12 gauge. Then when everybody --

when the victim ran the 70 yards, he closed the gun and it fired. It scared him. He threw the gun. There's no doubt the gun was thrown down at least twice. He became hysterical. Every witness that you heard come in said -- the ones that were initially on the scene -- he was hysterical. He was so hysterical he couldn't even talk to the 911 operator. He had to give the phone to somebody else. Ms. Honea said he was hysterical. She knew exactly what he said. He said he threw the gun.

But when you look at the timelines, he actually ran to the victim and found his nonworking phone. And you could still make the 911 call. I don't think he even realized that at the time. But look at the phone log, and you will see it was 6:58-something. This entire thing took less than three minutes. That's a lot to do in three minutes. Plus his whole processing, the state he was in, he had no way of knowing exactly what happened.

But look at the consistencies. The gun was thrown. The pictures were in here that the gun was thrown down, there was mud in it.

The witnesses that you've heard from, some were believable, some aren't. There was a lot of drug use involved. Those people testified. Sometimes it's

self-serving. None of the guys wanted to admit they had broken into the house. Nobody wants to admit that they had been using methamphetamines. I think you will draw your own conclusion on those things.

Like I said, I don't want to go through all these exhibits, all the testimony, because you have heard it. You will have them in the back with you. Look at the timelines. Look at the pictures. Look at the elevation. See if you think that's possible.

I only get to speak to you one time, and there is a reason for it, because defense has no burden at all. Everything is on the State. They have got to prove what happened beyond a reasonable doubt. And the judge is going to give you, like he said, eight pages of instruction. I could stand here and argue the law to you. And he's going to tell you what it is. You don't need me to tell you.

The only instruction, the only concept that does follow me through to the jury is understanding the beyond a reasonable doubt. What does beyond a reasonable doubt mean? You've heard testimony that Sergeant Tinsley went to the magistrate to get a search warrant for the phone that didn't even work. What possible evidence could she present that would get her a search warrant for a nonworking phone? Probable

cause. It's nothing. It's a very small amount of evidence. That's what they get warrants on.

The judge will mention to you a different level of doubt or standard of proof is preponderance of the evidence. It's like halfway down the chart. It's anything that would tip the scale. Doesn't have to be 51 percent. 50 and a fraction.

But when you get to beyond a reasonable doubt, you're all the way over to the end of that spectrum. You could think anything, any doubt that you have in your mind on any element of these charges, then the verdict is not guilty. He will tell you not a fanciful doubt. Don't come in and say maybe a spaceship landed and a martian did it. That stuff is ridiculous. But if you can conclude that the gun was defective, that it was a ricochet shot, that it was an accident -- you don't have to conclude any of those things, just the State didn't prove that it wasn't -- you have to come back with a verdict of not guilty. This, from the time it starts and the defense came up with the theory as freak accident, there's been nothing done by the State to dissuade or change that. You've got the evidence. You've got the law.

Before I quit, let me say the one consistency is the multiple statements. There was never any admission

made that he intended to kill anybody. You can imagine the pressure he was under and suggestions made to him. And I asked Captain Reed, an experienced investigator, "You are good at what you do." He was indifferent with me when I said, "You can convince people to say almost anything." A good investigator, good interrogator, can take somebody and lock them down for hours when they're all distraught and convince them to say just about anything.

If the way you're saying it is not exactly right but you didn't mean to hurt anybody, then you need to put this down here. We don't have any recordings. You don't know what was said. You know he was held against his will for a day and a half. Whether it's investigative detention or what, he was not free to leave. He was locked in a room. He was told repeatedly, "You have a right to remain silent. You have a right to an attorney." When he asked for one, it wasn't provided. He didn't know any other way than that, put down what he said was down there.

One other thing that stands out in my mind that I want you to look for was the testimony of Bubba when he said when they were sitting there, they didn't know why it was taking him so long. They knew he had left Spearman Road. That's talking about when he had

already ridden by them, went to see his wife and he went home. They were at the parsonage. He came back around. They didn't know why it took so long. He knew he had left Spearman Road. The testimony throughout trial, they didn't have a functioning phone.

An hour and a half earlier they had to borrow a phone to call Tiffany and say the car broke down. How could they possibly have known he had left Spearman Road unless they had gotten into a telephone some way and made the call?

You see the pictures of the tire iron that was taken in there. Look at that tire iron, the damage to the pictures of the door. That tire iron was in their door. No evidence at all that Adam had any kind of tool or whatever to do the damage and break into the place.

If you listen to the law the judge will give you and look at the exhibits, go back to the testimony, there's only one logical conclusion. This gun misfired when Adam put the second shell in it and snatched the bottom of it up. It went off, aimed down at the pavement, ricocheted -- you can look at the pellet -- and made just an absolute, just a freak accident of hitting this poor 21-year-old guys's spinal cord and cutting it in half. That was not intended. It

couldn't be done if you did intend it. Look at the testimony of the medical examiner for which way it was traveling. Only one possible way for it to happen.

If you consider all those things, consider the law as the judge instructs you, you will not have any difficulty at all coming to the right decision, and that was this was an accident. There was no intent. This is just a guy that was scared to death of three guys, walking up in the middle of -- at least what he perceived as an ongoing burglary. Yes, he was scared. Became more scared. So you've got to look at it in light of all those things. If you do, there's only one conclusion. It was an accident. And the judge can tell you if it was an accident, he's not guilty of anything. Your verdict should be not guilty. Thank you very much.

THE COURT: Yes, sir.

MR. WAGNER: Yes, sir.

Evan Tyner didn't do anything theoretically wrong that day. They had all been doing drugs. I think there's evidence -- we all know they were pretty much doing drugs the day before, the night before. But they weren't breaking into the house. There's no evidence of forcible breaking into the house. None at all.

The only evidence that anybody was in the house

was the defendant. And as you see in his first two statements, he talks about going in the carport door. All of a sudden, the last statement he gave, he went around the back and went in that door. That door did have a chain on it, so I submit to you he's not being honest with you there. But we do know that that back window was open. Somebody appeared to have gone in there. I submit to you it was him. He's the one that actually went in there. The three guys were sitting in the car minding their own business.

The drug use, it's a shame. Shame a lot of people do it. They were all doing it. Doesn't have any bearing, necessarily, on why we're here for the shooting in this murder case. Defendant wasn't defending himself. The three guys are out there in the car. They're friends of his.

He goes on and on in his last statement about how much he loved Evan, this and that. These three boys had been by there earlier that night to get the debit card. They had been guests at the house, picked stuff up. They knew each other. Hanging out. It's not like they had never seen each other before. But it did happen.

The long interrogation was -- you know, Sergeant Tinsley and Captain Reed said, "You know, it went on

12, 14 hours, but he wasn't interrogated the whole time." He was in a room. They fed him, let him go to the bathroom, water, whatever he needed. He wasn't free to go. They suspected they had a murder on their hands. Obviously they did because they were working this murder case. But they didn't sit there and browbeat him 14 hours straight.

He gave, of his own free will, after being Mirandized numerous times -- every time they talked to him, they did legally what they have to do. They told him what his rights were and protected his rights. He gave voluntary statements, and he admitted and changed them each time they did it. He changed them because they kept confronting him with other evidence. They kept confronting him with evidence that they maybe initially didn't have on the first stages of that investigation. And his statements evolved because they were confronting him with different things that he didn't know. So like a chameleon, he's trying to change colors to adopt to what he now has to explain because he knows the story he's told is not matching what they know from the physical evidence.

The presumption it was an accident, it's preposterous. There's no evidence this is an accident. He came back to the house. He was mad. He was mad he

had gone over there and blown out the two ladies that were there at the house, Tiffany and Nikki. He was arguing -- what he was mad about, whether it was somebody going to take his child because of the drug use, he says in his first statement. That's what Bubba said. So maybe it was part of that. Maybe it was part of, "You picking your family over mine." Whatever it was, he was furious.

And, remember, Nikki said and Tiffany said he left out of there minutes before this happened in a rage. He was mad. Pulled up. Them boys are sitting in his driveway. They couldn't have been there very long at all because he had just driven by, by his own admission, ten minutes earlier or several minutes earlier, which version you do, but several minutes earlier he had driven by, given them the finger or waved at them or both. He even admitted that. And they said it.

They sat there for a little while longer. He went home or went on down there, blew the two girls out as far as arguing, you know, "You're picking him over me," loud. Went over straight back down to the parsonage, pulled in. He was on the phone with Tiffany. What's he saying? "They're in the house. They're in my daddy's yard -- in my daddy's house," not yard. They

couldn't be both places. He didn't see them in the house. That's what he said. He never saw them in the house. They were never in the house. He saw them in the yard.

So he pulled in. He slid in. And you can see the skid marks on those pictures where he slid in. Basically blocked them in. He got out. He looked at them. As Bubba said, he looked at them with just a hate, hateful, mean look. They have known this guy.

Something bothered Bubba by his look. A devil look, one of them called it. He just had that look in his eye. They knew. He said, "I got something for y'all." The intent was formed at least at that point in his mind. The premeditation. The malice was there. Aforethought.

