

ORIGINAL

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM COLLETON COUNTY

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID JAKES,

APPELLANT

APPELLATE CASE NO. 2011-198747

RECORD ON APPEAL

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INDEX

INDEX	i, ii, iii, iv
HEARING TRANSCRIPT ON MOTION TO QUASH INDICTMENT (AUGUST 11, 2011)	1
TRIAL TRANSCRIPT (AUGUST 29 – SEPTEMBER 1, 2011)	30
TESTIMONY	
LT. ALLEN INABINETT	
Direct Examination by Ms. Haselden	86
Cross Examination by Mr. Beach	100
Cross Examination by Mr. Mathews	102
OPENING STATEMENT BY MS. HASELDEN	132
OPENING STATEMENT BY MR. MATHEWS	136
OPENING STATEMENT BY MR. BEACH	138
TESTIMONY CONTINUED	
CHRISTY WILLIS	
Direct Examination by Ms. Haselden	140
JEANINE METZFIELD	
Direct Examination by Ms. Haselden	148
Cross Examination by Mr. Beach	157
Redirect Examination by Ms. Haselden	160
AMANDA METZFIELD	
Direct Examination by Ms. Haselden	162
Cross Examination by Mr. Beach	169
Redirect Examination by Ms. Haselden	170
JESSE KING	
Direct Examination by Ms. Haselden	171
Cross Examination by Mr. Beach	188
Redirect Examination by Ms. Haselden	190

TESTIMONY CONTINUED

JAMES "CHIPPY" DAVIS

Direct Examination by Mr. Shelton	210
Cross Examination by Mr. Mathews	252
Cross Examination by Mr. Beach	258
Redirect Examination by Mr. Shelton	266
Recross Examination by Mr. Beach.....	269

LATOYA BRYANT

Direct Examination by Ms. Haselden	273

STEPHEN SANDERS

Direct Examination by Ms. Haselden	291

JAMES DAVIS, SR.

Direct Examination by Mr. Shelton.....	300
Cross Examination by Mr. Beach	310

ANTHONY BUCHANAN

Direct Examination by Mr. Shelton	313
Cross Examination by Mr. Beach	326

THOMAS WALKER

Direct Examination by Mr. Shelton	339
Cross Examination by Mr. Mathews	350
Cross Examination by Mr. Beach	354
Redirect Examination by Mr. Shelton	355

DET. JEFF SCOTT

Direct Examination by Ms. Haselden	357
Cross Examination by Mr. Mathews	433
Cross Examination by Mr. Beach	447
Redirect Examination by Ms. Haselden.....	450
Recross Examination by Mr. Matthews.....	451
Recross Examination by Mr. Beach.....	451

CAPT. GEAN JOHNSON

Direct Examination by Ms. Haselden	453
Cross Examination by Mr. Mathews	458

JOHN GRAHAM	
Direct Examination by Ms. Haselden	459
Cross Examination by Mr. Beach	463
DAVID THOMAS	
Direct Examination by Ms. Haselden	464
Cross Examination by Mr. Mathews.....	468
JACKY LAWSON	
Direct Examination by Ms. Haselden	471
Cross Examination by Mr. Mathews.....	479
Redirect Examination by Ms. Haselden.....	484
Recross Examination by Mr. Mathews	484
AMANDA WEBB	
Direct Examination by Mr. Shelton	486
Cross Examination by Mr. Mathews.....	502
Redirect Examination by Mr. Shelton.....	505
Recross Examination by Mr. Mathews	506
SUZANNE CROMER	
Direct Examination by Ms. Haselden	508
Cross Examination by Mr. Mathews.....	523
Cross Examination by Mr. Beach	524
CHRISTINE WILSON	
Direct Examination by Mr. Shelton	530
Cross Examination by Mr. Mathews.....	551
Redirect Examination by Ms. Haselden.....	553
Recross Examination by Mr. Mathews	554
DEFENDANT MCMILLAN'S MOTION FOR A DIRECTED VERDICT	557
DEFENDANT JAKE'S MOTION FOR A DIRECTED VERDICT	560
MOTION FOR A DIRECTED VERDICT GRANTED	566
COLLOQUY REGARDING DEFENDANTS' RIGHTS TO TESTIFY.....	567
TESTIMONY CONTINUED	
LT. ALLEN INABINETT	
Direct Examination by Mr. Mathews.....	569
Cross Examination by Ms. Haselden	574
Cross Examination by Mr. Beach	586

JEANINE METZFIELD	
Direct Examination by Ms. Haselden	589
CLOSING ARGUMENT BY MR. MATHEWS	597
CLOSING ARGUMENT BY MS. HASELDEN	612
CLOSING ARGUMENT BY MR. BEACH	628
CHARGE ON THE LAW	642
JUROR QUESTION REGARDING COURT'S EXHIBIT #4	686
VERDICT	697
POST-VERDICT MOTIONS BY COUNSEL FOR DEFENDANT MCMILLAN	706
POST-VERDICT MOTIONS BY COUNSEL FOR DEFENDANT JAKES	707
SENTENCING	716
ORDER DENYING THE MOTION TO QUASH AND GRANTING LEAVE TO AMEND (AUGUST 12, 2011)	721
COURT'S EXHIBIT #2 (JUROR NOTE)	723
INDICTMENTS	724
CERTIFICATE OF COUNSEL	738

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF COLLETON) CASE NUMBERS - ANTWAN MCMILLAN:
) 2010-GS-15-501, 502, 503, 504,
) 505, 506, 507.
) CASE NUMBERS - DAVID JAKES:
) 2010-GS-15-703, 704, 705, 706,
) 707, 708, 709

STATE OF SOUTH CAROLINA,)
)
)
v.)
)
ANTWAN D. MCMILLAN AND)
DAVID JAKES,) TRANSCRIPT OF RECORD
)
DEFENDANTS.)
)

August 11TH, 2011
Walterboro, South Carolina
BEFORE THE HONORABLE PERRY M. BUCKNER, III, Judge.

APPEARANCES:

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Asst. Sol. Ben Shelton, Esquire
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Attorneys for the State of South Carolina

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Rebecca H. Hill
Official Court Reporter

INDEXDEFENDANTS MCMILLAN AND DEFENDANT JAKES
MOTION TO QUASH

MOTION TO QUASH	3
CERTIFICATE OF REPORTER	28

EXHIBITS

NONE.

1 THE COURT: Solicitor, call your case, please.

2 ASST. SOL. HASELDEN: Thank you, Your Honor. The State
3 calls the case of State v. Antwan McMillan, who is before
4 you in Indictment Numbers 2010-GS-15-0501, 0502, and 0503
5 for attempted murder. Indictment 2010-GS-15-0504, 0505, and
6 0506 for attempted armed robbery. And Indictment 2010-GS-
7 15-0507 possession of a weapon during the commission of a
8 violent crime. He is represented by Dave Mathews of the
9 Public Defender's Office.

10 Also before you is State v. David Jakes. Mr. Jakes is
11 before you in Indictment 2010-GS-15-0704, 0705, and 0706 for
12 attempted murder. He is also before you in Indictment 2010-
13 GS-15-0703, 0708, 0707 for attempted armed robbery. And
14 finally, in Indictment 2010-GS-15-0709 for possession of a
15 weapon during the commission of a violent crime. He is
16 represented by Harris Beach of the Public Defender's Office.

17 THE COURT: Both of the defendants then are charged
18 with identical offenses being attempted murder, attempted
19 armed robbery, as well as possession of a weapon during the
20 commission of a violent crime; is that correct?

21 ASST. SOL. HASELDEN: Yes, Your Honor. Three counts
22 each of attempted murder ---

23 THE COURT: There are multiple accounts, but the same
24 offense?

25 ASST. SOL. HASELDEN: Yes, sir.

1 THE COURT: Very well.

2 ASST. SOL. HASELDEN: It's the defense attorneys'
3 Motion to Quash, Your Honor. Each attorney has filed one.

4 THE COURT: All right. Let the record reflect that
5 present before me are the defendants, Mr. Jakes and Mr.
6 McMillan, along with their respective counsel, Mr. Mathews
7 and Mr. Beach. I have been provided -- this started with
8 Mr. Mathews making a telephone request to my office, and let
9 me go through that again for the benefit of my lawyers.

10 I always encourage my lawyers if they have a problem,
11 as Mr. Mathews knows, to make a telephone request, but you
12 will need to speak to my law clerk; don't require that you
13 speak to me. I will not speak to you unless both sides are
14 present in the case. I have a brand new law clerk who did
15 not know that in this case, and who immediately rushed into
16 my office and said that Mr. Mathews wants you on the
17 telephone. Now, Mr. Mathews knows better than that, Hope,
18 but it will not happen again. Now, you know better than
19 that, as well.

20 However, I did tell my law clerk that I would set a
21 hearing and give the State an opportunity to be present when
22 you wanted to discuss any motion. Now, Hope, it is proper
23 for you to discuss scheduling with an attorney, ex parte;
24 that's an exception to the rule, but only scheduling. And
25 by that, you can get a copy of their motion and you can tell

1 them you'll see what you can do about working out a hearing,
2 but beyond that, you can't have any discussion unless both
3 sides are present and I want to make sure that's clear for
4 the future, because that's been a general rule with my law
5 clerks...

6 For those of you who have not met Hope, her actual name
7 is Evelyn, which is her grandmother's name, who is my next
8 door neighbor, and I'm very proud to say she is 96 years
9 old, who I think is about as good a neighbor as anyone could
10 ever want to have. Harris, you will remember Evelyn
11 Bennett, who is the wife of Dr. Marshall Bennett, who is her
12 grandmother. This is Hope Lumpkin, ladies and gentlemen.
13 She's going to be my law clerk. She started on Monday and
14 is going to do a great job. She's going to law clerk school
15 next week in Columbia, while I go to Judicial Conference,
16 and this will be her first criminal hearing. So I wanted
17 all of you to have a chance to meet her. Her name is
18 Evelyn, but we call her Hope. Her mom is Ellen Bennett
19 Lumpkin, who is a native of Walterboro, went to Walterboro
20 High School with me. Harris will remember her. Her father
21 is Mike Lumpkin who is an Episcopal Minister -- David, your
22 denomination, in Summerville.

23 All right. I've read both Motions to Quash. I'll be
24 happy to hear argument from each of you, although I can tell
25 that the motions are identical. So let's try not to plow

1 ground that's already been plowed. Who wants to go first?

2 MR. MATHEWS: I will, Your Honor.

3 THE COURT: Mr. Mathews, I'll be happy to hear from
4 you.

5 MR. MATHEWS: Thank you, Your Honor. Your Honor, my
6 problem with the indictments is that they allege things in
7 the alternative and they appear to lessen the standard of
8 what the State has to prove. As to the attempted murder, of
9 course, attempted murder is a new statutory offense, a year
10 old. This statute was in effect one day before the
11 defendants got charged in this.

12 They are accused of driving up to a car that had been
13 disabled, or they were working on a trailer. There was a
14 woman behind the wheel, apparently, or up at the car, and
15 the allegations -- obviously, this is all denied, but the
16 allegations in the incident report are that Mr. Jakes got
17 out of the car. A third co-defendant alleges that Antwan
18 McMillan was driving the car, that Mr. Jakes got out of the
19 car and approached, produced a gun, and said, "Hand's up,
20 pretty lady," or something to that effect. At the time of
21 saying this, a male, the son-in-law, or the -- the -- the
22 son-in-law has his own gun. He's in the service and he
23 comes out from behind the trailer and he says, "Get back in
24 the car." And he starts firing. I think the allegations
25 are uniformly in the incident report.

1 THE COURT: Am I not, for purposes of this, I'm not
2 dealing with an incident report; I'm dealing purely with an
3 indictment. So regardless of what's in the incident report
4 as to who was or was not an alleged shooter, Mr. Mathews,
5 for purposes of a Motion to Quash, I think I have to look at
6 the indictment, and I have to look at the law.

7 MR. MATHEWS: Yes, sir.

8 THE COURT: You know, and I know you've informed your
9 client, Mr. Jakes, that two people can both be guilty of
10 murder, even though only one has a gun, only one fires a
11 bullet; because as you know, Mr. Mathews, one of the
12 doctrines in the law is that the hand of one is the hand of
13 all; depending on the facts and circumstances that might be
14 adduced at trial insofar as evidence is concerned.

15 MR. MATHEWS: Yes, sir.

16 THE COURT: Now, what is it -- let's deal with, first,
17 attempted murder. What is it that you believe is defective
18 on the indictment for attempted murder?

19 MR. MATHEWS: Two things, Your Honor. One of them is
20 the alleging things in the alternative. The indictment says
21 that the defendant and/or co-defendants committed the act.
22 It doesn't allege who fired the gun of the defendants.

23 THE COURT: And you believe the indictment is defective
24 because it didn't allege who fired the gun?

25 MR. MATHEWS: Well, the theories would be different and

1 how you prepare the case would be different; and the jury
2 may think that you could go under either theory. Obviously,
3 one of the cases ---

4 **THE COURT:** Now, you know that I don't submit
5 indictments to the jury, so they wouldn't get the impression
6 from the indictment. However, why, for purposes of due
7 process, that's what we're talking about here, because
8 you're dealing with a Motion to Quash. And that is that you
9 be put on notice of the charge against your client, and that
10 you have the opportunity, because of that notice, to prepare
11 a defense to that charge. What is it about the alternative
12 pleading that you believe is defective in the indictment?

13 **MR. MATHEWS:** I would prepare the case differently if
14 the allegation were that Mrs. McMillan fired a gun than I
15 would if we were with a co-defendant that fired a gun.

16 **THE COURT:** Which is why you went to an incident report
17 to determine who the shooter was to make this argument?

18 **MR. MATHEWS:** Well, just to point out the difference
19 between the incident report and what you see in the
20 indictment. The indictment says either of them or somebody
21 else even. Even if there are -- and it says and/or co-
22 defendants, so any one of three people allegedly could have
23 fired a gun at any one of three people.

24 **THE COURT:** So what would you say -- I'm still not
25 certain that I understand the argument. You're saying that

1 because it's pled in the alternative that you believe that's
2 what is defective?

3 MR. MATHEWS: I do. I do think that's -- that makes it
4 defective.

5 THE COURT: In other words, you don't think the State
6 can say and/or co-defendants?

7 MR. MATHEWS: In this instance, because attempted
8 murder requires a specific intent.

9 THE COURT: It requires an intent to kill and it also
10 requires malice.

11 MR. MATHEWS: Yes, sir.

12 THE COURT: But obviously, that's not the issue here.

13 The indictment says that Mr. Jakes and/or co-defendants,
14 with malice aforethought, accompanied by a present ability
15 to complete the act and the intent to kill, both of which
16 are alleged, either express or implied, did attempt to kill
17 and murder Jesse King, to wit the defendant, and/or co-
18 defendants, did shoot at the victim."

19 Now, you've explained to your client the theory of the
20 hand of one is the hand of all.

21 MR. MATHEWS: I'm not sure I have. I believe it's ---

22 THE COURT: But you will before the trial. You've also
23 explained to him that mere presence alone would not be
24 sufficient to make you criminally responsible.

25 MR. MATHEWS: I have, or I will.

1 **THE COURT:** Because there has to be some effort to aid,
2 abet, to do some act, to complete the crime other than just
3 mere presence, and there must be, of course, criminal
4 intent. In this case, both malice and an intent to kill.
5 So what you're saying is that you think on the indictment,
6 if I understand your argument correctly, what you're saying
7 on the indictment for attempted murder, that the allegation
8 and/or co-defendants is defective because you and your
9 client are entitled constitutionally, due process-wise, to
10 an indictment that identifies who actually fired the gun if
11 the State is going to allege the offense of attempted
12 murder?

13 **MR. MATHEWS:** Yes, sir; and at whom. It alleges three
14 different ---

15 **THE COURT:** Well, now why would, regardless of who was
16 shot at, including any co-defendant, why would at whom be an
17 element if it was shot at anyone?

18 **MR. MATHEWS:** Well, because of the specific intent
19 requirement. If you're shooting at one person -- this is
20 not a felony murder case, because nobody was hit. So, you
21 know, it's a different standard than a reckless disregard
22 for human life. It's specific intent to kill a specific
23 person by a specific person, and both, the specific person
24 that fired the shot and the specific person that the shot is
25 being fired at are missing.

1 I may have to be, perhaps, corrected; I presented a
2 case, which the Court indicates that you've read, of State
3 v. Sweat where it can be fixed before a trial if you put in
4 who it is.

5 THE COURT: Wasn't that dealing with property, rather
6 than the offense of attempted murder? And it was dealing
7 with the elements of larceny and robbery, rather than --
8 we're on attempted murder, right now, Mr. Mathews..
9 Obviously, the State can at any time amend and if there's no
10 prejudice to you, the State certainly can change an
11 indictment; I understand that.

12 What I'm asking you to tell the Court is what you think
13 is fatally defective in the indictment for attempted murder,
14 as to your claim.

15 MR. MATHEWS: That's it, Your Honor; just what I said.

16 THE COURT: Mr. Beach, how about you on attempted
17 murder?

18 MR. BEACH: I agree with Mr. Mathews, Your Honor..

19 THE COURT: All right. Now, let's turn to the next
20 indictment, Mr. Mathews.. I realize there are three for
21 attempted murder. There is also attempted armed robbery. I
22 understand you have a different argument as to why you
23 think, in your Motion to Quash, that the indictment for
24 attempted armed robbery is defective. Let me hear from you.

25 MR. MATHEWS: Thank you, Your Honor. Now that one, and

1 that is actually why I submitted the -- I thought that the
2 qualities of State v. Sweat --- but in this case, the
3 problem is ---

4 **THE COURT:** Let Becky -- for the record, so you'll
5 know, we're referring to 70 SE 2d 234, which is a 1952 South
6 Carolina Supreme Court case, and interestingly enough,
7 Becky, authored by Judge Fishburne, who is the only person
8 of which I am aware, was a Colletonian to serve on the South
9 Carolina Supreme Court. All right, Mr. Mathews.

10 **MR. MATHEWS:** Thank you, Your Honor. Particularly with
11 ---

12 **THE COURT:** His picture is in the courtroom, Mr.
13 Mathews, I hope you're aware of that.

14 **MR. MATHEWS:** I am, now. I am constantly amazed.

15 **THE COURT:** When you go back in the courtroom, look at
16 the portrait that is on the right-hand side as you face the
17 judge's bench, and that will be Judge Fishburne, who
18 authored the opinion in State v. Sweat. Go ahead.

19 **MR. MATHEWS:** I will do. Your Honor, in this
20 particular case, you have to, because the elements of armed
21 robbery include the elements of larceny, you have to intend
22 to steal something particular from a particular person.
23 This is alleged -- and it's okay to allege constructive
24 possession of something. You can still commit an armed
25 robbery if you take something that is immediately within the

1 presence of somebody, as long as it belongs to that person.

2 In this case, the allegation in the indictment is that
3 property belonging to -- let's see -- belonging to or near,
4 let's see, in the presence of. It's a taking of goods
5 and/or monies from the person or immediate presence of. I
6 mean, under that theory, you could go into rob a bank and
7 every customer in the bank is a potential victim of an
8 attempted armed robbery, because they are in the immediate
9 presence of something, and clearly the law doesn't
10 contemplate that.

11 In this instance, again, you've got three different
12 indictments alleging three different victims. Clearly,
13 Jesse King was not a victim of an attempted armed robbery.
14 Under no theory -- it alleges that either he or any of the
15 others were, but in this, the only thing it alleges is that
16 property was taken or was supposed to have attempted to have
17 been taken from the immediate presence, and there's no
18 allegation that it belonged to any of these three victims.
19 Nothing was actually taken, but there's not even an
20 allegation that property belonging to any of the three
21 defendants was attempted to be taken.

22 THE COURT: The defect that you argue as to attempted
23 armed robbery, is the failure of the State to identify in
24 the indictment that the property belonged to another; isn't
25 that correct, Mr. Mathews?

1 MR. MATHEWS: Yes, sir.

2 THE COURT: All right. Anything else on those
3 indictments that you want to share with the Court?

4 MR. MATHEWS: And to a particular person. That was ---

5 THE COURT: You want some particularity as well as to
6 another.

7 MR. MATHEWS: As State v. Sweat provided.

8 THE COURT: Very well. Mr. Beach, as to your client?

9 MR. BEACH: I agree, Your Honor.

10 THE COURT: Very well. All right, Mr. Mathews, I
11 believe that covers the grounds in your Motion to Quash; is
12 that correct?

13 MR. MATHEWS: I think I've covered everything that was
14 in the written thing, but I think so, yes, sir.

15 THE COURT: Mr. Beach, is there anything else you want
16 to add before I hear from the State, so we can have one
17 response from the Solicitor.

18 MR. BEACH: I believe that covers everything, Your
19 Honor.

20 THE COURT: All right, Ms. Haselden. Be happy now to
21 hear from you.

22 ASST. SOL. HASELDEN: Thank you, Your Honor. In doing
23 my indictment research, you know I passed several cases
24 forward, and unfortunately, they were right before this
25 hearing. So Your Honor, or Hope, hasn't had a chance to

1 review them, but they're very basic cases.

2 THE COURT: Have you given copies to opposing counsel?

3 ASST. SOL. HASELDEN: Yes, Your Honor. I gave them
4 copies.

5 THE COURT: Let the record reflect I've been handed 611
6 SE 2d 510; 610 SE 2d 494; 611 SE 2d 510 -- that's the second
7 time; 709 SE 2d 671; and 708 SE 2d 750; none of which I've
8 had the opportunity to look at. Go ahead, Ms. Haselden.

9 ASST. SOL. HASELDEN: Your Honor, these are all cases
10 that I'm sure Your Honor has heard before, with the
11 exception of one that just recently came out. State v.
12 Gentry is very -- it's been relied on by prosecutors for
13 many years, probably since the moment it was published; and
14 it merely states the indictment is a notice document and
15 when reviewing whether the indictment is sufficient and
16 therefore meets the level of due process required by the
17 Constitution to put an individual on notice of what they're
18 charged merely states that the two prong test should be
19 whether the offense is stated with sufficient certainty and
20 particularity to enable the Court to know what judgment to
21 pronounce and the defendant to know what he is called upon
22 to answer and whether he may plead an acquittal or
23 conviction thereon, and two, whether it apprises the
24 defendant of the elements of the offense that it intended to
25 be charged.

1 And a really recent case that I handed you, Bailey v.
2 State, Your Honor, which is 392 SC 2d 422, just came out in
3 May of 2011 and gives us a little more direction, I think,
4 because it states that the judge explained in that case that
5 the purpose of the indictment was to state the charges with
6 enough specificity so that the defendant knows what he has
7 to defend against; breaking it down very clearly.

8 Your Honor, in this case, I'm a little confused,
9 because each of the indictments does state with
10 particularity the victim involved. I believe if Your Honor
11 pulled those indictments out, it states in each attempted
12 armed robbery indictment, either Jeanine Metzfield, Jesse
13 King, or Amanda Metzfield; the same with the attempted
14 murders. So I think that prong doesn't even need to be
15 discussed further or that part of Mr. Mathews and Mr.
16 Beach's argument because the indictments do clearly on their
17 face state with particularity the intended victim of each
18 case.

19 Whether or not the defendant ---

20 THE COURT: Well, hold on a second, because I don't
21 think that was an argument made by the defendant, Ms.
22 Haselden, but it can be argued that that is the effect of
23 the argument. What they say on -- let's deal with it in the
24 order in which we took it from counsel for the defendant.

25 The first was attempted murder. The argument is that

1 they do not have in the indictment, not that you don't name
2 someone in the attempted murder indictment, that you do not
3 identify who the shooter was or who they were shooting at,
4 because there is a specific element of that offense with
5 which you are aware, although it is brand new. Only one a
6 little over a year old, now, June of 2010.

7 Specific intent to kill someone.. And in order to prove
8 that, you have to have an intent at least to kill someone..
9 Okay?

10 ASST. SOL. HASELDEN: Yes, Your Honor.

11 THE COURT: And so they say that this indictment is
12 defective because the indictment does not allege that and
13 that it does not allege who the shooter was or who you were
14 attempting or the person that was attempting to shoot, as I
15 understood his argument. I want to hear from you on that.

16 ASST. SOL. HASELDEN: Well, Your Honor, I think the
17 second part of that, he doesn't allege who they were
18 shooting at is what I'm addressing. It does state a
19 person's name in those indictments.

20 THE COURT: So you believe then by alleging a victim,
21 you're giving the name of the person who they were
22 attempting to shoot at?

23 ASST. SOL. HASELDEN: I think that would be absolutely
24 be the logical -- Your Honor can read the indictments.

25 THE COURT: Well, there are three different names.

1 ASST. SOL. HASELDEN: Well, there's one per indictment.
2 We didn't group them together.

3 THE COURT: I understand; but three different people in
4 there?

5 ASST. SOL. HASELDEN: Yes.

6 THE COURT: So you're saying that they were shooting at
7 Jesse King in one indictment. Amanda Metzfield in one
8 indictment; and Jeanine Metzfield in another indictment.

9 ASST. SOL. HASELDEN: Yes, sir. So the first part that
10 Mr. Mathews and Mr. Beach asserted is that it failed on its
11 face because it used the language "in the alternative." The
12 and/or co-defendants.

13 Your Honor, the State is merely required to provide
14 sufficient notice of what he is being charged with.
15 Clearly, he knows he is being charged with attempted murder.
16 Not only because of the titling on both the front and the
17 back, but because of the language in the offense is that of
18 the statute of attempted murder.

19 So the language -- Mr. Mathews claims that he would
20 prepare a case differently be if it alleged who the shooter
21 was. Well, Your Honor, I have to argue with that. Your
22 Honor has already pointed out the hand of one is the hand of
23 all theory. So a defense attorney should probably always be
24 prepared to proceed forward on the hand of one, hand of all,
25 if he's pulled the incident report and done his due

1 diligence in the case.

2 I think not only did we let him know that he was being
3 charged of attempted murder, but we also kind of clued him
4 in with the and/or language that we were possibly going
5 forward on a hand of one, hand of all theory; and Your Honor
6 is well aware that under the hand of one, hand of all
7 theory, the indictment can be as the principle offense. I
8 feel like I just took it a step further and put him on
9 notice with the and/or co-defendant. That doesn't relieve
10 him of any culpability to let him know that there were other
11 co-defendants involved. It might change his case
12 preparation, but it does not change on the notice
13 requirement, which is the purpose of the indictment.

14 So Your Honor, I think he's clearly got notice of what
15 he's charged with and he's clearly got notice that we're
16 alleging he may have fired a gun; his co-defendants may have
17 fired a gun; and who they were firing the gun at. So I
18 believe those were the two prongs as I understood that Mr.
19 Mathews was attacking, and I believe the argument would fail
20 based on those two.

21 THE COURT: Well, he also argued to the Court, Ms.
22 Haselden that you -- he feels that with an indictment with
23 sufficient particularity that it ought to allege who the
24 actual shooter was. Let me hear from you on that.

25 ASST. SOL. HASELDEN: Your Honor is well aware, and I

1 think it's actually in Your Honor's jury charge that it
2 doesn't matter if three people rob a store and one person
3 pulls the trigger, all three are guilty of murder under the
4 hand of one, hand of all. And that is -- I do have case law
5 on that if Your Honor would like me to cite, but I believe
6 Your Honor has already put on the record the whole purpose
7 of that criminal theory in South Carolina, "Hand of one,
8 hand of all," and it's very well established. And Your
9 Honor, I don't believe there is any requirement that an
10 indictment include that language to be on notice that you're
11 being charged with that. Obviously, if you're being charged
12 with that, you're either being charged as a principle, or
13 you're being charged under hand of one, hand of all.

14 So I don't believe an indictment should ever fail
15 because I do not provide who fired the gun.

16 THE COURT: Very well. Now, let's deal with attempted
17 armed robbery. Mr. Mathews argues that he's entitled, and
18 Mr. Beach joins him on behalf of his client, that he's
19 entitled, because, obviously, armed robbery includes robbery
20 and robbery includes larceny, and the elements include from
21 the property of another person.

22 Mr. Mathews argues that your indictments do not allege
23 whose property from which this attempt was made and
24 therefore insufficient to put him on notice in order to
25 adequately defend his client. Let me hear from you on that.

1 ASST. SOL. HASELDEN: Your Honor, again, I would bring
2 your notice to the actual paper indictment. An individual
3 victim is alleged in each one of those indictments as well,
4 therefore, giving defense counsel adequate notice of who the
5 intended victim was. So that was the second prong similar
6 to the attempted murder. There is an actual victim named in
7 each indictment as to who the State perceives the intended
8 victims were. So therefore, the property belonging to ---

9 THE COURT: Isn't it true, Ms. Haselden, that although
10 Mr. Mathews argued to me as to who the property belonged to,
11 it doesn't have to be your property. If it's in your
12 presence, it could be Mr. Beach's property, but if it's in
13 your presence and there is an attempt to remove it or take
14 it and carry it away from your presence, that that would be
15 sufficient for the offense?

16 ASST. SOL. HASELDEN: Your Honor, absolutely. I don't
17 think there's any requirement that I state that defendant
18 intended to rob a gold coin from the pocket of Bill Smith,
19 even though it was Jane Smith's coin. That's ludicrous on
20 its face. The statute and case law, again, only requires
21 that he be put on sufficient notice of the charges against
22 him so that he may defend against such charges. And in one
23 of the cases, it might have been the Evans case, Your Honor,
24 that I passed forward. Although, I think -- it talked about
25 the language in the statute as generally sufficient to

1 include it in an indictment -- to put an individual on
2 notice of what they're being charged with.

3 So the immediate present and the specific property,
4 one, not only do I believe -- immediate presence should not
5 even be dealt with right now. I think it's unripe for
6 issue; it's a jury question about what is considered
7 immediate presence, three feet, five feet, ten yards. I
8 think that is completely unripe to be argued. And it's more
9 of an issue that should be dealt with in a directed verdict
10 request by the defense, as opposed to a quashing of an
11 indictment. But the specific property, I think that there's
12 absolutely no requirement that specific property be amended.

13 THE COURT: Anything else you want to tell me on the
14 attempted armed robbery indictment in response to Mr.
15 Mathews' argument?

16 ASST. SOL. HASELDEN: None at this time, Your Honor.

17 THE COURT: All right. Mr. Mathews, briefly, in reply.

18 MR. MATHEWS: Your Honor, I don't know how you can --
19 if you know what the property is, then you can guess who the
20 victim is. If you know who the victim is, particularly, I
21 mean, as to -- I have a harder time with -- well, again,
22 that gets into particular facts. I think the property
23 doesn't have to be on somebody if it's constructive
24 possession, but to -- if it -- if the alleged particular
25 property belonged to a particular person, it doesn't matter

1 if it's on them. It can be in their immediate presence if
2 it belongs to them, but alleging in the alternative, again,
3 you've got the same scenario where you got somebody robbing
4 a bank and every customer in there is close to it, but they
5 are not all the intended victims, clearly. And that's the
6 problem I have with the attempted armed robbery. Hand of
7 one, hand of all, it sounds like the State is arguing there
8 is such thing as an attempted felony murder rule, and maybe
9 there is, I don't know.

10 THE COURT: Well, hold on a second. Let's don't
11 confuse attempted murder with attempted armed robbery in the
12 argument, so it's clear. I'm looking at the indictment for
13 attempted armed robbery. I happen to have the one that is
14 indictment 07-07, which would be David Jakes. Let me read
15 you the language, because the language is the same whether
16 it be Mr. Jakes or Mr. McMillan.

17 It says that on -- I'm talking about attempted armed
18 robbery, that on June 3rd, 2010, in Colleton County, South
19 Carolina, at the intersection of McLeod Road and interstate
20 I-95, the defendant, David Jakes, by use of force, threats,
21 or intimidation, and while armed with a deadly weapon, to
22 wit, a handgun, did attempt to take and carry away goods
23 and/or monies from the person or immediate presence of
24 Amanda Metzfield, with the intent to permanently deprive him
25 of possession thereof. I'm not sure the "him" is an Amanda,

1 but maybe this is an Amanda that is a "him". In violation
2 of 16-11-330(b) of the South Carolina Code of Laws.

3 Now, you just argued that that indictment was in the
4 alternative. Now, Mr. Mathews, how is the attempted armed
5 robbery alleged in the alternative in that language?

6 **MR. MATHEWS:** Well, two things. First of all, I
7 understand the hand of one, hand of all theory as to the ---

8 **THE COURT:** But that's not even alleged in the
9 indictment.

10 **MR. MATHEWS:** Well, it says the defendant Antwan D.
11 McMillan and/or co-defendants, that's alternative as to
12 who ---

13 **THE COURT:** No, it doesn't say one word about co-
14 defendants in the attempted armed robbery indictment.

15 **MR. MATHEWS:** Well, I don't have 507, so I don't know.
16 I'm looking at 504.

17 **THE COURT:** This isn't 507. This is 707. 2010-GS-15-
18 0707, David Jakes.

19 **MR. MATHEWS:** I don't have David Jakes. I'm looking at
20 504.

21 **ASST. SOL. HASELDEN:** Separate motions -- two different
22 motions. One has the David Jakes' indictment attached, I
23 believe, and David's would be the other motion, Your Honor,
24 that has Mr. McMillan's indictment attached.

25 **THE COURT:** Well, I don't have -- I just got those

1 indictments clipped to one. Let me see if they're all -- I
2 thought they were written exactly the same way. This is Mr.
3 Beach's -- oh, my law clerk's got it.

4 All right. I'm looking now at 504 which does have
5 and/or co-defendants for attempted armed robbery, as to Mr.
6 McMillan. I'm looking at 505, which does have and/or co-
7 defendants as to attempted armed robbery. And I'm looking
8 at 506 which does have and/or co-defendants as to attempted
9 armed robbery; so you're correct, Mr. Mathews. It's
10 interesting that the indictments for Mr. Beach's client do
11 not have that language, so they're not identical.

12 MR. MATHEWS: That's correct, Your Honor. And that's
13 one alternative, and the other alternative did attempt to
14 take or carry away goods and/or money from the person or
15 immediate presence. "From the immediate presence," if you
16 possess it by constructive possession, that's fine. If you
17 just happen to take property, you know, if I wanted to take
18 the court reporter's computer by threat, force, or
19 intimidation, clearly, the court reporter is the victim.
20 However, the detective sitting next to her is not the victim
21 of that, even though it's also in his immediate presence,
22 because he doesn't own it.

23 If it's in his constructive possession, it may be. If
24 the court reporter gave it to ---

25 THE COURT: I could understand that argument, Mr.

1 Mathews, that you're arguing about preparation of the case
2 defense, if the indictment alleged that both Ms. Hill, the
3 court reporter, and the detective were victims, but in this
4 case, Mr. Mathews, it only alleges one victim; and it says
5 "goods or monies from the person or immediate presence." So
6 how could that possibly limit you in your preparation of the
7 defense?

8 MR. MATHEWS: Because there are three victims with the
9 identical charges and there is no property alleged. If what
10 was supposed to have been taken was something belonging to
11 one person, then as to that, there can only be one victim;
12 and there are three victims alleged, and the language is
13 exactly the same. In that case, they said as if -- if the
14 court reporter and the detective are both victims of
15 possessing the same piece of property because it's in their
16 immediate possession, then only one can be the true victim.

17 THE COURT: Well, if it belonged to one person and it
18 wasn't in immediate possession, that would apply. But they
19 can do alternative allegations and I don't quite follow that
20 argument, but I understand that you're saying that you think
21 you're entitled to more information in the indictment. All
22 right. Anything else you want to tell me?

23 MR. MATHEWS: No, sir.

24 THE COURT: All right, counsel, here's what I'm going
25 to do. Just to be safe, for the first time, I realized now,

1 because I thought I had all the indictments attached to one.
2 The indictments are different as to co-defendants. Mr.
3 Beach, you don't have the same language in the indictments
4 for your defendant that Mr. Mathews has for his.

5 MR. BEACH: That's correct, Your Honor.

6 THE COURT: I was not aware of that until we got in the
7 course of this argument. I'm going to take a look at the
8 Solicitor's cases. I'm want to look at the case that Mr.
9 Mathews and Mr. Beach provided to me, and I'll notify you
10 shortly of my ruling. Thank you very much for your time.

11 ASST. SOL. HASELDEN: Your Honor?

12 MR. MATHEWS: Your Honor?

13 THE COURT: Hold on; one at a time.

14 ASST. SOL. HASELDEN: Your Honor, I also notified Mr.
15 Mathews, and I think he spoke about it with Harris, about
16 the State's intent, and I provided them with a copy of State
17 v. Hatcher, and Your Honor a copy of State v. Hatcher.

18 There is a large amount of additional witnesses that are
19 purely chain of custody at both South Carolina Law
20 Enforcement Division and MUSC, and we're talking upwards of
21 12 people, possibly, and I've done a great deal of research
22 on State v. Hatcher, as far as who all is required to be
23 called to sufficiently prove chain of custody for these
24 items being admitted into evidence, and just putting both
25 defense attorneys on notice now. In accordance with State

1 v. Hatcher, I will not be calling, or subpoenaing, every
2 single person that had any type of fleeting contact with
3 these items.

4 THE COURT: Well, Ms. Haselden, I don't know why you
5 think putting it on the record, I mean, you're putting them
6 on notice. You can do that by talking to them. You don't
7 have to do it on the record when we're handling a Motion to
8 Quash. Whether or not that will or will not be sufficient
9 will be a matter for the Court if a motion comes before the
10 Court. But nothing is before me on that at this time.

11 ASST. SOL. HASELDEN: Yes, sir.

12 THE COURT: I'll let y'all know my ruling on the motion
13 to quash.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON) CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the pre-trial motion of the captioned case, in the Court of General Sessions for Colleton County, South Carolina, on the 11th day of August, 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 9, 2011

Rebecca H. Hill,
Official Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF COLLETON	)	CASE NUMBERS - ANTWAN MCMILLAN:
		2010-GS-15-501, 502, 503, 504,
		505, 506, 507
		CASE NUMBERS - DAVID JAKES:
		2010-GS-15-704, 705, 706, 703,
		707, 708, 709
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
v.	)	
	)	
ANTWAN D. MCMILLAN AND	)	
DAVID JAKES,	)	<u>TRANSCRIPT OF RECORD</u>
	)	
DEFENDANTS.	)	
	)	

August 29th - September 1st, 2011
Walterboro, South Carolina
BEFORE THE HONORABLE PERRY M. BUCKNER, III, Judge.

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INDEX

VOIR DIRE	9
STATE'S MOTION TO AMEND INDICTMENT	30
VOIR DIRE CONTINUED	31
JURY SELECTION	47

JACKSON V. DENNO HEARING

<u>WITNESS: LT. ALLEN INABINETT</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	68
CROSS-EXAMINATION BY MR. BEACH	82
CROSS-EXAMINATION BY DAVID MATHEWS	84
STATE'S MOTION FOR SEQUESTRATION	96
JURY SWORN	100
INSTRUCTIONS BY THE COURT	100
OPENING STATEMENTS	
BY ASST. SOLICITOR HASELDEN	122
BY MR. DAVID MATHEWS	126
BY MR. HARRIS BEACH	128

STATE'S WITNESSES

<u>WITNESS: CHRISTY WILLIS, 911 OPERATOR</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	130
<u>WITNESS: JEANINE METZFIELD</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	138
CROSS-EXAMINATION BY MR. BEACH	145
REDIRECT EXAMINATION BY ASST. SOL. HASELDEN	150
<u>WITNESS: AMANDA METZFIELD</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	152
CROSS-EXAMINATION BY MR. BEACH	159
REDIRECT EXAMINATION BY ASST. SOL. HASELDEN	160
<u>WITNESS: JESSE KING</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	161
CROSS EXAMINATION BY MR. BEACH	178
REDIRECT EXAMINATION BY ASST. SOL. HASELDEN	180

JUROR MATTER	189
<u>WITNESS: JAMES "CHIPPY" DAVIS</u>	
DIRECT EXAMINATION BY ASST. SOL. SHELTON	209
CROSS EXAMINATION BY MR. MATHEWS	242
CROSS EXAMINATION BY MR. BEACH	248
REDIRECT EXAMINATION BY ASST. SOL. SHELTON	256
RECROSS EXAMINATION BY MR. BEACH	259
<u>WITNESS: LATOYA BRYANT</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	263
<u>WITNESS: STEPHEN SANDERS, COLLETON COUNTY FIRE RESCUE</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	281
<u>WITNESS: JAMES DAVIS, SR.</u>	
DIRECT EXAMINATION BY ASST. SOL. SHELTON	290
CROSS EXAMINATION BY MR. BEACH	300
<u>WITNESS: ANTHONY BUCHANAN, JC SO</u>	
DIRECT EXAMINATION BY ASST. SOL. SHELTON	303
CROSS EXAMINATION BY MR. BEACH	316
STIPULATIONS ON RECORD AS TO MR. MCMILLAN	327
STIPULATIONS ON RECORD AS TO MR. JAKES	327
<u>WITNESS: THOMAS WALKER, CCSO</u>	
DIRECT EXAMINATION BY ASST. SOL. SHELTON	339
CROSS EXAMINATION BY MR. MATHEWS	350
CROSS EXAMINATION BY MR. BEACH	354
REDIRECT EXAMINATION BY ASST. SOL. SHELTON	355
<u>WITNESS: DET. JEFF SCOTT, CCSO</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	357
CROSS EXAMINATION BY MR. MATHEWS	433
CROSS EXAMINATION BY MR. BEACH	446
REDIRECT EXAMINATION BY ASST. SOL. HASELDEN	449
RECROSS EXAMINATION BY MR. MATHEWS	450
RECROSS EXAMINATION BY MR. BEACH	450
<u>WITNESS: CAPT. GEAN JOHNSON, CCSO</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	452
CROSS EXAMINATION BY MR. MATHEWS	457
<u>WITNESS: JOHN GRAHAM</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	458
CROSS EXAMINATION BY MR. BEACH	462

<u>WITNESS: DAVID THOMAS, CCSO</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	463
CROSS EXAMINATION BY MR. MATHEWS	467

<u>WITNESS: JACKY LAWSON, CCSO</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	470
CROSS EXAMINATION BY MR. MATHEWS	478
REDIRECT EXAMINATION BY ASST. SOL. HASELDEN	483
RECROSS EXAMINATION BY MR. MATHEWS	483

<u>WITNESS: AGENT AMANDA WEBB, SLED</u>	
DIRECT EXAMINATION BY ASST. SOL. SHELTON	485
CROSS EXAMINATION BY MR. MATHEWS	501
REDIRECT EXAMINATION BY ASST. SOL. SHELTON	504
RECROSS EXAMINATION BY MR. MATHEWS	505

<u>WITNESS: SUZANNE CROMER, SLED</u>	
DIRECT EXAMINATION BY ASST. SOL. HASELDEN	507
CROSS EXAMINATION BY MR. MATHEWS	522
CROSS EXAMINATION BY MR. BEACH	523

<u>WITNESS: CHRISTINE WILSON, BEAUFORT COUNTY SHERRIFF'S OFFICE</u>	
DIRECT EXAMINATION BY ASST. SOL. SHELTON	529
CROSS EXAMINATION BY MR. MATHEWS	550
REDIRECT EXAMINATION BY ASST. SOL. HASELDEN	552
RECROSS EXAMINATION BY MR. MATHEWS	553

STATE RESTS	556

DEFENDANT MCMILLAN'S MOTION FOR DIRECTED VERDICT	556

DEFENDANT JAKES' MOTION FOR DIRECTED VERDICT	559

MOTION FOR DIRECTED VERDICT GRANTED	565

DEFENDANTS ADVISED OF FIFTH AMENDMENT RIGHTS	566

<u>DEFENSE WITNESS: LT. ALLEN INABINETT</u>	
DIRECT EXAMINATION BY MR. MATHEWS	573
CROSS EXAMINATION BY ASST. SOL. HASELDEN	578
CROSS EXAMINATION BY MR. BEACH	590

DEFENDANT MCMILLAN RESTS	591
DEFENDANT JAKES RESTS	592

1	REPLY TESTIMONY BY THE STATE	
2	WITNESS: JEANINE METZFIELD.....	593
3	STATE RESTS IN REPLY.....	594
4	CLOSING ARGUMENTS	
	BY MR. MATHEWS ON BEHALF OF ANTWAN MCMILLAN.....	601
5	BY ASST. SOL. HASELDEN.....	615
	BY MR. BEACH ON BEHALF OF DAVID JAKES.....	631
6		
	JURY CHARGE.....	646
7		
	EXHIBITS TO JURY.....	689
8		
	JURY NOTE QUESTIONS (COURT EXH. 4).....	689
9		
	JURY NOTE REQUESTING AUDIO (COURT EXH. 5).....	691
10		
	JURY NOTE REQUESTING AUDIO (COURT EXH. 6).....	697
11		
	JUROR MATTER.....	697
12		
	VERDICT.....	701
13		
	DEFENDANT JAKES REQUEST POLLING OF JURY.....	705
14		
	POST-VERDICT MOTIONS BY COUNSEL FOR DEF. MCMILLAN.....	709
15		
	POST VERDICT MOTIONS BY COUNSEL FOR DEF. JAKES.....	710
16		
	TESTIMONY OF JESSE KING.....	713
17		
	TESTIMONY OF MRS. MARGIE LEE JAKES.....	718
18		
	SENTENCING.....	720
19		
	CERTIFICATE OF REPORTER.....	724
20		
21		
22		
23		
24		
25		

STATE EXHIBITS

NO.	DESCRIPTION	ID	EV
ONE	PHOTO - CONCEALED CARRY PERMIT	169	170
TWO	PHOTO	145	146
THREE	PHOTO	169	170
FOUR	PHOTO	169	170
FIVE	PHOTO	314	315
SIX	PHOTO	307	308
SEVEN	PHOTO	210	313
EIGHT	PHOTO	473	474
NINE	PHOTO	473	474
TEN	PHOTO	473	474
ELEVEN	PHOTO	473	474
TWELVE	PHOTO	359	360
THIRTEEN	PHOTO	359	360
FOURTEEN	PHOTO	359	360
FIFTEEN	PHOTO	359	360
SIXTEEN	PHOTO	359	360
SEVENTEEN	PHOTO	359	360
EIGHTEEN	PHOTO	359	360
NINETEEN	PHOTO	359	360
TWENTY	PHOTO	359	360
TWENTY-ONE	PHOTO	359	361
TWENTY-TWO	PHOTO	359	361
TWENTY-THREE	PHOTO	359	361
TWENTY-FOUR	PHOTO	359	361
TWENTY-FIVE	PHOTO	359	361
TWENTY-SIX	PHOTO	359	361
TWENTY-SEVEN	PHOTO	359	361
TWENTY-EIGHT	PHOTO	359	361
TWENTY-NINE	PHOTO	391	393
THIRTY	PHOTO	391	393
THIRTY-ONE	PHOTO	391	393
THIRTY-TWO	PHOTO	391	393
THIRTY-THREE	PHOTO	391	393
THIRTY-FOUR	PHOTO	391	394
THIRTY-FIVE	PHOTO	391	394
TIRTY-SIX	PHOTO	391	394
THIRTY-SEVEN	PHOTO	391	394
THIRTY-EIGHT	PHOTO	391	394
THIRTY-NINE	PHOTO	391	394
FORTY	PHOTO	391	394
FORTY-ONE	PHOTO	391	394
FORTY-TWO	PHOTO	391	394
FORTY-THREE	PHOTO	391	394
FORTY-FOUR	PHOTO	391	394
FORTY-FIVE	PHOTO	391	394
FORTY-SIX	PHOTO	391	395
FORTY-SEVEN	PHOTO	391	395

FORTY-EIGHT	PHOTO	391	395
FORTY-NINE	PHOTO	391	395
FIFTY	PHOTO	391	395
FIFTY-ONE	PHOTO	391	395
FIFTY-TWO	PHOTO	391	395
FIFTY-THREE	PHOTO	391	395
FIFTY-FOUR	PHOTO	391	395
FIFTY-FIVE	PHOTO	391	395
FIFTY-SIX	PHOTO	391	395
FIFTY-SEVEN	PHOTO	464	446
FIFTY-EIGHT	PHOTO	464	446
FIFTY-NINE	PHOTO	464	446
SIXTY	PHOTO	464	446
SIXTY-ONE	SHELL CASINGS	367	372
SIXTY-TWO	SHELL CASINGS	367	372
SIXTY-THREE	SHELL CASINGS	367	372
SIXTY-FOUR	SHELL CASINGS	367	373
SIXTY-FIVE	SHELL CASINGS	367	373
SIXTY-SIX	SHELL CASINGS	367	373
SIXTY-SEVEN	SHELL CASINGS	367	373
SIXTY-EIGHT	SHELL CASINGS	367	373
SIXTY-NINE	SHELL CASINGS	367	373
SEVENTY	SHELL CASINGS	367	373
SEVENTY-ONE	SWABS	386	405
SEVENTY-TWO	SWABS	402	405
SEVENTY-THREE	SWABS	402	405
SEVENTY-FOUR	SHELL CASINGS	406	408
SEVENTY-FIVE	SHELL CASINGS	406	408
SEVENTY-SIX	SHELL CASINGS	406	408
SEVENTY-SEVEN	SHELL CASINGS	406	408
SEVENTY-EIGHT	ORAL SWAB - JESSE KING	409	412
SEVENTY-NINE	ORAL SWAB - AMANDA METZFIELD	409	412
EIGHTY	ORAL SWAB - JAMES DAVIS	409	412
EIGHTY-ONE	ORAL SWAB - JEANINE METZFIELD	409	412
EIGHTY-TWO	ORAL SWAB - DAVID JAKES	409	412
EIGHTY-THREE	ORAL SWAB - ANTWAN MCMILLAN	409	412
EIGHTY-FOUR	DESERT EAGLE GUN	378	384
EIGHTY-FOUR A	BULLETS	378	384
EIGHTY-FIVE	GUN - GLOCK 33 .357 SIG	175	370
EIGHTY-FIVE A	BULLETS	175	370
EIGHTY-SIX	GUN - H&K 9 MM	175	370
EIGHTY-SIX A	BULLETS	175	370
EIGHTY-SEVEN	DAVID JAKES' BULLETS	454	456
EIGHTY-EIGHT	DAVID JAKE BULLET	454	456
EIGHTY-NINE	.50 CALIBER SHELL CASINGS	464	466
NINETY			
NINETY-ONE	MAP (GIS)	424	425
NINETY-TWO	911 CALL - CD (NOT TRANSCRIBED)	134	168
NINETY-THREE	BLACK SHIRT	413	416
NINETY-FOUR	BLACK GLOVES	413	416
NINETY-FIVE	WHITE TOWEL/PIN-STRIPED HOODIE	413	416

NINETY-SIX	SWABS - SLED	417	493
NINETY-SEVEN	VEHICLE IMPOUND REPORT	344	348
NINETY-EIGHT	FINGERPRINT CARDS A-E	418	420
NINETY-NINE	WHITE T-SHIRT	413	416
ONE HUNDRED	TENNIS SHOES AND HAT	413	416
ONE HUNDRED ONE	PRINTS	418	421

DEFENSE EXHIBITS

ONE	PHOTO	478	481
TWO	PHOTO	478	481
THREE	PHOTO	478	481
FOUR	PHOTO	478	481
FIVE	PHOTO	478	482
SIX	PHOTO	591	591
SEVEN	PHOTO	591	591
EIGHT	PHOTO	591	591
NINE	PHOTO	436	
TEN	SEARCH WARRANT	455	
ELEVEN	PHOTO	478	482
TWELVE	PHOTO	478	482
THIRTEEN	PHOTO	478	482
FOURTEEN	DVD INTERVIEW (NOT TRANSCRIBED)	574	575

COURT EXHIBITS

ONE	JURY NOTE NAMING FOREMAN	60
TWO	JURY NOTE - JUROR MATTER	194
THREE	DEFENDANT MCMILLAN REQUESTS TO CHARGE	---
FOUR	JURY QUESTIONS - TWO	690
FIVE	JURY QUESTION - HEAR AUDIO	691
SIX	JURY QUESTION - HEAR AUDIO	697

STIPULATIONS:

ONE	SLED SEROLOGY ANALYSIS	91
TWO	SLED DNA REPORT	91
THREE	SLED DNA REPORT	91
FOUR	SLED DNA REPORT	91
FIVE	SLED DNA REPORT	91
SIX	SLED DNA REPORT	91
SEVEN	SLED DNA REPORT	91
EIGHT	BCSO RESULTS OF LATENT PRINT EXAM	92
NINE	CHARLESTON POLICE DEPT. - LATENT PRINTS	92
TEN	SLED CHAIN OF CUSTODY	92
ELEVEN	CCSO EVIDENCE TRACKING REPORT	92
TWELVE	STIPULATIONS - ANTWAN MCMILLAN	90
THIRTEEN	STIPULATIONS - DAVID JAKES	93

JACKSON V. DENNO HEARING EXHIBITS

FOURTEEN	REQUEST TO STAFF - DAVID JAKES	71
FIFTEEN	MIRANDA RIGHTS FORM - DAVID JAKES	71

DEFENDANT MCMILLAN:

ONE	DAVID JAKES - INTERVIEW DVD (NOT TRANS)	86

1 **THE COURT:** Is the State ready to proceed?

2 **ASST. SOL. HASELDEN:** Yes, Your Honor.

3 **THE COURT:** Are the defendants ready to proceed?

4 **MR. MATHEWS:** Yes, Your Honor.

5 **MR. BEACH:** Yes, Your Honor.

6 **THE COURT:** Very well. All right. Solicitor, call
7 your case.

8 **ASST. SOL. HASELDEN:** Thank you, Your Honor.. The State
9 is ready to proceed in State v. David Jakes in Indictment
10 2010-GS-15-0703 for attempted armed robbery; 0704 for
11 attempted murder; 0705 for attempted murder; 0706 for
12 attempted murder; 0707 for attempted armed robbery; 0708 for
13 attempted armed robbery; 0709 for possession of a weapon
14 during the commission of a violent crime; and 2011-GS-15-
15 00598 for possession of a stolen pistol.

16 The State is also ready to proceed in the State v.
17 Antwan D. McMillan. Indictment 2010-GS-15-00501 for
18 attempted murder; 00502 for attempted murder; 00503 for
19 attempted murder; 00504 for attempted armed robbery; 00505
20 for attempted armed robbery; 00506 for attempted armed
21 robbery; and 00507 for possession of a weapon during the
22 commission of a violent crime.

23 May I approach?

24 **THE COURT:** You may. So you're proceeding in eight
25 indictments against each of the two defendants?

1 **ASST. SOL. HASELDEN:** There is an additional indictment
2 against David Jakes. I believe he has eight.

3 **THE COURT:** He has eight and Mr. McMillan has seven?

4 **ASST. SOL. HASELDEN:** Yes, sir, Your Honor.

5 **THE COURT:** A total of fifteen?

6 **ASST. SOL. HASELDEN:** Yes, sir, Your Honor.

7 **THE COURT:** And what is the additional indictment
8 against Mr. Jakes that is not charged against Mr. McMillan?

9 **ASST. SOL. HASELDEN:** Possession of a stolen pistol.

10 **THE COURT:** That would be to your benefit, Solicitor,
11 since I'm holding them and you're not. Indictment 2011 at
12 598; is that correct?

13 **ASST. SOL. HASELDEN:** Yes, sir.

14 **THE COURT:** All indictments have been true-billed?

15 **ASST. SOL. HASELDEN:** Yes, sir.

16 **THE COURT:** All right. Ladies and gentlemen, if you
17 would give me your attention, I told you earlier that I was
18 going to ask you certain questions today to qualify you and
19 to ask you questions concerning your impartiality to serve
20 as a juror in the trial of the case.

21 I remind you that the responses you are going to give
22 me now are also under that oath, or affirmation, that you
23 took earlier this afternoon, because I'm going to ask you
24 questions to determine your impartiality to serve as a juror
25 in the trial of the case.

1 Now, ladies and gentlemen, I want you to first of all
2 meet the lawyers that are going to be trying the case. I'm
3 going to have them stand, turn and face you, introduce
4 themselves, identify who they work for, either represent or
5 work for. I'm going to have them, in the case of the
6 defendant, have their client stand. They are going to
7 introduce their client. They're going to tell you where
8 their clients live. Whether they live in Walterboro, or
9 wherever they're from, so you'll see their face, you'll hear
10 their name, you'll know where they live, because I'm going
11 to be asking you questions, ladies and gentlemen, about the
12 clients, to determine if you have any relationship with the
13 clients.

14 I'm going to ask you questions about the lawyers to
15 determine if you have any relationship to the lawyers. I'm
16 going to ask you questions about the potential witnesses in
17 the trial of this case to determine if you have any
18 relationship with any potential witness.

19 If you need to answer one of my questions, as you did
20 before, stand up. Wait on Mr. Grant or Mr. Polk. They are
21 going to pass you a portable microphone. Don't just start
22 talking. I know you have to sometimes wait on it. Give us
23 your name and your juror number, for the court reporter's
24 sake, so she knows who's speaking.

25 Listen to my question. It's probably going to be a yes

1 or no for you. You don't need to give an explanation. If
2 you think it's important to give an explanation, I'm going
3 to probably have to ask you to come forward to the court
4 reporter stand for the very reason that I told you about
5 earlier this afternoon in my jury qualification questions to
6 you.

7 But for now, let's begin the process. The State has
8 called for trial the case of the State V. Antwan McMillan.
9 Mr. McMillan is charged by these pieces of paper that I hold
10 in my hand. Mr. McMillan has one, two, three, four, five,
11 six, seven charges. The charges are attempted murder, one,
12 two, three indictments. Attempted armed robbery, one, two,
13 three indictments, and possession of a weapon during the
14 commission of a violent crime, as to Mr. McMillan.

15 Mr. McMillan is represented by Mr. Mathews who is going
16 to introduce himself to you in just a moment.

17 The State has also called for trial the case of the
18 State v. David Jakes. Mr. Jakes is charged in eight
19 indictments. Three charges of attempted murder, three
20 charges of attempted armed robbery, a charge of a possession
21 of a weapon during the commission of a violent crime, just
22 as Mr. McMillan is, and with an additional eighth indictment
23 for possession of a stolen pistol. So there are eight
24 charges against Mr. Jakes; seven charges against Mr.
25 McMillan.

1 To these indictments, the defendants have pled not
2 guilty. That places the burden on the State of South
3 Carolina to prove each and every element of the offenses
4 charged beyond a reasonable doubt. And if you are selected
5 as a juror in the trial of this case, it will be your job to
6 determine whether or not the State has met that burden.

7 But you must make that decision solely upon evidence
8 introduced during the trial of the case when both sides are
9 present with the right of cross-examination, and not on any
10 outside influence, such as reading the newspaper, or
11 watching television, or having read or listened to a news
12 account; only upon evidence introduced during the trial of
13 the case.

14 I will be asking you questions to determine your
15 impartiality. This will not be a long case, ladies and
16 gentlemen. It will conclude the early part of this week.

17 Now, as I promised you, ladies and gentlemen, this will
18 be a short week, so I don't want you to be concerned about
19 that at all. I will get you home in a timely fashion, but I
20 need for you to pay careful attention now, and I remind you
21 that the answers you give me to my questions concerning your
22 impartiality to serve as a juror are under the oath that you
23 took earlier from the Clerk of Court.

24 Let's begin by my allowing the lawyers to introduce
25 themselves to you, beginning with counsel for the State of

1 South Carolina.

2 **ASST. SOL. HASELDEN:** Good afternoon, ladies and
3 gentlemen, I'm Amanda Haselden. I'm a prosecutor for Duffy
4 Stone here in Walterboro, and I also occasionally prosecute
5 in Allendale, Hampton, and Jasper Counties.

6 **ASST. SOL. SHELTON:** Good afternoon, everyone, again.
7 My name is Ben Shelton. I'm Assistant Solicitor here in
8 Colleton County.

9 **THE COURT:** Counsel for Mr. Antwan McMillan.

10 **MR. MATHEWS:** Thank you, Your Honor. I'm Dave Mathews
11 and I'm with the public defender's office, and I represent
12 Antwan McMillan. Antwan, if you'll stand up.

13 (DEFENDANT, ANTWAN McMILLAN, STANDS AND FACES JURY
14 PANEL.)

15 **THE COURT:** Turn around and face my jury panel. Ladies
16 and gentlemen, this is Antwan McMillan. Where is he from,
17 Mr. Mathews?

18 **MR. MATHEWS:** He is from Smoaks.

19 **THE COURT:** Smoaks, South Carolina, ladies and
20 gentlemen. You may be seated. Counsel for David Jakes.

21 **MR. BEACH:** Good afternoon, again, ladies and
22 gentlemen. I'm Harris Beach with the Public Defender's
23 Office here in Colleton County. I represent David Jakes.
24 Mr. Jakes lives in Smoaks, South Carolina.

25 (DEFENDANT, DAVID JAKES, STANDS AND FACES JURY PANEL.)

1 **THE COURT:** This is Mr. David Jakes from Smoaks, South
2 Carolina. Thank you. You may be seated.

3 All right, ladies and gentlemen, my first question to
4 you under oath is any member of my jury panel related by
5 blood, connected by marriage, or a close personal friend of
6 Antwan D. McMillan of Smoaks, South Carolina? Is so, please
7 stand at this time..

8 (TWO JURORS STAND.)

9 **THE COURT:** Let the record reflect, Becky, no one is
10 standing -- Oh, wait a minute. Come on forward. Get a
11 microphone. Stand up, one at a time. You're first, sir.
12 Name and juror number, please.

13 **JUROR:** Julius Linder, Jr. One-o-four

14 **THE COURT:** Whoa. Start over again. That got blurry
15 through the microphone.

16 **JUROR:** Julius Linder, Jr. One-o-four.

17 **THE COURT:** I heard the One-o-four, but it's not clear.
18 Julius Linder? Got to say "yes" or "no".

19 **JUROR:** Yes, sir.

20 **THE COURT:** All right. Mr. Linder, listen to my
21 question. Are you related by blood to Mr. McMillan?

22 **JUROR:** No.

23 **THE COURT:** Are you connected by marriage to Mr.
24 McMillan?

25 **JUROR:** No.

1 **THE COURT:** Are you a close personal friend of Mr.
2 McMillan?

3 **JUROR:** Correct.

4 **THE COURT:** How long have you known Mr. McMillan?

5 **JUROR:** A long time; thirteen, fourteen years.

6 **THE COURT:** The fact that you're a close personal
7 friend of Mr. McMillan that you've known for thirteen or
8 fourteen years, would that in any way prevent you from
9 giving the State of South Carolina or the defendant in this
10 case, Antwan McMillan, a fair and an impartial trial?

11 **JUROR:** Yes.

12 **THE COURT:** Thank you, sir. You may be seated.
13 Yes, ma'am, your name and juror number.

14 **JUROR:** Mekesha Herndon,

15 **THE COURT:** Counsel, this is juror Eighty-four, Mekesha
16 Herndon. Ms. Herndon, are you related by blood to Antwan
17 McMillan?

18 **JUROR:** Yes.

19 **THE COURT:** How are you related by blood to him?

20 **JUROR:** His father is my mother's cousin.

21 **THE COURT:** His father is your mother's cousin. What
22 degree of cousin-ship or kinship is his father to your
23 mother?

24 **JUROR:** Well, his grandfather ---

25 **THE COURT:** First, second, third?

1 **JUROR:** Third.

2 **THE COURT:** Third. So his father is your mother's
3 third cousin?

4 **JUROR:** Yes.

5 **THE COURT:** The fact that his father is your mother's
6 third cousin, would that in any way affect your ability to
7 give the State of South Carolina or the defendant, Antwan
8 McMillan, a fair and an impartial trial?

9 **JUROR:** No.

10 **THE COURT:** Thank you, ma'am. You may be seated.
11 Yes, sir, you're name and juror number for the record.

12 **JUROR:** One-nineteen.

13 **THE COURT:** Willie Mosley?

14 **JUROR:** Yes, sir .

15 **THE COURT:** Counsel, this is juror number One hundred
16 and nineteen, Willie Mosley. Mr. Mosley, are you related by
17 blood to Mr. McMillan?

18 **JUROR:** Yes.

19 **THE COURT:** How are you related by blood to Mr.
20 McMillan.

21 **JUROR:** Cousin.

22 **THE COURT:** A cousin. What degree of kinship are you
23 cousin-wise to Mr. McMillan?

24 **JUROR:** About third.

25 **THE COURT:** So Mr. McMillan is your third cousin; is

1 that right?

2 JUROR: Yes, sir.

3 THE COURT: Do you live in Smoaks?

4 JUROR: Yes, sir.

5 THE COURT: All right. Do you see him every day?

6 JUROR: Not on an every day basis.

7 THE COURT: Not every day. All right. Let me ask you
8 this, please approach. Counsel approach, also.

9 (JUROR APPROACHES THE BENCH, AS WELL AS COUNSEL.)

10 THE COURT: Come on over here, if you would. Mr.
11 Mosley, I understand you are his third cousin and that you
12 live in Smoaks.

13 JUROR: Yes, sir.

14 THE COURT: All right. Now, what I want to know, Mr.
15 Mosley, and the reason we ask this question, of course, is
16 to determine your impartiality to serve as a juror. You're
17 doing exactly what I ask you to do. You're doing the right
18 thing. Now, the fact that he's your third cousin, would
19 that prevent you from giving the State or the defendant a
20 fair trial?

21 JUROR: I wouldn't want to be in that position.

22 THE COURT: I'm going to excuse you from service in the
23 trial today. That's what I needed to know. Have a seat
24 back out in the courtroom. I can still use you, just not in
25 this case. Juror number 119 is disqualified from service in

1 the trial of this case only.

2 Let the record reflect that no one else is standing in
3 response to my last question concerning related by blood,
4 connected by marriage, or a close personal friend of the
5 defendant, Antwan D. McMillan.

6 Any member of my jury panel related by blood, connected
7 by marriage, or a close personal friend of the defendant,
8 David Jakes, of Smoaks, South Carolina? Is so, please stand
9 at this time.

10 (JURORS STAND.)

11 **THE COURT:** Name and juror number.

12 **JUROR:** One-o-four, Julius Linder.

13 **THE COURT:** Counsel, this is Julius Linder, juror
14 number 104. Mr. Linder, are you related by blood to Mr.
15 Jakes?

16 **JUROR:** No.

17 **THE COURT:** Are you connected by marriage to Mr. Jakes?

18 **JUROR:** No.

19 **THE COURT:** Are you a close personal friend of Mr.
20 Jakes? **JUROR:** Yes, sir.

21 **THE COURT:** How long have you known him?

22 **JUROR:** About thirteen, fourteen years.

23 **THE COURT:** Do you live in the community with him, in
24 Smoaks?

25 **JUROR:** Yes sir.

1 **THE COURT:** All right. The fact that you live in
2 Smoaks, you have known him for thirteen or fourteen years,
3 would that in any way, prevent you from giving the State of
4 South Carolina or the defendant in this case, Mr. David
5 Jakes, a fair and impartial trial?

6 **JUROR:** No, sir.

7 **THE COURT:** Very well. You may be seated. Anyone else
8 related by blood, connected by marriage, or a close personal
9 friend of the defendant, David Jakes, of Smoaks, South
10 Carolina, whom you have just met? If so, please stand at
11 this time.

12 (NO RESPONSE.)

13 **THE COURT:** Let the record reflect, no one is standing.
14 Have you met the attorneys that are going to be trying this
15 case? Amanda Haselden with the Fourteenth Judicial Circuit
16 Solicitor's Office. Mr. Ben Shelton with the Fourteenth
17 Judicial Circuit Solicitor's Office. Any member of my jury
18 panel related by blood, connected by marriage, or a close
19 personal friend of either Amanda Haselden of the Fourteenth
20 Judicial Circuit Solicitor's Office, or Ben Shelton, whom
21 you just met of the Fourteenth Judicial Circuit Solicitor's
22 Office? If so, please stand at this time.

23 (NO RESPONSE.)

24 **THE COURT:** Let the record reflect no one is standing.
25 Any member of my jury panel ever been represented in the

1 past by Amanda Haselden or Ben Shelton, both now with the
2 Fourteenth Judicial Circuit Solicitor's office or currently
3 represented by them? If so, please stand at this time.

4 (NO RESPONSE.)

5 **THE COURT:** Let the record reflect no one is standing.
6 If you have also met counsel for Mr. Antwan D. McMillan of
7 Smoaks, South Carolina, Mr. David Matthews, who is the
8 Assistant Public Defender in Colleton County. Is any member
9 of my jury panel related by blood, connected by marriage or
10 a close personal friend of Mr. David Matthews, Assistant
11 Public Defender of Colleton County. If so, please stand at
12 this time.

13 (NO RESPONSE.)

14 **THE COURT:** Let the record reflect that no one is
15 standing. Any member of my jury panel ever been represented
16 in the past or currently represented by Mr. David Matthews,
17 assistant public defender of Colleton County? If so, please
18 stand at this time.

19 (SEVERAL JURORS STAND.)

20 **THE COURT:** Pass the microphone. Name and juror
21 number, please.

22 **JUROR:** Number 191.

23 **THE COURT:** Counsel, this is juror number one hundred
24 and ninety-one, Raymond Whitlock. Mr. Whitlock, are you
25 currently represented by Mr. Matthews or was that in the

1 past?

2 JUROR: That was in the past, sir.

3 THE COURT: That representation has been concluded?

4 JUROR: Yes, sir.

5 THE COURT: The fact that you were previously
6 represented by Mr. Matthews who is the attorney for Mr.
7 McMillan in this case, would that in any way affect your
8 ability to give the State of South Carolina, or either one
9 of the defendants, Mr. McMillan or Mr. Jakes, a fair and
10 impartial trial?

11 JUROR: No, sir.

12 THE COURT: Thank you, sir. You may be seated. Anyone
13 else ever been represent in the past or is currently
14 represented by Mr. David Matthews, please stand.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect that no one is
17 standing. You have also met counsel for Mr. David Jakes of
18 Smoaks, South Carolina, Mr. Harris Beach, who is Assistant
19 Public Defender also for Colleton County.

20 Any member of my jury panel related by blood, connected
21 by marriage, or a close personal friend of counsel for Mr.
22 David Jakes of Smoaks, South Carolina, who is Mr. Harris
23 Beach, assistant public defender of Colleton County, if so,
24 please stand at this time.

25 (NO RESPONSE.)

1 **THE COURT:** Let the record reflect that no one is
2 standing. Is there anyone here for jury service this
3 afternoon who is currently represented or has been
4 represented in the past by Mr. Harris Beach, attorney for
5 Mr. David Jakes of Smoaks, South Carolina. If so, please
6 stand at this time.

7 (JUROR STANDS.)

8 **THE COURT:** Name and number.

9 **JUROR:** Number 47, Michael Dopson.

10 **THE COURT:** Counsel, this is juror number forty-seven,
11 Michael Dopson. Mr. Dopson, is Mr. Beach currently your
12 attorney or has the representation been concluded.

13 **JUROR:** It has been concluded; it was years ago.

14 **THE COURT:** The fact that Mr. Beach represented you in
15 the past, Mr. Dopson, would that in any way affect your
16 ability to give the State of South Carolina in this case or
17 Mr. McMillan or Mr. Jakes in this case, a fair and impartial
18 trial?

19 **JUROR:** No, sir.

20 **THE COURT:** Thank you, sir. You may be seated. Anyone
21 else ever been represented in the past or currently
22 represented by counsel for Mr. David Jakes, Mr. Harris
23 Beach? If so, please stand at this time.

24 (NO RESPONSE.)

25 **THE COURT:** Let the record reflect that no one is

1 standing. Now, ladies and gentleman, these indictments that
2 I told you about, eight for Mr. Jakes, seven for Mr.
3 McMillan -- these indictments are just allegations, ladies
4 and gentleman. They are not evidence of any of the
5 allegations contained in the indictment. I tell you that
6 because you must decide this case based on evidence
7 introduced during the trial of this case when both sides are
8 present with the right of cross examination.

