

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Roger M. Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALONZA DENNIS,

APPELLANT

APPELLATE CASE NO. 2011-192370

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON 2009 GS-10-8108
2009 GS-10-8112
2009 GS-10-8113

STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
 -VS-)
) March 14-16, 2011
 ALONZA DENNIS,)
) Charleston, South Carolina
 Defendant.)

B E F O R E:

The Honorable Roger M. Young, Sr., Judge, and a Jury.

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Circuit Court Reporter

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24					
25					

1 then I always like to let the jury select their own jury
2 foreperson, and it could be anybody except the two
3 alternates.

4 You don't get any extra pay. There is no
5 extra stress involved. You're just the person that
6 writes the verdict down at the end of the trial and you
7 conduct the deliberations, but it's really not that big
8 of a deal, but I like to see if you can work it out. If
9 not, I'll appoint somebody, but usually somebody gets
10 selected for that, and so just come back about 2:15, back
11 to the jury room, and spend a few minutes getting to know
12 each other and we'll get started, we should be, right
13 about 2:30. That way we can get all the witnesses lined
14 up and I can take care of the few preliminary matters
15 before that. Thank you for your patience, and we'll see
16 you back at 2:30.

17 (Jury recessed.)

18 THE COURT: What motions do you have?

19 MR. GRIMES: We have motion to suppress the
20 defendant's statements. I believe his direct testimony
21 would take about half an hour.

22 THE COURT: Okay. Why don't we do this:
23 Let's see. How about quarter to 2:00 and we'll do
24 motions at that time, all right?

25 MR. GRIMES: Thank you, Your Honor.

1 MS. SHEALY: I'm trying to think ahead as to
2 how many witnesses I may be able to get in today.

3 (Recess taken.)

4 (In open court, jury not present.)

5 MS. SHEALY: Judge, would you like for me to
6 go ahead and have marked as Court's exhibits the various
7 Miranda forms and statements before we get started?

8 THE COURT: Sure.

9 (Miranda forms marked for identification as
10 Court's Exhibit Nos. 1, 2, and 3.)

11 THE COURT: All right. You need a Jackson v.
12 Denno hearing?

13 MR. GRIMES: Yes, Your Honor.

14 THE COURT: All right. You got your witness
15 ready? Are you just calling him or you got officers?

16 MS. SHEALY: I got officers.

17 THE COURT: Okay.

18 MS. SHEALY: Albert Casale.

19 ALBERT CASALE,
20 having been first duly sworn,
21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. SHEALY:

24 Q. Detective Casale, could you inform the Court how
25 long you've been employed with the Charleston County

1 sheriff's office.

2 A. Approximately 24 years.

3 Q. And how long have you been in a detective
4 capacity?

5 A. Approximately six years.

6 Q. Focussing your attention then back to June 22 of
7 2009, were you working at shooting that a took place at
8 the Kangaroo in McClellanville?

9 A. Yes, ma'am.

10 Q. If you could just briefly tell us, what duties did
11 you perform while you were working that investigation?

12 A. We were called to the scene. We were, I believe,
13 in North Charleston at the time. It's a 41 mile drive
14 out to that location from our headquarters building.

15 We arrived as -- several people arrived at
16 different places, different times. We had other units
17 coming in to assist. There were deputies on the scene,
18 of course, at first. I arrived there and also Sergeant
19 Wilson was there, and live units came from our forensics
20 units and other detectives arrived.

21 When I arrived, the scene, the tape was already
22 up, and I believe the victim had already been transported
23 out at that time, so we started out by examining the
24 scene and the surrounding area.

25 Q. Did you at some point that afternoon come in

1 contact with the defendant, Alonza Dennis?

2 A. Yes, ma'am. We had received information that
3 there was -- there may have been a subject that may have
4 been involved with the situation that had been seen
5 across the road. Several of our units went out to see if
6 they could locate that suspect, or that subject.

7 Evidently, we had several reports of that person
8 coming through different people's property, trying to
9 stay off the road and exit the area by going through
10 people's property.

11 We already had units out there, dog team, I
12 believe, was out there searching for them, and I was
13 going through the area, interviewing some of the people
14 that had called in and getting their statements about who
15 and what they observed.

16 Q. Okay. Well, if you would advise the Court, when
17 did you come in contact with Mr. Dennis?

18 A. Mr. --

19 Q. The defendant, Mr. Dennis?

20 A. Mr. Dennis? Mr. Dennis, I met him whenever he was
21 brought back over -- after he had been detained by the
22 dog team. He was brought back over to the Hess Mart
23 property where Sergeant Wilson and everybody was kind of
24 gathering, sort of our focal point at that point.

25 Q. When you say the Hess Mart property, do you mean

1 the Kangaroo?

2 A. Kangaroo, yes, ma'am, in McClellanville.

3 Q. Did you have any contact with Mr. Dennis?

4 A. Yes, ma'am, I did.

5 Q. Could you describe that for us.

6 A. Okay. Sergeant Wilson instructed Deputy Wagner to
7 do the GSR kit. We had -- Mr. Dennis was in the back of
8 a patrol car at the time. I went over there and assisted
9 Detective Wagner, got him out of the car, and we had to
10 undo the handcuffs and whatnot and put them around in
11 order to have access to his hands and maybe be a little
12 more comfortable for him.

13 And so I was just standing back away from him
14 while he conducted that GSR kit just to keep -- in case
15 anybody decided to flee the area, whatever, to have a
16 little extra security. Following that, the
17 administration of the GSR kit, we sat him back into the
18 vehicle. I believe he was secured again from the front
19 at the time, and I read him his Miranda warnings.

20 Q. I'm sorry. You said you secured him again in the
21 front?

22 A. Yes, ma'am. Generally when they're being
23 transported, people are secured behind their back with
24 handcuffs, but that is, of course, impossible to write at
25 that point, and we wanted to do his Miranda warnings at

1 that point also so we secured him in the front so he was
2 able to write.

3 Q. Okay. So who was present in the area when you
4 read him his Miranda warnings?

5 A. Myself and Detective Wagner.

6 Q. When you read them, did you read them from a sheet
7 or did you read them from a card or how do you conduct
8 that?

9 A. I read them from the Charleston County advisement
10 of rights sheet.

11 Q. And those advisement of rights, do you keep those
12 in your vehicle or on your person or what?

13 A. We keep several copies, usually in the vehicles.

14 Q. Okay. Showing you what has previously been marked
15 as State's Exhibit 1, I ask you whether this is the
16 original sheet.

17 A. Yes, ma'am. That is my original signature on the
18 sheet and also that looks like my writing in the heading.

19 Q. Just to make sure we are clear, he was in custody?
20 Mr. Dennis was in custody?

21 A. Yes, ma'am.

22 Q. He was not free to leave?

23 A. That's correct.

24 Q. And when you began reading him his Miranda
25 warnings, were you in the vehicle with him or were you

1 standing outside of the vehicle?

2 A. I would have been standing outside of the vehicle.

3 Q. Would you please describe for the Court how you
4 went about reading him his Miranda warnings.

5 A. I read just exactly what was written here. On the
6 warning, his written my name, Detective Casale and he's
7 advised me he's a member of the Charleston County
8 sheriff's office further advised me and then read each of
9 the Miranda warnings down in order.

10 Q. If you could, go through those with us.

11 A. Yes, ma'am. That you have the absolute right to
12 remain silent. You do not have to answer any questions.
13 If you give a statement, it can and will be used against
14 you in a court of law --

15 THE COURT: We can't hear that fast. Slow
16 down.

17 THE WITNESS: That you have the absolute
18 right to remain silent and do not have to answer
19 questions. Any questions you give a statement cannot be
20 used against me, that if I do answer questions you give a
21 statement and can and will be used against me in a court
22 of law, that I have the right to consult with a lawyer of
23 my choice before I answer questions and give a statement
24 and also to have him present while I'm being questioned,
25 that if I wish to talk to a lawyer or have him present or

1 I'm unable to hire a lawyer one will be appointed to
2 represent me free of charge. If I decide to answer
3 questions or give a statement without having a lawyer
4 present represent me I have the absolute right to stop --

5 Q. Pick up there again, Detective.

6 A. During this interview to stop answering questions
7 and remain silent, and the last line is I fully
8 understand these rights which have been explained to me
9 and then there is a line for the subject's signature. I
10 also ask the subject to initial beside each of the five
11 Miranda warnings, which he has done here, that he has
12 been read the warnings and he understands each of these
13 items and if he has any questions, you know, at that time
14 that is when I answer him.

15 Q. Let me interrupt you for a second. First of all,
16 at the top of that page, of course, Exhibit 1, there is
17 the defendant's name, address, employment, social
18 security number, et cetera. How did you get that
19 information? Did you get it from Mr. Dennis or from some
20 other source?

21 A. I asked him.

22 Q. When you were conversing with Mr. Dennis, did you
23 make an assessment as to whether or not he appeared to
24 understand what you were saying or have difficulty in
25 understanding what you were saying?

1 A. No, he seemed to be -- he could understand what we
2 were saying, seemed to be very cooperative.

3 Q. When you were inquiring of all the information at
4 the top of the page, did he have any hesitancy in
5 answering or any confusion about what was being asked?

6 A. No, ma'am.

7 Q. Okay. Now, when you've told us that you had him
8 initial each of the rights, did he appear to understand
9 what you were asking him to do?

10 A. Yes, he did.

11 Q. And, in fact, by each of those numbered rights, he
12 puts his initials; is that correct?

13 A. That's correct.

14 Q. And that's whose handwriting?

15 A. That's his handwriting.

16 Q. What are those initials depicted on the form?

17 A. A.D.

18 Q. At the location spot for the signature of the
19 person to whom you're reading the rights, is it signed,
20 in fact?

21 A. Yes, ma'am.

22 Q. And what signature is on there?

23 A. I'm going to assume that is Mr. Dennis's
24 handwriting because it's very hard to read, but he signed
25 it.

1 Q. Okay. Did he sign it in your presence?

2 A. Yes, ma'am.

3 Q. Now, when you said you're going to assume that's
4 his handwriting, was there anyone else who had access to
5 that form other than him?

6 A. No, ma'am.

7 Q. While you were reading it?

8 A. No, ma'am.

9 Q. Okay. And there is also a spot for witnesses.
10 Could you inform the Court whose names are on the witness
11 lines.

12 A. On witnesses is my name, Detective Casale, and
13 Detective Nick Wagner.

14 Q. Okay. As you continue down the form, there is an
15 entry regarding waiver of right. Would you please
16 describe for the judge in what way you went about seeking
17 his waiver of rights.

18 A. First thing I would do, of course, is read the
19 item that was printed there for the individual.

20 Q. Okay. And would you read those aloud for the
21 Court and slow.

22 A. States, I fully understand each of these rights
23 which have been explained to me, and having these in
24 mind, I wish to waive these rights and answer questions.
25 No threats, force, or promises of any kind were made to

1 me by anyone to induce me or cause me to waive these
2 rights and answer questions.

3 Q. Okay. So after reading that waiver of rights to
4 Mr. Dennis, did he have any questions or appear to be
5 confused in any fashion?

6 A. No. I just asked him, you know, to make sure that
7 he understood that he was giving permission to talk to us
8 and asked him if he wanted to talk to us and if he would
9 sign right there.

10 Q. Whose signature is on the signature spot right
11 there?

12 A. Again, that is Mr. Dennis's.

13 Q. And regarding the witness signature, who is that?

14 A. That is my signature and Detective Wagner.

15 Q. Okay. Going back to why you were reading to him
16 at all, you had intended on interrogating him?

17 A. No, ma'am.

18 Q. What was the purpose of your reading his rights to
19 him?

20 A. The purpose was this was the first time that we
21 had had him in a place where we could stop and somebody
22 could talk to him, and that's just the first thing you do
23 is make sure somebody is Mirandized.

24 Q. Had you been advised as to whether another
25 detective would be coming to the scene?

1 A. Yes. I believe by that time it was apparent that
2 it was Detective Lawrence's case. He was going to be the
3 case agent on that case, and, also, still, it's a 40 mile
4 drive to Charleston. In case Mr. Dennis wanted to make
5 any statements while they were heading to Charleston, he
6 would have already been under his Miranda warnings.

7 Q. Did he make any statement at that time?

8 A. No. He made no statement to me.

9 Q. Now, regarding his demeanor, his appearance that
10 day, could you advise the Court as to whether or not it
11 appeared that he was intoxicated or under the influence
12 of any type of substance?

13 A. It did not appear to me to be that way at all, no.

14 Q. And, again, was there any difficulty in your
15 understanding him or any apparent difficulty on his part
16 in understanding you?

17 A. No, there was no difficulty.

18 MS. SHEALY: I beg the Court's indulgence
19 just a moment.

20 I have no further questions of Detective
21 Casale.

22 THE COURT: Cross?

23 MR. GRIMES: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. GRIMES:

1 Q. Detective Casale, I want to ask you a few
2 questions about whether Mr. Dennis was under the
3 influence of anything at this time, all right?

4 A. Okay, sir.

5 Q. Were you aware he was found with a crack pipe, or
6 an item that may be described as a crack pipe?

7 A. Yes, sir, I believe a crack pipe was found. I'm
8 not exactly sure if it -- I think one was found during
9 his initial frisk after he was stopped. I'm not really
10 sure about that.

11 Q. Okay. Did he appear to be under the influence of
12 crack cocaine or any other drugs?

13 A. No, sir. He didn't appear to be under the
14 influence of anything, nothing I could tell.

15 Q. Okay. I want to ask you a few questions about --
16 you said about the K-9 team, okay?

17 A. Yes, sir.

18 Q. You said the K-9 team had detained Mr. Dennis?

19 A. I believe that's correct, yes, sir. I was not
20 actually present when he did it. I was interviewing the
21 people in the area who were witnesses to this person
22 fleeing through their properties.

23 Q. Okay. Did you receive any information about
24 whether Mr. Dennis made any statements to members of K-9
25 team?

1 A. No, sir. I don't know anything about that.

2 Q. Do you know how many officers were pursuing
3 Mr. Dennis?

4 A. No, sir, I really couldn't say.

5 Q. And do you know how many dogs that were employed
6 on that afternoon?

7 A. No, sir, I don't know.

8 Q. Did that appear to have any effect on Mr. Dennis
9 sort of being chased by the K-9 team?

10 A. I really don't know how to answer that, sir,
11 just --

12 Q. You don't know if he had been bitten by a dog or
13 anything like that?

14 A. Are you asking if I've been bitten by a dog, or
15 Mr. Dennis? I don't know anything about that, sir.

16 Q. Made him more scared than the usual arrest?

17 A. No, I don't believe so.

18 Q. Okay. Thank you. And I want to ask you a few
19 questions now about him being in the car when you were
20 taking the GSR test.

21 Do you recall him making any statements in the car
22 when you were taking the GSR?

23 A. No, sir. When Detective Wagner approached him and
24 asked him to come out of the vehicle, he was fairly
25 cooperative with us. He wasn't very talkative at all,

1 and he got out of the car. We did the things that -- the
2 testing that was necessary for the GSR, and then we
3 secured him back in the vehicle.

4 Q. Did you explain to him what the GSR test was for?

5 A. Well, yes, sir. I didn't do any explaining.

6 Q. Did someone explain that to him?

7 A. I'm not sure what Detective Wagner explained to
8 him at that time.

9 Q. Did you hear Mr. Dennis make any response to that
10 explanation?

11 A. Nothing that I remember, sir.

12 Q. All right. And you say Mr. Dennis was very
13 cooperative during this process?

14 A. Yes, sir.

15 Q. You said during -- at the scene in McClellanville
16 that Mr. Dennis made no statements to you.

17 A. That's correct, sir.

18 Q. Did he eventually make a statement to you?

19 A. No, sir. After I read him his rights, he said he
20 didn't really want to talk at that time. That's fine. I
21 didn't pursue the issue.

22 Q. He said he didn't want to talk at that time?

23 A. Right.

24 Q. And under -- number five, or the first right, he
25 invoked his right to remain silent, correct?

1 A. Yes, sir.

2 Q. Did he make any subsequent statements to you
3 about --

4 A. Not to me, no, sir.

5 Q. Nothing at all?

6 A. No, sir. I didn't stay around there with him.
7 Once we got him back secured, after we finished that, we
8 got him back secured in the vehicle and we had other
9 aspects of this case to be working on that we just wanted
10 to make sure he was secure.

11 Q. When I say any statements, I'm talking about any
12 statements either at McClellanville or at the police
13 station in North Charleston?

14 A. No, sir. I did not speak with him again. I don't
15 remember ever speaking with him again.

16 Q. All right.

17 MR. GRIMES: Could I have one moment, Your
18 Honor? I have no further questions, Your Honor.

19 THE COURT: Any redirect?

20 MS. SHEALY: Just a couple follow-up.

21 REDIRECT EXAMINATION

22 BY MS. SHEALY:

23 Q. Detective Casale, you indicated that after you
24 went through the rights and you went through the waiver
25 that he made no statements; is that correct?

1 A. Ma'am?

2 Q. You've indicated after you went through the waiver
3 and the -- and previously the rights that Mr. Dennis
4 never gave you a statement that he fashioned; is that
5 correct?

6 A. That's correct.

7 Q. You asked him whether he wanted to talk at that
8 time and he said no?

9 A. That's correct.

10 Q. Did you advise him about whether another detective
11 would be coming? Do you remember?

12 A. I believe we told him we would probably be taking
13 him downtown to talk to him.

14 Q. Okay. And at any time did he request an attorney?

15 A. No, ma'am.

16 MS. SHEALY: I have nothing further.

17 THE COURT: Your Honor?

18 MR. GRIMES: No further questions.

19 THE COURT: Thank you. You may step down.

20 MS. SHEALY: There are two other statements
21 involving two other officers.

22 THE COURT: Well, go ahead with --

23 MS. SHEALY: All right.

24 - - - - -

25

1 KIP COOKE,
2 having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SHEALY:

6 Q. Detective Cooke, if you would, please, tell us
7 where you're currently employed.

8 A. I'm with the Charleston County sheriff's office.

9 Q. And how long have you worked there?

10 A. Five and a half years.

11 Q. And how long have you been assigned as a
12 detective?

13 A. Three years.

14 Q. Okay. Focussing your attention back to June 22 of
15 2009, could you describe for the Court what your
16 involvement of an investigation of a shooting at the
17 Kangaroo in McClellanville was.

18 A. I was actually at our headquarters. We had a
19 rather busy day that day and I was working on another
20 case. I was informed that a gentleman had been arrested
21 for trespassing and it was in the area of where the
22 shooting occurred and that they wanted to speak to him
23 about -- see if he had any information about the
24 shooting, and he was brought by our office prior to going
25 to the jail.

1 And I was told that an investigator -- or
2 Detective Lawrence was the investigating officer and that
3 he was on the situation and they asked if I would, you
4 know, get started with him.

5 Q. Okay. What does get started mean, or what did you
6 think that meant?

7 A. Well, at that time, I didn't know if he was
8 involved or not. I knew that they had a different
9 charge, an unrelated charge, so I got an advisement of
10 rights and I started that, and I as was doing that,
11 Detective Lawrence came in, so I wasn't in very long at
12 all.

13 Q. Okay. First, before you go over with us what you
14 advised him, could you describe for the Court
15 Mr. Dennis's demeanor.

16 A. He was very quiet. He wasn't saying a whole lot.
17 He didn't give me any problems or anything.

18 Q. Okay. Did he appear to be intoxicated or under
19 the influence of anything?

20 A. Not that I could tell.

21 Q. Did he appear overly scared?

22 A. No, ma'am. He was pretty calm.

23 Q. Okay. Showing you what has been previously marked
24 as Court's Exhibit 2, I ask you whether that is the form
25 that you used in advising him of his rights?

1 A. Yes, ma'am.

2 Q. And the top part of that form that has particular
3 information to the defendant, how did you go about
4 getting that information?

5 A. If you're referring to the name and address, I
6 just asked him.

7 Q. Did he have any difficulty understanding your
8 questions when you were asking him his personal contact
9 information?

10 A. No, ma'am.

11 Q. Did he appear to be confused or have any
12 difficulty communicating with you?

13 A. No, ma'am.

14 Q. Where were you in the sheriff's department when
15 you were questioning him?

16 A. Once again, we were rather busy that day. We used
17 my captain's office.

18 Q. Okay. And if you would, would you describe for us
19 your captain's office, what it looks like, approximately
20 how big it is?

21 A. Roughly eight by eight, the door is centered in
22 the wall when you walk in there is a desk and a couple of
23 chairs, a book shelf.

24 Q. Okay. When you were talking with him, was he
25 handcuffed?

1 A. I believe so.

2 Q. You believe he was?

3 A. I believe so.

4 Q. And if you would, then, describe any other details
5 about the interview itself before you go over what you
6 advised him.

7 A. Okay. I collected his information, and I advised
8 him of his rights and as I was doing this, Detective
9 Lawrence walked in. This particular interview, since
10 Detective Lawrence got there, I had another job that I
11 was working on, so he took over the interview at that
12 point.

13 Q. Okay. Now, in relationship to the Miranda
14 warnings, at what point does Detective Lawrence come in,
15 if you recall?

16 A. As I was starting, if I recall, from what I
17 recall..

18 Q. Okay. And if you would, then, please advise the
19 Court of what exactly you told Mr. Dennis. If you read
20 it off the form, then read it to us as you read it to
21 him.

22 A. Detective Cooke has advised me he is a member of
23 the Charleston County sheriff's office any --

24 Q. Let me interrupt you for a moment. Y'all are so
25 used to saying it that you say it very quickly.

1 A. Well, we read it.

2 Q. When you are telling us in the courtroom, would
3 you slow down to make sure the court reporter can hear
4 it.

5 A. Sure. I apologize. This is Detective K. Cook has
6 advised me that he is a member of the Charleston County
7 sheriff's office and has further advised me, one, that I
8 have the absolute right to remain silent and do not have
9 to answer any questions or give a statement. This fact
10 cannot be used against me. If I do answer questions or
11 give a statement, anything I say and will can and will be
12 used against me in a court of law. I have the right to
13 consult with a lawyer of my choice before I answer
14 questions or give a statement and also to be present
15 while I'm giving statements. If I wish to talk to a
16 lawyer and have him present but am unable to hire a
17 lawyer, one will be appointed to represent me free of
18 charge, that if I decide to answer questions or give a
19 statement without having a lawyer present representing
20 me, I have the absolute right during this interview to
21 stop answering questions and remain silent.

22 Q. Okay. And after you read those -- let me ask you,
23 when you were reading them to Mr. Dennis, did you read
24 them in a fashion that you believed he could understand
25 them or did you read them as quickly as you started out

1 with us a minute ago?

2 A. I believe he understood them.

3 Q. Okay. Now, how did you assess whether he
4 understood them? Did you ask for his signature?

5 A. Yes, ma'am.

6 Q. Okay. And, in fact, did he give you his
7 signature?

8 A. Yes, ma'am.

9 Q. And is that on the signature line just below the
10 writing?

11 A. Yes, ma'am.

12 Q. Prior to that signature, there is a statement in
13 bold, I fully understand each of these rights which have
14 been explained to me.

15 A. Yes, ma'am.

16 Q. Did you go over that with Mr. Dennis before you
17 asked for his signature?

18 A. Yes, ma'am, I read that as well.

19 Q. Did he have any questions for you or appear to be
20 confused in any fashion?

21 A. No, ma'am. He didn't ask me any questions and
22 said he understood.

23 Q. When you say he understood, again, I ask you, did
24 he give you any reason to be concerned about his ability
25 to understand you?

1 A. No, ma'am.

2 Q. Who witnessed his signature on your form?

3 A. Detective Lawrence.

4 Q. Okay. And do you recall why Detective Lawrence
5 witnessed the signature and you did not?

6 A. As I said, when he got there, he took over the
7 investigation. I read this and then I left to go work on
8 another case.

9 Q. What about the waiver of rights, though, at the
10 bottom of the page? Did you also go over that with
11 Mr. Dennis?

12 A. Yes, ma'am.

13 Q. And could you describe the Court of what you
14 advised him -- or what you read to him regarding his
15 waiver of rights.

16 A. I fully understand each of these rights which have
17 been explained to me, and having these in mind I wish to
18 waive these rights and answer questions. No threats,
19 force, or promises of any kind have been made to me by
20 anyone to induce or cause me to waive these rights and
21 answer questions.

22 Q. When you read that to Mr. Dennis, do you ask him
23 in some way to acknowledge that he understands that?

24 A. Yes, ma'am. I asked if he understands and I have
25 him sign.

1 Q. And, in fact, did he sign the waiver of rights?

2 A. Yes, ma'am.

3 Q. And again regarding that signature, who signs the
4 witness form for that?

5 A. That is Detective Lawrence.

6 Q. You've told us there was a lot going on that
7 evening. Were you involved in another investigation at
8 the time?

9 A. Yes, ma'am. We found a deceased person on the
10 side of the road in the Hollywood area, and I had been
11 out on the scene of that, and I was basically running his
12 rap sheet and just gathering information about him.

13 Q. So regarding this form, that being Court's Exhibit
14 No. 2 and the process you've just testified to, you were
15 present and read him both his Miranda warnings and his
16 acknowledgement of waiving them; is that correct?

17 A. That's correct.

18 Q. Did you remain for any part of the actual
19 statement taking process with Detective Lawrence?

20 A. No, ma'am. Since the case agent arrived, once I
21 finished this, I left the room.

22 Q. Okay. Now, regarding a later reading of Miranda
23 warnings, Mr. Dennis, that being on June 29th, 2009?

24 A. Yes.

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

1 Exhibit 3. Do you recognize that?

2 A. Yes, ma'am.

3 Q. And do you -- could you tell the Court what your
4 involvement in that process was.

5 A. Detective Lawrence wanted to interview Mr. Dennis
6 again, and he was Mirandized once again. I witnessed and
7 sat in on this interview.

8 Q. Let me go back to the other one for just a second,
9 I apologize, but the June 22 reading of his Miranda
10 warnings or his Miranda rights, at any point did he ask
11 for an attorney?

12 A. No, ma'am.

13 Q. Okay. Okay.. So back to the 29th, and that which
14 is depicted in Court's Exhibit 3, on that occasion, where
15 were you talking to Mr. Dennis?

16 A. I believe that was in one of our interview rooms.

17 Q. That was at the sheriff's office?

18 A. Yes, ma'am.

19 Q. Did you and Detective Lawrence go pick up
20 Mr. Dennis?

21 A. I believe he picked him up.

22 Q. And was it -- so it was a different type of room
23 than the sergeant's office?

24 A. That would be the captain's office, yes, ma'am.
25 It's a dedicated interview room.

1 Q. Describe that room for us.

2 A. Just a small room, a little smaller than a
3 captain's office with a desk and a few chairs and some
4 statement pads.

5 Q. And how frequently are those rooms used for
6 interviewing witnesses and suspects?

7 A. On a daily basis.

8 Q. Okay. During the time that Detective Lawrence
9 went over the Miranda warnings with Mr. Dennis, were you
10 present?

11 A. Yes, ma'am.

12 Q. And on that occasion, how was Mr. Dennis's
13 demeanor and appearance?

14 A. Once again, he was calm and cooperative.

15 Q. Did he appear to understand the questions being
16 asked by Detective Lawrence?

17 A. Yes, ma'am.

18 Q. And was he able to communicate clearly to both of
19 you?

20 A. Yes, ma'am.

21 Q. Okay. I'll ask Detective Lawrence about the
22 actual warnings themselves and the waiver, but I noticed
23 that your name is under the witness block on two
24 locations on that document; is that correct?

25 A. Yes, ma'am.

1 Q. And so you were or were not present when
2 Mr. Dennis signed acknowledging his rights and
3 acknowledging his waiver?

4 A. I was present.

5 Q. On that occasion, after the Miranda warnings were
6 completed, were you present for the interrogation?

7 A. I was.

8 Q. You were?

9 A. Yes, ma'am.

10 Q. And how long did that process take?

11 A. An hour and a half, an hour and 45 minutes.

12 Q. Is the time noted on the sheet?

13 A. Yes, ma'am.

14 Q. And how long was that?

15 A. It started at 1513, which would have been 3:13,
16 and finished at 1650, which is 4:50.

17 Q. Okay. Now, during that time period, were there
18 any threats at all made to Mr. Dennis to encourage him
19 giving him a statement?

20 A. No, ma'am.

21 Q. Were there any promises made to Mr. Dennis
22 regarding making a statement?

23 A. No, ma'am.

24 Q. Who wrote the statement?

25 A. Mr. Dennis wrote it, and Detective Lawrence later

1 asked him questions to clarify certain points.

2 Q. Okay. And so the handwriting that is present on
3 the statement form itself is either Mr. Dennis's or
4 Detective Lawrence's; is that correct?

5 A. That's correct.

6 Q. Do you recall whether y'all gave him the
7 opportunity to look back over his statement before it was
8 ended?

9 A. I believe so. In fact, the last question we -- or
10 he was asked if everything was true and accurate.

11 Q. So he had the opportunity to look back over the
12 statement.

13 A. Yes, ma'am.

14 Q. Did he request any type of rest room break or did
15 he appear to be especially hungry during the process?

16 A. Not that I recall.

17 Q. Did he appear to be in any type of distress?

18 A. No, ma'am.

19 Q. In your presence was any type of threat or any
20 promise made on behalf of Detective Lawrence?

21 A. No, ma'am.

22 Q. And I think you also testified you did not
23 threaten him or promise him.

24 A. No, ma'am.

25 MS. SHEALY: Beg the Court's indulgence a

1 moment.

2 BY MS. SHEALY:

3 Q. Regarding the second statement, did he appear to
4 be under the influence any type of substance?

5 A. No, ma'am.

6 Q. And you had picked him up from the jail prior to
7 bringing him over; is that correct?

8 A. That's correct.

9 Q. Was there anything notable about his demeanor?
10 Did he appear to be scared or did he appear to be overly
11 tired or anything?

12 A. Kind of quiet and calm.

13 MS. SHEALY: I have no further questions.

14 Thank you.

15 THE COURT: Cross?

16 MR. GRIMES: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. GRIMES:

19 Q. Detective Cooke, on June 22, when did you read
20 Mr. Dennis his rights?

21 A. It would have been late evening. I don't recall
22 the exact time, 10:00, approximately, give or take.

23 Q. Do you know what time he was arrested at?

24 A. No, I don't.

25 Q. Do you know what time he was brought to the

1 department on Rivers Avenue?

2 A. Prior to me talking with him?

3 Q. Yes, sir.

4 A. I don't believe he was there long, but I couldn't
5 give you an exact time.

6 Q. Before you read him his rights on June 22, did you
7 have any communications or discussions with Detective
8 Casale?

9 A. Not that I recall, no, sir.

10 Q. Did anyone give you any briefing about what the
11 situation was or what Mr. Dennis may have said out in
12 McClellanville?

13 A. I the thing I was told, and I believe it was by
14 Sergeant Zimmer, was that, once again, I was working on a
15 totally different case, was that he had been picked up on
16 an unrelated charged in the area and they wanted to talk
17 to see if he had any knowledge of the incident and that
18 Detective Lawrence was on his way, being the case aid.

19 Q. Were you aware he had told Detective Casale he
20 didn't want to talk anymore?

21 A. No, sir.

22 Q. When you advise him of rights, do you tell him
23 what charge you were advising him of his rights on?

24 A. I believe we were told he was charged with
25 trespassing, and another incident occurred that I wanted

1 to see if he had any knowledge of it.

2 Q. Did you tell him what that incident was?

3 A. I told him there was a shooting.

4 Q. Did you tell him anything about a robbery?

5 A. I remember telling him there was a shooting. I
6 didn't get in any details because I wanted to get the
7 Miranda back.

8 Q. How long were you with Mr. Dennis on June 22?

9 A. Actually, just a few moments because, once again,
10 long enough to read the statement -- I mean, the
11 advisement and then Detective Lawrence came in and I
12 returned to working on my other case.

13 Q. Did you have any discussions with Mr. Dennis about
14 whether a statement helps someone out in court or the
15 judge in any way?

16 A. I don't recall.

17 Q. Did you have any discussions with him that if he
18 gave his cooperation it could help him get a lower bond?

19 A. I don't recall, no, sir.

20 Q. All right. Now, I want to ask you a few questions
21 about June 29th.

22 Were you with Detective Lawrence when Detective
23 Lawrence picked Mr. Dennis up from the jail?

24 A. I don't believe I went to the jail, but I was at
25 our office when they came back.

1 Q. And do you know how long Detective Lawrence was
2 with Mr. Dennis before he brought him to your office?

3 A. I don't, no, sir.

4 Q. Do you imagine it would be fair to say they you
5 don't know what discussions there were between Detective
6 Lawrence and Mr. Dennis before they got to your office?

7 A. No, sir.

8 Q. Once they got to the office on Rivers Avenue and
9 you went back to the interview room, was there any
10 discussion about Mr. Dennis possibly facing federal
11 charges?

12 A. Not that I recall, no, sir.

13 Q. And was Mr. Dennis at this time handcuffed?

14 A. I believe so, yes, sir.

15 Q. And you said the interview room is smaller than
16 the captain's office?

17 A. A little bit. The captain's office is a bit
18 bigger.

19 Q. You said about eight by eight?

20 A. Roughly.

21 Q. Would you say maybe the interview room was maybe
22 six by six or four by four?

23 A. I wouldn't say four by four. Six by six is about
24 right, and that is a rough estimate, obviously, without
25 measuring it.

1 Q. I understand. And you had a desk and several
2 chairs in there?

3 A. Yes, sir.

4 Q. And two officers?

5 A. Yes, sir.

6 Q. And Mr. Dennis?

7 A. Yes, sir.

8 Q. Any tape recorders or anything in there?

9 A. No, sir.

10 Q. Were you armed at the time?

11 A. I may have been. I can't specifically recall if I
12 was wearing my duty weapon at the time or not.

13 Q. Okay. You said the interview process started
14 about 3:13?

15 A. Yes, sir.

16 Q. And finished at 4:50?

17 A. Yes, sir.

18 Q. How did that interview process go?

19 A. Detective Lawrence, once again, read the Miranda
20 rights, and he indicated he understood all of them and
21 waived his rights and signed it, initialed, and
22 apparently Detective Lawrence had some information that
23 he may know more about the initial incident out there and
24 he started questioning him about it.

25 Q. How did Detective Lawrence question Mr. Dennis?

1 A. Quite frankly, I don't remember exactly how he
2 started. I don't remember the exact phrasing, mind you,
3 but he asked him if he had any other information and they
4 started talking about it, and he had him write down what
5 he had --

6 Q. I want to find out a little bit more about this
7 conversation before Mr. Dennis started writing. What was
8 Detective Lawrence telling Mr. Dennis?

9 A. That he had talked with, I believe, some other
10 witnesses or codefendants, I'm not sure, and that he came
11 up with some information that he may have been involved
12 in it.

13 Q. Okay. Did he say anything about maybe some of the
14 codefendants telling Detective Lawrence -- excuse me, did
15 Detective Lawrence tell Mr. Dennis that other
16 codefendants had implicated Mr. Dennis?

17 A. He told some codefendants, what exactly they had
18 told him, I don't know. I don't really recall if he said
19 that or not, to be honest with you.

20 Q. Did he say anything about whether Mr. Alford had
21 identified Mr. Dennis as the shooter?

22 A. Yes. He did mention that the victim had
23 identified him, I believe.

24 Q. And did he show him a photo lineup where Mr.
25 Alford may have picked out Mr. Dennis?

1 A. Don't recall.

2 Q. What was Detective Lawrence's tone of voice during
3 this conversation?

4 A. Pretty normal tone, just like we're talking now.

5 Q. Was Detective Lawrence using any interrogation
6 techniques, such as the read method or any other
7 techniques taught at the academy or anything to talk to
8 Mr. Dennis?

9 A. Not -- no special techniques that I was aware of.
10 We were just talking and asking questions, and he was
11 doing most of the questioning because I didn't really
12 talk to any of the codefendants or anything.

13 Q. He's the case agent, right?

14 A. Yes, sir.

15 Q. Do you recall him talking in general before
16 Mr. Dennis started writing down -- giving a written
17 statement about how a statement may help someone in
18 court?

19 A. I don't recall that.

20 Q. So is it possible it may have happened and you
21 don't remember?

22 A. It's possible, but I don't believe -- I don't
23 recall hearing anything like that.

24 Q. What was that again?

25 A. It's possible, but I don't recall anything like

1 that.

2 Q. Okay.

3 MR. GRIMES: Could I have one moment, Your
4 Honor?

5 BY MR. GRIMES:

6 Q. Do you know how long the conversation lasted
7 before Mr. Dennis started giving his written statement?

8 A. Maybe a few minutes. It wasn't long.

9 Q. When he was given his written statement, did he
10 start just writing it out and question and answer? I
11 guess I'm kind of wondering why it took so long.

12 A. I'm not sure I understand what you meant.

13 Q. Did Mr. Dennis start writing his statement out?

14 A. As I recall --

15 Q. Or would he sort of write part of it, discussion,
16 write more of it?

17 A. There was a question and answer session, and
18 Detective Lawrence talked to him for a few minutes, and
19 then he responded to some of the questions he was asking
20 and then he wrote down, you know, his piece, so to speak,
21 and Detective Lawrence read over it and wrote down some
22 questions.

23 Q. Okay.

24 MR. GRIMES: Thank you. I have no further
25 questions, Your Honor.

1 THE COURT: Any redirect?

2 MS. SHEALY: Just a couple follow-up
3 questions.

4 REDIRECT EXAMINATION

5 BY MS. SHEALY:

6 Q. Detective Cooke, at any point during the Miranda
7 warnings on the 22nd and 29th and at any point you
8 weren't present for the statement of the 22nd, so at any
9 point during the statement of the 29th did Mr. Dennis
10 ever indicate he wanted to stop, he wanted a lawyer?

11 A. No, ma'am.

12 Q. And regarding the tone of voice of Detective
13 Lawrence, was Detective Lawrence yelling at him?

14 A. No, sir.

15 Q. When you say it was a tone of that similar to the
16 courtroom, what do you mean by that?

17 A. Normal conversation, kind of hard to describe,
18 just talking in normal tones, no loud voice, no profanity
19 or anything of that nature.

20 Q. And Detective Lawrence was now questioning him
21 about the shooting at the Kangaroo because of new
22 information he had received?

23 A. Yes, sir.

24 MS. SHEALY: I have no further questions.

25 MR. GRIMES: No follow-up.

1 THE COURT: Okay. You can step down. Thank
2 you.

3 MS. SHEALY: Detective Lawrence.

4 CHARLES LAWRENCE,
5 having been first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. Would you describe the Court how long you've
10 worked for the Charleston sheriff's department?

11 A. Yes, ma'am, July of 2003, so a little over eight
12 years.

13 Q. And how long have you been a detective there?

14 A. July of 2005, a little over five, six years.

15 Q. Focussing your attention then to June 22, 2009,
16 would you describe for the Court what your initial
17 involvement was in the investigation regarding the
18 shooting at the Kangaroo.

19 A. Yes, ma'am. We got a call of a shooting incident
20 at 101 05 Highway 17 North, McClellanville. At that
21 point in time, that's a 45 minute drive, minimally, in
22 traffic. It was after 4:00, so it took a while to get
23 there. Upon my arrival --

24 Q. Do you remember what time you started your shift
25 that day?

1 A. Yes, ma'am. 0830, between 0830 and 0900.

2 Q. Okay.

3 A. Yes, it was toward the latter part of the day.

4 Prior -- while en route there, I saw an EMS wagon to the

5 left-hand side of 17 and 45 at I think it's Bull's Bay

6 convenience store, and at that time I made a left turn.

7 I saw the helio there, and as I pulled up, the helio was

8 getting ready to go up. And I was advised the victim had

9 just been helioed -- MedEvaced to MUSC, and I was further

10 advised that the incident happened across the street at

11 the Kangaroo.

12 Q. Tell the Court this if you would. When you

13 arrived on scene at the Kangaroo, were there already a

14 bunch of other officers there?

15 A. Yes, ma'am.

16 Q. Okay. And were there actually two scenes, one at

17 the Kangaroo, the other one down at River Road?

18 A. River Road, I'm not familiar, but initially I went

19 to the Bull's Bay. Then I went to the Kangaroo, and upon

20 my arrival at the Kangaroo, the scene had already been

21 roped off, meaning yellow tape around. I spoke with an

22 Investigator Kjellman who was processing the scene as

23 well as my supervisor.

24 At that point in time, I was briefed on the

25 situation relating to the victim as to what happened, and

1 at that point in time, I advised that he's already been
2 transported to MUSC, so therefore I went inside and I
3 spoke with the cashiers, the clerks, and then the
4 cashiers on the inside. I obtained statement from them
5 as to who, what, where, when and why.

6 Q. Okay. And when you arrived at the Kangaroo, was
7 the defendant -- was he still present there or had he
8 already left or do you know where he was?

9 A. I had no idea of where he was at that time. While
10 I was obtaining statements, I was informed that he was in
11 the back of the cruiser, and I never got a chance to see
12 him.

13 Q. Okay. How long did you stay at the scene, or do
14 you even remember?

15 A. Hours. I spent a few hours.

16 Q. Now, later that day, later on the 22nd, does
17 someone go and pick up Mr. Dennis from the jail?

18 A. On the 22nd?

19 Q. Uh-huh.

20 A. No, ma'am. He was at our criminal investigations
21 -- Charleston County sheriff's office criminal
22 investigations division.

23 Q. He had been taken straight there?

24 A. Yes, ma'am.

25 Q. Okay. And do you know -- do you happen to know

1 who transported him there?

2 A. No, I do not.

3 Q. When you got back to the sheriff's office, where
4 was Detective Cooke and where was Mr. Dennis?

5 A. We have two interrogating rooms. They were both
6 occupied, and, as a result, we used our captain's office,
7 and he was inside of the captain's office.

8 Q. And what was your understanding of what Mr. Dennis
9 was being detained for?

10 A. It was a shooting incident. A person matching his
11 description was scene fleeing the scene. He attempted to
12 elude law enforcement, and he was later apprehended,
13 according to -- in talking to the other deputies or on
14 the scene or hearing it from one deputy to another or
15 from deputy to detective he was sweating, he was -- he
16 was trying to hide and get away from law enforcement,
17 so --

18 MR. GRIMES: Objection. Speculation. Lack
19 of personal knowledge.

20 MS. SHEALY: I can move on from that, Judge.

21 BY MS. SHEALY:

22 Q. Detective Lawrence, what I'm asking is, when
23 Mr. Dennis was transported from the scene to the
24 sheriff's office, what charge had he been arrested for at
25 that point? I'm sorry I didn't make that question very

1 clear.

2 A. Trespass.

3 Q. And were you aware that Detective Casale had
4 already read him his Miranda warnings?

5 A. No, ma'am.

6 Q. When you first see Mr. Dennis then, could you
7 describe for the judge what was going on at that point?

8 A. Yes. He was detained inside of the captain's
9 office. He was basically sitting there, as the previous
10 two detectives said, he was quiet --

11 Q. What was going on when you walked in to where
12 Detective Cooke and Mr. Dennis were?

13 A. They were in the middle of reading a Miranda
14 warning.

15 Q. And if you would, describe for the judge what part
16 of that Miranda warning you were present for, if not all?

17 A. Most of it. He was still reading at the time.
18 When I came in and asked him if he had just started, he
19 said yes.

20 Q. Okay. Now, showing you State's Exhibit No. 2,
21 were you present when Mr. Dennis was initialling the
22 form?

23 A. Yes, ma'am.

24 Q. Were you present when he signed the form?

25 A. Yes, ma'am.

1 Q. Whose name is on the witness to his signatures for
2 having had the rights read and the waiver?

3 A. Mine.

4 Q. Okay. Now, Detective Cooke, does he stick around
5 or does he leave?

6 A. He got pulled for something else, yes, ma'am.

7 Q. When you were with Detective Cooke and Mr. Dennis
8 and the warnings were being read and the waiver was being
9 acknowledged, did Mr. Dennis in any fashion seem to be
10 overly fearful -- first let me ask that. Did he appear
11 to be overly scared?

12 A. No, ma'am.

13 Q. Did his demeanor suggest that he had had some type
14 of substances?

15 A. Not to my knowledge, no.

16 Q. Do you believe he was handcuffed while y'all were
17 talking to him?

18 A. That's correct.

19 Q. Did he express any kind of discomfort?

20 A. No, ma'am.

21 Q. Okay. Did you note any difficulty in his
22 understanding what Detective Cooke was reading to him?

23 A. No, ma'am, and prior to initialling, it's a
24 standard practice to ask if they understand, each and
25 every one, before they initial, and he confirmed that he

1 did understand and prior to that he did initial.

2 Q. As to each --

3 A. Yes, ma'am.

4 Q. -- numbered item?

5 A. Yes, ma'am.

6 Q. You've indicated then that Detective Cooke left.

7 A. Yes, ma'am.

8 Q. Okay. Now, on the top of the advisement form, is
9 there a notation as to how long the interrogation of
10 Mr. Dennis took place at that time?

11 A. Yes, ma'am.

12 Q. Okay. What was that time period?

13 A. Approximately two hours and one minute.

14 Q. And that is on the 22nd?

15 A. Yes, ma'am.

16 Q. Okay. Tell us the nature of that interrogation.
17 What was going on?

18 A. At the time we were trying to obtain -- trying to
19 inquire about any knowledge that he may have had -- well,
20 first of all -- yes, any knowledge that he may have had
21 in reference to the -- as it related to trespassing and
22 his involvement, if any, or knowledge of the shooting
23 incident occurred at the Kangaroo gas station.

24 Q. Did Mr. Dennis at any point tell you he did not
25 want to talk to you?

1 A. No, ma'am.

2 Q. Did he tell you he wanted a lawyer present?

3 A. No, ma'am.

4 Q. And when you were having this conversation with
5 him, did he appear to be truthful with you?

6 A. No, ma'am.

7 Q. Okay. Because the two-hour period, I'm trying to
8 figure out what is going on, the two hours of talking to
9 him?

10 A. There is no predetermined amount that you would
11 interview anyone; however, it's general and common
12 practice of an alleged person to want to try to deceive
13 you or try to understand or try to see how much
14 information you know about the case before they are
15 willing to tell you the truth, and basically that is what
16 the nature of the interview was all about. He was trying
17 to see how much information we knew before he would --

18 Q. Tell you anything?

19 A. Or his involvement.

20 Q. Okay. Would you tell us, please, whether at any
21 point you promised him anything if he told you the truth?

22 A. No, ma'am, never.

23 Q. Did you threaten him in any fashion?

24 A. No, ma'am.

25 Q. Did you tell him you were going to turn this case

1 over to the feds or anything?

2 A. No, ma'am.

3 Q. Does he, in fact, on that occasion, that being the
4 22nd, give a written statement?

5 A. Yes, he does.

6 Q. Okay. And that is part of the Court's Exhibit 2.
7 At the top of that page, which is the second up page
8 of that exhibit, who fills in the top part with the
9 statement of Alonza Dennis? Is that your handwriting or
10 is that Mr. Dennis's?

11 A. That would have to be his handwriting.

12 Q. So does he actually in his own handwriting
13 complete this statement?

14 A. Yes, ma'am.

15 Q. Would you read statement to the Court, please.

16 A. As he wrote it, I was at my mother's house at 9:00
17 and left at about 10:30, hyphen, and got to
18 McClellanville at 4:15, or he put a number, 11 dot 00,
19 and went to work about 12:00, and got back at
20 McClellanville at about 3:30. And next thing I knew,
21 known, I was under arrest and I did not know why with a
22 line through with his initial what happened.

23 Q. Now, at the bottom of that statement, do you
24 initially sign?

25 A. Yes, ma'am, and where I signed in error, I put one

1 line through and I put my initials saying that I did sign
2 in error.

3 Q. Okay. And then who then signs after you scratch
4 yours out?

5 A. Alonza Dennis on top of mine.

6 Q. Were you dictating to Mr. Dennis what he wanted to
7 write or is he writing of his own free will?

8 A. This is his own free will.

9 Q. And at the time you were talking to him on the
10 22nd, you were looking at his involvement on the actual
11 shooting at that point; is that correct?

12 A. Yes, ma'am.

13 Q. Now, if I can focus your attention on June 29th.
14 Did you have occasion to pick up Mr. Dennis from the jail
15 on that occasion?

16 A. Yes, ma'am.

17 Q. Okay. And you took him where?

18 A. He was moved from 3841 Leeds Avenue, that's
19 Charleston County Detention Center. From there he was
20 transported to 3505 Pine Haven Drive, North Charleston
21 Boulevard, North Charleston 29405, and that is our
22 Charleston County sheriff's office headquarters where our
23 criminal investigation office is located.

24 Q. Okay. So from the date of the last statement
25 being the 22nd until the 29th, had changes progressed at

1 the investigation of the shooting?

2 A. Yes, ma'am.

3 Q. Tell the Court if you would, why do you go back to
4 talk to Mr. Dennis at that point?

5 A. At that point in time, the evidence that I had was
6 much better substantiating the case. I had facts that
7 the victim had positively identified Alonza Dennis from a
8 six-man photo lineup.

9 Q. Identified him as whom?

10 A. As the person that did shoot him at the Kangaroo
11 gas station on June 22nd, 2009. Furthermore, we located
12 the vehicle, processed the vehicle, interviewed the owner
13 of the vehicle who was also positively identified by the
14 victim -- do I need go into all that now?

15 Q. Give us some indication that the investigation had
16 progressed, you had greater information who all was
17 involved?

18 A. Right, and the owner of the vehicle, who also put
19 the other parties to -- who were there at the time as
20 well, so the facts that I had were much greater than I
21 had with my initial conversation.

22 Q. Okay. And when you begin talking to Mr. Dennis --
23 do you talk to him in the vehicle at all or do you wait
24 to get to the sheriff's department?

25 A. I don't think we had the conversation at the jail.

1 Q. When you were at the sheriff's office, was
2 Detective Cooke present when you read him his Miranda?

3 A. Yes, ma'am.

4 Q. Could you go through the process then of how you
5 read the Miranda warnings?

6 A. Sure. June 29, 2009 at 1513, the interview begins.
7 Detective Lawrence had advised me that he is a member of
8 the Charleston County sheriff's office and further
9 advised me, Alonza Dennis, number one, that I have the
10 absolute right to remain silent and do not have to answer
11 any questions or give a statement and this fact cannot be
12 used against me.

13 Number two: If I do ask a question or give a
14 statement, anything I say can and will be used against me
15 in a court of law.

16 Number three: That I have the right to consult
17 with a lawyer of my choice before I answer questions or
18 give a statement, and also to have him present while I'm
19 being questioned.

20 Number four: If I wish to talk to a lawyer or do
21 have him and all -- I always put him slash her because
22 attorneys are males and females now -- her/him present
23 but am unable to afford to hire a lawyer, one would be
24 appointed to represent you free of charge.

25 Number five: That if I decide to answer questions

1 or give a statement without having a lawyer present
2 representing me I have the absolute right during this
3 interview to stop asking questions and remain silent.

4 Q. Okay. To the left at each of those rights, the
5 initials AD are there.

6 A. Yes, ma'am.

7 Q. Who put the initials there?

8 A. Alonza Dennis.

9 Q. And is it your practice as it relates to each of
10 those entries to ask him after the reading of it to sign?

11 A. Yes, ma'am. Prior to him signing, putting his
12 initials, I asked him, do you understand -- once I read
13 number one, I asked him before completion, Do you
14 understand that?

15 He's, like, yes, and we go to number two, and once
16 I'm completed, meaning that he understood them, that is
17 when I have him to initial.

18 Q. And did you have any difficulty in communicating
19 with him when you were reading these?

20 A. No, none whatsoever.

21 Q. The last line before the signature, did you read
22 that aloud to him as well?

23 A. Yes, I did.

24 Q. And what does that read, up above? The first
25 signature where it says, I fully.

1 A. Yes, ma'am. I fully understand each of these
2 rights which have been explained to me.

3 Q. Okay. And is that Mr. Dennis's signature?

4 A. Yes, ma'am.

5 Q. And who witnesses that signature?

6 A. Myself, Detective Lawrence, and Detective Cooke.

7 Q. Then regarding the waiver of the rights, how was
8 that handled?

9 A. Once he advised he understood his first five
10 Miranda warnings and he had signed there and I advised
11 him if he would like to talk to me, that I was advising
12 him of his waiver of rights, and at that point I did read
13 them and he just fully understand each of these rights,
14 which have been fully understood by me, and to waive
15 these rights. No threats or promises of any kind have
16 been made to me by anyone to induce or cause me to waive
17 these rights and answer questions, and I also -- whether
18 they understood or not, all I said was did you understand
19 that?

20 And they said yes, and I say, This my means -- it
21 doesn't mean I have a phone book in here and I'm not
22 threatening you about this. If you wish to talk to me at
23 this time, just sign this line.

24 Q. Did he, in fact, sign it?

25 A. Yes, ma'am, he did.

1 Q. Who witnessed that signature?

2 A. Myself, Detective Lawrence and Detective Cooke.

3 Q. Okay. Did you have any difficulty communicating
4 with him?

5 A. No, ma'am.

6 Q. Did he appear to have any confusion or difficulty
7 in communicating with you?

8 A. No, ma'am.

9 Q. The interrogation itself, could you describe sort
10 of the atmosphere in the interrogation room. Well, in
11 other words, were you loud with him?

12 A. Oh, no, ma'am.

13 Q. Did you threaten him?

14 A. No, ma'am.

15 Q. Did you promise him anything?

16 A. No, ma'am.

17 Q. Okay. The written statement itself, who writes
18 it?

19 A. Dennis.

20 Q. Okay.

21 A. Alonzo Dennis.

22 Q. And then are there questions within the statements
23 in your handwriting?

24 A. Yes, ma'am.

25 Q. When you begin talking with him, do you share with

1 him the information you have found out through the
2 investigation?

3 A. Yes, ma'am.

4 Q. Okay. I'm not sure whether you remember
5 everything you told him, but would you give us some
6 examples of what you told him?

7 A. Yes, ma'am. A synopsis of it would be on the 22nd
8 when we talked, you denied any involvement of this, the
9 shooting, but since then you've been positively
10 identified as the person who did shoot the victim, Mr.
11 Alford, from a six man photo lineup.

12 The owner of the car has been positively
13 identified. We have the car. The car has been
14 processed. The gun has been found by -- our K-9 units
15 found the gun as well, and the other parties that were
16 involved were positively identified by the owner of the
17 car, which would be the codefendant.

18 Q. At some point during this process, did he begin
19 writing his statement?

20 A. Yes, ma'am.

21 Q. Did he tell you beforehand what his involvement
22 was before writing it?

23 A. Once I presented the facts to him, it took a
24 while. Once I presented the facts to him that I have, he
25 immediately dropped his head and started telling us what

1 happened, myself and Detective Cooke, and at that point I
2 advised him that I needed him to put it on paper, which
3 he did.

4 Q. At any point does he say he wants to stop?

5 A. No, ma'am.

6 Q. And at any point did he ask for a lawyer?

7 A. No, ma'am.

8 MS. SHEALY: Your Honor, it's my intention at
9 this point to actually have him read the statement into
10 the record, unless that is your practice.

11 THE COURT: It's not necessary for me. I
12 just need to know whether it was voluntarily under oath.

13 MS. SHEALY: Okay. Beg the Court's
14 indulgence just a moment.

15 I have no further questions. Please answer
16 any more the defense may have.

17 THE COURT: I'll be glad to look at a copy of
18 it, if you have an extra one.

19 CROSS-EXAMINATION

20 BY MR. GRIMES:

21 Q. Detective Lawrence, on June 22, part of my copy is
22 cut off, but what time did the interview start.

23 A. 2104, which would be 9:04 p.m.

24 Q. And it finished at 2305?

25 A. Yes, sir, 11:05 p.m.

1 Q. And I believe you described that process as
2 Mr. Dennis was trying to find out what was happening, or
3 what evidence you had against him?

4 A. Yes, sir.

5 Q. Whether he was being deceitful or --

6 A. Yes.

7 Q. How was he being deceitful?

8 A. As a common practice, whenever you're interviewing
9 someone, you ask general questions which would allow
10 someone to maybe use their thinking pattern or just
11 general questions that you know you may have to not think
12 about, then you get into a question that may cause them
13 to think, a significant question or something of that
14 nature, and you just recognize their demeanor, their
15 posture, et cetera, and that is basically what it was
16 from the beginning. And as you are gradually talking to
17 him about the conversation, you use a change in all of
18 the above.

19 Q. What specifically was he deceitful on?

20 A. Well, factually, or on the 22nd?

21 Q. On the 22nd.

22 A. His involvement. He denied any involvement.

23 Q. And what was he being questioned on? Was he being
24 questioned on the trespassing or shooting?

25 A. Yes, sir, trespassing, initially, as to where he

1 was at and why he was on Mr. Elliott's property.

2 Q. It was -- let me ask you a few questions about the
3 trespassing. Was there no trespassing signs posted on
4 Ms. Elliott's property?

5 A. He was already detained on that prior to me
6 talking to him, sir.

7 Q. Were there any no trespassing signs posted on Mr.
8 Elliott's property?

9 A. I didn't go to Mr. Elliott's property. I don't
10 know.

11 Q. Was he placed on notice not to be on the Elliott
12 property?

13 A. I have no idea, sir.

14 Q. Do you have any idea why he was arrested for
15 trespassing, for being on the Elliotts' property if he
16 was ever told not to be on there?

17 A. That was made -- that charge was made by the road;
18 however, being the detective, I had to assume --

19 Q. Excuse me?

20 A. Ask me the question again, please.

21 Q. Do you have any idea why he was being arrested for
22 trespassing if he was never noticed or not told not to be
23 on that property?

24 A. Yes. He, Mr. Dennis, was trespassing on the -- he
25 was on the property of -- I forgot the name of the

1 business. He had no intentions on buying anything at the
2 property, and he was there hiding on the property.

3 Q. Was this the Elliott property?

4 A. Yes, sir. It was a place of business as well as
5 the Kangaroo. He was on the property and ran from one
6 location to another. He never purchased anything at the
7 business.

8 Q. So if I walk into Wal-Mart, I don't buy anything,
9 I'm trespassing?

10 A. No, sir.

11 Q. Okay. Did the sheriff's department just make up
12 this trespassing charge just to hold him to get to
13 question him?

14 A. No, sir.

15 Q. Okay. Then what basis was there for arresting him
16 for trespassing?

17 MS. SHEALY: Your Honor, I'm going to object.
18 Detective Lawrence has indicated that was handled by some
19 other officer, and he doesn't have any knowledge of that.

20 THE COURT: He can say that.

21 BY MR. GRIMES:

22 Q. You've told us today that you believe he was
23 arrested for trespassing, for going to the Kangaroo with
24 no intention of buying anything.

25 A. That's correct.

1 Q. Is the Kangaroo a public place?

2 A. That's correct.

3 Q. Did he get a notice for no trespassing there?

4 A. I will have to check the system to find out.

5 Q. So today, you have no knowledge whether he was on
6 notice of trespassing, do you?

7 A. Where he was apprehended as --

8 Q. I'm talking about the Kangaroo now.

9 A. I don't know, sir.

10 Q. And you talked to people -- employees at the
11 Kangaroo; is that correct?

12 A. That's correct.

13 Q. Now, the Elliott property, what kind of business
14 was that?

15 A. Some kind of gas, something about gas or --

16 Q. Gas station or --

17 A. No, sir. It's anything about gas, or I'm not
18 exactly sure of the name of the business.

19 Q. Was there a -- I believe you testified you don't
20 know if there were no trespassing signs out there?

21 A. That's correct.

22 Q. And you don't know if he was put on notice of
23 trespassing, and to be trespassing, you either had to
24 have signs posted or someone has to give you notice not
25 to be on the property, correct?

1 A. Correct.

2 Q. Or if you're on a property, then you have to be
3 told to get off the property.

4 A. Correct.

5 Q. Do you know if the Elliotts ever told him to get
6 off the property?

7 A. I didn't interview Mr. Elliott.

8 Q. Okay. So you're saying Mr. Dennis is being
9 deceitful, but then you've arrested him for trespassing
10 charge when you have no basis -- you know of no basis of
11 arresting him for it.

12 A. One more time?

13 Q. You testified today that Mr. Dennis was being
14 deceitful in your interview process.

15 A. Correct.

16 Q. And yet your office has arrested him for
17 trespassing where it sounds like there is no basis for
18 you trespassing. Is that deceitful, making a false
19 arrest?

20 A. No, sir.

21 Q. Would it be deceitful to purposely arrest someone
22 for a charge that you don't have probable cause?

23 A. Well, according to the victim, the victim's
24 statement was done. He didn't have permission to be at
25 the residence where he was arrested, sir.

1 Q. Do have you a copy of that paperwork?

2 A. It should be in the file, yes, sir. The victim
3 form was filled on the arresting book, and the victim's
4 form was pulled out and Mr. Elliott's name was on there,
5 the victim.

6 Q. I don't have a copy of that file.

7 A. If there is a person, a victim form to go with it,
8 that's what I'm saying.

9 MS. SHEALY: Excuse me just a second, Judge.

10 MR. GRIMES: May I approach the witness?

11 THE COURT: Yes.

12 BY MR. GRIMES:

13 Q. When you say there is a statement by the victim,
14 are you talking about the trespass victim?

15 A. This form here. This is the crime victim
16 information, yes, sir.

17 Q. Where is the statement by the Elliotts on here?

18 A. His name is up here as a victim.

19 Q. Where is the statement from Mr. Elliott?

20 A. I made the record clear then. This is the
21 victim's bond right here. This is what I was given. Mr.
22 Elliott, maybe the deputies on the scene have asked him
23 if he had permission to be there and obviously his answer
24 was no, so therefore that's why the Charleston County
25 office made this up, sir.

1 Q. May I approach, Your Honor?

2 THE COURT: Uh-huh.

3 MS. SHEALY: I just want to enter an
4 objection, again, for this reason. He's asking this
5 detective about activities that took place on the part of
6 the deputy, I believe. I don't think Detective Lawrence
7 has the knowledge of all of that occurred.

8 THE COURT: I guess then that's how he would
9 answer the question. If he doesn't know, then he doesn't
10 know.

11 BY MR. GRIMES:

12 Q. I'm going to show you a statement from Elliott
13 Middleton. Is that a statement that you were referring
14 to?

15 A. No, sir. I never spoke to him. I don't know
16 Mr. Elliott. I've never seen him.

17 Q. And you said that -- when I asked you a question
18 before about him giving statements to other officers, is
19 this the statement that you may have been referring to?