Instead of going in the carport door, which in his other statements he's been going in the carport door -- naturally it's the one that's right there -- Bubba said he tried that door, but he didn't go in that door. He went on through the carport and went around the back. I submit to you that's when he went in the window because the door was locked and the chain was locked.

Be that as it may, he went in the back. Whether it be through the door or through the window, we'll never know. He's the one that went in and got the gun.

Initially he said the gun was in the carport. Then he said it was in the kitchen. He's the only one that knew where his daddy's gun was. Daddy's gun, according to his daddy, was locked in a room where even he didn't have a key. And I submit to you draw your own conclusions from that. But he didn't have access to it.

So I submit to you he forced the door in there, went in and got his daddy's gun. He was mad. He took the time to grab that box of shells and empty whatever was left. He took at least three shells. Whether the gun was loaded -- there was three shots, or at least there were two shots fired, and one more on the floorboard of that truck. So we know he took at least three shots.

Either loaded when he picked it up or he loaded it, but he goes barreling out the door. Basically, by his admission and their admission, the two boys that were there, that left, he came out screaming, said something -- his own statement on the first statement he gave, he says, "You're not taking my son," which corroborates what Bubba said, something about "You're not taking my kids." Screaming, bared his teeth, and he had a raged look on his face.

He levels the shotgun at him. And I think by the

fact that Bubba and Evan jumped out and the way they ran, I think they understood what was fixin' to happen. They had known the guy. They are friends with him. His sister is either married or has children with him. And he called his sister, his wife in his statement, there was that kind of a relationship there, close family relationship. They knew. They jumped out and ran.

And their stories are consistent. Josh was very reluctant on the stand. He didn't want to help us. He didn't want to really tell the truth, but he said everything was pretty much accurate except where he got to the point there where he told David Smith he leveled the gun and shot Evan in the back. David Smith testified that that's exactly how he said it to him.

He blows his top. He fires a round in front of the car. Physical evidence suggests that that's true. Kicked up rocks. Gravel all over the front of that car. We know that through the pictures and stuff that that occurred where the firearm had discharged.

They're jumping out, running at this point. He has time after he's come out there with the shotgun and discharged it. He has time to break open that shotgun, get a knife, by his own admission, pulls it out, the shell, slings it as hard as he can back behind the

carport there and reloads.

At some point in time he moved. He knows Evan is running down -- he knows Evan has gotten out of this -- as you saw in the pictures, this is a red car here in this picture, but the green car was basically there. By his diagram that he drew for Sergeant Tinsley, he puts himself out here when he fired the shot, which I submit to you from the corner to the middle there is a good bit less -- a lot closer than probably 70 yards is the furthest place. That's probably more like 50 or 60.

But he had to move to get a clear shot at Evan running down the road there, which, again, was more what goes to aforethought. It's more premeditation. He had to take all those purposeful steps to commit this murder.

The defense expert from Louisville, I'll be honest with you. I don't know what he said. I tried to follow what he was saying. It was something about memory stuff, but I think even he understood there is a difference between memory loss and a difference between just not telling the truth.

In fact, the way his story changed repeatedly on the facts that were most important as far as how the shot occurred, I just don't think -- I submit to you he

was not credible. Whether it was ricochet or not, I submit to you no.

SLED says that the pellet was consistent with what you would expect to find out of the back of a person's neck after it went through the spine, two vertebrae. Lead is a soft metal. It's going to deform.

She said she did see marks on the thing where it probably scraped against the inside of the barrel. So there are going to be marks on something like that, possibly even from a smooth bore thing because it's an old, rusty shotgun.

Mr. Belmore, he wouldn't say the gun was defective, basically saying it's not defective, it's just old and it's loose and it's worn, and the thing works. It's not a defective gun.

I submit to you an old gun like that, if you try hard enough, keep slamming it, doing it like that, maybe you could make it misfire. I don't know. We know it didn't misfire that day because we know what happened by the defendant's statements, and he never claimed it misfired. Take that back. The first two times he told it and what he told Lisa Honea was he had thrown the gun and it hit and went off.

When that wasn't going to work and he was being confronted by more evidence from Sergeant Tinsley and

the other officers, two shots and other things that they were confronting him with, things that weren't consistent with that, well, then he changed it to, "Well, I aimed over his shoulder and to the left, and I pulled the trigger to make myself feel more safe." He's running flat-out away from him, but he pulls the trigger anyway and it went off. I think the implication was he thought it wasn't loaded, but the gun worked as it was intended to. It wasn't a misfire.

Then in the last statement he said he shot at the graveyard, which is quite a bit of an angle way the other direction, and he couldn't believe it when he fell because he was that far away.

All those stories and the discrepancies in those stories tell one thing, that he's not being honest with the sheriff's office about what happened. We know he was mad. He know he was furious. We know the first thing he did was, "I got something for y'all," and went straight into that house, and he got that shotgun and brought it out and discharged it.

He made the conscious -- they're running. They're no longer a threat to him. They're leaving. And they're leaving because they know somebody is fixin' to die. Bubba said he had a white tank top on. He knew he was an easy target, so the first thing he did was

dive over that fence and lay down to where the guy couldn't get another shot at him. Evan chose the direction to probably get as far away as quick as he could down that road, and, unfortunately, Evan didn't make it.

Dr. Woodard testified there's no way the bullet or the projectile was coming in and up. And there is a drop there. But Evan is running straightaway as fast as he could. He could have been looking back, he could have been hunched over running. Any of those things Dr. Woodard said could account for an upward angle, slightly upward angle as far as that goes. If he's leaning over running, it's not necessarily going to be straight up where it can go straight in. Nobody knows the position of his head when he was actually struck, and I submit to you that's what counts more than upright.

As far as the statements go, we know Sergeant Tinsley, Greg Reed, they did everything they could do to protect his rights. They talked to him. They do what they do. They talk with people. And they poked holes in his story, and his story changed as a result of that. But they didn't browbeat him. They didn't threaten him. They didn't promise him anything. They did their investigation. They did a good job and what

they needed to do. And the physical evidence, what finally ended up coming out of it, basically matches what they're saying happened.

He did throw the shell back. They were able to recover the shell basically where he said he threw it. There was a discharge into the ground where he said he shot. The only thing that changes was his statement -- of significance is or the main thing that changes of significance is how he shot at the victim and what his intent was, and that's why we're here.

We're here because he, with malice aforethought, shot and killed Evan Tyner. When he aimed that shotgun on that day, he fired nine pellets. He had nine opportunities to hit Evan Tyner on that day. Only hit him one time. That's all it took. Evan died with one pellet to the back of the neck. That's all it took. Maybe by a freak accident he may have been hit two or three more times. But it wasn't a freak accident. It was intentional. He had to aim at him. The further away he was, the more accurate he probably had to be.

And I submit to you with a shotgun, the further out you go, the more pellets probably tend to spread. Maybe if he had been a little bit luckier, the pellet might have gone a few inches one way or the other and he might have been missed, and we might not be here on

a murder case, but we're not. We're here because he made a conscious decision to go into that house and grab that shotgun, take it out, fire a round, reload. And all that took time. Prying out with a knife, and then move his position to a better shot where it hit him going down the road. And that's what happened. This defendant murdered Evan Tyner.

THE COURT: All right. Ladies and gentlemen, I'm going to send you back for five minutes. Literally just to stretch because you're going to have to listen to me for a long time. Don't have time to leave the jury room, but go back, stretch, use the restroom, and we'll bring you back in right at five minutes. But don't discuss the case yet.

(WHEREUPON, the jury exited the courtroom at 1:23 p.m.)

THE COURT: One of the reasons I gave them a break is we're doing a verdict form rather than use the indictment because the indictment has both charges on there. The verdict form is going to say guilty or not guilty of murder, or guilty or not guilty of voluntary, or guilty or not guilty of involuntary, or not guilty. Well, we're going to actually take that out. And then guilty or not guilty of possession of a firearm.

Normally I like using the indictment, but you

can't do it with this because of the two charges. And you will get a chance to look at it before I send it back at the end.

(WHEREUPON, recess taken from 1:24 p.m. to 1:27 p.m.)

THE COURT: Y'all ready?

MR. WAGNER: Yes, your Honor.

MR. BURR: Defense is ready.

THE COURT: Bring them back in.

(WHEREUPON, the jury came into open court at approximately 1:28 p.m.)

THE COURT: All right. Ladies and gentlemen, hold on a second while we close the door back there.

Ladies and gentlemen, you've heard all the testimony that you're going to hear in this case. As I told you Monday, we have now reached a point in the trial where I have to charge you on the law in this case. We have spent a good bit of time -- quite frankly, after 14 or 15 years, you kind of know what you're going to charge. But you never know until you hear all the testimony. So, just like you, we have avoided doing this until all the testimony has been finished.

And so, basically, as I said, for consistency purposes I'll read most of it to you. I apologize to

you, but, obviously, every case like this needs to be consistent with every other, and, therefore, we are required to read it.

