

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Grace Gilchrist Knie, Circuit Court Judge

BRYAN HOLDER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001585

APPENDIX

LANELLE CANTEY DURANT
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHNNY ELLIS JAMES, JR.
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA }
2 COUNTY OF SPARTANBURG } IN THE COURT OF GENERAL SESSIONS
3
4 The State, }
5 -vs- } TRANSCRIPT OF RECORD
6 Bryan Marion Holder, } 2012-GS-42-5761;5762;5370-5372
7 Defendant. } May 6 - 9, 2013
8 } Spartanburg, South Carolina
9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13

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

15 BARRY JOE BARNETTE, ESQUIRE
16 PRINA C. TAILOR, ESQUIRE
Attorneys for the State

17 CHRISTOPHER PAUL THOMPSON, ESQUIRE
18 Attorney for the Defendant
19

20 Linda D. Moffitt
21 Circuit Court Reporter
22
23
24
25

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17 (State's Exhibits Nos. 1 through 99 were premarked by the
18 solicitor prior to the trial.)

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1 (Proceedings May 6, 2013)

2 THE COURT: All right. The first case is the State
3 vs. Bryan Marion Holder.

4 Mr. Thompson, you represent Mr. Holder?

5 MR. THOMPSON: Yes, Your Honor.

6 THE COURT: Are y'all ready to proceed with jury
7 selection?

8 MR. THOMPSON: We are, Your Honor.

9 As a matter of housekeeping, Holder has six total
10 charges -- grand larceny and malicious injury to property.

11 He will enter a plea of guilty on those however the
12 Court wants to address that.

13 And the remaining charges, the three attempted murders
14 and the possession of a firearm during the commission of a
15 violent crime, he has elected to -- to proceed with the
16 jury trial on that one, or those four.

17 THE COURT: Okay. Solicitor, do you want to accept
18 it? Do you want me to accept his pleas on the two charges
19 and withhold, defer sentence?

20 MR. BARNETTE: Your Honor, my position would be what
21 the Court's position is from that standpoint.

22 Of course he can admit to it in the trial if he wants
23 to and go forward from there. That wouldn't bother us one
24 bit from there. But it's --

25 MR. THOMPSON: Your Honor --

Guilty plea

1 MR. BARNETTE: But we are going to talk about the
2 prior grand larceny because it leads to the other facts
3 about the weapon being used in the attempted-murder stage.

4 THE COURT: All right. What's the defendant's desire,
5 Mr. Thompson? Does he want to go ahead and enter pleas of
6 guilty to larceny and malicious injury and have sentence
7 deferred until the disposition of the other charges, or
8 just try them all together?

9 MR. THOMPSON: He prefers to plea on the other, on the
10 property crimes.

11 THE COURT: Okay. Bring him around then.

12 MR. BARNETTE: Okay. Your Honor, we have two -- we
13 have two sentencing sheets real quick. I think we've got
14 those, Your Honor.

15 THE COURT: Well, I'm not going to impose a sentence
16 until the disposition of the other charges.

17 MR. BARNETTE: Okay. Do you want him to go ahead and
18 sign these though?

19 THE COURT: He can.

20 MR. BARNETTE: I just want to make it perfectly clear
21 on the record.

22 We are going to bring these up in trial, like I said,
23 that he's admitted part. It won't be a denial -- I mean,
24 not using it.

25 THE COURT: All right. You are Bryan Marion Holder?

Guilty plea

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Thompson is your lawyer.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: How long has he been representing you?

5 THE DEFENDANT: For a few months now, sir.

6 THE COURT: Have you had plenty of time to talk with
7 him about all of your cases and your apparent decision to
8 plead guilty to the grand larceny and malicious injury to
9 real property?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Has he been over each of the indictments
12 with you and explained to you what the state claims that
13 you did?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did he explain to you that the state
16 alleges you did on June the 28th of 2012 take, steal and
17 carry away personal property of Wayne Lyda being
18 electronics and/or firearms and/or jewelry and/or United
19 States currency and that you took that property and
20 intended to deprive him permanently of use and possession
21 of it constituting larceny and that the value was more than
22 \$2,000 but less than \$10,000 which carries a sentence of up
23 to five years in jail? Did he explain that to you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Did he also explain to you that the state

Guilty plea

1 alleges that on or about June the 28th of 2011 you also did
2 wilfully and maliciously injure, damage or destroy the real
3 property that belonged to Wayne Lyda by shooting a firearm
4 into a house causing damage of more than \$2,000 but less
5 than ten? That also carries up to five years in jail.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And did he explain to you that the
8 sentences that could be imposed on each of those separate
9 offenses may be run concurrently or consecutively to one
10 another as well as any other sentence that might be imposed
11 upon a conviction?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And did you tell him everything you know
14 about the facts that relate to those two charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you and he discuss whether or not you
17 had a defense to the charge of larceny and malicious injury
18 to real property?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you know of any defense that you have
21 to either of those charges?

22 THE DEFENDANT: I do not wish to use a defense.

23 THE COURT: Sir?

24 THE DEFENDANT: I do not wish to use a defense.

25 THE COURT: Well, that's not my question. My question

Guilty plea

1 is did you and he discuss whether or not you have a defense
2 to either of those charges.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you have one?

5 THE DEFENDANT: No, sir.

6 THE COURT: Did he explain to you that you have a
7 right to remain silent as it relates to those charges?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Did he explain to you that you have a
10 right to require the state to prove your guilt in court as
11 to those charges?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did he explain to you that they would do
14 that by bringing the witnesses down here and having them
15 testify under oath in your presence so that you could see
16 who they are and you could hear what they have to say and
17 he could examine them on the testimony in order to test
18 their reliability and the credibility of the information
19 they're providing?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did he also explain to you that you can
22 never be required to testify or answer questions that might
23 tend to prove your own guilt?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Did he explain to you that you have a

Guilty plea

1 right to have a jury trial and have a jury decide if you're
2 guilty off grand larceny as well as malicious injury to
3 real property?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And do you understand that before a jury
6 could find you guilty 12 jurors would be selected and all
7 12 must be convinced of your guilt beyond a reasonable
8 doubt before you could be found guilty of either of those
9 offenses?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that you could have a
12 jury trial and still not testify or call any witness or
13 produce any evidence?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And do you understand your right to remain
16 silent?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand your right to confront
19 and examine the witnesses in court?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand your right to have a
22 jury trial and have a jury decide if you're guilty of grand
23 larceny and malicious injury to real property?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And understanding those rights, do you

Guilty plea

1 wish to give them up in order to plead guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand if you plead guilty
4 there will be no trial as it relates to those charges?

5 Now, understand that you're going to trial on other
6 charges. And the information that relates to the larceny
7 and the malicious injury may come up during the course of
8 the trial. But if I accept your plea of guilty a jury is
9 not going to decide if you're guilty or not guilty of those
10 offenses.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you understand you're giving up your
13 right to remain silent, to confront and examine the
14 witnesses and to have a jury decide whether or not you are
15 guilty as to those two charges.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And do you wish to give those rights up in
18 order to plead guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has anybody promised you anything that
21 caused you to make that decision?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anybody threatened you or put any
24 pressure upon you?

25 THE DEFENDANT: No, sir.

Guilty plea

1 THE COURT: Are you pleading guilty freely and
2 voluntarily?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And did you commit each of the crimes just
5 as they are described in each of these separate
6 indictments?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: In other words, you -- you went into
9 Mr. Lyda's home, you stole a firearm, and you fired it into
10 the dwelling.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You're 21 years old.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: How far did you go in school?

15 THE DEFENDANT: Ten years.

16 THE COURT: Why did you quit?

17 THE DEFENDANT: I was in alternative school, and I
18 decided not to continue and got my G.E.D.

19 THE COURT: You did get your G.E.D.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you're able to read and write?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand fully what you're doing
24 here today?

25 THE DEFENDANT: Yes, sir.

Guilty plea

1 THE COURT: Do you have any questions you need to ask
2 me about your decision to plead guilty to these two
3 charges?

4 THE DEFENDANT: No, sir.

5 THE COURT: Do you need to discuss it with
6 Mr. Thompson any further?

7 THE DEFENDANT: No, sir.

8 THE COURT: You are satisfied with your decision to
9 plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Are you married?

12 THE DEFENDANT: No, sir.

13 THE COURT: Do you have children?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you work?

16 THE DEFENDANT: No, sir.

17 THE COURT: And have you ever worked?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Doing what?

20 THE DEFENDANT: I've worked in a furniture warehouse
21 and a restaurant.

22 THE COURT: And have you ever been treated for any
23 type of substance abuse or addiction?

24 THE DEFENDANT: No, sir.

25 THE COURT: Do you suffer from any such a condition

Guilty plea

1 today?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you ever been treated for any type of
4 mental illness or emotional disturbance?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you suffer from any such a condition
7 today?

8 THE DEFENDANT: No, sir.

9 THE COURT: And you understand fully what you're doing
10 right now?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you've had plenty of time to talk with
13 your lawyer about your decision to plead guilty to these
14 two charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: As well your decision to go to trial on
17 the other pending charges?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you wish for me to accept your
20 pleas of guilty as to grand larceny and to malicious injury
21 to real property?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. I'll accept those guilty
24 pleas, and I'll defer the imposition of any sentence until
25 the conclusion of the trial in this case.

Guilty plea

1 MR. BARNETTE: May we approach the bench one second,
2 Your Honor?

3 (Bench conference held off the record.)

4 THE COURT: All right. Mr. Holder, the indictment
5 alleges on or about June the 28th. Did the -- these
6 offenses actually occur in the early hours of June the
7 29th?

8 THE DEFENDANT: Yes, no, yeah. They did. I'm sorry.

9 THE COURT: All right. Any other matters we need to
10 address prior to jury selection?

11 MR. THOMPSON: No, sir.

12 MR. BARNETTE: Just one, one matter, Your Honor.

13 We're checking on that right now, is the drug
14 conviction on the one juror that came up, and I believe her
15 juror number was 134.

16 THE COURT: 134.

17 MR. BARNETTE: Yes, sir. Tammy Roberts.

18 THE COURT: Just hold 134 out for the time being until
19 we check that record.

20 MR. BARNETTE: Okay. And we did check on 160, and she
21 is in the pretrial program.

22 And, Your Honor, we'd have a third-party guilt motion.
23 We can deal with that after jury selection.

24 THE COURT: Okay. All right. Mr. Thompson, any
25 matters you have before I bring the jury panel around?

Jury qualification

1 MR. THOMPSON: Only a motion or two to make after the
2 jury selection.

3 THE COURT: But it would not interfere with jury
4 selection?

5 MR. THOMPSON: No, Your Honor.

6 THE COURT: All right. Bring the jury panel around,
7 please.

8 MR. BARNETTE: Your Honor, five and five?

9 THE COURT: Ten. Oh, excuse me. No. It's five and
10 five.

11 MR. BARNETTE: Yes, sir.

12 THE COURT: Okay. Bring them around.

13 (The following takes place in the presence of the jury
14 venire.)

15 THE COURT: Good afternoon. Thank you for your
16 patience, ladies and gentlemen. We are now ready to begin
17 with jury selection in the first case that's going to
18 require some of your participation, and the title of the
19 case is the State vs. Bryan Marion Holder.

20 Mr. Holder has been charged with four separate and
21 distinct criminal offenses, although they do allege to have
22 arisen out of one particular event or a course of events
23 which the state alleges occurred back on July the 2nd of
24 2012. But there were four separate criminal offenses for
25 which the jury will be called upon to render four separate

Jury qualification

1 and distinct verdicts.

2 When a person is charged with a crime that's brought
3 into this court that person is charged by way of a document
4 referred to as an indictment. And the indictment is like a
5 warrant. It's a charging paper. It sets forth the charge
6 brought against a particular defendant.

7 In this case we have three indictments. One of the
8 indictments happens to have two separate offenses alleged
9 in it.

10 But the charges that have been brought against
11 Mr. Holder are attempted murder and possession of a weapon
12 during the commission of a violent crime.

13 He also is alleged to have committed the crime of
14 attempted murder as it relates to three separate persons.
15 So there are three separate counts of attempted murder, and
16 there's one count of possession of a firearm during the
17 commission of a violent crime, the violent crime alleged to
18 be the attempted murder.

19 The state alleges by way of these indictments that
20 Bryan Marion Holder did here in Spartanburg County on or
21 about July the 2nd of 2012 with intent to kill attempted to
22 kill Bonnie Leeann Raines with malice aforethought by
23 shooting her with a firearm.

24 They also allege in a separate count of that
25 indictment that he did possess a firearm during the

Jury qualification

1 commission of a violent crime, that violent crime being the
2 count one, the attempted murder of Ms. Raines.

3 A separate indictment alleges that the defendant did
4 here in Spartanburg County on or about July the 2nd of 2012
5 with intent to kill attempted to kill Mark Channing Swanger
6 with malice aforethought by shooting at him with a firearm.

7 The remaining indictment charges Mr. Holder with the
8 crime of attempted murder in that he did here in
9 Spartanburg County on or about July the 2nd of 2012 with
10 the intent to kill, attempted to kill Bobby Allen Swigert,
11 Jr. with malice aforethought by shooting at him with a
12 firearm.

13 Now, as to each of those charges and as to those
14 allegations the defendant has entered a plea of not guilty.
15 A plea of not guilty places upon the state the burden of
16 proving the allegations that they have set forth in each of
17 those indictments, the burden of proving each of the
18 essential elements that make up the crimes alleged against
19 the defendant; and therefore the burden is upon the state
20 to establish the defendant's guilt to the satisfaction of
21 12 jurors beyond a reasonable doubt before any verdict of
22 guilty could be returned as to any of the separate charges.

23 And therefore we will be selecting 12 of you as
24 primary jurors. We'll select two additional jurors as
25 alternates. Your purpose and function is to consider all

Jury qualification

1 of the evidence received during the course of the trial, to
2 accept the law as I provide it to you as it is applicable
3 to these particular charges.

4 At the trial's conclusion when the jury goes back to
5 begin deliberations you're going to be called upon to
6 consider all that evidence. From that evidence you will
7 determine what you believe to be the true facts as they
8 relate to these allegations.

9 Once you decide those facts you'll then apply the law
10 that I will have provided you, and you will determine
11 whether or not the defendant has been proven guilty of any
12 crime beyond a reasonable doubt. And if he has, then your
13 verdict would be guilty as to that particular charge. And
14 if he has not, then your verdict would be not guilty as to
15 that particular charge.

16 Before we begin with the actual jury selection I've
17 got some questions to ask you. The purpose of the
18 questions is to determine if there's any reason whatsoever
19 why any one of you jurors should not be selected to
20 participate in the trial of this particular case, in other
21 words, if you have some reason why you could not be fair
22 and impartial if called upon to serve in this particular
23 case.

24 Before I ask those questions I'm going to be
25 introducing some people to you or reciting a list of

Jury qualification

1 witnesses that might be called during the trial.

2 The purpose of these introductions and the recitation
3 of that list is to find out if any juror is connected in
4 any way with anybody who's going to be involved in the
5 trial of this case.

6 So as these people are introduced or their names
7 recited I want to find out if you are connected by blood or
8 by marriage to any of these people, if you have any sort of
9 connection, whether it be an employment connection, a
10 social connection, going to church together, going to
11 school together or you just happen to know the person,
12 you've met them somewhere. I need to know if you have any
13 connection whatsoever with anybody who's going to be
14 introduced to you shortly.

15 Once I make that determination, then I'll also have
16 some additional questions to ask you in order to determine
17 your ability to be fair and impartial.

18 Now, first of all, as I told you, the person who is
19 accused of having committed these particular criminal
20 offenses is Bryan Marion Holder.

21 Mr. Holder, if you will, please stand and face the
22 jury panel.

23 (Whereupon, the defendant and counsel stood.)

24 THE COURT: Mr. Holder is the gentleman, the younger
25 gentleman, standing to your left and to my right. He is

Jury qualification

1 the defendant in the case.

2 Standing with Mr. Holder is Chris Thompson.

3 Mr. Thompson is Ms. Holder's lawyer. He'll be assisting
4 him during the course of the trial.

5 Thank you. Y'all may be seated.

6 Presenting the case on behalf of the state is
7 solicitor Barry Barnette and Assistant Solicitor Prina
8 Tailor. They'll be presenting the case on behalf of the
9 state.

10 (Whereupon, Mr. Barnette and Ms. Tailor stood.)

11 THE COURT: As I've told you, there are three separate
12 individuals who are alleged to have been the victims of
13 these particular events.

14 Those persons include Bonnie Leeann Raines.

15 Ms. Raines, if you will, stand.

16 Mark Channing Swanger. He's not present, but his name
17 is Mark Channing Swanger. So if you know him, I need for
18 you to stand.

19 And Bobby Allen Swigert, Jr.

20 Thank you. Be seated.

21 Additional persons that might be called during the
22 course of the trial to testify as a witness include Bryan
23 wilkins of the sheriff's department; Coby Stepp of the
24 sheriff's department; Matt Davis with the sheriff's
25 department; Lindsey McGraw with the sheriff's department;

Jury qualification

1 Mark Noteboom with the sheriff's department; Henry Beck
2 with the sheriff's department; Jason Bryant with the
3 sheriff's department; Darren Dukes with the sheriff's
4 department; Lorin Williams with the sheriff's department;
5 David Garcia with the sheriff's department; Anthony Soddu
6 with the sheriff's department; Sean Nix with the sheriff's
7 department; Ted Sarr with the sheriff's department; Anthony
8 Knighten with the sheriff's department; Robert Rosenberg
9 with the sheriff's department; Robert Talanges with the
10 sheriff's department; Ira Parnell with the state law
11 enforcement division; Doris Yarborough with the state law
12 enforcement division; Courtney Smith with the state law
13 enforcement division; Nikki Hughes with the state law
14 enforcement division; Taylor Lyda, a resident of
15 Spartanburg; Daniel Lyda, a resident of Spartanburg; Stacey
16 Lawing, a resident of Chesnee; Destiny Gregg, a resident of
17 Pacolet; Sarah Callaway, a resident of Boiling Springs;
18 Mattison Schomer, a resident of Spartanburg; Kevin Denton,
19 a resident of Inman; Matthew Hamilton, a resident of Inman;
20 Wesley Crawford, a resident of Spartanburg; James
21 Blackwell, a resident of Spartanburg; Brandon Howard of the
22 Spartanburg Regional Medical Center; Angie Adonna and
23 Christy Hamilton.

24 And included in those people that have been introduced
25 I also need to find out if you know anybody or are you

Jury qualification

1 connected with anybody who's employed in the 7th Judicial
2 Circuit Solicitor's Office and/or Chris Thompson's law
3 office, or if you or a family member has ever been
4 represented by Mr. Thompson in any legal matter.

5 So, if you know either of the lawyers, anybody in
6 their offices, any of the witnesses that have been
7 identified, the defendant, the persons alleged to be the
8 victims, as well as any members of their respective
9 families, I would ask that you please stand so that we can
10 determine that connection.

11 All right. Everyone standing that needs to respond to
12 that question?

13 All right. I'll start with you, ma'am, if you'll give
14 me your name and your juror number, please.

15 JUROR NO. 129: I'm Elizabeth Raum, Juror 129.

16 THE COURT: And who is it that you know?

17 JUROR NO. 129: Bryan Wilkins.

18 THE COURT: How do know him?

19 JUROR NO. 129: He's my brother-in-law.

20 THE COURT: Okay. We'll excuse you from service in
21 the trial of this case, but don't leave yet. I mean, you
22 can sit down now.

23 Yes, ma'am, Juror 62.

24 JUROR NO. 62: Mary Giovannetti. Church association
25 with Mr. Thompson.

Jury qualification

1 THE COURT: With Mr. Thompson. And would that have
2 any bearing upon your decision in the case?

3 JUROR NO. 62: No, sir.

4 THE COURT: Thank you. You may be seated.

5 All right. Your name and number, please?

6 JUROR NO. 107: Jessica McKinney, 107. I know Bryan
7 Wilkins.

8 THE COURT: How?

9 JUROR NO. 107: He was my karate teacher when I was
10 little.

11 THE COURT: And would that have any bearing upon your
12 decision in the case?

13 JUROR NO. 107: No, sir.

14 THE COURT: Thank you. Be seated.

15 Yes, ma'am.

16 JUROR NO. 125: Kadie Phillips, 125. I went to school
17 with Bobby.

18 THE COURT: With who?

19 JUROR NO. 125: Bobby Swigert.

20 THE COURT: Okay. And would that have any bearing
21 upon your decision in this case?

22 JUROR NO. 125: No, sir.

23 THE COURT: Thank you. Be seated.

24 Yes, sir.

25 JUROR NO. 19: I know Chris Thompson, although I

Jury qualification

1 haven't spoken with him in years. I just kind of know him
2 from growing up a little bit.

3 THE COURT: All right. And you're Mr. Blankenship?

4 JUROR NO. 19: Yes, sir.

5 THE COURT: What's your juror number?

6 JUROR NO. 19: Nineteen.

7 THE COURT: And would the fact that you know Mr.
8 Thompson interfere in your ability to be fair in this case?

9 JUROR NO. 19: No, sir.

10 THE COURT: Thank you. Be seated.

11 Yes, ma'am.

12 JUROR NO. 119: I'm No. 119, Stephanie Orr. I work
13 with the youth association in Chesnee where Mr. Thompson's
14 kids play ball.

15 THE COURT: Where Mr. Thompson what?

16 JUROR NO. 119: His children play ball.

17 THE COURT: Okay. Would that have any bearing upon
18 your decision in the case?

19 JUROR NO. 119: No, sir.

20 THE COURT: Thank you. You may be seated.

21 Now, as I told you, the defendant is accused of having
22 committed the crimes of attempted murder in three separate
23 counts and possession of a firearm during the commission of
24 a violent crime.

25 These events are alleged to have occurred back on or

Jury qualification

1 about June the 28th, June the 29th of 2012. The location
2 is alleged to be at or near a place on Highway 176 near the
3 intersection of Springfield Road and 176 -- Asheville
4 Highway, Inman Highway. Call it what you want to. That's
5 where it goes. But it's near the intersection of 176,
6 Asheville Highway, Inman Highway, and Springfield Crossing.

7 Basically, there's an Ingles there. There's an old
8 Winn-Dixie there. There's a Race Way Convenience Store
9 located there. That's where this event is alleged to have
10 occurred, right there in that particular area. And, as I
11 say, it's alleged to have occurred in July of 2012.

12 I'm giving those basic facts because I need to find
13 out if any juror thinks that you may have heard, seen or
14 read anything that might relate to this particular case.

15 In other words, have you heard anything about this
16 case or you received any information about the case from
17 any source, whether it be a television, a newspaper or
18 radio article or item. Or have you heard somebody just
19 talking about it, an individual at work or the church or
20 somewhere? Do you think you have been exposed to any
21 information about this case from any source whatsoever? If
22 so, please stand.

23 All right. Name and number, please, sir.

24 JUROR NO. 127: Timothy Pope, 127. Newspaper.

25 THE COURT: All right. And about when do you think

Jury qualification

1 you were exposed to a newspaper article about this case?

2 JUROR NO. 127: I believe it was in July.

3 THE COURT: Of last year?

4 JUROR NO. 127: Yes, sir.

5 THE COURT: At or about the time it's alleged to have
6 occurred?

7 JUROR NO. 127: Yes, sir.

8 THE COURT: And is there anything that you
9 specifically remember about it? Don't tell me what it is.
10 But is there anything you specifically remember about the
11 article?

12 JUROR NO. 127: Yes, sir.

13 THE COURT: All right. Is there anything about what
14 you have read in that newspaper article that would impair
15 your ability to be fair and impartial?

16 JUROR NO. 127: No.

17 THE COURT: And if there was something in the article
18 that was recited but that same information does not come
19 out during the course of the trial would you be able to put
20 that information aside and not allow it to influence your
21 judgment?

22 JUROR NO. 127: Yes, sir, Your Honor.

23 THE COURT: Okay. Thank you. You may be seated.
24 Yes, sir. Your name and number, please.

25 JUROR NO. 24: Jason Brown, Juror 24.

Jury qualification

1 THE COURT: And 24?

2 JUROR NO. 24: Twenty-four, yes, sir.

3 THE COURT: And from what source do you think you've
4 been exposed to information?

5 JUROR NO. 24: A coworker. It was about a year ago.
6 If I had to guess, it was about the same time. I'm not
7 sure if it's the same incident or not.

8 THE COURT: Okay. And was the coworker recounting
9 something they had seen or heard, or did they have personal
10 information about the case?

11 JUROR NO. 24: It was second hand. Yeah. It was just
12 something they'd heard about it.

13 THE COURT: Okay. And do you specifically remember
14 what they told you?

15 JUROR NO. 24: Something about --

16 THE COURT: Don't tell me what it is. Just yes or no.
17 Do you remember what they told you?

18 JUROR NO. 24: Yes, sir.

19 THE COURT: Okay. And if you were selected and if
20 during the course of the trial -- and the evidence was
21 presented -- if what you were told does not come out during
22 the trial, it's not presented as evidence, would you be
23 able to ignore it, put it aside and not allow it to
24 influence your decision?

25 JUROR NO. 24: I believe so, yes.

Jury qualification

1 THE COURT: Because you understand you have to base a
2 verdict -- and this is for all jurors of course. A
3 decision has to be based upon the evidence received in the
4 trial and it's not -- you're not to be influenced by any
5 outside or extraneous information because it may not even
6 be correct.

7 JUROR NO. 24: Right.

8 THE COURT: Could you put it aside and not allow it to
9 influence your decision?

10 JUROR NO. 24: I could.

11 THE COURT: Okay. Thank you. You may be seated.

12 Anyone else exposed to any type of information about
13 the case?

14 (No response.)

15 THE COURT: I'm going to ask you about an experience
16 that you may have had, as well as an experience that you or
17 some member of your immediate family may have had.

18 And so I'm going to define an immediate family member
19 as a parent, a spouse, a child or a sibling -- parent,
20 spouse, child or sibling.

21 Have you or any members of your immediate family as I
22 just defined it ever been the victim of any type of violent
23 criminal offense?

24 I also need to know whether you or a member of your
25 immediate family has ever been accused of having committed

Jury qualification

1 any type of violent criminal offenses. And for purposes of
2 this question I'm going to define a violent criminal
3 offense as murder, manslaughter, attempted murder, assault
4 and battery with intent to kill, aggravated assault and
5 battery, criminal domestic violence of a high and
6 aggravated nature, burglary, armed robbery, criminal sexual
7 conduct of any degree, or any other similar type of an
8 offense.

9 Have you or a family member ever been the victim of
10 such an offense, or have you or a family member ever been
11 accused of having committed such an offense? If so, I
12 would ask that you please stand.

13 All right. Is everyone standing that needs to respond
14 to that question?

15 All right. Again, I'll ask you, and I'll start to my
16 right and work over. Give me your name and your juror
17 number. I want you to tell me whether or not it was you or
18 a family member.

19 If you prefer to provide me any additional information
20 down here rather than sharing it with the audience, I'll be
21 happy for you to step down here and discuss it with you
22 privately.

23 Okay. Tell me first your name and your juror number,
24 please.

25 JUROR NO. 113: Tarries Miller, 113.

Jury qualification

1 THE COURT: 113. And was it you or a family member?

2 JUROR NO. 113: It was a family member.

3 THE COURT: Okay. I'll ask you to step down here if
4 you'd like.

5 (Bench conference held off the record with Juror No.
6 113 and counsel.)

7 THE COURT: All right. Next.

8 Mr. Thompson, let me ask you to step over this way.

9 Next juror.

10 JUROR NO. 41: Telsma Dallas, No. 41.

11 THE COURT: Forty-one. And was it you or a family
12 member?

13 JUROR NO. 41: Family member.

14 THE COURT: Do you want to step down here?

15 JUROR NO. 41: Yes.

16 THE COURT: Okay.

17 (Bench conference held off the record with Juror No. 41
18 and counsel.)

19 THE COURT: Next juror.

20 JUROR NO. 22: Mike Bramlett, Juror 22.

21 THE COURT: And was it you or a family member?

22 JUROR NO. 22: Family member.

23 THE COURT: A victim or accused?

24 JUROR NO. 22: Accused.

25 THE COURT: And do you mind where you are telling me

Jury qualification

1 what the nature of the offense was?

2 JUROR NO. 22: Murder.

3 THE COURT: And what relationship to you?

4 JUROR NO. 22: He is my uncle.

5 THE COURT: And was he convicted?

6 JUROR NO. 22: Yes.

7 THE COURT: And is there anything about that
8 experience that you -- your family member had that would
9 affect your ability to be fair and impartial in this case?

10 JUROR NO. 22: No, sir.

11 THE COURT: Thank you. You may be seated.

12 Yes, ma'am.

13 JUROR NO. 160: Sabrina Raines, 160.

14 THE COURT: 116?

15 JUROR NO. 160: 160.

16 THE COURT: 160?

17 JUROR NO. 160: Yes, sir.

18 THE COURT: All right. Was it you or a family member?

19 JUROR NO. 160: Both.

20 THE COURT: Both. And a victim or an accused?

21 JUROR NO. 160: Victim.

22 THE COURT: Both? And what was the nature of the
23 crime?

24 JUROR NO. 160: My house was broken into, and I was
25 kind of stabbed, and then my cousin got killed, first

Jury qualification

1 cousin, shot.

2 THE COURT: All right. And was somebody charged with
3 those crimes and have those cases been disposed?

4 JUROR NO. 160: One of them has.

5 THE COURT: They're pending. Are the other ones
6 pending?

7 JUROR NO. 160: I mean, they couldn't find the guy on
8 the incident that happened with the stabbing or what not.

9 THE COURT: Okay. Is there anything about those
10 incidents that would impair your ability to be fair in this
11 case if you were selected?

12 JUROR NO. 160: I don't know.

13 THE COURT: You don't know? Well, do you think
14 there's a reasonable possibility that that personal
15 experience would affect your judgment in the case?

16 JUROR NO. 160: Probably so.

17 THE COURT: Okay. We'll excuse Juror 160 from
18 service.

19 But don't believe yet.

20 All right. In the back, Mr. Blankenship, Juror --

21 JUROR NO. 19: Nineteen.

22 THE COURT: -- 19. Was it you or a family member?

23 JUROR NO. 19: Myself.

24 THE COURT: And victim or accused?

25 JUROR NO. 19: Victim.

Jury qualification

1 THE COURT: And what was the nature of the crime?

2 JUROR NO. 19: Working as a waiter at a Quincy's in
3 Rock Hill when I was in college in 1983 or '84 and was held
4 up at gunpoint, and I was handcuffed to -- I think it was
5 another person, I believe anyway.

6 THE COURT: And is there anything about that
7 experience that would have any bearing upon your decision
8 in this case?

9 JUROR NO. 19: No, sir.

10 THE COURT: Would you not allow it to influence your
11 judgment?

12 JUROR NO. 19: I will not.

13 THE COURT: Okay. Thank you. You may be seated.
14 Yes, ma'am.

15 JUROR NO. 134: Tammy Roberts, Juror 134.

16 THE COURT: And was it you or a family member?

17 JUROR NO. 134: Family member.

18 THE COURT: And victim or accused?

19 JUROR NO. 134: Accused.

20 THE COURT: What was the nature of the crime?

21 JUROR NO. 134: It was C.D.V. one, criminal domestic
22 violence.

23 THE COURT: Was -- okay. And is there anything about
24 that fact that would affect your judgment in this case?

25 JUROR NO. 134: I don't know. I might send him to

Jury qualification

1 jail.

2 THE COURT: Well, no. But what I'm saying is do you
3 think that that experience would cause you to decide this
4 case differently than you might otherwise had you not been
5 through that experience?

6 JUROR NO. 134: Only if there's criminal domestic
7 violence involved.

8 THE COURT: Okay. Well, I don't anticipate that
9 arising in this case, but, nevertheless, do you think it
10 would in any way affect your judgment?

11 JUROR NO. 134: No.

12 THE COURT: Okay. All right. Thank you. You may be
13 seated.

14 Anyone else?

15 (No response.)

16 THE COURT: Is any member of the jury panel connected
17 by blood or marriage to any person who is now or has ever
18 been employed as any type of law enforcement officer?

19 That includes whether or not you have ever been
20 employed as a law enforcement officer. But I also need to
21 know if you are connected to any person who has ever been
22 employed as a law enforcement officer by any type of law
23 enforcement agency. And that would include any civilian
24 agency, as well as any military police agency. If so,
25 please stand.

Jury qualification

1 All right. I'm going to start on the front row with
2 Juror 113.

3 JUROR NO. 113: Yes.

4 THE COURT: Okay. And how does that question relate
5 to you?

6 JUROR NO. 113: My baby's father is a military --
7 officer in the military.

8 THE COURT: Okay. Thank you. Be seated.
9 Next.

10 JUROR NO. 22: My grandmother was a --

11 THE COURT: Give me your name again, please, sir.

12 JUROR NO. 22: Mike Bramlett, 22.

13 THE COURT: Twenty-two. Okay.

14 JUROR NO. 22: My grandmother was a Greenville County
15 cop.

16 THE COURT: All right. Thank you. Be seated.
17 Yes, sir.

18 JUROR NO. 12: Donovan Belue, No. 12. My home boss at
19 my last job, he was a deputy sheriff up in Tennessee. And
20 he works at the mall as a security guard.

21 THE COURT: Okay. Thank you. Be seated.
22 Yes, ma'am.

23 JUROR NO. 108: I'm Juror 108.

24 THE COURT: 108?

25 JUROR NO. 108: Uh-huh.

Jury qualification

1 THE COURT: okay.

2 JUROR NO. 108: My aunt is a correction officer at
3 Northside -- Val Price.

4 THE COURT: She's a corrections officer at Northside,
5 and what?

6 JUROR NO. 108: Oh, I just told you her name -- Val
7 Price.

8 THE COURT: Oh, okay. Thank you.

9 JUROR NO. 29: I am Juror 29, Kimberly Canada. I am
10 related to Derrick Canada. And Officer David Hurst is my
11 fiancé's daddy.

12 THE COURT: All right. Thank you. Be seated.

13 Yes, ma'am.

14 JUROR NO. 23: Sally Brannon, 23. I was a social-work
15 intern at D.J.J. in Columbia.

16 THE COURT: All right.

17 JUROR NO. 23: That's been ten years ago.

18 THE COURT: Okay. Thank you. Be seated.

19 Yes, sir.

20 JUROR NO. 117: Juror 117. My first cousin is sheriff
21 of Bramberg [sic] County.

22 THE COURT: Thank you. Be seated.

23 Yes, ma'am.

24 JUROR NO. 107: Jessica McKinney, 107. My father used
25 to be a police officer.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 Yes, ma'am.

3 JUROR NO. 170: Connie wood, 170. My brother-in-law
4 is Allen Wood.

5 THE COURT: With the sheriff's department?

6 JUROR NO. 170: Yes, sir.

7 THE COURT: All right. Thank you. Be seated.

8 Yes, ma'am.

9 JUROR NO. 110: Elizabeth Melotte, 110. I was a
10 Spartanburg County sheriff's deputy in 1982 and '83.

11 THE COURT: All right. Thank you. Be seated.

12 Yes, sir.

13 JUROR NO. 136: Terry Rogers, Juror 136. My
14 mother-in-law is Rita Emory of the Inman Police Department.

15 THE COURT: All right. Thank you. You may be seated.

16 Yes, ma'am.

17 JUROR NO. 39: Juror No. 39. My father-in-law is a
18 state constable.

19 THE COURT: Thank you. Be seated.

20 Yes, ma'am.

21 JUROR NO. 14: Cathy Benson, Juror 14. My
22 brother-in-law and sister are retired narcotics agents in
23 the state of Georgia.

24 THE COURT: Thank you. Be seated.

25 Yes, ma'am.

Jury qualification

1 JUROR NO. 140: Juror 140. My first cousin and
2 husband both work for Spartanburg County.

3 THE COURT: Sheriff's department?

4 JUROR NO. 140: Yes, sir.

5 THE COURT: Thank you. Be seated.

6 Yes, sir.

7 JUROR NO. 50: Juror No. 50, Travis Evans. My half
8 brother is Bobby Duncan of the sheriff's office.

9 THE COURT: Thank you. Be seated.

10 Yes, sir.

11 JUROR NO. 13: Chase Bennett, Juror 13. I have
12 friends at Pacolet P.D. and...

13 THE COURT: You have friends at the Pacolet P.D. and
14 what?

15 JUROR NO. 13: Spartanburg P.D.

16 THE COURT: Okay. Thank you. Be seated.

17 Yes, ma'am.

18 JUROR NO. 106: Sherry McCollam, Juror 106. My
19 cousin, Steve Moore, is chief of police in Simpsonville.
20 And I have a cousin that lives in Boiling Springs on the
21 sheriff's department.

22 THE COURT: Okay. Thank you. Be seated.

23 Now, those who just answered the question having those
24 connections with law enforcement. If in any way that
25 connection would impair your ability to be fair and

Jury qualification

1 impartial, I'm going to ask that you please stand. If not,
2 you can remain seated.

3 (No response.)

4 THE COURT: Does any member of the jury panel belong
5 to any organizations that are pro-gun type organizations or
6 anti-gun type organizations? Pro-gun, anti-gun. Anyone
7 belong to any of those types of organizations, or do you
8 contribute time or money to any of those types of
9 organizations? If so, please stand.

10 (No response.)

11 THE COURT: All right. I've introduced the people
12 that will be involved in the trial of the case, and I've
13 told you basically what the case is about.

14 Is there anything about the nature of the case itself
15 just what's -- what allegations have been made -- is there
16 anything about the nature of the case itself that would
17 prevent any juror from being able to be fair and impartial
18 if called upon to serve in this particular case? If so,
19 please stand.

20 (No response.)

21 THE COURT: Does any juror know of any reason
22 whatsoever why you think you could not be fair and
23 impartial if selected to serve in this case? If so, please
24 stand. If you have any reason whatsoever why you think you
25 could not be fair and impartial, I would ask that you

Jury qualification

1 please stand.

2 (No response.)

3 THE COURT: None responding.

4 Any other questions requested by the state?

5 MR. BARNETTE: None from the state, Your Honor.

6 THE COURT: By the defendant?

7 MR. THOMPSON: None, Your Honor.

8 THE COURT: All right. Draw us a jury, please, ma'am.

9 The way a jury is selected in criminal court -- it's
10 different than civil court. We don't have civil this week.
11 But your names will be drawn randomly by a computer, but
12 you'll be called individually to come forward.

13 When you come forward if you're closer to the center
14 aisle, just come up the center aisle. If you're closer to
15 the wall, you can come around the tables where the lawyers
16 are seated.

17 But I need you to take a stance just right here in the
18 middle of the room, probably two paces towards me from
19 where the desks are, where the lawyers are seated.

20 Each side has the opportunity to have you excused from
21 serving in the case. Both may agree to have you seated for
22 service in the case.

23 If either asks that you be excused from serving, just
24 go back and have a seat on the back row. The bailiff will
25 show you where.

Jury qualification

1 If both agree to have you seated for service in this
2 case you'll be having a seat in that jury box to your right
3 and to my left.

4 So you're just simply going to be asked to come
5 forward when your name is called. Turn and look towards
6 your fellow jurors. Listen to the lawyers. They'll either
7 excuse you or accept you. If you're excused, go have a
8 seat in the back. If you're accepted, have a seat in the
9 jury box.

10 THE CLERK: Juror 79, Joshua Hendricks.
11 What say the state?

12 MR. BARNETTE: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. THOMPSON: Please present the juror.

15 THE CLERK: Juror No. 107, Jessica McKinney.
16 What say the state?

17 MR. BARNETTE: Please present the juror.

18 THE CLERK: What says the defense?

19 MR. THOMPSON: Please excuse the juror.

20 THE CLERK: Juror 149, Kimberly Stevens.
21 What says the state?

22 MR. BARNETTE: Please present the juror.

23 THE CLERK: What says the defense?

24 MR. THOMPSON: Please present the juror.

25 THE CLERK: Juror 105, Amanda McAbee.

Jury qualification

1 What say the state?
2 MR. BARNETTE: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. THOMPSON: Please present the juror.
5 THE CLERK: Juror 19, Kenneth Blankenship.
6 What says the state?
7 MR. BARNETTE: Please present the juror.
8 THE CLERK: What say the defense?
9 MR. THOMPSON: Please present the juror.
10 THE CLERK: Juror 72, Kathy Guy.
11 What says the state?
12 MR. BARNETTE: Please present the juror.
13 THE CLERK: What say the defense?
14 MR. THOMPSON: Please present the juror.
15 THE CLERK: Juror 39, Cherise Crosby.
16 What says the state?
17 MR. BARNETTE: Please present the juror.
18 THE CLERK: What say the defense?
19 MR. THOMPSON: Please excuse the juror.
20 THE CLERK: Juror 32, Camlyn Caton.
21 What say the state?
22 MR. BARNETTE: Please present the juror.
23 THE CLERK: What say the defense?
24 MR. THOMPSON: Please present the juror.
25 THE CLERK: Juror 169, Dianne Wofford.

Jury qualification

1 What say the state?
2 MR. BARNETTE: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. THOMPSON: Please present the juror.
5 THE CLERK: Juror 23, Sally Brannon.
6 What say the state?
7 MR. BARNETTE: Please present the juror.
8 THE CLERK: What says the defense?
9 MR. THOMPSON: Please present the juror.
10 THE CLERK: Juror 157, Raymond Thornton.
11 What say the state?
12 MR. BARNETTE: Please excuse the juror from service in
13 this case.
14 THE CLERK: Juror 110, Elizabeth Melotte.
15 What say the state?
16 MR. BARNETTE: Please present the juror.
17 THE CLERK: What say the defense?
18 MR. THOMPSON: Please excuse the juror.
19 THE CLERK: Juror 108, Darlene Means.
20 What say the state?
21 MR. BARNETTE: Please present the juror.
22 THE CLERK: What say the defense?
23 MR. THOMPSON: Please present the juror.
24 THE CLERK: Juror 95, Elizabeth Lambert.
25 What say the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.

2 THE CLERK: What say the defense?

3 MR. THOMPSON: Please present the juror.

4 THE CLERK: Juror 82, Onie Hit.

5 What say the state?

6 MR. BARNETTE: Please present the juror.

7 THE CLERK: What say the defense?

8 MR. THOMPSON: Please present the juror.

9 THE CLERK: Juror 127, Timothy Pope.

10 What says the state?

11 MR. BARNETTE: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. THOMPSON: Please excuse the juror.

14 THE CLERK: Juror 50, Travis Evans.

15 What say the state?

16 MR. BARNETTE: Please present the juror.

17 THE CLERK: What say the defense?

18 MR. THOMPSON: Please excuse the juror.

19 THE CLERK: Juror 99, Denise Lipshetz.

20 What say the state?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What say the defense?

23 MR. THOMPSON: Please present the juror.

24 THE CLERK: For the first alternate, Juror 28, Robert

25 Byrd.

Jury qualification

1 What say the state?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What say the defense?

4 MR. THOMPSON: Please present the juror.

5 THE CLERK: For the second alternate, Juror 24, Jason
6 Brown.

7 What say the state?

8 MR. BARNETTE: Please present the juror.

9 THE CLERK: What say the defense?

10 MR. THOMPSON: Please present the juror.

11 THE CLERK: Jury selection has been completed.

12 (Whereupon, a jury was impaneled.)

13 THE COURT: All right. Those who have been selected,
14 I'll ask you to please go with a bailiff to a jury room,
15 and I'll bring you back in just a few minutes and let you
16 go to lunch.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Are there any matters that need to be
20 addressed regarding jury selection by the state?

21 MR. BARNETTE: None by the state, Your Honor.

22 THE COURT: By the defendant?

23 MR. THOMPSON: None, Your Honor.

24 (Whereupon, the remaining members of the jury venire
25 were excused.)

1 THE COURT: Okay. Bring the jury back, please.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: As I promised, we're going to break for
5 lunch.

6 But before I let you go let me caution you that during
7 any break or at any time during the course of this trial
8 you're never permitted to talk about the case. You can't
9 discuss the case unless and until you're involved in jury
10 deliberations, and that won't be until the end of the trial
11 after all of the evidence has been received and I've
12 instructed you on the law that's applicable in the case.
13 So until that time comes no discussions about the case with
14 any person whatsoever in any fashion whatsoever. And that
15 includes your fellow jurors.

16 Also, any decision that you reach must be based upon
17 the evidence presented during the course of the trial.
18 You're never permitted to supplement your knowledge by
19 conducting any outside research, doing your own
20 investigation, looking on the internet, reading newspapers,
21 watching television, listening to the radio because
22 accounts that are presented outside of the courtroom might
23 not be accurate, and it might influence your decision, and
24 that would be inappropriate.

25 So no research, no investigation, no exposure to any

1 type of media coverage, whether it be television, radio or
2 newspaper. Again, as I say, your decision has to be based
3 upon what you see and hear during the course of the trial.
4 You're not to be influenced by any outside or extraneous
5 information.

6 Do have a good lunch, and please report to your jury
7 room at 2:30 this afternoon, at 2:30 this afternoon.
8 You'll be reporting to the jury room that you've just been
9 shown to.

10 If you're not sure how to get back there be sure you
11 discuss it with the bailiff before you leave. He'll
12 provide you with those directions.

13 Have a good lunch. We'll see you at 2:30 this
14 afternoon.

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: All right. Do y'all have some motions you
18 want to address?

19 MR. BARNETTE: Your Honor, the state has a
20 third-party-guilt motion that has been filed. I've given a
21 copy to the defense. That's the only motion we have at
22 this point.

23 THE COURT: All right. Mr. Thompson, what's your
24 position?

25 MR. THOMPSON: May it please the Court, Your Honor.

1 I'm not sure whether he's trying to apply that to
2 someone other than the codefendant. There is a codefendant
3 who has entered a plea indicating some degree of
4 culpability in this matter. The defendant has --
5 codefendant has provided statements admitting being present
6 in the -- at the -- in the location.

7 He has given various statements, each one inconsistent
8 with the other. And so we believe that obviously the
9 past -- bear suspicion.

10 We -- you know, we expect to present or at least bring
11 out, bring -- bring proof -- bring forth the proof that
12 they've got that they had a gun and he was shooting a gun.
13 And so -- and I don't know if he's -- whether they're
14 making this motion regarding somebody other than the
15 defendant and the codefendant.

16 But the codefendant we believe is the more culpable
17 person in this matter, and we believe there's substantial
18 evidence in the record that point toward him, and therefore
19 we believe that -- or we shouldn't be forbidden from
20 alleging that he's the shooter.

21 THE COURT: All right. Mr. Barnette.

22 MR. BARNETTE: Your Honor, I've got two problems with
23 that.

24 One, I have got obviously -- you know, it's not
25 inconsistent with his guilt. Hand of one is the hand of

1 all, No. 1. But, No. 2, I believe he did a guilty plea in
2 front of Judge Culbertson where he's admitted that he did
3 shoot the weapon at that time.

4 Put in a position inconsistent with what his sworn
5 testimony is I think would be outside the bounds of the law
6 from that standpoint. Now he's going to allege that the
7 other fellow shoot -- I can see them arguing both of them
8 shooting, but he can't just say the other guy was doing the
9 shooting because he admitted shooting that night.

10 MR. THOMPSON: And that's not what -- I'm not going
11 there with it. I'm not -- the evidence will show --

12 THE COURT: I'm not going to preclude the defense from
13 referring to the fact that there was a codefendant who's
14 charged with shooting.

15 MR. BARNETTE: I agree, Your Honor. I think the issue
16 that I have, Your Honor, is that he can't put up anything
17 inconsistent with his own guilt -- the third party. And,
18 plus, I think his prior sworn testimony locks him in. He
19 was obviously shooting that night.

20 THE COURT: Whose sworn testimony are you talking
21 about -- the codefendant?

22 MR. BARNETTE: Yes, sir -- no. The defendant.

23 THE COURT: The defendant.

24 MR. BARNETTE: Yes, sir. I have a transcript. I've
25 given a copy to defense. I have -- may I approach the

1 bench, Your Honor?

2 It was not in front of Your Honor. I realize Your
3 Honor took the second attempted guilty plea, but that was
4 the first one.

5 THE COURT: Well, that would be a matter of
6 cross-examination. I'm assuming that's what you're talking
7 about.

8 MR. BARNETTE: Yes, sir.

9 THE COURT: But, in any event, I'm going to allow
10 there to be a reference to a codefendant.

11 MR. BARNETTE: Yes, sir, I understand.

12 THE COURT: Okay.

13 MR. BARNETTE: I guess I'm going to just clarify how
14 far and how deep they can go.

15 THE COURT: Well, I guess it'll depend on the
16 testimony if the defendant decides to take the witness
17 stand.

18 MR. THOMPSON: And the evidence is going to show those
19 casings are -- there's casings 400 yards from the incident
20 location. And my client -- whether he was shooting out
21 there -- that's where they were shooting, and he has
22 admitted shooting, but the testimony will show that --
23 well, should show that he's not -- he's not even within
24 sight of anybody at the Race Way where the victim was --
25 was shot.

1 THE COURT: All right. Well, I'm not going to
2 preclude that testimony or that evidence.

3 MR. BARNETTE: Yes, sir.

4 THE COURT: All right.

5 MR. THOMPSON: I have one motion, Your Honor.

6 THE COURT: Okay.

7 MR. THOMPSON: There are photographs of the victim's
8 injury, the young lady that was shot in the car. Those are
9 terrible looking, and I believe those may sway the jury or
10 create some sympathy in there.

11 We don't disagree that the young lady was shot, and I
12 don't know that there's any need to submit those.

13 There's some forensics on the car with a bullet hole,
14 and evidently that's where the bullet entered. We know
15 that will come in, but I just don't believe the jury needs
16 to see those injuries and -- and the state shouldn't --
17 following that. I think that may sway or create some
18 sympathy or some anger maybe at my -- my client as a
19 defendant in this matter.

20 MR. BARNETTE: Your Honor, we have one picture we're
21 going to introduce. Of course this is an attempted murder.
22 We have to show an intent to kill. And I believe there's
23 no question the picture shows that. It's a bullet wound in
24 the back, showing a cut over here. We'll have obviously
25 testimony about it.

1 I have a lot more prejudicial pictures. I could
2 introduce the front of her where she was cut from here to
3 here from -- from her neck all the way down to her pelvic
4 bone and things like that. We're not asking to introduce
5 that. But you can obviously see the gunshot in her back,
6 lower back, area. And that obviously goes -- I think it's
7 more probative than prejudicial in this case because it
8 shows -- we have to show intent to kill in this case, and I
9 think it does show that.

10 THE COURT: All right. I'll look at the photograph
11 during the lunch recess, and I will decide it before we
12 begin.

13 All right. Anything else?

14 MR. THOMPSON: None from the defense, Your Honor.

15 THE COURT: All right. Court is in recess until 2:30.
16 (Whereupon, a recess was taken.)

17 THE COURT: Are we ready for the jury?

18 MR. BARNETTE: The state is ready, Your Honor.

19 MR. THOMPSON: The defense is ready, Your Honor.

20 THE COURT: Okay. Bring them in.

21 Ask Mr. Blankenship to take the foreperson's seat.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: Good afternoon, ladies and gentlemen.

25 We are ready to begin with the trial of the case for

1 which each of you have been selected.

2 Mr. Blankenship, I'm going to ask you to serve as the
3 foreperson of this jury. As the foreperson you'll have
4 three specific duties that none of the other jurors will
5 have.

6 First of all, you're going to be asked to serve as the
7 spokesperson for the jury. And that just means that if
8 during the course of this trial something arises that needs
9 to be brought to my attention -- you or a fellow juror has
10 some difficulty, problem or question -- it'll be your
11 responsibility to let me know of that fact either directly
12 or through the bailiff. And I'll address any issue that
13 you may have or answer any question.

14 Secondly, you'll be called upon to preside over jury
15 deliberations when the time comes. That of course won't be
16 until the end of the trial after the evidence has been
17 received and I've instructed you on the law that's
18 applicable in the case. But when the time does come for
19 jury deliberations it will be your responsibility to
20 preside over that process in the jury room simply to ensure
21 that those deliberations are carried out in some orderly
22 fashion.

23 And, thirdly, it will be your duty to actually write
24 the verdicts or the decisions of the jury. You'll do that
25 on verdict forms that I'll provide you at the trial's

1 conclusion on which you will indicate the jury's unanimous
2 decision as to each of the separate charges.

3 Now, the foreperson has those specific duties that
4 I've just indicated. That doesn't mean that he's any more
5 important than any of other jurors, and that's because the
6 decision of the jury is the unanimous consensus opinion of
7 all 12 jurors. And so each of you will have an equal say
8 and equal vote in what the ultimate decisions in this case
9 will be.

10 Someone simply has to be delegated those
11 responsibilities that I have just indicated, and I have
12 delegated those to Mr. Blankenship in appointing him as the
13 foreperson. But each of you jurors are equally important
14 so far as the ultimate decision in the case is concerned,
15 because, as I've already stated, the verdicts have to be
16 unanimous. All 12 of you must be in agreement.

17 Now, Mr. Byrd and Mr. Brown, each of you have been
18 selected as alternate jurors, and the function of an
19 alternate juror is to take the place of one of the original
20 12 jurors if during the trial one or two of these jurors is
21 unable to continue.

22 Then one or both of you would be called upon to take
23 those absent jurors' places. And in that event you would
24 become the twelfth juror. In that event you would
25 participate throughout the trial including in the jury

Jury sworn

1 deliberations at the trial's conclusion.

2 If however when the time does come for jury
3 deliberations the original 12 are able to participate, then
4 your service would end, and you would not participate any
5 further. That's because the decision of a jury is that of
6 12. And no more than 12 jurors are permitted to engage in
7 that deliberation process.

8 But it is important that each of you pay just as
9 careful attention as we ask of all of the jurors in the
10 case because it does occur from time to time for one reason
11 or another one or two of these jurors may be unable to
12 continue. In that event one or both of you would be called
13 upon to become the twelfth.

14 So we do appreciate your participation as alternate
15 jurors, just as we appreciate the participation of each of
16 you jurors who have been selected for the purpose of
17 deciding the verdicts in this particular case.

18 You may swear the panel.

19 (Whereupon, the jury was duly sworn.)

20 THE COURT: Ladies and gentlemen, as you know, you
21 have been selected to decide the verdicts in the case of
22 the State vs. Bryan Marion Holder.

23 As you also know, Mr. Holder has been accused by the
24 prosecutor by way of these indictments with having
25 committed four separate and distinct offenses, all arising

1 out of one particular event or a course of events which the
2 state alleges occurred back on July the 2nd of 2012.

3 But there are four separate and distinct charges for
4 which you will be rendering four separate and distinct
5 verdicts.

6 Of course your decisions as to each of those separate
7 charges may be the same. They may be different. That of
8 course will depend upon your determination of fact as it
9 relates to a particular charge and then your application of
10 the law as it relates to that charge.

11 But Mr. Holder is charged with three separate counts
12 of attempted murder and one count of possession of a
13 firearm during the commission of a violent crime.

14 As you also know, as to each of those charges he has
15 entered a plea of not guilty. A plea of not guilty, as
16 I've told you, places upon the state because they brought
17 the charge the burden of establishing his guilt to your
18 satisfaction beyond a reasonable doubt.

19 Because the state has brought the charge and they've
20 made allegations against the defendant, they have the
21 burden of proving those allegations. They have the burden
22 of proving each of the essential elements of the crimes
23 that they allege against the defendant, and therefore the
24 burden is upon the state to establish his guilt to the
25 satisfaction of you 12 jurors beyond a reasonable doubt

1 before any verdict of guilty could be returned as to each
2 of the -- or any of the separate criminal offenses.

3 Every person who is accused of a crime is always
4 presumed to be innocent of that charge, and it doesn't
5 matter how serious the offense might be for which that
6 person stands charged. Every person accused of a crime is
7 always presumed innocent of the charge.

8 That presumption of innocence remains with any
9 defendant, as it does with this defendant, from the time
10 that he is placed under arrest and throughout the course of
11 the criminal process and even throughout the course of the
12 actual trial in the case.

13 That presumption of innocence will be with Mr. Holder
14 even as you go back at this trial's conclusion to begin
15 with your deliberations in the case. That presumption of
16 innocence will be with him in that jury room, and it'll be
17 with him forever unless you 12 jurors determine that he's
18 no longer entitled to that presumption of innocence as it
19 relates to a particular charge.

20 In other words, after you have carefully considered
21 all the evidence in the case, and from that evidence you
22 have decided what you believe to be the true facts as they
23 relate to a particular allegation, and after deciding those
24 facts you apply the law that I will have provided you, if
25 you 12 jurors unanimously determine that his guilt as to a

1 particular crime has been proven beyond a reasonable doubt,
2 then he would no longer be entitled to that presumption of
3 innocence as it relates to that charge. But it is only if,
4 unless and until you are satisfied of his guilt beyond a
5 reasonable doubt that the presumption of innocence would no
6 longer be applicable.

7 Now, the way the trial will proceed is that in a
8 moment the lawyers are going to address you in what are
9 called opening statements.

10 There are two occasions in the trial of a case where
11 lawyers are permitted to address the jury, and that is at
12 the beginning of the trial before any evidence has been
13 introduced, then again at the conclusion of the trial after
14 all of the evidence has been received.

15 But keep in mind that the evidence comes in between
16 the opening and the closing statements of the lawyers, and
17 so therefore what the lawyers tell you in their opening and
18 closing statements is not to be considered by you as any
19 evidence upon which you will base your decisions.

20 That's because the lawyers aren't witnesses to
21 anything. They don't know anything about this case of
22 their own personal knowledge or perception like witnesses
23 will be testifying to.

24 They're not going to take the witness stand. They're
25 not going to be placed under oath. They're not going to be

1 subjected to direct and cross-examination like every
2 witness will be. And so what they tell you in those
3 statements is not to be construed by you as any evidence
4 upon which you'll base your decision. But you should
5 listen to what the lawyers have to say because those
6 statements do serve a purpose.

7 The opening statements serve to provide you with a
8 basic understanding as to what this case is about from both
9 the perspective of the state and of the defense so that
10 you'll have some context in which to place the evidence
11 that we will be receiving shortly thereafter.

12 Once the evidence has been received the lawyers will
13 again address you in what are called final argument or
14 final summation. And, again, while those statements are
15 not evidence, it does afford the lawyers an opportunity to
16 discuss with you the evidence that you have seen and heard
17 during the course of the trial. And through that
18 discussion each will have an opportunity to try to persuade
19 you or to convince you that the evidence in the case does
20 or does not support a particular decision.

21 As I've told you, it's in between those opening and
22 closing statements that we actually receive the evidence
23 upon which you will base your decision.

24 The state, as you know, has the burden of proof.
25 They've brought the accusation. They made the charge.

1 Therefore they have the burden of proving the defendant's
2 guilt beyond a reasonable doubt. So the state will go
3 forward first in its presentation of evidence.

4 Once the state has concluded with that presentation a
5 defendant has the same opportunity to testify and to call
6 witnesses or to produce evidence, but there never is a
7 burden on a defendant to testify or to call a witness or to
8 produce any evidence. The burden is never upon a person
9 accused of a crime to prove that they're not guilty or to
10 prove that they're innocent because in some cases that
11 might not be possible.

12 The burden is upon the state to prove a defendant's
13 guilt beyond a reasonable doubt because they have brought
14 the accusation. But there is no burden on a person charged
15 with a crime to prove anything because in some cases, as I
16 say, you could not. But a defendant is always afforded an
17 opportunity to testify or to present evidence if he or she
18 wishes to do so.

19 But in the event a defendant does not testify or does
20 not call a witness, that's not a fact or a circumstance
21 that may be considered by the jury in any way whatsoever in
22 your determination as to his guilt or even can it be
23 discussed during your deliberations, and that's because, as
24 I say, the burden is not upon a defendant to prove
25 anything.

1 But after all of the evidence has been received and
2 you hear the final summations of the lawyers, I will then
3 instruct you fully on the law as it relates to the criminal
4 law generally and as it relates to these particular crimes
5 specifically.

6 Then you'll be asked to go back and to begin with your
7 deliberations in the case. Through that process you're
8 simply going to be called upon through the exercise of good
9 judgment and common sense conscientiously applied to the
10 testimony and the evidence in the case to decide what you
11 believe to be the true facts as they relate to these
12 allegations.

13 Once you decide those facts you'll apply the law that
14 I will have provided you, and you will determine whether or
15 not the defendant has been proven guilty of a particular
16 charge beyond a reasonable doubt.

17 Now, all that we're going to ask for you to do is to
18 pay careful attention throughout the course of the trial.
19 You have to decide the facts. You do that based upon your
20 consideration of all of the evidence, and that includes
21 your evaluation of the credibility of witness testimony.

22 So as the witness testifies you're going to be called
23 upon to listen to what they have to say and watch them as
24 they say it, because sometimes you can tell as much about
25 the truth of a statement by watching a person state it as

1 you can by simply hearing what they have to say.

2 If there is a conflict in testimony it's your
3 prerogative to resolve the conflict. In other words, you
4 get to decide what's the most credible testimony and the
5 most believable testimony, and that's the testimony you
6 should accept. And you should reject any testimony that
7 you find not to be credible or believable.

8 But in order for you to be in a proper position to
9 fairly evaluate a witness' testimony you've got to judge
10 that testimony in light of not just that witness' testimony
11 but in light of all of the testimony and all of the
12 evidence in the case. And that's why it's important that
13 you give every witness the same degree of attention as they
14 testify so that you'll be in a proper position to do that
15 at the trial's conclusion.

16 And of course it's also important that you keep an
17 open mind throughout the course of the trial. And that
18 just means that you are not to begin making up your minds
19 or formulating your opinions as to what you think the
20 ultimate decisions in this case ought to be until all of
21 the evidence has been received, until I have instructed you
22 on the law in the case and until you've been asked to go
23 back and begin with your deliberations.

24 That is the process that is designed for you 12 jurors
25 to be able to arrive at a fair and just decision in this

Opening statements

1 case and any case.

2 So I do want to thank to you in advance for your
3 participation as well as for your careful attention. I
4 would ask that you please give the lawyers your attention
5 now as they give you their opening statements.

6 Ms. Tailor.

7 MS. TAILOR: May it please the Court.

8 THE COURT: Yes, ma'am.

9 MS. TAILOR: Good afternoon, ladies and gentlemen.

10 First and foremost, I want to thank you for what
11 you're about to do here today and through the course of
12 this week.

13 Serving on a jury is one of the most important things
14 that you can do for your country. The jury system is one
15 of the cornerstones of our criminal justice system. And
16 I'm sure that when each of you received your jury summons
17 in the mail you probably weren't jumping for joy. Maybe
18 you were. But what you are here to do is very important,
19 so we thank you for that.