9 So I am going to tell you a little bit about the
10 allegations in order to determine your impartiality served
11 as a juror in trying this case; but it is not evidence, they
12 are merely allegations, and I am only telling you about the
13 allegations to ensure that you can be a fair and impartial
14 juror if you are selected as a juror in the trial of this
15 case.

16 In indictment 2010 at 501, the State vs. Antwan
17 McMillan, indictment for attempted murder, it is alleged
18 that this offense occurred in Colleton County on about June
19 3rd, 2010; that the defendant with malice aforethought,
20 accompanied by present ability to complete the act of the
21 intent to kill, either expressed or implied, did attempt to
22 kill and murder one Jesse King by shooting at the victim.

23 In indictment 2010 at 502, indictment for attempted
24 murder as to Mr. Antwan McMillan, it is alleged that it
25 occurred in Colleton County on about June 3rd, 2010, and

1 that the defendant Antwan McMillan with malice aforethought
2 -- I will explain the elements of these crimes in my charge
3 to you on the law at the conclusion of the case -- the
4 attempt to kill and murder Jeanine Metzfield, M-E-T-Z-F-I-E-
5 L-D, by shooting at the victim.

6 In indictment 2010 at 503, the State vs. Antwan
7 McMillan, indictment for attempted murder, it is alleged
8 that this occurred in Colleton County on about June 3rd,
9 2010, that the defendant, Antwan D. McMillan, did attempt to
10 kill and murder Amanda Metzfield by attempting to shoot at
11 the victim.

12 In indictment 2010 at 504, the State vs. Antwan
13 McMillan, indictment for attempted armed robbery. This
14 indictment alleges that it occurred on about June 3, 2010 in
15 Colleton County and that the defendant, Antwan D. McMillan,
16 did attempt to take and carry away goods or monies from the
17 person, or immediate presence, of Amanda Metzfield while
18 armed with a deadly weapon with the intent to permanently
19 deprive her of possession of her property.

20 In indictment 2010 at 505, the State vs. Antwan D.
21 McMillan, indictment for attempted armed robbery, it is
22 alleged that it occurred on about June 3rd, 2010, in
23 Colleton County, that the defendant Antwan D. McMillan, by
24 use of force, threats or intimidation this is while armed
25 allegedly with a deadly weapon to which Antwan did attempt

1 to carry away goods or monies from the person or presence of
2 Jeanine Metzfield with the intent to permanently deprive her
3 of possession of her property.

4 In indictment 2010 at 506 the State vs. Antwan D.
5 McMillan, indictment for attempted armed robbery it is
6 alleged that this occurred on about June 3rd, 2010, in
7 Colleton County that the defendant Antwan D. McMillan by the
8 use of force, threats or intimidation and while armed with a
9 deadly weapon alleged to be a hand gun did attempt to take
10 and carry away goods or monies from the person or presence
11 of Jesse King with the intent to permanently deprive him of
12 possession and property.

13 In the case against Mr. McMillan in indictment 2010 at
14 507, the State vs. Antwan D. McMillan, an indictment for
15 possession of a weapon during the commission of a violent
16 crime, is it alleged that it occurred in Colleton County,
17 South Carolina on about June 3rd, 2010, that the defendant
18 Antwan D. McMillan did possess a handgun, or visibly
19 displayed what appeared to be a handgun, during the
20 commission of, or attempted commission of, an attempted
21 armed robbery and an attempted murder both of which are
22 alleged in the indictment to be violent crimes under the
23 laws of the State of South Carolina.

24 Now, I've read you those allegations and that's all
25 they are, they are not evidence. The indictments are simply

1 the formal written instruments by which the case against Mr.
2 McMillan is brought into this court and the allegations
3 contained in the indictment are not evidence of any of the
4 allegations today there is. I tell you about those
5 allegations to ask you this: has any person here for jury
6 duty read about, heard about, or know anything whatsoever
7 about the allegations which are contained in the indictment
8 involving Antwan D. McMillan of Smoaks, South Carolina? If
9 so, please stand at this time. Mr. Mathews, you don't need
10 to stand. I'm aware of your representation. You're
11 disqualified from service in the trial of this case. Anyone
12 else other than Mr. Mathews who is aware of the allegations
13 as to Mr. McMillan in the trial of this case? If so, please
14 stand at this time.

15 (NO RESPONSE.)

16 **THE COURT:** Let the record reflect that no one is
17 standing that has heard about, read about or knows anything
18 whatsoever about the allegations contained in the
19 indictments involving Antwan D. McMillan and no one is
20 standing in the courtroom at this time.

21 As to David Jakes of Smoaks, South Carolina, indictment
22 2010 at 704 charges Mr. Jakes with the offense of attempted
23 murder in this indictment. It is alleged that it occurred
24 in Colleton County, South Carolina, on about June 3rd, 2010,
25 that the defendant David Jakes with malice aforethought

1 accompanied by the present ability to complete the act and
2 intent to kill, either expressed or implied, did attempt to
3 kill Jesse King, allegedly by shooting at the victim.

4 In indictment 2010 at 705, the State vs. David Jakes,
5 charging him with attempted murder, it is alleged that the
6 defendant David Jakes in Colleton County, South Carolina, on
7 about June 3rd, 2010, that the defendant David Jakes did
8 attempt to kill one victim, Amanda Metzfield, by shooting at
9 the victim.

10 In indictment 2010 at 706 the State vs. David Jakes
11 indictment for attempted murder, it is alleged that this
12 occurred in Colleton County on about June 3rd, 2010, and
13 that the defendant David Jakes did attempt to kill and
14 murder one, Jeanine Metzfield, by attempting to shoot at the
15 victim.

16 In indictment 2010 at 703, the State vs. David Jakes
17 indictment for attempted armed robbery it is alleged that
18 this occurred in Colleton County on about June 3rd, 2010, it
19 is alleged that this occurred at the intersection of McLeod
20 Road at interstate I-95, that the defendant David Jakes, by
21 use of force, threats, or intimidation while armed with a
22 deadly weapon alleged to be a handgun, did attempt to take
23 and carry away goods or monies from the person or presence
24 of Jeanine Metzfield with the intent to permanently deprive
25 the person of possession of their property.

1 In indictment 2010 at 707, the State vs. David Jakes,
2 charging him with attempted armed robbery; it is alleged in
3 this indictment that it occurred on about June 3rd, 2010 in
4 Colleton County at the intersection of McLeod Road at
5 interstate I-95. That the defendant, David Jakes, by use of
6 force, threats, or intimidation and while armed with a
7 deadly weapon alleged to be a handgun, did attempt to take
8 and carry away goods or monies from the person or presence
9 of Amanda Metzfield with the intent to permanently deprive
10 them of possession of their property.

11 On indictment 2010 at 708, the State vs. David Jakes,
12 indictment for attempted armed robbery is alleged that this
13 occurred on about June 3rd, 2010, in Colleton County at the
14 intersection of McLeod Road at Interstate I-95. That the
15 defendant David Jakes by use of force, threats, or
16 intimidation and while armed with a deadly weapon alleged to
17 be a handgun did attempt to take and carry away goods or
18 monies from the person or presence of Jesse King with the
19 intent to permanently deprive him of possession of his
20 property.

21 In indictment 2010 at 709, the State vs. David Jakes,
22 charging him with possession of a weapon during the
23 commission of a violent crime. It is alleged that this
24 occurred in Colleton County, South Carolina, on about June -
25 - counsel approach.

1 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
2 AND OUT OF THE HEARING OF THE JURY.)

3 THE COURT: Yes, ma'am, I understand the State has a
4 motion.

5 ASST. SOL. HASELDEN: Yes, Your Honor. At this time,
6 the State would move to amend the indictment 2010-GS-15-0709
7 against David Jakes for possession of a weapon during the
8 commission of a violent crime. There is a Scribner's error
9 denoting the date of June 30th, 2010. It should properly be
10 June 3rd, 2010.

11 THE COURT: Any objection, Mr. Beach, as to the
12 amendment?

13 MR. BEACH: No, Your Honor.

14 THE COURT: Any objection, Mr. Mathews, on behalf of
15 your client as to the amendment?

16 MR. MATHEWS: No, Your Honor.

17 THE COURT: All right. Solicitor, it is so ordered
18 without objection. Write June the 3rd, place your initials,
19 and hand me the indictment.

20 (DOCUMENTS ARE CORRECTED AND HANDED UP TO THE COURT.)

21 THE COURT: Thank you. Now, Ladies and gentlemen, in
22 indictment 2010-GS-15-0709, the State v. David Jakes,
23 charging him with the offense of possession of a weapon
24 during the commission of a violent crime. This indictment
25 alleges that it occurred in Colleton County on or about June

1 the 3rd, 2010. That the defendant, David Jakes, did possess
2 a handgun or visibly displayed what appeared to be a handgun
3 during the commission of or attempted commission of
4 attempted armed robbery and attempted murder, both alleged
5 to be violent crimes under the laws of the State of South
6 Carolina.

7 Finally, as to Mr. Jakes, in indictment 2011-GS-15-598,
8 the State v. David Jakes, charging him with possession of a
9 stolen pistol. This indictment alleges that it occurred in
10 Colleton County, South Carolina, on or about June 3rd, 2010.
11 That the defendant, David Jakes, knowingly did buy, sell,
12 transport, pawn, receive, or possess a stolen handgun
13 alleged to be a .50 caliber Desert Eagle handgun in
14 violation of the laws of the State of South Carolina.

15 Now, those are allegations in the eight indictments
16 against Mr. Jakes. Just as I asked you as to Mr. McMillan,
17 has any member of my jury panel read about, heard about, or
18 know anything whatsoever about the facts which are alleged
19 in the indictments as to Mr. David Jakes of Smoaks, South
20 Carolina? If so, please stand at this time.

21 Not you, Mr. Mathews, you're disqualified.

22 Name and juror number, please.

23 **JUROR:** Frederick Green, juror Seventy-six.

24 **THE COURT:** Counsel, this is juror number Seventy-six,
25 Frederick Green. Mr. Green, come forward, please. Counsel

1 approach.

2 This is Mr. Frederick Green, you are number Seventy-
3 six. Mr. Green, have you heard about this case?

4 JUROR: (SHAKES HEAD.)

5 THE COURT: Have you read about it?

6 JUROR: Heard about it and read about it.

7 THE COURT: Okay. Let's start with this, who did you
8 hear about the case from?

9 JUROR: I was incarcerated with the defendants.

10 THE COURT: You were incarcerated with which defendant?

11 JUROR: The one sitting on the far end.

12 THE COURT: The one that's sitting on the far end, Mr.
13 Jakes?

14 JUROR: Yes, sir.

15 THE COURT: So you were in jail with Mr. Jakes?

16 JUROR: Yes.

17 THE COURT: Did you talk to Mr. Jakes about it?

18 JUROR: We ain't talked, but I heard things about it.

19 THE COURT: You heard about it. All right. Now, you
20 also said you read about it.

21 JUROR: Yeah.

22 THE COURT: So you read it in the paper?

23 JUROR: Yes.

24 THE COURT: The fact that you heard from somebody at
25 the jail and the fact that you read about it, can you put

1 aside anything that you may have read or heard about this
2 case, and decide this case solely upon evidence introduced
3 in this courtroom when both sides are present with the right
4 of cross-examination?

5 JUROR: Yes, I could.

6 THE COURT: All right. Now, you won't be influenced by
7 anything anybody may have told you ahead of this trial or
8 anything you read in the paper; is that correct?

9 JUROR: Yes, sir.

10 THE COURT: And you would decide it solely upon the
11 evidence?

12 JUROR: Yes, sir.

13 BAILIFF: Juror number One hundred Thirty.

14 THE COURT: How are you doing? Come on over here by
15 Becky. She's got to be able to hear you.

16 JUROR: Okay.

17 THE COURT: This is juror number One hundred Thirty,
18 James Pedigo?

19 JUROR: Yes, sir.

20 THE COURT: Am I pronouncing that correctly?

21 JUROR: Yes, sir.

22 THE COURT: Have you heard something about this case?

23 JUROR: You mentioned McLeod Road and I-95, and I think
24 I saw it on the news.

25 THE COURT: That's perfectly normal, Mr. Pedigo.

1 Everybody watches the news. Can you put aside anything that
2 you heard on the news and decide this case solely upon
3 evidence introduced in ---

4 **JUROR:** I don't even know anybody in it.

5 **THE COURT:** Well, I will tell you this, Mr. Pedigo,
6 just so you know, I don't know whether it's about this case;
7 but we've had more than one incident occur on McLeod Road.
8 I just tried a case involving McLeod Road and I-95 that was
9 in the papers. I don't know whether what you saw -- what's
10 important is that you decide this case only upon the
11 evidence introduced in this courtroom when both sides are
12 present. Can you do that?

13 **JUROR:** Yes, sir. That's not a problem.

14 **THE COURT:** Thank you. You're doing exactly what I
15 asked you to do. You may return to your seat.

16 All right. Let the record reflect that no one else has
17 come forward or is raising their hand or stood up in
18 response to my questions concerning whether they had read
19 about, heard about, or know anything whatsoever involving
20 the allegations against the defendant, David Jakes.

21 All right. Ladies and gentlemen, I'm advised that the
22 potential witness, and they all may not be here right now,
23 because we're going to start tomorrow, but if they are here,
24 I'm going to ask them to stand and face you so you can hear
25 a name called, and see a face as well as hear a name called.

1 These are just potential witnesses. They may or may not be
2 called, but they are potential witnesses in the trial of
3 this case. I'm going to give you a home town or an
4 occupation so you can identify something with the name. If
5 they're present in the courtroom when I call your name,
6 stand and face my jury panel, so the jury can see you as
7 well as hear the name and occupation or your place of
8 residence called.

9 Christy Willis, Colleton County Sheriff's Department.
10 Jason Fernandez, Colleton County Sheriff's Office. Anthony
11 Buchanan, now Ridgeland Police Department. Jacky Lawson,
12 Colleton County Sheriff's Office. Jeff Scott, Colleton
13 County Sheriff's Office. Gean Johnson, Colleton County
14 Sheriff's Office. Allen Inabinett, Colleton County
15 Sheriff's Office. Stephen Sanders, Colleton County Fire and
16 Rescue.

17 Jerry Davis, Smoaks, South Carolina. Amanda Metzfield,
18 where in Colorado?

19 **ASST. SOL. HASELDEN:** They're on a base, sir. I'm not
20 sure.

21 **THE COURT:** They're on a military base?

22 **ASST. SOL. HASELDEN:** Yes, sir.

23 **THE COURT:** All right. Colorado. Jesse King,
24 Colorado. Jeanine Metzfield, Virginia. Is she on a base,
25 too?

1 **ASST. SOL. HASELDEN:** No, sir, Your Honor. She's just
2 outside of Richmond.

3 **THE COURT:** Just outside of Richmond, Virginia. Jody
4 Taylor, Colleton County Sheriff's Office. Standing to my
5 right, your left. Thank you. You may be seated. David
6 Thomas, Colleton County Sheriff's Office. Ruben Carter,
7 standing to my right, Colleton County Sheriff's Office.
8 Thank you. You may be seated. Shaquita Bryant, Smoaks,
9 South Carolina. Angela Arnold, Smoaks, South Carolina.
10 Brittney Jenkins, Smoaks, South Carolina.

11 Tommy Walker, Colleton County Sheriff's Office.
12 Sheshawn Risher, Walterboro, South Carolina. John Graham,
13 Smoaks, South Carolina. Amanda Webb, W-E-B-B, South
14 Carolina Law Enforcement Division. Suzanne Cromer, South
15 Carolina Law Enforcement Division. Christine Wilson,
16 Beaufort County Sheriff's Office.

17 James Davis, Sr., Smoaks, South Carolina. Joseph
18 Griffin, G-R-I-F-F-I-N, Smoaks, South Carolina. Montez
19 Jenkins, Smoaks, South Carolina. Andrew Williams, Colleton
20 County Sheriff's Office. Nada Kerstein, Charleston Police
21 Department. David Jakes, Smoaks, South Carolina. Antwan
22 McMillan -- turn around and face my jury panel. Turn all
23 the way around, Mr. McMillan, Smoaks, South Carolina. You
24 may be seated.

25 David Jakes, stand up and turn around, Smoaks, South

1 Carolina. You may be seated.

2 Any additional witnesses from the State?

3 **ASST. SOL. HASELDEN:** None, Your Honor.

4 **THE COURT:** Any additional witnesses from the defendant
5 McMillan?

6 **MR. MATHEWS:** No, Your Honor.

7 **THE COURT:** Any additional witnesses from the defendant
8 Jakes?

9 **MR. BEACH:** No, Your Honor.

10 **THE COURT:** Any member of my jury panel related by
11 blood, connected by marriage, or a close personal friend of
12 any of the potential witnesses in the trial of this case,
13 whose names I have just called? Is so, please stand at this
14 time.

15 (SEVERAL JURORS STAND.)

16 **THE COURT:** All right. Ladies are first. Name and
17 juror number, please, ma'am.

18 **JUROR:** Makeisha Herndon, Eighty-four.

19 **THE COURT:** Counsel, this is juror number Eighty-four,
20 Makeisha Herndon. Are you related by blood to a witness?

21 **JUROR:** Yes.

22 **THE COURT:** Which witness? Have you already stood
23 about it? That's the defendant?

24 **JUROR:** No.

25 **THE COURT:** All right. Which one?

1 **JUROR:** Gean Johnson.

2 **THE COURT:** Gean Johnson. Mr. Johnson is with the
3 Colleton County Sheriff's Office and is a potential witness.
4 How are you related to him?

5 **JUROR:** We are second cousins.

6 **THE COURT:** The fact that you're a second cousin of Mr.
7 Johnson, who is a potential witness in the trial of this
8 case, will that in any way affect your ability, Ms. Herndon,
9 to give the State or the defendant in this case a fair and
10 impartial trial?

11 **JUROR:** No, sir.

12 **THE COURT:** Thank you, ma'am, you may be seated. Yes,
13 sir your name and jury number, please.

14 **JUROR:** One o-four, Julius Linder.

15 **THE COURT:** Counsel, this is juror number One hundred
16 and four, Julius Linder. Mr. Linder, are you related by
17 blood to any of the potential witnesses?

18 **JUROR:** Yes, sir.

19 **THE COURT:** Who is that?

20 **JUROR:** James Davis.

21 **THE COURT:** James Davis. Mr. Davis is -- I've got a
22 James Davis, Sr., and I have a James Davis. So I'm assuming
23 there's two of them, both in Smoaks. You know both of them?
24 Yes or no.

25 **JUROR:** Yes.

1 **THE COURT:** All right. How are you related to James
2 Davis, Sr. and James Davis?

3 **JUROR:** First cousins.

4 **THE COURT:** First cousins. I'll excuse you from the
5 trial of this case only. You may be seated.

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

7 **JUROR:** I'm Deborah McMillen, number One eleven.

8 **THE COURT:** Counsel, this is juror number one hundred
9 and eleven, Debra McMillan. Ms. McMillen, are you related
10 by blood to any of the potential witnesses?

11 **JUROR:** No, sir.

12 **THE COURT:** Are you connected by marriage to any of the
13 potential witnesses?

14 **JUROR:** No, sir.

15 **THE COURT:** Are you a close personal friend of any of
16 the potential witnesses.

17 **JUROR:** I'm friends with Mr. Jeff Scott.

18 **THE COURT:** All right. You're friends with Mr. Jeff
19 Scott with the Colleton County Sheriff's Office?

20 **JUROR:** Yes, sir.

21 **THE COURT:** The fact that you are friends with Mr.
22 Scott who is a potential witness in the trial of this case,
23 would that in any way affect your ability to give the State
24 of South Carolina or the defendant McMillan or the defendant
25 Jakes a fair and impartial trial?

1 JUROR: No, sir.

2 THE COURT: Thank you, ma'am, you may be seated. Yes,
3 sir, your name and juror number, please.

4 JUROR: James Pedigo, One thirty.

5 THE COURT: Counsel, this is juror number one hundred
6 and thirty, James Pedigo. Mr. Pedigo, are you related by
7 blood to any of the potential witnesses?

8 JUROR: No, sir.

9 THE COURT: Are you connected by marriage to any of the
10 potential witnesses?

11 JUROR: No, sir.

12 THE COURT: Are you a close personal friend of any of
13 the potential witnesses?

14 JUROR: Yes, sir.

15 THE COURT: Which witness?

16 JUROR: Jody Taylor.

17 THE COURT: Jody Taylor. The fact that you are a close
18 personal friend of Jody Taylor with the Colleton County
19 Sheriff's Office who is a potential witness in the trial of
20 this case, would that in any way, Mr. Pedigo, affect your
21 ability to give the State of South Carolina or the defendant
22 McMillan or the defendant Jakes a fair and impartial trial?

23 JUROR: No, sir.

24 THE COURT: Thank you, sir. You may be seated. Let
25 the record reflect no one else is standing in response to my

1 last question.

2 Any member of my jury panel formed any opinion
3 whatsoever about the facts which are alleged in this case?
4 If so, please stand at this time.

5 (NO RESPONSE.)

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

7 Any member of my jury panel formed any opinion about
8 the alleged guilt or innocence of either Mr. Antwan McMillan
9 or Mr. David Jakes? If so, please stand at this time.

10 (NO RESPONSE.)

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

13 Any member of my jury panel formerly a member of the
14 Colleton County Grand Jury which found the indictments in
15 this case? If so, please stand at this time.

16 (NO RESPONSE.)

17 **THE COURT:** Let the record reflect that no one is
18 standing. Any member of my jury panel a member of any law
19 enforcement agency, or employed by a law enforcement agency?
20 If so, please stand at this time.

21 (NO RESPONSE.)

22 **THE COURT:** Let the record reflect that no one is
23 standing. Any member of my jury panel been the victim of a
24 violent crime? If so, please stand at this time.

25 (JURORS STANDS.)

1 **THE COURT:** Yes, sir, we have a lady up front. Ma'am,
2 you're first; name and juror number.

3 **JUROR:** Christy Garrett, juror number Sixty-eight.

4 **THE COURT:** Counsel, this is juror number sixty-eight,
5 Christie Garrett. Ms. Garrett, you were the victim of a
6 violent crime?

7 **JUROR:** Yes, sir.

8 **THE COURT:** The fact that you were a victim of a
9 violent crime, would that in any way affect your ability to
10 give the State of South Carolina or the defendants in this
11 case a fair and impartial trial?

12 **JUROR:** No, sir.

13 **THE COURT:** Thank you, you may be seated -- yes, sir,
14 your name and juror number for the record.

15 **JUROR:** James Pedigo, One thirty.

16 **THE COURT:** Counsel, this is juror number one hundred
17 thirty. Mr. Pedigo, you were the victim of a violent crime?

18 **JUROR:** Yes, sir.

19 **THE COURT:** The fact that you were previously a victim
20 of a violent crime, would that in any way affect your
21 ability to give the State of South Carolina or the defendant
22 McMillan or the defendant Jakes a fair and impartial trial?

23 **JUROR:** No, sir.

24 **THE COURT:** Thank you, you may be seated. Yes ma'am,
25 in the back. Your name and juror number, please.

1 JUROR: Cindy Corley, juror number Thirty-two.

2 THE COURT: Counsel, this is juror number thirty-two,
3 Cindy Corley. Ms. Corley, you were the victim of a violent
4 crime?

5 JUROR: Yes, sir.

6 THE COURT: The fact that you were a victim of a
7 violent crime, would that affect your ability to give the
8 state of South Carolina or the defendant McMillan or the
9 defendant Jakes a fair and impartial trial?

10 JUROR: I hope not.

11 THE COURT: You have to tell me "yes" or "no".

12 JUROR: No.

13 THE COURT: Thank you, ma'am. You may be seated. Yes,
14 sir, your name and juror number.

15 JUROR: Raymond Whitlock, juror number One ninety-one.

16 THE COURT: Counsel, this is juror number One hundred
17 ninety-one, Raymond Whitlock. Mr. Whitlock, you were the
18 victim of a violent crime?

19 JUROR: Yes, sir.

20 THE COURT: The fact that you were a victim of a
21 violent crime, would that affect your ability to give the
22 State of South Carolina or the defendant McMillan or the
23 defendant Jakes a fair and impartial trial?

24 JUROR: No, sir.

25 THE COURT: Thank you, sir. You may be seated. Let

1 the record reflect that no one else is standing in response
2 to my last question.

3 Is any member of my jury panel a member of or a
4 contributor to any group which has as its primary concern,
5 the promotion of law enforcement or victim's rights. These
6 groups would include MADD, SADD, CAVE or CADRE; if so,
7 please stand at this time.

8 (NO RESPONSE.)

9 **THE COURT:** Let the record reflect that no one is
10 standing. Any member of my jury panel know of any bias or
11 prejudice they may have about the facts which are alleged in
12 this case, any of the lawyers or officers involved therein,
13 or any of the potential witnesses involved therein, or any
14 of the parties involved therein? If so, please stand at
15 this time.

16 (NO RESPONSE.)

17 **THE COURT:** Let the record reflect that no one is
18 standing. Any member of my jury panel know of any reason
19 whatsoever why they can't give the State of South Carolina
20 or the defendant Antwan McMillan or the defendant David
21 Jakes a fair and an impartial trial? If so, please stand at
22 this time.

23 (NO RESPONSE.)

24 **THE COURT:** Let the record reflect that no one is
25 standing. Any additional voir dire from the State of South

1 Carolina?"

2 **ASST. SOL. HASELDEN:** No, Your Honor.

3 **THE COURT:** Any additional voir dire from the defendant
4 McMillan?

5 **MR. MATHEWS:** No, Your Honor.

6 **THE COURT:** Any additional voir dire from the defendant
7 Jakes?

8 **MR. BEACH:** No, Your Honor.

9 **THE COURT:** Counsel, approach.

10 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
11 AND OUT OF THE HEARING OF THE JURY.)

12 **THE COURT:** All right, ladies and gentleman of my jury
13 panel, I apologize for the delay. We had to get straight
14 with the clerk because the computers are going to draw names
15 now for those people I found qualified. In fact, I'm going
16 to go ahead and ask them to go ahead and begin a potential.
17 Now, the lawyers want to see this sheet, because it's going
18 -- the computer with no human hand draws it.

19 Let me tell you what's going to happen. We're going to
20 select the jury. Pat's going to actually do this; she's
21 directing her staff now that's assisting her. When your
22 name is called by the Clerk, bring your belongings with you.
23 Come down the middle aisle, come through the bar, then turn
24 around and face the direction I'm seated in right now, so
25 you're looking just like I am right now.

1 Pat's going to ask the State whether or not they wish
2 to exercise the juror or excuse the juror and it will be
3 asked of the defendant; each side will have ten strikes.
4 The way strikes are going to be divided up is Mr. McMillan
5 will have five strikes; Mr. Jakes will have five strikes.
6 Mr. Beach will strike first on behalf of Mr. Jakes. Mr.
7 McMillan will strike second with Mr. Matthews until they use
8 their five each. The State will have ten strikes. We will
9 then draw three alternate jurors. In the case of an
10 alternate juror, you will be identified as to alternate one,
11 alternate two, and alternate three. On alternate jurors,
12 Mr. Beach will have one strike, Mr. Matthews will have one
13 strike, the State will have one strike. If I identify you
14 as an alternate, you will be with the jury at all times
15 throughout the trial of the case, and should a juror be
16 unable to conclude their service, an alternate juror would
17 take the juror's place on the jury.

18 The parties have agreed that the alternates will be
19 used in the order in which they are selected, so if you're
20 alternate number one and a person gets sick on the twelve-
21 person jury, alternate one takes the first person's place
22 that needs to be selected.

23 It is clear from my conference with the attorneys that
24 the attorneys for Mr. McMillan and Mr. Jakes will strike
25 completely separately from one another. Mr. Jakes, I want

1 you to pull your chair down by Mr. Beach around the table.
2 Mr. Matthews, you pull your chair around the table and have
3 Mr. McMillan join you on the other side. There is to be
4 absolutely no conference between Mr. Jakes and Mr. McMillan
5 or between Mr. Matthews and Mr. Beach during the selection
6 of the jury. Have I accurately stated what occurred in
7 chambers and at the bench and insofar as counsel for the
8 State of South Carolina is concerned?

9 **ASST. SOL. HASELDEN:** Yes, sir.

10 **THE COURT:** And so far as counsel for Mr. McMillan is
11 concerned.

12 **MR. MATHEWS:** Yes, sir.

13 **THE COURT:** Insofar as counsel for Mr. Jakes is
14 concerned?

15 **MR. BEACH:** Yes, sir.

16 **THE COURT:** Madame Clerk, are you ready?

17 **MADAME CLERK:** I'm ready.

18 **THE COURT:** Give us a jury, please.

19 (BRIEF PAUSE IN COURTROOM WHILE CLERK PRINTS OUT THE
20 JURY LIST AND GIVES COPIES TO THE COURT, COURT REPORTER, AND
21 ATTORNEYS.)

22 **MADAME CLERK:** As I call your name, please come all the
23 way up front to my desk, turn, and face the counsel tables,
24 and please bring all of your personal possessions with you.
25 Number Ninety-five, Rakime Jenkins.

1 MADAME CLERK: What say ye for the State?

2 ASST. SOL. HASELDEN: Please present the juror.

3 MADAME CLERK: What say ye for defendant Jakes?

4 MR. BEACH: Swear the juror.

5 MADAME CLERK: Please have a seat in the jury box on
6 the right.

7 Sixty- eight, Christie R. Garrett. What say ye for the
8 State?

9 ASST. SOL. HASELDEN: Please present this juror.

10 MADAME CLERK: What say ye for defendant McMillan?

11 MR. MATHEWS: Please excuse the juror from the trial of
12 this case.

13 MADAME CLERK: Please have a seat back with the panel.
14 Number eighty-six, Linda C. Hiott. What say you for the
15 State?

16 ASST. SOL. HASELDEN: Please excuse the juror.

17 MADAME CLERK: Please have a seat back with the panel.
18 Number One hundred sixty-one, Wesley R. Simpson. What say
19 you for the State?

20 ASST. SOL. HASELDEN: Please present the juror.

21 MADAME CLERK: What say ye for defendant Jakes?

22 MR. BEACH: Please excuse the juror.

23 MADAME CLERK: Please have a seat back with the panel.
24 Number One hundred sixty-five, Glory R. Smith. What say ye
25 for the State?

1 ASST. SOL. HASELDEN: Please present the juror.

2 MADAME CLERK: What say ye for defendant McMillan?

3 MR. MATHEWS: Please swear the juror.

4 MADAME CLERK: Please have a seat in the jury box.

5 Number sixty-one, Jamie A. Floyd. What say ye for the
6 State?

7 ASST. SOL. HASELDEN: Please present the juror.

8 MADAME CLERK: What say you for defendant Jakes?

9 MR. BEACH: Please excuse the juror.

10 MADAME CLERK: Please have a seat back with the panel.
11 Number One hundred ninety-six, Lamonica Williams. What say
12 ye for the State?

13 ASST. SOL. HASELDEN: Please present this juror.

14 MADAME CLERK: What say ye for defendant McMillan?

15 MR. MATHEWS: Please swear the juror.

16 MADAME CLERK: Please have a seat in the jury box.

17 Number Twenty-eight, William D. Clark. What say ye for the
18 State?

19 ASST. SOL. HASELDEN: Please present the juror.

20 MADAME CLERK: What say you for defendant Jakes?

21 MR. BEACH: Swear the juror.

22 MADAME CLERK: Please have a seat in the jury box. One
23 hundred seventy-five, Courtney L. Sweat. What say ye for
24 the State?

25 ASST. SOL. HASELDEN: Please excuse this juror.

1 **MADAME CLERK:** Please have a seat back with the panel.
2 Number One hundred fifty-five, Miles M. Sanders. What say
3 ye for the State?

4 **ASST. SOL. HASELDEN:** Please present this juror.

5 **MADAME CLERK:** What say ye for defendant McMillan?

6 **MR. BEACH:** Swear the juror.

7 **MR. MATHEWS:** Please excuse the juror from the trial of
8 this case.

9 **THE COURT:** It's Mr. McMillan's strike.

10 **MR. BEACH:** I'm sorry, Your Honor.

11 **MADAME CLERK:** Please have a seat back with the panel.
12 One hundred ninety-one, Raymond Whitlock. What say ye for
13 the State?

14 **ASST. SOL. HASELDEN:** Please present the juror.

15 **MADAME CLERK:** What say ye for defendant Jakes?

16 **MR. BEACH:** Swear the juror.

17 **MADAME CLERK:** Please have a seat in the jury box. One
18 hundred seven, Terrill D. Matthews.

19 **THE COURT:** Counsel, recalling my earlier instruction
20 to you. Counsel approach.

21 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
22 AND OUT OF THE HEARING OF THE JURY.)

23 **ASST. SOL. HASELDEN:** Please excuse this juror.

24 **MADAME CLERK:** Please have a seat back with the panel.
25 Number two hundred, Stephen K. Young. What say ye for the

1 State?

2 ASST. SOL. HASELDEN: Please present this juror.

3 MADAME CLERK: What say ye for defendant McMillan?

4 MR. MATHEWS: Please excuse the juror from the trial of
5 this case.

6 MADAME CLERK: Please have a seat back with the panel.
7 Number thirty-two, Cindy I. Corley. What say ye for the
8 State?

9 ASST. SOL. HASELDEN: Please present this juror.

10 MADAME CLERK: What say ye for defendant Jakes?

11 MR. BEACH: Please excuse the juror.

12 MADAME CLERK: Please have a seat back with the panel.
13 Number One hundred forty-five, Robert R. Risher. What say
14 ye for the State?

15 ASST. SOL. HASELDEN: Please present this juror.

16 MADAME CLERK: What say you for defendant McMillan?

17 THE COURT: What's say the defendant?

18 MR. MATHEWS: Please excuse the juror from the trial of
19 this case.

20 MADAME CLERK: Have a seat back with the panel. Number
21 sixty-three, Jonathan C. Fulford. What say ye for the
22 State?

23 ASST. SOL. HASELDEN: Please present this juror.

24 MADAME CLERK: What say ye for defendant Jakes?

25 MR. BEACH: Swear the juror.

1 **MADAME CLERK:** Please have a seat in the jury box.

2 Number sixty-six, Oleksa A. Gadson. What say ye for the
3 State?

4 **ASST. SOL. HASELDEN:** Please present this juror.

5 **MADAME CLERK:** What say ye for defendant McMillan?

6 **THE COURT:** Hold on. You're right.

7 **MR. MATHEWS:** Please swear the juror.

8 **MADAME CLERK:** Please have a seat in the jury box.

9 Number One O-Two, Yvone D. Lightsey. What says the State?

10 **ASST. SOL. HASELDEN:** Please present this juror.

11 **MADAME CLERK:** What say ye for defendant Jakes.

12 **MR. BEACH:** Swear the juror.

13 **MADAME CLERK:** Please have a seat in the jury box.

14 Number Seventeen, Elton K. Brown, Sr. What says the State?

15 **ASST. SOL. HASELDEN:** Please excuse this juror.

16 **MADAME CLERK:** Please have a seat back with the panel.

17 Number One Seventy-Eight, Janice M. Ulmer. What says the
18 State?

19 **ASST. SOL. HASELDEN:** Please present this juror.

20 **MADAME CLERK:** What says the defendant McMillan?

21 **MR. MATHEWS:** Please swear the juror.

22 **MADAME CLERK:** Please have a seat in the jury box.

23 Number One Thirty-three, Frank A. Pinckney. What says the
24 State?

25 **ASST. SOL. HASELDEN:** Please present this juror.

1 **MADAME CLERK:** What say ye for defendant Jakes?
2 **MR. BEACH:** Swear the juror.
3 **MADAME CLERK:** Please have a seat in the jury box.
4 Number One O-One, Raymond L. Lairmore. What say ye for the
5 State?
6 **ASST. SOL. HASELDEN:** Please present this juror.
7 **MADAME CLERK:** What say ye for defendant McMillan?
8 **MR. MATHEWS:** Please swear the juror.
9 **MADAME CLERK:** Please have a seat in the jury box.
10 Number One, Dawn Allen. What say ye for the State?
11 **ASST. SOL. HASELDEN:** Please present this juror.
12 **MADAME CLERK:** What say ye for defendant Jakes?
13 **MR. BEACH:** Swear the juror.
14 **MADAME CLERK:** Please have a seat in the jury box.
15 **THE COURT:** All right, Counsel, this will be Alternate
16 Number One. The strikes are one for the defendant McMillan;
17 one for the defendant Jakes; one for the State. Alternate
18 Number One. Counsel will strike in the order in which we
19 have struck for the jury. First, Mr. Beach, on behalf of
20 Mr. Jakes, and then Mr. Mathews on behalf of Mr. McMillan.
21 Madame Clerk, draw Alternate Number One.
22 **MADAME CLERK:** Number One O-Five, Jerome Manigo, Jr.
23 What say ye for the State?
24 **ASST. SOL. HASELDEN:** Please present this juror.
25 **MADAME CLERK:** What say ye for the defendant Jakes?

1 MR. BEACH: Swear the juror.

2 MADAME CLERK: Please have a seat in the jury box.

3 THE COURT: Alternate Number Two.

4 MADAME CLERK: Number Five, Johnathan L. Bazzle. What

5 say ye for the State?

6 ASST. SOL. HASELDEN: Please present this juror.

7 MADAME CLERK: What say ye for the defendant McMillan?

8 MR. MATHEWS: Please excuse this juror.

9 MADAME CLERK: Please have a seat back with the panel.

10 Juror number One Twenty-one, Barry C. Murdaugh. What say ye

11 for the State?

12 ASST. SOL. HASELDEN: Please present this juror.

13 MADAME CLERK: What say ye for the defendant Jakes?

14 MR. BEACH: Swear the juror.

15 MADAME CLERK: Please have a seat in the jury box.

16 THE COURT: Alternate Number Three.

17 MADAME CLERK: Juror Number One Eighty-Eight, Ma'trey

18 A. White. What say ye for the State?

19 ASST. SOL. HASELDEN: Please present this juror.

20 MADAME CLERK: What say ye for the defendant McMillan?

21 MR. MATHEWS: Please swear the juror.

22 MADAME CLERK: Please have a seat in the jury box.

23 THE COURT: Are there any matters of law pertaining to
24 the selection of the jury that need to be decided before the
25 jury is sworn, from the State of South Carolina?

1 ASST. SOL. HASELDEN: None, Your Honor.

2 THE COURT: From the defendant McMillan?

3 MR. MATHEWS: No, Your Honor.

4 THE COURT: From the defendant Jakes?

5 MR. BEACH: No, Your Honor.

6 THE COURT: Each of you understand that that decision
7 is irrevocable as of today whether the jury is sworn today
8 or in the morning; is that understood from the State?

9 ASST. SOL. HASELDEN: Yes, Your Honor.

10 THE COURT: From the defendant McMillan?

11 MR. MATHEWS: Yes, sir.

12 THE COURT: From the defendant Jakes?

13 MR. BEACH: Yes, sir.

14 THE COURT: All right, ladies and gentlemen of the jury
15 panel, now, we're going to take good care of you. The three
16 alternates are just as important as members of the jury.
17 You're in the order in which you were selected; one, two and
18 three. You take the place in that order on the jury by
19 agreement of counsel.

20 If a member of the jury for some reason becomes ill or
21 for some legal valid reason cannot continue to serve, you
22 will take their place on the jury, so, you're just as
23 important as a member of the jury -- but for right now,
24 you're not eligible to be foreperson. One of the twelve of
25 you that are on the jury, I need for you to select a

1 TRIAL OF THE CASE.)

2 **THE COURT:** All right, now, counsel, I'm not going to
3 have us start about twenty minutes behind when I'm making
4 the jury come and start, so when I tell you to be here at
5 9:15, be here at 9:15. That's not going to happen again, or
6 I will deal with it with my contempt powers.

7 Now, your clients are present. I told you the first
8 thing we would do this morning at 9:15, we would do two
9 things. The first is a Jackson v. Denno hearing and the
10 other was we would put a stipulation that you've entered
11 into on the record.

12 Because the Jackson v. Denno hearing requires
13 testimony, I understand that Lt. Inabinett is the sole
14 witness; is that right?

15 **ASST. SOL. HASELDEN:** Yes, Your Honor.

16 **THE COURT:** Now, those of you who are not familiar with
17 the terminology that the Court is using, whenever a
18 statement is proposed to be admitted, and I don't know
19 whether it will or will not in this case, but if the State
20 has one, the defendants are entitled to a Jackson v. Denno
21 hearing to determine the voluntariness of any proposed
22 statement that is to be admitted. That is the purpose of
23 this hearing. If more than one statement is to be
24 submitted, each statement must be ruled on separately on the
25 record.

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 I understand there is a statement in this case. I know
2 nothing other than that, having been informed by counsel
3 yesterday in my chambers. Let's proceed with the Jackson v.
4 Denno hearing. Solicitor, you may call your first witness.

5 **ASST. SOL. HASELDEN:** Thank you, Your Honor. May it
6 please the Court. The State calls Lieutenant Allen
7 Inabinett.

8 **MADAME CLERK:** Please come forward and be sworn. Place
9 your left hand on the Bible and raise your right.

10 (WHEREUPON, LT. ALLEN INABINETT IS DULY SWORN.)

11 **JACKSON V. DENNO HEARING**

12 **MADAME CLERK:** Please have a seat on the witness stand.

13 **THE COURT:** Good morning, Fred. How are you?

14 **LT. INABINETT:** Doing well, Sir.

15 **THE COURT:** Have a seat. Adjust that microphone for
16 me. State your full name and spell your last name for
17 Becky.

18 **LT. INABINETT:** Fred Allen, last name, I-N-A-B-I-N-E-T-
19 T, Inabinett.

20 **THE COURT:** Your witness, Counsel.

21 **ASST. SOL. HASELDEN:** Thank you, Your Honor.

22 **DIRECT EXAMINATION**

23 **BY ASST. SOL. HASELDEN:**

24 Q Lieutenant Inabinett, who do you work for?

25 A Colleton County Sheriff's Office.

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

- 1 Q And what is your position there?
- 2 A Lieutenant over Investigations.
- 3 Q And as Lieutenant over Investigations, what do you do?
- 4 A Supervise the Unit, assign cases, also on an as needed
- 5 basis, go out and work cases myself.
- 6 Q Okay. And as a part of working those cases, do you
- 7 ever interview suspects?
- 8 A Yes, ma'am.
- 9 Q And were you involved with this case that we're here
- 10 about today, State v. Antwan McMillan and David Jakes?
- 11 A Yes, I was.
- 12 Q And did you have an opportunity as part of your
- 13 investigation to interview either of these two gentlemen?
- 14 A I did, Mr. David Jakes.
- 15 Q And when did you do that?
- 16 A August the 19th, I believe. I forgot the exact date,
- 17 but it was in August of this year.
- 18 Q Okay. And do you remember where you were?
- 19 A The Colleton County Sheriff's Office, The Annex.
- 20 Q Okay. And was that interview videotaped?
- 21 A It was.
- 22 Q Was that videotape entered into evidence?
- 23 A Yes, ma'am.
- 24 Q Who else was present while you were speaking to Mr.
- 25 Jakes?

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 A Just he and I.

2 Q All right. And this case happened back in June of
3 2010, correct?

4 A Correct.

5 Q Why did you speak to Mr. Jakes in August of 2011?

6 A Mr. Jakes submitted an Inmate Request Form, which is a
7 form that an incarcerated subject fills out if they wish to
8 speak to law enforcement. They fill out a form, which is a
9 request form. I, in turn, got that form from Mr. Jakes.

10 Q Okay. And how is that request conveyed to you, that
11 form, how is it?

12 A Several ways. Sometimes from officer to officer. It's
13 faxed sometimes via the records supervisor at the jail to
14 our office. In this case, it was handed from Jakes to
15 myself, person to person.

16 Q Okay. And when did he hand it to you?

17 A At the jail.

18 Q Okay.

19 **ASST. SOL. HASELDEN:** Just a moment's indulgence, Your
20 Honor. May I approach the witness, Your Honor?

21 **THE COURT:** You may.

22 Q Lt. Inabinett, I'm handing you what will be marked as
23 Court's Exhibit -- I think we already have a One. It will
24 be Court's Fourteen.

25 **THE COURT:** Court's Fourteen?

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 **ASST. SOL. HASELDEN:** With the stipulations that we'll
2 put on the record, Your Honor. There are quite a few
3 attachments.

4 Q Do you recognize that document?

5 A I do.

6 Q Can you tell me what that document is?

7 A Yes, ma'am. This is the actual request form from David
8 Jakes to myself and it's signed by my name. His name is
9 printed on it; the 2nd of August, 2011.

10 Q And as a result of that request, you spoke with the
11 defendant, Mr. David Jakes?

12 A I did, yes, ma'am.

13 Q Does this document refresh your memory as to when you
14 spoke to Mr. Jakes?

15 A It does.

16 Q And what was that date?

17 A Actually, it was the next day, the 3rd.

18 Q So August 3rd of 2011?

19 A That's correct.

20 **ASST. SOL. HASELDEN:** May I approach the witness,
21 again, Your Honor?

22 **THE COURT:** You may.

23 Q Lt. Inabinett, I'm handing you what will be marked as
24 Court's Fifteen for identification purposes only. Do you
25 recognize that document?

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 A I do.

2 Q Can you tell me what that document is, please?

3 A Yes, ma'am. This is the Colleton County Sheriff's
4 Office Miranda Form, which I actually Mirandized Mr. Jakes
5 with in this case.

6 Q Now, you said he asked to speak to you, right?

7 A He did.

8 Q So why did you still give a Miranda?

9 A Because it's protocol. To make sure he's aware of his
10 Miranda protocol, and to make sure that I am aware as well.

11 Q Okay. So Mr. Jakes was under arrest at the time,
12 correct?

13 A Yes, ma'am.

14 Q And did Mr. Jakes already have a lawyer at that time?

15 A He did.

16 Q And he still asked to speak to you?

17 A Yes, ma'am.

18 Q When you administer Miranda Rights, Lieutenant, do you
19 read them from a card, or from your memory, or from a form?

20 A From this form.

21 Q Exactly from that form?

22 A Yes, ma'am.

23 Q And how do you know that the defendant understands?

24 A We ask the defendant, or the individual, to initial by
25 the indicated blocks, and then to confirm that, we ask them

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 to sign as well.

2 Q Okay. Did Mr. Jakes appear to be under the influence
3 of any drugs or alcohol at the time that he spoke to you?

4 A No, ma'am.

5 Q Did he appear to understand those rights?

6 A He did.

7 Q Could you please read those rights as you read it to
8 him that day for the Court?

9 A Yes, ma'am. "Number one, you have the right to remain
10 silent. Number two, anything you say can and will be used
11 against you in a Court of Law. Three, you have the right to
12 have a lawyer and have him present with you while being
13 questioned. Four, if you cannot afford to hire a lawyer,
14 one will be appointed to represent you before being
15 questioned. Five, you can decide at any time to exercise
16 these rights and not answer any questions or make any
17 statements."

18 And below there is a spot for a signature. And to the
19 left of each numeric, there is a spot for the actual
20 initials. Further down is the waiver section. "I have read
21 and I have had read to me the above statement of my rights.
22 I understand each of these rights. Having those rights in
23 mind, I waive them and willingly make a statement." Below
24 that is a spot for his signature as well. Corresponding on
25 down is a spot for the officer, the date, the time, and the

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 actual location of the department.

2 Q So you mentioned that you had the defendant initial
3 next to each of the rights as you go through them. Did Mr.
4 Jakes initial next to all the rights?

5 A Yes, he did..

6 Q Did he sign indicating his willingness to talk to you?

7 A Yes, ma'am.

8 Q Did you discuss the fact that he had requested to talk
9 to you on the video?

10 A I did.

11 Q And did you also discuss the fact that you knew he was
12 represented, on video?

13 A I did.

14 Q And what did he indicate to you that he wished to do,
15 despite the fact that he was under arrest and he had an
16 attorney?

17 A That he still wished to speak to myself and give his
18 side of the story.

19 Q Did you threaten him in any way to talk to you?

20 A No, ma'am.

21 Q Did you promise him anything? Offer any hope of
22 rewards?

23 A No, ma'am.

24 Q Did you force him to stay in there for a long time
25 without anything to drink or using the restroom or cigarette

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 break?

2 A No, ma'am. I offered a bathroom break and also
3 provided him something to drink.

4 Q So what did Mr. Jakes say to you?

5 A We started off the interview, once again, about his
6 attorney and he wished to go ahead without his attorney
7 being present, and in that, he indicated that he was
8 actually a part of a situation. He wanted to get his side
9 heard. And he indicated that the night of, he didn't give a
10 specific date, but he knew the incident. He told about,
11 spoke about who was in the car, which would have been
12 himself, his friend, James Davis, and guy that he called by
13 a street name of "J-Sneez". That was the subject from the
14 Jacksonboro area. He indicated that they had been drinking
15 a lot that day and were intoxicated. They went to
16 Jacksonboro to hang out with the guy named J-Sneez, who is
17 James Davis, which is a co-defendant; his cousin, I do
18 believe.

19 In doing so, they came up with the idea to go out that
20 night in Walterboro. He indicated they left Jacksonboro in
21 his Cadillac, or his grandmother's Cadillac. He tried to
22 describe the J-Sneez to the best of his ability. He was a
23 young guy from Jacksonboro. He had a burgundy Cadillac and
24 a burgundy Crown Victoria.

25 He also said that when he decided to go out to

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 Walterboro that he wanted his strap, or his gun, so he went
2 back to Smoaks to get his handgun, which is a .50 caliber
3 pistol. He then added that after he retrieved his handgun,
4 he stopped for a second, and I asked him about where was
5 McMillan, the subject McMillan, which is the other co-
6 defendant. He said that he was not in the car with us at
7 all, but he would tell me how McMillan became involved with
8 the situation.

9 He continued to state that on the way back to
10 Walterboro, headed to Walterboro, he needed some money to go
11 to the club. He called his girlfriend who was due to meet
12 them on a railroad track on Mt. Carmel Road. Well, when
13 himself, Davis, and the J-Sneez got to the railroad tracks,
14 his girlfriend was not there, so they kept on going.

15 They made a left turn onto McLeod Road off of Mt.
16 Carmel. They passed the on ramp intersection by-pass area,
17 and he then received a phone call from his girlfriend; he
18 didn't call her name. They turned around and was headed
19 back to the meeting location, which was the railroad tracks.
20 At that point, he said that he heard, I guess, the sound of
21 his tire, because earlier that day he had raced the Cadillac
22 in the Smoaks area and had a flat tire and had changed to a
23 donut, a spare tire. So they pulled over onto the on ramp
24 by-pass area of I-95 and McLeod Road, which is Exit 62.
25 When they pulled over, he got out -- he got out -- now, "he"

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 being Mr. Jakes, exited the vehicle. He said that James
2 Davis was in the front passenger side and the driver was the
3 J-Sneez subject.

4 He indicated that he saw two vehicles parked on the
5 side of the exit ramp of I-95 and he saw two white vehicles
6 standing by it. He made a comment about, "Hey, pretty lady.
7 Come here, you got a fat butt," or something to that sort;
8 some type of comment to them. And they began to move back,
9 move away from their vehicle.

10 He also stated that he didn't see a third subject,
11 which would have been a male individual at the time,
12 initially. He indicated that he was very intoxicated and
13 that he wasn't going to harm anybody, but he was just trying
14 to holler at the pretty women.

15 At that time, the third subject, who was a male victim,
16 a white male, came up from behind the car, or from behind
17 both cars. He assumed that he was working on something. He
18 told -- "he" being the male victim, told the male defendant,
19 Mr. Jakes, to "back up" or "leave his family alone," which
20 he didn't. He continued to make some comments to the young
21 women.

22 At that point, he said that the male subject then
23 presented a firearm and told him to "get back; leave my
24 family alone." Jakes said that at that point, he wasn't
25 going to hurt anybody still, but he then went back; or

1 leaned back into his car and grabbed his pistol to let the
2 male subject know that he wasn't the only one who had a gun
3 and he used some profanity in his comment that when he told
4 the male victim that he didn't have a gun, and he was going
5 to show him that he had a gun as well.

6 At that point, that's when the male victim then fired
7 numerous shots at him, striking him. He fell by the
8 Cadillac, which was by the back -- what he described as the
9 back right side, or the back passenger door. He fell on the
10 ground and he lay there for a few minutes.

11 At that time, the front passenger, which was Davis, was
12 intoxicated as well.

13 **THE COURT:** Was who?

14 **A** James Davis, the co-defendant, was intoxicated as well.
15 And he said that they just didn't really understand what
16 happened. Because he kept asking them, "What happened?
17 What happened?" He said, "Man, I'm shot." And at that
18 point, Davis then fired a 9 mm handgun into the direction of
19 the victims, more or less in the defense of Mr. Jakes who
20 lay on the ground.

21 He then crawled into the car -- excuse me, James Davis
22 was firing the weapon. The shell casings were hitting Mr.
23 David Jakes who was lying on the pavement. Jakes, David
24 Jakes, then, crawled into the car with his own free will,
25 his own power, got into the back seat and then they fled the

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 area, with J-Sneez driving.

2 He asked both of his friends to take him to the
3 hospital. They were like, "No, man, we'll take you home."
4 And he again asked to go to the hospital. At that point, he
5 said, "Well, take me to Antwan's house, or McMillan's
6 house." He didn't take him to the hospital. They made a
7 right onto McLeod Road -- a right from McLeod Road onto Mt.
8 Carmel Road, heading back towards Smoaks.

9 At that point, they passed a blue car, which was being
10 driven by Toya Bryant, or Shaquita Bryant. They turned
11 around and flagged her down, and he indicated that he knew
12 that the girls, or who was in that car, had initially given
13 a false statement to law enforcement about him, because they
14 was scared, and that he wasn't actually walking down the
15 road; he couldn't walk, because the bullets hit him in his
16 chest and leg and he couldn't walk, basically.

17 He indicated that Joseph Griffin was in the car with
18 Ms. Bryant and I think he called another male subject,
19 Montez, if I'm not mistaken. They then transferred him from
20 the Cadillac to Ms. Bryant's car, and in turn, that car,
21 which was a blue car he described, took him to the hospital,
22 which was Colleton County Medical Center. And he instructed
23 his friends, Davis and J-Sneez to take the Cadillac back to
24 Antwan's house in Smoaks, and he would know what to do with
25 it.

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 Q Okay. As a part of your investigation, have you ever
2 had the opportunity to interview a suspect named "J-Sneed"
3 or "J J Sneed" from Jacksonboro?

4 A No, ma'am. I tried to locate that subject, but was
5 unable to.

6 Q Why were you unable to?

7 A I couldn't find out who that really was and the only
8 thing that Mr. Jakes could provide was the street name and I
9 tried, but was unsuccessful.

10 Q So you were unable to locate anybody named "J-Sneed" or
11 "JJ Sneed" in Jacksonboro?

12 A Yes, ma'am.

13 Q Okay. Have you ever encountered anybody -- how long
14 have you been at the Sheriff's Office?

15 A Ten years.

16 Q Have you worked any cases in Jacksonboro?

17 A The majority of them.

18 Q Okay. And you never heard of anybody named "JJ Sneed"
19 or "J-Sneez"?

20 A I haven't, no, ma'am.

21 Q Okay. So, in fact, Mr. Jakes told you that Mr.
22 McMillan was never even in the car with them?

23 A He did, that's correct.

24 Q And he had no involvement with this attempted armed
25 robbery?

Jackson v. Denno Hearing
Direct Testimony of Lt. Allen Inabinett by Asst. Sol. Haselden

1 A Correct.

2 Q Did Mr. Jakes tell you that he intended to rob the
3 victims?

4 A No, ma'am. He said that he never intended to rob
5 anybody. He was just going to let him know that the male
6 subject, the male victim, was not the only person that had a
7 gun and he didn't know where he was at, at the time.

8 Q Did Mr. Jakes tell you why he wanted to carry a gun to
9 go out in Walterboro?

10 A Because of the town itself, and you know, and you got
11 to be strapped when you go out at night, you know.

12 Q Were you ever able to determine what kind of gun Mr.
13 Jakes had on?

14 A Jakes? He said that he had a .50 cal.

15 Q A .50 caliber handgun?

16 A Correct. Handgun, and he purchased it off the street.

17 Q Did he tell you how long he had that gun?

18 A Approximately one week.

19 Q Okay. He didn't buy it from a gun shop?

20 A No, ma'am. He also admitted to his involvement with
21 the gun being stolen. He said, "That's my gun. I purchased
22 it and that the gun should still be loaded from the highway,
23 because I never fired it."

24 ASST. SOL. HASELDEN: A moment's indulgence, Your
25 Honor.

Jackson v. Denno Hearing
Cross-Examination of Lt. Allen Inabinett by Mr. Beach

1 Q You never threatened Mr. Jakes?

2 A No, ma'am.

3 Q You never promised him anything?

4 A No, ma'am.

5 Q Did you tell him that he had a right to have his
6 attorney present?

7 A I did.

8 Q Did you tell him in fact that he could stop the
9 interview at any time?

10 A I did.

11 Q I have no further questions. Thank you.

12 **THE COURT:** I will permit cross-examination, first, by
13 the defendant Jakes, since this is his statement; Mr. Beach?

14 **MR. BEACH:** Thank you, Your Honor. May it please the
15 Court.

16 **CROSS-EXAMINATION**

17 **BY MR. BEACH:**

18 Q Lt. Inabinett, how did he get this form to fill out to
19 ask to see you?

20 A The forms are kept at the detention center and solely
21 upon request they are furnished to the inmates.

22 Q Y'all didn't take the form to him?

23 A No, sir. They're kept at the jail.

24 Q Okay. And was -- now who all was present when this
25 statement was made?

Jackson v. Denno Hearing
Cross-Examination of Lt. Allen Inabinett by Mr. Beach

1 A He and I. It was recorded in the interview room at the
2 Sheriff's Department.

3 Q Is this a videotape of the statement?

4 A Yes, sir.

5 Q Did y'all tell him it would go easier for him if he
6 made a statement?

7 A No, sir.

8 Q And did you promise him anything?

9 A No, sir.

10 Q Did you tell him that at any time he had the right to
11 have his attorney there?

12 A I did.

13 Q And did you talk to him about the dangers of not having
14 his attorney there?

15 A I advised him of the Miranda protocol, yes, sir.

16 Q And at any time did he ask to have his attorney
17 present?

18 A No, sir.

19 Q You say he was not under the influence of anything at
20 the time?

21 A No, sir. Not to my knowledge.

22 Q How long had he been in jail when you had this
23 conversation with him?

24 A I'm not certain, but he came from -- when he was
25 discharged from MUSC hospital in Charleston to the infirmary

1 in Charleston County and then from the Charleston County
2 straight to Colleton County. So it's been a continuous
3 commitment, or continuous detention, for him.

4 Q So he had been incarcerated for some time?

5 A Yes, sir. Yes, sir.

6 Q Do you know if anybody else questioned him prior to
7 your doing this interview?

8 A No, sir, not to my knowledge.

9 Q He asked specifically to see you?

10 A Yes, sir.

11 Q Had you talked with him in the past?

12 A No, sir, just the day prior, which was August the 2nd
13 at the jail. He was getting his fingerprints redone.

14 Q What did y'all talk about at the jail?

15 A Oh, nothing. He was getting his prints redone and he
16 asked to speak to me. And I said, "Well, sir, to speak with
17 me, you need to do a request form." And he filled it out.
18 That's it.

19 MR. BEACH: I don't have any other questions, Your
20 Honor.

21 THE COURT: Very well. Cross-examination by the
22 defendant McMillan.

23 MR. MATHEWS: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. MATHEWS:

Jackson v. Denno Hearing
Cross-Examination of Lt. Allen Inabinett by Mr. Mathews

1 Q You indicate, Lt. Inabinett, that this was videotaped?

2 A Yes, sir.

3 (SOTTO VOICE DISCUSSION BETWEEN MR. MATHEWS AND ASST.
4 SOL. HASELDEN.)

5 MR. MATHEWS: Your Honor, may I approach?

6 THE COURT: You may.

7 (MR. MATHEWS APPROACHES COURT REPORTER AND HAS AN
8 EXHIBIT MARKED.)

9 Q Lt. Inabinett, this is -- I'm handing you what's been
10 marked as Defendant's Exhibit Number One and I'd like to
11 actually introduce this into evidence. I guess y'all would
12 need a chance to look at it to make sure that it is, in
13 fact, the same copy that y'all gave me, but I received
14 that ---

15 THE COURT: It's the kind of thing that we'd like to do
16 ahead of a hearing, if you're going to do it.

17 MR. MATHEWS: Yes, sir.

18 THE COURT: Just as you require them to provide it to
19 you ahead of time.

20 MR. MATHEWS: Yes, sir.

21 THE COURT: Counsel, do you need time to review this
22 since Mr. Mathews wants to introduce it as part of this
23 hearing?

24 ASST. SOL. HASELDEN: I'd be happy to accept Mr.
25 Mathews at his word.

1 **THE COURT:** Very well. Without objection, Defendant's
2 One is admitted for purposes of this hearing.

3 (DEFENDANT'S EXHIBIT NUMBER ONE, PHOTO, IS RECEIVED
4 INTO EVIDENCE.)

5 **MR. MATHEWS:** Thank you, Your Honor. Your Honor, I'd
6 also like to admit it into evidence for the trial. I
7 realize I'm giving up ---

8 **THE COURT:** Not at this point. We're in a Jackson
9 Denno hearing. It will be offered during the presence of
10 the jury. This is a Jackson v. Denno hearing; proceed, Mr.
11 Mathews.

12 **MR. MATHEWS:** Thank you, Your Honor.

13 Q Lieutenant Inabinett, when you talked to Mr. Jakes, did
14 you enter a supplemental report that you had talked to him?

15 A Yes, sir.

16 Q Okay. And is that pursuant to protocol or why did you
17 do that?

18 A Because protocol, I wanted to indicate for both
19 counsel, defense and State, that I did interview the
20 subject, yes sir.

21 Q And it would be accurate, and later on, because when
22 you testified from the stand, you indicated that you
23 couldn't remember without looking at that and when you saw
24 the form that said "this is when I did it" and the
25 supplemental report serves the same purpose?

Jackson v. Denno Hearing
Cross-Examination of Lt. Allen Inabinett by Mr. Mathews

10:
87

1 A Correct.

2 Q I don't have anything further, Your Honor.

3 THE COURT: Re-direct?

4 ASST. SOL. HASELDEN: None, Your Honor.

5 THE COURT: Call your next witness.

6 ASST. SOL. HASELDEN: That's the only witness for the
7 State, Your Honor.

8 THE COURT: Very well. Does the defendant Jakes wish
9 to present any evidence for purposes of the Jackson v. Denno
10 hearing?

11 MR. BEACH: No, Your Honor.

12 THE COURT: Does the defendant McMillan wish to
13 introduce any evidence for purposes of the Jackson v. Denno
14 hearing that is not already been introduced by the defendant
15 McMillan?

16 MR. MATHEWS: No, Your Honor.

17 THE COURT: Very well. All right, Counsel, I've
18 listened very carefully to the witness and observed the
19 witness. I've considered all the evidence that's been
20 offered by the State and the defendants have chosen, with
21 the exception of Mr. Mathews offering Defendant's Number
22 One. Mr. Mathews, is it your request that I review this
23 tape prior to making this ruling, for any reason?

24 MR. MATHEWS: No, sir.

25 THE COURT: So you don't request that I review it for

1 purposes of this hearing?

2 MR. MATHEWS: No, sir.

3 THE COURT: All right. Then, this Court is convinced
4 by a preponderance of the evidence and I so find that before
5 any alleged statement was obtained from the defendant, the
6 defendant was fully advised of his right's under the Fifth
7 and Sixth Amendments to the Constitution of the United
8 States and that the defendant was advised of his
9 Constitutional safeguards required by Miranda vs. Arizona.

10 The exhibit reflects, and that would be Court's Exhibit
11 Fifteen reflects the detail of the Miranda Rights, which
12 were advised to the defendant with the initials of the
13 defendant, David Jakes, beside each of the Miranda rights,
14 as well as a waiver of his rights, indicating that he had
15 read, or had read to him, the statements of his rights and
16 that he understood each of those rights.

17 Having those rights in mind that he waived them and
18 willingly made the statement and it was signed by Mr. Jakes
19 and witnessed by Detective Inabinett, and it is dated August
20 3, 2011 on the Court's Exhibit Fifteen.

21 I find, therefore, that the defendant knowingly and
22 intelligently waived his rights under the Fifth and the
23 Sixth Amendments of the Constitution of the United States
24 and that the Constitutional safeguards required by Miranda
25 vs. Arizona, and I find that the alleged statement obtained

1 from the defendant was freely and voluntarily given without
2 duress, without coercion, without undue influence, without
3 reward, without promise, or hope of reward, without promise
4 of leniency, without threat of any injury, and without
5 compulsion or inducement of any kind, and that such alleged
6 statement was the voluntary product of the free and
7 unconstrained will of the defendant, David Jakes.

8 This Court finds all of the forgoing conclusions by a
9 preponderance of the evidence and I, therefore, find that
10 the statement is admissible into evidence in the trial of
11 this case.

12 All right, Solicitor, I understand now that you and,
13 apparently, Mr. Beach and Mr. Mathews have entered into a
14 stipulation; and apparently that stipulation, because of a
15 number of Court Exhibits -- now, Mr. Mathews, I'm certainly
16 not restricting you. You decided to make an exhibit for the
17 Jackson v. Denno here and that you didn't want me to view,
18 which was just a video of what has been orally described by
19 Detective Inabinett.

20 However, certainly you have the absolute right to offer
21 into evidence, at the appropriate time, however, you are
22 aware of the consequences of doing so. You would not be
23 subject to those consequences from a Jackson v. Denno
24 hearing, which is an in camera hearing, and there is a
25 distinct difference between offering evidence in a Jackson

1 v. Denno hearing and the effect on your client of offering
2 it during the trial, which is the reason I caution you about
3 it. I would like for counsel now to publish what
4 stipulations have been entered into for purposes of moving
5 this case forward.

6 **ASST. SOL. SHELTON:** Thank you, Your Honor. May it
7 please the Court?

8 **THE COURT:** Yes, sir.

9 **ASST. SOL. SHELTON:** First of all, I'd like to bring to
10 the Court's attention and place on the record, Court's
11 Exhibit Number Twelve, it is entitled State v. Antwan
12 McMillan, and it has all the indictments listed that he's
13 going to trial on.

14 There are a number of stipulations in this matter;
15 all in regards to physical evidence. One through twenty-
16 nine, some of those have been broken down for the purpose
17 of establishing -- also have Court's Exhibit Number Thirteen
18 ---

19 **THE COURT:** Hold on a second. Let's stick with the
20 first one; who signed it?

21 **ASST. SOL. SHELTON:** I've signed it and Mr. Mathews has
22 signed it.

23 **THE COURT:** So it only involves Mr. Mathews and Mr.
24 McMillan in Court's Exhibit Number Twelve. And the
25 stipulations state what is being stipulated to as to

1 counsel for the defendant Jakes?

2 **MR. BEACH:** No, Your Honor.

3 **THE COURT:** All right. I'm going to give you both a
4 minute, because I'm ready to go. We're running fifteen
5 minutes behind schedule. The jury's here and has been
6 waiting. I expect you both to readvise your witnesses and
7 usher them out of the courtroom at this time before I bring
8 the jury. Please do so.

9 (ATTORNEYS ADVISE THE COURTROOM FOR ANY WITNESSES TO GO
10 TO APPROPRIATE DESIGNATED PLACES.)

11 **THE COURT:** Is the State ready to proceed?

12 **ASST. SOL. HASELDEN:** The State is ready, Your Honor.

13 **THE COURT:** Is the defendant McMillan ready to proceed?

14 **MR. MATHEWS:** Yes, Your Honor.

15 **THE COURT:** Is the defendant Jakes ready to proceed?

16 **MR. BEACH:** Yes, Your Honor.

17 **THE COURT:** All right. Bring us the jury, please.

18 (9:45 A.M., TUESDAY, AUGUST 30, 2011, WHEREUPON, THE
19 JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE
20 RECORD.)

21 **THE COURT:** Good morning, Madame Foreperson. Good
22 morning, ladies and gentlemen of the jury. Thank you for
23 your patience. We had a little work to do this morning;
24 we're ready to get started. Madame Clerk, would you please
25 swear the jury.

1 **MADAME CLERK:** Madame Foreperson, and ladies and
2 gentlemen of the jury, please stand and raise your right
3 hand.

4 (WHEREUPON, THE JURY IS DULY SWORN.)

5 **MADAME CLERK:** Thank you, you may be seated.

6 **THE COURT:** All right. Ladies and gentlemen, first of
7 all, let me go over a few matters that I want you to be
8 aware of before we begin. I want to thank you for being on
9 time and I appreciate your patience. I know we're starting
10 a little bit behind, but we've been working and I'll see to
11 it that I keep the train on the track, because I'll be
12 mindful of your time ladies and gentlemen.

13 First of all, as I told you yesterday, while you're on
14 jury duty, I ask that you do not discuss this case with
15 other people, including other jurors, except when I tell you
16 to at the conclusion of the case; and after I finish these
17 remarks I think you'll understand why.

18 I ask that you not read or listen to any news accounts
19 in this case. I ask that you do not use a computer, or a
20 cell phone, or any other electronic devices with
21 communication capability during this trial. It is improper,
22 as I told you yesterday, for a juror to use a computer or
23 electronic device to try to do independent research for
24 information such as information about a party, or a witness,
25 or an attorney, or court officer, or news account of the

1 case, or information collected through juror research on any
2 topic raised or testimony offered during the trial by any
3 witness, even though you might think as a juror that that
4 information is helpful to you in deciding the case.

5 It is improper for you to do any research. It's
6 improper for you to communicate with anyone about the case
7 on your cell phone, or through your e-mail, or your I-phone,
8 or your text messaging, or on Twitter through any blog or
9 website, including any internet chat room, or by way of any
10 other social networking device, such as Facebook, MySpace,
11 Linked in, or YouTube.

12 So I want to make everybody know before we start that
13 those things are prohibited, just as I asked you not to
14 listen to the radio, watch television or read the newspaper,
15 I'm going to ask you not to use electronic devices.

16 It is very important that both sides know what you're
17 basing your decision on and that will be on evidence
18 introduced during the trial of the case, when both sides are
19 present so that they know what you're deciding the case on
20 and they have the right of cross-examination.

21 Now, before we begin this trial, I want to tell you
22 that this trial is probably going to be different from what
23 many of you probably expect. You know, the truth is ladies
24 and gentlemen, that most people either don't have the time
25 or the chance to attend an actual court session, as each of

1 you are doing right now as jurors. And most people think
2 from watching television, or going to a movie, or reading in
3 a book that trials, such programs as Cold Case, things of
4 that nature, that trials are always full of high drama and
5 intense action and riveting entertaining circumstances.

6 While all of those things may be true at times, an
7 actual trial is not like a television program, it is not --
8 or a movie or a book. An actual trial, ladies and
9 gentlemen, is not for entertainment. An actual trial is a
10 search for the truth. It is a fundamental part of our
11 Democracy. It is a search for the truth to make sure that
12 justice is done between parties before the Court. Searching
13 for the truth and making sure that justice is done is often
14 slow, as it was this morning. It is often repetitive. It
15 is often deliberate. It is the exact opposite of what you
16 may have seen on television, or read in a book, or seen in a
17 movie.

18 This courtroom, ladies and gentlemen, is a place of
19 honor. I told you yesterday, it's 188 years old. It's on
20 the National Register of Historic places. And the portico
21 that faces Hampton Street is attributed to Robert Mills,
22 who, as you know, is the architect of the Washington
23 Monument.

24 This courtroom, also, in addition to being a place of
25 honor, is dedicated to the protection, and it's dedicated to

1 the preservation, of citizen's rights, through what many
2 people call the greatest justice system in the entire world.

3 The attorneys that are going to appear before you in
4 this trial are advocates for the parties they represent, but
5 first and foremost, the attorneys are officers of this
6 Court, and as officers of this Court, they swore as officers
7 of this Court that they would uphold the integrity, they
8 swore as attorneys that they would uphold the fairness of
9 our judicial system, and they also are here, ladies and
10 gentlemen, even though they're advocates for their
11 prospective clients, to help you, the jury, in a search for
12 the truth.

13 You should expect the attorneys to be courteous, to
14 each other, to you, to the Court, to the spectators. You
15 should expect the attorneys to be professional, to be
16 prepared, and you should expect the attorneys to be ethical
17 in the representation of their client's interest.

18 Now, let me remind each of you, that each of you, from
19 our Clerk of Court right here, that each of you just took an
20 oath, just like the attorneys took an oath, just like I took
21 an oath as Judge; and in that oath, you said that you would
22 try this case and you as a juror would reach a fair and a
23 just verdict in this case.

24 So you, as jurors, just like the attorneys, are also
25 expected to be professional, to be ethical, to be reasonable

1 in your discharge of your duty under that oath, which each
2 of you just took from the Clerk of Court of Colleton County.

3 Before we even begin the trial, I want to thank each
4 and every one of you for giving of your times, leaving your
5 families, leaving your jobs, leaving your homes, and
6 accepting this very important responsibility of jury
7 service. I want to thank you, ladies and gentlemen, in
8 advance for your contribution today to our justice system.
9 Without you, ladies and gentlemen of the jury, justice
10 cannot be accomplished in a courtroom, and I thank you for
11 that service.

12 Now, ladies and gentlemen, Madame Foreperson, the case
13 we're about to try involves what we call co-defendants,
14 meaning more than one. First of all, it's the case of the
15 State of South Carolina v. Antwan D. McMillan.

16 Mr. McMillan is charged by these indictments that I
17 hold in my hand. You notice I've got a paper clip around
18 them and, Madame Foreperson, you're going to see me hand
19 them back to my law clerk, Hope. She's going to be looking
20 for you at the end of the trial as I told you. She knows
21 that's part of her job.

22 Now, Mr. McMillan is charged in three indictments with
23 the offense of attempted murder. He's charged in three
24 indictments with the offense of attempted armed robbery.
25 He's charged in one indictment with the offense of

1 possession of a weapon during the commission of a violent
2 crime.

3 The elements of -- those are three separate offenses,
4 attempted murder, attempted armed robbery, possession of a
5 weapon during the commission of a violent crime. The
6 elements of each of those offenses, I will explain that to
7 you in my charge to you on the law at the conclusion of the
8 case. You should understand that the indictments as to Mr.
9 McMillan are simply the charges to which the case is brought
10 into this Court and the indictments are not in any sense
11 evidence of any of the allegations that I read to you
12 yesterday from the indictments.

13 Now, we are also in this trial trying the case of the
14 State of South Carolina v. David Jakes. Mr. Jakes is
15 charged by this set of indictments which I hold in my hand,
16 and so that you can understand better, Mr. McMillan is
17 represented by Mr. Mathews, who you met yesterday; and Mr.
18 Jakes is represented by Mr. Beach, who you met yesterday.

19 In the indictments against Mr. Jakes, the State of
20 South Carolina charges Mr. Jakes with the following
21 offenses: three counts of attempted murder, and I've read
22 the allegations of the indictment to you yesterday in order
23 to determine your impartiality to serve as a juror. Three
24 counts of attempted armed robbery, and one count in an
25 indictment of a possession of a weapon during the commission

1 of a violent crime, and also the additional offense of
2 possession of a stolen pistol as to Mr. Jakes. So there's
3 an additional indictment, possession of a stolen pistol,
4 against Mr. Jakes, that is not being charged against the
5 defendant Mr. McMillan.

6 And as I told you with the defendant McMillan, the
7 elements of the charges against Mr. Jakes, including the
8 additional charge of possession of a stolen pistol, will be
9 explained by me to you in my charge on the law to you at the
10 conclusion of the trial.

11 For right now, just as to Mr. McMillan, also as to Mr.
12 Jakes, you should understand that the indictments against
13 Mr. Jakes are simply the charges by which the case is
14 brought into this Court and that the allegations and the
15 indictments against Mr. Jakes are not in any sense evidence
16 of any of the allegations contained in the indictment.

17 Now, each of the defendants, Mr. McMillan and Mr.
18 Jakes, have pled "not guilty" to these indictments. There's
19 seven indictments against Mr. McMillan; there's eight
20 indictments against Mr. Jakes. The State of South Carolina,
21 therefore, has the burden of proving each of the essential
22 elements of the indictments to you beyond the reasonable
23 doubt, and it will be your duty, ladies and gentlemen, to
24 decide whether or not the State has met that burden.

25 It is, as a juror, your solemn responsibility to

1 ultimately determine the guilt or the innocence of the
2 defendants in this case, and your verdict as to guilt or
3 innocence must be based solely on the evidence as it is
4 presented to you in this trial, and on the law as I instruct
5 it to you to be during the trial and in my charge to you on
6 the law at the conclusion of the trial.

7 In just a minute, the Assistant Solicitor will make
8 what is called an opening statement in which she will
9 explain to you the issues in this case, or at least what she
10 contends to be the issues in this case, as an advocate for
11 the State of South Carolina. And following her opening
12 statement, the attorney for each defendant, first, Mr.
13 McMillan, then Mr. Jakes, will each make an opening
14 statement as advocates for their respective clients, the
15 defendants in this case

16 Now, the attorneys have worked hard to prepare the case
17 for the State of South Carolina and for each of the
18 defendants, and I certainly want you to listen to them. But
19 what the attorneys tell you in opening statement, what the
20 attorneys suggest to you by questions that they ask, what
21 the attorneys argue to you in their closing arguments, at
22 the conclusion of the case, is not evidence in this case.

23 All of the attorneys are advocates for the parties they
24 represent and what they say, or suggest, is not evidence in
25 this case. It's only their contention as an advocate as to

1 what an issue might be in this case and not evidence in this
2 case. The evidence in this case, and upon which you will
3 make your decision as a juror in this case, will be
4 presented to you by sworn testimony from this witness stand.
5 You'll notice it's located on the side of the courtroom in
6 closest proximity to you. That's so you can observe the
7 witnesses; you can listen to the witnesses; you can pay
8 close attention to the sworn testimony of the witnesses who
9 will testify from the witness stand.

10 Evidence may also take the form of an exhibit such as a
11 photograph, a model, or some written document, but as to any
12 exhibit, because you will have those with you in your jury
13 room during your deliberations at the conclusion of the
14 case, as to any exhibit you will hear me say as the
15 presiding judge that "It is in evidence." That means it is
16 available for you for your consideration during your
17 deliberations at the conclusion of the case after you've
18 heard all of the evidence in the case.

19 So evidence may be sworn testimony or it may be an
20 exhibit, but as to any such exhibit, I will, as the
21 presiding judge, decide whether the exhibit is admissible
22 into evidence or not before you see it as a jury.

23 Evidence may also take the form of a stipulation. That
24 is an agreement, an understanding between either the parties
25 or their respective attorneys, that a fact is true, and

1 therefore, it is not necessary to be proved during the trial
2 of the case.

3 So evidence may be sworn testimony; it might be an
4 exhibit; it might be a stipulation, an agreement, between
5 the sides of the case that a fact is true. As to any such
6 stipulation, the attorneys will publish to you any
7 stipulation, and if there is a stipulation, you will accept
8 that fact as having been proven conclusively for purposes of
9 the trial of this case

10 Now, in the consideration by you of evidence, you
11 should remember throughout this trial, that under the
12 Constitution of the State of South Carolina, you, and you
13 alone, the members of the jury, are the sole judges of the
14 facts in this case. And the same law that makes you the
15 sole judges of the facts, based on evidence introduced
16 during the trial of the case, makes me the sole judge of the
17 law in the case. I cannot invade your province. I cannot
18 tell you, suggest to you, or comment to you, at any time
19 about what the facts are in this case, and you should not
20 invade my province and differ with me about what the law is.

21 Everything that I say during the course of this trial
22 is being taken down by my court reporter, Becky Hill, right
23 down here. She likes the fact that I talk loud, ladies and
24 gentlemen. She's grinning right now, believe me. Because
25 we have some people who talk so low, and it's very difficult

1 for her sometimes to do her job and that's why she likes it,
2 and that's why I'm used to speaking up.

3 Everything that I say during the course of this trial
4 is being taken down by Becky, and if I make a mistake as to
5 the law, to the detriment of either side in this case, they
6 can appeal the case to an Appellate Court; and if the
7 Appellate Court agrees that I've made a mistake as to the
8 law, they will reverse the case and send it back for a new
9 trial. So don't any of you on this jury worry about whether
10 I have told you the law correctly. That is somebody else's
11 worry. Your job is to take the law as I give it to you,
12 which you swore you would do in your oath and apply it to
13 the facts as you find them to be, based on evidence
14 introduced during the trial of the case.

15 Now, after doing that, ladies and gentlemen, which
16 means applying the sworn testimony of the witnesses,
17 examining any exhibits, considering any stipulations which
18 may be entered into concerning any facts, and once you
19 consider all of the evidence, you may then render your
20 verdict, a true and just verdict, under that solemn oath
21 that each of you just took from the Clerk of Court of
22 Colleton County.

23 Now, from time to time during the trial of this case,
24 you may hear one of the lawyers say something like "Your
25 Honor, I believe we have a question of law," or "Your Honor,

1 I'd like to discuss a matter of law with you," or "Your
2 Honor, may we approach the bench?" or I, myself, might find
3 it necessary -- I might ask them to step down to my side bar
4 over here or I might step down or I might ask you to go to
5 your jury room.

6 Now, let me tell you, that's going to probably happen.
7 We're not trying to hide anything from you, but we are
8 intentionally talking out of your hearing. Why? The reason
9 for this is just what I just told you, you're the sole
10 judges of the facts; I'm the sole judge of the law.

11 I can't make any comment to you about the facts and
12 therefore, when I'm ruling on a matter of law, sometimes by
13 necessity, I have to make the comment to the attorneys about
14 the fact in order to determine whether or not a particular
15 piece of the law applies to this case.

16 So the custom in this State is that when such
17 discussions take place -- you're going to first see me try
18 to do it at the bench. I try to do it quickly for you so I
19 don't have to send you out, or you might see me do it at a
20 sidebar out here, where I talk and whisper to them; but if
21 it's necessary, I'll send you to your jury room so that
22 Becky can take down everything that's said, so that I don't
23 say anything in your presence that might influence you about
24 the facts in this case in ruling on whether or not a
25 particular piece of law applies to this case, and that is

1 the reason discussions take place out of your hearing during
2 the trial.

3 And in that connection, let me tell each of you again,
4 that you, and you alone, are the sole judges of the facts in
5 this case, and if you should gather from anything that I
6 might say or do during the course of this trial that I have
7 any opinion whatsoever about the facts in this case, please
8 erase that from your mind, because you, and you alone, are
9 the sole judges of the facts in this case, the members of
10 the jury. I'm the sole judge of the law; you're the sole
11 judges of the facts.

12 Now, based on the evidence, how are you as a juror to
13 determine what the true facts are? I have jurors ask me
14 that question frequently; but part of your job, ladies and
15 gentlemen, you will, as a juror, of necessity have to pass
16 upon the credibility, which means the believability, of the
17 witnesses who are going to take this witness stand during
18 the trial of this case.

19 It will be my responsibility as a presiding Judge to
20 rule as a matter of the law whether or not certain testimony
21 is admissible at all or not. Once I've allowed the
22 testimony to be introduced into evidence, whether or not you
23 as a juror believe the testimony, is solely a matter for
24 you, the jury, to determine.

25 In passing upon the credibility, or the believability,

1 of the witnesses who will testify during the trial of this
2 case, you have the right as a jury to take into
3 consideration the interest of any witness, the bias of any
4 witness, the prejudice of any witness, the opportunity for
5 the witness to have observed the matters about which he or
6 she might testify. You may even take into consideration in
7 deciding the believability of the witness, what we call the
8 demeanor of the witness, the appearance of the witness,
9 while the witness is on the witness stand, which is why
10 you're in such close proximity to the witness stand.

11 Anything that is in evidence, you, as a jury, have the
12 right to consider. Anything that was in the evidence, or
13 the record of evidence, in this trial that will aid you and
14 assist you as a juror in evaluating testimony of the
15 witnesses who will testify this case, you, as a juror, have
16 the right to consider; and that means, Madame Foreperson,
17 and that means, ladies and gentlemen of the jury, that it is
18 your duty, under that oath which each of you just took from
19 the clerk, to pay close attention to the witnesses, to
20 listen to the witnesses.

21 Don't let your thoughts wander, but give strict
22 attention to the witnesses, so that in conclusion of all the
23 testimony, after all the witnesses have testified, after
24 you've heard the final arguments of the attorney's and I've
25 charged you all of the law that applies to this case in my

1 charge to you on the law at the conclusion of the case, you
2 will have placed yourself, by listening and observing and
3 paying careful attention, you would have placed yourself in
4 a position to determine from the evidence what the true
5 facts are and to apply the law as I give it to you at the
6 end of the case to the facts as you find them to be, based
7 on evidence introduced during the trial of the case, and
8 thus render that just verdict.

9 Now, you must not consider anything that you may have
10 read or heard about this case outside of this courtroom,
11 whether before or during this trial, and until this case is
12 submitted to you by me, and I'll tell you when it's time for
13 you to deliberate at the end; until I submit this case to
14 you, you must not discuss it with anyone, not even your
15 fellow jurors during the break, or at lunch, or anyone else,
16 and after I submit it to you at the conclusion of the trial,
17 you must discuss it only in your jury room with your fellow
18 jurors and no one else.

19 It's very important, ladies and gentlemen, that each of
20 you on the jury keep an open mind and not decide the case
21 until the entire matter has been submitted to you under my
22 instructions at the conclusion of the case. Why? Because
23 the very last thing that happens in this trial might be
24 important to you, so I ask that each of you keep an open
25 mind and not decide the case until the entire matter has

1 been submitted to under my instructions.

2 Now, Madame Foreperson, it will be your added duty, as
3 I told you yesterday, to preside in the jury room and to be
4 the jury's spokesperson, if necessary, out here in the
5 courtroom. It will also be your duty to write the jury's
6 verdict, but Hope and I will be working long after you go
7 home to prepare a verdict form, and she's going to be
8 looking to get your signature and the date on each one of
9 these indictments at the conclusion of the case along with
10 the wording of your verdict that you place on the verdict
11 form.

12 Now, ladies and gentlemen, a couple of housekeeping
13 matters, and then we're ready to start. As I've told you,
14 it's a beautiful, old courtroom; it's 188 years old. In the
15 acoustics, we've improved -- I'll give you an example and
16 y'all can see it real well.

17 If you look above the door jam on the far side of the
18 courtroom, you'll see where it looks as if the wallpaper
19 sticks out at the top; that's not wallpaper. That's an
20 acoustical panel trying to improve the hearing in the back
21 of the courtroom, because it's a pretty old building.

22 If, at any time, a member of the jury cannot hear,
23 raise your hand for me. I'll be watching all fifteen of you
24 throughout the trial, my twelve jurors and my three
25 alternates. I want my jury to be able to hear just like I

1 want Becky to be able to hear. I want my lawyers and their
2 clients to be able to hear. I want the public to be able to
3 hear. I want you to be able to hear. So if you can't hear,
4 I can turn it up. I'll see to it that you can hear; not
5 everybody talks as loud as I do.

6 If an exhibit is introduced into evidence, and that's
7 one of the things, ladies and gentlemen, I'm going to tell
8 you right now, here it is such a factor; I'm more sensitive
9 to it because I've lost some of mine.

10 The lawyers love to turn their backs -- they like to do
11 two things: you see all of the papers they've got on the
12 table. They like to go back and they like to turn their
13 back to Becky, who likes to be able to see everybody's
14 mouth, and they like to go back and look at their file and
15 talk to their client, and then they like to talk with their
16 back to you, and if she can't hear, you can't hear; if you
17 can't hear them, you let me know. I'll make them talk where
18 they can hear you or you can hear them.

19 They also like to have witnesses step down. You'll
20 notice the witness stand is in front of the court reporter.
21 She can just turn and look at the witness. They want to
22 step down, and we've got a portable microphone as you saw
23 yesterday, but when she can't see the witness she has to
24 really be able to hear. So I might make adjustments with
25 the portable microphone because lawyers like to have them

1 step down and look at things and talk, and then the court
2 reporter's looking at me, going like this (INDICATING A
3 QUESTIONING LOOK.), and you're looking at me raising your
4 hand.

5 So if you can't hear at any time, let me know. I'll be
6 watching. If an exhibit is introduced into evidence during
7 the trial of this case and you can't see the exhibit -- now,
8 y'all have already heard me say as the presiding judge, "It
9 is in evidence," because they're not going to show you
10 anything that's not in evidence. It will come through me
11 before you can consider it, and they know that; I'm the
12 gatekeeper.

13 Whether it's in evidence, or sometimes we have exhibits
14 for what we call demonstration purposes. We call that
15 demonstrative evidence and that won't be shown to you unless
16 I permit them do so; but if you can't see it, raise your
17 hand. I want my jurors to be able to hear and to see at all
18 times throughout the trial of the case.

19 Now, Madame Foreperson, we do not allow jurors,
20 normally, to ask questions out here in the courtroom. If,
21 at any time, a member of the jury has a question, here's the
22 procedure we have to follow. If you're not already in your
23 jury room, you will retire to your jury room. You will
24 write the question on a piece of paper, knock on the jury
25 room door, give it to my bailiff, Bill or one of my

1 bailiff's will bring it out to me. I will then have to rule
2 as a matter of law whether or not the question can or cannot
3 be answered, just as I would any question asked by either
4 one of the attorneys during the trial of the case.

5 We do not permit cell phones or beepers or electronic
6 devices while you're in the jury room. Now, I've already
7 warned you about all that, but I'm going to tell you a
8 story; people think we're strict about that because of
9 noise. Yes, I do have one in my pocket, and I can promise
10 you, my son knows this, it's on vibrate. I've never turned
11 it on ring.

12 Although, I have to tell you a great story about that.
13 This wasn't Hope, it was my previous law clerk, and I don't
14 know whether any of the present attorneys -- I think Mr.
15 Shelton was present. But, I didn't know when I plug my
16 phone in to charge it into an AC outlet that it
17 automatically changed from vibrate to ring, and of course,
18 we have strict rules, and I'm supposed to confiscate
19 anybody's phone that goes off in the courtroom. So y'all
20 enjoy this story. I like to tell it on myself. My son,
21 who's behind me right now, really likes this story.

22 So I'm sitting on the bench, ladies and gentlemen, and
23 my phone rings, so I say, "All right, whose phone is that?
24 You've got to turn it off." My law clerk, sitting right
25 where Hope is, he grabbed my robe, and the phone rings a

1 second time. I said, "All right, whose phone is that?" And
2 my law clerk leaned over and said, "Judge that's your
3 phone."

4 Now, I'm very careful, ladies and gentlemen, when I
5 come into the courtroom now, if I have to charge my phone, I
6 have a color system on my phone, that orange light is on
7 right now, so I know it's on vibrate. Now, we don't allow
8 phones at all in the courtroom and my phone's gone off
9 probably five times since I've just been talking to you, in
10 my pocket.

11 I don't take phone calls, and you're not permitted to
12 have a phone, or electronic device, while you're on jury
13 duty. The reason is not just noise interference, let me
14 tell you what happened.

15 In a county, other than Colleton, we sent a jury out.
16 The jury was doing what jury's do, they were talking about a
17 medical issue, and one of the jurors said, "Well, you know,
18 my brother's a doctor. I'll just call my brother on my cell
19 phone and ask him his opinion about this." Well, that's
20 improper, ladies and gentlemen. You must decide the case
21 solely upon evidence introduced during the trial of the
22 case, when both sides are present. That's one of the
23 reasons we don't permit cell phones or beepers in the
24 courtroom.

25 Now, I've tried it both ways, ladies and gentlemen, I

1 ask that you -- you're going to see me writing. I
2 constantly have a pen in my hand. I've got a notebook up
3 here and I'm going to be taking notes, but I'm going to ask
4 that you do not take notes. Why? Because I've found that
5 if the written note taker on the jury makes a mistake in
6 their written notes, that notes can be harmful, rather than
7 helpful, in your deliberations once deliberations begin.

8 The time-tested system is for each of you on the jury
9 to listen, and listen carefully. So I ask that you do not
10 take written notes on the jury. If you're worried about
11 remembering, Becky is making an audio, not video, an audio
12 recording of witnesses testimony, so, if you want to hear an
13 entire witness's audiotape recording of their testimony, we
14 can play that back for you; so don't worry about
15 remembering.

16 The time-tested system is for each of you to listen,
17 and listen carefully. Now, I do not intend that you or
18 anyone else should construe what I just told you, out of my
19 remarks to you, as a charge on the law in this case, because
20 it is not that. I'll charge you the law that applies to
21 this case, as I haven't heard any evidence in this case just
22 as you haven't, therefore, I can't charge you the law until
23 we've completed the evidence at the conclusion of the case,
24 because I don't know what law yet applies in this case and
25 to this trial.

1 This has been merely an attempt on my part to briefly
2 explain to you some of the procedure. We have strict rules
3 which the attorney's know. We have a rule as to who goes
4 first. I told you that the Solicitor would. They have the
5 burden of proof. They'll speak to you first and then you'll
6 have the attorney for the defendants. This has been an
7 attempt on my part to briefly explain the procedure that we
8 will follow in the trial of this case. Once the opening
9 statements are completed, the State will then present its
10 case, first. Followed, if they so choose, by each of the
11 defendants.

12 I want you to have an idea of what is happening from
13 time to time, so that you'll be better informed as a juror
14 as the trial takes place. Nevertheless, in order to
15 preserve everyone's rights, I will give the parties an
16 opportunity to object to anything that I may have said to
17 you during these brief remarks to you if they have any such
18 objections.

19 Any exceptions or objections from the State?

20 **ASST. SOL. HASELDEN:** No, Your Honor.

21 **THE COURT:** Any exceptions or objections, from the
22 defendant McMillan?

23 **MR. MATHEWS:** No, Your Honor.

24 **THE COURT:** Any exceptions or objections, from the
25 defendant Jakes?

1 **MR. BEACH:** No, Your Honor.

2 **THE COURT:** Ladies and gentlemen of the jury, we will
3 now begin the trial of the case. Solicitor.

4 **ASST. SOL. HASELDEN:** Thank you, Your Honor, may it
5 please the Court?

6 **THE COURT:** Yes ma'am.

7 **OPENING STATEMENT**

8 **BY ASST. SOL. HASELDEN:**

9 Good morning, ladies and gentlemen. This is a case
10 about three people trying to get from Fort Bragg, up in
11 North Carolina, down to Eglin Air Force Base in Florida.
12 They were moving because they were transferred. Three
13 people: Jesse King, his wife Amanda Metzfield, and her
14 mother, Jeanine Metzfield, was along helping them out with
15 her truck.

16 This is also a case about three other people. The
17 three other people who when the victims had the unfortunate
18 occurrence of breaking down in Colleton County, other people
19 who preyed upon them, who attacked them in the middle of the
20 road in the middle of the night here in Colleton County.

21 David Jakes, who is seated over here at the table in
22 the white shirt; and Antwan McMillan, seated over here at
23 the table in the blue shirt; and a third individual, James
24 Davis, were in a car, shortly before midnight, driving from
25 Smoaks where they lived into town into Walterboro to meet up

1 with some females; ;a common occurrence, probably.

2 They passed by on McLeod Road; through this, they only
3 saw two of them, because Jesse King was crouched down
4 working on some wires. They had to move the U-Haul from one
5 truck to another truck; the first truck that was towing it
6 had overheated.

7 So all they saw was two women standing on the side of
8 the road in the middle of the night. Antwan, who was
9 driving, tried to pump his people up inside his car, David
10 and James, "C'mon, y'all, easy lick, easy robbery." So,
11 they whipped the car around and come on back to them.

12 James Davis says, "Unh-unh, I'm having nothing to do
13 with it." David Jakes says, "Sure let's do it." And when
14 he screeched to a halt at the intersection of the off-ramp,
15 off of I-95 and McLeod Road, where those three people were
16 broken down, David Jakes jumped out of the back seat of that
17 car with a .50 Caliber Desert Eagle Handgun in his hand and
18 a black shirt wrapped around his head. He pointed that gun
19 at Jeanine Metzfield, who was standing at the front of her
20 car, and he said, "Give it up, pretty lady," and she's
21 backing away. Her daughter, Amanda, who's standing a little
22 bit further back, runs around the back of the U-Haul.

23 Thankfully, Jesse stands up with his own gun, active
24 duty military in the army, and he warns the robber and says,
25 "Get back in your car and leave us alone." But the robber

1 doesn't. Instead, he turns that .50 Caliber Desert Eagle
2 Handgun on Jesse, so Jesse shoots. He shoots several times,
3 and then he shoots several more times, until the individual
4 falls and drops the gun.

5 At that point, the individual crawls back into his car,
6 leaving his handgun and some of his blood on the ground,
7 crawls back in, and an individual inside the car shoots at
8 the victims further as they huddle behind the U-Haul
9 trailer, on the side of the road in Colleton County in the
10 middle of the night.

11 Now, they call 9-1-1, and minutes later, law
12 enforcement arrives, secures the scene, starts processing
13 that scene. A few minutes after that, in Walterboro, David
14 Jakes arrives at the hospital to be treated for gunshot
15 wounds in a personal vehicle driven by Angela Arnold.

16 Through their investigation that evening, they
17 determine that the car the defendants were in, actually
18 David Jakes' grandmother's car, she lives in Smoaks. So
19 very shortly thereafter, they go out to Smoaks and find and
20 secure that car, the silver Cadillac, and have it towed back
21 to the Sheriff's Office Annex, right here across the street,
22 where it was then processed for physical evidence,
23 fingerprints, some other forms of physical evidence, and
24 DNA.

25 Now, slowly, but surely, the story emerged, as it

1 always does. The story as to what exactly happened that
2 night. The story as to why these two gentlemen are charged
3 with three counts each of attempted armed robbery, three
4 counts each of attempted murder, a count each of possession
5 of a weapon during the commission of violent crime, and Mr.
6 Jakes has an additional charge of that stolen firearm.

7 The story as to why we're all here today. You're going
8 to hear a lot of testimonies over the next few days from
9 that stand, like the Judge told you. You're going to hear
10 from the paramedics of fire rescue, you're going to hear
11 from a bunch of law enforcement officers, you're going to
12 hear from the victims, you're going to hear from a couple of
13 professional analysts of DNA, and firearms, and
14 fingerprints, and you're going to hear from the third person
15 in the car that night, Mr. James Davis.

16 Some of that testimony is going to be technical, so
17 please, like the Judge said, pay close attention to that
18 testimony; it can be pretty confusing. You're also going to
19 review quite a few exhibits, so just take them slowly and
20 use your common sense. We're not asking you to leave that
21 out. In fact, that's the absolute basis of why we're here.
22 Use your common sense. Listen to those people, and review
23 these exhibits carefully, so that at the end of this trial,
24 you can actually return a true and a just verdict. Thank
25 you.

1 THE COURT: Mr. Mathews.

2 MR. MATHEWS: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. MATHEWS: Thank you, Your Honor.

5 OPENING STATEMENT

6 BY MR. MATHEWS:

7 Madame Foreperson, ladies and gentlemen of the jury, as
8 I mentioned earlier, I'm David Mathews with the public
9 defenders office, and I represent Antwan McMillan.

10 I believe the evidence is going to show, and I believe
11 what you're going to hear, is that an investigation took
12 place that might could have helped you better to form your
13 opinions, but sadly some of the things that you're going to
14 hear are not going to be as helpful as they could have been.

15 You're going to see a lot of shells, spent bullet
16 shells coming from different places. You're going to see
17 finger prints and blood; I've got blood on myself. You're
18 going to see DNA evidence and you're going to hear
19 testimony; you're going to hear conflicting testimony.

20 You're going to hear testimony, or I believe you're
21 going to hear testimony from Detective Inabinett. Allen
22 Inabinett took a statement, took a couple of statements in
23 this case, and one of the statements that he took was from
24 the co-defendant, Mr. Jakes. There was a statement taken
25 from Mr. Jakes explaining exactly what happened, I believe

1 that will be admitted into evidence and I believe you will
2 have the opportunity to hear in that case what happened.

3 One of the things you will not hear from Mr. Jakes is
4 that Antwan McMillan was even present when this happened.
5 You may hear conflicting testimony, and sadly, one of the
6 things that you'll -- in all of the DNA, and all the
7 fingerprints, and bullets, and ballistics, and all of these
8 things, one of the things you will not get is evidence of
9 cell phone calls; other than I believe you'll hear Detective
10 Inabinett testify that when he talked to Mr. Jakes, Mr.
11 Jakes said that earlier in the evening he had called his
12 girlfriend. He was in communication with his girlfriend
13 talking from his cell phone.

14 I believe that you will hear testimony from either
15 Detective Thomas, or one of the other detectives, who was
16 present at the hospital, and took statements at the
17 hospital, also took pictures at the hospital, and in those
18 pictures you'll see at least three people that had cell
19 phones.

20 One of the things that would have been very helpful
21 that you probably will not see here, I don't expect that you
22 will, is any record of any cell phone calls that were made
23 that day. Some of the events that appear likely, some of
24 the events appear unlikely, but consider closely whether or
25 not this would be helpful in determining what's what.

1 When you have an opportunity, consider conflicting
2 testimony, physical evidence, cell phone calls, things like
3 that where people who don't have a motive to lie would be
4 helpful in figuring things out. Listen carefully to all of
5 the evidence that you get, look for what's there, also
6 consider what should have been there.

7 Consider all of that, listen carefully to all of the
8 testimony, and when you do, I believe the evidence will not
9 conclusively show that Mr. McMillan was even present. Thank
10 you.

11 **THE COURT:** Mr. Beach.

12 **MR. BEACH:** May it please the Court?

13 **THE COURT:** Yes, sir.

14 **MR. BEACH:** Thank you, Your Honor.

15 **OPENING STATEMENT**

16 **BY MR. BEACH:**

17 Ladies and gentlemen, I'm Harris Beach. I represent
18 Mr. Jakes who is also seated over at counsel table, and I
19 will be handling the case for him. I don't represent Mr.
20 McMillan, so I'm not going to be saying a whole lot about
21 him, and I'm going to be concentrating on Mr. Jakes.

22 I ask you to listen very carefully to the evidence in
23 this case. We will admit to you up front that Mr. Jakes was
24 there; no doubt about it. Mr. Jakes got shot; no doubt
25 about that.

1 You're going to hear a lot of evidence about that, but
2 we'll tell you up front that's exactly what happened. Mr.
3 Jakes and Mr. Davis and another individual were riding
4 around. They were going from Smoaks, leaving Mount Carmel
5 church and going down McLeod Road toward Highway 15, where
6 they were going to go clubbing. They had been drinking;
7 there was a lot of drinking that night.

8 They decided to come back to get to the girlfriend of
9 Mr. Jakes, who was supposed to meet them, and turned back
10 around and went back across the interstate. They had one of
11 these donut tires on the car. One of these little tires
12 that you replace your good tire with when you have a flat
13 tire. It was bumping. They stopped the car. When they got
14 out, that's when they saw the other cars, and my client made
15 a rude remark to the women. We'll tell you that up front.
16 He got out and acted like a jackass. He made a rude remark
17 to the women.

18 The young man who was with them got up and told them to
19 get out of there, and showed him his gun. My client showed
20 him his gun. Whereupon, my client got shot.

21 Our position is, there was no attempted murder. There
22 was no attempted armed robbery. There was none of that.
23 This was just something that happened on the road; it just
24 happened. It was stupid, but there's nothing to bring it to
25 the point of saying, "So you didn't try to kill anyone?" He

1 never fired his weapon; never fired once. The firing came
2 later from the car, from the State's own witness, Mr. Davis,
3 that's where the firing came from, and that's what I think
4 the evidence is going to show. I ask you to listen to the
5 witnesses, particularly Mr. Inabinett, as he recalls what
6 Mr. Jakes told him from the State, and also Mr. Davis, who
7 is a co-defendant in this, but who says he had nothing to do
8 with it. We would ask you to look at all of that and come
9 back with a not guilty verdict. Thank you very much.

10 **THE COURT:** Call your first witness.

11 **ASST. SOL. HASELDEN:** The State calls Christy Willis.

12 **THE COURT:** Counsel approach.

13 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
14 AND OUT OF THE HEARING OF THE JURY.)

15 WHEREUPON, CHRISTY WILLIS, IS DULY SWORN.

16 **THE COURT:** Watch the stairs for me. Make yourself
17 comfortable. I want you to speak up so everyone can hear
18 you in the courtroom.

19 **MS. WILLIS:** My name is Christy Willis. W-I-L-L-I-S.

20 **THE COURT:** It's your witness, counsel. Direct
21 examination.

22 **DIRECT EXAMINATION**

23 **BY ASST. SOL. HASELDEN:**

24 Q Ms. Willis, who do you work for?

25 A Colleton County Sheriff's Office, Communications

1 Division.

2 Q And what do you do in the Communications Division?

3 A Sergeant over Dispatch.

4 Q How long have you been with Dispatch with the Sheriff's
5 Office?

6 A Seven years.

7 Q As Sergeant over Dispatch, what do you do?

8 A Take a ride with my team of two people. We answer 911
9 calls, dispatch where they go, fire, medical, police. We
10 take the calls. We've got to get their address, name, phone
11 number, pertinent information, in case we lose the call and
12 then go into which kind of call it is, crime, medical, fire;
13 and then ask questions from there pertaining to the type of
14 call that it is, and then dispatch what, you know, whether
15 they need police, ambulance, or a firetruck.

16 Q Okay. And you said there's only two people on your
17 team; is that common?

18 A Yes, ma'am. Two, other than myself, before eleven, and
19 then one other than myself after.

20 Q So what is your typical shift that you're Sergeant
21 over?

22 A Time wise?

23 Q Yes, ma'am.

24 A 7 p.m. to 7 a.m.

25 Q All right. So there's just two people on between the

1 hours of seven and seven?

2 A There's three people on from seven to eleven p.m., and
3 then from eleven p.m. to seven a.m., there's two.

4 Q Including yourself?

5 A Including myself.

6 Q Okay. Were you working in Dispatch on the night of
7 June 3rd, 2010?

8 A Yes, ma'am.

9 Q Who else was working with you?

10 A Melody Hunt, and also, Cindel Lawson, before eleven.

11 Q Before 11:00 p.m.?

12 A Yes, ma'am.

13 Q Did you receive a phone call shortly before midnight on
14 June 3rd, 2010?

15 A Yes, ma'am.

16 Q Do you remember exactly what time that first call came
17 in?

18 A I looked back, and it was at 23:53.

19 Q In non-military time.

20 A I'm sorry, 11:53.

21 Q Were you able to ask your normal questions to determine
22 identity of person and nature of call?

23 A No, ma'am.

24 Q Why not?

25 A Because the call was dropped, either bad cell signal or

- 1 -- I'm going to go with that's probably what it was.
- 2 Q Okay, the call dropped.
- 3 A Yes, ma'am.
- 4 Q Did you call them back?
- 5 A No, ma'am.
- 6 Q Did they call back?
- 7 A Yes, ma'am.
- 8 Q Do you remember what time that second call came in?
- 9 A It was 11:54.
- 10 Q Were you then able to determine more information?
- 11 A Yes, ma'am.
- 12 Q And what information were you able to determine?
- 13 A The type of call, the caller, location; just what was
- 14 going on. If anyone was injured or if they needed the
- 15 police or ambulance or firetruck.
- 16 Q Who was the caller?
- 17 A Jesse King.
- 18 Q What was the nature of the call?
- 19 A Originally, when I took it, it had came in as a
- 20 shooting. After I had asked more questions and figured out
- 21 what it was, then it was attempted robbery.
- 22 Q Okay. What did you do based on this information?
- 23 A I put a call into the system for the dispatcher to get
- 24 law enforcement en route to them.
- 25 Q Were you able to determine a location of these

1 individuals that called?

2 A Yes, ma'am.

3 Q What was that location?

4 A On McLeod Road, at the exit off of 95.

5 Q Okay. Just a moment.

6 **ASST. SOL. HASELDEN:** Your Honor, may I approach?

7 **THE COURT:** You may.

8 Q Ms. Willis, I'm handing you what's been marked for
9 identification purposes only as State's Ninety-two; do you
10 recognize that item?

11 A Yes, ma'am.

12 Q What is that item?

13 A It's a copy of the 911 call.

14 Q The 911 calls that you just testified as to receiving
15 on June 3rd, 2010?

16 A Yes, ma'am.

17 Q Is that a truthful and accurate depiction of those
18 calls?

19 A Yes, ma'am.

20 Q And how do you know?

21 A I initialed it when I listened to it.

22 Q Had it been altered in any way from when you took that
23 call?

24 A No, ma'am.

25 Q So what did you do after receiving that call?

1 A I put a call into the system for the dispatcher to have
2 law enforcement en route to it.

3 Q Did you work the whole rest of that night?

4 A Until 7 a.m., yes, ma'am.

5 Q Seven a.m. on the morning of June 4th?

6 A Yes, ma'am.

7 Q Did you receive any other shooting calls?

8 A No, ma'am. Other than from the ER saying that they had
9 a gunshot victim.

10 Q Is that standard protocol for them to call you?

11 A Yes ma'am.

12 Q Did you do anything based on the ER notifying you of a
13 gunshot wound victim?

14 A I advised the supervisor on the road.

15 Q Okay. I have nothing further.

16 THE COURT: Just a moment, Counsel, are you offering
17 Ninety-two into evidence?

18 ASST. SOL. HASELDEN: Not at this time.

19 THE COURT: Very well. Anything further?

20 ASST. SOL. HASELDEN: Nothing for this witness.

21 Q Ms. Willis, if you'd answer anything the defense
22 counsel has.

23 THE COURT: Cross-examination by the defendant
24 McMillan?

25 MR. MATHEWS: Nothing, Your Honor.

1 **THE COURT:** Cross-examination by the defendant Jakes?

2 **MR. BEACH:** I don't believe we have any questions
3 either, Your Honor.

4 **THE COURT:** Very well. As to this witness, Solicitor?

5 **ASST. SOL. HASELDEN:** I asked that she be excused.

6 **THE COURT:** Any objection of this witness being
7 excused, by the defendant McMillan?

8 **MR. MATHEWS:** No, Your Honor.

9 **THE COURT:** By the defendant Jakes?

10 **MR. BEACH:** No, Your Honor.

11 **THE COURT:** You may step down, Ms. Willis. You are
12 excused from the trial of this case.

13 Madame Foreperson, ladies and gentlemen of the jury,
14 I'm going to take my one and only mid-morning break at this
15 point. Let you stretch your legs, use the restroom. Please
16 do not discuss the case. You haven't heard all of the
17 evidence in this case, and it would be improper for you to
18 discuss it amongst yourselves and anybody else.

19 We're not going to take long, but I'll give everybody
20 time to use the restroom, stretch your legs, get something
21 to drink. We'll come right back and continue to work until
22 at least 1:00.

23 (11:15 A.M., WHEREUPON, THE JURY EXITS, AND THE COURT
24 IS AT RECESS FOR A BRIEF TIME IN THIS CASE.)

25 **THE COURT:** Is the State ready to proceed?

1 **ASST. SOL. HASELDEN:** The State is ready, Your Honor.

2 **THE COURT:** Is the defendant McMillan ready to proceed?

3 **MR. MATHEWS:** Yes, Your Honor.

4 **THE COURT:** Is the defendant Jakes ready to proceed?

5 **MR. BEACH:** Yes, Your Honor.

6 **THE COURT:** Bring me the jury, please.

7 (11:40 A.M., WHEREUPON, THE JURY ENTERS, AND THE
8 FOLLOWING IS HELD ON THE RECORD.)

9 **THE COURT:** I hope everyone had a nice break. We will
10 now continue with the trial in this case.

11 Call your next witness, Solicitor.

12 **THE COURT:** All right. Madame Foreperson, ladies and
13 gentlemen of the jury, we'll now continue with the testimony
14 in the trial of this case.

15 **ASST. SOL. HASELDEN:** The State calls Jeanine
16 Metzfield.

17 **MADAME CLERK:** Please come forward and be sworn.

18 WHEREUPON, JEANINE METZFIELD, IS DULY SWORN.

19 **MADAME CLERK:** Please have a seat on the witness stand
20 and state your name for the record.

21 **THE COURT:** Watch your step. My microphone is going to
22 amplify your voice. You can pull the chair up and adjust
23 for that. If you would begin by stating your full name and
24 spelling your last name for my court reporter.

25 **WITNESS:** Jeanine Metzfield, M-E-T-Z-F-I-E-L-D.

1 **THE COURT:** Your witness, Solicitor.

2 **DIRECT EXAMINATION**

3 **BY ASST. SOL. HASELDEN:**

4 Q Ms. Metzfield, where are you from?

5 A I live in Richmond, Virginia.

6 Q Have you ever been to Colleton County before?

7 A Yes.

8 Q When?

9 A I was here about a year and a half ago on June the 2nd
10 or 3rd, driving on my way from Richmond, Virginia, to
11 Florida.

12 Q Okay. And why were you driving from Virginia to
13 Florida?

14 A My daughter and her husband were moving from
15 Fayetteville to Florida, and I was pulling a U-Haul with my
16 truck for them. And I was following them down there so that
17 we could just do the caravan move, two trucks full of
18 furniture and the U-Haul.

19 Q Okay. And why did you stop in Colleton County?

20 A We -- my radiator blew up; not blew up, but started
21 steaming up under my hood, and I called Jesse really quick
22 and told him to pull over at the next exit because the
23 temperature gauge went all the way up to the roof and -- and
24 -- so we pulled off at the next exit that we could come up
25 to, which happened to be -- all I can remember vividly is

1 the sign that said Road 34. So we pulled off at the exit
2 and I was behind Jesse and Jesse was in front of me with his
3 truck and he pulled up to the end of the ramp, almost close
4 to the stop sign and when we pulled up to the ramp, we had
5 to figure out how to get the U-Haul from Jesse's truck --
6 from my truck, excuse me, to Jesse's truck. And ---

7 Q What kind of truck were you driving?

8 A A Chevy S-10.

9 Q Do you know what kind of truck Jesse had?

10 A A Tacoma, I think; something like that.

11 Q Okay.

12 A You know, that is a -- I don't the exact make and model
13 of his truck, sorry.

14 Q That's okay. So you were trying to figure out how to
15 move the U-Haul trailer?

16 A Yeah. We had made a couple of calls to get a tow
17 truck, but they said they couldn't tow the U-Haul. So were
18 trying to figure out how to not leave the U-Haul there and
19 just leave my truck there until morning, because at
20 midnight, we had no way of getting any help, service
21 stations and stuff like that. So we made that decision and
22 Jesse pulled his truck up, or I pulled my truck up. We
23 unhooked the trailer and we got it all done. We got the
24 electric undone, and Jesse pulled his truck up and -- and he
25 was trying to rig the harness, and I was up stealing pieces

1 of electrical tape from my electrical harness for the U-
2 Haul, so I crouched down at the back of my truck, pulling
3 off little pieces of electrical tape so we could rig up the
4 U-Haul to the other truck.

5 Q Well, let me ask you just a quick question. What time
6 -- do you remember about what time it was that y'all
7 stopped?

8 A It was so late; it was close to midnight.

9 Q Okay. And so it was dark outside?

10 A It was dark.

11 Q How could you see what you were doing with the tape?

12 A There were lights and we had flashlights, and we had
13 our cell phones, which was like a light.

14 Q Could you see what you were doing to work on the tape?

15 A Yeah.

16 Q All right. And then when did you first become
17 concerned?

18 A Well, it was at that time when I was crouched down,
19 when right up there, I was one car back from the stop sign,
20 right at the back of my car, and so this car drove up and
21 stopped right in the middle of the intersection. So
22 there's the stop sign and the road going this way, and the
23 car just stopped in the middle really fast. It just
24 stopped.

25 And this guy jumps out of the back before I had time to

1 even blink. He jumped out of the back of the car.

2 Q Do you remember what side of the car he jumped out
3 from?

4 A The side where -- no. I just remembered that all of a
5 sudden, he was coming out of the car and he was coming
6 towards me.

7 Q Okay. And was he holding anything?

8 A Yes, ma'am. He had a very large pistol in his hand and
9 he was holding it with both of his hands and shaking it at
10 me.

11 Q Okay. Do you have any idea how far away from you he
12 was at that point?

13 A It was like being across a two -- two -- like two
14 streets. Like if a car is going this way and a car is this
15 way, he was across the street from me, literally, like I was
16 a car length and across the street.

17 Q So about where I am right now?

18 A Yes, ma'am.

19 Q Okay. Were you able to see the man?

20 A The man had a black t-shirt, or red, or something over
21 most of his head and face and it was drapy-like, and I could
22 see that he was African-American. He was dressed in black
23 clothing, and so I didn't get a good visual, just that.

24 Q Okay. Did he say anything to you?

25 A Yes. When he -- when he -- I was still crouched down,

1 I believe, and he said either "Get up, pretty lady" or
2 "Put'em up, pretty lady," or something, pretty lady, in a
3 very loud voice with -- it was hard to understand, because
4 he was yelling loudly. And he said something else after
5 that as well, but what I remember was the "Put'em up, pretty
6 lady," and at that moment, I stood up, and I was just so
7 scared, honestly. I was so scared, I did not know what to
8 do. I just stood there. And within a few moments, I heard
9 Jesse yell out, "Get in the car and drive away." I remember
10 those distinct words, over and over again, "Get in the car
11 and drive away." At that point, the gun was pointed right
12 at me, at that point, and he turned toward Jesse; at which
13 point, I went between the two cars, towards the side of the
14 road to find my daughter, and get behind the U-Haul. So at
15 that point, as I was backing up, I heard gunshots and I
16 literally grabbed my daughter and ran and hid behind the U-
17 Haul, which was the third -- it was after Jesse's truck, you
18 know, in the far back. So the car was up here and the U-
19 Haul was back here, so we were further away, back behind the
20 U-Haul, but the car was still up here and there were these
21 gunshots, a least a bullet hole sustained in my truck.

22 Q So your truck was hit?

23 A Yes, ma'am. I don't know when or where, I just know
24 that my truck has a hole by the mirror and it has a hole in
25 the seat, and the bullet went in the car and through my seat

1 and into my yoga blanket, that was behind the seat. I mean,
2 the car was full of stuff, so I'm just glad that we moved
3 the truck, and it still had the dog, because we had the dog
4 with us, too.

5 Q Were you able to determine the type of car these people
6 were in?

7 A I would not be able to identify the car. All I know is
8 that it was a big four-door sedan and that it was a light
9 color.

10 Q Okay. Were you able to determine who shot first?

11 A No, ma'am.

12 Q Okay. What happened after you ran behind the U-Haul?

13 A Well, as I was running, Jesse was saying, "Get in the
14 car and drive away. Get in the car and drive away." I had
15 left my cell phone on the bumper of my truck. My daughter's
16 cell phone was out of battery. So we had no way to -- my
17 daughter had -- my daughter had her husband's phone, but not
18 right away. So I'm talking to her, and then Jesse was
19 there, and then we got the cell phone and Amanda tried to
20 call 911, but we were shaky and upset, and it was an
21 unfamiliar phone, so we weren't having a lot of luck with
22 that.

23 Q When did these -- or were you able to determine when
24 the person left?

25 A Yes. We were back behind the U-Haul and you could hear

1 the car go off a ways, and I'm not sure if it went -- it
2 gets foggy right there. I mean, I was really just so afraid
3 and I was just holding my daughter and thanking God that
4 Jesse was there.

5 Q When this person jumped out of the car and pointed a
6 gun at you and said that to you, what did you think was
7 happening?

8 A I thought I was being robbed or like -- you know, I
9 thought -- I really thought I was going to die for a moment.
10 I didn't think that I was going to get out of there. I
11 thought that -- I was just so scared. I thought that was
12 the end and here I am in the middle of nowhere, on the road
13 with my daughter, and I -- I don't -- I mean, those thoughts
14 that were there, I just remember being completely
15 dumbfounded, not knowing what to do, not knowing what to
16 say, just -- did I answer the question?

17 Q Yes. I just have a couple more questions for you, Ms.
18 Metzfield. Did you move your car after the shooting? Did
19 you move your vehicle at all?

20 A No.

21 Q Okay. Had you ever been in Colleton County before that
22 incident?

23 A No.

24 Q Ever seen either of these two guys before?

25 A No.

1 Q So you didn't have any prior history with arguments or
2 any other issues with anybody here in Colleton County?

3 A No.

4 Q And other than the two bullet holes that you talked
5 about in your truck, was there any other damage?

6 A Well, there were actually three bullets that hit the
7 car. My back tire was one, so we had to replace the tire,
8 and then, we still have bullet holes in the side. The seat
9 inside the car where the bullet went through, so it came
10 through the door and into the seat and into the back.

11 Q Which back tire was hit?

12 A Interestingly enough, the one that was toward the side
13 of the road. So it would have been on the grass side of the
14 road. So if we were parked here, and here's the stop sign,
15 it would have been that tire, the passenger's back tire.

16 ASST. SOL. HASELDEN: May I approach the witness?

17 THE COURT: You may.

18 Q Ms. Metzfield, I'm showing you what's been marked for
19 identification purposes only as State's Exhibit Two. Can
20 you review that please?

21 A Yes.

22 Q Can you identify that scene?

23 A Yes. That is my truck and Jesse's truck.

24 Q And is that a truthful and accurate depiction of where
25 your trucks were parked that night?

1 A Yes, ma'am.

2 ASST. SOL. HASELDEN: Your Honor, at this time, I'd ask
3 that State's Exhibit Two be moved into evidence.

4 THE COURT: Any objection as to the defendant McMillan?

5 MR. MATHEWS: No, Your Honor.

6 THE COURT: As to the defendant Jakes?

7 MR. BEACH: No, Your Honor.

8 THE COURT: Ladies and gentlemen of the jury, State's
9 Exhibit Number Two will be admitted into evidence in the
10 trial of this case. You may publish to the jury.

11 (STATE'S EXHIBIT NUMBER TWO IS RECEIVED INTO EVIDENCE.)

12 Q Before I publish, Ms. Metzfield, can you clearly see
13 your truck in that exhibit two?

14 A Yes, I can.

15 Q So which tire was it that was ---

16 A It was the passenger's rear tire, the passenger that
17 had a bullet in it. They actually took the bullet out of it
18 at the repair shop.

19 ASST. SOL. HASELDEN: May I approach and publish?

20 THE COURT: You may. It's in evidence, State's Two
21 without objection.

22 Q Ms. Metzfield, how has this incident affected your
23 life?

24 A (BECOMES EMOTIONAL.) Emotionally, it's probably been
25 the most traumatic because I've always been a person who

1 does not have any prejudice and prides myself on that, but
2 it took me probably two months before I could not be afraid
3 of -- of black men that I didn't know. If I was walking
4 into a convenience store or -- or -- or anything. So it's
5 affected me that way, and it's caused me to be a lot more
6 cautious and never drive at night. There were nights when I
7 needed someone to go with me if I went somewhere at night in
8 my car, I couldn't go alone.

9 **ASST. SOL. HASELDEN:** A moment's indulgence, Your
10 Honor.

11 **Q** I have no further questions for you, Ms. Metzfield. If
12 you would answer anything that the defense attorneys have,
13 I'd appreciate it.

14 **A** Yes, ma'am.

15 **THE COURT:** Cross examination by the defendant
16 McMillan?

17 **MR. MATHEWS:** Thank you, Your Honor.

18 (BRIEF PAUSE.)

19 **MR. MATHEWS:** I have no questions.

20 **THE COURT:** Very well. Cross examination by the
21 defendant Jakes.

22 **MR. BEACH:** Thank you, Your Honor.

23 **CROSS EXAMINATION**

24 **BY MR. BEACH:**

25 **Q** Ms. Metzfield, were you in the first automobile, the

1 first truck?

2 A Well, it depends on what time you wanted to ask that
3 question about, because I was following Jesse.

4 Q When the shooting occurred?

5 A When the shooting occurred?

6 Q Yes.

7 A My truck was the first to the stop sign, yes.

8 Q So you were the closest to the car that drove up?

9 A I was the closest to the car that drove up.

10 Q And where was your daughter?

11 A She was behind me at the end or at the door of the next
12 car.

13 Q So she wasn't with you at your car?

14 A No.

15 Q All right. Now, did you actually see any of the
16 firing, any of the shots being fired?

17 A No, sir.

18 Q You had already ducked down?

19 A I was backing up and going to the -- behind the U-Haul.
20 As I stepped backwards, I heard the first shot. The gun was
21 already pointed towards Jesse.

22 Q All right. Now, the gun was pointed towards you,
23 initially?

24 A Yes, sir.

25 Q And then Jesse got up and spoke; is that correct?

1 A First, the man came out of the car and said, "Get up,
2 pretty lady" with a gun in his hand.

3 Q Right. Then after that, that's when Jesse got up and
4 he said something to them?

5 A That is -- and shortly after that, I heard Jesse yell
6 out, "Get in the car and drive away."

7 Q Okay. That's when you ---

8 A That's when I retreated.

9 Q Okay. And was there any other conversation between
10 Jesse and the man that you recall?

11 A I remember Jesse saying over and over again, "Get in
12 the car and drive away."

13 Q How many times did he say that, do you know?

14 A I would say he said it five times.

15 Q So it was a pretty good time between the first time ---

16 A This was all during -- yes, because there was a lull in
17 the shooting. There was like a few shots and then there was
18 a lull and then there was more shots, and then there was
19 more shots.

20 Q All right. Did you see the other car leave or did you
21 just hear it leave?

22 A I only heard it leave.

23 Q And when he got out of the car and said, "Hey, pretty
24 lady," what did he say?

25 A I heard the "pretty lady" part clearly. He said

1 "Put'em up" or "Get up," something up, pretty lady. "Get
2 up, pretty lady," "Put'em up, pretty lady." Something to
3 that effect, and then he said something else that was
4 inaudible to me.

5 Q So you're not sure whether he said "Put'em up" or "Get
6 up."

7 A Get'em up, put'em up -- what exactly -- I don't know
8 exactly what was first.

9 Q Okay. And you were down ---

10 A I was crouched pulling electrical tape up.

11 MR. BEACH: I have no further questions, Your Honor.
12 Thank you, ma'am.

13 THE COURT: Redirect?

14 ASST. SOL. HASELDEN: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY ASST. SOL. HASELDEN:

17 Q Ms. Metzfield, you said there was a lull in the
18 shooting?

19 A Yes.

20 Q And a pause?

21 A Yes.

22 Q About how long do you think from the time somebody got
23 out of that car that sped up to the time that car left; any
24 estimate that you can give us?

25 A I'm sorry, I would be guessing.

1 Q Okay. That's fine. Thank you.

2 THE COURT: Recross, limited to redirect by the
3 defendant McMillan?

4 MR. MATHEWS: None, Your Honor.

5 THE COURT: By the defendant Jakes?

6 MR. BEACH: None, Your Honor.

7 THE COURT: As to the witness, she wishes to remain?

8 ASST. SOL. HASELDEN: Yes, Your Honor.

9 THE COURT: If you will step down for me, please,
10 ma'am. Watch your step and have a seat in the courtroom.

11 THE COURT: Call your next witness.

12 ASST. SOL. HASELDEN: The State calls Amanda Metzfield,
13 Your Honor.

14 MADAME CLERK: Please place your left hand on the Bible
15 and raise your right.

16 (WHEREUPON, AMANDA METZFIELD, IS DULY SWORN.)

17 THE COURT: Come on up here. Watch your step on my
18 stairs. Make yourself comfortable. Pull that microphone
19 closer. It's going to amplify your voice. Speak up so that
20 everyone can hear you in the courtroom. I want you to state
21 your full name and spell your last name for my court
22 reporter.

23 MS. METZFIELD: Amanda Metzfield, M-E-T-Z-F-I-E-L-D.

24 THE COURT: Your witness, Counsel. Speak up for me,
25 now.

1 **ASST. SOL. HASELDEN:** Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 **BY ASST. SOL. HASELDEN:**

4 Q Ms. Metzfield, have you ever been to Colleton County
5 before?

6 A Yes, I have.

7 Q And do you remember when it was?

8 A About a year ago, right around my sister's birthday.

9 **THE COURT:** You'll need to speak up, Ms. Metzfield.

10 A About a year ago, in June.

11 Q And what were you doing in Colleton County?

12 A We were moving from Richmond. We were going to be
13 restationed in Pensacola, Florida.

14 Q And who is "we"?

15 A Myself and my husband, and my mother was helping us.

16 Q Okay. So how did you end up stopping in Colleton
17 County?

18 A We had been driving since Richmond, and my mother's car
19 was having troubles and the radiator blew out, so we had to
20 pull over at the nearest exit, which is where we ended up.

21 Q What did you do once y'all stopped?

22 A We switched the cars so that the U-Haul would be on my
23 husband's truck and we could carry it to wherever we needed
24 it. We called a couple of tow places. One man came up in a
25 large truck from the exit and asked if we were all right.

1 He was very sweet and he warned us that we were in a bad
2 area. And then we were switching the U-Haul over and
3 working on that.

4 Q So you were able to make contact with a tow truck or a
5 garage nearby?

6 A We had called Triple A and they said that they were on
7 their way, and we had also called another tow place, and
8 some other places that weren't open. The only place I can
9 remember that was going to help us was Triple A.

10 Q Okay. Do you remember about what time it was?

11 A It was late, around midnight, before midnight.

12 Q What were your impressions about the lighting in the
13 area that you stopped?

14 A There were like three or four really tall streetlights.
15 They had fire ants at the bottom of them, which was not
16 cool. It was not well lit.

17 Q Could you see what you were doing?

18 A Yeah, we could see what we were doing, but, I mean,
19 there were like trees all around, so you couldn't see any
20 further than the road, really.

21 Q Okay. So when did you first realize that something was
22 wrong?

23 A I was just hanging out next to the truck, my husband's
24 truck, the Tacoma, while he was doing the wiring, and my
25 mother was up by her truck. And this light-colored car just

1 comes into the intersection, and this guy jumps out of the
2 back with a gun, and he pointed it at my mom, and that's
3 when I knew something was wrong. He yelled at us, and at
4 first I was going toward the driver's door, because I knew
5 that my husband had a pistol in there, and then my husband
6 jumped out and he was waving at us to get behind the U-Haul,
7 and my mother came towards me and I grabbed her, and we went
8 behind the U-Haul as they were shooting.

9 Q You say "as they were shooting." Who's "they"?

10 A I cannot say positively for sure, because I was not
11 looking.

12 Q Okay. That's fine. Did you hear what a person from
13 that light-colored car said?

14 A No, I did not hear the words that they said, but I knew
15 that they were yelling in an extremely threatening tone, and
16 I was very scared. They weren't friendly looking. You
17 know, they had their face concealed, and obviously did not
18 want us to be able to know who they were.

19 Q Were you able to determine anything about the person?

20 A It was a male, and he was kind of stocky. He had his
21 face covered. He was wearing dark clothing and he was
22 African-American, and that's about it.

23 Q So what did you do once you ran behind the U-Haul with
24 your mom?

25 A I ran behind the U-Haul, and my mom didn't have her

1 phone and my phone was dead from calling the tow places, so
2 I had my husband's phone, which is a Droid, and I don't know
3 how to use those things, because they're touch screen. So
4 I'm in the truck trying to call 911, and the stupid phone
5 won't work.

6 And I get 911 on the phone, and I don't really know
7 where we are, so I'm trying to tell the lady where we are
8 and what's happening. I told her we were being shot at, and
9 I'm, like, really scared, because my husband is out there,
10 and I just thought he was going to get shot and I didn't
11 know what I was going to do. And so I'm trying to talk to
12 the lady on 911, and then my mother tried to take over for
13 me, but she didn't know how to use the phone either, and we
14 lost the call.

15 So we were trying to call back, and I finally get it
16 back, and then I'm trying to put it on speakerphone, because
17 the people have gotten back in their car, and my husband is
18 closer back to where we are. So he tells me to put it on
19 speakerphone so he can talk to them as well. And then he
20 pretty much takes over because they drove further down the
21 road. They stopped at, like, the end of the road, and I
22 thought they were going to come back, and that's when I
23 totally broke down and I couldn't talk on 911 anymore, and
24 my husband took over the call.

25 Q Okay.

1 **ASST. SOL. HASELDEN:** Your Honor, may I approach?

2 **THE COURT:** You may.

3 **Q** Amanda, I'm going to hand you what's been marked for
4 identification purposes already as State's Ninety-Two.

5 **A** Okay.

6 **Q** When you got here this morning, were you given an
7 opportunity to review your 911 call?

8 **A** Yes.

9 **Q** And where did you review your 911 call?

10 **A** In the Solicitor's Office.

11 **Q** And was it a truthful and accurate depiction of your
12 911 calls, the first time you got disconnected, and then
13 called back?

14 **A** Yes.

15 **Q** Okay. And do you recognize the disc in front of you?

16 **A** Yeah.

17 **Q** And that was a truthful and accurate depiction of your
18 911 call?

19 **A** Yes.

20 **Q** Amanda, were you hurt physically in any way during this
21 event?

22 **A** I was not.

23 **Q** Was there any damage to your car?

24 **A** I did not have a car there, but my husband's car does
25 have a bullet hole in it.

1 Q Okay. So how did this event affect you?

2 A Emotionally. Psychologically.

3 Q How has it affected you?

4 MR. BEACH: Your Honor, we would object. I didn't
5 object to the other one, but I don't think it has any
6 relevance.

7 THE COURT: Counsel approach.

8 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.)

10 THE COURT: Objection's overruled. Rephrase the
11 question, Solicitor, consistent with my bench conference,
12 and I will make a record at the appropriate time, outside
13 the presence of the jury. Proceed.

14 ASST. SOL. HASELDEN: Thank you.

15 Q Ms. Metzfield, were you in fear?

16 A Yes.

17 Q Why were you in fear?

18 A Well, at first, I thought I was going to get shot, and
19 then I was mostly afraid for my husband, because, for the
20 most part, my mother and I were behind the U-Haul, and my
21 husband was out there and there were a lot of gunshots, and
22 I just kept thinking that, well, what would I do if he got
23 shot?

24 (WITNESS BECOMES EMOTIONAL.)

25 Q Amanda, I know it was a very stressful event and there

1 was a lot going on, but were you able to determine how long
2 this event lasted?

3 A It was definitely not longer than a half an hour. It
4 was all very fast.

5 Q And you say a half an hour. Is that how long a person
6 was actually standing out there on the road and gunfire was
7 being exchanged?

8 A No.

9 Q How long is that?

10 A From the time when the car pulled up to the time when
11 the police got there, I would say it was not more than a
12 half an hour.

13 Q Okay. Do you have any idea of the amount of time how
14 long the car was there, from the time it pulled up to the
15 time it left?

16 A Guessing, I would say around 15 minutes.

17 Q Did you ever see any of these two men before?

18 A No, ma'am.

19 Q You've never had any history of arguments or
20 disagreements with them?

21 A No.

22 Q Never been in a previous altercation with them?

23 A No.

24 **ASST. SOL. HASELDEN:** Just a moment's indulgence, Your
25 Honor.

1 Q Amanda, I have no further questions for you. If you
2 would answer anything that defense counsel has, I'd
3 appreciate it.

4 THE COURT: Cross-examination by the defendant
5 McMillan.

6 MR. MATHEWS: None, Your Honor.

7 THE COURT: Cross-examination by the defendant Jakes.

8 MR. BEACH: Just a couple, Your Honor.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. BEACH:

12 Q Did you actually see the gunshots being fired?

13 A No, sir.

14 Q Okay. And you were down behind the U-Haul at that
15 time?

16 A No, I was going towards behind the U-Haul.

17 Q Okay. But you didn't see who fired?

18 A No.

19 Q Now, you say you did not understand what was being said
20 between the gentleman and your mother?

21 A I do not recall my mother saying anything, and no, I
22 could not understand the man.

23 Q And what time of night was it again?

24 A Around before midnight.

25 MR. BEACH: No other questions, Your Honor. Thank you.

1 THE COURT: Redirect?

2 ASST. SOL. HASELDEN: Just briefly.

3 REDIRECT EXAMINATION

4 ASST. SOL. HASELDEN:

5 Q Amanda, you say that you weren't able to understand the
6 exact words, but you were able to determine the tone?

7 A Yes.

8 Q What kind of tone was that?

9 A It was very threatening.

10 ASST. SOL. HASELDEN: Nothing further, Your Honor.

11 THE COURT: Recross by the defendant McMillan, limited
12 to redirect?

13 MR. MATHEWS: Nothing, Your Honor.

14 THE COURT: Recross by the defendant Jakes, limited to
15 redirect?

16 MR. BEACH: No, Your Honor.

17 THE COURT: This witness is going to remain with us,
18 Solicitor?

19 ASST. SOL. HASELDEN: Yes, Your Honor.

20 THE COURT: You may step down, Ms. Metzfield, and
21 remain in the courtroom with us. Watch your step on my
22 stairs.

23 MS. METZFIELD: Thank you, Sir.

24 THE COURT: Call your next witness.

25 ASST. SOL. HASELDEN: The State calls Jesse King.

1 **MADAME CLERK:** Place your left hand on the Bible and
2 raise your right.

3 (WHEREUPON, MR. JESSE KING, IS DULY SWORN.)

4 **THE COURT:** Have a seat. Make yourself comfortable.
5 Adjust that chair, adjust that microphone. Speak into it
6 and speak up for me, if you would, please, and spell your
7 last name for the court reporter after you state your first
8 name.

9 **MR. KING:** Jesse Tyler King, K-I-N-G.

10 **THE COURT:** Your witness, counsel.

11 **ASST. SOL. HASELDEN:** Thank you, Your Honor.

12 **DIRECT EXAMINATION**

13 **BY ASST. SOL. HASELDEN:**

14 Q Mr. King, where are you from?

15 A I'm from Richmond, Virginia, ma'am.

16 Q And what do you do for a living?

17 A I'm a Specialist in the United States Army.

18 Q How long have you been doing that?

19 A Just over four years, ma'am.

20 Q And how old are you?

21 A I'm 26.

22 Q You went in when you were 22, 21?

23 A Yes, ma'am.

24 Q And you said you were a Specialist. What kind of
25 Specialist are you?

1 A I'm an explosive disposal specialist. I work with
2 bombs.

3 Q And what do you do with bombs?

4 A Basically, we'll go into a hazardous situation and
5 render them safe so other troops can pass through the area
6 bombs and roadside explosive -- improvised explosive
7 devices, IED's.

8 Q Have you ever been deployed?

9 A Yes, ma'am.

10 Q When and where?

11 A I was in Baghdad, Iraq, from November of '08 to
12 November -- the end of November '09.

13 Q And you were working with IED's and other types of
14 things in your specialty at that time?

15 A We did come into contact with those. At that time, I
16 was actually an Infantryman.

17 Q Part of your training with the U.S. Army, are you
18 trained how to deal with tense situations?

19 A Yes, ma'am. There were very strict rules of engagement
20 when we were deployed to Iraq.

21 Q Okay. And what type of training have you received
22 regarding firearms?

23 A There's basic rifle marksmanship training during our
24 deployment, and then when I was in Iraq I did some
25 specialized pistol training with the X-Delta Force

1 Operative.

2 Q Okay. Have you ever been in a tense situation before
3 where you've had to use firearms?

4 A No, ma'am. Actually in my whole year in Iraq, I did
5 not have to fire my weapon. However, we were shot at.

6 Q Have you ever been in Colleton County before today?

7 A Yes, ma'am.

8 Q When?

9 A The night of June 3rd a year ago.

10 Q Okay. And what were you doing here?

11 A I was on my way -- I had just had my PCS Orders to
12 travel down to Eglin Air Force Base to start my EOD
13 training.

14 Q Okay. And who was with you that night?

15 A My wife was driving with me in my truck and my mother-
16 in-law was with us driving her truck hauling the U-Haul for
17 us, because I didn't have the proper hitch system.

18 Q What kind of truck do you have?

19 A I drive a Toyota Tacoma.

20 Q How did you end up stopping here?

21 A Basically, we received a phone call from my mother-in-
22 law and she said that her temperature gauge had spiked and
23 that the radiator might have blown; it was steaming. So we
24 decided to pull over at the next available exit just to
25 prevent further damage to her truck, and when we pulled off

1 at the exit, it was just a deserted exit, you know, led off
2 onto just a country road. And so we pulled over on the side
3 of the road, the right-hand shoulder, and started to try and
4 figure out how we were going to get the trucks to anywhere,
5 calling all the tow trucks and what not.

6 Q And were you able to get in touch with any tow trucks?

7 A Yes. Shortly after we pulled over, a guy came off the
8 ramp behind us and stopped and asked if we needed any help.
9 He gave us a couple of numbers of people that he knew that
10 had tow trucks and he warned us that it might have been a
11 dangerous area; it had been in the past.

12 So basically, we did get in contact with the tow truck
13 and they had one on the way. In the meantime, we had to
14 move the trucks around so that we could put the U-Haul on my
15 truck to get it to our hotel room for the night. And when
16 we were -- after we had done that, I was trying to get the
17 brake lights to work on the trailer for my truck, so I was
18 crouched down behind my truck working with the wiring and I
19 heard a noise like a car coming to a very fast halt, kind of
20 screeching.

21 And when I looked from behind my vehicle, I saw --
22 actually, my first thought was, "Wow, that's a really big
23 gun." A man had gotten out of the back passenger side of a
24 silver, four-door type car, and he had it pointed at my
25 mother-in-law; and I was so far back that I didn't hear

1 exactly what he was saying, but it was kind of yelled in
2 somewhat of a pretty threatening manner.

3 And so I stood up, and in the process of standing up, I
4 drew my pistol, and I yelled at him, "Get back in your car
5 and drive away." When that happened, he turned towards me,
6 pointed his gun at me, and fearing for my life and that of
7 my mother-in-law, I shot about two or three times. The
8 person was still standing, still pointing his gun at me, and
9 I shot about two or three more times.

10 At that point, he fell to the ground. There was a lot
11 of yelling from inside the car. They started firing at me
12 from inside the vehicle. I thought that they were probably
13 shooting at me with some sort of automatic weapon. I
14 dropped down behind the tailgate of my truck. The whole
15 time I'm yelling at them to "Get in your car and drive away.
16 Get in your car and drive away."

17 I only had a very small subcompact pistol, and I
18 dropped the magazine on it and counted how many rounds I had
19 left, which were very few; reloaded my weapon. I was really
20 worried that they were going to fight through where I was
21 behind my truck and attempt to kill my family that was
22 behind me. I just kept yelling at them, "Get in your car,
23 drive away."

24 I saw the guy get back into the car and I saw him drop
25 the gun in the process and they drove away. I saw them stop

1 down the road a little ways, and I was really worried that
2 they were going to do a drive-by when they had to turn
3 around to get back onto the interstate. So I got confused
4 on whose truck was whose. I ran up to my mother-in-law's
5 truck to try to find my second pistol that I had in a bag
6 behind my seat; realizing I was at the wrong truck, I ran
7 back to my truck from where I started, grabbed my second
8 pistol from behind my seat, ran back to my mother-in-law and
9 wife to see to make sure that they were okay, and at the
10 same time, I could still see the car. Eventually, the brake
11 lights disappeared, and at that time, I was in the process
12 of talking to 911 on the phone.

13 Q Okay. Were you able to tell anything about the man
14 that got out of the back of the car?

15 A When they got out, I noticed that he had dark-colored
16 clothing on, as well as a dark towel, or t-shirt, wrapped
17 around his face, you know, to disguise that. I could also
18 tell that he was a black male. Other than that, I was
19 focused on the threat of the gun.

20 Q Okay. Were you scared?

21 A Yes. I was really worried about my mother-in-law. She
22 was the closest to him when everything started happening and
23 after the firing started, I didn't see her anymore, and I
24 was really worried about her.

25 Q What did you think was happening to y'all?

1 A When he got out of the car with the gun, I thought that
2 the -- I knew that as I was crouched down behind the truck
3 that they would have only seen my wife and mother-in-law,
4 two white females on the side of the road in the middle of
5 the night, and my mind only travels to the worst things that
6 could have possibly happened to them. And when he pointed a
7 gun at me, I felt my life was in danger as well.

8 Q Okay. So you spoke on the phone to 911 as well?

9 A Yes, ma'am.

10 **ASST. SOL. HASELDEN:** May I approach the witness?

11 **THE COURT:** You may.

12 Q Mr. King, I'm going to show you what's been marked for
13 identification purposes only previously as State's 92. Did
14 you have an opportunity when you got here this morning to
15 review the 911 call?

16 A Yes, ma'am, I did.

17 Q Do you recognize that disc?

18 A Yes, ma'am, I do.

19 Q And did that disc contain a truthful and accurate
20 depiction of your conversation with 911 on the night of June
21 3rd, 2010?

22 A Yes, ma'am, it did.

23 **ASST. SOL. HASELDEN:** Your Honor, at this time, I would
24 move State's Ninety-two into evidence.

25 **THE COURT:** Any objection as to State's Ninety-two,

1 from the defendant McMillan?

2 **MR. MATHEWS:** No, Your Honor.

3 **THE COURT:** From the defendant Jakes?

4 **MR. BEACH:** Yes, Your Honor.

5 **THE COURT:** Counsel approach.

6 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
7 AND OUT OF THE HEARING OF THE JURY.)

8 **THE COURT:** Objection overruled. I'll make a record at
9 the appropriate time, consistent with the conference at the
10 bench. Proceed Solicitor.

11 **ASST. SOL. HASELDEN:** Your Honor, may I approach then?

12 **THE COURT:** You may.

13 **ASST. SOL. HASELDEN:** Your Honor, State's Exhibit
14 Ninety-two is in evidence.

15 (WHEREUPON, STATE'S EXHIBIT NINETY-TWO IS RECEIVED INTO
16 EVIDENCE, AND THE SOLICITOR PREPARES EXHIBIT NINETY-TWO FOR
17 PLAY IN THE DVD PLAYER.)

18 **THE COURT:** In evidence over objection. You may
19 publish to the jury. Ladies and gentlemen of the jury,
20 State's exhibit Ninety-two will be admitted into evidence in
21 the trial of this case.

22 (WHEREUPON, STATE'S EXHIBIT NINETY-TWO, 911 CALL, IS
23 PLAYED FOR THE JURY. AUDIO BEGINS AT 12:16 P.M. AND ENDS AT
24 12:24 P.M.)

25 Q Mr. King, do you always carry a gun on your person?

1 A I do, now, ma'am.

2 Q Did you before this incident?

3 A Not all the time. Mostly when I was driving or would
4 be in areas that I suspected I might need to have it with
5 me, ma'am.

6 ASST. SOL. HASELDEN: May I approach the witness?

7 THE COURT: You may.

8 Q Mr. King, I'm handing you what's been marked for
9 identification purposes only as State's One, Three, and
10 Four. And what's previously been entered into evidence as
11 State's Exhibit Two. Could you review One, Three, and Four
12 for me, first?

13 A Yes, ma'am.

14 Q Do you recognize One, Three, and Four?

15 A Yes, I do.

16 Q What are One, Three and Four?

17 A State's Exhibit One is a picture of my concealed carry
18 permit from the State of Virginia.

19 Q Is it a truthful and accurate depiction of your
20 concealed carry permit?

21 A Yes, it is, ma'am. State's Exhibit Three is a picture
22 of my truck and the U-Haul and the scene where we were.

23 Q Okay.

24 A And Four is a picture of my two pistols.

25 Q All right. Are all of those photos a truthful and

1 accurate depiction of both the scene and your pistols and
2 your concealed weapons permit, as they existed on the night
3 of June 3rd, 2010?

4 A Yes, they are, ma'am.

5 **ASST. SOL. HASELDEN:** Your Honor, at this time, I'd
6 move State's One, Three, and Four into evidence and ask to
7 publish.

8 **THE COURT:** As to State's One, Three, and Four, from
9 the defendant McMillan?

10 **MR. MATHEWS:** No objection, Your Honor.

11 **THE COURT:** From the defendant Jakes?

12 **MR. BEACH:** No objection, Your Honor.

13 **THE COURT:** Ladies and gentlemen of the jury, State's
14 Exhibit's One, Three, and Four will be admitted into
15 evidence in the trial of this case without objection.

16 (STATE'S EXHIBIT ONE, PHOTO OF CONCEALED CARRY PERMIT
17 OF JESSE KING, IS RECEIVED INTO EVIDENCE.)

18 (STATE'S EXHIBIT THREE, PHOTO OF TRUCK AND U-HAUL AT
19 CRIME SCENE, IS RECEIVED INTO EVIDENCE.)

20 (STATE'S EXHIBIT FOUR, PHOTO OF TWO GUNS BELONGING TO
21 VICTIM, JESSE KING, IS RECEIVED INTO EVIDENCE.)

22 **THE COURT:** You may publish, Solicitor.

23 **ASST. SOL. HASELDEN:** Thank you.

24 Q Before publishing, Jesse, could you refer to the, I
25 believe, the second photo there, State's Two, showing the

1 two trucks; is that correct?

2 A Yes, ma'am.

3 Q Did you move your truck at all, or the U-Haul, after
4 the shooting occurred?

5 A No, I did not.

6 Q So that, State's Two, is exactly where your vehicles
7 were parked when this shooting occurred?

8 A Yes, ma'am.

9 Q And could you look at the photo of your truck, please?
10 I believe that is State's Three. Where were you standing
11 when this shooting occurred, when you returned fire or tried
12 to defend your family?

13 A When I stood up, I was at the back corner of my truck,
14 between -- so it would be driver's side rear, by the bumper,
15 between the truck and U-Haul trailer.

16 Q And State's Four, is one of those the firearm that you
17 were using?

18 A Yes, ma'am.

19 Q Which one were you using?

20 A The one with the Number 14 placard.

21 Q What kind of gun is that?

22 A It's a Glock 33; it's a .357 Sig; it's their subcompact
23 model.

24 Q To be able to carry those guns legally, you have to get
25 a permit, correct?

1 A Yes, ma'am.

2 Q What did you have to do in the State of Virginia to get
3 that permit?

4 A For the State of Virginia, I had to show proof of a
5 handgun safety course, or a permit, or equivalent training,
6 and fill out an application and have my fingerprints run
7 through the State Police.

8 Q And do you also carry a sidearm as part of your
9 military duty?

10 A No, I do not.

11 Q Okay. But you have gone through training with them ---

12 A Yes, ma'am.

13 Q --- regarding sidearms?

14 A Yes.

15 Q Have you gone through training with them about, if
16 engaged, where to shoot somebody?

17 A Yes, ma'am.

18 Q And where are you supposed to shoot somebody if you
19 have to defend yourself?

20 A Center body mass is what I've always been taught,
21 ma'am.

22 Q Okay. Now, was there any damage to your truck?

23 A Yes, ma'am. I had one bullet hit the front driver side
24 quarter panel of my truck. It went in, curved around in the
25 wheel well, and then struck the pavement below it.

1 Q Okay. Any physical damage to you?

2 A No, ma'am.

3 Q Did you personally observe any damage to your mother-
4 in-law's truck?

5 A I saw it as soon as the whole incident was over, yes,
6 ma'am.

7 Q Okay. How were you able to see to shoot this thing, if
8 it was dark outside?

9 A There were several, just, street lights at the
10 intersection there.

11 Q So you could see him pretty clearly?

12 A Yes, ma'am.

13 Q Can you give me any type of estimate as to how far away
14 that van was from you when you were shooting?

15 A Basically, I just describe it as the two truck lengths
16 that were between us.

17 Q So was it about from me to you?

18 (SOLICITOR STEPS BACK AWAY FROM THE PODIUM TO
19 DEMONSTRATE.)

20 A I would say just a little bit farther, ma'am, but
21 that's close.

22 Q Okay. So just on the other side of this, perhaps?

23 A Yes, ma'am.

24 Q You had no problem seeing the gun in this man's hand?

25 A No, ma'am. That was the first thing that I saw.

1 Q You said he pointed that gun at you?

2 A Yes, he did.

3 Q And then you fired?

4 A Yes, ma'am.

5 Q What did you say to this guy?

6 A At the whole time, all I really wanted them to do was
7 leave. Basically, everything I yelled was, "Get in your car
8 and drive away. Get in your car and drive away." I just
9 pretty much kept saying that throughout the entire time
10 because I just wanted them gone.

11 ASST. SOL. HASELDEN: Your Honor, may I approach and
12 publish?

13 THE COURT: You may. One, Three, and Four in evidence.

14 (ASST. SOL. HASELDEN GIVES THE JURY THE STATE'S
15 EXHIBITS ONE, THREE AND FOUR FOR REVIEW.)

16 Q Jesse, how did you shoot when you shot this firearm?
17 Was it steady shooting?

18 A Yes, ma'am. I fired two to three shots, and then
19 basically assessed the situation. He was still standing, as
20 well as still pointing the firearm at me, and that's when
21 they began shooting from the vehicle as well, so I fired two
22 or three more rounds and took cover behind my truck.

23 Q Okay. Were you able to determine where the shooting
24 was coming from in the car?

25 A No, ma'am. All I saw were the two people in the front

1 seat, so I knew it was the front of the vehicle.

2 Q Okay. Were you able to determine if there was anybody
3 else in the backseat of the car?

4 A I only saw the three people in the vehicle. The two in
5 the -- the driver, the passenger, and then the man who got
6 out.

7 Q Okay.

8 ASST. SOL. HASELDEN: Just a moment's indulgence, Your
9 Honor.

10 (BRIEF PAUSE IN THE COURTROOM.)

11 ASST. SOL. HASELDEN: Your Honor, may I approach?

12 THE COURT: You may.

13 ASST. SOL. HASELDEN: And Your Honor, prior to marking
14 them, these guns have been made safe by the Sheriff's Office
15 and they are unloaded and have chamber locks through them.

16 THE COURT: Very well. They are not capable of being
17 used?

18 ASST. SOL. HASELDEN: They are not capable of being
19 used.

20 THE COURT: Is it your intention to introduce them?

21 ASST. SOL. HASELDEN: Yes, Your Honor.

22 THE COURT: Proceed.

23 Q Mr. King, I'm handing you what's been marked for
24 identification purposes only as State's Eighty-five, Eighty-
25 five A, Eighty-six and Eighty-six A. Please review those.

1 **THE COURT:** Refer to the Exhibit number when you're
2 referring to them, for the record, so the court reporter
3 knows what you're holding by number.

4 A State's Exhibit Eighty-six, it is my Glock 33, .357
5 Sig. State's Exhibit Eighty-five, it is my H&K, USP, 9 mm
6 compact.

7 Q And are you able to determine as to two items in
8 Eighty-five A, and Eighty-six A, are those the ammunition
9 that was with those firearms? Yeah, they're sliced at the
10 bottom. You can take that out if you need to.

11 A That's okay. Those, Eighty-five A, are the Federal
12 Hydro-shok, two, hollow points, and Eighty-six A are the DPX
13 deep penetrating hollow points.

14 Q Were both of those guns loaded that night?

15 A Yes, ma'am.

16 Q You stated at one point that you had to reload your
17 firearm?

18 A I dropped my magazine to count the rounds I had left,
19 because they were still there firing. I did not have a lot
20 of ammunition left, so I was really worried that they were
21 going to come closer to try to attack my family, so I stayed
22 where I was and did not fire anymore.

23 Q Okay. Do you know how many times they fired at you?

24 A I do not.

25 Q So more than once?

1 A They fired -- I know they fired at least four times,
2 because that's how many times our trucks were hit and other
3 than that, I don't know.

4 Q Okay. And how many times did you fire?

5 A I fired six times.

6 Q Did you stop shooting once the man fell and dropped his
7 gun?

8 A Yes, I did.

9 Q Why?

10 A Because at that time, he was no longer a threat or
11 capable of firing his weapon at me.

12 **ASST. SOL. HASELDEN:** Just a moment's indulgence.

13 Q Mr. King, I have no further questions for you. If
14 you'd answer any questions that these attorneys have, I'd
15 appreciate it.

16 A Yes, ma'am.

17 **THE COURT:** Cross-examination by the attorney for
18 defendant McMillan?

19 **MR. MATHEWS:** None, Your Honor.

20 **THE COURT:** Cross-examination by the attorney for
21 Defendant Jakes?

22 **MR. BEACH:** May it please the Court?

23 **THE COURT:** Yes, sir.

24 **CROSS-EXAMINATION**

25 **BY MR. BEACH:**

1 Q Mr. King, you stated earlier they were shooting at you.
2 The man got out of the car and never fired his weapon, did
3 he?

4 A I couldn't say for certain. I know it was pointing at
5 me and it was very dark.

6 Q You testified that he pointed at you and you fired at
7 him.

8 A I did fire, yes, sir.

9 Q And you fired twice?

10 A Two to three rounds, sir.

11 Q Okay. And then he didn't fall down, so you fired
12 again?

13 A Yes, he was still pointing his weapon at me.

14 Q Okay. But you don't recall him actually firing at you?

15 A There were rounds being fired from that direction, sir.

16 Q Now, you say, how many guns were firing out of the car?

17 A I only heard eight gunshots coming from the car, so I
18 couldn't tell you how many pistols there were, sir.

19 Q All right. Was that coming from the front seat of the
20 car or the back seat of the car?

21 A It appeared to be from the front, sir.

22 Q The front seat. And was the person hanging out the car
23 shooting or could you tell?

24 A I could not tell you, sir.

25 Q Now, you did not hear what was said earlier between the

- 1 man and your mother-in-law; is that correct?
- 2 A Not specifically, sir.
- 3 Q Was it a threatening ---
- 4 A It was definitely a threat, sir.
- 5 Q Did anybody else get out of the car?
- 6 A No, sir.
- 7 Q And were you able to tell whether there were two people
- 8 in the car or one person in the car, other than the fellow
- 9 who had gotten out?
- 10 A I believe that there were two people in the front seat,
- 11 sir.
- 12 Q One was the driver and the other was the shooter?
- 13 A The passenger, sir.
- 14 Q Now, he was the passenger in the front seat or the back
- 15 seat?
- 16 A The front seat, sir.
- 17 Q The front seat. And that's where the gunshots came
- 18 from?
- 19 A Right, sir.
- 20 Q Okay. When he turned and pointed his weapon at you,
- 21 did he say anything to you?
- 22 A No, sir.
- 23 Q Did you say anything back to him other than "Get in the
- 24 car and go"?
- 25 A No, I just kept repeating to them to "Get in your car

1 and drive away."

2 Q Okay. And I believe somebody earlier had come up and
3 said this was a bad neighborhood?

4 A Yes, sir.

5 Q So you were already on edge; is that correct?

6 A I always have my weapon on me, sir.

7 Q Did you have it on you at the time or was it in the
8 car?

9 A Yes, sir. I carry it with me. I have a concealed
10 carry permit.

11 Q You had a second gun in the car, also?

12 A Yes, sir.

13 **MR. BEACH:** I have no other questions, Your Honor.

14 Q Thank you, Mr. King.

15 A No problem, sir.

16 **THE COURT:** Redirect?

17 **ASST. SOL. HASELDEN:** Just briefly.

18 **REDIRECT EXAMINATION**

19 **BY ASST. SOL. HASELDEN:**

20 Q When the man got out of the car with a large pistol,
21 did he come from the front seat or the back seat?

22 A The back seat.

23 Q And you think that there were two people in the front
24 seat of the car?

25 A Yes.

Cross-examination of Jesse King by Mr. Beach
Redirect Examination of Jesse King by Asst. Sol. Haselden

19
181

1 Q Were you able to see anything about those two people?

2 A No, ma'am.

3 Q And you think that that is where the rounds were coming
4 from when gunshots were fired at you?

5 A The second time when they were being fired from the
6 vehicle, yes, ma'am.

7 Q Okay. But you weren't able to determine who in that
8 car was shooting at you?

9 A No, ma'am.

10 ASST. SOL. HASELDEN: I have nothing further. Thank
11 you.

12 THE COURT: Recross, by the defendant McMillan, limited
13 to redirect?

14 MR. MATHEWS: Nothing, Your Honor.

15 THE COURT: Recross, by the defendant Jakes, limited to
16 redirect?

17 MR. BEACH: Nothing, Your Honor.

18 THE COURT: This witness is going to remain with us,
19 Solicitor?

20 ASST. SOL. HASELDEN: He is going to remain with us.

21 THE COURT: Very well. Mr. King, you may step down and
22 you may remain with us.

23 MR. KING: Thank you, Your Honor.

24 THE COURT: Solicitor, you had left -- without asking
25 to be admitted, so I'm going to ask you to retrieve what has

1 been marked, and either give it to the court reporter or
2 return it to the case officer.

3 **ASST. SOL. HASELDEN:** Yes, sir. If that's okay, I'll
4 leave it up here on the table.

5 **THE COURT:** That will be fine.

6 (ASST. SOL. HASELDEN PLACES EXHIBITS ON TABLE.)

7 **ASST. SOL. HASELDEN:** It's all up here, Your Honor.

8 **THE COURT:** Madame Foreperson, ladies and gentlemen of
9 the jury, I see that it's 1:00. We've reached our lunch
10 hour and we're going to serve you a delicious lunch in your
11 jury room. If I have any smokers on the jury, smoking is
12 not permitted in the courthouse. If we have any smokers,
13 the bailiffs will take you outside so that you can smoke.

14 During the lunch hour, please do not discuss the case
15 with anyone amongst yourselves or with anybody else. It
16 would be impermissible for you to do so. I hope everybody
17 has a pleasant lunch. I'm going to try to start back as
18 close to 2:00 as possible. Please bear in mind that I've
19 got to get everybody fed and not just y'all, so that I give
20 all the parties and the lawyers an opportunity, also, to get
21 lunch.

22 So as soon as we can start back and I know that you've
23 had your lunch and had a break, we'll start back; but during
24 this entire period of time, of course, please do not discuss
25 the case. Thank you very much. You may retire to your jury

1 room.

2 Everyone else please remain seated while the jury is
3 leaving.

4 (1:00 P.M., 8-30-11, WHEREUPON, THE JURY EXITS THE
5 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

6 **THE COURT:** All right. I told you that when we broke
7 for lunch that I would make a record of some bench
8 conferences that occurred, so as not to send the jury in and
9 out, with the consent of the lawyers who came to the bench
10 to discuss matters of law with me.

11 The first bench conference occurred in regards to
12 State's Exhibit Ninety-Two. Well, excuse me; it's not
13 exactly State's Exhibit Ninety-Two. First, the first bench
14 conference was an objection by counsel for the defendant
15 McMillan and the question, or actually by defendant Jakes,
16 counsel for defendant Jakes, excuse me. Question from the
17 witness Ms. Metzfield as to how she felt at the time of this
18 incident.

19 I reminded counsel of the elements in the indictment
20 concerning whether or not a person was intimidated or placed
21 in fear as an element of one of the offenses charged. I
22 restricted the Solicitor, because the question was open-
23 ended to allow some leading on that, because the question
24 had gotten from the witness actually responded at that
25 point, "Do you mean emotionally?" because she had asked a

1 question about physical feelings, physical harm, and how it
2 affected her emotionally.

3 The Solicitor advised me at the bench that she would
4 restrict the question. In fact, she asked whether or not
5 the witness felt intimidated or was placed in fear, which
6 are the elements that we discussed at the bench, and
7 therefore, the objection was overruled, because the
8 Solicitor is entitled to prove the elements of the offense
9 charged.

10 There was a second bench conference. The second bench
11 conference was because of State's Exhibit Number Ninety-two,
12 which is the tape of the 911 call. Prior to the State
13 seeking introduction of the 911 tape, identified as State's
14 Exhibit Ninety-two, the State put on the witness stand,
15 first, Ms. Christy Willis with the Colleton County Sheriff's
16 Office, second, Jeanine Metzfield and Amanda Metzfield, and
17 then Jesse King, and then sought the introduction of the 911
18 tape.

19 Counsel for the Defendant Jakes objected on the basis
20 of hearsay. A conference occurred at the bench, in which
21 the Solicitor opined to the Court that she sought the
22 introduction because all of the declarants on the tape were
23 available as witnesses, and all had been called at that
24 point; Mr. King was on the witness stand.

25 Although the 911 tape could constitute hearsay, there

1 are exceptions to the hearsay rule if the declarant is
2 available. The following are not excluded by the hearsay
3 rule, even though the declarant is available as a witness.
4 One would be present sense impression. The statement
5 describing, or explaining, an event or condition made while
6 the declarant was perceiving the event or condition or
7 immediately thereafter.

8 The other exception under 803 of the Rules of Evidence
9 is the excited utterance, which is 803, subsection 2, which
10 is a statement related to a startling event or condition
11 made while the declarant was under the stress of excitement
12 caused by the event or condition.

13 I overruled the objection as to hearsay and permitted
14 the introduction of the State's Exhibit Number Ninety-Two on
15 the basis that these two exceptions under Rule 803 of the
16 Rules of Evidence, One and Two, present sense impression and
17 excited utterance, applied to the 911 tape, and I noted that
18 every single participant that was involved in what the jury
19 heard was present and available to counsel for each of the
20 defendants for cross-examination at the bench, and I wanted
21 there to be a record of what occurred.

22 At this point, counsel, I show the following. Although
23 there was a request for the last witness to identify this
24 last exhibit, which I believe was Eighty-five or Eighty-six,
25 that is not in evidence in the trial of this case at this

1 point, which is a request for identification, as well as the
2 magazines for the two weapons that were identified. What
3 were the numbers, Becky?

4 **COURT REPORTER:** Eighty-five and Eighty-five A, Eighty-
5 six and Eighty-six A.

6 **THE COURT:** Eighty-five and Eighty-five A, Eighty-six
7 and Eighty-six A. I show in evidence at this point, State's
8 Exhibits One, Two, Three, Four, and Ninety-two, so that
9 counsel is aware of what is in evidence. Is that what you
10 have, Becky?

11 **COURT REPORTER:** Yes, sir.

12 **THE COURT:** And that's what the court reporter confirms
13 to me that she has. Now, I want everybody to have a chance
14 to get lunch. I realize that some of you have to leave and
15 I'm also seeing that my defendants are being fed lunch
16 during the time that the jury eats lunch; and so the lawyers
17 can get lunch and get back here, I'd like to start back as
18 close to 2:00 as possible. I realize I have participants
19 and other people here who need to get lunch. I'd certainly
20 like to start no later than 2:15, because I want to get as
21 much accomplished as possible. We'll be in recess until
22 then for our lunch hour. Thank you.

23 (1:05 P.M., 8-30-11, WHEREUPON, COURT IS IN RECESS FOR
24 LUNCH IN THE TRIAL OF THIS CASE.)

25 (2:25 P.M., 8-30-11, WHEREUPON, THE COURT RESUMES THE

1 TRIAL OF THIS CASE.)

2 THE COURT: All right, ladies and gentlemen, I know
3 we're behind again, but we had a matter come up which I need
4 to put on the record.

5 First, during lunch, about five after two, my beloved
6 Clerk of Court came to me and told me she had a juror that
7 wanted to talk to her. I told her we couldn't; that we
8 didn't know what it was about, and to have the juror write a
9 note as to what the reasons for talking to the Clerk was,
10 and then I received this note that was two notes on one
11 page.

12 They wrote it as juror 102, and if y'all look at your
13 notes, that turns out to be Yvonne Lightsey, who is Number
14 18 on the strike sheet. But it was written in the following
15 fashion: "I need to make sure that I'm a suitable juror for
16 this trial due to the status of my husband," signed, Dawn
17 Allen.

18 Well, Ms. Allen, who is juror Number One, is my
19 Foreperson. We -- first, I brought the lawyers into
20 chambers. We discussed it. I told them what had occurred.
21 We thought Ms. Allen was referring to herself. We now
22 believe, but we're not positive, that was she was actually
23 doing was signing a note for Juror 102, which is Ms.
24 Lightsey.

25 The note says -- we asked them to identify, we asked

1 Ms. Allen to come back to us with a note saying what is it
2 about your husband's status that you think prevents you from
3 being a juror?

4 She wrote, "My husband is a reserve deputy." I then
5 had Mr. Shelton contact the Colleton County Sheriff's Office
6 and I find out there is no reserve deputy whose last name is
7 Allen, but I do have a reserve deputy whose last name is
8 Lightsey, which would correspond to Juror 102.

9 I therefore intend to call Ms. Allen, the Foreperson,
10 and Ms. Lightsey into the courtroom. First, ask the
11 Foreperson if she was referring to herself or to Juror 102.
12 If it was Juror 102, I will excuse the Foreperson back to
13 the jury room and then inquire of Juror 102, who is, as I
14 told you, Ms. Yvonne Lightsey, and whether or not she's had
15 any conversations with her husband about this case and
16 whether the fact that her husband being a Reserve Deputy --
17 I did not ask this in the voir dire about spouses, and I
18 want the record clear on that, whether that would in any way
19 prevent her from giving the State or the Defendant in this
20 case a fair and an impartial trial.

21 Now, I've been over this entire procedure that I'm
22 putting on the record now with all my attorneys and they're
23 in agreement. Have I accurately stated what occurred in
24 chambers, as far as the Solicitor's Office is concerned?

25 ASST. SOL. HASELDEN: Yes, Your Honor.

1 **THE COURT:** Insofar as counsel for McMillan is
2 concerned?

3 **MR. MATHEWS:** Yes, Your Honor.

4 **THE COURT:** Insofar as counsel for Jakes is concerned?

5 **MR. BEACH:** Yes, sir.

6 **THE COURT:** All right, Mr. Grant, I'll need Ms. Allen
7 and Ms. Lightsey.

8 (WHEREUPON, MR. GRANT, BAILIFF, GOES TO JURY ROOM TO
9 GET THE TWO JURORS, MS. ALLEN AND MS. LIGHTSEY, PER THE
10 COURT'S REQUEST.)

11 **THE COURT:** Come on in, ladies. Have a seat right down
12 here for me, if you would. Thank you so much. Be
13 comfortable. Have a seat. Now, I'm going to first direct
14 questions to you, Madame Foreperson, because I don't know.
15 Let me tell you the information I received out here. My
16 first information came that the Clerk told me that a juror
17 wanted to speak to the Clerk. And of course, during a
18 trial, once you're on a jury, the Clerk knows that she can't
19 speak without parties being aware and the Court being aware.
20 The Clerk came to me.

21 I then directed my bailiff to have the juror write a
22 note about this. I thought I was going to receive a note
23 from the juror that wanted to speak to the Clerk. When I
24 got the note, it said at the top, Juror 102, who is Ms.
25 Lightsey, but it was signed -- which I understand my

1 Foreperson is doing exactly what I said about notes, signed
2 by Dawn Allen, my Foreperson.

3 And it was written in the first person, meaning "I need
4 to make sure that I'm a suitable juror for this trial, due
5 to the status of my husband, signed Dawn Allen." So my
6 confusion was, was I talking about Dawn Allen and her
7 husband or was I talking about Juror 102 and her husband.
8 Ms. Allen, were you referring to yourself, or were you
9 referring to Juror 102?

10 **FOREPERSON:** The bailiffs said that being the
11 Foreperson, I needed to sign it.

12 **THE COURT:** The bailiff was absolutely correct.
13 Normally, the Foreperson does that and you are doing exactly
14 what I asked you to do, but this doesn't involve you, it
15 involves the husband of Juror 102; is that correct?

16 **FOREPERSON:** Correct.

17 **THE COURT:** Well, Ms. Allen, I'm going to excuse you to
18 go back to the jury room.

19 **FOREPERSON:** Thank you.

20 **THE COURT:** Thank you.

21 (WHEREUPON, MS. DAWN ALLEN, FOREPERSON OF THE JURY, IS
22 EXCUSED FROM THE COURTROOM BACK TO THE JURY ROOM.)

23 **THE COURT:** All right. Now, Ms. Lightsey, I realize
24 that you're Juror 102, and I appreciate so much, you're
25 doing exactly what my Foreperson was doing, that is trying

1 to be conscientious and let me know if you have any
2 concerns. So don't you feel the least bit concerned about
3 me talking to you out here. You're doing exactly what you
4 should do and I'm trying to make sure there is no problem
5 with my jury; do you understand that?

6 JUROR LIGHTSEY: Yes, sir.

7 THE COURT: All right. You are Ms. Yvonne Lightsey?

8 JUROR LIGHTSEY: Yes, sir.

9 THE COURT: And you're Juror 102?

10 JUROR LIGHTSEY: Correct.

11 THE COURT: All right. Now, I see that I received a
12 second part of this note from either Ms. Allen or through
13 you which said, "My husband is a Reserve Deputy." Were you
14 referring to your husband?

15 JUROR LIGHTSEY: Yes, sir.

16 THE COURT: Is that with the Colleton County Sheriff's
17 Office?

18 JUROR LIGHTSEY: Yes.

19 THE COURT: Have you had any discussions with your
20 husband about this case?

21 JUROR LIGHTSEY: No.

22 THE COURT: All right. The fact that your husband --
23 how long has he been a Reserve Deputy?

24 JUROR LIGHTSEY: The first few years, he was prior a
25 full-time deputy with the Sheriff's Office ---

1 **THE COURT:** Hold on a second. Let's start with
2 reserve. How long has he been a Reserve Deputy?

3 **JUROR LIGHTSEY:** Let's see, maybe, two and a half
4 years.

5 **THE COURT:** Two and a half years. All right, was he a
6 full-time deputy before he was a reserve deputy, or he's
7 trying to become a full-time deputy?

8 **JUROR LIGHTSEY:** He was a full-time deputy.

9 **THE COURT:** Was he a full time deputy in Colleton or
10 somewhere else?

11 **JUROR LIGHTSEY:** Colleton.

12 **THE COURT:** All right. The fact that your husband
13 previously, more than two and a half years ago, was a full
14 time deputy, and has been a reserve deputy for the past two
15 and a half years, would that in any way affect your ability
16 to give the State of South Carolina or the defendant
17 McMillan, or the defendant Jakes, in this case, a fair and
18 an impartial trial?

19 **JUROR LIGHTSEY:** No, it wouldn't.

20 **THE COURT:** Thank you, ma'am. You may return to the
21 jury room.

22 (WHEREUPON, JUROR 102, MS. YVONNE LIGHTSEY, IS EXCUSED
23 BACK TO THE JURY ROOM.)

24 **THE COURT:** Any exceptions or objections to the Court's
25 questioning from counsel for the State?

1 ASST. SOL. HASELDEN: None, Your Honor.

2 THE COURT: Counsel for the defendant McMillan?

3 MR. MATHEWS: No, Your Honor.

4 THE COURT: Counsel for the defendant Jakes?

5 MR. BEACH: No, Your Honor.

6 THE COURT: All right. I want the record to be clear
7 that during voir dire, I got several submissions from both
8 sides in this case for voir dire. I asked if any member of
9 the jury had a SLED Commission that gave them a power to
10 arrest. I asked if any member of the jury was employed by
11 any law enforcement agency. I asked if any member of the
12 jury had ever been the victim of a violent crime.

13 I did not ask if a member of the jury's spouse was a
14 reserve deputy or ever been employed by a law enforcement
15 agency, and that this juror voluntarily decided to disclose
16 this information so that the Court would be aware by
17 thinking that the proper way to do it was through the Clerk
18 of Court, and I appreciate the juror's honesty and
19 forthrightness with the Court.

20 Any objection to making the juror's note, there's two
21 notes on one exhibit, a Court's Exhibit, from the State?

22 ASST. SOL. HASELDEN: No, Your Honor.

23 THE COURT: From the defendant McMillan?

24 MR. MATHEWS: No, Your Honor.

25 THE COURT: From the defendant Jakes?

1 **MR. BEACH:** No, Your Honor.

2 **THE COURT:** It will be Court's Exhibit Number Two.

3 (COURT'S EXHIBIT NUMBER TWO, JUROR NOTE, IS RECEIVED
4 INTO EVIDENCE.)

5 **THE COURT:** All right, Counsel. Is the State ready to
6 proceed?

7 **ASST. SOL. HASELDEN:** State's ready, Your Honor.

8 **THE COURT:** Is the ---

9 **MR. BEACH:** Your Honor? I'm sorry ---

10 **THE COURT:** Just a moment. Is the defendant McMillan
11 ready to proceed?

12 **MR. MATHEWS:** No, sir, not yet. The Court didn't ask
13 whether or not we object to a juror sitting. I don't know
14 whether I do or not.

15 **THE COURT:** I said are there any exceptions or
16 objections to the Court's questions, and you both told me
17 no.

18 **MR. MATHEWS:** No, sir. No objections to the Court's
19 questions. I mean, they were appropriate, but I may have
20 used my strike differently had I had that information from
21 the beginning.

22 **THE COURT:** Well, you didn't ask a voir dire question
23 for that.

24 **MR. MATHEWS:** That's -- I did not. That's true.

25 **THE COURT:** Yes, sir. Mr. Beach, is the defendant

1 Jakes ready to proceed?

2 MR. BEACH: No, sir.

3 THE COURT: Why not?

4 MR. BEACH: Again, we would express an objection to
5 this juror.

6 THE COURT: Why?

7 MR. BEACH: The reason for that is under her responses
8 to the questionnaire from the Clerk's Office, she lists her
9 husband as Environmental Health Management, but never said
10 anything about any reserve deputy status.

11 THE COURT: Well, I don't know that that -- well, now,
12 the one that I'm looking at, which is the pink copy ---
13 counsel approach.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD.)

15 THE COURT: Let the record reflect that I've been
16 handed the juror information form by the Clerk of Court
17 which shows that this juror's husband, or spouse's
18 occupation, was Environmental Health Management and reserve
19 deputy on the form. Now, I recognize that you have the one
20 that maybe the Clerk's office did not fill out?

21 MR. BEACH: This one says that the husband is
22 Environmental Health Management, Your Honor.

23 THE COURT: We're talking apples and oranges, and the
24 court reporter doesn't know what "this" is.

25 MR. BEACH: I'm sorry.

1 **THE COURT:** You're handing a sheet to me of a number of
2 pages that you obtained from the Colleton County Clerk's
3 Office, and I'm looking at what the juror filled out.

4 **MR. BEACH:** Yes, sir.

5 **THE COURT:** So the problem is that the Clerk's Office
6 didn't transmit everything that the juror filled out for the
7 clerk sheet that you paid for, and you also did not ask the
8 voir dire question asking me to ask the jury whether the
9 spouse was a reserved deputy, did you?

10 **MR. BEACH:** That's correct, Your Honor. And also, I
11 don't recall her saying anything about knowledge of any of
12 the Sheriff's Department witnesses when this thing came up.

13 **THE COURT:** She said she's never discussed the matter
14 with her husband, nor has she read about, heard about, or
15 know anything whatsoever about the facts alleged in this
16 case and she does not feel, because of her husband's
17 reserved deputy status, that feels that she could still be
18 fair and impartial both to the State and the defendants.

19 So, your objection is, when you purchased juror
20 information from the clerk's office, you did not learn about
21 the reserve deputy status, even though it was on the jury
22 information form, you did not ask it that the Court ask the
23 voir dire question, but you want me to excuse the juror
24 because you've learned her husband is a reserved deputy;
25 have I accurately stated your position?

1 **MR. BEACH:** That's correct, Your Honor.

2 **THE COURT:** Thank you very much. Step back. Let the
3 record reflect that in Colleton County, so that the
4 Appellate Court knows, the lawyers can purchase from the
5 Clerk's Office -- not purchase, they can get a copy of a
6 compilation of information from the juror information forms
7 compiled by employees of the Clerk's Office.

8 The juror, Ms. Lightsey, wrote out everything her
9 husband did on her form -- and that's why when I read from
10 the juror information form on Juror Number 102, it shows the
11 spouse's occupation on the jury information section as
12 Environmental Health Management and also a reserved deputy,
13 written by Ms. Lightsey. However, when the Clerk's typed up
14 the sheets concerning information from the numerous juror
15 information form, they just put Environmental Health
16 Management and did not put reserved deputy.

17 Mr. Beach is counsel for Mr. Jakes, and never asked
18 this Court to ask a voir dire question about any spouse. I
19 asked all about the jurors themselves, whether they were
20 with law enforcement, any type of law enforcement. I did
21 not ask about spouses. I did not intend to punish the juror
22 by removing a juror from the jury who has been honest enough
23 to tell us about their husband's status when we did not even
24 inquire of the juror about it.

25 Now, I recognize it was a Scribner's error in this

1 case, and that meaning the Clerk's office did not put on the
2 typed up list which the lawyers got every single thing that
3 was written on the juror information form. I decline to
4 excuse the juror on that basis. Is the State ready to
5 proceed?

6 **ASST. SOL. HASELDEN:** The State's ready, Your Honor.

7 **THE COURT:** Anything else from the defendant McMillan,
8 not on that issue, something new.

9 **MR. MATHEWS:** Could I -- not argue a point, Your Honor,
10 but I just want to join in.

11 **THE COURT:** Yes, sir. You're going on the same grounds
12 and for the same ruling, you've heard my ruling. Anything
13 else before we bring the jury from you, Mr. Mathews?

14 **MR. MATHEWS:** Yes, Your Honor, before the jury gets out
15 and this is just an observation I've made and I know the
16 Court is very careful to make sure the jury is not
17 prejudiced. The last time that Mr. Beach and Counsel for
18 the State came up on the side bars, because I didn't have a
19 dog in that particular fight, I sat and watched the jury and
20 I noticed that they were hanging on every word. They
21 appeared to see every word that happened at the last
22 sidebar, so just for protection purposes ---

23 **THE COURT:** I'll take up the sidebars, and you know,
24 Mr. Mathews, you're very conscious about this because you
25 seemed to be very concerned about it and, of course, I'm

1 concerned about you not being prejudice by me telling the
2 jury to leave the courtroom, because the jury believes
3 you're trying to cover up something when you ask them to
4 step out, so, I have to fight that and balance it as we can.
5 Very often, you want to engage in a lengthy discussion at
6 the bench and then you are the only one in the courtroom
7 that seems to perceive the jury's hearing everything, but
8 you address those concerns, I'll try to take the side bars
9 up, and for the sake of Counsel for the State, I'll step
10 down to the bottom of the steps and take them up at the
11 bottom of the steps to try to prevent the jury from going in
12 and out. Anything further?

13 **MR. MATHEWS:** No, sir.

14 **THE COURT:** Anything further from the Counsel for
15 defendant Jakes?

16 **MR. BEACH:** No, Your Honor.

17 **THE COURT:** Bring in the jury, please.

18 (2:45 P.M., 8-30-11, WHEREUPON, THE JURY ENTERS THE
19 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

20 **THE COURT:** All right. Madame Foreperson, ladies and
21 gentlemen of the jury, we're now going to continue with the
22 testimony in the trial of this case. Thank you for your
23 patience. Solicitor, you may call your next witness.

24 **ASST. SOL. SHELTON:** Thank you, Your Honor. The State
25 calls James Davis, Jr.

23 Q Okay, I can hear you if you keep talking like that; all
24 right? You said your name was James Davis, are you a Senior
25 or a Junior?

- 1 A Junior.
- 2 Q What's your dad's name?
- 3 A James Davis.
- 4 Q Where do you live?
- 5 A Smoaks.
- 6 Q Where about?
- 7 A [REDACTED], South Carolina.
- 8 Q How do you get to Johnsville Road from Walterboro?
- 9 A You can either take -- well, I take Bells Highway.
- 10 Then merge off of Stokes Road and then you turn and make a
- 11 right by the post office, then you'll be on Ruffin Road, and
- 12 you come straight into Smoaks from there.
- 13 Q Okay. Have you lived there your whole life?
- 14 A Partially.
- 15 Q I'm sorry?
- 16 A Partially.
- 17 Q Now, do you go by any other name besides James Davis?
- 18 A Yes, sir.
- 19 Q What's that?
- 20 A Chippy.
- 21 Q How'd you get that name?
- 22 A My granddaddy.
- 23 Q You're granddaddy give it to you or that's his name?
- 24 A He gave it to me.
- 25 Q Is that what most of your friends call you?

- 1 A Yes, sir.
- 2 Q Can I call you Chippy?
- 3 A Yes, sir.
- 4 Q All right. Would you rather be called Chippy or James?
- 5 A You can call me Chippy.
- 6 Q Okay. Did you go to high school?
- 7 A Yes, sir.
- 8 Q Where did you go?
- 9 A Colleton High.
- 10 Q Did you graduate?
- 11 A Yes, sir.
- 12 Q What year did you graduate?
- 13 A '09.
- 14 Q What did you do after high school?
- 15 A I tried to enroll in the military.
- 16 Q I'm sorry?
- 17 A First, I got a job, then later on I resigned from my
- 18 job, and then I tried to enroll in the military.
- 19 Q What job were you working at?
- 20 A Husqvarna, it's a plant in Orangeburg.
- 21 Q Did you work anywhere before that while you were in
- 22 high school?
- 23 A Yeah, I had a job all through high school. I was
- 24 working at Subway.
- 25 Q Subway?

- 1 A Subway in St. George.
- 2 Q St. George. What did you do at Husqvarna?
- 3 A Well, I was working on an assembly line; painting parts
4 onto a lawnmower.
- 5 Q Do you know a guy named David Jakes?
- 6 A Yes, sir.
- 7 Q Does he have another name?
- 8 A Yes, sir.
- 9 Q What's his other name?
- 10 A Dinky.
- 11 Q Dinky, is that his nickname?
- 12 A Yes, sir.
- 13 Q Do you see Mr. David Jakes in the courtroom today?
- 14 A Yes, sir.
- 15 Q Will you point him out for the jury?
- 16 A (WITNESS INDICATES BY POINTING.)
- 17 **ASST. SOL. SHELTON:** Please let the record reflect that
18 the witness has pointed at the defendant, Mr. David Jakes,
19 sitting next to his counsel, Mr. Harris Beach.
- 20 Q Do you know a fellow named Antwan McMillan?
- 21 A Yes, sir.
- 22 Q Does he have a nickname?
- 23 A Yes, sir.
- 24 Q What's his nickname?
- 25 A Rat.

- 1 Q What's that?
- 2 A Rat.
- 3 Q How do you spell that?
- 4 A R-A-T.
- 5 Q Is he in the courtroom today?
- 6 A Yes, sir.
- 7 Q Do you see him in the courtroom?
- 8 A Yes, sir.
- 9 Q Will you point him out for the jury?
- 10 A (WITNESS INDICATES BY POINTING.)
- 11 **ASST. SOL. SHELTON:** Please let the record reflect that
- 12 Mr. James Davis, Jr., has pointed to Mr. Antwan McMillan who
- 13 is seated next to his attorney, Mr. David Mathews.
- 14 Q Now, Mr. Davis, let's talk about June of last year,
- 15 okay? That would be in 2010. How well do you know Dinky, or
- 16 Mr. Jakes, over there?
- 17 A I know him pretty good. I've known him about a couple
- 18 of years. I've known him all my life, basically, we stay in
- 19 the same neighborhood, so everybody knows everybody; it's a
- 20 small community.
- 21 Q And you say you know him pretty well, do ya'll hang out
- 22 together? Do you consider yourselves friends, childhood
- 23 friends? What do y'all do together?
- 24 A We hang out every so often.
- 25 Q What about Mr. Antwan McMillan?

- 1 A I know him from being around the neighborhood. I don't
2 know him too good.
- 3 Q You say "around the neighborhood," how far away do you
4 live from David Jakes?
- 5 A Like three minutes.
- 6 Q Three minutes away driving?
- 7 A Driving.
- 8 Q What about from Antwan McMillan?
- 9 A It's closer.
- 10 Q Is there a lot of people who live up there or a few
11 amount of people?
- 12 A A few, it's a handful.
- 13 Q Do you know a Brenda McMillan?
- 14 A Do I know a person? no.
- 15 Q Do you who she is?
- 16 A I know that's his mother, but I don't know ---
- 17 Q Who's mom?
- 18 A Antwan.
- 19 Q Ms. Brenda McMillan is Antwan's mother?
- 20 A Yeah.
- 21 Q Does she live with Antwan?
- 22 A I assume so.
- 23 Q Yes or no?
- 24 A Yes.
- 25 Q Now, on June 3rd, 2010, do you remember that day?

- 1 A Yes, sir.
- 2 Q You got in trouble that day, didn't you?
- 3 A Yes, sir.
- 4 Q Are you ready to talk and tell the jury what happened
- 5 that day?
- 6 A Yes, sir.
- 7 Q Are you ready to tell them the truth?
- 8 A Yes, sir.
- 9 Q Now, June 3rd, 2010, let's take it from the beginning.
- 10 What did you do that day? Earlier in the day, during the
- 11 day, what were you doing?
- 12 A In the house, with my girlfriend, watching TV and just
- 13 chilling.
- 14 Q What's your girlfriend's name?
- 15 A Jasmine Morell.
- 16 Q Do ya'll have any babies or kids together?
- 17 A We've got one.
- 18 Q How old is he?
- 19 A He's a newborn.
- 20 Q What's his name?
- 21 A [REDACTED].
- 22 Q How old is he now?
- 23 A Like three months.
- 24 Q Are you still with her?
- 25 A Yes, sir.

- 1 Q Your girlfriend?
- 2 A Yes, sir.
- 3 Q You were hanging out with her?
- 4 A Yeah, we was at the house -- at my sister's house.
- 5 Q Did you ever leave the house?
- 6 A At any time? No.
- 7 Q You didn't leave the house all day?
- 8 A All day? No, we were in the house all day.
- 9 Q Did you ever do anything with your dad that day?
- 10 A Yeah, he came over there and got me out the house and
- 11 told me to help him with the yard, my sister's yard.
- 12 Q What time was that?
- 13 A It had to have been in the afternoon, probably, like
- 14 mid day.
- 15 Q Midday. You said your sister's yard. Where is your
- 16 sister's yard?
- 17 A Next door to my house.
- 18 Q So you've got two houses that are right next door to
- 19 each other?
- 20 A Yeah. My parents stay next door to my sister's.
- 21 Q Okay. So you went to help cut grass with your dad for
- 22 your sisters yard.
- 23 A Correct.
- 24 Q How long were you cutting grass?
- 25 A We were cutting grass. We had to edge the trees up.

1 We were basically, like, rearranging stuff out in the yard,
2 so we had been out there, basically, until dark.

3 Q So you were cutting grass and working on the yard?

4 A Uh-huh (affirmative).

5 Q What time again -- was this June 3rd?

6 A Yeah, June 3rd.

7 Q And you were out there until dark?

8 A Uh-huh (affirmative).

9 **THE COURT:** Say "yes" or "no."

10 A Yes, sir.

11 Q Please say yes or no. Don't shake your head or nod
12 your head like the judge said, okay? What did you do after
13 you finished mowing the yard; what were you doing?

14 A Me, my sister, and my girlfriend had walked over to my
15 dad's house and we were over there chilling and eating.

16 Q Did you receive a phone call from anybody?

17 A Yeah, I got a phone call.

18 Q So you were chilling and eating and you got a phone
19 call?

20 A Correct.

21 Q Who called you?

22 A Dinky.

23 Q Who's Dinky, again?

24 A David.

25 Q David Jakes, sitting over there?

1 A Yes, sir.

2 Q What did he say?

3 A He asked me do I want to ride with him to Walterboro to

4 hook up with some girls.

5 Q With some girls?

6 A Correct.

7 Q You had a girlfriend at that time, correct?

8 A Correct.

9 Q What were you doing with those girls?

10 A I'd rather not get into that.

11 Q Okay. All right. Just got to say that. You were

12 calling these girls and you were going to ride with Dinky to

13 Walterboro?

14 A Correct.

15 Q Now, what did you do then? After he called you, what

16 did you do?

17 A Well, I chilled for like a little minute, then I left.

18 Then me, my sister, and my girlfriend left and walked to her

19 house. Then, my girlfriend left and went back to her house

20 in Ehrhardt, but I just chilled, and I washed up and got

21 ready then he came and picked me up.

22 Q Who is he?

23 A David Jakes.

24 Q What was he driving?

25 A Cadillac. Gray Cadillac.

- 1 Q Gray Cadillac? How many doors does that Cadillac have?
- 2 A It was a four door?
- 3 **ASST. SOL. SHELTON:** May I approach, Your Honor?
- 4 **THE COURT:** You may.
- 5 Q Mr. Davis, Chippy, I'm going to hand you what has been
- 6 previously marked for identification purposes, that means
- 7 you don't show it to the jury, okay?
- 8 A Correct.
- 9 Q State's Exhibit Number 7; do you recognize that?
- 10 A Yes, sir.
- 11 Q What is in that picture?
- 12 A I recognize it; it's the Cadillac. I recognize the
- 13 plates.
- 14 Q And who's Cadillac is it?
- 15 A J.J.'s car. Timothy's.
- 16 Q Was that the car that you were picked up in that night?
- 17 A Yes, sir.
- 18 Q Okay. Who was driving it when they picked you up from
- 19 your sister's house?
- 20 A Dinky.
- 21 Q At this point, you know, you might not remember what
- 22 time it was, but was it dark or light?
- 23 A It was dark.
- 24 Q It was dark when you finished mowing grass, right?
- 25 A Correct.

- 1 Q You were eating then you went over to your sister's
2 house, correct?
- 3 A Correct.
- 4 Q And then you washed, right?
- 5 A Correct.
- 6 Q And then he came to pick you up?
- 7 A Yes, sir.
- 8 Q So it's been dark since you got back from the mowing
9 the grass, and he came to pick you up, correct?
- 10 A Correct.
- 11 Q When he came to pick you up, was there anyone in the
12 car besides him?
- 13 A No, just him.
- 14 Q Did you get in the car?
- 15 A Yes, I got in. Yes, sir.
- 16 Q Exactly where did you go directly from your sister's
17 house then?
- 18 A To Antwan's house.
- 19 Q Where does Antwan live?
- 20 A Like ten minutes away from me, 217.
- 21 Q On Highway 217?
- 22 A Yes, sir.
- 23 Q And when you went there, who did you see there?
- 24 A Antwan.
- 25 Q Did you get out of the car?

- 1 A No, sir.
- 2 Q Who got out of the car?
- 3 A Dinky got out of the car.
- 4 Q Why did he get out of the car?
- 5 A I guess to talk to Antwan; they were talking.
- 6 Q Did anybody else get in the car again besides Dinky?
- 7 A When Dinky got in the car, Antwan got in the car back
- 8 with him.
- 9 Q Now, at that point, who got in the driver's seat?
- 10 A Dinky got back in the driver's seat.
- 11 Q Dinky got back in the driver's seat at that point?
- 12 A Correct.
- 13 Q Okay. And then where did you go?
- 14 A Then we went to Dinky's grandmother's house.
- 15 Q Where is that?
- 16 A Clatty Farm Road. No more than three minutes from
- 17 Antwan's house.
- 18 Q How did you get from Antwan's house to Dinky's house on
- 19 Clatty Farm Road?
- 20 A Make a right off 217, the first right.
- 21 Q You say it only takes a couple of minutes to get there?
- 22 A Yeah, only a couple of minutes, if that.
- 23 Q Okay. So, when you got to that house, what happened
- 24 then?
- 25 A Dinky went into the house and said he had to grab

1 something really quick.

2 Q All right. And how long was he in there for?

3 A Short amount of time, basically, like a run in and run
4 out thing.

5 Q When he got back out of the car, what happened? When
6 he got back out of the house, excuse me, what happened?

7 A By the time he had got back out of the house, Antwan
8 had already switched drivers; he said he was going to drive
9 from there on in, so, he got out the back seat and hopped in
10 the driver's seat. When Dinky came out, Antwan was already
11 in the driver's seat, so Dinky went ahead and got in the
12 back.

13 Q So Dinky got in the backseat at that point?

14 A Correct.

15 Q Antwan got in the driver's seat?

16 A Correct.

17 Q Where were you seated?

18 A Passenger seat.

19 Q Passenger seat in the front or the back?

20 A Front.

21 Q So the front right passenger seat, in that Cadillac
22 that you just saw?

23 A Correct.

24 Q Why did Antwan want to drive, do you know?

25 A I don't know.

- 1 Q So, at that point, Antwan was driving?
- 2 A Correct.
- 3 Q Dinky was in the back seat?
- 4 A Correct.
- 5 Q You were in the front passenger seat?
- 6 A Correct.
- 7 Q Where do you go from there?
- 8 A We was headed to Walterboro down Clatty Farm Road,
- 9 headed towards Mount Carmel Road.
- 10 Q Okay. So when you get to Mount Carmel Road, how do you
- 11 get towards Walterboro?
- 12 A Make a left at the stop sign -- at the end of Clatty
- 13 Farm Road make a left.
- 14 Q Then, what do you do?
- 15 A Keep straight.
- 16 Q Did you keep going to Walterboro? Did you turn off?
- 17 Did you stay on Mount Carmel Road all the way to the end?
- 18 How did you keep going to Walterboro?
- 19 A We turned off; we made a left on McLeod Road.
- 20 Q Okay. Why did you make a left on McLeod Road, do you
- 21 know?
- 22 A I guess he figured it was a shortcut -- it is a
- 23 shortcut.
- 24 Q All right. How? Hop on 95?
- 25 A No, just to go straight through. You don't need to hop

1 on 95, when you can just go straight through and merge on
2 15.

3 Q Okay. Now, I'm going to get to the nitty-gritty of
4 this. So you're on McLeod Road, correct?

5 A Correct.

6 Q You're in that Cadillac that I showed you earlier,
7 right?

8 A Correct.

9 Q Antwan's in the front driver seat, David Jakes is in
10 the back seat, you're in the front passenger seat, right?

11 A Correct.

12 Q Okay. You're driving down McLeod Road, what is the
13 next thing you remember?

14 A I remember passing three people on the side of the road
15 like they were having car trouble or tire problems or
16 whatever, on the ramp coming off of 95.

17 Q Do you remember who they were? You may not remember
18 what they looked like; do you remember whether they were
19 guys, girls, how many there were?

20 A There were girls and guys.

21 Q You sure?

22 A Yeah, I'm sure.

23 Q And then, after you pass them, what happened?

24 A What happened after we passed them? Well, after we
25 passed them, I guess like I said, we didn't notice

1 everybody, because everybody just looked -- you know what I
2 mean? Because the lights was -- Antwan came up with the
3 idea, like, you know what I mean, he was telling us that's
4 an easy lick, you know what I mean ---

5 Q It's a what?

6 A Easy lick.

7 Q What is a "lick"?

8 A A robbery.

9 Q Antwan said that?

10 A Correct.

11 Q What happened next?

12 A He asked us if were we down with it, and I was like,
13 "No man, I ain't down. I ain't down with that, man. It's
14 stupid." I was explaining how stupid it was and he was
15 getting Dinky pumped up, Dinky was like, "Yeah, man, I'm
16 down; I'll do it."

17 Q So Dinky was pumped up?

18 A Correct.

19 Q It was Antwan's idea?

20 A Correct.

21 Q And you just said, no?

22 A Correct.

23 Q Are you telling the truth?

24 A Correct.

25 Q Then what happened?

1 A Then, after we ride, we were down at, like, I don't
2 know, the time felt like it was going by fast ---

3 Q Did you turn around or did you just keep going? What
4 happened?

5 A We turned around after they had been planning it out,
6 we had turned around; and by the time we turned around, we
7 stopped -- we stopped like sideways facing ongoing traffic.

8 Q Okay. You say you stopped sideways, facing ongoing
9 traffic?

10 A Yeah, anybody that was coming off the ramp, that was
11 ongoing traffic; if you're coming off the ramp at 95 we was
12 parked sideways like blocking them.

13 Q So you were blocking the ramp off of 95?

14 A Correct.

15 Q How many cars were out that you saw?

16 A I think it was like, like, two.

17 Q And then what do you remember happened?

18 A I remember as soon as we stopped, before I could say
19 anything, David had done hopped out the car.

20 Q You said David?

21 A Yeah. He hopped out the car running towards, not
22 running towards -- like facing towards the people who was on
23 the side of the road, pointing the gun telling them to "Give
24 it up."

25 Q He was saying what?

- 1 A "Give it up."
- 2 Q Did he say anything else?
- 3 A All I heard was "give it up."
- 4 Q What were you doing at this time?
- 5 A I was just like panicking, looking around, and started
6 panicking.
- 7 Q Show the jury what you were doing.
- 8 A What I was doing? I was just looking around at what
9 was going on, like, dang, and before I could say anything,
10 it happened too quick, and then I just heard gunshots.
- 11 Q When you heard gunshots, what did you do?
- 12 A I ducked down for cover.
- 13 Q How did you duck down for cover?
- 14 A Like this. I ducked down to the floorboard of the car
15 on the passenger's side with the glove department. Yeah.
- 16 Q Then what happened?
- 17 A Then after that, the gunshots didn't cease, and Rat was
18 telling me, "Get out the car. Go get Dinky," telling me to
19 get out the car and go pick him up and go get him, but I was
20 like, "Nah, man, I ain't getting out," you know what I mean?
21 I was scared; and no, I ain't getting out. And he was like,
22 "Man, get out, get out, get out."
- 23 Q Then what happened?
- 24 A Then after that, I was still down, and Rat, he was
25 reaching over me and started firing shots.

1 Q He did what?

2 A Started firing shots.

3 Q He did what over you?

4 A Started firing shots.

5 Q How did he do that? Where were you again?

6 A I was still in the same position -- same position by
7 the glove department on the floor panel, like this right
8 here, and he just reached over me and started shooting.

9 Q So, he reached over you and started shooting out the
10 car?

11 A Correct.

12 Q How do you know if he was shooting if you weren't
13 looking at him?

14 A I could hear the gun in my ears.

15 Q What's the next thing you remember after that?

16 A I remember -- I just remember silence after that, like
17 everything was silent. After that, I kind of like tried to
18 open the door to see if Dinky was hit, so I reached behind
19 me like the seat in the Cadillac and opened the door.

20 Q How did you open the door if you were in the front seat
21 like that?

22 A Well, a Cadillac, you know what I mean, the seats are
23 basically like this right here, so it's easy for me to reach
24 back to the door right here and open it.

25 Q Was the seat up? Was the seat back? I don't

1 understand ---

2 A The seat was kind of slant. It went up the point I
3 couldn't get back, but just like slanted a little bit, so I
4 could reach behind me to open the door, like that, grab the
5 handle and not really shove the door all the way open, but
6 just enough; you know what I mean? For him to get in.

7 Q Now, at that point, Dinky, David Jakes, was he walking?

8 A No.

9 Q Where was he?

10 A He was squirming, crawling, like fighting it to crawl
11 in.

12 Q To crawl in the car?

13 A Correct.

14 Q Did you help him get in the car?

15 A The best way I could.

16 Q Did you get out of the car at any point?

17 A No, sir.

18 Q How did you help him get in the car if you didn't get
19 out of the car?

20 A When he was coming up, by the time he was doing good
21 getting himself in, I tried to grab his hands a little bit
22 and raise his hand up so I could grab him and give him as
23 much help as I could with helping him. He's helping himself
24 and we're helping him because, like, he got to get in.

25 Q Okay. Did you shut the door for him or did he shut the

1 door, do you remember?

2 A To tell you the truth I can't, man, it happened so
3 quick, man, I can't even tell you who shut the door.

4 Q Why didn't he just walk to get back in the car?

5 A Because he was shot all over.

6 Q After you had gotten him in the car, what's the next
7 thing you remember happening?

8 A Speeding off.

9 Q Where did you go?

10 A I thought we were about to go to the hospital, but we
11 were going back towards Smoaks. We went down McLeod Road,
12 going in the same direction that we came in.

13 Q From the same direction that you came?

14 A Uh-huh (affirmative).

15 Q So, how would you have gone to the hospital from there?

16 A We could -- at the end of McLeod Road, we could have
17 made a left and that would run you in to Bells Highway,
18 right there in Walterboro.

19 Q But you took a right at the stop, instead?

20 A Yeah, took a right instead of a left.

21 Q Who's driving at this point?

22 A Antwan's still driving.

23 Q Where's Dinky?

24 A In the back seat.

25 Q Where are you?

- 1 A Front seat.
- 2 Q You hadn't moved from that front seat?
- 3 A No, I ain't moved, but I was like turning around, like,
- 4 trying to keep him company, trying to keep him from going
- 5 into shock.
- 6 Q Okay. Did he say anything?
- 7 A Yeah.
- 8 Q What did he say?
- 9 A He was, like, screaming, like, panicking saying, "Take
- 10 me to the hospital. Get me to the hospital."
- 11 Q But ya'll turned away from the hospital?
- 12 A Correct.
- 13 Q Did you have a cell phone on you?
- 14 A Correct.
- 15 Q Did you call 911?
- 16 A No, sir.
- 17 Q Did Antwan have a cell phone on him?
- 18 A I believe so.
- 19 Q Did he call 911?
- 20 A No.
- 21 Q So you're going away from town, away from the hospital,
- 22 you both have cell phones, you got a fellow that's shot in
- 23 the backseat, and nobody calls 911?
- 24 A Correct.
- 25 Q Now, what's the next thing you remember as you're

1 driving on Mount Carmel Road, away from town?

2 A I remember just driving down the road; we was just
3 panicking. I'm telling Antwan to get him to the hospital,
4 he's telling Antwan to get him to the hospital, but he said
5 he ain't going to the hospital -- he ain't going to the
6 hospital. And I remember we passing a car, passing like an
7 oncoming car, Toya -- Toya and them's car is a blue -- a
8 blue station wagon and by the time we had recognized that
9 was Toya's car, so we started flashing the lights.

10 Q You said Toya?

11 A Yeah.

12 Q Who is Toya?

13 A Toya Bryant.

14 Q How do you know Toya?

15 A Neighborhood.

16 Q Okay. So go back, you passed the car and you started
17 doing what?

18 A Before we passed the car, while the car was oncoming,
19 like we was close to it, we were just flashing the lights
20 like giving the signal to stop, stop, stop. Then, after
21 that, we turned around to look at them and see that they
22 were braking a little bit, but they didn't really know who
23 we was, you know what I mean? Because it was dark, they
24 were like braking a little bit, like, I ain't really gonna
25 stop, so we turn around and got behind them and started

1 flashing them and pulled onto the ---

2 Q Did the car stop?

3 A Yeah, they stopped.

4 Q What did you do?

5 A When the car stopped, we was yelling at Toya, and we
6 were like, "Man, get him to the hospital."

7 Q Hold on. The car stopped, did Antwan pull up behind,
8 next, to the front; how did Antwan pull up?

9 A He pulled up beside them.

10 Q Beside him. So did the car stop in the middle of the
11 road, did it stop on the shoulder, did the car stop off the
12 road? Where did the car stop?

13 A It was on the other side of the road, for sure, and it
14 was kind of like -- -

15 Q On the right hand side or the left hand side of the
16 road?

17 A It had to be the left hand side, oncoming traffic side.

18 Q You saw the oncoming traffic side?

19 A Did I see?

20 Q No, I'm confused about which car is which now, okay.

21 You turned around and you're going back towards town, right?

22 A All right. Yeah, Toya was in the blue station wagon
23 heading towards town; we're headed towards Smoaks. By the
24 time we spotted them out, we flashed the lights at them, and
25 they were braking a little bit. We turned around and we

1 flashed the lights behind them. We went behind them now,
2 and now, we're pulling over in the ongoing traffic side.

3 Q Okay. So the car that you're in pulls onto the
4 oncoming traffic side?

5 A Correct.

6 Q The car that you say Toya's in, or whoever's car it is,
7 was on the right hand side?

8 A Yeah, correct.

9 Q Okay. Now, I understand better. Now, will you say for
10 the jury where exactly, you can use your hands if you want,
11 show them here, here, or wherever it is, where exactly your
12 car, the car that you were in, parked next to the car that
13 stopped after the lights were flashed at them.

14 A Well, it's probably like this (WITNESS INDICATING WITH
15 HANDS TOGETHER.) Toya's car here; this is our car.

16 Q Basically, side by side?

17 A Yeah, this is the passenger side of the car.

18 Q And you were in the front passenger seat, as you've
19 already told the jury.

20 A Yes, sir.

21 Q And who was driving?

22 A Antwan.

23 Q And who was in the backseat?

24 A Dinky.

25 Q Was there anybody else in that car?

- 1 A No, sir.
- 2 Q Now, the car that stopped -- did you know the people
3 who were in that car?
- 4 A Yes, sir.
- 5 Q Who was in that car that you saw?
- 6 A It was Toya, Montez ---
- 7 Q Montez who?
- 8 A Montez Jenkins.
- 9 Q Okay.
- 10 A Joseph.
- 11 Q Joseph who?
- 12 A Griffin.
- 13 Q Okay.
- 14 A There was another girl in there; I don't know her name.
15 I've seen her before, but I don't know her by name.
- 16 Q Now, when the car stopped, what did you do?
- 17 A We were just panicking. We were just telling Toya to
18 get him to the hospital; get him to the hospital. They --
19 Toya and them -- the other car, they was still trying to
20 figure out, like, man, what happened? Trying to figure out
21 what happened. They were asking questions and we weren't
22 really talking to them. We were just rushing, so I got out
23 the car, Rat got out the car ---
- 24 Q Who got out the car?
- 25 A I got out the car, Antwan got out of the car, Joseph

1 got out the car, the other car -- the station wagon. Montez
2 got out of the car, and that was it, and then they came and
3 helped me and Antwan get David in the backseat of the wagon.

4 Q How did you get David in the backseat of the wagon?

5 A Well, like two had the back legs and like two had the
6 front.

7 Q And you put him in the back of that wagon?

8 A Correct.

9 ASST. SOL. SHELTON: May I approach, Your Honor?

10 THE COURT: You may.

11 Q Just like last time, I'm going to show you this then
12 ask you if you know what it is, okay? State's Exhibit
13 Number Eight. Do not show it to the jury. It's for
14 identification purposes only, okay? Do you recognize what
15 that is?

16 A Yes, sir.

17 Q What is that?

18 A Ford Taurus station wagon.

19 Q Have you seen that station wagon before?

20 A Yes, sir.

21 Q Was that the station wagon that you put David Jakes in
22 that night?

23 A Yes, sir.

24 Q How do you know that? By looking at that picture?

25 A By the sticker on the window.

- 1 Q You recognize that sticker on the window?
- 2 A Uh-huh (affirmative); yes, sir.
- 3 Q So you said that Rat got out of the car, being Antwan?
- 4 A Correct.
- 5 Q You put David in the car along with Joseph Griffin and
- 6 Montez Jenkins and Antwan?
- 7 A Correct.
- 8 Q Who all -- you saw, in that other car, just repeating
- 9 what you said, you saw Toya Bryant.
- 10 A Yes, sir.
- 11 Q You saw Montez Jenkins.
- 12 A Yes, sir.
- 13 Q You saw Joseph Griffin.
- 14 A Yes, sir.
- 15 Q And who else?
- 16 A I can't really recall the other girl's name. I know
- 17 her by face, but I don't know her by name.
- 18 Q Okay. Now, do you know Joseph Griffin?
- 19 A Yeah, I know him.
- 20 Q Do you know where he lives?
- 21 A Yes, sir.
- 22 Q Where does he live?
- 23 A Next door to Antwan.
- 24 Q Next door to Antwan, meaning "the Rat" that's Antwan?
- 25 A Yes, sir.

- 1 Q Do you know Montez Jenkins?
- 2 A Yes, sir.
- 3 Q Do you know where he lives?
- 4 A No, sir.
- 5 Q And do you know Toya?
- 6 A Yes, sir.
- 7 Q Do you know where he lives?
- 8 A Yes, sir.
- 9 Q Where does he live?
- 10 A Right down the road from me.
- 11 Q So once you got Mr. Jakes, Dinky, into the car, what
- 12 did you do?
- 13 A I got back into the Cadillac with Antwan.
- 14 Q Where'd you get in the Cadillac at?
- 15 A Same spot.
- 16 Q Where is that, front driver seat?
- 17 A No, passenger seat.
- 18 Q Passenger seat. Who got in the driver seat?
- 19 A Antwan.
- 20 Q What did you do then?
- 21 A Turned around and went to Smoaks.
- 22 Q So you go to Smoaks. Where did you go?
- 23 A Dropped the car off back at Dinky's grandmother's
- 24 house.
- 25 Q What road is that on?

1 A Clatty Farm Road.

2 Q Once you dropped the car off, what did you do?

3 A We were just panicking then. We jumped out the car.

4 Antwan got up out the car and he started running and I

5 hopped up out of the car and started running, too; running

6 towards our house.

7 Q Towards your house?

8 A Yes, sir.

9 Q How do you get to your house from David's grandmother's
10 house?

11 A Off of Clatty Farm Road, make a left at the end of
12 Clatty Farm Road.

13 Q Do you pass Antwan's house?

14 A To get to my house? Yes, sir.

15 Q Where did Antwan go?

16 A He went home.

17 Q Was he in front of you or behind you?

18 A In front of me.

19 Q Where did you go?

20 A Home.

21 Q How did you get home from past Antwan's house?

22 A Past Antwan's house you make a right and I'm the first
23 house on the left.

24 Q When you got home, did you go to your sister's house or
25 did you go to your parent's house?

- 1 A I went back to my parent's house.
- 2 Q How did you get inside?
- 3 A Knock on the door; beat on the door.
- 4 Q You don't have a key?
- 5 A No, sir.
- 6 Q How did you get inside after beating on the door?
- 7 A My daddy answered the door.
- 8 Q Why did you go back to your parent's house?
- 9 A I was scared. That's where I usually stay at; I stay
- 10 at my sister's house, but I decided to go to my daddy's
- 11 house that night.
- 12 Q Did you tell your daddy when you opened the door, what
- 13 happened?
- 14 A No.
- 15 Q Why not?
- 16 A I was telling him like bits and pieces, but I never
- 17 told him the story.
- 18 Q Not that night?
- 19 A Not that night.
- 20 Q Was he upset with you?
- 21 A Yeah; he was upset, but he was basically trying to get
- 22 to the bottom of it, like, where we were at.
- 23 Q Of what?
- 24 A What happened.
- 25 Q Did you end up going to bed that night?

- 1 A Tried to.
- 2 Q Did you sleep at all?
- 3 A A little bit.
- 4 Q What happened the next morning?
- 5 A The next morning, just everything, just everything hit
- 6 the fan. Everybody calling the house and everybody was
- 7 saying this and saying that, then I finally came to my daddy
- 8 and I told him what happened. I told him everything that
- 9 happened.
- 10 Q Did you tell him the truth?
- 11 A Yeah, I told him the truth.
- 12 Q Did you tell him everything you're telling the jury
- 13 today?
- 14 A Yes, I told him everything I'm telling them today.
- 15 Q Are you leaving anything out to the jury that you told
- 16 him that morning?
- 17 A No, sir.
- 18 Q What happened after you told your daddy what happened?
- 19 A He was trying to get in touch -- he was trying to get
- 20 in touch with, like, any detective, for anybody he know. He
- 21 couldn't get in touch with a detective and then he tried to
- 22 get in touch with attorneys and stuff.
- 23 Q Did you get in touch with an attorney that day?
- 24 A No, we tried to, but my attorney was out of town.
- 25 Q What did you do later that day?

1 A Later that day, I stayed home.

2 Q And that night, what did you do?

3 A That night, I was at my sister's house.

4 Q Did you ever go to the detective's office that day?

5 A No, they came to me.

6 Q They came to you. Did they come to you before or after
7 your daddy contacted them?

8 A After.

9 Q They came to you; what did you do when they came to
10 you? Did you go with them? Did you stay at your house?
11 Did they pick you up? Did you ride in their car? Did you
12 drive with them? What happened?

13 A Well, I followed behind them -- I rode with my daddy up
14 there to the station.

15 Q You rode with your daddy where?

16 A To the station.

17 Q When you got to the station, what happened?

18 A They started questioning me.

19 Q Now, did you tell them the truth, at first?

20 A No.

21 Q What did you tell them at first?

22 A I told them I wasn't there and I didn't have nothing to
23 do with it.

24 Q Why?

25 A Because I was scared and I didn't want to really tell

1 anybody.

2 Q So you lied to them?

3 A Correct..

4 Q Are you lying today?

5 A No, sir.

6 Q So you told them that at first. At some point, did you
7 talk to your parents during that interview?

8 A Yeah, they came in there with me.

9 Q What did they tell you to do?

10 A Tell the truth.

11 Q Because they knew what the truth was at that point,
12 didn't they?

13 A Yes, sir.

14 Q Then after that, did you tell the officers what the
15 truth was?

16 A Yes, sir.

17 Q What did you tell them?

18 A I told them that I was riding with Dinky and Antwan and
19 I was going to hook up with some girls -- we were going to
20 hook up with some girls from Walterboro. And then we were
21 on the way going to Walterboro and we passed by some people
22 on the side of the road and they were having car trouble.

23 I told them that Antwan had came up with the idea to
24 rob them, trying to get me and Dinky pumped up, but Dinky
25 got pumped up and said he would do it, and we turned around.

1 Once we stopped the car, before I could say anything, before
2 anybody could say anything, Dinky had done hopped out the
3 car and went towards the people that were on the side of the
4 road telling them to "Give it up."

5 Q Is that what you told them? Then what did you tell
6 them happened?

7 A I told them Dinky -- when I heard the gunshots I hit
8 the floorboard of the car, ducking down for cover and I told
9 them Antwan tried to get me out of the car to go pick Dinky
10 up and get him to the car and I told them I said no.

11 I told them Antwan started shooting across me and I
12 told them how we left there and we were supposed to take him
13 to the hospital, but he didn't want to go to the hospital.
14 Antwan was saying no he's not going to the hospital and we
15 passed -- we was oncoming passing Toya, the blue station
16 wagon, and how we tried to stop them, but they weren't
17 really stopping at the time, but they braked, so we turned
18 around, flashed them from behind and he pulled on the side
19 in oncoming traffic and we switched Dinky -- me, Antwan,
20 Joseph, and Montez switched Dinky into Toya's car and they
21 took him to the hospital.

22 Q Now. I'm going to show you a map, I'm going to ask you
23 to step off the stand. Before I do that, I'm going to ask
24 that the judge give you a microphone, okay.

25 THE COURT: Madame Clerk, can you give him a portable

1 mic? Mr. Mathews, Mr. Beach, you may come around so you can
2 see the board, if you so desire. Counsel, show it to the
3 opposing counsel before you show it to the jury.

4 **ASST. SOL. HASELDEN:** Both attorneys have seen it.
5 during the break, Your Honor.

6 **THE COURT:** Just a moment. Are y'all satisfied?

7 **MR. MATHEWS:** Yes, sir.

8 **MR. BEACH:** Yes, sir.

9 **THE COURT:** All right. Step down for me. She's going
10 to hand you a microphone. Use the microphone, Mr. Davis.
11 Hold it, speak into it, and let me hear you.

12 A Yes, sir.

13 **THE COURT:** All right. Mr. Mathews, you want to come
14 around. Mr. Beach, can you see the board?

15 **MR. BEACH:** Yes, Your Honor, I see it.

16 **THE COURT:** You're going to have to step back from my
17 jury and Mr. Beach, now. All right, Mr. Shelton, speak up,
18 you don't have a microphone.

19 **ASST. SOL. SHELTON:** Thank you, Your Honor.

20 Q Mr. Davis, Chippy, do you recognize what this is?

21 A Yes, sir.

22 Q What is it?

23 A It's a map.

24 Q It's a map of what?

25 A Smoaks.

- 1 Q The general area of Smoaks?
- 2 A Yes, sir.
- 3 Q Can you locate your house on that map? You can use
- 4 this to circle it once you find it. (HANDS WITNESS A PEN.)
- 5 Begin by road by road; what's that road? Have you seen this
- 6 map before?
- 7 A I've seen it.
- 8 Q We showed it to you, correct?
- 9 A Yes, sir.
- 10 Q What's this down here?
- 11 A Am I looking in the right area?
- 12 Q I don't think you are; this is not where you showed me
- 13 yesterday.
- 14 A My house is right here, [REDACTED].
- 15 Q Okay. You can circle, it. That's [REDACTED],
- 16 right there?
- 17 A Yes, sir.
- 18 Q Okay. Will you please show the jury how you got --
- 19 that's where Dinky picked you up, correct?
- 20 A Correct.
- 21 Q Now, show the jury where you went from there, first.
- 22 A I went from 211 to 217; when you get on 211, at the
- 23 stop sign on 211, you want to make a left coming out of 217.
- 24 Then, we made a stop somewhere up in here on 217.
- 25 Q Who's house is that?

1 A Antwan's house.

2 Q Antwan's house right there. Okay, then where did you
3 go from there?

4 A We went from Antwan's house to Clatty Farm Road.

5 Clatty Farm Road is only like two minutes up the street, so,
6 we traveled 217 to the end of -- not to the end of 217, but
7 the first road on your right is Clatty Farm Road, right
8 here, went to David Jakes' house. Dinky said his grandma's
9 house is on Clatty Farm, somewhere up in here.

10 Q Somewhere right up in there; can the jury see that,
11 because I'm not gonna mark it. Can everyone see that? All
12 right. Then, where'd you go?

13 A Went from Clatty Farm Road to Mount Carmel Road. So
14 at the end of Clatty Farm Road, you want to make a left at
15 the end of Clatty Farm Road, so you make a left right here,
16 make a left right here and travel down Mount Carmel.

17 Q And then, where'd you go from there?

18 A Went from Mount Carmel to McLeod Road.

19 Q Keep going down Mount Carmel until you find it.

20 A McLeod Road here. (INDICATING ON MAP.)

21 Q Did you turn on McLeod Road there?

22 A Yeah, you make a left on McLeod Road.

23 Q And then where did you go?

24 A Headed toward onto 95, towards 15 and the interstate.

25 Q Where did you see the people that Dinky jumped out and

1 | tried to rob?

2 | A It was down there by the ramp after we swing around
3 | here.

4 | Q You can make a big circle around that if you want. So
5 | you said you passed them and then you turned around?

6 | A Yes, sir.

7 | Q And you went back the other way?

8 | A Yes, sir.

9 | Q Okay. After what happened, happened you went back the
10 | other way. Show the jury which way you went.

11 | A We passed by and then we were coming back towards the
12 | other side of the road, so we passed by and made a left and
13 | made a U-turn, came back towards them, we were facing them,
14 | we were probably right here.

15 | Q Okay? And then where'd you go?

16 | A Then, after we left them, we went to the same direction
17 | that I just showed y'all, the same direction that we came
18 | in, that's the same direction, we turned around and headed
19 | towards Mount Carmel Road, and instead of making a right and
20 | going to Walterboro to go to the hospital ---

21 | Q You mean right or left?

22 | A (PAUSES A MOMENT.) We made a left, so ---

23 | Q You can come to this side if you want.

24 | **THE COURT:** You got to step back so the jury can see.

25 | A So instead of making a left to go back to Walterboro,

1 we made a right going back towards Smoaks.

2 Q Okay. Can you show on that map the general area of
3 where you think that you met up with the car that you put
4 David Jakes in?

5 A I can't give you the exact spot.

6 Q Somewhere around that area? You don't have to circle
7 it, but can the jury see that? Okay. I ask that he may
8 return, Your Honor.

9 **THE COURT:** Step back from the witness stand.

10 Q Mr. Davis, there were three people in that car, weren't
11 there?

12 A Correct.

13 Q Who was in the car again?

14 A Antwan, Dinky, and me.

15 Q And you're saying that Antwan reached over you and
16 shot?

17 A Correct.

18 Q Did you shoot?

19 A No, sir.

20 Q Do you own a gun?

21 A No, sir.

22 Q Did you have a gun that night?

23 A No, sir.

24 Q Now. Isn't it true that you were charged with pretty
25 much everything -- you are charged with everything they're

1 charged with. You were charged originally, and then you've
2 been indicted and those indictments still exist for
3 everything they're charged with?

4 A Correct. We've got the same charges.

5 Q Now, was there a deal at some point for those charges
6 with us, with the State of South Carolina?

7 A There was.

8 Q There was? Do you remember what that deal was?

9 A Yeah, it was to drop the charges to accessory before
10 and after the fact.

11 Q Now, what happened to that deal?

12 A It got gone away.

13 Q It got gone away, it expired?

14 A Yes, sir.

15 Q So testifying here today, you have no deal; is that
16 right?

17 A No, sir. I still have the same charges.

18 Q You still have the same charges, but you don't have the
19 deal anymore?

20 A No, sir.

21 Q Have I made you any promises?

22 A No, sir.

23 Q Has Ms. Haselden made you any promises?

24 A No, sir.

25 Q Has anyone from the State of South Carolina made you or

1 your attorney any promises whatsoever related to these
2 charges?

3 A No, sir.

4 Q Why, in earth, are you up here testifying today?

5 A To tell the truth.

6 Q Why are you telling the truth?

7 A Because I feel like it's the right thing to do.

8 **ASST. SOL. SHELTON:** That's all the questions I have at
9 this time, Your Honor.

10 Q I please ask that you answer any questions respectfully
11 that Mr. Mathews and Mr. Beach has.

12 **THE COURT:** Cross-examination, by the defendant
13 McMillan.

14 **MR. MATHEWS:** Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 **BY MR. MATHEWS:**

17 Q Mr. Davis, when you first went into the police station
18 with your dad, were you charged at that time?

19 A Yes, sir.

20 Q You were under arrest at that time?

21 A Yes, sir.

22 Q Okay. You only talked to the police after you were
23 under arrest already, correct?

24 A I don't understand what you're asking me.

25 Q When you went into the police, you were under arrest at

1 that time; is that correct?

2 A Yes.

3 Q Okay. And the first thing you told me is that your
4 fingerprints would not be in that car, correct?

5 A Correct.

6 Q Your DNA would not be in that car, correct?

7 A Correct.

8 Q That you weren't in that car, that nobody was in that
9 car, right? You don't know anything about it because you
10 weren't there, right?

11 A Correct.

12 Q Okay. Now, Mr. Shelton asked you about no deal at this
13 point, but you didn't do anything wrong, did you?

14 A No, sir.

15 Q Okay. So if you're telling the truth, if you're
16 believed, then you escape, right? You didn't do anything
17 wrong?

18 A Yes, sir.

19 Q Okay. Now, you said J.J. owned this car. Is that your
20 cousin?

21 A No, that's Dinky's cousin.

22 Q Dinky's cousin. Okay, J. J., all right. And you said
23 first of all, that if Dinky's cousin owns the car, you said
24 Dinky at one point got out, didn't he? You got picked up
25 then you went to Dinky's house.

1 **THE COURT:** Mr. Mathews, one question at a time, okay?
2 Don't make a statement. Cross-examination, I'll let you
3 lead, but don't ask three questions of the witness and wait
4 on a response. One at a time.

5 **MR. MATHEWS:** Yes, sir

6 **THE COURT:** Proceed.

7 Q What did Dinky get from the house?

8 A I don't know. He ain't told me.

9 Q What was he wearing?

10 A I can't remember.

11 Q You said he went in to get something; what -- he got a
12 gun, right?

13 A I don't know.

14 Q Well, there were at least two guns in that car, right?
15 At least two, right?

16 A Correct.

17 Q All right. And you didn't see any gun?

18 A Correct.

19 Q Okay. So how do you -- okay, what did you think he
20 went to go get?

21 A I have no idea.

22 Q Okay. You had a -- you said you had a cell phone,
23 right, that night?

24 A Yes, sir.

25 Q Okay. You didn't call 911?

1 A No, sir.

2 Q Did you call anybody that night?

3 A No, sir.

4 Q Didn't call a soul that night? Why did you have your
5 cell phone?

6 A I always have my cell phone.

7 Q You always have your cell phone.

8 A Uh-huh (affirmative).

9 Q Okay. How long have you been knowing the people in
10 that other car that stopped?

11 A Toya's car?

12 Q Whoever -- Whoever's car; the blue car.

13 A Well, basically, like partial my life. She stay in the
14 same neighborhood. All of us been staying there, basically,
15 partially, all our life, so I've known her.

16 Q Okay. You got her cell phone number?

17 A No, sir.

18 Q No? What's your cell phone number?

19 A I don't have a cell phone right now. My cell phone
20 number was -- what was my cell phone number? I can't

21 remember my cell phone number, my old cell phone number. I
22 don't have a cell phone at all, now; but I can't remember my
23 old cell phone number.

24 Q Okay. All right. When the police talked to you to
25 start with, did you have your cell phone with you then?

- 1 A No, sir.
- 2 Q Okay. The police did a search of your house, did they
- 3 not?
- 4 A Yes, they searched my house.
- 5 Q And they took four cell phones from your house,
- 6 correct?
- 7 A Correct.
- 8 Q Okay. Now, when you stopped in the roadway, your
- 9 window was the one closest to the other people's car; is
- 10 that correct or is that not correct?
- 11 A That's correct.
- 12 Q Okay. So you were the one closest to what was going on
- 13 in the driver's car that was Toya?
- 14 A Correct.
- 15 Q All right. At some point, when the shots were fired,
- 16 were -- were -- were y'all driving off during the time that
- 17 any shots were fired?
- 18 A No, we were still parked.
- 19 Q You were still parked. Okay. You waited -- you waited
- 20 until after David was back into the car before you fired?
- 21 A No, it was before he got in the car.
- 22 Q Before? Okay. All right. You gave your truthful
- 23 statement, the statement, I guess, you said that was
- 24 truthful sometime in December of 2010; is that correct?
- 25 A I don't recall what month it was, but I know it was

1 sometime after.

2 Q Okay. Months, correct?

3 A Not months, probably like a month.

4 Q A month, maybe?

5 A Yeah, it might have been a couple months, maybe. I
6 can't recall.

7 Q Okay. And at that point, you had retained an attorney,
8 correct?

9 A Correct.

10 Q So y'all all three were under arrest and you talked to
11 your attorney and then you gave a statement, correct?

12 A Correct.

13 Q Which was completely different from the first statement
14 you gave?

15 A Correct.

16 Q And you testified that after you dropped off, you took
17 the car back when you said Antwan took the car back to
18 Dinky's house, because it belonged to J. J.'s cousin, to
19 Dinky's cousin, right?

20 A Correct.

21 Q Okay. And then how far -- is it about two miles? You
22 said it was about two minutes or about three minutes from
23 Dinky's house to your house?

24 A It's a couple miles.

25 Q Couple miles, okay. So you drove the car back and

1 dropped it off, and then y'all both ran back to your houses.

2 You went and ran past Antwan's house to your house?

3 A Correct.

4 Q Okay. Okay. Did you ask to be dropped off, first?

5 A No.

6 **MR. MATHEWS:** Your Honor, if I might have a moment.

7 (BRIEF PAUSE IN COURTROOM.)

8 **MR. MATHEWS:** No further questions, Your Honor..

9 **THE COURT:** Cross-examination by the defendant Jakes.

10 **MR. BEACH:** May it please the Court?

11 **THE COURT:** Yes, sir.

12 **CROSS-EXAMINATION**

13 **BY MR. BEACH:**

14 Q You gave a statement to the police when they first
15 talked to you, correct?

16 A Correct.

17 Q And you told them you had nothing to do with anything;
18 is that correct?

19 A Correct.

20 Q And you told them you weren't there?

21 A Correct.

22 Q That was a lie, wasn't it?

23 A Yes, sir.

24 Q And they didn't believe you?

25 A No, sir.

- 1 Q And they arrested you?
- 2 A Correct.
- 3 Q And you were indicted; is that correct?
- 4 A Uh-huh (affirmative).
- 5 Q There are charges pending now, is that also correct?
- 6 A Correct.
- 7 Q All right. Now, you gave another statement and that
- 8 other statement, didn't you say in there that you were
- 9 opposed to this supposed robbery?
- 10 A I don't understand your question.
- 11 Q Didn't you say that you were opposed to what was going
- 12 on?
- 13 A When you say "opposed," do you mean the alarm or know
- 14 what was going on?
- 15 Q You didn't want it to happen.
- 16 A Oh, correct. I didn't want it to happen.
- 17 Q In that statement where you said it was stupid? Didn't
- 18 you say that in your statement?
- 19 A Correct.
- 20 Q And when everything started, you hit the floor?
- 21 A Correct, when I heard the gunshots, I hit the floor.
- 22 Q Now, when did you open your door?
- 23 A I didn't never open my door.
- 24 Q You never opened your door?
- 25 A unh-unh.

1 Q How did you help Mr. Jakes get back in the car?

2 A By the best way I could, best way I could. Leaning
3 over, and the door handle's right here, so I reached over,
4 the door handle's right here.

5 Q So you got up out of the floor, over the seat, and
6 opened the door?

7 A No, I didn't really have to go, like, over the seat, I
8 just had to reach right there and open the door. Like crack
9 the door open the best way I could and help him.

10 Q But you had to get up into the passenger seat?

11 A Yeah, I had to get up in the seat.

12 Q And all this time, somebody else was shooting?

13 A No, nobody was shooting at the time.

14 Q Nobody was shooting at the time?

15 A Correct.

16 Q Now, how long -- you had heard gunshots. This was when
17 Mr. Jakes got shot.

18 A Correct.

19 Q How long was it before the person seated beside you
20 started shooting?

21 A It was like a -- okay, after David got shot, everything
22 was, like, quick and he was just telling me to get out the
23 way. Antwan was telling me to get out the car, go help
24 Dinky, get out the car, and I was telling him, "Man, let's
25 go. Let's leave, man. Get me out of this ride." He was

1 like, "No, man, ain't going nowhere, I ain't going nowhere
2 without Dinky." So then after that, he started shooting
3 across from me.

4 Q Who closed the door?

5 A What door?

6 Q Who closed the back door?

7 **ASST. SOL. SHELTON:** Objection, Your Honor.

8 **THE COURT:** Cross-examination. Ask a question,
9 counsel. Overruled.

10 Q Who closed the back door?

11 A The back door wasn't open at the time he was shooting,
12 but after the shooting, when he was trying to get in the
13 car, I can't recall who. It was happening so quick, I can't
14 recall if I shut the door or if he shut the door.

15 Q Well, how -- he was shot, how was he able -- how would
16 he be able to shut the door?

17 A No, I never said he shut the door.

18 Q All right. How would you be able to shut the door when
19 you're just reaching around to see? Doesn't that door open
20 out?

21 A Well, it wouldn't open outward, because I couldn't
22 really open the door outward. I could open the door, like,
23 crack the door open a little bit, like a good little piece.
24 I couldn't open the door outward. The door was just open.

25 Q How little bit?

1 A It was a good bit enough for him to get in.

2 Q But you don't remember whether you closed it or he
3 closed it?

4 A Unh-unh. I can't recall. It happened so quick.

5 Q When did the other person start shooting over your
6 head?

7 A That was before -- before Dinky got in the car.

8 Q Before he got in the car?

9 THE COURT: Identify who "he" is for the record,
10 please.

11 Q The driver of the car.

12 A Antwan.

13 Q The driver of the car, when did he start shooting in
14 relation to when Mr. Jakes got in the backseat of the car?

15 A He started shooting after I said I wasn't getting out
16 to get him. And I wanted to go, let's go, and that's when
17 he started shooting.

18 Q And this is before he got in the backseat of the car?

19 THE COURT: Identify -- just a moment. Identify who
20 "he" is in your question.

21 Q This is before Mr. Jakes got into the car?

22 A Correct.

23 Q When the shooting started?

24 A Correct.

25 Q And you said he was shooting over your head? That the

- 1 driver was shooting from back over your head?
- 2 A Pretty much over my back.
- 3 Q Now, what kind of car is this?
- 4 A It's a Cadillac.
- 5 Q Is it a big car or a little car?
- 6 A It's like a narrow car, narrow.
- 7 Q What size Cadillac is it? What model?
- 8 A Deville.
- 9 Q A Deville?
- 10 A Correct.
- 11 Q And that's -- all right. Is the front seat a bench
- 12 seat or was it bucket seats?
- 13 A I don't know what kind of seats.
- 14 Q Was there something down the middle between the seats?
- 15 A Yeah, it was like a small console.
- 16 Q A console was there?
- 17 A A small console.
- 18 Q So there was a seat for the driver, and a separate seat
- 19 for the passenger?
- 20 A Correct.
- 21 Q Now, the driver was in his seat?
- 22 A Correct.
- 23 Q Shooting over you?
- 24 A Correct. He slid over and started shooting.
- 25 Q All right. How did he slide past the console?

1 A I ain't know. He ain't slide past the console. You
2 can't make it past the console.

3 Q He did make it past the console?

4 A I just know he slide over.

5 Q Okay. Now, you say you don't have a deal with the
6 prosecution; is that correct?

7 A No deal.

8 Q Now, the first thing you did after you went home was
9 try and get in touch with your attorney, wasn't it?

10 A No. Unh-unh.

11 Q All right. Who did you get in touch with first, your
12 attorney or law enforcement?

13 A I believe it was my daddy. I ain't got in touch with
14 nobody. It was my daddy who tried to get in touch with
15 people. My daddy tried to get in touch with either attorney
16 or law enforcement agent. I don't know which one come
17 first, or anybody else that he know.

18 Q Did you ever call law enforcement yourself?

19 A No, sir.

20 Q Did you ever go to them and say, "This thing happened
21 and I didn't want anything to do with it?" Did you ever do
22 that?

23 A No, sir.

24 Q Did you ever call the hospital to check on your friend?

25 A No, sir.

1 Q Did you ever go to the hospital to check on your
2 friend?

3 A No, sir.

4 Q What did you tell your girlfriend that night about
5 going to see these women?

6 A What I tell my girlfriend? Well, I'd rather not get
7 into what I told her.

8 Q Okay. That's fair enough. But y'all were going to go
9 to the club on 15 weren't you?

10 A No, not me. I ain't know nothing about no club.

11 Q Where were y'all going?

12 A Just going to hook up some girls in Walterboro.

13 Q Okay. But you were headed toward 15?

14 A Correct.

15 Q Now, were you drinking that night?

16 A No, sir.

17 Q Not at all?

18 A No, sir.

19 Q What about the other two people, were they drinking?

20 A No.

21 Q Neither one of them?

22 A I think Dinky was drinking earlier; he was drinking
23 before.

24 Q Isn't that why Dinky wasn't driving was because he had
25 been drinking?

1 A Oh, I don't know why he wasn't driving.

2 Q Is your attorney here with you today?

3 A Yes, sir.

4 Q Isn't it true that they're watching your testimony to

5 see if you testify the way the State wants you to?

6 A I don't understand.

7 Q In order to get a deal for you?

8 A No, sir.

9 Q Well, when are you supposed to be tried?

10 A I don't know.

11 MR. BEACH: I don't have any other questions, Your
12 Honor.

13 THE COURT: Redirect.

14 ASST. SOL. SHELTON: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 ASST. SOL. SHELTON:

17 Q Mr. Davis, you told them you made a statement months
18 after the fact, but you told the truth in that statement; is
19 that correct?

20 A Correct.

21 Q You wrote that statement down, correct?

22 A Correct.

23 Q Now, isn't it also true that the same day, the day
24 after the incident, you went in and you told police the
25 truth then, as well?

- 1 A What was that?
- 2 Q Sorry, that was a confusing question. The next day,
3 the day after it happened, right?
- 4 A Correct.
- 5 Q You -- your daddy drove you to the police station,
6 correct?
- 7 A Correct.
- 8 Q And you first lied to them, didn't you?
- 9 A Correct.
- 10 Q So then, and that was in the interview room, right?
- 11 A Correct.
- 12 Q And did you see a camera in that interview room?
- 13 A Correct.
- 14 Q And there were police officers there asking you
15 questions, correct?
- 16 A Correct.
- 17 Q And at first, you lied to them, correct?
- 18 A Correct.
- 19 Q And what did you tell them?
- 20 A I told them I wasn't in there. I didn't know what
21 happened. I ain't got nothing to do with it.
- 22 Q Right. And then that same night, did your parents come
23 and talk to you in that interview room?
- 24 A Yes, sir.
- 25 Q And what did he tell you to do?

1 A Tell the truth.

2 Q And then that same night, the day after the shooting,
3 after your parents told you to tell police the truth, what
4 did you do?

5 A Told them the truth.

6 Q You told them the truth that night, didn't you?

7 A Correct.

8 Q You told them everything that you told the jury right
9 here, pretty much, that same night, didn't you?

10 A Correct, yes, sir.

11 Q The night after the shooting; not four months
12 afterwards.

13 A Yeah, it was the night after the shooting.

14 Q That's just not true, is it?

15 A What's not true?

16 Q It's true that you told the truth the night after the
17 shooting; is that true?

18 A That's true. That night, I told the truth.

19 Q And you lied at first, but then you told the truth the
20 night after the shooting?

21 A Yes, sir.

22 Q And then, four or five months later when you gave that
23 written statement, did you tell the truth again?

24 A Yes, sir.

25 Q So you actually gave two truthful statements, correct?

1 A Yes, sir.

2 Q Not one?

3 A Yes, sir.

4 Q Are you telling the truth today?

5 A Yes, sir.

6 Q Thank you, Mr. Davis.

7 THE COURT: Recross by the defendant McMillan, limited
8 to redirect?

9 MR. MATHEWS: No further cross.

10 THE COURT: No further recross?

11 MR. MATHEWS: That's correct.

12 THE COURT: Recross by the defendant Jakes, limited to
13 redirect?

14 MR. BEACH: Thank you, Your Honor

15 RECROSS-EXAMINATION

16 BY MR. BEACH:

17 Q You gave the first statement saying you had nothing to
18 do with it, correct?

19 A Correct.

20 Q The second statement saying you had nothing to do with
21 it?

22 A No, sir.

23 Q All right. A second statement saying that you did have
24 something to do with it?

25 A Second statement telling what happened.

1 Q Telling them what happened. Telling the truth?

2 A Correct.

3 Q You told them that was the truth?

4 A Correct.

5 Q Did they believe you?

6 A I assume they believe.

7 Q Did they indict you?

8 A I still got indicted.

9 Q You still got indicted even though you told them what
10 you're telling us is the truth?

11 A Correct.

12 **MR. BEACH:** No other questions, Your Honor.

13 **THE COURT:** As to this witness, Solicitor?

14 **ASST. SOL. SHELTON:** Ask that he remain under
15 sequestration for purposes of recall.

16 **THE COURT:** Have you advised the witness concerning my
17 order of sequestration?

18 **ASST. SOL. HASELDEN:** Yes, Your Honor.

19 **THE COURT:** Very well. If you'll step down, please,
20 and remain with us in the area that you were asked to stay
21 in prior to testifying, subject to the instructions from
22 counsel for the State.

23 Madame Foreperson, ladies and gentlemen of the jury,
24 I'm going to take my mid-afternoon break at this point, let
25 you stretch your legs, use the restroom. Please do not

1 discuss the case. I'll be right back with you just as soon
2 as I can. You may retire to your jury room at this time.

3 (3:45 P.M., 8-30-11, WHEREUPON, THE JURY EXITS THE
4 COURTROOM AND A BRIEF RECESS IS HELD IN THE TRIAL OF THE
5 CASE.)

6 (4:00 P.M., 8-30-11, WHEREUPON, COURT RESUMES AND THE
7 FOLLOWING IS HELD ON THE RECORD.)

8 **THE COURT:** Is the State ready?

9 **ASST. SOL. HASELDEN:** Yes, Your Honor, with just a
10 preliminary matter, if I might. During the break, one of
11 my last witness's family members was pushed on the stairwell
12 by an individual in the courtroom. She's been removed from
13 the courtroom and is being talked to by Lt. Inabinett. But
14 I would just appreciate, perhaps, a cautionary word from
15 Your Honor regarding witnesses, intimidation and the like.

16 **THE COURT:** Very well. Ladies and gentlemen, I'm now
17 speaking to people that are here in the courtroom as
18 spectators. This Court, or any Court in South Carolina,
19 will not tolerate any spectator, family member, or party, or
20 friend of a party, friend of a victim, anyone, approaching
21 any witness in this case and attempting to intimidate them,
22 influence them, or change their testimony in any way, and I
23 will enforce those rules with the contempt powers of this
24 Court.

25 I will place anyone who violates those rules in the

1 custody of law enforcement for obstruction of justice. So
2 if you don't think you can control your actions or your
3 speech toward any potential witness in the trial of this
4 case, I suggest you get up and leave this courtroom at this
5 time, because if any such acts of this nature are reported
6 to me by law enforcement, I intend to use the contempt
7 powers of this Court. Does everyone in the courtroom
8 understand what I've just said? Please indicate by raising
9 your hand.

10 (HANDS ARE RAISED.)

11 Very well. Is the State ready to proceed?

12 **ASST. SOL. SHELTON:** Yes, sir, Your Honor.

13 **THE COURT:** Is the defendant McMillan ready to proceed?

14 **MR. MATHEWS:** Yes, Your Honor.

15 **THE COURT:** Is the defendant Jakes ready to proceed?

16 **MR. BEACH:** Yes, Your Honor.

17 **THE COURT:** Very well. Bring us the jury, please. Go
18 ahead and call your next witness. Who is it, Solicitor?

19 **ASST. SOL. SHELTON:** Latoya Bryant.

20 (4:05 P.M., 8-30-11, WHEREUPON THE JURY ENTERS THE
21 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
22 RECORD.)

23 **THE COURT:** All right. Madame Foreperson, ladies and
24 gentlemen of the jury, we will now continue with the
25 testimony in the trial of this case. Solicitor, you may

1 call your next witness.

2 **ASST. SOL. HASELDEN:** Thank you, Your Honor. The State
3 calls Shaquita, otherwise known as Latoya Bryant.

4 **THE COURT:** Come around and be sworn by the Clerk,
5 please.

6 **MADAME CLERK:** Please come forward and be sworn. Raise
7 your right hand and place your left hand on the Bible.

8 WHEREUPON, LATOYA BRYANT, IS DULY SWORN..

9 **THE COURT:** Watch your step on the stairs. Have a
10 seat. Be comfortable. I want you to pull the chair up and
11 address that microphone. That microphone is going to
12 amplify your voice. Speak up like I'm doing so they can
13 hear you on the jury and out in the courtroom.

14 I'd like for you to begin by stating your full name and
15 spelling your last name for the court reporter who is seated
16 below you.

17 **WITNESS:** Shaquita Bryant, B-R-Y-A-N-T.

18 **THE COURT:** Your witness, counsel.

19 **ASST. SOL. SHELTON:** Thank you, Your Honor.

20 **DIRECT EXAMINATION**

21 **BY ASST. SOL. SHELTON:**

22 Q How are you, Ms. Bryant?

23 A Fine. How you doing?

24 Q Now, your name is Shaquita, but people call you Toya;
25 is that correct?

- 1 A Yes, sir.
- 2 Q Where are you from?
- 3 A Smoaks, South Carolina.
- 4 **THE COURT:** Got to speak up, Ms. Bryant.
- 5 A Smoaks, South Carolina.
- 6 Q How long have you lived there?
- 7 A Basically, all my life.
- 8 Q Where do you live now?
- 9 A Summerville.
- 10 Q I'm sorry?
- 11 A Summerville.
- 12 Q Where were you living on June the 3rd, 2010?
- 13 A [REDACTED].
- 14 Q Sunrise Road, and I think the jury knows where that is,
- 15 but will you tell the jury where that is?
- 16 A That's in Smoaks, South Carolina.
- 17 Q You know the defendant, Mr. Antwan McMillan?
- 18 A Yes, sir.
- 19 Q How do you know him?
- 20 A Well, he kind of grew up with us.
- 21 Q Grew up with you?
- 22 A Uh-huh (affirmative).
- 23 Q Where was your house at the time that you were living
- 24 on June the 3rd, 2010, in relation to his house?
- 25 A Right down the road.

1 Q Right down the road, being down the road a mile? Down
2 the road ten feet? Down the road, how far down the road?
3 How many houses down?

4 A Three.

5 Q How far -- how long would it take you to walk from your
6 house to his house?

7 A Less than two minutes.

8 Q On June 3rd, 2010? That's where you were living?

9 A Uh-huh (affirmative).

10 **THE COURT:** You have to say "yes" or "no".

11 A Yes, sir.

12 Q Now, how do you know Mr. David Jakes? Do you know him,
13 first of all?

14 A Yes, sir.

15 Q How do you know him?

16 A I used to date his uncle a couple of years back. His
17 mom and my mom are friends.

18 Q Do you know Mr. James Davis, Jr.?

19 A Who?

20 Q James Davis, Jr.

21 A Yes, sir.

22 Q Otherwise known as "Chippy"?

23 A Uh-huh (affirmative).

24 Q How do you know him?

25 A I know his parents. I don't really know him like that.

1 Q Okay. Are you related to any of the people that I just
2 mentioned?

3 A No, sir.

4 Q Now, you grew up just down the street from Mr. Antwan
5 McMillan, who is seated over there?

6 A Yes, sir.

7 Q Do you remember June the 3rd, 2010?

8 A Yes, sir.

9 Q Do you remember what you were doing that day, earlier
10 in the day?

11 A I was on Drain Road.

12 Q Sorry?

13 A I was on Drain Road.

14 Q How do you spell that?

15 A Drain Road.

16 Q Dream Road?

17 A D-R-A-I-N.

18 Q Drain Road, okay. At any time that evening, did you
19 leave that road?

20 A Yes, sir. That night.

21 Q That night? What were you doing before you left?

22 A Playing pool and drinking.

23 Q Were you drinking a lot? Little bit?

24 A A good bit.

25 Q When you left, who did you leave with?

1 A Angie Dicks.

2 Q Angie Dicks, does she go by anything else?

3 A Angie.

4 Q Angie? Is her last name Dicks, though?

5 A Yes, sir.

6 Q Does she have any other last name or used to have
7 another last name? Or you know her as Angie Dicks?

8 A Yes, sir.

9 Q How do you know Angie?

10 A She's my cousin.

11 Q What car did you leave in?

12 A Her Ford Station wagon.

13 Q Ford Station wagon? What color is it?

14 A Blue.

15 **ASST. SOL. HASELDEN:** Beg the Court's indulgence. May
16 I approach, Your Honor?

17 **THE COURT:** You may.

18 Q I'm going to hand you a picture, Ms. Bryant, that's
19 been previously marked State's Exhibit Number Eight, for
20 identification purposes. I ask that you don't show it to
21 the jury; just look at it. I ask you if you recognize what
22 that is.

23 A Yes, sir.

24 Q What is it?

25 A Angie's car.

1 Q Angie's car? How do you know it's Angie's car?

2 A Because all the stuff that's in the back.

3 Q All the stuff that's in the back? Be specific.

4 A That's her kids stuff in the back.

5 Q Okay. Thank you. So you left with Angie driving in
6 that car?

7 A Yes, sir.

8 Q When you left, where did you go?

9 A We went to my moma's house.

10 Q Where is your moma's house?

11 A At [REDACTED].

12 Q The place where you grew up?

13 A Uh-huh (affirmative).

14 Q That's four doors down from Antwan?

15 A Yes, sir.

16 Q And then what did you do?

17 A She was waiting on me. We was about to go to town.

18 Q Why were you going to go to town?

19 A Because I was going to my cousin Joseph's house to go
20 to Spirits.

21 Q Do you remember about what time that was?

22 A Not really.

23 Q What is Spirit's?

24 A A club on 15.

25 Q Okay. So you left, who was in the car at that point?

- 1 A Me and my cousin, Angie, my cousin, Joseph, and Montez.
- 2 Q Do you know their last names?
- 3 A Yes, sir.
- 4 Q What are their last names?
- 5 A Angela Dicks, Joseph Griffin, and I think -- I don't
- 6 really know Montez's last name. I'm not sure if it's
- 7 Jenkins or not.
- 8 Q Okay. So when you left your moma's house, who was in
- 9 what seats in the car?
- 10 A Angie was driving. I was in the front passenger side.
- 11 Montez was behind Angie on the driver's side, and Joseph was
- 12 behind me on the passenger side.
- 13 Q Could you tell just by looking at them, in appearance,
- 14 and talking to them, if any of those people had been
- 15 drinking that night?
- 16 A Yeah.
- 17 Q Who?
- 18 A All three of us was drinking. I can't remember if Angie
- 19 had something to drink or not, but I know Joseph was drunk.
- 20 Q What about Montez?
- 21 A I can't really say how he was, but I know me and Joseph
- 22 was like -- I know he was drunk and I was.
- 23 Q Okay. So you were in the car together. Now, was
- 24 Joseph -- Joseph, does he have a nickname?
- 25 A Kay.

1 Q Were they at the house together at your mother's house?

2 A (NO RESPONSE.)

3 Q Or did you pick them up someplace else? Do you
4 remember?

5 A When Angie dropped me off and she came back, Joseph and
6 Montez was with her.

7 Q Okay. So Angie left and came back and picked you up
8 and Montez and Joseph was in the car?

9 A Yes, sir.

10 Q Why were you in the front seat and Joseph and Montez
11 were in the back of the car when she came and picked you up?

12 A Because they had got out and I wasn't about to sit in
13 the back.

14 Q Okay. Gotcha. So you were going to sit in the front?
15 That's Angie's car, that's not your car?

16 A No, sir.

17 Q You ride in that car often?

18 A I did.

19 Q Okay. At that point, you're leaving Sunrise Road,
20 where do you go?

21 A We made a right on to Clatty Farm Road to go to
22 Walterboro, onto Mt. Carmel Road.

23 Q On Mt. Carmel Road, did something odd happen?

24 A Angie was saying that a car was flashing her.

25 Q Did you see a car flashing her?

1 A I didn't see it right then, because I was like -- my
2 head was on the side and I was trying to get to town.

3 Q Gotcha. Did you see the car flashing coming back from
4 behind?

5 A I saw the car lights.

6 Q Car lights? Did you tell Angie anything?

7 A I told her don't stop her car.

8 Q Why?

9 A Because we didn't know who it was that was stopping us.

10 Q Did she stop or did she keep going?

11 A She stopped.

12 Q Did her car -- what happened to the car that was
13 flashing its lights behind you?

14 A It stopped beside us.

15 Q Who did you see in that car?

16 A I saw Chippy.

17 Q Where was Chippy?

18 A On the passenger side.

19 Q Front or back?

20 A Front.

21 Q Who else did you see?

22 A David.

23 Q David who?

24 A David Jakes, Dinky.

25 Q Dinky? Where was he?

1 A They was putting him in the car.

2 Q Who is "they"?

3 A Angie got out the car and Chippy got out the car.

4 Montez had to get out to put him in the backseat and he

5 nudged Joseph so he could get in the front seat with me, but

6 we never got out the car.

7 Q So Angie got out the car?

8 A Yes, sir.

9 Q When Angie got out the car, did you hear her say
10 anything?

11 **MR. MATHEWS:** Objection, Your Honor. Leading -- I
12 mean, hearsay.

13 **THE COURT:** Sustained. Rephrase the question.

14 **ASST. SOL. HASELDEN:** I think it depends on the
15 context. I'd ask that a proffer ---

16 **THE COURT:** Counsel approach.

17 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
18 AND OUT OF THE HEARING OF THE JURY.)

19 **THE COURT:** Proceed. Objection is sustained.

20 **ASST. SOL. SHELTON:** Thank you, Your Honor.

21 Q When all those folks were outside of the car that you
22 mentioned, Montez, Joseph ---

23 A I never said Joseph.

24 Q You never said Joseph? You said Montez, and Angie;
25 what was the scene like at that point?

1 A I don't know. It just happened so fast. She got out
2 and they was seeing would we take him to the emergency room.

3 Q Were people excited? Were they bored? What was going
4 on?

5 A We was just trying to get him in the car and take him
6 to the emergency room.

7 Q Why were you trying to get him in the car and take him
8 to the emergency room?

9 A Because they said he was shot.

10 Q Were you anxious at the time?

11 A Anxious like how?

12 Q Were you worried for him?

13 A Yeah, because he went into shock.

14 Q When he was outside the car, were people yelling?

15 A They was, like, talking, but they was kind of, like,
16 yelling.

17 Q Kind of like yelling? Were they yelling loud? Were
18 they yelling in short verse or were they yelling in long
19 verse or were they talking in a soft tone like this or were
20 they talking fast and excited?

21 A Almost fast and excited.

22 Q Fast and excited. Now, I'm not going to ask you what
23 Angie said; I'm going to ask you when Angie was talking, was
24 she talking loud? Was she talking soft? Was she talking
25 fast and excited? How was she talking?

1 A She was talking, like, basically, like, what happened.

2 Q Uh-huh (affirmative). Was she -- I'm sorry. I'll
3 ask the question again. Was she talking fast? Was she
4 talking excited?

5 A She was talking like she was hysterical.

6 Q Hysterical. She was hysterical. And while she was
7 talking while she was hysterical, did you hear her say
8 anyone's name?

9 A Excuse me?

10 Q When she was hysterically talking like that, talking
11 hysterical, did you hear her say anyone's name?

12 A I heard her say a name.

13 Q What name?

14 A She said Dinky and Rat.

15 Q Dinky and Rat? Now, what happened after that?

16 A I told Montez to down the window and push Dinky's legs
17 up so he'd be able to breathe, but then he went into shock
18 three times while we was trying to take him to the emergency
19 room.

20 Q Now, what happened to the other car? I mean, did it
21 follow you to the emergency room? Where did it go?

22 A I don't know where it went, but it didn't go to the
23 emergency room.

24 Q Who was driving to the emergency room?

25 A Angie.

1 Q Was she driving fast or slow?

2 A Fast.

3 Q How fast?

4 A Fast so we could get him there. We was driving over
5 90.

6 Q Did Dinky say anything while he was on the ride to the
7 emergency room?

8 A He was just screaming.

9 Q What was he screaming?

10 A It wasn't like a scream like that; it was like a shock
11 scream.

12 Q Was he in pain?

13 A (WITNESS NODS HEAD AFFIRMATIVELY.)

14 **THE COURT:** You have to say "yes" or "no".

15 A Yes, sir.

16 Q When you got into the emergency room, what did you do?

17 A I got by the car, I knocked on the door and maybe took
18 about seven and a half minutes for the man to come and get
19 him. And when we got there and came, Montez went inside
20 with him, but then, we turned back around and all the
21 polices were there and they told us that we couldn't go
22 anywhere.

23 Q Did you give police a statement that night?

24 A Yes, sir.

25 Q Did you tell them the truth in that statement?

1 A I told the truth, but I didn't say, like, who I saw
2 that night.

3 Q You didn't say who you saw. What did you say in that
4 statement?

5 A I said that we was riding down the Mt. Carmel Road and
6 a car stopped, we stopped.

7 Q Did you tell them that, that night?

8 A On my statement?

9 Q Uh-huh (affirmative).

10 A In so many words, yes, sir.

11 Q "In so many words," what do you mean by that?

12 A I said everything except for who I saw. I said we
13 stopped on the Mt. Carmel Road.

14 Q Did you say you picked up Dinky?

15 A I can't remember.

16 Q Did you tell them everything you knew that night?

17 A I told them everything about I knew that night.

18 Q The next day, did you contact law enforcement?

19 A No, law enforcement contact me the next day.

20 Q Is it not true that you called Allen Inabinett?

21 A Not actually called him. I can't remember calling him,
22 but I know I said that night that I'd rather talk to him,
23 because the police was talking to us. He was like -- he
24 wasn't really talking. He was, like, yelling.

25 Q Gotcha. Did you end up talking to Allen Inabinett?

- 1 A The next day, yes, sir.
- 2 Q The next day? Do you remember where?
- 3 A I don't know where exactly we went at, but I know we
- 4 went somewhere down here in Walterboro.
- 5 Q What were you in when you talked to him?
- 6 A A black Trailblazer.
- 7 Q Was it just you and him?
- 8 A Yes, sir.
- 9 Q Do you remember what day that was?
- 10 A The day after.
- 11 Q The day after the incident? You remember what time it
- 12 was?
- 13 A No, sir.
- 14 Q Do you remember telling him that you saw Rat, Chippy,
- 15 and Dinky were in the car?
- 16 A I told him I never saw Rat's face.
- 17 Q Do you remember writing a statement that you saw and in
- 18 fact said Rat's name first; Rat, Chippy and Dinky in the
- 19 car?
- 20 A Uh-huh (affirmative).
- 21 **THE COURT:** You have to say "yes" or "no".
- 22 A Yes, sir. But I also told him I never saw his face.
- 23 Q How did you know Rat was in the car?
- 24 A I don't know if he was in the car.
- 25 Q But you told law enforcement he was in the car that

1 night?

2 A I told him I went on what I heard my cousin say "Rat."

3 Q Did you tell Allen in that statement that you gave to
4 him the next day in his patrol car, did you write that
5 statement down?

6 A Yes, sir.

7 Q Was that statement true when you wrote it down?

8 A Yes, sir.

9 Q Did you tell him that you didn't feel comfortable
10 talking to police that night, that you wanted to talk to
11 him?

12 A Yes, sir, because the man was yelling. Instead of
13 talking to me, he was yelling at me.

14 Q Gotcha. And you pretty much said everything there.
15 You told him as well that there were three people in the
16 car, right?

17 A Well, I know there was three people in the car, but I
18 just didn't know who the third person was.

19 Q And you told him that day that it was Rat, didn't you?

20 A Well, he told me.

21 Q He told you it was Rat?

22 A Uh-huh (affirmative). But I also told him that I never
23 saw his face.

24 Q But you wrote it down that it was Rat?

25 A Yes, I wrote down that it was him.

1 ASST. SOL. HASELDEN: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 ASST. SOL. HASELDEN: Your Honor, may I approach?

4 THE COURT: You may.

5 Q Ms. Bryant, I ask that you review this, and once you
6 have a chance to review it, tell me what it is.

7 A (WITNESS REVIEWS DOCUMENT.)

8 Q Well, first of all, do you recognize it?

9 A Yes, sir.

10 Q What is it?

11 A It's my statement that I wrote with Allen.

12 Q Do you remember what day you wrote that statement?

13 A The day after.

14 Q The day after?

15 A Uh-huh (affirmative).

16 Q Is that statement true?

17 A Yes, it's true, but I never saw -- you know, I can
18 place the two that was in there, but ---

19 Q You knew there was a driver?

20 A I know it was a driver, but I just didn't know who it
21 was.

22 Q You heard your cousin say Rat's name?

23 A Yes, sir.

24 Q That's all the questions I have for you. Thank you so
25 much. Please answer any questions that Mr. Mathews or Mr.

1 Beach has.

2 THE COURT: Cross-examination by the defendant
3 McMillan?

4 MR. MATHEWS: No questions, Your Honor.

5 THE COURT: Very well. Cross-examination by the
6 defendant Jakes?

7 MR. BEACH: None, Your Honor.

8 THE COURT: As to this witness, Solicitor?

9 ASST. SOL. HASELDEN: Ask that she remain for purposes
10 of possible rebuttal witness, Your Honor.

11 THE COURT: Have you instructed her concerning my
12 Order?

13 ASST. SOL. SHELTON: Yes, sir, Your Honor. I ask that
14 she be placed on stand-by.

15 THE COURT: That's fine. You can leave the courtroom,
16 but you're subject to orders that I issued that you heard
17 about from the Solicitor's Office concerning sequestration
18 of witnesses. You may go back to work, but you're on stand-
19 by to return to the trial of this case if necessary; do you
20 understand?

21 MS. BRYANT: Yes, sir.

22 THE COURT: You may leave the courtroom at this time.
23 Call your next witness.

24 ASST. SOL. HASELDEN: The State calls Stephen Sanders
25 with Colleton County Fire and Rescue.

1 **MADAME CLERK:** Please come forward to be sworn. Place
2 your left hand on the Bible and raise your right hand.

3 WHEREUPON, MR. STEPHEN SANDERS, IS DULY SWORN.

4 **THE COURT:** Good afternoon. Have a seat. Make yourself
5 comfortable. Adjust the microphone to your height. It's
6 going to amplify your voice. Speak up so everybody can hear
7 you. State your full name and spell your last name for my
8 court reporter.

9 **MR. SANDERS:** Stephen Eugene Sanders, S-A-N-D-E-R-S.

10 **THE COURT:** Your witness, counsel.

11 **DIRECT EXAMINATION**

12 **BY ASST. SOL. HASELDEN:**

13 Q Mr. Sanders, who do you work for?

14 A I'm a firefighter/paramedic with Colleton County Fire
15 and Rescue.

16 Q And as a firefighter/paramedic, what do you do?

17 A Pretty much, just that we, obviously, do firefighting
18 for the county and we also treat and transport patients
19 within the county.

20 Q Now, isn't a paramedic the highest level of EMT or is
21 it something different?

22 A Paramedic is one of the highest in this state, yes.

23 Q Okay. Can you describe a little bit the differences
24 between the levels?

25 A An EMT, which is one of the levels, an EMT Basic, they

1 attend to basic needs, as far as basic medical. And a EMT
2 Intermediate is allowed to start IV's and also they're
3 allowed to push certain medications like D50 for diabetics,
4 and as a paramedic, we can do a full range of life support
5 from cardiac drugs to treating cardiac MI's to trauma, as
6 well as securing airways in the field.

7 Q Okay. And what kind of education or training did you
8 have to go through to become a paramedic?

9 A A paramedic basically involved going through EMT school
10 and anatomy and physiology, as well as EMT intermediate
11 paramedic, and then I continued my education on after that.

12 Q What did you continue your education on in?

13 A I -- up at Johns Hopkins at UNVC, I'm also a Critical
14 Care paramedic, as well as a Pediatric Neo-Natal Critical
15 Care Transport paramedic.

16 Q How long have you been a paramedic?

17 A My career started in 1983 in fire and EMS, paramedic
18 school in '85, and I had a little break in there, but
19 basically my career goes back to '83.

20 Q Okay. Have you ever testified as an expert here in
21 Colleton County before?

22 A No, ma'am.

23 **ASST. SOL. HASELDEN:** Your Honor, at this time, I'd
24 move that Chief Sanders be recognized as an expert in the
25 field of critical care and emergency medical treatment.

1 **THE COURT:** Any objections as to the qualifications
2 from the defendant McMillan?

3 **MR. MATHEWS:** No, Your Honor.

4 **THE COURT:** Any objections as to the qualifications
5 from the defendant Jakes?

6 **MR. BEACH:** None, Your Honor.

7 **THE COURT:** All right. Ladies and gentlemen of the
8 jury, you're about to hear the testimony of a witness who
9 claims to have special knowledge, skill, training,
10 education, or experience in the field of paramedic and
11 critical care treatment.

12 Normally, the law does not permit witnesses to get on
13 the witness stand and give opinions or testify to
14 conclusions. An exception to this rule is what we call an
15 expert exception. Experts are qualified by the Court are
16 permitted to give opinions to the matters in which they
17 claim to be so skilled and give a reason for their opinion.

18 In this case, the witness is qualified without
19 objection. You should consider the qualifications and the
20 credibility or believability of the expert, and the reasons
21 given for his or her opinion. You are not bound by any
22 expert opinion. You give it the weight, if any, to which
23 you deem it should be entitled. You may proceed, counsel,
24 without objection.

25 Q Mr. Sanders, were you working on the night of June 3rd,

1 2010?

2 A Yes, ma'am, I was.

3 Q And right about midnight, or perhaps shortly
4 thereafter, did you respond as part of your duties, to the
5 Colleton Medical Center?

6 A Yes, ma'am, we were paged to Colleton ER from Station
7 26.

8 Q Why were you paged?

9 A We were paged for an emergency transport for a victim
10 who had gunshot wounds.

11 Q Okay. And what happened when you got there?

12 A Our transport -- I'm sorry, our response to that
13 location is only a couple of minutes from the station. We
14 were told that a patient had been brought in with multiple
15 GSW's, or gunshot wounds. The patient had apparently only
16 been there several minutes prior to our arrival. When we
17 came in, I believe he was in room 16 in the ER and we walked
18 in to find the ER Physician, as well as the staff, treating
19 the patient.

20 Q And when did you become involved?

21 A Pretty much as soon as we came in. Normally, they
22 don't call us to transport until the patient is stabilized
23 or treatment is finished due to the critical nature of the
24 patient. And the call, we were called right away, as I
25 stated, and Dr. Ward asked us to assist in treatment and

1 preparing the patient for transport.

2 Q Were you able to firsthand view this individual's
3 wounds?

4 A Yes, ma'am, I was.

5 Q And could you describe the extent of those wounds?

6 A As I walked into the room, from the patient's feet
7 area, I noticed obvious deformity to the right leg, right
8 upper thigh area, which is the femur. I also noticed
9 deformity to the left arm, as well as a gunshot wound to the
10 right shoulder.

11 Q And when you say "deformities," what do you mean?

12 A Well, basically deformities is just that. When you're
13 dealing with long bones as we call them, being a femur or an
14 arm or what have you, everybody is pretty well adept at what
15 a normal bone should look like, so basically a deformity is
16 just that, the bone is lined up properly and is offset and
17 gives obvious deformity to the joint.

18 Q Okay. And you mentioned that they asked you to help
19 stabilize, get the patient ready for transport. What did
20 you do?

21 A I instructed my partner, as well as another crew, to go
22 get me a traction splint, as well as another splint used to
23 stabilize the arm. We started with the right femur traction
24 splint device that is attached to the ankle and it is put up
25 into the groin area or under the leg. It's used to pull

1 traction to realign the bones, stabilize it so that things
2 aren't moving around so much, basically.

3 Q You say "realigned", would that then indicate it to be
4 a break?

5 A Yes, ma'am, it would.

6 Q And were you able to determine exactly how severe the
7 break was in this case?

8 A The deformity in the leg, when you think about your
9 thigh, it's basically straight down, and the thigh bone, the
10 femur, is the largest bone in the body. It was broke to the
11 point where the leg was shifted out in the thigh region.

12 Q So a complete break?

13 A Yes, ma'am. It would appear.

14 Q Would that leg have been able to support weight?

15 A No, ma'am.

16 Q What about the injuries to the arm?

17 A The arm had, again, obvious deformity to the arm.
18 Again, this is one of the bones that stabilizes the arm and
19 the arm actually was shifted in several different positions
20 upon examination. At that point, again with that, we took a
21 splint to apply and try to stabilize that. We don't want
22 the bone fragments to do any further harm to the patient.
23 So we try to stabilize it the best we can.

24 Q So throughout your assistance in the ER and then the
25 subsequent transport, were you able to determine what had

1 caused those bones to break?

2 A We -- at the ER, the doctor had pointed out, and they
3 were visible, there were multiple entrance wounds. A couple
4 of them had exit wounds, but some just had entrance wounds
5 to the area.

6 Q Do you remember exactly how many GSW's this person had?

7 A There was an entrance wound to the right thigh, with no
8 exit wound. There was also a GSW to the right shoulder, and
9 I believe that had no exit wound. And then there was a
10 gunshot wound to the left arm, lower, then it exited higher,
11 so that had an entrance, as well as an exit wound.

12 Q Okay. Now, as a part of your internal protocol with
13 Colleton County Fire and Rescue, are you required to type up
14 a report and memorialize everything that you do?

15 A Yes, ma'am, we are, because of the different
16 procedures, as well as the drugs that we use to transport.

17 Q And as a part of that protocol, do you have to
18 determine the patient's name?

19 A Yes, ma'am, we do.

20 Q And were you able to determine a patient's name in this
21 case?

22 A Yes, ma'am. We were given a copy of a face sheet,
23 which had been filled out, which is one of the things that
24 we ask for during the transport. The receiving facilities,
25 for the most part, would like to know who that patient is

1 that we're bringing in, and they were able to supply us with
2 that information.

3 Q And what was the individual's name that you were
4 working on, on the night of June 3rd, the morning of June
5 4th?

6 A The individual's name that we were working on and
7 transported to MUSC would be David Jakes.

8 ASST. SOL. HASELDEN: Just a moment's indulgence, Your
9 Honor. I have no further questions for you at this time.
10 If you would answer anything that the defense attorneys
11 have, I'd appreciate it.

12 MR. SANDERS: Yes, ma'am.

13 THE COURT: Cross-examination by the defendant
14 McMillan?

15 MR. MATHEWS: No questions, Your Honor.

16 THE COURT: Cross-examination by the defendant Jakes?

17 MR. BEACH: None, Your Honor.

18 THE COURT: As to this witness, Solicitor?

19 ASST. SOL. HASELDEN: Ask that he be excused.

20 THE COURT: Any objection to this witness being excused
21 by the defendant McMillan?

22 MR. MATHEWS: No, Your Honor.

23 THE COURT: Any objection to this witness being excused
24 by the defendant Jakes?

25 MR. BEACH: No, Your Honor.

1 **THE COURT:** Mr. Sanders, you are excused and you may
2 step down. You may leave the courtroom.

3 (WITNESS LEAVES THE STAND AND EXITS THE COURTROOM.)

4 **THE COURT:** Call your next witness.

5 **ASST. SOL. SHELTON:** The State calls James Davis, Sr.

6 **THE COURT:** Come around and be sworn by the Clerk of
7 Court.

8 **MADAME CLERK:** Please come forward and put your left
9 hand on the Bible and raise your right hand.

10 WHEREUPON, MR. JAMES DAVIS, SR., IS DULY SWORN.

11 **THE COURT:** Watch those stairs. Have a seat for me.
12 Make yourself comfortable. Pull up that chair and adjust
13 that microphone. That microphone is going to amplify your
14 voice. I want you to speak into it and I want you to speak
15 up so everybody in the courtroom can hear you, particularly
16 members of the jury.

17 Please begin by stating your full name and spelling
18 your last name, including whether there is a Senior, Junior,
19 Third, or Fourth on your name, for the court reporter.

20 **MR. DAVIS:** I am James Allen Davis, last D-A-V-I-S.

21 **THE COURT:** Are you a Senior or Junior?

22 **MR. DAVIS:** No, sir.

23 **THE COURT:** Very well.

24 **ASST. SOL. SHELTON:** I apologize, Mr. Davis. I thought
25 your son was a Junior and I thought you were a Senior. My

1 mistake.

2 **DIRECT EXAMINATION**

3 **BY ASST. SOL. SHELTON:**

4 Q Do you have a son named James Davis?

5 A Yes, I do.

6 Q What's his nickname?

7 A Chippy.

8 Q Who gave him his nickname?

9 A His grandfather.

10 Q Do you remember June 3rd, 2010?

11 A Yes, sir.

12 Q You kind of grimaced there.

13 A Yeah, I remember it.

14 Q What were you doing during the afternoon of that day?

15 A We was cutting grass.

16 Q You say "we." Who's we?

17 A Me and my son and my wife. All of us was in the yard.

18 Both of my sons, Chippy, Sammy, my wife was out there, and

19 my mother was out there. All of us was out there together.

20 We was cutting grass, drank sodas, and that's it.

21 Q Do you work, Mr. Davis?

22 A I used to work at Eaton Aerospace for 10 years and I'm
23 on medical leave.

24 Q You're on medical leave, now?

25 A Yes, sir.

1 Q Going back to cutting grass; your son was cutting
2 grass, everybody was helping you cut grass. How long did
3 you cut grass for?

4 A We cut grass until about -- we finished up everything
5 about dusk/dark.

6 Q And this is June the 3rd. Do you have any idea about
7 what time that would have been?

8 A Ah, no, I know it was dusk/dark.

9 Q It was dusk/dark on June the 3rd?

10 A It was dusk/dark on June 3rd.

11 Q What do you remember doing next?

12 A Well, after I put the lawnmower up and everything, and
13 all of us went into the house and sit down.

14 Q You said "all of us"; who is all of us?

15 A Me, Chippy, Sammy, and my wife, and my mother.

16 Q Uh-huh (affirmative).

17 A And his girlfriend and my daughter, Tamara. All of us
18 went into the house, sit down. We got on the computer.

19 Well, Tamara was on the computer and Chippy and them, we was
20 on the chair, sitting down talking. And then, later on that
21 night, they left out the house and went back next door.

22 Q What's next door?

23 A Tamara's house, which is my daughter.

24 Q Uh-huh (affirmative). Is that James?

25 A Uh-huh (affirmative). James, and where James stays at,

1 also. James, his girlfriend, all of them went next door.
2 So then, after that, me and my wife and my son was in the
3 house, and shortly after that, you know, we went to bed. It
4 wasn't bed, bed. We done go and got ready to go to bed.

5 Q Yeah, went back to your bedroom and got ready to go to
6 bed?

7 A Right.

8 Q Do you remember -- you don't have to give us the exact
9 time, but do you have any idea what time you went to bed?
10 What time you fell asleep that night?

11 A I wasn't asleep, sleep, but it was -- it should have
12 been around, I don't know, right after midnight, or close.

13 Q Close to it?

14 A Yeah.

15 Q And James was with you at dusk/dark after you stopped
16 mowing the grass?

17 A Right.

18 Q And then went back to your house for a little bit.
19 Y'all sat down for a while, and then they left and that's
20 the last time you saw him on the 3rd, correct?

21 A Right.

22 Q When is the next time you saw James?

23 A Well, the next time I saw him, he come knocking on the
24 door, and about out of breath.

25 Q Where were you at the time?

1 A When he knocked? I was laying in the bed. So when he
2 knocked on the door, I say well, who that is to myself. And
3 I got up and went to the door and opened the door and I
4 wasn't sure who it was at first, and he stated his name, and
5 I opened the door and I said, "What wrong with you?" like
6 that.

7 Q Why did you ask him what's wrong with you?

8 A Because he was about out of breath.

9 Q About out of breath?

10 A Right. And so we came in and we paused a little bit,
11 and he start, you know, telling me something about him ---

12 **MR. MATHEWS:** Objection. Hearsay, Your Honor.

13 **THE COURT:** Sustained. Don't refer to what someone
14 else said unless I instruct you. Ask a question, counsel.

15 Q Please don't say anything that anybody else said. He
16 was out of breath?

17 A He was out of breath.

18 Q And what did you say to him?

19 A I ask him what wrong, like that. And he tell me what
20 was wrong. And he state that ---

21 **MR. MATHEWS:** Objection, Your Honor. Hearsay.

22 **THE COURT:** Sustained. Do not refer to what someone
23 else said. Only what you saw with your eyesight or your
24 sense of smell or you observed, and not what someone else
25 said. Counsel, ask a question.

1 ASST. SOL. SHELTON: Yes, sir, Your Honor.

2 THE COURT: Proceed.

3 Q Did you let him in the door?

4 A Yes, I did.

5 Q Were you happy with him? Upset with him? How did you
6 feel about him?

7 A I was kind of puzzled, you know, what was going on?
8 Because I felt like something was wrong, you know.

9 Q Uh-huh (affirmative). Now, don't talk about what he
10 said, but why did you feel like something was wrong?

11 A Because he was out of breath and I could look in his
12 eyes and he was scared, you know, like, scared. I know my
13 child, so I knew at that point, something was wrong.

14 Q Uh-huh (affirmative). Did you ask him what was wrong?

15 A Yes, I did.

16 Q Okay. Now, that night, were you able to talk to him
17 about it?

18 A Well, we paused a little bit, and well, he said
19 something that night. So then that was, you know.

20 Q Y'all went to bed?

21 A Yeah, I couldn't sleep, because -- I left him on the
22 couch. I couldn't sleep. I went in the bed, but I could
23 feel something was wrong, you know.

24 Q Uh-huh (affirmative). Were you able to talk to him
25 the next day?

1 A Yes, I did.

2 Q Don't talk about the substance of what he talked about,
3 but did you talk about -- were you able to find -- did he
4 tell you more about what happened the day before?

5 A Yes, he did.

6 Q At that point, what did you do?

7 A All right. He told me what was going on. I asked him,
8 "Man, what's going on?" and he told me what was going on.
9 Him, Rat, and David ---

10 MR. MATHEWS: Objection, Your Honor. He's doing it
11 again.

12 THE COURT: Solicitor, you're going to have to direct
13 your questions so the witness does not believe you're
14 eliciting statements from another person that they said.
15 The objection is sustained and I expect you to ask a
16 question that does not elicit hearsay.

17 ASST. SOL. SHELTON: Thank you, Your Honor.

18 THE COURT: Proceed.

19 Q What did you do that morning?

20 A That morning, I got up and went back to him and we
21 start talking.

22 Q Okay. Then, after that, did you call anyone after you
23 talked to him?

24 A After I talked to him, I called Ms. Lynah.

25 Q Ms. Lynah?

1 A Right.

2 Q Who is Ms. Lynah?

3 A Ms. Lynah is a cousin of my wife. She works on the
4 police force.

5 Q Okay. Were you able to get in touch with her?

6 A Yes, I got in touch with her.

7 Q Don't -- and did you try to get in touch with anybody
8 else?

9 A Yes, I tried to get in touch with Allen.

10 Q Who is Allen?

11 A Allen, he is on the police force.

12 Q He's on the police force. Were you able to get in
13 touch with him?

14 A No, I wasn't able to get in touch with him.

15 Q Later that night, did you try to contact anybody else?

16 A Well, after everything was going on, and all the
17 commotion, I say, well, you know, see what's going on. Then
18 we wait and then the police came to us.

19 Q Uh-huh (affirmative). When the police came to you, did
20 they arrest your son?

21 A No, they didn't.

22 Q Did -- how did -- did you leave with the police on your
23 own accord?

24 A Yes, I did.

25 Q Did your son ride with the police or did he ride with

1 you?

2 A He ride with me and my wife.

3 Q Where did y'all go?

4 A To the sheriff's office.

5 Q When you got to the sheriff's office, did they put
6 handcuffs on him?

7 A No, sir.

8 Q What did they do?

9 A They were asking -- you know, we went in the room, they
10 were asking what was going on? So I already know what he
11 told me and my wife, so I tell him to tell the truth.

12 Q At first, was he telling the -- were you in the room
13 with him when they were initially asking him questions?

14 A Right.

15 Q Was he telling the truth then?

16 A Yes.

17 Q When they first started asking him questions, was he
18 telling the truth?

19 A Yes, sir.

20 Q He was telling the truth?

21 A When we were in the room, I want to say -- I forgot who
22 was in there with us. And they were asking him, you know,
23 what happened. And he still wouldn't say nothing. I tell
24 him, say, man, me and my wife ---

25 Q Then, after that, did the police leave the room?

- 1 A When we were telling him to tell the truth?
- 2 Q Uh-huh (affirmative).
- 3 A Yeah, they gave us a moment together, you know. Told
- 4 us to talk.
- 5 Q At that point, had you contacted Margie Bright
- 6 Matthews?
- 7 A No, I haven't.
- 8 Q Are you the one who ended up hiring Margie Bright
- 9 Matthews?
- 10 A Partly.
- 11 Q Partly?
- 12 A Yeah.
- 13 Q But she represents your son, right?
- 14 A Right.
- 15 Q At that point, though, you hadn't gotten in touch with
- 16 her, had you?
- 17 A No, I didn't.
- 18 Q While you were in the room with your son, did you ever
- 19 -- was Ms. Matthews there?
- 20 A No, she didn't.
- 21 Q Was your son talking to the police?
- 22 A Yes.
- 23 Q And after you told him to tell the truth, did he
- 24 continue to talk to the police?
- 25 A Yes.

1 Q But that night, June the 4th, the night after it
2 happened, you hadn't retained Margie Bright Matthews as an
3 attorney?

4 A No.

5 Q He didn't have an attorney at that time, did he?

6 A No.

7 Q When he was in that interview room, did he have cuffs
8 on him?

9 A No.

10 Q Were y'all restrained in any way?

11 A No.

12 Q Could you have left if you had wanted to?

13 A Yes.

14 Q Do you believe your son could have left if he wanted to
15 at that time?

16 A Yes.

17 Q That's all the questions I have for you, Mr. Davis.
18 Please answer any questions that Mr. Beach or Mr. Mathews
19 may have for you.

20 MR. MATHEWS: No questions, Your Honor.

21 THE COURT: Very well. Cross-examination by the
22 defendant Jakes?

23 MR. BEACH: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. BEACH:

1 Q Mr. Davis, you say you felt like he could have left the
2 room at any time?

3 A Yes.

4 Q Did he ever ask to leave the room?

5 A Well, not in initial way. We were just talking. I
6 mean, you know, I instruct him to stay in there until he
7 tell the truth.

8 Q When did they put the handcuffs on him?

9 A Afterwards. We ain't never seen them put the handcuffs
10 on him. When he start telling the truth, we just left.

11 Q Did he go home with you that day?

12 A No.

13 Q He was detained, was he not?

14 A Well, not in my presence.

15 Q He was arrested that day; isn't that correct?

16 A Well, we drove him down there and he was in the office
17 talking to them, but I never did see them put handcuffs on
18 him.

19 Q But he didn't go home after that?

20 A No, sir.

21 Q And he went to jail?

22 A I assume.

23 Q After y'all had talked?

24 A Yes, sir.

25 Q And this is when he supposedly made his truthful

- 1 statement; this was after this, correct?
- 2 A Repeat that.
- 3 Q After he made what was supposedly his truthful
4 statement, they arrested him?
- 5 A Well, after he made a statement, we left. I mean, we
6 instructed him to tell the truth, so while he was telling
7 the truth, we left. We left out the room.
- 8 Q Was your son arrested or was he not arrested?
- 9 A He wasn't arrested in my presence, because we left him
10 in the room telling the truth, because I didn't want to
11 intimidate him in no way and I didn't want the officer to
12 think I'm trying to tell him something, so we left out the
13 room while he was telling them the truth.
- 14 Q Were charges brought against him?
- 15 A Yes, sir.
- 16 Q Are they still pending?
- 17 A Yes, sir.
- 18 Q So they didn't believe him, did they?
- 19 A I don't know.
- 20 Q Did he tell them that he didn't have anything to do
21 with the ---
- 22 A No, sir.
- 23 Q Okay. But they still arrested him?
- 24 A Yes.
- 25 Q Did you have anything to do with the plea bargain that

1 Ms. Mathews had with the State?

2 A No, sir.

3 Q You don't know anything about that?

4 A Well, I know about it, but I wasn't in the room when
5 they was talking, discussing it.

6 Q But charges are still pending against him; is that
7 correct?

8 A Yes, sir.

9 MR. BEACH: No other questions, Your Honor.

10 THE COURT: Redirect?

11 ASST. SOL. SHELTON: None for this witness, Your Honor.
12 Thank you.

13 THE COURT: As to this witness, Solicitor?

14 ASST. SOL. SHELTON: We ask that he also may remain as
15 a possible rebuttal witness, Your Honor.

16 THE COURT: Have you advised him concerning my order?

17 ASST. SOL. SHELTON: Yes, sir, Your Honor.

18 THE COURT: All right. Mr. Davis, I'm going to ask you
19 to step down and remain in the area in which you were
20 requested to remain prior to testifying, subject to my prior
21 order. Thank you. You may step down from the witness
22 stand.

23 Call your next witness.

24 ASST. SOL. SHELTON: The State calls Tony Buchanan.

25 MADAME CLERK: Please come forward to be sworn. Place

1 your left hand on the Bible and raise your right.

2 WHEREUPON, ANTHONY BUCHANAN, IS DULY SWORN.

3 **THE COURT:** You know what to do. State your full name
4 and spell your last name for the court reporter, please.

5 **MR. BUCHANAN:** Anthony Buchanan, B-U-C-H-A-N-A-N.

6 **DIRECT EXAMINATION**

7 **BY ASST. SOL. SHELTON:**

8 Q Thank you, Mr. Buchanan... How are you today?

9 A Good. How are you doing, sir?

10 Q People call you Tony sometimes?

11 A Yes.

12 Q I apologize. I called your name out as Tony instead of
13 Anthony.

14 A That's fine.

15 Q Where do work now?

16 A Ridgeland Police Department.

17 Q What do you do there?

18 A I'm a patrol officer.

19 Q And where did you used to work before you worked for
20 Ridgeland?

21 A Colleton County Sheriff's Office.

22 Q What were you there?

23 A I was a supervisor over the traffic team.

24 Q Were you working on the night of June the 3rd into June
25 the 4th 2010?

1 A I was.

2 Q Did you have any calls to respond to McLeod Road that
3 night?

4 A I did.

5 Q Can you tell us briefly what was that call about?

6 A We got a call about a possible robbery, shots fired, at
7 McLeod and I-95. I was out with the crime suppression unit
8 that night. We got to the scene.

9 Q When you got to the scene, were there any other
10 officers there?

11 A No.

12 Q You were the first on scene?

13 A Yes.

14 Q When you got to the scene and drove up, which way did
15 you come? Did you come off of 95 or did you come on McLeod?
16 Which way -- how did you get there?

17 A I come down Jefferies Highway to McLeod and made a left
18 on McLeod.

19 Q Okay. So you came then -- so as you're coming in, when
20 you saw the scene, were the cars parked on the right or the
21 left?

22 A On the right.

23 Q When you drove in, the cars were parked on the right,
24 can you describe to the jury what you saw?

25 A Okay. I seen two pickup trucks, and there was a

1 trailer, like a U-Haul trailer. Since there was a weapon
2 involved, we had shots fired, I got out of the vehicle. I
3 seen a male behind the trailer. He had two handguns. I drew
4 my weapon, advised him to put the guns on the ground, put
5 the guns on the ground." He laid the guns down. Then I
6 noticed two females. and I started talking to the male and
7 he started explaining what happened.

8 Q You said it was the intersection of McLeod and ---

9 A I-95.

10 Q Is that in Colleton County?

11 A It is.

12 Q Now, when you saw the scene, and you saw the guy, did
13 you ahve a chance to kind of -- what's the next thing you
14 did after they -- they related to you what happened. What's
15 the next thing you did?

16 A As I was exiting the vehicle, I seen a gun on the
17 ground, probably about 25 yards away from where the victim
18 was, where he had put the guns down. Once we had determined
19 what had happened, we immediately started putting up crime
20 scene tape to go ahead and mark the crime scene off.

21 Q Why did you do that?

22 A So we could collect all the evidence and nobody could
23 go over the top of it and ruin our scene.

24 Q Did you disturb anything that was there?

25 A No.

1 Q What did you see on the ground?

2 A I seen a large pistol laying on the ground, once I
3 first exited the vehicle, and then as I went, I could see
4 some shell casings laying on the road, and also seen bullet
5 holes in the side of the truck.

6 Q So did you make sure that no one else touched anything?

7 A Yes.

8 Q What else did you do on scene?

9 A I had the two females and the male stay in one little
10 area, so we could talk to them and so they wouldn't mess up
11 anything. Once Det. Scott got there, I assisted Det. Scott
12 in putting placards down and also helping him with taking
13 his photos of the crime scene.

14 Q The victims related to you what happened? Their
15 account?

16 A Yes.

17 Q Did that help you determine on what to do with the
18 crime scene, as far as how to handle the crime scene?

19 A Yes, it did. I asked where the vehicle was and we had
20 a pretty good, probably, I don't know, a hundred yards
21 blocked off.

22 **ASST. SOL. SHELTON:** Beg the Court's indulgence.

23 **THE COURT:** Yes, sir.

24 Q So what's your rank in Ridgeland, now?

25 A I'm just a patrolman.

1 Q Patrolman? I'm going to refer to State's Exhibit
2 Number Six. I'd like for you to review it and tell me what
3 that is and if you recognize it.
4 A I do. That's me holding a flashlight over -- it's
5 either a shell casing; that's the same area that the weapon
6 is laying, that Sgt. Scott asked to hold so he could get a
7 picture of it.
8 Q Who took that picture?
9 A Sgt. Scott.
10 Q Where was Sgt. Scott standing when he took that
11 picture?
12 A He was probably about 25 yards away from me. He was
13 over where the trailer and the two pickup trucks were.
14 Q Was he standing between the trailer and pick up trucks;
15 do you remember?
16 A No, he was standing out beside the trailer.
17 Q Right beside the trailer in front of the trailer or the
18 back of the trailer?
19 A The side of the trailer.
20 Q On the side of the front or the side of the back or
21 right in the middle?
22 A Kind of in the middle. I mean, he was just standing
23 out.
24 Q Okay. That's a fair and accurate depiction of the way
25 you remember the scene being that night?

1 A Yes, it is.

2 ASST. SOL. SHELTON: Your Honor, at this time, the
3 State moves State's Exhibit Number Six into evidence.

4 THE COURT: Any objection as to State's Six, from the
5 defendant McMillan?

6 MR. MATHEWS: No, Your Honor.

7 THE COURT: Any objection as to State's Exhibit Number
8 Six from the defendant Jakes?

9 MR. BEACH: No, Your Honor.

10 THE COURT: Ladies and gentlemen of the jury, State's
11 exhibit Number Six will be admitted into evidence in the
12 trial of this case.

13 (STATE EXHIBIT NUMBER SIX, PHOTO, IS RECEIVED INTO
14 EVIDENCE.)

15 THE COURT: You may publish State Exhibit Six to the
16 jury.

17 ASST. SOL. SHELTON: Thank you, Your Honor.

18 Q You said there was a large gun on the ground?

19 A Yes.

20 Q Did you -- were you able -- did you manipulate or touch
21 the gun at all?

22 A No, I did not.

23 Q Did you visually observe the gun?

24 A Yes, I did.

25 Q Did you determine what type of gun it was?

1 A It was a large caliber weapon.

2 Q What color was it?

3 A Black.

4 Q You said you spoke with two women?

5 A Yes.

6 Q Two women were there and one guy was there?

7 A yes.

8 Q Do you recognize those people in the courtroom today?

9 A Yes, they are sitting on the first row right there
10 behind the Solicitor.

11 **ASST. SOL. SHELTON:** Let the record reflect that that
12 witness is referencing Ms. Jeanine Metzfield, Ms. Amanda
13 Metzfield, and Mr. Jesse King.

14 Q Now, how long did you stay, approximately, at the
15 scene, at the original incident scene?

16 A I was probably there 45 minutes.

17 Q You obviously saw Det. Scott there, because he took
18 that picture; is that correct?

19 A Yes.

20 Q How long were you there before he arrived there?

21 A Fifteen minutes, twenty minutes.

22 Q Okay. Where did you go from there?

23 A We had a fight call over at one of the local clubs on
24 Highway 15. Det. Scott and Sgt. Dunn had the scene taken
25 care of, so we responded to the fight call over on Hwy. 15.

1 Q And then, where did you go?

2 A Once we left the fight call, we rode up to the hospital
3 to see how things were going at the hospital.

4 Q Why did you go to the hospital?

5 A Well, we knew that there was a crowd up there. We had
6 other officers going, we could hear them on the radio that
7 said there was a crowd up there, so we thought we could give
8 them some assistance. So we rode up to the hospital.

9 Q At the hospital, did you talk to people?

10 A I did.

11 Q Through those conversations, were you able to ascertain
12 any kind of tip of where the car involved in the shooting
13 might be?

14 A I was.

15 Q Where was that?

16 A We were advised that the car that was involved in teh
17 crime was on Clatty Farm Road in Colleton County.

18 Q In Colleton County. Did you respond to that location?

19 A I did.

20 Q When you got there, what did you find?

21 A We found a white car that had blood on the side of it.
22 I think it was a Cadillac that had blood and everything on
23 the right hand side of it. It had a ---

24 Q Was it a two door or a four door?

25 A It was a four door -- four door, white Cadillac. Once

1 we found out what we had, we went ahead and called for the
2 wrecker to come and get it and notified the detective
3 division of what we had.

4 Q How long were you there for?

5 A Twenty or twenty-five minutes.

6 Q What time were you there?

7 A It was at night. It was probably 1:00 or 2:00 in the
8 morning. I'm not sure.

9 Q Okay. While you were there, you saw a Cadillac, there
10 was blood on it. Did you touch that Cadillac?

11 A No.

12 Q What did y'all do with the -- who else was there with
13 you, first?

14 A Myself, Thomas Walker, Major Middleton, and I'm not
15 sure who the other officer was.

16 Q What did you do once you saw the blood on that car?
17 What did y'all do with the car?

18 A First, I talked to the owner of the house and advised
19 him that, you know, that the vehicle had been used in a
20 crime, and if I could, come in and check their house and
21 make sure everything was okay. The lady of the house said
22 it was her vehicle. I advised her that we would be taking
23 the vehicle and she gave me the okay to take the vehicle.

24 Q Did you visually inspect the vehicle, first?

25 A Yes. From the outside, you can see some -- you could

1 see a shell casing on the inside. We didn't get into the
2 vehicle too much, because like I say, it was a crime scene.

3 Q What did you do with the vehicle?

4 A We called a tow truck and had the vehicle towed to our
5 Sherriff's department Annex, where the criminal detective
6 division is.

7 Q When the tow truck driver was handling the vehicle, did
8 you tell him to do anything?

9 A I advised the tow truck driver to put his set of gloves
10 on so he didn't mess with any evidence that was left on the
11 vehicle.

12 Q Now, once the tow truck driver hooked up the vehicle,
13 did you follow the tow truck driver back? Where was he
14 taking it? Where did you instruct him to take it?

15 A Well, we followed him back up Bells Highway to -- I
16 mean, excuse me, up Mt Carmel to Bells Highway to the -- to
17 the CID Headquarters, which is ---

18 Q What is CID? I'm sorry.

19 A Criminal Investigative Division. We followed him to
20 there and the gate was open and he put it inside and closed
21 the gate.

22 ASST. SOL. SHELTON: May I approach, Your Honor?

23 THE COURT: You may.

24 Q Patrolman Buchanan, I'm going to ask you if you
25 recognize what's in that picture?

1 A Yeah, that's the Cadillac.

2 Q You said ---

3 THE COURT: Identify the exhibit number of that.

4 ASST. SOL. SHELTON: Excuse me, Your Honor. I
5 apologize. I believe it's Exhibit Number Seven.

6 Q That's previously been marked as State's Exhibit Number
7 Seven. It's not in evidence. It's for identification
8 purposes only. You say that's a Cadillac. What Cadillac?

9 A That's the Cadillac that we towed off of Clatty Farm
10 that night.

11 Q Is that a fair and accurate depiction of that Cadillac?

12 A Yes, it is.

13 ASST. SOL. SHELTON: At this time, State moves State
14 Exhibit Number Seven into evidence.

15 THE COURT: Any objection as to State's Seven, from the
16 defendant McMillan?

17 MR. MATHEWS: No, Your Honor.

18 THE COURT: From the defendant Jakes?

19 MR. BEACH: No, Your Honor.

20 THE COURT: Ladies and gentlemen of the jury, State's
21 Exhibit Number Seven will be admitted into evidence in the
22 trial of this case, without objection. State's Seven in
23 evidence. You may publish.

24 (STATE EXHIBIT NUMBER SEVEN, PHOTO, IS RECEIVED INTO
25 EVIDENCE.)

1 **ASST. SOL. SHELTON:** Thank you, Your Honor.

2 Q Do you know the actual address at Clatty Farm Road?

3 A No, I don't.

4 Q Is there anything that might help refresh your
5 recollection?

6 A My report.

7 **THE COURT:** You may approach. Show it to counsel.

8 **ASST. SOL. SHELTON:** Thank you, Your Honor.

9 Q Do you recognize that?

10 A Yes.

11 Q What is it?

12 A This is my incident report that I made.

13 Q Take some time to look over it until it refreshes your
14 recollection.

15 A Okay, [REDACTED].

16 Q This refreshes your recollection?

17 A Yes.

18 Q And you're certain that that is the address?

19 A Yes, I am.

20 Q Thank you.

21 **ASST. SOL. SHELTON:** May I approach, Your Honor?

22 **THE COURT:** You may.

23 Q I'm handing you what has previously been marked as
24 State's Exhibit Number Five, for identification purposes
25 only. Will you please review that and let me know what that

1 is.

2 A That's the residence that sits at [REDACTED]

3 [REDACTED].

4 Q Is that daytime or nighttime?

5 A That's daytime.

6 Q When you were there that night, was that nighttime?

7 A Yes, it was.

8 Q But is that otherwise a true and accurate depiction of
9 what that house looks like?

10 A Yes, it is.

11 **ASST. SOL. SHELTON:** At this time, Your Honor, the
12 State moves State Exhibit Number Five into evidence.

13 **THE COURT:** Any objection as to State's Five, defendant
14 McMillan?

15 **MR. MATHEWS:** No, sir.

16 **THE COURT:** From the defendant Jakes?

17 **MR. BEACH:** No, sir.

18 **THE COURT:** Ladies and gentlemen of the jury, State's
19 Exhibit Number Five will be admitted into evidence in the
20 trial of this case without objection. State's Five in
21 evidence.

22 (STATE EXHIBIT NUMBER FIVE, PHOTO, IS RECEIVED INTO
23 EVIDENCE.)

24 **THE COURT:** You may publish. Proceed.

25 **ASST. SOL. SHELTON:** Thank you, Your Honor. Beg the

1 Court's indulgence.

2 (BRIEF PAUSE IN COURTROOM.)

3 **ASST. SOL. SHELTON:** No more questions for this
4 witness, Your Honor. Thank you very much. I'd ask that you
5 answer any questions that Mr. Beach or Mr. Mathews may have.

6 **THE COURT:** Cross-examination, by the defendant
7 McMillan.

8 **MR. MATHEWS:** Nothing, Your Honor.

9 **THE COURT:** Very well. Cross-examination, by the
10 defendant Jakes.

11 **MR. BEACH:** Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. BEACH:**

14 Q When you arrived at the scene, you say you saw a gun on
15 the ground?

16 A Yes, sir.

17 Q Did you retrieve that gun or did somebody else do it?

18 A I did not retrieve it. Somebody else retrieved it.

19 Q And you say there were some shell casings over on that
20 side of the road?

21 A Yes, sir, there was.

22 Q You recall how many there were?

23 A No, sir, I do not.

24 Q Did you retrieve those shell casings?

25 A No, sir, I did not.

1 Q Do you have any information as to what caliber they
2 were?

3 A No, sir. I do not.

4 MR. BEACH: I have no other questions, Your Honor.

5 THE COURT: Redirect examination?

6 ASST. SOL. SHELTON: No, Your Honor.

7 THE COURT: As to this witness?

8 ASST. SOL. SHELTON: Ask that he may be excused for the
9 remainder of the case.

10 THE COURT: Any objection to this witness being excused
11 from the defendant McMillan?

12 MR. MATHEWS: No, sir.

13 THE COURT: From the counsel for defendant Jakes?

14 MR. BEACH: No, sir.

15 THE COURT: Tony, you may step down and you're excused
16 from the trial of the case. You may leave the courtroom.
17 Counsel approach.

18 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
19 AND OUT OF THE HEARING OF THE JURY.)

20 THE COURT: Call your last witness for the day,
21 Solicitor.

22 ASST. SOL. SHELTON: The State calls Thomas Walker. If
23 I may approach, Your Honor.

24 THE COURT: You may. Counsel approach.

25 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD

1 AND OUT OF THE HEARING OF THE JURY.)

2 **THE COURT:** Madame Foreperson, and ladies and gentlemen
3 of the jury, we're going to stop at this point for the
4 evening. Now, ladies and gentlemen, I anticipate that we're
5 going to finish this trial. I'm not sure exactly when, it
6 may be tomorrow, it may be first thing Thursday morning, but
7 not later than that, so that you can kind of plan your week
8 and you know the best information that I have available.

9 As I instructed you last night, please do not discuss
10 this case, not even with a member of your own family, with
11 anyone else or with each other. You have not heard all the
12 evidence in this case and it would be improper for you to
13 discuss it with anyone. If someone tries to discuss it with
14 you, just tell them the judge has instructed you not to talk
15 about it, and if they persist, get their names, give it to
16 me, and let me handle that for you. I'll take care of it.

17 Now, over the overnight recess, please don't watch
18 anything on television, read anything in the newspaper, or
19 listen to anything on the radio. You must decide this case
20 solely upon evidence introduced in this courtroom when both
21 sides are present with the right of cross-examination.

22 Now, ladies and gentlemen, I'm going to ask you to be
23 in your jury room before 9:30 in the morning. I'm going to
24 try to start as close to 9:30 as I possibly can, but things
25 happen sometimes that I have to take care of first thing in

1 the morning. They build up overnight and we have to deal
2 with them. As soon as I can start at 9:30, I will. But I
3 can't start at 9:30 unless all of you are present in your
4 jury room at 9:30. I'll have something for you to drink, a
5 snack in there. I know Bill is taking good care of you in
6 there. So please feel free to come prior to 9:30 and we
7 will get started just as soon as we can.

8 Hope everybody has a pleasant evening. I will see you
9 in the morning. You may leave the courtroom at this time.
10 Everyone else remain seated while the jury is leaving.

11 (5:20 P.M., 8-30-11, WHEREUPON THE JURY EXITS THE
12 COURTROOM AND THE COURT IS IN RECESS IN THE TRIAL OF THIS
13 CASE UNTIL THE NEXT MORNING.)

14 **THE COURT:** The State still has 25 witness on their
15 witness list. The State has put up nine witnesses; we were
16 not able to get to the 10th witness because he had a child
17 to pick up from school, so Mr. Walker was not able to
18 testify this afternoon. The State plans on calling several
19 more witnesses. The defendant McMillan listed seven
20 witnesses, or six; and the defendant Jakes has listed one.
21 So we have a ways to go.

22 I certainly would like to try to complete the testimony
23 tomorrow, if possible. That does not mean we're going to go
24 into argument and charge tomorrow, so that I'd have time to
25 have a charge conference with you tomorrow and we could do

1 arguing and charge first thing on Thursday morning. We hope
2 we can get a verdict in time that we can make the
3 investiture of Judge Malphrus for those of you that want to
4 attend at 5:00 in Ridgeland on Thursday afternoon. That
5 obviously affects your planning, Solicitor, when you tell
6 everybody to be here at 2:00, and you were aware of it, too;
7 I hope.

8 Now, before we adjourn for the evening, is there
9 anything on the record, outside the presence of the jury,
10 from the State of South Carolina?

11 **ASST. SOL. HASELDEN:** Nothing, Your Honor.

12 **THE COURT:** From the defendant McMillan?

13 **MR. MATHEWS:** No, sir.

14 **THE COURT:** From the defendant Jakes?

15 **MR. BEACH:** No, sir.

16 **THE COURT:** All right, then, Mr. Shelton -- the Clerk
17 wants to know what to put on the tape tonight. Counsel
18 approach.

19 **THE COURT:** This Court is in recess until in the
20 morning.

21 (WHEREUPON, COURT IS RECESSED FOR THE EVENING IN THIS
22 CASE.)

23 (9:15 A.M., 8-31-11, WHEREUPON THE TRIAL IN THIS CASE
24 IS RECONVENED)

25 **THE COURT:** I had a meeting this morning with counsel

1 concerning the verdict form and the charge, which we've been
2 meeting on since 9:15. Mr. Beach has informed me that he
3 has been subpoenaed by the South Carolina Attorney General's
4 Office to be in Beaufort tomorrow for PCR's. I anticipated
5 this conflict, and I informed Matt Friedman, who is handling
6 PCR's for the State of South Carolina that Mr. Beach will be
7 in General Sessions. We were going to have it here, but
8 because the Family Courtroom is in use here, there was no
9 courtroom to have it here. That's why they had to move it
10 back to Beaufort.

11 Now, they expect Mr. Beach to be in Beaufort at the
12 same time that he's involved in the trial in Colleton. Mr.
13 Beach has made an oral motion in front of me to quash that
14 subpoena. I'm going to have my law clerk, Hope Lumpkin,
15 notify Matt Friedman, with the Attorney General's Office,
16 that the motion has been made, and if he would like to
17 appear and contest it, I will hold a hearing on that motion
18 before the end of business today and he will need to leave
19 Beaufort and come here.

20 I am not going to put Mr. Beach in the position that he
21 is required by subpoena to be in Beaufort tomorrow, when
22 he's actually involved in General Sessions Court in
23 Colleton, and General Sessions takes priority over Common
24 Pleas, which of course, includes PCR matters. So for those
25 of you with the State who are in contact with the Attorney

1 General's Office, please see that the message gets
2 delivered.

3 Hope is going to contact Matt, but since y'all have
4 communication with them, he knew and I knew that this was
5 going to happen; we just didn't know the trial was going to
6 probably last into Thursday, and from what I've learned from
7 the lawyers this morning, it appears that this case probably
8 will not go to the jury before tomorrow; and for that reason
9 there's also no way I'm allowing Mr. Beach to leave and
10 comply with a subpoena for PCR when he's started a trial in
11 General Sessions in Colleton County. Mr. Beach, you leave
12 that to me. You've done all you can do, now; I'll take it
13 from here. Thank you for bringing that to my attention.

14 **MR. BEACH:** Thank you, Sir.

15 **THE COURT:** All right. I understand from the attorneys
16 now that when the jury comes back, they wish, first, to
17 publish a stipulation, a lengthy one that they've entered
18 into. I will charge the jury what a stipulation is before
19 you publish it. Who is going to publish for the State?

20 **ASST. SOL. SHELTON:** (RAISES HAND.)

21 **THE COURT:** Mr. Shelton; all right. Then, I'll ask in
22 turn after you publish, counsel for Mr. McMillan and counsel
23 for Mr. Jakes if you're in agreement with the stipulation so
24 the jury understands exactly what the agreement is.

25 Let the record reflect that Mr. Shelton found an error

1 in my verdict form this morning on assault and battery of a
2 high and aggravated nature. We're all in agreement as to
3 the lesser included offense that was requested by Mr. Beach
4 and Mr. Mathews of assault and battery in the first degree.

5 The verdict form is very lengthy, but counsel and I
6 have discussed trying to shorten it, because it's five
7 pages; but because of the lesser included offenses and
8 because of the fact that you can't find a person guilty of
9 possession of a weapon during the commission of a violent
10 crime, unless you find them guilty of a violent crime,
11 because of the fact that both sides, the State and the
12 defendants want the lesser included offense to attempted
13 murder for assault and battery in the first degree charged,
14 and because there are 15 indictments in this case and we
15 have to have a verdict form for each indictment and lesser
16 included offense, the verdict form has swollen to five
17 pages.

18 Counsel has been over it. They found an error in it
19 this morning. We're in the process of correcting it, and
20 I'll be showing a final verdict form to counsel before we
21 conclude the trial. Yes, sir?

22 **ASST. SOL. SHELTON:** May it please the Court? For the
23 lesser included offense of assault and battery in the first
24 degree, just to clarify the State's position, it is if the
25 facts constitute a lesser included offense, we would like it

1 to be considered as a lesser included offense for the
2 record. If they do not constitute a lesser included
3 offense, of course, we would like to get it straight up and
4 down on attempted murder, just to clarify.

5 **THE COURT:** I understand that that is the law, Mr.
6 Shelton. The issue is more than just about the facts. The
7 issue is the title of the statute and the verbs used in the
8 statute as to whether or not the -- and you opine to me in a
9 motion that you made last night, that I made you stay here
10 until after 7:00 last night to complete and give to me and
11 the other side, that you believe I am, depending on the
12 evidence of the case, free to charge assault and battery in
13 the first degree as a lesser included offense to attempted
14 murder, even if there is no proof of what has been
15 traditionally considered a battery; is that correct?

16 **ASST. SOL. SHELTON:** That is correct, Your Honor.

17 **THE COURT:** All right. With that caveat, I think we're
18 in agreement now as to what occurred in chambers. All
19 right. We're going to work until 1:00, lunch at 1:00; going
20 to take one mid-morning break, but we need to get to work.

21 Anything further from the State before I bring in the
22 jury?

23 **ASST. SOL. SHELTON:** No, sir, Your Honor.

24 **THE COURT:** Anything further from defendant McMillan
25 before I bring in the jury?

1 **MR. MATHEWS:** No, Your Honor.

2 **THE COURT:** Anything further from defendant Jakes,
3 before I bring in the jury?

4 **MR. BEACH:** Nothing, Your Honor.

5 **THE COURT:** Bring us the jury, please.

6 (9:45 A.M., 8-31-11, WHEREUPON THE JURY ENTERS THE
7 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

8 **THE COURT:** Good morning. All right. Good morning,
9 Madame Foreperson, ladies and gentlemen of the jury. Thank
10 you for being on time. As we did yesterday morning, we
11 started work before you got here and all kinds of things
12 come up, ladies and gentlemen. I'll give you an example of
13 one of the things that held me up this morning, so you'll
14 know.

15 Lawyers have obviously more work than just this one
16 case, and one of my lawyers involved in the case we're
17 trying has been subpoenaed for another trial tomorrow in
18 Beaufort, so I have to deal with that. That happens
19 sometimes because Court is going on simultaneously in every
20 county in the State and as a balance of process. But
21 General Sessions Court has priority over the type of trial
22 that the lawyer was subpoenaed for, so I don't anticipate
23 that will be a problem, so I want to thank you for your
24 patience.

25 We're going to continue with the testimony now in the

1 trial of this case. Each of you have filled out menu now,
2 right? We're going to stop for lunch around 1:00 today.

3 Now, ladies and gentlemen, before we continue, I've
4 told you at the outset of this case that evidence may take
5 many forms. I told you it may be testimony from the witness
6 stand, it might be an exhibit, you will hear me say as for
7 any exhibit "It's in evidence," and I told you it might take
8 the form of a stipulation, an agreement.

9 A stipulation is an agreement. It is an admission. I
10 told you, or a concession is made in open court in a
11 judicial proceeding by the parties involved, or their
12 attorney's can make it for the parties. And, of course,
13 stipulations are binding on the parties who make the
14 stipulations.

15 A stipulation is an understanding, or an agreement, and
16 the Court, myself and the jury, must accept any stipulations
17 as binding upon the parties. If counsel for the parties
18 stipulate to any fact in this case, and of course, that
19 shortens the time when they do that. So they work hard to
20 try to do that because their mindful of your time.

21 And if counsel for the parties have stipulated to any
22 fact, or any fact has been admitted, you'll regard that fact
23 as being conclusively proved as to the party, or parties,
24 making the stipulation or the admission.

25 At this time, I'm advised by the counsel that they wish

1 to publish a stipulation to you. So I ask that you listen
2 carefully to the attorneys. They'll publish it and then
3 I'll inquire of each one and they'll acknowledge to you
4 whether or not they agree to what was published as a
5 stipulation. You will then accept what is stipulated to as
6 a fact that would not need to be proved in the trial of this
7 case. Thank you. Counsel.

8 **ASST. SOL. SHELTON:** Thank you, Your Honor. May it
9 please the Court. Madame Court Reporter, I hold in my hand
10 Court's Exhibit Number Twelve, the caption, County of
11 Colleton, the State of South Carolina v. Antwan McMillan,
12 and to publish for the record:

13 The State and defendant, through his attorney, Mr.
14 David Mathews, Esquire, stipulate by agreement and assent to
15 the following matters in the above captioned case. I'm also
16 holding in my hand, Exhibit Number Thirteen, caption, the
17 State of South Carolina v. David Jakes, the first sentence
18 of this states that the State and the defendant through his
19 attorney Mr. Beach, Esquire, stipulate by agreement and
20 assent to the following matters of the above captioned case
21 for the purposes of judicial economy, I request to the
22 Court, since these are duplicate copies that I only read one
23 for the record.

24 **THE COURT:** Very Well.

25 **ASST. SOL. SHELTON:** Thank you, Your Honor. The chain

1 you published the list of stipulations as to the defendant
2 McMillan, but you have an additional list that you didn't
3 publish that is identical to the one you did publish, that's
4 why you have Court's Exhibit Twelve and Thirteen, as to Mr.
5 Jakes?

6 **ASST. SOL. SHELTON:** Correct, Your Honor.

7 **THE COURT:** Very Well. Thank you. I ask now, counsel
8 for Mr. McMillan, has the State accurately stated the
9 complete stipulation for purposes of this trial?

10 **MR. MATHEWS:** Yes, Your Honor.

11 **THE COURT:** Very Well. I ask counsel, now, for Mr.
12 Jakes, has the State accurately stated the complete
13 stipulations for purposes of this trial?

14 **MR. BEACH:** Yes, Your Honor.

15 **THE COURT:** Thank you very much. Call your next
16 witness.

17 **ASST. SOL. SHELTON:** The State calls Thomas Walker.

18 (WHEREUPON, MR. THOMAS WALKER, IS DULY SWORN)

19 **THE COURT:** State your full name and spell your last
20 name for the court reporter, please.

21 **MR. WALKER:** Thomas Walker, W-A-L-K-E-R.

22 **THE COURT:** Your witness, Counsel.

23 **ASST. SOL. SHELTON:** Thank you, Your Honor. May it
24 please the Court.

25

DIRECT EXAMINATION

1 BY ASST. SOL. SHELTON:

2 Q Deputy Walker, may I call you Deputy Walker?

3 A Sure.

4 Q Who do you work for?

5 A Colleton County Sheriff's Office.

6 Q What's your role there?

7 A I'm a road corporal -- I'm sorry, Corporal Supervisor
8 over the road.

9 Q How long have you been working with the Sheriff's
10 Office?

11 A Approximately six, seven years.

12 Q What did you do before the Sheriff's Office?

13 A Before the Sheriff's Office, I was a Corrections
14 Officer at South Carolina Department of Corrections.

15 Q Did you respond to [REDACTED], early in the
16 morning on June 4th, 2010?

17 A I did.

18 Q Are you ready to tell the jury what you did there?

19 A Sure.

20 Q Who did you respond to [REDACTED] with?

21 A I responded to Clatty Farm with several of the members
22 of the crime suppression unit, I believe it was Cpl.
23 Buchanan, Major Middleton, who is no longer here anymore
24 with us, and also Corporal Buchanan. I believe there might
25 have been one more other person in the vehicle with us, but

1 I don't really know ---

2 Q Do you remember who was driving?

3 A Corporal Buchanan was driving at the time.

4 Q When you got there, what did you see?

5 A When we got there to the residents, like I said, there
6 was a old abandoned house toward the front of the property,
7 toward the rear of the property there was a trailer. I
8 believe it had gray shutters or something like that, and
9 there was a Cadillac, or a vehicle, on the far right side.
10 There's an oak tree in the front, and there was also an
11 older shed toward the right front of the old model of the
12 Cadillac.

13 Q Why did you go there?

14 A We went there in reference to -- I guess a female told
15 Corporal Buchanan, at that time, that there was a vehicle
16 that the suspects, or the person that was injured, they said
17 that the vehicle was there that he was driving.

18 Q At [REDACTED]?

19 A Correct.

20 Q Did you get a description of that vehicle?

21 A At the time, yes, we did.

22 Q Did you find what matched that description at that
23 residence?

24 A Yes, sir.

25 Q What was it?

- 1 A It was a burgundy in color Cadillac, I guess ---
- 2 Q Do you need to refresh your recollection?
- 3 A Sure. That would be nice.
- 4 **ASST. SOL. SHELTON:** May I approach, Your Honor?
- 5 **THE COURT:** You may.
- 6 Q Corporal Walker, what I'm handing you is State's
- 7 Exhibit Number Seven, it's already been entered into
- 8 evidence. Do you recognize what's in that picture?
- 9 A Yes.
- 10 Q What is that?
- 11 A I apologize, it's a silver in color Cadillac.
- 12 Q Do you remember it being silver? What time of day or
- 13 night did you go there, first of all?
- 14 A It was around about 3 O'clock in the morning.
- 15 Q Around 3 O'clock in the morning. So it was dark
- 16 outside?
- 17 A Yes, sir, it was.
- 18 Q Okay. When you got there was that well lit, where the
- 19 Cadillac was?
- 20 A No, sir. It wasn't well lit at all.
- 21 Q But was it a four-door Cadillac?
- 22 A It was.
- 23 Q Is that the four-door Cadillac?
- 24 A Yes, sir, it is.
- 25 Q Now, continuing, what was your role when you got to the

1 scene and everyone established what each individual role
2 was, what did you do on scene?

3 A Well, when I first responded there, I believe Corporal
4 Buchanan and someone else naturally approached the trailer
5 of the residence. I actually stood beside the vehicle to
6 make sure that no one was around the vehicle or anything
7 like that. From there, we confirmed that that was the
8 vehicle that the person that was injured was driving.

9 Q How did you confirm that?

10 A From what Corporal Buchanan -- well, from what the
11 people that were inside the residence told Corporal
12 Buchanan.

13 Q What did you see that helped you confirm that?

14 A We saw blood in the vehicle. We also saw some live
15 rounds, well, I'm sorry, some spent shell casings.

16 Q Did you open the door to the vehicle and look inside?

17 A No, sir.

18 Q How did you see them?

19 A The windows were down. Majority of the windows were
20 down, I'm not sure if every window was down inside the
21 vehicle, but the majority of the windows were down.

22 Q How did you look inside? was it dark outside?

23 A We had flashlights.

24 Q So did you visually inspect the vehicle?

25 A Yes, sir.

1 Q Do you remember everything that you visually saw inside
2 the vehicle?

3 A Off hand, I do not.

4 Q Is there anything that would help refresh your
5 recollection for that?

6 A I did a tow report for it that night.

7 Q What was the tow report for it?

8 A The tow report is basically when we respond to a scene
9 or when we respond to a vehicle accident of some kind, like
10 I said, if the Sherriff's Department has anything to do with
11 actually removing that vehicle off the roadway or off of a
12 property, we do a tow report. We do a detailed inventory of
13 the vehicle -- outside, inside, the tag that's on the
14 vehicle, the VIN number, make and model.

15 Q You say you do a detailed inventory, outside and
16 inside, -- you said that you didn't go inside this vehicle?

17 A No, I did not.

18 Q Why didn't you?

19 A Because it was possibly involved in a crime, I didn't
20 want to disturb any evidence that might have been there.

21 Q So the report that you made on your tow report is only
22 in reference from what you could of the outside of the
23 vehicle; is that right?

24 A No, sir. The report that I did, the tow report, it's
25 from me being outside of the vehicle, but actually looking

1 inside as well from what I observed inside the vehicle at
2 that particular time and also the damage outside.

3 Q What all do you put on a tow report?

4 A They have a particular spot for, as far as the damage
5 to the exterior of the vehicle; they have a slot where you
6 can actually write damaged that is on the interior and
7 exterior, the items that I removed from the vehicle, items
8 that are still remaining inside the vehicle.

9 Q And you completed a tow report for this case?

10 A Yes, I did.

11 Q And you said it would help you remember what you saw
12 inside the vehicle?

13 A Yes.

14 **ASST. SOL. SHELTON:** Beg the Court's indulgence.

15 **THE COURT:** Counsel, approach.

16 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 Q I'm handing you what's been listed as State's Exhibit
19 Number Ninety-Seven, only for identification purposes only;
20 I ask that you just refresh your recollection with ---

21 **THE COURT:** Do you want to approach the witness?

22 **ASST. SOL. SHELTON:** Yes, sir, Your Honor. May I
23 approach the witness?

24 **THE COURT:** You may do so.

25 **ASST. SOL. SHELTON:** Thank you, Your Honor.

1 Q Does that help refresh your recollection?

2 A Yes, sir, it does.

3 Q What exactly now -- this is only what you were able to
4 see visually on the outside of the car, correct?

5 A Correct.

6 Q And by looking inside the car from the outside with a
7 flashlight, correct?

8 A Correct.

9 Q Now, only talk about what you can see from that, not
10 anything that you saw inside the car. First of all, did you
11 open up the trunk or anything when you were searching?

12 A No, sir.

13 Q So you didn't actually look inside the trunk and you
14 didn't actually reach inside anything that was contained or
15 anything inside, did you?

16 A Negative. I did not.

17 Q So this is only what you could see from the outside of
18 the car. Now, on that property report, is there anything on
19 that property report that is listed to your recollection
20 that it is not something that you can see, only from the
21 outside of the car?

22 A No, sir.

23 Q Nothing in that entire report?

24 A I'm sorry; ask the question again.

25 Q In the entire report, is there anything listed in that

1 report that you could not visually inspect by looking from
2 the inside of the car that was found anywhere other than the
3 general cabin of the car by looking inside the car -- and
4 you completed that entire report, correct?

5 A I did, sir.

6 Q I'm sorry; I'm gonna repeat the second -- the question
7 I asked you before. So you completed the entire report.
8 Now, is there anything in that report that you completed
9 that was not found in the inside cabin that you could not
10 actually see at the scene from the inside cabin before the
11 car was towed?

12 A I'm trying to ---

13 Q Could you just -- everything in that report is what you
14 could see from the outside?

15 A Yes, it is.

16 Q Everything?

17 A Everything that's in here, basically, from me on the
18 outside looking in, I can see from the outside.

19 Q Okay. What did you see? Does that refresh your
20 recollection now?

21 A Yes, it does.

22 Q What did you see?

23 A If I'm looking from the outside, like I said, I saw
24 that it did have a spare tire. The original tire that was
25 on the car wasn't there. Like I said, I observed a dent in

1 the rear trunk, front passenger side door had a dent in it
2 as well, missing a front light on the front passenger side,
3 dent on the hood, dent on the front driver side panel.

4 There's also a list of items that are left inside the
5 vehicle, do you want me to read that as well?

6 Q If that's what you saw from the outside on the scene
7 without going inside the vehicle, yes.

8 A Okay. One pair of red and black sneakers, one black t-
9 shirt, one open Seagram's gin class container, one light
10 black ball cap in the front center console, two pictures on
11 the driver's dash, several cd's and a black and mild pack,
12 three dvd cases on the rear floorboard, one white t-shirt
13 and one pair of black pin-striped pants, keys also in the
14 ignition ---

15 Q Keys in the ignition?

16 A Correct.

17 Q Okay.

18 A Two spent shell casings that were observed; I believe
19 they were on the rear passenger seat, spent shell casings,
20 casings that were already fired from a handgun.

21 Q You said you saw blood inside?

22 A Yes.

23 Q You saw spent shell casings. What about the exterior
24 of the vehicle, did you see anything odd about that besides
25 what you've already described?

1 A No, sir.

2 Q It was at night, correct?

3 A Yes, it was.

4 Q May I approach, Your Honor?

5 THE COURT: You may.

6 ASST. SOL. SHELTON: At this time, Your Honor, the
7 State would move State's Exhibit Number Ninety-Seven into
8 evidence.

9 THE COURT: Any objections from the defendant McMillan?

10 MR. MATHEWS: No, Your Honor.

11 THE COURT: From the defendant, Jakes?

12 MR. BEACH: No, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit Number Ninety-Seven will be admitted into evidence
15 without objection.

16 (STATE EXHIBIT NUMBER NINETY-SEVEN, VEHICLE IMPOUND
17 REPORT, IS RECEIVED INTO EVIDENCE.)

18 THE COURT: State's Ninety-Seven in evidence, you may
19 publish.

20 ASST. SOL. SHELTON: Thank you, Your Honor. May I
21 approach the witness?

22 THE COURT: You may.

23 Q One more thing I'm going to ask you about that. What
24 time did you complete that tow sheet?

25 A The time here is exactly 2:55 A.M.

- 1 Q Do you know what day it was?
- 2 A It was June 4th, 2010.
- 3 Q So 2:55 A.M. in the morning on June 4th?
- 4 A Correct.
- 5 Q How did you get it? Did you tow it? Did you leave it
- 6 there? What did you do with it?
- 7 A I called a wrecker, a tow truck, to come pick up the
- 8 vehicle. Like I said, we asked the wrecker to extreme
- 9 caution due to the fact that it was actually possibly
- 10 involved in a crime at that particular time. We actually
- 11 issued him gloves and he picked the vehicle up and we
- 12 followed him back to our CID, or Annex, at the time.
- 13 Q You followed the car the entire time as the truck towed
- 14 it?
- 15 A Yes.
- 16 Q Did the truck tamper with the car or anything in any
- 17 way?
- 18 A No, sir.
- 19 Q You saw it be placed into CID and contained?
- 20 A Correct.
- 21 Q Thank you. May I approach?
- 22 **THE COURT:** You may.
- 23 **ASST. SOL. SHELTON:** Beg the Court's indulgence.
- 24 Q One more thing, when you do a tow report, do you take a
- 25 VIN number and a tag number?

Direct Examination of Thomas Walker by Asst. Sol. Shelton
Cross-Examination of Thomas Walker by Mr. Mathews

1 A Yes, sir.

2 Q Did you do that on this report?

3 A Yes, sir.

4 Q Will you please read into evidence as what that is?

5 A The vehicle tag number, South Carolina FFV-798, the VIN
6 number is going to be 1G-golf-6KD54414U37542.

7 Q Thank you.

8 ASST. SOL. SHELTON: May I approach, Your Honor?

9 THE COURT: You may.

10 ASST. SOL. SHELTON: That's all the questions I have
11 for you, Deputy Walker. Please answer any questions Mr.
12 Mathews or Mr. Beach might have for you. Thank you.

13 THE COURT: Cross-examination by the defendant
14 McMillan.

15 MR. MATHEWS: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MATHEWS:

18 Q Officer Walker, how are you doing today?

19 A Pretty good, sir.

20 Q When you approached the car and you looked in ---

21 MR. MATHEWS: Your Honor, may I approach the court
22 reporter, first?

23 THE COURT: You may.

24 Q Deputy Walker, you were able to look in to the
25 Cadillac?

1 A Yes.

2 Q And that's how you were able to see, for example, the
3 Seagram's bottle and a black and red tennis shoe?

4 A Correct.

5 Q Was there a console between the -- the front seat, were
6 they bucket seats or bench seats in the Cadillac?

7 A Bucket seat, bench seats ---

8 MR. MATHEWS: Your Honor, may I approach the witness?

9 THE COURT: You may. Give him the exhibit number for
10 the record.

11 Q Officer Walker, I've handed you what's been marked for
12 identification as to Defendant's Exhibit Number Seven and
13 ask if that refreshes your recollection?

14 A Correct, it does.

15 Q Does that appear to be the Cadillac as you saw it?

16 A I believe so; I'm not honestly sure, like I do know
17 that the Cadillac did have a center console, but I'm not
18 sure if this is the one or not.

19 Q Okay. Was the center console open or did it appear to
20 be taken off?

21 A I'm not sure. Like I said, on the tow report, I know
22 it said something as far as the center console, but I'm not
23 really sure.

24 Q The CD's that you saw that you reflect in there, were
25 they in the center console?

1 A I'm not sure. Do you mind if I look back at the ---

2 Q I don't.

3 MR. MATHEWS: I'm not sure where ---

4 THE COURT: Right here. Hand Exhibit Ninety-Seven to
5 the witness.

6 A On the tow report here, if I may ---

7 Q Sure.

8 A --- it says one black ball cap in the front center
9 console.

10 Q Now, looking at that picture and comparing it to the
11 tow report, does that appear to be what you saw?

12 A It can be.

13 Q That has a black hat in it?

14 A It does have a black ball cap in it and it does have a
15 center console, but like I said, I'm not sure if it's the
16 same one or not.

17 Q Okay. All right.

18 MR. MATHEWS: May I approach the witness again, Your
19 Honor?

20 THE COURT: You may. Hand Exhibit Number Ninety-Seven
21 back to the jury, Counsel, unless, do you need this further?

22 MR. MATHEWS: I do, Your Honor.

23 THE COURT: All right. You keep the exhibit and I'll
24 give it back to the jury. Proceed.

25 MR. MATHEWS: Okay.

- 1 Q I've handed you what's been marked, I think is that
2 Eight on the back?
- 3 A Yes.
- 4 Q And ask if you can identify that.
- 5 A It's a red, black, and white sneaker. I believe it's
6 the floorboard of a back seat and a Seagram's gin bottle.
- 7 Q Doesn't that appear to be what you saw that night?
- 8 A From my recollection, I'm not sure, but it looks like
9 it is a red and black sneaker.
- 10 Q And a Seagram's bottle.
- 11 A And a Seagram's bottle, yes.
- 12 Q Both of which are reflected in your report.
- 13 A Correct.
- 14 Q Okay. The black ball cap you found in the front center
15 console?
- 16 A Right.
- 17 Q Now, obviously, if the console had been closed, you
18 wouldn't have been able to see it without opening it up,
19 right?
- 20 A Yes, sir.
- 21 Q So the console had to have been open, then?
- 22 A Yes, I assume so.
- 23 Q Okay. I don't have anything further.
- 24 MR. MATHEWS: Your Honor, would you like me to hand the
25 exhibit ---

1 **THE COURT:** Hand that back to the juror..

2 Cross-examination by the defendant, Jakes.

3 **MR. BEACH:** May it please the Court.

4 **THE COURT:** Yes, sir.

5 **CROSS-EXAMINATION**

6 **BY MR. BEACH:**

7 Q Corporal Walker, the console that was between the two
8 front seats, did it stick up above the seat or was it down
9 below the seat? Do you recall?

10 A The center console, you're saying was it above the
11 seat?

12 Q Was the console higher than the seat, the bucket seat?

13 A I'm not honestly sure; from this picture, it is above
14 the seat, but like I said, I'm not honestly sure of that
15 particular night.

16 Q Would it obstruct you if you were moving from the
17 driver seat to the passenger seat?

18 A If it was above the seat, yes.

19 Q Now, you say also that the car had a problem with one
20 of its tires?

21 A I didn't say it had a problem with one of its tires, I
22 said it had a spare tire on the rear, I believe, from what
23 the tow report said.

24 Q That spare tire, is that one of the donut tires?

25 A I believe it was.

1 Q Was it a full-size, good, roadworthy tire; is that
2 correct?

3 A I'm not sure whether it was or not. Like I said, I
4 know it wasn't the original tire that was actually on the
5 vehicle at that particular time. I know it was a spare
6 tire. It didn't have the original hub caps and the original
7 cap for this Cadillac.

8 Q You found two shell casings inside the car?

9 A They were spent shell casings, yes.

10 Q Thank you, sir.

11 MR. BEACH: No other questions, Your Honor.

12 THE COURT: Re-direct.

13 REDIRECT EXAMINATION

14 BY ASST. SOL. SHELTON: Very briefly, Your Honor.

15 Q Deputy Walker, you said you found these gun shell cases
16 in the car; are those the two spent shell casings you
17 observed while looking inside the car, correct?

18 A Correct.

19 Q Thank you, no other questions.

20 THE COURT: Re-cross by the defendant McMillan, limited
21 to re-direct?

22 MR. MATHEWS: Nothing, Your Honor.

23 THE COURT: Re-cross by the defendant Jakes, limited to
24 re-direct?

25 MR. BEACH: No, Your Honor.

1 **THE COURT:** As to this witness, Solicitor?

2 **ASST. SOL. SHELTON:** I ask that he may be excused from
3 the trial of this case.

4 **THE COURT:** Any objection to this witness being excused
5 from the defendant McMillan?

6 **MR. MATHEWS:** No, Your Honor.

7 **THE COURT:** Any objection to this witness being excused
8 from the defendant Jakes?

9 **MR. BEACH:** No, Your Honor.

10 **THE COURT:** Very well. Mr. Walker, you may leave my
11 exhibits here, even the ones marked for identification.
12 Step down, be careful, and have a nice day. You are excused
13 from the trial of this case. You may leave the courtroom.
14 Call your next witness.

15 **ASST. SOL. HASELDEN:** The State calls Detective Jeff
16 Scott.

17 **MADAME CLERK:** Please come forward and be sworn.

18 WHEREUPON, DETECTIVE JEFF SCOTT, IS DULY SWORN.

19 **THE COURT:** State your full name and spell your last
20 name for the court reporter. Use the microphone. Speak up
21 so everybody can hear you, please.

22 **DET. SCOTT:** Detective Jeff Scott, last name S-C-O-T-T.

23 **THE COURT:** Your witness, Counsel.

24 **ASST. SOL. HASELDEN:** Thank you, Your Honor. May it
25 please the Court.

1 DIRECT EXAMINATION

2 BY ASST. SOL. HASELDEN:

3 Q Detective Scott, what do you do for a living?

4 A I'm currently employed with the Colleton County
5 Sheriff's Office. I'm a deputy assigned to the
6 Investigation Division.

7 Q And with the Investigation Division, what do you do?

8 A We are tasked with crime scene processing, crime
9 investigation, evidence processing, meeting with victims,
10 retrieving and collecting evidence, photographs, -- things
11 of that nature.

12 Q How many people work with you over in investigations?

13 A We have approximately five investigators, one
14 lieutenant, one evidence custodian, and one sex offender
15 registry investigator.16 Q So because there are so many people that work with you,
17 do you divide up the cases?

18 A Yes, ma'am, we usually do.

19 Q Is somebody designated, in specific, for every case, as
20 lead investigator?

21 A No, ma'am, they are not.

22 Q Are they occasionally, though, on bigger cases?

23 A On bigger cases, generally, sometimes, a specific
24 investigator can be assigned as lead investigator on that
25 case if they are familiar with that particular type of

1 event.

2 Q Are you my lead investigator or also sometimes called
3 case officer on this case?

4 A That is correct.

5 Q Okay. And as lead investigator, case officer, did you
6 have an opportunity to respond on June 3rd or June 4th of
7 2010, out to I-95 on McLeod Road?

8 A Yes, ma'am, I did.

9 Q Can you describe to me what you did when you got there,
10 please?

11 A Certainly. On the night of -- excuse me, on the early
12 morning hours of June 4th, 2010, I was contacted by our
13 central dispatch, who advised me that there was attempted
14 armed robbery, attempted shooting that occurred at the
15 corner block of McLeod Road which is the off-ramp of I-95 on
16 McLeod Road. I then responded to the incident location and
17 met up with on-scene officers who briefed me as to what they
18 observed and what they had. At that point, I did my initial
19 walk through; I did my initial conversation with the
20 victims, and once it was determined what all we had, I
21 proceeded to process the crime scene.

22 ASST. SOL. HASELDEN: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 Q Detective Scott, I'm handing you what's been marked for

1 identification purposes only, at this point, as State's
2 Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Seventeen,
3 Eighteen, Nineteen, Twenty, Twenty-One, Twenty-Two, Twenty-
4 Three, Twenty-Four, Twenty-Five, Twenty-Six, Twenty-Seven
5 and Twenty-Eight. If you would please take a moment to
6 review those to yourself. Have you had chance to review
7 them all?

8 A I have.

9 Q Do you recognize those items?

10 A Yes, ma'am, I do.

11 Q What are those items?

12 A Items twelve through twenty-eight are crime scene
13 photographs from the early morning hours of June 4th, 2010,
14 as I observed it.

15 Q Did you take those photos?

16 A Yes, ma'am, I did.

17 Q Are all those photos a truthful and accurate depiction
18 of the crime scene as it existed early in the morning and
19 late at night on June 3rd and June 4th of 2010?

20 A Yes, they are.

21 Q Your Honor, at this time, I'd move States Twelve
22 through Twenty-Eight into evidence.

23 THE COURT: Inclusive?

24 ASST. SOL. HASELDEN: Inclusive, yes, Your Honor.

25 THE COURT: Any objection as to State's Exhibit's

1 Twelve through Twenty-Eight, from counsel for the defendant
2 McMillan?

3 MR. MATHEWS: No objection, Your Honor.

4 THE COURT: Counsel for the defendant Jakes?

5 MR. BEACH: No, Your Honor.

6 THE COURT: Ladies and gentlemen of the jury, State's
7 Exhibit's Twelve through Twenty-Eight will be admitted into
8 evidence in the trial of this case without objection.

9 (STATE EXHIBIT NUMBER TWELVE IS RECEIVED INTO
10 EVIDENCE.)

11 (STATE EXHIBIT NUMBER THIRTEEN IS RECEIVED INTO
12 EVIDENCE.)

13 (STATE EXHIBIT NUMBER FOURTEEN IS RECEIVED INTO
14 EVIDENCE.)

15 (STATE EXHIBIT NUMBER FIFTEEN IS RECEIVED INTO
16 EVIDENCE.)

17 (STATE EXHIBIT NUMBER SIXTEEN IS RECEIVED INTO
18 EVIDENCE.)

19 (STATE EXHIBIT NUMBER SEVENTEEN IS RECEIVED INTO
20 EVIDENCE.)

21 (STATE EXHIBIT NUMBER EIGHTEEN IS RECEIVED INTO
22 EVIDENCE.)

23 (STATE EXHIBIT NUMBER NINETEEN IS RECEIVED INTO
24 EVIDENCE.)

25 (STATE EXHIBIT NUMBER TWENTY IS RECEIVED INTO

1 EVIDENCE.)

2 (STATE EXHIBIT NUMBER TWENTY-ONE IS RECEIVED INTO
3 EVIDENCE.)

4 (STATE EXHIBIT NUMBER TWENTY-TWO IS RECEIVED INTO
5 EVIDENCE.)

6 (STATE EXHIBIT NUMBER TWENTY-THREE IS RECEIVED INTO
7 EVIDENCE.)

8 (STATE EXHIBIT NUMBER TWENTY-FOUR IS RECEIVED INTO
9 EVIDENCE.)

10 (STATE EXHIBIT NUMBER TWENTY-FIVE IS RECEIVED INTO
11 EVIDENCE.)

12 (STATE EXHIBIT NUMBER TWENTY-SIX IS RECEIVED INTO
13 EVIDENCE.)

14 (STATE EXHIBIT NUMBER TWENTY-SEVEN IS RECEIVED INTO
15 EVIDENCE.)

16 (STATE EXHIBIT NUMBER TWENTY-EIGHT IS RECEIVED INTO
17 EVIDENCE.)

18 **THE COURT:** You may approach and you may publish,
19 counsel.

20 **ASST. SOL. HASELDEN:** Thank you.

21 Q Before I publish, Detective Scott, would you walk us
22 through those photos?

23 **ASST. SOL. HASELDEN:** And if I might add a couple of
24 others, Your Honor, that are already in evidence.

25 Q And describe to us what they are and why you took those

1 photos and what they represent, please.

2 A Certainly. I'll start with Item 12, if that's okay.

3 **THE COURT:** Refer to it as Exhibit, now, if you would,
4 because we have other things called "items" in this case.

5 A State's Exhibit Twelve is going to be a photograph of
6 the on ramp in this picture. You can see the victim's
7 vehicles parked to the left, which is a Chevy S-10, a Toyota
8 Tacoma, and a U-Haul trailer, and you can also observe in
9 the foreground of the picture, placards numbering, it looks
10 like, 1 through 6 in the foreground. This is an overview of
11 the crime scene as I observed it on the morning of the 4th.

12 State's Exhibit Thirteen is going to be placard numbers
13 1 through 3 in the foreground, and you can faintly see
14 placards 4, 5 and 6 in the background. These are spent
15 shell casings, which are 1, 2, 3, 4, 5 and 6 in the
16 background. These are spent shell casings, which are 1, 2,
17 3, 4. Placard 5 is a blood stain and placard 6 is going to
18 be the .50 caliber Desert Eagle Pistol.

19 State's Exhibit 14, which is going to be placard number
20 1. This is going to be a close-up of a spent 9 mm shell
21 casing as observed on that morning.

22 State's Exhibit Fifteen, which is going to be placard
23 number 2, a close-up of a spent shell casing, also located
24 at the scene on the early morning hours of the 4th.

25 State's Exhibit Sixteen, which is placard number 3,

1 again, is a close-up of a spent shell casing, as observed on
2 the morning of the 4th.

3 State's Exhibit Seventeen is going to be placards
4 number 4, 5 and 6. Four and five in the foreground, six in
5 the background. Placard 4 is a spent shell casing. Placard
6 5 is a stain on the ground, appearing to be blood. Placard
7 6 is the Desert Eagle .50 caliber that was located at the
8 scene that morning.

9 State's Exhibit Eighteen, which is placard number 4, is
10 a close-up of a spent shell casing located at the crime
11 scene.

12 State's Exhibit Nineteen is placard number 5, which is
13 the reddish-brown stain located on the ground, with the
14 appearance of blood, also located at the crime scene on the
15 morning of the 4th.

16 State Exhibit Twenty, placard number 6, is a close-up
17 picture of the Desert Eagle, .50 caliber, that was located
18 at the crime scene the morning of the 4th

19 State's Exhibit Twenty-one is going to be a shot of one
20 of the victim's vehicles, which is the Chevy S-10, and part
21 of the Toyota Tacoma, also the second victim's vehicle,
22 which is Placard number 7.

23 State's Exhibit Twenty-two is a close-up of placard
24 number 7, which is the Chevy S-10, located at the crime
25 scene the early morning hours of the 4th, the victim's

1 vehicle. As you can see in the photograph, there is a
2 bullet entry just above and to the right of the S-10 emblem
3 at the bottom of the photograph.

4 State's Exhibit Twenty-three, which is placard number
5 8, is going to be the front driver's side fender of the
6 Toyota Tacoma, the victim's vehicle, as it sat the morning
7 of the 4th. As you can see, in the bottom of the picture, a
8 entry point just above the tire and just to the right of the
9 park light.

10 State's Exhibit Twenty-four is going to be placard
11 number 6 again, a close-up, a different angle of the Desert
12 Eagle .50 caliber handgun located at the crime scene that
13 morning.

14 State's Exhibit Twenty-five is going to be the rear of
15 the Toyota Tacoma, the victim's vehicle, along with the
16 front part of the U-Haul trailer that it was hooked to,
17 which in this picture you can see placard number 10 and you
18 can faintly see placard number 11 in the bed of the truck.

19 State's Exhibit Twenty-six, which is going to be a
20 close-up of placard number 11 and 12, which are spent shell
21 casings located in the bed of the Toyota Tacoma, which is
22 the victim's vehicle located at the crime scene that
23 morning.

24 State's Exhibit Twenty-seven is going to be an overview
25 of placard numbers 13 and 14, which these are the two

1 firearms, the Glock and the H&K 9 mm, the victim's weapons
2 as they lie on the morning of the 4th.

3 State's Exhibit Twenty-eight is going to be the front
4 seat of the Chevrolet S-10, which was previously identified
5 as placard number 7. In this photograph, you can see a pen,
6 which was my pen, stuck in the seat to identify the entry
7 point of the round that entered into the vehicle.

8 State's Exhibit Number Two is an overview of the crime
9 scene as observed on the morning of the 4th.

10 State's Exhibit Number two, you can see there are a few
11 deputies walking around with flashlights kind of canvassing
12 the area for evidence. You can as well see two of the
13 victims located at the rear tire of the S-10, identified as
14 placard number 7. And it looks like the third victim
15 speaking with another officer at the front of the S-10
16 vehicle on the morning of the 4th.

17 State's Exhibit Number Three is going to be the Toyota
18 Tacoma and the U-Haul trailer. The Toyota Tacoma is going to
19 be placard number 8, and in this photograph you can see
20 placards 8 and 10 in the foreground and in the extreme
21 background, to the right of the picture, you can faintly see
22 placards 13 and 14, which were the victim's firearms.

23 State's Exhibit Four are placard numbers 13 and 14,
24 which are the victim's firearms. Placard 14 is the Glock
25 .357. Placard 13 is the H&K 9 mm. Again, this is a close-

1 up picture of the weapons.

2 State's Exhibit Six, in this photograph you can see
3 then Cpl. Anthony Buchanan standing immediately next to
4 placard number 6, which was identified as the Desert Eagle
5 .50 caliber. I am actually standing at placard number 10,
6 which is the Toyota Tacoma, the rear of the Toyota Tacoma
7 where the shell casings were located at. Also, placards 11
8 and 12, to give an indication of exactly how far the suspect
9 would have been standing from the victim.

10 Q And with regard to that last photo, was that six?

11 A Yes, ma'am. State's Six.

12 Q Were you able to measure that distance or can you give
13 an estimate of how far Cpl. Buchanan was standing away from
14 you at that point?

15 A No exact measurements were taken, but an estimate from
16 the location where I was standing at to the location that
17 Cpl. Buchanan would have been, would be somewhere between 25
18 and 30 yards, approximately

19 Q Could you see him clearly?

20 A Yes, ma'am, I could.

21 Q How could you see him clearly?

22 A Located at this intersection of McLeod Road and I-95
23 are -- right here at this particular exit ramp are numerous
24 street lights. They start at the very base of the ramp and
25 actually proceed all the way up to where they join into 95

1 where the exit ramp starts.

2 ASST. SOL. HASELDEN: Your Honor, may I publish at this
3 time?

4 THE COURT: You may.

5 ASST. SOL. HASELDEN: May I approach?

6 THE COURT: Yes. Exhibits Twelve through Twenty-eight
7 in evidence without objection. The previous exhibits have
8 previously been entered into evidence.

9 Q Now, Detective Scott, we'll go through some of the
10 physical evidence you found out there, and I apologize right
11 now, it's going to take a while.

12 THE COURT: Counsel approach.

13 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
14 AND OUT OF THE HEARING OF THE JURY.)

15 THE COURT: Proceed.

16 Q Detective Scott, I'm going to hand you what's been
17 marked for identification purposes only as State's Sixty-
18 one, Sixty-two, Sixty-three, Sixty-four, Sixty-five, Sixty-
19 six, Sixty-seven, Sixty-eight, Sixty-nine, and Seventy. If
20 you would please review these items to yourself.

21 (BRIEF PAUSE IN COURTROOM WHILE WITNESS REVIEWS ITEMS
22 BEING HANDED TO HIM.)

23 A Yes, ma'am.

24 Q Did you have an opportunity to review those items?

25 A I did.

1 Q And can you please walk through item by item
2 identifying them and tell me what they are?

3 A Certainly. State's Exhibit Sixty-one is a spent shell
4 casing, a 9 mm spent shell casing, and the placard number 1
5 is located at the exit ramp of I-95 on McLeod Road.

6 Q How do you know that is what that is?

7 A The blue evidence tag located on the front of the
8 envelope on the front of the bag is filled out by myself,
9 signed, and also with my badge number located immediately
10 behind my signature on the envelope.

11 Also, located at the top of the envelope is going to be
12 the case number or our Sheriff's Office OCA number, just
13 below that is going to be the collection time and just below
14 that is going to be the placard number, and just below that
15 is going to be what the piece of evidence actually is. All
16 of that was done in my handwriting.

17 Q Is that -- did you collect that item?

18 A Yes, ma'am. I did.

19 Q And is that a truthful and accurate depiction of that
20 item as you collected it on the early morning hours of June
21 the 4th?

22 A Yes, it is. State's Exhibit Number Sixty-two is also
23 going to be a spent 9 mm shell casing. Sixty-two is
24 identified as placard number 2 located at the exit ramp of
25 McLeod Road and I-95.

1 Q And is that also a truthful and accurate depiction of
2 that item as you collected it that night?

3 A Yes, it is.

4 Q And you identify it by the blue evidence tag?

5 A Yes, I do.

6 Q is that a truthful and accurate depiction of that spent
7 shell casing as it existed on the early morning hours of
8 June the 4th?

9 A Yes, ma'am, it is. State's Exhibit Sixty-three is
10 going to be also a spent shell casing, 9 mm. State's Sixty-
11 three is going to be identified as placard number 3. Also,
12 again, collected by myself on the morning of the 4th. And
13 that is a true and accurate depiction of the spent shell
14 casing as collected by myself on the morning of the 4th.

15 State's Sixty-four is also going to be a spent 9 mm
16 shell casing. State's Sixty-four is identified as placard
17 number 4, collected at the off ramp of McLeod and 95. Also
18 is a true and accurate depiction of the round as I collected
19 it on the early morning of the 4th.

20 State's Sixty-five is going to be identified as a spent
21 .357 shell casing. State's Sixty-five is identified as
22 placard number 10, which was located at the I-95 exit ramp
23 and McLeod Road and it, too, was collected by myself.

24 State's Sixty-six is a spent .357 shell casing, also
25 located at McLeod Road and I-95 Exit ramp. State's Sixty-

1 six is identified as placard number 9, which was also
2 collected by myself.

3 State's Sixty-seven is a spent .357 shell casing.
4 State's Sixty-seven is identified as placard number 11,
5 which was collected at the off ramp of McLeod and 95. It,
6 too, was collected by myself.

7 State's Sixty-eight is a spent .357 shell casing.
8 State's Sixty-eight is identified as placard number 12,
9 which was also located at the off ramp of McLeod Road and I-
10 95. It was collected by myself.

11 State's Sixty-nine is identified as a projectile.
12 State's Sixty-nine is going to be placard number 8, which
13 was located at McLeod Road and I-95 exit ramp on the morning
14 of the 4th, which was also collected by myself.

15 State's Seventy is going to be identified as a
16 projectile. State's Seventy is placard number 7. State's
17 Seventy was collected from a blanket at the I-95 exit ramp
18 and McLeod Road, which was located in the rear passenger
19 seat of the S-10 vehicle belonging to the victim, which was
20 identified as placard number 7. It, too, was collected by
21 myself.

22 Q And what did you do with all these items once you
23 collected them?

24 A Once the items were collected and tagged, they were
25 then turned over to our Criminal Investigation Division

1 locker to our evidence custodian.

2 Q And as part of your job as a case officer, do you
3 oversee the -- not the handling of the evidence, the
4 collection, as we know that's contained in the evidence
5 tracking report of your evidence custodian, but rather
6 what's done with that evidence beyond that point after
7 collection?

8 A After collection, the evidence is logged into our
9 Criminal Investigation Division Evidence Property Locker.
10 If it's a case where evidence needs to be processed or sent
11 to SLED, we will then meet with the evidence tech and advise
12 them on which pieces of evidence need to be submitted to
13 SLED for further analysis.

14 Q Are you aware if the items in front of you, which are
15 State's Sixty-one through Seventy, was anything additional
16 done with them?

17 A Yes, ma'am. The items were submitted to SLED for
18 further analysis. As you can tell by the plastic bags they
19 are in, they have written on the front of the envelope the
20 SLED ID, the SLED Lab Number, which was not placed on the
21 envelope by myself.

22 Q And then when testing is done, what happens to that
23 evidence?

24 A When final testing is done, they submit a final
25 analysis report to our office, which is made a part of the

1 case file and the evidence is then returned where it is
2 secured in the property evidence locker until such date and
3 time of trial.

4 Q And that's all anybody that handles that evidence in
5 the meantime, that's contained in your internal chain of
6 custody or evidence tracking report from your office and the
7 SLED chain of custody report?

8 A That is correct.

9 ASST. SOL. HASELDEN: Your Honor, at this time, I'd ask
10 that State Sixty-One through Seventy be entered into
11 evidence.

12 THE COURT: As to State's Exhibits Sixty-one through
13 Seventy inclusive from the defendant McMillan?

14 MR. MATHEWS: No objection, Your Honor.

15 THE COURT: From the defendant Jakes?

16 MR. BEACH: No objection, Your Honor.

17 THE COURT: Ladies and gentlemen of the jury, State's
18 Exhibits Sixty-one through Seventy will be admitted into
19 evidence in the trial of this case without objection.

20 (STATE EXHIBIT NUMBER SIXTY-ONE IS RECEIVED INTO
21 EVIDENCE.)

22 (STATE EXHIBIT NUMBER SIXTY-TWO IS RECEIVED INTO
23 EVIDENCE.)

24 (STATE EXHIBIT NUMBER SIXTY-THREE IS RECEIVED INTO
25 EVIDENCE.)

1 (STATE EXHIBIT NUMBER SIXTY-FOUR IS RECEIVED INTO
2 EVIDENCE.)

3 (STATE EXHIBIT NUMBER SIXTY-FIVE IS RECEIVED INTO
4 EVIDENCE.)

5 (STATE EXHIBIT NUMBER SIXTY-SIX IS RECEIVED INTO
6 EVIDENCE.)

7 (STATE EXHIBIT NUMBER SIXTY-SEVEN IS RECEIVED INTO
8 EVIDENCE.)

9 (STATE'S EXHIBIT NUMBER SIXTY-EIGHT IS RECEIVED INTO
10 EVIDENCE.)

11 (STATE EXHIBIT NUMBER SIXTY-NINE IS RECEIVED INTO
12 EVIDENCE.)

13 (STATE EXHIBIT NUMBER SEVENTY IS RECEIVED INTO
14 EVIDENCE.)

15 **THE COURT:** Sixty-one through Seventy inclusive now in
16 evidence. You may publish.

17 **ASST. SOL. HASELDEN:** Thank you.

18 Q Detective Scott, before we publish, I know you've gone
19 through what each of those items were, which we had to do
20 for chain of custody purposes and entering, but can you try
21 and give us a better indication, based on those photos,
22 which I can give back to you if you want, where these items
23 were found at the crime scene in relation to each other.
24 Can you do that?

25 A Certainly.

1 Q Would you like me to get the photos back for you?

2 A No, ma'am. I'm going to start off with State's Exhibit
3 Sixty-one, which is a spent shell casing. This is going to
4 be identified as placard number 1. State's Sixty-two is
5 going to be identified as placard number 2, a spent shell
6 casing. State's Exhibit Sixty-three is also a spent shell
7 casing, which is placard number 3. And finally, State's
8 Sixty-four is a spent shell casing, placard number 4.

9 These particular pieces of evidence were located at
10 what would be the end of the exit ramp off of Interstate 95
11 and McLeod Road located almost directly in the middle of the
12 exit ramp. Placards 1, 2, and 3 were located in close
13 proximity of one another. Placard number 4 was located
14 approximately 10 to 15 feet away looking at the interstate
15 with your back to McLeod Road, which would have been on the
16 right side of placards 1, 2 and 3, which was located in the
17 proximity of the Desert Eagle .50 cal and proximity of the
18 stain with the appearance of blood, which placard number 5
19 and 6 would be the blood stain and the gun.

20 Q And Detective Scott, if you don't mind, I'm going to
21 interrupt you really quickly. How long have you been
22 investigating crime scenes?

23 A November 14th, 2006, was my first day in criminal
24 investigations, and I had been doing it since I was released
25 from my field training in February of 2007.

1 Q And how long have you been in law enforcement?

2 A I've been in law enforcement since August of 2003 to
3 current.

4 Q And how many times have you shot a semi-automatic
5 handgun?

6 A Thousands.

7 Q And is there anything particular in what your personal
8 semi-automatic handgun that you carry as part of law
9 enforcement does with its shell casings?

10 A Certainly. As a semi-automatic handgun that we do
11 carry with the Sheriff's Office ---

12 MR. MATHEWS: Objection, Your Honor.

13 THE COURT: Just a moment. Yes, sir? Objection?

14 MR. MATHEWS: Yes, sir.

15 THE COURT: Counsel approach.

16 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 THE COURT: Rephrase the question. Objection is
19 overruled based on how you asked the question.

20 Q Detective Scott, can you please testify as to how shell
21 casings are ejected from your handgun that you carry?

22 A The handgun that we carry with the Sheriff's Office,
23 which is the Glock model .40 caliber. When it is fired, the
24 shell casings are ejected from the ejection port, which is
25 located on the right side of the firearm. The shell casings

1 are then ejected out of the right side of the firearm.

2 Q Do you always carry a .40 caliber as part of law
3 enforcement?

4 A I'm carrying the same weapon I was issued in '03.

5 Q Do you own any other weapons?

6 A I do.

7 Q What other weapons do you own?

8 A Personal or job?

9 Q Either. Well, let's eliminate it to semi-automatic
10 handguns.

11 A Thank you. I own a -- I do also carry as part of my
12 duty weapon, a Glock model 27, which is a .40 caliber. It
13 is a compact. I also own as a personal weapon a semi-
14 automatic handgun, a Smith and Wesson M&P .40 caliber. I
15 believe that's it.

16 Q And those are three different makes and models?

17 A They are two different makes. The models are two
18 Glockes and one Smith and Wesson.

19 Q Okay. And how many times have you shot those guns?

20 A Numerous times.

21 Q And do they handle the shell casings any differently?

22 A No, ma'am. The guns that -- my 27, which is the Glock
23 compact .40 caliber, also ejects the round from the right
24 side of the firearm. The Smith and Wesson, M&P 40, which is
25 also a .40 caliber full-size, does the exact same thing,

1 ejects the casing from the right side of the weapon.

2 Q Have you ever had the opportunity to shoot a .50
3 caliber Desert Eagle handgun?

4 A No, ma'am. I have not.

5 Q You ever had the opportunity to shoot a Glock
6 subcompact .357 handgun?

7 A No, ma'am. I have not.

8 Q You ever had the opportunity to shoot a Sig 9 mm
9 handgun?

10 A No, ma'am. I have not.

11 Q Okay. You can continue on with the items, please.

12 A Thank you. State's Exhibit Number Sixty-five, a spent
13 shell casing is identified as placard number 10. State's
14 exhibit Number Sixty-six is also a spent 357 shell casing,
15 which is placard number 9. State's Exhibit Sixty-seven is
16 a spent 357 shell casing, which is identified as placard
17 number 11. State's Sixty-eight is a spent .357 shell
18 casing, which is identified as placard number 12. These
19 items are, again, .357 caliber spent shell casings. These
20 items were located at the rear driver's side of the victim's
21 second vehicle, which was the Toyota Tacoma. Actually, some
22 were located on the ground near the rear of the vehicle and
23 some were located in the bed of the Toyota Tacoma.

24 State's Exhibits Sixty-nine and Seventy are identified
25 as projectiles, which are placard numbers 7 and 8. Number

1 8, which is going to be a projectile located just behind the
2 driver's side front tire of the victim's second vehicle, the
3 Toyota Tacoma, located on the ground. This is going to be
4 the one that entered the fender and traveled along the wheel
5 well and finally came to rest just behind the front tire.

6 State's Seventy is a projectile, placard number 7,
7 which was the victim's primary vehicle, the Chevrolet S-10.
8 It was located in the rear seat of the vehicle and it
9 actually entered through the door and exited through the
10 seat of the vehicle and came to rest located in a blanket
11 that was laying in the back passenger compartment of the
12 vehicle.

13 ASST. SOL. HASELDEN: Your Honor, may I publish and
14 approach?

15 THE COURT: Sixty-one -- you're referring to Sixty-one
16 through Seventy?

17 ASST. SOL. HASELDEN: Yes, sir.

18 THE COURT: You may publish. They're in evidence
19 without objection. And you may approach.

20 Q Detective Scott, before I approach, let me let you know
21 I'm handing you what's been marked for identification
22 purposes only as State's Eighty-four, State's Eighty-five,
23 and State's Eighty-five-A, and State's Eighty-six and
24 Eighty-six-A. All have been made safe. Can you please
25 review these items while I publish?

1 (BRIEF PAUSE IN COURTROOM WHILE THE WITNESS REVIEWS
2 EXHIBITS HANDED TO HIM AND THE ASSISTANT SOLICITOR PUBLISHES
3 PREVIOUSLY ENTERED EXHIBITS TO THE JURY.)

4 Q Have you had an opportunity to review State's Eighty-
5 four, State's Eighty-five, and State's Eighty-five -A, and
6 State's Eighty-six and Eighty-six-A?

7 A Yes, ma'am, I have.

8 Q And can you identify those items for me, please, by
9 number?

10 A Certainly, I'm going to start with State's Exhibit
11 Number Eighty-four and State's Exhibit Number Eighty-four A.
12 State's Exhibit Eighty-four is the Desert Eagle .50 caliber
13 handgun, which was located at the crime scene the morning of
14 the 4th, which was McLeod Ramp, the off ramp from I-95.

15 State's Eighty-four A are going to be the bullets,
16 which were retrieved from the magazine of the firearm of the
17 Desert Eagle .50 caliber, which was located at the crime
18 scene the morning of the 4th, which was McLeod Road and I-
19 95, which I didn't state previously, but State's Eighty-four
20 is actually placard number 6 at the crime scene.

21 Q Detective Scott, before you move on, how do you know
22 that's the same gun?

23 A Again, as you can see on the box, we have what's
24 commonly called at the Sheriff's Office, we use our evidence
25 tag, our blue tag, showing on here what exactly the evidence

1 description was, the evidence was found, a date and time of
2 collection, the crime, the victim, the defendant, as well as
3 the crime itself, and the collecting officer's name located
4 at the bottom of the evidence tag is my signature, also with
5 my badge number located directly behind my signature, which
6 would identify this as being the weapon that I collected on
7 that morning.

8 Q And Detective Scott, most firearms also have an
9 additional ---

10 **THE COURT:** Hold on a second. Detective Scott, explain
11 to the jury the reason that the firearm has been disabled so
12 they will know for purposes of handling it once it's in
13 evidence.

14 A Okay. We commonly make a weapon safe. It is for your
15 protection. Located in the weapon, the firearm, right here
16 is a gun lock, which is run through the magazine chamber
17 and out of the ejection port on top of the weapon, so even
18 if the slide was engaged, the weapon still could not fire,
19 rendering it completely safe.

20 **THE COURT:** Proceed.

21 **ASST. SOL. HASELDEN:** Thank you.

22 Q Detective Scott, there's an additional way to identify
23 most firearms, isn't there?

24 A Yes, ma'am. Most firearms have what is called, just as
25 any product, usually has a serial number located on that

1 firearm. Located on this particular firearm is a serial
2 number and I'll read it out, which is going to be MR000503
3 and generally, when we do our evidence tags, we also like to
4 put the same serial number. I'll read out the serial number
5 on this evidence tag, on State's Eighty-four, as MR000503,
6 which is also the same as on the weapon itself.

7 Q If you could move on to Eighty-six and Eighty-five,
8 please.

9 A Certainly. Again, as per Your Honor's instructions,
10 these guns were made safe. As you can tell, with the gun
11 locks in both of them. State's Exhibit Number Eighty-six is
12 going to be the Glock Model 33, .357 caliber compact. Also
13 located on this weapon is a serial number. The serial
14 number on this particular weapon is LKS043. On the evidence
15 tag is LKS043, which matches the firearm. This is going to
16 be State's Eighty-six.

17 State's Eighty-six A are the rounds that were taken
18 from the weapon. State's Eighty-five, and again, as per
19 Your Honor's instructions, has been made safe. This
20 particular weapon still has the magazine in it, but as you
21 can see, there is a gun lock run through it. There are no
22 rounds in the chamber and no rounds in the magazine and
23 also, it has been rendered completely safe. This is the USP
24 compact 9 mm. It, too, also has a serial number which I
25 will read out as 27-078401. Also located on the Sheriff's

1 Office evidence tag is H&K USP 9 mm, serial number 27-
2 078401, which matches the same as on the weapon. Again,
3 this is State's Eighty-five.

4 State's Eighty-five A is going to be the ammunition
5 which was removed from the firearm.

6 Q Detective Scott, you collected, personally, all of
7 those items, which would be State's Eighty-five A, Eighty-
8 six A, and Eighty-four and Eighty-four A?

9 A I did.

10 Q And what did you do with them after you collected them?

11 A Again, once evidence is collected, it is then rendered
12 safe, secured, and turned over to our evidence tech at the
13 Criminal Investigation Division Annex.

14 Q And just like when casings that we just saw and the two
15 projectiles, is anything additionally ever done with
16 firearms?

17 A Yes, ma'am. Again, as with the State's prior exhibits
18 with the shell casings and projectiles, firearms are
19 commonly submitted to SLED for further analysis in an
20 attempt to try to match up the various pieces of evidence
21 that we have. These particular weapons were in fact
22 submitted to the South Carolina Law Enforcement Division for
23 further analysis.

24 Q And when that further analysis was done, what happened
25 with those items?

1 A Upon completion of the analysis of the weapons, a SLED
2 report was issued, which was made part of the case file, and
3 the items were then returned to the Sheriff's Office where
4 they were secured in our evidence locker until the date and
5 time of trial.

6 ASST. SOL. HASELDEN: Your Honor, at this time, I would
7 ask that State's Eighty-four, State's Eighty-five, and
8 State's Eighty-five-A, and State's Eighty-six and Eighty-
9 six-A be moved into evidence.

10 THE COURT: Mr. Mathews, on behalf of Mr. McMillan, as
11 to State's Eighty-four, Eighty-four A, State's Eighty-five,
12 and State's Eighty-five A, and State's Eighty-six and
13 Eighty-six-A?

14 MR. MATHEWS: No objection, Your Honor.

15 THE COURT: Mr. Beach, on behalf of Mr. Jakes as to
16 State's Eighty-four, Eighty-four A, State's Eighty-five, and
17 State's Eighty-five-A, and State's Eighty-six and Eighty-
18 six-A?

19 MR. BEACH: None, sir.

20 THE COURT: Ladies and gentlemen of the jury, State's
21 Eighty-four, Eighty-four A, State's Eighty-five, and State's
22 Eighty-five A, and State's Eighty-six and Eighty-six A, will
23 be admitted into evidence in the trial of the case without
24 objection.

25 As you have been instructed by the witness, the weapons

1 have been rendered incapable of firing, even though there is
2 also ammunition in the boxes with the weapons. Please
3 handle them carefully. Please proceed.

4 (STATE EXHIBIT NUMBER EIGHTY-FOUR S RECEIVED INTO
5 EVIDENCE.)

6 (STATE EXHIBIT NUMBER EIGHTY-FOUR-A IS RECEIVED INTO
7 EVIDENCE.)

8 (STATE EXHIBIT NUMBER EIGHTY-FIVE IS RECEIVED INTO
9 EVIDENCE.)

10 (STATE EXHIBIT NUMBER EIGHTY-FIVE-A IS RECEIVED INTO
11 EVIDENCE.)

12 (STATE EXHIBIT NUMBER EIGHTY-SIX IS RECEIVED INTO
13 EVIDENCE.)

14 (STATE EXHIBIT NUMBER EIGHTY-SIX-A IS RECEIVED INTO
15 EVIDENCE.)

16 **THE COURT:** They are in evidence. You may publish.

17 Q Before I publish, Detective Scott, when your agency
18 collects firearms in any case, do you do anything
19 additionally with their serial numbers?

20 A Yes, ma'am, we do. What we do is generally we will run
21 firearms through our NCIC, or basically the national crime
22 database, to determine the origin or to see if there is
23 anything else that may be wrong with the weapon, such as
24 whether it was used in previous crimes or whether it be
25 stolen, missing, lost, and things of that nature.

1 Q And did you run these three firearms in that manner?

2 A Yes, ma'am, we did.

3 Q And what were the results?

4 A The results of State's Exhibit Eighty-five and State's
5 Exhibit Eighty-six, which are the .357 and the 9 mm, the
6 victim's weapons, it came back clear. We did not receive
7 any hits on these weapons. State's Eighty-four, which is
8 the Desert Eagle .50 caliber pistol. Upon running the
9 serial number through the National Crime Database, we did
10 receive a hit from State's Eighty-four that it was actually
11 stolen from the San Diego Police Department in San Diego,
12 California. Without misquoting, I want to say that it was
13 approximately a 2002 maybe.

14 Q But you were able to verify that the gun was stolen?

15 A Upon the hit from the NCIC, I myself did contact the
16 San Diego Police Department to verify that this weapon had
17 been stolen. At that time, a police report was made
18 available to myself in the form of a fax from the San Diego
19 Police Department, which was also made a part of the case
20 file.

21 ASST. SOL. HASELDEN: May I approach and publish?

22 THE COURT: You may.

23 ASST. SOL. HASELDEN: May I approach the witness again?

24 THE COURT: You may.

25 ASST. SOL. HASELDEN: Detective Scott, I'm going to show

1 you now what's been marked for identification purposes only
2 as State's Seventy-One, would you please review this item?

3 **THE COURT:** Counsel, approach.

4 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
5 AND OUT OF THE HEARING OF THE JURY.)

6 **THE COURT:** Madame Foreperson, ladies and gentlemen of
7 the jury, I'm going to take my mid-morning break at this
8 point, so you can stretch your legs, use the restroom.

9 Don't worry about the exhibits; just put them on the
10 railing. They'll be right here and they'll be with you in
11 your jury room when you're doing deliberations. So, I don't
12 want anyone to feel they won't have an equal opportunity to
13 review anything in evidence.

14 Please do not discuss the case, I'll be right back with
15 you, I want you to have time to use the restroom so we can
16 start back; I'll be checking with the bailiff once I know
17 all of you had a chance to stretch your legs and take a
18 break then we'll start back. Hopefully no more than about
19 ten or twelve minutes, you may retire to your jury room at
20 this time.

21 (11:15 A.M., 8-31-11, WHEREUPON, THE JURY EXITS THE
22 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

23 **THE COURT:** Now, Jeff, you're in the middle of your
24 testimony, that means I want you to be able to take a break
25 with everybody else, but as you know you cannot discuss your

1 testimony with anybody during the break because you have not
2 been cross examined. Feel free to use the restroom, get up
3 and walk around the courtroom, but do not discuss your
4 testimony with anyone.

5 Counsel, I want all of the spectators as well as you to
6 be able to take a break, this will be my only midmorning
7 break, so let's take it so we can move forward. We'll take
8 ten minutes.

9 (WHEREUPON, COURT IS IN BRIEF RECESS.)

10 **THE COURT:** Is the defendant McMillan ready to proceed?

11 **MR. MATHEWS:** Yes, Your Honor.

12 **THE COURT:** Defendant Jakes ready to proceed?

13 **MR. BEACH:** Yes, sir.

14 **THE COURT:** All right, once again ladies and gentlemen, I've
15 received word that I have a witness, during the break,
16 someone has attempted to influence their testimony.

17 Mr. Mathews, it is alleged that one of your witnesses
18 on your witness list, a Mr. Jenkins, attempted to influence
19 the testimony of witnesses testified in this case. I don't
20 know whether that's true or not, but I'm going to expect you
21 at the lunch break to get everyone of your witnesses and you
22 advise them in no uncertain terms that if it is proven, that
23 any person, I don't care who it is, for the victim's family
24 or for the defense, it makes no difference, any person
25 attempts to influence anybody's testimony, change anybody's

1 testimony, I will handle that with my content powers or I
2 will direct law enforcement to charge them with obstruction
3 of justice and I'll see to it that they're dealt with.

4 I will not tolerate people trying to influence people's
5 testimony during the trial of the case; and you make sure,
6 Solicitor, that your witnesses are aware of that, as well as
7 yours, Mr. Beach. I realize you only have the one who's
8 present, but Mr. Mathews has six or seven on his list.

9 With that final caveat, because I'm not going to
10 continue to get these side reports. Now, I don't know
11 what's true and what isn't true; I'm receiving those reports
12 that's going on -- the witnesses are supposed to be
13 separated. They're not even supposed to have contact. This
14 allegedly occurred on the stairwell. Your witnesses should
15 be where you designated and I gave you a room in this
16 courthouse and yours should be upstairs, so there shouldn't
17 be any contact going on and certainly no discussion about
18 testimony. Everybody understand? Solicitor?

19 ASST. SOL. HASELDEN: Yes, sir.

20 THE COURT: Mr. McMillan?

21 MR. MATHEWS: Yes, sir.

22 THE COURT: Mr. Beach?

23 MR. BEACH: Yes, sir.

24 THE COURT: Bring me the jury -- you ready to go?

25 MR. MATHEWS: Yes, sir.

1 (11:20 A.M., 8-31-11, WHEREUPON, THE JURY ENTERS THE
2 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
3 RECORD.)

4 **THE COURT:** All right, Madame Foreperson, ladies and
5 gentlemen of the jury, we will now continue with the
6 testimony in the trial of this case. This is direct
7 examination. Solicitor, your witness.

8 **ASST. SOL. HASELDEN:** Thank you. May it please the
9 Court?

10 **DIRECT EXAMINATION CONTINUES**

11 **BY ASST. SOL. HASELDEN:**

12 Q Detective Scott, I approached you with what's been
13 marked for identification purposes only as State's Seventy-
14 One, can you identify that?

15 A As this item is sealed in a bag, I'm not able to
16 identify what's in the envelopes, but I can identify the
17 blue tags which are located out to the side as being swabs
18 collected by various officers.

19 Q In particular, within that, there should be an item
20 that's identified as Colleton County Sheriff's Office Number
21 Twenty-Four, are you able to identify that tag?

22 A Yes ma'am. Colleton County Sheriff's Office identify
23 item Number Twenty-Four, which is also part of State's
24 Seventy-One, is identified as two swabs which were located
25 at the I-95, McLeod Road exit ramp on the night of the 4th

1 of 2010, which was swabs obtained from placard Number Five,
2 which was the blood stains on the ground.

3 Q Did you take that swab?

4 A Yes, ma'am, I did.

5 Q What did you do with that swab when you were done with
6 it?

7 A Once the swab had been taken, just like any other piece
8 of evidence, they had been tagged, placed into the criminal
9 investigation division evidence locker and turned over to
10 the evidence custodian.

11 Q Okay. And any further processing on that Colleton
12 County Sheriff's Office Number Twenty-Four, part of State's
13 Seventy-One?

14 A Yes, ma'am. Again, as I stated, prior to pieces of
15 evidence which I turned into our criminal investigation
16 division evidence locker, can and sometimes usually are
17 submitted to SLED for further processing, Sheriff's Office
18 Item Twenty-Four, State's Seventy-One, which is a swab
19 located from the McLeod Road exit ramp were submitted to
20 SLED for further analysis.

21 Q Now, you said that there are other items in State's
22 Seventy-One; what are those other items?

23 A Sheriff's Office Item Twenty-Five, that's part of
24 State's Seventy-One, is two DNA swabs taken from the head
25 rest of the white Cadillac. Sheriff's Office Item Twenty-

1 Six, also two swabs, these were taken from the steering
2 wheel of the Cadillac, items Twenty-Eight, was one swab
3 which was taken from, what I had identified as spot Number
4 Three, which was the rear seat of the Cadillac, which was, I
5 believe, blood. Sheriff's Office Item Twenty-Nine was one
6 swab, which was taken from what I had identified as spot
7 Number Two, which was the rear passenger side fender of the
8 Cadillac which was also blood.

9 Q All right. So, you're talking about these swabs that
10 were taken from a Cadillac -- what did you do in regards to
11 this Cadillac?

12 A Once the Cadillac was then secured on the early morning
13 hours on the fourth of June last year, it was secure at the
14 Criminal Investigation Division Annex in a locked facility
15 that we have there, awaiting for the processing. A search
16 warrant was obtained for the Cadillac at which time the
17 search warrant was executed by myself along with two other
18 detectives from the Sheriff's Office at which time, property
19 therein deemed as evidence, was then collected, tagged and
20 turned into evidence.

21 Q Your Honor, may I approach the witness?

22 THE COURT: You may.

23 ASST. SOL. HASELDEN: Detective Scott, I'm showing you
24 what's been marked for identification purposes only as
25 State's Twenty-Nine through State's Fifty-Six. Please take

1 a moment to read those items to yourself.

2 A Yes, ma'am.

3 Q What are those items?

4 A These are photographs, State's Exhibits Twenty-Nine
5 through Fifty-Six, from the silver Cadillac, from the search
6 warrant that was executed on the vehicle depicting the
7 Cadillac as it was brought to us through our search warrant
8 process and evidence collections vehicle.

9 Q Do you remember when you processed that vehicle?

10 A The vehicle was processed on June 7th, 2010.

11 Q That's several days later, correct?

12 A That is correct, approximately three days later.

13 Q Where had that Cadillac been in the meantime?

14 A As you get to see in the photographs, the Cadillac was
15 actually secured in our evidence bay that we have located at
16 the Sheriff's Office Criminal Investigation Division Annex
17 which is a climate controlled secured facility.

18 Q So who all's allowed access to that Cadillac while it's
19 in there?

20 A The only one's allowed access to this vehicle while it
21 is stationary inside the bay, are the investigators with the
22 Colleton County Sheriff's Office.

23 Q Okay. Are all those photos, State's Exhibit's marked
24 for I.D., Twenty-Nine through Fifty-Six inclusive, are those
25 all truthful and accurate depictions of the Cadillac as it

1 existed throughout your process on June 7th, I believe you
2 said?

3 A That is correct.

4 Q Your Honor, at this time, I'd move State's Twenty-Nine
5 through Fifty-Six into evidence.

6 THE COURT: Mr. Mathews, on behalf of Mr. McMillan as
7 to State's Exhibit's Twenty-Nine through Fifty-Six
8 inclusive?

9 MR. MATHEWS: No objection, Your Honor.

10 THE COURT: Mr. Beach, on behalf of Mr. Jakes as to
11 State's Exhibit's Twenty-Nine through Fifty-Six inclusive?

12 MR. BEACH: No objection.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit's Twenty-Nine through Fifty-Six will be admitted
15 into evidence in the trial of this case, without objection.

16 (STATE EXHIBIT NUMBER TWENTY-NINE IS RECEIVED INTO
17 EVIDENCE.)

18 (STATE EXHIBIT NUMBER THIRTY IS RECEIVED INTO
19 EVIDENCE.)

20 (STATE EXHIBIT NUMBER THIRTY-ONE IS RECEIVED INTO
21 EVIDENCE.)

22 (STATE EXHIBIT NUMBER THIRTY-TWO IS RECEIVED INTO
23 EVIDENCE.)

24 (STATE EXHIBIT NUMBER THIRTY-THREE IS RECEIVED INTO
25 EVIDENCE.)

1 (STATE EXHIBIT NUMBER THIRTY-FOUR IS RECEIVED INTO
2 EVIDENCE.)
3 (STATE EXHIBIT NUMBER THIRTY-FIVE IS RECEIVED INTO
4 EVIDENCE.)
5 (STATE EXHIBIT NUMBER THIRTY-SIX IS RECEIVED INTO
6 EVIDENCE.)
7 (STATE EXHIBIT NUMBER THIRTY-SEVEN IS RECEIVED INTO
8 EVIDENCE.)
9 (STATE EXHIBIT NUMBER THIRTY-EIGHT IS RECEIVED INTO
10 EVIDENCE.)
11 (STATE EXHIBIT NUMBER THIRTY-NINE IS RECEIVED INTO
12 EVIDENCE.)
13 (STATE EXHIBIT NUMBER FORTY IS RECEIVED INTO EVIDENCE.)
14 (STATE EXHIBIT NUMBER FORTY-ONE IS RECEIVED INTO
15 EVIDENCE.)
16 (STATE EXHIBIT NUMBER FORTY-TWO IS RECEIVED INTO
17 EVIDENCE.)
18 (STATE EXHIBIT NUMBER FORTY-THREE IS RECEIVED INTO
19 EVIDENCE.)
20 (STATE EXHIBIT NUMBER FORTY-FOUR IS RECEIVED INTO
21 EVIDENCE.)
22 (STATE EXHIBIT NUMBER FORTY-FIVE IS RECEIVED INTO
23 EVIDENCE.)
24 (STATE EXHIBIT NUMBER FORTY-SIX IS RECEIVED INTO
25 EVIDENCE.)

1 (STATE EXHIBIT NUMBER FORTY-SEVEN IS RECEIVED INTO
2 EVIDENCE.)

3 (STATE EXHIBIT NUMBER FORTY-EIGHT IS RECEIVED INTO
4 EVIDENCE.)

5 (STATE EXHIBIT NUMBER FORTY-NINE IS RECEIVED INTO
6 EVIDENCE.)

7 (STATE EXHIBIT NUMBER FIFTY IS RECEIVED INTO EVIDENCE.)

8 (STATE EXHIBIT NUMBER FIFTY-ONE IS RECEIVED INTO
9 EVIDENCE.)

10 (STATE EXHIBIT NUMBER FIFTY-TWO IS RECEIVED INTO
11 EVIDENCE.)

12 (STATE EXHIBIT NUMBER FIFTY-THREE IS RECEIVED INTO
13 EVIDENCE.)

14 (STATE EXHIBIT NUMBER FIFTY-FOUR IS RECEIVED INTO
15 EVIDENCE.)

16 (STATE EXHIBIT NUMBER FIFTY-FIVE IS RECEIVED INTO
17 EVIDENCE.)

18 (STATE EXHIBIT NUMBER FIFTY-SIX IS RECEIVED INTO
19 EVIDENCE.)

20 **THE COURT:** You may publish. You may approach.

21 **ASST. SOL. HASELDEN:** Your Honor, if I might, I'll just
22 remove these firearms first?

23 **THE COURT:** That will be fine.

24 Q Detective Scott, if you would, if you could walk
25 through these photos and explain what each photo shows, but

1 while you do it, since there's a lot going on with this
2 Cadillac, if you could show it to the members of the jury at
3 the same time and describe what's going on and the process
4 that you're going through.

5 A Certainly. State's Twenty-Nine, which is the front
6 view of the Cadillac which is standard procedure anytime we
7 do any kind of evidence processing, we take an initial far
8 away picture prior to any evidence collection or any
9 processing of the vehicle.

10 State's Thirty is going to be, again, a picture of the
11 vehicle showing the donut in the tire of the rear passenger
12 side of the car -- also located in this picture is some
13 stains that you can see right above the wheel well which had
14 the appearance of blood.

15 State's Thirty-One, same picture, a little different
16 angle, which shows the rear passenger-side donut tire, also
17 in this picture you will notice some stains just above the
18 wheel well which had the appearance of blood.

19 State's Thirty-Two, same picture, close up. As you can
20 see in the picture, you have those same stains which are
21 located just above the wheel well on both sides that have
22 the same appearance as blood.

23 State's Thirty-Three, is going to be an interior view
24 shot from the exterior of the vehicle which this is the
25 driver's compartment, just to show how the vehicle sat as we

1 got it before we removed any evidence or before we tampered
2 with the inside of the vehicle, as far as processing goes.

3 State's Thirty-Four is going to be the rear driver side
4 of the vehicle, as you can see in this picture here, we have
5 a -- you can see a white tennis shoe in the floorboard of
6 the vehicle, also, you will notice that in the seat area of
7 the vehicle there are several reddish stains having the
8 appearance of blood.

9 State's Thirty-Five, which is the same picture, a
10 little closer, is a white tennis shoe. Also located to the
11 side of the tennis shoe is an open bottle of alcohol. You
12 will also notice in this picture there are some stains again
13 in this picture having the appearance of blood.

14 State's Thirty-Six is going to be a view of the rear
15 driver side's seat of the Cadillac as shot from the exterior
16 of the vehicle, and you also notice in this picture there
17 are numerous stains in the backseat of the vehicle.

18 State's Thirty-Seven is going to the head rest of the
19 driver's side of the Cadillac. As you will notice on the
20 back of the head rest of the Cadillac, you will notice there
21 are some stains again having the appearance of blood.

22 State's Thirty-Eight is going to be the rear passenger
23 seat of the Cadillac. In this photograph, State's Thirty-
24 Eight, you will notice that there are an actual large stain
25 right here, again, having the appearance of blood. You will

1 also notice directly located almost in the center of the
2 photograph, is a spent shell casing.

3 State's Thirty-Nine is a view of the rear seat of the
4 Cadillac. In this picture you will notice a black, I
5 believe, it's a t-shirt, or hoodie, of some sort. Also in
6 this photograph you will notice in the background that there
7 are some reddish stains with the appearance of blood.

8 State's Forty is a close up of the same shell casing,
9 which was located on the rear seat of the Cadillac. You do
10 also see some of the stains on the back of the car, but this
11 photograph is of the close up of the spent shell casing.

12 State's Forty-One is going to be a view from the
13 outside rear passenger to the inside of the vehicle, which
14 was the rear passenger compartment. In this photograph, you
15 see the same black article of clothing, as well as you will
16 notice to the left of the picture, in the middle of the
17 photograph, is the center console lid cover; and you will
18 also notice the same stains and in the background you will
19 also notice the tennis shoe on the driver side of the
20 vehicle.

21 State's Forty-Two is a view from the passenger side of
22 the Cadillac into the passenger compartment of the Cadillac.
23 In this, photograph, you will notice that the center console
24 it shown to not have its lid still attached to it, which it
25 was laying in the backseat.

1 State's Forty-Three is going to be a photograph of the
2 trunk compartment of the Cadillac, and as you see in this
3 photograph there is a tire with several tear or shred marks
4 along the exterior of the tire.

5 State's Forty-Four is a close up of a shell casing
6 which is located in the rear of the vehicle passenger side
7 just behind; if you look, this is the center console lid.
8 Just behind that was located a shell casing as well as you
9 do seem some reddish stains here with the appearance of
10 blood.

11 State's Forty-Five is a view of the center console lid.
12 At this point, it had been turned upside down by myself to
13 photograph the blood which is located on the bottom of the
14 center console lid. Again, this is the rear passenger side
15 of the vehicle and you also can notice those same stains
16 underneath where the console lid was located at.

17 State's Forty-Six is a view located directly in the
18 center of the photograph. Right in this general vicinity,
19 there is a spent shell casing -- this photograph is actually
20 of the underside of the rear seat. The rear seat was
21 removed from the vehicle. The rear seat was not actually
22 securely attached to the vehicle, so we just picked it up
23 and removed it from the vehicle without any effort
24 whatsoever, but in this photograph you do see a spent shell
25 casing.

1 State's Forty-Three is going to be a photograph of the
2 trunk compartment of the Cadillac, and as you see in this
3 photograph there is a tire with several tear or shred marks
4 along the exterior of the tire.

5 State's Forty-Four is a close up of a shell casing
6 which is located in the rear of the vehicle passenger side
7 just behind; if you look, this is the center console lid.
8 Just behind that was located a shell casing as well as you
9 do seem some reddish stains here with the appearance of
10 blood.

11 State's Forty-Five is a view of the center console lid.
12 At this point, it had been turned upside down by myself to
13 photograph the blood which is located on the bottom of the
14 center console lid. Again, this is the rear passenger side
15 of the vehicle and you also can notice those same stains
16 underneath where the console lid was located at.

17 State's Forty-Six is a view located directly in the
18 center of the photograph. Right in this general vicinity,
19 there is a spent shell casing -- this photograph is actually
20 of the underside of the rear seat. The rear seat was
21 removed from the vehicle. The rear seat was not actually
22 securely attached to the vehicle, so we just picked it up
23 and removed it from the vehicle without any effort
24 whatsoever, but in this photograph you do see a spent shell
25 casing.

1 State's Forty-Seven, again, is going to be the
2 underside of the rear seat of the Cadillac as observed that
3 day, and directly in the center of the photograph you will
4 observe a spent shell casing located underneath where the
5 seat would have been secured.

6 State's Forty-Eight is going to be a view of the
7 Cadillac as the crime scene processing started. You will
8 observe that this is the wheel well from earlier photographs
9 and you will notice something different, that written in a
10 black sharpie on the Cadillac fenders is the number "one"
11 and the number "two," this was done for crime scene
12 processing purposes as we take swabs from multiple areas.
13 We like to be able to keep up with where we took the swabs
14 from, so for this particular case, I labeled them "one" and
15 "two" so when I tagged the swabs, I would know that swab
16 number one was lifted from this area and swab number two was
17 lifted from this area, so as to not be confused with any
18 other swabs taken from the vehicle during the process.

19 State's Forty-Nine is the rear seat as it lie on the
20 floor of our evidence bed. You will also notice in State's
21 Forty-Nine, that there is the number "three" also in
22 sharpie, written on the backseat of the Cadillac. Again,
23 this was done for the collection of the blood for
24 processing, so I would know where swab number three was
25 taken from which was the rear seat of the Cadillac.

1 State's Fifty, this is the underside of the center
2 console lid, and I apologize for the photo quality, but you
3 can see just right off the tip of my finger is the number
4 "four". Again, this was done so I would know that when the
5 swabs were sent off, this particular piece of evidence, swab
6 Number Four, was collected from the underside of the center
7 console lid. As you can see there are numerous stains with
8 the appearance of blood under the console lid.

9 State's Fifty-One is the driver side rear door area.
10 In State's Fifty-One, you will notice that we then started
11 with the fingerprint process of the vehicle and there are
12 some fingerprints prior to collection located at the rear
13 door of this Cadillac.

14 State's Fifty-Two is going to be a view of the rear
15 glass of the Cadillac. This is not the door. This is
16 actually the back glass of the Cadillac if you were just to
17 kind of look out the back window of your vehicle. I believe
18 it was located on the driver side of the vehicle and you can
19 tell in this photograph that we continued with the
20 fingerprint process as we do have some fingerprints located
21 in this area right here.

22 State's Fifty-Three, again, we continue on with the
23 finger print process. Located in State's Fifty-Three and I
24 apologize, I'm not sure exactly where on the vehicle in
25 particular, these particular prints are, but these are the

1 Cadillac that was processed on June 7th, and again, you can
2 see some fingerprints, as well as some partial palms,
3 located on the vehicle.

4 State's Fifty-Four, and again I apologize, I'm not sure
5 of the exact location of these particular prints, but they
6 are located on the Cadillac, and in this picture you can
7 observe that in the center of the photograph there are
8 fingerprints located on the vehicle.

9 State's Fifty-Five is going to be the rear trunk and
10 rear driver side fender area of the Cadillac as it was
11 observed on June 7th with multiple prints located on this
12 area in this particular vicinity. And finally, State's
13 Fifty-Six is going to be a close-up of some prints that were
14 located on the Cadillac. I believe this is still the trunk
15 area of the Cadillac and you can observe in this general
16 vicinity that there are multiple prints located.

17 Q Thank you.

18 ASST. SOL. HASELDEN: Your Honor, may I approach and
19 publish.

20 THE COURT: You may.

21 ASST. SOL. HASELDEN: May I approach again?

22 THE COURT: You may.

23 Q Detective Scott, I'm going to hand you now what's been
24 marked for identification purposes only, it's State's
25 Seventy-Two and State's Seventy-Three, if will you take a

1 second to look those over for me please, and let me know
2 when you're done.

3 A Yes, ma'am.

4 Q Now, we already know that Sheriff's Office Number
5 Twenty-Four, which was represented by Placard Five in
6 State's Seventy-One, you mentioned there were multiple items
7 in there though. Can you describe what some of those items
8 were, coupled with the two that I just gave you -- first of
9 all, can you identify the two I just gave you?

10 A Yes, ma'am, I can.

11 Q What are they?

12 A Sheriff's Office Item Number, which is also State's
13 Exhibit Number Seventy-Two, is one swab which was taken from
14 spot Number Four, as I previously mentioned in the
15 photographs from the center console lid area. Sheriff's
16 Office Item Number Thirty, State's Seventy-Three, was one
17 swab that was taken from the passenger rear fender of the
18 Cadillac, which was identified as spot Number One in the
19 same photographs.

20 Q And you had already identified what the other ones were
21 in Seventy-One, correct?

22 A That is correct.

23 Q Did you take those two swabs?

24 A Yes, ma'am, I did.

25 Q Did you take the other swabs that are in Seventy-One?

1 A Item Seventy-One, I took swabs -- Sheriff's Office Item
2 Number Twenty-Four, Twenty-Eight, Twenty-Nine, with
3 Detective Thomas taking Twenty-Five and Twenty-Six.

4 Q Did he take those in your presence?

5 A Yes, he did.

6 Q Did you see him take them?

7 A Yes, ma'am, I did.

8 Q Did you then take custody of all these items after they
9 were taken?

10 A All of these items were taken again and placed into
11 evidence as previously mentioned.

12 Q And along with Seventy-One, did Seventy-Two and
13 Seventy-Three also undergo further testing?

14 A Yes, they did.

15 Q What was done with them upon completion of the further
16 testing?

17 A Upon completion of the analysis at SLED, South Carolina
18 Law Enforcement Division, these items were returned to us
19 which they were then secured in the criminal investigation
20 division locker.

21 Q Your Honor, at this time I'd ask that State's Seventy-
22 One, Seventy-Two and Seventy-Three be moved into evidence.

23 **THE COURT:** Mr. Mathews, on behalf of Mr. McMillan as
24 to State's Seventy-One, Seventy-Two and Seventy-Three?

25 **MR. MATHEWS:** Without objection, Your Honor.

1 **THE COURT:** Mr. Beach, on behalf of Mr. Jakes as to
2 State's Exhibit Seventy-One, Seventy-Two and Seventy-Three?

3 **MR. BEACH:** No objection, Your Honor.

4 **THE COURT:** Ladies and gentlemen of the jury, State's
5 Exhibit's Seventy-One, Seventy-Two and Seventy-Three will be
6 admitted into evidence in the trial of this case without
7 objection.

8 (STATE EXHIBIT NUMBER SEVENTY-ONE IS RECEIVED INTO
9 EVIDENCE.)

10 (STATE EXHIBIT NUMBER SEVENTY-TWO IS RECEIVED INTO
11 EVIDENCE.)

12 (STATE EXHIBIT NUMBER SEVENTY-THREE IS RECEIVED INTO
13 EVIDENCE.)

14 **THE COURT:** You may publish.

15 **ASST. SOL. HASELDEN:** May I approach?

16 **THE COURT:** You may approach.

17 Q Detective Scott, we saw in those photos that you found
18 other evidence inside the car, though; is that correct?

19 **THE COURT:** Refer to the exhibit number for the record.

20 Q We're going from State's Exhibit's Twenty-Nine through
21 Fifty-Six. You recovered other evidence though than State's
22 Seventy-One, Seventy-Two and Seventy-Three, is that correct?

23 A That is correct.

24 Q Did you also recover, physically take, the spent shell
25 casings we observed in Twenty-Nine through Fifty-Six?

1 A Yes, I did.

2 Q May I approach?

3 THE COURT: You may.

4 Q Detective Scott, I'm handing you what's been marked
5 Seventy-Four, Seventy-Five, Seventy-Six and Seventy-Seven,
6 take a moment to review those, please.

7 A Yes, ma'am.

8 Q What are those items?

9 A State's Seventy-Four through Seventy-Seven are --
10 Seventy-Four is a spent 9 mm shell casing; Seventy-Five is a
11 spent 9 mm shell casing; Seventy-Six is a spent 9 mm shell
12 casing; and Seventy-Seven is a spent 9 mm shell casing, all
13 retrieved from the Cadillac.

14 Q How do you know those are the four retrieved items from
15 the Cadillac?

16 A Again, as stated before, through our Sheriff's Office
17 Evidence Tag, you'll notice at the bottom of the tag my
18 signature, as well as my employee number. Also located
19 within the envelope of a plastic bag is a brown smaller
20 paper bag, located at the top of that is the collection
21 time, as well as a spent shell casing; all of them done
22 within my handwriting.

23 Q Like we've heard before with other forms of evidence,
24 what did you do with those once they were collected?

25 A Again, once these were collected, tagged, they were

1 submitted to the Sheriff's Office Investigation Division
2 Evidence Locker to await further analysis.

3 Q Did they undergo further analysis?

4 A They did.

5 Q Where did they undergo further analysis?

6 A They underwent further analysis at the State Law
7 Enforcement Division in Columbia, SLED.

8 Q And when they were done at SLED, what happened to them?

9 A When these items were done at SLED, they were then
10 returned to the Colleton County Sheriff's Office where they
11 were resecured back in the evidence locker awaiting the
12 trial for this case.

13 **ASST. SOL. HASELDEN:** Your Honor, at this time I'd ask
14 that State's Seventy-four, Seventy-five, Seventy-six, and
15 Seventy-seven be moved into evidence.

16 **THE COURT:** On behalf of Mr. McMillan, any objections
17 to Seventy-Four, Seventy-Five, Seventy-Six, and Seventy-
18 Seven, Mr. Mathews?

19 **MR. MATHEWS:** Without objection, Your Honor.

20 **THE COURT:** Mr. Beach, on behalf of Mr. Jakes, any
21 objection to Seventy-Four, Seventy-Five, Seventy-Six, and
22 Seventy-Seven?

23 **MR. BEACH:** No objections, Your Honor.

24 **THE COURT:** Ladies and gentlemen of the jury State's
25 Exhibit's Seventy-Four, Seventy-Five, Seventy-Six, and

1 Seventy-Seven will be admitted into evidence in the trial of
2 this case without objection.

3 (STATE EXHIBIT NUMBER SEVENTY-FOUR IS RECEIVED INTO
4 EVIDENCE.)

5 (STATE EXHIBIT NUMBER SEVENTY-FIVE IS RECEIVED INTO
6 EVIDENCE.)

7 (STATE EXHIBIT NUMBER SEVENTY-SIX IS RECEIVED INTO
8 EVIDENCE.)

9 (STATE EXHIBIT NUMBER SEVENTY-SEVEN IS RECEIVED INTO
10 EVIDENCE.)

11 **THE COURT:** You may publish. You may approach.

12 **ASST. SOL. HASELDEN:** Thank you.

13 Q Detective Scott, you recovered those swabs from the
14 Cadillac, right?

15 A Correct.

16 Q Why did you recover those swabs from the Cadillac?

17 A Those swabs were recovered from the Cadillac for them
18 to be submitted for comparison to any other known standard
19 that might be on file with SLED, or any other standard that
20 might be taken throughout the course of this investigation
21 to try to prove or disprove someone's involvement in the
22 case.

23 Q So you mentioned the standards, is it part of your job
24 as a case officer to secure standards from any possible
25 parties?

1 A That is correct. If we have an idea that someone is
2 involved in a case, we then try to obtain a standard; which
3 a standard, all it is, is a swab taken from the mouth area
4 of an individual that we feel may be involved in this case
5 to submit to SLED for comparison with other swabs taken.

6 Q And in this case, were additional standards taken from
7 parties involved?

8 A Yes, there were.

9 Q What parties were those?

10 A We took standards from basically all parties that were
11 alleged to have been on the scene that night, to include
12 victims, we took standards from Jesse King, Amanda and
13 Jeanine Metzfield. We then took standards from James Davis,
14 Antwan McMillan, and David Jakes.

15 **ASST. SOL. HASELDEN:** Your Honor, may I approach?

16 **THE COURT:** You may.

17 Q Detective Scott, I'm going to hand you now what's been
18 marked for I.D. purposes only as Seventy-Eight, Seventy-
19 Nine, Eighty, Eighty-One, Eighty-Two, and Eighty-Three. You
20 can take a second to review those items.

21 A Yes, ma'am.

22 Q What are those items?

23 A These items are the DNA standard that were obtained
24 from the six individuals I previously named.

25 Q Did you ever see the taking of all those items or were

1 various items taken by members of your investigation team?

2 A Various items were taken by various detectives from the
3 Sheriff's Office.

4 Q And were any taken by yourself?

5 A Yes, there were some taken by myself.

6 Q Could you identify which are which, please, and if it
7 was not yourself, could you identify who took them for the
8 record?

9 A Certainly. This oral swab taken from victim, Jesse
10 King; this swab was obtained in Pensacola, Florida, by
11 Detective Dorethea Gathers, you can tell by her signature
12 located at the bottom of the card, as well as her badge
13 number, employee number, located directly behind her
14 signature.

15 Q What number was that?

16 A That was State's Seventy-Eight. State's Seventy-Nine
17 was a DNA oral swab taken from Amanda Metzfield, also taken
18 in Pensacola, Florida, on the same day by Detective Gathers.

19 This is two oral swabs that were taken from James
20 Davis. These swabs were taken by Detective Sergeant Christy
21 Green, from the Sheriff's Office Annex and that would be
22 State's Eighty. State's Eighty-One were DNA swabs taken
23 from Jeanine Metzfield. Those swabs were taken from her
24 home in Richmond, Virginia, by myself. The next were swabs
25 taken from David Jakes which would be State's Eighty-Two.

1 Those swabs were collected by myself at the Colleton County
2 Detention Center.

3 Finally, State's Eighty-Three were swabs taken from
4 Antwan McMillan, also collected by myself from the Colleton
5 County Detention Center.

6 Q What happened to those swabs once they were taken?

7 A Once the swabs were taken, they were then tagged,
8 placed in evidence and submitted to the State Law
9 Enforcement Division for further analysis.

10 Q Were they taken to SLED?

11 A Yes, they were.

12 Q What happened to them up at SLED?

13 A At SLED they were then analyzed and compared to the
14 other swabs that were previously submitted from the crime
15 scene that night which was Placard Number Five, the blood,
16 as well as the swabs obtained from the Cadillac on the the
17 7th that were taken during the course of the search warrant.

18 Q And when they were done up at SLED what happened to
19 them?

20 A When they were done at SLED, they were then returned
21 back over to our agency to be resecured in the property
22 locker.

23 Q Your Honor, at this time I'd move State's Seventy-
24 Eight, Seventy-Nine, Eighty, Eighty-One, Eighty-Two and
25 Eighty-Three into evidence.

1 **THE COURT:** Mr. Mathews, as to Seventy-Eight through
2 Eighty-Three inclusive State's Exhibit's on behalf of the
3 defendant McMillan?

4 **MR. MATHEWS:** No objection, Your Honor.

5 **THE COURT:** Mr. Beach, on behalf of the defendant Jakes
6 as to Seventy-Eight through Eighty-Three?

7 **MR. BEACH:** No objection.

8 **THE COURT:** Ladies and gentlemen of the jury, State's
9 Exhibit's Seventy-Eight through Eighty-Three, inclusive,
10 will be admitted into evidence in the trial of this case
11 without objection.

12 (STATE EXHIBIT NUMBER SEVENTY-EIGHT IS RECEIVED INTO
13 EVIDENCE.)

14 (STATE EXHIBIT NUMBER SEVENTY-NINE IS RECEIVED INTO
15 EVIDENCE.)

16 (STATE EXHIBIT NUMBER EIGHTY IS RECEIVED INTO
17 EVIDENCE.)

18 (STATE EXHIBIT NUMBER EIGHTY-ONE IS RECEIVED INTO
19 EVIDENCE.)

20 (STATE EXHIBIT NUMBER EIGHTY-TWO IS RECEIVED INTO
21 EVIDENCE.)

22 (STATE EXHIBIT NUMBER EIGHTY-THREE IS RECEIVED INTO
23 EVIDENCE.)

24 **THE COURT:** You may publish and approach.

25 **ASST. SOL. HASELDEN:** Thank you, Your Honor.

1 Q Detective Scott, we saw in State's Twenty-Nine through
2 Fifty-Six that there were various items of clothing and
3 other articles inside the car, were any of those collected?

4 A Yes, they were.

5 Q Why?

6 A Again, these items were collected, as they were deemed
7 to have some type of evidentiary value. Generally, we would
8 collect clothing because of various reasons. Some can be a
9 victim saying the subject was wearing this the night of or
10 another reason is for DNA collection as well. Clothing can
11 have sweat, hair, things of that nature, which can also be
12 collected for DNA processing.

13 **THE COURT:** Counsel, approach.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE- RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 **ASST. SOL. HASELDEN:** May I approach?

17 **THE COURT:** You may.

18 Q Detective Scott, I'm now going to show you what's been
19 marked for identification purposes as State's Ninety-Three,
20 Ninety-Four, Ninety-Nine, One Hundred and also Ninety-Five.
21 Can you identify those items, please?

22 A Certainly.

23 Q Did you have an opportunity to review Ninety-Three,
24 Ninety-Four, Ninety-Five, Ninety-Nine and One hundred?

25 A Yes ma'am.

1 Q Can you tell me what those items are?

2 A Certainly. State's Exhibit Ninety-Three is a black
3 shirt which was taken from the rear seat of the Cadillac on
4 the day of the processing of the search warrant execution.

5 State's Ninety-Four are a pair of gloves which were,
6 again, located inside the Cadillac rear driver side,
7 collected on the day of the execution of the search warrant.

8 State's Ninety-Five is a white towel and a pin striped
9 hoodie also located inside the Cadillac on the day of the
10 execution of the search warrant.

11 State's Ninety-Nine is going to be a white t-shirt
12 which was also located in the rear of the vehicle on the day
13 of the execution of the search warrant.

14 And finally, State's One-Hundred is a pair of Nike Air
15 Force One tennis shoes and a hat, also located within the
16 side of the vehicle on the day of the execution of the
17 search warrant.

18 Q Detective Scott, are these the same items that were
19 seen in State's Twenty-Nine through Fifty-Six, the
20 photographs that we're processing, the Cadillac?

21 A Yes, they are.

22 Q Did you collect these items?

23 A Yes, I did.

24 Q What did you do with the items when you were done with
25 them?

1 A When I collected the items they were again tagged,
2 placed in the Criminal Investigation Division Evidence
3 Property Locker, and then further sent to SLED for analysis.

4 Q Now, when you have larger items, clothing or items such
5 as these, they're treated a little differently than swabs at
6 SLED aren't they?

7 A Yes, ma'am.

8 Q And, basically, those items have been altered since
9 you've collected them, haven't they?

10 A They had been secured within these bags, as well as
11 they have some type of a plastic apparatus in there to keep
12 them straight.

13 Q Okay, but, can you verify that they are the same item
14 that you recovered from that car?

15 A Yes, I can.

16 Q Did you do anything to alter them while they were in
17 your custody?

18 A No, ma'am, I did not.

19 Q Once they were secured in the evidence locker, you said
20 they were sent to SLED?

21 A That is correct.

22 Q And when they were done at SLED, did you, or someone in
23 your staff, retrieve them?

24 A Yes, we did.

25 Q What did they do with them?

1 A Once the items were retrieved again, they were then
2 resecured in the evidence locker awaiting date, time and
3 trail.

4 ASST. SOL. HASELDEN: Your Honor, at this time I ask
5 that State's Ninety-Three, Ninety-Four, Ninety-Five, Ninety-
6 Nine and One-Hundred be moved into evidence.

7 THE COURT: Mr. Mathews, on behalf of Mr. McMillan as
8 to State's Exhibit's Ninety-Three through Ninety-Five,
9 inclusive, and Ninety-Nine and One-Hundred?

10 MR. MATHEWS: Without objection, Your Honor.

11 THE COURT: Mr. Beach, on behalf of Mr. Jakes?

12 MR. BEACH: No objection.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit's Ninety-Three, Ninety-Four, Ninety-Five, Ninety-
15 Nine and One-Hundred will be admitted into evidence in the
16 trial of this case, without objection.

17 (STATE EXHIBIT NUMBER NINETY-THREE IS RECEIVED INTO
18 EVIDENCE.)

19 (STATE EXHIBIT NUMBER NINETY-FOUR IS RECEIVED INTO
20 EVIDENCE.)

21 (STATE EXHIBIT NUMBER NINETY-FIVE IS RECEIVED INTO
22 EVIDENCE.)

23 (STATE EXHIBIT NUMBER NINETY-NINE IS RECEIVED INTO
24 EVIDENCE.)

25 (STATE EXHIBIT NUMBER ONE-HUNDRED IS RECEIVED INTO

1 EVIDENCE.)

2 THE COURT: You may publish.

3 ASST. SOL. HASELDEN: Thank you. Your Honor, at this
4 time I would ask that the items remain up here until further
5 testimony and after further testimony, gloves will be given.

6 THE COURT: Very well. Proceed.

7 ASST. SOL. HASELDEN: May I approach?

8 THE COURT: You may.

9 Q Detective Scott, I'm going to hand you what's been
10 marked for identification purposes only, as State's Ninety-
11 Six. Just take a moment to look over that, please.

12 A These appear to be samples collected from SLED on the
13 articles of clothing.

14 Q But you didn't collect those articles?

15 A No, ma'am.

16 Q The articles of clothing that you mention, are those
17 what are in State's Ninety-Three, Ninety-Four, Ninety-Five,
18 Ninety-Nine and One-Hundred?

19 A That is correct.

20 Q So what do you mean samples?

21 A When any item is submitted to SLED, they then take a
22 sample from that item to compare to standards, as well as
23 other samples that were collected by the investigating
24 officers.

25 Q Okay. So you did not personally take those samples

1 out?

2 A No, ma'am.

3 Q But when the items were done, Ninety-Three, Ninety-
4 Four, Ninety-Five, Ninety-Nine and One-Hundred were done
5 being tested at SLED, Did you remember yourself then picked
6 the items up which is State's Ninety-Six?

7 A Yes, ma'am.

8 Q And it was returned to Colleton County Sheriff's
9 Office?

10 A Yes, ma'am, it was.

11 Q What happened to it there?

12 A Once it was returned to Colleton County Sheriff's
13 Office, it was then secured in the Criminal Investigation
14 Division Property Evidence Locker, again, when you found and
15 date the trial.

16 Q Okay. All most done.

17 **ASST. SOL. HASELDEN:** Your Honor, may I approach again?

18 **THE COURT:** You may.

19 Q Detective Scott, now I'm going to show you what's been
20 marked for identification purposes only as State's Ninety-
21 Eight and State's One-Hundred One. If you can take a moment
22 to look over those.

23 A Yes, ma'am, I can identify these items.

24 Q What are those items, please?

25 A These items are the prints that were lifted from the

1 Cadillac during the day of the execution of the search
2 warrant; the processing and the evidence bags are secured in
3 as well as the temp-print cards, which is a standard card
4 that we submit if we have a known, or possibly known,
5 suspect to be processed at the crime lab to compare the list
6 with the cards to see if they match.

7 Q What State's number is that that your ---

8 A I apologize; this is State's Ninety-Eight.

9 Q Okay. So those are the actual latent lifts?

10 A That is correct.

11 Q Are you able to identify State's One-Hundred One?

12 A Yes, ma'am, I am.

13 Q What is that?

14 A State's 101 is the property evidence bag that the
15 prints were submitted to the crime lab in.

16 Q Why is it separate from Ninety-Eight?

17 A State's 101 is separate from 98 because of --
18 originally prints were submitted to AFIS, which is located
19 in North Charleston for analysis. They, in turn, then had a
20 tragedy, they were not able to be here today, so therefore,
21 we had to resubmit the prints to Beaufort Crime Lab for
22 complete processing all over again.

23 Once the prints were submitted to Beaufort Crime Lab,
24 the prints were then returned to me by Sergeant Chris Wilson
25 from Beaufort County Sheriff's Office in State's Ninety-

1 Eight, this enveloped the temp-print cards and the latent
2 lifts, but do to a mistake, the property evidence bags were
3 actually kept with her. She, then, brought these with her
4 this morning to, again return them to Colleton County
5 Sheriff's Office.

6 Q Can you verify by identification there that State's
7 Ninety-Eight is the original set or temp-print cards and
8 latent lifts that you took?

9 A Yes, ma'am, they are.

10 Q You took those latent lifts from the Cadillac that we
11 saw in State's Twenty-Nine through Fifty-Six?

12 A Myself, along with Detective Carter, did lift these
13 from the exterior of the vehicle on the 7th of June.

14 **ASST. SOL. HASELDEN:** Your Honor, at this time I'd ask
15 that State's Ninety-Eight and One-Hundred One be moved into
16 evidence.

17 **THE COURT:** As to State's Ninety-Eight and One-Hundred
18 One, Mr. Mathews?

19 **MR. MATHEWS:** Without objection, Your Honor.

20 **THE COURT:** Mr. Beach?

21 **MR. BEACH:** No objection.

22 **THE COURT:** Ladies and gentlemen of the jury, State's
23 Exhibit's Ninety-Eight and One-Hundred One will be admitted
24 into evidence in the trial of this case without objection.

25 ((STATE EXHIBIT NUMBER NINETY-EIGHT IS RECEIVED INTO

1 EVIDENCE.)

2 (STATE EXHIBIT NUMBER ONE HUNDRED AND ONE IS RECEIVED
3 INTO EVIDENCE.)

4 **THE COURT:** You may publish.

5 **ASST. SOL. HASELDEN:** Your Honor, again, I'm going to
6 ask that these remain up here until they are testified to
7 further.

8 **THE COURT:** I understand.

9 Q Now, Detective Scott, as a part of the further
10 processing of that silver Cadillac that we saw in State's
11 Twenty-Nine through Fifty-Six, were you able to determine
12 who owned that car?

13 A We were able to determine, through running the vehicle
14 identification number on the vehicle, who the car did, in
15 fact, belong to. We attempted to run the tag initially on
16 the car, which was I believe FFV798, but do to that tag
17 being on the wrong vehicle, we had to run the vehicle's
18 identification number, which was located on the dashboard of
19 the vehicle.

20 **ASST. SOL. HASELDEN:** May I approach, Your Honor?

21 **THE COURT:** You may.

22 Q Detective Scott, I'm showing you State's Exhibit Seven.
23 Do you recognize that?

24 A Yes ma'am, I do.

25 Q What is that?

1 A State's Exhibit Seven is the Cadillac, as photographed
2 by myself, the rear of the Cadillac, which shows the tag
3 that was on it, the night that we recovered it as evidence.

4 Q You say that there was a wrong tag on that car?

5 A Yes, ma'am, that is correct.

6 Q How did you find that out?

7 A Again, the tag was ran through our central dispatch.
8 We gave them the tag number; they ran it through the DMV, at
9 which time came back with this particular tag should have
10 been on, I believe, a Trailblazer, not a Cadillac.

11 Q When you run the vehicle identification number and the
12 tag number, are you just given make and model? Are you just
13 given an addresses, or are you given names?

14 A When you run a tag or as well as a VIN, you're given
15 make, model and the registered owner of that vehicle.

16 Q Who was the registered owner of that Cadillac when you
17 ran the VIN?

18 A Upon running the VIN, the registered owner, I believe,
19 without my notes, I believe it was a Jenkins' subject.
20 Again, I apologize; I don't have my NCIC printout.

21 MR. BEACH: May we approach, Your Honor?

22 THE COURT: Counsel approach.

23 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
24 AND OUT OF THE HEARING OF THE JURY.)

25 THE COURT: Proceed.

1 **ASST. SOL. HASELDEN:** May I approach, Your Honor?

2 **THE COURT:** You may.

3 Q Detective Scott, I'm handing you two items. If you
4 could just review those to refresh your memory.

5 A Yes, ma'am.

6 Q So who did the Vehicle Identification Number reveal as
7 the owner of the car?

8 A The VIN number came back to a David Jenkins. His
9 address is listed as [REDACTED], Smoaks, South
10 Carolina.

11 Q You stated that the tag on the vehicle was the
12 incorrect tag; is that correct?

13 A That is correct.

14 Q Who did that tag come back to?

15 A The tag that was on the vehicle, as seen in State's
16 Seven, which is [REDACTED]; that tag comes back to Brenda Lee
17 McMillan, [REDACTED], Ruffin, South Carolina.

18 **ASST. SOL. HASELDEN:** May I approach, again?

19 **THE COURT:** You may.

20 Q Detective Scott, as your position as case officer on
21 this, did I ask you to prepare a map?

22 A Yes, you did.

23 Q And how did you prepare that?

24 A As far as the preparation process, I went to GIS, which
25 is located in the Harrelson Building, across and to the

1 right, near the tax office, and met with one of their
2 personnel who prepared a rather nice map for us.

3 Q And what is GIS, do you know?

4 A No, I don't.

5 **ASST. SOL. HASELDEN:** Your Honor, may I approach?

6 **THE COURT:** You may. Mr. Mathews, Mr. Beach, you may
7 come around, if you wish to view anything that's going to be
8 shown to the jury. Is it your intention to introduce this?

9 **ASST. SOL. HASELDEN:** Yes.

10 **THE COURT:** All right, counsel, be aware so that you
11 can take a look at this. It was used earlier. Proceed.

12 Q And before I reveal it, if you could just look at it.
13 It's been marked for identification purposes as State's
14 Ninety-one. Do you recognize this item?

15 A Yes, ma'am, I do.

16 Q What is this item?

17 A That is a map of the upper portion of the county, which
18 is from the hospital located on Robertson Boulevard to
19 Smoaks, South Carolina. The ending address being, I
20 believe, [REDACTED], Smoaks, South Carolina.

21 Q Is this the map I asked you to prepare?

22 A Yes, it is.

23 Q And you retrieved this directly from Geological Survey
24 here in Colleton County?

25 A Yes, I did.

1 **ASST. SOL. HASELDEN:** Your Honor, I'd ask at this time
2 that State's Ninety-one be moved into evidence.

3 **THE COURT:** Any objection as to State's Ninety-one from
4 defendant McMillan?

5 **MR. MATHEWS:** No, Your Honor.

6 **THE COURT:** From the defendant Jakes?

7 **MR. BEACH:** No, Your Honor.

8 **THE COURT:** Ladies and gentlemen of the jury, State's
9 Exhibit Number Ninety-one will be admitted into evidence
10 without objection.

11 (STATE EXHIBIT NUMBER NINETY-ONE, ENLARGED MAP OF UPPER
12 COLLETON COUNTY, IS RECEIVED INTO EVIDENCE.)

13 **THE COURT:** State's Ninety-one is in evidence. You may
14 publish. Counsel, you may come around if you wish to view
15 it.

16 Q Detective Scott, if I could use the microphone at this
17 time. If you would step down off the stand.

18 **THE COURT:** Hold on a second. Let me make sure it's
19 working. Counsel, come around. Can everybody on the jury
20 see the board?

21 (ALL NOD IN AGREEMENT.)

22 **THE COURT:** How about my lawyers?

23 (NOD IN AGREEMENT.)

24 **THE COURT:** All right. Jeff, hold the microphone up.
25 You've got your back to Becky now, so speak up. Ladies and

1 gentlemen of the jury, let me know if anybody cannot see or
2 hear. Proceed.

3 Q Detective Scott, as a part of this case as case
4 officer, is it also your duty to perhaps draft and serve and
5 execute search warrants?

6 A Yes, it is.

7 Q Did you execute search warrants in this case to the
8 home of the two defendants?

9 A Yes, we did.

10 Q And was anything of any evidentiary value related to
11 this case found?

12 A No, there was nothing of any evidentiary value related
13 to this case located in the residence of the two defendants.

14 Q And where did the defendant, Antwan McMillan, live at
15 the time of this incident?

16 A The defendant, Antwan McMillan, lived at [REDACTED]
17 [REDACTED].

18 Q And are you able to identify that location on the map?

19 A Yes, ma'am, I am.

20 Q If you could, please, at this time, in the presence of
21 the jury, mark that location.

22 A Certainly. (WITNESS MARKS THE MAP.) [REDACTED]
23 would be located -- if you look, you'll see Southard Lane.
24 It's actually located right there, which this is Sunrise
25 Road right here. This is Clatty Farm Road and this is

1 Johnsville Road, right here in Smoaks, South Carolina.

2 Q Did you also -- were you able to determine where the
3 defendant, David Jakes, was living at the time of this
4 incident?

5 A Yes, we were.

6 Q And where was that?

7 A That was [REDACTED], Smoaks, South Carolina.

8 Q Are you able to identify it on the map?

9 A Yes, ma'am, I am.

10 Q If you would please mark it in the presence of the jury
11 at this time.

12 A Certainly. [REDACTED] is going to be in this
13 general vicinity right here. Again, this is Clatty Farm
14 Road, this is Sunrise, and this is Johnsville in Smoaks,
15 South Carolina.

16 Q Are you able to identify on that map Colleton Medical
17 Center?

18 A Yes, ma'am, I am.

19 Q Could you please, in the presence of the jury, mark
20 that location at this time?

21 A Certainly. Colleton Medical Center is located on
22 Robertson Boulevard, which is located right here. It's
23 already highlighted blue, but I will go ahead and circle it
24 in the presence of the jury, but that is Colleton Medical
25 Center, Robertson Boulevard; I believe the address is 501.

1 Q Thank you.

2 THE COURT: Do you need him to return to the witness
3 stand?

4 ASST. SOL. HASELDEN: Yes, he can return to the witness
5 stand.

6 THE COURT: All right.

7 (WITNESS GIVES HANDHELD MICROPHONE BACK TO CLERK.)

8 THE COURT: State's Exhibit Ninety-one is in evidence,
9 unless you're going to use it on the easel further, it goes
10 to the court reporter. Do you need it?

11 ASST. SOL. HASELDEN: No, we'll take it down.

12 THE COURT: Proceed.

13 Q Finally, Detective Scott, is a part of your job as an
14 investigator of the Sheriff's Office, you interview
15 suspects, don't you?

16 A Yes, ma'am, I do.

17 Q Did you have an opportunity on June 4th of 2010 to
18 interview James Davis?

19 A Yes, ma'am, I did.

20 Q And you've been sitting in here, haven't you?

21 A Yes, ma'am, I have.

22 Q You saw his testimony?

23 A Yes, ma'am, I did.

24 Q Did he tell you the same thing on June 4th, 2010 as he
25 testified to on that stand?

1 A Yes, ma'am, he did.

2 Q You had another opportunity to meet with him, didn't
3 you, in December of 2010?

4 A Yes, ma'am, I did.

5 Q And did he tell you the same thing again that he told
6 on that stand yesterday?

7 A Yes, ma'am, he did.

8 **ASST. SOL. HASELDEN:** Just a moment's indulgence.

9 Q Detective Scott, I believe I have no further questions
10 for you. If you would answer anything defense counsel has,
11 I'd appreciate it.

12 **THE COURT:** Counsel approach.

13 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
14 AND OUT OF THE HEARING OF THE JURY.)

15 **THE COURT:** Madame Foreperson, ladies and gentlemen of
16 the jury, we're going to stop at this time and take our
17 lunch break. During the lunch break, if I have any smokers,
18 as I told you yesterday, you know they will take you
19 outside. Now, that's during the breaks in the trial because
20 we don't allow smoking in the jury room once deliberations
21 start. Of course, you stay together in the jury room, but
22 I'm happy to provide that outside the courtroom during the
23 break.

24 Please do not discuss the case with anybody, amongst
25 yourselves or anybody else. I understand your lunch has

1 arrived. It's going to be served in your jury room for
2 lunch. I'll get back to you just as quick as I know
3 everybody has had a chance to eat. I need to give the
4 parties a chance to have lunch and get back and the
5 spectators, if possible. However, I anticipate we'll start
6 back as close to 2:00 as possible. You may retire to your
7 jury room at this time.

8 (1:00 P.M., 8-31-11, WHEREUPON THE JURY EXITS THE
9 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

10 **THE COURT:** All right. Detective Scott, once again,
11 although you know that I do not prefer doing this, I'm
12 having to take a break during your testimony. You have not
13 been cross-examined. I want you to feel free to get lunch,
14 but you cannot discuss your testimony with any attorney or
15 any other person. You're in the middle of examination and
16 it would be improper for you to talk about your testimony
17 with anyone.

18 **DET. SCOTT:** Yes, sir.

19 **THE COURT:** We will start back with cross-examination
20 of Detective Scott at approximately 2:00. Now, I realize
21 that you have to leave to get lunch and get back. So an
22 hour is a little bit flexible, but I definitely don't want
23 to start any later than 2:15, because I want to try to get
24 as much work done as possible. Anything outside the
25 presence of the jury from the State -- does the State

1 anticipate they can complete their case today?

2 **ASST. SOL. HASELDEN:** Yes, sir. I believe we have only
3 about two more hours total of testimony.

4 **THE COURT:** All right. This is your two-hour notice,
5 Mr. Mathews and Mr. Beach, that if we started back at 2:00,
6 at approximately 4:00 this afternoon, the defense should be
7 ready, if they so desire, to start presenting evidence in
8 the trial of this case. Everybody understand?

9 **MR. MATHEWS:** Yes, Your Honor. Before we get started,
10 I have a question for Antwan. I intend to introduce some
11 evidence either here or through another witness, and I know
12 that will cost Mr. McMillan my final argument. I don't know
13 what effect it has on Mr. Beach. I know we've got a Chinese
14 Wall, so it may not, but I just -- just for clarification
15 when we get along, I just ask that ---

16 **THE COURT:** Well, I'll wait until you reach that
17 bridge. That's a "what if" question, Mr. Mathews. I don't
18 know what's going to happen here. I'll deal with it at the
19 appropriate time if it occurs. I know Mr. Beach appreciates
20 you bringing up "what if" as to your concerns for his
21 client, but frankly, if you put up evidence, you will not
22 get closing argument, and that's as far as it concerns you.
23 Anything else?

24 **MR. MATHEWS:** No, sir.

25 **THE COURT:** Is the defendant Jakes ready to proceed?

1 **MR. BEACH:** Ready, Your Honor.

2 **THE COURT:** All right. Bring us a jury, please.

3 (2:15 P.M., 8-31-11, WHEREUPON THE JURY ENTERS THE
4 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

5 **THE COURT:** Madame Foreperson, ladies and gentlemen of
6 the jury, we'll now continue with the testimony in the trial
7 of this case. Cross-examination of this witness, by the
8 defendant McMillan.

9 **MR. MATHEWS:** Thank you, Your Honor. May it please the
10 Court.

11 **CROSS-EXAMINATION**

12 **BY MR. MATHEWS:**

13 Q Good afternoon, Detective Scott, how are you doing
14 today?

15 A I'm all right. How are you doing?

16 Q Excellent. You are the case officer, the lead officer
17 in this case, are you not?

18 A Yes, sir, I am.

19 Q And that isn't true in every case, but I think you
20 testified way -- it seems like forever ago, but early; is
21 that correct?

22 A That is correct.

23 Q As lead officer, you review all the evidence that comes
24 in, in this case?

25 A That is correct.

1 Q And determine what things should be sent to SLED and
2 what things should not.

3 A It's a collective effort sometimes with my supervisor;
4 that is correct.

5 Q Okay. You had referenced right there at the end that
6 you had gotten a couple of search warrants for the two
7 defendants. One at Sunrise Road, I guess; is that correct?

8 A That is correct.

9 Q And one at Clatty Farm Road?

10 A That is also correct.

11 Q Okay. And you had -- how hard is it to get a search
12 warrant? How much time does it take?

13 A Basically, it all depends. I mean, it's a case-by-case
14 basis. You just type up an affidavit for a search warrant,
15 which has all the information in it, the probable cause, the
16 reason you want to search the property, a reason you believe
17 that there is evidence at the property, and then you have a
18 judge review it, and then ultimately, if they deem it's
19 necessary to issue a search warrant, then they'll sign it

20 Q In this case, at Clatty Farm, you got it, you drafted
21 it up with the affidavit and then you went to Judge Elbert,
22 I think, Judge Duffy, right?

23 A I believe that's correct.

24 Q And you were able to do that on the same day?

25 A I believe that's correct.

1 Q And you were able to have officers go out and serve it
2 on the same day?

3 A I believe so, yes, sir. That's correct.

4 Q Okay. Now you indicate that you were unable to obtain
5 anything of evidentiary value, but that doesn't mean that
6 you didn't seize some; is that correct?

7 A That is correct.

8 Q Okay. And, in fact, you seized from Clatty Farm Road,
9 you seized a couple of long guns -- or I'm sorry, you seized
10 a shotgun and a .32 caliber handgun?

11 A I know we retrieved a shotgun. I'm not sure of the
12 caliber of the pistol, but I know it was a small caliber.

13 Q Okay.

14 A It was not a caliber used in this particular incident.

15 Q I understand; but you didn't seize that?

16 A We did take that one, yes, sir.

17 Q And initially, you entered that pistol into evidence,
18 did you not?

19 A That is correct.

20 Q But you found it was related to a separate case
21 involving one of the residents of that home?

22 A I believe so.

23 Q And which -- who was that?

24 A I believe -- I don't want to misquote, Bryan Jenkins,
25 maybe.

1 Q Okay. One of the residents of that home?

2 A That is correct.

3 Q So it went into evidence and it was given an evidence
4 number, but then it was removed and put in a different case
5 file?

6 A I believe what the public defender is referring to is
7 not the pistol, but the shotgun that was seized from the
8 home. It was actually linked to another case, at which time
9 it was then removed from the evidence in this case and
10 assigned a different case number.

11 Q Okay. So inadvertently, when you said there was
12 nothing of evidentiary value, at one time you felt there was
13 or could have been?

14 A Again, like I stated before, as to this case, there was
15 nothing of evidentiary value removed from the homes of the
16 two defendants related to this case.

17 Q Okay. And you also took from, I think, you took
18 nothing from Sunrise Road; is that correct?

19 A That is correct.

20 Q And four or five items were taken from Clatty Farm
21 Road?

22 A That's correct.

23 Q Including two weapons?

24 A That is correct.

25 Q When you say -- there was a third search warrant done

1 on the Cadillac, correct?

2 A That is also correct.

3 Q And you were able to seize that first, because it could
4 go somewhere and then get a search warrant after you had
5 taken the vehicle?

6 A Yes, sir. That is correct.

7 Q Okay. In fact, you also had a search warrant issued on
8 Mr. Davis's home, did you not?

9 A Yes, sir, we did.

10 Q And although nothing was entered into evidence, various
11 items were seized from that home ?

12 A Yes, sir, they were.

13 Q Including in those items were three of four cell
14 phones.

15 A I'm not sure exactly how many there were, but a couple
16 of cell phones taken as per the search warrant, correct.

17 Q Okay, a couple.

18 **MR. MATHEWS:** May I approach the Court Reporter?

19 **THE COURT:** You may?

20 **MR. MATHEWS:** May I approach the witness?

21 **THE COURT:** You may.

22 Q Detective Scott, what did I just hand you? What is
23 that marked? What exhibit number?

24 A This is Defendant's Nine.

25 Q Okay. And does that reflect the scene at Johnsville

1 Road?

2 A Yes, sir. I believe this is a back background at [REDACTED]

3 [REDACTED].

4 Q Okay. And would you kindly count the number of cell
5 phones that are on that dresser?

6 A The number of cell phones sitting on the dresser are
7 three.

8 Q And you took those, but you ultimately sent them back?

9 A That is correct.

10 Q Did you send them to SLED?

11 A No, sir. They were not sent to SLED.

12 Q Okay. Have you ever in your time as a detective, have
13 you ever gotten a subpoena for cell phone records?

14 A Yes, sir. We do it all the time.

15 Q And is that a particularly arduous thing or is it you
16 send it off and they send you the records?

17 A It is a time consuming thing; we send it off, but we
18 have to have certain types of information before we can send
19 a subpoena off to obtain phone records.

20 Q Okay. Normally, when you send it off, I mean, a lot of
21 the cell phones you get belong to people other than the
22 person you take them from, right?

23 A That is correct.

24 Q So normally, when you send a subpoena for cell phone
25 records, you send it by number?

1 A Actually, you have to have, for a subpoena for a cell
2 phone record, the subscriber's name, date of birth, social
3 security number, as well as the phone number, is the general
4 rule of when we prepare a subpoena.

5 Q A general rule?

6 A For when we prepare a subpoena for cell phone records,
7 that is usually what we place on our subpoenas.

8 Q Usually, but if you don't have the information, they
9 have records by cell phone number; do they not?

10 A Generally, when we send a subpoena for cell phone
11 records, I've never had a case to where it comes up to where
12 I only had a phone number, so I can't testify to whether or
13 not they can look it up strictly by phone number or not.

14 Q Okay. So you don't know, because you've never tried?

15 A I don't know.

16 Q Okay. You've never tried?

17 A I don't know. I've never tried.

18 Q And would you agree that calls made during the night
19 would be an important thing to know?

20 A That is correct.

21 Q Okay. Now as the case officer, you also dispatched
22 people out to the hospital, did you not? Or were aware that
23 your agents or officers were dispatched to the hospital?

24 A Yes, I was aware.

25 Q And I think Officer Lawson was one of the people sent

1 out there?

2 A Yes, sir, he was one of the officers to respond to the
3 hospital.

4 Q And he took -- he took pictures on scene?

5 A Yes, sir. He did.

6 Q And you had access to those pictures?

7 A Yes, sir, I did.

8 **MR. MATHEWS:** May I approach the witness again?

9 **THE COURT:** You may.

10 Q Detective Scott, what have I handed you?

11 A This is some photographs numbering Defendant's One,
12 two, three, four, and five.

13 Q Okay. Would you count the number -- those are people
14 that were at the hospital?

15 A I never responded to the hospital, so I couldn't tell
16 you exactly who was at the hospital.

17 Q Well, you're the case officer, right?

18 A Yes, sir. That is correct.

19 Q And you have to assess the evidence and figure out, so
20 you knew, did you assess that Jacky Lawson was out there and
21 he took pictures?

22 A Yes, sir. Jacky Lawson was at the hospital and he did
23 take pictures.

24 Q And those were photos that he submitted into the case
25 file.

1 A That is correct.

2 Q Would you count the number of people who are holding
3 cell phones.

4 A Look's like five.

5 Q All right. Were any of those cell phones ceased?

6 A No, sir. They were not.

7 Q To your knowledge, did anyone bother to flip it open
8 and go through the history?

9 A We can not do that without a search warrant consent
10 from the owner of the cell phone.

11 Q To your knowledge was any consent attempted?

12 A To my knowledge, no sir.

13 Q May I look at some of the exhibits here ---

14 **THE COURT:** Now, don't take them back to Counsel's
15 table.

16 **MR. MATHEWS:** No, sir. Okay. May I approach the
17 witness?

18 **THE COURT:** You may.

19 **MR. MATHEWS:** Detective Scott, I'm handing you what's
20 been marked already as State's Exhibit Number Thirty-Three
21 and has been already entered into evidence and ask if you
22 can identify that?

23 A Certainly.

24 Q What is that?

25 A This is State's Thirty-Three, which is the Cadillac

1 which was photographed during the search warrant from an
2 exterior view into the driver's side compartment of the
3 vehicle.

4 Q Okay.

5 **MR. MATHEWS:** Your Honor, may I approach the court
6 reporter? I had a couple exhibits that I marked ---

7 **THE COURT:** You may approach the court reporter.

8 **MR. MATHEWS:** These were the photos that I had. May I
9 approach the witness, Your Honor?

10 **THE COURT:** You may.

11 Q Detective Scott, I'm handing you what's been marked as
12 Defendant's Exhibit Number Seven and ask if -- is that the
13 same picture that was in Thirty-Three?

14 A Yes, sir, a little close up.

15 Q You took that picture or someone in your presence took
16 that picture?

17 A Yes, sir. I did take the pictures during the search
18 warrant.

19 Q All right.

20 **MR. MATHEWS:** May I now approach the witness again,
21 Your Honor?

22 **THE COURT:** Yes, you may.

23 Q Detective Scott, I'm now handing you what's been marked
24 as Defendant's Exhibit Number Six and ask if you recognize
25 that?

1 A Yes, sir. It's a red Motorola cell phone which was in
2 the interior of the vehicle.

3 Q In the interior of the vehicle?

4 A That's correct.

5 Q Now, that is not in evidence at this time?

6 A No, sir. I don't believe so.

7 Q Is that reflected in the State's Exhibit Number Thirty-
8 Three, is that in the console -- there's a little bit of
9 red.

10 A No, sir.

11 Q Where do you find that cell phone?

12 A That cell phone looks like it's actually located in,
13 possibly near the cup holder area, the ashtray area near the
14 dashboard.

15 Q Okay. Would that have been in plain view?

16 A Yes, sir.

17 Q And you had a search warrant -- did you bother to flip
18 that open and check the history of the calls on that phone?

19 A To my knowledge, the phone battery was actually dead
20 because I do believe we did flip it open, but the battery of
21 the phone was dead.

22 Q All right. In any of these phones, if you actually
23 take it and open it up, if they give you consent, it will
24 tell you the phone number of the phone, right?

25 A I'm not a phone expert, I have a hard enough time

1 figuring out my own phone.

2 Q All right. You testified just before we broke for
3 lunch about your examination of James Davis; is that
4 correct?

5 A Yes, sir. That is correct.

6 Q And you indicated that he told you the truth that
7 night, that he did not lie to you.

8 A No, sir. I indicated that the same statement he told
9 me that night he did tell me also again at December.

10 Q But he did lie to you.

11 A Initially. Yes, sir, he did.

12 Q Okay. About how long was that interview, probably
13 about an hour?

14 A Yes, sir. It was an hour or so, approximately.

15 Q Okay. Initially, I think Christy Green talked to Mr.
16 Davis first, right?

17 A I'm not sure if she was the one who Mirandized him or
18 not, but I believe she did speak with him, initially.

19 Q Okay. She's the first one then?

20 A I believe so, yes.

21 Q And then Allen Inabinett walked in after that?

22 A That's correct.

23 Q And, at some point, James Davis' family was in there
24 early on?

25 A That's correct.

1 Q The film was running, but he didn't know it was running
2 or he did know it was running at that point?

3 A I'm unaware if he knew it was running at that time or
4 not, but the film was running throughout the entire course
5 of that interview.

6 Q Okay. And, actually, you walked in at about thirty
7 minutes and forty-three seconds into it, does that sound
8 accurate?

9 A That's approximately.

10 Q When you walked in first, you handcuffed Mr. Davis?

11 A I believe so, but again, without reviewing any of the
12 video, I can't recall.

13 Q Okay. About forty-seven minutes and thirty seconds in,
14 you had told him that his mom and dad were dead set that he
15 didn't do this, but the evidence shows that he was there; is
16 that correct, does that sound accurate?

17 A I don't remember word for word.

18 Q You told him -- at that point, who had you had under
19 arrest at the time you were talking to Mr. Davis?

20 A Can you repeat the question?

21 Q Who all was under arrest at that time? Was Antwan
22 under arrest at that time?

23 A No, sir. He was not.

24 Q But you had him as a suspect at that point?

25 A Yes, sir. We did have him identified as a suspect.

1 Q Okay. And David Jakes, you also had identified as a
2 suspect at that point?

3 A That's correct.

4 Q So, without talking to him, you already knew you
5 already had three suspects?

6 A Yes, sir. We did identify three suspects in this case.

7 Q Okay. And about fifty-five minutes and twenty-one
8 seconds into it, did you tell him you don't want to put your
9 life in the hands of Rat and Dinky?

10 A Yes, sir. I believe so.

11 Q Okay. All right, and initially, he told you that his
12 fingerprints -- if we look, get fingerprints on that car,
13 are they going to be him and he said, "no."

14 A Correct.

15 Q And if we check for DNA on that car, are they gonna be
16 there and he said, "no."

17 A Correct.

18 Q That wasn't true.

19 A That's correct.

20 Q It's correct that it was not true.

21 A That's correct, it was not true.

22 Q At the conclusion of it, he was arrested and not
23 allowed to go home.

24 A That is correct.

25 Q Detective Scott, you were also aware that Detective

1 Inabinett had taken a statement from David Jakes, as case
2 officer?

3 A Yes, sir. I am.

4 Q Was a video taped on of that interview?

5 A Yes, sir, it was.

6 Q And, in fact, has that already been marked as a court's
7 exhibit in this case?

8 A I believe so, earlier on. Yes, sir.

9 Q Okay.

10 MR. MATHEWS: Your Honor, I think that's Court's
11 Exhibit Number One?

12 THE COURT: All right, hold on a second. Counsel,
13 approach.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 MR. MATHEWS: I have nothing further to this witness,
17 Your Honor.

18 THE COURT: Very well. Cross-examination by the
19 defendant, Jakes.

20 MR. BEACH: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. BEACH:

23 Q Detective Scott, when you arrived on the scene, is it
24 true that had found shell casings?

25 A That is correct, yes sir.

1 Q And these are the ones that you listed, you found some
2 .357 shell cases?

3 A Yes, sir. I did.

4 Q Those were located where?

5 A The .357's were located at the rear of the victim's
6 vehicle, which was I believe was Placard Number Eight, the
7 Toyota Tacoma.

8 Q They were over by the trucks?

9 A Yes, sir, they were.

10 Q Okay. They were .357s?

11 A Yes, sir, they were.

12 Q The other ones you found were what?

13 A They were 9 mm shell casings.

14 Q And where did you find them?

15 A They were located, three of them right in the middle of
16 the roadway at the base of the exit ramp, with the fourth
17 one located off the side of the shoulder of the road at the
18 exit ramp, located near the spot of blood, as well as the
19 gun.

20 Q That is close to where you found the .50 caliber
21 handgun?

22 A That's correct.

23 Q All right. Now, did the .50 caliber handgun, will it
24 fire a 9 mm shell?

25 A No, sir. It will not.

- 1 Q Okay. As I understand, it's specifically bigger than
- 2 the 9 mm?
- 3 A Yes, sir, very much bigger.
- 4 Q Did you find any .50 caliber shells on the road?
- 5 A No, sir, we did not.
- 6 Q Did you find shells in the Desert Eagle .50 caliber
- 7 handgun?
- 8 A Yes, sir. We found one in the chamber and we found a
- 9 magazine that was loaded to capacity, minus one.
- 10 Q So, there was one shell missing out of the magazine?
- 11 A That's correct.
- 12 Q Could that have been the shell that was in the chamber?
- 13 A I can't testify to that because I really don't know.
- 14 Q All right. That's fair enough. So, these shells you
- 15 found on the road, is it fair to state that they were fairly
- 16 close to where the Cadillac had been?
- 17 A Yes, sir, they were. The 9 mm.
- 18 Q Okay. And all you found was 9 mm?
- 19 A That's correct. Yes, sir.
- 20 Q Nothing else, no .50s?
- 21 A No, we found 9 mm and .357s.
- 22 Q And .357s, in all probability, came from the victim's
- 23 gun?
- 24 A Yes, sir.
- 25 Q No other questions. Thank you detective.

1 **THE COURT:** Redirect.

2 **ASST. SOL. HASELDEN:** Briefly, Your Honor.

3 **REDIRECT EXAMINATION**

4 **BY ASST. SOL. HASELDEN:**

5 Q Detective Scott, when you testified a moment ago, you
6 testified that first Detective Christy Green came in and
7 spoke to James Davis on June 4th, 2010?

8 A Yes, ma'am.

9 Q And then Allen Inabinett?

10 A Yes, ma'am.

11 Q And then James Davis' parents were allowed in there
12 with him?

13 A Yes, ma'am.

14 Q The videos were on the whole time?

15 A Yes, ma'am, it was.

16 Q And then you came in and talked to him?

17 A Yes, ma'am, I did.

18 Q At first, he lied to you?

19 A That is correct, he did.

20 Q Then, he changed his story?

21 A Yes, ma'am, he did.

22 Q He changed his story to what he told you in December?

23 A Yes, ma'am, he did.

24 Q Then he changed his story to what he told you -- or
25 what you heard him testify to you yesterday on the stand?

Recross-Examination of Det. Jeff Scott by Mr. Mathews
Recross-Examination of Det. Jeff Scott by Mr. Beach

1 A Yes, ma'am.

2 Q I have nothing further, thank you.

3 THE COURT: Recross, limited to redirect, by the
4 defendant McMillan.

5 MR. MATHEWS: Thank you, Your Honor.

6 RECROSS EXAMINATION

7 BY MR. MATHEWS:

8 Q One point of clarification, Detective Scott. You said
9 there was a shell found in the .50 caliber, was that a live
10 round?

11 A Yes, sir. There was a live round found in the chamber
12 of the .50 caliber.

13 Q There's no indication that the .50 caliber was fired?

14 A No indication.

15 MR. MATHEWS: Nothing further, Your Honor.

16 THE COURT: Recross by the Defendant Jakes, limited to
17 redirect.

18 MR. BEACH: Thank you, Your Honor.

19 RECROSS EXAMINATION

20 BY MR. BEACH:

21 Q You talked with Mr. Davis and he first told you a lie,
22 is that correct?

23 A Yes, sir.

24 Q Then he told you the new story?

25 A That is correct.

1 Q And in that new story, he told you that he basically
2 didn't have anything to do with it, he was just there?

3 A That is correct. He did state to what he testified to
4 earlier, which was he was the passenger of the vehicle and
5 had no knowledge of what was going down until it actually
6 happened.

7 Q Then y'all arrested him?

8 A Yes, sir, we did.

9 Q So you didn't believe his story, did you?

10 A No, sir. It's not that we didn't believe him, it was
11 just that he was there and warrants were issued for all
12 three parties, as they were all three participants in the
13 actual crime.

14 Q He's still charged today; is that correct?

15 A That's correct.

16 Q Thank you, sir.

17 **MR. BEACH:** No further questions, Your Honor.

18 **THE COURT:** As to this witness Solicitor, he's going to
19 remain with us?

20 **ASST. SOL. HASELDEN:** As my case officer, yes, sir.

21 **THE COURT:** When you step down, if you'll leave all the
22 exhibits with me, including those that have just been marked
23 for identification. Call your next witness.

24 **ASST. SOL. HASELDEN:** The State calls Gean Johnson.

25 **THE COURT:** Counsel approach, while we're waiting on

1 the witness.

2 WHEREUPON, THE WITNESS, MR. GEAN JOHNSON, IS DULY
3 SWORN.

4 THE COURT: State your full name, spell your last name
5 for the court reporter, please.

6 CAPT. JOHNSON: My name is Gean Johnson. J-O-H-N-S-O-
7 N.

8 THE COURT: Your witness, Counsel.

9 DIRECT EXAMINATION

10 BY ASST. SOL. HASELDEN:

11 Q Captain Johnson, isn't it?

12 A That is correct.

13 Q Captain Johnson, who do you work for?

14 A Colleton County Sheriff's Office.

15 Q What do you do there as Captain of the Sheriff's
16 Office?

17 A I'm Captain over CID and Criminal Civil Process.

18 Q How long have you been with the Sheriff's Office?

19 A Nineteen years.

20 Q Are you involved in the case that we're here about
21 today in any capacity?

22 A Yes.

23 Q What capacity was that?

24 A I was the one that took the defendant Antwan McMillan
25 to our detention center.

1 Q How did you come into contact with the defendant Antwan
2 McMillan?

3 A His mother called me one Saturday night and asked me
4 could I come pick him up, she was at my house and she wanted
5 to turn him into me and me only.

6 Q What Saturday night?

7 A I think it was June 5th, 2010.

8 Q Do you know the defendant's mother?

9 A Yes.

10 Q What's her name?

11 A Brenda McMillan.

12 Q And she told you what?

13 A She called me and told me she was at my house and she
14 wanted me to come and pick up Antwan, and of course, I asked
15 can I send one of my investigators and she said no, I want
16 you to come and pick him, you only.

17 Q So, did you?

18 A Yes.

19 Q So, you took him into custody that Saturday night?

20 A That's correct.

21 Q What did you do with him after that?

22 A Nothing. He got in my vehicle, I placed him in cuffs
23 and I took him and put him into the county jail.

24 **ASST. SOL. HASELDEN:** Your Honor, may I approach the
25 witness?

1 **THE COURT:** You may.

2 **ASST. SOL. HASELDEN:** May I approach now, Your Honor?

3 **THE COURT:** You may.

4 Q Captain Johnson, I'm going to show you what's been
5 marked for identification purposes as State's Eighty-Seven
6 and Eighty-Eight, could you please view those items?

7 A It's these projectiles that I picked up from Department
8 of Public Safety of Charleston.

9 Q Why did you pick up projectiles from the Department of
10 Public Safety in Charleston?

11 A It was evidence from this particular incident that was
12 obtained from one of the suspects I think it was and they
13 were at MUSC at the hospital, public safety went onwards and
14 got them from there and contacted our Sheriff's Office and
15 because I was in Charleston, I went ahead and picked them
16 up. They called me and asked me could I go by and get them
17 from Public Safety, which is locked in evidence there.

18 Q Okay. Is that normal for them to call ya'll about
19 that?

20 A Yes.

21 Q And Department of Public Safety at MUSC, is that like
22 their own internal police department?

23 A There are some public safety officers that do work
24 inside the hospital and next door, of course, is their
25 department themselves.

- 1 Q Okay. And they have their own place to keep evidence
2 there?
- 3 A Yes.
- 4 Q And it's secure?
- 5 A That's correct.
- 6 Q You said you think it was from one of the suspects?
- 7 A Yes.
- 8 Q Do you know who?
- 9 A Yes. This came from David Jakes.
- 10 Q Can you refer to what number that was, Captain Johnson?
- 11 A That was State's Exhibit Eighty-Seven and State's
12 Exhibit Eighty-Eight, don't see a victim's name on this one.
- 13 Q Did you pick those two items up together?
- 14 A Yes, I did.
- 15 Q Can you tell me what is it those items, can you see?
- 16 A In State's Exhibit Eighty-Eight, there is a projectile
17 from a firearm here ---
- 18 Q Just one?
- 19 A Yes. In State's Exhibit Eighty-Seven, there's two
20 projectiles in this one.
- 21 Q And you were contacted by Department of Public Safety
22 at MUSC to come get those?
- 23 A I was called from the Sheriff's Office.
- 24 Q Here?
- 25 A Yes. The dispatcher knew I was in Charleston for

1 something else and they contacted me and asked me could I go
2 by and pick these up.

3 Q So, that's how you got involved?

4 A Yes.

5 Q Do you remember looking at those items when you picked
6 them up?

7 A Yes.

8 Q Are those items in the same condition as the day you
9 picked them up from MUSC?

10 A Yes, they are.

11 Q You said those items are identified into one bag as
12 coming from Defendant David Jakes?

13 **ASST. SOL. HASELDEN:** Your Honor, at this time, I'd ask
14 Eighty-Eight and Eighty-Seven to be moved in to evidence.

15 **THE COURT:** As to Eighty-Seven and Eighty-Eight,
16 counsel for the defendant McMillan?

17 **MR. MATHEWS:** Without objection, Your Honor.

18 **THE COURT:** Counsel for the Defendant Jakes?

19 **MR. BEACH:** No objection.

20 **THE COURT:** Ladies and gentlemen of the jury, State's
21 Exhibit's Eighty Seven and Eighty-Eight will be admitted
22 into evidence, without objection, in the trial of this case.

23 (STATE EXHIBIT NUMBER EIGHTY-SEVEN IS RECEIVED INTO
24 EVIDENCE.)

25 (STATE EXHIBIT NUMBER EIGHTY-EIGHT IS RECEIVED INTO

1 EVIDENCE.)

2 THE COURT: You may publish.

3 ASST. SOL. HASELDEN: Thank you, Your Honor.

4 Q Captain Johnson, I have no further questions for you.

5 If you'd answer anything defense counsel has for you.

6 THE COURT: Cross-examination by the Defendant

7 McMillan.

8 MR. MATHEWS: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. MATHEWS:

11 Q Detective Johnson, you are a Captain?

12 A Yes.

13 Q Are you the third highest person at the Sheriff's

14 Office?

15 A I'm sort of, kind of, I'm one of three Captain's there.

16 Q One of three Captains, okay. You've been knowing

17 Brenda, I guess, for a long time?

18 A Very long time.

19 Q At least since high school?

20 A Yes, sir.

21 Q Okay.

22 MR. MATHEWS: I don't have anything further, Your

23 Honor.

24 THE COURT: Cross-examination by the Defendant Jakes?

25 MR. BEACH: No questions for this witness, Your Honor.

1 **THE COURT:** As to this witness, Solicitor.

2 **ASST. SOL. HASELDEN:** I ask that he be excused.

3 **THE COURT:** Very well. You may step down, Mr. Johnson,
4 leave my exhibit's with me please and you are excused from
5 the trial of this case, you may leave the courtroom at this
6 time. Call your next witness.

7 **ASST. SOL. HASELDEN:** The State calls John Graham.

8 WHEREUPON, THE WITNESS, JOHN GRAHAM, IS DULY SWORN.

9 **THE COURT:** State your full name and spell your last
10 name for the court reporter.

11 **MR. GRAHAM:** John Graham, G-R-A-H-A-M.

12 **THE COURT:** Your witness, Counsel..

13 **ASST. SOL. HASELDEN:** Thank you.

14 **DIRECT EXAMINATION**

15 **BY ASST. SOL. HASELDEN:**

16 Q Mr. Graham, what do you do for a living?

17 A I farm and I'm a DNR Officer.

18 Q Do you live in Colleton County?

19 A Yes.

20 Q Where do you live at?

21 A Smoaks?

22 Q You live on Sunrise Road?

23 A No, not on Sunrise Road, Lowcountry Highway.

24 Q Do you have any business out on Sunrise Road?

25 A Yeah, I farm land out there.

1 Q Where is the land that you farm land out there?

2 A It's on Sunrise Road, about 1800 blocks of field out
3 there, so I farm that property.

4 Q Do you do anything else but farm on that property?

5 A Hunt.

6 Q Were you out on that property, I believe it was last
7 June of 2010 at all?

8 A Yes.

9 Q Did you find anything in particular out there?

10 A I was checking around the deer stands and found some
11 .50 caliber hulls.

12 Q What did you do after you found those?

13 A Well, I understood that one of the detectives, I was
14 talking to them one day ---

15 **MR. MATHEWS:** Objection, Your Honor.

16 **THE COURT:** Objection sustained. Do not refer to what
17 someone else said. Only what you saw with your own personal
18 observation. Objection is sustained. Ask a question
19 counsel. Direct examination.

20 Q Please just refer, Mr. Graham, to what you did next as
21 far as those casings, other than what somebody told you;
22 just what did you do?

23 A I picked up the hulls and I showed them to a detective.

24 Q You contacted law enforcement?

25 A Yes.

1 Q They came out there?

2 A Yes.

3 Q Did you give them permission to come out on your land?

4 A Yes.

5 ASST. SOL. HASELDEN: Do you think, Your Honor, if I
6 could -- I know I told you I wasn't going to use this map
7 again, but if it's all right, if I can give him the portable
8 mic and have him come down?

9 THE COURT: Absolutely. Mr. Polk, bring the easel
10 around for her, hook Exhibit Ninety-One to the easel.
11 Counsel, you may come around so you can view the board. Are
12 you going to ask the witness to step down?

13 ASST. SOL. HASELDEN: Yes, sir.

14 THE COURT: Give him a portable microphone. You may
15 step down from the witness stand. Counsel, do you wish to
16 come around?

17 MR. MATHEWS: No, sir.

18 THE COURT: Mr. Beach?

19 MR. BEACH: No, sir.

20 A (INDICATING ON THE MAP.) This is the area that I found
21 the shells in.

22 Q If I could, in presence of the jury, get you to mark
23 that area, Mr. Graham?

24 THE COURT: Let the record reflect the Exhibit Number.

25 ASST. SOL. HASELDEN: Beg your pardon, this is State's

1 Exhibit Ninety-One, previously entered into evidence.

2 Q You marked that with this dark blue?

3 A Right.

4 Q That's all I have for you at the moment, you can get
5 back on the stand.

6 (WITNESS RESUMES THE STAND.)

7 Q Mr. Graham, how far off the road were you when you
8 found these things?

9 A How was what?

10 Q How far off the road were you when you found these .50
11 caliber casings?

12 A I'd say 100 or 150 yards.

13 Q Okay. What did the officers do when they got there?

14 A We looked around the stand for more shellings.

15 Q Okay. Did you locate anymore?

16 A Yes.

17 Q What did the officer's do with them?

18 A They took them and whatever they done with them.

19 Q Okay. Now, do you own a .50 caliber?

20 A No.

21 Q Are you the only one that shoots out there on that
22 land?

23 A No, I have other hunters that shoot out there, but none
24 of them use a .50 caliber.

25 Q How do you know that?

1 A We have a sign-in sheet and the person puts down the
2 caliber weapon he's using when he hunts.

3 Q Has anybody ever hunted with a .50 caliber on your
4 land?

5 A No.

6 Q I have nothing further for you, Mr. Graham. If you
7 could answer anything defense counsel has, I'd appreciate
8 it.

9 THE COURT: Cross-examination by the defendant
10 McMillan?

11 MR. MATHEWS: No, sir.

12 THE COURT: Cross-examination by the defendant Jakes.

13 MR. BEACH: Just one question, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. BEACH:

16 Q Mr. Graham, could you determine how long those shell's
17 had been there?

18 A I would say not long, because they weren't eroded or
19 anything.

20 Q Had you been to that stand anytime recently?

21 A I had been there about a week earlier.

22 Q Were they there when you were there a week earlier?

23 A Didn't pay any attention to them; didn't see them at
24 that time.

25 Q Okay. Thank you, sir.

1 MR. BEACH: No other questions, Your Honor.

2 THE COURT: Redirect?

3 ASST. SOL. HASELDEN: No, Your Honor.

4 THE COURT: As to this witness?

5 ASST. SOL. HASELDEN: I asked that he be excused.

6 THE COURT: Any objection to this witness being excused
7 from the counsel for McMillan?

8 MR. MATHEWS: No, Your Honor.

9 THE COURT: Counsel for Jakes?

10 MR. BEACH: No, Your Honor.

11 THE COURT: Mr. Graham, you may step down and you are
12 excused from the trial of this case. You may leave the
13 courtroom at this time. Call your next witness.

14 ASST. SOL. HASELDEN: The State calls Dave Thomas.

15 WHEREUPON, THE WITNESS, RIDDICK DAVID THOMAS, IS DULY
16 SWORN.

17 THE COURT: State your first name and spell your last.

18 DET. THOMAS: My name is Riddick David Thomas, T-H-O-M-
19 A-S.

20 THE COURT: Your witness, Counsel.

21 ASST. SOL. HASELDEN: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY ASST. SOL. HASELDEN:

24 Q Detective Thomas, who do you work for?

25 A Colleton County Sheriff's Office.

- 1 Q What is your position there?
- 2 A I'm a detective.
- 3 Q Were you working as a detective last June of 2010?
- 4 A Yes ma'am, I was.
- 5 Q Did you have an opportunity to respond out to a
6 location on Sunrise Road at all, in relation to this case?
- 7 A Yes, I did.
- 8 Q Did you meet with a John Graham, works with DNR, I
9 believe.
- 10 A Yes, he was the one I think that was there.
- 11 Q Okay. What did you do when you got there?
- 12 A Initially, I was out there, we were serving a search
13 warrant, but I ended up going -- after the search warrant, I
14 ended up in a field across from the address on Sunrise.
- 15 Q Okay. How did you end up in that field?
- 16 A There was information that a cartridge had been found
17 from a .50 caliber pistol.
- 18 **ASST. SOL. HASELDEN:** Your Honor, may I approach?
- 19 **THE COURT:** You may.
- 20 Q Detective Thomas, I'm going to show you what's been
21 marked for identification purposes only as State's Fifty-
22 Seven, Fifty-Eight, Fifty-Nine, Sixty and Eighty-Nine. If
23 you could take a minute to look over these items, review
24 them to yourself and let me know when you're done, please.
- 25 A Do I need to ---

1 Q You can open it, I believe there's scissors.

2 **THE COURT:** Hand him a pair of scissors.

3 Q Do you recognize those items?

4 A Yes ma'am. The photographs appear to be photographs
5 that I took of the recovered spent shell casings and this
6 appears to be ---

7 **THE COURT:** Hold on a second, you've got to refer to
8 the exhibit number.

9 A I'm sorry. The photographs, Exhibit Sixty, Fifty-Nine,
10 Fifty-Eight, and Fifty-Seven appear to be photographs of the
11 recovered spent shell casings and the shell casings here
12 appear to be the ones that were recovered.

13 **THE COURT:** And that would be exhibit number?

14 A I'm sorry, I'm sorry. Exhibit Eighty-Nine.

15 **THE COURT:** Proceed.

16 Q Are those all truthful and accurate depictions as
17 photographs of and the items that you recovered out in the
18 field on Sunrise?

19 A Yes, ma'am, they appear to be.

20 Q Did you alter them in any way?

21 A No, ma'am.

22 **ASST. SOL. HASELDEN:** Your Honor, at this time I'd ask
23 that Eighty-Nine, Fifty-Seven, Fifty-Eight, Fifty-Nine and
24 Sixty be entered into evidence.

25 **THE COURT:** Mr. Mathews, as to the defendant McMillan,

1 any objection to State's Exhibit's Fifty-Seven, Fifty-Eight,
2 Fifty-Nine, Sixty and Eighty-Nine?

3 MR. MATHEWS: No objection, Your Honor.

4 THE COURT: As to the defendant Jakes?

5 MR. BEACH: No objection.

6 THE COURT: Ladies and gentlemen of the jury, State's
7 Exhibit's Fifty-Seven, Fifty-Eight, Fifty-Nine, Sixty and
8 Eighty-Nine will be admitted into evidence in the trial of
9 this case without objection.

10 (STATE EXHIBIT NUMBER FIFTY-SEVEN IS RECEIVED INTO
11 EVIDENCE.)

12 (STATE EXHIBIT NUMBER FIFTY-EIGHT IS RECEIVED INTO
13 EVIDENCE.)

14 (STATE EXHIBIT NUMBER FIFTY-NINE IS RECEIVED INTO
15 EVIDENCE.)

16 (STATE EXHIBIT NUMBER SIXTY IS RECEIVED INTO EVIDENCE.)

17 (STATE EXHIBIT NUMBER EIGHTY-NINE IS RECEIVED INTO
18 EVIDENCE.)

19 THE COURT: You may now publish, Solicitor.

20 Q One quick question before I publish. Detective Thomas,
21 what did you do with those .50 caliber casings you recovered
22 once you got them?

23 A They were turned into evidence.

24 Q Evidence where?

25 A At the Sheriff's Office.

1 **ASST. SOL. HASELDEN:** May I approach?

2 Q You stated you were across the street earlier -- why
3 were you across the street?

4 A Actually, I ended up there doing -- there was a search
5 warrant being executed there.

6 Q Was it in connection with this case?

7 A Yes, ma'am it was.

8 Q Whose house was that?

9 A It was the McMillan residence. I think 1834 or
10 something like that.

11 Q I have no further questions, thank you.

12 **THE COURT:** Cross-examination by the defendant
13 McMillan.

14 **MR. MATHEWS:** Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 **BY MR. MATHEWS:**

17 Q Detective Thomas, the search warrant of the -- was that
18 you and Detective Taylor or who all executed the search
19 warrant of Sunrise Road?

20 A I don't recall who all was there; I ended up down at
21 that location.

22 Q You did the return on that search warrant?

23 A No, sir. I don't think so, I don't recall, actually.

24 Q Did you witness the return on that of Ray Taylor? Did
25 you and Ray Taylor witness the return?

1 A I might have witnessed it. I would have to look at it,
2 sir.

3 MR. MATHEWS: May I approach the court reporter?

4 THE COURT: You may.

5 Q Detective Thomas, I'm handing you what's been marked as
6 Defendant's Exhibit Number Ten for identification, and I ask
7 if you can identify that?

8 A Yes, sir.

9 Q What is that?

10 A That is the search warrant for the residence.

11 Q Now, having had a chance to look at the return on that,
12 did you, in fact, witness the return that nothing was taken
13 from Sunrise Road?

14 A Yes, sir.

15 Q Now, how far is that location at Sunrise Road from the
16 Clatty Farm site; a minute?

17 A Probably a minute, a couple of minutes. It's not a
18 long distance.

19 Q And how far is that residence from the corner of McLeod
20 Road and 95, about a half an hour?

21 A Where from?

22 Q From Sunrise Road -- not Sunrise Road, the lot across
23 next to a deer stand. Those were next to a deer stand?

24 A Yes, sir.

25 Q And that deer stand, how far was that from the corner

1 of McLeod and 95, twenty-three miles sound about right?

2 A About, possibly.

3 Q It would take about a half an hour compared to about a
4 minute. A minute to Clatty Farm, about a half an hour to
5 95.

6 A I don't think it'd be quite a half hour, but it would
7 be probably close to it.

8 MR. MATHEWS: Nothing further, Your Honor.

9 THE COURT: Cross-examination by the defendant Jakes.

10 MR. BEACH: There are no questions for this witness,
11 Your Honor.

12 THE COURT: Redirect?

13 ASST. SOL. HASELDEN: None, Your Honor.

14 THE COURT: As to this witness?

15 ASST. SOL. HASELDEN: I ask that he be excused.

16 THE COURT: Any objection to this witness being
17 excused, by the defendant McMillan?

18 MR. MATHEWS: Your Honor, may we approach?

19 THE COURT: Counsel approach.

20 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
21 AND OUT OF THE HEARING OF THE JURY.)

22 THE COURT: Any objection from the defendant McMillan
23 that this witness be excused?

24 MR. MATHEWS: No, Your Honor.

25 THE COURT: Any objection from the defendant Jakes that

1 this witness be excused?

2 **MR. BEACH:** No, Your Honor.

3 **THE COURT:** Mr. Thomas, you may step down from the
4 witness stand and you are excused from the trail of this
5 courtroom. You may leave the courtroom at this time. Call
6 your next witness.

7 **ASST. SOL. HASELDEN:** The State calls Jacky Lawson.

8 **MADAME CLERK:** Please place your left hand on the Bible
9 and raise your right.

10 WHEREUPON, THE WITNESS, JACKY LAWSON, IS DULY SWORN.

11 **THE COURT:** State your full name and spell your last
12 for the court reporter, please.

13 **MR. LAWSON:** Jackie Lynn Lawson, L-A-W-S-O-N.

14 **THE COURT:** Your witness, Counsel.

15 **ASST. SOL. HASELDEN:** Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 **BY ASST. SOL. HASELDEN:**

18 Q Officer Lawson, who do you work for?

19 A Colleton County Sheriff's Office.

20 Q What's your position there?

21 A I'm a Sergeant First Class on Team Three. I'm the
22 supervisor of Team Three, currently. In this instance, I
23 was assigned to Team One.

24 Q Okay. What does all that mean, Sergeant First Class,
25 Team One, Team Three; what do you do?

1 A I'm in charge of all four men currently that I work
2 with and I was one of the two supervisors of Team One on the
3 night of this incident.

4 Q So, what do you do though, actually, day to day?

5 A We respond to calls for service, crimes in progress,
6 property checks, occasionally, mental transports.

7 Q So are you road patrol?

8 A Yes, ma'am, road patrol.

9 Q Were you working late at night on June 3rd, early in
10 the morning on June 4th of 2010?

11 A Yes, ma'am.

12 Q Were you working same capacity?

13 A Yes, ma'am.

14 Q Did you respond out to the intersection of I-95 and
15 McLeod Road?

16 A I was en route, along with Deputy Morris, to the scene
17 and they had BOLO'd out a suspect vehicle, ended up stopping
18 one vehicle, I believe it was a pick-up truck, which turned
19 out not to be one of the suspects. It had to be someone
20 passing by. As soon as we cleared him, we went back on duty
21 and I was instructed to go to the hospital.

22 Q Okay. You said they BOLO'd out the car, can you
23 explain what that means?

24 A A "BOLO" is a "be on the lookout." Calls will be
25 dispatched if there's a robbery in progress or whatever kind

1 of BOLO it is; a stolen vehicle if it was a stolen vehicle
2 and you look for a general description or general
3 descriptions of persons involved in the crime.

4 Q Do you remember what the BOLO vehicle was in this case,
5 what the description was?

6 A During the initial beginning of the call or response to
7 this call, we basically had it was black males in a vehicle,
8 we really didn't have a complete description as to what type
9 of vehicle; and we met a pickup truck -- excuse me, it was a
10 car with a black male in it. It was nighttime and you
11 couldn't tell exactly how many people were in it. We
12 stopped it and it was one black male in the car and there
13 were no weapons in the car. We cleared him and continued on
14 at that point.

15 Q So you went out there, you were on your way, anyways,
16 and then they told you to go somewhere else?

17 A I was instructed to go to the hospital that a person
18 was brought in with a gunshot wound.

19 Q So what did you do when you got to the hospital?

20 A I was second officer on the scene, Deputy Mike Strauss
21 was on the scene also, he and I and Deputy Eric Concepcion
22 were at the hospital. We secured the area, found out which
23 vehicle brought the person who had the gunshot wounds to the
24 hospital, which was a Ford Taurus. I want to say it was
25 light blue ---

1 **ASST. SOL. HASELDEN:** May I approach the witness at
2 this point?

3 **THE COURT:** You may.

4 Q Sergeant Lawson, I'm going to show you what's been
5 marked for identification purposes only so far as State's
6 Eight, Nine, Ten and Eleven. If you could please review
7 those to yourself and let me know when you've had a chance
8 to look over them.

9 A Yes, ma'am. This is the photos that I took after I
10 arrived at the hospital and it is the vehicle that
11 transported the individual that was wounded that they were
12 caring for on the inside when I arrived.

13 Q And are State's Eight, Nine, Ten and Eleven truthful
14 and accurate depictions of that vehicle, as you saw it that
15 night?

16 A Yes, ma'am.

17 **ASST. SOL. HASELDEN:** Your Honor, at this time I'd ask
18 that State's Eight, Nine, Ten and Eleven be entered into
19 evidence.

20 **THE COURT:** Any objection on the behalf of the
21 defendant McMillan as to State's Exhibit's Eight, Nine, Ten
22 and Eleven?

23 **MR. MATHEWS:** No objection, Your Honor.

24 **THE COURT:** How about from the defendant Jakes as to
25 Eight, Nine, Ten and Eleven?

1 **MR. BEACH:** None, Your Honor.

2 **THE COURT:** Ladies and gentlemen of the jury, State's
3 Exhibit's Eight, Nine, Ten and Eleven will be admitted into
4 evidence in the trial of this case, without objection. You
5 may publish to the jury.

6 (STATE EXHIBIT NUMBER EIGHT IS RECEIVED INTO EVIDENCE.)

7 (STATE EXHIBIT NUMBER NINE IS RECEIVED INTO EVIDENCE.)

8 (STATE EXHIBIT NUMBER TEN IS RECEIVED INTO EVIDENCE.)

9 (STATE EXHIBIT NUMBER ELEVEN IS RECEIVED INTO
10 EVIDENCE.)

11 Q Sergeant Lawson, what did you do after you determined
12 that that was the car and you took those pictures?

13 A We tried to determine who was in the car with him when
14 the individuals brought him for identification purposes. I
15 also took photographs of the people who were in the car,
16 attempted to ask questions -- they weren't real cooperative
17 on answering any questions.

18 Q Were you able to determine who was in that car?

19 A Yes, ma'am.

20 Q Do you remember what their names were?

21 A Angela Arnold. I believe she's also known as Angela
22 Dicks. Shaquita Bryant, Mr. Joseph Griffin, and Montez
23 Jenkins.

24 Q You attempted to talk to those people?

25 A I talked to everybody, except Montez Jenkins; he was

1 inside the hospital. The other individuals were on the
2 outside and we called for a detective to come on the scene
3 so he could follow up.

4 Q So you were able to speak to three of the four?

5 A Yes, ma'am.

6 Q Did those people give you statements?

7 A They initially ---

8 **MR. MATHEWS:** Objection, Your Honor, to the State.

9 He's sitting right in here.

10 **THE COURT:** To the extent that the question might
11 elicit a hearsay response, the objection is sustained. For
12 the witness's sake, Solicitor, ask a different question so
13 as not to elicit what someone else has spoke about; do you
14 understand?

15 **ASST. SOL. HASELDEN:** Yes, sir.

16 Q Did the people give you statements?

17 A Yes.

18 Q How long have you been in law enforcement?

19 A It will be thirty-one years this October.

20 Q How many times have you questioned witnesses involved
21 in any type of crime, in your thirty-one years of law
22 enforcement?

23 A It has to be -- I was a trooper for twenty-five years
24 investigating traffic accidents. Twenty of the twenty-five,
25 I did narcotic investigations for five years, it has to be

1 thousands of people I have talked to and spoke with and
2 questioned whether it's traffic related or criminally
3 related.

4 Q Were you able to determine if these people told you the
5 truth?

6 MR. MATHEWS: Objection, Your Honor.

7 THE COURT: Sustained.

8 Q Were there differences in the people's statements?

9 A Yes, ma'am.

10 Q So you spoke to three people out there at the hospital?

11 A Yes, ma'am.

12 Q Three people that were in that car?

13 A Yes, ma'am.

14 Q And there were differences in their stories?

15 A Yes, ma'am.

16 Q Then they were uncooperative?

17 A Yes, they did not give very detailed written statements
18 and they were a little bit on the evasive side when I spoke
19 to them initially.

20 Q Okay. You said you were never able to speak to a
21 Montez Jenkins?

22 A I went inside when the detective arrived and I'm pretty
23 sure I took a photo of him, so I would have complete photo
24 record of Mr. Jenkins, and I may have recorded his driver's
25 license, but I made no attempt to do any questioning since

1 the detective was on scene.

2 Q Okay. So you did attempt to talk to him on your
3 camera?

4 A Montez, no not on camera, but he was inside the
5 hospital. The other individuals were outside where the
6 audio camera could pick up.

7 Q You did make contact with him though, inside the
8 hospital?

9 A I did go inside, yes, ma'am.

10 Q And he would not give you a statement?

11 A I did not ask. Once the detective arrived, that's more
12 of his field of specialty.

13 Q Okay.

14 **ASST. SOL. HASELDEN:** Just a moment, Your Honor. Your
15 Honor, may I approach the witness?

16 **THE COURT:** You may.

17 Q I'm going to hand you a document. Please just review
18 it silently to yourself to refresh your memory.

19 (BRIEF PAUSE WHILE WITNESSES REVIEWS DOCUMENT.)

20 Q Is your memory refreshed?

21 A Yes, ma'am.

22 Q Was Montez Jenkins cooperative with you?

23 A Looking at his statement ---

24 **MR. MATHEWS:** Objection, Your Honor. That's just
25 hearsay.

1 **THE COURT:** Sustained.

2 Q I have no further questions. Thank you, Sergeant
3 Lawson.

4 **THE COURT:** Cross-examination by the defendant
5 McMillan?

6 **MR. MATHEWS:** Thank you, Your Honor. Your Honor, may I
7 approach the court reporter?

8 **THE COURT:** You may approach the court reporter.

9 Q Sergeant Lawson, I'm holding what has been as
10 Defendant's Exhibit Number One, Two, Three, Four, Five,
11 Eleven, Twelve and Thirteen.

12 **MR. MATHEWS:** May I approach, Your Honor?

13 **THE COURT:** You may.

14 Q Do you recognize those?

15 A I took these photographs.

16 Q Okay. Would you, by number, identify what is the
17 subject of those photos?

18 **THE COURT:** You have to say defendant or state exhibit.

19 A It will be Defendant's Exhibit Number Thirteen, I'm
20 pretty sure that's Joseph Griffin. Defendant's Exhibit
21 Number Twelve, that's an individual that was there and I
22 took his photo; I don't know who he is.

23 Q Could that be Montez Jenkins?

24 A It very well could be. I had very limited contact with
25 Mr. Jenkins. Defendant's Exhibit Number Five, I don't

1 really recall who this individual is; it's a male. There
2 was a crowd gathering, if they were present, I took their
3 photos.

4 Q Why did you do that?

5 A Pretty much to preserve any visual evidence there and
6 also with any males that could be present on the scene, if
7 they were suspects they can later be identified --
8 Defendant's Exhibit Number Four, it's a female. Like I
9 said, I'm not really sure who that is.

10 Q Could that be Shaquita Bryant?

11 A Very well could be. Defendant's Exhibit Number One,
12 I'm not sure who that is also. Defendant's Exhibit Number
13 Two is another male, I do not know who that is. Defendant's
14 Exhibit Number Three, that's the interior of the Taurus with
15 a young lady sitting there, partially.

16 Q In that photo where you see a partial lady, I guess
17 that would be her hind quarters, I guess; is that a cell
18 phone she appears to be sitting on?

19 A That's what it appears to be, yes. And Defendant's
20 Exhibit Number Eleven, that's all of the ladies in the car,
21 as to her name ---

22 Q Could that be Angela Arnold?

23 A Her hairstyle has changed from then to current.

24 Q How many of the individuals that you talked to that
25 night, just from the photos, how many of them were carrying

1 cell phones?

2 A I didn't really recall there. I'm pretty sure that the
3 majority of them had cell phones on them at that time.

4 Q Would it be up to the detective to seize those and go
5 through them or whatever?

6 A If he had reasonable suspicion or probable cause to
7 cease those as evidence.

8 Q Okay. Has it been your experience that people use
9 their cell phone a lot, make a lot of calls with them --
10 it's like the coconut telegraph, if something happens did
11 you hear about what happened or let me tell you what
12 happened, all that sort of stuff?

13 A Phones are used frequently for legal and illegal
14 purposes. You can't determine when you're standing there
15 with people talking as to what they're doing.

16 Q No. Right. But if, for example, you needed help or
17 you needed emergency or needed to contact a friend, come
18 pick me up, so if you have a cell phone, you'd probably use
19 it, wouldn't you?

20 A Seems logical, yes.

21 **MR. MATHEWS:** Your Honor, I'd move those into evidence
22 at this time, those photos.

23 **THE COURT:** Now, you're referring to Defendant's One
24 through Five, inclusive Eleven, Twelve and Thirteen?

25 **MR. MATHEWS:** Yes, sir.

1 **THE COURT:** All right. Any objection by the State to
2 Defendant's One through Five, Eleven, Twelve and Thirteen?

3 **ASST. SOL. HASELDEN:** No, Your Honor.

4 **THE COURT:** Any objection by the defendant Jakes to
5 Defendant McMillan's One through Five, Eleven, Twelve and
6 Thirteen?

7 **MR. BEACH:** No, Your Honor.

8 **THE COURT:** Becky, I'm going to have you mark that
9 these are the Defendant McMillan's Exhibits, and not just
10 defendant's exhibits, since we have more than one defendant
11 in the trial of this case. Would you do so at this time
12 before we proceed?

13 **MR. MATHEWS:** I have no further questions, Your Honor.

14 **THE COURT:** Ladies and gentlemen of the jury, Defendant
15 McMillan's Exhibit's One through Five, and Defendant
16 McMillan's Exhibit's Eleven, Twelve, and Thirteen will be
17 admitted into evidence in the trial of this case without
18 objection.

19 (DEFENDANT McMILLAN EXHIBIT NUMBER ONE IS RECEIVED INTO
20 EVIDENCE.)

21 (DEFENDANT McMILLAN EXHIBIT NUMBER TWO IS RECEIVED INTO
22 EVIDENCE.)

23 (DEFENDANT McMILLAN EXHIBIT NUMBER THREE IS RECEIVED
24 INTO EVIDENCE.)

25 (DEFENDANT McMILLAN EXHIBIT NUMBER FOUR IS RECEIVED

1 INTO EVIDENCE.)

2 (DEFENDANT McMILLAN EXHIBIT NUMBER FIVE IS RECEIVED
3 INTO EVIDENCE.)

4 (DEFENDANT McMILLAN EXHIBIT NUMBER ELEVEN IS RECEIVED
5 INTO EVIDENCE.)

6 (DEFENDANT McMILLAN EXHIBIT NUMBER TWELVE IS RECEIVED
7 INTO EVIDENCE.)

8 (DEFENDANT McMILLAN EXHIBIT NUMBER THIRTEEN IS RECEIVED
9 INTO EVIDENCE.)

10 **THE COURT:** You may publish to the jury once the court
11 reporter finishes marking them.

12 **MR. MATHEWS:** I can just wait until they go back with
13 the jury, Your Honor ---

14 **THE COURT:** Very well.

15 **MR. MATHEWS:** I'll present them, Your Honor, after
16 Becky is done.

17 **MR. MATHEWS:** Thank you, Your Honor. May I approach?

18 **THE COURT:** You may.

19 **MR. MATHEWS:** Nothing further, Your Honor.

20 **THE COURT:** Cross-examination by the defendant Jakes?

21 **MR. BEACH:** No, Your Honor.

22 **THE COURT:** Redirect?

23 **ASST. SOL. HASELDEN:** Briefly.

24 **REDIRECT EXAMINATION**

25 **BY ASST. SOL. HASELDEN:**

1 Q Sergeant Lawson, you've been doing this a long time,
2 haven't you?

3 A Yes, ma'am.

4 Q Could you just snatch up somebody's cell phone because
5 they arrive at a hospital and you see them standing there?

6 A No, ma'am.

7 Q Nothing further; thank you.

8 **THE COURT:** Recross, by the defendant McMillan, limited
9 to redirect.

10 **MR. MATHEWS:** Yes, sir.

11 **RECROSS-EXAMINATION**

12 **BY MR. MATHEWS:**

13 Q Sergeant Lawson, you were in drugs; I guess you did DUI
14 cases, as well?

15 A I've done both.

16 Q What percentage of the cases did you obtain consent to
17 search their cars -- are they cases that where you made
18 cases for illegal weapons or illegal drugs or anything else,
19 what percentage of the cases did you start through consent
20 to search vehicles?

21 **ASST. SOL. HASELDEN:** Your Honor, I'd have to object.

22 **THE COURT:** Counsel approach.

23 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
24 AND OUT OF THE HEARING OF THE JURY.)

25 **THE COURT:** Objection overruled.

1 Q Sergeant Lawson, would you say that a significant
2 portion of the cases that you made involving illegal
3 substances, weapons, or so forth, were based on consensual
4 searches?

5 A Yes.

6 MR. MATHEWS: Nothing further, Your Honor.

7 THE COURT: Recross, limited to redirect by the
8 defendant Jakes?

9 MR. BEACH: Nothing, Your Honor.

10 THE COURT: As to this witness, Solicitor?

11 ASST. SOL. HASELDEN: I ask that he be excused.

12 THE COURT: Any objection to this witness being excused
13 from the trial of this case by the defendant McMillan?

14 MR. MATHEWS: No, Your Honor.

15 THE COURT: By the defendant Jakes?

16 MR. BEACH: No, Your Honor.

17 THE COURT: Mr. Lawson, you may step down and you are
18 excused from the trial of this courtroom. You left me all
19 my exhibits, very good. You may leave the courtroom at this
20 time. Call your next witness.

21 ASST. SOL. SHELTON: The State calls Amanda Webb.

22 THE COURT: Ms. Webb, you can come in and be sworn by
23 the Clerk of Court, please.

24 WHEREUPON THE WITNESS, MS. AMANDA WEBB, IS DULY SWORN.

25 THE COURT: State your full name and spell your last

1 for the court reporter.

2 **WITNESS:** Amanda Webb, W-E-B-B.

3 **THE COURT:** Your witness, Counsel.

4 **ASST. SOL. SHELTON:** Thank you, Your Honor. May it
5 please the Court?

6 **DIRECT EXAMINATION**

7 **BY ASST. SOL. SHELTON:**

8 Q Ms. Webb, who do you work for?

9 A South Carolina Law Enforcement Division.

10 Q And what do you do there?

11 A I'm a DNA Analyst.

12 Q Can you briefly describe your duties and what it
13 entails to the jury?

14 A As a DNA Analyst, I perform tests for serology, which
15 is the identification of body fluids. We will test for the
16 presence of blood, saliva, and also, semen; and then, also,
17 we will develop DNA profiles. In forensics, we will develop
18 DNA profiles from evidence samples, and then we also request
19 DNA standards from individuals, and what that is, is a known
20 sample of DNA from an individual. So we know that it's that
21 person's DNA. And if you develop any DNA profiles from any
22 evidence samples, you can compare it to that person to see
23 if it matches that person or doesn't match that person.

24 Q Can you explain a little bit more, what is a sample?

25 How do you develop a sample, say from a piece of clothing,

1 for example?

2 A A piece of clothing, they might be looking for specific
3 things: blood, or possibly just ownership. Meaning, they
4 would want to know who wore that t-shirt. So we will try to
5 get the DNA, the skin cells, or the blood off of the shirt
6 and it goes through different laboratory processes. And
7 then what happens is the final result is something that
8 would be unique to that individual, unless there's an
9 identical twin sibling, and once you have a unique profile
10 from an individual, you can compare it to the evidence and
11 see if it matches or not.

12 Q Before you go any more further into specifics,
13 obviously you know a lot about the subject; how did you get
14 to know that?

15 A I have a Bachelor's of Forensic Chemistry Degree from
16 Marshal University and I also have a Master's in Forensic
17 Science, also from Marshal University, and after completion
18 of my Master's degree, I was hired on at SLED and was
19 trained for approximately a year and a half under a court-
20 qualified DNA analyst, and upon my training, there's been
21 many tests I've had to complete, and also, throughout being
22 an independent case work analyst, I also have to complete
23 tests twice a year and my work is reviewed daily. Each
24 report is reviewed twice before it's sent out.

25 Q And how long have you been working -- it is proper to

1 call you a Forensic DNA Analyst?

2 A Yes, that's correct.

3 Q How long have you been working as a Forensic DNA
4 Analyst?

5 A I've been doing independent case work for approximately
6 two and a half years.

7 Q Have you been qualified as an expert in Court before?

8 A Yes, I have.

9 Q Approximately how many times?

10 A Approximately seven.

11 Q Seven times?

12 **ASST. SOL. SHELTON:** At this time, Your Honor, the
13 State would move for Ms. Webb to be qualified as a Forensic
14 DNA Analyst for the purposes of this trial.

15 **THE COURT:** Any objection to this qualification from
16 the defendant McMillan?

17 **MR. MATHEWS:** No, Your Honor.

18 **THE COURT:** From the defendant Jakes?

19 **MR. BEACH:** No, Your Honor.

20 **THE COURT:** Ladies and gentlemen of the jury, recalling
21 my earlier instruction to you, concerning expert testimony,
22 the witness is qualified, without objection, in the field of
23 Forensic DNA Analysis; without objection, you may proceed
24 Counsel.

25 **ASST. SOL. SHELTON:** Thank you, Your Honor.

1 Q I've been calling you Ms. Webb, you're actually Special
2 Agent Webb, is that correct?

3 A That's correct; either is fine.

4 Q I apologize for not using your title, but in any event,
5 now that you've been qualified as an expert, will you just
6 briefly, we hear a lot about DNA, will you briefly explain
7 to the jury what DNA is and where it is.

8 A Sure. DNA is, basically, essentially, just a chemical
9 in your body and it's found in every cell of your body.
10 It's found in skin cells, saliva, found in your hair, it's
11 found everywhere on the body and it's passed down -- you get
12 half of your DNA from your mom and half of your DNA from
13 your dad and that's why, you know, people sort of look
14 similar to their parents. It's the DNA that's being
15 expressed and causes the characteristics. So, as I said
16 before, it's unique to each individual, except for if
17 there's identical twins, and that's because they share the
18 same DNA.

19 So, essentially, if there's not identical twins,
20 though, it's unique to each individual.

21 Q Thank you. How does DNA end up on any object? Is it
22 just this cloud floating in the air or do you have to brush
23 up against it? Can you explain a little bit of that to the
24 jury?

25 A Yeah, our DNA is pretty contained; it's generally not

1 just floating around. I wouldn't expect to find a DNA
2 profile unless someone has been wearing an article of
3 clothing, or brushed up against it, or handled something,
4 you know. If they had their body fluids on it, though, like
5 if they happen to spit on something or bleed on something,
6 then I would expect to find their DNA on that item, but just
7 standing near someone, or something, I would not expect a
8 transfer of their DNA.

9 Q What is a DNA mixture?

10 A A DNA mixture means that more than one person's DNA was
11 found on a certain item that was tested, single source means
12 that there was only one individual found on that item.

13 Q When you have a mixture, are you able to separate the
14 two different sources of the DNA or three, four different
15 sources out?

16 A Sometimes it depends on the mixture itself. Now, I can
17 pull out one, differentiate, find one person versus the
18 other in the mixture. It's mainly because one person will
19 donate or shed more DNA on the item than like a second
20 person. So the DNA profile's end up -- I basically look at
21 the amount of DNA, so, one person will have more and I can
22 see a difference and tell that one person has a higher level
23 and the other person has the lower level, and so I can tell
24 a difference, but if they contribute the same amount of DNA,
25 then everything looks the same and it's harder to tell

1 whether or not what source of DNA came from who, and that's
2 when it becomes more or less, instead of a match statement,
3 or a non-match, it's just more of they can be included or
4 they can't be included.

5 Q And also, what is a partial profile?

6 A A partial DNA profile is where, during my testing, I
7 didn't get a DNA result at every place expected. The reason
8 for partial DNA profiles is that there wasn't enough DNA
9 deposited on that item to get a full result. Partial
10 profiles can sometimes be compared to known standards from
11 individuals, and sometimes they are so partial that I just
12 can't make a conclusion about the evidence.

13 Q When you have a mixture, last technical question I
14 think I'm going to ask you, but when you have a mixture, is
15 it possible to be able to exclude certain people from that
16 mixture and include other people as possible contributors to
17 that mixture?

18 A Yes. If there's enough information there, you can
19 sometimes include or exclude an individual from the item.

20 Q That depends on what that mixture contains?

21 A Yes, that's correct.

22 Q Special Agent Webb, I'm going to hand you what's been
23 previously marked and also entered into evidence as State's
24 Exhibit Number Seventy-One, Seventy-Two -- I'm going to hand
25 you a bunch of things, if that's all right.

1 A That's okay.

2 Q Seventy-Three, Seventy-Eight, Seventy-Nine, Eighty,
3 Eighty-One, Eighty-Two and Eighty-Three. Now, I don't
4 expect you to speak on each one of these at the same time.
5 These have all been entered into evidence already. I'd like
6 you to take a moment of time and look at these individually,
7 and when you're ready let me know when you're prepared to
8 tell the jury if you recognize what they are. Thank you.

9 ASST. SOL. SHELTON: May I approach?

10 THE COURT: You may approach the witness.

11 A If I may refer to my notes, please.

12 THE COURT: Absolutely. Counsel, sidebar while she's
13 reviewing what she's handed.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 A Starting with State's Exhibit Seventy-One.

17 Q Before you start to speak on that one, I'm going to
18 hand you one more instead, okay. This has been previously
19 marked for identification purposes only as State's Exhibit
20 Number Ninety-Six.

21 ASST. SOL. SHELTON: May I approach?

22 THE COURT: Ask the question, Counsel.

23 ASST. SOL. SHELTON: Thank you. She's reviewing her
24 notes, Your Honor.

25 Q Do you recognize what that is?

1 **THE COURT:** You're referring to ---

2 **Q** State's Exhibit, marked for identification, Number
3 Ninety-Six.

4 **A** Yes, I do.

5 **Q** What is that?

6 **A** This was items of evidence I received on this case,
7 there is my items, 40.1, swabs from the inside of a pair of
8 gloves that were found on the rear driver's side of a
9 Cadillac. I also have Item 41.1, and that is a swab from a
10 black t-shirt found in the rear seat of the Cadillac. Item
11 42.1 is a swab from a white t-shirt from the passenger side
12 floor of the Cadillac. Item 43.1.1 is a swab from a
13 striped shirt from the passenger floor of the Cadillac.

14 **Q** Thank you. And for that item, Exhibit Number Ninety-
15 Six, is that in substantially the same condition as the last
16 time that you saw them, and if so, how do you know that?

17 **A** Yes, that's correct. I can tell because when evidence
18 is received at the lab, it's then placed inside of this
19 plastic pouch and then it is sealed with heat and whoever
20 has opened the pouch, which in this case it was me, seals it
21 back, and then initials and dates; and my date and my
22 initials are here. Also, it's given the lab number and
23 container number that it came in.

24 **Q** Does it appear to be altered or tampered with in any
25 way?

1 A It does not.

2 Q So substantially, it's in the same condition?

3 A Yes, correct.

4 Q Thank you.

5 **ASST. SOL. SHELTON:** At this time, Your Honor, the
6 State moves Exhibit Number Ninety-Six into evidence.

7 **THE COURT:** Any objection as to State's Exhibit Ninety-
8 Six from the defendant McMillan?

9 **MR. MATHEWS:** May I look at it, Your Honor?

10 **THE COURT:** You may. Hand the exhibit to Counsel.

11 **MR. MATHEWS:** No objection.

12 **THE COURT:** Any objection as to State's Exhibit Ninety-
13 Six from the defendant Jakes?

14 **MR. BEACH:** No objection, Your Honor.

15 **THE COURT:** Ladies and gentlemen of the jury, State's
16 Exhibit Number Ninety-Six will be admitted into evidence in
17 the trial of this case without objection. State's Ninety-
18 Six now in evidence, you may approach and you may publish.

19 (STATE EXHIBIT NUMBER NINETY-SIX IS RECEIVED INTO
20 EVIDENCE.)

21 **ASST. SOL. SHELTON:** Thank you, Your Honor. If I may,
22 I'm going to hand it back to Special Agent Webb.

23 **THE COURT:** Very well.

24 Q Now that we have all those items in evidence, I ask
25 Special Agent Webb, if you would go through, as you were

1 just beginning to do before I interrupted you, Exhibit
2 Number Seventy-One, and tell the jury in order what it is
3 and what you did with it, please.

4 A In this heat sealed pouch I received Item Number
5 Twenty-One. It was a swab from a Item Number Five; I
6 believe this was a swab from the scene. I tested this item
7 for blood. Blood was indicated, and I performed DNA
8 Analysis and was able to develop a DNA profile from that
9 item.

10 The DNA profile developed from the swab from Item
11 Number Five matches the DNA profile of David Jakes and the
12 probability of randomly selecting an unrelated individual
13 having a DNA profile matching this item is approximately one
14 in thirty-eight quintillion and what that means is, it's
15 just a statistical calculation, if you were to choose any
16 one at random out of the population, the probability that
17 their DNA would be similar to what was found at the scene
18 would be one in thirty-eight quintillion.

19 Q Will you please comment on if you were ever -- identify
20 Number Seventy-Two for the record and then comment on any
21 tests and findings that you may have made on Exhibit Number
22 Seventy-Two.

23 A Exhibit Number Seventy-Two was a swab from what the
24 investigator labeled as Spot Number Four and that was from
25 the center console lid of the Cadillac and blood was

1 indicated on that item. I tested it for blood and also
2 developed a DNA profile. And again, with this item, the DNA
3 profile developed from the center console lid of the
4 Cadillac matches the DNA profile of David Jakes and it has
5 the same statistic that I mentioned before.

6 Q Thank you. And now, going back to Exhibit Seventy-One,
7 there's several items included within that exhibit; is there
8 not?

9 A Yes, that's correct.

10 Q Referencing what is labeled as Spot Number Three, rear
11 seat Cadi in that exhibit, will you please comment on that?

12 A Yes, I tested it for blood and blood was indicated, and
13 I got a partial DNA profile, meaning I just didn't get
14 information from the DNA profile that every spot -- but
15 there was enough information there for me to make a match,
16 so the DNA profile from -- I'm sorry, that was spot number
17 three?

18 Q Yes, ma'am.

19 A Also matches the DNA profile of David Jakes.

20 Q Now, moving on to Spot Number Two from Exhibit Number
21 Seventy-One, please.

22 A The swab from Spot Number Two from the Cadillac. There
23 was also blood indicated and the DNA profile developed from
24 Spot Number Two matches the DNA profile of David Jakes.

25 Q Now, moving on, this is still with State's Exhibit

1 Number Seventy-One. Will you please speak on any findings
2 that you found from the swab of the steering wheel from the
3 label steering wheel Cadi, or Cadillac.

4 A Yes. The swabs from the Cadillac steering wheel, I
5 didn't test for any body fluid, but attempted to develop a
6 DNA profile, and a partial DNA profile was developed from a
7 male individual. Jesse King, Amanda Metzfield, Jeanine
8 Metzfield and James Davis are excluded as being possible
9 contributors or donors of DNA to this item, so, there DNA
10 was not found.

11 No conclusive statement can be made regarding the
12 inclusion, or exclusion, of David Jakes or Antwan McMillan
13 to this item, and basically what that means is since it was
14 a partial profile, there wasn't really enough information
15 there for me to say whether or not David Jakes or Antwan
16 McMillan did donate DNA to the item; I just can't tell.

17 Q But you had enough information to exclude the other
18 people from that item?

19 A Yes, that's correct.

20 Q Thank you. Moving on to now another exhibit, State's
21 Exhibit Number Seventy-Three, if you will, reference and
22 describe by Spot Number One, Cadillac passenger rear fender.

23 A The swab from Spot Number One, Cadillac passenger rear
24 fender, blood was identified and I developed a DNA profile
25 from that spot, and the DNA profile developed matches the

1 DNA profile of David Jakes.

2 Q Thank you. Did you receive from Colleton County
3 Sheriff's Office any other evidence regarding this case
4 where they requested DNA analysis to keep performed?

5 A Yes, I did.

6 Q Did you -- to your knowledge, were samples taken from
7 those items of evidence?

8 A Yes. It would have been; I'm referring to the swabs of
9 the clothing.

10 Q Yes. I believe that you were at Item Number Forty and
11 henceforth from there?

12 A Yes, correct.

13 Q And that Item Number Forty is listed in your report as
14 a pair of black gloves; I believe its State's Exhibit Number
15 Ninety-Four, which is in evidence, however. And I believe
16 that profile for State's Exhibit Number Ninety-Four is there
17 with you. Excuse me, that sample. Would you please state
18 any findings that you found from that.

19 A The swab from the inside of the gloves that were found
20 in the rear driver side of the Cadillac, a DNA profile was
21 developed and that also matches the DNA profile of David
22 Jakes.

23 Q What about the -- excuse me, you're Item 41.1 and 41,
24 which is a swab from a black shirt from the rear seat of the
25 Cadillac; will you please comment on that?

1 A Yes, 41.1 is the black shirt from the Cadillac and a
2 DNA profile was developed and it matches the DNA profile of
3 James Davis, and the probability of randomly selecting an
4 unrelated individual having a DNA profile matching this item
5 is approximately one in eleven quintillion.

6 Q Would you just, instead of me going through every
7 single item, you can just report on the rest of your
8 findings in that report, if that's all right.

9 A That's fine. Item 42.1 was a white t-shirt found from
10 the passenger side floor of the Cadillac, and from the white
11 t-shirt a DNA profile was developed. It was a mixture of
12 three individuals, at least; and what that means is there
13 was more than one person's DNA found on that item, at least
14 three people from what I can identify.

15 James Davis is excluded as being a possible contributor
16 to this mixture, so I didn't find James Davis' DNA on this
17 item -- no, excuse me, I read that incorrectly. James Davis
18 cannot be excluded as a possible contributor to this
19 mixture, so therefore, James Davis' DNA profile was found in
20 that mixture, but the probability of randomly selecting an
21 unrelated individual who could have contributed to this
22 mixture is approximately one in sixty, and what that means
23 is if I were to randomly select someone out of the
24 population of the earth, it's just one in sixty people could
25 not be excluded from that mixture. So it just puts a

1 weight, sort of, to what it means that I wasn't able to
2 exclude James Davis. I mean, if I were to pick one out of
3 sixty people, they also couldn't be excluded.

4 Q What about Item 43.1.1?

5 A 43.1.1 is a swab from a striped shirt from the
6 passenger side floor of the Cadillac and it was also a
7 mixture of at least two individuals, and Antwan McMillan
8 could not be excluded as a possible contributor, meaning I
9 found his DNA there; but the probability of again randomly
10 selecting an individual who could have contributed to this
11 mixture is one in three. So if I were to randomly select
12 someone out of the population, the chances of finding
13 similar DNA would be one out of every three people.

14 Q And moving on to Item 45.1.

15 A 45.1 was a swab from some Nike Air Force One tennis
16 shoes from the rear seat of the Cadillac. It was a mixture
17 of at least two individuals and the mixture was such that I
18 couldn't differentiate one person versus another and no
19 conclusive statement can be made regarding the inclusion or
20 exclusion of David Jakes and Antwan McMillan, and that means
21 that there was just not enough information there to make a
22 conclusion whether or not David Jakes or Antwan McMillan's
23 DNA would be present on that item.

24 Q Were you able to exclude anyone from that item?

25 A Yes, I was. I excluded Jesse King, Amanda Metzfield,