Now, the first thing I want to tell you is that you're getting ready to deliberate the case of the State of South Carolina versus Shane Adam Burdette. The indictment charges the defendant with murder and possession of a weapon during the commission of a violent crime. I want to remind you again that the fact that the defendant was arrested, charged and indicted in this case is not evidence in the case and cannot be considered by you as evidence in this case. It can't be considered as evidence of guilt or innocence. It does not present any presumption at all.

This document that I held up and that you will have in the jury room is simply the written instrument which begins -- which contains the charges and begins the case against the defendant. It's just a piece of paper, and it should never be discussed by you in the courtroom.

Now, ladies and gentlemen, the indictment in this case alleges two different offenses. They are murder is number one, and number two, possession of a weapon during the commission of a violent crime. You must decide each of the indictment -- each of the charges in

the indictment separately on the evidence and the law applicable to it uninfluenced by your decision as to the other charge. So you have to consider the murder indictment separately and on its own and then consider the possession of a weapon during a violent crime separately and on its own.

The defendant may be convicted or acquitted on any or all of the charges, the offenses charged.

I'm going to prepare, Mr. Foreman, and this is a little bit different because oftentimes we will send the indictment back, and it has a place for guilty or not guilty. I'm preparing right now a verdict form, which is a little bit more complicated, but I'll explain it to you in just a minute.

Ladies and gentlemen, again, I'm going to repeat it for the third time, but there is a reason why I repeat it for the third time. The defendant in this case has pled not guilty to these charges. And that plea puts the burden on the State to prove the defendant guilty.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of law in this state and in the United States that a defendant in a criminal trial, no matter what the

seriousness of the charge be, will always be presumed innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt. This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial until you reach your verdict of guilt based on the evidence satisfying you of that guilt beyond a reasonable doubt.

I have used the example of a robe of righteousness or innocence. For some reason, that just rings true with me. And that is a robe of innocence that he still has on his shoulders and will only be removed once you believe that the State has proven their case beyond a reasonable doubt and you find him guilty.

The presumption of innocence is not a mere legal theory. It's not just a legal phrase. It's a substantial right to which every defendant is entitled to unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

I gave you that one-sentence explanation of reasonable doubt. I'd like to charge a longer portion on reasonable doubt now.

I charge you that a reasonable doubt is the kind

of doubt that would cause a reasonable person to hesitate to act. Put another way, the State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you're told it's only necessary to prove that an act is more likely true than not true, such as a greater weight or preponderance of the evidence.

In criminal cases, the State's proof must be more powerful that that. It must be beyond a reasonable doubt. Reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty. And in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you're firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

I charge you that there are two types of evidence which are generally presented during a trial. There's

direct evidence and there's circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact such as an eyewitness.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in this case. After weighing all the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

Now, I want to remind you again of the roles that you and I have played. You are the judge of the facts. Once you begin your deliberations, you're going to have to determine, based upon your viewing of the witnesses, the competency of the witnesses, and whether or not they're believable, their credibility. You are the only people in this courtroom that can determine the facts in this case.

There have been many times during the course of this case we have sent you out and I have made legal

rulings. They were strictly legal rulings, and I'm ordering you and explaining again that your job is to take the law as I'm giving it to you now, apply it to the facts as you determine them to be after viewing the testimony and the evidence, and that's how you reach your verdict.

Again, I don't think it happened, but if at any time during the trial you think that I had an impression or a belief that a witness was telling the truth, and if I made any indication to you that I thought a witness was lying or telling the truth, disregard it. Quite frankly, my belief in what a witness said should have no bearing on your thoughts. I'm the judge of the law; you're the judge of the facts, and that's what you have to do.

Now, necessarily, as I've told you before, I charge you that it must be -- you must determine the credibility of the witnesses who testified in this case. Credibility in South Carolina simply means believability. I charge you that it becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of a witness who testified in this case, you may believe one witness over all the other witnesses. You may believe a

portion of what a witness tells you and disregard the remainder of that. You can believe no one in the case or you can believe everyone. That's up to you. You watched them testify, you watched their demeanor on the stand, and you also had the chance to determine whether or not a witness could have testified reasonably as to the facts that they have testified to. I can't tell you how to determine believability. But you have to determine believability.

Now, ladies and gentlemen, I charge you that the rules of evidence ordinarily do not permit witnesses to testify as to opinions or conclusions. An exception to this rule exists for witnesses that, in the law, are called expert witnesses. A witness who, by education and experience, has become expert in some art, science, profession, or calling may state an opinion as to the relevant and material matter in which the witness claims to be an expert and also may state the reasons for that opinion.

You should consider any expert opinion received in evidence of this case like any other evidence. Give it the weight that you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are

not sound, or that the opinion is outweighed by other evidence, you may disregard that opinion in its entirety.

An expert witness' testimony is to be given no greater weight than those of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion, even though it was uncontradicted.

Now, ladies and gentlemen, I instruct and charge you and emphasize that the fact that the defendant did not testify in this case is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of the guilt or innocence of the defendant. It must not be considered by you in any manner whatsoever. It should not be brought up or discussed. A defendant has the constitutional right to remain silent, and the assertion of this right must not be considered by you in your deliberations.

I want to repeat it again and charge you under your oath, you are not to draw any conclusions whatsoever from the fact that the defendant did not testify, and it should not be discussed.

The burden of proof, as I've stated to you several times, is on the State. The defendant is not required

to prove his innocence. The burden of proof remains on the State to prove innocence -- prove guilt beyond a reasonable doubt.

Now, ladies and gentlemen, I charge you that in order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness, or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by you, the jury, from the circumstances surrounding the situation.

There's no way to prove intent to a mathematical certainty. There's no way that we can dissect a person's brain and determine what they intended to do. So the law says that criminal intent may be inferred from the circumstances shown to have existed at the time of this act. This is how you make a determination of whether or not the element requiring intent is present.

It's not necessary to establish intent by direct or positive evidence, but intent may be established by inference in the same way as other facts, by taking into consideration the acts of the parties and all the facts and circumstances of this case. Criminal intent

is a mental state, a conscious wrongdoing. It's up to you to determine what the defendant intended to do based on the circumstances shown to have existed at the time of this act.

Criminal intent can arise from action or a failure to act. It may arise from negligence, recklessness, or an indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

Now, ladies and gentlemen, there's been evidence presented that certain witnesses have made prior statements which were not consistent with the witness' present testimony. You may use the evidence to determine and decide whether to believe the witness. You may also use the evidence of the earlier contradictory statements to determine the truth of those statements. It's up to you to decide whether to believe the earlier statement or the testimony given at trial.

If a witness has shown to have knowledge testified to a -- to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether or not to trust the witness' testimony in other matters. You may reject all the witness' testimony or give it all or part -- believe

all or part of the testimony depending on what you think it deserves.

Now, ladies and gentlemen, I charge you that a person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witness' credibility. Remember, as I told you and charged you, you are the sole judges of the facts in this case and of the believability and credibility of all the witnesses.

Now, ladies and gentlemen, I charge you that several statements made by -- alleged to have been made by the defendant have been admitted into evidence in this case. While the Court has determined that the statement is admissible, I instruct you that you make the ultimate decision of whether or not the defendant made the statement.

If the defendant did make the statement, you must determine whether the statement was made by the defendant voluntarily and of his own free will. This means that the statement was not caused by pressure, force, fear, threats, coercion, or intimidation or by hope of a promise -- or a promise of leniency or a reward of any kind.

In determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the questioning. Some of these factors that you may consider, and there are others, but some are the age of the defendant, the defendant's education or lack of education, the defendant's mental ability or capacity, the defendant's IQ or intelligence, the defendant's background and environment, the place and length of detention, the nature of the questioning, and the advice or lack thereof of the defendant of his constitutional rights including but not limited to the right to remain silent, that any statement could be used against him in a court, that the right to have a -- that he had the right to have a lawyer present, that if he could not afford a lawyer, a lawyer would be appointed to represent him without any cost, and that he could stop making the statement at any time. You must carefully consider all of the surrounding circumstances before you give any weight to an alleged statement.

The State, again, has the burden of proving beyond a reasonable doubt that the alleged statement was voluntary. If you determine that it was, you may give the statement any further consideration that you deem proper. You must decide what weight, if any, should be

given to the alleged statements. If you determine the alleged statements were not free and voluntary statements of the defendant, you should not consider them at all.

Now, ladies and gentlemen, the defendant's charged with murder. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will refer -- or infer an evil threat or intent.

Malice aforethought does not require that malice exist for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time of the acts being committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be expressed or inferred. The terms "expressed" or "inferred" do not mean different kinds of malice, but merely the manner in which malice is shown to have existed. That is either by direct evidence or inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will for another, or when the person prepared beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other acts of preparation going to show that the deed was within the defendant's mind could be express and would be express malice.

Malice may be inferred from conduct showing a total disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon.

Now, I charge you that "deadly weapon" is any article, instrument, or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case.

The following are examples of instruments which may be deadly weapons: A pistol, a shotgun, a rifle, a dirk, a dagger, a knife, a slingshot, metal knuckles, a razor, gasoline, a fire bomb, a molotov cocktail, and lighter fluid. A gun may be a deadly weapon even if it is not operating.