20 Now, your job here today, just as the judge explained,
21 is that you're going to be making a decision. You'll
22 listen to the trial. You'll listen to the testimony. You
23 will observe the people who testify, and you'll have a
24 chance to see the evidence.

25 Then once the trial is complete you'll be able to

Opening statements

1 discuss all of that amongst yourselves and make a decision.
2 And at the conclusion of the trial the state will ask you
3 to return a verdict, and the verdict we'll ask you to
4 return is one of guilty.

5 I want to introduce you to two people. We have
6 Mr. Wayne Lyda and his daughter Taylor. They live here in
7 Spartanburg.

8 Back in 2012 Wayne and his wife had gone on vacation,
9 and their daughter Taylor was here for the summer. She had
10 a summer job. So Wayne and his wife had a house sitter to
11 watch after the house and feed their dogs.

12 One night the house sitter got a call from this man.
13 She brought him over to the house. They stayed the night.
14 She had to get up in the morning and go to work, and he
15 wanted to sleep in. So she left to go to work meaning to
16 come and get him -- get him a little later that day. So he
17 was there by himself, so he helped himself to the house,
18 went through it, took various items -- electronics, money,
19 jewelry.

20 And he found some guns. Not handguns. Rifles. Not
21 just a couple. He found 15 of them, and ammunition to go
22 with all of them.

23 I want you to meet two more people. This is Bobby
24 Swigert and this is Bonnie Raines.

25 Now, the judge has told you what the defendant is

Opening statements

1 charged with. He's charged with not one count of attempted
2 murder, not two counts of attempted murder, but three
3 counts of attempted murder -- three.

4 The judge will explain to you what the law is, and he
5 will explain to you the elements of that crime. But when
6 you're listening to the testimony and the evidence in the
7 trial just remember that's what he's charged with --
8 attempted murder. It's what it sounds like, ladies and
9 gentlemen. It's when a person with intent to kill attempts
10 to kill someone.

11 Now, back in 2012 Bobby and Bonnie were at the Race
12 Way, the Race Way on Asheville Highway. So when you're
13 going towards Inman on Asheville Highway there's a Race Way
14 on your left, and there's an Ingles shopping center on your
15 right, and there's a couple of more little stores with it.
16 And I believe there's another gas station. The highway
17 runs between the Race Way and Ingles.

18 Now, if you're facing the Ingles from the Race Way
19 there's a field behind it. Bonnie and Bobby had gone over
20 to a friend's house, and on the way home they decided to
21 stop at the Race Way and go inside and get some cigarettes
22 and some sodas to drink.

23 Let's go back to the defendant. He had gone over to
24 Wayne's house with their house sitter and made off with 15
25 guns.

Opening statements

1 So he's up in this field and decides to shoot some of
2 these big guns. And that's what happened. There are shots
3 at the Race Way.

4 There's a man named Mark. He was there cleaning
5 between the gas pumps. And Bobby and Bonnie are in the
6 car.

7 A bullet went through the passenger-side car door.
8 Bobby was driving, so he got in the driver's seat. Bonnie
9 was in the passenger seat, front passenger seat. The
10 bullet goes through the front -- front car door, through
11 that steel, through that metal, went right through it and
12 ripped through Bonnie.

13 Ladies and gentlemen, we ask you to do your duty, as I
14 know you will, to listen to this trial, and listen to the
15 testimony and consider the evidence. And at the end of
16 this trial we will ask you to return a verdict of guilty.

17 THE COURT: Mr. Thompson.

18 MR. THOMPSON: May it please the Court, Your Honor.

19 Ladies and gentlemen, I would echo Ms. Taylor's thanks
20 and -- and the importance she puts on jury duty. I believe
21 in this as well.

22 I'm here today representing Mr. Holder. You're going
23 to hear various testimony throughout the week, and
24 eventually you'll take all of that and you'll do what she
25 said. You will judge the candor of those folks that come

Opening statements

1 up here, you'll judge their credibility, and then you'll
2 take the facts as you see them and you'll apply them to the
3 statute.

4 The person who attempts to kill somebody with the
5 intent to kill with malice aforethought -- and Judge Cole
6 will give you a great charge on that -- is guilty of
7 attempted murder. Once you take that and apply it to the
8 facts you'll find my client is not guilty of that, of those
9 charges.

10 We'll be very brief with you here on this opening.
11 The state's going to present all of this evidence. And I
12 used to be a social studies teacher, and I love the
13 constitution. And you're innocent until proven guilty.

14 Unfortunately, in society we've got our -- people get
15 arrested. We have papers on -- their pictures on the front
16 page. The news is all over it. We don't really have that
17 luxury that the constitution affords us. It's almost like
18 we've got to put the burden on the defendant. The judge
19 will explain that to you.

20 Okay. So I judge -- as Judge Cole says, he's
21 innocent. He carries that shroud of innocence with him
22 everywhere he goes unless you go in and find he's not
23 innocent. Okay. So I want to take that very, very
24 seriously.

25 This is the most serious thing a lot of you guys will

Taylor Danielle Lyda
Direct examination by Ms. Taylor

1 do. I believe it is. I want you to be serious and weigh
2 the facts in this case. Judge these witnesses that come in
3 and apply those facts to the statutes. And I believe
4 you're going to come back with a not-guilty.

5 The state's going to bring various witnesses. I
6 assume they're going to bring a codefendant, another kid
7 that is accused of the same crime. All right. And I want
8 you to take his testimony and listen very, very carefully
9 to it. I believe once you do you'll find that he's not
10 very honest.

11 Okay. Guys, I want you to take -- take this job that
12 you have this week. Take it very, very seriously. When
13 you're back in the room, weigh this evidence. Judge the
14 credibility of those folks up there. I think you'll come
15 back with a not-guilty for my client. I appreciate your
16 time.

17 THE COURT: Ms. Taylor.

18 MS. TAILOR: The state calls Taylor Lyda.

19 TAYLOR LYDA, having been first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MS. TAILOR

22 Q Taylor, please state your whole name for the jury.

23 A Taylor Danielle Lyda.

24 Q And where do you live?

25 A I live on Bethesda Road.

Taylor Danielle Lyda
Direct examination by Ms. Tailor

- 1 Q Is that here in Spartanburg County?
- 2 A Yes, ma'am.
- 3 Q Now, is that your parents' house?
- 4 A Yes, ma'am.
- 5 Q Were you living there back in 2012?
- 6 A Yes, ma'am.
- 7 Q Summer of 2012 when your parents went on vacation,
- 8 were you still in Spartanburg?
- 9 A Yes, ma'am.
- 10 Q And were you in charge of taking care of the house
- 11 while they were gone?
- 12 A No, ma'am.
- 13 Q Who was in charge of taking care of the house?
- 14 A Ms. Stacey Lawing.
- 15 Q Was she a house sitter?
- 16 A Yes, ma'am.
- 17 Q Do you also have some pets that needed taking care of?
- 18 A Yes, ma'am.
- 19 Q Were you in charge of feeding them, or would the house
- 20 sitter do that?
- 21 A It was the house sitter.
- 22 Q Back on June 29th of 2012 did you go to your house?
- 23 A Yes, ma'am.
- 24 Q Did you have any friends there with you?
- 25 A Yes, ma'am.

Taylor Danielle Lyda
Direct examination by Ms. Taylor

- 1 Q What was your friend's name?
- 2 A Destiny Gregg.
- 3 Q How old were both of you at the time?
- 4 A I was 18, and she was 18 as well.
- 5 Q Can you tell the jury what you did that day?
- 6 A Is this the 28th or 29th?
- 7 Q The 29th.
- 8 A I went to work that morning.
- 9 Q I'm sorry. Well, then what happened the day before
- 10 you went to work? Start there.
- 11 A I was at work. I got off work. I went home.
- 12 Ms. Stacey Lawing was there. My friend Destiny Gregg, she
- 13 was there as well.
- 14 We got in the hot tub, and Stacey left. And then she
- 15 came back with Mr. Holder. And she introduced him as
- 16 Bryan.
- 17 And then me and my friend Destiny got out of the hot
- 18 tub, and they were inside. And then when we got out of the
- 19 hot tub we walked inside, and they came outside.
- 20 And I was unaware that he was there that night when me
- 21 and my friend Destiny went to bed.
- 22 And we woke up that morning. I had to go to work
- 23 early in the morning, so I left early. Stacey Lawing --
- 24 she stayed there as well, so she left before I did.
- 25 And when I got to work she told me to text my friend

Taylor Danielle Lyda
Direct examination by Ms. Tailor

1 Destiny and tell her that Mr. Holder was still in the
2 house. So I texted Destiny and told her that. And she
3 texted me back and said that she had already left.

4 And Stacey said that she was going to pick Mr. Holder
5 up on her lunch break. And then the lunch break came
6 around and she said that he walked to the church right up
7 from my house and got somebody to pick him up.

8 And I got home. I got off at 5:30, and I got home and
9 my dogs were acting weird when I walked in the door. They
10 usually run to me, and they neither would come.

11 So I went in my parents' room and they were hiding in
12 the closet. Then I went in my room and I saw sawdust
13 everywhere, and then I noticed that my money on my dresser
14 was gone. And so I called my parents, and we called the
15 cops and the cops came. And we noticed more stuff was
16 missing.

17 Q What else was missing from your room?

18 A There was money, jewelry like my high school and
19 middle school rings, and a laptop, a lot of electronics and
20 those.

21 Q What about other rooms in the house? Was there other
22 things missing?

23 A I went in my brother's room, and all the guns were
24 gone. So I went outside because I got scared they might
25 still be in the house.

Taylor Danielle Lyda
Direct examination by Ms. Tailor

1 Q Did you notice anything wrong in your house other than
2 things missing?

3 A There was a big hole in the door. And nothing else
4 was missing, just my room and the guns.

5 Q When you say there was a hole in the door, was that
6 the front door, an inside door?

7 A It was in my bedroom. So I went outside and waited
8 for the cops to come, and they came and checked the house
9 to make sure that nobody was still in there, that nobody
10 could hurt us.

11 MS. TAILOR: May I approach the witness, Your Honor?

12 THE COURT: You may.

13 Q Taylor, I'm going to hand you what's been previously
14 marked as State's Exhibits 81 through 87. Would you please
15 take a look at these pictures? Do you recognize those
16 photographs?

17 A Yes, ma'am.

18 Q Are they a fair and accurate depiction of the damage
19 you found to your house?

20 A Yes, ma'am.

21 Q Let me ask you one more thing. Before the night that
22 Mr. Holder came over was that damage there?

23 A No, ma'am.

24 MS. TAILOR: Your Honor, at this time the state would
25 like to move Exhibits No. 81 through 87 into evidence.

Taylor Danielle Lyda
Direct examination by Ms. Tailor

1 MR. THOMPSON: No objection.

2 THE COURT: It's 81 through 87 inclusive?

3 MS. TAILOR: Yes, sir, Your Honor.

4 THE COURT: They're admitted without objection.

5 (Photographs marked State's Exhibits Nos. 81 through
6 87.)

7 MS. TAILOR: Permission to publish to the jury, Your
8 Honor.

9 THE COURT: You may.

10 BY MS. TAILOR

11 Q Taylor, do you recognize that? Is that some damage to
12 your door?

13 A That's the hole that was in my door of my room.

14 Q Okay.

15 THE COURT: Let me ask you if you'll please get a
16 little bit closer to that microphone, that black
17 microphone. You can adjust it if you need to.

18 Q Let me show you No. 82 which is a larger picture of
19 that. So where is that door?

20 A The -- that's the closet on the left, and that's my
21 brother's room on the right where the guns were taken out
22 of that room.

23 Q So the open door goes into your brother's room?

24 A Yes, ma'am.

25 Q No. 81. This will be the damage to that top part of

Taylor Danielle Lyda
Direct examination by Ms. Taylor

1 that door.

2 A Yes, ma'am.

3 Q What about this door?

4 A That's the door to my bedroom.

5 Q Now, this damage here and here, was that there?

6 A No, ma'am.

7 Q And that's your bedroom door.

8 A Yes, ma'am.

9 Q I have Exhibit No. 84. What is that?

10 A This is in my brother's room. That's the gun cabinet
11 where the guns were taken.

12 Q Now, does that cabinet lock?

13 A No, ma'am. It just opens up.

14 Q And that's some damage, I believe. Is that the top of
15 your door?

16 A Yes, ma'am. It went through the -- through the front
17 of the door and in the back. And then the blue part is the
18 wall. So it also went in the wall.

19 Q And none of that damage was there prior to Mr. Holder
20 coming to the house.

21 A No, ma'am.

22 Q Taylor, that night the house sitter brought someone
23 over to your house, do you see that person in the courtroom
24 here today?

25 A Yes, ma'am.

Taylor Danielle Lyda
Cross-examination by Mr. Thompson

1 Q Can you identify him?

2 A Mr. Holder.

3 MS. TAILOR: Let the record reflect that the witness
4 has identified the defendant.

5 THE COURT: It shall.

6 Q Taylor, please answer any questions the defense may
7 have for you.

8 MR. THOMPSON: May it please the Court, Your Honor.

9 THE COURT: Mr. Thompson.

10 CROSS-EXAMINATION

11 BY MR. THOMPSON

12 Q Taylor, where were you working when you -- last
13 year -- July?

14 A I was working at Two by Two. It's a daycare.

15 Q And Ms. Lawing was watching the house, correct?

16 A Yes, sir.

17 Q And how old is she?

18 A I'm not sure.

19 Q Were these guns -- did these guns belong to your
20 brother?

21 A Yes, sir, and my dad and my great-grandfather.

22 Q Okay. And the -- the big hole in there we see,
23 apparently that big hole with the small holes around it,
24 that's probably a shotgun shell that went off, right?

25 A Yes, sir.

Taylor Danielle Lyda
Cross-examination by Mr. Thompson

1 Q Okay. And -- and, basically, all of these different
2 pictures of the -- of the damage done is -- that's just one
3 shot, right?

4 A I don't know.

5 Q You don't know. Okay. Does it -- do you recall if
6 they were all in a line, or were they all through holes,
7 all over the rooms of the house, or what?

8 A Well, there was one through the front of the door, and
9 the back, and one in the wall.

10 Q Okay. And so where was the hole in proximity to the
11 gun case?

12 A The gun case was in a totally different room.

13 Q Okay. And so this is the gun case, so that the whole
14 was not in that room. No damage was in that room?

15 A No, sir.

16 Q Okay. What damage -- what room is this where the
17 damage is?

18 A That would be my room.

19 Q It's your room?

20 A Yes, sir.

21 Q Okay. And then this right here, is this -- this is
22 the molding. That's the floor here. And the ceiling that
23 way, correct? That's the wall.

24 A Yes, sir.

25 Q Okay. So that's pretty much in line, right?

Taylor Danielle Lyda
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q Possibly one shot that went on that, caused that. And
- 3 then the other is the small hole in the door, and that's
- 4 the door to your room as well?
- 5 A Yes, sir.
- 6 Q Okay. And then how old is your brother?
- 7 A He was 16 at the time.
- 8 Q Okay. Was he -- was he gone on vacation with your
- 9 parents?
- 10 A Yes, sir.
- 11 Q Now, you've been here throughout the day, throughout
- 12 the -- everything that we've done today, correct?
- 13 A Yes, sir.
- 14 Q And you're aware that Mr. Holder is accepting
- 15 responsibility for taking those guns, right?
- 16 A Yes, sir.
- 17 Q And for that gun going off in the house. You know
- 18 that, right?
- 19 A Yes, sir.
- 20 Q And then you have no knowledge of an attempted murder
- 21 or anything like that, right?
- 22 A I've heard about it.
- 23 Q Right. But I mean no -- no first-hand knowledge.
- 24 A No, sir.
- 25 Q Okay. Now, when he came over and stayed with

Taylor Danielle Lyda
Cross-examination by Mr. Thompson

1 Ms. Lawing, do you recall what night that was?

2 A I think that was the night of the 28th.

3 Q Okay. And the 28th would have been -- was that on a
4 Thursday night?

5 A I think it was Thursday. I can't remember.

6 Q So you had to work the next morning.

7 A Yes, sir. It was Thursday.

8 Q So it would have been a week night or a Sunday night.

9 Okay. So obviously the Friday when you get back from work
10 is when you discover the damage.

11 A Yes, sir.

12 Q Okay. And so we know. And then it was -- it was
13 definitely you had to work the next morning at a daycare,
14 right?

15 A Yes, sir.

16 Q Okay. All right. And would it be safe to say you
17 haven't seen Mr. Holder since?

18 A No, sir.

19 Q Is that correct? I have no further questions. Thank
20 you.

21 MS. TAILOR: No questions from the state, Your Honor.

22 THE COURT: You may step down.

23 MS. TAILOR: The state calls Wayne Lyda.

24

25

Stanley Wayne Lyda
Direct examination by Ms. Tailor

STANLEY WAYNE LYDA, having
been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. TAILOR

4 Q Please state your whole name for the jury.

5 | A Stanley Wayne Lyda.

6 | Q And do you live here in Spartanburg County?

7 | A I do.

8 Q Now, Taylor just testified that there were some guns
9 missing from your house. Would you please go over exactly
10 what weapons went missing from your house for the jury?

11 A Every one of them?

12 Q Every one of them, sir.

13 | A I had a --

14 | 0 If you have some notes, you can refer to that.

15 A I've got a Pastoda [sic] 12-gauge automatic shotgun.
16 We had an Iver Johnson 12-gauge shingle-shot shotgun. Had
17 a Ruliby [sic] 12-gauge automatic shotgun; had a Rossi 410
18 shotgun, single shot; had H & R 410 shotgun; had a Marlin
19 30-30 directional rifle; had a Remington 30-06 rifle; we
20 had a Rossi .22 used rifle and a Rossi 410 used shotgun;
21 had a Rossi .22 pump rifle with stainless steel pump. I
22 had a CZ-17 H.M.R. bolt action; we had a Marlin .22
23 automatic rifle. That's all the guns I've got listed.

24 Q Now, and I apologize if this sounds like something we
25 should know.

Stanley Wayne Lyda
Direct examination by Ms. Tailor

1 You said some were shotguns, bolt actions, rifles.
2 And I know when I was addressing the jury during opening I
3 said rifles.

4 Can you just explain to the jury the -- you said
5 they're shotguns as well. Is there a difference? What
6 types of guns were these?

7 A Shotguns is what we used to, you know, rabbit hunt
8 with it. We shoot skeet, trout. It's a -- it's a bunch of
9 pellets coming out of the bullet versus a rifle is a solid
10 piece of lead that comes -- comes out. I don't remember.
11 I guess I'll answer the question.

12 Q Are these fairly large weapons?

13 A The shotgun up close is, yes. The rifle is more for
14 distance.

15 Q Now, those guns that went missing from your home, how
16 many did you receive back?

17 A I've only got three back.

18 Q What was the total value of everything that went
19 missing?

20 A Everything?

21 Q Just the guns, and then everything else.

22 A The guns, around five -- \$5,000. And the total was
23 \$11,258.

24 Q And that includes the damage to the home --

25 A Yes.

Stanley Wayne Lyda
Direct examination by Ms. Tailor

1 Q -- as well as the other items that have gone missing?

2 A Yes.

3 Q Sir, I'm going to show you what's been marked as
4 State's Exhibit No. 16. Do you recognize this?

5 A Yes, I do.

6 Q What is it?

7 A It's a Marlin 30-30 lever action rifle.

8 Q And was this one of the weapons that was in your home?

9 A Yes, ma'am.

10 MS. TAILOR: Your Honor, at this time we would like to
11 move State's Exhibit No. 16 into evidence.

12 MR. THOMPSON: No objection.

13 THE COURT: It's admitted.

14 (Marlin rifle marked State's Exhibit No. 16.)

15 MS. TAILOR: Permission to publish to the jury, Your
16 Honor.

17 THE COURT: You may.

18 That has been secured?

19 MS. TAILOR: It has, Your Honor.

20 BY MS. TAILOR

21 Q What type of gun is this?

22 A It's a Marlin 30-30 lever action.

23 Q Can you explain to the jury what gun this is?

24 A This -- this is actually my first hunting rifle when I
25 turned 16 my daddy bought me. It's for deer hunting. It's

Stanley Wayne Lyda
Direct examination by Ms. Taylor

1 for hunting deer.

2 Q What about this up here?

3 A That's a Bushnell 3-9X40 scope.

4 Q Can you explain to the jury what a scope is used for?

5 A A scope is used so you can see further distance. If
6 you -- if I'm shooting a deer at 300 yards, you can't
7 hardly see him. The scope brings him up to where I can see
8 what I'm shooting.

9 Q And when you have a scope on a gun can anyone use that
10 scope? Does it have to be adjusted for each person who
11 uses it?

12 A I think -- yeah. I think so. I'm not a gun expert,
13 but I shoot my gun, and my son shoots it. And he has a
14 more I guess you call trigger pull. And he -- he shoots
15 different than I do. His guns are set up different than my
16 guns.

17 Q So when -- so you're saying that this gun, even though
18 you and your family have it, he's going to have different
19 aim than you have?

20 A I would think so -- I would think so. I don't know.

21 Q I'm going to show you what's been premarked as State's
22 Exhibit No. 15. Do you recognize this?

23 A Yes, ma'am, I do.

24 Q What is it?

25 A It's a Remington 30-06.

Stanley Wayne Lyda
Direct examination by Ms. Tailor

1 MR. THOMPSON: No objection.

2 MS. TAILOR: Your Honor, we'd like to move State's
3 Exhibit No. 15 into evidence.

4 THE COURT: It's admitted without objection.
5 (Remington rifle marked State's Exhibit No. 15.)

6 THE COURT: It's also been secured?

7 MS. TAILOR: Yes, sir, Your Honor, it has.
8 Permission to publish to the jury.

9 THE COURT: You may.

10 BY MS. TAILOR

11 Q Please tell the jury what type of weapon this is.

12 A This is a Remington 30-06 bolt action. It's for --
13 it's for deer hunting, it's for longer distances.

14 Q Now, the gun we just showed you, would this be a more
15 powerful weapon?

16 A Yes.

17 Q And this also has a scope on it. Is that scope a
18 little bit farther distance?

19 A Yes. That's actually the same scope. That's a
20 Bushnell 3-9X40 also.

21 Q And there's some numbers and adjustments here. What
22 is that for?

23 A You can actually focus better and bring the image
24 closer or further away.

25 Q And would this scope have been adjusted for your use?

Stanley Wayne Lyda
Direct examination by Ms. Tailor

1 A Yes, ma'am.

2 Q So if I were to use that scope would it be different
3 for me than it would be different for you?

4 MR. THOMPSON: Your Honor, I don't know that he can
5 answer that, that he would have any knowledge about --

6 THE COURT: I think he already said that he's not an
7 expert, he's not really certain about that. But if he is,
8 he can answer it. But I think he's already made that
9 clear.

10 MS. TAILOR: I'll ask a different question.

11 BY MS. TAILOR

12 Q This is your gun, so you use that scope.

13 A Correct.

14 Q When your son uses it does he adjust it?

15 A Yes, ma'am. Well, I can -- can I make that clear?

16 Q Yes, sir. Please explain to the jury.

17 A I just -- I have that gun. My -- my son normally
18 wouldn't because we -- we shoot all of the time. Well, I
19 shoot bulls eye with it. He shoots differently. He has
20 his own hunting rifle.

21 But when we go shooting -- when we go shooting and
22 just shoot for fun of it if I'm hitting bowl he might hit
23 two inch -- a inch to the right or high or something. It's
24 just -- it's different. He might pull different than I do.
25 I might squeeze a little easier. That's -- that's the

Stanley Wayne Lyda
Direct examination by Ms. Tailor

1 thing I was referring to.

2 Q I'm going to show you what's been premarked as State's
3 Exhibit 15-A. Do you recognize what this is?

4 A Yes, ma'am.

5 Q What is it?

6 A That's the clip for a 30-06.

7 MR. THOMPSON: No objection.

8 MS. TAILOR: Your Honor, I would like to move State's
9 Exhibit No. 15-A into evidence.

10 THE COURT: 15-A?

11 MS. TAILOR: Yes, sir, Your Honor.

12 THE COURT: And that is what?

13 MS. TAILOR: It's a clip that goes into item No. 15.

14 THE COURT: Okay. It's admitted without objection.

15 (Clip marked State's Exhibit No. 15-A.)

16 BY MS. TAILOR

17 Q I'm going to hand this to you. Can you explain what
18 that is to the jury?

19 A My 30-06 is a bolt action. It's not an automatic
20 rifle. Bolt action is more accurate. But what you can do
21 is -- this is a clip. You put three bullets in it. If you
22 go hunting, if you shoot, you don't kill the animal. You
23 can -- can reload real quick to shoot again.

24 Q And so this goes into a larger gun we just showed the
25 jury?

Stanley Wayne Lyda
Direct examination by Ms. Taylor

1 A Correct.

2 Q Sir, I'm going to show you what's been premarked as
3 State's Exhibit No. 18 if you need to stand up to take a
4 look.

5 THE COURT: Please be careful of that microphone
6 there. It makes a lot of noise.

7 THE WITNESS: I'm sorry.

8 Q Do you recognize what's in that bag?

9 A It's 12-gauge shotgun shells and 20-gauge shotgun
10 shells.

11 THE COURT: When you respond to the question you'll
12 need to use the microphone.

13 A Yes. It's 12-gauge shotgun shells and 20-gauge --

14 Q Have a seat and answer into the microphone. That's
15 fine.

16 A Okay. It's 12-gauge shotgun shells and 20-gauge
17 shotgun shells.

18 Q Do you recognize them?

19 THE COURT: Can you just hand it to him so he can look
20 in there without --

21 A They appear to be some of the bullets we had.

22 Q Is that the ammunition that was missing from your
23 house?

24 A Yes, ma'am.

25 MR. THOMPSON: I'll object to those coming in, Your

Stanley Wayne Lyda
Cross-examination by Mr. Thompson

1 Honor. I don't know that they have any specific markings
2 any different from any other 20-gauge.

3 THE COURT: Let me see y'all just a minute.

4 (Bench conference held off the record in the presence
5 of the jury but out of the hearing of the jury.)

6 Q Mr. Lyda, please answer any questions the defense may
7 have for you.

8 A Okay.

9 MR. THOMPSON: May it please the Court, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. THOMPSON

12 Q Mr. Lyda, without showing you those photographs would
13 you agree that it appears that the shotgun was what caused
14 the damage in your home?

15 A Yes, I do.

16 Q Okay. And do you know if the -- if the -- if the guns
17 were ever left with -- with ammunition in them?

18 A The guns were not -- was not loaded.

19 Q Was not loaded. Okay. Do you know which one probably
20 was the one that went off?

21 A It's probably a 410 or 20-gauge. I couldn't tell you
22 which one.

23 Q Okay. Now, I asked Taylor about the -- whether or not
24 she thought one shot could have done it. Did you -- did
25 you observe the -- the damage?

Stanley Wayne Lyda
Cross-examination by Mr. Thompson

1 A Yes. I have.

2 Q And did it appear that it was in line hit by one shot?

3 A That one shot through her door, it went in through her
4 door and into the wall. That's one shot.

5 Q Okay. And, now, so you think that caused all of that
6 damage? I'm not --

7 A Yeah, yeah. All of that damage was from one shot --
8 one shot.

9 Q Okay. And would it be common somebody doesn't know
10 what they're doing and they're handing a gun letting it go
11 off inadvertently?

12 A Oh, certainly.

13 Q You said -- I think you said you had six shotguns on
14 your list and six rifles, is that correct?

15 A Yes, sir.

16 Q Okay. And so that would be a total of 12. And
17 basically you and your son shoot these when you go deer
18 hunting, correct, with these high-powered rifles?

19 A Yes, sir.

20 Q Okay. And I think -- was it your testimony that the
21 scope is the same on each of these with the 30-30 and the
22 30-06?

23 A Yes.

24 Q Okay. Now, I think -- was it your testimony that the
25 30-06 is a lever action?

Stanley Wayne Lyda
Cross-examination by Mr. Thompson

- 1 A The 30-06 is a bolt action.
- 2 Q What does that mean?
- 3 A From what I know about guns bolt action is more
- 4 accurate than a -- than an automatic is.
- 5 Q Okay. Now, does that require me to -- it's not
- 6 semiautomatic. It's automatic.
- 7 A Right, right.
- 8 Q So is there anything required between shots for that
- 9 30-06?
- 10 A You have to rebolt.
- 11 Q Okay. What would that consist of without me pulling
- 12 that gun out?
- 13 A Well, to fire it you have to lift it up, pull it back.
- 14 It ejects the bullet. You push it forward, and it aims the
- 15 next bullet in the clip.
- 16 Q Okay. And then that -- that cartridge we entered into
- 17 evidence would push the bullet up into the chamber, and
- 18 you'd be ready to go again.
- 19 A Correct.
- 20 Q Now, how -- how many times would you say you've shot
- 21 that gun?
- 22 A I would guess around 50 or 60 -- 50 times.
- 23 Q Okay. So you're pretty familiar with that -- with
- 24 that gun.
- 25 A Uh-huh.

Stanley Wayne Lyda
Redirect examination by Ms. Tailor

1 Q And -- and so this isn't a gun you used to -- to get a
2 lot of shots off at one point, correct?

3 A Right. You've one -- one shot usually.

4 Q And, like I said, I'm not a gun person. I'd say cock
5 the gun, or basically the same thing -- same thing as doing
6 that, right?

7 A Right.

8 Q Get a bullet in the chamber. Okay. And that's with
9 both of them, or just the 30-06?

10 A It's both of them. It's just different types of
11 cocking mechanism.

12 Q Okay. And how long does it usually take you as being
13 experienced with this gun to -- to get off three shots?

14 A It wouldn't take a long amount, a lot of time, but it
15 would take some time. I couldn't -- I mean, six or seven
16 seconds.

17 Q Okay. You kill any deer this year?

18 A No. I -- I work out of town all year, so I didn't get
19 to go.

20 MR. THOMPSON: I have no further questions.

21 REDIRECT EXAMINATION

22 BY MS. TAILOR

23 Q Mr. Lyda, you went over the guns that were -- was
24 there ammunition also taken from your house?

25 A Yes, ma'am.

Stanley Wayne Lyda
Recross-examination by Mr. Thompson

1 Q How was that ammunition packaged?

2 A It's in the bottom of my gun cabinet.

3 Q And was it missing as well?

4 A Yes, ma'am.

5 Q What types of ammunition did you have?

6 A Had a 12-gauge. I've got a 20-gauge, had 410, .22s,
7 and 30-06, and 30-30s and 17 icheymars [sic].

8 Q You had ammunition for the two guns we just -- that I
9 just showed you?

10 A Yes, ma'am.

11 Q And also this damage to your house, you just said that
12 someone could have fired it and caused that damage if he
13 doesn't know how to use a gun. But someone who does know
14 how to use a gun could have also caused that damage,
15 correct?

16 A Correct.

17 Q Just to clarify. When you kept these weapons in your
18 home were they always unloaded?

19 A Always unloaded.

20 MS. TAILOR: No further questions.

21 MR. THOMPSON: Just briefly, Your Honor.

22 RECROSS-EXAMINATION

23 BY MR. THOMPSON

24 Q Now, your -- your son would have access to the guns as
25 well, right?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 A Yes.

2 Q So if he were to leave a shell or something in them --
3 shotgun -- you wouldn't be aware of that. He's -- he's
4 instructed not to, correct?

5 A Correct.

6 Q Okay. But you had no way of knowing for sure if he --
7 he may have handled one last. He could have left one in.

8 A That's correct.

9 Q Thank you, sir.

10 MS. TAILOR: No further questions.

11 THE COURT: You may step down.

12 MR. BARNETTE: Your Honor, I'd like to call Mattison
13 Schomer to the stand, please.

14 (Pause.)

15 THE COURT: Is he coming up?

16 MR. BARNETTE: He's in the jail room, Your Honor.

17 THE COURT: I know. Where is he on this list?

18 MS. TAILOR: No. 26, Your Honor.

19 (Pause.)

20 MATTISON TYLER SCHOMER, having
21 been first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. BARNETTE

23 Q If you would, sir, give your full name for the record,
24 please.

25 A Mattison Tyler Schomer.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 THE COURT: You're going to need to speak closer to
2 the microphone, please, sir.

3 A Mattison Tyler Schomer.

4 Q And where did you live at, sir, back in 2012?

5 A [REDACTED].

6 Q And what area? Is that around the Springfield
7 Crossing area, around the Race Way area?

8 A Yes, sir.

9 Q And who did you live there with, sir?

10 A My mother and my grandfather, my grandma, and my two
11 brothers.

12 Q And what's your grandfather's name?

13 A Paul Blackwell.

14 Q Do you know Bryan Holder?

15 A Yes, sir.

16 Q Do you see him in here in the courtroom today?

17 A Yes, sir.

18 Q Could you point at him, sir, or describe what he's
19 wearing?

20 A A suit, sir.

21 Q Is he -- can you point at him and identify him for us,
22 sir, where he's at in the courtroom?

23 A There, sir.

24 MR. BARNETTE: Your Honor, he's indicated, I.D.'d, the
25 defendant. We'd ask the record reflect that.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 THE COURT: Okay. It shall.

2 Q And how long have you known Mr. Holder, sir?

3 A Around five years, sir.

4 Q And did you consider him a friend or a person you hung
5 out with?

6 A Yes, sir.

7 Q Back in, on, about around, June 29th or late June of
8 2012 did he call you about some guns?

9 A Yes, sir.

10 Q If you would, tell the jury about that, what he called
11 you about the guns.

12 A He called me asking if I could find a ride to pick up
13 some guns he had.

14 Q Okay. And did he tell you how many guns he had or
15 what kind of guns he had?

16 A No, sir.

17 Q Did you give him a ride, or did you get a ride with
18 somebody else?

19 A I got a ride from somebody else.

20 Q Who did you get a ride with?

21 A My cousin Kevin.

22 Q Kevin? What's his last name?

23 A Denton.

24 Q Okay.

25 THE COURT: Excuse me just a minute.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 Mr. Holder, don't turn. This is the court reporter
2 over here. She's got to take down everything you say. So
3 don't turn your back to her, and speak into that
4 microphone.

5 THE WITNESS: Yes, sir.

6 Q And you and Kevin, where did y'all go to?

7 A Back to his house.

8 Q And where's his house at?

9 A [REDACTED].

10 THE COURT: We're having a hard time understanding
11 you. Can you speak a little more distinctly and into the
12 microphone?

13 A [REDACTED].

14 Q Is that an Inman address?

15 A Yes, sir.

16 Q And when you arrived there who -- who met you there?

17 A Bryan Holder.

18 Q And when y'all met there, what happened?

19 A We took the guns out of the trunk of the car and put
20 them in Kevin's car.

21 Q Okay. Whose car was Bryan in, and where was the guns
22 at?

23 A They were in the trunk, and I can't recall who --

24 Q And you took the guns out of the trunk of that car?

25 A Yes, sir.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 Q And you put it -- where did he put the guns at?

2 A In the trunk of Kevin Denton's car.

3 Q Okay. And did Kevin want to take those guns?

4 A It was iffy, but he decided to.

5 Q So he didn't want to at first.

6 A No, sir.

7 Q But it was put in the trunk of that car. What kind of
8 car was it?

9 A A '95 Toyota Celica.

10 Q Let me show you State's Exhibit No. 20. Is that
11 Kevin's car?

12 A Yes, sir.

13 Q And is that the trunk of Kevin's car?

14 A Yes, sir.

15 Q That's State's Exhibit 21. Are those some of the guns
16 that Bryan had with him?

17 A Yes, sir.

18 MR. BARNETTE: Your Honor, I'd like to enter State's
19 Exhibits 20 and 21 into evidence at this time.

20 MR. THOMPSON: No objection.

21 THE COURT: They're admitted.

22 (Photographs marked State's Exhibits Nos. 20 and 21.)

23 MR. BARNETTE: May I publish them to the jury, Your
24 Honor?

25 THE COURT: You may.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 BY MR. BARNETTE
- 2 Q Okay. This is the front of Kevin's car right here?
- 3 A Yes, sir.
- 4 Q Was this the back of Kevin's car?
- 5 A Yes, sir.
- 6 Q And was that some of the guns that Bryan brought with
- 7 him?
- 8 A Yes, sir.
- 9 Q That wasn't all of them.
- 10 A No, sir.
- 11 Q There was more guns than that.
- 12 A Yes, sir.
- 13 Q So y'all left the guns in his trunk. Did y'all leave?
- 14 A Yes, sir.
- 15 Q Who did you leave with?
- 16 A Kevin.
- 17 Q Did Kevin -- did he drive a different vehicle or the
- 18 same vehicle?
- 19 A The same vehicle.
- 20 Q Later on did Kevin drop you off?
- 21 A Yes, sir.
- 22 Q Where did he drop you off at?
- 23 A My house.
- 24 Q Later on did Bryan Holder get ahold of you to go get
- 25 those guns?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q And was it later that night or later that day?
- 3 A Mid evening, somewhere.
- 4 Q And did you go up with him to pick up those guns from
- 5 that car?
- 6 A Yes, sir.
- 7 Q Was Mr. Denton there at the time when y'all got there?
- 8 A No, sir.
- 9 Q Well, how did y'all get the guns out of the trunk?
- 10 A There is a missing door handle on the driver's side of
- 11 the door. All he had to do was press a button and the door
- 12 opened.
- 13 Q Was he having some work done on the car at the time?
- 14 Were the handles taken off and stuff like that?
- 15 A I believe so.
- 16 MR. THOMPSON: Object to leading, Your Honor.
- 17 THE COURT: Don't lead him.
- 18 MR. BARNETTE: I'll rephrase the question, Your Honor.
- 19 Q So how did y'all get inside the car?
- 20 A There's a missing door handle on the driver's-side
- 21 door.
- 22 Q And so what did y'all do through that door handle?
- 23 A When you press the button down, and the door opens,
- 24 and inside the door's pop-the-trunk.
- 25 Q After y'all popped the trunk did y'all take some guns

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 out of there?
- 2 A Yes, sir.
- 3 Q Did you take all of the guns?
- 4 A No, sir.
- 5 Q With the guns y'all took, where did y'all go with
- 6 them?
- 7 A Back to my house.
- 8 Q And your house is where at, again?
- 9 A [REDACTED].
- 10 Q When y'all got to the house what did y'all do? How
- 11 many guns did y'all take with you?
- 12 A Two.
- 13 Q Which two did you take?
- 14 A A 30-06 and a 30-30.
- 15 Q State's Exhibit No. 15. Was this the 30-06 that y'all
- 16 took?
- 17 A Yes, sir.
- 18 Q Showing you State's Exhibit No. 16. Was this the
- 19 30-30 that y'all took too?
- 20 A Yes, sir.
- 21 Q When you got back to your house, where did y'all go
- 22 after that?
- 23 A Out to shoot the aliens.
- 24 Q And where did you take the guns to shoot them?
- 25 A To like a secluded field.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 Q About how far is it from your house?
- 2 A Five-or-ten-minute walk.
- 3 Q And is it like -- what kind of -- describe the area
- 4 for the jury.
- 5 A Dugout kind of area. Like you got a field, and then
- 6 it has in the back a dugout.
- 7 Q And how many guns did y'all take with you? And did
- 8 y'all shoot those guns?
- 9 A Shot one of them, sir.
- 10 Q Which gun did you shoot?
- 11 A 30-06.
- 12 Q And who brought the -- where -- where did y'all get
- 13 the ammunition from?
- 14 A Bag. I believe a bag from -- I guess the house.
- 15 Q Okay. Did Bryan bring that bag with him, or did y'all
- 16 just fill them in the bag? Showing you, I think, State's
- 17 Exhibit No. 18. Was this the bag?
- 18 A Yes, sir.
- 19 Q And was the ammunition in there?
- 20 A Yes, sir.
- 21 Q What kind of ammunition did y'all put in there?
- 22 A I --
- 23 Q Is there 30-06, 30-30?
- 24 A Yes, sir.
- 25 Q 270? Shotgun shells in there and everything?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 A I didn't really look through it, sir.

2 Q And did Bryan look through that?

3 A I believe so.

4 MR. BARNETTE: Your Honor, I'd like to move State's
5 Exhibit No. 18 into evidence at this time.

6 MR. THOMPSON: Could Mr. Schomer repeat that last
7 sentence? I didn't quite hear that.

8 A I said I believe so, sir.

9 MR. THOMPSON: You believe so?

10 THE WITNESS: Yes, sir.

11 MR. THOMPSON: I still object to it coming in. I
12 don't know that he's properly identified the ammunition.

13 BY MR. BARNETTE

14 Q Was this the bag that the ammunition was in?

15 A Yes, sir.

16 Q Is this the ammunition that was used in those guns, or
17 part of the ammunition?

18 A Yes, sir.

19 Q And who got the ammunition out of this bag?

20 A Bryan Holder.

21 THE COURT: Overrule the objection.

22 (Bag with ammunition marked State's Exhibit No. 18.)

23 Q So the first night you went and shot the guns y'all
24 shot in this dugout area?

25 A Yes, sir.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 Q And how did you shoot the guns?

2 A Towards the wood -- like you got Ingles and everything
3 on one side, and then got woods on the other side. We were
4 shooting towards the woods.

5 Q Okay. So you had your back to where Ingles and the
6 Race Way and everything was shooting back towards the
7 woods.

8 A Yes, sir.

9 Q And you said the dugout area. What direction were you
10 shooting the guns?

11 A The opposite direction of the Ingles area.

12 Q Were you shooting them upward, downward?

13 A At angle going downwards.

14 Q And that's what y'all did on the first night.

15 A Yes, sir.

16 Q After that where did you take the gun?

17 A Back to my house.

18 Q Where did y'all put the gun at?

19 A On the back porch.

20 Q Okay. Was that where the other gun was too -- 30-30?

21 A Yes, sir.

22 Q So the next day or the next night did y'all go back
23 shooting again?

24 A Yes, sir.

25 Q And where did y'all go to shoot?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 A Same place.

2 Q The dugout area?

3 A Yes, sir.

4 Q Let me show you what's been marked for State's Exhibit
5 No. 48. Are you familiar with this area?

6 A Yes, sir.

7 Q Is this the area that you was around in that area?

8 A Yes, sir.

9 Q Okay. Does that fairly represent that area?

10 A Yes, sir.

11 MR. BARNETTE: Your Honor, I would like to enter
12 State's Exhibit No. 48 into evidence at this time.

13 MR. THOMPSON: No objection, Your Honor.

14 THE COURT: It's admitted.

15 (Photograph marked State's Exhibit No. 48.)

16 MR. BARNETTE: Your Honor, I'd like to publish this to
17 the jury at this time.

18 THE COURT: You may.

19 Q Now, show me the area that y'all were shooting at the
20 first night and then where you when back to the second
21 night to shoot. You can see it on -- can you see the
22 picture, sir?

23 A Right there, sir.

24 Q So that was the area that y'all shot the first night?

25 A Yes, sir.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 Q And that's the area that you started out the second
2 night.

3 A Yes, sir.

4 Q And was this the early morning of July 2nd that y'all
5 went out the second night, the night that the shooting
6 occurred?

7 A I can't recall dates, sir.

8 Q Okay. But you remember it was the second night you
9 went out.

10 A Yes, sir.

11 Q Was this the night that the girl was shot?

12 A Yes, sir.

13 Q So y'all went to that area. What happened once you
14 got to the dugout area?

15 A Bryan started to go up the incline.

16 Q Here. If you need to use this, you're welcome to.

17 A Incline right there and took an aim at a sign and shot
18 through the sign. Started moving up a little bit more and
19 started looking through the scope aiming in the general
20 direction of I guess you could say Ingles.

21 Q So he was looking through the scope?

22 A Yes, sir.

23 Q And he walked up -- I guess down towards -- where is
24 the Ingles at if you can show me on this picture?

25 A This one.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 Q Is that the Race Way to the left there?
- 2 A Right there, sir.
- 3 Q And Ingles across the road from there?
- 4 A Yes, sir.
- 5 Q And he walked down over the embankment towards that
- 6 area, is that right?
- 7 A Yes, sir.
- 8 Q Let me show you what's been marked as State's Exhibit
- 9 50. Is that the sign you're talking about?
- 10 A Yes, sir.
- 11 Q Does that fairly represent the sign that he shot?
- 12 A Yes, sir.
- 13 MR. BARNETTE: Your Honor, I'd like to enter State's
- 14 Exhibit 50 into evidence at this time.
- 15 MR. THOMPSON: No objection.
- 16 THE COURT: It's admitted.
- 17 (Photograph marked State's Exhibit No. 50.)
- 18 Q Is this the sign that he shot?
- 19 A Yes, sir.
- 20 Q And in the middle of the sign -- did he shot -- which
- 21 side of the sign -- first sign -- did he shoot the back of
- 22 the sign first, or the front of the sign?
- 23 A The back of the sign first.
- 24 Q And is that the dugout area behind the sign?
- 25 A Yes, sir.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 Q And you said that's like a slight rise going up there?

2 A Yes, sir.

3 Q And he walked up there and shot the sign?

4 A Yes, sir.

5 Q And so he kept on walking, is that right?

6 A Yes, sir.

7 Q Let me show you State's Exhibit No. 49. Does that
8 fairly represent where, approximately where, y'all were
9 when you walked up the hill in that area?

10 A Yes, sir.

11 MR. BARNETTE: Your Honor, I would like to enter
12 State's Exhibit No. 49 into evidence at this time.

13 MR. THOMPSON: No objection.

14 THE COURT: It's admitted.

15 (Photograph marked State's Exhibit No. 47.)

16 MR. BARNETTE: Your Honor, may I publish State's
17 Exhibit -- maybe 47. It's actually State's Exhibit 47,
18 Your Honor.

19 I'd like to publish and enter that into evidence.

20 THE COURT: You may.

21 Q Okay. Show me where the Race Way is.

22 A Right there, sir.

23 Q If you would have you got your -- and approximately
24 where was y'all standing when you got to the point where he
25 started shooting in the general direction?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 A I can't be exact, sir. It's, say, somewhere in this
2 area.

3 Q Okay. And-but tell us what happened when he got up
4 there and was looking through the scope.

5 A I can't recall how many rounds was fired. There were
6 a few rounds turned in the general direction of Race Way,
7 and took a shot. And he stated I believe I hit someone in
8 the head in the car right there. I couldn't see what car
9 it was.

10 At that moment I turned on the police scanner on the
11 phone.

12 Q Okay. How many times -- did he shoot at the Ingles
13 across the street too?

14 A I believe so, yes, sir. I couldn't see.

15 Q You couldn't see what he was shooting at? Did he
16 shoot more than once?

17 A Yes, sir.

18 Q How many times do you believe he shot?

19 A I can't -- I can't be dead on it. I really don't
20 know.

21 Q But he looked at the scope when he was shooting?

22 A Yes, sir.

23 Q And what was the comment he said again after he shot
24 at the Race Way?

25 A I believe I hit someone in the head in that car. I

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 couldn't see the car.

2 Q And then you said you listened after that last shot
3 and he made that comment. You listened to the cell phone?

4 A Yes, sir.

5 Q Whose cell phone was it?

6 A Bryan Holder's.

7 Q And what kinda of cell phone was it?

8 A H.T.C.

9 Q And what was on the phone?

10 A A police scanner app.

11 Q Okay. Let me show you State's Exhibit No. 17. Is
12 that Bryan Holder's cell phone?

13 A Yes, sir.

14 Q And I guess this is the accessories and everything to
15 it.

16 MR. BARNETTE: Your Honor, I would like to enter
17 State's Exhibit 17 into evidence at this time.

18 MR. THOMPSON: No objection.

19 THE COURT: It's admitted.

20 (Defendant's H.T.C. Smartphone marked State's Exhibit
21 No. 17.)

22 Q Okay. So you looked on the cell phone and there was a
23 police scanner on it?

24 A Yes, sir.

25 Q And what did y'all listen to on the police scanner?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 A Oh, we just listened to see if someone had actually
2 been shot in there.
- 3 Q And what did y'all hear over the scanner?
- 4 A I heard 10-10, something, shooting at Race Way. That
5 was it.
- 6 Q And when y'all heard that, what did y'all do?
- 7 A Went back to my house.
- 8 Q Okay. And when y'all got to your house, what did
9 y'all do?
- 10 A Put the guns back -- put the gun back on the back
11 porch and went inside.
- 12 Q After that, later on, was Bryan Holder arrested for
13 the property crimes?
- 14 A Yes, sir.
- 15 Q And later on did the sheriff's department come and
16 talk to you?
- 17 A Yes, sir.
- 18 Q And in talking to you did they find out information
19 that Bryan Holder and you was out on the field that night
20 when the shooting occurred?
- 21 A Yes, sir.
- 22 Q And did you tell the sheriff's department about Bryan
23 Holder doing the shooting?
- 24 A Yes, sir.
- 25 Q Did you initially tell them about you being there?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 A No, sir.
- 2 Q Why didn't you?
- 3 A I didn't want to incriminate myself before they knew
- 4 everything.
- 5 Q Was you afraid they was going to blame you?
- 6 A Yes, sir.
- 7 Q And who was really the shooter?
- 8 A Bryan Holder.
- 9 Q Did you ever shoot toward the Ingles or Race Way?
- 10 A No, sir.
- 11 Q Which direction did you shoot in when you shot that
- 12 gun?
- 13 A The opposite direction.
- 14 Q And he used the 30-06?
- 15 A Yes, sir.
- 16 Q And that was a gun he stole.
- 17 A Yes, sir.
- 18 Q He's the one that stole that gun.
- 19 A Yes, sir.
- 20 Q You never went to the Lydas' house, did you?
- 21 A No, sir.
- 22 Q After the sheriff's department talked to you did you
- 23 finally tell them that you were there also?
- 24 A Yes, sir.
- 25 Q And later on did they find out that the guns Kevin --

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 at the time the fellow with the guns, was he in the car --
2 Kevin Denton? Did he leave the state in the meantime when
3 all of this was occurring?

4 A Yes, sir.

5 Q And he wasn't around, is that right?

6 A No, sir.

7 Q Did he later come back and talk with the sheriff's
8 department?

9 A Yes, sir.

10 Q And was he the one that actually told the sheriff's
11 department about what happened that night?

12 A Yes, sir.

13 Q And you told -- you gave a statement telling what
14 happened that night, implicating yourself as well as Mr.
15 Holder.

16 A Yes, sir.

17 Q And you pled guilty to three counts of attempted
18 murder. Haven't you?

19 A Yes, sir.

20 Q You've pled guilty to receiving stolen goods more than
21 \$2,000.

22 A Yes, sir.

23 Q And stolen goods being these guns, is that right?

24 A Yes, sir.

25 Q And you weren't given a recommendation, were you?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 You're facing up to 30 years on each charge.

2 A Yes, sir.

3 Q You're facing up to five years on the
4 receiving-stolen-goods charge.

5 A Yes, sir.

6 Q So the judge will sentence you at a later date, is
7 that right?

8 A Yes, sir.

9 Q And the only thing you're doing is cooperating, is
10 that right?

11 A Yes, sir.

12 Q Have you been promised a sentence? Have you been
13 promised any kind of sentence?

14 A No, sir.

15 Q You realize it'll be left up to the judge.

16 A Yes, sir.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Pause.)

19 Q Now, the two guns, the 30-30 and 30-06 --

20 A Yes, sir.

21 Q The 30-30 was found. Was it found underneath your
22 back porch later?

23 A Yes, sir.

24 Q And did the sheriff's department collect that from
25 behind your back porch?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q The 30-06, what did you do with it once Bryan Holder
- 3 had been arrested?
- 4 A I sold it.
- 5 Q who did you sell it to?
- 6 A Wesley.
- 7 Q Wesley is the one you sold it to?
- 8 A Yes, sir.
- 9 Q And what did you sell it to him for?
- 10 A Marijuana.
- 11 Q And later on was that gun collected by the sheriff's
- 12 department --
- 13 A Yes, sir.
- 14 Q -- based off the information you gave them and what
- 15 they found?
- 16 A Yes, sir.
- 17 Q Okay. Let me show you State's Exhibit 88 through
- 18 State's Exhibit 98. If you would, take a look at those.
- 19 I'll show them to you here.
- 20 Do these pictures fairly represent the gun and the bag
- 21 that was underneath or in your back porch?
- 22 A Yes, sir.
- 23 Q And where it was?
- 24 A Yes, sir.
- 25 Q And the ammunition that was inside of it?

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 A Yes, sir.

2 MR. BARNETTE: Your Honor, I'd like to enter State's
3 Exhibit 88 through State's Exhibit 98 into evidence at this
4 time.

5 MR. THOMPSON: No objection.

6 THE COURT: They're admitted.

7 (Photographs marked State's Exhibits Nos. 88 through
8 98.)

9 MR. BARNETTE: May I publish a couple to the jury,
10 Your Honor?

11 THE COURT: You may.

12 Q Show you State's Exhibit No. 94. Was that the bag
13 with the ammunition we saw earlier -- State's Exhibit 18?

14 A Yes, sir.

15 Q Showing you State's Exhibit 93. Was that the items
16 that were found inside or was inside the bag?

17 A Yes, sir.

18 Q Showing you State's Exhibit 88. Was that the 30-30 --

19 A Yes, sir.

20 Q -- that was at your house?

21 A Yes, sir.

22 Q Let me show you State's Exhibit No. 49. Does that
23 picture fairly represent what you could see from where
24 y'all were standing at?

25 A Yes, sir.

Mattison Tyler Schomer
Direct examination by Mr. Barnette

1 Q And that was when Bryan Holder did the shooting?

2 A Yes, sir.

3 MR. BARNETTE: Your Honor, I'd like to enter State's
4 Exhibit No. 49 into evidence at this time.

5 MR. THOMPSON: No objection.

6 THE COURT: It's admitted.

7 (Photograph marked State's Exhibit No. 49.)

8 MR. BARNETTE: May I publish it to the jury?

9 THE COURT: You may.

10 Q Do you still have the -- is this approximately the
11 area you was standing in when the shooting occurred?

12 A Yes, sir.

13 Q And where was you standing in relation to Bryan
14 Holder?

15 A About 10 feet behind him.

16 Q And what's this area right here?

17 A The Ingles.

18 Q And what area is this right here?

19 A Grassland.

20 Q Let me ask you this question. When you saw him
21 shooting that direction why didn't you stop him?

22 A Because if he has the galls to shoot it in the general
23 direction of what's a violation, what stopping him from
24 turning it in the direction of me?

25 Q You're going to have to repeat it. She can't hear

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 you. You've got to talk a little bit louder.

2 A Repeat the question, please.

3 Q why didn't you stop him when you saw him shooting at
4 these directions at these people?

5 A Because if you had the gall to shoot in the direction
6 of other people, what stops you from shooting in my
7 direction at me?

8 Q when he shot in these directions was he looking
9 through the scope?

10 A Yes, sir.

11 MR. BARNETTE: One moment, Your Honor, please.

12 (Pause.)

13 Q Please answer any questions Mr. Thompson may have for
14 you, sir.

15 MR. THOMPSON: May it please the Court, Your Honor.

16 THE COURT: Mr. Thompson.

17 CROSS-EXAMINATION

18 BY MR. THOMPSON

19 Q Mr. Schomer, you've -- you acquired a few statements
20 on this case, haven't you?

21 A Yes, sir.

22 Q And each one we learn a little bit of something
23 different, don't we?

24 A Yes, sir.

25 Q okay. The first time you talked to them you didn't

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 know anything about the shooting, right?
- 2 A No.
- 3 Q Okay. You just knew -- well, you said that Bryan
- 4 Holder contacted you needing a ride because he had stole
- 5 some guns, right?
- 6 A Yes, sir.
- 7 Q Was that true?
- 8 A Yes, sir.
- 9 Q Okay. Now, Bryan -- where does Bryan live?
- 10 A I don't know the exact address, sir.
- 11 Q You ever been to his house?
- 12 A Yes, sir.
- 13 Q Where is it, near or maybe near Hardee's on Highway 9?
- 14 A Boiling Springs.
- 15 Q Near that Hardee's?
- 16 A Yes, sir.
- 17 Q One of those roads off there, right?
- 18 A Yes, sir.
- 19 Q And you live off of Springfield Road, correct?
- 20 A Yes, sir.
- 21 Q Okay. And what's that road you live on?
- 22 A West Drive.
- 23 Q West Drive. So if I come down Asheville Highway and I
- 24 take a left on Springfield, I go up probably less than a
- 25 mile. And West Drive's on the right, correct?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q You live on that road.
- 3 A Yes, sir.
- 4 Q Lived there quite a few years, right?
- 5 A Yes, sir.
- 6 Q Passed that Ingles, passed that Race Way about every
7 day of your life probably.
- 8 A Yes, sir.
- 9 Q Okay. And what kind of car did Bryan drive?
- 10 A He didn't drive a car, sir.
- 11 Q He didn't have a car.
- 12 A No, sir.
- 13 Q Okay. Do you know if he had a driver's license?
- 14 A I don't believe so.
- 15 Q Okay. So he needs a ride everywhere he goes, correct?
- 16 A Yes, sir, yeah.
- 17 Q All right. And he don't have a driver's license. And
18 he calls you to come to Bethesda Drive to help him get some
19 guns, right?
- 20 A Yes, sir.
- 21 Q All right. Did you go -- go to that drive and help
22 him get those guns --
- 23 A No, sir.
- 24 Q -- and that other merchandise? Okay. But you did
25 meet up at your cousin's house, correct?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q Okay. And at that point Bryan and you -- everybody
- 3 put the guns in the cousin's car, right?
- 4 A Yes, sir.
- 5 Q Okay. And cousin exchanged -- for holding the guns,
- 6 he let cousin have a gun, didn't he?
- 7 A Yes, sir.
- 8 Q He traded cousin a gun, right? So the cousin isn't so
- 9 squeaky clean in this thing, is he?
- 10 A No, sir.
- 11 Q Okay. Now, so when -- what -- what was -- the night
- 12 of the 29th, right? It was June 29th? Do you think so?
- 13 A I can't recall the dates.
- 14 Q Was it the same day that he called you to come and get
- 15 the merchandise from Bethesda Road?
- 16 A Can you repeat that, please, sir?
- 17 Q Was it the same day that he called you to come and
- 18 help him remove the items from Bethesda Road?
- 19 A Oh, yes, sir.
- 20 Q It was the same day. All right. I'm going to call
- 21 that the 29th. Okay. And when you left, who did you leave
- 22 with?
- 23 A Kevin Denton.
- 24 Q You left with Kevin, your cousin?
- 25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 Q So he took off in the car that had the guns in the
2 trunk.
- 3 A Yes, sir.
- 4 Q Okay. And where did he take you?
- 5 A Back to my house, sir.
- 6 Q All right. And where was Bryan?
- 7 A He left.
- 8 Q Bryan went somewhere else.
- 9 A Yes, sir.
- 10 Q Who was he with?
- 11 A I can't recall, sir.
- 12 Q Okay. So the night of the 29th you get home. Your
13 cousin takes you home, right?
- 14 A Yeah.
- 15 Q Did your -- did you remove any guns from his --
- 16 A No, sir.
- 17 Q You did not.
- 18 A No, sir.
- 19 Q So he goes back to Oak -- Riveroak over here in
20 Boiling Springs, right --
- 21 A Yes, sir.
- 22 Q -- with a car full of guns?
- 23 A Yes, sir.
- 24 Q When's the next time you went over to get those guns?
- 25 A Later on that night.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 Q Same night?
- 2 A Yes, sir.
- 3 Q Okay. And who did you go with this time?
- 4 A A buddy, Matt Hamilton, and Bryan Holder.
- 5 Q Okay. So Matt and Bryan came and got you. What time
- 6 was this?
- 7 A I can't recall, sir.
- 8 Q Okay. So it's the night of the theft, of the
- 9 29th right?
- 10 A Yes, sir.
- 11 Q Okay. What do you do when you go over there?
- 12 A We -- like I said, there is a missing door handle.
- 13 Open up the door, pop the trunk and get two guns out of the
- 14 car, sir.
- 15 Q Okay. Now, you've got to know -- there's a special
- 16 trick getting in cousin's car, isn't there?
- 17 A Yes, sir.
- 18 Q So when you go over there -- before that all your
- 19 knowledge of these guns, Bryan's trying to find somebody to
- 20 buy them. Is that -- would that be an accurate statement?
- 21 A I can't really recall, sir.
- 22 Q You don't recall. Okay. Well, he gave cousin one,
- 23 right?
- 24 A I believe so, yes, sir.
- 25 Q And then we've got -- you don't recall him trying to

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 sell them or anything, right?

2 A No, sir.

3 Q Okay. So it's your testimony you and Bryan go over
4 there the night of the 29th. Where did you go from there?

5 A Back to my house.

6 Q And what -- did you take any guns with you?

7 A Yes, sir.

8 Q The 30-06 and the 30-30, right?

9 A Yes, sir.

10 Q Okay. And what did you do then?

11 A Went back to my house and decided to go shoot the
12 30-06.

13 Q Okay. So did Matthew Hamilton go shoot with you in
14 the field?

15 A No, sir.

16 Q He didn't.

17 A No, sir.

18 Q Neither night.

19 A No, sir.

20 Q Okay. So this would be the -- is this the night of
21 the 29th, same night that he called you to come and help
22 him pick these up?

23 A Yes, sir.

24 Q Okay. So you go over here in this field. And, now,
25 try to look at this -- use this.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Okay. Now, what you're looking at here is Race Way,
2 correct?

3 A Yes, sir.

4 Q Okay. And back here is the field. It's an open area,
5 right?

6 A Yes, sir.

7 Q And it's kind of -- it's down a little hill, is it
8 not?

9 A Yes, sir.

10 Q Okay. So there's a hill there, and there's that sign
11 that we showed that had a bullet hole it looked like,
12 right?

13 A Yes, sir.

14 Q Okay. And you correct me if I'm wrong. But this
15 building right here -- okay. If I -- about when I cut
16 through right here I come right out at just about on West
17 Drive, do I not?

18 A Yes, sir.

19 Q Okay. And that's where you live.

20 A Yes, sir.

21 Q And that's within walking distance of your home.

22 A Yes, sir.

23 Q Okay. And the 29th you and Tyler -- you and Bryan,
24 you say, go out here and shoot the gun.

25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 Q And shoot at the woods.
- 2 A Yes, sir.
- 3 Q Which woods did you shoot at -- these?
- 4 A No, sir.
- 5 Q These?
- 6 A The other direction towards that way kind of over.
- 7 Q Here?
- 8 A Uh-uh. The other way.
- 9 Q Here?
- 10 A Other way. Up, around in -- uh-uh. That direction.
- 11 Q Okay. Okay. So you didn't shoot toward the building
- 12 back here.
- 13 A No, sir.
- 14 Q Is that your testimony?
- 15 A Yes, sir.
- 16 Q Okay. The 29th that happens. And then you say you
- 17 got out there again the next night on the 30th and shoot
- 18 again, right? And that's when you say Bryan did all of
- 19 this looking through the scope and stuff.
- 20 A Yes, sir.
- 21 Q Okay. And, now, you had -- do you recall talking with
- 22 Officer, I guess, Williams? I'm not sure who you spoke
- 23 with on the 6th. You provided him with this statement
- 24 right here? On 3:20 on July the 6th --
- 25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q -- you gave a statement, and it says here that was
2 prepared by Investigator Wilkins. So he's writing down
3 what you're saying, right?

