

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENIA DAWKINS,

APPELLANT

APPELLATE CASE NO. 2012-212529.

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
)  
PLAINTIFF, )  
)  
-VS- )  
)  
JUWAN D. LOMAX AND )  
DENIA Z. O. DAWKINS, )  
)  
DEFENDANTS. )  
\_\_\_\_\_ )

2011-GS-23-9672A, 9673A & 9676A  
2011-GS-23-08019 - 08022  
  
TRANSCRIPT OF RECORD  
(VOLUME ONE OF TWO)

APRIL 9 - 11, 2012  
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE G. EDWARD WELMAKER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

KATRYNA SALISBURY  
ASSISTANT SOLICITOR

ATTORNEYS FOR DEFENDANTS:

ROBERT IANUARIO, ESQUIRE  
CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS  
CIRCUIT COURT REPORTER

OPENING STATEMENTS - MS. SALISBURY

1           While this is not evidence, I urge you to listen  
2           carefully as these attorneys address you. I'm confident  
3           they can give you valuable insights to help you as the case  
4           develops to be alerted to certain parts of the trial that  
5           they feel would be important for you. Solicitor, you may  
6           address the jury in your opening statement.

7           **MS. SALISBURY:** May it please the Court, Your Honor.  
8           Good morning, ladies and gentlemen. As I was introduced to  
9           you yesterday, my name is Katryna Salisbury. And I  
10          prosecute criminal cases here in Greenville County.

11          And before we begin the trial of this case I want to  
12          very briefly tell you what this case is about, what the  
13          State is required and intends to prove and how we intend to  
14          prove it. Ladies and gentlemen, quite frankly, this case is  
15          about a lifestyle that very few of us can understand. This  
16          is a lifestyle whose mentality is that crime is a source of  
17          entertainment, a sport, that victims are specifically and  
18          carefully targeted and selected.

19          This is a case about a lifestyle that requires  
20          commitment, that everyone committed has a responsibility to  
21          fulfill and a specific role to play. But most importantly,  
22          this lifestyle is about loyalty because you were never  
23          supposed to hear about this crime.

24          The five people who planned, staged and executed this  
25          crime never thought they'd be identified. It's for that

OPENING STATEMENTS - MS. SALISBURY

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1 reason that crimes like this only get solved from the inside  
2 out. It's only when those on the inside abandon that  
3 lifestyle and betray that loyalty that crimes like this are  
4 prosecuted and all of those involved are held accountable.

5 When Demetrius Benson was robbed and shot in his  
6 apartment just after midnight on June 3rd, 2011 he never saw  
7 it coming. Demetrius had spoken with his one-time  
8 girlfriend, De'Nia Dawkins, who said that she was going to  
9 come over to his apartment to hang out.

10 What Demetrius didn't know was that Dawkins had planned  
11 to allow three of her friends to force their way into  
12 Demetrius' apartment and rob him and ultimately shoot him.  
13 And over the course of this trial you will hear exactly how  
14 both these Defendants, Dawkins and Juwan Lomax, assisted in  
15 that plan and played their role in making sure that plan was  
16 carried out.

17 Now, as you've heard from the Judge, each of these  
18 Defendants is charged with four crimes. And I'll tell you  
19 at the outset, you're not going to hear any evidence that  
20 either of these Defendants wielded a handgun, pulled a  
21 trigger or took anything from the victim.

22 Nonetheless, each of these Defendants is responsible  
23 for the crimes that happened that night because it is the  
24 law in South Carolina that when two or more people combine,  
25 assist one another, work together to commit a crime,

OPENING STATEMENTS - MS. SALISBURY

1 everyone part of that plan is responsible for the crimes  
2 that were committed. What the law refers to that concept is  
3 that the hand of one is the hand of all. And over the  
4 course of this trial the evidence that you will hear is that  
5 each of these Defendants had their hand in this plan.

6 Now, as you've heard from the Judge, the Defendants are  
7 charged with armed robbery. To prove that these Defendants  
8 are guilty of armed robbery the State has to prove that the  
9 Defendants or their co-conspirators took something of value  
10 from the victim.

11 The State has to prove that that taking was done by  
12 force or intimidation. And most importantly the State has  
13 to prove that that force or intimidation was effected by the  
14 use of a deadly weapon, in this case, a handgun, or three.

15 These Defendants are also charged with burglary in the  
16 first degree. To prove that the Defendants are guilty of  
17 that crime the State has to prove that the Defendants or  
18 their co-conspirators entered a home without consent,  
19 whether that be by force or trick, and that that entry was  
20 done with the intent to commit a crime while inside.

21 Now, what makes that burglary a first degree burglary  
22 is the presence of an aggravating factor. In this case, the  
23 people who entered the apartment were armed and that the  
24 entry occurred during the nighttime.

25 These Defendants are charged with attempted murder. To

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1 prove that these Defendants are guilty the State must prove  
2 that the Defendants or their co-conspirators with the intent  
3 to kill attempted to kill Demetrius Benson with malice  
4 aforethought.

5 And, finally, each of these Defendants is charged with  
6 conspiracy. To prove conspiracy the State must prove that  
7 two or more people combined for the purpose of committing a  
8 crime. The crime of conspiracy is the agreement. Nothing  
9 else is required. And during this trial you're going to  
10 hear evidence that at least five people participated in that  
11 agreement to commit this home invasion.

12 Now, to prove that these Defendants are guilty you're  
13 going to hear testimony from several witnesses. First  
14 you're going to hear from Demetrius Benson, himself. He's  
15 going to testify about the circumstances of how he became --  
16 how he spoke with Ms. Dawkins on June 2nd, 2011 just before  
17 midnight. And he's going to describe what happened when she  
18 came over.

19 He's going to testify about what he did when three  
20 masked, armed men forced their way into his apartment. And  
21 he's going to testify that he struggled with those men  
22 before he was shot, twice.

23 After that you'll hear testimony from Demetrius'  
24 roommates and friends who were over at the apartment that  
25 night. They're going to testify about what they saw and

OPENING STATEMENTS - MS. GORTON

1 what they heard.

2 Then you'll hear testimony from the officers who  
3 responded to the scene and participated in the investigation  
4 of the crime. You'll hear about how they investigated this  
5 case and determined how each of these five people charged in  
6 the case were involved in the plan and the role that they  
7 played in this home invasion, turned violent attack.

8 Finally, you're going to hear from the inside. You're  
9 going to hear testimony from two of the masked, armed men  
10 who entered Demetrius' apartment. They're going to tell you  
11 what they did. They're going to tell you the role that they  
12 were assigned. And most importantly, they're going to tell  
13 you the role that Juwan Lomax and De'Nia Dawkins played in  
14 making sure this plan was executed.

15 And at the end of this trial I believe you'll be  
16 certain of three things; that these crimes happened, that  
17 the two men who will -- who will say what happened, did what  
18 they will say they did and that these two Defendants were  
19 part of the plan and are responsible for what happened once  
20 that robbery went into motion.

21 And after you've heard all the evidence I'll ask you to  
22 return a verdict that these two Defendants are guilty, that  
23 despite their best efforts to adhere to that lifestyle that  
24 they are nonetheless accountable for exactly what happened  
25 on June 3rd of 2011. Thank you.

OPENING STATEMENTS - MS. GORTON

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1           **THE COURT:** Ms. Gorton, you may briefly open.

2           **MS. GORTON:** Thank you, Your Honor. Y'all met me  
3 yesterday. My name is Cass Gorton. But this is my client,  
4 De'Nia Dawkins. And we not only have De'Nia here today, we  
5 have her father, and her brother.

6           And this is an unusual case because two Defendants are  
7 being tried together. So we also have Juwan Lomax, and we  
8 have his family here.

9           Now, I find opening statements one of the hardest jobs  
10 as a -- as a defense attorney because there's nothing to  
11 respond to really. There's been no witnesses. There's been  
12 no evidence. And we've received police reports. We've  
13 received the affidavits by the victims and the witnesses,  
14 but we haven't had a chance to talk to them.

15           In a criminal case, unlike a civil case, there's no  
16 right to depositions prior to trial. So what you have in  
17 front of you is what's on paper. You don't get to ask  
18 questions first.

19           Now, I am asking you all to do what doesn't come  
20 naturally. I'm asking you all to hold on. The State's  
21 going to get to go first. And they're going to get to  
22 present all of their evidence and all of their witnesses.  
23 And my biggest fear is that you all will make up your mind  
24 before you've heard the other side.

25           Now keep in mind, we don't have to give you another

OPENING STATEMENTS - MS. GORTON

1 side. It's not required. We're not required to prove  
2 anything, but we're going to today. In this case, we're  
3 going to.

4 So I want you all to keep an open mind. It doesn't  
5 come naturally to us. Our kids come to us, mom, Ethan hit  
6 me. Ethan, why did you hit your brother? We don't say,  
7 now, wait a minute. Let me hear Ethan's side. Or maybe you  
8 do. And in that case, I'm really glad you're on this jury.

9 Now, I'm not sure what we're going to be able to  
10 present. I hope to be able to show you that Mr. Benson and  
11 his friends are extremely street smart and that they  
12 probably know more about what happened that night than my  
13 client, De'Nia Dawkins.

14 But even if I can't, that's okay. Because it's  
15 perfectly understandable for him to believe that his  
16 girlfriend that he had dated for three years, through two  
17 years of high school and a year of college, was involved in  
18 this.

19 Because essentially we agree with the State as to  
20 everything that happened. She called him, they talked, they  
21 decided to smoke together, smoke marijuana. He had sold  
22 marijuana in the past. She was aware of that throughout  
23 their relationship. He was constantly pressuring her to  
24 smoke with him. She wouldn't.

25 She made calls that night. They had been broke up for

OPENING STATEMENTS - MS. GORTON

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1 a while. They had recently got back together, sort of. And  
2 she had decided, you know what, okay, I'm ready. But I'm  
3 bringing a friend. I'm bringing my friend, Envy.

4 They went over there. She asked for a ride. She and  
5 Envy went in. What she didn't know was that they were  
6 followed, that the people who took them over there had an  
7 ulterior motive. And you're going to ask yourself, well,  
8 why? When you hear the State's case you're going to be  
9 saying, how did they not know?

10 And what I'm going to show you is going to disturb you  
11 because what we know about gangs, that's evolved. They are  
12 no longer happy taking our streets. And they're no longer  
13 happy taking those kids that have no homes, and no parents,  
14 and no education, and nowhere else to turn. Gangs don't  
15 live in their own world, they live in our world. And our  
16 world has evolved. And uneducated thugs don't cut it  
17 anymore.

18 When they steal property, they have to have a way to  
19 get rid of it. And what better way than Ebay? They need  
20 educated members. But how are you going to get an educated  
21 person in your gang? Who in their right mind would give up  
22 family and college to join a gang?

23 You're going to find out they do that by presenting two  
24 faces. This gang in particular, who the police know as the  
25 Folk Nation, and the Gangster Disciples. They have another

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1 face that's called Growth and Development. Sounds pretty  
2 good. In fact, they promote a lot of the same things that  
3 many civil clubs do. They tell these kids, we're about jobs  
4 and education.

5 The way you get accepted and promoted is to provide  
6 proof that you've got a GED, provide proof that you're going  
7 to work, provide proof that you're contributing to society.  
8 There's a process where you're a prospect for two weeks.  
9 And then you're blessed in.

10 And at some point shortly after that you're initiated,  
11 but you're not told what the initiation process is. With  
12 the initiation process gangs have turned in -- have taken  
13 good lessons from child molesters. How do you get these  
14 kids lured in? You befriend them, you earn their trust and  
15 then you do something so horrible and so horrific to them  
16 that they are ashamed to go forward, they feel trapped and  
17 they're scared to do anything about it.

18 What they did to De'Nia Dawkins is they listened to her  
19 talk about going over to see her boyfriend. And when they  
20 heard that she wanted a ride over there, they did what they  
21 always do, yeah, we'll go too, we'll go too. Yeah, let's  
22 all go.

23 But while she and Envy were in the car with Juwan Lomax  
24 driving, three of the Gangster Disciples followed them and  
25 planned out the robbery. After she went in, they put on

OPENING STATEMENTS - MS. GORTON

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1 their scarves, they pulled out their guns and they followed  
2 her in.

3 And as soon as she or Demetrius opened the door, we're  
4 not real clear which one opened the door to go back out,  
5 they came in. She lived with that secret for six weeks.  
6 And during that time she was not herself.

7 And when we talk about who comes forward and who tells?  
8 You're going to hear from two people who waited a long time  
9 to come forward. And when they did, they were the gunmen,  
10 they were high ranking Gangster Disciples. They were not,  
11 excuse me, virgins. They were seasoned gangsters. And  
12 their statement came right after these two statements came.

13 Again, we agree on most things. We agree that they all  
14 went over there. We agree that Demetrius Benson was shot.  
15 We agree that his roommates and him went through a  
16 terrifying experience. But De'Nia Dawkins went through a  
17 terrifying experience too. She had no idea it was going to  
18 happen.

19 And after she realized what had happened and the gang  
20 members were ordering her to get back in the car, she didn't  
21 know what to do. If she's guilty of anything, she's guilty  
22 of doing nothing afterwards. But she's not guilty of  
23 knowing any of this happening beforehand.

24 I just ask that you keep an open mind. As you hear  
25 these people testify ask yourself what do they have to gain?

OPENING STATEMENTS - MR. IANUARIO

1 Why are they coming forward now? Who came forward first?  
2 Who was in a position to know what was going to happen? I'm  
3 also going to ask you to pay close attention to who was in  
4 whose car and when? That's going to be crucial. Thank you.

5 THE COURT: Mr. Ianuario.

6 MR. IANUARIO: Good morning. My name is Robert  
7 Ianuario. And I'm representing Juwan Lomax. I'm also  
8 working with Cassandra Gorton in the defense and De'Nia  
9 Dawkins since we have our clients testifying together.

10 The same story that you heard Ms. Gorton give is the  
11 same story that applies to my client as well. And I don't  
12 think I could tell it any better than Ms. Gorton did.

13 What I would like to talk about a little bit is what  
14 Judge Welmaker's also mentioned to you. You have a duty in  
15 here. Your duty is to determine the facts.

16 We'll represent a version of the facts. The State will  
17 present a version of the facts. And in this unique  
18 instance, many of the facts that are going to be presented  
19 are true, but it's up to you to determine did they know  
20 about what was going to happen before it happened? You  
21 won't have any concrete evidence of that.

22 We have witness statements. And we have a police  
23 investigation based upon those statements. You're not going  
24 to see a lot of forensic evidence in this trial. You're not  
25 going to see a lot of surprise witnesses. This isn't going

OPENING STATEMENTS - MR. IANUARIO

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1 to be something like you would see on TV, but you are going  
2 to hear statements. And you have to base the innocence or  
3 the guilt of Mr. Lomax and Ms. Dawkins on whether or not you  
4 believe the people providing those statements.

5 If you can believe the people that are providing those  
6 statements, and you believe that Mr. Lomax and Ms. Dawkins  
7 were more than just two innocent children caught up in this  
8 plan, that they are actually criminal masterminds, then  
9 please return a verdict of guilty. But if you cannot,  
10 beyond a reasonable doubt, believe that Juwan and De'Nia are  
11 criminal masterminds, please return a verdict of not guilty.

12 Reasonable doubt, you know, we all have our own  
13 interpretation of what that will be. The Judge will  
14 elaborate on that. But as an example, if you put a cat and  
15 a mouse in a shoe box, put the lid on it, you come back an  
16 hour later and the mouse is gone, the cat must have eaten  
17 the mouse. But if there's one single hole in that shoe box  
18 that's big enough for that mouse to crawl out of, you can't  
19 say certainly that the cat ate the mouse. Maybe he did.  
20 Maybe the mouse got out. We don't know.

21 By the same analogy, if there's one single hole in the  
22 State's case, if there is any place that a reasonable doubt  
23 could have escaped in the State's presentation of its case  
24 or in the presentation of our defense, I'm going to ask you  
25 to return a verdict of not guilty on that.

OPENING STATEMENTS - MR. IANUARIO

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1 I ask you to take this duty seriously. These are two  
2 bright children. Juwan was college bound before all this  
3 happened. And when all this is done hopefully he still will  
4 be. He's a very talented musical artist. De'Nia was in  
5 college when all this happened. She's also very talented in  
6 music.

7 Many of the co-defendants that are not on trial today,  
8 but also involved in this conspiracy, are musically  
9 talented. Music is the web with which they entrap these  
10 children. They got these people in, they got Juwan and  
11 De'Nia in and working in a music area, put on concerts every  
12 Thursday night, did community benefits, do everything they  
13 can to reach out to the community.

14 And on this night in question when De'Nia went to go  
15 buy a sack of weed and see her ex-boyfriend, who hung out  
16 with some pretty bad characters, and she was scared of being  
17 over there by herself, she said, friends, will you please  
18 wait on me until I find out if it's safe for me to stay over  
19 there? And I'll text you and let you know I'm staying or  
20 I'm going to come right back out.

21 Instead what happened is she walked in, spent a few  
22 minutes inside. And then when the doors opened there were  
23 three masked gunmen out there. All the statements will say  
24 that De'Nia ran around crazy, scared, having an emotional  
25 break-down.

OPENING STATEMENTS - MR. IANUARIO

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1           You don't do that if you planned part of the crime.  
2           She started that before the shooting took place. That  
3           wasn't a part of, oh, my God, I can't believe they just shot  
4           my boyfriend. It's oh, my God, I can't believe what's  
5           happening, and then the shots took place.

6           Who loves somebody for three years and then sets them  
7           up to be the victim of gang violence? No one. Especially  
8           somebody that still has strong feelings for the victim. And  
9           definitely not my client who was doing nothing but the  
10          chivalrous thing of giving a girl a ride to a guy's place  
11          and then waiting to see if she's comfortable staying there.

12          None of them knew what was going to happen that night  
13          before the fact. After the fact, seems like they learned of  
14          it. They're going to dispute that. If they're guilty of  
15          anything, they should have come forward sooner.

16          But none of them knew before when they jumped in the  
17          car to go over there that these crimes were going to take  
18          place. And if you can't show that they knew all of this was  
19          going to happen, it's very tough to find that beyond a  
20          reasonable doubt they conspired to plan this burglary and  
21          this armed robbery that led to the attempted murder.

22          I look forward to working with you as does Ms. Gorton,  
23          and I'm sure Ms. Salisbury. And I hope that it's a quick  
24          and painless process for all of you. I'm going to try not  
25          to bore you.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 I understand those chairs are terribly uncomfortable.  
2 So I'm going to wrap this up. Again, I thank you for your  
3 service. And I look forward to working with you.

4 THE COURT: Solicitor, you may call your first witness.

5 MS. SALISBURY: Thank you, Your Honor. The State calls  
6 Mr. Demetrius Benson. Mr. Benson, if you would, please come  
7 around and be sworn.

8 MADAME CLERK: Mr. Benson, if you'll pause at the end  
9 of the bench. Please place your left hand on the Bible and  
10 raise your right hand.

11 Demetrius Benson, being  
12 duly sworn testified as follows:

13 MADAME CLERK: Thank you. Please be seated. Please  
14 state your full name for the record.

15 MR. BENSON: Demetrius Benson.

16 Direct Examination by Ms. Salisbury:

17 Q. Demetrius, I'm going to stand way back here so that I  
18 can hear you. If I can hear you, then the jury can hear  
19 you, okay?

20 A. Okay.

21 Q. So just try to speak up. Tell me this, what do your  
22 friends call you?

23 A. Drez.

24 Q. So you -- you go by Drez?

25 A. Yes.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Most of the time? Okay. Well, I'll try to -- I'll try  
2 to keep that in mind. If I slip back in to Demetrius, I'll  
3 -- I apologize.

4 A. Okay.

5 Q. Drez, where do you work?

6 A. I'm currently in school.

7 Q. Okay. Where do you live?

8 A. I stay in Taylors.

9 Q. And how long have you lived in Greenville?

10 A. All my life.

11 Q. Where did you go to school?

12 A. Wade Hampton High School.

13 Q. Now, where were you living in June of 2011?

14 A. Cunningham in Taylors. Cunningham in Taylors.

15 Q. Cunningham? Is that an apartment complex?

16 A. Yes, ma'am.

17 Q. Okay. Do you remember which apartment number you were  
18 living in?

19 A. 23.

20 Q. Okay. Is that in a particular building?

21 A. It's the H building at the top.

22 Q. Now, do you remember whether you were at home on the  
23 evening of June 2nd, 2011?

24 A. I can't remember.

25 Q. Okay.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

1 A. I think I was home.

2 Q. Well, how about this, and during the late morning hours  
3 before -- immediately before you were shot, were you home?

4 A. Yes.

5 Q. Okay. Who was at your apartment with you?

6 A. Me, my two roommates, and my friend, Jaquan.

7 Q. Now, who were those people? You said ...

8 A. Tyrell Holland, ---

9 Q. Okay.

10 A. And Horrace.

11 Q. And who else?

12 A. And Jaquan.

13 Q. Okay. Now, are all three of those gentlemen your  
14 roommates?

15 A. Two of them was.

16 Q. And who was -- who's not the roommate?

17 A. Jaquan.

18 Q. Okay. And what were y'all doing that night?

19 A. We was watching the NBA finals.

20 Q. Now, stopping right there and jumping out of line a  
21 little bit, do you know De'Nia Dawkins?

22 A. I do.

23 Q. How do you know her?

24 A. We used to date.

25 Q. When did you date?

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. I think it was my eleventh grade to like twelfth grade,  
2 yeah.

3 Q. How long did y'all date?

4 A. A year and one month.

5 Q. Just a year?

6 A. (Affirmative nod).

7 Q. Well, I thought we've heard all this talk about three  
8 years?

9 A. (Negative nod).

10 Q. Okay. Why did y'all split up?

11 A. She went off to college. Long distance don't work.  
12 Long distance relationships don't work.

13 Q. Was it -- was it an ugly break-up? Did y'all stay on  
14 good terms?

15 A. It was on good terms. We still talked after we broke  
16 up.

17 Q. Did you see her after you guys had split up as  
18 boyfriend and girlfriend?

19 A. I seen her probably a couple of months later when she  
20 came back to town.

21 Q. Okay. Now, how -- how often did you see her?

22 A. Not so often. I probably seen her like out at  
23 downtown. But like her coming to my house, she only came to  
24 the crib twice.

25 Q. Okay. Did you ever sell her any marijuana?

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

- 1 A. I didn't.
- 2 Q. How much would you sell her at a time?
- 3 A. Like nothing really 'cause she didn't smoke.
- 4 Q. Okay. Did you -- do you remember ever selling her any  
5 particularly large quantities of marijuana?
- 6 A. I don't.
- 7 Q. Okay. Did she owe you any money for marijuana?
- 8 A. No.
- 9 Q. Did she owe you any money for anything else?
- 10 A. She owed me money for a ride.
- 11 Q. What does that mean?
- 12 A. She called me one day and asked for a ride to  
13 Fleetwood. And she would give me gas money to take her up  
14 there.
- 15 Q. And did that happen at some point?
- 16 A. Yeah, it happened at least two or three times.
- 17 Q. Okay. And how -- how long since you had given her  
18 those rides before -- how long was it before this incident  
19 happened?
- 20 A. Probably two months.
- 21 Q. Do you remember whether you spoke with De'Nia on the  
22 night of June 2nd?
- 23 A. Yes.
- 24 Q. Who called who? Did you call her or did she call you?
- 25 A. She texted me.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Okay. And did you call her back as a -- after that,  
2 you got that text?

3 A. Yeah. I think we continued texting ---

4 Q. Okay.

5 A. --- through that whole night.

6 Q. Well, what happened?

7 A. She text me. She was like, I got your money that I owe  
8 you for the ride. And I was like, okay. And she said she  
9 also had some friends she wanted to bring over. She asked  
10 how many people was at the house. And I told her that it  
11 was me and my two roommates and my friend guy.

12 Q. Did at some point she indicate to you that she was  
13 planning on coming over?

14 A. Yes, she did.

15 Q. Do you remember when she got there?

16 A. I do.

17 Q. About -- do you remember about what time she got there?

18 A. It was probably around like midnight.

19 Q. Okay. Was anybody with her?

20 A. Yes.

21 Q. Do you know who was with her?

22 A. I didn't know the girl, but ---

23 Q. What did she look like?

24 A. Probably five foot, light skin, skinny, brown skin  
25 lady.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

165

1 Q. Okay. Do you know anything -- do you know her name?

2 Do you know anything about her?

3 A. No.

4 Q. Okay. Had you ever seen her before that night?

5 A. No, ma'am.

6 Q. Okay. Well, what happened when De'Nia and her friend  
7 got there?

8 A. She got there, she walked in the house, her and her  
9 friend. They all spoke to my roommates. Me and her walked  
10 to the back of my room, sat on my bed. She gave me a hug,  
11 kissed me. And she was like, I have your money outside in  
12 the car. It's a hundred dollar bill, but I need change.

13 So I put my shoes on. We walked out. Well, she  
14 already had left out of my room while I was putting my shoes  
15 on. So by the time I got to my living room she was already  
16 at the door. And once I opened the door, three dudes come  
17 in.

18 Q. Okay. Now let me -- let me stop you right there and  
19 show you some pictures. I'm going to show you State's  
20 exhibit 6. Do you recognize that picture?

21 A. I do.

22 Q. What is in -- what's pictured in that picture?

23 A. That's my old apartment.

24 Q. Is ---

25 A. Cunningham.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Is that an accurate depiction of what your apartment --  
2 that area outside your apartment looked like in June of  
3 2011?

4 A. Yes, ma'am.

5 Q. I want you to take a look also at State's exhibit 7.  
6 Does that look familiar to you?

7 A. Yes, ma'am.

8 Q. What is that picture?

9 A. That's the downstairs of my building that I stayed in.

10 Q. And is it also an accurate depiction of what those  
11 stairs and that area of your building looked like in June of  
12 2011?

13 A. Yes, ma'am.

14 Q. Okay. And one more. I want you to take a look at  
15 State's exhibit number 8. Do you recognize that picture?

16 A. Yes, ma'am.

17 Q. And I realize there's some cars parked in front of  
18 there, but other than that do you know what that is?

19 A. It's the outside of my building.

20 Q. And while those cars may not have been the same cars  
21 that were there on June 2nd or June 3rd, 2011, aside from  
22 that, is that building -- is that picture of your building a  
23 fair and accurate picture of what your apartment building  
24 looked like?

25 A. Yes, ma'am.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 MS. SALISBURY: Your Honor, at this time I'd move in  
2 State's exhibits 6, 7 and 8.

3 THE COURT: Any objection?

4 MR. IANUARIO: No objection, Your Honor.

5 MS. GORTON: I haven't seen them.

6 (Whereupon Ms. Salisbury showed State's exhibits 6, 7  
7 and 8 to Ms. Gorton)

8 MS. GORTON: No objection.

9 THE COURT: All right. Without objection, exhibits 6,  
10 7 and 8 are admitted into evidence and may be published to  
11 the jury.

12 (Whereupon State's exhibits 6, 7 and 8 were admitted  
13 into evidence)

14 Q. Now let's pick up with your story where we left off.  
15 You mentioned that as you were putting your shoes on, you  
16 came to the door and do you remember whether you opened the  
17 door to go outside or did De'Nia open the door to go  
18 outside?

19 A. I opened the door.

20 Q. Okay. And what did you see?

21 A. Three males coming out from the side of my door  
22 entering my room, I meant, my house.

23 Q. What did they look like?

24 A. Black shirts over their face, guns in they hand, that's  
25 about it.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Did all three of them have a gun?

2 A. Yes, ma'am.

3 Q. Could you tell whether all three were black, white,  
4 Hispanic?

5 A. They were all black.

6 Q. They were all black, okay. Now you said that their  
7 faces were covered. How were you able to tell what race  
8 they were?

9 A. Skin. They had like wife-beaters on. So they skin was  
10 showing.

11 Q. Okay. Now do you remember anything specific about each  
12 one? Let's take them one at a time.

13 A. I remember one was a skinny male, dark skin. One was  
14 another dark skinned male. He had, I think, dreadlocks or  
15 some kind of hair.

16 Q. Was it long? Were they short braids?

17 A. It was short, but you could still see 'em through the  
18 shirt. And the other male I really don't remember 'cause he  
19 left out right when it started happening.

20 Q. Do you remember -- and I know you just said this. Do  
21 you remember whether each of those men had handguns?

22 A. I do.

23 Q. Okay. Well, once you open your door and you see these  
24 three masked men there with guns, what happened?

25 A. I'm shocked.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Well, ---

2 A. I mean, I think it's my friend guy playing, but like  
3 once I see the guns, I start to grab one.

4 Q. Do you remember whose gun you grabbed? Did you grab  
5 the gun or did you grab his arm ---

6 A. I grabbed his arm.

7 Q. Okay.

8 A. It was the dude with the hair. Yeah, I grabbed his  
9 arm. And we started scuffling. I think I popped his clip  
10 out. And, you know, popped his clip out. Like we got on  
11 the ground. And he kept telling the other dude to shoot me.  
12 Like, shoot him, shoot him. And then I think the dude  
13 hesitated, but then he shot me twice.

14 Q. Where did he -- where did the other guy shoot you?

15 A. Right side of my leg and the left side of my leg.

16 Q. Of the same leg?

17 A. Of a different leg.

18 Q. So ---

19 A. On one side on my left side. One side on my right  
20 side.

21 Q. All right. Are those bullets still in your legs?

22 A. On my right leg, that one's still inside.

23 Q. Do you remember how many shots you heard?

24 A. Two.

25 Q. What happened after they shot you?

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. I laid there, blacked out.

2 Q. Did you -- did you follow them?

3 A. No.

4 Q. Did you see what kind of car they got into?

5 A. No.

6 Q. Well, you mentioned you were at home with some people  
7 that night. Where were they?

8 A. In the back room.

9 Q. Did you -- do you remember whether they came to your  
10 aid or what -- what happened after -- after you're shot and  
11 you're laying in the floor?

12 A. Like most everything is dying, over with and they leave  
13 my apartment. I know I get up and I get consciousness  
14 again. Get up and walk to the back room, knock on their  
15 door and tell them I need to go to the hospital.

16 Q. So what happened? Did y'all call the ambulance?

17 A. No. They took me ---

18 Q. Why not?

19 A. I'm trying to get to the hospital. I don't -- I didn't  
20 even wait for the ambulance.

21 Q. So what happened next? You told them that you needed  
22 to go to the hospital and what did they do?

23 A. They get they stuff on and help me downstairs.

24 Q. Did y'all make it to the hospital?

25 A. We didn't even make it out of the complex.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Okay. What happened?

2 A. The police stopped us.

3 Q. Okay.

4 A. Told us to stop. I think they told them to get out the  
5 car. And they seen that I was shot. And he called the  
6 ambulance for me.

7 (Whereupon State's exhibits 9, 10 and 11 were marked  
8 for identification)

9 Q. Now, Demetrius, I'm going to show you some pictures,  
10 State's exhibits 9, 10 and 11. I'm going to ask you to take  
11 a look at -- you to take a look at those pictures. Do you  
12 recognize what's depicted in those photographs?

13 A. Yes, ma'am.

14 Q. What are those photographs?

15 A. When I was in the emergency room. When I had already  
16 been shot.

17 Q. So are those pictures of you?

18 A. Yes, ma'am.

19 Q. Are those accurate pictures of how your injuries  
20 appeared that night?

21 A. Yes, ma'am.

22 MS. SALISBURY: Your Honor, at this time I'd offer  
23 State's exhibits 9, 10 and 11 in evidence.

24 THE COURT: Any objections?

25 MR. IANUARIO: No objections, Your Honor.

DEMETRIUS BENSON - DIRECT EXAMINATION BY MS. SALISBURY

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1 MS. GORTON: No.

2 THE COURT: Without objection, exhibits 9 through 11  
3 are admitted into evidence and may be published to the jury.

4 (Whereupon State's exhibits 9, 10 and 11 were admitted  
5 into evidence)

6 Q. Now of the -- of the five people that were in your  
7 apartment that night, did you know anybody other than  
8 De'Nia?

9 A. No, ma'am.

10 Q. Have you spoken to De'Nia since this incident happened?

11 A. No, ma'am.

12 Q. Did you ever confront her about what happened?

13 A. I did. Probably -- well, when we got stopped leaving  
14 out of the complex, the officer stopped us, I called her  
15 right then.

16 Q. Okay. What did you say when you called her right then?

17 A. I said, what happened? You set me up? And she was  
18 like, no, I didn't set you up. I said, well, you got to  
19 deal with it now.

20 Q. What do you think -- what do you think happened that  
21 night? Do you think that she set you up?

22 A. I think she did set me up 'cause she -- she -- I think  
23 she asked me like two or three times how many people I had  
24 over there. Like she was bringing more than one girl, but  
25 she only brought one girl.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. All right. Thank you. If you would, answer any  
2 questions these attorneys may have for you, sir.

3 THE COURT: You may cross examine the witness.

4 Cross Examination by Ms. Gorton:

5 Q. Did she tell you she was bringing a girlfriend over?

6 A. Yes.

7 Q. Did she check with you and make sure that was okay?

8 A. Yes.

9 Q. Okay. Now, if she had known about this robbery she  
10 wouldn't need a girlfriend with her, would she?

11 A. I don't know.

12 Q. I'm going to ask you to clarify some things. These  
13 aren't huge points. And I understand that this was a really  
14 big deal. But you gave a statement on this, didn't you?  
15 You actually gave three statements. The night in the  
16 hospital you spoke with the forensics guy, Hamilton, first,  
17 correct?

18 A. I think so. I'm not sure.

19 Q. Did you talk to two law enforcement the night you were  
20 in the hospital?

21 A. I talked to one. I think so.

22 Q. Is it possible you talked to two?

23 A. I really only remember seeing one.

24 Q. All right. When you -- the conversation that you  
25 remember having with the one, what do you remember saying?

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 A. I really don't remember. That was like almost a year  
2 ago.

3 Q. Okay. Would you disagree if I told you that when you  
4 spoke with Officer Hamilton there's no mention in his report  
5 about you thinking that De'Nia set you up?

6 MS. SALISBURY: Objection, Your Honor.

7 THE COURT: What's your objection?

8 MS. SALISBURY: The report prepared by Forensics  
9 Officer Hamilton is obviously not a statement that this  
10 defendant was given an opportunity to review or evaluate for  
11 its accuracy.

12 THE COURT: Okay. If you would, give him a copy of the  
13 statement.

14 MS. GORTON: Sure.

15 MS. SALISBURY: Your Honor, I believe even after  
16 reviewing this officer's report I'd still have the same  
17 objection. This isn't a statement that the victim gave to  
18 this officer. The officer's recitation of what he believed  
19 the incident ---

20 THE COURT: Okay. I thought you said he gave a  
21 statement. Is it an oral statement?

22 MS. GORTON: It's an oral statement.

23 THE COURT: All right. Then you can just ask him. I  
24 think he said what he didn't -- what he remembered and what  
25 he didn't remember.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 MS. GORTON: Well, let me rephrase.

2 THE COURT: All right.

3 Q. When you spoke with the officer that you remember  
4 speaking with at the hospital did you forget to mention that  
5 you thought De'Nia was involved in this?

6 A. Maybe at the hospital, but when leaving out the complex  
7 the officer that I talked to at the hospital was the same  
8 one I talked to in the complex. And I told him then that I  
9 thought I was set up.

10 Q. Now is it possible that De'Nia called you?

11 A. No, ma'am.

12 Q. Right after that happened?

13 A. No, ma'am.

14 Q. So if there's cell phone records available that show  
15 that she called you, would there be any other reason why she  
16 would call you shortly after that occurred?

17 A. No.

18 Q. Did you call her in the presence of the officer?

19 A. Yes.

20 Q. Did she sound upset when you talked to her?

21 A. A little, but ...

22 Q. Was she saying, no, no, I didn't know?

23 A. Yes.

24 Q. You said you had sold her weed before. Did I  
25 understand that right?

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 A. No.

2 Q. No?

3 A. No.

4 Q. Have you sold weed before?

5 A. No, ma'am.

6 Q. No?

7 A. No, ma'am.

8 Q. Did you keep weed in the center console of your car?

9 A. I did.

10 Q. Did you also keep a digital scale in the center console  
11 of your car?

12 A. No, ma'am.

13 Q. Did you keep crack cocaine in the center console of  
14 your car?

15 A. I had crack cocaine.

16 Q. Did you keep a pistol in your car?

17 A. No, ma'am.

18 Q. Did you have a pistol in the apartment?

19 A. No, ma'am.

20 Q. You did not?

21 A. No, ma'am.

22 Q. When you said that you had last seen her about two  
23 months prior, could it have been one month prior?

24 A. Yes.

25 Q. All right. And did she text you -- I'm going back to

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 the night. And I'm sorry to jump around. The night this  
2 all happened, did she initially text you from work?

3 A. I don't know where she was at.

4 Q. Was it much earlier in the night? This all happened  
5 around midnight.

6 A. It was maybe around nine.

7 Q. Around nine?

8 A. That she started texting me.

9 Q. And you know that -- you all were close enough, you  
10 knew she worked, right?

11 A. Yes, I did.

12 Q. And you knew where she worked?

13 A. Yes.

14 Q. Where did she work?

15 A. I forget the name, but I know where it was at.

16 Q. Is it an Italian restaurant over off of Pelham Road?

17 A. No, that was not it.

18 Q. It wasn't? Where was it?

19 A. It was on -- it was off of Pleasantburg, I think the --  
20 she say she help kids after school.

21 Q. Are you talking about her prior job or the job she had  
22 at the time this incident occurred?

23 A. Um-hum (affirmative).

24 Q. Which one?

25 A. The one that happened when the incident occurred.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 Q. Now you also said that you only dated her for a year.

2 Do you know her father?

3 A. I do.

4 Q. Mike Hutchins?

5 A. (Affirmative nod).

6 Q. Do you also know Chastity Adams and Kaylie Adams,

7 Kaylin Adams?

8 A. I don't know. I need to see their face.

9 Q. Do you recall going over to a house on numerous  
10 occasions throughout her high school and first year of  
11 college at 6 -- over in Mauldin?

12 A. What house?

13 Q. Now you do know Chastity and Kaylie -- Kaylin Adams,  
14 don't you?

15 A. Chastity ---

16 Q. Chastity and Kaylin Adams.

17 A. I got -- I have to see their faces. That's what I'm  
18 saying. I ain't -- any of her friends, I haven't seen in  
19 over a year.

20 Q. Did you recently have a phone conversation with  
21 Chastity Adams?

22 A. I did.

23 Q. So you do know who I'm talking about?

24 A. I know I had a conversation with one of her friends.

25 Q. You do know who I'm talking about, you just don't

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 recall what they look like?

2 A. I know that I talked to one of her friends, but I don't  
3 know which one was it.

4 Q. Okay. The same friend that you just recently spoke  
5 with. Was that recently?

6 A. Um-hum (affirmative).

7 Q. The same friend that you recently spoke with, is that  
8 the same one that you visited De'Nia at their home  
9 throughout her last two years of high school and her first  
10 year of college?

11 A. I don't know because I don't remember her name. When  
12 she called, I don't even think she stated her name.

13 Q. Well, did you go over and visit her friends at a time  
14 when you weren't dating?

15 A. No, ma'am.

16 Q. But your recollection is that you only dated for one  
17 year?

18 A. And one month.

19 Q. Was she in her last two years of high school when you  
20 started dating? What do you recall the time-frame ---

21 A. She -- she was in her last years of -- last year of  
22 high school, like first month or two of college.

23 Q. You don't recall her junior year?

24 A. No.

25 Q. But you never socialized with her in the beginning

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 other than dating? How long did y'all socialize before you  
2 started dating? Let me ask it that way.

3 A. Maybe a month.

4 Q. Okay. So basically any amount of time that her friends  
5 had you around, you were dating during that, minus a month,  
6 is that right?

7 A. Yes.

8 Q. Okay. What's your favorite color?

9 A. Red.

10 Q. At the time of this incident, over on Cunningham, did  
11 you have three red bandanas above your bed?

12 A. No.

13 Q. No?

14 A. Uh-uh (negative).

15 Q. You seem pretty sure of that.

16 A. Yeah.

17 Q. Did you have a red bandana on your mirror?

18 A. Maybe.

19 Q. Was it on the left side?

20 A. Yes, maybe so.

21 Q. Did you and De'Nia have a conversation when you broke  
22 up about you being a Blood?

23 A. No, we didn't.

24 Q. You don't recall that?

25 A. No.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 Q. Do you recall having a conversation, you and De'Nia,  
2 about smoking marijuana?

3 A. No, because I didn't know De'Nia smoked marijuana.

4 Q. Did you ever ask her to smoke marijuana with you?

5 A. I mean, I asked her had she tried it, but never with  
6 me.

7 Q. How many times do you think you asked her about whether  
8 she'd try it or whether she was willing to try it? More  
9 than once?

10 A. Once.

11 Q. You think it was only once?

12 A. Yes.

13 Q. And when she contacted you this night didn't she  
14 indicate to you that she was willing to smoke with you?

15 A. No, she didn't.

16 Q. So if people say that they were going over to your  
17 house to get a twenty dollar bag of weed, is that correct?

18 A. No, it's not.

19 Q. Did you have a jar of weed sitting on your dresser?

20 A. No, I didn't.

21 Q. You had it out in your car, but not on your dresser?

22 A. Yes.

23 Q. And you had weed out in your car that night?

24 A. Yes.

25 Q. Did you have a bag of weed, a twenty dollar bag of weed

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 sitting on your dresser?

2 A. No, I didn't.

3 Q. Now, we were talking about the statement that you gave  
4 to the law enforcement officer. You're not sure who he was.  
5 You said it was the same one that stopped you in the parking  
6 lot. Now, speaking of stopping you in the parking lot, did  
7 you or any of your friends call 911?

8 A. No, we didn't.

9 Q. Why not?

10 A. Because I was trying to get to the hospital.

11 Q. When you were trying to get to the hospital, it was two  
12 of your friends, but Mr. Boyd stayed behind, correct?

13 A. Yes.

14 Q. Was Mr. Boyd out on bond for anything at that time?

15 MS. SALISBURY: Objection.

16 THE COURT: I sustain the objection.

17 Q. You said when you wrestled with the gunman that the  
18 clip fell out?

19 A. Yes.

20 Q. Did you pick up the clip?

21 A. I didn't.

22 Q. Did you see any of your roommates pick up the clip?

23 A. I didn't.

24 Q. Did y'all -- how long did y'all -- now, just to be  
25 clear because one of your roommates, I believe Mr. Tobin,

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 said that after all the shooting was done they came out and  
2 you were laying on the ground in the livingroom. That's not  
3 true, is it?

4 A. I ---

5 Q. You got up on your own ---

6 A. I got up.

7 Q. You got up on your own?

8 A. Um-hum (affirmative).

9 Q. And you walked back to the bedroom, right?

10 A. Yes, to my roommate's bedroom.

11 Q. To go get them and tell them it was okay, they could  
12 come out and you needed to go to the hospital, correct?

13 A. Yes.

14 Q. All right. Now, -- hang on just a moment.

15 (Pause)

16 Q. One of the detectives, I believe Detective Hoover, said  
17 he kept trying to get a hold of you and he couldn't get a  
18 hold of you. Now, your roommates came in for a statement on  
19 6/6. This all happened, let's see if you agree, June 2nd,  
20 June 3rd, sometime after midnight, a Thursday night, Friday  
21 morning. Would you agree with that?

22 A. That they did a statement?

23 Q. Let me ask you first. Do you recall that this happened  
24 the night of June 2nd or the early morning of June 3rd,  
25 depending on how close to midnight we are, ---

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 A. The early morning.

2 Q. --- which was a Thursday night/Friday morning. Would  
3 you ---

4 A. The early morning ---

5 Q. --- agree?

6 A. --- of June 3rd.

7 Q. Huh?

8 A. Early morning of June 3rd.

9 Q. Okay. Now, your roommates went in and gave a statement  
10 on June 6th, ---

11 A. Um-hum (affirmative).

12 Q. --- but you didn't go with them?

13 A. No, I didn't.

14 Q. And do you recall that the detective was repeatedly  
15 calling you to come in for a statement?

16 A. The detective had the wrong number. He only had my  
17 roommate's number.

18 Q. What is your number? What was your number then?

19 A. 346-8719.

20 Q. That was your number at the time?

21 A. Yes.

22 Q. And, I'm sorry, did you say you did sell weed or that  
23 you did not?

24 A. Didn't.

25 Q. Where were you working at that time?

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

- 1 A. I was in school.
- 2 Q. Were you working at all?
- 3 A. No, ma'am. I was getting a check every three months
- 4 from school.
- 5 Q. What school was that?
- 6 A. Brown Mackie College.
- 7 Q. What were you majoring in?
- 8 A. Business management.
- 9 Q. And you lived on your own with your two roommates at
- 10 that time?
- 11 A. Yes.
- 12 Q. How much were you getting every three months?
- 13 A. At least a thousand.
- 14 Q. And that was for tuition as well?
- 15 A. No, that was refund. That was a refund check.
- 16 Q. Now, we've already covered that in the weeks prior to
- 17 this incident you and De'Nia were hanging out again, you'd
- 18 broken up. How much prior to that had you broken up?
- 19 A. A year or two. I'm not sure.
- 20 Q. You broke up when she was in college, right?
- 21 A. Yes.
- 22 Q. And she was in her second year of college when this
- 23 occurred, correct?
- 24 A. Yes.
- 25 Q. So about a year?

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 A. Um-hum (affirmative).

2 Q. All right. And you had actually given her a ride to  
3 Fleetwood, is that correct?

4 A. Yes.

5 Q. And have you since learned that Fleetwood is where a  
6 large part of these gang members live?

7 A. Yes.

8 Q. Did you know that at the time?

9 A. I didn't.

10 Q. Now, you charged her twenty-five dollars to take her  
11 from your place in Taylors over to Fleetwood?

12 A. No. I charged her twenty-five dollars to leave my  
13 place in Taylors, go to the Greer/Pelham exit and go to  
14 Fleetwood.

15 Q. All right. And you don't recall her paying you that  
16 same day?

17 A. No.

18 Q. It's your testimony today, here, that she wasn't coming  
19 to buy weed, she was coming to pay you back?

20 A. Yes.

21 Q. Was she coming to pay you twenty dollars or twenty-five  
22 dollars?

23 A. She was coming to give me twenty dollars.

24 Q. Why twenty? You just said twenty-five for the ride.

25 A. That's what she said she had.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 Q. She was coming to pay you back for a ride, not to  
2 smoke, but she was bringing a friend with her?

3 A. Yes. She was also coming to hang out.

4 Q. Also coming to hang out.

5 A. Yes.

6 Q. But not to smoke?

7 A. No.

8 Q. And you're clear that there was no jar or bag of  
9 marijuana sitting on your dresser?

10 A. Yes, ma'am.

11 Q. How did you come to decide that Boyd was going to be  
12 the one to stay behind in the apartment?

13 A. I didn't decide. He just ---

14 Q. He didn't live there, did he?

15 A. He didn't.

16 Q. But he stayed behind?

17 A. Yes.

18 Q. Do you recall -- I'm sorry.

19 MS. GORTON: May I approach?

20 THE COURT: You may.

21 Q. I hate to put you on the spot like this, but it's going  
22 to be easier for everyone to understand what happened that  
23 night if you can draw us a diagram of your apartment.

24 A. I'm really not a good drawer.

25 Q. Nobody's going to expect perfection or architectural.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 MS. GORTON: So could I have him step down?

2 THE COURT: He can just draw right there.

3 MS. GORTON: Okay.

4 A. Draw what now?

5 Q. The diagram of your apartment. Where you come in,  
6 where the livingroom is, where the sofas were. I believe  
7 there's a hallway for your roommates' rooms and the door to  
8 your room.

9 (Pause)

10 Q. You can use another sheet if you want to.

11 A. That's all right.

12 (Pause)

13 Q. Okay. Looking at this diagram can you show me where  
14 the front door is? How do you come in? Right here?

15 A. Yes, ma'am.

16 Q. Okay. And is this your room straight ahead?

17 A. It leads to all three rooms.

18 Q. Okay. Does your room open in to this main  
19 livingroom/foyer area, the door to your bedroom?

20 A. It don't.

21 Q. How do you get to the door to your bedroom? And,  
22 again, I'm talking about over at Cunningham.

23 A. Keep straight down this hallway. You will ---

24 MADAME COURT REPORTER: I need you to speak ---

25 THE COURT: You're ---

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

- 1           MADAME COURT REPORTER: --- speak into the microphone.
- 2           THE COURT: You're going to have to speak into the
- 3           mike. I know she's holding it over there, but ---
- 4           A. If you walk straight down through the hallway, you will
- 5           take a left into my room.
- 6           Q. A left this way?
- 7           A. Yeah.
- 8           Q. Okay. Is -- when you call this a hallway, are the
- 9           walls solid, or are they half walls, or is it just kind of
- 10          like a tiled hallway where you can see in?
- 11          A. Like right after the door, it's a kitchen. And then
- 12          after the kitchen the walls are solid.
- 13          Q. So right here is the kitchen?
- 14          A. On the right side.
- 15          Q. Over here?
- 16          A. Yeah.
- 17          Q. Okay. So over here is the kitchen. And this is a
- 18          solid wall?
- 19          A. No. That's -- this is just a walkway.
- 20          Q. Okay.
- 21          A. It's -- yeah, a walkway.
- 22          Q. So there's a solid wall here between the kitchen and
- 23          the hallway?
- 24          A. No.
- 25          Q. Oh, I'm sorry.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 A. Can you bring it over some?

2 Q. Yeah.

3 A. Right here is like the kitchen, ---

4 Q. Okay.

5 A. --- an open floor kitchen. This is just a walkway. I  
6 was just making a walkway to show you how to get to my room.

7 Q. Okay. And your walkway is here. It's not a walled  
8 hallway?

9 A. No.

10 Q. Over here with your roommates' rooms, are they over  
11 here sort of?

12 A. Yeah.

13 Q. Is there a hallway down to their room?

14 A. It's the same hallway.

15 Q. The same hallway ---

16 A. It leads from my room to their room.

17 Q. Does it become walled at this point?

18 A. What do you mean?

19 Q. When you talk about a hallway to their room, is it just  
20 like a walkway or is it a hallway with walls?

21 A. It's a hallway with walls.

22 Q. But to your room there's not a hallway with walls?

23 A. We're in the same hallway. The hallway has walls. And  
24 once you get beyond the walls, it's the three bedrooms.

25 Q. Do you -- have you ever been shown any photos that

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 maybe they took of the inside of your home?

2 A. No, ma'am.

3 Q. Okay. What is this?

4 A. A couch.

5 Q. All right. Who was sitting on this couch?

6 A. Jaquan and Horrace.

7 Q. Was one of them maybe sitting on the floor in front of  
8 the couch?

9 A. I'm not sure.

10 Q. All right. And what is this?

11 A. It's a couch.

12 Q. All right. And who was sitting on this couch?

13 A. I think Envy.

14 Q. Envy. All right. And was it -- there like a game over  
15 here?

16 A. Yes.

17 Q. Was Jaquan and Tobin -- were your two friends playing  
18 video games and Envy was over here?

19 A. I guess they were playing games. I don't know.

20 Q. Did it look like they were?

21 A. I think they were watching TV.

22 Q. Okay. And you and De'Nia came in here, correct?

23 A. Yes.

24 Q. And you said that when you got to the door -- I need  
25 some clarification there. Were you both at the door

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 together?

2 A. No, ma'am.

3 Q. Where were you?

4 A. Leaving out of my room.

5 Q. And De'Nia was here?

6 A. Yes. By the time I got to the beginning of the hallway  
7 she was already at the door.

8 Q. Okay. When you actually opened the door where -- when  
9 the door was actually opened where were you?

10 A. I was at the door.

11 Q. When the door actually opened?

12 A. When I opened the door.

13 Q. Was she still there as well?

14 A. No, she was like almost down the steps.

15 Q. When you opened the door and the guy came in where was  
16 Envy?

17 A. Gone.

18 Q. She was already gone?

19 A. Yeah.

20 Q. Had you seen her leave?

21 A. No.

22 Q. I asked you about going in and giving a statement and  
23 you said that your number had been changed. Is that the  
24 reason you didn't go in and give a statement?

25 A. No. I said that Hoover was trying to get in touch with

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

1 me and had the wrong number.

2 Q. Had your ---

3 A. I think he had ---

4 Q. --- number been changed or did he ---

5 A. No. I think he had like one number different. Like  
6 for the 3, I think he had an 8. And he was calling 846-  
7 8719.

8 Q. And so when you went into the Law Enforcement Center  
9 and you did give a statement, your original intent, was that  
10 to get a report to give to your landlord?

11 A. No. I mean, I went in there to talk to them, but I was  
12 also getting a report. I wanted to do it at the same time  
13 because I was barely walking.

14 Q. What -- why did you need an original report for your  
15 landlord?

16 A. So we wouldn't get evicted.

17 Q. Why were you in danger of getting evicted?

18 A. 'Cause people came to my house and shot me. I have  
19 neighbors downstairs that could have been shot.

20 Q. So have you been cooperating with the prosecution of  
21 this case?

22 A. Yes.

23 Q. Did you make a phone call offering not to come to court  
24 in exchange for five thousand dollars?

25 A. Yes.

DEMETRIUS BENSON - CROSS EXAMINATION BY MS. GORTON

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1 Q. Who did you make that call to?

2 A. Well, they called me.

3 Q. They called you? Did you send word for that  
4 conversation? Did you send out word -- was the -- the call  
5 that they made, was that in response to word that you'd sent  
6 out?

7 A. No. They called me and they was like, what can we do  
8 for you to drop the charges? I was like, well, I can't drop  
9 the charges, but give me five thousand dollars, I won't show  
10 up. But ---

11 Q. Did you ---

12 A. --- I had to show up because it says commanded on my  
13 paper.

14 Q. So you were just going to take the five thousand?

15 A. For restitution.

16 Q. For restitution.

17 A. Yes, for being shot, hospital and all my pain and  
18 suffering I went through.

19 Q. Now, you've been working with the State so that you  
20 know that the restitution you get is through paperwork,  
21 correct?

22 A. No, I didn't.

23 Q. You didn't know that? You thought it was up to you to  
24 offer to not show up for court for five thousand dollars?  
25 You thought that was the only way you were going to get

DEMETRIUS BENSON - CROSS EXAMINATION BY MR. IANUARIO

1 restitution?

2 A. Yes.

3 Q. You thought that's the way it worked?

4 A. No, but I tried it.

5 Q. Did that work?

6 A. I guess not.

7 **THE COURT:** Mr. Ianuario, any questions?

8 **MR. IANUARIO:** Just a couple of short ...

9 **Cross Examination by Mr. IANUARIO:**

10 Q. After you were shot did you see the gunmen leave?

11 A. I like blacked out. I know he took my laptop 'cause  
12 that was gone and my wallet was gone too. So ...

13 Q. Okay. And how much money was in your wallet?

14 A. I'm not sure.

15 Q. Ballpark it.

16 A. I don't know.

17 Q. After the gunmen left did you look around in your  
18 apartment to see if anything else was missing?

19 A. No.

20 Q. Did you notice anything unusual after you'd been shot?

21 A. I really was just trying to get to the hospital.

22 Q. Did you happen to see the magazine that you ejected  
23 laying on the floor?

24 A. No.

25 Q. But you didn't look for it either?

DEMETRIUS BENSON - CROSS EXAMINATION BY MR. IANUARIO

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1 A. No.

2 Q. You said Investigator Hoover had the wrong number for  
3 you, that's why he couldn't get in touch?

4 A. He had one number that was different.

5 Q. I believe earlier you said he had the number for your  
6 roommates, is that correct?

7 A. Yes.

8 Q. Did he try to get in touch with you through your  
9 roommate at all?

10 A. He did.

11 Q. Did your roommate relay that message to you?

12 A. He did.

13 Q. And why did you not get in touch with Mr. Hoover?

14 A. Because I could barely walk. I mean, I had ---

15 Q. Do you need to be able to walk to pick up the phone and  
16 call him?

17 A. I needed -- I needed to walk to be able to get to his  
18 office to give a statement.

19 Q. But you couldn't return his phone calls because you  
20 couldn't walk?

21 A. I mean, I returned his phone calls. It's just when I  
22 called him, the answering machine picked up. So it was like  
23 ---

24 Q. And did ---

25 A. --- we were playing phone tag.

DEMETRIUS BENSON - REDIRECT EXAMINATION BY MS. SALISBURY

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1 Q. --- you leave your correct number for him?

2 A. I'm not sure.

3 Q. Investigator Hoover, this is Demetrius Benson. You've  
4 been trying to get me at the wrong number. This is my  
5 correct number. You didn't do that?

6 A. I'm not sure.

7 Q. When did you finally sit down with Investigator Hoover  
8 and talk with him?

9 A. I'm not sure.

10 Q. Was it the same day that you showed up to get an  
11 incident report at the police station?

12 A. It is.

13 Q. Did you show up at the police station to get an  
14 incident report or to talk to Investigator Hoover?

15 A. I did -- I went to do both, kill two birds with one  
16 stone.

17 Q. Did you ask to see Mr. Hoover? Or ---

18 A. I did.

19 Q. --- were you taken to see Mr. Hoover?

20 A. I asked to see Mr. Hoover, but he wasn't there. So I  
21 talked to another investigator til he got there.

22 Q. Okay.

23 MR. IANUARIO: Nothing further, Your Honor.

24 THE COURT: Anything in redirect?

25 MS. SALISBURY: Very, very briefly, Your Honor.

DEMETRIUS BENSON - REDIRECT EXAMINATION BY MS. SALISBURY

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1 Redirect Examination by Ms. Salisbury:

2 Q. Demetrius, are you a gang member?

3 A. No, ma'am.

4 Q. Have you ever been a gang member?

5 A. No, ma'am.

6 Q. Do you know any of the people that came into your  
7 house, forced their way in, other than De'Nia, and shot you  
8 that night?

9 A. I do not.

10 Q. Do you remember what they were asking you for that  
11 night?

12 A. Money.

13 Q. Have you -- have you cooperated with police by giving  
14 them statements every time anybody's asked you for one?

15 A. Uh -- I'm ...

16 Q. Well, anytime you've sat down with the investigators  
17 and they've asked you to give me a statement -- asked you to  
18 give a statement, have you done it?

19 A. Only once I think I sat down and gave a statement.

20 Q. Okay.

21 **MS. SALISBURY:** Your Honor, I don't have any other  
22 questions.

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

25 **MR. IANUARIO:** Well, Your Honor, if I may recross

DEMETRIUS BENSON - RECROSS EXAMINATION BY MR. IANUARIO

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1 really quickly.

2 THE COURT: All right. Just a minute. Very briefly on  
3 the redirect?

4 MR. IANUARIO: Yes.

5 THE COURT: All right. You can have -- just have a  
6 seat just a minute. You can have a brief follow-up question  
7 on that.

8 Recross Examination by Mr. IANUARIO:

9 Q. Did you admit earlier that you were selling pot?

10 A. No.

11 THE COURT: Wait a minute. Did that have anything to  
12 do with ---

13 MR. IANUARIO: Relating back to gang activity, Your  
14 Honor.

15 THE COURT: Well, that question doesn't relate to the  
16 redirect.

17 MR. IANUARIO: Your Honor, I'd like to establish that  
18 earlier he stated he had marijuana and a digital scale in  
19 his car, yet he says he's not drug dealing. Now he's also  
20 saying he's not a member of a gang, yet he has marijuana and  
21 a digital scale in his car. If he's lying about one thing,  
22 ---

23 THE COURT: Well, I will overrule your objection. I  
24 don't think that ties in. I overrule your objection as  
25 stated.

DEMETRIUS BENSON - RECROSS EXAMINATION BY MS. GORTON

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1 MR. IANUARIO: Nothing further, Your Honor.

2 MS. GORTON: Recross on redirect, Your Honor.

3 THE COURT: Yes, ma'am, briefly.

4 MS. GORTON: Thank you, Your Honor.

5 Recross Examination by Ms. Gorton:

6 Q. The Solicitor just asked you about what they asked for.

7 And that was money?

8 A. Um-hum (affirmative).

9 Q. Did they get any money?

10 A. I'm not sure because, I mean, they got my wallet.

11 So ...

12 Q. They got your wallet. What was in your wallet?

13 A. My ID and I'm not sure what else.

14 Q. Do you have a general idea of how much was in your  
15 wallet? I mean, we generally know if we carry around five  
16 or ten dollars or a couple of hundred.

17 A. (Negative nod).

18 Q. You don't know?

19 A. I don't know 'cause I didn't have it on.

20 Q. They also took something else, didn't they?

21 A. Yes.

22 Q. What else did they take?

23 A. My laptop.

24 Q. Can you describe that laptop?

25 A. It was maybe blue, Toshiba ---

DEMETRIUS BENSON - RECROSS EXAMINATION BY MS. GORTON

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1 Q. Toshiba?

2 A. Toshiba. Yeah, Toshiba.

3 Q. All right. And did you ever get that back?

4 A. I didn't.

5 Q. All right. Thank you.

6 THE COURT: All right. Thank you, sir. You may step  
7 down. Madame Forelady, ladies and gentlemen, this might be  
8 a good time to take a short break. If you'll go back to  
9 your jury room.

10 I'll remind you each time, don't discuss the case.

11 That would be improper. Just leave whatever notepad's in  
12 your -- with the bailiff. We'll take a short break.

13 (Whereupon the jury exited the courtroom at 10:43 am)

14 (Whereupon court was in recess at 10:43 am)

15 (Whereupon court resumed at 11:24 am)

16 THE COURT: Everybody ready to proceed?

17 MS. SALISBURY: Yes, Your Honor.

18 MR. IANUARIO: Yes, Your Honor.

19 MS. GORTON: Yes, Your Honor.

20 THE COURT: Okay. If the jury's ready, you can have  
21 them come in, Ms. Sims.

22 (Whereupon the jury entered the courtroom at 11:26 am)

23 THE COURT: Solicitor, you may call your next witness.

24 MS. SALISBURY: Thank you, Your Honor. The State calls  
25 Mr. Horrace Tobin. Mr. Tobin, if you would, please, come

HORRACE TOBIN - DIRECT EXAMINATION BY MS. SALISBURY

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1 around and be sworn.

2 MADAME CLERK: Sir, pause at the end of the bench.

3 Place your left hand on the Bible and raise your right hand.

4 Horrace Tobin, being duly

5 sworn testified as follows:

6 MADAME CLERK: Thank you. Please be seated. Please

7 state your full name for the record.

8 MR. TOBIN: Horrace Tobin.

9 Direct Examination by Ms. Salisbury:

10 Q. Mr. Tobin, where do you live?

11 A. Right now or ---

12 Q. Right now.

13 A. Hickory Ridge in Greenville.

14 Q. And how do you know Drez, Mr. Demetrius Benson?

15 A. Went to school with him.

16 Q. Did you ever live with him as his roommate?

17 A. Oh, yeah, yeah, yeah. We lived together after high  
18 school.

19 Q. Okay. Were you living with him at that apartment in  
20 Cunningham Villas that we've heard all about this morning?

21 A. Yes, ma'am.

22 Q. How long had y'all been living there?

23 A. Probably like four months now, I think about four  
24 months, around there.

25 Q. Now, do you remember -- do you remember the night that

1 all this -- this incident happened when the people came into  
2 your house and ---

3 A. Yeah, ---

4 Q. --- Drez was shot?

5 A. --- I remember most of it.

6 Q. Okay. Do you remember who was there with you?

7 A. Yes. My roommate Tyrell, he was in the room asleep,  
8 and my friend Jaquan and Drez.

9 Q. Okay. And what were y'all doing at the apartment that  
10 night?

11 A. Well, we was watching the NBA finals and then til that  
12 went off. Then we was about to lay down.

13 Q. Do you know the Defendant, De'Nia Dawkins?

14 A. No, I don't know her.

15 Q. Okay. Do you remember whether she showed up that  
16 night?

17 A. Yeah, she showed up 'cause I remember Drez, after the  
18 game, said she was coming over.

19 Q. Okay. Had you ever met her before that night?

20 A. I think I probably seen her like once or twice,  
21 probably like that.

22 Q. Okay. Did she come over with anybody else?

23 A. I meant, with her little home-girl.

24 Q. Okay. What did -- what happened when they came over?

25 A. They came over. And me and Jaquan was sitting in the

HORRACE TOBIN - DIRECT EXAMINATION BY MS. SALISBURY

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1 livingroom after watching this commercial after the game.  
2 Her friend sat on the couch. She went in the room with  
3 Drez. Then they came back out. I just remember him -- he  
4 saying he needed to go outside or something for like change  
5 for a hundred.

6 So after that I was sitting like on the couch over  
7 right there by the bar. And then I know he went outside.  
8 Then some three dudes came in.

9 Q. Well, before we get to that part, do you remember how  
10 long the two girls were in the apartment?

11 A. Probably for like a few minutes, but not long though.

12 Q. Not long?

13 A. Yeah.

14 Q. Okay. So were you still seated on the couch in the  
15 livingroom when Drez and De'Nia went to leave?

16 A. Oh, I was getting up. I was about to just sit on the  
17 bar. And just -- I watched them go out when he opened the  
18 door. So -- so I was basically kind of sitting up, standing  
19 up on the bar stool.

20 Q. And what happened when they opened the door and went to  
21 leave?

22 A. When Drez opened the door I seen a guy come in with a  
23 mask. Then when I seen that, I just basically shot straight  
24 to the back room.

25 Q. Okay. Do you remember seeing how many people came in?

HORRACE TOBIN - DIRECT EXAMINATION BY MS. SALISBURY

- 1 A. Right then I just seen that one guy came in. And I  
2 think it might have been another right behind him, whether  
3 I'm mistaken. And then by then after I seen Drez rumble  
4 with one, I just took off, you know, for safety. So ...
- 5 Q. You didn't stick around long enough to ---
- 6 A. No, I wasn't trying to stay around.
- 7 Q. Okay. Now you said they were wearing a mask. What do  
8 you mean by that? How ---
- 9 A. I mean, ---
- 10 Q. How were their faces covered?
- 11 A. Like little like holes in a mask and stuff like that.
- 12 Q. Like a ski mask?
- 13 A. Yeah, like a ski mask.
- 14 Q. Like a knit mask?
- 15 A. Yes.
- 16 Q. Okay. And what else were they wearing?
- 17 A. I think -- what I saw was like basically all black.
- 18 Q. Okay. Now, when you -- when you went -- you said you  
19 ran. Where did you go?
- 20 A. Oh, I went to Tyrell's room. Tyrell, my roommate.
- 21 Q. And was he in the room?
- 22 A. Yeah, he was asleep.
- 23 Q. Okay. Did -- what did you do? Did you close the door?  
24 Did you try ---
- 25 A. Oh, ---

HORRACE TOBIN - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. --- and lock it? What happened?

2 A. Well, when I ran to the room, Jaquan was right behind  
3 me. So basically he shut the door, and I pushed him off the  
4 bed to wake him up.

5 Q. What did you tell him?

6 A. Huh?

7 Q. What did you tell him?

8 A. Oh, I told him to get up. And about then he heard  
9 shots. So he should have known what happened after that.

10 Q. Okay. Do you remember -- did you hear the shots?

11 A. Yeah, I heard two shots. And that's ---

12 Q. Do you remember hearing two?

13 A. Yeah. And that's when everything got quiet for a  
14 moment. And then -- but before then all you could hear is  
15 just rumbling and stuff in the livingroom.

16 Q. Did you hear anybody shouting?

17 A. I heard Drez saying don't shoot me, but that's about  
18 it.

19 Q. Now, what happened after -- you said things got quiet.

20 A. Yeah.

21 Q. You said you heard the shots and ---

22 A. Yeah.

23 Q. --- things got quiet.

24 A. Yeah.

25 Q. What happened after that?

1 A. After that it was just like -- you heard like a little  
2 bit more rumbling. Then Drez, I think, was laying down. So  
3 he finally came to the room. And that's -- okay sign. I  
4 mean, I came out then. So then he was just like, take me to  
5 the hospital. And I was like, let's move then.

6 Q. Did you -- did you load up Drez to go to the hospital?

7 A. Yeah. I helped him downstairs and everything into my  
8 car and got him in the backseat. And then Tyrell, my other  
9 roommate, that woke up -- I woke him up, he rode also, too.  
10 But we ---

11 Q. Okay.

12 A. But we told Jaquan to stay home, like in case somebody  
13 come to the house while we take him to the hospital.

14 Q. What do you mean in case somebody comes to the house?

15 A. Just like the police. We knew like somebody was going  
16 to call -- shots been fired, so somebody was going to call  
17 the police anyway.

18 Q. Did y'all make it to the hospital?

19 A. No. We didn't make it out of the complex.

20 Q. Okay. What happened when you -- when you were trying  
21 to leave?

22 A. It was just police everywhere. And they made us get  
23 out. They checked us, talked to us, got our IDs. We went  
24 back -- me -- they took Drez to the -- well, the ambulance  
25 took him to the hospital. Me and Tyrell, we drove back

HORRACE TOBIN - DIRECT EXAMINATION BY MS. SALISBURY

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1 down, went in the house. And they wanted to search the  
2 house. We wasn't hiding nothing. So we let them search and  
3 looked everywhere.

4 Q. Okay. So while they arranged for an ambulance to take  
5 Drez, you and Tyrell then went back to ---

6 A. Yeah.

7 Q. --- your apartment?

8 A. Yes.

9 Q. And you said that you -- you let them search the  
10 apartment?

11 A. Yes. They asked me will I sign that says, yes, you  
12 can.

13 Q. Do you remember signing a consent to search that the  
14 police could come in and search the apartment?

15 A. Yes, ma'am.

16 Q. Okay. Now, did you -- did you ultimately give a  
17 statement to the police about everything that you remember  
18 happening that night?

19 A. Yes. I gave -- I let them know everything.

20 Q. And after you made that statement, aside from your  
21 testimony here today, did you have any other involvement in  
22 the case?

23 A. No, that's it.

24 Q. Did you speak to any of the Defendants involved in the  
25 case?

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

1 A. No, ma'am.

2 Q. And just to be clear, do you -- do you know anybody of  
3 the -- of the people that came into the house?

4 A. No, ma'am.

5 Q. Since you're not sure how many, of any of the people  
6 that came in, do you know any of them?

7 A. No, ma'am. I don't remember any.

8 Q. Okay. Very good. Thank you, Mr. Tobin. If you would,  
9 answer any questions these attorneys may have for you.

10 A. Okay.

11 Cross Examination by Ms. Gorton:

12 Q. It must be difficult to listen to your friend testify  
13 and then come up and testify as well. Have you had a chance  
14 to look over that statement that you gave?

15 A. Yes, I looked over it.

16 Q. When did you last look it over?

17 A. Well, I -- yesterday.

18 Q. Yesterday?

19 A. Yes.

20 Q. And so I -- are you any better at drawing than Mr.  
21 Benson?

22 A. No, I ---

23 Q. No offense ---

24 A. --- can't draw.

25 Q. --- to him, but are you any better?

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

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1 A. No, I'm ---

2 Q. No?

3 A. --- nowhere better.

4 Q. Can you describe for us -- you just talked about being  
5 on a barstool. Is that at a bar?

6 A. Yes, it's a bar in our livingroom.

7 Q. And is that a pass-through bar that is related to the  
8 kitchen ---

9 A. No.

10 Q. --- or is that separate?

11 A. It's separate. The kitchen's on the left side. The  
12 bar is on the right side.

13 Q. Okay. So the bar is closer to where the TV and the  
14 game station ---

15 A. Yes.

16 Q. --- and stuff was? All right. You were saying you  
17 were getting up as the guys came in. Did I understand ---

18 A. Yes.

19 Q. --- you right?

20 A. I ran to the back.

21 Q. So when you got up and you turned and you saw the guys  
22 coming in, did you see both Drez and De'Nia at the door?

23 A. Yes, they was at the door at first when he was coming  
24 out of his room putting his shoes on.

25 Q. Which door do you mean?

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

1 A. She -- he was at his room or they both came out --  
2 well, she came out, then he came out last. She waited for  
3 him to get to the door and they both walked out at the same  
4 time.

5 Q. Thank you. Your memory -- and it's understandable when  
6 something like this happens that people are going to  
7 remember things differently. But your memory is is that  
8 they -- she waited for him and then they were at the door  
9 together?

10 A. Yes.

11 Q. All right. Now, there was a lot of discussion about  
12 hallways. Can you describe for me how you get to Drez's  
13 room and how do you get to you and your roommate's room?

14 A. All right. Well, the hallway leads, you know, well, it  
15 leads right into the rooms, where the rooms at. Tyrell room  
16 is straight ahead. Like you can just walk straight to his  
17 room.

18 Q. All right.

19 A. Drez, you kind of -- it's a bathroom right here and his  
20 room. So you kind of make a left to go into his room. Then  
21 my room is all the way to the right. It's kind of like  
22 there's a closet right here. So you just turn the corner  
23 and go into my room. But they all right next to each other.

24 Q. You said you went back to Mr. Holland's room.

25 A. Yes.

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

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1 Q. And do I understand correctly from your statement you  
2 basically described the three of you huddled under the bed?  
3 You wake him up and the three of you get under the bed.

4 A. Yeah.

5 Q. Yeah?

6 A. Yes, ma'am.

7 Q. Okay. And you got up and you started running through  
8 the hallway as soon as they came through?

9 A. Yeah, as soon as they came in, I ran.

10 Q. Now when you went to the back do you recall hearing  
11 anyone come back in that area as well?

12 A. All I could hear is just a lot of rumbling and Drez  
13 just yelling. So I don't too much quite know. I was in the  
14 room.

15 Q. And I'm sorry for jumping around, but you just talked  
16 about how you specifically remember Drez and De'Nia together  
17 at the front door when the door opened, correct?

18 A. Yes.

19 Q. She hadn't walked out -- your memory is she hadn't  
20 walked out ahead ---

21 A. No, I just ---

22 Q. --- of him down ---

23 A. I just remember she was just waiting for him while he  
24 was coming out of the room.

25 Q. At the -- inside the apartment, ---

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

1 A. That was inside, ---

2 Q. --- correct?

3 A. --- yes.

4 Q. And in your statement you actually said she was the one  
5 who opened the door, right?

6 A. No, I said Drez opened the door.

7 MS. GORTON: May I approach?

8 THE COURT: You may.

9 Q. Is this your statement?

10 A. Yes, it is.

11 (Pause)

12 A. He said he opened ---

13 THE COURT: Hang on just a minute. You need to speak  
14 into the mike. The court reporter needs to pick up what you  
15 ---

16 A. When I found out that -- well, after the hospital after  
17 I finally talked to him, when I found out -- I heard -- I  
18 heard the whole story since I was in the room, and I wanted  
19 to know what happened. I asked him and he said that he  
20 opened the door. So that's -- at first before I even heard  
21 his story, that's what I told them when I gave them my  
22 report. I thought she opened the door.

23 Q. This statement you gave you said she opened the door.

24 A. Yeah, that's ---

25 Q. And I'm truly not trying to beat you up. I'm trying to

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

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1 find out what you actually remember and what you're  
2 testifying to based on what you heard Drez say either at the  
3 hospital or here in court today. And I'm trying to get to  
4 what you remember.

5 A. I just remember both of them just at the door. So ---

6 Q. All right.

7 A. One of them could have just opened it. That night, all  
8 I know -- I don't know who opened it that night, but I just  
9 know both of them just at that door at the same time.

10 Q. Okay. All right. And you're clear in your mind that  
11 they were still in the apartment standing at the door  
12 together?

13 A. Yes.

14 Q. All right. Now, you get up and you run down the hall.  
15 Before we get there, where was Envy? As you're getting up  
16 and turning towards the door from the barstool, where's  
17 Envy?

18 A. That's her -- her lady friend, right?

19 Q. The other girl.

20 A. She was on the couch.

21 Q. She's still on the couch when the door opens and they  
22 come in, correct?

23 A. Correct.

24 Q. All right. Now, you also say in this statement while  
25 running to the bedroom I could hear the subjects telling

HORRACE TOBIN - CROSS EXAMINATION BY MS. GORTON

1 everyone to get down, is that correct?

2 A. Yeah, they came in talking.

3 Q. And just so I'm crystal clear about this, you and all  
4 your friends, except for Drez, were in Holland's bedroom at  
5 that point?

6 A. Yes.

7 Q. So all of you were accounted for, except for Drez, one  
8 person?

9 A. Yes. Well, he was just close to the door. So ...

10 Q. Okay. So by necessity when you say they told everyone  
11 to get down there would have had to been more than Drez left  
12 for them to say get down, correct?

13 A. Yes. Well, when they came in, me and Jaquan was also  
14 in the livingroom. So I know they had to see us. So -- and  
15 that's when I just took off.

16 Q. So your recollection is that not -- that they were  
17 telling the girls to get down as well, correct?

18 A. Oh, I don't know about -- uh-uh (negative). I never  
19 ---

20 Q. Was there anyone else left besides Drez in the  
21 livingroom for them to be telling everybody to get down?

22 A. By then, that's when we took off. We -- I wasn't  
23 listening to anybody.

24 Q. Your statement says while running to the bedroom, is  
25 that correct?

HORRACE TOBIN - CROSS EXAMINATION BY MR. IANUARIO

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1 A. Yeah, while I was running to the bedroom.

2 Q. Do you know if they were making the girls get down on  
3 the floor?

4 A. I don't know 'cause like ---

5 Q. You wouldn't know?

6 A. That's ---

7 Q. You're heading back to ---

8 A. Yeah, from then I don't know nothing. I just switched  
9 off the hearing.

10 Q. I bet ya. I don't blame you. All right. Then you and  
11 your friends waited another couple of minutes?

12 A. Yeah. We waited. Then it -- it was just a few  
13 minutes. So -- then he finally, I mean, we got like -- we  
14 were about to get up, then seen him at the door.

15 MS. GORTON: Nothing further.

16 THE COURT: Yes, sir, you may proceed.

17 Cross Examination by Mr. IANUARIO:

18 Q. Mr. Tobin, what kind of car do you drive?

19 A. A Jeep Cherokee.

20 Q. What year?

21 A. I think it's like a '99 or '98.

22 Q. Is it a nice one or a base model?

23 A. Just like a base model.

24 Q. What kind of seats are in there? Cloth, leather,  
25 vinyl?

HORRACE TOBIN - CROSS EXAMINATION BY MR. IANUARIO

1 A. Leather.

2 Q. Leather?

3 A. Yes.

4 Q. And why did y'all not call 911?

5 A. Wasn't really too much thinking. Just making sure he  
6 gets to the hospital.

7 Q. Okay. You said earlier that you figured somebody had  
8 to call 911 and the cops were on their way?

9 A. Yeah. I mean, you would figure that if you hear shots.  
10 So ...

11 Q. Okay. What hospital were you planning on taking him  
12 to?

13 A. Well, the closest one, I think, is on Pelham Road,  
14 Pelham Village. So that's the one -- I was just going to  
15 drive to the closest one.

16 Q. Okay. About how far is that from where you live,  
17 roughly speaking time-wise?

18 A. I'd give it about between five to like ten minutes.

19 Q. Okay. How bad was Drez bleeding?

20 A. He was bleeding pretty bad 'cause it got all over the  
21 place. So -- and all over his clothes and shoes.

22 Q. So instead of calling an ambulance to respond you  
23 loaded your bleeding friend into your jeep with cloth seats  
24 so that you could drive him to the hospital before the cops  
25 arrived, is that correct?

**JAQUAN BOYD - DIRECT EXAMINATION BY MS. SALISBURY**

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1 A. Correct, but they were leather seats though.

2 Q. Oh, leather seats, I'm sorry. So blood on your leather  
3 seats?

4 A. Yes.

5 MR. IANUARIO: Nothing further.

6 THE COURT: Any redirect?

7 MS. SALISBURY: Nothing from the State, Judge.

8 THE COURT: All right. Thank you, sir. You may step  
9 down, Mr. Tobin. You may call your next witness, Solicitor.

10 MS. SALISBURY: The State calls Mr. Jaquan Boyd. Mr.  
11 Boyd, if you would, please, come around and be sworn.

12 MADAME CLERK: Sir, please place your left hand on the  
13 Bible and raise your right hand.

14 Jaquan Boyd, being duly  
15 sworn testified as follows:

16 MADAME CLERK: You may be seated. If you would, state  
17 your name for the record.

18 MR. BOYD: Jaquan Boyd.

19 **Direct Examination by Ms. Salisbury:**

20 Q. Mr. Boyd, where do you live?

21 A. I live in 303 Tremont Avenue.

22 Q. And do you work?

23 A. Yes, ma'am.

24 Q. Where do you work?

25 A. I was currently fired this morning.

JAQUAN BOYD - DIRECT EXAMINATION BY MS. SALISBURY

1 Q. Okay. Where were you working before this morning?

2 A. McAlister's.

3 Q. McAlister's? Okay. How long have you lived in  
4 Greenville?

5 A. Half my life.

6 Q. Did you ---

7 A. Eight years.

8 Q. --- go to high school in Greenville?

9 A. Yes, ma'am.

10 Q. Where did you go to school?

11 A. I went to Riverside.

12 Q. Do you remember where you were living in June of 2011?

13 A. Yes, with my mom.

14 Q. Okay. Do you remember being -- do you -- we'll start  
15 over. Do you know Mr. Demetrius Benson?

16 A. Yes.

17 Q. How do you know him?

18 A. I've known -- well, I met him through Tyrell and  
19 Horrace. But I've known him for three years.

20 Q. And did you ever hang out at his apartment?

21 A. Yes, ma'am.

22 Q. Do you remember whether you were hanging out at his  
23 apartment on the night of June 2nd when all of this incident  
24 happened?

25 A. Yes, ma'am.

JAQUAN BOYD - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Who was there with you?

2 A. It was me, Tyrell, but he was asleep, Drez and Horrace.

3 Q. What were y'all doing?

4 A. We was watching the highlights to the finals.

5 Q. Do you know -- have you ever seen or ever met De'Nia  
6 Dawkins?

7 A. No, ma'am.

8 Q. Do you remember whether she showed up at the apartment  
9 that night?

10 A. Yes, ma'am.

11 Q. Tell the jury what you remember happening that night.

12 A. Well, we was sitting there watching the finals. And  
13 Drez came out -- well, Demetrius came out and said I have  
14 two females coming over to hang out with us. So we sat  
15 there and she came in. She had her friend with her, but I  
16 didn't really pay attention. She was sitting on the couch  
17 next to me.

18 And then she went to the room with Drez. And then  
19 like, I guess, when she left, when she left Drez room she  
20 left out the door. And like she came back in and went back  
21 there with Drez. She was like, so you going to come down  
22 there and get change for the -- for the hundred?

23 Q. Okay. Let me stop you right there. You told us a lot  
24 of information. I want to slow down. So do you remember  
25 De'Nia and her friend coming in?

JAQUAN BOYD - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. Yes, ma'am.

2 Q. And I -- to be clear, do you remember her friend  
3 staying with y'all in the livingroom and De'Nia then going  
4 back with Drez to his bedroom?

5 A. Yes, ma'am.

6 Q. Okay. And I believe that the way you recall it is that  
7 De'Nia went to the front door, left, and then immediately  
8 came back in?

9 A. Yes, ma'am.

10 Q. Okay. And pick up from there. What happened when she  
11 came back in?

12 A. When she came back in I guess she went back there --  
13 well, I guess she called Drez 'cause I didn't really see  
14 Drez behind me. I was looking at the TV.

15 And then like the next thing I know the door opened and  
16 I turned around and I seen a man come in with a gun. It was  
17 a revolver. And I just went to the room with Horrace.

18 Q. Did you see -- was he alone? Do you know whether there  
19 was any others with him?

20 A. All I seen was him. I mean, I was -- my back was  
21 turned.

22 Q. Do you remember what he was wearing, what he looked  
23 like?

24 A. All I know is he had on all black.

25 Q. Did he have his face covered?

JAQUAN BOYD - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. Yes, ma'am.

2 Q. What was it covered with?

3 A. I can't really tell. I wear glasses. Maybe it wasn't  
4 on.

5 Q. And you said you remembered that he had a gun?

6 A. Yes, ma'am.

7 Q. Okay. So what did you do when you saw that person  
8 coming into the apartment?

9 A. I went to the back room with Horrace.

10 Q. Were you running with him? Were ---

11 A. Yes, ma'am.

12 Q. --- y'all sort of on top of each other down the  
13 hallway?

14 A. Yes, ma'am.

15 Q. Okay. And what did you do when you got back to  
16 wherever you were going?

17 A. I closed the door behind me when I went in there and  
18 just went behind the bed.

19 Q. Y'all went behind the bed. How many of y'all were  
20 trying to fit behind the bed or under it or whatever?

21 A. It was three.

22 Q. Okay. So what do you remember happening while you were  
23 in the bedroom with Horrace and Tyrell?

24 A. We were just laying in there. And we heard them say  
25 give me the money or whatever and then two shots. After

JAQUAN BOYD - DIRECT EXAMINATION BY MS. SALISBURY

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- 1 that it was all silent. Then we heard rumbling again. I  
2 guess they left. And Drez came and knocked on the door.
- 3 Q. So you remembered hearing somebody ask for money ---  
4 A. Yes, ma'am.
- 5 Q. --- before you heard these shots?  
6 A. Yes, ma'am.
- 7 Q. And just to be clear, how many do you remember hearing?  
8 A. Like one.
- 9 Q. Okay. And so you said you heard some rumbling after  
10 that and then things got quiet. What happened next?  
11 A. Drez knocked on the door and he said take him to the  
12 hospital. Well, they told me to stay 'cause they already  
13 knew the cops was coming. So I just stayed.
- 14 Q. Okay. Do you remember the police showing up?  
15 A. Yes, ma'am.
- 16 Q. And what happened when they showed up at the apartment?  
17 A. They investigated the house.
- 18 Q. Did they search the whole house?  
19 A. Yes, ma'am.
- 20 Q. Did they search every bedroom?  
21 A. Yes, ma'am.
- 22 Q. Okay. Did the police interview you about what  
23 happened? Did they take a statement from you?  
24 A. Yes, ma'am.
- 25 Q. Okay. After you gave that statement to them about what

JAQUAN BOYD - CROSS EXAMINATION BY MS. GORTON

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1 you remember happening that night, did you have any other  
2 involvement in the case?

3 A. No, ma'am.

4 Q. Have you ever spoken to any of the people that -- that  
5 is charged with going into the apartment that night?

6 A. No, ma'am.

7 Q. And to be clear, do you know anybody that is alleged to  
8 have gone -- come into the apartment that night?

9 A. No, ma'am.

10 Q. Okay. All right, Mr. Boyd. Thank you. If you would,  
11 answer any questions the attorneys may have for you, sir.

12 (Whereupon the witness got up to leave)

13 A. Sorry.

14 Q. Stay put.

15 Cross Examination by Ms. Gorton:

16 Q. Now, these guys that came into the apartment, they were  
17 what, wearing black scarves and they were covered up,  
18 correct?

19 A. Yes, ma'am.

20 Q. So you don't really know whether you know any of those  
21 people, do you?

22 A. No, ma'am, I don't.

23 Q. In your statement you said that De'Nia opened the door?

24 A. Yes, ma'am, that's what I recall.

25 Q. When she opened the door was the other girl still in

JAQUAN BOYD - CROSS EXAMINATION BY MS. GORTON

1 the apartment?

2 A. I didn't really pay attention. I was just looking at  
3 TV. And the next thing I know I heard the door open, and I  
4 looked and he was coming in.

5 Q. All right. So you don't know where the other girl was?

6 A. No, ma'am.

7 Q. You don't disagree with Mr. Tobin that she was sitting  
8 on the couch?

9 A. I mean, he probably was looking at her, but I wasn't  
10 paying attention. I'm a huge basketball fan.

11 Q. All right. You and Mr. Tobin both ran back to Mr.  
12 Holland's room?

13 A. Yes, ma'am.

14 Q. Who was first?

15 A. Horrace.

16 Q. Mr. Tobin was in front of you?

17 A. Yes, ma'am.

18 Q. You were a slower runner?

19 A. Who? Me?

20 Q. You were a slower runner or further away?

21 A. I was further away.

22 Q. All right. And did you hear them as he did saying  
23 everybody on the ground?

24 A. I wasn't paying attention to him.

25 Q. You were just trying to ---

JAQUAN BOYD - CROSS EXAMINATION BY MS. GORTON

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1 A. Yeah, I was trying to go.

2 Q. Again, perfectly understandable. But you don't  
3 disagree with him?

4 A. No, I don't disagree with him.

5 Q. Now, De'Nia will be saying that she was there to buy  
6 marijuana, a twenty bag, a twenty dollar bag of marijuana.

7 A. Um-hum (affirmative).

8 Q. A twenty dollar bag of marijuana. Do you know if there  
9 was any marijuana in the apartment?

10 A. No, ma'am.

11 Q. How long have you known Mr. Benson?

12 A. How long I've known Mr. Benson? Three years.

13 Q. Three years today?

14 A. Yes, ma'am.

15 Q. So at the time all this happened, about two years?

16 A. Yes, ma'am.

17 Q. Have you ever ridden in his car?

18 A. Yes, ma'am.

19 Q. And were you aware that he kept weed in his car?

20 A. No, ma'am. He only took me to work a couple of times.

21 Q. You were left behind in case the police came.

22 A. (Affirmative nod).

23 Q. Did you see a clip laying on the floor?

24 A. No, ma'am.

25 Q. Did you go into Demetrius' room?

JAQUAN BOYD - CROSS EXAMINATION BY MS. GORTON

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1 A. No, ma'am.

2 Q. So your testimony today, you didn't find any marijuana  
3 in the apartment?

4 A. No, ma'am.

5 Q. You didn't get rid of any marijuana?

6 A. No, ma'am.

7 Q. You didn't get rid of the clip?

8 A. No, ma'am.

9 Q. You didn't get rid of any shell casings or bullets?

10 A. It was a revolver.

11 Q. How many guns were there?

12 A. I only seen one.

13 Q. You only saw one?

14 A. Yes, ma'am.

15 Q. Do you know what the other two had?

16 A. No, ma'am.

17 Q. Do you disagree with Mr. Benson when he says that all  
18 three had guns?

19 A. No, ma'am, I don't disagree.

20 Q. So I ask you again, did you get rid of any casings or

21 ---

22 A. No, ma'am.

23 Q. --- anything like that? Now, if there had been any  
24 marijuana in the apartment, would that have posed a problem  
25 for you?

JAQUAN BOYD - CROSS EXAMINATION BY MS. GORTON

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1 A. Would have?

2 Q. Yes.

3 A. No, ma'am.

4 Q. That's my question. No?

5 A. No, ma'am.

6 Q. Were you released on bond at the time this occurred?

7 MS. SALISBURY: Objection, Your Honor.

8 THE COURT: What's the relevance?

9 MS. GORTON: Your Honor, it's relevant to impeachment  
10 as far as his destruction of the marijuana that was left  
11 behind. I have case law and I'm prepared to argue it.

12 THE COURT: All right. Ladies and gentlemen, I'll need  
13 you to go out just for a moment while we take care of this  
14 matter of law. Don't discuss the case.

15 (Whereupon the jury exited the courtroom at 11:52 am)

16 THE COURT: Yes, ma'am.

17 MS. GORTON: Yes, Your Honor. In anticipation of this,  
18 in light of yesterday's discussion, I did research last  
19 night. In addition to the Finley case that I had cited to  
20 Your Honor, I have brought with me Jamie Mizzell, the State  
21 versus Jamie Mizzell. This is Supreme Court of South  
22 Carolina, 2002. And this case stands for two propositions.

23 The first proposition is the test for proper  
24 impeachment. A criminal defendant may show a violation of  
25 the -- sorry, Judge. A criminal defendant may show a

JAQUAN BOYD - CROSS EXAMINATION BY MS. GORTON

1 the witnesses, but we don't need to try other cases.

2 MS. GORTON: I understand, Judge.

3 THE COURT: All right. If the jury's ready, you can  
4 have them come back in.

5 (Whereupon the jury entered the courtroom at 12:04 pm)

6 THE COURT: You may proceed with your examination of  
7 the witness.

8 MS. GORTON: Thank you.

9 Cross Examination by Ms. Gorton Continued:

10 Q. I believe we were at the point that I was asking you if  
11 you got rid of any marijuana?

12 A. Hmm?

13 Q. Did you get rid of any marijuana?

14 A. No, ma'am.

15 Q. Did you allow the officers in to search?

16 A. Yes, ma'am.

17 Q. Did they find any marijuana?

18 A. No, ma'am.

19 Q. If they had found marijuana would it have been a  
20 violation of your bond?

21 A. Would it be in violation of my bond?

22 Q. Were you out on bond at the time this occurred?

23 A. Yes, ma'am.

24 Q. And if they had found marijuana would it have  
25 constituted a violation of your bond?

JAQUAN BOYD - CROSS EXAMINATION BY MR. IANUARIO

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1 A. I don't know.

2 Q. Did you sign bond paperwork?

3 A. Have I signed -- hmm? Ma'am?

4 Q. Did you sign bond paperwork when you were released on  
5 your pending charge?

6 A. Yes, ma'am.

7 Q. Did that bond paperwork instruct you as it instructs  
8 everyone else that you were not to commit any new law  
9 violations?

10 A. Yes, ma'am.

11 Q. And would possessing marijuana be a new law violation?

12 A. It would have been.

13 MS. GORTON: No further questions.

14 THE COURT: Mr. Ianuario.

15 MR. IANUARIO: Thank you, Your Honor.

16 Cross Examination by Mr. Ianuario:

17 Q. Mr. Boyd, why were you the one that stayed behind?

18 A. 'Cause they told me to.

19 Q. Did it concern you in any way that your name is not on  
20 the lease, but you'd be present at the scene of a shooting?

21 A. No, it didn't concern me.

22 Q. Okay. You said the police searched the apartment.

23 What were they looking for?

24 A. I don't know.

25 Q. Did they -- was it a walk-around to see if there were

JAQUAN BOYD - CROSS EXAMINATION BY MR. IANUARIO

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1 any people hiding in the house or did they open doors and  
2 cabinets?

3 A. I don't know. They just searched the house.

4 Q. You don't recall seeing them open doors or cabinets?

5 A. No, sir. I was at the front door.

6 Q. Would it possibly be more of just a sweep of the  
7 apartment just to make sure there's nobody hiding? Or ---

8 A. I don't know.

9 Q. Would you say it constituted an in-depth search?

10 A. I don't know.

11 Q. Don't know. So you didn't watch the police while they  
12 were in the apartment? You just let them in.

13 A. That's what their job is.

14 Q. Okay. Do you know if there were any bullet holes  
15 found?

16 A. I don't know.

17 Q. Do you know anything about the police search that took  
18 place after they showed up?

19 A. No, sir.

20 MR. IANUARIO: Nothing further, Your Honor.

21 THE COURT: Thank you. Any redirect?

22 MS. SALISBURY: No, Your Honor. Thank you.

23 THE COURT: All right. Thank you, sir. You may step  
24 down. You may call your next witness, Solicitor.

25 MS. SALISBURY: Thank you, Your Honor. The State calls

TYRELL HOLLAND - DIRECT EXAMINATION BY MS. SALISBURY

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1 Mr. Tyrell Holland. Mr. Holland, if you would, please come  
2 around and be sworn.

3 MADAME CLERK: Sir, please place your left hand on the  
4 Bible and raise your right hand.

5 Tyrell Holland, being  
6 duly sworn testified as follows:

7 MADAME CLERK: Thank you. Please be seated. State  
8 your name for the record.

9 MR. HOLLAND: Tyrell Holland.

10 Direct Examination by Ms. Salisbury:

11 Q. Mr. Holland, where do you live?

12 A. I live -- [REDACTED].

13 Q. Okay. And how long have you lived there?

14 A. I'd say about -- about six months.

15 Q. Do you work?

16 A. Yes, I do.

17 Q. Where do you work?

18 A. I work at UPS.

19 Q. UPS? Okay. And how long have you lived in Greenville?

20 A. All my life.

21 Q. Where did you go to school?

22 A. Riverside.

23 Q. And how do you know Demetrius Benson and the folks  
24 we've heard from so far today?

25 A. Let's see. I grew up with Demetrius. I know Horrace

TYRELL HOLLAND - DIRECT EXAMINATION BY MS. SALISBURY

1 from school and Jaquan from school.

2 Q. Okay. Now, were you living with Demetrius back in June  
3 of 2011?

4 A. I was.

5 Q. Where were y'all living?

6 A. Howell -- not Howell. I'm sorry. Cunningham.

7 Q. Okay. What apartment?

8 A. Cunningham Villas, ■■■.

9 Q. Do you remember whether you were home on the night of  
10 June 2nd, 2011?

11 A. I was.

12 Q. Do you know who was there with you?

13 A. My three roommates. And I guess they said -- well,  
14 they had De'Nia and a friend come over.

15 Q. Okay. Do you remember -- do you remember anybody  
16 coming over that night?

17 A. Well, I didn't actually see anyone 'cause I was asleep,  
18 but, I mean, they told me before she came that she was  
19 coming.

20 Q. So did Drez tell you that he had people coming over ---

21 A. Yeah.

22 Q. And then at some point after that you went to sleep?

23 A. Yeah, I went to bed.

24 Q. Okay. So you weren't in the livingroom when anybody  
25 showed up?

TYRELL HOLLAND - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. No.

2 Q. Okay. Did you see anybody come into the house with  
3 masks on?

4 A. I didn't.

5 Q. Did you see anybody with guns come into the apartment?

6 A. I didn't.

7 Q. Okay. What is the first thing you remember about that  
8 night?

9 A. I was in my room. Let's see. I was in my room and I  
10 remember him, Horrace, busting into my room. And I sat up  
11 on my bed. And they kind of got up under the bed. And I  
12 didn't know what was going on. I heard two shots. And he  
13 was like, get down, get down. So I got down with them. And  
14 I heard like a scruffle or like running through the house.  
15 And then Drez came and told us to come take him to the  
16 hospital. So we proceeded to take him to the hospital.

17 Q. And how long were the three of y'all huddled in your  
18 room?

19 A. I'd say a minute, maybe, a minute or two.

20 Q. What do you remember hearing aside from that scuffle?  
21 Do you remember hearing anybody saying anything?

22 A. I remember Drez saying don't kill me. And then after  
23 that, that was about it.

24 Q. Do you know either of these Defendants?

25 A. I don't.

TYRELL HOLLAND - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Had you -- did you see anybody come into the apartment  
2 that night?

3 A. I didn't.

4 Q. By the time y'all came out of the apartment to meet  
5 Drez and help him get to the hospital was there anybody else  
6 left in the apartment?

7 A. There wasn't.

8 Q. Do you remember the -- do you remember trying to take  
9 Drez to the apartment [sic] and being stopped by the police?

10 A. I do.

11 Q. What happened after that?

12 A. Well, we went down, the police stopped us and told us  
13 to get our IDs and things like that. And they said they  
14 were going to take him in the EMS and have us go back to the  
15 house. We went back to the house and they asked us could  
16 they search the house. And we agreed to allow them to  
17 search the house. And they held us outside while they did  
18 do the search. And that was about it.

19 Q. Do you remember signing a consent to search to let them  
20 look through the house?

21 A. I do.

22 Q. Okay. But they had y'all stationed outside ---

23 A. Yeah.

24 Q. --- so you can't -- you couldn't ---

25 A. Like on the breeze-way.

TYRELL HOLLAND - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. Do you remember giving a statement to the police  
2 after -- a few days after this happened?

3 A. I do.

4 Q. After you gave that statement did you have any other  
5 conversations with any investigators or anybody about the  
6 case?

7 A. I didn't.

8 Q. Okay. If you would, sir, answer any questions these  
9 attorneys may have for you.

10 Cross Examination by Ms. Gorton:

11 Q. I'm not going to ask you anything about what happened  
12 before because you were sleeping, right?

13 A. I was.

14 Q. How long did you say you'd known Benson before this  
15 happened?

16 A. I'll say about twelve years.

17 Q. Twelve years? And how long had you known Boyd when  
18 this happened?

19 A. I'll say three years.

20 Q. Did you know that Benson carried marijuana around in  
21 his car?

22 A. I didn't.

23 Q. You didn't?

24 A. I didn't.

25 Q. You've known him twelve years and you didn't know that?

TYRELL HOLLAND - CROSS EXAMINATION BY MS. GORTON

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1 A. I mean, we're friends, but, I mean, he did his own  
2 thing.

3 Q. Did you know that Boyd was out on bond?

4 A. I did.

5 Q. Now you said three roommates.

6 A. Well, I guess -- well, not roommates, but those three

7 ---

8 Q. Well, was Boyd your roommate or not?

9 A. He wasn't.

10 Q. Was he kind of squatting there?

11 A. He was just like -- yeah, squatting there, but ---

12 Q. Spent more nights there ---

13 A. He stayed like ---

14 Q. --- than not ---

15 A. --- a couple of nights and leave, yeah. He was just a  
16 friend.

17 Q. Huh?

18 A. He was just a friend. He'd come and stay. I mean, he  
19 didn't ---

20 Q. Was he paying rent?

21 A. No. No.

22 Q. But staying there?

23 A. Yeah. I mean, we ---

24 Q. That's a pretty good friend.

25 A. Yeah, we took care of the rent.

TYRELL HOLLAND - CROSS EXAMINATION BY MS. GORTON

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1 Q. All right. How many nights a week would you say he was  
2 staying there?

3 A. I'd say probably two at the time.

4 Q. All right. Did he have his own place?

5 A. He stayed with his mom, I think, mom, or aunt or  
6 something like that.

7 Q. All right. Now, have you had a chance to review your  
8 statement?

9 A. I did.

10 Q. When did you last review it?

11 A. It was yesterday.

12 Q. All right. In your statement you say Demetrius started  
13 beating on the door saying take me to the hospital. I got  
14 him some water while he was looking for his hospital card.

15 A. Well, yeah, 'cause we had actually took him outside and  
16 he didn't have his insurance card. So he asked me to go  
17 look for it and get some water. So I did that. And I  
18 couldn't find it. So he wanted to go find it 'cause he said  
19 they wouldn't see him without it, that the hospital wouldn't  
20 see him without it.

21 Q. Okay. So where were you looking for his hospital card?

22 A. In his room.

23 Q. In his room?

24 A. (Affirmative nod).

25 Q. Hmm. Were you looking on his dresser?

TYRELL HOLLAND - CROSS EXAMINATION BY MS. GORTON

1 A. Yeah.

2 Q. In his dresser?

3 A. I couldn't remember. I think it was just on top.

4 Q. Do you remember seeing a jar of marijuana sitting ---

5 A. I don't.

6 Q. --- on his dresser? Had you ever seen a jar of  
7 marijuana on his dresser?

8 A. I haven't.

9 Q. You've never?

10 A. Uh-uh (negative).

11 Q. Known him twelve years. Didn't know he had marijuana  
12 in his car?

13 A. We didn't stay together for twelve years. We stayed  
14 there for, what, four months.

15 Q. So this sounds like kind of a casual situation. I  
16 don't know, you know, I was shot. He's walking around?

17 A. No. We actually -- his arms were around both of us, me  
18 and our roommate, Horrace.

19 Q. And he wants to go back in to look, you're getting him  
20 water.

21 A. (Affirmative nod).

22 Q. And during all this time -- and how long is this?

23 A. It's ---

24 Q. You talk about you went in his room, looked for an  
25 insurance card, ---

TYRELL HOLLAND - CROSS EXAMINATION BY MS. GORTON

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1 A. Well, ---

2 Q. --- can't find it, ---

3 A. --- we had already took him down. He was already in  
4 the car. I ran back up.

5 Q. And then you took him all the way back up?

6 A. Yeah, ---

7 Q. He's shot once in each leg and you take him all the way  
8 down and all the way back up again?

9 A. Yeah.

10 Q. Wow. How long did all that take?

11 A. I guess three minutes, four minutes.

12 Q. Can he walk that fast when he's shot? Once ---

13 A. I mean, ---

14 Q. --- in each leg?

15 A. --- we were -- he was assisted by us. He wasn't  
16 walking.

17 Q. So you're thinking three minutes or so?

18 A. Yeah, it didn't take long.

19 Q. During that time did any of you call 911?

20 A. We didn't.

21 Q. If you'd called an ambulance, wouldn't that have solved  
22 the problem?

23 A. I mean, it was just the heat of the moment. He said  
24 take him to the hospital. So that's what we done.

25 Q. If you'd called an ambulance, wouldn't that have solved

TYRELL HOLLAND - CROSS EXAMINATION BY MS. GORTON

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1 the problem?

2 A. I'm guessing so.

3 Q. Yeah. So when you talk about the police stopping you  
4 from going to the hospital and you've got Demetrius and  
5 you're putting him in the car, that's the second time you've  
6 taken him downstairs?

7 A. It is. Well, we were already proceeding to the  
8 hospital. And they stopped us in the complex.

9 Q. Yet you were already en route after bringing him down  
10 not once, but twice.

11 A. (Affirmative nod).

12 Q. Is that right?

13 A. That's right.

14 Q. So then the police stop you, and you have a  
15 conversation with them. And I don't imagine they approached  
16 you right away, here's a consent to search, sign it, did  
17 they?

18 A. They didn't.

19 Q. So you have a couple of more minutes of discussion with  
20 the law enforcement, right?

21 A. Well, not really. I mean, they came out guns drawn.  
22 We were -- put our hands on the car. They made everybody  
23 get out -- well, us three get out -- well, us two 'cause he  
24 couldn't get out. And that's about it.

25 Q. So it took a couple of minutes for them to figure out

TYRELL HOLLAND - CROSS EXAMINATION BY MR. IANUARIO

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1 what was going on and not to present you with a consent to  
2 search, correct?

3 A. I -- yeah, I guess so.

4 Q. All right. So Mr. Boyd's up in the apartment all this  
5 time, is that correct?

6 A. It is.

7 Q. Still not calling 911.

8 A. I don't think so.

9 MS. GORTON: Nothing further.

10 THE COURT: Mr. Ianuario.

11 Cross Examination by Mr. Ianuario:

12 Q. You said Drez was looking for his wallet and his  
13 hospital card, is that correct?

14 A. I didn't say wallet. I said hospital ---

15 Q. Hospital card? Do you know where he found it at?

16 A. I actually don't remember. I don't even know if he --  
17 if it was found at all really.

18 Q. Do you recall if he grabbed his phone on the way to the  
19 hospital?

20 A. Yes.

21 Q. He did?

22 A. He did -- well, he had it in the car.

23 Q. Did you take your phone with you to the hospital?

24 A. I can't remember.

25 Q. You don't remember?

TYRELL HOLLAND - CROSS EXAMINATION BY MR. IANUARIO

1 A. (Negative nod).

2 Q. Do you remember if anyone else took their phone to the  
3 hospital?

4 A. I can't remember.

5 Q. But at least one person in the house had a phone that  
6 was talking on?

7 A. Yeah.

8 Q. So why did no one call 911?

9 A. I mean, he said let's go to the hospital. So we took  
10 him to the hospital. That's where we were taking him.

11 Q. The hospital's only five minutes away. By your  
12 testimony it took probably five to ten to get him out of the  
13 door. Wouldn't an ambulance have gotten there quicker?

14 A. I don't know how long it takes for an ambulance to get  
15 there.

16 Q. Enough time to take him down the stairs, and back up,  
17 and then back down, and load him in and then drive off?

18 A. Well, I guess so.

19 Q. Was there any discussion about calling 911?

20 A. No.

21 Q. Nobody said anything about it?

22 A. No.

23 Q. Did anybody say the cops had already been called?

24 A. No.

25 MR. IANUARIO: One moment, Your Honor.

TIMOTHY WOODARD, SR. - DIRECT EXAMINATION BY MS. SALISBURY

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1 (Pause)

2 MR. IANUARIO: That was in another statement. I have  
3 no further questions, Your Honor.

4 THE COURT: All right. Anything in redirect?

5 MS. SALISBURY: No, sir.

6 THE COURT: All right. Thank you, sir. You may step  
7 down, Mr. Holland. You may call your next witness,  
8 Solicitor.

9 MS. SALISBURY: Thank you, Your Honor. The State calls  
10 Mr. Tim Woodard. Mr. Woodard, if you would, please come  
11 around and be sworn.

12 MADAME CLERK: Mr. Woodard, please place your left hand  
13 on the Bible and raise your right hand.

14 Timothy Woodard, Sr.,  
15 being duly sworn testified as follows:

16 MADAME CLERK: Thank you. Please be seated. State  
17 your full name for the record.

18 MR. WOODARD: Timothy Edwin Woodard, Sr.

19 MADAME CLERK: Thank you.

20 Direct Examination by Ms. Salisbury:

21 Q. Mr. Woodard, where do you -- where do you live?

22 A. Currently, [REDACTED].

23 Q. And how long have you lived there?

24 A. Since 1992, '91 or '92.

25 Q. Do you work?

1 A. Yes.

2 Q. Where do you work?

3 A. I own my own business.

4 Q. All right. And where were you living or at on June 2nd  
5 of 2011?

6 A. I was temporarily living at Cunningham Villas,  
7 apartment [REDACTED].

8 Q. With whom were you living?

9 A. My fiancé.

10 Q. All right. Do you remember whether you were home that  
11 night?

12 A. Yes, I was.

13 Q. Do you remember what you were doing?

14 A. I was in the bed.

15 Q. All right. Do you recall at some point that night  
16 hearing what you thought to be gunshots?

17 A. Yes, I do.

18 Q. Would you describe for the jury what -- what you heard,  
19 what happened?

20 A. I was lying in bed with my fiancé and we heard two  
21 pops; pop, pop, at which time we jumped up and looked out  
22 the bedroom window.

23 Q. Now, how are these buildings situated? How -- we've  
24 heard some testimony that the victim and the other witnesses  
25 lived in building H and you said you lived in building G.

TIMOTHY WOODARD, SR. - DIRECT EXAMINATION BY MS. SALISBURY

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1 How were they situated in the apartment complex?

2 A. They were across from each other, right across the  
3 parking lot from each other.

4 Q. So how is your line of sight toward building H where  
5 the incident happened?

6 A. It's a direct line of sight.

7 Q. Okay. Now, after you -- after you heard those shots,  
8 what did you do?

9 A. We looked out the bedroom window, saw a white, four  
10 door sedan speeding out of the parking lot. At that time I  
11 thought the immediate danger was over. So I stepped out  
12 into the parking lot to see if there were -- see if there  
13 was anybody laying in the parking lot in the need of  
14 assistance.

15 (Whereupon State's exhibit 12 was marked for  
16 identification)

17 Q. Okay. Now, I'm going -- I'd like to show you State's  
18 exhibit 12. And I want you to take a look at what's  
19 depicted in that picture. Do you recognize what's in that  
20 photograph?

21 A. Yes, I do.

22 Q. What is shown in that photograph?

23 A. This is building H, which was right across from ours.

24 Q. Is that -- is the view predicted or, I guess, shown in  
25 that photograph an accurate version of your sight of

1 building H from where you lived ---

2 A. Yes, it is.

3 Q. Okay.

4 MS. SALISBURY: Your Honor, at this time I'd offer  
5 State's exhibit 12.

6 MR. IANUARIO: No objections.

7 MS. GORTON: No objections.

8 THE COURT: Without objection, exhibit 12 is admitted  
9 into evidence and may be published to the jury.

10 (Whereupon State's exhibit 12 was admitted into  
11 evidence)

12 Q. Now, if you would, Mr. Woodard, could you describe for  
13 the jury where you were in relation to building H when you  
14 stepped outside to see what the danger may be?

15 A. Directly across from building H, I mean, almost a  
16 straight shot like it is from here to the exit.

17 Q. Okay. Where did you -- did you stand in the parking  
18 lot, did you walk toward the ---

19 A. Um, ---

20 Q. --- what did you do?

21 A. I walked out in the breeze-way of our building,  
22 proceeded across the parking lot looking either way to see  
23 if there was anybody laying in the parking lot.

24 Q. And what happened when you got outside in the parking  
25 lot?

TIMOTHY WOODARD, SR. - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. I got about halfway across the parking lot where the  
2 concrete median is in the middle of the parking lot and  
3 three masked men came running out of H building, pistols in  
4 hand, threatening me.

5 Q. Could you tell whether those men were black, white,  
6 Hispanic?

7 A. They were black.

8 Q. How could you tell?

9 A. The color of their skin.

10 Q. What could you see of their skin? What were they  
11 wearing?

12 A. I believe two of them were wearing dark hoodies. They  
13 all had bandanas on, but, you know, I could see a given area  
14 of their skin and their hands.

15 Q. And what did they say to you?

16 A. Am I allowed to swear? Curse?

17 Q. Well, tell the ---

18 A. I'll ---

19 Q. --- jury what they told you.

20 A. I'll abbreviate that. They told me, you'd better run,  
21 boy. We'll F you up. We'll f-ing kill you. Run. And I  
22 just turned on my heels and ran.

23 Q. Okay. Did you see where they went? Did they take off  
24 on foot? What happened?

25 A. They ran across the parking lot in my direction and

1     hopped into a gray Nissan Altima.

2     Q.    And ---

3     A.    Then they sped off.

4     Q.    Okay.  Do you -- do you remember where each of these  
5     cars were parked?  You said -- you mentioned initially when  
6     you looked out the window you saw a white sedan leaving.

7     A.    The white, four door sedan had been parked right  
8     outside our bedroom window.  Here's the bedroom window.  
9     Here's the sedan.  I mean, we saw it, the car as it was  
10    backing up and then take off.

11    Q.    Could you see inside?

12    A.    No, I could not.  The Nissan Altima was parked on G  
13    building's side of the concrete median in the parking lot.

14    Q.    Was it near the white car?

15    A.    Relatively near, yes.

16    Q.    Okay.  So when you turned -- you said you were in the  
17    dividing median.  When you turned to run back to your --  
18    toward your apartment, they kind of ran after you?

19    A.    Oh, yeah.  They were coming after me, guns -- guns in  
20    hand.

21    Q.    Okay.  Now, did you give a statement to the police  
22    about what you saw out there that night?

23    A.    Yes, I did.

24    Q.    And after you gave that statement did you have any  
25    other involvement in the investigation of the case?

TIMOTHY WOODARD, SR. - CROSS EXAMINATION BY MS. GORTON

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1 A. No, I have not.

2 Q. Did you -- did you have any other involvement with  
3 identifying who these people may be?

4 A. No.

5 Q. Okay. All right. Sir, if you would, answer any  
6 questions that these attorneys may have for you.

7 MS. GORTON: Permission to approach the witness or have  
8 the witness step down. I have a Google Earth I'd like him  
9 to refer to in explaining the parking lot.

10 THE COURT: Hang on just a minute. You may -- you may  
11 look at them, if you wish, Madame Forelady. Excuse me.  
12 Yes, ma'am.

13 MS. GORTON: I'm sorry, Your Honor. I have Google  
14 Earth here. And I'd like the witness to step down and  
15 explain the median and where he saw the two different cars,  
16 if that's all right. I apologize, Your Honor. I tried to  
17 print it off poster size at Staples. And they said it was a  
18 copyright infringement ---

19 THE COURT: Well, maybe you could have him draw a  
20 picture of -- as you have earlier.

21 MS. GORTON: I haven't had a lot of luck with that,  
22 Judge, but I'll try.

23 THE COURT: I mean, you're not offering that into  
24 evidence, ---

25 MS. GORTON: No. I was ---

TIMOTHY WOODARD, SR. - CROSS EXAMINATION BY MS. GORTON

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1 THE COURT: --- I'm assuming.

2 MS. GORTON: --- just hoping to ---

3 THE COURT: Well, I think it's -- the jury can probably  
4 see it better with glares and so forth if you just have a  
5 picture drawn.

6 MS. GORTON: Okay. May I show it to him to help him  
7 with his picture?

8 THE COURT: If he needs that assistance for his  
9 picture. I don't even know if that's -- shows it the same  
10 way it was. And I ---

11 MS. GORTON: I was going to cover that.

12 THE COURT: If you need to present something as a piece  
13 of evidence, that'll certainly be allowed, allow you to do  
14 that.

15 Cross Examination by Ms. Gorton:

16 Q. Is building H ---

17 MADAME COURT REPORTER: You need to speak up.

18 THE COURT: You're going to -- the court reporter's got  
19 to get down everything ---

20 MS. GORTON: I'm sorry.

21 THE COURT: --- that's said now.

22 MS. GORTON: I'm trying to ask him if building H is in  
23 this empty lot that is shown on Google Earth. And let me

24 ---

25 MS. SALISBURY: Judge, I'm not sure that I ---

TIMOTHY WOODARD, SR. - CROSS EXAMINATION BY MS. GORTON

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1 MS. GORTON: Okay. I'll see if he can draw it first.

2 THE COURT: All right. Thank you.

3 Q. First of all, building H and building G, they're right  
4 across from each other, right?

5 A. Yes, they are.

6 Q. They face each other?

7 A. Yes.

8 Q. And this apartment complex, it has a couple of  
9 different roads that run through it, right?

10 A. There's only one entrance coming in there. It's a  
11 conglomeration of parking lots.

12 Q. And when you come in the entrance you can split off  
13 this way or you can split off this way, right? Or do you  
14 know?

15 A. The split I believe you're referring to just goes into  
16 another parking lot.

17 Q. Okay. Well, let me ask you this way. The two  
18 buildings, G and H that face each other, are those  
19 essentially in a cul-de-sac or a dead-end? Those are the  
20 last two buildings?

21 A. They are not the last two buildings.

22 Q. They're not?

23 A. No.

24 Q. There's one more set beyond that?

25 A. Yes.

1 Q. And I don't know that a drawing's going to work, but is  
2 there like a parkway type thing between the two parking  
3 lots? Like ---

4 A. The way the buildings are arranged, there is a concrete  
5 median between them so that you have two rows of parking for  
6 each building.

7 Q. All right. So is building H to the left or to the  
8 right? If you're driving into ---

9 A. If you're coming in from the entrance, H would be to  
10 the left.

11 Q. And you were in H?

12 A. I was in G.

13 Q. So you were over here?

14 A. I was ---

15 Q. Yeah.

16 A. Gotcha'.

17 Q. I'm not trying to confuse you on purpose, I promise.  
18 Okay. So over here you have parking spaces that face the  
19 building.

20 A. Right.

21 Q. And parking spaces that face what you're calling a  
22 concrete median?

23 A. Right.

24 Q. And then over here on the other side we've got parking  
25 spaces that face the concrete median. And we've got parking

TIMOTHY WOODARD, SR. - CROSS EXAMINATION BY MS. GORTON

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1 spaces that face your building, ---

2 A. Yes.

3 Q. Okay. Now, when you talk about a concrete median, are  
4 you talking about a high or a low thing, like ...

5 A. Oh, four to six inches high.

6 Q. So you're talking about a concrete curb, ---

7 A. Right.

8 Q. --- more or less? And is there grass in between?

9 A. No, there is not. It's a concrete sidewalk in between.

10 Q. Oh, concrete sidewalk. So there's a bit of space?

11 A. Yes.

12 Q. So when you talk about them coming across, they were  
13 coming across that?

14 A. Yes.

15 Q. Okay. Had you crossed the sidewalk to their side?

16 A. No, I had not.

17 Q. Now, trying to build that visual for everybody to keep  
18 in mind. When you looked out your window were -- did your  
19 apartment face the parking lot?

20 A. Yes, it does.

21 Q. And I want to make sure I understood your testimony  
22 correctly. You said when you looked out the window you saw  
23 a white car leave?

24 A. Yes.

25 Q. Are you clear in your mind that that occurred before

TIMOTHY WOODARD, SR. - CROSS EXAMINATION BY MS. GORTON

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1 the three men came out?

2 A. Oh, absolutely.

3 Q. When the three men came out did they approach another  
4 car other than the Altima that you talked about?

5 A. No.

6 Q. Did you see any other white cars leave?

7 A. Not at that time.

8 Q. So you see the white car leave, you think it's all  
9 clear, you come out and then you're approached by these  
10 guys?

11 A. Right.

12 Q. And you see them get in a dark car and they leave?

13 A. Right.

14 Q. And you don't see anyone else?

15 A. No.

16 Q. When you saw the white car did you see anything that  
17 transpired with that white car prior to it leaving?

18 A. No.

19 Q. Are you sure that it was gone from the neighborhood,  
20 basically, by the time they get in the car and leave?

21 A. The -- which car? The white one?

22 Q. The white car?

23 A. Yes. Yes.

24 Q. Okay.

25 MS. GORTON: Nothing further.

DAVID PICONE - DIRECT EXAMINATION BY MS. SALISBURY

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1 MR. IANUARIO: I have no questions for this witness,  
2 Your Honor.

3 THE COURT: Anything in redirect?

4 MS. SALISBURY: Nothing from the State, Judge.

5 THE COURT: All right. Thank you, sir. You may step  
6 down. You may call your next witness.

7 MS. SALISBURY: Thank you, Your Honor. The State calls  
8 Deputy David Picone.

9 MADAME CLERK: Please place your left hand on the Bible  
10 and raise your right hand.

11 David Picone, being duly  
12 sworn testified as follows:

13 MADAME CLERK: Thank you. Please be seated. Please  
14 state your full name for the record.

15 MR. PICONE: David Daniel Picone.

16 Direct Examination by Ms. Salisbury:

17 Q. Deputy, where do you work?

18 A. Greenville County Sheriff's Office.

19 Q. In what capacity?

20 A. Uniform patrol.

21 Q. And how long have you been with the Sheriff's Office?

22 A. About five years and a couple of months.

23 Q. And what are some of your duties and responsibilities  
24 on uniform patrol?

25 A. To respond to routine calls for service, make traffic

DAVID PICONE - DIRECT EXAMINATION BY MS. SALISBURY

1 stops whenever possible, just patrol the area that you work.

2 Q. And how does that process happen? The responding to  
3 calls part, how does that work?

4 A. Whenever dispatch receives a call, we're set up into  
5 certain beat areas. And the units that are in that beat  
6 area, dispatch will dispatch you to a call for service. It  
7 will come over your computer or they will send -- they'll  
8 send it to you over radio telling you what's going on. And  
9 you go to that call.

10 Q. Do you remember being dispatched to a call just after  
11 midnight on June 3rd, 2011?

12 A. I do.

13 Q. Where were you instructed to go?

14 A. [REDACTED], which is the Cunningham Villas.  
15 It's an apartment complex.

16 Q. Is that apartment complex inside Greenville County?

17 A. Taylors, South Carolina.

18 Q. What could you see when you got there?

19 A. Do you want me to start from when dispatch first  
20 initially gave us the call, what they said?

21 Q. Well, no, without relaying what dispatch told you, ---

22 A. Okay.

23 Q. --- what did you see when you arrived where you were  
24 directed to go?

25 A. As soon as we pulled into the complex, it was myself

DAVID PICONE - DIRECT EXAMINATION BY MS. SALISBURY

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1 and another deputy, he was in his own patrol car, I was the  
2 first one to enter. When we come in the apartment complex,  
3 go straight in and the buildings are rowed like this as you  
4 go in. I'm pretty familiar with the building. And they'd  
5 said, you know, building H.

6 So when I responded in there I see a -- I believe it  
7 was a white jeep coming towards me. At that time we had  
8 information that that was possibly somebody shot in that  
9 car. So we made a traffic stop on it when we were face to  
10 face with them.

11 We advised everybody to get out of the car 'cause we  
12 didn't know if they were suspects or what was going on.  
13 There was -- the front seat, there was a driver and a  
14 passenger, two black males. We got them out of the car. We  
15 both patted them down to make sure they didn't have any  
16 weapons on them.

17 They told us that their friend had been shot. He was  
18 laying across the backseat. Nobody else was in the car. At  
19 that time I then advised dispatch we had a gunshot victim  
20 and to have EMS to respond to the location.

21 Q. Now, did you speak to each of the -- the other two that  
22 were in the car?

23 A. We did. Once we got the victim into the, you know,  
24 ambulance and got him taken care of, then we kind of  
25 separated everybody and talked to each person individually.

DAVID PICONE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. And you've had a general idea about what they told you  
2 had happened. What did you do next?

3 A. Myself and another deputy went immediately down to the  
4 apartment after we found out what apartment it occurred in,  
5 knocked on the door. They told us one of their friends was  
6 in there. He came to the door immediately. We -- we did a  
7 protective sweep inside the apartment to make sure there was  
8 no other victims or nobody in the apartment with weapons.

9 After that we got the actual homeowners to come back up  
10 to the apartments with us. And we explained to them that we  
11 would like them to sign a consent to search form so we could  
12 check for any, you know, shell casings, the magazine, bullet  
13 holes in the apartment, anything like that.

14 Q. Now, you said you spoke with the two homeowners. To be  
15 clear, are those the same two people that were in that jeep  
16 ---

17 A. It was.

18 Q. --- when you first pulled in?

19 A. Yes.

20 Q. Okay. Now, were they cooperative with you?

21 A. Very.

22 Q. Did they let you search their apartment?

23 A. Absolutely.

24 Q. Did you participate in the search of the apartment?

25 A. I did.

DAVID PICONE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Did you find anything inside that was helpful to the  
2 investigation or appeared to be criminal to you?

3 A. Did not. I believe in my report I mentioned there was  
4 a spot of blood on the floor. We didn't find any shell  
5 casings, no bullet holes, no narcotics, nothing like that.

6 Q. What would have happened if you had seen any indication  
7 of narcotics inside that apartment?

8 A. I would have -- if we would have saw narcotics in the  
9 apartment, we would have gone further and got a search  
10 warrant. After we'd have got a search warrant, we would  
11 have made the appropriate charges, gone from there.

12 Q. Do you remember seeing any red bandanas in the  
13 apartment?

14 A. I don't.

15 Q. Do you remember seeing any jars of drugs?

16 A. I don't.

17 Q. Okay. About how many officers were on-scene? Give the  
18 jury an idea about how -- what's the protocol on a shooting  
19 case? How many people were there or what's going on?

20 A. A lot of times they're pretty hectic. First thing we  
21 do is, you know, make sure the victim's okay, find out the  
22 trauma score from the victim from EMS, notify my sergeant so  
23 he can respond out there. He needs to notify the, you know,  
24 investigators depending on the status of the victim.

25 The units usually and the deputies usually in the area,

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1 there can be anywhere from two to three deputies. Plus,  
2 surrounding beat areas sometimes come depending on how large  
3 it was. I think there might have been a total of four or  
4 five of us out there at that time.

5 Q. Did you -- how did you determine what had been taken  
6 from the apartment that day?

7 A. After we did the search of the apartment I went down to  
8 the hospital and made contact with Mr. Benson, I believe,  
9 his last name is, to talk to him further since he was the  
10 gunshot victim to try to get a description of suspects, car,  
11 if he knew these people.

12 He then told me that he believed his laptop was stolen.  
13 It was -- I believe it was a bluish color Toshiba. He gave  
14 me the price value. I listed that in the report.

15 I asked if anything else was stolen at the time. He  
16 told me he didn't believe so. But, you know, of course he'd  
17 been shot. So he was kind of ...

18 Q. Was he cooperative with you?

19 A. Very cooperative.

20 Q. Now, after your role as the responding officers  
21 on-scene do you have any other participation in the  
22 investigation of these cases?

23 A. After I wrote the initial report, it gets forwarded up  
24 to my supervisor. He then reads the report and will sign it  
25 off. And it gets -- something like they usually get sent

DAVID PICONE - CROSS EXAMINATION BY MS. GORTON

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1 over to our investigators. So I didn't have any further ...

2 Q. Did you do anything else to assist in the investigation  
3 of this case?

4 A. No.

5 Q. Okay. Thank you, sir. If you would, answer any  
6 questions the attorneys may have for you.

7 A. Okay.

8 Cross Examination by Ms. Gorton:

9 Q. Just a couple of clarifications. They list you as the  
10 investigating officer. What does that mean exactly?

11 A. As the investigating officer I was the initial report  
12 taker. I was the first one to arrive on-scene and conducted  
13 the what we call code 5, which is the incident report.

14 Q. So you're not the officer in charge of the entire  
15 investigation? That's Hoover, right?

16 A. Once I write the report and it was turned in, I -- no  
17 further investigation.

18 Q. So you just have the one report?

19 A. That's it.

20 Q. Okay. Now, Hamilton, who is he?

21 A. He is a forensics.

22 Q. All right. And did you meet Hamilton at the hospital?

23 A. I don't remember if Hamilton was there when I was there  
24 or if I talked to him on the phone and told him he just  
25 needed to take pictures of the victim's injuries and collect

DAVID PICONE - CROSS EXAMINATION BY MS. GORTON

1 his clothes.

2 Q. Now, were you supposed to meet Hamilton at the  
3 hospital? Do you recall?

4 A. We don't have to. He -- I was -- he's requested. And  
5 he does forensics, I don't. So he knows what to do when  
6 forensics comes out.

7 Q. Is it possible that Hamilton got there and got a  
8 statement from the victim prior to your arriving?

9 A. I don't believe so. They don't get statements. He  
10 probably just got a basic of what happened on-scene.

11 Q. Did you have an opportunity to review Hamilton's  
12 report?

13 A. I don't know. I don't believe so. I didn't look at  
14 it.

15 Q. No? And I know this has been almost a year.

16 A. Um-hum (affirmative).

17 Q. I know you have a lot of cases.

18 A. Um-hum (affirmative).

19 Q. Do you recall speaking with Hamilton about the  
20 statement that the victim gave to him in this case?

21 A. No.

22 Q. All right. You're not saying it absolutely didn't  
23 happen, you just don't recall it?

24 A. I don't.

25 Q. All right. Now, you also talked to the victim. And

DAVID PICONE - CROSS EXAMINATION BY MS. GORTON

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1 you knew that a magazine -- what's it called with all the  
2 bullets in it?

3 A. It's called a magazine.

4 Q. The magazine clip had fallen out.

5 A. Yes.

6 Q. Did you find one?

7 A. Did not.

8 Q. Did any of your officers find one?

9 A. Did not.

10 Q. She asked about not finding marijuana. You also didn't  
11 find a magazine clip.

12 A. Nope.

13 Q. Did you find any casings?

14 A. Sure didn't.

15 Q. Did -- were you paying particular attention to whether  
16 he had red bandanas?

17 A. Not particular, but I was looking through the house.

18 Q. All right. Red bandanas is not what you were looking  
19 for, correct?

20 A. No.

21 Q. All right: Now, when you went in did you smell  
22 anything?

23 A. Did not.

24 Q. I am going to hand you a copy ---

25 MS. GORTON: Permission to approach.

DAVID PICONE - CROSS EXAMINATION BY MS. GORTON

1 THE COURT: Yes, ma'am.

2 Q. Is this the first page of your report?

3 A. That is.

4 Q. And here at the top it says event. And it gives the  
5 date of 6/3/2011.

6 A. Yes.

7 Q. And it gives a time. What does that time mean?

8 A. That's what time dispatch received the first call from  
9 the -- Mr. Woodard.

10 Q. All right. And then the next time space says ...

11 A. The same thing.

12 Q. What does that one mean?

13 A. It's just -- it's the same thing. That's what time it  
14 happened.

15 Q. All right. And then the third time space says what?

16 A. My time of arrival.

17 Q. Which was what?

18 A. 026 ---

19 Q. So ---

20 A. --- 0. Basically at 26 after 12 or midnight.

21 Q. After midnight. And the time -- the time the call came  
22 in?

23 A. Well, sometimes there's an elapsed time. Dispatch gets  
24 the call from the call taker, the call taker gives it to the  
25 dispatcher, which dispatches it to us. So sometimes there's

DAVID PICONE - CROSS EXAMINATION BY MS. GORTON

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1 a three, four minute lapse in the call to the dispatch time.

2 Q. Okay. But this would be when dispatch enters it?

3 A. That's what time the first call came in, yes.

4 Q. All right. So you're saying there could be three to  
5 four minutes prior to 01700, is that what that says?

6 A. Yes.

7 Q. So going by this there was a nine minute gap?

8 A. Um-hum (affirmative).

9 Q. But it could have been twelve, thirteen minutes ---

10 A. That's what time -- once they get the call is what time  
11 it's put in the system, at 12:17. And then between 12:17  
12 and 12:26 is when I arrived on the scene.

13 Q. All right. So the first call, someone has time to pick  
14 up the phone, say there's gunshots, ---

15 A. Um-hum (affirmative).

16 Q. --- to when you get on-scene, ---

17 A. Um-hum (affirmative).

18 Q. And trust me, I'm not trying to criticize your response  
19 time. I'm just trying to establish that there are nine  
20 minutes between shots fired and when you arrive on the  
21 scene.

22 A. (Affirmative nod).

23 Q. How much time do you spend down in the parking lot  
24 before you send an officer upstairs to check the apartment?

25 A. I know I stayed down there. I think we might have sent

DAVID PICONE - CROSS EXAMINATION BY MR. IANUARIO

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1 somebody up to the apartment right away once we found out it  
2 was there just to secure the scene, but maybe four minutes.

3 Q. Okay. So we're nine minutes between, plus another  
4 four, maybe?

5 A. (Affirmative nod).

6 Q. So we're up to thirteen minutes. Any idea what Mr.  
7 Boyd was doing in the apartment during those fourteen  
8 minutes?

9 A. Could not tell you.

10 Q. Not a clue?

11 A. Not a clue.

12 Q. Thank you.

13 THE COURT: You may cross examine the witness.

14 Cross Examination by Mr. IANUARIO:

15 Q. Thank you, deputy. You said first you did a sweep of  
16 the apartment, a protective sweep?

17 A. Yes.

18 Q. Can you go into a little bit of detail what a sweep  
19 normally involves?

20 A. It's just basically a couple of deputies checking  
21 rooms, make sure nobody's hidden in the apartment, nobody's  
22 -- else is shot, nobody's a threat. You know, it's not --  
23 we don't -- it's not a search of the apartment, it's just a  
24 glance-over, check of each room, make sure nobody's there.

25 Q. Okay. I think you said later you went back and

DAVID PICONE - CROSS EXAMINATION BY MR. IANUARIO

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1 searched the apartment?

2 A. After we got a consent to search, yes.

3 Q. What were you searching for?

4 A. Shell casings, bullet holes, anything that would have  
5 to do with the gunshot victim or the crime.

6 Q. So you weren't looking for evidence of drug activity?

7 A. We weren't looking for it, but if we would have come  
8 across it, we would have definitely documented it.

9 Q. Did you open cabinets and drawers?

10 A. I didn't.

11 Q. Do you know if any of the officers opened ---

12 A. Don't know ---

13 Q. --- cabinets or drawers?

14 A. --- if they did or not.

15 Q. In such a type of search where you're responding to a  
16 crime scene is it normal to go through somebody's cabinets  
17 and drawers or do you look mainly ---

18 A. Depends on what the crime is. I mean, if we were  
19 searching for something that would be in drawers, yes. But  
20 for a gunshot, no.

21 Q. So, hypothetically, let's say that marijuana had been  
22 present in the apartment, and it had been hidden in the  
23 drawers, or toilet tank, or the oven, or wherever, ---

24 A. Um-hum (affirmative).

25 Q. --- hypothetically, would it have been found during

DAVID PICONE - CROSS EXAMINATION BY MR. IANUARIO

1 that search or could it have been overlooked?

2 A. Not by me 'cause I didn't look through those things.

3 Q. Is it possible it could have been overlooked,  
4 generally, in one of those types of searches and  
5 hypothetically?

6 A. Most likely not. We usually do thorough searches.

7 Q. Okay. Even going into the toilet tanks for a gunshot?

8 A. Not for a gunshot, no.

9 Q. Okay. Drug cases you would look for stuff like that,  
10 ---

11 A. Yes.

12 Q. --- but in a gunshot you wouldn't be looking in the  
13 toilet tank ---

14 A. Not unless they got shot in the toilet.

15 Q. And he wasn't shot in the toilet?

16 A. (Negative nod).

17 Q. Okay. Did you ever find a bullet hole?

18 A. We did not. On him, I did, but not in the ...

19 Q. Okay. Did you find anything of note relating to the  
20 shooting?

21 A. What do you mean by ...

22 Q. Shell casings, a ---

23 A. No.

24 Q. --- magazine or anything that might possibly be  
25 relevant that hasn't come out yet or you've been asked ---

DAVID PICONE - CROSS EXAMINATION BY MR. IANUARIO

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1 A. Didn't find any of that.

2 Q. Did you notice a smell of burnt gunpowder in the  
3 apartment?

4 A. No.

5 Q. Did you notice a smell of marijuana in the apartment?

6 A. No.

7 Q. So would there have been enough time -- we don't know  
8 whether or not there was marijuana in there, but we do know  
9 that a shooting took place and there was at least enough  
10 time for the smell of the gunpowder to dissipate.

11 A. I would believe so.

12 Q. Nothing further. Thank you for your service.

13 THE COURT: Anything in redirect?

14 MS. SALISBURY: Nothing in redirect.

15 THE COURT: Thank you, Officer Picone. You may step  
16 down.

17 A. Thank you.

18 THE COURT: This might be a good time for us to take a  
19 lunch break. I don't know how long the next witness may be,  
20 but I'm going to let you go to lunch.

21 I'll remind you, again, ladies and gentlemen, you're  
22 not to discuss the case one with another, with anyone else.  
23 Don't let anyone discuss the case with you. Remember the  
24 commitment you've made to these parties, to be fair and  
25 impartial and base your decision when all the evidence is in

1 and what takes place in the courtroom.

2 If you'll be back at 2:00 we'll be ready to start back  
3 with further testimony at that time. Everyone else, please  
4 remain seated while the jury departs for lunch.

5 (Whereupon the jury exited the courtroom at 12:47 pm)

6 **THE COURT:** All right. We'll be at ease til 2:00.

7 (Whereupon court was in recess at 12:48 pm)

8 (End of Volume One of Two)

1 Tuesday, April 10, 2012: (Volume Two of Two):

2 (Whereupon court resumed at 2:10 pm)

3 THE COURT: Ready to proceed, Solicitor?

4 MS. SALISBURY: Yes, Your Honor.

5 THE COURT: If the jury's ready, you can have them come  
6 in, Ms. Sims.

7 (Pause)

8 THE COURT: Yes, ma'am.

9 MS. GORTON: Judge, before the jury comes in, yesterday  
10 when we talked about releasing on bond you said that maybe  
11 you could reconsider it if we got the bondsman here. I  
12 believe that Adam with Catch 22 is here. I also understand  
13 that he posted the bond on both these individuals ---

14 THE COURT: Let's talk about it at the end of the day,  
15 okay? When it becomes an issue, okay?

16 MS. GORTON: All right.

17 THE COURT: Rather than keep the jury waiting now,  
18 we'll wait til the jury leaves today, and I'll be glad to  
19 hear it then, okay?

20 MS. GORTON: Thank you.

21 THE COURT: All right. You can have them come in.

22 (Whereupon the jury entered the courtroom at 2:11 pm)

23 THE COURT: Solicitor, you may call your next witness.

24 MS. SALISBURY: Thank you, Your Honor. The State calls

MARK McCOY - DIRECT EXAMINATION BY MS. SALISBURY

1 Sergeant Mark McCoy. Sergeant, if you would, please come  
2 around and be sworn.

3 MADAME CLERK: Sir, please place your left hand on the  
4 Bible and raise your right hand.

5 Mark McCoy, being duly  
6 sworn testified as follows:

7 MADAME CLERK: Thank you. Please be seated. Please  
8 state your name for the record.

9 MR. McCOY: Mark McCoy.

10 MADAME CLERK: Thank you.

11 Direct Examination by Ms. Salisbury:

12 Q. Sergeant, where do you work?

13 A. I work for the Greenville County Sheriff's Office.

14 Q. In what capacity?

15 A. I'm a sergeant in uniform patrol.

16 Q. And how long have you been a sergeant?

17 A. I've been a sergeant since 2007/2008. So four years  
18 now.

19 Q. And how long have you been with the Sheriff's Office?

20 A. I've been with the Sheriff's Office since 1996.

21 Q. And before that did you have any law enforcement  
22 experience?

23 A. I did. I have twenty-five years total. Before that, I  
24 was in forensics for five and a half years.

25 Q. Now, as a sergeant in -- for uniform patrol, what are

MARK McCOY - DIRECT EXAMINATION BY MS. SALISBURY

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1 your specific responsibilities day-to-day?

2 A. Supervise the deputies on the road, the uniform patrol  
3 deputies, respond to major incidents, paperwork,  
4 evaluations, make sure everything's going good. And we also  
5 read and approve reports that are submitted throughout the  
6 day.

7 Q. Now, were you working in that capacity in June of 2011?

8 A. Yes, I was.

9 Q. Do you remember becoming involved, whether it be  
10 dispatch or another way, responded to the incident involved  
11 in this trial?

12 A. Yes, I do.

13 Q. Would you describe for the jury how you became involved  
14 in the incident?

15 A. I responded when it came out over the radio. And as  
16 part of my duties, the area of town that this happened on,  
17 the east side, is my area of responsibility. When the call  
18 went out, I responded along with the uniform deputies. I  
19 got there a little piece after they did. They arrived  
20 first.

21 Q. And what was happening when you arrived on-scene?

22 A. When I arrived they had a white Jeep Cherokee stopped.  
23 I believe EMS was already there or was pulling in at the  
24 time. And they were -- they were talking to some subjects  
25 there along with one of the victims that had a gunshot wound

1 as we determined later.

2 Q. Now, you've mentioned a lot that you have supervisory  
3 responsibilities, generally. On a type of scene like this,  
4 what are your specific responsibilities?

5 A. I pretty much coordinate everything that happens there.  
6 To determine if we need to notify anybody from our CID unit,  
7 any of the investigators at the time depending on the nature  
8 of the crime and the extent of the injuries to the person.

9 Q. Did you participate in the search of the incident site,  
10 the apartment where the shooting took place?

11 A. I went in there. I don't think I was one of the  
12 initial officers that went up there. I walked up there with  
13 one of the other officers as they briefed me about what was  
14 going on and what we had at the scene, yes.

15 Q. Did you determine whether to call forensics out to the  
16 scene to come process anything that was found on the scene?

17 A. Right. I determined that we did not need them at the  
18 scene.

19 Q. And why did you make that decision?

20 A. We didn't have any evidence there that I believed would  
21 be recoverable that could identify a suspect. The -- from  
22 the information we had, the areas that were touched by the  
23 people that committed the crime were removed by them. The  
24 other areas such as the door at the point of entry didn't  
25 seem to be conducive to any processing, which probably the

MARK McCOY - DIRECT EXAMINATION BY MS. SALISBURY

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1 likelihood of any prints or any evidence being there was  
2 next to nothing.

3 Q. Do you recall determining whether there was any  
4 projectile found inside the house, anything inside that  
5 apartment that might have any value for the investigation?

6 A. We saw nothing. That was what we were looking for. We  
7 looked under couches, even looked in some of the cushions, I  
8 believe, of the couch. And we didn't find anything like  
9 that, no.

10 Q. Did you make contact with anybody in forensics to  
11 direct them to respond in any capacity?

12 A. Personally, I didn't. I made sure that forensics was  
13 notified to go to the hospital, but I don't remember  
14 actually talking to them.

15 Q. And, I believe, a minute ago you mentioned also that  
16 you had contacted an investigator on-scene. Did you make  
17 contact with the investigators in any particular division  
18 about following up with what was discovered on-scene?

19 A. We didn't at this time. No, we did not.

20 Q. Okay. How does that process work?

21 A. As far as contacting ---

22 Q. Yes.

23 A. --- an investigator? Well, like I say, it determines  
24 -- it's determined by the injury of the person and the  
25 extent that they need to get out there, how urgent it is

MARK McCOY - CROSS EXAMINATION BY MS. GORTON

1 that they get on-scene. If it's in the middle of the night  
2 and it's something they can follow up the next morning, then  
3 we let them do that. At this time we had one name. We  
4 didn't have any further leads to go on. So I made the  
5 determination that we'd let them get the case in the morning  
6 when they came in.

7 Q. And what name did you have at that point?

8 A. I believe it was Dawkins, De'Nia Dawkins, I believe,  
9 was the only name that I was given at the time.

10 Q. Okay. Thank you, Sergeant. If you would, answer any  
11 questions these attorneys may have.

12 Cross Examination by Ms. Gorton:

13 Q. I'm not sure if I misheard you, but I thought you said  
14 you didn't get -- send forensics because you understood that  
15 everything that was there to be examined was taken by the  
16 perpetrators?

17 A. That's correct.

18 Q. Well, how did you determine that?

19 A. We learned that a laptop was taken.

20 Q. All right. What about the clip?

21 A. We found no clip in the house.

22 Q. All right.

23 A. In the apartment.

24 Q. So certainly you're not suggesting that anyone said  
25 that they saw the perpetrators take the clip?

MARK McCOY - CROSS EXAMINATION BY MR. IANUARIO

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1 A. We found no clip or magazine in the apartment.

2 Q. Okay. And no one told you that the perpetrators had  
3 taken it?

4 A. No, ma'am.

5 Q. All right. Nothing further.

6 Cross Examination by Mr. IANUARIO:

7 Q. Sergeant, when you were searching the house did you  
8 find any evidence of drug activity?

9 A. I didn't actually conduct the search. I walked  
10 through, but I saw nothing -- no indication of drug  
11 activity, no.

12 Q. Okay. Did you see the officers conducting the search?

13 A. No, I didn't.

14 Q. Okay. Nothing further. Thank you for your service,  
15 sir.

16 **THE COURT:** Any redirect?

17 **MS. SALISBURY:** No, sir.

18 **THE COURT:** Thank you, Officer McCoy. You may step  
19 down. The State may call its next witness.

20 **MS. SALISBURY:** Thank you, Your Honor. The State calls  
21 Investigator Devin Hoover. Investigator, if you would,  
22 please come around and be sworn.

23 **MADAME CLERK:** Please place your left hand on the Bible  
24 and raise your right hand.

25 Devin Hoover, being duly

DEVIN HOOVER - DIRECT EXAMINATION BY MS. SALISBURY

1 sworn testified as follows:

2 MADAME CLERK: Thank you. Please be seated. Please  
3 state your full name for the record.

4 MR. HOOVER: Devin Hoover.

5 Direct Examination by Ms. Salisbury:

6 Q. Investigator, where do you work?

7 A. Greenville County Sheriff's Office.

8 Q. And in what capacity?

9 A. I'm a master deputy assigned to the Criminal  
10 Investigations Division, Armed Robbery Unit.

11 Q. And how long have you worked in the Armed Robbery Unit?

12 A. I've been there about two years.

13 Q. And how long have you been with the Sheriff's Office  
14 all total?

15 A. About five years, eight months.

16 Q. Now, as an armed robbery investigator what are your  
17 specific duties and responsibilities?

18 A. Generally, we're given cases to follow up with, you  
19 know, that happen over the weekend or over the night. We're  
20 usually assigned pretty close to the day afterwards. We  
21 follow up with those cases.

22 Q. Is it your job to investigate and essentially solve  
23 those cases?

24 A. Yes.

25 Q. Okay. Now, were you working in that capacity in June,

DEVIN HOOVER - DIRECT EXAMINATION BY MS. SALISBURY

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1 2011?

2 A. Yes, ma'am, I was.

3 Q. So how was -- how did you become involved in this  
4 particular case?

5 A. Just like I said earlier, I did not respond that night.  
6 I received this case later on to follow up.

7 Q. And how did you begin your investigation?

8 A. I basically started speaking with my -- the different  
9 witnesses, the people involved, everybody that was on the  
10 scene that night, called a couple of the deputies, began to  
11 research the databases that we have available to us just to  
12 kind of gather some preliminary information.

13 Q. Which element of that did you decide to follow up on  
14 first?

15 A. I was able to locate a vehicle that matched the  
16 description given by Mr. Woodard, the victim that night, the  
17 white, four door sedan. I was able to locate one attached  
18 to the name of De'Nia Dawkins, which was also attached to  
19 the name of Juwan Lomax.

20 Q. Now, when you stated that it was attached to the name  
21 of De'Nia Dawkins, what exactly did you -- how did you  
22 connect this white car to De'Nia?

23 A. We have a database available to us. I ran her name,  
24 since it was available from the witness of who was there  
25 that night, and it pulled up a police report where that

DEVIN HOOVER - DIRECT EXAMINATION BY MS. SALISBURY

1 vehicle was pulled over. And it was attached to not only  
2 her name, but through the registration or address, I can't  
3 remember exactly, but to Mr. Lomax.

4 Q. Now, what did you decide to do next after you had now a  
5 second name and a vehicle? What happened next in the  
6 investigation?

7 A. We were able to go to that address where the vehicle  
8 was registered. We were able to speak with Mr. Lomax.

9 Q. Was Mr. Lomax arrested at that time?

10 A. He was taken down.

11 Q. Now, did Mr. Lomax give you a statement as part of an  
12 interview after he was arrested?

13 A. Yes, ma'am.

14 Q. And after that did you speak with -- or what did you do  
15 next in the investigation after you spoke with Juwan Lomax?

16 A. We continued to gather information. I then went to  
17 seek Ms. Dawkins. And I was able to locate her and speak  
18 with her.

19 Q. Had you secured warrants for her arrest at that point?

20 A. I had.

21 Q. And when you located her was she placed under arrest?

22 A. Yes, ma'am.

23 Q. Did she indicate at some point after she was arrested  
24 that she wanted to speak with you or give a statement?

25 A. Yes, ma'am.

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1 Q. Where did that -- where did you speak with her? Where  
2 did that conversation take place?

3 A. We initially located her at County Square. And we  
4 asked her if, you know, that we could go down to the LEC and  
5 speak. And she cooperated fully.

6 Q. During that interview process, after she was arrested,  
7 was she in handcuffs?

8 A. Not during the interview, no, ma'am.

9 Q. Who was present during that interview?

10 A. I was present and Investigator Brandon Brown.

11 Q. Before you spoke with her did you read her her Miranda  
12 rights?

13 A. Absolutely.

14 Q. Did you read them from a form or did you recite them  
15 from memory?

16 A. I read them directly from the form.

17 Q. Did you ensure that Ms. Dawkins read the form?

18 A. Yes, ma'am.

19 Q. I'm going to show you State's exhibit 1. Do you  
20 recognize that document?

21 A. Yes, ma'am, I do.

22 Q. What is that?

23 A. This is the rights form with the waiver of rights.

24 Q. Is that the exact form that you read to Ms. Dawkins  
25 before you interviewed her?

DEVIN HOOVER - DIRECT EXAMINATION BY MS. SALISBURY

1 A. Yes, ma'am, it is.

2 Q. Is your signature on that form?

3 A. Yes, ma'am, my initials. Yes.

4 Q. And what's -- what do your initials on that form mean?

5 Why do you initial the form?

6 A. I initial this that I've explained it to her  
7 completely.

8 Q. Now, did you -- did you have Ms. Dawkins read the form  
9 or did you read it aloud to her?

10 A. I read it aloud to her. And then I have her read it  
11 and I highlight all the areas that I need her to initial  
12 that she understood, which is basically each line of the  
13 whole form. After she initials each line, she is signifying  
14 to me that she has read it and understood it completely.

15 Q. And did she initial beside each of the rights that you  
16 read to her on that form?

17 A. Yes, ma'am.

18 Q. Would you read for the jury what you read to Ms.  
19 Dawkins?

20 A. Before we ask you any questions you must understand  
21 your rights. You have the right to remain silent. Anything  
22 you say can be used against you in court. You have the  
23 right to talk to a lawyer for advice before we ask you any  
24 questions and to have him with you during questioning. If  
25 you have no money to pay a lawyer's fee, the court will

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1 appoint one to represent you without cost if you wish.

2 If you decide to answer questions now without a lawyer  
3 present, you still have the right to stop answering at any  
4 time. You also have the right to stop answering at any time  
5 until you talk to your lawyer.

6 The waiver of rights is at the bottom below that. It  
7 says I have read this statement of my rights. And I  
8 understand what my rights are. I'm willing to make  
9 statements and answer questions. I do not want a lawyer at  
10 this time. I understand and know what I am doing. No  
11 promises, threats have been made to me. And no pressure or  
12 coercion of any kind has been used against me. Which I  
13 highlight coercion. And I explained that to her as tricks  
14 or threats.

15 Q. Did she indicate that she understood what that meant?

16 A. Yes, ma'am.

17 Q. Did she indicate to you after she read that form --  
18 well, I'll start this way. Did she sign that form?

19 A. Yes, ma'am.

20 Q. And did she indicate to you that she wanted to waive  
21 her rights and speak with you and give a statement?

22 A. Yes, ma'am.

23 Q. I'm going to show you State's exhibit 5. Do you  
24 recognize that document?

25 A. Yes, ma'am, I do.

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1 Q. How do you recognize it?

2 A. This is the statement that I typed for her.

3 Q. Does your signature appear on that statement?

4 A. My unit number, I typed it in.

5 Q. Okay. Does that form also contain a waiver?

6 A. Yes, ma'am, at the very beginning.

7 Q. Would you please read for the jury what that -- what  
8 that represents?

9 A. I, De'Nia Dawkins, do hereby freely give voluntarily  
10 this statement to Investigator D.A. Hoover, star number  
11 1029, unit 622, and Investigator Brandon Brown, star number  
12 780, unit 442, who have identified themselves to be deputies  
13 of the Greenville County Sheriff's Office, Greenville, South  
14 Carolina.

15 I have been advised that I do not have to make this or  
16 any other statement and that what I say can be used against  
17 me in a court of law. I have been advised that I have the  
18 right to counsel with an attorney of my choice that I am --  
19 if I am financially unable to obtain an attorney, the court  
20 will appoint one, an attorney to represent me. I have not  
21 been threatened or promised to make any rewards to make the  
22 statement.

23 Q. Did it seem to you that Ms. Dawkins understood her  
24 Miranda rights?

25 A. Yes, ma'am.

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1 Q. Did it appear to you that she wanted to waive those  
2 Miranda rights and ---

3 A. Absolutely.

4 Q. --- give a statement?

5 MS. SALISBURY: Your Honor, at this time I'd move  
6 State's exhibits 1 and 5 into evidence.

7 THE COURT: Any objection?

8 MS. GORTON: No.

9 MR. IANUARIO: Not at all.

10 THE COURT: Without objection, exhibits 1 and 5 are  
11 admitted into evidence ---

12 Q. Investigator, ---

13 THE COURT: --- and may be published.

14 MS. SALISBURY: My apologies, Judge.

15 (Whereupon State's exhibits 1 and 5 were admitted into  
16 evidence)

17 Q. Investigator, have you ever had an occasion to deal  
18 with individuals during the course of your duties at the  
19 Sheriff's Office that were under the influence of alcohol or  
20 drugs?

21 A. Yes, I have.

22 Q. So you know -- do you know what that looks like?

23 A. Absolutely.

24 Q. During this interview did the Defendant appear to be  
25 under the influence of either of these substances?

DEVIN HOOVER - DIRECT EXAMINATION BY MS. SALISBURY

- 1 A. Absolutely not.
- 2 Q. Did she respond clearly to your questions?
- 3 A. Very clearly.
- 4 Q. Did she appear to understand your questions?
- 5 A. Yes, ma'am, she did.
- 6 Q. Was her speech clear?
- 7 A. Yes.
- 8 Q. Did she make sense when she spoke to you?
- 9 A. Very much so.
- 10 Q. Did you verify that she could read and write?
- 11 A. Yes, I did.
- 12 Q. Did you ask her what level of education she had ---
- 13 A. I did.
- 14 Q. And what did she indicate that her education level was?
- 15 A. She notated at the top of her rights form that she was
- 16 a Mauldin graduate of '09 and at Voorhees College, '09
- 17 through '11 and was going to Greenville Tech that Fall.
- 18 Q. Was Ms. Dawkins ever threatened, pressured or coerced
- 19 in any fashion in order to provide that statement?
- 20 A. Absolutely not.
- 21 Q. Was she ever promised any reward in exchange for
- 22 providing that statement?
- 23 A. No, ma'am.
- 24 Q. Was she -- during the course of your interview was she
- 25 ever deprived of food or water?

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1 A. No.

2 Q. Was she allowed to go to the bathroom?

3 A. Absolutely.

4 Q. Did she freely agree to speak with you about this  
5 investigation?

6 A. Yes, she did.

7 Q. Did she freely agree to speak with you without an  
8 attorney being present?

9 A. Yes.

10 Q. Did it ever appear to you during the course of your  
11 interview that she changed her mind and she wished to waive  
12 those rights ---

13 A. No.

14 Q. --- and not speak to you?

15 A. Not at all.

16 Q. Did -- at any point in the interview did she indicate  
17 that she wanted to change her mind and have an attorney be  
18 present?

19 A. No.

20 Q. Now, did -- did you -- I believe you've already said  
21 this, but did you type that statement for Ms. Dawkins?

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

23 Q. Did you give her an opportunity to read over that  
24 statement after you had typed it?

25 A. Yes, ma'am.

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1 Q. Was she given an opportunity to make any corrections to  
2 that statement?

3 A. Yes, ma'am. And actually, the same way I do the waiver  
4 of rights, I also highlight and initial each line of the  
5 beginning of the -- each paragraph and at the very end. And  
6 they handwrite at the bottom -- I have them handwrite  
7 whether that's the truth or not. They have the opportunity  
8 to read this over and tell me if there's any corrections  
9 that need to be made. And we handled that at the time. She  
10 was given an opportunity. And she wrote in here and signed  
11 it as correct.

12 Q. Did she initial as you've described before each  
13 paragraph?

14 A. Yes, ma'am.

15 Q. Did she indicate to you that she wanted to make any  
16 changes to that substance -- the substance of that  
17 statement?

18 A. No, ma'am.

19 Q. How long did your interview with her last?

20 A. An hour, maybe an hour and a half tops.

21 Q. Did it appear to you during the course of that  
22 interview that she understood everything that was going on?

23 A. Absolutely.

24 Q. To the best of your knowledge was her statement freely  
25 and voluntarily given?

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1 A. Yes, ma'am, it was.

2 Q. Would you please read for the jury what the Defendant  
3 said in her statement.

4 A. I, De'Nia Dawkins, do hereby freely give voluntarily  
5 this statement to myself, Investigator Brandon Brown, who  
6 have identified themselves to be deputies of the Greenville  
7 County Sheriff's Office, Greenville, South Carolina.

8 I have been advised that I do not have to make this  
9 statement and that what I say can be used against me in the  
10 court of law. I have been advised that I have the right to  
11 counsel with an attorney of my choice, that if I'm  
12 financially unable to obtain an attorney, the court will  
13 appoint one, an attorney to represent me. I have not been  
14 threatened or promised any reward to make this statement.

15 I am twenty years old. And I reside at 218 West  
16 Dorchester Boulevard. I have a 12 plus 2 years grade  
17 education. And I can read and write. I am not under the  
18 influence of any drugs or alcohol. I am allowing  
19 Investigator Hoover to type this statement for me.

20 On 6/3/2011 after midnight I went to Quadrez Benson's  
21 house. He lives in Taylors off of East North Street. I  
22 think he lives in apartment 23.

23 I had hung out with him a couple of weeks before and I  
24 wanted to go chill with him again and buy some weed to smoke  
25 with him. I had asked Raymond Young to give me a ride to

DEVIN HOOVER - DIRECT EXAMINATION BY MS. SALISBURY

1 Drez's house. Raymond asked if everybody else wanted to go.  
2 Since everybody else wanted to go, I hopped into Juwan's car  
3 with Envy. Envy is Shamika Johnson.

4 Juwan's car is a white, four door. Smoke, Tra'Vis  
5 Ware, Fat-So and Raymond went into -- went in Fat-So's black  
6 Nissan Altima. They were just following us over there.

7 When we got there I said for them to just stay in the  
8 car, and if I decided to stay I would text them. I took  
9 Envy inside with me. I was inside for about five minutes.  
10 And Quadrez was going to go outside with me to break a one  
11 hundred dollar bill for the weed.

12 He got his shoes and we went to the door. Drez's  
13 friends were in the apartment too talking to Envy on the  
14 couch. When I opened the door the door flew open and they  
15 all came in yelling, and I saw Smoke's dreads. It was  
16 Smoke, Fat-So and Raymond. They were wearing all black. I  
17 saw the guns. They were -- they were pistols.

18 I then heard two gunshots. And I took off out the  
19 door. Envy was running around like a chicken. And it  
20 scared her too. I was scared. Then Raymond, Smoke, Fat-So  
21 went running out of the apartment.

22 When we were outside I was crying and screaming on the  
23 ground. Smoke was telling me to get off the ground and get  
24 in the car. So me and Shamika went and got into Juwan's  
25 car. And the other guys got into Fat-So's car, and we left.

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1 I called my mom and told her that they just robbed  
2 Drez, and she was crying. I don't think they included Juwan  
3 because he acted like he didn't know about it. He just  
4 tried to get me to stop crying. Smoke told me afterwards  
5 that I had messed the whole plan up that they had.

6 Drez talked to me afterwards on the phone. And he  
7 thinks I set him up. Drez was so mad and yelling at me,  
8 threatening -- I'm sorry. Was so mad and yelling at me,  
9 threatening me and my family. So I changed my phone number.  
10 This is the whole truth and everything that I know. Signed  
11 De'Nia Dawkins.

12 Q. And on what date was that statement taken?

13 A. 7/22.

14 Q. After you finished that interview and you took Ms.  
15 Dawkins' statement, what happened next in terms of the  
16 investigation?

17 A. We then moved on to locating others involved.

18 Q. Did you arrest the other suspects?

19 A. Yes, we did.

20 Q. Did you take statements from those who wanted to  
21 cooperate?

22 A. Yes, I did.

23 Q. Who all total was charged in this incident?

24 A. We have Josh Cline, Tra'Vis Ware, De'Nia Dawkins, Juwan  
25 Lomax, Raymond Young. I think that's the five total.

DEVIN HOOVER - CROSS EXAMINATION BY MS. GORTON

1 Q. Well, what about Envy? We've heard a lot about Envy  
2 being at the apartment, present. Why wasn't Envy charged?

3 A. We -- first of all, we couldn't get any information.  
4 Nobody was really giving us any kind of information that  
5 would have clued us in that she was involved in the planning  
6 or the carrying out of the robbery. She happened to be  
7 there, but nobody actually involved her in the planning. We  
8 couldn't get that information from anybody.

9 Q. Was there anything else to be done in the investigation  
10 after you made those arrests?

11 A. No, ma'am.

12 Q. Okay. Thank you, sir. If you would, answer any  
13 questions that these attorneys may have for you.

14 Cross Examination by Ms. Gorton:

15 Q. Just to clarify, when you were talking about -- you got  
16 information about her being pulled over.

17 A. Yes, ma'am.

18 Q. You received that on July 18th?

19 A. I would have to go back and look at my report ---

20 Q. Could you ---

21 A. --- to see.

22 Q. You've actually got three reports, I believe, on this  
23 matter. And did you bring your reports with you?

24 A. I do have them at my -- my desk.

25 MS. GORTON: Permission to approach?

DEVIN HOOVER - CROSS EXAMINATION BY MS. GORTON

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1 THE COURT: Yes, ma'am.

2 Q. I'm handing you what I believe to be your second report  
3 dated 7/25. And it starts with a narrative dated 7/18/2011,  
4 is that correct?

5 A. Um-hum (affirmative).

6 Q. Could you take a moment and just read over that real  
7 quick. Just the first bit.

8 (Pause)

9 A. How far do you want me to read it?

10 Q. You've probably gone far enough.

11 A. Okay.

12 Q. Okay. You received information from Drez Benson that  
13 De'Nia had been in jail, is that correct?

14 A. He said that he had heard that that was possible.

15 Q. Advised he had heard that the female suspect, De'Nia,  
16 had been locked up in Greenville County?

17 A. Um-hum (affirmative).

18 Q. Right?

19 A. Yes, ma'am.

20 Q. And when you checked, that wasn't true, was it?

21 A. I did not see that, no, ma'am.

22 Q. Okay. And just so that we're really clear here, when  
23 you checked and you saw that she had been pulled over and  
24 that she was related to this white vehicle, which was also  
25 related to Juwan Lomax, was that for a simple traffic

DEVIN HOOVER - CROSS EXAMINATION BY MS. GORTON

1 infraction?

2 A. I believe so. I don't have the City report. I don't  
3 know exactly.

4 Q. You would need the City report in order to -- did you  
5 -- you reviewed it, right, ---

6 A. It was a traffic ---

7 Q. --- when you looked it up?

8 A. Yes, ma'am.

9 Q. Okay.

10 A. I mean, it was a traffic, but I don't know what it was.  
11 But I know they pulled her over.

12 Q. Improper use of signal, does that sound familiar?

13 A. That could be it.

14 Q. Okay. So she wasn't arrested, was she?

15 A. No, ma'am.

16 Q. And she wasn't even given a ticket, was she?

17 A. No, ma'am.

18 Q. And you had information that when she was pulled over  
19 she freely and voluntarily let them search the car?

20 A. I wasn't there. I don't know about the City's search.

21 Q. Wasn't that indicated in the report?

22 **MS. SALISBURY:** Your Honor, I object. I think the  
23 officer's indicated that he doesn't have any personal  
24 knowledge about what happened on the scene of that traffic  
25 stop.

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1           **THE COURT:** Without a better foundation, I sustain the  
2 objection.

3           **Q.** You said that you reviewed the report and learned that  
4 she was related to the vehicle and Juwan Lomax was related  
5 to the vehicle?

6           **A.** Yes, ma'am.

7           **Q.** That same report, did it reference a search of the  
8 vehicle?

9           **MS. SALISBURY:** Your Honor, I make the same objection.  
10 There's no more foundation being laid down than there were  
11 two minutes ago.

12           **THE COURT:** What's the relevance of this? How does  
13 this relate to this charge, what happened in a search of a  
14 car of ---

15           **MS. GORTON:** It relates to her cooperation, Your Honor.

16           **THE COURT:** Well, I sustain the objection. I ---

17           **MS. GORTON:** All right. We'll move on.

18           **THE COURT:** I fail to see the relevance.

19           **Q.** But just to be clear, she wasn't arrested? It was ---

20           **A.** I don't believe so.

21           **Q.** --- a simple traffic violation?

22           **A.** Yes, ma'am.

23           **Q.** Not even a citation was ---

24           **A.** Yes, ma'am.

25           **Q.** --- issued? You said that you spoke with Juwan Lomax

DEVIN HOOVER - CROSS EXAMINATION BY MS. GORTON

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1 when you were investigating these offenses. You spoke with  
2 Juwan Lomax first and then you spoke with De'Nia Dawkins?

3 A. Yes, ma'am.

4 Q. Was that within a day of each other?

5 A. I believe it was.

6 Q. Would you agree that one was on July 21st and the other  
7 one was on July 22nd?

8 A. Yes, ma'am.

9 Q. And we've heard what her statement was. You took that  
10 statement?

11 A. Her statement, yes, ma'am.

12 Q. And we heard you read that.

13 A. Yes, ma'am.

14 Q. Did you question her about it after she gave the  
15 statement?

16 A. I questioned her during the time she gave her  
17 statement.

18 Q. When she gave her statement did you say, you know what,  
19 we know that's not true? Did you question her in any way?  
20 Challenge her in any way to her statement?

21 A. Of course I always -- I always try to find different  
22 angles. Yes, ma'am.

23 Q. All right. Now, she was giving you information that  
24 you hadn't received from the victims, wasn't she?

25 A. Somewhat, yes, ma'am.

DEVIN HOOVER - CROSS EXAMINATION BY MS. GORTON

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1 Q. She was giving you information that she went there to  
2 buy a bag of pot.

3 A. Yes, ma'am.

4 Q. Now, she didn't have any particular reason to tell you  
5 that, did she? You weren't investigating her for pot.

6 A. No, ma'am.

7 Q. You didn't ask her about pot.

8 A. No, ma'am.

9 Q. So she just gave you that information?

10 A. Yes, ma'am, she volunteered that information.

11 Q. And that's incriminating information, isn't it?

12 A. Yes, ma'am, ---

13 Q. Isn't that a crime ---

14 A. --- it ---

15 Q. --- to go somewhere ---

16 A. Yes, absolutely.

17 Q. Okay. When she gave you her statement did you give her  
18 your card?

19 A. I may have, I don't remember. I usually try to or I  
20 usually give them a way to contact me.

21 Q. Did you say anything to her after you gave her your  
22 card?

23 A. Absolutely.

24 Q. What did you say?

25 A. I told her if I could be of any assistance to her to

**DEVIN HOOVER - CROSS EXAMINATION BY MR. IANUARIO**

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1 call me.

2 Q. Did you also warn her father of anything? Did you say  
3 anything to her father about the danger she was in?

4 A. I never spoke with her father.

5 Q. Did you go to the bond hearing?

6 MS. SALISBURY: Your Honor, I'd object to the relevance  
7 of this line of questioning.

8 THE COURT: I'll overrule it for now. Let me see where  
9 she's going.

10 A. I believe I did go to the bond hearing, but I've never  
11 spoken with her father about it.

12 Q. Do you remember making any comments about the amount of  
13 danger she was in since she's given her statement?

14 A. No, ma'am.

15 Q. You don't recall that?

16 A. No, ma'am, I don't.

17 Q. Did you believe her?

18 A. At the time, yes. Early on, I did.

19 Q. All right. No further questions.

20 THE COURT: Mr. Ianuario.

21 **Cross Examination by Mr. IANUARIO:**

22 Q. In the statement that De'Nia gave she -- I believe she  
23 stated that Juwan acted like he didn't know what was going  
24 on, is that correct?

25 A. Yes, sir.

DEVIN HOOVER - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. Did you ask her any further about Juwan's involvement  
2 at the time of her statement?

3 A. I did. That's about as much as she would give.

4 Q. Okay. At any point in time, or this investigation, or  
5 later on during, or I'm sorry, at the time of this statement  
6 or later on during this investigation did she give any  
7 statements incriminating Mr. Lomax?

8 A. I'm sorry, one more time?

9 Q. At any point in your investigation of this crime did  
10 Ms. Dawkins later give a statement incriminating Mr. Lomax?

11 A. That's the only statement that I have from her.

12 Q. How did you determine that Juwan Lomax had any  
13 involvement in this issue?

14 A. Through basically finding the car and then tracking the  
15 car to his residence where we spoke with him. He provided  
16 us with that information.

17 Q. Okay. And did anything in your investigation show that  
18 he knew about the plan to commit a crime?

19 A. From his statement he did, yes, sir.

20 Q. Okay. And aside from that statement is there anything  
21 else verifying that he had information and he knew what was  
22 going to happen that night?

23 A. Cooperation from other witnesses.

24 Q. Those witnesses being other victims or other co-  
25 defendants?

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1 A. Other co-defendants.

2 Q. Nothing further.

3 A. Thank you, sir.

4 Q. Thank you, Investigator.

5 THE COURT: Any redirect?

6 MS. SALISBURY: Nothing from the State, Judge.

7 THE COURT: All right. Thank you, officer. You may  
8 step down. The State may call its next witness.

9 MS. SALISBURY: Thank you, Your Honor. The State calls  
10 Investigator Mike Fortner. Investigator Fortner, if you  
11 would, please come around and be sworn.

12 MADAME CLERK: Sir, please place your left hand on the  
13 Bible and raise your right hand.

14 Michael Fortner, being  
15 duly sworn testified as follows:

16 MADAME CLERK: Thank you. Please be seated. Please  
17 state your full name for the record.

18 MR. FORTNER: Michael Eugene Fortner.

19 **Direct Examination by Ms. Salisbury:**

20 Q. Investigator Fortner, where do you work?

21 A. At the Greenville County Sheriff's Office.

22 Q. And in what capacity?

23 A. As a robbery investigator in the Criminal Investigative  
24 Division.

25 Q. How long have you been working in armed robbery?

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1 A. Armed robbery, about four and a half years.

2 Q. And how long have you been with the Sheriff's Office?

3 A. About eighteen and a half years.

4 Q. How would you characterize your responsibilities as an  
5 armed robbery investigator?

6 A. Very similar to what Investigator Hoover said. We get  
7 cases assigned to us that occurred the night before. Our  
8 sergeant gets them in. He assigns to us based on our  
9 caseload at the time. And at that time we start  
10 investigating the case and try to figure out who the  
11 suspects are.

12 Q. Is it common for investigators to work together as they  
13 solve their cases?

14 A. Yes, it is.

15 Q. Were you working in that capacity as an armed robbery  
16 investigator in June of 2011?

17 A. Yes, I was.

18 Q. And how do you recall becoming involved in this  
19 particular case?

20 A. Investigator Hoover was working on the case and during  
21 the course of the investigation we developed a vehicle  
22 description. Through the course of the investigation we  
23 learned of a potential location for this vehicle. And we  
24 went to this location, which was over on Welcome Avenue  
25 Extension over there off of White Horse Road and located

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1 this vehicle in an apartment complex.

2 Q. Now, let me stop you right there. We've talked a lot  
3 about this vehicle. I want to be clear, which -- what  
4 vehicle description were you working from?

5 A. We were looking for a white Buick LeSabre if I remember  
6 correctly. Yes, Buick LeSabre, a 1992 Buick LeSabre.

7 Q. Now, when you went to the address to which this white  
8 Buick LeSabre was registered, did you have a search warrant?

9 A. Not at that time, no.

10 Q. Did you secure one at some point?

11 A. Yes.

12 Q. And after -- at some point after you went to that home  
13 was the Defendant, Juwan Lomax, placed under arrest?

14 A. Yes, he was.

15 Q. At some point during that encounter did Mr. Lomax  
16 indicate to you that he wanted to give a statement?

17 A. Yes, he did.

18 Q. Where did you speak with him? Where did that interview  
19 take place?

20 A. It took place in what we call the muster room. It's  
21 located in the basement of the Law Enforcement Center.

22 Q. And who was present for that interview?

23 A. During the course of that interview it was myself,  
24 Investigator Hoover, Investigator Brown, Investigator Ayers.  
25 And then as the investigation was continuing on another

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1 investigator, Wayne Campbell, came in for a few minutes and  
2 then left.

3 Q. Now, during that interview was Juwan Lomax in  
4 handcuffs?

5 A. Yes, he was.

6 Q. Before you spoke with him did you read Mr. Lomax his  
7 Miranda rights?

8 A. Yes, I did.

9 Q. Did you read them from a form or did you recite them  
10 from memory?

11 A. I read them from a form that we use.

12 Q. Did you ensure that Mr. Lomax read the form?

13 A. Well, I read it out loud to him, yes.

14 Q. I'm going to show you State's exhibit 3. Do you  
15 recognize that document?

16 A. Yes, I do.

17 Q. How do you recognize it?

18 A. Well, for one, it's got my signature down at the  
19 bottom, down here. And then whenever I read somebody their  
20 rights, whoever it is that I'm reading their rights to, I  
21 list their information up here in the corner.

22 Q. How did you ensure that the Defendant read those or  
23 understood those?

24 A. I read each line as you can see it on here one by one  
25 out loud to whoever it is I'm reading their rights to. Then

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1 as I read each line, I have that individual place his  
2 initials out to the side of it, which as I tell them  
3 indicates to me and them both that they do understand that  
4 particular line.

5 Q. Did you have him sign the form?

6 A. I did, yes.

7 Q. Is that the exact form that you read to Juwan Lomax the  
8 day of his interview?

9 A. Yes, it is.

10 Q. Would you please read for the jury what you read to  
11 Juwan Lomax.

12 A. It says before we ask you any questions you must  
13 understand your rights. You have the right to remain  
14 silent. Anything you say can be used against you in court.

15 You have the right to talk to a lawyer for advice  
16 before we ask you questions and to have him with you during  
17 questioning. If you have no money to pay a lawyer's fee,  
18 the court will appoint one to represent you without cost if  
19 you wish.

20 If you decide to answer questions now without a lawyer  
21 present, you will still have the right to stop answering at  
22 any time. You also have the right to stop answering any  
23 time until you talk to a lawyer.

24 Q. And did you -- did you -- how did you go -- line by  
25 line and have the Defendant initial?

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1 A. Right. For example, after I read the first line,  
2 before we ask you any questions, you must understand your  
3 rights, I would have him at that time place his initials  
4 next to that line. Indicates that we went over it and that  
5 he understood it.

6 Q. Now, I believe Investigator Hoover mentioned that he  
7 placed particular emphasis on this coercion word. Do you  
8 engage in the same sort of explanation with a person that  
9 you're interviewing about what coercion is and what it  
10 means?

11 A. Yes, ma'am, I do.

12 Q. How did you explain or how do you recall explaining it  
13 to Mr. Lomax that day?

14 A. The same way I do with anybody else. I just basically  
15 say that coercion is basically another word for pressure, I  
16 ain't telling them that if they don't talk to me I'm going  
17 to do something to somebody in their family or pry your  
18 fingernails off or anything like that.

19 Q. Okay.

20 A. I mean, after I explain that word to them I always have  
21 them place their initials next to it. That way I know that  
22 I did, in fact, explain that word to them.

23 Q. Did the Defendant indicate to you that he understood  
24 his Miranda rights?

25 A. Yes, he did.

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1 Q. After going over that form with him did he indicate to  
2 you that he wanted to waive those rights and give a  
3 statement?

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

5 Q. How did he give you that indication?

6 A. Once I read the waiver of rights portion down here to  
7 them, explain the word coercion, I ask them, you know, if  
8 you're willing to talk to me without an attorney being here,  
9 I need them to sign their name here. And normally I also  
10 have them print their name underneath their signature for  
11 me.

12 Q. Just to be clear, could you read for the jury that  
13 waiver paragraph. I don't know if we got to that part  
14 earlier.

15 A. Sure. It says I have read this statement of my rights.  
16 And I understand what my rights are. I am willing to make a  
17 statement and answer questions. I do not want a lawyer at  
18 this time. I understand and know what I am doing. No  
19 promises or threats have been made to me. And no pressure  
20 or coercion of any kind has been used against me.

21 Q. Did it appear to you that Mr. Lomax understood his  
22 rights?

23 A. Yes, it did.

24 Q. Did it appear to you that he wanted to waive those  
25 rights and give a statement?

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1 A. Yes, it did.

2 (Whereupon State's exhibit 13 was marked for  
3 identification)

4 Q. All right. Investigator, I'm going to show you State's  
5 exhibit 13. Do you recognize that document?

6 A. Yes, I do.

7 Q. What is it?

8 A. This is the statement that Mr. Lomax gave me after I'd  
9 got done reading him his rights.

10 Q. Now, before we get into the meat of that statement I'll  
11 ask you the same questions I asked Investigator Hoover.  
12 Have you ever had an occasion to interact with individuals  
13 who were under the influence of alcohol or drugs?

14 A. Yes, I have.

15 Q. Do you know what that looks like?

16 A. Yes.

17 Q. Did it appear to you that Mr. Lomax was under the  
18 influence of either of those substances?

19 A. No, he did not.

20 Q. Did he appear to understand your questions?

21 A. Yes.

22 Q. Did he respond clearly to your questions?

23 A. Yes, he did.

24 Q. Was his speech clear?

25 A. Yes, it was.

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1 Q. Could you understand the sentences that were coming out  
2 of his mouth?

3 A. Yes, I could.

4 Q. Did you verify that he could read and write?

5 A. I did.

6 Q. How did you verify that?

7 A. Back on the waiver of rights, after I get done reading  
8 them their rights, this fourth line down here is a line I  
9 always use. I always ask them to read this line out loud to  
10 me. And once they read the line out loud to me, I know that  
11 they can read. And I always have them sign their name after  
12 that line, which just indicates to me that they did read  
13 that line out loud to me.

14 Q. Did you ask him what his level of education was?

15 A. Yes, I did.

16 Q. What did he indicate was his education level?

17 A. Eleventh grade at Carolina High School.

18 Q. During the course of your interview was the Defendant  
19 ever threatened, coerced or pressured in any way to provide  
20 a statement?

21 A. No, he was not.

22 Q. Was he ever promised a reward in exchange for giving a  
23 statement?

24 A. No, ma'am, he was not.

25 Q. Was he ever deprived of food or water during the

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1 interview?

2 A. No.

3 Q. Was he ever deprived of the opportunity to go to the  
4 bathroom?

5 A. No, he was not.

6 Q. Did he freely agree to speak with you about the  
7 investigation in this case?

8 A. Yes, he did.

9 Q. Did he freely agree to speak with you without an  
10 attorney being present?

11 A. Yes.

12 Q. Did it appear to you that at any point during the  
13 interview he wished to instead invoke his rights and remain  
14 silent or to have an attorney be present?

15 A. No, he did not.

16 Q. Did he ultimately give you his statement?

17 A. Yes, he did.

18 Q. Did you type it up for him or did you have him  
19 handwrite it?

20 A. I typed it.

21 Q. Did you give him an opportunity to review the statement  
22 after you had prepared it for him?

23 A. Yeah. Whenever I take a statement from somebody I  
24 always hand them the statement and ask them to read over it.  
25 I explain to them that if there's anything in it, they don't

1 like the way it sounds, if it's not right, if there's  
2 anything about it at all that they want changed, let me know  
3 and we'll go in and we'll change it.

4 Q. Did he indicate to you that he wanted to make any  
5 changes at all to the statement?

6 A. He did not, no.

7 Q. Did you have him initial before and after each  
8 paragraph the way we heard about with Ms. Dawkins?

9 A. Yes.

10 Q. And why do you do that?

11 A. That would -- that tells me that they read it, each  
12 paragraph individually. I always have them initial the  
13 first -- the first word and the last word of each paragraph.  
14 And that just tells me that they read over it, and they  
15 understood their statement and they did not want to make any  
16 changes to it.

17 Q. And is your -- does your signature appear on State's  
18 exhibit 13?

19 A. Yes, it does.

20 Q. Okay. And what does it mean that your signature's on  
21 that form?

22 A. I'm signed as a witness.

23 Q. Okay.

24 MS. SALISBURY: Your Honor, at this time I'd offer  
25 State's exhibits 5 and 13.

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1 THE COURT: Is that exhibit 5 or 3?

2 MS. SALISBURY: I apologize, Judge. It is 3.

3 THE COURT: 3 and 13?

4 MS. SALISBURY: I apologize.

5 THE COURT: Any objection?

6 MR. IANUARIO: No objection, Your Honor.

7 MS. GORTON: No objection.

8 THE COURT: Without objection, exhibits 3 and 13

9 admitted into evidence.

10 (Whereupon State's exhibits 3 and 13 were admitted into  
11 evidence)

12 Q. How long did the entire interview with Mr. Lomax last?

13 A. I read him his rights. We started going -- with the  
14 waiver of rights at approximately 12:50 in the afternoon.

15 So about ten minutes til one in the afternoon. And then we  
16 start actually typing the statement out at approximately --  
17 almost 4:00, five minutes til four is when we started typing  
18 over the statement.

19 Q. And what has happened before that typing process  
20 begins? What's going on before you actually start to put  
21 ink to paper?

22 A. The interview, going over everything that took place.

23 Q. And at any -- during that interview process was -- did  
24 you guys take breaks?

25 A. I'm sure we did, yes. Three hours, I'm sure we did,

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1 yes.

2 Q. Well, if the Defendant, if Juwan had asked for a break  
3 would you have stopped and allowed him the opportunity to  
4 have a break?

5 A. Yeah, plus the interview -- the actual interview and  
6 the talking took place in the muster room. For me to do the  
7 typing of the report we would have actually had to gone back  
8 to my office to my desk where my desk is at and the  
9 computer. So that would have given us an opportunity to  
10 take a break if he needed to use the restroom, was thirsty,  
11 anything like that.

12 Q. During the interview process did it appear to you that  
13 Mr. Lomax understood what was going on?

14 A. Yes, he did.

15 Q. To the best of your knowledge was his statement freely  
16 and voluntarily given?

17 A. It was, yes.

18 Q. Did he sign that statement after he had a chance to  
19 review it?

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

21 Q. Would you please tell the jury what Mr. Lomax said in  
22 his statement.

23 A. It says about a month ago I and two other people were  
24 in my car, in the other car was three other people. I don't  
25 know what the other -- others real names are. One of the

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1 people in the car is the True Disciple of the G's.

2 We went to some apartments in Taylors. I don't  
3 remember where they are. I just drove. We went over there  
4 to try to get a lick. It was one of the people in my car's  
5 idea.

6 We all went over there and two people in my car went  
7 into the house. And then the others got out of the other  
8 car. It was supposed to be like a set-up.

9 It was three people that went inside to do the robbery.  
10 They went in about ten to fifteen minutes after the first  
11 two went inside. They went inside and the first two came  
12 outside and they got in my car. We then left. That was it.

13 They were talking about how they came up inside the  
14 house. They were talking about how they hoped the dude got  
15 shot. I told them that I heard the shot. One person was  
16 saying something about somebody was in there shooting.

17 When we left from there we went to someone else's  
18 house. I think that person lives in a trailer park on Old  
19 Grove Road.

20 Q. I just have one additional question about the substance  
21 of that statement. I believe what you read is that Juwan  
22 said something about it being a lick?

23 A. Yes.

24 Q. Does that -- does that expression have any significance  
25 to you? Do you know what that means?

MICHAEL FORTNER - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes. That's -- doing a lick is street jargon for doing  
2 a robbery.

3 Q. And how do you know that?

4 A. From experience, from talking to people, the people  
5 I've talked to over my years of investigations.

6 Q. Is it common for the people that you interview to refer  
7 to robberies as licks?

8 A. Yes.

9 Q. Now, after you -- after you took Lomax's statement did  
10 you have any other role in the investigation of the case?

11 A. At that point, no, ma'am.

12 Q. Okay. All right. Thank you, Investigator. If you  
13 would, answer any questions these attorneys may have for  
14 you.

15 Cross Examination by Ms. Gorton:

16 Q. Sorry, Detective Fortner, I only have a couple. Were  
17 you present for the other statements?

18 A. The one with Ms. Dawkins?

19 Q. Yes.

20 A. I'm in and out of the office, but actually sitting down  
21 participating in it, no.

22 Q. Actually, from what I understand, you didn't talk to  
23 her in the muster room, did you?

24 A. No, in the ---

25 Q. Let me rephrase that. The people talking to her

MICHAEL FORTNER - CROSS EXAMINATION BY MS. GORTON

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1 weren't talking to her in the muster room, to the best of  
2 your knowledge?

3 A. To the best of my knowledge, no. I believe it was at  
4 Investigator Hoover's desk.

5 Q. Okay. And that's where I was going with this,  
6 Investigator Hoover's desk. You guys are kind of like in  
7 cubicles, right?

8 A. Well, they're not really cubicles, they're just desks.  
9 No, they're not even -- they're desks. They've got kind of  
10 like a -- like a shelving in front of us where we sit at,  
11 they kind of got some cabinets up on top of, but they're not  
12 actually cubicles or anything, no.

13 Q. You don't get your own office?

14 A. No. No.

15 Q. You don't even get your own cubicle?

16 A. No, there's actually five of us actually in this one  
17 room.

18 Q. Okay. But you don't remember if you were there, in and  
19 out, you weren't paying attention?

20 A. I was not paying any attention, no.

21 Q. Okay. How about Smoke's statement? That would be  
22 Tra'Vis or Tra'Vis Ware.

23 A. We did have a meeting with him, yes.

24 Q. And you were there for that?

25 A. I was, yes.

**MICHAEL FORTNER - CROSS EXAMINATION BY MR. IANUARIO**

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1 Q. When was that?

2 A. The exact date, I don't remember.

3 Q. Okay. Well, how about a general date? You got a  
4 statement from Mr. Lomax on July 21st, right?

5 A. We did, yes.

6 Q. And you're involved in this case enough to know that  
7 the statement from Ms. Dawkins came July 22nd, right?

8 A. Right.

9 Q. Okay. Well, when did you get the statement from Smoke?

10 A. It was a few months, I would say, at least afterwards.

11 Q. Quite a bit after?

12 A. Yes.

13 Q. How about Joshua Cline, also known as Fats?

14 A. Um-hum (affirmative). Now, that one I didn't  
15 participate in. So I don't know when that one happened.

16 Q. Have you learned when it happened based on the reports?

17 A. No, I have not.

18 Q. All right.

19 MS. GORTON: No further questions.

20 **Cross Examination by Mr. IANUARIO:**

21 Q. When Juwan was taken in, picked up after that search  
22 warrant and taken in, what was his mother's reaction?

23 A. His mother had -- I'm not a doctor or anything, but I  
24 would say like a panic attack. We were there placing him  
25 under arrest and doing a search warrant. So we had to call

MICHAEL FORTNER - CROSS EXAMINATION BY MR. IANUARIO

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1 EMS out for her. And they transported her to the hospital.

2 Q. All right. Did he seem concerned about his mother  
3 during this time?

4 A. Yes, he was concerned. Yes.

5 Q. Noticeably concerned?

6 A. Yes.

7 Q. Did he ask about her?

8 A. Yes, he did.

9 Q. Did he ask when he could see her?

10 A. He did, yes.

11 Q. And what was the answer to that?

12 A. My answer to him was whenever you get out of jail. I  
13 mean, he was wanting to go see her right then and there,  
14 which I couldn't do. He was under arrest at that time.

15 Q. Okay. Now, you said he gave a statement. Did he say  
16 why he was giving a statement?

17 A. He did not say why, no, sir.

18 Q. And if I understood correctly, that statement was taken  
19 in the muster room?

20 A. Well, the interview part of it took place in the muster  
21 room, yes. The actual typing of the statement took place  
22 where our office is at, which is still in the basement.  
23 It's just in a different room.

24 Q. Okay. And you said Investigators Hoover, Fortner,  
25 Brown and Ayers were present?

MICHAEL FORTNER - CROSS EXAMINATION BY MR. IANUARIO

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1 A. Yes, sir. And then at one point another investigator,  
2 Wayne Campbell, came in for a little bit.

3 Q. Okay. Is Investigator Brown in the courtroom today?

4 A. Yes, he is.

5 Q. And would that be ---

6 A. There he is.

7 Q. --- him walking in right now?

8 A. Yep, he walked right in. Yes.

9 Q. And we had Investigator Hoover, ---

10 A. Correct.

11 Q. --- and yourself?

12 A. Yes, sir.

13 Q. No offense, but pretty kind of scary looking guys in  
14 the basement?

15 A. Well, I mean, it's a lighted basement. I mean, it's  
16 not a dungeon.

17 Q. Okay. But you all were present for that?

18 A. Yes, sir.

19 Q. Can you tell me a little bit about the process of  
20 taking this statement? Was it taken as soon as he starts  
21 talking and you write it down or do you kind of go over some  
22 details and flush out what needs to be said?

23 A. This case here, we -- it was a pretty in-depth case.  
24 We talked to him, took down some notes and what he had to  
25 say and everything, maybe questioned him about different

MICHAEL FORTNER - CROSS EXAMINATION BY MR. IANUARIO

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1 parts of his statement that he gave us the information on.

2 Q. Okay. So roughly you interview him for three hours,  
3 you agree upon what's to be said and then type that up into  
4 the statement?

5 A. Well, agreed upon what he says, yes, sir.

6 Q. Okay. Did he ever attempt to retract his statement?

7 A. My understanding is he did, yes.

8 Q. Okay. Do you know in what way he tried to retract his  
9 statement?

10 A. Afterwards, I'm not sure how many months, or weeks, or  
11 how long exactly, but I know he wrote up some letters. I  
12 don't know if it was his attorney or who it was, and they  
13 had them sent out to people, yes.

14 Q. Okay. Have you seen a copy of that letter?

15 A. I have seen a copy of it, but I never did read it. But  
16 I've seen a copy of it, yes.

17 Q. So you didn't read a letter that was retracting a  
18 previous statement in an investigation that you're  
19 conducting?

20 A. Well, it's actually Investigator Hoover's case. So he  
21 showed me that he had the letter. And that was enough for  
22 me.

23 Q. Okay. I want to clear up one thing in the statement  
24 you read onto the record. Would you please re-read the  
25 sentence referring to the Disciple of the G's. It was

MICHAEL FORTNER - CROSS EXAMINATION BY MR. IANUARIO

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1 unclear which car he was in.

2 A. All right. It says in the other car was three other  
3 people. I don't know what the others real names are. One  
4 of the people in the other car is the True Disciple of the  
5 G's.

6 Q. Okay. So the True Disciple was in the other car and  
7 not Juwan's?

8 A. Correct. Yes, sir.

9 Q. Okay. I just didn't think that was read in clearly the  
10 first time. Maybe I missed it. Were you present for the  
11 statement of Tra'Vis Ware?

12 A. I was present for that, yes.

13 Q. Okay. Were you present for the statement of Joshua  
14 Cline?

15 A. I was not.

16 Q. Okay. Aside from the statement that Mr. Lomax gave,  
17 which he later attempted to retract, what other evidence do  
18 you have that he was a part of this plan, that he knew about  
19 it beforehand?

20 A. As far as I know, with this being Investigator Hoover's  
21 case, just his own statement.

22 Q. Okay. But no concrete smoking gun type of forensic  
23 evidence, just basic statements?

24 A. No, sir. No.

25 Q. Nothing further. Thank you, Investigator.

BRANDON BROWN - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. Yes, sir.

2 THE COURT: Any redirect?

3 MS. SALISBURY: No redirect, Your Honor.

4 THE COURT: All right. Thank you, officer. You may  
5 step down. Can I see the attorneys here just for a moment?

6 MS. SALISBURY: Yes, Your Honor.

7 (Whereupon a bench conference was held off the record  
8 in the presence of the jury, but out of their hearing)

9 THE COURT: Solicitor, you may call your next witness.

10 MS. SALISBURY: Thank you, Your Honor. The State calls  
11 Investigator Brandon Brown. Investigator Brown, if you  
12 would, please, come around and be sworn.

13 MADAME CLERK: Sir, please place your left hand on the  
14 Bible and raise your right hand.

15 **Brandon Brown, being duly**  
16 sworn testified as follows:

17 MADAME CLERK: Thank you. Please be seated. Please  
18 state your full name for the record.

19 MR. BROWN: Brandon Brown.

20 Direct Examination by Ms. Salisbury:

21 Q. Investigator Brown, where do you work?

22 A. Greenville County Sheriff's Office.

23 Q. And how long have you been with the Sheriff's Office?

24 A. Just shy of ten years.

25 Q. And what is your capacity with the Sheriff's Office?

BRANDON BROWN - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. I am a master deputy within the gang unit. And I am  
2 also assigned to the FBI Gang Task Force.

3 Q. Now, what are your responsibilities as an investigator  
4 with gang investigations?

5 A. As a gang investigation we're responsible for all types  
6 of gang activity, whether it be retroactive or proactive.  
7 In the case we're specifically talking about, other  
8 investigators that are lead investigators would call on us  
9 for our knowledge of the streets or knowledge of monikers or  
10 nicknames of individuals to where we can help guide them in  
11 specific directions.

12 And we're responsible for day-to-day interviews of  
13 various gang members. We're responsible for various  
14 different types of investigations involving gang crimes to  
15 include anything from public disorderly conduct to murder.  
16 It covers the entire gambit of anything that has anything to  
17 do with gang members evolving within Greenville County or  
18 also within the seventeen counties in the upstate, which the  
19 FBI and the upstate covers.

20 Q. And how do you remember becoming involved in this  
21 particular case?

22 A. I was contacted by both Master Deputy Fortner and  
23 Master Deputy Hoover in reference to a case that had  
24 possible gang affiliations or gang ties in it just based on  
25 the specific acts that were committed.

BRANDON BROWN - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Now, after these investigators relayed to you what they  
2 knew about the case, what made you think that this crime was  
3 gang related?

4 A. Using specific terms as licks, as what you heard  
5 earlier, are more of the type of crimes that are committed  
6 by gang members these days versus in the 80s and 90s drug  
7 dealing was very big with gang members. However, they found  
8 that it was a lot easier to get caught and a lot easier to  
9 get sentenced doing drug crimes.

10 So they started going towards more of what you just  
11 heard was licks. Committing robberies, committing other  
12 types of violent crimes to where they can get away with a  
13 little bit more bang for their buck, if you will, and harder  
14 chances of being caught.

15 Q. And based on what you've learned through your training  
16 and experience, was there anything in particular about this  
17 case that seemed to indicate that the suspects may be gang  
18 members other than it just being a robbery?

19 A. Initially, once I first got involved in it it was some  
20 names that I had not been involved in until I heard the name  
21 of True Disciple Raymond that was brought up later in a --  
22 later in an interview, which kind of tied some of the pieces  
23 together.

24 However, the specific act of as many people as we were  
25 talking about going into the residence and the people that

BRANDON BROWN - DIRECT EXAMINATION BY MS. SALISBURY

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1 were kind of the set-up parties to that is very common with  
2 the types of gang related robberies we're seeing in the  
3 upstate area. We started seeing to where females were being  
4 more and more involved in the gang activity and the males  
5 were coming in doing the strong hand work, if you will.

6 Q. Now, how did you initially -- once you became apprized  
7 of what -- what the investigators knew about the case and  
8 then they relayed that information to you, what did you do  
9 to start assisting in the investigation?

10 A. When I first got involved in the case I was advised of  
11 the white sedan that you heard of earlier that had  
12 significant -- significant items on it. I believe there was  
13 a duct tape area on the back window where it was possibly  
14 damaged and that it was possibly -- belonged to Juwan Lomax.

15 I was asked to assist in looking in the area of Welcome  
16 Avenue Extension for that vehicle. When that vehicle was  
17 located we kept eyes on the vehicle.

18 I kind of have a different role. I'm in a -- as you  
19 can tell, I'm dressed down a little bit more than uniform  
20 deputies do. I drive a regular looking vehicle, and I wear,  
21 you know, t-shirt and jeans to work every day. So I can  
22 kind of fit in in some areas where other -- other  
23 investigators can't.

24 We laid eyes on that vehicle until the search warrant  
25 arrived for that vehicle at which time I assisted both

BRANDON BROWN - DIRECT EXAMINATION BY MS. SALISBURY

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1 Master Deputy Fortner and Master Deputy Hoover -- Master  
2 Deputy Hoover with attempt of the search warrant on that  
3 location.

4 Q. In addition to the execution of the search warrant were  
5 you present when Juwan Lomax was arrested?

6 A. Yes, I was.

7 Q. Did you take part in the interview that we've heard  
8 about where -- that yielded the statement -- the statement  
9 that's contained in State's exhibit 13?

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

11 Q. Do you recall being present while Mr. Lomax was read  
12 his Miranda rights?

13 A. Yes, ma'am, I do.

14 Q. Did it appear to you at that time that he understood  
15 his Miranda rights?

16 A. Absolutely, yes, ma'am.

17 Q. Did it appear to you that he wished to waive those  
18 rights and provide that statement?

19 A. He did not make any intention at all to waive those  
20 rights whatsoever or, excuse me, to ask for counsel or  
21 anything. He did waive his rights.

22 Q. Were you present when he was given an opportunity to  
23 review that statement and make any corrections to it?

24 A. Yes, I was.

25 Q. Were you also present -- well, how about this. Do you

BRANDON BROWN - DIRECT EXAMINATION BY MS. SALISBURY

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1 know after -- after that time, after that interview, when  
2 was Ms. Dawkins arrested?

3 A. I believe it was -- that whole time period was very  
4 back-to-back time period. I believe it was shortly the next  
5 day, if not later that day. I'm not exactly sure.

6 Q. Were you present for her arrest?

7 A. Yes, I was.

8 Q. Okay. Were you also present during her interview where  
9 Investigator Hoover took her statement?

10 A. Yes, ma'am, I was.

11 Q. Do you recall being present when she was read her  
12 Miranda rights?

13 A. Yes, ma'am, I do.

14 Q. Did it appear to you at that time that she understood  
15 her rights?

16 A. Yes, she did.

17 Q. Did it appear to you that she wanted to waive those  
18 rights and give a statement?

19 A. Yes, ma'am.

20 Q. Again, were you present when she was given an  
21 opportunity to review that statement and make any  
22 corrections?

23 A. Yes, ma'am, I was.

24 Q. After that statement was given what did you do to  
25 assist in the -- in this particular investigation?

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 A. Based on the statements that were given, more names  
2 were coming out that I was more familiar with in the gang  
3 world and with other previous investigations and things that  
4 we've been involved with, interviews and so on and so forth.  
5 So it gave me a little more avenue to direct the other  
6 investigators to possible individuals involved. From that  
7 point on, because I'd already gotten involved in the  
8 investigation at such an early point, I was nothing but an  
9 assisting tool to both the master deputies involved in this.

10 Q. Did you assist them in locating the other suspects?

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

12 Q. After all of the suspects in this case were arrested  
13 and interviewed did you have any other involvement in the  
14 investigation?

15 A. Not this one, no, ma'am.

16 Q. All right. Thank you, sir. And answer any questions  
17 these attorneys may have for you.

18 A. Yes, ma'am.

19 Cross Examination by Ms. Gorton:

20 Q. In your report, and I'll reference the one date 8/26, I  
21 believe.

22 MS. GORTON: May I approach, Judge?

23 THE COURT: You may. She needs to pick up what you're  
24 saying for the court reporter, please ---

25 MS. GORTON: I was just giving him guidance as to ---

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

- 1 THE COURT: Okay.
- 2 A. You're just wanting this paragraph?
- 3 Q. Just read over it.
- 4 A. Okay.
- 5 (Pause)
- 6 A. Okay.
- 7 Q. Okay. Do you specialize in the Gang Task Force?
- 8 A. Specialize as in how?
- 9 Q. Well, are you assigned to the Gang Task Force?
- 10 A. Yes, ma'am, I am.
- 11 Q. And how long have you been assigned there, specifically
- 12 Gang Task Force?
- 13 A. Specifically FBI Gang Task Force or ...
- 14 Q. Specifically Gang Task Force.
- 15 A. I've been working gangs for seven years.
- 16 Q. All right. So this group, Folk Nation, do you know
- 17 them by other names?
- 18 A. The group or the -- I'm not understanding where you're
- 19 going with this.
- 20 Q. Do you know about Growth and Development?
- 21 A. I do, yes, ma'am.
- 22 Q. What do you know about Growth and Development?
- 23 A. Growth and Development was originally started in
- 24 Chicago by Larry Hoover as a means of hiding the word
- 25 Gangster Disciple. Gangster Disciple is a subset of the

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 Folk Nation, which originally started in Chicago, which is  
2 where our gangs in Greenville are tied to, directly to  
3 Chicago. Growth and Development was nothing more than a  
4 means of covering up the dirty name that Gangster Disciples  
5 had developed trying to get it more appeared to younger  
6 children as had previously been done by several other gangs  
7 throughout the Country.

8 Q. And specifically that was done in 1993 by Larry Hoover.  
9 As you said, he was trying to get parole, correct?

10 A. No, ma'am, that wasn't in '93. But he was trying to  
11 develop that to give a better means to the gang. Yes, he  
12 was trying to do that.

13 Q. And his goal was to lure children that they hadn't  
14 otherwise been able to lure, is that correct?

15 A. That's what the image was, yes, ma'am.

16 Q. And in Growth and Development it was promoted, what it  
17 actually was, I'm not asking you about, I'm asking about how  
18 it was promoted. It was promoted as a positive  
19 organization, wasn't it?

20 A. Originally, yes, ma'am.

21 Q. Yes, it was. And, in fact, that organization had a  
22 huge emphasis on music, didn't it? It had a charity label.

23 A. Most gangs do, yes, ma'am.

24 Q. I'm asking you about Growth and Development.

25 A. Growth and Development, yes, ma'am.

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 Q. I'm not asking you -- I'm asking you about Growth and  
2 Development. They do still promote it as a positive thing,  
3 don't they?

4 A. They attempt to, yes, ma'am.

5 Q. And when we say they, who are we talking about?

6 A. The some estimated fifteen thousand Growth and  
7 Development or Gangster Disciple members throughout the  
8 Country.

9 Q. Now, Gangster Disciples, you admit, that Growth and  
10 Development is their front, correct?

11 A. Yes, ma'am.

12 Q. And Gangster Disciples are the ones who represent  
13 Growth and Development as being a positive organization,  
14 correct?

15 A. Yes, ma'am.

16 Q. And they don't represent it just to you, do they?

17 A. I don't understand the question.

18 Q. Gangster Disciples doesn't seek you out and say this is  
19 how we're going to represent Growth and Development, it's  
20 widely promoted that way, isn't it?

21 A. One of their rules is to not talk to law enforcement.  
22 We have to get information directly from them behind lines,  
23 if you will.

24 Q. So you've never infiltrated them?

25 A. No, ma'am, I have not.

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. And -- but my question was was that Gangster  
2 Disciples, we'll call them the bad guys, you'd agree, ---

3 A. Okay.

4 Q. --- wouldn't you?

5 A. Yes, ma'am.

6 Q. Gangster Disciples are the ones who commit crimes, they  
7 commit these drug rings, they do the robberies that you were  
8 talking about, is that correct?

9 A. Yes, ma'am.

10 Q. And more and more these days instead of taking the  
11 stolen goods down to pawn shops, they're selling the things  
12 on Ebay, correct?

13 A. That is one of the ways they get rid of things, yes,  
14 ma'am.

15 Q. Partly because law enforcement has gotten so good about  
16 tracing things through pawn shops, right?

17 A. We like to think so.

18 Q. All right. But Growth and Development puts out  
19 information or Gangster Disciples, the bad guys, puts out  
20 information on the internet, in other places about Growth  
21 and Development, correct?

22 A. I ---

23 Q. You've seen, haven't you, in your research?

24 A. I have, yes, ma'am.

25 Q. And in some of those sites there's no reference to

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 crime or Gangster Disciples or any of that. They're  
2 promoting it as a good thing.

3 A. No, ma'am, that's actually incorrect.

4 Q. Are there some sites that are out there like that?

5 A. Any time that you see the term Growth and Development  
6 as it relates to Folk Nation and Gangster Disciples, there's  
7 always ties that directly relate it to Folk Nation and  
8 Gangster Disciples.

9 Q. Oh, I understand that. But you're a gang expert,  
10 correct? You know that Gangster Disciples and Growth and  
11 Development are one in the same, correct?

12 A. Yes, ma'am.

13 Q. But for somebody doing internet research, aren't there  
14 sites and information out there representing that Growth and  
15 Development is nothing more than a good, positive, civic  
16 organization?

17 A. Are you asking my opinion or are you ---

18 Q. No, I'm asking for fact. Have you seen those  
19 promotions out there that do not disclose that they are part  
20 of Gangster Disciples?

21 A. To an aspect, to an untrained eye, I guess you could  
22 possibly say that.

23 Q. To an untrained eye..

24 A. (Affirmative nod).

25 Q. Do you have any idea how much gang involvement De'Nia

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 Dawkins had prior to June with Gangster Disciples?

2 A. Once again, are you asking my opinion or -- I can't --

3 I can't give an opinion of ---

4 Q. In your investigation did it reveal that she had any  
5 association with Growth and Development prior to May, 2011?

6 A. I had no knowledge of it.

7 Q. Have you looked over all the investigation of this  
8 case?

9 A. Yes, ma'am, I have.

10 Q. And through all that investigation of the case, you've  
11 not seen anything that puts her with Growth and Development  
12 prior to May of 2011?

13 A. Not to my knowledge, no, ma'am.

14 Q. Now, you know something about this particular gang,  
15 correct?

16 A. Yes, ma'am, I do.

17 MS. GORTON: May I approach?

18 THE COURT: You may.

19 Q. What is this?

20 MS. SALISBURY: Your Honor, I'd ask before the attorney  
21 ask questions she'd mark the exhibit.

22 THE COURT: All right. Could you have that marked or  
23 certainly show it to the Solicitor to review.

24 (Pause)

25 (Whereupon Defendant Dawkins exhibits 1 - 4 were marked

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

1 for identification)

2 Q. Can you tell me who that is?

3 A. Without my notes, they're sitting over there, I  
4 wouldn't want to speculate. But I'll be glad to look at my  
5 notes if you'll allow me to to give you a direct and  
6 accurate answer.

7 MS. GORTON: May he be excused to get his notes?

8 THE COURT: Yes, sir. You can get your notes or  
9 someone can get them for you if you need those.

10 A. Thank you, Your Honor.

11 THE COURT: Could you identify the exhibit for ID that  
12 he's looking at?

13 MS. GORTON: It's exhibit number 1.

14 THE COURT: All right. You can go get your notes, sir.

15 A. Thank you. As best I can tell, that is Brittney  
16 Phillips.

17 Q. When was the last time you saw Brittney Phillips?

18 A. In this courtroom today.

19 Q. Yes. She's been in and out of this courtroom for the  
20 past two days, is that correct?

21 A. Yes, ma'am, she has.

22 Q. Are you aware of her rank in the gang?

23 A. I could speculate.

24 Q. High or low?

25 A. Low, actually.

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 Q. Do you know who she dates?

2 A. I do.

3 Q. Who does she date?

4 A. She dates Raymond Young.

5 Q. And who is Raymond Young?

6 A. Raymond Young is the True Disciple G that was mentioned  
7 in the report, in the statement earlier.

8 Q. What does that mean?

9 A. It means that she dates Raymond Young.

10 Q. No, True Disciple G -- True Disciple G?

11 A. He is a high ranking member of the Folk Nation,  
12 specifically Gangster Disciples.

13 Q. And, in fact, in this area of Greenville is he the  
14 highest ranking?

15 A. No, ma'am, he's not.

16 Q. Who do you know who's higher ranking than Raymond  
17 Young?

18 A. I'd prefer not to mention that information in this  
19 case, if possible, Your Honor.

20 Q. Well, Raymond Young's currently incarcerated, isn't he?

21 A. Yes, ma'am, he is.

22 Q. Can you tell me who's in Defendant's exhibit 3?

23 A. The male or the female?

24 Q. Both, please.

25 A. The female could be one of two people. I can't really

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 see her face the way the guy is laying.

2 Q. Does it look like K-dril (phonetics)?

3 A. She is one of the two, yes, ma'am.

4 Q. And who is K-dril?

5 A. K-dril is also a member of the Sisters of the Struggle,  
6 which is the female faction of this gang.

7 Q. Sisters of the Struggle, are you sure that's not a  
8 rank?

9 A. That is also a rank, but it is also the subset of  
10 Gangster Disciples within Growth and Development under  
11 Brothers of the Struggle of Knowledge.

12 Q. It's also a rank. And as to ranks, does it apply only  
13 to the females?

14 A. Does Sisters of the Struggle apply only to the ---

15 Q. It's an ---

16 A. --- females?

17 Q. --- obvious question, I know, but I need the answer.

18 A. Yes, ma'am, it does.

19 Q. Okay. And it's the lowest rank other than prospect,  
20 isn't it?

21 A. Yes, ma'am, it is.

22 Q. All right. Now the male in this picture, do you know  
23 who that is? And I apologize for the quality.

24 A. That could also be one of a couple. I'd really hate to  
25 speculate. I mean, it's ---

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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1 Q. Does that look to you ---

2 A. The quality's not real good.

3 Q. --- to be the person known as Dreke (phonetics)?

4 A. That is possible, but I couldn't say without a doubt  
5 that it is.

6 Q. And who is in charge while Raymond's in jail? Who took  
7 his place?

8 A. Once again, I could speculate. I can't give an opinion  
9 unless you're qualifying me as an expert.

10 Q. Oh, I thought -- in gangs, generally, what significance  
11 does color have?

12 A. More specifically, color as in?

13 Q. Well, the Bloods for example, what's their color?

14 A. Red, green -- red, green, brown and black.

15 Q. Am I a Blood?

16 A. No, ma'am, you're not.

17 Q. Well, why? I mean, why does -- what do you look for?  
18 Do you look for bandanas?

19 A. No, ma'am. I base it solely on the evidence that's  
20 placed at hand.

21 Q. So when you see someone walking down the street you  
22 don't get a sense of whether they're a gang member or not?

23 A. No, ma'am. It's not my job to judge.

24 Q. Okay. Well, on Gangster Disciples, what color are they  
25 associated with?

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

1 A. Primarily black and gray.

2 Q. Black and gray or black and white?

3 A. Black and gray.

4 Q. Black and gray. And you were with Hoover -- I'm sorry,  
5 Detective Hoover, when he questioned De'Nia Dawkins, is that

6 ---

7 A. Yes, ma'am, I was.

8 Q. And you were there when she was specifically asked  
9 about this photo, correct?

10 A. Yes, ma'am, I was.

11 Q. And she was specifically asked, well, why was everyone  
12 else wearing black, that's not exactly true, we have a guy  
13 over here in blue, and she's got blue and black. She was  
14 asked, well, why aren't you wearing black, wasn't she?

15 A. I don't recall that question, no, ma'am.

16 Q. Well, this is a very poor copy of the picture, but  
17 wouldn't you agree she's wearing pink? And I'm showing you  
18 State's or Defendant's exhibit 4.

19 A. That looks white to me, but, I mean, like -- if you say  
20 it's a poor quality of the picture, I couldn't say if it's  
21 pink or not. It looks white.

22 Q. I think you had a copy of it in there when you flipped  
23 through.

24 A. I do.

25 Q. Would you like to look at it for color?

BRANDON BROWN - CROSS EXAMINATION BY MS. GORTON

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- 1 A. If you don't mind, yes, ma'am.
- 2 Q. No. Yours isn't a whole lot better than mine, is it?
- 3 A. Once again, it looks ---
- 4 Q. A pinkish white, ---
- 5 A. It looks white ---
- 6 Q. --- perhaps?
- 7 A. --- or some other colors ---
- 8 Q. Certainly not black?
- 9 A. It looks like a -- just a blouse.
- 10 Q. Yeah, a frilly blouse?
- 11 A. Sure.
- 12 Q. And she's wearing a frilly skirt?
- 13 A. Yes, ma'am.
- 14 Q. And pearls?
- 15 A. Yes, ma'am.
- 16 Q. Not exactly gang attire?
- 17 A. Define gang attire.
- 18 Q. Well, K-dril and Brittney we both saw in the courtroom
- 19 the last couple of days coming in and out -- now, did you
- 20 invite those girls in here?
- 21 A. No, ma'am.
- 22 Q. Okay. So do you know why they keep coming in here?
- 23 A. Couldn't speculate, ma'am.
- 24 Q. You couldn't speculate?
- 25 A. No, ma'am.

**BRANDON BROWN - CROSS EXAMINATION BY MR. IANUARIO**

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1 Q. In this picture everyone's wearing black and white, the  
2 men?

3 A. Let me see it. Once again, it's poor quality, but I'm  
4 assuming that's white.

5 Q. I apologize.

6 A. Yes, ma'am.

7 Q. And can you identify the individuals in this picture?

8 A. Based on the quality, a couple of them, I can.

9 Q. Which ones?

10 A. Again, I'd have to look back at notes. But, I mean,  
11 that's really poor quality. I apologize. But, I mean,  
12 there are a couple in there.

13 Q. Okay. Well, when you asked De'Nia about that picture  
14 or when Detective Hoover asked her about that picture, did  
15 she identify the people in there to the best of her ability?  
16 Did it seem like she was trying to ---

17 A. I believe she did.

18 Q. --- do that?

19 A. I believe she did.

20 Q. So she was trying to be helpful?

21 A. Yes, ma'am.

22 MS. GORTON: I have no further questions.

23 THE COURT: Mr. Ianuario.

24 Cross Examination by MR. IANUARIO:

25 Q. Can I ask how old you are, Detective? Just out of

BRANDON BROWN - CROSS EXAMINATION BY MR. IANUARIO

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1 curiosity.

2 A. Thirty-three.

3 Q. So roughly since your mid twenties you've been working  
4 in gangs?

5 A. Pretty close, yes, sir.

6 Q. You arrest a lot of scum-bags?

7 A. I arrest a lot of criminals.

8 Q. And I'm not being facetious. Thank you. I do  
9 appreciate that. It's good for my business and good for the  
10 community as well. So you've arrested a good number of gang  
11 members that -- and you're familiar with their behaviors  
12 under arrest?

13 A. Yes, sir, I am.

14 Q. Have you ever taken statements from another gang member  
15 before?

16 A. Many, yes, sir.

17 Q. Have they ever lied to you during that statement?

18 A. Yes, sir.

19 Q. Do they often lie to you?

20 A. Yes, sir.

21 Q. Can you speculate as to why they're lying to you?

22 A. It's part of their gang code.

23 Q. Do you think they're ever doing it to save their own  
24 butt?

25 A. Sometimes.

BRANDON BROWN - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. They ever turned over information that you later found  
2 out to be false that was against another gang member?

3 A. Oh, yeah, absolutely.

4 Q. So we can't automatically assume that if a gang  
5 member's giving a statement they're telling the truth, can  
6 we?

7 A. Absolutely.

8 Q. How -- how does someone go from being in Growth and  
9 Development to becoming a member of the Gangster Disciples?  
10 Is there an act, an initiation where you realize I'm not in  
11 this organization, I'm really in that one?

12 A. There is no difference. Growth and Development and  
13 Gangster Disciples are the exact same gang. They are one in  
14 the same. There is no difference.

15 Q. But they're presented differently? Coke and Pepsi are  
16 both soft drinks, they're just marked a little differently.

17 A. Difference is Coke and Pepsi are two separate drinks.  
18 Growth and Development and Gangster Disciples are the same,  
19 it's just different ways of saying it.

20 Q. But at what point in time would someone, let's say, a  
21 prospect that's coming through Growth and Development, and  
22 the untrained eye as you mentioned earlier, when do they  
23 realize that this isn't a community organization, this is  
24 something more serious?

25 A. Despite -- in my experience, despite what many tell

BRANDON BROWN - CROSS EXAMINATION BY MR. IANUARIO

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1 you, they know what they're getting into from the start.

2 Q. Okay. Do they -- do gangs prey on the youth of  
3 America?

4 A. Yes, sir.

5 Q. And we talked about Growth and Development earlier  
6 being a way to put a positive spin on Gangster Disciples, is  
7 that correct?

8 A. Yes, sir.

9 Q. Have you ever seen anyone associated with members in a  
10 gang and get sucked in?

11 A. Get sucked in as in?

12 Q. Let's say hypothetically they have some information on  
13 this person and now join the gang or you're going to get --  
14 something like that?

15 A. Typically, once again, in my experience we have found  
16 that gang members commit crimes together as part of the  
17 gang, not in lieu of or because they happen to be around  
18 whenever something's being planned. Typically the gang  
19 environment is a very close-knit environment. They don't  
20 allow outsiders in. There's too much risk involved in both  
21 the freedom of the gang members and the gang itself.

22 Q. So once you're in, it's pretty tough to leave?

23 A. Not necessarily.

24 Q. Has anyone ever been physically abused for attempting  
25 to leave a gang?

BRANDON BROWN - CROSS EXAMINATION BY MR. IANUARIO

1 A. Yes, sir.

2 Q. Does it happen more often than not?

3 A. Not actually -- not typically, no.

4 Q. But it has happened?

5 A. Yes, sir, it has.

6 Q. Okay. Now, talking a little bit more about Mr. Lomax,  
7 is there any evidence other than statements that would show  
8 he was aware of the plan, what was going to take place that  
9 night?

10 A. Not that I'm aware of, no, sir.

11 Q. Okay. So this is based mainly on the statements of co-  
12 defendants?

13 A. What is?

14 Q. Your arresting Mr. Lomax and your investigation of him,  
15 your connection with him is based, for these charges, is  
16 based mainly upon the statements of his co-defendants,  
17 correct?

18 A. Along with evidence that was presented as to the  
19 vehicles, tag numbers that was obtained, everything else  
20 that's been portrayed here over the past day ---

21 Q. Do we have ---

22 A. --- coupled together.

23 Q. --- any evidence other than statements showing that he  
24 was in the vehicle?

25 A. At which time?

BRANDON BROWN - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. Of the night of the robbery?

2 A. Not that I know of, no, sir.

3 Q. But we do know that a week before somebody else was  
4 pulled over driving this vehicle, correct?

5 A. It appears so, yes, sir.

6 Q. Or a week after. At some point in time ---

7 A. At some point in time.

8 Q. --- somebody else was pulled over driving this vehicle.  
9 So he clearly at least loans it out once in a blue moon?

10 A. Yes, sir.

11 Q. Okay. So all we have is this statement and he owns the  
12 vehicle that was seen at the crime, but we don't have hard  
13 core evidence where -- we don't have any text messages of,  
14 hey, we're going to go rob this guy and I want you three to  
15 follow me? There's no plan laid out or anything hard core,  
16 just on the statements of the co-defendants and the presence  
17 of his vehicle, correct?

18 A. I believe all that evidence compiled together makes a  
19 pretty strong statement, yes, sir.

20 Q. Okay. And his co-defendants that will be testifying  
21 later are also gang members, correct?

22 A. To the best of my knowledge, yes, sir.

23 Q. And coming back full circle to your testimony, you have  
24 seen gang members lie before to save their own butts,  
25 correct?

BRANDON BROWN - REDIRECT EXAMINATION BY MS. SALISBURY

1 A. Yes, sir.

2 Q. Nothing further. Thank you.

3 A. Thank you.

4 THE COURT: Any redirect?

5 MS. SALISBURY: Very, very briefly, Judge. And before  
6 I begin, could I inquire whether Defense exhibits would be  
7 offered for evidence?

8 MS. GORTON: Yes.

9 THE COURT: Are they being offered now or -- they were  
10 marked for identification, I understand. Are they to be for  
11 identification?

12 MS. GORTON: The one with De'Nia in it, I would like to  
13 be moved into evidence.

14 THE COURT: All right. Do you want to -- if you would  
15 tell me which exhibit that is.

16 MS. GORTON: Exhibit 4, Your Honor.

17 THE COURT: All right. So Defendant Dawkins exhibit  
18 number 4 is offered into evidence. Is there any objection?

19 MS. SALISBURY: I don't have an objection, Judge.

20 THE COURT: All right. So the rest are for  
21 identification only. You may redirect your witness.

22 MS. SALISBURY: Thank you, Your Honor.

23 (Whereupon Defendant Dawkins exhibit 4 was admitted  
24 into evidence)

25 Redirect Examination by Ms. Salisbury:

BRANDON BROWN - REDIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Investigator Brown, you indicated earlier that you were  
2 present for the interview of Juwan Lomax where he gave a  
3 statement.

4 A. Yes, ma'am.

5 Q. Did you participate actively in that interview?

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

7 Q. Did you ask him questions?

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

9 Q. Okay. Did you inquire about his affiliation with the  
10 gang?

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

12 Q. What did he tell you about his gang affiliation?

13 A. He advised that he was a rapper and that his  
14 involvement was very little.

15 Q. Did he ever indicate to you his specific rank?

16 A. Not from him directly, no.

17 (Whereupon State's exhibits 14 and 15 were marked for  
18 identification)

19 Q. Investigator, I'm going to show you State's exhibits 14  
20 and 15. Do you recognize those photographs?

21 A. Yes, ma'am, I do.

22 Q. How do you recognize them?

23 A. The one photograph, which is marked exhibit 14, is a  
24 group of what is called the Sisters of the Struggle, the  
25 female faction of the gang, if you will, with multiple

BRANDON BROWN - REDIRECT EXAMINATION BY MS. SALISBURY

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1 different members of various different ranks within that  
2 organization.

3 This is also -- this is also another picture of both  
4 the males and the females. The male version of that faction  
5 is just called the Brothers of the Struggle. It falls  
6 underneath the same kind of knowledge which both comes from  
7 Chicago as well.

8 And this specific one, they're throwing up what is  
9 known as the three point crown. Three point crown typically  
10 stands for life, love and loyalty or it could stand for  
11 wisdom, knowledge and understanding.

12 The Folk Nation specifically goes underneath what is  
13 the six ideology. They use the six pointed star. Each one  
14 of -- each point on that star stands for wisdom, knowledge,  
15 understanding, life, love and loyalty. Typically when  
16 they're throwing up the three pointed crown such as this,  
17 it's showing that they both know and understand the  
18 philosophies behind the gang of at least love, life and  
19 loyalty. All right.

20 This one is a little different. As you can see,  
21 they're throwing up what looks to be like this, almost like  
22 an L. What that stands for is one love, guns up. It is  
23 also another Folk Nation hand sign. It's nothing different  
24 than what you'd see on TV in a normal -- normal TV show.

25 They throw those up to both recognize each other and

BRANDON BROWN - REDIRECT EXAMINATION BY MS. SALISBURY

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1 recognize -- so other people in the community recognize them  
2 as they should be someone that they're afraid of. This gang  
3 thrives on the fear in the community. These hand signs, and  
4 running together and specific clothing is how they instill  
5 that fear and so that the community understands who they  
6 should be fearful of.

7 Also, what you see is a couple of them doing like this.  
8 What that is is a pitch fork or it can stand for East Side  
9 Folk Nation. The pitch fork itself stands for one of the  
10 major identifiers under Folk Nation. These are all  
11 identifiers that aren't specific to just Folk Nation, but  
12 all these subsets within Folk Nation adopt them. Gangster  
13 Disciples or Growth and Development within Folk Nation is  
14 one of which that adopts these signs.

15 Q. Is the Defendant, Ms. Dawkins, depicted in each of  
16 those photos?

17 A. Yes, she is.

18 Q. Just for curiosity sake, what color is she wearing?

19 A. In this one right here she is wearing a black shirt and  
20 blue jeans, throwing up the one love, guns up. And in this  
21 one right here she is also wearing a black shirt and blue  
22 jeans throwing up the three pointed crown for love, life and  
23 loyalty.

24 Q. Investigator, do you recall from where you retrieved  
25 those pictures?

BRANDON BROWN - REDIRECT EXAMINATION BY MS. SALISBURY

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1 A. I believe it was on Facebook, but I'm not positive.

2 MS. SALISBURY: Your Honor, I'd offer State's exhibits  
3 14 and 15.

4 THE COURT: Any objection?

5 MS. GORTON: No objection.

6 THE COURT: Without objection, 14 ---

7 MR. IANUARIO: Your Honor, I actually would like to  
8 object to that. Without establishing a date that those  
9 pictures were taken we don't know if this was relevant to  
10 incidents before the crime or after the crime. So short of  
11 validating when that picture was taken, we don't know if  
12 it's at a Halloween party, we don't know if it was two  
13 months ago, we don't know if it was last week. Without  
14 laying a better foundation I would have to object to that  
15 coming in.

16 MS. SALISBURY: To the extent that Mr. Lomax isn't  
17 depicted in either of these photographs, ---

18 THE COURT: Okay.

19 MS. SALISBURY: --- I'm not sure that Mr. Ianuario can  
20 object to it.

21 THE COURT: I overrule your objection.

22 (Whereupon State's exhibits 14 and 15 were admitted  
23 into evidence)

24 MS. SALISBURY: With the Court's permission, I'd like  
25 to publish these to the jury.

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

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1 THE COURT: They may be published.

2 MS. SALISBURY: Your Honor, I don't have any additional  
3 questions.

4 MS. GORTON: Recross.

5 THE COURT: Briefly.

6 Recross Examination by Ms. Gorton:

7 Q. The photo that I entered as Defendant's exhibit number  
8 4, De'Nia Dawkins is wearing non-gang -- non-gang clothing,  
9 would you agree?

10 A. No, ma'am, I wouldn't.

11 Q. You wouldn't? She looks different than the rest, would  
12 you agree with that?

13 A. Different? Yes, ma'am. She looks ---

14 Q. She's not wearing black there?

15 A. I believe she had a black skirt on, but ...

16 Q. Again, poor quality. But if you looked at yours would  
17 you agree that it was a denim ruffled skirt?

18 A. Do you mind me -- you mind if I look?

19 Q. No, not at all. Please.

20 A. Actually, yes, ma'am, it's a dark blue denim ---

21 Q. It's a dark blue denim skirt with a ruffled light  
22 colored blouse. That's different than every single person  
23 in there, isn't it?

24 A. Yes, ma'am, it is.

25 Q. So she's not wearing gang clothing in that picture?

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

1 A. Once again, define gang clothing.

2 Q. Okay. Well, you were the one who said there's specific  
3 clothing associated with different gangs.

4 A. No, ma'am. I said colors.

5 Q. Now, this picture, the two pictures that were just  
6 entered, ---

7 A. I believe the jury's got them.

8 Q. This picture, is she smiling?

9 A. I can't see from that far away, I'm sorry. No, it  
10 doesn't look like any of them are.

11 Q. But she's not. And in this, can you tell if that's a  
12 smile or a grimace?

13 A. Looks like a smirk, yeah.

14 Q. A smirk?

15 A. Um-hum (affirmative).

16 Q. Well, she didn't know you were going to be looking at  
17 this picture. So who do you suppose she's smirking at?

18 A. I couldn't speculate.

19 Q. The person taking the picture, perhaps?

20 A. (No response).

21 Q. Now, as Mr. Ianuario was pointing out, these  
22 photographs could have been taken after the Drez incident,  
23 after she was trapped, is that correct?

24 A. Once again, I would have to take a closer look to see  
25 if those people are -- were -- that were locked up at the

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

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1 time are in the pictures or not. There's no way to know  
2 when the picture was taken.

3 Q. Is it possible that that photograph was taken after the  
4 Drez incident, after she was trapped by the gang?

5 A. It is possible, yes.

6 Q. Whereas, is it possible that this picture, the one with  
7 the ruffles and the denim skirt was taken prior to the Drez  
8 incident when she still believed it was Growth and  
9 Development?

10 A. No, ma'am. This was quite a bit after the Drez  
11 incident.

12 Q. How could you know that?

13 A. Because I know what date and time that was taken.

14 Q. What date and time was it taken?

15 A. It involves another case.

16 Q. I didn't ask you the source of the information. I  
17 asked you what date and time it was taken.

18 A. It was taken on the late night hours of July 16th or  
19 the early hours of July 17th, 2011 at the Red Planet.

20 Q. Is that taken from Raymond phones -- Raymond Young's  
21 phone records?

22 A. No, ma'am.

23 Q. Where do you get that information from?

24 A. That was published on his Facebook page, which was an  
25 open page. That is a club photo.

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

1 Q. So it was published on that date. Do you know what  
2 date the photo was taken?

3 A. Yes, ma'am, the late night hours of July 16th or early  
4 hours of July 17th, 2011.

5 Q. And how do you know that?

6 A. Because ---

7 Q. Are you saying from the Facebook page?

8 A. No, ma'am, I'm saying there was a shooting that  
9 occurred that night with these individuals involved, which  
10 is when the picture was taken and published.

11 Q. How do you know the picture was taken then?

12 A. Because I worked ---

13 Q. Were you there?

14 A. Yes, ma'am, I was.

15 Q. When the picture was taken?

16 A. Not when the picture was taken. I was there ---

17 Q. Sir, that is the only thing ---

18 A. --- at 0400 hours.

19 Q. --- I am asking you about is when the picture was  
20 taken, when the cameraman pushed the button, when was it?  
21 What day was it the button was pushed?

22 A. The late night hours of July 16th, early hours of July  
23 17th, 2011 at the club Red Planet.

24 Q. Did you witness the person taking the picture?

25 A. No, ma'am, I did not.

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

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1 Q. So how do you know it was taken on that date?

2 A. Because I responded to a shots fired call with multiple  
3 gunshot victims and a gang related ---

4 MS. GORTON: Objection, ---

5 A. --- incident.

6 MS. GORTON: --- Your Honor. Absolutely non-  
7 responsive.

8 THE COURT: You asked the question as to how he knew to  
9 be -- didn't you ask him how he knew that it was taken at  
10 that time?

11 MS. GORTON: That the picture was taken, that the  
12 button was taken. He didn't see it.

13 THE COURT: Well, do you want to withdraw your  
14 question? I -- you've asked the question of how he knew,  
15 then he has a right to answer how he knew.

16 MS. GORTON: He doesn't appear to be answering the  
17 question.

18 THE COURT: Well, ---

19 MS. GORTON: If he was standing there and he watched  
20 them -- he's already said he didn't see it. Somebody must  
21 have told him that.

22 THE COURT: Why don't you rephrase your question as to  
23 how he knows of his personal knowledge.

24 MS. GORTON: All right.

25 Q. Did you see the person taking the picture push the

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

- 1 button?
- 2 A. No, ma'am, I did not.
- 3 Q. Have you spoke with anyone who saw the person push the
- 4 button?
- 5 A. That saw the person actually push the button?
- 6 Q. Yes, who actually saw the picture ---
- 7 A. I've spoke with most of the individuals in that
- 8 photograph of which identified that photograph as being
- 9 taken the late night hours of July 16th, early hours ---
- 10 Q. By whom?
- 11 A. --- of July 17th.
- 12 Q. Who took the picture?
- 13 A. At any club -- any one of these clubs, as soon as you
- 14 walk in there's a place where you can have your photograph
- 15 taken.
- 16 Q. So you ---
- 17 A. Many people do that.
- 18 Q. --- can't identify who took the picture?
- 19 A. No, ma'am, I can't.
- 20 Q. All right. You know what, that is when she's not
- 21 wearing gang clothing anyway. Let's go back to where she's
- 22 wearing what you call -- I'm sorry, is this funny?
- 23 A. You keep -- you keep backtracking on various different
- 24 topics.
- 25 Q. I'm sorry, I've got her life in my hands. I'm nervous

BRANDON BROWN - RECROSS EXAMINATION BY MS. GORTON

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1 and I'm scared.

2 A. Okay.

3 Q. I'll try to be more focused.

4 A. Thank you.

5 Q. When we're talking about the pictures with her wearing  
6 gang clothing, can you say whether those were taken before  
7 or after this incident with Drez?

8 A. Once again, I did not identify that clothing as gang  
9 clothing. And, no, I cannot identify when that picture was  
10 taken. I do not know about that picture.

11 Q. I'm talking about these where she's flashing signs.

12 A. I said those were gang hand signs, not gang clothing.

13 Q. Okay. The signs then, do you know whether that was  
14 before or after the incident with Drez?

15 A. No, ma'am, I do not.

16 **MS. GORTON:** Nothing further.

17 **THE COURT:** All right. Thank you, officer.

18 (Pause)

19 **THE COURT:** You may step down, officer.

20 A. Thank you, Your Honor.

21 **THE COURT:** Ladies and gentlemen, this is a good time  
22 for us to take a break. I try to sometimes anticipate how  
23 long a witness will take and get some input, but sometimes I  
24 don't really know. I apologize for keeping you this long.  
25 We'll take a short break, call you back in just a few

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

1 moments. Don't discuss the case while you're out.

2 (Whereupon the jury exited the courtroom at 3:49 pm)

3 **THE COURT:** All right. Let's take a short break and  
4 we'll be ready to start back in about ten minutes.

5 (Whereupon court was in recess at 3:50 pm)

6 (Whereupon court resumed at 4:17 pm)

7 **THE COURT:** Keep your seats, ladies and gentlemen.  
8 Solicitor, you ready to proceed?

9 **MS. SALISBURY:** Yes, Your Honor.

10 **THE COURT:** All right. Let's have our jury come in,  
11 Ms. Sims.

12 (Whereupon the jury entered the courtroom at 4:19 pm)

13 **THE COURT:** Solicitor, you may call your next witness.

14 **MS. SALISBURY:** Thank you, Your Honor. The State calls  
15 Mr. Tra'Vis Ware. Mr. Ware, if you would, please come  
16 around to be sworn.

17 **MADAME CLERK:** And as best you can, please, can you  
18 place your left hand on the Bible right there. Stop right  
19 there, please. And try to raise your right hand.

20 **Tra'Vis Ware, being duly**  
21 sworn testified as follows:

22 **MADAME CLERK:** Thank you. Please be seated. And would  
23 you state your name for the record.

24 **MR. WARE:** Tra'Vis Ware.

25 **MADAME CLERK:** Thank you.

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Direct Examination by Ms. Salisbury:

2 Q. Mr. Ware, it's apparent to everyone here that you're  
3 currently incarcerated. Are you charged as part of the  
4 crime for which we're on trial today?

5 A. Yes, ma'am.

6 Q. And do -- before you were arrested on these offenses  
7 did you live in Greenville?

8 A. Yes, ma'am.

9 Q. How long have you lived here in Greenville?

10 A. All my life.

11 Q. Where did you go to school?

12 A. Woodmont.

13 Q. Now, I'm standing way back here to make sure that I can  
14 hear you because if I can hear you, all of the jury can hear  
15 you, okay? So just make sure that you speak up loud enough  
16 so that -- so that I can hear what you're saying, okay?

17 What do your friends call you?

18 A. Smoke.

19 Q. Smoke? Okay. Let's just jump right to it. Do you  
20 remember an incident that happened during the early morning  
21 hours of June 3rd, 2011?

22 A. Yes, ma'am.

23 Q. Would you tell the jury what happened on the evening  
24 before -- before you ended up going over to Demetrius  
25 Benson's apartment?

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

- 1 A. Juwan called me about the lick. I was ready to go.
- 2 Q. Juwan contacted you just on your cell phone?
- 3 A. (Affirmative nod).
- 4 Q. Okay. And what did he tell you exactly?
- 5 A. He told me that he had a lick.
- 6 Q. What do you understand that to mean? What's a lick?
- 7 A. A robbery.
- 8 Q. Okay. And did he ask you if you were -- if you were
- 9 in, if you were willing to participate?
- 10 A. Yes, ma'am.
- 11 Q. Okay. Did you indicate that you would participate?
- 12 A. Yes, ma'am.
- 13 Q. What happened next? Did they come pick you up?
- 14 A. They came to pick me up.
- 15 Q. Where did they pick you up from?
- 16 A. Crooked Creek.
- 17 Q. And where did you -- who picked you up? Who was in the
- 18 car?
- 19 A. Juwan and De'Nia.
- 20 Q. And De'Nia?
- 21 A. (Affirmative nod).
- 22 Q. Was anybody else in the car?
- 23 A. No, ma'am.
- 24 Q. Okay. What kind of car was it?
- 25 A. A white Buick.

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Okay. And where did -- where did the three of you go  
2 from there?

3 A. We met up with Raymond and Fats.

4 Q. Where did you meet up with the two of them?

5 A. In the parking lot somewhere.

6 Q. Some parking lot. Okay. And then what happened in the  
7 parking lot?

8 A. I got in the car with them.

9 Q. And what kind of car did you get into?

10 A. Black Maxima.

11 Q. Okay. And who was driving that car?

12 A. Fat.

13 Q. Do you remember sort of about what time this was  
14 happening? Was it still daylight out? Was it real late at  
15 night?

16 A. It was nighttime.

17 Q. Now, what -- what happened when you got into the car  
18 with Raymond and Fats? What's Fats' real name?

19 A. Josh.

20 Q. Josh. What happened when you got into the car with  
21 Raymond and Josh?

22 A. We masked up.

23 Q. What kind of -- what kind of mask did you use?

24 A. Shirts.

25 Q. Shirts? Did you have bandanas on your face?

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

1 A. (Negative nod). No, ma'am.

2 Q. What were you wearing other than your face being  
3 covered?

4 A. All black.

5 Q. What did they tell you about what was going to happen?

6 A. Said we were going to go in there and take the weed.

7 Q. Did they tell you who you were going to go rob?

8 A. (Negative nod).

9 Q. Did they tell you why?

10 A. (Negative nod). No, ma'am.

11 Q. What did you understand was your -- was your job? What  
12 was your role as in part of that robbery?

13 A. Go in there, just hold them up.

14 Q. Did you know how many people would be inside the  
15 apartment?

16 A. (Affirmative nod).

17 Q. How did you know?

18 A. De'Nia told.

19 Q. How did -- how did De'Nia communicate that to you? If  
20 you guys were in separate cars, how was she able to  
21 communicate to you how many people were inside the  
22 apartment?

23 A. They told -- they told Raymond what was up. And they  
24 told me what was up when I got in the car.

25 Q. Okay. So somehow -- you're not sure, but somehow the

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

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1 information was relayed from De'Nia to your car of people  
2 how many -- how many people were inside that apartment?

3 A. Yes, ma'am.

4 Q. Okay. Now, what happened when you arrived at the  
5 apartment? Did you wait in the car?

6 A. No, ma'am.

7 Q. Okay. Well, what happened when you pulled up?

8 A. Went to the back of the apartment and we waited on --  
9 we waited on her to come to the door.

10 Q. Was that supposed to be your cue when she came to the  
11 door, and that's when you know you would go in?

12 A. Um-hum (affirmative).

13 Q. Now, I'm going to show you a picture. It's been marked  
14 as State's exhibit 6. Does that look familiar to you?

15 A. Yes, ma'am.

16 Q. Do you remember where you were standing while you say  
17 you were waiting for De'Nia to come to the door?

18 A. On the side of the door.

19 Q. Can you -- can you see it this way? I just want the  
20 jury to see where you were standing.

21 A. Right there.

22 Q. You were standing to the side of the front door waiting  
23 for her to come?

24 A. (Affirmative nod).

25 Q. Okay. And what happened once the door was opened?

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

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- 1 A. We rushed in there.
- 2 Q. Who?
- 3 A. Me, Raymond and Fat.
- 4 Q. Okay. And what about De'Nia?
- 5 A. They was in the back somewhere.
- 6 Q. They -- I'm sorry?
- 7 A. They was in the back somewhere.
- 8 Q. They were in the back. Did they stay inside the
- 9 apartment while you guys forced your way in?
- 10 A. They left out.
- 11 Q. Okay. And what happened once -- once you -- once you
- 12 got into the apartment?
- 13 A. They were tussling over the gun. And ---
- 14 Q. With your gun?
- 15 A. No. Him and somebody else was tussling over the gun.
- 16 I shot.
- 17 Q. Were you -- you mean -- are you referring to the victim
- 18 wrestling with the gun?
- 19 A. (Affirmative nod).
- 20 Q. Okay. How many times was he shot?
- 21 A. I think twice.
- 22 Q. Do you remember shooting him?
- 23 A. (Affirmative nod).
- 24 Q. Do you remember where you shot him?
- 25 A. No.

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. What did you do after that struggle with the gun?

2 A. We took him to the back.

3 Q. Okay. And what happened?

4 A. We was asking where the weed and the money was at.

5 Q. Did he give you an answer?

6 A. No.

7 Q. Then what did y'all do?

8 A. Just kept looking for it.

9 Q. Did you look in every room of the apartment?

10 A. (Negative nod).

11 Q. Did you end up finding anything?

12 A. Some money and a laptop.

13 Q. Now after you -- after you took whatever money you  
14 found and the laptop where did -- what happened?

15 A. We ran out.

16 Q. Where did you run to?

17 A. To the car.

18 Q. Do you remember running into anybody in the parking  
19 lot?

20 A. (Negative nod).

21 Q. Do you remember encountering a white guy in the parking  
22 lot?

23 A. (Negative nod).

24 Q. Okay. Where did you go after that? Did you get back  
25 into the same car that you came in? Did you get back in

TRA'VIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

- 1 Josh's car?
- 2 A. Um-hum (affirmative). Yes, ma'am.
- 3 Q. Okay. And where did y'all go?
- 4 A. He took me to Crooked Creek.
- 5 Q. Did they drop you back off at your house?
- 6 A. (Affirmative nod).
- 7 Q. Did you guys split the money?
- 8 A. Yes, ma'am.
- 9 Q. Do you remember how much you got?
- 10 A. No, ma'am.
- 11 Q. Okay. Now, when you came outside the apartment did you
- 12 come with the two other guys with guns? Did the three of
- 13 you guys leave together?
- 14 A. Yes, ma'am.
- 15 Q. Was there anybody else that left with you?
- 16 A. No, ma'am.
- 17 Q. When you came outside was De'Nia on the ground?
- 18 A. No, ma'am.
- 19 Q. Was she standing around outside her car?
- 20 A. No, ma'am.
- 21 Q. Did you tell her to get off the ground and get in the
- 22 car?
- 23 A. No, ma'am.
- 24 Q. Do you understand that what you did that day was a
- 25 crime?

TRAVIS WARE - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. Yes, ma'am.

2 Q. And did you plead guilty earlier today to armed robbery  
3 and conspiracy as part of your involvement in this crime?

4 A. Yes, ma'am.

5 Q. And do you -- is it your understanding that the charges  
6 of burglary in the first degree, attempted murder and  
7 possession of a weapon during the commission of a violent  
8 crime are being dismissed as part of your testimony here  
9 today?

10 A. Yes, ma'am.

11 Q. What do you understand to be your responsibility today  
12 to uphold your end of the bargain? What do you have to do  
13 to take advantage of that -- that plea deal?

14 A. What you mean?

15 Q. What -- in order to get the benefit of this plea deal,  
16 what has the State asked you to do?

17 A. Testify.

18 Q. Have -- has the State asked you to do anything other  
19 than tell the truth about what happened there that day?

20 A. No, ma'am.

21 Q. Have you told the truth about everything that happened  
22 out there today?

23 A. Yes, ma'am.

24 Q. All right, sir. Thank you. If you would, answer any  
25 questions these attorneys may have for you.

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 Cross Examination by Ms. Gorton:

2 Q. Now these charges aren't the only charges that have you  
3 in jail, are they?

4 MS. SALISBURY: Objection, Your Honor.

5 THE COURT: If you could, approach, please.

6 (Whereupon a bench conference was held off the record  
7 in the presence of the jury, but out of their hearing)

8 Q. Mr. Ware, this morning, as of this morning you are  
9 incarcerated on a total of eleven pending charges, is that  
10 correct?

11 A. Yes, ma'am.

12 Q. And as to this incident itself you pled to what?

13 A. Armed robbery and conspiracy.

14 Q. Armed robbery. And armed robbery carries -- let me  
15 back up. On the charges that we're not talking about today,  
16 on the charges that have nothing to do with Demetrius  
17 Benson. On the remaining charges, on those charges alone,  
18 are you looking at life in prison?

19 A. Yeah.

20 Q. And on this charge, this case today, that you did the  
21 deal on this morning, armed robbery carries a  
22 minimum/mandatory of ten years and up to thirty years, is  
23 that correct?

24 A. Yes, ma'am.

25 Q. Minimum/mandatory means no youthful offender, no

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 parole, no early release, is that correct?

2 A. Yes, ma'am.

3 Q. So the only way you can get out of that

4 minimum/mandatory of ten years is if the jury finds you not

5 guilty or if the Solicitor drops the charge, is that

6 correct?

7 A. Yes, ma'am.

8 Q. Now, you are also looking at burglary, first degree, is

9 that correct?

10 A. Yes, ma'am.

11 Q. And the State dropped the burglary, first degree,

12 didn't they?

13 A. Yes, ma'am.

14 Q. In this deal. And a burglary, first degree, is even

15 worse than an armed robbery because it carries a

16 minimum/mandatory of fifteen years, correct?

17 A. Yes, ma'am.

18 Q. So if you had been convicted of that you would have

19 faced at least fifteen years and up to -- is it thirty or

20 life?

21 (Whereupon Ms. Gorton was consulting with Mr. Ianuario)

22 Q. Is it your understanding that the maximum was thirty or

23 the maximum was life on a burglary, first?

24 A. Life.

25 Q. Life?

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 A. No, thirty.

2 Q. It's still a long time. And you're, what, eighteen  
3 years old?

4 A. Yes, ma'am.

5 Q. You were also facing charges on attempted murder, is  
6 that correct?

7 A. Yes, ma'am.

8 Q. Did they drop those charges?

9 A. No, ma'am.

10 (Pause)

11 Q. You were also facing charges on possession of a weapon  
12 during a violent felony, is that correct?

13 A. Yes, ma'am.

14 Q. Because you actually had a gun in your hand, correct?

15 A. Yes, ma'am.

16 Q. And you were actually the one who shot the guy, weren't  
17 you?

18 A. Yes, ma'am.

19 Q. But they dropped that, didn't they?

20 A. Yes, ma'am.

21 Q. And that was a mandatory, no excuses, do not pass go,  
22 five years, correct?

23 A. Yes, ma'am

24 Q. And what about the conspiracy? Did you plead?

25 A. Yes, ma'am.

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 Q. Conspiracy's not all that scary in the big realm of  
2 things. Conspiracy is only five years, correct?

3 A. Yes, ma'am.

4 Q. Did you get your name Smoke from gun smoke?

5 A. No, ma'am.

6 Q. Can you tell me where you got it?

7 A. Ansel (phonetics) from City Heights. He named me Smoke  
8 'cause I smoke.

9 Q. Who named you?

10 A. Dude named Ansel from City Heights.

11 Q. I'm sorry, I didn't understand you.

12 A. A dude named Ansel.

13 Q. Is he part of the G's?

14 A. No, ma'am.

15 Q. How long had you been part of Gangster Disciples?

16 A. About a year.

17 Q. About a year. Are you educated?

18 A. Yes, ma'am.

19 Q. What was the latest grade you went to?

20 A. Eleventh grade.

21 Q. Did you drop out of school?

22 A. No, ma'am.

23 Q. How did you get involved with Gangster Disciples?

24 A. Selling beats to Raymond.

25 Q. I'm sorry, I can't understand you.

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

- 1 A. Selling beats to Raymond.
- 2 Q. What's that?
- 3 A. Music beats.
- 4 Q. Beats?
- 5 A. (Affirmative nod).
- 6 Q. Like beets you eat?
- 7 A. (Negative nod).
- 8 Q. I'm trying to understand. Do you mean music?
- 9 A. (Affirmative nod).
- 10 Q. So you're a musician?
- 11 A. Yes, ma'am.
- 12 Q. And that's how you got hooked up with Gangster
- 13 Disciples?
- 14 A. Yes, ma'am.
- 15 Q. Is that right?
- 16 A. (Affirmative nod).
- 17 Q. Do you know an organization called Growth and
- 18 Development?
- 19 A. Yes, ma'am.
- 20 Q. What do you know about them?
- 21 A. I got to talk about that?
- 22 Q. I'm afraid so.
- 23 A. (No response).
- 24 Q. Is that how you were introduced to Gangster Disciples?
- 25 Did you first know them as Growth and Development?

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. So when you first got involved with the group you  
3 didn't know that they were called Gangster Disciples?

4 A. Yes, ma'am.

5 Q. You did know ---

6 A. (Affirmative nod).

7 Q. --- or that's correct? I don't understand your answer.

8 A. I did know.

9 Q. You had heard that they were both Gangster Disciples  
10 and Growth and Development from day one?

11 A. Yes, ma'am.

12 Q. Did you know that they were a crime gang?

13 A. Yes, ma'am.

14 Q. When you first got involved with them?

15 A. Yes, ma'am.

16 Q. Are there rankings in Growth and Development/Gangster  
17 Disciples?

18 A. Yes, ma'am.

19 Q. What are the rankings?

20 A. I don't remember all of them.

21 Q. Well, is there a ranking called prospect?

22 A. Yes, ma'am.

23 Q. And is a prospect told what the group's about?

24 A. Yes, ma'am.

25 Q. They are? Well, then what's the point of them being a

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

1 prospect?

2 A. Just showing them -- just showing them what it's like  
3 to be a G before you be a G.

4 Q. You said that there were two different cars. Did I  
5 understand that right?

6 A. Yes, ma'am.

7 Q. And you were in Fats' car?

8 A. Yes, ma'am.

9 Q. And in Fats' car was you, and Raymond, and Fats,  
10 obviously, correct?

11 A. Yes, ma'am.

12 Q. And De'Nia was not in your car?

13 A. No, ma'am.

14 Q. And you weren't at the house. Do you know where they  
15 came from before they called you and said we got a lick? Do  
16 you know where they called from?

17 A. No, ma'am.

18 Q. You weren't with them until they picked you up,  
19 correct?

20 A. No, ma'am.

21 Q. And they picked you up at little, where? Crooked  
22 Creek?

23 A. Crooked Creek.

24 Q. So you weren't at a place where this robbery planning  
25 occurred, correct?

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 A. No, ma'am.

2 Q. You had no part of that?

3 A. No, ma'am.

4 Q. So you can't tell the jury whether De'Nia was there or  
5 not?

6 A. No, ma'am.

7 Q. Your information comes from the fact that De'Nia's  
8 phone sent information to Raymond, as you understand it,  
9 correct?

10 A. Yes, ma'am.

11 Q. Do you know who was operating De'Nia's phone?

12 A. No, ma'am.

13 Q. Who else was in Juwan Lomax's car?

14 A. It was just him and De'Nia.

15 Q. Who is Envy?

16 A. Another girl.

17 Q. Another girl? Who is Envy in the G's?

18 A. G-Queen.

19 Q. She's the Queen? What does the Queen mean?

20 A. High rank.

21 Q. Highest ranking for the women?

22 A. Yes, ma'am.

23 Q. The women have to obey her?

24 A. Yes, ma'am.

25 Q. What happens if they don't?

TRAVIS WARE - CROSS EXAMINATION BY MS. GORTON

1 A. Violation.

2 Q. What does a violation mean?

3 A. They get beat on.

4 Q. You get beat on. You and I, we beat on each other, how

5 does that work exactly? Are there two different kinds of

6 physical violations? For the girls?

7 A. I don't know.

8 Q. Is one of the physical violations you're aware of where

9 six of the highest ranking women get to beat on you for six

10 minutes straight, six on one?

11 A. I don't know.

12 Q. You don't know?

13 A. (No response).

14 Q. Would another violation be that one, the highest

15 ranking, gets to beat on you for six minutes straight?

16 A. I don't know.

17 Q. You don't know?

18 A. (No response).

19 Q. What kind of things put you in violation?

20 A. Lying and disrespect.

21 Q. Disrespect. Now that's a pretty broad term in the gang

22 world, isn't it?

23 A. Yes, ma'am.

24 Q. Yeah. So who is the leader of the men in the

25 Greenville G's?

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 A. Raymond.

2 Q. Raymond Young. So if Raymond Young calls you up and  
3 says I need you to drive me somewhere, do you say, not into  
4 it today, I'm busy, I've got to go to work? Is that  
5 allowed?

6 A. (No response).

7 Q. Is that a no?

8 A. No.

9 Q. She needs to hear your answer. And if you don't show  
10 up, you're in a violation, is that correct?

11 A. Yes, ma'am.

12 Q. And you're beaten?

13 A. (No response).

14 Q. Now, G's have a very segregated world, don't they? The  
15 men and the women, they have different roles, they have  
16 different leaders, is that correct?

17 A. Yes, ma'am.

18 Q. You guys actually have weekly dues, is that correct?

19 A. Yes, ma'am.

20 Q. And the dues for the men are different than the dues  
21 for the women. The women aren't really involved in the  
22 criminal aspect of the G's, are they?

23 A. No, ma'am.

24 Q. It's the men. And when the men take care of business,  
25 they don't discuss it around the women, is that correct?

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

1 A. Yes, ma'am.

2 Q. Kind of like the Godfather when we watch the Godfather  
3 movie and they don't involve their women, is that correct?  
4 Is it kind of the same sort of thing?

5 A. I guess so.

6 Q. When a G has to go somewhere and y'all are just hanging  
7 around, not committing crimes, just chilling, is there kind  
8 of a tradition or a habit that y'all all pile into your cars  
9 and drive somewhere together? You kind of stick together?

10 A. Yes, ma'am.

11 Q. So the fact that De'Nia asked for a ride and two car  
12 loads of people pile in, that's not unusual, is it?

13 A. No, ma'am.

14 Q. Where did you say you went after this thing with Drez?

15 A. Home back to Crooked Creek.

16 Q. Crooked Creek?

17 A. (Affirmative nod).

18 Q. Nowhere else? You left his house, his apartment, I'm  
19 sorry, and you went straight to Crooked Creek? Back home to  
20 your place, is that correct?

21 A. Went to Fats' house.

22 Q. You went to Fats' house first?

23 A. (Affirmative nod).

24 Q. What happened there?

25 A. Split the money.

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

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1 Q. Split money. How much money did you have?

2 A. I don't remember.

3 Q. What kind of bills did you have? Hundreds, thousands,  
4 twenties?

5 A. Twenties and hundreds.

6 Q. I'm sorry, what?

7 A. Twenties and hundreds.

8 Q. Twenties and hundreds. So how did you split that up?

9 And who split it up?

10 A. Raymond split it up.

11 Q. I'm sorry?

12 A. Raymond split it up.

13 Q. Raymond split it up. Did you get some?

14 A. Yes, ma'am.

15 Q. Did Fats get some?

16 A. Yes, ma'am.

17 Q. My client didn't get any, did she?

18 A. (Shrugged shoulders).

19 Q. Didn't see her get any, did you?

20 A. (Negative nod).

21 Q. Must be really scary with the requirement being that  
22 you testify truthfully. But the truth is is that she didn't  
23 get anything, did she?

24 A. (Negative nod).

25 Q. In fact, she was really upset, wasn't she?

TRA'VIS WARE - CROSS EXAMINATION BY MS. GORTON

- 1 A. I think.
- 2 Q. Was she crying?
- 3 A. (Negative nod).
- 4 Q. No?
- 5 A. (Negative nod).
- 6 Q. You don't remember that?
- 7 A. (Negative nod). Uh-uh (negative).
- 8 Q. You said that you went over there to get weed. Would
- 9 you agree that that's why she went over there was to buy a
- 10 twenty dollar bag of weed?
- 11 A. Uh-uh (negative).
- 12 Q. No? She wasn't supposed to buy weed?
- 13 A. Uh-uh (negative).
- 14 Q. That wasn't part of the deal?
- 15 A. (Negative nod).
- 16 Q. She was going over there to see a boyfriend? Was she
- 17 going over to pay back for a ride?
- 18 A. Uh-uh (negative).
- 19 Q. No?
- 20 A. (Negative nod).
- 21 Q. Did you not say earlier that part of the deal was to
- 22 get weed?
- 23 A. We went to go rob him for the weed.
- 24 Q. Well, how did you know he had weed?
- 25 A. She told us.

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. She told you. But you weren't there. You didn't hear  
2 her say it. Is that right?

3 A. (Affirmative nod).

4 Q. You just knew that somehow they had information that  
5 De'Nia was going over there to get weed or that De'Nia told  
6 them that there was weed over there to be had, is that  
7 correct?

8 A. Yes, ma'am.

9 Q. Is it possible that what she said was I'm going to go  
10 over and smoke with my boyfriend, can I have a ride? Is it  
11 possible she said that?

12 A. Yes, ma'am.

13 MS. GORTON: I have nothing further.

14 Cross Examination by Mr. IANUARIO:

15 Q. Hey there, Mr. Ware. You hanging in there?

16 A. (Affirmative nod).

17 Q. First off, did you say earlier that you shot Drez  
18 twice?

19 A. Yes, ma'am. I mean, yes, sir.

20 Q. But they dropped the attempted murder charge as part of  
21 your plea this morning, correct?

22 A. Yes, sir.

23 Q. And you have a great attorney, by the way. What was  
24 your rank in the Gangster Disciples?

25 A. Baby Gangster.

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

- 1 Q. Gangster?
- 2 A. Baby Gangster.
- 3 Q. Does the term True Foot mean anything to you?
- 4 A. Yes, sir.
- 5 Q. What does True Foot mean?
- 6 A. It's a low rank.
- 7 Q. True Foot's a low rank?
- 8 A. (Affirmative nod).
- 9 Q. So it's not an assassin or anything like that?
- 10 A. (Negative nod). No, sir.
- 11 Q. Do you remember giving a statement to the police
- 12 approximately October 20th?
- 13 A. No, sir.
- 14 Q. And if I were to show you a statement of that would it
- 15 refresh your memory?
- 16 A. Yes, sir.
- 17 (Pause)
- 18 Q. Does that look like the statement that you gave to the
- 19 police?
- 20 A. Yes, sir.
- 21 Q. Okay. So you do recall giving a statement to the
- 22 police then?
- 23 A. (Affirmative nod).
- 24 Q. And does the date on this, October 20th, sound about
- 25 correct?

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

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1 A. Yes, sir.

2 Q. Did you go to the station to give them that statement  
3 or were you already incarcerated at that time?

4 A. I ---

5 MS. SALISBURY: Your Honor, ---

6 A. --- was incarcerated.

7 MS. SALISBURY: --- I have an objection to this line of  
8 questioning.

9 MR. IANUARIO: Your Honor, I believe it goes to the  
10 motive for providing false testimony..

11 THE COURT: I'll allow ---

12 MS. SALISBURY: Judge, if I could explain the basis of  
13 my objection. This statement is -- it was prepared by the  
14 investigators in an effort to recount their notes of the  
15 interview with this defendant.

16 THE COURT: Oh, that's not a statement ---

17 MS. SALISBURY: And it's ---

18 THE COURT: --- he gave?

19 MS. SALISBURY: --- not signed. No, Judge.

20 THE COURT: Okay.

21 MS. SALISBURY: He hasn't had a chance to review it for  
22 accuracy.

23 MR. IANUARIO: Your Honor, I'm just asking if he talked  
24 to the police ---

25 THE COURT: Well, I thought you had a statement that he

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

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1 had given that you showed him.

2 MR. IANUARIO: I was asking if he had spoken with the  
3 police.

4 THE COURT: Okay.

5 MR. IANUARIO: Apparently he had, but he refused to  
6 sign this statement that ---

7 THE COURT: Okay. Well, ---

8 MR. IANUARIO: --- I believe ---

9 THE COURT: --- then that's not his statement if he  
10 didn't sign it. You can certainly ask him questions about  
11 ---

12 MR. IANUARIO: I'm not going to ask him about the  
13 particular statement. I just wanted to refresh him that he  
14 did speak to the police.

15 THE COURT: Yes, sir.

16 Q. So at the time that you spoke to the police were you in  
17 incarceration or did you come in voluntarily?

18 A. I was incarcerated.

19 Q. Okay. Do you remember about when you were  
20 incarcerated? What date?

21 A. Yes, sir.

22 Q. And when was that?

23 A. I've been here since July 22nd.

24 Q. So at the end of July you were arrested?

25 A. (Affirmative nod).

TRAVIS WARE - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. Why did you wait from the end of July until October  
2 20th to speak with the police?

3 A. That's not when I spoke to them.

4 Q. But you do remember speaking with the police?

5 A. (Affirmative nod).

6 Q. Why did you wait so long to speak to the police?

7 A. I was ready to go.

8 Q. You were ready to go?

9 A. (Affirmative nod).

10 Q. You were ready to get this behind you? Is that why you  
11 took the plea today because you were just ready to get this  
12 behind you?

13 A. (Affirmative nod).

14 Q. Now, according to your testimony earlier you and Smoke,  
15 I'm sorry, you and Fat-So and Raymond stood in the breeze-  
16 way waiting for De'Nia to open the door, correct?

17 A. Yes, sir.

18 Q. How long were you waiting in the breeze-way?

19 A. About five minutes.

20 Q. You think maybe it's a bad idea to stand in a breeze-  
21 way masked up for five minutes waiting on someone to  
22 randomly open the door?

23 A. (No response).

24 Q. Who opened the door?

25 A. The victim.

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. The victim?

2 A. (Affirmative nod).

3 Q. Drez?

4 A. (No response).

5 Q. After you robbed him -- I know you said you don't  
6 remember how much money you had, but do you remember if  
7 there was at least eighty dollars, four twenty dollar bills?

8 A. No, sir.

9 Q. Do you remember if the total amount of the robbery was  
10 eighty dollars or more?

11 A. It was more than eighty dollars.

12 Q. More than eighty dollars?

13 A. (Affirmative nod).

14 Q. Do you remember how many twenty dollar bills there  
15 were?

16 A. No, sir.

17 Q. Could you remember if there was just one, or two or  
18 several?

19 A. No, sir.

20 Q. So then you don't know if there was enough there to  
21 make change for a hundred dollar bill?

22 A. It was more than that.

23 Q. You think there was enough there to make change for a  
24 hundred dollar bill?

25 A. Yes, sir.

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. Okay. You said Juwan contacted you and asked if you  
2 wanted to go get a lick. Did he call you or text you?

3 A. I don't remember.

4 Q. You don't remember if he called you or texted you?

5 A. I think they called me.

6 Q. But you remember he called -- he contacted you?

7 A. (Affirmative nod).

8 Q. Was it -- did you hear his voice on the phone or was it  
9 text communication? Do you remember having a conversation  
10 about the robbery or ---

11 A. He called me.

12 Q. --- how did you get involved? Was it a phone  
13 conversation or a text?

14 A. He called me.

15 Q. He called you. Do you remember speaking with him  
16 specifically about a robbery?

17 A. He told me to get ready, they had a lick.

18 Q. And what information did he give you so that you would  
19 prepare for that robbery?

20 A. Get something to put over my face.

21 Q. Did he tell you who you were going to go rob?

22 A. No, sir.

23 Q. Did he tell you that De'Nia's ex-boyfriend was going to  
24 be robbed?

25 A. Yeah.

TRA'VIS WARE - CROSS EXAMINATION BY MR. IANUARIO

1 Q. So he told you all of that, but you didn't remember at  
2 first if it was over a text or a phone call?

3 A. (Negative nod).

4 Q. Aside from the statement that you provided to the  
5 police did you show them any text messages or any phone  
6 records of having spoken to Juwan that day?

7 A. No, sir.

8 Q. And you were not present at the planning of the  
9 robbery, correct?

10 A. No, sir.

11 Q. So you don't really know Juwan's involvement up until  
12 the time he supposedly contacted you?

13 A. Yes, sir.

14 Q. Do you think you're going to suffer any consequences  
15 for your testimony today from the Gangster Disciples?

16 A. Yeah.

17 Q. Do you think it's going to be bad?

18 A. Yeah.

19 Q. Do you think that by testifying against Juwan Lomax  
20 that might aid you in any way, shape or form?

21 A. Yeah.

22 Q. Do you think that by testifying against Juwan Lomax it  
23 would save you from what's coming?

24 A. No.

25 Q. But you just said that it would.

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

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1 A. I mean, it won't.

2 Q. But just a minute ago it sounded like that you had  
3 something to gain by testifying against Juwan Lomax. What  
4 would that be?

5 A. Say that again.

6 Q. What do you stand to gain from testifying against Juwan  
7 Lomax?

8 A. (Negative nod).

9 Q. But you do fear repercussions from testifying against  
10 the Gangster Disciples, is that correct?

11 A. Uh-uh (negative).

12 Q. But you just said a moment ago it was. So which is it?

13 A. (Negative nod).

14 MR. IANUARIO: Nothing further, Your Honor.

15 THE COURT: Any redirect?

16 MS. SALISBURY: No redirect, Your Honor.

17 THE COURT: All right. Thank you, sir. You may step  
18 down. You may call your next witness.

19 MS. SALISBURY: Thank you, Your Honor. The State calls  
20 Mr. Josh Cline. Mr. Cline, if you would, please, come up  
21 here and be sworn.

22 MADAME CLERK: Sir, if you would, please, place your  
23 left hand on the Bible and raise your right hand. If you  
24 would face me, please.

25

Joshua Cline, being duly

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

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1 sworn testified as follows:

2 MADAME CLERK: Thank you. Please be seated. Please  
3 state your name for the record.

4 MR. CLINE: Joshua Cline.

5 Direct Examination by Ms. Salisbury:

6 Q. Mr. Cline, where do you live?

7 A. [REDACTED], [REDACTED], [REDACTED].

8 Q. And how long have you lived in Greenville?

9 A. All my life, really.

10 Q. Where did you go to school?

11 A. Southside and Carolina High School.

12 Q. Are you charged as part of the incident for which we're  
13 on trial here today?

14 A. Yes, ma'am.

15 Q. How do you know these Defendants? Let's start with  
16 Juwan. How do you know Juwan?

17 A. I know Juwan through -- through Raymond and through the  
18 music thing or whatever. He was a singer or whatever.

19 Q. How do you know De'Nia?

20 A. I'm not for sure which school I went to with her, but I  
21 knew her from school. Then when I seen her again around  
22 that neighborhood, that's where I recognized her from.

23 Q. And we've just met Mr. Tra'Vis Ware, Smoke. How do you  
24 know Smoke?

25 A. Through Raymond too, through the neighborhood.

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. And how did you meet Raymond?

2 A. Through Dreke and my other friend when he first got out  
3 of jail.

4 Q. What do your friends call you?

5 A. Fats.

6 Q. Do you remember meeting up with these Defendants in  
7 particular, Ms. Dawkins and Mr. Lomax, or Raymond and Smoke,  
8 in June of 2011?

9 A. Yes, ma'am.

10 Q. Do you remember meeting up with them in anticipation of  
11 what happened just after midnight on June 3rd, 2011?

12 A. I remember De'Nia and Raymond being at -- it was either  
13 at his house or somebody else house. I'm not really for  
14 sure. But I know when I came in, she was telling -- she was  
15 talking about it. She was like, she had a lick for us, her  
16 ex-boyfriend or whatever, he got money and whatever, he sell  
17 weed or something like that, whatever.

18 Q. And what time was this conversation taking place?

19 A. It was probably late in the -- late in the afternoon,  
20 probably about six or seven.

21 Q. And do you specifically remember De'Nia talking about  
22 how she had a lick for y'all to commit?

23 A. Yes, ma'am.

24 Q. What did you understand that to mean?

25 A. A robbery.

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Okay. Now, did you immediately go suit up for the  
2 robbery? What -- what happened?

3 A. No, ma'am. It was just like I agreed with it or  
4 whatever. And it was just like she had to go to work that  
5 day or whatever. And when she got off of work, that's when  
6 it was supposed to happen or whatever.

7 So around about 11:00, I think, 11:00 or whatever got a  
8 phone call from Raymond. And I missed it. I called him  
9 back. And I think -- I think it was more phone calls back  
10 and forth. I'm not really for sure, but I know we met at  
11 the Bi-Lo on East North Street in front of the Zaxby's.

12 Q. And how did you get there?

13 A. I drove my car.

14 Q. What is your car?

15 A. A black 2005 Nissan Altima.

16 Q. Okay. And who did -- who did you meet there?

17 A. I met Juwan, Raymond, De'Nia -- well, I didn't know --  
18 well, I knew De'Nia was with Juwan, but I didn't know there  
19 was another girl in the car. I didn't know the girl with  
20 them, but, like I said, I'm not really for sure, but I think  
21 Smoke and Raymond was in the car together, but I know them  
22 two got in -- got in the car with me.

23 Q. Okay. So would there have been three cars at the Bi-  
24 Lo?

25 A. Yes, ma'am, it was three cars at the Bi-Lo.

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

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1 Q. Your car and then which other two?

2 A. Juwan's and Raymond's.

3 Q. What kind of car does Juwan drive?

4 A. I want to say a white Buick, I think.

5 Q. Okay. And who do you remember being in that car?

6 A. Just the girls.

7 Q. And Juwan?

8 A. And Juwan, yes, ma'am.

9 Q. And then the third car was?

10 A. The green Crown Vic.

11 Q. Green or gray?

12 A. Green.

13 Q. Green Crown Vic, okay. And what happened to that car?

14 A. It just sat at the parking lot.

15 Q. Did you leave it at the Bi-Lo?

16 A. Yes, ma'am.

17 Q. Okay. So who got in the car with you?

18 A. Smoke and Raymond.

19 Q. All right. And where did you go from there?

20 A. We went to the apartments at Cunningham Villas. And

21 ---

22 Q. How did you know where to go?

23 A. We followed, I think, Juwan and them 'cause De'Nia was

24 in the car with him. And, I guess, she knew where she was

25 going.

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1 Q. Okay. Now, did you do anything to prepare for the  
2 robbery? I mean, if you got a message that you were meeting  
3 up to go do a lick together, were you given any instructions  
4 about when to meet, what to do, what to bring, any of that?

5 A. No, it was just to bring a black t-shirt, something to  
6 tie around your face. Yes, ma'am. And ---

7 Q. Did you have a gun?

8 A. Yes, ma'am.

9 Q. Did you always carry a gun?

10 A. Not just always, no, ma'am.

11 Q. Did you bring it because you knew that a robbery was  
12 happening?

13 A. Yes, ma'am.

14 Q. Okay. What kind of gun is it?

15 A. It was a pistol. I want to say a .380 or something  
16 around that caliber. It was a small caliber.

17 Q. Do you know whether Raymond and Smoke had guns?

18 A. Yes, ma'am.

19 Q. Did you see them?

20 A. I didn't see what kind of guns they had. I know that  
21 they had guns.

22 Q. Okay. So what happened when you -- both cars got to  
23 the apartments?

24 A. Both cars -- the two girls got out, De'Nia and the  
25 other girl, and went to the apartment. At that point in

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

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1 time, me, Raymond and Smoke was still sitting in my car. We  
2 was, you know, getting dressed, tying our shirts around our  
3 head or whatever. And it was like she going to text me when  
4 she get ready to come out and we're going to already be up  
5 the stairs, so when she come out the door, then that's when  
6 we going to go in.

7 Q. And who told you that?

8 A. Raymond.

9 Q. Okay. So Raymond was expecting a text from De'Nia?

10 A. Um-hum (affirmative).

11 Q. Okay. And what happened? Did you go ahead and get  
12 staged to be waiting outside the door?

13 A. Yes, ma'am. We went up through the breeze-way up the  
14 stairs.

15 Q. If you would, take a look -- this picture that's laying  
16 up here with you, State's exhibit 6, does that look familiar  
17 to you?

18 A. Yes, ma'am.

19 Q. Can you show the jury where y'all were standing,  
20 waiting for the signal to come inside?

21 A. We was along this wall right here. It's either this  
22 door or that door was his apartment. It might have been  
23 this one, but we was along the wall. And we was lined up  
24 right there. When he came out, we went in.

25 Q. At what point did you learn that the signal had been

JOSHUA CLINE - DIRECT EXAMINATION BY MS. SALISBURY

1 given?

2 A. When she sent a text and said -- I think she said we're  
3 about to come out now. And at that point in time we was  
4 already sitting on the wall right there waiting.

5 And so as the door opened, it was either De'Nia or the  
6 other girl that came out first, but I know the victim or  
7 whatever, he was like right there with them escorting them  
8 to the door. And so we rushed in, but the girls, like, they  
9 couldn't come out 'cause as we was rushing in we kind of  
10 pushed them like back in the house. So they was just all  
11 hysterical screaming or whatever.

12 And the victim or whatever, he -- just like I caught it  
13 from like my peripheral, like the side vision, 'cause I was  
14 going in. But I don't know -- I think -- I want to say he  
15 grabbed Raymond gun, and they got into a tussle. But I know  
16 Raymond and Smoke was still at the front of the apartment  
17 with the dude.

18 And I rushed to the back of the apartment. So I only  
19 seen one dude run back there. When we came in, I only seen  
20 one dude. And so when I tried to open the door to the  
21 right, it's like somebody was laying on it. They wouldn't  
22 open it. So I went to the room on the left that was already  
23 open.

24 And it was some -- it was some weed on the -- on the  
25 dresser. And so as I was putting that in my pants, I heard

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1 -- I heard -- I'm not sure if it was one or two, but I know  
2 I heard a gunshot. I heard a gunshot go off and I just  
3 blanked out.

4 And so as I was coming back out the room into the --  
5 into the hallway, I see the victim, and Smoke and Raymond  
6 coming towards me. And I said, y'all stupid. And I kept on  
7 going out the door.

8 And so as I get to my car, I'm fumbling around trying  
9 to get my keys at the same time or whatever. So as I get to  
10 my car, open the door, I see a white man standing like not  
11 directly in front of my car, but like towards this side. I  
12 think he had a phone in his hand, or a notebook pad or  
13 something.

14 And so as I was -- as I was getting in my car, I got in  
15 my car and I was looking at my keys, I had my head down and  
16 I was looking at my keys trying to see which one go in the  
17 ignition. And as I done that, and I looked up I seen a  
18 white dude running back towards the breeze-way.

19 And at that same point in time when I was cranking the  
20 car up, that's when Juwan and, I mean, not Juwan, but  
21 Raymond and Smoke got in my car. And then they got in the  
22 car. I said, which one of y'all shot? Nobody said nothing.  
23 I said, which one of y'all shot, again? And they said, man,  
24 just drive, everything going to be all right.

25 So we get back -- get back to the Bi-Lo ---

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1 Q. Let me stop you right there before we leave the  
2 apartment. I want you to take a look at State's exhibit 12.  
3 Does that look familiar to you?

4 A. Yes, ma'am.

5 Q. Could you describe for the jury where you -- where you  
6 would have been parked if this is the -- if this is the  
7 building where the victim's apartment is?

8 A. My car was backed in like right there, either right  
9 here or right here. It was close to the curb and at the end  
10 of the sidewalk.

11 Q. On this side of the sidewalk?

12 A. Yes, ma'am, on this side of the sidewalk.

13 Q. Okay. And where was Juwan parked?

14 A. I want to say he was right here.

15 Q. Okay.

16 A. He was either against the building or right there  
17 backed in.

18 Q. Okay. So you were right in the middle before I cut you  
19 off about you left from there after this guy in the parking  
20 lot confronted y'all, and they got in -- Raymond and Smoke  
21 got into your car.

22 A. Yes, ma'am.

23 Q. And then you left and went where?

24 A. We went back to the Bi-Lo. And then they got back in  
25 Raymond's car. But see, at that point in time we didn't

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1 know where Juwan was at because they was -- they was pulling  
2 out of the parking lot as I was getting in my car. So I --  
3 we didn't know where they was at. But we had called and  
4 they had met us at Mallard Cove at my house or whatever,  
5 counted the money, whatever.

6 I think it was four hundred dollars, I think it was.  
7 And I was -- I was just so mad. And I was like, man, I -- I  
8 don't know if I -- 'cause I know he offered me some money,  
9 but I want to say I turned it down. But I know he offered  
10 me two hundred dollars. And that was that. They left and  
11 that was the end of that.

12 Q. Now, when you came outside with the other two, with  
13 Raymond and Smoke, did you see De'Nia laying on the ground?

14 A. No, ma'am.

15 Q. Did you see her crying and screaming in the parking  
16 lot?

17 A. No, ma'am. I didn't see at all.

18 Q. Now, did you know Demetrius or any of his roommates?

19 A. Never seen them before.

20 Q. Now, Mr. Cline, do you understand that what you did  
21 that day was a crime?

22 A. Yes, ma'am.

23 Q. And were you charged as part of your involvement in the  
24 crime?

25 A. Yes, ma'am.

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1 Q. Earlier today did you plead guilty to attempted armed  
2 robbery and conspiracy as a part of your involvement in the  
3 crime?

4 A. Yes, ma'am.

5 Q. And is it your understanding that your other charges of  
6 burglary in the first degree, possession of a weapon during  
7 the commission of a violent crime and attempted murder are  
8 being dismissed as a part of that plea agreement?

9 A. Yes, ma'am.

10 Q. What do you understand is your responsibility, what do  
11 you have to do in order to take advantage of that plea  
12 agreement?

13 A. To get up here and completely tell the truth about my  
14 involvement in this crime.

15 Q. And have you told the truth today?

16 A. Yes, ma'am.

17 Q. Now, do you remember giving a statement to the police  
18 back in September?

19 A. Yes, ma'am.

20 Q. Do you remember what you told the police then?

21 A. I told them I didn't have nothing to do with it.

22 Q. Why did you tell them that?

23 A. I was scared.

24 Q. So what happened? Why did you change your mind?

25 A. I was just -- this has been -- this situation has been

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 like a rehab for me, man. I just came to a point in time  
2 where I was -- I'm a man, I want to be a man. So I'm going  
3 to take my responsibilities and accept the consequences.

4 And I apologize it happened like that 'cause I'm not  
5 even a person to do stuff like that, you know. Just under  
6 certain circumstances and I was under a lot of financial  
7 pressures. But, I mean, that's not an excuse. But I just  
8 felt like this would be -- it would take a lot of -- it  
9 would take a burden off of me or whatever.

10 Q. And have you been completely truthful about how you  
11 recall the events happening on June 3rd?

12 A. Yes, ma'am.

13 Q. Okay. Why did you do it?

14 A. Like I said, it's just more money when I had lost my  
15 job the month before. My daughter, she was almost a month  
16 and a half. And I ended up -- I just panicked. And I was  
17 under pressure, a new dad. It was just basically a stupid  
18 decision.

19 Q. Okay. Thank you, sir. And if you would, answer any  
20 questions that these attorneys may have for you.

21 A. Yes, ma'am.

22 Cross Examination by Ms. Gorton:

23 Q. You said you did it because of financial pressure and  
24 yet you say you turned down the two hundred dollars?

25 A. Yes, ma'am.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

1 Q. How long have you been in the Gangster Disciples?

2 A. Since January.

3 Q. Since January of 2011?

4 A. Yes, ma'am.

5 Q. So you had been with them only six months when this  
6 occurred, is that correct?

7 A. Yes, ma'am.

8 Q. Mr. Cline, do you consider yourself a family man?

9 A. Yes, ma'am.

10 Q. Were you known around the Gangster Disciples as being a  
11 family man?

12 A. They know I'm -- I'll take care of my daughter or  
13 whatever, yes, ma'am.

14 Q. Your daughter means everything to you, doesn't she?

15 A. Yes, ma'am.

16 Q. When was she born?

17 A. April 1st, 2011.

18 Q. Just two months before this?

19 A. Yes, ma'am.

20 Q. When you first became involved with Gangster Disciples  
21 did you know them as Growth and Development?

22 A. Yes, ma'am.

23 Q. Did you know that Growth and Development at that time,  
24 did you know Growth and Development and Gangster Disciples  
25 were one in the same?

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 A. I mean, it was -- it was -- it wasn't explained to me  
2 like that.

3 Q. How was it explained to you, Mr. Cline?

4 A. More like a family thing, organization.

5 Q. Did they talk to you about how there were expectations,  
6 that you pursue employment, and education, do positive  
7 things?

8 A. Yes, ma'am.

9 Q. Are you involved in the music industry?

10 A. Yes, ma'am.

11 Q. How are you involved?

12 A. I'm a rapper.

13 Q. And were you involved in the music industry prior to  
14 becoming involved with Gangster Disciples?

15 A. Yes, ma'am.

16 Q. Mr. Cline, how did they hook you?

17 A. How did they do what?

18 Q. How did they hook you?

19 A. How did they hook me?

20 Q. How did they trap you into Gangster Disciples?

21 A. Basically I just -- I just seen like it was like a lot  
22 of love, a lot of family, like a family thing. I didn't --  
23 there really wasn't nothing violent going on at the point in  
24 time when I came into it.

25 Q. Were you blessed in first?

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

1 A. Blessed in?

2 Q. Is there a ceremony called the blessing in?

3 A. I mean, yes, ma'am. Something like that, yes, ma'am.

4 Q. Okay. And at the time you were blessed in did you know  
5 they were involved in crime and bad things?

6 A. No, ma'am. I mean, I -- I knew the history of -- of  
7 Raymond and stuff like that. Yes, ma'am.

8 Q. Now, history of Raymond. There's really two histories  
9 of Raymond, aren't there?

10 A. You could say that.

11 Q. There's the very, very successful musician, correct?

12 A. Yes, ma'am.

13 Q. Now, I'm forty-five and I'm not into hip-hop, or rap or  
14 any of that, but my understanding is is that he was so good.  
15 He was destined for big labels, is that correct?

16 A. Yes, ma'am.

17 Q. What happened?

18 A. I'm really not for sure what happened to him back then  
19 'cause I really just didn't know him as a friend.

20 Q. Is it fair to say that he was famous locally?

21 A. Yes, ma'am.

22 Q. All right. And is it fair to say there's a number of  
23 people who know him without knowing he's a Gangster  
24 Disciples?

25 A. Yeah, you could say that. Yes, ma'am.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. Before I forget, while we're on the music  
2 industry, Gangster Disciples, they had a very different role  
3 for men and women, is that correct? Y'all had different  
4 dues, correct?

5 A. Yes, ma'am.

6 Q. Y'all had different leaders, is that correct?

7 A. Yes, ma'am.

8 Q. Okay. Raymond Young was the leader of the men,  
9 correct?

10 A. Yes, ma'am.

11 Q. Envy was the leader of the women, correct?

12 A. Something like that, yes, ma'am.

13 Q. And Envy was the one that was in -- the other one that  
14 was in Juwan Lomax's car, correct?

15 A. No, she wasn't. I know what Envy look like.

16 Q. You're saying that wasn't Envy?

17 A. No, ma'am. That was some other girl I've never seen  
18 before.

19 Q. Really?

20 A. Yes, ma'am.

21 Q. So when Smoke says that was Envy in the other car,  
22 that's not correct?

23 A. Like I said, I did not -- I did not see Envy.

24 Q. Did you see another girl that you didn't know? That's  
25 what you're saying?

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. So that would make four in Juwan's car?

3 A. No. I'm saying that I did not see Envy. The other  
4 girl, I've never seen her before. When that -- when I seen  
5 the other girl is when they opened the door and came out.

6 That's when I seen her face. And it didn't look like Envy.

7 That's why I'm saying it wasn't Envy.

8 Q. Is Envy the leader of the women?

9 A. Yes, ma'am.

10 Q. Is she the Queen?

11 A. Yes, ma'am.

12 Q. And the Queen is the highest ranking in the local  
13 group, correct?

14 A. Yes, ma'am.

15 Q. But Raymond is over her, is that correct?

16 A. Yes, ma'am.

17 Q. Is it fair to say that men and women have very  
18 different roles as far as what you do?

19 A. Yes, ma'am.

20 Q. The women are not involved in your crime related stuff,  
21 is that correct?

22 A. Yes, ma'am.

23 Q. So when there's drive-bys, when there's home invasions,  
24 when there's robberies, the women aren't involved?

25 A. (Negative nod).

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. And when you all do it as men, you don't come back and  
2 talk to the women about what you did? That's kept men's  
3 business, is that correct?

4 A. I'm positive it is 'cause, I mean, I don't do stuff  
5 like that. So I wouldn't know about do they go back and  
6 tell -- tell the women about it.

7 Q. You did this time.

8 A. Yes, ma'am.

9 Q. Where did y'all go afterwards?

10 A. We stopped at my house in Mallard Cove. I think they  
11 said they counted -- they counted the money or whatever.  
12 And the reason why I was upset about not -- 'cause it was  
13 four hundred dollars. I said, we went through all this for  
14 four hundred dollars? I was mad. So I wasn't -- I don't  
15 even want this.

16 But like I said, I can't really just recall if I took  
17 it or not. But I know that I was upset and I was like, man,  
18 I don't want this, man. We went through all this for four  
19 hundred dollars?

20 Q. Well, now you got the weed too, right?

21 A. Yes, ma'am.

22 Q. And it was in a jar, correct?

23 A. Yes, ma'am.

24 Q. And it was on a dresser?

25 A. Yes, ma'am.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. All right. And was there a bag of weed next to the  
2 jar?

3 A. I really can't remember.

4 Q. Could have been?

5 A. Could have been.

6 Q. The four hundred dollars, was that in large bills or  
7 small bills?

8 (Pause)

9 Q. Do you remember if there were small bills like twenties  
10 and stuff or was it all hundreds?

11 A. I'm really not for sure to be honest.

12 Q. All right. So who got the money? Raymond got the  
13 money?

14 A. Yes, ma'am.

15 Q. Did he also get the blue laptop?

16 A. I didn't see a laptop.

17 Q. You didn't know anything about a laptop?

18 A. I mean, I heard about it, but I didn't see the ---

19 Q. How did you hear about it?

20 A. I heard that they got a laptop too, but I didn't like  
21 -- like when they -- when we got back to my house, the only  
22 thing put out was the money 'cause they didn't -- they  
23 didn't know I had the weed either. I still had the weed in  
24 my pants. And I didn't see no laptop after they counted the  
25 money.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. Now, did you later see Raymond Young with a baby blue  
2 laptop, a Toshiba, kind of a really glossy blue?

3 A. He had a -- they had a number of laptops. But probably  
4 ---

5 Q. They did?

6 A. --- so. Yes, ma'am.

7 Q. All right. Going back to the music just real quickly.

8 One of the women's roles was to host a club called the Red  
9 Flame, is that correct?

10 A. Yes, ma'am.

11 Q. Every Thursday the women of Growth and Development were  
12 required to host at the Red Flame, is that correct?

13 A. Yes, ma'am.

14 Q. And what did that involve on their part, if you know?

15 A. I'm really not for sure, but I think they probably  
16 promoted or they took money at the door or whatever. That's  
17 probably really all they had to do. I'm not really for  
18 sure.

19 Q. Now, I want to make sure, the Red Flame, is that in any  
20 way related to Gangster Disciples or is that a separate  
21 thing?

22 A. No, ma'am, that's just a club.

23 Q. Okay. And do legitimate, non-crime involved groups  
24 play there, organizations play through there?

25 A. Yes, ma'am.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. All right. So it's kind of like a community center for  
2 musicians?

3 A. Yes, ma'am.

4 Q. It's not -- other than Growth and Development hosting  
5 it on Thursday nights, it's not their gig, correct?

6 A. Yes, ma'am.

7 Q. Okay. Did Growth and Development also have a music  
8 band?

9 A. Currency Gang.

10 Q. Courtesy Gang.

11 A. Yes, ma'am.

12 Q. That doesn't sound so scary.

13 A. I said Currency.

14 Q. Currency Gang.

15 A. Yes, ma'am.

16 Q. All right. And did they cut any records or CDs?

17 Sorry. CDs is what's out there now. Did they cut any of  
18 those?

19 A. I don't think it was really like CDs fluctuating  
20 around, but I think it was songs, like ---

21 Q. Was every member of Currency Gang also a member of  
22 Growth and Development?

23 A. Most of them.

24 Q. Most of them, but were there some that weren't?

25 A. Yes, ma'am. That was some that was like on the verge

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1 of becoming.

2 Q. Verge of becoming?

3 A. Yes, ma'am. It was sort of like prospects or  
4 something.

5 Q. Prospects. I was going to get into that. Thank you.

6 A. Yes, ma'am.

7 Q. So as a prospect -- what is a prospect?

8 A. Basically it's a newcomer, basically a newcomer trying  
9 to join the organization.

10 Q. Trying to join which organization? Growth and  
11 Development and Gangster Disciples?

12 A. Growth and Development. But with the Currency Gang  
13 thing, it's like there might be a new rapper or something, a  
14 dude that wants to rap. But then he see this going on too,  
15 so he asks about this too.

16 Q. He sees what going ---

17 A. Growth and Development.

18 Q. Okay.

19 A. Yes, ma'am.

20 Q. Sort of like Amway, but not, huh?

21 A. Yes, ma'am.

22 Q. Okay. So he sees this going on. What does he see  
23 going on with Growth and Development?

24 A. Just see like the numbers and how everybody just like  
25 -- everybody is like all cool and we all like brothers and

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

1 sisters, family and stuff like that.

2 Q. Okay. Do they see the crime aspect of it when they're  
3 prospects?

4 A. Not that I would know of. No, ma'am.

5 Q. No? You certainly didn't see the crime aspect of it  
6 when you were a prospect, did you?

7 A. No, ma'am.

8 Q. And then there's ranks. We've already talked about how  
9 women are not informed about what's going on, they're not  
10 involved on what's going on in the crime aspect, correct?

11 A. Yes, ma'am.

12 Q. Now, as far as the men, what is the lowest rank after  
13 prospect? You have prospect, ---

14 A. Yes, ma'am.

15 Q. --- you're blessed in, is that correct?

16 A. No. I don't think there's nothing else lower than  
17 prospect.

18 Q. Okay. What's the next highest? Nothing lower than  
19 prospect, then you have what?

20 A. An F-1.

21 Q. F-1. And then do you have F-2?

22 A. Yes, ma'am.

23 Q. And then you have Brothers of the Struggle? Or what is  
24 the next one? I'm sorry. Go ahead and tell me.

25 A. I want to say it's an F-3.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. In the six months you were involved in Growth and  
2 Development what rank did you make?

3 A. Corporal.

4 Q. Corporal. And was this the first violent crime you  
5 were involved in?

6 A. First and only.

7 Q. First and only. Attempted murder, you were looking at  
8 life?

9 A. Yes, ma'am.

10 Q. It's a long time to be away from your little girl,  
11 isn't it?

12 MS. SALISBURY: Your Honor, I'd object to the  
13 characterization. That's not ---

14 THE COURT: I sustain the objection. If you would  
15 please state your question as far as ...

16 Q. Attempted murder is up to thirty years?

17 A. Yes, ma'am.

18 Q. Armed robbery, ten year minimum/mandatory, no parole,  
19 no early release, no youthful offender. Ten years, only way  
20 out, not guilty verdict by the jury or the Solicitor drops  
21 the charges, is that correct?

22 A. Yes, ma'am.

23 Q. All the way up to thirty. And in that case did the  
24 Solicitor drop the charge?

25 A. Yes, ma'am.

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 Q. And you understand that now that it's only attempted  
2 robbery, you don't have a minimum/mandatory, it's totally up  
3 to the Judge, right?

4 A. Yes, ma'am.

5 Q. And you know that the Judge or you understand that the  
6 Judge is going to be considering the level of your testimony  
7 in this trial, correct?

8 A. Yes, sir. I mean, yes, ma'am.

9 Q. That's all right. And there's only two people on trial  
10 here, right?

11 A. Yes, ma'am.

12 Q. Burglary, first degree, you had that charge as well in  
13 this incident, didn't you?

14 A. Yes, ma'am.

15 Q. Fifteen year minimum/mandatory, no parole, no early  
16 release, no excuses, two ways out, them or her, correct?

17 A. Yes, ma'am.

18 Q. They dropped it, didn't they?

19 A. Yes, ma'am.

20 Q. Possession of a weapon during a violent felony,  
21 dropped?

22 A. Yes, ma'am.

23 Q. Five years, no excuses, no exceptions, gone, correct?

24 A. Yes, ma'am.

25 Q. And so now all you're looking at is conspiracy and

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 attempted armed robbery. You could get no time or you could  
2 get twenty years, correct?

3 A. (Affirmative nod).

4 Q. And you were looking at life, weren't you?

5 A. (Affirmative nod).

6 Q. One of those charges carries up to life.

7 A. Yes, ma'am.

8 Q. Looks like you're in a really hard spot.

9 A. Yes, ma'am.

10 Q. When you came into the apartment that night you said  
11 you pushed passed the girls and the girls were kind of  
12 pushed back in, did I understand that right?

13 A. Yes, ma'am.

14 Q. They were at the door. He opened the door. Were both  
15 girls there at the door?

16 A. Yeah, I think so. Yes, ma'am.

17 Q. You think so?

18 A. I -- I don't know who was in front of who, ---

19 Q. Right.

20 A. --- yes, ma'am. But I know like both of them was like  
21 right there together. And then there was the victim.

22 Q. Are you crystal clear that none of the girls had gone  
23 down the breeze-way?

24 A. Yes, ma'am.

25 Q. And none of the girls had come out and then gone back

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

1 in?

2 A. I don't remember that.

3 Q. You don't remember a girl coming out and giving you  
4 guys a signal or anything, then going back in?

5 A. No, ma'am.

6 Q. You're sure of that?

7 A. Yes, ma'am.

8 Q. Okay. And when you pushed the girls back in I thought  
9 I heard you say; and there was hysterical screaming and  
10 everything.

11 A. (Affirmative nod).

12 Q. Now, were the girls screaming?

13 A. Yes, ma'am.

14 Q. Did you hear anyone yell; everybody get down?

15 A. I don't remember hearing that.

16 Q. Did the girls get down?

17 A. No, ma'am.

18 Q. Did anyone get down?

19 A. I don't think nobody laid on the floor, no, ma'am.

20 Q. Did the girls run to one of the back rooms at first?

21 A. They was like sort of in the middle, like in the  
22 hallway.

23 Q. In the hallway?

24 A. Yes, ma'am.

25 Q. And as I understand it, you actually went back to the

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

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1 hallway while Smoke was helping Raymond with the struggle  
2 with Mr. Benson, is that correct?

3 A. Yes, ma'am. After I went to the door on the right,  
4 then I went to -- and I entered the room on the left and  
5 then I came back out. But when I came back out the room,  
6 the girls was going out the door.

7 Q. Right. After all this?

8 A. Um-hum (affirmative).

9 Q. But you did see them run back into one of the rooms,  
10 correct? The one straight into the hallway?

11 A. Did I see them run back into it? Like they -- like  
12 'cause the way the front door is, if you walk through the  
13 front door you're right there at the hallway. And so it was  
14 like they -- they backed up like towards like the middle of  
15 the hallway when we like rushed in.

16 Q. Did they turn and run? Turn their back to you and  
17 start running?

18 A. I can't really recall that.

19 Q. Who was dealing out the money when you got back to  
20 Mallard Cove?

21 A. Raymond was counting it.

22 Q. Raymond was counting it out.

23 A. (Affirmative nod).

24 Q. And he offered some to you and you said no, no thanks?

25 A. I could have sworn I said, man, -- 'cause I was upset

JOSHUA CLINE - CROSS EXAMINATION BY MS. GORTON

1 and all, I mean, that's all we did for four hundred dollars?

2 Man, I don't want that, not me. But he probably gave me two

3 -- I probably took it, yes, ma'am.

4 Q. But, you know, that reminds me, did he take that as  
5 disrespect?

6 A. I don't think he took it any kind of way. It was just  
7 like, man, just take it, man, or something. I really can't  
8 remember that well -- that part right there.

9 Q. All right. I want to talk a little bit about  
10 disrespect. What was Raymond and Envy called? Were they  
11 called their Higher -- your Higher Authority?

12 A. Yes, ma'am.

13 Q. They were?

14 A. (Affirmative nod).

15 Q. And if you showed disrespect to a higher authority what  
16 would happen to you?

17 A. You'd be violated.

18 Q. What does a violation mean?

19 A. You could be beat up or you'd either have to pay some  
20 type of money or you could be suspended.

21 Q. When you say beat up, are you talking -- like for the  
22 girls, was there a rule on a physical violation? Was there  
23 a physical violation where six of the highest ranking girls  
24 would get to jump on the one? And ---

25 A. Yes, ma'am.

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1 Q. --- she wasn't allowed to fight back? Yes?

2 A. Yes, ma'am. I'm -- yes, ma'am, I think it was like  
3 that. Yes, ma'am.

4 Q. And was there another female violation where the  
5 highest ranking female got to beat up on the violator for  
6 six straight minutes?

7 A. Yeah, but I think she could fight back or something  
8 like that.

9 Q. You thought she could fight back?

10 A. Yes, ma'am.

11 Q. But it was the highest ranking female?

12 A. Not necessarily the highest rank. The -- the highest  
13 rank would pick one of the other females if she wanted to.

14 Q. So she could pick the biggest one?

15 A. Yeah, if she wanted to.

16 Q. And often they did as part of the violation  
17 consequence, correct?

18 A. Yes, ma'am.

19 Q. At Mallard Creek when you were dividing up money and  
20 you were upset and you weren't paying that much attention,  
21 did you see De'Nia Dawkins get any money?

22 A. Uh-uh (negative).

23 Q. That wouldn't have been part of the culture, would it?

24 A. No, ma'am, I don't think she got any money.

25 Q. You don't think she got any?

JOSHUA CLINE - CROSS EXAMINATION BY MR. IANUARIO

1 A. Uh-uh (negative).

2 MS. GORTON: No further questions.

3 Cross Examination by MR. IANUARIO:

4 Q. Do you remember about when Juwan joined the Growth and  
5 Development group?

6 A. I really don't remember the exact month. I know it was  
7 probably before that Summer.

8 Q. Would May sound about correct?

9 A. Yeah, probably May or March.

10 Q. Was he pretty new when this crime went down?

11 A. Yes, ma'am. I mean, yes, sir.

12 Q. It's fine. You're the second person that's done that  
13 today. Is he any good as a musician?

14 A. Yeah, he can sing.

15 Q. And no disrespect, are you any good?

16 A. Yes, sir.

17 Q. Y'all record some tracks?

18 A. Yes, sir. I think we got one song together.

19 Q. Where did y'all record them at?

20 A. We recorded the song me and him got together at his  
21 house.

22 Q. He's got a little recording studio?

23 A. Um-hum (affirmative).

24 Q. So he's pretty musically inclined just like you?

25 A. Yes, sir.

JOSHUA CLINE - CROSS EXAMINATION BY MR. IANUARIO

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1 Q. The night of the robbery you say y'all met up at the  
2 Bi-Lo and Juwan and the girls were in his car and you and  
3 Smoke and Raymond rode in your car?

4 A. Yes, sir.

5 Q. What did y'all talk about in the car?

6 A. It was really just quiet ride til we got to the  
7 apartments. Then that's when Raymond, he let us know what  
8 was going on, that she was going to go up there or whatever,  
9 get some weed or whatever, when she come back out the door,  
10 that's when we was going to come in. But she was like -- he  
11 was like she's going to be texting me and let us know when  
12 to be ready.

13 Q. And was Raymond getting texts during this time?

14 A. (Affirmative nod).

15 Q. Do you know where those texts were coming from?

16 A. I want to say De'Nia's phone. I mean, I didn't see his  
17 phone or see her number or nothing, but he said it was  
18 texting De'Nia.

19 Q. Okay. But you don't know for certain who was on the  
20 other end of that phone? It could have been De'Nia, or  
21 Envy, or maybe even Juwan, who knows.

22 A. Yes, sir.

23 Q. You just don't know who was sending those texts. You  
24 know Raymond was receiving them.

25 A. Um-hum (affirmative).

JOSHUA CLINE - CROSS EXAMINATION BY MR. IANUARIO

1 Q. What was Juwan's involvement in the planning phase of  
2 this?

3 A. I really -- I don't know. Like I said, ---

4 Q. You didn't really know much about the plan until you  
5 talked to Raymond?

6 A. Yes, sir.

7 Q. Do you know if Juwan knew anything about what was going  
8 to happen that night?

9 A. I did not know. I didn't even know Juwan was going to  
10 be coming until I seen his car when we pulled up at the Bi-  
11 Lo.

12 Q. Okay. Now, when y'all pulled up to the apartment -- my  
13 understanding is Juwan pulled up first, then you pulled up  
14 second?

15 A. Yes, sir.

16 Q. Were you parked behind him, beside him or somewhere  
17 completely different?

18 A. I want to say I was behind him. See, I don't know if  
19 he was backed up against the apartment building or was he  
20 backed up against the sidewalk like I was. I'm not really  
21 for sure.

22 Q. If he was sitting in the vehicle in his driver's seat  
23 you probably would have had his back to your car ---

24 A. Yes, sir.

25 Q. --- and not seeing what was going on behind him?

JOSHUA CLINE - CROSS EXAMINATION BY MR. IANUARIO

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1 A. Yes, sir.

2 Q. You said after the crime y'all went back to your house  
3 -- did you say your house to split the money?

4 A. Yes, sir, Mallard Cove.

5 Q. Mallard Cove. Who all went back exactly?

6 A. Me, Smoke, Raymond, Juwan and De'Nia.

7 Q. Okay. And were Juwan and De'Nia there for -- when  
8 y'all were splitting the money or did that happen after they  
9 left?

10 A. They got out of the car too, I think so.

11 Q. So do you think they left?

12 A. No, I think Juwan and De'Nia got out of the car too.

13 Q. Okay.

14 A. But I'm not -- I can't really remember that part right  
15 off.

16 Q. Okay. So you don't remember for certain if they went  
17 in the house or if they just parked outside, then left?

18 A. Uh-huh (affirmative).

19 Q. So they weren't around when the money was being split?

20 A. I'm not for sure. Like I said, I know De'Nia didn't  
21 get no money. But I know -- I know distinctly that me,  
22 Raymond and Smoke was there when he was playing with the  
23 money. I know that distinctly.

24 Q. Okay. So you definitely remember you, Raymond and  
25 Smoke being there.

JOSHUA CLINE - CROSS EXAMINATION BY MR. IANUARIO

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- 1 A. (Affirmative nod).
- 2 Q. And was the money split amongst you, Raymond and Smoke?
- 3 A. Yes, sir.
- 4 Q. Do you recall if Juwan got anything out of it?
- 5 A. Not that I know of.
- 6 Q. Okay. Let's talk a little bit about violations. What
- 7 were the consequences of violations for a man?
- 8 A. Basically the same as women, really.
- 9 Q. You'd get either six on one or a six minute fight?
- 10 A. Um-hum (affirmative).
- 11 Q. Biggest guy that the leader picked?
- 12 A. Yes, sir.
- 13 Q. Are you fearful of any violations today?
- 14 A. Am I fearful?
- 15 Q. You think anything's going to happen to you for
- 16 testifying today?
- 17 A. Basically at this point, sir, I really don't -- I
- 18 really don't care. If it do, it do.
- 19 Q. Okay. What rank was Smoke?
- 20 A. To be honest, I can't remember. I don't ---
- 21 Q. Was he fairly higher up or pretty low?
- 22 A. I want to say he might have -- he might have been in --
- 23 sort of in the middle.
- 24 Q. All right. Definitely not a peon? I don't mean to be
- 25 ---

JOSHUA CLINE - CROSS EXAMINATION BY MR. IANUARIO

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1 A. Um-hum (affirmative).

2 Q. What were the Gangster Disciples' colors that y'all  
3 wear here in town?

4 A. Mostly black, black and gray.

5 Q. Okay. Are you still a part of the Gangster Disciples?

6 A. Well, not -- not after this is over.

7 Q. Okay. What color is your shirt?

8 A. Gray.

9 Q. What color are your pants?

10 A. Black.

11 MR. IANUARIO: Nothing further, Your Honor.

12 THE COURT: Any redirect?

13 MS. SALISBURY: No redirect, Your Honor.

14 THE COURT: All right. Thank you, sir. You may step  
15 down.

16 Madame Forelady, ladies and gentlemen of the jury, I  
17 think we've reached a good time to break for the evening. I  
18 ask, if you would, I'll remind you again not to discuss the  
19 case, not to let anyone discuss it with you. Don't do any  
20 kind of social media, don't do any kind of research.

21 That would be against your oath and against the  
22 instructions that the Supreme Court has given us. You've  
23 made a commitment. You've fulfilled that commitment so far.  
24 I want to remind you of that process and the purity that we  
25 need of it.

1 Wednesday, April 11, 2012:

2 (Whereupon court resumed at 9:12 am)

3 **THE COURT:** Thank you. Please be seated.

4 (Pause)

5 **THE COURT:** All right. Any matters we need to take  
6 care of this morning? I think you said you had some  
7 motions, Ms. Gorton.

8 **MS. GORTON:** Were you wanting to address the directed  
9 verdict this morning ---

10 **THE COURT:** Whatever motions you have before our jury  
11 starts -- comes back in.

12 **MS. GORTON:** She's off the record rested, correct?

13 **THE COURT:** She has on the record rested.

14 **MS. GORTON:** On record, okay.

15 **THE COURT:** Without the jury being here. And then  
16 she's going to rest again on the record. But the record  
17 will reflect that these motions are being made after the  
18 State has rested. And just for the benefit of the jury,  
19 I'll let them rest again as a -- in a perfunctory way so  
20 that the jury will know where we are right now. I'll be  
21 glad to hear from you.

22 **MS. GORTON:** Judge, I just brought the State v.  
23 Johnson. I would move for a directed verdict at this time  
24 that the issue here is presence and the State hasn't made a  
25 sufficient timing or a sufficient showing of her knowledge

1 of the offences before they occurred or her planning or  
2 participation in them.

3 I understand -- for a directed verdict, I understand  
4 what the threshold is. I'm preserving the record and doing  
5 what I need to do.

6 MR. IANUARIO: Your Honor, I'd also like to join in  
7 this motion for the same reasons.

8 THE COURT: All right. Would the State like to be  
9 heard on the motions?

10 MS. SALISBURY: Judge, not at length, just that I  
11 believe that there's more than sufficient evidence to send  
12 the case to the jury based on not only these Defendants'  
13 statements, but the co-defendants' testimony at trial.

14 THE COURT: All right. Well, as all of you know I have  
15 to weigh all of the evidence in the light most favorable to  
16 the non-moving party, that being the State in this case.  
17 And I think there's not an absence of evidence. So I  
18 believe there is sufficient evidence for the jury to make a  
19 determination. So I respectfully deny your motion.

20 MS. GORTON: Thank you.

21 MR. IANUARIO: Thank you, Your Honor.

22 THE COURT: Do you plan to put up a defense, Ms.  
23 Gorton?

24 MS. GORTON: Well, I've excused Detective Hoover. And  
25 I think that I do, Your Honor.

1 THE COURT: Okay.

2 MS. GORTON: Not the Defendant though.

3 THE COURT: All right. Do you know about how long or  
4 how many witnesses? I'm just wanting to know about -- from  
5 a timing standpoint for our jury to come back to start our  
6 next trial is what I'm ---

7 MS. GORTON: It's extremely short, Your Honor.  
8 Detective or Officer Hamilton will be on for -- I'm going to  
9 guess five minutes. And then Ms. Adams, depending on how  
10 long Ms. Salisbury needs to spend with her, but I wouldn't  
11 think more than thirty.

12 THE COURT: Okay. Mr. Ianuario, you plan to put up any  
13 witnesses?

14 MR. IANUARIO: No, Your Honor.

15 THE COURT: All right.

16 (Pause)

17 MS. GORTON: Judge.

18 THE COURT: Yes, ma'am.

19 MS. GORTON: I'm changing my mind. I'm sorry. We are  
20 not going to put on a defense.

21 THE COURT: Okay. So you've got one exhibit in  
22 evidence or two exhibits? I can't remember.

23 MS. GORTON: I think there was only one that was  
24 entered as -- four?

25 THE COURT: Yeah, a couple of pictures. Yeah, four

1 exhibits, is that right? Four?

2 MADAME COURT REPORTER: Defendant's exhibit 4 is in  
3 evidence.

4 THE COURT: Only ---

5 MADAME COURT REPORTER: But there are four exhibits,  
6 but only one ---

7 THE COURT: Only one? All right. Number 4 is in  
8 evidence. 1, 2 and 3 were marked for identification only.

9 MS. GORTON: Okay.

10 (Pause)

11 MS. GORTON: Judge.

12 THE COURT: Yes, ma'am.

13 MS. GORTON: I'm sorry, again, I've not done co-  
14 defendant trials like this before. Does one of us get  
15 rebuttal, assuming no evidence by either Defendants, I got  
16 that, any evidence by either defense, no one gets rebuttal  
17 on this side, but do both of us get rebuttal or just one?  
18 Do you know?

19 THE COURT: As I understand the law, if there's any  
20 evidence put up by the defense, then the State will go --  
21 argue last. So y'all will have ---

22 MS. GORTON: But we're not.

23 THE COURT: Excuse me?

24 MS. GORTON: We're not -- we're not going to put up any  
25 evidence ---

1 THE COURT: But you've got an exhibit in, don't you?  
2 You have evidence in through your photograph.

3 MS. GORTON: So we lose rebuttal by the photograph?

4 THE COURT: What's the State's position on that?

5 MS. SALISBURY: The State's position is that any  
6 evidence introduced by the Defendant means that the  
7 Defendant forfeits last argument. I believe it's the way  
8 the law reads that the State goes last.

9 MS. GORTON: And I don't suppose there's any way I  
10 could withdraw that evidence?

11 (Pause)

12 THE COURT: Let's move to another issue about charges.  
13 Are there any particular charges that we need to address?  
14 I'll be charging the law on each of the cases -- on each of  
15 the offenses charged. I'll be charging criminal intent,  
16 direct evidence, circumstantial evidence, burden of proof,  
17 presumption of innocence. I'll certainly charge the jury  
18 about the right of the Defendant not to testify. I'll  
19 charge mere presence.

20 MR. IANUARIO: May I approach, Your Honor? I have ---

21 THE COURT: Yes, sir, you have some more requests?

22 MS. GORTON: Judge, the mere presence that you'll be  
23 charging, is that the one that I requested pursuant to State  
24 v. Austin?

25 THE COURT: Well, I'll charge my normal mere presence

1 charge. I'm sure -- it might not be the exact words of your  
2 charge, but it'll ---

3 MR. IANUARIO: I also filed those as well. I don't  
4 know if you have copies of them yet or not.

5 THE COURT: I've got these. Do you want them back?

6 MR. IANUARIO: If you don't mind, those are my copies.  
7 But if you didn't have them ---

8 THE COURT: All right. Has the Solicitor got all  
9 those?

10 MR. IANUARIO: All except for the one I just gave ---

11 THE COURT: You got a copy?

12 MR. IANUARIO: Yes, ma'am -- yes, sir.

13 THE COURT: Okay.

14 (Pause)

15 THE COURT: Yes, Solicitor.

16 MS. SALISBURY: I don't know where we're at in the  
17 process yet. I have some responses to the proposed charges,  
18 but I also -- if the Court's interested in some particular  
19 guidance on the closing argument issue, I have some ---

20 THE COURT: Do you have a copy of that case that came  
21 out a couple of years ago?

22 MS. SALISBURY: I have what the desk-book marks is  
23 State versus Crowe is the particular case that describes  
24 when jointly tried defendants introduce evidence, it -- I'm  
25 sorry, when one of jointly tried defendants introduces

1 evidence, the State is entitled to close last. That's ---

2 THE COURT: Right. Yeah.

3 MS. SALISBURY: That's that case. And then what State  
4 versus Pinkard and State versus Gellis both say is that the  
5 presentation of any evidence by a defendant, either  
6 testimony or non-testimonial, forfeits their right to last  
7 argument. I'd be happy to ---

8 THE COURT: What was that -- what's the date of that  
9 last case?

10 MS. SALISBURY: The last one is 1930, but Pinkard is  
11 2005. I wondered if that's the one ---

12 THE COURT: Well, no, there's a case. I need to check  
13 it. It came out just a couple of years ago about putting  
14 the scene into evidence and whether that was -- when the  
15 jury went to look at the scene whether that constituted  
16 evidence. And I need to check that case. I think the -- I  
17 want to be sure that the photograph would not be considered  
18 like a scene. But I think putting -- I think putting the  
19 scene in was not evidence.

20 MS. SALISBURY: And, for what it's worth, the State's  
21 position on that is that that photograph is an exhibit. It  
22 is an exhibit ---

23 THE COURT: Right.

24 MS. SALISBURY: --- that has been discussed at length.

25 THE COURT: I think that's -- that's clear. I just

1 want to have the benefit of knowing ---

2 MS. SALISBURY: Yes, Judge.

3 THE COURT: --- that case is -- so if you've got that  
4 case, I'll be glad to ---

5 MS. SALISBURY: It doesn't appear that I do. I don't  
6 think I've got that one.

7 THE COURT: Well, I'll look for that.

8 (Pause)

9 THE COURT: All right. Are we on ---

10 MS. GORTON: On the charging instructions ---

11 THE COURT: As far as the other, about the -- we know  
12 about the argument. Each of you will have a chance to argue  
13 first and then the State will then argue its case to the  
14 jury.

15 MS. GORTON: Because of the photograph?

16 THE COURT: Because of the photograph being in  
17 evidence.

18 MS. GORTON: Is there any way I could withdraw it?

19 THE COURT: I don't know of any way that you can  
20 withdraw a piece of evidence. Can you give me any basis for  
21 that?

22 MS. GORTON: Move to withdraw it.

23 THE COURT: Once it's been introduced, and then  
24 discussed and testified to ...

25 MS. GORTON: Right. I don't know that it being

1 introduced is the prejudice that the State has because we  
2 talked about the other photographs just as much at length.  
3 So whether it was admitted into evidence or not, there's no  
4 prejudice to the State.

5       **THE COURT:** Well, it was published to the jury once  
6 it's introduced into evidence. It's been published to the  
7 jury.

8       **MS. GORTON:** If that's the case, Your Honor, if that's  
9 the ruling, I do have some evidence to put up.

10       **THE COURT:** Okay. Well, that'll be fine.

11       **MS. GORTON:** Thank you, Your Honor. I appreciate it.

12       **THE COURT:** Put up whatever evidence you'd like.

13       As to the charge, does the State have any objections to  
14 the charges proposed by the Defendants?

15       **MS. SALISBURY:** Well, I certainly -- I don't have any  
16 objection to mere presence or -- I'm not sure of the whole  
17 litany of the others. The one that I recall taking  
18 particular issue with was the charge that reflects the  
19 existence of some independent or intervening act.

20       It's my understanding of the law that if conspirators  
21 join together to commit a crime, each conspirator is  
22 responsible for the natural and reasonable consequences that  
23 flow from that act. And, of course, should there be some  
24 evidence of an independent or intervening act, then the  
25 Defendants may be entitled to that charge.

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1 -- what we'll be doing when the jury comes out, I'll call  
2 for the Solicitor for her next witness. She'll say, I rest.  
3 All your motions are protected on the record since she has  
4 already rested before me.

5 And then you can start with your defense. And after  
6 your defense, Mr. [sic] Gorton, then I'll call for Mr.  
7 Ianuario, if we haven't had a break. And then he can rest  
8 and if we have any reply. And then we'll take a break  
9 before we argue and charge. Okay. If the jury's ready, you  
10 can have them come in, Ms. Sims.

11 (Whereupon the jury entered the courtroom at 9:49 am)

12 **THE COURT:** Good morning, Madame Forelady, ladies and  
13 gentlemen. We're now ready to proceed with the trial of the  
14 case. The State may call its next witness.

15 **MS. SALISBURY:** Thank you, Your Honor. The State  
16 rests.

17 **THE COURT:** All right. The defense then may present  
18 its case, if it wishes. Ms. Gorton.

19 **MS. GORTON:** Thank you, Your Honor. I call Chastity  
20 Adams.

21 **MADAME CLERK:** Ms. Adams, if you'll come to the end of  
22 the bench. Please place your left hand on the Bible and  
23 raise your right hand.

24 **Chastity Adams, being**  
25 duly sworn testified as follows:

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1           MADAME CLERK: Thank you. Please be seated. Please  
2 state your name for the record.

3           MS. ADAMS: My name is Chastity Veronica Adams.

4           Direct Examination by Ms. Gorton:

5           Q. Ms. Adams, how do you -- do you know De'Nia Dawkins?

6           A. Yes, I do.

7           Q. How long have you known her?

8           A. I've known her since about sixth or seventh grade. She  
9 went to school with my son.

10          Q. Is that how you met her?

11          A. That's exactly how I met her.

12          Q. And what is your son's name?

13          A. His name is Dajon (phonetics) Greer.

14          Q. And he is the same age as Ms. Dawkins?

15          A. Yes, he is. Well, he'll be twenty-one this coming  
16 June.

17          Q. All right. And do you have any other children?

18          A. Yes, I do.

19          Q. How many do you have?

20          A. I have my daughter, Kaylin Adams. And I have my middle  
21 son, who's name is Kareeb (phonetics) Adams.

22          Q. And how old is Kaylin?

23          A. Kaylin is sixteen. And my son, Kareeb, is seventeen.

24          Q. Now, what would you describe your relationship with Ms.  
25 Dawkins?

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1 A. My relationship with Ms. Dawkins is that she's more  
2 like a daughter to me. She's been around us for, like I  
3 said, since like sixth or seventh grade. I treat her as one  
4 of my children.

5 Q. Now, when you say us, who are you talking about?  
6 You've talked about three children.

7 A. And my husband.

8 Q. Who is your husband?

9 A. My husband's name is Kim Adams.

10 Q. Okay. Now, how often do you see De'Nia, say, in the  
11 last couple of years?

12 A. I see De'Nia almost every day. If I did not see  
13 De'Nia, probably -- maybe once or twice out the week, and I  
14 didn't -- well, I would see her because sometimes I would  
15 take her to work and pick her up from work and take her  
16 home.

17 Q. Now, where did she work?

18 A. Sortino's is where she worked.

19 Q. All right. Did she have any other jobs?

20 A. Not that I'm aware of.

21 Q. So when she went to college, did you still see her  
22 frequently?

23 A. Yes. Whenever she would come home from college or  
24 whenever she would visit for the weekend, De'Nia always came  
25 by to see us.

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1 Q. Do you see anyone else in the courtroom on this side  
2 that you recognize?

3 A. Yes. I see -- I don't know him by his full name, but I  
4 call him Drez.

5 Q. And how do you know Drez?

6 A. I met Drez through De'Nia as her boyfriend. I met him  
7 -- I think they had been dating two years at that time. And  
8 he came to the house with De'Nia and we sat and had a family  
9 night. And we had -- we watched movies.

10 Q. Was that the one and only time you saw Drez?

11 A. I've seen him out in downtown Greenville. I've seen  
12 him whenever they would come by or whenever he would pick  
13 De'Nia up and they were going back to his home. So I would  
14 see him on those types of occasions, but that's the only  
15 other time.

16 Q. So, -- now, how long did their relationship span?

17 A. They dated for two years in high school and one year in  
18 college, for De'Nia's first year in college.

19 Q. Your family, are they involved in music?

20 A. Yes, they are.

21 Q. Tell us what they do.

22 A. They are hip hop artists, R&B artists. They actually  
23 go out and perform at any local -- of the local clubs here.

24 De'Nia's role with my music group is she is my secretary.

25 She helps me book shows for them. She helps me manage any

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1 money that we raise for them or we collect from them in  
2 dues. So she represented as a secretary and as a supporter  
3 for the group.

4 Q. And how long had she been doing that?

5 A. OTK has been established since -- it's been about three  
6 years now. It's been going on three years now.

7 Q. Now, OTK, what does OTK stand for?

8 A. It stands for Original Trendsetter Krew. And what that  
9 means is that they set trends that people follow.

10 Q. What kind of trends?

11 A. Clothing trends. It's mainly with clothing, but they  
12 are hip hop artists, R&B artists. They do a variety of  
13 music. So not just one type of music.

14 Q. Now, are they in any way involved with any gangs?

15 A. No, ma'am.

16 Q. Okay. In fact, how do you instruct your daughter?

17 A. I raise my daughter with the instructions of being a  
18 lady, being respectful. They must say yes, ma'am, no ma'am.  
19 I raise her that -- to wait for marriage. So I have very,  
20 very, very strict guidelines for my daughter. Very.

21 Q. And what about your sons?

22 A. My sons, I'm very strict with them, but not to -- one  
23 is getting ready to be twenty-one, of course. So there's  
24 not a lot that I can say to him now. But my middle son --  
25 they're home schooled.

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1           And the reason they are home schooled is because they  
2           went through a lot of bullying. And my daughter went  
3           through a lot of bullying where she was attacked on the  
4           school bus and hit in the face with a swing. So, therefore,  
5           I thought it was in their best interest to bring them home.  
6           So I home school my children. So they go to a high school  
7           on-line.

8           Q. Now you said that your -- you first met De'Nia through  
9           your son.

10          A. Um-hum (affirmative).

11          Q. Did he remain your primary contact with De'Nia?

12          A. Yes, he would. Yes.

13          Q. Okay. What about your daughter? What kind of  
14          relationship does she have with your daughter?

15          A. De'Nia is like a big sister to my daughter. She like  
16          -- she comes and gets her and takes her out to get her nails  
17          done. She takes her out to eat. She takes her out  
18          shopping. She spends a lot of time with her. She also  
19          knows what I expect for my daughter. And she makes sure  
20          those things are in effect.

21          Q. All right. Now, going back to OTK and your  
22          involvement, are you kind of like the Partridge Family mom?

23          A. Yeah. I am the manager of the group. And because they  
24          are under age, they would not be able to perform in any of  
25          the clubs here locally in South Carolina or when we travel

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1    afar.  So in order for them to be able to come into those  
2    clubs, I have to be present because for one, they're under  
3    the age of eighteen.

4           I had two artists that were under the age of eighteen.  
5    I had one that were under the age of twenty, I mean, three  
6    that were under the age of twenty-one.  So I had to be there  
7    at every performance in the beginning because they were  
8    under age and they could not get in without me being there.  
9    So I had to supervise them at all times.

10   Q.  All right.  So in the process of being involved in  
11   these clubs and these musical circles, did you ever run  
12   across the group called Growth and Development?

13   A.  I heard of that name, Growth and Development.  And I've  
14   seen a lot of the artists on the music scene.  So I was  
15   aware of that particular organization.

16   Q.  And you were aware that these particular artists were  
17   associated with Growth and Development?

18   A.  Right.  And they -- yeah.

19   Q.  And what were these people like?

20   A.  They were very -- very nice young men, very -- they  
21   presented themselves as artists.  They were very positive.  
22   I never encountered any type of altercations, any type of  
23   gang activity.

24           I never seen any of the throwing up the signs.  I never  
25   experienced any of that.  And I've been on the music scene

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1 now over three years. I'm well known throughout all of the  
2 youth. So I am very aware of what gang activity looks like.  
3 I never experienced any of that.

4 I never saw any type of altercations, no fights ever  
5 broke out because if that would have been the case, my group  
6 would have never went back and performed again. And they  
7 performed at several -- several performances at several  
8 locations all the time throughout the year.

9 Q. Was one of those locations called the Red Flame?

10 A. The Red Flame, we actually had our opening by a mixed  
11 tape there. They did not get to perform at that particular  
12 event, but we were -- we were able to present our mixed tape  
13 because they had just dropped their first mixed tape. So we  
14 got to present that. We were able to play our music  
15 throughout the club throughout that time.

16 Q. So the Red Flame is a legitimate place?

17 A. Yes, it is.

18 Q. Okay. It's some place you would allow your children to  
19 be at and to perform at?

20 A. Right. And myself or either my husband would be with  
21 them. Mainly me because I work the hours that allow me to  
22 be able to do that.

23 Q. All right. Now, OTK, that's your group.

24 A. Um-hum (affirmative).

25 Q. Do you also -- are you also involved in the studios?

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1 A. I take -- yes. I set up the studio time or either my  
2 son sets up the studio time. And I normally would go with  
3 them to the studio.

4 Q. All right. Had you heard of Raymond Young?

5 A. I've heard of Raymond Young. I do not know him  
6 personally. And the only reason I know him is because of a  
7 song that he may have made many years ago. And it was a  
8 very popular song. So I heard of that particular thing.  
9 Again, ---

10 Q. What do you mean by that?

11 A. --- on the music scene. It was -- I think that as good  
12 as they said he was as an artist, he should have been signed  
13 by -- by a label. So I heard that he made great music, but  
14 I don't know him personally. Never met him either.

15 Q. Have you known anything about him being involved with a  
16 gang?

17 A. No, did not know that.

18 Q. Had it -- when you heard of Growth and Development did  
19 you hear of Growth and Development specifically by that  
20 name?

21 A. By that name, yes.

22 Q. And the things you were describing about what they did,  
23 did they work with the youth?

24 A. Yeah, that -- from my understanding, that's exactly  
25 what they did. They worked with the youth. They were

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1 making young men better themselves by getting jobs, by going  
2 to school, by going off to college, which is something that  
3 I also represented myself. So that's how I was familiar  
4 with Growth and Development.

5 Q. Well, just so we're clear, you weren't ever a part of  
6 Growth and Development?

7 A. No, ma'am.

8 Q. And your children?

9 A. No, ma'am.

10 Q. Okay. Since this case has come about have you learned  
11 additional things about Growth and Development?

12 A. I've heard things about Growth and Development still  
13 being a positive group, but that's the only thing I've  
14 heard. I haven't heard anything else.

15 Q. Have you learned of its association with Gangster  
16 Disciples?

17 A. I had never heard of Gangster Disciples before.

18 Q. When you and I spoke, we spoke about Gangster  
19 Disciples.

20 A. Right.

21 Q. Did you make any association between the Growth and  
22 Development you had seen and experienced and what I was  
23 describing to you?

24 A. No, ma'am.

25 Q. Okay. And I think you've already talked about no

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1 flashing of signs, no hints ---

2 A. No hints whatsoever.

3 Q. Okay. And you're familiar with gang attire. You know  
4 what that looks like?

5 A. Yes, I am.

6 Q. All right.

7 A. Yeah. I'm thirty-eight years old, but I'm -- I work  
8 with a lot of youth. So I'm able to hear different things  
9 that go on within the youth.

10 Q. All right. Now, De'Nia, were you familiar with the  
11 different volunteer things that she was doing outside of the  
12 music ---

13 **MS. SALISBURY:** Your Honor, ---

14 Q. --- world?

15 **MS. SALISBURY:** --- I object at this point. Ms.  
16 Gorton's asked this witness a lot of questions about Ms.  
17 Dawkins' employment and volunteer work. If Ms. Dawkins  
18 wants to testify about what she's done, she can do that, but  
19 I don't think it's appropriate for Ms. Gorton to elicit that  
20 testimony from this witness.

21 **THE COURT:** I overrule your objection. You may  
22 continue.

23 Q. You may answer.

24 A. I'm sorry.

25 Q. That's okay. Were you aware of any of the volunteer

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1 work she was doing?

2 A. Yes, because she contacted us at one point in time to  
3 -- for my group to perform. And -- for an event that they  
4 were having. And I assume and I think now that it was to  
5 help some type of charity or to help the youth in their  
6 community. So our group was asked to perform in that group  
7 -- in that event. At that particular time I think we had  
8 already been booked with someone else. So we did not get to  
9 attend that event.

10 Q. Okay. Did you -- were you aware -- you said you saw  
11 her on a daily schedule at one point. And I want you to  
12 focus in the time period of the Summer -- Spring/Summer of  
13 2011.

14 A. Okay.

15 Q. Up until May, 2011 were you seeing her on a daily  
16 basis?

17 A. Yes, I was.

18 Q. What happened in May?

19 A. For some reason in May or after May we didn't see  
20 De'Nia for a while.

21 Q. Why are you so sure that's the correct time?

22 A. Because that was close to my son's birthday. It was  
23 [REDACTED] the [REDACTED]. And De'Nia -- I don't remember De'Nia being  
24 with us for his birthday.

25 And then my daughter's and other daughter and son's

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1 birthday is July 17th and July 12th. And I remember seeing  
2 De'Nia July 12th. And she came for my son's birthday  
3 because normally she would never, ever miss their birthdays,  
4 my birthday, my husband's birthday. She always comes around  
5 that time.

6 But my son's birthday, June 9th, I didn't recall seeing  
7 her, but I did see her July 12th for my middle son's  
8 birthday. She came by and gave him money for his birthday.

9 And my daughter's birthday is the one that she did not  
10 get to make. And from my understanding, we -- we were told  
11 that she was incarcerated at that time.

12 Q. She wasn't actually incarcerated at that time, was she?

13 A. Later on I found out that she wasn't.

14 Q. But she'd told you that the reason why she missed the  
15 birthday was ---

16 A. Right.

17 Q. --- was because she was incarcerated?

18 A. Right.

19 Q. And you don't know why she lied to you?

20 A. No.

21 Q. Was that the first birthday she'd missed?

22 A. First birthday she'd ever missed.

23 Q. So you're very certain it was May that she disappeared?

24 A. Um-hum (affirmative).

25 Q. After her arrest in July, July 22nd and after her

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1 release, did she come around your family again?

2 A. I actually had contacted her parents because I grew  
3 concerned 'cause I hadn't seen her. And so after -- not  
4 right after her arrest or after her release I would say that  
5 I seen De'Nia maybe two weeks afterwards, maybe two weeks  
6 after she had been released.

7 Q. And then did she resume her contact with your family?

8 A. Yes. We have seen her every day since then.

9 Q. Okay. Now, you mentioned contacting her parents. Are  
10 they in the scene?

11 A. Not -- not with my music group, no.

12 Q. Okay. Let me rephrase that. Are they involved with  
13 De'Nia?

14 A. Oh, yes. Yes.

15 Q. Okay.

16 A. Yes.

17 Q. So she has a family?

18 A. Yes, she does.

19 Q. And she has a second family?

20 A. Yes, she does.

21 Q. And they have a home?

22 A. Oh, beautiful home.

23 Q. Okay. Where is it located?

24 A. It's located off highway 14.

25 Q. And have you been there?

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1 A. Yes, I have.

2 Q. Were you familiar with her work schedule the Summer of  
3 2011?

4 A. Yes.

5 Q. And what was her work schedule?

6 A. De'Nia mainly worked Thursdays, Fridays, Saturdays and  
7 Sundays. And she would go in at eleven am, and she would  
8 get off around 10:30 pm.

9 Q. We heard some testimony from one person that she helped  
10 plan this robbery in the late afternoon, early evening. And  
11 that same person also testified that she worked that day.  
12 Was there a work schedule that would have permitted that?

13 A. Not that I'm aware of, no.

14 Q. Okay. So every day that she worked that you're aware  
15 of was eleven in the morning til ten at night?

16 A. Right. Yes. Because De'Nia would miss some of the  
17 performances on Thursday nights that we would have because  
18 of her work schedule.

19 Q. All right.

20 A. She wouldn't be able to make it to the -- to the  
21 opening of -- well, she would miss them because my group,  
22 being the youngest, I would request that they perform early  
23 so we wouldn't be there til real late. And now some nights  
24 we had to stay late, but not at all times.

25 But, yes, her work schedule was Thursday, Friday,

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1 Saturday and Sunday. 'Cause on Saturdays we liked to go to  
2 the Jockey Lot and De'Nia couldn't go. She wouldn't be able  
3 to go with us. So she always worked that schedule.

4 Q. Okay. I need to cover some things because they're  
5 going to come out ---

6 A. Oh, yes. I know.

7 Q. And this is embarrassing to you. And I apologize ---

8 A. No, I'm not.

9 Q. Okay. All right. Do you have a record?

10 A. Yes, I do.

11 Q. What's your record?

12 A. I have a fraudulent check charge. I have several  
13 fraudulent check charges. And the reason I say that -- if  
14 I'm able to say that I have that record, I would like to  
15 share with the jury why I have that record as well.

16 I did that when I was young. I started when I was  
17 young. My husband -- I got married at a very young age. My  
18 husband was in a bad motorcycle wreck and was out of work  
19 for two years. He had to have surgery throughout that time.  
20 We didn't have any income coming in at the time because I  
21 was an at-home-mom.

22 Because we didn't have any food -- and at that time we  
23 couldn't -- did not qualify for food stamps. And the reason  
24 we did not is because at that time -- when you apply for  
25 food stamps, if you had a nice car, then you didn't qualify

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1 based on that.

2 Now, I can't say what law that was, but I can say that  
3 we didn't qualify because of the cars we had at the time.  
4 And President Clinton went later on and changed that rule  
5 and said it doesn't matter what you drive, you should still  
6 be able to get assistance. But at the time we did not  
7 qualify as a family.

8 So I, not being smart, thinking, okay, well, I'll just  
9 deal with it when it comes along, I went and wrote some of  
10 the checks for food, some of the checks for clothing. Never  
11 over a thousand dollars, never over five hundred dollars.

12 What I did was when I found out what type of trouble I  
13 could get into with this, I went to -- I got a letter in the  
14 mail saying that I had a warrant for my arrest. I went down  
15 to the precinct, I met a nice officer. He said because you  
16 came in we're not going to make this hard for you. I was  
17 able to sign my own bond. And I was able to be released and  
18 returned back to court.

19 I never was offered pretrial. I never was offered any  
20 type of intervention to help me, you know, not get in that  
21 trouble again. So, yes, I do have a criminal record.

22 Q. Okay. That's ---

23 A. I just wanted to make sure ---

24 Q. --- probably more information ---

25 A. I know, ---

CHASTITY ADAMS - DIRECT EXAMINATION BY MS. GORTON

1 Q. --- than we needed.

2 A. --- but, I mean, I just wanted to make sure the jury

3 ---

4 Q. This was ---

5 A. --- understood.

6 Q. --- something that you've agonized over, right?

7 A. Oh, yeah. And ---

8 Q. And ---

9 A. --- I've worked to see what I could do to try to get  
10 some of those removed. So, yes.

11 Q. And you knew that if you came and testified ---

12 A. Yes, that ---

13 Q. --- for De'Nia ---

14 A. --- that would be ---

15 Q. --- that this would be very publicly ---

16 A. Yes, yes. I knew the Solicitor would do her work and,

17 ---

18 Q. And you came ---

19 A. --- yes.

20 Q. --- anyway?

21 A. Yes, I came anyway. Yes, I did.

22 MS. GORTON: I don't believe I have anything further.

23 THE COURT: All right. Thank you. Any questions, Mr.

24 Ianuario, of this witness?

25 MR. IANUARIO: I have no questions for this witness,

CHASTITY ADAMS - CROSS EXAMINATION BY MS. SALISBURY

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1 Your Honor.

2 THE COURT: All right. You may cross examine the  
3 witness, ---

4 MS. SALISBURY: Thank you, Your Honor.

5 THE COURT: --- Solicitor.

6 Cross Examination by Ms. Salisbury:

7 Q. Ms. Adams, have you ever been to Crooked Creek?

8 A. Crooked Creek? Back in my younger days, I remember  
9 Crooked Creek.

10 Q. So you know where it is?

11 A. I do.

12 Q. Were you at Crooked Creek on June 2nd, 2011?

13 A. 2011?

14 Q. Last Summer?

15 A. I do not recall being there.

16 Q. Okay. Do you know where Cunningham Villas is?

17 A. I'm not aware of Cunningham Villas.

18 Q. Have you ever been to Cunningham Villas?

19 A. Could you tell me where that is? I'm not sure ---

20 Q. It's an apartment complex in Taylors off of East North  
21 Street in Greenville.

22 A. Again, I'm not aware of where that is.

23 Q. So would you recall being at Cunningham Villas late  
24 night June 2nd or early morning June 3rd, 2011?

25 A. I do not recall.

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1 Q. Okay. Thank you, Ms. Adams.

2 THE COURT: All right. Thank you, ma'am. You may step  
3 down.

4 MS. GORTON: Could I have one moment?

5 THE COURT: Yes, ma'am.

6 (Pause)

7 THE COURT: Yes, ma'am.

8 MS. GORTON: The Defense rests.

9 THE COURT: Okay. Mr. Ianuario, any ...

10 MR. IANUARIO: The Defense rests, Your Honor.

11 THE COURT: Okay. Is there anything in reply from the  
12 State?

13 MS. SALISBURY: Nothing from the State, Your Honor.

14 THE COURT: Ladies and gentlemen, you've heard all the  
15 testimony in this case. We have a couple of legal matters  
16 we need to take care of. I'll try not to keep you very long  
17 waiting while we get these resolved. And then the attorneys  
18 will have a chance to address you in their closing  
19 statements. I'll then instruct you on the law, and the case  
20 will be yours to decide.

21 I'll ask you now, if you would, go back to your jury  
22 room. Don't discuss the case. We'll call you back in just  
23 a few moments and be ready for the closing statements.

24 (Whereupon the jury exited the courtroom at 10:10 am)

25 THE COURT: All right. We'll -- let's take a short

1 break. Y'all can get your thoughts together for your  
2 closing statements. And I'll have a verdict form for you to  
3 look over to make sure it's in the proper shape. So let's  
4 take just a short break.

5 (Whereupon court was in recess at 10:11 am)

6 (Whereupon court resumed at 10:38 am)

7 **THE COURT:** Thank you. Keep your seats. Let me let  
8 y'all look over the verdict forms I have prepared to make  
9 sure they're in proper condition and spelled right.

10 **MS. SALISBURY:** No objection from the State, Judge.

11 **MR. IANUARIO:** No objection from me, Your Honor.

12 **MS. GORTON:** No objection.

13 **THE COURT:** All right. Anything else before the jury  
14 comes in? How long do you expect to talk to the jury? I'm  
15 not going to hold you to it, unless you want me to be a  
16 timekeeper. I'll be glad to.

17 **MS. GORTON:** No.

18 **THE COURT:** Just wondering how long you were going to  
19 talk to them and whether we'll -- I'll let you make that  
20 call then. If I need to take a break before the charge,  
21 then we will. All right. If our jury's ready, you can have  
22 them come in, Ms. Sims. Ms. Gorton, you going first and  
23 then Rob? Is that the way it's going to work?

24 **MS. GORTON:** Yes, Your Honor.

25 **MR. IANUARIO:** (Affirmative nod).

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1           **THE COURT:** Okay.

2           (Whereupon the jury entered the courtroom at 10:42 am)

3           **THE COURT:** We're now ready to have the closing  
4 statements of the attorneys. I told you at the beginning  
5 what the lawyers have to say to you in their opening  
6 statement and their closing statement is not evidence. All  
7 the evidence has been presented to you.

8           I urge you to listen carefully as the attorneys address  
9 you, though. I'm confident that all of them can give you  
10 valuable information to perhaps help you in your  
11 deliberations to take place soon. Ms. Gorton, you may  
12 address the jury in your closing statement.

13           **MS. GORTON:** Thank you, Your Honor. Well, first of  
14 all, I want to thank you all because this has been a  
15 grueling couple of days. And I've done much shorter trials  
16 where jurors are fading out. And every time I look over at  
17 y'all to make sure you're still with us and that you're  
18 still paying attention, without fail, all of you have been.  
19 And I appreciate that.

20           Sometimes we get so caught up in our job as lawyers  
21 that we forget that this is a stressful time for you all  
22 too. There's other places you've got to be, your work's  
23 piling up, your duties are piling up. And thank you.

24           You know how songs get caught in your head? Well, 5:00  
25 this morning, Kenny Rogers. I'm not even a country music

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1 person, but Kenny Rogers started, you know, the you got to  
2 know when to hold 'em, know when to fold 'em, know when to  
3 walk away and know when to run. Well, that applies in so  
4 many ways to this case.

5 And you all know what the chips are. You know that  
6 from Fats Cline who came here and he testified as to what he  
7 was looking at. Attempted murder. Why is attempted murder  
8 nothing, for a minimum/mandatory? But it's not. It can be  
9 anywhere from nothing, a slap on the hand to thirty years.

10 But burglary, first degree, going into a house without  
11 permission, without consent, with intent to commit a crime  
12 therein at night, you've got a fifteen year minimum  
13 mandatory, two ways out.

14 For armed robbery -- oh, and it can go up to life. You  
15 can get life for that. Armed robbery, ten to thirty.  
16 Conspiracy, zero to five.

17 Possession of a gun, well, Smoke or Fats had that,  
18 Smoke had that. These two don't have that because they  
19 didn't possess a gun. The State's case is that they are  
20 guilty of this by one way, knowledge that it was going to  
21 happen and assistance with making it happen.

22 Everything else we agree on. Everything else happened.  
23 Well, you know, back to Kenny Rogers for a minute, they've  
24 gone all in. They've gone all in. The two you heard from,  
25 they folded. The gunmen gets charges reduced. The guy in

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1 orange, the guy with dreads, the guy with an empty shell,  
2 ten minimum/mandatory. They've gone all in.

3 Now, I don't know if it's youth. I'm not sure. It's a  
4 lot of faith in the system. It's a lot of faith that you  
5 all will follow those instructions and not hold it against  
6 them that they didn't testify.

7 It's a lot of faith that you all will hold it to  
8 reasonable doubt. And that's the standard we're talking  
9 about. You don't even need to worry about reasonable doubt  
10 as to the other stuff, but reasonable doubt as to whether  
11 they knew beforehand, whether they were part of the plan.  
12 What was their knowledge before?

13 And I am so scared I'm going to miss a point that I've  
14 written it all out because one of the things that scare me  
15 is, from my perspective, the strongest case has been Ms.  
16 Salisbury. She does a great job of presentation. She's  
17 going to get the last word with you. And she -- she makes  
18 great argument.

19 But you can't get caught up in arguments whether you  
20 like me or not, whether you like Mr. Ianuario or not,  
21 whether you like Ms. Salisbury or not, it's about the facts.  
22 That's your job, to judge the facts.

23 And have they shown her knowledge prior to these  
24 events? She's not on trial for staying with the gang after.  
25 If she were charged with accessory after the fact, I'd say

CLOSING STATEMENTS - MS. GORTON

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1 we're guilty. She didn't tell. She left with them. If  
2 that were the charge, we wouldn't be here.

3 But the charge are these events. So it's key to say  
4 did she know beforehand? And how do we know she did? Well,  
5 let's look at her story. And you all have her story. And  
6 it's in evidence. And it will be sent back to you. She  
7 gave that story early on. She hasn't waived from it. This  
8 is her story.

9 You -- please don't hold it against her that she didn't  
10 come and testify when we've got gang members coming in and  
11 out of the courtroom. Please understand that.

12 She was going to buy marijuana, wasn't she? The  
13 victims denied that. You heard from the two co-defendants.  
14 That's what it was about. Why on earth would she make that  
15 up when she was giving her statement to the detective? They  
16 weren't asking her about marijuana. They weren't fishing  
17 for that information. She offered it up. It was  
18 incriminating, but she offered it up.

19 About that idea of going getting a ride, you heard that  
20 it was normal for them to travel in groups. If she knew  
21 that her friends were going to come barging in with guns why  
22 would she need to take a friend in there with her? If she  
23 knew she was going to be safe because her friends were  
24 coming in armed, she wouldn't have needed a friend to go  
25 with her.

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1 Now, why would they plan a robbery when she'd talked to  
2 Drez and Drez said that two of his home-boys were going to  
3 be hanging out with them? That seems like a really poor  
4 time to plan a robbery.

5 What did Fats tell you? Fats told you the girls were  
6 screaming and they were hysterical. Does that sound like  
7 they knew, they were part of the plan? He said they pushed  
8 them back in and they were screaming and hysterical. Well,  
9 if they knew what was going on why would they be doing that?

10 You heard unrefuted testimony that girls are not part  
11 of crimes in this gang. That was unrefuted. It's men's  
12 business. They do that.

13 You heard unrefuted testimony that Raymond Young is the  
14 leader, he's the King, right? Why would the head honcho be  
15 driving around without the two babes in his car if they were  
16 part of the plan? Yeah, we're going, we're down with this.  
17 Wouldn't the head guy take the two girls in his car? Why  
18 would they split it up like that? Well, the reason they  
19 split it up like that is so that the three men could plan  
20 the robbery in the car.

21 Now, you've heard about the cell phone and messages  
22 coming through the cell phone. I don't know if that's true  
23 or not. But you don't know who is sending the messages.  
24 And it's possible that Envy was using her phone, if Envy was  
25 part of this. She was the Queen. You've heard that. So

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1 she's the head of the women. If there was a woman involved,  
2 I would submit to you that it's more likely the Queen than  
3 some new peon.

4 Also, if the culture of the gang was that women weren't  
5 part of the crime business why would the new girl on the  
6 block come forward and say, hey, let's go do a robbery?  
7 That wasn't their role.

8 Smoke was not there for the planning. Smoke, again, is  
9 the guy with the dread -- the braids and the orange. And  
10 when he was questioned about it he admitted that, no, he was  
11 picked up. He wasn't actually there for the planning of it.  
12 And when he was picked up which car did he get into? He got  
13 into the car with Raymond and Fats. So, again, who was  
14 planning it? Raymond was the one briefing him on how this  
15 was going to go down. Of course he was. He was the leader.

16 You heard from Ms. Adams that De'Nia was at work eleven  
17 to ten. She couldn't have been part of the plan, when they  
18 said she was, getting ready for work. And you don't even  
19 have to believe Ms. Adams on that. You can use your common  
20 sense. If she's working as a waitress in a restaurant why  
21 would she still be at the house, four, 5:00 at night when  
22 we're going into the dinner hour? She'd be at work. She  
23 couldn't have been there when it was planned.

24 Afterwards De'Nia gets no money. Really? She's the  
25 one who came to you with this plan, she was the one with the

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1 bright idea and she gets nothing? That's unrefuted.

2 Violations, six on one beating. I put that in there  
3 because the obvious question is is if you weren't part of  
4 the plan, why did you stay around them afterwards? You see  
5 her sitting over there. You see these pictures. You see  
6 the size of these girls. Six on one for six minutes. Is  
7 that a good enough reason to do what happened beforehand?  
8 That's not our question. Our question is asking why did she  
9 stay? That's why.

10 Hoover, Detective Hoover, big guy. Oh, there he is  
11 right there. Sorry, Detective Hoover. I didn't mean it in  
12 a bad way. He's a trained investigator. What did he tell  
13 you? He told you that he -- he sat there through Juwan  
14 Lomax's statement. Then he took De'Nia's statement and he  
15 believed her. He believed her.

16 Unfortunately it's not Detective Hoover's job to judge,  
17 it's yours. It's not his job to say not guilty, it's yours.  
18 But he believed her. He believed this statement. You'll  
19 get to take this back to the jury room with you. Please  
20 read it.

21 How'd she get hooked in Growth and Development? You  
22 heard how that was presented to the public. You heard how  
23 fairly savvy a thirty some odd year old believed it to be a  
24 positive thing. Everything that she saw and observed  
25 indicated that. She didn't see anything to the contrary.

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1 So is it -- are you sure beyond a reasonable doubt that  
2 De'Nia knew otherwise? Or do you have reason to pause and  
3 consider that maybe she really didn't know otherwise.

4 She really thought she was getting involved with a  
5 positive organization. They earned her trust. They earned  
6 her friendship. She told them about the love of her life  
7 that she'd dated for three years and was doing something she  
8 hoped would reunite them again. She was going over there  
9 finally to smoke with him. And they used that. Weed? Oh,  
10 yeah, we'll go. Did De'Nia set him up? Yeah. Did she know  
11 it? No.

12 De'Nia was only part of this group one month prior.  
13 You heard that. It had a legitimate appearance in the music  
14 industry.

15 Investigator Brown, he came in. He was the gang  
16 expert. Gave me quite a black eye. He says they're all  
17 Gangster Disciples, we know that. Growth and  
18 Development/Gangster Disciples, one in the same. All bad,  
19 no good, crime.

20 He did tell you, though, that to the untrained eye, to  
21 the untrained eye. She's not a trained eye. She had a  
22 legitimate background in the music industry. She had worked  
23 for three years helping OTK with their music business. This  
24 seemed like a way for her to build on her career.

25 Fats -- now, Smoke, the guy in dreads, orange, eleven

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1 charges, these, the actual gunman, there didn't seem to be a  
2 lot left there, seemed like an empty shell, didn't he?  
3 Didn't seem like there was a person left in there.

4 But Fats came in and it was painful to watch him. He  
5 was in a horrible, horrible position. He had just pled in  
6 the middle of our trial. Now, his obligation was to tell  
7 the truth. And all these chips are riding on that.

8 You're pled that morning in the middle of the trial and  
9 told to come to this trial. Tell the truth. But is any  
10 part of that going to include she didn't know for these  
11 chips? Is that part of the deal?

12 He told you how he got in. Now his reasons for going  
13 in are different. His reasons for going in are family. He  
14 said it was like a family to him. You don't have that here.  
15 She's got family. She's got two families. Her lure was  
16 music and management.

17 But he wasn't told at first. He thought it was Growth  
18 and Development. He didn't know Growth and Development was  
19 the same as Gangster Disciples. He told you he was not  
20 aware of that until after he was blessed in. He was lured  
21 with music and lies about what the group was about. He told  
22 you he'd been with them for six months when he committed his  
23 first violent crime, that one being this one.

24 How could she have known what these people were going  
25 to get her into if women weren't made part of the world?

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1 She didn't know until she was in a bad situation. Well, you  
2 know what? Any other bad situation she could have maybe  
3 gone and told the police, but this wasn't just any bad  
4 situation and they knew that. They knew that it was Drez,  
5 it was someone close to her.

6 And if Drez wasn't going to believe her when she talked  
7 to him afterwards and made sure he was okay, if he wasn't  
8 going to believe her after three years of a relationship,  
9 who was? Who was going to believe her?

10 Adams told you it appeared to be legitimate. It  
11 appeared to be positive. She's experienced. She promoted  
12 music. She worked with kids. She has a kind heart. That's  
13 not what the prosecutor talked to you about in her opening  
14 statements. That's not the kind of person she was  
15 describing.

16 Investigator Brown, I've got this note to myself, you  
17 know, Kenny Rogers, save the trees, forest and the trees.  
18 Investigator Brown, bless him, he's got a hard job. He  
19 works with gangs day in, day out for seven years. But he's  
20 lost his ability to see the trees. We need to get rid of  
21 the forest, cut them all down, they're all bad. No  
22 difference between Growth and Development and Gangster  
23 Disciples.

24 Well, you know what? For the people who are in it,  
25 there is a difference. The reason they're part of it is

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1 because they think they're part of something good.

2 She's the tree. Bless him for wanting to take down the  
3 forest, but she's the tree. Don't cut her down. Look at  
4 her. Look at her and the evidence against her and the facts  
5 in this case. And if you have to pause about whether or not  
6 she knew beforehand what was going to happen, then your  
7 verdict has to be not guilty.

8 **THE COURT:** Mr. Ianuario, you may address the jury in  
9 your closing.

10 **MR. IANUARIO:** Thank you, Your Honor. I'd first like  
11 to echo Ms. Gorton in thanking you for your service.  
12 Without y'all being a part of this, the entire judicial  
13 system wouldn't last. It is because you people in the  
14 community that aren't biased by big words, fancy phrases,  
15 political procedure, and rules of evidence, the honest  
16 opinion, come in and sit down and look what's put to you and  
17 make a decision.

18 Now, what information have you been given in here?  
19 We've learned a lot about gangs this week. Gangs, they're  
20 here in Greenville. And they're real. They're scary. And  
21 we've seen their brazen.

22 They send people into the courtroom, they sit in and  
23 watch and to intimidate and to report information back. We  
24 watched a gentleman stand in front of Judge Welmaker dressed  
25 in gang colors to enter a guilty plea and then take the

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1 stand and testify against my client. That's brazen.

2 Gangs are here. Thanks to people like Detective Brown,  
3 and Investigator Hoover and Detective -- Investigator  
4 Fortner, fine officers of the law enforcement community,  
5 we're taking them out, but they're still here. And we still  
6 have to fight them one fight at a time or in this case we  
7 have two today.

8 We have no concrete evidence saying that Mr. Lomax and  
9 Ms. Dawkins knew anything about what was going to happen.  
10 There's no text messages that were recovered. There's no  
11 phone conversations that have been recorded. All we have is  
12 a bunch of statements from a bunch of questionable  
13 characters.

14 And if you flip back and you take a look through  
15 everything and everyone that we've talked to, we've got the  
16 guys that were in the house. We've got conflicting  
17 testimony as to whether or not there were drugs in there.  
18 And they're not on trial for that. But what is most  
19 important, none of those gentlemen saw Juwan Lomax there.  
20 They can't even place him at the scene.

21 We talked to Tim Woodard, who was a resident of the  
22 community. He saw a white Buick leave. He can't even put  
23 Juwan Lomax driving the Buick. He didn't see De'Nia  
24 Dawkins. All he saw was masked gunmen. Don't have any  
25 evidence against them.

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1 I don't want to get into, you know, the quality of the  
2 investigators, the law enforcement officers' testimony. I  
3 believe it's good. I don't have any issues with it. You  
4 notice they all testified they had no concrete evidence that  
5 these people knew beforehand about what was going to happen.

6 So now we take a look at the State's two best  
7 witnesses, Smoke and Fat-So, the guy with the dreads. He  
8 was a horrible witness. Didn't even speak up clearly,  
9 wouldn't make eye contact.

10 And he said on the record that he knew that bad things  
11 were going to happen to him for testifying. And then when I  
12 asked him if he thought that maybe those things wouldn't  
13 happen if he testified against my client, he said, yes. And  
14 I said, would you repeat that? And he said, no. Either  
15 he's got the worst memory in the world or he's saying  
16 whatever it takes to save his ass.

17 And I believe that's what you heard from him. We don't  
18 have anything other than his statement, somebody that's  
19 already now a convicted felon and flipped back and forth on  
20 the stand saying that my client and Ms. Dawkins knew what  
21 was going to happen and they were part of the plan.

22 The next witness we have is Joshua Cline, Fat-So. You  
23 could see a lot of struggle with him. He wanted to tell the  
24 truth. He wanted to do the right thing. I believe he  
25 didn't want to spend his life in prison, missing his baby

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1 girl growing up.

2 But he still wore gang colors. And you heard even from  
3 Detective Brown, gang colors is a sign, it's important.  
4 People wear red, people wear blue, some people wear black  
5 and gray. Maybe his mom bought him that shirt that morning,  
6 he just happened to wear it, maybe not. That's a big  
7 hypothetical. You all can figure out if he was wearing that  
8 on purpose or not, but I find it a strange coincidence.

9 So what do we know about the Gangster Disciples? We  
10 know that the women weren't involved. And clearly Juwan  
11 Lomax is not a woman. If he is, he's an incredibly ugly  
12 one.

13 But why would the guy who's a part of the plan drive  
14 the women? Now, he's a peon in the group. He's the new  
15 guy. He's the chauffeur. He drove his friend, his cousin,  
16 De'Nia, over and those guys followed along as is customary  
17 to do, go out in groups.

18 He wasn't included in the Altima because he didn't know  
19 what was going on in the Altima. He didn't know that the  
20 gunmen were going in, because as Josh Cline testified, he  
21 parked behind them. His back was to the vehicle behind him.  
22 He might not have even seen the robbery taking place.

23 I could have put him on the stand and tried to bring  
24 out that testimony, but then I expose him to cross  
25 examination. And further, with the people who have been

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1 coming in and out of this courtroom, I expose him to grave  
2 and serious danger in the real world.

3 I do want to say he's a fine gentleman. Just because I  
4 didn't have anyone speak on his behalf like we had for Ms.  
5 Dawkins, there's members of his church here, there's members  
6 of his family here. He's had a long career in the music  
7 industry. Hopefully he's still got a bright future in the  
8 music industry when this is all said and done.

9 It all goes back to concrete evidence. And we don't  
10 have anything except statements. And the most damning thing  
11 that we have against Juwan Lomax is a statement that he,  
12 himself, gave, that he gave in a basement, surrounded by  
13 big, scary looking cops, all cops, and his mother had just  
14 been taken to the hospital.

15 They'd been talking to him for three hours. He was  
16 concerned about his mother. He probably would have signed  
17 anything that was put in front of him. Whether or not that  
18 was given freely and voluntarily is up to you.

19 However, we did hear on the stand Investigator Fortner  
20 said that Juwan Lomax did attempt to retract his statement.  
21 When I asked if he read it he said, no, no, that was  
22 Detective Hoover's case. Don't you think it's important  
23 that you should read somebody's statement when they're  
24 trying to retract it and to at least give it some  
25 credibility and follow it up?

CLOSING STATEMENTS - MR. IANUARIO

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1           He tried to retract his statement and say, no, that's  
2   not what I said. I was under duress, I was made false  
3   promises. We don't know what happened in that room. We  
4   can't prove what happened in that room. But he has  
5   attempted to retract his statement. And that wasn't even  
6   followed up on. So we can't even give his statement any  
7   credibility.

8           The one statement that has the most credibility out of  
9   everything was that of Ms. Dawkins. And her statement was,  
10  I went to go buy weed. Juwan gave me a ride. I went in  
11  there, gunmen busted through the door, I was screaming, I  
12  ran outside, I got in the car.

13           And in that statement she says specifically, Juwan -- I  
14  don't think they included Juwan because he acted like he  
15  didn't know about it. Notice first off he says we did not  
16  include Juwan. If it was her plan she would have said we.  
17  He acted like he did not know anything about it.

18           He didn't know anything about it because he was sitting  
19  in his car texting, playing games on his phone, whatever the  
20  heck it is he was doing, not looking out his rear window,  
21  not watching around because he was with his friends. His  
22  friends aren't going to go rob somebody, at least not the  
23  friends that he thought he had. Not the Growth and  
24  Development friends.

25           The Gangster Disciple friends, that's when he found out

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1 who his real friends were that night. He found out he  
2 didn't have any. And he became a victim.

3 This whole thing is about gang violence. There's  
4 victims, you, people that have their homes broken into and  
5 people that are robbed. There's victims like them, the  
6 innocent kids that are sucked into an evil plan to destroy  
7 this community, to increase their numbers and to destroy  
8 this community.

9 Now, right now the gang has their life in their hands  
10 because they're here today with what happened with the gang.  
11 But as soon as you walk back into that deliberation room,  
12 you have the lives of these two children in your hands. You  
13 have the chance to sit down and to discuss, and to look at  
14 the evidence and to see if the State can prove beyond all  
15 reasonable doubt that Mr. Lomax and Ms. Dawkins knew what  
16 was going to take place that night and if they were involved  
17 in it. I don't think they can do that, but that's your job.

18 When you walk out of that door their lives are in your  
19 hands. And you've got the first chance to tell the gangs of  
20 Greenville County, we're not going to let you take our  
21 youth, we're not going to stand for this, the leaders of  
22 these crimes are going down in trial, the innocent victims  
23 will not be held accountable because we are going to save  
24 this County from the gangs. Thank you.

25 **THE COURT:** Solicitor, you may address the jury in your

CLOSING STATEMENTS - MS. SALISBURY

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1 closing statement.

2 MS. SALISBURY: Thank you, Your Honor. May it please  
3 the Court. Good morning, ladies and gentlemen. I know it's  
4 been long, but it's been intense. And I appreciate your  
5 patience. And I'll try my best to be brief.

6 I told you at the beginning of this trial and I think  
7 you'll remember that you were going to hear about a lot of  
8 stuff. And you've heard an awful lot about that lifestyle.  
9 But I want you to remember some of the things that I've  
10 mentioned.

11 This is a lifestyle that emphasizes crime as a source  
12 of entertainment, a sport. You heard they got four hundred  
13 dollars out of this robbery. This wasn't any cash cow.  
14 This was for fun. It was for kicks. It was a lick.

15 I told you that this is a lifestyle where the people  
16 involved specifically select their targets, targets that  
17 they think will have money or something of value. That's  
18 exactly what we heard.

19 I told you that this is a lifestyle about commitment.  
20 You're expected to carry your weight. You're expected to  
21 play your role. Exactly what they did. They had roles to  
22 fill. And they did exactly as they were instructed. But  
23 most important, I told you at the very beginning of this  
24 trial that this lifestyle is about loyalty because it's only  
25 when everyone involved maintains that loyalty, maintains

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1 that sense that they owe one another that they're able to  
2 hold strong.

3 Don't know how well you can see it on this picture, but  
4 I think it says it pretty well in State's exhibit 14. This  
5 young lady's look says loyalty. You can pass it around the  
6 jury room. Maybe it'll be easier to see it there. But the  
7 point remains, loyalty is the only glue that holds this  
8 group together. And it's when that loyalty starts to  
9 crumble that we're able to stop it from going any further.  
10 That's what this trial is about. That's what this case is  
11 about.

12 Now, one of the other things I told you when I spoke to  
13 you yesterday was that because of that loyalty the only way  
14 these kinds of cases get solved is from the inside out. I  
15 told you you would hear from the inside out. You did. You  
16 heard from two who were in the mix, who were in on the plan.  
17 And they told you exactly how the plan was crafted, exactly  
18 how it was supposed to be carried out and how it was  
19 ultimately carried out.

20 Now, I think we all agree, hindsight's 20/20. I bet  
21 Juwan Lomax and De'Nia Dawkins sure wished they hadn't of  
22 done that because they're in a whole mess right now. I bet  
23 they wished they could take it back. Regret is not a  
24 defense. Your sympathy is not a defense.

25 The two men that came in here and testified and said

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1 this is what we did, this is how we did it, this is why we  
2 did it, they took responsibility for what they did. These  
3 two are just as responsible. And that's your task now to  
4 hold them accountable for the roles that they played.

5 Now, I want to go through the evidence a little bit and  
6 start off with the victim's -- the victim and his roommates  
7 that were there that night. There's been a lot of talk  
8 about this trial, throughout this trial about marijuana in  
9 the house, marijuana in the car, who was hiding evidence,  
10 who was doing this all of it in an effort to make you  
11 believe that these -- that Demetrius Benson somehow deserved  
12 what he got, that because he has marijuana in his car and  
13 because there may be marijuana inside his house, oh, well,  
14 that's what happens, you get shot. That's terrible. That's  
15 terrible to suggest that these guys were any less worthy of  
16 the protections ---

17 MS. GORTON: Objection, Your Honor.

18 MS. SALISBURY: --- that we all ---

19 THE COURT: What's your objection?

20 MS. GORTON: Mischaracterizing our argument with regard  
21 to the marijuana.

22 THE COURT: Your objection is noted. I will allow her  
23 to ---

24 MS. GORTON: Thank you.

25 MS. SALISBURY: Thank you, Your Honor.

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1           THE COURT: --- make a statement.

2           MS. SALISBURY: Mr. Benson is no less worthy of the  
3           protections that you and I enjoy. He is -- he does not  
4           deserve to have his apartment invaded and shot over four  
5           hundred dollars, over marijuana. That's not what this case  
6           is about.

7           All of that -- all of that evidence, all that you've  
8           heard was designed to distract you from the main issue, that  
9           a home invasion happened, that a robbery happened, that a  
10          shooting happened and that these two were in on the planning  
11          of it and the execution of it.

12          After we heard from Mr. Benson -- well, actually, no,  
13          before I move on let me mention a couple of things that I  
14          think are interesting about Mr. Benson's testimony. And I  
15          think I'll overlap with what I talk about when I get to what  
16          Ms. Dawkins' statement says.

17          There's a lot of conversation about what was the  
18          purpose? What was the point for De'Nia to go over there  
19          that night? She says in her statement, I was going to go  
20          over there and buy some weed. That was the point. Okay.  
21          Mr. Benson says, no, that wasn't what happened. She owed me  
22          some money and said she was going to pay me back.

23          Either way, isn't it a little bit curious that all of a  
24          sudden, midnight, she calls her ex-boyfriend and says, hey,  
25          you know that money I owe you? Well, I've got it. I'm

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1 ready to come pay you back.

2 Isn't it curious that Demetrius says I've never smoked  
3 weed with her before. She always told me she didn't want  
4 it. She didn't want to smoke. Isn't it curious that all of  
5 a sudden, midnight, she says, hey, you know how we've never  
6 smoked weed together before and I've always told you in the  
7 past that I didn't want -- I didn't want to smoke weed?  
8 Well, I changed my mind. I'm ready to buy some from you.  
9 Aren't both of those a little bit curious? Does that seem  
10 reasonable that that's actually what happened?

11 Isn't it more likely that regardless of the story, I  
12 owe you money or I want to buy weed, that it was all  
13 designed to get inside that apartment? Let's not forget  
14 that Demetrius said she asked me how many people were over.  
15 That's kind of a weird question, isn't it? Wanted to know  
16 how many people were inside that apartment.

17 Why? So she could come prepared. So she could tell  
18 the three waiting outside in the car, this is what is going  
19 to happen. This is what to expect when you get inside.  
20 She's feeding them information from the inside exactly as  
21 they expected her to do. That was her role, get us in.

22 Because remember, of this group, she's the only one  
23 that knew Drez Benson. She's the only one that had any  
24 relationship with Drez. She's the only one that could have  
25 gotten in unless they decided to come in and kick the door

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1 in themselves. This was their in. She was the only  
2 connection to him.

3 It's not reasonable to suggest that they followed her  
4 over there and snuck upstairs and waited. They were waiting  
5 on a sign. They told you they were waiting on a sign. She  
6 was going to come to the door. That's when they knew that  
7 they could go in. That's how they knew how many people to  
8 expect inside. And that's how they knew what was awaiting  
9 them when they came inside.

10 Now, Demetrius testified that after the men entered the  
11 apartment they took his wallet and they took his laptop. I  
12 think the testimony came out later they took four hundred  
13 dollars. And even Josh Cline said they grabbed this jar of  
14 marijuana. That was the taking that happened. And I'll get  
15 to that in a little bit when we talk about each of the  
16 crimes individually.

17 But I say all that to say Mr. Benson was targeted for a  
18 reason. They thought he had drugs. They thought he had  
19 money. Made a good target.

20 More than that, maybe they thought he wouldn't  
21 cooperate with the investigation. Maybe they thought he  
22 wouldn't come in here and testify. Because as I told you at  
23 the beginning of this trial, you were never supposed to hear  
24 about this. They were supposed to stick together. That  
25 loyalty was supposed to protect them.

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1           They didn't expect Demetrius to testify, to cooperate.  
2           They didn't expect him to be able to identify anybody. And  
3           they certainly didn't expect each other to fold. Didn't  
4           work out that way. And now's the opportunity to hold them  
5           accountable.

6           Now, after we heard from Demetrius we heard from his  
7           roommates. And they all generally agree when they saw that  
8           door come open and one or more guys come in with guns, they  
9           beat pavement. They got out of the way.

10          Each of them said they heard one or two shots. It  
11          doesn't matter. We know Drez was shot twice in both legs,  
12          which is curious too. I'll talk about that in a little bit.

13          They're all very clear about what happened that night.  
14          They were home watching a game with their friend, Jaquan,  
15          maybe highlights, basketball highlights when these guys  
16          burst their way in.

17          But they were all very clear that De'Nia had arranged  
18          with Demetrius to come over first. They -- each of them  
19          said, they remember Demetrius saying De'Nia's coming over.  
20          They knew that she was coming over. She brought somebody  
21          with her. And that's when everything went sideways, so to  
22          speak.

23          Again, regardless of what's going on inside that  
24          apartment, whether each of them was smoking a joint, none of  
25          them is any less worthy of the protections that we all

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1 enjoy.

2 We heard from Mr. Woodard who lived in the G building,  
3 which was across -- as he described it, across the parking  
4 lot from the H building where this happened. And in State's  
5 exhibit 12, this is a picture of what Mr. Woodard estimated  
6 his view would have been of the H building.

7 He described that he saw the men running out of this  
8 particular breeze-way and get in their cars. He described  
9 that he was standing on this concrete median when he  
10 confronted the three masked men. He heard what they told  
11 him, basically to butt out, get out of the way, leave them  
12 alone.

13 A very important piece of Mr. Woodard's testimony --  
14 now, keep in mind, Mr. Woodard doesn't know any of these  
15 people. He's not a victim. He has no incentive to lie. He  
16 has nothing at stake in this trial. He's just telling you  
17 exactly what he remembers happening.

18 And he recalls that when he heard the shots and looked  
19 out his window he saw the white car leave and then he saw  
20 the three men run to the black car and leave. Keep that in  
21 mind. It's a very important piece of testimony.

22 After that we heard from the officers. And again, the  
23 officers on-scene, both Sergeant McCoy and Deputy Picone,  
24 testified about their role on the scene. It's their job to  
25 sort of figure out what happened, take care of the immediate

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1 needs at the scene and then let the investigators take over  
2 the case from there.

3 They testified about speaking with the victims, the  
4 witnesses. And then they searched the apartment. They  
5 searched for bullet holes, shell casings, anything that  
6 would be helpful to a shooting investigation. And as they  
7 told you, both Mr. Tobin and Mr. Holland, who were the only  
8 other roommates left after Mr. Benson was gone to the  
9 emergency room, gave them consent to search, signed consent  
10 to search. No problem. Come in. Look.

11 Does that sound like either has a lot to hide? Nine  
12 minutes after the shooting happened? Are they really able  
13 to hide this secret, nefarious lifestyle? They said, come  
14 on in. Take a look. There's blood on the carpet, that's  
15 about it.

16 We'll move to the investigation next. And that's when  
17 things start to get a lot more clear. Because at the time  
18 all the investigators know is that they've got a man that  
19 was shot in his apartment and all that man can tell them is  
20 that his girlfriend, ex-girlfriend, one time girlfriend,  
21 De'Nia Dawkins, had been over there immediately before it  
22 happened. That's all they had to go on.

23 So in an effort to start putting the pieces together  
24 they try to track down this De'Nia Dawkins person. And they  
25 find out, as you've heard, that there had been a recent

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1 traffic stop where De'Nia Dawkins was driving a white, four  
2 door car.

3 Well, as Investigator Hoover testified, kind of rung a  
4 bell because Mr. Woodard described a white, four door car  
5 and the black, what he believed to be a black Nissan Altima,  
6 I believe, leaving the scene. And so Investigator Hoover  
7 said, ah ha, that might be the same car. Let me look into  
8 it.

9 Looked into where that car is registered, went to that  
10 house, Juwan Lomax's house. Mr. Lomax is arrested, then  
11 he's interviewed. And he gives -- well, before I get to  
12 that, Investigator Fortner testified about the process by  
13 which he went over Mr. Lomax's rights.

14 Made sure he understood them. Made sure that he knew  
15 that he doesn't have to speak. He has a right to remain  
16 silent. That anything he says is going to be used against  
17 him in court. That he has a right to an attorney. And that  
18 if at any time he wants an attorney present or if he wants  
19 to change his mind about waiving his rights, he can do that.

20 Mr. Lomax initialed beside each one, that he understood  
21 what all these rights meant. And then he signed at the  
22 bottom and printed his name that he wanted to give a  
23 statement, that he wanted to cooperate.

24 No indication that this was as a result of a threat.  
25 Think about Investigator Fortner, did he seem like a

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1 particularly threatening guy? He told you he explained  
2 coercion to mean I'm not going to come after your family or  
3 pry off your fingernails. Is that the kind of guy that's  
4 going to force a statement out of somebody?

5 The more important part, the statement. Because this  
6 statement contains largely everything you need to know about  
7 what Juwan Lomax knew about this robbery. Because he put it  
8 in his own words. He says, I just drove. We went over  
9 there to try and get a lick.

10 We heard from more than one witness that everybody  
11 understood that to be a robbery. Even the investigators  
12 know that's a code for robbery. He knew and told the police  
13 that the purpose for going over to Cunningham Villas was to  
14 commit a robbery. He tells you as plain as day that he knew  
15 exactly what was going to be happening.

16 And his role in this particular case was the get-away  
17 driver. You can't carry six people in one car. You need  
18 two cars. Besides, they needed him to go pick up Smoke on  
19 the front-end.

20 Smoke testified that Juwan and De'Nia came in Juwan's  
21 car together to come pick him up at Crooked Creek. Why?  
22 Because Juwan Lomax had called Smoke and said, we're going  
23 to do a lick. Do you want in? Juwan Lomax knew exactly  
24 what was going to happen. And it was his job to carry half  
25 of the participants to the scene. And more importantly, get

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1     them away quickly.

2             Now that you've heard more evidence in this case you  
3     can piece together the rest of this statement. We know that  
4     the two other people in Juwan's car, based on the testimony  
5     that we've heard, were De'Nia Dawkins and this person, Envy.  
6     I believe at one point we heard her name might be Shamika  
7     Johnson. Those people were in Juwan's car.

8             We know in the other car was Raymond Young, Josh Cline,  
9     Fats, and Tra'Vis Ware, Smoke. Those were the three people  
10    in the other car. Juwan goes on to say that one of those  
11    people is the True Disciple. We've heard a lot about  
12    Raymond. Maybe that's Raymond.

13            We went to some apartments in Taylors. I don't  
14    remember where they are. I just drove. And then, most  
15    importantly, we went over there to try and get a lick. It's  
16    plain as day.

17            He says, it was one of the people in my car's idea.  
18    Well, we know who was in his car. Don't we know that it was  
19    De'Nia's idea? Isn't that what everybody else said? Isn't  
20    that what Smoke and Fat-So said? That it was -- it was  
21    De'Nia's -- and doesn't it make sense that it was her idea  
22    since she's the only one that knew the victim? We've got a  
23    lick to do. I know a target. I know an easy target. He's  
24    got money and he might have drugs.

25            Juwan goes on to say we went over there and the two

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1 people in my car went into the house. It's exactly what you  
2 heard, the two girls went inside first. And then the others  
3 got out of the other car, Smoke, Raymond, Fats.

4 It was supposed to be like a set-up. He says again, I  
5 knew it was going to be a set-up. That's what the plan was,  
6 that the girls were going to go in first and get us in. And  
7 then the three guys were going to follow and follow through.  
8 He says again, it's a set-up.

9 The three people that went inside will do the robbery.  
10 They went in about ten to fifteen minutes after the first  
11 two went in, after the girls. They went in. And then the  
12 two that came out -- they went inside. And the first two,  
13 the girls, came outside and they got back in Juwan's car and  
14 we left. That was it.

15 They were talking about how they came up inside the  
16 house. They were talking about how they hoped the dude got  
17 shot. Who could that be? Could it be that De'Nia  
18 afterwards was not crying and screaming on the ground and  
19 calling her mother and falling out about what a terrible  
20 surprise she had been duped into participating in? Or could  
21 it be that she was talking about how she hoped the dude got  
22 shot?

23 It's apparent that Juwan Lomax knew exactly what was  
24 going to happen and played the role that he was assigned,  
25 drive the girls over, get them out, pick up Smoke along the

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1 way, carry the other half of the six. That's his role. And  
2 I'll talk a little bit about what the law means in just a  
3 second when it comes to that particular role.

4 Dawkins' statement is a little bit different. And it's  
5 apparent from the statement that Ms. Dawkins recognizes that  
6 she's in danger. She's under arrest when she gives this  
7 statement. She understands that -- the charges she's been  
8 charged with in this case.

9 Is it any surprise that her first inclination is to  
10 minimize everything that she's done? Isn't that what you'd  
11 expect from somebody who's just been wrapped into a case  
12 like this? Oh, no, I'm going to name everybody else, but  
13 I'm going to minimize what I did. That's reasonable to  
14 expect. That makes sense.

15 But this is why her statement is unreasonable. This is  
16 why the things that she said -- says in this statement can't  
17 be true. She starts off her statement by putting herself on  
18 the scene. She says, yeah, I went there because she  
19 probably realizes that she's not going to get away from the  
20 fact that Drez is going to say she was there. She knows she  
21 can't fight that fact. So she can't say I wasn't there.  
22 Okay. I was there. I went over there.

23 But the reason I went over there was to buy some weed  
24 from him, um, and I -- I knew -- I knew he had it. That  
25 seems like a good cover. They'll buy that, right? They

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1 probably -- they probably know that Demetrius may have had  
2 marijuana at that apartment. I think the police will  
3 swallow that. That makes sense.

4 She goes on to say this was who was in this car. She  
5 puts herself in Juwan's car and then everybody else, Smoke,  
6 Raymond, Fat-So in the other one.

7 And then that's when it gets a little bit more  
8 fantastic. They were just following us over there. Now, is  
9 it reasonable to think that if she went to visit her ex-  
10 boyfriend, went to even hang out with him for a little while  
11 that a whole other car full of guys would come over there  
12 just to sit in a parking lot? It's an impressive entourage,  
13 but it's just not reasonable.

14 She said she took Envy inside. She was inside for  
15 about five minutes. And then that's when we get -- catching  
16 back up to the truth. That's when the door was open, that's  
17 when everybody came in. They were wearing all black.  
18 That's all consistent with what we've heard. These were the  
19 gunmen, this is what they were wearing, this is what they  
20 were doing.

21 But then in the best effort to try and keep herself  
22 out, keep herself on the fringes of this and not right in  
23 the middle where we know she is, she says, when we were  
24 outside I was crying and screaming on the ground. Smoke was  
25 telling me to get off the ground and get in the car. That

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1 never happened.

2 Tim Woodard told you that he heard shots, peered out  
3 his window, saw the white car take off and then three guys  
4 masked with guns come running out. And I asked him, what  
5 did they do? They got straight in the car. I asked both  
6 Smoke and Fats, was De'Nia on the ground crying? Smoke, did  
7 you go to her and tell her to get off the ground? No.  
8 Because they were gone. They'd already gotten out of there  
9 by the time that the three masked men came out.

10 This is just an effort to get you to feel sorry for  
11 her. And as I told you, sympathy's not a defense. Regret  
12 is not a defense.

13 She can do everything to paint herself as preyed upon,  
14 unknowing, unwilling. It's just another part of the  
15 deception of the lifestyle to get you to buy into the fact  
16 that she's innocent and uninvolved. That's what this is.  
17 That's what this last part is. I was crying. I was  
18 freaking out. I didn't know what to do.

19 And it's interesting in a last ditch effort to hold  
20 tight to that loyalty she says, I don't think they included  
21 -- I don't think they included Juwan because he acted like  
22 he didn't know. One last effort to try to protect her  
23 fellow gang member because it's about loyalty.

24 They weren't counting on the other ones talking. They  
25 figured that so long as they could protect one another, you

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1 would never hear about this case. That was the idea. We  
2 know better. You know better.

3 You've heard from Juwan's own statement, we were going  
4 to do a lick. It was a set-up. And it was one person in my  
5 car's idea. It was De'Nia's idea. Both Smoke and Fats were  
6 clear, yeah, it was De'Nia's idea. She knew the guy and she  
7 said he'd make a good target.

8 They both knew exactly what they were getting into.  
9 They both knew exactly what their role was to play. And  
10 they knew what was going to happen. They assisted in it.  
11 They acted together with these gunmen to make sure these  
12 crimes were committed exactly as they intended.

13 Now, I want to talk just very, very quickly about  
14 Smoke's testimony and Fats' testimony. Obviously, these  
15 guys are not model citizens. They've admitted to it. They  
16 stood up in front of the Judge and admitted that they did  
17 exactly what they say they did. They went into Demetrius  
18 Benson's house with guns and they robbed him and shot him.  
19 They've taken responsibility for what they did. And they're  
20 willing to face the consequences.

21 Now, has there been some plea negotiations to get them  
22 to get on board and help? Yeah. That's the way business  
23 works. Sometimes to get everybody you have to make some  
24 deals. And that's what happened. They told you exactly  
25 what their deal was.

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1           And they understood that so long as they were truthful  
2           about their testimony that they would get the benefit of  
3           that deal. But they will be sentenced. They will be held  
4           accountable, which reminds me of something else.

5           We've heard a lot about Raymond Young. We know that  
6           he's charged in this case. I just want to be clear, his  
7           trial is for another date. His involvement, his role is not  
8           before you. Another jury just as qualified as you, just as  
9           bright as all of you will decide his responsibility in this  
10          case.

11          The remaining questions today is just these two because  
12          those two took responsibility for what they did and told you  
13          what they knew about these two being involved. Smoke was  
14          very clear. He said Juwan called me and said, we are going  
15          to do a lick. Do you want in? He says, well, sure. Come  
16          pick me up.

17          And Fats says we were sitting around at Crooked Creek  
18          and De'Nia said, I've got a lick. I've got a lick we can go  
19          do. He was very specific. It was De'Nia's idea. I've got  
20          somebody we can go hit. And from there, their plan was  
21          formulated, the meeting up at the Bi-Lo, the changing of  
22          cars and then going over there in tandem. That's exactly  
23          how it was supposed to happen.

24          Each of these witnesses has been very clear, whether  
25          it's from their own mouths or from the unreasonable efforts

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1 they've made to cover themselves. They knew what was going  
2 to happen. It was De'Nia's idea.

3 There's been a lot of effort throughout the course of  
4 this trial to paint at least De'Nia as not being in the  
5 gang, just being -- just being on the fringes, only being in  
6 it for a month, not really knowing what it was about,  
7 believing the deception about it, being a community  
8 organization.

9 Whether this was initiation, whether this was an effort  
10 to continue to put in work, whether this crime was committed  
11 just to get back at Drez or whether it was some other effort  
12 to gain rank in the gang, these Defendants are gang members.  
13 They cannot be in it, but not of it. Regret, hindsight,  
14 apologies do not change the level to which they're -- they  
15 should be held accountable for what they did.

16 We'll go through the elements because a lot of the  
17 facts in the case are not contested. I told you at the  
18 beginning and the Judge is going to instruct you in just a  
19 few minutes that armed robbery is the taking of something of  
20 value from somebody else with force or intimidation and with  
21 the use of a deadly weapon.

22 That's the story that we heard, that three men took  
23 money, laptop from Demetrius Benson with the assistance of  
24 handguns that they ultimately used. That meets every  
25 element of armed robbery.

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1           Burglary in the first degree is the entry into  
2 someone's home without consent, whether you force your way  
3 in or whether it's done by trick, maybe a ruse, maybe a set-  
4 up, with the intent to commit a crime inside. We know it  
5 was a plan. They intended to commit this robbery. That was  
6 the crime they intended to commit while they were inside.

7           Now, what makes it burglary in the first degree is that  
8 they used deadly weapons as part of that crime or that it  
9 occurred in the nighttime. The testimony has been that all  
10 three of these gunmen were gunmen, they were armed, but that  
11 it happened just around midnight. Either way it's clear  
12 that those aggravating factors exist to make this a burglary  
13 in the first degree.

14           Now, attempted murder is another charge. And I've told  
15 you in the beginning of this trial and the Judge will  
16 instruct you that the State must prove that the Defendants  
17 or their co-conspirators with the intent to kill attempted  
18 to kill Demetrius Benson with malice aforethought.

19           You've heard testimony that he was shot, twice. He  
20 says once in each leg. There are probably some pretty  
21 particular -- there may be some specific reasons for that.  
22 As I said, maybe to keep him from chasing them, maybe to  
23 keep him from running away, maybe it was a bad shot, maybe  
24 it just happened to be his legs, maybe they were aiming for  
25 his head. Who knows?

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1           But you don't fire a gun at somebody wrestling with  
2           your friend unless you intend to stop that threat.  
3           Regardless of who the gunman was, whether it was Raymond  
4           Young on the ground and Smoke standing above him or Smoke on  
5           the ground and Raymond standing above him. Whoever was on  
6           the ground said, shoot him, shoot him. Get him off me. End  
7           this threat. He's about to take my gun from my hands. My  
8           clip might have fallen out. It might not. Who knows? Who  
9           cares? It doesn't matter whether the clip fell out. The  
10          point is that Demetrius was shot twice.

11          You don't shoot a handgun at somebody unless you are  
12          acting with the specific intent to severely hurt them or end  
13          their life, end the threat. I believe that's the evidence  
14          that's been presented, that that was the nature of the  
15          situation, that's what was happening.

16          And the Judge is going to instruct you that one more  
17          element of attempted murder is malice aforethought. It  
18          sounds kind of -- a weird phrase. It basically means  
19          meanness. It means ill-will. You had malice when you  
20          pulled the trigger. That's what malice aforethought is even  
21          if it existed a mere instant before that trigger was pulled.

22          And, finally, these two Defendants are charged with  
23          conspiracy. Conspiracy is very straightforward. Two or  
24          more people combined for the purpose of committing a crime.

25          You've heard testimony that there were at least five,

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1 maybe six people involved in this particular conspiracy. We  
2 don't know a whole lot about whether Envy was there, whether  
3 Envy knew what was going on or any role she played.

4 She wasn't charged because as Investigator Hoover  
5 testified, I wasn't really able to get any information about  
6 her and what she may have known. But at least five people  
7 knew about this plan, actively agreed to participate in this  
8 plan and played the role they were assigned as it was  
9 carried out.

10 Now, you've heard and I told you at the beginning,  
11 neither of these Defendants had guns, neither of them shot,  
12 neither of them even participated in the robbery. But the  
13 Judge is going to instruct you in a few moments of the law  
14 in South Carolina. It's his job to explain to you what the  
15 law is for you to apply to these facts. And you've all  
16 taken an oath to apply that law as it is explained to you.

17 And it is the law in South Carolina that if two or more  
18 people combine for the purpose of committing a crime, act  
19 together, assist one another and jointly execute that crime,  
20 the hand of one of those people is the hand of all. The law  
21 says that if you are in for a penny, you are in for a pound.

22 Think about a bank robber. Think about one has to  
23 drive the get-away car, one goes inside with the gun and  
24 maybe another has the bags in the vault. The man with the  
25 gun's job is to approach the teller and say, open the vault,

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1 give me the money. The man with the bags is supposed to  
2 load up the money. The man driving the get-away car is  
3 supposed to get them away.

4 If that man with the gun shoots the teller, the man  
5 with the bags and the man driving the get-away car are just  
6 as responsible for that crime because the hand of one of  
7 them is the hand of all. And that's exactly why these two  
8 Defendants are just as accountable for what happened just  
9 after midnight on June 3rd, 2011.

10 They wanted to be gang members. They wanted to run  
11 with the big dogs. This is the price of the life. You  
12 can't bank on that loyalty forever. Their miscalculation,  
13 their mistake, their regret does not change their  
14 responsibility.

15 They're all very, very serious crimes. And you've  
16 heard a lot about the back-drop, the things that were  
17 happening leading up to it. You've heard a lot about the  
18 gang life and what it means to be in the mix, to feel the  
19 pressure, to feel threatened. No one required these two  
20 Defendants to join a gang. No one required them to  
21 volunteer Demetrius Benson as a target.

22 This was conceived to help the gang, maybe help  
23 themselves in the gang, get more respect, look better. This  
24 was a calculated plan with a specific target. Each of these  
25 Defendants knew precisely what they had to do to make sure

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1 the plan was carried out. And I ask you to return a verdict  
2 that each of these Defendants is guilty of all four crimes  
3 with which they're charged. Thank you.

4 **THE COURT:** Madame Forelady and members of the jury,  
5 before I start my instruction to you, I'm going to ask you  
6 to go back to your jury room just briefly. I'm going to  
7 have the bailiffs bring you some lunch menus, let you order  
8 lunch so it can be coming while I'm giving my instruction to  
9 you. Don't discuss the case, of course. Everyone else,  
10 please remain seated while the jury departs from the  
11 courtroom. Thank you.

12 (Whereupon the jury exited the courtroom at 11:50 am)

13 **THE COURT:** All right. We'll take a short break and  
14 get lunch ordered.

15 (Whereupon court was in recess at 11:51 am)

16 (Whereupon court resumed at 12:12 pm)

17 **THE COURT:** Yes, ma'am. You ---

18 **MS. GORTON:** Yes, Judge.

19 **THE COURT:** --- wanted to go on the record?

20 **MS. GORTON:** Yes, Your Honor. I'd like to renew my  
21 motion for directed verdict and cite all the grounds in the  
22 case law cited before. And once you make your ruling on  
23 that, I have another quick motion to make.

24 **MR. IANUARIO:** And I would also like to join her  
25 motion, Your Honor.


STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on FEB 21 2012 the Grand Jurors of Greenville  
County present upon their oath:

That DENIA ZSIRITA ON JEAN DAWKINS did in Greenville County, on or about the 3rd day of June 2011,  
willfully and unlawfully enter the dwelling of DEMETRIUS BENSON located at [REDACTED]  
Apartment 23-H, without consent and with the intent to commit a crime therein, and the burglary was  
accompanied by circumstances of aggravation, to wit: the entering and/or remaining did occur during the  
nighttime hours, and/or armed with a deadly weapon, and/or displayed what was or appeared to be a handgun.  
This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
SOLICITOR


STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on FEB 21 2012 the Grand Jurors of Greenville  
County present upon their oath:

That DENIA ZSIRITA ON 'JEAN DAWKINS did in Greenville County, on or about the 3rd day of  
June 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Demetrius  
Benson. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ARMED ROBBERY

At a Court of General Sessions, convened on

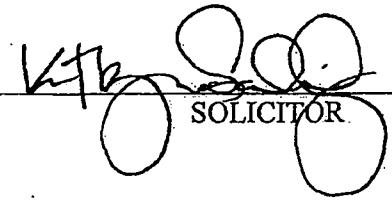
FEB 21 2012

the Grand Jurors of Greenville

County present upon their oath:

That DENIA ZSIRITA ON JEAN DAWKINS did in Greenville County, on or about the 3rd day of June 2011, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: a laptop computer from the person or presence of DEMETRIUS BENSON. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
CONSPIRACY

At a Court of General Sessions, convened on


FEB 21 2012

the Grand Jurors of Greenville

County present upon their oath:

That DENIA ZSIRITA ON 'JEAN DAWKINS did in Greenville County, on or about the 3rd day of June 2011, willfully and unlawfully combine with JOSHUA CLINE, and/or RAYMOND YOUNG, and/or TRA VIS DEVON WARE, and/or JUWAN LOMAX for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to wit: ARMED ROBBERY, and/or ATTEMPTED MURDER, and/or BURGLARY FIRST DEGREE. This is in violation of §16-17-410 of the South Carolina Code of Laws (1976) as amended.

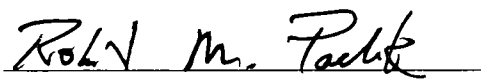
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 13, 2012



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