Now, ladies and gentlemen, you are going to have to choose between murder and voluntary manslaughter and involuntary manslaughter. So there are going to be three choices that you have to make a determination. I

just explained murder to you. I charge you that if you find that the State has failed to prove beyond a reasonable doubt that the defendant committed murder, you may consider whether the State has proven beyond a reasonable doubt that the defendant committed voluntary manslaughter, which is included within the offense of murder as a lesser charge.

To prove voluntary manslaughter, the State must prove beyond a reasonable doubt that the defendant took the life of another in the sudden heat of passion based on sufficient legal provocation. Both heat of passion and sufficient legal provocation must be present at the time of the killing to constitute voluntary manslaughter.

Sudden heat or passion may, for a time, affect a person's self-control and temporarily disturb a person's reason. The sudden heat of passion must be the type that would make an ordinary person unable to cooly reflect on his actions and will produce an uncontrollable influence or impulse to do violence.

Sufficient legal provocation must be the type that would make a person of ordinary and caution -- of ordinary reason and caution become enraged and lose control temporarily. The provocation needed for voluntary manslaughter must come from some act or

related to the victim -- some act by the victim or related to the victim.

Words alone, ladies and gentlemen, however vulgar or insulting, are not enough to be legal provocation in this state. Where death is caused by the use of a deadly weapon, the words must be accompanied by some overt threatening act which could have produced the heat of passion. The exercise of a legal right, no matter how offensive it is to another, is never sufficient legal provocation for voluntary manslaughter.

If the heat of passion had cooled or if there was enough time between the provocation, if any, and the killing for the passion of the reasonable person to cool, the killing would not be voluntary manslaughter. In deciding whether a reasonable person would have had enough time to cool down or cool off, you should consider all the circumstances surrounding the killing. You may consider the nature of the provocation, if any, the defendant's mental and physical state, and the circumstances and relationship between the parties.

You will also have the option of dealing with involuntary manslaughter which is, again, a lesser included offense. If you find that the State has failed to prove beyond a reasonable doubt that the

defendant committed murder or voluntary manslaughter, you may consider whether the State has proven beyond a reasonable doubt that the defendant committed involuntary manslaughter. This is another included offense which is a lesser included charge of voluntary.

To prove involuntary manslaughter, the State must prove beyond a reasonable doubt that the defendant unintentionally killed the victim without malice but while engaged in an unlawful activity not naturally tending to cause death or great bodily harm, or that the defendant unintentionally killed the victim without malice while engaged in a lawful activity with reckless disregard for safety of others. "Unintentional" means that the defendant did not intend for anyone to be killed or seriously injured. "Reckless disregard for the safety of others" is more than mere negligence or carelessness. Mere negligence or carelessness is the failure to use the care that a person of ordinary reason would use under the same or similar circumstances. Recklessness is a conscious failure to use ordinary care. Reckless disregard for the safety of others means that you are not interested in the consequences of your acts or the rights and safety of others.

If a person who knows or should know that ordinary

care requires certain precautions to be taken for the safety of others when using a dangerous instrumentality such as a gun or a car, but that person fails to use those precautions without concern, the person's actions are considered reckless. The State must prove beyond a reasonable doubt that the defendant's act was the proximate cause of death.

Ladies and gentlemen, I charge you that in this state proximate cause is direct cause. It's the immediate cause. It is the efficient cause. It's that cause without which the death of the person would not have resulted. There must be a chain of causation from the time of the injury inflicted by the defendant until the time of the victim's death.

Proximate cause does not -- is not necessarily -- does not necessarily mean that it occurred immediately prior to the death. Let me read that again because I -- proximate cause does not necessarily mean that it occurred immediately prior to the death. I apologize.

Now, ladies and gentlemen, you also have to consider whether the defendant is guilty or innocent of possession of a weapon during the commission of a violent crime. The defendant is charged with possession of a weapon during the commission of a violent crime.

The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm during the commission of a violent crime. A firearm in this state means any machine gun, automatic rifle, revolver, pistol, or any weapon which is designed or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime.

Murder in this state is a violent crime. Involuntary manslaughter is a violent crime. The State must prove beyond a reasonable doubt that the weapon further advanced or helped in the commission of the crime.

Now, ladies and gentlemen, the defendant in this case has raised the defense of accident. An act may be excused on the ground of accident if it is shown that the act was unintentional, that the defendant was acting lawfully and that reasonable care was used by the defendant in the handling of the weapon.

The burden is on the State to prove beyond a reasonable doubt that the act was not an accident but

was caused by the negligence or carelessness on the part of the defendant in the handling of the dangerous instrumentality or by unlawful activity by the defendant.

All right. Ladies and gentlemen, when you begin your deliberations, you will have, as I said earlier, basically -- and I think it's going to be self-explanatory, but the verdict form will have four choices.

The first choice is, "We, the jury, find the defendant guilty of murder." Or there will be a spot to say -- well, "guilty of murder." Then underneath that, or, "We, the jury, find the defendant guilty of voluntary manslaughter." Or, "We, the jury, find the defendant guilty of involuntary manslaughter." And then, "We, the jury, find the defendant guilty of possession of a weapon during a violent crime." Obviously there will also be under there a place where you can put "not guilty."

Now, ladies and gentlemen, the fact that guilt -- and let me make sure -- well, I'm glad she handed this to me because it doesn't matter whether "not guilty" or "guilty" are first on any of these things. That may seem like an absurd jury charge to you, but I was getting ready to say it doesn't matter that "guilty" is

first. Lisa has put "not guilty" first. That's great. That proves my point. It doesn't matter. You will have to decide that he is guilty of murder or not guilty.

If you decide that the defendant is not guilty of murder, you may consider whether defendant is guilty of voluntary manslaughter or involuntary manslaughter. You will see here there is just a checkmark you have got to do, Mr. Foreman. Or you will find that he is guilty or not guilty of involuntary manslaughter.

Then it says, "If you find the defendant guilty of murder or voluntary manslaughter, you must consider whether the defendant is guilty of possession of a weapon during the commission of a violent crime." So that last one is a little bit different. You have to make a determination on murder and voluntary manslaughter before you can reach that.

I think it's clear -- what I think is clear sometimes is not clear. But if you have a question about this verdict form, all you have got to do, like you've done great this week, write down the question or issue, put the time and date, and they will bring it to me.

Now, ladies and gentlemen, your verdict has to be unanimous, that is, you have to all agree on the

verdict in this case. During your deliberations, if you need me to recharge any of these 26 pages, I will be happy to bring you in and read it to you again or read a portion that you want me to read again.

Unfortunately the law -- a case came out last year. I can't send this back with you, which would seem to make sense. But we can't do that. All I can do is bring you back in and reread the legal charge to you.

If you have any other issues or questions, write them down, give them to me. If I can answer a question or help you in any way, I'll bring you back in and answer the question. If the law prevents me from doing that, I'll bring you back in here and tell you I can't answer your question. I've done both so many times. But, again, I would rather you err on the side of understanding, so if there's any question, just write it down and I'll do my best.

Now, at this point in the trial I'm going to send you back. I'll need the two alternates to wait for me in the hall. But do not begin your deliberations. The State and the defendant have the right to ask me to change my charge. If I'm going to change this in any way or take something out, or if I read something wrong, which is likely, or if I am supposed to add

something to this that they ask me to add and I agree, I'll change it and bring you back in and read you the changed part.

More than likely, in about ten minutes, you're going to have all the evidence that's been marked and admitted back with you in the jury room and you will have the verdict form. Once the verdict form and the evidence are delivered to you, that's when you begin your deliberations.

So go back, and don't talk about this case until he brings you everything. And then at that point you can begin your deliberations.

I assume lunch has been ordered for you, so y'all are stuck here, but -- and if you like the lunch, I'm the one that ordered it. If you don't, Lisa did it. So it's up -- depends on that.

All right. Don't start talking about this case until we deliver everything. If the two alternates will wait in the hall, I'll come out and talk to you in just a second.

(WHEREUPON, the jury exited the courtroom at 2:01 p.m.)

THE COURT: Y'all want to look at the verdict form? You know, these charges are so inarticulately written for us, I think I corrected everything in my

head. But if I didn't or you want me to add something or change it, I'll be happy to.

Any changes or additions or objections?

MR. WAGNER: No, your Honor.

THE COURT: Any alterations, changes, or objections to the charge?

MR. BURR: Two objections for the record. You don't have to correct them. You instructed them that they have three choices when, in fact, they have four choices. And you also --

THE COURT: Well, possession of a weapon, I meant -- I'll be happy to make that clearer.

MR. BURR: And one --

THE COURT: They really have eight choices, but. They say I say four. I thought I said four. All right. It doesn't matter.

MR. BURR: And one other point, you told them they had to decide whether he was guilty or innocent, not guilty or not guilty.

THE COURT: I did say that, and I'll bring them back in and tell them that. Look at this -- that's what I'm going to do.

Look at this verdict form.

Any objection to this verdict form?

MR. WAGNER: Not from the State.

MR. BURR: No, your Honor. I think this form clears up my first objection as to the number of choices.