4 A Yes, sir.

5 Q So on the 6th you basically -- you tell them. Can
6 you -- read here what you told them. You said Bryan --

7 MR. BARNETTE: Your Honor, I would object at this
8 point. If he wants to lay --

9 THE COURT: Sustained.

10 Q Okay. That's your statement, right?

11 A Yes, sir.

12 Q That's your signature. That's your signature there on
13 page two, right?

14 A Yes, sir.

15 Q And that right there is your signature where you
16 waived your rights to Miranda.

17 A Yes, sir.

18 Q And you swore that you were going to tell him the
19 truth on this case, right?

20 A Yes, sir.

21 Q Okay. And you told them that Bryan Holder called you
22 about the guns, right?

23 A Yes, sir.

24 Q Told him that. And then he called you back and said
25 Scoop was going to pick him up.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 A Yes, sir.

2 Q Right? That's what you put in here. Okay. Then you
3 say you put the guns in the trunk of Kevin's car, right?

4 A Yes, sir.

5 Q All right. And then you told them that you stashed
6 them there at Kevin's house. You mentioned that. That's
7 what you told him, right?

8 A Yes, sir.

9 Q Okay. Then he -- you said that during the first phone
10 call he said he was at a house and he had a bunch of guns
11 and needed a ride, right?

12 MR. BARNETTE: Your Honor, I don't know if this is the
13 proper way of doing it, him reading it in there. I think
14 he needs to ask questions.

15 THE COURT: Just ask him. And if he denies it, then
16 you can impeach him by introducing the statement. But
17 right now just ask him if he told him that and see if he
18 admits or denies it.

19 Q Okay. You told them that Bryan needed a ride because
20 he had all of this merchandise, correct?

21 A Yes, sir.

22 Q Okay. And then was Scoop really there?

23 A No, sir.

24 Q So Scoop really wasn't there.

25 A No, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q You made that up when you told that to Investigator
2 Wilkins, correct?

3 A Yes, sir.

4 Q Okay. And then you indicated in your statement that
5 Bryan said while he was trying to unload a 20-gauge it went
6 off in the house. Do you recall that?

7 A Yes, sir.

8 Q Was that true? Did Bryan really tell you that, or is
9 that something you made up?

10 A That was true.

11 Q But he did tell you that. Okay. So there's really
12 nobody named T-bone and Scoop that you put in this
13 statement, right?

14 Okay. So you did indicate that the guns were still in
15 the back of Kevin's trunk, right? That's cousin's trunk,
16 correct?

17 A Yes, sir.

18 Q Okay. And-but you didn't say anything in here about
19 taking any guns to your house, did you, in this first
20 statement?

21 A No, no, sir.

22 Q Okay. And I think you told -- I think Solicitor
23 Barnette asked you if you eventually come clean about the
24 guns and told them, right?

25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q Actually your cousin is the one that told them you
2 were involved, right?

3 A Yes, sir.

4 Q Okay. So it was only after the cousin had told them
5 that you come clean, right?

6 A Yes, sir.

7 Q All right. And then we had a situation on the 9th.
8 Do you remember going back and talking to the police again
9 on the 9th?

10 A Yes, sir.

11 Q Okay. And this time -- well, let's go back. Now,
12 Bryan Holder was arrested on the 3rd of July for the theft
13 of those items. Would you agree with that?

14 A Yes, sir.

15 Q Okay. So from the 3rd of July to the 6th of July and
16 to the 9th of July you've had no contact with Mr. Holder,
17 correct? And you have had contact with your cousin, right?

18 A Yes, sir.

19 Q Okay. And you and your cousin had time to talk about
20 the theft of the guns, right?

21 A Yes, sir.

22 Q You've had time to talk about this shooting that took
23 place at the Race Way, correct?

24 A Yes, sir.

25 Q Okay. And y'all had talked about it, hadn't you?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 A Not on that kind of basis. It was just something we
2 honestly didn't talk about.
- 3 Q Okay. Well, how did your cousin know you were out in
4 the field?
- 5 A I mean, talked about it maybe one time. That's what
6 I'm saying. It was not the topic that we talked about.
- 7 Q Okay. So it was just something you might have talked
8 about one time.
- 9 A Yes, sir.
- 10 Q Okay. And what -- the person got shot.
- 11 A Yes, sir.
- 12 Q You were aware of that.
- 13 A Yes, sir.
- 14 Q And you say that you heard that on the police scanner,
15 or did you not?
- 16 A Yes, sir.
- 17 Q You said you did hear it.
- 18 A Yes, sir.
- 19 Q Okay. And why would you have Holder's phone on you?
- 20 A I usually played games on it most of the time.
- 21 Q Well, didn't you say he called you earlier in the day?
22 You've got your own phone, don't you? You had your own
23 phone, didn't you?
- 24 A Yes, sir.
- 25 Q Okay. Why would you -- why do you need two phones on

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 you?

2 A I mean, his had games that I played on his phone. So
3 I usually had it even if I had my phone.

4 Q What kind of phone do you have?

5 A A little -- it's not my phone. It's my mother's
6 phone. But I usually had it.

7 Q Okay. So you've got two phones on you while you're
8 out there shooting the gun.

9 A Yes, sir.

10 Q And you know how to use his phone so good you know how
11 to go and check a police scanner on his phone.

12 A Yes, sir.

13 Q All right. Do you recall again on the 9th talking to
14 Investigator Williams?

15 A Yes, sir.

16 Q Okay. And you gave him a pretty long statement. Do
17 you remember that?

18 A Yes, sir.

19 Q Told him you'd known Bryan about seven years, y'all
20 were really, really good friends. Is that what you told
21 him?

22 A Yes, sir.

23 Q Okay. And then basically you told Mr. -- Investigator
24 Williams on the 9th of July. This is a week or so
25 afterwards, more than that a week. You've had time to hone

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 your story a little bit. You told him that at 2:00 in the
2 morning Bryan Holder come knocking on your window. Is that
3 what you told him?

4 A Yes, sir.

5 Q Okay. Bryan Holder, the guy who has no car, no
6 driver's license, came to your window at 2:00 o'clock,
7 correct?

8 A Yes, sir.

9 Q That's what you told him.

10 A Yes, sir.

11 Q Is that true?

12 A No, sir.

13 Q Okay. Another sworn statement to the police not true,
14 correct?

15 A Yes, sir.

16 Q Okay. Now, "He knocked at my window." He said -- you
17 said he was very uneasy. Do you remember telling
18 Mr. Williams that?

19 A Yes, sir.

20 Q Okay. And then he told you -- you told -- you told
21 Investigator Williams that, "He told me he was out shooting
22 at somebody at Ingles at a gas pump in the field across
23 from Race Way." Do you remember putting that in there?

24 A Yes, sir.

25 Q Okay. And then you told him that Bryan -- Bryan's the

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 one saying all of this, is what you're telling Mr.

2 Williams, correct?

3 A Yes, sir.

4 Q And you said that Bryan told you somebody -- he
5 couldn't hit the guy at Ingles, so he shot somebody at Race

6 Way, correct?

7 A Yes, sir.

8 Q Because they were packing cigarettes.

9 A Yes, sir.

10 Q Okay. Now, you told him that he fired one shot, ran a
11 little bit, turned the other way and turned back and took
12 another shot at the gas pump at -- at the Race Way, I
13 assume, right?

14 A Yes, sir.

15 Q Okay. So you took that story to Mr. Williams, right?

16 A Yes, sir.

17 Q Okay. And then you told -- you told Mr. Williams that
18 Bryan said he had his head in the scope -- their head in
19 the scope and fired.

20 A Yes, sir.

21 Q He said he didn't know until later that he hit them.
22 So still that's another. That's not true either, right?

23 A No, sir.

24 Q Okay. So this is the 9th of July. You've had a week
25 to think about this thing. And you hadn't spoke to Bryan.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 He went to jail on the 3rd, correct?

2 A Yes, sir.

3 Q So we've got this information about seeing somebody
4 through a scope. We've got information about somebody's
5 head and somebody being shot. Where did you -- where did
6 you hear about that stuff from?

7 A That was in a statement he recalled after the night he
8 shot at somebody.

9 Q Bryan made a statement to the police, or just
10 something he said?

11 A To me that night on the 5th.

12 Q Now, did you see anything on the news about this, or
13 the newspaper?

14 A I wasn't really looking for it.

15 Q Okay. So you -- you go on the scanner to find out
16 about it.

17 A Yes, sir.

18 Q But you don't bother looking at the newspaper or the
19 news the next day or the next week, right?

20 A No, sir.

21 Q Okay. And then -- then you tell him that he was
22 laying down. "When he was shooting, he was laying down at
23 Ingles." But, now, at Race Way he turned and stood up.
24 You remember telling him that? Right?

25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q Okay. So you said earlier that Bryan had moved in
2 front of you and was shooting.

3 A Yes, sir.

4 Q Okay. And he was standing up the whole time, or
5 laying down? What was he doing?

6 A Standing up, sir.

7 Q Standing up. So he never laid down and shot.

8 A No, sir.

9 Q Okay. And then you told him he didn't have a gun when
10 he came to your house, right?

11 A No, sir.

12 Q And Investigator Williams, I guess, didn't ask where
13 he went from there.

14 MR. BARNETTE: Your Honor, I'm going to object at this
15 point. He's just reading on, and he's not even listening
16 to what the witness said. He just answered him, and he
17 didn't pay any attention to his answer.

18 MR. THOMPSON: The witness is agreeing.

19 MR. BARNETTE: No. He didn't.

20 THE COURT: All right. Well, listen to him. Ask your
21 question, get the response, and then you can ask the next
22 one.

23 Q All right. I'll go -- I'll go a little slower.

24 Okay. Now, you told the officer that Bryan said he
25 shot the 30-06, correct?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q Okay. And he asked you what the gun looked like, and
3 you said you had no clue, right?
- 4 A Yes, sir.
- 5 Q And that was not -- and that's not true, right?
- 6 A No, sir.
- 7 Q Okay. And he asked you, "You never saw it," and you
8 said, "I never saw it," right?
- 9 A Yes, sir.
- 10 Q Okay. And then later on you come back and you --
11 he -- he asked you more questions about some specific
12 comments that you said Mr. Holder made. Okay. Do you
13 remember what you told him he said?
- 14 A I can't recall, sir.
- 15 Q You can't. Okay. Do you remember telling him that
16 Bryan said, "I finally did it," he finally shot somebody?
- 17 A Yes, sir.
- 18 Q Okay. And Bryan really didn't say that, did he?
- 19 A No, sir.
- 20 Q Okay. Do you recall the -- okay. You signed up. Was
21 it 12:44 p.m. on July the 9th? You remember giving that
22 interview with the officer, correct?
- 23 A Yes, sir.
- 24 Q Okay. So you would agree with me this thing is full
25 of misstatements, correct?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 A May I see which one you're -- yes, sir.

2 Q This one here.

3 A Yes, sir.

4 Q You admit going in here and telling a lot of lies,
5 right?

6 A Yes, sir.

7 Q Okay. why would you do that?

8 A Because at first I didn't want to incriminate myself,
9 them thinking it was me because I knew so much of the
10 crime.

11 Q I want to go back and ask you about a cousin. You
12 talked to the cousin about this statement?

13 A sir?

14 Q Did you talk to the cousin about this statement?

15 A No, sir..

16 Q Okay. so you do realize that -- you do agree with me
17 that cousin is the one that said you had some information,
18 right?

19 A Yes, sir.

20 Q Okay. so evidently you must have talked to cousin at
21 some time about it, right?

22 A Yeah. That was the first time we ever talked about
23 it.

24 Q Okay. And the only time according to you, right?

25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q All right. The cousin didn't tell you what to say,
2 did he?

3 A No, sir.

4 Q Okay. And, now, so you tell this story here to
5 Investigator Williams, and he lets you walk out the door
6 and go home, right?

7 A Yes, sir.

8 Q Okay. And do you recall going back and talking to him
9 on the 11th?

10 A Yes, sir.

11 Q Okay. And on the 11th what had changed from the 9th?

12 A My stories.

13 Q Your story changed again. Do you remember what you
14 said on the 9th, I mean, on the 11th?

15 A No, sir.

16 Q Do you remember giving this statement here?

17 A Yes, sir.

18 Q And that's your signature there?

19 A Yes, sir.

20 Q And that's 11:37 p.m. That's at night -- of the late
21 July the 12th, correct?

22 A Yes, sir.

23 Q Okay. So 10, 11, 12 days had gone by since this young
24 lady was shot at Race Way, correct?

25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q More than about two weeks had gone by since these guns
2 were stolen, right?

3 A Yes, sir.

4 Q Okay. This time you say me and Bryan Holder went out
5 in the woods.

6 A Yes, sir.

7 Q Okay. To shoot the 30-06, right?

8 A Yes, sir.

9 Q Okay. Now, why would your story change? Is it
10 because cousin had done went up there and told them you
11 were involved?

12 A It was that -- when that statement was given I was
13 already in custody for the crime.

14 Q Which crime?

15 A The three attempted murders.

16 Q Okay. And you said, "After a minute of shooting I
17 realized that Bryan was shooting at someone, and I told him
18 I wanted no part of that." Do you remember saying that?

19 A Yes, sir.

20 Q So who was shooting? You were shooting the gun,
21 right?

22 A No, sir. Not that night.

23 Q Didn't shoot at all, right?

24 A No, sir.

25 Q Okay. All right. Now, you said this was on the 30th,

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 right?
- 2 A Yes, sir.
- 3 Q Okay. Now, how did Bryan get to your house on the
- 4 30th?
- 5 A He stayed the night from the previous night.
- 6 Q So the 29th he stayed at your house.
- 7 A Yes, sir.
- 8 Q The night -- that was the night he called you, right?
- 9 A Yes, sir.
- 10 Q And that night you said you did shoot the gun.
- 11 A Yes, sir.
- 12 Q Okay. And then but the 30th, the next night, you're
- 13 saying you didn't shoot the gun.
- 14 A No, sir.
- 15 Q Okay. And didn't you tell Mr. Barnette you were
- 16 shooting that night?
- 17 A I shot the first night.
- 18 Q Okay.
- 19 A The second night --
- 20 Q You didn't shoot any the second night.
- 21 A No, sir.
- 22 Q Okay. So you went back to this cleared-out area,
- 23 correct?
- 24 A Yes, sir.
- 25 Q All right. So you're just standing there and shooting

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 and letting Bryan Holder shoot, right?

2 A Yes, sir.

3 Q Okay. And this gun stayed at your house the whole
4 time, right?

5 A Yes, sir.

6 Q Okay. And so he's out -- you're saying -- it's your
7 testimony he's out there shooting and you're just standing
8 around watching.

9 A Yes, sir.

10 Q Okay. You got his phone again that night?

11 A Yes, sir.

12 Q That's the night you had his phone and your phone,
13 right?

14 A Yes, sir.

15 Q Okay. Why do you want -- why did you have his phone a
16 lot?

17 A I was messing with it before we went out.

18 Q Okay. "So after a minute of shooting I realize that
19 Bryan was shooting at someone. I told him that I wanted no
20 part of it. A few seconds later he took a shot at a person
21 at Race Way and turned to me and said, 'I think I hit
22 someone'." Is that right?

23 A Yes, sir.

24 Q So you went back to your house and laid down, right?

25 A Yes, sir.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 Q Okay. Now, you indicated to Solicitor Barnette that
2 you were probably right in this area.

3 A Yes, sir.

4 Q You say -- that's where you say Brian was, in that
5 area?

6 A Yes, sir.

7 Q Okay. And you would agree with me -- I been out there
8 a few times -- that you can't even see people out there,
9 right?

10 MR. BARNETTE: Your Honor, I'm going to object at this
11 time. He can't submit answers just based off his
12 observations. He needs to ask the witness so the witness
13 can testify about how he remembers it.

14 THE COURT: Just ask the witness what his knowledge
15 is.

16 Q Okay. You've been out to that place several times,
17 correct? You live nearby.

18 A Yes, sir.

19 Q Okay. Throughout the years you've been over there how
20 many times do you think?

21 A A good many times.

22 Q Okay. And you -- you see all of these scrub trees
23 here in this area, right?

24 A Yes, sir.

25 Q Okay. And you see this line of trees here, correct?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 A Yes, sir.

2 Q And back here at that sign where that hill comes up
3 how -- how far are you saying that Mr. Holder came in front
4 of that?

5 A A little. Say to the second tree from -- you got the
6 two right there, and then you've got --

7 Q Right here?

8 A Right there, so.

9 Q Right in here. Okay. And have you ever been up in
10 that part, that far up in there?

11 A Yes, sir.

12 Q Okay. And probably you've walked to the store through
13 that route, haven't you?

14 A Yes, sir.

15 Q Okay. And from your knowledge of that area can you
16 even see people at the Race Way?

17 A No, sir.

18 Q Okay. But you're saying that Bryan said, "I shot
19 somebody at the Race Way."

20 A Yes, sir.

21 Q Okay. And you don't mention anything about Ingles in
22 this statement here, correct?

23 A No, sir.

24 Q Okay. And so you indicated that he was shooting at
25 somebody at Ingles. So that was false then, right?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 A Yes, sir.

2 Q Okay. And you're saying you read no paper about this,
3 no news.

4 A No.

5 Q Nothing like that. Okay. And then you said the next
6 morning Bryan left, correct?

7 A Yes, sir.

8 Q And that would have been what, July the 1st?

9 A Yes, sir.

10 Q 29,30, and then the 1st, right?

11 A Yes, sir.

12 Q And then you said, "That was the last time I saw the
13 gun," correct?

14 A Yes, sir.

15 Q All right. And then that was at 11:37.

16 A Yes, sir.

17 Q The night of July 12th. And then at 11:47, July 12th,
18 you gave another statement. Do you recall that one?

19 A Yes, sir.

20 Q Okay. And on that one you indicated that you took the
21 gun, "To my buddy," and traded it for weed. You remember
22 that, right?

23 A Yes, sir.

24 Q Okay. So ten minutes later you got -- you just said
25 never did see the gun again. But now you're changing your

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 story, right?

2 A Yes, sir.

3 Q And that's because the officer brought you a picture
4 of that gun, correct?

5 A Yes, sir.

6 Q And now that you know that it was found, right?

7 A Yes, sir.

8 Q And that you had been caught in another lie, right?

9 A Yes, sir.

10 Q Today, you march out here and you tell us that you
11 went out there and shot those two different nights that
12 there was shooting going on.

13 A Yes, sir.

14 Q Can you find in any of these statements you gave
15 police where you said you went out there two times?

16 A No, sir.

17 Q You never told them that, did you?

18 A No, sir.

19 Q So you've told four stories in four statements here.
20 You've got a fifth one here today, right?

21 A Yes, sir.

22 Q Okay. And how do we know when you're telling the
23 truth?

24 A I guess you don't, sir.

25 Q I think I know when you're telling a lie. Your

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 mouth's moving, right?
- 2 A Yes, sir.
- 3 Q Okay. So we are confronted with five different
- 4 stories here, right?
- 5 A Yes, sir.
- 6 Q And you indicated and told the jury and the Court that
- 7 you already pled guilty to this, right?
- 8 A Yes, sir.
- 9 Q And you didn't plead to all of the charges, did you?
- 10 A No, sir.
- 11 Q Okay. What charge got thrown out?
- 12 A Possession of a weapon during a violent crime.
- 13 Q Okay. Pretty tough charge, isn't it?
- 14 A Yes, sir.
- 15 Q Okay. So that one is gone.
- 16 A Yes, sir.
- 17 Q All right. So you -- you've been housed over here in
- 18 pod four, right?
- 19 A Yes, sir.
- 20 Q All right. And what did you do Thursday?
- 21 A Met with the solicitor's office.
- 22 Q You came over here for a long time, didn't you?
- 23 A Yes, sir.
- 24 Q Okay. And you -- you went over all of your testimony
- 25 and all of your stories you've told and all of that,

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 correct?

2 A Yes, sir.

3 Q All right. So when was the first time you told the --
4 anybody about the two times going out there?

5 A The first time I met with the solicitor's office.

6 Q The first time. Was that Thursday?

7 A No, sir.

8 Q When was that?

9 A On -- I can't recall the date, sir.

10 Q I mean, was it after you were arrested -- before?

11 A It was after I was arrested.

12 Q After you went in -- went into pod four, right?

13 A Yes, sir.

14 Q Okay. And then you indicate that all of the things
15 you said about Bryan lying down and shooting were false,
16 right?

17 A Yes, sir.

18 Q And that the fact he come knocking on your window at
19 2:00 o'clock, that was false, right?

20 A Yes, sir.

21 Q Okay. And then it's your testimony that he lets you
22 have his phone while he shoots, right?

23 A Yes, sir.

24 Q Okay. And then -- and today is the first time you
25 told us that we learned that you went out there two

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 different times, right?

2 A Yes, sir.

3 Q Okay. So do you remember when -- do you remember what
4 you told the police when they showed you that picture of
5 that gun?

6 A Yes, sir.

7 Q What did you tell them?

8 A I told them that I had sold the gun to my buddy Wes
9 for marijuana.

10 Q All right. You used an expletive, didn't you?

11 A Could you explain that, please?

12 Q You said, oh, the "F" word. You got me -- you got me.

13 A Yes, sir.

14 Q Okay. All right. So I want to review a little bit.
15 You live within walking distance.

16 THE COURT: Excuse me just a minute, Mr. Thompson.

17 MR. THOMPSON: Yes, sir.

18 THE COURT: Before you do that I've got a couple of
19 jurors that need to take a break. So hold that thought.

20 I'll send the jury to your jury room. Don't discuss
21 the case. I'll bring you back in a few minutes.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: We'll take ten minutes.

25 The witness can step down. You can't discuss your

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 testimony with anyone during the break.

2 Ten minutes.

3 (Whereupon, a recess was taken.)

4 THE COURT: All right. If the jury is ready, they can
5 come back in.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: All right. Mr. Thompson.

9 MR. THOMPSON: May it please the Court, Your Honor.

10 BY MR. THOMPSON

11 Q Mr. Schomer, I think I -- I think you had testified
12 earlier that Bryan never said anything to you about Ingles,
13 correct?

14 A Yes, sir.

15 Q Okay. So, but you agree with me that this long
16 statement you gave Investigator Williams does say something
17 about Ingles, right?

18 A Yes, sir.

19 Q And it references the field and the trees, correct?

20 A Yes, sir.

21 Q And at one point you say something about him lying
22 down, correct?

23 A Yes, sir.

24 Q And at some point you talk about a head and a scope,
25 correct?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 A Yes, sir.

2 Q And now you're saying he never did tell you that
3 stuff, right?

4 A No, sir.

5 Q All right. And then do you remember he -- you told
6 the investigator that Bryan told you he thought he killed
7 somebody. Do you remember that?

8 A Yes, sir.

9 Q And he didn't say that either, correct?

10 A No, sir.

11 Q And then you told -- Investigator Williams said he
12 said he was packing -- somebody was packing a pack of
13 cigarettes and that's what had got his attention, correct?

14 A Yes, sir.

15 Q And that never was said. That's not true either,
16 right? Okay. And then you said that Bryan told you he
17 shot the 30-06, correct?

18 A Yes, sir.

19 Q All right. And then do you remember saying that
20 part -- the part you told him Bryan said, "I finally did
21 it. I finally shot somebody," correct?

22 MR. BARNETTE: Your Honor, I'm going to object for a
23 couple of reasons.

24 One thing, he's reading the statement over and over
25 again.

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

1 The second thing, it's been asked and answered. We've
2 been through this so many times.

3 THE COURT: Let's don't rehash it, now. Just go
4 through it once.

5 MR. THOMPSON: Okay.

6 Q So those were all your words, right, Mr. Schomer?

7 A Yes, sir.

8 Q Okay. And the cold, hard truth is that you are the
9 one that finally shot somebody. Aren't you?

10 A No, sir.

11 Q Okay. Cold hard truth is you're way up here beside
12 the Race Way and you're shooting at Ingles to start with,
13 right?

14 A No, sir.

15 Q And then you do hear some cigarettes packing or
16 something and turn your attention to Race Way, don't you?

17 A No, sir.

18 Q Okay. And, yes, that's the truth, right?

19 A No, sir.

20 Q And then you're trying to throw all of this off on
21 Bryan Holder, right?

22 A No, sir.

23 Q To get yourself out of this, correct?

24 A No, sir.

25 Q And your cousin's pretty -- pretty much engineering

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 the hole thing, isn't he?
- 2 A No, sir.
- 3 Q Okay. So it's you doing it on your own then, right?
- 4 A Yes, sir.
- 5 Q Okay. So you're -- you're -- you deny being up there
- 6 near that Race Way, right?
- 7 A Yes, sir.
- 8 Q Okay. Have you ever -- so you deny. Did you hear
- 9 cigarettes being packed?
- 10 A No, sir.
- 11 Q Okay. So you -- it's your testimony you stayed all
- 12 the way back. And the second night you didn't even shoot
- 13 the gun, right?
- 14 A No, sir.
- 15 Q The gun stayed at your house, right?
- 16 A No, sir.
- 17 Q Huh?
- 18 A Which gun, the 30-06?
- 19 Q The 30-06 and the 30-30, right?
- 20 A Yes, sir.
- 21 Q Okay. They stayed at your house, right?
- 22 A Not the second night, sir.
- 23 Q They didn't?
- 24 A No, sir.
- 25 Q Where did they go?

Mattison Tyler Schomer
Cross-examination by Mr. Thompson

- 1 A The first night we took the 30-06 and went and shot.
2 And the second night we took the 30-06.
3 Q Okay. But where did the gun stay between --
4 A My house.
5 Q Okay. And then when Mr. Holder left and went home the
6 gun stayed at your house, right?
7 A Yes, sir.
8 Q Okay. The ammunition stayed at your house, right?
9 A Yes, sir.
10 Q And the ammunition was stashed in your hiding place at
11 your house, right?
12 A Yes, sir.
13 Q And the 30-30 was hid under your porch, right?
14 A Yes, sir.
15 Q And who put it under there?
16 A Me, sir.
17 Q Okay. So you're hiding the 30-30, right?
18 A Yes, sir.
19 Q All right. Now, you made up this big story to get my
20 client pinned for this attempted murder. And you got rid
21 of the 30-06 because you knew it had been shot, right?
22 A Yes, sir.
23 Q But you didn't get rid of the 30-30 because you knew
24 it hadn't been shot, right?
25 A Yes, sir.

Mattison Tyler Schomer
Redirect examination by Mr. Barnette

1 Q Huh?

2 A Yes, sir.

3 Q Okay. That's why you didn't get rid of it, right?

4 A Yes, sir.

5 Q Because you said earlier you didn't want to
6 incriminate yourself, right?

7 A No, sir.

8 Q If you got rid of that 30-06 you didn't have anything
9 incriminating you, did you?

10 A No, sir.

11 Q And that's why you sold it for weed to Wes, right?

12 A Yes, sir.

13 MR. THOMPSON: No further questions, Your Honor.

14 MR. BARNETTE: A few on redirect, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. BARNETTE

17 Q Sir, what grade did you go to in school?

18 A I made it all the way through the eighth grade, sir.

19 Q Do you have a hard time understanding people
20 sometimes?

21 A It all depends, sir.

22 Q Who stole these guns?

23 A Bryan Holder.

24 Q Who gave these -- I mean, he's the one that brought
25 them to your house or brought them to Kevin's place, is

Mattison Tyler Schomer
Redirect examination by Mr. Barnette

1 that right?

2 A Yes, sir.

3 Q As a matter of fact, when they talked to you on the
4 6th did they talk to you about the shooter or did they talk
5 to you about the guns?

6 A On the 6th, I believe it was the guns.

7 Q All right. They didn't know about any shooting at
8 that point, did they?

9 A No, sir.

10 Q Sheriff's department didn't. As a matter of fact, you
11 had told Kevin -- as a matter of fact, Kevin was out of
12 town and you told him on the phone, is that right?

13 A That's one thing I can't recall, sir.

14 Q But Kevin actually -- they didn't know until the 9th,
15 is that right?

16 A Yes, sir.

17 Q So really what they were questioning about was the gun
18 at the 6th, is that right?

19 A Yes, sir.

20 Q They didn't ask you anything about the shooting at
21 that point.

22 A No, sir.

23 Q And the nights that you're talking about, the second
24 night was the night of July 1st and July 2nd. Is that when
25 the lady was shot?

Mattison Tyler Schomer
Redirect examination by Mr. Barnette

1 MR. THOMPSON: He's already -- he's already answered,
2 I believe, or testified to the dates.

3 MR. BARNETTE: I'll rephrase the question.

4 Q The night Bryan Holder shot the lady was he the one
5 shooting the 30-06?

6 A Yes, sir.

7 Q And was that in July?

8 A Yes, sir.

9 Q That was in the morning. What time was it about that
10 morning?

11 A After midnight.

12 Q This is at nighttime.

13 A Yes, sir.

14 Q About 1:30 in the morning?

15 A I can't be exact. I just it was sometime after
16 midnight.

17 Q And Bryan didn't have a driver's license.

18 A No, sir.

19 Q So he would stay over at your house.

20 A Yes, sir.

21 Q And he'd let you use his phone.

22 A Yes, sir.

23 Q And on that phone, it had a police scanner --

24 A Yes, sir.

25 Q -- on the phone. And this is his phone, State's

Mattison Tyler Schomer
Redirect examination by Mr. Barnette

1 Exhibit 17. I think -- I want to say State's Exhibit 17.

2 That was his phone.

3 A Yes, sir.

4 Q And he had a police scanner on that phone.

5 A Yes, sir.

6 Q And the reason why you got rid of the gun is because
7 you were afraid -- well, the reason why you didn't tell
8 him, was you was afraid he was going to incriminate you.

9 A Yes, sir.

10 Q You was afraid you'd get blamed for it.

11 A Yes, sir.

12 Q You was afraid Bryan would blame you for it.

13 A Yes, sir.

14 Q And that's what they're trying to do here today.

15 A Yes, sir.

16 Q And you always listen -- I know you got asked a bench
17 of questions by Mr. Thompson. Did you get confused trying
18 to follow his questions?

19 A No, sir.

20 MR. BARNETTE: One moment, Your Honor, please.

21 (Pause.)

22 Q But all the times you shot weapons out there --
23 guns -- did you ever shoot in the direction of Race Way or
24 Ingles?

25 A No, sir.

Mattison Tyler Schomer
Redirect examination by Mr. Barnette

1 Q who was the man that shot in that direction?

2 A Bryan Holder.

3 MR. BARNETTE: Thank you, Your Honor. Excuse me one
4 second, Your Honor.

5 (Pause.)

6 Q why didn't you ever shoot in that direction before?

7 A Because that's usually where people were and didn't
8 want to take a risk of hitting somebody.

9 Q So you'd shot there many times back in that area where
10 you're shooting in that direction. You'd target down in
11 the dug-in area.

12 A Yes, sir.

13 Q Did you ever shoot up on that raised area?

14 A Oh, no, sir.

15 Q Thank you.

16 THE COURT: You may step down.

17 Ladies and gentlemen, we're going to break for the
18 afternoon.

19 Keep in mind the caution I gave you as you recessed
20 for lunch. No discussions about the case with anybody
21 including your fellow jurors -- no family, no friends,
22 nobody. No research, no investigation.

23 Also, don't watch anything on T.V. Don't listen to
24 anything on the radio. Don't read anything in the
25 newspaper that may relate to the case.

1 You've got to base your decision solely upon what you
2 see and hear during the trial. You can't be influenced by
3 any outside or extraneous information. And, as I say, it
4 may not be accurate anyway.

5 So with that in mind have a good evening. Please
6 report directly to your jury room at 9:30 in the morning,
7 9:30 in the morning.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: All right. Court is in recess until
11 9:30 in the morning.

12 END OF PROCEEDINGS MAY 6, 2013

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Stacey Leann Lawing
Direct examination by Mr. Barnette

1 (Proceedings May 7, 2013)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Any matters to address before the jury is
5 brought in?

6 MR. BARNETTE: None from the state, Your Honor.

7 MR. THOMPSON: None from the defense, Your Honor.

8 THE COURT: All right. Bring them in, please.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday the state had
13 begun with their presentation of evidence. So we'll
14 continue with that presentation this morning.

15 Mr. Barnette.

16 MR. BARNETTE: May it please the Court, Your Honor.

17 I'd like to call Stacey Lawing to the stand, please.

18 STACEY LEANNE LAWING, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE

21 Q Ms. Lawing, I'm going to need for you to pull that
22 microphone close to you. I know you're soft-spoken.

23 A This one?

24 Q Yes, ma'am. So everybody can hear you. Okay.

25 A Okay.

Stacey Leann Lawing
Direct examination by Mr. Barnette

- 1 Q Give me your full name, please.
- 2 A Stacey Leann Lawing.
- 3 Q Where do you live at, ma'am?
- 4 A I live in Chesnee.
- 5 Q And where do you work at, ma'am?
- 6 A I currently worked at Waffle House.
- 7 Q Back in June 29th or June 28th of 2012, where was you
- 8 working that day, ma'am?
- 9 A Two by Two Daycare.
- 10 Q At that time did you know the Lydas?
- 11 A I did.
- 12 Q And was you taking care of their house on that day?
- 13 A I was.
- 14 Q And on that day did you see Bryan Holder?
- 15 A I did.
- 16 Q If you would, tell the jury about that.
- 17 A He texted me after I got off work from my second job.
- 18 I was actually working at Richland my second job. He
- 19 texted me and asked me if I would come and pick him up
- 20 because he needed a place to stay.
- 21 Q And did you go pick him up?
- 22 A I did.
- 23 Q Where did you pick him up at, ma'am?
- 24 A Boiling Springs.
- 25 Q And once you picked him up there did you bring him

Stacey Leann Lawing
Direct examination by Mr. Barnette

1 over to the Lydas' house?

2 A I did.

3 Q And about what time was that when you to got the
4 house?

5 A Before midnight.

6 Q Did he stay overnight?

7 A He did.

8 Q Did Taylor come over? Did she come over during the
9 night too, or that day, that evening?

10 A Taylor was at the house, yes.

11 Q And that morning did you get up?

12 A I did. I got up and got ready for work and went to
13 work.

14 Q And what time did you leave for work?

15 A Probably about 7:30 or 8:00 o'clock.

16 Q Was Mr. Holder still there?

17 A He was.

18 Q Did you ever receive any more -- did you hear from him
19 any more that day?

20 A I was supposed to go pick him back up from the house
21 to take him to his mom's house, and I got a text message
22 saying that he had found somebody to come and pick him up
23 from the church above their house.

24 Q And did you tell anybody about that?

25 A I texted Destiny after I got to work and told her that

Stacey Leann Lawing
Direct examination by Mr. Barnette

1 he was still at the house.

2 Q And that was Destiny Gregg, another girl that was
3 staying at the house?

4 A Yes.

5 Q And later on did you find out that he was arrested for
6 stealing guns from the house?

7 A I did. A few days later I found out that he had been
8 arrested. He called me after he had been arrested.

9 Q So he did call you after he was arrested?

10 A Yes.

11 Q If you would, tell the jury about that.

12 A He called me after he'd been arrested and asked me how
13 I could do this to him because he had a baby to think of
14 and that he wanted me to go back to the sheriff's office
15 and take back the statement I had previously given.

16 Q And did you contact law enforcement?

17 A I did. I contacted Detective Wilkins as soon as he
18 had called me.

19 Q And did you tell him about what Mr. Holder told you?

20 A I did. I went back and wrote a statement.

21 Q You told a statement about how he wanted you to change
22 your story or take your statement back.

23 A Yes, sir.

24 MR. BARNETTE: One moment, Your Honor, please.

25 (Pause.)

Stacey Leann Lawing
Cross-examination by Mr. Thompson

1 Q Please answer any questions Mr. Thompson may have for
2 you. Thank you, ma'am.

3 CROSS-EXAMINATION

4 BY MR. THOMPSON

5 Q Ms. Lawing, he called you and requested that you take
6 back your statement, correct?

7 A Yes.

8 Q And do you remember what date, approximately what
9 date, that was?

10 A Around the 3rd maybe.

11 Q Around the 3rd. And did he indicate to you what he
12 had been arrested for?

13 A I can't remember. He just told me that he had been
14 arrested and that I needed to go back and take my statement
15 back.

16 Q Okay. And in reference to what, the stealing the
17 merchandise or the house?

18 A I guess -- I guess. I don't know.

19 Q So your statement is basically that you left him
20 there. When you got back he was gone, right?

21 A Yes.

22 Q And you were aware that the house had been -- many
23 things had been stolen from the house including guns and
24 computers and stuff, right?

25 A Yes.

Stacey Leann Lawing
Cross-examination by Mr. Thompson

1 Q Okay. So he was asking you to take back a statement
2 that you left him there by himself.

3 A He was asking me to take back the statement I had
4 given the sheriff's office about him being at the house.

5 Q And that was on the 3rd, right?

6 A Yes. I guess.

7 Q So the day he was arrested or the day after, correct?

8 A Uh-huh.

9 Q Okay. So it would stand to reason that he was wanting
10 to get out of whatever he was charged with at that time,
11 correct?

12 A I guess.

13 Q Okay. And you didn't do that. You called
14 Mr. Wilkins, right?

15 A Yes. I called Detective Wilkins.

16 Q And have you spoken with Mr. Holder since?

17 A No.

18 Q Okay.

19 MR. THOMPSON: I have no further questions.

20 MR. BARNETTE: No further questions of the witness,
21 Your Honor. We would ask her be excused.

22 MR. THOMPSON: No objection.

23 THE COURT: You may step down.

24 (Whereupon, the witness was excused.)

25 MR. BARNETTE: Your Honor, we'd like to call Kevin

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 Denton to the stand.

2 KEVIN BRUCE DENTON, having
3 been first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. BARNETTE

5 Q Sir, if you would, give your full name, please.

6 A Kevin Bruce Denton.

7 Q And where do you live at, sir?

8 A Boiling Springs.

9 Q And where do you work at, sir?

10 A B.M.W.

11 Q And what do you do there, sir?

12 A I work in the paint shop.

13 Q And how long have you worked there, sir?

14 A Since January of last year.

15 Q Do you know Bryan Holder?

16 A Yes, sir.

17 Q How do you know Bryan Holder?

18 A Real close friend.

19 Q Okay. And do you know Tyler Schomer?

20 A Yes, sir.

21 Q How do you know him?

22 A He's my cousin.

23 Q Going back to June 29th, did you receive a phone call
24 from Tyler or Bryan?

25 A Yes, sir.

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 Q If you would, tell the jury about that.

2 A Bryan had called me about 20 or 30 times and sent me
3 text messages and a photo of the guns and kept asking me to
4 pick him up, and I told him no several times. And I -- it
5 got to the point where I ignored him.

6 Q And the text he sent to you, let me show you State's
7 Exhibit No. 22. Was that a picture of the text he sent, or
8 the picture and the text he sent to you?

9 A Yes, sir.

10 Q And that represents what you saw that he sent to you
11 on your phone.

12 A Yes, sir.

13 MR. BARNETTE: Your Honor, I'd like to enter State's
14 Exhibit No. 22 at this time.

15 MR. THOMPSON: No objection.

16 THE COURT: It's admitted.

17 (Photograph marked State's Exhibit No. 22.)

18 MR. BARNETTE: I would like to publish the picture at
19 this time, Your Honor.

20 THE COURT: You may.

21 Q This was a picture of the text he sent to you showing
22 the guns that he had?

23 A Yes, sir.

24 Q You said he texted you how many times?

25 A A lot.

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 Q What happened after all of these texts?

2 A He just kept calling me and calling me. I mean, he --
3 finally he stopped, and then I was leaving the beach,
4 leaving North Carolina. And on my way home I was probably
5 30 minutes out. He kept calling me and calling me saying,
6 you know, he wanted to put the guns at my house.

7 Q So at this time when he was texting you was actually
8 at the beach in North Carolina?

9 A Yes, sir.

10 Q Where was you at on the beach?

11 A Lake Lure.

12 Q And so when you was coming back, what happened after
13 that?

14 A When I was coming back, like I said, he called me and
15 said he was going to put the guns at my house somewhere,
16 and I told him no. I said don't go up there, I'm not even
17 home, and if my grandparents see you putting guns at my
18 house my grandpa is likely to shoot you.

19 Q So what happened when you got back to your house?

20 A About ten minutes later Holder showed up with the
21 guns.

22 Q Okay. And who else was with him?

23 A Tyler and Matt.

24 Q And who was actually driving?

25 A Matt was driving.

Kevin Bruce Denton
Direct examination by Mr. Barnette

- 1 Q And where was the guns at?
- 2 A In the trunk.
- 3 Q And did they take the guns out of the trunk?
- 4 A Yes, sir.
- 5 Q And where did they put the guns at?
- 6 A In the trunk of my car.
- 7 Q What kind of car do you have?
- 8 A A red Toyota Celica.
- 9 Q I believe this is already into evidence. Let me show
10 you State's Exhibit No. 20. Is that your car, sir?
- 11 A Yes, sir.
- 12 Q And State's Exhibit 21, is that the trunk of your car?
- 13 A Yes, sir.
- 14 MR. BARNETTE: Your Honor, may I republish this to the
15 jury?
- 16 THE COURT: You may.
- 17 Q Showing you State's Exhibit No. 20. That's your car,
18 is that right?
- 19 A Yes, sir.
- 20 Q And State's Exhibit 21, is that the trunk of your car?
- 21 A Yes, sir.
- 22 Q Was that some of the guns that was in your trunk?
- 23 A Yes, sir.
- 24 Q That wasn't all of them though.
- 25 A No, sir.

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 Q In looking, why did you let him put the guns in the
2 trunk of your car?

3 A Bryan. He was acting deranged when he showed up. I
4 told him no. I told him he cannot put these guns in my
5 trunk. I told him I didn't even want them at the house
6 when he showed up.

7 And he started -- he pulled the guns out and was
8 showing me and was trying to sell them to me, and I told
9 him, no, I don't want any.

10 And then he finally -- he started just like, well, let
11 me shoot them, let me shoot them, and started aiming them
12 at the neighbors and the house and everywhere and was
13 wanting to shoot them. I didn't know if the guns were
14 loaded or not but --

15 Q What did you do? What did you do then?

16 A I told him -- I told him to calm the blank down, and I
17 said just put them in there and calm down, just calm down.

18 Q So you let him put the guns in your trunk.

19 A Yes, sir.

20 Q Then what happened, sir?

21 A I told them they had to get -- get out of there. I
22 told them several times before they had to get out of there
23 because Tyler wasn't allowed at the house. And I didn't
24 know when they were going to be home. And they -- I
25 finally got them to leave, and that's about it.

Kevin Bruce Denton
Direct examination by Mr. Barnette

- 1 Q Later on did you leave to go somewhere else?
- 2 A I went to work the next morning.
- 3 Q Okay. And you work at B.M.W.
- 4 A Yes, sir.
- 5 Q And after you worked that day did you go -- did you
- 6 leave the state after that?
- 7 A I left the next morning.
- 8 Q On Sunday?
- 9 A Yes, sir.
- 10 Q When you left Sunday to go to -- where was you going
- 11 to?
- 12 A Michigan.
- 13 Q Okay. And where was you going at in Michigan?
- 14 A It's Benton Harbor, Saint Joe and all of that.
- 15 Q Where -- so.
- 16 A It's on the west side.
- 17 Q What do you mean, the west side? Do you mean the west
- 18 side of Michigan or of Lake Michigan?
- 19 A West -- west side of Michigan, yeah, Lake Michigan.
- 20 Q And was you going up with somebody or to meet somebody
- 21 up there?
- 22 A My father.
- 23 Q So you and your father. You went up to meet your
- 24 father up there?
- 25 A Yes, sir. I go to visit him in the summer.

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 Q So you left that Sunday morning to do that.

2 A Yes, sir.

3 Q Did Bryan Holder contact you again?

4 A Yes, sir, several times.

5 Q When he contacted you where were you at?

6 A On the way to Michigan.

7 Q And on this Sunday, tell the jury what happened with
8 the text message and so forth.

9 A He texted me and was like saying he wanted to get the
10 guns outta my trunk, and I told him no, leave them there,
11 like I said, my grandpa sees you with these guns at the
12 house he's likely to shoot you or something.

13 And after several times of telling him no, he said he
14 had a -- someone to buy the guns or something. After
15 several times of telling him no he finally stopped.

16 And about a couple of hours later he called me
17 again -- and I was still on the road to Michigan -- and
18 said he had taken some of the guns out of the trunk already
19 and wanted to get the rest or something. And I had told
20 him if you've taken some of them, why didn't you get all of
21 them.

22 THE COURT: Excuse me just a minute.

23 Mr. Denton, don't turn your back to the court
24 reporter, please. She needs to at least see your profile
25 so that she can take down what you're saying.

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 Q So in your car can -- is there a way that he can get
2 in your car?

3 A Yes, sir.

4 Q How can he get in your car?

5 A The door handles had broken off my car, and there was
6 no way to lock it. You can lock it, but you can unlock it.
7 And you can open it too.

8 Q And so if you unlocked the car is there -- the back
9 trunk, could you open it up inside?

10 A Yes, sir.

11 Q Later on did you get another phone call from either
12 Tyler or from Bryan?

13 A About what?

14 Q About anything that occurred afterwards.

15 A Yes, sir.

16 Q If you would, tell the jury about that.

17 A It was I'd say maybe a couple of days later, maybe two
18 or three days later. Tyler called me and said -- you know,
19 he was acting crazy. I didn't even believe him when he
20 told me.

21 MR. THOMPSON: Your Honor, I'm going to object to
22 hearsay.

23 THE COURT: Sustained.

24 MR. BARNETTE: Your Honor, I believe this is a
25 codefendant.

Kevin Bruce Denton
Direct examination by Mr. Barnette

1 May we approach the bench for a second?

2 THE COURT: Sure.

3 (Bench conference held off the record in the presence
4 of the jury but out of the hearing of the jury.)

5 Q Did you receive a call from Mr. Schomer?

6 A Yes, sir.

7 Q Did you hear Bryan Holder on the phone call?

8 A Yes, sir.

9 Q If you would, tell the jury what Bryan Holder was
10 saying on the phone.

11 A Bryan said the name of the gun, the caliber of the
12 gun. And you could hear him in the background making like
13 foul noises like gunshot noises.

14 Q So you could hear him saying what?

15 A He was making gunshot noises, and like 30-06 and that.

16 Q Is that the last time you heard from Mr. Holder?

17 A Yes, sir.

18 Q Later on when you got back did you receive a phone
19 call from your grandfather?

20 A Yes, sir.

21 Q And based off that phone call did you come back to
22 South Carolina?

23 A Yes, sir.

24 Q When you got back to South Carolina who did you talk
25 to?

Kevin Bruce Denton
Direct examination by Mr. Barnette

- 1 A Wilkins.
- 2 Q You talked to Investigator Wilkins here?
- 3 A Yes, sir.
- 4 Q And where did you meet him at?
- 5 A The sheriff's department.
- 6 Q Okay. Was that -- do you remember the date, the
- 7 day -- the day you got back, the next day?
- 8 A Not exactly. It was maybe the 7th or 8th.
- 9 Q And did you meet him at the sheriff's department?
- 10 A Yes, sir.
- 11 Q And was y'all -- did you ride with him to go meet
- 12 Tyler?
- 13 A Yes, sir.
- 14 Q And during that ride did you talk to Investigator
- 15 Wilkins?
- 16 A Yes, sir.
- 17 Q Did you tell him who the shooter -- about the
- 18 shooting?
- 19 A Yes, sir.
- 20 Q Did they -- obviously, knew about the shooting. Did
- 21 they have any information on the shooting until you told
- 22 them?
- 23 A I have no clue, sir.
- 24 Q And what did you tell Investigator Wilkins?
- 25 A That Bryan and Tyler had shot somebody.

Kevin Bruce Denton
Direct examination by Mr. Barnette

- 1 Q Okay. And why did you tell Investigator Wilkins?
- 2 A That's not okay. It's not okay to just shoot random
- 3 people.
- 4 Q So you felt like you needed to tell him.
- 5 A Yes, sir.
- 6 Q So, and you gave a statement to that effect.
- 7 A Yes, sir.
- 8 Q Even though it would get Tyler in trouble too.
- 9 A Yes, sir.
- 10 Q You told on both of them from that standpoint.
- 11 A Yes, sir.
- 12 MR. BARNETTE: One moment, Your Honor, please.
- 13 (Pause.)
- 14 MR. BARNETTE: One moment, Your Honor, please.
- 15 (Additional pause.)
- 16 Q Going back to the phone call that you got when you
- 17 heard Bryan Holder talking, how did he sound on the
- 18 telephone?
- 19 A Like his tone?
- 20 Q Yes, sir.
- 21 A Kind of excited.
- 22 Q Of course you was in Michigan.
- 23 A Yes, sir.
- 24 Q Did you find out later that a shooting had occurred?
- 25 A A couple of days later, yes, sir.

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 Q Did you find out it had occurred before this phone
2 call?

3 A No, sir.

4 Q So you didn't know if it did or it had not happened
5 yet.

6 A No, sir.

7 Q But the phone call -- you talked to Tyler Schomer and
8 Bryan Holder on that phone call.

9 A Yes, sir.

10 Q Please answer any questions Mr. Thompson will have for
11 you.

12 MR. THOMPSON: May it please the Court.

13 THE COURT: Mr. Thompson.

14 CROSS-EXAMINATION

15 BY MR. THOMPSON

16 Q And you're Mr. Schomer's cousin.

17 A Yes, sir.

18 Q Okay. And you just testified that you allowed
19 Mr. Holder to put guns in your trunk, right?

20 A Yes, sir.

21 Q Okay. And the reason you did that was because he was
22 acting deranged, right?

23 A Yes, sir.

24 Q Okay. The truth is he gave you a gun in exchange for
25 allowing that to happen, right?

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 A No, sir.
- 2 Q Okay. You sure about that?
- 3 A Yes, sir.
- 4 Q Okay. So you didn't receive any firearms?
- 5 A No, sir. He offered to sell me some, but I already
- 6 have guns.
- 7 Q Okay. So you didn't get a free -- free gun out of
- 8 stashing them there.
- 9 A No, sir.
- 10 Q And, now, you've got the Toyota Celica, right?
- 11 A Yes, sir.
- 12 Q What model is that?
- 13 A It's a '95.
- 14 Q Is it -- do you make payments on it?
- 15 A No, sir. I bought it cash.
- 16 Q Bryan Holder own any portion of that car?
- 17 A No, sir.
- 18 Q Okay. But he -- but you just because he acted crazy,
- 19 he got to put all of those guns in that car, right?
- 20 A Yes, sir.
- 21 Q Okay. And then so you -- is it your testimony you're
- 22 just sitting at home and they show up with these guns?
- 23 A No, sir. They had -- they had called me several times
- 24 and said they were coming up, and I told them no. I was
- 25 still on my way home, and they had actually gotten there.

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 I guess -- I don't know if they were down the road or what.
- 2 Q Where were you on the way home from?
- 3 A Lake Lure.
- 4 Q Okay. Kayaking with your exgirlfriend?
- 5 A Yes, sir.
- 6 Q Okay. And so you were on the way home. And they had
- 7 guns.
- 8 A Yes, sir.
- 9 Q And so the conversation was centered around wanting to
- 10 sell some guns, right?
- 11 A Yes, sir. Well, it was more about stashing them --
- 12 Q Okay.
- 13 A -- rather than selling them.
- 14 Q Okay. So he wanted to stash the guns and -- and you
- 15 involuntarily allowed that to happen in your car, right?
- 16 A Yes, sir.
- 17 Q Okay. Because Bryan was acting crazy, right?
- 18 A Yes, sir.
- 19 Q Okay. And then you indicated that you went to work
- 20 the next morning. Did you drive the Celica?
- 21 A No, sir.
- 22 Q What did you drive?
- 23 A The '99 F-150.
- 24 Q Okay. So you've got a truck and a car?
- 25 A It's my grandfather's truck.

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 Q Okay. So you drove that and left the Celica there.
- 2 A Yes, sir.
- 3 Q Okay. And with all the guns in it.
- 4 A Yes, sir.
- 5 Q And, now, do you recall when they called you in
- 6 Michigan about getting into your car?
- 7 A It was on the way to Michigan.
- 8 Q I'm talking about the police.
- 9 A Oh, I don't remember the exact date.
- 10 Q All right. I know that, but they were there searching
- 11 for the guns, right?
- 12 A Yes, sir.
- 13 Q And you had to get on the phone and tell your
- 14 grandfather the trick to get in the car, right?
- 15 A Yes, sir.
- 16 Q Because your grandfather didn't know. And you live
- 17 with your grandfather, right?
- 18 A Yes, sir.
- 19 Q But somehow you're saying that Holder and your cousin
- 20 know how to get in the car.
- 21 A Yes, sir.
- 22 Q Okay. And -- and do you recall -- so it's your
- 23 testimony you didn't -- you didn't receive any guns. Your
- 24 car sat there, and the guns were in there, and you were
- 25 done with this thing, right?

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q Okay. I'm going to keep on with your testimony here.
- 3 Did you -- you said con -- you were contacted by Schomer on
- 4 the way up to Michigan, right?
- 5 A Yes, sir.
- 6 Q How many hours-drive is that?
- 7 A It's a 12-hour drive.
- 8 Q So it could have been dark. Was it dark or daylight?
- 9 A It was getting dark.
- 10 Q Getting dark?
- 11 A Yes, sir.
- 12 Q And you -- didn't you just testify that he said he had
- 13 a purchaser or a buyer for the guns?
- 14 A Holder said that.
- 15 Q Holder said he had a buyer for the guns?
- 16 A Yes, sir.
- 17 Q Okay. So still we're talking about selling this
- 18 stolen merchandise at that point, right?
- 19 A Yes, sir.
- 20 Q Okay. So -- so at some time during the night they
- 21 come and remove some guns, right?
- 22 A Yes, sir.
- 23 Q You assumed, because when you went back it wasn't the
- 24 same number of guns, right?
- 25 A No. I was still in Michigan. The cops had gotten the

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 guns, and they -- they -- they had called me later on after
2 I told them not to get the guns. They had called me and
3 said that they had gotten some of the guns out.

4 Q All right. So, now, you -- you gave how many
5 statements to the police in this -- in this thing?

6 A Numerous.

7 Q Right. I've got one here from the 9th of July, right?

8 A Yes, sir.

9 Q Okay. And you indicated in that statement that Tyler
10 was not allowed at your grandparents, right?

11 A Yes, sir.

12 Q And that's Mr. Schomer?

13 A Yes, sir.

14 Q And why would he not be allowed at his own
15 grandparents?

16 A Around Christmastime he was allowed to stay there, to
17 live there, and he made it about five days and stole from
18 us and left.

19 Q All right. And then so on the 9th you had -- you
20 indicated that you received information that Bryan had
21 taken some of the guns out, right?

22 A When, sir?

23 Q On the 9th, that first statement. You indicated that
24 somehow the guns -- some guns had been taken out, right?

25 A Yes, sir.

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 Q Okay. And do you remember telling that Bryan was
2 going to receive \$1,500 for all of the guns?
- 3 A Yes, sir.
- 4 Q Okay. You do remember.
- 5 A It was like -- I thought he said 12. I don't -- I
6 really don't remember since then.
- 7 Q Okay. But you do agree your statement says 15.
- 8 A Yes, sir.
- 9 Q So he is wanting to sell these guns, correct?
- 10 A Yes, sir.
- 11 Q So, and that's the end of your statement on the 9th,
12 right?
- 13 A Yes, sir.
- 14 Q Okay. So you didn't mention anything about any
15 shooting in a field or anything like that, right?
- 16 A Different statement.
- 17 Q I'm saying in that statement, right?
- 18 A Yes, sir.
- 19 Q Okay. Right. And then -- and then that is at 11:27.
20 And then I'm not sure what time you came back and gave
21 another statement on the 9th but you -- did you come back
22 later in the day?
- 23 A No. It was actually the same time. It was just --
- 24 Q Same time?
- 25 A It was different cases.

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 Q Okay. Okay. So that one you indicated you received
2 information that somebody told you that Mr. Holder was
3 lying in the field, laying in the field. Do you remember
4 that?

5 A Yes, sir.

6 Q Okay. And that -- behind Winn-Dixie, right? Do you
7 know where the Winn-Dixie -- you know where the crime scene
8 is, right?

9 A Yes, sir.

10 Q So you said behind Winn-Dixie, is that correct?
11 That's just what you --

12 A The field behind.

13 Q That's what that person told you.

14 A Yes, sir.

15 Q Okay. And then --

16 MR. BARNETTE: Your Honor, I'm going to object to
17 this. I mean, we're talking about hearsay. If he wants to
18 say who it is, I don't have a problem saying who told him
19 that. But, I mean, he's saying it's nobody now. So I
20 object to it unless he identifies the person that told him.

21 THE COURT: Let me see y'all just a minute.

22 (Bench conference held off the record in the presence
23 of the jury but out of the hearing of the jury.)

24 Q Mr. Denton, I will rephrase that question.

25 Did Mr. Schomer tell you about the shooting out here

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 at Winn-Dixie?

2 A Yes, sir.

3 Q That's what that statement there is about, right?

4 A Yes, sir.

5 THE COURT: Don't stand between the witness and the
6 jury.

7 MR. THOMPSON: I'm sorry, Your Honor.

8 Q And he just basically -- those comments here about the
9 person laying down and the packing cigarettes, is that
10 straight out of Mr. Schomer's mouth?

11 A Yes, sir.

12 MR. BARNETTE: Your Honor, if he wants to ask a
13 question, I don't have a problem. He don't need to read
14 the statement. I object to the form of the question, I
15 guess.

16 THE COURT: Well, this is the witness' statement, so.

17 Q And then you said the woman was shot at the Race Way.
18 And you believe it was the 2nd or 3rd of July, correct?

19 A Yes, sir.

20 Q And then have you heard about this in the newspaper?

21 A No, sir.

22 Q Have you seen anything on the news about it?

23 A I looked it up on my phone. I didn't believe it at
24 first and a couple of days -- I had been looking it up on
25 my phone for a few days, and it was about two or three days

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 later when I had seen what they said was true.

2 Q Okay. And you were back on the 11th providing another
3 statement, is that correct?

4 A Yes, sir.

5 Q Okay. And in that statement do you recall telling --
6 who did you interview with -- officer Wilkins again?

7 A I believe so, sir.

8 Q Okay. And do you recall telling him that you were not
9 a hundred percent honest with him earlier?

10 A Yes, sir.

11 Q Okay. And what was the -- what was the basis of what
12 you were not honest about?

13 A Well, when they had called me I really didn't pay
14 attention of what they had said. I didn't keep it in mind
15 because I didn't believe them. I thought they were just
16 bullshitting with me.

17 Q Okay. Now, you indicated when you got a phone call --
18 you got a phone call from Mr. Schomer, right?

19 A Yes, sir.

20 Q Okay. And so when you say what they told you, it's
21 really, you know, not what they. It's just what that one
22 person told you that called you, right?

23 A Yes, sir.

24 Q Okay. And on the 11th you go back into the trunk
25 scenario and all of that, correct?

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q And you never told them you received a .22 or a gun
- 3 for that storage, correct?
- 4 A No, sir.
- 5 Q You never said that, right?
- 6 A No, sir.
- 7 Q Okay. And that's when you indicated again that Bryan
- 8 was acting crazy and that's why you let him keep the guns
- 9 there, right?
- 10 A Yes, sir.
- 11 Q Okay. And then that's when you left for Michigan, was
- 12 that day?
- 13 A The -- he had brought the guns Saturday or Friday, and
- 14 I had left for Michigan Sunday morning.
- 15 Q Okay. So he brought the guns Friday after dark?
- 16 A It was getting dark. It was about 8:30 or...
- 17 Q And you left Sunday.
- 18 A Yes, sir. Saturday or Sunday.
- 19 Q And that was the 12-hour drive to Michigan, right?
- 20 A Yes, sir.
- 21 Q Did you drive by yourself, or somebody with you?
- 22 A I rode with my mom in her truck.
- 23 Q Okay. In a truck?
- 24 A Yes, sir.
- 25 Q Who was driving?

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 A My mother and me. We swapped.
- 2 Q Okay. And then the -- did she overhear the commotion
- 3 you said that you heard?
- 4 A I -- I tried to -- tried to keep it down. I didn't --
- 5 I didn't want her to...
- 6 Q And you testified you heard Bryan making gun sounds.
- 7 You didn't hear a gun being shot, did you?
- 8 A No, I didn't hear the gun being shot.
- 9 Q So he was making gun sounds, right?
- 10 A Yes, sir.
- 11 Q Okay. But you didn't -- you didn't tell that to the
- 12 police in your statement, did you?
- 13 A I -- I don't recall.
- 14 Q You'd agree with me it's not in this one, right?
- 15 A Sir?
- 16 Q You'd agree it's not in this statement I've got,
- 17 right?
- 18 A Yes, sir.
- 19 Q Okay. And then you go back into what Schomer told you
- 20 about Bryan laying down and shooting at Ingles and then
- 21 shooting at Race Way, correct?
- 22 A Yes, sir.
- 23 Q And you recall being told that somebody was packing
- 24 cigarettes.
- 25 A That's what -- Schomer said he had heard someone

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 packing cigarettes. He said he didn't -- he said he had
2 heard someone packing cigarettes, and then that's when
3 Holder turned and shot whoever was packing the cigarettes
4 or something.

5 Q And then but at that point you said that Schomer told
6 him that he shot the girl through the car door, right?

7 A Yes, sir.

8 Q So that would indicate you probably had -- that's
9 where you found that out, was on your phone?

10 A That he shot her through the car door?

11 Q Yeah. Was that on -- was that on the news report?

12 A They said they had shot -- he said -- he didn't say
13 car door. He said door but --

14 Q Okay.

15 A -- I thought it was up close. When he told me I
16 thought he was talking about he shot her with a shotgun
17 because I didn't know what a 30-06 was.

18 Q Okay.

19 A And I thought it was through like a closed door. I --
20 I really didn't believe them when they had -- what they had
21 told me.

22 Q Now, you say them. You mean --

23 A Schomer.

24 Q He's your source, right? Okay. And do you remember
25 indicating to the police that Schomer buried the gun, or

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 that's what he told you?