20 A. No, sir. I was merely looking at the arresting
21 booking, and I saw he was a victim. His name was on
22 there as a victim, and that is what I was referring to,
23 showing Mr. Elliott was the victim.

24 Q. I'm going to ask you to review that statement and
25 see if there is anything about Mr. Middleton not giving

1 Mr. Dennis permission to be on the property.

2 A. Okay.

3 Q. Was there anything in there about Mr. Middleton
4 saying Mr. Dennis could not be on the property?

5 A. Not according to that statement, no, sir.

6 Q. Thank you. Do you have any evidence showing that
7 Mr. Middleton or the property owner told Mr. Dennis he
8 could not be on their property?

9 A. Again, I didn't speak to him.

10 Q. But you're the case agent in this case.

11 A. That's correct.

12 Q. Now, I want to ask you a few questions about June
13 22 on the Miranda forms, okay?

14 A. Okay.

15 Q. You stated that you didn't talk to Detective
16 Casale on June 22?

17 A. No, sir.

18 Q. He didn't give you any brief -- Detective Casale
19 did not give you any briefing about his reading
20 Mr. Dennis his Miranda rights?

21 A. No. Maybe supervisor -- I talked to the
22 supervisor, and he was, like, he talked to him so, early
23 he didn't say anything, but I didn't speak to Detective
24 Casale, no.

25 Q. And I take it Detective Casale never told you that

1 Mr. Dennis invoked his right to remain silent?

2 A. I was never told that.

3 Q. And do you know what time Detective Casale was
4 talking to Mr. Dennis at?

5 A. No, sir.

6 Q. Going back to the interview on June 22, after you
7 read Mr. Dennis his rights and started interrogating him,
8 you said he was being deceitful with you. How again was
9 he being deceitful?

10 A. Basically, you know, ask him questions, his body
11 demeanor, his posture.

12 Q. What questions was he asking?

13 A. I asked him was he at the Kangaroo earlier when
14 the shooting happened, or does he have any knowledge of
15 it, and he was, like, no. He would turn, and he wasn't
16 free to go, but he would not -- he was being evasive
17 while he was saying no, looking away from you.

18 Q. Okay. You said he was being deceitful about the
19 way he had been asked questions.

20 A. Correct.

21 Q. What questions was he asking that was deceitful?

22 A. Any question asking any involvement into this.

23 Q. Sir?

24 A. Anything he was asked in relation to him having
25 involvement with the case, sir.

1 Q. I don't understand that answer. You said he would
2 ask questions. Did he ask you any particular question
3 that was deceitful?

4 A. I never -- okay, well, if I said that he asked
5 questions, then I was saying I asked him questions.

6 Q. I misunderstood you then. So Mr. Dennis wasn't
7 asking you questions about the case then, was he?

8 A. No, sir.

9 Q. So then he wasn't trying to find out what
10 information you had against him.

11 A. No, sir.

12 Q. And you said -- so when you asked him questions
13 and he didn't give you the answers you wanted, that was
14 deceitful?

15 A. Not so much the answer I wanted, it's just his
16 body, posture, it's just -- when you've been trained to
17 look at -- see, recognize stuff like that, then you know
18 when someone is obviously trying to deceive you.

19 Q. Was his hands starting to move like this?

20 A. No, sir, just body movement, and when you answer
21 questions, instead of looking of me in the eyes and
22 talking to me, he would look away at the window or
23 something.

24 Q. And in your opinion that was deceitful?

25 A. Yes.

1 Q. What else about his posture was deceitful?

2 A. That is mainly it, sir. Just the nature of the
3 questions, just the general question asked. He would
4 just look away, anything asked: I don't know; I wasn't
5 there; I don't know.

6 Q. And he went on like that for two hours?

7 A. It took a while, yes, sir.

8 Q. And were you getting frustrated with him?

9 A. There was no need to get frustrated, no, sir.

10 Q. Seems like you're getting a little frustrated with
11 me today.

12 A. I like you, Mr. Grimes. No, sir.

13 Q. So you went on for two hours asking him, again,
14 what do you know about the shooting, stuff like that?

15 A. Yes, sir.

16 Q. Just on and on and on and on for two hours?

17 A. Yes, sir.

18 Q. And at the end of that interview session, how did
19 it wrap up, or conclude?

20 A. Just wanted to get him locked into a statement
21 saying if he didn't have any knowledge, then let's get it
22 in writing.

23 Q. Okay. And did he cooperate with you on that?

24 A. Yes, sir.

25 Q. And did he say anything to you after that?

1 A. No, sir. Once he provided the statement, he was
2 transported to the detention center.

3 Q. He didn't say anything: I'm done talking, I'm
4 finished?

5 A. No, sir.

6 Q. I'll ask you some questions about June 29th. What
7 time did you pick him up from the jail?

8 A. 1513, so it would have to be shortly after 1500.
9 The drive is about three or four minutes from the jail,
10 and whenever we transport, it's called in from one
11 location to another.

12 Q. Did pick him up to go to Judge Ganaway's court for
13 the trespassing charge, over there on Melbourne.

14 A. I don't recall. I think I picked him up to talk
15 to him, sir.

16 Q. You never took him to Melbourne for the
17 trespassing charge?

18 A. I don't know. Honestly, I don't.

19 Q. So you don't recall taking him there or you just
20 don't know?

21 A. I just don't know.

22 Q. It's been about a year and a half?

23 A. Yes.

24 Q. Now, on the ride over to the police station, the
25 sheriff's office, did ask you Mr. Dennis if he wanted to

1 make another statement?

2 A. No. I asked him, I don't think we really talked
3 about anything, and I said I wanted to talk to him about
4 the case again. I think that's pretty much all I said on
5 the way over there.

6 Q. Did you say anything about if he didn't give a
7 statement the charges might go federal, the feds might
8 pick up his gun charge?

9 A. Not to my knowledge. We were looking at that from
10 another point of view, but no, sir, I don't think he had
11 knowledge of that.

12 Q. Did you have any discussions at all about the ral
13 government being involved in this case?

14 A. He might have hear us talking outside of the room
15 on that, I'm not sure, because of the nature of his rap
16 sheet and possession of gun and finding the gun.

17 Q. Did you make any kind of statement to him that if
18 he gave a statement to you his charges may not go
19 federal?

20 A. His charges may not go federal?

21 Q. Yes, sir.

22 A. No, sir. I would not tell him that.

23 Q. You said he had some discussions about that and
24 may have overheard you.

25 A. Yes.

1 Q. Where were those discussions at?

2 A. Do I need to -- well, okay. Rap sheet, he was a
3 convicted felon, sex offender or something like that, and
4 with those charges, he, by law, is not authorized to
5 possess a handgun. And the fact that he had a handgun,
6 he confessed -- he told me that he shot the victim --
7 told him he shot him five times. We had the gun. We had
8 him with his statement. We had everything that we
9 needed, yes, sir.

10 Q. All right. And so when you and Detective Cooke
11 were in the interview room, did you discuss among
12 yourselves that he might be a candidate for his case
13 going federal?

14 A. Well, no. The feds -- whenever we have a case
15 like this, we would offer it to the feds. If they pick
16 it up, then great, but if not, then we've got it.

17 Q. Okay. I guess I'm saying he may have overheard
18 this discussion.

19 A. Uh-huh.

20 Q. Where did this discussion take place?

21 A. Outside of the room. I don't believe it was in
22 his presence. The area is a small area. The whole room
23 is not -- the only thing that separates us from the
24 outside is one door, okay, and we were talking about
25 that, and I don't -- we were talking about it then, based

1 on his rap sheet, he admitted to shooting him.

2 Everything we needed we had.

3 Q. I want to ask you some questions about the actual
4 interview now.

5 A. Yes, sir.

6 Q. On June 29th. You said that began about 1513?

7 A. Yes, sir. And before I start advising him of
8 Miranda, when I write it down, that's when I start.

9 Q. And I think you said he -- you kind of gave me a
10 summary of that. He put his head down and told you what
11 happened?

12 A. Yes, sir.

13 Q. What did he tell you at that time?

14 A. He stated that him and the codefendants were on
15 Brailsford, which is Quan's grandfather's residence.
16 Earlier that day they talked about I think maybe doing a
17 lick, or robbing someone, and he needed him, they wanted
18 him to participate in it. And so they called the victim
19 up, and at that time the victim stated he was in
20 Charleston and he had to go to Georgetown, and when he
21 comes through McClellanville that he would stop and give
22 the guys a call.

23 And according to Mr. Dennis, they did, in fact,
24 call. Mr. Moses did call them back when he was in
25 McClellanville. They met at the gas station. They were

1 supposed to rob him and Mr. Dennis, Alonza Dennis, was
2 supposed to get some money and clothes, that is what he
3 was supposed to get from the robbery.

4 They did meet at the gas station. They were
5 trying to get Mr. Moses away from the gas station, but he
6 didn't agree to meet them at the rear of the store
7 because he said that county units were flying -- riding
8 up and down the road so they didn't want them to see,
9 okay?

10 So according to Mr. Dennis, two codefendants got
11 out of the car. They looked at the clothes. When he got
12 in the car, he said actually the weapon was in the back
13 seat waiting for him. He got the weapon, the revolver,
14 out of the back seat, went up to Mr. Moses, and that's
15 when he -- according to his statement.

16 Q. I'm not asking what is in the written statement
17 what he was telling you orally --

18 A. Yeah, and he said in turn he ended up -- he shot
19 the victim five times. He said he shot five times and he
20 fled the scene, and he fled the scene on foot.

21 Codefendant drove the car off, another codefendant stayed
22 with him, and the fourth codefendant stayed in the car,
23 never got out of the car, and they all rode off.

24 Q. His written statement to you consisting of what he
25 orally told you?

1 A. Basically, yes.

2 MR. GRIMES: One moment, Your Honor.

3 Thank you, Your Honor. I have no further
4 questions.

5 THE COURT: Redirect?

6 MS. SHEALY: I have nothing further, Judge.

7 THE COURT: You can step down. Anything
8 further from the state?

9 MS. SHEALY: I have no further witnesses.

10 THE COURT: Mr. Grimes?

11 MR. GRIMES: We call Mr. Dennis at this time.

12 ALONZA DENNIS,

13 having been first duly sworn,

14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. GRIMES:

17 Q. Good afternoon, Mr. Dennis.

18 A. Good afternoon.

19 Q. How old are you, Mr. Dennis?

20 A. Forty-six.

21 Q. I'm going to ask you about your educational
22 background, okay?

23 A. Yes.

24 Q. Where did you go to elementary school at?

25 A. Porcher Elementary.

1 Q. What kind of grades did you make there?

2 A. Average.

3 Q. Okay. And where did you go to middle school at?

4 A. Lincoln High School.

5 Q. And how far did you go through high school?

6 A. Tenth.

7 Q. And what kind of grades were you making in high
8 school?

9 A. Still average.

10 Q. Average. And what do you mean by average?

11 A. 70's.

12 Q. Okay. Would it be Cs? Is that how they graded
13 back then, or would those be considered Ds?

14 A. Cs.

15 Q. And what did you leave high school for?

16 A. I got in an altercation with another guy.

17 Q. Just a little fight or something else?

18 A. Fight.

19 Q. Were you expelled or did you just leave on your
20 own?

21 A. We -- expelled.

22 Q. Okay. Have you ever gone back to school for any
23 type of further education?

24 A. No, sir.

25 Q. I want to ask you a few questions about your work

1 history, okay?

2 A. Yes, sir.

3 Q. What kind of jobs have you held in your lifetime?

4 A. Farming, restaurant.

5 Q. And when you worked on a farm, what did you do
6 there?

7 A. Feed horses, cows, chickens, turkeys.

8 Q. When you worked at the restaurants, what did you
9 do there?

10 A. A cashier, register work.

11 Q. Have you ever got your GED?

12 A. No, sir.

13 Q. Now, I want to go back to June 22 -- excuse me,
14 June 29, 2009, the day of the interview, second time, by
15 Detective Lawrence. Do you remember that day?

16 A. Yes, sir.

17 Q. Now, where were you on morning of June 29th?

18 A. At the detention center.

19 Q. Okay. And did you -- when did you see Detective
20 Lawrence that day?

21 A. I don't know the time, but it was some time that
22 day.

23 Q. When you saw Detective Lawrence, did he take you
24 out of the jail?

25 A. Yes, sir.

1 Q. Where did he take you to?

2 A. I believe Melbourne.

3 Q. What did you go to Melbourne for?

4 A. For trespassing, ticket.

5 Q. Okay. And when you went to Melbourne, what
6 happened with the trespassing ticket?

7 A. I contested it.

8 Q. And what do you mean by contested it?

9 A. I wanted to see why they got me on trespassing,
10 what led to them getting me on trespassing.

11 Q. Okay. And did you have a hearing that day or was
12 it scheduled for another time?

13 A. It was scheduled for another time.

14 Q. And after you left the court, while you were going
15 over to Melbourne from the jail, did you have any
16 discussions with Detective Lawrence about the shooting
17 charge and the attempted armed robbery charge?

18 A. Yes, sir.

19 Q. And what were those discussions like?

20 A. He was saying that --

21 Q. What was Detective Lawrence telling you?

22 A. If you want to make a statement saying that, you
23 know, or feds -- he was telling me that feds pick up the
24 case, it will be hard on you. You'll get more time, and
25 if you get me, tell me a statement, give me a statement,

1 then we will keep the feds from picking your case up.

2 Q. And how did that make you feel when he told you
3 that?

4 A. Scared.

5 Q. And why were you so scared?

6 A. Because he was saying feds will give you more time
7 than the state.

8 Q. And in your experience, what did you know about
9 the federal court system versus the state court system?

10 A. Not much.

11 Q. Okay. Did he sound like he was giving you -- from
12 your experience, did it sound like the federal courts
13 might give you more time than a state court?

14 A. Yes, sir.

15 Q. And did Detective Lawrence that day ask you about
16 giving another statement before he started talking about
17 your case going federal?

18 A. Yes, sir.

19 Q. And what did he ask you?

20 A. He said, if I want the chance now, take the
21 chance, but this is your last chance.

22 Q. And what did you tell him?

23 A. I told him yes, sir, I'll make a statement.

24 Q. Was that before or after he talked about the
25 federal stuff?

1 A. That was after.

2 Q. Okay. Before he talked about the federal stuff,
3 were you willing to make a statement?

4 A. That was all the same time, leading up to that
5 time. He was telling me about the feds and then I said
6 I'll make a statement.

7 Q. Okay. Now, when you were -- let me go back a
8 little bit, back to the trespassing charge. When you
9 went to the court, do you remember what judge you saw?

10 A. I don't remember her name, but she was a black
11 lady judge, female, yes, sir.

12 Q. And were you in handcuffs there when you went back
13 to the judge?

14 A. Yes, sir.

15 Q. And then after you left Melbourne court, did
16 Detective Lawrence take you to Pine Haven or the
17 sheriff's department off of Rivers Avenue?

18 A. Right. We came and he was going to bring me back
19 to the Charleston County Detention Center, but on the way
20 going to the detention center, he was telling me that if
21 the feds get the case, they could give you more time.
22 You could get more time. What do you want to do? Give
23 me a statement, and we turned around and came back.

24 Q. So why -- do you know why you were going back to
25 the jail for after you left the court for trespassing?

1 A. Because yeah, I contested the hearing and it was
2 rescheduled and I didn't have anything else to say.

3 Q. You didn't have anything else to say?

4 A. No, sir.

5 Q. And that was about the trespassing charge or was
6 that about the shooting charge?

7 A. That was about the trespassing.

8 Q. And at that point, had anyone asked you anything
9 about the shooting charge?

10 A. No, sir.

11 Q. And how did it come up that he started talking to
12 you about the shooting charge?

13 A. Because he told me if I make the statement, he
14 could keep the feds from getting the case.

15 Q. Just out of the blue, he just brought that up?

16 A. Yes.

17 Q. What was your first reaction when he said that?
18 What was the first thing you told him?

19 A. I felt scared. I was scared -- I didn't know,
20 really, what to do but make the statement, because I
21 didn't want so much time.

22 Q. And I know you've been served notice of life
23 without parole, but had that ever come up before, with
24 Detective Lawrence?

25 A. No, sir.

1 MR. GRIMES: Thank you, Your Honor. I think
2 that's all the time I need. Please answer any questions
3 Ms. Shealy may have for you, Mr. Dennis.

4 THE WITNESS: All right.

5 CROSS-EXAMINATION

6 BY MS. SHEALY:

7 Q. Mr. Dennis, those ladies at the Kangaroo had told
8 you not to come back in that store, hadn't they?

9 A. Yes, ma'am.

10 Q. Because they thought you were shoplifting from
11 there; is that right?

12 A. Right.

13 Q. So they told you, Don't come back in the Kangaroo?

14 A. Yes, ma'am.

15 Q. So that day, on June 22, you were at the Kangaroo,
16 weren't you?

17 A. Yes, ma'am.

18 Q. And Elliott Middleton, the guy that has the car
19 shop over on River Road -- I think it's called Everything
20 But Gas, right?

21 A. I think.

22 Q. That day, you had run through the woods and come
23 up into his body shop, hadn't you?

24 A. Yes, ma'am.

25 Q. And there was an elderly woman from the church

1 there; is that right?

2 A. Yes, ma'am.

3 Q. And somebody came down the street and said, Oh,
4 Lord, there are cops at the Kangaroo. What happened?
5 There was a shooting; is that right?

6 A. No, ma'am.

7 Q. Do you remember a guy coming to the scene and
8 telling y'all that?

9 A. No, ma'am.

10 Q. Okay. Well, let me ask you this: Do you remember
11 somebody telling you you needed to go ahead and get off
12 that property?

13 A. No, ma'am.

14 Q. At Mr. Middleton's?

15 A. No, ma'am.

16 Q. But no question, you had been told not to go back
17 in the Kangaroo property; is that right?

18 A. Yes, ma'am.

19 Q. And on the 22nd, you went on that property two
20 times, did you not, earlier when you hooked up with La
21 Seto and Kaylab and Trevor, when you got a ride with them
22 to Quan's house?

23 A. I wasn't on the property.

24 Q. You weren't on the Kangaroo property?

25 A. No, ma'am.

1 Q. At all that day, or earlier that day?

2 A. I was at the oak tree on the side of it, getting a
3 ride -- trying to get a ride.

4 Q. Earlier you're talking about. But didn't you get
5 in the car with them?

6 A. Yes, ma'am.

7 Q. Okay. And wasn't their car on the Kangaroo
8 property?

9 A. Yes, ma'am.

10 Q. Okay. So you were on the Kangaroo property two
11 times that day; is that fair to say?

12 A. Just one time, that time when he picked me up in
13 the car.

14 Q. Okay. Well, what about later when the shooting
15 happened?

16 A. That was the same time.

17 Q. Well, didn't you go over to Quan's house earlier?

18 A. I wasn't --

19 Q. On Brailsford?

20 A. I went to Quan's house, yes, ma'am.

21 Q. And the way you got to Quan's house is they gave
22 you a ride when they went to buy some beer at the
23 Kangaroo, didn't they?

24 A. No, ma'am.

25 Q. How did you get to Quan's house the first time?

1 A. I caught a ride from there, and I was going my
2 friend's house, and I dropped off to Quan's road so I
3 walked up Quan's road and he -- his boss is, like, two
4 houses back up Quan's house, and I went, going by Quan's
5 house, and they called me.

6 Q. They called you to talk about doing an armed
7 robbery?

8 A. Yes, sir.

9 Q. And you were all for it?

10 A. No, sir -- no, ma'am.

11 Q. Weren't all for it?

12 A. No, ma'am.

13 Q. Let me ask you this: You have said that Detective
14 Lawrence told you that this might go federal; is that
15 right?

16 A. Yes, ma'am.

17 Q. But you knew you were a felon, right?

18 A. Yes, ma'am.

19 Q. You knew you were a felon for two sex crimes; is
20 that correct?

21 A. Yes, ma'am.

22 Q. You knew you were a felon for grand larceny?

23 A. Yes, ma'am.

24 Q. And you knew you were a felon for failing to
25 register for the sex offender registry.

1 MR. GRIMES: Objection. It's not a felony.

2 BY MS. SHEALY:

3 Q. Forget that one. Maybe that's not a felony, but
4 regarding the two sex crimes and the grand larceny, you
5 knew you were a felon.

6 A. Yes, ma'am.

7 Q. And you knew felons were not supposed to possess
8 weapons; is that correct?

9 A. Yes, ma'am.

10 Q. And you know you had a weapon that day.

11 A. No, ma'am, I did not --

12 Q. You never had a gun?

13 A. No, ma'am.

14 Q. So you're saying you didn't shoot Moses Alford?

15 A. No, ma'am --

16 MR. GRIMES: Objection. It's outside the
17 scope of Jackson v. Denno.

18 MS. SHEALY: Not in that he has brought up
19 Detective Lawrence made him aware of a possible federal
20 charge. He had every reason to know he was involved with
21 a possible federal charge, being a felon and being
22 involved in possession of a weapon.

23 MR. GRIMES: The shooting is outside the
24 scope.

25 THE COURT: Sustained.

1 BY MS. SHEALY:

2 Q. You deny you had a pistol that day?

3 A. Yes, ma'am.

4 Q. You deny that.

5 MR. GRIMES: Objection. Still outside the
6 scope.

7 MS. SHEALY: That is not outside the scope
8 because that goes straight to what he says Detective
9 Lawrence told him about when he had a weapon it might be
10 going federal.

11 THE COURT: It would go to voluntariness
12 then.

13 BY MS. SHEALY:

14 Q. So did you have a weapon that day?

15 A. I had a weapon that day, but it was -- I got it
16 from them.

17 Q. You got from them. So you did have a weapon that
18 day.

19 A. Yes, ma'am.

20 Q. Okay. Now, Mr. Grimes was asking you about your
21 educational history and your work history, and I think
22 you said you had done farming and worked at a restaurant.

23 A. Yes, ma'am.

24 Q. Did you work when you were in prison for all those
25 years?

1 A. Yes, ma'am.

2 Q. You had some responsibilities there.

3 A. Yes, ma'am.

4 Q. You had to communicate with police officers and
5 correctional officers?

6 A. Yes, ma'am.

7 Q. So you were used to talking to people in
8 authority; is that right?

9 A. Right.

10 Q. And isn't it true that when Detective Lawrence
11 approached you on the 29th and said, look, Moses Alford
12 says you shot him, when he tells you that Kaylab said
13 you're the shooter, when he tells you the other guys,
14 Trevor Gibbs and Kaylab Wright said you were the shooter,
15 you knew it was time to finally take a stand at telling
16 the truth; isn't that true?

17 A. No, ma'am, I took it as -- what he was saying
18 about the case, I didn't want it to go fed. I want --
19 you know, I wanted it to stay state.

20 Q. So are you telling the Court you told him the
21 truth?

22 A. I told him the truth.

23 MR. GRIMES: Objection. It's outside the
24 scope. Whether it's truthful or not, it goes to
25 voluntariness of the statement.

1 MS. SHEALY: I'm trying to get to the
2 voluntariness.

3 THE COURT: Overruled. Go ahead.

4 BY MS. SHEALY:

5 Q. When Detective Lawrence took the statement from
6 you, you're telling this Court you told him the truth?

7 A. Yes, ma'am.

8 Q. And you're just telling the Court you told him the
9 truth because you didn't want it to go federal?

10 A. Right.

11 Q. And you didn't want it to go federal.

12 A. No.

13 MS. SHEALY: No further questions.

14 THE COURT: Redirect?

15 MR. GRIMES: One moment, Your Honor.

16 No further questions, Your Honor.

17 THE COURT: You can step down. You got any
18 other witnesses?

19 MR. GRIMES: No, sir.

20 THE COURT: All right. Y'all want to make an
21 argument?

22 MR. GRIMES: Yes, sir.

23 THE COURT: Go ahead.

24 MR. GRIMES: Thank you, Your Honor. May it
25 please the Court: First, I believe it's undisputed from

1 Detective Casale's testimony that Mr. Dennis invoked his
2 right to remain silent on June 22, 2009 when he was in a
3 police car.

4 Detective Casale said -- he agreed with me
5 about he didn't want to speak any further about revoking
6 his right to remain silent, and then for some reason,
7 that information was never passed along to any other
8 officers, and under the Fifth Amendment, the state has
9 scrupulously honored their right to remain silent, under
10 Michigan vs. Mosley, and they can't start re-questioning
11 them and re-questioning them again after a certain time
12 passes.

13 So I believe the statement on June 22nd, 2009
14 to Detective Lawrence should be suppressed because the
15 state didn't scrupulously honor his right to remain
16 silent, and I believe the statement of June 29th, 2009
17 should be suppressed for two reasons: First, sort of
18 question and answer like the Supreme Court has -- United
19 States Supreme Court has frowned upon -- I think it's
20 Missouri vs. Seibert. There you have people in cases a
21 little bit different because they did not purposely
22 inform someone of their Miranda rights, get them to make
23 a statement, and then informed them of Miranda rights,
24 make a statement. If there was any inconsistencies, they
25 would use the first statement to impeach them and get

1 them to say something incriminating.

2 In this case, I think you have sort of the
3 functional equivalent of that. You have detective -- you
4 have Mr. Dennis telling Detective Casale he wants to
5 remain silent and not make any further statements. That
6 information, either through negligence or something else,
7 is never passed on to further officers. Then, of course,
8 when Mr. Dennis gave his second statement, he just
9 assumed, or it seemed like his invocation of his right to
10 remain silent were not being honored. And so he told the
11 police, he gave a statement June 22 where he denied
12 knowing anything about the shooting.

13 On June 29th, he kind of used that
14 information against him to say, Well, you told us you
15 didn't know anything about the shooting. Now we have all
16 this information saying are you the shooter. And so I
17 think that is where the Seibert analysis comes in, and
18 the other grounds, keeping out the June 29th statement,
19 is Mr. Dennis's testimony about Detective Lawrence saying
20 this case might go federal, and I think in important ways
21 Mr. Dennis's testimony is more credible than Detective
22 Lawrence's testimony in several respects.

23 First, Mr. Dennis was able to give a clear
24 account of what happened that day by going to the court
25 on Melbourne Avenue for a trespassing charge. He was

1 able to describe the judge, how he was going to contest
2 the ticket, while Detective Lawrence doesn't recall
3 anything about that, and I think his testimony, it could
4 have happened, but I just don't remember.

5 And then he also talked about Detective
6 Lawrence, how Mr. Dennis may have overheard him talking
7 to other officers about the case going federal, and that
8 corroborates what Mr. Dennis was saying about him
9 thinking the case was going federal. If it wasn't
10 testimony about the case going federal, we don't believe
11 Mr. Dennis would have made the second statement of June
12 29th, 2009.

13 Based upon that we would ask the Court to
14 suppress both statements. Thank you, Your Honor.

15 THE COURT: Ms. Shealy?

16 MS. SHEALY: Thank you, Your Honor. I think
17 the state has met its burden in showing that this
18 defendant was read his Miranda warnings, that he waived
19 his Miranda warnings when he signed, and regarding
20 Detective Casale's situation, if you'll recall his
21 testimony, he said he asked Mr. Dennis, Do you want to
22 talk right now?

23 He said, No, I don't want to talk right now.

24 And Casale said, Well, we'll have Detective
25 Lawrence come and talk to you. Now, whether or not that

1 was communicated to Detective Lawrence at the time that
2 they go to talk to Detective Lawrence, you'll recall that
3 he was charged with trespassing, but they were also
4 believing he was a suspect in the shooting. And the
5 purpose of that interrogation was to question him
6 regarding the shooting and not just the trespassing. So
7 it's a new charge that has arisen.

8 The procedure was followed to the letter
9 regarding his Miranda warnings and his waiver. This is
10 not a question of his indicating that he wants an
11 attorney present. It's his being silent at one point and
12 then another interrogation processing initiated later.

13 Mr. Grimes has cited the Mosley case. We
14 have a South Carolina case, State vs. Benjamin at 549 SE
15 2nd 258 that I think is on point, Judge. There -- I beg
16 Court's indulgence just one moment.

17 One officer reads the defendant his Miranda
18 warnings. He indicated he did not want to be questioned
19 anymore and that a SLED agent comes in investigating the
20 case and the defendant agrees to speak to him.

21 It's an analogous situation here. In
22 invoking your right to remain silent on one occasion does
23 not mean the next occasion when you're willing to talk is
24 a violation of Miranda, or inappropriate under Jackson v.
25 Denno. Mr. Grimes was indicating what the effect to

1 Mr. Dennis was of Detective Casale reading him his
2 Miranda warnings and his saying he didn't want to
3 testify, yet he doesn't elicit any effect from Mr. Dennis
4 himself as to how that may have affected his later
5 decision to be cooperative.

6 THE COURT: How much time elapsed between the
7 time he said he didn't want to testify, or he didn't want
8 to make any further statements or talk to the time of the
9 subsequent interview where he did make a statement?

10 MS. SHEALY: What we know is Mr. Dennis is
11 still present in the parking lot at the Kangaroo when he
12 tells Officer Casale that he doesn't want to talk at that
13 time, and then -- beg the Court's indulgence. Let me
14 grab those --

15 THE COURT: Wasn't it seven days later?

16 MS. SHEALY: As to the second statement, but
17 there is a statement in between those two.

18 THE COURT: Yeah, but that statement, the
19 second statement, really doesn't implicate him.

20 MS. SHEALY: That's correct, but this is
21 seven days later. And Detective Lawrence has made it
22 clear that when he goes back on the 29th, he isn't there
23 about a trespass. He's there about the assault and
24 battery with intent to kill, the attempted armed robbery,
25 and the possession of a weapon, so the Mosley factors

1 themselves are most likely satisfied, but Benjamin
2 recognizes that South Carolina law is even less stringent
3 than Mosley.

4 THE COURT: Okay. You want to respond?

5 MR. GRIMES: Briefly. First, South Carolina
6 cannot make the Fifth Amendment less stringent than the
7 United States Supreme Court. And she's right about the
8 Benjamin case, and there the Court concluded
9 admissibility of statements obtained after the person in
10 custody has decided to remain silent depends upon the
11 defense under Miranda whether his right to cut off
12 questioning was scrupulously honored, and they gave five
13 factors: One is suspect was given his Miranda warning at
14 the first interrogation, which they were; whether police
15 immediately ceased the interrogation when suspect
16 indicated he did not want to answer questions, which
17 appears that happened, or it sounds like Detective Casale
18 never interviewed Mr. Dennis; whether the police were
19 questioning the suspect only after a passage of a
20 significant period of time.

21 We would acknowledge that if you look at the
22 first statement and the second statement from June 22 and
23 June 29th statements, that would be a significant period
24 of time, but when Detective Casale interviewed, or
25 advised Mr. Dennis of his rights on June 22, that was in

1 the police car after being given the GSR test, and the
2 record, I think, is a little bit unclear, but it sounds
3 like it was in the afternoon, and I believe Detective
4 Lawrence said -- they start taking statements at 10:00
5 that night -- he said 2104, I believe, about 9:00 at
6 night, so I think maybe I would estimate five to six
7 hours. I don't believe that would constitute a
8 significant passage of time.

9 The fourth factor, having to comply with
10 whether police provided a fresh set of Miranda warnings
11 after the second interrogation and whether the second
12 interrogation was restricted to a crime that had not been
13 the subject of the earlier interrogation. The gunshot
14 residue, obviously Detective Casale was giving him his
15 rights on the shooting, and what Detective Lawrence was
16 questioning him about, so we believe under Mosley, and
17 State vs. Benjamin, that the statement of June 22 should
18 be suppressed and we would ask the Court to suppress the
19 June 29th statement based upon Seibert and the threat of
20 his case going federal.

21 Thank you, Your Honor.

22 THE COURT: All right. Well, I notice that
23 on both statements that were given on the 22nd of June,
24 he acknowledges that he was given the rights and he
25 waives the rights. Now, obviously, after the first one

1 he at some point said he didn't want to talk anymore, and
2 the officer didn't ask him anything anymore. They
3 transported him into North Charleston and it looks like
4 about six, seven hours later, at some point another set
5 of detectives came and talked with him, explained to him
6 he has those rights again and he again waived those
7 rights and involuntarily made a statement at that time.

8 I think under the testimony that I hear that
9 there was -- they were questioning him about a trespass
10 charge and if he knew anything else about the shooting
11 that took place, but he didn't sound like he was an
12 actual suspect then at that point on the shooting
13 charges. So then we have seven days later, which I find
14 is a significant period of time. Again, he's again
15 advised of his rights, and he waives them and he makes a
16 statement on the shooting charges.

17 They at that point are focussed in on that
18 and have told him at that point what it is they want to
19 talk with him about. I think clearly he gave a voluntary
20 statement at that point, so I think all the requirements
21 for Benjamin and that line of cases are met, and so I
22 find that his statement -- the state has met the burden
23 of proving that his statements are freely, voluntarily
24 made, so I'll deny the motion.

25 MS. SHEALY: Your Honor, I do have one

1 take care of kids, that sort of thing.

2 We're usually going to have you here between
3 9:30 and 5:00, to 5:30 usually at the latest because I
4 know we're inconveniencing y'all. Y'all got to get home
5 take care of your stuff, that sort of thing, so that will
6 give you, again, kind of an idea of how long we'll be
7 needing you this week.

8 So I won't take any longer than that right
9 now. I'm going to go ahead and turn it over to the
10 lawyers so they can make their opening statements, so if
11 the state is ready, Ms. Shealy, you may begin.

12 MS. SHEALY: May it please the Court,
13 Ms. Ehrlich, Mr. Grimes: Good afternoon. On Monday
14 morning, June 22nd, 2009, Moses Alford thought he knew
15 what his day was going to be like. He owned a little
16 store in Georgetown that sold sort of trendy items,
17 T-shirt, popular jeans people like to wear, cool shoes,
18 but he also bought a tractor trailer, and he found a
19 driver, and on that day they were going to be doing their
20 first delivery.

21 So when Moses Alford woke up, he knew, I've
22 got to go to Charleston, meet with my driver, get all
23 that squared away, and have the rest of the day. He
24 never thought for a moment that a little after 4:00 in
25 the afternoon, when he was at the Kangaroo convenience

1 store in McClellanville, right on 17, that he would get
2 shot, and shot, and shot. Broad daylight. Shot in his
3 arm, shot in his leg, shot in his back. He never knew
4 that prior to getting shot he would be staring down the
5 gun held by Alonza Dennis, trying to rob him.

6 Now, I told you about Mr. Alford's clothing
7 store, and Georgetown doesn't have a whole bunch of
8 stores like Charleston does. There's some neighboring
9 areas, there is McClellanville, Maryville, and some other
10 surrounding areas of Georgetown, so Mr. Alford would also
11 take some items in his car and sell them in the
12 surrounding areas.

13 I'm not talking about those guys who are
14 parked on the street, like with the trunk up,
15 questionable items, he just had some of his merchandise
16 in his car, and people occasionally, who couldn't make it
17 all the way into Georgetown, would want to buy some
18 items.

19 Well, there are three other people involved
20 in this case. We've mentioned Mr. Alford, we've
21 mentioned Mr. Dennis, but there are three people. Let me
22 introduce you to their names so it makes sense once
23 testimony starts, La Seto Gibson, he goes by the name
24 Quan, that is what most people refer to him as, Kaylab
25 Wright, and Trevor Gibbs. Those three guys live in

1 McClellanville.

2 What occurred was, Mr. Alford will give out
3 business cards that have his phone number, and while he
4 was driving to Charleston he gets a call from La Seto
5 Gibson, Quan. You coming this way any time soon because
6 I would like to look at your stuff.

7 And Moses said, Well, as a matter of fact,
8 I'm driving to Charleston today, and I'll be coming back
9 through McClellanville.

10 And so they leave it, When I get a little
11 closer to McClellanville, I'll give you a call.

12 Well, those three guys that were hanging out,
13 Quan, Trevor, and Kaylab, they go to the Kangaroo earlier
14 in the afternoon when this happens. Trevor gets out,
15 goes inside, and buys some beer. And over under a tree
16 is Alonza Dennis. Alonza Dennis wants to rob, Alonza
17 Dennis wants some money, and Alonza Dennis has a gun to
18 sell to get that money.

19 So he approaches the vehicle where Quan and
20 Kaylab and Trevor are at the Kangaroo, and they do give
21 him a ride into McClellanville. So just to orient you as
22 to where I'm talking about, if you were to drive down 17
23 toward Georgetown, McClellanville is kind of in between.
24 And there is an intersection, not really an intersection,
25 but there is a place Bull's Bay convenience store, it's

1 kind of a nice convenience store, would be on your left,
2 if you're going toward Georgetown, and on your right is
3 the Kangaroo.

4 Well, tucked back in McClellanville is
5 Brailsford Road and that is where Quan lived with his
6 grandfather. So they give Dennis a ride back into
7 McClellanville, and he comes over with them to the
8 Brailsford Road address. They're outside, kind of
9 shooting the breeze, kind of talking a lot, Mr. Dennis is
10 needing money, wanting money. You want to buy my gun?
11 He been trying to kind of distance himself, and Quan gets
12 the call from Moses.

13 Well, the people around him hear that
14 conversation. Moses is getting closer. After he hangs
15 up the phone, Alonza Dennis is, like, Let me jump him.
16 Let me rob him.

17 And those guys are, Like, no, ma'am.

18 So when it's time to go to the Kangaroo,
19 because that is where Moses suggested they come meet him
20 because he knew, my goodness, it's in the broad daylight.
21 I don't want anything shady to happen, those guys get in
22 the car, it's La Seto, Quan's car, Crown Vic, kind of has
23 those police doors that can't open unless you open them
24 some way. He'll explain it to you, and they don't let
25 Alonza Dennis get in the car with them. They leave

1 without him.

2 Quan's granddaddy happens to pull up at the
3 same time, going somewhere, and Alonza gets another ride,
4 and he says, Take me to the Kangaroo. So Alonza shows up
5 to the Kangaroo. Now, when Moses approaches, he parks
6 where -- you know how when you're at the convenience
7 store you're kind of at the designated areas where you
8 park? He parks there. He backed his car in, which is a
9 Mercedes, and I'll have to say, a lot of us think, when
10 someone is driving a Mercedes, they got some money
11 somewhere.

12 And he parks and he sees the guys come in
13 their car to the pumps, and then they pull around. Well,
14 let me tell you something about Moses Alford: He's a
15 pretty cautious man. He's got this trucking business
16 he's starting. He does the selling of clothing from his
17 car. He knows his car is pretty recognizable. He has
18 two guns in his car. Moses has two guns in his. Car,
19 he's got them in the console where they're supposed to
20 be, and, more importantly, he has a concealed weapons
21 permit for it.

22 So at first he's okay. It's daylight, the
23 guys pull in, but the first thing that Quan says to him
24 is, Why don't we do this back in McClellanville, wanting
25 to get off the main road. This red flag goes up and

1 Moses is, Like, that doesn't make me feel too good.

2 Well, two guys get out of the car, Quan,
3 whose car it is, and Kaylab, who was driving the car.
4 The next red flag goes off for Moses, because Kaylab is
5 rude. He comes and looks at the stuff in the back and is
6 like, I don't like that; I don't like that; I don't like
7 that; just kind of agitated, and gets back in the car.
8 That made Moses feel a little weird.

9 Well, inside the car is Trevor. Trevor never
10 gets out of the car. Trevor is in the car, and Alonza is
11 in the car. And then when Kaylab comes back, he gets
12 back in the car. Well, Alonza, is figety, and says to
13 Kaylab, Give me my gun, give me my gun.

14 And Kaylab says, You're a grown man and gives
15 him the gun. But Kaylab has to help him get out the back
16 door because you can't open it from the back seat.

17 This draws Moses's attention. Because he and
18 La Seto, at that point, were kind of negotiating, maybe
19 I'll get this shirt, maybe I'll get these pants, and
20 they're talking. Well, Moses reaches into the car to
21 grab something for La Seto, and that is when he hears the
22 door close. Third red flag. And then he hears
23 something.

24 Well, Alonza Dennis gets out of that vehicle,
25 bent on getting money, and points his weapon at Moses

1 Alford and says, Give me everything and shoots. One of
2 the shots hits the vehicle that Trevor and Alonza and
3 Kaylab and La Seto drove up in, shoots the headlight.
4 But fast, he shoots Moses Alford, arm, leg, back, and
5 flees like a coward and takes off.

6 Well, Kaylab and Trevor don't do much better.
7 They get the heck out of Dodge too. They back that car
8 up and leave, and they leave La Seto, and La Seto stays
9 at the store for a bit. He doesn't help with 911. He
10 doesn't stay to talk with the police, and as soon as he
11 can find a ride out of there, he gets out of there, and
12 they leave Moses Alford bleeding, shot three times.

13 When Moses Alford saw that gun pointed
14 towards him, he reached in his car to go for one of his
15 guns. He gets it, but he never fires it. He's not as
16 fast as Alonza Dennis. And when I say Alonza Dennis
17 flees like a coward, he crosses 17, he takes off into a
18 wooded area and goes down this path, back on to River
19 Road, and he shows up there sweating. He shows up there
20 panting. He shows up at a body shop that is owned by a
21 nice man named Elliott Middleton who will testify, and
22 there he is, greenery on him, sweaty, panting, and
23 someone comes up to the body shop where all of a sudden
24 Alonza Dennis just appears and says something is going on
25 down at the Kangaroo. Police are coming.

1 And when you look out Elliott Middleton's
2 yard to the right, you see a rescue vehicle come. Alonza
3 flees again. He's on the road, not back toward 17, but
4 down River Road the other way. He goes through one yard,
5 he climbs over a concrete wall, he scurries to the other
6 side of that yard. He duck downs at one point behind the
7 car, hiding. People on River Road see him. But when the
8 K-9 unit comes out there with the dogs, and they start
9 tracking Alonza Dennis and followed his scent, and those
10 dogs come under where Alonza is, barking like crazy. I
11 can imagine it would be very frightening to hear those
12 dogs. Alonza gets up.

13 What is found in the very area where Alonza
14 comes out? They find a gun. That afternoon, they swab
15 his hands to see if his hands fired a weapon, and they
16 did. There will be a lot of testimony. People will come
17 in. They'll sit in the chair. They'll swear to tell the
18 truth, and I invite you to listen to them carefully.
19 These are people who are not friends with anyone here,
20 with the exception of one person, Trevor Gibbs. You'll
21 hear from him.

22 Now, I'm going to tell you, La Seto, Kaylab,
23 and Trevor Gibbs, they get arrested too. They're not
24 there, when the police come. They're not there to say
25 what happened. They're the ones luring Moses Alford to

1 the Kangaroo. But those questions as to whether they
2 knew what was going to go on or not are absolutely not
3 y'all's concern. That is another day. Maybe this
4 courtroom, maybe another, another jury.

5 What we ask of you is to evaluate our case
6 against Alonza Dennis. Moses Alford sits there almost
7 two years after he was shot, and he wants justice. We
8 want justice.

9 Thank you.

10 THE COURT: Ms. Ehrlich?

11 MS. EHRLICH: Alonza Dennis has been
12 expendable his entire life, but never more expendable is
13 when La Seto Quan Gibson, Kaylab Wright and Trevor Gibbs
14 decided to rob Moses Alford. They used Alonza and
15 treated him as a throw away, and now he's expendable to
16 Trevor Gibbs, who is also charged and will do anything to
17 save himself and save his codefendants, who just happen
18 to be his cousins.

19 Alonza Dennis is a simple guy. He lives in
20 Awendaw, about 15 miles north, on Highway 17, of Mount
21 Pleasant. He has no car, catches rides to where he needs
22 to go, and he makes do baling hay, baling straw. When he
23 woke up on the morning of June 22, he didn't have a gun.
24 He didn't have a plan to rob anybody, and he certainly
25 didn't have plans of shooting anybody. He ate his

1 breakfast and went in to where he bales straw for a
2 couple hours.

3 At one point he gets a ride into
4 McClellanville, which is a little bit more of a rougher
5 area than Awendaw, and McClellanville is home to La Seto,
6 who I'll call Quan, Kaylab, and Trevor, and at some point
7 he runs into them and they call him over. Quan says, I
8 have something I want you to do, and these are guys you
9 don't walk away from.

10 You'll hear that there was talk about a
11 robbery, but that talk doesn't come from Alonza Dennis,
12 it comes from Quan, it comes from Kaylab, and he hears
13 them talking about this robbery, and he stays there and
14 listens to them, and he's scared. He knows what he's
15 heard about Quan. He knows Quan's reputation, and he
16 also knows just by looking at Kaylab that he's not
17 somebody that you mess with.

18 He doesn't want to leave. He thinks they
19 might fight him, hurt him, shoot him. They're talking
20 about robbing someone, he certainly doesn't want to look
21 like a snitch. After some discussion, Quan and Kaylab
22 send him off saying, We don't want to use them, and
23 Alonza is relieved so he catches a ride into the Kangaroo
24 gas station in McClellanville and separates himself from
25 this group of cousins.

1 You've got the three cousins from
2 McClellanville, Quan, Kaylab, and Trevor. He doesn't
3 think much more about this whole robbery thing. He
4 thinks that all he wants to do is catch a ride back to
5 Awendaw, so he goes out under the big oak tree, which
6 you'll hear people talk about, where people sit to try to
7 catch rides, and he waits for a ride. A little while
8 later, though Alonza see a blue Crown Victoria pull into
9 the parking lots and it's those McClellanville cousins
10 again, and they wave him over again.

11 He thinks at this point they're just going to
12 give me a ride. He's not thinking about the robbery, and
13 it's not uncommon for people to just give somebody a ride
14 to and from, in Awendaw and McClellanville. That's what
15 you do, especially if you don't have transportation.

16 So he gets in to the blue Crown Victoria,
17 Quan, Kaylab and Trevor, and their trap for him is set.
18 They've got their expendable, throw away guy back in the
19 car, and someone tells him get the gun in the back seat.
20 Alonza is scared. He's fearful for his life. He can't
21 run, so he puts the gun into his pocket.

22 At this point, Alonza feels stuck. He
23 certainly can't call the police. He doesn't know if the
24 cousins have guns. He doesn't know if they going to
25 shoot him if he gets out of the car, so he pretends to go

1 along with it, and at that point he thinks I can't run.
2 They might shoot me. They might kill me.

3 Somebody else in the car says, There is the
4 guy, and they point out Moses Alford, who has pulled up
5 into the parking lot and is ready to sell clothes. Quan
6 and Kaylab get out of the car and pretend like they're
7 interested in buying something, and Alonza, scared, gets
8 out of the car and just stands there. He doesn't pull a
9 gun. Maybe that will get him buy with Quan and Kaylab
10 and Trevor. Maybe they won't go after him. Maybe they
11 won't kill him.

12 But everything gets out of control, and
13 quickly, when someone, not Alonza, says, Give us your
14 money, give us your clothes, and Moses is armed. He
15 doesn't take a gun out of the car. He lifts it out from
16 under his shirt and shows it, forcing Alonza to think
17 really quickly what, am I going to do to get out of here?

18 Now, we're not saying that Alonza didn't
19 shoot Moses. We know he shot Moses. That is why there
20 is gunshot residue on his hands, but when he got there,
21 he had no intention of being part of a robbery. He had
22 no intention of using a gun. He didn't bring a gun to
23 Kaylab to try to sell it to him. That gun came from him,
24 and he certainly didn't plan a robbery.

25 That robbery plot comes from Kaylab and Quan.

1 You'll hear that it was Quan who knows Moses, Quan who
2 calls Moses out there, Quan who's trying to lure Moses
3 out, not to the gas station, but to a back road in
4 McClellanville.

5 And Alonza is kind of brought in, afraid of
6 these guys. They're from McClellanville, three cousins,
7 and in a moment, everything changes because Moses
8 surprises him when they've got a gun and started to pull
9 it and so Alonza started firing.

10 You'll hear Moses tell you that he had the
11 weapon. You'll also hear that after the shooting he hid
12 his gun behind a trash can. You'll also hear him tell
13 you that the gun Alonza had was black, that the gun the
14 police found was silver.

15 You're also really going to hear from one of
16 those cousins. You may hear from Trevor. He'll say it
17 was all Alonza that wanted to do this robbery. It's the
18 same Trevor Gibbs that is charged, it's the same Trevor
19 Gibbs who's cousins with Quan and Kaylab, and it's the
20 same Trevor who will do anything to save himself from
21 going to prison for the next 40 years and save his
22 cousins from going to prison for the next 40 years.

23 Alonza Dennis is here today because he was
24 scared. He did what he did because he was afraid he was
25 going to lose his life. He didn't want to rob Moses, and

1 he certainly wasn't planning on shooting him. I told you
2 at the beginning that Alonza has been viewed as
3 expendable. He's expendable to Quan, he's expendable to
4 Kaylab, and he's expendable to Trevor, but he's not
5 expendable to me and he's not expendable to the court
6 system, and Alonza Dennis cannot be expendable to any of
7 you.

8 THE COURT: All right, folks. That is where
9 we'll break for today. I'm going to send you home with
10 some instructions.

11 Obviously, you know, your family members are
12 going to say, Hey, did you get picked on a jury? Of
13 course, you get to say I got picked on a jury, and then
14 you got to go in and say basically, though, while the
15 judge -- I haven't heard any evidence yet. The judge
16 instructed me I can't really talk about the case, and
17 it's for the reasons I told you earlier.

18 It's not fair to either side to have other
19 people or outside influences talk to you about what the
20 case is about. I'll give you this instruction tonight,
21 I'll give it to you tomorrow night, and after tomorrow,
22 of course, you'll have hear some evidence, but you won't
23 have heard all the evidence.

24 So you can tell them, I got picked on a jury,
25 but I really am not allowed to talk about the case until

1 without objection, I would move photographs 1 through 38
2 and 40 through 52 into evidence and Exhibit Nos. 56, 57,
3 58, 59, and 60.

4 (Photographs marked for identification and
5 admitted into evidence as State's Exhibit Nos. 1 through
6 38, State's Exhibit Nos. 40 through 52, and State's
7 Exhibit Nos. 56 through 60.)

8 DIRECT EXAMINATION

9 BY MS. SHEALY:

10 Q. Mr. Alford, tell the jury a little bit about
11 yourself. How old are you?

12 A. Twenty-eight.

13 Q. And you know what? You're kind of soft spoken so
14 could you scoot up a little closer for me.

15 A. Okay.

16 Q. Tell the jury where you currently live.

17 A. Right now I live in North Charleston.

18 Q. All right. Did you used to live in Georgetown?

19 A. Yes.

20 Q. How long did you live in Georgetown?

21 A. On and off my whole life.

22 Q. Okay. Is that where you consider home?

23 A. Yes.

24 Q. And does your mother live in Georgetown?

25 A. Yes.

1 Q. Tell us a little about your educational
2 background.

3 A. I graduated from Georgetown High school in 2000.
4 I've attended several colleges, haven't completed yet,
5 but I recently reenrolled in January and continue working
6 on my degree.

7 Q. Okay. And how about a little bit about your
8 employment background?

9 A. I mean, I've spent some years as a truck driver,
10 did a lot of retail, retail sales as well as owning my
11 own business. I was a waiter for a period of time, you
12 know --

13 Q. So a little of everything?

14 A. Kind of, sort of, yeah.

15 Q. Now, the retail store that you owned in
16 Georgetown, tell us the name of it, and kind of describe
17 it for us.

18 A. It's called Diamond Fashions, you know, just the
19 trendy stuff, whatever might be popular. Styles come and
20 go pretty quickly, so you know, just normal clothes,
21 pants, shirts, shoes, accessories.

22 Q. Where did you go to purchase the items that you
23 sold?

24 A. Atlanta, typically, sometimes once or twice a year
25 I go to New York, but, for the most part, the entire

1 wholesale area is in Atlanta, where you can go. With a
2 business license, you can get whatever you need.

3 Q. You're going to have to speak up.

4 A. I'm sorry. There are areas in Atlanta, northeast
5 Atlanta where wholesalers -- retailer goes to purchase
6 from wholesalers.

7 Q. Now, where in Georgetown was it located, what area
8 of town, or have you had a couple different locations?

9 A. Well, I've had more than one store over the years,
10 but the one we're discussing right now was on Marion Row
11 on the west side of Georgetown.

12 Q. Now, would you typically kind of meet the
13 clientele when they came in?

14 A. I'm sorry?

15 Q. In other words, you would learn where people had
16 come from to come to your store in Georgetown?

17 A. Sometimes, yeah. I mean, a lot of times I may get
18 a call from somebody saying, Hey, I'm out in such and
19 such an area, and I don't have a way to get out there.
20 Would you happen to be coming to this area any time soon?
21 Sometimes no, sometimes yes.

22 Q. And when you were going to be going towards some
23 of these outer areas, you would put the clothing items in
24 your car?

25 A. Yes.

1 Q. What type of clothing items did you sell?

2 A. Like I say, it varies with the season, it varies
3 with the trends.

4 Q. But shirts, pants?

5 A. Shirts, pants, shoes, just clothes.

6 Q. Now, focussing your attention back to June of
7 2009, were you living in Georgetown then?

8 A. No. Well -- I was living in Georgetown. I had
9 business in Georgetown, but I was attending school in
10 Atlanta, and I was pretty much driving back and forth on
11 a weekly basis.

12 Q. Okay. And had something come up about buying a
13 truck?

14 A. Yes.

15 Q. Tell us about that.

16 A. I'm trying to think of the exact month. I believe
17 it was April of 2009, I purchased a truck, a semi -- you
18 know, a tractor trailer, pretty old one with over a
19 million miles on it, but it did the job.

20 Q. In June of 2009, were you getting that business
21 going?

22 A. Yes, still working on getting it going.

23 Q. Now, when you told us that you would sell some
24 items out of your car, what type of car were you driving
25 then?

1 A. A 2000 Mercedes 320.

2 Q. And I'm going to show you an exhibit previously
3 marked as State's Exhibit 1 and ask if you can tell us
4 what that is.

5 A. That's my car.

6 Q. Okay. Can you pull that up? That is your
7 Mercedes?

8 A. Yes.

9 Q. And what color is that? It's hard to tell from
10 that photo.

11 A. Green.

12 Q. Green Mercedes. Now, focussing your attention
13 specifically to the 22nd of June of 2009, tell the jury
14 what you had planned for that day.

15 A. Well, I had just gotten a new driver, took a long
16 time to get that situated, and I was going to Charleston
17 to meet with him. He had just gotten a contract with a
18 new company, and I was getting ready to get the paperwork
19 situated, get him set up with his load, and then he would
20 drive off into the sunset, come back and do whatever else
21 I had to do because I was on a one week break from
22 school, and I had to get back to Atlanta for school in a
23 couple days.

24 Q. Did you, in fact, leave Georgetown to go to
25 Charleston?

1 A. Yes.

2 Q. When you travel between Charleston and Georgetown,
3 which way do you go?

4 A. Highway 17 North -- or South.

5 Q. And when are you going down Highway 17 from
6 Georgetown to Charleston, do you pass by McClellanville?

7 A. Yes.

8 Q. Tell the jury, if you would, if you received any
9 type of phone call when you were on your way to
10 Charleston.

11 A. Yeah. I got a phone call from a guy saying
12 that -- asking me if I had some clothes, asking me what
13 area I was in. I told him -- he said he was in the
14 McClellanville area, and I said, Well, kind of works out
15 there because I'm on my way to Charleston. I'll be out
16 there for a few hours, and when I leave, I'll give you a
17 call and we'll go meet somewhere around there.

18 Q. Okay. Now, when you received that call, did you
19 recognize the telephone number?

20 A. No.

21 Q. And did you recognize the voice?

22 A. No, no. The person tried to explain to me who
23 they were, but, you know, that happens a lot and you just
24 nod and say, oh, okay, I know who this is.

25 Q. Did you at some point later on learn who it was

1 that called you?

2 A. Yes.

3 Q. And tell the jury who called you.

4 A. La Seto Gibson. They call him Quan.

5 Q. Now, when were you telling us about your store,
6 did you have business cards for your store?

7 A. Yes.

8 Q. And would that have had your cell number on it?

9 A. Yes.

10 Q. And would you typically give your business cards
11 out to patrons?

12 A. Absolutely.

13 Q. Did you, in fact, get to Charleston and meet with
14 the driver?

15 A. Yes.

16 Q. And if you would, tell us about the next time you
17 talked to Quan.

18 A. I left Charleston, I don't know what time, but I
19 called him when I was, say, almost like Mount Pleasant
20 and let him know I would be down there in the next 20, 30
21 minutes so look out for a call from me, and --

22 Q. Okay. And did y'all make arrangements during that
23 phone call as to exactly where to meet or were y'all
24 going to settle that later?

25 A. No. When I talked to him at that time, I told

1 him, I'll meet you at that Kangaroo right there in
2 McClellanville.

3 Q. Speak up again?

4 A. I told him I would meet him at the Kangaroo at
5 McClellanville.

6 Q. And that Kangaroo is where in relation to 17?

7 A. If you were heading north from Charleston to
8 Georgetown, it would be on your right-hand side, right
9 there in the section of Highway 45, I believe.

10 Q. Now, showing you what has been marked as State's
11 Exhibits 2, 3, and 4 and 5, here are the actual photos,
12 and I'm going -- we don't need the pointer yet. Take a
13 look at that and tell the jury, if you would, what that
14 depicts.

15 A. This is the gas station where everything occurred.

16 Q. That is the Kangaroo?

17 A. Yes.

18 Q. And then showing you Exhibit 3, is that another
19 side of it?

20 A. Yes.

21 Q. And Exhibit 4?

22 A. Yes.

23 Q. And Exhibit 5?

24 A. Yes.

25 Q. Okay. Now, do you have another conversation with

1 Quan before they actually arrive at the Kangaroo?

2 A. Yes. I called him when I was five minutes away,
3 maybe, coming into McClellanville, and told him I would
4 be there in a couple minutes.

5 Q. Let me grab those photos back. I'm going to hand
6 you a pointer and show you Exhibit 3. If you'll turn
7 around, showing you State's Exhibit 3, could you point
8 out where you pulled in.

9 A. Next to that car right there on that side.

10 Q. On the other side of that red car?

11 A. Well, it could very well have been where that car
12 is. I don't know if that car was there or not at that
13 time, I can't remember, but it was either that parking
14 space or that parking space.

15 Q. And when you pulled in, did you back in or did you
16 pull straight in?

17 A. I backed in.

18 Q. And was there a reason that you backed in?

19 A. So that I could see what was coming, so I could
20 see their approach.

21 Q. Okay. And do you, in fact, see them approach?

22 A. Yes.

23 Q. Showing you State's Exhibit No. 2, could you point
24 out to the jury where they pulled in.

25 A. They came in here first. They came, pulled in

1 that direction.

2 Q. And just to kind of orient us where you parked in
3 relationship to this picture?

4 A. Right over here, in that area.

5 Q. All right. And do you recall what type of car
6 they were driving?

7 A. A Crown Victoria, a dark colored one.

8 Q. Showing you State's Exhibit 6, can you tell us
9 whether you can identify that?

10 A. Yeah, that's it.

11 Q. That is the vehicle they were driving?

12 A. Uh-huh.

13 Q. Well, after they pulled into the pumps, what then
14 happened? Did they move their vehicle?

15 A. They pulled into the pump. A guy, tall, kind of
16 light skinned guy with a white T-shirt on got out and
17 went into the gas station, and as he walked into the gas
18 station, he was looking toward my car, and he went in,
19 and he wasn't in the gas station any more than 30
20 seconds, and he came back out with nothing in his hands.
21 I paid attention to that, and then he got back in the
22 car.

23 Q. Okay. And was there anything about that behavior
24 that drew your attention, or concerned you?

25 A. Yeah. I mean, why are you going in the gas

1 station? You didn't go in there for anything. I'm
2 observing things like that.

3 Q. Okay. Now, when you say you're observing things
4 like that, do you try to take precautions when you've got
5 clothing in your car?

6 A. Absolutely.

7 Q. And, in fact, did you have two guns in your car?

8 A. Yes.

9 Q. What type of guns did you have?

10 A. A Sky nine millimeter, and a Beretta 25 caliber.

11 Q. Where did you have those in your car?

12 A. In the armrest console area.

13 Q. And did you have some ammunition in the car as
14 well?

15 A. Yes.

16 Q. And were either of the guns loaded, or both?

17 A. Yes.

18 Q. Okay. And tell us again, why did you have that?
19 Why did you feel like you needed to have guns in your
20 car?

21 A. I know the world I live in. I know how people
22 are, and, you know, when you're perceived a certain way,
23 you become a target, so it's best to be prepared, try to
24 at least.

25 Q. Now, regarding those guns, did you, in fact, have

1 a concealed weapon permit?

2 A. Yes.

3 Q. And did you have that concealed weapons permit on
4 you that day?

5 A. Yes.

6 Q. Okay.

7 MS. SHEALY: Beg Court's indulgence just a
8 moment.

9 BY MS. SHEALY:

10 Q. While she's working on that, I'm going to show you
11 State's Exhibit 56 and ask you whether this depicts your
12 concealed weapons permit?

13 A. Yes.

14 Q. And the other item on that document is your
15 driver's license or ID?

16 A. My CDL.

17 Q. Your CDL, okay. Let's see. Okay. There we go.
18 So this is your concealed weapons permit.

19 A. Yes.

20 Q. And this is your CDL.

21 A. Yes.

22 Q. Okay. And at some point that day, you showed that
23 to the officers, or they get it out of your wallet,
24 correct?

25 A. Yes.

1 Q. Okay. Well, when they leave the pump area, where
2 do they go?

3 A. They pulled next to my vehicle.

4 Q. They go where?

5 A. They pulled that car next to my car.

6 Q. Okay. And showing you State's Exhibit 7, that is
7 right up there, that is probably a better picture for you
8 to show where you were and where they were.

9 A. I was parked here.

10 Q. This is the trick. You're going to have to --
11 yeah, why don't you point and then speak.

12 A. That is where I was parked, back there, and that
13 is where they pulled, facing that direction.

14 Q. Use the pointer and show which way they were.

15 A. (Indicating.) Facing that way.

16 Q. If you would, describe for us the positions of the
17 car in relationship to the driver's side of each car.

18 A. The driver's side of each car was -- the driver
19 doors, if both driver doors opened, they would have hit
20 each other, so one vehicle was facing this way, one was
21 that way with the two windows kind of next to each other.

22 Q. Okay. What happened once they came right up to
23 where you were?

24 A. They rolled the window down, and Quan, he was in
25 the passenger seat, and Kaylab was in the driver's seat,

1 and Quan said, We should go up into McClellanville. I
2 don't like being at this gas station.

3 And I said, Well, I don't have that much stuff
4 anyways, so this won't take long. Let me let you check
5 out what I have, and if I don't have anything you like,
6 you can just come to Georgetown to the store.

7 And then they gave each other this look, and --

8 Q. Let's stop there for a second. First of all, it
9 was light outside when y'all were at the convenience
10 store.

11 A. Yes.

12 Q. And when they want to go from that area back into
13 McClellanville, tell the jury how that made you feel.

14 A. I mean, suspicious. What reason would you have to
15 want me to go back there unless you want to do something?

16 Q. Okay. And when you say -- exchanged a look
17 between themselves, how did that make you feel?

18 A. That just further made me -- I'm going to keep my
19 eye on these guys. They might be up to something.

20 Q. Okay. And I think yesterday I got this wrong in
21 the opening. Tell me -- after that happens, what do you
22 do?

23 A. Well, they say, okay. They go and they roll the
24 windows up, and I take that opportunity to get my nine
25 millimeter out of my armrest and put it on my side. It

1 was in its holster. I have it inside the pants holster
2 so it was sitting inside the holster, so I picked the gun
3 and the holster up together put it on under my shirt.

4 Q. Tell the jury what you mean by putting it under
5 your shirt.

6 A. It was about here and inside my pants, facing
7 downward, and my shirt was over it.

8 Q. Okay. Now, on that day, did you have a shirt that
9 was tucked in or a shirt that was worn out?

10 A. A shirt that was worn out, kind of a long T-shirt.

11 Q. So after you put the gun at your waist, what do
12 you then do?

13 A. I go to the back of the car where the two of them
14 are coming towards and open the back and started showing
15 them a little bit of stuff that I had.

16 Q. Let's stop there for a moment. Kind of jumping
17 ahead for just a second, after everything happens,
18 Detective Lawrence comes and shows you some lineups; is
19 that right?

20 A. Uh-huh.

21 Q. To see whether you can pick out the people who
22 were involved; is that correct?

23 A. Right.

24 Q. And so you're telling us two people get out of the
25 vehicle at that point.

1 A. Yes.

2 Q. And showing you State's Exhibit 57, can you tell
3 me whether you were able to identify someone from that
4 document.

5 A. Yes, I was.

6 Q. And that person came out from what area?

7 A. That person came from the driver's seat.

8 Q. The driver's seat. And did you later learn this
9 was Kaylab Wright?

10 A. Yes.

11 Q. In fact, tell the jury, if you would, what you put
12 on the form that you filled out when you identified him.

13 A. He was driving. He had bad skin, didn't want to
14 buy anything, pulled off quickly after I got shot.

15 Q. Okay. And showing you this exhibit, this is
16 Kaylab Wright?

17 A. Yes.

18 Q. And he's the person that got out of which side?

19 A. The driver's side.

20 Q. Okay. Then showing you State's Exhibit 58, did
21 you make an identification?

22 A. Yes.

23 Q. And who is that person?

24 A. Quan.

25 Q. And where did you see Quan get out of the car?

1 A. Passenger seat.

2 Q. And for the jury's benefit, State's 58, this is
3 Quan?

4 A. Yes.

5 Q. Okay. So when Kaylab and Quan get out, where do
6 y'all go?

7 A. To the back of my car.

8 Q. And if you would, please, describe to the jury
9 what happens at the back of the car.

10 A. I mean, basically, they, you know, said, What you
11 got?

12 I showed them what I had. Kaylab was being kind
13 of -- not kind, he was being very rough about stuff. He
14 was being belligerent, just out of nowhere, tossing stuff
15 around, pushing: I don't like this; I don't like that.

16 Q. If you could, please, with the Court's permission,
17 stand up and show the jury how Kaylab was acting at the
18 back of the car.

19 A. He was, like --

20 Q. And speak loudly.

21 A. He was like looking at stuff and grabbing this,
22 throwing it, and then looking at that, pushing it to the
23 side, and, you know, just tossing things around like it
24 was his.

25 Q. Okay. And was there anything about that behavior

1 that, other than it being rude, concerned you?

2 A. Well, I mean, I've seen a lot of instances where
3 people are trying to start something and, you know, one
4 of them has to be, like, the agitator to get it going, so
5 that in itself was another bad sign, I guess you could
6 say.

7 Q. Okay. Do you kick yourself now about some of
8 these bad signs?

9 A. Yeah. I should have just told them to come to
10 Georgetown after he asked me to go back into
11 McClellanville.

12 Q. Does Kaylab continue to stay out there looking at
13 the clothing or does he go somewhere else?

14 A. He goes and gets back in the vehicle.

15 Q. And did he get into the driver's side or passenger
16 side?

17 A. Driver's side.

18 Q. What is happening with you and La Seto then in the
19 car?

20 A. We're at the back of the car, and, you know, we're
21 going through some things, and he had kind of narrowed
22 down something that he wanted.

23 Q. Do you remember what the clothing was that he was
24 interested in? If you don't --

25 A. It was pants and a shirt, I know that much.

1 Q. So what happens from that point?

2 A. He asks about -- he asked about some T-shirts.

3 Those were in the back seat of my car, and I went to the
4 back of my car to get them, to show them to him.

5 Q. So y'all went from the trunk? You went from the
6 trunk area to the back seat area?

7 A. Right, on the driver's side, back seat area.

8 Q. What were you doing in the car when you noticed
9 something else?

10 A. I leaned over the back seat, across the back seat
11 to get something from the shirts from behind the
12 passenger seat, so I was fully inside the back seat of
13 the car, and I heard a car door open and close.

14 Q. And then what happens?

15 A. I looked over my shoulder, and I saw, you know,
16 the mid torso of a man walking past me. I couldn't see
17 his upper body at that point in time.

18 Q. Let me show you State's Exhibit 7 again, and,
19 using your pointer again -- there we go. Showing you
20 that, could you explain where you were and where you saw
21 or heard someone coming from.

22 A. I was in this area, right there. That would
23 basically be the back seat, the back door, driver's side
24 of my car, and the other vehicle was about here. That
25 would be the driver door of that car, so someone got out

1 from the back seat driver's side of the other vehicle.

2 Q. Okay. And does that person walk towards the store
3 or away from the store?

4 A. They walk -- at that point, Quan is around this
5 area, and the person walks from here and goes past me and
6 stands next to Quan.

7 Q. Okay. Could you describe what that person looked
8 like when they got out of the car when you saw them.

9 A. What they looked like or who they were?

10 Q. Well, what they looked like. Was he in clean
11 clothes or --

12 A. Oh, no. He looked filthy.

13 Q. And what happens once you see him?

14 A. I heard, then I saw, someone move past me, so as
15 soon as that happened, I stood up and looked back and
16 there was Quan standing there. There was a man standing
17 there, and he had a gun in his hand.

18 Q. Okay. What happened at that point? Does he say
19 anything to you?

20 A. He said, Give me everything. That's the only
21 thing he said.

22 Q. And what was he doing with the gun?

23 A. Holding it in his hand. He just had it pointed at
24 me.

25 Q. Could you stand up and show the jury how he was

1 holding it, if you remember.

2 A. I turned around and he was standing, just like
3 this, saying, Give me everything.

4 Q. Okay. Now, were you later asked by Detective
5 Lawrence to look at a lineup to see if you could identify
6 the shooter in the case?

7 A. Yes.

8 Q. And showing you State's Exhibit 59, were you able
9 to identify someone?

10 A. Yes.

11 Q. And that is the person that is circled with your
12 initials?

13 A. Yes.

14 Q. And on the form that you had to complete, would
15 you indicate what you wrote.

16 A. That is the guy who shot me.

17 Q. Okay. And this is the person you identified?

18 A. Yes.

19 Q. And you learned that was Alonza Dennis?

20 A. Yes.

21 Q. And on that day, showing you State's Exhibit 23,
22 would you tell me whether this is how he appeared that
23 day.

24 A. Yes.

25 Q. Okay. And I think they're going to pull it up,

1 Moses, if you'll look at that.

2 A. Yes.

3 Q. And that is how he was dressed that day?

4 A. Yes.

5 Q. So he pulls the gun on you, and he says what to
6 you again?

7 A. He says, Give me everything.

8 Q. And what happened at that point?

9 A. Well, I mean -- let it be said that the time
10 period between him saying that and everyone dispersing,
11 it might have been five seconds, but he had the gun
12 pointed at me. I motioned my hand toward -- reaching for
13 my gun, and on the way there, the shot through the arm,
14 came out this direction, and the other ones happened so
15 fast. I mean, then I got shot in the leg, and then I
16 guess I was turning and I got shot in the back, like he
17 was kind of running away, kind of shooting, and --

18 Q. Let me interrupt you for a second. You said it
19 all happened pretty quickly. Were you able to get a good
20 look at the person who held that gun on you?

21 A. Yeah.

22 MS. SHEALY: With the Court's permission, I
23 would like to ask him to step down for a second.

24 THE COURT: All right.

25 BY MS. SHEALY:

1 Q. I hope you wore the right clothing to show this,
2 Moses. I wanted you to show the jury where the gunshots
3 went in, if you'll just come down here with me.

4 MS. EHRLICH: Objection, Your Honor.

5 THE COURT: Same one you made?

6 MS. EHRLICH: Prejudicial.

7 THE COURT: All right. Overruled.

8 THE WITNESS: It went in there and came out
9 right here. It didn't hit any bone. Same thing for
10 me --

11 BY MS. SHEALY:

12 Q. You're probably going have to step back a little
13 bit.

14 A. Right there is where it went out, and that is
15 where it came out, and then the other one, basically,
16 went in right here --

17 Q. Can you pull your shirt up just a little bit.

18 A. Okay. Somewhere in that neighborhood, I don't
19 know exactly --

20 Q. Right here?

21 A. Around there, yeah. It went in there and it was
22 surgically removed. Should I go back?

23 Q. Yes, please. Thank you. Now, you described it
24 as -- from the time he started shooting to the time they
25 dispersed, what do you mean by that? What happened to

1 the car that Kaylab was driving?

2 A. The gunshots went off. Alonza ran in the woods.
3 The car screeched off, and I ran towards the store.

4 Q. Okay. So the vehicle got out of there fast.

5 A. Very fast.

6 Q. Let's go back for one second. When Alonza pulls
7 that gun on you, tell the jury, if you would, what is La
8 Seto doing?

9 A. Granted, he didn't pull the gun. He obviously got
10 out of the car with the gun in his hand already, because
11 it's not like he reached and pulled it out when he saw
12 me. I stood up, looked down, and the gun was pointing at
13 me. La Seto, he pretty much, you know, looks off into
14 space and starts whistling, like it doesn't have anything
15 to do with me.

16 Q. I need you to demonstrate that for the jury. So
17 Alonza had the gun and had the gun pointed at you?

18 A. Right.

19 Q. Show the jury, if you would, what La Seto did with
20 his face.

21 A. Alonza, I looked at Alonza. He said what he said.
22 I looked at Quan, and Quan just, like this. I looked at
23 him, like what is this? You called me out here. So what
24 is this? And he just looks off into space.

25 Q. Now, when you say that Alonza left and went into

1 the woods, looking at State's Exhibit 7 behind you, would
2 you show the jury which way Alonza took off.

3 A. That way.

4 Q. Okay. Do you see him again, or is that the last
5 time you see him?

6 A. That's the last time I see him.

7 Q. So at that point, after you've been shot, do you
8 even know you were shot?

9 A. I see blood. No, I don't, at that moment.

10 Q. And where do you go from there?

11 A. Into the gas station.

12 Q. And what do you have in your hand when you go into
13 the gas station?

14 A. My gun.

15 Q. Okay. Do you remember what kind of reception you
16 got when you walked into the store with a gun?

17 A. Everyone was very afraid.

18 Q. Okay. And of course they had not been outside to
19 see what happened; is that correct?

20 A. Right.

21 Q. Showing you State's 3 again, show the jury the
22 path you took into the store the best you remember.

23 A. Came across this way and went in.

24 Q. And where was La Seto when you were going in?

25 A. Don't know. Somewhere. He was around.

1 Q. Okay. Showing you State's Exhibit 9, is that the
2 gun that you had?

3 A. Yes.

4 Q. And showing you State's Exhibit 10, is that the
5 path you took into the store?

6 A. Yes.

7 Q. And 11?

8 A. Yes.

9 Q. Now, that bright yellow item next to the wet sign,
10 wet floor sign, what is that?

11 A. That's lime green, and that is my shirt that I was
12 wearing that day.

13 Q. It's lime green?

14 A. Uh-huh.

15 Q. Do you at some point take that shirt off?

16 A. Yes.

17 Q. And why do you take it out?

18 A. Because I'm trying to figure out where this blood
19 is coming from.

20 Q. I'm showing you State's Exhibit 12. Does this
21 show you walking further into the store?

22 A. Yes.

23 Q. And State's Exhibit 13?

24 A. Yes.

25 Q. And State's Exhibit 14. Do you recall what you

1 were doing at that counter?

2 A. I don't remember going up there.

3 Q. You don't remember going that far?

4 A. No.

5 Q. Okay. Do you do anything inside the store other
6 than take your shirt off to try to figure out where
7 you're bleeding from?

8 A. I got bottles of water and start pouring them all
9 over my body.

10 Q. And were you asking anyone in the store for help?

11 A. Yes.

12 Q. Were they giving you any help?

13 A. Not really.

14 Q. Okay. Showing you State's Exhibit 18, is that the
15 shirt you had on that day?

16 A. Yes.

17 Q. And State's Exhibit 19?

18 A. Yes.

19 Q. Okay. And the darker stains that are on the
20 shirt, that is from your blood. They weren't on there
21 already?

22 A. Correct.

23 Q. Do you at some point leave the store?

24 A. No. I walk back outside.

25 Q. Did you walk back outside the store?

1 A. Yes.

2 Q. And why do you walk back outside the store?

3 A. Well, I called 911.

4 Q. Were you in the store or out of the store when you
5 called 911?

6 A. Somewhere in between the two.

7 Q. Okay.

8 A. I know I was in the store when I made the call. I
9 may have finished the call outside, but I went back
10 outside because I had -- the entire time my car was
11 running, the keys were in the ignition, so I walked back
12 to my car, cut the car off, rolled the windows up, and
13 then came back in front of the gas station.

14 Q. Were you still bleeding as you went back out to
15 the car?

16 A. Absolutely.

17 Q. What was La Seto doing during this point?

18 A. Several different things. I mean, at different
19 points he acted as if he was concerned, and then there
20 were different points where he -- you could tell he knew
21 he messed up, so he was trying to, I guess, vindicate
22 himself from the situation. What did they do? Oh, my
23 God, they did this, and I'm pretty much telling him to
24 get away from me, stay away from me.

25 Q. Did you feel like he was being genuine when he

1 was, like, Look what they did?

2 A. No, not in the least bit.

3 Q. And when you say sometimes he was being helpful,
4 did it seem to be genuine?

5 A. No. I mean, it wasn't -- it was just, Oh, my God,
6 are you okay, are you okay? Like -- that doesn't mean
7 much to me, but --

8 Q. When you walked back out to your car, where do you
9 go? What do you do? You turn your car off and get your
10 keys?

11 A. Yeah, basically.

12 Q. And where do you go?

13 A. Back to the front of the gas station.

14 Q. How are you feeling at that point?

15 A. I don't know exactly how to answer that question.

16 Q. Well, you've been shot three times. I'm just
17 wondering -- could you describe for the jury whether you
18 were feeling the pain from the shots yet or whether your
19 adrenaline was still pumping?

20 A. Well, the ones me my arms and my leg, I never even
21 felt those, they cauterized, but the one that went into
22 my back, I could feel some un -- some not good stuff
23 going on in my stomach. I don't know what it was, and I
24 was just trying my best to stay calm, just not panic,
25 because the only thing I was going to do was make it

1 worse.

2 Q. When you called 911, where is La Seto?

3 A. Somewhere. He's probably not far from me, I mean,
4 for the first two minutes, he wasn't very far from me.

5 Q. And do you know physically where you were for the
6 911 call or you don't?

7 A. When I made the call, I was right inside the door,
8 in front of the store.

9 MS. SHEALY: Your Honor, at this time we
10 would offer into evidence the tape recording from the 911
11 call, I believe without objection.

12 THE COURT: Admitted then.

13 MS. SHEALY: It has not yet been marked.

14 (Cassette tape of 911 call marked for
15 identification and admitted into evidence as State's
16 Exhibit No. 61.)

17 BY MS. SHEALY:

18 Q. Did you listen to this recording over at our
19 office?

20 A. Yes.

21 Q. And did you, in fact, initial it in some fashion?

22 A. Yes.

23 Q. Okay.

24 MS. SHEALY: Your Honor, we would request
25 permission to publish it now.

1 THE COURT: Go ahead.

2 BY MS. SHEALY:

3 Q. When you were making the 911 call, did you still
4 have your gun in your hand, or do you remember?

5 A. I presume I did.

6 (Tape of 911 call played for the jury.)

7 BY MS. SHEALY:

8 Q. Okay. When the dispatcher asked you if anybody
9 else had a gun, you told them you had a gun; is that
10 correct?

11 A. Yes.

12 Q. Are you okay? You need some water or anything?

13 A. I'm all right.

14 Q. And you readily told them about your concealed
15 weapons permit; is that correct?

16 A. Yes.

17 Q. Now, when the dispatcher asked you whether anybody
18 else was there that saw what happened, does La Seto get
19 the phone at that point?

20 A. I don't know.

21 Q. Okay. The person that came on and said, Who's
22 this, you don't remember who that was?

23 A. No.

24 Q. Well, was La Seto using his cell phone at any
25 point that you knew of to try to call 911 for you?

1 A. No, he didn't.

2 Q. Okay. What do you do -- do you see a truck come
3 up that La Seto knows the driver of?

4 A. Yes.

5 Q. Describe what happened, if you would, to the jury
6 about the truck.

7 A. The guy came up, Quan told him --

8 Q. Speak up a little bit for me.

9 A. The guy pulled up in the truck. Quan told him,
10 Man, the boys tried to rob him and then he got shot, and
11 the dude is, like, Oh, you need to let us take you to the
12 ambulance. They're right up the street, right up the
13 block. Get on the back of the truck.

14 And I said, No, I ain't getting on that truck with
15 y'all.

16 Come on. Let us just take you up there.

17 And I was, like, No, both of y'all need to get
18 away from me.

19 And he kept trying to get me to get on the back of
20 their truck, and for a brief second I thought about it,
21 because, you know, couple minutes had passed. I don't
22 know what's going on in my stomach, and the ambulance
23 doesn't seem to be in a rush to get there.

24 But then, I'm, like, no, what would stop them from
25 pulling up into McClellanville and trying to kill me? So

1 I didn't get on the back of the truck.

2 Q. Do you at some point actually see the rescue units
3 in the area?

4 A. Yeah. I saw it parked across the street, about
5 ten minutes before they came over where I was.

6 Q. And when La Seto was still there, did he say
7 anything to you about the gun in your hand?

8 A. Uh-huh.

9 Q. What did he say?

10 A. He said -- that was when the ambulance pulled up,
11 and a crowd had started gathering, so other people were
12 out there, you know, giving their comments, and someone
13 pointed out that the ambulance was across the street.
14 And someone, not just him, but other people out there
15 were also saying, you know, You need to put that gun up
16 because when the police come, they're not going to know
17 who did what and they might try to shoot you, so you
18 should put your gun up, at least until they come.

19 Q. And did you, in fact, put your gun up?

20 A. Yes. I threw it behind the trash can that was a
21 couple feet behind me.

22 Q. And that is after you said you saw EMS not coming
23 over.

24 A. Right.

25 Q. Showing you State's Exhibits 5 and 6, can you look

1 behind you. That trash can that's right outside the
2 front door, is that the trash can that you put the gun
3 behind?

4 A. Yes, back there.

5 Q. Okay. And I think we have a closer up shot. I
6 may have given you the wrong -- one second. 22. Is that
7 where you put your gun?

8 A. Yes.

9 Q. Now, later when the police come, do you tell them
10 where the gun is?

11 A. Yes.

12 Q. Okay. Why don't you turn back around for me now.
13 At some point then, do the police come or does EMS come,
14 do you recall?

15 A. The police show up, and then ten seconds later EMS
16 showed up.

17 Q. And when the police came, did you tell them where
18 you put the gun -- you told them where you put the gun,
19 and did you also tell them about your concealed weapons
20 permit?

21 A. Yes.

22 Q. Now, how did you get from the convenience store to
23 MUSC?

24 A. They put me on, I guess you call it, a gurney, and
25 then put me in the ambulance, and then the ambulance

1 drove -- couldn't have been more than a mile or two, and
2 then I was loaded on to a helicopter, and then I flew in
3 the helicopter downtown, and then I was on an elevator
4 and then I was in another ambulance and then I ended up
5 inside the hospital.

6 Q. And how long were you in the hospital?

7 A. First time, a week.

8 Q. And there was a second time?

9 A. Yes.

10 Q. How long the second time?

11 A. Five days, maybe.

12 Q. Okay. Did you, in fact, have to undergo a couple
13 of surgeries?

14 A. Yes.

15 Q. And was it your colon that had to be operated on?

16 A. Yeah, and --

17 MS. EHRLICH: Objection, Your Honor. This is
18 victim impact information.

19 MS. SHEALY: It's our position that is
20 relevant to how he was injured.

21 THE COURT: Sustained -- overruled. Go
22 ahead.

23 BY MS. SHEALY:

24 Q. Had to have your colon operated on?

25 A. They had to patch up my colon, and my lower

1 intestine had to be sewed back.

2 Q. When you were in the hospital the first time and
3 after the surgery, did Detective Lawrence come up to meet
4 with you?

5 A. Yes.

6 Q. And that is when he brought some of the lineups?

7 A. Yes.

8 Q. Okay. And we've gone over those lineups. Did
9 Detective Lawrence tell you who to pick out, or did he
10 just show you the lineup and you chose?

11 A. He showed it to me, and I chose.

12 Q. Did you have any hesitation about Quan, who Quan
13 was?

14 A. No.

15 Q. Did you have any hesitation about who Kaylab was?

16 A. No.

17 Q. And did you have any hesitation about who the
18 shooter was?

19 A. No.

20 Q. Let's go back to the shooter himself. Did you
21 shoot Mr. Dennis?

22 A. No.

23 Q. And do you recall whether you were asked that
24 question by Detective Lawrence?

25 A. Yes, I was.

1 Q. Do you recall what you told him?

2 A. Well, from reading the statement, it seems that I
3 said I wasn't sure at that time whether I shot or not.

4 Q. And are you sure now?

5 A. Yeah, I mean, gun holes, nine plus one, and there
6 were nine plus one still in there, so obviously I still
7 didn't.

8 Q. But at the time Detective Lawrence was questioning
9 you, you weren't sure?

10 A. I wasn't sure of a lot of things at that moment.

11 Q. And if you could, describe that to the jury. I
12 mean, you saw Detective Lawrence?

13 A. He came in the next day. I spent all day in
14 surgery, got up the next day, and they wouldn't let me
15 eat and they were pumping me all full of medicine. And
16 I'm just in and out of it, so, I mean, he asked all these
17 questions about all these different people, and I'm being
18 forced to remember every particular detail of a three
19 minute window. You know, it's not easy to do.

20 Q. Also, going back to the shooting, what is the
21 first thing that happens between you and Mr. Dennis? Do
22 you pull your gun first or does he say, Give me
23 everything first?

24 A. He has his gun pointed at me. He says, Give me
25 everything, and I reached toward my waist and he shoots

1 while my hand is on my way to my waist.

2 Q. Now, you were shown one other lineup. I'm showing
3 you State's Exhibit 60, and you were asked whether you
4 could identify anyone in that lineup; is that correct?

5 A. Yes.

6 Q. And did you recognize anyone in that lineup?

7 A. No.

8 Q. And what do you, in fact, put on that lineup?

9 A. Don't recognize any of them.

10 Q. Okay. I'm showing the jury State's Exhibit 60.
11 This is the lineup that you were shown where you
12 recognized no one.

13 A. Yes, yes.

14 Q. Have you ever met a guy named Trevor Gibbs?

15 A. No, not to my knowledge.

16 Q. And to your knowledge, you have never spoken to
17 Trevor Gibbs?

18 A. Not to my knowledge.

19 Q. When the second car -- when the Crown Vic was
20 there that day, were you aware there was a fourth person
21 in the car?

22 A. In retrospect.

23 Q. But at the time did you know there was anyone else
24 in the car?

25 A. I mean, the windows are so dark tinted, you

1 couldn't tell. They could have had 50 clowns in there, I
2 wouldn't have known.

3 MS. SHEALY: Beg the Court's indulgence just
4 a moment.

5 BY MS. SHEALY:

6 Q. Moses, do you recall what type of wallet you
7 carried back then?

8 A. A Gucci wallet.

9 MS. SHEALY: I have nothing further. Thank
10 you.

11 THE COURT: Cross?

12 CROSS-EXAMINATION

13 BY MS. EHRLICH:

14 Q. Hi.

15 A. Hi.

16 Q. Do you mind if I call you Moses or do you prefer
17 Mr. Alford?

18 A. Moses is fine.

19 Q. Moses, when were you at the Kangaroo, the police
20 didn't take any statement from you on the scene, right?

21 A. No.

22 Q. They waited until you were at the hospital.

23 A. Right.

24 Q. And they also never did any type of gunshot
25 residue test on you, did they, that you know?

1 A. Don't know if they did or not.

2 Q. Okay. And I guess you said that Detective
3 Lawrence interviewed you the day after the shooting,
4 while you were at the hospital?

5 A. Yes.

6 Q. And did you write the statement out -- you wrote
7 the statement yourself?

8 A. I believe I did.

9 Q. If I showed it to you, would you be able to
10 recognize it if it was your handwriting?

11 A. Yes.

12 MS. EHRLICH: Permission to approach?

13 THE COURT: Go ahead.

14 THE WITNESS: Yes, it's my handwriting.

15 BY MS. EHRLICH:

16 Q. So this is your handwriting.

17 A. Yes.

18 Q. And this was the day after the shooting.

19 A. Yes.

20 Q. And I believe that you also signed on here that
21 this was a true and accurate statement.

22 A. Yes.

23 Q. Okay. You testified today that when you got the
24 phone call about somebody wanting to buy clothing that
25 you didn't recognize the voice.

1 A. Right.

2 Q. Okay.

3 A. Not initially.

4 Q. Okay.

5 A. The person said their name, but it didn't, you
6 know, instantly ring a bell who it was.

7 Q. Do you remember in your statement telling
8 Detective Lawrence that you did recognize the voice?

9 A. Do I remember saying that? No, I don't remember
10 saying it.

11 Q. Okay. At the time -- I guess -- you were selling
12 clothing on a regular basis.

13 A. I had a clothing store.

14 Q. So people would call you, and if you were going
15 through town, you might stop and sell clothes to
16 somebody.

17 A. Yeah, I mean, but -- there is no need to
18 overemphasize that because that was rather few and far
19 between. It's not something that occurred a lot.

20 Q. Had you sold in McClellanville before?

21 A. Absolutely.

22 Q. Okay. And I guess you drive a recognizable car?

23 A. Yes.

24 Q. People probably recognize who you are and know
25 that you're the guy that sells clothes?

1 A. Yes.

2 Q. And so when you got the phone call that day from
3 somebody who wanted to buy clothes, it wasn't surprising
4 to you that somebody would call you about that?

5 A. No.

6 Q. And at some point, I realize that you're saying
7 you didn't recognize his voice at the beginning, but at
8 some point you did recognize the voice as being Quan?

9 A. Again, the person told me, I'm Quan, you know,
10 I'm -- Georgetown isn't, like, a really big town, but
11 it's not the smallest place in the world either, so I
12 know my customers when I see them by face, but I don't
13 know everyone by name, so someone could sit there and do
14 everything in their power to jog my memory, and I say, I
15 know who you are and still not quite know. It's a normal
16 thing.

17 Q. The person who called you, though, did turn out to
18 be Quan.

19 A. Yes.

20 Q. And that's the same person that sometimes we call
21 La Seto, sometimes they call Quan, and he goes by Quan?

22 A. Yes.

23 Q. And he's the one who got you to the gas station?

24 A. Yes.

25 Q. He wanted you to go outside of the gas station and

1 be away from where everybody would see, though?

2 A. Yes.

3 Q. But you wanted to be at the gas station so people
4 would see what was going on.

5 A. Yeah. I just wanted to go ahead and get it over
6 with so I could get on with my life.

7 Q. You didn't want to go down the back roads of
8 McClellanville?

9 A. No.

10 Q. And Alonza Dennis, you had never sold clothes to
11 him before.

12 A. No, not to my knowledge.

13 Q. That you can remember. And so you didn't know who
14 he was.

15 A. No.

16 Q. And you're pretty sure it wasn't him that called
17 you out there?

18 A. I knew it wasn't him.

19 Q. And you had not had any run-ins with him before
20 where he would know how you do your business?

21 A. No.

22 Q. There was another guy there, Kaylab -- it Kaylab
23 or Kaylab? You don't know?

24 A. I don't know.

25 Q. But the tall guy?

1 A. Uh-huh.

2 Q. With the bad skin?

3 A. Uh-huh.

4 Q. That was Kaylab?

5 A. Yes.

6 Q. And he was acting belligerent.

7 A. Yes.

8 Q. Going through your stuff?

9 A. Yes.

10 Q. Acting mad?

11 A. Yes.

12 Q. Kind of making you nervous?

13 A. Making me suspicious.

14 Q. Making you suspicious. And I think you said that
15 Quan and Kaylab were giving each other kind of a look?

16 A. It was brief.

17 Q. Like something might be up, like they were -- you
18 didn't know, but it made you suspicious.

19 A. Well, my experience tells me that that look meant,
20 here we go.

21 Q. Like they might do something to you?

22 A. Right, like, you know, we have a plan, our plan
23 changed, okay, we got to do it here then.

24 Q. And that look to you communicated that they might
25 be up to something?

1 A. Yes.

2 Q. And so you were fearful for suspicious?

3 A. I was suspicious.

4 Q. Okay. And it's at that point that you got your
5 gun out of the car.

6 A. Right.

7 Q. Because you were suspicious of Quan?

8 A. I was suspicious about him asking me to go to
9 McClellanville, the way the guy in the white shirt walked
10 in and walked out, looking at of me the whole time and
11 didn't buy anything, and then the look that they gave
12 each other. So that is enough for me to say I'm going to
13 keep my eye on these three.

14 Q. Okay. At that point, if we could just stop right
15 there, you hadn't seen Alonza Dennis right then?

16 A. At the point when --

17 Q. When they were giving each other looks?

18 A. No, I had not.

19 Q. You see the guy go in and out of the gas station.
20 None of those people were Alonza Dennis?

21 A. Correct.

22 Q. And you hadn't had any contact with him at that
23 point?

24 A. No.

25 Q. The only people you had communication with were

1 Quan?

2 A. Yes.

3 Q. And Kaylab?

4 A. Yes.

5 Q. Okay. And I think you said in your statement that
6 you knew not to turn your back on them again?

7 A. I'm sorry. In what context?

8 Q. If I show you your statement, would that help
9 refresh your memory?

10 A. Yeah, possibly. Let me see. Where specifically?
11 Yes.

12 Q. It says something about Quan and Kaylab told you
13 not to turn your back on them again, right?

14 A. It was just something about the scenario as a
15 whole.

16 Q. Okay. Let's skip ahead to after you were shot,
17 and you testified earlier that somebody came up in the
18 truck that knew Quan and they were trying to get you in
19 the back of the car.

20 A. Yes.

21 Q. And you were scared.

22 A. Yes.

23 Q. You thought that they might take you and go down
24 some back road and kill you?

25 A. Yes.

1 Q. And those were people that knew Quan?

2 A. It was one guy, and I don't know the guy, still
3 can't put my finger on who he is, but I know I remember
4 seeing him around, but it's not like I was fearful of
5 him, saying, Oh, this guy is like an executioner; like
6 Quan knew that, you know, he had messed up so they may
7 very well try to --

8 Q. Finish you off?

9 A. -- silence me before, you know, we get a day like
10 this.

11 Q. Okay. And you testified that while you were
12 leaning into the back seat looking at the T-shirts that
13 Quan wanted you to look at, that's when you heard a car
14 door open and saw, kind of over your shoulder, a torso,
15 right?

16 A. Yes.

17 Q. And you testified today that you saw a gun?

18 A. Yes.

19 Q. And do you remember what color the gun was?

20 A. I know that in my statement as I read it, I think
21 I said it was, you know, black or chrome, 22, 25 or 38,
22 because when you glance down the barrel of a gun, you
23 know, it's not exactly going to say, Oh, that's a Ruger,
24 you know, nine millimeter type thing.

25 Q. You said in your statement it was black.

1 A. Okay.

2 Q. Does that sound right?

3 A. Yes. That is what is in the statement.

4 Q. And you're not disputing that you had a gun that
5 day?

6 A. No.

7 Q. You had two guns that day.

8 A. Yes.

9 Q. And I guess today you're saying that you know you
10 didn't fire the gun because of how many bullets were in
11 it?

12 A. And I didn't fire the gun.

13 Q. Well, you did tell Detective Lawrence, though, you
14 didn't know if you fired the gun.

15 A. Right.

16 Q. Okay.

17 A. Today I know I didn't fire the gun.

18 Q. Today you know that.

19 A. Today I know that.

20 Q. Do you remember telling bond court that Trevor
21 Gibbs was dangerous?

22 A. Do I remember telling bond court that Trevor
23 Gibbs --

24 Q. Do you remember writing a letter to bond court
25 telling them how dangerous he is?

1 A. I remember writing a letter pretty much stating
2 that we all live in the same area. Even still, I
3 don't -- he could be in this courtroom right now. I
4 don't know what he looks like, so it's kind of eerie,
5 when you have someone on the other side of the fence who
6 knows what you look like but you don't know what they
7 look like, so it just made me pretty leery, being that we
8 all, you know, reside in the same area.

9 Q. Do you remember putting in your letter to bond
10 court that he was dangerous?

11 A. Yes.

12 Q. And do you remember putting in that same letter
13 that Quan was dangerous?

14 A. Yes.

15 Q. And that if they got out they would try to finish
16 you off?

17 A. Yes.

18 MS. EHRLICH: Court's indulgence. I don't
19 have any other questions, Your Honor.

20 THE COURT: Redirect?

21 MS. SHEALY: Beg the Court's indulgence one
22 moment.

23 REDIRECT EXAMINATION

24 BY MS. SHEALY:

25 Q. Mr. Alford, Ms. Ehrlich was asking you whether you

1 had a letter for bond purposes; is that right, for a bond
2 hearing?

3 A. Yes.

4 Q. So you're aware that La Seto Gibson, Kaylab
5 Wright, Trevor Gibbs, and Alonza Dennis were all arrested
6 for assault and battery with intent to kill and armed
7 robbery; is that right?

8 A. Yes.

9 Q. And when she was asking you about the bond
10 hearing, there had been several bond hearings for all
11 these guys, correct?

12 A. Numerous.

13 Q. Let me show you the letter she's referencing, just
14 so you can refresh your memory. Were you physically able
15 to come to the bond hearing?

16 A. No.

17 Q. And why was that?

18 A. Well, for one, I was between the hospital and, you
19 know, in bed, unable to move.

20 Q. Okay. So when a judge was making a decision about
21 whether or not those four guys could get back out of
22 jail, you weren't even physically able to come; is that
23 correct?

24 A. Correct.

25 Q. And once you learned that Trevor Gibbs was in that

1 car, you felt like he was just as involved as the rest,
2 and dangerous as well; is that correct?

3 A. Indeed.

4 Q. Okay. But you told the judge had never seen him?

5 A. I haven't.

6 Q. Did Quan shoot you?

7 A. No.

8 Q. Did Kaylab shoot you?

9 A. No.

10 Q. Did Trevor Gibbs shoot you?

11 A. No.

12 Q. Now, when you described in your statement the gun,
13 you do say it's black, but what do you say about the
14 caliber? Do you have your statement in front of you?

15 A. I don't have it in front of me.

16 Q. Tell the jury what caliber of gun you thought it
17 might be.

18 A. 22, 25, or 38.

19 Q. Okay. And when you're referencing the barrel of
20 the gun that was pointed at you, what do you say about
21 the barrel?

22 A. It's a small barrel.

23 Q. So you might be off on the color; is that right?

24 A. Right, right. I know it was a revolver with a
25 small barrel.

1 MS. SHEALY: Beg the Court's indulgence just
2 one moment. I have no further questions. Thank you,
3 Judge.

4 THE COURT: Recross?

5 MS. EHRLICH: No, Your Honor.

6 THE COURT: All right. You can step down.
7 All right.

8 Let's take about a ten-minute break before we
9 call the next witness. Again, don't begin deliberations
10 or discussions about the case. We'll see you back in
11 about ten minutes.

12 (Recess taken.)

13 (In open court, jury not present.)

14 THE COURT: You want to put what on the
15 record, or elicit what from the witness?

16 MS. SHEALY: There were two things that I
17 think the defense objects to that I intend to elicit from
18 our next witness, Trevor Gibbs.

19 He is a codefendant, and he was with
20 Mr. Dennis that day, obviously earlier, and at the time
21 of the actual incident. Mr. Dennis was trying to sell
22 the gun in question to the guys, La Seto, Kaylab, and
23 Trevor, and indicated he had stolen it the night before.

24 I think an issue in this case is whether they
25 provided it to Alonza, or whether he provided it to them,

1 and that I should be entitled to go into the fact that
2 Alonza tells them he got it from the night before he
3 stole it, as to that issue.

4 The other issue is Trevor Gibbs indicates
5 that Alonza was kind of hyperactive and he really had to
6 get a blast, had to get a blast. Would y'all buy my gun?
7 And blast is crack cocaine, and I think it will be
8 appropriate for us to elicit that. It goes to the motive
9 as to why he would want to rob Mr. Alford. And a crack
10 pipe is found on him after he surrenders over on River
11 Road.

12 In addition to Mr. Dennis telling those three
13 guys he needed a blast, there is actually the crack pipe
14 on him when he is detained.

15 THE COURT: Okay.

16 MS. EHRLICH: Judge, our concern is, again,
17 this would be more prejudicial than probative. Going
18 into motive really isn't an element of the crime.
19 They're not required to prove motive. It certainly -- I
20 don't think it's relevant.

21 THE COURT: They're not required to, but they
22 certainly can.

23 MS. EHRLICH: But yesterday, Judge, there was
24 no testimony that he was using drugs, that he was under
25 the influence of drugs. I don't think they're going to

1 be able to prove --

2 THE COURT: There was no testimony yesterday.

3 MS. EHRLICH: I'm talking about in the
4 pretrials, with all of the detectives who interviewed
5 him. Nobody said that he appeared to be under the
6 influence of drugs. My concern is, again, it's going
7 into his character --

8 THE COURT: We're not bound by the narrow
9 scope of what that testimony was about yesterday.

10 MS. SHEALY: Even so, Your Honor, the point
11 is, he never achieved getting the money to get his next
12 hit. He was a man in need of it.

13 THE COURT: Right. Okay. All right. I
14 interrupted you. Go ahead.

15 MS. EHRLICH: Judge, the other issue that we
16 have is them talking about the stolen gun, the gun being
17 stolen. That is not what he's here on trial for today,
18 possession of a stolen gun.

19 I think the only police report out there
20 regarding a gun being stolen is from two years before
21 this incident even occurred. Again, I'm concerned about
22 that going into his character and being more prejudicial
23 than probative.

24 THE COURT: Okay. Do you want to respond?

25 MS. SHEALY: Yes, Your Honor. Regarding the

1 gun, recognizing this was also not testimony, but
2 Ms. Ehrlich did indicate in her opening that there was no
3 question that Mr. Dennis did the shooting but that he was
4 the pawn of the other three and that they, in fact, gave
5 him the gun.

6 I certainly think that part of the state's
7 proof can be to show that Mr. Dennis not only had the
8 gun, but gave the other guys a reason for how he was in
9 possession of it and where he got it from.

10 THE COURT: Well, it certainly is probative
11 to rebut that, and I also believe you can refer to the
12 crack cocaine as part of his establishing motive as to
13 why he was participating in this robbery. Okay?
14 Anything else?

15 MS. SHEALY: Nothing further, Judge.

16 THE COURT: Let's bring the jury back.

17 (In open court, jury present.)

18 THE COURT: All right. We will resume with
19 the state calling the next witness opinion.

20 MS. SHEALY: Trevor Gibbs

21 TREVOR GIBBS,

22 having been first duly sworn,
23 was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MS. SHEALY:

1 Q. Now, Trevor, I've talked to you about this. You
2 have absolutely got to speak loudly enough for the whole
3 jury to hear, the judge to hear, the court reporter and
4 the attorneys, okay?

5 A. Yes, yes, ma'am.

6 Q. Tell the jury how old you are.

7 A. Twenty-four.

8 Q. And where do you currently live?

9 A. McClellanville.

10 Q. And where did you grow up?

11 A. McClellanville.

12 Q. And who do you live with in McClellanville?

13 A. My grandmother.

14 Q. Okay. Where did you go to high school there?

15 A. At Lincoln High.

16 Q. Did you graduate from high school?

17 A. Yes, ma'am.

18 Q. Do you work?

19 A. No, ma'am.

20 Q. Back in 2009, did you work?

21 A. No, ma'am.

22 Q. And I want to ask you about some people.

23 A. Yes, ma'am.

24 Q. La Seto Gibbs, what do you call him?

25 A. Quan.

1 Q. Quan?

2 A. Yes, ma'am.

3 Q. And describe for the jury panel your relationship
4 with Quan.

5 A. Best friends, cousin.

6 Q. Best friends and cousin?

7 A. I mean, first cousin. We're tight friends.

8 Q. Okay. Showing you State's Exhibit 58, is that
9 Quan?

10 A. Yes, ma'am.

11 Q. How about Kaylab Wright?

12 A. Cousin.

13 Q. How do you know him?

14 A. Grew up together. Cousins.

15 Q. And y'all are tight.

16 A. Yes, ma'am.

17 Q. Showing you State's Exhibit 57, showing you number
18 5 that is circled here, is that Kaylab Wright?

19 A. Yes, ma'am.

20 Q. What about Alonza Dennis?

21 A. We know Alonza from around the area.

22 Q. All right. And showing you State's Exhibit 59,
23 who is that?

24 A. Alonza.

25 Q. Okay. Is Alonza seated in the courtroom?

1 A. Yes, ma'am.

2 Q. Where is he seated?

3 A. Right there.

4 Q. Now, were you as tight with Alonza as you were
5 with Quan and Kaylab?

6 A. No, ma'am.

7 Q. What is wrong with Kaylab's skin?

8 A. He got burned in a house fire.

9 Q. So can you tell that by looking at his face that
10 there is something wrong with his skin?

11 A. Not by his face. You got to look at his arms or
12 something.

13 Q. By his arms and stuff. Okay. What do you know
14 Alonza Dennis's name? Like, what do y'all call him in
15 McClellanville?

16 A. Lonzo.

17 Q. And you said you didn't know him very well. Can
18 you describe your relationship with him.

19 A. We see each other. We talk, whatever. He used to
20 come around, we never, like -- we never hang out together
21 like that too much, though.

22 Q. Back to La Seto and to Kaylab, your buddies back
23 in 2009, you weren't working, right?

24 A. No, ma'am.

25 Q. Was La Seto working?

1 A. No, ma'am.

2 Q. Was Kaylab working?

3 A. Yes, ma'am.

4 Q. Where did Kaylab work?

5 A. At the shrimp dock, in McClellanville.

6 Q. There is some shrimping that goes on in the
7 McClellanville area, right?

8 A. Yes, ma'am.

9 Q. All right. Tell the jury, when you got little
10 bits of money, where did you get it from?

11 A. Hustling, selling something.

12 Q. Selling something. You'll have to try to speak
13 really clearly and really loudly for me, okay?

14 A. Yes, ma'am.

15 Q. When you say hustling, are you talking about
16 selling crack and selling marijuana?

17 A. Yes, ma'am.

18 Q. Did you bring some family with you today from
19 McClellanville?

20 A. Yes, ma'am.

21 Q. Is it easy for you to say that in front of them?

22 A. No, ma'am.

23 Q. Okay. Who do you live with?

24 A. My grandmother.

25 Q. Tell the jury whether Quan also sold drugs.

1 A. Yes, yes, ma'am.

2 Q. Okay. And what kind of drugs did he sell?

3 A. Weed.

4 Q. And crack?

5 A. Weed and crack both.

6 Q. Focussing your attention on the 22nd of June of
7 2009, tell the jury whether you were hanging out with
8 Kaylab and La Seto?

9 A. Yes, ma'am.

10 Q. And had y'all made plans for later in the evening?

11 A. We were going to Georgetown, to go to a party at a
12 club calls Walter's.

13 Q. Y'all were going to a club to party.

14 A. Yes, ma'am.

15 Q. Now, early on the in the day, where were you
16 hanging out with these other two guys?

17 A. At Quan's, under the tree.

18 Q. At Quan's under the tree?

19 A. Yes, ma'am.

20 Q. Does Quan live on Brailsford?

21 A. Yes, ma'am.

22 Q. Does Quan have family that lives on Brailsford?

23 A. Yes, ma'am.

24 Q. Who lives over there?

25 A. His grandmother and grandfather.

1 Q. What is his grandfather's name?

2 A. James.

3 Q. James?

4 A. Geathers.

5 Q. When y'all say you are hanging out under the tree,
6 describe to the jury what that means. What do you mean,
7 hanging out under a tree?

8 A. Sitting down, chilling out, listening to music,
9 probably drinking and stuff like that.

10 Q. And this is a place y'all would frequently hang
11 out?

12 A. Yes, ma'am.

13 Q. Earlier in the day, do y'all leave and go
14 somewhere together?

15 A. To the store to get some beer.

16 MR. GRIMES: Your Honor, could we have the
17 witness speak up some?

18 THE COURT: Could you speak up louder,
19 please.

20 BY MS. SHEALY:

21 Q. Trevor, you're really going have to concentrate on
22 speaking loudly and clearly too, okay?

23 A. Yes, ma'am.

24 Q. Where -- I'm sorry. Where did y'all leave to go?

25 A. We went to Kangaroo to get some beer.

1 Q. Whose car did you go in?

2 A. Quan's car.

3 Q. What kind of car did he have?

4 A. A Crown Vic.

5 Q. And was there any damage to the outside of that
6 vehicle when y'all went up to get the beer?

7 A. When we first went to get the beer?

8 Q. Yes.

9 A. No, ma'am.

10 Q. Had anything happened to the car previously?

11 A. Like a couple weeks before.

12 Q. Tell the jury about that.

13 A. The car got shot up three weeks before, and you
14 couldn't down the back window because the car got shot.

15 Q. The car got shot at?

16 A. Yes, ma'am.

17 Q. And that is Quan's car?

18 A. Yes, ma'am.

19 Q. Who drove when y'all went to the Kangaroo earlier
20 that day?

21 A. Quan.

22 Q. Quan did?

23 A. Yes, ma'am.

24 Q. Showing you State's Exhibit 8, is that Quan's car?

25 A. Yes, ma'am.

1 Q. When y'all go up to the Kangaroo that time, who
2 gets out of the car?

3 A. I got out and went inside the store.

4 Q. And what did you do inside the store?

5 A. Get a 12 pack of Miller High Life.

6 Q. When you left to go in the store, did you see
7 anyone in the vicinity that drew your attention?

8 A. Yes, ma'am.

9 Q. Who?

10 A. Alonza.

11 Q. Where was Alonza?

12 A. Sitting down under the little oak tree next door
13 to the store.

14 Q. Sitting down -- showing you State's Exhibit 25,
15 does this show you the tree?

16 A. Yes, ma'am.

17 Q. Okay. So if you would, you just push this button,
18 it will show a red light. You just push there. How
19 about pointing to where Alonza was.

20 A. Sitting by this tree right here.

21 Q. Before you went into the store, had Alonza
22 approached y'all at all?

23 A. Yes, ma'am.

24 Q. Okay. What happened when he came up to the car?

25 A. He came up to the car and he said back up because

1 two police were across the road.

2 Q. Show us where the police were.

3 A. Right there, two of them, pointing towards the
4 next door.

5 Q. Who was telling him to back up?

6 A. I was getting out, so I tell him, like, back up by
7 the car. You can see the police.

8 Q. Why didn't you want the police to see Alonza
9 coming to the car?

10 A. We weren't trying to draw attention to ourselves
11 because Quan didn't have no license to be driving.

12 Q. Tell me this in general, Trevor. Did you and Quan
13 and Kaylab ever like the attention of the police?

14 A. No, ma'am.

15 Q. Did you try to stay away from the police?

16 A. Yes, ma'am.

17 Q. When you came back out of the store, had Alonza
18 left or was he still there?

19 A. He was in the back seat.

20 Q. He was in the back seat of the car?

21 A. Yes, ma'am.

22 Q. Where did y'all go from there?

23 A. To Quan's house on Brailsford Road.

24 Q. When you went to Quan's, who all got out of the
25 car?

1 A. All four of us.

2 Q. You, Kaylab --

3 A. Alonza.

4 Q. At some point, earlier in the day, were you
5 present when Quan made a phone call?

6 A. Yes, ma'am.

7 Q. Tell the jury who he called.

8 A. Moses.

9 Q. And why was he calling Moses?

10 A. To buy an outfit to go out that night.

11 Q. To go out that night?

12 A. Yes, ma'am.

13 Q. Okay. What was your understanding of the plan to
14 meet up with Moses?

15 A. I just heard Quan say he was on his way from
16 Atlanta, and he would be in Charleston and when he got to
17 the blinking lights, he would call when he got by the
18 Kangaroo gas station.

19 Q. He would call when he got closer?

20 A. Yes, ma'am.

21 Q. You said something about the blinking lights?

22 A. Yes, ma'am.

23 Q. Where are the blinking lights?

24 A. Right and there.

25 Q. When y'all got back from Quan's house -- tell us

1 how Alonza was acting in the car.

2 A. He was quiet until we got to Quan's house. He was
3 quiet at first.

4 Q. What changed when you got to Quan's house?

5 A. He was talking about -- he was mad because he said
6 you didn't get paid for all that, so we was just sitting
7 down, you know.

8 Q. At any point does he ask whether you want to buy
9 something?

10 A. Yes, ma'am.

11 Q. Okay. Tell the jury about that. Tell us what
12 Alonzo was saying about the gun?

13 A. He was trying to sell the pistol.

14 MS. EHRLICH: Objection, Your Honor.

15 THE COURT: I'm sorry. What was your
16 objection?

17 MS. EHRLICH: Renewing our prior objections
18 before the witness testified about the testimony
19 regarding the gun.

20 THE COURT: Overruled.

21 BY MS. SHEALY:

22 Q. What did he say about where he had gotten the gun?

23 A. He had stole it the night before.

24 Q. Stolen it the night before. Did he show you the
25 gun?

1 A. He didn't really -- he didn't show me it.

2 Q. Did he have it out?

3 A. He pulled it out for one second.

4 Q. Okay. Showing you what's been marked as State's
5 Exhibit 53 for identification purposes, I ask you whether
6 you can identify this item.

7 A. Yes, ma'am.

8 Q. Okay. And what is that item?

9 A. Revolver.

10 Q. And who did you see that in the possession of?

11 A. Alonza.

12 MS. SHEALY: Your Honor, we would at this
13 time offer State's Exhibit 53, I believe, without
14 objection.

15 MS. EHRLICH: Without objection.

16 THE COURT: Admitted.

17 (.38 Rossi revolver handgun marked for
18 identification and admitted into evidence as State's
19 Exhibit No. 53.)

20 BY MS. SHEALY:

21 Q. So the first time you see this weapon is over at
22 Quan's house?

23 A. Yes, ma'am.

24 Q. And what did Alonza want to do with it?

25 A. He wanted to sell it.

1 Q. How much did he want to sell it for?

2 A. \$50, he said.

3 Q. To who?

4 A. \$50.

5 Q. Were y'all taking it out and looking at it?

6 A. No, ma'am.

7 Q. Did Quan or Kaylab?

8 A. No, ma'am, not that I can remember.

9 Q. When y'all were under the tree, were y'all
10 drinking some Miller High Life?

11 A. Yes, ma'am.

12 Q. Did you share it with Alonza?

13 A. No, ma'am.

14 Q. Did Alonza tell you why he wanted to sell the gun?

15 A. I guess he wanted some money.

16 Q. Just tell us what he told you.

17 A. He had wanted another blast. He wanted to get
18 some dope.

19 MS. EHRLICH: Objection, Your Honor. Renew
20 our prior objections.

21 THE COURT: Overruled.

22 BY MS. SHEALY:

23 Q. He said he wanted a blast. Tell the jury, what is
24 a blast?

25 A. Some crack.

1 Q. And that refers to using some crack, or does it
2 refer to the crack itself?

3 A. Using.

4 Q. And that is why he told you he wanted to sell it?

5 A. Yes, ma'am.

6 Q. Now, when Alonza is present, does La Seto, Quan,
7 talk to Moses on the phone?

8 A. Yes, ma'am.

9 Q. And if you would, tell the jury what was being
10 said about Moses coming while Alonza was there.

11 A. Say that again?

12 Q. What was being said on the phone about Moses
13 coming? Did y'all talk about Moses coming with some
14 clothes?

15 A. Yes, ma'am.

16 Q. And when Quan got off the phone, what did Alonza
17 say?

18 A. Y'all need to roll that boy. Let me go ahead and
19 roll him, and we be, like, no.

20 Q. He said, Let me go ahead and rob that boy, rob
21 him?

22 A. Yes, ma'am.

23 Q. Do y'all leave Quan's house?

24 A. Yes, ma'am.

25 Q. And did Quan get the call that Moses was close?

1 A. Yes, ma'am.

2 Q. When y'all got into the Crown Vic, how was
3 everyone seated?

4 A. Kaylab was driving, Quan was in the passenger
5 seat, and I was behind Quan.

6 Q. You were behind Quan.

7 A. Yes, ma'am.

8 Q. Did Alonza get in the car?

9 A. No, ma'am.

10 Q. Why?

11 A. 'Cause we already know what he have on his mind,
12 so we wouldn't let him ride with us.

13 Q. Okay. Now, as y'all were pulling out, did y'all
14 go straight to the Kangaroo?

15 A. We took the highway to the Kangaroo, went straight
16 to the Kangaroo.

17 Q. When you were leaving Quan's house, did you notice
18 whether or not Mr. Geathers, Quan's granddad, did he
19 leave the house?

20 A. He was pulling out the yard at the same time.

21 Q. He was pulling out of the yard?

22 A. Yes, ma'am.

23 Q. When he pulled out of the yard, did you see
24 whether anybody got in the car with him?

25 A. I saw Alonza got in the truck with him.

1 Q. Did they head in the same direction you did?

2 A. No, ma'am.

3 Q. When you got to the store, what did y'all do? How
4 did y'all pull up?

5 A. We pulled up by the pumps because he didn't see
6 Moses at first.

7 Q. Okay. So showing you State's Exhibit 2, can you
8 show the jury where you remember pulling up? And when I
9 say you, Kaylab is actually driving, though, right?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. Right by the pumps.

13 Q. Okay. And you said y'all pulled there why?

14 A. Because he didn't see Moses at first.

15 Q. Did you know what kind of vehicle Moses drove?

16 A. No, ma'am.

17 Q. And after pulling up at the pumps, did y'all move?

18 A. Yes, ma'am. When I talked to him Quan, said he
19 was driving a green Mercedes or something.

20 Q. I'm sorry?

21 A. He said he was in a green Mercedes we saw the
22 Mercedes back up.

23 Q. Okay. Well, the green Mercedes -- I'm showing you
24 State's Exhibit 1. Is that the green Mercedes you're
25 talking about?

1 A. Yes, ma'am.

2 Q. Okay. Was that the car Moses was in?

3 A. Yes, ma'am.

4 Q. Okay. When y'all parked, showing you State's
5 Exhibit 3 -- hold on just a second. Let me give you a
6 better shot. State's Exhibit 40, where is the green
7 Mercedes when y'all pull around?

8 A. Backed up right here.

9 Q. And where do y'all pull in?

10 A. Right on the side of him.

11 Q. Okay. At that point, is Alonza in your vehicle?

12 A. Yes, ma'am.

13 Q. When does he get in the vehicle?

14 A. When we stopped by the pumps.

15 Q. When you stopped by the pumps?

16 A. Yes, ma'am.

17 Q. Did you see how he got out or where he came from?

18 A. He came from the stop sign, got out of Quan's
19 granddaddy's truck.

20 Q. You saw him get out of the truck? Okay. Now, let
21 me ask you something, Trevor, okay?

22 A. Yes, ma'am.

23 Q. Had y'all decided to rob Moses Alford?

24 A. No, ma'am.

25 Q. When Alonza got in the car, why didn't y'all tell

1 him to get out of the car?

2 A. Quan asked him why he came back in the car, he
3 said he was going on that side of town with us, and Quan
4 said, You just came from that side.

5 Q. Why didn't y'all kick him out of the car?

6 A. It wasn't -- it wasn't my car, so I couldn't tell
7 him to get out, you know.

8 Q. Well, when y'all pull in next to where Moses was,
9 what happens?

10 A. Quan and Kaylab got out to go look at the clothes,
11 whatever.

12 Q. Now, the gun that you told us about, where was --
13 did you see it in Alonza's hand when he got into the car
14 with y'all?

15 A. No, ma'am.

16 Q. Okay. So when Kaylab and La Seto get out of the
17 car, who is left in the car?

18 A. Just me and Alonza.

19 Q. What were y'all talking about?

20 A. He ain't never said nothing. He was quiet the
21 whole time.

22 Q. Okay. And could you see what La Seto and Kaylab
23 were doing?

24 A. They were looking through the trunk, looking at
25 the clothes, whatever.

1 Q. And you saw Moses?

2 A. Yes, ma'am.

3 Q. At some point does Kaylab come back to the car?

4 A. Yes, ma'am.

5 Q. What does he say about the clothing?

6 A. He didn't like nothing.

7 Q. What?

8 A. He doesn't like nothing he had. He said, he
9 doesn't like the shoes because they were Spiderman or
10 something, like, Spiderman Air Jordans. He didn't want
11 them or something.

12 Q. When Kaylab gets back in the car, does he get in
13 the driver seat or passenger seat?

14 A. Driver's seat.

15 Q. What are you, Kaylab, and Alonza talking about at
16 that point?

17 A. I opened my door to dump my beer out.

18 Q. You did what?

19 A. I opened my car to dump my beer out. Alonza was
20 asking for his gun back so he could leave about his
21 business.

22 Q. Okay. Showing you State's Exhibit No. 26, is that
23 item labelled C, is that your beer bottle?

24 A. Yes, ma'am.

25 Q. Okay. 27, is that what you bought earlier that

1 day in the store?

2 A. Yes, ma'am.

3 Q. Now, tell me about the conversation between Kaylab
4 and Alonza.

5 A. Kaylab got back in the car. Alonza asked, you
6 know, he want his gun back.

7 Q. Stop there, stop there. Alonza asked -- told
8 Kaylab he wanted his gun back?

9 A. Yes, ma'am.

10 Q. Did you know Kaylab had his gun?

11 A. No, ma'am.

12 Q. And do you see the gun at that point?

13 A. Yes, ma'am.

14 Q. Where was the gun?

15 A. Kaylab was giving it back to Alonza.

16 Q. Could you tell where Kaylab was getting it from?

17 A. Like, he, like -- I didn't even know he got it.

18 Q. Do what?

19 A. I didn't know where he got it from. I don't know
20 whether he had it on his hip or somewhere in the car or
21 what.

22 Q. I can't hear you at all.

23 A. I didn't know he have it at. I didn't see where
24 he pulled it from.

25 Q. But he's in the front seat; y'all are in the back

1 seat?

2 A. Yes, ma'am.

3 Q. What is said between Alonza and Kaylab when Kaylab
4 is giving him the gun?

5 A. Kaylab, like, don't do nothing stupid. I'm going
6 to give you this, but don't do nothing stupid, and he
7 said no, I ain't do nothing dumb. Kaylab said, Well,
8 you're a grown man. I can't tell you what to do.

9 Q. Kaylab said what?

10 A. You're a grown man. I cannot tell you what to do.

11 Q. Let's talk about the car for a second. If you're
12 seated in the back seat of the Crown Vic, can you open
13 the door to get out?

14 A. No, ma'am.

15 Q. So what did Kaylab have to do?

16 A. Get out and open the door for him to get out.

17 Q. And are you telling the jury that's what Kaylab
18 did?

19 A. Yes, ma'am.

20 Q. Tell the jury what you see happen next. Where
21 does Kaylab go?

22 A. Back inside the front seat of the car.

23 Q. And where are you seated?

24 A. In the back, behind the passenger.

25 Q. And where does Alonza go?

1 A. He gets out.

2 Q. He what?

3 A. He gets out and walks between the two vehicles.

4 Q. Okay. Can you describe for the jury what you see
5 happen next.

6 A. I just saw Alonza mouth, like, moving. His lips
7 were moving.

8 Q. Who did he appear to be speaking to?

9 A. This was Quan and Moses out there, and he looked
10 kind of shocked.

11 Q. He what?

12 A. I saw Alonza saying something and Moses looked
13 kind of shocked, like --

14 Q. Moses looked shocked?

15 A. Yes, ma'am.

16 Q. And what happened next?

17 A. I saw Alonza, he had the gun. Like, he was
18 telling me he want to rob him. I saw Moses go in his
19 back pocket. Like, he pull out his Gucci wallet. As
20 soon as he pulled out his wallet, Alonza shot the first
21 time and it went through the car headlights, and after
22 that he kept on shooting the next four times.

23 Q. Okay. Now, the vehicle you were seated in, did a
24 gunshot come your way?

25 A. Yes, ma'am.

1 Q. Tell the jury about that.

2 A. The first shot came, like --

3 Q. We can't hear you.

4 A. The first shot he shot came straight through the
5 headlights of the car we were sitting in.

6 Q. And when you were watching what happened, if you
7 would go over the sequence -- the order of things that
8 happened again. First thing you see is what going on
9 with Alonza and Moses?

10 A. I could see his lips moving.

11 Q. Okay. And then how did Moses appear?

12 A. Like --

13 Q. And then what happens?

14 A. I just saw him reach in his back pocket like he
15 was pulling his wallet out for Alonza, but Alonza just
16 shot the first time, the first one, then he shot four
17 more times.

18 Q. At any point do you see Moses get his gun?

19 A. No, ma'am.

20 Q. Where were you and Kaylab at the time Moses was
21 getting his gun?

22 A. I was still sitting right there. I didn't know he
23 had a gun.

24 Q. Tell the jury, you and Kaylab got out of there
25 very fast, didn't you?

1 A. After he noticed he got shot, he turn and come
2 around the front of the gas station. We sat there for a
3 second.

4 Q. Why did y'all sit in front of the gas station?

5 A. Like, try to see what was going on.

6 Q. To see what?

7 A. I guess to see if he was all right at first,
8 but -- we want to see if he was all right at first, but
9 we didn't want to get out of the car.

10 Q. Wait a minute. Wait a minute. You're telling the
11 jury y'all were concerned about Moses?

12 A. I said we didn't want to get out of the car and
13 see what was going on, but we knew he had got shot.

14 Q. But when you pull around the front, are you
15 checking on Moses or are you getting your boy La Seto?

16 A. We were pulling around front. He was already
17 inside the store.

18 Q. Okay. And so what happens? Y'all stay to talk to
19 the police?

20 A. We just left.

21 Q. Did you get out of your car and call 911?

22 A. No, ma'am.

23 Q. Did you put pressure on the wounds that Moses had?

24 A. No.

25 Q. Y'all flee.

1 A. Yes, ma'am.

2 Q. And where do you go?

3 A. Drop Quan's car off back by Quan's house.

4 Q. You drop what?

5 A. The car back off by Quan's house.

6 Q. Did y'all hide it?

7 A. No, ma'am.

8 Q. So when you left, La Seto was still there?

9 A. Yes, ma'am.

10 Q. Do you see -- showing you State's Exhibit 40,
11 which way do you see Alonza go?

12 A. Right back there.

13 Q. In the woods back there? Now, when you and Kaylab
14 get home, do y'all do anything to assist Moses?

15 A. No, ma'am.

16 Q. Do you do anything to help the police?

17 A. No, ma'am.

18 Q. Tell the jury why you didn't.

19 A. I was scared. I ain't seen nobody get shoot
20 before, so I didn't want to get in trouble for something
21 I ain't did. I was minding my on business.

22 Q. Because you didn't want to get in trouble. At
23 some point, do you realize the police are looking for
24 you?

25 A. Not until a couple days later.

1 Q. Okay. And when you learned that the police are
2 looking for you, what do you do?

3 A. Turn myself in.

4 Q. You turned yourself in?

5 A. Yes, ma'am.

6 MS. SHEALY: Could I ask the witness to step
7 down for a second, Judge?

8 THE COURT: Sure.

9 MS. SHEALY: Would you step down, Trevor.

10 BY MS. SHEALY:

11 Q. Would you show the jury how you saw what Alonza
12 did with the gun?

13 A. (Indicating.)

14 Q. And show them how he appeared where he was
15 shooting Moses.

16 A. Like here (indicating).

17 Q. And he was backing up as he went? Did he shoot
18 one time?

19 A. No, ma'am.

20 Q. Did he shoot two times? You have to have a seat.
21 How many times did he shoot, Trevor?

22 A. Five.

23 Q. Now, you're in here testifying today. Are you
24 trying to help your own situation out?

25 A. Hopefully.

1 Q. Hopefully?

2 A. Yes, ma'am.

3 Q. Are you currently charged with attempted armed
4 robbery?

5 A. Yes, ma'am.

6 Q. And are you charged with assault and battery with
7 intent to kill?

8 A. Yes, ma'am.

9 Q. And the agreement that you'd made with the state,
10 what do you have to do? What are you supposed to do?

11 A. Just tell the truth how it happened that day.

12 MS. SHEALY: I beg the Court's indulgence
13 just one moment.

14 BY MS. SHEALY:

15 Q. At the time that you say that you see Moses go for
16 his Gucci wallet, where is the gun in relationship to
17 Moses?

18 A. This gun right here?

19 Q. Yeah.

20 A. In Alonza's hand.

21 Q. Is it pointed at Moses?

22 A. Yes, ma'am.

23 Q. Did you happen to look at Quan's headlight, head
24 lamp on his car after this happened?

25 A. Yes, ma'am.

1 Q. Can you tell the jury how it appeared.

2 A. Gunshot.

3 Q. Shot?

4 A. Yes, ma'am.

5 Q. Have I promised you anything, Mr. Gibbs?

6 A. No, ma'am.

7 Q. Okay.

8 MS. SHEALY: I have no further questions.

9 Answer any that the defense may have.

10 THE COURT: Cross?

11 CROSS-EXAMINATION

12 BY MS. EHRLICH:

13 Q. So you're a drug dealer.

14 A. Hustle.

15 Q. Hustling means you sell drugs?

16 A. Yes.

17 Q. And Quan's a drug dealer, right?

18 A. Yes, ma'am.

19 Q. And on the day of the shooting, y'all were trying
20 to avoid the police?

21 A. Yes, ma'am.

22 Q. Because you were drinking?

23 A. Yes, ma'am.

24 Q. Someone was driving without a license?

25 A. Yes, ma'am.

1 Q. And a couple weeks before, people had been
2 shooting at Quan's car?

3 A. Yes, ma'am.

4 Q. So that's kind of the life you've been leading, up
5 until now?

6 A. No, ma'am.

7 Q. Selling drugs, right?

8 A. Yes, ma'am.

9 Q. And hanging out with people who get shot at.

10 A. No.

11 Q. Quan's your cousin, right?

12 A. Yes, ma'am.

13 Q. You hang out with him.

14 A. Uh-huh.

15 Q. And you testified about ten minutes ago that he
16 got shot at?

17 A. That's not an everyday thing for us, though.

18 Q. It's just sometimes?

19 A. And I wasn't with him when he got shot at.

20 Q. You weren't with him when he got shot at?

21 A. No, ma'am.

22 Q. All right. Where was -- now, I think you just
23 said something about the car headlight being shot at?

24 A. Yes, ma'am.

25 Q. Was Moses standing by the headlight?

1 A. He was standing back by his car.

2 Q. He was standing away from the headlight?

3 A. Yes.

4 Q. Okay. And this happened in June, right --

5 A. Yes, ma'am.

6 Q. -- of 2009, and you didn't give a statement until
7 January 31st, 2011.

8 A. Yes, ma'am.

9 Q. That was the first time you gave any type of
10 written statement to the police?

11 A. Yes, ma'am.

12 Q. Now, I would assume that you love your family.

13 A. Yes, ma'am.

14 Q. You love your family?

15 A. Yes, ma'am.

16 Q. And you don't want anything bad to happen to any
17 of your family members?

18 A. No, ma'am.

19 Q. You don't want any of them to get hurt?

20 A. No, ma'am.

21 Q. You don't want any of them to go to jail?

22 A. No, ma'am.

23 Q. And you don't want any of them to go to prison.

24 A. No, ma'am.

25 Q. And Kaylab is your cousin?

- 1 A. Yes, ma'am.
- 2 Q. And Quan is your cousin?
- 3 A. Yes, ma'am.
- 4 Q. So you don't want Kaylab to go to prison?
- 5 A. He's a grown man, I can't --
- 6 Q. Don't want him to go?
- 7 A. I don't want to see him in prison, no.
- 8 Q. You don't want to see Quan go to prison?
- 9 A. No.
- 10 Q. And you've had contact with Kaylab since you were
- 11 arrested?
- 12 A. Yes, ma'am.
- 13 Q. So none of the blame is on your cousin for this.
- 14 A. No, ma'am.
- 15 Q. It's all Alonza?
- 16 A. Yes, ma'am.
- 17 Q. But were you in the car the whole time?
- 18 A. Yes, ma'am.
- 19 Q. And you can't say what was said outside of the
- 20 car, right?
- 21 A. No, ma'am.
- 22 Q. And you don't know what Quan was doing or if Quan
- 23 did anything during the incident, right?
- 24 A. No, ma'am.
- 25 Q. And you don't know if Kaylab and Alonza had any

1 conversation about a robbery before?

2 A. No, ma'am.

3 Q. Or Quan?

4 A. No, ma'am.

5 Q. You really can't say what caused the shooting to
6 happen. You can tell us what you saw, but you can't say
7 what you heard, right?

8 A. That's all I saw. I ain't hear talking.

9 Q. You signed an agreement with the solicitor's
10 office to cooperate?

11 A. Yes, ma'am.

12 Q. And in that agreement, you say you're going to
13 cooperate with the state.

14 A. Yes, ma'am.

15 Q. And they won't use what you do to cooperate
16 against you?

17 A. Yes, ma'am.

18 Q. And your hope is you're going to get some type of
19 benefit.

20 A. Yes, ma'am.

21 Q. And to do that, you got to do certain things.
22 Right?

23 A. Yes, ma'am.

24 Q. So you signed that statement, making a promise to
25 the state.

1 A. Yes, ma'am.

2 Q. Including telling the truth.

3 A. Yes, ma'am.

4 Q. And in that agreement, the state gets to decide if
5 you told the truth to their liking. Right?

6 A. Yes, ma'am.

7 Q. You made other promises before related to your
8 case, haven't you?

9 A. What do you mean by that?

10 Q. Well, you bonded out of jail.

11 A. Yes, ma'am.

12 Q. And when you bonded out, you agreed to cooperate
13 with certain bond conditions.

14 A. Yes, ma'am.

15 Q. And I believe in December, you went to a hearing
16 to get your bond reduced.

17 A. Yes, ma'am.

18 Q. And you went to the hearing.

19 A. Yes, ma'am.

20 Q. Right?

21 A. Yes, ma'am.

22 Q. And the judge reduced your bond.

23 A. Yes, ma'am.

24 Q. And the judge put you on house arrest.

25 A. Yes, ma'am.

1 Q. Right? And I don't think the jury knows what
2 house arrest is, but house arrest means you stay home
3 with the exception of maybe school, work, church, right?

4 A. Yes, ma'am.

5 Q. You don't get to go out of town.

6 A. No, ma'am.

7 Q. You don't get to go to clubs.

8 A. No, ma'am.

9 Q. You broke your house arrest, though, didn't you?

10 A. You might say that.

11 Q. Did you break -- you broke your house arrest?

12 A. Not that I know of.

13 Q. You have a Facebook page?

14 A. I have Facebook.

15 Q. You have a Facebook page? On your Facebook page,
16 you talk about going to Myrtle Beach in November. Right?

17 A. Uh-huh.

18 Q. Going to the strip club.

19 A. They didn't have an ankle bracelet where they said
20 I couldn't go outside. They told me I couldn't go
21 certain places or this or that.

22 Q. Do you think house arrest included going to the
23 strip clubs in Myrtle Beach?

24 A. My bondsman told me I could go up there.

25 Q. Your bondsman gave you permission to go to a strip

1 club?

2 A. I didn't tell her it was a strip club.

3 Q. She gave you permission to go to Myrtle Beach
4 while you were on bond for attempted armed robbery?

5 A. Yes, ma'am.

6 Q. And assault and battery with intent to kill?

7 A. Yes, ma'am.

8 Q. And you went to a place called midway too, didn't
9 you?

10 A. Yes, ma'am.

11 Q. With your boy Kaylab, Jazz, and Josh? That wasn't
12 part of your house arrest. I think you know going to the
13 club isn't part of your house arrest, right?

14 A. Yes, ma'am.

15 Q. You're testifying today that Alonza was trying to
16 sell a gun, right?

17 A. Yes, ma'am.

18 Q. And I guess today you're saying that somehow
19 Kaylab got the gun, but you didn't know?

20 A. Yes, ma'am.

21 Q. Do you remember giving your statement on January
22 31st of 2011?

23 A. Do I remember?

24 Q. Do you remember it?

25 A. Yes, ma'am.

1 Q. You wrote it in your own words?

2 A. Yes, ma'am.

3 Q. And you had an opportunity to read it and review
4 it before signing it?

5 A. Yes, ma'am.

6 Q. And you signed it where it says I have read the
7 forgoing statement, which has been freely and voluntarily
8 made by me, and it is true and correct to the best of my
9 knowledge.

10 A. Yes, ma'am.

11 Q. You put in that statement that Kaylab gave Alonza
12 the gun at the store.

13 A. Yes, ma'am.

14 Q. But you're saying today that you saw Alonza twice
15 at the store?

16 A. Yes, ma'am.

17 Q. And he gave him the gun when?

18 A. The second time.

19 Q. The second time. You didn't put anything in this
20 statement about Kaylab having the gun when Alonza was
21 trying to sell it.

22 A. I didn't see where he got it from.

23 Q. You didn't see when he got it? Going back to your
24 bond, you're out on bond right now.

25 A. Yes, ma'am.

1 Q. Before that, were you at the Charleston County
2 Detention Center?

3 A. Yes, ma'am.

4 Q. It's not a good place.

5 A. No, ma'am.

6 Q. Doesn't smell the best.

7 A. No, ma'am.

8 Q. And not all of the detention officers treat you
9 like a person, right?

10 A. No, ma'am.

11 Q. And I believe you were on a unit for a while where
12 you were on lockdown for 23 hours a day.

13 A. Yes, ma'am.

14 Q. The food wasn't good.

15 A. No, ma'am.

16 Q. Only eat when they tell you you can.

17 A. Yes, ma'am.

18 Q. If something happens on the unit, somebody gets in
19 trouble, everybody gets punished, right?

20 A. Yes, ma'am, yes, ma'am.

21 Q. You don't get to shower every day.

22 A. No, ma'am.

23 Q. You can't talk to your family whenever you want
24 to.

25 A. No, ma'am.

1 Q. If you went to prison, you wouldn't be able to
2 talk to your family whenever you wanted to?

3 A. No, ma'am.

4 Q. You have to get up whatever time they tell you to
5 get up?

6 A. Yes, ma'am.

7 Q. Go to sleep when they tell you to go to sleep?

8 A. Yes, ma'am.

9 Q. Sleep in a cell?

10 A. Yes, ma'am.

11 Q. Right? Probably share it with somebody else.

12 A. Yes, ma'am.

13 Q. You got no privacy.

14 A. No, ma'am.

15 Q. You can't sleep in your own bed?

16 A. No, ma'am.

17 Q. In prison, you can't eat when you want to. Right?

18 A. (Shakes head.)

19 Q. Can't have your mama's cooking there?

20 A. No, ma'am.

21 Q. Can only see your family when they're able to come
22 up there to visit you.

23 A. Yes, ma'am.

24 Q. Probably can't go outside whenever you want,
25 right?

1 A. I never been to prison before, so I don't know how
2 prison work.

3 Q. But you've been to jail before?

4 A. Yes, ma'am.

5 Q. You can't see your family when you want, right?

6 A. No, ma'am.

7 Q. Certainly can't check out of jail or prison
8 whenever you want to.

9 A. No, ma'am.

10 Q. To go to Myrtle Beach, right?

11 A. No, ma'am.

12 Q. To the strip clubs. Right?

13 A. No.

14 Q. I think it's fair to say you don't want to go to
15 prison.

16 A. I don't want to go to prison.

17 Q. And you're charged with attempted armed robbery.

18 A. Yes, ma'am.

19 Q. That carries 20 years.

20 A. Yes, ma'am.

21 Q. And you're charged with assault and battery with
22 intent to kill?

23 A. Yes, ma'am.

24 Q. And that carries 20 years.

25 A. Yes, ma'am.

1 Q. So you're facing 40 years in prison, right?

2 A. Yes, ma'am.

3 Q. 40 years that you're going to lose out of your
4 life, right?

5 A. Yes, ma'am.

6 Q. And Kaylab, your cousin, could lose 40 years out
7 of his life?

8 A. Yes, ma'am.

9 Q. And so could Quan, 40 years out of his life,
10 right?

11 A. Yes, ma'am.

12 Q. You're being prosecuted by the solicitor's office
13 and Ms. Shealy, and I guess you want them to dismiss your
14 charges, right?

15 A. I mean, I wouldn't mind have them dismissed.

16 Q. You wouldn't mind having them dismiss your
17 charges.

18 A. No, ma'am.

19 Q. You know they have the power to dismiss your
20 charges?

21 A. Yes, ma'am.

22 Q. But they've chosen not to tell you right now if
23 they're going to dismiss your charges, right?

24 A. No.

25 Q. They want to wait and see how you testify, right?

1 A. I guess so.

2 Q. Yeah. And even if they don't dismiss your
3 charges, don't you want them to tell the judge how
4 helpful you are?

5 A. I wouldn't mind.

6 Q. You wouldn't mind. And how cooperative you've
7 been?

8 A. Yes, ma'am.

9 Q. Because, really, you want to save yourself.

10 A. Yes, ma'am.

11 MS. EHRLICH: Court's indulgence.

12 I don't have any other questions.

13 MS. SHEALY: I just -- just briefly.

14 REDIRECT EXAMINATION

15 BY MS. SHEALY:

16 Q. Trevor, when Ms. Ehrlich indicated to you that
17 attempted armed robbery carried 20 years, you understood
18 it carries zero to 20 years; is that right?

19 A. Yes, ma'am.

20 Q. And when she told you assault and battery with
21 intent to kill, you understood that carries zero to 20;
22 is that right?

23 A. Yes, ma'am.

24 Q. Now, she's asked you about the statement you gave,
25 and I'll hand you a copy in case you need to refer to it.

1 Okay? And tell the jury whether when you gave your
2 statement -- and you can look on that first page, if you
3 need to take a minute to read it -- tell the jury whether
4 you put in your statement that y'all went to the Kangaroo
5 two times that day.

6 A. Yes, ma'am.

7 Q. Okay. And did you indicate that y'all picked up
8 Alonza for the first time, the first time you go to the
9 Kangaroo?

10 A. Yes, ma'am.

11 Q. And that's in your statement?

12 A. Yes, ma'am.

13 Q. And did you put in your statement that he was
14 trying to sell y'all the gun once you got back to Quan's?

15 A. Yes, ma'am.

16 Q. And the details you've given us today, that's in
17 your statement, your four-page statement, correct?

18 A. Yes, ma'am.

19 Q. What is your understanding of what you're supposed
20 to do today?

21 A. Just come and tell you what happened.

22 Q. To tell what happened?

23 A. Yes, ma'am.

24 MS. SHEALY: I have nothing further. Thank
25 you, Judge.

1 THE COURT: Recross?

2 RECROSS-EXAMINATION

3 BY MS. EHRLICH:

4 Q. Trevor, you only gave this statement after you
5 signed the agreement with the state, right?

6 A. No, ma'am.

7 Q. The statement that the state is referring to that
8 you signed on January 31st, do you remember this
9 statement, right?

10 A. Yes, ma'am.

11 Q. You gave this statement after you signed the
12 agreement to cooperate with the state.

13 A. I don't think -- I don't remember that.

14 Q. If I show you -- can I show you this?

15 A. Yes, ma'am.

16 Q. Can we agree that that agreement that you made
17 with the state was done on January 27th?

18 A. The lawyer just told me to go ahead -- all I know,
19 my lawyer told me to go write my statement about what
20 happened. I didn't know anything.

21 Q. You signed it, though?

22 A. Yes, ma'am.

23 Q. And then you signed this on the 31st, right?

24 A. I don't remember the 27th signing this.

25 Q. You don't remember? If you turn to the back page,

1 whose signature is on the back page of that agreement?

2 A. It's my signature. Mine.

3 Q. So you signed that before you gave your statement?

4 A. I don't remember. I signed that the same day I
5 wrote the statement.

6 MS. EHRLICH: No other questions, Your Honor.

7 THE COURT: All right. You can step down.

8 Okay, folks. We're going to break for the
9 midday lunch. If you would be back in the jury room by
10 quarter to 2:00, we'll get started at that time. Again,
11 you can go to lunch with anybody if you want to, just
12 don't talk about the case, comment on any witnesses, or
13 discuss the case in any way. All right? See you back in
14 a little bit.

15 (Recess taken.)

16 (In open court, jury present.)

17 THE COURT: What is your objection to the
18 physician's testimony?

19 MR. GRIMES: Mr. Alford has already testified
20 to that. We believe it would be cumulative, victim
21 impact testimony, and for malice aforethought, the extent
22 of injury is irrelevant. You could have a minor scratch
23 and it would be malice aforethought or you could have a
24 shot to the heart and it could be malice aforethought;
25 therefore, based upon that, we think it's irrelevant and

1 else?

2 MS. SHEALY: I don't think so.

3 THE COURT: We'll see you back at quarter to
4 2:00. Thank you.

5 (Recess taken.)

6 A F T E R N O O N S E S S I O N

7 (In open court, jury present.)

8 THE COURT: All right. We'll resume now with
9 the state calling the next witness.

10 MS. SHEALY: Thank you, Your Honor. Robert
11 Thornley.

12 ROBERT THORNLEY,

13 having been first duly sworn,

14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. SHEALY:

17 Q. Deputy Thornley, will you tell the jury where you
18 currently work?

19 A. Charleston County sheriff's office.

20 Q. In what capacity?

21 A.. Currently assigned to judicial center here
22 downtown and Court and security.

23 Q. So this week you're working another courtroom than
24 this courtroom?

25 A. Yes, ma'am.

1 Q. How long have you been with the county?

2 A. Approximately three years.

3 Q. And back in June of 2009, what capacity were you
4 working for the county?

5 A. I was assigned to the uniform patrol division.

6 Q. What does that mean?

7 A. Uniformed officers; we answer calls, traffic,
8 things of that nature.

9 Q. Was there a certain area that you were assigned to
10 in June?

11 A. Yes, ma'am. I was assigned to districts five and
12 six, which we commonly call as east, which is everything
13 east of the Cooper, Mt. Pleasant, Awendaw, and
14 McClellanville area.

15 Q. McClellanville is in which county?

16 A. Charleston County.

17 Q. Focusing your attention then on June 22, 2009,
18 would you tell the jury whether you got dispatched to the
19 Kangaroo convenience store in McClellanville?

20 A. Yes, I did.

21 Q. Could you tell us what time you got there?

22 A. I believe it was around 4:19, 4:20 the afternoon.

23 Q. Tell us how things looked when you got out there.

24 A. I when I arrived on scene, there was an extra
25 number of people in the parking lot, a lot of cars,

1 people milling around.

2 Q. Okay. Showing you what previously has been marked
3 then as State's Exhibit 4, if you could turn around,
4 where did you pull up in relationship to the front of the
5 store, if you recall?

6 A. There is an entrance to the parking area just off
7 the screen here to the left and, I entered just into the
8 parking lot from that entrance.

9 Q. And so the area that is depicted on that
10 photograph, what was kind of going on in that area when
11 you approached?

12 A. There was a good number of people right here in
13 front of the store, I would say anywhere from 10 to 20
14 people.

15 Q. Ten to what?

16 A. Twenty people.

17 Q. Were there other officers already at the scene or
18 were you the first responding officer?

19 A. I was the first on scene.

20 Q. What had you been told about whether weapons were
21 present at the location before you got there?

22 A. When the call was dispatched out, we were told
23 that there were two armed suspects on the scene and shots
24 had been fired.

25 Q. So what do you do once you park your vehicle?

1 A. When I pulled into the parking lot, I immediately
2 stopped, exited my vehicle, of course drew my service
3 weapon, and took cover behind the car. I wasn't sure if
4 we still had shots being fired or not.

5 Q. What did you do after taking cover behind the
6 vehicle?

7 A. A young black female approached me from the left
8 and started shouting at me that the guy that had done all
9 the shooting had run across US Highway 17 into the woods
10 and that we needed to catch him.

11 Q. That's the opposite side of the street from the
12 Kangaroo?

13 A. Yes, ma'am.

14 Q. What did you do with that information?

15 A. Radioed dispatch, gave them what information I had
16 so that the other units that were responding could have
17 it.

18 Q. Do you recall approximately how many units
19 responded ultimately to the scene that day?

20 A. I can only guess. It was a lot, I know that.

21 Q. Now, you were telling us about the 10 to 20 people
22 in the store area. Was that a challenge to your
23 assessing the scene?

24 A. Oh, yes, ma'am, because I had no idea what I was
25 getting into, and I was the only officer on the scene.

1 Q. When you first approached, did you see anyone on
2 the ground?

3 A. Not initially after I got into the parking lot,
4 but after I talked to the young lady that gave me the
5 information about the suspect, I started to approach the
6 store and I saw what turned out to be Mr. Alford lying on
7 the ground, just out the front door on the pavement.

8 Q. If I show you State's Exhibit 5, does that better
9 isolate the area?

10 A. Yes, ma'am.

11 Q. Okay. If you'll take this, push the button, you
12 can point to where Mr. Alford was.

13 A. He was lying on the ground, approximately in this
14 area.

15 Q. Now, when you were approaching where he was, did
16 something strike your attention as you approached him?

17 A. Yes, ma'am. As I was walking up to him, I could
18 see a gun, the butt of a gun, sticking out behind the
19 trash can.

20 Q. Showing you State's Exhibit 22, is that an
21 accurate view of where the gun was when you were
22 approaching?

23 A. Yes, ma'am.

24 Q. And would you tell -- first of all, tell the jury
25 how Mr. Alford appeared when you saw him on the ground.

1 A. He appeared to be injured. I could tell he had
2 been shot at least once. He had a small caliber bullet
3 hole in his side.

4 Q. Did he have his shirt on or off at that time?

5 A. I believe he didn't have a shirt on, if I recall
6 correctly.

7 Q. Okay. And what do you do as you're approaching
8 Mr. Alford and when you see the gun? Do you ask him
9 anything?

10 A. Yes, ma'am. I asked if he was armed or if he had
11 a weapon. He said yes, and he pointed to the gun behind
12 the trash can that I had already seen.

13 Q. Okay. Did he tell you anything about whether he
14 had a permit regarding the gun?

15 A. Yeah. He did state to me that he had a permit for
16 it.

17 Q. And, in fact, did you take a look at the permit?

18 A. Yes, ma'am. Sometime later I did, yes.

19 Q. Showing you State's Exhibit 56, could you tell the
20 jury whether that is a depiction of the permit you saw
21 that day?

22 A. Yes, ma'am, it is.

23 Q. Okay. What did you do then after approaching him
24 and finding out the gun was there? Did you do anything
25 with the gun at that point?

1 A. No, ma'am. I kept an eye on the gun at that
2 point. I then slightly pushed open the door of the store
3 to check on the clerks or anybody that might be inside.
4 I asked them if they were okay. They said yes. I asked
5 if there was anybody else in the store. They stated
6 there was not, and I advised them to lock the door, stay
7 inside, and not to touch anything.

8 Q. Were you aware of whether or not EMS had already
9 been called?

10 A. I didn't see them as I approached, but I was
11 still -- I was told that they were staged close by,
12 waiting for us to get there first.

13 Q. Well, explain that to the jury, if you would,
14 please. If EMS gets there and someone has been shot, do
15 they go ahead and go to the scene?

16 A. No, ma'am. Their standard procedure is to wait
17 until a uniformed officer or police officer gets on the
18 scene to make sure the area is safe before he puts their
19 units in harm's way.

20 Q. How would that be communicated to them?

21 A. By our dispatch.

22 Q. Okay. And the EMS units in that area, are they
23 closer to the McClellanville Kangaroo than the deputies
24 are?

25 A. Generally, yes, ma'am, but the EMS station is just

1 down the street from the Kangaroo.

2 Q. After you saw Mr. Alford and located that gun and
3 spoke to the people in the store, do you, in fact, clear
4 the scene for EMS to come in?

5 A. Yes, ma'am.

6 Q. And do they come in?

7 A. Yes, ma'am. They arrive shortly after.

8 Q. Now, do you actually ever physically take control
9 of that gun?

10 A. No, ma'am. I stayed with the gun and to make sure
11 that it stayed where I saw it and that nobody touched it
12 until the crime scene arrived.

13 Q. Was there, in fact, another gentleman that came on
14 the scene to assist you?

15 A. Yes, ma'am. There was a firefighter, and he's
16 also a state constable.

17 Q. And is that Gary Durgin?

18 A. Yes, ma'am.

19 Q. Did you assign any responsibility to him regarding
20 the gun?

21 A. I did. I asked him -- with the number of people,
22 I couldn't keep an eye on it at all times, so I asked him
23 to help me keep an eye on the gun, but I stayed with him
24 in close proximity of it.

25 Q. What else did you do physically at the scene after

1 you get EMS there and assign that to Mr. Durgin?

2 A. Basically I took down what information I could. I
3 obtained Mr. Alford's ID and the concealed weapons permit
4 from his wallet so I could have what information I could
5 get, and basically at the time I just roped off the crime
6 scene area with the crime scene tape.

7 Q. And what is the purpose of that?

8 A. It's just to preserve the crime scene area for our
9 crime scene units to obtain evidence so it's not
10 contaminated.

11 Q. And that is the yellow tape we all see?

12 A. Yes, ma'am.

13 Q. Regarding the information that you had that the
14 person who had shot Mr. Alford had gone across the
15 street, did you radio that in to other officers?

16 A. Right, yes, ma'am.

17 Q. And are you aware of whether or not another
18 location ultimately was involved in this case?

19 A. I later was on the perimeter on River Road, which
20 is right near that area.

21 Q. Okay. And did you, in fact, take your vehicle
22 down to River Road?

23 A. Yes, ma'am.

24 Q. What was the purpose of that?

25 A. We had an idea he was still in the area, so

1 basically we set up a perimeter of officers to keep him
2 contained in one area.

3 Q. Okay. And if you would, describe to the jury what
4 the difference between, like, a vehicle that a deputy is
5 driving with what the difference between that would be
6 with a K-9 officer or what Gary Durgin was in, those
7 types of vehicles?

8 A. Most of our vehicle are patrol division anyway are
9 fully marked with the sheriff's office logos on the side,
10 a badge, and a light bulb on top versus being unmarked.
11 Some of our K-9 units drive SUVs that are both marked and
12 unmarked.

13 Q. As regarding transporting suspects, is there
14 something different about your car than maybe one of the
15 K-9 officer's cars?

16 A. Yes, ma'am. All of our patrol units have what we
17 call a cage in the back.

18 Q. And what do you mean by a cage?

19 A. It's just a series of bars in the back of a
20 vehicle so the suspect can't hurt us or escape.

21 Q. Okay. When you arrived at River Road, at some
22 point do you end up transporting Mr. Dennis?

23 A. Yes, ma'am.

24 Q. And at the point that you reach Mr. Dennis, he was
25 already in custody?

1 A. Yes, ma'am. He was already in handcuffs.

2 Q. Where do you take him?

3 A. I took him back to the parking lot of the Kangaroo
4 station and met with crime scene detectives so they could
5 do a gunshot residue test on his hands.

6 Q. Okay. And after that was done, do you actually
7 transport Mr. Dennis somewhere else?

8 A. Yes, ma'am. I transported him back to the
9 detective office at our headquarters.

10 Q. So you take him from the scene to the detective's
11 office?

12 A. Yes, ma'am.

13 Q. Is that pretty routine in a major investigation
14 like this, that the suspect will generally go to the
15 sheriff's office?

16 A. Yes, ma'am. Generally, they'll take him to their
17 office for questioning.

18 Q. Now, did you have any later involvement in this
19 investigation? Did you do anything the following day
20 with Deputy Brabham?

21 A. Yes, ma'am. We obtained some information, or she
22 did, that there was another suspect involved and that he
23 was driving a blue in color Crown Victoria, similar to
24 our patrol vehicles, and for us to be on the lookout for
25 it.

1 Q. And what did you and Deputy Brabham do regarding
2 the Crown Vic?

3 A. When we got that information, we began to patrol
4 the area of McClellanville, trying to locate it, and we
5 eventually did.

6 Q. And where did you locate it?

7 A. I'm not exactly sure of the numerics, but it was
8 on Brailsford Road.

9 Q. Brailsford Road?

10 A. Yes, ma'am.

11 MS. SHEALY: I beg the Court's indulgence for
12 one moment.

13 I have no further questions. Answer any the
14 defense may have.

15 THE COURT: Cross?

16 MR. GRIMES: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. GRIMES:

19 Q. First, I want to ask you a few questions about the
20 Crown Victoria that you were on patrol for. Do you
21 remember whose house it was found at?

22 A. No, sir. I don't know his name. I don't remember
23 his name, anyway.

24 Q. Was it someone -- La Seto Gibson or who is known
25 as Quan?

1 A. I couldn't tell you. We've been there several
2 times.

3 Q. Several times in the past?

4 A. Yes, sir, for other calls.

5 Q. Okay. When you found the car, what did you do
6 with it?

7 A. Deputy Brabham was actually the one that located
8 the car. She called me on the cell phone and asked me to
9 meet her on Brailsford Road, which I did. She told me
10 then that she thought she had found the vehicle we were
11 looking for. We did what is commonly called a knock and
12 talk, which we walk up, knock on the door, talk to the
13 individual that owns the residence, asked if we could,
14 you know, look around the area which we could plainly see
15 the car behind the house from the road.

16 Once we talked to the individual, as she was
17 talking to him, I made my way around the back of the
18 house to get a closer look at the car and noticed that it
19 had a bullet hole in the headlight.

20 Q. Is there any way for you to date how old that
21 bullet hole was?

22 A. I have no idea.

23 Q. And that house had no relation to Mr. Dennis, did
24 it?

25 A. Not that I'm aware of, no.

1 Q. And are you aware that the house -- is it three
2 cousins involved in this case?

3 A. Like I say, I'm not sure who lived there.

4 Q. Okay. I want to ask you a few questions about
5 when you responded to the scene at the Kangaroo store.
6 You say you responded, there were a lot of people out
7 there?

8 A. Yes, sir, uh-huh.

9 Q. And when you got there, you didn't know what had
10 happened, did you?

11 A. Not when I first arrived on the scene. All we
12 know is there had been shots fired.

13 Q. You didn't know who fired the shots?

14 A. No, I did not.

15 Q. Or why the shots were fired?

16 A. No.

17 Q. Or someone -- if it was a shoot-out between two
18 people?

19 A. No, sir. We didn't have that information.

20 Q. Could I have one moment, Your Honor?

21 THE COURT: Uh-huh.

22 BY MS. EHRLICH:

23 Q. I just want to clarify one final thing. You said
24 you didn't do anything further with the gun other than
25 just observe it?

1 A. No, I never picked it up.

2 THE COURT: Okay.. Redirect?

3 MS. SHEALY: Just a couple, Judge, real
4 quick.

5 REDIRECT EXAMINATION

6 BY MS. SHEALY:

7 Q. I'm showing you State's 6. Is that the Crown Vic
8 that y'all saw on Brailsford Road?

9 A. Yes, ma'am. It appears to be, yes.

10 Q. And then showing you State's Exhibit 50, is that
11 the headlight -- headlamp that you were mentioning?

12 A. Yes, ma'am.

13 Q. Okay. And that is what you said appeared to look
14 like a gunshot?

15 A. Yes, ma'am.

16 MS. SHEALY: Okay. I have no further
17 questions, Your Honor.

18 THE COURT: Recross?

19 MR. GRIMES: No, sir.

20 MS. SHEALY: If we could ask that he be
21 excused.

22 THE COURT: No objection. You're free to go.
23 Thank you.

24 MS. SHEALY: Virginia Drayton.

25

1 A. No, ma'am.

2 MS. EHRLICH: All right. Thank you.

3 THE COURT: That's all you have?

4 MS. SHEALY: That's all I have. I ask that
5 he be excused.

6 THE COURT: All right. Thank you. You're
7 free to go.

8 MS. SHEALY: Peggy Owen.

9 PEGGY OWEN,
10 having been first duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. SHEALY:

14 Q. If you would, please, tell the jury where you
15 live.

16 A. I live at 1336 River Road in McClellanville.

17 Q. If you take a look at the exhibit behind you --

18 A. Uh-huh.

19 Q. -- can you figure out where that is?

20 A. Yes. This is the road you turn to go to my house.

21 Q. Do you see the pointer up there?

22 A. This?

23 Q. Uh-huh. Show us which direction your house is in.

24 A. It would be going this way (indicating).

25 Q. You're on the left if you're going down the road?

1 A. Yes. I am on the left.

2 Q. Which number house?

3 A. I'm the fourth house down.

4 Q. Okay. And focussing your attention then on June
5 22, 2009, would you tell the jury what happened late in
6 the afternoon.

7 A. I was home, and my daughter gives me a call, and
8 she was working up at another store and she said she had
9 heard there was a shooting and the guy was on the loose
10 and didn't know he was. So she just told me to go in the
11 house, which I was outside in my car, and I turned
12 around -- I was at the trunk of my car, shutting my
13 trunk, and when I turned around, there was a fellow
14 coming across the brick wall.

15 We have, like, a brick wall, and he was coming
16 across that. So I go in my house, and when I get inside,
17 then I see a cop car and a rescue truck coming, and he
18 was squatting down in front of a Pathfinder, which is at
19 the head of our driveway.

20 Q. Let me slow you down just for a second, okay?
21 Showing you State's Exhibit 32 --

22 A. Right here --

23 Q. There we go.

24 A. This is the brick wall.

25 Q. Hang tight just a second. Tell the jury where

1 River Road is when you're looking at this picture.

2 A. River Road is right there (indicating).

3 Q. And then where is your driveway?

4 A. That is my driveway.

5 Q. Take the pointer and show us how you come down.

6 A. Okay. You come down this way.

7 Q. Okay. And the brick wall that you were talking
8 about, which one are we talking about?

9 A. Is right here.

10 Q. Could you point and tell the jury where you first
11 saw the man.

12 A. Okay. First, can I just say there is, like, a
13 little driveway right here.

14 Q. Okay.

15 A. Right between these trees, and there was a
16 Pathfinder there, and right behind this little cedar
17 tree, he was coming across there, and he got down in
18 front of the Pathfinder here. That's at that time when I
19 was already in my house, and when he came across, he ran.
20 When the cop car and rescue truck came by, he run out
21 like this way and came through here, and there is woods
22 on this side of us, so I never saw him anymore after
23 that.

24 Q. Well, showing you State's 34, is that the brick
25 wall on the opposite side of your yard?

1 A. Yes, ma'am, it is.

2 Q. Last time you saw him, which direction was he
3 headed?

4 A. To the left of me.

5 Q. Which would be where in relation to the picture?

6 A. To this way, but there was woods. In our
7 property, there is woods all on this side. We had at
8 this time trimmed maybe some trees and stuff and grass,
9 so once you got so far, you can't see past my driveway,
10 even where I was standing in the house.

11 Q. Okay. Now, for that afternoon, that's last time
12 you saw that individual; is that right?

13 A. Yes, ma'am.

14 Q. Did the police come into your yard at some point
15 that day?

16 A. Yes, ma'am, they did.

17 Q. Okay. And, in fact, did you hear the dogs come
18 out and -- you didn't hear that part?

19 A. I didn't hear the dogs. When he ran through the
20 driveway, like I said, there was a cop car, a rescue
21 truck. He ran across, and I didn't see him anymore, and
22 then not long after that, that is when all the cops
23 started coming into the driveway, and they run up to the
24 step and asked me did I see him? And I was, like, yeah,
25 but he ran into the woods, and he said get back in the

1 house and stay on the floor until we let you know
2 otherwise.

3 Q. So that was it for that day?

4 A. That it was for that day.

5 Q. Did the police actually come back out a couple
6 days later?

7 A. Yes, they did.

8 Q. Were you at home when they came out?

9 A. Yes, I was.

10 Q. Did you go over where they found some items of
11 evidence?

12 A. He came to my door and asked me to walk over
13 there.

14 Q. Okay. Showing you -- looking at that picture,
15 that's the area if you're standing at your front door to
16 the left, correct?

17 A. Yes, ma'am, yes, ma'am.

18 Q. Showing you State's Exhibit 35, is this the other
19 side of that wall?

20 A. Yes, ma'am, it is.

21 Q. Okay. And did they show you something?

22 A. Yes, ma'am. He showed me a pistol.

23 Q. Okay. Showing you State's Exhibit 37 -- before we
24 do that, I'm sorry. Do you see that black item that is
25 running near the wall?

1 A. This?

2 Q. What is that?

3 A. It's an underdrain pipe.

4 Q. And then at 37, does that further depict that
5 area?

6 A. Yes, ma'am.

7 Q. Okay. And then in 38, is that the pistol they
8 asked you about?

9 A. Yes, ma'am.

10 Q. What did they ask you about it?

11 A. He just asked me if it was our gun, and I said no,
12 sir, and that was it.

13 Q. Okay. Now, showing you State's 36, where is that
14 shot taken from?

15 A. It's actually River Road is back on this side, and
16 you can go across the little ditch. My kids and my
17 husband ride their motorcycle and stuff across that or we
18 walk through it. It's a path that goes all the way
19 around our property.

20 MS. SHEALY: Very well. Beg the Court's
21 indulgence just a moment.

22 Ms. Owen, I have nothing further. Answer
23 anything that the defense may have, okay?

24 THE WITNESS: Okay.

25 MS. EHRLICH: Miss Owen, I don't have any

1 questions for you.

2 THE COURT: All right. You can step down.

3 MS. SHEALY: May she be excused, Judge?

4 THE COURT: You're free to go.

5 THE WITNESS: Thank you.

6 GARY STEPHEN DURGIN,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. FINCH:

11 Q. Good afternoon, Mr. Durgin. If you would, could
12 you tell us where you're employed, currently?

13 A. I'm employed with Charleston County public works,
14 and I'm also a state constable for the State of South
15 Carolina, appointed by the governor.

16 Q. Were you employed -- on June 22, 2009 what was
17 your employment at that time?

18 A. I worked for Charleston County public works as a
19 paid job, but I volunteer and I'm appointed by the
20 governor as a South Carolina state constable.

21 Q. What are your duties and responsibilities as a
22 state constable?

23 A. To enforce the laws of South Carolina.

24 Q. And do you sometimes respond to calls for
25 assistance?

1 A. Yes, sir. On many occasions, I've heard deputies
2 on the radio responding to calls by their selves (sic)
3 and I'll go as a backup.

4 Q. On June 22, 2009, did you have occasion to respond
5 to a call on Highway 17 in McClellanville?

6 A. Yes, I did.

7 Q. Please tell the Court your involvement with that
8 call.

9 A. I heard the call go out. The deputy was
10 responding to an active shooting call, and his backup was
11 relatively far away, so I went with him just to back him
12 up, make sure he was safe, help secure the scene, find
13 any witnesses.

14 Q. And what did you do exactly when you arrived at
15 the incident location?

16 A. When I pulled up, first thing I did was try to
17 locate anybody that had weapons, try to secure those
18 weapons so nobody else got hurt. Then I went on to
19 move -- to check the victim. There was an individual
20 there that was shot, and I made the call to get EMS to go
21 ahead and come in. I let them know the scene was secure
22 so they could approach the scene and start treating the
23 victim.

24 Q. Did you find any weapons at the scene?

25 A. There was a handgun behind a trash can near the

1 front door of the gas station.

2 Q. What did you do with that handgun after you found
3 it?

4 A. Left it in place. We didn't touch it. The deputy
5 who was with me made sure it was -- nobody bothered it,
6 and he took care of securing that while I went to the
7 victim.

8 Q. And what was your involvement with the victim at
9 that time?

10 A. I just asked him where he was shot, or if he was
11 shot, and then he told me he was. And once I seen the
12 wounds and I didn't know how many he had, but I did
13 remember seeing one in his torso area, and I immediately
14 just called for EMS to come on in.

15 Q. After the scene was secure, what did you do?

16 A. We were told over the radio to go ahead and start
17 setting up a perimeter because the K-9 units were coming.

18 Q. And if you would, tell the jury what you mean by
19 setting up a perimeter.

20 A. Just take various locations around the active
21 scene, last scene where the individual may have went, so
22 that we got some kind of area enclosed, or surrounded by
23 police officers so that when K-9 come in they would be
24 able to do a search of that area.

25 Q. Where did you set up that position?

1 A. I was at the corner of North Pinckney Street and
2 Highway 17.

3 Q. I'm going to show you what has been marked as
4 State's 31. It's going to appear on the screen behind
5 you. If you could indicate where you were, where your
6 vehicle was?

7 A. Right where the picture was taken because I was
8 right in front of that stop sign, looking down River
9 Road, and the incident location is actually to the left
10 of this.

11 Q. Is that a fair representation of your viewpoint?

12 A. Yes, it is.

13 Q. What did you observe while set up at that
14 perimeter point?

15 A. While sitting there, we just kind of keep an eye
16 out to make sure that nobody leaves the area without
17 knowing who they are until the K-9 got there. And while
18 I was there, I observed down River Road, approximately in
19 this area, maybe a little -- maybe in here, I saw an
20 individual come to the edge of the road, and he ducked
21 back in really fast, and then he started running down the
22 side of the road away from me down River Road.

23 Q. Do you remember what that individual was wearing?

24 A. No, sir.

25 Q. Would you show us, please, then, the direction

1 which you saw his travel.

2 A. He came out somewhere I guess in here. The
3 picture actually needs to be a little further around, and
4 he started going down River Road. I could see further
5 down River Road than what this picture is representing.

6 Q. And what did you do?

7 A. As soon as he started running, I got on the radio
8 and told the scene commander that I had seen an
9 individual running down the road. I immediately drove
10 across the highway and started going down River Road so I
11 could try to keep him in sight.

12 Q. Were you able to keep him in sight?

13 A. As I crossed the road and started going down River
14 Road, he jumped the first fence of the next yard and went
15 through that yard, and as I was getting closer, he went
16 around the second fence and into a wooded area. So I
17 went about, I don't know, 150, 200 feet past where I last
18 saw him and parked my vehicle and exited my vehicle to
19 establish a new perimeter.

20 Q. When did you next see that man?

21 A. After K-9 moved their dogs up and went in, I
22 couldn't tell you how long it was. It wasn't a great
23 length of time. He came running out of the woods and
24 directly toward me.

25 Q. And what did he do at that time?

1 A. Well, as soon as he exited the woods, I could tell
2 he was running from something, so I immediately took him
3 down at gunpoint. I told him to get on the ground. He
4 immediately went down in a prone position. I placed him
5 in handcuffs, and I told him, I said, You're not under
6 arrest, you're being detained, and I searched his pockets
7 and stuff to make sure he didn't have a weapon or
8 anything on him.

9 Q. And did you find anything in his pockets?

10 A. There was, I think, a couple lighters, some loose
11 change, and what appeared to be a crack pipe.

12 Q. I'm going to show you what has been previously
13 marked as State's 39. If you would, I'm going to show
14 you an item that is marked as State's Exhibit 64. Is
15 that what you found?

16 A. That's what I found.

17 MR. FINCH: At this time, the state would
18 move for admission of State's 64.

19 THE COURT: Over defense objection it's
20 admitted.

21 (Picture of crack pipe marked for
22 identification and admitted into evidence as State's
23 Exhibit No. 64.)

24 BY MR. FINCH:

25 Q. So can you turn around so the jury can see it?

1 A. Yes, that's it.

2 Q. And then what did you do with the items that you
3 removed from his pockets?

4 A. I turned everything over to one of the deputies,
5 I'm not sure which one, that took him back to the scene
6 so they could further question him.

7 Q. And did the man say anything to you?

8 A. I really didn't ask him any questions, and he
9 didn't say anything to me. He was just breathing hard,
10 like he had been running, and that is about it.

11 Q. Is there anything else about his appearance that
12 you noted?

13 A. He was -- you could tell he had been running a
14 distance, because he was washed down in sweat. Even his
15 shirt underneath was wet, and he was breathing relatively
16 hard.

17 Q. After you turned him over to the deputy, what
18 happened next?

19 A. They took him back to the scene for further
20 questioning. I had no further involvement with him after
21 that.

22 Q. Okay.

23 MR. FINCH: Beg the Court's indulgence.

24 No further questions. If you would, answer
25 any questions the defense has for you.

1 THE COURT: Any questions?

2 MS. EHRLICH: Just briefly.

3 CROSS-EXAMINATION

4 BY MS. EHRLICH:

5 Q. You weren't there when the shooting happened at
6 the gas station, were you?

7 A. No.

8 Q. And I believe that you testified that when you
9 were on the scene, it was the deputy there who kept an
10 eye on the gun by the trash can?

11 A. Correct.

12 Q. That you were concerned about the victim?

13 A. Correct.

14 Q. So you didn't keep an eye on the gun?

15 A. No.

16 MS. EHRLICH: Okay. Thank you.

17 THE COURT: Anything further?

18 MS. EHRLICH: No, Your Honor.

19 MR. FINCH: Nothing from the state. We just
20 ask that the witness be excused.

21 THE COURT: You're free to go.

22 THE WITNESS: Thank you.

23 MR. FINCH: The state calls Kevin Whited.

24 - - - - -

25

1 KEVIN WHITED,
2 having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FINCH:

6 Q. Good afternoon, Mr. Whited. If you would tell the
7 jury, please, where you're employed.

8 A. Charleston County sheriff's office.

9 Q. What is your position and responsibilities with
10 the sheriff's office?

11 A. I'm currently the lieutenant of the K-9 division
12 and SWAT team command.

13 Q. Were you in that capacity on June 22, 2009?

14 A. Yes, sir.

15 Q. And what are some of the responsibilities that you
16 have as the supervisor of the K-9 unit?

17 A. Just overall day-to-day operations of the running
18 of unit itself, and I also participate on the daily
19 activities, whether it be a track or a drug sniff.

20 Q. Focussing on June 22, 2009, did you have occasion
21 to respond to a call out in McClellanville, on Highway
22 17?

23 A. Yes, sir.

24 Q. What was your involvement regarding that call?

25 A. Initially, my first -- when the team first arrived

1 on the scene, we were advised of the situation in that an
2 individual had been shot and a suspect was observed
3 running across the street into a wooded area.

4 Q. And pursuant to that information, what did you do
5 at the incident location?

6 A. We just prepared the -- I'm not sure I quite
7 understand.

8 Q. What physical activities or what things did you
9 physically do once you got there?

10 A. We were just -- like I said, we were obtaining the
11 information. We were obtaining suspect information, the
12 description, specifically, and preparing the dogs for a
13 track.

14 Q. And where did you start the dog track?

15 A. If --

16 Q. I can show you this.

17 MR. FINCH: Permission to have the witness
18 step down.

19 THE COURT: Sure.

20 BY MR. FINCH:

21 Q. If you would step over this way, Detective Whited,
22 I would show you an overhead, an overview of the area.
23 Showing you what has been marked as State's 55, have you
24 stand over here, if you would, so the court reporter can
25 hear you. Switch places. And just by way of

1 orientation, this is the Kangaroo up here.

2 A. Okay. This being -- okay.

3 Q. 17 running north.

4 A. Okay. This is the gas station, correct?

5 Q. Correct.

6 A. Okay. And this would be River Road?

7 Q. River Road.

8 A. Okay. We were told that the suspect entered from
9 the incident location. We were told that the suspect
10 entered somewhere in this vicinity. So we actually
11 started the track on this side of 17, crossed over 17,
12 and the dog hit hard in this area. I can't be exact, but
13 from this corner to here, I would say within a 20 to 30
14 yard area, the dog picked up, and we -- I would say we
15 were probably 150, 100 yards off of 17, tracking in the
16 general parallel direction down 17.

17 Q. And if you would, just tell the jury, how is it
18 that the dogs -- how do dogs track? What do they find?

19 A. Dogs -- first of all, they have a scent -- I don't
20 know what the math is, but it's much, much stronger than
21 what the human nose can detect, but as you're sitting
22 there in your chairs now, you actually have skin cells
23 that are falling off you, and it's amplified when you
24 start moving around, especially running.

25 Those skin cells fall to the ground and the dog is

1 able to pick up on that. Also, you have crust
2 vegetation, gives off a specific scent, and keeps the dog
3 on a track. The dog won't specifically go step for step
4 with an individual that he's tracking, but they use
5 what's referred to as a coning method, and the dog will
6 actually cone to the right, and if the scent is not
7 strong, he'll come back left, and it's just a path, like
8 so.

9 So I don't want you to think that the dog goes
10 step for step, but I'm talking maybe a ten foot area
11 across, he'll stay on one track.

12 Q. And you followed the path, and, again, what was
13 your path of travel from where you entered?

14 A. About -- I would estimate about 150 yards into the
15 woods. We started, like I said, right around in here,
16 and we probably went about 150 to 100 yards off of 17 and
17 basically remained parallel to 17.

18 At some point in the track -- and I can't be
19 specific. As you could imagine, this is very densely
20 populated with pine trees and briars and stickers.
21 Everything looks just about the same. At some point
22 during the track, a perimeter, which was set up on River
23 Road, a perimeter unit advised that they had observed a
24 black male individual in that vicinity.

25 We, as the tracking units, believed that it was

1 quite possible that it was the person that we were
2 tracking, so we left from this -- I would say somewhere
3 in here, got back into our vehicles, and drove down to
4 River Road.

5 Q. And once you got to River Road, did you initiate
6 new traffic?

7 A. We did. We received the information, and I would
8 have to look at my incident report to give you an
9 address, but I would say it was about 300 yards from 17
10 down River Road. We received information --

11 Q. I'm sorry to interrupt. If you could just step
12 back and maybe use your pointer so the jury can see.

13 A. Okay. It was about -- like I said, it was about
14 300 yards from 17 down River Road. It was in this area
15 where another officer had observed him, or it may have
16 been a landowner. I'm not positive. We initiated the
17 track again there, and within less than two minutes, a
18 black male individual jumped up from a -- I would say
19 it's about a five foot wall, I believe it was constructed
20 of cinderblocks and ran, like I said, from at or near a
21 residence there from a wall, ran back out on to River
22 Road where he was apprehended.

23 Q. If you could, go ahead and take your seat. What
24 are the dogs doing? You explained how they track. Do
25 they change their behavior when they get close to finding

1 whatever it is they're tracking?

2 A. Depending on what type of dog you're speaking of,
3 a bloodhound will actually bellow. I don't know if
4 you've ever heard a bloodhound, but there is no mistaking
5 it. Our apprehension dogs will physically pull the
6 handler when the scent becomes overwhelming or when --
7 with that being said, if he's close to somebody, the dog
8 will start pulling harder and/or will audibly bark or
9 even growl.

10 Q. And what were the dogs doing when they got near to
11 where you saw the suspect?

12 A. It was K-9 Igor that was actually on the track at
13 that point, and he was very vocal.

14 Q. What was the defendant's appearance when you saw
15 him after the dogs located him?

16 A. He was extremely covered in sweat, he was
17 profusely sweating and appeared to just have no more
18 energy. And I'm speaking of the time we observed him
19 from the first time jump up from that wall. It may have
20 been 20, maybe 30 yards to the roadway, and he had no
21 more energy. He was absolutely drained.

22 Q. Did you notice any injuries on the defendant?

23 A. I actually -- on scene at River Road, no, but the
24 defendant was tripped back to the gas station at which
25 point I just wanted to see him, and I observed scratches

1 consistent with scratches that we all received running
2 through the wood line.

3 It appeared as if briar scratches -- just running
4 through the woods, as I'm sure everyone has done, you get
5 scratched up.

6 Q. And regarding the track, you said you went a good
7 way through the woods, broke off that track, started a
8 secondary track. Did you eventually connect those two?

9 A. We did.

10 Q. How did that happen?

11 A. For fear of -- initially, when you're tracking,
12 your primary concern is the person that you're tracking.
13 Obviously, while you're on the track, you're going to
14 look for clothing and you're going to look for weapons,
15 but it's not specific, at that point. You're more
16 concerned about looking up and protecting yourself.

17 There is no telling what this individual could do,
18 so yes, we did go back and completed from Highway 17 all
19 the way to River Road. We completed a full track, and
20 the track came out, the second track, came out on River
21 Road, exactly where the suspect jumped up, if that makes
22 sense.

23 MR. FINCH: I have no further questions for
24 the witness. Answer any questions the defense may have.

25 CROSS-EXAMINATION

1 BY MR. GRIMES:

2 Q. Good afternoon.

3 A. How are you doing?

4 Q. Pretty good, although my allergies have been
5 bothering me a little bit. Am I to assume you run the
6 K-9 team?

7 A. Yes, sir.

8 Q. And you have several officers in your team?

9 A. Yes, sir.

10 Q. Detective Ashby?

11 A. Yes.

12 Q. Deputy Brennan?

13 A. He's no longer with the K-9 unit, but at the time
14 he was.

15 Q. Sergeant Williams?

16 A. Correct.

17 Q. Deputy Caulfield?

18 A. Correct. Again, he's since been transferred to
19 parole.

20 Q. Okay. Deputy Christmas?

21 A. Yes.

22 Q. And Deputy Silbert?

23 A. Silbert.

24 Q. And the K-9 team is made up of several times of
25 dogs, bloodhounds and German Shepherds?

- 1 A. And malamutes, but predominantly German shepherds.
- 2 Q. Is Igor a German shepherd?
- 3 A. Yes.
- 4 Q. How many other dogs were out there on this day?
- 5 A. We had Igor and Zeus.
- 6 Q. Is it Zeus?
- 7 A. I'm sorry, Terry.
- 8 Q. Deputy Silbert's dog?
- 9 A. Correct.
- 10 Q. Other dogs, I guess, in your unit would be Leah?
- 11 A. No, not anymore.
- 12 Q. Not anymore?
- 13 A. Leah was retired.
- 14 Q. Okay. Is Nitro still there?
- 15 A. Nitro is no longer. He's retired.
- 16 Q. How about Harley? Is he still there?
- 17 A. Yes, sir.
- 18 Q. So you had Igor and Zeus out there that day?
- 19 A. Correct. Igor and Terry.
- 20 Q. Both those are German Shepherds?
- 21 A. Yes.
- 22 Q. There are some limitations on what K-9 units can
- 23 do, correct?
- 24 A. As far as --
- 25 Q. For example, they have endurance issues where they

1 really can't track for more than two or three hours?

2 A. That's correct, especially in the heat.

3 Q. Especially in June in South Carolina.

4 A. Correct.

5 Q. And another thing: A dog can't tell you why
6 someone was running.

7 A. No.

8 Q. It can't tell you if someone was acting -- it
9 can't tell you how a shooting happened.

10 A. No.

11 Q. He can sort of say there was a scent, and this
12 person was -- we've been tracking this scent?

13 A. Correct.

14 Q. On direct, you testified it's kind of
15 unpredictable. You don't know what somebody could do out
16 there?

17 A. I'm sorry. I testified to what.

18 Q. You testified on direct when you're tracking
19 somebody, it can be kind of unpredictable. You may not
20 know what someone may do out there.

21 A. I was referring to a suspect in the woods, yes,
22 correct.

23 Q. So if you had come up on somebody and, in this
24 case, for example, you received information that he was
25 armed --

1 A. Correct.

2 Q. -- and there had been a shooting --

3 A. Yes.

4 Q. -- for example, and under the sheriff's policy,
5 they have what they call a matrix of force, possible use
6 of deadly force?

7 A. Correct.

8 Q. If you believe or have a reasonable belief that
9 you may be in danger of being injured, then you can use
10 deadly force, correct?

11 A. Yes.

12 Q. So with that information in mind, if someone, say
13 you, were tracking a suspect and all of a sudden he
14 reaches for a gun, or reaches like this, would that cause
15 you to be on alert, to draw a weapon?

16 A. Yes. Our weapons are usually out during a track,
17 but yes, if they weren't --

18 Q. So if someone else had reached, and you don't know
19 what they're reaching for, or if -- would you be ready to
20 fire at that point?

21 A. Well, you can't be so basic with your question.

22 Q. Okay.

23 A. I would need a lot more information than that.

24 Q. I understand now. That's fair enough. But, for
25 example, if you saw a gun and you saw someone reach for a

1 gun, and you received information that a person had been
2 involved in a shooting, would you at that point be
3 willing to use deadly force?

4 A. If I felt my life was in jeopardy or the life of a
5 citizen or life of another deputy, absolutely.

6 Q. I want to ask you a few questions. You said you
7 had your weapons out that day?

8 A. Yes.

9 Q. What kind of weapons did you have out?

10 A. I believe two or possibly three of the individuals
11 tracking were equipped with either an AR-15 or an M-4.
12 The rest of the unit would have been with a handgun,
13 which would have been Glock 40.

14 Q. And I apologize for my ignorance. What exactly is
15 an AR-15?

16 A. It's basically an M-16, like the military uses.

17 Q. Okay.

18 A. It's a long gun, an assault rifle.

19 Q. What is an M-4?

20 A. Pretty much the same thing, just modified,
21 somewhat, collapsable stock, things of that nature.

22 Q. And how many officers were out there in response
23 to this call from the K-9 team?

24 A. On this date, there were myself, Sergeant
25 Williams, Deputy Silbert, Deputy Caulfield, and Captain

1 Stanley. Captain Stanley was not assigned to K-9
2 division.

3 Q. There was how many? I lost count, about six
4 officers?

5 A. I'm sorry. Five.

6 Q. One person had an AR-15 and one person had --

7 A. I don't really recall. I'm almost positive that I
8 was carrying an M-4, and I'm almost positive Captain
9 Stanley was carrying either an AR-15 or an M-4.

10 Q. And the other officers had Glocks?

11 A. Correct.

12 Q. Was there a helicopter that had been called out
13 there too?

14 A. I'm not sure.

15 Q. Okay. So you have five officers, two dogs chasing
16 someone; is that correct?

17 A. One K-9 at a time, but yes.

18 Q. So if one K-9 was working and maybe if endurance
19 issues came up, the second K-9 would take over?

20 A. Yes.

21 Q. The second K-9 -- while the first K-9 is working,
22 would the second K-9 be in the car or --

23 A. Correct. Out of the heat, or cold, depending on
24 the time.

25 Q. So you have one dog and four officers, or one dog

1 and five officers?

2 A. In this -- are you asking me specifically about
3 this incident?

4 Q. Yes, sir.

5 A. There was always five people, and there was only
6 one dog at a time.

7 Q. And then you had the people in the perimeter,
8 correct?

9 A. Yes, sir.

10 Q. I want to ask you a few questions about the actual
11 incident. You don't know anything about the actual
12 incident, do you?

13 A. Other than what I've read in incident reports, no.

14 Q. You didn't witness anything?

15 A. No, I did not.

16 Q. And you didn't interview any suspects?

17 A. No, I did not.

18 Q. You did not interview Mr. Alford?

19 A. No, I didn't interview anybody.

20 Q. Your assignment was to basically track the
21 suspect?

22 A. That's correct.

23 Q. And I guess it would be kind of like -- the
24 picture I'm getting, with the woods and the officers and
25 the dogs, would be like, I guess, Tommy Lee Jones in the

1 fugitive, where they're looking for a suspect after the
2 bus kind of tipped over and wrecked.

3 A. Yes, sir, you could say that.

4 MR. GRIMES: Could I have one moment, Your
5 Honor?

6 THE COURT: Sure.

7 MR. GRIMES: Thank you, Your Honor.

8 THE COURT: Redirect?

9 MR. FINCH: Just one question, quickly.

10 REDIRECT EXAMINATION

11 BY MR. FINCH:

12 Q. You testified you had five individuals and one dog
13 out there tracking?

14 A. Yes.

15 Q. And you all are looking for one armed shooter,
16 correct?

17 A. Yes.

18 MR. FINCH: No further questions.

19 THE COURT: Any others?

20 MR. GRIMES: No, sir.

21 THE COURT: All right. You can step down.

22 Why don't we go ahead and take a ten-minute
23 break so we can use the rest room and, again, don't begin
24 deliberations or discussions about the case. We'll have
25 you back in about 10, 15 minutes. Thank you.

1 (Recess taken.)

2 (In open court, jury present.)

3 THE COURT: All right. State, call your next
4 witness.

5 MS. SHEALY: Dr. Stephanie Montgomery.

6 STEPHANIE MONTGOMERY,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. SHEALY:

11 Q. Please tell the jury where you're employed?

12 A. I work as a trauma surgeon at the Medical
13 University of South Carolina, MUSC.

14 Q. And as a trauma surgeon there, do you have a team
15 that you work with?

16 A. Yes. We have a team of doctors in training,
17 medical students, and partners that are trauma surgeons
18 with me that take care of patients that come in to the
19 emergency room.

20 Q. Okay. Tell the jury a little bit about your
21 educational background.

22 A. I went to medical school, which is four years. I
23 then did a general surgery residency, which in total is
24 five years of training specifically on how to be a
25 surgeon. I also did additional work as a surgical

1 BY MR. FINCH:

2 Q. Good afternoon, Deputy Caulfield. Could you tell
3 the Court where you're employed.

4 A. Charleston County sheriff's office.

5 Q. What is your job title and responsibilities that
6 come with that?

7 A. Master deputy patrolman, which is basically senior
8 patrolman, and duties encompassed are primarily
9 responding to calls for service, serving warrants,
10 traffic stops, protecting the general public and property
11 at large.

12 Q. And what was your position you held in June of
13 2009?

14 A. I was a bloodhound handler specifically for the
15 Charleston County county's sheriff's office.

16 Q. What were some of the duties and responsibilities
17 you had as a dog handler?

18 A. As a bloodhound handler, we would respond to calls
19 for missing persons, lost or missing children, the
20 elderly, infirm. We would primarily use a dog to track,
21 track individuals, to include criminals and those who ran
22 from the law or were in pursuit.

23 Q. And did you have occasion on June 22, 2009 to
24 respond to a call in McClellanville, 10105 Highway 17
25 North?

1 A. I did. I was responding to a call. I did not
2 respond to the incident location that you speak of. It
3 was back to on to Highway 45.

4 Q. And what was your involvement with that call where
5 you responded?

6 A. My involvement was strictly to assist deputies
7 already on scene with the collection of any and all
8 evidence in the roadway. I was directed by my sergeant,
9 Allen Williams, to go up to Highway 45. The exact
10 location, I'm not sure, to speak with deputies that were
11 already are on scene and constable Gary Durgin who was on
12 the scene standing by with evidence that was in the
13 roadway.

14 Q. What was your responsibility with that evidence
15 that was on the roadway?

16 A. To photograph, once I photographed, to take them
17 up and hand it over to our evidence technician, and that
18 would have been Kathy Kjellman.

19 Q. Showing you what has been marked as State's
20 Exhibit 9 for identification purposes only --

21 A. Yes.

22 Q. What is that referred to?

23 A. It's commonly referred to as a crack pipe, and
24 that was photographed on the east side of the roadway, on
25 the highway.

1 Q. Did you take that photograph?

2 A. I did, sir.

3 MR. FINCH: At this time I move for the
4 admission of State's 39 into evidence. 1234.

5 MR. GRIMES: Objection as previously stated.

6 THE COURT: Overruled.

7 (Photograph of crack pipe marked for
8 identification and admitted into evidence as State's
9 Exhibit No. 39.)

10 BY MR. FINCH:

11 Q. What did you do after you received that?

12 A. Turned it over to Kathy Kjellman.

13 Q. On the previous week, June 24th, did you have
14 occasion to go out to that incident location again?

15 A. Yes, sir.

16 Q. What sent you out to that location on the 24th?

17 A. Who sent me out there specifically was my
18 sergeant. He had asked to conduct a hand search of the
19 area, meaning that -- I believe at that time the
20 exhausted -- the dog to do an article search to find any
21 and all evidence, and since none had been obtained at
22 that point, he specifically asked for us to do a hand
23 search of the area where the track was conducted for the
24 missing gun, and that was what he would give me the,
25 directive of and he sent me with Master Deputy Mason

1 Ashby to the area which they conducted the track previous
2 to the 24th.

3 Q. And what did you and Deputy Ashby do once you were
4 at that location?

5 A. He instructed -- Master Deputy Ashby had
6 instructed me in the area in which they tracked across a
7 residence to conduct a hand search to look to see if
8 anything may have been out of place, overturned, to
9 follow most closely the suspect's flight path and to look
10 in any of the areas to see if we could possibly locate
11 the gun used in the incident.

12 Q. And how do you look? Do you use any instruments,
13 the naked eye?

14 A. The naked eye, just general observations, keen
15 observation that we have -- I have accrued over a period
16 of time on a tracking, very -- little things that
17 would -- that are they obvious to anybody, but it just
18 takes a keen eye to look for things.

19 Q. I'll show you what has been marked as State's
20 Exhibit 32. Do you recognize that photo?

21 A. I do, sir.

22 Q. If you could show us with this laser pointer
23 there, just show us areas in which you searched.

24 A. This would be the highway, coming -- this would be
25 the residence towards this area where the laser dot is.

1 Presumably the suspect had taken a flight path over this
2 wall and cut through the residence. There were some
3 vehicles that are not featured in this photo that we had
4 searched around and come across this way to the other
5 side of the same type of retention wall as you see
6 featured here.

7 Q. And I'm going to show you State's 34. Is that the
8 other wall you're talking about?

9 A. Yes, sir. It's on the other side. That is the
10 other wall, sir, and it ends right here.

11 Q. And I show you State's 35, and tell me what is in
12 that picture there.

13 A. That is Deputy Ashby, this is the end of the wall
14 as featured in the previous slide, and that is a black
15 corrugated drainage pipe, a plastic drainage pipe mostly
16 seen on the side of roadways or underneath --

17 Q. And did you encounter that drainage pipe during
18 your search?

19 A. I did, yes, sir.

20 Q. And did you notice anything about it?

21 A. When I had entered -- this -- as in this photo,
22 where this laser pointer is, the roadway is just on the
23 other side. This is a small little bridge. I crossed
24 that bridge over on this side to check this area. It's
25 featured here, and if you walk down approximately 25

1 yards, you would have seen -- and on that occasion I saw
2 a black corrugated pipe, and when I observed it, it had
3 looked different again.

4 That keen observation, there was a spider web that
5 looked like it had been broken, as it had been previously
6 moved prior to my actually coming upon it.

7 Q. And you say previous, it had previously moved,
8 what do you mean? What was previously moved?

9 A. It had shown that it had recently been moved. If
10 the cobweb was intact, and it was not, it was broken,
11 either way, I was going to look behind that pipe anyway,
12 but having seen that, it made me curious as to why that
13 had been broken. I didn't see anything around the pipe
14 that suggested anything else. It looks like it had been
15 pulled back, so seeing that, I pulled the pipe back.

16 Q. Okay. I'm going to show you State's 37. Is that
17 the condition you saw the pipe in?

18 A. Yes, sir.

19 Q. And I'll show you now State's 38. Is that what
20 you found --

21 A. That's correct.

22 Q. -- on your search?

23 A. That's correct, sir.

24 Q. Once you found that weapon, what did you do next?

25 A. I immediately notified Master Deputy Ashby on the

1 scene and directed him to my location. Second to that, I
2 immediately notified, through my communications, about my
3 walking, to my sergeant, let him know what I had found,
4 so I immediately notified my dispatch and my sergeant
5 what I had found.

6 Q. Did you do anything with the weapon after you
7 found it?

8 A. I did not. I photographed it in place. I had an
9 evidence technician, Brent Roy, come out on the scene.
10 He photographed it, took it into evidence, and that was
11 my extent of my involvement with that firearm.

12 Q. Let's me show you what has been labelled as
13 State's Exhibit 53. Is that the gun you found?

14 A. Yes, sir. This was ran previously through our
15 communications, and it had come back stolen. I'm not
16 sure which person had reported it, but it was through
17 this agency.

18 Q. Thank you.

19 A. Yes, sir.

20 MR. FINCH: No further questions from the
21 state at this time. Please answer any questions the
22 defense may have.

23 THE WITNESS: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. GRIMES:

1 possession to damage it, change it, alter it in any way?

2 A. No, sir.

3 MR. FINCH: Thank you. No further questions
4 at this time. Please answer any questions the defense
5 may have.

6 MS. EHRLICH: Court's indulgence.

7 Your Honor, we don't have any questions.

8 THE COURT: Okay. You can step down.

9 MR. FINCH: Kathy Kjellman.

10 KATHY KJELLMAN,

11 having been first duly sworn,

12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. FINCH:

15 Q. Kathy, Ms. Kjellman, if you would, tell the Court
16 your job title and who it is you work for.

17 A. I'm an investigator with the Charleston County
18 sheriff's office.

19 Q. And as an investigator, what are some of the
20 responsibilities that you have on a day-to-day basis?

21 A. We respond to numerous crime scenes and process
22 for fingerprints and DNA collection, photographs.

23 Q. And were you employed at that position in June
24 2009?

25 A. Yes, sir.

1 Q. Going back to June 22, 2009, were you responding
2 to a call of a shooting on Highway 17 in McClellanville?

3 A. Yes, sir.

4 Q. If you would tell the Court your involvement in
5 the investigation of that shooting.

6 A. I process the scene, took photographs, collected
7 some DNA, some evidence that was at the scene.

8 Q. And when you got there, what was the physical
9 condition of the scene?

10 A. It was secured with crime scene tape at the time.
11 There was a few vehicles still in the parking lot, which
12 were determined to be employee vehicles.

13 Q. I'm going to show you what has been previously
14 entered as State's No. 4. Is that the condition of the
15 scene when you arrived?

16 A. Yes, sir.

17 Q. Okay. So that would be the crime scene tape, the
18 yellow tape?

19 A. Yes.

20 Q. When you got there, what was the first thing you
21 did when you got on the scene?

22 A. I usually make contact when somebody is at the
23 scene, the detective, one of the first responding
24 deputies, to determine the case and the incident, how it
25 happened.

1 Q. And did you identify some blood at the scene?

2 A. Yes. I noticed some blood that was up by the
3 front door, and further investigation, there was some
4 blood in the parking lot too.

5 Q. And you mark those off in a different --

6 A. Yes.

7 Q. How many different trails of blood did you think
8 you identified?

9 A. I had observed what I thought to be about three
10 different trails, and I had marked those with different
11 colored cones just in case I was correct in my theory
12 that it was three trails.

13 Q. I'm going to show you a series of photographs that
14 have been previously admitted as numbers 41 through 45,
15 and just, if you would, take a look at them to see if
16 those -- are those the trails you're talking about?

17 A. Yes, sir.

18 Q. What do the different cone colors indicate?

19 A. Like I said, one trail is indicating -- one trail,
20 I think, is going over toward the gas pumps. One of
21 them, I believe, stayed right back by the corner of the
22 store, and I believe there is another one also up toward
23 the front door.

24 Q. And now going into the interior of the store,
25 State's number 10, is that how you found the scene when

1 you arrived?

2 A. Yes, sir.

3 Q. And what is that bright green item on the floor?

4 A. That is actually one of the victim's shirts.

5 Q. Okay. And did you collect that from the scene?

6 A. Yes.

7 Q. And what did you do with that once it was
8 collected?

9 A. I photographed it in place, first of all, and
10 collected it and placed it in my vehicle.

11 Q. I'm showing you what has been marked for exhibit
12 purposes as State's 69. Is that the shirt that was
13 collected?

14 A. Yes, sir.

15 MR. FINCH: At this time, the state would
16 move for admission of State's Exhibit 69 without
17 objection.

18 THE COURT: Admitted.

19 (Shirt marked for identification and admitted
20 into evidence as State's Exhibit No. 69.)

21 BY MR. FINCH:

22 Q. Did you collect any other items from the scene?

23 A. There was a bloody sock that was outside the store
24 as well.

25 MR. GRIMES: No objection.

1 MR. FINCH: At this time we move for the
2 admission of State's 70.

3 (Sock marked for identification and admitted
4 into evidence as State's Exhibit No. 70.)

5 BY MR. FINCH:

6 Q. I'm showing you what has been admitted into
7 evidence as State's No. 70. Is that the sock that you
8 collected?

9 A. Yes, sir.

10 Q. Let me show you a photo that was previously
11 entered as State's No. 5. Do you see on that picture
12 where you would have collected the sock?

13 A. Yes. It's just up on the sidewalk there.

14 Q. Okay. And that was determined to be whose sock,
15 do you know?

16 A. The victim's sock.

17 Q. How about any weapons? Did you recover any
18 weapons from the scene?

19 A. Right behind the garbage can there was the
20 victim's handgun.

21 Q. Let me show you State's No. 22, and is that the
22 gun?

23 A. Yes, sir.

24 Q. Was that a fair picture of how you found it?

25 A. That's exactly how I found it.

1 Q. Did you examine that gun after you had taken it
2 in, collected it?

3 A. Yes, I determined -- I made the weapon safe,
4 removing any ammunition that was in the chamber.

5 Q. How much ammunition was in that handgun?

6 A. It was a fully loaded magazine with one in the
7 chamber with a total of ten rounds.

8 Q. So that is the maximum capacity for that type of
9 gun?

10 A. Yes, nine round magazine.

11 Q. And one in the chamber?

12 A. Yes.

13 Q. Does that indicate whether it's been fired or not?

14 A. I would say no, that it hadn't been fired.

15 Q. Did you recover any shell casings from the scene?

16 A. No.

17 Q. Was a lack of shell casings at a shooting
18 indication unusual?

19 A. It could indicate that it a revolver was possibly
20 being used.

21 Q. Did you locate any other evidence relating to
22 shots fired?

23 A. There was a projectile at the rear of the
24 business.

25 Q. I show you a photo previously entered, State's 49.

1 Is that a photo of the projectile that you referred to?

2 A. Yes, sir.

3 Q. Did you collect any other items from that area?

4 A. There were some plastic pieces from the area that
5 appeared to be car parts.

6 Q. And I'll show you what has been entered as State's
7 67. Is that the car part you're referring to?

8 A. Yes, sir.

9 Q. Later on, you processed a vehicle, a suspect
10 vehicle; is that correct?

11 A. Yes, sir.

12 Q. And on that vehicle, you were able to -- did you
13 remove any items?

14 A. Yes.

15 Q. What did you remove from that?

16 A. It was a headlight that came from the Crown
17 Victoria.

18 MR. FINCH: At this time, the state moves for
19 admission of Exhibit 71 without objection.

20 THE COURT: Admitted.

21 (Headlamp from the Crown Victoria marked for
22 identification and admitted into evidence as State's
23 Exhibit No. 71.)

24 BY MR. FINCH:

25 Q. Is this the headlamp that you removed?

1 A. Yes, sir.

2 Q. Were you able to make a comparison between the
3 headlamp and the piece you found?

4 A. I was able to piece the small plastic piece that
5 was found in the parking lot in with the headlight here
6 that came off the vehicle.

7 Q. Could you demonstrate that, please, for the jury.

8 A. Let's see. I think it's going to stay there for
9 you. The piece fits right in there.

10 Q. Did you collect any evidence of gunshot residue,
11 otherwise known as GSR evidence?

12 A. I received a GSR kit from Deputy Casale, Detective
13 Casale.

14 Q. And what is the purpose of collecting
15 GSR evidence?

16 A. It will determine if somebody had possibly shot a
17 handgun recently.

18 Q. And what are you looking for when obtaining GSR
19 evidence?

20 A. When a kit like that is collected, there are
21 certain steps you go through. There may be some of the
22 evidence we're looking for on the hands is so minute and
23 small that it's not visible to the naked eye. It's got
24 to be examined under a microscope.

25 Q. Did you also process the scene for fingerprints?

1 A. Yes, I did.

2 Q. Did any of those fingerprints come back to the
3 defendant?

4 A. No.

5 Q. Is that indicative of anything?

6 A. No, sir.

7 Q. What did you do after processing the scene for
8 fingerprints? Did you do swabs?

9 A. I did collect DNA from the parking lot and inside
10 the store.

11 Q. Generally, what is the purpose in taking the blood
12 swabs or potential DNA?

13 A. For later, if and when a suspect is determined, we
14 compare the DNA samples from the scene to a DNA sample
15 from a suspect.

16 Q. I'm going to take you back now to the Crown Vic.
17 Did you collect any other evidence from the Crown Vic
18 other than the headlamp?

19 A. There was -- I took photographs of the vehicle,
20 the driver's side headlight. There was three blood swabs
21 from the vehicle and 31 latent fingerprints.

22 Q. Did you know if any blood was analyzed for DNA?

23 A. No, it was not.

24 Q. Did you remove any items from the victim's station
25 wagon?

1 A. From the victim's station wagon, I also took
2 photographs. There were four 38 special caliber rounds,
3 live rounds, a caliber -- a Beretta 25 caliber handgun,
4 and photos and latent prints were also collected.

5 Q. Were there any other items taken from the victim?

6 A. I did --

7 Q. Or items of the victim's taken?

8 A. Well I did collect his cell phone from his mother
9 that was -- and I collected that from her at MUSC.

10 Q. And what did you do with the phone after you
11 collected it?

12 A. That was taken back to my office and secured.

13 Q. And you said you collected some guns. You
14 collected one gun behind the trash can, another gun and
15 some ammunition from the vehicle. What happened to those
16 guns?

17 A. They were both returned. The one from the scene
18 was returned to the owner, and the one taken from the car
19 was also returned to him.

20 Q. Do you know if you're able to obtain any video
21 from the scene?

22 A. No. I was able to determine that the video from
23 the store, it had stopped recording on April 28th.

24 Q. And did you take any photos of the defendant?

25 A. Yes.

1 Q. Did you note anything about him prior to taking
2 those photos?

3 A. I took photographs of some injuries that he had,
4 and he sustained -- let me see. I observed some dirt and
5 cobwebs around the shoulder and chest area of the
6 defendant. He also had minor scrapes and abrasions on
7 his right ankle and shin and also the same was observed
8 on the left ankle.

9 Q. Okay. I'm going to show you what has been
10 admitted as State's No. 24. Is that a photograph showing
11 the injuries you were just referring to?

12 A. Yes.

13 Q. Okay. Just a couple more questions.

14 I'm going to show you what has been entered as
15 State's 27, and is that a Miller High-Life bottle
16 collected you referred to earlier?

17 A. Yes. That was in the parking lot.

18 Q. Okay. I'm going to show you just a couple other
19 photos of the clothing items that were collected because
20 the jury didn't get to see those. Those were in the bag.

21 I'm going to show you State's 18, 19, 20, and 21.
22 And did you take those photos?

23 A. Yes, I did.

24 Q. Was that at the scene or in the evidence compound
25 or --

1 A. That was back in my office. I took more detailed
2 photographs of the T-shirt that was found inside the
3 store.

4 Q. And I show you one more photograph, No. 23. It
5 shows the injuries earlier, if you could take this
6 pointer and just indicate, is there any debris?

7 A. Debris I referred to earlier was on the shoulder
8 areas and around the chest. I observed cobwebs and dirt.
9 Down in the ankles you can also see the scrapes and
10 abrasions that I was referring to.

11 Q. And just so I understand about the shell casings,
12 would -- if the victim's weapon was fired, the one
13 recovered behind the trash can --

14 A. Yes.

15 Q. -- you would expect to find shell casings from
16 that?

17 A. Yes.

18 Q. And that is because it would eject shell casings?

19 A. Yes.

20 Q. Whereas you said if you didn't find them, you
21 could indicate a revolver?

22 A. Revolver doesn't eject a shell casing.

23 Q. Okay. Just for clarification, this gun, is that a
24 revolver?

25 A. Yes, it is.

1 Q. So that wouldn't eject shell casings?

2 A. No, it wouldn't.

3 MR. FINCH: No further questions at this
4 time, Your Honor. Please answer any questions the
5 defense has.

6 CROSS-EXAMINATION

7 BY MR. GRIMES:

8 Q. I think I have one question. You don't know
9 anything about the actual shooting in this case, do you?

10 A. No.

11 Q. Thank you.

12 A. I was there afterwards.

13 MR. GRIMES: Yes, ma'am. Thank you, Your
14 Honor. I have no further questions.

15 THE COURT: Okay. Anything further?

16 MR. FINCH: No.

17 THE COURT: You may step down. Thank you.

18 MR. FINCH: May the witness be excused?

19 THE COURT: You may.

20 MR. FINCH: Erin Meyer.

21 ERIN MEYER,

22 having been first duly sworn,

23 was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. FINCH:

1 commit crimes, and they all involve dishonesty.

2 MS. SHEALY: Except I think this is of
3 another nature since it is a sexual offense and he has to
4 sign before he's released from jail that he will do that,
5 and then if he's living somewhere that he has not
6 registered, I think by nature that's dishonest.

7 THE COURT: Again, you could make that
8 argument about every crime. Speeding is a crime of
9 dishonesty under that logic. I promise when I get my
10 driver's license to obey the laws of the state. I got a
11 speeding ticket; I didn't; I'm dishonest.

12 I'm not sure I follow or buy that line of
13 reasoning. So I won't let you mention that one.

14 MS. SHEALY: The other one is the 2007 grand
15 larceny, and then there is a shoplifting in 2008.

16 THE COURT: I take it the strike offenses are
17 older than ten years? You said he's facing life without
18 parole.

19 MS. SHEALY: I haven't gotten to his out of
20 state charges. Hold on just a second, Judge.

21 THE COURT: But you're seeking life without
22 parole.

23 MS. SHEALY: Yes.

24 THE COURT: Okay. So he's got strike
25 offenses.

1 Agent Roberts would testify in all other
2 areas where samples were collected on Alonza Dennis, the
3 back of the right hand, the left palm area, and the back
4 of the left hand revealed quantities of them, not
5 indicative of gunshot residue for Agent Roberts'
6 analysis, and that is signed both by myself and
7 Ms. Ehrlich, and the last was State's Exhibit 78.

8 (Stipulations marked for identification and
9 admitted into evidence as State's Exhibit Nos. 77 and
10 78.)

11 THE COURT: Call your next witness.

12 KIP COOKE,

13 having been first duly sworn,
14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. SHEALY:

17 Q. Tell the jury, please, where you work and how
18 long you've worked there.

19 A. I'm a detective with the Charleston County
20 sheriff's office, and I've been there about five and a
21 half years.

22 Q. In June of 2009, what capacity were you working in
23 the sheriff's department?

24 A. I was detective in investigations.

25 Q. On June 22, did you actually go to the scene on

1 Highway 17 at the Kangaroo convenience store?

2 A. No, ma'am.

3 Q. Would you explain to the jury what your first
4 involvement with the investigation was.

5 A. That particular day, we had several different
6 cases going on at once. I was actually working on an
7 entirely different case, and later in the evening, as I
8 was once again working on another case, I believe my
9 supervisor, I believe it was Sergeant Zimmer, stated that
10 in reference to the McClellanville incident, a gentleman
11 had been arrested nearby on an unrelated charge and that
12 he was coming up to the office and they wanted me to talk
13 with him to see if he any information about the shooting.
14 And I was also informed that Detective Lawrence was on
15 his way and if I would go ahead and get started to help
16 him out.

17 Q. Okay. So, in other words, who got to the
18 station -- I mean, to your office first, Detective
19 Lawrence or Mr. Dennis?

20 A. Mr. Dennis.

21 Q. And what is the first step you have to take when
22 you are interviewing a suspect?

23 A. We Mirandize them.

24 Q. Tell the jury what Mirandized is.

25 A. We tell them they have right to an attorney, they

1 have the right to speak with me or not to or to stop
2 answering questions, if they do decide to speak with us,
3 at any time.

4 Q. If you could tell us where you were meeting with
5 Mr. Dennis?

6 A. Because we were very busy that day, we only had
7 two interview rooms. They were both occupied at the
8 time, so I actually met with him in my captain's office.

9 Q. Describe that room very briefly.

10 A. A single room with a desk, a computer, and a
11 couple chairs, roughly eight by eight.

12 Q. And when you were talking with Mr. Dennis, was he
13 handcuffed?

14 A. Yes, ma'am, if I recall.

15 Q. Now, is there any paperwork you use when you're
16 reading someone their Miranda warns?

17 A. We have an advisement of rights form that we read
18 to them, asking them if they understand, and actually
19 each step we have them initial and sign that they
20 understand.

21 Q. And, in fact, in dealing with Mr. Dennis that day,
22 did you use your form?

23 A. Yes, ma'am.

24 Q. Before we get to that, tell the jury how he
25 appeared. Do you remember how he looked?

1 A. He was dressed in everyday clothes, and I don't
2 recall exactly what he was wearing, but he was calm and
3 cooperative.

4 Q. Did he appear to be intoxicated?

5 A. Not that I recall.

6 Q. Tell the jury whether he had any difficulty in
7 understanding you or appeared to.

8 A. No, ma'am.

9 Q. And did you have any difficulty in understanding
10 him?

11 A. No, ma'am.

12 Q. Now, when you begin reading him his Miranda
13 warnings, do you in any way threaten him if he doesn't
14 cooperate?

15 A. No, ma'am.

16 Q. Did you promise him anything?

17 A. No, ma'am.

18 Q. When you begin reading the warnings, do you recall
19 whether or not Detective Lawrence had yet gotten there?

20 A. No. He came in as I was reading the Miranda to
21 him.

22 Q. Okay. Let me ask if you can identify something.
23 Showing you what has been marked as State's Exhibit 75
24 for purposes of ID right now, could you just tell us what
25 that is.

1 A. This is one of our Charleston County advisement of
2 rights forms.

3 MS. SHEALY: Your Honor, at this time I would
4 move to introduce this into evidence.

5 THE COURT: Admitted over the defendant's
6 objection.

7 MS. EHRLICH: Thank you, Your Honor.

8 (June 22 statement marked for identification
9 and admitted into evidence as State's Exhibit No. 75.)
10 BY MS. SHEALY:

11 Q. Okay. Showing you State's Exhibit 75, the
12 information at the top of the sheet, how do you get that
13 information?

14 A. Referring to the OCA, that is the assigned case
15 number, and the rest of it, we typically ask them what is
16 your name and address.

17 Q. Who fills out the top?

18 A. In this case I filled out the top.

19 Q. And you were getting that information from whom?

20 A. Mr. Dennis.

21 Q. If you would, go over with the jury the process
22 that you took in reading him his Miranda warnings, and,
23 if you could, read it to us. Do you need a hard copy to
24 look at?

25 A. I believe that is a little blurry.

1 Q. I'll tell you what: We'll just let you read that
2 and won't worry about it being there.

3 A. Detective K. Cooke has advised me that he's a
4 member of the Charleston County sheriff's office and has
5 further advised me that I have the absolute right to
6 remain silent. I do not have to answer any questions or
7 give a statement. This fact cannot be used against me,
8 but if I do answer questions or give a statement,
9 anything I say can and will be used against me in a court
10 of law, that I have the right to consult with a lawyer of
11 my choice before answering questions or give a statement
12 and also to have him present while I am being questioned;
13 that if I was to talk to a lawyer or have him present and
14 am unable to afford to hire a lawyer, one would be
15 appointed to represent me free of charge; that if I
16 decide to answer questions or give a statement without
17 having a lawyer present representing me, I have the
18 absolute right during this interview to stop answering
19 questions and remain silent.

20 Q. Let me switch out with you real quick, okay?

21 A. And under that, I fully understand each of these
22 rights which have been explained to me.

23 Q. Okay. Now, as you go through each of the rights,
24 the line over to the left of each number --

25 A. Yes, ma'am.

1 Q. -- what does that reflect?

2 A. That's where we have them initialed by each point
3 that we read to them, stating that they understood what
4 we read to them.

5 Q. Do you do that at the end of it or as you go
6 along?

7 A. I like to do it as I go along.

8 Q. So, in other words, regarding, for example, number
9 one, at what point does he initial beside that?

10 A. As I read it, I had him initial it, that they
11 understand.

12 Q. Okay. And did he, in fact, indicate to you that
13 he did understand?

14 A. Yes, ma'am.

15 Q. This signature line here reflects what?

16 A. That's where Mr. Dennis signed he understood all
17 of the above.

18 Q. I might need you to speak up just a little bit.

19 A. That is where Mr. Dennis signed he understood all
20 of the above.

21 Q. Under witness, who is that?

22 A. That is Detective Lawrence.

23 Q. What does that number reflect?

24 A. That is his intern name -- badge number, if you
25 will.

1 Q. You indicated, as you were reading him his Miranda
2 warnings, Detective Lawrence came to the station?

3 A. Yes, ma'am.

4 Q. Regarding the waiver of rights, could you tell the
5 jury what you did at that point.

6 A. Once that's been complete, he indicated he
7 understood, which he did, I read that, and it reads, I
8 fully understand each of these rights which have been
9 explained to me, and having these in mind, I wish to
10 waive these rights and answer questions. No threats,
11 force, or promises of any kind have been made to me by
12 anyone to induce or cause me to waive these rights and
13 answer questions.

14 Q. Okay. And, again, the signature line reflects
15 what?

16 A. That is where Mr. Dennis signed.

17 Q. Okay. And who witnessed the signature?

18 A. Detective Lawrence.

19 Q. Now, after the Miranda warnings were read to him
20 on that occasion, did you stick around for the actual
21 interview?

22 A. No, ma'am. I went to complete my other
23 assignments.

24 Q. Okay. Now focussing your attention to June 29,
25 2009 --

1 A. Yes, ma'am.

2 Q. Were you involved in the reading of some Miranda
3 warnings or the interview plaintiff Dennis on that
4 occasion?

5 A. Yes, ma'am.

6 Q. Tell us about that.

7 A. Detective Lawrence was the investigating officer,
8 and he wanted to speak with Mr. Dennis again, so he was
9 picked up and brought to our office in an interview room
10 this time, because we weren't quite as busy.

11 Q. When you say interview room, do you have several
12 interview rooms there?

13 A. We have two that are dedicated interview rooms.

14 Q. Okay.

15 A. And he came in and I -- the same type of form
16 or -- it's a format we commonly use. I went through the
17 process again.

18 Q. Okay. Well, showing you State's Exhibit 76, tell
19 me whether you were present when the Miranda warnings
20 were read on that occasion.

21 A. Yes, ma'am.

22 Q. Okay. And on that occasion, did you, in fact,
23 read them or did someone else?

24 A. Detective Lawrence read them on this date.

25 Q. Were you present in the interview room when he was

1 reading them?

2 A. Yes, ma'am.

3 MS. SHEALY: Your Honor, at this time I would
4 move to introduce State's Exhibit 76.

5 THE COURT: Over the defendant's objection,
6 it's admitted.

7 (June 29th statement marked for
8 identification and admitted into evidence as State's
9 Exhibit No. 76:)

10 BY MS. SHEALY:

11 Q. Now, in describing the way that Detective Lawrence
12 handled the Miranda warnings, do you recall whether or
13 not he threatened Mr. Dennis in any fashion?

14 A. No, ma'am. I don't remember any threats.

15 Q. Okay. Did he promise him anything?

16 A. No, ma'am.

17 Q. Was Mr. Dennis handcuffed during that interview?

18 A. Yes, ma'am.

19 Q. And how did Mr. Dennis appear?

20 A. Once again, his demeanor was much the same as it
21 was the first time. He was calm and cooperative.

22 Q. As Detective Lawrence went through the form, you
23 were present when each of the rights were read?

24 A. Yes, ma'am.

25 Q. And do you recall whether or not Detective

1 Lawrence has him initial at the conclusion of all the
2 rights or as he went through them?

3 A. That, I don't recall.

4 Q. Okay. Were you present when Alonza signed it?

5 A. Yes, ma'am.

6 Q. And whose signature is on the top of the witness
7 block?

8 A. I believe that's Detective Lawrence.

9 Q. And whose signature is beneath that?

10 A. My signature.

11 Q. Were you also present when Detective Lawrence went
12 over the waiver of rights with Mr. Dennis?

13 A. Yes, ma'am.

14 Q. Okay. And whose signature is on this line?

15 A. That's Mr. Dennis's signature.

16 Q. And whose signature is on the witness lines?

17 A. Detective Lawrence.

18 Q. And this one?

19 A. That's my signature.

20 Q. Okay. Were you present during that interview?

21 A. Yes, ma'am.

22 Q. And I need you to describe to the jury the process
23 of that interview. Were there any threats made to
24 Mr. Dennis?

25 A. No, ma'am.

1 Q. Were y'all promising anything if he cooperated?

2 A. No, ma'am.

3 Q. Was there any heavy handling of Mr. Dennis?

4 A. No, ma'am.

5 Q. How would you describe his level of
6 cooperativeness that day?

7 A. I thought he was very cooperative. Detective
8 Lawrence asked him questions, and he was pretty
9 forthcoming.

10 Q. Okay. And as Detective Lawrence had gone through
11 both his rights and his waiver with him, did he, in fact,
12 cover all aspects on this form? Did you hear Detective
13 Lawrence read all of that to you?

14 A. Yes, ma'am, yes, ma'am.

15 MS. SHEALY: I beg the Court's indulgence
16 just a moment.

17 Detective Cooke, I have nothing further.
18 Please answer anything the defense may have.

19 THE WITNESS: Yes, ma'am.

20 MS. SHEALY: Thank you.

21 CROSS-EXAMINATION

22 BY MS. EHRLICH:

23 Q. Hi, Detective Cooke.

24 A. Hello.

25 Q. I just have a couple questions for you. When you

1 met with Mr. Dennis on the 22nd, at that point he was
2 only under arrest for trespassing.

3 A. That's what I was told, yes.

4 Q. And so that is why he had been placed under
5 arrest, hadn't been charged with anything else?

6 A. No, ma'am, not to my knowledge.

7 Q. And on both of the advisement of rights forms,
8 there is no listing on these forms of what he's charged
9 with, or what he's being questioned about?

10 A. No, ma'am.

11 Q. So it doesn't list on here you're being questioned
12 about a shooting?

13 A. No, ma'am, not on the form.

14 Q. And the same is true for when you questioned him
15 on the 29th. It doesn't list on there, you know, you're
16 being interviewed about an armed robbery?

17 A. No, ma'am.

18 MS. EHRLICH: Thank you.

19 THE COURT: Any redirect?

20 MS. SHEALY: Just briefly.

21 REDIRECT EXAMINATION

22 BY MS. SHEALY:

23 Q. You were not present for the first interview; is
24 that correct?

25 A. Correct.

1 Q. You were there for the Mirandas, but not for the
2 second?

3 A. Yes, ma'am.

4 Q. By the time of the second statement, Mr. Dennis
5 had already been arrested, had he not?

6 A. I believe so.

7 Q. And that would have been for the armed robbery,
8 the attempted -- the attempted armed robbery, the assault
9 and battery with intent to kill, the possession of a
10 weapon?

11 A. I think so.

12 Q. Okay. Well, during the interview on the second
13 occasion, the interview itself, that's what y'all were
14 questioning him about.

15 A. Yes, ma'am.

16 Q. And you were present while Mr. Dennis wrote his
17 statement?

18 A. Yes, ma'am.

19 Q. Were you present when he had the opportunity to
20 review his statement?

21 A. Yes, ma'am.

22 Q. And were you present when he --

23 MS. EHRLICH: Objection, Your Honor.
24 Leading.

25 THE COURT: Rephrase.

1 BY MS. SHEALY:

2 Q. Could you tell us whether or not Mr. Dennis signed
3 his statement.

4 A. Yes, ma'am.

5 Q. Were you present when he signed his statement?

6 A. Yes, ma'am.

7 MS. SHEALY: I have nothing further.

8 THE COURT: Recross?

9 MS. EHRLICH: No, Your Honor.

10 THE COURT: All right. You can step down.

11 Thank you.

12 MS. SHEALY: We would ask that he be excused.

13 THE COURT: You're free to go. Thank you.

14 THE WITNESS: Thank you.

15 MS. SHEALY: Charles Lawrence.

16 CHARLES LAWRENCE,

17 having been first duly sworn,

18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. SHEALY:

21 Q. Detective Lawrence, tell the jury a little bit
22 about your employment background.

23 A. Okay. From 1988 to 1998 I was in the United
24 States Navy; 1990 to 1994, I was a seaman's mate and I
25 crossed to master of arms. I went to the military police

1 academy at Lackland Air Force base, and from there, '94
2 to '98, four years as a law enforcement officer in the
3 military. Upon completion of that, I became employed by
4 South Carolina State University police department in
5 Orangeburg, South Carolina, where I went to the South
6 Carolina criminal justice academy, and I spent a few
7 years there.

8 And I left there and went to Orangeburg County
9 sheriff's office up until 2003. In March of -- I'm
10 sorry, July of 2003 to the present time, I've been
11 employed by Charleston County sheriff's office.

12 Q. And in June of 2009, you were working with the
13 sheriff's department?

14 A. That's correct.

15 Q. Are you, in fact, a lead detective on this case?

16 A. Yes, ma'am.

17 Q. While you were the lead detective, were you the
18 first detective on the scene?

19 A. No, ma'am.

20 Q. Okay. Kind of just tell us a little bit about
21 when you came upon the scene.

22 A. Okay. Prior to my arrival on the scene I spoke to
23 a Investigator Kjellman, who is one of our forensic
24 officers who spoke yesterday. It met with her, and I met
25 with my supervisor, lieutenant -- I'm sorry, Sergeant

1 Wilson, Sergeant Wilson.

2 I got a synopsis of what happened, who, what,
3 where, when, and why. Basically, I was instructed that
4 there were some employees of the business at the time. I
5 found out about the weapon that the victim had. I found
6 out -- I was told that the victim was shot. I saw the
7 victim being Med-Evaced prior to my arrival to the scene.

8 Q. When you say Med-Evaced you mean taken by
9 helicopter?

10 A. Yes, ma'am. At that time I went on the inside of
11 the building, and I interviewed and obtained statements
12 from the cashier, the clerks, as well as the ladies from
13 the Subway that is inside of the Kangaroo as well.

14 Q. So, in other words, that gas station has a little
15 place that you buy Subway sandwiches?

16 A. Yes, internally, inside the store is a little
17 kiosk, basically. It's located inside of the Kangaroo.

18 Q. In interviewing the ladies from inside the store,
19 did you determine whether any of them had actually seen
20 the shooting?

21 A. No, ma'am. None of the ladies inside of the
22 building -- inside of the business had seen the shooting;
23 however, they did hear gunshots. The business also had a
24 video surveillance, and I met with the manager.

25 We looked at the video surveillance, and it was

1 discovered that the video surveillance was not recording
2 at the time; however, it was running but not recording.

3 Q. Okay. So, in other words, was there anything for
4 you to view from the parking lot area?

5 A. No, ma'am.

6 Q. Now, when you have indicated that the victim was
7 being air lifted, do you know whether or not anyone would
8 have taken gunshot residue from his palms before that?

9 A. No, ma'am, not at that time.

10 Q. Okay. And did you make any effort to get gunshot
11 residue from his palms?

12 A. Yes, ma'am. Detective Dustin Turner was assigned
13 to go to MUSC. Once he and I arrived at the scene,
14 almost at the same time, I was there a few minutes prior
15 to him, but prior to us leaving, he was designated to go
16 to MUSC and attempt to get a GSR, gunshot residue kit,
17 from the victim; however, his efforts were unsuccessful
18 because he had been heavily sedated at the time as a
19 result of the gunshot wounds and, furthermore, he was
20 heading into surgery.

21 Q. Okay. Was there anything about the evidence and
22 the investigation that affected your concern about
23 gunshot residue on his hands?

24 A. As far as the victim, no, ma'am. We just wanted
25 to basically make sure we had all our bases covered. He

1 advised he had a weapon. He had a concealed weapons
2 permit. We had several witnesses to say they observed
3 the defendant --

4 MS. EHRLICH: Objection, Your Honor.
5 Hearsay.

6 THE COURT: I don't know what you're trying
7 to prove.

8 MS. SHEALY: Excuse me?

9 THE COURT: What are you trying to prove with
10 it, as to whether or not it would be hearsay?

11 MS. SHEALY: Frankly, I'm not sure exactly
12 where he's going with that question. I might can re-ask
13 the question.

14 BY MS. SHEALY:

15 Q. When you were present and the gun was found, could
16 you tell the jury whether or not the gun was loaded or
17 unloaded?

18 A. The gun was loaded. The Investigator Kjellman
19 actually cleared the weapon. It had a magazine which
20 carried nine rounds, and it had one round in the chamber,
21 which made ten rounds, which confirms that the victim did
22 not shoot his gun.

23 Q. Okay. Now, were either vehicles involved in the
24 incident at the scene when you got there?

25 A. No, ma'am.

1 Q. What is your next role after coming to the scene
2 that afternoon? Do you then go back to the sheriff's
3 department?

4 A. Yes, ma'am.

5 Q. Okay.

6 A. Upon securing from 1745, I headed back to our
7 Charleston County criminal investigations division where,
8 as I was walking inside of the captain's office,
9 Detective Cooke stated earlier, because we had a lot of
10 stuff going on, we have two officers there, two rooms we
11 use to interview, or interrogate, both of them are
12 occupied for other reasons. So therefore we used the
13 captain's office, and I walked in in the midst of him
14 advising the defendant of his Miranda warning.

15 At that point in time, the -- Mr. Dennis did
16 advise that he acknowledged he understood and he
17 initialed 1 through 5, signed, and we read him the waiver
18 of rights as well, meaning which -- he understood he
19 acknowledged he understood, and he signed those as well.

20 Q. All right. Well, showing you State's Exhibit 75,
21 if you'll turn around and look at it, is this the form
22 that you and Detective Cooke used in reading him his
23 Miranda warnings?

24 A. Yes, ma'am, 6/22/02, yes, ma'am.

25 Q. I don't know if you can see those times at the

1 top, but would you tell the jury what those times noted
2 here reflect.

3 A. Okay. That's fine. The S circled means start
4 time, and 2104 is 9:04 p.m., and the F circled means
5 finished, and that is 2305, 11:05 p.m. We started at
6 9:04 p.m., and we concluded at 11:05 p.m.

7 Q. And the signatures here, the two witness lines,
8 those are yours?

9 A. Yes, ma'am.

10 Q. In dealing with Mr. Dennis on that occasion, he
11 had been arrested for what already?

12 A. Trespassing.

13 Q. And was he a suspect in the events that occurred
14 at the Kangaroo?

15 A. It was undetermined at that time. We were trying
16 to see if he has information that would corroborate,
17 maybe.

18 Q. Maybe I'm not using the word suspect right, but
19 you wanted some information from him?

20 A. Yes, ma'am, that's correct.

21 Q. And, in fact, did you question him about the
22 events at the Kangaroo?

23 A. Yes, ma'am.

24 Q. Now, when were you talking with Mr. Dennis,
25 Detective Cooke was present or not present?

1 A. He was not in the office, no, ma'am. He was not
2 in there.

3 Q. Now, tell the jury, if you would, what took so
4 long. I mean, if you started at 2104, you finished at
5 2305, tell us what took so long.

6 A. Well, it's common for a law enforcement official
7 to interview someone who has been alleged of a crime, and
8 it's customary that initially they aren't going to be
9 honest with you, okay?

10 MS. EHRLICH: Objection, Your Honor. He's
11 commenting on the truth of the statement of the
12 defendant.

13 THE COURT: Speak up.

14 MS. EHRLICH: He's commenting on the truth of
15 what the witness would have said. He's also speculating.

16 THE COURT: Sustained.

17 MS. SHEALY: I thought he was saying in
18 general, and he wasn't limiting it to this.

19 MS. EHRLICH: Can we approach?

20 THE COURT: That's the whole point. He's not
21 the truth protector, he can just say what happened that
22 day. Don't comment on whether or not he thought the guy
23 was telling the truth.

24 BY MS. SHEALY:

25 Q. Well, describe what happened in the interview room

1 that day.

2 A. Well, basically, I got in, introduced myself,
3 advised him of Miranda. Upon completion of that, I asked
4 him about his trespassing, about the charge of
5 trespassing that he was charged about, which led to he
6 basically denied any trespassing or anything. He said
7 that he was, you know, asking why he was bleeding and all
8 of that, stuff like that, and he basically denied any
9 involvement as to trespassing, number one; and, number
10 two, which led to the process of both asking him about
11 the shooting incident, having any knowledge, and every
12 time I asked him about the shooting, he would -- I would
13 ask him, like, general questions. He would try to evade
14 me, my answers by looking away or --

15 MS. EHRLICH: Objection, Your Honor.

16 THE WITNESS: Okay. This is what happened,
17 though.

18 BY MS. SHEALY:

19 Q. Why don't you limit -- just describe what he did
20 and don't characterize it.

21 A. Okay.

22 Q. If you asked him a question, show the jury what he
23 did with his body.

24 A. Okay. If I would ask him a question in
25 relationship to the shooting or anything related to it,

1 he would say something like (indicating) I wasn't there.
2 He would lean his body away from me, look away from me as
3 if he was trying to evade the answer to the question.

4 MS. EHRLICH: Objection, Your Honor.

5 THE COURT: Don't editorialize. Just tell us
6 what he did.

7 BY MS. SHEALY:

8 Q. And the process that you just told us about, did
9 that happen with multiple questions or just with one
10 question?

11 A. Basically, the whole interview he denied any
12 involvement as to trespassing, i.e., the shooting.

13 Q. Okay. Do y'all have a form that defendants and
14 suspects can write their statement on?

15 A. Yes, ma'am.

16 Q. Do you, in fact, give him the form?

17 A. Yes, ma'am.

18 Q. And just tell him to write?

19 A. Yeah. Based on his answers, I had him provide me
20 a signed, written statement, which he did, and that
21 concluded the interview.

22 Q. Okay. Showing you then State's Exhibit 75, and
23 looking at the form where the defendant wrote -- is this
24 his handwriting or your handwriting?

25 A. That is Alonza Dennis's handwriting.

1 Q. Tell the jury what he wrote down.

2 A. Okay. I was at my mother house at 9:00 --

3 MS. EHRLICH: Your Honor, can we just renew
4 our objection on the statement?

5 THE COURT: Overruled.

6 THE DEFENDANT: And left about 10:30 and got
7 to McClellanville at 11:00 and went to work about 12:00
8 and got back to McClellanville at about 3:30. And next
9 thing I known, I was under arrest and I did not known
10 what happened.

11 Q. Okay.

12 A. And he signed it.

13 Q. Now, if I could show you, put it up here so the
14 jury could see it as well, this is the statement you were
15 just reading from?

16 A. That's correct.

17 Q. Okay. Now, at the bottom, for the signature line,
18 what is scratched through?

19 A. That was my initial -- I mean, my signature, and I
20 signed in the wrong place, so I simply put one line
21 through it with my initials saying that was me that made
22 an error.

23 Q. Okay. And above that is whose signature?

24 A. Alonza Dennis.

25 Q. And then over to the left, you witnessed his

1 signature?

2 A. Yes, ma'am.

3 Q. Okay. Now, I notice that there are some
4 scratch-throughs here and here. Who made those?

5 A. Mr. Dennis.

6 Q. So he had the opportunity to correct this?

7 A. Yes, ma'am. That's his initials, Alpha Delta.

8 Q. Right here?

9 A. Yes, ma'am.

10 Q. Now, Detective Lawrence, when that interview was
11 taking place, did you threaten him?

12 A. No, ma'am.

13 Q. Did you promise him anything?

14 A. No, ma'am.

15 Q. And he, when you gave him the sheet, wrote out
16 that statement?

17 A. Yes, ma'am.

18 Q. Now, all of this is taking place on the 22nd; is
19 that correct?

20 A. Yes, ma'am.

21 Q. The day of the incident. What happens the next
22 day to further the investigation?

23 A. Okay. I got a six --

24 Q. I'm sorry. Let me ask you one more thing real
25 quick. At the close of the 22nd, did you have the gun

1 that was used?

2 A. No, ma'am.

3 Q. So tell us then what happens on the 23rd.

4 A. Okay. On the 23rd of June, I was able to -- I
5 sent off, I think, after I lodged him, I did a request
6 for a six man photo lineup from SLED. On the 23rd of
7 June, they were -- I got a reply back from SLED. At that
8 time I met -- that was my first time meeting with the
9 victim, Moses Alford, and I met him at MUSC, Medical
10 University of South Carolina.

11 I had some photo lineups of, number one, Alonza
12 Dennis; and, number two, a gentleman, the codefendant,
13 Quan, La Seto. I showed Mr. Moses the photo lineup,
14 first being Alonza Dennis, and from his hospital bed in
15 much pain he, was able to point him out and say, That's
16 the guy who shot me.

17 Q. Did he have any hesitancy in pointing him out?

18 A. None at all.

19 Q. Did you get a statement from Mr. Dennis that day?

20 A. From Mr. Dennis or --

21 Q. I'm sorry, from Mr. Alford.

22 A. I did.

23 Q. Now, you indicate you had lineups with
24 Mr. Dennis's photograph and La Seto Gibson's photograph.

25 A. Yes, ma'am.

1 Q. Had the car been found linking La Seto Gibson?

2 A. On the 23rd, yes, ma'am. The car was located at
3 an unknown address in Brailsford, in McClellanville,
4 South Carolina.

5 Q. Okay. So showing you State's Exhibit 58, tell the
6 jury which lineup that is.

7 A. Okay. Exhibit 58 is Quan, La Seto, or Quan.

8 Q. In looking at the exhibit, the circled one, and
9 I'll put that up here in a second, but who is that? Who
10 is it, number four?

11 A. That is the owner of the Crown Vic, and that is
12 the codefendant of the shooting incident.

13 Q. But this is a photograph of whom?

14 A. Quan, La Seto, La Seto.

15 Q. And when Mr. Alford was shown that, he indicated
16 what about --

17 A. His words was he was the guy buying the stuff from
18 me. He stayed with me after I got shot.

19 Q. Okay. And then regarding State's Exhibit 59, this
20 was the lineup which contained whose picture?

21 A. 59 would be Alonza Dennis.

22 Q. Okay. And so the photograph circled there is a
23 picture of whom?

24 A. That is a photo of Alonza Dennis.

25 Q. And when you showed that to Mr. Alford, did he

1 have any hesitancy in picking him out?

2 A. None whatsoever.

3 Q. And what does he write in the comment section?

4 A. This is the guy that shot me.

5 Q. When you're showing lineups to people, to try to
6 make an identification, do you tell them who to pick out?

7 A. No, ma'am.

8 Q. And the comments area is for the person looking at
9 the lineup to share anything they want; is that correct?

10 A. Yes, ma'am.

11 Q. And, again, to refresh the jury's recollection,
12 State's Exhibit 59 is who?

13 A. That would be Alonza Dennis.

14 Q. Okay. And State's Exhibit 58?

15 A. That would be Quan, La Seto.

16 Q. Now, were any search warrants compiled on the
17 23rd?

18 A. Yes, ma'am. One search warrant was done for the
19 victim, Moses Alford's vehicle, as well as Quan, La Seto,
20 Quan's car.

21 Q. And where was Mr. Alford's vehicle?

22 A. His vehicle is located in an unknown address in
23 Georgetown.

24 Q. And then -- I'm sorry. What was the other item
25 you said y'all had another search warrant for?

1 A. Phone records for the victim, Moses Alford.

2 Q. What were you hoping to determine from the phone
3 records?

4 A. We were trying to, based on his statement that
5 Quan had called him earlier on the 22nd about purchasing
6 some clothes, we wanted to verify that through his phone
7 records.

8 Q. Did you get his phone records?

9 A. We did.

10 Q. Now, on the 24th, what happens to further the
11 investigation?

12 A. On the 24th?

13 Q. Did the K-9 unit --

14 A. Yes, ma'am. After the interview on the 23rd with
15 Mr. Alford, he gave a better description of the area, the
16 direction that Mr. Dennis traveled, fled, after shooting
17 him.

18 At that point in time, I contacted my supervisor,
19 and she in turn contacted her supervisor, Lieutenant
20 Whited, the guy who was here yesterday, and they
21 coordinated with his guys and they went back out to the
22 scene on the 24th. And they started from -- however they
23 do their thing, based on what was given to them, and they
24 were able to locate the handgun that Mr. Dennis had.

25 Q. Okay. And was there a search warrant also done on

1 that day?

2 A. On the 24th?

3 Q. Uh-huh. At some point was there a search done on
4 the Crown Vic?

5 A. Yes, ma'am. That was done on the 23rd.

6 Q. Okay. Now, you told us that they found the gun.
7 Could you tell jury what day Alonza Dennis was arrested.
8 Do you need your file?

9 A. Yes, I need my file for that one.

10 Q. Okay.

11 A. Court's indulgence, Your Honor. Okay. Initially,
12 Mr. Dennis was arrested on 6/22/09. Initial charge would
13 be trespassing. And June 24th, 2009, the added charges
14 of assault and battery with intent to kill, possession of
15 a firearm, commission of a violent crime, and attempted
16 murder were added to his original charge of trespassing.

17 Q. And that was on what date?

18 A. June the 24th, 2009.

19 Q. Okay. Now, could you tell the jury when La Seto
20 was arrested?

21 A. Yes, ma'am. La Seto was arrested on June 25th,
22 2009.

23 Q. That is La Seto Gibson?

24 A. Gibson, yes, ma'am. Le Seto Sequan Gibson.

25 Q. When he was arrested, did he provide his telephone

1 number?

2 A. Yes, ma'am.

3 Q. What was his number?

4 A. [REDACTED]

5 Q. And so when you had the phone records from both
6 Mr. Alford and Mr. Gibson, could you reflect to the jury
7 whether or not you found phone calls exchanged between
8 the two.

9 A. Yes, ma'am.

10 Q. Okay. Could you tell us what time those phone
11 calls were?

12 A. Yes, I did. Let me get my spectacles. Okay.
13 Mr. Moses Alford received a phone call from La Seto,
14 phone number of (843) [REDACTED] on 6/22/2009 at 12:26 p.m.

15 Q. And that is from La Seto to Alford?

16 A. To Mr. Alford.

17 Q. What time was the next one?

18 A. The next one was from La Seto to Mr. Alford again
19 on the same day of June 22, 2009 at 1335, which would be
20 1:35 p.m., from the same number, area code (843)

21 [REDACTED]

22 Q. We can just take that as being La Seto's number?

23 A. Yes, ma'am.

24 Q. What time is the next phone call?

25 A. Next phone call is at June the 22nd, 2009 at 1530,

1 3:30 p.m., is from Mr. Alford to La Seto.

2 Q. And that was what time again?

3 A. That was 3:30 p.m., 1530.

4 Q. And the next phone call?

5 A. Next call again is from Mr. Alford on June 22,
6 2009 at 1605, which would be 4:05 p.m., calling Mr. La
7 Seto again.

8 Q. At 4:05?

9 A. Yes, ma'am, 4:05 p.m.

10 Q. What is the next phone call made by Moses Alford?

11 A. 911 call from Mr. Alford's phone, which would be
12 from June 22, 2009 at 1618, which is 4:18 p.m.

13 Q. So the last call from La Seto was 4:05 and 911 is
14 4:18?

15 A. Yes, ma'am.

16 Q. Now, did you have the occasion to interview
17 Mr. Dennis again?

18 A. Yes, ma'am, I did.

19 Q. Okay. And if you could, tell us -- well, first of
20 all, you've told us about the arrest of Mr. Dennis and La
21 Seto Gibson.

22 A. Yes, ma'am.

23 Q. When did Kaylab Wright and Trevor Gibbs get
24 arrested?

25 A. Okay. Kaylab write was arrested on June 28th,

1 2009. Trevor Gibbs was arrested on June 29th.

2 Q. That was the date of the interview. Could you
3 check the date they were booked in?

4 A. Sure. 6/27/2009 for Trevor Gibbs.

5 Q. And Trevor Gibbs, did he give a statement when he
6 was arrested?

7 A. No, ma'am.

8 Q. Did Kaylab Wright?

9 A. Kaylab Wright did.

10 Q. So on June 29th, could you describe to the jury
11 what took place.

12 A. On June 29th, 2009, I picked up Mr. Dennis, and we
13 went to the -- I interviewed him again, and at that point
14 in time, Mr. Dennis provided me a signed, written
15 statement, after being advised of Miranda warning
16 advising that he had shot the victim, Mr. Moses Alford,
17 said he shot five times.

18 Q. Before we get to what he said, let me ask you
19 this: By the time you see Mr. Dennis on the 29th --

20 A. Uh-huh.

21 Q. -- could you tell the jury what information, just
22 in a summary fashion, that you had that you didn't have
23 on the 22nd when you talked to him last.

24 A. Okay. Yes, the reason for going to see him on the
25 29th was the facts that I had were substantial. They

1 were factual now. All my beliefs were actual facts. I
2 had -- at that time I had four arrests --

3 MS. EHRLICH: Objection, Your Honor. Could
4 we approach?

5 (Sidebar discussion held.)

6 THE COURT: Folks, let me send you out while
7 we discuss a matter of law here. Don't begin
8 deliberations or discussions. We'll have you back in a
9 couple minutes.

10 (In open court, jury not present.)

11 THE COURT: Okay.

12 MS. SHEALY: Maybe if I just indicate to the
13 Court in Detective Lawrence's presence what I intend to
14 elicit from him, and then we can see if that is
15 troublesome.

16 BY MS. SHEALY:

17 Q. Detective Lawrence, what I was asked you is, what
18 had changed from the 22nd to the 29th, okay? What I
19 don't want to go into is what specifically the
20 codefendant said.

21 A. Okay.

22 Q. But that you had found the gun, that you had --
23 that he does have IDs from the codefendant also of
24 Mr. Dennis as being the shooter.

25 MR. GRIMES: I think that is impermissible.

1 I think we have the ID from Mr. Alford. I think that is
2 enough to go back and --

3 THE COURT: We need to avoid him saying --
4 first of all, it's hearsay, what anybody else said,
5 unless they're here to testify. And we had one of the
6 codefendants, he testified, so whatever you needed to get
7 in about Mr. Dennis, you got in through that guy, but he
8 can't testify about what other people told him, in any
9 circumstance.

10 MS. SHEALY: Even as it goes to the ID.

11 THE COURT: Right.

12 MS. SHEALY: So, in other words, we can't
13 have you testify what Kaylab, Trevor, or La Seto said
14 about Mr. Dennis.

15 THE COURT: Okay. Because they're not here
16 to be cross-examined.

17 MS. SHEALY: So what I would limit it to
18 is -- now, is it permissible for me to say they have been
19 interviewed?

20 THE COURT: You can say they were
21 interviewed, and as a result of that you brought him in
22 for another interview, but you cannot get at what they
23 said in any way, shape, or form during that interview,
24 but you can say, as a result of our investigation, we
25 talked to these people. As a result of that, we brought

1 him back in for another statement.

2 MS. SHEALY: So nothing specifically about
3 what he said.

4 THE COURT: I'm not trying to get you to say
5 those things, but that is kind of about the limits of
6 what you can say within what actually happened.

7 THE WITNESS: Okay.

8 MR. GRIMES: I think one other matter we
9 addressed before, I think Detective Lawrence keeps
10 characterizing his beliefs as fact. His last line well,
11 my beliefs are now facts --

12 THE COURT: You got to be careful about
13 editorializing. You're not a lie detector. You're here
14 to say what he said, what you saw, heard, touched, felt,
15 smelt. You're not allowed to give your opinion about
16 whether or not he's telling the truth. The jury will
17 decide whether or not he's telling the truth, okay?

18 (Recess taken.)

19 (In open court, jury present.)

20 THE COURT: We'll continue with you
21 continuing your direction examination.

22 BY MS. SHEALY:

23 Q. Let's back up for one minute.

24 Before we got to the 29th, did you also have an
25 occasion to show Moses Alford lineups that had Trevor

1 Gibbs and Kaylab Wright in them?

2 A. That's correct.

3 Q. And without going through the whole thing again,
4 did you indicate in any fashion to him what he should
5 choose?

6 A. No, ma'am.

7 Q. So showing you state's Exhibit 57, could you tell
8 the jury, please, who is -- who the picture of number
9 five is of?

10 A. Number five is Kaylab Wright.

11 Q. And State's Exhibit 60, whose picture is on that
12 lineup?

13 A. Okay. Number 3 would be Trevor Tremaine Gibbs.

14 Q. On this lineup, was Mr. Alford able to identify
15 anyone?

16 A. No, ma'am.

17 Q. And, in fact, what did he write on the comments?

18 A. Was not able to recognize any of them.

19 Q. And on Mr. Wright, what did he write?

20 A. He was driving, had bad skin, didn't want to buy
21 anything, pulled off quickly after I got shot.

22 Q. Okay. So the one with bad skin that pulled off
23 quickly, number five, is Kaylab Wright?

24 A. That's correct.

25 Q. And Exhibit 60, where he indicated he did not

1 recognize anyone, number three is Trevor Gibbs?

2 A. That's correct.

3 Q. Okay. So focussing our attention then back on the
4 29th, you indicated at that point Trevor Gibbs, Kaylab
5 Wright, La Seto Gibson, and Mr. Dennis had all been
6 arrested; is that correct?

7 A. Yes, ma'am.

8 Q. And the gun had been found.

9 A. Yes.

10 Q. You were telling us then that you go back to the
11 sheriff's office and have Mr. Dennis there with you.

12 A. Yes, ma'am.

13 Q. Who was present in the interview room with you and
14 Mr. Dennis?

15 A. Detective Cooke.

16 Q. And in a similar fashion that you had done
17 previously, did you go over his rights and his waiver
18 with him?

19 A. Yes, ma'am, I did.

20 Q. And I can't remember if I asked you this or not,
21 so I apologize if I have. Regarding State's Exhibit 76,
22 do you have a copy of the statement there or do you need
23 one?

24 A. I have a copy.

25 Q. So on this document where there are initials by

1 each right, who put those letters there?

2 A. Alonza Dennis.

3 Q. Do you remember or could you tell the jury what
4 your practice is? Do you do that at the conclusion of
5 reading all five, or do you do the one by number one
6 after reading number one?

7 A. Okay. At the conclusion, I advised him who I am
8 and I advised him of Miranda, and as I read each one, one
9 through five, when I've completed, when I say -- upon
10 completion, I will ask him, do you understand that and
11 they verbally say yes, so they just don't nod the head.
12 When they answer the first, I go to the second, and once
13 I did all of them, at that point in time they go ahead
14 and initial them.

15 Q. So they initial after all of them and you ask them
16 after each?

17 A. Yes, ma'am.

18 Q. Whose significant is that?

19 A. Alonza Dennis.

20 Q. Whose signature is that?

21 A. That is mine.

22 Q. Who signature is this as to the waiver of rights?

23 A. Alonza Wright.

24 Q. And whose is that?

25 A. That's mine.

1 Q. Now, on that occasion, on the 29th, did you
2 present Mr. Dennis -- without going through all the
3 details, but did you present to Mr. Dennis where you were
4 with the investigation at that point?

5 A. Yes, ma'am.

6 Q. And could you tell the jury, what did that
7 interview process -- how did that interview process go?

8 A. After I presented Mr. Dennis with the facts, he
9 then provided me with --

10 MS. EHRLICH: Objection, Your Honor. He's
11 characterizing, again, the facts. I think he can say
12 where the investigation was and what he had learned.

13 THE COURT: Not from what he said so far.
14 Just go ahead.

15 THE WITNESS: Okay. Once I presented
16 Mr. Dennis with the --

17 BY MS. SHEALY:

18 Q. Status of the investigation?

19 A. -- status of the investigation, he then in turn
20 provided me with a statement.

21 Q. And similarly to the one on the 22nd, did you
22 indicate the beginning time and end time on this
23 statement?

24 A. Yes, ma'am.

25 Q. And what was the beginning time?

1 A. 1513, which is 3:13 p.m.

2 Q. And the ending time?

3 A. 1650, 4:50 p.m.

4 Q. And when you are interviewing someone, do you
5 immediately give them the form to fill out or do y'all
6 talk for a while and then the talking occurs, or
7 specifically with this one, if you could tell us how that
8 works.

9 A. Yes. Prior to us conversing, this was taken care
10 of first.

11 Q. Say that again.

12 A. Miranda warning was advised first.

13 Q. The statement itself, when he ultimately writes a
14 statement; is that correct?

15 A. That's correct.

16 Q. Do y'all talk for a while before he writes the
17 statement?

18 A. Yes, ma'am.

19 Q. And during the time period that you and Mr. Dennis
20 was talking, was Detective Cooke present?

21 A. Yes, ma'am.

22 Q. Do you or Detective Cooke at any point promise him
23 something if he will write this for you?

24 A. No, ma'am.

25 Q. Did you threaten him in any fashion?

1 A. No, ma'am.

2 Q. Okay. Did he, in fact, then agree to write out
3 his statement?

4 A. Yes, ma'am.

5 Q. And when I say that, was it his handwriting or
6 your handwriting?

7 A. It was his handwriting.

8 Q. And how many pages was the actual document, do you
9 recall?

10 A. Including the Miranda warnings, six.

11 Q. Okay.

12 MS. SHEALY: At this time, I would ask that
13 the detective read his statement into the record.

14 THE COURT: Over the defense objection.

15 BY MS. SHEALY:

16 Q. Read it to us.

17 A. In it's entirety?

18 Q. Yes.

19 A. I was at Quan house and they was telling me about
20 a robbery that they were going to do and they would like
21 for me to get in on it. But before that, they didn't
22 need me again so I then -- I guess it said catch, caught
23 a ride back to the station, and when I was there, I was
24 there about five minute and they come behind me and they
25 told me to get in the car, the blue Crown Vic, and they

1 had the gun on the back seat and told me to get the gun,
2 that the man is right her.

3 So we walk up to him and someone said, Give us
4 your money and everything, and he run off and went for
5 his gun first. I only shoot to keep him from shooting me
6 first.

7 That was the end of his writing portion, and at
8 that point in time I asked him specific questions. You
9 want me to go into those as well?

10 Q. Yes, and are your questions written by you or
11 written by Mr. Dennis?

12 A. Written by myself.

13 Q. Okay. And are the answers to your questions
14 written by you or by Mr. Dennis?

15 A. Mr. Dennis.

16 Q. So let me just show you page three for a moment,
17 and the Qs are your questions to him?

18 A. Yes, ma'am.

19 Q. And those are in your handwriting.

20 A. Yes, the Qs are in mine.

21 Q. And the As are the answers.

22 A. Alonza Dennis, yes.

23 Q. And he wrote those out.

24 A. Yes, ma'am.

25 Q. So if you could go through that with us, please.

1 A. Who said give us your money?

2 I am not sure, but I think it was Quan.

3 What did y'all talk about while at Quan's
4 house?

5 Everyone was talking about the robbery, me,
6 Quan, Javick, dark skinned and two small gays and they
7 was not saying anything, and I do not know they name.

8 Would you recognize these persons if you saw
9 them again?

10 Yes.

11 Did you walk from Quan's house initially or
12 did you get a ride?

13 I got a ride with Quan grandfather to the
14 same store.

15 Who is Quan -- or what is Quan's
16 grandfather's name?

17 Gibbs is what we call him. He is about 75
18 and drive a white and red truck.

19 How did you meet back up with Quan and the
20 others?

21 They came at the store.

22 Why did you not ride to the store with Quan?

23 They was saying they didn't need me again.

24 The big was saying that they didn't need me.

25 When did you next see Quan?

1 I seen Quan when I got in the car and when he
2 got out.

3 Who gave you the gun?

4 It was on the back seat.

5 What did the gun look like?

6 Nickel looking revolver.

7 Who was inside the Quan's car when you got
8 in?

9 Quan, Big Gay, Little Gay.

10 Are those the same people that was discussing
11 robbing the guy at Quan's house?

12 Yes.

13 What was you supposed to get out of the deal
14 for robbing the guy?

15 Money.

16 Who told you that you would get clothes and
17 money?

18 Quan and Big Gay.

19 Where was the robbery supposed to occur?

20 Back road behind the store.

21 Describe Quan's car.

22 Blue, shiny wheel, high in the air Crown Vic,
23 tinted window.

24 Who was driving Quan's car?

25 Quan.

1 Did you see the victim's gun?

2 Yes. Square look gun, black.

3 How many times did you shoot?

4 Five times.

5 What did you do with the gun after you shot
6 the guy?

7 Hide it in the woods.

8 What type of car did the guy have?

9 Station wagon, gray.

10 Why did you lie in your first statement?

11 I was thinking let's see what they got first.

12 Is there anything that you want to add?

13 No.

14 Is the above six-page statement written by
15 you true and correct to the best of your knowledge?

16 Yes.

17 Q. Okay. Now, Detective Lawrence, throughout the
18 statement, for example, on page two where there are
19 scratch marks, who made those?

20 A. Alonza Dennis.

21 Q. So after he wrote this statement, was he given the
22 opportunity to read it again?

23 A. Yes, ma'am.

24 Q. And is that when those scratches were made?

25 A. I'm unsure if they were made then or during the

1 time he --

2 Q. Or while he was writing?

3 A. While he was writing, yes.

4 Q. But there are some that also have, for example, on
5 page three, initials next to the scratch-out part?

6 A. Yes. At completion, he was instructed to initial
7 every place that I see and initial all of them because
8 some places were initialed and some weren't.

9 Q. Now, when he was given a document to be able to
10 write his statements, was he given enough time to write
11 everything he wanted to write?

12 A. Yes, ma'am.

13 Q. Did you do anything to cut short the time period
14 that he was writing?

15 A. No, ma'am.

16 Q. In fact, did you want him to write as much as he
17 would?

18 A. As much as he can, yes.

19 Q. Okay. And at the completion of it, is that his
20 signature, on page six?

21 A. Yes, ma'am.

22 Q. And, again, that is your signature?

23 A. Yes, ma'am.

24 Q. And Kip Cooke's?

25 A. Yes, ma'am.

1 Q. And you also gave him a copy of that statement; is
2 that correct?

3 A. That's correct.

4 Q. Now, did you also show him some lineups?

5 A. Yes, ma'am.

6 MS. EHRLICH: Judge, with regard to the
7 lineups, we just want to renew our objection.

8 THE COURT: Noted. It's overruled.

9 (Lineups of Le Seto Gibbs, Kaylab Wright, and
10 Alonza Dennis were marked for identification and admitted
11 into evidence as State's Exhibit No. 72, 27, and 74.)

12 BY MS. SHEALY:

13 Q. I just want to show you State's Exhibits 72, 73,
14 and 74, which we would be moving into evidence, subject
15 to her objection, and asking, in general, what were these
16 three documents?

17 A. Charleston County sheriff's office photographic
18 lineup information sheets.

19 Q. Okay. And the lineups accompanied them?

20 A. Ma'am?

21 Q. The lineups accompanied them?

22 A. Yes, that's correct.

23 Q. Did you show these to Mr. Dennis after his written
24 statement or before his written statement or do you
25 remember?

1 A. I don't see a time on them. I don't remember.

2 Q. But on the same day? The time doesn't necessarily
3 matter that much but --

4 A. On the same day, yes.

5 Q. Okay. Let me take a look at them for a second.
6 Okay.

7 On State's Exhibit 72 then, could you tell the
8 jury whose photograph is depicted where circled.

9 A. Yes. On number four here is La Seto, Quan.

10 Q. Okay. And did you give Mr. Dennis the same
11 opportunity to write whatever comments he wanted to about
12 that person?

13 A. I did.

14 Q. And what comment did he write regarding La Seto?

15 A. Comments about Mr. Dennis was Quan.

16 Q. And State's Exhibit 73, whose photograph is
17 depicted in the circled photo?

18 A. Kaylab Wright.

19 Q. And similarly regarding the comment on that
20 lineup, what did Mr. Dennis write?

21 A. Big Gay. I don't know if that is an A or a U.

22 Q. Big guy. So that is in his handwriting?

23 A. Alonza Dennis, yes.

24 Q. And State's Exhibit 74, whose picture is depicted
25 on this lineup?

1 A. Trevor Gibbs, Trevor Ermine Gibbs.

2 Q. Tell the jury whether he was able to identify
3 Trevor Gibbs.

4 A. I don't recognize him.

5 Q. That's what he says?

6 A. Yes, ma'am.

7 Q. So no identification of Trevor.

8 A. None.

9 MS. SHEALY: Beg the Court's indulgence just
10 a moment.

11 Detective Lawrence, I have no further
12 questions. Please answer any the defendants may have.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MS. EHRLICH:

16 Q. Good morning.

17 A. Good morning.

18 Q. I guess you said you were the lead detective on
19 the case.

20 A. Yes, ma'am.

21 Q. And I would imagine as a detective you were
22 working at a couple different cases at a time.

23 A. Yes, ma'am.

24 Q. And time will pass between when you're working on
25 the case and when we actually have a trial.

1 A. Yes, ma'am.

2 Q. So to keep track of the information that you
3 gathered, you'll take notes?

4 A. Yes, ma'am.

5 Q. And put those notes into a report?

6 A. Yes, ma'am.

7 Q. And to help get ready for the next step in a case,
8 you probably would review the report?

9 A. Yes, ma'am.

10 Q. And that would help you recall facts, or evidence?

11 A. Yes.

12 Q. And you want your reports to be accurate?

13 A. Yes.

14 Q. Complete?

15 A. Yes.

16 Q. One of the things that you do with your reports is
17 you're trying to communicate your investigation to other
18 people who were involved with the case.

19 A. That's correct.

20 Q. So a copy would go to Ms. Shealy?

21 A. Yes.

22 Q. A copy would come to me?

23 A. That's correct.

24 Q. And part of the reason for the report is to
25 preserve what steps you took in your investigation.

1 A. That's correct.

2 Q. Because only you know what you did in the case.

3 A. That's correct.

4 Q. As a lead detective, you also have other duties
5 involved, compared to if you were just assigned to work a
6 case under somebody else.

7 A. Yes, ma'am.

8 Q. You would review all the work done by the other
9 officers?

10 A. Yes, ma'am.

11 Q. Assigned different tasks or assignments?

12 A. Yes, ma'am.

13 Q. Because you want the case to be investigated
14 fully.

15 A. That's correct.

16 Q. You don't root for one side over the other?

17 A. That's correct.

18 Q. You don't have any type of personal attachment to
19 the case, it's just you want to find out the truth.

20 A. That's correct.

21 Q. And during this case, you interviewed a number of
22 witnesses that I guess we would call lay witnesses, not
23 police officers, not defendants?

24 A. That's correct.

25 Q. I think you talked about some of the people at

1 Subway.

2 A. Yes.

3 Q. And you took statements from them?

4 A. That's correct.

5 Q. You didn't write any reports, though, summarizing
6 when you went to interview each individual witness or
7 anything like that.

8 A. That's correct.

9 Q. And I don't think that you documented in a written
10 report anything that you did at the crime scene. Right?

11 A. My co-case did, yes.

12 Q. I'm talking about you.

13 A. No, ma'am, I didn't.

14 Q. You didn't write any reports about what you did at
15 the crime scene.

16 A. Correct.

17 Q. You were there for, I think, hours.

18 A. That's correct.

19 Q. As the lead detective, you also might make certain
20 calls preserving evidence, instructing others what to do?

21 A. Yes, or their supervisor, yes.

22 Q. So you would be the one responsible for making
23 sure that evidence isn't taken away; ultimately, it's
24 your responsibility?

25 A. That's correct.

1 Q. Like in this case the victim's car?

2 A. Right.

3 Q. And that car didn't stay at the Kangaroo gas
4 station, right?

5 A. When I got there, the car was gone, that's
6 correct.

7 Q. Somebody had let the car be driven away, right?

8 A. That's correct.

9 Q. And there is some lapse in time from when the car
10 is at the Kangaroo gas station and when law enforcement
11 actually looks at the car, searches the car.

12 A. Correct.

13 Q. So we don't know what occurred with that car
14 between the time it left the Kangaroo gas station and got
15 to the property in Georgetown. Right?

16 A. Correct.

17 Q. Who may have gone into the car, we don't know?

18 A. We don't know.

19 Q. All we know is that it was driven away by somebody
20 who was an acquaintance or friend of Moses.

21 A. That's correct.

22 Q. Okay. Now, I know that you got to the crime scene
23 a little bit later than some of the other people, and I
24 understand, you know, it's a long drive. I have driven
25 out there. It's quite out there, but you knew right away

1 from the 911 call that the victim had been armed.

2 A. Correct.

3 Q. And at that point, when you're driving out there,
4 you have no idea what caused the shooting to happen?

5 A. Correct.

6 Q. You don't know if Moses has fired a gun, right?

7 A. Correct.

8 Q. And I think that even the medical staff, they
9 weren't even allowed on to the property of the Kangaroo
10 gas station, because they knew that he had a weapon,
11 until it was cleared by the police. Right?

12 A. That's correct.

13 Q. So the police got to Moses before medical.

14 A. I'm unsure of that. I think medical, EMS was
15 standing outside -- they were across the street waiting
16 for at the scene to be clear.

17 Q. And the scene would have been cleared by --

18 A. Law enforcement.

19 Q. Charleston County law enforcement?

20 A. Yes, ma'am.

21 Q. So they had contact with Moses before EMS?

22 A. Yes, yes.

23 Q. Okay. And none of the officers that were there at
24 that point got a gunshot residue kit and tested Moses's
25 hand?

1 A. That's correct.

2 Q. And I don't believe any testing was done on the
3 nine millimeter that was found behind the trash can, to
4 see if it had been fired.

5 A. Normally, when our guns go to the evidence, as
6 long as they're -- all guns that are brought in there are
7 test fired, with the exception of shotguns. They go to
8 SLED.

9 Q. That gun, though, since, now has been returned to
10 him.

11 A. Yes.

12 Q. At the time that you got involved with the case,
13 did you know Deputy Thornley had thought that constable
14 Durgin had kept his eye on the gun?

15 A. No, ma'am.

16 Q. Excuse me?

17 A. I learned that during the case.

18 Q. Okay. So you didn't know that then.

19 A. No, ma'am.

20 Q. And you didn't know then that Durgin thought that
21 Thornley had kept an eye on the gun, right?

22 A. That's correct.

23 Q. So there is an possibility that there could have
24 been some kind of tampering with the gun?

25 A. It was photographed and moved by our lab

1 personnel.

2 Q. But it wasn't watched the whole time by somebody.
3 We don't have documentation.

4 A. The gun was watched by one of those two.

5 Q. It was watched by one of those two?

6 A. Yes, ma'am. The gun, it was watched by one of
7 those two.

8 Q. Okay. When Alonza was arrested, he was just
9 arrested for trespassing?

10 A. Correct.

11 Q. And was not charged with anything else at that
12 point?

13 A. That's correct.

14 Q. And you guys got a gunshot residue test done on
15 him right away?

16 A. Correct.

17 Q. When he was taken to the station on June 22nd, he
18 didn't go straight to the jail?

19 A. That's correct.

20 Q. He went straight to the station?

21 A. That's correct.

22 Q. And I heard you testify about him being read his
23 Miranda rights.

24 A. That's correct.

25 Q. And you were there?

1 A. Yes, ma'am.

2 Q. There is a form filled out?

3 A. Yes.

4 Q. And he's asked to write a statement.

5 A. Correct.

6 Q. Y'all don't usually take written statements on
7 people charged with trespassing. Usually you just give a
8 ticket and that's it.

9 A. It depends on that nature of the call.

10 Q. Well, the main reason you wanted a statement is
11 because you wanted to see if he knew something about the
12 shooting.

13 A. That's correct.

14 Q. You suspected him of the shooting?

15 A. Correct.

16 Q. And on your form, when you're interviewing him,
17 you guys don't have a place that says suspect. I think
18 it just says statement on there, doesn't it?

19 A. That's correct.

20 Q. And there is nowhere on that statement or on the
21 form that says, you know, we're investigating you for a
22 shooting. Doesn't say armed robbery or anything like
23 that on there.

24 A. That's correct.

25 Q. It just has the word statement, and nothing about

1 the incident location or anything like that on the form.

2 A. That is correct.

3 Q. Okay. Going back to writing reports, you didn't
4 write a report about giving him his Miranda warnings?

5 A. In reference to my initial response, everything I
6 do is on a call-out synopsis, and that is on the
7 supplement form. That is at the end of the form.
8 Everything that I did is there, as far as me, the lead
9 detective.

10 Q. You didn't write a report about the Miranda
11 rights?

12 A. No, no, no, not about Miranda, no.

13 Q. That's my only question.

14 A. I was going back to the scene.

15 Q. Okay. Just talking about --

16 A. No, no --

17 Q. Alonza Dennis is in the station, in the captain's
18 office, and you're interviewing him?

19 A. Uh-huh.

20 Q. You didn't document it or write a report about
21 your communications with him?

22 A. No, that was done on the form.

23 Q. Okay. You didn't write a report making any
24 observations about how he appeared.

25 A. That's correct.

1 Q. What the interrogation was like.

2 A. That's correct.

3 Q. You didn't even write a report saying he gave a
4 statement on that day?

5 A. It's attached to it, but no, I didn't.

6 Q. You didn't write a report?

7 A. Correct.

8 Q. Then after you got the initial information in the
9 case, you decide to interview Alonza Dennis a second
10 time?

11 A. That's correct.

12 Q. And that's on the 29th?

13 A. Yes, ma'am.

14 Q. And he's under arrest at that point?

15 A. Yes, ma'am.

16 Q. For these charges that we're here for today.

17 A. Yes, ma'am.

18 Q. And he's in custody at the jail?

19 A. Yes, ma'am.

20 Q. And you go check him out at the jail.

21 A. Yes, ma'am.

22 Q. Right? For questioning. And you drive him from
23 the jail to the station.

24 A. Yes, ma'am.

25 Q. And you read him his rights a second time.

1 A. Yes, ma'am.

2 Q. And I don't think at that point he had gotten an
3 attorney.

4 A. That's correct.

5 Q. You took a second statement from him that we heard
6 about before.

7 A. Yes, ma'am.

8 Q. And at that time, he did know that there had been
9 additional arrests made in the case.

10 A. Yes, ma'am.

11 Q. None of those documents are in the report either?

12 A. Only his statement.

13 Q. You didn't write a report?

14 A. No, ma'am.

15 Q. Okay. Now, Alonza is a suspect and charged in
16 what I would consider a serious case.

17 A. Yes.

18 Q. He's accused of being a shooter?

19 A. Yes, ma'am.

20 Q. And maybe I'm wrong, but I've looked through the
21 whole file. I don't see any records documenting any of
22 your interactions with the person everybody says is the
23 shooter. Right?

24 A. That's correct.

25 Q. You spent hours with this man?

1 A. Yes, I did.

2 Q. Now, when you took him back on the 29th, you met
3 with him in an interview room.

4 A. Yes, ma'am.

5 Q. We're familiar with what it looks like. It's
6 smaller than the captain's room would have been like.

7 A. Yes.

8 Q. You got maybe a small table in there?

9 A. Yes, ma'am.

10 Q. I think two chairs, usually?

11 A. Pretty much two, three at the most.

12 Q. And those rooms are equipped with video cameras?

13 A. Yes, they are.

14 Q. So you have the ability to videotape your
15 interview --

16 A. That's correct.

17 Q. -- if you want to. It's your decision whether or
18 not to videotape it.

19 A. No, it's not my decision.

20 Q. Well, it's not Mr. Dennis's call if you videotape
21 it, is it?

22 A. It's not my decision, no. It's from the Ninth
23 Circuit that we don't.

24 Q. The circuit solicitor's office?

25 A. That's correct. That's what I was informed from

1 my supervisor, yes.

2 Q. So they've instructed you not to videotape
3 interviews with suspects. That's what you've been told?

4 A. That's what I've been told, yes.

5 Q. Okay. If you did have a videotape, we would all
6 be able to watch what happened in the room?

7 A. That's correct.

8 Q. There would be no question as to what happened,
9 what time he got there?

10 A. Correct.

11 Q. How long you questioned him, right?

12 A. Correct.

13 Q. And in this case, there is no interview on video
14 of Mr. Dennis from the 22nd?

15 A. Correct.

16 Q. Or the 29th.

17 A. That's correct.

18 Q. Okay. Now, you didn't write a report about your
19 interview with him, but you made sure he wrote a
20 statement for the case.

21 A. That is correct.

22 Q. And in that statement, he puts Quan as the person
23 calling Moses out to meet up with him.

24 A. Correct.

25 Q. Right? Quan is the person who knows Moses.

1 A. Correct.

2 Q. Quan is the one who gets him in McClellanville.

3 A. Correct.

4 Q. He also told you that there was talk about a
5 robbery, and he was told they didn't need him, right?

6 A. Correct.

7 Q. So he leaves and separates himself from them at
8 that point.

9 A. Correct.

10 Q. He catches a ride to the store.

11 A. Correct.

12 Q. And he doesn't say anything about jumping into
13 that blue Crown Victoria, does he?

14 A. At the store?

15 Q. At the store.

16 A. According to his statement, he did get in, and the
17 handgun was in the back seat, according to his statement.

18 Q. But he says, They told me to get in.

19 A. What page are you on?

20 Q. I'm on your page number two.

21 A. That's correct.

22 Q. It doesn't say anything about him running over
23 there, they told him to get in. Right?

24 A. According to the statement, yes.

25 Q. And in his statement, he says, they told him to

1 get the gun.

2 A. That's correct.

3 Q. Nothing in this statement about him trying to sell
4 a gun.

5 A. No, ma'am.

6 Q. Right?

7 A. That's correct.

8 Q. And he also says in here, somebody said give us
9 your money.

10 A. That's correct.

11 Q. Give us everything?

12 A. Yes.

13 Q. He doesn't say he said it. Right?

14 A. Correct.

15 Q. He says he thinks it was Quan who said it.

16 A. According to his statement, that's correct.

17 Q. And there is nothing in his statement about him
18 pulling or holding the gun to Moses Alford at that point.
19 He doesn't say that he has the gun out.

20 A. Correct.

21 Q. He says nothing about pointing the gun at Moses at
22 that point. Right?

23 A. I'm sorry. Say that one more time, please.

24 Q. At the point where somebody says give me
25 everything, he says nothing about having the gun out.

- 1 A. Who, Alonza Dennis?
- 2 Q. Right. At that point.
- 3 A. He didn't imply that he didn't have it out.
- 4 Q. I'm not asking what he implied. I'm asking what
- 5 did he say. He did not say, I have the gun out, right?
- 6 A. Correct.
- 7 Q. Okay. He did say that when people were talking
- 8 about the robbery, it was supposed to happen at a back
- 9 road behind the store.
- 10 A. Correct.
- 11 Q. Not at the store?
- 12 A. That's correct.
- 13 Q. Alonza also told you that Moses had a gun that
- 14 day?
- 15 A. Correct.
- 16 Q. And we've talked a lot. One of the deputies,
- 17 somebody, found it behind the trash can?
- 18 A. That's correct.
- 19 Q. And Alonza told you that Moses pulled his gun,
- 20 that he went for his gun first?
- 21 A. Yes.
- 22 Q. And he said first?
- 23 A. First, yes.
- 24 Q. And he says that he only shot to prevent himself
- 25 from being shot first?

1 A. That's correct.

2 MS. EHRLICH: Court's indulgence.

3 I don't have any other questions, Judge.

4 THE COURT: Redirect?

5 MS. SHEALY: Beg Court's indulgence.

6 Just a few other questions.

7 REDIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. You told us when you got to the crime scene, the
10 crime scene techs had already been there. The victim was
11 getting lifted up.

12 A. Yes, ma'am.

13 Q. And Ms. Ehrlich asked you about whether you did a
14 report of what happened at the crime scene.

15 A. Yes, ma'am.

16 Q. You told us you went into the Kangaroo and
17 interviewed several people there?

18 A. That's correct.

19 Q. Did you, in fact, take written statements from
20 them?

21 A. Yes, ma'am.

22 Q. Did you, in fact, witness those statements?

23 A. Yes, ma'am.

24 Q. And does that pretty much report what your
25 involvement at the crime scene was?

1 A. Yes, it does.

2 Q. Now, regarding whether or not the gun was being
3 watched, either by Detective Thornley or Mr. Durgin,
4 would you describe for the jury, when someone secures a
5 scene, do they tend to let passersby or anyone come up
6 and touch things after that has occurred?

7 A. No, not at all. When you secure the scene, that's
8 basically what you're doing. You're keeping bystanders
9 and whatnot involved in it, i.e, law enforcement, medical
10 personnel. Your job is to keep them away from the scene
11 as much as possible.

12 Q. And tell the jury if you have any information
13 about Moses Alford dragging himself back over towards
14 that gun at any point.

15 A. No, ma'am.

16 Q. Now, regarding the physical scene itself, you said
17 you had spoken to Kathy Kjellman?

18 A. Yes, ma'am.

19 Q. And she indicated to you Mr. Alford's weapon was
20 fully loaded?

21 A. Yes, ma'am.

22 Q. Was there any evidence of shell casings on that
23 scene?

24 A. None at all.

25 Q. And the type of weapon that Mr. Dennis had, would

1 that eject shell casings -- I'm sorry, Mr. Alford's gun?

2 A. Mr. Alford's gun --

3 Q. Would it eject shell casings?

4 A. Yes, it would.

5 Q. Okay. Was a shell casing found at the scene?

6 A. No, ma'am.

7 Q. And regarding Mr. Dennis's statement, Ms. Ehrlich
8 asked you, didn't he say that he was given the gun; is
9 that correct, Ms. Ehrlich asked you that?

10 A. Yes, ma'am.

11 Q. Okay. If you will look at -- beg the Court's
12 indulgence just a moment. And if you will look at page
13 four and the question at the top of the page was what?

14 A. Who gave you the gun?

15 Q. And what was his answer?

16 A. In the back seat.

17 Q. He didn't say somebody gave him the gun, did he?

18 A. That's correct.

19 Q. And regarding the statement of Mr. Dennis, did you
20 give him the opportunity to write every detail he wanted
21 to write down?

22 A. Yes, ma'am, I did.

23 MS. SHEALY: I have nothing further. Thank
24 you. I beg the Court's indulgence just one moment.

25 BY MS. SHEALY:

1 Q. Detective Lawrence, when were you interviewing
2 Mr. Dennis that day and you gave him the opportunity to
3 write this statement, did he ever indicate to you that
4 those guys were threatening him?

5 A. No, ma'am.

6 Q. That they forced him?

7 A. No, ma'am.

8 Q. He went to join them; is that correct?

9 A. Yes, ma'am.

10 Q. In fact, what does he tell you about getting left
11 behind?

12 A. He caught a ride with Quan's grandfather. They
13 call him Gibbs.

14 Q. Tell us the first line of his statement, if you
15 would.

16 A. The first line?

17 Q. Yes.

18 MS. EHRLICH: Objection, Your Honor. This is
19 outside the scope of my cross. I didn't go into anything
20 about rides or force or --

21 THE COURT: Sustained.

22 BY MS. SHEALY:

23 Q. Detective Lawrence --

24 THE COURT: Statement is in the record.

25 BY MS. SHEALY:

1 conviction.

2 I will instruct the jury that they are to
3 consider those charges in weighing your credibility.
4 That is a fancy way of saying that is whether or not they
5 can impeach your testimony. In other words, they can
6 say, well, you stole something. In their mind, they
7 might think you stole something before, and people that
8 steal also lie, and they may think that the fact you have
9 prior convictions, based on that, you might be lying when
10 you take the stand, and that is a right that they will
11 have.

12 They can make that inference from the fact
13 that you have prior convictions for stealing, that you
14 might not be telling the truth. I will instruct them,
15 however, that they are not to consider the fact that you
16 have those prior convictions as evidence of whether or
17 not you committed offenses that you're charged with.
18 They'll only be allowed to consider them for the purposes
19 of just deciding whether or not you're telling the truth
20 when you testify, okay? Do you understand that?

21 So if you want to testify, those convictions
22 are going to come in. If you don't want to testify,
23 again, you don't have to, and I'll tell the jury they're
24 not to hold that against you while they are deliberating.
25 All right?

1 Now, we're going to take a lunch break now
2 and come back at 1:00. At that point, that's your final
3 decision. All right? So I'll give you a little bit more
4 time to think about it, talk with your lawyers about it.
5 At one point in time there was some names that y'all had
6 submitted as a witness list, and from what I understand
7 y'all aren't going to be calling any other witnesses; is
8 that correct, Mr. Dennis?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You don't want them to call these
11 other witnesses?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And you've talked with them about
14 this?

15 THE DEFENDANT: Yes, sir..

16 THE COURT: And you're in agreement?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. All right. Then we will
19 come back at 1:00. I'll again say there is some time for
20 you to make your final decision, and if you want to
21 testify, then you'll be the first and only witness left
22 to call. Okay? We'll see y'all back at 1:00.

23 (In open court, jury present.)

24 THE COURT: Okay. All right, folks. What
25 we've decided to do is go ahead, and we'll just take a

1 little bit of an early lunch right now. We'll come back,
2 we'll finish after lunch, so if you would, be back in the
3 jury room about 1:00, and we will finish up the case.

4 A F T E R N O O N S E S S I O N

5 (In open court, jury not present.)

6 THE COURT: I explained to you before the
7 lunch break that we're at the point where you have to
8 decide whether or not you want to put up a defense and
9 whether or not you want to testify on your own behalf.
10 Have you made that decision?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. And do you wish to
13 put up a defense?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you wish to testify?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you understand everything I
18 explained to you earlier, that you do not have to
19 testify, and if you don't want to testify, I'll tell the
20 jury they're not to hold that against you in any way.

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you wish to testify,
24 regardless of that; is that correct.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. And you understand that
2 there will be evidence brought in about your prior
3 convictions for shoplifting and grand larceny. Do you
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And are you going to call
7 any witnesses other than yourself?

8 THE DEFENDANT: No, sir.

9 THE COURT: All right. And that is your
10 decision?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. All right. Then, I
13 understand we have the jury. Is there anything else we
14 need to take up before we start?

15 MR. GRIMES: I don't believe so.

16 MS. EHRLICH: No, Your Honor.

17 MS. SHEALY: No, Your Honor.

18 THE COURT: Okay. Bring the jury in.

19 (In open court, jury present.)

20 THE COURT: Okay, folks. We are going to
21 resume now with the defense calling their first witness.

22 MR. GRIMES: May it please the Court, we call
23 Alonza Dennis.

24 ALONZA DENNIS,
25 having been first duly sworn,

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. GRIMES:

4 Q. Hi, Alonza.

5 A. Hi.

6 Q. It's been a long couple days, hasn't it?

7 A. Yes, sir.

8 Q. I'm going to ask you a few questions about your
9 background, okay?

10 A. Yes, sir.

11 Q. How old are you, Alonza?

12 A. Forty-six.

13 Q. When is your birthday?

14 A. August 16, '64.

15 Q. And where were you born at?

16 A. In Charleston, South Carolina.

17 Q. Do you remember what hospital you were born at?

18 A. County Hospital.

19 Q. Downtown?

20 A. Downtown, yes.

21 Q. Where did you grow up at?

22 A. In Awendaw.

23 Q. Are you married?

24 A. No, sir.

25 Q. Do you have any children?

1 A. Yes, sir.

2 Q. How many children do you have?

3 A. One.

4 Q. What is her name?

5 A. Carla.

6 Q. And how old is she?

7 A. She's about 28, something like that. I don't
8 really know her age, remember.

9 Q. All right. How many grandchildren do you have?

10 A. Three.

11 Q. And I want to ask you a few questions about your
12 parents, okay?

13 A. Yes, sir.

14 Q. Now, you were adopted as a child, right?

15 A. Yes, sir.

16 Q. Who were your birth parents?

17 A. Bertha Robinson and Kenneth Green.

18 Q. And what are the names of your adopted parents?

19 A. What are their names?

20 Q. Yes, sir.

21 MS. SHEALY: Your Honor, I would object. May
22 we approach the bench?

23 (Discussion held at sidebar.)

24 THE COURT: Overruled. Go ahead.

25 BY MR. GRIMES:

1 Q. What are the names of your adoptive parents?

2 A. Elizabeth Dennis and Mr. Moses Dennis.

3 Q. And were your adopted parents related to your
4 birth parents?

5 A. Yes, ma'am -- yes, sir.

6 Q. You know what the exact relationship was?

7 A. No, sir.

8 Q. Do you know why your birth parents let you be
9 adopted?

10 A. I think it was because my adopted parents, they
11 wanted a child, and they could raise me better.

12 Q. Okay. And after you were adopted, how did the
13 Dennis family raise you?

14 A. Good, pretty good.

15 Q. Okay. And after you were adopted, how often did
16 you see your birth parents?

17 A. Every day, if I wanted to.

18 Q. Did you spend a lot of Christmas holidays with
19 them, birthdays?

20 A. No, not really.

21 Q. Did you spend it with the Dennis family?

22 A. Dennis family, yes.

23 Q. As a child, did any of the kids ever tease you or
24 say anything to you about being adopted?

25 A. They didn't tease me, but being like they would

1 say Dennis --

2 MS. SHEALY: Judge, I'm going to renew my
3 objection to the relevancy.

4 THE COURT: We're going to have to need to
5 move this thing on into the future, okay?

6 MR. GRIMES: Yes, sir. I'm close to
7 finishing this topic.

8 THE COURT: Very close.

9 MR. GRIMES: Thank you, Your Honor.

10 BY MR. GRIMES:

11 Q. You may answer the question.

12 A. Repeat the question.

13 Q. I was asking you if, as a child, any kids ever
14 teased you or said anything to you about being adopted?

15 A. Yes, sir. They didn't tease me, but they would
16 say, like, were you -- Dennis, is you adopted? And I
17 would get a little offended by it.

18 Q. Okay. I want to ask you a few questions about
19 your birth parents.

20 A. Yes, sir.

21 Q. Do you remember what your mother did, what kind of
22 work she?

23 A. She baby sit, like, motel, like maid.

24 Q. And what did your father do?

25 A. Worked at the Citadel.

1 Q. When I say your father, are you talking about
2 Mr. Dennis, or your natural father?

3 A. Mr. Dennis.

4 Q. What does your natural father do?

5 A. He used to work at seafood.

6 Q. Okay. And did you have any brothers and sisters
7 from your natural parents?

8 A. Yes, sir.

9 Q. How many older brothers and sisters did you have?

10 A. Three.

11 Q. And how many younger brothers and sisters did you
12 have?

13 A. Four.

14 Q. Were any of them adopted or sent away for
15 adoption?

16 A. No, sir.

17 Q. Only you?

18 A. Yes, sir.

19 Q. Now, I want to ask you a few questions about the
20 Dennises, okay?

21 A. Yes, sir.

22 Q. What did your mother, Elizabeth Dennis, do?

23 A. She was, like, a maid and baby sitting.

24 Q. Okay. And where did Mr. Dennis work at?

25 A. At the Citadel.

1 Q. Okay. And I'll ask you a few questions about your
2 educational background, okay?

3 A. Yes, sir.

4 Q. Where did you go to elementary school at?

5 A. Porcher Elementary.

6 Q. Where is that?

7 A. Awendaw, a place called Twenty-One.

8 Q. How far is that from McClellanville?

9 A. Five, three, four, five miles.

10 Q. And how did you like it there?

11 A. It was all right.

12 Q. And where did you go after you finished at Porcher
13 Elementary?

14 A. I went to McClellanville, to Lincoln High School.

15 Q. And how did you like it at Lincoln High School?

16 A. It was all right.

17 Q. And how far did you go in Lincoln High School?

18 A. Tenth grade.

19 Q. Did -- after you left high school, did you ever
20 try to go back?

21 A. No, sir.

22 Q. And why was that?

23 A. I didn't want to go back because I was feeling
24 like my -- all my classmates, I was with them, they had
25 already left.

1 Q. So you would have had to go back to ninth grade
2 while your classmates would have been in tenth grade?

3 A. Yes, sir.

4 Q. Did you ever get your GED or complete high school?

5 A. No, sir.

6 Q. And after you left high school, did you start
7 working anywhere?

8 A. Yes, sir.

9 Q. Where did you start working at?

10 A. At a farm, in my area.

11 Q. And what kind of farm was that?

12 A. It was horse, cows, chickens.

13 Q. What kind of duties did you have at the farm?

14 A. Feed the horse, feed the cows, feed the chickens,
15 ride the horses, like, exercise horses, like, racehorses.

16 Q. Any famous ones?

17 A. Judah, was one.

18 Q. Do you know what races he may have won?

19 A. Not really.

20 Q. All right. I'm going to ask you a few questions
21 about Quan.

22 A. Yes, sir.

23 Q. Now, what -- do you know his real name?

24 A. Quan.

25 Q. Is that La Seto Gibson?

1 A. No, I know him by -- yeah, I know, La Seto Gibson.

2 Q. And what does he go by?

3 A. Quan.

4 Q. And comparing Quan to me, is he taller than me or
5 is he shorter than me?

6 A. I think a little shorter than you.

7 Q. Is he sort of bigger than me or is he skinnier
8 than me?

9 A. He look a little bigger than you.

10 Q. Okay. How long have you known Quan for?

11 A. From 2004.

12 Q. And yesterday we heard some testimony about him
13 being a drug dealer. Do you know anything about him
14 dealing drugs?

15 A. Yes, sir.

16 Q. Have you seen him dealing drugs before?

17 A. I've seen him dealing drugs, with drugs, yes, sir.

18 Q. And what would he be doing when he was dealing
19 drugs?

20 A. He would be, like, at the store or in areas where
21 the guys hang out at.

22 Q. What kind of drugs would he be selling?

23 A. Weed, crack.

24 Q. And yesterday we heard some testimony about you
25 wanted a blast. Have you ever bought any crack from

1 Quan?

2 A. No, sir.

3 Q. Yesterday we also heard some testimony about him
4 being involved in a shooting, or having his car shot at.

5 A. Yes, sir.

6 Q. Have you seen Quan involved in any other
7 shootings?

8 A. Yes, sir.

9 Q. And tell the jury about that, please.

10 A. I seen him involved in a shooting at the shop we
11 normally hang around at, the shop, and it was that night
12 and he pulled up at the shop, and he was getting ready to
13 get out, and the guy just ran up to him and started
14 shooting at him.

15 Q. How did that make you feel when you saw that?

16 A. I was saying that he was real bad. He's a bad
17 guy. He would wind up getting hurt.

18 Q. You know why this guy came up and started shooting
19 at Quan for?

20 A. I heard things.

21 Q. And what was that?

22 MS. SHEALY: Objection, Your Honor.

23 MR. GRIMES: Goes to his belief, Your Honor.

24 I'm not offering it for the truth of the matter asserted,
25 just showing what Quan's reputation was.

1 THE COURT: All right. I'll allow it.

2 BY MR. GRIMES:

3 Q. And what did you hear about the reason why this
4 guy came up and shot Quan for, or shot at Quan?

5 A. I heard that the reason he came and shot at Quan
6 was because Quan had shot his sister.

7 Q. Okay. Is that a picture of Quan there?

8 A. Yes, sir.

9 Q. Who does he remind you of?

10 A. He remind me --

11 MS. SHEALY: Objection, Your Honor, to the
12 relevancy.

13 THE COURT: Do you have any reason why it
14 would be relevant, as to why he --

15 MR. GRIMES: Yes, sir, as we've discussed
16 in --

17 MS. SHEALY: May we approach the bench?

18 (Discussion held at sidebar.)

19 BY MR. GRIMES:

20 Q. And who does Quan remind you of?

21 A. Quan remind me of a character that played on a
22 show called the Wire.

23 Q. And what is that character's name?

24 A. Omar.

25 THE COURT: Could you move a little closer to

1 that microphone for us? Thank you.

2 BY MR. GRIMES:

3 Q. And what kind of character does Omar play The
4 Wire?

5 A. He play a real mean character. He carries a gun,
6 under his coat, and like when he comes -- and the people
7 like --

8 MS. SHEALY: Judge, I'm going to renew my
9 objection to the relevancy of all this testimony.

10 THE COURT: Overruled. Go ahead.

11 THE WITNESS: And, like, the people, the
12 guys, are, like, scared of him, and when he comes he,
13 like, carries a gun and they know what he -- he want to
14 rob them.

15 BY MR. GRIMES:

16 Q. All right. Now, I want to ask you a few questions
17 about Kaylab, Quan's cousin. Is this a picture of Kaylab
18 here?

19 A. Yes, sir.

20 Q. How long had you known him before June 22 of 2009?

21 A. That was my first time seeing him.

22 Q. How big is Kaylab compared to me? Is he a little
23 bit taller, shorter, or about the same height?

24 A. Probably about the same height.

25 Q. And weight wise, I think I'm about 200 pounds. Is

1 he a little bit heavier, a little bit skinnier?

2 A. A little bit heavier, like 230, 235.

3 Q. And how did he make you feel when you first saw
4 him?

5 A. I was real scared of him.

6 Q. Why was that?

7 A. Because his face looked mean and his face had
8 scars, like burn scars.

9 Q. Tell the jury what you mean by a face looking
10 mean.

11 A. It be like he was putting -- he had an expression
12 on his face like he was mean, and he had, like, scars on
13 his face, like burned.

14 Q. Okay. Thank you. Next I want to ask you some
15 questions about the differences between Awendaw and
16 McClellanville. What type of community is Awendaw?

17 A. Awendaw is, like, quiet, not many people. Place
18 is all right.

19 Q. And is McClellanville a little bit bigger than
20 Awendaw?

21 A. Yes, sir.

22 Q. And is there a little bit rougher element in
23 McClellanville than Awendaw?

24 A. Yes, sir.

25 Q. Please tell the jury a little bit about what makes

1 McClellanville a little bit rougher than Awendaw.

2 A. McClellanville is a little bit rougher. Like, the
3 people, they fight one another, hit one another cross the
4 head, cut one another, like that.

5 Q. And where are these three cousins from?

6 A. They were from McClellanville.

7 Q. Now, Mr. Dennis, I'm going to ask you a few
8 questions about what happened after the shooting, okay?

9 A. Yes, sir.

10 Q. Yesterday we heard a lot of testimony about you
11 running through the woods.

12 A. Yes, sir.

13 Q. And going to Mr. Elliott's house, or business, and
14 then going through someone's yard.

15 A. Yes, sir.

16 Q. Do you remember all that testimony?

17 A. Yes, sir.

18 Q. Do you disagree with any of that testimony?

19 A. No, sir.

20 Q. And please explain to the jury why you were
21 running that day.

22 A. Why I was running? Because I knew -- I knew the
23 victim was in shock. I shoot the victim. I was running
24 around because I shot behind the store, and I figured the
25 cops would try to, you know, catch me because I shot

1 around the store.

2 Q. You said that you knew the victim wasn't shot.

3 What do you mean by that?

4 A. My intention wasn't to shoot the victim.

5 Q. And after you shot your gun --

6 A. Yes, sir.

7 Q. -- what did Mr. Alford do?

8 A. He ran.

9 Q. Did he yell out that he had been shot?

10 A. No, sir.

11 Q. Did he give you any indication he had been injured
12 by the bullets?

13 A. No, sir.

14 Q. And we also heard some testimony yesterday about
15 the K-9 team kind of tracking you and chasing you.

16 A. Yes, sir.

17 Q. And what were you feeling when you were being
18 chased by the five deputies and the dog?

19 A. I was scared of them.

20 Q. What kind of dog did they have?

21 A. A German Shepherd.

22 Q. How big was that dog?

23 A. It -- he was big, good sized than normal.

24 Q. And when you saw the German Shepherd, what did you
25 do?

1 A. I said let me give up..

2 Q. And why was that?

3 A. Because I didn't want him to let the dog loose and
4 eat me up.

5 Q. Is that a big dog?

6 A. Yes, sir.

7 Q. We also heard some testimony about you having a
8 crack pipe yesterday.

9 A. Yes, sir.

10 Q. Where did you get that pipe from?

11 A. I got that pipe from Kaylab.

12 Q. And what were you going to do with that pipe?

13 A. I wasn't going to do anything. It just got left
14 on me.

15 Q. What do you mean by it just got left on you?

16 A. When we was talking at his house, he was showing
17 me the pipe. He said, I want to deal. You get money or
18 you get clothes or you get some crack, and I was looking
19 at the pipe, and at the time his father came out and I
20 caught a ride with him, I forgot the pipe.

21 Q. Did you ever tell him you want to get some crack?

22 A. No, sir.

23 Q. Do you use crack?

24 A. No, sir.

25 Q. Do you use any type of drugs?

1 A. No, sir.

2 Q. What do you -- do you drink beer or liquor or
3 anything?

4 A. I drink beer.

5 Q. What kind of beer do you drink?

6 A. Schlitz malt liquor, Bull.

7 Q. Do you drink a lot or a little bit? How often do
8 you drink?

9 A. Not that much.

10 Q. And, again, if you don't use crack, I'm a little
11 curious, why would you keep a crack pipe, or a pipe?

12 A. That would have been my only reason for keeping
13 the crack pipe.

14 Q. Was what?

15 A. Was it got left on me. I was looking at it and I
16 put it in my pocket because we was leaving the scene.

17 Q. Okay. Again, I want to ask you a couple more
18 questions about what happened after you were arrested.

19 A. Yes, sir.

20 Q. We heard, I think, Deputy Wagner came in and gave
21 you a gunshot residue test.

22 A. Yes, sir.

23 Q. Were you cooperative with Deputy Wagner on that?

24 A. Yes, sir.

25 Q. You didn't try to fight in any way or hide your

1 hands or --

2 A. No, sir.

3 Q. Now, after you were arrested, you were brought
4 back down to the sheriff's office on -- I think off of
5 Rivers Avenue; is that correct?

6 A. That's correct.

7 Q. I want to ask you a couple questions about that
8 interview process and what happened that evening, okay?

9 A. Yes, sir.

10 Q. What time did Detective Lawrence start
11 interrogating you at, do you remember?

12 A. I couldn't -- I couldn't recall.

13 Q. Do you remember how long he questioned you for?

14 A. I know it was a good little while.

15 Q. Okay. And you've been questioned by the police
16 before, right?

17 A. Yes, sir.

18 Q. And you have a conviction for grand larceny.

19 A. Yes, sir.

20 Q. And grand larceny is taking something, or stealing
21 something. What did you steal that got you convicted?

22 A. It was some stuff that put --

23 MS. SHEALY: Your Honor, I object to the
24 relevancy.

25 THE COURT: Well, we usually don't get into

1 the elements of what it was for. The conviction is
2 usually just for impeachment purposes. That is what you
3 want me to instruct the jury on, right?

4 MR. GRIMES: Yes, sir.

5 THE COURT: All right.

6 MR. GRIMES: I'll move on, sir.

7 THE COURT: All right.

8 BY MR. GRIMES:

9 Q. And you also have a conviction for shoplifting?

10 A. Yes, sir.

11 Q. And when you're being questioned by Detective
12 Lawrence, did you tell him everything that happened that
13 day?

14 A. No, sir.

15 Q. And tell the jury why you didn't tell Detective
16 Lawrence about everything that happened.

17 A. I didn't tell Detective Lawrence everything that
18 happened because I was scared of being called a snitch.

19 Q. What happens to people that are snitches?

20 A. People that are called snitches get killed, hurt.

21 Q. In about, I guess, a week later you had a second
22 interview with Detective Lawrence.

23 A. Yes, sir.

24 Q. And you learned during that week, I think,
25 Detective Lawrence testified he told you that Quan and

1 Kaylab, Trevor, had been arrested.

2 A. Yes, sir.

3 Q. And they were put in the same jail where you were?

4 A. Yes, sir.

5 Q. Now, your statement to Detective Lawrence on June
6 29th, you give a fuller statement about what happened.

7 A. Yes, sir.

8 Q. Did you tell Detective Lawrence anything about
9 Quan or Kaylab kind of forcing you or threatening you in
10 any way?

11 A. Not in that way, in that manner, no, sir.

12 Q. Did you tell them about how Quan and Kaylab were?

13 A. No, sir.

14 Q. And how come?

15 A. Because I was -- I know -- I know they know
16 everything already, and I didn't told them because I
17 still was scared of Quan and Kaylab.

18 Q. And you guys were in the same jail at the time?

19 A. Yes, sir.

20 Q. But I'm a little curious, because you did tell
21 Detective Lawrence about Quan and Kaylab talking about
22 this robbery.

23 A. Yes, sir.

24 Q. How come -- how come you told them about that but
25 didn't tell them about Quan and Kaylab's other

1 activities?

2 A. Because I knew they was in the jail I was in, and
3 I was thinking we would meet up or they would have seen
4 me and we would have got into it.

5 Q. I guess what I'm asking you, you told Detective
6 Lawrence that Quan and Kaylab were planning to do a
7 robbery?

8 A. Yes, sir.

9 Q. And you weren't scared to tell Detective Lawrence
10 about that.

11 A. Because I thought he already knew.

12 Q. Okay. And if the police already know something,
13 is that considered snitching?

14 A. No, that ain't snitching.

15 Q. Okay. Now, I want to go back to the morning of
16 June 22. Do you remember that day?

17 A. Yes, sir.

18 Q. What time did you wake up at?

19 A. I wake up, like, about 8:00.

20 Q. And after you woke up, what did you do?

21 A. I went to my mother's house, about 9:00.

22 Q. And when you got to your mother's house, what did
23 you and your mother do?

24 A. Eat, and we was watching television.

25 Q. Do you remember what television show you were

1 watching?

2 A. Chuck Norris, Texas ranger.

3 Q. Okay. And after you finished watching television,
4 where did you go?

5 A. I left and went to work.

6 Q. Where were you working at?

7 A. At Santee.

8 Q. And what were you doing at Santee?

9 A. We was baling straw, raking straw.

10 Q. And is that the place where you were employed,
11 Santee Straw?

12 A. Yes, sir.

13 Q. That is what you told Detective Lawrence?

14 A. Right.

15 Q. How long had you been working at Santee Straw?

16 A. Like, about four.

17 Q. Four years or four months?

18 A. Four years.

19 Q. And did you go to work that day?

20 A. Yes, sir.

21 Q. And how long did you work at Santee Straw?

22 A. About an hour and a half.

23 Q. And where did you go after you left work?

24 A. I went to a friend of mine named Rodney.

25 Q. And where does Rodney live at?

- 1 A. Right behind, like, on the other side.
- 2 Q. And what did you do at Rodney's house?
- 3 A. I went there. I was talking to him.
- 4 Q. And where did you go after you left Rodney's
- 5 house?
- 6 A. I caught a ride and went back to Kangaroo.
- 7 Q. Went back to where?
- 8 A. To the Kangaroo store.
- 9 Q. Okay. Why did you go back there for?
- 10 A. I was going home. I was going back home.
- 11 Q. And when you go to the Kangaroo store, where do
- 12 you hang out at?
- 13 A. Under, like, the oak tree, right on the side of
- 14 the Kangaroo.
- 15 Q. Why do you hang out at the oak tree?
- 16 A. Oak tree, people come from the store and there is
- 17 a quicker way of getting a ride.
- 18 Q. Is it kind of like a little bus stop, community
- 19 bus stop?
- 20 A. Right.
- 21 Q. Okay. So people who may need rides may hang out
- 22 there?
- 23 A. They may.
- 24 Q. That is how you -- did you have a car?
- 25 A. No, sir.

1 Q. You mostly caught rides with people?

2 A. Yes, sir.

3 Q. And when you were at the Kangaroo store, the oak
4 tree, what did you do next?

5 A. I got in my mind to go see my friend in
6 McClellanville.

7 Q. And who was that?

8 A. Murray Brown.

9 Q. Where did Murray Brown live at?

10 A. He lived right up from Quan's house.

11 Q. How did you get down to Murray's house?

12 A. The person gave me a ride to Quan's road, and he
13 was turning on the other side of Quan's road, and I
14 jumped out, and I walked, thinking Murray was at his boss
15 house, like, three, two house from Quan's house, and I'm
16 walking down there and then walking down to Quan's.

17 Q. Okay. So as you're walking down, you get out of
18 the car by Quan's house and you go into Murray's house,
19 right?

20 A. Get out at Quan's road, and then I walk from
21 Quan's road up to Quan's house.

22 Q. Okay. Why did you go to Quan's house for?

23 A. I was going by there, but then they called me
24 over.

25 Q. And when he called you over, how did he call you

1 over?

2 A. Come here.

3 Q. Like, hey, Alonza, come here?

4 A. Come here.

5 Q. And why did you go over there?

6 A. I went over to see what they wanted.

7 Q. And if these are such bad guys, why would you
8 bother hanging around them?

9 A. They bad, but they ain't that real bad. You
10 know -- I know they're bad, but they wouldn't bother me,
11 really.

12 Q. Okay. And when you got there, what were they
13 talking about?

14 A. They was talking about a robbery.

15 Q. And when you heard they were talking about a
16 robbery, what was your reaction?

17 A. My reaction, who y'all wanted to rob?

18 Q. And did they tell you?

19 A. No, they didn't told me.

20 Q. And what did you do when you heard about their
21 plan to rob somebody?

22 A. I frown on my face, like, I don't want to do it.

23 Q. Did you come right out and tell them, like, I'm
24 not down with this? I don't want to do this robbery?

25 MS. SHEALY: Object to the leading nature of

1 the question.

2 THE COURT: Sustained.

3 THE WITNESS: No, sir.

4 BY MR. GRIMES:

5 Q. Let me rephrase the question. After you heard
6 them talking about the robbery, what did you say to them?

7 A. After I heard them talk about the robbery, I
8 started frowning on my face, and then Kaylab was saying
9 that the guy was in Atlanta and they was talking about
10 money. What I get out of the deal, money, clothes, or
11 drugs, whatever, and then Quan was saying that he was
12 going to try to get the dude to come inside
13 McClellanville on the back road, and he got on the phone
14 like he was going to call.

15 Q. And when you were listening to all this, did you
16 agree to join them?

17 A. No, sir.

18 Q. What did you say to them?

19 A. I didn't say anything. I just kept my face, like,
20 frowned, like, and then I heard Quan, Kaylab said, I
21 don't want to use him.

22 Q. And how come you heard -- how come you didn't come
23 right out and say, No, I don't want to be involved in
24 this?

25 A. I didn't want to come right out and said I don't

1 want to be involved with it because I don't know what
2 they was going to do, if they were going to hit me or
3 something or fight me or jump on me.

4 Q. Why do you think they might have hit you or fought
5 you?

6 A. I see things -- I hear things about them, and I
7 knew that they ain't really good people and they don't
8 hardly worry me, but I was thinking they -- if I had come
9 out and said, No, I don't want to do it, I was thinking
10 they was going, you know, fight me or --

11 Q. Okay. And both these guys are bigger than you?

12 A. Yes, sir.

13 Q. Could you beat one of them up by yourself?

14 A. No, sir.

15 Q. Now, you testified that Kaylab said, or Quan said,
16 We don't want to use you.

17 A. Right.

18 Q. And after they said that, what did you do?

19 A. Talked to Quan. Quan said, You don't want to use
20 him, and I got happy, and I told them, I'm going back to
21 the store.

22 And Quan's grandfather came out of the house, and
23 he said, You need to go back to the store? And I said
24 yeah, and I jumped in with him and went back to the
25 store.

1 Q. When you went back to the store, what did you want
2 to do?

3 A. When I got to the store, I got a beer and I was
4 sitting in the tree, I went back under -- sitting under
5 the tree.

6 Q. Were you waiting for a ride?

7 A. Waiting for a ride to go home.

8 Q. And I'm sorry. I missed it. Where did you want
9 to go?

10 A. Home.

11 Q. Why did you want to go home for?

12 A. Because I wasn't going to get any more work that
13 day, so I was feeling I was going home.

14 Q. Okay. And while you were sitting under the oak
15 tree, did you see Quan and them again?

16 A. Yes, sir.

17 Q. And what happened when you saw them?

18 A. I saw them, they came again, waving, like, come
19 here.

20 Q. And what did you do when they waved at you?

21 A. At that time they was waving at me, I got up and I
22 went to the car, thinking they was going to give me a
23 ride, how they was waving, I think they was -- come on,
24 I'm going to give you a ride.

25 Q. When you were walking over to their car, were you

1 thinking about yeah, let's go do a robbery?

2 A. No, sir.

3 Q. What exactly were you thinking when you walked
4 over to the car?

5 A. I was think that they was going to give me a ride
6 home.

7 Q. And why was that?

8 A. Because they was waving, said, come here, come on.

9 Q. And when you got to the car, what did you do?

10 A. I got in.

11 Q. When you got in the car, what did you see?

12 A. When I got in the car, I seen three guys in there.

13 Q. And who were they?

14 A. Quan, Kaylab, and the little guy.

15 Q. Is that the guy that testified yesterday?

16 A. I don't -- I don't recognize him.

17 Q. Okay. And that is why you didn't pick him out of
18 the lineup that Detective Lawrence showed you?

19 A. Yes, sir.

20 Q. Okay. Was there anything in the car, anything
21 unusual in the car?

22 A. Yes, sir.

23 Q. What was that?

24 A. It was a gun.

25 Q. And where was this gun at?

1 A. On the back seat.

2 Q. And is this the gun that was on the back seat?

3 A. Yes, sir.

4 Q. Okay. Was that your gun?

5 A. No, sir.

6 Q. Had you stolen it the night before?

7 A. No, sir.

8 Q. Had you ever tried to sell it to anybody?

9 A. No, sir.

10 Q. And when you saw the gun in the car, what happened
11 next?

12 A. They said, Get the gun. That's the man right
13 there.

14 Q. And when he said that's the man right there, did
15 they point at Mr. Alford?

16 A. And I looked up and I said, I know him.

17 Q. Did you know Mr. Alford before that?

18 A. I seen him before.

19 Q. Okay. Do you have any ill will against
20 Mr. Alford?

21 A. No, sir.

22 Q. Any hard feelings against him?

23 A. No, sir.

24 Q. Had he ever done anything wrong to you?

25 A. No, sir.

1 Q. And when they said, That's the guy right there,
2 were you planning to go rob him?

3 A. No, sir.

4 Q. And after they said, That's the guy right there,
5 what did they do, Quan and Kaylab?

6 A. They said pick the gun up.

7 Q. And what -- did you do that?

8 A. I was thinking you just said you didn't want to
9 use me, and now -- I was thinking in my mind, they didn't
10 want to use me, and now you come and you want me to do
11 something like this? So I was saying, they must be got
12 some more guns somewhere in the car.

13 Q. Okay. And how were you feeling at that time?

14 A. I was feeling like they would have hurt me right
15 there, or kill me right there.

16 Q. Why were you feeling that way?

17 A. Because I seen this gun right here, and I know
18 they must got some more guns somewhere in the car.

19 Q. Okay. And what did you do with that gun?

20 A. I, like, turned -- we was, like, right next to
21 Moses. We was right there, and I picked up the gun and I
22 put it in my pocket. I said I want -- I don't want
23 Mr. Moses seeing the gun because I didn't have any
24 intention of robbing him. I didn't want to do it.

25 Q. All right. And after you guys pulled up to where

1 Mr. Alford was, what happened then?

2 A. We pulled up to him, and Quan, Kaylab, jumped up
3 and I jump up at the same time they jump up and came out,
4 and Quan was coming around the front of the car and he
5 was talking to Mr. Moses. He said the clothes, and why
6 did you came inside McClellanville? And Mr. Moses said,
7 I don't have that much stuff, and he said we can do it
8 right here.

9 Q. And who said we can do it right here?

10 A. Mr. Moses.

11 Q. Okay. And at that point, where were you standing
12 at?

13 A. I was standing, like -- I just got off the back
14 seat behind the driver. I just got out and walked up,
15 about three or four feet, next to Mr. Moses's car.

16 Q. And were you doing anything with the gun at that
17 time?

18 A. No, sir. It still was in my pocket.

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

20 A. No, sir.

21 Q. Did you say anything to Mr. Alford?

22 A. No, sir.

23 Q. And as Mr. Alford was discussing the clothes with
24 Quan, what happened next?

25 A. Mr. Alford, like, sitting, standing in front, like

1 to the back tire of the car on this side, on the, like --
2 what side is? This, like, your right side. He was on
3 the right side, and the back tire of the right side, the
4 driver's side of his car, he was standing like the back
5 tire of his car.

6 Q. Okay. And what was Kaylab doing at this time?

7 A. Kaylab and Quan was behind the car, looking either
8 through the window of the back car -- the car was like
9 this little station wagon, looking through the window, or
10 they had the whole door open in the back and they was
11 looking at the trunk.

12 Q. Did you see any kind of agitation between Kaylab
13 and Mr. Alford or Quan and Mr. Alford?

14 A. I heard, I think it was Quan, said, Give me your
15 clothes and your money.

16 Q. So you heard Quan say, Give me your clothes and
17 your money?

18 A. I think it was Quan, yes, sir.

19 Q. Okay. And when you heard that, what were you
20 doing?

21 A. I was just standing right there, like behind
22 Mr. Moses.

23 Q. Did you have your gun out at that time?

24 A. No, sir.

25 Q. Did you have -- did you threaten Mr. Alford in any

1 way?

2 A.... No, sir.

3 Q. Did you do anything to assist Kaylab or Quan?

4 A. No, sir.

5 Q. Were you doing anything at all to help do a
6 robbery?

7 A. No, sir.

8 Q. When you hear Quan say, Give me your clothes and
9 money, what did Mr. Alford do?

10 A. Mr. Alford then ran off, like, about 40 or 45.

11 Q. And when he ran off 40, 45 feet, what happened
12 next?

13 A. I looked at Quan, and then I looked back at
14 Mr. Alford, and he had already pulled up his sweat --
15 like a sweat shirt, pulled it up, and I seen the gun. I
16 know everybody seen the gun.

17 MR. GRIMES: Your Honor, may I have
18 Mr. Dennis step down?

19 THE COURT: Yes.

20 BY MR. GRIMES:

21 Q. Would you step down for a minute, Mr. Dennis. You
22 said Mr. Alford kind of pulled up his sweat shirt. If
23 you could, show the jury what you mean by that.

24 A. It was on this side. He just went for -- pulled
25 up his -- because he had, like, a sweat shirt, and when

1 he pull it up, it came off the gun like this, and the gun
2 came up and then he went back to his gun.

3 Q. All right. You may sit down again then. Thank
4 you. And when you saw Mr. Alford reaching for his gun,
5 what were you thinking?

6 A. I was scared. I was thinking he going to shoot.
7 He going to hurt -- end up hurting me or killing me or
8 something.

9 Q. And at that point, had you done anything to bring
10 on any difficulty between you and Mr. Alford?

11 A. No, sir.

12 Q. And at that point, what were you feeling was going
13 to happen?

14 A. I felt that he would have killed me or hit any one
15 of us.

16 Q. And let me ask you this: How come you didn't just
17 try to run away at that time?

18 A. Because Quan and them was right there, and I
19 didn't want them to figure that I was running because
20 they would have still went and see me any other time.

21 Q. Okay. And when you saw Mr. Alford reaching for
22 his gun, what did you do?

23 A. What did I do? I got to Quan's and Kaylab's gun
24 first and I picked up, took it out, and aimed, pointed,
25 like, with my hand, and fired, to keep him from

1 shooting -- I have a gun, stop, don't shoot, man.

2 Q. You have been charged with -- Detective Lawrence
3 said attempted murder. Were you trying to shoot
4 Mr. Alford?

5 A. No, sir.

6 Q. What were you shooting at when you were firing
7 Kaylab's gun, or Quan's gun?

8 A. I was shooting to try to scare him.

9 Q. Scare who?

10 A. Scare Mr. Moses.

11 Q. And when you were shooting, did the gun have any
12 type of kick to it?

13 A. Yes, sir.

14 Q. And what was happening as you were showing?

15 A. It was, like, when I shot, it go, like, pop, pop,
16 pop, pop.

17 Q. And do you know where the bullets landed?

18 A. No, sir.

19 Q. Were you aiming at Quan's car?

20 A. No, sir.

21 Q. Were you aiming -- were you trying to hit Quan's
22 headlight or anything?

23 A. No, sir. I was up ahead of that. I couldn't even
24 have hit it.

25 Q. Okay. And after you fired the gun, what did you

1 do?

2 A. After I fired the gun, I left. I ran.

3 Q. And at that point, did you think you had hit
4 Mr. Alford?

5 A. No, sir.

6 Q. And why not?

7 A. Because -- I felt confident I didn't hit him. I
8 know I didn't hit him.

9 Q. Did Mr. Alford do anything to indicate that he had
10 been hit?

11 A. No, sir.

12 Q. Now, you later on find out Mr. Alford had been
13 hit.

14 A. Yes, sir.

15 Q. Not once, but three times.

16 A. Right.

17 Q. And how did it make you feel?

18 A. It made me feel I was sorry. I was sorry that he
19 got hit.

20 Q. Mr. Alford is in court. Is there anything you
21 want to say to him?

22 MS. SHEALY: Objection, Your Honor.

23 THE COURT: Sustained.

24 THE WITNESS: I was sorry that he got hit.

25 BY MR. GRIMES:

1 Q. All right.

2 A. And my intention wasn't to hit him.

3 Q. Okay. Now, yesterday we heard Trevor come in and
4 testify against you.

5 A. Yes, sir.

6 Q. Did Ms. Shealy give you the opportunity, you would
7 be willing to come in and testify against Quan and
8 Kaylab?

9 A. Yeah.

10 MS. SHEALY: Object to the relevancy, Your
11 Honor.

12 THE COURT: Sustained.

13 BY MR. GRIMES:

14 Q. Before we finish again, and I probably asked you
15 this a couple times already, I hope no one is tired of
16 hearing me say this, why did you fire a gun that day?

17 A. Only --

18 MS. SHEALY: Asked and answered, Your Honor.

19 THE COURT: I'll let him answer it. Go
20 ahead.

21 THE WITNESS: Only to keep him, Mr. Moses,
22 from shooting me.

23 BY MR. GRIMES:

24 Q. Did you have any intention of trying to kill him?

25 A. No, sir.

1 MR. GRIMES: Thank you. Please answer any
2 questions Ms. Shealy may have for you.

3 MS. SHEALY: May it please Court?

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MS. SHEALY:

7 Q. Mr. Dennis, what you really mean, as you're
8 sitting in that chair, charged with assault and battery
9 with intent to kill and attempted armed robbery and
10 possession of a weapon during a crime of violence, is
11 that you hadn't shot Moses Alford; isn't that right?

12 A. Yes, ma'am.

13 Q. But you took this gun, and let me ask you
14 something: You said all these other guys are so mean
15 looking. You would agree you looked pretty mean with a
16 gun in your hand, wouldn't you?

17 A. Yes, ma'am.

18 Q. Okay. And so when Moses Alford saw you with that
19 gun pointed at him, he had a right to be scared, didn't
20 he?

21 A. No, ma'am.

22 Q. He didn't have a right to be scared?

23 A. No, ma'am. Yes, ma'am, yes, ma'am, I mean -- yes,
24 ma'am, if you want to say that.

25 Q. He had a right to be scared.

1 A. Yes, ma'am.

2 MR. GRIMES: Objection, Your Honor. I think
3 she's confusing the witness --

4 THE COURT: He answered it. You can try to
5 rehabilitate him on redirect.

6 BY MS. SHEALY:

7 Q. Let's start with this: McClellanville is mean?

8 A. Yes.

9 Q. Awendaw is nice; is that right?

10 A. Right.

11 Q. But you certainly hang out in McClellanville a
12 good bit, don't you?

13 A. Yes, ma'am.

14 Q. And you've got some buddies in McClellanville,
15 haven't you?

16 A. Yes, ma'am.

17 Q. And you've been going to that Kangaroo station for
18 a long time, haven't you?

19 A. Yes, ma'am.

20 Q. Now, you're telling the jury that prior to that
21 day you had never smoked crack.

22 A. No, ma'am.

23 Q. You had smoked crack before or you hadn't?

24 A. I never smoked crack.

25 Q. You never smoked it?

1 A. No, sir.

2 Q. Tell the jury exactly how, when Kaylab showed you
3 the crack pipe, how does it mysteriously get into your
4 pockets?

5 A. Me and Kaylab was talking. He said, Do you want
6 the money, crack, or the clothes? You want crack too?
7 And then he gave me the pipe and he gave me three
8 lighters --

9 Q. Oh, he gave you the three lighters?

10 A. Yes, ma'am.

11 Q. Mr. Dennis, you were using crack, weren't you?

12 A. No, ma'am.

13 Q. You needed another fix, didn't you?

14 A. No, ma'am.

15 Q. So when they offer you money, clothes, or drugs,
16 you think, well, let me just take the pipe in case. Is
17 that why you held on to the pipe?

18 A. No, ma'am.

19 Q. No? But it makes its way into your pocket?

20 A. And I was leaving the scene.

21 Q. You were what?

22 A. I was leaving at the same time.

23 Q. So you wanted to keep that crack pipe in your
24 pocket?

25 MR. GRIMES: Objection. Asked and answers.

1 THE COURT: Overruled. Go ahead with.

2 THE WITNESS: No, ma'am. It got left in
3 there.

4 BY MS. SHEALY:

5 Q. Just got left in there?

6 A. Right.

7 Q. And you needed not one, not two, but three
8 lighters in case maybe today is the day you're going to
9 try crack?

10 A. No, no, ma'am.

11 Q. Why did you have three lighters? Did Kaylab give
12 you that too?

13 A. I think he was just showing me how it works, you
14 know.

15 Q. Okay. You got a lesson on the use of crack?

16 A. Yes, ma'am.

17 Q. Okay. So Kaylab says, I'll tell you what: Get
18 involved in this armed robbery with us, and you can get
19 money; you can get clothes, I'm going to show you how you
20 can use crack. Is that what happened?

21 A. He said if I want crack.

22 Q. If you wanted it.

23 A. Yes, ma'am.

24 Q. So while y'all were under the tree over at Quan's
25 granddaddy's house?

1 A. Yes.

2 Q. And you were getting your crack lesson?

3 A. He just showed me the pipe, and I -- let me see.
4 I said, What kind of pipe is this, checking it out.

5 Q. You never seen that kind of pipe before?

6 A. No, sir. I seen it --

7 Q. Hanging out in McClellanville, living in Awendaw,
8 working with people who were raking straw, et cetera,
9 nobody had ever seen a crack pipe?

10 A. I seen better.

11 Q. Seen better crack pipes?

12 A. Right.

13 Q. Did you feel like they were giving you a lower end
14 crack pipe?

15 A. I never really seen that kind.

16 Q. Okay. Well, let's start off with the beginning of
17 that day, you and this tree.

18 You had been raking straw with the guy you had
19 been working for for a while; is that right?

20 A. Yes, ma'am.

21 Q. He didn't pay you that day, though, did he?

22 A. But I was about to get paid.

23 Q. But it's true, is it not, and you've gone out --
24 this it's hot. It's a June day, you've been working, and
25 he didn't pay you; is that true?

1 A. He didn't pay me because he didn't went -- he went
2 to Georgetown, and that is where I went to my friend
3 house, and then he never came back. He ain't came back.

4 Q. Okay. Let me put it this way: You were
5 irritated, were you not, that you hadn't gotten paid yet
6 yesterday?

7 A. No, ma'am.

8 Q. You weren't irritated about that?

9 A. No.

10 Q. You were going to just go home and not worry about
11 not having got paid?

12 A. Going home and not worrying, but I would have
13 called him and he would have came to my house.

14 Q. Okay. And while you're under that tree, you see
15 that Crown Vic come up, don't you?

16 A. Yes, ma'am.

17 Q. And you have told us about how mean La Seto looks
18 and mean Kaylab is?

19 A. Yes, ma'am.

20 Q. You knew those guys sold drugs?

21 A. Yes, ma'am.

22 Q. And isn't it true that you go on up to that car
23 and ask for a ride.

24 A. I didn't ask. They just called me, and I went up
25 to the car, thinking it was a ride because they see me

1 all the time, but they never bother --

2 Q. I'm talking about earlier, Mr. Dennis.

3 A. Yes, ma'am.

4 Q. Earlier that day. You rode with those guys from
5 Kangaroo over to Quan's house, did you not?

6 A. No, ma'am.

7 Q. You deny that?

8 A. No, ma'am.

9 Q. Who did you say took you over to Quan's?

10 A. I caught a ride over to the road and, then I
11 walked to Quan's house.

12 Q. All right. Who did you catch a ride with?

13 A. I do not know that person.

14 Q. Do you not even remember that you rode over there
15 with Quan and Kaylab?

16 A. No, ma'am.

17 Q. You don't remember that. But were you going to go
18 to your friend Murray's house?

19 A. Murray, yes.

20 Q. Did he live on Brailsford?

21 A. He doesn't live on Brailsford but his boss like
22 live on Brailsford.

23 Q. And you were going to go hang out with Murray?

24 A. Yes, ma'am.

25 Q. Did you go to Murray's that day?

1 A. I never got to Murray's.

2 Q. So you go hang out with Quan and Kaylab; is that
3 right?

4 A. Yes, ma'am.

5 Q. Under the tree?

6 A. Yes, ma'am.

7 Q. Y'all were outside under the tree?

8 A. Yes, ma'am.

9 Q. You do -- this gun, didn't you tell these guys,
10 look, I've got to get some money. I didn't get paid by
11 my boss. Let me sell this. I need a blast.

12 A. No.

13 Q. You deny that you tried to sell this to them?

14 A. Yes, ma'am.

15 Q. You denied that you told them you bought it the
16 night before?

17 A. Yes, ma'am.

18 Q. You deny it?

19 A. I deny it.

20 Q. But no question you hadn't been paid and no
21 question at some point you get that crack pipe in your
22 pocket; is that right?

23 A. Yes, ma'am.

24 Q. So let me make sure I understand. Who's talking
25 about the robbery? You're saying Kaylab and Quan?

1 A. Quan, yes, ma'am.

2 Q. And I think you told us maybe there was some other
3 guys over there?

4 A. Little guys.

5 Q. They weren't talking about the stuff?

6 A. They weren't talking.

7 Q. Now, isn't it true that you heard La Seto on the
8 phone with Moses and knew some guy was bringing some
9 clothes?

10 A. I didn't knew that.

11 Q. You didn't know that?

12 A. I didn't knew.

13 Q. Well, I thought you told us that if you helped
14 them rob someone you would get money or clothing?

15 A. Yeah, but they didn't told me. It was Mr. Moses.

16 Q. They didn't tell who you it was.

17 A. No, ma'am.

18 Q. But you knew somebody was coming.

19 A. Yes, ma'am.

20 Q. Okay. So is it your testimony that there you are,
21 walking down the street, heading to Murray's, and these
22 guys, who you've been scared of but don't know that
23 well -- well, actually, you haven't hadn't been scared of
24 them. You weren't scared of them. You said you didn't
25 think they were going to do anything to you, right?

1 A. In that manner, right.

2 Q. So out of the blue, these big guys who were drug
3 dealers choose out after all of McClellanville to get you
4 involved in their armed robbery. That's what you're
5 saying?

6 A. Yes, ma'am.

7 Q. Now, the plan you say was for them to rob the guy
8 whose coming into town; is that correct?

9 A. I didn't know he was coming into town. I didn't
10 know he was. I asked who is the guy? They didn't told
11 me.

12 Q. You didn't bother to get those details?

13 A. No, ma'am. They wouldn't say.

14 Q. Well, let's talk about your statements for a
15 second, okay? First of all, let's talk about the very
16 first one. You said, I was at my mother's house at 9:00
17 and left at about 10:30 and got to McClellanville at
18 11:00 and went to work about 12:00 and got back to
19 McClellanville at 3:30, and next thing I knew, I was
20 under arrest and I didn't know what happened.

21 That's what you said; is that right?

22 A. Yes, ma'am.

23 Q. And you signed the statement; is that correct?

24 A. Yes, ma'am.

25 Q. And you made some corrections on the statements;

1 is that correct?

2 A. Yes, ma'am.

3 Q. And this was a lie, was it not?

4 A. I didn't told the whole truth, but it wasn't a
5 lie.

6 Q. It's not a lie?

7 A. No, ma'am.

8 Q. So when you say, I was under arrest and I did not
9 know what happened, that's not a lie? That is a lie.
10 That's a lie.

11 A. Yes, ma'am.

12 Q. And you told that lie that day because you thought
13 you might get out of this. Right? You wanted to see
14 what they had.

15 A. No, ma'am.

16 Q. Well, you don't question at all that you lied to
17 the police. You lied.

18 A. That way.

19 Q. And you lied because you were trying to help
20 yourself out, right?

21 A. No, ma'am. It was the truth.

22 Q. Well, I'm sorry. Was it the truth or was it a
23 lie?

24 A. It was a lie because I said I didn't know what
25 happened, but the other parts of it was true. So it was

1 a lie, yes, ma'am.

2 Q. And it was a lie because you were trying to keep
3 yourself from getting in trouble?

4 A. No, ma'am.

5 Q. You weren't trying to keep yourself from getting
6 in trouble?

7 A. No, ma'am.

8 Q. And on that occasion, early on, you never made any
9 mention of at all the way you've described it today, did
10 you?

11 A. Not in that way, no, ma'am.

12 Q. Not at all. I'm confused about something. Did
13 you shoot Alonza Dennis? I'm sorry. Did you shoot Moses
14 Alford?

15 A. No, ma'am.

16 Q. You didn't shoot him?

17 A. No, ma'am.

18 Q. So you're telling the jury then that you're not
19 even the shooter in this case.

20 A. Well, I mean, yes, ma'am. I shot him, but I
21 didn't have any intention on shooting him.

22 Q. So you thought with a gun, pointing it and pulling
23 the trigger, it wasn't really going to be a shooting?

24 A. Yes, ma'am.

25 Q. Okay. And you thought then that after that -- you

1 said you were doing it to scare him, right?

2 A. Yes, ma'am.

3 Q. And this gun had a mighty kick, right?

4 A. Yes, ma'am.

5 Q. Okay. So you pulled the trigger once, you get
6 that kick. That wasn't enough to scare Mr. Dennis --
7 Mr. Alford. When you pulled it once and you got that
8 kick, you didn't think that was enough to scare Moses
9 Alford, that one shot?

10 A. No, ma'am. I thought it needed more.

11 Q. More shots to scare him.

12 A. Yes, ma'am.

13 Q. Not just one. Okay. So you pulled the trigger a
14 second time. You get the kick again.

15 A. Yes, ma'am.

16 Q. Two shots, still not enough to scare Mr. Alford?

17 A. No, ma'am.

18 Q. Not enough?

19 A. No, ma'am.

20 Q. So you pull it a third time?

21 A. Yes, ma'am.

22 Q. Get the kick?

23 A. Yes, ma'am.

24 Q. Three shots is not good enough to scare him; is
25 that right?

1 A. Yes, ma'am.

2 Q. And this is a convenience store where children
3 come by after school to buy their snacks, right?

4 A. Yes, ma'am.

5 Q. And this is a place where school buses come and
6 get their gas.

7 A. Yes.

8 MR. GRIMES: Your Honor, objection. There
9 has been no evidence that there are school buses with
10 children at the store this day.

11 THE COURT: Sustained.

12 BY MS. SHEALY:

13 Q. You pull this weapon out, you let it kick once,
14 you let it kick twice, you let it kick a third time, but
15 that wasn't enough, in that public parking lot of
16 Kangaroo, to scare Mr. Dennis?

17 MR. GRIMES: Objection. Asked and answered.

18 THE COURT: Overruled. It's
19 cross-examination.

20 BY MS. SHEALY:

21 Q. Is that correct?

22 A. Scared, because I was scared.

23 Q. I understand that, but I'm trying to figure out
24 how many times do you need to pull the trigger and how
25 many times does a bullet need to fly for you to think

1 that Mr. Alford was significantly scared? He never shot
2 back, did he?

3 A. No, ma'am.

4 Q. He valued your life more than you valued his; is
5 that right?

6 MR. GRIMES: Objection. Calls for
7 speculation.

8 MS. SHEALY: It's not speculation when I'm
9 asking him.

10 THE COURT: Overruled.

11 THE WITNESS: If that's how you feel about
12 it, yes.

13 BY MS. SHEALY:

14 Q. Okay. Three shots, how about the fourth shot?
15 Not enough still?

16 A. No, ma'am.

17 Q. Got to have that fifth shot, five shots,
18 Mr. Alford. That's how many it takes to scare you, and
19 during your one, your two, your three, your four, your
20 five shots, Mr. Alford never shot at you; is that
21 correct?

22 A. Yes, ma'am, but it was in a way I shot at him,
23 fast, because I was fast, like, pow, pow, pow -- I was
24 fast.

25 Q. You're just a quick shoot?

1 A. Quick shoot.

2 Q. Oh, I see. You're quick, and it takes a certain
3 number to significantly scare him, right?

4 A. Yes, ma'am. And he still had his hand on his gun,
5 so I didn't know -- he still wanted to come, you know --

6 Q. He wanted to --

7 A. He still keep his hand right here.

8 Q. Mr. Dennis, let me ask you this: The truth of the
9 matter is you're a little jittery that day because you
10 needed a fix of crack cocaine; isn't that true?

11 A. No.

12 Q. And you tried to sell this weapon to help you buy
13 some; isn't that true?

14 A. I don't know that. I know when I got it from
15 Kaylab that's the first time I have seen it.

16 Q. And when you were left at the house at Quan's
17 under the story you've told us today --

18 A. Yes, ma'am.

19 Q. -- those guys, La Seto and Kaylab, they told you,
20 we don't want you involved; is that right?

21 A. Yes, ma'am.

22 Q. And they said, We don't need you; is that correct?

23 A. Yes, ma'am.

24 Q. And in your written statement to Detective
25 Lawrence, you said, They didn't need me; is that correct?

1 A. Yes, ma'am.

2 Q. So tell the jury if it happened the way you said
3 it happened, they're talking about robbing somebody.

4 A. Yes, ma'am.

5 Q. And they're loading you up in the car and they're
6 not taking you; is that right?

7 A. I left before them.

8 Q. You left before they did.

9 A. Yes, ma'am.

10 Q. You're saying the granddaddy left before the boys
11 did?

12 A. The granddaddy came out of the house and Quan said
13 they didn't want -- they didn't want to use me, and Quan
14 said, Granddaddy, could you take Alonza back to the
15 store, and he said yeah, and we left.

16 Q. Why didn't you go to Murray's, because isn't that
17 where were you heading before?

18 A. No. I changed my mind.

19 Q. I bet you did change your mind because you got
20 wind of some money and some clothing, right? Maybe a
21 little drugs, try out that pipe?

22 A. No, ma'am.

23 Q. Well, you didn't go to your buddy's house?

24 A. Not again.

25 Q. You were there when they talked about meeting him

1 at the Kangaroo station, right?

2 A. No, ma'am.

3 Q. So you're saying you didn't know that either.

4 A. I know -- I knew Mr. Moses. I seen Mr. Moses. I
5 know he's a nice person, and I know --

6 Q. That's not what I'm asking you, Mr. Dennis. I'm
7 asking you a question.

8 MS. EHRLICH: Is he allowed to explain his
9 answer?

10 MS. SHEALY: He's not answering it.

11 THE COURT: Ask the question, answer the
12 question. If you need to explain your answer, you can
13 explain your answer. Whatever it is, go ahead.

14 BY MS. SHEALY:

15 Q. Did you know or didn't you know that they were
16 planning on meeting whoever it was that's coming that
17 they're going to rob at the Kangaroo?

18 A. No, ma'am.

19 Q. You didn't know that?

20 A. No, ma'am.

21 Q. You just happened upon the Kangaroo while those
22 guys are parked at the pump; is that right?

23 A. Yes, ma'am.

24 Q. And you get in that car with them when they're
25 parked over at the pumps?

1 A. No, ma'am. They came and pulled it over, the way
2 I was.

3 Q. Over by the tree?

4 A. Yeah. It came -- like, this is the end of the
5 store. Like, all this is the store area. It came from
6 parked this way and stopped right here, and Mr. Moses'
7 car was right here. And I got in the car right here, and
8 Mr. Moses was right there.

9 Q. So you're saying there was another little route
10 these guys took that hasn't been testified to yet.
11 You're saying they went from the pumps over to you and
12 then to Moses?

13 A. Then to Mr. Moses.

14 Q. Oh, okay. Well, when you get in that vehicle, do
15 you get in the front seat or the back seat?

16 A. In the back, behind the driver.

17 Q. Okay. And when you get in then, is this gun
18 laying on the back seat?

19 A. On the back seat, yes.

20 Q. How did you get in the back seat?

21 A. I got in -- open the door and got in the back
22 seat.

23 Q. And when you look in there and you see that gun,
24 you don't get back out of that car?

25 A. I didn't see it when I got in. I saw all the guys

1 first and I got in and they said, Get the gun. And I
2 closed the door, and they said get the gun, and that is
3 the man right there. And I look up and I see him. I see
4 it was Mr. Moses.

5 Q. You're how old, Mr. Dennis?

6 A. Forty-six.

7 Q. You're a grown man.

8 A. Yes, sir.

9 Q. And under your theory, you're going to let these
10 guys tell you to take a gun out when somebody is meeting
11 them at a gas station? You're just going to do that?

12 A. I'm a little old, but I got a little sense. Them
13 little guys like that, a gun like that could hurt you.

14 Q. Well, a gun like that hurt Mr. Alford, didn't it?

15 A. Yes, ma'am.

16 Q. It hurt him badly, didn't it?

17 A. Yes, ma'am.

18 Q. It could have killed him, couldn't it have?

19 A. Yes, yes, ma'am.

20 Q. But, nevertheless, when you say these guys told
21 you, Get the gun and get out that you didn't.

22 A. Yes, ma'am.

23 Q. Now, you have testified and you've given
24 statements and never have you said Quan had a gun, and he
25 took that gun and he pointed it at you and said, You're

1 going to help us. That never happened, did it?

2 A. No, ma'am.

3 Q. And Kaylab never took a gun out, lifted his shirt,
4 put it in a pocket and threatened to kill him, did he?

5 A. No, ma'am.

6 Q. They never said to you, Alonza Dennis, You help us
7 or we're going to hurt your family? They never said
8 that, did they?

9 A. No, ma'am.

10 Q. They never said, If you don't get out with a gun
11 in broad daylight and pull it on that guy and rob them,
12 you're in trouble. They never said that to you, did
13 they?

14 A. No, ma'am.

15 Q. You, a grown man, chose to do what they told you
16 to do under your theory; is that right?

17 A. Yes, ma'am.

18 Q. And then they never told you shoot him, did they?

19 A. No, ma'am.

20 Q. Okay. So even if you're saying that they tried --
21 that they're the ones who made you pick the gun up, you
22 chose to shoot five times; is that correct?

23 A. Yes, ma'am, defending myself.

24 Q. Defending yourself?

25 A. Yes.

1 Q. You agree Moses Alford had a right to pull his gun
2 at some point, don't you?

3 A. No, ma'am.

4 Q. You don't agree that he did?

5 A. No, ma'am.

6 Q. Let me ask you something: You heard Mr. Alford
7 testify that this weapon was pointed at him.

8 A. Yes, ma'am.

9 Q. And you said, Give me everything.

10 MR. GRIMES: Objection, Your Honor. She's
11 pitting witnesses.

12 THE COURT: I wouldn't say that. Go ahead.

13 BY MS. SHEALY:

14 Q. You knew that clothes were a possibility and money
15 was a possibility, right?

16 A. I don't --

17 Q. You wanted it all. You didn't just want the
18 T-shirt or the Spiderman shoes, you wanted the money and
19 you wanted the clothing. And then maybe, maybe tonight's
20 the night, just maybe, for the first time in my life,
21 I'll use a crack pipe and enjoy that. That is what was
22 on your mind, wasn't it?

23 A. No, ma'am.

24 Q. So you're telling this jury that you, La Seto, and
25 Kaylab get out at the same time?

- 1 A. Yes, ma'am.
- 2 Q. Somebody else is left in the car.
- 3 A. Yeah, there was somebody.
- 4 Q. Was there somebody else in the car?
- 5 A. Yes, ma'am.
- 6 Q. And you weren't paying attention enough to know
- 7 who it was in the car?
- 8 A. No, ma'am.
- 9 Q. Because you kind of had your mind on one thing,
- 10 right? Robbing him.
- 11 A. No, ma'am. I didn't need to do that.
- 12 Q. No, you didn't need to do that.
- 13 A. No, ma'am.
- 14 Q. No, you didn't need to do that. Now, are you
- 15 typically good with a gun, pretty good shot?
- 16 A. No, ma'am.
- 17 Q. Now, let me ask you this -- never mind this. Let
- 18 me ask you then, on this day that you're sending out the
- 19 warning shots, tell the jury, do you shoot them up?
- 20 A. No, ma'am.
- 21 Q. Oh, so you don't take the gun and as a warning to
- 22 Mr. Alford shoot up, you shoot towards him, right?
- 23 A. On the side of him.
- 24 Q. The side of him.
- 25 A. Yes, ma'am.

1 Q. Did he run over to receive the shots?

2 A. No, ma'am.

3 Q. Okay. So you agree then that you are a doggone
4 good shot, right? You nail him in the arm; you nail him
5 in the leg. You shoot the man in his back. Right?

6 A. Right.

7 Q. And, again, that is just a lucky shot. You're
8 warning him, scaring him.

9 A. Yes, ma'am.

10 Q. Just to scare him?

11 A. Just to scare him. I could see that my hand
12 aim -- like you aim at anything else with your hand, you
13 could see where it was aiming at. If you want to aim at
14 you, I got my hand, I'm aiming at you. I'm going to hit
15 you, straight up. But if I don't want to hit him, my
16 hand will be this way, and that is where I was aiming.

17 Q. Well, then how did it happen? How did it nail
18 him?

19 A. I don't know.

20 Q. Magic, kind of like the crack pipe in the pocket?

21 A. Not magic, no, ma'am.

22 Q. Just to make sure I'm absolutely clear, even with
23 the version you're giving today, there were no threats
24 made to you.

25 A. No.

1 Q. No one threatened you.

2 A. They threatened me, like, and I was scared of
3 them.

4 Q. So, in other words, because one of them resembled
5 a character from a television show, you needed to shoot
6 Mr. Alford?

7 A. No, ma'am.

8 Q. Are you always willing to shoot when somebody has
9 a mean face?

10 A. No, ma'am, but it's a chance you're going to take.
11 Every chance you got, you take it the right way, you
12 know, you might don't have a chance all the time, you
13 know, if you take a chance and then you might end up
14 getting hurt or shot or killed.

15 Q. So the choice you made that day, under what you're
16 telling us now --

17 A. Yes, ma'am.

18 Q. -- is better you get killed than I get killed; is
19 that right?

20 A. No, ma'am. I was going to leave everybody live.
21 I didn't want to hurt Mr. Moses.

22 Q. You were hoping everybody lived.

23 A. Yes, ma'am.

24 Q. When you finish with your fifth shot, do you stop
25 and run in the store and say, Oh, my God, I hit him and I

1 didn't mean him, call 911? Do you do that?

2 A. No, ma'am.

3 Q. Do you look for someone in the parking lot to see
4 if they have a phone so that you can call the police and
5 tell them, Good God, he was pulling a gun on me and I
6 shot him? Did you do that?

7 A. No, ma'am.

8 Q. What you did was you ran as fast as you could,
9 right?

10 A. Yes, ma'am.

11 Q. And you go across the street and wait for a bit;
12 is that right, looking to see what had gone on?

13 A. No. I went over the street -- I didn't went
14 across the street. I went across the street, but I
15 didn't went to that fruit stand, no, ma'am.

16 Q. So that wasn't you.

17 A. That wasn't me, no, ma'am.

18 Q. So did you see another black male with Jean shorts
19 and a black T-shirt over in that area that afternoon?

20 A. No, ma'am.

21 Q. That is the fruit stand, if you look behind you.

22 A. Yes, ma'am, I know.

23 Q. That's State's Exhibit 28. You know the fruit
24 stand?

25 A. Yes, ma'am.

1 Q. So you're not saying that's where you ran.

2 A. I ran, like you see where the trees in the back,
3 do you see, like, where the grass is cut, the property
4 line? I went through behind the trees and stayed in the
5 big trees and came up on this side.

6 Q. So you ran back this way?

7 A. No. You see where the property line is, like
8 where you can see the lawn.

9 Q. Let me give you a pointer. Here is a little
10 button. Show us what you did.

11 A. I came through here into the woods right here, go
12 in there, behind the trees. I didn't stay in this area
13 because that was -- like, they could see me. I just went
14 in this area right here, up all the way behind these
15 trees and all the way through and come around like this.

16 Q. And when you did that, did you look back at the
17 convenience store to see what was going on?

18 A. Yes, ma'am.

19 Q. And did you see Mr. Alford bleeding and entering
20 the store?

21 A. I didn't see him.

22 Q. Didn't see him bleeding.

23 A. He wasn't out there.

24 Q. He wasn't in the parking lot?

25 A. Nobody was out there then.

1 Q. Nobody was there.

2 A. No, ma'am.

3 Q. Did you see a lot of chaos?

4 A. No. I went to the other store. I didn't see any
5 chaos.

6 Q. You went over to Bull's Bay?

7 A. Yes, ma'am.

8 Q. Okay. So were you still out in that area when the
9 first police or emergency vehicle or rescue vehicle comes
10 in that area?

11 A. Yes, ma'am.

12 Q. You were still out there.

13 A. I was still at Bull's Bay.

14 Q. Okay. So you saw the rescue vehicle come by.

15 A. Yes, ma'am.

16 Q. You saw the police come by, or did you?

17 A. Either a rescue vehicle or police.

18 Q. Did you see them come zooming into the convenience
19 store?

20 A. No. It, like, kept on up -- like, well, I went up
21 to Elliott's way.

22 Q. So, in other words, you sprinted through those
23 woods to get out on River Road. You were jacked up,
24 weren't you?

25 A. Yeah, I was moving.

1 Q. Your adrenaline was pumping?

2 A. Yes, ma'am.

3 Q. You had to move fast.

4 A. Yes, ma'am.

5 Q. And you had to move fast because you knew you just
6 pulled a gun and attempted to rob Moses Alford; is that
7 correct?

8 A. No, ma'am.

9 Q. You were running?

10 A. Yeah, if you look at it that way. I was running
11 because I shot the gun around the public store.

12 Q. Okay. But you're telling this jury you had a good
13 reason to shoot that gun, right?

14 A. Yes, ma'am.

15 Q. You want this jury to believe that's the way you
16 handle problems. You shoot towards someone, and that
17 will take care of it, right?

18 A. Shoot from, but not --

19 Q. And are you saying to the ladies and gentlemen of
20 the jury if you ever see anybody with a mean expression
21 you better assume they're going to kill you?

22 A. They could have -- it could mean they're going to
23 kill you.

24 Q. And mean can pick up a gun and point it at
25 somebody you have absolutely no problem with and tell

1 him, Give me everything, and then start shooting. Mean
2 can do that too, can't it?

3 A. Yes, ma'am.

4 Q. Now, after you gave your statement, Detective
5 Lawrence gave you the opportunity to say who all these
6 mean guys were, right?

7 A. Yes, ma'am.

8 Q. And even though you were too scared still of the
9 mean guys to tell the detective on the case that you did
10 it because you had been threatened, or felt threatened --
11 because you hadn't been threatened, right?

12 A. I was --

13 Q. Tell me this: Did you do what they say because
14 they weren't nice?

15 A. Right.

16 Q. Okay. You did what they said, because they
17 weren't nice.

18 A. Yes, ma'am.

19 Q. And you felt like you could tell Detective
20 Lawrence, Look, those guys were there. They planned to
21 rob him. They're the ones who said give me everything.
22 That was okay to tell Detective Lawrence, right? That
23 was okay?

24 A. Being that he knew already.

25 Q. But what you couldn't tell Detective Lawrence was,

1 oh, because they weren't nice, that's why I did it.

2 Right?

3 A. Yes, ma'am.

4 Q. And when Detective Lawrence gave you the
5 opportunity with the lineups to write a comment about
6 these people, you didn't say, I felt threatened, did you?

7 A. No.

8 Q. Do you know what I'm talking about?

9 A. Not that way, not by writing it out.

10 Q. Yeah. You didn't do that then.

11 A. But I said, I didn't want to pull my gun and stuff
12 like that. That is meaning I didn't want to do.

13 Q. So let's see. This happened June 22. Here we
14 are -- in '09, here we are in March, and you're telling
15 this jury that this story that you're telling here
16 today --

17 A. Yes, ma'am.

18 Q. -- has always been the truth?

19 A. Always been the truth, yes, ma'am.

20 Q. But you didn't tell it to Detective Lawrence that
21 day, on the 29th.

22 A. Not that way.

23 Q. Uh-huh. Now, that Kangaroo -- let me see if I can
24 get a better picture, but in kind of describing where
25 that Kangaroo is, there is open area to the right of it,

1 and there is open area to the left of it; is that right?

2 A. Yes, ma'am.

3 Q. It's kind of just out in a rural area.

4 A. Yes, ma'am.

5 Q. So when you got in that vehicle with that gun, you
6 made no effort to flee at that point; is that correct?

7 A. No, ma'am.

8 Q. When you saw this and say, Wow, it's a little more
9 involved with this than I thought --

10 A. Right.

11 Q. You didn't try to get out of that car, did you?

12 A. No, ma'am.

13 Q. And when you say you got out of the car with La
14 Seto and Kaylab, you are the man with power. You got the
15 gun in the pocket according to what you're telling us
16 today, right?

17 A. Yes, ma'am.

18 Q. So the man with the power doesn't choose at that
19 point to flee straight ahead, to flee to his right, to
20 flee to his left, or to flee behind him, woods
21 everywhere. You don't leave at that point.

22 A. No, ma'am.

23 Q. Only time you're running is when you're running
24 for you, right?

25 A. Yes, ma'am.

1 Q. And you wait until you try to rob that man, not
2 only of money, not only of clothes, but of his life; is
3 that correct?

4 A. No, ma'am.

5 Q. No effort to flee until you realize you're in hot
6 water, okay, if he's in hot water, but you don't want to
7 be in it, right?

8 A. No, ma'am. Yeah, I was.

9 MR. GRIMES: Objection, Your Honor. Compound
10 question.

11 THE COURT: Give him the opportunity to
12 answer the question.

13 MS. SHEALY: I thought he did answer it.

14 BY MS. SHEALY:

15 Q. You were in hot water.

16 A. Yes, ma'am.

17 Q. Okay. When you were telling Detective Lawrence
18 about what happened, you are not telling us even today,
19 are you, that Kaylab or Quan or the little guy in the
20 back would take that gun and give it to you and say, Do
21 it or else. Nobody did that, did they?

22 A. Nobody -- no, sir.

23 Q. Nobody did it?

24 A. No, ma'am.

25 Q. So your second statement, are you telling us then,

1 like your first statement, is not true? Is it not true?

2 A. It's not true. It's true, but I was scared. I
3 didn't finish letting them know that I shot Mr. Moses.

4 Q. Let me share your statement from the 29th and ask
5 you to read for us, if you would, when Detective Lawrence
6 said, Why did you lie in your first statement? What was
7 your answer?

8 A. I was thinking let me see what they got first.

9 Q. Let me see what they got first.

10 A. Yes, ma'am.

11 Q. Are you a gambling man?

12 A. No, ma'am.

13 Q. Just self protective.

14 A. Right.

15 Q. Look out for yourself?

16 A. No, I just didn't want to end up being a snitch.

17 Q. You weren't looking out for Mr. Alford, were you?

18 A. I was looking out for him, my intentions.

19 Q. Do what?

20 A. My intentions, I was looking out for him.

21 Q. Those intentions when you kicked that gun five
22 times and pointed it at him? Has anybody ever told you,
23 Hey, do me no favors? Don't try to help me? Anybody
24 said that to you before? Would you want somebody to help
25 you by pointing a gun at you and firing? Would you?

1 A. No, ma'am.

2 MS. SHEALY: I beg the Court's indulgence
3 just a moment.

4 BY MS. SHEALY:

5 Q. Okay. A couple other questions. You say Moses
6 Alford ran back away from the car.

7 A. Yes, ma'am.

8 Q. Ran 40 or 45 feet?

9 A. I think 40, 45 feet.

10 Q. And where are you saying you were standing?

11 A. I was standing, like, in the middle between the
12 two cars, like between the two cars.

13 Q. Okay. Now, the piece of plastic from the
14 headlamp --

15 A. Yes, ma'am.

16 Q. You were shooting right up by that car, weren't
17 you?

18 A. No, ma'am.

19 Q. Weren't shooting by that car?

20 A. I was shooting by it but not in front of it.

21 Q. Not in front of it.

22 A. No, ma'am.

23 Q. So it just so happens that this headlamp, off the
24 Crown Vic, loses its piece of plastic in the shape of a
25 gunshot wound, just another, oh, flukey thing that

1 happened that afternoon?

2 A. Yes, ma'am.

3 Q. Another flukey thing. When you were standing
4 across the street looking at the scene, could you see the
5 blood trails that were left from Mr. Alford's warning
6 shots?

7 A. No, ma'am. I was running, and I kept on -- I just
8 looked back to see if he was anywhere in the area, if
9 you're standing on the front of the stores.

10 Q. Would it surprise you to know that the blood
11 trails start right where Mr. Alford was shot, near the
12 cars? You're not telling the truth when you say he ran
13 40 to 45 feet, are you?

14 A. Yes, I am telling the truth. He ran, like, 40
15 feet from where we was. See in that statement where he
16 attempt to run? He did ran too.

17 Q. Okay. Showing you then what is marked as State's
18 Exhibit 8, show me where you were standing when you shot.

19 A. The car was right here, back in this -- right
20 here, in this area, and the Crown Vic was, like, cross
21 like, this cross, like, out here somewhere, like this,
22 and right in here, I was here, like in here somewhere,
23 like in here somewhere, and Moses ran off like this way.

24 Q. So when Moses runs backwards, you don't duck or
25 try to hide behind any of the cars. The only thing

1 available to you was to take this gun and start shooting?

2 A. No. When he ran off, I looked at Quan and them
3 and I was still scared they was going to say, Well,
4 you're running off, so I looked back at Mr. Moses and he
5 was right here. He turned around and he went -- going
6 for his gun, and I figure if I had ducked down then he
7 probably would have shot me.

8 Q. Well, Mr. Dennis, from what I understand you're
9 testifying to, you cared more about what Quan and Kaylab
10 thought than the life of Mr. Alford; is that fair to say?

11 A. No, no, ma'am. I cared about my life too.

12 Q. Oh, I'm sorry. You cared about what they thought
13 and your life.

14 A. Yes, ma'am.

15 Q. And not one bit about Mr. Alford.

16 A. I cared about Mr. Alford, because Mr. Alford
17 didn't say that. He ran off from the scene. He ran off
18 from the scene. I'm thinking he going in the store,
19 running from the scene because I didn't want to do
20 anything. I never pulled my gun. He never seen a gun.
21 I'm thinking he was going to run and ran to the store.

22 Q. You're saying Mr. Alford never saw a weapon,
23 right? That's what you're saying? He never saw a gun?

24 A. Never saw a gun.

25 Q. And here is Mr. Alford just out of the blue,

1 running back towards, showing his gun?

2 A. I wouldn't say they didn't say give me your
3 clothing and money, but I didn't say give me your
4 clothing and money, and he came running out from that
5 area and a bullet would have hit him right there, and
6 there is a CSI record, right.

7 Q. What?

8 A. CSI report.

9 Q. Does everything revolve around television?

10 A. That is how far you is when you got hit by the
11 bullet.

12 Q. Mr. Dennis, how long did it take you to concoct
13 this story?

14 A. It took me -- it didn't took me anything to
15 concoct the story because that's what happened. It was
16 the truth. He ran off from the scene and went for his
17 gun. He could have ran in the store. You asking me
18 why -- if he running from us, why he ain't ran in the
19 store? Nobody pulled a gun on him. He ran and took it
20 into his own, to turn around and he was going to fire us
21 up, but end up he got hurt.

22 Q. So, in other words, really, to summarize this,
23 this whole thing is really Mr. Alford's fault and Quan
24 and La Seto for not having good expressions on their
25 face?

1 A. I wouldn't say it's his fault.

2 Q. Okay. Well, when you're telling us that today
3 you're telling us the truth, you didn't tell us the truth
4 on the 22nd of June and you didn't tell the truth on the
5 29th of June; isn't that correct?

6 A. I didn't tell the whole truth, but those are the
7 same things that happened that day.

8 Q. Those are the same things that happened.

9 A. Yes, ma'am.

10 Q. But no matter what, you're the man that took the
11 gun out of the car; is that correct?

12 A. Yes, ma'am.

13 Q. You're the man who you say put it in your pocket
14 and chose to pull it out.

15 A. Yes, ma'am.

16 Q. Is that true?

17 A. Yes, ma'am.

18 Q. You're the man who instead of shooting up into the
19 air for this theory of warning Mr. Alford, you shot him
20 and nailed him three times, once in the back, that's
21 true, isn't it?

22 A. No, ma'am. I shot away from him, not -- I shot
23 away from him, knowing that I didn't shot him.

24 Q. Knowing that you didn't shoot him.

25 A. I didn't shot in the air -- I know by the air

1 shot, but I shot away from him. Like you standing right
2 there, I shot away from him. I didn't want it to hit
3 him.

4 Q. So some fluke of nature that took -- that allowed
5 not one, not two, but three shots, one in the man's back
6 to you, that allowed Mr. Alford to get shot that day.

7 A. Yes, ma'am.

8 MS. SHEALY: Thank you very much.

9 THE COURT: Are you going to have redirect?

10 MR. GRIMES: Yes, sir.

11 THE COURT: Let's take a ten-minute break
12 here so that can you go to the rest room. Don't begin
13 deliberating or discuss the case in any way.

14 (Recess taken.)

15 (In open court, jury present.)

16 THE COURT: All right. We will resume with
17 the redirect.

18 REDIRECT EXAMINATION

19 BY MR. GRIMES:

20 Q. Thank you, Your Honor.

21 Mr. Dennis, I want to ask you about four topics,
22 okay?

23 A. Yes, sir.

24 Q. First topic is, there is some talk about warning
25 shots, and how come you didn't shoot the gun up in the

1 air.

2 A. Right.

3 Q. If someone is reaching for a gun, do you think it
4 would be scary to them if they see you pointing the gun
5 in the air?

6 A. Yes, sir.

7 Q. Do you think that would scare them off, by
8 shooting the gun in the air?

9 MS. SHEALY: I think he answered the
10 question.

11 THE WITNESS: Yes.

12 THE COURT: Let him answer the question. All
13 right.

14 BY MR. GRIMES:

15 Q. And that would scare him off? How come you didn't
16 just point the gun up in the air instead of aiming it to
17 the side of Mr. Alford?

18 A. I wasn't thinking clearly. My first response is
19 aiming it beside him, yes.

20 Q. So when you're about two years after the incident,
21 and you're in a nice courtroom, no Quan and Kaylab around
22 you --

23 A. Yes, sir.

24 Q. -- you've reflected upon what you should have
25 done; is that fair to say?

1 A. Yes, sir.

2 Q. But in the heat of the moment, things happen.

3 A. Yes, sir.

4 MS. SHEALY: Your Honor, I object to the
5 leading nature of the questions.

6 THE COURT: Sustained.

7 BY MR. GRIMES:

8 Q. Okay. What was going through your mind at that
9 time?

10 A. At that time, I was scared, at that time, and I
11 was trying to keep him from shooting me.

12 Q. Were you thinking clearly?

13 A. Clearly as I could be. Panicky, scared.

14 Q. Okay. Now, the second topic I want to ask you
15 about is these threats.

16 MS. SHEALY: Objection, Your Honor. There
17 has been no testimony about any threats.

18 THE COURT: There was no testimony about any
19 threats, or no evidence --

20 MR. GRIMES: I was trying to address that.

21 THE COURT: Well, maybe you want to rephrase
22 your question.

23 BY MR. GRIMES:

24 Q. On cross-examination, Ms. Shealy said had anyone
25 asked you, threatened you, put a gun to your head, or

1 anything like that?

2 A. No.

3 Q. Do you remember those questions?

4 A. Right.

5 Q. Can you be intimidated or scared in other ways
6 other than someone putting a gun to your head?

7 A. Yes.

8 Q. What other ways could someone scare or intimidate
9 you?

10 A. By body reaction, face reaction.

11 Q. And if you know, would someone's reputation also
12 have an effect on that?

13 MS. SHEALY: I object to the leading nature.

14 THE COURT: Sustained.

15 BY MR. GRIMES:

16 Q. Now, on June 22nd, right before the shooting
17 happened, who were you with?

18 A. Before the shooting happened, I was at Quan's
19 house.

20 Q. Right before the shooting in the car, who was
21 there?

22 A. Nobody.

23 Q. In the car, who was in the car with you?

24 A. Quan, Kaylab, and the little kid.

25 Q. And what kind of person is Quan?

1 A. Not a nice person.

2 Q. And the third topic I want to ask you about,
3 Ms. Shealy said something about people not being nice to
4 you and being mean. Why did you believe Kaylab was a
5 mean person?

6 MS. SHEALY: Your Honor, I would object. I
7 think all this was covered on direct.

8 THE COURT: Well, it's in response to
9 cross-examination questions, so go ahead.

10 BY MR. GRIMES:

11 Q. Why did you believe Kaylab was a mean person?

12 A. Because he hang around Quan, he look -- got scars
13 in the face, he look -- keep his face mean, like.

14 Q. And why do you believe Quan was a mean person?

15 A. What I heard of him, what I seen.

16 Q. And what have you heard of him?

17 A. I heard he has shot --

18 MS. SHEALY: I object again, Your Honor.
19 This was covered under direct, specifically.

20 THE COURT: Overruled. Go ahead.

21 BY MR. GRIMES:

22 Q. What had you heard about Quan?

23 A. I had heard that Quan had shot -- the guy that
24 shot at Quan's car that night, he had shot his sister.

25 Q. Okay. And the last topic I want to ask you about

1 is sort of the statement and lies Ms. Shealy was asking
2 you about. Do you remember that line of questions?

3 A. Yes, sir.

4 Q. In your statement of June 22, that was a fairly
5 short statement; is that fair to say?

6 A. Yes, sir.

7 Q. When you told Detective Lawrence, I was at my
8 mother's house at 9:00, was that a lie?

9 A. No, sir.

10 Q. And the party where you told Detective Lawrence
11 that you left and went to work, was that a lie?

12 A. No, sir.

13 Q. And at the end when you said I was under arrest
14 and I didn't even know -- and I didn't know what had
15 happened, was that a lie?

16 A. Yeah, that was a lie.

17 Q. Okay.

18 A. That was a lie to saying I didn't shoot him.

19 Q. And when you say you didn't shoot him, you saw the
20 injuries, and we heard the doctor testify. We know
21 Mr. Alford's been shot.

22 A. Yes, sir.

23 Q. So why do you say that you didn't shoot him?

24 A. My intentions wasn't to shoot Mr. Moses.

25 Q. So when you say you didn't shoot him, by that you

1 mean your intent wasn't to hurt him?

2 A. My intent wasn't to hurt him.

3 MS. SHEALY: Objection to the leading nature.

4 THE COURT: Too many people talking at one
5 time. What is your objection?

6 MS. SHEALY: To the leading nature of that
7 question.

8 THE COURT: Sustained.

9 BY MR. GRIMES:

10 Q. When you say you didn't shoot Mr. Alford, what do
11 you mean by that?

12 A. I meant that my intention wasn't to shoot
13 Mr. Alford, but I did shot him, but my intentions wasn't
14 to shoot him.

15 Q. Okay. Do you get confused easily?

16 MS. SHEALY: Objection to the leading nature.

17 MR. GRIMES: It's not leading, Your Honor.

18 THE COURT: It does not suggest an answer.

19 Go ahead.

20 THE WITNESS: At times if I don't understand
21 a question, yes.

22 BY MR. GRIMES:

23 Q. And how far did you go in school?

24 A. Tenth.

25 Q. Now, in your statement on June 29th of 2009 to

1 Detective Lawrence, do you remember that statement?

2 A. Yes, sir.

3 Q. And remember Ms. Shealy asking about whether those
4 were statements and lies regarding that?

5 A. Yes, sir.

6 Q. And the first part of your statement, you said you
7 were at Quan's house and they were telling you about a
8 robbery. Was that a lie?

9 A. That is the truth.

10 Q. And they were talking about a robbery that they
11 were going to do and they would like for you to get in on
12 it. Did you lie about that?

13 A. No, sir.

14 MS. SHEALY: I have an objection to the form
15 of these questions, if we could approach.

16 THE COURT: Well, I sustain your objection.
17 It's not the proper way to ask these questions.

18 BY MR. GRIMES:

19 Q. Do you have a copy of your statement up there?

20 A. No, sir.

21 Q. I'm going to show you what has been marked as
22 State's Exhibit No. 76 and ask you to refer to the second
23 page or the first page of the statement, if you could
24 read that.

25 A. Read it?

1 Q. Just read it to yourself. Let me know when you
2 finish.

3 A. Yes, sir.

4 Q. From what you read, is there anything on that
5 first page that was a lie?

6 A. No, sir.

7 Q. All right. Now, there is a lot of stuff you
8 didn't tell Detective Lawrence.

9 A. Yes, sir.

10 Q. And why didn't you tell Detective Lawrence some of
11 the other stuff that you testified today to?

12 A. At that time, I know Quan and Kaylab was in
13 custody, and we were in the same jail. I was scared that
14 we would meet up with each other and got in a fight or
15 whatever.

16 MR. GRIMES: All right. Thank you,
17 Mr. Dennis.

18 THE WITNESS: Yes, sir.

19 MR. GRIMES: Please answer any questions
20 Ms. Shealy may have for you.

21 MS. SHEALY: Beg the Court's indulgence for a
22 moment.

23 I have no further questions. Thank you.

24 THE COURT: All right. You may step down.
25 Any other witnesses from the defense?

1 give a charge on mere presence on the attempted armed
2 robbery charge only.

3 That was proposed changes that I had made on
4 that, and I will, of course, hear what the state and then
5 the defense wants to say about jury charges. So, Madame
6 Solicitor, you get first shot on telling me what you
7 want.

8 MS. SHEALY: Mr. Finch is handling this
9 aspect.

10 THE COURT: All right. Mr. Finch?

11 MR. FINCH: Thank you, Your Honor. May it
12 please the Court: We were going to object to the duress
13 and coercion. If you propose to remove that, the state
14 is in support of removing the jury charge on coercion and
15 duress. I don't think we have in front of us the mere
16 presence charge.

17 THE COURT: If you believe Mr. Dennis's side
18 of the story, he did not know that there was going to be
19 a robbery ahead of time. He just happened to be there.
20 All right? So that is his story. You can -- the jury
21 can believe it or not, but if so, then as to the armed
22 robbery, that's my thinking on the mere presence charge.
23 They can believe it, they can reject it, but it was his
24 testimony. He was there to buy clothes, and he did not
25 know they were going to commit an armed robbery.

1 MR. FINCH: Our understanding of the
2 testimony is he knew -- he was told there was going to be
3 a robbery, and that when he showed up and handed him the
4 gun and he was further told then to, he's the guy, go do
5 it, this was the robbery that he was then to be a part
6 of. That was his testimony, so, again, we would be
7 opposed to the inclusion of that mere presence charge as
8 to the armed robbery.

9 THE COURT: All right. Do you have anything
10 else on the jury charges?

11 MR. FINCH: Just that -- well, I can wait for
12 the defense -- Court's indulgence, please.

13 Nothing further at this time.

14 THE COURT: Well, I'm looking back at this
15 transcript, and he said that they talked to him about a
16 robbery, and that he frowned and said -- and they had
17 told him, yeah, we're going to rob this guy. You'll get
18 money, drugs, clothes out of the deal, and he did not
19 agree to join them and that he was happy about that and
20 he would at that point just get a ride back to the store
21 with them. That was his testimony.

22 MR. FINCH: That's correct. Up until when he
23 gets to -- up to the store and then they wave him over.
24 According to his testimony, they wave him over, he gets
25 in, he sees the gun, and then they tell him, while at the

1 store, which is a little bit further in his testimony,
2 that there is the -- they hand him the gun, according to
3 his testimony, or they say take the gun. There is the
4 guy. And so at that point he knew.

5 THE COURT: That's what other people -- I
6 don't think he said he got into the car and saw the
7 gun --

8 MR. FINCH: He says that, Your Honor. From
9 my memory he says when he got in -- he didn't see it
10 originally. He saw the guys first, and then he saw the
11 gun, described how the gun looked, confirmed that was the
12 same gun and said that someone in the front seat, I
13 believe it was Kaylab Wright told him, There is the guy
14 and they drove over and parked next to Mr. Alford.

15 It would be at that point that he knew the
16 plan was about to be set in motion.

17 THE COURT: Well, his story is not that
18 they're going to rob him at that point, but they went
19 over there, and that is when he -- one of those other
20 fellows said, Give me your stuff, and that is when
21 Mr. Alford started backing off and went for his gun. But
22 there is not really any evidence, that I see, where
23 Mr. Dennis has admitted that he knew there was a robbery
24 ahead of time.

25 MR. FINCH: Again, the state --

1 THE COURT: He admits there was talk about it
2 but he specifically said -- well, frowned, let them know
3 he didn't want to be part of it, and they said, We don't
4 need you and he thought he was getting a ride to the
5 store. He was happy.

6 MR. FINCH: It would be the state's position
7 when he got in the car and then they say there's the guy,
8 they talked about the robbery previous --

9 THE COURT: And that is certainly an argument
10 you can make, okay? I won't stop you from making that
11 argument.

12 MS. SHEALY: Judge, if you've ruled, I won't
13 go any further but we did find in her notes where the
14 reference was made about there is the man. If I can try
15 to direct that to you.

16 THE COURT: And that could be taken to mean
17 that is the guy we're talking about getting the clothes
18 from. They didn't say that's the man, let's go rob him.

19 MS. SHEALY: But the only conversation they
20 had about him was to rob him. He says --

21 THE COURT: But they had told him they didn't
22 need him. So he might have known that there was a
23 robbery -- he might have thought that there was something
24 going on, but he was not going to be participating in it.
25 You can believe that.

1 I'm not saying it's the strongest argument in
2 the world, but it's evidence, so I'm inclined to give him
3 a mere presence as to the armed robbery charge only. I
4 don't think you get mere presence on the assault and
5 battery with intent to kill. Okay?

6 Let's hear from the defense on jury charges.

7 MR. GRIMES: Thank you, Your Honor. May it
8 please the Court, first we would request a self-defense
9 charge on the ABWIK charge. Mr. Dennis specifically
10 stated he didn't do anything to bring on the
11 difficulties. He stated that after Quan said, Go get the
12 money that -- and he specifically testified that he had
13 no involvement with the robbery, that Mr. Alford ran
14 about 40, 45 feet and started to pull up his jacket and
15 reach for a gun.

16 At that point he testified he was in
17 reasonable fear for his life and safety, and he said he
18 couldn't retreat because when he ducked down, he could
19 have got shot. Based on that, we felt we presented
20 enough evidence that the jury could believe -- that would
21 warrant a charge of self-defense.

22 THE COURT: Well, one of the big problems I
23 have with this self-defense argument is he claims he was
24 not shooting at the victim to save his life. He was
25 shooting at the victim to scare him, and he was quite

1 adamant on that point. He was not doing it to defend
2 himself; in other words, to shoot the victim to stop him
3 from shooting him, but he was shooting to scare him.

4 Arguably, he's a really bad shot. I know
5 Ms. Shealy was arguing at one point you were a really
6 good shot, but I would think, under his theory, he was a
7 really bad shot because he was claiming I wasn't aiming
8 at him.

9 MR. GRIMES: It's the use of deadly force
10 that is the key to self-defense, and when he's firing to
11 scare Mr. Alford, that's the use of deadly force, and the
12 reason he was using deadly force is because he was scared
13 that he may be shot.

14 THE COURT: Well, another point is his --
15 first of all, there is no evidence that the victim shot
16 anybody, and there is no evidence that the victim pulled
17 his gun out, or aimed it.

18 His testimony, the best that I've been able
19 to discern, is that he saw the guy pull his shirt up and
20 reach for his weapon, and that is when he started firing
21 off, so he wasn't --

22 MR. GRIMES: I think you're entitled to act
23 on appearances. It would be a reasonable belief that
24 someone was pulling their shirt up, reaching for a gun,
25 that they would take the gun out and attempt to shoot

1 you. I think the law is you don't have to wait for the
2 other person to get the drop on you, would be one of our
3 jury charges that we have requested.

4 THE COURT: What about the no other way to
5 avoid danger element?

6 MR. GRIMES: I think there were two lines of
7 testimony on that point, Your Honor.

8 THE COURT: That would be what?

9 MR. GRIMES: First, I think on direct
10 examination, Mr. Dennis testified that he didn't run
11 because he was scared of Quan and they might shoot and
12 hurt him, and then on cross-examination, he testified
13 that if he ducked down behind the car that Mr. Alford may
14 shoot him there. And by running, if you increase -- if
15 it increases the danger to yourself, you don't have to
16 retreat.

17 THE COURT: Didn't he testify that Mr. Alford
18 was, in fact, running away?

19 MR. GRIMES: Yes, sir. Basically, he
20 testified he's running 40, 45 feet, and he kind of
21 reached around, pulls up his shirt, and went for his gun.
22 So it sounds like a jury can infer that Mr. Alford ran to
23 get away the three guys.

24 THE COURT: If the victim is running in
25 another direction from where you're at, I don't think

1 it's reasonable to believe he's going to commit an
2 offensive act against you.

3 MR. GRIMES: Sure, if he's just running by
4 himself, we wouldn't be having this discussion. But
5 Mr. Dennis testified he stopped, pulled his shirt up, and
6 reached for his gun, and at that point, running is a
7 defensive act to running to maybe get into an offensive
8 position.

9 THE COURT: But is he -- is a reasonable
10 person of the belief he's in imminent danger of death or
11 serious bodily injury when the victim is going in the
12 opposite direction, and, in fact, he shoots him in the
13 back?

14 MR. GRIMES: Well, Mr. Alford himself
15 testifies, when he was shot first in the arm and it
16 happened so fast because he was turning, he doesn't know
17 how he got shot in the back, so it wasn't like he was
18 running away and got hit in the back.

19 THE COURT: What is the state's position on
20 this?

21 MR. FINCH: The state's position is we would
22 be opposed to the self-defense charge. Not only did the
23 defendant do an overt act to bring this upon himself, he
24 could have stayed in the vehicle. He chose to get out of
25 the vehicle. He chose to get out of the vehicle with a

1 pistol in his pocket.

2 We also find the Court's logic that there was
3 no evidence that he thought a robbery was even going to
4 happen, if he was getting out to look at clothes, there
5 would be no reason for him to bring a gun to look at
6 clothes or look at shoes. He chose to get out of the car
7 first; secondly, get out with a weapon; third, fire it at
8 a man who's retreating by his own testimony.

9 He had plenty of opportunity to go in any
10 direction, put his hands up. He had a multitude of
11 opportunities to choose another route other than deadly
12 force. In fact, from his testimony, that a 45 foot run
13 would take at least seven seconds, just as much time for
14 the defendant to get around the corner into the store,
15 anywhere else, or at least yell, I don't want to shoot
16 you. Where are you going? I'm not part of this;
17 anything, he had a multitude of choices.

18 Instead, he chose deadly force. It just
19 wouldn't be reasonable to think that his life -- or that
20 he was in danger of imminent harm or death.

21 THE COURT: All right. I'm not going to give
22 you the self-defense charge, because, first of all, the
23 defendant was responsible, at least in part, for being in
24 the situation where he was at, and that is he was at
25 fault in bringing about the difficulty in that he was --

1 got out of a vehicle, armed with a gun, under
2 circumstances that strongly suggested a robbery was
3 getting ready to take place.

4 Second, the victim was fleeing. That
5 suggests that he was not in imminent danger, and, also,
6 it all goes to the fact that there were other ways to
7 avoid danger in that if the defendant was -- excuse me,
8 the victim was fleeing, then he could have also fled and
9 avoided the situation, so I don't think he's entitled to
10 self-defense charge.

11 All right? What else do you have?

12 MR. GRIMES: Thank you, Your Honor. Our next
13 request would be the lesser included charge of assault
14 and battery of a high and aggravated nature.

15 THE COURT: How do you get there?

16 MR. GRIMES: I believe this occurred under a
17 heat of passion and sudden provocation. As Mr. Dennis
18 testified, he had the gun in his pocket. He wasn't doing
19 anything to provoke difficulties. He was just there as
20 part of the robbery, and as Mr. Alford is running, he
21 turns around pulls his gun out and starts to shoot --
22 excuse me, he starts reaching for his gun.

23 At that point, Mr. Dennis is in fear for his
24 life. He's scared, he's panicky, takes his gun out and
25 starts shooting. He also testified himself he had no ill

1 will toward Mr. Alford. He was shooting to scare him,
2 and that takes away the malice, so I think the evidence
3 supports a charge of assault and battery of a high and
4 aggravated nature.

5 THE COURT: What is the state's position on
6 that?

7 MR. FINCH: State is opposed to the lesser
8 included. I think shooting a gun is not assault and
9 battery of a high and aggravated nature. It implies the
10 malice element, especially shooting five times at a
11 person, by the defendant's testimony, moving away from
12 him.

13 THE COURT: Well, I agree. The fact that a
14 weapon is drawn and people are shooting does away with
15 the lesser argument of -- that gets you down to assault
16 and battery of a high and aggravated nature. I think
17 your argument goes more to whether or not there was ever
18 any intent to commit an assault in the first place, which
19 you're always going to be able to argue that, so -- but
20 it does not get you to the lesser included offense of
21 assault and battery of a high and aggravated nature.

22 He's guilty of assault and battery of a high
23 and aggravated nature or he's guilty of nothing, at least
24 as to assault, assault of a high and aggravated nature,
25 and assault and battery. All right? What else?

1 MR. GRIMES: Did you say guilty of assault
2 and battery of a high and aggravated nature or nothing
3 but --

4 THE COURT: Yeah, he's guilty of assault and
5 battery with intent to kill or nothing. Okay? But it
6 focuses in on -- I think your argument is more towards
7 whether or not he ever committed the element of assault,
8 which is, of course, assault of a high and aggravated
9 nature, assault with intent to kill, or simple assault.
10 But if he's guilty of any sort of assault, it's assault
11 and battery with intent to kill.

12 MR. GRIMES: Not to argue with the Court, I
13 want to preserve -- I don't have the cases with me, but I
14 think there are a lot of cases that say maybe the murder,
15 in self-defense cases, that if someone is shooting at
16 you, that by itself is almost implicit of a voluntary
17 manslaughter charge because it is in a sudden heat of
18 passion and and legal provocation to warrant a lesser
19 included charge.

20 So by now he's getting ready to pull a gun at
21 you, and you think he's getting ready to shoot you, I
22 think that would warrant a lesser included charge of
23 ABHAN.

24 THE COURT: Well, we disagree, but you made
25 your record. What else?

1 MR. GRIMES: We also would argue for a lesser
2 included charge of strong-arm robbery.

3 THE COURT: How do you get there?

4 MR. GRIMES: Basically, the only evidence in
5 this case would be that Quan said, Give us your money and
6 your clothes, and with two guys there, that would be the
7 intimidation. And under the state's theory, Mr. Dennis
8 is going along with it that would be strong-arm robbery,
9 and it wasn't until the gun wasn't used at all to
10 facilitate the robbery at that point.

11 It wasn't until Mr. Alford ran away, under
12 Mr. Dennis's testimony, that he thought he was going to
13 be shot at that he pulled his gun out and used the gun,
14 so therefore we believe he would be warranted the charge
15 of common law robbery, or attempted common law robbery.

16 THE COURT: Okay. What's the state's
17 position?

18 MR. FINCH: The state's position, I'm opposed
19 to the inclusion of strong-arm robbery, not only --
20 Mr. Grimes said there was no -- or the only evidence was
21 that the defendant came out later and Quan said, Give us
22 the money. Mr. Alford 's testimony was that the
23 defendant actually said, Give us the money, while
24 pointing the gun at him.

25 At that time there is also evidence Trevor

1 Gibbs got out of the car with the gun and then something
2 was said, so there is evidence, and on any evidence
3 standard, there is evidence the gun was out, it was
4 presented. The gun is obviously a deadly weapon, and it
5 was there prior to the pronouncement of any sort of
6 robbery.

7 THE COURT: With Mr. Dennis's side of the
8 story, which I have to suppose they believe, you know,
9 there was no -- I'm trying to remember from direct, was
10 there any evidence? Certainly from Mr. Dennis's story,
11 that the gun came out before Quan said, Give us your
12 clothes and your money?

13 MS. SHEALY: Your Honor, I think the
14 strong-arm robbery charge is probably appropriate.

15 THE COURT: Okay. Well, I was kind of
16 leaning towards that, so I'll give them the strong-arm.
17 Okay. What else?

18 MR. GRIMES: We would also argue for the
19 charge of duress.

20 THE COURT: All right. What is the evidence
21 of duress, other than do you believe that Quan and the
22 other fellow were not nice people and they reminded him
23 of bad actors on TV?

24 MR. GRIMES: Good actor on TV, but a bad
25 character. I think you have the reputation of Quan, him

1 being involved in shootings, hearing that he has shot
2 someone before, knowing that, as he says, these are
3 serious people, that I think it's probably hard for him
4 to put into words, but, you know, threats can be
5 communicated some ways besides just verbal, and it's just
6 Mr. Dennis had sort of a feeling from their body
7 language, their demeanor, their past history, you put all
8 that together that he didn't go along with them, that he
9 was going to get seriously hurt, just like the victim
10 thought.

11 THE COURT: But it all existed in his mind.
12 There were no overt acts by anyone that day. Even by his
13 testimony, he said he frowned and they said, Okay. We
14 don't need you.

15 MR. GRIMES: That's what I mean by his body
16 language. Maybe, you know, he didn't say no, I'm not
17 going to do a robbery, he just kind of gave a frown and
18 they understood that as no.

19 THE COURT: Well, they if they backed down
20 just because he frowned, they must not have been too bad.

21 MR. GRIMES: They said, We don't want to use
22 him because he might not be a good person to use.

23 THE COURT: Under his theory of the story, he
24 frowned, suggesting he didn't want to go along with it,
25 and they said, Okay. We don't need you, and he thought

1 he was going to give him a ride back to the store so he
2 could get a beer.

3 MR. GRIMES: Once they're back in the car, he
4 sees the gun, and thought if they have one gun they must
5 have other guns.

6 THE COURT: Nobody said anything to him that
7 gets him involved in this crime, that forces him against
8 his will. That's just the problem with his story, is
9 that it all existed up in his head.

10 There are no overt actions, no overt spoken
11 words. It was all based on his theory of their prior
12 knowledge and his beliefs that, you know, they were like
13 guys he saw on TV.

14 MR. GRIMES: I think you're right. There is
15 probably no overt language or words that would
16 communicate toward him, but you can communicate that kind
17 of stuff in so many ways. I could communicate my
18 feelings in my body language. If I disagree with the
19 Court's ruling, I roll my eyes sometime and judges --
20 some judges would probably yell at me, although there is
21 nothing on the record that would show me doing anything
22 disrespectful.

23 That is one example. If you're at a bar --

24 THE COURT: But he didn't say they cut their
25 eyes at him, they made suggestive or furtive glances.

1 There wasn't any testimony about that, he just said I
2 knew they were mean people. But there wasn't any conduct
3 that day that manifested that, either verbally or
4 nonverbally.

5 MR. GRIMES: I think one thing that
6 manifested, that he said Kaylab, he had that mean look
7 about him, and it's a question, I believe, for the jury
8 to decide. He testified why, and taking it out of the
9 jury's hands, it's a question of reasonableness, and that
10 is a classic jury question, and it may very well -- all
11 the arguments you're stating may very well be, it's not a
12 reasonable defense, but why the jury may find against him
13 on that, but it's still a reasonable belief that he had,
14 that he sincerely held in -- and it explains why he acted
15 that way on that day.

16 THE COURT: All right. What is the state's
17 position on duress?

18 MR. FINCH: Thank you, Your Honor. Our
19 position is we are opposed to the inclusion of a duress
20 charge to the jury. Like you pointed out, the Court has
21 pointed out, there has been no evidence that the
22 testimony of the defendant has met the elements to
23 necessitate or require a duress defense.

24 There was no testimony about any sort of
25 present, imminent emergency arising without his fault on

1 the part of the defendant. There was nothing -- he
2 testified specifically that he had known these guys.
3 This is kind of their reputation. They weren't nice.
4 This wasn't new information. He chose to put himself in
5 that situation. They didn't all of a sudden turn on him
6 or become these rabidly aggressive people even in the
7 past several days. He just heard that maybe some things
8 had been happening and maybe they weren't nice people.
9 Didn't change his choice to spend time with them or to go
10 hang out with them under the tree there.

11 Also, there is no evidence put forth by the
12 defense that that emergency, even if it did exist, would
13 induce a well grounded apprehension of death or serious
14 bodily harm. That was specifically asked specifically by
15 Ms. Shealy, and he never testified he felt threatened of
16 death or serious bodily harm or anybody said they would
17 do any harm to his family.

18 Also, the third element being a reasonable
19 alternative to committing a charged offense, again,
20 myriad opportunities to choose something, to choose
21 another path. When he got a ride to the Kangaroo, his
22 intention was to go home. He could have asked Quan's
23 grandfather to take him home. He could have not walked
24 over to the car. He could not have put the gun in his
25 pocket. He could not have stepped out of the car. He

1 could have run the other way, myriad opportunities, so
2 even if the first two elements exist, the third couldn't
3 be met simply by the sheer volume of opportunities and
4 chances he had to do something other than fire five shots
5 at Mr. Alford, hitting him three times.

6 THE COURT: All right.

7 MR. GRIMES: We're not asking for a duress
8 charge on the ABWIK, only on the attempted armed robbery.

9 THE COURT: I understand, but I still say
10 there is no evidence upon which to base that charge.
11 There is no spoken or nonverbal acts by the codefendants
12 or anyone else to -- that any juror could base a decision
13 that says he was forced into this.

14 He said he knew their background, their
15 character. They were mean. They even reminded him of
16 some bad characters on a TV show, but nothing they did
17 that, say, threatened him to get involved in this
18 robbery.

19 So I'm not going to give you the duress
20 charge, based on the facts. What else you got?

21 MR. GRIMES: We submitted, I think, requested
22 charge number one, testimony of a witness who --

23 THE COURT: I think that is a comment on the
24 evidence, what you have suggested. You know, I charge
25 the jury that they can -- they are the sole judges about

1 MS. EHRLICH: Trevor Gibbs is a
2 self-described hustler. His cousin Quan, also a hustler,
3 and they, along with their cousin Kaylab decided to rob
4 Moses Alford, and they gave Alonza Dennis the gun just in
5 case something went wrong. Why? Because he's
6 expendable.

7 At the beginning of the case, I told you that
8 Alonza Dennis is a simple guy. He bales straw to make do
9 and catches rides to and from where he needs to go. The
10 state wants you to believe that he was so desperate to
11 get high that he decided to rob Moses at the Kangaroo gas
12 station in broad daylight.

13 The problem with that theory are the
14 McClellanville cousins, Quan, Kaylab and Trevor. You
15 heard Alonza testify today that he didn't steal a gun and
16 try to sell it to those guys, that the gun came from
17 them, and they told him to take the gun, that he didn't
18 have a plan to rob Moses and he didn't try to rob Moses,
19 and that when he did fire a gun, he didn't shoot to hit,
20 he shot to scare.

21 Let's talk a little bit about the
22 investigation. It's a pretty one-sided investigation.
23 There were no steps taken to preserve evidence that may
24 have come from the victim, Moses. They did not do a GSR
25 on him. They allowed a friend of his to drive off with

1 his car. At that point, they don't know what caused the
2 shooting, what was in the car, or what role Moses may
3 have played of the lead detective in the case, Detective
4 Lawrence, did very little to document his efforts to find
5 out the truth. He didn't write one supplemental police
6 report about any of his interactions with Alonza Dennis,
7 despite spending hours with him.

8 Maybe Alonza Dennis is expendable to
9 Detective Lawrence too. Now, you heard a lot of testimony
10 about how Alonza was running through the woods, covered
11 in cobwebs, sweating. Yeah, he ran. He was scared,
12 scared out of his mind of what had just happened. He
13 wasn't exactly sure what he did. He knew he had fired a
14 gun, and he knew at some point that he saw Moses reaching
15 for a gun.

16 You also heard testimony from individuals
17 involved with the K-9 unit, that there were about five of
18 those officers tracking him through the woods, along with
19 at least one dog. So running scared. Yeah, he was
20 running, but running scared doesn't mean he is guilty.
21 Sometimes people run because they've gotten in over their
22 head.

23 You heard from Alonza himself today about how
24 everything happened, that at some point he goes to try to
25 hang out with his friend Murray, but on the way, he runs

1 into Quan and Kaylab. They live on the same street, as
2 his friend Murray, and they wave him over. They start
3 talking about a robbery, and Alonza tells us, today, that
4 he didn't want to do it.

5 He also talked about the reputation of these
6 guys, and we know from Trevor their reputation and he
7 doesn't want to just walk away, so he kind of plays it
8 cool with them. He thinks that maybe if I just play
9 along, everything will work out. So he plays along, and
10 I think he said Kaylab, the guy who Moses describes as
11 belligerent, says something about they don't want to use
12 him. They don't want to use him for this robbery, so
13 Alonza is relieved and he leaves and goes to the gas
14 station.

15 He sits under the oak tree. That is where he
16 sits to try to wait for a ride, and that is when he see
17 the blue Crown Victoria pull up. He waves him over. He
18 thinks he's getting a ride, and he gets into the car.
19 That is when someone tells him, there is the gun, and he
20 puts the gun in his pocket.

21 At this point, he also tells us that he
22 didn't want to participate in a robbery, but he does the
23 same thing he did before and just kind of plays like he's
24 going along with it. He's intimidated by the guys. They
25 may not have threatened him outright, but he knows their

1 reputation and he knows that they're drug dealers and
2 they said they have the one gun. He doesn't know if they
3 have the others.

4 We also heard about Quan and Kaylab looking
5 at the clothing, and Alonza gets out of the car with
6 them. And he testified that it was Quan who said, Give
7 me everything. Give me your money, not him. He doesn't
8 put himself participating in the robbery at all. He
9 doesn't say he was pulling a gun, he doesn't say he was a
10 lookout, and he doesn't say he was there to further their
11 criminal activity. He says that they're the ones doing
12 the robbery. They're the ones who lured Moses there.

13 He also told you that he didn't pull a gun at
14 Moses. He says that he only pulled the gun when Moses
15 was running and goes towards his shirt and looks like
16 he's about to pull a gun as well. And Alonza tells us
17 that he shot the gun, that he didn't mean to hit, he
18 didn't mean to hit. He didn't have the malice to try to
19 hit. He had no ill will towards Moses, had not had any
20 run-ins with him before. There was no reason for him to
21 shoot him.

22 That's the point where Alonza runs, and it's
23 understandable. It's a chaotic scene. He's fired a gun
24 at a Kangaroo gas station in McClellanville, and he also
25 knows the other guys that were there.

1 The state questioned why he didn't say
2 anything when he was first arrested, and he told us why.
3 He said he was scared. He didn't want to be labelled a
4 snitch, and a second statement, a week later when
5 Detective Lawrence pulls him out of jail and he says he
6 didn't deny at that point that Kaylab and Quan had been
7 part of planning a robbery. It was their plan to rob
8 Moses Alford, and he explained it to us today that he
9 knew they were already under arrest and Detective
10 Lawrence already knew what happened.

11 The state questioned why he didn't talk about
12 his fear of these guys, and he gave you an explanation:
13 They're all in the same jail, and he doesn't know what
14 they might do.

15 Let's talk a little bit about Moses. There
16 is no question that this guy went through something on
17 June 22. We all hear the 911 call. We all heard about
18 his injuries, but him getting shot by Alonza is more
19 complicated than it appears. Moses is already on edge
20 before he ever gets to the gas station. He's got the gun
21 because he knows the world I live in. He knows that he
22 could be a target and he needs to be prepared, and he
23 describes to us three red flags: One, the guy in the
24 white shirt gets out of the car, goes into the store, is
25 in there 30 seconds, doesn't buy anything. We assume

1 that's Trevor.

2 Then you've got Quan trying to lure Moses to
3 the back roads of McClellanville and away from the store.
4 That's Quan. And then, three, Quan and Kaylab give each
5 other a look that he describes as meaning here we go, and
6 he gets suspicious of that.

7 That tells me that Quan, Kaylab, and Trevor,
8 the McClellanville cousins, are the ones casing out
9 Mr. Alford. You don't hear anything about Alonza. That
10 is when Moses, scared of Quan, scared of Kaylab, gets his
11 nine millimeter out of the car and arms himself.

12 He describes Kaylab at that point as being
13 rough and belligerent, tossing the stuff around like it
14 was his, like he was trying to start something, like he
15 was the agitator. Their looks alone and their actions
16 scared Moses.

17 At this point, Quan wants some type of
18 shirts. Moses is going in the back seat. He's leaning
19 in and he says that he hears the car door and he can see
20 somebody over his shoulder, but he can't really see much,
21 and that is where he says that Alonza had a gun.

22 We're not here today to come into court and
23 call Moses a liar. What we are saying is that he is
24 mistaken. He gave a description of the gun that was
25 being held, and he said the gun was black. The gun was

1 silver. Maybe it's because the gun never got pulled.
2 He's already on edge, the way Quan and Kaylab are acting.
3 He knows that Kaylab is belligerent. He's already extra
4 suspicious, and he panics and starts running, and that is
5 when he goes for a gun, the nine millimeter that he armed
6 himself with based on the actions of the McClellanville
7 cousins.

8 That's when Alonza tells you that he's
9 scared, and he fired what he described as kind of warning
10 shots, and maybe he didn't fire in the air, but he told
11 you that he didn't have any intention on shooting or
12 hitting Moses Alford. He shot in the direction to try to
13 scare him, but not to try to hurt him, not to try to kill
14 him.

15 We also heard that the headlight got hit. He
16 hit the headlight, not Moses, at some point. He wasn't
17 doing any type of deliberate shooting to try to kill
18 Moses Alford. I think it's interesting to think about
19 kind of how Quan was. Quan sounds like a leader. And
20 then Quan, after setting Moses up, luring him into
21 McClellanville, and getting this robbery started,
22 demanding the money, demanding everything, then he wants
23 to act like, I didn't know what was going on. I can't
24 believe those boys did that. Those boys tried to rob
25 him.

1 We all know that Quan was part of it, but
2 then Quan's friend comes up in a truck and tries to get
3 Moses into the truck, and Moses, from his own words,
4 didn't trust those guys, thought something was going to
5 go down, that they were going to lure him out and kill
6 him, finish him off. That is Quan, not Alonza Dennis.

7 He was so scared of Quan that when the EMS
8 trucks are parked across street, because they won't come
9 on to the property until the police cleared the scene,
10 that he won't accept help from Quan. He would rather
11 wait for EMS. There is no question he went through a lot
12 that day, but out of his own words, he said that he
13 wasn't sure about a lot of things at that moment when he
14 talked to Detective Lawrence, that they were forcing him
15 to remember every detail of a three-minute period.

16 Again, not saying he's a liar at all, but he
17 probably is confused, scared of those guys, thought he
18 saw something he didn't, and that is when he ran.

19 Let's talk a little bit more about Alonza.
20 The state wants you to think that he needed a blast so
21 bad he decided to plan this robbery, go out there, rob
22 this guy, shoot him in the middle of McClellanville in
23 broad daylight. He needed the blast so bad, why doesn't
24 he go get it from his codefendants, Trevor Gibbs, drug
25 dealer, Quan, drug dealer?

1 We heard from Trevor. He has testified that
2 he's unemployed, that he was unemployed a year and a half
3 ago. He describes his way of making money as hustling.
4 Selling drugs. That's his way of life, making money in
5 the streets, always working the next game, looking for a
6 way to make money, find the next victim, out maneuver
7 everybody, and in this case, he was robbing Mrs. Alford
8 and now setting Alonza Dennis up to take the fall for it.

9 Trevor is an admitted drug dealer. He told
10 you he sells crack. He told you his cousin, Quan, sells
11 weed, sells crack. He told us that Quan's car has bullet
12 holes in it because he had been shot at three weeks
13 earlier. There are bullet holes already in that car
14 before anything happened at the Kangaroo gas station. He
15 testified that they all avoid the police, and by they, he
16 means him, Quan, Kaylab, McClellanville cousins.

17 Trevor give gave us some story about Alonza
18 trying to sell him a gun, that nobody buys it, but then
19 somehow I guess he missed a step in how -- when he's
20 trying to sell the gun. The gun magically is in Kaylab's
21 hands when they get to the gas station. Maybe that's
22 because that's not how it happened.

23 Trevor didn't give us any testimony about
24 Alonza pulling a gun. He said something about his lips
25 moving, Moses looked shocked and then Moses reaches for a

1 wallet and we know Moses told you he reached for a gun.

2 Trevor didn't do anything to help. Why?

3 Because he knew he was going to get arrested. He waited
4 until he had a deal set up to start giving his side of
5 everything, a side that puts everything on Alonza Dennis,
6 just like they want it. If anything goes wrong, Alonza
7 will go down for this. He's the odd man out. He's
8 expendable. He's had plenty of time, too, to get his
9 story together, hasn't he? This happened in June of
10 2009. He just gave a statement in January of 2011,
11 plenty of time to try to make his statement add up to the
12 victim's statement, plenty of time to talk to his cousins
13 and make sure they're all on the same page, and plenty of
14 time to get everything lined up real nicely for him and
15 real nicely for the state.

16 He didn't testify out of the goodness of his
17 heart because he feels so bad for Moses. This is a guy
18 who doesn't think twice about even breaking his house
19 arrest order. He comes into court. The judge says you
20 are on house arrest. You cannot go anywhere, and what
21 does he do? He starts putting stuff up on Facebook about
22 going to Myrtle Beach, going to midway, going to the
23 strip club. But if he'll break a Court Order to go to a
24 strip club, who knows what he'll do to stay out of
25 prison?

1 And that is who the state chose to work with
2 in this case, same office, that according to Detective
3 Lawrence, has ordered Charleston County sheriff's office
4 not to videotape their interviews. Trevor wants the
5 state to tell a judge how helpful he is. He wants to
6 save himself and save his cousins from spending up to the
7 next 40 years of their lives in prison, prison life where
8 he doesn't have the freedom to be on the streets
9 hustling, he can't get his mom's cooking.

10 He told you how much he loved his family,
11 looked like he might have teared up a little bit at that
12 point. His loyalty is to his blood and his loyalty is to
13 his streets, and he'll do anything to protect them.

14 You heard me ask him if he wanted his charges
15 dismissed, and he said that would be nice. These guys,
16 the McClellanville cousins, they set Moses up. They
17 brought Alonza Dennis there and knew that if anything
18 went wrong they could blame it on him, but Alonza told
19 you he was there but he didn't participate. He didn't
20 pull a gun. He didn't ask for anything. He didn't
21 demand anything. He wasn't a lookout, and he wasn't
22 trying to help them further their criminal activity, and
23 the only reason that he fired a gun was to scare Moses
24 because Moses was going for his gun and he doesn't have
25 any intention to hit him, no intention to try to kill

1 him.

2 Alonza tried to play it cool with these guys,
3 and it probably backfired on him, but now these
4 McClellanville cousins are trying to continue their
5 hustling into the courtroom to get them out of their
6 mess, their robbery. Don't let them hustle you.

7 MS. SHEALY: May it please the Court,
8 Ms. Ehrlich, Mr. Grimes: You don't get to shoot and
9 wonder later what happened. Ms. Ehrlich said maybe
10 Mr. Dennis got in over his head. He jumped into the deep
11 end.

12 You've been sitting here for three days.
13 You've had the opportunity to listen to the witnesses'
14 statements from the witness stand, and the judge is going
15 to tell you it's your role as the jurors to determine who
16 is believable, what is believable, and there are sort of
17 some shortcuts in this case compared to other cases,
18 because we have Mr. Dennis admitting he is the one who
19 used the gun in that parking lot that day and pointed it
20 right at Moses Alford, although he tells you it was to
21 the side and it just happened to hit him.

22 So that part of the typical struggle in a
23 courtroom doesn't exist, but needing a blast, needing
24 that next hit of crack cocaine is a powerful motivator.
25 It's powerful. That is what makes crack so dangerous.

1 That is what makes it so addictive. You want the next
2 hit, and Alonza Dennis, that day, just as Trevor
3 described, he wanted a blast, and he was irritated
4 because his boss hadn't paid him.

5 Isn't it interesting that Trevor knew that
6 his boss hadn't paid him yet? Trevor told us that. And
7 then Mr. Dennis, when I asked him, said, Oh, yeah, I
8 hadn't gotten paid yet. Trevor Gibbs knew that because
9 Alonza Dennis was in that vehicle not once that day, but
10 twice that day.

11 You can almost picture it: Driving out to
12 McClellanville, convenience store on the side, Alonza
13 with his shorts and T-shirt on, come from raking,
14 supposedly, needing that fix.

15 Now, if you believe that he had just gotten
16 that crack pipe when he was over at Quan's, he got his
17 lessons of how to use it, I doubt you believe that. He
18 had it in his pocket, and he didn't have one or two, but
19 three lighters ready for it. I got to get it. And who
20 does he pursue on the first occasion that day, at the
21 convenience store, rolling in to the Kangaroo in that
22 Crown Vic that is souped up, but the local drug dealers.
23 Surely, I can get some stuff from them.

24 And he gets in there and goes, I got this. I
25 stole it last night. I'll sell it to you for \$50. He

1 needs some money. And remember how La Seto tells him,
2 back off? Maybe it was Trevor, I don't remember, but one
3 of the two of them, when he first comes running over to
4 them, says back off. Heck yeah, they're drug dealers and
5 the police are across the street at Bull's Bay. They
6 don't want a little crack addict walking up to their car.
7 They know the heat will be on. He gets in that vehicle
8 with them. He doesn't go to Murray's house, he goes to
9 Quan's, and under that tree, they start talking about the
10 robbery, if you believe one version, or he starts talking
11 about the robbery, if you believe a different version.

12 Because you remember that Trevor indicated
13 that as Quan and Moses are on the phone together, it's
14 Alonza that says, Let me jump, let me jump. I could get
15 that mental image in my head very easily. He thinks I
16 could get some money, or if you believe what he told you
17 today, they had already planned to do it, but who is
18 they? They was Quan and Kaylab, according to Alonza, not
19 Trevor. Trevor was one of the young kids not
20 participating in the conversation.

21 But either way you have it, he had armed
22 robbery on his mind and he wanted money, and he wanted
23 clothing and he wanted drugs. And when you think about
24 it, when you think about it, who is the most likely to do
25 something so crazy in broad daylight on Highway 17 but a

1 crack addict, wanting the next fix. He told you --
2 excuse me.

3 He told them, I got it. I got it last night
4 and I stole it. What did Deputy Caulfield testify to?
5 The gun was reported stolen. He had that armed robbery
6 on his mind. He was excited about it. He was jacked.
7 He was ready to go, and then disappointment, if you
8 believe what he said. Kaylab was like, Whoa, we don't
9 need you. That's according to him.

10 According to Trevor, they were like, We don't
11 want you coming in here talking about robbing someone.
12 Maybe Trevor didn't know what Kaylab and Quan had going
13 on, but any way you look at it, when the vehicle, the
14 Crown Vic, leaves that house, that man is not in the car.
15 He's itching to be involved. He wants to be involved.
16 Armed robbery.

17 And so he catches a ride with Quan's
18 grandfather. He gets himself up to that Kangaroo, and as
19 Trevor told us, he comes up to that car. He gets in that
20 car.

21 Now, Moses often told us, as Trevor told us,
22 that car goes from the pumps to around where Moses is.
23 There is no meandering in the parking lot to pick up
24 Alonza Dennis like he told you. That's ridiculous. They
25 go straight over there, and what is interesting is Trevor

1 and Moses -- let's pause for a second and think about
2 Moses. I bet if we were to ask Moses, he would say put
3 them all in prison. Put them all in prison, so don't you
4 think that if Kaylab and La Seto were out there at the
5 time of the shooting he would be screaming from the
6 mountain tops? But they weren't. They got out to look
7 at the clothes, and I think Kaylab's behavior is
8 suspicious. Rummaging, being rude, getting back in the
9 car. I can see why the red flags were going off, but
10 Trevor tells you the same thing.

11 Kaylab gets out. Kaylab comes back in, but
12 there is some details we do get from Trevor that kind of
13 puts all the pieces together. Kaylab gets back in the
14 car and says, I don't want what he's got. He's got shoes
15 with Spiderman. I guess Kaylab is too cool for that, and
16 what is happening in the back? Alonza, getting kind of
17 fidgety, saying, Give me my gun.

18 Now, if Trevor were here to help Kaylab, he
19 sure as heck wouldn't tell him Kaylab had the gun in the
20 front seat. That makes absolutely no sense that he could
21 come in here and make that up. He doesn't know when
22 Kaylab got that gun. He knows this is the gun that
23 Alonza was showing, and he knows that in the front seat
24 Kaylab hands it back to Alonza when Alonza asks for it.
25 And what does Kaylab say? You're a grown man. Stupid on

1 Kaylab's part. Unfortunately, hugely unfortunate, but he
2 does.

3 La Seto and Kaylab were not out of the car at
4 the same time that Alonza was. Moses tells us that, and
5 Trevor tells us that.

6 Now, you're going to be asked to look at the
7 demeanor and decide the believability of the witnesses.
8 You saw Moses Alford testify, and, as I said before, he
9 wants these guys off the street. If there were any
10 reason to -- in any way La Seto or Kaylab were out at the
11 time that this took place, why wouldn't he say that?
12 Because it didn't happen. That didn't happen. It's just
13 like Trevor said.

14 Alonza starts feeling like the big man. This
15 is my chance. The gun's in here. They're dilly-dallying
16 around. Give me my gun, give me my gun. And he gets out
17 of that vehicle, and he turns this weapon, never had put
18 it in his pocket, he turns this weapon on Moses and
19 starts to shoot.

20 That gun is pulled, and what did Trevor tell
21 us? Again, if Trevor were trying to make up stuff,
22 wouldn't he have said that he heard Alonza say, Give me
23 everything? That would make his story beautiful. But he
24 says he didn't hear that. He could see Alonza's mouth
25 moving. But I'll tell you who didn't: Moses Alford.

1 There is no question that when Moses Alford
2 goes for his weapon, he had absolutely every right to do
3 so, but please don't be mistaken: That doesn't happen
4 until he is being robbed and he has a gun and he's
5 looking down the barrel of it. And I don't want to point
6 this toward y'all, but as a reminder, he wants to make a
7 big deal about this was a black gun.

8 Ladies and gentlemen: He describes it as a
9 small barrel and a smaller caliber perfectly, and,
10 anyway, her client says it's the gun.

11 What is interesting about the statements that
12 are given, I think, show a pattern with Alonza. Alonza
13 is all trying to say just enough to get the heat off of
14 him, just enough to get out of trouble, and so that first
15 time when he tells where he had been earlier in the day,
16 you see Alonza by the last statement, the last sentence
17 of the statement: I got back to McClellanville at about
18 3:30, and next thing I knew, I was under arrest, and I
19 didn't know what happened.

20 He thought that might fly. He didn't know
21 they were going to find the gun. He didn't know that
22 Moses Alford was as bright as he is and could remember
23 the details. And then on the 29th, and you'll have both
24 of these statements back there with you, on the 29th, he
25 knows at that point that others are arrested and I'm

1 arrested.

2 This is his chance with Detective Lawrence.

3 This is my chance to tell my story, and Detective
4 Lawrence gave him state forms. Have at it. Not one
5 time, not one time, not a hint of whoa, I was scared of
6 those guys. I was scared. He doesn't say it once.

7 And the best he can do today -- let me say
8 this: Regarding this statement, though, he notches it up
9 a little bit and does say, I only shot him because I
10 didn't want him to shoot me.

11 Again, telling what he thinks is just enough
12 to keep him out of trouble. So the lights go on, the
13 trial is scheduled, that's not flying, and he takes the
14 stand and now today says, Whoa, those guys are mean.
15 They got bad reputations, so what I'm going to do is
16 pursue them, join them, get in the car, see the gun, take
17 it out, and shoot at that man that I don't have a problem
18 with in the world.

19 Whoa, they're mean. They look bad. I'm not
20 going to run to the left. I'm not going to run to the
21 right to avoid the problem. I'm not going to run through
22 the trees in front of me or behind me. Instead, in this
23 parking lot, at a convenience store, I'm going to take
24 this weapon and I'm going to try to get my money and my
25 clothes.

1 But that wasn't successful. Bam. Five shots
2 towards Moses, and that shot, one of the shots, nails
3 that lamp in the front of the car. He hasn't described
4 to you where people were. Take a look at the pictures
5 when you get back there. The blood trail is exactly,
6 exactly, where Moses Alford tells you it is.

7 He had a total disregard, a total disregard
8 for human life. It was a gun, and his attorney, after I
9 crossed him, was trying to clarify that with him.
10 Mr. Grimes said, now, were you thinking that a -- do you
11 think that a shot up in the air could be a warning shot?
12 Do you think that could be a warning shot?

13 Alonza didn't give him the right answer.
14 Alonza knows that would be a warning shot. You don't get
15 to take a gun and shoot it at someone. I would invite
16 you to look at everything we have, and like I said
17 before, it's not a situation where we have to worry too
18 much about gunshot residue or where he was found, but
19 let's think about the fact that he fled like crazy.

20 He got out of there. What does it say about
21 what happened when he flees when he's worried about
22 himself? But he doesn't flee under this preposterous
23 story he presented today, when Moses Alford is involved.

24 Look at everything. Look at all the
25 evidence, and you will see, like I told you in the

1 opening statement, Moses Alford had planned that day. He
2 was going to go meet with his new driver, head back to
3 Georgetown, stop and maybe sell some T-shirts, and
4 instead, he's on the other end of this barrel. The man,
5 holding a gun, with no regard for human life, a man
6 thinking about himself, what he wanted.

7 He told you, afterwards his adrenaline was
8 pumping. He was getting through those woods, but we
9 found the gun. We found the gunshot residue. We have
10 the projectiles, one coming from the colon and stomach
11 area of Moses Alford.

12 Think about Trevor. When you think about
13 Trevor, recognize this: I'm not nominating Trevor, La
14 Seto, or Kaylab for citizen of the year, make no mistake
15 about it, and each of those guys will face the
16 consequences, but when it comes to Trevor, he's the one
17 guy that nobody says was talking about an armed robbery.

18 And he's the one guy Moses and Alonza can't
19 even identify in the lineup, so yes, Trevor is going to
20 be the one we bring in here. I sure am not bringing in
21 La Seto and Kaylab, but when you evaluate all the
22 evidence, I ask that you do this: Ms. Ehrlich has been
23 using the word expendable. There is only one person,
24 only one person who thought that someone was expendable,
25 and Alonza Dennis was that person. He believed that

1 Moses Alford was just expendable.

2 Thank you very much.

3 THE COURT: Okay, folks. You've heard now
4 the closing arguments, all the evidence, and it's now my
5 duty to charge you on the law that you are to apply to
6 the facts as you find them. You're the finders of the
7 facts in the case, so we will accept whatever you decide
8 are ultimately the facts that you have heard.

9 There is a dispute. You resolve them, and we
10 live with whatever you resolve factually; however, you
11 are bound under the oath that you took at the beginning
12 of the trial to now accept the law as I charge you,
13 whether or not it is the law that you believe it should
14 be or wish it were or were under some misconception about
15 what you think the law should be.

16 Under our laws and the constitution of our
17 state, you and you alone are finders of the facts, and
18 I'm not permitted to indicate to you how I might feel
19 about the facts, so if there something that I've said or
20 done throughout the trial that indicates to you that I
21 have an opinion about the facts of this case, then you
22 should disregard that. You must weigh the evidence
23 entirely and independently on your own and render a
24 verdict based solely on the evidence that you have heard
25 in this trial.

1 Now, I will remind you, the fact that the
2 defendant was arrested, charged, and indicted in this
3 case is not evidence in this case and cannot be
4 considered by you as evidence of guilt in this case, nor
5 does it create any presumption of guilt or any inference
6 of guilt. The documents, the indictments, that I told
7 you about at the beginning of the trial are simply the
8 formal written instruments which contain the charges made
9 against the defendant, and, again, it puts him on notice
10 of what he is to stand trial for and is the formal
11 documents by which this case is brought under the
12 jurisdiction of this Court.

13 So, again, there were three indictments, and
14 the first indictment was 2009 GS-10-1881. This was the
15 charge of attempted armed robbery. Second indictment,
16 2009 GS-10-8108 was for assault and battery with intent
17 to kill, and then the third indictment is 2009
18 GS-10-8112, possession of a firearm during the commission
19 of a violent offense.

20 And I see some of y'all scribbling furiously.
21 You don't have to write that down. I'll give you those
22 things. In fact, I'll give you a copy of my instructions
23 so you don't have to do anything but listen at this
24 point. Each of these indictments contain a separate and
25 a distinct offense, and so you must decide each

1 indictment entirely on the evidence and the applicable
2 law, uninfluenced by your decision as to any other
3 indictment.

4 The defendant may be convicted or acquitted
5 on any or all of the offenses charged, and you will be
6 asked to write a separate verdict of guilty or not guilty
7 on each of the indictments.

8 Now, I will remind you, the defendant has
9 pled not guilty to these indictments and so that
10 therefore casts a burden on the state to prove the
11 defendant is guilty beyond a reasonable doubt. A person
12 charged with a crime in this state is never required to
13 prove himself innocent.

14 Now, this is an important rule of law in this
15 country. A defendant in a criminal trial will always be
16 presumed to be innocent of the crime for which he is
17 indicted, unless and until his guilt has been proven by
18 evidence satisfying you of that guilt beyond a reasonable
19 doubt. Now, this presumption of innocence isn't just a
20 mere legal theory. It's not just a legal phrase. This
21 is a substantial constitutional right to which every
22 defendant is entitled and this presumption of innocence
23 accompanies the defendant from the time he is charged
24 throughout the trial and until you reach a verdict of
25 guilt based upon evidence satisfying you of that guilt

1 beyond a reasonable doubt.

2 And the defendant has a burden of proving,
3 again, beyond a reasonable doubt, so some of you may have
4 served as jurors in civil cases where you were told it's
5 only necessary to prove that a fact is more likely true
6 than not true, also known as the greater weight or the
7 preponderance of the evidence. In a criminal case, the
8 state's proof has to be more powerful than that. It has
9 to be beyond a reasonable doubt.

10 Proof beyond a reasonable doubt is proof that
11 leaves you firmly convinced of the defendant's guilt.
12 There are very few things in this life that we know with
13 absolute certainty, and in criminal cases, the law does
14 not require that proof that overcomes every possible
15 doubt. If based on your consideration of the evidence
16 you are firmly convinced that the defendant is guilty of
17 the crime charged, then you must find the defendant
18 guilty.

19 On the other hand, if you find that there is
20 a real possibility that the defendant is not guilty, you
21 must then give the defendant that benefit of the doubt
22 and find him not guilty.

23 Now, we have two types of evidence in a
24 trial. There is direct evidence, and there is
25 circumstantial evidence. Direct evidence is the

1 testimony of a person who claims to have actual knowledge
2 of the facts, such as an eyewitness. It is evidence
3 which immediately establishes a fact which is attempted
4 to be proved. Circumstantial evidence is proof of a
5 chain of facts and circumstances which indicate the
6 existence of a fact. It's evidence that immediately
7 establishes collateral facts from which the main fact may
8 be inferred. Circumstantial evidence is therefore based
9 on inference and not on personal knowledge or
10 observation, like direct evidence is. The law makes
11 absolutely no distinction to be given either direct or
12 circumstantial evidence, nor is there any greater degree
13 of certainty required of circumstantial evidence than
14 there is of direct evidence.

15 You should weigh all of the evidence in the
16 case, and after weighing all of the evidence, if you're
17 not convinced of the guilt of the defendant beyond a
18 reasonable doubt, you must then find the defendant not
19 guilty.

20 Now, during the trial, a statement was
21 alleged to have been made by the defendant that was
22 admitted into evidence in this case. And while the Court
23 determined that this statement is admissible, I must now
24 instruct you that you must make the ultimate decision as
25 to whether or not the defendant made this statement, and

1 if the defendant did make the statement, you must
2 determine then whether the statement was made by the
3 defendant voluntarily and of his own free will. This
4 means the statement was not caused by pressure, force,
5 fear, threats, coercion, or intimidation or by hope or
6 promise of leniency or reward of any kind.

7 In determining whether or not the statement
8 was voluntary, you should consider both the
9 characteristics of the defendant and the details of the
10 question. Some of the considerations of the factors that
11 you can consider are such things as the age of the
12 defendant, the defendant's education or lack of
13 education, the defendant's mental ability or capacity,
14 the defendant's IQ or intelligence, the defendant's
15 background and environment, the place and length of
16 detention, the nature of the question, the advice or lack
17 thereof of the defendant of his constitutional rights,
18 including but not limited to the right to remain silent,
19 that any statement could be used against him in a court
20 of law, a right to have a lawyer present and that if he
21 couldn't afford a lawyer, a lawyer would be appointed to
22 represent him without any cost, and that he could stop
23 making a statement at any time.

24 You must carefully consider all of the
25 surrounding circumstances before you give any weight to

1 an alleged statement. The state again has the burden of
2 proving beyond a reasonable doubt that the alleged
3 statement was voluntary. If you determine it was, you
4 may give the statement any further consideration that you
5 deem proper. You must decide what weight, if any, should
6 be given to the alleged statement, and if you determine
7 the alleged statement was not a free and voluntary
8 statement of the defendant, you should not consider the
9 statement at all.

10 Now, as the fact finders, that necessarily
11 means you must determine the credibility of the witnesses
12 who have testified in this case, and credibility simply
13 means believability. It becomes your duty as jurors to
14 analyze and evaluate the evidence and determine what
15 evidence convinces you of its truth. In determining the
16 believability of witnesses who have testified in this
17 case, you may believe one witness over several witnesses
18 or several witnesses over one witness. You may believe
19 part of the testimony of a witness and may reject the
20 remaining part of the testimony of that same witness.
21 You may believe the testimony of a witness in its
22 entirety or reject the testimony of a witness in its
23 entirety.

24 You can consider whether any witness has
25 exhibited to you any interest, bias, prejudice, or other

1 motive in the case, and you can also consider the
2 appearance or manner of a witness while on the witness
3 stand.

4 You also heard evidence that the defendant
5 was convicted of a crime other than the one for which he
6 is on trial. This evidence may be considered by you if
7 you conclude it is true only in deciding whether the
8 defendant's testimony is believable and for no other
9 purpose. You must not consider the defendant's prior
10 record as any evidence of the defendant's guilt of the
11 charges we're trying today. I also explained to you
12 during the trial that our rules of evidence don't
13 ordinarily permit witnesses to testify about opinions or
14 conclusions, but we do make an exception for those
15 witnesses we call expert witnesses, and that's a witness
16 who because of education or experience has become an
17 expert in some art, science, or profession or calling,
18 and they may state an opinion as to relevant, material
19 matter in which the witness claims to be an expert, and
20 they can also state their reasons for that opinion.

21 You should consider any expert witness
22 received in evidence in this case, and, like any other
23 evidence, give it the weight you think it deserves. If
24 you decide the opinion of an expert witness isn't based
25 on sufficient education or experience or if you conclude

1 that the reasons given in support of the opinion aren't
2 sound or that opinion is outweighed by other evidence,
3 you can disregard that opinion entirely.

4 An expert witness's testimony is to be given
5 no further weight than that of any other witnesses simply
6 because that witness is an expert, and, further you're
7 not required to accept an expert witness's opinion, even
8 if it's uncontradicted.

9 Now, the first indictment, what I want to go
10 over with you, charges the defendant with attempted armed
11 robbery. An attempt is an attempt -- is an effort to
12 accomplish a crime which does not succeed. An attempt
13 includes a specific intent to do a particular act, along
14 with an act falling short of the act intended. The state
15 must show more than mere preparation and intent. There
16 has to be some overt act committed in the effort to
17 commit the crime.

18 Intent means intending to result which
19 actually occurs, not accidentally or involuntarily.
20 Intent may be shown by acts and conduct of the defendant
21 and other circumstances from which you naturally and
22 reasonably infer intent. In order to improve this
23 offense, the state must first prove beyond a reasonable
24 doubt that the defendant attempted to take personal
25 property from the person or presence of another person.

1 Property is defined as the -- property is in
2 the presence of a person if it's within the person's
3 reach, inspection, observation, or control so that the
4 person could, if not overcome with violence or prevented
5 by fear, keep possession of the property. The state must
6 also prove beyond a reasonable doubt that the defendant
7 attempted to carry the property away, intending to
8 permanently deprive the owner of the property, and to
9 keep the property for the defendant's own use.

10 The attempt at even a slightest removal of
11 the property or the complete possession of the property,
12 even if for an instant by the defendant is sufficient to
13 show a taking and carrying away of the property. The
14 attempted taking and carrying away of the property must
15 have been done with violence or by putting the owner of
16 the property in fear of violence.

17 And then, finally, the state must prove
18 beyond a reasonable doubt that the defendant was armed
19 with a deadly weapon during the attempted robbery. A
20 deadly weapon is any article, instrument, or substance
21 which is likely to cause death or great bodily harm.
22 Whether an instrument has been used as a deadly weapon
23 depends on the facts and circumstances of the case.
24 Following examples -- the following are examples
25 instruments which may be deadly weapons: Pistol,

1 shotgun, rifle, dirk, dagger, a knife, a slingshot, metal
2 knuckles, or razor. A gun may be a deadly weapon even if
3 it's not operating.

4 Now, if you do not find that the state has
5 met its burden of proving the defendant is guilty of
6 attempted armed robbery, you can consider whether or not
7 the defendant was guilty of the lesser included offense
8 of attempted strong-arm robbery. All right? Attempted
9 strong-arm robbery is the attempted taking of something
10 of value from a person or in the immediate presence of
11 another by violence or intimidation.

12 When determining whether the robbery was
13 committed with intimidation, you should consider -- or
14 you should determine whether an ordinary, reasonable
15 person in the victim's position would feel a threat of
16 bodily harm for the perpetrator's acts. So for you to
17 find the defendant guilty of attempted strong-arm
18 robbery, the state must prove beyond a reasonable doubt
19 that the defendant attempted to take property from the
20 person or the possession -- from the person of another or
21 in his presence.

22 It not only must be the attempt at taking
23 without the consent of the owner, it must be accomplished
24 by violence or by putting the person in fear, and this
25 violence must be actual, personal violence or the threat

1 of it, and the degree of force used is immaterial so long
2 as force or threat of force is actually sufficient to
3 overcome the victim's resistance. This violence or
4 intimidation must either precede or be contemporaneous
5 with the taking.

6 Now, as to the charges of attempted armed
7 robbery and attempted strong-arm robbery, the defendant
8 has raised the defense of mere presence. Mere presence
9 at the scene is not sufficient to prove somebody guilty
10 of a crime. The defendant's presence where a crime is
11 being committed or mere association with the person who
12 commits a crime does not make a defendant an accomplice
13 or an aider or abetter of the person committing the
14 crime. The burden is on the state to prove every element
15 of the crime charged.

16 If you find after reviewing all of the
17 evidence that the state has proved the defendant was only
18 present at the scene of the crime or that they have not
19 proved beyond a reasonable doubt any other participation
20 in the crime, then you must find the defendant not
21 guilty. The law is that presence at the scene of the
22 crime is not sufficient to find somebody guilty.

23 Now, the second indictment that I want to
24 talk to you about is a charge of assault and battery with
25 intent to kill. In order to prove assault and battery

1 with intent to kill, the state must prove beyond a
2 reasonable doubt the defendant committed an unlawful act
3 of a violent nature to the person of another with malice
4 aforethought.

5 An assault occurs when a person unlawfully
6 attempts or offers to commit a violent injury upon
7 another person and had the present ability to complete
8 the attempted injury. An assault is an intentional
9 creation of a reasonable fear of immediate bodily harm.
10 It is not necessary that the attempted injury or harm
11 actually take place.

12 For example, if I walk up to you and we are
13 within arm's reach, I draw back to hit you, that is an
14 assault. A battery is an unlawful touching of another
15 person by a person who has committed the assault. An
16 unlawful touching can be caused by part of the accused's
17 body or by any object the accused puts in motion.

18 The battery is the completion of the assault
19 by using or applying force to another person, however
20 slight, in a rude, angry, or resentful manner without
21 justification for doing so. Using my earlier example, if
22 I carry through on the assault by hitting you, then that
23 is a battery.

24 Now, malice is hatred, ill will, or hostility
25 towards another person. It is the intentional doing of a

1 wrongful act without just cause or excuse and with the
2 intent to inflict an injury or under circumstances that
3 the law will infer an evil attempt.

4 Malice aforethought does not require that
5 malice exists for any particular time before the act is
6 committed, but malice must exist in the mind of the
7 defendant just before and at the time the act is
8 committed. Therefore, there must be a combination of the
9 previous evil intent and the act.

10 Malice aforethought may be expressed or
11 inferred. Using the terms expressed or inferred do not
12 mean different kinds of malice, but merely the manner in
13 which malice is shown to exist. That is, either by
14 direct or by inference from the facts and circumstances
15 which are proved.

16 Express malice is shown when a person speaks
17 words which express hatred or ill will for another or
18 when the person is prepared beforehand to do the act
19 which was later accomplished.

20 For example, lying in wait for a person or
21 any other acts of preparation going to show that the deed
22 that was in the defendant's mind would be expressed
23 malice. Malice can be inferred from conduct showing a
24 total disregard for human life. A deadly weapon, again,
25 is any article, instrument, or substance which is likely

1 to cause death or great bodily harm, and, again, whether
2 an instrument has been used as a deadly weapon depends on
3 the facts and circumstances of the case, and I'll give
4 you the same examples that I did before of deadly
5 weapons: A pistol, a shotgun, a rifle, a dirk, a dagger,
6 a knife, slingshot, metal knuckles, razor, gasoline, fire
7 bomb, Molotov cocktail, light fluid. A gun may be a
8 deadly weapon even if it's not operating.

9 If the facts are proven beyond a reasonable
10 doubt sufficient to raise an inference of malice to your
11 satisfaction, this inference would simply be an
12 evidentiary fact to be considered by you along with other
13 evidence of the case, and you may give it the weight you
14 decide it should receive.

15 A specific intent to kill is not an element
16 of assault and battery with intent to kill, but there
17 must be a general intent to commit serious bodily injury.
18 An intent means intending the result which actually
19 occurs, not accidentally or involuntarily. Intent may be
20 shown by acts or conduct of the defendant or other
21 circumstances from which you may naturally and reasonably
22 infer intent.

23 Evidence of the character of the assault, the
24 character of the instrument used, the manner in which it
25 was used, the purpose to be accomplished, and the

1 resulting wounds or injuries may be considered in
2 determining the intent with which the assault was
3 committed. Intent may be inferred when it is
4 demonstrated that the defendant voluntarily and willfully
5 commits an act, an actual tendency of which is to destroy
6 another's life.

7 The final and third indictment that I want to
8 talk to you about charges the defendant with possession
9 of a weapon during the commission of or attempting to
10 commit a violent crime.

11 The state must prove beyond a reasonable
12 doubt that the defendant was in possession of a firearm
13 or visibly displaced what appeared to be a firearm during
14 the commission of a violent crime. A firearm means any
15 machine gun, automatic rifle, revolver, pistol, or any
16 weapon which is designed to or may be readily converted
17 to expel a projectile.

18 In order to find the defendant guilty of
19 possession of a weapon during the commission of a violent
20 crime, you must first find the defendant guilty of either
21 committing a violent crime or attempting to commit a
22 violent crime, and I charge you that assault and battery
23 with intent to kill and attempt armed robbery are violent
24 crimes.

25 Now, in determining the guilt or innocence of

1 the defendant, you may not consider any possible penalty
2 for a particular crime. Punishment for a crime is a
3 matter for me to determine and should never be considered
4 by you in any way whatsoever in arriving at a fair and
5 impartial verdict as to the guilt or innocence of the
6 defendant. And, finally, your verdict must be unanimous
7 as to each of the indictments.

8 So, Mr. Foreman, this is where you get to
9 earn your pay. There are three charges, and there are
10 four possible verdicts because, you recall, the attempted
11 armed robbery, you could find guilty or not guilty of
12 attempted armed robbery. If you find not guilty of
13 attempted armed robbery, you can consider the lesser
14 included offense of attempted strong-arm robbery.

15 So the verdict has the indictment for
16 attempted armed robbery first. If the jury unanimously
17 determines that the state's met their burden of proof,
18 then you check the block that says guilty of attempted
19 armed robbery. If you find him not guilty, you check
20 that block not guilty, sign it, and date it.

21 If you check not guilty, you can then
22 consider the next possible verdict, which is for
23 attempted strong-arm robbery, and, again, your choices
24 are guilty and not guilty, sign it, and date it.

25 So just to clarify that, if you find the

1 defendant guilty of attempted armed robbery, you don't
2 consider attempted strong-arm robbery. Okay?

3 So the second indictment then is for assault
4 and battery with intent to kill, and your two possible
5 verdicts are guilty of assault and battery with intent to
6 kill or not guilty, so whatever the jury unanimously
7 decides, sign and date it, and then your third and final
8 indictment is the one for possession of a weapon during
9 commission of a violent crime; again, two possible
10 verdicts, guilty and not guilty. Whichever one the jury
11 unanimously decides, you sign it and date it. Once you
12 have reached a verdict on all three, let the foreman or
13 the bailiffs know, and we will come back and receive your
14 verdict.

15 Now, I have given you the charge. I'll send
16 you back. Don't begin your deliberations just yet. I
17 have to give the lawyers the opportunity to say if I
18 misspoke something, and we get the evidence together.
19 When we send the evidence back with the verdict form, the
20 bailiffs will tell you the judge says it's okay to begin
21 deliberations. Just a formality and takes a couple
22 minutes, so don't begin deliberations until just then.
23 And we will also need to separate the two alternates at
24 this time. Okay?

25 (In open court, jury not present.)

1 THE COURT: Anything from the state?

2 MS. SHEALY: No, sir.

3 THE COURT: From the defense?

4 MR. GRIMES: I think we have to renew our
5 prior objection.

6 THE COURT: Okay. Anything other than that?

7 MR. GRIMES: No, sir.

8 THE COURT: Any objection to me sending a
9 copy of my written charges back to the jury?

10 MS. SHEALY: No, sir.

11 MS. EHRLICH: No, sir.

12 THE COURT: All right. Let's get these
13 together and we'll send it on back.

14 (At 5:13 p.m., the jury begins
15 deliberations.)

16 THE COURT: Bring the jury back in.

17 (7:48 p.m., in open court, jury present.)

18 THE COURT: All right. Mr. Foreman, I
19 understand the jury has reached a verdict; is that
20 correct?

21 THE FOREPERSON: Yes, Your Honor.

22 THE COURT: And it's unanimous as to all
23 three?

24 THE FOREPERSON: Yes.

25 THE COURT: Would you hand it to the bailiff,

1 please. Thank you. All right.

2 Verdict as to the charge of attempted armed
3 robbery on indictment 2009 GS-10-8113 is not guilty; on
4 the lesser included of attempted strong-arm robbery, not
5 guilty; on indictment 2009 GS-10-8108, assault and
6 battery with intent to kill, guilty; and on 2009
7 GS-10-8112, possession of a weapon during the commission
8 of a crime, the verdict is guilty.

9 If that is, in fact, your verdict on all
10 three charges, would each of the jurors raise your right
11 hand? All right. Let the record indicate that each of
12 the jurors have raised their right hand indicating that
13 was their verdict.

14 All right, folks. Well, I'm going to thank
15 you for your service in this case and for the week.
16 We're going to start another case tomorrow afternoon, but
17 I'm not going to require that you come back. You've done
18 more than enough service this week, and I always have a
19 great deal of faith in what the jury does, not that I
20 comment on your verdict one way or the other, but that
21 you listened attentively to what we do, and you clearly
22 spent time deliberating.

23 This was not a rushed verdict. By my count
24 you were out for two, three hours, so, you know, people
25 take this job seriously when they get it. I know

1 right. Anything else?

2 MR. GRIMES: No, sir.

3 THE COURT: Okay. Madame Solicitor, what
4 would you like to tell me?

5 MS. SHEALY: Your Honor, if I may, I would
6 like to hand up the notice of intention to seek a
7 sentence of life without parole that has been previously
8 served upon the defendant and also the certified
9 convictions from the state of New York regarding his
10 criminal sexual conduct in the first degree.

11 (Defendant's criminal history, New York
12 certificate for conviction on CSC, and notice of state's
13 intention to seek life without parole marked for
14 identification as Court's Exhibit Nos. 5, 6, 7, 8, and
15 9.)

16 MS. SHEALY: Would you like me to tell you
17 the rest of his record? I think we went over it in
18 court, but he does have magistrate level disorderly and
19 trespassing, but in 1984 he also had a criminal sexual
20 conduct charge in the third degree, in addition to the
21 New York conviction for criminal sexual conduct in the
22 first degree.

23 He also has a conviction for failure to
24 register on the sexual offender registry, and then
25 subsequent to that, a grand larceny and the shoplifting.

1 I've asked the victim if he -- I was advised that the
2 victim does not wish to say anything further.

3 THE COURT: Okay. All right. From the
4 defense?

5 MR. GRIMES: First, as to the life without
6 parole issue, at this point all the state has done is
7 just hand up certified convictions. They haven't shown
8 that is a recommendation asking for Mr. Dennis. There
9 are a number of Alonza Dennises. We need more proof for
10 that.

11 Second of all, assuming the Court found there
12 was adequate proof, they haven't shown the way he was
13 convicted under in 1987 New York law meets the elements
14 of what would be a strike offense under South Carolina
15 law.

16 So at this point I don't think they've made
17 an adequate showing to warrant a life without parole
18 sentence in this case.

19 THE COURT: All right. Anything else?

20 MR. GRIMES: And we would also argue that
21 under the facts of this case, seeking life without parole
22 would constitute cruel and unusual punishment.

23 MS. SHEALY: Your Honor, just to address one
24 of those issues, unless I'm interrupting you, am I? Were
25 you finished?

1 MR. GRIMES: Go ahead.

2 MS. SHEALY: I'm sorry. I did seek also the
3 statute from New York that was applicable at the time.

4 THE COURT: Okay.

5 MS. SHEALY: And I have a copy of that.

6 THE COURT: What do you have to say this is
7 the same Mr. Alonza Dennis? Looking for, like, a social
8 security number, anything like that?

9 MS. SHEALY: Well, it does show up, Judge, on
10 his rap sheet, which I can also make a part of the
11 record, and I may have given you my only copy of the
12 paperwork that I handed up, Judge. I would like you to
13 take a look at that.

14 THE COURT: It shows his birth date, 8/16/64.

15 MS. SHEALY: Yes, sir, that is the same birth
16 date.

17 THE COURT: That is the birth date he
18 testified to.

19 MS. SHEALY: And the address, if you'll note.
20 I'll hand up these other two documents, Judge. Judge, I
21 think I might not have handed up -- this is included in
22 that.

23 THE COURT: All right. It looks like he was
24 convicted of rape somewhere between the ages of either
25 under 11 or 13 to 18; is that right?

1 MS. SHEALY: The age of the victim?

2 THE COURT: Right.

3 MS. SHEALY: Yes, Your Honor.

4 THE COURT: And what does that match up to?

5 MR. GRIMES: If it was 13 to 18, that would
6 be criminal sexual conduct third degree.

7 MS. SHEALY: Your Honor, the paperwork
8 actually reflects that the child was ten years old.
9 Forceable rape of a ten-year-old step niece, twice on the
10 same day.

11 THE COURT: So that would be criminal sexual
12 conduct with a minor, victim under the age 11, first
13 degree in this state, which is a strike offense. Most
14 serious. Okay. Anything else?

15 MR. GRIMES: May I just ask the Court
16 permission to submit a brief on the issue? I think there
17 is a U.S. Supreme Court case that may have addressed what
18 underlying court documents can be used for sentencing
19 enhancement purposes.

20 THE COURT: Well, here is what I'll do: I'll
21 go ahead and sentence him today, and you can file a
22 motion to reconsider with a brief if you want to in that
23 regard, but it looks to me like it would fit in as a one
24 strike offense, or a two strike offense under our
25 statutes. Anything else?