THE COURT: I did say "innocent," and I actually sort of caught myself. I'm going to bring them back in and say, If I ever said at any point, used the word "innocence," it should be "not guilty." The State has the burden of proving every case, and if they find they failed to meet that burden, they find him not guilty.

You can bring them back in. Y'all better check and make sure that everything is marked that's going back.

(WHEREUPON, the jury came into open court at approximately 2:05 p.m.)

THE COURT: Ladies and gentlemen, I inadvertently -- and I caught this myself and the attorneys caught it, too. I inadvertently at one point said that you had an option of finding the defendant guilty or innocent. It should have been guilty or not guilty. And there is a distinction there other than a legal distinction.

As I said, the State has the burden of proving each and every cause of action beyond a reasonable doubt. If they fail to meet that verdict -- or meet that threshold, then you must find the defendant not

guilty. And it may seem like a small change, but I want to make sure that it's clear.

All right. When you begin in just a few minutes, I will have this verdict form. If there is a question about it, just let me know. I think it's pretty clear. But as I said, we do this every day, and it may not be clear to you.

Give us five minutes. We'll have everything brought back and you can begin your start.

(WHEREUPON, the jury exited the courtroom at 2:06 p.m.)

THE COURT: I've added the indictment to that stack, too.

I don't like sending a gun and a live round back. Do you have any objection to us leaving that out here?

MR. WAGNER: No.

MR. BURR: I do not.

THE COURT: We'll leave that out. And if they ask for it, we'll deal with that.

(Court in recess, pending verdict, from 2:09 p.m. until 3:11 p.m.)

THE COURT: All right. The question is a statement. "We need a better understanding between voluntary and involuntary." And the quickest way to do that is to tell them the voluntary -- sorry.

"Please add murder also." They want a better understanding between murder, voluntary, and involuntary. All I can do is just recharge them now. I had a quick way to do it, but.

Bring them on in.

(WHEREUPON, the jury came into open court at approximately 3:13 p.m.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, basically I have two questions read together. The first is, "We need a better understanding between voluntary and involuntary." And then the third -- or the second question was, "Please add murder, too." So I assume you need a better understanding between murder and voluntary and involuntary.

All right. Since you have added all three -- it's easier to answer between the first two. But to add all three of them, I'm going to just read -- I've got to -- read the charge to you again. So once you have heard it once, I understand that it's confusing, but if you hear it the second time, sometimes things jump out at you. And this is exactly the way to do it again. I make these a part of the record. And if you go back and think I'm not being responsive, you let me know and I'll give it back to you.

All right. Under murder, the State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. Malice is hatred, ill will, or hostility toward another person. It's the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict or injure or under circumstances of the law will infer an evil intent.

Malice aforethought does not require that malice exist for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time that the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be expressed or inferred. The terms "expressed" or "inferred" do not mean different kinds of thought, different kinds of malice, but merely mean the manner in which malice is shown to exist, that is either by direct evidence or by inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. For example, if he lied in wait

for a person or any other act in preparation going to show that the deed was within the defendant's mind, that would be express malice.

Also, malice may be inferred from conduct showing a total disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon. And I explained to you the deadly weapon. I won't do that again.

If you find that the State has failed to prove beyond a reasonable doubt that the defendant committed murder, you may consider whether the State has proved beyond a reasonable doubt that the defendant has committed voluntary manslaughter. Voluntary manslaughter, as I said, it's an included but lesser offense.

To prove voluntary manslaughter, the State must prove beyond a reasonable doubt that the defendant took the life of another in the sudden heat of passion based on sufficient legal provocation. Both heat of passion and sufficient legal provocation must be present at the time of the killing to constitute voluntary manslaughter.

Sudden heat or passion may, for a time, affect a person's self-control and temporarily disturb a person's reason. The sudden heat or passion must be

the type that would make an ordinary person unable to cooly reflect on his actions and would produce an uncontrollable impulse to do violence.

Sufficient legal provocation must be the type that would make a person of ordinary reason and caution become enraged and to lose control temporarily. The provocation needed for voluntary manslaughter must come from some act or related to the victim -- some act by or related to the victim. Words alone, however vulgar or insulting, are not enough to be legal provocation.

Where death is caused by the use of a deadly weapon, the words must be accompanied by some overt threatening act which could have produced the heat or passion. The exercise of a legal right, no matter how offensive it is to another, is never sufficient legal provocation for voluntary manslaughter. If the heat of passion had cooled or if there was enough time between the provocation, if any, and the killing for the passion of a reasonable person to cool down, the killing would not be voluntary manslaughter.

In deciding whether a reasonable person would have had enough time to cool off, you should consider all the circumstances surrounding the killing. You may consider the nature of the provocation, if there was one, the defendant's mental and physical state, and the

circumstances and relationships between the parties. That's voluntary manslaughter.

Now, involuntary manslaughter. To prove involuntary manslaughter, the State must prove beyond a reasonable doubt that the defendant unintentionally killed the victim without malice but while engaged in an unlawful activity not naturally tending to cause death or great bodily harm, or that the defendant unintentionally killed the victim without malice while engaged in a lawful activity with reckless disregard for the safety of others.

"Unintentional" means the defendant did not intend for anyone to be killed or seriously injured. "Reckless disregard for the safety of others" is more than mere negligence or carelessness. Mere negligence or carelessness is the failure to use care that a person of ordinary reason would use under the same circumstances. Recklessness is a conscious failure to use ordinary care.

Reckless disregard for the safety of others means that you are not interested in the consequences of your acts or the rights and safety of others. If a person who knows or should know that ordinary care requires certain precaution to be taken for the safety of others when using a dangerous instrumentality such as a gun or

car, if that person fails to use that precaution without concern, the person's actions are considered reckless.

The State must also prove beyond a reasonable doubt that the defendant's act was the proximate cause of the death, and then I went on to explain proximate cause.

I understand that that's a confusing bunch of legalese to you. And I can read it as many times as you want. That's basically all I can do. I can't go back when you bring me all three and do anything but read the charge.

So, hopefully, that helped you. Again, I think when you hear it the second time, it's a little bit clearer. But if you want me to do anything else, just let me know. Okay.

(WHEREUPON, the jury exited the courtroom at 3:20 p.m.)

THE COURT: All right. I'll let you know.

(Court in recess, pending verdict, from 3:20 p.m. until 5:02 p.m.)

THE COURT: We have a verdict. I'll give you my usual talk. But I mean it every time I say it. No matter what the verdict is, I don't want any outburst -- crying, laughing, smiling, anything. It's

not the place for it, and I won't put up with it. It's late. Been here all week. Let's get through it.

Okay. You can bring them in.

(WHEREUPON, the jury came into open court at approximately 5:03 p.m.)

THE COURT: All right. Mr. Foreman, I understand you have a verdict; is that correct?

JURY FOREMAN: Yes, sir.

THE COURT: All right. If you would, hand it to the bailiff.

(Verdict form handed to bailiff and passed up to the Court.)

THE COURT: All right. You can publish it.

THE CLERK: In the matter of the State of South Carolina versus Shane Adam Burdette, on Indictment Number 2013-GS-37-1039, we, the jury, unanimously find that the defendant, Shane Adam Burdette, as to murder, not guilty.

We, the jury, unanimously find that the defendant, Shane Adam Burdette, as to voluntary manslaughter, is guilty.

And on the possession of a weapon during the commission of a violent crime, we, the jury, unanimously find the defendant, Shane Adam Burdette, as to possession of a weapon during the commission of a

violent crime, is guilty.

Ladies and gentlemen of the jury, if this was your verdict and remains your verdict, please indicate so by raising your right hand.

Let the record reflect that all members of the jury have affirmed their decision.

MR. BURR: Your Honor, the defense would request individual polling of the jury.

THE COURT: Be happy to do that.

Yes, ma'am. If you would.

Ladies and gentlemen, we're going to poll you individually, and then I'll tell you what we're going to do.

THE CLERK: Ladies and gentlemen, as I call your name, if you would, "yes" or "no" as to confirm or affirm your verdict.

Number 72, Robert Guiss (phonetic).

JUROR: Yes.

THE CLERK: Number 21, Kyle Branch.

JUROR: Yes.

THE COURT: Number 146, Shawna Searcy (phonetic).

JUROR: Yes.

THE COURT: Number 149, Dennis Smith.

JUROR: Yes.

THE CLERK: He was excused, number 46.

THE COURT: All right. You've got the sentencing sheets? You're ready?

MR. WAGNER: Give me two seconds, Judge.

THE COURT: All right. Now, the voluntary carries two to 30?

MR. WAGNER: I think it's -- I always remember it as zero to 30, but it may have changed. I don't know.

THE COURT: All right. And then the weapons charge is consecutive, right? Five consecutive?

MR. BURR: Correct.

THE COURT: All right. What I'm going to do is go back, unless you object, talk to them, give them the option of coming back in here.

Any objection from the State on that?

MR. WAGNER: No, sir.

THE COURT: From the defense?

MR. BURR: Not from the defense, your Honor.

THE COURT: Okay. I'll be right back and finish it up.

(WHEREUPON, recess taken from 5:07 p.m. to 5:23 p.m.)

