

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Allendale County

Honorable Perry M. Buckner, Circuit Court Judge

RECEIVED
FEB 01 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LAPARIS SHMEL FLOWERS,

APPELLANT

APPELLATE CASE NO 2018-000099

RECORD ON APPEAL

TAYLOR D GILLIAM
Appellate Defender

ALAN WILSON
Attorney General

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

MELODY J. BROWN
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR APPELLANT

INDEX

INDEX	i
TRANSCRIPT OF TRIAL DATED JANUARY 8-11, 2018.....	1
<i>JACKSON V. DENNO</i> HEARING	61
TESTIMONY	
CHARLES BROWN	61
OPENING STATEMENT BY MR. HOLLEN	163
OPENING STATEMENT BY MR. KOGER.....	170
TESTIMONY	
LOUISE PINCKNEY	173
JIM EVANS.....	179
LISH SABB	193
GABRIEL FORNARI.....	208
TRACY ROBERTS	217
ELIZABETH SMITH	225
ELIZABETH ROLLINS.....	232
TYQUAN CHARLTON.....	244
JARRELL MURRAY	279
BRANDON LEWIS.....	297
QUATIQUE MANOR.....	308
JANICE ROSS.....	327
HALEY NELSON	341

CHARLES BROWN396

TYLER STURKIE.....466

PAUL MEEH.....490

JAMES GREEN.....504

MOTION FOR DIRECTED VERDICT.....527

 COURT’S RULING535

COLLOQUY REGARDING DEFENDANT’S RIGHT TO TESTIFY534

CLOSING ARGUMENT BY MS. LEGETTE.....547

CLOSING ARGUMENT BY MR. KOGER.....572

JURY CHARGE.....589

VERDICT625

MOTION FOR NEW TRIAL.....631

 COURT’S RULING632

SENTENCING633

INDICTMENTS644

CERTIFICATE OF COUNSEL654

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Court of General Sessions for the
State of South Carolina, County of Allendale,

Case Nos.: 2014GS0300229,
00231, 00232, 00233, 00234

State of South Carolina,
Plaintiff(s),

vs. Transcript of Record

Lapolis Shemel Flowers,
Defendant(s).

TRIAL TRANSCRIPT

January 8-11, 2018
Allendale, South Carolina

BEFORE:

The Honorable Perry M. Buckner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR THE STATE:

Tameaka Legette, Assistant Solicitor
Brian Hollen, Assistant Solicitor
14th Judicial Circuit Solicitor's Office
39 Sheridan Park Circle, Suite 2
Bluffton, SC 29910
tlegette@scsolicitor14.org
843-474-4717

FOR THE DEFENDANT:

Joshua Koger, Jr., Esquire
PO Box 2445
Columbia, SC 29201
kogerlaw@aol.com
803-206-3389

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS:

PAGE:

CHARLES MATT BROWN

Direct Examination By Mr. Hollen 62
Cross Examination By Mr. Koger 75

CHARLES MATT BROWN

Direct Examination By Mr. Hollen 83
Cross Examination By Mr. Koger 102
Redirect Examination By Mr. Hollen 113
Re-Cross Examination By Mr. Koger 115

LOUISE PINCKNEY

Direct Examination By Ms. Legette 173
Cross Examination By Mr. Koger 177

JIM EVANS

Direct Examination By Ms. Legette 179
Cross Examination By Mr. Koger 191

LISH SABB

Direct Examination By Ms. Legette 193

GABRIEL FORNARI

Direct Examination By Ms. Legette 208
Cross Examination By Mr. Koger 214

TRACY ROBERTS

Direct Examination By Mr. Hollen 217
Cross Examination By Mr. Koger 222
Redirect Examination By Mr. Hollen 223

ELIZABETH SMITH

Direct Examination By Mr. Hollen 225
Cross Examination By Mr. Koger 230

ELIZABETH ROLLINS

Direct Examination By Mr. Hollen 232
Cross Examination By Mr. Koger 240

TYQUAN CHARLTON

Direct Examination By Mr. Hollen 244
Cross Examination By Mr. Koger 265
Redirect Examination By Mr. Hollen 272
Re-Cross Examination By Mr. Koger 275

1	(CONTD)	
2	JARRELL MURRAY	
	Direct Examination By Ms. Legette	279
3	Cross Examination By Mr. Koger	290
4	BRANDON LEWIS	
	Direct Examination By Ms. Legette	297
5	Cross Examination By Mr. Koger	306
6	QUATIQUE MANOR	
	Direct Examination Ms. Legette	308
7	Cross Examination By Mr. Koger	317
	Redirect Examination By Ms. Legette	324
8	Re-Cross Examination By Mr. Koger	325
9	JANICE ROSS	
	Direct Examination By Ms. Legette	327
10	HALEY NELSON	
11	Direct Examination By Mr. Hollen	341
	Cross Examination By Mr. Koger	386
12	Redirect Examination By Mr. Hollen	390
	Re-Cross Examination By Mr. Koger	391
13	CHARLES MATT BROWN	
14	Direct Examination By Ms. Legette	396
	Cross Examination By Mr. Koger	443
15	Redirect Examination By Ms. Legette	462
16	TYLER STURKIE	
	Direct Examination By Mr. Hollen	466
17	Cross Examination By Mr. Koger	481
	Redirect Examination By Mr. Hollen	488
18	Re-Cross Examination By Mr. Koger	488
19	PAUL MEEH	
	Direct Examination By Ms. Legette	490
20	Cross Examination By Mr. Koger	502
21	JAMES GREEN	
	Direct Examination By Mr. Hollen	504
22	Cross Examination By Mr. Koger	517
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX AS TO EXHIBITS

Court's Exhibits:	Marked:	Received:
1 Miranda	69	69
2 statement	72	72
3-5 line-ups	124	124
State's Exhibits:	Marked:	Received:
1 911 CD	177	177
2-7 vehicle photos	184	184
8 surveillance video	228	228
74 line-up	263	263
84 line-up	288	288
57-59 autopsy photos	335	335
9-15 scene photos	347	347
17-18, 20-28 scene photos	353	353
30-33 scene photos	358	358
61 gunshot residue kit	363	363
68, 68.1-68.4 DNA swabs	367	367
35-48 car photos	369	369
64-65 gunshot residue kit	375	375
69 cartridge case	378	378
70, 70.1-70.7 projectiles	380	380
73 diagram	382	382
72 aerial	402	402
49-56 crime scene photos	406	406
85 line-up	418	418
71 aerial	439	439
66 blood - Smart	497	497
86 buccal - Charlton	497	497
87 stipulation	525	525

CALLING OF THE CASE

1 (Whereupon, the Judge enters the courtroom.)

2 THE BAILIFF: The Court is back in session.

3 THE COURT: All right. Ladies and gentlemen, I
4 told y'all I was going to give you the opportunity --
5 I'm going to ask the State now to call the first case
6 for trial in this week.

7 Solicitor, call your case, please.

8 MS. LEGETTE: Thank You, Your Honor. May it
9 please the Court.

10 THE COURT: Yes, ma'am.

11 MS. LEGETTE: Your Honor, the State is ready to
12 proceed in Indictment Number 2014-GS-03231 for
13 attempted murder.

14 The State is ready to proceed in Indictment
15 Number 2015-GS-03229 for murder.

16 Also, in Indictment Number 2014-GS-03232 for
17 attempted murder.

18 2014-GS-03233 for attempted murder.

19 And 2014-GS-03234 for possession of weapon
20 during commission of violent crime against the State
21 versus Lapolis Flowers. Mr. Flowers has pled not
22 guilty. This is the trial.

23 THE COURT: All right. Ladies and gentlemen,
24 the State has called for trial several indictments.
25 You heard her. And I will slow her down a little bit

CALLING OF THE CASE

1 during this trial, ladies and gentlemen. She has a
2 tendency to talk fast. And so -- she does a great
3 job, this is the representative for the State of
4 South Carolina, Tameaka Legette. She so introduced
5 herself to you, and she's going to hear Judge Buckner
6 say, "Tameaka, slow down," because she has a tendency
7 to talk fast.

8 She has called for trial the case of the State
9 of South Carolina versus Laparis S. Flowers.
10 Mr. Flowers is seated with his attorney, Mr. Koger,
11 over at the defense table. You're going to meet him
12 as well.

13 Where is Mr. Flowers from?

14 MR. KOGER: He is from North Augusta,
15 Your Honor.

16 THE COURT: From where?

17 MR. KOGER: North Augusta.

18 THE COURT: North Augusta?

19 MR. KOGER: Yes, Your Honor.

20 THE COURT: Mr. Flowers is presently a resident
21 of North Augusta.

22 He's originally from North Augusta or originally
23 from Allendale?

24 MR. KOGER: Originally from Allendale, Your
25 Honor.

CALLING OF THE CASE

1 THE COURT: Originally from Allendale, presently
2 living in North Augusta.

3 The State has called a number of indictments for
4 trial. They've called an indictment for attempted
5 murder, another indictment for attempted murder, a
6 third indictment for attempted murder, a fourth
7 indictment for murder, and a fifth indictment for
8 possession of a weapon during the commission of a
9 violent crime.

10 So there are five indictments. Do not be
11 concerned with the elements of those offenses --
12 murder, attempted murder, commission of -- or
13 possession of a weapon during the commission of a
14 violent crime. I will explain to you in my charge on
15 the law at the conclusion of the case, all the
16 elements of the offense.

17 But I haven't heard the evidence in this case,
18 nor have you, ladies and gentlemen. And that's the
19 way it's designed, so we both have an open mind. So
20 I don't know what law I'm going to charge yet until I
21 hear the evidence in the case.

22 What you should know for now is the Defendant
23 has pled not guilty to these indictments. That plea
24 of not guilty places the burden on the State of South
25 Carolina to prove the elements of the offenses

CALLING OF THE CASE

1 charged beyond a reasonable doubt. It will be your
2 duty, ladies and gentlemen, to decide, after you have
3 heard all the evidence in the case, whether or not
4 the State has met that burden.

5 Now, I told you all I was going to give you a
6 chance to meet the lawyers that are going to be
7 trying this case. So I'm going to ask first, the
8 lawyers for the State to stand, face my jury panel,
9 introduce themselves and everybody at your table,
10 Counselor.

11 MS. LEGETTE: Thank you, Your Honor.

12 THE COURT: Ms. Legette.

13 MS. LEGETTE: Thank you, Your Honor.

14 Good afternoon. I'm Tameaka Legette. I work
15 for the Fourteenth Circuit Solicitor's office. Here
16 with me today are Mr. Cory Williams.

17 THE COURT: Cory, stand up and face the jury
18 panel so they can see you.

19 MS. LEGETTE: He is at our attorney's office.
20 Mr. Brian Hollen, another at our attorney's office.
21 Mr. Bruce Davis, our investigator here in the
22 Allendale/Hampton office.

23 THE COURT: Bruce, turn around so they see you
24 better.

25 MS. LEGETTE: Also, Investigator Valdez, at our

CALLING OF THE CASE

1 Allendale County office. And also, Lieutenant Matt
2 Brown from SLED.

3 Thank you.

4 THE COURT: Counsel for the Defendant, and also
5 introduce the Defendant.

6 MR. KOGER: May it please the Court, Your Honor.
7 My name is Joshua Koger, Junior. I represent my
8 client, Laparis Flowers. My offices are based in
9 Columbia, South Carolina, but I have practiced
10 statewide for the last 22 years.

11 THE COURT: And, Mr. Koger, you practice where?

12 MR. KOGER: I practice in Columbia, but I
13 practice statewide.

14 JURY SELECTION

15 THE COURT: His office is in Columbia, this is
16 Joshua Koger. Mr. Koger represents the Defendant,
17 Laparis Flowers. Mr. Flowers lives now in North
18 Augusta, originally from Allendale. He is standing
19 facing you beside Mr. Koger.

20 Thank you. Please be seated.

21 All right. Ladies and gentlemen, my first
22 question, I'll remind each of you are under oath.
23 You were given the oath by the clerk earlier, and
24 when I asked you the qualifying questions, you
25 answered under oath. I'm now going to ask the

JURY SELECTION

1 questions just to determine your impartiality to
2 serve as a juror.

3 Is any member of my jury panel related by blood,
4 connected by marriage, or a close personal friend of
5 Mr. Laparis Flowers, presently of North Augusta,
6 formerly of Allendale? If so, please stand at this
7 time.

8 All right. I've got one, two, three, four,
9 five, six, seven -- eight people standing. Now, hold
10 on. Let me get my jury list. Here is what I want
11 you to do.

12 I want you to identify yourself and your juror
13 number, and then wait and let me ask you questions.
14 Otherwise, I'm going to have to bring you all up to
15 the front. I'm trying to prevent that.

16 So, listen carefully. I'll begin with the lady
17 with the microphone up front. Your name and juror
18 number.

19 JUROR: Locritia Gibson, Juror Number 74.

20 THE COURT: Juror Number 74, Locritia Gibson.

21 Ms. Gibson, are you related by blood to
22 Mr. Flowers?

23 JUROR: Well, I -- I'm related --

24 THE COURT: Just yes or no. Don't give me a
25 speech. That's the reason. I'm going to have to

JURY SELECTION

1 bring you up here so we can talk.

2 JUROR: Yes.

3 THE COURT: So I'm asking in front of the other
4 jurors, now, and that's the reason I need a yes or
5 no.

6 Are you related by blood to the Defendant,
7 Mr. Laparis Flowers?

8 JUROR: Yes.

9 THE COURT: And how are you related by blood?
10 What degree of kinship?

11 JUROR: Well, my father and their fathers are
12 sister, so we're cousins.

13 THE COURT: So he's your cousin. All right.
14 I'll excuse you from service in this trial only. Be
15 seated.

16 Yes, sir. Your name and juror number.

17 JUROR: Herbert Gill, III. Juror 76.

18 THE COURT: Mr. Gill.

19 JUROR: Yes.

20 THE COURT: This is Juror 76, Counsel, Herbert
21 L. Gill, III.

22 Mr. Gill, yes or no, are you related by blood to
23 the Defendant, Laparis Flowers?

24 JUROR: No.

25 THE COURT: Are you connected by marriage to the

JURY SELECTION

1 Defendant, Laparis Flowers?

2 JUROR: Yes.

3 THE COURT: And how are you connected by
4 marriage to Mr. Flowers?

5 JUROR: My uncle was married to his grandma.

6 THE COURT: So that makes him what to you?

7 JUROR: Raised up in the house with his mother,
8 and I know him from a child.

9 THE COURT: Mr. Gill, let me ask you: Is the
10 fact that your uncle is related to him by marriage --
11 is that right?

12 JUROR: Yes.

13 THE COURT: Would that in any way affect your
14 ability to give the State of South Carolina, or the
15 Defendant, a fair and an impartial trial?

16 JUROR: It shouldn't.

17 THE COURT: Well, I'm asking you, will it?

18 JUROR: No.

19 THE COURT: Thank you, sir. You may be seated.
20 Pass the microphone back.

21 Use the microphone. Your name and juror number,
22 please, ma'am. You are talking to me, not to him.
23 Look at me and speak up. Your name and juror number.

24 JUROR: Felicia Hicks, Juror Number 94.

25 THE COURT: Ninety-four. Counsel, this is

JURY SELECTION

1 Felicia Hicks, Juror Number 94.

2 Ms. Hicks, yes or no, are you related by blood
3 to the Defendant, Laparis Flowers?

4 JUROR: Yes.

5 THE COURT: And how are you related by blood to
6 him?

7 JUROR: Our grandmothers are sisters.

8 THE COURT: Your grandmothers are sisters. I
9 excuse you from service in the trial of this case.
10 Please be seated.

11 Pass the microphone -- oh, you got one. Okay,
12 ma'am. Your name and juror number, please.

13 JUROR: Jaterrika Wilson, Juror Number 238.

14 THE COURT: Counsel, this is Juror Number 238,
15 Jaterrika Wilson. And it's W-I-L-S-O-N; is that
16 right, Ms. Wilson?

17 JUROR: Yes.

18 THE COURT: Ms. Wilson, are you, yes or no, are
19 you related by blood to the Defendant,
20 Laparis Flowers?

21 JUROR: No.

22 THE COURT: Are you connected by marriage to the
23 Defendant, Laparis Flowers?

24 JUROR: No.

25 THE COURT: Are you a close personal friend of

JURY SELECTION

1 the Defendant, Laparis Flowers?

2 JUROR: No.

3 THE COURT: Well, that's the only questions I
4 asked, Ms. Wilson. Why are you standing? I asked if
5 you're related by blood, connected by marriage, or a
6 close personal friend. I'm going to ask other
7 questions later. Please be seated. I'll get to your
8 question, I promise you I will.

9 Yes, ma'am. Your name and juror number, please.

10 JUROR: Erica Jenkins, 101.

11 THE COURT: Counsel, this is Juror Number 101,
12 Erica Jenkins.

13 Ms. Jenkins, yes or no, are you related by blood
14 to the Defendant, Laparis Flowers?

15 JUROR: Yes.

16 THE COURT: How are you related by blood?

17 JUROR: Our great grandparents -- great -- great
18 grandparents.

19 THE COURT: I haven't heard you yet. Your what?

20 JUROR: Great grandparents.

21 THE COURT: Do you have the same great
22 grandparent?

23 JUROR: Well, they're cousins.

24 THE COURT: Now, start me over. Tell me how you
25 think that you're related to him.

JURY SELECTION

1 JUROR: We are blood related. Blood related.

2 THE COURT: I understand that you think it's
3 blood related. Tell me how. Is it through your
4 father? Your mother?

5 JUROR: His father and it's like a long line
6 of -- long bloodline.

7 THE COURT: Well, what do you consider him to
8 be? Your cousin?

9 JUROR: Cousin.

10 THE COURT: And do you know what degree of
11 cousin?

12 JUROR: Probably third or fourth.

13 THE COURT: The fact that he is your cousin,
14 would that in any way affect your ability to give the
15 State or the Defendant a fair and an impartial trial?

16 JUROR: No.

17 THE COURT: You don't think you could do it?

18 JUROR: No.

19 THE COURT: I'll excuse you from service in the
20 trial in this case. Pass the microphone. Please be
21 seated, ma'am. I haven't excused you from jury
22 service. Have a seat.

23 Yes, sir. Name and juror number.

24 JUROR: My name is Richard Garvin. Juror
25 Number 73.

JURY SELECTION

1 THE COURT: Counsel, this is Richard L. Garvin,
2 Juror's Number 73.

3 Mr. Garvin, are you related by blood to the
4 Defendant?

5 JUROR: Yes, sir.

6 THE COURT: You are?

7 JUROR: (Nods head.)

8 THE COURT: How are you related by blood to the
9 Defendant, Laparis Flowers?

10 JUROR: His grandmother is my auntie. His
11 grandmother is my auntie.

12 THE COURT: His grandmother is your aunt; is
13 that what you're telling me?

14 JUROR: Yes, sir.

15 THE COURT: What does that make you to him?

16 JUROR: My first cousin. He's my first or
17 second cousin.

18 THE COURT: You consider him to be your first
19 cousin?

20 JUROR: (Nods head) -- second cousin.

21 THE COURT: I'll excuse you from service in the
22 trial of this case. Please be seated.

23 Yes, ma'am. Your name and juror number, please.

24 JUROR: Jasmine Bing, Number 11.

25 THE COURT: Counsel, this is Juror 11, Jasmine

JURY SELECTION

1 Bing.

2 Ms. Bing, are you related by blood to the
3 Defendant, Lapolis Flowers?

4 JUROR: Yes, sir.

5 THE COURT: How are you related by blood to the
6 Defendant, Lapolis Flowers?

7 JUROR: His mother is my aunt.

8 THE COURT: His mother is your aunt.

9 JUROR: Yes, ma'am.

10 THE COURT: What does that make you to him?

11 JUROR: First cousins.

12 THE COURT: A cousin?

13 JUROR: First cousins.

14 THE COURT: You consider him first cousin. All
15 right. I'll excuse you from service in the trial of
16 this case.

17 Anyone else related by blood, connected by
18 marriage, or a close personal friend of the
19 Defendant, Lapolis Flowers? If so, please stand at
20 this time.

21 Let the record reflect, no one else is standing.

22 Now, you met counsel for the State of South
23 Carolina, Tameaka Legette.

24 Tameaka, who else is going to be in the trial of
25 this case? Give me the names.

JURY SELECTION

1 MS. LEGETTE: Brian Hollen, my --

2 THE COURT: Brian Hollen.

3 MS. LEGETTE: Cory is just helping with the
4 jury, Your Honor. He won't --

5 THE COURT: Well, if he's just helping with the
6 jury, I need him.

7 MS. LEGETTE: Okay. Cory Williams. Cory
8 Williams.

9 THE COURT: Cory Williams and Brian Hollen. All
10 three of these people -- Brian, stand up so they know
11 who you are.

12 Cory, you stand up.

13 This is Cory Williams and this is Brian Hollen,
14 and Tameaka Legette. All three of these lawyers are
15 with the fourth -- you may be seated -- but with the
16 Fourteenth Judicial Circuit Solicitor's Office. They
17 represent the State of South Carolina.

18 Any member of my jury panel related by blood,
19 connected by marriage, or a close personal friend of
20 any of the lawyers representing the State of South
21 Carolina? If so, please stand at this time.

22 (No response.)

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

25 Any member of my jury panel ever been

JURY SELECTION

1 represented by any of the lawyers for the State of
2 South Carolina, either in the past or currently? If
3 so, please stand at this time.

4 (No response.)

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

7 Now, Mr. Flowers is represented by
8 Mr. Joshua Koger.

9 Mr. Koger, what's the name of your office in
10 Columbia?

11 MR. KOGER: The Law Office of Joshua Koger,
12 Junior, Your Honor.

13 THE COURT: The Law Office of Joshua Koger.

14 MR. KOGER: Yes, Your Honor.

15 THE COURT: You are the sole lawyer in the
16 office?

17 MR. KOGER: Yes, Your Honor.

18 THE COURT: He's the sole lawyer in his office
19 in Columbia. Is any member of my jury panel related
20 by blood, connected by marriage, or a close personal
21 friend to counsel for the Defendant, Joshua Koger?
22 If so, please stand at this time.

23 (No response.)

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

JURY SELECTION

1 Any member of my jury panel ever been
2 represented in the past or currently represented by
3 Mr. Joshua Koger of Columbia, South Carolina? If so,
4 please stand at this time.

5 (No response.)

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

8 MR. KÖGER: Your Honor, may I approach?

9 THE COURT: Counsel approach.

10 (Off-the-record discussion held.)

11 THE COURT: All right. Ladies and gentlemen,
12 well, first of all, I will tell you a little bit
13 about the allegations in this case. And that's what
14 all -- the indictments are not evidence in this case.
15 They are not going to be admitted into evidence, and
16 you must decide this case, if you are on the jury,
17 purely upon the evidence.

18 What I'm going to tell you about the allegations
19 in order to ask you a question to determine your
20 impartiality to hear the case.

21 All right. Ladies and gentlemen, Indictment
22 2014-GS-0300229, charges the Defendant,
23 Laparis Flowers, with the offense of murder. It is
24 alleged in this indictment that this occurred in
25 Allendale County on or about December the 6th, 2014,

JURY SELECTION

1 and that the Defendant, Laparis Flowers, with malice
2 aforethought did kill and murder Russell Smart,
3 S-M-A-R-T, by means of shooting him with a firearm.
4 And that Russell Smart did die in Allendale County as
5 a proximate result thereof on December the 6th, 2014.

6 In Indictment 2014-GS-0300231, charges the
7 Defendant, Laparis Flowers, with the offense of
8 attempted murder. This indictment alleges that it
9 occurred in Allendale County, South Carolina on or
10 about December 6th, 2014, that the Defendant,
11 Laparis Flowers, with the intent to kill, did attempt
12 to kill the victim, Tyquan Charlton, C-H-A-R-L-T-O-N,
13 with malice aforethought.

14 It is alleged that the Defendant did shoot a
15 firearm into a car occupied by the victim, which
16 resulted in the victim sustaining a gunshot wound.

17 Next indictment is 2014-GS-00232, the State
18 versus Laparis Flowers, indictment for attempted
19 murder. This indictment alleges that this occurred
20 in Allendale County, South Carolina on or about
21 December 6th, 2014; that the Defendant, Laparis
22 Flowers, with the intent to kill, did attempt to kill
23 the victim, Jarrell Murray, M-U-R-R-A-Y, with malice
24 aforethought, either expressed or implied. It is
25 alleged the Defendant fired numerous shots into a

JURY SELECTION

1 vehicle occupied by the victim.

2 Next indictment, 2014-GS-0300233, the State
3 versus Laparis Flowers, indictment for attempted
4 murder. This indictment is alleged that the
5 Defendant did in Allendale County, South Carolina on
6 or about December the 6th, 2014, the Defendant,
7 Laparis Flowers, with the intent to kill, did attempt
8 to kill the victim, Brandon Lewis, with malice
9 aforethought, either expressed or implied.

10 It is alleged the Defendant did shoot a firearm
11 into a vehicle occupied by the victim, which resulted
12 in the victim sustaining a gunshot wound.

13 And finally, ladies and gentlemen, the Defendant
14 is charged in Indictment 2014-GS-0300234, with the
15 offense of possession of a weapon during the
16 commission of a violent crime.

17 In this indictment, it is alleged that it
18 occurred in Allendale County on or about December the
19 6th, 2014, that the Defendant, Laparis Flowers, did
20 possess a firearm or did visibly display what
21 appeared to be a firearm, or did visibly display a
22 knife during the commission of, or attempted
23 commission of, a violent crime.

24 It is alleged that violent crimes are either
25 murder or attempted murder, both of which are alleged

JURY SELECTION

1 to be violent crimes under the laws of the State of
2 South Carolina.

3 I read those allegations to you from the
4 indictment in order to ask you this under oath: Has
5 any member of my jury panel read about, heard about,
6 or know anything whatsoever about the facts which are
7 alleged in these indictments? If so, and I haven't
8 already excused you -- you don't need to stand back
9 up if I've excused you from the trial again -- please
10 stand at this time.

11 (No response.)

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

14 Now, ladies and gentlemen, I have a list of
15 witnesses here, and the list has 52 names. That was
16 just potential witnesses, ladies and gentlemen. But
17 I'm going to need you to listen carefully to the
18 names.

19 I'm going to identify where they work or where
20 they're from so you will have some identifying
21 information, because they are not going to be
22 located -- all of which won't be physically located
23 in the courtroom. We're not going to start this
24 trial today, we will start tomorrow.

25 And all of these people won't be called. They

JURY SELECTION

1 are just potential witnesses. But I need to go
2 through all the witnesses in case they are called.
3 At the end of my calling out the names I'm going to
4 ask you whether you are related by blood, connected
5 by marriage, or a close personal friend of any of the
6 potential witnesses in the trial of this case, whose
7 names I have just called. So please listen
8 carefully.

9 Counsel approach.

10 (Off-the-record discussion held.)

11 THE COURT: All right. Ladies and gentlemen,
12 I'm going to call the names of the potential
13 witnesses. If they are present in the courtroom when
14 I call your name, stand and face my jury panel so
15 they can see your face when your name is called.

16 Lieutenant Charles Matt Brown, South Carolina
17 Law Enforcement Division, SLED. Thank you, please be
18 seated.

19 Special Agent Natasha Murrell, M-U-R-R-E-L-L,
20 South Carolina Law Enforcement Division, SLED.

21 Special Agent Jeff Croft, C-R-O-F-T, South
22 Carolina Law Enforcement Division, SLED.

23 Special Agent Shawn Grant, G-R-A-N-T, South
24 Carolina Law Enforcement Division, SLED.

25 Special Agent James Green, South Carolina Law

JURY SELECTION

1 Enforcement Division, SLED.

2 Special Agent Paul Meeh. I hope I pronounced it
3 right, M-E-E-H.

4 MS. LEGETTE: Meeh..

5 THE COURT: Meeh. You don't pronounce the H.
6 Paul Meeh, M-E-E-H, South Carolina Law Enforcement
7 Division, SLED.

8 Special Agent Haley Quam Nelson, South Carolina
9 Law Enforcement Division, SLED.

10 Special Agent Patrick Oliphant, O-L-I-P-H-A-N-T,
11 South Carolina Law Enforcement Division, SLED.

12 Special Agent Jeremy Smith, South Carolina Law
13 Enforcement Division, SLED.

14 Special Agent Tyler Sturkie, S-T-U-R-K-I-E,
15 South Carolina Law Enforcement Division, SLED.

16 Rank?

17 MS. LEGETTE: None.

18 THE COURT: Betty Butler, B-U-T-L-E-R, South
19 Carolina Law Enforcement Division, SLED.

20 William H. Crumpton, C-R-U-M-P-T-O-N, retired
21 Beaufort County Sheriff's Office.

22 Detective Quatique Manor, Allendale Police
23 Department.

24 Bruce Davis, stand and face my jury panel,
25 Fourteenth Judicial Circuit Solicitor's Office

JURY SELECTION

1 investigator. Thank you. Please be seated.

2 Investigator Donald Hipp. Hipp, H-I-P-P,
3 Fourteenth Judicial Circuit Solicitor's office,
4 investigator. Thank you. Please be seated.

5 Investigator Dylan Hightower, Fourteenth
6 Judicial Circuit Solicitor's Office, investigator.

7 Shirl Cave, C-A-V-E, Fourteenth Judicial Circuit
8 Solicitor's office.

9 Ashley Brant, B-R-A-N-T, Allendale, South
10 Carolina.

11 Ashley Broadus, B-R-O-A-D-U-S, Allendale, South
12 Carolina.

13 Tyquan Charlton, Allendale, South Carolina.

14 Quincy Doe, Allendale, South Carolina.

15 Stacy Elmore, Allendale, South Carolina.

16 Shavus Gill, G-I-L-L, Allendale, South Carolina.

17 Standing over to your left, ladies and gentlemen.

18 You are Shavus Gill?

19 THE WITNESS: Shavus Gill.

20 THE COURT: Shavus Gill. It's spelled
21 S-H-A-V-U-S?

22 THE WITNESS: But it's pronounced Shavus Gill.

23 THE COURT: It's spelled S-H-A-V-U-S, Gill,
24 Allendale. Thank you. Please be seated.

25 Ulicee Graham, Allendale, South Carolina.

JURY SELECTION

1 Attiana Grant, Allendale, South Carolina.

2 Yateaya, and that's Y-A-T-E-A-Y-A, Yateaya or

3 Yateaya Grant, Allendale, South Carolina.

4 Aldeandre Gray, Allendale, South Carolina. That

5 is G-R-A-Y.

6 Bianca Harley, Allendale, South Carolina.

7 Kendra Jones, Allendale, South Carolina.

8 Brandon Lewis, Allendale, South Carolina.

9 Connie Milledge, Allendale, South Carolina.

10 Jarrell Murray, M-U-R-R-A-Y. First name is

11 J-A-R-R-E-L-L, Allendale, South Carolina.

12 Kendall Nix. N-I-X, Allendale, South Carolina.

13 Tiffany Platts, P-L-A-T-T-S, Allendale, South

14 Carolina.

15 Tracy Roberts, Allendale, South Carolina.

16 Antron Williams, Allendale, South Carolina.

17 Jaqwavian Williams, Allendale, South Carolina.

18 Kimberly Harley-Williams, Allendale, South

19 Carolina.

20 Dr. Gabriel Fornari, F-O-R-N-A-R-I, Allendale

21 Fairfax hospital.

22 Dr. Janice Ross, R-O-S-S, Newberry Pathology

23 Associates.

24 James Chrisman, C-H-R-I-S-M-A-N, Augusta

25 University Medical Center, public safety.

JURY SELECTION

1 Dr. Michael Samuels, formerly with the justice
2 -- formerly of Georgia Regents Medical Center.

3 Dr. Abuzeid, A-B-U-Z-E-I-D, Augusta University
4 Medical Center.

5 Louise Pinckney, Allendale County dispatch. And
6 that's P-I-N-C-K-N-E-Y.

7 Lish Sabb, Allendale County EMS fire and rescue.
8 Records custodian -- you withdraw that one?

9 MS. LEGETTE: Yes, Your Honor, we withdraw it.

10 THE COURT: On your list, Counsel, Number 46 is
11 withdrawn.

12 Deputy Ty Tyson, T-Y-S-O-N, Hampton County
13 Sheriff's Office.

14 Tina Murray, Fairfax, South Carolina.

15 Jay Patel, Knights Inn hotel, Hardeeville, South
16 Carolina. Formerly with the Executive Inn,
17 Allendale, South Carolina.

18 Elizabeth Smith, Allendale, South Carolina.

19 Lawrence Blackwood, formerly with the Allendale
20 Police Department.

21 Deputy Jim Evans, Allendale County Sheriff's
22 Office.

23 Lapolis Flowers. Mr. Flowers, stand and face my
24 jury panel. North Augusta, South Carolina, formerly
25 and originally from Allendale, South Carolina.

JURY SELECTION

1 Please be seated.

2 Any additional witnesses from the State?

3 MS. LEGETTE: One other, Your Honor. Liz
4 Rollins.

5 THE COURT: Is she on my list?

6 MS. LEGETTE: She's not gotten here, Your Honor.

7 THE COURT: Counsel approach.

8 (Off-the-record discussion held.)

9 THE COURT: One additional witness from the
10 State, if I'm understanding, is Liz Rollins; is that
11 right, Counsel?

12 MS. LEGETTE: Yes, Your Honor.

13 THE COURT: Ms. Rollins formerly worked with
14 Lobster House. She's from Allendale, South Carolina.
15 She now is a school bus driver here in Allendale.

16 Any additional witnesses from the Defendant?

17 MR. KOGER: No, Your Honor.

18 THE COURT: Any additional witnesses now that I
19 have published the additional witness from the State?

20 MS. LEGETTE: None, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, is
22 any member of my jury panel related by blood,
23 connected by marriage, or a close personal friend of
24 any of the potential witnesses in the trial of this
25 case, whose names I have just called? If so, would

JURY SELECTION

1 you please stand at this time.

2 MS. LEGETTE: Your Honor --

3 THE COURT: Pass it down to her. She's been
4 anxious to talk to us.

5 Your name and juror number, please.

6 JUROR: Jaterrika Wilson, Juror Number 238.

7 THE COURT: Juror number what?

8 JUROR: Number 238.

9 THE COURT: Counsel, this is Juror 238,
10 Jaterrika Wilson. Is that right? Am I pronouncing
11 that right?

12 JUROR: Jaterrika.

13 THE COURT: Wilson. All right. She's 238.

14 Are you related by blood to any of the
15 witnesses?

16 JUROR: No, sir.

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

19 JUROR: No, sir.

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

22 JUROR: Two of them, sir.

23 THE COURT: All right. What witnesses?

24 JUROR: Ashley Broadus and Kendall Nix.

25 THE COURT: And what was the first one?

JURY SELECTION

1 JUROR: Ashley Broadus.

2 THE COURT: Hold on a second. Let me go through
3 my list.

4 What number, Counsel? Is it 18 or 19 that she's
5 telling me?

6 MS. LEGETTE: Nineteen.

7 THE COURT: Ashley Broadus of Allendale?

8 JUROR: (Nods head.)

9 THE COURT: All right. And what was the other
10 one?

11 JUROR: Kendall Nix.

12 MS. LEGETTE: Thirty-three, Kendall Nix.

13 THE COURT: Kendall Nix. Of Allendale?

14 JUROR: (Nods head.)

15 THE COURT: The fact that you have -- let's
16 start with Ms. Broadus. How close of friends are you
17 with Ms. Broadus? How long have you known her?

18 JUROR: I've known her since 2004.

19 THE COURT: All right. How long have you known
20 Mr. Nix?

21 JUROR: Ms. Nix.

22 THE COURT: Ms. Nix. Kendall Nix. I can't tell
23 if it's a man or woman with that name.

24 JUROR: 2004, same.

25 THE COURT: So you've known them both since

JURY SELECTION

1 2004.

2 JUROR: Yes, sir.

3 THE COURT: You are not related to them by blood
4 or marriage, but they are friends of yours. The fact
5 -- is that right?

6 JUROR: Yes, sir, to be --

7 THE COURT: Hold on one second. The fact that
8 you are friends with them, would that in any way --
9 and they are potential witnesses, and I can't tell
10 you whether they will testify or not. Would that in
11 any way affect your ability to give the State or the
12 Defendant, Laparis Flowers, a fair and an impartial
13 trial?

14 JUROR: I suppose not.

15 THE COURT: Thank you, ma'am. Pass the
16 microphone. You may be seated.

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

18 JUROR: Linda Lewis, Juror Number 128.

19 THE COURT: Counsel, this is Juror Number 128,
20 Linda L. Lewis.

21 Ms. Lewis, are you related by blood to any of
22 the potential witnesses?

23 JUROR: Yes, sir.

24 THE COURT: And what witness are you related by
25 blood to?

JURY SELECTION

1 JUROR: Brandon Lewis.

2 THE COURT: Hold on. Let me go through my list.
3 Number 30, Brandon Lewis.

4 JUROR: Yes, sir.

5 THE COURT: And how are you related by blood to
6 Brandon Lewis? He is from Allendale.

7 JUROR: That is my father's brother's son.

8 THE COURT: Your father's brother's son.

9 JUROR: Yes, sir. That is my first cousin.

10 THE COURT: First cousin. The fact that
11 Mr. Lewis may be a witness in the trial of this case,
12 would that in any way affect your ability to give the
13 State of South Carolina, or the Defendant in this
14 case, Lapolis Flowers, a fair and an impartial trial?

15 JUROR: No, sir.

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

18 Let the record reflect that nobody else is
19 standing in response to my last question.

20 Any member of my jury panel related by blood,
21 connected by marriage, or a close personal friend
22 with anyone employed by South Carolina Law
23 Enforcement Division, Allendale Police Department,
24 Allendale County sheriff's department, Beaufort
25 County sheriff's department, or Hampton County

JURY SELECTION

1 sheriff's department? Does that cover all law
2 enforcement agencies I have in this case?

3 MS. LEGETTE: Yes, Your Honor.

4 THE COURT: Any member of my jury panel related
5 by blood or connected by marriage or a close personal
6 friend with anyone employed by any of those law
7 enforcement agencies? If so, please stand and give
8 me your name and juror number, please.

9 JUROR: Linda Sullivan, 213.

10 THE COURT: Two thirty what?

11 JUROR: 213.

12 THE COURT: Hold that microphone a little
13 closer.

14 JUROR: 213, Linda Sullivan.

15 THE COURT: I know you're not used to having
16 used that, but it's necessary in here, please.

17 Counsel, this is Ms. Sullivan, and it is Juror
18 Number 213, Linda G. Sullivan.

19 Ms. Sullivan, I asked if you were related by
20 blood, connected by marriage, or a close personal
21 friend of a person employed with certain law
22 enforcement agencies, and I enumerated those for you,
23 so I'm going to make sure you know. I'm talking
24 about SLED, Allendale Police Department, Allendale
25 County sheriff's department, Hampton County sheriff's

JURY SELECTION

1 department, or Beaufort County sheriff's department,
2 formerly Beaufort County sheriff's department, and
3 you stood. Would you tell me why you're standing.

4 JUROR: Allendale police department, my husband
5 is chief of police.

6 THE COURT: Your husband is chief of police?

7 JUROR: Yes, sir.

8 THE COURT: The fact that your husband is chief
9 of police and there is a potential witness from
10 Allendale Police Department, would that in any way
11 affect your ability to give the State of South
12 Carolina or the Defendant in this case, Laparis
13 Flowers, a fair and an impartial trial?

14 JUROR: It would not affect it.

15 THE COURT: Thank you very much. You may be
16 seated.

17 Any member of my jury panel related by blood,
18 connected by marriage, or a close personal friend to
19 anyone that is employed by a state or federal
20 prosecution office? That would be the Solicitor's
21 office, or the U.S. Attorney's Office. If so, please
22 stand at this time.

23 (No response.)

24 THE COURT: It could include the South Carolina
25 Attorney General's office also.

JURY SELECTION

1 Let the record reflect no one is standing.

2 Any member of my jury panel ever been employed
3 by a civilian or military law enforcement agency? If
4 so, please stand at this time.

5 (No response.)

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

8 Any member of my jury panel ever been the victim
9 of a violent crime? If so, please stand at this
10 time.

11 (No response.)

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

14 Any member of my jury panel a member of or a
15 contributor to any group which has as its primary
16 concern the promotion of law enforcement or victims'
17 rights? These groups would include CAV, Citizens
18 Against Violence; CATRE, Citizens Advocate to Return
19 to Ethics; CODA, Citizens Opposed to Domestic Abuse;
20 MADD; SADD; CAV, or CATRE, please stand if you are a
21 member of or contributor to any of these
22 organizations at this time.

23 (No response.)

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

JURY SELECTION

1 Is there any member of my jury panel who would
2 give special credence and weight to the testimony of
3 a law enforcement officer simply because of his
4 position as a law enforcement officer? If so, please
5 stand at this time.

6 (No response.)

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

9 Any member of my jury panel ever been a witness
10 for either the Solicitor's office, the State of South
11 Carolina, or the defendant in a criminal trial? If
12 so, please stand at this time.

13 (No response.)

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

16 THE BAILIFF: We have one, Your Honor.

17 THE COURT: Oh, I've got one. Yes, ma'am. Hold
18 on, let him get you the microphone, please, ma'am.

19 Are you standing because of the last question?

20 JUROR: Yes, as a witness --

21 THE COURT: All right. Give me your name and
22 juror number, please.

23 JUROR: 105, Annette Johnson.

24 MS. LEGETTE: 102.

25 THE COURT: Counsel, this is Juror 102, Annette

JURY SELECTION

1 Johnson.

2 JUROR: Yes, correct.

3 THE COURT: Ms. Johnson, why are you standing?

4 JUROR: You asked the question, have you ever
5 been a witness in a criminal case.

6 THE COURT: Either for the State or the
7 Defendant. Yes, ma'am, I did ask that. Have you
8 been a witness for either the State or a Defendant in
9 a criminal trial?

10 JUROR: I have for the State in a criminal
11 trial.

12 THE COURT: Please approach, ma'am. Counsel
13 approach.

14 Over to the side.

15 (Discussion at the Bench.)

16 THE COURT: Now, you said that you had been a
17 witness in a criminal trial. I asked you either for
18 the State or the Defendant, and I never understood
19 which one you were trying to tell me.

20 JUROR: I was trying to tell you for the State
21 in a rape case.

22 THE COURT: Okay. It was a rape case?

23 JUROR: Yes, sir. And also for the State. And
24 also for kidnapping.

25 THE COURT: And kidnapping.

JURY SELECTION

1 JUROR: Yes.

2 THE COURT: Was that here in Allendale, or
3 another county?

4 JUROR: Allendale County, both of them.

5 THE COURT: How long ago approximately?

6 JUROR: The kidnapping happened in 1993.

7 THE COURT: The fact that you were previously a
8 witness, would that in any way affect your ability to
9 give the State and the Defendant in this case a fair
10 and impartial trial?

11 JUROR: No, sir.

12 THE COURT: Thank you very much. You may return
13 to your seat.

14 JUROR: Thank you.

15 THE COURT: Is any member of my jury panel
16 formerly a member of Allendale County grand jury,
17 which found the indictments in this case? If so,
18 please stand at this time.

19 (No response.)

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

22 Any member of my jury panel related by blood or
23 connected by marriage to the victim, Brandon Lewis,
24 or a close personal friend, who is the alleged victim
25 in the murder indictment? If so, please stand at

JURY SELECTION

1 this time.

2 (No response.)

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

5 Any member of my jury panel related by blood,
6 connected by marriage, or a close personal friend of
7 the alleged victim in the attempted murder
8 indictment, one Jarrell Murray?

9 I think I've already asked about Mr. Murray as a
10 witness; have I not?

11 MS. LEGETTE: Yes, sir.

12 THE COURT: Have I already asked about
13 Mr. Charlton, as well, as a witness?

14 MS. LEGETTE: Yes, sir.

15 THE COURT: All right. I think I identified the
16 victim as Mr. Brandon Lewis in the attempted murder,
17 not the murder case.

18 Mr. Lewis, was he listed as a witness? Have I
19 already asked about him?

20 MS. LEGETTE: Yes, sir.

21 THE COURT: All right. I now ask in the murder
22 indictment, if any member of my jury panel is related
23 by blood, connected by marriage, or a close personal
24 friend of Mr. Russell Smart, who is the alleged
25 victim in the murder indictment? And that is

JURY SELECTION

1 S-M-A-R-T. If so, please stand at this time.

2 (No response.)

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

5 Has any member of my jury panel expressed or
6 formed any opinion about the alleged guilt or
7 innocence of the Defendant in this case,
8 Laparis Flowers? If so, please stand at this time.

9 (No response.)

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

12 Has any member of my jury panel formed any
13 opinion about the alleged merits or allegations in
14 this case? If so, please stand at this time.

15 (No response.)

16 THE COURT: Is any member of my jury panel aware
17 of any bias or prejudice they may have in connection
18 with this case, any of the parties involved therein,
19 any of the potential witnesses involved therein, or
20 any of the attorneys involved therein? If so, please
21 stand at this time.

22 (No response.)

23 THE COURT: Does any member of my jury panel
24 know of any reason whatsoever why he or she should
25 not serve as a juror in this case, with particular

JURY SELECTION

1 emphasis being placed upon your ability to be fair
2 and impartial to either the State of South Carolina
3 or the Defendant, Lapolis Flowers, basing your
4 decision only and solely on the evidence which is
5 introduced in the courtroom during the trial of this
6 case when both sides are present? If so, if you know
7 of any reason why you should not serve as a juror in
8 this case, with emphasis being placed on your ability
9 to be fair and impartial, please stand at this time.

10 Please approach. Your name and number?

11 JUROR: Abraham Washington, Junior, Juror Number

12 8.

13 THE COURT: Number 8?

14 JUROR: Eight, yes, sir.

15 THE CLERK: Two twenty-three.

16 THE COURT: Counsel, this is Juror 223, Abraham
17 Washington, Junior.

18 Mr. Washington, why are you standing?

19 JUROR: Yeah. I'm good friends with the
20 victim's mother.

21 THE COURT: You're good friends with the
22 victim's mother? And you feel like that would affect
23 your ability --

24 JUROR: Yes, sir. I grew up with him.

25 THE COURT: I understand that. That's the

JURY SELECTION

1 reason I asked that question. You're excused from
2 the trial of this case. Have a seat.

3 Take him out.

4 Any additional voir dire from the State of South
5 Carolina?

6 MS. LEGETTE: None from the State, Your Honor.

7 THE COURT: Any additional voir dire from the
8 Defendant?

9 MR. KOGER: None from Defense, Your Honor.

10 THE COURT: Strikes are ten and five. Ten for
11 the Defendant; five for the State. I'll be drawing
12 three alternate jurors, in addition to a 12-person
13 jury. Strikes of two and one on the alternate.

14 John, I'm going to need 12 plus three -- I'm
15 going to need 15 chairs. I think you've got that in
16 light of the grand jury I did this morning; do you
17 not?

18 THE BAILIFF: Yes, sir.

19 THE COURT: Madam Clerk, it's my understanding
20 that both sides recognize that I accurately stated
21 the strikes as far as State is concerned?

22 MS. LEGETTE: Yes, Your Honor.

23 THE COURT: As far as Defendant's concerned?

24 MR. KOGER: Yes, Your Honor.

25 THE COURT: Madam Clerk, if you would, through

JURY SELECTION

1 the computer, please give us a jury.

2 Ladies and gentlemen, don't pay any attention --
3 Gary, Lieutenant Hall, on my right, tells me the
4 clock on the wall is 15 minutes slow. We will get it
5 corrected tomorrow, but it's not accurate right now.
6 But I'm mindful of your time, and I'm going to get
7 you home.

8 All right. Ladies and gentlemen, what has
9 happened now, my son says I'm past the speed limit,
10 ladies and gentlemen, is the way he refers to my age.
11 When I started practicing law, we had a big, huge
12 container, and it had capsules in it. The clerk
13 would reach in and pull out a capsule and unscrew the
14 top, pull out a piece of paper. And that's the way
15 we drew a jury. We don't do that anymore. No human
16 hand touches anything.

17 The computer, at random, draws these people I
18 found qualified and that I haven't excused and places
19 an order. The clerk is going to call your name.

20 As your name is called, pick up your coat, your
21 pocketbook, or your belongings, come down the center
22 aisle, and come to the jury box. My bailiffs will
23 direct you to have a seat in the jury box.

24 The first thing you do is come up to the clerk's
25 station and stand right here at the clerk's station

JURY SELECTION

1 and face the back of the courtroom, as I'm facing
2 now, so each side can exercise their peremptory
3 strikes.

4 Please bring your belongings with you so we can
5 get the jury selected and I can get you home for the
6 day.

7 All right. Madam Clerk, can you give us a jury,
8 please.

9 THE CLERK: Crystal Ward, Juror 222.

10 THE COURT: Come right on up here to me,
11 Ms. Ward. Now, turn around so they can all see you.
12 There you go.

13 THE CLERK: What says the State?

14 THE COURT: What says the State?

15 MS. LEGETTE: Beg the Court's indulgence, Your
16 Honor.

17 (Pause.)

18 MS. LEGETTE: Please seat the juror.

19 THE CLERK: What says the Defense?

20 MR. KOGER: Please seat this juror.

21 THE COURT: Have a seat in the jury box.

22 THE CLERK: Juror Number 64, Janet Elmore.

23 THE COURT: Ms. Elmore. Turn around for me.
24 There you go.

25 THE CLERK: What says the State?

JURY SELECTION

1 THE COURT: What says the State?

2 MS. LEGETTE: Please excuse the juror from the
3 trial of this case.

4 THE BAILIFF: Ma'am, please have a seat.

5 THE CLERK: Juror Number 41, Robert E. Connelly.
6 What says the State?

7 MS. LEGETTE: Please present the juror.

8 THE CLERK: What says the Defense?

9 MR. KOGER: Please excuse this juror.

10 THE CLERK: Juror Number 39, Jennie Wilson.
11 What says the State?

12 MS. LEGETTE: Please present the juror.

13 THE CLERK: What says the Defense?

14 MR. KOGER: Please seat the juror.

15 THE CLERK: Juror Number 102, Annette Johnson.
16 What says the State?

17 MS. LEGETTE: Please present the juror.

18 THE CLERK: What says the Defense?

19 MR. KOGER: Please excuse the juror.

20 THE CLERK: Juror Number 243, Shaquetta Wright.
21 What says the State?

22 MS. LEGETTE: Please present the juror.

23 THE CLERK: What says the Defense?

24 MR. KOGER: Please seat Ms. Wright.

25 THE CLERK: Juror 237, Mary Willingham. What

JURY SELECTION

1 says the State?

2 MS. LEGETTE: Please present the juror.

3 THE CLERK: What says the Defense?

4 MR. KOGER: Please seat the juror.

5 THE CLERK: Juror Number 238, Jaterrika Wilson.

6 MS. LEGETTE: What number, Madam Clerk?

7 THE COURT: Two thirty-eight.

8 THE CLERK: What says the State?

9 MS. LEGETTE: Please excuse the juror from the
10 trial of this case.

11 THE CLERK: Juror Number 85, Annie Green. What
12 says the State?

13 MS. LEGETTE: Please present the juror.

14 THE CLERK: What says the Defense?

15 MR. KOGER: Please excuse this juror.

16 THE COURT: You are excusing the juror,

17 Mr. Koger?

18 MR. KOGER: Yes.

19 THE CLERK: Juror Number 23, Darian Brooks.

20 What says the State?

21 MS. LEGETTE: May we approach, Your Honor?

22 THE COURT: Counsel approach.

23 (Off-the-record discussion held.)

24 THE COURT: Proceed. What says the State?

25 MS. LEGETTE: Please admit the juror.

JURY SELECTION

1 THE CLERK: What says the Defense?

2 MR. KOGER: Please seat this juror. Please seat
3 Mr. Brooks.

4 THE CLERK: Juror Number 57, Cynthia Dukes.

5 THE COURT: Ms. Dukes, your number has been
6 coming up all day, hasn't it?

7 JUROR: Yes, it has.

8 THE CLERK: What says the State?

9 THE COURT: What says the State?

10 MS. LEGETTE: Please excuse the juror from the
11 trial of this case.

12 THE CLERK: Juror Number 113, Elisha Jordan.
13 What says the State?

14 MS. LEGETTE: Please excuse the juror from the
15 trial of this case.

16 THE CLERK: Juror Number 137, Myra Manuel. What
17 says the State?

18 MS. LEGETTE: Please present the juror.

19 THE CLERK: What says the Defense?

20 MR. KOGER: Please excuse the juror.

21 THE CLERK: Juror 170, Shaleesa Penn. What says
22 the State?

23 MS. LEGETTE: Please present the juror.

24 THE CLERK: What says the Defense?

25 MR. KOGER: Please seat this juror.

JURY SELECTION

1 THE CLERK: Juror Number 118, John Kearse. What
2 says the State?

3 MS. LEGETTE: Please present the juror.

4 THE CLERK: What says the Defense?

5 MR. KOGER: Please excuse this juror.

6 THE CLERK: Juror Number 16, Kenneth Boynton.

7 What says the State?

8 MS. LEGETTE: Please present the juror.

9 THE CLERK: What says the Defense?

10 MR. KOGER: Please seat the juror.

11 THE COURT: Have a seat in the jury box for me.

12 THE CLERK: Juror Number 111, Deborah Jones.

13 What says the State?

14 MS. LEGETTE: Please present the juror.

15 THE CLERK: What says the Defense?

16 MR. KOGER: Please seat the juror.

17 THE CLERK: Juror Number 190, Cierra Sanders.

18 What says the State?

19 MS. LEGETTE: Please present the juror.

20 THE CLERK: What says the Defense?

21 MR. KOGER: Please seat the juror.

22 THE CLERK: Juror Number 69, Kristopher Finley.

23 What says the State?

24 MS. LEGETTE: Please present the juror.

25 THE CLERK: What says the Defense?

JURY SELECTION

1 MR. KOGER: Please seat the juror.

2 THE CLERK: Juror number 159, Henrietta Oberry.

3 What says the State?

4 MS. LEGETTE: Please present the juror.

5 THE CLERK: What says the Defense?

6 MR. KOGER: Please excuse the juror.

7 THE COURT: Excuse the juror?

8 THE CLERK: Yes.

9 Juror Number 246, William Youmans. What says
10 the State?

11 MS. LEGETTE: Please present the juror.

12 THE CLERK: What says the Defense?

13 MR. KOGER: Please excuse this juror.

14 THE CLERK: Juror Number 153, Freddie Moore.

15 THE COURT: Mr. Koger, you are at seven.

16 MR. KOGER: Yes, sir.

17 THE CLERK: What says the State?

18 MS. LEGETTE: Please present the juror.

19 THE CLERK: What says the Defense?

20 THE COURT: What says the Defendant?

21 MR. KOGER: Please seat the juror.

22 THE CLERK: Juror Number 95, Rosalyn Hines.

23 What says the State?

24 MS. LEGETTE: Please excuse the juror from the
25 trial of this case.

JURY SELECTION

1 THE COURT: That is five, Solicitor.

2 MS. LEGETTE: Thank you, Your Honor.

3 THE CLERK: Juror Number 68, Loretta Fillman.

4 What says the State?

5 MS. LEGETTE: Present the juror.

6 THE CLERK: What says the Defense?

7 MR. KOGER: Please excuse the juror.

8 THE CLERK: Juror Number 129, Richard Lightsey.

9 What says the State?

10 MS. LEGETTE: Please present the juror.

11 THE CLERK: What says the Defense?

12 MR. KOGER: Please excuse the juror.

13 THE COURT: Please seat the juror or excuse this
14 juror?

15 MR. KOGER: Excuse the juror.

16 THE COURT: Pardon?

17 MR. KOGER: Excuse the juror.

18 THE COURT: You are excused.

19 THE CLERK: Juror Number 233, Eva Williams.

20 THE COURT: That's nine, Mr. Koger.

21 THE CLERK: Eva Williams. What says the State?

22 MS. LEGETTE: Please present the juror.

23 THE CLERK: What says the Defense?

24 MR. KOGER: Please seat the juror.

25 THE CLERK: We're down to Alternate Number 1.

JURY SELECTION

1 THE COURT: Counsel, we are now going to draw
2 Alternate Number 1. Strikes are two and one.
3 Alternate Number 1, Madam Clerk.

4 THE CLERK: Juror Number 240, Michael Wolf.
5 What says the State?

6 MS. LEGETTE: Please present the juror.

7 THE CLERK: What says the Defense?

8 MR. KOGER: Please admit the juror.

9 THE CLERK: What says Defense?

10 MR. KOGER: Please seat Mr. Wolf.

11 THE COURT: Mr. Wolf, you are Alternate Number
12 1.

13 THE CLERK: Juror Number 126, Mary Jane Lee.
14 What says the State?

15 MS. LEGETTE: Please present the juror.

16 THE CLERK: What says the Defense?

17 MR. KOGER: Please seat the juror.

18 THE COURT: Ms. Lee, you are Alternate Number 2.
19 Alternate Number 3.

20 THE CLERK: Juror Number 128, Linda Lewis. What
21 says the State?

22 MS. LEGETTE: Please excuse the juror from the
23 trial of this case.

24 THE CLERK: Juror Number 202, Dawson Smith.
25 What says the State?

JURY SELECTION

1 MS. LEGETTE: Please present the juror.

2 THE CLERK: What says the Defense?

3 MR. KOGER: Please excuse this juror.

4 THE CLERK: Juror Number 81, Peggy Goodson.

5 What says the State?

6 MS. LEGETTE: Please present the juror.

7 THE CLERK: What says the Defense?

8 MR. KOGER: Please seat the juror.

9 THE COURT: Ms. Goodson, you are Alternate
10 Number 3.

11 Are there any matters of law pertaining to the
12 selection of the jury that need to be decided before
13 the jury is sworn from the State of South Carolina?

14 MS. LEGETTE: None from the State.

15 THE COURT: From the Defendant?

16 MR. KOGER: None from Defense, Your Honor.

17 THE COURT: You both understand that decision is
18 now irrevocable, regardless of when the jury is
19 sworn. You understand that, Solicitor?

20 MS. LEGETTE: Yes, Your Honor.

21 THE COURT: You understand that, Mr. Koger?

22 MR. KOGER: Yes, Your Honor.

23 THE COURT: Ladies and gentlemen of our jury
24 panel, we are not going to start the trial today. I
25 told you that. I know that light is getting dim, and

JURY SELECTION

1 I'm going to get you home. But I need you to know
2 where to go.

3 John is going to take you to your jury room.
4 Because in the morning, I want you to report to your
5 jury room.

6 Now, I realize that we have had some inclement
7 weather, but they're telling me that roads are clear
8 now, or relatively clear. I know you've got some
9 secondary roads that had some ice on it this morning,
10 so I want everybody to be careful.

11 I'm going to try to start between 9:30 and 10
12 o'clock in the morning, trying to give you a little
13 time to let the sun get up, make sure everything is
14 dry before we start.

15 I want you to report to your jury room. Do not
16 come to the courtroom. He's going to take you to the
17 jury room.

18 Over the overnight recess, please do not discuss
19 this case with anybody, not even a member of your own
20 family. You haven't heard any evidence in this case,
21 and it would be improper for you to discuss it
22 amongst yourselves or with anybody else. I'll let
23 you know when it's time for you to discuss it.

24 If anybody tries to talk to you about this case,
25 tell them you're on the jury, you can't discuss it.

JURY SELECTION

1 If they persist in wanting to talk to you, you get
2 their name and you give it to me, and I'll handle
3 that problem for you, ladies and gentlemen. I
4 promise you that person won't bother you anymore.

5 So if somebody tries to persist in talking to
6 you, you bring the name to me, I'll take care of that
7 for you.

8 Now, I don't know whether there will be anything
9 in the newspaper, on the radio or television about
10 this case. Please do not watch such, listen to such,
11 or read such. You must decide this case solely and
12 only on the evidence that's presented in this
13 courtroom when both sides are present, with the right
14 of cross examination, and not on any outside source.

15 So please don't try to watch a television
16 program or read the newspaper or listen to a radio
17 account of the case.

18 I know everybody has got a smart phone now, or
19 computer. Please don't try to do any research about
20 this case on your computer or on your smart phone.
21 It's improper -- even if you think it would help you
22 in deciding this case, it would be improper for you
23 to do any research. You must decide this case solely
24 and only on the evidence that is presented in this
25 courtroom, when both sides are present, with the

JURY SELECTION

1 right of cross examination.

2 Now, I want you to try to be here at 9:30, but
3 if we don't start until 10 o'clock, that is fine.
4 Because I can promise you I'm going to work on them,
5 ladies and gentlemen. Because I'm going to get you
6 home in a timely fashion, like I promised.

7 So please get here safely and carefully in the
8 morning. Report to your jury room. Don't come to
9 this courtroom. I'll call you out in the courtroom
10 after I -- they will have something for you to drink
11 in there and something for you to nibble on, and
12 we're going to feed you lunch tomorrow. We're going
13 to take good care of you, ladies and gentlemen, I
14 promise you that.

15 Please do not discuss this case with anyone.
16 Not even amongst yourselves until I instruct you to
17 do so.

18 Please now retire to your jury room. Once you
19 know where to go, you are free to leave the courtroom
20 and go home tonight.

21 (Whereupon, the jurors exit the courtroom.)

22 THE COURT: Ladies and gentlemen, if you're not
23 selected as jurors in the trial of this case, I'm
24 going to ask you to call a number. The number here
25 is -- you're going to get a card from the bailiff,

JURY SELECTION

1 it's going to have a telephone number 803-584-7058 on
2 there. Do not leave without that number. I don't
3 know whether I'm going to see you again or not. This
4 might conclude your service. I told you it would be
5 a short week for you.

6 However, tomorrow night, 6 o'clock, after
7 6 o'clock, call that number. I will leave a taped
8 message on that number whether or not I need you to
9 come back or report, or whether or not I need you to
10 call back the next night or whatever it will be.

11 Don't call the number prior to 6 o'clock, wait
12 until after 6 o'clock tomorrow night. Call the
13 number on the card. The bailiffs will give you a
14 card with the number as you leave. Do not leave
15 without a card with a telephone number. The number
16 here is 803-584-7058.

17 Thank you for your patience. You are now
18 excused for the day. Get a card from the bailiff and
19 call the number after 6 o'clock before you leave.

20 (Unselected voir dire panel exit courtroom.)

21 THE COURT: Shut the door, Mr. Freddy. Are
22 there any jurors in the courtroom?

23 (No response.)

24 THE COURT: Let the record reflect Defendant is
25 present with his counsel and so is the Solicitor's

JURY SELECTION

1 office, with their case manager. There are no jurors
2 in the courtroom.