2 A Yes, sir.

3 Q Okay. And then later on you found out that wasn't
4 right, correct?

5 A Yes, sir.

6 Q Okay. Then you indicated later that you forgot to
7 tell -- you forgot to tell them that -- is that when you
8 said -- when you weren't quite honest with them, that you
9 didn't know what happened to the 30-06?

10 A That I -- I didn't know at that point what had
11 happened to it. I didn't know when I gave my statement.

12 Q Okay. On the same day, the 11th of July, you
13 indicated that you had heard that it was buried. Do you
14 remember that?

15 A Yes, sir. I heard some gun was buried. I heard -- I
16 heard that he buried some gun. I didn't -- he didn't say
17 it was the 30-06. Just some.

18 Q So obviously he disposed of the 30-30, right?

19 A Yes, sir.

20 Q And then said he still had it, right? Buried it --

21 MR. BARNETTE: Your Honor, I'm going to object to
22 the -- I mean, hearsay, the form of the question.

23 THE COURT: Well, let's just ask the witness a
24 question rather than just showing him what he said. You
25 ask him a question. If he denies it or states it

Kevin Bruce Denton
Cross-examination by Mr. Thompson

1 inconsistently you can show him the statement.

2 Q Okay. But you indicated about an hour and a half
3 later that you forgot to tell Mr. Wilkins they took the
4 gun --

5 MR. BARNETTE: Your Honor, I'm going to object again.
6 I mean, we're not -- we're just reading stuff instead of
7 asking questions now.

8 THE COURT: Let's ask the witness. Just ask him if
9 he's told anybody a certain thing. If he says yes, then
10 that does it. If he denies it and you have something
11 showing that's inconsistent with what he's previously
12 stated, you can show it to him.

13 Q Did you tell Officer Wilkins that Wes had the gun?

14 A Yes, sir.

15 Q Okay. And that's the last you remember about it,
16 right?

17 A Yes, sir.

18 Q Okay. And you indicated Wes is a drug dealer, right?

19 A Yes, sir.

20 Q And that it was traded for 8 grams of weed, correct?

21 A I don't know exactly how much it was. I really don't
22 remember.

23 Q Okay. Now, so you -- now, back on the 29th when the
24 calls came in about the guns, you didn't pick Tyler up at
25 his house?

Kevin Bruce Denton
Cross-examination by Mr. Thompson

- 1 A No, sir.
- 2 Q So it's your testimony that he, Bryan and the guy
3 named Matthew showed up --
- 4 A Yes, sir.
- 5 Q -- at your house with the guns, correct?
- 6 A Yes, sir.
- 7 Q And whose car were they in?
- 8 A Matt's.
- 9 Q Okay. And what does he drive?
- 10 A An Eclipse.
- 11 Q I'm sorry?
- 12 A An Eclipse.
- 13 Q Eclipse. Okay. And did they have just guns or the
14 other merchandise with them?
- 15 A I believe it was just guns. I didn't really sort
16 through the merchandise or nothing like that.
- 17 Q Okay. And when -- at some point Mr. Schomer indicated
18 he was in that field shooting. Do you know what field that
19 is?
- 20 A Behind Winn-Dixie.
- 21 Q Okay. And you know where he lives. Had y'all ever
22 been over there together or anything?
- 23 A And shoot in the field or had we --
- 24 Q Yes.
- 25 A We had shot pellet guns in the field, and at bottles

Kevin Bruce Denton
Redirect examination by Mr. Barnette

1 before.

2 Q Okay. so -- so that's something he's familiar with,
3 correct?

4 A Yes, sir.

5 Q And you know about it too. And you cut your trip to
6 Michigan short to come back for the officer. The sheriff's
7 office had found the guns and were inventorying those,
8 right?

9 A Yes, sir.

10 Q Okay.

11 MR. THOMPSON: I have no further questions.

12 MR. BARNETTE: A couple on redirect, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. BARNETTE

15 Q One thing is you didn't -- when you received the phone
16 call, Tyler is the one that called you.

17 A Yes, sir.

18 Q Was Bryan on -- could you hear Bryan on that phone
19 call?

20 A Yes, sir.

21 Q And Tyler told you what happened?

22 A Yes, sir.

23 Q So Bryan was there when he was telling you this.

24 A Yes, sir.

25 Q He's making the comment you were saying, 30-06 gun

Kevin Bruce Denton
Redirect examination by Mr. Barnette

1 sounds.

2 A Yes, sir.

3 Q And how were their demeanor on the phone?

4 A Tyler was --

5 MR. THOMPSON: Again, Your Honor. He's saying they,
6 and he's testifying he got a call from one person and...

7 A It was on a speaker phone.

8 THE COURT: Identify who you're asking him about.

9 Q On the phone call when Tyler made it could you hear
10 more than one person on the phone?

11 A Yes, sir.

12 Q Who is the two people you heard on the phone?

13 A I heard Tyler Schomer and Bryan Holder.

14 Q Mr. Thompson's asked you this. What did Tyler tell
15 you?

16 A He told me they were laying -- or they were laying in
17 the field target shoot -- target shooting. And he said
18 Bryan just started shooting at people. I don't -- I mean,
19 I really don't recall everything he exactly told me.

20 Q Was you shocked at all of that?

21 A Yes, sir. I -- I didn't know. I -- I -- it's
22 something you don't believe. You know, you don't think
23 someone's going to call you and tell you that stuff,
24 something like that.

25 Q Bryan Holder you could hear in the background.

Matthew David
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q And what was -- what did he say in the background?

3 A He just was making gun noises and was like 30-06, you
4 know.

5 Q And at first you didn't know all about that about
6 because were you in Michigan.

7 A Yes, sir.

8 Q You said you kept looking on your phone.

9 A Yes, sir.

10 Q And then later on when you went out with Bryan Wilkins
11 you decided to tell him.

12 A Yes, sir.

13 Q Why did you decide to tell him about that phone call?

14 A Because it's not right to go around shooting people,
15 just random people, anybody, for no reason.

16 Q And you gave that in your statement to the policeman.

17 A Yes, sir.

18 Q Thank you, sir.

19 THE COURT: You may step down.

20 MR. BARNETTE: Your Honor, the state would like to
21 call Matthew Hamilton.

22 MATTHEW DAVID HAMILTON, having
23 been first duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. BARNETTE

25 Q Mr. Hamilton, if you would, pull that mike close to

Matthew David
Direct examination by Mr. Barnette

- 1 you so we can all hear you. Close to you if you would.
2 If you would, give me your full name, please.
3 A Matthew David Hamilton.
4 Q And, Mr. Hamilton, where do you live at?
5 A In Boiling Springs.
6 Q And who do you live with, sir?
7 A My mom and dad.
8 Q Do you know Bryan Holder?
9 A Yeah.
10 Q How do you know Bryan Holder?
11 A He's been my friend for a long time.
12 Q How long have -- how long have you known him?
13 A It's about four or five years.
14 Q Back in June of last year did he call you about some
15 guns?
16 A He didn't call me directly. He -- I think he called
17 Tyler first.
18 Q Okay. Did Tyler call you?
19 A Yeah, and Tyler called me..
20 Q Based on what Tyler -- when he called you, what did
21 you do after that? You got the phone call from Tyler.
22 A Well, I mean, I was going to go hang out with Tyler
23 anyway, so I just went over there. And then we decided
24 later to go over there. I didn't want to go over to
25 Bryan's in the first place.

Matthew David
Direct examination by Mr. Barnette

- 1 Q So you went to Tyler's house first?
- 2 A Yeah.
- 3 Q Who did he -- who does he live with?
- 4 A He lives with his mom and his grandparents.
- 5 Q So you went over and picked Tyler up first?
- 6 A Yeah.
- 7 Q And after you picked Tyler up where did y'all go?
- 8 A We went to Spartanburg to pick Bryan up.
- 9 Q And where did you pick Bryan up at, whose place?
- 10 A It was a guy name Unk.
- 11 Q Okay. Was it here in Spartanburg?
- 12 A Yeah.
- 13 Q Where was it near in Spartanburg -- the house?
- 14 A It was near the church's chicken over on the other
- 15 side. Basically, I can remember the Q.T.
- 16 Q Are you talking about here on the west side down here
- 17 where the Q.T. is across from that chicken --
- 18 A Yeah.
- 19 Q So around that area?
- 20 A Yeah.
- 21 Q When you got there what did Bryan have?
- 22 A He had -- he just had -- well, I mean, he had a bunch
- 23 of guns.
- 24 Q Okay.
- 25 A Maintaining -- six ought.

Matthew David
Direct examination by Mr. Barnette

1 Q Did he have some other stuff with him, or do you just
2 remember the guns mostly?

3 A I just remembered the guns and a laptop.

4 Q Okay. And when you got there what did he want to do
5 with those guns?

6 A He wanted to sell them.

7 Q Okay. And what did he want you to do with the guns or
8 what did you -- what did he want you to do once you got
9 there?

10 A He wanted me to, I guess, help him sell the guns.

11 Q So what did he do with the guns once you got there?

12 A We -- well, when I got over there I didn't -- I didn't
13 know he had all of them guns, and there was a lot of them.
14 And after some conversation he convinced me, and we put all
15 the guns in my trunk.

16 Q Did you want him to put those guns in your trunk?

17 A No.

18 Q Why did you let him put it in your trunk?

19 A I don't know.

20 Q Okay. So once you -- once they put the guns in your
21 trunk, what happened then? Where did y'all go?

22 A We went to Kevin's house.

23 Q When you got to Kevin's did they take the guns out of
24 your trunk?

25 A Yeah.

Matthew David
Direct examination by Mr. Barnette

1 Q And where did they put their -- put the guns at?

2 A In Kevin's trunk.

3 Q And after they transferred the guns to Kevin's trunk,
4 where did y'all go after that?

5 A I can't really recall.

6 Q Okay. Did you go -- did y'all leave Kevin? Did you
7 leave --

8 A Yeah, yeah, we left Kevin.

9 Q Who was in the car with you when you left?

10 A Tyler and Bryan.

11 Q And y'all left and went somewhere else.

12 A Yeah.

13 Q After that did Bryan contact you again?

14 A Yeah.

15 Q And did he contact you about the guns?

16 A Yeah. He wanted me to sell them. He wanted to sell
17 them.

18 Q And what did he want you to do?

19 A He -- he said he knew somebody in Greenville who was
20 going to buy them.

21 Q So what did he want you to do, come and pick him up
22 with the guns and take them to Greenville?

23 A Yeah.

24 Q Did you do that?

25 A No.

Matthew David
Direct examination by Mr. Barnette

- 1 Q Why didn't you do that?
- 2 A Because I had had enough of it.
- 3 Q So Bryan is the one that called you about the guns.
- 4 A Yeah.
- 5 Q And he's the one that wanted you to take and sell the
- 6 guns.
- 7 A Yeah.
- 8 Q How many days was it after y'all went over to Kevin's?
- 9 A When we wanted to sell them?
- 10 Q Yes, sir.
- 11 A Three or four or five days, somewhere in that
- 12 vicinity. Could have been less, could have been more. I'm
- 13 not totally sure.
- 14 Q So it wasn't the same day but a couple of days
- 15 afterwards.
- 16 A Yeah.
- 17 Q And Bryan Holder called you.
- 18 A Yeah.
- 19 Q Do you see him in the courtroom here today?
- 20 A Yeah.
- 21 Q Can you point at him, sir?
- 22 A I'm sorry?
- 23 Q Can you point at Bryan Holder in the courtroom over
- 24 there?
- 25 MR. BARNETTE: Your Honor, let the record show that

Matthew David
Cross-examination by Mr. Thompson

1 the witness has identified the defendant.

2 THE COURT: It shall.

3 MR. BARNETTE: One moment, Your Honor, please.

4 (Pause.)

5 Q Please answer any questions Mr. Thompson may have for
6 you, sir. Thank you.

7 MR. THOMPSON: May it please the Court.

8 THE COURT: Mr. Thompson.

9 CROSS-EXAMINATION

10 BY MR. THOMPSON

11 Q Now, you said you and Bryan Holder had been friends
12 for about six years.

13 A Yeah.

14 Q You guys go to school together?

15 A Well, he -- he went to the alternative school. I saw
16 him around the school sometimes.

17 Q You knew him around Boiling Springs, I guess.

18 A Uh-huh.

19 Q And so when you went over to Kevin's to stash the
20 guns -- right? And you were nervous about having these
21 guns in your car, I'm sure, correct? And that's why you
22 said you were done with it when Bryan told you how to sell
23 it, correct?

24 A Yeah.

25 Q Okay. So you were happy to get rid of these guns,

Matthew David
Cross-examination by Mr. Thompson

1 right?

2 A Yes.

3 Q Okay. Do you recall if Kevin received a gun out of
4 that stash?

5 A I -- I don't know if he received a gun. I -- Bryan
6 might have said he give him one, but I can't really say for
7 sure.

8 Q Okay. So you don't -- you -- okay. Did you remember
9 any conversation about him receiving a gun?

10 A Yeah. I think he -- that might have been how he got
11 him to put the guns in the car, but, like I say, I can't
12 say for sure.

13 Q Okay. But you think so.

14 A Yeah.

15 Q Were you -- were you right there when they were kind
16 of putting these guns in there?

17 A Yeah.

18 Q Okay. And would you describe Bryan as acting
19 deranged?

20 A No.

21 Q Okay. And basically Kevin received a gun probably.
22 Do you think you remember that?

23 A Yeah.

24 Q Okay. And in exchange for the stashing guns, correct?

25 A Yeah.

Matthew David
Cross-examination by Mr. Thompson

1 Q Okay. And then -- and have you spoken to Bryan since
2 he was arrested?

3 A I've spoke to him one time.

4 Q Okay. And just you visited the jail or something?

5 A No. I haven't visited.

6 Q Okay. Okay. So it's not like you see him a great
7 deal because he's -- he was incarcerated, right?

8 Now, you -- you've known Bryan for quite a while.
9 would you consider him a good friend or just acquaintance
10 or what?

11 A He's a good friend.

12 Q Okay. Now, when you heard that he was charged with
13 this attempted murder was that something --

14 MR. BARNETTE: Objection, Your Honor. He's asking for
15 speculation of the witness at this point.

16 MR. THOMPSON: Well, he's indicated he's known the
17 young man for six years. I think he can be somewhat a
18 judge of his character or --

19 MR. BARNETTE: Is he putting him up as a character
20 witness?

21 THE COURT: Let see me you just a minute.

22 MR. THOMPSON: I didn't call him.

23 THE COURT: I know. Is he going to --

24 MR. THOMPSON: Just a minute.

25 (Bench conference held off the record in the presence

Matthew David
Cross-examination by Mr. Thompson

1 of the jury but out of the hearing of the jury.)

2 Q I'll withdraw that question, Mr. Hamilton. So you
3 just -- you remember that all went on, happened on, the
4 29th, correct?

5 A Yeah.

6 Q Okay. And you -- you -- where -- you picked Matt --
7 Bryan up, and Tyler, correct?

8 A Yeah.

9 Q Okay. And you said that was at Unk's house?

10 A Well, Tyler was at his house.

11 Q You picked Tyler up at his house, and then you met
12 Bryan also.

13 Okay. All right. And you do recall Bryan seeking to
14 sell these guns, right?

15 A Yeah.

16 MR. THOMPSON: No further questions.

17 MR. BARNETTE: No further questions of this witness,
18 Your Honor.

19 THE COURT: You may step down.

20 MR. BARNETTE: We would ask that he be excused, Your
21 Honor.

22 MR. THOMPSON: No objection, Your Honor.

23 THE COURT: He may be.

24 (Whereupon, the witness was excused.)

25 THE COURT: We're going to take a short break before

James Paul Blackwell
Direct examination by Mr. Barnette

1 we go further.

2 Let me ask the jury to please go to your jury room.

3 Don't talk about the case. I'll bring you back shortly.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: We're in recess for ten minutes.

7 (Whereupon, a recess was taken.)

8 THE COURT: All right. Bring the jury in, please.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Mr. Foreman, I have your note, and that
12 term will be explained to you during the course of the
13 testimony.

14 THE FOREMAN: Thank you.

15 (Question from the jury marked Court's Exhibit No. 1.)

16 THE COURT: Okay.

17 MR. BARNETTE: Your Honor, we'd like to call
18 Mr. Blackwell to the stand, please.

19 THE COURT: It won't be necessarily this witness, but
20 it'll come out during the course of the presentation.

21 JAMES PAUL BLACKWELL, having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETTE

24 Q Mr. Blackwell, if you would, pull that mike up close
25 to you -- the black one -- so they can hear you. Okay. I

James Paul Blackwell
Direct examination by Mr. Barnette

- 1 know you're soft-spoken.
- 2 If you will, give your full name for the record, sir.
- 3 A James Paul Blackwell.
- 4 Q And, Mr. Blackwell, where do you live at, sir?
- 5 A I live at [REDACTED] Spartanburg.
- 6 Q Okay. And who lives with you now?
- 7 A My daughter and two grandsons.
- 8 Q And where did you work at, sir?
- 9 A I worked at Springs Industry.
- 10 Q And how long did you work there, sir?
- 11 A Forty years.
- 12 Q And what kind of work did you do there, sir?
- 13 A Engraver.
- 14 Q And you're retired now?
- 15 A Yes, sir, in 2005.
- 16 Q Back in June and July of 2012 who lived with you at
- 17 that time at your house?
- 18 A My wife -- she was alive at that time -- and my
- 19 daughter, Tyler and Titas and Trenton, the grandboys.
- 20 Q During that time did you know Bryan Holder?
- 21 A Yes, sir.
- 22 Q How did you know Bryan Holder, sir?
- 23 A He'd been in and out a lot of times -- Bryan had -- at
- 24 the house with Tyler?
- 25 Q Okay. So he hung out with Tyler.

James Paul Blackwell
Direct examination by Mr. Barnette

- 1 A Yes, he did, yes.
- 2 Q Would he stay over at your house?
- 3 A He stayed at the house quite a bit, in and out.
- 4 Q And who would he stay with in the house? Who would he
- 5 stay with in the house, sir?
- 6 A He just always stayed with Tyler. They had a -- they
- 7 had a -- he stayed in the bedroom with Tyler.
- 8 Q And in that bedroom, how many beds were in there?
- 9 A They had twin -- twin beds.
- 10 Q Do you remember when the shooting occurred at the Race
- 11 way?
- 12 A Yes, sir.
- 13 Q Okay. And the night before -- what time do you
- 14 usually go to bed, sir?
- 15 A Usually around 9:00 or 9:30, no later than 10:00.
- 16 Q And the night before the shooting was -- you heard
- 17 about the shooting when it happened or the next day.
- 18 A Yeah, yeah.
- 19 Q The night before was Bryan Holder at your house?
- 20 A Yes, sir.
- 21 Q And who was he with?
- 22 A He was with Tyler.
- 23 Q And what were they doing, sir?
- 24 A Most of the time playing video games in the room,
- 25 sometimes with the door closed.

James Paul Blackwell
Direct examination by Mr. Barnette

- 1 Q So he was there that night.
- 2 A Yes, sir.
- 3 Q And you went to bed at 9:00 or 9:30.
- 4 A Yes, sir.
- 5 Q And you slept through the night. What time do you
- 6 usually get up in the morning, sir?
- 7 A Usually around 5:00 or 5:30.
- 8 Q Okay. And what do you do after you get up in the
- 9 morning, sir?
- 10 A Usually that's when I have devotion.
- 11 Q And when you do devotion, what do you do, sir?
- 12 A I go and walk at 8:00 o'clock.
- 13 Q That morning did you look at Tyler's bedroom?
- 14 A I did not.
- 15 Q Why? Why couldn't you look in the bedroom?
- 16 A Usually they'll have the door closed.
- 17 Q So you didn't go in there and see --
- 18 A No, sir, I didn't.
- 19 Q -- or anything like that. So you did your devotion.
- 20 A Yes, sir.
- 21 Q And ate breakfast, I'm assuming.
- 22 A Yes, sir.
- 23 Q And you take a walk.
- 24 A Yes, sir.
- 25 Q And you walked that day. And so you don't know -- you

James Paul Blackwell
Direct examination by Mr. Barnette

1 don't know what happened that night, but you know at
2 9:30 -- 9:00 or 9:30 when you went to bed Bryan Holder was
3 there.

4 A Yes, he was, yes.

5 Q And you didn't check that morning to see if he was
6 there or not?

7 A No, sir, I didn't.

8 Q And you wouldn't go in the bedroom and check.

9 A No, sir.

10 Q And you learned about the shooting I guess later that
11 day.

12 A Yes, sir.

13 Q And obviously you didn't know they had anything to do
14 with it at that time.

15 A No, sir, I didn't.

16 Q Later on did the sheriff's department come looking for
17 a gun at your residence?

18 A Yes, sir, they did.

19 Q And did you help them look for the gun?

20 A Yes.

21 Q Did you give them consent to search? Did you give
22 them permission to search your property?

23 A Yes, I did, yes.

24 Q And did y'all find a gun?

25 A We did not find it.

James Paul Blackwell
Cross-examination by Mr. Thompson

1 Q Okay. Did you look again later, or did y'all find a
2 bag of ammunition?

3 A Yes, sir. We found a -- we found a bag -- the
4 detective. So we called him, and he come and found the
5 bag. And that's when they found the gun under the porch
6 too.

7 Q Okay. And that was turned -- the sheriff's department
8 collected that, the weapons.

9 A Yes, sir.

10 MR. BARNETTE: One moment, Your Honor, please.

11 (Pause.)

12 Q Please answer any questions Mr. -- let me ask you a
13 question.

14 Can you identify Mr. Holder here in the courtroom?

15 A Yes, sir. Right there.

16 MR. BARNETTE: Your Honor, the record would indicate
17 the witness has identified the defendant.

18 THE COURT: It shall.

19 Q Thank you, sir. Please answer any questions
20 Mr. Thompson may have for you.

21 MR. THOMPSON: May it please the Court, Your Honor.

22 THE COURT: Mr. Thompson.

23 CROSS-EXAMINATION

24 BY MR. THOMPSON

25 Q Mr. Blackwell, you're Mr. Schomer's grandfather?

James Paul Blackwell
Cross-examination by Mr. Thompson

- 1 A Yes, sir.
- 2 Q And it's on his mother's side?
- 3 A Yeah, yes.
- 4 Q Okay. And you indicated that he and Mr. Holder were
- 5 friends.
- 6 A Yes. They had been friends for a while.
- 7 Q Okay. And you indicated that Bryan was in and out.
- 8 A Yes, sir. Lived in there mostly on the back deck at
- 9 the back of the house.
- 10 Q Okay.
- 11 A And most of the time smoking, I guess is what they
- 12 were doing.
- 13 Q Okay. And how long were they friends that you recall?
- 14 A Oh, it was quite a while. I don't know exactly how
- 15 long, but a pretty good while, because Bryan had been in
- 16 and out before this happened.
- 17 Q Okay. So more than a year?
- 18 A Oh, yeah, yes, yes.
- 19 Q Okay. And then when you say in and out, do you mean
- 20 he would come and stay a while and leave?
- 21 A He'd come, yeah, and stay maybe a night or two and
- 22 then be gone, yes, sir.
- 23 Q Okay. Okay. And the -- you indicated that the
- 24 sheriff's office came over looking for a gun, correct?
- 25 A Yes, sir.

James Paul Blackwell
Cross-examination by Mr. Thompson

1 Q Okay. And they didn't find it then, did they?

2 A No, sir, they didn't.

3 Q And it wasn't the same time that -- that you found the
4 30-30 under the porch, was it?

5 A No, it wasn't. We didn't find anything that day.

6 Q Okay. And then later on you contacted them and
7 seen --

8 A Yes, sir. I contacted the detective when I seen the
9 bag on the porch under the steps, and he come back. And
10 that's when they found the gun.

11 Q Okay. And do you recall telling them you had found
12 some ammunition too?

13 A Yes, sir. Well, I seen the bag, so I called them.
14 And he come and brought and took the pictures and
15 everything.

16 Q Okay. Do you remember telling them you found -- was
17 there any ammunition in Tyler's hiding place?

18 A Yes, sir. They did find some I think in Tyler's room.

19 Q Okay. Now, the gun that they found under the porch,
20 do you remember which one it was?

21 A No, sir. I did not. The detective wouldn't let me
22 see the gun, so I didn't see it.

23 Q Okay. And they found that while they were there,
24 correct?

25 A Yes, sir.

James Paul Blackwell
Cross-examination by Mr. Thompson

1 Q Okay. And so you don't if it was the 30-30 or the
2 30-06.

3 A No, sir, I don't.

4 Q Okay. And, now, I think Tyler said yesterday that he
5 had occasion to go over in that field and shoot. Do you
6 recall him doing that through the years?

7 A They would do it. I got a pellet gun, and sometime
8 we'd take a pellet gun and go over there and shoot.

9 Q Okay. And so -- and I assume, now, Tyler is 17 or 18,
10 correct?

11 A Yes, sir. He was 17 at that time.

12 Q Okay. And how long has he lived with you over there
13 on that street?

14 A Tyler has been living with me most on and off all of
15 his life, but especially for the last four years.

16 Q And that's -- so that's -- that was somewhere he
17 enjoyed playing, you think, or did he go over there
18 frequently?

19 A Sir?

20 Q Younger -- when he was younger did he play over there
21 in that field?

22 A No. I don't think so, but not a whole lot because
23 it's away from the house.

24 Q Okay.

25 A Not that I know of. Now, he could have done it and I

James Coby Stepp
Direct examination by Mr. Barnette

1 didn't know about it. But not that I know of.

2 Q okay. And then you said he would go over there and
3 shoot.

4 A Yes, sir.

5 Q okay. And then were you supervising he and the cousin
6 when they did that, or not?

7 A I did not go with them when they went over there in
8 the field because it was only a pellet gun.

9 Q okay. I have no further questions. Thank you.

10 MR. BARNETTE: Your Honor, we would ask the witness be
11 excused.

12 THE COURT: You may step down. You may also be
13 excused. Thank you.

14 (Whereupon, the witness was excused.)

15 MR. BARNETTE: Your Honor, I would like to all
16 Investigator Coby Stepp to the stand, please.

17 JAMES COBY STEPP, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q If you would, sir, state your full name for the
21 record, please.

22 A James Coby Stepp.

23 Q Where do you work at, sir?

24 A Spartanburg County Sheriff's Office.

25 Q What's your position there, sir?

James Coby Stepp
Direct examination by Mr. Barnette

1 A Right now it's going to be crime lab forensics, crime
2 scene unit.

3 Q And how long have you been with the sheriff's
4 department, sir?

5 A Over 14 years.

6 Q Let me take you back to July 2nd of 2012. Did y'all
7 do that that morning?

8 A Yes, sir.

9 Q Did you receive a call about the shooting at the Race
10 Way?

11 A Yes, sir.

12 Q About time what did you receive that call?

13 A A little around 2:00 in the morning, got on the scene
14 about 2:10.

15 Q And after you received that call, can you tell the
16 jury where this location is?

17 A It's 671 Asheville Highway Race Way.

18 Q And is this up near North Spartanburg Baptist Church,
19 up in that area?

20 A Right near there across from the Ingles.

21 Q And when you arrived there, what did you find?

22 A I arrived there. I spoke with a detective. Stated to
23 me that basically the male and female went inside, came
24 back out and sat in the vehicle. Heard a loud pop. And
25 the female was sitting in the passenger-side seat, and she

James Coby Stepp
Direct examination by Mr. Barnette

1 had been struck by a shot fired.

2 And once -- then I started taking photographs of the
3 exterior of the building, the car in the parking lot. And
4 during the photographing I noticed the entry hole to the
5 exterior of the passenger-side door from the projectile.

6 Q And so the victim was gone at that time.

7 A The victim had already been transported by the time I
8 had gotten on scene, yes, sir.

9 Q Let me show you what's been marked State's Exhibit 24
10 through 36 and see if those are photographs you took that
11 morning.

12 A Yes, sir, all of those are, correct.

13 MR. BARNETTE: Your Honor, I'd like to enter those
14 exhibits at this time into evidence.

15 THE COURT: What numbers are they?

16 MR. BARNETTE: They're No. 24 through --

17 THE COURT: That's all right. Just tell me when he
18 gets through.

19 MR. BARNETTE: Thirty-six, Your Honor, is the last
20 one.

21 MR. THOMPSON: No objection.

22 THE COURT: They are admitted.

23 (Photographs marked State's Exhibits Nos. 24 through
24 36.)

25 MR. BARNETTE: May I publish them to the jury at this

James Coby Stepp
Direct examination by Mr. Barnette

1 time?

2 THE COURT: You may.

3 Q Let me show you State's 36. Was this a picture of the
4 back of the car that you processed that night or that
5 morning?

6 A Yes, sir, yeah.

7 Q State's Exhibit 35. Is that a picture of the driver's
8 side of the vehicle?

9 A Yes, sir.

10 Q Let me show you State's Exhibit 33. And tell us what
11 that is a picture of, sir.

12 A That's the picture of the passenger side to the
13 vehicle, and that is the entrance of the projectile into
14 the vehicle.

15 Q Let me let you use that real quick. I think the jury
16 can see it, but make sure you can identify where the bullet
17 went in.

18 A On the lower passenger-side door exterior.

19 Q Let me show you State's Exhibit 34. Is this just a
20 closeup picture of the bullet hole in that door?

21 A Yes, sir.

22 Q Showing you State's Exhibit 32. Is that just a
23 measurement of the bullet at the time?

24 A Yes, sir, photographed to scale.

25 Q Let me show you State's Exhibit 31. If you would,

James Coby Stepp
Direct examination by Mr. Barnette

1 tell the jury what that is, sir.

2 A That's the interior door panel, left side, where the
3 projectile came from the exterior and came inside the
4 vehicle through the interior door panel.

5 Q Let me show you State's Exhibit 24. Is that just a
6 view from a farther distance of the same place?

7 A Yes, photographed to scale, yes, sir.

8 Q Let me show you State's Exhibit 25. If you would,
9 describe to jury what they're looking at here, sir.

10 A I run a trajectory rod from the exterior of the
11 passenger-side door. As you can see, it comes through the
12 interior panel or the passenger side, also through the
13 exterior -- interior of the cushion, and also goes all the
14 way across into the other side of the passenger-side-seat
15 cushion in that particular picture.

16 Q Showing you State's Exhibit 30. If you would, tell us
17 what that is, sir.

18 A Appears to be the fragment under the console.

19 Q Okay.

20 A That was removed.

21 Q Okay. And State's Exhibit 27. That's just a picture
22 about the rod in the trajectory, is that right?

23 A Yes, sir.

24 Q Okay. Showing you State's Exhibit 26. What is that,
25 sir?

James Coby Stepp
Direct examination by Mr. Barnette

1 A That's where the projectile fragment came to rest
2 underneath the center console that had been removed so I
3 could retrieve it as evidence.

4 Q So you removed the center console and found the
5 projectile.

6 A Yes, sir, because once it exited through the part of
7 the passenger-seat cushion going towards the driver's side
8 it penetrated the plastic, and there was no exit through
9 the other side of the console on the driver's side. That's
10 why the console was removed, in an attempt to see if the
11 projectile was under there.

12 Q And State's Exhibit 29 is just another picture of that
13 area?

14 A Yes, sir.

15 Q State's Exhibit 28. Is that just another picture of
16 it too from a different angle?

17 A Yes, sir. Closer up.

18 Q Going back to State's Exhibit 25. Did you go to the
19 hospital later that evening or that morning, I guess?

20 A Yes, later that morning after I cleared the scene
21 there, yes, sir.

22 Q Did you see Bonnie or did you get the clothes of
23 Bonnie Raines, the victim, the person that was actually
24 shot that night?

25 A Yes, I did collect the clothing.

James Coby Stepp
Direct examination by Mr. Barnette

1 Q And did you find out that she had been shot in the
2 back?

3 A They said it was the lower area. They didn't really
4 give me the details precise. They said lower extremity
5 area. She was already in trauma surgery at the time I got
6 on the scene.

7 Q So this bullet -- the fragment actually went through
8 her and obviously went in the center console.

9 A Yes, sir.

10 Q And this location's in Spartanburg County.

11 A This location is in Spartanburg County.

12 Q Do you know when the initial call went out? I know
13 when you were called, but do you know when the initial call
14 went out to the deputies?

15 A A little before 2:00 in the morning, maybe 1:55,
16 1:50-ish, that timeframe.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Pause.)

19 Q Let me show you what's been marked as State's Exhibit
20 No. 2. Is this the actual fragment you collected?

21 A Yes, sir. That's the fragment.

22 Q And that was a picture we saw that was found under the
23 center console.

24 A That is its picture, yes, sir, of that.

25 Q Was this placed into evidence?

James Coby Stepp
Cross-examination by Mr. Thompson

1 A Yes, it was secured into evidence at the sheriff's
2 office.

3 MR. BARNETTE: Your Honor, I'd like to enter State's
4 Exhibit No. 2 into evidence at this time.

5 MR. THOMPSON: No objection, Your Honor.

6 THE COURT: It's admitted.

7 (Fired bullet fragments marked State's Exhibit No. 2.)

8 Q Later on was this sent to SLED for analysis?

9 A Yes, sir, later on that was sent to SLED for analysis.

10 Q If you would, please, answer any questions
11 Mr. Thompson may have for you.

12 A Yes, sir.

13 MR. THOMPSON: May it please the Court.

14 THE COURT: Mr. Thompson.

15 CROSS-EXAMINATION

16 BY MR. THOMPSON

17 Q Officer Stepp, are you an old Fairforest boy?

18 A No, sir.

19 Q You're not. All right. That -- that entry right
20 there on the gun --

21 A Yes, sir.

22 Q -- I mean, on the seat through the door, that was a --
23 that automobile is a Mazda Miata, right?

24 A Yes, sir, 2-seater.

25 Q And when you were called to the scene had that car

James Coby Stepp
Cross-examination by Mr. Thompson

1 moved?

2 A Had it moved?

3 Q To your knowledge.

4 A No. It was in the parking lot when I got there on the
5 parking spot.

6 Q Okay. And -- and when it's in the parking lot --

7 A Yes, sir.

8 Q -- would it -- would you say it was -- looked like
9 there's an ice machine in front of it?

10 A Yes, sir. There's stuff down there in front of it, in
11 front of the building as well.

12 Q So, and that's where I'm going with it. Is the -- is
13 the automobile in front of the building and the ice
14 machine, or is the ice machine out away from the building?
15 Do you recall? I'll try to pull it up.

16 A Yes, sir.

17 Q Right there. That's the ice machine, correct?

18 A Yes, sir.

19 Q And the car appears to be parked in front of the ice
20 machine?

21 A Yes, sir.

22 Q And that ice machine, now, is this the store front
23 here?

24 A That's toward the corner, yes, sir.

25 Q The corner of it.

James Coby Stepp
Cross-examination by Mr. Thompson

1 A Uh-huh.

2 Q Okay. So, they're not at the gas pump or anything,
3 right?

4 A No, sir.

5 Q Okay. They are parked in front of the store.

6 A Front of the store, correct.

7 Q And, now, the Mazda Miata -- I'm talking about a
8 pretty small car, right?

9 A Yes, sir. It's a real small vehicle.

10 Q Right. Okay. A 2-seater, I think you said.

11 A Yes, sir.

12 Q If you were to be --

13 A No back door or anything like that.

14 Q Right. Okay. No back. And then if that -- if you
15 were to speculate as to is this the door panel here --

16 MR. BARNETTE: Objection, Your Honor. He's asking him
17 to speculate again.

18 MR. THOMPSON: I'm asking -- okay. I'll rephrase it.

19 THE COURT: Okay.

20 Q Comparatively speaking, if that -- that entry into the
21 passenger-side door, how far up would it be from the
22 ground?

23 A It was in the -- if that -- which that's the driver's
24 side. The entry point was on the other side.

25 Q Right. I'm just trying to get an idea.

James Coby Stepp
Cross-examination by Mr. Thompson

- 1 A It would be on the lower left.
- 2 Q The lower left. And about how many inches off the
3 ground? Did you make a measurement of that?
- 4 A No, sir, I didn't make a measurement of how many
5 inches off the ground.
- 6 Q But these are bucket seats in that car, correct?
- 7 A Yes, sir. Two bucket seats and a center console.
- 8 Q And then they sit fairly low to the ground. Would
9 that be a good identification of the car?
- 10 A Yes, sir. The car sets low to the ground.
- 11 Q Okay. And how many inches from the ground would you
12 say the entry was if you were --
- 13 A Probably 14 to 16 inches, I guess, from the ground.
- 14 Q Now, when you had that projectile -- let me find it.
15 That's a high-powered rifle, and that is straight ahead,
16 right? That's straight through the seat there, right?
- 17 A Yes, sir. That's taken from the passenger side
18 looking inside following it through actually the seat
19 cushion into the center console.
- 20 Q Okay. You say that's about 14 to 16 inches.
- 21 A Approximately. I'm not really exactly sure to be
22 honest with you, sir.
- 23 Q Okay. So it would be -- well, I mean, you're not a --
24 you're not a gunshot expert, so I won't ask that question.
- 25 A No, sir.

James Coby Stepp
Cross-examination by Mr. Thompson

1 Q So that's fairly straight across, and that's where it
2 hit the victim.

3 MR. BARNETTE: Your Honor, I'm going to object. If he
4 wants to ask a question, he can. If he wants to testify,
5 he can. But he needs to ask a question.

6 THE COURT: He's not going to be able to testify
7 because he's a lawyer in the case.

8 But you'll need to ask -- put it in the form of a
9 question.

10 MR. THOMPSON: Yes, Your Honor. I may be done. Let
11 me check.

12 Q And you may not can answer this. Do you recall if any
13 part of the car was past the building? It appeared not to
14 be. But do you recall?

15 A I do not specifically recall. I do recall that it was
16 on the right hand -- facing the building, the car was on
17 the right-hand side, toward the right.

18 Q So if I'm pulling in --

19 A Facing.

20 Q Right. Coming off the Asheville Highway it's over
21 here to the parking area.

22 A Yes, sir.

23 Q Okay.

24 MR. THOMPSON: I have no further questions.

25 MR. BANNISTER: Just one on redirect, Your Honor.

James Coby Stepp
Redirect examination by Mr. Barnette

1 REDIRECT EXAMINATION

2 BY MR. BARNETTE

3 Q Investigation Stepp --

4 A Yes, sir.

5 Q -- I know you've got the pointer there, so I'll just
6 use this here.

7 This area here, that's the corner right there, is that
8 right?

9 A That's correct, of the building.

10 Q And the field is actually on that side, right?

11 A Yes, sir. The field is back over there.

12 Q So that's open. The passenger-side door is open to
13 the field.

14 A The passenger-side door was facing that area or that
15 general vicinity, yes, sir.

16 Q And the corner was where you pointed it out, right?

17 A There is the corner of the building.

18 Q And the field is in what direction?

19 A And the field is back right in this area.

20 Q Thank you, sir.

21 THE COURT: You may step down.

22 MR. BARNETTE: We ask the witness be excused, Your
23 Honor.

24 MR. THOMPSON: No objection.

25 THE COURT: He may be.

Robert Charles Talanges
Direct examination by Mr. Barnette

1 (Whereupon, the witness was excused.)

2 MR. BARNETTE: I would like to call Investigator
3 Talanges to the stand, please.

4 ROBERT CHARLES TALANGES,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q If you would, sir, state your full name for the
8 record.

9 A Robert Charles Talanges.

10 Q And where do you work at, sir?

11 A Spartanburg -- Spartanburg Sheriff's Office.

12 Q And what is your position there, sir?

13 A I work in the forensics, I.D. department.

14 Q And how long have you been in law enforcement, sir?

15 A Twenty-three years and some months.

16 Q Back on July 2nd of 2012 was you on duty, the first
17 shift, that morning?

18 A Yes, sir.

19 Q Did you get a call about a location near the Ingles,
20 A.B.C. store?

21 A Yes, I did.

22 Q And at that location what did you find, sir?

23 A There were two locations. It was 84 -- 8646 and 8644,
24 two businesses. One was a vacant; one was an A.B.C. store.
25 They both were struck by bullet -- by -- the windows were

Robert Charles Talanges
Direct examination by Mr. Barnette

1 struck by a bullet.

2 Q Let me show you State's Exhibit 37 through State's
3 Exhibit 46. Do those pictures fairly represent what you
4 saw that day?

5 A Yes, they do.

6 MR. BARNETTE: Your Honor, I would ask to enter these
7 into evidence at this time.

8 MR. THOMPSON: No objection.

9 THE COURT: What are those numbers?

10 MR. BARNETTE: Nos. 37 through 46, Your Honor.

11 THE COURT: They are admitted.

12 (Photographs marked State's Exhibits Nos. 37 through
13 46.)

14 MR. BARNETTE: May I publish them to the jury, Your
15 Honor?

16 THE COURT: You may.

17 Q Let me show you State's Exhibit 46. If you would,
18 describe what this picture shows if you would, sir.

19 A That's the Ingles shopping plaza with the -- of course
20 the Famous Pizza and the A.B.C. store and the vacant
21 business. It would be if you were facing Ingles, it'd be
22 to the right side.

23 Q And is that across from the field where the shooting
24 occurred?

25 A Yes, it is.

Robert Charles Talanges
Direct examination by Mr. Barnette

1 Q And is there pumps in between the A.B.C. store -- the
2 Ingles pumps in between those areas, between the field --

3 A Yes, they are.

4 Q -- and the A.B.C. store?

5 A That is correct. But they're I guess to the left
6 area, but, yeah, towards the front.

7 Q And had you received -- of course you had heard
8 about -- you -- this is the next morning when it was
9 daylight.

10 A Correct.

11 Q And did the owner call this in?

12 A Yes, they did.

13 Q And had you received information about the shooting
14 that had occurred earlier that morning?

15 A I had no knowledge of that, you know, because that was
16 a night-shift deal, and I didn't get to talk to the
17 night-shift crew, but, no, I had no idea.

18 Q But later on they found out this was related to that.

19 A Correct.

20 Q Let me show State's Exhibit No. 45. What was that,
21 sir?

22 A This here is a vacant business here, and you can see
23 to the left here. That's where -- that is a bullet strike
24 to the window right there.

25 Q State's Exhibit 44. Is that just another picture?

Robert Charles Talanges
Direct examination by Mr. Barnette

- 1 A Yes. It's a different angle.
- 2 Q Can you show me -- the bullet strike was?
- 3 A Right here.
- 4 Q Okay. Let me show you State's Exhibit No. -- let me
- 5 show you State's Exhibit 39. Is that a closeup picture
- 6 from inside of that same area, sir?
- 7 A Yes, it is. That's the vacant business.
- 8 Q And show you State's Exhibit 38. Was the picture from
- 9 the outside?
- 10 A Yes, it is.
- 11 Q Okay. The other bullet strike, I'll show you State's
- 12 Exhibit 37. Can you tell the jury what that is, sir?
- 13 A That's the graze to the -- to the concrete from the
- 14 bullet prior to striking. That was in front of the
- 15 vacant-business window before striking the window.
- 16 Q Let me show you State's Exhibit 43. Can you tell the
- 17 jury what this is?
- 18 A There's your vacant business to the left. This is the
- 19 A.B.C. store. This here is an impact mark from a bullet
- 20 which struck the concrete curb, fragmented. And it made
- 21 multiple holes, one being a bullet hole and one being a
- 22 concrete hole into the window.
- 23 Q Show you State's Exhibit No. 40. Can you tell the
- 24 jury what that is, sir?
- 25 A That's the impact mark of the bullet.

Robert Charles Talanges
Direct examination by Mr. Barnette

1 Q State's Exhibit 41. What is that, sir?

2 A That there is the concrete. When the bullet struck
3 the curbing it fragmented breaking the concrete off. And I
4 think that's the concrete through the -- the glass window.

5 Q And State's Exhibit 42.

6 A Right here again.

7 Q Is that -- is that another impact?

8 A That's another impact area, that's correct.

9 Q And that was from where it hit the sidewalk, I guess.

10 A Correct.

11 Q It went up and hit the -- and that's the A.B.C. store?

12 A Yes, that is the A.B.C. store window.

13 Q And, like I said, this is across from the field where
14 the shooting occurred.

15 A That's correct. It is.

16 MR. BARNETTE: One moment, Your Honor, please.

17 (Pause.)

18 Q There's a reflection in this window, isn't there, sir?

19 A Most of the photos you had had reflections, and you
20 can see that.

21 Q Okay. And what can you see in the reflection?

22 A That's going to be the gas station, as well as the
23 wooded area and the --

24 Q Race Way?

25 A -- Race Way gas station, that's correct. It's all up

Robert Charles Talanges
Cross-examination by Mr. Thompson

1 in the back.

2 Q So you can see the reflection in the window where the
3 bullet strikes were.

4 A Yes, sir.

5 Q And you can see that in the different pictures. I
6 guess you see it the best on a map picture, but you can see
7 it with the different pictures. But that one, you can see
8 there to know what you're talking about.

9 A Yes, sir.

10 Q Okay.

11 MR. BARNETTE: One moment, Your Honor, please.

12 (Pause.)

13 Q Please answer any questions Mr. Thompson may have for
14 you, sir.

15 MR. THOMPSON: May it please the Court.

16 THE COURT: Mr. Thompson.

17 CROSS-EXAMINATION

18 BY MR. THOMPSON

19 Q Officer, you say you were out there the next day?

20 A Yeah. The next morning we received a phone call, yes.

21 Q Okay. What day was that?

22 A From our reports on the 2nd.

23 Q Okay. 7/2/12?

24 A Yes, 7/2/12, that's correct.

25 Q Okay. And then the A.B.C. store and the other store

Robert Charles Talanges
Cross-examination by Mr. Thompson

1 to the -- if I'm facing it to the -- left was vacant,
2 correct?

3 A If you're facing Ingles it'd be to the right.

4 Q To the right. So this is -- is this the vacant store
5 that was hit?

6 A That's the vacant store, that's correct.

7 Q Okay. But if I'm standing in front of Ingles it's to
8 my left, right. If I'm facing Ingles.

9 A If you're facing Ingles it's going to be to the right,
10 because the end of the businesses is next to the Famous
11 Pizza. That would make if you look at Famous Pizza, that'd
12 be the last business there. Everything -- the Ingles is to
13 the left of that, to the left of Famous Pizza.

14 Q Right. I'm asking the vacant store is to the left of
15 the liquor store, correct?

16 A Correct.

17 Q Okay. And how much window frontage would you estimate
18 that A.B.C. store has?

19 A Approximately about 4 feet wide -- 16, 24, maybe --
20 maybe 30 feet of window frontage including the door.

21 Q Okay. And the other would be close to that probably,
22 you think, the vacant store.

23 Okay. How close were the -- the entry marks to these
24 gunshots? Is it one -- how close is the gunshot from
25 the -- that hit the vacant store to the one that hit the

Robert Charles Talanges
Cross-examination by Mr. Thompson

1 liquor store? Estimation.

2 A well, this one here is the one that was struck, so
3 it's probably 4 feet here. You're looking at maybe another
4 4 feet across -- 12 feet -- maybe 15 feet.

5 Q And -- and how many gunshots would you estimate hit
6 those buildings?

7 A What I found was two.

8 Q Okay. You did find fragments?

9 A You've got one at a vacant business where you've got
10 the -- the bullet show of where the bullet actually grazed
11 the concrete and actually deflected up into the window at
12 the base. Then you have the A.B.C. store where you have
13 the impact point, impacted to the curb, which fragmented
14 causing damage lower here, which is from the concrete, as
15 well as the bullet strike a little bit higher up.

16 Q Okay. So you -- in your opinion there were two shots.

17 A Correct.

18 Q Okay. And both connected with pavement prior to
19 hitting the glass.

20 A That's correct. They were both long shots.

21 Q Okay. And do you recall if any fragments were found?

22 A Yes. I did find a copper fragment.

23 Q Okay. In the A.B.C. store or the vacant store?

24 A Towards the vacant store it was found.

25 Q Okay and all right. And what time of the morning was

Brandon Howard
Direct examination by Mr. Barnette

1 this when you investigated?

2 A I -- I don't have it in my report, but it was roughly
3 9:00 o'clock-ish.

4 MR. THOMPSON: I have no further questions.

5 MR. BARNETTE: No further questions of this witness,
6 Your Honor. We'd ask he be excused.

7 THE COURT: You may step down.

8 (Whereupon, the witness was excused.)

9 MR. BARNETTE: I would like to call Brandon Howard to
10 the stand.

11 BRANDON HOWARD, having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BARNETTE

14 Q If you would, sir, please state your name for the
15 record.

16 A Brandon Howard.

17 Q And, Mr. Howard, where do you work at now?

18 A At Spartanburg Regional Hospital.

19 Q And what's your position there, sir?

20 A I'm a security officer.

21 Q And prior to that where did you work at, sir?

22 A Prior to that I went to B.M.W. But before that I was
23 at the Spartanburg County Sheriff's Office.

24 Q And how long was you with the sheriff's department,
25 sir?

Brandon Howard
Direct examination by Mr. Barnette

1 A From roughly May of 2009 to July or August of 2012.

2 Q And was you working in the sheriff's department back
3 in July of 2012?

4 A Yes.

5 Q And did you receive information to go search in a
6 field --

7 A I did.

8 Q -- near the Race Way involving a shooting?

9 A I did.

10 Q And let me show you what's been marked as State's
11 Exhibit No. 19. I believe this is a good -- I've already
12 shared this with the defense. Is that a map of the area,
13 sir?

14 A It is.

15 MR. BARNETTE: Your Honor, I'd like enter this into
16 evidence as State's Exhibit No. 19.

17 MR. THOMPSON: No objection.

18 (Map marked State's Exhibit No. 19.)

19 MR. BARNETTE: May I publish it to the jury, Your
20 Honor?

21 THE COURT: You may.

22 Q Can you see the map there?

23 A Yeah, vaguely.

24 Q I'm trying to make it work.

25 THE COURT: Be careful of the microphone, please.

Brandon Howard
Direct examination by Mr. Barnette

1 Q I think that's a little bit clearer where we're at
2 here. I believe you had the pointer. No. I have the
3 pointer here.

4 This is Asheville Highway, is that correct?

5 A That's what it says.

6 Q Okay. Are you familiar with where North Spartanburg
7 church is?

8 A Yes, sir.

9 Q Does this appear where the church is at?

10 A It looks like it.

11 Q And right here does this appear to be the Race Way?

12 A It does with -- looks like the Ingles shopping center
13 across the street there.

14 Q Yes, sir. That was just -- we were -- the last
15 witness spoke about, sir, that area?

16 A Yes, sir.

17 Q And was this the field area that you looked in?

18 A It is.

19 Q And what day did you go look in that field, sir?

20 A It would have been on July the 19th.

21 Q So you received information later after all of this
22 happened.

23 A Right.

24 Q And did you go to the field?

25 A I did. I met with investigators over at the old

Brandon Howard
Direct examination by Mr. Barnette

1 abandoned building on the opposite side of the field from
2 the Race Way.

3 Q I'll let you point out where you went if you can show
4 the jury.

5 THE COURT: Be careful of the microphone please. You
6 can move it.

7 A This would be the building right here that we met at,
8 and this is the field that was searched, this little area
9 through here.

10 Q Okay. And did y'all take pictures of that area?

11 A Yes, sir.

12 Q A few of these exhibits are already into evidence. I
13 think it's going to be easier to do it this way.

14 If you would, look at State's Exhibit 47 through
15 State's Exhibit 76, and take a look and see if those are
16 pictures that you took and those pictures fairly describe
17 what you saw.

18 A Yes, sir. These appear to be photographs that I took.

19 MR. BARNETTE: Your Honor, I'd like to enter these
20 into evidence at this time. It'd be State's Exhibit --
21 some of these are already in evidence. I just did them
22 since they're all in order. State's Exhibit 47 through
23 State's Exhibit 76.

24 MR. THOMPSON: No objection.

25 THE COURT: They're admitted.

Brandon Howard
Direct examination by Mr. Barnette

1 (Photographs marked State's Exhibits Nos. 51 through
2 76.)

3 MR. BARNETTE: May I publish them at this time, Your
4 Honor?

5 THE COURT: You may.

6 Q Let me show you State's Exhibit 48. If you would,
7 describe to the jury what you're seeing here, sir, or what
8 they're seeing.

9 A This is an aerial view. Down at the bottom right
10 corner here is the Race Way.

11 Q Okay.

12 A Right here is the Race Way. This is the field between
13 the Race Way and the abandoned building or the vacant
14 building. And back here is kind of a -- a muddy dirt area
15 that is I guess kind of not really a valley, but it's kind
16 of a dugout area that we collected several items of
17 evidence back there.

18 Q Okay. And several of those items, what were several
19 of the items that you collected, sir?

20 A In this area, the dugout, kinda dirt area, we
21 collected multiple fired cartridge casings, some ammunition
22 boxes and little shell holders. And up in the upper part
23 of the field area we also -- or I also collected fired
24 shell casing.

25 Q Let me show you State's Exhibit 53. I believe this is

Brandon Howard
Direct examination by Mr. Barnette

1 y'all's Exhibit 2. Is that the shell casing you found in
2 the dugout area, sir?

3 A Yes. Two would have been from the dirt dugout area.

4 Q State's Exhibit 52, which is actually sheriff's
5 department's item No. 3.

6 A Same.

7 Q So that's from that dugout area too, is that right?

8 A Right.

9 Q And State's Exhibit 54, No. 4, what is that, sir?

10 A Four is a -- it's a cartridge holder like a deal that
11 the fired -- or nonfired bullets go down there, wherever
12 you buy them from the store. That's what they're in.

13 Q State's Exhibit 55. Is this a picture of some of the
14 areas you found shell casings and items in the dugout area?

15 A Yes, sir.

16 Q State's Exhibit 56. Is this another part of the
17 dugout area where you saw items in there?

18 A Yes, sir.

19 Q And y'all marked these items.

20 A Yes, sir.

21 Q State's Exhibit 57. I see there's a No. 17 there.
22 Item was found there?

23 A Yes, sir.

24 Q State's Exhibit 59. Where was the area where you
25 found most of the shell casings at?

Brandon Howard
Direct examination by Mr. Barnette

1 A In the brown dirt area there.

2 Q Like a circular dirt area or something.

3 A Point. In this area right through here.

4 Q Okay. This is State's Exhibit 64. It shows items 13,
5 14 and 15. What are those items, sir?

6 A Thirteen, 14 and 15 were all fired cartridge cases.

7 Q What kind of cartridge cases were they, sir? What did
8 they appear to be?

9 A They appeared to be rifle cases. According to my
10 report they were 270.

11 Q And you collected all of those shell casings, is that
12 correct?

13 A Yes, sir.

14 Q And did you place those into evidence?

15 A I did.

16 Q State's Exhibit 14. Can you tell the jury what that
17 is?

18 A Fourteen is a fired cartridge casing.

19 Q And State's Exhibit 66. Can you tell the jury what
20 that is?

21 A It is also a fired cartridge casing.

22 Q State's Exhibit 67. Can you tell us what that is,
23 sir?

24 A Fired cartridge casing.

25 Q State's Exhibit 68. What is that, sir?

Brandon Howard
Direct examination by Mr. Barnette

- 1 A It is also a shell holder.
- 2 Q Okay. State's Exhibit 69, I believe sheriff's
- 3 department item six. What is that, sir?
- 4 A Fired cartridge casing.
- 5 Q State's Exhibit 70. What is that, sir?
- 6 A It's an ammunition box.
- 7 Q And State's Exhibit 71. What is that, sir?
- 8 A It's a cartridge holder, shell holder.
- 9 Q Let me show you State's Exhibit 72. And then 73 is a
- 10 closeup of item number ten from the sheriff's department.
- 11 What is that, sir?
- 12 A It's just an ammunition box.
- 13 Q And this was all in the dugout area, is that right?
- 14 A Correct.
- 15 Q State's Exhibit 12. Tell us what that is, sir. Or
- 16 State's Exhibit 74. It's item 12.
- 17 A It's a fired cartridge casing.
- 18 Q State's Exhibit 75, sheriff's department No. 11. What
- 19 is that, sir?
- 20 A It's a fired cartridge casing.
- 21 Q Okay. And State's Exhibit No. 76. What is that, sir?
- 22 A Fired cartridge casing.
- 23 MR. BARNETTE: Apologize for one second, Your Honor.
- 24 (Pause.)
- 25 Q Let me show you State's Exhibit 51. What did you find

Brandon Howard
Direct examination by Mr. Barnette

1 at this spot right here, sir?

2 A I'm having difficulty seeing what that is. I believe
3 that's No. 1. Is that what it's marked as?

4 Q I think so, sir. Shell casing.

5 A No. 1 was a fired shell casing --

6 Q Yes, sir.

7 A -- or a fired cartridge casing.

8 Q And it was found right there?

9 A Yes, sir.

10 Q And State's Exhibit 50. That was a trespassing sign?

11 A A private property sign, I believe.

12 Q And was that right on the edge of the dugout area
13 going on like a little --

14 A Yeah. It was kind of at the -- if you were in the
15 dugout area, it would be more up on top of the hill toward
16 the larger field.

17 Q And did there appear to be a shot that was shot
18 through that, sir?

19 A There was -- there is some damage there, and I don't
20 recall if it was actually a shot or not at this time. But
21 there is damage to the sign.

22 Q Okay. And you took a picture of a shell casing right
23 below that sign.

24 A Right.

25 Q Show you State's Exhibit 47. Did you find two more

Brandon Howard
Direct examination by Mr. Barnette

1 shell casings up in that field?

2 A Yes. Two more were collected from the field up there.

3 Q And approximately where were they collected at?

4 A Right here in that area. There's a detective --
5 somewhere in that general vicinity.

6 Q Okay. And did you take two pictures of the shell
7 casings you collected?

8 A Yes, sir.

9 Q And that's No. -- State's Exhibit 62. Is that one of
10 the shell -- well, I guess there's two.

11 A That would have been both of the shell casings, 18 --
12 or sheriff's office 18 and 19.

13 Q And State's Exhibit 60. Is that a closer picture or a
14 location where they are?

15 A Yes, sir.

16 Q State's Exhibit No. 18. Is that a picture of the
17 shell casings at that spot?

18 A Yes, sir.

19 Q And State's Exhibit 61. Is that a shell casing -- I
20 mean, sheriff's department No. 19.

21 A Yes.

22 Q And did you collect all of these shell casings, sir?

23 A Yes, sir.

24 Q If you would, take a look at these, sir. I've got
25 your actual envelope that they came in. Did these shell

Brandon Howard
Direct examination by Mr. Barnette

1 casings go in these envelopes, sir?

2 A Yes, sir.

3 Q And was they placed into evidence?

4 A They were.

5 Q And let me show you this list right here. Y'all had
6 the items marked as a certain item, is that correct?

7 A Correct.

8 Q And SLED actually -- when they're sent down there SLED
9 gives them a different number.

10 A Okay.

11 Q And so the numbers on this list will match up to the
12 bullets with the SLED numbers, is that right?

13 A Yes.

14 MR. BARNETTE: Your Honor, I'd like to enter these
15 into evidence at this time. And they're marked
16 individually, but they're in a packet together. They were
17 all collected by this witness.

18 MR. THOMPSON: No objection.

19 Q And all of these was placed into evidence.

20 A By the sheriff's office.

21 THE COURT: Those are 3 through 14?

22 MR. BARNETTE: It's actually 1 through 14. Two's
23 already in evidence, Your Honor. So it's 1 through 14.

24 THE COURT: They're admitted.

25 (Cartridge case marked State's Exhibit No. 1; cartridge

Brandon Howard
Direct examination by Mr. Barnette

1 cases marked State's Exhibits Nos. 3 through 14.)

2 Q And let me ask you here. State's Exhibits 13 and 14
3 was actually the two shell casings that was found up in the
4 field.

5 A Nos. 18 and 19, correct.

6 Q Eighteen for y'all, but it's actually marked as 13 and
7 14 for the SLED people, is that right?

8 A Okay. Yes, sir.

9 Q Okay. And these were the bullets that were found at
10 the different locations?

11 A Yes, sir, the fired cartridge casings, yes, sir.

12 MR. BARNETTE: Your Honor, I would like to enter --
13 help the jury out -- enter the first part of this list so
14 they can match up the numbers with the placards with these
15 actual case numbers or items numbers if I can show that to
16 Mr. Thompson. He has got a copy of it.

17 MR. THOMPSON: No objection.

18 THE COURT: It's admitted.

19 (Page of exhibit list marked State's Exhibit No. 100.)

20 MR. BARNETTE: May I publish it to the jury, Your
21 Honor?

22 THE COURT: You may.

23 Q What I was describing here just to make sure the
24 jury -- this will help the jury out -- State's Exhibit
25 No. 1 is actually -- is item No. 1 at your placard that you

Brandon Howard
Direct examination by Mr. Barnette

1 found.

2 A Yes.

3 Q Is that correct? And like No. 3, which would be this
4 item right here, No. 3, would actually be the No. 2 placard
5 where you collected the item from.

6 A Correct.

7 Q And so forth they go down through all of those. And
8 13 and 14 -- 13 and 14 were sheriff's department's items 18
9 and 19 that was found up in the field.

10 A Yes.

11 Q Where you collected the bullets at could you see the
12 Race Way down in the parking lot?

13 A From which --

14 Q From where you found the two shell casings.

15 A It's been awhile back. If I can recall correctly, you
16 could see parts of the Race Way and the Ingles across the
17 street.

18 Q And you could see the parking lot at the corner there
19 and everything from that area, is that right?

20 A I can't really remember exactly how much of it you
21 could see.

22 Q But you could see both of them there.

23 A Yeah. If I can recall, you could be able to see both
24 stores.

25 Q And showing you State's Exhibit 49. From this

Brandon Howard
Direct examination by Mr. Barnette

1 location you could see the pumps at the Ingles, as well as
2 the Race Way, is that right, the parking lot?

3 A That's correct, yes.

4 Q And that's the location around near where the shell
5 casings were found?

6 A I'm not a hundred percent on that, but it is the
7 location probably pretty close to it in that upper field.

8 Q So you could see both and obviously shoot from that
9 area and shoot to these areas.

10 A Yes.

11 MR. BARNETTE: One moment, Your Honor, please.

12 (Pause.)

13 Q Just for clarification, on State's Exhibit 100 there's
14 a list of the type ammunition each case was like a .270 or
15 a 30-06. The type of cartridges is listed on -- the
16 cartridge types are listed on the exhibits, is that right?
17 Like you have -- No. 1 is a .270 fired cartridge case.

18 A Right.

19 Q And then a 30-06 cartridge case was like No. 4.

20 A Uh-huh.

21 Q So you collected these items, and these are the items
22 that you put into evidence.

23 A Right.

24 Q Thank you sir. Please answer any questions
25 Mr. Thompson may have for you.

Brandon Howard
Cross-examination by Mr. Thompson

1 MR. THOMPSON: May it please the Court.

2 CROSS-EXAMINATION

3 BY MR. THOMPSON

4 Q Officer Howard, I'm going to get you to clarify a
5 little bit on this photograph here.

6 Now, this item on the ground here, is that a marker or
7 something?

8 A It -- it appears to possibly be maybe evidence bags.
9 It doesn't appear to be the markers. I don't see -- I see
10 the numbers on them -- on it.

11 Q And I apologize. This is repeating. But is that
12 where you say those two --

13 A I'm not a hundred percent sure if that -- that
14 particular photograph was taken exactly where those two
15 were -- those two particular cartridge cases were picked
16 up, but it would have been in the general area on the upper
17 part of the field there.

18 Q In that area there?

19 A Where that particular photograph was taken was in the
20 upper field, but I'm not sure if it was standing directly
21 over the shell casings or not.

22 Q And you indicated the dugout area contained most of
23 the casings you found, correct?

24 A Yes, sir.

25 Q And on that from those casings you can't determine

Brandon Howard
Cross-examination by Mr. Thompson

1 which direction the -- the shooting was done.

2 A No, sir, no.

3 MR. THOMPSON: Beg the Court's indulgence.

4 (Pause.)

5 Q Now, this photograph here, that is an officer standing
6 in the field, correct?

7 A Yes, sir.

8 Q Okay. Now, what was the testimony about his being
9 there?

10 A His position is in the relative area that I think if I
11 recall correctly we had him stand down there to kind of
12 show where we picked up the shell casings from. So he's in
13 the general area of where the shell casings -- those -- the
14 last two, sheriff's office 18 and 19, I believe it is, was
15 picked up.

16 Q So you'd agree with me that that's not the same then.
17 Is it? If he's --

18 A It's hard to tell. That photo looks like it may be
19 back a little bit from where he was at just trying to
20 compare the two.

21 Q Now, did you go out there and search by yourself, or
22 someone else?

23 A No. There were other detectives out there. I believe
24 it was Richey Foster was out there, and possibly Tommy
25 Clark.

Brandon Howard
Cross-examination by Mr. Thompson

1 Q Now, how long were you out there -- hours?

2 A I would -- just based on my report, I would say a
3 couple of hours.

4 Q I'm going to put this one back up there. This one is
5 tough to see. I apologize. But that one here -- and see
6 if I can get my bearings and find out where I am at.

7 Asheville Highway. Now, that's the way -- I mean, that's
8 really spread out. You know, and the point I'm getting at
9 is you -- you saw the sign there, no-trespassing sign that
10 was shot.

11 A Right.

12 Q Do you -- have you ever played football?

13 A Yes, sir.

14 Q Okay. You would agree with me that that sign right
15 there is between what we call a dugout area and the field
16 where the officer had his picture made, right?

17 A Yes, sir.

18 Q You would agree with me that dugout area is probably
19 400 yards from Asheville Highway approximately?

20 A I'm not very good with distances, so I'm not sure, but
21 it is a little distance from the Asheville Highway.

22 Q Okay. And, now, the solicitor asked you about the
23 ability to see the Race Way and to see the Ingles. Now,
24 you said you could see them. Now, was that from this area
25 here or from the dugout area?

Brandon Howard
Cross-examination by Mr. Thompson

1 A From this area here I can see the Race Way on the
2 right hand of Ingles almost directly ahead.

3 Q Okay. But there's no way you could see the dugout.
4 And the dugout -- could you see either one of them?

5 A I -- I don't recall without looking back at the
6 photographs.

7 Q And the officer where he's standing in that
8 photograph -- let's -- if you were there a couple of hours
9 where would -- how close were you to the no-trespassing
10 sign when you arrived there?

11 A I -- I'm not sure because I'm not -- I don't recall
12 exactly where -- location that particular photograph was
13 taken.

14 Q Okay. And here we've got -- in that photograph there
15 you -- you can't -- the Winn-Dixie is not even in that one,
16 right?

17 A No, sir.

18 Q Okay. And the dugout's not in there.

19 A No, sir.

20 Q And the no-trespassing sign is not in that one either,
21 right?

22 A No. I don't see one.

23 Q Okay. And is that where he is standing, is that
24 exactly where two casings were found?

25 A I'm not sure if it's exactly, if he's standing -- I'm

Brandon Howard
Cross-examination by Mr. Thompson

1 up in the air at this point taking photographs, but that is
2 that general area where it was taken from.

3 Q All right. And so we found two casings there,
4 correct?

5 A Correct.

6 Q And then the remaining items were found in the
7 dugouts, what we call it, right?

8 A Okay. Yeah.

9 Q Okay. And did you testify the items appeared to be
10 weathered?

11 A I did not testify to that. I think it is in my report
12 that, yeah, that they appeared to be weathered.

13 Q So they had been out there for a while.

14 A It appeared they were -- if I recall correctly, some
15 of the casings were dirty.

16 Q And I've got one last question.

17 Now, I will use this one. Concerning the dugout area
18 where most of these items were found, were most found up --
19 and you'll agree with me that this no trespassing is
20 right -- is kind of up the hill.

21 A I would say.

22 Q Right?

23 A Yeah. It's probably right before you start down into
24 the little dugout area.

25 Q Coming from Asheville Highway --

Brandon Howard
Cross-examination by Mr. Thompson

1 A Right.

2 Q -- you'd go down.

3 A Right.

4 Q Right. Now, so the majority of these casings --
5 there's a little bit of a patch of woods right in the
6 middle of this thing, is it not?

7 A Yes.

8 Q Okay. Were most of those -- I know we found one
9 casing right here behind the sign.

10 A Uh-huh.

11 Q That's this sign in there. Where were the majority of
12 those shell casing found in that dugout area?

13 A If I recall correctly, they're -- the -- the patch of
14 trees you just pointed out, they'd be to the right of it
15 looking at this photograph.

16 Q To the right. And how far away from the
17 no-trespassing sign?

18 A Well, I mean, you've got one very close to it, and
19 then they spread out. And you go on back toward the back
20 of the dugout area there. They were spread out.

21 Q Okay. And your job is to find casings or just
22 anything related to the crime, is that correct?

23 A Yeah. I was there to collect evidence that we could
24 find.

25 Q And then these 14 were everything you found, correct?

Brandon Howard
Redirect examination by Mr. Barnette

1 Do you know? where the boxes and --

2 A I located a total of 18 items --

3 Q Okay.

4 A -- that was -- that were collected.

5 Q Do you recall from the -- and I forget the numbers.

6 The two shell casings that were closer to the Asheville

7 Highway, do you recall if you could hear the traffic from

8 there?

9 A I -- I don't recall.

10 Q You don't recall. That was another -- you were in the
11 helicopter taking pictures, right?

12 A At one point, yes.

13 Q Okay.

14 MR. THOMPSON: No further questions.

15 MR. BANNISTER: Just one question, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. BARNETTE

18 Q You went July 19th. Is that when you went out there?

19 A Yes, sir.

20 Q So there could have been weather in between, obviously

21 July 2nd through July 19th.

22 A Right.

23 Q They could have had rain and whatever. This is a
24 moody area, so obviously it could have rained.

25 A Right.

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 Q Thank you.

2 MR. BARNETTE: That's all the questions I have.

3 THE COURT: You may step down.

4 MR. BARNETTE: We would ask for the witness to be
5 excused, Your Honor.

6 MR. THOMPSON: No objection.

7 THE COURT: He may be.

8 MR. BARNETTE: Your Honor, I would like to call Ira
9 Parnell to the stand.

10 IRA BYRD PARNELL, JR., having
11 been first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q If you would, sir, please state your name for the
14 record.

15 A My name is Ira Byrd Parnell, Jr.

16 Q Where do you work at, sir?

17 A I'm employed by SLED.

18 Q And can you tell the jury what SLED is?

19 A SLED is the South Carolina Law Enforcement Division of
20 the investigative branch of the state police.

21 Q And what do you do there, sir?

22 A I am a forensic firearm and toolmark examiner.

23 Q And how long have you been with SLED, sir?

24 A Forty-one years.

25 Q And how many times have you been qualified as a

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 firearms expert, sir?

2 A Approximately 638.

3 MR. BARNETTE: And, Your Honor, at this time I move
4 that he's qualified in firearm analysis.

5 MR. THOMPSON: No objection, Your Honor.

6 THE COURT: He is so qualified.

7 Q Sir, did you receive some items of evidence from the
8 Spartanburg County Sheriff's Department, sir?

9 A I did.

10 Q And I guess you received it two parts. You
11 actually -- did you receive the two rifles first? And I
12 believe these are -- I'll actually give it all to you here
13 in a little one at a time.

14 Did you examine two rifles at the request by the
15 sheriff's department?

16 A I did.

17 Q And showing you this. I'll let you look at it there.
18 And take a look at that weapon there, sir. I believe it's
19 already into evidence.

20 A I recognize by handwriting with the case number,
21 specimen number and my initials on the outside of the
22 package.

23 I also recognize the rifle contained and marked as
24 State's Exhibit 15 as being one of the firearms that I
25 examined in this case.

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 Q And I believe that's marked as State's Exhibit 15.

2 A Yes, sir.

3 Q If you would take that -- take that gun out of the
4 box, sir. And I believe it's already secured. What kind
5 of weapon is this, sir?

6 A This is a bolt action Remington brand model 710,
7 caliber 30-06, high-powered rifle.

8 Q Is that a bolt action, that weapon?

9 A It is, yes, sir. It's a manually operated firearm.
10 The portion that's operating with the operating handle on
11 it here is called the bolt. And you manually operate it to
12 make it fire.

13 Q How many bullets does that typically hold, that type
14 of weapon?

15 A This one holds five in the magazine and one in the
16 barrel for a total of six when it's fully loaded.

17 Q And when it's -- it's a bolt action, so it's a single
18 shot, is that right? You shoot once and you have to
19 rebolt.

20 A It's technically called a repeater, but, yes, sir, you
21 can fire one at a time.

22 Q Yes, sir. And when you -- when the shells -- how are
23 they ejected out of the gun?

24 A The -- the bolt item here has what we call an
25 extractor. It's a hook device that catches the rim of the

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 fired cartridge case. And as it's manually pulled
2 backwards it strikes the ejector which forces the fired
3 cartridge case out of the ejection port, which is this
4 opening here.

5 Q And did you do an analysis on that weapon, sir?

6 A I did.

7 Q And did you also receive another rifle if I can get
8 that? Or you can let it set there, sir. That's fine.

9 A Yes, sir, I did.

10 Q Let me let you open this box up, sir, if you can.

11 A I also recognize my handwriting with the case number
12 specimen and my initials on it on the outside of this
13 package. Get my arm sharpeners here.

14 Q Yes, sir.

15 A This is marked as State's Exhibit 16. It is also one
16 of the firearms that I examined in connection with this
17 case. It's a lever-action high-powered rifle also.

18 Q And did you do an analysis on that also, sir?

19 A The only thing I did with State's Exhibit 16 was I
20 examined it visually, did a manual-function test and found
21 that it appeared to be in operating order. I did not test
22 fire this firearm.

23 Q Okay. Thank you, sir. Put that back in the box.

24 A Yes, sir.

25 Q This is a 30-30, and that was a 30-06, this weapon

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 here.

2 A Yes, sir. They're both .30 caliber firearms, but they
3 shoot a totally different cartridge.

4 Q Did you receive several shell casings, I believe, as
5 well as a bullet fragment that you did analysis on, sir?

6 A Yes, sir, I did.

7 Q Let me show you State's Exhibits 1 through 14, and I
8 will get you No. 2 also.

9 A Yes, sir. State's Exhibits 1 through 14.

10 Q And I believe it's State's Exhibit 2. We actually had
11 to take it out because a different person collected it.

12 A Yes, sir. They all bear my case number, specimen
13 number and initials and were examined in connection with
14 this case.

15 Q And did you do analysis of those shell casing, as well
16 as that fragment, to the 30-06 weapon?

17 A Yes, sir, I did.

18 Q And that's the weapon that you have out right now?

19 A That's correct. State's Exhibit 15.

20 Q And did you submit a report on that?

21 A Yes, sir.

22 Q Is this a copy of your report, sir?

23 A Yes, sir, it is. It -- they both bear my signature
24 and are an accurate representation of my examination.

25 MR. BARNETTE: Your Honor, we're going to mark this as

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 State's Exhibit 101 and would like to enter it into
2 evidence at this time.

3 MR. THOMPSON: No objection.

4 THE COURT: It's admitted.

5 (SLED report marked State's Exhibit No. 101.)

6 MR. BARNETTE: Permission to publish it to the jury,
7 Your Honor.

8 THE COURT: You may.

9 BY MR. BARNETTE

10 Q Okay. This is a copy of your report, sir?

11 A Yes, sir.

12 Q And the first item, what was the first item you took a
13 look at, sir?

14 A In actuality, the items contained in State's
15 Exhibits 1 through 14 were in the first case examined.
16 The --

17 Q To that -- let me go back and do that for you, sir.
18 If you would, tell the jury what you did on these
19 items, sir.

20 A I microscopically compared the individual identifying
21 characteristics that were noted on all of the fired
22 cartridge cases on my report in this package here, State's
23 Exhibits 1 through 14 in it .

24 The fired cartridge cases, both 30-06 and .270
25 caliber, were all fired in State's Exhibit 15, this rifle,

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 based on the firing pin impressions.

2 Now, when a firearm is made and the firing pin is
3 manufactured the machining process leaves individual and
4 unique defects on the tip end of that firing pin and in
5 some cases on the area around the firing pin.

6 When firearms -- when a firearm is fired and recoil is
7 experienced -- I don't know how many of y'all have fired a
8 firearm or not -- but when it kicks back, then your
9 shoulder provides a stabilizing force on the firearm.

10 The cartridge case continues to go back and impact the
11 firing pin and breach face areas stamping that particular
12 item with the signature of the individual firing pin that
13 actually caused it to fire.

14 By microscopically comparing the markings that I found
15 on State's Exhibits 1 and then 2 through 14 versus tests
16 which I fired in State's Exhibit 15 I concluded that all of
17 the cartridges cases were fired in one firearm, first of
18 all. And then by comparing those with the tests that I
19 fired I was able to conclude that State's Exhibits 1 and 3
20 through 14 were all fired in State's Exhibit 15.

21 Q So they were definitely fired -- if you would, pull
22 that weapon up. This is a 30-06. They were all fired.
23 All the shell casings came from that gun.

24 A Yes, sir.

25 Q And did you take a look at item two also, sir?

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

1 A I did. Item two is three bullet fragments. Two of
2 them are copper alloy jacketing material and the other is a
3 piece of lead. It's consistent with being a part of the
4 inside of a jacketed bullet or the core.

5 The markings left on the outside of the fragments
6 contained in State's Exhibit 1 -- at least the largest
7 fragment -- State's Exhibit 2 -- excuse me -- were
8 consistent microscopically and individually with markings
9 that I found on the test bullets that I fired through
10 State's Exhibit 15, this rifle.

11 And by microscopically comparing the tests that I
12 fired with the largest fragment in State's Exhibit 2 it was
13 my opinion that that particular fired bullet jacket
14 fragment was, in fact, fired in State's Exhibit 15 and in
15 no other firearm.

16 Q So the bullet actually -- actually the copper bullet
17 jacket came from that weapon.

18 A Yes, sir.

19 Q And it did not come from the 30-30.

20 A No, sir.

21 MR. BARNETTE: Your Honor, one moment, please.

22 (Pause.)

23 Q If you would, that gun has a scope on it, is that
24 correct?

25 A It does.

Ira Byrd Parnell, Jr.
Direct examination by Mr. Barnette

- 1 Q What kind of scope does it have, sir?
- 2 A It's a Bushnell, I believe. It is a Bushnell variable
3 powered three to nine powered telescopic sight.
- 4 Q So that could be used to focus in on a target.
- 5 A It can, yes, sir.
- 6 Q And in order to fire that weapon would you have to
7 probably at a distance -- would you have to look through
8 that scope to be accurate, I guess?
- 9 A Yes, sir, to accurately fire it.
- 10 Q So you'd have to look through the scope to do so.
- 11 A Be my opinion, yes, sir.
- 12 Q And how do you focus it, sir?
- 13 A By turning the visual part of the objective lens --
14 the eyepiece lens back here on the back end. It's got a
15 focusing ring here. In order to change the power, turn the
16 other ring, to increase or decrease the power
17 magnification.
- 18 Q And in order to eject a shell casing after it's been
19 fired you'd have to pull the bolt action backward to do
20 that.
- 21 A Yes, sir.
- 22 Q It would remain in -- even if you fired it a cartridge
23 would remain in there until you actually put the bolt
24 action to knock it out.
- 25 A Correct. You're right.

Ira Byrd Parnell, Jr.
Cross-examination by Mr. Thompson

1 MR. BARNETTE: Excuse me, Your Honor, for one second.

2 (Pause.)

3 Q Sir, if you would, please answer any questions that
4 Mr. Thompson may have for you.

5 MR. THOMPSON: May it please the Court.

6 THE WITNESS: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. THOMPSON

9 Q Mr. Parnell, that fragment you received in there,
10 No. 2 --

11 A Yes, sir.

12 Q -- did they -- do you have the origin of that, or did
13 they just send it to you and -- all you do is compare it to
14 the gun, correct?

15 A Yes, sir. I have what was listed on the packaging
16 material, but of my own knowledge I don't know.

17 Q Okay. And that's the only fragment you received,
18 correct?

19 A Yes, sir.

20 Q All right. And you concluded all of these items came
21 from that 30-06, right?

22 A State's Exhibit 15.

23 Q Sir?

24 A State's Exhibit 15, yes, sir.

25 Q And I don't want to -- the -- the fragments that

Ira Byrd Parnell, Jr.
Cross-examination by Mr. Thompson

1 you -- these casings here, there's no way you can tell if
2 they all was fired from a gun at the same time, is there?

3 A No, sir. I can't tell a timeline. The only thing I
4 can look at is to evaluate the physical appearance of the
5 outer surface on the cartridge cases. And then, again,
6 that's just my opinion.

7 Q Right, right. I know. The gun kind of leaves a
8 fingerprint, would be an example or the way you identify
9 invariably it came out of there, correct?

10 A Yes, sir. It's -- it's individual markings left by a
11 particular firearm.

12 Q Okay. And that scope on there, now, is that scope --
13 is that like a night vision element to it or anything like
14 that?

15 A No, sir. The -- the telescopic sight that's on here
16 merely enhances the available light. It doesn't add
17 anything to it at all. It just increases the magnification
18 and possibly gathers a little ambient light.

19 Q Okay. So do they make a scope that would be for night
20 shooting?

21 A Yes, sir.

22 Q That's not one.

23 A This is not one.

24 Q And one more question.

25 Now, this report you turned in on State's Exhibit 101

Ira Byrd Parnell, Jr.
Redirect examination by Mr. Barnette

1 indicates that on item two, the model down at the bottom
2 down here, the model designation and serial number were
3 incorrectly listed.

4 A Yeah.

5 Q Is that by your office or --

6 A No, sir. As -- as they were marked on the paperwork
7 or what we call submission documents it had some extra
8 numbers that really weren't part of the serial number.
9 They were -- they were on the item, but they were not part
10 of the serial number. So the serial number was not correct
11 as listed.

12 The model was actually an A-5 as opposed to an A-5
13 which was listed. It was an easily understood mistake.

14 Q Okay. So basically that's scrivener's -- scrivener's
15 error.

16 A Just a technical or a clerical error.

17 Q I have no further questions.

18 MR. BARNETTE: Just one on redirect, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. BARNETTE

21 Q Sir, if you're looking through a scope and you saw a
22 light in the distance could you focus with that on that
23 light? Like, for example, if it was a gas station --

24 MR. THOMPSON: Your Honor, he's -- he's a forensic
25 expert. I don't know that he's a scope expert.

Ira Byrd Parnell, Jr.
Redirect examination by Mr. Barnette

1 THE COURT: Well, he's a firearms expert. He'll tell
2 you if he doesn't feel comfortable.

3 MR. BARNETTE: I just asked the question in response
4 to his question.

5 Q Like, for example, a gas station or anything where
6 light was could you see --

7 MR. THOMPSON: Object to leading, Your Honor.

8 MR. BARNETTE: I'll rephrase the question.

9 THE COURT: Overruled.

10 Go ahead.

11 MR. BARNETTE: Thank you.

12 BY MR. BARNETTE

13 Q Could you scope into an area where it was lighted
14 using that scope?

15 A Normally when a telescopic sight is attached to a
16 firearm and what we call sighted in -- that is adjusted to
17 where -- where the cross area sets -- is where the bullet
18 impacts at a certain range.

19 There's also a -- a feature in there that is kind of
20 an all-of-the-time focus, constant focus, where if you
21 looked at a light from a distance, then that light would
22 pretty well be in focus already. You could fine tune it by
23 turning the -- the focusing ring here.

24 When I checked or examined State's Exhibit 15 I test
25 fired it and did find that the crosshairs were in line with

Ira Byrd Parnell, Jr.
Redirect examination by Mr. Barnette

1 the bore. And when I fired it I hit within a very small
2 distance of where the crosshairs indicated I should have
3 hit.

4 So all of that being said, when you look through, for
5 instance, this scope on State's Exhibit 15 I would expect
6 you to be able to see a light clearly at a hundred yards or
7 however far it had to be.

8 You could do some fine focusing, but, yes, you could
9 see a light from a distance.

10 Q Thank you, sir.

11 THE COURT: You may step down.

12 MR. BARNETTE: We would ask the witness be excused,
13 Your Honor.

14 THE COURT: He may be.

15 THE WITNESS: Thank you, Your Honor.

16 (Whereupon, the witness was excused.)

17 MR. BARNETTE: May we approach for a second, Your
18 Honor?

19 THE COURT: You may.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 MR. BARNETTE: Your Honor, the state would like to
23 call Lindsey McGraw to the stand.

24

25

Lindsey Hilliard McGraw
Direct examination by Mr. Barnette

- 1 LINDSEY HILLIARD MCGRAW,
2 having been first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. BARNETTE
4 Q If you would, sir, please state your full name for the
5 record.
6 A Lindsey Hilliard McGraw.
7 Q And where do you work at, sir?
8 A Spartanburg County Sheriff's Office.
9 Q And what's your position there, sir?
10 A I'm the assigned computer forensics investigator.
11 Q And how long have you been there at the sheriff's
12 office, sir?
13 A Since August of 2005?
14 Q And how long have you been in law enforcement, sir?
15 A About 20 years.
16 Q Was you asked to do an analysis on a phone owned by
17 the defendant?
18 A I was.
19 Q And did y'all do a search warrant before you did the
20 analysis?
21 A Yes, sir. Detective Wilkins provided me with a search
22 warrant.
23 Q And it's already been entered into evidence as State's
24 Exhibit No. 17. Is that the phone you did the analysis on,
25 sir?

Lindsey Hilliard McGraw
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q And if you would, tell the jury a little bit about the
3 analysis you did, sir.

4 A Well, I was provided the phone. The phone had a
5 pattern mark enabled on it. In other words, it's an access
6 control device, a password if you will.

7 The user is presented with a series of nine dots, and
8 they swipe their finger over it to unlock the phone.

9 In this case the phone was locked already. I couldn't
10 bypass the phone. The only examination I could do would be
11 to the installed subscriber identity module card that's a
12 sim card. And it also had a micro S.D. card. It's a
13 storage card, an 8 gigabyte Sandisk card.

14 Q And did you get some pictures from the phone?

15 A I did.

16 Q I think State's Exhibit 20 -- State's Exhibit 22 is
17 already into evidence. Was that the photograph that you
18 gathered from the sim card?

19 A Yes, sir.

20 Q And State's Exhibit 23. Was that also a photograph
21 that was taken?

22 A Yes, sir.

23 MR. BARNETTE: Your Honor, I'd like to -- 22 is
24 already into evidence. I'd like to enter State's
25 Exhibit 23 into evidence at this time.

Lindsey Hilliard McGraw
Direct examination by Mr. Barnette

1 MR. THOMPSON: No objection.

2 THE COURT: It's admitted.

3 (Photograph marked State's Exhibit No. 23.)

4 MR. BARNETTE: Your Honor, permission to publish 22
5 and 23 to the jury.

6 THE COURT: You may.

7 BY MR. BARNETTE

8 Q Twenty-two. I know the jury's already seen this
9 picture. Is this a picture that was taken from the
10 defendant's phone?

11 A Yes, sir.

12 Q Okay. And State's Exhibit 23. Was this another
13 picture that was taken from his phone?

14 A It was.

15 Q In review, I guess this morning we came in and looked
16 at the phone. Was we able to unlock the phone this
17 morning?

18 A Yes, sir, we were this morning.

19 Q Did you look at the apps on the phone?

20 A Yes, sir. There were several installed applications
21 or programs on the phone.

22 Q Was there a police scanner app on the phone?

23 A Yes, sir. There was an icon for a police scanner -- I
24 believe it was free police scanner -- installed on the
25 phone.

Lindsey Hilliard McGraw
Cross-examination by Mr. Thompson

1 Q So there was a police scanner -- like I say, iphone is
2 different. You can download police scanners and listen to
3 police scanners.

4 A Yes, sir.

5 Q And you're familiar with those obviously.

6 A Yes, sir.

7 Q And this is one of those type apps.

8 A Yes, sir.

9 Q And obviously things can be taken off the phone,
10 whatever. We don't know what's been added or what's been
11 taken out of the phone, is that right?

12 A That's correct.

13 MR. BARNETTE: One moment, Your Honor, please.

14 (Pause.)

15 Q Please answer any questions Mr. Thompson may have for
16 you.

17 MR. THOMPSON: May it please the Court.

18 CROSS-EXAMINATION

19 BY MR. THOMPSON

20 Q Mr. McGraw, you said the phone was locked where they
21 do the little design to get in, a password?

22 A Yes, sir.

23 Q My son's got one of those.

24 Is it -- is it un -- is it common to find that these
25 are locked? I mean, when you say locked, is it locked --

Lindsey Hilliard McGraw
Cross-examination by Mr. Thompson

1 basically that password locks it up, doesn't it?

2 A Yes, sir.

3 Q Okay. And then the guns and the money that we have
4 photos of, is that -- that's not all you found on the
5 phone, correct?

6 A No, sir. I found about 70 some odd pictures.

7 Q Okay. And is all you looked at, was the pictures?

8 A I looked at the contents of the micro S.D. card and
9 the date that was on the sim card.

10 Q Did that include text messages?

11 A There were no text messages available on those two
12 pieces of media.

13 Q No texts.

14 A Not on the media, no, sir.

15 Q Okay. And so those pictures -- they didn't have any
16 messages under them or anything?

17 A No, sir. They're just the pictures themselves.

18 Q Photographs. Okay. And you indicated that there was
19 a police scanner icon on the phone, is that correct?

20 A Yes, sir.

21 Q Okay. And that means that it basically flashes up.
22 And that's what you press and go into the scanner, is that
23 right?

24 A Right. You select to activate that particular
25 application by touching the icon, and it activates the

Lindsey Hilliard McGraw
Cross-examination by Mr. Thompson

1 program.

2 Q And you said you -- how could you tell it was free?

3 A That was the name of it.

4 Q Free. Okay.

5 A Yes, sir.

6 Q And then but did you -- did you turn it on and listen
7 to it?

8 A No, sir.

9 Q Okay. And do you recall when you gained possession of
10 that phone?

11 A Let me check my notes. I believe it was on the 9th or
12 10th of July. The 9th of July of 2012.

13 MR. THOMPSON: I have no further questions.

14 MR. BARNETTE: No further questions of this witness,
15 Your Honor. We'd ask he be excused.

16 THE COURT: You may step down.

17 (Whereupon, the witness was excused.)

18 MR. BARNETTE: Your Honor, I need to check and see if
19 one witness is here right now.

20 (Pause.)

21 MR. BARNETTE: Your Honor, we would call Mark Swanger
22 to the stand.

23

24

25

Mark Channing Swanger
Direct examination by Mr. Barnette

1 MARK CHANNING SWANGER, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q If you would, sir, please state -- and you might want
5 to scoot up a little bit so the microphone can hear you.

6 Please state your full name for the record.

7 A Mark Channing Swanger.

8 Q And where do you live at, sir?

9 A [REDACTED], Old Fort, North Carolina.

10 Q What do you do, sir?

11 A I do pressure washing and window washing.

12 Q And how long have you been doing that, sir?

13 A About 12 years.

14 Q Back on the early morning hours of June -- July 2nd of
15 2012 was you working here in Spartanburg County?

16 A Yes, sir.

17 Q Where was you working at, sir?

18 A Ingles Gas Express.

19 Q And what do you at the -- what was you doing at the
20 Gas Express?

21 A I pressure washed the concrete around the gas pumps.

22 Q And about what time was it, sir?

23 A About 12:00 a.m.

24 Q And when you're doing the pressure washing at night
25 like that do you use anything to -- lights or anything to

Mark Channing Swanger
Direct examination by Mr. Barnette

1 help you with?

2 A Yes, sir. I use a head lamp.

3 Q So you had a head -- where is a head lamp located at,
4 sir?

5 A On my forehead.

6 Q Okay. So you're using that to look when you're
7 pressure washing.

8 A Yes, sir.

9 Q And you was pressure washing -- I keep calling it the
10 night. It was actually the early morning hours. And how
11 long had you worked there pressure washing?

12 A Probably about two hours.

13 Q Okay. Tell the jury what happened as you was pressure
14 washing that after two hours.

15 A Well, I was working, and, you know, my machine is a
16 pretty loud machine. And I heard what I thought was a
17 gunshot. It sounded really, really close like it just
18 barely missed me.

19 It made me jump. I looked around. Everything
20 appeared to be normal. It was the 4th of July. I figured
21 somebody was playing a joke on me and put a firecracker in
22 a garbage can. Well, I looked around and seen nothing,
23 smelled nothing. Everything seemed fine.

24 So I went back to work, and then a few seconds later I
25 heard it again. And I knew it wasn't a backfire from a

Mark Channing Swanger
Direct examination by Mr. Barnette

1 vehicle. I knew it was a gunshot.

2 So I kind of hid like. And a few seconds after that I
3 seen police and everything go up, and I knew what it was.

4 Q You said you heard two shots by you.

5 A Yes, sir, at least two. I heard I think four or five
6 total.

7 Q Okay. Did you -- and where you were at, you were at
8 the crossroads of the Race way?

9 A Yes, sir. Straight across the road.

10 Q What did you see at the Race way after you heard the
11 shots?

12 A I seen a girl laying in the parking lot holding her
13 side and bunches of people gathering around and people
14 running around.

15 Q To make the jury -- and I know we're going through
16 this -- you have a head lamp on your head.

17 A Yes, sir.

18 Q And that's what you use. And obviously it helps you
19 to see where you're going.

20 A Yes, sir.

21 Q So it's quite bright.

22 A Yes, sir.

23 Q And you heard two -- two gunshots.

24 A Yes, sir.

25 Q They went by you.

Mark Channing Swanger
Cross-examination by Mr. Thompson

1 A Yes, sir. It sounded really, really close like zoom.

2 Q And then you heard shots afterwards.

3 A Yes, sir.

4 Q And the next thing you knew you heard police coming?

5 A Yes, sir.

6 Q And you saw the young lady over laying in the parking
7 lot.

8 A Yes, sir.

9 Q And did you tell the police about -- or did the police
10 later talk to you about this?

11 A Yes, sir.

12 Q And did you tell them what -- what you knew about it?

13 A Yes, sir.

14 MR. BARNETTE: One moment, Your Honor, please.

15 (Pause.)

16 Q Please answer any questions Mr. Thompson may have for
17 you, sir.

18 MR. THOMPSON: May it please the Court.

19 CROSS-EXAMINATION

20 BY MR. THOMPSON

21 Q Mr. Swanger, you said you were there. You got there
22 about 12:00 and started, correct?

23 A It was probably about 11:00, and I probably finished
24 about 1:00 or 1:30.

25 Q And the Ingles gas stations is where you were pressure

Mark Channing Swanger
Cross-examination by Mr. Thompson

- 1 washing, correct?
- 2 A Yes, sir.
- 3 Q And they were closed, I assume.
- 4 A Yes, sir.
- 5 Q And I assume you kept the light on your head, right?
- 6 A Yes, sir.
- 7 Q So that the Ingles, they just turn the lights off, I
- 8 guess, when they leave.
- 9 A Yes, sir. It's dark.
- 10 Q Okay. So you needed that light, and I think you
- 11 clarified. When you said you heard two shots. Zip by is
- 12 what you meant, right?
- 13 A Yes, sir.
- 14 Q Okay. And then you heard a total of four or five,
- 15 correct?
- 16 A Yes, sir.
- 17 Q All right. And the -- you were at Ingles. Do you
- 18 recall where you were at the gas station when those shots
- 19 went by?
- 20 A Yeah. I was at the -- the outer side towards -- I
- 21 don't know if on the -- if you're looking -- you're
- 22 standing in Ingles grocery store looking up at the station,
- 23 I was on the far right side. I'm not sure what numbers is
- 24 on the pumps, but it is the -- the outer portion towards
- 25 the Waffle House if that makes any sense to you.

Mark Channing Swanger
Cross-examination by Mr. Thompson

1 Q Okay. So if I'm standing in the Race Way parking lot
2 looking out, waffle House would be on my right, correct?

3 A Be my right. Be your left.

4 Q Right. So Ingles is really catty-cornered, not
5 directly across from Race Way, correct?

6 A It's pretty much straight across.

7 Q Is it? Okay. And then the Waffle House is beside
8 Ingles.

9 A Yes, sir.

10 Q Back towards Spartanburg, correct?

11 A To the right.

12 Q Okay. And you were on that side.

13 A Yes, sir.

14 Q Now, let me see if I can find the -- do you recall if
15 you were underneath the awning or outside the awning?

16 A I was on the edge, the outer two bays, on the very
17 side.

18 Q Okay. And when you say you heard them zoom by and
19 they were close, how close do you --

20 A Well, real close, I thought.

21 Q And-but you heard -- did you hear them hit anything
22 behind you?

23 A Yes, sir. I looked around, but, you know, I wasn't
24 certain it was a shot at the first time. I thought it was
25 a backfire from a vehicle. And after I didn't see nothing,

Mark Channing Swanger
Cross-examination by Mr. Thompson

- 1 you know, I quit looking.
- 2 Q And do you know where the A.B.C. store and the -- and
- 3 the liquor store and the Famous Pizza is?
- 4 A Yes, sir. Directly behind me.
- 5 Q Right behind you. Okay. So when you -- when you're
- 6 out here on the Waffle House side will you still be in line
- 7 with one of those stores, you think?
- 8 A Yes, sir. The liquor store.
- 9 Q Okay. And then I think you indicated that in your
- 10 testimony here that it was the 4th of July. It was around
- 11 the 4th of July.
- 12 A Yes, sir.
- 13 Q Okay. So you're not saying that that night was the
- 14 4th of July, correct?
- 15 A Correct.
- 16 Q Okay. And then -- and then you said when you left the
- 17 police were there and everything, correct?
- 18 A Yes, sir.
- 19 Q Did you speak to law enforcement that night?
- 20 A Yes, sir.
- 21 Q You did. Okay.
- 22 MR. THOMPSON: I have no further questions.
- 23 MR. BARNETTE: No further questions of this witness,
- 24 Your Honor. We would ask that he be excused with his
- 25 family.

1 THE COURT: You may step down. You may also be
2 excused.

3 (Whereupon, the witness was excused.)

4 THE COURT: Let me see y'all just a minute.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 THE COURT: All right. Ladies and gentlemen, we're
8 going to break now for lunch. So let me remind you of the
9 caution I've previously given you.

10 No discussions about the case with anybody whatsoever.
11 No research, no investigation. No exposure to any type of
12 media coverage -- television, radio or newspaper.

13 Have a good lunch. Please report to your jury room at
14 2:15, 2:15 this afternoon.

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: Court is in recess until 2:15.

18 (Whereupon, a recess was taken.)

19 THE COURT: All right. Are we ready for the jury?

20 MR. BARNETTE: The state's ready, Your Honor.

21 THE COURT: All right. Bring them in.

22 Is Ms. Thompson your next witness?

23 (The following takes place in the presence of the
24 jury.)

25 THE COURT: Good afternoon, ladies and gentlemen.

Jennifer Blackwell Thompson
Direct examination by Mr. Barnette

1 When I recited the witness list, there is an
2 additional witness whose name was not called out. Her name
3 is Jennifer Blackwell Thompson.

4 Where is Ms. Thompson?

5 Does anybody know Jennifer Blackwell Thompson on the
6 jury?

7 (No response.)

8 THE COURT: Okay. None know her.

9 All right, solicitor.

10 MR. BARNETTE: Thank you, Your Honor. We'd like to
11 call Ms. Thompson to the stand.

12 MR. THOMPSON: Your Honor, I'd object to the
13 additional witness that wasn't on the list originally.

14 THE COURT: Okay. Note your objection.

15 JENNIFER BLACKWELL THOMPSON,
16 having been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q Ms. Thompson, if you would, have a seat and pull the
19 microphone, the black microphone, right to you so we can
20 hear you. Okay?

21 A Can you hear me okay?

22 Q Yes, ma'am. Just keep your voice up so these folks
23 can hear you back here on the back row. Okay. I know
24 you're nervous.

25 Could you give us your full name, please?

Jennifer Blackwell Thompson
Direct examination by Mr. Barnette

- 1 A Jennifer Blackwell Thompson.
- 2 Q And, Ms. Thompson, where do you live at?
- 3 A [REDACTED], Spartanburg 29303.
- 4 Q And who lives there with you, ma'am?
- 5 A My father, James Paul Blackwell, and my two sons,
- 6 Titas Graham Thompson and Trenton Paul Thompson.
- 7 Q Do you know Bryan Holder?
- 8 A Yes, I do.
- 9 Q How do you know Bryan Holder?
- 10 A From my son, Mattison Tyler Schomer.
- 11 Q So Tyler is your son.
- 12 A Tyler is my oldest son, yes.
- 13 Q And did Bryan come over -- did Bryan spend time with
- 14 Tyler?
- 15 A Yes, he did.
- 16 Q Did he come over to y'all's house?
- 17 A Yes, yes, he did.
- 18 Q Was he there often?
- 19 A A pretty good bit. He'd stay a few days. Maybe we
- 20 wouldn't see him for a week. And then he'd come back for a
- 21 few days and things like that.
- 22 Q Did he -- did he stay overnight with you at times?
- 23 A Oh, yes.
- 24 Q And who would he stay with?
- 25 A Tyler.

Jennifer Blackwell Thompson
Direct examination by Mr. Barnette

1 Q And does Tyler have a room?

2 A Yes. Well, Tyler and Titas shared a room.

3 Q Let me take you back to July 2nd of 2012. I guess on
4 July 1st, that evening or whatever -- was Bryan Holder at
5 your house?

6 A Yes.

7 Q And who was he with?

8 A Tyler.

9 Q And was your dad up at the time too?

10 A No. My dad -- well, during the day he was, yes.

11 Q Yes. So he goes to bed about 9:00 o'clock or so?

12 A Yeah. About 10:00. He watches his nature shows,
13 yeah.

14 MR. THOMPSON: Object to leading there, Your Honor.

15 MR. BARNETTE: I'll rephrase, Your Honor.

16 Q So he goes to bed at what time again?

17 A About 9:00 or 10:00.

18 Q And that night, tell the jury what happened, or I
19 guess the next morning.

20 A Yes. I was in the living room. My mother had Lou
21 Gehrig's, and she was in one of the mechanical chairs by
22 the back door. And me and her were in the living room
23 watching T.V., and it was around 1:30, maybe a little
24 later.

25 And pow, pow, pow, pow, pow on the back door. I'm so

Jennifer Blackwell Thompson
Direct examination by Mr. Barnette

1 sorry -- on the back door. And I'm like what in the world.
2 And it's right where mom's sitting.

3 I go and I open the door. Tyler is there. I'm
4 like -- Mattison -- I call him Tyler -- and I'm like what
5 in the world is going on. They said, well, there's a
6 policeman with a spotlight going up and down the road and
7 we saw him and we hit the ground. And I'm like if y'all --
8 what were y'all doing to hit the ground. You know, it's
9 just somebody driving by.

10 They come in. And there was a police scanner on
11 Bryan's phone, I suppose, because Tyler didn't have a
12 phone. And they came in that evening and stayed up all
13 night with the police scanner listening. And they were
14 saying something like there was a shooting. I didn't think
15 to put two and two together, so.

16 Q So both of them -- Bryan Holder and Tyler -- both came
17 in.

18 A Oh, yes.

19 Q And they were together.

20 A Yes, they were.

21 Q And they had Bryan's phone.

22 A Yes.

23 Q And they was listening to what on that phone?

24 A A police scanner. It was like the police radio. I
25 guess it was some kind of app. I don't know.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Q Later on you did hear there was a shooting?

2 A Oh, yeah.

3 Q And, obviously, you didn't put two and two together,
4 but later on you did?

5 A Yeah. I went and found out his rifle.

6 Q They were both together on July 2nd about 1:30 or
7 something like that in the morning.

8 A Yeah, yeah.

9 MR. BARNETTE: One moment, Your Honor, please.

10 (Pause.)

11 Q Please answer any questions Mr. Thompson has for you.

12 MR. THOMPSON: May it please the Court.

13 THE COURT: Mr. Thompson.

14 CROSS-EXAMINATION

15 BY MR. THOMPSON

16 Q Ms. Thompson, you are Mr. Schomer's mother?

17 A Yes, I am.

18 Q When is the last time you talked with Tyler?

19 A I talked to Tyler two weeks ago.

20 Q Okay. And did you ever give law enforcement a
21 statement?

22 A About what?

23 Q A written statement about anything concerning this
24 case.

25 A I told them what had happened.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

- 1 Q Okay. But you didn't do a written statement or
2 anything?
- 3 A No, no, not a written statement, no.
- 4 Q And you indicated your mother was there.
- 5 A Uh-huh.
- 6 Q Okay. And she has a condition. What was it?
- 7 A She had Lou Gehrig's.
- 8 Q Okay. And so she needed, I guess, full-time care.
- 9 A Yes.
- 10 Q Okay. And was she -- she was up that late at night?
- 11 A Yes, yes.
- 12 Q What were y'all doing?
- 13 A Watching T.V. in the living room.
- 14 Q Okay. Do you remember what was on T.V.?
- 15 A My goodness. I don't remember.
- 16 Q Okay. So how late did you eventually stay up?
- 17 A It was about -- it was probably -- probably all night
18 with the commotion.
- 19 Q You stayed up all night --
- 20 A Yeah.
- 21 Q -- due to the commotion. So, and describe the
22 commotion again. Was just the scanner playing on the
23 phone?
- 24 A Yeah, and the, you know, talking. And they were in --
25 the living room is pretty far away from Tyler and Titus'

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 room. And I mostly stayed in the living room. And I would
2 go back and try to lay down in my room, and I could hear
3 that police scanner. And I just thought they were scared.
4 That's what I thought -- at something they heard about a
5 shooting or something. I didn't know. But just talking.
6 Titas, my middle son Titas, was more in the room with them
7 than I was.

8 Q And how many bedrooms are there?

9 A Three.

10 Q Three.

11 A Uh-huh.

12 Q So Titas and Tyler have a bedroom.

13 A Yes.

14 Q And do you have a bedroom?

15 A Yes, sir.

16 Q And does your mother stay in a room with you or
17 someone else?

18 A My mother passed away in September.

19 Q Okay. At that time where was -- did she have a room
20 of her own, or did she just visit?

21 A No. She -- she had additionally room in our home, but
22 when hospice came in she stayed in the living room.

23 Q Okay. And you said your father stays there too.

24 A Yes, yes, sir. He does.

25 Q And was -- did you say he was home that night?

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 A He was.

2 Q He was. And he was in the bed asleep the whole night?

3 A Oh, yes.

4 Q So the commotion didn't wake him up.

5 A No. He had the door closed.

6 Q And do you recall what day of the week it was?

7 A Was it Thursday or Friday?

8 Q Okay. Did -- and did you work at that time?

9 A No, no.

10 Q You didn't. So you didn't have to work the next day,
11 did you?

12 A No.

13 Q And if -- who owns the house? Is it your home, and
14 your parents stay with you, or you stay with them?

15 A After my divorce I had to go back to my parents' home.

16 Q Okay. And how many times do you recall listening or
17 talking to law enforcement on this case?

18 A Detective Wilkins came out several times and asked
19 questions and took Tyler. I believe they went to the
20 Schomers' house or something like that. And he talked a
21 lot to Tyler.

22 And then he would call pretty regularly about maybe,
23 you know, heard anything or anything, because Tyler left a
24 few days later after that. And he came back by I know
25 several more times. And then he came back one day, and I

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 had seen the bag under the steps and called. My dad
2 actually called him. He came back, and that's where
3 everything kind of took off.

4 Q Okay. And did you -- you say he never asked you for a
5 written statement or anything, correct?

6 A No.

7 Q And then you had -- and the state didn't contact you
8 about being a witness, correct?

9 A Right.

10 Q Okay. And, well, how did you gain any knowledge about
11 today's events?

12 A I talked to the solicitor yesterday.

13 Q Yesterday?

14 A I had told Tyler's lawyer too before.

15 Q That you knew the trial was this week?

16 A No. About being up that night.

17 Q Okay. And is it common that you're up at 1:30 or
18 2:00 o'clock at night?

19 A Yeah.

20 Q It is?

21 A Unfortunately.

22 Q Okay. And is it common that Tyler would and Bryan
23 would listen to stuff on this phone?

24 A They played the X-box a lot, you know, and watch, but,
25 no, not on --

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

- 1 Q That's not on the phone.
- 2 A Yeah, not on the phone, no.
- 3 Q So they were -- and so normally they would play the
- 4 X-box.
- 5 A Yeah, or watch T.V. or something like that. They
- 6 wouldn't have it the -- the phone.
- 7 Q And you are saying Tyler said he didn't have a phone?
- 8 A I -- I didn't have a phone for Tyler.
- 9 Q You don't know if he had a phone.
- 10 A Not to my knowledge, no.
- 11 Q And you said that you're pretty sure this was around
- 12 2:00 in the morning.
- 13 A Yes, 1:30, 2:00. It was right around in there --
- 14 early.
- 15 Q Okay. So you said they were knocking on the door.
- 16 were they locked out?
- 17 A Yes, yes. The doors -- both the front door and the
- 18 back door were locked.
- 19 Q All right. And did you lock -- lock up or --
- 20 A Oh, yes.
- 21 Q You did.
- 22 A Yes.
- 23 Q Okay. Did you know when they -- if they got back at
- 24 2:00, do you know when they left?
- 25 A They didn't leave again that night.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Q I mean before.

2 A It was earlier, earlier that evening like
3 midafternoon, I believe.

4 Q Still daylight?

5 A Yes.

6 Q Okay. And did you see any guns with them?

7 A No, I did not.

8 Q Okay. And I guess the first gun you saw was the one
9 that the police discovered under the porch.

10 A Yes.

11 Q Would that be accurate?

12 Okay. So they left during the day and came back at
13 2:00 in the morning? Did they leave in a car, or do you
14 know?

15 A I don't know.

16 Q You don't know. Okay. Were you awake during the day?

17 A Yes.

18 Q Okay. What -- and your mom was staying there at the
19 time, correct?

20 A Oh, yes, oh, yes.

21 Q And so they left and you locked up. So was it common
22 that Tyler may leave and not come back?

23 A Unfortunately, the way he was behaving, yes.

24 Q And was it common that he would keep late hours?

25 A Yes.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Q Okay. And you said you believe it was a Thursday or
2 Friday night.

3 A I honestly, I mean, I can't be one hundred percent
4 sure what exact day of the week it was, but I just know
5 what happened that particular night.

6 Q You know? I'm sorry. Repeat that. You know what?

7 A I know what happened with the banging and things on
8 that, banging on the door and stuff with the police scanner
9 that evening.

10 Q Okay.

11 A And talking about the shooting, so.

12 Q Okay. Now -- now, who was talking about a shooting --
13 the scanner?

14 A Yes.

15 Q And the -- the scanner was -- you just overheard it.
16 I guess it was loud?

17 A Oh, yes, sir.

18 Q Okay. And then so did you talk to anybody about
19 yesterday -- yesterday's first day of trial?

20 A What do you mean, as far as --

21 Q Did you discuss this trial with anybody yesterday?

22 A My dad was here yesterday.

23 Q He was?

24 A Yes.

25 Q Mr. Blackwell?

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

- 1 A Yes, yes, sir.
- 2 Q Okay. So you and he discussed yesterday's events,
3 right?
- 4 A Pretty much. I mean not -- not a whole lot.
- 5 Q Not a whole lot. Okay.
- 6 A I was more anxious just, you know, nervous.
- 7 Q Okay. But, now, you understand Tyler's not on trial.
- 8 A Oh, yes. I know -- I know.
- 9 Q Okay. And what compelled you to call today and want
10 to testify?
- 11 A Well, they -- they called me yesterday.
- 12 Q Who?
- 13 A The solicitor.
- 14 Q Did you call -- you didn't call him today?
- 15 A I called -- he called last night, and my dad was here
16 earlier today and said they needed me to come down to the
17 office. So I came at lunch. And they said be back here at
18 2:15. And I talked to the solicitor during the lunch
19 period.
- 20 Q Okay. And you'll agree with me you -- you never
21 offered anything at -- Mr. Wilkins. You never offered up
22 to Mr. Wilkins that you heard the scanner going or anything
23 that night, did you?
- 24 A No, not that I remember.
- 25 Q And then you never told him that you were -- that --

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 that there were police cars riding by with spotlights and
2 stuff, correct?

3 A That's just what they had said, I mean.

4 Q They? That means --

5 A Yeah, Tyler and Bryan.

6 Q Tyler. Okay. Okay. So, but you didn't -- you didn't
7 share that with Investigator Wilkins, right?

8 A I don't remember -- I don't remember.

9 Q Okay. All right. Did -- you said Bryan would stay
10 there some.

11 A Yes, sir.

12 Q Was that night he was there, was that the first night
13 he was there or --

14 A No, sir.

15 Q I don't mean the first night ever.

16 A Oh.

17 Q I mean in a sequence at night. If you don't remember,
18 that's fine.

19 A Yeah. I can't remember.

20 Q Okay. And does -- and to your knowledge does Bryan
21 drive?

22 A No. I never seen him drive. He'd always have to get
23 a ride.

24 Q Okay. Tyler too, right?

25 A Yes.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Q And do you recall telling the police when they came to
2 pick Tyler up you knew they were coming?

3 A Well, they didn't arrest him at our -- at my home. He
4 had left. You know, he had been gone for several days, so.

5 Q So, but you knew that -- you felt like they were
6 looking for him?

7 A Oh, yeah. I was looking for him too.

8 Q Okay. And did you -- and you said you never had an
9 occasion to see the guns --

10 A No.

11 Q -- other than that one under the porch, correct?

12 A No. I didn't see any guns.

13 Q Just a couple of more questions.

14 You said your father said they needed you here.

15 A Yes. They just needed to speak to me.

16 Q Okay. So was he saying that things are going good,
17 they need you there, or they told me they need you there?

18 A Oh, no, no. When I talked to the solicitor last
19 night, yesterday evening, he had just asked me a few
20 questions. And he said that he may need me to come in.
21 And it just so happened my dad was leaving from this
22 morning, and they just said come on down. And, as a matter
23 of fact, as I was driving down the road the solicitor
24 called while I was coming, so.

25 Q Okay. And you would agree with me that I -- nothing

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 in this record indicates you told anybody about the scanner
2 until today.

3 A I told people about the scanner my -- myself, and my
4 12 year old has, yes.

5 Q But you didn't put in a police statement.

6 A No, no, no.

7 Q Did -- how long had Tyler lived there?

8 A Tyler has lived with me all of his life.

9 Q And did he not have a key to get in the house?

10 A No. He had a key but never used it.

11 Q Okay. So he had a key on him but didn't use it that
12 evening?

13 A Usually you'd find it laying around the house, yeah.

14 Q Did you have any knowledge that Tyler would frequently
15 go to that field across the road there?

16 A No.

17 Q You didn't. Okay. And how old was he when he was
18 arrested?

19 A Seventeen.

20 Q And where was he going to school?

21 A He wasn't.

22 Q He wasn't in school?

23 A No, no.

24 Q Was he working?

25 A Yes.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Q Where was he working?

2 A McDonald's.

3 Q And do you know what shift, or would it vary?

4 A Yeah. It would just be like part-time work.

5 Q How long had he been out of school?

6 A Let's see. Probably about a year. He had went to
7 military school for the last six months, and then he was
8 getting his G.E.D.

9 Q Where is the military school?

10 A Well, it was in Bennettsville, South Carolina.

11 Q So he was going to adult ed and taking G.E.D. classes?

12 A No, no, not during the summer. He did when he was at
13 the military school. He had already taken his pre-G.E.D.
14 testing and all of that and passed.

15 Q Okay. And so he went to military school for the six
16 months.

17 A Yes.

18 Q I guess the first six months of 2012.

19 A I believe that's right. I really need a calendar.

20 Q And then that summer he quit going to military school
21 and --

22 A Yeah. He would -- when he came home -- for several
23 weeks he would just kinda stay at home and didn't really
24 talk to a lot of people. Kind of stay in the bed and
25 things like that, so.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Q And was that -- I mean, when he came home, you mean
2 did he -- did he -- do you mean -- was it a month before,
3 six months before?

4 MR. BARNETTE: Your Honor, I'm going to object. If
5 we're going to ask a question I'd like to have a question
6 instead of --

7 THE COURT: Well, he's asking one.

8 MR. BARNETTE: Yes, sir.

9 Q When did he come home from Bennettsville?

10 A It was before my mother was diagnosed with A.L.S., and
11 she was diagnosed in May.

12 Q Okay.

13 MR. THOMPSON: May we approach?

14 THE COURT: Yes, sir.

15 (Bench conference held off the record in the presence
16 of the jury but out of the hearing of the jury.)

17 Q Sorry, Ms. Thompson.

18 A That's all right.

19 Q Ms. Thompson, what was the name of the military school
20 in Bennettsville?

21 A Camp Bennettsville.

22 Q Camp Bennettsville?

23 A Uh-huh.

24 Q Okay. And then what were the qualifications to get in
25 that school?

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 A well, he had -- he had been in trouble as far as
2 things against me and things. Not violent things. But it
3 was kind of like a correctional military school.

4 Q Correctional?

5 A Yeah, like a -- they weren't locked up or anything
6 like that. It was a Marine military based -- I don't know
7 how to word it.

8 Q Do you know if it was associated with the department
9 of juvenile justice?

10 A Yes, yes.

11 Q It was through them.

12 A Yes.

13 Q So maybe he was serving a sentence there?

14 A Yeah, I mean.

15 Q Okay. So either you know he was --

16 A Yes, yes.

17 Q -- there for that reason or not.

18 A Yes, yes.

19 Q Okay. So it wasn't a military school.

20 A Well, they said it was Marine based, you know. You
21 had to get your ranks and things like that.

22 Q Okay. But, now, when they say Marine, they mean
23 relative to water, isn't that right?

24 A It was Bennettsville. It's probably -- it's out in
25 the middle of nowhere, and it's just got a lot of swamps

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 and things around it but...

2 Q Okay. But it was part of a court order that he be
3 there?

4 A Yes.

5 Q Okay. So he went there and came back.

6 A Yes.

7 Q Okay. And then he -- did he go back to school when he
8 got home?

9 A No, no.

10 Q Okay. And when did he go to this place in
11 Bennettsville?

12 A I need a calender. I could look at the dates.

13 Q Do you remember what year?

14 A I'd have to -- I know it was before mother was
15 diagnosed with her -- with Lou Gehrig's.

16 Q You say he got back before then, right?

17 A No. Wait a minute. Yes, yes.

18 Q Was he gone for two years or --

19 A No, no. He was -- it was for six months. I'm just
20 trying to. My goodness gracious. It was -- was it in --
21 it may have been 2011.

22 Q Okay.

23 A I just -- if I had a calender I could look it up.

24 Q Okay. Well, I mean I'm just trying to -- because if
25 he came back before May, he probably was there in 2011.

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

- 1 A Yeah.
- 2 Q You agree with that, right?
- 3 A Yes.
- 4 Q And then was he in Boiling Springs schools before
- 5 then?
- 6 A Yes. He had been in Boiling Springs schools.
- 7 Q Up until he went to Bennettsville?
- 8 A He was put into the alternative school.
- 9 Q Okay. And was that in 2011, or ten?
- 10 A 2010, I believe.
- 11 Q Okay. And -- and he indicated he went through the
- 12 eighth grade. Does that sound about right?
- 13 A No. He went further than that.
- 14 Q He did?
- 15 A Yes.
- 16 Q Okay. So he went to the ninth grade eventually?
- 17 A Tenth grade.
- 18 Q Tenth grade?
- 19 A Yes.
- 20 Q And that was at the alternative school?
- 21 A Yes.
- 22 Q Okay. Before he went to Bennettsville did he stop
- 23 going to school at the alternative school, or did he go
- 24 from the alternative to Bennettsville?
- 25 A During that time period I pressed charges against

Jennifer Blackwell Thompson
Cross-examination by Mr. Thompson

1 Tyler, so for -- for things. As a result --

2 Q As a result that's when he went to Bennettsville,
3 right?

4 A Yes. And that's how he got into the D.J.J. system.

5 Q Okay. And how would you describe your relationship
6 with Tyler now? I mean since he got home.

7 MR. BARNETTE: Your Honor, I'm going to object at this
8 time. I don't know how it's relevant from that standpoint.

9 THE COURT: Sustained.

10 Q Okay. And I think I asked this, but I forgot. When
11 is the last time you spoke with Tyler?

12 A Two weeks ago. Well, writing. You know, I write him.
13 But I haven't seen him for two weeks. We rotate since you
14 only get one hour a week. I'll go one week. My dad will
15 go one week. And his other grandparents will go one week.
16 So we kind of rotate.

17 Q Okay. Did you attend the -- his other court
18 proceedings related to this?

19 A The plea bargaining, yes.

20 Q You did?

21 A Yes, I did.

22 Q Plea bargain?

23 A Yes.

24 Q Okay.

25 MR. THOMPSON: No further questions.

Bobby Allen Swigert, Jr.
Direct examination by Mr. Barnette

1 MR. BARNETTE: No further questions of this witness,
2 Your Honor.

3 THE COURT: You may step down.

4 MR. BARNETTE: We'd ask for her to be excused.

5 THE COURT: She may.

6 MR. THOMPSON: No objection.

7 (Whereupon, the witness was excused.)

8 BOBBY ALLEN SWIGERT, JR.,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE

11 Q Please, sir, give your full name for the record.

12 A Bobby Allen Swigert, Jr.

13 Q Where do you live at, sir?

14 A Woodruff, south Carolina.

15 Q And do you work, sir?

16 A Yeah. I'm currently full-time employed at Cooper
17 Standard Automotive in Inman.

18 Q Back in July 2nd of 2012, was you dating Bonnie Raines
19 at that time?

20 A Yes, sir.

21 Q And if you would, tell the jury. Did you go to the
22 Race Way that early, like around 1:30 or 2:00 o'clock, that
23 morning?

24 A Yes, sir.

25 Q If you would where -- was y'all -- was you in your --

Bobby Allen Swigert, Jr.
Direct examination by Mr. Barnette

1 well, tell the jury what happened if you would.

2 A Bonnie was staying with one of her friends that was
3 right up the road from the Race Way, and I went after work
4 and went to go see her.

5 We left there and went to go see one of our friends.
6 And after staying there for a little bit we left there and
7 was going back to where Bonnie was staying that night.

8 We stopped by the gas station and went inside. And
9 when we came back outside and got back in the car -- well,
10 when I was going to start the ignition. It was a loud
11 sound as a firework just went off in the car and discovered
12 that she had been shot.

13 Q Was she sitting right beside you in the car?

14 A Yes, sir.

15 Q When she was shot, what did you see?

16 A Sir?

17 Q What did you see once she was shot?

18 A Her side was completely blown and I -- you could see
19 it through the shirt when I lifted up the shirt.

20 THE COURT: Excuse me. I'm sorry. But the court
21 reporter is having difficulty understanding you. Could you
22 speak up a little bit louder please, sir?

23 THE WITNESS: Yes, sir.

24 Q Go ahead and continue, sir, if you would.

25 A But as you could see it through the shirt, she said

Bobby Allen Swigert, Jr.
Direct examination by Mr. Barnette

1 that she thinks -- she thought she was hurt. And she said
2 her side was hurting. So she leaned up. And I was sitting
3 there looking at it, and you could see all the blood and
4 everything. And I lifted up her shirt, and it was like it
5 had been melted on her skin. So I lifted up her shirt, and
6 then you could just see everything.

7 That's when I called 9-1-1. And after I got off the
8 phone with 9-1-1 I had taken my shirt off and wrapped it
9 around her and applied pressure until they got there.

10 Q And afterwards was she taken to the hospital?

11 A Yes, sir.

12 Q Your car was the green car or the Miata?

13 A Yes, sir.

14 Q Was a gunshot in the passenger-side door?

15 A Yes, sir. When the cops showed up he came to the door
16 and said -- that's when we had found out that somebody had
17 shot the car.

18 Q And you were sitting right beside. Y'all both got in
19 the car together?

20 A Yes, sir.

21 Q What had y'all got in the store?

22 A We had went in and used the bathroom and got a couple
23 of drinks and got a pack of cigarettes.

24 Q You bought a pack of cigarettes with you back out.

25 A Yes, sir.

Bobby Allen Swigert, Jr.
Cross-examination by Mr. Thompson

1 Q Do you know Bryan Holder?

2 A No, sir.

3 Q Do you know Tyler Schomer?

4 A No, sir.

5 Q And you was right beside her where the gunshot was,
6 right there.

7 A Yes, sir.

8 Q And of course you told the police what you knew and
9 what you didn't know about it.

10 A Yes, sir. I mean, it was that close to the 4th of
11 July, and plus, you know, I had the windows cracked. I
12 didn't roll them up when we went inside. So I figured
13 somebody just shot the firework in the car or something,
14 you know, and that's what I told the police on the phone
15 until the cops got there and said that, no, your car has
16 been shot.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Pause.)

19 Q Please answer any questions Mr. Thompson may have for
20 you, sir.

21 MR. THOMPSON: May it please the Court.

22 CROSS-EXAMINATION

23 BY MR. THOMPSON

24 Q Forgive me if I -- is it Mr. Swinger?

25 A Swigert.

Bobby Allen Swigert, Jr.
Cross-examination by Mr. Thompson

1 Q Swigert. I'm sorry. You had pulled -- you weren't at
2 a gas pump when you pulled up. You just pulled up and
3 parked, correct? And were you here earlier when we saw the
4 ice machine in the photograph?

5 A Yes, sir.

6 Q And that's where your car remained?

7 A Yes, sir.

8 Q So --

9 A Because I had rode in the ambulance with her.

10 Q Okay. So that's where you were parked when this
11 occurred, correct?

12 A Yes, sir.

13 Q And the -- where the car is setting was the total --
14 the front totally covered by the front of the building?

15 A I believe so.

16 Q Okay. Appears so in the picture. I won't turn the
17 machine on. But did -- so, you do recall the ice machine
18 being in front of you?

19 A Yes, sir.

20 Q Okay. And have you gained -- regained possession of
21 your Miata?

22 A No, sir.

23 Q You haven't? Okay. Did -- did the officer show you
24 where the -- the gunshot went in?

25 A No, sir.

Bobby Allen Swigert, Jr.
Cross-examination by Mr. Thompson

1 Q He didn't. So you didn't look at any of that, right?

2 Okay. And that Miata, how far from the front of that
3 car would you say the seats are? Just if -- just an
4 approximation.

5 A Talking about from the bumper or the inside?

6 Q The bumper, from the front.

7 A From the bumper to the seat?

8 Q Yes, sir.

9 A I'm not sure. I'd imagine --

10 Q Okay. So the -- but you've seen all of the
11 photographs, haven't you, with the report? And the -- do
12 you remember when the officer was testifying about finding
13 the casings?

14 A Yeah.

15 Q Okay. And those casings in what he was calling the
16 dugout.

17 MR. BARNETTE: Your Honor, I'm going to object at this
18 time. Unless he's got any relevance to it, there's no way
19 that witness could know this information unless he's got --

20 THE COURT: That's just leading up to a question.

21 Go ahead.

22 Overruled.

23 Q Okay. Did you see in the dugout area where he said he
24 found some of those?

25 A Yes, sir.

Bobby Allen Swigert, Jr.
Cross-examination by Mr. Thompson

1 Q And do you believe your car would have been visible
2 from that dugout area?

3 A From the dugout?

4 Q Yes, sir.

5 MR. BARNETTE: Objection, Your Honor.

6 A They also found two casings from the side of it.

7 Q Huh?

8 A I said not from the dugout, but he also found the two
9 casings from the side of the building.

10 Q Right. And I'm getting there. Right. Okay. So --
11 so you believe that where that officer was standing in that
12 photograph that that could probably -- that could be where
13 it --

14 MR. BARNETTE: Your Honor, I'm going to object. This
15 is calling for speculation on the witness' part.

16 THE COURT: Well, I mean, he was out there. So, if he
17 knows, he can answer it. If he doesn't know, he needs to
18 say he doesn't know.

19 A You said from where the officer was standing from the
20 aerial view?

21 Q From the aerial photograph, yes, sir.

22 A From my thoughts, yeah, from that aerial view you
23 could see the gas station and you could see the store. And
24 with the 30-06 you can hit 200 yards easy without it
25 dropping.

Bobby Allen Swigert, Jr.
Cross-examination by Mr. Thompson

1 Q Okay. And what I'm asking is that that place where
2 the officer was standing -- and that's tough to see on that
3 photograph, but that's where the shooting had to take
4 place, correct?

5 A Yeah. But if you look on the picture also, there was
6 also two clear paths without any trees.

7 Q Right, right. I'm not -- I don't remember that
8 being -- but what I'm saying that that bullet didn't come
9 in at angle in front of your car to your knowledge, did it?

10 A That I don't know.

11 Q Okay. Came from the side, correct?

12 A I believe so.

13 Q Okay. And you say you haven't got your car back,
14 right?

15 A No, sir. I haven't seen it since that night.

16 Q Okay. And they -- pardon. You said you lost some
17 cigarettes in there.

18 A Yes, sir.

19 Q Did you pack this -- the pack of cigarettes? Is that
20 something you usually do when you get a pack?

21 A More than likely, yeah.

22 Q Okay. Can you describe to the jury what that means,
23 what you're doing with the cigarettes?

24 A Taking a pack of cigarettes and banging it against
25 your hand.

Bonnie LeAnn Raines
Direct examination by Mr. Barnette

1 Q Okay. And just to get the tobacco packed in there,
2 correct?

3 A Yeah.

4 Q And it makes a little bit of noise -- a noise, right?
5 Okay. And you don't remember if you did that or not,
6 right?

7 A More than likely I did because that's mainly the first
8 thing you do when somebody gets a pack of cigarettes.

9 Q Okay. Okay. And I have no further questions.

10 MR. BARNETTE: No further questions of this witness,
11 Your Honor.

12 THE COURT: You may step down.

13 MR. BARNETTE: I'd like to call Bonnie Raines to the
14 stand, Your Honor.

15 BONNIE LEANN RAINES, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q Ms. Raines, if you would, give your full name for us,
19 please.

20 A Bonnie LeAnn Raines.

21 Q And where do you live at, Ms. Raines?

22 A Spartanburg.

23 Q And what do you do, ma'am, or are you going to school,
24 or what are you doing at this time?

25 A Going to school and I work at Chic-Fil-A.

Bonnie LeAnn Raines
Direct examination by Mr. Barnette

1 Q Going back to June 2nd of 2012, if you would, tell the
2 jury what happened in the early morning hours.

3 A We were coming back from my friend Morgan's house
4 going to where I was staying at the time and stopped to get
5 cigarettes and sodas.

6 Got back in the car, and I was turned around and I was
7 first looking for a lighter. And then we heard a loud
8 bang. We were looking around trying to figure out what --
9 what it was. And we looked down and saw blood and my
10 insides on the seat. And that's when we knew something was
11 wrong.

12 We called 9-1-1, and then we got off the phone with
13 her, and Bobby put a shirt around me and put pressure. And
14 then the cops got there and took me to the hospital.

15 Q Where did the shot go? If you would, stand up and
16 show. Can you show the jury where the shot went in?

17 A Do you want me to show the scar or just --

18 Q You can. If you would, just come down if you don't
19 mind showing the jury here where they can see.

20 (Whereupon, the witness left the stand.)

21 A Went in there and came out right here. There's like
22 two inches of my tattoo missing.

23 Q Please have a seat back there.

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

25 Q At the hospital -- how long was you at the hospital,

Bonnie LeAnn Raines
Direct examination by Mr. Barnette

- 1 ma'am?
- 2 A All together?
- 3 Q Yes, ma'am.
- 4 A I believe a week.
- 5 Q What kind -- what did they have to do to you?
- 6 A I know that they took me immediately into trauma
- 7 surgery to close my side back up because it was completely
- 8 open. And they had to go in and do exploratory surgery
- 9 just to make sure nothing internally was damaged.
- 10 Q And did they have to cut the front of you to do that?
- 11 A From there all the way down.
- 12 Q And did that -- did they use staples to close you?
- 13 A Yes.
- 14 Q And after that week how long did you at home -- or
- 15 what else did you have to go through?
- 16 A It took about two and a half months before I was able
- 17 to like go back to work or anything. My mom had to pack
- 18 the gunshot hole with gauze every day and clean it. She
- 19 had to give me showers and get me dressed and get me out of
- 20 bed and do everything for me. I couldn't do anything. I
- 21 couldn't for the first couple of weeks, I mean, I couldn't
- 22 turn myself over in the bed. I couldn't function without
- 23 anybody helping me.
- 24 Q And obviously you have scars.
- 25 A Uh-huh.

Bonnie LeAnn Raines
Direct examination by Mr. Barnette

1 Q That night you heard the firecracker. Did you think
2 it was a gunshot or anything at that time?

3 A No, I didn't. It was close to the 4th of July. I
4 mean, it sounded like a firecracker from like the ricochet
5 I guess in the car. I mean, it made our ears ring, and
6 then for a good minute or so we couldn't hear.

7 Q Obviously, the bullet went through you and obviously
8 tore your side open. And you saw that when you looked
9 down.

10 A Yeah.

11 Q Did you ever know Brian Holder?

12 A No.

13 Q Did you ever know Tyler Schomer?

14 A No.

15 MR. BARNETTE: Your Honor, just one second.

16 (Pause.)

17 Q One other thing, ma'am.

18 In talking to the doctors, will you be able to have
19 children the normal way?

20 A I'm not sure. I mean, they haven't really said. The
21 only thing we know for sure is that I'm going to have to
22 have more surgery.

23 Q Thank you, ma'am. Please answer any questions of
24 Mr. Thompson or the Court.

25 MR. THOMPSON: May it please the Court, Your Honor.

Bonnie LeAnn Raines
Cross-examination by Mr. Thompson

1 CROSS-EXAMINATION

2 BY MR. THOMPSON

3 Q Ms. Raines, I understand you probably have a good --
4 probably have a good memory of everything that happened.
5 You do recall hearing one shot, correct?

6 A I recall hearing two for sure.

7 Q Two for sure. Okay. And I think Mr. Swigert had said
8 you were already in the car before him, correct?

9 A We walked out at the same time.

10 Q Okay.

11 A And I think got back in the car at the same time.

12 Q Okay. And then you -- you parked in front of the ice
13 machine.

14 A Uh-huh.

15 Q And then you were sitting all the way back in the seat
16 apparently from the photographs we saw, correct?

17 A And I was turned to the left side.

18 Q Toward the --

19 A Towards the driver's side.

20 Q The driver's side. Okay. And what you showed us up
21 here was an entry and an exit wound, went straight across.

22 A Uh-huh.

23 Q And you didn't have your seat belt on or anything, did
24 you?

25 A No, not yet.

Bonnie LeAnn Raines
Cross-examination by Mr. Thompson

1 Q Your scars -- I don't want to see them -- but are they
2 pretty much close to the same place as far as where it went
3 in and went out on the other side? Is it fairly straight
4 across?

5 A What you do mean, from where it happened or --

6 Q Right. Is the entry wound and the exit wound kind
7 of -- it did go up in -- pretty much had to be from an
8 angle straight over here, you think, straight line through?

9 A I mean, not at that angle, I guess, because it went in
10 close to my thigh and came out by my hip and blew off
11 everything in between.

12 Q Okay. And I know that had to be horrible.

13 MR. THOMPSON: I have no further questions.

14 Q Thank you.

15 MR. BARNETTE: No further questions of this witness,
16 Your Honor.

17 THE COURT: You may step down.

18 MR. BARNETTE: Your Honor, may we take a minute to
19 check everything and make sure?

20 (Pause.)

21 MR. BARNETTE: Thank you, Your Honor, for letting us
22 do that.

23 The state would rest at this time.

24 THE COURT: All right. Ladies and gentlemen, that is
25 all of the testimony or other evidence to be offered by the

1 state, at least in their case in chief.

2 Before we go any further I've got some legal matters
3 I'll need to address with the lawyers. It should not take
4 too long.

5 But I'll ask you to please go to your jury room. Do
6 not yet begin any discussions of the case. I'll bring you
7 back shortly to continue.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: All right. Any motions or other matters
11 to address before we continue?

12 MR. THOMPSON: Your Honor, just based upon today's
13 testimony I believe I'd like to call Mr. Schomer for -- to
14 gather just a little more testimony.

15 THE COURT: You can. You can call anybody you'd like
16 to, but right now let's deal with the motions.

17 MR. THOMPSON: Okay. I was going to move to call him,
18 so that was mine.

19 THE COURT: Do you have any other motions?

20 MR. THOMPSON: No, Your Honor, I don't.

21 THE COURT: All right. Have you talked with
22 Mr. Holder about his right to testify, as well as not
23 testify, during the course of this trial?

24 MR. THOMPSON: I have, Your Honor, and he has not come
25 to a concrete decision on that yet. I would probably need

1 to discuss that with him a little further.

2 THE COURT: All right. Mr. Holder, do you understand
3 that when you are charged with a crime as you are now you
4 have an absolute right to remain silent?

5 That just means that nobody can make you testify
6 during the trial of this case. Nobody can call you to the
7 witness stand; nobody can require that you make a
8 statement; nobody can require that you answer any questions
9 that relate to the charges they've brought against you.

10 At the same time, you also have a right to testify if
11 you want to. You can take the witness stand to provide
12 this jury with any other information that you would like
13 for them to have in order for them to arrive at their
14 decision.

15 But it's just simply your choice as to whether or not
16 you'll take the witness stand and testify. You can if you
17 want to. Nobody can make you do that. Nobody can require
18 it.

19 Have you talked with Mr. Thompson about your right to
20 testify as well as not testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And have you and he discussed the
23 advantages as well as the disadvantages of your testifying,
24 as well as not testifying?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you understand and appreciate what
2 those advantages and disadvantages are?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand that if you choose to
5 take the witness stand -- and it's your choice -- if you
6 choose to take the witness stand and testify you've got to
7 answer not only your lawyer's questions but you've got to
8 answer the prosecutor's questions to the extent that
9 they're relevant even if any response might tend to prove
10 you guilty of some crime they claim you committed.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you also understand that if you choose
13 not to testify that I will instruct the jury again as I
14 already have that they can't hold that against you, they
15 can't consider that in any way, they can't allow your not
16 testifying to influence their decision or hold it against
17 you in any fashion?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand that? And do you
20 understand that it is your choice and only you can make
21 that choice as to whether or not you'll testify?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Thompson says that you and he
24 discussed it. But his belief is that you have not yet
25 reached a decision in that regard. Is that true?

1 THE DEFENDANT: I would like to discuss it more with
2 him.

3 THE COURT: All right. I'm going to take -- we're
4 going to take a short break, and I'm going to let you talk
5 with Mr. Thompson about your right to testify or not,
6 whether you want to or not.

7 When we come back you'll have to give me an answer to
8 that question as to whether or not you will. Do you
9 understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. We'll take 15 minutes.

12 MR. BARNETTE: Your Honor; if they're going to call
13 Mr. Schomer, he's in the jail. He wasn't brought over on
14 the jail chain.

15 THE COURT: Oh, all right. Well, we'll need to get --
16 he's downstairs. Bring him back up, please.

17 All right. We'll be at ease for 15 minutes.

18 (Whereupon, a recess was taken.)

19 THE COURT: All right. Any matters to address before
20 the jury is brought in?

21 MR. THOMPSON: One, Your Honor.

22 I move for a directed verdict. I don't believe the
23 evidence presented by the state on the attempted murders --
24 Mr. Schomer's testimony is questionable at best, and I
25 don't know that he provided any testimony or any -- any

1 proof that Mr. Holder would have indicated to him at any
2 time that he had any state of mind or mens rea to -- or
3 intent to commit any attempted murder.

4 I know it can be implied through actions, but at the
5 same time we -- with his questionable testimony provided I
6 don't know that the mens rea was ever established to show
7 the attempted murder.

8 With the gentleman at Ingles you've got a situation
9 where he hears shots, and he says he heard something go by.
10 I don't know that there's any testimony that's been
11 provided that would indicate that my client took the shot
12 at this gentleman.

13 I think Mr. Schomer testified or a statement was he
14 was laying down. And then later on he has a statement that
15 he's in the field shooting. But he doesn't -- he doesn't
16 indicate that there's any state of mind Mr. Holder has that
17 he intends to kill this man over here across the highway
18 with a light on his head. That was -- I don't know that he
19 ever established that.

20 And with the -- the situation at Race Way, it's my
21 understanding from both of those witnesses there was one
22 bullet fired that they know of that hit the car.

23 I don't know that Mr. Swigert offered up any testimony
24 that he heard a bullet go by or that he was in fear or that
25 he felt someone was attempting to shoot him with a gun.

1 It hit the passenger side of the car. His testimony,
2 he was on the driver's side.

3 So to -- I guess to establish the mens rea on that
4 would be a situation where the -- you would have to say one
5 bullet was intended for two people. And I don't know that
6 that was never said by Mr. Schomer.

7 I think his testimony -- well, this girl got shot or
8 he -- I think he said Mr. Holder shot the girl. Never
9 mentioned the guy or the trier. In fact, I think his
10 testimony might have been that a girl was packing the
11 cigarettes.

12 So I -- I would argue that on the -- especially the
13 driver of the Miata there's no mens rea that he would --
14 anybody attempted to murder him.

15 And then the gentleman at Ingles, I don't know that
16 any state of mind was ever conveyed. You know, I know
17 the -- the brain follows the bullet, so to speak, and it
18 would be implied possibly, but, at the same time, what he
19 heard was zings, and he heard them and thought it was
20 fireworks.

21 He didn't -- you know, he didn't imply anybody was
22 trying to kill him. And then he -- but he did realize
23 later on after the girl was shot.

24 So I would just say that on him, and especially the
25 driver of the Miata, that no -- no mens rea to prove

1 attempted murder.

2 And I do believe that there was testimony that
3 Mr. Schomer offered that Mr. Holder did have possession of
4 the gun, so I -- I don't know. I don't know that -- my
5 argument -- and I'll save that for a jury charge -- there
6 was no cooperation here. And I don't know that Mr. Holder
7 ever communicated anything to Mr. Schomer that there was an
8 intent to kill somebody as it would fit the statute.

9 THE COURT: All right. Solicitor.

10 MR. BARNETTE: Thank you, Your Honor.

11 In the light most favorable to the nonmoving party,
12 basically you've got an individual stole guns. He supplied
13 the guns. There's no question one of the guns he stole was
14 used to shoot at these individuals.

15 All the shell casings, the bullet that was found that
16 went through Bonnie Raines that was found in the car that
17 could easily went through her if it wasn't for the center
18 console, went through and hit Mr. Swigert in the
19 driver's-side car.

20 They testified they heard two shots. We also had the
21 gentleman across the street, also talked about two shots.
22 We've also got the bullet holes behind exactly where he
23 was, straight behind him.

24 We've got testimony that he, the defendant, has been
25 with all kinds of other people. He wanted money for these

1 guns. He'd had these guns in his possession. He's not
2 going to let these guns go out of his possession when he's
3 got all of that money to be made off them.

4 That's a situation where he had made statements to
5 Tyler Schomer that he made a head shot. I know they
6 attacked his credibility and so forth, but the evidence
7 shows. And of course he was at 9:00 o'clock that evening
8 together. He doesn't have a driver's license. He doesn't
9 drive a car. And then he came back around 1:30 or
10 2:00 o'clock at the house.

11 Had been out to the field before. Obviously, the gun
12 that he stole was used in these shootings. So I'd ask the
13 Court to deny those motions based on that.

14 THE COURT: All right. Motion for a directed verdict
15 is denied.

16 Any others?

17 MR. THOMPSON: None from the defense, Your Honor.

18 THE COURT: All right. You've talked with Mr. Holder
19 about his right to testify and not?

20 MR. THOMPSON: I have, Your Honor, and he indicates to
21 me -- let me confer with him one more second here.

22 (Pause.)

23 MR. THOMPSON: He does want to testify, Your Honor.

24 MR. BARNETTE: And, Your Honor, just for the record,
25 we have Exhibit No. 99 was a picture of Bonnie Raines'

1 injury, the shot, we was going to introduce when -- in a
2 conference with you. It was decided it was too prejudicial
3 more than probative, but we're just going to submit that as
4 I.D. for part of the record.

5 (Photograph marked State's Exhibit No. 99 for
6 Identification.)

7 THE COURT: All right. Mr. Holder, Mr. Thompson tells
8 me you've made a decision to testify. Is that true?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You made that decision on your own after
11 carefully considering it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Anybody forced you into that decision?

14 THE DEFENDANT: No, sir.

15 THE COURT: Anybody pressured you into it?

16 THE DEFENDANT: No, sir.

17 THE COURT: You've made that decision on your own
18 after careful reflection?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You're satisfied with that decision?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Mr. Thompson, you got other
23 witnesses you're going to call?

24 MR. THOMPSON: Briefly, I would like to question
25 Mr. Schomer -- Tyler Schomer.

Mattison Tyler Schomer
Direct examination by Mr. Thompson

1 THE COURT: All right. Bring the jury in, please.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: Ladies and gentlemen, as you know, the
5 state has concluded in its presentation. So we're now
6 going to proceed with any to be offered by the defense.

7 Mr. Thompson.

8 MR. THOMPSON: May it please the Court. Your Honor.
9 We'd call Tyler Schomer.

10 THE COURT: Mr. Schomer, if you'll come back around
11 and take your seat on the witness stand, you've already
12 been placed under oath for the purposes of your testimony.
13 So you are still under oath for the purpose of these
14 additional questions.

15 Do you understand?

16 THE WITNESS: Yes, sir.

17 MATTISON TYLER SCHOMER, having
18 been previously duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. THOMPSON

20 Q Mr. Schomer, are you doing okay today?

21 A Yes, sir.

22 Q Okay. A few questions.

23 Have you spoke with your mother lately?

24 A Not lately, sir.

25 Q She indicated you were in a military school at one

Mattison Tyler Schomer
Direct examination by Mr. Thompson

- 1 point or a Marine-based facility.
- 2 A Yes, sir.
- 3 Q What was the name of that place?
- 4 A Camp Bennettsville.
- 5 Q Camp Bennettsville. And was that part of a juvenile
- 6 justice camp or --
- 7 A Yes, sir.
- 8 Q So it wasn't a youthful offender facility.
- 9 A No, sir. It was part of D.J.J.
- 10 Q Okay. And when -- when did you go into that facility?
- 11 A I'd say January of 2010.
- 12 Q Okay. And was that based upon burglary violent
- 13 charges you received?
- 14 A No, sir.
- 15 Q Okay. What was that for?
- 16 A I think it was petty larceny and some other things.
- 17 Q Okay. And I believe you had Judge Sinclair down in
- 18 family court that sent you to that. Didn't he?
- 19 A Yes, sir.
- 20 Q Okay. And then, now, the petit larceny and other
- 21 things, who was -- who was the victim on those crimes?
- 22 A I can't recall, sir.
- 23 Q Can't recall.
- 24 MR. BARNETTE: Your Honor, I'm going to object to
- 25 this.

Mattison Tyler Schomer
Direct examination by Mr. Thompson

1 THE COURT: Sustained.

2 Q You don't recall the victim. Okay.

3 MR. BARNETTE: Objection.

4 THE COURT: I've sustained the objection to the
5 question.

6 Q Later on you -- did you go to a youthful offender
7 camp?

8 A Yes, sir.

9 Q Was that due to the burglaries?

10 A To the petty larcenies.

11 Q So you don't have any burglary charges?

12 A I do.

13 Q Okay. And those were -- what year were those from?

14 A Say --

15 MR. THOMPSON: Your Honor, may I approach the witness
16 and refresh?

17 MR. BARNETTE: Your Honor, I think he can just ask the
18 witness the charge and what year. It don't matter to me.

19 THE COURT: Well, just ask him if you know. Just ask
20 him if he has a conviction for that year.

21 Q Okay. Do you have a conviction from September of 2010
22 for burglary?

23 A Yes, sir.

24 Q Okay. And is that when you got the youthful offender
25 sentence?

Mattison Tyler Schomer
Direct examination by Mr. Thompson

- 1 A Can I backtrack?
- 2 Q Yes, sir.
- 3 A If that was -- I got my dates messed up then. If that
4 was 2010 when I got my sentence, because on my burglary I
5 got a probation sentence in general sessions.
- 6 Q Okay. Right, right. You got a youthful offender
7 sentence.
- 8 A Yes, sir, yes, sir.
- 9 Q And it was suspended to probation, youthful offender
10 probation, correct?
- 11 A Yes, sir.
- 12 Q And that was from 2010, correct?
- 13 A Yes, sir.
- 14 Q Now, so if you go and you're convicted under youthful
15 offender you're not going to go about it -- are you saying
16 you went to the family court after that?
- 17 A No. That's where I got mixed up from. I come -- I
18 forgot about the youthful offender thing. I thought you
19 were still talking about D.J.J. thing. No, sir.
- 20 Q Okay. Okay. So Camp Bennettsville was probably
21 before 2010, correct?
- 22 A Yes, sir.
- 23 Q Okay. Do you remember what year that was?
- 24 A I can't be exact on the year.
- 25 Q Okay. But it would -- do you remember how old you

Mattison Tyler Schomer
Direct examination by Mr. Thompson

1 were?

2 A I would have been 16 maybe.

3 Q I guess. I'm just trying to go -- and I'm talking
4 about family court, now.

5 A Yes, sir.

6 Q You went to Camp Bennettsville.

7 A Yes, sir.

8 Q And you would have been 16 then?

9 A Should have been somewhere in there.

10 Q So, beg your pardon. Your date of birth is the
11 [REDACTED], correct?

12 A Yes, sir.

13 Q Okay. So when you were convicted and pled -- or I
14 guess you pled guilty, right --

15 A Yes, sir.

16 Q -- in 2010, September of 2010, to the burglary
17 charges? Then you would have been 16 at that time,
18 correct?

19 A Yes, sir.

20 Q Okay. So that would have been in -- that was in
21 September of 2010, correct? At any time did you get a
22 revocation of your probation?

23 A Yes, sir.

24 Q You did?

25 A Yes, sir.

Mattison Tyler Schomer
Direct examination by Mr. Thompson

1 Q Okay. That would have meant in 20 -- do you know if
2 that was in 2010 or 2011?

3 A Should have been in 2011 -- no -- 2011.

4 Q Okay. So did you get sent to a camp then?

5 A No, sir.

6 Q You didn't. What did they do to you for your
7 probation revocation?

8 MR. BARNETTE: Your Honor, I'm going to object to
9 this. I don't understand the relevance of this.

10 THE COURT: Sustained.

11 Q Early during 2012 --

12 A Yes, sir.

13 Q -- prior to this incident in July --

14 A Yes, sir.

15 Q -- were you ever in 2012 in a camp or a facility or
16 anything like that?

17 A No, sir.

18 Q Never were. Okay. Were you going to school?

19 A No, sir.

20 Q Okay. You work somewhere?

21 A No, sir.

22 Q Okay. All right. So I wanted to clarify that. And
23 then I think your earlier testimony you indicated that
24 Mr. Holder never said anything.

25 MR. BARNETTE: Your Honor, I'm going to object. I

Mattison Tyler Schomer
Direct examination by Mr. Thompson

1 mean, I'm giving him some latitude. He can't -- he called
2 him as his witness. He can't lead him.

3 MR. THOMPSON: I will rephrase it.

4 THE COURT: Okay.

5 Q Mr. Holder ever give you any cue, vocal or anything,
6 that he wanted to shoot somebody?

7 A No, sir.

8 Q Did not. Okay. And is it your testimony, again, that
9 you didn't shoot the gun that night, the second night?

10 A Yes, sir.

11 Q Okay. Do you remember -- now, you were arrested on
12 the 9th or so, right?

13 A Yes, sir.

14 Q And do you remember when they brought you out of the
15 police station to the detention center?

16 A Yes, sir.

17 Q Okay. And what did you say to the press?

18 A "I'm sorry."

19 Q You said, "I'm sorry," right?

20 A Yes, sir.

21 Q Okay.

22 MR. THOMPSON: I have no further questions.

23 MR. BARNETTE: Just one or two, Your Honor.

24

25

Mattison Tyler Schomer
Cross-examination by Mr. Barnette

1 CROSS-EXAMINATION

2 BY MR. BARNETTE

3 Q Was you sorry for what you and Bryan Holder did?

4 A I'm just sorry for it ever -- anything like that take
5 place.

6 Q Did you shoot that weapon that night?

7 A No, sir.

8 Q Who shot that weapon that night?

9 A Bryan Holder.

10 MR. BARNETTE: That's all the questions, Your Honor.

11 THE COURT: All right. You may step down.

12 Let me see y'all just a minute, please.

13 (Bench conference held off the record in the presence
14 of the jury but out of the hearing of the jury.)

15 MR. THOMPSON: Your Honor, I would call Bryan Holder.

16 BRYAN MARION HOLDER, having
17 been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. THOMPSON

19 Q Bryan, state your full name for the court's record,
20 please.

21 A Bryan Marion Holder.

22 Q Okay. Bryan, how old are you?

23 A I'm 21 years old.

24 Q And you -- how far did you go in school?

25 A I completed ten years of school and I have my G.E.D.

Bryan Marion Holder
Direct examination by Mr. Thompson

1 Q You did get a G.E.D.

2 A Yes.

3 Q When did you get that?

4 A I took classes and received it through a program. I
5 don't remember the name of the program.

6 Q Okay. Now, you had -- you had a prior charge of
7 carbreaking, correct?

8 A Yes, sir.

9 Q Okay. And then when you went to that facility, is
10 that when you got your G.E.D.?

11 A Yes, sir.

12 Q Okay. So did they offer that and you took advantage
13 of it?

14 A Yes, sir.

15 Q Okay. Now, we've taken a lot of testimony on the
16 theft of those guns and those other items from this -- from
17 Bethesda Road. And you've -- have you entered a plea on
18 that yet?

19 A Yes, sir.

20 Q What did you plea on that?

21 A I pled guilty to the grand larceny and malicious
22 damage to property.

23 Q Okay. And you're accepting responsibility for those,
24 correct?

25 A Yes, sir.

Bryan Marion Holder
Direct examination by Mr. Thompson

- 1 Q Do you expect to pay a penalty for that?
- 2 A I do.
- 3 Q Okay. Now, briefly explain to me why there was a shot
- 4 in that house.
- 5 A When I had stayed the night, the next morning I was
- 6 about to take the guns. I was unloading them, and the
- 7 20-gauge when I was unloading it, it went off, and it shot
- 8 through the door.
- 9 Q Okay. Did you shoot on purpose?
- 10 A No, sir.
- 11 Q But you understand that you're still pleading to that
- 12 even though you just couldn't -- didn't handle the gun
- 13 properly, correct?
- 14 A Yes, sir.
- 15 Q Okay. Now, the photographs they introduced of the
- 16 guns, did you take that picture?
- 17 A I did.
- 18 Q Okay. And you showed that to who?
- 19 A I believe I showed -- I believe Tyler seen it, Matt,
- 20 and a buddy of mine named Scoop.
- 21 Q Okay. And the picture of the money, did you send that
- 22 to anybody?
- 23 A No, I did not.
- 24 Q Okay. And how old is that photograph?
- 25 A I believe that was an older photograph from -- I

Bryan Marion Holder
Direct examination by Mr. Thompson

1 had -- I was working at McDonald's, and it was about three
2 hundred twenty or so dollars. I had took a picture of it
3 and just put it on Facebook.

4 Q Okay. So that wasn't money you got from a gun sale?

5 A No, sir.

6 Q Okay. All right. And you heard Mr. Schomer's
7 testimony, correct?

8 A Yes, sir.

9 Q All right. Now, did you have occasion to stay with
10 Mr. Schomer?

11 A I did.

12 Q Okay. And did you go to this field and shoot guns
13 with Mr. Schomer?

14 A Yes. I went down there one time.

15 Q Okay. Do you remember what -- what night you went
16 down there?

17 A Not exactly.

18 Q Okay.

19 A But it was probably around the 29th or the 30th. I'm
20 not sure.

21 Q Okay. And did you go -- how many times did you go
22 shoot the guns?

23 A I only went to shoot guns one time.

24 Q Okay. And was that in that field we've looked at
25 and -- and did all the diagrams with?

Bryan Marion Holder
Direct examination by Mr. Thompson

- 1 A It was the one where the dugout area was.
- 2 Q Okay. And that dugout area, and I'll--
- 3 THE COURT: Mr. Holder, let me ask you to get closer
- 4 to that microphone and speak up, please.
- 5 THE WITNESS: Yes, sir.
- 6 Q Okay. And the dugout area, we discussed that with the
- 7 officer. That's the part behind that sign, correct?
- 8 A Yes, sir.
- 9 Q Okay. Now, when you say you were down there shooting
- 10 a gun, was it the 30-06?
- 11 A Yes, sir.
- 12 Q Okay. And what direction were you shooting the gun?
- 13 A We shot at -- we had targets that we set up. There
- 14 was a 5-gallon bucket out there, and we set the lid of
- 15 it -- we -- it had a hole in it. And we would hang it from
- 16 several trees in the middle area of the dugout and we would
- 17 shoot at it.
- 18 Q Okay. And what direction would you shoot toward? I
- 19 mean, what direction?
- 20 A Into the woods.
- 21 Q Into the woods. Okay. And about how many times do
- 22 you remember shooting it?
- 23 A I'm really not exactly sure how many times we shot the
- 24 gun.
- 25 Q Okay. Now, you heard the testimony from Mr. Denton

Bryan Marion Holder
Direct examination by Mr. Thompson

1 and Schomer that the guns were taken from Kevin's to
2 Tyler's. Is that good information?

3 A Yes.

4 Q Okay. And when -- and what guns did you take to
5 Mr. Schomer's house?

6 A Me, Matt and Tyler had -- it was the 30-06 and the
7 30-30.

8 Q Thirty?

9 A 30-30.

10 Q Okay. And when you took those over there, what day
11 was it?

12 A I'm not sure if it was the -- the night of the 29th or
13 the day or the night after. I'm not sure.

14 Q Okay. So you left from Kevin Denton's and went over
15 there.

16 A Yes, sir.

17 Q That same day, correct?

18 A Yes, sir.

19 Q Okay. Now, did you ever other than going to the field
20 and shooting, did you ever remove those guns from
21 Mr. Schomer's house?

22 A No, sir.

23 Q Okay. Now, did you attempt to sell those guns?

24 A Yes, I was trying to sell them.

25 Q Okay. And the other guns too?

Bryan Marion Holder
Direct examination by Mr. Thompson

1 A Yes, sir.

2 Q Okay. And what was -- what did -- what was the
3 bargain with Mr. Denton to allow you to stash the guns in
4 his car?

5 A He told me he had a .22 rifle and if I -- he would
6 take that if I let him -- he would let me put it in the
7 trunk of his car.

8 Q Okay. And when you went out there to shoot did you --
9 do you remember what time it was?

10 A I do not. I believe it was nighttime.

11 Q Okay.

12 A But I do not remember what time it was.

13 Q Okay. And did you ever go up the hill past that sign
14 that we've seen on the -- on the pictures past going toward
15 the highway?

16 A No, I did not.

17 Q Okay. Now, down in the dugout area where you were
18 could you see the Race Way?

19 MR. BARNETTE: Your Honor, I'm going to object to the
20 leading questions.

21 THE COURT: Well, I don't think that's a leading
22 question.

23 Go ahead.

24 A No, sir, I could not.

25 Q The Ingles? Could you see that?

Bryan Marion Holder
Direct examination by Mr. Thompson

- 1 A No, sir.
- 2 Q And when you guys finished shooting what did you do?
- 3 A We went -- me and Tyler went back to his house.
- 4 Q To Tyler's.
- 5 A Yes.
- 6 Q And was Mr. Schomer accurate that's within walking
- 7 distance?
- 8 A It is.
- 9 Q Okay. And had you ever been out there before to shoot
- 10 with him?
- 11 A No. I had never been out there before.
- 12 Q Okay. And when you returned what did you do?
- 13 A We just hung out and eventually went to bed.
- 14 Q Okay. When you say hung out what did you --
- 15 A Stayed around the house, played, watched T.V.
- 16 Q Okay. Were you listening to the police scanner?
- 17 A No.
- 18 Q Okay. Do you remember the police coming by with
- 19 spotlights or anything?
- 20 A No.
- 21 Q Now, you eventually were arrested on July the 3rd,
- 22 isn't that right?
- 23 A Yes, sir.
- 24 Q Okay. What were you originally arrested for?
- 25 A I was arrested for grand larceny and malicious damage

Bryan Marion Holder
Direct examination by Mr. Thompson

1 to property.

2 Q Okay. Stemming from the Bethesda Road thefts,
3 correct?

4 A Yes, sir.

5 Q And it was on July the 3rd?

6 A Yes, sir.

7 Q Okay. 2012. Now, have you since then -- have -- have
8 you spoken with Kevin Denton?

9 A No, sir.

10 Q Have you spoken with Tyler Schomer?

11 A No, sir.

12 Q Okay. So the 3rd you went to jail. And you haven't
13 spoke to those guys since, right?

14 A Yes, sir, no, sir.

15 Q Okay. On the 3rd did they ask you anything or were
16 you asked anything about the shooting at the Race way?

17 A Not on the 3rd.

18 Q When did you -- when did you hear about this shooting?

19 A I'm not sure if it was a couple of weeks or a little
20 bit longer. Investigator came to the county jail and
21 wanted to speak with me. And he -- he tried to issue me
22 the warrants for the attempted murder.

23 Q For the shooting?

24 A Yes, sir.

25 Q Okay. And, now, had you heard of the shooting before

Bryan Marion Holder
Direct examination by Mr. Thompson

1 then?

2 A No, I had not.

3 Q Okay. And so that would have been after the
4 3rd obviously, right?

5 A Yes, sir.

6 Q Okay. And at any time -- I'm going to go back to the
7 dugout area. At any time did you and Mr. Schomer ever get
8 out of either one other's sights?

9 A No, sir.

10 Q So you were both in the dugout. And he never left and
11 you never left, correct?

12 A Yes, sir.

13 Q Did he walk up the hill?

14 A I didn't see him if he did.

15 Q Okay. And did they take you to the jail when they
16 served the warrants on you?

17 A What do you mean, sir?

18 Q From the detention center to the police department.
19 Did they take you across to the warrant division?

20 A No. It was up in the booking area of the jail when I
21 believe it was Lorin Williams that came, and sent to serve
22 me warrants about the attempted murder.

23 Q Okay. And -- and I'm just trying to figure out where
24 the press saw you, that that was inside the booking area?

25 A Yeah, I believe. No, no. It wasn't inside the

Bryan Marion Holder
Direct examination by Mr. Thompson

1 booking area. It was -- I don't know if it was after that,
2 or they took me back to the sheriff's office and sat me
3 down in the investigation room and kept me there and didn't
4 ask me any questions and then brought me out in front of
5 the media.

6 Q Okay. So, you did get taken back somewhere to have
7 the warrants served or at least to interview on those,
8 correct?

9 A Yes, sir.

10 Q Okay. Now, did -- did you -- did you shoot at these
11 folks at Race Way?

12 A No, I did not.

13 Q Okay. Did you shoot at anybody at Ingles?

14 A No, I did not.

15 Q Did you shoot in that direction at all?

16 A No, I did not.

17 Q If you had to estimate how many shots you took with
18 that 30-06, how many do you think you took?

19 A Probably about 13 or 14.

20 Q You took that many or both of you took that many?

21 A We both shot the gun.

22 MR. BARNETTE: Your Honor, he's leading the witness.

23 THE COURT: Don't lead him.

24 Q All right. So you personally, how many do you think
25 you shot?

Bryan Marion Holder
Direct examination by Mr. Thompson

- 1 A It may have been a little less than 12. I mean, we
2 were both shooting out there.
- 3 Q Okay. But you were shooting the majority of them.
- 4 A I believe so, yeah.
- 5 Q And did you ever hit the target you were shooting at?
- 6 A Yeah.
- 7 Q Okay. Do you remember what day you left Mr. Schomer's
8 house?
- 9 A I believe it was -- it was either the morning of the
10 30th or the morning of the 1st. I'm not sure.
- 11 Q And you were arrested the 3rd, correct?
- 12 A Yes.
- 13 Q And thereafter you were arrested. And you have been
14 in jail since, correct?
- 15 A Yes, sir.
- 16 Q Did you ever have any conversations with Mr. Schomer
17 about shooting anybody?
- 18 A I did not.
- 19 Q Did he ever say anything to you about shooting
20 anybody?
- 21 A He did not.
- 22 Q Okay. When you -- when you left did you -- you
23 didn't -- did you take the guns with you?
- 24 A I did not.
- 25 Q Okay. And did you ever go back and get the guns?

Bryan Marion Holder
Direct examination by Mr. Thompson

1 A No, sir.

2 Q Okay. Briefly, tell us what conversation you had
3 about shooting the guns.

4 A I didn't really have any conversation about shooting
5 the guns.

6 Q Okay. So, I mean, somehow you decided to go shoot,
7 correct?

8 A Yeah.

9 Q Okay.

10 MR. BARNETTE: Your Honor, he's leading the witness
11 again.

12 THE COURT: Don't lead the witness, please.

13 MR. THOMPSON: Yes, Your Honor.

14 Q There -- there was no -- no conversation. Okay. Did
15 you -- did you and Tyler discuss shooting the guns?

16 A Yes. We -- once I had taken from the Lydas' house I
17 wanted to try them out.

18 Q Okay. And did you have anywhere to try them out?

19 A Yes. Tyler told me that he knew of a place that we
20 could shoot the gun.

21 Q Okay. That's how you wound up in the -- in the
22 dugout, correct?

23 A Yes, sir.

24 Q How long have you been without a driver's license?

25 A I believe since I was 17. I never had my driver's

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 license. I had a permit.

2 Q Answer any questions Mr. Barnette has for you.

3 MR. BARNETTE: May it please the Court, Your Honor.

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MR. BARNETTE

7 Q You wanted to try the guns out, didn't you?

8 A Yes, sir.

9 Q You wanted to try the guns out you'd just stolen,
10 didn't you?

11 A Yes, sir.

12 Q The guns you wanted to sell. Didn't you?

13 A Yes, sir.

14 Q I'll just ask you this. You stole this gun, didn't
15 you, 30-06 or 30-30?

16 A Yes, sir.

17 Q This was the gun that y'all took out shooting that you
18 wanted to try out.

19 A Yes, sir, to target practice.

20 Q For target practice, right?

21 A Yes, sir.

22 Q If you would, just take the gun for a second. That's
23 the gun you shot, right?

24 A Yes, sir.

25 Q And I think Mr. Thompson asked you the first time.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 You said 12 or 13 shots, right?

2 A Yes, sir.

3 Q Do you know how many shell casings they found out
4 there?

5 A Yes, sir.

6 Q Thirteen. Do you want to count them? You're the one
7 shooting the gun because you wanted to shoot it.

8 A Both of us, sir.

9 Q And you wanted to get money for these guns, didn't
10 you?

11 A I did try to sell them once I took them from the
12 Lydas' home.

13 Q As a matter of fact, you was offered \$1,500 for those
14 guns in Greenville, weren't you?

15 A Nobody had offered me directly. A friend of mine had
16 told me that he thinks he could get that.

17 Q Who is Sarah Elizabeth?

18 A I do not know. Sarah is my baby's mama, my
19 girlfriend.

20 Q Your girlfriend, right?

21 A Yes, sir.

22 Q Didn't you say I have \$1,500 waiting on me in
23 Greenville but I got no F'ing ride?

24 A I believe that was on Facebook.

25 Q Yeah. You put that on Facebook, didn't you?

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 A Yes, sir.

2 Q And she wanted you to give her some gas money, didn't
3 she? She wanted to get gas money from you too, right?

4 A I don't recall that, sir.

5 MR. BARNETTE: Borrow a pair of scissors for a second.

6 I'll mark that, I think, 103. That'd be 102.

7 (Photograph marked State's Exhibit No. 102.)

8 MR. BARNETTE: May I approach the witness, Your Honor?

9 THE COURT: You may.

10 Q Show you State's 102. Is that the message you put on
11 Facebook?

12 A Yes, it is.

13 Q And that was her response -- your baby-mama, right?

14 A That is not my baby-mama.

15 Q Okay. Who is Sarah Elizabeth?

16 A That is a girl that used to work at McDonald's with
17 me.

18 Q Okay. But this is off the Facebook page, is that
19 correct?

20 A Yes, sir.

21 MR. BARNETTE: Your Honor, permission to publish it to
22 the jury.

23 THE COURT: You may.

24 Q While that's warming up, the picture we saw off your
25 phone, the \$320, is that -- how much money was there?

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 A I do not remember, sir, but I believe it was around
2 that because that's around what I got paid while I was
3 working at McDonald's.

4 Q Well, isn't that how much you stole from the Lydas?

5 A No, sir.

6 Q Three hundred something dollars.

7 A No, sir.

8 Q That's what you stole from her house.

9 A There was not that amount of cash that was there. I
10 believe it was like a hundred twenty that was there.

11 Q You was in for all the money you can get, weren't you?
12 There's no way you'd let somebody else take these guns
13 because that was going to be money that you was going to
14 use, wasn't it?

15 A I was attempting to sell the guns.

16 Q As a matter of fact, you'd called folks -- Matt --
17 Matt had to go pick you up near the chicken's -- Church's
18 chicken over here, didn't they? Or whose house was you at
19 at that time?

20 A My buddy's Scoop's house, and he picked me up.

21 Q So Scoop had picked you up.

22 A Yes, sir.

23 Q Scoop's the one that went and picked you up at the
24 Lydas' house?

25 A Yes, sir.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 Q And you took how many guns -- did you take?

2 A I believe there were eight guns.

3 Q And you took their computer, ipod, money. What else
4 did you take?

5 A That's -- I think that's about it.

6 Q And your testimony is to this jury the reason why the
7 shotgun blast is in there, you were unloading the gun?

8 A Yes, sir.

9 Q They don't keep their guns loaded. Who put the shell
10 casing in there?

11 A He -- he said that his -- they were in his son's room,
12 so.

13 Q He teaches his son to keep guns unloaded. He teaches
14 them how to respect his guns. So did you load the gun?
15 Are you saying the gun was loaded when you were stealing
16 it?

17 A It was loaded, and I was unloading it when it went
18 off.

19 Q Well, how do you unload it?

20 A I was trying to unload it by pulling the lever back on
21 the 20-gauge and to try to get the shells out. I didn't
22 know how to unload it, and it went off and it shot through
23 the door.

24 Q What gun are you talking about on the 20-gauge? What
25 kind of gun was it? I know it was a shotgun but --

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 A It was a thing you pull with your finger to cock it
2 back.

3 Q And then you steal their ammunition too?

4 A I didn't take that.

5 Q What's that?

6 A Yes.

7 Q Okay. I believe that's State's Exhibit 18. And that
8 was loaded with all the 30-06 ammunition, shotgun shells
9 and everything, wasn't it?

10 A Yes, sir. It had a few different boxes.

11 Q Who was the person you was going to sell the guns to
12 in Greenville?

13 A I was told by Scoop that he may know somebody that
14 wanted them. I didn't know if someone was actually going
15 to buy them. I just knew that he had told me that he might
16 have somebody to buy them in Greenville.

17 Q Who is Wes?

18 A That is a drug dealer.

19 Q And weren't you going to sell him the 30-30?

20 A No, I was not.

21 Q You weren't going to sell him the 30-30?

22 A No.

23 Q But you knew who Wes was.

24 A Yes. I know him.

25 Q Ms. Lawing testified earlier. She's the one that

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 actually brought you over to the Lyda house.

2 A Yes.

3 Q Isn't it true on July the 3rd when you knew you was
4 going to get in trouble for that you called her and asked
5 her to take her statement down?

6 A After I was arrested, yes.

7 Q So you called her and told her that.

8 A Yes. I was in the booking area, and I called her.
9 And at the time I -- I didn't want to get in trouble for it
10 or anything. I told her that, you know, I had a kid and I
11 wanted to get home to my kid and take care of him. So I
12 asked her if she could take her statement back.

13 Q And you was telling this jury too that you never heard
14 about the shooting over at Springfield Crossing at the Race
15 way?

16 A Not until the investigator came to me in the booking
17 area.

18 Q And when was that?

19 A I'm not sure. It was a few weeks or so after I got
20 arrested.

21 Q By the way, you're not too sure on a lot of dates, are
22 you?

23 A I'm recalling to the best of my memory, sir.

24 Q I think -- I don't know how many times you said not
25 exactly. You don't know if you left Mr. Blackwell's house.

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 Mr. Blackwell lived at the house, is that right?
- 2 A I believe so.
- 3 Q And he's a good man, worked 40 years, does devotion
- 4 and walks every morning, doesn't he?
- 5 A I don't know all the details of what he does every
- 6 day.
- 7 Q Well, you stayed at their house.
- 8 A I never spent much time with him.
- 9 Q You didn't spend much time with him?
- 10 A No, sir.
- 11 Q Did you know Ms. Thompson?
- 12 A I do.
- 13 Q And she was at that house too. Weren't she?
- 14 A She lives there.
- 15 Q She does live there. And at the time her mother or
- 16 the Tyler's grandmother lived there too, didn't she?
- 17 A Yes, she did.
- 18 Q And she would take care of her mother. She was very
- 19 sick at the time, wasn't she?
- 20 A I believe so.
- 21 Q Show you State's Exhibit 102. You put that on
- 22 Facebook, didn't you?
- 23 A Yes.
- 24 Q That's pretty brazen to put on there you got \$1,500
- 25 waiting for you where the whole world can see it.

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q In other words, you were going to get guns -- money
3 for these guns.
- 4 Your testimony is -- and these were the two biggest
5 rifles. And you would agree with me these are probably the
6 ones worth the most, is these two rifles. That's the
7 reason why you took them with you.
- 8 A I would not know what the worth is.
- 9 Q And you wanted to try these guns out to see what --
10 and especially that gun.
- 11 A I did want to try them out.
- 12 Q Okay. And, as a matter of fact, you're the one that
13 told Tyler let's go shooting and he's where -- where I
14 guess they shot pellet guns. He took you over there.
- 15 A We agreed on that evenly.
- 16 Q What's that?
- 17 A We agreed on that evenly. He knew a place that we
18 could shoot the gun.
- 19 Q Y'all did everything together, didn't you?
- 20 A We did a lot of stuff together.
- 21 Q You went shooting together.
- 22 A Yes.
- 23 Q When you shot this weapon, how did you shoot it? If
24 you would, show us, the jury, right here how you shoot it.
25 It's secure.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 THE COURT: Well, still don't point it at anyone.

2 MR. THOMPSON: Your Honor, he's -- he's testified he
3 shot the gun. I think we're going beyond the relevance
4 of -- of the cross-examination.

5 THE COURT: Overruled.

6 Q You shot this gun, you said, 12 or 13 times -- 12
7 times. It's a bolt action, is that right?

8 A Yes.

9 Q You have to click it one at a time. How many bullets
10 do you put in the gun?

11 A I don't recall how many bullets it holds. I think
12 three or four.

13 Q But you loaded the gun, didn't you?

14 A Yes. The magazine.

15 Q You brought the ammunition to load the gun up, didn't
16 you?

17 A Sir?

18 Q You brought the ammunition to load the gun up with.

19 A Yes.

20 Q Because you got it. This is your guns and this is
21 your ammunition.

22 A No, it is not.

23 Q It was at the time, wasn't it?

24 A I had taken it from the Lydas' home, yes.

25 Q And you put those shell casings, those bullets, in the

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 gun, didn't you?
- 2 A Yes.
- 3 Q And these are bullets you got from that. The boxes
- 4 and things was inside there.
- 5 A Yes, sir.
- 6 Q You took them out of the boxes, and of course it was
- 7 cartridge holders in there like the bullet holders inside
- 8 the boxes.
- 9 A Yes, sir.
- 10 Q You took them out of that, didn't you? You took them
- 11 out of the boxes too, didn't you?
- 12 A Yes.
- 13 Q And you're the one that handled the bullets and put
- 14 them in the gun.
- 15 A Yes, sir, in the -- when we were shooting at targets,
- 16 yes.
- 17 Q But all of these pictures that we have, we didn't see
- 18 a target in them, did we? You saw all the pictures earlier
- 19 today that we showed the jury.
- 20 A There was a sign out there with a hole in it that we
- 21 have pictures of. That's what -- that was one of the
- 22 things.
- 23 Q You shot the sign. You shot the sign, didn't you?
- 24 A Yes. It was one of the targets that we had.
- 25 Q And the shot -- sign was shot from behind out, wasn't

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 it?

2 A It was from in the dugout area.

3 Q In order to shoot, you were in the dugout area when
4 you shot the sign, right?

5 A Yes, sir.

6 Q Do you know which direction that bullet would go in?

7 A Would you explain that, sir?

8 Q You shot the sign from the dugout area. Where will
9 that bullet land at? It went through the sign, because you
10 can see the picture and see that.

11 A Yes, sir.

12 Q If you're in the dugout area, you shoot, you're
13 shooting towards Ingles, Race way, that area.

14 A I don't believe that that was lined up with what
15 you're saying it's lined up with.

16 Q You shot from the dugout area. The sign's up on the
17 ridge. You have to shoot that direction to get to it.

18 A Yes. That would kind of be toward this scatter.

19 Q Well, bullets can travel until they hit something,
20 can't they?

21 A Yes, sir.

22 Q That's awful dangerous shooting that direction. And
23 you shot in that direction just like Tyler said, didn't
24 you?

25 A I shot at the sign one time.

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 Q And there's one bullet in the sign, isn't there?
- 2 A Yes, sir.
- 3 Q And you shot from down in the dugout area, is that
- 4 right?
- 5 A Yes. I was shooting in the dugout area.
- 6 Q Showing you State's Exhibit No. 50. That's the sign
- 7 that you shot from the dugout area.
- 8 A Yes, sir.
- 9 Q Do you see that placard right there -- No. 1?
- 10 A Yes, sir.
- 11 Q You realize they found that shell casing there.
- 12 A Yes, sir.
- 13 Q So you unloaded that shell casing after you shot that
- 14 sign as you was going up the hill.
- 15 A Yes, sir.
- 16 Q And you kept on walking up that hill, didn't you?
- 17 A No, sir.
- 18 Q Well, Tyler was with you. He saw you do it.
- 19 A That is not true, sir.
- 20 Q Okay. It's not true that you shot the sign or not
- 21 true -- you obviously shot the sign from the dugout.
- 22 A I shot the sign, sir. I didn't keep walking up the
- 23 hill.
- 24 Q Isn't it true you wouldn't let anybody else handle it?
- 25 That was your gun.

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 A Tyler shot it as well.
- 2 Q Tyler shot it as well. Got 13 shell casings. He shot
3 one time, two times?
- 4 A He shot more than that, sir.
- 5 Q And your testimony is you just left those guns at the
6 house there. Where did y'all leave them in the house?
- 7 A Tyler -- when we went back to his house that night he
8 had put them on the back porch, I believe.
- 9 Q So y'all just kept them out in the open in the back
10 porch?
- 11 A I believe that's where he put them.
- 12 Q So Tyler put them there.
- 13 A Yes. He put them away at his house.
- 14 Q Okay. And July -- you don't know if you left
15 June 30th, July 1st or when you left, do you?
- 16 A I believe it was the morning of the 30th.
- 17 Q You believe.
- 18 A Yes, sir.
- 19 Q Where did you go after that?
- 20 A I went to my mother's house, sir.
- 21 Q You stayed at your mother's house?
- 22 A Yes, sir.
- 23 Q The whole time?
- 24 A Yes, sir.
- 25 Q You mean you weren't trying to sell these guns?

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 A Yes, sir.

2 Q On your phone, State's Exhibit 17, there is a police
3 scanner app on it, isn't that there?

4 A Yes, sir.

5 Q And you can listen to the police on this, can't you?

6 A Yes, sir.

7 Q And you're trying to tell this jury and trying to tell
8 everybody in this room that you didn't know about this
9 shooting but you stayed all of the time over at Tyler's
10 house right beside where this occurred where it was over
11 the press -- the sheriff had press conferences and
12 everything talking about it -- and you claim you didn't
13 know anything for two or three weeks.

14 A No, sir. I was in jail. I got arrested on the 3rd.

15 Q You got arrested on the 3rd.

16 A Yes.

17 Q And you -- and that's when you called Ms. Lawing to
18 tell her to change her statement.

19 A Yes, from the booking area in the jail.

20 Q You were thinking you don't need to be connected to
21 these guns. Do you?

22 A No, sir.

23 Q Because you know if you hadn't stolen these guns they
24 would never have been used to do whatever to Bonnie Raines,
25 Bobby Swigert, the other gentleman across the street. When

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 you shot this rifle did you look through the scope?
- 2 A When we were out there in the dugout area it was dark.
- 3 I did not use a scope.
- 4 Q Well, what was you shooting at when it was dark?
- 5 A We hung a sign up on the tree, and there wasn't very
- 6 much space between the woods and the middle area. So we
- 7 were close enough to see.
- 8 Q Okay. This is in the dark, right?
- 9 A There was enough light from the moon.
- 10 Q So you say there was a moon that night?
- 11 A I believe so. I could see the target.
- 12 Q You could see the target. How far away was you at the
- 13 target?
- 14 A Could have been 6 or 7 feet.
- 15 Q So you're shooting at this target from 6 or 7 feet.
- 16 A Yes, sir.
- 17 Q Did y'all move the target?
- 18 A Yeah. We moved it around in the center area of the
- 19 dugout.
- 20 Q But it was left. It was in the dugout, right?
- 21 A It was.
- 22 Q And you realize all of these pictures we've got, we
- 23 don't have pictures of that target or anything like that.
- 24 And I'll go through all the pictures, but it's not there.
- 25 A I realize that.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 Q No. But there was enough light at the Race way and
2 enough light across the street with the gentleman with the
3 -- head one on.

4 A The 5-gallon bucket that was out there was out there
5 previously, because Tyler and his cousin had been out there
6 before shooting, and they had a target set up. And I'm not
7 sure why it wasn't out there, but it was when me and Tyler
8 was out there shooting.

9 Q Okay. So Tyler obviously had used your phone before.

10 A Yes.

11 Q So he knew about your phone.

12 A Yes.

13 Q He knew there was a police scanner on it.

14 A I don't know if it was at that time.

15 Q Well, you was arrested on the 3rd, right?

16 A I was.

17 Q Police scanner is on there, right?

18 A I believe there were several different scanners we had
19 downloaded and never removed at times throughout pending
20 that one.

21 Q Also, you did a different kind of police scanner. Why
22 would you listen to the police anyway? Why would y'all
23 listen to the police? Why was you listening to the
24 scanners for them?

25 A I would just look through the apps on the market on my

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 phone and look for interesting things.

2 Q Probably listen to the scanner to see if anything was
3 reported about you breaking in the house, weren't you,
4 where you stole the stuff from the house?

5 A No, sir.

6 Q You weren't interested in that?

7 A I never listened for that, sir.

8 Q In other words, you didn't think you'd ever get caught
9 with the guns, did you?

10 A I did not.

11 Q You didn't know until they took you in the booking
12 area, and then you started calling people to tell them I --
13 you don't need to give a statement on this.

14 A No, sir. I had called one time to Stacey when I got
15 arrested because she had called me several times asking me
16 where they were. And she -- I wanted her to take her
17 statement back so I wouldn't get in trouble with...

18 Q So your testimony is that you had no guns over at your
19 mom's house.

20 A Yes, sir.

21 Q So you had the guns over at Tyler's place?

22 A The guns were at Tyler's.

23 Q And Kevin's?

24 A At one point they were in Kevin's trunk.

25 Q Well, there were still three there when the sheriff's

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 department got there.

2 A Yes, sir.

3 Q Where's the other guns at?

4 A The .22 was given to Kevin for holding the guns in his
5 trunk; 20-gauge was given to Scoop when he picked me up;
6 and the 30-30 and 30-06 were left at Tyler's house.

7 Q This is your guns though, right?

8 A They were not. They were stolen.

9 Q The reason why you never got those guns, they arrested
10 you before you got back to them, didn't they?

11 A Sir?

12 Q You couldn't get back to these guns because you got
13 arrested. Therefore, you couldn't get back to the guns,
14 could you?

15 A No, sir.

16 Q Because you knew if they knew about the guns you would
17 have definitely tried to get rid of them, wouldn't you?

18 A I was trying to sell them, yes, sir.

19 Q For \$1,500.

20 A That's what my friend had told me that he could get
21 for them.

22 Q And you were going to sell all the guns to him.

23 A Yes. If he would have took them.

24 Q Like I said, you wanted to shoot that weapon. Tyler
25 didn't want to shoot that weapon. You wanted to shoot it.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 A No. He did want to go try the guns out.

2 Q Yeah. After you said so.

3 A We agreed on it evenly.

4 Q Agreed on everything evenly, didn't you?

5 MR. BARNETTE: One moment, Your Honor, please.

6 (Pause.)

7 Q As a matter of fact, you like being in control, don't
8 you?

9 A No, sir.

10 Q You called Kevin several times, didn't you, to get him
11 to let you go over and put those guns over there?

12 A I asked him, sir.

13 Q You called Matt several times, didn't you?

14 A Yes, sir.

15 Q You were the one in control. You wanted to do
16 something with those guns.

17 A I was trying to sell them.

18 Q You wouldn't let these guns go, would you? These was
19 your guns.

20 A If somebody would have bought them from me I would
21 have sold them.

22 Q And so what you're saying is that Mr. Blackwell is
23 lying about you being the night of the shooting there.

24 A He may have been unclear, sir.

25 Q He was unclear?

Bryan Marion Holder
Cross-examination by Mr. Barnette

- 1 A He may have not have been able to remember.
- 2 Q Okay. what about Ms. Thompson? She was pretty clear
- 3 on what happened.
- 4 A I'm not sure.
- 5 Q So you're saying Ms. Thompson is not telling the truth
- 6 either?
- 7 A She may have not been clear about the dates.
- 8 Q It's clear the shooting occurred because everybody in
- 9 the community knew about the shooting except you.
- 10 A Yes, sir. I don't know about everybody in the
- 11 community. I know that I did not know about the shooting.
- 12 Q You're the one with the police scanner. You loaded
- 13 multiple police scanners on your phone for whatever reason.
- 14 You obviously listened to them.
- 15 A Yes, sir. I was not the only one that downloaded apps
- 16 on my phone. It was -- me and Tyler used my phone. We
- 17 looked through apps to see if there were interesting apps
- 18 we could look at.
- 19 Q So Tyler would play on your phone, play different apps
- 20 on your phone.
- 21 A He has played with my phone before.
- 22 Q And you're 21.
- 23 A Yes, sir.
- 24 Q He was 17 at the time.
- 25 A Yes, sir.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 Q He basically followed you, didn't he?

2 A No, sir.

3 Q You were always together, weren't you?

4 A We hang out a good bit.

5 Q Well, you called him and said I got all of these guns.

6 Him and Matt drive over and get the guns from you over at
7 Scooter's house, correct?

8 A Yes, sir. Matt came and picked me up from Scoop's
9 house.

10 Q After you called him several times. Then you called
11 Kevin and told him that you was going to go and bring
12 those. You called him several times too, right?

13 A Yes. I called him a few times.

14 Q You actually texted him pictures of the guns, right?

15 A Yes. I wanted to see if he could keep them in his
16 car.

17 Q You are going to take them over anyway, weren't you,
18 and hide at his house?

19 A No, sir.

20 Q You weren't going to keep the guns at your house, were
21 you?

22 A No, sir.

23 Q Why wasn't you going to keep the guns at your house?

24 A I didn't -- my mom lives in an apartment, and there
25 was no place to put them.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 Q You don't want to get caught with those guns, do you?

2 A No, sir. I stole them.

3 Q Yeah. You wanted Kevin to get caught with them, or
4 Tyler or somebody else, didn't you?

5 A No, sir. I know Kevin had his own car and he could
6 put them in his trunk, so I asked him if he could keep the
7 gun.

8 Q The bottom line is why didn't you just take them and
9 hide them yourself.

10 A I wanted to see if I could find a place to put them.

11 Q In other words, you wanted them in other people's
12 possession so that if you got caught or they got caught
13 with them they'd be the ones in trouble, not you.

14 A No, sir. That was not what was on my mind.

15 Q On your mind was you were going to sell these guns.

16 A I was trying to sell the guns.

17 Q And these were your guns because you stole them.

18 A No, sir. They were stolen.

19 Q Just one more question. You loaded these guns -- this
20 gun, right, the 30-06? Hold that for a second right there
21 for second behind you -- the box.

22 A I loaded it.

23 Q You loaded it with a magazine, right?

24 A Yes. I loaded the gun.

25 Q And you knew how to load the gun.

Bryan Marion Holder
Cross-examination by Mr. Barnette

1 A Yeah. I figure it out. I didn't know how to.

2 Q The honest truth is you're a lot smarter than Tyler,
3 aren't you?

4 A I would not know, sir.

5 Q That's just why you loaded the gun, because you knowed
6 how to load the gun.

7 A I had never handled a gun like this before, so I just
8 figured out how to load it when we were out there.

9 Q But you're the one that loaded it. You loaded the
10 gun.

11 A He shot the gun too and loaded it also.

12 Q You shot 12 or 13 times.

13 A I cannot remember how many times exactly I shot.

14 Q Now you can't remember that, can you?

15 A I was just giving a rough estimate of how many times I
16 shot. I do not remember how many times I shot it. It's
17 been ten months.

18 Q And you never told anybody about these guns or
19 anything else other -- about the shooting or anything else
20 because you didn't know anything about.

21 A I did not know nothing about it until the investigator
22 came and talked to me.

23 MR. BARNETTE: One moment, Your Honor, please.

24 (Pause.)

25 MR. BARNETTE: Thank you, Your Honor.

Bryan Marion Holder
Redirect examination by Mr. Thompson

1 MR. THOMPSON: Redirect, Your Honor, briefly.

2 REDIRECT EXAMINATION

3 BY MR. THOMPSON

4 Q Bryan, you posted on Facebook about the guns, correct?

5 A Yes, sir.

6 Q And Mr. Barnette called that brazen.

7 A He did.

8 Q I would call that stupid, wouldn't you?

9 A Yes, sir.

10 Q All right. Did any -- you said somebody told you
11 about the value of the guns, correct?

12 A Yes, sir.

13 Q Who was that person?

14 A Scoop said that he knew somebody in Greenville that
15 would possibly want the guns for \$1,500.

16 Q Okay. And you said you shot that sign.

17 A I did.

18 Q No-trespassing sign, correct?

19 A Yes, sir.

20 Q Okay. How long were you in the field or the dugout --
21 we're calling it -- before you shot that sign or when
22 you -- how long were you in there before you shot it?

23 A I cannot remember.

24 Q Okay. How long were you there after you shot?

25 A We probably stayed out in the dugout area about maybe

Bryan Marion Holder
Redirect examination by Mr. Thompson

- 1 a couple of hours.
- 2 Q Okay. And you left these guns at Tyler's, right?
- 3 A Yes, sir.
- 4 Q Okay. And -- and how much did it cost you to put
- 5 these scanners on your phone?
- 6 A It didn't cost anything.
- 7 Q They're free?
- 8 A Yes. All apps that I downloaded on my phone were
- 9 free. I never paid for them.
- 10 Q Okay. And were you here and heard the officer testify
- 11 about there were 70 something photos on your phone?
- 12 A Yes. I remember that.
- 13 Q And how long did it take you to accumulate that many
- 14 pictures on a phone?
- 15 A I'm not sure.
- 16 Q Did you take them all in one day or --
- 17 A I don't know.
- 18 Q Huh?
- 19 A It was over time.
- 20 Q Okay. Mr. -- and did you -- you not -- and you said
- 21 you don't like being in control. Is that what you said?
- 22 A Yes, sir.
- 23 Q Okay. How long has it been since you had a driver's
- 24 license?
- 25 A I've never had my driver's license.

Bryan Marion Holder
Recross-examination by Mr. Barnette

1 Q All right. How long had it been since -- you ever had
2 a car?

3 A When I was 17 I had two cars.

4 Q Okay. And do you have one -- do you have those cars
5 now?

6 A No, I do not.

7 Q When did you lose possession of those cars?

8 A It was probably when I was 18. I had my second car.
9 It was a Cavalier. And I had wrecked it.

10 Q Okay. And since then how have you got around?

11 A I needed rides from people.

12 Q Okay.

13 MR. THOMPSON: No further questions.

14 MR. BARNETTE: Just a few questions, Your Honor.

15 RECROSS-EXAMINATION

16 BY MR. BARNETTE

17 Q You couldn't drive, so you had to depend on other
18 people.

19 A Yes, I did. If I wanted to go somewhere I would need
20 a ride.

21 Q So you were that night at the Schomer house, because
22 nobody else was there to pick you up or take you.

23 A I don't believe that it was that night. I believe it
24 was...

25 Q Let me ask you a question. State's Exhibit No. 50.

Bryan Marion Holder
Recross-examination by Mr. Barnette

1 That sign looks like it's shot almost in the middle of the
2 sign.

3 A No, sir. It looks towards the bottom.

4 Q Okay. You said you never looked through the scope.

5 A No, sir.

6 Q So you just shot the sign in the dark without anything
7 helping you out.

8 A Yes, sir. You can't see in the dark through the
9 scope.

10 Q Well, how could you see the back of the sign when the
11 back of the sign is black or brown?

12 A Excuse me?

13 Q How could you see the back of the sign? You shot
14 through the back -- through the front from the dugout. The
15 back of the sign is brown.

16 A Yes. I wasn't standing that far away.

17 Q Well, obviously, the bullet wound up down there at the
18 bottom of it. That's where the shell casing came out.

19 A It's not that far. I mean, I could see from that far
20 with the light that was outside.

21 Q And you ejected each time, didn't you, after you shot?

22 A Yeah, yes, sir.

23 Q You know, the interesting thing, there's two shell
24 casings found in that field up there where the shots -- two
25 of the shots occurred.

Bryan Marion Holder
Recross-examination by Mr. Barnette

1 A Yes, sir.

2 Q Do you realize that?

3 A Yes, sir.

4 Q The third-shot shell casing probably wasn't ejected.
5 Two was fired across, and one for sure we know at the Race
6 way through the door.

7 If you did all the loading and the shooting there's
8 all the shell casings they found.

9 A I said that me and Tyler both shot the gun and loaded
10 the gun.

11 Q All right. That's not what you said until afterwards,
12 was it?

13 A I said that when you asked me.

14 Q Not when I originally asked you.

15 MR. BARNETTE: Thank you, Your Honor.

16 THE COURT: Okay. Step down.

17 Any other witnesses for the defense?

18 MR. THOMPSON: Your Honor, I'd call Officer Lorin
19 Williams.

20 THE COURT: Is he here?

21 MR. BARNETTE: He's not here.

22 THE COURT: All right. We'll do it in the morning.

23 All right. Ladies and gentlemen, we're going to
24 recess for the afternoon.

25 So I'll ask you to keep in mind the caution given

1 previously. No discussions about the case. No research,
2 no investigation, no exposure to any type of media coverage
3 relating to the trial.

4 Have a good evening. Please report to your jury room
5 at 9:30 in the morning, 9:30 in the morning.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: Court is in recess until 9:30 in the
9 morning.

10 END OF PROCEEDINGS MAY 7, 2013

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Lorin Williams
Direct examination by Mr. Thompson

1 (Proceedings May 8, 2013)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. We've got all the witnesses
5 here?

6 MR. THOMPSON: Yes, Your Honor.

7 THE COURT: okay. Ready for the jury?

8 MR. BARNETTE: The state is ready, Your Honor.

9 MR. THOMPSON: Yes, Your Honor.

10 THE COURT: okay. Bring them in.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Good morning, ladies and gentlemen.

14 As you know, when we recessed yesterday the defense
15 had begun with its presentation of evidence. So we'll
16 continue with that presentation this morning.

17 Mr. Thompson.

18 MR. THOMPSON: May it please the Court, Your Honor.
19 Investigator Lorin Williams, please.

20 LORIN WILLIAMS, having been
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. THOMPSON

23 Q officer Williams, can you state your full name,
24 please?

25 A Lorin Williams.

Lorin Williams

Direct examination by Mr. Thompson

1 Q Investigator -- Mr. Williams -- are you the lead
2 investigator on this -- on this case with the attempted
3 murders?

4 A Yes, sir. Myself and Investigator Wilkins kind of
5 helped each other.

6 Q Okay. And how long have you been with the sheriff's
7 office?

8 A Since 2005.

9 Q Okay. And, now, you haven't been here this week, have
10 you?

11 A No, sir.

12 Q Okay. So you haven't heard any testimony.

13 A No.

14 Q So I'll try not to lead you here.

15 Are you aware of Mr. -- I may say his name wrong --
16 Swanger, the gentleman from the Ingles? Did you speak with
17 him with -- in this matter?

18 A Who is that, now?

19 Q Mr. Swunger -- Swanger. I'm not sure if I'm
20 pronouncing it correctly. The gentleman pressure washing.

21 A No, sir. I did not speak with him.

22 Q You didn't speak with him. Okay. And you said you
23 did speak -- did you speak with Ms. Raines?

24 A Yes, yes, sir, I did.

25 Q Okay. And do you recall when you met with her?

Lorin Williams
Direct examination by Mr. Thompson

1 A If I can refer to my notes. Looks like on the
2 9th of -- July the 9th. Met with her at the -- actually
3 the first time that I met with her was at the Race Way.

4 Q Right. And she had been in the hospital, so.

5 A Yes, that's correct.

6 Q All right. Okay. And, now, do you recall finding any
7 place the shooter could have been that you put in that
8 report?

9 A I have got a summary here.

10 MR. THOMPSON: May I approach the witness?

11 A I found. I found I think what you're referencing,
12 yes, sir.

13 Q Okay. So you did find a place in the bush.

14 A Yes.

15 Q Okay. Now, when she -- did she show you where she
16 parked that car?

17 A She did.

18 Q She did. And where was that in rel -- in relation to
19 the store?

20 A Have you got a picture?

21 Q Yes, sir.

22 A It'd be easier to --

23 Q Well, they're all in the exhibits.

24 MR. THOMPSON: I can grab one if I may approach, Your
25 Honor.

Lorin Williams
Direct examination by Mr. Thompson

1 (Pause.)

2 Q while I am searching, that car was towed off, towed
3 that night of the shooting, is that correct?

4 A That's correct -- that's correct.

5 Q Okay. And it's marked as State's Exhibit 35.

6 MR. THOMPSON: May I approach, Your Honor?

7 A Okay. And your question was where did -- did she show
8 me where she was parked?

9 Q Right. Did she -- relative to the store was it in
10 front of the store?

11 A Yes, sir. It was one of the parking places in front
12 of the store.

13 Q Okay. And when you indicated that you found a place
14 that the shooter could have been, what made you concentrate
15 on that spot?

16 A Looking at where the vehicle was parked and the
17 trajectory of the round, the way it entered the door, also
18 the way that it had entered -- entered the seat of the car
19 causing the injury, and then coming to a final resting
20 place in the console, there was -- there were very few
21 places up there that they could have been.

22 Q Right. So we've discussed the dugout area in that
23 field. Are you familiar with the -- with the crime scene?

24 A Yes, sir.

25 Q Okay. And -- and would -- would they be able -- would

Lorin Williams
Direct examination by Mr. Thompson

1 they -- would she be able to be shot from that dugout area
2 where that car sets?

3 A No, sir.

4 Q Okay. How far up from that dugout area would you say
5 the highway is, just estimating?

6 A Several hundred yards.

7 Q Okay.

8 MR. THOMPSON: And if I may approach again, Your
9 Honor.

10 Q I'll show you State's Exhibit 47. That's an aerial
11 photograph with -- it looks like an officer standing in a
12 spot. Are you familiar with that photograph?

13 A I'm familiar with this area, yes, sir.

14 Q Okay. And do you see the officer in there?

15 A Yes.

16 Q Okay. Now, if I'm in this -- I'm in the car and this
17 is the edge of the store. He would be probably -- he's
18 directly here, correct? Would that be a --

19 A Roughly 3:00 o'clock.

20 Q Okay. And -- and is that close to the area you -- you
21 believe that the shooters could have been -- shooter could
22 have been?

23 A Somewhere in that location.

24 Q Okay. Okay. And do you -- on the 9th had you found
25 any shell casings in that location?

Lorin Williams
Direct examination by Mr. Thompson

1 A I did not. There were some shell casings that were
2 recovered, and I'm assuming that this picture was taken
3 when they recovered the shell casings. I wasn't present
4 during this.

5 MR. BARNETTE: Your Honor, I would object at this
6 time. I mean, if he wasn't -- don't have knowledge of it,
7 I think it would be hearsay at this point.

8 THE COURT: He can testify to what he knows of his own
9 personal knowledge.

10 Q In your report do you indicate whether you had found
11 any casings or not?

12 A I know there were -- we did observe a lot of shell
13 casings down towards that, what you're calling that pitted
14 area.

15 Q Right.

16 A But I don't think -- I don't recall finding any of
17 the -- the 30-06 shell casings up near this area myself,
18 no.

19 Q Okay. And -- and would it be common that you would
20 say we in that statement have not found?

21 A A lot of times -- a lot of times when we do writeups
22 there are comments that are put in here in regards to what
23 other deputies or other investigators have done or did
24 during the investigation.

25 Q All right. Thanks. And so do you recall from your

Lorin Williams
Direct examination by Mr. Thompson

1 investigation how many shots were -- people heard that
2 night?

3 A I don't think I documented in here the number of
4 shots.

5 Q Okay. Well, do you -- do you recall the area being
6 searched for casings?

7 A At which time?

8 Q At the time that we -- that the ones in evidence were
9 found. Do you recall that, that search? Were you part of
10 that?

11 A Well, we had actually been out there several times.
12 We had even had the -- the county D.O.T. come out and bush
13 hog where it would be easier to get in because of the
14 overgrowth and everything to be able to locate any items
15 that would have been left out there.

16 I do know that there were casings recovered, but I
17 wasn't there when they were actually found.

18 Q Okay. And, now, when Mr. Holder was arrested he was
19 already in jail when you served these warrants on him, is
20 that correct?

21 A I'm not sure what he was actually picked up on. I did
22 go to the jail and interview him subsequent to his arrest.
23 I can't remember whether he was picked up on the warrants
24 that I had signed or other warrants.

25 Q Okay. Do you recall looking at evidence seized from

Lorin Williams
Direct examination by Mr. Thompson

1 his phone?

2 A No, I don't.

3 Q You don't. Let me show you State's Exhibit 50.

4 MR. THOMPSON: If I may approach, Your Honor.

5 MR. BARNETTE: Your Honor, I'm going to object at this
6 point.

7 He didn't look at the pictures on the phone, therefore
8 he has no knowledge of them.

9 THE COURT: Well --

10 MR. THOMPSON: That's not a -- that's not a phone
11 picture, Your Honor.

12 THE COURT: Well, he can say if he seen it. I mean,
13 he's --

14 A Can you repeat the question, please?

15 Q I'm sorry. That's State's Exhibit 50 I believe. Are
16 you familiar with that sign with the bullet hole in it?

17 A Yes, sir, yes, sir. I've seen it.

18 Q Okay.

19 MR. THOMPSON: And if I may approach, Your Honor.

20 Q You would agree with me this is a duplicate, just a
21 little bit larger, correct?

22 A Yes, sir. It is.

23 Q Okay. And do you see the bullet hole in that
24 photograph?

25 A There are several.

Lorin Williams
Direct examination by Mr. Thompson

1 Q Yeah. There are -- how many would you -- bullet holes
2 would you say are in that sign?

3 A Five, if not more. Could be some multiple stripes in
4 that one -- one area.

5 Q Okay.

6 A Without seeing the back of it I --

7 Q Here's the back right here.

8 A Four or five.

9 Q Okay. And that one in the middle, does it appear that
10 bullet struck the pole prior to the sign?

11 A Which picture are you asking about?

12 Q From the back, the back view. Does that appear to be
13 damage from a bullet on that pole?

14 A You referencing that?

15 Q Yes.

16 A Yes, it does.

17 Q Okay. Does that look like the condition the sign was
18 in when you were out there?

19 A Yes, sir.

20 Q Okay.

21 MR. BARNETTE: No objection.

22 MR. THOMPSON: I'm going to enter these as Defense 1
23 and 2, Your Honor.

24 THE COURT: They're admitted.

25 Q Are you familiar with the weapon in the case also?

Lorin Williams
Direct examination by Mr. Thompson

1 THE COURT: Let her mark those before you start back.

2 (Photograph marked Defendant's Exhibit No. 1;

3 photograph marked Defendant's Exhibit No. 2.)

4 Q Are you familiar with the 30-06 in this?

5 A Yes, sir.

6 Q Now, where was that gun recovered?

7 A I did not recover it. It was recovered out of a
8 trailer. I believe it was off of Lone Oak Road.

9 Q Okay. Do you know who -- whose possession it was in?

10 MR. BARNETTE: Your Honor, I'm going to object at this
11 point. This is all hearsay. He didn't do it.

12 THE COURT: Well, he asked him if he knew.

13 So if you know something of your own personal
14 knowledge, you can testify to it. You can't testify to
15 what somebody else said. It's just -- it's not that hard.

16 A No, sir. I don't know the gentleman that had the --
17 that had the weapon.

18 Q Okay. And do you know when it was recovered?

19 THE COURT: Keep in mind again, as I say, every
20 question he's asking you, if you didn't do it and you only
21 know it because of what somebody else said, then you tell
22 him you don't know. If you didn't do it, you can testify
23 to hearsay.

24 THE WITNESS: Okay.

25 A I just -- I don't know. I wasn't there when -- when

Lorin Williams
Cross-examination by Mr. Barnette

1 the weapon was recovered. I don't -- I don't recall the
2 date.

3 MR. THOMPSON: No further questions, Your Honor.

4 MR. BARNETTE: May it please the Court, Your Honor.

5 THE COURT: Mr. Barnette.

6 CROSS-EXAMINATION

7 BY MR. BARNETTE

8 Q Investigator Williams, you went out to the dugout
9 area, didn't you, in that area where some shell casings was
10 found where the shooting -- I mean, the target shooting
11 occurred at?

12 A Yes, sir.

13 Q Did you ever see a 5-gallon bucket there?

14 A No, sir.

15 Q Did you ever see a -- a lid hanging up where they were
16 shooting at the lid?

17 A No, sir.

18 Q Was there any pictures taken of that that you've seen?

19 A Not that I recall at all, no, sir.

20 Q And the picture that was entered in...

21 MR. BARNETTE: May I publish Defendant's Exhibit No.
22 2, Your Honor?

23 THE COURT: All right.

24 Q While that's warming up, Investigator Williams, let me
25 ask you some questions about this.

Lorin Williams
Cross-examination by Mr. Barnette

1 You interviewed the defendant in this case, didn't
2 you?

3 A Yes, sir, I did.

4 Q You went to the jail and interviewed him afterwards.

5 A After.

6 Q After he was arrested.

7 A After he was arrested, yes.

8 Q And did you give him his Miranda rights?

9 A Yes, sir, I did.

10 Q Did he understand those Miranda rights?

11 A He indicated by signing the form after they were read
12 that he did understand everything that I had told him.

13 Q Okay. And the form you're talking about, is this a
14 copy of the form that you're talking about, sir?

15 A Yes, sir. That's the preinterrogation waiver form.

16 MR. BARNETTE: This is going to be 103.

17 MR. THOMPSON: No objection.

18 Q And this is the form you read rights to him, is that
19 right?

20 A That's correct, yes, sir.

21 MR. BARNETTE: Your Honor, I'd like to enter 103 into
22 evidence at this time.

23 THE COURT: It's admitted without objection.

24 (Preinterrogation waiver form marked State's Exhibit
25 No. 103.)

Lorin Williams
Cross-examination by Mr. Barnette

1 Q In that interview -- and you have your notes with you,
2 is that correct, sir?

3 A Yes, sir. I do.

4 Q Did you ask him about the grand larceny of the guns
5 and everything else that happened in the Lydas' house?

6 A Yes, sir.

7 Q And what did he say about that, sir?

8 A Denied any -- any involvement whatsoever in the -- in
9 taking the gun.

10 Q Did you ask him about the shooting that occurred?

11 A Yes, sir.

12 Q What did he say about that?

13 A Denied any involvement whatsoever, any knowledge of
14 it.

15 Q Did you ask him about Ms. Lawing in reference to
16 calling her and asking her to change her statement?

17 A I did.

18 Q What did he say about that?

19 A That she was a liar, that she was lying.

20 Q So he denied any involvement to anything.

21 A That's correct.

22 Q He denied any involvement with the guns that was
23 stolen from the Lydas' residence.

24 MR. THOMPSON: Your Honor, I'll object.

25 In this statement it indicates my client asked for an

Lorin Williams
Cross-examination by Mr. Barnette

1 attorney as soon as that question was asked. I see nothing
2 in the statement about guns.

3 THE COURT: Let me see y'all just a minute.

4 (Bench conference held off the record in the presence
5 of the jury but out of the hearing of the jury.)

6 Q But he denied any involvement with anything -- with
7 the guns, with the ammo and the shooting and said
8 Ms. Lawing was a liar.

9 A That's correct. He denied any involvement whatsoever.

10 Q Let me show you State's Exhibit No. 2 or Defendant's
11 Exhibit No. 2. This is the back, and I'll show you
12 Defendant's No. 1 so you'll know what we're talking about
13 just to make sure.

14 This shot here appears to be from the back of the
15 sign --

16 A Yes, sir.

17 Q -- going forward.

18 A That's correct.

19 Q And that was the biggest hole that was found in the
20 sign.

21 Let me go back so you can see the whole sign. And
22 that was the biggest hole in the sign, is that correct,
23 sir?

24 A That -- that's -- yes, sir. That's where the -- the
25 most amount of damage was to the front of the sign.

Lorin Williams
Redirect examination by Mr. Thompson

1 Q And that direction is from the dugout area towards
2 Ingles, towards the road up there on Asheville Highway, is
3 that correct?

4 A That's correct. That would be -- that would be from
5 the pit as they were calling it towards Asheville Highway,
6 the Race Way, the Ingles and in that direction, yes, sir.

7 MR. BARNETTE: One moment, Your Honor, please.

8 (Pause.)

9 Q Please answer any questions Mr. Thompson may have for
10 you.

11 MR. THOMPSON: May it please the Court, Your Honor.

12 THE COURT: Yes, sir.

13 REDIRECT EXAMINATION

14 BY MR. THOMPSON

15 Q Investigator Williams, after he signed that Miranda do
16 you recall what you put in your statement?

17 MR. BARNETTE: Your Honor, may we approach the bench?

18 THE COURT: Yes. Please do.

19 (Bench conference held off the record in the presence
20 of the jury but out of the hearing of the jury.)

21 Q All right. Investigator Williams, you testified
22 earlier that this is several hundred yards from the
23 highway, correct?

24 A Yes, sir. It is.

25 Q And do you see Ingles in that photograph?

Lorin Williams
Redirect examination by Mr. Thompson

1 A No, sir, not from that particular photograph.

2 Q Do you see Race Way?

3 A No, sir.

4 Q And, Officer, if we were to take this jury out there
5 and walk straight ahead from that sign in the direction of
6 that gunshot, where would we wind up do you think?

7 A I really couldn't tell you. I don't -- I don't recall
8 exactly where the sign placement is, you know, in regards
9 to the pit and then what the line is. It would be
10 somewhere on Asheville Highway. I don't know exactly
11 where.

12 Q But you would agree with me if we were to talk over --
13 how far over to the right would we have to walk from that
14 sign before we were behind Race Way?

15 A I really don't remember. I mean, I could probably
16 give you a better idea if you had an aerial of it.

17 Q I believe we do. Did the -- did you guys take any
18 measurements out there?

19 A I don't think there was any measurements taken to the
20 best that I can remember of that, no.

21 Q What did you take measurements of?

22 A I just -- I don't recall any measurements. I don't
23 recall any measurements of that.

24 Q okay. This is the Race Way here.

25 A Correct.

Lorin Williams
Redirect examination by Mr. Thompson

1 Q And here is the old Winn-Dixie over here in this area
2 here. Are you familiar with the old Winn-Dixie building
3 out there?

4 A Yes, sir.

5 Q Okay. Would you agree with me that sign is a little
6 bit behind the back of that road that goes behind
7 Winn-Dixie, correct? Do you agree with that?

8 A No, not at all.

9 Q Where do you believe the sign is?

10 A It would be much closer to being behind the Race Way
11 than it would be the old Winn-Dixie.

12 Q Okay. Now, you're saying you're familiar with the
13 dugout area, correct?

14 A That's -- that's that area on the far left of the --
15 correct.

16 Q Right. And so is the -- the sign would be right in
17 here, would it not?

18 A Somewhere in that area there.

19 Q Okay. And-but-and you wouldn't agree with me that --
20 that's -- there's a road that goes behind Winn-Dixie right
21 here?

22 A No, not at all.

23 Q A little drive area that you can drive?

24 A No. It -- it stops right there where you can see the
25 asphalt behind Winn-Dixie.

Lorin Williams
Redirect examination by Mr. Thompson

1 THE COURT: Excuse me just a minute.

2 Mr. Williams, there's a pointer I think leaning up
3 against that wall.

4 MR. BARNETTE: Your Honor, I was going to hand it to
5 him.

6 THE WITNESS: May I step down, Your Honor?

7 THE COURT: You can. Let me ask that when you testify
8 you speak underneath that microphone.

9 THE WITNESS: Okay.

10 (Whereupon, the witness left the stand.)

11 A The -- the drive stops right there, right in --

12 Q Right. And you can -- but when I go out there,
13 there's a clearing that I don't drive in there, but I
14 could. It may not have been mowed when you were there. I
15 don't know. But -- but you'd agree that tree line there is
16 about where that sign would be, correct?

17 A Well, the sign -- the sign would be somewhere right in
18 there.

19 Q Right. Right in here. Okay. So with the sign being
20 there, directly across from here, this is the Ingles
21 service station here, and this is Race Way.

22 A Uh-huh.

23 Q And that sign is about right here. So that shot would
24 probably wind up way over here somewhere around Ingles
25 shopping -- the grocery store. Wouldn't you agree?

Lorin Williams
Recross-examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, I would object. That would
2 be speculation on his part.

3 THE COURT: Sustained.

4 MR. THOMPSON: I'll withdraw the question.

5 MR. BARNETTE: Just one question for clarification.

6 THE COURT: Just one minute.

7 Are you through?

8 MR. BARNETTE: Oh, I thought he was done. I'm sorry.

9 BY MR. THOMPSON

10 Q And you said you're not -- you're not privy to any of
11 the information regarding the search for the casings,
12 correct?

13 A Privy to what information?

14 Q The search for casings.

15 A No, sir, not other than what I was told that was
16 located.

17 Q Okay.

18 MR. THOMPSON: I have no further questions.

19 RECROSS-EXAMINATION

20 BY MR. BARNETTE

21 Q Just one question for clarification.

22 Isn't it true this is where the Ingles gas station is?

23 A Yes, sir. That's the -- that's the pumps.

24 Q That's the pumps we're talking about.

25 A That's correct.

1 Q Not that.

2 A No, sir. Right there.

3 Q Okay. Thank you, sir. That's the only question I
4 have.

5 THE COURT: Anything further of this witness?

6 MR. THOMPSON: None from me, Your Honor.

7 THE COURT: Okay. Step down.

8 MR. BARNETTE: Your Honor, we would ask for the
9 witness to be excused.

10 MR. THOMPSON: No objection.

11 THE COURT: He may be.

12 (Whereupon, the witness was excused.)

13 MR. THOMPSON: May we approach, Your Honor?

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 MR. THOMPSON: That would be the defense case, Your
17 Honor.

18 THE COURT: Any reply?

19 MR. BARNETTE: No, sir.

20 THE COURT: All right. Ladies and gentlemen, that is
21 all of the testimony or other evidence to be offered in the
22 case.

23 What remains to be done are the lawyers' final
24 summations, after which I'll instruct you on the law, and
25 then you can begin with your deliberations in the case.

1 I've got some legal matters I'll need to address
2 first. Once I've concluded with those we'll bring you back
3 to conclude with the summations and the legal instruction.

4 So please go to your jury room right now, but don't
5 talk about the case. I'll bring you back in a few minutes.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: All right. Motions or other matters to
9 address?

10 MR. THOMPSON: Your Honor, I just renew the motion on
11 directed verdict for lack of mens rea on attempted murders
12 at the Race Way, and specifically, and the...

13 THE COURT: All right. That motion is denied.

14 Do y'all have any requests for instructions?

15 MR. BARNETTE: Yes, sir. I would like to have the
16 "hand of one, hand of all" charge, please.

17 THE COURT: Anything else?

18 MR. THOMPSON: Your Honor, on the --

19 THE COURT: Wait just a minute.

20 MR. THOMPSON: I'm sorry.

21 MR. BARNETTE: I think your normal charge would cover
22 that, but we specifically ask for the "hand of one".

23 I think you'll need to charge attempted murder and of
24 course possession of a weapon during a crime, and I assume
25 impeachment, using prior crimes. And this may have been an

1 unusual case from this standpoint, but I think it can be
2 charged now even with the change in the law that malice can
3 be inferred from the use of a deadly weapon in this case.

4 Self-defense is not involved in it.

5 THE COURT: All right. Mr. Thompson.

6 MR. THOMPSON: Well, Your Honor, there's no testimony
7 to support that these two codefendants were acting in
8 unison together.

9 Mr. Schomer absolutely denies that he ever told -- he
10 was told anything. Mr. Holder testified they didn't have
11 no discussion about an attempted murder.

12 If you look at the statute, and it's malice
13 aforethought. So that's in one person's mind. And to
14 argue the "hand of one", or the charge on that, is "the
15 hand of all" you're going to -- both of them had to have
16 that same mind-set. And I don't believe any testimony
17 supports that.

18 There's no testimony on the record that firing this
19 gun's an illegal activity. It is, but no testimony to that
20 effect. So I don't think you could argue that -- that two
21 people were taking part in an illegal activity and
22 therefore they -- they had the common scheme or plan to --
23 to carry out this attempted murder.

24 So, and that goes back to the part of basically that
25 the two need to be in sequence together. They have to have

1 this plan together to argue the "hand of one is the hand of
2 all". And I don't believe that's appropriate, especially
3 with malice aforethought. That's all.

4 That goes strictly to the mind of a defendant. And
5 they would have to share that malice aforethought together
6 in order to have the jury charged on that matter. And I
7 just don't believe there's any testimony to force that on
8 record.

9 THE COURT: Any other requests?

10 MR. THOMPSON: Your Honor, I would ask for a jury
11 charge on mere presence under -- beg the Court's
12 indulgence. State vs. Ziegler. It's 610 -- well, it's 364
13 S.C. 94, a Supreme Court case from 2005.

14 In the event you -- you do charge the jury on "hand of
15 one is the hand of all", there's a mere presence charge
16 within this case that I would -- I would like to -- the
17 Court to consider adding to the charge.

18 THE COURT: All right. Any others?

19 MR. THOMPSON: I will share that with Mr. Barnette.

20 THE COURT: Are those all the requests?

21 MR. THOMPSON: Yes, Your Honor.

22 THE COURT: All right. Let's take 15 minutes.

23 Let me see the lawyers in chambers, please.

24 (Whereupon, a recess was taken.)

25 (Evidence envelopes marked Court's Exhibit No. 2.)

1 MR. BARNETTE: Your Honor, one thing I do need to put
2 on the record.

3 There were several envelopes where the shell casings
4 came in that the sheriff's department collected. We've
5 made that Court's Exhibit 1 just to protect the chain of
6 custody. And they relate to items 1 through 15 that's
7 marked into evidence as state's exhibits. But they were
8 the package that was viewed by the sheriff's department.
9 So we just made it Court's Exhibit 1 to make sure we
10 maintained it in the record.

11 THE COURT: All right. Anything else we need to
12 address before the jury is brought in?

13 MR. THOMPSON: One matter, Your Honor.

14 Request that on the jury charge or inform the jury,
15 charge them, that the lesser included offense of assault
16 and battery of a high and aggravated nature or assault and
17 battery could be lesser included offenses under the
18 attempted murder statute.

19 THE COURT: What's the state's position?

20 MR. BARNETTE: Your Honor, I understand the position.

21 Obviously, we feel like malice can be inferred from
22 the use of a deadly weapon and so forth and from the
23 circumstances around from that. But I understand the
24 Court's position based off the present law too, so.

25 THE COURT: All right. I'll instruct the jury.

1 As to the attempted murder indictment regarding
2 Ms. Raines who actually suffered an injury, I'm going to
3 charge attempted murder and the lesser included offense of
4 assault and battery of a high and aggravated nature.

5 With regard to the other two indictments being
6 Mr. Swanger and Mr. Swigert, they did not sustain a
7 physical injury, and therefore ABHAN would be an
8 inappropriate lesser included offense. But I think assault
9 and battery first degree would be the appropriate lesser
10 included offense for that indictment because assault and
11 battery first degree requires an offer or attempt to cause
12 the injury.

13 MR. THOMPSON: Thank you, Your Honor.

14 THE COURT: Okay. Anything else?

15 MR. THOMPSON: None from the defense.

16 THE COURT: All right. Bring the jury in, please.

17 MR. BARNETTE: Your Honor, we waive opening.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: All right. Ladies and gentlemen, as you
21 know, all of the evidence is in.

22 You're now going to hear from the lawyers in their
23 final summations. After that I'll instruct you fully on
24 the law that you are to apply.

25 So please give the lawyers your attention now as they

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1 give you their final summations.

2 Mr. Thompson.

3 MR. THOMPSON: May it please the Court, Your Honor.

4 Ladies and gentlemen, we started this -- this case
5 off, and Ms. Taylor thanked you for your service. I would
6 like to echo that again. I know you've missed two days of
7 work, and it's just aggravating, but it is very, very
8 serious. And it is -- I think she called it one of the
9 highest callings we have in society. And I believe that as
10 well. So I do thank you.

11 On July the 2nd about 1:00 in the morning -- 1:30 --
12 Ms. Raines suffered horrific injury. And -- and thank --
13 thank the Lord she's here. I think God intervened there --
14 the gunshot wound she suffered. I think it's a miracle
15 she's here. And I think the boyfriend should be commended
16 for his actions on that night too. And I think he helped
17 save her. So we want to make that point.

18 You've got four charges here. Three are attempted
19 murder. Judge Cole will instruct you as to the elements of
20 that crime. He'll go into pretty good detail explaining
21 what those elements are. And he'll explain it very
22 thoroughly. And I ask that you listen to it very, very
23 attentively because it's very important and it's what you
24 will apply to the facts in this case.

25 As I stated, July 2nd last year is when this occurred,

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1 so ten months ago. And it was on Sunday night, which would
2 have been on Monday morning at 1:30 or 2:00. And I believe
3 her testimony. And a lot of the days and the dates are
4 botched up, which I don't know where I was at ten months
5 ago. So I can sympathize with these witnesses who don't
6 recall specifically everything.

7 But I think some of the testimony is vital. It's
8 vital that you judge the candor and the believability of
9 these folks when they sit up here. And take that to the
10 jury room and pick your deliberations.

11 We've had evidence entered, 14 shell casings. Does
12 that mean there were only 14 shots fired? I don't know.

13 Investigator Williams testified -- or the other -- I
14 can't remember the officer's name. They rounded them up.
15 He and one other officer searched this area that
16 Investigator Williams described as being several hundred
17 yards away from the highway. It's a vast, wide area.

18 You heard the gentleman that was steam cleaning -- or
19 not steam cleaning but pressure washing -- at Ingles. He
20 indicated he heard three or four shots, two very close to
21 him. But he heard others.

22 Again, two casings found in that field. And I want
23 you to really look at those photographs and fine -- realize
24 where they were found, okay, because where Mr. Williams
25 said he found that place in the brush, I'm not clear on the

Closing arguments

1 testimony whether they were found further back or if they
2 were found nearer.

3 If you look at the evidence it's clear that she had to
4 be up further in there almost even with that Mazda Miata.
5 Look at -- look at that photographic evidence, weigh it and
6 try to determine if that shooter was in that area. I think
7 you'll find it couldn't have been further back. I think
8 Officer Williams verified that. The shot couldn't have
9 come from the dugout.

10 Look at the car. Look at where Ms. Raines was hit.
11 If you remember, Officer Stepp said it was probably 14 or
12 16 inches from the ground where that bullet came into that
13 car and hit her. So that's pretty low. It's almost on the
14 ground.

15 Mr. Schomer indicated some things that may -- may --
16 may make -- make you realize he's the shooter, and I'll get
17 into that later.

18 You heard a lot of testimony. You heard Mr. Holder
19 get up here. And Mr. Barnette went into his denying
20 everything, just not uncommon human reaction to being
21 accused of something.

22 He denied the theft of the guns. As I stated or he
23 stated on the stand here, he has entered a guilty plea to
24 that. So you don't have to go into the theft of the guns
25 and the laptop and all of that.

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1 The state provided some evidence where he's on
2 Facebook, a phone or something attempting to sell these
3 guns. He's not out there saying, hey, I got guns, I'm
4 going to shoot up somebody, I need to sell the guns, I need
5 a ride to sell the guns.

6 You've got a picture of some money. They say it was
7 stolen. I think the testimony was she had \$300. I think
8 there's \$20 in there. He testified it came from
9 McDonald's. It's not a great deal of money. But, you
10 know, weigh it up. Weigh that, how you would. And that I
11 don't know that there was any testimony that they did ever
12 sell a gun.

13 He owned up to the infield. He owned up to shooting
14 the gun. He owned up to stealing this stuff. Okay. He's
15 just saying he is not involved with this attempted murder.

16 And he admits he went to Schomer's house. And all the
17 days are convoluted. Like I said, the Sunday. But the one
18 date that sticks everybody that's consistent is the 29th or
19 30th. He says he was there around that time. Mr. Schomer
20 said it was at the time, and Mr. Schomer's mother,
21 Ms. Thompson, she indicated it was a Thursday or Friday,
22 which would have been 29th or 30th. This is not the night
23 the shooting took place in which Ms. Raines was shot.

24 Like I said, those dates are a little convoluted and
25 mixed up, but, at the same time, all do agree that's the

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1 time period there, the 29th and 30th.

2 The -- the guns, he had no place to put them. This is
3 a kid. Let's talk about the theft crime. This isn't the
4 most well-thought-out crime in the history of crimes, is
5 it?

6 A guy with no car, no driver's license has to get
7 somebody to help him carry the loot away. And then he
8 posted stuff on Facebook or the phone or whatever it is,
9 social media, that they used. So that wasn't real well
10 thought out.

11 But those guns were taken to Schomer's house, and
12 those guns stayed there from that night, the 29th, until
13 they were moved to Wes' house. I think he said he traded
14 for some weed. So that was probably ten days or more that
15 they were at Schomer's house. Holder had nowhere to put
16 them. Schomer had access to them.

17 Again, Mr. Holder owned up to shooting a gun. And,
18 you know, Mr. Barnette accusing him of not being truthful
19 with the jury and the Court, if we were going to lie, he
20 would lie about shooting that sign. If we were going to
21 lie, he would lie about the number of times he shot. He
22 said I shot 12 times, stole a 30-06. Wanted to shoot it,
23 and he did. He didn't try to kill anybody.

24 That dugout area out there, can't see anybody once in
25 there. Probably can't -- the Ingles is like Investigator

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1 Williams said. It's several hundred yards away.

2 Mr. Holder was arrested on the 3rd of July.

3 Ms. Raines was shot on the 2nd, the early morning hours.

4 And that's the 3rd Mr. Holder is picked up for stealing
5 these guns. He had been in jail since. He's had no way to
6 meet with anybody, hatch some scheme, make a plan. He
7 didn't have access to calendars. He had limited access to
8 media.

9 But Mr. Schomer. He's been -- he didn't go to jail
10 until almost two weeks later. So Mr. Schomer had time.
11 What did he do? He had the 30-30 and he had the 30-06.

12 What gun did he get rid of? He got rid of the 30-06.
13 He got rid of the one that was going to tie him to Ms.
14 Raines' shooting. Why didn't he get rid of the 30-06 and
15 the 30-30? The 30-30 didn't tie him. The 06 did. That's
16 why he moved it, just to get it away.

17 Mr. Schomer and his cousin had plenty of time to come
18 up with a plan. In fact, Mr. Schomer admitted right here
19 that that testimony was the fifth version -- the fifth
20 version he has given of what's happened on that day, on the
21 2nd of July.

22 You remember the first one. Bryan called me. We
23 stuck them in my cousin's trunk. That's all I know.

24 The second one he said, oh, well, Bryan knocked on my
25 window. He said I did it, finally shot somebody. Had them

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1 in the scope. I was laying in the field.

2 And he said, well, that wasn't true. Then he come
3 back. I was with him but Bryan walked up the hill.
4 Remember what he said. He said Bryan walked up the hill a
5 little ways and started firing at the Ingles area and the
6 Race way. If Bryan had walked up the hill he would have
7 never been able to shoot Ms. Raines in the short distance
8 Mr. Schomer identified.

9 Now, I think it's important when he said Bryan was
10 standing when he shot. Then he come back later and said,
11 okay, well, you know. And than he said I don't know where
12 the gun is, haven't seen it since. And they showed him a
13 picture of the gun they found underneath the drug dealer's
14 bed. Oh, well, you got me. I sold it for weed.

15 And he sits up here and he tells us that, well, we
16 went out there two times. The first time that's ever been
17 revealed in this matter.

18 Mr. Schomer is watching out for Mr. Schomer. He went
19 into his situation that he has. He had a very serious
20 charge dropped, possession of a firearm during the
21 commission of a violent crime. Mr. Holder doesn't have
22 that. That's still on.

23 Mr. Schomer spent a day up here on the stand talking
24 about this case. He hasn't been sentenced yet.
25 Mr. Schomer is worried about one person, and that's

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1 Mr. Schomer.

2 His cousin's involved with it. Cousin comes up. Oh,
3 I didn't take a gun for stashing those guns. Bryan just
4 acted strange. That's why I put them in there.

5 Matt Hamilton sat here and told you, yeah, he got a
6 gun. And, no, Bryan wasn't acting. Cousin's going to sit
7 up here and tell you a lie, probably going to get with his
8 cousin and make up a lie trying to get the cousin out of
9 the shooter and put it off on Bryan.

10 Mr. Schomer also indicated that he had some juvenile
11 charges in 2010 and some other charges in 2011 and he went
12 away for a while.

13 He told us that throughout 2012 he was home. His mom
14 said he was at a military school. And then after some
15 crying he said, oh, well, it was Camp Bennettsville which
16 is a juvenile facility for criminal defendants.

17 Well, then we find out that was 2010 or from the 2010
18 charges. He was somewhere else afterwards and that he was
19 home for six months until he got this July 2nd day.

20 So she's -- one, she's confused on her dates and
21 times, and another thing she's not being very honest with
22 the Court. And if you look at her testimony she indicates
23 that her son who has a key banged on the door at 2:00 a.m.

24 She indicates that they listened to the scanner all
25 night. There was all kind of commotions. There were

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1 police cars riding by with lights, and the kids were
2 nervous and everybody stayed up all night.

3 Yet Mr. Blackwell, her dad, he says I went to bed at
4 9:00 o'clock. Tyler's door was closed. I got up the next
5 morning and Tyler's door was closed.

6 He never -- he didn't report that he heard any scanner
7 going. He didn't report that he heard any commotion. He
8 didn't report anything about any bright lights or
9 spotlights, people searching for people -- the police. He
10 didn't indicate anything. He just said I got up the next
11 morning, took my walk, did my devotion and I saw Mr. Holder
12 or Tyler. He certainly didn't attest to any commotion or
13 the scanner or anything.

14 Ms. Thompson was what I call the 11th hour witness.
15 She comes in here the second day of the trial. That's
16 after her son got -- had to admit to all the lies he had
17 told. So she figured she better get up here and save her
18 son. Actual tendency of a mother, I'm sure. That's what
19 she's doing here.

20 She wasn't on our witness list originally. She was
21 brought in to help her son because she had heard I'm sure
22 from somebody the things that first day. And Tyler is not
23 very credible. Tyler has changed his story for a fifth
24 time. That's why she was here at the 11th hour.

25 Talk a little bit more about Mr. Schomer and all of

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1 this -- all of the things he said. Think about the things
2 he said. That first time he said, oh, Bryan come to my
3 window. He said I finally did it, I finally shot somebody.
4 I was lying in the field. I had a -- I had the victim in
5 my scope. I think I shot her. I think I killed her.
6 Finally shot somebody lying in the field.

7 Mr. Schomer lives within walking distance of that
8 dugout. He and his grandfather testified that through the
9 years he's went over there and shot that pellet gun. He's
10 familiar with that area. He's familiar with that field.

11 He knows where the Race way is. He knows Ingles is
12 over there. And that Winn-Dixie's been closed for a while.
13 He's got some ammunition. He can go out there and do what
14 he wants to. He got that 30-06, and that added a new
15 dimension to shooting. And Schomer went beyond that bank
16 and went up in that field, and that's where the shooting
17 occurred.

18 Think about it. Think about that shot that hit that
19 car and hit this poor girl over here. It's 14 to 16 inches
20 from the ground.

21 Schomer says Holder was standing up. It's a 30-06.
22 Mr. Swigert -- he indicated that's a powerful rifle. I'm
23 not a gunman. I'm sure it is. Whoever shot that gun was
24 lying on the ground.

25 where did those shots hit in Ingles? One hit the

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1 curb. One hit the -- one hit the parking lot. They
2 ricocheted off.

3 Again, shooter is laying down. What do we hear about
4 laying down from Tyler Schomer? Lying in the field. He
5 says it was holding, okay, and up here he says, well, no,
6 it wasn't. He was standing up. He's holding -- if he's
7 standing up, one, he would never got far enough to shoot
8 Ms. Raines. And, two, I doubt it would have been -- if it
9 would have hit that car, you think about it. You see where
10 that rod went through that car. I'm standing up and I hit
11 a Mazda Miata that probably hits a long way up. It's going
12 to have a downward motion to it.

13 The shooter's on the ground lying down. And I see
14 that bullet hit the curb, the bullet hit the parking lot.
15 The shooter is lying down. I don't know if she picked up
16 his casings that night. That was two of the casings they
17 found. I don't know. I'm not real clear where those
18 casings were found. I thought they were found in the back.

19 Take Mr. Schomer's statements. He's the one that come
20 up with somebody lying in a field. And he says, well,
21 Schomer's standing. He says, well, Holder's standing up.
22 He came up with that.

23 He came up with the part about somebody packing
24 cigarettes. That came from him. All of those things came
25 from him because he's in that field laying down looking at

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1 this gentleman across the road probably at first. And then
2 he hears those cigarettes impact, and he turns his
3 attention over there and shoots this poor lady. That's
4 where those ideas came from.

5 Like I said, you look at that rod that that officer
6 took with him and see. That shot came from the ground on
7 the specific paper.

8 Like I say, that 30-06 added a new dimension to his
9 fun time out in the dugout area.

10 Like I say, Judge Cole's going to charge you on the
11 elements of this crime. It's a lesser included offenses of
12 this crime.

13 He will also tell you about what beyond a reasonable
14 doubt is. I won't go into that because he's one of the
15 finest jurist in the state. He does a great job.

16 But what he probably won't do is tell you the
17 seriousness of what's about to happen. You're about to
18 deliberate this young man's fate. It's going to be up to
19 you guys.

20 I went into stuff in my opening to try to be brief.
21 The state has the resources. They bring a charge against
22 you. It's tough.

23 In fact, the state claims that they've got equipment
24 like this and got great police officers. They have great
25 attorneys. All Mr. Holder has is me. And now he's got

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1 you.

2 I ask you to be very, very serious about deliberating
3 in this case. Consider the testimony. Consider whether or
4 not you believe he's guilty of these crimes. And if you
5 look at these warrants -- these charges, they come about
6 from what Tyler Schomer said. And he's got to sit in jail
7 for ten months awaiting his day in court to address what
8 was said.

9 I'm asking you again. Take this serious, very
10 serious. Apply the facts to the evidence, testimony. You
11 weed that out, who you believe, who you don't. And you'll
12 come back with a not-guilty.

13 I'm asking you to take it serious. Don't let one of
14 the five false statements told by Mr. Schomer have my
15 client found guilty. Thank you.

16 THE COURT: Mr. Barnette.

17 MR. BARNETTE: May it please the Court, Your Honor.

18 This gun was used to shoot all three individuals that
19 night. All the shell casings came from this gun, the
20 bullet that went through Bonnie Raines and tore through her
21 and entered into the center console. If it wasn't for that
22 center console Bobby Swigert would have been hit too.

23 And the gentleman across the road with the light on
24 heard two bullets go by him. You saw the pictures with two
25 bullets lined up right directly behind him. You see

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1 reflections in that picture.

2 This gun with a single bolt action -- there is no
3 sight. You can't look under here. There's usually metal
4 sights on most guns underneath there. There's not metal
5 sights. That's just a scope. That's how you aim and shoot
6 it.

7 This gun was stolen by that man right there. He
8 supplied the weapon used in this case. He supplied the
9 ammunition that was used in this case.

10 You're going to hear some of what is called "the hand
11 of one is the hand of all". In South Carolina it's the
12 law. If you aided or abetted a crime, you're as guilty as
13 anybody else involved. Both Tyler Schomer and Bryan
14 Holder -- I mean, basically they admitted each other to do
15 this.

16 These shell casings were fired by this rifle. And you
17 can see there was 13 of them that was found. The officers
18 went out and looked, took aerial photos, went everywhere.

19 How many times did the defendant say he shot? Twelve
20 or 13 times. And he talks and he goes to this dugout area,
21 and they shot. There was never a bucket found. There was
22 never a target found.

23 And he talks that Tyler did all of this. And I asked
24 him that question. He said we agree on everything. We do
25 everything together. They were together this night out

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1 there in that field.

2 He had stole all of these guns, stole all of the
3 ammunition. And, like I said, you'll have the SLED report,
4 and you heard the testimony. These things came from this
5 gun.

6 And you remember I asked Mr. Holder. First question I
7 asked him, he wanted to shoot these guns. Came from his
8 own words when his attorney was questioning him, not when I
9 was questioning him. He said I wanted to fire this gun.

10 He wanted to sell all of these guns. He wanted to
11 sell them for \$1,500. And the interesting thing about
12 Mr. Holder is that he wants to act like, well, I'm
13 Mr. Innocent, I'm the guy that didn't do anything.

14 He called Scooter to come and pick him up, has Scooter
15 come over and take him to Scooter's house. Then he calls
16 Tyler and says I need some help, need somebody to go get
17 me. Then he calls Matt. And he called these people
18 several times. Matt made -- tells Matt I need for you to
19 come over here and pick me up over at Scotter's house which
20 is way -- right over here on the other side of town beside
21 Church's Chicken and the Q.T. here on Ezell Boulevard.

22 Then he tells Kevin several times. Says, "Kevin, I
23 need to put these guns with you." He's calling everybody
24 and telling them what to do. He tells people what to do.

25 He steals guns; he steals ammunition. He's the one in

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1 control. He tells Tyler and then we -- and he calls Kevin
2 when Kevin's going to Michigan. And remember Kevin was at
3 Lake Lure when all of this happened coming on his way back.
4 And he called his phone again. Kevin's going to Michigan
5 with his mother, and he's calling and saying I want the
6 guns back. I want to go get a couple of guns. So he went
7 and got two rifles, the 30-06 and the 30-30 that you've
8 seen. He goes over to Tyler and they go shoot the guns.

9 They make a big deal saying, well, he shot this sign.
10 Big deal. Well, you know, you shoot a gun, this powerful
11 30-06, this bullet travels quite a ways until it hits
12 something. It went through this sign. And you see the
13 hole right there. I don't know how far it went.

14 He misses a sign and didn't hit anything. But he's
15 shooting from the dugout towards Asheville Highway, just
16 reckless as you can be, just disregarding everything.

17 And another thing he talks about. Remember Lorin
18 Williams, the witness we heard this morning. He denied any
19 involvement in this. He denied calling Ms. Lawing and
20 telling her once he got caught on July the 3rd -- he knew
21 that he stole the guns, but he also knew that gun was being
22 used in a shooting. So he's calling her saying you need to
23 change your statement. We admitted that when she showed up
24 for court.

25 He's telling everybody what to do. He's calling

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1 everybody to tell them what to do. And Ms. Lawing come and
2 picked him over and brings him to the house.

3 And the thing is I asked him about the money. He
4 said, well, I earned that at McDonald's. Then I asked him,
5 well, it's \$300 that was stolen. That was testified by the
6 Lydas. You heard the Lydas testify about it. They had
7 nothing to do with this. They're victims. They had their
8 guns stolen, their ammunition stolen, their money stolen.
9 They said \$300. He's, well, no, it's \$125. So he says
10 they're not telling the truth.

11 Then we talk about the shotgun blast in their house.
12 He said, well, the gun was loaded. I was just trying to
13 unload it.

14 Mr. Lyda told you. He said I keep my guns unloaded in
15 my house, tell my son to keep the guns unloaded. So I
16 guess he's lying now, he don't know what he's talking
17 about.

18 Then he talks about Mr. Blackwell. And please
19 remember the testimony as you heard it in the courtroom
20 today or yesterday and the day before. But what I remember
21 about Mr. Blackwell, he didn't help Tyler. He came in and
22 told the truth. He came in and said he went to bed that
23 night, the night like 9:00 o'clock that night before the
24 shooting occurred at 1:30 that morning or 2:00 o'clock that
25 morning. And he said I saw Tyler and Bryan playing a video

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1 game. He put his grandson right with Bryan Holder.

2 Remember "the hand of one is the hand of all".

3 They're together, and they're together on everything. He's
4 not helping his grandson. That's what he testified to.

5 He said, yeah, I went to bed. When I got up the next
6 morning I didn't go in the room. I mean, he didn't lie.
7 He just basically, just told what happened. The man does
8 devotion. He walks every day. He worked 40 years. And it
9 was tough for him to come up here because he knew his
10 grandson was involved in it.

11 Ms. Thompson. Can you imagine? You've got to tell a
12 jury and a court, you know, that night 1:30 or 2:00 o'clock
13 that morning my grandson was Bryan Holder. He says he
14 forgets his keys in the thing. If you have kids, kids
15 forget things unfortunately -- their phones, their keys,
16 everything. I know my kids, I've still got to remind them
17 make sure. You know, they forget things.

18 She said Tyler and Bryan both came with the police
19 with them. She's not telling a lie. She's telling the
20 truth. They were together that night. They were together
21 on everything. They agree on everything.

22 Then you hear about the police scanner. This is Bryan
23 Holder's phone. You heard testimony. There is a police
24 scanner on here. As a matter of fact, Bryan Holder
25 testified several times that he downloads all the time on

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1 it. He says Tyler always uses this stuff. They download
2 apps. They look at the apps, play the apps. They do
3 everything together. They agree on everything.

4 And then you heard from Kevin Denton. And you
5 remember Kevin said when he was talking on the phone with
6 Bryan they was on a speaker phone. And he told that Tyler
7 did this, that Tyler was involved with it.

8 But he heard Bryan Holder in the background making gun
9 noises talking about the 30-06. You could hear both of
10 them on the phone. He implicated Tyler just as well as
11 Bryan Holder. "The hand of one is the hand of all." They
12 do everything together.

13 If this gun is never stolen, if that ammunition is
14 never stolen this crime never occurred because this rifle's
15 not available.

16 Then they talk about where he was and whatever. We
17 know two shell casings is found. And you see where the
18 gentleman is right here. You see the ice machine in the
19 corner right there. And we all know that night was right
20 there.

21 Remember, we know of at least three shots. We have
22 the two that hit the win -- or the A.B.C. store right in
23 there. And we definitely have the one that hit the car.
24 There was two shell casings found -- one, two. Turn around
25 and shoot the other one. Never ejected, because what

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1 happened was he knew he'd hit somebody in that car.

2 He didn't hit the guy across the street. Thank God.
3 Maybe it was too far away. Maybe he wasn't good enough
4 shot. He was close enough to make that shot. And look
5 where he is. Parallel to the car.

6 And you will have the evidence showing where the
7 bullets was found -- 18 and 19 are the two, and the
8 placards, four, and two shell casings, and one wasn't
9 ejected.

10 He kept saying, well, the two bullets across the
11 street, looking at the reflection in the window. You see
12 what's right in front of where the shots were, the
13 Winn-Dixie -- pump -- not where it was described earlier.
14 As you know, I went back and corrected it. The pump is
15 directly in front of the A.B.C. store where the shots were.

16 You talk about being brazen -- texting about the guns.
17 And, as a matter of fact, that's not all the guns that were
18 taken from the Lydas' house. Texted and said, hey, I got
19 these guns. Trying to sell them. Going on Facebook.

20 I had \$1,500 waiting on me in Greenville. Give me a
21 ride. Telling people that I'm going to be -- this is -- he
22 ain't going to let these guns go voluntarily. These was
23 his guns. This was his money tree. That's how he was
24 going to make his money, stealing from the Lydas, using the
25 gun the way he sees fit because he wanted to shoot that

Closing arguments

1 gun.

2 And you remember he said I loaded these weapons, I
3 figured it out. If Tyler knew how to load this weapon,
4 wouldn't Tyler load this weapon? No. He said I figured it
5 out, I'm the one that loaded this. And then after several
6 questions he said, well, Tyler did load it. But he said he
7 figured it out. Not Tyler.

8 Of course the bullet went right through the door. It
9 hit Bonnie Raines right in the back. And you saw her scar.
10 You saw the damage it did. You're going to have the actual
11 bullet that went through her -- parts of the bullets.

12 If this ain't attempted murder, I don't know what is.
13 I can't imagine so deranged, so reckless in all of my life.
14 Three innocent people, one working at night for his family,
15 working even at 1:30 in the morning pressure washing the
16 sidewalk and being shot at.

17 And, like I say, he thought it was a firecracker.
18 It's just something you can't imagine. Thank God he wasn't
19 hit.

20 But, unfortunately, when they fired -- when the bullet
21 was fired it did hit Bonnie Raines through the car door.
22 And you saw the damage it did. Bobby Swigert was right in
23 the car with her and easily if it wasn't for that console
24 could have got both of them. Just imagine if it'd been a
25 foot higher.

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1 Of course you've got to remember the gentleman across
2 the -- he was wearing the light to see. You remember I
3 asked Ira Parnell. I said could you see. Said did you see
4 a light from this cell phone.

5 They had the parties. They did everything together.
6 "The hand of one is the hand of all." This man aiding and
7 abetting is just as guilty as Tyler Schomer.

8 I think he made this big deal about Tyler Schomer.
9 He's pled guilty to three counts of attempted murder and
10 receiving stolen goods in the guns. He will face his day
11 in court with the judge one day. It'll be up to the judge
12 to hand the sentence.

13 They told you about lesser included offenses. I
14 submit to you that's not even a possibility here because of
15 this reckless -- I mean, if this ain't malice
16 aforethought -- and he's going to tell you malice
17 aforethought. It can happen that quick. It don't have to
18 be premeditated. It don't have to be planned out. It can
19 just happen. If you formulate that in your mind, what
20 you're doing at that time, that's malice, ladies and
21 gentlemen.

22 Stealing guns, stealing ammo. I can't imagine
23 something more malice than that. Using, shooting guns like
24 this. Like I said, the sight you have to -- take a look at
25 it. You can't look hardly underneath this. You can't look

Closing arguments

1 under the scope. You have to look through the scope to
2 shoot it.

3 The one thing you come armed with is your common
4 sense. We all have it. We always use it in our everyday
5 lives to determine what we do, talking to people, even our
6 kids.

7 What I ask you to do is use your common sense here.
8 What Bryan Holder did, calling everybody, telling everybody
9 what to do, come pick me up, come do this, let me do that.
10 You saw Tyler Schomer. And I hate to say it, but he's not
11 a very smart individual. But he has everything together
12 for Bryan Holder. They do everything together.

13 They were there that night working in concert. He was
14 the shooter. But even if you take their theory that Tyler
15 was the shooter, he's there. He's working with him. He
16 aided and abetted him. He got the gun. He got the
17 bullets, did everything.

18 And what I'm asking you to do, ladies and gentlemen,
19 you've got the evidence. Don't let him walk away from what
20 he did that night, what he is responsible for, because it
21 doesn't happen -- this thing is stolen with the ammunition.

22 And the Lydas. People are ripped off. The one
23 mistake they made was getting the wrong house sitter.
24 Unfortunately, Bryan Holder would have been sitting for
25 them. And he's even questioned what they said. They told

Closing arguments

1 you how much money, the guns weren't load. He said, well,
2 they're not telling the truth.

3 And these two poor folks right here sitting in the
4 car, they don't -- they don't -- they're just minding their
5 own business. They're going into the store and coming back
6 out of it.

7 The gentleman's walking across the street that's doing
8 his job. This shooting at individuals with that kind of
9 weapon, there's no question that's attempted murder.

10 Bryan Holder is responsible just like Tyler Schomer
11 for this. They're both responsible. They always act
12 together.

13 And don't let him walk away from what he did to this
14 young lady. You saw the damage done to her. She's facing
15 more surgeries. She don't know what her future is. She
16 don't know if she'll even have children again. He's took
17 that possibility away from her.

18 And the gentleman sitting beside her as her guts is
19 laying out, and the gentleman across the street, can you
20 imagine the fear he's got at night now knowing there's
21 people like this that's out here?

22 I ask you to do what the evidence shows, ladies and
23 gentlemen. Please use your common sense. Please make
24 Bryan Holder as responsible as Tyler Schomer for what his
25 actions was in this case.

Jury charge

1 Remember, "the hand of one is the hand of all". If
2 they aid and abet to make this event occur, then he's
3 guilty, and that's what I'm going to ask you to do, ladies
4 and gentlemen. Find him guilty on all four counts. Thank
5 you very much.

6 THE COURT: Mr. Foreman and ladies and gentlemen of
7 the jury, you of course have heard and seen all of the
8 evidence and now heard the final summations of the lawyers;
9 and therefore it now becomes my duty and obligation to
10 instruct you on the law that's applicable in the case.

11 Then you'll be asked to go back and begin with your
12 deliberations. And through that process you'll examine all
13 of the evidence. From that evidence you'll decide the
14 facts. Upon deciding the facts you'll apply the law that I
15 will have provided you, and you will determine whether or
16 not the defendant has been proven guilty beyond a
17 reasonable doubt.

18 It is your exclusive duty to determine what the facts
19 are. You do that through your own common sense examination
20 and evaluation of all of the testimony and other evidence
21 received during the course of this trial.

22 You 12 jurors alone will decide what weight, value and
23 effect to give to any particular witness' testimony or
24 other evidence in the case. Your sole objective is to
25 simply be fair and impartial rendering a decision based

jury charge

1 solely upon the evidence and the law as is applicable that
2 I will have provided to you.

3 Now, in this case, as you know, the defendant has been
4 charged with four separate and distinct criminal offenses,
5 although they do allege to have arisen out of one
6 particular event or course of events which the state
7 alleges occurred back on or about July the 2nd of 2012.

8 There will be three indictments in the jury room. One
9 of those indictments charges the defendant with the crime
10 of attempted murder as it relates to Bonnie Leeann Raines.

11 In that same indictment is a count two which alleges
12 he possessed a firearm during the commission of a violent
13 crime, that violent crime alleged to be the crime of
14 attempted murder as against Ms. Raines.

15 The other two indictments charge the defendant with
16 the crime of attempted murder as against Bobby Allen
17 Swigert, Jr. and Mark Channing Swanger. Those indictments
18 each have one count.

19 Now, the indictments are going to be in the jury room
20 with you, Mr. Foreman.

21 But, ladies and gentlemen, understand that the
22 indictments are not evidence of anything. They are not
23 proof of anything. They don't establish anything.

24 They're simply the charging paper as I believe I've
25 explained to you. But the indictments will be in the jury

Jury charge

1 room when you go back to deliberate because the indictments
2 will serve as the verdict forms. But other than serving as
3 the verdict forms the indictments serve no purpose so far
4 as you jurors are concerned.

5 But you'll be called upon to render separate and
6 distinct verdicts as it relates to each of the separate
7 charges that have been brought against the defendant. And
8 as I've told you, those verdicts may be the same or they
9 may be different. That of course will depend upon your
10 determination of fact and then your application of the law
11 to those facts as you determine them to be.

12 Now, as to the allegations contained in each of those
13 indictments and as to the charges brought against the
14 defendant, he has entered a plea of not guilty.

15 As I told you, that plea of not guilty has placed upon
16 the state the burden of proving the allegations that they
17 have set forth in each of those indictments, the burden of
18 proving each of the essential elements that constitute the
19 crimes alleged against the defendant; and therefore the
20 burden is upon the state to establish the defendant's guilt
21 to the satisfaction of you 12 jurors beyond a reasonable
22 doubt before any verdict of guilty could be returned as it
23 relates to any of the separate charges.

24 The burden is never upon a defendant to prove that he
25 or she is not guilty or to prove that he or she is innocent

Jury charge

1 because in some cases that might not be possible.

2 The burden is always upon the state because they made
3 the charge against the defendant to establish his guilt to
4 your satisfaction beyond a reasonable doubt.

5 It is a vital, important and cardinal rule of law that
6 every defendant in a criminal trial, no matter how serious
7 the offense might be for which that person stands charged,
8 that person shall always be presumed innocent of that
9 charge.

10 That presumption of innocence remains with every
11 defendant as it does with this defendant from the time that
12 he is placed under arrest and throughout the course of the
13 criminal process and even throughout the course of the
14 actual trial in the case.

15 As I've told you, that presumption of innocence will
16 be with Mr. Holder even as you go back into your jury room
17 to begin with your deliberations in this case. And that
18 presumption of innocence will be with him in that jury
19 room, and it'll be with him forever unless you 12 jurors
20 determine that he's no longer entitled to the presumption
21 of innocence as it relates to a particular charge.

22 In other words, after you've carefully considered all
23 the evidence in the case, and from that evidence you've
24 decided the facts as it relates to a particular charge, and
25 upon deciding those facts you apply the law that I will

Jury charge

1 have provided you, if you 12 jurors unanimously determine
2 that his guilt as to a charge has been proven beyond a
3 reasonable doubt, then he's no longer entitled to that
4 presumption of innocence as it relates to that charge. But
5 it's only if, unless and until you are satisfied of his
6 guilt beyond a reasonable doubt that the presumption of
7 innocence would no longer be applicable.

8 Now, while the state does have to prove a defendant's
9 guilt beyond a reasonable doubt, that doesn't mean that
10 they have to prove his guilt beyond all doubt or beyond any
11 possible doubt. But it does require the state to prove his
12 guilt to your satisfaction beyond a reasonable doubt.

13 The term reasonable doubt should be given its plain
14 and ordinary meaning. A reasonable doubt is the kind of
15 doubt that would cause a reasonable person to hesitate to
16 act upon the information provided.

17 A defendant in a criminal trial is entitled to any
18 reasonable doubt that arises from the evidence or lack of
19 evidence in a case. And if upon any factual issue
20 essential to a finding of a verdict of guilty you have some
21 reasonable doubt as to how that issue should be resolved,
22 it would be your duty to resolve that reasonable doubt in
23 favor of the defendant.

24 And therefore if upon your consideration of the whole
25 case you have a reasonable doubt as to his guilt as it

Jury charge

1 relates to a particular charge, you must resolve that doubt
2 in his favor and return a verdict of not guilty.

3 At the same time, after you've carefully considered
4 all the evidence in the case and decided the facts and
5 applied the law, if you have no reasonable doubt as to his
6 guilt it would be your corresponding duty to find him
7 guilty of any crime that has been proven to your
8 satisfaction beyond a reasonable doubt.

9 Now, the same law that provides that you are the
10 judges of the facts also provides that I am the judge of
11 the law. And that simply means nobody's going to tell you
12 how to arrive at your determination of fact in this case.

13 You do that, as I have already stated, through the
14 exercise of good judgment and common sense conscientiously
15 applied to the testimony and evidence received during the
16 course of the trial.

17 You must however under your oath as a juror accept the
18 law as I provide it to you as being the law that you are to
19 apply in the case.

20 In other words, you're not to concern yourself with
21 what you thought the law was before you came to serve as a
22 juror this week or what you think the law ought to be. You
23 must simply under your oath as a juror accept the law as I
24 provide it to you as being the law that you are to apply in
25 the case.

Jury charge

1 Then you simply take that law and you apply it to the
2 facts as you 12 jurors determine those facts to be based
3 upon your common sense examination of the testimony and
4 evidence received during the course of the trial.

5 Now, because you are the sole judges of the facts in
6 the case you are therefore necessarily the sole judges of
7 the credibility and the believability of each witness that
8 has testified during the course of this trial.

9 You 12 jurors alone will decide what weight, value and
10 effect to give to any particular witness' testimony or
11 other evidence in the case. But there are several factors
12 which you should take into consideration in arriving at
13 your assessment and your evaluation as to a witness'
14 credibility, and I'm going to list those factors for you.

15 You should consider the demeanor of the witness. That
16 is how the witness appeared to you as the witness testified
17 from the witness stand. Was the witness straightforward in
18 responding to questions, or was the witness hesitant or
19 evasive in responding to questions that were asked of that
20 witness.

21 Simply put, did the witness appear to you to be
22 telling the truth and to have knowledge of the facts to
23 which that witness has testified.

24 You should also consider whether or not the testimony
25 of a witness is consistent, or is it inconsistent with that

Jury charge

1 witness' testimony given here in court as well as whether
2 it's consistent or inconsistent with other statements made
3 by that witness outside of court.

4 And you should also consider whether or not the
5 testimony of a witness is consistent or inconsistent with
6 other witnesses' testimony or other evidence received
7 during the course of the trial.

8 You should also consider how the witness came to know
9 the facts to which a witness has testified. In other
10 words, what was a particular witness' opportunity and
11 ability to perceive the existence of those facts to which
12 that witness has testified by having previously used his or
13 her senses, and then what is that witness' ability to be
14 able to come into court and to accurately recollect to you
15 as to what they have previously perceived.

16 You should also consider any bias or prejudice or
17 interest that you find a witness might have with regard to
18 a case.

19 In other words, do you find some reason that a
20 particular witness would testify one way or another to help
21 or hurt one side or the other.

22 And you may consider any interest that a witness might
23 have in the outcome of this case if you determine that a
24 witness does have such an interest and you find that that
25 witness would -- that interest would bear upon that

Jury charge

1 particular witness' credibility.

2 And you should also consider whether or not the
3 testimony of a witness is strengthened, or is it weakened
4 by other testimony or other evidence received during the
5 course of the trial.

6 Now, during the course of this trial you have heard
7 certain evidence relating to a witness, one or more of the
8 witnesses, including the defendant, having a prior
9 conviction for a criminal offense.

10 Ordinarily evidence of criminal convictions are not
11 allowed to be introduced during the trial of a case,
12 because ordinarily it's not relevant to anything.

13 However, where a witness including the defendant --
14 when they take the witness stand and testify, where they
15 have convictions for criminal offenses of a certain type,
16 evidence of those convictions may be introduced during
17 their testimony.

18 But the admission of that evidence is for a very
19 limited purpose. And the purpose for which you may
20 consider such convictions if you determine it to be
21 probative is simply -- well, it's being offered for the
22 purpose of impeaching the witness' testimony. And you may
23 consider it if you find it probative on the issue of the
24 credibility of the witness' testimony. But you can't
25 consider it for any other purpose.

Jury charge

1 That evidence is not being offered as evidence of the
2 defendant's guilt of the crimes for which he is standing
3 trial today. And under your oath as a juror you may not
4 consider it as evidence of his guilt.

5 You may only consider it if at all on the issue of the
6 credibility of his testimony, and that is the only purpose
7 for which it was offered.

8 Now, you as the finders of the facts and you as the
9 judges of the credibility of each witness are permitted to
10 believe as much or as little of what a witness has
11 testified to as you deem is appropriate. And therefore you
12 may believe everything that a witness testified to. You
13 may choose to believe none of it. You may believe one
14 portion of a witness' testimony and reject some other
15 portion of that same witness' testimony.

16 In a given case you could believe one witness as
17 opposed to several, or several as opposed to one. But
18 whatever your good judgment and common sense tells you is
19 the most believable and credible testimony is the testimony
20 you should accept. And you should reject any testimony or
21 other evidence that you find not to be credible or
22 believable.

23 Again, your sole objective is to simply be fair and
24 impartial and render a decision solely upon the law and the
25 evidence received during the course of the trial.

Jury charge

1 Now, while there are various forms of evidence such as
2 photographs, documents, charts, and other types of physical
3 exhibits, there are really only two types of evidence.

4 Either or both of those types of evidence may be used to
5 prove any fact that's in issue. But the two types of
6 evidence are direct evidence and circumstantial evidence.

7 Now, direct evidence is the testimony of a person who
8 testifies from actual knowledge of the fact. It is
9 testimony by a person who has perceived the existence of
10 some fact by means of his or her senses and then they come
11 into court and they testify as to what they have previously
12 seen, heard, or felt for that matter.

13 Circumstantial evidence, on the other hand, is the
14 proof of some other fact or set of facts taken either
15 singly or correctively which may prove the existence of a
16 fact in question as a necessary consequence. That is
17 through an inference.

18 An inference is simply a deduction of fact that may
19 logically and reasonably be drawn from the proof of some
20 other fact or set of facts.

21 In other words, it's not a fact proven by the direct
22 testimony of a person based upon their personal perception,
23 but it is a conclusion that might reasonably be drawn from
24 the proof of some other fact or set of facts.

25 In other words, you may infer that a particular event

Jury charge

1 occurred or that a particular fact exists based upon the
2 proof of sufficient factual circumstances which would
3 reasonably warrant your arriving at a particular
4 conclusion.

5 Please understand however that the law makes
6 absolutely no distinction between the weight or value to be
7 given to direct evidence as opposed to circumstantial
8 evidence, nor is a greater degree of certainty required of
9 circumstantial evidence as opposed to direct evidence.

10 Whatever the type of evidence used to prove any fact
11 in issue, you should consider all of the evidence received
12 during the course of this trial. And after carefully
13 considering that evidence and weighing it in your minds if
14 you are not convinced of the guilt of the defendant beyond
15 a reasonable doubt, then you must resolve that doubt in his
16 favor and return a verdict of not guilty.

17 Now, as you know, there are three separate
18 indictments. One of those indictments charges two separate
19 crimes. But the three separate indictments each charge the
20 defendant with the crime of attempted murder.

21 One of the indictments -- the indictment alleging
22 Ms. Raines to be the victim -- also has a count two which
23 is possession of a firearm during the commission of a
24 violent crime, the violent crime in this case being
25 attempted murder.

Jury charge

1 So I'm going to instruct you on the law as it relates
2 to the crime of attempted murder. I'm also going to be
3 instructing you on the law as it relates to a lesser
4 included offense.

5 With regard to the indictment charging the defendant
6 with the crime of attempted murder in the case of
7 Ms. Raines, I'll be charging you with a lesser included
8 offense called assault and battery of a high and aggravated
9 nature.

10 With regard to the two indictments charging the
11 defendant with attempted murder in the cases of Mr. Swigert
12 and Mr. Swanger I'll be charging you with the law on the
13 lesser included offense of assault and battery in the first
14 degree.

15 Where you have a reasonable doubt or if you have a
16 reasonable doubt as to whether a defendant has been proven
17 guilty of a greater offense or a lesser offense, you must
18 resolve that reasonable doubt in his favor and find him
19 only guilty of the lesser offense. But of course you could
20 not find him guilty of the lesser offense unless that
21 offense has been proven beyond a reasonable doubt.

22 So the first law that I will instruct you as to or the
23 first offense that I will instruct you the law as to is the
24 crime of attempted murder.

25 Attempted murder is a statutory offense, as all of

Jury charge

1 these offenses are. And that just means that they're
2 codified. They're set forth in the code of laws.

3 The legislature meets every year from January to June.
4 They're meeting right now. During the course of that
5 session they often pass certain laws, rules and regulations
6 that govern our conduct in a variety of ways.

7 Some of those statutes are criminal-penalty statutes.
8 In other words, the legislature prohibits us from engaging
9 in a certain type of conduct. They define what that
10 conduct is.

11 Where a person has been found guilty of a violation of
12 the statute -- in other words, a person has been found
13 guilty of conduct prohibited by a statute -- then it
14 subjects that person to some form of punishment or penalty
15 as a result.

16 Please understand however that you are never to be
17 concerned with punishment or penalty. That's not something
18 that a jury decides.

19 Your sole obligation and duty under your oath is to
20 determine whether or not the defendant has been proven
21 guilty of a crime. And you're to make that determination
22 and make that decision without considering any consequence
23 that might result by way of some form of punishment.

24 But attempted murder is set forth in section 16-3-29
25 of the code of laws. And that particular code section

Jury charge

1 provides that a person who with intent to kill attempts to
2 kill another person with malice aforethought, either
3 expressed or implied, is guilty of the offense of attempted
4 murder.

5 Again, a person who with intent to kill attempts to
6 kill another person with malice aforethought, either
7 expressed or implied, is guilty of the offense of attempted
8 murder.

9 Now, with regard to that statute, you're instructed
10 that proof of an intent to kill in the context of attempted
11 murder does not require proof of a specific intent to kill
12 on the part of the defendant. But it does require proof of
13 a state of mind, of conscious wrongdoing, accompanying the
14 intentional commission of an act or acts, the natural
15 tendency of which is to destroy human life.

16 The term intent refers to the state of a person's mind
17 which directs his actions towards a specific object or
18 goal. And intent would include those consequences which
19 represent the very purpose for which an act is done, as
20 well as those consequences which are known to be
21 substantially certain to result whether actually intended
22 or not.

23 The term attempt to kill within the meaning of the
24 attempted murder statute refers to the intentional
25 commission of an overt act or acts, the natural tendency of

Jury charge

1 which is to cause death, done in furtherance of the
2 commission of the crime of murder and which tends towards
3 the accomplishment of that intended goal but which falls
4 short of completion. That's why it's an attempted murder.

5 The attempt to kill must also be accompanied by
6 malice. Malice is an essential element of the crime of
7 attempted murder.

8 Malice is a state of mind. Malice is a technical term
9 importing wickedness and excluding just cause or legal
10 excuse. It is something which springs from depravity, from
11 a heart devoid of social duty and fatally bent on mischief.
12 It is a state of mind indicating an extreme disregard for
13 or an extreme indifference to human life.

14 Malice refers to a state of mind connoting an ill will
15 towards another person and having the intent to cause that
16 person harm.

17 It may be likewise defined as a state of mind
18 signifying a formed purpose and design to do a wrongful act
19 intentionally without just cause or legal excuse.

20 The existence of malice may be either expressed or
21 implied. The words expressed or implied do not mean
22 different kinds of malice but simply the manner in which
23 malice may be shown to have existed, that is to say by
24 proof by direct evidence or proof by circumstantial
25 evidence.

Jury charge

1 Malice may be expressed as where there is an expressed
2 threat to kill or a lying in wait or where the
3 circumstances show directly that the defendant intended to
4 kill or intended to commit some act or acts, the natural
5 tendency of which is to destroy human life.

6 Malice may be inferred, though no expressed intent to
7 kill is proven by direct evidence, where the facts and the
8 circumstances which have been established by the evidence
9 in the case satisfy you beyond a reasonable doubt that
10 malice was present in the mind of the defendant at the time
11 any act was committed that naturally tends to result in a
12 loss of human life.

13 The existence of malice may be inferred from
14 circumstances shown to have existed at the time of the
15 event. And the existence of malice may be inferred from
16 acts, declarations and conduct of the defendant, as well as
17 any other circumstances established by the evidence in this
18 case from which you might reasonably infer such a fact as
19 often the state of a person's mind can only be proven by
20 circumstantial evidence.

21 Even if the factual circumstances proven are
22 sufficient to raise an inference of malice, such an
23 inference would simply be an evidentiary fact to be taken
24 into consideration by you 12 jurors along with all of the
25 evidence received during the course of the trial. And you

Jury charge

1 shall give such inferences such weigh, if any, that you
2 determine they should receive, if any.

3 Malice as an essential element of the crime of
4 attempted murder does not necessarily require proof of an
5 ill will or a hatred of the particular person against whom
6 a wrongful act is committed, nor does it necessarily
7 require proof of an actual or a specific intent to take
8 human life, although such an intent may be established by
9 the evidence in the case. But rather it means a state of
10 mind accompanying conduct signifying a general malignant
11 recklessness and an extreme disregard for or an extreme
12 indifference to human life.

13 The state is required to prove malice, just as it must
14 prove any other essential element of the crime alleged, and
15 it is for you 12 jurors to determine whether or not the
16 evidence in this case establishes malice beyond a
17 reasonable doubt.

18 It's also essential that there exist not only malice
19 but that the malice be aforethought. The law does not
20 require that malice must exist for any appreciable length
21 of time before the commission of a wrongful act. Indeed,
22 malice may be conceived at the very moment that the act is
23 or the acts are committed.

24 It is sufficient in the law so long as the state does
25 prove beyond a reasonable doubt both the existence of

Jury charge

1 malice in the mind of the defendant and the commission of
2 an act or acts by the defendant which have a natural
3 tendency to result in the destruction of human life.

4 while the state must prove beyond a reasonable doubt
5 that the defendant did commit acts alleged accompanied by
6 the element of malice aforethought in order for the crime
7 of attempted murder to be established, it is not necessary
8 that the state prove any motive for such conduct.

9 Motive is not an essential element of the crime of
10 attempted murder which has to be proven, although in some
11 cases there might be evidence relating to that introduced
12 during the course of the trial. But it is not an element
13 of the offense of attempted murder.

14 Now, as I told you, I'm going to instruct you on the
15 lesser included offense of aggravated assault and battery
16 or assault and battery of a high and aggravated nature.
17 And that lesser included offense will be considered as you
18 consider the charges contained in the indictment alleging
19 attempted murder against where Ms. Bonnie Leeann Raines was
20 alleged to be the victim.

21 section 16-3-600, subsection (b)(1), of the South
22 Carolina Code of Laws provides that a person is guilty of
23 assault and battery of a high and aggravated nature if the
24 person unlawfully injures another person and great bodily
25 injury results to that other person, or the act resulting

Jury charge

1 in any injury is accomplished by means likely to produce
2 death or great bodily injury.

3 Great bodily injury is defined as bodily injury which
4 causes a substantial risk of death or which causes serious
5 permanent disfigurement or protractive loss or impairment
6 of the function of a bodily member or organ.

7 In order to be found guilty of the offense of
8 aggravated assault and battery it would be necessary that
9 the evidence in this case has established to your
10 satisfaction beyond a reasonable doubt that the defendant
11 did with criminal intent, that is a mental state of
12 conscious wrongdoing, injure another person resulting in
13 great bodily injury to that person, or the act resulting in
14 any injury to the other person was accomplished by means
15 likely to produce death or result in great bodily injury to
16 someone.

17 And, as I have stated, with respect to the indictments
18 charging attempted murder wherein the victims are alleged
19 to be Mr. Swigert and Mr. Swanger, I'm going to instruct
20 you on the lesser included offense of assault and battery
21 in the first degree.

22 Section 16-3-600, subsection (C)(1)(b) provides a
23 person is guilty of assault and battery in the first degree
24 if the person unlawfully offers or attempts to injure
25 another person with the present ability to do so, and the

Jury charge

1 acts are accomplished by means likely to produce death or
2 great bodily injury.

3 You are also instructed, as I've indicated, in one of
4 the indictments the defendant is charged with possession of
5 a firearm during the commission of a violent crime.

6 Section 16-23-490 of the Code of Laws provides that it
7 shall be unlawful to possess a firearm or to visibly
8 display what appears to be a firearm during the commission
9 of a violent crime.

10 Section 16-1-60 of the Code of Laws of South Carolina
11 includes in the definition of a violent crime the crime of
12 attempted murder.

13 So in order for the defendant to be found guilty of a
14 violation of this particular section it would be necessary
15 that the evidence in this case establishes to your
16 satisfaction beyond a reasonable doubt that the defendant
17 committed the crime of attempted murder and at the time he
18 committed that crime or during the commission of that crime
19 he did possess a firearm.

20 Now, one who is charged with the commission of a crime
21 may be convicted as the actual perpetrator or as an
22 accomplice. An accomplice is often referred to as an aider
23 or an abettor in the commission of a crime.

24 And you are instructed that where two or more people
25 act together with a common intent and purpose and they

Jury charge

1 combine or conspire or plan or otherwise agree to the
2 commission of a crime, each person who is present and who
3 is aiding, abetting and assisting and participating in the
4 commission of a crime is equally guilty. The act of one is
5 deemed to be the act of all.

6 Any person who joins with another or others to
7 accomplish an illegal purpose is held to be criminally
8 responsible for everything done by any other person which
9 occurs as a natural and probable consequence of the acts
10 done pursuant to and in furtherance of the common plan and
11 purpose. And therefore where two or more persons are
12 acting together and they are aiding, abetting, assisting
13 and participating with one another in committing a crime,
14 the acts of one become the acts of all. The hand of one is
15 deemed to be the hand of all. And all are equally guilty
16 of any crime that is accomplished by those joint efforts.

17 You are further instructed however that prior
18 knowledge by one person that some other person is intending
19 to commit a crime without more is not sufficient to make
20 him guilty of the crime of which he may be shown to have
21 had knowledge. And, likewise, the mere presence of a
22 defendant at the scene of a crime or in close proximity
23 thereto even with knowledge that another is intending to
24 commit a crime is not sufficient standing alone to prove a
25 defendant guilty of the crime as an accomplice -- excuse

Jury charge

1 me -- as an accomplice.

2 In order for the defendant to be found guilty of a
3 crime under the legal theory of aiding and abetting it must
4 be proven beyond a reasonable doubt that the defendant was
5 actually present at the scene of the crime with the
6 intention of aiding, abetting, assisting and participating
7 in a common plan or scheme which culminates in the
8 commission of a crime.

9 Now, Mr. Foreman and ladies and gentlemen of the jury,
10 I am not in any way concerned with what your decisions are,
11 but, as I've told you, your decision as to each charge must
12 be unanimous. All 12 must be in agreement.

13 Mr. Foreman, you're going to be called upon to preside
14 over jury deliberations in the jury room simply to ensure
15 that those deliberations are carried out in some orderly
16 fashion. But all jurors are expected to participate in the
17 deliberations, because, as you know, the verdict of a jury
18 is the unanimous and a consensus opinion of all 12 jurors,
19 and so all of you will have an equal say in the ultimate
20 decision.

21 Mr. Foreman, as you know, you're going to be called
22 upon to write the decision of the jury as it relates to
23 each of the separate charges.

24 You will have the indictments in the jury room. Those
25 indictments will serve as the verdict forms.

Jury charge

1 I have also prepared a document which I've entitled
2 potential verdict forms. And that is to simply serve as a
3 guide to you so that you can remember what I've been
4 telling you. And it sets forth what the potential verdict
5 forms are for each of the separate indictments. And so
6 you'll have that in the jury room.

7 But with regard to Indictment 5271 [sic], which is the
8 indictment alleging attempted murder, wherein Ms. Raines is
9 the alleged victim, you have with count one -- that's
10 attempted murder. You have three potential verdict forms.
11 Those potential verdict forms are guilty -- that one
12 word -- which would mean guilty of attempted murder.
13 That's the charge in the indictment.

14 If the state has failed to prove the defendant guilty
15 of the crime of attempted murder beyond a reasonable doubt,
16 then you could also -- you're also allowed to consider the
17 lesser offense which I've instructed you on, and that is
18 assault and battery of a high and aggravated nature.

19 If the unanimous decision of the jury is that the
20 defendant has been found guilty of the lesser included
21 offense only, then the verdict form would be guilty of
22 assault and battery of a high and aggravated nature. And
23 you'd have to write that out, the entire thing.

24 And if the state has failed to prove the defendant to
25 be guilty of either of those offenses beyond a reasonable

Jury charge

1 doubt, then the verdict form would be not guilty.

2 Now, you also have in that indictment count two, which
3 is possession of a firearm during the commission of a
4 violent crime.

5 You have two potential verdict forms with respect to
6 that charge, and those two potential verdict forms are
7 guilty and not guilty. You may find the defendant guilty
8 in count two only if the defendant has been found guilty of
9 attempted murder in count one, because count two requires
10 the defendant to be proven guilty of or possess or use a
11 firearm during the commission of a violent crime. And the
12 violent crime is attempted murder.

13 Assault and battery of a high and aggravated nature is
14 not classified as a violent crime. And so if the jury were
15 to find the defendant guilty of the lesser offense of
16 aggravated assault and battery, then count two of the
17 indictment alleging possession of a firearm would have to
18 be not guilty because it requires proof of possession of a
19 firearm during the commission of a violent crime. And the
20 state alleges that violent crime to be attempted murder.

21 with regard to the remaining two indictments, 5270
22 [sic] and 5272 [sic], you have three potential verdict
23 forms with each of those indictments. Those verdict forms
24 are the same as it relates to those two indictments.

25 The verdict forms are guilty, again, meaning guilty of

Jury charge

1 attempted murder, or guilty of assault and battery in the
2 first degree -- that would have to be written out -- or not
3 guilty.

4 So whatever your decisions are, Mr. Foreman, you
5 indicate those decisions in the space provided on the
6 appropriate indictment, and then sign your name as the
7 foreperson and place the appropriate date. You're the only
8 juror that needs to sign the verdict form.

9 Now, during your deliberations there may come a time
10 where you have a question about evidence. You may even
11 wonder if you can get something else. You might think,
12 well, wonder if they have something else we can get that
13 might help us.

14 Well, even if there's something out there that exists,
15 you can't have it because the case is closed. No more
16 evidence can be received, no more evidence can be
17 introduced.

18 So if you have a question about that and you want
19 something else, just understand you can't have it. So
20 don't ask me about it.

21 Also, I'm never permitted to answer questions about
22 the facts of the matter or the testimony. I'm never
23 permitted to respond to questions that relate to evidence
24 or facts.

25 However, if you have a question that arises during

Jury charge

1 your deliberations and you think that question can be
2 answered by having testimony replayed in whole or in part,
3 then we can bring you back into the courtroom to have a
4 witness' testimony replayed in its entirety, or only some
5 portion of it if that's all you need.

6 I don't have any transcripts to send back to the jury
7 room. But, as I say, if you need to have a witness'
8 testimony replayed we can bring you back into the courtroom
9 to have a witness' testimony reheard by you if that will
10 assist you.

11 With regard to the instruction on the law, I am
12 permitted to answer questions as it relates to the law that
13 you are to apply. And so if at any time you have a
14 question about that you need to -- you need for me to
15 provide you a reinstruction on the law, I'll be happy to do
16 that.

17 If you simply need an explanation or a clarification
18 of some point of law, I'll be happy to provide that.

19 Mr. Foreman, if at any time you have a matter that
20 needs to be addressed to me, if you'll write it on a piece
21 of paper, give it to the bailiff, the bailiff will provide
22 it to me, and then I'll respond according to the question
23 or any issue that you may have.

24 I know that many of you have been taking notes during
25 the course of the trial. Understand that you're allowed to

Jury charge

1 have those notes with you as the jury goes back to
2 deliberate.

3 But you have to understand that notes are not to be
4 relied upon by any juror who did not take those notes. In
5 other words, you're not to rely upon somebody else's
6 recollection as to what somebody said or what some evidence
7 is based upon their note-taking. Note-taking is for the
8 benefit of the note-taker. Other jurors are not to rely
9 upon somebody else's note-taking as their recollection of
10 testimony or evidence.

11 If you need to have it reheard or replayed, we can do
12 that for you. Now, if you happen to agree with that
13 recollection or it jogs your memory and it refreshes your
14 memory and you agree with it, that's fine. But I'm just
15 saying your note-taking is for your benefit. It's not to
16 be relied upon by anybody else.

17 I know that there was a question earlier about packing
18 cigarettes, and I found out we've got five smokers on the
19 jury.

20 But you can't smoke in the jury room. But you can
21 smoke during deliberations if you want to. If you want to,
22 you just let the bailiff know, and the bailiff will take
23 any juror that needs to smoke outside to accomplish that
24 purpose.

25 You are however instructed that deliberations may not

Jury charge

1 be engaged in unless all 12 jurors are present so that all
2 may participate. So if at any time a juror is absent for
3 some authorized purpose the deliberations have to stop.
4 They may only resume when all 12 jurors are present.

5 As far as your lunches go, they may be here. Or if
6 not, they'll be here shortly. And I'll let you do what you
7 want to about lunch. It'll be provided to you. You can
8 deliberate while you eat, or you can stop deliberations and
9 eat and then resume deliberations, whatever you want to do
10 about that. I'll leave that to your discretion.

11 I think that covers everything. But if it doesn't I'm
12 sure one of these lawyers will remind me that I have
13 neglected to tell you something, and I'll bring you back to
14 provide you with that additional information.

15 So right now I'm going to ask the -- Mr. Byrd and
16 Mr. Brown to stay with me. I'll ask the original primary
17 12 jurors to please retire to your jury room. But do not
18 begin deliberations until I send you word to do so. And
19 when it is time for you to begin, the bailiff will bring to
20 the jury room all of the exhibits which have been
21 introduced.

22 And to you, Mr. Foreman, he'll also bring the
23 indictments which will serve as the verdict form. And
24 he'll also bring the potential verdict form guide for your
25 benefit.

Jury charge

1 So please retire but await my instruction as to when
2 to begin.

3 (Whereupon, the jury retired to deliberate at
4 12:25 p.m.)

5 (Whereupon, the alternate jurors were excused.)

6 THE COURT: Are there any exceptions taken to the
7 instruction or requests for additions to the instruction by
8 the state?

9 MR. BARNETTE: May we approach the bench?

10 (Bench conference held off the record.)

11 THE COURT: Ask the bailiff to bring the jury back.

12 Let me ask y'all to get those exhibits, please, and
13 let's count them.

14 MR. BARNETTE: Yes, sir.

15 (Whereupon, the jury returned to the courtroom at
16 12:30 p.m.)

17 THE COURT: I stated something incorrectly, so I do
18 need to correct that.

19 I told you that attempted murder was classified as a
20 violent crime under the law. And I told you that assault
21 and battery of a high and aggravated nature was not
22 classified as a violent crime. That's incorrect.

23 Both attempted murder and the lesser included offense
24 of assault and battery of a high and aggravated nature are
25 classified as violent offenses under the law.

Jury charge

1 So with regard to count two of the indictment, the
2 defendant could be found guilty of count two in the
3 indictment alleging possession of a firearm during the
4 commission of a violent crime if the jury were to find the
5 defendant to be guilty of either attempted murder or
6 assault and battery of a high and aggravated nature.

7 okay. All right. You may retire to your jury room.
8 And once you receive the exhibits and the verdict forms you
9 may begin with your deliberations.

10 (Whereupon, the jury retired to deliberate at
11 12:32 p.m.)

12 THE COURT: All right. Any other exceptions or
13 additions?

14 MR. BARNETTE: None from the state, Your Honor.

15 MR. THOMPSON: None from the defense, Your Honor.

16 THE COURT: All right. Let me ask y'all to verify the
17 exhibits before they go back, please.

18 (Pause.)

19 THE COURT: All right, sir. All of the exhibits are
20 accounted for?

21 MS. TAILOR: Yes, sir, Your Honor.

22 MR. BARNETTE: Yes.

23 THE COURT: All right. Send them back and tell the
24 jury to begin deliberations and notify us when they have
25 concluded.

1 (Whereupon, a recess was taken.)

2 THE COURT: All right. The jury has sent a note
3 indicating that they would like to recess for the afternoon
4 and resume in the morning. So I intend to allow them to do
5 that.

6 Is there any objection?

7 MR. BARNETTE: None from the state, Your Honor.

8 MR. THOMPSON: None from the defense, Your Honor.

9 THE COURT: Okay. Bring them in.

10 (Whereupon, the jury returned to the courtroom at
11 5:17 p.m.)

12 THE COURT: Mr. Foreman, I have your note wherein
13 you've requested you and your fellow jurors would like to
14 recess for the afternoon and resume deliberations in the
15 morning.

16 THE FOREMAN: If that's okay, Your Honor.

17 THE COURT: It's okay. It'll be permitted.

18 But let me caution you as I have before. I understand
19 that you've already begun your deliberations. And it's
20 always incumbent upon a jury under your oath to follow the
21 instructions of the Court, and I've told you previously you
22 can't discuss the case with anybody. You can't conduct any
23 research. Can't do your own investigation. You can't
24 allow yourselves to be exposed to any type of media
25 coverage.

1 Now that your deliberations have begun and you have
2 not reached a decision -- you know, sometimes people get a
3 little tempted to try to gather some more information or
4 talk to somebody to help them make a decision. Understand
5 you can't do that.

6 You can't even discuss the case with your fellow
7 jurors until all 12 are back in the jury room in the
8 morning at 9:30 at which time you can begin and resume your
9 deliberations.

10 But during the overnight recess there's to be no
11 discussions about the case with anybody whatsoever in any
12 fashion whatsoever. No research, no investigation, no
13 expressure to any type of media coverage. And don't let
14 anyone try to discuss it with you.

15 I know during the trial a number of jurors were taking
16 notes and you have those in the jury room with you. Also,
17 during your deliberations there may have been other notes
18 being made in discussions with your fellow jurors or even
19 votes on a verdict or whatever that is.

20 Those notes -- I'm going to send you back to your jury
21 room and send an envelope with you. I want you to put all
22 of those notes -- you don't have to put the evidence in
23 anything, but all of the notes that you have made during
24 the trial and any notes that have been generated while
25 you've been deliberating, I want you to put them in an

1 envelope and seal it up. And I'm going to take possession
2 of it. And it'll be given back to you in the morning when
3 you begin your deliberations.

4 When you come back in the morning you're to report at
5 9:30. You are not to resume deliberations until all 12
6 jurors are present. The bailiff will instruct me that all
7 are present, and then you will be given back all of the
8 evidence and the envelope containing any notes.

9 Now, as far as envelopes are concerned, I have two,
10 and I don't know how many notes you have. But these are
11 the two envelopes. So you use the one. You use the one
12 that's necessary to put all the notes in, and just give the
13 other one back to the bailiff.

14 Then be sure you seal it up after you put the notes in
15 there. And then the bailiff will provide it to me. And
16 you'll get it back in the morning.

17 Okay. All right. Have a good evening. We'll see you
18 at 9:30 in the morning.

19 (Whereupon, the trial jury was excused.)

20 THE COURT: The Holder case is in recess until 9:30 in
21 the morning.

22 END OF PROCEEDINGS MAY 8, 2013
23
24
25

1 (Proceedings May 9, 2013)

2 THE COURT: Are we ready?

3 MR. THOMPSON: Yes, Your Honor.

4 (Whereupon, the jury returned to the courtroom at
5 10:35 a.m.)

6 THE COURT: Good morning, ladies and gentlemen.

7 Mr. Foreman, I have your note wherein you and your
8 fellow jurors have indicated that you'd like to have the
9 testimony of Mr. Swanger replayed, as well as of the
10 defendant.

11 THE FOREMAN: Yes, sir.

12 THE COURT: And so the court reporter has found that
13 testimony. It will be replayed.

14 Now, of course the replay is not going to be heard any
15 better than the first time it was provided. But if you
16 have difficulty hearing the replay let me know, and we can
17 try to make other arrangements. We'll do the best we can,
18 but I'm not exactly certain as how much better it can be
19 done, but it will be when the court reporter plays it for
20 you.

21 You've also indicated that if you could have access to
22 any written statements. Those statements were not
23 introduced into evidence, and so I can't allow you to have
24 those statements now. But if a witness referred to some
25 statement or some other witness testified about a

1 statement, you can have that testimony replayed should you
2 need to.

3 So we're going to begin with Mr. Swanger's testimony.
4 If for some reason you have difficulty hearing it, raise
5 your hand. I'll try to make different arrangements if we
6 can. And it'll be played in its entirety. And then we'll
7 play the testimony of the defendant. And it will be played
8 in its entirety unless you tell me to stop it. Okay.

9 (Whereupon, the testimony of Mark Swanger and the
10 defendant was replayed for the jury.)

11 THE COURT: As you go back to begin with your
12 deliberations keep in mind that if you wish to order lunch
13 it usually takes about an hour for it to be ordered,
14 prepared and brought to the jury room. So keep that
15 timetable in mind during your deliberations.

16 If you get to a point where you think it's appropriate
17 to order lunch, let the bailiff know and the clerk will
18 come and take your lunch orders.

19 Okay. Please retire to your jury room. Continue with
20 your deliberations. If you have further questions let me
21 know.

22 (Whereupon, the jury retired to deliberate at
23 11:38 a.m.)

24 THE COURT: All right. Holder case will be at ease
25 while the jury is deliberating.

Verdict

1 (Whereupon, a recess was taken.)

2 (Question from the jury during trial marked Court's
3 Exhibit No. 3; question marked Court's Exhibit No. 4;
4 question answered and return to jury marked Court's Exhibit
5 No. 5; question marked Court's Exhibit No. 6.)

6 THE COURT: I'm told that the jury has reached a
7 decision. Are we ready to receive it?

8 MR. BARNETTE: The state's ready, Your Honor.

9 MR. THOMPSON: Yes, Your Honor.

10 THE COURT: Okay. Bring them in, please.

11 (Whereupon, the jury returned to the courtroom at
12 4:00 p.m. to report its verdict.)

13 THE COURT: Mr. Foreman, have you and your fellow
14 jurors reached a unanimous decision as to each of the
15 separate counts of the indictments?

16 THE FOREMAN: We have, Your Honor.

17 THE COURT: And have you reflected those decisions on
18 the back of the indictments as requested?

19 THE FOREMAN: I have, Your Honor.

20 THE COURT: And have you signed your name as the
21 foreperson and dated the verdict form?

22 THE FOREMAN: I have, Your Honor.

23 THE COURT: All right. If you will, please hand those
24 verdict forms up by way of the bailiff.

25 All right. You may publish the verdicts.

Verdict

1 THE CLERK: Case No. 2012-GS-42-5370, the State vs.
2 Bryan Marion Holder, the indictment for attempted murder,
3 the verdict is guilty of assault and battery in the first
4 degree. Signed by the foreperson.

5 He didn't date it, Judge.

6 THE COURT: Go ahead. Go ahead and announce the
7 verdict, and I'll give them back to him.

8 THE CLERK: Yes, sir.

9 Indictment No. 2012-GS-42-5371, the indictment of
10 attempted murder and possession of a weapon during the
11 commission of a violent crime, the verdict is guilty of
12 assault and battery of a high and aggravated nature and
13 possession of a firearm during the commission of a violent
14 crime. Signed by the foreperson.

15 Indictment 2012-GS-42-5372, the indictment for
16 attempted murder, the verdict is guilty of assault and
17 battery in the first degree signed by the foreperson.

18 Ladies and gentlemen of the jury, is this your verdict
19 and still your verdict? If so, please raise your right
20 hands.

21 (Whereupon, all responded in the affirmative.)

22 THE CLERK: So say you all.

23 THE COURT: Does the defendant wish to have the jury
24 polled?

25 MR. THOMPSON: Yes, Your Honor.

Verdict

1 THE COURT: All right. Poll the jury, please, ma'am.

2 THE CLERK: Yes, sir.

3 Ladies and gentlemen of the jury, I will pose a
4 question to you, after which I will ask each of you to
5 stand and give me your verdict. The question being is this
6 your verdict and still your verdict.

7 Juror 79, Joshua Hendricks.

8 THE JUROR: Yes, ma'am. That's my verdict.

9 THE CLERK: Thank you.

10 Juror 149, Kimberly Stevens.

11 THE JUROR: Yes, ma'am. This is my verdict.

12 THE CLERK: Juror 105, Amanda McAbee.

13 THE JUROR: Yes. That's my verdict.

14 THE CLERK: Juror 19, Kenneth Blankenship.

15 THE JUROR: Yes, ma'am. This is my verdict.

16 THE CLERK: Juror 72, Kathy Guy.

17 THE JUROR: Yes, ma'am. This is my verdict.

18 THE CLERK: Juror 32, Carolyn Canton -- Camlyn Canton.
19 I'm sorry.

20 THE JUROR: Yes, ma'am. It's my verdict.

21 THE CLERK: Juror 169, Diane Wofford.

22 THE JUROR: Yes. That is my verdict.

23 THE CLERK: Juror 23, Sally Brannon.

24 THE JUROR: Yes, ma'am. This is my verdict.

25 THE CLERK: Juror 108, Darlene Means.

Verdict

1 THE JUROR: Yes, ma'am. This is my verdict.
2 THE CLERK: Juror 95, Elizabeth Lambert.
3 THE JUROR: Yes. This is my verdict.
4 THE CLERK: Juror 82, Onie Hit.
5 THE JUROR: Yes. This is my verdict.
6 THE CLERK: And Juror 99, Denise Lipshetz.
7 THE JUROR: Yes. This is my verdict.
8 THE CLERK: Your Honor, the jury has been polled.
9 THE COURT: Any other matters we need to address with
10 the jury present?
11 MR. THOMPSON: None from the defense, Your Honor.
12 (Whereupon, the trial jury was excused.)
13 THE COURT: All right. Any motions or other matters
14 to address prior to imposition of sentence?
15 MR. THOMPSON: None from the defense, Your Honor.
16 MR. BARNETTE: None from the state, Your Honor.
17 We'd ask we respond after the -- I think the defendant
18 is going to read something to the Court. I'd like to
19 respond to that after that, Your Honor, if we could.
20 THE COURT: Okay. All right. Mr. Thompson.
21 MR. THOMPSON: May it please the Court, Your Honor.
22 Bryan is 21 years old. He has a child. The child's
23 mother has been here all week supporting Bryan.
24 He learned earlier throughout this trial -- Bryan was
25 in on a youthful offender act -- that he'll get his G.E.D.

Sentence

1 He's had a little history in the fast food industry.

2 I met with him several times and got to know him. I
3 believe Bryan has potential to some day contribute to
4 society and -- and do better than these last few years and
5 become a better person than what he has shown through some
6 bad decisions he's made.

7 And, you know, the -- the jury has spoken here. And
8 I'll go back into kind of what I said at the closing. I
9 think God was out there protecting that young lady, but I
10 think that also helped this young man and Mr. Schomer too
11 that day.

12 Don't have to live with the fact that somebody died.
13 They have to live with the fact that somebody could have.
14 But thankfully Ms. Raines is here with us.

15 And I just want to add that part again, that not only,
16 you know, did it help her, but it helped him too that she
17 did not pass away. And, again, I'll say what -- the hero
18 in this thing is Mr. Swigert. He performed brilliantly,
19 and I just wanted to make that known.

20 We tried to plea this thing out twice, Your Honor.
21 And both times we did -- the interest was Bryan's child.
22 He wants to be part of that child's life. He comments and
23 talks about him frequently. And he wants to prove to that
24 child's mother and to that child he can -- he can be a man.

25 He's done some things. Like I say, he's made some

Sentence

1 decisions that are not mature and have terrible
2 consequences.

3 His mother suffers from cerebral palsy. I may be
4 mispronouncing that. She has wanted to be here this week.
5 She's not physically able to get here. She couldn't attend
6 sentencing today.

7 And I did talk with Matt Hamilton's mother -- the
8 young man that testified. She wanted to come and speak on
9 Bryan's behalf, but this kind of come together all at once.
10 So I wasn't able to get in touch with her.

11 He does have somewhat of a support cast, not a great
12 support cast. Bryan's father passed away six or eight
13 years ago, I believe. And the -- and the father wasn't
14 active in his life very much anyway.

15 I say that. Bryan's been without guidance with his
16 mom suffering from her health and the dad gone. So he's
17 been out there running about.

18 There's testimony where he stayed with the Schomers or
19 Mr. Schomer's family. He stayed with the Hamiltons.
20 That's true. He's -- he's bounced around a lot in the last
21 two years. And -- and then he'll go to his mom's every
22 once in a while. And he just hasn't had a lot of
23 stability.

24 I think, you know, the most important thing he's done
25 is getting that G.E.D. He did prove he can focus in and do

Sentence

1 some things.

2 June 29th he made a terrible mistake. He made a
3 terrible error. He has owned up to that. He admitted to
4 stealing it.

5 He wanted to sell some stuff. He just showed poor
6 judgment, and unfortunately the domino effect of those
7 stealing those guns affected so many other people. And,
8 you know, I think he didn't foresee that but -- but it
9 should be something that should be foreseen. You know, as
10 you get Bryan's age and you start becoming a man -- he
11 needs -- every decision you make has consequences. He
12 knows that. He's had ten months in jail in addition to the
13 previous Y.O.A.

14 I just ask the Court to consider his age, his
15 background, his, you know, lack of any parental influence
16 in the last eight years.

17 And it's not -- no fault of his mom. It's just her
18 physical condition. She has not been able to adequately
19 care for him. And -- and due to her health he didn't want
20 her here. So he did show a little compassion for her
21 that -- you know, I asked him do I need to call her to
22 testify. He said I really don't want to involve her.

23 And when I talked to her, I didn't think she could
24 very well -- it wouldn't be very -- it wouldn't be
25 influential. And her memory was -- she had no memory of

Sentence

1 what -- where he was on those nights. It wouldn't -- it
2 wouldn't have been -- useless to call her.

3 Like I say, Your Honor, we're looking if you can
4 construct a sentence that allows Bryan to be a part of that
5 child's life at some time and maybe contribute to some
6 restitution. I'm sure Ms. Raines has some incredible
7 medical bills and a great deal of rehabilitation.

8 You know, give Bryan a chance to come out some day and
9 prove he can -- he can be a man. I don't -- like I say,
10 he's got a little past here that indicates he hasn't made
11 good decisions. And he certainly got a wake-up call from
12 this -- this incident.

13 I do believe he has potential to make something of
14 himself.

15 I had opportunity to briefly speak with the Lydas and
16 Ms. Raine's family. I spoke briefly to Mr. Swigert. And
17 they're very fine people. And I think that's what Bryan
18 realizes, is that you make a bad decision, and it can
19 affect good people. And -- and that's -- that's the, you
20 know, the lesson learned a horrible way.

21 But-and I don't -- you know, I these folks aren't
22 going to forgive Bryan for this situation, and I'm not sure
23 what degree of culpability the jury attributed to him.
24 They have spoken. We respect the verdict.

25 And we just ask the Court to consider the request here

Sentence

1 on the sentencing and -- and just -- and we've got --
2 hopefully going towards some closure here, some healing,
3 and hopefully -- I know -- I don't know if the victims will
4 ever be made whole, but I hope everybody here, and even
5 Bryan, can put this behind them, Your Honor, and we can
6 begin a healing process.

7 Your Honor, and as I stated, Mr. Holder -- he wrote
8 this letter prior to trial. He was under the impression he
9 would read it to the Court when he did the plea to the
10 larceny and the malicious injury, so, but he did want to
11 share this letter with the Court.

12 And I've read the letter. I think it is indicative
13 that he's beginning to rehabilitate himself somewhat and
14 grow up.

15 And the last thing I'll say, Your Honor, I would
16 request that the time he's had since July 3rd, he be given
17 credit for that in any sentence that the Court imposes.

18 THE COURT: All right. Mr. Holder, would you like to
19 tell me anything?

20 THE DEFENDANT: Yes. I want to say that I'm sorry,
21 first of all, to the Lyda family for stealing from their
22 home. At the time I did that without thinking. And I know
23 that is no excuse and that I have no excuse for doing what
24 I did. And I understand how very stupid and irresponsible
25 it was.

Sentence

1 I want you to know that I am willing to pay the
2 consequences for the damage done.

3 I also want to apologize to Stacey Lawing for
4 betraying her trust and damaging her friendship with the
5 Lyda family. I'm saying this, take full responsibility for
6 what was done. And that relationship can be rebuilt.
7 Thank you.

8 THE COURT: All right. Mr. Barnette.

9 MR. BARNETTE: Yes, sir.

10 Two folks want to speak on behalf of the victims, Your
11 Honor, but I wanted to say something before they did.

12 Your Honor, this can't happen in our community. The
13 jury has found him responsible. It involved three
14 different people being shot at, one of them being hit,
15 literally almost ripped in half from the bullet.

16 I can't imagine anything more serious than this.
17 Three people that in no -- I mean, just was doing their
18 everyday life and some way have this happen to them, and
19 one of the people responsible for this is the individual
20 right to my left.

21 I know you know the facts, and I won't go through
22 because you've heard it, and you've heard my closing
23 argument. To me if this is not attempted murder, I don't
24 know what is. But the jury has spoken. And I know the
25 Court will take that into consideration and give a sentence

Sentence

1 appropriate for that action.

2 Your Honor, Rhonda Crosby would like to address the
3 Court at this time, Your Honor.

4 RHONDA CROSBY: Your Honor --

5 THE COURT: Yes, ma'am.

6 RHONDA CROSBY: -- I am Rhonda Crosby. I'm Bonnie
7 Raines' mother. And I wanted to say that I understand the
8 young man had a gun and he wanted to shoot it, and I
9 understand he wanted to shoot at a target. But I want to
10 say that it's not right to choose a target that has a
11 purpose.

12 For ten years we prayed for this child, and she was
13 brought into our life, and she has been a blessing to all
14 of these people in here.

15 And she was in college to be a social worker so that
16 she could help people like Bryan Holder who do not have a
17 support system in their life, because she was adopted from
18 a family like that. And that's been her purpose.

19 And she was his target, a random target. So before
20 you shoot at something again think about the life. Think
21 about all of the people. And I thank God that he protected
22 her because she's got a purpose, and she still intends to
23 help victims now who have suffered like this. Thank you.

24 THE COURT: Thank you, Ms. Crosby.

25 DAVID RAINES: Your Honor, I am David Raines. I'm

Sentence

1 Bonnie's father. Very much of what Bonnie's mother said --
2 I think what's important to remember here too is what she's
3 going to have to carry with her the rest of her life.

4 Now, we can all -- we can all look at ourselves and
5 not -- we have no doubt what went on here and how it went
6 on, at least in our minds. But this little girl has got a
7 scar that you saw. I suppose you saw it, and the jury saw
8 it. Everybody saw it. She's deformed in her back. She's
9 got a hole in her back, and it missed her spine this far.

10 She is fortunate to be alive. Whatever he was aiming
11 at -- if it was hid, if it was random shooting, whatever it
12 was -- she's fortunate to be alive. And we're happy for
13 it.

14 And in my opinion this is his laser day. He got a
15 verdict today. With all the troubles the defense talked
16 about he's got, he got a verdict today. And that's my
17 opinion.

18 She's going to have to deal with this the rest of her
19 life. Not just the mental part of it, but when she gets in
20 the shower in the morning and sees a scar this long in the
21 front where they had to look and then the thing in her back
22 where half of her side is missing, a 19-year-old girl's got
23 to look at that the rest of her life. It just -- it blows
24 my mind.

25 Naturally, we were hoping that he would get as much

Sentence

1 time possible for the crimes he's committed. That's --
2 just be aware of what she's going through and what she's
3 still got to go through. And I'm asking you that for when
4 you think about sentencing, I guess. Thank you.

5 THE COURT: Thank you, Mr. Raines.

6 MR. BARNETTE: Thank you, Your Honor. I believe you
7 know the prior record, so.

8 THE COURT: I do.

9 All right. On Indictment 2012-5761, that's the
10 indictment for larceny, wherein you have entered a plea of
11 guilty to that offense, Sentence of the Court is you, Bryan
12 Marion Holder, be confined to the South Carolina Department
13 of Corrections for a period of five years.

14 Indictment 2012-5762, malicious injury to real
15 property, wherein you have entered a plea of guilty as to
16 that charge, the Sentence of the Court is you be confined
17 to the South Carolina Department of Corrections for a
18 period of five years.

19 Indictment 2012-5371, an indictment for attempted
20 murder and possession of a firearm during the commission of
21 a violent crime, wherein you have been found guilty by the
22 jury of the lesser offense of assault and battery of a high
23 and aggravated nature and possession of a firearm during
24 the commission of a violent crime, the sentence as to count
25 one is that you are to be confined to the South Carolina

Sentence

1 Department of Corrections for a period of 20 years. That
2 sentence is consecutive to that sentence imposed on
3 2012-5761.

4 Count two of that indictment, possession of a firearm
5 during the commission of a violent crime, wherein you have
6 been found guilty of possession of a firearm during the
7 commission of the crime of assault and battery of a high
8 and aggravated nature, the Sentence of the Court is you be
9 confined to the South Carolina Department of Corrections
10 for a period of five years. That sentence is consecutive
11 to that sentence imposed in count one.

12 Indictment 2012-5372, an indictment for attempted
13 murder, wherein you have been found guilty by the jury of
14 the lesser included offense of assault and battery in the
15 first degree, the Sentence of the Court is you be confined
16 to the South Carolina Department of Corrections for a
17 period of ten years. That sentence is consecutive to that
18 sentence imposed on 2012-5371.

19 Indictment 2012-5370, an indictment for attempted
20 murder, wherein you have been found guilty of the lesser
21 included offense of assault and battery in the first
22 degree, Sentence of the Court is you be confined to the
23 South Carolina Department of Corrections for a period of
24 ten years.

25 The defendant is to be given credit for any time he's

Sentence

1 entitled to pursuant to 24-13-40.

2 Now, Mr. Holder, you have a right to appeal the
3 verdicts of the jury and the Sentence of the Court. You
4 must file any notice of your intention to appeal those
5 decisions within ten days of today's date.

6 END OF REQUESTED TRANSCRIPT OF RECORD

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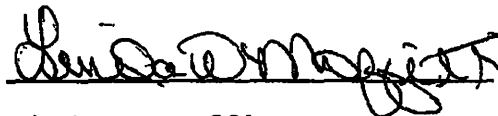
Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 6th, 7th, 8th, and 9th days of May 2013.

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

December 7, 2013.



Linda D. Moffitt
Circuit Court Reporter

Spartanburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Derham J. Cole

TRIAL TYPE : Criminal

PANEL ID : 12-5370...

COURTROOM WA

DESCRIPTION : STATE-VS-BRYAN HOLDER

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Hendricks, Joshua L	79	W	M	(✓)	(✓)	()	
2 Mckinney, Jessica G	107	B	F	(✓)	(X)	()	
3 Stevens, Kimberly A	149	W	F	(✓)	(✓)	()	
4 Mcabee, Amanda K	105	W	F	(✓)	(✓)	()	
5 Blankenship, Kenneth C	19	W	M	(✓)	(✓)	()	
6 Guy, Kathy M	72	W	F	(✓)	(✓)	()	
7 Crosby, Cherise Y	39	B	F	(✓)	(X)	()	
8 Caton, Camlyn G	32	W	F	(✓)	(✓)	()	
9 Wofford, Dianne D	169	W	F	(✓)	(✓)	()	
10 Brannon, Sally F	23	W	F	(✓)	(✓)	()	
11 Thornton, Raymond P	157	W	M	(X)	()	()	
12 Melotte, Elizabeth C	110	W	F	(✓)	(X)	()	
13 Means, Darlene N	108	B	F	(✓)	(✓)	()	
14 Lambert, Elizabeth H	95	W	F	(✓)	(✓)	()	
15 Hit, Onie K	82	A	F	(✓)	(✓)	()	
16 Pope, Timothy R	127	W	M	(✓)	(X)	()	
17 Evans, Travis L	50	W	M	(✓)	(X)	()	
18 Lipshetz, Denise A	99	W	F	(✓)	(✓)	()	
19 Byrd, Robert W	28	W	M	(✓)	(✓)	()	
20 Brown, Jason A	24	W	M	(✓)	(✓)	()	
21 Belue, Donovan S	12	W	M	()	()	()	
22 Hackett, Tenisha R	74	B	F	()	()	()	
23 Waldrep, Joshua E	162	W	M	()	()	()	
24 Grau, Karen W	66	W	F	()	()	()	

FORM 5

STATE OF SOUTH CAROLINA)

County of Spartanburg)Bryan Haller #337574)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2016-CP-42-3627

APPLICATION FOR

POST-CONVICTION RELIEF

Evidentiary Hearing Requested**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact thereon may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution 430 Oak Lawn Rd. Pelzer, SC 29569
2. Name and location of Court which imposed sentence Spartanburg County
3. Name(s) of co-defendant(s) (if any) Tyler Schomer
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012-GS-42-5761; 5762; 5370; 5372
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) May 9, 2013 45 years
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. Writ of Certiorari
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied
- ii. Denied
- iii. _____
- (c) the date of each such result:
- i. June 8, 2015 - Initial Appeal
- ii. Aug 20, 2015 - Petition of rehearing
- iii. May 5, 2016 - Writ of Certiorari
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

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- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) Due Process
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Memorandum attached here to.
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

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(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

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16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Christopher P. Thompson - 11105 Asheville Highway
Bar # - 71255 Inman, S.C. 29348
 ii. Kathrine Hudgens - 1330 Lady Street, Suite
401 Columbia, S.C. 29201
 iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Plea, Trial, and Sentencing
 ii. Direct Appeal
 iii. _____

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19. State clearly the relief you seek in filing this application:

To Vacate Sentence and a new trial based
on violations of Due Process.

20. Are you now under sentence from any other court that you have not challenged?

no

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, Bryan Holder, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 11th
 day of August, 2016.

Nancy E. Merchant (L.S.)
 Notary Public

My Commission Expires: 1-23-2023

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**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Bryan Holter, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Bryan Holter
Applicant

SWORN or affirmed to and subscribed before me this

11th day of August, 2016.

Nancy E. Merchant
Notary Public

My Commission Expires: 1-23-2023

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Argument 1
Ineffective assistance of Counsel

Applicant was denied due process by plea and at trial by Counsel Christopher Paul Thompson Esquire. Counsel never informed Applicant that his guilty plea to the grand larceny ~~of the~~ of the firearm that was used in the shooting could and would be used by the prosecutor against him in his up and coming trial on the three counts of attempted murder and one count of possession of a firearm during the commission of a violent offense.

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Argument 2

Due Process

Applicant was denied due process by plea and Trial Counsel Christopher Paul Thompson Esquire. Counsel did not do any pre-trial investigations of the crime scene, Nor did SLED Forensic Firearm and Toolmark Examiner Ira Byrd Parnell or Lead Investigator Horin Williams ever measure the trajectory or distance of the shot and both Mr. Parnell and Mr. Williams testified that they were not experts in night vision scopes and trajectory. Counsel's failure to conduct an independent investigation crime scene or call expert witness at trial to rebut the State expert testimony, Ira Byrd Parnell testified he was not ~~an~~ expert in night vision scopes, see trial transcript page 274 line 13. Courts across the Nation 11111

Investigation of facts and law to be ones Counsel's primary and most important duties, that applicants Counsel conducted an independent investigation and called expert witnesses, there's more than reasonable probability that the outcome of applicants trial would have turned out different. Applicant would like to point out the shooting happened at night and the scope was not a night vision scope.

B. J. Hall 8/11/2016 (DATE)
(Applicant)

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Constitutional Provisions

Applicant was denied the effective assistance of Counsel which deprived him of his 5th, 6th, and 14th Amendment rights and art ~~1~~ 1 and 3 of the South Carolina Constitution.

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In May of 2013, the Spartanburg County Grand Jury indicted Holder for grand larceny, malicious injury to real property, three counts of attempted murder and one count of possession of a firearm during the commission of a violent offense, indictments #12-GS-42-5761, 5761, 5370, 5371, and 5372. On May 6, 2013, Holder appeared before the Honorable J. Durham Cole and pled guilty to grand larceny and malicious injury to real property but proceeded to jury trial on the three counts of attempted murder and one count of possession of a firearm during the commission of a violent offense. Christopher Paul Thompson represented Holder for the guilty pleas and at trial. Barry Joe Barnette and Prince C. Taylor prosecuted the case. The Jury found Holder guilty of possession of a firearm during the commission of a violent offense and guilty of the lesser included offenses of assault and battery of a high and aggravated nature and two counts of assault and battery first degree. Judge Cole sentenced Holder to ten (10) years for one count of assault and battery first degree, twenty (20) years consecutive for assault and battery of a high and aggravated nature, five (5) years consecutive for possession of a firearm during the commission of a violent offense and ten (10) years consecutive for the remaining assault and battery first degree resulting in an aggregate sentence of forty five (45) years in prison. A timely notice of intent to appeal was served on May 24, 2013.

STATE OF SOUTH CAROLINA
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Memorandum

1. Ineffective Assistance of Counsel
2. Due Process

Table of Authorities

- Strickland v. Washington 466 U.S. 668, 104 S.Ct. 2052, 801 F.2d 674, 692 (1984) Butter Ed.
- Cherry v. State 300 S.C. 115, 386 S.E.2d 624 (1989)
- Kennedy v. Remina 666 F.3d 472 (8th Cir. 2011)
- Powell v. Alabama 287 U.S. 45 (1932)
- U.S. v. Carcappa 614 F.3d 30 (2nd Cir. 2010)
- Hill v. Lockhart 473 U.S. 52 (1985)
- State v. Isaac Anderson 413 S.C. 212, 776 S.E.2d 76 (2015)

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