THE COURT: All right. Defendant, y'all, come on up.

Anything from the State?

MR. WAGNER: Just prior record.

think his father would like to speak also.

THE COURT: Sure. That would be fine.

MR. BURDETTE: Your Honor, I'd just like to thank the Court for your time this week and for a job well done. Adam was a good boy growing up. He was a very productive citizen in his early adult years. He made some bad choices. He understands that, knows he has a debt to pay to society, and I would just ask that you be merciful. Thank you, sir.

THE COURT: Thank you, sir.

MR. BURR: Your Honor, he does have two children, one with the wife that you heard from here this week. He has one from the prior marriage. As your Honor mentioned, these charges, these sentences will run consecutively. We would ask that Adam be given no more than a sentence of ten years on the manslaughter and five years on the gun charge, your Honor.

THE COURT: All right. Mr. Burdette, anything you want to say to me?

THE DEFENDANT: Yes, sir. Not just to you. I never meant to hurt nobody. I didn't want to hurt anybody, but I've hurt a lot of people. I need everybody to know how sorry I am for that. I mean truly, truly sorry. I just wanted to be left alone, and I really didn't want to hurt nobody. And I hope

another family. Thank you.

THE COURT: Thank you.

Anybody else? Anybody else want to say anything before I pass sentence? Okay. All right.

The way the law is set up is, obviously, I don't have any real leeway. The possession of a weapon charge is consecutive, so -- and he's doing time now. How many years was he --

MR. WAGNER: It was five years on the grand larceny, your Honor.

THE COURT: All right. The sentence on the voluntary manslaughter, after listening to the evidence -- I think this is fair -- is 25 years provided upon the service of 15, the balance suspended, probation for five. I'm doing that because there is restitution that has to be paid. I'll PTUP that so once the restitution is paid, the probation will be off. That's probably going to be redundant. I'm running that concurrent with the probation.

And then on the possession of a weapon, it's just a straight five. I'm running that consecutive to the probation. And the way I've written it, the 3-27-15 verdict for voluntary manslaughter. So 25, 15 and five and then five consecutive. Okay?

MR. BURR: Thank you, your Honor.

Oconee County Sheriff's Office
Manual of Standard Policy and Procedure
Distribution: All Personnel

Rights Form
Policy number: 300.80.a
Effective date: 11/02/2009

OCONEE COUNTY SHERIFF'S DEPARTMENT

300 South Church Street
WALHALLA, SOUTH CAROLINA, 29691

YOUR RIGHTS

Place Black Jack + Mt Pleasant
Date 7-9-13
Time 0730

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING.

IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONS IF YOU WISH.

IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME.

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED [signature]
WITNESS John W. Terry
WITNESS _____
TIME 0730

STATE'S EXHIBIT 1 2-23-15 (W)

Annual Review - November

OCONEE COUNTY SHERIFF'S DEPARTMENT

300 South Church Street
WALHALLA, SOUTH CAROLINA, 29691

YOUR RIGHTS

Place side of Roadway Mt Pleasant Rd & Blackjack Rd
Date 7-9-13
Time 9:46 am

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING.

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SIGNED _____

WITNESS Mandy Tinsley

WITNESS _____

TIME 9:48am

STATE'S EXHIBIT 2 23 15

OCONEE COUNTY SHERIFF'S DEPARTMENT

300 South Church Street
WALHALLA, SOUTH CAROLINA, 29691

YOUR RIGHTS

Place OCSO

Date July 9 2013

Time 5:45pm

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING.

IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONS IF YOU WISH.

IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME.

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED [signature]

WITNESS [signature]

WITNESS [signature]

TIME 5:47pm

STATE'S EXHIBIT 3 2345

OCONEE COUNTY SHERIFF'S DEPARTMENT

300 South Church Street
WALHALLA, SOUTH CAROLINA, 29691

YOUR RIGHTS

Place OCSO
Date July 10, 2013
Time 11:44am

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING.

IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONS IF YOU WISH.

IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME.

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED Steven A. Beckett
WITNESS Mandy Tinsley
WITNESS
TIME 11:50am

STATE'S EXHIBIT

482

VOLUNTARY STATEMENT

DATE 07-9-13 PLACE Roadway Mt Pleasant Rd & Blackjack Rd westminster TIME STARTED 11:25a .M.

I, the undersigned, Shane Adam Burdette ,am 34 years of age, my date and place of birth being the 5 day of Sept 1978 ,at Greer

I now live at [redacted], Westminster

Before answering any questions or making statements, Mandy Tinsley & Justin Ward

a person who identified himself as a Oconee County Sheriff Deputy

STATE'S EXHIBIT 5 2013-15 (M)

duly warned and advised me, and I know and understand that I have the following rights: That I have a right to remain silent and I do not have to answer any questions or make any statements at all: that any statement I make can and will be used against me in court or courts of law for the offense or offenses concerning which the following statement is hereinafter made, that I have the right to council with a lawyer of my choice before or at anytime during any questioning or statements I make: that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me: that I can stop answering any questions or making any statements at anytime that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or make any more statements, whether or not I have already answered some questions or made statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any persons whomsoever.

When Tiff got home from work at 10:30ish pm monday night planning to take her brother Nikki who home and drop me at buddy's home next door, Kens. It's that I hadn't talked to in a while she started saying how tired she was and they could stay the night & go in & just took off away took to Kens house where I stayed with him while she texting with Tiffany about how it appears we got a girl time to work & like plans time but she wouldn't answer me calls until 1:30 am and was crying asking why I didn't listen to her. So I ask Ken to come home and talk with her and he did but after a few min it was easy to be heard next time and getting loud so we just decided to wait on baby to wake up and I stayed over Ken's even after then day I texted and he asked how it went w/ Tiff & I told him he didn't like and it made back and forth getting loud and I told Tiffany I was tired she picked his kid will not even said you're hell and I'm not I have paid as we can't find my shoe and turned around to head back it was found in house and Tiffany was right so I took my dad's and I went in and used bathroom that Tiff

I certify I have received a copy of this statement [signature]
I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1:47 P .M. on the 9 day of July , 20 13 .

[signature]
Notary Public for S.C.
My Commission Expires 9-30-2019
WITNESS: [signature]
WITNESS: [signature]

[signature]
Signature of person giving voluntary statement

VOLUNTARY STATEMENT

USED FOR ADDITIONAL PAGES ONLY

about having her debit card and ask and offering gift cards should Ken give
it saw needed tires and was going to leave when Dick pulled up in blazer with Evan +
Bubba rolled it to Evan and called Tiff to tell her what all I'd sent and we had
a great talk and I told her the but I told her those three boys didn't need to call
talk or even think of asking me to help them ever and we left went to Kens
where he and I talked of ways to help build me back off then she called saying
the blazer had quit on them I said I ask what she wanted me to do
they shouldn't have been driving it call a tow truck - went back and
forth 4.1 I gave in and ask Ken to check on his car trailer while I
went to see if it was in while Ken said beautiful and all without happened
to it I told him if they had it let the blazer I wasn't going step
and when I found it in black jack rd ½ mile from cows main on gravel
drive I kept going to my house where I woke up Tiff told her that if they couldn't
pull it off a mile I right + have time to get to cows house and pull left gun to
my dads to get rubber boots and then where they were at so I got into truck walked
inside carport to get boots and found my dads shotgun and back door open
so I grabbed it turned and ask why they were trying to make me lose my son
and [redacted] I was calling law then Bubba jumped and Evan accused
Evan and Jack got onto Blazer both talking at once so swung gun
like a club and jack went back and tried get around me Evan
took off I ran a lil more and said take it Evan and threw shotgun
causing it to fire

I certify I have received a copy of this statement _____

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 1:47 P.M. on the 9 day of July, 2013.

_____
Notary Public for S.C.

My Commission Expires 9-30-2019

WITNESS: _____

WITNESS: _____

_____
Signature of person giving voluntary statement

484

VOLUNTARY STATEMENT

DATE 7-9-13 PLACE OCSO TIME STARTED 7:08 P.M.

I, the undersigned, Shane Adam Burdette ,am 34 years of age, my date and place of birth being the _____ day of _____ ,at _____

I now live at [redacted] minster, SC

Before answering any questions or making statements, Mandy Tinsley and Corey Reed

a person who identified himself as a Oconee County Sheriff Deputy

duly warned and advised me, and I know and understand that I have the following rights: That I have a right to remain silent and I do not have to answer any questions or make any statements at all: that any statement I make can and will be used against me in court or courts of law for the offense or offenses concerning which the following statement is hereinafter made, that I have the right to council with a lawyer of my choice before or at anytime during any questioning or statements I make: that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me: that I can stop answering any questions or making any statements at anytime that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or make any more statements, whether or not I have already answered some questions or made statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any persons whomsoever.