3 First of all, I want to put on the record that
4 counsel for the Defendant, Mr. Koger, tells me he is
5 not going to object to chain of custody in this
6 trial; is that correct?

7 MR. KOGER: That's correct, Your Honor.

8 THE COURT: And that's your understanding as
9 well, Solicitor?

10 MS. LEGETTE: Yes, Your Honor.

11 THE COURT: So he's not giving objection to
12 chain of custody.

13 I'm getting ready to have -- Mr. Koger wanted me
14 to put on the record, I was informed by counsel in
15 chambers that an offer was made for a plea in this
16 case. The offer was a plea to the lesser-included
17 offense of voluntary manslaughter on the murder
18 indictment and the attempted murders for a sentence
19 negotiated to 20 years.

20 Is that correct, Solicitor?

21 MS. LEGETTE: That is correct, Your Honor.

22 THE COURT: And that includes the possession of
23 a weapon during the commission of a violent crime as
24 well as any charge incurred by Mr. Flowers for some
25 fight that occurred in the jail.

JURY SELECTION

1 MS. LEGETTE: That is correct, Your Honor.

2 THE COURT: Did you communicate that offer to
3 your client, Mr. Koger?

4 MR. KOGER: Yes, Your Honor.

5 THE COURT: And what is your client's decision?

6 MR. KOGER: He wishes to reject the offer,
7 reject that offer and move forward with trial.

8 THE COURT: Is that correct, Mr. Flowers?

9 THE DEFENDANT: That is correct, sir.

10 THE COURT: Was that the offer communicated to
11 you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. So the offer is now on
14 the record that was made in this case and been
15 rejected by the Defendant.

16 All right. Please be seated. We are now moving
17 directly into two hearings, which I had scheduled for
18 this, the first of which is the Jackson Denno
19 hearing.

20 Solicitor, are you ready to proceed?

21 MS. LEGETTE: We are, Your Honor.

22 THE COURT: Is the Defendant ready to proceed?

23 MR. KOGER: Yes, Your Honor.

24 THE COURT: Call your witness.

25 MR. HOLLEN: The State calls Special Agent Matt

JACKSON DENNO PRE-TRIAL HEARING

1 Brown.

2 THE COURT: Come around and be sworn by the
3 clerk, please. She is coming to you.

4 Thereupon,

5 CHARLES MATT BROWN

6 was called as a witness, having been first duly sworn,
7 was examined and testified as follows.

8 THE COURT: Now, you're in Allendale. Have you
9 ever testified here before?

10 THE WITNESS: No, sir, I have not.

11 THE COURT: That microphone is going to amplify
12 your voice, but you're going to find out, don't you
13 leave that counter. You hear me?

14 THE WITNESS: Yes, sir.

15 THE COURT: Mr. Koger, when you come, you will
16 come to this counter, you will ask questions up here,
17 not at your desk. Do you understand that?

18 MR. KOGER: Yes, Your Honor.

19 THE COURT: I want you to state your full name
20 and spell your last name for the court reporter.

21 THE WITNESS: My full name is Charles Matthew
22 Brown. Last name, B-R-O-W-N.

23 THE COURT: Your witness, Counsel. Direct
24 examination. We are proceeding first with the
25 Jackson Denno hearing.

JACKSON DENNO PRE-TRIAL HEARING

1 MR. HOLLEN: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. HOLLEN:

4 Q Agent Brown, I'm referring to you as "agent."
5 Who do you work for?

6 A I work for the South Carolina Law Enforcement
7 Division, more commonly referred to as SLED.

8 Q And what is your position with SLED?

9 A Currently I'm a lieutenant in the lowcountry
10 region, which covers investigative services for about 12
11 counties in the lowcountry.

12 Q How long have you been employed with SLED?

13 A I have been with SLED approximately 11 years.

14 Q What about before that? Any previous law
15 enforcement experience?

16 A Prior to being in SLED, I was in the Orangeburg
17 Department of Public Safety for about two and a half
18 years.

19 Q And what is your involvement on the case that we
20 are here for today?

21 A Basically our agency was contacted by Chief John
22 Sullivan with the Allendale Police Department on
23 December 6th, 2014, after the incident occurred. Chief
24 Sullivan basically asked us to take over the
25 investigation.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 So myself, along with Special Agent
2 Jeff Croft, Special Agent Richard Johnson, Lieutenant
3 Charles Ghent responded to Allendale, responded to Allendale
4 -- responded to the area of 646 Barton Road, which is where
5 Russell Smart's vehicle had veered off the roadway and
6 rested against a tree.

7 At that time, we began receiving information
8 from the Allendale Police Department as far as possible
9 leads, things that they had learned before our arrival.

10 Search warrants were obtained for the vehicle
11 to process the vehicle. Myself, Agent Croft conducted a
12 neighborhood canvas of the Pinewood Apartments area, where
13 we began to talk with persons that indicated that they heard
14 shots, had seen certain things.

15 Basically at that point, we also learned of
16 the victims in the case. We learned at that point that
17 Russell Smart was transported to the Allendale hospital and
18 was deceased at that location.

19 We also learned that Jarrell Murray was in
20 the vehicle. He was the front passenger in the vehicle of
21 Russell Smart's car.

22 Also learned that Brandon Lewis was in the
23 vehicle. He was struck by a bullet. He was seated behind
24 Russell Smart in the back passenger seat behind the driver,
25 and also learned that Tyquan Charlton was in the vehicle.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Mr. Charlton was struck in the jaw and the neck area. He
2 was also transported to the hospital.

3 So after learning of those persons, obviously
4 at that point, we attempted to try to make contact with
5 them. Those that were able to be interviewed, to try to
6 gain information to see what may have happened during the
7 incident.

8 Brandon Lewis was evidently transported from
9 Allendale hospital over to the Augusta Medical Center. I
10 believe at that time it was known at Georgia Regents
11 University Medical Center. We sent two agents over there to
12 speak with him, to get an initial statement.

13 We also began to locate Jarrell Murray, tried
14 to make contact with him. Was unable to make contact with
15 him until the next day.

16 Also attempted to contact Tyquan Charlton at
17 Georgia Regents University. Because of his condition at
18 that time, no one was able to speak with him.

19 Eventually we learned and received
20 information from the Allendale Police Department that the
21 precursor to the whole incident that occurred at the
22 Pinewood Apartments may have been an altercation that
23 occurred at the Lobster House.

24 We learned that Jaqwavian Williams and
25 Aldeandre Gray got into some type of verbal altercation over

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 a female, Tracy Roberts. During the altercation, there was
2 an alleged kiss that was blown by Mr. Jaqwavian Williams to
3 Ms. Tracy Roberts, which agitated Mr. Aldeandre Gray.

4 At that point, all parties left the location.
5 Mr. Smart, along with passengers, left and went to the
6 Pinewood Apartments, where eventually the shooting occurred
7 there that resulted in the death of Russell Smart and other
8 victims.

9 Q Okay. So after meeting with some of the
10 victims, talking to witnesses, that sort of thing, did you
11 develop a suspect?

12 A We did.

13 Q And who was that?

14 A Laparis Flowers.

15 Q And at some point during the investigation, did
16 you meet with Mr. Flowers?

17 A We did.

18 Q Where and when did that happen?

19 A He was met with on December 7th, which was the
20 day after the incident. Myself and Detective Q.T. Manor,
21 with Allendale Police Department, met with Mr. Flowers at
22 the Allendale Police Department.

23 Q Did Mr. Flowers come in voluntarily, or was he
24 compelled to come in?

25 A He came in voluntarily.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q Of his own accord?

2 A Yes.

3 Q Did anyone come with him?

4 A Yes. Kendall Nix, his girlfriend, came with
5 him.

6 Q All right. When you met with him, who was
7 present? You said yourself, Detective Manor?

8 A Detective Manor and Mr. Flowers.

9 Q That's it?

10 A Yes.

11 MR. HOLLEN: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 MR. HOLLEN: Thank you.

15 BY MR. HOLLEN:

16 Q Agent Brown, I'm going to hand you what's been
17 marked for identification as Court's Exhibit Number 1 for
18 purposes of this hearing. Do you recognize that?

19 A I do.

20 Q And what is it?

21 A It is the SLED Miranda rights form that was
22 filled out, read to, and signed by Mr. Laparis Flowers.

23 Q Okay. So when you met with Mr. Flowers, at the
24 time he came in, was he free to leave?

25 A At the time that he came in, we already had

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 arrest warrants for him, so he was not going to be free to
2 leave at any point after the interview.

3 Q So he was given that form; is that correct?

4 A That's correct. Prior to being asked any
5 questions, he was read his rights from this form.

6 Q Do you mind, go ahead and read that form for the
7 court.

8 A Okay. At the top it says: "Miranda Rights.
9 Place, Allendale PD. Date, 12/7/2014. Time, 1745."

10 It says, "Before we ask you any questions,
11 you must understand your rights. You have the right to
12 remain silent. Anything you say can be used in court as
13 evidence against you. You are entitled to talk to a lawyer
14 now and have him present now or any time during questioning.
15 If you cannot afford an attorney, one will be appointed for
16 you without cost. If you decide to answer questions now,
17 without a lawyer present, you would still have the right to
18 stop answering at any time. You also have the right to stop
19 answering at any time until you talk to a lawyer. Do you
20 understand these rights? Do you wish to talk to us at this
21 time?"

22 Then it says, "Waiver of Rights. I have read,
23 the statement of my rights, and I understand what my rights
24 are. I am willing to talk now without a lawyer present. I
25 understand and know what I'm doing. No promises or threats

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 have been made to me, and no pressure or coercion of any
2 kind has been used against me."

3 And there's a signature for Mr. Flowers,
4 along with two witness signature blocks.

5 Q And I apologize. I'm jumping the gun a little
6 bit. Is that a fair and accurate copy of the Miranda form
7 that Mr. Flowers signed?

8 A It is.

9 Q Has it been changed or altered in any way?

10 A It has not.

11 MR. HOLLEN: Your Honor, can I get that back
12 from you?

13 Your Honor, I'd ask that this be admitted for
14 purposes of this hearing.

15 THE COURT: This hearing.

16 MR. HOLLEN: Yes, sir.

17 THE COURT: Are you going to mark it as a
18 State's exhibit or Court's exhibit?

19 MR. HOLLEN: Court's exhibit will be fine.

20 THE COURT: Court's Exhibit Number 1 will be
21 admitted into evidence for purposes of this Jackson
22 Denno hearing, without objecting. Court's Number 1
23 now in evidence. You may proceed, Counsel.

24 MR. HOLLEN: Thank you, Judge.

25 *(Whereupon, Court's Exhibit No(s). 1 marked for*

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 *identification and received in evidence.)*

2 BY MR. HOLLEN:

3 Q As a result of you reading those rights to Mr.
4 Flowers, did he make any marks on that?

5 A He did. He placed his initials beside each line
6 that I read to him.

7 Q Did he sign it?

8 A He did. He signed at the bottom, stating he
9 understands his waiver of rights.

10 Q So did he agree to speak with you at that time?

11 A He did.

12 Q Did he ever ask for an attorney?

13 A No, he didn't.

14 Q After you had him sign that form, did you
15 threaten him? Did you try to coerce him in any way to
16 make a statement?

17 A No, sir, I didn't.

18 Q Did he appear to be under the influence of
19 alcohol or drugs so much that he didn't understand what he
20 was doing?

21 A No, he didn't.

22 Q And he never asked for an attorney?

23 A No, he didn't.

24 Q Did he voluntarily speak with you?

25 A He did.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q Did he appear to have any mental infirmities
2 that he wouldn't understand his right to remain silent?

3 A No, he didn't.

4 Q Did you keep him in the room, withholding access
5 to food, water, the bathroom, anything like that?

6 A No, we didn't.

7 Q About how long did this interview last?

8 A The Miranda Rights form was signed at
9 approximately 1745, and I think his statement was signed
10 at approximately 1830, which was only about 45 minutes.

11 Q So he agreed to speak with you. Did he first
12 verbally speak with you and give you a statement?

13 A He did. He initially gave us a verbal account
14 of what his statement was.

15 Q And at some point later, did he agree to write a
16 statement out for you?

17 A He did.

18 MR. HOLLEN: The Court's indulgence, Your Honor.

19 (Pause.)

20 MR. HOLLEN: Your Honor, may I approach?

21 THE COURT: You may.

22 MR. HOLLEN: Thank you.

23 BY MR. HOLLEN:

24 Q I want to hand you, Agent Brown, what's been
25 marked for identification as Court's Exhibit Number 2. Do

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 you recognize that?

2 A I do.

3 Q And what is it?

4 A It's a voluntary statement written and completed
5 by Mr. Laparis Flowers on December 7th, 2014.

6 Q And he completed that after you fully advised
7 him of his Miranda Rights, and he agreed to speak with
8 you?

9 A That's correct.

10 Q Who wrote that statement?

11 A He wrote the statement.

12 Q He wrote the statement himself?

13 A He did.

14 Q Does that statement echo what he told you
15 previously in your interview?

16 A It does.

17 Q Has that been changed or altered in any way?

18 A No, sir, it hasn't.

19 Q There's more than one page there, correct?

20 A That's correct. There's two pages.

21 Q Two pages. So it hasn't been changed or
22 altered, it's a fair and accurate copy of what he signed;
23 is that right?

24 A That's correct.

25 Q Let me get that back from you. Thank you.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 MR. KOGER: Without objection for the purpose of
2 the Jackson Denno hearing.

3 THE COURT: Are you offering it?

4 MR. HOLLEN: Your Honor, I would ask that it be
5 admitted solely for purposes of this hearing.

6 THE COURT: Court's Exhibit Number 2 will be
7 admitted into evidence for purposes of the Jackson
8 Denno hearing without objection. Court's 2 in
9 evidence.

10 MR. HOLLEN: Thank you, Judge.

11 *(Whereupon, Court's Exhibit No(s). 2 marked for*
12 *identification and received in evidence.)*

13 BY MR. HOLLEN:

14 Q If you don't mind, Agent Brown, will you read
15 that to the Court?

16 A It says, "I, Laparis Flowers, went to the
17 Lobster House at 11 o'clock, along with Antron Williams
18 and Andre Lofton. We was at the Lobster House, just
19 having a good time. Around 2:42, me and Antron Williams
20 left the club and went to Kendall Nix" -- it has
21 girlfriend in parenthesis -- "auntie house by IGA, a
22 trailer park about 50 feet away. I gave the keys to my
23 brother, Shavus Gill, to hold because he had no
24 transportation. Me and my" -- and it has girlfriend in
25 parenthesis -- "Kendall Nix, left to go back to North

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Augusta, South Carolina because my Auntie Kim called us at
2 the club earlier saying my baby was being cranky. And
3 Jennifer Bates" -- in parenthesis, it says mother --
4 "stated that she was going to the hospital to see if he
5 was okay. It takes about one hour and 20 minutes to get
6 home" -- and typed in North Augusta, South Carolina. "I,
7 Laparis Flowers, left the club before any type of
8 confrontation or dispute went down. I, Laparis Flowers,
9 don't know anything or have any idea about a shooting.
10 All the people was cool with me. Russell Smart and
11 Alexander Gray was just in Pinewood earlier talking,
12 having a good time with me."

13 And then there's a question and answer
14 session, which was written -- the questions were written by
15 myself, the answers were written by Laparis Flowers.

16 The first question is: "What vehicle did you
17 drive to the Lobster House?"

18 His answer is: "1999 Oldsmobile Alero" --
19 typed in, white, and it's initialed behind the answer, "LF",
20 for Laparis Flowers.

21 The second question: "What conversation did
22 you have with Kim Harley after you left the Lobster House?"

23 Answer: "Auntie Kim stated Jaqwavian
24 Williams, Toot, got into a dispute with Russell Smart and
25 Dee Gray" -- it has Alexander in parentheses -- "about Tracy

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Roberts affair. And way I was, I say, we going home to
2 North Augusta to check on my baby."

3 But the next question that I asked is: "Did
4 you ever return to the Lobster House after you left?"

5 He answered: "I, Laparis Flowers, never
6 returned to the Lobster House after I left."

7 Next question I asked was, "Did you shoot
8 into a green Ford Crown Victoria at Pinewood Apartments?"

9 His answer was: "I, Laparis Flowers, never
10 shot or saw a green Ford Crown Victoria at Pinewood
11 Apartments."

12 The next question I asked was, "Where did you
13 go when you left Allendale?"

14 His answer was: "North Augusta, South
15 Carolina, 1025 apartment, Georgetown Villas."

16 And then he has his initials and it's X'd out
17 so no one can add anything to his written statement.

18 Q And that's the full written statement that he
19 gave you?

20 A That's correct.

21 Q One question I think I failed to ask you. Did
22 you guys promise him anything for speaking with you?

23 A No, we did not.

24 Q Did you offer him a reward of any sort for
25 talking to you?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 A No, we did not.

2 MR. HOLLEN: Your Honor, that's all I have right
3 now for this witness.

4 Answer anything Mr. Koger has for you. Thank
5 you.

6 THE COURT: Cross examination.

7 CROSS EXAMINATION

8 BY MR. KOGER:

9 Q Mr. Brown, what time did Mr. Flowers arrive at
10 the police station?

11 A It would have been just shortly before 1745,
12 which is about 5:45 p.m. in that afternoon.

13 Q And did any conversation take place before he
14 signed the Miranda at 1745?

15 A No conversation asking anything about the
16 incident before he signed the Miranda at 1745.

17 Q Now, you stated on the record that Mr. Flowers
18 was not free to go because warrants had already been
19 issued, correct?

20 A That's correct.

21 Q Arrest warrants had already been issued,
22 correct?

23 A That's correct, sir.

24 Q What time were those arrest warrants issued,
25 approximately?

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 A I would have to look at the actual warrants
2 themselves, but they were earlier that day.

3 Q Okay. Earlier that day.

4 A Yes, sir.

5 Q When were the arrest warrants served
6 Mr. Flowers?

7 A After his interview.

8 Q Okay. And about how soon after his interview
9 were the arrest warrants served?

10 A As soon as he completed his written statement,
11 we told him he was under arrest, and that he was, in turn,
12 transported to Allendale County Detention Center.

13 Q So according to the documentation on these
14 statements, that would have been at 1830, correct?

15 A Sometime, yes, sir, shortly after that.

16 Q All right. And once he was placed into custody,
17 did any other off-the-record conversations occur between
18 you or anyone from law enforcement and Mr. Flowers?

19 A No, sir, not from myself. I can only speak for
20 myself.

21 Q Okay. Only for you, Matt Brown?

22 A Yes, sir.

23 MR. KOGER: Thank you. No further questions.

24 THE COURT: Redirect?

25 MR. HOLLEN: No, Your Honor. Nothing further.

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 THE COURT: Lieutenant, is there -- were any
2 threats made to Mr. Flowers before you obtained this
3 statement?

4 THE WITNESS: No, sir. No threats were made to
5 him.

6 THE COURT: Had you coerced him in any way to
7 make the statement before you obtained it from him?

8 THE WITNESS: No, sir, he was not coerced.

9 THE COURT: Was there any inducement of any kind
10 by you, whether or not reward or by threat in order
11 to get Mr. Flowers to make the statement?

12 THE WITNESS: No, sir, there was not.

13 THE COURT: In your opinion, was Mr. Flowers'
14 statement to you the product of free and
15 unconstrained will?

16 THE WITNESS: Yes, sir, it was.

17 THE COURT: Any additional questions by the
18 State in light of the Court's questions?

19 MR. HOLLEN: No, Your Honor.

20 THE COURT: Any additional questions by counsel
21 for the Defendant in light of the Court's questions?

22 MR. KOGER: No additional questions, Your Honor.

23 THE COURT: You may step down.

24 No, excuse me. Is he going to be my witness for
25 the other hearing, too?

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 MR. HOLLEN: Yes, Judge.

2 THE COURT: Then hold on a second. Is that all
3 the State's evidence as far as any witnesses you're
4 going to put up in Jackson Denno?

5 MR. HOLLEN: Yes, Your Honor.

6 THE COURT: All right. Mr. Koger, does the
7 Defendant wish to present evidence for purposes of
8 the Jackson Denno hearing?

9 MR. KOGER: No, Your Honor.

10 THE COURT: Then you're satisfied then that
11 there's no additional evidence?

12 MR. KOGER: Yes, Your Honor.

13 THE COURT: Very well.

14 All right. Let me hear from you, Solicitor.

15 MR. HOLLEN: Your Honor, I think the evidence
16 shows that Mr. Flowers was not threatened, he was not
17 coerced, he was not kept from water, food, or
18 bathroom. And then, I believe he was fully advised
19 of his Miranda rights, as required under the Fifth
20 and Sixth Amendments and Miranda.

21 He signed the Miranda form, as Agent Brown
22 stated, and in addition to speaking with Agent Brown,
23 he then proceeded to write out himself a full written
24 statement that, again, he signed and provided to
25 Agent Brown.

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 I think in light of all of the evidence based
2 upon what is required by the State of South Carolina,
3 I believe his statement was fully, voluntarily given,
4 and that it should be admitted for purposes of this
5 trial. Thank you.

6 THE COURT: Mr. Koger, I'll be happy to hear
7 from you. Do you object to the admission of this
8 evidence?

9 MR. KOGER: Your Honor, we have no additional
10 challenge to the entrance of the statement.

11 THE COURT: You got to come on up here. When
12 you talk back there, I'm not hearing you --
13 particularly when you put your head down.

14 MR. KOGER: We have no additional challenge to
15 the testimony.

16 THE COURT: So you are not objecting to the
17 admissibility of the statement?

18 MR. KOGER: That's correct.

19 THE COURT: All right. Even though there's no
20 objection by counsel for the Defendant to the
21 admission of the statement, I find that and I have
22 carefully considered all the evidence, which includes
23 Courts Exhibits Number 1 and 2, as well as the
24 testimony of the witness which has been offered by
25 the State, the Defendant, having chosen not to

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 present any evidence.

2 Court is convinced by preponderance of the
3 evidence, and I so find that before any statement was
4 obtained from the Defendant, the Defendant was fully
5 advised of his rights under the Fifth and Sixth
6 Amendments to the Constitution of the United States,
7 and that the Defendant was advised of his
8 constitutional safeguards required by Miranda versus
9 Arizona.

10 He was advised of his right to remain silent, if
11 he chose to do so. He was advised prior to any
12 interrogation. If he waived his right to remain
13 silent and make a statement, that such statement
14 could and would be used against him in a court of
15 law. He was advised prior to the interrogation he
16 had the right to employ or select an attorney of his
17 choice, and if he didn't have the money, funds, or
18 resources to employ an attorney, that the Court would
19 appoint and provide an attorney for him, if he so
20 desired without cost or expense to him. And that he
21 had the right to have the attorney present with him
22 at all times during the interview and interrogation.

23 He was advised -- let me see my Court's
24 exhibits -- he was advised also that -- that he had
25 the right to consult with an attorney, and he was

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 advised he had the right to interrupt and stop
2 answering questions at any time until he could talk
3 to a lawyer. And he was advised that if during
4 interrogation, he desired an attorney, the
5 interrogation would cease. And he was asked if he
6 understood those rights. And he said he initialed
7 the waiver form that he did.

8 He was asked if wanted to talk to them, and he
9 initialed that he did. And he signed the waiver form
10 saying that, "I'm willing to talk now without a
11 lawyer present. I understand and know what I'm
12 doing. No promises or threats have been made to me,
13 and no threats or coercion of any kind has been used
14 against me," all of which are reflected on Court's
15 Exhibit Number 1.

16 I find, therefore, that the Defendant knowingly
17 and intelligently waived his rights on the Fifth and
18 Sixth Amendments to the Constitution, and the
19 constitutional safeguards required by Miranda.

20 I think this was custodial interrogation, even
21 though the Defendant had not been advised that he was
22 under arrest. It is clear to me from the testimony
23 that the defendant was in custody and, therefore
24 Miranda does apply.

25 I think that the alleged statement obtained from

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 the Defendant was freely and voluntarily given
2 without duress, without coercion, without undue
3 influence, without reward, without promise or hope of
4 reward, without promise or leniency, without threat
5 of injury, without compulsion or inducement of any
6 kind. And as such, statement was the voluntary
7 thought of the free and unconstrained will of the
8 Defendant.

9 I make all of my findings by a preponderance of
10 the evidence and I, therefore, find that the
11 statement is admissible into evidence in the trial of
12 this case, which was previously marked as Court's
13 Exhibit No. 2.

14 If you would, please, Madam Clerk, I'm trying to
15 hand the documents to you. Give them to the court
16 reporter. They were marked as Court's 1 and 2 for
17 purposes of this hearing.

18 Anything further on the Jackson Denno hearing
19 from the State before we move to the Neal versus
20 Biggers hearing?

21 MR. HOLLEN: No, Your Honor.

22 THE COURT: From the Defendant?

23 MR. KOGER: No, Your Honor.

24 THE COURT: All right. Solicitor, it's my
25 understanding by previous agreement, Mr. Koger has no

CROSS EXAMINATION OF CHARLES BROWN BY MR. KOGER

1 objection, this witness has been previously sworn,
2 and will also be your witness for an out-of-court
3 identification hearing pursuant to Neal versus
4 Biggers; is that correct, Solicitor?

5 MR. HOLLEN: That is correct, Your Honor.

6 THE COURT: Is that correct, Mr. Koger?

7 MR. KOGER: That is correct, Your Honor.

8 THE COURT: All right. Lieutenant, I advise you
9 you are still under oath. We now go to the Neal
10 versus Biggers hearing.

11 MR. HOLLEN: Thank you, Judge.

12 Thereupon,

13 CHARLES MATT BROWN

14 was re-called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. HOLLEN:

18 Q Agent Brown, as the case agent, did you at some
19 point meet with the three surviving victims in this case?

20 A Yes, sir, we did.

21 Q Did you show each of them a photo line-up
22 containing the Defendant, Laparis Flowers?

23 A Yes, I did.

24 MR. HOLLEN: Let's start, Your Honor, if I may
25 approach the witness.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 THE COURT: You may.

2 BY MR. HOLLEN:

3 Q I'm going to hand you what's been marked for
4 identification as Court's Exhibit Number 3.

5 Do you recognize that?

6 A I do.

7 Q And what is it?

8 A This is a photograph at line-up that was shown
9 by myself to Brandon Lewis.

10 Q And when did you meet with Brandon Lewis?

11 A We met with him on December the 7th, which would
12 have been the day after the incident.

13 Q So the day after the incident, December 7th,
14 2014?

15 A That is correct.

16 Q Where did you meet with him?

17 A We met with Brandon at his grandmother's house
18 on Razor Road.

19 Q And who was present during that interview with
20 Mr. Lewis?

21 A Myself, Detective Manor with Allendale Police
22 Department, and Special Agent Jeff Croft with SLED.

23 Q Was that interview recorded in any way?

24 A It was.

25 Q How did you record it?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 A It was audio recorded.

2 Q Audio recorded?

3 A That's correct.

4 Q And has that been provided to the Defense?

5 A It has.

6 Q Okay. When you met with Mr. Lewis, first of
7 all, you showed him that line-up; is that right?

8 A That's correct.

9 Q Is that a fair and accurate depiction of the
10 line-up he was shown?

11 A It is.

12 Q Has it been changed or altered in any way?

13 A No, sir, it hasn't.

14 MR. KOGER: Without objection for purposes of
15 this hearing, Your Honor.

16 THE COURT: Is it one exhibit?

17 MR. HOLLEN: Your Honor, I have Court's Exhibits
18 3, 4, and 5. These were three separate photo
19 lineups.

20 THE COURT: Then have him identify for the
21 record.

22 You have reviewed all three exhibits, Mr. Koger?

23 MR. KOGER: Yes, Your Honor.

24 THE COURT: Well, have him identify each for
25 those for the record.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 BY MR. HOLLEN:

2 Q Court's Exhibit Number 3, what is that,
3 Agent Brown?

4 A Exhibit Number 3 is a photographic line-up that
5 was shown to Brandon Lewis.

6 Q And as you stated, that's a fair and accurate
7 depiction?

8 A It is.

9 Q And not changed or altered in any way?

10 A No, sir, it hasn't.

11 Q Okay. Court's Exhibit 4?

12 A Court's Exhibit 4 is a photographic line-up that
13 was shown to Jarrell Murray.

14 Q And is that a fair and accurate depiction?

15 A It is.

16 Q Changed or altered in any way?

17 A No, sir.

18 Q All right. How about Court's Exhibit Number 5?

19 A Court's Exhibit Number 5 is a photographic
20 line-up that was shown to Tyquan Charlton.

21 Q Is that a fair and accurate depiction of what
22 you showed him?

23 A Yes, it is.

24 Q And has it been changed or altered in any way?

25 A No, sir, it hasn't.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 THE COURT: As to three, four, and five, now
2 that he's identified them for the record, any
3 objection?

4 MR. KOGER: No objection for the purposes of
5 this hearing.

6 THE COURT: You offering them?

7 MR. HOLLEN: Yes, Judge.

8 THE COURT: All right. Exhibits -- Court's
9 Exhibits 3, 4, and 5 will be admitted into evidence
10 during this Neal versus Biggers hearing, without
11 objection from the Defendant.

12 You may proceed, Counsel.

13 MR. HOLLEN: Thank you, Judge.

14 (Court's Exhibits Nos. 3-5 marked and received
15 in evidence in the pre-trial hearing.)

16 BY MR. HOLLEN:

17 Q Agent Brown, how are you able to determine --
18 those are the same line-up, correct?

19 A That's correct.

20 Q How are you able to tell the difference between
21 them?

22 A The difference, on each one of them, the person
23 that they identified as Laparis Flowers has been either
24 circled, the number next to the picture and initials, or
25 some type of marking put next to that picture.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Also on the back of each of the forms -- it
2 was a one-page form, it's now a two-page form here -- but
3 each of them are witnessed by myself, Detective Manor, and
4 Special Agent Croft on the ones identified by Brandon Lewis
5 and Jarrell Murray. And on the photograph line-up
6 identified by Tyquan Charlton, it's witnessed by Special
7 Agent Natasha Murrell, Detective Manor, and myself.

8 Q As far as Court's Exhibit Number 3, which was
9 shown to Brandon Lewis, what did you inform him of before
10 you showed him that or as you showed him that line-up?

11 A Basically we were just telling him that I'm
12 going to give him a sheet containing a series of
13 photographs. They are to look at the set of photographs
14 and see if they can identify the person that they are
15 alleging committed the specific crime in this situation,
16 that shot into Mr. Russell Smart's vehicle.

17 Q When you handed that or showed that line-up to
18 Mr. Lewis, did you suggest or did anyone in your presence
19 suggest who he should pick?

20 A No, sir, we didn't.

21 Q Did you point to anyone and -- and tell him who
22 to pick?

23 A No, we didn't.

24 Q Did anyone else?

25 A No, sir.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q Did Mr. Lewis indicate that he had seen the
2 Defendant before?

3 A Yes.

4 Q How did he know him?

5 A He indicated that he had grown up in and around
6 Allendale community. Mr. Laparis Flowers also resided
7 here in Allendale. They had known each other for quite
8 some time.

9 Q Did he -- did Mr. Lewis indicate that he had an
10 opportunity to see the person that he picked out that
11 night?

12 A He did.

13 Q Did he explain that to you in any way?

14 A Yes, he did.

15 Q What did he tell you?

16 A He basically said that after he left the Lobster
17 House, he was in the vehicle with Russell Smart and Tyquan
18 Charlton. He indicated that they had went over to
19 Pinewood Apartments and they were parked in the driveway
20 of the apartments, facing the roadway in Mr. Smart's
21 vehicle. At some point after that, a vehicle pulled up
22 next to them.

23 He identified the person that he saw driving
24 the vehicle as Laparis Flowers. He also indicated that
25 Mr. Flowers produced a weapon and fired numerous shots into

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 the vehicle, which ultimately struck him, along with
2 Mr. Smart and Tyquan Charlton.

3 Q Did he indicate to you that he was distracted in
4 any way when he saw Mr. Flowers?

5 A No, sir, he didn't.

6 Q Did he give you a description of Mr. Flowers or
7 anything, or did you ask him to give you a description?

8 A I did not ask him on the recording to give us
9 any type of description. But he did identify Mr. Flowers
10 by the sound of his voice. He indicated that he's known
11 him for quite some time, communicated with him before, and
12 he said he identified him by his voice.

13 Q So he identified him saying that he saw him, but
14 also that he heard him?

15 A That's correct.

16 Q And what number did he pick on that line-up?

17 A He picked Number 4 out of the line-up.

18 Q And how certain did he appear to be when he
19 picked Number 4?

20 A He was certain that that was Mr. Laparis
21 Flowers, the person who shot into the vehicle.

22 Q How long did it take him to pick Number 4?

23 A It took him around ten seconds to -- to pick
24 out, after looking at all the photographs, because that's
25 what they're instructed to do, to make sure they look at

DIRECT EXAMINATION OF CHARLES MATT, BROWN BY MR. HOLLEN

1 everybody.

2 Q Did it appear to you that he was uncertain for
3 that ten seconds that it took him?

4 A No, sir.

5 Q Did he appear to be pleased to be speaking with
6 you about this?

7 A He was hesitant about speaking with us, simply
8 because of the fact that he had just been shot, he had
9 just been discharged from the hospital. He appeared to be
10 a little scared, or intimidated to maybe pick that
11 photograph.

12 Q And you said you met with him on December 7th,
13 right?

14 A That's correct.

15 Q When did this incident, shooting, occur?

16 A It was on -- in the early morning hours of
17 December 6th.

18 Q So for all intents and purposes, it was the next
19 day?

20 A That's correct.

21 Q You said Mr. Lewis had had surgery; is that
22 right?

23 A That's correct.

24 Q And that was the day before?

25 A I believe so. Yes, sir.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q Did he appear to be under the influence so much
2 that he didn't understand what he was doing?

3 A No. It appeared that he may have been taking
4 something for his pain, but he was coherent. He
5 understood the questions. I mean, he did not appear to be
6 under the influence of anything, whereas he did not, you
7 know, cognitively understand the questions that we asked,
8 or the answers that he was giving.

9 Q Okay. Now, State's exhibit -- or excuse me,
10 Court's Exhibit Number 4, for purposes of this hearing,
11 you identified that. That was the line-up that was shown
12 to Jarrell Murray?

13 A That's correct.

14 Q When and where did you meet with Mr. Murray?

15 A We met with Mr. Jarrell Murray shortly after we
16 left Mr. Brandon Lewis on December 7th, 2014. We met with
17 Mr. Murray in the parking lot of the Allendale County
18 Magistrate's office here in Allendale.

19 Q So same day you met with Mr. Lewis?

20 A That's correct.

21 Q The day -- the next date. The shooting was
22 December 6th, early morning hours?

23 A It was December 6th.

24 Q And it was the 7th.

25 A Yes, sir.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q Met with him at the Magistrate's office. Who
2 was present when you met with him?

3 A It was myself, Detective Manor, Special Agent
4 Croft, and also Jarrell's mother was present. She drove
5 him to the location.

6 Q Was she -- where did you meet with him? You
7 said in the car?

8 A Well, we were in the car, and we were also
9 outside the vehicle speaking with her.

10 Q Okay. So was she present when you showed him
11 the line-up?

12 A She was outside of the vehicle when we showed
13 him the line-up.

14 Q So not in the car.

15 When you showed him that line-up, what
16 instructions did you give him, if any?

17 A We gave him the same instructions as we gave
18 Brandon Lewis. Told him that we were going to show him a
19 piece of paper containing six photographs. We instructed
20 him that if he identified the person that shot into the
21 vehicle that he was in with Mr. Smart, to indicate that by
22 circling the number and putting his initials next to that
23 photograph.

24 Q And did he do that?

25 A He did.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q When you handed it to him, did you suggest, or
2 anyone else in your presence, suggest who he should pick?

3 A We did not.

4 Q Did you point to anyone on the line-up?

5 A No, sir, we didn't.

6 Q Did he indicate to you that he had seen the
7 Defendant before?

8 A Yes.

9 Q How did he know the Defendant, Laparis Flowers?

10 A The same with Brandon Lewis. Jarrell has been
11 around town for quite some time, grew up in the area.
12 Just from public contact and knowing other people and
13 Mr. Flowers. He had seen Mr. Flowers numerous times.

14 Q Was the interview with him recorded?

15 A Initially we were recording the interview. At
16 the conclusion of the interview, we checked the recording,
17 had not hit the recording button. So the recording that
18 is available at this point is, we went through and
19 rehashed everything -- or most things that we had talked
20 about in the interview, which included the identification
21 and who he indicated that shot into the vehicle.

22 So it's a shorter recording than what the
23 actual interview was that occurred.

24 Q Did he indicate that he had an opportunity to
25 see the person who shot into the car?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 A He did.

2 Q What did he tell you?

3 A Basically he indicated that in the early morning
4 hours of the incident, that Brandon Smart had picked him
5 up at the store.

6 Q Excuse me, you said, "Brandon Smart."

7 A I'm sorry. Russell Smart.

8 Q Russell Smart. Okay.

9 A Had picked him up at the store in a green Crown
10 Victoria. There were two persons in the back seat. He
11 indicated at that time he didn't know who the two persons
12 were, but we were able to identify those two persons as
13 Brandon Lewis and Tyquan Charlton.

14 They went to the Pinewood Apartments, where
15 he indicated they were going to drop those two persons in
16 the back seat off. He also indicated that while they were
17 sitting in the parking lot, facing the roadway, they were
18 all four still within the car. That a vehicle pulled up
19 next to him.

20 He identified the vehicle as what he believed
21 to be a white in color, four-door Pontiac Grand Prix. He
22 indicated that there were some transaction occurred after
23 that, as far as verbally, and at that point, that's when
24 Mr. Laparis Flowers produced a weapon and fired numerous
25 shots into the vehicle.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q And did he provide the name Laparis Flowers, or
2 did someone --

3 A No. He provided it. He indicated it was Pat
4 Pat.

5 Q So he told you that. Did he indicate that
6 before he picked someone out of that line-up?

7 A That's correct. He indicated it before the
8 line-up was shown to him and before he picked the
9 photograph.

10 Q Did he tell you that he was distracted in some
11 way when this happened, or that he didn't have an
12 opportunity to view the person that shot?

13 A No.

14 Q Did he give you a description of Mr. Flowers, or
15 did you ask for one?

16 A He did not give a description. No, sir.

17 Q And how certain did he appear to be at his
18 choice on that photo line-up?

19 A He was very sure that that was the person that
20 shot into the vehicle.

21 Q How long did it take him?

22 A Ten seconds or less.

23 Q And this was, you said, the day after -- the
24 date after the shooting?

25 A That's correct. A little less than, I guess, 24

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 hours.

2 Q Now, was Mr. Murray hit with a bullet or any
3 projectile?

4 A He was not. Mr. Murray was not struck.

5 Q And was he the only person in the car that
6 wasn't hit?

7 A Yes. He's the only person that was not struck.

8 Q All right. And what number did he pick on that
9 line-up, Court's Exhibit Number 4?

10 A He also picked Number 4.

11 Q And who was in the Number 4 spot?

12 A Number 4 is a photograph of Laparis Flowers.

13 Q And how did he indicate to you that that was his
14 choice?

15 A He circled the Number 4, and then placed his
16 initials, J.M., beside the photograph.

17 Q Did Mr. Murray appear to be pleased to be
18 speaking with you about this?

19 A We actually had quite a difficult time
20 contacting him. He was very scared and did not want to
21 meet with us at the time, just because of his safety.
22 Hence, why his mom brought him up there to speak to us.

23 Q Okay. And finally you were handed Court's
24 Exhibit Number 5. Who was that line-up shown to?

25 A This is the photographic line-up that was shown

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 to Tyquan Charlton.

2 Q When and where did you meet with Mr. Charlton?

3 A We met with Mr. Charlton, I believe it was on
4 December the 10th, 2014, at Augusta University Medical
5 Center, formerly known, I guess, as Georgia Regents
6 University.

7 Q And you said you didn't meet with him until
8 December 10th?

9 A That's correct. Because of a medical condition
10 at the time, we were unable to speak with him until that
11 day.

12 Q Where was he shot?

13 A He was shot in the neck -- throat area.

14 Q And were his injuries, did they appear to be
15 life threatening?

16 A Yes. At the time, we were initially told that
17 they didn't know if he was going to survive.

18 Q Who was present when you met with Mr. Charlton?

19 A Present was myself, Special Agent Natasha
20 Murrell, Detective Manor, with Allendale Police
21 Department, and there were two other females in the room
22 with him at the time. I believe it was his mother and
23 sister.

24 Q All right. What did you tell Mr. Charlton when
25 you handed him that line-up?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 A Mr. Charlton was told the same basic thing, that
2 we were showing him a series of photographs on a sheet of
3 paper. Take his time and identify the person, if he
4 could, whom he said shot into the vehicle.

5 Q Did you suggest anyone or anyone else suggest
6 anyone in that line-up to him?

7 A No, sir, we didn't.

8 Q Did anyone point out any people in that line-up
9 in order to get him to pick someone?

10 A No, sir, we didn't.

11 Q Did anyone identify Laparis Flowers in
12 Mr. Charlton's presence while you were there?

13 A No, sir.

14 Q Did he provide a name to you before he picked
15 someone out of that line-up?

16 A Yes. He actually provided the name Laparis
17 Flowers, is what he told me.

18 Q And did he know Laparis Flowers prior to this
19 incident?

20 A Yes. Also, Mr. Charlton grew up in the
21 Allendale area, has had contact, publicly has known and
22 knows of Mr. Laparis Flowers.

23 Q Did he indicate to you that he had an
24 opportunity to see the person that shot into the vehicle
25 that night?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 A He did.

2 Q And what all did he tell you?

3 A He indicated that he was in the vehicle with
4 Russell Smart. Initially, he first told us that he went
5 to the Lobster House with his sister. He was a little
6 unsure of how he got into Russell's car. He actually told
7 me, he said, "I really do not remember how I got into his
8 vehicle."

9 But he knows that they did end up at the
10 Pinewood Apartments. He indicated that what he believed to
11 be a white vehicle that he stated he thought was a Cavalier,
12 pulled up next to them. He indicated that Mr. Flowers made
13 some sort of comment about, "y'all trying to get at" or
14 "y'all trying to mess with Toot," which is Jaqwavian
15 Williams's nickname.

16 And at that point, Mr. Charlton indicated
17 that shots were fired by Mr. Flowers from his vehicle, which
18 ultimately struck him.

19 Q Did he recall anything after that?

20 A He indicated that after that, he got out of the
21 vehicle, he ran around the vehicle, he got back in, and
22 he, what he termed, "fell asleep." He doesn't really know
23 anything that happened after that.

24 Q Was that interview with Mr. Charlton recorded in
25 any way?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 A Yes, it was. It was audio and video recorded.

2 Q Audio and video recorded.

3 And did Mr. Charlton indicate to you that
4 he was distracted in some way, or any way, when
5 Mr. Flowers pulled up and shot into the vehicle?

6 A No, sir, he didn't.

7 Q Did he -- did you ask him to describe Laparis
8 Flowers or anything like that?

9 A We did not ask for a description.

10 Q Is that because he already knew him?

11 A That is correct. All three of the victims that
12 were surviving knew Mr. Flowers, so we didn't ask for any
13 type of description.

14 Q What number did Mr. Charlton pick on that
15 line-up?

16 A He also picked Number 4, which he indicated by
17 circling the number four, and placing his initials, T.C.,
18 just above the photograph.

19 Q And who was in Number 4?

20 A The Number 4 is a photograph of Laparis Flowers.

21 Q How long did it take him to pick Number 4 in
22 that line-up?

23 A Almost immediately; also in seconds.

24 Q How certain did he appear to be at his choice?

25 A He appeared to be very certain.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q And you said you met with him on December 10th,
2 is that four -- is that four days after the shooting?

3 A Yes, sir. Approximately four days after the
4 shooting.

5 MR. HOLLEN: The Court's indulgence, Your Honor.

6 (Pause.)

7 MR. HOLLEN: Nothing further of Agent Brown.
8 Please answer any questions Mr. Koger has for
9 you.

10 THE COURT: Cross examination.

11 MR. KOGER: Yes. May it please the Court.

12 CROSS EXAMINATION

13 BY MR. KOGER:

14 Q Now, Agent Brown, you met with Mr. Lewis at his
15 grandmother's house on December 7th.

16 A Yes, sir. That is correct.

17 Q And you were aware that he had an earlier
18 meeting with law enforcement the day before?

19 A Well, I believe, yes, sir, he did meet with
20 Detective Manor at some point.

21 Q Okay. Well, this incident allegedly happened
22 about 3:20, 3:30 in the morning, correct?

23 A That's correct, on December 6th.

24 Q And from your investigation, did prior law
25 enforcement spoke with Mr. Lewis about several hours after

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 he got shot?

2 A Yes, sir. We actually had two agents from our
3 Midlands region. Special Agent Shawn Grant and Special
4 Agent Jeremy Smith, because of their proximity to Augusta,
5 went over and spoke with Brandon Lewis while he was at the
6 hospital.

7 Q And so he spoke with him at the Georgia -- the
8 Georgia Regent University?

9 A Yes, sir.

10 Q And when you spoke with Mr. Lewis on December
11 7th, the next day, were you aware of the results of the
12 interview of December 6th, in the early morning hours?

13 A Yes, sir. We were given a verbal account at
14 that time, not the memorandum of interview that you see
15 there. But we were given a verbal account basically of
16 what he said.

17 Q But as far as the verbal -- as far as the verbal
18 account, do you recall him saying that he was in an
19 Explorer?

20 A I do not recall that. I would have to look at
21 that interview account.

22 Q If it was in a memorandum of interview, though,
23 you would agree that that was --

24 A Yes. If that's what is written, then that's
25 what he told me, yes, sir.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q All right. And then, do you recall that when he
2 was interviewed on December 6th, that he could not
3 describe the shooter?

4 A Yes, sir. That is correct, I do remember that.

5 Q And do you recall that he could not describe the
6 vehicle that the shooter was in?

7 A That's correct.

8 Q And do you recall that he could not describe the
9 gun in the shooting?

10 A That's correct.

11 Q And do you recall he stated in that initial
12 interview that he did not know who shot him?

13 A That's correct also.

14 Q Okay. And that he did not recall seeing
15 anything or hearing anything?

16 A Right.

17 Q And that was most recent after the incident,
18 correct?

19 A Yes, that's correct.

20 Q That was several hours after the incident?

21 A Right. That was in the first interview that was
22 conducted with Allendale police.

23 Q And that was the one before you got involved?

24 A That was before I spoke with him. I was
25 involved already. We actually sent those two agents over

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 there because of the distance, the travel from Allendale
2 to Augusta. They were closer, so we sent them over there
3 to speak with him.

4 Q Okay. But you do recall what was told to you
5 from that initial interview several hours after the
6 shooting, that he could not recall anything, he didn't see
7 the shooting, he could not recall the vehicle, and things
8 along that line, correct?

9 A That's correct.

10 Q Okay. Now, had he already been discharged from
11 the hospital the next day?

12 A When I spoke with him, yeah, he was in the bed
13 at his grandmother's house.

14 Q Okay. And I think you testified, too, that in
15 that interview, that he did not actually see Mr. Flowers
16 allegedly shoot him, but he recognized his voice?

17 A He indicated that Laparis Flowers was the person
18 that shot into the vehicle by, you know, initially
19 indicating here on the photograph.

20 He also indicated that he identified him by
21 the sound of his voice.

22 Q Okay. But he initially, before he initialed any
23 type of photo line-up, he initially identified him by his
24 voice.

25 A I believe he indicated after he had identified

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 the photographic line up that he heard his voice, if you
2 go back and listen to the recording.

3 Q And in that recording, and you was there with,
4 you say, Detective Manor and I think Agent Croft?

5 A Yes, sir, Special Agent Croft.

6 Q And Special Agent Croft. And during that
7 interview, do you recall Mr. Lewis being in significant
8 discomfort?

9 A Yes, he did. Like I stated, he did appear that
10 he had probably taken some type of pain medication. He
11 indicated at one point that his arm was hurting where he
12 was shot. So he did appear to be in some type of
13 discomfort.

14 Q And from that audio, do you recall the constant
15 prodding by Investigator Manor to identify Mr. Flowers,
16 even though he, Mr. Lewis, was in pain?

17 A I wouldn't call it "prodding." I mean, he asked
18 him a couple times. Because prior to my going to talk to
19 Mr. Lewis, Detective Manor had spoken with him, and he had
20 told Detective Manor who it was that shot him.

21 Then upon my arrival, he was a little more
22 hesitant. For what reason, I don't know. But I would call
23 it questioning, not prodding.

24 Q Do you recall Mr. Lewis interactions with Mr. --
25 with Detective Manor that he was in constant pain?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A Yeah. He did mention a couple times that he was
2 hurting.

3 Q And he was visibly in pain.

4 A That's correct.

5 Q And that Detective Manor mentioned several times
6 that, "I know you are in significant pain" or something
7 along that line, correct?

8 A I do remember him saying that.

9 Q So is it your testimony that he identified
10 Mr. Flowers in the photo line-up before he stated in the
11 interview that he noticed his voice?

12 A I believe if you go back and listen to the
13 recording, that he ID's him in the photographic line-up,
14 and then after he ID'd him, he mentioned something about
15 hearing his voice.

16 Q Isn't it true that I think he might have said --
17 that he was very hesitant in this audio tape?

18 A Yes, sir.

19 Q He was very hesitant?

20 A Hesitant due to possible retaliation because
21 somebody had just shot him. I can't explain why he was
22 hesitant, but he did appear to be hesitant.

23 Q And this was less than 24 hours -- less than 24
24 hours later, after he initially said that he could not
25 recognize the shooter?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A Approximately 24 hours.

2 Q Okay. And that he could not recognize the
3 vehicle?

4 A That is correct.

5 Q And that he did not know who shot him?

6 A That's correct.

7 Q Okay. And what happened.

8 A Correct.

9 Q Now, in relation to Mr. Charlton, and it was the
10 audio and the video tape of the interview, was he in the
11 hospital, correct?

12 A Yes, sir, that's correct.

13 Q And I think he actually said, isn't it true that
14 in that videotape, that Mr. Charlton stated, and I think
15 you might have touched upon it, that he don't know how he
16 got to the club, correct?

17 A True.

18 Q And he do not know how he left the club, and got
19 to Pinewood Apartments?

20 A Correct. He said basically he ended up in
21 Russell Smart's vehicle. He does not quite remember how
22 he ended up in the vehicle.

23 Q So he doesn't remember how he came to the
24 Lobster House?

25 A Right. He said he believed that he went with

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 his sister.

2 Q Okay. But he was not sure?

3 A Right.

4 Q And he does not remember or recall how he got
5 out to Pinewood Apartments?

6 A Correct.

7 Q But yet he can make an identification on who
8 allegedly shot him on that particular night?

9 A Yes, sir, he did.

10 Q Okay. And then he also testified to that after
11 he got out of the car, he got back into the car and fell
12 asleep?

13 A That's correct.

14 Q And did you inquire further what he meant by
15 "falling asleep"?

16 A No sir, I did not ask him what he meant by
17 "falling asleep."

18 Q Was it slang, or did he actually fell asleep?

19 A I don't know if he fell asleep, I don't know if
20 it was because of his injury that he passed out. I mean,
21 I can't explain that. That would be something you would
22 have to ask him.

23 Q Did he indicate or did he give a reason why he
24 couldn't remember how he got to the Lobster House and why
25 he couldn't recall how he ended up at Pinewood Apartments?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A No, sir, he didn't.

2 Q Did he -- he didn't mention whether he engaged
3 in alcohol or drugs on that particular night?

4 A No, sir, I did not ask him that.

5 Q Now, how long did that interview last
6 approximately?

7 A If I had to guess, I don't know specifics on the
8 time of it. It was probably no more than 15 minutes or
9 so.

10 Q Okay. And you stated that he had some family
11 members that was there with him, and they remained in the
12 room?

13 A I do not remember exactly if they were inside
14 the room. The rooms, you can hear on the audio, nurses
15 talking. They were the rooms that had, like, the curtain
16 dividers and stuff in them. I don't remember if the
17 family members were still within that area, of if they
18 were just outside of that area.

19 Q Okay. All right. And, of course, it came to a
20 point that the videotape was placed on, and you videotaped
21 the interview.

22 What conversations took place between you
23 or Agent Croft or Detective Manor, or I think you may have
24 mentioned Agent Murrell was also there?

25 A Agent Croft was not there.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q Okay. But he was at the other one?

2 A Yes, sir.

3 Q Okay. So it was you, Agent Murrell, and
4 Detective Manor?

5 A Yes, sir, that's correct.

6 Q Okay. Fine. What conversations took place
7 before his statement was actually videotaped?

8 A The only thing that I remember telling Tyquan
9 was the reason that we were there prior to turning on the
10 video. There was no interview, there was nothing, no
11 rehearsal of statement, anything of that nature prior to
12 that video coming on.

13 So the only thing that I would have told him
14 was introduce myself, tell him who I was, and why I was
15 there.

16 Q Did you or Agent Murrell or Detective Manor
17 engage any other family members there with there with
18 Mr. Charlton?

19 A We, at one point, I remember speaking with some
20 family members in the hallway. Like I said, introducing
21 myself, telling who I was, you know, kind of what the
22 process of the investigation was going to be. As far as
23 actually interviewing anybody, no, sir. No one else was
24 interviewed at the hospital.

25 Q Did they give you their thoughts on what

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 happened on that particular evening?

2 A Of course, they had some thoughts and opinions
3 as to who might have been involved, or the rumor mill as
4 to who they thought might have been involved. But like I
5 said, no evidence or statements were taken from those
6 persons.

7 Q So they relayed their thoughts and opinions
8 before you cut on the video?

9 A No, sir. I believe that was after we actually
10 interviewed him that we spoke with all of them in the
11 hallway.

12 Q Okay. Afterwards.

13 A I believe so.

14 Q Okay. All right. And I think you testified to
15 Mr. Murray that he didn't know -- he -- the only person in
16 the vehicle that he knew was Mr. -- was Mr. Smart?

17 A That's correct. He indicated that there were
18 two other persons in the back seat, but he didn't know
19 those two persons.

20 Q Okay. And after the shooting, after the
21 shooting again, he ran -- he ran immediately?

22 A You talking about Mr. Murray?

23 Q Murray.

24 A Yes, sir. He indicated that when the shooting
25 started, that he jumped out of the vehicle and ran, and

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 there were multiple other persons in the parking lot area
2 of the Pinewood Apartments. He ended up jumping in the
3 vehicle with one of those persons and left the area.

4 Q From your investigation in relation to the
5 identifications, do you know at what point did the vehicle
6 that Mr. Smart was in started to move, or when he drove
7 off?

8 A I don't know how many seconds after the actual
9 shooting occurred. I don't know how quickly that vehicle
10 started to take off. I don't know.

11 Q Okay. So you don't know. You don't know how
12 long and how long either vehicle was stationary to make an
13 identification?

14 A No, sir. I couldn't testify to that. I wasn't
15 there at the location when the incident occurred.

16 Q Okay. And from your investigations, you were
17 not able to make that determination?

18 A No, sir.

19 Q Thank you.

20 THE COURT: Anything further?

21 MR. KOGER: No, sir.

22 THE COURT: Redirect?

23 MR. HOLLEN: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. HOLLEN:)

REDIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Q How many shots were you able to determine were
2 fired into the vehicle?

3 A I believe there were four shots that actually
4 struck the vehicle.

5 Q So the vehicles were next to each other long
6 enough, you said, that there were some words spoken?

7 A That's correct.

8 Q And four shots were fired?

9 A That's correct.

10 Q As far as the interview with Mr. Lewis, he did
11 give an interview initially that he said he couldn't
12 identify anyone, correct?

13 A That's correct.

14 Q And between that interview and your interview,
15 did he speak with someone?

16 A He spoke with Detective Manor.

17 Q And did Detective Manor have -- you said he had
18 a conversation with him prior?

19 A That's correct.

20 Q And did he indicate to Detective Manor, to your
21 knowledge, that he knew who shot him?

22 A That's correct. Detective Manor contacted me, I
23 believe it was early that morning. We were on the way
24 over here, and he indicated that he had spoken with
25 Brandon Lewis, and that Brandon Lewis told him that

REDIRECT EXAMINATION OF CHARLES MATT BROWN BY MR. HOLLEN

1 Laparis Flowers was the person that pulled up next to him
2 and shot into the vehicle.

3 Again, that's when we went over to get him to
4 actually tell us, because we're the investigating agency,
5 who it was that he saw shoot into the vehicle.

6 Q And it was at that point that you went to his
7 house, audio recorded the interview and spoke with him.

8 A That's correct.

9 MR. HOLLEN: Court's indulgence, Your Honor.

10 (Pause.)

11 MR. HOLLEN: Nothing further.

12 THE COURT: Recross, limited to the redirect.

13 RE-CROSS EXAMINATION

14 BY MR. KOGER:

15 Q Of the four shots from your investigation, the
16 four shots was from -- depending on which direction you go
17 from, the four shots was from the door to the back of the
18 car, or the side of the back of the car, right?

19 A Yes, sir. I believe they were from the door
20 area all the way to the rear taillight area of the
21 vehicle.

22 Q Okay. Which would indicate that one of the
23 vehicles were moving, correct?

24 A I mean, I can't assume that. I think that's
25 speculation on my part. I don't know if the vehicle was

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 moving, a person was moving. I -- I --

2 Q But the shots were not all in one place.

3 A No, sir, they were not all in one spot.

4 Like I said, from the front door to the rear
5 taillight.

6 Q Thank you.

7 THE COURT: Anything further of this witness?

8 MR. HOLLEN: No, Your Honor.

9 THE COURT: You may step down. Thank you,
10 Mr. Brown.

11 Mr. Koger, does the Defendant object to the
12 out-of-court identification?

13 MR. KOGER: Yes, Your Honor.

14 THE COURT: Let me hear from you on your
15 objection.

16 Come on up to the clerk's desk for me and bring
17 your file if you need to.

18 MR. KOGER: Your Honor, may it please the Court.

19 In reference to the identification of
20 Brandon Lewis, actually as SLED Agent Brown testified
21 to, actually on two different interviews. In the
22 first interview, which was the most recent after the
23 incident -- the incident, again, allegedly occurred
24 3:19 to 3:30 or what have you. The incident took
25 place several hours earlier at the Georgia Regents

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 University, I think, maybe between nine and ten. He
2 stated at that particular time that he could not
3 identify the car, he could not identify the shooter,
4 he didn't see a gun, he didn't see anything. Less
5 than 24 hours later, then he made these
6 identifications.

7 Now, the State attempted to say, well, you know,
8 he was, you know, he was maybe earlier he was not
9 really in his right mind. But if he had identified
10 on December 6th that Mr. Flowers was the person in
11 the car, then the State would have gone with that
12 identification.

13 With that being said, in looking at the four
14 prongs of our Neal, and its project, the degree of
15 attention in relation to the Brandon Lewis falls here
16 because, again, 24 hours earlier he couldn't identify
17 the car, he couldn't identify the shooter, he
18 couldn't identify anything. And 24 hours later, then
19 he can -- he can identify.

20 My recollection from discovery is that he made a
21 voice identification, and then it was a photo ID for
22 identification. Agent Brown disputes that, but that
23 can be played out.

24 So, as far as the identification of Mr. Lewis,
25 that prong as far as with the degree of attention,

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 the level of certainty because of the first interview
2 saying he didn't see anything, and the accuracy,
3 we -- it seems some type of suggestion that must --
4 could have occurred between the first interview and
5 the second interview.

6 In relation to Tyquan Charlton, that is somewhat
7 troubling. And this was three days later, he
8 testified to, "I don't know how I got to the Lobster
9 House, I don't know how I got there. I don't know
10 when I -- you know. Somehow I left the Lobster House
11 because I ended up in Pinewood Apartments. I don't
12 know how I got to Pinewood Apartments, but I know
13 that, according to Mr. Charlton, Laparis Flowers shot
14 him.

15 Again, that goes to, at least for this purpose
16 right here, Your Honor, and I know the burden of
17 proof here is by the preponderance of the evidence to
18 see whether the identification will be valid for the
19 Court. But then, again, it goes to the degree of
20 attention, the accuracy of the identification, and
21 level of certainty.

22 So -- and so in relation to Mr. Lewis and in
23 relation to Mr. Charlton, I don't think that the
24 State has met its burden.

25 As far as Mr. Murray, that is of -- you know,

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 based on the Court's discretion, again, with not
2 knowing how the cars was lined up, Agent Brown was
3 somewhat -- he say that he cannot attest to it, that
4 Brandon Lewis was in the rear, left side of the rear,
5 Mr. Charlton was more in the middle on the rear, and
6 Mr. Murray was in the front seat.

7 Again, not really knowing how the cars or any
8 testimony on how the cars were lined up, that is also
9 in relation to Mr. Murray, that he didn't have the
10 direct opportunity to see the degree of and accuracy
11 of identification, and the level of certainty. And
12 we also challenge that identification, too, and that
13 on all three -- on all three of them, Mr. Lewis,
14 Mr. Charlton, and Mr. Murray, the State has not met
15 its proof for these identifications to be considered
16 reliable and admissible for the case-in-chief.

17 THE COURT: Thank you.

18 Solicitor.

19 MR. HOLLEN: Thank you, Your Honor. May it
20 please the Court.

21 First of all, Your Honor, we're talking -- in
22 the Defense's argument as far as Mr. Lewis's first
23 meeting with SLED agents, it is true that he met with
24 them, and apparently was not able to tell them
25 anything about --

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 THE COURT: You are talking about the meeting,
2 in which this witness was not present.

3 MR. HOLLEN: That is correct, your Honor. That
4 is -- in the State's, the State would argue that it
5 is not part of the admissibility of this, it's more
6 of a weight argument --

7 THE COURT: Mr. Koger has every right to bring
8 that to the jury's attention in order to determine
9 the reliability or suggestiveness of any out-of-court
10 identification, Solicitor.

11 MR. HOLLEN: I would completely agree, Your
12 Honor. However, our argument is that that would get
13 you the weight of the statement rather than the
14 admissibility in this hearing.

15 The same thing goes with Mr. Charlton. He can
16 certainly make the argument to the jury as far as the
17 weight goes, that he didn't know anything about how
18 he got into the car and that sort of thing. But I do
19 not believe that it goes to the admissibility for
20 purposes of the trial.

21 The burden is on the Defendant to show by a
22 preponderance of the evidence that the identification
23 was so unduly suggestive as to make it prejudicial.
24 Only then did the burden shift to the State in order
25 to show, using the State, the Cheesborough and the

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Neal V Biggers factors, about this five factors, as
2 far as the reliability under the totality of the
3 circumstances.

4 The witnesses all said they saw Mr. Flowers in
5 the car before he shot. No one indicated that they
6 were looking elsewhere or doing something different
7 as far as the degree of attention. That would be the
8 second factor.

9 They all knew him, there was no description
10 provided by any of the witnesses in the case, so I
11 don't believe the third factor, according to
12 Cheesborough and Biggers, is the problem for the
13 level of certainty.

14 All of them, according to Agent Brown, seemed to
15 demonstrate that they were extremely certain with
16 their choice, and finally these identifications
17 factored the length of time between the crime and
18 confrontation occurred, one day, one day, and four
19 days after the shooting.

20 I think, based on all the factors, that the
21 State has demonstrated that the identification was
22 reliable, and that it should be admitted for purposes
23 of the trial.

24 Thank you, Your Honor.

25 THE COURT: Mr. Koger, I certainly understand

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 your concerns, but I think in order to be a good
2 advocate for your client you have every right to
3 bring out the disparity and the concern of
4 identification to the jury's attention.

5 However, as I pointed out in chambers, the
6 burden of proof is on the State and includes the
7 identity of the Defendant beyond a reasonable doubt.
8 And when I say that, I mean to say it has to prove
9 the Defendant was the person who committed the crime.

10 Identification testimony is always going to be
11 an expression of a belief or impression about a
12 witness, and the jury has to determine the accuracy
13 from what you elicit on both cross examination and
14 direct examination.

15 I have listened carefully to Mr. Brown and,
16 Solicitor, I think if either one of you had bothered
17 to ask him whether or not -- and I should have asked
18 him -- whether or not anybody in the line-up
19 consultation was required to pick anyone out.

20 Because normally, SLED advises people that they
21 don't have to pick anyone if they can't pick anyone
22 out.

23 Even though Mr. Koger argued that, he didn't ask
24 that question of the witness in cross examination.

25 I have carefully considered the totality of the

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 circumstances and observed witnesses who testified,
2 and I considered the factors. The State would have
3 me believe that there is an older case, the McCloud
4 case, you knew the Defendant so well that you could
5 waive a full Neal versus Biggers hearing. But I
6 decline to do so in this case, and that is why I
7 wanted to give you extensive cross examination.

8 Does the Defendant wish to put up any additional
9 evidence?

10 MR. KOGER: No, Your Honor.

11 THE COURT: All right. Well, I believe that
12 applying the factors that I consider in Neal versus
13 Biggers, which is the opportunity for the witness to
14 give their views, the witness' degree of attention,
15 the accuracy of the witness' prior description, the
16 level of certainty demonstrated by the witness at the
17 confrontation, and I have to look at the length of
18 time between the alleged crime, or event, and the
19 confrontation.

20 And I conclude that there is sufficient evidence
21 to admit the identification into evidence in the
22 trial of this case by the preponderance of the
23 evidence.

24 I would point out to you, Mr. Koger, that I
25 intend to charge the jury that the jury must be

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 satisfied beyond a reasonable doubt on the accuracy
2 of the identification of the Defendant before they
3 may find the Defendant guilty.

4 And if, after examining the testimony, the jury
5 has a reasonable doubt as to the accuracy of the
6 identification, the jury must find the Defendant not
7 guilty.

8 The evidence is admissible, the court reporter
9 now has Court's Exhibits 3, 4, and 5 will be admitted
10 into evidence in the trial of this case, based on the
11 hearing of Agent Brown.

12 Thank you both for being well prepared during
13 the hearing. That concludes the hearing and the
14 record in this matter.

15 *(Whereupon, Court's Exhibit No(s) 3-5 marked*
16 *for identification and received in evidence.)*

17 Solicitor, I suggest, even though the family
18 court case in the McCloud case, that whenever you
19 have an out-of-court identification, that was my dear
20 friend Jim Johnson's case, you will find that case in
21 Liberman, L-I-B-E-R-M-A-N. It's a 2009 case, where
22 the issue of McCloud came up and Judge Johnson was
23 criticized for not giving what defense counsel called
24 a full Neal versus Biggers hearing because of prior
25 knowledge.

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 And, therefore, I find that to be a red herring
2 issue. I believe, why not? If you have an in-camera
3 hearing, why not have a full hearing, which is why I
4 asked the Defendant if he wanted to put up any
5 additional evidence in this case.

6 Now, we will start, hopefully I'll be able to
7 start by 9:45 in the morning. But I'm trying to not
8 make jurors drive when there's still ice on the
9 secondary roads. Hopefully by tonight, when the
10 sun's up tomorrow, there won't be any ice on the
11 secondary roads to get here.

12 But if we don't start until 10 o'clock, that's
13 fine, as long as I get my jurors here safely.

14 I know you drove coming in here, both 641 and 64
15 still have a tiny little bit of ice this morning.
16 Not a lot, but mainly clear, and the closer we got to
17 Allendale, the clearer it became, which made me
18 believe Allendale didn't get the amount of snow that
19 we got in Walterboro County. And my law clerk says
20 Dorchester got the most, they got over seven inches
21 in Dorchester County. But I want everybody to be
22 safe.

23 Try to be here by 9:30. We'll start somewhere
24 between 9:30 and 10 o'clock in the morning.

25 This court stands adjourned until in the

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 morning. Thank you very much.

2 (Whereupon, the Court was in recess for the day.

3 Proceedings continue on the 9th of January 2018.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

RE-CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1

2

In the Court of General Sessions for the

3

State of South Carolina, County of Allendale

4

5

Case No.: 2014GS0300229

6

00231, 00232, 00233, 00234

7

State of South Carolina,

8

Plaintiff(s),

9

vs.

Transcript of Record

10

Laparis Shemel Flowers,

11

Defendant(s).

12

13

14

15

16

17

January 9, 2018

18

Allendale, South Carolina

19

20

21

22

23

BEFORE:

24

The Honorable Perry M. Buckner

25

RECROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

TRIAL PROCEEDINGS OF 1-9-2017

PROCEEDINGS

OPENING REMARKS BY THE COURT

1
2
3 THE COURT: All right. Let's be seated.

4 MS. LEGETTE: There is a matter with the jury
5 before we proceed, Your Honor.

6 THE COURT: What is it?

7 MS. LEGETTE: There is a matter with the jury.
8 There is an issue with the jury.

9 THE COURT: Counsel, approach.

10 THE COURT: Mr. Freddy, I want you to go to the
11 jury room and bring me just Mr. Kristopher Finley.
12 He's Juror Number 69. He's on my jury. Just him.
13 Ask him to step out here.

14 THE DEPUTY: Yes, sir.

15 THE COURT: Let the record reflect, Mona, that
16 Corey Williams says that this juror came in this
17 morning and told him that I asked a voir dire
18 question about being a witness in a criminal case
19 yesterday, and that he had previously been an officer
20 in the Fifth Judicial Circuit -- Richland, Kershaw,
21 from my understanding. I'm going to have to inquire.
22 And then he wanted to make us aware that he had been
23 a witness.

24 Come in, if you would. Have a seat right there.

25 You are Mr. Kristopher Finley; is that right?

OPENING REMARKS BY THE COURT

1 THE JUROR: Yes, sir.

2 THE COURT: All right. Mr. Finley, I understand
3 that this morning when you came in, that you went to
4 Mr. Williams, who -- stand up for me.

5 You went to Mr. Williams, told Mr. Williams that
6 I had asked a question yesterday -- and you are doing
7 exactly what I asked you to do, so I appreciate that.
8 I had asked a question yesterday, anyone been a
9 witness in a criminal trial; is that right?

10 THE JUROR: Yes, sir.

11 THE COURT: And you recall that you had been a
12 witness when you were an officer in the Fifth
13 Judicial Circuit, that's Richland and Kershaw County.

14 THE JUROR: Yes, sir.

15 THE COURT: And you had been a witness
16 previously in a case in that circuit; is that right?

17 THE JUROR: Yes, sir.

18 THE COURT: The fact that you were a witness in
19 that circuit, would that in any way affect your
20 ability to give the State of South Carolina or the
21 Defendant in this case, Laparis Flowers, a fair and
22 an impartial trial?

23 THE JUROR: No, sir.

24 THE COURT: It would not. But you wanted to
25 make us aware of that fact; is that correct?

OPENING REMARKS BY THE COURT

1 THE JUROR: Yes, sir.

2 THE COURT: Very good. I thank you for doing
3 exactly what I asked you to do, and appreciate it.
4 You may return to the jury room.

5 THE JUROR: Yes, sir.

6 THE COURT: Any exceptions or objections to the
7 juror, from the State?

8 MS. LEGETTE: None from the State.

9 THE COURT: From the Defendant?

10 MR. KOGER: No objection from the Defendant,
11 Your Honor.

12 THE COURT: It appears that he was a witness in
13 another circuit. It either had to be Richland County
14 or Kershaw County, and he says it would not affect
15 his ability to be fair and impartial to the
16 witnesses. The juror is qualified.

17 Is the State ready to proceed?

18 MS. LEGETTE: The State is ready to proceed,
19 Your Honor.

20 THE COURT: Is the Defendant ready to proceed?

21 MR. KOGER: Yes, Your Honor.

22 THE COURT: Do you both wish to make an opening
23 statement, or do you wish to wait until the start of
24 your case? Mr. Koger?

25 MR. KOGER: Opening statement, Your Honor.

OPENING REMARKS BY THE COURT

1 THE COURT: You want make an opening statement.

2 All right.

3 Bring us the jury, Mr. Freddy.

4 MR. HOLLEN: Your Honor, I'll be opening for the
5 State.

6 THE COURT: Very well. We have identified you
7 as being an attorney in this case. Mr. Williams is
8 definitely a part-time attorney, at least, in this
9 case.

10 Come on. Mr. Phil, all the way -- where is
11 Mrs. Brooks?

12 Ms. Brooks, step on out with me. You're advised
13 to still only stand right there, let the rest of the
14 jury get in the box. All right?

15 THE JUROR: Yes, sir.

16 THE COURT: Now, where are my three alternates?
17 I want you on these three end chairs right here. Not
18 that one, sir.

19 I got three alternates -- no, John -- all right.

20 Ma'am, you're not an alternate?

21 THE JUROR: Yes, sir.

22 THE COURT: All right. Ms. Brooks, you have a
23 seat in front.

24 And ma'am, you're not an alternate, right?

25 THE JUROR: No.

OPENING REMARKS BY THE COURT

1 THE COURT: Okay. I've got it right now. Thank
2 you.

3 Ms. Brooks, I'm going to appoint you to be
4 foreperson of the jury. That will be your seat. The
5 rest of you, let my alternates sit on the end so I
6 know the order in which you were picked.

7 If someone becomes ill, or for some reason
8 cannot continue, you would take their place on the
9 jury, so you're just as important, as alternates, as
10 any member of the jury.

11 Please be seated, Ms. Brooks.

12 Ms. Brooks, you will be the foreperson... Let me
13 tell you your duties. Your duties will be to preside
14 in the jury room once deliberations begin, just like
15 the chairperson of a committee would preside. See
16 that each and every member of my jury has a full and
17 a fair opportunity to voice their opinions in the
18 jury room once deliberations begin.

19 It will also be your job as the foreperson to
20 write the jury's verdict. You will sign for the
21 entire jury on the verdict form. I'll prepare the
22 verdict form for you and I'll explain the verdict
23 form, and I'll charge to you on the law. So you will
24 sign the verdict for the jury.

25 You also, if necessary, will be the jury

OPENING REMARKS BY THE COURT

1 spokesperson out here in the courtroom, should that
2 need arise during the trial of the case. So your job
3 as foreperson, your vote is the same as any of the
4 other votes, because the verdict of the jury must be
5 unanimous. But you will preside to see that each and
6 every member of my jury has a full and fair
7 opportunity to voice their opinions. You will sign
8 the jury's verdict.

9 One of the things that when you're going to be
10 asked to sign, in addition to the verdict form, you
11 are going to be -- whatever you write on the verdict
12 form, I want you to write the same words on the back
13 of each indictment.

14 My law clerk, David Nazeroli (phonetic), knows
15 that his job is not to let you leave, Ms. Brooks,
16 until you sign the indictments as well as the verdict
17 form. Don't leave the courtroom without having
18 signed both at the end of the trial.

19 And your job will be, if necessary, the jury --
20 take a seat for me.

21 THE JUROR: Yes, sir.

22 THE COURT: When I'm speaking to the jury,
23 there's not going to be any getting up, walking
24 around and talking. Do you understand?

25 THE JUROR: Yes, sir.

OPENING REMARKS BY THE COURT

1 THE COURT: Your job also will be, if necessary,
2 to be the jury spokesperson here in the courtroom, if
3 that need should arise during the trial of the case.

4 Do you understand your duties, Ms. Brooks?

5 THE FOREPERSON: Yes, Your Honor.

6 THE COURT: I know you will do a great job as
7 foreperson, and I appreciate your service as well as
8 the service of each and every one of you on the jury.

9 All right, Madam Clerk, if you would, please
10 swear the jury.

11 THE CLERK: Good morning.

12 Do you swear or affirm that you shall well and
13 truly try true deliverance make between the State of
14 South Carolina and the Defendant at the bar, whom you
15 shall have in charge, and that your verdict, given
16 according to the evidence, so help you God?

17 If you accept this oath, please indicate by
18 saying, "I do," at this time.

19 (Jurors indicate.)

20 THE COURT: Is there anyone on the jury, whether
21 a member of the jury or an alternate, that did not
22 accept the oath just administered by the Clerk of
23 Court of Allendale County? If so, please stand at
24 this time.

25 (No response.)

OPENING REMARKS BY THE COURT

1 THE COURT: Let the record reflect that no
2 jurors are standing, and all have accepted the oath.

3 All right. Ladies and gentlemen, let me go over
4 a couple of housekeeping matters. Once again, the
5 clock, don't pay any attention to it, it's wrong in
6 Allendale. They tell me that they are going to try
7 to get it fixed. It hasn't worked now for the last
8 three terms of court, so I can promise you I keep
9 time up here, correct time, and I'll be mindful of
10 your time. But don't use that clock in the back,
11 because they have been having problems with it.

12 While you are selected on the jury, I need to go
13 over some rules with you to make sure everybody is
14 clear.

15 First of all, I don't want you to discuss this
16 case with anybody else, including your fellow jurors,
17 until I authorize you to do it. And when I authorize
18 you to do it, I want you to discuss it only with your
19 fellow jurors in your jury room and no one else.

20 I don't want you to read or listen to any news
21 reports about this case. I don't want you to use a
22 computer or a cellular phone or any other electronic
23 device with communication capability while in
24 attendance at the trial or during deliberations.

25 I know everyone thinks they can't live without

OPENING REMARKS BY THE COURT

1 their cell phone or their computer. I'll tell you
2 about mine. Here it is right here.

3 This is an iPhone. It's -- I think it's an
4 iPhone 7. I have never turned this phone on ring. I
5 have had it for three years. We don't allow cell
6 phones in the courtroom because obviously the noise
7 interferes, and people are very -- they just think
8 they can start taking calls wherever they are.

9 It's very important that you pay attention to
10 the evidence in this case, not try to do any research
11 on the computer, not try to do any research on the
12 cell phone. So I don't want you to use the computer
13 or cell phone or any other electronic device with
14 communication ability to obtain or disclose
15 information about this case, whether you are in court
16 or out of court.

17 The information that I'm talking about would
18 include, but not limited to, I don't want you to try
19 to gather information about a party, or a witness, or
20 an attorney, or a court officer, or a news account of
21 the case, or any information collected through any
22 juror research on any topic that may be raised, or
23 testimony offered by any witness.

24 I don't want you to have or try to collect
25 information through any type of juror research on

OPENING REMARKS BY THE COURT

1 your computer or your cell phone on any topic. Even
2 if you feel that research would help you in deciding
3 the case, it's improper.

4 Both of the parties in this case, the State and
5 the Defendant, Lapolis Flowers, have the absolute
6 right to know exactly what information you are basing
7 your decision on.

8 So any type of research by you on the computer,
9 on a cell phone, is prohibited... So I'll ask you not
10 to communicate with anyone about the case on your
11 cell phone, through email, Blackberry, iPhone, text
12 messaging, or on Twitter, or through any blog or
13 website, including any Internet chat room, or by way
14 of any other social networking website, which would
15 include Facebook, MySpace, LinkedIn, YouTube -- all
16 of those things, ladies and gentlemen, are
17 prohibited..

18 So don't try to do any research. You must base
19 your decision solely and only on the evidence which
20 is presented when both sides are present with the
21 right of cross examination.

22 Now, everyone understands, no computer research?
23 Any questions about that from anybody?

24 (No response.)

25 THE COURT: All right. Now, one of the reasons

OPENING REMARKS BY THE COURT

1 that we only allow one person to talk in the
2 courtroom is the court reporter can't take down two
3 people talking simultaneously. I also don't allow
4 people to get up and walk around in the courtroom,
5 because it makes you move your head and look at
6 people walking and talking. So I'm going to see to
7 it that the courtroom remains quiet, and that one
8 person speaks.

9 If you can't hear at any time, raise your hand
10 for me. This courtroom is beautiful, but it's got a
11 40-foot ceiling, and the sound goes straight up to
12 the ceiling.

13 It is particularly more difficult if somebody
14 talks while somebody else is talking, because it
15 muffles what's being said. Makes it difficult for
16 you to hear.

17 Don't hesitate to let me know if you can't hear
18 because the acoustics in this courtroom, those panels
19 which are supposed to solve the acoustic problems,
20 the blue panels all the way around the walls, don't
21 do it. It's probably the most difficult courtroom in
22 the state to be able to hear in.

23 So if you can't -- I have jurors that sometimes
24 tell me that they can't hear a witness on the witness
25 stand. You notice I make the lawyers come up here.

OPENING REMARKS BY THE COURT

1 They love to stay back there at their desk, to put
2 their head down and mumble, but I can assure you I'm
3 not going to let them do that in this case.

4 Nor am I going to let people walk around the
5 courtroom while you are trying to pay attention to
6 what's going on during this case. This is a serious
7 matter, and I want to make sure we have your
8 undivided and complete attention without any
9 distractions.

10 Now, before we begin this trial, ladies and
11 gentlemen, I want to tell you that this trial is
12 probably going to be different from what many of you
13 on this jury -- do I have anybody that's never been
14 on a circuit court jury on the jury?

15 One -- two. I have two. All right.

16 Well, it's going to be different from what many
17 of you might expect. I realize that most of you
18 don't have the chance to attend an actual court
19 session, as each of you are doing now, and
20 unfortunately, many people think from watching
21 television, which is my greatest enemy in the
22 courtroom, or going to a movie, or reading a book,
23 that trials are always full of high drama and intense
24 action, and riveting, and entertaining circumstances.

25 In fact, television would have you believe that

OPENING REMARKS BY THE COURT

1 those back two doors are going to open and a person
2 in a white coat and a test tube is going walk in here
3 and say, "Let me tell you who did what. I found it
4 in the lab."

5 Ladies and gentlemen, the truth of the matter is
6 that intense action and entertaining circumstances,
7 while all those things may be true at times, an
8 actual trial is not for entertainment, like a
9 television program or a movie or both.

10 An actual trial is a fundamental part of our
11 democracy. It is a search for the truth in an effort
12 to make sure that justice is done between parties
13 before the court.

14 Searching for the truth and trying to make sure
15 that justice is done is often slow. It is often very
16 deliberate. It is often repetitive. It is the exact
17 opposite of what you may have seen on television or
18 seen in a movie or read in a book.

19 This courtroom, ladies and gentlemen, is a place
20 of honor. It is dedicated to the protection and the
21 preservation of citizens's rights through what many
22 people have called the greatest justice system in the
23 world.

24 The attorneys that are going to be appearing
25 before you are advocates for the parties they

OPENING REMARKS BY THE COURT

1 represent, either the State of South Carolina or the
2 Defendant.

3 But first and foremost, the attorneys are
4 officers of this court. And as officers of this
5 court, you just took an oath as jurors, the attorneys
6 and I have taken an oath. And the oath the attorneys
7 took, they swore in their -- that they would uphold
8 the integrity and the fairness of our system. And
9 their job is to present all the evidence to you so
10 that you can render a decision in this case with
11 integrity and with fairness.

12 So you should expect the attorneys, ladies and
13 gentlemen, from the oath that they took, to be
14 professional, to be competent, and to be ethical in
15 the representation of their client's interest. They
16 are going to be courteous, ladies and gentlemen, I
17 can assure you of that. I'll see to that.

18 They know they took an oath of civility, and
19 they took an oath to be courteous in being an
20 advocate of their party, of their client's interest.

21 But I want to remind you that just as the
22 attorneys have taken an oath, and I have taken an
23 oath, you have now taken an oath as jurors. And in
24 that oath, you have sworn that you would pay close
25 attention to this case, and you would consider all

OPENING REMARKS BY THE COURT

1 the evidence in this case appropriately.

2 So you also, ladies and gentlemen, just like the
3 attorneys and myself, you as jurors, have sworn that
4 you will be professional, reasonable, and ethical in
5 the discharge of your duty as jurors.

6 I want to thank each and every one of you for
7 accepting this important responsibility of jury
8 service, and for your contribution today to our
9 justice system. Without you, ladies and gentlemen of
10 the jury, justice could not be accomplished in a
11 courtroom. And I thank you for your accepting this
12 responsibility.

13 Now, ladies and gentlemen, I have appointed a
14 foreperson, and that is the foreperson's seat where
15 Ms. Brooks is sitting. The rest of you can sit
16 anywhere you want to. I like to have my alternates
17 on the end because the alternates are very important.
18 They're going to be with you throughout the trial of
19 the case. But if for some reason a juror becomes
20 ill, or for some sufficient legal reason cannot
21 continue, then one of the alternates will take their
22 place on the jury. They are going to be with you
23 throughout the trial. They are just as important as
24 a member of the jury. They can't be a foreperson,
25 but they are going to be here while all the evidence

OPENING REMARKS BY THE COURT

1 is presented, and that's what you are going to base
2 your decision on, ladies and gentlemen, is only on
3 the evidence that's presented in this case.

4 So if you want to sit by somebody, just line up
5 in the back and file all the way down. I think it's
6 better if you move all the way down. If somebody --
7 I have people slip sometimes falling over people. So
8 the foreman comes in last, this will be her seat,
9 along with my alternates coming in last. That's
10 going to be y'all's seat. The rest of you just file
11 all the way down. If you want to sit by somebody,
12 just line up that way.

13 All right. Madam Foreperson, ladies and
14 gentlemen of the jury, my alternates also, let's talk
15 about how we are going to proceed.

16 The case that we are about to try is the case of
17 the State of South Carolina versus Laparis Flowers,
18 the Defendant, who is seated at the defense table,
19 with his lawyer, Mr. Koger. You met the lawyers
20 yesterday.

21 All right. The Defendant is charged by these
22 five pieces of paper, that is why you will have to
23 sign them, Madam Foreperson, which we call
24 indictments. I read to you the allegations in these
25 indictments yesterday.

OPENING REMARKS BY THE COURT

1 The indictments are not evidence. They are just
2 allegations. The Defendant is charged with the
3 offense of murder; the Defendant is charged with
4 three counts of the offense of attempted murder; and
5 the Defendant is charged with one count of possession
6 of a weapon during the commission of a violent crime.

7 I'm going to go into detail in my charge to you
8 on the law at the conclusion of the case about the
9 elements of each of the charges for which the
10 Defendant is indicted.

11 The indictments are the formal written
12 instruments by which the case is brought into this
13 court. And the Defendant is charged by these
14 indictments, the elements of which I will explain to
15 you later.

16 Why? Because we don't -- we normally wait and
17 do the charge, ladies and gentlemen, after the
18 evidence because the evidence determines what charge
19 on the law I give you.

20 So I haven't heard the evidence in this case. I
21 know nothing about it. And I asked you all the kind
22 of questions to make sure that you knew nothing about
23 it, so that we will hear the evidence for the first
24 time. And then I can make a decision as we hear the
25 evidence what the law charge is.

OPENING REMARKS BY THE COURT

1 So I'll explain the elements of the crime and
2 the law at the conclusion of the case in my charge to
3 you on the law.

4 You should understand for now that the
5 indictments charging Mr. Flowers with these crimes is
6 simply the charges on which the case is brought into
7 the Court of General Sessions. And that the
8 indictments are not in any sense evidence of any of
9 the allegations contained in the indictments.

10 Now, the Defendant has pled not guilty to these
11 indictments. The State of South Carolina, therefore,
12 has the burden of proving each of the essential
13 elements of the indictment beyond a reasonable doubt.
14 And it will be your duty, ladies and gentlemen of the
15 jury, to decide whether or not the State of South
16 Carolina has met that burden.

17 It is your solemn responsibility as jurors,
18 ladies and gentlemen, to determine the guilt or the
19 innocence of the Defendant. And your verdict must be
20 based solely and only on the evidence as it is
21 presented to you in this trial, and on the law as I
22 charge it to you to be during the trial and in my
23 charge on the law at the conclusion or closing of the
24 trial.

25 Now, in just a minute, the Assistant Solicitor

OPENING REMARKS BY THE COURT

1 for the Fourteenth Judicial Circuit, representing the
2 State of South Carolina, will make what is called an
3 opening statement. We have rules about everything,
4 ladies and gentlemen of the jury. We have rules
5 about who gives the opening statement first, who
6 argues first, who argues second, what order -- how
7 evidence is going to be presented. It is my job to
8 enforce those rules.

9 So the Assistant Solicitor will make what is
10 called an opening statement, which she will explain,
11 or he will explain to you -- since I have both a
12 female and a male Assistant Solicitor here for this
13 trial -- what they contend to be the issues in this
14 case as an advocate for the State of South Carolina.

15 Following the opening statement by the Assistant
16 Solicitor, the attorney for the Defendant will make
17 an opening statement. And I want to tell you the
18 attorneys have worked hard to prepare their case for
19 trial. And I want you to listen to them.

20 But what the attorneys tell you in opening
21 statement, what the attorneys argue to you in their
22 closing argument, what the attorneys try to suggest
23 to you in the questions they ask, not evidence,
24 ladies and gentlemen. You must base -- the attorneys
25 in their opening statement and in their argument, it

OPENING REMARKS BY THE COURT

1 is only their contention as an advocate for either
2 the State or the Defendant as to what they think the
3 issues are, what they believe the issues in this case
4 are. You must base your decision solely and only on
5 the evidence as presented in this courtroom.

6 Now, Judge Buckner says I'm supposed to decide
7 on the evidence. What is evidence?

8 Evidence is sworn testimony from this witness
9 stand. Evidence may also take the form of an
10 exhibit. As to any exhibit, the attorneys know they
11 can't show it to you until they let me rule on the
12 admissibility, such as a model or a photograph.
13 Something like that.

14 You will hear me say, "Exhibit Number" -- we
15 give a number to everything for the record. The
16 court reporter has to keep up with all the exhibits
17 -- "Exhibit Number 2 is in evidence. You may now
18 publish it to the jury."

19 So they know they can't show you anything until
20 they have gone through me, the trial judge, as the
21 gatekeeper. So evidence may be an exhibit, it may be
22 sworn testimony from the witness stand. Evidence may
23 even take the form of what we call a stipulation.

24 The parties may reach an agreement that a fact
25 is proven. Therefore, it is not necessary to be

OPENING REMARKS BY THE COURT

1 proved. So evidence can take the form of a
2 stipulation or an agreement or an understanding
3 between the parties.

4 You must base your decision as a juror solely
5 and only on the evidence that is presented during the
6 trial of the case, regardless of what form it takes.

7 Now, in the consideration of evidence, you
8 should remember that under the Constitution of the
9 State of South Carolina, you and you alone, the jury,
10 are going to be the sole judges of the facts in this
11 case based on the evidence introduced during the
12 trial of the case.

13 And the same law that makes you, the jury, the
14 sole judges of the facts based on the evidence, makes
15 me the sole judge of the law. I cannot invade your
16 province, ladies and gentlemen, and tell you what the
17 evidence says, or what the facts are, or make any
18 comment to you about what I think the evidence
19 suggests, or I believe it to be.

20 And you, ladies and gentlemen of the jury,
21 should not invade my province and differ with me
22 about what the law is. Everything that I say during
23 the course of this trial is being taken down by my
24 court reporter, Mona Manley. And if I make a mistake
25 as to the law to the detriment of either party, they

OPENING REMARKS BY THE COURT

1 can appeal the case to an Appellate Court. And if
2 they agree, the Appellate Court agrees that I made a
3 mistake on the law, they will reverse the case and
4 send it back for a new trial.

5 So don't you on the jury worry about whether or
6 not I have told you the law correctly. That is
7 somebody else's worry, that is not your job.

8 Your job is to take the law as I give it to you
9 and apply it to the facts as you find them to be,
10 based on evidence introduced during the trial of the
11 case. And that means sworn testimony from the
12 witness stand, any exhibits which may be introduced
13 into evidence that you are going to hear me say are
14 in evidence, or any stipulation that may occur
15 between the lawyers or the parties in this case.

16 And after doing that, you will render your
17 verdict at the conclusion of the case, a solemn
18 verdict under that oath which each of you just took
19 in the court of Allendale County as jurors.

20 Now, from time to time, you may hear one of the
21 lawyers in this case say something like, "Your Honor,
22 I believe we have a question of law or a matter of
23 law to discuss with you."

24 Or you might hear them say, "Your Honor, may we
25 approach the bench?"

OPENING REMARKS BY THE COURT

1 Or I, myself, might say, "Counsel, approach the
2 bench." And you'll see me whispering to them, and
3 you will think, why are they doing that? Are they
4 trying to hide something from me?

5 Well, let me explain to you. I even might ask
6 you to go to your jury room while I take up matters,
7 and the reason for this is not that we are trying to
8 hide anything. The reason for this is just what I
9 just explained to you about our roles. And that is,
10 you are sole judges of the facts in this case, and
11 I'm the sole judge of the law. And sometimes when
12 I'm discussing a matter of law with the attorneys, it
13 may be necessary for me to make some comment to the
14 attorneys as to the facts in ruling on whether or not
15 a particular piece of law applies to this case.

16 Now, I'm not supposed to make any comment in
17 your presence or to you about what I think the facts
18 are. So the practice in this state is either to
19 excuse you from the courtroom while such discussions
20 take place, or first I try to take it up with them.
21 I'll be using the side bar on this side of the
22 courtroom so that I can see if I don't have to make
23 you keep going to your jury room. Because I try to
24 minimize y'all having to get up and leave unless it's
25 necessary, depending on how long it's going to take

OPENING REMARKS BY THE COURT

1 for me to rule on a matter of law that might arise.

2 And in that connection, let me tell you, ladies
3 and gentlemen, that you and you alone, people on this
4 jury, are going to be the sole judges of the facts in
5 this matter, this case, based on the evidence in this
6 case.

7 And if you should gather from anything that I
8 say, or anything that I do during the course of this
9 trial, that I have any opinion as to the facts, I
10 want you to erase that from your mind because, ladies
11 and gentlemen, you and you alone, the jury, are the
12 sole judges of the facts.

13 Now, I'm asked frequently by jurors, "Well,
14 Judge Buckner, how will I be able to determine what
15 the true facts are from the evidence?"

16 It's a great question. Part of your job, ladies
17 and gentlemen, is going to be that you are going to
18 have to pass upon, as a jury, once I tell you to
19 start your deliberation, the credibility or
20 believability of the witnesses who are going to
21 testify during the trial of this case.

22 It will be my responsibility, ladies and
23 gentlemen, to rule as a matter of law as to whether
24 certain testimony is admissible at all or not. That
25 is part of my job as a trial judge in ruling on

OPENING REMARKS BY THE COURT

1 matters of law.

2 But once I have allowed the testimony to be
3 admitted into evidence, whether or not you, as the
4 jury, believe the testimony is a matter solely for
5 you, the jury, to determine.

6 And in passing upon the credibility or the
7 believability of the witnesses, you have the right,
8 as a jury, to take into consideration the interest of
9 any witness, if any; the bias, if any, of any
10 witness; the prejudice, if any, of any witness; the
11 opportunity for the witness to observe the matters
12 and things about which he or she may testify.

13 You may even take into consideration in deciding
14 the believability of the witnesses, what we call the
15 demeanor of the witness. That's the appearance of
16 the witness on the witness stand.

17 Anything that is in evidence, ladies and
18 gentlemen of the jury, you, as the jury, have the
19 right to consider in passing upon the believability
20 or the credibility of the witnesses who will testify
21 during the trial of this case.

22 Now, that means, Madam Foreperson, and that
23 means, ladies and gentlemen of the jury, that it is
24 your duty, under that sworn oath that you just took
25 from the clerk, to pay close attention to the

OPENING REMARKS BY THE COURT

1 witnesses. To listen to the witnesses. Don't let
2 your thoughts run, but give strict attention to the
3 witnesses.

4 I'm going to minimize any interference for you,
5 as best I can. But you need to pay close attention
6 to the witnesses, so that at the conclusion of all
7 the testimony, and after the closing arguments --
8 arguments are different from opening statements.
9 Opening statements, they are going to tell you what
10 they think the issues are, what they think the
11 evidence will show.

12 Closing argument, they are going to try to
13 persuade you to agree with their version of the facts
14 based on the evidence introduced during the trial of
15 the case, which we don't know what that is going to
16 be yet, until we hear it and I rule on it.

17 So the closing arguments are true arguments,
18 where they try to persuade you to agree with one side
19 or the other.

20 Now, if you listen, if you pay attention, if you
21 don't let your thoughts wander, at the conclusion of
22 all the testimony, after the closing arguments, where
23 they try to persuade you, and then my charge to you
24 on the law which applies to this case, based on the
25 evidence that I permitted into evidence during the

OPENING REMARKS BY THE COURT

1 trial of the case, you will have put yourself in a
2 position by listening and paying attention, to
3 determine what the true facts are, and then to apply
4 the law as I charge it to you to be at the conclusion
5 of the case to the facts as you find them to be, and
6 thus render what we call a true and a just verdict.

7 Now, you must not consider anything that you may
8 have read or heard about this case outside of this
9 courtroom, whether before or during this trial. And
10 until I submit this case to you, and I'll tell you
11 when it's time, you must not discuss it with anyone,
12 not even your fellow jurors, or not even a member of
13 your own family.

14 And after I submit it to you, you must discuss
15 it only in your jury room with your fellow jurors.
16 It's very important, ladies and gentlemen, that each
17 of you on the jury keep an open mind and not decide
18 the case until the entire matter has been submitted
19 to you under my instructions at the conclusion of the
20 case.

21 Why is that so? Because it might be the very
22 last thing that is said in this trial that might make
23 a difference to you. So I need you to listen and
24 listen carefully.

25 Now, it will be your added duty, Madam

OPENING REMARKS BY THE COURT

1 Foreperson, to preside in the jury room, just like
2 the chairperson of a committee would preside in the
3 committee room, and you will be signing the verdict
4 form which I will prepare for you.

5 I will go over that in my charge on the law, and
6 David is going to run you down, to make sure whatever
7 you sign on the verdict form, you are going to sign
8 right on the back of these indictments. I showed my
9 grand jury this yesterday, there's a block and it
10 says, "Verdict," on the back of each indictment.

11 Whatever verdict you write on the verdict form,
12 you will write the exact same words and sign your
13 name and date it. David will show you, Ms. Brooks,
14 on the indictment.

15 It will also be your duty, Ms. Brooks, should
16 the need arise, as I pointed out to you, to be the
17 jury spokesperson. The foreperson speaks for the
18 entire jury out here in the courtroom should that be
19 advised.

20 Now, housekeeping matter. I have already been
21 over one. I have told you about the beauty of this
22 courtroom and also the problems with it. And that is
23 the inability to hear. You notice, I make the
24 attorneys come up. And I've got microphones, but
25 sometimes microphones here actually blur a person's

OPENING REMARKS BY THE COURT

1 voice, particularly if they talk fast, which I remind
2 all my people to slow down sometimes, because it's
3 difficult for you to understand when sounds are going
4 straight up.

5 You will notice that my court reporter has a
6 portable device sitting on your jury rail. Now, why
7 would you think that? Because she knows I talk loud,
8 and she moved it from right here over to there. She
9 wants to make sure it picks up, because she knows how
10 difficult it is to hear in this courtroom.

11 Don't you think court reporters don't talk about
12 it. Because they do.

13 Don't you, Mona?

14 THE COURT REPORTER: Yes, sir.

15 THE COURT: And if you can't hear, the moment
16 you don't understand something or hear something, you
17 raise your hand for me. I want you to be able to
18 understand and hear throughout the trial of the case.
19 Don't hesitate. Believe me, it's easy to just let
20 things slide when you are not sure what somebody
21 said, and in this courtroom I want to make sure you
22 understand every word.

23 Another problem, lawyers, they can't help it, I
24 did when I practiced law, they love getting in their
25 files, then they turn around and walk backwards and

OPENING REMARKS BY THE COURT

1 ask questions. The court reporter is sitting so she
2 can see everybody's mouth. Did you notice that? She
3 can swivel her chair -- she can look at me if she
4 wants to -- she's not worried about hearing me. She
5 knows that I'm loud enough.

6 She's looking at you, she's looking at the
7 Solicitor, she can look at the Defense attorney, she
8 can look at the witness. Because she has to see
9 their mouth to make sure she understands what is
10 being said. That is why you see her sitting where
11 she is sitting. If you can't hear, raise your hand.

12 If an exhibit is introduced into evidence and
13 you can't -- and you heard me say -- you are not
14 going to see it until you hear me say it's in
15 evidence. But if it's in evidence and you can't see
16 the exhibit, raise your hand.

17 I want my jury to be able to hear and see at all
18 times throughout the trial of the case. So just let
19 me know. I'll accommodate you.

20 Now, Madam Foreperson, we normally do not allow
21 jurors to ask questions here in the courtroom. If,
22 however, at any time, a member of the jury has a
23 question, here is the procedure that we have to
24 follow.

25 If you are not already in your jury room, you

OPENING REMARKS BY THE COURT

1 will all retire to the jury room. You, as the
2 foreperson, will write the question on a piece of
3 paper. You will give it to my bailiff. He will
4 bring it to me, I will then have to rule as a matter
5 of law whether or not the question can or cannot be
6 answered, just as I would any question asked by
7 either one of the attorneys during the trial of the
8 case.

9 Do you understand me?

10 Now, I have tried it both ways. You notice I
11 got a pen in my hand and I have a notebook on my
12 desk. When I was in law school, ladies and
13 gentlemen, everybody wanted my notes because, believe
14 it or not, I played piano, and my fingers moved
15 pretty fast. My mother was a music teacher, she made
16 me take piano forever. And I cussed her every time
17 she did it. Now, I'm so thankful that she did. I
18 take notes very fast.

19 And because I would get almost a complete
20 lecture from my professors in law school, everybody
21 came to me and wanted copies of my notes before the
22 final exam.

23 Note taking can be very helpful, but I'm going
24 to ask you not to take notes. And you wonder why.

25 Because I found that if the written note taker

OPENING REMARKS BY THE COURT

1 of the jury makes an error in the written notes, the
2 notes can be harmful in the jury room rather than
3 helpful once deliberations begin.

4 So the time tested system is for you to listen,
5 and listen carefully. And I'm sure each of you will
6 do that.

7 I remind you, we do not allow any cell phones or
8 beepers, so please turn them off. Mine is off, I can
9 promise you. And believe me, I get calls all day.

10 Once David and I was spending lunchtime -- once
11 we take lunch today, we are going to serve lunch to
12 you in your jury room. We're going to take one break
13 in the morning and one in the afternoon. So I'm not
14 going to keep you prisoner. So you are going to have
15 time to stretch your legs, use the restroom. You are
16 not going straight through. We will break for lunch
17 around -- generally around 1 o'clock. We will serve
18 it to you in your jury room.

19 Now, I do not intend that you should construe
20 these remarks that I made to you as a charge on the
21 law in this case, because it's not that. I'm going
22 to charge you the law that applies to this case at
23 the conclusion of the trial, after you and I have
24 heard the evidence in this case, and I have had to
25 rule on the admissibility of the evidence.

OPENING REMARKS BY THE COURT

1 What I have just said to you has been merely an
2 attempt on my part to briefly explain to you some
3 procedure that we will follow in the trial of this
4 case, because we have rules that we follow in the
5 trial of this case. So you, as a member of the jury,
6 will have a better understanding as to what may be
7 happening from time to time.

8 For instance, you will see that the case against
9 the person that has the burden of proof is the State.
10 They go first. They present their evidence first.
11 That is part of our rules.

12 And then the Defendant, if they choose to do so,
13 presents their evidence second. So we will follow
14 the rules during the trial of this case.

15 What I'm telling you is, that the reason I have
16 talked to you at this time is so you will have a
17 better understanding of how we enforce the rules.

18 Nonetheless, in order to preserve everyone's
19 rights. I will give the parties an opportunity to
20 object to anything that I have said, if they have any
21 objection or exception.

22 Any exception or objection to the Court's
23 comments, from the State of South Carolina?

24 MR. HOLLEN: No, Your Honor.

25 THE COURT: From the Defendant?

OPENING REMARKS BY THE COURT

1 MR. KOGER: No. None from the Defense, but I
2 would like to approach.

3 THE COURT: Ladies and gentlemen, we will now
4 begin the trial of this case.

5 MR. KOGER: I would like to approach,
6 Your Honor.

7 THE COURT: Counsel approach.

8 (Off-the-record discussion at the Bench.)

9 THE COURT: I have issued an order in this case
10 concerning witnesses.

11 Solicitor, has the State complied now with my
12 order?

13 MS. LEGETTE: We have, Your Honor.

14 THE COURT: You are satisfied that no one is in
15 the courtroom who has not complied with my order from
16 the State; is that correct?

17 MR. HOLLEN: We are, Your Honor.

18 THE COURT: Has the Defendant complied with my
19 order?

20 MR. KOGER: Yes, Your Honor.

21 THE COURT: Are you satisfied that no one is in
22 this courtroom that does not comply with my order?

23 MR. KOGER: Yes, sir, I am satisfied.

24 THE COURT: Is the Defendant now ready to
25 proceed?

OPENING REMARKS BY THE COURT

1 MR. KOGER: Yes, Your Honor. He is ready to
2 proceed.

3 THE COURT: Is the State ready to proceed?

4 MR. HOLLEN: We are, Your Honor.

5 THE COURT: Ladies and gentlemen, we will now
6 begin the trial of this case with opening statements.

7 Counsel for the State of South Carolina,
8 Mr. Hollen.

OPENING STATEMENT BY STATE

9
10 MR. HOLLEN: Thank you, Your Honor. May it
11 please the Court.

12 Good morning, ladies and gentlemen.

13 THE COURT: Speak up, Counsel.

14 MR. HOLLEN: The Defendant in this case,
15 Laparis Flowers, is a killer. And on the early
16 morning hours of December 6th, 2014, he proved it.
17 That is the reason that we are all here.

18 Just about 3:15 a.m. on that date, the four
19 witnesses, who you have already heard -- or four
20 victims, excuse me -- Russell Smart, Tyquan Charlton,
21 Brandon Lewis, and Jarrell Murray -- sat in
22 Russell Smart's green Crown Vic in the parking lot of
23 Pinewood Apartments. It's just over on Barton Road,
24 most of you guys probably know where that is.

25 While they sat there, a white four-door vehicle

OPENING REMARKS BY THE COURT

1 pulled up from the opposite direction so that its
2 driver's door was even with Russell Smart's driver's
3 door:

4 The evidence in this case is going to show you
5 that the driver and the sole occupant of that white
6 car was the man sitting right there.

7 There wasn't an argument. There were a couple
8 of words spoken about something that had happened at
9 the Lobster House, which is not even a half-mile down
10 from us, just a few minutes before.

11 It was at that point that Mr. Flowers came up
12 with a pistol and started firing. Three of the four
13 people in that car were hit with bullets.

14 Jarrell Murray is the only one who wasn't
15 struck. He was able to get out. He ran, and at some
16 point later, he came and spoke to police.

17 Tyquan Charlton was hit in the face. He was
18 struck in the left jaw, and as you guys are going to
19 hear, he's very lucky to be alive.

20 Brandon Lewis was hit in the left arm.

21 Russell Smart was also hit in the left arm.

22 Now, Tyquan Charlton and Brandon Lewis were
23 taken to Allendale Fairfax Hospital, where because of
24 the extent of their injuries, they were transported
25 to Augusta Regional Medical Center. They both

OPENING REMARKS BY THE COURT

1 survived; luckily; Russell did not.

2 The bullet that struck Russell went through his
3 left arm and continued, where it finally ended in his
4 chest, and it caused a lot of damage along the way.
5 He was able for a brief time to drive that car, and
6 he ended up coming back down Barton Road, until he
7 swerved off to the left, and that green Crown Vic
8 ended up in the front yard of a residence right down
9 Barton Road.

10 When officers and paramedics arrived, Russell
11 was still in the car. He was in the driver's seat.
12 Tyquan Charlton was in the back seat on the passenger
13 side. Mr. Lewis was able to get out, and he was
14 still conscious, and he was taken down to Allendale
15 Fairfax later.

16 When Russell arrived at the hospital, there was
17 nothing that they could do. He was pronounced dead
18 as soon as he got there.

19 So what was this all about? Had to have been
20 something pretty serious for someone to open fire
21 into a full vehicle, right? You wouldn't think
22 somebody would just start shooting over something
23 minor.

24 Well, as I told you, the victims in this case,
25 along with a number other people, including the

OPENING REMARKS BY THE COURT

1 Defendant, Laparis Flowers, were at the Lobster
2 House, where they were doing what people do at the
3 Lobster House. They were hanging out, they were
4 drinking. Around 2:30 or 2:45, when the club started
5 to close, everybody starts filing out, and there was
6 an argument. The argument didn't involve Tyquan
7 Charlton, it didn't involve Brandon Lewis, it didn't
8 involve Jarrell Murray, it didn't involve
9 Russell Smart. It didn't even involve Laparis
10 Flowers.

11 The people it did involve, a guy name Aldeandre
12 Gray. Everybody calls him Dee. Jaqwavian Williams,
13 he's referred to as Toot. And it was about a girl
14 named Tracy Roberts.

15 Now, in December of 2014, Tracy was dating Dee,
16 Aldeandre Gray. She was going out with him. She
17 used to date Jaqwavian Williams, who you guys will
18 hear was a cousin of Laparis Flowers.

19 So they were leaving the club, and Jaqwavian
20 Williams blows a kiss at Tracy Roberts. Well, Dee,
21 doing what young men, and being hot-headed do, took
22 some offense to this, and there were words exchanged.

23 Somebody might tell you that maybe Russell Smart
24 got involved, but it was only words. That was it.

25 But when they left the Lobster House, there were

OPENING REMARKS BY THE COURT

1 five people in the car: Russell, Jarrell, Brandon,
2 Tyquan, and Dee. Dee got dropped off on the way to
3 Pinewood Apartments. So he wasn't in the car when
4 the shooting started.

5 That's what this was about, somebody blowing a
6 kiss at a girl. One person is dead, and two more
7 were shot.

8 Y'all are going to hear a lot of testimony in
9 this case. And there's more to it. I'm not going to
10 get into everything. So just pay attention as we go,
11 and you'll hear all the evidence.

12 I do want to talk to you briefly about something
13 the Judge said. He's going to instruct you on the
14 law. You have already heard that Laparis Flowers is
15 charged with murder, attempted murder, and possession
16 of a weapon during a violent crime.

17 What the Judge is going to tell you, and if he
18 says something different than I do, by all means, he
19 is the Judge of the law, listen to him. But murder
20 is the killing of another with malice. Malice
21 aforethought is what they call it.

22 And all that means is that he killed somebody
23 and at the time he did it, he had hatred in his
24 heart. Malice is hatred.

25 I can't think of anything more malicious than

OPENING REMARKS BY THE COURT

1 firing into a car because of somebody blowing a kiss,
2 and it is not even your girlfriend. It's your
3 cousin's ex-girlfriend.

4 Attempted murder, the attempted killing of
5 another with malice. And possession of a weapon
6 during a violent crime is just that. In this case,
7 it was a gun.

8 The other thing the Judge mentioned to you was
9 reasonable doubt. And as the representatives of the
10 State, Ms. Legette and I have the burden of proof.

11 Reasonable doubt is a high burden. There's a
12 reason for that. It is one that we take very
13 seriously. Y'all should, too.

14 So, like I said, pay attention to the witnesses,
15 listen to the evidence. Judge what kind of demeanor
16 people have on the stand. And at the end of this
17 trial, you are going to find that the State has met
18 its burden. You are going to find that we have
19 proven this case beyond a reasonable doubt, and that
20 Laparis Flowers is guilty of the crimes he's charged
21 with.

22 Let me tell you one more thing. You are going
23 to hear from some people in this case that clearly
24 don't want to be here, and unfortunately that is not
25 unusual. It is hard to get people to participate,

OPENING REMARKS BY THE COURT

1 even in a crime of this magnitude. It does not get
2 any more serious.

3 There's a lot of Russell's family here that will
4 never get to see him again. But the Judge said
5 something telling, and I never picked up on it
6 before, but he said something about a search for the
7 truth. That's our job.

8 Our job is to find the truth in this case.
9 That's what we are going to give you. We are not
10 hiding anything. We are going to tell you what
11 happened, and you are going to know what happened.
12 At the end of this case, the truth is going to come
13 out.

14 The truth is that on the morning of
15 December 6th, Laparis Flowers killed Russell Smart.
16 He shot Tyquan Charlton, he shot Brandon Lewis, and
17 he almost shot Jarrell Murray. So pay attention,
18 please.

19 Laparis Flowers is guilty, ladies and gentlemen,
20 and at the end of this, we are going to come back,
21 we're going to ask you to return a verdict of guilty.
22 And I'm confident that you will find that as well.

23 Thank you.

24 THE COURT: Counsel for the Defendant.

25 OPENING STATEMENT BY DEFENSE

OPENING STATEMENT BY DEFENSE

1 MR. KOGER: May it please the Court.

2 THE COURT: Proceed.

3 MR. KOGER: Solicitor Legette, Solicitor Hollen.

4 Again, my name is Joshua Koger, Junior, and I
5 represent the Defendant in this case, Laparis
6 Flowers.

7 As the Judge stated in some of his opening
8 statement, that what the State just told you, it is
9 just their version of what happened on that
10 particular evening. I want to focus on the
11 constitutional duty in not only this case, but in any
12 case.

13 Solicitor Hollen briefly touched upon beyond a
14 reasonable doubt. That is their burden. But that is
15 a very important burden, and no so more important
16 than in this particular case.

17 They have to prove every element of the crime
18 beyond a reasonable doubt. Not only must they prove
19 every element in the crime beyond a reasonable doubt,
20 they have to prove every piece of evidence in this
21 case beyond a reasonable doubt.

22 They got to prove every identification on the
23 witness. They have to prove every identification
24 beyond a reasonable doubt. They have to prove every
25 piece of physical evidence beyond a reasonable doubt.

OPENING STATEMENT BY DEFENSE

1 They even have to prove the statements from any
2 witnesses in this case that is free from any type
3 of -- any type of coercion or duress from -- from --
4 from police or whoever, and it must be voluntary.
5 Must be voluntary. That must be beyond a reasonable
6 doubt.

7 As stated from the bench, and from the
8 Solicitor's office, this is a search for the truth.
9 And the search for the truth starts right here. And
10 it starts in this chair right here. In this witness
11 chair right here.

12 I often call it the great equalizer, because in
13 this chair everyone is the same. Presidents are the
14 same. Senators are the same. And hard working
15 laborers are the same. When they sit in this chair,
16 they are all the same, because it is a search for the
17 truth in this particular chair right here.

18 And it doesn't matter how many witnesses one
19 side have over the other. One side may have 30
20 witnesses, the other side may not have any witnesses.
21 That does not matter, because in this courtroom, as
22 in any other courtroom in this state and in this
23 country, it is the search for the truth.

24 Also, any type of evidence that is placed before
25 this Court, on this table, again, must be proven

OPENING STATEMENT BY DEFENSE

1 beyond a reasonable doubt.

2 And also, as you engage in your search for the
3 truth, also take note what is not placed into
4 evidence on this table during this particular trial.

5 Now, as stated, from that chair and other
6 evidence, you are looking at the believability and
7 the credibility. As the Judge stated in his
8 statement, you are looking for any type of bias, any
9 type of prejudice, any type of opportunity, and the
10 demeanor of those, again, who sat in this chair.

11 Okay. That is part of your job of judging this
12 case solely on the facts. This case is about, as any
13 case, the protection and the preservation of rights
14 of my client, Mr. Flowers. This is what the case is
15 about.

16 As you already have been admonished and
17 cautioned to do, listen very carefully. Pay close
18 attention to what transpires in this courtroom over
19 the next couple of days.

20 And after you do that, I'm confident that you
21 will go back in this jury room, and you will find not
22 guilty for Lapolis Flowers on murder; not guilty for
23 Lapolis Flowers on three counts of attempted murder;
24 and not guilty on possession of a weapon during the
25 commission of a violent crime. And when you find

OPENING STATEMENT BY DEFENSE

1 those not guilty on those charges, you would have
2 rendered a true and just verdict.

3 Thank you.

4 THE COURT: Call your first witness.

5 MS. LEGETTE: Thank you, Your Honor. The State
6 calls Louise Pinckney.

7 THE COURT: Come in and be sworn by the Clerk,
8 please.

9 Thereupon,

10 LOUISE PINCKNEY

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 THE COURT: Make yourself comfortable. Have a
14 seat, please.

15 Use that microphone, it will amplify your voice.
16 I need you to speak up. You see that man on the back
17 over there in the jury? I want to make sure he can
18 hear every word you say. So you'll need to speak up
19 when you answer your questions. You understand?

20 THE WITNESS: Yes, sir.

21 THE COURT: Would you begin by stating your full
22 name and spelling your last name for the court
23 reporter.

24 THE WITNESS: Louise Pinckney, P-I-N-C-K-N-E-Y.
25

OPENING STATEMENT BY DEFENSE

1 THE COURT: Your witness, Counsel. Direct
2 examination.

3 MS. LEGETTE: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. LEGETTE:

6 Q Good morning, Ms. Pinckney.

7 A Good morning.

8 Q Ms. Pinckney, if I speak too fast or don't talk
9 loud enough, please let me know. Okay?

10 A Okay.

11 Q All right. Ms. Pinckney, where do you work?

12 A I would at Allendale County Communications.

13 Q And what is your title at Allendale County
14 Communications?

15 A E 911 coordinator of the communications center.

16 Q And what does it mean that you are the E 911
17 coordinator of the communication center?

18 A I oversee the facility with direct operations to
19 include the services that we provide to other agencies,
20 such as the dispatching services for fire, law
21 enforcement, EMS.

22 We also do take duties, which is terminal
23 agency coordinated, duties for all law enforcement agencies
24 in Allendale County, custodian of records, quality assurance
25 of all documentation that is done at Allendale County E 911.

DIRECT EXAMINATION OF LOUISE PINCKNEY BY MS. LEGETTE

1 Q Okay. And how long have you worked for
2 Allendale County E 911?

3 A Seven years.

4 Q Now, in layman's terms, what duties -- or do you
5 assist with emergencies?

6 A We dispatch out services to the scenes of the
7 emergency situations.

8 Q Now, do you also dispatch, I guess, fire rescue?

9 A Yes. We do law enforcement, fire, and EMS.

10 Q Okay. Now, you indicated earlier, you are the
11 custodian of records for Allendale County Communications.

12 A Yes, ma'am.

13 Q Now, what does it mean that you are the
14 custodian of records?

15 A We keep all radio transmissions, all CAD, any
16 calls that comes in is recorded, incoming and outgoing, on
17 the ambulance lines and the 911 truck lines.

18 Q Now, you said that all calls are recorded. Are
19 they recorded as they come in?

20 A Yes, they are.

21 Q And is that done in the ordinary course of
22 business?

23 A Yes, it is.

24 Q Now, Ms. Pinckney, were you working for
25 Allendale County Communications, or E 911, on December

DIRECT EXAMINATION OF LOUISE PINCKNEY BY MS. LEGETTE

1 6th, 2014?

2 A Yes.

3 Q And are you familiar with any calls that came in
4 on December 6th, 2014?

5 A We had a 1075, which is a shooting incident.

6 Q Okay... Now, as far as you are aware, with regard
7 to this shooting incident, did any calls come in?

8 A Yes.

9 Q And were recordings made of the calls that came
10 in?

11 A Yes.

12 Q At our request, have you previously reviewed
13 those calls for accuracy?

14 A Yes.

15 Q And were those calls, in your opinion, were they
16 accurate?

17 A They were.

18 Q Okay.

19 MS. LEGETTE: Momentarily, I will hand you what
20 has been previously marked for identification as
21 State's Exhibit Number 1. I want you to take a
22 moment and tell if you recognize State's Exhibit
23 Number 1.

24 MS. LEGETTE: May I approach, Your Honor?

25 THE COURT: You may.

DIRECT EXAMINATION OF LOUISE PINCKNEY BY MS. LEGETTE

1 BY MS. LEGETTE:

2 Q Ms. Pinckney, I hand you now what has been
3 previously marked State's Exhibit Number 1. Do you
4 recognize State's Exhibit Number 1?

5 A Yes, I do.

6 Q And, Ms. Pinckney, what is State's Exhibit
7 Number 1?

8 A It is the recording of the 911 call that came in
9 on December the 6th, 2014.

10 Q And, Ms. Pinckney, how are you able to recognize
11 State's Exhibit No. 1?

12 A My initials are on it, and it's dated, because I
13 reviewed it again on January 4th, 2018.

14 Q And, Ms. Pinckney, is State's Exhibit No. 1 a
15 fair and accurate reflection of the call, or 911 calls
16 that came in on December 6th, 2014?

17 A Yes, it is.

18 MS. LEGETTE: At this time, Your Honor, I would
19 offer State's Exhibit 1 for admission into evidence.

20 THE COURT: As to State's 1?

21 MR. KÖGER: Without objection, Your Honor.

22 THE COURT: Without objection.

23 MR. KÖGER: Yes, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury,

25 State's Exhibit Number 1 will be admitted into

DIRECT EXAMINATION OF LOUISE PINCKNEY BY MS. LEGETTE

1 evidence in the trial of this case without objection.

2 You may publish to the jury. State's 1 in
3 evidence.

4 MS. LEGETTE: Thank you, Your Honor. May I
5 approach and get the disc from the witness?

6 *(Whereupon, State's Exhibit No(s). 1 marked for*
7 *identification and received in evidence.)*

8 (The audio CD was played for the jury.)

9 BY MS. LEGETTE:

10 Q Ms. Pinckney, are those the calls taken on
11 December 6th, 2014?

12 A Yes.

13 Q And just briefly, where is Barton Road located?
14 What county is that in?

15 A That is in Allendale County.

16 MS. LEGETTE: Thank you, Ms. Pinckney. I have
17 no further questions. Please answer any questions
18 from Mr. Koger.

19 CROSS EXAMINATION

20 BY MR. KOGER:

21 Q Ms. Pinckney, from your view of the 911 tape,
22 were any type of shooter identified?

23 A No.

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

25 THE COURT: As to this witness, Solicitor?

CROSS EXAMINATION OF LOUISE PINCKNEY BY MR. KOGER

1 MS. LEGETTE: We ask that she be excused,
2 Your Honor.

3 THE COURT: Any objection?

4 MR. KOGER: No objection, Your Honor.

5 THE COURT: Ms. Pinckney, you may step down, and
6 you are excused from the trial of this case. You may
7 leave the courtroom.

8 Call your next witness.

9 MS. LEGETTE: Deputy Jim Evans.

10 Thereupon,

11 JIM EVANS

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 THE COURT: State your full name. Make yourself
15 comfortable, adjust that microphone to your height.
16 Come up to the microphone. We're going to use this
17 to amplify your voice. I need you to speak up like
18 I'm doing so everybody can hear you.

19 State your full name and spell your last name
20 for the court reporter.

21 THE WITNESS: Jim Travis Evans, E-V-A-N-S.

22 THE COURT: Your witness, Counsel. Direct
23 examination.

24 MS. LEGETTE: Thank you, Your Honor.

25 DIRECT EXAMINATION

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 BY MS. LEGETTE:

2 Q Good morning, Mr. Evans.

3 A Good morning.

4 Q Mr. Evans, where do you work?

5 A I'm currently employed with Allendale County
6 sheriff's department.

7 Q Now, I'm going to need you to speak up so
8 everybody can hear you. Okay? Amplify a little bit. And
9 if I talk too fast, tell me to slow down. Okay? Remind
10 me.

11 A Allendale County sheriff's department.

12 Q And how long have you worked for the Allendale
13 County Sheriff's Office?

14 A I have been with the sheriff's department two
15 years.

16 Q Okay. And do you have any other law enforcement
17 experience?

18 A Yes, ma'am. Prior, I was with Allendale City.

19 Q And how long were you with Allendale City?

20 A Three years.

21 Q And do you have any other law enforcement
22 experience?

23 A Yes, ma'am. From there, I was with Flatwood PD,
24 Springfield PD.

25 Q Okay. Now, were you working for the Allendale

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 County Sheriff's Office in 2014?

2 A I was with the City.

3 Q You were with the City. Okay. I'm sorry.

4 So were you working for the Allendale
5 Police Department in December of 2014?

6 A Yes, ma'am.

7 Q And were you working specifically in December of
8 2014?

9 A Yes, ma'am.

10 Q So let's turn your attention now to December the
11 6th, 2014. Were you working that particular day?

12 A Yes, ma'am.

13 Q Okay. Did anything unusual happen on December
14 the 6th, 2014?

15 A Around 3 o'clock in the morning, we got
16 dispatched to the Lobster House, which is a local bar, for
17 shots being fired. Upon our arrival, myself and Officer
18 Blackwood, which was my partner for that night, arrived,
19 spoke with security. Security said they had no reports of
20 it.

21 From there, you know, everybody was trying to
22 leave the parking lot. After that, probably 15, 20 minutes
23 later, we were dispatched to shots being fired, Barton Road.
24 We ran code to Barton Road. Upon arrival, a green vehicle
25 was pressed against a tree. There was several people around

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 it, 15 or 20 people.

2 We cleared the area, made sure the scene was
3 safe. Noticed there was two males in the vehicle, and we
4 had EMS to come in.

5 Q Okay. So just briefly, I failed to ask you this
6 earlier, what were your duties at the Allendale Police
7 Department during that period of time?

8 A Patrol officer.

9 Q Patrol officer. Okay. So you responded to the
10 Lobster House that night.

11 A Yes, ma'am.

12 Q And then you got -- where were you when you got
13 the call to go to Barton Road?

14 A We were still at the Lobster House.

15 Q Okay. As far as you could tell, had anything
16 strange happened at the Lobster House?

17 A No, ma'am.

18 Q Okay. So you went to the Barton Road area?

19 A Yes, ma'am.

20 Q Where is Barton Road?

21 A It is in the city.

22 Q And what county is that in?

23 A Allendale County.

24 Q Okay. So you said that you actually saw a green
25 tree resting against -- I'm sorry, a green car resting

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 against a tree?

2 A Yes, ma'am.

3 Q Now, describe what you saw when you got to the
4 actual car itself.

5 A The doors was open to the vehicle. There were
6 several people around it, a lot of chaos. Everybody was
7 screaming, "help them, help them."

8 When we finally got everybody cleared away
9 from the vehicle, there was a male in the front driver's
10 seat, slumped up over, and a male in a rear passenger --
11 correction, the rear driver's side.

12 Q Okay. Can you describe for us the car itself.
13 I mean, was it on? Was it running? Was it --

14 A The car was still running in drive. Officer
15 Blackwood did reach in and put the car in park, take the
16 keys out of the ignition and drop them in the center cup
17 holder.

18 Q Okay. Were you able to identify the person who
19 was in the driver's seat at that time?

20 A No, ma'am. Didn't know him.

21 Q So --

22 MS. LEGETTE: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. LEGETTE:

25 Q Now, Deputy Evans, you indicated that you were

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 familiar with how the scene itself looked that night.

2 A Yes, ma'am.

3 Q Okay. And you actually are familiar with that
4 area?

5 A Yes, ma'am.

6 Q In a moment, I'm going to hand you what has been
7 previously marked for identification as State's Exhibits
8 Number 2, 3, 4, 5, 6, and 7. I want you to take a moment
9 and tell me if you recognize State's Exhibits 2 through 7.
10 Okay?

11 A Yes, ma'am.

12 MS. LEGETTE: Your Honor, may I approach the
13 witness?

14 THE COURT: You may.

15 A Yes, ma'am, they are familiar.

16 BY MS. LEGETTE:

17 Q And Deputy Evans, what are State's Exhibits 2
18 through 7?

19 A Exhibit 2 is a picture of the vehicle resting
20 against the tree, where we roped it off for security.

21 Exhibit 3 is a closer picture. It actually
22 shows the -- the vehicle, the doors open after the victims
23 were removed.

24 Exhibit 4 is the front side of the vehicle
25 resting against the tree. Five, also. And Exhibit 6 is the

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 vehicle on the driver's side.

2 Q And Exhibit Number 7?

3 A Is the rear of the vehicle.

4 Q Okay. Now, Deputy Evans, are State's Exhibits 2
5 through 7 a fair and accurate reflection of the actual
6 vehicle that you saw after the victims were removed?

7 A Yes, ma'am.

8 Q And have they been changed or altered in any
9 way?

10 A No, ma'am.

11 MS. LEGETTE: At this time, Your Honor, I would
12 offer State's Exhibits 2 through 7 for admission.

13 THE COURT: As to State's 2 through 7 inclusive,
14 Counsel?

15 MR. KOGER: No objection to the exhibits, Your
16 Honor.

17 THE COURT: Ladies and gentlemen of the jury,
18 State's Exhibits 2, 3, 4, 5, 6, and 7 will be
19 admitted into evidence in the trial of this case,
20 without objection.

21 You may publish to the jury.

22 *(Whereupon, State's Exhibit No(s) 2-7 marked*
23 *for identification and received in evidence.)*

24 MS. LEGETTE: Thank you, Your Honor.

25 May I approach the witness?

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 THE COURT: You may.

2 BY MS. LEGETTE:

3 Q Deputy Evans, I'm going to ask you to point your
4 attention to this picture. Can you see it?

5 THE COURT: Back up.

6 BY MS. LEGETTE:

7 Q Can you see the picture, Mr. Evans?

8 A Yes, ma'am.

9 THE COURT: Hold on a second. Come around.
10 Come behind my bench and walk over here by John so
11 that you can see -- let me know you can see the
12 board.

13 MR. KOGER: I can see it.

14 THE COURT: Keep on going, not behind the
15 witness.

16 Now, can you see the board from there?

17 MR. KOGER: I can see it.

18 THE COURT: Speak up, Solicitor. Speak up,
19 please, Mr. Evans, so the jury can hear you. Use the
20 microphone and speak up.

21 BY MS. LEGETTE:

22 Q All right. Deputy Evans --

23 THE COURT: Tell, for the record, state what
24 exhibit is being shown to the jury, Counsel.

25

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 BY MS. LEGETTE:

2 Q We are looking at Exhibit Number 2, Deputy
3 Evans.

4 A Yes, ma'am.

5 THE COURT: You can look at your Exhibit 2.

6 MS. LEGETTE: May I approach?

7 THE COURT: Let him have the exhibits.

8 Can everybody on the jury see the screen? If
9 you can't, let me know by raising your hand.

10 Back up, Counsel, so he can look at both.

11 Ask the questions.

12 BY MS. LEGETTE:

13 Q All right. Deputy Evans, would it assist you to
14 have a pointer to point at the actual picture?

15 Okay. Now, Deputy Evans, what are we
16 seeing in State's Exhibit Number 2?

17 A This is a -- from the roadway, it's a picture of
18 the vehicle. We have roped -- you can see the yellow rope
19 that runs around it to secure the crime scene. But that's
20 the particular vehicle on the driver and rear, with both
21 doors opened.

22 Q And this highway running between the actual car
23 and, I guess, the end of the picture, what highway is
24 that?

25 A Barton Road.

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 Q That's Barton Road. Okay.

2 Now, let's move on to State's Exhibit

3 Number --

4 THE COURT: Hand me two that you just looked at.

5 Go ahead.

6 BY MS. LEGETTE:

7 Q State's Exhibit Number 3, what is State's

8 Exhibit Number 3?

9 A It is a closer view of the same vehicle, same
10 area. Everything the same, just a closer picture.

11 Q Now, I notice the doors are open. Did you find
12 the car that way?

13 A Yes, ma'am, when we got there.

14 Q Okay. And now, State's Exhibit Number 4, what
15 is State's 4?

16 A That is a front view of the vehicle. The door
17 is open and the vehicle is resting against the tree.

18 Q And is that the way you found the vehicle when
19 you got to Barton Road?

20 A Yes, ma'am.

21 Q Okay. State's Number 5.

22 A It's the passenger side view of the vehicle.

23 Q Okay. And State's Number 6?

24 A The driver's side view of the vehicle, with the
25 doors opened.

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 Q Now, on State's Number 6, when you arrived
2 originally, you indicated there were people in the car.

3 A Yes, ma'am.

4 Q All right. And now, so describe for us where
5 the persons were at in the car.

6 A There was one victim in the front seat on the
7 driver's side.

8 Q So one victim in the driver's side?

9 A Yes, ma'am. And then one directly behind, on
10 the driver's side, but rear.

11 Q Okay. And what were their appearance? Were
12 they alert?

13 A No. They was -- both of them were slumped over.
14 Both of them appeared to have blood coming from their
15 shirts, and they was unresponsive.

16 Q So what did you do when you arrived? Along with
17 calling EMS, did you render any assistance to these
18 victims?

19 A We had to keep the victims -- I mean, the --
20 several subjects away from the vehicle. They kept wanting
21 to run up. All we could do was secure them until EMS got
22 there.

23 Q Now, at some point -- let's go to State's Number
24 7.

25 THE COURT: Give me six.

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 BY MS. LEGETTE:

2 Q Now, State's Number 7.

3 A Yes.

4 Q Is that basically the same thing?

5 A Yes, ma'am.

6 Q Okay. All right. So now, let's talk -- once
7 you were -- once you called EMS, did EMS arrive on the
8 scene?

9 A Yes, ma'am.

10 Q We are done with the pictures. I'm sorry.

11 A Yes, ma'am.

12 MR. KOGER: Judge, can I come through here?

13 BY MS. LEGETTE:

14 Q So you notified EMS?

15 A Yes, ma'am. EMS arrived and loaded the patients
16 in their unit. They actually asked for one of us to drive
17 the ambulance to the hospital. I actually did drive the
18 ambulance to the hospital and then was brought back to the
19 scene.

20 Q And the ambulance that you drove were -- who all
21 was in that ambulance?

22 A The two EMS workers that was for the County.

23 Q And anyone else, the victims were in there?

24 A Both victims, yes. I'm sorry.

25 Q All right. Now, did anyone else assist you this

DIRECT EXAMINATION OF JIM EVANS BY MS. LEGETTE

1 night?

2 A We had several law enforcement agencies come and
3 assist us.

4 Q All right. Who was your partner that night?

5 A Morris Blackwood.

6 Q And he was an officer with your department?

7 A Yes, ma'am.

8 Q As you were driving the EMS vehicle, what was he
9 doing?

10 A He was -- stayed at the scene to secure it.

11 Q So you drove the ambulance to the hospital?

12 A Yes, ma'am.

13 Q And once you drove the ambulance to the
14 hospital, what did you do next?

15 A I waited until they took both victims out and
16 took them into the ER, and I had some -- somebody else
17 come pick me up.

18 Q And did you go back to the scene at Barton Road?

19 A Yes, ma'am.

20 MS. LEGETTE: Begging the Court's indulgence.

21 (Pause.)

22 MS. LEGETTE: Deputy Evans, I have no further
23 questions. Please answer any questions from
24 Mr. Koger.

25 CROSS EXAMINATION

CROSS EXAMINATION OF JIM EVANS BY MR. KOGER.

1 BY MR. KOGER:

2 Q Deputy Evans, when you initially went to the
3 Lobster House, about how many people were there at that
4 particular time?

5 A Thirty, 40; I didn't count. There was a lot of
6 people there.

7 Q Okay. And upon your arrival at the Lobster
8 House, did you have any interactions with
9 Mr. Laparis Flowers at the Lobster House?

10 A No, sir, not that I recall.

11 Q All right. And I think you testified to when
12 you arrived on the scene at Barton Road, that the scene
13 was chaotic?

14 A Yes, sir.

15 Q I think you testified to, maybe, about 20
16 people?

17 A Yes, sir.

18 Q Okay. And when you arrived on the scene, did
19 you have any interaction with Mr. Laparis Flowers on the
20 scene at Barton Road that night?

21 A Not that I recall.

22 MR. KOGER: Thank you. No further questions.

23 THE COURT: Redirect.

24 MS. LEGETTE: None, Your Honor.

25 THE COURT: As to the witness.

CROSS EXAMINATION OF JIM EVANS BY MR. KOGER

1 MS. LEGETTE: We ask that he be excused, please.

2 THE COURT: Any objection, Counsel?

3 MR. KOGER: No objections, Your Honor.

4 THE COURT: Mr. Evans, you may step down, and
5 you're excused from the trial of this case.

6 Call your next witness.

7 MS. LEGETTE: State calls something Lish Sabb.

8 THE COURT: Come in and be sworn by the clerk,
9 please.

10 Thereupon,

11 LISH SABB

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 THE COURT: Have a seat, make yourself
15 comfortable. Adjust the microphone to your height.
16 I need you to speak up so everyone can hear you. The
17 sound is difficult in this courtroom.

18 State your full name and spell your last name.

19 THE WITNESS: It's Lish, L-I-S-H, Sabb, S-A-B-B,
20 the third.

21 THE COURT: You got to speak up a little bit
22 louder.

23 THE WITNESS: Your witness, Counsel. Direct
24 examination. Speak up.

25 MS. LEGETTE: Thank you, Your Honor.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 DIRECT EXAMINATION

2 BY MS. LEGETTE:

3 Q Good morning, Mr. Sabb.

4 A Good morning.

5 Q Mr. Sabb, where do you work?

6 A Allendale County rescue squad, Allendale County

7 EMS.

8 Q And what are your duties at the Allendale County

9 EMS?

10 A I'm a paramedic.

11 Q And what does it mean to be a paramedic?

12 A A paramedic is the highest level of

13 certification recognized nationally. Of course, the State

14 has three levels: Basic, advanced, and a paramedic.

15 A paramedic does basically everything in the

16 ER except a couple of other skills that only physicians can

17 do..

18 Q And how long have you been a paramedic?

19 A Over ten years.

20 Q So tell us about your education, training, and

21 experience that it takes to become a paramedic.

22 A A paramedic -- the paramedic program is about 18

23 months. It's about 200 hours of classroom time, and then

24 probably another 300 hours of in-field training and

25 hospital experience.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 Q And in your ten years of being a paramedic, how
2 many patients would you say you have treated over the
3 years?

4 A At least 500 patients.

5 Q And of those 500 patients, can you give us an
6 approximation of how many of those were gunshot wound
7 victims?

8 A At least five.

9 Q Now, Mr. Sabb, were you working for the
10 Allendale County EMS in December of 2014?

11 A Yes, ma'am.

12 Q And, specifically, I want to turn your attention
13 to December the 6th, 2014. Do you recall that particular
14 day or night?

15 A Yes, ma'am.

16 Q Did you receive any calls for assistance, or
17 were you dispatched anywhere?

18 A We had two calls that I could remember -- three
19 calls, actually. One of them was inter-facility transfer
20 to Augusta, and then a call out for a gunshot wound.

21 Q Okay. So let's focus on the gunshot wound call
22 that you received. Okay. What was your response when you
23 received this call for a gunshot wound victim?

24 A As response as far as what?

25 Q What did you do?

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 A What did I do?

2 Q Yes.

3 A Most of the time, since it was late at night, we
4 are allowed to be in more casual clothes. Got dressed,
5 got in the truck, and responded to the call.

6 Most of the time, anything involving some
7 sort of assault, we stage somewhere, and stage just in a
8 safe place until law enforcement gets on scene, and they can
9 secure the scene.

10 Q Now, did you actually arrive on scene at Barton
11 Road on December 6th, 2014?

12 A Yes, ma'am. After law enforcement secured the
13 scene, they told us to proceed, and we ended up arriving
14 on scene.

15 Q And when you arrived on scene, can you tell us
16 what you remember seeing?

17 A There was a lot of bystanders. There was a car
18 somewhere off the road, not -- I can't tell you exactly
19 where. We were advised that there were two patients.

20 When we got there, we saw one patient. The
21 patient that I had was in the -- behind the driver's seat,
22 the steering wheel. He was on the driver's side.

23 The other patient, memory is kind of foggy, I
24 think he was in the back seat, but I'm not sure.

25 Q Okay. All right. So you had two patients.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 A Yes, ma'am.

2 Q Was anyone working with you that night?

3 A Yes, ma'am. My partner was a paramedic as well.

4 Q And is that unusual to have two paramedics on
5 the same truck?

6 A Not unusual, no, ma'am.

7 Q All right. So you have two paramedics. What is
8 your partner's name?

9 A His name was Tracy Thomas.

10 Q Okay. So when you arrived on scene, you had two
11 patients, one in the front seat and one in the back seat.
12 Which patient did you work on?

13 A I worked on the patient that was in the front
14 seat -- the driver.

15 Q Did you ever learn -- I'm sorry.

16 A The driver.

17 Q The driver. Okay. Did you ever learn his name?

18 A After dropping off the patient at the local
19 facility, the hospital, I learned his name then for
20 documentation purposes.

21 Q And what was that name?

22 A Russell Smart.

23 Q And so you actually -- tell us what you do when
24 you arrived on scene. You see these bystanders, you get
25 to the scene, you assess that you have two patients, one

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 in the front seat, one in the back seat. What do you do?

2 A We try to figure out what actually happened as
3 far as we got -- we get dispatched out as a gunshot wound.
4 So we see if the patient is conscious, breathing, if they
5 are able to respond back to us appropriately. And then we
6 follow whatever treatment method we determine as we
7 interview the patient.

8 Q Okay. And so when you are assessing the
9 patient, the one in the front seat, is he responsive?

10 A No, ma'am.

11 Q Did you check for a pulse?

12 A Yes, ma'am. Checked for a pulse. We had -- he
13 had a weak pulse. He was breathing, but it wasn't
14 adequate enough for -- to sustain life.

15 He was breathing probably anywhere from about
16 four to eight times per minute, and you should be breathing
17 anywhere from 12 to 20 times per minute.

18 Q So are you able to assess his condition as far
19 as anything, any wounds that he might have?

20 A Not at that time; not in the car.

21 Q So what was your response once you realized he
22 was only breathing four to eight beats per minute, and
23 that was not usual? What did you do?

24 A That makes the urgency of the call, it is a
25 higher priority. Most of the time, if situations like

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 that, we try to activate a helicopter. That call, we
2 extricated the patient from out of the car, took him out
3 of the car, put him on a stretcher, and then got him to
4 the -- in our ambulance as quickly as possible.

5 Q Did anyone assist you with getting him out of
6 the car and getting him into the ambulance?

7 A Yes, ma'am. Bystanders.

8 Q Some bystanders?

9 A Yes, ma'am.

10 Q Okay. Now -- so you get him into the ambulance.
11 What do you do to help him?

12 A Then we try to expose the patient's body by
13 cutting off his clothes to see where he's been shot, or
14 what type of wounds or injuries that he had.

15 Q Did you make any notes about where his injuries
16 were?

17 A In the run report, all we could see was the
18 gunshot wound to the left arm.

19 Q Was he doing any bleeding?

20 A Minimal bleeding.

21 Q Okay. So you get him into the ambulance, you
22 have assessed him now with a possible gunshot wound to the
23 left arm. What is your next response?

24 A We re-assess what we initially saw. We go as
25 far as mental status, if he's still conscious, alert, and

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 oriented.

2 Q Was he?

3 A No, ma'am.

4 Q Was he?

5 A No, ma'am. If he's still breathing.

6 Q Was he?

7 A No, ma'am. And does he still have a pulse.

8 Q Did he?

9 A No, ma'am.

10 Q So, at this point, you have him in the
11 ambulance, he's not breathing, he's not responsive, and he
12 has no pulse. What do you do?

13 A We begin CPR, which is the -- we start chest
14 compressions and we breathe for them, which is, for us, in
15 our profession, we get a bag mask -- bag valve mask and do
16 compressions at a rate of 30 to two respirations of
17 breath.

18 Q Now, you mentioned earlier that in these
19 situations, you try to, I guess you could activate a
20 helicopter.

21 A Yes, ma'am.

22 Q Did you activate a helicopter this night?

23 A No, ma'am, we didn't because it was foggy.

24 Q Foggy. Okay. And a helicopter can't fly in the
25 fog?

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 A Because of the conditions, they can't see, so
2 they won't fly in fog.

3 Q Okay. So, at this point, you had him on the
4 stretcher, you're working on him, doing CPR. Does he
5 change -- does his condition change?

6 A No, ma'am.

7 Q Now, while you are working on Russell, you said
8 there was another patient?

9 A Yes, ma'am.

10 Q And you indicated that your partner was working
11 on him?

12 A Yes, ma'am.

13 Q Okay. So where is that patient by this time,
14 when you have Russell in the ambulance?

15 A We had Russell. Russell was on our EMS, our op
16 stretcher; Tyquan was on the bench seat that is next to
17 our stretcher.

18 Q So are they both in the same ambulance?

19 A Yes, ma'am. They are in the same ambulance.

20 Q Okay. So who is working on Tyquan?

21 A Mr. Thomas is working on Mr. Charlton.

22 Q Okay. So are you able to actually watch while
23 you are working on Russell, watch what Mr. Thomas was
24 doing? Or observe?

25 A Yes, ma'am.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 Q Okay. Now, at some point, did Russell go into
2 cardiac arrest?

3 A Yes, ma'am.

4 Q So because you are working on Russell,
5 Mr. Thomas is working on Tyquan Charlton, who does the
6 driving?

7 A We recruited someone -- one of -- someone from
8 law enforcement to drive us to the hospital.

9 Q And you did that why?

10 A Because both paramedics were needed in the back
11 of the truck.

12 Q As far as you could tell, what was the condition
13 of the patient that Mr. Thomas was working on?

14 A He was critical, but I couldn't make a
15 determination at that time how critical he was. Because I
16 was focused on Mr. Smart.

17 Q All right. So at some point, do you arrive at a
18 hospital?

19 A Yes, ma'am.

20 Q Which hospital do you arrive at?

21 A The Allendale County hospital.

22 Q And when you arrive at the Allendale County
23 hospital, what do you do with Russell?

24 A Mr. Smart, we continue CPR until we get into the
25 hospital, and then we turn over care to him to the nursing

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 staff and the ER physician.

2 Q Okay. Now, once you turned over care of
3 Mr. Smart to the ER and the nursing physician -- I'm
4 sorry, ER physician, did you leave the hospital?

5 A No, ma'am.

6 Q What did you do next?

7 A We assisted with Mr. Smart, and assisted with
8 Mr. Charlton, because with only one ER physician and maybe
9 three ER nurses, three nurses on staff, the more hands,
10 the better.

11 Q Okay. So you then went and assisted with
12 Mr. Charlton?

13 A Yes, ma'am.

14 Q And how did you assist with Mr. Charlton?

15 A Just trying to facilitate whatever the ER
16 physician needed. Maybe establish IVs, check the blood
17 pressures and things of that nature.

18 Q And going back briefly to the Barton Road scene.

19 A Yes, ma'am.

20 Q You indicated earlier that bystanders helped you
21 get Russell Smart into the ambulance?

22 A Yes, ma'am.

23 Q Did anyone assist with getting Mr. Charlton into
24 the ambulance?

25 A Bystanders helped with both of them.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 Q Okay. So you are at the ER now, and Mr.
2 Charlton, you're helping with him.

3 So, at some point, does he get transferred,
4 Mr. Charlton, to another facility?

5 A Yes, ma'am. He got transferred to MCG.

6 Q And how was he transferred?

7 A By ambulance, by our department.

8 Q Okay. And did you assist with the transfer?

9 A Yes, ma'am.

10 Q Can you tell us about the transfer of
11 Mr. Charlton?

12 A It was pretty uneventful at first, and then
13 while en route to MCG, he went into cardiac arrest as
14 well.

15 Q Now, when you say, "cardiac arrest," what is
16 cardiac arrest?

17 A Basically, his heart stopped.

18 Q Do you know for how long his heart was stopped?

19 A It wasn't long at all, because we have to put
20 them on a cardiac monitor. That measures the electrical
21 activities, and you try to verify that with actually
22 feeling a pulse. So once we saw changes in the cardiac
23 monitor, we verified it with trying to find a pulse. We
24 couldn't find a pulse, so we started CPR initially. So a
25 minute, max.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 Q Now, were you able to assess when you were
2 working, I guess, when Mr. Charlton was in your
3 ambulance --

4 A Yes, ma'am.

5 Q -- what kind of injury he may have had?

6 A While in the ER, the only thing we could figure
7 out was a gunshot wound to the jaw.

8 Q Okay.

9 A And that was about it.

10 Q But now in the transport, are you able to
11 determine more on the transport?

12 A No, ma'am. Everything was found out in the
13 back -- in the ER.

14 Q And could you tell us what side of his jaw the
15 injury was to?

16 A The left side.

17 Q And, again, you indicated earlier about the
18 helicopter.

19 A Yes, ma'am.

20 Q Was his condition emergent?

21 A Yes, ma'am.

22 Q And would you have flown him also --

23 A Yes.

24 Q -- had it not been foggy?

25 A Yes, ma'am.

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 Q Now, once you -- well, how long was the drive to
2 the hospital in Augusta?

3 A About an hour, hour and 15 minutes.

4 Q And once you got Mr. Charlton to the hospital,
5 what was done with him?

6 A After we got him to the hospital at MCG, we just
7 transferred care to the ER nurses and the ER physician.

8 Q And then you left?

9 A Yes, ma'am.

10 Q And at that point, he was in, I suppose -- what
11 was his condition at that -- I'm sorry.

12 Q What was his condition at that time?

13 A He was stable but yet still -- he was still
14 critical, but for us he was stable enough.

15 Q So when you say "critical," what does that mean?

16 A Basically you could say his injuries were life
17 threatening. It was -- it just makes his patient care
18 priority a little bit higher.

19 MS. LEGETTE: Begging the Court's indulgence.

20 (Pause.)

21 BY MS. LEGETTE:

22 Q Mr. Sabb, did you transport, or did Allendale
23 County EMS transport anyone else that night? Any other
24 patient?

25 A No, ma'am. It was just Mr. Smart and

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 Mr. Charlton.

2 MS. LEGETTE: Thank you, Mr. Sabb. I have no
3 further questions. Please answer any questions from
4 the Defense.

5 MR. KOGER: I have no questions for the witness,
6 Your Honor.

7 THE COURT: As to this witness, Counsel.

8 MS. LEGETTE: We ask that he be excused,
9 Your Honor.

10 THE COURT: Any objection?

11 MR. KOGER: No objection, Your Honor.

12 THE COURT: All right, sir. You may step down.
13 Mr. Sabb, you are excused from the trial of this
14 case. You may leave the courtroom.

15 Madam Foreperson, ladies and gentlemen, we're
16 going to take my one and only mid-morning break now,
17 let you stretch your legs, use the restroom. Please
18 do not discuss the case. You haven't heard all the
19 evidence yet. And I will be back with you just as
20 soon as I know everybody's had a chance to take a
21 break this morning.

22 You may retire to your jury room at this time.
23 Thank you.

24 (The jury exits the courtroom at 11:40 a.m.)

25 THE COURT: All right. Counselors, we'll take

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 our mid-morning break at this time.

2 (Whereupon, the court was in recess from [] to
3 [].)

4 THE COURT: State ready to proceed?

5 MS. LEGETTE: Yes, Your Honor.

6 THE COURT: Defendant ready to proceed?

7 MR. KOGER: Yes, Your Honor.

8 THE COURT: Bring us the jury, please,
9 Mr. Freddy.

10 (The jury enters the courtroom at 11:55 a.m.)

11 THE COURT: Madam foreperson, ladies and
12 gentlemen of the jury, we will now continue with
13 testimony in the trial of this case.

14 Call your next witness.

15 MS. LEGETTE: Thank you, Your Honor. The State
16 calls Dr. Gabriel Fornari.

17 THE COURT: Come around and be sworn by the
18 clerk. She's coming to you.

19 Thereupon,

20 GABRIEL FORNARI

21 was called as a witness, having been first duly sworn,
22 was examined and testified as follows.

23 THE COURT: Come around, sit in that chair.
24 Pull up the microphone, it's going to amplify your
25 voice. In this courtroom, we need it because the

DIRECT EXAMINATION OF LISH SABB BY MS. LEGETTE

1 sound goes straight up to the ceiling. You need to
2 speak up so everybody on the jury can hear you. Can
3 you do that for me?

4 THE WITNESS: Yes, I can.

5 THE COURT: All right. State your full name and
6 spell your last name for the court reporter.

7 THE WITNESS: Gabriel Charles Fornari, Junior,
8 F-O-R-N-A-R-I.

9 THE COURT: Speak up.

10 Your witness, Counsel: Direct examination.

11 MS. LEGETTE: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. LEGETTE:

14 Q Dr. Fornari, if I can ask you to please speak up
15 and amplify your voice.

16 A Yes.

17 Q Dr. Fornari, where do you work?

18 A Allendale County Emergency Department.

19 Q And what are your duties at the Allendale County
20 Emergency Department?

21 A Just emergency room physician.

22 Q Okay. And what does it mean to be an emergency
23 room physician? What do you do?

24 A Take care of the individuals that come in that
25 are ill or injured.

DIRECT EXAMINATION OF G. FORNARI BY MS. LEGETTE

1 Q Okay. And are some of those that come in, do
2 they have life-threatening injuries?

3 A Yes.

4 Q Do you also pronounce patients who are deceased?

5 A Yes.

6 Q Now, Dr. Fornari, how long have you been a
7 medical doctor?

8 A Twenty years.

9 Q And do you have any specialty?

10 A Family practice and emergency room.

11 Q And tell us a little bit about your training and
12 background and experience as it relates to being a medical
13 doctor in the ER.

14 A Essentially what you do is a residency after
15 medical school, which is three years. And during that
16 time, I was family practice, and we had emergency room
17 training, too.

18 Q If I can get you to speak up a little more so
19 that everyone can hear you. Because we are actually
20 talking to the jury over here, so ...

21 A I was trained in family practice and emergency
22 room.

23 Q Okay. And in the emergency room, over your
24 career -- 20 years?

25 A Yes. Most of it was family practice. The

DIRECT EXAMINATION OF G. FORNARI BY MS. LEGETTE

1 last -- yes.

2 Q Well, have you ever treated any individual who
3 had gunshot wounds?

4 A Yes.

5 Q Can you tell us about how many?

6 A Several. Double digits, for sure. I can't tell
7 you an accurate number.

8 Q Okay. And I may have asked you before, and if I
9 have, I apologize, but how long have you been at the
10 Allendale County hospital?

11 A I believe about five years.

12 Q Five years. Okay. So were you working at the
13 Allendale County Hospital in December of 2014?

14 A I was.

15 Q And did you have an occasion on, or in,
16 December of 2014, to see a patient named Russell Smart?

17 A Yes.

18 Q And was that date December the 6th, 2014?

19 A Yes.

20 Q Can you tell us about his condition.

21 A Russell Smart came in, and he was -- he was dead
22 on arrival essentially.

23 Q All right. So he was dead on arrival. And what
24 did you do as it relates to him being dead on arrival?

25 A Essentially he came in, we checked him to make

DIRECT EXAMINATION OF G. FORNARI BY MS. LEGETTE

1 sure whether he had any pulses or not. We looked at the
2 heart monitor, and he had been tried to be revived for a
3 period of time. So we pronounced him.

4 Q So you pronounced him.

5 A Correct.

6 Q Now, did you -- what does it mean to "pronounce"
7 someone?

8 A Basically says you can cease all life --
9 basically the person is dead.

10 Q Okay. So on that particular evening, after you
11 pronounced Russell Smart, did you see another patient in
12 the ER?

13 Well, I'm sorry. I asked that wrong.

14 Did you see another patient in the ER who
15 appeared to have a gunshot wound injury?

16 A Yes.

17 Q Okay. Were you advised, or did you learn the
18 patient's name as being Tyquan Charlton?

19 A Yes.

20 Q Please tell us about Mr. Charlton's condition.

21 A Mr. Charlton had been shot in the mandible.

22 Q Shot in the mandible?

23 A Yes.

24 Q What is a "mandible"?

25 A Your jaw.

DIRECT EXAMINATION OF G. FORNARI BY MS. LEGETTE

1 Q And what side of his jaw was he shot in?

2 A It appeared his left.

3 Q So he's got a shot in the jaw. What is
4 your response to -- how did you treat him?

5 A Well, the first thing is, you want to try to
6 assess and stop the bleeding. Then you want to protect
7 the person's airway. So he was -- he had to be intubated.

8 Q And "intubated" means put a --

9 A A breathing tube in him so to help him breathe.
10 Because without it, he probably would have -- he would
11 have closed off his airway.

12 Q Closed off his airway?

13 A Yes.

14 Q So was his condition life-threatening?

15 A Absolutely.

16 Q So once you intubated him, did you keep him at
17 the hospital, or did you send him someplace?

18 A No. He had to be transported -- he had to be
19 transported to MUSC.

20 Q And why did you transport him to another
21 hospital?

22 A Because he needed -- we just stabilized him, but
23 he needed further -- basically the care of a trauma
24 surgeon.

25 Q And was that hospital, MCG in Augusta?

DIRECT EXAMINATION OF G. FORNARI BY MS. LEGETTE

1 A That's correct.

2 Q Do you recall seeing another patient in the
3 hospital who had a gunshot wound that night?

4 A Yes.

5 Q And was that patient's name Brandon Lewis?

6 A I believe so.

7 Q What was your response to seeing Brandon Lewis
8 in the hospital with a gunshot wound?

9 A All three individuals came in at the same time.
10 So I basically would like to say we had to do an
11 assessment on all three.

12 I believe Mr. Lewis -- Mr. Lewis, yes, was
13 shot in the arm, I believe. He was more stable compared to
14 the other two, obviously.

15 Q And did you keep Mr. Lewis in your hospital, or
16 did you send him someplace else?

17 A No. I believe he was transferred also.

18 Q To MCG?

19 A That's correct.

20 MS. LEGETTE: Begging the Court's indulgence.

21 (Pause.)

22 MS. LEGETTE: Dr. Fornari, I have no further
23 questions. Please answer any questions from
24 Mr. Koger.

25 CROSS EXAMINATION

CROSS EXAMINATION OF G. FORNARI BY MR. KOGER

1 BY MR. KOGER:

2 Q Dr. Fornari, both Mr. Lewis and --

3 THE COURT: Come on up to the bench, now, so he
4 can hear you, and I can hear you, and the jury can
5 hear you.

6 MR. KOGER: Yes, Your Honor.

7 BY MR. KOGER:

8 Q Dr. Fornari, were Mr. Charlton and Mr. Lewis
9 transported by ambulance to MCG?

10 A Yes.

11 Q Okay. And that was because it was foggy on that
12 particular night?

13 A We called for the helicopter, the helicopter,
14 they -- due to whatever, they were unable to fly.

15 Q Okay. But that was the -- that was the first
16 preferred means of transportation for these two is by
17 helicopter as opposed to ambulance?

18 A That's correct.

19 Q Okay. All right. And were they put in any type
20 of danger by being placed in an ambulance as opposed to
21 the helicopter?

22 A No.

23 Q Okay. All right. Now, as far as you testified
24 to seeing both Mr. Charlton and Mr. Lewis, did you do any
25 type of toxicology screens on either one of them?

CROSS EXAMINATION OF G. FORNARI BY MR. KOGER

1 A I don't recall.

2 Q Okay. You don't recall, meaning that you didn't
3 do them or you just don't recall?

4 A I don't recall. I mean, I don't recall.

5 Q Okay. Do you have your notes with you?

6 A I do not believe these -- these were notes just
7 given to me, so ...

8 Q Okay. All right. Okay. So, there is a
9 possibility that you could have.

10 Is it part of emergency room protocol when
11 someone comes in, let's say with gunshot wounds, to do a
12 toxicology screen?

13 A It is not.

14 Q Okay. But you have done some in the past?

15 A That is, like I said, it is not -- we do not
16 normally do toxicologies on gunshots.

17 Q Okay.

18 MR. KOGER: Thank you. No further questions.

19 THE COURT: Redirect?

20 MS. LEGETTE: None, Your Honor.

21 THE COURT: As to this witness.

22 MS. LEGETTE: We asked that he be excused,
23 please.

24 THE COURT: Any objection?

25 MR. KOGER: No objection, Your Honor.

CROSS EXAMINATION OF G. FORNARI BY MR. KOGER

1 THE COURT: All right, Doctor, you may step
2 down. You are excused from the trial of this case.
3 You may leave the courtroom. Thank you very much.

4 Call your next witness.

5 MR. HOLLEN: Tracy Roberts.

6 THE COURT: Come in and be sworn by the clerk.

7 Thereupon,

8 TRACY ROBERTS

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 THE COURT: Have a seat, make yourself
12 comfortable. I want you to adjust that microphone to
13 your height. Now, this courtroom is real difficult
14 to hear in, you got to speak up.

15 You can hear me, can't you?

16 THE WITNESS: Yes, sir.

17 THE COURT: I'm used to making my voice louder
18 so people can hear. I need you to do that so the
19 people in the jury can hear you. You understand?

20 THE WITNESS: Yes, sir.

21 THE COURT: You've got to talk louder than that.

22 State your full name for the record and spell
23 your last name for the court reporter.

24 THE WITNESS: Tracy L. Roberts. R-O-B-E-R-T-S.

25 THE COURT: Ms. Roberts, you have a meek voice.

CROSS EXAMINATION OF G. FORNARI BY MR. KOGER

1 You have got to speak up for us. So use that
2 microphone and speak into it loudly so it'll amplify
3 your voice.

4 Your witness, Counsel. Direct examination.

5 MR. HOLLEN: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. HOLLEN:

8 Q Good afternoon, Ms. Roberts.

9 Ms. Roberts, where are you from?

10 A Allendale.

11 Q Born and raised here?

12 A Yes, sir.

13 Q You still live here?

14 A Yes, sir.

15 Q And how old are you, if you don't mind me
16 asking?

17 A Thirty-eight.

18 Q Thirty-eight. Ms. Roberts, do you recall the
19 night that Russell Smart was shot and killed?

20 A Yes, sir.

21 Q Before all that happened, where were you?

22 A At the Lobster House.

23 Q At the Lobster House here in Allendale?

24 A Yes.

25 Q Is it just down the street from us?

DIRECT EXAMINATION OF TRACY ROBERTS BY MR. HOLLEN

1 A Yes.

2 Q All right. Ms. Roberts, at this time, when this
3 happened in December of 2014, who was your boyfriend at
4 that time?

5 A Dee.

6 Q Dee. Is he known as -- well, he's known as Dee;
7 is that Aldeandre Gray?

8 A Yes.

9 Q And then before you were going out with
10 Mr. Gray, who were you going out with?

11 A Jaqwavian.

12 Q Jaqwavian Williams?

13 A Yes.

14 Q Is he also called Toot?

15 A Yes, sir.

16 Q All right. Ms. Roberts, were you -- you said
17 you were at the Lobster House the night this happened?

18 A Uh-huh. (Indicating affirmatively.)

19 Q Was Dee there?

20 A Yes.

21 Q Was Toot there?

22 A Yes.

23 Q Was Mr. Flowers there?

24 A I don't remember seeing him.

25 Q Don't remember seeing him. Okay.

DIRECT EXAMINATION OF TRACY ROBERTS BY MR. HOLLEN

1 Do you recall something happening between
2 Dee and Toot when you were leaving the Lobster House?

3 A Yes.

4 Q What was it that happened? Can you explain to
5 the jury what happened.

6 A I came outside, we were going to shortly
7 leaving, and Toot came, he blew a kiss at me. And Dee
8 came out of nowhere, they started fussing. So I got in my
9 truck and I left. I said, "I ain't got time for it."

10 Q All right. So you said Toot blew a kiss at you,
11 and Dee -- Dee got a little mad, right?

12 A Yes.

13 Q Okay. Did you see any punches thrown or
14 anything like that?

15 A No, sir.

16 Q You say you got in your car and you left?

17 A I left.

18 Q All right. Where did you go when you left?

19 A I went home.

20 Q Did Dee go with you home?

21 A No.

22 Q Do you know where Dee went after that?

23 A He usually hang at Pinewood. So that's where I
24 assumed he was going.

25 Q All right. Now, after you left the Lobster

DIRECT EXAMINATION OF TRACY ROBERTS BY MR. HOLLEN

1 House --

2 THE COURT: Just a moment.

3 MR. HOLLEN: I'm sorry, Judge.

4 THE COURT: Again.

5 (Court reporter clarification.)

6 THE COURT: Thank you. Proceed.

7 MR. HOLLEN: Thank you, Judge.

8 BY MR. HOLLEN:

9 Q Ms. Roberts, did you go anywhere with Toot after
10 that?

11 A No, sir.

12 Q Did you communicate with Toot after that
13 altercation that you saw between Dee and him?

14 A Yeah. Toot, he called my phone several times
15 and texted me.

16 Q Okay. Did you tell him at some point where you
17 thought Dee was?

18 A He asked me. When he called, he was like, get
19 him out of there. I was like, He not here, he gone to
20 Pinewood.

21 Q So you were -- was this text conversation or
22 phone conversation?

23 A I think it was text conversation.

24 Q It might have been texting. And so you told
25 Toot to check Pinewood.

DIRECT EXAMINATION OF TRACY ROBERTS BY MR. HOLLEN

1 A (Nods head.)

2 THE COURT: You have to say yes, Ms. Roberts.

3 THE WITNESS: Yes, sir.

4 THE COURT: Don't shake your head.

5 MR. HOLLEN: Thank you, Judge.

6 THE COURT: Proceed.

7 BY MR. HOLLEN:

8 Q What was the demeanor of Toot in these text
9 messages or phone calls?

10 A I guess he was mad at Dee.

11 Q Okay. At some point later, did you hear about
12 Russell Smart being shot and killed?

13 A Only thing, he text my phone and say, "I hope
14 Russell okay." I didn't have no idea that they was going
15 out there, because he didn't have anything to do with it.

16 Q Who?

17 A Russell didn't have anything to do with it.

18 Q Okay.

19 MR. HOLLEN: The Court's indulgence, Your Honor.

20 (Pause.)

21 MR. HOLLEN: All right. Ms. Roberts, thank you.

22 I don't have any further questions. Please answer

23 anything Mr. Koger has for you. Okay?

24 MR. KOGER: Begging the Court's indulgence, Your
25 Honor.

DIRECT EXAMINATION OF TRACY ROBERTS BY MR. HOLLEN

1 (Pause.)

2 THE COURT: Proceed.

3 MR. KOGER: May it please the Court.

4 THE COURT: Come forward.

5 CROSS EXAMINATION

6 BY MR. KOGER:

7 Q Ms. Roberts, you testified to that you didn't
8 recall seeing Mr. Flowers at the Lobster House that night,
9 correct?

10 A No, I didn't see him.

11 Q Okay. And you didn't see Mr. Flowers any that
12 night, correct?

13 A I don't remember.

14 Q Okay. And you testified to that you went home
15 after the Lobster House?

16 A Yes, sir.

17 Q And you did not go out to Barton Road or
18 Pinewood Apartments on that night?

19 A No, sir. I went straight home.

20 MR. KOGER: Thank you. No further questions.

21 THE COURT: Redirect.

22 MR. HOLLEN: Briefly, Your Honor.

23 THE COURT: Come forward.

24 MR. HOLLEN: Yes, sir.

25 REDIRECT EXAMINATION

REDIRECT EXAMINATION OF TRACY ROBERTS BY MR. KOGER

1 BY MR. HOLLEN:

2 Q Ms. Roberts, do you know if Jaqwavian, or Toot,
3 has any relationship to Laparis Flowers? Are they related
4 in any way?

5 A They're supposed to be cousins.

6 Q They are cousins?

7 A (Nods head.)

8 MR. HOLLEN: All right. Thank you. Nothing
9 further, Your Honor.

10 THE COURT: Recross limited to redirect.

11 MR. KOGER: No cross, Your Honor.

12 THE COURT: As to this witness, Counsel?

13 MR. HOLLEN: I'd ask that she be excused,
14 Your Honor.

15 THE COURT: Any objection, Counsel?

16 MR. KOGER: No objection, Your Honor.

17 THE COURT: Ms. Roberts, you may step down from
18 the witness stand, and you are excused from the trial
19 of this case. You may leave the courtroom.

20 Call your next witness.

21 MR. HOLLEN: Elizabeth Smith.

22 THE COURT: They are having to come from the end
23 of the hall, ladies and gentlemen, but we are
24 bringing the witness.

25 Come around and be sworn by the Clerk of Court,

REDIRECT EXAMINATION OF TRACY ROBERTS BY MR. KOGER

1 please, ma'am.

2 Thereupon,

3 ELIZABETH SMITH

4 was called as a witness, having been first duly sworn,
5 was examined and testified as follows.

6 THE COURT: Have a seat right there on the
7 witness stand, please.

8 Turn your chair around to the microphone, pull
9 that chair up. This courtroom, all the sound goes
10 straight up to the ceiling, and if you talk low
11 (demonstrating.) So you have to speak up like I'm
12 doing right now.

13 Because if you don't, those people at the end of
14 the jury box and on the back row have a hard time
15 hearing you. You understand?

16 THE WITNESS: Yes, sir.

17 THE COURT: You got to speak up for me. Can you
18 do that?

19 THE WITNESS: Yes.

20 THE COURT: Use that microphone and turn around.
21 Don't look at me now, so they can see you.

22 State your full name and spell your last name
23 for the court reporter.

24 THE WITNESS: Elizabeth Smith, S-M-I-T-H.

25 THE COURT: Now, speak up for me.

REDIRECT EXAMINATION OF TRACY ROBERTS BY MR. KOGER

1 Your witness, Counsel. Direct examination.

2 MR. HOLLEN: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. HOLLEN:

5 Q Ms. Smith, where did you work in December of
6 2014?

7 A The Lobster House.

8 Q And what was your position at the Lobster House?

9 A Head bartender.

10 Q So you were the head bartender there. Who owned
11 or managed the Lobster House at that time?

12 A Ann Patterson.

13 Q And where is she now?

14 A She passed away.

15 Q She passed away. Did everybody refer to her as
16 "A.P." Is that right?

17 A Yes.

18 Q Ms. Smith, do you recall working on the night
19 that Russell Smart was shot and killed?

20 A Yes, sir.

21 Q And you were working as a bartender there at
22 that time?

23 A Yes, sir.

24 Q After Russell was shot and killed, did some
25 officers come to the Lobster House and see you about

DIRECT EXAMINATION OF E. SMITH BY MR. HOLLEN

1 retrieving some videos?

2 A Everybody was talking to Ann Patterson. I was
3 just opening at the time they came and got the cameras.

4 Q Got it. So they talked to A.P. about getting
5 some video?

6 A Yes.

7 Q And you were working when they came to retrieve
8 that?

9 A Yes, sir.

10 Q Now, as your position as head bartender at the
11 time, did you know -- did you have some knowledge about
12 the surveillance system?

13 A I knew how to run it.

14 Q You knew how to run it.

15 A (Nods head.)

16 Q And you knew it was there; is that right?

17 A Yes, sir.

18 Q Did you know how it worked, I guess? You knew
19 how it worked, you said you knew how to run it.

20 A Yeah. I mean, I could get on it and show you
21 things.

22 MR. HOLLEN: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MR. HOLLEN:

25 Q I'm going to hand you what has been marked for

DIRECT EXAMINATION OF E. SMITH BY MR. HOLLEN

1 identification as State's Exhibit Number 8. Do you
2 recognize that?

3 A Yes.

4 Q How do you recognize it?

5 A It's got my name on it.

6 Q And at our request, did you review that video?

7 A Yes.

8 Q And is that surveillance video from the Lobster
9 House?

10 A Yes, it is.

11 Q Has that video, to your knowledge, been changed
12 or altered in any way?

13 A No.

14 Q So it is an accurate depiction of what was
15 recorded?

16 A Yes.

17 MR. HOLLEN: Your Honor, I have showed it to
18 defense counsel. At this time, I would offer it for
19 admission.

20 THE COURT: As to State's Exhibit Number 8,
21 Counsel?

22 MR. KOGER: No objection, Your Honor.

23 THE COURT: Ladies and gentlemen of the jury,
24 State's Exhibit Number 8 will be admitted into
25 evidence in the trial of this case, without

DIRECT EXAMINATION OF E. SMITH BY MR. HOLLEN

1 objection. State's 8 in evidence. You may publish
2 it.

3 *(Whereupon, State's Exhibit No(s) 8 marked for*
4 *identification and received in evidence.)*

5 MR. HOLLEN: Your Honor, I'm going to publish it
6 later through another witness, but I have a couple of
7 additional questions.

8 THE COURT: Very well. Have you got another
9 copy that you're going to publish, or do you need
10 this one?

11 MR. HOLLEN: We have another copy, Your Honor.

12 THE COURT: All right. Then let the court
13 reporter have this exhibit.

14 MR. HOLLEN: Yes, sir.

15 BY MR. HOLLEN:

16 Q Ms. Smith, in reviewing that video, did you
17 notice that the time on it appeared to be correct?

18 A No. The time was off.

19 Q The time was off. Do you know about how long
20 the time was off by? Do you recall?

21 A I think it was about an hour. I don't know if
22 it was up or down, but it's off.

23 Q Okay. So it's off just a little bit.

24 When you worked at the Lobster House in
25 December '14, about what time did y'all start to close up

DIRECT EXAMINATION OF E. SMITH BY MR. HOLLEN

1 shop? Do you remember?

2 A The security would start at 1:45.

3 Q At 1:45, and would people immediately leave, or
4 would they linger a little bit, or just start clearing
5 out?

6 A Not with security there.

7 Q Not with security there. So they were clearing
8 them out pretty fast?

9 A Yes -- out of the building, I don't know about
10 the parking lot.

11 Q I'm sorry. Say that one more time.

12 A Out of the building.

13 Q Out of the building.

14 A Right.

15 Q But not out of the parking lot?

16 A I don't know about the parking lot.

17 Q Got it. Not your territory?

18 A Right.

19 Q Got it. All right, Ms. Smith.

20 MR. HOLLEN: The Court's indulgence, Your Honor.

21 (Pause.)

22 MR. HOLLEN: Ms. Smith, thank you. I don't have
23 any further questions. Please answer anything

24 Mr. Koger has for you.

25 THE COURT: Cross examination.

CROSS EXAMINATION OF E. SMITH BY MR. KOGER

1 CROSS EXAMINATION

2 BY MR. KOGER:

3 Q Yes, Ms. Smith. What time do you usually leave
4 after security starts clearing out at 1:45?

5 A Do what now?

6 Q What time do you usually leave after security
7 start clearing out at 1:45?

8 A Us?

9 Q Yeah. Yeah, what time?

10 A Usually an hour or two hours later. We have to
11 clean up and everything.

12 Q Okay. And at times, when you were working
13 there, when y'all would leave one or two hours later,
14 would people still be in the parking lot?

15 A No.

16 MR. KOGER: Okay. Thank you. No further
17 questions.

18 THE COURT: Redirect.

19 MR. HOLLEN: Nothing, Your Honor.

20 THE COURT: As to this witness, Counsel?

21 MR. HOLLEN: We would ask that she be excused.

22 THE COURT: Any objection?

23 MR. KOGER: No objection, Your Honor.

24 THE COURT: Ms. Smith, you may step down from
25 the witness stand, and you are excused from the trial.

CROSS EXAMINATION OF E. SMITH BY MR. KOGER

1 of this case. You may leave the courtroom. Yes,
2 ma'am.

3 Call your next witness.

4 MR. HOLLEN: Elizabeth Rollins.

5 Thereupon,

6 ELIZABETH ROLLINS

7 was called as a witness, having been first duly sworn,
8 was examined and testified as follows:

9 THE COURT: Counsel, approach.

10 (Off-the-record discussion.)

11 THE COURT: Use that microphone, it's going to
12 amplify your voice. I need you to speak up like I'm
13 doing. I want everybody on the jury to be able to
14 hear you. It's difficult to hear in here, the sound
15 goes up. It goes to the ceiling, with these tall
16 ceilings. So I make the lawyers come all the way up
17 to the clerk's bench to ask you questions, so that
18 the court reporter can see you and the lawyers, and
19 hear, and the jury can hear.

20 Will you speak up for me?

21 THE WITNESS: Yes, sir.

22 THE COURT: Excellent. State your full name and
23 spell your last name for the court reporter.

24 THE WITNESS: Elizabeth Rollins, R-O-L-L-I-N-S.

25 THE COURT: We can hear you loud clear,

CROSS EXAMINATION OF E. SMITH BY MR. KOGER

1 Ms. Rollins. Excellent.

2 Your witness, Counsel. Direct examination.

3 MR. HOLLEN: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. HOLLEN:

6 Q Ms. Rollins, do you go by Liz?

7 A Yes, I do.

8 Q Perfect. Thank you for speaking so loudly. All
9 right.

10 Ms. Rollins, where are you from originally?

11 A Fairfax, South Carolina.

12 Q Fairfax. And you still live in the
13 Allendale/Fairfax area?

14 A Yes, I do.

15 Q And where do you work at this time?

16 A Allendale County School, Allendale County
17 Disability Board.

18 Q So you have two different jobs right now?

19 A Yes, sir.

20 Q All right. Great.

21 Ms. Rollins, did you at some point work at
22 the Lobster House just up the street from us?

23 A Yes, sir.

24 Q And how long did you work there? Just a round
25 number.

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 A About -- about three years.

2 Q Okay. At that time, who was the manager of the
3 Lobster House?

4 A Her name -- they call her A.P. Her name Ann
5 Patterson.

6 Q A.P. So that's what everybody called her?

7 A Yes.

8 Q And is she now deceased?

9 A She is deceased.

10 Q Were you working at the Lobster House in
11 December of 2014?

12 A Yes, I were.

13 Q Specifically, do you remember working on the
14 night of December 5th and 6th of 2014?

15 A Yes.

16 Q Okay. Ms. Rollins, I'm going to ask you, I'm
17 going to throw out some names. Can you let me know if you
18 know these people?

19 A Yes.

20 Q Did you know Russell Smart?

21 A Yes.

22 Q How about Brandon Lewis?

23 A Yes.

24 Q People call Brandon Lewis Pooh Bear?

25 A Yes.

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 Q All right. Jarrell Murray?

2 A Yes.

3 Q Tyquan Charlton?

4 A Yes.

5 Q Do you know the person sitting at that table to

6 Mr. Koger's left?

7 A Yes.

8 Q And who is that?

9 A Pat Pat.

10 Q Pat Pat. Is he also called Laparis Flowers?

11 A Laparis Flowers.

12 Q How about Kendall Nix?

13 A Yes.

14 Q Aldeandre Gray?

15 A Yes.

16 Q Dee? Does people call him Dee?

17 A Yes.

18 Q What about Toot?

19 A Yes.

20 Q Is he also known as Jaqwavian Williams?

21 A Yes.

22 Q All right. Ms. Rollins, when you were working

23 at the Lobster House on December 5th and 6th, do you

24 recall seeing a lot of those people?

25 A Yes.

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 Q And what were you doing at the Lobster House on
2 that night?

3 A I was the doorkeeper.

4 Q You were the doorkeeper. So what -- as the
5 doorkeeper at the Lobster House, what were your
6 responsibilities?

7 A As they come in, I sign them in, and I collect
8 the money.

9 Q Got it. So you would collect money, they would
10 sign in?

11 A Yes.

12 Q Now, would they sign in to some kind of -- what
13 did they sign?

14 A It was a tablet.

15 Q A tablet, like a notebook?

16 A Yes.

17 Q And is everybody required to sign in?

18 A Most of them didn't sign it.

19 Q Most of them did not sign in?

20 A No.

21 Q If they did sign in, did they always use the
22 right name?

23 A No.

24 Q So at this time, Ms. Rollins, do you remember
25 about what time the Lobster House started to close?

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 A It was -- normally it closes at 2, but I think
2 that night, that particular night, it closed like,
3 probably about 2:30. Around 2:30.

4 Q Okay. So everything started to shut up at two,
5 but it didn't always -- did it always work that way?

6 A No.

7 Q Would people sometimes hang out in the parking
8 lot or hang around for a little bit longer?

9 A Yes.

10 Q All right. Ms. Rollins, do you remember seeing
11 a verbal altercation between any people that night?

12 A On that night, I seen a verbal altercation
13 between Toot and Russell.

14 Q Toot and Russell?

15 A Yes.

16 Q Okay. Who is Toot's mother?

17 A Kimberly Flowers.

18 Q And was she there that night?

19 A Yes.

20 Q And what do you recall, do you recall seeing any
21 interaction between her and Toot and or Jaqwavian?

22 A I asked Toot's mom to get him -- to take him on
23 outside.

24 Q Take him outside?

25 A Yes.

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 Q And did she do that?

2 A Yes.

3 Q You stated that you remember seeing
4 Laparis Flowers there that night; is that right?

5 A Yes.

6 Q Do you remember what his demeanor was at the
7 beginning of the night? Was he just doing what everybody
8 else was doing? Do you recall?

9 A Yes. When he came in, he was like everybody
10 else.

11 Q At some point, do you remember Laparis Flowers'
12 demeanor maybe changing?

13 A I think he got a little angry. I don't know
14 why, but I think he got a little angry.

15 Q You think you recall him being a little bit
16 angry?

17 A Yes.

18 Q Do you know what that was about?

19 A No.

20 Q Do you remember seeing him do anything after he
21 got a little angry?

22 A He went out -- he went outside.

23 Q He went outside.

24 A Yes.

25 Q Do you know where he went or what happened after

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 that?

2 A No.

3 Q Okay. Did you see Russell Smart around this
4 time, around that time you saw Mr. Flowers?

5 A Yes, he was up front. Coming up front.

6 Q He was coming up front?

7 A Yes.

8 Q Did you see him leave?

9 A He went outside.

10 Q He went outside. Do you know what kind of car
11 Mr. Smart drove? Do you -- if you don't know, that's
12 okay.

13 A No. I do not. I know he used to drive a green
14 car.

15 Q He used to drive a green car.

16 At some point later, did you hear about a
17 shooting at Pinewood Apartments?

18 A Yes.

19 Q And do you recall hearing that someone was
20 killed?

21 A Yes.

22 Q And who was that?

23 A They say that it was Russell Smart.

24 Q Russell Smart.

25 A But the first call, when they first call back,

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 they say it was another person. They didn't say Russell
2 Smart at first.

3 Q Okay. So you got a call about it?

4 A Yes. Someone called the Lobster House.

5 Q And they said that it was someone else, not
6 Russell?

7 A Yes.

8 Q So there was some confusion at first about who
9 was shot?

10 A Yes.

11 Q Do you recall hearing about anybody else being
12 shot?

13 A No, not that particular night.

14 Q Ms. Rollins, one second.

15 MR. HOLLEN: The Court's indulgence, Your Honor.

16 (Pause.)

17 BY MR. HOLLEN:

18 Q All right. Ms. Rollins, when you say that
19 Mr. Flowers was angry, what do you mean by that? What was
20 he doing?

21 A He was -- he was -- he was just looking mad, and
22 he was doing hand gestures and stuff. I don't know, at
23 who, but he was.

24 Q He just looked somebody who was mad?

25 A Uh-huh. He looked like he mad.

DIRECT EXAMINATION OF E. ROLLINS BY MR. HOLLEN

1 Q Okay. And you -- again, you don't know what it
2 was about?

3 A No.

4 Q You don't know if it was any particular person?

5 A No.

6 Q And you don't know -- you didn't go to Pinewood
7 Apartments after this, did you?

8 A No.

9 Q And you didn't see who shot Russell Smart?

10 A No.

11 MR. HOLLEN: The Court's indulgence, Your Honor.

12 (Pause.)

13 BY MR. HOLLEN:

14 Q Ms. Rollins, was he using any kind of language
15 or anything like that?

16 A He was cursing.

17 Q Cursing.

18 A Yes.

19 Q Thank you.

20 MR. HOLLEN: Ms. Rollins, I don't have anything
21 further. Please answer any questions Mr. Koger has
22 for you.

23 CROSS EXAMINATION

24 BY MR. KOGER:

25 Q Ms. Rollins, you said you worked at the Lobster

CROSS EXAMINATION OF E. ROLLINS BY MR. KOGER

1 House for approximately three years?

2 A Yes.

3 Q Okay. And you have worked in the capacity as a
4 doorkeeper for that entire three years?

5 A Bartending and doorkeeper.

6 Q So between being at the bar and being at the
7 door?

8 A Yes.

9 Q All right. And is it not unusual for people to
10 get angry at a club sometime?

11 A No, it happen.

12 Q Okay. And is it not unusual for people at the
13 club to use hand gestures?

14 A No, they use them.

15 Q So basically ain't nothing unusual about someone
16 getting mad at a club, correct?

17 A No.

18 Q Ain't nothing unusual about someone using hand
19 gestures at the club.

20 A No.

21 Q And these things happen all the time, correct?

22 A Yes, all the time.

23 Q Now, you also testified to seeing some type of
24 altercation at the club, correct?

25 A Yes.

CROSS EXAMINATION OF E. ROLLINS BY MR. KOGER

1 Q That was a verbal or physical altercation?

2 A Verbal.

3 Q Verbal. Okay.

4 And where was Laparis Flowers at that
5 particular time?

6 A I'm not sure. If he was at the club, he was up
7 front at the time.

8 Q Okay. But he was not involved in the verbal
9 altercation at the club?

10 A No.

11 MR. KOGER: Thank you. No further questions.

12 THE COURT: Redirect.

13 MR. HOLLEN: Nothing from the State, Your Honor.

14 THE COURT: As to this witness.

15 MR. HOLLEN: We would ask that she be excused.

16 THE COURT: Any objection, Counsel?

17 MR. KOGER: No objection, Your Honor.

18 THE COURT: Ms. Rollins, you may step down. You
19 are excused from the trial of this case. You may
20 leave the courtroom.

21 Call your next witness.

22 MR. HOLLEN: Your Honor, we next call
23 Tyquan Charlton.

24 THE COURT: Tyquan, come in and be sworn by the
25 clerk. Left hand on the Bible, raise your right

CROSS EXAMINATION OF E. ROLLINS BY MR. KOGER

1 hand.

2 Thereupon,

3 TYQUAN CHARLTON

4 was called as a witness, having been first duly sworn,
5 was examined and testified as follows.

6 THE COURT: Have a seat in the witness stand and
7 adjust that chair and that microphone as you sit
8 down.

9 Tyquan, the sound in here goes up to the
10 ceiling, so you got to speak up like I'm doing right
11 now so everybody can hear you. That microphone is
12 going to amplify your voice, but you got to speak up.
13 You understand?

14 THE WITNESS: Yes, sir.

15 THE COURT: You understand?

16 THE WITNESS: Yes, sir. ||

17 THE COURT: Speak up now.

18 THE WITNESS: Yes, sir.

19 THE COURT: There we go. State your full name,
20 spell your last name.

21 THE WITNESS: Tyquan Charlton, C-H-A-R-L-T-O-N.

22 THE COURT: Very good. Use that microphone and
23 speak up.

24 Your witness, Counsel. Direct examination.

25 MR. HOLLEN: Thank you, Your Honor.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 DIRECT EXAMINATION

2 BY MR. HOLLEN:

3 Q All right. Mr. Charlton, how old are you?

4 A Twenty-five.

5 Q You're twenty-five years old. And where are you
6 from?

7 A Allendale, South Carolina.

8 Q From Allendale. You born and raised here?

9 A Yes, sir.

10 Q Okay. Mr. Charlton, do you remember the night
11 of December 5th and 6th, 2014?

12 A Yes, sir.

13 Q What do you recall about that night? What jumps
14 out at you about that night?

15 A What jumps out?

16 Q What for you was so memorable about December 5th
17 and 6th, 2014? Did something happen?

18 A Yeah, I was shot that night.

19 Q Okay. Mr. Charlton, before all that, do you
20 remember where you were? Where you were hanging out?

21 A Yeah, at the Lobster House.

22 Q You were at the Lobster House. And is that just
23 down the street from us here?

24 A Yes, sir.

25 Q Who were you with? Who were you hanging out,

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 with at the Lobster House?

2 A Well, I was with my brothers.

3 Q With your brothers?

4 A Yeah.

5 Q You have multiple brothers?

6 A Well, my brother and my cousin.

7 Q Your brother and your cousin. Okay. And who
8 are they?

9 A Rakeen Charlton and Lazarius Devoe.

10 Q And what was the second name?

11 A Lazarius Devoe.

12 Q Lazarius Devoe. Is that D-E-V-O-E?

13 A Yes, sir.

14 Q And Rakeen Charlton --

15 THE COURT: Speak up, Counsel.

16 BY MR. HOLLEN:

17 Q Rakeen Charlton?

18 A Yes, sir.

19 Q All right. Mr. Charlton, do you remember seeing
20 a lot of different people at the Lobster House that night?

21 A Yes, sir.

22 Q Were there a lot of people hanging out?

23 A Yes, sir.

24 Q Do you remember seeing Russell Smart?

25 A Yes, sir.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 Q Do you remember seeing Aldeandre Gray?

2 A Yes, sir.

3 Q Is he also called Dee?

4 A Yes, sir.

5 Q Do you remember seeing Jarrell Murray?

6 A Yes, sir.

7 Q Do you remember seeing Brandon Lewis?

8 A Yes, sir.

9 Q Do you remember seeing Lapolis Flowers?

10 A Yes, sir.

11 Q Did you talk to Mr. Flowers that night?

12 A I don't recall.

13 Q You don't recall. Okay.

14 Mr. Charlton, after the Lobster House
15 started to close, did you get in a car to go somewhere
16 with someone?

17 A Yeah, I got in a car with my brother and his
18 girlfriend.

19 Q Your brother and -- you left in the car with
20 your brother and his girlfriend?

21 A Yes, sir.

22 Q At some point, did you get in the car with
23 Russell Smart?

24 A Yes, sir.

25 Q Okay. What car did you get into with Russell?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A In his green Crown Victoria.

2 Q His green Crown Victoria.

3 Mr. Charlton, I'm going to show you a
4 picture that's already been admitted into evidence. This
5 is State's Exhibit Number 5.

6 MR. HOLLEN: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 BY MR. HOLLEN:

10 Q Mr. Charlton, does that car look familiar to
11 you?

12 A Yes, sir.

13 Q And what car is that?

14 A That is Russell Smart's car.

15 Q That is Russell Smart's car.

16 All right. When you got in the car with
17 Russell, who else was in the car with you?

18 A Me, Jarrell Murray, and Brandon Lewis.

19 Q All right. Where were you sitting in the car?

20 A I was sitting behind Jarrell Murray.

21 Q And so you were in the back seat?

22 A Yes, sir.

23 Q And where was Jarrell Murray?

24 A In the front.

25 Q He was in the front passenger seat?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A Passenger seat.

2 Q Who was driving?

3 A Russell.

4 Q Where was Mr. Lewis sitting?

5 A He was behind Russell Smart.

6 Q Okay. When you were leaving the Lobster House,

7 do you recall seeing any kind of altercation between

8 anybody? Any kind of argument?

9 A No, sir.

10 Q Did you hear about any kind of argument between

11 anyone?

12 A No, sir.

13 Q In addition to Mr. Lewis, Russell, Jarrell

14 Murray, and you, was anybody else in the car at any time?

15 A Well, Aldeandre was there, but he had got out.

16 Q All right. So Aldeandre was in Russell's car,

17 so there were five people total in there?

18 A When I was got in, he was getting out of the

19 car.

20 Q Okay. So you got in when Dee was getting out?

21 A Yeah. And I was catching a ride.

22 Q All right. So you were catching a ride. Where

23 were you going to go?

24 A I was going to my girlfriend house in Fairfax.

25 Q In Fairfax. And why did you get in Russell's

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 car?

2 A Because he said he was going there, so I was
3 going to catch a ride with him down there.

4 Q So you were going to catch a ride with Russell
5 to Fairfax?

6 A Yes, sir.

7 Q So when you got in, where did y'all go?

8 A We went to Pinewood Apartments.

9 Q You went to Pinewood Apartments. Okay.

10 Sorry. Go ahead.

11 A To take Brandon Lewis, he want to see a girl or
12 something.

13 Q So y'all went to Pinewood and you were going to
14 drop off Brandon Lewis?

15 A Yes.

16 Q Does Brandon Lewis have a name everybody calls
17 him?

18 A Pooh Bear.

19 Q Pooh Bear. All right.

20 So you went to Pinewood to drop off
21 Brandon Lewis.

22 MR. HOLLEN: The Court's indulgence. Your
23 Honor, excuse me.

24 (Pause.)

25 MR. HOLLEN: Now, Your Honor, this is not going

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 to be an exhibit.

2 THE COURT: Just a moment. Is there an
3 objection?

4 MR. KOGER: No objection, Your Honor.

5 THE COURT: Be seated.

6 MR. HOLLEN: This has been marked as State's
7 Exhibit Number --

8 THE COURT: You got to speak up.

9 MR. HOLLEN: Sorry, Judge.

10 THE COURT: -- to offer an exhibit.

11 MR. HOLLEN: Yes, sir.

12 This has been marked as State's Exhibit 72.

13 It's for demonstrative purposes only. We do not plan
14 to enter it.

15 THE COURT: Any objection for demonstrative, not
16 to be admitted into evidence?

17 MR. HOLLEN: No, Your Honor.

18 MR. KOGER: No objection.

19 THE COURT: For demonstrative purposes only.
20 State's 72, have you reviewed it?

21 MR. KOGER: I have.

22 THE COURT: No objection.

23 MR. KOGER: No objection, sir.

24 THE COURT: Proceed.

25 MR. HOLLEN: Thank you, Your Honor.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 BY MR. HOLLEN:

2 Q Now, I'm going to bring this to you,
3 Mr. Charlton, so you'll have to step down, and you can
4 still use the microphone.

5 MR. HOLLEN: May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 MR. HOLLEN: Thank you.

9 MR. KOGER: Your Honor, may I approach?

10 THE COURT: Come around.

11 BY MR. HOLLEN:

12 Q Mr. Charlton, I'm trying to hold this where you
13 can see it.

14 THE COURT: Hold on a second. Let him get over
15 here, Counsel.

16 Mr. Charlton, you are going to have to use that
17 microphone to speak up. Let me have a portable mic.

18 Don't block the jury's view. I want you to use
19 this. You come back here, because he's got to stay
20 up there by the center.

21 Hold it up so he can see it. Now, ask the
22 question -- wait. Just let me know --

23 I know it's difficult for you, ma'am, but I'm
24 sure I can get it over for you. You let me know if
25 you need to, you stand up and move over.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 Ask the question, Counsel.

2 MR. HOLLEN: Thank you, Judge.

3 BY MR. HOLLEN:

4 Q Mr. Charlton, when you went to drop off
5 Brandon Lewis -- now, there's more than one set of
6 Pinewood Apartments; is that right?

7 A Yes, sir.

8 Q And which set did you go to, to drop
9 Brandon Lewis off?

10 A That set right there.

11 Q The second set of apartments.

12 A Second set.

13 THE COURT: Point to it on the map.

14 Can everybody see it? Can you see it, ma'am?

15 (Juror indicates.)

16 THE COURT: Proceed.

17 BY MR. HOLLEN:

18 Q So when you pulled in, were you parked at the
19 second set of apartments?

20 A Yes, sir.

21 Q And do you know what road this is?

22 A Barton Road.

23 Q That is Barton Road. All right. Thank you,
24 Mr. Charlton.

25 (Witness returns to witness stand.)

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 BY MR. HOLLEN:

2 Q Mr. Charlton, when you were sitting in the
3 second set of apartments at Pinewood, did another car pull
4 in at some point?

5 A Yes, sir.

6 THE COURT: Speak up now.

7 THE WITNESS: Yes, sir.

8 THE COURT: There we go.

9 BY MR. HOLLEN:

10 Q And what kind of car -- what color was it?

11 A Little white car, a white Alero.

12 Q A white Alero. And how many doors did it have?

13 A Four doors.

14 Q Four doors. So when you were sitting there,
15 what direction -- did the car pull in towards you?

16 A Yeah.

17 Q All right. And you were sitting in the back
18 seat, right?

19 A Yes, sir.

20 Q So where did the car pull up to? Did it pull up
21 even with Russell's car?

22 A It pulled up, like, door to door, driver's door
23 to driver's door.

24 Q Okay. So driver's door to driver's door?

25 A Yes, sir.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 Q Mr. Charlton, did you see who was driving that
2 car?

3 A Yes, sir.

4 Q Who was it?

5 A Laparis Flowers.

6 Q Mr. Charlton, was there anybody else in the car
7 but Laparis Flowers?

8 A I didn't see anybody else.

9 Q You didn't see anybody else?

10 A No, sir.

11 Q Mr. Charlton, when Laparis Flowers pulled up in
12 the white Alero, did he say anything?

13 A Yeah. He was like, "Y'all trying to flex on my
14 little cousin."

15 Q "Flex on my little cousin."

16 A Yes, sir.

17 Q And do you know who that cousin was?

18 A I didn't then, but I do now.

19 Q All right. Don't worry about that.

20 When he said that, what did you think? Did
21 you think anything?

22 A No, I ain't thought anything. I was just
23 catching a ride.

24 Q You were just --

25 THE COURT: Speak up now.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A I didn't think anything. I was just catching a
2 ride. I didn't know really what was going on.

3 Q Okay. So at that point, what did you do?

4 A I was just looking.

5 Q You were just looking?

6 A Yeah.

7 Q And what happened next?

8 A He raised up a firearm and started shooting.

9 Q He raised up a firearm and started shooting.
10 Okay. Did you see what kind of firearm it was?

11 A No, sir.

12 Q Mr. Charlton, did you ever have any problems
13 with Mr. Flowers?

14 A No, sir.

15 Q Did y'all ever argue?

16 A No, sir.

17 Q Do you remember anything after Laparis Flowers
18 started shooting?

19 A No, sir.

20 Q What is the next thing you remember?

21 A I was out of it that day. I don't remember
22 anything.

23 Q Do you remember waking up in the hospital?

24 A Yes, sir.

25 Q And that is the next thing you remember?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A That is all I remember.

2 Q Mr. Charlton, where were you shot?

3 A In the face.

4 Q In the face?

5 A Yeah.

6 Q And where is that -- the bullet now?

7 A It is in my spine.

8 Q The bullet is in your spine?

9 A It's crumbled up though.

10 Q It's crumbled up in your spine.

11 A Yes.

12 Q So they were not able to get the bullet out of
13 your --

14 A No, sir.

15 Q How did it get -- did it just move from your
16 neck -- from your jaw to your neck to your spine?

17 A I guess. I don't know.

18 Q What did the doctors tell you about that bullet?

19 A They tell me if it move, I could be paralyzed.

20 Q That you could be paralyzed?

21 A Yes, sir.

22 Q So you have to be careful?

23 A Yes, sir.

24 Q All right. Mr. Charlton, at some point when you
25 were in the hospital, where were you in the hospital when

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 you woke up?

2 A I don't remember. I think I was in -- I don't
3 remember. I don't know.

4 Q You don't know. Did you get transferred to
5 Augusta?

6 A Yeah, yeah.

7 Q All right. Did some people, some law
8 enforcement agents, come and talk to you?

9 A Yes, sir.

10 Q And you remember talking to them?

11 A Yes, but I was doped up.

12 Q You were doped up?

13 A Yeah.

14 THE COURT: Speak up for me now. Now, speak up.

15 A Yes, I was doped up with the medicine they had
16 gave me. I was just waking up.

17 BY MR. HOLLEN:

18 Q All right. So you were still in the hospital
19 and they came to talk to you.

20 A Yes, sir.

21 Q But you remember speaking to them, right?

22 A Yeah.

23 Q Mr. Charlton, do you remember telling them that
24 you got in the car with Russell, but you didn't remember
25 how? Do you remember that?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A No, sir.

2 Q No? , Okay.

3 Do you remember telling them that you
4 didn't remember leaving the Lobster House?

5 A No, sir.

6 Q No.

7 MR. HOLLEN: The Court's indulgence, Your Honor.

8 (Pause.)

9 BY MR. HOLLEN:

10 Q Mr. Charlton, have you ever been in trouble
11 before?

12 A No, sir.

13 Q No?

14 A Driving wise, but that is the only thing that I
15 have been in trouble for. Nothing else.

16 THE COURT: You got to speak up for me.

17 A I said, driving wise, that's the only thing I
18 have been in trouble over. Nothing else.

19 BY MR. HOLLEN:

20 Q Mr. Charlton, you don't have -- never been in
21 trouble in Barnwell? Do you remember?

22 A No, sir.

23 Q What about in Aiken?

24 A Yes, sir.

25 Q What were you in trouble for in Aiken?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A Driving.

2 Q Driving. Was there a shoplifting charge at some
3 point?

4 A Yes, sir.

5 Q What about in Barnwell for giving false
6 information in 2014?

7 A Yes, sir.

8 Q Okay. So you remember both of those?

9 A Yeah.

10 Q Mr. Charlton, did either of those have anything
11 to do with this case?

12 A No, sir.

13 Q Was that before you got shot, both of those, or
14 after?

15 A That was before.

16 Q Before you got shot. All right.

17 All right. Mr. Charlton --

18 MR. HOLLEN: The Court's indulgence, Your Honor.

19 (Pause.)

20 BY MR. HOLLEN:

21 Q Mr. Charlton, when you were speaking with the
22 agents, when you were in the hospital, do you remember
23 telling them who shot you?

24 A Yes, sir.

25 Q And who did you tell them shot you?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A Laparis Flowers.

2 Q Laparis Flowers?

3 A Yes, sir.

4 Q When you were there -- let me back up.

5 Mr. Charlton, how long have you known

6 Laparis Flowers?

7 A A couple of years now.

8 Q A couple of years now. And so you knew him --
9 you know him pretty well?

10 A Yeah, I know him pretty good.

11 Q You know him pretty good. Okay.

12 Mr. Charlton, how well did you have an
13 opportunity to see Mr. Flowers on the night that he shot
14 you? Did you get a good look at him?

15 A Yes, sir.

16 Q Did you recognize him any way other than by
17 seeing him?

18 A Yes, sir.

19 Q When he said something about flexing on my
20 little cousin, did you recognize his voice?

21 A Yes, sir.

22 Q Mr. Charlton, were you -- do you remember the
23 SLED agents, or the agents that came and spoke to you in
24 the hospital, showing you a photo line-up?

25 A Yes, sir.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 Q And do you remember picking somebody out in that
2 line-up?

3 A Yes, sir.

4 MR. HOLLEN: Your Honor, may I approach the
5 witness?

6 THE COURT: You may.

7 BY MR. HOLLEN:

8 Q Mr. Charlton, I'm going to hand you what's been
9 marked a little bit out of order as State's Exhibit Number
10 74. And there are two pages to that.

11 Do you mind taking a look at that for me?
12 Do you recognize that, Mr. Charlton?

13 A Yes, sir.

14 Q What is that? Is that a photo line-up?

15 A Yes, sir.

16 Q And has that line-up been changed in any way, or
17 is it a fair and accurate depiction of what you were shown
18 that day?

19 A Yes, sir.

20 Q That was a compound question. I'm sorry.

21 Has it been changed?

22 A It looks like it was changed.

23 Q It looked like it was changed? How was it
24 changed?

25 A The picture was up top when I seen it that day.

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 Q It -- but do you see your initials on that?

2 A Yes, sir.

3 Q And those are your initials?

4 A Yes, sir.

5 Q And you circled that?

6 A Yes, sir.

7 Q So, has it --

8 A No, it is the same.

9 Q It's the same. Okay.

10 Q So we didn't change it?

11 A No.

12 Q And it is a fair and accurate depiction of what
13 they showed you?

14 A Yes, sir.

15 Q All right. Let me get that back from you.

16 THE COURT: Counsel.

17 MR. KOGER: Your Honor.

18 THE COURT: Counsel approach.

19 MR. HOLLEN: Your Honor, at this time, I would
20 offer State's Exhibit Number 74 for admission into
21 evidence.

22 THE COURT: As to 74.

23 MR. KOGER: Without objection to this particular
24 witness, Your Honor.

25 THE COURT: It is two pages. Did you see both?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 The exhibit consists of two pages.

2 Show them both, Counsel.

3 Any objection?

4 MR. KOGER: No objection, Your Honor.

5 THE COURT: Ladies and gentlemen of the jury,
6 State's Exhibit 74 will be admitted into evidence in
7 the trial of this case, without objection.

8 State's 74 in evidence. You may publish to the
9 jury.

10 MR. HOLLEN: Thank you, Judge.

11 *(Whereupon, State's Exhibit No(s). 74 marked for*
12 *identification and received in evidence.)*

13 BY MR. HOLLEN:

14 Q Mr. Charlton, did you make any marks on this?

15 A Yes, sir.

16 Q And what mark did you make on it?

17 A My initials.

18 Q And did you circle a number?

19 A Yes, sir.

20 Q Mr. Charlton, who did you pick out as Number 4?

21 A Laparis Flowers.

22 Q Is that the person that shot --

23 THE COURT: The court reporter, Counsel.

24 BY MR. HOLLEN:

25 Q Is that the person that shot you on the night of

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 December 6th?

2 A Yes, sir.

3 Q How certain are you that that is the person that
4 shot you?

5 A I seen him shoot. I seen him raise the gun out
6 and start shooting.

7 Q Saw him raise the gun and start shooting. Okay.

8 MR. HOLLEN: The Court's indulgence, Your Honor.

9 (Pause.)

10 BY MR. HOLLEN:

11 Q Mr. Charlton, are you related to Mr. Flowers in
12 any way?

13 A No, sir. Well, his auntie -- my auntie and his
14 uncle were married back in the day.

15 Q So your aunt and his uncle were married at some
16 point?

17 A Yes, sir.

18 Q And so you are kind of related by marriage?

19 A Yes.

20 Q Mr. Charlton, do you see the person in the
21 courtroom now that shot you on that night?

22 A Yes, sir.

23 Q Can you point him out for us, please?

24 A (Witness complies.)

25 Q What is he wearing?

DIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 A A blue shirt with a gray shirt with a tie.

2 MR. HOLLEN: Your Honor, may the record reflect
3 that he's identified the Defendant?

4 THE COURT: Anything further, Counsel?

5 MR. HOLLEN: No, Your Honor.

6 THE COURT: Take a seat.

7 CROSS EXAMINATION

8 BY MR. KOGER:

9 Q Mr. Charlton, how many times have you spoken
10 with the law enforcement on this case?

11 A Two times.

12 Q Two times. Okay. Was the first time
13 December 10th, 2014, in the hospital?

14 A Yes, sir.

15 Q Okay. And when was the second time?

16 A You said the first time, December 10th?

17 Q Well, you was in the hospital at Georgia Regents
18 University, correct?

19 A Yes.

20 Q And you --

21 THE COURT: Hold on a second. Slow down.

22 You got to say yes or no. Don't nod your head,
23 so the court reporter can take your answer.

24 Ask the question again.

25 BY MR. KOGER:

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 Q The first time that law enforcement, SLED agents
2 and Detective Manor, met with you, were you in the
3 hospital?

4 A Yes, sir.

5 Q And you -- you was in the hospital at Georgia
6 Regents University, or MCG?

7 A Yes.

8 Q And that was the first time, correct?

9 A Yes.

10 Q Okay. And that was December 10th, 2014,
11 correct?

12 A Yes.

13 Q And that was a couple of days after the
14 incident, correct?

15 A Yes.

16 Q All right.

17 Now, according to what was submitted into
18 evidence, you supposedly --

19 THE COURT: Counsel, do you want to approach the
20 witness?

21 MR. KOGER: May I approach the witness, Your
22 Honor?

23 THE COURT: Ask the Court's permission. Don't
24 walk and block the jury's view.

25 MR. KOGER: Yes, Your Honor. May I approach the

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 witness?

2 THE COURT: You may approach. Hand it to him
3 and step back so the jury can see the witness. Don't
4 question the witness at the witness stand. Step
5 back.

6 BY MR. KOGER:

7 Q Mr. Charlton, on the second page, is your
8 signature on the second page?

9 A No. I don't see my signature.

10 Q Is your initial on the first page?

11 A Yes, sir.

12 Q Okay. And what is the date in which your
13 initial is placed on that line-up?

14 A On the first page?

15 Q Well, check the second page. What is the date?

16 A 12/10.

17 Q Of what year?

18 A Fourteen.

19 MR. KOGER: May I approach, Your Honor?

20 THE COURT: You may.

21 BY MR. KOGER:

22 Q So you made an identification on December 10th,
23 2014?

24 A Yes, sir.

25 Q All right. Do you also recall that during that

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 session, that you told law enforcement that you do not
2 remember how you got in the car?

3 A I don't remember that.

4 Q Okay. You don't remember saying that?

5 A No, sir.

6 Q But you have no reason to doubt if it's in
7 documentation, correct?

8 A Yes.

9 Q And do you recall that you don't know how you
10 got to Pinewood Apartments, correct?

11 A No, sir.

12 Q But if it is in documentation, you have no
13 reason to doubt that, correct?

14 A Yes.

15 Q Okay. And do you recall that after the shooting
16 that you said you got back in the car and fell asleep,
17 correct?

18 A No, sir.

19 Q Okay. You do not know recall?

20 A I don't recall that.

21 Q Okay. But if it's in documentation, you have no
22 reason to doubt it, correct?

23 A Yeah.

24 Q Okay. And I think you testified to that on
25 December 10th, 2014, that when they talked to you the

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 first time, you were drugged, correct?

2 A Yes.

3 Q Okay. But yet, you just testified that on
4 December 10th, 2014, you made the identification, correct?

5 A Yes.

6 Q Okay. But you testified to that you were
7 drugged on December 10th, 2014, correct?

8 A Yes.

9 Q Okay. Now, you have lied to the police before,
10 correct?

11 A Yes.

12 Q Because you was charged and you -- you was
13 charged with false information, correct?

14 A Yes.

15 Q And that was in Barnwell County, correct?

16 A Yes.

17 Q And that was in 2013 or '14, correct?

18 A Yes, but I ain't lying -- I'm not lying today
19 though.

20 Q Okay. But you have lied to the police before,
21 correct?

22 A Yes.

23 Q You have a history?

24 A I said that was a lie, but other than that, I
25 ain't lied about anything.

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 Q Okay. Now, how long did you stay in the
2 hospital?

3 A For about almost a month.

4 Q Okay. So you would have gotten out sometime in
5 January of 2015?

6 A I got out, like, close to January.

7 Q Yeah, close to January?

8 A Yes.

9 Q Okay. All right. So like I say, about a month,
10 correct?

11 A Yeah.

12 Q After you got out, did you visit with Shavus
13 Gill or Bianca Holly?

14 A No, sir.

15 Q Do you recall approaching them?

16 A No, sir.

17 Q Do you recall approaching Shavus Gill, accusing
18 him of shooting you on that particular evening?

19 A No, sir.

20 Q Who is Elijah Battle?

21 A Who?

22 Q Elijah Battle.

23 A I don't know.

24 Q Okay. A letter from him was not found in your
25 pocket on the evening of the shooting?

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 A A letter from him was found in my pocket on the
2 night of the shooting?

3 Q Yeah, right.

4 THE COURT: Hold it. Slow down, Counsel. One
5 question and one answer at a time.

6 MR. KOGER: Yes.

7 THE COURT: Ask the question again.

8 MR. KOGER: Okay. Your Honor, may I beg the
9 Court's indulgence.

10 BY MR. KOGER:

11 Q Now, you also testified to -- about voice
12 recognition. I was kind of confused. On the night of the
13 shooting, did you recognize the voice?

14 A I seen his face and the voice. I know the
15 voice.

16 Q Okay. But you said that when you made the
17 identification with law enforcement on December 10th,
18 2014, that you were drugged?

19 A Yeah.

20 Q Okay. So basically you was not in your right
21 mind?

22 A I was in my right mind. I knew his face and I
23 knew who shot me.

24 Q So on December 10th, 2014, you told law
25 enforcement, you told SLED agents, and you told Detective

CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 Manor -- correct -- that, "I don't know how I got to the
2 club, I don't know how I got to Pinewood Apartments."

3 You testified today that, "I was drugged,"
4 but yet you made identification on that same day that
5 Laparis Flowers was the shooter?

6 A That is all I remember. I made the
7 identification, I don't remember how -- I don't recall
8 saying all that other stuff.

9 Q Okay. You don't remember recalling saying it?

10 A Saying it. All I remember is I did put my
11 finger on that paper that he had.

12 Q But you do recall a couple of minutes ago that
13 you said you was drugged on December 10th, 2014?

14 A Yes, I said it, but --

15 MR. KOGER: I have no further questions,

16 Your Honor.

17 THE COURT: Redirect.

18 MR. HOLLEN: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. HOLLEN:

21 Q Mr. Charlton, who shot you?

22 A Laparis Flowers.

23 Q And you remember picking him out of a line-up in
24 the hospital in Augusta.

25 A Yes, sir.

REDIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 THE COURT: Just a moment.

2 MR. HOLLEN: Yes, sir.

3 THE COURT: Hold on a second. Ask one question,
4 let him answer it before you ask another.

5 MR. HOLLEN: Yes, sir.

6 THE COURT: Proceed.

7 BY MR. HOLLEN:

8 Q Do you remember picking him out of the line-up
9 when --

10 A Yes, sir.

11 Q -- you were in the hospital in Augusta?

12 A Yes, sir.

13 Q All right. Thank you.

14 Mr. Charlton, are you telling us the truth?

15 A The complete truth.

16 Q Did you tell the agents, as best you can recall,
17 the truth in the hospital?

18 A Yes, sir.

19 Q What kind of surgery did you have?

20 A I don't recall what kind. I was out of it.
21 They put me out to do surgery on me.

22 Q Do you know how many days you were out before
23 you woke up?

24 A I woke up on the way in the ambulance on the
25 6th, that Saturday morning.

REDIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 Q That same morning?

2 A That Saturday morning.

3 Q Saturday morning. Okay. So you woke -- all
4 right. So it happened Saturday, and you remember waking
5 up on Wednesday.

6 Mr. Charlton, did you -- did the doctors
7 diagnose you with any kind of concussion or anything like
8 that to your brain? Do you remember?

9 A No, sir.

10 Q Okay. And now, you remember pretty much, you
11 said, everything that happened that night, right?

12 A Yes.

13 Q You remember getting in the car with Russell?

14 A Yes.

15 Q You remember Dee getting out of the car when you
16 were getting in, right?

17 A Yes.

18 Q And you remember going to Pinewood Apartments?

19 A Yes, sir.

20 Q You remember seeing Laparis Flowers?

21 A Yes, sir.

22 Q You remember him shooting you?

23 A Yes, sir.

24 Q Do you remember anything after that?

25 A That is it.

REDIRECT EXAMINATION OF T. CHARLTON BY MR. HOLLEN

1 MR. HOLLEN: Nothing further, Your Honor.

2 THE COURT: Recross, limited to redirect.

3 RE-CROSS EXAMINATION

4 BY MR. KOGER:

5 Q And it is your testimony that you remember while
6 you was drugged on December 10th, 2014, that
7 Laparis Flowers was the shooter?

8 A Yes, sir.

9 MR. KOGER: No further questions.

10 THE COURT: As to this witness, Counsel.

11 MR. HOLLEN: Ask that he be excused, Your Honor.

12 THE COURT: Any objections?

13 MR. KOGER: No objection, Your Honor.

14 THE COURT: All right. Mr. Charlton, you may
15 step down and you are excused from the trial of this
16 case. You can leave the courtroom.

17 Ladies and gentlemen, I see that it's after
18 1 o'clock now, and we are going to stop at this point
19 so that your delicious lunch can be served to you.

20 We don't allow smoking in the courthouse. If I
21 have any smokers, they will take you out -- do I have
22 any smokers on the jury?

23 (No response.)

24 THE COURT: Nope, none. All right. Well, if we
25 had one, we'd take you outside and let you smoke.

RE-CROSS EXAMINATION OF T. CHARLTON BY MR. KOGER

1 Please do not discuss the case during lunch.
2 You are to take a break, enjoy your lunch, we will
3 start back after I know everybody has had a chance to
4 get lunch.

5 Thank you very much. You may retire to your
6 jury room at this time.

7 (The Jury exits the courtroom at 1:03 p.m.)

8 THE COURT: All right. Counsel, we're going to
9 take an hour so that y'all get a chance to get your
10 lunch.

11 The court is in recess until 2 o'clock. Thank
12 you very much.

13 (Whereupon, the Court was in recess for lunch.)

14

15

16

17

18

19

20

21

22

23

24

25

COLLOQUY

1 THE COURT: State ready to proceed?

2 MS. LEGETTE: We have one matter, Your Honor.

3 THE COURT: Counsel, approach. This is the
4 afternoon of the 9th of January, 2018.

5 THE COURT: My understanding, Solicitor, that
6 you listed as Witness Number 32 -- no, excuse me,
7 that is another murder -- Number 48, Tina Murray.

8 MS. LEGETTE: Yes, Your Honor.

9 THE COURT: And you have decided you are not
10 going to call her, and you want her in light of my
11 order of sequestration, to come into the courtroom
12 and be seated; is that correct?

13 MS. LEGETTE: That's correct, Your Honor.

14 THE COURT: Does the Defense have any objection?

15 MR. KOGER: Don't have any objection,
16 Your Honor.

17 THE COURT: Okay. So she's not going to be
18 called as a witness. She is off the witness list.

19 MS. LEGETTE: Thank you, Your Honor.

20 THE COURT: State ready to proceed?

21 MS. LEGETTE: Yes, Your Honor.

22 THE COURT: Bring us the jury.

23 Are you ready?

24 MR. KOGER: Yes, Your Honor.

25 (The Jury enters the courtroom at 2:11 p.m.)

COLLOQUY

1 THE COURT: Madam Foreperson, I hope everybody
2 had a good lunch. We will now continue with
3 testimony in the trial of this case.

4 Call your next witness.

5 MS. LEGETTE: Thank you, Your Honor. State
6 calls Jarrell Murray.

7 THE COURT: Come around and be sworn by the
8 clerk, please.

9 Thereupon,

10 JARRELL MURRAY

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 THE COURT: Now, I want you to pull that chair
14 up and adjust that microphone to your height. It's
15 going to amplify your voice. I need you to speak up
16 so everybody on the jury can hear you. You
17 understand?

18 Can't hear you.

19 THE WITNESS: Yes, sir.

20 THE COURT: There we go. State your full name
21 and spell your last name for the court reporter.

22 THE WITNESS: My name is Jarrell Murray,
23 M-U-R-R-A-Y.

24 THE COURT: All right. Now, speak up for me,
25 Mr. Murray.

COLLOQUY

1 Your witness, Counsel. Direct examination.

2 MS. LEGETTE: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MS. LEGETTE:

5 Q Good afternoon, Mr. Murray.

6 A Good afternoon.

7 Q Mr. Murray, I need you to speak up, please.

8 A Good afternoon.

9 Q All right. Mr. Murray, where are you from?

10 A Fairfax.

11 Q And what high school did you go to?

12 A Allendale.

13 Q And who is your mother?

14 A It's Tina Murray.

15 Q Okay. Where is she from?

16 A Fairfax.

17 Q All right. Now, do you know Tyquan Charlton?

18 A Yes, ma'am.

19 Q Do you know Brandon Lewis?

20 A Yes, ma'am.

21 Q What nickname does he go by?

22 A Pooh Bear.

23 THE COURT: Get back up to the microphone.

24 THE WITNESS: Pooh Bear.

25 BY MS. LEGETTE:

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 Q Pooh Bear?

2 A Yes, ma'am.

3 Q All right. Do you know Aldeandre Gray?

4 A Yes, ma'am.

5 Q Do they call him -- what's his nickname?

6 A Pat Pat.

7 Q No, Aldeandre.

8 A Who is that?

9 Q You don't know who Aldeandre Gray is? A guy
10 named Dee?

11 A Yeah, Dee.

12 Q Okay. So you know him, too?

13 A Yes, ma'am.

14 Q All right. You know him by Dee?

15 A Yes, ma'am.

16 Q You know Laparis Flowers?

17 A Yes, ma'am.

18 Q Does he go by a nickname?

19 A Yes, ma'am.

20 Q What is his nickname?

21 A Pat Pat.

22 Q All right. About how long would you say you
23 have known all these people? Years?

24 A Yes, ma'am.

25 Q And Laparis Flowers, how long have you known

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 him?

2 A Quite a while.

3 Q Quite a while. Okay.

4 Let's talk about December the 14th -- I'm
5 sorry, December the 6th, 2014. You remember
6 December 2014?

7 A Yes, ma'am.

8 Q All right. Do you remember Russ -- do you know
9 Russell Smart?

10 A Yes, ma'am.

11 Q How long did you know Russell Smart?

12 A Quite a while.

13 Q Quite a while. Was he a friend of yours?

14 A Yes, ma'am.

15 Q Okay. So let's talk about December the 6th,
16 2014. Do you recall December 6th, 2014?

17 A Yes, ma'am.

18 Q Do you remember going to the Lobster House on
19 December 6th, 2014?

20 A Yes, ma'am.

21 Q What city is the Lobster House in?

22 A Allendale.

23 Q All right. How long did stay at the Lobster
24 House?

25 A Till close.

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 Q Okay. How did you get home -- well, I'm sorry.

2 When the Lobster House closed, how did you
3 leave the Lobster House?

4 A With Russell.

5 Q All right. What kind of car was Russell
6 driving?

7 A Crown Vic.

8 Q What color was the Crown Vic?

9 A Green.

10 Q All right. So Russell was driving?

11 A Yes, ma'am.

12 Q Who was sitting in the passenger seat?

13 A Me.

14 Q Was anybody else in the car?

15 A Yes, ma'am.

16 Q Who else was in the car?

17 A Tyquan and Dre.

18 Q Where was Tyquan sitting?

19 A Behind me.

20 Q Where was Brandon sitting?

21 A Behind Russell.

22 Q Was anybody else in the car?

23 A No, ma'am.

24 Q Do you not remember telling the Solicitor's
25 office on December 19th that there was another person in

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 the car?

2 A There was me --

3 THE COURT: Speak up, now.

4 A There was four people in the car. Four people.

5 Q All right. So it was you, it was Russell
6 driving?

7 A Yes, ma'am.

8 Q And where was Brandon sitting?

9 A Behind Russell.

10 Q Okay. And where was Tyquan?

11 A Behind me.

12 Q All right. So y'all left --

13 A Yes, ma'am.

14 Q -- the Lobster House. Where did y'all go?

15 A Pinewood.

16 Q Pinewood Apartments?

17 A Yes, ma'am.

18 Q Okay. And did anything strange happen at
19 Pinewood Apartments?

20 A Yes, ma'am.

21 Q What were y'all doing at Pinewood?

22 A Dropping off.

23 Q Dropping off. Who was getting dropped off?

24 A Brandon.

25 Q Okay. So did anything happen before Brandon got

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 dropped off?

2 A Did anything happen before he got dropped off?

3 Q At Pinewood Apartments, yes, sir.

4 A Did something happen?

5 Q Yes, sir.

6 A Yes, ma'am.

7 Q What happened?

8 A A car pulled up.

9 Q And what happened with that car?

10 A Shit, a white car pulled up, fellow started
11 shooting.

12 Q Okay. Fellow started shooting. And what did
13 you do?

14 A I jumped out when I seen him start to shoot.

15 Q Okay. When you say the fellow started -- I'm
16 sorry, the car pulled up.

17 A The car pulled up.

18 Q Tell me about how the car pulled up. So like?

19 A The car pulled up to the driver's window.

20 Q Okay.

21 A Shit, started shooting.

22 Q Okay. And you were able to see the fellow start
23 shooting?

24 A Yes, ma'am.

25 Q Okay. Do you remember how many shots you heard?

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 A A couple.

2 Q Did you get hit?

3 A No, ma'am.

4 Q So, once the fellow started shooting, you jumped
5 out. Where did you go?

6 A I ran behind the apartments.

7 Q Okay. You ran behind the apartments. I'm going
8 to need you to speak up. Okay?

9 A I ran behind the apartments.

10 Q Okay. Did you make any phone calls?

11 A No, I didn't make any phone calls.

12 Q Did anyone come get you?

13 A Yeah, my mother.

14 Q Okay. Now, let's go back to, you said that you
15 were sitting there and a car pulled up?

16 A Yeah.

17 Q A fellow started shooting?

18 A Yeah.

19 Q Who started shooting?

20 A Pat Pat.

21 Q Do you know his real name?

22 A Laparis Flowers.

23 Q Do you see him in court today?

24 A Yes, ma'am.

25 Q Can you point to him?

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 A Yes, ma'am.

2 Q Will you point to him?

3 A (Witness complies.)

4 Q What color clothes does he have on?

5 A Clothes?

6 Q Yes. The color that he has on, just can you
7 describe the clothes?

8 A Blue.

9 Q A blue shirt?

10 A Yeah.

11 Q Okay.

12 MS. LEGETTE: Let the record reflect the witness
13 has indicated Lapolis Flowers, the Defendant.

14 BY MS. LEGETTE:

15 Q Now, Mr. Murray, you didn't get shot that night?

16 A No, ma'am.

17 Q Okay. Did you talk to the police and tell them
18 what happened?

19 A Yes, ma'am.

20 Q And do you remember talking to some SLED agents?

21 A Yes, ma'am.

22 Q And do you remember them showing you --

23 A Yes, ma'am.

24 Q -- some photos?

25 A Yes, ma'am.

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 Q Did they ever try to get you to make a selection
2 or tell -- oh, did they ever point out to you who to
3 select in photos?

4 A No, ma'am.

5 Q Did they ever tell you, you had to select
6 anybody in the photos?

7 A No, ma'am.

8 Q Mr. Murray, in a moment, I'm going to hand you
9 what's been previously marked for identification as
10 State's 84. Please take a moment and tell me if you
11 recognize this item.

12 MS. LEGETTE: May I approach, Your Honor?

13 THE COURT: You may.

14 MS. LEGETTE: Mr. Murray.

15 THE COURT: Stand back. You may walk up and
16 leave it up there with him.

17 BY MS. LEGETTE:

18 Q Mr. Murray, do you recognize State's 84?

19 THE COURT: Take a look at it, Mr. Murray. She
20 is handing it to you.

21 A Yes, ma'am.

22 BY MS. LEGETTE:

23 Q What is State's 84?

24 A It's a --

25 Q Well, is it a photo line-up of some individuals?

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 Is that the photo line-up that you were shown when you met
2 with the SLED agent?

3 A Yes, ma'am.

4 Q Okay. Has it been changed or altered in any
5 way?

6 A No, ma'am.

7 MS. LEGETTE: At this time, Your Honor, I would
8 offer State's 84 for admission into evidence.

9 THE COURT: As to State's 84, Counsel.

10 MR. KOGER: Without objection, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury,
12 State's Exhibit Number 84 will be admitted into
13 evidence in the trial of this case.

14 Is that the right number? Let me see the
15 exhibit.

16 State's Exhibit 84 will be admitted into
17 evidence in the trial of this case, without
18 objection.

19 State's 84 is in evidence. You may publish it.

20 MS. LEGETTE: Thank you, Your Honor.

21 *(Whereupon, State's Exhibit No(s) 84 marked for*
22 *identification and received in evidence.)*

23 BY MS. LEGETTE:

24 Q Mr. Murray, if you can see the screen, I'll
25 direct your attention here to this screen. This is

DIRECT EXAMINATION OF JARRELL MURRAY BY MS. LEGETTE

1 State's 84.

2 THE COURT: If you can put that one up, so you
3 can see it closer.

4 Come around. Hold on a second, now.

5 Proceed.

6 MS. LEGETTE: Thank you, Your Honor.

7 BY MS. LEGETTE:

8 Q Mr. Murray, State's 84, what number did you
9 select in State's 84?

10 A Number 4.

11 Q And who is Number 4 a picture of?

12 A Laparis Flowers.

13 Q Okay. And, Mr. Murray, is Laparis Flowers the
14 man who shot you on December the 6th, 2004. (sic) -- shot
15 at you?

16 A Yes, ma'am.

17 Q And he was also the person who was shooting into
18 the vehicle you were in?

19 A Yes, ma'am.

20 MS. LEGETTE: Begging the Court's indulgence.

21 (Pause.)

22 MS. LEGETTE: Thank you, Mr. Murray. I have no
23 other questions. Please answer any questions from
24 the Defense.

25 THE COURT: Cross examination.

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 CROSS EXAMINATION

2 BY MR. KOGER:

3 Q Mr. Murray, do you recall on December 7th, 2014,
4 when you spoke to SLED agents that you did not know the
5 other two people in the vehicle, telling them that?

6 A No, sir.

7 Q You don't recall telling them that?

8 A No, sir.

9 Q Okay. All right. If it's in documentation in
10 their notes, you wouldn't have no reason to deny it,
11 correct?

12 A No, sir.

13 THE COURT: You got to speak up, Mr. Murray.

14 A No, sir.

15 BY MR. KOGER:

16 Q Okay. And do you recall that when you spoke
17 with SLED agents on December 7th, 2014 that you described
18 a Pontiac Grand Prix; do you recall that?

19 A White.

20 Q Okay. But you recall a Pontiac Grand Prix,
21 correct?

22 A Yes, sir.

23 Q Okay. All right. And I think you testified
24 here today that you jumped out the vehicle, correct?

25 A Yes, sir.

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 Q Okay. Approximately how long you stayed in the
2 car once -- approximately how long you stayed in the car
3 after the shots began?

4 A When I seen him shooting, I jumped out of the
5 car.

6 THE COURT REPORTER: I'm sorry?

7 THE WITNESS: When he started shooting, I jumped
8 out the car.

9 MR. KOGER: You jumped out of the vehicle.

10 THE COURT: Hold it. Hold it. She's got to
11 take down what you're saying. Slow down a little bit
12 for me.

13 Do you want to repeat your answer for me real
14 slow? Use the microphone.

15 A Yes, sir.

16 When I seen him start shooting at us, I jump
17 out the car.

18 MR. KOGER: You got that, did you, Mona?

19 THE COURT REPORTER: I did.

20 THE COURT: Proceed.

21 BY MR. KOGER:

22 Q Do you recall how long you met with the SLED
23 agents on, and Detective Manor, on December 7th, 2014?

24 A Say what?

25 Q Do you remember how long you met with them?

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 A I can't really remember.

2 Q Okay. All right. And you met with them in the
3 parking lot of the Magistrate's office here in Allendale?

4 A Yes, sir.

5 Q Okay. Were y'all inside the car or were y'all
6 just talking out in the open?

7 A We was outside the car.

8 Q Okay. All right. And approximately what time
9 were the four of you together?

10 A I don't remember the time.

11 Q It was daytime?

12 A Yes, it was daytime.

13 Q Was it morning?

14 A No, sir.

15 Q Okay. In the afternoon?

16 A Yes, sir.

17 Q Okay. And as far as, if you can recall, how did
18 the conversation start between you and the law enforcement
19 on that day?

20 A They came to my house.

21 Q Okay. They came to your house?

22 A Yes, sir.

23 Q Okay. And were you transported -- were you
24 taken to the Magistrate's office?

25 A No, sir.

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 Q Okay. Did you meet them at the Magistrate's
2 office?

3 A Yes, sir.

4 Q Okay. So did they come to your house first?

5 A Yeah. They came to my house first, and they
6 told me to meet them at the Magistrate's office.

7 Q Okay. So you were home, but you did not speak
8 to them at your home at first.

9 A Yeah, I spoke to them at home.

10 Q Okay. All right. Did you speak to them when
11 you was outside in the yard, or inside of the home?

12 A Outside.

13 Q Okay. And how many SLED agents and/or law
14 enforcement was there when you spoke to them the first
15 time?

16 A There was a couple of them, sir.

17 Q There were a couple.

18 A Yes, sir.

19 Q More than two or more than three?

20 A About three.

21 Q Okay. About three. Okay.

22 And how long did you speak with them at
23 your house before you went to the Magistrate's office?

24 A It wasn't long.

25 Q Okay. All right. And did they give you a

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 reason why they wanted to speak with you at the
2 Magistrate's office?

3 A Yes, sir.

4 Q Okay. And what was the reason why they wanted
5 to speak with you at the Magistrate's office?

6 A I don't know.

7 THE COURT: You got to speak into the
8 microphone.

9 Q About what was going on? About this incident?

10 A Yes, sir.

11 Q Okay. All right. Did it go into detail back at
12 your home about what was going on as far as speaking with
13 you and to get a statement from you, a verbal statement?

14 A Yes, sir.

15 Q Okay. Did you ever give a written statement?

16 A No, sir.

17 Q Okay. Were you ever asked to give a written
18 statement?

19 A No, sir, I wasn't.

20 Q Okay.

21 THE COURT: I didn't hear you, Mr. Murray. You
22 got to speak up.

23 A No.

24 Q Okay. So approximately how long did you meet
25 with them at your home before you went to the Magistrate's

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 office?

2 A It wasn't long.

3 Q Okay. All right. How far do you stay from the
4 Magistrate's office?

5 A I want to say about ten minutes.

6 Q Okay. So you would say about ten minutes.

7 A Yes, sir.

8 Q Okay. And once you got to the Magistrate's
9 office, you and law enforcement never went inside of the
10 Magistrate's office?

11 A No, sir.

12 Q Okay. All right. And who initiated the
13 conversation? Which law enforcement officer; do you
14 recall?

15 A No.

16 Q Okay. Did they ask you to tell them what
17 happened on that particular evening?

18 A Showed me the photograph.

19 Q Excuse me? Couldn't hear you.

20 THE COURT: Use the microphone.

21 A Showed me the photograph.

22 Q Okay. Just have one or two more questions,
23 Mr. Murray.

24 Before they showed you the photograph, did
25 they suggest who was in the photograph?

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 A No, sir.

2 Q Okay. You say, "No, sir"?

3 A No, sir.

4 Q They never mentioned Laparis Flowers' name?

5 A No, sir.

6 MR. KOGER: I have no further questions.

7 THE COURT: As to this witness.

8 MS. LEGETTE: We ask that he be excused,

9 Your Honor.

10 THE COURT: Any objection?

11 MR. KOGER: No objection, Your Honor.

12 THE COURT: You may step down, Mr. Murray, and
13 you are excused from the trial of this case. You may
14 leave the courtroom.

15 Call your next witness.

16 MS. LEGETTE: Brandon Lewis.

17 THE COURT: Come around and be sworn by the
18 clerk.

19 Thereupon,

20 BRANDON LEWIS

21 was called as a witness, having been first duly sworn,
22 was examined and testified as follows:

23 THE COURT: Pull your chair up. I need you to
24 speak up, Mr. Lewis. It's hard to hear in here, and
25 I need you to -- you hear how I'm talking right now?

CROSS EXAMINATION OF JARRELL MURRAY BY MR. KOGER

1 THE WITNESS: Yes, sir.

2 THE COURT: You need to talk as loud as that and
3 you got to be close to that microphone.

4 State your full name and spell your last name
5 for the court reporter.

6 THE WITNESS: Brandon Lawrence Lewis, L-E-W-I-S.

7 THE COURT: Very good. Please just speak up.
8 Your witness, Counsel.

9 MS. LEGETTE: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. LEGETTE:

12 Q Mr. Lewis, where are you from?

13 A Allendale.

14 Q Okay. I need you to speak up. Okay? I'm going
15 to amplify my voice, I need you to amplify yours. Okay?

16 Now, are you from Allendale?

17 A Yes, ma'am, I am.

18 Q What high school did you go to?

19 A Allendale.

20 Q All right. Now, Mr. Lewis, I see you came in
21 with some officers today. Where are you currently
22 located?

23 A In jail; I'm in the federal penitentiary.

24 Q All right. So you are in federal prison right
25 now?

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

- 1 A Yes, I am.
- 2 Q Why are you in federal prison, Mr. Lewis?
- 3 A Possession of a firearm by a convicted felon.
- 4 Q Okay. And when did you go to prison?
- 5 A 2015.
- 6 Q 2015. And how many years are you serving?
- 7 A Four years.
- 8 Q Now, so you are serving four years. When do you
9 get out?
- 10 A 2021.
- 11 Q Okay. Do you also have a conviction for, I
12 think, something else?
- 13 A No, I ain't got no charges.
- 14 Q Okay. Do you have a burglary conviction from
15 sometime in the past? You got a YOA?
- 16 A Yeah, yeah.
- 17 Q Okay. All right. So now, Mr. Murray -- I'm
18 sorry, Mr. Lewis, do you want to be here today?
- 19 A Not really.
- 20 Q Okay. Mr. Lewis, do you remember December 2014?
- 21 A Yes.
- 22 Q Okay. Do you know a man named Jarrell Murray?
- 23 A Yes.
- 24 Q Do you know a man named Tyquan Charlton?
- 25 A Yes.

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 Q Do you know a man named Aldeandre Gray?

2 A Yes.

3 Q Do you know a man named Laparis Flowers?

4 A Yes.

5 Q Do you know a man -- or did you know a man named
6 Russell Smart?

7 A Yes.

8 Q Okay. Mr. Lewis, did you ever go to the Lobster
9 House when you lived in Allendale?

10 A Yes, ma'am.

11 Q Okay. And as far as it relates back to
12 December of 2014, do you remember going to the Lobster
13 House on December 6th, 2014?

14 A Yes, ma'am.

15 Q And who did you go to the Lobster House with?

16 A With a friend.

17 Q Okay. And how long did you stay at the Lobster
18 House?

19 A Like around about 45 minutes.

20 Q Okay. And when you were getting ready to go,
21 did you go home with your friend?

22 A No.

23 Q Why didn't you go home with your friend?

24 A Well, because my friend who I had went out there
25 with me, he had left me.

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 Q Okay. So how did you try to get home?

2 A I ended up jumping in the car with Russell.

3 Q Okay. And that is Russell -- do you know his
4 last name?

5 A Russell Smart.

6 Q And where was Russell from?

7 A Fairfax.

8 Q Do you know what kind of car Russell used to
9 drive?

10 A Yes, ma'am.

11 Q What kind of car did he drive?

12 A Crown Vic.

13 Q Do you remember what kind color it was?

14 A Green.

15 Q Okay. So you said you were -- you caught a ride
16 with Russell?

17 A Yes, ma'am.

18 Q When you left the Lobster House with Russell,
19 where were you sitting in the car?

20 A Behind the driver.

21 Q So behind Russell?

22 A Yes, ma'am.

23 Q Was anyone else in the car with you?

24 A Yes, ma'am.

25 Q Who else was in the car?

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 A Tyquan and Jarrell Murray.

2 Q What is -- I'm sorry.

3 A And Russell.

4 Q And Russell. Was anyone else in the car?

5 A And Dee Gray.

6 Q Okay. Tell us how y'all were sitting. I know
7 you said Russell was driving.

8 A Yes. Russell was driving, I was sitting behind
9 Russell. Dee Gray, he was sitting in the middle of me and
10 Tyquan. And Jarrell Murray, he was on the passenger's
11 side in the front.

12 Q Okay. So, the five of y'all left the Lobster
13 House. Where did y'all go first?

14 A Well, we had went to this girl house, where Dee
15 Gray girl live.

16 Q Okay. And you went to that house and what
17 happened at that house?

18 A I don't know what happened.

19 Q I mean, did you get out? Did anyone get out at
20 that house?

21 A Yeah. Dee got out, but he came back out.

22 Q Okay. So Dee Gray got out of the car.

23 A Yes.

24 Q All right. So did y'all leave?

25 A Yes.

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 Q Where did y'all go next?

2 A Well, Dee Gray, he was in the car with us, but
3 him and Russell, they had some words. So he jump out the
4 car, and ended up in the car with my home boy, Rubeun.

5 Q Okay. So, now tell me -- okay. When y'all
6 leave, you say Dee Gray gets out, and now who's in the
7 car?

8 A Just me, Russell, Tyquan, and Jarrell.

9 Q And where do y'all go?

10 A Pinewood.

11 Q Okay. And how long do y'all stay at Pinewood?

12 A I can't remember.

13 Q Okay. All right. Does anything strange happen
14 at Pinewood?

15 A Somebody just pulled up and start shooting at.
16 That's the only thing strange that happened.

17 Q Okay. Did you get injured?

18 A Yes.

19 Q Can you tell us when they pulled up, how they
20 pulled up to the car? Were y'all in the car?

21 A Yeah, we were in the car.

22 Q So how did they pull up?

23 A Somebody pulled up and start shooting.

24 Q Okay. What I'm saying -- what I'm saying, did
25 they pull up like window to window, driver's side to

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 driver's side?

2 A Yeah, driver's side to driver's side.

3 Q Okay. And you got hit, you said?

4 A Yes, ma'am.

5 Q Where did you get hit?

6 A In my left arm.

7 Q Okay. And you still -- I mean, do you -- did
8 you get treated for the injury?

9 A Yes, ma'am.

10 Q Do you have a scar?

11 A Yes, ma'am.

12 Q Can you hold your arm up? Stand up and let me
13 see your arm.

14 MS. LEGETTE: Can you help him please pull up
15 the arm?

16 BY MS. LEGETTE:

17 Q Right there?

18 A Yes, ma'am.

19 Q Okay. On your left arm.

20 MS. LEGETTE: Let the record reflect the witness
21 indicated a scar on his left arm.

22 BY MS. LEGETTE:

23 Q So you said that somebody pulled up and started
24 shooting?

25 A Yes, ma'am.

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 Q Do you remember how many shots you heard?

2 A No, ma'am.

3 Q After the shooting, do you do anything? Does
4 Russell do anything?

5 A I tell Russell, I be like, "Pull off, Brother, I
6 got hit. He was like, "Me, too."

7 So he had pulled out of Pinewood and he was
8 going like five miles per hour.

9 Q Okay. He was going five miles per hour. How
10 far did y'all go?

11 A We didn't get too far. He started swerving off
12 the road.

13 Q Okay. So when he swerved off the road, did he
14 wreck? Did he stop?

15 A I think he hit a tree. I got out of the car.

16 Q Okay. So you got out the car. Where did you
17 go?

18 A I had went on to the other side of the track.
19 One of my friends come on up.

20 Q Okay. Did you go get any help?

21 A Yes, ma'am.

22 Q Where did you go?

23 A Well, when I got in my home, my grandma house,
24 one of my home boys was passing through. So I hollered
25 him down so I could jump in the car. Told him I got shot,

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 so they took me to a hospital.

2 Q All right. And so which hospital did you go to?

3 A Allendale.

4 Q Did you go to another hospital after you went to
5 Allendale?

6 A Yes, Augusta.

7 Q And at Augusta, did they actually remove the
8 bullet from your arm?

9 A The bullet had went in and went out.

10 Q Do you know that -- do you recall going into
11 surgery?

12 A Yes, ma'am.

13 Q And do you recall that a bullet was taken out of
14 your arm?

15 A Yes, ma'am.

16 Q Okay. So once you got out of the hospital, do
17 you remember talking to the police?

18 A Yes, ma'am.

19 Q Did you tell them what happened?

20 A I don't know.

21 Q Okay. Did they show you any photographs?

22 A Yes, ma'am.

23 Q Okay. Were you able to make any selections in
24 the photograph?

25 A No, ma'am.

DIRECT EXAMINATION OF BRANDON LEWIS BY MS. LEGETTE

1 Q Do you not remember making a selection in the
2 photograph with Officer Manor and Agent Brown on December
3 the 7th, 2014?

4 A No, ma'am.

5 Q Okay. Do you remember telling them who shot
6 you?

7 A No, ma'am.

8 Q Okay. On that same day, Officer Manor and
9 Agent Brown, do you remember telling them who shot you?

10 A No, ma'am.

11 Q Okay.

12 MS. LEGETTE: Begging the Court's indulgence.

13 (Pause.)

14 MS. LEGETTE: Mr. Lewis, I have no further
15 questions. Please answer any questions from
16 Mr. Koger.

17 MR. KOGER: Beg the Court's indulgence, Your
18 Honor.

19 (Pause.)

20 CROSS EXAMINATION

21 BY MR. KOGER:

22 Q Mr. Lewis, is your testimony that you do not
23 remember who shot you on December 6th?

24 A No, ma'am -- I mean, no, sir.

25 Q Okay. And is your testimony that you did not --

CROSS EXAMINATION OF BRANDON LEWIS BY MR. KOGER

1 that you did not select Mr. Flowers as the shooter?

2 A No, sir.

3 Q Thank you. I have no further questions.

4 THE COURT: Redirect.

5 MS. LEGETTE: None, Your Honor.

6 THE COURT: As to this witness.

7 MS. LEGETTE: We ask that he be excused,

8 Your Honor.

9 THE COURT: Any objection?

10 MR. KOGER: No objection, Your Honor.

11 THE COURT: You may step down. You are excused
12 from the trial of this case.

13 Call your next witness.

14 MS. LEGETTE: Thank you, Your Honor. The State
15 calls Quatique Manor.

16 Thereupon,

17 QUATIQUE MANOR

18 was called as a witness, having been first duly sworn,

19 was examined and testified as follows.

20 THE COURT: Have a seat on the witness stand,
21 make yourself comfortable. Pull that chair up,
22 adjust that microphone. It will amplify your voice.
23 You need to do so because this courtroom, the sound
24 goes up to the ceiling. You have to speak up, like
25 I'm doing now.

CROSS EXAMINATION OF BRANDON LEWIS BY MR. KOGER

1 THE WITNESS: Yes, sir.

2 THE COURT: State your full name and spell your
3 last name for the court reporter.

4 THE WITNESS: My name is Quatique R. Manor,
5 M-A-N-O-R.

6 THE COURT: Your witness, Counsel. Direct
7 examination.

8 DIRECT EXAMINATION

9 MS. LEGETTE: Thank you, Your Honor.

10 BY MS. LEGETTE:

11 Q Officer Manor, where do you work?

12 A Allendale Police Department.

13 Q And what is your current rank?

14 A I'm a captain.

15 Q So you are Captain Manor?

16 A Yes, ma'am.

17 Q What are your duties, Captain Manor?

18 A I assist in investigations, and pretty much,
19 general session cases.

20 Q And how long have you worked for the Allendale
21 Police Department?

22 A Ten years.

23 Q And do you know Laparis Flowers?

24 A Yes, I know him.

25 Q How long would you say you have known

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 Laparis Flowers?

2 A Since I have been employed. So maybe ten years.

3 Q Do you know Brandon Lewis?

4 A Yes, ma'am, I do.

5 Q And how long have you known Brandon Lewis?

6 A Probably since he was a juvenile. Probably 17

7 -- 16, 17.

8 Q Okay. Now, do you know the vehicle that

9 Mr. Flowers drives?

10 A It is a white in color vehicle, yes, ma'am.

11 Q Okay. And you recognize it on sight?

12 A Yes, ma'am.

13 Q Are you familiar with the Lobster House, or what
14 used to be the Lobster House?

15 A Yes, ma'am.

16 Q Can you tell us where the Lobster House is?

17 A It is located up here on 301. It's down across
18 from the BJ barbecue.

19 Q Is it near any other place, any other landmark?

20 A It is near a hotel, also sitting in front of a
21 hotel.

22 Q And what hotel is that?

23 A I think it's the Motor Court Inn.

24 Q And what city is the Lobster House located in?

25 A Allendale.

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 Q Okay. Now, you were familiar with the Lobster
2 House when it was operational, right?

3 A Yes, ma'am.

4 Q Were you familiar with the camera system at the
5 Lobster House?

6 A Yes, ma'am.

7 Q When they had cameras.

8 A Yes, ma'am.

9 Q In preparation for this trial, have you
10 previously reviewed the video from the Lobster House?

11 A Yes, ma'am, I have.

12 Q And that video, does it appear to be a video of
13 the Lobster House?

14 A That's correct.

15 Q Capital Manor, I'm going to hand you in a moment
16 what's been previously marked and entered into evidence as
17 State's Exhibit Number 8. Take a moment and tell me if
18 you recognize this item.

19 MS. LEGETTE: May I approach the witness,
20 Your Honor?

21 THE COURT: State's Exhibit 8 is in evidence.

22 MS. LEGETTE: Yes, Your Honor. May I approach,
23 Your Honor?

24 THE COURT: You may.

25 BY MS. LEGETTE:

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 Q Captain Manor, do you recognize State's 8?

2 A Yes, ma'am. It is a CD from Lobster House. I
3 initialed it "QRM," my initials.

4 Q And at our request, have you previously reviewed
5 that video, State's Exhibit 8, for accuracy?

6 A Yes, I have.

7 Q And how are you able to recognize it?

8 A By my initials.

9 MS. LEGETTE: Now, Officer Manor, I want to, at
10 this point, publish, Your Honor.

11 THE COURT: Very well. It's in evidence.

12 MS. LEGETTE: Yes, Your Honor.

13 BY MS. LEGETTE:

14 Q We are going to direct your attention,
15 Captain Manor, to the video.

16 THE COURT: Hold on a second. Stop it and let
17 him come around.

18 Captain Manor, can you see the screen?

19 THE WITNESS: Very well, sir.

20 THE COURT: All right. Proceed.

21 MS. LEGETTE: Thank you, Your Honor.

22 (Video played.)

23 BY MS. LEGETTE:

24 Q Captain Manor, when the video begins to play,
25 what are we seeing in this frame?

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 A That is the front of the Lobster House, near the
2 entrance.

3 Q Okay. And at our request, have you previously
4 reviewed this video, and were you able to identify anyone
5 in the video?

6 A Yes, ma'am. I was able to identify
7 Mr. Laparis Flowers entering a white Oldsmobile.

8 Q Okay. Do you know what kind of make it is?

9 A Maybe an Alero.

10 At this point, Mr. Laparis Flowers is exiting
11 the front of the building.

12 MS. LEGETTE: Can you hit pause?

13 A He has a white shirt on, dark colored jeans.
14 And he's now on the driver's side of the vehicle.

15 BY MS. LEGETTE:

16 Q Okay. You mean the man standing near the red
17 car?

18 A Yes. To the red car, this is Laparis Flowers
19 entering that vehicle.

20 Q Okay. And now, once he leaves in that
21 vehicle -- never mind. Strike that.

22 MS. LEGETTE: You can turn it off, sir.

23 BY MS. LEGETTE:

24 Q Now, did you have any other involvement in this
25 case?

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 A A few interviews throughout the case, yes,
2 ma'am.

3 Q You indicated earlier that you knew Brandon
4 Lewis.

5 A Yes, ma'am.

6 Q And do you know where he lives?

7 A Yes, ma'am. He lives on Ray Road.

8 Q And who does he stay with?

9 A I believe it is his grandmother and his
10 grandfather.

11 Q Did you learn that he had been shot in
12 December of 2014?

13 A Yes, ma'am, I did.

14 Q And once you learned he had been shot, did you
15 ever speak to him?

16 A Yes, ma'am. I spoke to him at his residence.

17 Q And when was that?

18 A It was -- I don't know the exact date. But it
19 happened a day or two -- I want to say the next day after
20 the shooting.

21 Q And what was his condition at that time?

22 A He was coherent, he was talking, and that is, I
23 think -- I believe Ms. Charlton made contact with me and
24 told me, you know, that he was up and talking.

25 Q And who is Ms. Charlton?

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 A That is his sister.

2 Q Okay. And so did you go by to see him?

3 A I did.

4 Q And did you talk with him?

5 A I did talk with him. I went to his residence,
6 his grandmother and grandfather invited me in. Walked
7 through the residence, he was in a bedroom off to the
8 left. He had a cast, or his arm was wrapped somewhat.
9 I'm not sure what side it was, but he was shot in his arm.
10 And we just began to talk about what happened.

11 Q And did he know at that time about Russell Smart
12 being dead?

13 A Yes.

14 Q Okay. And did you talk to him about Russell?

15 A I did. During our discussion, Mr. Lewis began
16 to cry, and at that point, that is when he told me that he
17 knew who shot him, and he knew who shot Russell, and it
18 was wrong. And I believe that that statement from him
19 came because I made a statement before that, stating that,
20 if Russell gave you a ride to the club, that mean y'all
21 are together? And anybody in life, if you pick up someone
22 from their residence, you are responsible for them. And I
23 said, if that happened to you, Russell would tell what
24 happened.

25 And at that point, he teared up and he told

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 me what happened.

2 Q And what did he say happened?

3 A He said they were at Pinewood Apartments, and he
4 said Pat Pat came up and shot them.

5 Q And did he ever tell you who Pat Pat was?

6 A Mr. Laparis Flowers.

7 Q And once you got this information from him, did
8 you share the information with anyone?

9 A I contacted SLED, because I was only assisting
10 in the case. Agent Matt Brown was leading the case. He
11 told me he would come down immediately, which, he did,
12 within an our hour or so, and we went back to re-interview
13 Mr. Lewis.

14 Q And did you go with Special Agent Brown?

15 A I did.

16 Q And what happened at that particular -- was it
17 the same day?

18 A It was, I believe, the same day.

19 Q And what happened at that particular interview?

20 A Mr. Lewis, he, due to the fact, I guess, he
21 wasn't familiar with Agent Brown or the other SLED agent,
22 I think it was Agent Jeff Croft, he kind of shut down. He
23 just -- he wouldn't say anything.

24 He said, "I don't know, I don't want to talk
25 about it, I don't feel good."

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 And I said, "Well, listen, you just told me
2 less than an hour or two ago what happened. Do it again."

3 Then he stopped for a minute and then he
4 began to talk again.

5 Q And at that point, did he then tell the agents
6 what he had told you?

7 A Yes, ma'am.

8 Q And what did he say at this time?

9 A He said, while we were at Pinewood Apartments,
10 Lapolis Flowers pulled up and shot him.

11 Q Did he indicate who else was in the car with
12 him?

13 A He did. He said -- Russell Smart, he said
14 Tyquan Charlton, and another subject, who was in the
15 front.

16 But another passenger was in the front --
17 Mr. Murray. I'm sorry.

18 Q Thank you. And while you were at the house with
19 Mr. Lewis and Agent Brown and Agent Croft, did anyone show
20 him any photo line-up?

21 A I believe Agent -- one of the SLED agents did.

22 Q And are you aware that he actually -- did you
23 watch the photo line-up being handed to him?

24 A Yes, I did.

25 Q Was he able to make a selection?

DIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 A Yes, ma'am, I believe so.

2 Q All right. Do you know who he selected in the
3 photo line-up?

4 A Mr. Laparis Flowers.

5 MS. LEGETTE: Begging the Court's indulgence.

6 (Pause.)

7 MS. LEGETTE: Thank you, Captain Manor. I have
8 no further questions. Please answer any questions
9 from Mr. Koger.

10 THE WITNESS: Yes, ma'am.

11 CROSS EXAMINATION

12 BY MR. KOGER:

13 Q Detective Manor, when you met with Mr. Lewis and
14 the other SLED agents, SLED Agent Brown and SLED Agent
15 Croft --

16 A Yes, sir.

17 Q -- that was actually the third total interaction
18 you had with Mr. Lewis, correct?

19 A I believe it might have been the second. I'm
20 not aware of a third. I think it was the second.

21 Q Okay. Okay. Were you aware that SLED agents
22 approached him the day before?

23 A Where?

24 Q On December 6th, at the hospital?

25 A No, sir. I wasn't there.

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 Q No. Were you aware?

2 A No. No, sir.

3 Q You were not aware what Mr. Lewis told those
4 SLED agents on December 6th?

5 A No, sir.

6 Q Is it not anywhere in your investigative file
7 what Mr. Lewis told the agents on December 6th?

8 A I wouldn't have that, because my work is in
9 Allendale. I didn't have it there. I wasn't there. So I
10 wouldn't have it.

11 Q But you worked the case.

12 A Yes, sir.

13 Q And you just testified to that you, I guess,
14 lead investigator from the County, correct?

15 A Right.

16 Q And you don't know of any interaction between
17 SLED --

18 THE COURT: Just a moment. Yes, ma'am.

19 MS. LEGETTE: It's asked and answered
20 Your Honor.

21 THE COURT: All right. Counsel, I'll let him
22 respond to this, but let's move along. Objection is
23 sustained in part. Proceed.

24 BY MR. KOGER:

25 Q Do you have any knowledge of Mr. Lewis denying

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 knowing the shooter, denying knowing the car on

2 December 6th, 2014, a couple hours after the shooting?

3 A Not to my knowledge.

4 Q Okay. No one communicated that to you?

5 A Not that I recall.

6 Q SLED did not -- you cannot -- or you can't

7 recall, or it didn't happen?

8 A No, sir.

9 Q Okay. Now, you spoke with Mr. Lewis first?

10 A Yes, sir.

11 Q Okay. You spoke with Mr. Lewis first?

12 A I did.

13 Q Okay. All right. And was that audio or video
14 taped?

15 A No, it wasn't.

16 Q Okay. How long did that conversation last?

17 A Like I said, the day I went in there, I was in
18 the room with him, and his grandmother was standing to the
19 door. I know her very well also. And as I recall, his
20 sister was there.

21 I might have spoken to him for five minutes,
22 if that. It wasn't a long, drawn out process.

23 Q And from that conversation, you called the
24 lead -- I guess, the lead SLED agent in this particular
25 case?

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 A That's correct.

2 Q Okay. Now -- so it would have been your second
3 interaction when the SLED agents came down?

4 A That's correct.

5 Q All right. And it was a total of three SLED
6 agents?

7 A Two.

8 Q Two SLED agents.

9 A Yes, sir.

10 Q And this took place at the residence of
11 Mr. Lewis at that particular time.

12 A Correct.

13 Q Okay. Now, do you recall an audio tape being
14 made of this interview?

15 A Yes, I believe so.

16 Q Okay. How long did this interview last?

17 A I can't give you the exact time. It was not
18 long.

19 Q Less than 30 minutes?

20 A Less than 15.

21 Q Less than 15 minutes?

22 A Yes, sir.

23 Q Okay. Do you recall Mr. Lewis being visibly in
24 pain?

25 A Oh, yes, he was in pain.

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 Q Okay. All right. Do you recall remarking
2 several times when Mr. Lewis was hesitant, saying that, "I
3 know you are in pain, but you need to make the
4 identification"?

5 A Yes, sir.

6 Q Okay. Several times. So about four or five
7 times?

8 A I can't say how many, but I'm pretty sure I said
9 that because he just got shot the night before.

10 Q More than one? More than once?

11 A More than once what?

12 Q The time you kept making the remarks that, "I
13 know that you are in pain."

14 A Oh, I can't recall that.

15 Q You can't recall. You can't recall how many
16 times, but you did say it?

17 A Oh, I said it. Yes, sir.

18 Q Okay. And probably more than one time.

19 A Yes, sir.

20 Q Okay. All right. Now, in that interaction with
21 you and the other two SLED agents, was Mr. Lewis hesitant
22 in the conversation that he was having with the three of
23 you and in any type of subsequent alleged identification?

24 A He was very hesitant. He was nervous because,
25 like I said, I know Brandon, and he doesn't know them, so

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 he was obviously, you know, nervous.

2 Q Now, the shooting occurred -- allegedly
3 occurred -- December the 6th, 2014 between 3:15 and 3:30,
4 correct?

5 A Yes, sir.

6 Q And there is a medical testimony that Mr. Lewis
7 soon thereafter went to Allendale Fairfax Hospital?

8 A I believe so, yes, sir.

9 Q Okay. And subsequently ended up at GRG or MCG
10 at that -- well, GRG/MCG, correct?

11 A I'm not sure which hospital.

12 Q Okay. All right. Do you know how long he was
13 kept over at GRG/MCG?

14 A It wasn't long. No, sir.

15 Q Okay. Do you know whether he was given any type
16 of medication for his injury?

17 A I wouldn't know that.

18 Q Okay. Did he relate to you that he had received
19 any type of medication for his injuries?

20 A Yes, sir, he did.

21 Q Okay. Did, when you questioned him on December
22 6th, 2014, along with the other agents, did you ask him
23 whether he was on medication at that time?

24 A I'm not sure if I asked him whether or not he
25 wanted -- whether or not he was on medication, but I asked

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 him was he able to speak with me in the initial
2 conversation, and he said yes. So as to medication, I
3 can't really --

4 Q Did he say he was on medication at that time?

5 A I can't answer that question. I asked him was
6 he okay, I didn't ask about the medication part.

7 Q You didn't attempt to get information whether he
8 was on medication or not, basically?

9 A Asking someone if they are okay after they are
10 shot is doing exactly that.

11 Q But he was visibly in pain though?

12 A Of course.

13 Q Because you kept making that comment, correct?

14 A Of course, yes, sir.

15 Q Okay. And is your testimony that your first --
16 that your first interaction with Mr. Lewis was before, I
17 think, before SLED came on that particular day?

18 A Yes, sir.

19 Q And you don't know of any other interactions
20 that Mr. Lewis had with law enforcement prior to you going
21 to meet with him or to talk with him at his grandmother's
22 -- at his residence on December 7th, 2014?

23 A No. My exact answer is I can't speak on what
24 happened at the hospital where I was not located. I don't
25 know.

DIRECT EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 Q Were you aware that he was interviewed?

2 A Huh?

3 Q Were you aware he was interviewed on

4 December 6th, 2014?

5 A No. No, sir.

6 Q Okay.

7 MR. KOGER: I have no further questions.

8 THE COURT: Redirect.

9 MS. LEGETTE: Thank you, Your Honor. Briefly.

10 REDIRECT EXAMINATION

11 BY MS. LEGETTE:

12 Q Captain Manor, you testified earlier that you
13 know Brandon?

14 A Yes, sir -- yes, ma'am.

15 Q And because you know him, does that -- what does
16 that mean?

17 A That just means I know Brandon really doesn't
18 care for officers. Since I became a police officer and
19 since I was there, me and him went through a lot of
20 incidents back and forth, and he doesn't care for law
21 enforcement until he really knows them.

22 Q Okay.

23 A So I had to kind of gain his trust over time.

24 Q So you had a rapport with Brandon?

25 A I do.

REDIRECT EXAMINATION OF QUATIQUE MANOR BY MS. LEGETTE

1 Q Does that mean you also know how Brandon
2 responds, or how he acts?

3 A Yes.

4 Q Do you know how he responds when he's sober?

5 A Yes.

6 Q Do you know how he responds when he is drugged
7 or not sober?

8 A Yes, ma'am.

9 Q The day you met with him on December the 6th,
10 2014, given your background with Brandon, how did he
11 present himself to you?

12 A He spoke to me very clearly. Everything I asked
13 him, he wasn't slurred speech or anything, he wasn't
14 talking fast or anything, he wasn't moving fast because he
15 just was shot. But he was talking very clearly to me.

16 Q Okay. So basically he seemed fine to you?

17 A Yes, ma'am.

18 MS. LEGETTE: Thank you. Nothing further.

19 RE-CROSS EXAMINATION

20 BY MR. KOGER:

21 Q Detective Manor, how would you know whether
22 Mr. Lewis would respond if he was under pain medication?

23 A I wouldn't know that.

24 Q Huh?

25 A I wouldn't know that.

RE-CROSS EXAMINATION OF QUATIQUE MANOR BY MR. KOGER

1 Q You wouldn't know that.

2 A No.

3 Q So if he had been under pain medication on
4 December 7th, you wouldn't know how he would have
5 responded, correct?

6 A No, I wouldn't.

7 MR. KOGER: Thank you. Nothing further.

8 THE COURT: As to this witness.

9 MS. LEGETTE: We asked that he be excused, Your
10 Honor.

11 THE COURT: Any objection?

12 MR. KOGER: No objection, Your Honor.

13 THE COURT: Captain Manor, you may step down.

14 You are excused from the trial of this case, and you
15 may leave the courtroom.

16 THE WITNESS: Thank you, Your Honor.

17 THE COURT: Call your next witness.

18 MS. LEGETTE: We call Dr. Janice Ross.

19 Thereupon,

20 JANICE ROSS

21 was called as a witness, having been first duly sworn,

22 was examined and testified as follows:

23 THE COURT: Have a seat and make sure your
24 microphone -- pull that chair up, the microphone is
25 going to amplify your voice.

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 Q / And what do you do at Newberry Pathology

2 Associates?

3 A We do autopsies for coroners for the State, and

4 I also do some hospital pathology.

5 Q So what is your job title?

6 A I'm forensic pathologist.

7 Q Okay. So tell us about your duties as a

8 forensic pathologist.

9 A Okay. First of all, to become a forensic

10 pathologist, I did four years of college, four years of

11 medical school, and over five years of training in the

12 field of pathology.

13 As a pathologist, you are trained how to

14 identify diseases and treatment of them by looking at tissue

15 under a microscope, and using a laboratory in the hospital.

16 We also learn how to do an autopsy and to

17 determine a cause of death.

18 Did further training in forensic pathology,

19 where we learn how to identify patterns of injury, to

20 identify manner of deaths, like accidents, suicides,

21 homicides, and natural deaths.

22 Q Now, are you also a licensed medical doctor?

23 A Yes.

24 Q In South Carolina?

25 A Yes.

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 Q And how long have you been a licensed medical
2 doctor?

3 A Forty-one years.

4 Q And, Dr. Ross, how many autopsies have you
5 performed in those 41 years?

6 A Over 11,000.

7 Q And is your special -- are you specialized in
8 forensic pathology or another branch of medicine?

9 A Forensic pathology.

10 Q Now, Dr. Ross, during your years as a forensic
11 pathologist, have you had occasion to perform or observe
12 autopsies, where the cause of death was basically, as in
13 this case, sanguination?

14 A Yes.

15 MS. LEGETTE: At this time, Your Honor, I would
16 offer Dr. Ross as an expert in the field of forensic
17 pathology?

18 THE COURT: Any objection to the qualifications?

19 MR. KOGER: No questions, Your Honor. No
20 objection.

21 THE COURT: Ladies and gentlemen of the jury,
22 normally the law does not permit a witness to get on
23 a witness stand to give opinion testimony. We have
24 rules against that.

25 There's an exception to that rule for those

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 witnesses who claim to have special knowledge, skill,
2 education, or training in a field -- in this case,
3 forensic pathology -- and if qualified by the court,
4 are permitted to give an opinion as an expert in the
5 matters in which they claim to be so skilled.

6 In determining weight to be given to any expert
7 opinion, you should consider as a jury the
8 qualifications and the credibility or believability
9 as an expert, reasons given for his or her opinion.

10 You're not bound by such expert opinion. You
11 give the weight, if any, to which you feel it should
12 be entitled.

13 The witness is qualified in the field of
14 forensic pathology, without objection. You may
15 proceed, Solicitor.

16 MS. LEGETTE: Thank you, Your Honor.

17 BY MS. LEGETTE:

18 Q Dr. Ross, would you please educate us. You
19 mentioned it earlier, but just how many manners of death
20 are there?

21 A There are actually five. Natural deaths, for
22 instance like a heart attack; suicide; homicide; accident;
23 and if we can't tell, it is a -- we can put down
24 "undetermined."

25 Q Okay. Dr. Ross, were you working as a forensic

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 pathologist at Newberry Pathology Associates in
2 December of 2014?

3 A Yes.

4 Q And during the month of December of 2014, did
5 you perform one or more autopsies?

6 A Yes.

7 Q And specifically turning your attention to
8 December the 6th, 2014, did you recall -- did you perform
9 an autopsy on that date?

10 A Well, actually, it was December 8th, 2014..

11 Q Pardon. Okay. December 8th. Okay.

12 A Yes, ma'am.

13 Q All right. Did you perform an autopsy on that
14 date?

15 A Yes.

16 Q And who was the autopsy of?

17 A Russell Smart, age 27.

18 Q Dr. Ross, I'm going to hand you in a moment what
19 has been previously marked for identification only as
20 State's Exhibit Number 60. I want you to take a moment
21 and tell me if you recognize State's Exhibit 60.

22 MS. LEGETTE: May I approach, Your Honor?

23 THE COURT: You may.

24 A Yes. This is a shot from the autopsy of the
25 face of Russell Smart.

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 BY MS. LEGETTE:

2 Q And that is the man you autopsied on

3 December 8th, 2014?

4 A Yes.

5 MS. LEGETTE: May I approach the witness and get

6 it back, Your Honor?

7 BY MS. LEGETTE:

8 Q Now, Dr. Ross, when was the first time you saw

9 this person? Was it at the autopsy?

10 A At the autopsy, yes.

11 Q How long did the autopsy last?

12 A Probably about an hour.

13 Q An hour. And based on that particular autopsy,

14 within the bounds of reasonable medical certainty, were

15 you able to form an opinion as to the cause of death?

16 A Yes.

17 Q And what is your opinion?

18 A Sanguination, which means to bleed out, because

19 of laceration of the aorta and the lungs. It was a

20 gunshot wound of the left arm, which went through his

21 chest.

22 Q And what is the manner of death?

23 A Homicide.

24 Q So you indicate that the -- were you able to

25 decide what direction the injury came from?

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 A Yes. The entrance wound was in the left upper
2 arm, close to the shoulder. It then continued from left
3 to right, and slightly downward. So it went through the
4 left and the right chest, and lacerated the upper globe of
5 the left lung, the aorta, as it came off the heart, and it
6 lacerated the right, middle, and lower lobe of the right
7 lung. We found the bullet in the lower lobe of the right
8 lung.

9 Q And Dr. Ross, during the autopsy, were you able
10 or was someone in your office taking any photographs?

11 A Yes.

12 Q And were these photographs done to document the
13 injury?

14 A Yes.

15 Q Dr. Ross, I'm going to now hand you what's been
16 previously marked for identification State's 58, 59, and
17 57. I want you to take a moment and tell me --

18 THE COURT: What were the numbers?

19 MS. LEGETTE: Fifty-seven, 58, and 59.

20 BY MS. LEGETTE:

21 Q Please take a moment and tell me if you
22 recognize State's 57, 58, and 59.

23 MS. LEGETTE: May I approach the witness,
24 Your Honor?

25 THE COURT: You may.

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 Counsel.

2 (Off-the-record discussion held.)

3 THE COURT: Proceed.

4 MS. LEGETTE: Thank you, Your Honor.

5 BY MS. LEGETTE:

6 Q Dr. Ross, do you recognize State's 57, 58, and
7 59?

8 A Yes, I do.

9 Q And what are State's 57, 58, and 59?

10 A They are pictures from the autopsy of
11 Russell Smart.

12 Q And are State's 57, 58, and 59 a fair and
13 accurate reflection of the injuries documented during your
14 autopsy of Russell Smart?

15 A Yes.

16 Q Have they been changed or altered in any way?

17 A No, they have not.

18 MS. LEGETTE: At this time, Your Honor, I would
19 offer State's 57, 58, and 59 for admission into
20 evidence.

21 THE COURT: As to State's 57, 58, and 59.

22 MR. KOGER: No objection, Your Honor.

23 THE COURT: Ladies and gentlemen of the jury,
24 State's Exhibits 57, 58, and 59 will be admitted into
25 evidence in the trial of this case, without

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 objection.

2 Thank you. Hand that to the court reporter,
3 please.

4 *(Whereupon, State's Exhibit No(s). 57-59 marked*
5 *for identification and received in evidence.)*

6 THE COURT: You may publish 57, 58, and 59 to
7 the jury.

8 MS. LEGETTE: Thank you, Your Honor.

9 BY MS. LEGETTE:

10 Q Dr. Ross, in State's 57, you can look at either
11 the television or the ones you have in front of you,
12 Exhibit 57. What do we see in State's 57?

13 THE COURT: Just a moment. Do you want to come
14 around, Mr. Koger? Hold on.

15 MS. LEGETTE: Yes, Your Honor.

16 (Pause.)

17 THE COURT: Proceed.

18 BY MS. LEGETTE:

19 Q Dr. Ross, go ahead.

20 A This is a picture of the upper body of
21 Russell Smart, the autopsy in our morgue. He is still in
22 the body bag, and it shows the left arm. Just right at
23 the edge of where the body bag is, you can see the hole in
24 the left upper arm. That is the entrance wound and the
25 exit wound.

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 Q And you indicated earlier that that bullet
2 traveled across his body?

3 A Yes, ma'am. It went -- it did not go in and out
4 of the left arm. It went up to the armpit, basically, and
5 into the left chest, and then it continued to go into the
6 right chest.

7 Q Okay. Dr. Ross, would a person who is shot, as
8 Mr. Smart was shot, would he be able to drive for a few
9 seconds? A few moments?

10 A Yes, he would.

11 Q Where he could possibly be alert at that time?

12 A Yes. For a few seconds, yes.

13 Q Okay. And now we move on to State's Number 58.
14 State's 58?

15 A That is the entrance wound in the left upper arm
16 of Russell Smart.

17 Q And now State's 59?

18 A That also indicates, shows the entrance wound in
19 the left upper arm of Russell Smart. You can see below
20 that, the numbers are placed such that the -- above the
21 number is the head area. But you can see underneath the
22 entrance wound, there's some abrasion, which may be some
23 shrapnel or something, if the bullet hit something before
24 it got into the arm.

25 Q And Dr. Ross, while you are documenting all of

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 his injuries doing your autopsy, you said you actually
2 were able to recover a projectile?

3 A Yes...

4 Q And what was done with this projectile when you
5 recovered it?

6 A We took photographs of it, and sealed it for law
7 enforcement to take to SLED.

8 Q Okay. I think we are done with the photographs.

9 Dr. Ross, in a moment I'm going to hand you
10 what has been previously marked as State's Exhibit Number
11 70.2. I want you to take a moment and tell me if you
12 recognize State's 70.2.

13 MS. LEGETTE: May I approach the witness
14 Your Honor?

15 THE COURT: You may.

16 BY MS. LEGETTE:

17 Q Dr. Ross, I'm going to hand you now State's
18 Exhibit 70.2.

19 A That is the bullet that we took out of the right
20 lung of Russell Smart. Our label and it has a little --
21 an injury to the jacket that matches what we took out.

22 Q And Dr. Ross, along with the bullet that you
23 recovered from the body of Russell Smart, did you also
24 recover any other items of evidence?

25 A We draw fluids for toxicology to identify any

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 drugs in the patient.

2 Q Did you also take a blood sample from Mr. Smart?

3 A Yes.

4 Q And when you took the blood sample, along with
5 the bullet, were they turned over to anyone?

6 A To the SLED team, Investigator Patrick Oliphant.

7 Q And he is with SLED?

8 A Yes.

9 MS. LEGETTE: Begging the Court's indulgence:

10 (Pause.)

11 MS. LEGETTE: Dr. Ross, thank you. I have no
12 further questions. Please answer any questions from
13 Mr. Koger.

14 THE COURT: Just a moment. As to 70.2, do you
15 wish to introduce them?

16 MS. LEGETTE: Oh, I'm sorry, Your Honor. Yes,
17 Your Honor, at this time I would offer State's
18 Exhibit 70.1 and 70.2 into --

19 THE COURT: As to 70.2, Counsel.

20 MR. KOGER: No objection, Your Honor.

21 THE COURT: Ladies and gentlemen of the jury,
22 State's Exhibit 70.2 is admitted into evidence,
23 without objection.

24 Thank you, Your Honor.

25 Dr. Ross, I have no further questions. Please

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 answer any questions from Mr. Koger.

2 MR. KOGER: I have no questions of Dr. Ross,
3 Your Honor.

4 THE COURT: As to this witness, Counsel, may she
5 be excused?

6 MS. LEGETTE: Yes, Your Honor.

7 THE COURT: Any objection?

8 MR. KOGER: No objection, Your Honor.

9 THE COURT: Dr. Ross, you may step down -- you
10 can hand it to me, I'll give it to the court
11 reporter. You're excused from the trial of this
12 case. You may leave the courtroom.

13 THE WITNESS: Thank you.

14 THE COURT: Call your next witness.

15 MS. LEGETTE: May we approach, Your Honor?

16 THE COURT: Counsel approach.

17 (Off-the-record discussion held.)

18 MS. LEGETTE: Madam Foreperson, ladies and
19 gentlemen of the jury, I'm going to take our one and
20 only mid-afternoon break now and let you stretch your
21 legs and use the restroom. I'll be back with you
22 just as soon as I know everybody has had a chance to
23 take a break.

24 Thank you very much. Please do not discuss the
25 case.

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 (The Jury exits the courtroom at 3:19 p.m.)

2 THE COURT: Counsel approach's.

3 (Off-the-record discussion held.)

4 (Whereupon the Court was in recess.)

5 THE COURT: State ready to proceed?

6 MR. HOLLEN: We are, Your Honor.

7 THE COURT: Defendant ready to proceed?

8 MR. KOGER: Yes, Your Honor.

9 THE COURT: Very well. Bring us the jury,
10 please.

11 (The Jury enters the courtroom.)

12 THE COURT: All right. Madam Foreman, you have
13 all your flock together, we will now continue with
14 the testimony in the trial of this case.

15 Counsel, call your next witness.

16 MR. HOLLEN: Thank you, Your Honor. Special
17 agent Haley Nelson.

18 Thereupon,

19 HALEY NELSON

20 was called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE COURT: Have a seat, make yourself
23 comfortable. Adjust that microphone to your height.

24 All right. Now, have you testified in this
25 courtroom?

DIRECT EXAMINATION OF JANICE ROSS BY MR. LEGETTE

1 THE WITNESS: I have not.

2 THE COURT: Well, you notice we've gotten two of
3 these 40-foot ceilings, and the sound goes straight
4 up in the ceiling. We've tried to do something about
5 it with these blue panels, they're acoustic panels.
6 It's real difficult to hear in here. Just ask my
7 court reporter.

8 So I need you to use that microphone, and I need
9 you to speak up like I'm doing so the jury will be
10 able to hear what you say. You understand?

11 THE WITNESS: I do.

12 THE COURT: Please state your full name, spell
13 your last name for the court reporter.

14 THE WITNESS: My name is Haley Nelson,
15 H-A-L-E-Y, N-E-L-S-O-N.

16 THE COURT: What number on my list? Number 7?

17 MR. HOLLEN: Yes, sir.

18 THE COURT: All right. Your witness, Counsel.

19 MR. HOLLEN: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. HOLLEN:

22 Q Good afternoon, Agent Nelson.

23 Agent Nelson, I'm calling you "agent." Who
24 do you work for?

25 A I work for the South Carolina Law Enforcement

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Division, commonly known as SLED.

2 Q And what is your position with SLED at this
3 time?

4 A I'm assigned to the behavioral science unit.

5 Q So you work in behavioral science right now.

6 A I do.

7 Q Before you worked in behavioral science, what
8 unit did you work in?

9 A I worked in crime scene unit.

10 Q And as a crime scene unit agent, what are some
11 of your duties?

12 A The duties of a crime scene agent, we would
13 respond to scenes that request local, state, or federal
14 jurisdictions. We would respond to the scene, collect
15 evidence, document the scene, and transport it back to the
16 SLED forensic services laboratory.

17 From there, I would package the evidence and
18 send it to the appropriate department for further testing.

19 Q So you collect evidence at crime scenes
20 basically -- or you did when you were with crime scene
21 unit.

22 A That's correct.

23 Q What kind of training did you have as a crime
24 scene agent before you went to behavioral science?

25 A I -- well, I graduated from Western University

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 with a Bachelor of Science in forensic and investigative
2 science. Then I also have a Bachelor of Arts in
3 chronology investigations, and graduated in May of 2012.

4 And then I started at SLED in October of
5 2012. From there on, I went to the criminal academy, became
6 a certified law enforcement officer. And then I completed a
7 six-month in-house training program with a crime scene unit,
8 which consisted of training blocks, such as crime scene
9 photography, and how to process certain types of evidence.
10 And from there on, I was with another agent, who was also
11 signed off on how to respond to the scenes, under her
12 supervision, and document the crime scene.

13 Then I also had the opportunity to take
14 internal training such as blood stain pattern analysis and,
15 again, a course in that as well as other external training.

16 Q Have you testified in State court before?

17 A I have.

18 Q Have you ever been qualified as an expert in
19 State court before?

20 A I have. I've been qualified as an expert in
21 blood stain pattern analysis and crime scene
22 reconstruction twice.

23 MR. HOLLEN: Your Honor, at this time, we would
24 offer Agent Nelson as an expert in crime scene
25 reconstruction for this trial.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 THE COURT: Any objection as to qualifications?

2 MR. KOGER: No objection as to qualifications,
3 Your Honor.

4 THE COURT: Ladies and gentlemen of the jury,
5 recalling my earlier instruction to you concerning
6 expert witnesses, this witness is qualified without
7 objection in crime scene reconstruction.

8 You may proceed, Counsel, without objection.

9 MR. HOLLEN: Thank you, Your Honor.

10 BY MR. HOLLEN:

11 Q Agent Nelson, were you working with the crime
12 sense unit in December of 2014?

13 A I was.

14 Q And on December 6th of 2014, were you dispatched
15 to a scene, a crime scene here in Allendale?

16 A I was.

17 Q And where did you go, if you recall where you
18 went when you were dispatched there?

19 A May I refer to my notes?

20 THE COURT: You certainly may. You can refresh
21 your memory from the notes and then testify according
22 to his questions.

23 A The address that we had been provided initially
24 was the intersection of Robin Street and Barton Road in
25 Allendale, South Carolina. When we arrived on scene, we

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 designated 46 Barton Road as the primary scene address.

2 Q And what information were you provided when you
3 reported to that location?

4 A Initially I was told that there was others that
5 would be on scene, and another person was critically
6 injured. We were told that Lowcountry regional agents
7 were also coming to the scene.

8 And once we arrived on scene, Chief Oliphant
9 with Allendale provided additional information, and we were
10 told one that there was one victim who was deceased, and he
11 had been transported from the vehicle to the hospital.

12 There was another victim in the rear seat,
13 who was transported to -- initially transported to Allendale
14 hospital and then further transported to the Medical College
15 of Georgia to receive initial treatment. And then another
16 victim had been located on Razor Road in Allendale, and he
17 was transported to Allendale County Hospital and further
18 transported to the Medical College of Georgia for additional
19 treatment.

20 And we were also told that they didn't
21 believe that this initial location was where the shooting
22 happened.

23 Q So you responded to where the car was located,
24 is that --

25 A Correct.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Q Agent Nelson, what is the first thing that you
2 generally do when you get on to a crime scene?

3 A Well, first, you got to do the initial
4 information from the on-scene investigators. We'll do a
5 walk-through of the scene and then we'll start by taking
6 overall photographs of the crime scene.

7 Q Agent Nelson, I'm going to hand you some
8 photographs. I'm going to try and break these up a little
9 bit because there are a number of them.

10 MR. HOLLEN: Your Honor, may I approach the
11 witness?

12 THE COURT: Identify the exhibits that you are
13 going to hand over.

14 MR. HOLLEN: I will. These are marked for
15 identification as State's Exhibits 9, 10, 11, 12, 13,
16 14, and 15.

17 May I approach the witness, Your Honor?

18 THE COURT: You may.

19 BY MR. HOLLEN:

20 Q Agent Nelson, take a look at those, if you don't
21 mind, and let me know if you recognize them.

22 A I recognize them.

23 Q Did you take those photographs?

24 A Myself, along with Lieutenant E.T. Wallace that
25 went to the scene with me.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Q Okay. Are those photographs, each one a fair
2 and accurate depiction of the scene as you found it when
3 you arrived?

4 A They are.

5 Q Have they been changed or altered in any way?

6 A They have not.

7 MR. HOLLEN: Your Honor, at this time, I would
8 offer State's 9, 10, 11, 12, 13, 14, and 15 as
9 exhibits in this case.

10 THE COURT: As to State's 9 through 15
11 inclusive, Counsel.

12 MR. KOGER: No objection from Defense.

13 THE COURT: Ladies and gentlemen of the jury,
14 State's Exhibits 9, 10, 11, 12, 13, 14, and 15 will
15 be admitted into evidence in the trial of this case,
16 without objection.

17 *(Whereupon, State's Exhibit No(s). 9-15 marked*
18 *for identification and received in evidence.)*

19 THE COURT: You may publish.

20 MR. HOLLEN: Thank you, Your Honor.

21 BY MR. HOLLEN:

22 Q Agent Nelson, you could look at what you have
23 there or at the screen.

24 THE COURT: Come around if you'd like to see,
25 Mr. Koger. You can come around the back.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Please wait until he's in a position to see the
2 board. You can use the exhibits. Please refer to
3 the exhibit number the court reporter has on the
4 exhibits, without looking at the SEED number if one
5 is on the photograph.

6 All right. Proceed, Counsel.

7 MR. HOLLEN: Thank you, Your Honor.

8 BY MR. HOLLEN:

9 Q Agent Nelson, as to State's Exhibit Number 9,
10 can you describe that for us, please?

11 A State's Exhibit Number 9 is the rear driver's
12 side taillight, and there is a bullet defect in the
13 taillight.

14 Q So that is a bullet defect in the taillight of
15 the green Crown Vic?

16 A Yes, sir.

17 Q Okay. What side is that on; do you recall?

18 A The driver's side.

19 Q So it's on the driver's side, the left-hand
20 side.

21 All right. State's Exhibit Number 10.

22 A State's Exhibit Number 10 is the driver's side
23 of the green Ford Crown Vic. When we arrived, both the
24 driver's door and the front driver's door and the rear
25 driver's door were opened.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 We observed medical equipment on top of the
2 roof. We were told that EMS had been there prior to our
3 arrival, and there was also clothing in the rear driver's
4 seat and coming out of the car onto the ground.

5 Q In addition, you can't see in this photograph,
6 but in addition to the driver's side doors open, were the
7 passenger's side doors open as well when you arrived?

8 A They were.

9 Q So all four doors were open?

10 A Yes.

11 Q Let's move on to State's Exhibit Number 11.

12 A State's Exhibit Number 11, this is a close-up of
13 the rear driver's quarter panel. At the opening, where
14 the door meets the quarter panel, there is a bullet
15 defect.

16 Q Okay. And so that is a second bullet defect in
17 the vehicle?

18 A Yes.

19 Q Twelve?

20 A State's Exhibit Number 12 is just another
21 photograph of the rear driver's side of the vehicle.
22 There is a bullet defect in the window of the rear
23 driver's window.

24 Q And in this photograph, can you also see the
25 bullet defect just to the rear of the driver's rear door?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A You can.

2 Q All right. Thirteen.

3 A State's Exhibit 13 is a closer photograph of the
4 rear driver's window, and you can see the bullet defect on
5 the window.

6 Q All right. So that is just another angle of the
7 third bullet defect in the rear window?

8 A That's correct.

9 Q Okay. Fourteen.

10 A State's Exhibit 14 is a photograph of the front
11 driver's door, and it is open. The window is partially
12 down, but in the lower right-hand side of the window,
13 there is a bullet defect.

14 Q So how many bullet defects have we seen now in
15 that vehicle?

16 A We have seen four.

17 Q Okay. Thank you. Fifteen.

18 A State's Exhibit 15 is a photograph of the
19 interior side of the driver's seat. There is blood
20 observed on the seat cushion, or suspected blood -- what
21 they call suspected blood observed near the seatbelt
22 buckle.

23 Q All right. Sixteen -- or sorry. We are not
24 there yet.

25 THE COURT: We'll let you go down now.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 MR. HOLLEN: Thank you, Judge.

2 BY MR. HOLLEN:

3 Q All right.

4 THE COURT: Stay right there and just go. Did
5 you plan on introducing all -- stay right there.

6 BY MR. HOLLEN:

7 Q Agent Nelson, I now have State's 17, 18, 20, 21,
8 22, 23, 24, 25, 26, 27, and 28.

9 MR. HOLLEN: Again, for the record, Your Honor,
10 that's 17, 18, 20, 21 --

11 THE COURT: Seventeen through 28 inclusive. Is
12 that correct, sir?

13 MR. HOLLEN: No, Your Honor. I skipped -- we've
14 taken out 19 and 20.

15 THE COURT: There is no 19?

16 MR. HOLLEN: No 19 and no 20, and that's it.

17 THE COURT: All right. You've also skipped
18 those previous exhibits that were not introduced yet,
19 marked 16.

20 MR. HOLLEN: That's correct, Your Honor. We
21 took that out as well.

22 THE COURT: So 17, 18, and then no 19 or 20?

23 MR. HOLLEN: I'm sorry. No 19; there is a 20.

24 THE COURT: Seventeen, 18, 20 through 28?

25 MR. HOLLEN: That is correct, Your Honor.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Let me show these, Mr. Koger.

2 MR. KOGER: Without objection.

3 MR. HOLLEN: May I approach the witness?

4 THE COURT: Have the witness identify them in
5 order.

6 BY MR. HOLLEN:

7 Q Agent Nelson, take a look at all those
8 photographs in front of you and let me know if you
9 recognize them, please.

10 A I do.

11 Q And are those -- are each of those photographs a
12 fair and accurate depiction of the scene as you found it
13 when you arrived?

14 A Yes.

15 Q Have they been changed or altered in any way?

16 A They have not.

17 Q Thank you.

18 MR. HOLLEN: Your Honor, at this time, I would
19 offer State's 17, 18, and 20 through 28 into
20 evidence.

21 THE COURT: Counsel, that's 17, 18, 20 through
22 28 inclusive.

23 MR. KOGER: Without objection.

24 THE COURT: Ladies and gentlemen of the jury,
25 State's Exhibits 17, 18, 20, 21, 22, 23, 24, 25, 26,

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 27, 28 will be admitted into evidence in the trial of
2 this case, without objection. You may proceed.

3 MR. HOLLEN: Thank you, Your Honor.

4 *(Whereupon, State's Exhibit No(s). 17-18, 20-28*
5 *marked for identification and received in evidence.)*

6 BY MR. HOLLEN:

7 Q And Agent Nelson, if you don't mind reading out
8 the State's Exhibit number and then describing it since
9 I'll clearly lose track.

10 A Well, there's State's Exhibit 17. This is an
11 overall photograph of the rear passenger seat of the Ford
12 Crown Vic. We observed suspected blood on the seat
13 cushion as well as the back of the -- both the front and
14 the -- front driver's and passenger's seat.

15 There's clothing on the rear driver's side.
16 There's a Pringle can observed in the floor board of the
17 rear passenger side.

18 Q And is this photograph taken from the passenger
19 side as opposed to the driver's side?

20 A It is.

21 Q Thank you. All right. Go ahead with the next
22 one.

23 A State's Exhibit 18. This is a photograph of the
24 steering wheel. This would have been taken from the
25 passenger's side on -- suspected blood was observed on the

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 steering wheel.

2 Q Okay. What is next?

3 A State's Exhibit 20. This is a photograph of the
4 tree. We decided to tow the vehicle to a -- an additional
5 location for further processing, just so we were out of
6 the elements, and so we photographed the tree after the
7 vehicle was towed away to see if there was any damage
8 observed to the tree.

9 Q And was there some damage on that tree?

10 THE COURT: Speak up, Counsel.

11 MR. HOLLEN: Sorry.

12 BY MR. HOLLEN:

13 Q Was there some damage observed on the tree that
14 the car hit?

15 A There was a little bit, and the driver's side on
16 the tree was where the front of the vehicle had met with
17 the tree.

18 Q Okay.

19 A State's Exhibit 21. This is after we had towed
20 it. This is an overall photograph of the passenger side
21 of the Ford Crown Vic.

22 Q And is there any bullet defects observed on the
23 passenger side of the Crown Vic?

24 A There are not.

25 Q Okay. Go ahead. What is next?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A Sorry. State's Exhibit 22. This is a
2 photograph of the inside of the trunk. Inside of the
3 trunk located a grill, and on the lower left-hand side of
4 the picture, on the bottom portion of the grill, there was
5 a defect that we observed and we determined later that the
6 bullet on the taillight from the rear driver's side had
7 perforated, meaning it went through and through,
8 perforated into the trunk and continued to travel into the
9 grill. And there was an exit on the other side of the
10 grill, and we located the projectile within the trunk.

11 Q Okay. Twenty-three.

12 A State's Exhibit 23. This is another photograph
13 of the inside of the trunk and the grill. This is the
14 right-hand side of the grill, and we observed an exit
15 defect on the grill.

16 Q Okay. Twenty-four.

17 A State's Exhibit 24. This is after the grill was
18 removed from the trunk, and there is a mark on the
19 carpeting, or the lining of the trunk, and that was caused
20 by the projectile lined up with the projectile flight
21 path.

22 Q All right. Twenty-five?

23 A State's Exhibit 25. This is an overall
24 photograph from where the fired projectile was located.
25 There it is. And so we collected that.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Q So that was the projectile -- you collected a
2 projectile out of the trunk of the Crown Vic.

3 A Yes.

4 Q Twenty-six?

5 A State's Exhibit 26. This is just another
6 close-up photograph of the entire projectile.

7 Q Okay. And do you have another one up there?

8 A State's Exhibit 27. This is the top of the
9 inside of the trunk. So we determined when we are talking
10 about flight path, when projectiles are making contact
11 with any type of surface, they could possibly change their
12 direction. So we know that it hit or it perforated within
13 the taillight, it perforated the grill. So it went
14 through the grill and then we had a mark on the lining.

15 This mark would have been caused by the
16 projectile also, and would have been a ricochet. So when it
17 hit the top of the trunk, then it came back down to its
18 final resting place.

19 Q And 28?

20 A State's Exhibit 28 is a photograph of the top of
21 the trunk. That would be the outside of the inside, where
22 you saw that little mark. This would be from the
23 ricochet.

24 Q So it's just the outside of the trunk where the
25 bullet ricocheted?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A Yes.

2 Q Is that a paint chip?

3 A Yes.

4 Q All right. And Agent Nelson, I'm going to now
5 hand you what have been marked as State's 30, 31, 32, and
6 33. I'm going to show these to Defense counsel.

7 MR. HOLLEN: Your Honor, may I approach?

8 THE COURT: You may.

9 BY MR. HOLLEN:

10 Q Agent Nelson, take a look at those and let me
11 know if you recognize them.

12 A I do.

13 Q Are those photos a fair and accurate depiction
14 of the scene as you saw it?

15 A They are.

16 Q Have they been changed or altered in any way?

17 A They have not.

18 MR. HOLLEN: Your Honor, at this time I would
19 offer State's 30, 31 --

20 THE COURT: Through 33 inclusive.

21 MR. HOLLEN: Yes, sir.

22 THE COURT: Any objection to 30, 31, 32, and 33?

23 MR. KOGER: No objection, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury,
25 State's Exhibits 30, 31, 32, and 33 will be admitted

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 into evidence in the trial of the case, without
2 objection.

3 *(Whereupon, State's Exhibit No(s). 30-33 marked*
4 *for identification and received in evidence.)*

5 THE COURT: You may publish to the jury now.

6 MR. HOLLEN: Thank you, Your Honor.

7 BY MR. HOLLEN:

8 Q Let's start with State's 30.

9 A State's Exhibit 30 is just another overall
10 photograph of the rear driver's side. We had collected
11 the clothing from the rear driver's floor board. There's
12 a flight path rod into the bullet defect near the quarter
13 panel in the door frame. This was marked -- it has the
14 tape in it, and it's marked as Marker B.

15 Q What is a "flight path rod"?

16 A A flight path rod is used to determine the
17 flight path of a projectile. We know that perforated the
18 quarter panel and it exited out of the seat, the rear
19 driver's -- or rear driver's seat.

20 Q In your experience as a crime scene
21 reconstructionist and a crime scene agent, what path do
22 bullets generally take? Do they generally take a straight
23 path unless they hit some sort of resistance? Can't say?

24 A It really depends.

25 Q I withdraw that question.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 All right. Let's go on to 31.

2 A State's Exhibit 31. This is a close-up of that
3 bullet defect in the rear quarter panel in the Crown Vic.
4 Again, this is marked as Marker B.

5 Q All right. Number 32?

6 A State's Exhibit 32. This is the exit of Marker
7 B and -- it was marked as Marker H.

8 Q All right. So were you able to determine the
9 trajectory that this bullet took?

10 A We thought we had an angle, and due to how the
11 flight path is -- due to how the flight path rod is angled
12 within that entrance, and with its exit. So how that
13 flight path rod is pointed is the approximate travel of
14 the projectile.

15 Q So that bullet, you were able to determine --
16 you don't know which direction it was traveling, or do
17 you?

18 A We -- well, we know that it was going in at an
19 angle.

20 Q Did it enter through the outside of the car?

21 A It entered through the outside of the car. The
22 entrance is Marker B, which is on the outside quarter
23 panel of the Ford Crown Vic. That projectile exited out
24 of the seat.

25 Q Okay. And 33?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A State's Exhibit 33.

2 Q Go ahead and describe it.

3 MR. HOLLEN: I, -- Your Honor, we do not have it.
4 It is a black and white photograph. We do not have
5 it on there, so I'm going to --

6 THE COURT: Hold it. Counsel approach.

7 (Off-the-record discussion held.)

8 BY MR. HOLLEN:

9 Q Agent Nelson, can you describe what is in that
10 photograph?

11 A We had removed the seat from -- the rear seat,
12 the cushions. We removed them to search for any
13 additional evidence. We found a copper jacket, which is
14 the projectile located under that seat. So that was
15 photographed and we collected it.

16 MR. HOLLEN: May I approach, Your Honor?

17 THE COURT: You may.

18 MR. HOLLEN: I'll show you this exhibit.

19 (Exhibit 33 being published.)

20 THE COURT: Ladies and gentlemen, you will have
21 all the exhibits with you in your jury room during
22 your deliberations.

23 BY MR. HOLLEN:

24 Q And Agent Nelson, was that copper jacket
25 collected?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A It was.

2 Q Okay. So you said you reported to the scene
3 where the car was. The car was eventually towed to
4 another location for further processing, correct?

5 A That's correct.

6 Q At some point, did you report to the Allendale
7 County Hospital to collect any evidence in this case?

8 A I did. It was requested for me to go to
9 Allendale hospital, where the deceased victim was taken,
10 to collect for fingerprints on them, a gunshot residue
11 kit, as well as blood stains.

12 Q All right. Can you explain to us what a gunshot
13 residue kit is?

14 A The gunshot residue kit is to look for the
15 presence of gunshot residue.

16 Q And did you perform a gunshot residue test on
17 Russell Smart?

18 A I did.

19 Q Not a test, but you -- can you explain how that
20 works?

21 A The gunshot residue kit comes in -- they are
22 pre-packaged. There's four tabs within them. They are
23 sticky tabs. They are labeled as left palm, right palm,
24 left back, right back.

25 So when you have left palm, you take the left

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 hand of whoever you are collecting it from and undue the
2 sticky tab, and dab it multiple times on the person's hand.
3 Then you seal it back up. And you continue to do that on
4 all parts of the hand.

5 Q And after you are done collecting -- or doing a
6 gunshot residue kit on someone, what do you do with it
7 next?

8 A It's sealed. And then, like I said earlier, we
9 take the evidence back to the crime unit laboratory, and
10 log it in. It is sent to the trace department for further
11 analysis.

12 Q Okay. Agent Nelson, I'm going to hand you
13 what's been premarked for identification as State's
14 Exhibit Number 61. Can you take a look at it and tell me
15 if you recognize it, please?

16 MR. HOLLEN: Your Honor, may I approach?

17 THE COURT: You may.

18 MR. HOLLEN: Thank you.

19 A I recognize it.

20 BY MR. HOLLEN:

21 Q What is that, Agent Nelson?

22 A This is the gunshot residue kit collected from
23 Russell Smart. I identified it by -- it has my name on it
24 as well as my badge number and the agent's name and lab
25 number, which is our case number associated with it as

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 well as an item number.

2 MR. HOLLEN: Court's indulgence, Your Honor.

3 (Pause.)

4 BY MR. HOLLEN:

5 Q Agent Nelson, after you collected that, you
6 sealed it and submitted it, correct?

7 A That's correct.

8 Q And to your knowledge, after it was submitted,
9 was it tampered with or changed in any way?

10 A It shouldn't have been.

11 Q All right.

12 MR. HOLLEN: Your Honor, at this time, I would
13 offer State's 61 as an exhibit in this case.

14 THE COURT: As to 61, Counsel.

15 MR. KOGER: No objection, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury,
17 State's Exhibit Number 61 will be admitted into
18 evidence in the trial of this case, without
19 objection.

20 *(Whereupon, State's Exhibit No(s). 61 marked for*
21 *identification and received in evidence.)*

22 THE COURT: You may publish.

23 MR. HOLLEN: Thank you, Your Honor.

24 That's just a kit, so I'll get it back from you.

25 May I approach?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 THE COURT: You may. And that goes to the court
2 reporter, not to your file, Counsel.

3 MR. HOLLEN: Yes, sir.

4 BY MR. HOLLEN:

5 Q All right. So Agent Nelson, you said that the
6 Crown Vic was processed further after it was towed to a
7 different location, correct?

8 A That's correct.

9 Q What kind of processing did you do? Did you
10 collect any further evidence or swab for anything?

11 A We did collect further evidence. The clothing
12 that was in the rear driver's floor board in the area, we
13 collected it. It had suspected blood on it. We were not
14 sure if it was related, how it was related, but we went
15 ahead and collected that.

16 We also collected a cell phone as well as a
17 cell phone charger, which was located in the front
18 passenger's seat. I later transferred that to one of the
19 lowcountry agents so they could do -- have a search warrant
20 on the cell phone and do any testing on that.

21 We collected swabs of suspected blood. They
22 were collected from the cell phone that was on the front
23 passenger's seat as well as some suspected blood from the
24 rear middle seat cushion area, the front driver's seat area,
25 and from the front passenger's seat area.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 And then also looked for any projectile which
2 would have been located under that towel in the trunk of the
3 vehicle. And some were located.

4 In the -- in the bullets in Marker B, in the
5 rear quarter panel bullet defect that traveled through and
6 exited out of the rear driver's seat, we searched within the
7 stuffing to see if there was any fragments from a projectile
8 in there, and we did find one round, and there was also two
9 copper jackets located. The one you saw the photo of as
10 well as another that was located on the rear seat.

11 BY MR. HOLLEN:

12 Q Agent Nelson, I'm going to hand you what's been
13 marked for identification as State's Exhibit Number 68,
14 which contains State's Exhibit 68.1, 68.2, 68.3, and 68.4.
15 I'm going to ask if you recognize these.

16 MR. HOLLEN: Your Honor, may I approach the
17 witness?

18 THE COURT: You may.

19 MR. HOLLEN: Thank you.

20 BY MR. HOLLEN:

21 Q Agent Nelson, do you recognize those?

22 A I do.

23 Q And did you collect those?

24 A I did.

25 Q Are those the swabs or -- how do you recognize

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 them?

2 A State's Exhibit 68.1 is a swab of suspected
3 blood collected from the cell phone.

4 State's Exhibit 68.2 is a swab of suspected
5 blood collected from the rear middle seat cushion area.

6 State's Exhibit 68.3 is swabs of suspected
7 blood collected from the front driver's seat area.

8 State's Exhibit 68.4 is swabs of suspected
9 blood collected from the front passenger seat area.

10 Q And after you collected those, what would you
11 have done with them?

12 A I would have packaged them, sealed them, and
13 then brought them back to the lab, logged them in, and
14 then sent them to the appropriate department, which would
15 have been DNA.

16 Q And to your knowledge, were those swabs tested?

17 A Yes.

18 MR. HOLLEN: Your Honor, at this time, I would
19 ask to admit 68, which contains 68.1, .2, .3, and .4
20 into this case.

21 THE COURT: Counsel, as to State's Exhibits 68,
22 68.1, .2, .3, and .4, any objection?

23 MR. KOGER: No objection.

24 THE COURT: Ladies and gentlemen of the jury,
25 State's Exhibit 68, 68.1, 68.2, 68.3, and 68.4 will

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 be into evidence in the trial of this case, without
2 objection.

3 *(Whereupon, State's Exhibit No(s) 68, 68.1-68.4*
4 *marked for identification and received in evidence.)*

5
6 THE COURT: You may publish it.

7 MR. HOLLEN: Thank you, Your Honor. And may I
8 approach Agent Nelson to get those back?

9 THE COURT: You may.

10 MR. HOLLEN: To give them to the court reporter
11 at this time.

12 BY MR. HOLLEN:

13 Q All right. Agent Nelson, at some point, were
14 you contacted by the case agent or any law enforcement in
15 Allendale County to come back and process another vehicle?

16 A I was. I was contacted by Lieutenant Brown,
17 Matt Brown.

18 Q And what were you told by Lieutenant Brown?

19 A He had told us that a suspect had been developed
20 since they had a vehicle that needed to be processed. And
21 it had been secured with a search warrant, and they were
22 requesting our assistance to come down and process the
23 vehicle.

24 Q What was the date that you were contacted to
25 come process the vehicle?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A December 8th.

2 Q And did you come down to process that vehicle?

3 A Myself and Lieutenant E.T. Wallace did.

4 Q Agent Nelson, I'm going to hand you what's been
5 marked as State's 35, 36, 37, 38, 39, 40, 41, 42, 43,
6 skipping -- no -- 44, 45, 46, 47, and 48.

7 MR. HOLLEN: So for the record, Your Honor --

8 THE COURT: Thirty-five through 48 inclusive.

9 MR. HOLLEN: That is correct, Your Honor.

10 May I approach the witness?

11 THE COURT: Yes.

12 BY MR. HOLLEN:

13 Q Agent Nelson, take a look at those and let me
14 know if you recognize them.

15 A I recognize them.

16 THE COURT: Are you finished with these other
17 photographs?

18 MR. HOLLEN: Yes, Your Honor.

19 BY MR. HOLLEN:

20 Q Are they fair and accurate depictions of the car
21 as you found it?

22 A They are.

23 Q Have they been changed or altered in any way?

24 A They have not.

25 MR. HOLLEN: Your Honor, at this time, I would

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 offer 35 through 48 inclusive for evidence in --

2 THE COURT: Thirty-five through 48?

3 THE WITNESS: Yes.

4 MR. HOLLEN: That is correct, Your Honor.

5 THE COURT: Counting.

6 MR. HOLLEN: I clearly --

7 THE COURT: Do you want to see them, or have you
8 seen them?

9 MR. KOGER: I have already seen them,
10 Your Honor.

11 THE COURT: Any objection?

12 MR. KOGER: No objection.

13 THE COURT: Ladies and gentlemen of the jury,
14 State's Exhibits 35 through 48 inclusive will be
15 admitted into the trial of this case, without
16 objection.

17 *(Whereupon, State's Exhibit No(s) 35-48 marked*
18 *for identification and received in evidence.)*

19 THE COURT: You may proceed.

20 MR. HOLLEN: Thank you, Your Honor.

21 BY MR. HOLLEN:

22 Q Agent Nelson, let's start with 35.

23 A State's Exhibit 35. So on number --

24 THE COURT: Hold on a second. Let him come
25 around.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Start over and ask the question, Counsel.

2 BY MR. HOLLEN:

3 Q Agent Nelson, can you describe for us State's
4 Exhibit 35, please.

5 A Yes. State's Exhibit 35, so on Number 8, we
6 were called and were asked to respond to Allendale to
7 process this vehicle, which was a white Alero. And this
8 is an overall photograph of the white Alero, from the
9 driver's side.

10 When we got there, the doors had been sealed
11 prior to our arrival, by Allendale County personnel. So
12 that red tape on the doors, that is from Allendale
13 personnel.

14 Q All right. State's 36.

15 A Exhibit 36 is -- this is an overall photograph
16 of the front driver's door of the white Alero.

17 Q Okay. State's 37?

18 A State's Exhibit 37, this is another overall
19 photograph from a different angle of the driver's side of
20 the white Alero.

21 Q Thirty-eight?

22 A State's Exhibit 38, this is an overall
23 photograph of the interior of the front -- of the driver's
24 side. This was taken from the passenger's side.

25 Q Thirty-nine?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A State's Exhibit 39, this is a photograph of the
2 steering wheel.

3 Q Go ahead. Forty?

4 A State's Exhibit 40, this is an overall
5 photograph of the glove compartment. It's opened, and you
6 can see contents, papers are within the glove compartment.

7 Q Forty-one?

8 A State's Exhibit 41, this is a receipt with
9 Jennifer Evette Bates, with the address, [REDACTED] Barton Road,
10 North Augusta, South Carolina for the white Alero. It's
11 for the taxes.

12 Q For the taxes on the white Alero, you said?

13 A Yes.

14 Q And what name is on that?

15 A Jennifer Evette Bates.

16 Q Okay. Forty-two?

17 A State's Exhibit 42 is another photograph of some
18 paperwork, the DMV insurance suspension detail, with the
19 name, Jennifer Evette Bates, and the address, [REDACTED] Barton
20 Road, North Augusta.

21 Q Okay. Go ahead. Sorry. What is next?

22 A State's Exhibit 43. This is an overall
23 photograph of some additional paperwork. This is a Car
24 Max on -- it is a notice of the co-signor on the name of
25 the buyer. It has, Jennifer E. Bates. The co-signor as

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Laparis S. Flowers. The date is September of 2013, and
2 there is a signature on there.

3 Q Agent Nelson, do you know of the relationship
4 between Ms. Bates and the Defendant, Mr. Flowers?

5 A I believe Ms. Bates was his mother.

6 Q Okay. Forty-four?

7 A State's Exhibit 44 is paperwork from
8 Bob Richards Nissan. There is -- it's for an oil change.

9 Q Okay. Forty-five?

10 A State's Exhibit 45 is some additional paperwork
11 from the retail installment contract. It has buyer's
12 initials on the bottom.

13 Q And what are those initials on the right-hand
14 side at the bottom? Can you read them?

15 A L.S.F.

16 Q Okay. Thank you. All right.

17 MR. HOLLEN: May I approach the witness,

18 Your Honor?

19 BY MR. HOLLEN:

20 Q State's 46.

21 A State's Exhibit 46 is another photograph of the
22 Car Max paperwork. On the top left-hand side, it has
23 Jennifer Evette Bates, Alero, Laparis Flowers, 429 Barton
24 Road, North Augusta.

25 On the bottom, there are signatures for

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Jennifer Bates and Laparis Flowers.

2 Q All right. Forty-seven?

3 A Forty-seven, this container was located in the
4 trunk of the vehicle. So this is a photograph of the
5 contents, and there was Laparis Flowers' agent security
6 G.R. Health ID badge. And State's Exhibit 48 is a
7 close-up of that ID badge.

8 Q And where was that found in the vehicle?

9 A It was located in the trunk of the vehicle.

10 Q Okay. Now -- thank you.

11 MR. HOLLEN: May I approach, Your Honor?

12 THE COURT: You may.

13 BY MR. HOLLEN:

14 Q Thank you, Agent Nelson.

15 All right. Agent Nelson, when you
16 responded to the location of the white Alero, did you
17 process it for any sort of -- did you do any testing on
18 it?

19 A We did. So we were advised that the suspect's
20 name was Laparis Flowers. We had been told that he
21 possibly was wearing a black sweater hat, white thermal
22 shirt, camouflage pants, and a pair of Jordans at the time
23 of the incident. So while they were looking in the
24 vehicle, we were searching for those items of interest.
25 We did not locate any clothing.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 We collected a GSR kit from areas in the
2 vehicle. We collected from the steering wheel, the incident
3 quarter panel near the window of the driver's side, the
4 exterior door near the window on the driver's side, the
5 exterior, the interior top of the window on the driver's
6 side.

7 And on the rear driver's side, we located the
8 quarter panel, the gear shift, the rear driver's door under
9 the window, and the exterior window of the rear driver's
10 door.

11 Q Agent Nelson, I'm going to next hand you what's
12 been marked for identification as State's Exhibit 64 and
13 65. I'm going to ask you to take a look at them and let
14 me know if you recognize them.

15 MR. HOLLEN: Your Honor, may I approach the
16 witness?

17 THE COURT: You may.

18 A I do.

19 BY MR. HOLLEN:

20 Q And what are those, Agent Nelson?

21 A State's Exhibit 64 is a gunshot residue kit
22 collected from the vehicle. And, I guess prior, there's
23 four sticky tabs. So we collected from eight different
24 areas from the vehicle.

25 So then State's Exhibit 65 is an additional

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 gunshot residue kit from the vehicle, from the Alero.

2 Q And after you had collected those, what would
3 you have done with them?

4 A They would have been sealed and then brought to
5 the SLED lab, and then sent to the various departments for
6 further testing.

7 Q So those were tested by another agent?

8 A Yes.

9 Q Have those been changed or altered in any way,
10 to your knowledge?

11 A No, they have not.

12 MR. HOLLEN: Your Honor, at this time, I would
13 ask to admit State's 64 and 65 into evidence.

14 THE COURT: As to State's 64 and 65, Counsel.

15 MR. KOGER: No objection, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury,
17 State's Exhibit 64 and 65 will be admitted into
18 evidence in the trial of this case.

19 Without objection, 64 and 65 are in evidence.

20 *(Whereupon, State's Exhibit No(s). 64-65 marked*
21 *for identification and received in evidence.)*

22 THE COURT: You may publish.

23 MR. HOLLEN: Thank you, Your Honor.

24 BY MR. HOLLEN:

25 Q Agent Nelson, I'm going to next hand you what's

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 been marked for identification as State's Exhibit 69. I'm
2 going to hand it to you next and ask if you recognize it.

3 MR. HOLLEN: Your Honor, may I approach the
4 witness?

5 THE COURT: You may.

6 A I recognize State's Exhibit 69.

7 BY MR. HOLLEN:

8 Q All right. Agent Nelson, at some point were you
9 contacted by Agent Brown to collect something that was
10 found at Pinewood Apartments?

11 A I was. Special Agent Brown contacted me saying
12 that they had located a cartridge case at Pinewood
13 Apartments, and they had collected it. He transferred it
14 to me via chain of custody.

15 Chain of custody is, we have to have
16 paperwork or electronically to just see where the evidence
17 has been. He transferred it to me, and then I would take it
18 back to the lab to -- for additional processing.

19 Q And what did you do with that item once you had
20 it?

21 A Once I had it, I took it back to the lab, and it
22 was a cartridge case. So we collected touch DNA swabs
23 from the cartridge case, which would have been done,
24 again, back at the lab.

25 Q So you collected the swabs from the cartridge

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 case. The cartridge case itself, what happened to that?

2 A Well, it was brought back to the lab. It was
3 transported to me via chain of custody and brought back to
4 the lab and was sent to firearms for additional analysis
5 after I finished with my investigating, which was
6 collecting the swabs.

7 Q Except for swabbing the cartridge case, did you
8 change or alter anything when you were doing that?

9 A I did not.

10 Q Are those the swabs you collected from the
11 cartridge case?

12 A They are.

13 Q Did you change or alter them when you had them?

14 A I did not.

15 Q They were submitted for testing?

16 A They were submitted for touch DNA.

17 MR. HOLLEN: Your Honor, at this time, I would
18 ask to admit State's 69 into evidence for this case.

19 THE COURT: As to 69, Counsel?

20 MR. KOGER: No objection.

21 THE COURT: Ladies and gentlemen, State's
22 Exhibit 69 will be admitted into evidence in the
23 trial of this case, without objection. Sixty-nine in
24 evidence.

25 *(Whereupon, State's Exhibit No(s). 69 marked for*

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 *identification and received in evidence.)*

2 THE COURT: You may publish it.

3 MR. HOLLEN: Thank you, Your Honor.

4 BY MR. HOLLEN:

5 Q Agent Nelson, hold onto that for one second. We
6 are almost done.

7 I'm next going to hand you State's 70, and
8 inside State's 70 we had 70.1, 70.2, which has already
9 been admitted into evidence, 70.3, 70.4, 70.5, 70.6, and
10 70.7. I'm going to hand you each one of those and ask if
11 you recognize them.

12 MR. HOLLEN: May I approach, Your Honor?

13 THE COURT: You may.

14 A I recognize them.

15 BY MR. HOLLEN:

16 Q All right. Let's go through each one.

17 I believe 70 is simply the container they
18 were in; is that correct?

19 A That's correct.

20 State's Exhibit 70.1 is a fired projectile.
21 It was collected from Brandon Lewis. This was transferred
22 to me via chain of custody.

23 Q So there is no 70.2, it's already been admitted.
24 So 70.3.

25 A State's Exhibit 70.3 is the fired projectile

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 collected from the trunk of the vehicle.

2 State's Exhibit 70.4 is the cartridge case
3 which has stamped "WIN 9 MM Luger." It was transferred to
4 me via chain of custody.

5 State's Exhibit 70.5 is the fragment that was
6 selected from Marker H.

7 State's Exhibit 70.6 is a piece of copper
8 jacket collected from the middle of the rear seat cushion.

9 And then State's Exhibit 70.7 is the copper
10 jacket collected from under the rear seat on the passenger's
11 side.

12 Q So some of those you collected, and some were
13 transferred to you via chain of custody; is that correct?

14 A That's correct.

15 Q When you either collected them or they were
16 transferred to you via chain of custody, did you change or
17 alter them when you had them?

18 A I did not.

19 Q And what would you have done with those items?

20 A I would have brought them back to the lab and
21 sealed them in an additional packaging envelope, and then
22 sent them to the appropriate department. Firearms
23 department in this case.

24 Q And is that, in fact, what you did in this case?

25 A That is correct.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 MR. HOLLEN: Your Honor, at this time I would
2 offer State's 70, 70.1, 70.3, 70.4, .5, .6, and .7 as
3 evidence in this case.

4 THE COURT: You're not offering 70.2.

5 MR. HOLLEN: 70.2 has already been admitted, I
6 believe, Your Honor, through Dr. Ross.

7 THE COURT: That's correct.

8 MR. HOLLEN: Thank you.

9 THE COURT: Counsel, as to 70, 70.1, 70.3, .4,
10 .5, .6, and .7, any objections?

11 MR. KOGER: No objection, Your Honor.

12 THE COURT: Ladies and gentlemen of the jury,
13 State's Exhibit 70, 70.1, 70.3, 70.4, 70.5, 70.6, and
14 70.7 will be admitted into evidence in the trial of
15 this case, without objection.

16 *(Whereupon, State's Exhibit No(s). 70, 70.1-70.7*
17 *marked for identification and received in evidence.)*

18
19 THE COURT: You may publish and proceed.

20 MR. HOLLEN: Thank you, Your Honor.

21 THE COURT: Hold on. Come up here and get the
22 exhibits and give them to the court reporter. She
23 hasn't got anywhere to put another thing down.

24 MR. HOLLEN: Yes, sir.

25 Thank you very much. Thank you, Agent Nelson,

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 for your patience.

2 BY MR. HOLLEN:

3 Q All right. Agent Nelson, I'm next going to show
4 you what's been marked for identification as State's
5 Exhibit No. 73.

6 Now, I'm going to ask if you recognize it.

7 MR. HOLLEN: Your Honor, may I approach the
8 witness?

9 THE COURT: You may.

10 BY MR. HOLLEN:

11 Q Do you recognize that?

12 A I do.

13 Q Is that a blow-up of the diagram that you
14 created?

15 A That is correct.

16 Q What does that show?

17 A This is the diagram of the bullet defects.

18 Q What is the purpose of this diagram?

19 A The purpose of the diagram is to show the bullet
20 track, the location of where they were at. So we have
21 Markers A, B, C, and E marked on this diagram.

22 Q Is there a D on there?

23 A Marker D would have been corresponding with
24 Marker C. That would have been the exit defect on the
25 interior side of the rear driver's window.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Q Okay. All right. Other than being blown up,
2 has this been changed or altered in any way?

3 A It has not.

4 MR. HOLLEN: Your Honor, at this time I'd ask to
5 admit State's 73.

6 THE COURT: As to State's 73, Counsel.

7 MR. KOGER: No objection.

8 THE COURT: Ladies and gentlemen of the jury,
9 State's Exhibit 73 will be admitted into evidence in
10 the trial of this case, without objection.

11 *(Whereupon, State's Exhibit No(s). 73 marked for*
12 *identification and received in evidence.)*

13 BY MR. HOLLEN:

14 Q Agent Nelson, I'm going to come around so that I
15 can --

16 THE COURT: You stay by the microphone, Agent.

17 THE WITNESS: Okay.

18 BY MR. HOLLEN:

19 Q I'm just going to ask you, is this basically
20 just the outside of the Crown Vic --

21 THE COURT: Folks, can you see?

22 (The jury indicates.)

23 A Yes. This is the driver's side of the Crown
24 Victoria.

25 BY MR. HOLLEN:

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 Q What is Marker A?

2 A Marker A is the perforating bullet defects
3 located on the rear taillight of the driver's side of the
4 vehicle.

5 Q Is that the same bullet that you believe, based
6 on your experience, bounced around in the trunk before
7 being recovered by you?

8 A That is correct.

9 Q What about Marker B?

10 A Marker B is the perforated bullet defect that
11 was located on the quarter panel of the driver's side,
12 where it met the rear driver's door. And, in fact, the
13 corresponding defect with Marker H in the rear driver's
14 seat.

15 Q Is that the defect that we saw the picture of
16 earlier with the trajectory rod stuck in it?

17 A That's correct.

18 Q All right. Marker C?

19 A Marker C is a perforating defect. Bullet
20 defects in the rear driver's window.

21 Q And Marker E?

22 A Marker E is a perforation bullet defect, also in
23 the front driver's window.

24 Q Thank you, Agent Nelson.

25 MR. HOLLEN: The Court's indulgence, Your Honor.

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 (Pause.)

2 BY MR. HOLLEN:

3 Q Agent Nelson, as an expert in crime scene
4 reconstruction, are you able to determine if perhaps one
5 or both of the vehicles was moving at the time it was
6 fired upon?

7 A Seeing that it is a possibility with the defect
8 and marker --

9 Q Do you need this?

10 A Yes, please.

11 MR. HOLLEN: May I approach, Your Honor?

12 THE COURT: You may.

13 Can you see it?

14 MR. KOGER: I can see it.

15 A The defect in Marker E, which is the front
16 driver's window, we know that Smart was located in the
17 front driver's seat, based on EMS being there. And also
18 his blood was located there, which was later determined.

19 So we know that that projectile entered and
20 even though -- it was collected at autopsy.

21 We have Marker C, and that is a perforated
22 defect, so it goes in and out. We didn't have any
23 corresponding defect on the passenger's side of the vehicle,
24 so that leads me to believe we had two victims located --
25 two victims that were reportedly in the back of the car when

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 the incident occurred. So one of those projectiles would
2 have hit one of those victims.

3 Then we have Marker B, which changes with an
4 angle, which you can see with the flight path rod. So you
5 saw it coming in at a different angle than what Markers B
6 and C would have been coming in. And the same with Marker
7 A, it would have come in at an angle.

8 You would have one of three possibilities:
9 That this vehicle was moving, it started moving when the
10 shooting occurred; or the shooter, if they were in a
11 vehicle, that vehicle started moving when the shooting
12 occurred; or if the person was outside the vehicle, that the
13 person shooting started moving when the shooting occurred.
14 You can't say which of those three scenarios.

15 Q Thank you.

16 Agent Nelson, based on your experience,
17 what was the minimum number of shots that could have been
18 fired into that vehicle?

19 THE COURT: Speak up, Counsel. Repeat the
20 question.

21 MR. HOLLEN: I'm sorry.

22 BY MR. HOLLEN:

23 Q What, in your experience, is the minimum number
24 of shots that could have been fired into that green Crown
25 Victoria?

DIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A Four.

2 Q However, you can't say that you don't know how
3 many shots total were fired, do you?

4 A No, I do not.

5 MR. HOLLEN: The Court's indulgence, Your Honor.

6 (Pause.)

7 MR. HOLLEN: Agent Nelson, I don't have anything
8 further. Thank you. Please answer any questions
9 Mr. Koger has for you. Okay?

10 THE COURT: Give the exhibits to the court
11 reporter.

12 Cross examination?

13 MR. KOGER: Yes, Your Honor.

14 CROSS EXAMINATION

15 BY MR. KOGER:

16 Q Agent Nelson, you testified to coming down to
17 process the car on December 8th, 2014, correct?

18 A Yes.

19 Q Okay. And do you have what time you was
20 notified to come down, or what time you arrived?

21 A Yes, I do. I have both.

22 So the time I arrived was 3:25 p.m. on
23 December 8th.

24 Q And what time did you start processing the
25 vehicle?

CROSS EXAMINATION OF HALEY NELSON BY MR. KOGER

1 A Started processing by taking photographs,
2 probably shortly thereafter. Normally a camera and
3 started.

4 Q Okay. All right. And from your knowledge of
5 this case here now, and your part of this investigation,
6 when did this incident occur?

7 A Reportedly on December 6th, in the early hours.

8 Q Okay. And would you say December 6th, in the
9 early hours, such as between 3:15 in the morning and 3:30
10 in the morning?

11 A I would say approximately. We were notified at
12 4 o'clock to respond on December 6th.

13 Q Okay. All right. And you agree that an amount
14 of time had elapsed between the time of the actual
15 incident and the time that you were called down to process
16 the car?

17 A Yes. Time had passed on.

18 Q Okay. All right. And do you have any -- were
19 you made aware of any knowledge of anyone driving the car
20 during that time period, after the incident and the time
21 you came down to process it at 3:25 on December 8th?

22 A I was not told of anyone.

23 Q Okay. Now, you testified to -- that the car was
24 already sealed when you came down at 3:25, correct?

25 A That is correct.

CROSS EXAMINATION OF HALEY NELSON BY MR. KOGER

1 Q Okay. And I think you noted that it was sealed
2 because it was sealed with some kind of a red tape or
3 something?

4 A That is correct.

5 Q Okay. All right.

6 THE COURT: Identify -- there's a photograph in
7 the record, which car are you referring to?

8 MR. KOGER: I'm sorry. I'm referring to the
9 1999 Oldsmobile Alero.

10 A Yes, sir.

11 BY MR. KOGER:

12 Q Okay. All right. And you testified to, because
13 of the red tape, correct?

14 A That is correct.

15 Q Does SLED use a different color tape to secure
16 vehicles?

17 A We use yellow tape.

18 Q Okay. All right. And the red tape, to you,
19 denoted what agency secured the car?

20 A That, and I was also told that Allendale County
21 had put the red tape on there.

22 Q Okay. And were you told what time they placed
23 the red tape on there?

24 A I was not.

25 Q Okay. Now, you stated in your testimony that

CROSS EXAMINATION OF HALEY NELSON BY MR. KOGER

1 you did a gunshot residue kit on the deceased in this
2 case, correct?

3 A That is correct.

4 Q Okay. And you did a gunshot residue kit on his
5 hands?

6 A That is correct.

7 Q And I think you explained to the jury, left
8 palm, right palm, left back, right back, correct?

9 A That is correct.

10 Q Okay. You did not collect any clothes from the
11 deceased, correct?

12 A No, I didn't.

13 Q Okay. So you didn't do any type of gunshot kit
14 on any of the clothes?

15 A No. And I wouldn't have done the processing for
16 gunshot residue off the clothing. That would have been
17 sent to trace, if we determined that we needed to do that.

18 Q Okay. So your testimony today that you did a
19 gunshot residue kit on the deceased, just on his hands?

20 A That's correct.

21 Q Okay. And it is your testimony, Ms. Nelson,
22 that you collected the evidence in this case?

23 A That is correct.

24 Q Okay. Up until that point, correct?

25 A What point?

CROSS EXAMINATION OF HALEY NELSON BY MR. KOGER

1 Q I mean, up to the point that on this
2 particular -- on the day that you collected evidence,
3 correct?

4 A On December 8th?

5 Q Yeah, right.

6 A Yes.

7 Q Okay. All right. And that you submitted
8 whatever you needed to submit it for further analysis,
9 correct?

10 A That's correct.

11 Q Okay. But you don't have any results of those
12 analyses, correct?

13 A I do not.

14 Q Okay. And your sole job was to just collect the
15 evidence?

16 A And to document the crime scene.

17 Q Okay.

18 MR. KOGER: Thank you. I have no further
19 questions.

20 THE COURT: Redirect.

21 MR. HOLLEN: Very briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. HOLLEN:

24 Q Agent Nelson, did you -- you said you performed
25 GSR on the white Alero, correct?

REDIRECT EXAMINATION OF HALEY NELSON BY MR. HOLLEN

1 A That is correct.

2 Q Gunshot residue test. Did you do any kind of
3 DNA testing on that car?

4 A I did not.

5 Q Is there a specific reason why not?

6 A Well, our subject had been identified as
7 Laparis Flowers, and we know that he had access to that
8 vehicle. So if we located his DNA in the vehicle, he had
9 to drive the vehicle, so it wouldn't really tell us
10 something that we didn't already know.

11 MR. HOLLEN: Nothing further, Agent Nelson.

12 Thank you.

13 THE COURT: Recross, limited to redirect.

14 RE-CROSS EXAMINATION

15 BY MR. KOGER:

16 Q But if DNA analysis had been conducted, you
17 could have found out who else drove the vehicle, correct?

18 A It is a possibility.

19 MR. KOGER: Thank you.

20 THE COURT: As to this witness, Solicitor?

21 MR. HOLLEN: I'd ask that she be excused,

22 Your Honor.

23 THE COURT: Anything objection, Counsel?

24 MR. KOGER: No objection, Your Honor.

25 THE COURT: Ms. Nelson, you may step down. You

RE-CROSS EXAMINATION OF HALEY NELSON BY MR. KOGER

1 are excused from the trial of the case.

2 Before you leave now, take your files and make
3 sure all my exhibits were given back to the court.

4 THE WITNESS: Will do.

5 THE COURT: Counsel approach.

6 (Off-the-record discussion held.)

7 THE COURT: Madam Foreperson, ladies and
8 gentlemen of the jury, I told you I was going to be
9 mindful of your time. We're going to stop at this
10 point for today. We're going to start back at
11 10:00 a.m. in the morning.

12 Over the overnight recess, please do not discuss
13 this case with anyone, not even a member of your own
14 family. Some, I know people can be curious, and say,
15 "Are you on the jury?" Tell them, "I'm on the jury,
16 but the Judge asked me not to talk about the case."

17 If somebody persists, give their name to me,
18 I'll handle it for you. That person won't bother you
19 anymore, I can assure you of that.

20 Hope everybody has a pleasant evening. Report
21 to your jury room in the morning prior to 10 o'clock,
22 so we can start at 10:00 a.m. in the morning.

23 You may leave the courtroom at this time. Thank
24 you very much.

25 Everyone else remain seated while the jury is

RE-CROSS EXAMINATION OF HALEY NELSON BY MR. KOGER

1 leaving.

2 (The Jury exits the courtroom at 4:43 p.m.)

3 THE COURT: Counsel, I'm going to expect your
4 requested charge to be submitted to me in the morning
5 when you arrive so that I can work on it tomorrow. I
6 will expect you to exchange request to charge with
7 your opposing counsel, number it and give it to my
8 law clerk before we commence at 10:00 a.m. in the
9 morning.

10 You understand, Solicitor?

11 MS. LEGETTE: Yes, Your Honor.

12 THE COURT: Do you understand also, Counsel?

13 MR. KOGER: Yes, Your Honor.

14 THE COURT: Very good.

15 All right. Anything on the record outside the
16 presence of the jury before we adjourn for the
17 evening, from the State?

18 MS. LEGETTE: Not from the State, Your Honor.

19 THE COURT: From the Defendant?

20 MR. KOGER: Not from Defense, Your Honor.

21 THE COURT: This court is in recess until
22 10:00 a.m. tomorrow morning. Thank you very much.

23 (Whereupon, the Court recessed for the day.)

24 (Proceedings continue on 1-10-2018.)

25

1-10-2018 PROCEEDINGS

1 In the Court of General Sessions for the
2 State of South Carolina, County of Allendale

3

4

Case No.: 2014GS0300229

5

00231, 00232, 00233, 00234

6

State of South Carolina,

7

Plaintiff(s),

8

vs.

Transcript of Record

9

Laparis Shemel Flowers,

10

Defendant(s).

11

12

13

14

15

16

January 10, 2018

17

Allendale, South Carolina

18

19

20

21

22

BEFORE:

23

The Honorable Perry M. Buckner

24

25

1-10-2018 PROCEEDINGS

1 THE COURT: Good morning, Madam Foreperson.

2 Good morning, ladies and gentlemen of the jury.

3 Thank you for being here on time.

4 We don't have any more ice and snow problems,
5 thank goodness. So, nobody has had any problems with
6 roads getting to and from, have they?

7 (All negative responses.)

8 THE COURT: I think that it's all gone.

9 Although they say we are going to have a cold snap,
10 but luckily no precipitation. We will continue with
11 the trial of the case. Call your next witness.

12 Thereupon,

13 CHARLES MATT BROWN

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 THE COURT: You have been here the entire time,
17 but it still applies. I want my jury to hear you.
18 Use the microphone and talk like I do. Because I
19 have some people that, even though I say it a hundred
20 times during trial, and the court reporters like for
21 me to, and people forget and they hold their head
22 down, and they turn toward their desks and start
23 talking, or they put their head behind an exhibit and
24 ask a question, or they talk so fast that nobody can
25 understand exactly what they are saying. I want you

1-10-2018 PROCEEDINGS

1 to speak up.

2 All right. Let's proceed. Direct examination.

3 Your witness, Counsel.

4 MS. LEGETTE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. LEGETTE:

7 Q Good morning, Lieutenant.

8 A Good morning.

9 Q Lieutenant, where do you work?

10 A I work for South Carolina Law Enforcement
11 Division, more commonly referred to as SLED.

12 Q And how long have you worked for SLED?

13 A I have been here approximately 11 years.

14 Q And what is your capacity or your rank at SLED?

15 A I'm a lieutenant in the Lowcountry Investigative
16 Services Division, which covers both counties here in the
17 Lowcountry.

18 Q And as a lieutenant in the Lowcountry Division
19 of SLED, what are your duties?

20 A My primary duties currently are to operate our
21 office, which is located in Walterboro, South Carolina. I
22 review reports, also assist with investigations, any
23 meetings or any things of that nature that need be come
24 up, particularly that need to be attended. So that's
25 pretty much my primary duties here at this time.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q And prior to becoming a lieutenant, what was
2 your capacity at SLED?

3 A I was a special agent in the Lowcountry region,
4 assigned to investigate crimes.

5 Q And do you have any other law enforcement
6 experience prior to SLED?

7 A I do. Prior to SLED, I worked for Orangeburg
8 Department of Public Safety as a patrol officer.

9 Q Now, at some point, you became involved with the
10 this case.

11 A Yes, ma'am.

12 Q And that was in December of 2014?

13 A That's correct.

14 Q And what was your capacity, or your rank, at
15 that time?

16 A I was a special agent at that time.

17 Q Now, tell us how you became involved with this
18 case?

19 A On December 6th, 2014, we received a request
20 from Chief Sullivan with Allendale Police Department. And
21 just to give you a little background, very briefly the
22 mission of SLED is to provide quality manpower and
23 technical assistance to our agencies who cannot do so for
24 themselves.

25 So it's not unheard of for agencies like the

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Allendale Police Department, when an incident of this
2 magnitude occurs, for them to call us to ask us to come in
3 and actually either assist or take over the investigation.

4 At that time, Chief Sullivan asked us to
5 actually take over this investigation. So I was the primary
6 investigator, responsible for everything that occurred in
7 this case.

8 On December 6th, 2014, I responded to the
9 area of 646, Barton Road, along with several other agents.
10 At that time, we were briefed, and we were given an overview
11 of what they had done thus far.

12 We began to conduct a neighborhood canvas of
13 the area to see if anyone had heard or seen anything that
14 had gone on. Around the same time, our crime scene unit
15 also responded en route to the location where they began to
16 perform their duties as crime scene agents.

17 We began to get information through the
18 Allendale Police Department at that time, that possibly
19 there was an incident that occurred at Lobster House here on
20 301 in the town of Allendale that may have been a precursor
21 to the shooting that resulted in the death of Russell Smart.

22 We also learned at that time that there were
23 four persons in the vehicle at the time when the crime
24 occurred. Those persons were Russell Smart, Jarrell Murray,
25 Brandon Lewis, and Tyquan Charlton.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A short time later, we were able to locate
2 those persons that were involved in that additional incident
3 at the Lobster House. We spoke to all three of those
4 persons. That included Tracy Roberts, Aldeandre Gray, and
5 Jaqwavian Williams. So we began to learn what may have
6 happened prior to this incident.

7 At that time, also, agents responded to the
8 hospital, where they located victims. We had some of our
9 Midlands agents, who covered the Midlands area and Columbia
10 area and Aiken area to actually respond to the Augusta
11 Medical Center, and they spoke with Brandon Lewis at that
12 location. At that time, because of Tyquan Charlton's
13 condition, he was unable to be spoken to. He was later
14 spoken to by myself and other agents.

15 We also began to learn at that time, a
16 vehicle that may have been possibly involved in the crime,
17 which we learned to be a white-in-color 1999 Oldsmobile
18 Alero. We also received information that at that time,
19 Laparis Flowers come into contact with us and come talked to
20 us.

21 So that next day we actually spoke to
22 Mr. Flowers, we spoke to his girlfriend, Kendall Nix, and we
23 ended up speaking with several other persons that may have
24 been around, that may have had information related to this
25 incident.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Shortly after interviewing Mr. Flowers, he
2 was placed under arrest and served with an arrest warrant
3 for murder. The following day, he was served with several
4 other warrants for attempted murder and possession of a
5 weapon during commission of a violent crime.

6 Q Thank you, Lieutenant Brown. So, let's go back.

7 But before we go back, did you also learn
8 where the incident allegedly occurred?

9 A Yes. We ended up learning that the incident
10 didn't actually occur at 646 Barton Road, which is where
11 the green colored Crown Vic operated by Brandon Lewis
12 ended up resting against a tree. We actually --

13 Q Operated by who?

14 A I'm sorry. Operated by Russell Smart. I'm
15 sorry.

16 We learned that the incident actually
17 occurred at the Pinewood Apartments, which is located at
18 852 Barton Road. There are actually two sets of apartments
19 there. If you are coming from the city of Allendale, the
20 incident actually occurred in the second set of apartments.

21 Q And is 852 Barton Road, what county is that in?

22 A That's in Allendale County.

23 Q And are you familiar with an aerial photo of the
24 area at Barton Road?

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

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q Lieutenant Brown, I'm going to hand you now
2 what's previously marked for identification as State's
3 Exhibit 72. Take a moment and tell me if you recognize
4 this item.

5 THE COURT: Come on around.

6 MS. LEGETTE: May I approach, Your Honor?

7 THE COURT: You may.

8 BY MS. LEGETTE:

9 Q Lieutenant Brown, please take a moment and look
10 at State's 72. Do you recognize State's 72?

11 A Yes, ma'am, I do.

12 Q And what is State's 72?

13 A This is an aerial photo of Barton Road,
14 specifically the area of Pinewood Apartments.

15 Q And is State's Exhibit 72 a fair and accurate
16 reflection of the location at Pinewood Apartments, the
17 incident in this case?

18 A Yes, ma'am, it is.

19 MS. LEGETTE: At this time, Your Honor, I would
20 offer State's Exhibit 72 for admission into evidence.

21 THE COURT: As to State's 72.

22 MR. KOGER: No objection, Your Honor.

23 THE COURT: Ladies and gentlemen of the jury,
24 State's Exhibit Number 72 will be admitted into
25 evidence in the trial of this case, without

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 objection.

2 *(Whereupon, State's Exhibit No(s) 72 marked for*
3 *identification and received in evidence.)*

4 THE COURT: State's 72 is now in evidence, and
5 you may publish, Solicitor.

6 MS. LEGETTE: Thank you, Your Honor.

7 BY MS. LEGETTE:

8 Q All right. Well, we'll have to try to help you
9 hold it up.

10 If you don't mind --

11 THE COURT: My lady on this end right here,
12 Lieutenant; she's craning her neck. I want to make
13 sure everybody can see on that. If you can't see,
14 you raise your hand.

15 Can you see all right?

16 MR. KOGER: Yes.

17 THE COURT: Tameaka, can you see?

18 MS. LEGETTE: Yes.

19 BY MS. LEGETTE:

20 Q Lieutenant Brown, if you don't mind, would you
21 please point out, you indicated earlier where the incident
22 actually occurred. Can you tell us what we are seeing in
23 this aerial photo, in State's 72.

24 A This photograph, again, is a picture -- this is
25 Barton Road here. These are the two sets of apartments

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 here, Pinewood Apartments. If you're coming from right to
2 left, this is coming from the city of Allendale, out
3 toward the County, this is the second set of apartments.
4 This is the set of apartments where the incident occurred.

5 Q Thank you. I think we are done with that,
6 Lieutenant Brown. Thank you for holding that up.

7 MS. LEGETTE: Sorry, Your Honor.

8 THE COURT: I'll let you have them, Mona.

9 (Pause.)

10 BY MS. LEGETTE:

11 Q Lieutenant Brown, as part of your investigation,
12 did you actually go to Pinewood Apartments, the location
13 where the incident occurred?

14 A Yes, ma'am, we did.

15 Q And why did you go to the Pinewood Apartments?

16 A We went to the Pinewood Apartments to look at
17 the neighborhood canvas, which is pretty standard for any
18 investigation that occurs. Oftentimes you have witnesses
19 that may observe something, heard something, seen
20 something that may not feel comfortable coming forward and
21 actually calling the police. So basically what we do is,
22 we go door to door, knock on doors to see if anyone heard
23 or seen something regarding this.

24 Q Were you able to find anyone that seen anything?

25 A We found several persons who indicated at one

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 point that they were outside shortly after they left the
2 Lobster House. They indicated that they were in the
3 parking lot, that they heard numerous shots, and we
4 actually had a few persons who indicated that they saw a
5 white-in-color vehicle that sped off, or left the area,
6 after the shots were fired.

7 Q Were you able to locate any items of evidence in
8 Pinewood Apartments?

9 A Yes, ma'am. On the date after this incident, on
10 December the 7th, 2014, I was contacted by Detective
11 Manor, who indicated that while the officers were in the
12 area of Pinewood Apartments, that one of them had located
13 a shell casing in the parking lot.

14 That shell casing was collected and
15 photographed by myself. I actually responded to the
16 location. When I got there, Allendale Police Department had
17 roped off with the crime scene tape the area where the shell
18 casing was found.

19 I actually responded myself. I collected the
20 shell casing photograph, and that is the shell casing that I
21 provided on the next day to Special Agent -- sorry, Agent
22 Nelson.

23 Q And Lieutenant Brown, you indicated that while
24 you were at the Pinewood Apartments, photographs were
25 taken?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A Yes, ma'am, they were.

2 Q I'm going to hand you in a moment what's been
3 previously marked State's Exhibits 49, 50, 51, 52, 53, 54,
4 55, and 56. I want you to take moment and tell me if you
5 recognize these items.

6 A (Witness complies.)

7 MS. LEGETTE: May I approach the witness,
8 Your Honor?

9 THE COURT: You may.

10 BY MS. LEGETTE:

11 Q Lieutenant Brown, I hand you now what's been
12 previously marked State's 49 through 56 inclusive.

13 Please take a moment and tell me if you
14 recognize those exhibits.

15 A Yes, ma'am, I do.

16 Q And what are State's Exhibits 49 through 56
17 inclusive?

18 A These are the photographs that I took upon
19 arrival at the Pinewood Apartments after being contacted
20 by the Allendale Police Department in reference to a
21 casing we found in the driveway of the apartments.

22 Q And what day did you find this shell casing
23 located?

24 A This was on December 7th, 2014, which was the
25 day after the incident occurred.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q Are State's Exhibits 49 through 56 fair and
2 accurate reflections of the location at the time where the
3 apartments were you found the shell casing?

4 A Yes, ma'am, they are.

5 MS. LEGETTE: At this time, Your Honor, I would
6 offer State's 49 through 56 for admission into
7 evidence.

8 THE COURT: As to State's 49 through 56
9 inclusive, Counsel.

10 MR. KOGER: No objection, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury,
12 State's Exhibits 49, 50, 51, 52, 53, 54, 55, and 56
13 will be admitted into evidence in the trial of this
14 case, without objection.

15 *(Whereupon, State's Exhibit No(s). 49-56 marked*
16 *for identification and received in evidence.)*

17 THE COURT: In evidence. You may publish now,
18 Solicitor.

19 MS. LEGETTE: Thank you, Your Honor.

20 THE COURT: Let him come around. Proceed.

21 MS. LEGETTE: Thank you, Your Honor.

22 BY MS. LEGETTE:

23 Q Lieutenant Brown, we are now going to direct
24 your attention to State's 49. What are we seeing in
25 State's 49?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A State's 49 is the photograph of the area which
2 is the previous exhibit, where I showed you the second set
3 of apartments at Pinewood Apartments. It would be the
4 first driveway on the right-hand side, the second set of
5 apartments. Both the shell casings located across from
6 the center of the photograph at that point.

7 Q All right. Now, we move on down to State's
8 Number 50.

9 A State's 50 is just another photograph, a closer
10 photograph of the shell casing.

11 Q And State's 51.

12 A Fifty-one is a close-up of that shell casing.

13 Q And State's 52?

14 A Fifty-two is a photograph from approximately
15 just off the Barton Road into Pinewood Apartments. The
16 shell casing would be located approximately 15 yards there
17 on the other side of that yellow tape.

18 Q And, now, State's 53.

19 A Fifty-three is just a closer photograph from
20 that same angle, from the Barton Road side of the
21 apartments.

22 Q And 54?

23 A Again, 54 is just another closer photograph from
24 that same angle.

25 Q And 55?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A Fifty-five is another photograph from that same
2 angle. As you can see there in the middle of the
3 photograph, there is a small placard, a piece of paper
4 that was placed next to the bullet that was found in the
5 driveway.

6 Q And why did you place that placard?

7 A I placed that there because it was -- you could
8 easily see from the photographs that were being taken to
9 note where the bullet was located in the driveway.

10 Q And, now, State's 56?

11 A Fifty-six is a closer photograph of the placard
12 to the right that you see located in the previous
13 photograph.

14 Q Thank you, Lieutenant Brown. We are done with
15 the photographs at this time.

16 Lieutenant Brown, did you also collect that
17 shell casing you referred to in the State's exhibit that
18 we just went over?

19 A Yes, ma'am, I did.

20 Q Lieutenant Brown, I'm going to hand you in a
21 moment what's been previously marked and entered into
22 evidence as State's 70.4. Just take a moment and tell me
23 if you recognize State's 70.4.

24 MS. LEGETTE: May I approach, Your Honor?

25 THE COURT: You may.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 BY MS. LEGETTE:

2 Q Lieutenant Brown, do you recognize State's 70.4?

3 A Yes, ma'am, I do.

4 Q What is State's 70.4?

5 A State's 70.4 is the casing that I located in the
6 driveway of Pinewood Apartments.

7 Q And once you located State's 70.4, what did you
8 do with it?

9 A At that time, I placed that shell casing into an
10 evidence bag. That evidence bag was secured in the trunk
11 of my vehicle, where I only had access to it.

12 On the next day, when Special Agent Nelson
13 came down to process the white-in-color Oldsmobile Alero,
14 the shell casing was transferred to her in her chain of
15 custody.

16 Q And why did you collect State's 70.4?

17 A I collected State's 70.4 because we learned in
18 the investigation that the incident possibly occurred
19 there in the second set of apartments at Pinewood
20 Apartments.

21 Again, I was contacted by the Allendale
22 Police Department. I responded and collected it due to
23 possible evidentiary value because the incident was a
24 shooting incident.

25 Q And to your knowledge, was that particular --

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 was State's 70.4 submitted to SLED for analysis?

2 A Yes, ma'am, it was.

3 Q Now, Lieutenant Brown, you also indicated that
4 along with going to the scene at Pinewood Apartments, did
5 you go to another scene, or the scene where the resting
6 vehicle was?

7 A Yes, ma'am, I did.

8 Q And why did you go to that scene?

9 A Just to get an overview of what the scene looked
10 like there. Again, the search warrant was secured for
11 that vehicle. That vehicle was processed by our crime
12 scene unit.

13 Q And that vehicle that you are referring to, is
14 that the vehicle driven by one of the victims in this
15 case?

16 A Yes. That would be the 2000 green Ford Crown
17 Victoria driven by Russell Smart.

18 Q You indicated also that you had spoken to
19 witnesses who talked about the Lobster House.

20 A Yes, ma'am.

21 Q Are you familiar with the Lobster House?

22 A Yes, ma'am, I am.

23 Q And you know where it is in Allendale County?

24 A Yes, ma'am.

25 Q Now, you also talked about -- you spoke to the

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 victims or witnesses in this case. Who was the first
2 victim that you spoke to in this case?

3 A The first victim that I spoke to was
4 Brandon Lewis.

5 Q And when did you speak with Brandon Lewis?

6 A I spoke with Brandon Lewis on December 7th,
7 2014, which was the day after the incident.

8 Q Tell us about that particular encounter with
9 Brandon Lewis.

10 A On that day, Detective Manor with Allendale
11 Police Department contacted me early that morning, and he
12 indicated that Brandon Lewis wished to talk to myself and
13 other agents that were involved in the case.

14 Detective Manor indicated that Brandon Lewis
15 wanted to identify and knew the name and identity of the
16 person that shot him the previous morning.

17 Q Who was present with you when you spoke to
18 Brandon Lewis?

19 A Myself, Detective Manor, and Special Agent
20 Jeff Croft, who was also with SLED.

21 Q Where was Brandon Lewis when you spoke to him?

22 A He was at his grandmother's house on Razor Road.
23 More specifically he was in a back bedroom, laying down on
24 the bed.

25 Q What was his condition, or did he appear in any

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 way to be "out of it"?

2 A He didn't appear to be out of it. He obviously
3 appeared to be in some sort of discomfort. He had been
4 shot the morning previous in his arm, so he did appear to
5 be in discomfort.

6 Q So tell us about your encounter with Mr. Lewis.

7 A Basically, began to talk to Mr. Lewis. I told
8 him who I was, identified myself. I told him why I was
9 there, to speak with him about the incident that occurred
10 on the previous morning that he was shot.

11 Began asking Mr. Lewis if he -- basically
12 just tell us what happened to him.

13 Mr. Lewis began to tell me that on the
14 morning before, approximately 3 o'clock that morning, when
15 the incident occurred, that he was in the vehicle with
16 Russell Smart and Tyquan Charlton. Mr. Lewis indicated that
17 he was in the backseat of the vehicle, more specifically
18 behind the driver.

19 He indicated that they left the Lobster House
20 and they went to Pinewood Apartments. Upon arriving in
21 Pinewood Apartments, they were parked in their vehicle.
22 Their vehicle was parked in the driveway of the apartments
23 facing the roadway. He indicated that at some point after
24 that, a vehicle pulled up next to them, driver's door to
25 driver's door. At that point, the person in the vehicle

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 began firing shots into the vehicle that he occupied.

2 Q Was he able to tell you who actually fired the
3 shots?

4 A Yes, he did.

5 Q Who did he tell you fired the shots?

6 A First, he indicated that Pat Pat; and then more
7 specifically, Laparis.

8 Q Did you ever learn a last name for Laparis?

9 A Laparis Flowers.

10 Q Did you also, after speaking with him, show him
11 any photographic line-ups?

12 A I did.

13 Q Tell us about the photo line-up and what
14 procedure you used to present him with the photo line-up.

15 A The photographic line-up is a sheet of paper
16 that contains six photographs. The photographs are
17 numbered one through six.

18 The photographic line-up is generated by our
19 fusion center at SLED, which is our intelligence center.
20 There are numerous analysts at that location that have
21 access to different types of databases.

22 I have no direct involvement with the
23 photographic line-up or what photographs are located on that
24 sheet. I simply give the name of the person, the date of
25 birth, that is developed as a suspect. They generate a

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 line-up done randomly with the picture at a random location
2 on the sheet.

3 At that point, I received the photographic
4 line-up from our fusion center through email. That
5 photographic line-up is printed by myself. In turn, I took
6 that photographic line-up with me, with Agent Croft, and
7 Detective Manor to the interview with Brandon Lewis.

8 At that point, during the interview, after he
9 had told me the name of the person that he saw shoot him on
10 the night of the incident, I told Brandon Lewis that I was
11 going to show him a piece of paper that contained six
12 photographs. I asked Brandon Lewis at that point to take a
13 look at the paper containing the photographs and to see if
14 he could identify the person that he indicated shot him,
15 whom he had known by as Lapolis Flowers.

16 During the photographic line-up, when it was
17 shown to the victims, if they can't pick out a person in the
18 line-up, they are not told that they have to pick someone
19 out. If they cannot identify anyone in the line-up, they
20 simply say, "I can't identify anyone," and that's
21 documented.

22 Q So they are not required then to pick anyone
23 out?

24 A They do not have to pick anyone out of the
25 photographic line-up.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q During your meeting with Mr. Lewis, did he ever
2 indicate that he actually knew Laparis Flowers?

3 A Yes, he did.

4 Q Now, did anyone with you, or did you ever
5 suggest to Mr. Lewis who to pick out?

6 A There was never a suggestion made to Mr. Lewis
7 that he should pick any photograph out of the photographic
8 line-up.

9 Q Did he actually make a selection?

10 A He did make a selection.

11 Q Were you able to determine his degree of
12 accuracy or how much time he was able to look at the
13 person who shot him?

14 A It only took between around ten -- or around ten
15 to 12 seconds or so for him to actually identify the
16 person on the photographic line-up. And that was after I
17 told him, "Take your time, look through all the
18 photographs and make sure that you can accurately identify
19 the person who you said shot you."

20 Q Did he appear to be under the influence of any
21 drugs or alcohol such that would make him incoherent or
22 unable to make a decision intelligently?

23 A No, ma'am. Obviously, he was in pain,
24 discomfort. He had just been discharged, I believe on the
25 previous day, from the hospital for being treated from his

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 gunshot wound. He did not appear to be in any condition
2 where he could not understand the questions that were
3 being asked, or be able to provide an answer that would
4 make you believe that he was under the influence to the
5 point where he didn't understand what was going on.

6 Q If he had been in such a condition, would you
7 have continued with the interview or the line-up?

8 A No, ma'am. That interview would have ceased at
9 that point. He would have never been shown the line-up.

10 Q Did he ultimately make a selection at that
11 point?

12 A He did.

13 Q And who did he select?

14 A He selected Photograph Number 4 in the line-up,
15 which is a photograph of Lapolis Flowers.

16 Q And how did he indicate his selection?

17 A He indicated his selection first by just wanted
18 to point to it. We told him you have to put some type of
19 identifying marks. Specifically, we ask the person to put
20 their initials next to the photograph and try to include a
21 circle of the photograph, or the number.

22 In Mr. Lewis' case he indicated that his arm
23 was hurting, so he indicated his selection by putting a
24 mark, and it's more of a scribbly mark there underneath the
25 Photograph Number 4 that he identified as Lapolis Flowers.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q I want to hand you now what's been previously
2 marked State's Exhibit Number 85 for identification.

3 Please take a moment and tell us if you
4 recognize this item.

5 MS. LEGETTE: May I approach, Your Honor?

6 THE COURT: You may.

7 BY MS. LEGETTE:

8 Q Do you recognize State's 85?

9 A Yes, ma'am, I do.

10 Q What is State's 85?

11 A State's Exhibit Number 85 is a photographic
12 line-up that I showed to Brandon Lewis on December 7th,
13 2014.

14 Q And is State's 85 a fair and accurate reflection
15 of the line-up you showed to Brandon Lewis on
16 December 7th, 2014?

17 A Yes, ma'am, it is.

18 Q Has it been changed or altered in any way?

19 A No, ma'am, it hasn't.

20 MS. LEGETTE: At this time, Your Honor, I would
21 offer State's 85 for admission into evidence in this
22 case.

23 THE COURT: As to State's 85, Counsel.

24 MR. KOGER: No objection, Your Honor.

25 THE COURT: Ladies and gentlemen of the jury,

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 State's Exhibit No. 85 will be admitted into evidence
2 in the trial of this case, without objection.

3 *(Whereupon, State's Exhibit No(s). 85 marked for*
4 *identification and received in evidence.)*

5 THE COURT: State's 85 in evidence. You may
6 publish.

7 MS. LEGETTE: Thank you, Your Honor.

8 BY MS. LEGETTE:

9 Q Lieutenant Brown, I now direct your attention to
10 State's 85. Would you please tell us what we are seeing
11 in State's 85.

12 A State's Exhibit Number 85 is a photographic
13 line-up that I showed to Brandon Lewis on December 7th,
14 2014. I drew his attention there to the bottom left
15 corner of the page. That more specifically is the
16 photograph of Laparis Flowers.

17 This is the photograph that Brandon Lewis
18 identified as the person who shot him on December 6th, 2014.
19 That is the mark under the photograph that I indicated
20 Brandon Lewis made to identify the photograph as Laparis
21 Flowers.

22 Q Now, I notice that these particular individuals
23 in State's 85 look similar. Is that one of the things
24 that SLED fusion center is designed to do?

25 A That's correct.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q And why do they do that?

2 A To make sure that the person accurately knows
3 who they saw, who they said shot them.

4 Q Now, how certain did Mr. Lewis appear when he
5 made his selection of Number 4?

6 A He appeared very certain.

7 Q Did he ever at any point decide to change his
8 mind or select anyone else?

9 A No, ma'am, he didn't.

10 Q Did he ever tell you he didn't want to, he
11 wanted you to just throw it away or not submit his
12 selection?

13 A No, ma'am, he didn't.

14 Q I know I asked if you ever suggested he pick
15 anyone out. Did anyone else with you ever suggest that he
16 pick anyone out of the line-up?

17 A No, ma'am. Myself, Agent Croft, or Detective
18 Manor never suggested to Brandon Lewis that he should pick
19 anyone out of that photographic line-up.

20 Q Thank you. Now, did you also meet with any
21 other victims in this case?

22 A Yes, ma'am, we did. The next victim that we met
23 with was Jarrell Murray.

24 Q Tell us about that encounter and what date did
25 it happen?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A The interview with Jarrell Murray also occurred
2 on December 7th, 2014. We spoke to Mr. Lewis at a
3 precinct on that morning, I believe that the interview
4 occurred sometime shortly after lunch.

5 We actually contacted Jarrell Murray. I
6 believe we told him I tried to locate him at his house. His
7 mother ended up bringing him to the Allendale County
8 Magistrate's office parking lot, where we met with him.

9 Q And who was present for that meeting?

10 A Myself, Special Agent Jeff Croft with SLED, and
11 Detective Manor.

12 Q Please tell us about Mr. Murray's demeanor when
13 you met with him.

14 A At that time, whenever Mr. Murray arrived, he
15 was very upset. He appeared to be very scared.

16 One reason that we met with him at the
17 Magistrate's office was it was a location outside of town,
18 not at his home. Oftentimes, persons are very scared to
19 meet with law enforcement at their homes because they don't
20 want anyone else to see us there, because they know they may
21 be telling us something regarding an investigation.

22 So we asked Mr. Murray to meet us at the
23 Allendale County Magistrate's office parking lot, where we
24 conducted the interview.

25 Q And was that interview conducted inside or

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 outside the Magistrate's office?

2 A It was conducted outside.

3 Q And you indicated that someone brought him to
4 this meeting. Who brought him to the meeting?

5 A His mother brought him.

6 Q Do you know her name?

7 A No, ma'am, I don't.

8 Q Now, while you met with Mr. Murray, was he able
9 to tell you what happened?

10 A Yes, ma'am, he did.

11 Q Was he able to tell you actually who shot at the
12 car he was in?

13 A Yes, ma'am, he did.

14 Q Did you also show him the photo line-up?

15 A I did.

16 Q During your meeting with Mr. Murray, was the
17 interview recorded in any way?

18 A Yes, ma'am, it was.

19 Q How was it recorded?

20 A What began as an interview, we had a small audio
21 recorder that we were using to record. For some reason,
22 and I don't have an explanation why, the recorder did not
23 start recording initially.

24 So at the conclusion of the interview with
25 Mr. Murray, we realized that the recorder was not recording

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 for whatever reason. At that point, we activated the
2 recorder, we went back and had Mr. Murray rehash parts, or
3 re-explain some of the questions that we had asked. So the
4 recording was -- it was not a second interview, it was just
5 the second part of where we had to rehash it because the
6 first part was not actually recorded.

7 Q And in the rehash, did he indicate to you the
8 same thing he told you earlier?

9 A Yes, ma'am, he did.

10 Q Let me ask you this question, let's go back a
11 bit to Mr. Lewis.

12 When you met with Mr. Lewis on
13 December 7th, did you also record that particular
14 interview?

15 A Yes. That interview was also audio recorded,
16 where he made the identification of Laparis Flowers.

17 Q Did either of these particular victims make any
18 written statements?

19 A Neither of those victims made a written
20 statement.

21 Q But you did record them?

22 A Yes, ma'am, they were.

23 Q And just briefly again on Mr. Lewis, what was
24 his demeanor when you met with him?

25 A Mr. Lewis, obviously he was very hesitant. He

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 was in pain, he was in discomfort. He appeared to be
2 scared also.

3 Obviously he did not know myself. He did not
4 know Agent Croft, he was very -- he wasn't familiar with
5 Detective Manor. Obviously, sometimes in those situations,
6 they don't know us, so they don't know whether to trust us
7 or not to trust us. So, again, he was somewhat hesitant.

8 Not that he didn't know who did it, but he
9 was hesitant as far as giving us, or giving us a name as to
10 who he had said shot initially. But, again, he did indicate
11 that Laparis Flowers was the one that shot him.

12 Q Thank you. And now, going back towards -- to
13 Mr. Murray, you indicated that you showed him a photo
14 line-up.

15 A Yes, ma'am, I did.

16 Q Explain to us the procedure you used to show him
17 the photo line-up.

18 A The same procedure was used that we used
19 previously with Brandon Lewis. The same photographic
20 line-up that was shown to Brandon Lewis, obviously without
21 his markings or anything on it, was shown to Jarrell
22 Murray.

23 Again, before providing or showing him the
24 photographic line-up, he first told us what happened and
25 told us who shot him. I told him, I said, "We are going to

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 show you a piece of paper that contains six photographs on
2 the paper, I want you to take a look. Look through all the
3 photographs, and if you can identify the person that you
4 said shot you, whom you identified as Lapolis Flowers, I
5 want you to indicate that by circling it or making a mark
6 near the photograph on the page."

7 Again, if he can't pick out a photographic
8 line-up, he's not told that he has to pick a photograph out.
9 He simply does not make a marking -- or does not make an
10 identification on the page.

11 Q Did you or anyone with you ever suggest to
12 Mr. Murray who to pick out in the photo line-up?

13 A No, ma'am. It was never suggested to Mr. Murray
14 who to pick out.

15 Q Did you or anyone with you ever show him any
16 separate photos prior to showing him the photo line-up?

17 A No, ma'am, we did not.

18 Q And prior to showing him the photo line-up, how
19 are you able to compile a photo line-up for Mr. Murray?

20 A The same process that you use to compile a photo
21 line-up. Again, it's the same photographic line-up that
22 we requested through SLED fusion center, which I had no
23 involvement in except for requesting that it be sent to
24 me, and I showed it to him and to Mr. Murray.

25 Q And did you base this on Mr. Murray having told

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 you who shot him?

2 A Yes, he did.

3 Q Now, did Mr. Murray actually make a selection in
4 the photo line-up?

5 A Mr. Murray did make a selection.

6 Q Who did Mr. Murray select?

7 A Mr. Murray also selected Photograph Number 4,
8 which was a photograph of Laparis Flowers.

9 Q How sure or how certain did he appear to be of
10 his selection?

11 A He appeared to be very certain of his selection.

12 Q How long did it take him to make a selection?

13 A Ten seconds or less.

14 Q Did he indicate to you during your conversation
15 with him, when he told you who shot into the car, that he
16 knew the person who shot him?

17 A Yes, he indicated that he previously knew
18 Laparis Flowers.

19 Q Did he say how long he had known him?

20 A He just indicated that he knew him from
21 Allendale. He publicly had been acquainted, seeing as he
22 grew up in Allendale County.

23 Q I'm going to hand you now what was previously
24 marked for identification and entered into evidence as
25 State's Exhibit Number 84. Please take a moment and tell

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 me if you recognize State's 84.

2 MS. LEGETTE: May I approach, Your Honor?

3 THE COURT: You may.

4 BY MS. LEGETTE:

5 Q Do you recognize State's 84?

6 A Yes, ma'am, I do.

7 Q I'm sorry, 74, State's 74. I'm sorry,
8 State's 74.

9 Do you recognize State's 74?

10 A Yes, ma'am, I do.

11 Q And for the record, to correct the record,
12 State's 74 we're looking at now.

13 State's 74, what is State's 74?

14 A This is a photographic line-up that was shown to
15 Jarrell Murray.

16 Q And is State's Exhibit Number 74 a fair and
17 accurate reflection of the photo line-up you showed to
18 Jarrell Murray?

19 A Yes, ma'am, it is.

20 Q Has it been changed or altered in any way?

21 A No, it has not.

22 Q Thank you.

23 MS. LEGETTE: May we publish, Your Honor?

24 THE COURT: You may.

25 And this is 74 or 84? I've got 84 in evidence

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 and 74 in evidence.

2 THE COURT REPORTER: Yeah. I have 84 as the
3 photo line-up from Murray, and I have 74 as the photo
4 line-up from Charlton. Do I have them backwards?

5 MS. LEGETTE: Oh, I'm sorry. My -- my -- Your
6 Honor, I did it. I'm so sorry. I have transposed
7 it. It actually is 84 we're looking at now. I had
8 another one here that we're not discussing at this
9 time.

10 So for the record, we are looking at --

11 THE COURT: What is the jury being shown?

12 MS. LEGETTE: This is State's Exhibit 84.

13 THE COURT: Eighty-four is in evidence.

14 Proceed.

15 MS. LEGETTE: Thank you, Your Honor.

16 BY MS. LEGETTE:

17 Q So Lieutenant Brown, as it relates to State's
18 Exhibit Number 84, what are we seeing?

19 A State's Exhibit 84 is --

20 THE COURT: Do you want to come around?

21 MR. KOGER: Okay.

22 THE COURT: Go ahead.

23 A State's Exhibit 84 is a photographic line-up
24 that was shown to Jarrell Murray.

25 BY MS. LEGETTE:

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q And what are we seeing in State's Exhibit
2 Number 84? What selection did he make?

3 A Mr. Murray made a selection of a four, which is
4 a photograph of Laparis Flowers. He indicated that by
5 circling Number 4 and placing his initials, J.M. next to
6 the photograph.

7 Q And Mr. Murray made this selection after having
8 told you who did the shooting?

9 A Yes, ma'am, that is correct.

10 Q What did he indicate to you about the person in
11 state's exhibit -- I'm sorry.

12 This person in State's Exhibit Number 84,
13 what did he indicate to you?

14 A He indicated that he was in the vehicle on that
15 evening with Russell Smart, and he indicated that two
16 other individuals were in the back seat, two black males.
17 He indicated that he went to Pinewood Apartments, where
18 they were parked in the driveway of the apartments.

19 He indicated that at some point what he
20 believed to be a white-in-color, four-door Pontiac Grand
21 Prix pulled up next to their vehicle, door to door. He said
22 at that time, the person in the vehicle, who he identified
23 as Pat Pat, or Laparis Flowers, began shooting into their
24 vehicle.

25 At that time, Mr. Murray was the front

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 passenger seat occupant of the vehicle. He indicated that
2 he then exited the vehicle and took off running.

3 Q Now, once you met with Mr. Murray, did you also
4 meet with any other victims?

5 A Yes, ma'am. I also met with Tyquan Charlton.

6 Q And where did you meet with Tyquan Charlton?

7 A We met with Tyquan Charlton at Augusta Medical
8 Center. I believe it was formerly Georgia Regents
9 University.

10 Q And what date did you meet with Tyquan Charlton?

11 A That was on December 10th, 2014.

12 Q Tell us about the encounter with Mr. Tyquan
13 Charlton at the Georgia Regents Medical University.

14 A We arrived at the Georgia Regents Medical
15 University, I first walked in, he was in a room, a
16 hospital room. Moreover, it was a room where I believe it
17 was -- the curtain that was pulled in between a couple
18 beds.

19 Obviously at the time, Mr. Charlton still had
20 a -- what I call a neck brace on his neck. He had a suction
21 tube that he was using to suction his mouth out because of
22 the injury to his left jaw.

23 There were also two persons located in the
24 room, two females, who I believe was his mother and sister
25 at the time.

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q And you indicated that "we." Who went with you?

2 A Myself, Detective Manor, and Special Agent
3 Natasha Murrell, who is also with SLED.

4 Q Did Mr. Murray appear to be -- not Mr. Murray.
5 Strike that.

6 Did Mr. Charlton appear to be under the
7 influence of any drugs?

8 A He did not appear to be under the influence of
9 any drugs to the point where he did not understand what
10 was going on or what questions were being asked.

11 Q So to you, he seemed to be coherent?

12 A Yes, he did.

13 Q Had he not been coherent, would you have
14 continued talking with him?

15 A No, ma'am. The interview would have never
16 occurred if he didn't appear to be coherent.

17 Q So did he actually speak with you?

18 A Yes, ma'am, he did.

19 Q Was the interview recorded in any way?

20 A Yes, ma'am. That interview was actually audio
21 and video recorded.

22 Q Was Mr. Charlton able to tell you what happened
23 to him?

24 A Yes, ma'am, he did.

25 Q And upon telling you what happened to him, did

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 you also show him a photo line-up?

2 A I did.

3 Q Please describe for us the method you used to
4 show him the photo line-up.

5 A I used the same method that I'd used and
6 previously described with Brandon Lewis and
7 Jarrell Murray. The photographic line-up was a piece of
8 paper containing six photographs.

9 I basically told Mr. Charlton I'm going to
10 show you a piece of paper containing six photographs. I
11 want you to take a look at it, take your time, see if you
12 can identify the person who he had already previously
13 identified to me as Lapolis Flowers from several
14 photographs.

15 Again, if he was unable to make a selection,
16 he wouldn't have made a selection. It is not required of
17 him that he's to pick one person on the photographic
18 line-up.

19 Q Did he actually make a selection in the photo
20 line-up?

21 A He did.

22 Q And who did he indicate was responsible?

23 A He also indicated Photograph Number 4, which was
24 a photograph of Lapolis Flowers.

25 Q How did he make his selection?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A He made his selection by, I believe, placing his
2 initials next to the photograph.

3 Q I will hand you now what's been previously
4 marked for identification and entered into evidence as
5 State's 74. This is 74. Take a moment and tell me if you
6 recognize State's 74.

7 MS. LEGETTE: May I approach?

8 THE COURT: You may.

9 BY MS. LEGETTE:

10 Q Do you recognize State's 74?

11 A Yes, ma'am, I do.

12 Q What is State's 74?

13 A State's Exhibit Number 74 is the photographic
14 line-up that I showed to Tyquan Charlton on December 10th,
15 2014.

16 Q And is State's 74 a fair and accurate reflection
17 of the photo line-up you showed to Tyquan Charlton on
18 December 10th, 2014?

19 A Yes, ma'am, it is.

20 Q Has it been changed or altered in any way?

21 A No, it hasn't.

22 MS. LEGETTE: At this time, Your Honor, I would
23 ask to publish State's 74, which has already been
24 admitted.

25 THE COURT: State's 74 in evidence; is that

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 correct, Mona?

2 THE COURT REPORTER: Yes.

3 THE COURT: You may publish to the jury.

4 MS. LEGETTE: Thank you.

5 BY MS. LEGETTE:

6 Q Lieutenant Brown, directing your attention to
7 State's 74, please tell us what we are seeing in
8 State's 74.

9 A State's Exhibit Number 74 is a photographic
10 line-up as shown to Tyquan Charlton on December 10th,
11 2014.

12 Again, you can see the bottom left-hand
13 corner. Photograph Number 4 is the photograph that he
14 identified as Laparis Flowers, the person who shot him. He
15 identified that by circling the number four and placing his
16 initials, T.C., just above that photograph.

17 Q And Lieutenant Brown, when Mr. Charlton made his
18 selection, how certain did he appear?

19 A He appeared very certain.

20 Q How long did it take him to make a selection?

21 A Again, just about ten seconds.

22 Q Did anyone with you or anyone else in the room
23 ever suggest to Mr. Charlton who to select in the photo
24 line-up?

25 A There were never suggestions made to

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Mr. Charlton as to who to select off the photographic
2 line-up.

3 Q Had Mr. Charlton been shown any photos prior to
4 you showing him the photo line-up?

5 A No, ma'am, he had not.

6 Q Who did Mr. Charlton say is listed in State's
7 Exhibit Number 74 as the person responsible?

8 A He identified Photograph Number 4 as Laparis
9 Flowers, the person who shot him December 6th, 2014.

10 Q And is this particular photo line-up the
11 selection he made after having told you what happened to
12 him?

13 A That is correct. He gave us a verbal account of
14 what happened, then he made a selection from the
15 photographic line-up.

16 Q And what did he tell you happened?

17 A Mr. Charlton indicated on that evening, he
18 remembered going to the Lobster House with his sister and
19 a few other persons. He indicated at some point during
20 the evening, he remembered he somehow got in the car with
21 Russell Smart.

22 He couldn't quite remember how he had gotten
23 there. He indicated at that point they went over to the
24 Pinewood Apartments, they were parked in the parking lot of
25 the apartments. At that time, a vehicle pulled up next to

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 him that he believed to be a white-in-color Cavalier. He
2 indicated that the person that was driving the vehicle was
3 Laparis Flowers.

4 At that point, Laparis Flowers made some type
5 of comment as to y'all are -- y'all been messing with my
6 cousin Toot. At that point, he indicated that Mr. Flowers
7 produced a weapon and began firing into the vehicle.

8 At that point he was struck. That is when he
9 was struck in the left jaw area. He indicated that he
10 exited the vehicle, that he ran around the vehicle, he got
11 back into the rear seat of the vehicle, and what he termed,
12 "fell asleep."

13 From that point on, he was not able to give
14 any type of description as to what happened.

15 Q Did he tell you or did he indicate that he knew
16 Laparis Flowers prior to the incident?

17 A Yes. He indicated that he had grown up in and
18 around the Allendale community, and did know and was able
19 to identify Laparis Flowers.

20 Q Now, after speaking with the victims in this
21 case, you talked about -- you got information about a
22 white Alero.

23 A Yes, ma'am, we did.

24 Q What did you do, if anything, about the white
25 Alero?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 A We learned that there was a vehicle which was
2 previously described as a Cavalier, which was previously
3 described as a Pontiac Grand Prix. But we learned that
4 Mr. Flowers had been in possession of a white-in-color,
5 1999 Oldsmobile Alero, which was actually registered to
6 his mother, Jennifer Bates.

7 But as you have seen before, there were
8 documents located inside the vehicle, where Mr. Flowers was
9 also the co-signor and also had some of his property within
10 that vehicle.

11 At that point, we did try to attempt to
12 locate that vehicle, because the description that was given
13 by witnesses and the victims in the case, we felt that
14 vehicle may contain some type of evidence of some
15 evidentiary value to us.

16 So we put the word out to local law
17 enforcement agencies, to the Allendale Police Department
18 that if they were able to locate that vehicle, to secure it
19 and contact us.

20 Q Did they ever contact you?

21 A Yes, ma'am. I was contacted in the early
22 morning hours of December 8th, 2014. Myself and Special
23 Agent Jeff Croft were actually on our way back from a
24 search warrant in North Augusta. One of the officers in
25 the Allendale Police Department called myself and

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 indicated that they had located the white-in-color 1999
2 Oldsmobile Alero at 376 Old Barnwell Road here in the city
3 limits of Allendale, which is, I believe, a relative or
4 grandmother of Jennifer Bates.

5 Q And upon learning about the vehicle could
6 possibly be at 376 Old Barnwell Road, did you respond to
7 the area?

8 A Yes. Again, like I explained earlier, we were
9 on the way back from North Augusta, so I told officers
10 that had located the vehicle to secure it. Don't touch
11 it, don't go in it, don't do anything with it, that we
12 were on our way back.

13 I can't remember if it was an hour or 30
14 minutes upon our arrival; we got back to Allendale, we
15 secured a search warrant for the vehicle. The vehicle was
16 then towed to T&H Garage, where the next day, the vehicle
17 was processed by Special Agent Haley Nelson.

18 Q Now, Agent Brown, you indicated that you are
19 familiar with all these locations in the -- the location
20 where the white Alero was found?

21 A Yes, ma'am.

22 Q And you're familiar with the area of the Lobster
23 House?

24 A Yes, ma'am.

25 Q And you're familiar with the area of Pinewood

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Apartments?

2 A Yes, ma'am.

3 Q And you're also familiar with where the vehicle
4 driven by Russell Smart was located?

5 A Yes, ma'am.

6 Q Lieutenant Brown, I'm going to hand you now
7 what's been previously marked for identification as
8 State's --

9 (Mr. Koger comes around Bench to other side
10 of courtroom to see.)

11 Q Lieutenant Brown, I hand you now what's been
12 previously marked State's Exhibit Number 71. Take a
13 moment and tell me if you recognize State's 71.

14 MS. LEGETTE: May I approach, Your Honor?

15 THE COURT: You may.

16 A Yes, ma'am, I do.

17 BY MS. LEGETTE:

18 Q And Lieutenant Brown, what is State's Exhibit
19 Number 71?

20 A State's Exhibit 71 is an aerial view of
21 basically the town of Allendale, which also encompasses
22 the Lobster House, 376 Old Barnwell Drive, the location
23 where Russell Smart's vehicle was found off the side of
24 Barton Road, and Pinewood Apartments.

25 Q And is State's Exhibit Number 71 a fair and

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 accurate reflection of the overall aerial view of the
2 locations that you discussed?

3 A Yes, ma'am, it is.

4 MS. LEGETTE: At this time, Your Honor, I would
5 offer State's Exhibit 71 for admission into evidence.

6 THE COURT: As to State's 71?

7 MR. KOGER: No objection, Your Honor.

8 THE COURT: Ladies and gentlemen of the jury,
9 State's Exhibit 71 will be admitted into evidence in
10 the trial of this case, without objection. You may
11 publish to the jury.

12 MS. LEGETTE: Thank you, Your Honor.

13 *(Whereupon, State's Exhibit No(s). 71 marked for*
14 *identification and received in evidence.)*

15 THE COURT: Ma'am, can you see?

16 JUROR: Yes.

17 THE COURT: You let me know.

18 Ma'am, on the back row back there, can you see
19 all right?

20 JUROR: Yes.

21 MS. LEGETTE: Thank you.

22 BY MS. LEGETTE:

23 Q Lieutenant Brown, can you please tell us what we
24 are seeing in State's Exhibit Number 71.

25 A State's Exhibit Number 71, again, is an aerial

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 view, basically, like I said, the town of Allendale.

2 Here, the note by this red marker is the
3 location of the Lobster House, which is just, I guess, north
4 of us on Highway 301, which is also 1601 North Main Street,
5 Allendale, South Carolina.

6 The second marker that you see here, marked
7 on this red marker, is the address of 376 Old Barnwell
8 Drive, Allendale, South Carolina, which is the location
9 where the 1999 white-in-color Oldsmobile Alero was located.

10 Over here, shortly across town, across the
11 railroad tracks here, is the location on Barton Road, where
12 Russell Smart's vehicle wrecked, which is noted by this
13 marker. And just a short distance down the road is the
14 location of Pinewood Apartments, 852 Barton Road, which is
15 denoted by this red marker.

16 Q Thank you.

17 MS. LEGETTE: May I approach the witness,
18 Your Honor, and get this second one back?

19 BY MS. LEGETTE:

20 Q Lieutenant Brown, just briefly, I want to go
21 back over State's Exhibit Number 55, which had been
22 previously -- I'm sorry, 54 and 55, which had been
23 previously entered into evidence.

24 MS. LEGETTE: May I approach the witness, Your
25 Honor?

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 THE COURT: What numbers?

2 MS. LEGETTE: Fifty-four and 55.

3 THE COURT: Fifty-four and 55?

4 MS. LEGETTE: Yes.

5 BY MS. LEGETTE:

6 Q Lieutenant Brown, just take a moment briefly --

7 MS. LEGETTE: May I approach?

8 THE COURT: You may.

9 BY MS. LEGETTE:

10 Q Lieutenant Brown, as it relates to State's 54
11 and 55, can you just tell us where the shell casing was
12 located so we can kind of get an understanding?

13 A Okay. Again, these photographs were taken with
14 my back towards Barton Road, taken into the first driveway
15 of the second set of Pinewood Apartments.

16 Okay. So from the, I guess, the
17 demonstrative that you were showing, if you come down Barton
18 Road, you have the first set of apartments.

19 Q Can I stop you for a moment and have you look at
20 State's Exhibit Number 72.

21 MS. LEGETTE: May I approach, Your Honor?

22 THE COURT: You may.

23 BY MS. LEGETTE:

24 Q I guess a better way of showing us where --

25 Now, Agent Brown, as it relates to State's

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 72, I believe, can you -- the aerial photo. Can you show
2 us in State's --

3 MS. LEGETTE: That is 72, right?

4 THE COURT: It is.

5 BY MS. LEGETTE:

6 Q In State's 72, can you show us where the shell
7 casing is located that you found?

8 A Again, this is Barton Road, coming from the city
9 of Allendale, out toward the county. This is the first
10 set of Pinewood Apartments, this is the second set of
11 Pinewood Apartments. The shell casing was found in this
12 area, the first driveway into the second set of Pinewood
13 Apartments.

14 Q And as far as you are aware of the
15 investigation, is that the second set where the incident
16 occurred?

17 A Yes. This is the second set of apartments where
18 the victims described where the incident occurred.

19 MS. LEGETTE: Thank you, Lieutenant Brown.

20 May I approach?

21 THE COURT: You may.

22 MS. LEGETTE: Begging the Court's indulgence.

23 (Pause.)

24 MS. LEGETTE: Lieutenant Brown, thank you. I
25 have no further questions. Please answer any

DIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 questions from Mr. Koger.

2 THE COURT: Cross examination.

3 MR. KOGER: Yes, Your Honor.

4 CROSS EXAMINATION

5 BY MR. KOGER:

6 Q Mr. Brown, you testified to interviewing
7 Mr. Lewis along with Detective Manor and Agent Croft on
8 December 7th, correct?

9 A Yes, sir.

10 Q Okay. Were you aware that Mr. Lewis had another
11 interview the day before?

12 A Yes, sir, I was.

13 Q Okay. And who conducted that interview on
14 December 6th?

15 A On December 6th, 2014, I requested two agents
16 from our Midlands region to respond to Augusta Medical
17 Center due to their closer proximity. They were out of
18 Aiken, which was closer to Augusta, and I was here -- to
19 actually go over and attempt to make contact with
20 Mr. Brandon Lewis to interview him. That was Special
21 Agent Jerry Smith and Special Agent Shawn Grant, who are
22 also with SLED.

23 Q And would it be fair to say that that interview
24 occurred at nine, about 9:15?

25 A I believe so, sir.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q Okay. All right. And this incident occurred a
2 couple hours earlier?

3 A That would be correct.

4 Q Would it be fair to say that this incident
5 occurred about several hours earlier?

6 A I believe this occurred around 3:15 or so. So
7 it would have been approximately between five and six
8 hours earlier.

9 Q Okay. You just testified to that they
10 interviewed Mr. Lewis while he was still over at Georgia
11 Regents University, or MCG, correct?

12 A Yes, sir, that's correct.

13 Q Okay. Now, are you familiar with the contents
14 of that particular interview as the lead agent on this
15 case?

16 A Yes, sir, I am.

17 Q Okay. Would it be fair to say that when your
18 agent spoke with Lewis on December 6th at the hospital, he
19 said that he was in the burgundy -- on a burgundy Explorer
20 with Mr. Smart?

21 A Yes. Yes, sir, that is what he told him.

22 Q Would it be fair to say that during that
23 interview, what was reported to you, that he could not
24 describe the shooter?

25 A That is correct.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q Right. And that he could not describe the
2 vehicle in which the shooter was in?

3 A Yes, sir, that's correct.

4 Q And they actually could not even describe the
5 gun?

6 A That's correct.

7 Q Okay. And also, would it be fair to say that he
8 stated that he can't recall anyone saying anything on that
9 particular evening during the time of the incident?

10 A Yes, sir, that is correct.

11 Q And then do you also recall from the interview,
12 he said that he did not recall seeing Laparis Flowers on
13 that particular night?

14 A That is also correct.

15 Q Okay. And that was -- and that was done several
16 hours after the alleged incident, correct?

17 A Yes, sir, being about five or six hours
18 afterwards.

19 Q Okay. Now, as far as in relation to Mr. Murray,
20 you testified that the interview actually occurred in the
21 parking lot of the Magistrate's office, correct?

22 A That's correct. We interviewed him at one point
23 and, you know, we spoke to him outside the vehicle, but it
24 all occurred in the parking lot of the Magistrate's
25 office.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q Now, you expressed a concern in this particular
2 case about people giving testimony that you felt that the
3 Magistrate's office was a safer place for that person to
4 engage in an interview?

5 A It was a place that he felt more comfortable in
6 speaking with me.

7 Q Okay. Why didn't you have the interview inside?

8 A Because we then told him we would meet him in
9 the parking lot. There's no specific reason why we didn't
10 go inside.

11 Q Now, your concern is to necessarily not conceal
12 the identity of any witness, but to protect the identity
13 of any witness. You there at the Magistrate's office,
14 that has several offices, and you choose to have the
15 interview in the open, in the parking lot?

16 A The point of the interview was not to conceal
17 the identity of any witness. The point of the interview
18 being held at the Magistrate's office was because that is
19 where he felt safe, was meeting us in a public place away
20 from his home.

21 Q But he would have felt safer at the Magistrate's
22 office if the interview had been conducted inside, outside
23 of the presence of people that traveled back -- or
24 traveled the road -- on that road, back and forth from
25 maybe to the detention center or what have you, correct?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A The location of the Allendale Magistrate's
2 office, I'm sure you are familiar, it's off the roadway.
3 It's not on the roadway. There is a small road that comes
4 back to the location where the Magistrate's office is
5 located.

6 If at any time he would have indicated to me
7 that he did not feel comfortable meeting in the parking lot,
8 or that he wanted to be inside, the interview would have
9 been conducted inside. He never indicated at any point that
10 he didn't feel safe at that location talking to me.

11 Q But, Agent Brown, we can agree that the
12 interview was conducted on the outside, not the inside,
13 correct?

14 A That is correct.

15 Q Now, you testified to -- well, let me ask you
16 this here before I get to that -- this other question.

17 How long did the interview last outside of
18 the Magistrate's office?

19 A It could have been no more than approximately 30
20 minutes. It did not take long at all.

21 Q Okay. And at this particular interview, again,
22 it was you, Detective Manor, and Agent Croft, correct?

23 A That's correct, sir.

24 Q Okay. Now, you testified to that you directed
25 the December 6th interview with some of your colleagues in

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Augusta, correct?

2 A Yes, sir, that's correct.

3 Q Okay. Did you -- when you was present on
4 December 7th outside of the Magistrate's office -- excuse
5 me, Your Honor -- outside of the Magistrate's office, did
6 you relate to Detective Manor that an interview had
7 already been conducted the prior day?

8 A I don't know. I cannot -- I do not know if I
9 related to Detective Manor that we had conducted.
10 Oftentimes, once we are requested to take over a case, I
11 use detectives, personnel from the local police department
12 to assist me with things.

13 At that point, it is my sole responsibility,
14 and I'm the lead investigator in the case. Oftentimes, I do
15 not share all the information that I know with the local
16 officers simply because they are not responsible for the
17 case.

18 So I may have told him that he was
19 interviewed, but I know I did not discuss with Detective
20 Manor the specifics of the interview that had been conducted
21 on December 6th, 2014 by other agents with my department,
22 with Brandon Lewis.

23 Q Now, you just stated previous to your answer
24 that you do not recall whether you told Detective Manor,
25 correct?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A I do know that I did not tell him the specifics
2 of the interview. I may have mentioned that he had been
3 interviewed, or that we sent people to do an interview
4 with him, but I know for a fact that I did not discuss the
5 contents of the interview with Detective Manor.

6 Q What would you have told Detective Manor if you
7 didn't discuss what occurred at that interview on
8 December 6th?

9 A If I didn't discuss the contents of the
10 interview, I may simply have just told him that we had
11 sent personnel over there. Or as again, I stated, I may
12 not have told him at all. Oftentimes I do not discuss the
13 contents of my investigation to the fullest with the
14 officers who assist me in my investigations.

15 Q Isn't it true that Detective Manor contacted you
16 and say Mr. -- that Mr. Lewis wanted to give another
17 interview?

18 A Yes, sir, he did.

19 Q Okay. So to give another interview, would it
20 seemed to indicate that Detective Manor knew about a first
21 interview, correct?

22 A Again, I stated he may have known about the
23 first interview, but I did not elaborate on the contents
24 or what information was derived in that first interview.
25 That interview was conducted by SLED agents, not local law.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 enforcement.

2 Q Would it be fair to say that if identification
3 was made on the December 6th interview, there would have
4 been no need for a December 7th interview?

5 A There may have been follow-up by myself. Again,
6 I'm solely responsible for the investigation.

7 I had some numbers from two people who spoke
8 with Brandon Lewis. Being solely responsible for the
9 investigation, I would have conducted a follow-up interview
10 with Brandon Lewis at some point because I was not the
11 person that spoke to him initially.

12 Q Now, back to Mr. Murray, you testified to --
13 that you, Detective Manor, and I think Agent -- was it
14 Croft or --

15 A Agent Croft, yes, sir.

16 Q Agent Croft went to Mr. Murray's residence,
17 correct?

18 A I believe at some point we made contact with
19 Mr. Murray. I do believe that we went by his residence to
20 try to locate him. At that time, again, he didn't want to
21 be interviewed. We didn't speak with him. We didn't ask
22 him any questions about anything that happened.

23 The only interview that was conducted by
24 myself with Jarrell Murray was the interview that was
25 conducted in the parking lot of the Allendale County

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Magistrate's office.

2 Q How long, when you went to his residence, did
3 you talk to him on the outside or on the inside?

4 A I believe it was on the outside.

5 Q Okay. And what transpired between you and the
6 other agents and Mr. Murray at the residence?

7 A The only thing we would have told him was that
8 basically we need you to come down, we want to talk to you
9 about an incident that occurred at Pinewood Apartments.
10 And that's all -- all that was said about it.

11 At that point, again, his demeanor, you know,
12 he was very sick, he was very scared. No questions were
13 asked, no information was given at that time.

14 Q Now, you approached Magistrates in Aiken County
15 and Allendale County to get various search warrants,
16 correct?

17 A Yes, sir, that's correct.

18 Q Okay. And you approach the Magistrate -- I
19 think it was Judge Insley, in Aiken County, of a search
20 warrant of the residence in which Mr. Flowers stayed in
21 North Augusta, correct?

22 A Yes, sir. That's correct.

23 Q Okay. And according to that search warrant, you
24 was looking, you got Judge Insley to approve, to look for
25 firearms?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A Yes, sir.

2 Q Ammunition?

3 A Yes, sir.

4 Q Any type of magazines with the firearms? And
5 any documents pertaining to the ownership of firearms,
6 correct?

7 A Yes, sir, that's correct.

8 Q Okay. And to the best of your knowledge, was
9 that search warrant executed?

10 A Yes, sir, it was.

11 Q All right. And is what was -- what were the
12 results of that search warrant?

13 A There were no items of evidentiary value removed
14 from the residence during that search warrant.

15 Q And also from your investigations up until that
16 particular time, you received information about some --
17 about particular clothing that Mr. Flowers may have had
18 on, on that particular evening, correct?

19 A Yes, sir, that's correct.

20 Q All right. And I think among the clothing that
21 he supposedly had on, on that particular evening, was a
22 sweater hat, a white thermal shirt, camouflage pants, and
23 a pair of Nike -- some -- I think a pair of white Nike Air
24 Jordans, correct?

25 A Yes, sir, that's correct.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q All right. And you secured a bench -- excuse me
2 -- a search warrant for Edith Bates' location in Allendale
3 County, correct?

4 A No. We did not secure a search warrant for
5 Edith Bates' location, she gave consent for us to search
6 the location.

7 Q You searched the location.

8 A Yes, sir, we did.

9 Q And when you went to search the location, you
10 was looking along with the previous items you were looking
11 for -- firearms, ammunition, magazines, and the documents
12 pertain to the ownership of the firearms -- you also was
13 looking for the sweater hat, the thermal shirt, the
14 camouflage pants, and the Nike -- the white air Nikes,
15 correct?

16 A Yes, sir, that's correct.

17 Q All right. And what was the results of that
18 search?

19 A There were no items of evidentiary value removed
20 from Edith Bates' house.

21 Q Okay. And nothing that connected Mr. Flowers to
22 the crime at that point, correct?

23 A No, sir.

24 Q Okay. Now, you received another search warrant
25 based upon your development of the case for the 1999-

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Oldsmobile Alero, correct?

2 A Yes, sir, that's correct.

3 Q Okay. And now, when did -- is it not true that
4 you secured that bench warrant on December 8th?

5 A That is correct, sir.

6 Q Okay. Do you recall what time that you secured
7 that bench warrant?

8 A Before the vehicle was searched, before the
9 vehicle was towed, again, I explained, we were actually in
10 North Augusta conducting the search warrant that he
11 referred to as Laparis Flowers' location -- or home, or
12 residence.

13 Myself and Special Agent Jeff Croft was on
14 our way back from North Augusta, which is approximately an
15 hour and 15 minutes. At that point, we were contacted by
16 the Allendale Police Department, who indicated that they had
17 located the 1999 Oldsmobile Alero we were looking for. That
18 vehicle was located at 376 Old Barnwell Highway, which is
19 the residence of Edith Bates.

20 At that point, we came back to Allendale,
21 secured a search warrant. The officers that were at the
22 location, at Edith Bates' home, I told them to ensure that
23 no one mess with the car, no one tamper with the car, no one
24 entered the car, that the car not be moved at that time.

25 They did that. The search warrant was

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 secured. I believe it was around 3:45 a.m. that morning
2 when the vehicle was towed. There was crime scene tape, was
3 previously been referred to as red tape, placed on the doors
4 of the vehicle. And that is to ensure that between the time
5 the vehicle was towed and located until the time that
6 Special Agent Nelson processed that vehicle, that that
7 vehicle was not tampered with, that no one entered that
8 vehicle.

9 Again, approximately 3:45 a.m. that morning,
10 that vehicle was towed by T&H Garage. It was towed to their
11 location, which is just outside, I believe, the city limits
12 right here on 301.

13 That vehicle was locked, it's secured inside
14 a storage facility until Special Agent Nelson came back to
15 Allendale on that next day, after I had contacted her, and
16 she processed the vehicle at that point.

17 Q Mr. Brown, so your testimony that the vehicle
18 was secured at 3:45 in the morning on December 7th -- on
19 December 8th, correct?

20 A Yes, sir, December 8th.

21 Q All right. It was secured 3:45 on December 8th.

22 A Approximately 3:45, sir.

23 Q This incident happened at about -- between about
24 3:15, 4 o'clock on December 6th, in the morning, correct?

25 A Yes, sir, that is correct.

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 Q All right. How -- okay.

2 So that is the elapse of how many hours
3 between December 6th at four in the morning, until
4 December 8th, 3:45 in the morning?

5 A That would be approximately 48 hours.

6 Q Okay. So within that 48 hours, the car was not
7 secured?

8 A Not to my knowledge.

9 Q Okay. Now -- now, from your investigation in
10 this particular case, did you come across knowledge that
11 during that particular time, someone else had driven the
12 car?

13 A Yes, we did.

14 Q Okay. All right. So within that 48-hour
15 period, at least one other person had driven the car,
16 according to your knowledge?

17 A Yes, sir.

18 Q It could have been more?

19 A Yes, sir. I only know of one person.

20 Q Okay. All right. You don't know who else
21 besides that one person could have gotten in the car,
22 correct?

23 A No, sir, I don't.

24 Q You don't know as far as who may have touched
25 the car?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A No, sir, I don't.

2 Q You don't know who may have touched the steering
3 wheel, who may have touched the gear shift, who may have
4 touched the panels in the car, who may have touched the
5 seats, who have may have touched the outside of the car.
6 You don't know.

7 A No, sir, I don't.

8 Q Because there was a period of 48 hours that the
9 car was unsecured, correct?

10 A That is correct, sir.

11 Q Now, back to the other witness, you spoke with
12 Ty Charlton in the hospital, correct?

13 A Yes, sir, I did.

14 Q All right. And I think you touched upon it, but
15 during the interview -- this was a videotaped interview,
16 correct?

17 A Yes, sir, that is correct.

18 Q Okay. That he could not remember how he got in
19 the car with Russell, correct?

20 A Yes. I believe he did state that, yes.

21 Q And he could not remember where he got in the
22 car with Russell?

23 A That is correct.

24 Q Okay. And you heard the testimony that in court
25 this week that he say he was drugged, correct?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A I believe he did say that he -- he was taking
2 medication. He was in the hospital then.

3 Q But he said on that statement he was "drugged."

4 A That was his terminology.

5 Q And it's during this time he made an
6 identification of Mr. Flowers?

7 A Yes, he did.

8 Again, I stated earlier, at any time that I
9 felt that Mr. Tyquan Charlton would have been under the
10 influence of any type of medication, narcotics, the
11 interview would have not been conducted.

12 That is why the interview was video and audio
13 taped, to show his demeanor and to show his condition at the
14 time of the interview.

15 At that time is when we proceeded along with
16 the interview, and he made photographic identification that
17 you have already seen.

18 Q Mr. Flowers was placed under arrest on
19 December 7th, correct?

20 A Yes, sir, that's correct.

21 Q Okay. He was placed under arrest at
22 approximately what time?

23 A It was sometime that evening. I believe it was
24 somewhere around 6:30 or so on December 7th.

25 Q Okay. December 7th. So we talking about maybe

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 a little more than 24 hours after the incident, correct?

2 A Yes, sir, that's correct.

3 Q Okay. At that particular time, other than you,
4 who else was there?

5 A It was myself, Detective Manor was there. I
6 believe that Officer Tyson was there, and there was, I
7 believe, one more of our agents there.

8 There were several people around just
9 conducting interviews at that time. This was only
10 approximately 24 hours after the incident.

11 Q Several people connected with this incident,
12 right?

13 A They were officers of Allendale Police
14 Department, and there were one or two of my personnel, or
15 my fellow agents, that were here also.

16 Q Okay. Now, out of those several people, could
17 someone have given -- well, let me ask you this here.

18 Was Laparis Flowers given a gunshot residue
19 kit?

20 A No, sir, he wasn't.

21 Q Okay. And isn't it true that there was people
22 there that could have given him a gunshot residue kit?

23 A The reason that Laparis Flowers was not given a
24 gunshot residue kit was that 24 hours had elapsed since
25 the initial incident had occurred. It is not standard

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 procedure that we give a GSR kit to someone after that
2 time frame has elapsed simply because they're going to
3 wash, they're going to change clothes, and oftentimes,
4 that evidence is not going to be there.

5 So, no, we did not give him a GSR kit,
6 conduct a GSR kit at that time because, again, 24 hours had
7 elapsed since the incident.

8 Q You took a GSR, a gunshot residue kit, from --
9 are you aware that they took a gunshot residue kit from
10 Brandon Lewis?

11 A Yes, sir, I am.

12 Q Okay. Did they take one from Ty Charlton?

13 A I do not know if they took one from Tyquan
14 Charlton.

15 Q Okay. Are you aware that they took a gunshot
16 residue kit of the hands of the deceased in this matter?

17 A Yes, sir. Brandon -- sorry, Russell Smart, yes,
18 sir.

19 Q Okay. And you saying that there wouldn't have
20 been a point to have taken it because 24 hours elapsed,
21 correct?

22 A I didn't say it wouldn't have been a point, I
23 said that was not our procedure. We do not collect GSR
24 kits approximately six -- a total of approximately six
25 hours. Anything above six hours after the incident, we do

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 not normally collect GSR kits from that person.

2 Again, this was over 24 hours after the
3 incident had occurred.

4 Q So you thinking it will be some type of
5 contamination or something that it --

6 A That is just our standard procedure. I can't
7 comment on contamination or why it's that way. That is
8 our procedure.

9 Q Okay. The vehicle, the 1999 Oldsmobile, it was
10 processed for gunshot residue, correct?

11 A That's correct, sir.

12 Q Now, you say that if it's been more than 24
13 hours, it's not really a need to do gunshot residue kit on
14 the hands, correct?

15 A That's correct. I didn't say it was a "need," I
16 said it's not our procedure to do that.

17 Q Okay. But you just testified you did get a
18 gunshot residue kit or kits on the vehicle that was
19 unsecured for 48 hours, twice as long as the 24, correct?

20 A That is correct. That is a procedure of our
21 crime scene unit.

22 Q Okay. And, again, not to belabor the point, as
23 far as with the vehicle, in that 48-hour period, you know
24 for a fact that at least one person had the car and drove
25 the car?

CROSS EXAMINATION OF CHARLES MATT BROWN BY MR. KOGER

1 A Yes, sir, I do.

2 Q For a fact?

3 A Yes, sir.

4 Q And that is part of your investigation?

5 A Yes, sir, it is.

6 Q But you don't know how many other people may
7 have gotten in the vehicle, correct?

8 A No, sir, I don't.

9 Q Okay. And you don't know what parts of the
10 vehicle was touched, correct?

11 A No, sir, I don't.

12 Q And you don't even know the people that may have
13 gotten in or out of the vehicle, who hands they shook,
14 correct?

15 A I do not.

16 Q Who they may have hugged, correct?

17 A I do not.

18 Q Because according to your training, gunshot
19 residue can be transferred, correct?

20 A It sure can.

21 MR. KOGER: Thank you. No further questions.

22 THE COURT: Redirect.

23 MS. LEGETTE: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. LEGETTE:

REDIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 Q Lieutenant Brown, as part of your investigation,
2 and to your knowledge, you knew that one person had -- one
3 other person had, I guess, moved that vehicle?

4 A Yes, ma'am, I do.

5 Q And as part of your investigation, did you also
6 note Laparis Flowers had that person move the vehicle?

7 A Yes, ma'am, I did.

8 MS. LEGETTE: Thank you. No further questions.

9 THE COURT: Recross limited to redirect.

10 MR. KOGER: No recross, Your Honor.

11 THE COURT: Lieutenant, if you will give my
12 exhibits for the court reporter, you may hand back to
13 her, and you may step down.

14 THE WITNESS: Yes, sir.

15 THE COURT: Madam Foreperson, ladies and
16 gentlemen of the jury, I'm going to take my one and
17 only mid-morning break at this point and let you
18 stretch your legs, use the restroom, get a little
19 exercise.

20 Please do not discuss the case. I will be back
21 with you just as soon as I can.

22 Thank you very much. You may retire to the jury
23 room.

24 (The Jury exits the courtroom at 11:35 a.m.)

25 (Whereupon, the court was in recess from 11:35

REDIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 a.m. to 11:52 a.m.)

2 THE COURT: All right. State ready to proceed?

3 MS. LEGETTE: Yes, Your Honor.

4 THE COURT: Is the Defendant ready to proceed?

5 MR. KOGER: Yes, Your Honor.

6 THE COURT: Now, I notice all kinds of people in
7 the courtroom, so let's remind them of my previous
8 order of sequestration.

9 Turn around, too, Mr. Koger. I want to make
10 sure that both of you are in compliance with my
11 order. If you are not sure, you go ask.

12 MS. LEGETTE: We are okay.

13 MR. KOGER: We in compliance, Your Honor.

14 THE COURT: The State satisfied you are in
15 compliance?

16 MS. LEGETTE: The State is satisfied,
17 Your Honor.

18 THE COURT: Is the Defendant satisfied you are
19 in compliance?

20 MR. KOGER: Yes, Your Honor.

21 THE COURT: Very well. Bring us the jury,
22 Mr. Freddy.

23 (The Jury enters the courtroom at 11:52 a.m.)

24 THE COURT: Madam Foreperson, ladies and
25 gentlemen of the jury, we will now continue with

REDIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 testimony in the trial of this case.

2 Solicitor, call your next witness.

3 MR. HOLLEN: Agent Tyler Sturkie.

4 Thereupon,

5 TYLER STURKIE

6 was called as a witness, having been first duly sworn,

7 was examined and testified as follows:

8 THE COURT: Have a seat in the witness stand,

9 Mr. Sturkie. Make yourself comfortable. Adjust the
10 chair and adjust the microphone.

11 Mr. Sturkie, you ever testified in Allendale
12 before?

13 THE WITNESS: No, sir. It's the first time.

14 THE COURT: Didn't think so. Can you see those
15 ceilings up there?

16 THE WITNESS: I do.

17 THE COURT: They're beautiful. They're probably
18 35, 40 feet high. And what it does, it just sucks
19 the sound straight up. So you got to speak up, like
20 I'm doing right now. I've been trying to educate
21 every witness in this case. My lawyers are the worst
22 because they like to look down here and go
23 (demonstrating). And I'm thinking with the heads up,
24 look at you and speak because the court reporter has
25 to take down. If she can't hear, she can't do her

REDIRECT EXAMINATION OF CHARLES MATT BROWN BY MS. LEGETTE

1 job.

2 THE WITNESS: I understand.

3 THE COURT: We want the jury to be able to hear,
4 including that sweet lady has to stick her head all
5 the way to the side every time somebody walks up to
6 the witness stand. And that nice lady down there on
7 the end, she's got to be able to hear as well.

8 So I want you to speak up, just like I'm talking
9 right now. And I want the lawyer to do that, no
10 mumbling.

11 I want you to begin by stating your full name
12 and spelling your last name for the court reporter.

13 THE WITNESS: Yes, sir. My name is Tyler
14 Sturkie, S-T-U-R-K-I-E.

15 THE COURT: Can everybody hear Mr. Sturkie?

16 (Indicates.)

17 THE COURT: All right, Mr. Sturkie. Your
18 witness, Counsel. Direct examination.

19 MR. HOLLEN: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. HOLLEN:

22 Q Agent Sturkie, good morning. Who do you work
23 for?

24 A I work for the South Carolina Law Enforcement
25 Division.

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 Q Is that commonly referred to as SLED?

2 A It is, yes.

3 Q How long have you been with SLED?

4 A I have been with SLED, three and a half -- close
5 to four years.

6 Q And what are your duties? What department do
7 you currently work in at SLED?

8 A I am a forensic scientist in the forensics
9 laboratory, part of the trace evidence department.

10 Q And in trace evidence, what kind of testing do
11 you do?

12 A Trace evidence is a type of physical evidence at
13 the trace evidence lab at SLED. We analyze evidence such
14 as gunshot residue, fire debris, glass, paint, fibers,
15 explosives, and general unknowns.

16 Q Do you have any specific educational background
17 or training that you have had that assists you in your
18 job?

19 A I received a Bachelor of Science degree in
20 chemistry. When I began training with SLED, it was a year
21 long training program in the analysis of gunshot residue.

22 This training consisted of written and
23 practical examinations on the theory and practice of GSR. I
24 was assigned a training officer, in which I learned to work
25 a case from receiving evidence to generating a final report.

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 Also had outside training courses at the Hook
2 College of Applied Sciences, in courses titled, Gunshot
3 Residue Identification, Skimming Electron Microscopy, and
4 Advanced X-Ray Micro Analysis.

5 Q Have you ever testified in State court before?

6 A Yes, sir.

7 Q Have you ever been qualified as an expert in
8 trace evidence in State court?

9 A I have.

10 Q How many times?

11 A Fifteen.

12 MR. HOLLEN: Your Honor, at this time, we would
13 offer Agent Sturkie as an expert in the area of trace
14 evidence, specifically gunshot residue.

15 THE COURT: Any objection to his qualifications?

16 MR. KOGER: No objection, Your Honor.

17 THE COURT: Ladies and gentlemen of the jury,
18 recalling my earlier instruction to you concerning
19 expert witnesses, the witness is qualified at trace
20 evidence, gunshot residue, without objection.

21 You may proceed, Counsel.

22 MR. HOLLEN: Thank you, Your Honor.

23 BY MR. HOLLEN:

24 Q Agent Sturkie, let's start at the beginning.

25 What is gunshot residue?

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 A Gunshot residue is supposedly burned and
2 unburned particles of the primer, the propellant, and the
3 projectile of a firearm that has been recently discharged.

4 When we are looking for these particles in
5 our analysis, we are looking specifically for particles that
6 are molten and round in shape, and they must contain the
7 elements of lead-bearing paint into them.

8 When we find a particle that meets these two
9 criteria, it is known to have come from a discharged
10 firearm.

11 Q Okay. And how is gunshot residue collected?

12 A The collecting officer would use a, what we call
13 a particle lift. If you can imagine a roofing nail that
14 has a larger head with a smaller stem, on top of that
15 lift, has a carbon -- double-sided carbon sticky tab, like
16 tape. And the officer has four lifts in this GSR kit.

17 And each lift is labeled, right hand -- or
18 actually right palm, right back, left palm, left back for
19 the designated areas of the points. The officer then
20 collects those designated areas, and submits them to the
21 SLED lab for analysis.

22 I will then receive it and do my analysis
23 through skimming electron microscopy and advanced x-ray
24 micro analysis to get results.

25 Q So basically what you are saying is each gunshot

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 residue kit contains four -- what do they call it, tabs?

2 A Typically they will contain four tabs, four
3 particle lifts.

4 Q And those are left palm, left back, right palm,
5 right back?

6 A That is correct.

7 Q Is that because most GSR testing is done on
8 hands; is that correct?

9 A Typically most GSR testing is done on hands.

10 Q How might someone get gunshot residue on their
11 hands?

12 A If I had a positive result for gunshot residue,
13 I can say one of three things, all for an individual: One
14 is that individual fired a weapon; two is that individual
15 was in the vicinity or the area when a weapon was fired;
16 or three, that individual touched an object that
17 previously had GSR on it.

18 I cannot definitively confirm one of those
19 three, all three are possibilities when gunshot residue is
20 found.

21 Q Does SLED have certain policies and procedures
22 about time periods for collecting GSR from different
23 items?

24 A We do. For living individuals, we have a
25 collection period of six hours. And this is from the time

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 of shooting to the time of collection.

2 If the time period exceeds six hours, we will
3 not analyze the GSR kit. The reason being is for a living
4 individual, there's physical activity done for that
5 individual. They can be moving their hands, wiping it.
6 They may wash their hands. They are rubbing it onto
7 clothes. And so beyond six hours is a threshold to where we
8 will not expect to find any gunshot residue. Therefore, we
9 don't even apply kits beyond six hours.

10 Q What about -- and that's for GSR, you said, for
11 a living individual, correct?

12 A Yes, sir.

13 Q What about for gunshot residue collected off of
14 a deceased individual?

15 A For deceased individuals, we do not have a time
16 frame. Their bodily functions have ceased, so they are
17 not actively sweating or actively moving their hands.

18 There's still that potential for an outside
19 source to remove any particle that may be present, but for a
20 deceased individual, because they cannot themselves remove
21 any particles that would be there, there is no time frame.

22 Q What about for inanimate objects, something such
23 as a car?

24 A Inanimate objects, we typically get clothing or
25 vehicle kits. We do not have a time frame for them as

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 well, the reason being is because there are no active
2 sources of these objects removing anything that may be
3 there present.

4 There's still the opportunity for outside
5 sources, environmental, such as wind or rain, washing of
6 clothes or a vehicle, or wiping down.

7 To have a visual of gunshot residue, imagine
8 baking flour in a kitchen. You have it on your hands when
9 you are working with something, then you go to pick up a
10 cup, take a sip of water. You put that the cup down, your
11 cup now has baking flour on the cup that came from your
12 hand.

13 So you have flour that has been removed from
14 your hand to the cup. The more you do this, the more that's
15 going to be removed from your hand. If you go to wash your
16 hands, you can potentially remove all of the baking flour.
17 It's the same concept for GSR.

18 GSR is very fragile. So many types of
19 factors, such as wind or rain or washing, has the potential
20 to remove what may have been there to begin with.

21 Q Are there certain surfaces that GSR is more
22 likely to be found in or stick to? For instance, is a
23 porous surface more likely to retain GSR than a smooth
24 surface?

25 A If you have a porous surface -- gunshot residue

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 particles are extremely, extremely small. Probably we
2 would have one to ten micro meters in size. To give you
3 another visual of that, if you take a football field and
4 you drop a tee in the football field, try to imagine
5 finding the tee in the football field. That is how tiny
6 these particles can be.

7 We can't see them with the naked eye. It's
8 like seeing an electron with a microscope to see these
9 particles.

10 In porous type materials these particles can
11 get dug in and mixed within the material itself and not just
12 settle upon the surface.

13 So, therefore, a porous surface is more
14 likely to hold in particles, dirt, anything you can imagine.
15 More likely than a smoother surface.

16 Q And you said we are dealing with microscopic
17 particles, correct?

18 A Yes, sir.

19 Q So is there a difference in determining gunshot
20 residue -- in your determinations that you make, is there
21 a difference between finding a single particle and
22 multiple particles? Are those classified differently as
23 far as GSR?

24 A When we find GSR, we have a positive result of
25 GSR is found, or gunshot residue. In our results we will,

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 if we find only one particle, we will say just that in our
2 report, that one particle of GSR was found.

3 When we have two or more we will use the
4 wording of "particles of the GSR were found."

5 That could mean I found two. It could mean I
6 found 200. That data would be in my notes specifically, but
7 for the report itself, if I find two or more, I will just
8 say, "Particles of GSR were found."

9 Q Okay. So one particle, you said, is -- the
10 classification is a particle consistent with GSR; is that
11 how you refer to it?

12 A If I found a particle of GSR that meets the
13 criteria of its shape and elemental composition, then I
14 would say, "One particle of GSR was found."

15 Q Okay. Were you given some items to examine in
16 this case?

17 A Yes, sir, I was.

18 Q I am going to hand you, in just a second, items
19 that have been marked and already admitted into this case
20 as State's Exhibits 61, 64, and 65, and ask if you
21 recognize them. Take these from me. Okay?

22 MR. HOLLEN: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 MR. HOLLEN: Take a look at those, Agent

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 Sturkie, please.

2 A I do recognize these items of evidence.

3 BY MR. HOLLEN:

4 Q And were those items that you received for
5 testing in this case?

6 A Yes, sir, they were.

7 Q When you received those items, what condition
8 would they have been in?

9 A These items would have been in a sealed
10 condition. No tampering was present in order for me to
11 begin my analysis on these items.

12 Q And when you received those, did you
13 subsequently open them and perform any analysis?

14 A Yes, sir, I did. With these particular ones,
15 I -- each kit contained four particle lifts each, and I
16 would have analyzed all four particle lifts.

17 Q So you would have analyzed four individual tabs,
18 or swabs, or whatever, inside each of those packages?

19 A Yes, sir.

20 Q Okay. Let's start, if you don't mind, with
21 item -- State's Exhibit 61. Can you describe for us what
22 that kit contains?

23 A State's Exhibit 61 is my -- our Number 14 for
24 the lab Number L1415264. And Item 14 is one GSR kit from
25 Russell Smart.

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 Q Did you perform any testing on that GSR kit?

2 A Yes, sir, I did.

3 Q And what were your results after testing that
4 GSR kit?

5 A The results for one GSR kit from Russell Smart
6 were no particles characteristic of gunshot primer residue
7 detected.

8 Q All right. What about State's Item 64?

9 A State's Item Number 64 is my Item Number 17, and
10 Item Number 17 is one GSR kit from a 1999 Oldsmobile
11 Alero.

12 And to back up, with the first item I listed
13 in the GSR kit from Russell Smart, it contained four
14 particle lifts: Right palm, right back, left palm, left
15 back. I analyzed all four of those.

16 In my results, I combined all four of the
17 particle lifts to include as one result for Russell Smart.
18 We do this because we can't identify whether or not, if GSR
19 were found on the right palm versus the left back of an
20 individual, we can't dictate how those got there.

21 So to make it easier for a viewpoint, we
22 would analyze all four, and then just submit as a result for
23 one entire kit.

24 Q So let me stop you real quick. For lack of a
25 better term, any of the four tabs showing a positive

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 result for GSR would just be included as a positive result
2 for GSR on Russell Smart?

3 A That is correct. If the right palm had one
4 particle of gunshot residue, then his result would be one
5 particle of gunshot residue found, even though the other
6 three lifts may be negative.

7 Q So all four lifts were negative for Russell
8 Smart?

9 A That is correct.

10 Q Go ahead. I'm sorry.

11 A For the Oldsmobile, Item Number 17, it also
12 contained four particle lifts. And each of these particle
13 lifts were taken from different areas of this vehicle.

14 Q I tell you what, Agent Sturkie. Before you
15 start on --

16 THE COURT: Hold on one second. I understand
17 you got a SLED number. But refer to the Exhibit
18 Number for the record, so it's clear what you are
19 talking about.

20 THE WITNESS: Yes, sir. I understand.

21 BY MR. HOLLEN:

22 Q Before you do that, items -- I asked you about
23 64. As 65, what do you have as State's Exhibit 65?

24 A State's Exhibit 65 is also one GSR kit from a
25 1999 Oldsmobile Alero.

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 Q So both of those kits, each containing four
2 lifts, are from the Oldsmobile Alero?

3 A That is correct.

4 Q And those would have been collected by Special
5 Agent Haley Qualm -- or Haley Nelson? Excuse me.

6 A Yes, sir.

7 Q Okay. Go ahead, if you don't mind, and describe
8 your findings as far as the Oldsmobile Alero, please.

9 A Okay. One of the particle lifts were labeled
10 "from the exterior door panel, near window of front driver
11 side. The results for this were no primer gunshot residue
12 found."

13 Item 17.2, which would be underneath State's
14 Exhibit 64, it is "particle lift collected from exterior and
15 interior, near top of the window, up front driver's side.
16 The results were no primer of gunshot residue found."

17 From the particle lift collected from the
18 steering wheel, "particles of gunshot residue and one
19 particle associated with gunshot residue were found."

20 From particle lift collected from the
21 interior quarter panel near window of the front driver's
22 side, "one particle of gunshot residue was found."

23 For the particle lift collected from the rear
24 driver's side window, rear quarter panel, "no primer gunshot
25 residue found."

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 From the particle lift collected from
2 exterior window of the rear driver's door, "particles of
3 gunshot residue were found."

4 From the particle lift collected from rear
5 driver's door under window, "particles of gunshot residue
6 were found."

7 And finally, "from the particle lift
8 collected from gear shift, there were particles of gunshot
9 residue found."

10 Q Yeah. Now, you stated earlier that gunshot
11 residue can be transferred; is that right?

12 A Yes, sir.

13 Q So you don't have any information about how the
14 gunshot residue got -- that you found on those items,
15 those places in the Alero, you don't know how they got
16 there, do you?

17 A Correct, I do not. With the individual, I
18 stated the three possibilities of how gunshot residue can
19 be found. For an inanimate object, such as this vehicle,
20 only two of those three: Either it was in the vicinity
21 when a firearm was discharged, or somebody touched those
22 particular areas, or something touched those areas that
23 had GSR on them.

24 Q You stated earlier that different surfaces
25 retain gunshot residue in different ways; is that right?

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 A Typically, yes.

2 Q So if a smooth surface, such as a steering wheel
3 made of maybe leather or plastic, is wiped down, can you
4 remove gunshot residue?

5 A If any surface is wiped down, you have that
6 potential to remove gunshot residue. The smoother the
7 surface, the more likely you can remove particles such as,
8 say, if this banister here had dust and you wiped it down
9 you can remove potentially a lot of dust; whereas, if I
10 have dust on this shirt that's made of cloth, you know, I
11 may not remove as many dust particles, as a visual.

12 It is still possible to remove all of the
13 dust; however, with a smoother surface, it doesn't have as
14 much to hold onto or to get inside as a cloth shirt would.

15 Q Okay. In this case, were you given a gunshot
16 residue kit to test from a person named Brandon Lawrence
17 Lewis?

18 A I was, yes.

19 Q And did you perform any testing on that gunshot
20 residue kit?

21 A I did not perform any gunshot residue analysis
22 on the kit from Brandon Lewis. The reason being is
23 because after further analysis of the kit itself it was
24 determined that the collection was taken beyond the
25 six-hour window. So, therefore, per our protocol, we do

DIRECT EXAMINATION OF TYLER STURKIE BY MR. HOLLEN

1 not analyze these kits.

2 Q So if you were given a gunshot residue kit from
3 somebody that was taken 24 hours after an incident, would
4 you have tested it?

5 A No, sir, we would not have.

6 Q There's no circumstance under which you would
7 have tested it?

8 A No, sir.

9 Q All right.

10 MR. HOLLEN: I don't have any further questions
11 for you, Agent Sturkie. Please answer anything
12 Mr. Koger has.

13 THE WITNESS: Yes, sir.

14 CROSS EXAMINATION

15 BY MR. KOGER:

16 Q Mr. Sturkie, how you doing today?

17 A Good, sir. How are you?

18 Q I'm doing well. Thank you.

19 Mr. Sturkie, you, in the standard results
20 language on the SLED report, there's a mentioning that,
21 "no information can be provided as to the time frame in
22 which these particles were deposited."

23 Can you elaborate on that phrase for the
24 jury?

25 A Yes, sir. May I ask to which one specifically

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 you are referring to?

2 Q Well, I'm referring to -- and I want to get it
3 right with the court exhibits.

4 A Okay.

5 Q Item 17.3, the steering wheel.

6 A Yes, sir. Underneath State's Exhibit 64.

7 Q Sixty-four. Okay.

8 A Yes, sir.

9 Q As far as with the results, you mentioned that
10 there was particles of residue found on the steering
11 wheel. However, in the results there is a phrase at the
12 end, "However, no information can be provided as to the
13 timeframe in which these particles were deposited."

14 Q So basically you cannot say whether these
15 particles was deposited on December 6th, 2014, correct?

16 A Correct.

17 Q You can't say whether these particles was
18 deposited on December 7th, 2014?

19 A Correct. There's no date in which I can place
20 the time of which these particles were placed onto this
21 particular area.

22 Q There's a possibility these particles could have
23 been deposited December 5th of 2014, correct?

24 A That is correct. Any time before the -- any
25 date before the time of collection, yes.

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 Q Okay. Now -- now, you stated on that same -- as
2 we talk about transfer -- well, let's stick with Item
3 17.3, and that was Court Exhibit 65, I think.

4 You say that in the results, that it can
5 come from either being in the vicinity, from actually
6 firing a firearm, which is not applicable here, because it
7 was collected from the car --

8 A Correct.

9 Q -- being in the vicinity of a firearm, correct?

10 A Yes, sir.

11 Q Or touching the surface, come in contact with a
12 surface that had gunshot residue on it.

13 A Correct.

14 MR. KOGER: Your Honor, may I approach?

15 THE COURT: You may.

16 BY MR. KOGER:

17 Q If I shake your hand, can gunshot residue be
18 transferred?

19 A If one of us had it to begin with, it could.

20 Q Okay. If I hug you -- I'm not going to do it --
21 can clothing transfer gunshot residue?

22 A It can, yes, sir.

23 Q Okay. So someone that may have received or have
24 transferred residue, it could be transferred to this item
25 that was tested here, correct?

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 A It could have, yes.

2 Q Okay. All right. And then there was also a
3 result -- "a particle lifted from the interior quarter
4 panel near window of the front driver's side."

5 A Yes, sir.

6 Q Okay. And that was Item 17.4?

7 A Correct.

8 Q Okay. And, again, someone that had gunshot
9 residue on their hand or clothing, it could be
10 transferred, correct?

11 A Yes, sir.

12 Q Okay. As far as with the next one, the next one
13 that was tested, Item 18.1.

14 THE COURT: Now, hold on.

15 BY MR. KOGER:

16 Q Excuse me, 18.2.

17 THE COURT: It has got to be clear for the
18 record. You are using SLED item numbers, and we've
19 got exhibit numbers.

20 MR. KOGER: Okay. I'm sorry.

21 THE COURT: Identify exhibit number for the
22 record, not the SLED number. He can correlate what
23 the SLED number is from the exhibit number.

24 BY MR. KOGER:

25 Q Okay. Mr. Sturkie, can you identify the exhibit

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 number for SLED Number 18.2?

2 A State's Exhibit 65.

3 Q State's Exhibit 65. And that is a particle that
4 was lifted from the exterior window of the rear driver's
5 door, correct?

6 A Correct.

7 Q Okay. If someone had transferred residue on
8 their hand when they touched that item, could a residue be
9 transferred?

10 A It could, yes.

11 Q Okay. All right. And as far as with item
12 eight -- what is Item 18.3, as far as in relation to the
13 court exhibit number?

14 A State's Exhibit 65 as well.

15 Q Okay. State Exhibit 65 as well?

16 A Yes, sir. State's Exhibit 65 contains the four
17 particle lifts that we have been discussing so far.

18 Q Okay. Again, if someone had gunshot residue on
19 their hands or clothing, it could be transferred to that
20 particular area, correct?

21 A Yes, sir.

22 Q Okay. And finally, what is Item 18.4, the court
23 exhibit number?

24 A State's Exhibit 65.

25 Q Okay. Also, State Exhibit 65, on the gear

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 shift. If someone had gunshot residue on their hand or
2 clothing, it could be transferred to that item as well?

3 A Yes, sir, it could.

4 Q Okay. All right. So you have -- you cannot
5 testify to when these particles are -- were deposited.

6 A That is correct, I cannot.

7 Q It could have been before the incident, and it
8 could have been after the day of the incident, correct?

9 A Any time before the time of collection. So,
10 yes, that is true.

11 Q Okay. And if this car was left unsecured for 48
12 hours, could that have some type of effect on the results,
13 as far as the findings for, this particular car?

14 A If gunshot residue had been there prior to this
15 timeframe, unless some outside source or environmental
16 factor removed any GSR, then the GSR would have been
17 present.

18 Q How about if a person had gunshot residue on
19 their -- or came in contact with a person who had gunshot
20 residue, could they have transferred gunshot residue in
21 this car?

22 A They could have transferred. The more transfer
23 you have, the less likely you are to remove or transfer
24 any particles, just because as over time the more
25 particles, theoretically, you are not able to transfer

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 because you don't have them.

2 Q But it's possible?

3 A But it is possible, yes.

4 Q It's possible. And there could be an increase
5 in the likelihood if more than one person within this 48
6 hours were back and forth in the car, correct?

7 A I'm not sure I understand that question.

8 Q I withdraw the question.

9 Now, when you mentioned -- you mentioned
10 outside sources, and you label environmental sources, but
11 a person can be an outside source if they had gunshot
12 residue on them, correct?

13 A Source for?

14 Q As far as the transferring gunshot residue?

15 A If that individual had gunshot residue, they
16 could be a source to transfer to whatever object they
17 would touch.

18 Q And your testimony, according to your testimony,
19 a person can receive gunshot residue from shaking another
20 person's hand?

21 A If that person had gunshot residue on them, yes.

22 Q Okay. From hugging another person?

23 A Again, as long as they had gunshot residue, yes.

24 Q Okay. And you can't make any type of
25 determination when this residue was placed -- when this

CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 residue were deposited in this car?

2 A No, sir, I can't.

3 MR. KOGER: Thank you. No further questions.

4 THE COURT: Redirect.

5 MR. HOLLEN: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. HOLLEN:

8 Q Agent Sturkie, that sentence that Mr. Koger
9 mentioned to you, "however, no information can be provided
10 as to the timeframe in which these particles were
11 deposited," is that just in this report, or is that
12 standard language in the reports?

13 A That is standard language in all reports for an
14 inanimate object that is positive for gunshot residue.

15 MR. HOLLEN: Okay. The Court's indulgence,
16 Your Honor.

17 (Pause.)

18 MR. HOLLEN: Thank you, Agent Sturkie.

19 THE COURT: Recross limited to Redirect.

20 RE-CROSS EXAMINATION

21 BY MR. KOGER:

22 Q Agent Sturkie, that is a true fact that you
23 cannot tell whether -- what time frame these particles
24 were deposited, correct?

25 A That is true.

RE-CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 MR. KOGER: Thank you.

2 THE COURT: As to this witness, Solicitor?

3 MR. HOLLEN: I'd ask that he be excused,

4 Your Honor.

5 THE COURT: Any objection, Mr. Koger?

6 MR. KOGER: No objections, Your Honor.

7 THE COURT: Mr. Sturkie, you may step down from

8 the witness stand. You are excused from the trial of

9 this case. You may leave the courtroom.

10 Call your next witness.

11 MS. LEGETTE: State calls Paul Meeh.

12 THE COURT: Leave my exhibits here. You take
13 your file, Mr. Sturkie, but you leave me my exhibits.

14 THE WITNESS: Okay.

15 THE COURT: Come on in, be sworn by the clerk.

16 Thereupon,

17 PAUL MEEH

18 was called as a witness, having been first duly sworn,

19 was examined and testified as follows:

20 THE COURT: Have a seat, Mr. Meeh. Have you
21 ever testified in Allendale before?

22 THE WITNESS: I have not. It is beautiful
23 though.

24 THE COURT: Well, the problem is, it's
25 beautiful, but it has a problem with sound. It goes

RE-CROSS EXAMINATION OF TYLER STURKIE BY MR. KOGER

1 straight up to the ceiling. You see these blue
2 panels all the way around?

3 THE WITNESS: Yes, sir.

4 THE COURT: Those are acoustic panels, supposed
5 to solve the problem. It doesn't do anything but
6 compound it really. I never have figured out -- that
7 was the architect's idea trying to solve it.

8 So you need to talk like I'm talking right now.

9 THE WITNESS: Yes, sir.

10 THE COURT: The jury needs to be able to hear
11 you. My court reporter needs to be able to hear you.
12 The lawyers and parties need to be able to hear you.

13 Would you begin by stating your full name and
14 spelling your last name?

15 THE WITNESS: My name is Paul Meeh. It's
16 M-E-E-H.

17 THE COURT: Very good. Your witness, Counsel.
18 Direct examination.

19 MS. LEGETTE: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. LEGETTE:

22 Q Good morning -- or good afternoon, Mr. Meeh.

23 A Good afternoon.

24 Q Mr. Meeh, where do you work?

25 A I work at SLED in Columbia.

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 Q And what is your job at SLED in Columbia?

2 A I'm a forensic scientist in the DNA department.

3 Q And what are your duties as a forensic scientist
4 in the DNA department?

5 A Well, I do two things. So I try to determine to
6 whom things belong, which is through DNA profiling, and I
7 say how sure I am. Those are the two aspects of my job,
8 to say how sure that matches someone.

9 Q Okay. Tell us about your education, background,
10 and training as it relates to being a forensic analyst at
11 SLED.

12 A I got my bachelor's in 2001 from the University
13 of South Carolina. I got my master's in 2003, also from
14 the University of South Carolina.

15 I did three years of Ph.D. work, but,
16 however, I did not complete it. I was at the Medical
17 University of South Carolina, but I was hired away by SLED
18 prior to completing.

19 And then I did a year of training also after
20 being hired by SLED. I did a year of training under a
21 qualified analyst. And then I did supervised casework for
22 approximately six months.

23 Q Have you ever been qualified as an expert in the
24 area of forensic DNA?

25 A Yes, I have.

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 Q How many times?

2 A Approximately 30.

3 Q Have you ever testified in court?

4 A Yes, I have.

5 MS. LEGETTE: At this time, Your Honor, I would
6 offer Mr. Paul Meeh as a --

7 THE COURT: Mr. Meeh.

8 MS. LEGETTE: Mr. Meeh as an expert in the areas
9 of forensic DNA analysis.

10 THE COURT: Any objection to the qualification?

11 MR. KOGER: No objection, Your Honor.

12 THE COURT: Ladies and gentlemen of the jury,
13 recalling my earlier instruction to you concerning
14 expert testimony, the witness is qualified without
15 objection.

16 You may proceed, Solicitor.

17 MS. LEGETTE: Thank you, Your Honor.

18 BY MS. LEGETTE:

19 Q Mr. Meeh, what is DNA?

20 A DNA is the blueprint to your body. It's inside
21 each and every one of your cells. You get half of it from
22 your mother, and half of it from your father.

23 It is the way your body tells itself how to
24 make proteins and how to build you.

25 Q How is DNA used for forensic purposes?

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 A Well, we just test small areas of it. We test
2 it for sizes in many different areas, and how large those
3 are. And it creates a fingerprint that is -- for each
4 person, each individual -- I mean, identical twins do have
5 the same DNA obviously. But each person has an individual
6 DNA profile that is unlike anyone else's.

7 Q What type of DNA analysis do you perform at
8 SLED?

9 A We perform short, standard repeat DNA analysis.
10 So we don't seek what's the entire genome, we only use
11 those little parts I was referring to.

12 Q From what type of bodily fluids or tissues can
13 human DNA be obtained?

14 A Any tissue except for red blood cells. Your
15 blood is made up of red blood cells and white blood cells.
16 You only see the red more than you see the white because
17 the white blood cells are microscopic. But any cell other
18 than that, cheek cells, skin cells, anything.

19 Q What is touch DNA?

20 A Touch DNA is a little bit finicky. So that's
21 just if you are handling a pen. Let's say that somebody
22 wiped down a pen and made it completely clean, and someone
23 handed it to you, and you were to leave at least some skin
24 cells on it, maybe not many. It could be 20 or 30. But I
25 can still test that, it's just not as good as a body fluid

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 like blood or saliva.

2 Q So is it difficult to find touch DNA on an
3 object?

4 A It is. It's hit or miss. It's sort of luck.

5 Q Now, did you have occasion to examine items
6 before court today?

7 A I did.

8 Q What items of evidence were you able to examine?

9 A My item numbers. -- would you like me to describe
10 them or just state my item numbers?

11 Q You can tell me your item numbers and describe
12 them.

13 A Okay. I was asked to -- a couple of standards,
14 DNA standards, which is something like -- that is known
15 from you, that is compared to evidence or known from the
16 person of interest in this case. So Item 5 is a buccal
17 swab from Brandon Lewis.

18 Item 60.1 was a dried blood standard from
19 Russell Smart. Item 1 was a swab from a cell phone. Item 2
20 was a swab from a rear middle seat cushion area.

21 Item 3 was a swab from the front driver's
22 seat area. Item 4 was a swab from a front passenger's seat
23 area. And Item 10.1 was a swab from the entire exterior
24 surface of a cartridge case with a head stamp, "WIN .9
25 millimeter Luger."

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 And I also examined, the last one is Item 71,
2 which was a buccal swab from a Tyquan -- excuse the
3 pronunciation -- Charlton.

4 Q Thank you. What was the condition of the items
5 of evidence that you received at SLED?

6 A Well, they would be in a heat sealed pouch, so I
7 could tell that they wouldn't have been tampered with.
8 They come to me, they come through our evidence receiving
9 department, and they work their way down to storage, and I
10 go retrieve them from evidence storage, just make sure
11 that they're sealed up so that no one's tampered with
12 them. They were all in good condition.

13 Q And had there been an issue with the actual
14 condition of the evidence, would you have noted it or not
15 tested the items?

16 A I would not have tested the items, and I would
17 have gone to my superior with that information.

18 Q Okay. I'm going to hand you now what has been
19 marked as -- marked for identification as State's 66 and
20 State's 86. Please take a moment and tell me if you
21 recognize State's six --

22 THE COURT: Show them to counsel first.

23 BY MS. LEGETTE:

24 Q I want to hand you now what's been previously
25 marked for identification as State's 66 and State's 86. I

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 want you to take a moment and tell me if you recognize
2 State's 86 and 66.

3 MS. LEGETTE: May I approach?

4 THE COURT: You may.

5 A Yes. I recognized them immediately.

6 BY MS. LEGETTE:

7 Q And what are State's 86 and 66?

8 A State's 66 is my Item 60.1, which is the dried
9 blood standard from Russell Smart.

10 State's 86 is my Item 71, which is the buccal
11 swab from Tyquan Charlton.

12 Q And are State's 86 and 66 in substantially the
13 same condition today as when you last saw them?

14 A Yes, they are. You can tell by -- you can see
15 where I resealed them. I have a green marker in line. It
16 just so happens that those are my initials and the date.
17 It's what I do. And when it comes to me I make sure this
18 is sealed at the top. Then I cut it down the side, do my
19 testing, reseal it, initial and date it.

20 And, yes, they're in good condition.

21 Q And have they been changed or altered in any
22 way?

23 A They do not appear to be.

24 MS. LEGETTE: At this time, Your Honor, I would
25 offer State's 66 and 86 for admission into evidence.

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 THE COURT: As to State's 66 and 86, Counsel?

2 MR. KOGER: No objection, Your Honor.

3 THE COURT: Ladies and gentlemen of the jury,
4 State's Exhibits 66 and 86 will be admitted into
5 evidence in the trial of this case, without
6 objection.

7 *(Whereupon, State's Exhibit No(s). 66 marked for*
8 *identification and received in evidence.)*

9 *(Whereupon, State's Exhibit No(s). 86 marked for*
10 *identification and received in evidence.)*

11 THE COURT: In evidence. You may publish,
12 Solicitor.

13 MS. LEGETTE: Thank you, Your Honor.

14 BY MS. LEGETTE:

15 Q Mr. Meeh, I want to hand you in a moment what
16 has been previously marked for identification and entered
17 into evidence as State's Number 69 and State's Number 68,
18 which is an outer carton for State's 68.1, 68.2, 68.3, and
19 68.4. Please take a moment and tell me if you recognize
20 these items.

21 MS. LEGETTE: May I approach, Your Honor?

22 THE COURT: You may.

23 A Yes, I do recognize all of the these items.

24 BY MS. LEGETTE:

25 Q And what are State's 68.1, .2, .3, and .4?

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 A State's 68.1 is my Item 1, which is a swab from
2 a cell phone; 68.2 is my Item 2, which is a swab from the
3 rear middle seat cushion area; 68.3 is my Item 3, which is
4 a swab from the front driver's seat area; 68.4 is my Item
5 4, which is a swab from the front passenger's seat area.

6 Q And what is State's Exhibit No. 69?

7 A This is going to take a moment. I'm sorry.

8 Oh, it is my Item 10.1, which is a swab from
9 the entire exterior surface of a cartridge case, head
10 stamped "WIN. .9 millimeter Luger."

11 Q Okay. Now, once you examined all these items,
12 were you able to come up with a result from your analysis?

13 A Yes, I was.

14 Q What was the result of your analysis?

15 A Would you like me to list the results for each
16 item or for --

17 Q Well, let's start, I suppose, with Item Number
18 60.1, which is the, I believe, dried blood standard from
19 Russell Smart.

20 A I compared that to all the items in the case. I
21 compared it to Items 1, 2, 3, 4, and 10.1.

22 Items 1 and 3 matched the DNA profile of
23 Russell Smart.

24 Q And what are Items 1 and -- so have
25 continuity -- what are items -- what are your Items 1 and

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 3 that matched Russell Smart's DNA?

2 A That was the swab from the cell phone and the
3 swab from the front driver's seat area.

4 Q And was there any indication on the swab from
5 the front driver's seat area as to what that was
6 potentially?

7 A It was blood, it was submitted as blood.

8 Q All right. And now, as it relates to Russell
9 Smart, was there anything else that matched Russell Smart?

10 A Yes. Items 1 and 3 matched the DNA profile of
11 Russell Smart. The probability of randomly selecting an
12 unrelated individual having a DNA profile matching these
13 items is approximately one in 370 quintillion.

14 Q Quintillion, how many zeroes?

15 A It's a match. It's a perfect match.

16 Q It's a match. All right.

17 And now, as it relates to Item Number 69 --
18 sorry, State's Exhibit 69.

19 A That was Item 10.1, my Item 10.1, which is the
20 swab from the entire exterior surface of the cartridge
21 case. No DNA profile was developed from that.

22 Q Okay. And as it relates to State's Exhibit
23 Number 86, which is your Item, I believe, 71, the buccal
24 swab of Tyquan Charlton.

25 A Yes. I compared that to Item 2, which was the