As I pulled up at my fathers home I saw that my wifes blazer was there which was a problem because Evan had called Tiff saying it couldn't be drove and I'd just seen it [redacted] up the rd waiting 10 min before. As I walk up I see the door to house is open after I locked it & went in and walked to mamas room where the door was open and also had been locked As I came back thru the house my daddy's shotgun was in kitchen and not in bedroom. I was worried if they were stealing it or wanting to hurt me and went outside wanting to know the did it and why saying I'd call the law and Ruba jumped outs car and ran into woods. Josh and Evan got out and came to the front of blazer Josh was hollering and I was telling him he was supose to be my friend and etc. and Evan spoke I turned and saw him slippin up on me and stomped yelling dont Sneak up on me he ran behind car and I went round front and as he was running down the rd. I held shotgun up above his head and to the left so if he looked back it'd scare him cause it wasn't loaded but then when I

I certify I have received a copy of this statement Shane Adam Burdette

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 2:54p .M. on the 9th day of July , 20 13 .

Notary Public for S.C.

My Commission Expires 1-28-21

WITNESS: Mandy Tinsley

WITNESS: _____

STATE'S EXHIBIT 6 3-22-19

Shane A. Burdette

Signature of person giving voluntary statement

VOLUNTARY STATEMENT

485

USED FOR ADDITIONAL PAGES ONLY

PAGE # 2

pulled trigger to pretend [redacted] to fire and make myself more safe in my mind. The safety was off and it discharged I was so scared I throwed it away and ran to Evan.

I certify I have received a copy of this statement Shana G. Burdette
I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 7:54 p .M. on the 9th day of July , 20 13 .

Notary Public for S.C.

My Commission Expires 1-28-21

WITNESS: Mandy Tinsley

WITNESS: _____

Shana G. Burdette
Signature of person giving voluntary statement

Tiffany cell: 364-3579

486

VOLUNTARY STATEMENT

DATE 7-10-13 PLACE OCSO TIME STARTED 12:53 p.M.

I, the undersigned, Shane Adam Burdette am 34 years of age, my date and place of birth being the 5 day of Sept 1978 at Oconee

I now live at [redacted] Westminster, SC 29693

Before answering any questions or making statements, Mandy Tinsley and Craig Reed

a person who identified himself as a Oconee County Sheriff Deputy

duly warned and advised me, and I know and understand that I have the following rights: That I have a right to remain silent and I do not have to answer any questions or make any statements at all: that any statement I make can and will be used against me in court or courts of law for the offense or offenses concerning which the following statement is hereinafter made, that I have the right to council with a lawyer of my choice before or at anytime during any questioning or statements I make: that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me: that I can stop answering any questions or making any statements at anytime that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or make any more statements, whether or not I have already answered some questions or made statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any persons whomsoever.

As I pulled up at my parents house I saw my wifes blazer that had been down the rd. supendly tore up a few min earlier and then three sittin in it and it worried me that they had sat on dirt rd. that long and wondered if it could be driven and why they didn't go to take it to my house where it belong and where my wife was. I was tired and upsetted at the whole situation and all this crap so I went up back steps seen the window open went in back door locked it found my parents bedroom door open and it was locked saw that my daddy's shotgun had been moved and that was it I wanted em all to leave and just leave me outta here so I grabbed shotgun went outside shot into the ground that's when Rudy took off into the woods. I open the shotgun and the shell didn't come out as I was trying to get it out Jack and Ben got outta there car and just started fussing cause I wanted them to leave and he wanted me to calm down so I'd take them home I put shotgun down on blazer told em to wait I walked on gone picked up shotgun and started back into house and the

I certify I have received a copy of this statement Shane C. Burdette

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 2:12 p.M. on the 10th day of July, 20 13.

Notary Public for S.C.

My Commission Expires 1-25-21

WITNESS: Mandy Tinsley

WITNESS:

STATE'S EXHIBIT 7 2-23-15

Shane C. Burdette

Signature of person giving voluntary statement

VOLUNTARY STATEMENT

USED FOR ADDITIONAL PAGES ONLY

kept on so I shoved the other shell into the shotgun and turned to Joel
Joel closing it and said you aint my friend get away don't come back Evan was
walkin up on me so I turned stomped my foot and told him don't speak you
die and he took off down the rd Joel had started towards church I went
to front yard climbed button in wood so I [redacted] gun towards graveyard to fire a
shot in the air and scare them so they would keep going and when Evan fell I screamed
and threw the shotgun and ran to him praying he was faking I didn't know how he'd been
hit [redacted] from that far but when I got there by his side I knew he was [redacted]
and I [redacted] begged him don't die please That's the only member of Tiffany's family I
loved that hadn't put me thru hell and drove me crazy for the last yr That was Tiffs
baby brother that she had to take care of and they were all that had kept each other
goin when they were abused and neglected as children and sent to foster care
then DFS which Evan was the only person I knew would take care of Tiff if I wasn't
around and he was more like my brother than my brother is I loved that boy and now I've
just killed him took Tiffany's brother, when they took me to jail she wouldn't have
nobody to be there for her She would lose everything she'd worked for, her family
would hate her child I couldn't let him die I told Joel call 911 but I grabbed
phone and told him take my truck and get tiff. I had to give a statement the
cops came county couldn't understand me and I kept trying to stop the bleed
Evan looked so much like Tiff [redacted] and I knew she wouldn't ever speak
to me again that I keep seeing his face like it was me That I'll sho'nt don't know
why this happened and what's going happen but [redacted] I swear I'll never hurt Evan
for no reason of Tiffany and me I ended his life and destroyed hers and she still
loves me could even forgive me last night and that makes me feel so much worse I
would swap places with Evan right now if I could I'm so sorry for what I've
done and everybody is hurt I didn't mean hurt nobody I just wanted to be left
alone so I'd get work done and spend time with Tiff and the kids and I'll never get that
no.

I certify I have received a copy of this statement Steven Crawford

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 2:12p .M. on the 10th day of July , 20 13.

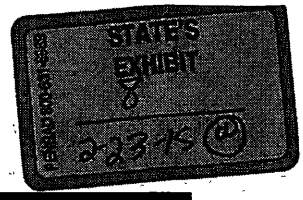
Notary Public for S.C.

My Commission Expires 1-28-21

WITNESS: Mandy Tinsley

WITNESS: _____

Signature of person giving voluntary statement



OCONEE COUNTY SHERIFF'S OFFICE
Case Number

RECORD OF INTERVIEW

Name Shane Adam Burdette Date of Birth [redacted]

Address [redacted] Westminster Phone [redacted]

Involvement #___ [] Suspect [] Owner [] Tenant [] Witness [] Fire [] Police [] E. M. S.

[] Other_____

Interview Location: OCSD Date: 2-9-13 Time: 5:45pm

ID NUMBER□

□

SSN□

□

HEIGHT WEIGHT HAIR EYES□

□

EDUCATION READ AND WRITE □

□

EMPLOYMENT□

□

ALCOHOL OR DRUGS□

Adam wants to add or change some things he put in his statement. When Adam got to his parents & saw Evan, ~~Bubba,~~ & Josh passenger side driver side - he saw the carport door open and his bathroom window was open. Adam went into the kitchen, saw the shot gun leaned up against the door jam that is b/w the kitchen & livingroom - Adam picked the gun up & walked out the carport door w/ gun in his hand - ~~Ezra~~ Adam asked them "what was wrong w/ you

- Adam says yesterday 2-8-13 he caught them burning what looked like bottles that drugs were made in. - He said his brother Aaron Burdette & Josh Anderson got caught making meth ≈ 2 months ago - Adam says he and his landlord - Ray Price - were walking in the backyard & Adam noticed there were melted plastic bottles in the burn pile & Adam also saw a bag of trash that had Sudafed Boxes, Zip [illegible] Adam confronted Josh about making - Josh said he didn't know what he was talking about - Evan asked him to go outside

to cool down. That is why he wanted to clean the house instead of letting "Nicki" do it.

- His parents house key is on his key ring w/Church keys
- When he & Ken left his parents house to go back to Kens, Adam had handed the Debit card, $5 cash, & cigarettes to Evan
- Adam says he is sure he locked the carport door before he left
- After Adam passed the Blazer broke down, drove to his house, pulled back into his parents driveway, walked into the house, saw the gun, he thought... are they trying to rob me or kill.... he went outside w/gun in his hands asking/demanding who had been in his parents house — Adam said "I'm calling the law that's when Babba ran — Josh & Evan got out of the vehicle - Josh started fussing about him arguing @ the house when the kids were sleeping - Evan said something that had the words "Scared Now" — Adam turned to Evan said "Don't sneak up on me" & Stomped his foot, Evan ran around the Blazer & ran down the Road - Adam hollered @ Evan "Why you hurting your sister and stealing from me" then Adam threw the gun & that's when the gun went off once it hit the ground. Adam says he was standing in front of the tall flowers @ corner of porch closest to large tree in front yard. When Adam went to get the grey shirt for Evans face, he picked the gun up & threw it back down.

(Adam said "you want it you can have it" — then threw the gun)

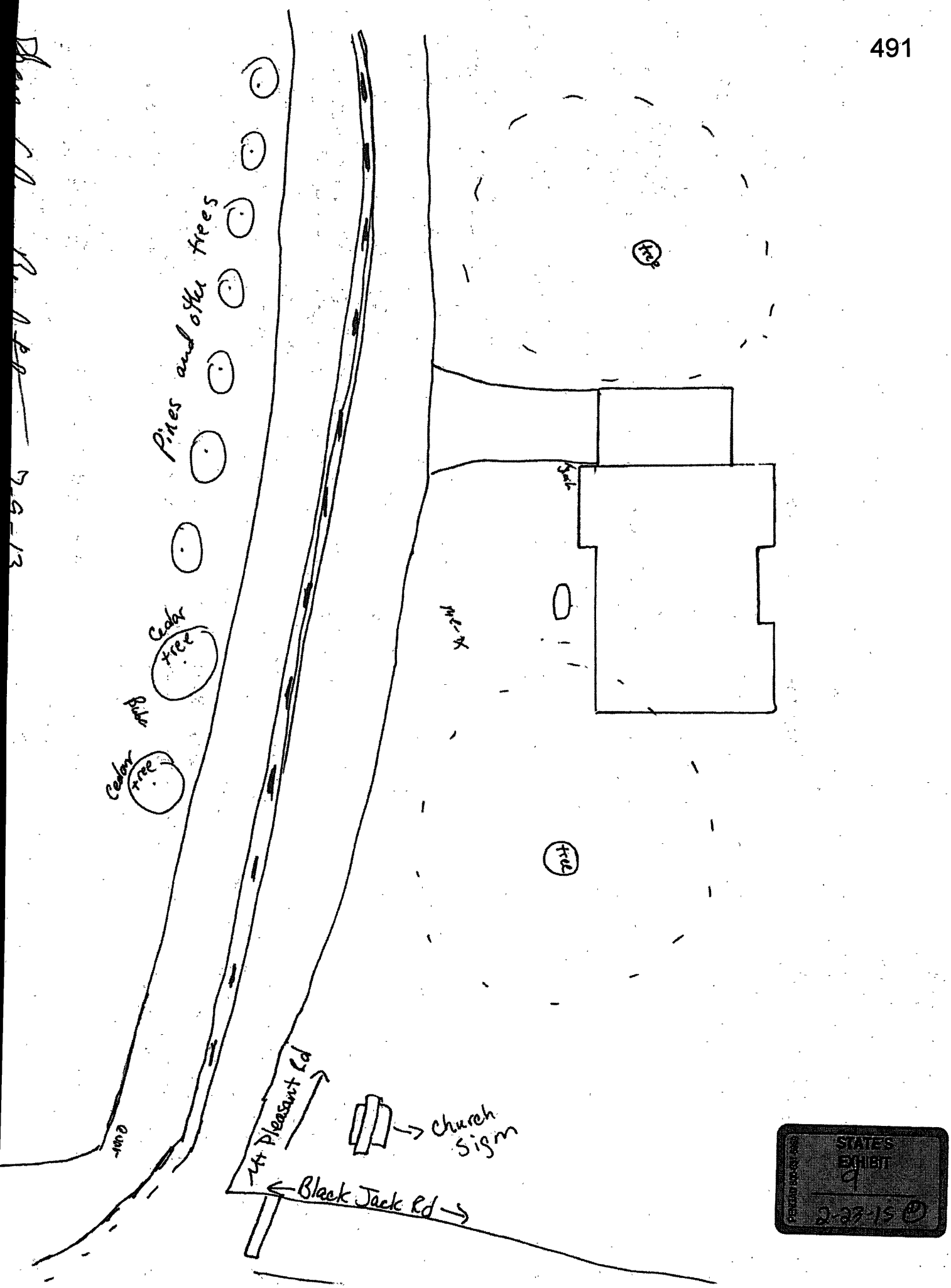
Adam says after he confronted Josh about making the Meth Adam asked Evan whats the big deal - Adam did snort a line of meth on 7-8-13

notes taken by M Tinsley

7-9-13

Bubba ran across the Rd (Mt Pleasant) & ran into the woods Josh & Evan got out of the Blazer - walked toward Adam, Josh was fussing - "Why did you come in fussing last night & waking the kid up?" Evan asked Adam ~~Are~~ "Are - scared now?" & Adam said "Scared? I got the evidence"! Evan started running down the road - Adam said "Ain't None of yall worth nothing & threw the gun. When Adam slung the gun the gun hit the ground and fired. Adam says he thinks he hit the safety when he slung the gun. - Adam said he told Josh to call 911 & go get Tiffany - He took the phone from Josh told him to get Tiffany - Adam & talked w/ Sheriff dispatch Adam told dispatch he just shot his brother in law "I think he's dead!" Adam said he didn't think dispatch could understand him. He saw a guy in a TESI truck coming off deer run Rd. He tried to flagged the trucks Down to tell them to call 911 - the 2nd truck stopped & he asked him to please tell 911 where they are - He left his phone w/ that guy, went back toward the Blazer house to get a shirt to help stop the bleeding, he saw the gun, picked it up, threw it over his shoulder out of frustration & He took the shirt down to where Evan was & was going to try to help stop bleeding but knew there was no use once he saw Evans face. Adam called Lisa Honea who is a nurse & told her that he threw the gun and it shot his brother in law. Lisa got there before anyone. Tiffany, Nikki, & Bubba pulled up.

M Tinsley Notes from 7-9-13 @ 9:44am interviewed



STATE'S EXHIBIT 9 2-23-15

DOCKET NO: 2013GS37 01059

WITNESSES

Mandy Tipsley, Oconee Co Sheriff's Dept.

David B. Smith

ARREST WARRANT NUMBER

2013A3710400562-563

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: OCT 28 2013

VERDICT

Foreperson of Petit Jury

Date:

492

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

OCT 28 2013

Term

THE STATE

vs.

Shane Adam Burdette

DRW

Indictment for

Murder / Murder

SC Code: 16-03-0010, 0020
CDR Code: 0116

Weapons / Poss. Weapon During Violent Crime

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

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2013 OCT 30 PM 1 14

ENTERED
COMPUTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF Oconee)

INDICTMENT

OCT 2 8 2013

At a Court of General Sessions, convened on _____, the Grand Jurors of Oconee County present upon their oath:

Murder

That **Shane Adam Burdette** did in Oconee County, on or about **July 9, 2013**, unlawfully and with malice aforethought kill James Tyner by means of by shooting the victim with a shotgun in the back of the neck, and that James Tyner died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Possession of Weapon During Violent Crime

That **Shane Adam Burdette**, did in Oconee County on or about **July 9, 2013**, while committing the crime of Murder, a crime of violence, have in his possession a shotgun, all in violation of Section 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.

David K. Worley

ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF 484 Oconee)
STATE VS.)
Shane Adam Burdette)
AKA:)
Race: W Sex: M Age: 34)
DOB: SS#: [redacted])
Address: [redacted])
City,State,Zip: Westminster, SC 29693)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3700100
A/W#: 2013A3710400562
Date of Offense: 7/9/2013
S.C. Code §: 16-03-0010, 0020
CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: ~~Murder / Murder~~ Voluntary Manslaughter Count 1
in violation of § ~~16-03-0010, 0020~~ 16-3-50 of the S.C. Code of Laws, bearing CDR Code # ~~0116~~ 0217
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: David R Wagner 064068
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☐ **State Department of Corrections,** ☒ **County Detention Center,**
for a determinate term of 23 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of 13 days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/27/15 verdict ; Prob. Revoc.
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☒ **Ordered**
Total: $ 7400.00 plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS Bobbie & Steve Tyner
Recipient: _____

*Fine:		$	
§ 14-1-206 (Assessments 107.5 %)		$	
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$	100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$	
§ 56-5-2995 (DUI Assessment)	$12	$	
§ 56-1-286 (DUI Breath Test)	$25	$	
Proviso 47.9 (Public Def/Prob)	$500	$	500.00
§ 14-1-212 (Law Enforce. Funding)	$25	$	25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$	
§ 50-21-114(BUI Breath Test Fee)	$50	$	
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$	
Proviso 90.5 (SCCJA Surcharge)	$5	$	5.00
3% to County (if paid in installments)		$	18.90
TOTAL		$	648.90

PTUP ✓
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☑
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Beverly H. Whitfield
Court Reporter: Diane Thommes
Presiding Judge
Judge Code: 13
Sentence Date: 2/27/15

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)
STATE VS.)
Shane Adam Burdette)
AKA:)
Race: W Sex: M Age: 34)
DOB: SS#: [redacted])
Address: [redacted])
City,State,Zip: Westminster, SC 29693)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3701495
A/W#: 2013A3710400563
Date of Offense: 7/9/2013
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death Count 2
in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 061068 _____ _____ _____
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☐ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 3/27/15 verdict ; Probation Revoke
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
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§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

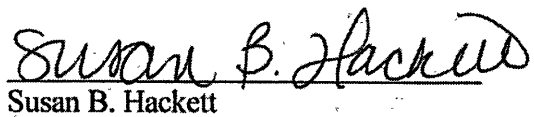
Clerk of Court/ Deputy Clerk Beverly H. Whitfield
Court Reporter: Diane Thommes
Presiding Judge _____
Judge Code: 131
Sentence Date: 2/27/15

SCCA/217 (03/2011)

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."

January 28th, 2016



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT