

 ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

DeAndrea G. Benjamin, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMAAL HINSON,

APPELLANT

Appellate Case No. 2011-203569

RECORD ON APPEAL

REID T. SHERARD
Nelson Mullins Riley & Scarborough, LLP
Post Office Box 11070 (29211-1070)
Columbia, South Carolina 29201
(803) 799-2000

ROBERT M. DUDEK
Chief Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorneys for Appellant

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ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENSKA
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192
(803) 576-1800

Attorneys for Respondent

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1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

COURT OF GENERAL SESSIONS
2010-GS-40-00829

3
4 State of South Carolina,)

5 Plaintiff,)

6 vs.)

7 Jamaal Hinson,)

8 Defendant.)

TRANSCRIPT OF RECORD

9 November 14-18, 2011
10 Columbia, South Carolina

11
12 B E F O R E:

13 THE HONORABLE DEANDREA G. BENJAMIN, JUDGE; and a
14 jury.

15
16
17 A P P E A R A N C E S:

18 K. LUCK CAMPBELL, SENIOR ASSISTANT SOLICITOR
19 NICOLE M. SIMPSON, ASSISTANT SOLICITOR
Attorneys for the Plaintiff

20 ELEANOR D. CLEARY, ESQ.
21 Attorney for the Defendant

22
23
24
25 DEBORAH M. McCURDY, RPR
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1 NOVEMBER 14, 2011

2 THE COURT: I believe you have a copy of the
3 jury list. I received the voir dire from both
4 sides and the witness list.

5 Any objection to the -- I guess I'll start
6 with, any objection to the Defense's voir dire?

7 MS. SIMPSON: Yes, Your Honor. And it may be
8 easier if we go down in order on your list with
9 respect to objections.

10 THE COURT: All right.

11 MS. SIMPSON: Number One, Your Honor, is
12 included in your general charge, so I think it is
13 kind of redundant.

14 We have no objection to Number Two and no
15 objection to Number Three.

16 With respect to Number Four and Five, these
17 are also included in the general jury qualification
18 questions from the jury qualification initially and
19 are repetitive and redundant as well.

20 Number Six, overbroad, unnecessary in this
21 case. The generalized -- it says, do you belong to
22 any group whose stated purpose is to increase
23 criminal penalties or enact tougher criminal laws.

24 Your Honor, that is clearly overbroad. That
25 could apply to numerous things within criminal law

1 and the body of criminal justice.

2 Number Eight, I think it is included.

3 THE COURT: What about seven?

4 MS. SIMPSON: Number Seven we have no
5 objection to. I believe we asked for something in
6 that same vein in our own voir dire.

7 THE COURT: Okay.

8 MS. SIMPSON: Number Eight, have you ever
9 applied for a job as a state or local officer. I
10 think it is sufficient that you state "work for,"
11 which is included in I believe your standard voir
12 dire. However, if you are inclined to do "applied
13 for a job," then we just ask that "work for" be
14 included.

15 Do you want me to continue?

16 THE COURT: All right, yes, ma'am.

17 MS. SIMPSON: On Number Nine, this is also
18 included, close friend or ever worked for an
19 agency, which is Police Department, Prosecutor's
20 Office. I believe that is included in your
21 standard voir dire.

22 Number Ten, as a general proposition, do you
23 think that a police officer is more likely or less
24 likely to tell the truth than a witness who is not
25 a police officer.

1 Your Honor, that is objectionable. It is
2 improper. It is speculation as to the veracity of
3 witnesses, fact witnesses that will be in this
4 case, and it is improper for voir dire.

5 Number 11, it would be my same objection as
6 Number Ten.

7 Number 12 and 13 are okay. I believe they are
8 already included.

9 Number 14, would you have any difficulty
10 following the principles that the Defendant on
11 trial is presumed to be innocent and must be found
12 not guilty of that charge unless each and every
13 essential element of the offense charged is proof
14 beyond a reasonable doubt.

15 Your Honor, that is incorporated in your
16 standard voir dire as well as the next several are
17 incorporated in your jury charge at the close of
18 the case. And I will go ahead and expand, it goes
19 to their general ability to be fair and impartial.

20 With respect to Number 14 -- I'm sorry, Number
21 15, 16, 17, 18 and 19, all of these go to your jury
22 charge at the end of the case. I think taking them
23 out of context in the context of voir dire is
24 improper as well as unnecessary for purposes of
25 jury selection.

1 Number 20, do you have moral or religious
2 objection to the use of illegal drugs.

3 Your Honor, with respect to this case we would
4 object just as a general moral and religious
5 objection to drugs is not an issue in this case.
6 This isn't a drug deal gone bad. There are
7 mentions of drugs, but it is by no means to the
8 extent that would require cause for this question.

9 Do you have moral or religious objection to
10 the carrying of firearms. It doesn't go to the
11 juror's ability to be fair and impartial.

12 Do you own a firearm?

13 Is there anything about this case based on
14 what I have told you -- this is Number 23, Your
15 Honor -- that would interfere with your ability.
16 You ask that in your standard voir dire.

17 THE COURT: So you are objecting to 14 through
18 22?

19 MS. SIMPSON: Yes.

20 THE COURT: Also? I've got the ones --

21 MS. SIMPSON: Additional, yes.

22 THE COURT: All right. Yes, ma'am,
23 Ms. Cleary?

24 MS. CLEARY: May it please the Court?

25 THE COURT: Yes, ma'am.

1 MS. CLEARY: Let me start out by saying, of
2 course I know that you realize that in other states
3 they have attorney-conducted voir dire that often
4 takes days. And in those cases they are able to
5 ask each of these questions and then even follow up
6 with the jurors when they give an ambiguous answer.
7 And I can't imagine why we would want less
8 information about the jurors than what these fairly
9 basic questions would provide us.

10 As to Number Six that she mentioned about, do
11 you belong to any group whose stated purpose is to
12 increase criminal penalties or to enact tougher
13 criminal laws, it is a very standard question, but
14 it is also analogous to their Number Five, which
15 is, does any member of the jury panel belong to or
16 contribute to any organization that supports
17 prisoners' rights, i.e., the Innocence Project.

18 I'm happy to have that question asked, and I
19 believe my question is certainly no more broad or
20 vague than theirs. I don't oppose any of their
21 voir dire because I want as much information as I
22 can about these jurors. It is very hard to figure
23 out from, you know, the paper.

24 I'm not sure exactly what are your standard
25 voir dire questions, but --

1 THE COURT: There is one in here that, is
2 there any member of the jury panel who is a member
3 of or contributor to any group which has as its
4 primary concern the promotion of law enforcement or
5 victims' rights. These groups would include but
6 certainly are not limited to MADD, SADD, CAVE,
7 which is Citizens Against Violent Crime.

8 MS. CLEARY: That is just victims' rights?

9 THE COURT: Law enforcement or victims'
10 rights. And these are just the standard ones that
11 are in our bench book. I think that kind of
12 covers -- well, she said they -- y'all didn't
13 object to her Seven, is that correct?

14 MS. SIMPSON: No, Your Honor.

15 MS. CLEARY: Well, I mean, if you don't ask
16 Number Six, I would ask you not ask their Number
17 Five, because to me they are, you know, mirror
18 images of one another.

19 MS. SIMPSON: Your Honor, if I may respond.
20 Our Number Five is not a mirror image of her
21 question. Her question goes to generally the
22 increasing of criminal penalties or to enact
23 tougher criminal laws.

24 Your Honor, that spans a very broad scope with
25 respect to our question as to contributing to

1 organizations that focus on prisoners' rights or
2 law enforcement, et cetera. It is much more
3 specific. And I think what she is alluding to may
4 come out of your general questions. But just the
5 general language, are you a member of any group
6 whose stated purpose is to increase criminal
7 penalties, that can be any type of criminal
8 penalties.

9 THE COURT: What I'm considering doing is
10 reading Number Nine -- well, Number Nine. And if
11 you have -- is there any other group that I did not
12 name, Ms. Cleary, MADD, SADD, CAVE, a specific
13 group? Because it talks about the group's primary
14 concern is the promotion of law enforcement, so I
15 think it covers -- it is pretty cumulative -- it
16 covers what you are asking in Number Six.

17 MS. CLEARY: I think as long as you say,
18 including but not limited to, I think that --

19 THE COURT: Okay. And if you think of any
20 others ones, I will have no problem saying it.
21 Okay.

22 MS. CLEARY: Oh, as far as the illegal drugs,
23 because there is going to be a mention, even though
24 it is not essential to the case, I would like to
25 know if anyone, you know, just absolutely cannot

1 judge fairly on the basis of illegal drugs being
2 involved. Same thing with the firearms.

3 THE COURT: Let me ask you, going back to your
4 Number Eight, you put, applied for a job. They are
5 objecting, but they are not objecting to work or
6 worked for a job as a state local police officer or
7 with the Sheriff's Department.

8 MS. CLEARY: Well, like I said, I don't know
9 why we would not want to know as much as we can
10 about them, and that tells us something about the
11 jurors, but I'm not going to fight over it. If you
12 are --

13 THE COURT: I will read that one. I will say
14 work or worked.

15 MS. CLEARY: Okay.

16 THE COURT: Number Nine. I think they are
17 probably all going to stand up if you say close
18 friend on Number Nine. I think it is fair to ask
19 if anybody has a family member that works for the
20 Police Department or the Prosecutor's Office. I'll
21 ask Nine.

22 Ten, I'm not inclined to ask that one, unless
23 you have an argument as to why.

24 MS. CAMPBELL: There is a case on point, State
25 versus Adams I believe is the case.

1 THE COURT: On Number Ten.

2 MS. CLEARY: Number Ten.

3 MS. CAMPBELL: Improper.

4 MS. CLEARY: What is the case? I'm not
5 familiar with that.

6 THE COURT: She said State versus Adams.

7 MS. CAMPBELL: I can get the cite for you.

8 MS. CLEARY: Well, actually in this case I
9 don't think it is relevant, so I am going to go
10 ahead and ask to withdraw that.

11 MS. CAMPBELL: Okay.

12 THE COURT: Okay. And I think 11 was along
13 the same lines.

14 And then 12 and 13 they did not object to.

15 And then 14 -- let's do 14 through 19.

16 On the -- what I will ask is normally I will
17 read the indictment and then I will go ahead and
18 inform the jurors that it is not a -- you know,
19 that it is just a charging paper that brings him to
20 court, that he is presumed innocent, and in this
21 case the State has to prove his guilt beyond a
22 reasonable doubt. I think that pretty much takes
23 care of that.

24 And then I do ask is there any reason why --
25 any reason why anyone cannot -- any reason why

1 anyone cannot be fair and impartial in the trial.

2 MS. CLEARY: That's good. Thank you.

3 THE COURT: But I'll cover all of that once I
4 read the indictment. And of course in a jury trial
5 and in the introduction -- once we pick the jurors
6 I'll cover it again in the introduction.

7 Number 19, I will ask that one. Get people
8 out there with their -- and does this case involve
9 a firearm?

10 MS. CAMPBELL: It does involve a firearm, Your
11 Honor. And I don't really think we would have a
12 problem with you phrasing some type of question
13 about does anybody have -- would it be so offensive
14 that they couldn't be fair and impartial, or
15 something to that effect.

16 I would assume everyone would have a moral or
17 a religious objection to illegal drugs or illegal
18 firearms to some extent.

19 THE COURT: Well, she is saying carrying of a
20 firearm, not illegal firearm.

21 MS. CAMPBELL: Okay, I'm sorry, I'm on Number
22 20. And 21, I see.

23 THE COURT: Well, 21 and 22 --

24 MS. CAMPBELL: I mean, I think that could be a
25 general broad question about, this case involves

1 the use of a firearm. Would that cause anyone to
2 be unable to be fair and impartial.

3 THE COURT: Ms. Cleary, any response?

4 MS. CLEARY: I would really like to know if
5 they own a firearm. I don't see why that
6 information would be, you know, too obtrusive.

7 We did ask that last time when we qualified
8 the jury on this case, and a few people raised
9 their hands. And it didn't seem to cause a
10 firestorm, it just gave us some more information.
11 Like I say, we have so little information to go on.

12 THE COURT: Now, we, in the DUI cases and
13 stuff we ask more religious objections because use
14 of illegal drugs is different than, you know,
15 alcohol, I think. That is usually where that
16 question comes in. And I'm not sure -- I'm not
17 going to -- I'm not inclined to charge that one
18 just because it is illegal drugs. So they might
19 all stand up. I mean, I am not sure what that --
20 by asking that question would be necessarily gained
21 from it, because it if it was legal drugs or if it
22 was alcohol or something, maybe that would make a
23 difference, but it is illegal drugs. So I won't
24 ask that one. I will ask 21 and 22 about the
25 firearms since this case does involve it.

1 And then 23 is cumulative. I think I have
2 already -- that is already covered.

3 So I want to make sure I've got Number Two,
4 Number Three, Number Four has already been asked.
5 Now, I'm not sure about Number Five. Did they ask
6 that in the general qualifications about
7 testifying?

8 MS. CAMPBELL: No.

9 MS. CLEARY: No.

10 THE COURT: Okay, I'll ask that one. And
11 Seven, Eight, Nine, we'll do that one. And 12, 13,
12 19, 21 and 22. And then you said you don't have
13 any objection to their voir dire?

14 MS. CLEARY: Right. Yes, ma'am. Yes, ma'am.

15 THE COURT: The only thing is I'll probably
16 say, including but not limited to the Innocence
17 Project.

18 All right. And anything else before we bring
19 them in? The strikes will be ten and five. How
20 many alternates do you all --

21 MS. CAMPBELL: (Indicating two.)

22 THE COURT: Two?

23 MS. CAMPBELL: If that please the Court.

24 THE COURT: Anything else, Ms. Cleary?

25 MS. CLEARY: No, Your Honor.

1 THE COURT: Okay. I have the indictment. I
2 am going to try to get through these names. I'm
3 sure I am going to mispronounce several of them,
4 but I'll try to do my best.

5 All right. Madam Clerk, I think we are ready
6 to bring them in.

7 And I am going to bring them back tomorrow at
8 11:30. Should I say 11:00 and then they will be
9 ready by 11:30? I'll tell them to come back at
10 11:00.

11 And, Madam Clerk, we'll start back -- I'll
12 bring them back in at 11:00 in the morning, and get
13 their cell phone numbers if you can.

14 THE BAILIFF: Forty-nine.

15 THE COURT: And if any of the witnesses are in
16 the courtroom, I will ask that they stand when
17 their name is called.

18 (WHEREUPON, the jury panel comes into
19 open court.)

20 THE BAILIFF: Your Honor, the jury panel is
21 present.

22 THE COURT: All right, good afternoon, ladies
23 and gentlemen of the jury. My name is DeAndrea
24 Benjamin, and I'm assigned -- well, assigned to a
25 term of General Sessions Court this week in

1 Richland County.

2 We are about to pick a jury in the trial of
3 the case of Jamaal Hinson. I have an indictment
4 before me for Mr. Jamaal Hinson. Mr. Hinson is
5 charged with murder.

6 I will tell you that the indictment that I
7 hold in my hand is simply the charge by which the
8 case is brought into court, and it is not in any
9 sense any evidence of any allegation it contains.

10 The Defendant has pled not guilty to this
11 indictment, and the State has the burden of proving
12 him guilty beyond a reasonable doubt to you, the
13 jury.

14 At this time I am going to ask if you answer
15 any questions in the affirmative that you stand up,
16 state your name and your juror number, and then I
17 will continue with the questions from there.

18 The first question is, is anyone related by
19 blood or marriage to -- well, I need to read the
20 indictment to you.

21 The indictment reads that Jamaal Hinson did,
22 in Richland County, on or about January 16th, 2010,
23 feloniously, willfully, and with malice
24 aforethought, kill one Anthony Salley by means of a
25 gunshot wound and that the said victim died as a

1 proximate result thereof, all in violation of South
2 Carolina Code Section 16-310.

3 The first question is, is there any member of
4 the jury panel related by blood or marriage to
5 either the Defendant or victim in this case? If
6 so, please stand. That is Mr. Jamaal Hinson, and
7 the victim is Anthony Salley. If so, please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Is there any member of the jury
10 panel who has a close personal or social
11 relationship with either the Defendant, Jamaal
12 Hinson, or the victim, Mr. Anthony Salley? If so,
13 please stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: All right, ladies and gentlemen of
16 the jury, there is a long list of witnesses that I
17 will go over with you and I will go over slowly.

18 If there are any witnesses in the courtroom,
19 when your name is called, I would ask that you
20 stand up.

21 The first witness is Andina Lee.

22 Investigator Edwina Green, with the Richland
23 County Sheriff's Department.

24 Corporal James Gore, with the Richland County
25 Sheriff's Department.

1 Sergeant Woodrow Medlin, with the Richland
2 County Sheriff's Department.

3 Stephen Oliphant, with the Richland County
4 Sheriff's Department.

5 Sergeant Matt Ellis, with the Richland County
6 Sheriff's Department.

7 (Witness stands.)

8 Investigator Kristin Polis, with the Richland
9 County Sheriff's Department.

10 Investigator Michael Beeler, with the Richland
11 County Sheriff's Department.

12 Harold Bouknight, with the Richland County
13 Sheriff's Department.

14 Lauren Banks.

15 Kenneth L. Banks.

16 Kevin Leach.

17 Raymond Hall.

18 Investigator Roland Thomas, Jr., with the
19 Atlanta Police Department.

20 Officer Luis Medina, with the Atlanta Police
21 Department.

22 Officer R. Anaya, with the Atlanta Police
23 Department.

24 Investigator Nana Joyner, with the U.S.
25 Marshal's Office in Atlanta.

1 Richard Johnson.

2 Raymond Asberry.

3 Investigator Kevin Preston, with the Richland
4 County Sheriff's Department.

5 Devan Bailey.

6 Keith Bailey.

7 Derrick Diamond.

8 Jarrod Crudup, C-R-U-D-U-P.

9 Marie Crudup.

10 Demario Evans.

11 Nicole Crudup.

12 Derrick Randolph.

13 Elalias Salley.

14 Shanicka Lee.

15 Randy Pollin.

16 Richard Thomas.

17 Quinton Emerson.

18 Walter McCalister.

19 Jamal James.

20 Kenyatta Scott.

21 And there will be a custodian of record,
22 potentially AT&T.

23 Jackie Richburg, custodian of record from
24 Sprint -- Richburg is the 9-1-1 custodian of
25 records.

1 BellSouth Telecommunications, custodian of
2 records.
3 T-Mobile, custodian of records.
4 Nextel, custodian of records.
5 Alltel, custodian of records.
6 Gary Watts.
7 Jane Powell.
8 Dr. Bradley Marcus.
9 Jeremy Montalvo, M-O-N-T-A-L-V-O.
10 Investigator Frieda Wyatt.
11 Major Stan Smith.
12 Carla Salley.
13 (Witness stands.)
14 James Salley.
15 (Witness stands.)
16 Joshua Salley.
17 Terri Gleason, with the Richland County
18 Sheriff's Department.
19 Charlotte Lee.
20 Deputy Chad Newman, with the Richland County
21 Sheriff's Department.
22 EMT Officer, Russell Redd.
23 Curtis Burnett, Richland County Sheriff's
24 Department.
25 Anthony Branham, with the Richland County

1 Sheriff's Department.

2 William Cedarstaff, with the Richland County

3 Sheriff's Department.

4 Patricia Weed, with the Richland County

5 Sheriff's Department.

6 James Farmer, with the Richland County

7 Sheriff's Department.

8 Jerry Maldonado, with the Richland County

9 Sheriff's Department.

10 Tara Kinney, with the Richland County

11 Sheriff's Department.

12 Ila Simmons, with SLED, South Carolina Law

13 Enforcement Division.

14 Bruce Buck, with the Richland County Sheriff's
15 Department.

16 Corporal Raymond Hayhurst, with the Richland

17 Sheriff's Department.

18 Billy Taylor.

19 Elizabeth Cook.

20 That is a list of witnesses. If you have any
21 question about any of them, I will be glad to call
22 the name again, but is there anyone related by
23 blood or marriage or has a close personal or social
24 relationship with any of the witnesses that I have
25 called?

1 All right, yes, sir?

2 JUROR 112: I'm Juror 112. I employ Billy
3 Taylor sometimes.

4 THE COURT: And would that affect your ability
5 to be fair and impartial in this trial?

6 JUROR 112: Well, I engage him to provide
7 services to my office. I just --

8 THE COURT: And I just need you to say yes or
9 no, would it affect your ability to be fair and
10 impartial in this trial?

11 JUROR 112: I don't know how I can be
12 impartial if I employ him.

13 THE COURT: All right. Thank you. And that's
14 Juror Number 112?

15 JUROR 112: Yes, ma'am.

16 THE COURT: Yes, sir?

17 JUROR 253: I'm Juror 253. I'm friends with
18 Anthony Branham, on the Richland County Sheriff's
19 Department.

20 THE COURT: And, sir, the fact that you are
21 friends with Mr. Anthony Branham, with the Richland
22 County Sheriff's Department, would that affect your
23 ability to be fair and impartial in this trial?

24 JUROR 253: No, ma'am.

25 THE COURT: All right. Thank you.

1 Anyone else?

2 (WHEREUPON, there was no response.)

3 THE COURT: All right, the attorneys in this
4 case, for the State is Ms. Kathryn Luck Campbell.
5 I'll ask her to stand up.

6 (Ms. Campbell stands.)

7 THE COURT: With the Richland County
8 Solicitor's Office. And Ms. Nicole M. Simpson,
9 also with the Richland County Solicitor's Office.

10 (Ms. Simpson stands.)

11 THE COURT: Is anyone related by blood or
12 marriage to Ms. Campbell or Ms. Simpson or anyone
13 in their office? If so, please stand up at this
14 time.

15 (WHEREUPON, there was no response.)

16 (Ms. Campbell and Ms. Simpson are seated.)

17 THE COURT: And Mr. Hinson is represented by
18 Ms. Eleanor Cleary. I am going to ask that she
19 stand up. She is with the Richland County bar.

20 (Ms. Cleary stands.)

21 THE COURT: Is there any member of the jury
22 panel who is related by blood or marriage to
23 Ms. Cleary or has been represented by Ms. Cleary?
24 If so, please stand up. Or has a close personal
25 relationship?

1 (WHEREUPON, there was no response.)

2 THE COURT: Thank you.

3 (Ms. Cleary is seated.)

4 THE COURT: Has any member of the jury panel
5 formed or expressed an opinion about any issue or
6 matter involved in this case?

7 (WHEREUPON, there was no response.)

8 THE COURT: Is any member of the jury panel
9 aware of any bias or prejudice towards either the
10 State or the Defendant in this case? If so, please
11 stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Is there any member of the jury
14 panel that was a member of the Grand Jury which
15 issued the indictment in April of 2010? If so,
16 please stand.

17 (WHEREUPON, there was no response.)

18 THE COURT: Is there any member of the jury
19 panel who is a member of or a contributor to any
20 group which has as its primary concern the
21 promotion of law enforcement or victims' rights?
22 These groups would include but certainly are not
23 limited to MADD, SADD, CAVE, which stands for
24 Citizens Against Violent Crime? If so, please
25 stand.

1 (WHEREUPON, there was no response.)

2 THE COURT: Does any member of the jury panel
3 know of any reason whatsoever why he or she should
4 not serve as a juror in this case with particular
5 emphasis being placed on your ability to be fair
6 and impartial to both the State and the Defendant?
7 If so, please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Has any member of the jury panel
10 or any member of their family ever been a victim of
11 a crime of violence? If so, please stand.

12 All right, sir. Your Juror Number?

13 JUROR 202: 202.

14 THE COURT: And, sir, was it you or a member
15 of your family?

16 JUROR 202: Me. And a member of my family I
17 guess also.

18 THE COURT: And, sir, the fact that you have
19 been the victim of a crime of violence, would that
20 affect your ability to be fair and impartial in
21 this trial?

22 JUROR 202: I would like to think no would be
23 the answer, but you guys have a --

24 THE COURT: Hold on one second.

25 JUROR 202: I would say no.

1 THE COURT: All right. And is that -- your
2 answer is no, sir?

3 JUROR 202: Yes.

4 THE COURT: All right. Thank you.

5 Has any member of the jury panel or any member
6 of their family ever been charged with or convicted
7 of a crime of violence? If so, please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Does any member of the jury panel
10 or any member of their immediate family belong to
11 or contribute to any organization that supports
12 prisoners' rights, including but not limited to the
13 Innocence Project? If so, please stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: As I stated to you earlier, the
16 Defendant has been charged with murder.

17 Is there anything about the nature of the
18 charge itself that would interfere with your
19 ability to give the Defendant a fair trial? Anyone
20 that cannot be fair and impartial in this trial
21 because of the charges?

22 (WHEREUPON, there was no response.)

23 THE COURT: Does any member of the jury panel
24 live in the Town of Blythewood? If so, please
25 stand.

1 JUROR 31: I'm from Blythewood, Your Honor.

2 THE COURT: You are from Blythewood?

3 JUROR 31: Uh-huh.

4 THE COURT: All right. And the fact that you
5 live in Blythewood, would that affect your ability
6 to be fair and impartial in this trial?

7 JUROR 31: None.

8 THE COURT: Thank you. And your juror number
9 again?

10 JUROR 31: Thirty-one. I'm sorry.

11 THE COURT: And, yes, sir, your juror number?

12 JUROR 253: 253.

13 THE COURT: Juror Number 253, the fact that
14 you live in the Town of Blythewood, would that
15 affect your ability to be fair and impartial in
16 this trial?

17 JUROR 253: No, ma'am.

18 THE COURT: Thank you.

19 Is there any member of the jury panel who have
20 children who attend or have previously attended
21 Ridgeview High School or Blythewood High School?
22 If so, please stand.

23 All right. Yes, ma'am?

24 JUROR 12: I'm Juror Number 12. My son
25 attends Ridgeview High School.

1 THE COURT: All right. And would that affect
2 your ability to be fair and impartial in this
3 trial?

4 JUROR 12: No.

5 THE COURT: All right. Thank you.

6 Yes, ma'am, your juror number?

7 JUROR 45: Number 45. I have two children
8 currently enrolled in Blythewood High School.

9 THE COURT: And, ma'am, would that affect your
10 ability to be fair and impartial in this trial?

11 JUROR 45: No, ma'am.

12 THE COURT: Thank you.

13 And your juror number?

14 JUROR 42: Forty-two.

15 THE COURT: Yes, ma'am?

16 JUROR 42: I have a son currently enrolled in
17 Blythewood High School.

18 THE COURT: And would that affect your ability
19 to be fair and impartial in this trial?

20 JUROR 42: No, ma'am.

21 THE COURT: Thank you.

22 Any witness -- any member of the jury panel
23 ever testified in a court proceeding? If so,
24 please stand.

25 All right. And your jury number again?

1 JUROR 202: 202.

2 THE COURT: And let me ask you this. What
3 type of court proceeding was it?

4 JUROR 202: Uh --

5 THE COURT: Was it a trial?

6 JUROR 202: It was a trial, yes.

7 THE COURT: And was it a civil trial or a
8 criminal trial?

9 JUROR 202: A criminal trial.

10 THE COURT: And was it you, sir, or -- was it
11 you, sir?

12 JUROR 202: Was it me --

13 THE COURT: Were you the one that testified?

14 JUROR 202: Yes.

15 THE COURT: All right. And the fact that you
16 testified in a criminal trial, sir, in the past,
17 would that affect your ability to be fair and
18 impartial in this trial?

19 JUROR 202: No, it would not.

20 THE COURT: All right. Thank you.

21 Is there any member of the jury panel who
22 belongs to a group whose purpose is to assist
23 victims of crime? If so, please stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Is there any member of the jury

1 panel who has worked -- that currently works or has
2 worked for a job as a state or local police officer
3 or with a sheriff's department or with a county
4 jail or state prison? I'll read those again. That
5 is the state or local police officer, sheriff's
6 department, county jail or state prison? If so,
7 please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Have you or any family member or
10 close friend ever worked for an agency such as the
11 Police Department, Prosecutor's Office, the FBI,
12 the DEA -- that is the drug enforcement unit -- or
13 a sheriff's department, jail or prison either in
14 South Carolina or somewhere else?

15 All right. Yes, sir?

16 JUROR 42: Juror 42.

17 THE COURT: All right.

18 JUROR 42: My father was a police officer.

19 THE COURT: And where is your father a police
20 officer?

21 JUROR 42: He's retired from law enforcement.

22 THE COURT: From where did he retire from?

23 JUROR 42: Richland County and Lexington
24 County.

25 THE COURT: Richland and Lexington County?

1 JUROR 42: Yes, ma'am.

2 THE COURT: And, sir, the fact that your
3 father is a retired police officer from Richland
4 and Lexington County, would that affect your
5 ability to be fair and impartial in this trial?

6 JUROR 42: No, ma'am.

7 THE COURT: Yes, sir?

8 JUROR 101: Juror 101. My father was a police
9 officer and my brother is a state trooper.

10 THE COURT: All right. And where was your
11 father a police officer?

12 JUROR 101: Georgetown County.

13 THE COURT: Georgetown County. And your
14 brother is a state trooper in South Carolina?

15 JUROR 101: Yes, ma'am. Lexington County.

16 THE COURT: Lexington County?

17 JUROR 101: Yes, ma'am.

18 THE COURT: And the fact that your father and
19 brother have been and are in law enforcement, would
20 that affect your ability to be fair and impartial
21 in this trial?

22 JUROR 101: No.

23 THE COURT: All right.

24 Yes, sir?

25 JUROR 253: Juror 253. I was previously a law

1 enforcement officer with the South Carolina
2 Forestry Commission.

3 THE COURT: Forestry Commission?

4 JUROR 253: Yes.

5 THE COURT: And, sir, would that affect your
6 ability to be fair and impartial in this trial?

7 JUROR 253: No.

8 THE COURT: All right. Thank you.

9 I saw somebody pop up. Yes, ma'am?

10 JUROR 103: 103. And my son was employed with
11 the Department of Corrections.

12 THE COURT: All right. And, ma'am, the fact
13 that your son was employed with the Department of
14 Corrections, would that affect your ability to be
15 fair and impartial in this trial?

16 JUROR 103: No.

17 THE COURT: All right. Thank you.

18 Yes, sir?

19 JUROR 127: Juror 127.

20 THE COURT: 127?

21 JUROR 127: Yes. I was previously employed by
22 Corrections.

23 THE COURT: All right. With the South
24 Carolina Department of Corrections?

25 JUROR 127: Yes.

1 THE COURT: And, sir, would that affect your
2 ability to be fair and impartial in this trial?

3 JUROR 127: No.

4 THE COURT: All right. Thank you.

5 Have you or any member or close friend ever
6 been accused of committing an offense other than a
7 minor motor vehicle offense? If so, please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Does any member of the jury panel
10 have difficulty or reluctance in accepting the law
11 as explained by the Court in applying it to the
12 facts, regardless of your personal beliefs about
13 what the law should be or is?

14 (WHEREUPON, there was no response.)

15 THE COURT: Does any member of the jury panel
16 own a firearm? If so, please stand.

17 All right. And what I'm going to do is get
18 you to give your juror number, and then I'll ask
19 the question.

20 Your juror number, ma'am?

21 JUROR 42: 42.

22 THE COURT: Yes, sir?

23 JUROR 24: 24.

24 JUROR 123: 123.

25 JUROR 208: 208.

1 JUROR 227: 227.

2 JUROR 279: 279.

3 JUROR 242: 242.

4 JUROR 289: 289.

5 JUROR 253: 253.

6 JUROR 304: 304.

7 JUROR 127: 127.

8 JUROR 202: 202.

9 JUROR 281: 281.

10 JUROR 170: 170.

11 JUROR 192: 192.

12 JUROR 267: 267.

13 THE COURT: All right. And what I want to
14 ask, if you cannot be fair and impartial in this
15 trial because you own a firearm, I'm going to ask
16 you to remain standing. If not, you may be seated.

17 (WHEREUPON, all jurors are seated.)

18 THE COURT: Let the record reflect that all of
19 the jurors have taken their seats.

20 Do you have a moral or religious objection to
21 the carrying of a firearm? If so, please stand.
22 Any member of the jury panel who has a moral or
23 religious objection to the carrying of a firearm,
24 please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Is there any member of the jury
2 panel who has read anything or heard anything or
3 seen anything on the news or the internet regarding
4 this case? If so, please stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: All right. Anything else from the
7 State?

8 MS. SIMPSON: None from the State.

9 THE COURT: Anything else from the Defendant?

10 MS. CLEARY: No. No, Your Honor.

11 THE COURT: All right. Ladies and gentlemen,
12 at this time we will select a jury in this case.

13 When your juror number is called, you are
14 going to come down to the microphone, you are going
15 to turn around and face the audience, your fellow
16 jurors, and you are going to state your name, where
17 you work, if you are married, and where your spouse
18 works.

19 Please bring your belongings with you. And
20 I'll explain to you how this kind of works. The
21 State will either say, please seat the juror or
22 please strike the juror. If the State says, please
23 strike the juror, you will go back in the audience.
24 If the State says, please seat the juror, you will
25 remain there. Then we will hear from Ms. Cleary.

1 And she will say, please seat the juror or -- and
2 if she says seat the juror, you go into the jury
3 box. If she says, strike the juror, you will go
4 back into the audience.

5 All right. Oh, let me see you all one second.

6 (WHEREUPON, a bench conference was held
7 in the presence of the jury but out of
8 the hearing of the jury.)

9 THE COURT: All right.

10 THE CLERK: Juror Number 101.

11 JUROR 101: Ryan Guerry. I work at the
12 National Advocacy Center. I do facility management
13 there. I'm not married.

14 THE CLERK: What says the State?

15 MS. SIMPSON: Please present the juror.

16 THE CLERK: What says the Defense?

17 MS. CLEARY: Please excuse this jury.

18 THE CLERK: Please return to the back of the
19 courtroom.

20 (WHEREUPON, Juror 101 was excused by the
21 Defense.)

22 THE CLERK: Juror 281.

23 THE COURT: Juror 281. Carolyn Whiting.

24 JUROR 281: I'm Carolyn Whiting. I'm
25 self-employed. And my husband is an attorney.

1 THE CLERK: What says the State?

2 MS. SIMPSON: Please present this juror.

3 THE CLERK: What says the Defense?

4 MS. CLEARY: Please present this juror.

5 THE CLERK: Have a seat in the jury box.

6 (WHEREUPON, Juror 281 was seated on the
7 jury.)

8 THE CLERK: Juror 284.

9 JUROR 284: Alfred Wilkinson. I'm an
10 over-the-road truck driver. My wife works in the
11 banking system.

12 THE CLERK: What says the State?

13 MS. SIMPSON: Please present this juror.

14 THE CLERK: What says the Defense?

15 MS. CLEARY: Please present this juror.

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

18 (WHEREUPON, Juror 284 was seated on the
19 jury.)

20 THE CLERK: Juror Number 180.

21 JUROR 180: My name is Avery Mobley. I work
22 at Publix. And I'm single.

23 THE CLERK: What says the State?

24 MS. SIMPSON: Please present this juror.

25 THE CLERK: What says the Defense?

1 MS. CLEARY: Please present this juror.

2 THE CLERK: Have a seat in the jury box.

3 JUROR 180: All right.

4 (WHEREUPON, Juror 180 was seated on the
5 jury.)

6 THE CLERK: Juror 31.

7 JUROR 31: My name is Joe Brunetto. I own an
8 insurance agency. I'm married. My wife does not
9 work.

10 THE CLERK: What says the State?

11 MS. SIMPSON: Please present this juror.

12 THE CLERK: What says the Defense?

13 MS. CLEARY: Please excuse this juror.

14 THE CLERK: Please return to the back of
15 courtroom.

16 (WHEREUPON, Juror 31 was excused by the
17 Defense.)

18 THE CLERK: Number 136.

19 JUROR 136: I'm Bobbie John. I'm a retail
20 clerk. And I'm not married.

21 THE CLERK: What says the State?

22 MS. SIMPSON: Please excuse this juror.

23 THE CLERK: Please return to the back of the
24 courtroom.

25 (WHEREUPON, Juror 136 was excused by the

1 State.)

2 THE CLERK: Juror Number 289.

3 JUROR 289: Jerry Williams. I'm a security
4 officer for the Department of Homeland Security.
5 My wife is a nurse.

6 THE CLERK: What says the State?

7 MS. SIMPSON: Please present this juror.

8 THE CLERK: What says the Defense?

9 MS. CLEARY: Please seat this juror.

10 THE CLERK: Please have a seat in the jury
11 box.

12 (WHEREUPON, Juror 289 was seated on the
13 jury.)

14 THE CLERK: Juror Number 212.

15 JUROR 212: My name is Danny Quesinberry. I
16 recently retired from the United Parcel Service,
17 and my wife is in the banking industry.

18 THE CLERK: What says the State?

19 MS. SIMPSON: Please present this juror.

20 THE CLERK: What says the Defense?

21 MS. CLEARY: Please present this juror.

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

24 (WHEREUPON, Juror 212 was seated on the
25 jury.)

1 THE CLERK: Juror Number 304.

2 JUROR 304: My name is Sadie Saunders. I'm
3 Juror 304. I'm a retired transportation
4 specialist.

5 THE CLERK: What says the State?

6 MS. SIMPSON: Please excuse this juror.

7 THE CLERK: Please return to the back of the
8 courtroom.

9 (WHEREUPON, Juror 304 was excused by the
10 State.)

11 THE CLERK: Juror 246.

12 JUROR 246: I'm Detra Smith. And I'm a
13 teacher. And I'm single.

14 THE CLERK: What says the State?

15 MS. SIMPSON: Please present this juror.

16 THE CLERK: What says Defense?

17 MS. CLEARY: Please seat this juror.

18 THE CLERK: Please have a seat in the jury
19 box.

20 (WHEREUPON, Juror 246 was seated on the
21 jury.)

22 THE CLERK: Juror Number 37.

23 JUROR 37: My name is Ashley Butler. I'm a
24 pharmaceutical sales rep. And single.

25 THE CLERK: What says the State?

1 MS. SIMPSON: Please present this juror?

2 THE CLERK: What says the Defense?

3 MS. CLEARY: Please excuse this juror.

4 THE CLERK: Please return to the back of the
5 courtroom.

6 (WHEREUPON, Juror 37 was excused by the
7 Defense.)

8 THE CLERK: Juror Number 277.

9 JUROR 277: My name is Zenobia Washington. I
10 work with the Department of Mental Health, Drugs
11 and Alcohol.

12 THE CLERK: What says the State?

13 MS. SIMPSON: Please present this juror.

14 THE CLERK: What says the Defense?

15 MS. CLEARY: Please present this juror.

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

18 (WHEREUPON, Juror 277 was seated on the
19 jury.)

20 THE CLERK: Juror Number 305.

21 JUROR 305: Carla Smith. Unemployed. My
22 husband is a fire fighter.

23 THE CLERK: Please present this juror.

24 THE CLERK: What says the Defense?

25 MS. CLEARY: Please excuse this juror.

1 THE CLERK: Please return to the back of the
2 courtroom.

3 (WHEREUPON, Juror 305 was excused by the
4 Defense.)

5 THE CLERK: Juror 215.

6 JUROR 215: My name is Lalitha Ravi. I am an
7 administrative assistant at USC.

8 THE CLERK: What says the State?

9 MS. SIMPSON: Please excuse this juror.

10 THE CLERK: Please return to the back of the
11 courtroom.

12 (WHEREUPON, Juror 215 was excused by the
13 State.)

14 THE CLERK: Juror 227.

15 JUROR 227: I'm Michael Rook. I am currently
16 unemployed. I work for ThyssenKrupp Elevator. I
17 was laid off seven months ago. And divorced.

18 THE CLERK: What says the State?

19 MS. SIMPSON: Please present this juror.

20 THE CLERK: What says the Defense?

21 MS. CLEARY: Please excuse this juror.

22 THE CLERK: Please return to the back of the
23 courtroom.

24 (WHEREUPON, Juror 227 was excused by the
25 Defense.)

1 THE CLERK: Juror 226.

2 JUROR 226: My name is Guy Rodgers. I work
3 for Richland School District One. And I'm a
4 painter. And I'm single.

5 THE CLERK: What says the State?

6 MS. SIMPSON: Please present this juror.

7 THE CLERK: What says the Defense?

8 MS. CLEARY: Please seat this juror.

9 THE CLERK: Please have a seat in the jury
10 box.

11 (WHEREUPON, Juror 226 was seated on the
12 jury.)

13 THE CLERK: Juror Number 83.

14 JUROR 83: My name is Frank Garmany. I work
15 at Bi-Lo as a meat cutter. My wife is a retired
16 teacher with District One.

17 THE CLERK: What says the State?

18 MS. SIMPSON: Please present this juror.

19 THE CLERK: What says the Defense?

20 MS. CLEARY: Please seat this juror.

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

23 (WHEREUPON, Juror 83 was seated on the
24 jury.)

25 THE CLERK: Juror 187.

1 JUROR 187: My name is Noelle Naumann. I'm a
2 project assistant with Nelson, Mullins, Riley, and
3 Scarborough. And my husband is a recruiter with
4 the South Carolina National Guard.

5 THE CLERK: What says the State?

6 MS. SIMPSON: Please present this juror.

7 THE CLERK: What says the Defense?

8 MS. CLEARY: Please seat the juror.

9 THE CLERK: Please have a seat in the jury
10 box.

11 (WHEREUPON, Juror 187 was seated on the
12 jury.)

13 THE CLERK: Juror 103.

14 JUROR 103: I'm Francis Haltiwanger. I'm
15 inside sales at H.D. Supply. And my husband is a
16 retired National Guardsman.

17 THE CLERK: What says the State?

18 MS. SIMPSON: Please present this juror.

19 THE CLERK: What says the Defense?

20 MS. CLEARY: Please seat this juror.

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

22 (WHEREUPON, Juror 103 was seated on the
23 jury.)

24 THE CLERK: Juror Number 208.

25 JUROR 208: My name is William Wesley

1 Porterfield, Jr. I'm retired from Bell South. And
2 my wife is retired also.

3 THE CLERK: What says the State?

4 MS. SIMPSON: Please present this juror.

5 THE CLERK: What says the Defense?

6 MS. CLEARY: Please excuse this juror.

7 THE CLERK: Please return to the back of the
8 courtroom.

9 (WHEREUPON, Juror 208 was excused by the
10 Defense.)

11 THE CLERK: Juror 123.

12 JUROR 123: Jeffrey Hinson. I am currently
13 employed with the GB Shoe Warehouse. And single.

14 THE CLERK: What says the State?

15 MS. SIMPSON: Please excuse this juror.

16 THE CLERK: Please return to the back of the
17 courtroom.

18 (WHEREUPON, Juror 123 was excused by the
19 State.)

20 THE CLERK: Juror Number 127.

21 JUROR 127: My name is Paul Hughes. I work
22 for South Carolina Electric and Gas Company. My
23 wife works for UPS.

24 THE CLERK: What says the State?

25 MS. SIMPSON: Please present this juror.

1 THE CLERK: What says the Defense?

2 MS. CLEARY: Please excuse this juror.

3 THE CLERK: Please return to the back of the
4 courtroom.

5 (WHEREUPON, Juror 127 was excused by the
6 Defense.)

7 THE CLERK: Juror Number 170.

8 JUROR 170: My name is Brian McCutchen. I own
9 a small business called Mack Acids(phonetic), and
10 my wife works part-time with me.

11 THE CLERK: What says the State?

12 MS. SIMPSON: Please present this juror.

13 THE CLERK: What says the Defense?

14 MS. CLEARY: Please present this juror.

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

17 (WHEREUPON, Juror 170 was seated on the
18 jury.)

19 THE CLERK: Juror 192.

20 JUROR 192: My name is Leanne Northcutt. I'm
21 a personal trainer and business owner. My husband
22 works for H.S. Die Tool Service, Incorporated.

23 THE CLERK: What says the State?

24 MS. SIMPSON: Please present this juror.

25 THE CLERK: What says the Defense?

1 MS. CLEARY: Please seat this juror.

2 (WHEREUPON, Juror 192 is seated on the
3 jury.)

4 THE CLERK: Juror Number 50.

5 JUROR 50: Hi. I'm Juror Number 50. I'm
6 unemployed and disabled.

7 THE CLERK: What says the State?

8 MS. SIMPSON: Please excuse this juror.

9 THE CLERK: Please return to the back of the
10 courtroom.

11 (WHEREUPON, Juror 50 was excused by the
12 State.)

13 THE CLERK: Juror 274.

14 JUROR 274: My name is Jennifer Waller. I'm a
15 stay-at-home mom. My husband works at Target.

16 THE CLERK: Does the State challenge for
17 cause?

18 MS. SIMPSON: No.

19 THE CLERK: What says the Defense?

20 MS. CLEARY: Please seat the juror.

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

23 (WHEREUPON, Juror 274 was seated on the
24 jury.)

25 THE COURT: All right, anything from the State

1 or the Defense before I release the remaining
2 members of the jury panel?

3 MS. SIMPSON: Nothing from the State.

4 MS. CLEARY: Nothing from the Defendant.

5 THE COURT: And, Jackie, are they going back
6 downstairs?

7 All right, so those of you who are not
8 selected to serve on this jury, I am going to send
9 you back downstairs. I'm not sure if they are
10 picking another jury this afternoon, but I hope you
11 have an enjoyable week of jury service this week.
12 You will probably not see me again. And thank you
13 all for your service this week.

14 (WHEREUPON, the remaining jury panel was
15 excused.)

16 THE COURT: For those of you who were
17 selected, I am going to -- it is almost
18 3:00 o'clock -- I am going to release you all for
19 the afternoon, but before I do that, there are a
20 couple of instructions and a little bit of
21 information about what you can expect over the next
22 couple of days.

23 When you return home or during any break, I am
24 going to ask that you not discuss this case with
25 anyone. You don't know anything about it at this

1 doing is letting them order lunch and then we will
2 get into the openings and probably break around
3 1:00 o'clock, so if you want something delivered or
4 sometimes they can order it from -- they will let
5 them add an extra order or something.

6 All right. See y'all in the morning.

7 (WHEREUPON, the trial adjourned for the
8 evening.)

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10 THE COURT: I will place on the record that I
11 spoke with Juror Number 180, and he said that he
12 did not realize until he got up there and saw the
13 Defendant that he knew the Defendant. And the
14 other witnesses, he didn't realize their names
15 because they all go by nicknames, and he doesn't
16 know people's real names, but apparently that they
17 all live in the same neighborhood.

18 So I have excused him, and we will place Juror
19 Number 192, our first alternate, she will become I
20 guess our 12th juror.

21 All right. Anything else before I bring them
22 in?

23 MS. CLEARY: Yes, Your Honor. Yesterday when
24 I made the motion in limine about the other bad
25 acts, and I listed some, I neglected to consider

1 In order to preserve everyone's rights, I will
2 give the parties an opportunity to object to
3 anything that I have said.

4 Any objections or exceptions to my comments?

5 MS. SIMPSON: None from the State..

6 MS. CLEARY: None from the Defense.

7 THE COURT: And I did not -- Juror Number 180
8 was excused, and so, Juror Number 192, you will be
9 our -- the 12th juror. And Juror 274 will be our
10 alternate.

11 All right. At this time, ladies and gentlemen
12 of the jury, we will have opening statements by
13 first the State and then the Defense.

14 Yes, ma'am?

15 MS. SIMPSON: Thank you. May it please the
16 Court?

17 OPENING STATEMENT

18 MS. SIMPSON: This is a case of cold-blooded
19 murder. And I say that because we should not be
20 here today. The State should not have had to call
21 this case. You should not have to decide this
22 case. The judge should not be on the bench hearing
23 this case. The victim's family should not be
24 sitting in this courtroom. And perhaps most
25 importantly, the victim, Anthony Salley, should

1 still be alive preparing to spend the holidays with
2 his family and friends.

3 But we are here today. And we are here today
4 because the Defendant, Jamaal Hinson, with one
5 shot, took Anthony Salley's life.

6 And you are going to hear a lot of evidence
7 and testimony in this case, but I submit to you
8 that at the end of this trial it will all come down
9 to simply this, the bottom line so to speak: That
10 Anthony Salley did not have to die. Anthony was at
11 home, a place he should have been safe, and in fact
12 felt safe. A place where he should not have
13 struggled or feared for his life. A place where he
14 certainly should not have lost his life.

15 But unfortunately for Anthony on January 16th
16 of 2010, home was the place where he became the
17 most vulnerable, because the Defendant had other
18 plans for Anthony that day.

19 Earlier in the day the Defendant had gone and
20 got his gun, I submit looking for trouble, perhaps
21 even hoping for it. And the Defendant had been at
22 a neighbor's house. Anthony was in his driveway
23 with his girlfriend talking at her car. In his own
24 driveway. At his own house. When the Defendant
25 would come from the neighbor's house, just two

1 houses down from where Anthony lived, and pull out
2 a gun threatening, pointed it at Anthony's head
3 just arm's length away.

4 But Anthony wasn't ready to die. Looking down
5 the barrel of the Defendant's gun, his life at
6 stake, he decided to defend himself. And so he
7 punched the Defendant, knocking the gun to the
8 ground.

9 And they began fighting in the yard beside his
10 driveway, fists, kicking, punching. I submit the
11 Defendant getting the best of Anthony based on the
12 bruises and cuts about his face and body.

13 But eventually the fight ended, or so Anthony
14 thought. Because it wasn't until this fight was
15 over that the Defendant went and picked up his gun.
16 His gun, the gun he brought to the fight that he
17 started. And shot Anthony, unarmed, who wouldn't
18 die right away, but fell to the ground shaking.
19 And died a short time later after EMS arrived.

20 Cold-blooded murder. Anthony didn't have to
21 die.

22 Now, the Defendant has been charged with
23 murder for his actions occurring on January 16th of
24 2010 on Baccharis Drive, where the victim lived,
25 Anthony Salley, during the early afternoon hours.

1 So what happened on this day? What happened?
2 Well, you are going to hear from several witnesses
3 who were out there and either heard or saw some of
4 what happened. Because the Defendant didn't try to
5 hide his identity. Some of the people out there
6 knew him, knew him well, knew him by name and
7 sight. He didn't wear a mask. This occurred in
8 broad daylight. And I submit to you he didn't hide
9 because he didn't care.

10 Two of those witnesses that you will hear from
11 today are Quinton Emerson and Derrick Diamond.
12 Now, Derrick and Quinton are friends. And earlier
13 in the day, probably around a little before 1:00,
14 Derrick called Quinton to ask him if he would come
15 pick him up so they could go get something to eat.
16 Quinton did. And he came over in his gray truck
17 and picked up Derrick Diamond.

18 And on the way to get some food, Quinton got a
19 call asking him to pick up Devan Bailey, who you
20 will also hear from this week.

21 And so they went, they picked up Devan Bailey,
22 because he needed a ride to go somewhere. And so
23 here they are, Quinton, Derrick and Devan all in
24 Quinton's truck. And they go to a gas station.

25 When they get to that gas station is the first

1 time that they see the Defendant that day. And he
2 is in a red truck, Jimmy SUV. But they leave the
3 gas station, the Defendant doesn't go with them,
4 and they go to another gas station to meet up with
5 some guy that Devan knows.

6 Now, at this point Devan is directing where
7 they are going and what they are doing. And I will
8 tell you this, that Derrick knew the Defendant
9 because he knew his sister and went to school with
10 her. Quinton Emerson didn't know the Defendant,
11 but Devan Bailey knew the Defendant and was his
12 friend.

13 And so they go to another gas station, but the
14 guy that they are supposed to meet up with is no
15 longer there. And so Devan tells them, drive over
16 to Vineyards Crossing. That is the subdivision
17 where this incident occurred. So they do. And
18 they go, and there is the Defendant standing in the
19 roadway. And he jumps into the back of Quinton's
20 truck.

21 Now, at this point Quinton and Derrick will
22 tell you they thought the plan was to stay there,
23 hang out, and smoke a little weed. But Devan asked
24 them to go to the Defendant's house at the
25 direction of the Defendant. And they did.

1 And when they got there, the Defendant got out
2 of the truck and told Devan, hold on, I got to get
3 my tool, because I seen Richard.

4 Now, Richard, you might hear his name
5 mentioned throughout this trial, is a friend of
6 Anthony's. And it is no secret that the Defendant
7 doesn't like Richard and he doesn't like Anthony.
8 So he gets his gun and he gets back into the truck.
9 And then they head back to Vineyards Crossing.

10 Quinton pulls the truck around to two houses
11 down from where Anthony lives to where that red
12 truck, that Jimmy SUV that they had seen the
13 Defendant in earlier that day, was parked. And
14 they go to drop the Defendant off. He gets out.

15 And Quinton goes to pull away. Devan says,
16 hold up, wait a minute, I need to get a cigar from
17 him.

18 Quinton does. He pulls back around. But this
19 time Devan says, hold on, park here in front of
20 this driveway.

21 Well, this driveway happens to be the driveway
22 of Anthony Salley, where he is sitting in the car
23 with his girlfriend, Andina Lee, who you will hear
24 from today as well.

25 And so they stop. And I'm going to pause here

1. and back up, because life doesn't happen in a
2. vacuum. So before we get to this point, you have
3. to know what Anthony was doing.

4. Earlier in that day he had been at home with
5. his two little brothers inside. And he called his
6. girlfriend, Andina, to come and take him to the
7. store. She did. She came and picked him up. And
8. they went to the store.

9. And as they were leaving the subdivision they
10. saw the Defendant in the back of that red truck,
11. along with three other people, Quinton, Derrick and
12. Devan.

13. They continued on. Nothing happened. And
14. they went to the store. And then they came back.
15. That gray truck was still around.

16. And then we come to the head of it all.
17. Anthony is parked with his girlfriend in his
18. driveway. Devan, Quinton and Derrick are in the
19. truck.

20. The Defendant comes out walking from the
21. neighbor's house, through the front yard, just two
22. houses down from Anthony to where he is standing in
23. the driveway with Andina.

24. He pulls out a gun. "Yes, you bitch ass, this
25. is what I want."

1 Anthony, unarmed, punches the Defendant,
2 knocks the gun to the ground. And they began
3 fighting.

4 Quinton, Derrick, Devan, they are still parked
5 there. They see what is going on. Andina is
6 standing there. This is all happening really fast.

7 Well, Devan at one point gets out of the truck
8 and goes over to where they are fighting. Andina
9 now sees two people beating up on her boyfriend.

10 So she picks up the gun, just points it. "Get
11 the fuck back. Get back."

12 Devan moves. But at this point the Defendant
13 says to Devan, "Bust him," which means shoot him,
14 talking about Anthony.

15 Devan, a little surprised, doesn't understand
16 why the Defendant wants him to shoot him. Again,
17 it is happening all so fast.

18 Andina tosses the gun to the ground. The
19 fight is over. They eventually end on their own.

20 Anthony and Andina are getting ready to go
21 back into Anthony's house, I submit to recover from
22 some of the injuries that he suffered.

23 But as they did, the Defendant had other
24 plans. And he went and grabbed his gun and shot
25 Anthony, and then fled on foot.

1 Now, Devan turned around and ran. Quinton and
2 Derrick had already pulled off. When something was
3 wrong, they didn't bargain for this. The goal was
4 just to go and hang out. And Devan actually ran
5 towards them. "Wait on me." But they weren't
6 having any more of it. They didn't want any part
7 of this. But the Defendant made them a part of
8 this.

9 As the victim was lying on the ground shaking,
10 Andina yelling, "Call 9-1-1." Some of the
11 neighbors have already called 9-1-1. Law
12 enforcement arrived. And one of the responding
13 officers goes out and sits with Anthony until EMS
14 arrived. And you are going to hear from him today.

15 But as he is being loaded into the ambulance,
16 he goes into cardiac arrest and is pronounced dead
17 a short time later at the hospital.

18 But we are still left with something. Where
19 did the Defendant and Devan go? Well, there was
20 another friend in the neighborhood, Jarrod. His
21 house was also on Baccharis Drive around the curve.
22 And they went running and eventually Devan and the
23 Defendant end up at Jarrod's house. And they run
24 inside. Jarrod is there with his friend, Demario
25 Evans. And Jarrod knows the Defendant in passing,

1 but he is good friends with Demario. And Demario
2 actually knows the Defendant very well and is his
3 friend. And I submit to you that the Defendant
4 went to that house because he saw Demario's car
5 outside. Their ride had left them. He had shot
6 someone. He needed to get out of there.

7 So he came into the house and ran upstairs.
8 Out of breath. Shirt off.

9 When asked what happened, he said, "I got into
10 a fight."

11 And he is yelling at Demario, "Come on, let's
12 go, let's go!"

13 Now, Jarrod's sister is in this house too with
14 her daughter. And they hear sirens. And the
15 sister, Nicole, who you will also hear from today,
16 says, "They need to leave. Something is wrong."

17 Well, Jamaal and Demario leave together.
18 Devan is still there, but eventually a friend comes
19 and picks him up and they go and they drop Devan
20 off.

21 Now, Devan sees the Defendant again later that
22 day, but that would be the last time that anyone
23 would see him, because he fled, he ran. And I
24 submit to you that he ran because he knew what he
25 had done.

1 So where did he flee to? Well, he went to
2 Atlanta where he was hooked up with a guy named
3 Richard Johnson through a mutual friend. Their
4 goal was to make money.

5 Now, the Defendant needed money to get even
6 farther away. And they spent the next few weeks
7 together. And during the course of their time
8 together the Defendant actually confessed to
9 Richard Johnson what he had done.

10 He said, "I shot some guy," or, "I shot a guy
11 right in front of his girl and then buried the gun
12 in South Carolina somewhere."

13 That gun was never recovered. But I submit to
14 you he was bragging about what he had done. But
15 unfortunately for the Defendant, Richard Johnson
16 got into some trouble in Atlanta and was arrested
17 by the Atlanta Police Department. And while he was
18 there he told law enforcement, "I have some
19 information on a murder in South Carolina." So he
20 gave details about what happened:

21 That information was turned over, and law
22 enforcement quickly learned that this was the case
23 that he was talking about. And the Defendant would
24 eventually be apprehended by marshals in Atlanta
25 and brought back here.

1 Now, you are going to hear law enforcement
2 about the course of the investigation. They
3 followed up numerous leads, talked to numerous
4 people, investigating, searching.

5 And at the scene they had a person fairly
6 quickly because, as I said, people knew Jamaal. He
7 didn't try to hide it. And although he sits there
8 his head shaved, he had dreads at the time and
9 people described him, physical description, his
10 build, what he was wearing. And these are people
11 that knew him. They all knew him.

12 So you are going to hear about this
13 investigation. And that is why we are here.

14 Good afternoon, members of the jury. My name
15 is Nicole Simpson. And I, along with my
16 co-counsel, Senior Assistant Solicitor Luck
17 Campbell, together we represent the State of South
18 Carolina, the citizens of Richland County, and the
19 victim in this case.

20 Now, as Solicitors it is our job to prosecute
21 all crimes that occur here in Richland County. And
22 as a result of his actions on January 16th of 2010,
23 the Defendant was charged with murder.

24 Now, in every criminal case there is a very
25 important message. And that is that the Defendant

1 is presumed innocent until proven guilty. And that
2 is as it should be. Because where the State brings
3 charges against someone, they should be required to
4 prove him guilty. He should never be required to
5 prove himself innocent.

6 And as the State we bear this burden of proof.
7 And what that means is that we must prove to you
8 beyond a reasonable doubt that the Defendant is
9 guilty of the crimes charged.

10 This is the same burden that we have in the
11 prosecution of every criminal case. And I can tell
12 you that we welcome that burden here today.

13 Now, in South Carolina murder is perhaps one
14 of our most serious offenses, if not the most
15 serious. And yet it has probably the shortest
16 definition.

17 In South Carolina a person is guilty of murder
18 if he kills another with malice aforethought,
19 express or implied.

20 Now, I submit to you that when a man goes onto
21 someone's property, pulls out a gun and shoots him,
22 it is murder.

23 And as I said, we must prove to you these
24 elements beyond a reasonable doubt.

25 So what is proof beyond a reasonable doubt?

1 Well, I can tell you that it is proof that leaves
2 you firmly convinced of the Defendant's guilt.

3 Now, there are very few things that we know in
4 this world with absolute certainty. And the law
5 does not require the State to produce proof that
6 overcomes all doubt or every possible doubt, only
7 that doubt which is reasonable.

8 Now, the Honorable Judge Benjamin is the judge
9 of the law in this case. And she will instruct you
10 on the law as you are to apply it to the facts of
11 this case.

12 And if ever there is a discrepancy between
13 what Her Honor says and what any of the attorneys
14 in this case say, you are to follow her
15 instructions and her beliefs to you.

16 But with that said, members of the jury, you
17 are the sole triers and judges of the facts in this
18 case. And what that means is that each of you here
19 today has on a black robe. Individually and
20 collectively you must decide, and only you can
21 decide if the Defendant is guilty of murder.

22 But with that said, this isn't TV, you are not
23 here to solve a mystery. And we don't expect you
24 to solve a mystery. And as the State it is our job
25 to give you all the tools that you need to do your

1 jobs. And we plan to do just that through the
2 evidence produced during this trial.

3 Now, some of that evidence is going to be
4 physical evidence, events that you can see, that
5 you can touch, that you can hear, that you can
6 feel. But most of that evidence is going to come
7 from right here on this witness stand.

8 You are going to hear from a number of
9 witnesses in this case who have something to offer
10 in this case. You are going to hear from Andina
11 Lee, Anthony's girlfriend. You are going to hear
12 from Quinton Emerson, Derrick Diamond, Devan
13 Bailey, those who were out there that day. You are
14 going to hear from Jarrod and Nicole Crudup. You
15 are going to hear from law enforcement, the
16 responding officers, the crime scene investigators
17 who processed the scene, you are going to hear from
18 the investigators who investigated the case, talked
19 to people, followed up leads. You are going to
20 hear from some experts, a firearms examiner, you
21 are going to hear from a forensic pathologist who
22 conducted the autopsy, and a number more.

23 And when you listen to these witnesses, it is
24 up to you, and only you, to judge their
25 credibility. And in doing so, you can believe some

1 of what a witness says, you can believe all of what
2 a witness says, or you don't have to believe
3 anything that a witness says. That is up to you.
4 But when you do so, when you make this judgment and
5 when you determine the credibility, we do ask that
6 you consider several things:

7 What was that witness's demeanor on the stand.
8 Was that witness hesitant or forthright when
9 testifying. Was the testimony of that witness
10 consistent within itself. Is it corroborated by
11 other testimony or other evidence. Probably most
12 importantly, did that witness have any reason to be
13 biased or prejudiced in this case.

14 Now, there are two very important witnesses
15 not testifying here today, and perhaps the most
16 important of all. And that is common sense and
17 human nature.

18 And while we ask you, the jury, to check your
19 prejudice and your sympathies at the door, we hope
20 that you will use your common sense and what you
21 know about human nature when you decide this case.

22 Now, it is said that truth is the mother of
23 justice. And it is your job, your duty here today
24 to find the truth and to seek justice.

25 And we thank you for being here. And I submit

1 to you that after you have heard all of the
2 evidence and testimony in this case, there will be
3 only one just verdict. And I'm going to ask you
4 for a verdict that the evidence will support and
5 that justice will demand. We are going to ask that
6 you find the Defendant, Jamaal Hinson, guilty of
7 murder. Guilty.

8 Thank you.

9 THE COURT: Thank you.

10 Yes, ma'am? Now Ms. Cleary, on behalf of the
11 Defendant.

12 MS. CLEARY: May it please the Court?

13 THE COURT: Yes, ma'am.

14 OPENING STATEMENT

15 MS. CLEARY: Ladies and gentlemen, the State
16 will not be able to prove that Jamaal Hinson is
17 guilty of murder. Why? It is simple. Because
18 Jamaal Hinson is not guilty of murder.

19 Let me repeat that. Jamaal Hinson is not
20 guilty of murder.

21 When a person arms himself with a gun in
22 self-defense and then accidentally fires the gun,
23 that is not murder. Murder is the killing of a
24 person with malice aforethought.

25 The State has to prove to you beyond a

1 reasonable doubt that Jamaal Hinson killed Anthony
2 Salley with malice aforethought.

3 I'm Eleanor Duffy Cleary, and I'm proud to
4 represent Jamaal Hinson, who is here today
5 supported by his mother Pamela and his father Wayne
6 and other family and friends.

7 When you heard the Government's opening
8 statement, you likely started to form a pretty bad
9 opinion about this young man, but those claims that
10 the Prosecutor just made about Jamaal, they are not
11 evidence. You can't know the facts until after you
12 have heard from the witnesses and seen the
13 exhibits.

14 Now, when a young person like Mr. Salley
15 passes away, it is an unbearable loss for the
16 family. It is an unbearable loss for his loved
17 ones. And the natural instinct is to seek
18 retribution, to seek revenge, and to try to find
19 someone to place the blame on.

20 And in this case, Jamaal is the person that
21 the State has decided must pay because Mr. Salley
22 is gone.

23 However, as civilized human beings, we operate
24 beyond instinct. That is what distinguishes us
25 from animals. And as intelligent human beings, as

1 intelligent members of the community, you can
2 carefully look at the evidence and not be swayed by
3 those instincts, those emotions, and not be swayed
4 by the impulses for retribution and revenge and
5 misplaced blame.

6 As rational people we recognize that some
7 tragedies are accidents. Sometimes there is no one
8 to blame. And that is what happened in this case.

9 Jamaal, at age 19, shaken, badly beaten, after
10 the conclusion of a vigorous fist-fight with
11 Mr. Salley, Jamaal tried to leave that tense
12 situation. But Anthony approached him from behind,
13 and in that moment Jamaal turned and fired his
14 weapon, shooting Anthony once in the lower left
15 abdomen.

16 When you look at the Government's evidence,
17 you will not find any malice aforethought on
18 Jamaal's part. Even if you believe what their
19 witnesses tell you, if they tell -- if they say
20 today the same things that they said shortly after
21 the shooting to the police, then you will still not
22 find Jamaal is guilty of murder.

23 And I'm not going to talk in great detail
24 about what the evidence will show because, as the
25 judge instructed you, we don't have to submit any

1 evidence. We have no burden of proof. The State
2 has to prove to you beyond a reasonable doubt that
3 Jamaal shot Anthony with malice aforethought.

4 But I will tell you this. That the evidence
5 will show Jamaal came across Anthony. Jamaal was
6 in the neighbor's yard. Jamaal did pull his gun.
7 But Anthony was not at all afraid of this gun.
8 Jamaal wanted to scare Anthony off. He was afraid
9 of Anthony. And the evidence will show that he had
10 good reason to be afraid of Anthony.

11 So Jamaal, age 19, pulls his gun out, thinking
12 that Anthony will leave him alone. But that is not
13 what happened. Anthony is daring him to shoot him
14 and punches him in the face, punches him in the
15 face so hard that he still has bruises two weeks
16 later.

17 So they then commence to fist-fight, a
18 vigorous fist-fight by all accounts. And there are
19 several people around this suburban neighborhood.
20 Several people around in broad daylight, just like
21 the Prosecutor said, on a Saturday afternoon.

22 And at some point Anthony's girlfriend even
23 gets involved and picks up the gun pointing it at
24 those involved in the fight just adding to Jamaal's
25 fear.

1 And the evidence will show that when Jamaal
2 armed himself, he did so because he was afraid
3 Anthony would kill him and he armed himself because
4 he believed that his own life was at stake. And
5 that arming himself was justified under these
6 circumstances.

7 As I mentioned, the evidence will show that
8 Anthony was shot one time in the lower left
9 abdomen. He was not shot multiple times in the
10 back. He was shot from the front. And nobody will
11 be able to testify that Anthony planned -- that
12 Jamaal planned to kill Anthony. Instead, the
13 evidence will show that he had no plan at all. He
14 had not planned the shooting in broad daylight in a
15 suburban neighborhood on a Saturday afternoon in
16 advance.

17 Jamaal had no getaway plan. He ran and, by
18 luck, saw his friend's -- saw a friend's car at a
19 house. He had no plan whatsoever. That is because
20 this was a terrible and tragic accident. Accidents
21 are not planned. And this was an accident.

22 And the evidence will show that Jamaal was
23 terrified of those impulses of retribution and
24 revenge and misplaced blame. So he did. He ran to
25 Atlanta, afraid for his own life, afraid that he

1 would be killed because of this shooting, but also
2 afraid that the police would not believe him that
3 it was unintentional.

4 In fact, it turns out he was right about that,
5 because that is why we're here today.

6 But, ladies and gentlemen, there is no
7 evidence that Jamaal intended to shoot Anthony.
8 And the Government will try to convince you to pile
9 inference upon inference and to guess at a motive,
10 to guess that Jamaal shot someone in broad daylight
11 because he had no fear and didn't care. But none
12 of those inferences are going to be sufficient to
13 show the malice that is required to prove murder.

14 Now, there is a natural inclination when
15 someone is arrested for a crime. When the police
16 charge someone with a crime, we naturally think,
17 that person must be guilty. We have all watched
18 television and seen where the police have arrested
19 someone and thought, I sure am glad that they
20 caught that guy.

21 But in America, with our Constitution and our
22 Bill of Rights, we have that fundamental principle
23 that a person is innocent unless they are proven
24 guilty beyond a reasonable doubt. But we all
25 forget that when we watch the news.

1 My 80-year-old father, who lives with me, he
2 watches the news and he says, I'm glad they caught
3 that murderer, and the man hasn't been convicted
4 yet. And the reason that I always think that is so
5 funny is because my father was a history professor
6 at the University of South Carolina for 40 years,
7 and used to beat it into the students that
8 fundamental principle that our Constitution and our
9 Bill of Rights and our -- the fundamental
10 principles of our great nation say. No one has to
11 prove their innocence. He is innocent right now
12 before you. The Government must prove beyond a
13 reasonable doubt that he is guilty of murder.

14 So even though rushing to judgment is
15 something that we all do, it is an inclination that
16 you must put aside because as jurors you have taken
17 an oath to apply the law and the principles of this
18 great country.

19 When we selected you, we did so because you
20 appeared to be members of the community that would
21 not be swayed by emotions or divided by those basic
22 instincts, make someone pay.

23 And you will remember those fundamental
24 principles, that fundamental principle that Jamaal
25 does not have to prove his innocence or anything

1 else.

2 And at the close of the evidence I will --
3 when -- before it is your time to deliberate, I
4 will stand before you again and I will go through
5 how we believe that the State has not proven beyond
6 a reasonable doubt that Jamaal shot Anthony with
7 malice aforethought.

8 And at that point I will ask you to find
9 Jamaal Hinson not guilty of murder.

10 THE COURT: Thank you. Please call your first
11 witness.

12 MS. SIMPSON: The State calls Deputy Chad
13 Newman.

14 THE BAILIFF: Raise your right hand, place
15 your left hand on the Bible, and face the clerk.
16 (Witness complies.)

17 THE CLERK: Do you solemnly swear or affirm
18 that the testimony you are about to give in this
19 case will be the truth, the whole truth, and
20 nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Please have a seat. State your
23 full name for the record.

24 THE WITNESS: My name is Chad Newman.

25 CHAD NEWMAN,

1 after being duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. SIMPSON:

4 Q Good afternoon. Can you please tell us what you
5 do?

6 A Yes, I'm a corporal on a road shift in Fairfield
7 County with the Fairfield County Sheriff's Office.
8 That is where I have been since July of 2010.

9 Q And prior to going -- well, let me back up just a
10 little bit. What do you do in your capacity at the
11 Fairfield Sheriff's Department?

12 A Well, it is actually kind of complicated, but, you
13 know, obviously we are tasked with making sure that
14 we enforce the laws of the State of South Carolina,
15 as well as Fairfield County, any ordinances. We
16 are there to protect and serve the community. Try
17 to protect anyone from any kind of harm that they
18 may come under. We also deal with a lot of civil
19 process type stuff, civil disputes that can be
20 handled through the court.

21 Q And prior to going to the Fairfield County
22 Sheriff's Department, where did you work?

23 A I actually -- if you would like -- in '97 I began
24 law enforcement at Manning Police Department in
25 Manning, South Carolina, as a reserve officer.

1 In 1998 I went to work with the Clarendon
2 County Sheriff's Office as a deputy. I worked
3 there until November of 2005 where I eventually
4 took over the head of narcotics. I worked
5 undercover narcotics for about five years.

6 Then I came to Richland County in November of
7 2005 as a deputy and became a K-9 handler and
8 worked K-9s up until July of 2010.

9 Q And so back on January 16th of 2010, you were with
10 the Richland County Sheriff's Department?

11 A Yes, ma'am. I was in the Region 7 area, which is
12 Northeast, Sandhills, over in that area.

13 Q And what were your duties at the time? I'm sure it
14 included a number of things.

15 A Yes, ma'am. It was also -- we were assigned to
16 certain areas, and my area was what they call
17 Region 7, which is the Sandhills, Summit, over the
18 Vineyards Crossing, all of that area of Northeast.
19 We patrolled the area making sure, you know,
20 obviously trying to stop any kind of property
21 damage or any loss of property. Also try to
22 protect the citizens of Richland County.

23 Q And did you have an occasion to become involved in
24 this case?

25 A Yes, ma'am.

1 Q How did you become involved?

2 A A call came out from dispatch that there were shots
3 fired and that one individual had been hit. And at
4 that point all officers that are in that region or
5 even close respond to those calls..

6 Q And where exactly did you respond to on November
7 16th?

8 A It was [REDACTED] which is --

9 Q Is that here in Richland County?

10 A Yes, ma'am, that is in the Northeast area of
11 Richland County.

12 Q And do you recall what time you arrived at the
13 scene?

14 A It was roughly around 2:30 in the afternoon.

15 Q Okay. And when you got to the scene, what did you
16 observe? Were there other officers present?

17 A Yes, ma'am. Several officers showed up at one
18 time. And we were all kind of fairly close to the
19 area.

20 As we got into the neighborhood, I could see
21 an individual laying on the ground in the front
22 yard at the address where we were responding to. I
23 could see several other individuals. You could
24 tell there was some sort of chaos going on. People
25 were moving very quickly. Moving around in the

1 yards, on the street, in that area.

2 Q So when you arrived, what did you do?

3 A Immediately what we try to do is assess the
4 situation, try to figure out what exactly we have,
5 you know, obviously try to figure out who is the
6 victim, exactly what is going on, if we have any
7 suspects on the scene, anything of that nature.

8 At that time I approached the individual that
9 was laying on the ground, Mr. Salley. I approached
10 him because at that point, my point of view he
11 seemed to be the one in the most distress at that
12 time.

13 I went over there and knelt down next to him,
14 advised him that I was a deputy with the Richland
15 County Sheriff's Office, was trying to find out
16 exactly what was going on.

17 At that time he grabbed a hold of my hand, and
18 I stayed with him actually until he got into the
19 back of the ambulance on the way to the hospital.

20 Q And what happened as he was getting into the
21 ambulance?

22 A As he was getting into the ambulance, I believe he
23 went into full cardiac arrest as he was actually
24 being loaded into the back.

25 Q And after EMS arrived, what did you do?

1 A At that point -- back up just a second, I'm sorry.
2 When I initially got there and got to speaking to
3 him, I actually noticed what appeared to be a
4 gunshot wound. I personally have been shot myself,
5 so I'm kind of a little familiar with gunshot
6 wounds. Saw what appeared to be a gunshot wound
7 and was trying to do my best to keep him talking,
8 focused on me, to try to stop any kind of -- you
9 know, you can go into shock, which is usually a bad
10 thing, so I was trying to prevent that as well.

11 Once he was loaded into the ambulance, at that
12 point my role changed from trying to help the
13 victim out into trying to protect the crime scene.
14 We were looking for any kind of shell casings or
15 anything of that nature. Actually located a shell
16 casing.

17 And the weather outside was getting very bad.
18 It actually -- the bottom was about to drop out.
19 It was one of the afternoon showers that just comes
20 up out of nowhere. And so went ahead and -- I
21 decided until the crime scene unit got there to try
22 to protect the evidence, went ahead and covered up
23 that shell casing so that it would not get wet from
24 the rain.

25 Q I want to back up just a little bit. You said

1 other officers were present and securing the crime
2 scene. Can you tell us about what is involved with
3 securing a crime scene?

4 A Yes, ma'am, absolutely. As I stated earlier, when
5 we get there -- obviously our number one priority
6 is officer safety -- first and foremost, to get
7 there. If we can't get there we can't help. Then
8 we need to assess the situation once we get there
9 and decide, you know, like I said, who the victim
10 is.

11 At that point we start looking to see kind of
12 where our initial crime scene is and perhaps how
13 far out we need to go with that. Try to decide who
14 is going to be a witness, who is just an onlooker.
15 And we go ahead and set up crime scene tape at that
16 time so that we can try to keep individuals that
17 don't need to be in the crime scene out of the
18 crime scene so they cannot be contaminated.

19 Q And you stated earlier that you located a shell
20 casing and then kind of covered it until crime
21 scene investigators got there.

22 Are crime scene investigators typically called
23 out?

24 A Yes, ma'am, especially on a case of this nature.
25 With it being someone had been shot, we call out

1 crime scene investigators. We also call out the
2 criminal investigators so that they can come to the
3 scene.

4 Q And the investigators, are they tasked with
5 actually talking to witnesses and interviewing
6 them?

7 A Yes, ma'am. At that point that is part of their
8 job duties is to speak with the witnesses and get
9 statements, and things of that nature.

10 Q And were you all able to find a gun at the scene?

11 A No, ma'am, I did not find any firearm.

12 Q You stated that you, I believe, covered up the
13 evidence, but you are not responsible for actually
14 collecting it?

15 A No, ma'am. No, ma'am.

16 Q Just preserving it?

17 A Yes, ma'am. Chain of custody-wise, we leave it for
18 the crime scene so that we don't have a lot of
19 people in the chain of custody issue.

20 Q And once I guess investigators arrived and crime
21 scene was there, what did you do? What was your
22 role?

23 A Pretty much at that point, once everyone was there,
24 obviously a lot of the chaos of the scene had
25 calmed down, but at that point then I switch into a

1 role of basically officer safety, also crime scene
2 preservation. While the crime scene guys are
3 trying to do their job, you know, obviously there
4 is always a possibility a suspect could come back
5 to the crime scene, or something like that, so we
6 are there to try to protect the crime scene, any
7 other people that may be there, as well as other
8 officers there.

9 Q And is that the extent of your involvement in this
10 case?

11 A Yes, ma'am.

12 Q Thank you.

13 THE COURT: Please answer any questions from
14 the Defense.

15 CROSS-EXAMINATION

16 BY MS. CLEARY:

17 Q I just have one question. Did you file a written
18 report in this case?

19 A No, ma'am, I was not the actual reporting officer.

20 Q All right. Thank you. That's all I have.

21 A Yes, ma'am.

22 THE COURT: You may step down.

23 (Witness steps down.)

24 THE COURT: Any objection to this witness
25 being excused?

1 MS. SIMPSON: None from the State.

2 MS. CLEARY: None from the Defense.

3 THE COURT: All right, sir, you are free to
4 leave.

5 (Witness excused.)

6 THE COURT: Please call your next witness.

7 MS. CAMPBELL: The State would call Andina
8 Lee.

9 THE BAILIFF: Raise your right hand, place
10 your left hand on the Bible, and face the clerk.

11 (Witness complies.)

12 THE CLERK: Do you swear or affirm the
13 evidence you give in this case will be the truth,
14 the whole truth, and nothing but the truth, so help
15 you God?

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Please have a seat, and state your
18 full name for the record.

19 THE COURT: And, ma'am, I am going to ask you
20 to speak loudly into the microphone so that my
21 court reporter can take down everything that you
22 are saying.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Yes, ma'am.

25 MS. CAMPBELL: Thank you, Your Honor.

ANDINA LEE;

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Andina, how old are you?

A Twenty-one.

Q And did you grow up here in the Columbia area?

A No, ma'am.

Q Where did you grow up?

A A lot of places. I came here from New York.

Q From New York?

A Yes, ma'am.

Q And how long have you lived in Columbia?

A Seven years.

Q And is your mom here in the courtroom today?

A Yes, ma'am.

Q Is she sitting back there?

A Yes. Yes, ma'am.

Q Did you know the victim in this case?

A Yes, ma'am, I did.

Q And tell this jury, how did you know Anthony Salley?

A He was my boyfriend.

Q And when this all occurred, how long had y'all been dating?

- 1 A Almost a year. Like 11 months.
- 2 Q Did you know the Defendant in this case?
- 3 A Vaguely.
- 4 Q Did you know him by sight?
- 5 A Yes.
- 6 Q And did you know him by any name?
- 7 A Yes.
- 8 Q And what name did you know him by?
- 9 A Jamaal.
- 10 Q Jamaal?
- 11 A Yes, ma'am.
- 12 Q And how did you know Jamaal?
- 13 A We used to go to school together.
- 14 Q And what school did y'all go to together?
- 15 A Blythewood High School.
- 16 Q And what year did you graduate from Blythewood High
- 17 School?
- 18 A 2008.
- 19 Q And do you know whether or not he graduated the
- 20 same year?
- 21 A No, I don't know.
- 22 Q Was he older or younger than you? Did you know?
- 23 A No, I don't know.
- 24 Q Did you know any other family members of his?
- 25 A No.

1 Q You just knew him from seeing him in high school?

2 A Uh-huh.

3 Q Are you currently employed?

4 A Yes, ma'am.

5 Q And what do you do -- where do you work?

6 A I work at Wal-Mart pharmacy.

7 Q And what do you do at Wal-Mart pharmacy?

8 A I'm a pharmacy technician.

9 Q And is that the type of work you have done since
10 you graduated from high school?

11 A Yes.

12 Q Back when this happened on January the 16th -- we
13 have got to talk about that, okay -- that morning,
14 that Saturday morning, what were you doing?

15 A I had -- I had went home. I was already at the
16 victim's house, and I had went home.

17 Q So you had been at the Salley household?

18 A Uh-huh.

19 Q And you went home that morning?

20 A Yes, I went home.

21 Q And did you have a car that day?

22 A Yes, I do.

23 Q And what kind of car were you driving that day?

24 A A black Mazda, 2001.

25 Q A black Mazda?

1 A Yes.

2 Q Sedan type?

3 A Uh-huh.

4 Q So it was like a sedan type or an SUV?

5 A Yes, it was a sedan.

6 Q And that day when you went home, what happened

7 after you got home to your house?

8 A I just sat around. Anthony called me talking about

9 some crazy stuff that was happening at his house.

10 He told me to come get him and take him to the

11 store.

12 Q He told you to come get him and take him to the

13 store?

14 A Uh-huh.

15 Q And where did Anthony live at the time?

16 A He lived in Vineyards Crossing.

17 Q Vineyards Crossing?

18 A Uh-huh.

19 Q And did you live in a different neighborhood?

20 A Yes.

21 Q And what neighborhood were you living in?

22 A Brookhaven.

23 Q And that day after he called you, did you go --

24 then proceed to go back to his house at Vineyards

25 Crossing that day?

1 A Yes, ma'am.

2 Q And once you got back to his house, what if
3 anything happened?

4 A Nothing. We had just left to go to the store and
5 we were waiting for his little brother to get
6 dropped off. And when we left coming from -- well,
7 we were going to the store.

8 Q And who was driving?

9 A I was.

10 Q And it was in your black Mazda?

11 A Yes, ma'am.

12 Q And you left his house and you wanted to go to the
13 store?

14 A Yes, ma'am.

15 Q And about what time of day was this, do you
16 remember?

17 A In the afternoon, around 12:30, 1:00 o'clock.

18 Q Are you sure about the time?

19 A No.

20 Q Sometime after lunch?

21 A After lunch. After lunch.

22 Q And when y'all left, did y'all go to the store?

23 A Yes, ma'am.

24 Q And on the way to the store, did you notice
25 anything?

1 A On the way to the store, no. We just rode to the
2 store. But on the way back --

3 Q What store did y'all go to?

4 A The Kangaroo gas station.

5 Q And how close was that located to Anthony's house?

6 A Like not even a half a mile.

7 Q Okay. And when you got to the gas station, did
8 Anthony go in?

9 A No.

10 Q Did you go in?

11 A I don't remember. I probably did.

12 Q You don't remember?

13 A Huh-uh.

14 Q Are you nervous here today?

15 A Yes.

16 Q Okay. Once you got to the store, what did y'all do
17 next?

18 A Well, after we came from the store, we came back,
19 and when we were coming into his neighborhood we
20 saw Jamaal in the back of the truck driving away.

21 Q And what made you notice Jamaal that day?

22 A Because he was on the back of the truck and he had
23 on some bright colored clothes. And they had --
24 the whole reason why I came over there was because
25 he was telling me that him and Jamaal got into it.

1 Q Jamaal didn't like him?

2 A No.

3 Q And you noticed that in the back of the truck --
4 what kind of truck was he in the back of? Was it
5 the back seat or the back --

6 A The back bed of the truck, like a pickup truck.

7 Q Pickup truck?

8 A Uh-huh.

9 Q And do you remember what color truck it was?

10 A It was like primed-down gray, a primed-down truck.

11 Q Primed-down gray?

12 A Uh-huh.

13 Q And had you ever seen the truck before?

14 A No.

15 Q Did you see other people in the truck?

16 A Yes.

17 Q Did you know any of those people or could you
18 recognize them?

19 A No.

20 Q So the person that you noticed when you were going
21 back to the Vineyards was?

22 A Jamaal.

23 Q Okay. Do you know whether or not Jamaal lived in
24 the Vineyards Crossing neighborhood?

25 A No.

1 Q And do you remember what road this was on that you
2 saw Jamaal in the truck, in the back of the truck
3 the first time you saw it that day on the way back
4 to the store from Anthony's house?

5 A Huh-uh.

6 Q Once you rode past when you saw him in the truck,
7 what happened then?

8 A Well, we parked at Anthony's in his driveway and we
9 were just sitting there talking. The truck came
10 back and it was parked at the neighbor's house.

11 Q And how many doors down from Anthony's house was
12 that?

13 A Probably, I think two.

14 Q About two doors down?

15 A Uh-huh.

16 Q And did you see anybody get in or out of the truck
17 at that point?

18 A I noticed Jamaal going back into the house.

19 Q Into the house?

20 A Uh-huh.

21 Q And did you know who lived at that house?

22 A No.

23 Q Okay. Did y'all continue to sit there and talk in
24 the driveway?

25 A Yes, ma'am.

1 Q And were y'all standing or sitting?

2 A We were sitting inside the car.

3 Q And were you in the driver's seat?

4 A Yes.

5 Q And where was Anthony?

6 A In the passenger's.

7 Q What happened next?

8 A Well, then after a few minutes the truck came back
9 and parked kind of blocking me in so I couldn't get
10 out. And then we -- I seen Jamaal walk from the
11 person's house and --

12 Q So at that point Jamaal wasn't getting out of the
13 truck, he was already out?

14 A Yes, he was out. He was at the person's house
15 walking towards the truck, towards Anthony's house.

16 Q At any point did you call Jamaal to get him to come
17 over there?

18 A No.

19 Q Did Anthony ever call him to come over there?

20 A No.

21 Q And whose driveway were you sitting in?

22 A Anthony's.

23 Q And he had to walk through two yards to get to your
24 driveway?

25 A Basically.

- 1 Q And that is what he did?
- 2 A Uh-huh.
- 3 Q And could you tell how many people were in the
- 4 truck at that point?
- 5 A It was three other people.
- 6 Q At that point did you get a look at any of them?
- 7 A No.
- 8 Q What happened next?
- 9 A Well, after that, Jamaal walked up towards the
- 10 house. Anthony got out the car once he saw Jamaal
- 11 walking up. And Jamaal looked at Anthony and said,
- 12 "Yes, you..." -- can I?
- 13 Q You have to say it.
- 14 A "Yes, you bitch ass nigger, this is exactly what I
- 15 want."
- 16 Q Okay, say that again because you don't talk very
- 17 loud.
- 18 A He said, "Yes, you bitch ass nigger, this is
- 19 exactly what I want."
- 20 And once he got a little bit closer he pulled
- 21 the gun out and pulled -- and pointed it towards
- 22 Anthony's lower extremities.
- 23 Q Let me slow you down for a second, okay? Were you
- 24 still sitting in the car at this point?
- 25 A No, I was out.

1 Q And where was Anthony? On which side of the car?

2 A I don't know.

3 Q And where was Jamaal coming from?

4 A He was coming from the driveway.

5 Q Okay. How far away from him was he when you first
6 saw the gun in Jamaal's hands?

7 A I was in arm's length.

8 Q At arm's length?

9 A Uh-huh.

10 Q And at that point he said what when he pulled out
11 the gun?

12 A He didn't say anything. He said everything before
13 he pulled out the gun.

14 Q Before he pulled out the gun?

15 A Uh-huh.

16 Q Just so I get it straight, basically he is walking
17 towards you and that is when he said --

18 A Uh-huh. Well, towards Anthony.

19 Q Towards Anthony?

20 A Uh-huh.

21 Q And he is walking straight towards Anthony?

22 A Yes.

23 Q And how far away from Anthony was he when he
24 said -- what did he say?

25 A He said, "Yes, you bitch ass nigger," and he goes,

- 1 "this is exactly what I want."
- 2 Q Exactly what I want?
- 3 A Yes.
- 4 Q And at that point had Anthony said anything to him?
- 5 A No.
- 6 Q And is he continuing to walk towards Anthony as he
- 7 is saying this?
- 8 A Yes.
- 9 Q And at what point does he pull out the gun and
- 10 point it straight at Anthony?
- 11 A When they are arm's length.
- 12 Q At this point had any punches been exchanged?
- 13 A No.
- 14 Q Had any words, other than what Jamaal said, been
- 15 exchanged between the two?
- 16 A No.
- 17 Q What happened next?
- 18 A Anthony knocked the gun out of his hand, and then
- 19 they started fighting.
- 20 Q And was the fight taking place in the driveway?
- 21 A It was taking place in the grass beside the
- 22 driveway. It moved to that area somehow.
- 23 Q And who all was initially involved in the fighting?
- 24 A Jamaal and Anthony.
- 25 Q Where were you at this point?

1 A Like behind them.

2 Q Behind them?

3 A Uh-huh.

4 Q Did you see where the gun went when it got knocked
5 out of Jamaal's hands?

6 A Yes. It went closer to the sidewalk, but it was
7 still in the grass.

8 Q In the grassy area?

9 A Uh-huh.

10 Q And while they were fighting, did either one of
11 them have a weapon?

12 A No.

13 Q At any point that day -- at any point did Anthony
14 have a weapon?

15 A Not at all.

16 Q What happened next?

17 A Well, they continued to fight. Some guy, I don't
18 know his name, he got out the car. He had
19 proceeded to hit Anthony to make him get on the
20 ground.

21 And then I saw that happening and I picked up
22 the gun and I told them, I said, "You need to
23 stop." I said, "You need to stop fighting,"
24 because they were fighting.

25 And he come towards me, I don't even remember

1 what he said to me at this point, and I ended up
2 tossing it because I didn't feel comfortable --
3 Q Okay, let me slow you down a little bit, okay? And
4 I know you are nervous, okay?
5 A Yes.
6 Q You said that a second person became involved in
7 the fight?
8 A Uh-huh.
9 Q And where did he come from?
10 A The truck.
11 Q And was the truck still parked in the street near
12 the driveway?
13 A Uh-huh.
14 Q And did he -- he got out of that truck?
15 A Uh-huh.
16 Q And this is the person you had never seen before?
17 A Not until that day.
18 Q Okay. But you got a good look at his face?
19 A Yes.
20 Q And at that point he comes over to the fight?
21 A Uh-huh.
22 Q And what happens?
23 A And he hits Anthony.
24 Q And where was Jamaal at this point?
25 A Fighting. Still fighting. They are hitting him at

1 the same time.

2 Q Okay. So both of them are now hitting Anthony at
3 the same time while the fight is going on?

4 A Uh-huh.

5 Q Are they on the ground? Are they standing up? Or
6 what is going on?

7 A I don't know.

8 Q What happened next?

9 A Well, after that --

10 Q You mentioned that you picked up the gun?

11 A Yes, I picked up the gun.

12 Q And what was the purpose? What was going through
13 your mind? Why did you pick up the gun that day?

14 A Because I thought that maybe I could defend Anthony
15 while two people were fighting him, but just really
16 to scare the guy that was hitting him. And that's
17 it.

18 Q When you picked up the gun, what did you do with
19 it?

20 A After I picked it up and pointed it at the guy?

21 Q Which guy?

22 A I don't know his name.

23 Q The one you didn't know his name?

24 A Uh-huh.

25 Q The one that came to Jamaal's aid?

- 1 A Yes.
- 2 Q And do you remember saying anything to him?
- 3 A Yes. I told him to --
- 4 Q And what did you say?
- 5 A -- "Back up, this is a fair fight."
- 6 Q And then what happened?
- 7 A And then after that, he is coming towards me. I
- 8 throw the gun and he keeps coming towards me. And
- 9 then --
- 10 Q Why did you throw the gun?
- 11 A Because I was afraid. I didn't want him trying to
- 12 get it out my hand. I thought that maybe if I
- 13 throwed it over the gate nobody could get back
- 14 there because it was always locked. And I thought
- 15 that is where I threw it, but I didn't. And the
- 16 fight ended on its own. After that the truck was
- 17 gone.
- 18 Q The truck was gone?
- 19 A Yes, the truck was gone. I didn't know when the
- 20 truck left, but it was gone once the fight was
- 21 over.
- 22 Q And you didn't know who the two people in the truck
- 23 were, did you?
- 24 A No, I don't know.
- 25 Q The truck had gone and you had thrown the gun, what

1 you thought was over the fence?

2 A Uh-huh.

3 Q But ended up not being?

4 A Uh-huh.

5 Q And the fight stops?

6 A Yes, it stopped.

7 Q And all this we're talking about in here today, is
8 all this happening really fast?

9 A Yes, it is happening real fast.

10 Q Once you threw the gun and the fight stopped --

11 A Uh-huh.

12 Q -- nobody is throwing punches?

13 A No, nobody is throwing punches.

14 Q Where did everybody go at this point?

15 A Well, me and Anthony proceed to go in the house.

16 And then when we proceeded to go in the house,

17 Jamaal picked up the gun and --

18 Q Y'all are going towards -- to go in the house?

19 A Yes. We were going --

20 Q You are actually walking that way?

21 A No, we are not even walking. I'm trying to get him
22 up off the ground so we can go into the house.

23 Q Let me back up. Is he down on the ground still?

24 A Uh-huh.

25 Q And you are trying to help him up?

- 1 A Uh-huh.
- 2 Q And your plan is to get in the house?
- 3 A Yes.
- 4 Q And at this point are any words being exchanged?
- 5 A No.
- 6 Q And what happens next?
- 7 A And then Jamaal -- Jamaal picked up the gun and
- 8 shot him.
- 9 Q Is the gun right there or did he have to go get the
- 10 gun?
- 11 A He had to go get it.
- 12 Q And how far away was the gun from him when he had
- 13 to go get it to arm himself?
- 14 A Not that far.
- 15 Q Was it within steps?
- 16 A Within steps.
- 17 Q But he had to get up and move?
- 18 A Uh-huh.
- 19 Q And at that point did Anthony have any weapon?
- 20 A No.
- 21 Q And at that point was Anthony hurting him in any
- 22 way?
- 23 A No.
- 24 Q And at that point, as far as you knew, you are just
- 25 trying to help Anthony into the house?

1 A Yes.

2 Q What happened next?

3 A He picked up the gun and pointed --

4 Q Did you know at first what he was doing?

5 A No, I had no -- I didn't know what he was doing. I

6 had no knowledge of what he was doing because I

7 wasn't paying attention to him. I was trying to

8 get in the house.

9 Q And about the second guy, the guy you didn't know,
10 do you know where he was at that point?

11 A No, I didn't even see him.

12 Q Okay. What happened next?

13 A He picked up the gun.

14 Q Jamaal?

15 A Yes, Jamaal picked up the gun and pointed it and
16 shot.

17 Q And when he picked up the gun, you said he pointed
18 it?

19 A And shot.

20 Q And so did he have to bring the gun up into a --
21 how did he do that? Show the jury.

22 A Really?

23 Q Yes.

24 A Well, he -- can y'all see me or stand up?

25 Q Can you stand up?

1 MS. CAMPBELL: Permission, Your Honor?

2 THE COURT: Yes, ma'am.

3 (Witness stands.)

4 A He just pointed it like that(indicating).

5 THE COURT: Can she talk a little bit louder?

6 A Like he just stood up and then when he pointed it,
7 he pointed it like this(indicating).

8 Q Okay. You can sit back down.

9 (Witness seated.)

10 Q And when he pointed it, was it pointed at you?

11 A Me and Anthony were in front of each other and it
12 was pointed at both of us really.

13 Q And what area of Anthony's body did it get pointed
14 at? Do you remember?

15 A His stomach.

16 Q When he pointed the gun, did he say anything?

17 A No.

18 Q What was going through your mind?

19 A I don't know. There was so much stuff going on in
20 my mind.

21 Q What did you do?

22 A What did I do?

23 Q Uh-huh.

24 A I don't remember.

25 Q Did you try to protect Anthony in any way?

1 A Yes.

2 Q And how did you try to protect Anthony when you
3 thought he was getting shot?

4 A Trying to get him out the way. Trying to move him
5 at least out the way a little bit. I didn't --

6 Q What happened?

7 A I just didn't think that -- I didn't think that he
8 was going to get shot, so --

9 Q Who shot him?

10 A Jamaal did.

11 Q And prior to shooting him, he actually lifted the
12 gun up and pointed it at him?

13 A Yes.

14 Q And then he shot him?

15 A Yes.

16 Q What happened then?

17 (Pause.)

18 Q Are you okay? Do you need a second? I will get
19 you a Kleenex.

20 (Pause.)

21 Q Do you want some water?

22 A Yes.

23 (Pause.)

24 Q I'm sorry, Andina. Are you okay?

25 A (Nods affirmatively.)

1 Q What happened next? After he shot?

2 A Anthony fell. And he grabbed his stomach. And I
3 asked him, I said -- I thought he -- I thought that
4 he got shot in the stomach, but I didn't know. I
5 was hoping that he just got shot in the leg.

6 I asked him, I said, "Are you okay?"

7 He said, "No, I got shot."

8 And I was like, "Where?"

9 He said, "My stomach."

10 And after that I didn't know what happened to
11 them because I was just trying to see what was
12 going on with him.

13 And I told -- his brother Josh came outside.

14 And I said, "Josh, call the ambulance."

15 And then I called the ambulance. And we were
16 just all trying to keep him still.

17 He kept asking me -- he kept asking me for
18 water. He was saying, "Water. Water."

19 I said -- and I told Josh to go in the house
20 and get him some water. We were waiting for the
21 ambulance to get there. And the ambulance took
22 like 15 minutes to get there in the first place.
23 And all the police were there and the ambulance
24 couldn't get through so they had to circle around
25 in the street. And it was all kind of like a blur

1 because it happened so fast. And I ended up
2 talking to -- getting pulled away talking to the
3 investigator before the ambulance got there. And
4 he was just asking me what happened.

5 And let me back up because one of the police
6 officers -- the guy that had initially hit Anthony
7 came back. And I was telling the officer, I was
8 like, "That is the guy right there."

9 And then he said, "Somebody take her in the
10 house."

11 And I was like -- I'm trying to tell them, you
12 know, and he ended up --

13 Q It wasn't Jamaal that you saw?

14 A No. And he ended up talking to the police and
15 everything, but they let him walk away. And I
16 didn't understand what was going on.

17 Q When you talked to the police that day, did you
18 give them a description of the person who shot
19 Anthony?

20 A Yes.

21 Q And do you remember what description you gave them?

22 A Yes.

23 Q And what was the description?

24 A That I -- I think I gave him his name. And then I
25 told him what he was wearing. He was wearing --

1 well, he had dreads and he was wearing --

2 Q He had dreads?

3 A He had dreads. And he was wearing an orange shirt,
4 some black pants and an orange and black hat.

5 Q And did you also give them a description of the
6 second person that joined in the fight?

7 A I don't think I did. If I did I don't remember.

8 Q Okay. Later that day you were able to give them
9 information about the shooter himself?

10 A Yes.

11 Q And later that day did you also give them -- did
12 they show you some photographs?

13 A Yes, they did.

14 Q To make sure that y'all were talking about the same
15 person?

16 A Yes.

17 Q I am going to show you what has been marked as
18 State's Exhibit Number 135. Do you recognize that?

19 A Yes.

20 Q And is that the photo line-up they showed you that
21 day?

22 A Uh-huh.

23 Q And when they showed you that photo line-up, it
24 didn't have any of the handwriting on it, did it?

25 A No, it didn't.

1 Q When you looked at those six photographs, did you
2 recognize anyone?

3 A Yes.

4 Q And who did you recognize?

5 A Number Five, Jamaal.

6 Q And is that the information you gave them?

7 A Yes.

8 Q And then after you had identified Number Five, did
9 you circle it and initial it?

10 A Uh-huh.

11 Q And sign at the bottom?

12 A Yes, ma'am.

13 MS. CAMPBELL: Your Honor, at this time we
14 would offer State's 135 in evidence.

15 THE COURT: Any objection?

16 MS. CLEARY: No objection.

17 THE COURT: All right, it will be admitted.

18 MS. CAMPBELL: Thank you.

19 (WHEREUPON, State's Exhibit No. 135 was
20 marked for identification and received
21 into evidence.)

22 Q That day did you go to the hospital?

23 A No. I was trying to go, but the police wouldn't
24 let me leave.

25 Q They wanted to talk to you about what you knew?

- 1 A (Nods affirmatively.) Yes.
- 2 Q At any point that day did Anthony ever have a gun?
- 3 A No. No.
- 4 Q And the person that pointed the gun not once but
- 5 twice and ultimately shot Anthony, was he the only
- 6 person other than you to touch that gun that day?
- 7 A Yes.
- 8 Q That day you gave a statement to the police about
- 9 what happened?
- 10 A Yes.
- 11 Q And then about four days later they came back and
- 12 talked to you again about following up on details,
- 13 is that correct?
- 14 A Yes.
- 15 Q And at that time did they show you another set of
- 16 photographs to see if you can identify the person
- 17 that came and helped Jamaal?
- 18 A Yes.
- 19 Q And I show you State's Exhibit Number 136. Do you
- 20 recognize the photograph there?
- 21 A Yes.
- 22 Q And at any time when they were talking to you and
- 23 showing you any photo line-ups, did they ever tell
- 24 you who to pick?
- 25 A No.

1 Q Did they tell you you had to identify someone?

2 A I don't think so.

3 Q Did they in any way help you in determining your
4 identification?

5 A No.

6 Q And at this point when they showed you on the 20th
7 this set of photographs, who did you recognize?

8 A Number Two.

9 Q Number Two?

10 A Uh-huh.

11 Q And who did you recognize him to be?

12 A The other person with Jamaal that day.

13 Q Okay. The other person with Jamaal?

14 A Yes.

15 MS. CAMPBELL: Your Honor, at this time I
16 would offer State's Exhibit 136 into evidence.

17 THE COURT: Any objection?

18 MS. CLEARY: No objection.

19 (WHEREUPON, State's Exhibit No. 136 was
20 marked for identification and received
21 into evidence.)

22 Q And this was the gentleman you didn't even know who
23 it was?

24 A No, I didn't know him.

25 Q Andina, when you were there that day, who started

1 the fight?

2 A To my knowledge, Jamaal.

3 Q Who was the first person to produce the weapon?

4 A Jamaal.

5 MS. CAMPBELL: Beg the Court's indulgence.

6 (Pause.)

7 Q The person that came from down the street with the
8 gun that pointed it at him and ultimately got it
9 back and shot him, do you see him here in the
10 courtroom?

11 A Yes.

12 Q Will you point him out for the jury?

13 A Him right there(indicating).

14 Q Seated at the table between his lawyers?

15 A Yes. Yes.

16 Q Has his appearance changed any?

17 A Yes.

18 Q Other than clothing? And how has his appearance
19 changed now?

20 A He lost weight and he is clean-shaven, his hair is
21 cut.

22 Q Is there any doubt that is the person?

23 A No.

24 Q Thank you, ma'am. Please answer any questions the
25 Defense may have.

1 MS. CLEARY: May it please the Court?

2 THE COURT: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY MS. CLEARY:

5 Q Ms. Lee?

6 A Yes, ma'am.

7 Q You weren't with Anthony the whole day that day,
8 were you?

9 A No.

10 Q About what time did y'all get back -- did you meet
11 up?

12 A The afternoon. I mean, I left his house in the
13 morning and left in the afternoon.

14 Q Okay. And you were sitting in the car with
15 Anthony?

16 A Yes.

17 Q Is that correct?

18 A Yes, ma'am.

19 Q And what were y'all doing in the car?

20 A Talking.

21 Q Okay. Was Anthony smoking marijuana in the car?

22 A Um, yes.

23 Q Now, you made two statements to the police, is that
24 correct?

25 A Yes, I did.

1 Q You made one immediately after on January 16th, is
2 that correct?

3 A Uh-huh.

4 Q And that was with Detective Matt Ellis?

5 A Yes.

6 Q Is that correct?

7 A Uh-huh.

8 Q Okay. Now, in that statement you said that Jamaal
9 said, "Yes, you bitch ass nigger, that's what I
10 want."

11 About how loud was he when he spoke that? Was
12 it loud?

13 A Yes, it was loud.

14 Q He was yelling?

15 A No, not yelling.

16 Q But it was loud?

17 A Loud enough for everybody to hear it.

18 Q It was loud enough for everybody to hear?

19 A Yes, ma'am.

20 Q Okay. All right. And you said -- just now when
21 you testified you said that Jamaal pulled out the
22 gun and pointed it towards lower -- towards
23 Anthony's lower body?

24 A (Nods affirmatively.)

25 Q So he didn't point it at his head?

1 A (Nods negatively.) No.

2 Q Okay. So Jamaal has his hand extended like this
3 and Anthony punches him in the face, is that
4 correct?

5 A No.

6 Q You never saw Anthony punch him in the face?

7 A No. I saw him punch him in the face, but before
8 that I saw him knock the gun out of his hand.

9 Q Oh, okay. So first Anthony knocked the gun out of
10 Jamaal's hand?

11 A Uh-huh.

12 Q Okay. And then he went and punched Anthony in the
13 face?

14 A Uh-huh. Well, no, he punched Jamaal in the face,
15 Anthony.

16 Q Anthony punched Jamaal in the face?

17 A Uh-huh.

18 Q Okay. So first he knocked the gun out of his hand?

19 A Uh-huh.

20 Q The gun is on the ground. And then he punched
21 Jamaal in the face?

22 A Uh-huh.

23 Q Okay. And it was a pretty hard punch?

24 A I'm not sure.

25 Q Okay. And then they started fist-fighting?

- 1 A Yes.
- 2 Q And who won the fight?
- 3 A I guess Jamaal did because he had assistance.
- 4 Q Okay. So you testified that Devan punched Anthony
- 5 some?
- 6 A Yes.
- 7 Q Is that correct?
- 8 A Yes.
- 9 Q And he punched him? Was Anthony on the ground when
- 10 he punched him?
- 11 A No, he didn't get on the ground until after Devan,
- 12 whoever his name is, punched him.
- 13 Q Okay. So after the fight was over --
- 14 A Uh-huh.
- 15 Q How did you know the fight was over?
- 16 A Because everybody stopped fighting.
- 17 Q Okay. And what was Jamaal doing at that point?
- 18 A I don't know. I wasn't paying attention to Jamaal.
- 19 Q Okay. But Anthony was still on the ground?
- 20 A Uh-huh. Trying to get up. And I was helping him
- 21 up. And --
- 22 Q Okay. So in your first statement on January 16th
- 23 you stated that Jamaal pulled out a gun, Amp
- 24 knocked it to the ground?
- 25 A Yes.

1 Q Okay. Okay. And then in that first statement you
2 told Detective Ellis that you picked up the gun?

3 A Yes, I did.

4 Q Okay. And about how far away was the gun at that
5 point? Where was the gun?

6 A Where he dropped it at. Well, where he got it
7 knocked out of his hand at.

8 Q About how far from where they were fighting?

9 A I don't know, but it wasn't --

10 Q It was close-by where they were fighting?

11 A No. It was like they were fighting on the other
12 side of the -- they got two driveways, and they
13 were fighting on the grass on the other side of the
14 driveway, and it was on the lawn like on the far
15 side of the lawn. So I don't know how many feet
16 that is, but it was --

17 Q Was it arm's reach --

18 A No.

19 Q -- from the fight?

20 A No, it was not.

21 Q No. Okay. So you walked over and picked up the
22 gun?

23 A Uh-huh, yes, ma'am, I did.

24 Q Okay. You told the police that when you picked up
25 the gun that you pointed it down at the ground, is

1 that correct?

2 A Uh-huh. Well, um, yes, it was.

3 Q And you even demonstrated for Detective Ellis that
4 you pointed it down at the ground?

5 A At the ground, yes, when I had it.

6 Q Okay. Is that true?

7 A Yes, that is true.

8 Q That is true?

9 A Uh-huh.

10 Q All right. So you never fired the gun? I mean,
11 you never pointed the gun at Devan?

12 A No, I didn't.

13 Q Okay. Now, in your first statement you didn't
14 tell --

15 A Yes.

16 Q -- Detective Ellis that you had pointed the gun at
17 Devan?

18 A No, because at the time I didn't think it was --
19 really mattered.

20 Q You didn't think it was important that you had
21 pointed a gun at someone in the middle of a fight?

22 A No. I didn't think it was important.

23 Q Were you just trying to keep yourself out of harm's
24 way or you were afraid they were going to charge
25 you with pointing a firearm?

1 A No, it didn't matter to me.

2 Q Okay. So you demonstrated that you pointed it
3 here, is that correct? In your first statement?

4 A Yes, when I had it, but that is before I told them
5 that I pointed it at Devan.

6 Q Okay. But you told them on January 20th, right?

7 A Yes.

8 Q Four days later that you had pointed it at Devan,
9 is that correct?

10 A Yes, I did.

11 Q And they had come back to speak to you because they
12 needed some additional information, is that
13 correct?

14 A Yes.

15 Q To your understanding?

16 A Right. To my understanding.

17 Q Okay. And so at that point then you tell them that
18 you picked up the gun and pointed it at Devan and
19 said, "Get the fuck back. Get the fuck back. Get
20 the fuck back," and that you specifically said in
21 your statement that you said that three times, is
22 that correct?

23 A I don't know.

24 Q Do you want to see your statement?

25 A No, I trust you.

1 Q Is that correct that you said that three times?

2 A Three times? I mean, I may have said it three
3 times. Do I know now if I said it three times?
4 No. That was almost a year ago.

5 Q Do you agree that that is what you said to the
6 police?

7 A Yes, I agree.

8 Q And that is the statement that you signed?

9 A Yes.

10 Q On January 20th?

11 A Yes.

12 Q Okay. But you didn't remember that on
13 January 16th, correct?

14 A No, because it was like right after it happened.

15 Q Okay.

16 A Okay.

17 Q So when you -- when you pointed the gun at Devan
18 and said that, what did Devan do?

19 A Come towards me.

20 Q He came towards you? Did he show a gun?

21 A No.

22 Q He didn't bring out a gun?

23 A No.

24 Q Okay. But then you threw the gun down?

25 A Uh-huh.

1 Q And where did you throw it down?

2 A I threw it towards the gate.

3 Q Okay. And you had said in your statement that you
4 threw it to your -- threw the gun down to your
5 left?

6 A Yes.

7 Q Are you left-handed?

8 A No.

9 Q Okay. But you just threw the gun from your right
10 hand off to the left?

11 A Yes.

12 Q Okay. And about how far was the gun did it land,
13 do you know?

14 A No, I didn't know.

15 Q Okay. So there is a fight going on, two people are
16 beating up on Anthony, you get the gun out of the
17 situation, and then you just throw it down?

18 A Yes.

19 Q For anybody to pick up? Is that correct? Was it
20 -- did you throw it a long distance?

21 A Long enough.

22 Q Did you -- you didn't bring it into the house to
23 get it away from the situation?

24 A No. I didn't feel like it was proper to bring a
25 gun in the house with children in there.

1 Q Okay. But you just left it there in the middle of
2 a fight?

3 A Yes.

4 Q For anybody to grab? Are you sure Jamaal didn't
5 snatch it back from you?

6 A I'm sure.

7 Q You just threw it down?

8 A Yes.

9 Q Where was Jamaal when he first showed the gun to
10 Anthony?

11 A Walking.

12 Q When he first approached him?

13 A Walking towards him from his friend's house.

14 Q And was he also walking towards where Devan was,
15 where the truck was?

16 A Yes.

17 Q Okay. Now, in your first statement on January 16th
18 you told Detective Ellis that Jamaal and Amp don't
19 like each other?

20 A Yes.

21 Q And you testified to that today?

22 A Yes.

23 Q And do you remember you told the officer that you
24 didn't know why they didn't like each other?

25 A Yes.

1 Q But you do know why they don't like each other?

2 A Isn't that hearsay?

3 Q Do you -- do you remember ever seeing Anthony with
4 a gun?

5 A No.

6 MS. CAMPBELL: Objection, Your Honor. May we
7 approach?

8 THE COURT: Yes, ma'am.

9 (WHEREUPON, a bench conference was held
10 in the presence of the jury but out of
11 the hearing of the jury.)

12 THE COURT: All right, ladies and gentlemen of
13 the jury, at this time there are some matters of
14 law that I need to take up with the attorneys, so
15 I am going to send you all out for about five
16 minutes. Your lunch may be back there. But I am
17 going to try to finish with this witness. If it
18 appears that it is going to take a little bit
19 longer, I will send word back for you to begin your
20 lunch.

21 Remember that you are not to discuss the case
22 amongst yourselves or with anyone during any break.

23 Thank you.

24 (WHEREUPON, the jury retires to the jury
25 room at 1:14 p.m.)

1 witness here questions regarding, does she know
2 anything about some altercation, because that -- at
3 this point that has -- I mean, I'm not sure how it
4 is linked in to this case, her sister having a gun
5 and any disagreement her sister had with Mr. --
6 with the victim, because nothing links that to the
7 Defendant having knowledge of it.

8 MS. CLEARY: So once I establish the link I
9 can call her back up, because I don't think they
10 are planning on calling Shanicka Lee, so I am.

11 THE COURT: Well, I'll consider that once the
12 victim establishes that link.

13 MS. CLEARY: All right.

14 THE COURT: All right. Let's bring them back
15 in and see if we can get finished, then they can
16 have lunch. They are probably going to be mad,
17 but...

18 (WHEREUPON, the jury came into open
19 court at approximately 1:26 p.m.)

20 THE BAILIFF: Your Honor, the jury is present.

21 THE COURT: All right. Yes, ma'am, you may
22 continue.

23 MS. CLEARY: Thank you.

24 CROSS-EXAMINATION CONTINUES

25 BY MS. CLEARY:

1 Q All right, Ms. Lee, you were -- after the fight,
2 you and Anthony were going back towards the house?

3 A Well, we were planning on it.

4 Q Okay. You were planning on it?

5 A Yes, ma'am.

6 Q And was your back to Jamaal?

7 A Yes. Mine was.

8 Q Okay. And then Jamaal didn't say anything?

9 A No.

10 Q Before he fired the weapon?

11 A Huh-uh, no, ma'am, he didn't.

12 Q And was this just seconds after the fight had
13 ended?

14 A Yes.

15 Q That this happened?

16 A Yes. This whole incident wasn't like it was five
17 minutes, it was like one to two minutes that all
18 this happened.

19 Q Okay. So I understand, it was very quick that
20 everything happened?

21 A Yes, ma'am.

22 Q Okay. And it is not your testimony that Jamaal
23 shot Anthony while he was on the ground?

24 A No.

25 Q He was -- he had had already gotten up?

- 1 A Uh-huh.
- 2 Q And y'all were trying to get away?
- 3 A Uh-huh.
- 4 Q Get away from the situation?
- 5 A Yes.
- 6 Q And then Jamaal didn't say anything at all?
- 7 A No.
- 8 Q But Anthony turned around to face him?
- 9 A Yes. We were -- somehow we got turned, and I don't
10 know how.
- 11 Q Somehow you got turned around? Okay. And let me
12 be clear. The truck -- the gray truck?
- 13 A Uh-huh.
- 14 Q That truck left before --
- 15 A Yes, before.
- 16 Q -- Anthony was shot?
- 17 A Anthony was shot. Before the fight was over.
- 18 Q Okay. So you were the only person there when the
19 shot -- when Anthony was actually shot?
- 20 A Yes. To my knowledge.
- 21 Q The three of you?
- 22 A Yes.
- 23 Q Anthony?
- 24 A Anthony.
- 25 Q Jamaal?

1 A And Jamaal.

2 Q And you?

3 A Yes.

4 Q All right. And then immediately after Jamaal shot
5 him, did he say anything then?

6 A No.

7 Q And he just ran off? At that point you were
8 focusing on Anthony, I understand?

9 A Yes, so I don't know.

10 Q Okay. Now, you testified just now that -- on
11 direct that you tried to protect Anthony by moving
12 him out of the way?

13 A Yes. Well, trying to move him out the way. I
14 mean, all this is -- it is like you are making it
15 seem like these are one actions after another. All
16 this is happening at the same time.

17 Q I understand. I understand. But is it in your
18 statement --

19 A Well --

20 Q -- to the police --

21 A It is like I'm in the middle, Jamaal is over here,
22 Anthony is behind me.

23 Q Anthony is behind you?

24 A Yes.

25 Q Okay. And you said in your statement to the police

1 that you pushed Anthony out of the way?

2 A I was trying to at least move him out of the way.
3 So I just didn't want them to start fighting
4 because I didn't -- I didn't think that Jamaal was
5 just going to up and shoot him like that in cold
6 blood or anything.

7 Q Okay. But when you saw that Jamaal had the gun,
8 then you pushed Anthony out of the way?

9 A Yes, I'm trying to push him out the way.

10 Q Okay. How much did Anthony weigh?

11 A About -- about like 180.

12 Q Okay. How much do you weigh?

13 A At the time I weighed 146.

14 Q Okay. And you pushed him away. Did he go -- fall
15 to the ground?

16 A No.

17 Q Or did you push him up?

18 A No, I didn't push him up, no.

19 Q Okay. And how long had you been dating Anthony?

20 A Eleven months.

21 Q Eleven months. And had y'all lived here the whole
22 time in Columbia?

23 A No.

24 Q And where else did y'all live?

25 A In California.

1 Q Okay. And Jamaal didn't say anything right before
2 he fired that weapon?

3 A No.

4 Q Okay.

5 MS. CLEARY: Beg the Court's indulgence.

6 (Pause.)

7 MS. CLEARY: That's all I have. Thank you.

8 THE COURT: All right. Anything else?

9 MS. CAMPBELL: No, ma'am, nothing else.

10 THE COURT: You may step down, ma'am.

11 (Witness steps down.)

12 THE COURT: Any objection to this witness
13 being excused?

14 MS. CAMPBELL: None from the State, Your
15 Honor.

16 THE COURT: All right. Ms. Cleary, any
17 objection?

18 MS. CLEARY: Yes.

19 THE COURT: All right. We will -- ma'am,
20 you'll still be -- is she -- you'll still be
21 under -- you are not excused, but you'll be -- you
22 can leave out of the courtroom at this time. All
23 right? Thank you.

24 All right, ladies and gentlemen of the jury,
25 this is a good time -- I'm sure you probably

1 witness stand, and state your full name for the
2 record.

3 THE WITNESS: Derrick Ezell Diamond.

4 THE COURT: All right, sir, I am going to get
5 you to speak into the microphone and speak loud and
6 clear so that the court reporter can understand
7 what you are saying, all right?

8 THE WITNESS: Derrick Ezell Diamond.

9 THE COURT: Thank you.

10 DERRICK E. DIAMOND,
11 after being duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. SIMPSON:

14 Q Derrick, can -- how old are you?

15 A Twenty.

16 Q And where do you work?

17 A On Garners Ferry.

18 Q What do you do there?

19 A Cook.

20 Q Cook? And are you in school or trying to get in
21 school?

22 A I'm getting into Claflin next semester.

23 Q And what are you going to be studying?

24 A Biology.

25 Q Biology?

1 A (Nods affirmatively.)

2 Q Maybe a little cooking on the side?

3 A (Nods affirmatively.)

4 Q Do you still -- are you from Columbia?

5 A Yes, ma'am.

6 Q Are you still living here?

7 A Yes, ma'am.

8 Q All right. And back on January 16th of 2010, the
9 day of this incident, where were you living?

10 A On [REDACTED].

11 THE COURT REPORTER: I'm sorry, I can't hear
12 you.

13 A At [REDACTED] [REDACTED] [REDACTED], Blythewood, South Carolina.

14 Q Yes, we'll have to get you to slow down a little
15 bit. I know you are probably nervous, but just
16 slow down so the court reporter can understand you.

17 Did you know the Defendant?

18 A No, ma'am.

19 Q Did you know of him?

20 A No, ma'am.

21 Q Did you know his sister?

22 A Yes, ma'am.

23 Q How did you know her?

24 A School.

25 Q Through school? But you never really hung out with

- 1 the Defendant?
- 2 A No, ma'am.
- 3 Q You just heard about him?
- 4 A No, I ain't really heard about him. I don't know
- 5 him.
- 6 Q Okay. Earlier that day back on January when this
- 7 happened, do you remember what you were doing?
- 8 A Yes, I was riding around in a truck.
- 9 Q Okay.
- 10 A And my best partner came and picked me up and he
- 11 took me to the store to get some cigarettes and
- 12 chips and stuff.
- 13 Before he got there, we picked up a little
- 14 dude named Devan Bailey.
- 15 Q Okay. And you said your best partner. Who is
- 16 that?
- 17 A Quinton Emerson.
- 18 Q And by best partner, is he your good friend?
- 19 A Yes, ma'am.
- 20 Q And so he came and picked you up earlier that day?
- 21 A Yes, ma'am.
- 22 Q And then you said you picked up someone else?
- 23 A (Nods affirmatively.)
- 24 Q Who was that?
- 25 A Devan Bailey.

1 Q Devan Bailey. And did you know Devan?

2 A Yes, ma'am.

3 Q How did you know Devan?

4 A Went to school.

5 Q Went to school? Where did y'all go to school
6 together?

7 A Blythewood High School.

8 Q And when did you graduate?

9 A 2010.

10 Q Ten. So that year -- this was before you
11 graduated?

12 A (Nods affirmatively.)

13 Q Now, once you picked up Devan, you picked him up
14 before y'all went to get something to eat?

15 A Yes, ma'am.

16 Q Who would you say was in charge of kind of
17 directing where you were going and what you were
18 doing?

19 A He would, Devan.

20 Q Devan was?

21 A (Nods affirmatively.)

22 Q And when did you first see the Defendant on that
23 day?

24 A At the gas station.

25 Q The gas station?

- 1 A (Nods affirmatively.)
- 2 Q And do you remember where he was or what he was
- 3 driving in when you got there?
- 4 A I just seen him outside around a red truck. I
- 5 ain't really see him. When we came back he was
- 6 gone.
- 7 Q Okay. And you said when y'all came back -- did you
- 8 go into the store?
- 9 A Yes, I went in the store.
- 10 Q And you said to get food?
- 11 A (Nods affirmatively.)
- 12 Q What happened -- and let me back up just a little
- 13 bit. You said when you came out the Defendant was
- 14 actually gone?
- 15 A Yes, he was gone.
- 16 Q And the red truck was gone too?
- 17 A Yes, ma'am.
- 18 Q And when you came back out, what happened next?
- 19 Where did y'all go?
- 20 A I don't -- I don't know the name of it, the
- 21 neighborhood, but it -- Vineyard something,
- 22 something like that.
- 23 Q Did y'all go directly there or did you go to
- 24 another gas station first?
- 25 A No, we went directly there.

- 1 Q Okay. At some point did y'all end up at the BP?
- 2 A Yes, ma'am.
- 3 Q Because Devan needed to meet somebody?
- 4 A Well, that is what he said, but I went back in the
- 5 store.
- 6 Q Okay. So you went to the BP?
- 7 A Yes, ma'am.
- 8 Q Too. And that guy, was he there? You didn't know
- 9 him, right?
- 10 A I don't know. I didn't see him.
- 11 Q And then who told you to go to Vineyards?
- 12 A Devan.
- 13 Q Devan did? Now, do you live in the Vineyards
- 14 Crossing?
- 15 A No, ma'am.
- 16 Q Did Quinton live in the Vineyards Crossing?
- 17 A No, ma'am.
- 18 Q Did Devan live there?
- 19 A No, ma'am.
- 20 Q And what is the Vineyards, is it a subdivision?
- 21 A It is a neighborhood.
- 22 Q It is a neighborhood? And who was giving you the
- 23 directions?
- 24 A Devan.
- 25 Q Devan? When you got to the Vineyards as y'all were

1 coming in, what did you see? Or who did you see?

2 A I seen the Defendant standing in the road.

3 Q In the road? And this was the same guy that you

4 had seen earlier?

5 A Yes, ma'am.

6 Q In that red truck?

7 A Yes, ma'am.

8 Q And what did he do?

9 A Asked us to give him a ride to his house.

10 Q Okay. And so did he get in the truck with y'all?

11 A Yes, ma'am. He didn't get in the truck, he got in

12 the back of the truck.

13 Q In the back of the truck?

14 A Yes, ma'am.

15 Q And his house, was it in the Vineyards Crossing

16 neighborhood?

17 A No, ma'am.

18 Q Did y'all have to go somewhere else?

19 A Yes, ma'am.

20 Q Do you remember where you went or you just know you

21 went to his house?

22 A I just know I went to the house. I don't know

23 where it was.

24 Q And who was directing you at this point?

25 A Devan.

1 Q Devan? Now, after the Defendant got into the truck
2 and y'all went to his house, what did he do?

3 A He went back to the other neighborhood.

4 Q Well, let me back up just a minute. Did the
5 Defendant get out at his house?

6 A Yes, ma'am.

7 Q Did he go in his house?

8 A Yes, ma'am.

9 Q And did he say anything when he was getting out?
10 What was he going to get?

11 A He said something about a tool, but I ain't never
12 seen no gun.

13 Q And you didn't see the gun?

14 A No, ma'am.

15 Q But he said he was going to get his tool?

16 A Yes, ma'am.

17 Q And what do you know a tool to be?

18 A A gun.

19 Q A gun?

20 A (Nods affirmatively.)

21 Q And did y'all leave him there or did he come back
22 out?

23 A He came back out.

24 Q He came back out? And then where did y'all go?

25 A Vineyards Crossing.

- 1 Q Back where y'all had been before?
- 2 A (Nods affirmatively.)
- 3 Q Was the Defendant still in the back of the truck?
- 4 A Yes, ma'am.
- 5 Q He jumped back in? Now, y'all go back to the
- 6 Vineyards Crossing. What happened when y'all got
- 7 there this time?
- 8 A We let him back out the truck and we pulled off.
- 9 Q Okay. You let him back out? Do you remember where
- 10 you let him out? Was there something in the
- 11 driveway?
- 12 A It was a truck in the driveway, the same truck I
- 13 seen.
- 14 Q Okay. And I'm going to back up just a little bit.
- 15 While all this is going on and Devan is directing
- 16 you, when you were first at the Vineyards, did
- 17 y'all think y'all both would stay there and hang
- 18 out?
- 19 A No, ma'am.
- 20 Q What did y'all think you were going to do?
- 21 A Drop him off.
- 22 Q Drop him off?
- 23 A (Nods affirmatively.)
- 24 Q And you didn't know what was about to happen?
- 25 A No, ma'am.

1 Q You just thought y'all were going to smoke a little
2 weed and kind of hang out?

3 A Yes, ma'am.

4 Q So the Defendant got out. What happened when y'all
5 dropped him off? Did y'all leave?

6 A Yeah, we got -- we left. We were pulling out, and
7 then Devan told us to turn back around because he
8 forgot something.

9 Q He forgot something? And when y'all pulled back
10 around, did you go to that exact spot or did you
11 stop somewhere else?

12 A No. We stopped somewhere else.

13 Q In front of a different house?

14 A Yes, ma'am.

15 Q This wasn't the same house with the red truck?

16 A No, ma'am.

17 Q And did you know whose house that was?

18 A No, ma'am.

19 Q When you got there, was there a car in the
20 driveway?

21 A Yes, ma'am.

22 Q And just so we can be clear, and the truck at this
23 point, who is in the truck when y'all pull back
24 around and stop in the driveway?

25 A Me, Quinton and Devan.

- 1 Q And Devan. The Defendant is at the house. So
2 after y'all stop, tell us a little bit about what
3 happened next.
- 4 A When we stopped, Devan said --
- 5 MS. CLEARY: I object.
- 6 A When we stopped Devan said --
- 7 THE COURT: Hold on. Hold on one second.
- 8 MS. CLEARY: I object to any hearsay as to
9 what Devan said.
- 10 THE COURT: All right.
- 11 MS. SIMPSON: Your Honor, if I may approach?
12 (WHEREUPON, a bench conference was held
13 in the presence of the jury but out of
14 the hearing of the jury.)
- 15 THE COURT: The objection is overruled.
- 16 Q Derrick, I want to back up just a second. You
17 parked there. And you said there was a guy in the
18 driveway. What did Devan say?
- 19 A He said that was his cousin, the dude in the
20 driveway.
- 21 Q Devan said that?
- 22 A Yes, ma'am.
- 23 Q And then what did the Defendant do?
- 24 A The dude -- the guy in the driveway ran down the
25 hill. He ran -- well, he ran down the hill. That

1 is when the Defendant came from up the street and
2 he pulled out the gun and he put it in his face.

3 And the dude --

4 Q Let me stop you just for a second. So the
5 Defendant pulled out the gun, Jamaal Hinson?

6 A Uh-huh.

7 Q Pulled out the gun and stuck it in this other guy's
8 face?

9 A Not --

10 Q Now, you didn't know this other guy, right?

11 A Not -- no, not exactly in his face. He pulled it
12 out.

13 Q He pulled it out?

14 A Yes.

15 Q And what happened next?

16 A The guy hit him, the one that ran down the hill.

17 Q He hit him?

18 A Uh-huh.

19 Q Did you see the gun after that, or what did you
20 see?

21 A I seen the gun fall down, and they started
22 fighting?

23 Q They started fighting?

24 A (Nods affirmatively.)

25 Q And as they were fighting, were they both hitting

- 1 and swinging and punching?
- 2 A Uh-huh.
- 3 Q And so what happened next as they were fighting?
- 4 What did you see?
- 5 A I seen a girl that was out there.
- 6 Q You saw a girl?
- 7 A Yes. She picked up the gun and started pointing it
- 8 at Devan Bailey.
- 9 Q Okay, let's back up a little second, because at
- 10 some point -- at what point did Devan get out of
- 11 the truck?
- 12 A He got out of the truck when he first pulled up.
- 13 Q Okay. So he got out when you first pulled up?
- 14 A (Nods affirmatively.)
- 15 Q And about how far away was he from the fight
- 16 initially?
- 17 A He was right there beside the fight.
- 18 Q Just right there beside it? And at some point did
- 19 he kind of jump in the fight?
- 20 A Yes.
- 21 Q Was he over there fighting too?
- 22 A He hit him twice.
- 23 Q He hit who twice?
- 24 A The boy that is deceased.
- 25 Q Okay, the boy in the driveway. And so he hit him

1 twice. And we've got -- right now we've got Devan,
2 the victim, and then the guy you've been driving
3 around?

4 A (Nods affirmatively.)

5 Q The Defendant, Jamaal?

6 A (Nods affirmatively.)

7 Q And they are out in there in the yard?

8 THE COURT REPORTER: You need to answer.

9 Q And Jamaal picked up the gun?

10 THE COURT REPORTER: He needs to answer
11 verbally.

12 Q Is that who --

13 A Yes, ma'am.

14 Q Okay. And what happened after the girl picked up
15 the gun?

16 A She pointed it at him.

17 Q At who?

18 A At Devan.

19 Q At Devan? Do you remember if she said anything or
20 could you hear very well?

21 A She told him if he moved again she was going to
22 shoot him.

23 Q And did he back up?

24 A Yes, he backed up.

25 Q Backed up?

- 1 A (Nods affirmatively.)
- 2 Q And during this time when the gun is out, do you
- 3 remember the Defendant saying something to Devan?
- 4 A No, ma'am. Well, yes, ma'am.
- 5 Q What exactly?
- 6 A He said, "Get him."
- 7 Q He said, "Kill him"?
- 8 A He said, "Get him." He didn't say, "Kill him."
- 9 Q Get him. Did he say, "Bust him"?
- 10 A Yes, ma'am.
- 11 Q And do you know that to mean shoot him?
- 12 A Yes, ma'am.
- 13 Q And what did Devan do when the Defendant said,
- 14 shoot him?
- 15 A Nothing.
- 16 Q Nothing?
- 17 A (Nods negatively.)
- 18 Q Did he act like he was going to shoot him or wanted
- 19 to shoot him?
- 20 A He ran towards that way.
- 21 Q He ran towards them?
- 22 A Towards the girl that had the gun.
- 23 Q Okay. And what did you see next?
- 24 A Nothing.
- 25 Q Nothing?

- 1 A (Nods affirmatively.)
- 2 Q What did y'all do?
- 3 A Left.
- 4 Q You left? You pulled off?
- 5 A Yes, ma'am.
- 6 Q And when you pulled off, who was in the truck?
- 7 A Me and Quinton.
- 8 Q You and Quinton?
- 9 A Yes, ma'am.
- 10 Q And when you went out there, Devan wasn't in the
- 11 truck?
- 12 A No, ma'am.
- 13 Q At this point? Did you see a gunshot?
- 14 A No, ma'am.
- 15 Q Did you hear one?
- 16 A Yes, ma'am.
- 17 Q And what happened after you heard the gunshot?
- 18 What did you do?
- 19 A I looked back and everybody was gone except Devan.
- 20 Devan was running behind the truck. But everybody
- 21 else was gone. And the little dude, the boy that
- 22 got shot was laying down on the ground holding his
- 23 side.
- 24 Q Holding his side? So Devan was chasing after
- 25 y'all?

- 1 A Yes, ma'am.
- 2 Q Did y'all let him in, stop and pick him up?
- 3 A No, ma'am.
- 4 Q And why didn't you pick him up?
- 5 A Because, he pulled something slick that I didn't
- 6 know nothing about.
- 7 Q So y'all didn't know you were going out there and
- 8 they were going to do that?
- 9 A (Nods negatively.)
- 10 Q What were you thinking while all this was
- 11 happening?
- 12 A I wasn't thinking. All type of stuff.
- 13 Q All type of stuff?
- 14 A Yes, ma'am.
- 15 Q Were you glad to be in that situation?
- 16 A No, ma'am.
- 17 Q Did you ever see the Defendant again?
- 18 A No, ma'am.
- 19 Q And the point in which you saw him with a gun, that
- 20 is when he walked up to the victim, the guy you
- 21 didn't know, and pulled it out, right?
- 22 A No, the guy ran down the hill, then he pulled it
- 23 out.
- 24 Q Ran down the hill?
- 25 A Yes, ma'am.

1 Q And then that is when the Defendant pulled out the
2 gun?

3 A Yes, ma'am.

4 Q And he pointed it at him?

5 A (Nods affirmatively.)

6 Q And you said he was about how far away, arm's
7 length away?

8 A Yes, ma'am.

9 Q So just like this?

10 A (Nods affirmatively.)

11 Q And you didn't see the other guy pull out a gun,
12 right?

13 A No, ma'am.

14 Q And I know it has been a while, but do you remember
15 what Jamaal was wearing on that day?

16 A No, ma'am.

17 Q But did you know at the time? Were you able --

18 A Yes, ma'am.

19 Q -- to give a description about what he had? And
20 you also -- you know Devan and you saw him too?

21 A Yes, ma'am.

22 Q That day. And do you remember what he was wearing
23 at that time?

24 A No, ma'am.

25 Q No. But did you remember back then?

- 1 A Yes.
- 2 Q And you told law enforcement? Now, just so the
- 3 jury is clear, no one else was outside when the
- 4 shooting took place except for Jamaal, the guy in
- 5 the red shirt that you didn't know, Devan, and the
- 6 girl, right?
- 7 A Yes, ma'am.
- 8 Q You and Quinton stayed in the truck?
- 9 A Yes, ma'am.
- 10 Q The whole time? Did you talk to Devan again?
- 11 A I talked to him the day after.
- 12 Q The day after? And without telling me what he told
- 13 you, did he ever tell you what happened?
- 14 A No, ma'am.
- 15 Q Or why it happened?
- 16 A No, ma'am.
- 17 Q Where did you go -- where did you and Quinton go
- 18 after you left?
- 19 A To the house.
- 20 Q To the house?
- 21 A (Nods affirmatively.)
- 22 Q Did y'all go to same house or did you go to your
- 23 house?
- 24 A I went to my house and he went to his.
- 25 Q Okay. I am going to back up just a little bit. Do

1 you remember -- you actually talked with law
2 enforcement, right? They came and talked to you?

3 A They didn't come to talk to me. Devan brought the
4 Richland County car to my house.

5 Q Okay. So they talked to you there?

6 A Yes, ma'am.

7 Q And when they talked to you, they showed you a map?

8 A Yes, ma'am.

9 Q Do you remember that? I'm showing you what is
10 marked as State's Exhibit 142.

11 MS. CLEARY: No objection.

12 Q Do you recognize this?

13 A Yes, ma'am.

14 Q Okay. And what is it?

15 A That is -- when we first got there and we turned
16 around to leave, and that is the house we pulled in
17 front of.

18 Q Okay. So this is the map you were asked to tell
19 the directions, right?

20 A Yes, ma'am.

21 Q And on that map, I know it is small and we don't
22 have a big one, but it is indicated on here where
23 you stopped the first time, right?

24 A Yes, ma'am.

25 Q And then you drew how y'all pulled around and then

1 pulled in front of the other house?

2 A Yes, ma'am.

3 Q Where the guy was. And you also showed where y'all
4 pulled off and left the subdivision, right?

5 A Yes, ma'am.

6 Q And the place where you last saw Devan?

7 A Yes, ma'am.

8 MS. SIMPSON: Your Honor, at this time the
9 State seeks to introduce 142, I believe the Defense
10 says without objection.

11 THE COURT: Any objection?

12 MS. CLEARY: No objection.

13 THE COURT: All right, it will be entered.

14 (WHEREUPON, State's Exhibit No. 142 was
15 marked for identification and received
16 into evidence.)

17 MS. SIMPSON: Permission to publish?

18 THE COURT: Yes.

19 (WHEREUPON, State's Exhibit 142 was
20 published to the jury.)

21 BY MS. SIMPSON:

22 Q And in addition to telling law enforcement where
23 you went, they showed you some pictures, right?

24 A Yes, ma'am.

25 Q Okay. And let me back up too. Jamaal, he had been

1 in the car with you during that day some, right?

2 A Yes, ma'am.

3 Q You had taken him to his house?

4 A Yes, ma'am.

5 Q Y'all went back to the Vineyards. So you saw him?

6 A Yes, ma'am.

7 Q All right. And you knew what he looked like?

8 A Yes, ma'am.

9 Q Spent a good deal of time with him?

10 A Yes, ma'am.

11 Q And I am showing you what has been marked as
12 State's Exhibit 139. Do you remember being shown
13 these pictures?

14 A Yes, ma'am.

15 Q And when it was shown to you, there wasn't any
16 writing on there, was there?

17 A No, ma'am.

18 Q Okay. And when law enforcement gave it to you, did
19 they ask you if you knew anybody?

20 A Yes, ma'am.

21 Q And did you in fact know somebody?

22 A Yes, ma'am.

23 Q And who did you pick?

24 A The person I was with earlier.

25 Q That you were with earlier?

1 A Yes, ma'am.

2 Q And was that the person who was fighting?

3 A Yes, ma'am.

4 Q The victim? And did you mark that in some way?

5 A Yes, ma'am.

6 Q And then you circled it?

7 A Yes, ma'am.

8 Q And then is that your initials there?

9 A Yes, ma'am.

10 MS. SIMPSON: Your Honor, at this time the
11 State would seek to introduce 139.

12 MS. CLEARY: No objection.

13 THE COURT: All right.

14 (WHEREUPON, State's Exhibit No. 139 was
15 marked for identification and received
16 into evidence.)

17 Q And did you know Jamaal's name? Did you know him
18 as Jamaal?

19 A No, ma'am.

20 Q Did you know him as another name or he was just
21 some guy?

22 A No, ma'am.

23 Q Some guy y'all were riding around with hanging out?

24 A Yes, ma'am.

25 Q And that guy I know looks a little different today,

1 but the person that you saw fighting with the guy
2 in the red shirt, the person with the gun, is he in
3 the courtroom here today?

4 A Yes, ma'am.

5 Q And do you see him?

6 A Yes, ma'am.

7 Q Can you point him out for the jury?

8 A (Indicates.)

9 Q And is he sitting between his lawyers?

10 A Yes, ma'am.

11 Q In a suit?

12 A Yes, ma'am.

13 Q What about him looks differently than when you saw
14 him back then? Is his hair different?

15 A Yes, ma'am.

16 Q What did he have back in January?

17 A A little twist.

18 Q A little twist? A little dreads?

19 A Yes, ma'am.

20 MS. SIMPSON: Your Honor, let the record
21 reflect that the witness has identified the
22 Defendant.

23 THE COURT: All right. The record will
24 reflect that.

25 Q I will show you one more set of pictures. Do you

- 1 remember law enforcement showing you this?
- 2 A Yes, ma'am.
- 3 Q And when they showed it to you, did you know
- 4 anybody?
- 5 A Yes, ma'am.
- 6 Q And were you able to pick somebody out of it?
- 7 A Yes, ma'am.
- 8 Q And who did you pick? Number Two?
- 9 A Yes, ma'am.
- 10 Q And who did you know Number Two to be?
- 11 A Devan.
- 12 Q Devan Bailey?
- 13 A Yes, ma'am.
- 14 Q And you knew him before, right?
- 15 A Yes, ma'am.
- 16 Q And he was the one in the truck with you?
- 17 A Yes, ma'am.
- 18 Q And he is the person who got out?
- 19 A Yes, ma'am.
- 20 Q Too? And you circled that, right?
- 21 A Yes, ma'am.
- 22 Q And you marked it?
- 23 A Yes, ma'am.
- 24 Q And that is the person, he actually hit Anthony
- 25 maybe twice?

1 A Yes, ma'am.

2 Q Knocking him to the ground, or hit him?

3 A Yes, ma'am.

4 MS. SIMPSON: Your Honor, the State would seek
5 to introduce State's Exhibit Number 140 into
6 evidence.

7 THE COURT: Any objection?

8 MS. CLEARY: No objection.

9 (WHEREUPON, State's Exhibit No. 140 was
10 marked for identification and received
11 into evidence.)

12 BY MS. SIMPSON:

13 Q And so you saw Jamaal with a gun -- the Defendant
14 with a gun?

15 A Yes, ma'am.

16 Q And you never saw the guy in the red shirt with a
17 gun?

18 A I didn't see him with one.

19 Q Thank you.

20 THE COURT: Please answer any questions from
21 Ms. Cleary.

22 MS. CLEARY: Thank you. May it please the
23 Court?

24 CROSS-EXAMINATION

25 BY MS. CLEARY:

- 1 Q Mr. Diamond?
- 2 A Yes, ma'am.
- 3 Q You testified that you are not friends with Jamaal,
- 4 correct?
- 5 A Yes, ma'am. No, ma'am.
- 6 Q And you really didn't even know him at all?
- 7 A No, ma'am.
- 8 Q Okay. And you were in the passenger's side of the
- 9 gray truck?
- 10 A Yes, ma'am.
- 11 Q And Quinton was driving?
- 12 A Yes, ma'am.
- 13 Q And where was Jamaal after y'all picked him up?
- 14 A In the back of the truck.
- 15 Q In the back --
- 16 A In the bed of the truck.
- 17 Q -- of the truck?
- 18 A Yes, ma'am.
- 19 Q Okay. Did you have the windows up?
- 20 A Yes, ma'am.
- 21 Q In the truck? It was January?
- 22 A Yes, ma'am.
- 23 Q Cold? Okay. So you did have the windows up?
- 24 A Yes, ma'am.
- 25 Q Now, you testified that you saw the guy who -- the

1 guy in the red?

2 A Yes, ma'am.

3 Q Not Jamaal, Anthony, that you saw Anthony running
4 down the driveway?

5 A Yes, ma'am.

6 Q Was he running towards the street?

7 A No, ma'am.

8 Q Who was he running towards?

9 A Jamaal.

10 Q He was running towards Jamaal?

11 A Yes, ma'am.

12 Q Okay. And then at that point you saw Jamaal take
13 out his weapon?

14 A Yes, ma'am.

15 Q And he -- how did he point it? Did he point it
16 at --

17 A Yes, he pointed it.

18 Q And he could have shot Anthony right then?

19 A He could have, yes, ma'am.

20 Q Okay. Now -- and you saw Anthony hit Jamaal really
21 hard?

22 A Yes, ma'am.

23 Q Okay. And in your statement to the police you said
24 that Jamaal's face started to swell up?

25 A Yes, ma'am.

1 Q So it was a very hard punch, is that correct?

2 A Yes, ma'am.

3 Q Okay. And then they commenced to fighting,
4 fist-fighting?

5 A Yes, ma'am.

6 Q And do you know how the gun got on the ground?

7 A I guess he dropped it after he hit him.

8 Q Okay. But you're not really sure --

9 A No, ma'am.

10 Q -- whether he dropped it or Anthony knocked it out?
11 I understand. Everything is happening really fast,
12 is that right?

13 A Yes, ma'am.

14 Q Okay. Now, did you -- when you saw Anthony storm
15 up to Jamaal, did you hear Jamaal say anything to
16 Anthony?

17 A No, ma'am.

18 Q Okay. Did you hear anybody say anything at all?

19 A No, ma'am.

20 Q Now, the last person that you saw with the gun was
21 Andina, is that correct?

22 A I don't know her name, but it was a girl.

23 Q Okay. It was a girl. All right. Okay, now you
24 just testified that Jamaal told Devan to, get him?

25 A Yes, ma'am.

1 Q Okay. Now, did you have the windows down in the
2 car at this point or were you outside of the car?

3 A The driver's side window was let down at this
4 point.

5 Q Okay. So you were able to hear?

6 A Yes, ma'am.

7 Q Okay. So in the midst of the fight you heard
8 Jamaal say, get him?

9 A Yes, ma'am.

10 Q Did you hear him say, "Get him," or, "Bust him"?

11 A Bust him.

12 Q Okay. So it was bust him. Okay. But Devan -- did
13 you see Devan with a gun?

14 A No, ma'am.

15 Q When Jamaal supposedly said that to Devan, who had
16 the gun?

17 A The girl did.

18 Q The girl had the gun?

19 A Yes, ma'am.

20 Q Okay. Now, do Jamaal and Anthony, do they look
21 similar at all?

22 A No, ma'am.

23 Q Not at all. Okay. In the midst of the fight, were
24 they on the ground when Jamaal said this?

25 A Yes, ma'am.

1 Q Okay. And do you know who was on top and who was
2 on the bottom?

3 A No, ma'am.

4 Q Okay. But you -- and you don't know Jamaal --

5 A No, ma'am.

6 Q -- personally? Had you ever talked to Jamaal
7 before this day?

8 A No, ma'am.

9 Q Okay. And let me just -- let me just make sure.
10 The person that you saw -- and did you know
11 Anthony?

12 A No, ma'am.

13 Q Okay. But the person that you now understand is
14 Anthony, you saw him storm towards Jamaal?

15 A Yes, ma'am.

16 Q Okay.

17 MS. CLEARY: That's all I have.

18 MS. SIMPSON: Brief redirect, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. SIMPSON:

21 Q When you first got there, though, the windows were
22 up, right?

23 A Yes, ma'am.

24 Q When the Defendant or when Jamaal pulled out the
25 gun, those windows were up?

- 1 A Yes, ma'am.
- 2 Q But when you actually heard him later, the
- 3 windows -- the driver's side window was down?
- 4 A Yes, ma'am.
- 5 Q So you could hear?
- 6 A Yes, ma'am.
- 7 Q And you heard Jamaal say, "Bust him," right?
- 8 A Yes, ma'am.
- 9 Q Are you sure about that?
- 10 A Yes, ma'am.
- 11 Q And on the fight, I know its been almost two years,
- 12 but at some point after the Defendant punched -- or
- 13 after the guy in the red shirt punched Jamaal and
- 14 the gun fell to the ground, do you remember a point
- 15 where Jamaal was actually on top of the guy in the
- 16 red?
- 17 A No, ma'am.
- 18 Q Hitting him? You don't remember that?
- 19 A Not that I recall, no, ma'am.
- 20 Q You don't recall it now, but you might have said
- 21 it --
- 22 A Yes, ma'am.
- 23 Q -- earlier? And you remember giving a statement in
- 24 this case, right?
- 25 A Yes, ma'am.

1 Q Like I said, it has been a couple of years since
2 this happened, right? And this statement was given
3 back on January 19th?

4 A Yes, ma'am.

5 Q When law enforcement talked to you. And can you
6 just read the highlighted portion?

7 A "After he punched Jamaal, the gun fell to the
8 ground and they locked up and began tussling. They
9 was both ended up on the ground and Jamaal was down
10 on top of him and had him by his throat. Jamaal
11 was hitting him about his face saying, 'What's up,
12 nigga.'"

13 Q All right. And that is from your statement back in
14 January, when this would have been a little more
15 fresh in your mind, right?

16 A Uh-huh.

17 Q And you never saw the guy in the red shirt pull out
18 a gun?

19 A No, ma'am.

20 Q That was only the Defendant?

21 A Yes, ma'am.

22 MS. SIMPSON: No further questions.

23 THE COURT: Yes, ma'am?

24 RECROSS-EXAMINATION

25 BY MS. CLEARY:

1 Q Mr. Diamond, when you heard Jamaal say, "What's up
2 nigger" --

3 A Yes, ma'am.

4 Q -- that was at the point that they were
5 fist-fighting on the ground?

6 A Yeah, I guess so, yes, ma'am.

7 Q And Jamaal was punching?

8 A Yes, ma'am.

9 Q And -- but you never heard Jamaal say anything when
10 he had the gun in his hand?

11 A No, ma'am.

12 Q Is that what you just testified? Okay. Thank you.

13 THE COURT: All right, sir, you may step down.

14 (Witness steps down.)

15 THE COURT: Any objection to this witness
16 being excused?

17 MS. SIMPSON: No, Your Honor.

18 MS. CLEARY: No, Your Honor.

19 THE COURT: Sir, you may be excused.

20 (Witness excused.)

21 THE COURT: Please call your next witness.

22 MS. CAMPBELL: Your Honor, may we approach?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, a bench conference was held
25 in the presence of the jury but out of

1 the hearing of the jury.)

2 MS. CAMPBELL: The State would call Quinton
3 Emerson.

4 THE BAILIFF: Raise your right hand, place
5 your left hand on the Bible, and face the clerk.

6 (Witness complies.)

7 THE CLERK: Do you swear or affirm the
8 testimony you shall give in this case will be the
9 truth, the whole truth, and nothing but the truth,
10 so help you God?

11 THE WITNESS: Yes, I do.

12 THE COURT: Thank you. Please have a seat in
13 the witness stand, and please state your full name
14 for the record.

15 THE COURT: Sir, please speak into the
16 microphone so that the court reporter can take down
17 everything that you are saying, all right?

18 THE WITNESS: Okay.

19 THE COURT: Thank you. Just like that.

20 THE WITNESS: Quinton Howard Emerson, III.

21 QUINTON H. EMERSON, III,
22 after being duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q Mr. Emerson, how old are you?

- 1 A Twenty-two.
- 2 Q And are you working now?
- 3 A I'm self-employed as an electrician.
- 4 Q As an electrician?
- 5 A Yes.
- 6 Q And how long have you been an electrician?
- 7 A For about four years now.
- 8 Q Did you go to high school here in Columbia?
- 9 A No.
- 10 Q Where were you from originally?
- 11 A Chester.
- 12 Q Chester, South Carolina?
- 13 A Yes.
- 14 Q And you grew up in Chester?
- 15 A Yes.
- 16 Q Did you go to high school in Chester?
- 17 A Yes.
- 18 Q And when did you move to Columbia?
- 19 A Probably not even a whole year -- not even a whole
- 20 year before the whole incident happened.
- 21 Q So you had been here about a year. That would be
- 22 January of 2009 approximately?
- 23 A Yes.
- 24 Q And do you know Derrick Diamond?
- 25 A Yes.

- 1 Q And how do you know Derrick?
- 2 A I met him and everyone else in Blythewood through
- 3 my little -- younger brother.
- 4 Q Through your younger brother?
- 5 A Yes.
- 6 Q And how did your younger brother know Derrick?
- 7 A Through school.
- 8 Q Through school?
- 9 A Yes.
- 10 Q And that would be Blythewood High School?
- 11 A Yes.
- 12 Q And did your younger brother attend Blythewood High
- 13 School?
- 14 A Yes, he did.
- 15 Q Do you know the Defendant in this case, Jamaal
- 16 Hinson?
- 17 A No.
- 18 Q And prior to today when we are getting ready to
- 19 talk about, January 16th, did you know him at all?
- 20 A No.
- 21 Q Did you know Devan Bailey?
- 22 A No.
- 23 Q And did any of your family members know Devan
- 24 Bailey?
- 25 A Yes, my brother did.

1 Q And that is your brother that attended Blythewood
2 High School?

3 A Yes.

4 Q I want to turn your attention back to the late
5 morning, mid-afternoon hours of January 16th when
6 all this happened. Do you remember that day?

7 A I can recall some of the day, but not all of it.

8 Q Okay. That day, were you driving a certain
9 vehicle?

10 A Yes.

11 Q And what were you driving that day, sir?

12 A I was driving my vehicle, a gray S10 Chevrolet
13 truck.

14 Q A truck? Is that like a pickup truck or a SUV or
15 what?

16 A A pickup truck.

17 Q And when you started out in that truck that day,
18 who did you meet up with, which friend of yours?

19 A I met with Derrick.

20 Q With Derrick? And how did you meet up with Derrick
21 that day?

22 A My brother had told me that he needed a ride to the
23 store to get something to eat, and he was going to
24 give me gas money, so I said okay, you know.

25 Q And where did Derrick live?

- 1 A He lived on Fulmer Road.
- 2 Q Fulmer Road?
- 3 A Yes.
- 4 Q In the Blythewood area?
- 5 A Yes.
- 6 Q And that day -- and for the record, you didn't live
- 7 on Fulmer Road, did you?
- 8 A No.
- 9 Q What area of town do you live in?
- 10 A On Pine Grove Road.
- 11 Q On Piney Grove?
- 12 A Pine Grove.
- 13 Q Pine Grove, excuse me. Is that also in Blythewood?
- 14 A Yes.
- 15 Q And that day, did you go and pick up Derrick?
- 16 A Yes.
- 17 Q And where did y'all go?
- 18 A Well, when I picked him up from his house, my
- 19 little brother called me again and said that his
- 20 friend Devan needed a ride, and he said he was
- 21 going to give me gas money also, because he needed
- 22 to go pick something up for my little brother, but,
- 23 you know, I was just doing my little brother a
- 24 favor, so I agreed to go and pick him up.
- 25 Q Where did you -- did you actually go after picking

1 up Derrick to pick up Devan?

2 A We went back to the -- first Ashley Oaks, the first
3 subdivision.

4 Q The Ashley Oaks subdivision?

5 A Yes.

6 Q And is that where Devan was living?

7 A Yes.

8 Q And did you actually go to Devan's house that day
9 and pick him up?

10 A Yes.

11 Q So at this point it is the three of y'all in the
12 truck?

13 A Yes.

14 Q And are y'all all in the front seat or the back
15 seat, or how does that work?

16 A We were all in the front.

17 Q You don't have a back seat in your truck?

18 A No.

19 Q Okay. The three of y'all are in the truck. And
20 what did y'all do?

21 A Well, first we went to the store, at which point
22 Derrick got out and got him something to eat and
23 got some cigarettes.

24 And Devan was telling me that he was supposed
25 to be meeting up with some guy that I didn't know,

1 and I said, well, that is fine, you know, because
2 he --

3 Q Let me stop you for a second. What store were
4 y'all at?

5 A I don't recall.

6 Q Okay. Was it near Ashley Oaks or the other side of
7 town or what?

8 A It was on the other side of town.

9 Q And what kind of store was it that y'all went to?

10 A A convenience store.

11 Q Like a gas station?

12 A Yes.

13 Q And when you got there, that is when Derrick went
14 inside and got something to eat and some
15 cigarettes?

16 A Yes.

17 Q And then you said you had a conversation with
18 Devan, is that correct?

19 A Yes.

20 Q And once Derrick went inside, did he come back and
21 get back into the truck with y'all?

22 A Yes.

23 Q And where did y'all proceed then?

24 A We went --

25 Q Did Devan get a phone call?

1 A Yes, yes, he got a phone call.

2 Q Okay.

3 A Well, to tell you the truth, I don't recall
4 everything. I know we went and purchased what we
5 were supposed to purchase and went back to the
6 store.

7 Q And you said you went and purchased what you were
8 supposed to purchase. What were you purchasing?

9 A Marijuana.

10 Q Okay. And was that the plan that day, that y'all
11 were just going to kind of hang out and chill and
12 smoke some marijuana?

13 A Well, we was just going to pick it up and I was
14 going back home.

15 Q Okay. Was Devan still with you at this point?

16 A Yes.

17 Q And he got a phone call?

18 A Yes.

19 Q And what happened then?

20 A We went back to the store.

21 Q The same store you had been to before?

22 A Yes.

23 Q Or a different one?

24 A Well, no it was a different store.

25 Q But it was still a convenience store?

1 A Yes.

2 Q And what happened there?

3 A He met with some guy and they were talking. They
4 were outside of the truck. I never left the truck,
5 but when he got back in, he said some guy needed a
6 ride, he was going to look out for him, he was
7 supposed to be getting him some more marijuana or
8 something.

9 Q Okay. And the person, did he name him by name or
10 he just referred to him as some guy?

11 A He never told me his name.

12 Q So did you agree to take him to help out his
13 friend?

14 A Yes.

15 Q And who was instructing you where to go at this
16 point?

17 A Devan.

18 Q And did you then go to another area of town?

19 A Yes.

20 Q Where did you go?

21 A I don't recall. Like I said, at the time I was --

22 Q Was it a store? Was it a subdivision?

23 A Well, it was -- we went to a housing division, I
24 remember that.

25 Q Okay. Was it there in the northeast area near

1 Blythewood?

2 A Can you rephrase the question?

3 Q Do you know what part of town the housing area was
4 you went to?

5 A Oh, yes, I think it was over by Vineyards Crossing.

6 Q Vineyards Crossing?

7 A Yes.

8 Q And that is the neighborhood y'all actually went
9 to?

10 A Yes.

11 Q And as you pulled into the neighborhood, what
12 happened?

13 A We let the guy out. Then when I was turning around
14 to go out of the neighborhood --

15 Q Let me back up. We skipped something here. At
16 some point y'all picked up another passenger, the
17 person who gets in the back of the truck?

18 A That was at the store.

19 Q At the store. Okay. Skipped that. And when he
20 got into the truck, was Devan then telling you to
21 go to Vineyards Crossing?

22 A Yes.

23 Q And then you drove to Vineyards Crossing. And it
24 is three of y'all in the truck?

25 A Yes.

- 1 Q And the one guy in the back?
- 2 A Yes.
- 3 Q And this is the guy that you didn't know?
- 4 A Yes.
- 5 Q Did Devan tell you to go to a certain house in the
- 6 Vineyards Crossing?
- 7 A Yes.
- 8 Q And at some point did somebody get back out of the
- 9 car first?
- 10 A The only person that got out was the guy on the
- 11 bed.
- 12 Q In the bed? In the back of the truck?
- 13 A Yes.
- 14 Q Devan's friend who y'all were helping out?
- 15 A Yes.
- 16 Q And when he got out, did you see where he went in
- 17 the Vineyards Crossing?
- 18 A I thought he went to his house.
- 19 Q To a house?
- 20 A Yes.
- 21 Q Did you know if it was his house or whose house it
- 22 was?
- 23 A I thought it was his, but I don't know whose it
- 24 was.
- 25 Q And at that point you mentioned that you started

1 going down the road again and turned around?

2 A Yes.

3 Q And where were you going at that point?

4 A I was trying to get out of the subdivision.

5 Q But did Devan tell you to go somewhere else?

6 A No, he said he forgot to get a cigar from him.

7 Q A cigar?

8 A Yes.

9 Q And why would y'all need a cigar?

10 A For the marijuana.

11 Q And at that point did he direct you to go back to
12 another house very close to the first house where
13 you let the guy off?

14 A I went back to the same house and he told me to
15 pull to the one next-door.

16 Q To the one next-door? And did you then do that?

17 A Yes.

18 Q And did you actually come to a stop right there at
19 the driveway?

20 A Yes.

21 Q Did you see any cars in the driveway where you
22 ultimately stopped?

23 A Yes.

24 Q What kind of car was it? Do you remember?

25 A I don't recall.

- 1 Q Was it a sedan type car or a SUV? Do you remember?
- 2 A It was a small car.
- 3 Q A small car. And at that point did you observe the
- 4 guy that had gotten out of the back of your truck
- 5 again?
- 6 A I didn't see him.
- 7 Q You didn't see the guy?
- 8 A No.
- 9 Q And you didn't know his name, right?
- 10 A No.
- 11 Q Okay. Well, what is the next thing that happened
- 12 that got your attention?
- 13 A Devan got out of the truck and he was on the phone
- 14 with the guy.
- 15 Q At that point did you even know there were two
- 16 people in the car in the driveway?
- 17 A No.
- 18 Q Okay. What happened next?
- 19 A The two people got out of the car.
- 20 Q And the two people got out of the car that was in
- 21 the driveway?
- 22 A Yes.
- 23 Q And that is the small car that you referred to?
- 24 A Yes.
- 25 Q And were they male, female? Could you tell?

1 A It was a male and a female.

2 Q And at that point what happened?

3 A They went up to Devan and started talking. And
4 then I saw the other guy come from behind the house
5 that I had dropped him off at, the house next-door.

6 Q Okay. So he came from the actual area where you
7 had seen him -- you dropped him off?

8 A Yes.

9 Q And he was approaching the people in the driveway?

10 A Yes.

11 Q And at that point did you see anything in his hand?

12 A No.

13 Q What happened next?

14 A He pulled the pistol and racked it.

15 Q So as he is approaching the people in the driveway,
16 the person that has been in the back of your truck
17 pulled a pistol and racked it?

18 A Yes.

19 Q And when you say pulled a pistol and racked it,
20 what do you mean?

21 A He pulled his gun out and racked the -- racked the
22 gun to let him know it was loaded and, you know,
23 and he was ready to do what he had to do, I guess.

24 Q And at that point is he walking towards the people
25 in the driveway?

- 1 A No, they were standing face-to-face.
- 2 Q Standing face-to-face. Did you see anybody else
- 3 with a gun, Devan, the guy that got out of the car,
- 4 or anybody else with a gun?
- 5 A No.
- 6 Q At this point what is going through your mind?
- 7 A I thought something was about to happen.
- 8 Q Did you know that he had had a gun?
- 9 A No.
- 10 Q At some point had you taken him by his house so
- 11 that he could get something?
- 12 A Well, like I said, I don't recall everything, but I
- 13 do remember going by a different neighborhood, but,
- 14 like I said, at the time I was new to the area, so,
- 15 you know, I really didn't know where I was at.
- 16 Q So if he had gone in and gotten a gun at that time,
- 17 you just didn't see it when he came back out and
- 18 got back in the truck?
- 19 A Yes.
- 20 Q Did you hear him talking about going to get his
- 21 tool?
- 22 A No.
- 23 Q You didn't hear that?
- 24 A No.
- 25 Q Once you saw him rack the gun, where was it

1 pointed?

2 A At the other guy's head.

3 Q Which guy?

4 A The guy that got killed.

5 Q And what did you do?

6 A Well, I sat there for a second because I thought
7 Devan was going to get the cigar, but once they
8 started fighting I left. I pulled off. It was
9 just me and Derrick in the truck.

10 Q You said that after he racked the pistol and he
11 pointed it at the guy's head, the one that
12 ultimately got killed?

13 A (Nods affirmatively.)

14 Q What was the next thing you saw happen?

15 A He hit the guy.

16 Q He hit who?

17 A He hit the guy who racked the pistol.

18 Q Okay. And what happened to the gun?

19 A The gun fell on the ground.

20 Q What did you see next?

21 A They started fighting.

22 Q And were they down there on the ground in the
23 grassy area?

24 A Yes.

25 Q And who was in the fight at this point?

- 1 A Well, I seen -- the one who was with him was the
2 guy who ultimately did the killing.
- 3 Q The one that was with him was the guy that
4 ultimately -- the guy that racked the gun?
- 5 A Yes.
- 6 Q And was he on top or bottom? Could you tell?
- 7 A He was on top.
- 8 Q Where was Devan at this point? Could you tell?
- 9 A He was right beside him.
- 10 Q And where was the girl? Could you tell?
- 11 A She was -- she was beside him too. She was in the
12 area.
- 13 Q Did you ever see anybody pick up the gun, or were
14 you gone by that time?
- 15 A No, I had started pulling off at that point.
- 16 Q As you pulled off, who is in your car?
- 17 A Me and Derrick Diamond.
- 18 Q So the last thing you saw before you pulled off was
19 the two people on the ground fighting, just the
20 two?
- 21 A Yes.
- 22 Q And Devan wasn't involved at that point?
- 23 A No.
- 24 Q The girl wasn't involved at that point?
- 25 A No.

1 Q And who was on top winning?

2 A The guy who ultimately did the killing.

3 Q You didn't actually witness that?

4 A No.

5 Q As you pulled off, did you go down the street?

6 A Yes.

7 Q And what was your intention?

8 A To leave.

9 Q The neighborhood?

10 A Yes.

11 Q Did you know he was going to pull a gun, rack it?

12 A No.

13 Q Did you know he was going to shoot anybody that
14 day?

15 A No.

16 Q While you were pulling off and going down the
17 street, did you ultimately hear anything that
18 called your attention --

19 A Yes, I heard a gunshot.

20 Q And was that within, say, how long, seconds of you
21 leaving?

22 A Yes, probably about five seconds after I left.

23 Q So you didn't actually witness the actual shooting?

24 A No.

25 Q And how many people did you actually see with a gun

1 that day?

2 A One.

3 Q And that was the person that you had given a ride
4 in the back of the truck?

5 A Yes.

6 Q Once you left, did you see either Devan or any of
7 those as you were pulling off after the gunshot?

8 A Yes, I saw Devan.

9 Q And what was Devan doing?

10 A He was running after the truck.

11 Q After y'all?

12 A Yes.

13 Q Did you stop and pick him up?

14 A No.

15 Q Why not?

16 A Because I was trying to get out of there.

17 Q Where did you go, you and Derrick?

18 A I took him home and then I went home.

19 Q Later did the police get in touch with you?

20 A It was about three days later.

21 Q And you didn't actually go to police yourself, they
22 came to you?

23 A Yes.

24 Q Why didn't you go to the police?

25 A I was in Chester at the -- I was in Chester County

1 at the time.

2 Q You didn't want to get involved?

3 A Yeah, I didn't want to get --

4 Q And they took a statement from you, I believe?

5 A Yes.

6 Q And showed you some photographs as well as a map, I
7 believe?

8 A Yes.

9 Q I show you State's Exhibit Number 143. Do you
10 recognize that?

11 A Yes.

12 Q And is that a map of when the investigator was
13 taking a statement from you that you used to kind
14 of show where you dropped them off and where you
15 were when you heard the gunshot?

16 A Yes.

17 MS. CAMPBELL: Your Honor, at this time we
18 would offer State's Exhibit 143 into evidence.

19 THE COURT: Any objection?

20 MS. CLEARY: No objection.

21 (WHEREUPON, State's Exhibit No. 143 was
22 marked for identification and received
23 into evidence.)

24 Q The day that they took your statement, did they
25 also show you some photographs? I believe that

1 would have been on January 22nd, so about a week
2 after this?

3 A Yes.

4 Q I want to show you State's Exhibit Number 137. Do
5 you recognize that?

6 A Yes.

7 Q And is that the actual piece of paper with the
8 photographs on it, or one of them, that the police
9 showed you that day when they took your statement?

10 A Yes.

11 Q And when they showed it to you, however, it didn't
12 have any handwriting on it or anything, did it?

13 A No.

14 Q Once they showed it to you, did they tell you who
15 to pick out?

16 A Yes.

17 Q They told you who to pick out?

18 A Oh, no, no.

19 Q Okay. Did they tell you you had to pick out
20 anyone?

21 A No.

22 Q Did you look at the six photographs?

23 A Yes.

24 Q And after looking at those photographs, did you
25 recognize one of the people in the photographs?

1 A Yes.

2 Q And did you tell the police that you recognized one
3 of them?

4 A Yes.

5 Q And who did you recognize that person to be?

6 A Number Five.

7 Q And why did you recognize him, from what?

8 A From the guy that I picked up at the store.

9 Q The one that ultimately had the gun?

10 A Yes.

11 MS. CAMPBELL: Your Honor, we offer State's
12 Exhibit 137 into evidence.

13 THE COURT: Any objection?

14 MS. CLEARY: No objection.

15 (WHEREUPON, State's Exhibit No. 137 was
16 marked for identification and received
17 into evidence.)

18 Q That same day, did they also ask you about the guy
19 you knew as Devan?

20 A Yes.

21 Q I am going to show you what has been marked as
22 State's Exhibit Number 138. Do you recognize those
23 photographs?

24 A Yes.

25 Q And were those photographs also shown to you that

1 day?

2 A Yes.

3 Q And when you looked at those six photographs, did
4 you recognize anyone?

5 A Yes.

6 Q And who did you recognize?

7 A Number Two.

8 Q And who did you know Number Two to be?

9 A Devan.

10 Q And that is a picture of Devan?

11 A Yes.

12 Q And did you indicate that, as you did on this one,
13 circle it and initial it?

14 A Yes.

15 MS. CAMPBELL: Your Honor, at this time we
16 would offer State's Exhibit Number 138 into
17 evidence.

18 THE COURT: Any objection?

19 MS. CLEARY: No objection.

20 (WHEREUPON, State's Exhibit No. 138 was
21 marked for identification and received
22 into evidence.)

23 Q Do you remember what the gun looked like?

24 A No.

25 Q Back in December of 2008, you were convicted of

1 common law robbery or strong armed robbery?

2 A Yes.

3 Q Quinton, prior to that day, had you ever seen the
4 person who racked the gun?

5 A No.

6 Q And the only person that seemed to know him out of
7 the three of you, you and Derrick and Devan, was
8 whom?

9 A Uh --

10 Q Who made contact with him?

11 A Devan.

12 Q Devan. The person that you saw pull out the gun,
13 rack it, do you see him here in the courtroom?

14 A Yes.

15 Q Can you point him out for the jury?

16 A Yes. (Indicating.)

17 Q Where is he sitting?

18 A He is sitting between his two lawyers.

19 MS. CAMPBELL: Your Honor, may the record
20 reflect he has identified the Defendant?

21 THE COURT: The record reflects it.

22 Q Has his appearance changed in any way, his hair or
23 anything?

24 A He had dreadlocks the last time.

25 Q Thank you.

1 THE COURT: Please answer any questions that
2 Ms. Cleary may have.

3 CROSS-EXAMINATION

4 BY MS. CLEARY:

5 Q Mr. Emerson, and you did not know Jamaal or Anthony
6 before this day?

7 A No.

8 Q And after you saw the fighting and the gun, you
9 drove off?

10 A Yes.

11 Q Okay. And you just testified that Jamaal was
12 winning the fight when they were fighting with
13 fists?

14 A Yes.

15 Q Okay. And you didn't see the end of the fight?

16 A No.

17 Q Okay. Do you remember seeing the girl?

18 A I can't recall.

19 Q And you were in the driver's side, which was the
20 car -- was your driver's side closest to where the
21 fight was or were you on the other side?

22 A I was closest to the fight.

23 Q Okay. Did you have your window up or down?

24 A The window was up.

25 Q The window was up?

1 A Yes.

2 Q Okay. Did at some point you roll it down to hear
3 what was going on or --

4 A No.

5 Q Okay. All right. And you said a guy in a black
6 do-rag came out of a small black car, is that
7 correct?

8 A Yes.

9 Q Okay. And you just testified that he came up to --
10 he and a girl, I think you said, came up and talked
11 to Devan, is that correct?

12 A Yes.

13 Q Okay. So you remember the girl at that point, that
14 there was a girl?

15 A Yes.

16 Q Okay. And you said that Devan -- at that point
17 where was Devan?

18 A He was out of the truck and he was approaching
19 them.

20 Q He was near the truck?

21 A Well, yes, he had just got out of the truck
22 whenever they -- when they got out of the vehicle
23 and started walking down.

24 Q Then Devan got out of the truck?

25 A No, he was already out of the truck.

1 Q Okay. And so the guy in the do-rag and the girl
2 approached Devan, they came up to Devan?

3 A Yes.

4 Q Okay. And then so when Jamaal came up, they were
5 already there talking to Devan?

6 A Yes.

7 Q Okay. And you testified today that he pointed the
8 gun -- that Jamaal pointed the gun at Anthony's
9 head?

10 A Yes.

11 Q Is that correct?

12 A Yes.

13 Q Are you absolutely sure about that?

14 A Yes.

15 Q Do you remember when you gave a statement to the
16 police about this case on January 22nd, 2010? Do
17 you remember talking to Officer Lindler?

18 A I can't recall which officer it was.

19 Q Okay. But you do remember that you gave a
20 statement?

21 A Yes.

22 Q Okay. Would you -- hold on just a minute.

23 MS. CLEARY: May I approach the witness?

24 THE COURT: Yes.

25 Q I'm handing you your statement that you made to the

1 police. Do you see the signature down at the
2 bottom?

3 A Yes.

4 Q Is that your signature?

5 A Yes.

6 Q Okay. And was that statement a true and accurate
7 account of what happened that day as best as you
8 could recall?

9 A Yes.

10 Q Okay. Will you read the -- just the very last
11 sentence of the first page going on to the second
12 page?

13 A "He went to..." oh, okay "He went to point it at
14 the guy and the guy with the black do-rag punched
15 him in the face."

16 Q Okay. So he went to -- he went to point it at the
17 guy. Does that mean he started to point it at the
18 guy?

19 A No, he pointed it at him.

20 Q Okay. But is there anywhere in the statement where
21 you say that he pointed it at his head?

22 A No, I didn't say that in the statement.

23 Q Okay. But today now you are saying that he pointed
24 it at his head?

25 A Yes.

- 1 Q Okay. And so how far did he have his hand extended
2 when he was pointing it at his head?
- 3 A He had it fully extended.
- 4 Q He had it like this?
- 5 A Yes.
- 6 Q And so then the guy in the black do-rag reached
7 around the gun and punched him in the face?
- 8 A No, he just straight punched him in the face.
- 9 Q So the guy in the black do-rag is standing here
10 right near the gun?
- 11 A Yes.
- 12 Q Okay. Did he appear to be afraid of the gun?
- 13 A No.
- 14 Q Okay. Did he appear to be afraid at any time?
- 15 A No.
- 16 Q Okay. And when Jamaal had the gun or when Jamaal
17 first came over to where y'all were where the truck
18 was, did you ever hear Jamaal say anything to
19 Anthony?
- 20 A No.
- 21 Q And you testified that you did not hear anything
22 about a tool, is that correct?
- 23 A Yes.
- 24 Q Okay. And you never saw the girl pick up the gun?
- 25 A No.

1 Q You were leaving -- you were not going to be
2 involved in that, is that correct?

3 A Yes.

4 Q That's right. So you didn't know of any plan that
5 day --

6 A No.

7 Q -- to have a fight between Jamaal and Anthony?

8 A No.

9 Q Okay.

10 MS. CLEARY: That's all I have. Thank you.

11 THE COURT: Yes, ma'am?

12 MS. CAMPBELL: May it please the Court?

13 REDIRECT EXAMINATION

14 BY MS. CAMPBELL:

15 Q Who was the person who wanted to be dropped off at
16 the Vineyards Crossing one house down from where
17 this happened?

18 A Devan.

19 Q And who was Devan doing it on behalf of? Who
20 actually got dropped off?

21 A Oh. The guy who ultimately did the killing.

22 THE COURT: Hold on. Hold on. Hold on. You
23 object?

24 MS. CLEARY: I object how he can know -- do
25 you want me to approach?

1 THE COURT: No. Sustained. Rephrase.

2 Q Who actually got dropped off one door down from
3 where the murder occurred?

4 A The guy who did the killing.

5 Q She asked you to read part of your statement. And
6 I just want you to go one line further that she
7 left off right after she had you stop reading, the
8 next line, just that line that is highlighted,
9 starting there.

10 A "The guy we had given a ride to was on the ground
11 punching the other guy in the face."

12 Q And you said today you thought that Devan had
13 talked to him beforehand. That is not in your
14 statement, though, is it, the highlighted part?

15 A No.

16 Q Okay. And you said that Devan got out of the truck
17 and saw the other guy coming across the yard?

18 A Yes.

19 Q Thank you.

20 MS. CAMPBELL: I have nothing further.

21 MS. CLEARY: I have nothing further.

22 THE COURT: All right, you may step down.
23 (Witness steps down.)

24 THE COURT: Any objection to this witness
25 being excused?

1 MS. CAMPBELL: Nothing from the State, Your
2 Honor.

3 THE COURT: Any objection, Ms. Cleary, to this
4 witness being excused?

5 MS. CLEARY: We subpoenaed him and we may need
6 him later.

7 THE COURT: All right, sir, you may walk out
8 of the courtroom, but you are not being excused
9 from this trial just yet. All right? Thank you.
10 All right. Call your next witness.

11 MS. SIMPSON: The State calls Jarrod Crudup.

12 THE BAILIFF: Raise your right hand, place
13 your left hand on the Bible, and face the clerk.
14 (Witness complies.)

15 THE CLERK: Do you swear or affirm the
16 testimony you give in this case will be the truth,
17 the whole truth, and nothing but the truth, so help
18 you God?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Thank you. Please be seated, and
21 state your full name for the record, and please
22 spell your last name.

23 THE WITNESS: Jarrod Crudup.

24 THE CLERK: Spell your last name.

25 THE WITNESS: You said spell it? C-R-U-D-U-P.

JARROD CRUDUP,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SIMPSON:

Q Jarrod, how old are you?

A Nineteen.

Q And are you currently working?

A No, ma'am.

Q Have you done any kind of work in the past?

A Yes, ma'am.

Q What kind of work have you done?

A I worked at Toyota and Johnson Food Service.

Q And are you from Columbia?

A No, ma'am.

Q Where are you from?

A Jersey.

Q Jersey? New Jersey?

A Yes, ma'am.

Q How long have you been living in Columbia?

A For about four and half years.

Q Four and half years?

A (Nods affirmatively.)

Q And where were you living back on January 16th of
2010?

A In Vineyards Crossing.

1 Q And do you remember the street address?

2 A Mine?

3 Q Uh-huh?

4 A [REDACTED]

5 Q Okay. And is that where you still live?

6 A Yes, ma'am.

7 Q Who all lives there with you?

8 A Mom, my sister, my niece. That's it.

9 Q And, okay, so Baccharis Drive is in the Vineyards
10 Crossing subdivision, right?

11 A Yes, ma'am.

12 Q Do you know the Defendant?

13 A I know of him.

14 Q You know of him?

15 A Yes, ma'am.

16 Q And how do you know of him?

17 A Through friends, through the area.

18 Q Okay. And did you also know the victim, Anthony
19 Salley?

20 A Yes, ma'am.

21 Q How did you know him?

22 A From him living in the neighborhood.

23 Q Okay. So essentially you knew Anthony from living
24 in the neighborhood and you knew the Defendant
25 through friends?

1 A Yes, ma'am.

2 Q Mutual acquaintances. I want to turn your
3 attention to the day of this incident on
4 January 16th. Do you recall what you had been
5 doing that day?

6 A I had just got home from basketball practice.

7 Q And when you got home, who all was there with you?

8 A It was my sister and my niece and my friend
9 Demario.

10 Q And Demario, what is his last name?

11 A Evans.

12 Q Evans. And what were y'all doing at the house?

13 A On My Space.

14 THE COURT REPORTER: I'm sorry?

15 A My Space.

16 Q Okay. So y'all were just hanging out?

17 A Yes, ma'am.

18 Q And at some point did Jamaal come to your house?

19 A Yes, ma'am.

20 Q Can you tell the jury about what happened when he
21 came in?

22 A Well, he came in, him and Devan came upstairs and,
23 you know, they -- you couldn't tell that nothing --
24 something was up, but they were a little out of
25 breath, and so I asked them what happened. And

1 they said they got into a fight. And that's all I
2 remember.

3 Q Okay. And I want to back up. You said they came
4 in. Who else came in with Jamaal?

5 A Devan Bailey.

6 Q Devan Bailey?

7 A Yes, ma'am.

8 Q How do you know Devan?

9 A I went to middle school with him and we played
10 football together.

11 Q Y'all played sports, you said football?

12 A Yes, ma'am.

13 Q And do you remember -- I know it has been awhile --
14 about what time they came into your house?
15 Approximate time?

16 A Around 2:30.

17 Q Around 2:30? And you said that they were kind of
18 out of breath, and so that is what caused you to
19 ask what was wrong?

20 A Yes, ma'am.

21 Q And what did the Defendant tell you again?

22 A That he got into a fight.

23 Q That he had gotten into a fight?

24 A Yes, ma'am.

25 Q Did he give you any details, though?

1 A No, ma'am.

2 Q And at this point who all is in the house?

3 A My sister, my niece and Demario.

4 Q What did Jamaal do once he was inside?

5 A He had came upstairs in my room, and then once I
6 talked to him that's when my sister called me, and
7 then that's when he disappeared. I don't know
8 where he went to. He disappeared, him and Demario.

9 Q Okay. And do you remember what Jamaal was wearing
10 when he came in?

11 A I remember a black jacket. That is about it.

12 Q Black jacket. Did he initially have a shirt on or
13 was he carrying something?

14 A He was carrying his jacket.

15 Q Carrying his jacket? And do you remember what
16 Devan was wearing? I know it has been awhile.

17 A No, ma'am.

18 Q But at the time this happened you were able to tell
19 police what they were wearing and describe them?

20 A Yes, ma'am.

21 Q And you actually knew both Jamaal and Devan?

22 A Yes, ma'am.

23 Q In addition to telling you that he had just gotten
24 into a fight, what else was Jamaal saying?

25 A He didn't -- he wasn't really saying too much. He

- 1 was a little anti-social.
- 2 Q A little anti-social?
- 3 A He didn't really say anything.
- 4 Q Was he talking to Demario?
- 5 A He asked him for a ride.
- 6 Q Asking him for a ride? Let me back up. Do you
- 7 remember what Demario drives?
- 8 A Cougar.
- 9 Q Cougar? What color it is?
- 10 A Blue.
- 11 Q Blue? So it is kind of identifiable? And was his
- 12 car parked outside the house?
- 13 A Yes, ma'am.
- 14 Q Do you drive?
- 15 A No, ma'am.
- 16 Q Or did you have a car at the time?
- 17 A No, ma'am.
- 18 Q So it was Demario's car that was in the driveway?
- 19 A Yes, ma'am.
- 20 Q And so who was Jamaal asking for a ride?
- 21 A Demario.
- 22 Q And when they came into the house after you talked
- 23 to them, at some point did you hear anything?
- 24 A Like gunshots you mean?
- 25 Q A gunshot -- well, did you hear any gunshots?

- 1 A Oh, no, ma'am.
- 2 Q Did you hear any sirens?
- 3 A Once they came, yes.
- 4 Q Once the police came, or once they came into your
5 house?
- 6 A Once they came, yes.
- 7 Q And did your sister talk to you and tell you
8 anything? Without telling me what she told you,
9 did she --
- 10 A Well, yes, she asked me what was going on, and I
11 was like, I don't know.
- 12 Q Because you didn't know anything about what had
13 happened?
- 14 A No, ma'am.
- 15 Q You didn't see a fight?
- 16 A No, ma'am.
- 17 Q And your house is a little bit away from actually
18 , right?
- 19 A Yes, ma'am. Right.
- 20 Q So did Jamaal and Devan stay, or where did they go?
- 21 A I don't know. I know Devan left with me and my
22 other friend Walter. I don't know where Demario
23 and Jamaal went.
- 24 Q And did Walter have to come get y'all?
- 25 A Yes. He was actually on the way to get me and then

1 Devan came with him.

2 Q Okay. And Devan, did he ask you to drop him off
3 somewhere?

4 A Yes.

5 Q And did y'all hang out or just kind of dropped him
6 off?

7 A Dropped him off.

8 Q And who did Jamaal live with?

9 A Demario.

10 Q Demario? Did Demario come back over to your house
11 later that night?

12 A Yes, ma'am.

13 Q And did y'all talk about what happened?

14 A Yes. He had told me that the victim had passed.

15 Q Okay.

16 A And that was it.

17 Q And by victim, the other guy -- how did he say he
18 knows? Did he get this information from talking
19 with Jamaal or did you know where he got it?

20 A He had got it from the news.

21 Q He got it from the news?

22 A Yes, ma'am.

23 Q And so was everybody kind of able to put two and
24 two together?

25 A I mean, I wasn't jumping to conclusions, but it was

- 1 just a lot --
- 2 Q You thought something was up?
- 3 A Yes.
- 4 Q And did you have a chance to speak with law
- 5 enforcement about this case?
- 6 A Yes. They came to my house.
- 7 Q And did you tell them what you knew?
- 8 A Yes.
- 9 Q Okay. And you didn't know anything about a fight?
- 10 A No.
- 11 Q You didn't ever see Jamaal with a gun?
- 12 A No, ma'am.
- 13 Q You didn't see Devan with a gun?
- 14 A No, ma'am.
- 15 Q So you didn't know anything about that?
- 16 A No, ma'am.
- 17 Q All you know is they came running into your house.
- 18 Were they invited over?
- 19 A No.
- 20 Q No. But they came inside?
- 21 A Yes, ma'am.
- 22 Q And that is all you know?
- 23 A Yes, ma'am.
- 24 Q In addition, they showed you I believe some
- 25 photographs. Showing you what has been marked as

1 State's Exhibit 145 -- actually, let me back up,
2 State's 147. Now, when they showed this to you,
3 did it have any of your handwriting on it?

4 A No, ma'am.

5 Q No. It was just some pictures. And were you able
6 to recognize anybody from this?

7 A Yes, ma'am.

8 Q Who were you able to recognize?

9 A Devan.

10 Q Devan. And did you mark that in some way?

11 A Yes, ma'am.

12 Q How did you mark it?

13 A I circled it.

14 Q And you dated it?

15 A Yes, ma'am.

16 Q And you put your initials on there?

17 A Yes, ma'am.

18 Q And they didn't suggest to you who to pick?

19 A No, ma'am.

20 Q And Devan Bailey, this was the guy who came into
21 your house?

22 A Yes, ma'am.

23 MS. SIMPSON: Your Honor, at this time the
24 State would introduce State's Exhibit 147 into
25 evidence.

1 MS. CLEARY: No objection.

2 THE COURT: No objection. It will be entered
3 without objection.

4 (WHEREUPON, State's Exhibit No. 147 was
5 marked for identification and received
6 into evidence.)

7 Q And showing you what has been marked as State's
8 Exhibit 145, do you remember when law enforcement
9 showed you these pictures?

10 A Yes, ma'am.

11 Q And prior to them showing you, was there any
12 handwriting or anything on it?

13 A No, ma'am.

14 Q And were you able to pick out someone you
15 recognized?

16 A Yes, ma'am.

17 Q Who did you pick out?

18 A Jamaal.

19 Q And did you mark that in some way?

20 A Yes, ma'am.

21 Q How did you mark it?

22 A Initials.

23 Q Your initials?

24 A Yes, ma'am.

25 Q And did you date it?

1 A Yes, ma'am.

2 Q And Jamaal, he was the person who came running into
3 your house, right?

4 A Yes, ma'am.

5 MS. SIMPSON: Your Honor, at this time the
6 State would seek to introduce -- or does introduce
7 State's Exhibit 145.

8 (WHEREUPON, State's Exhibit No. 145 was
9 marked for identification and received
10 into evidence.)

11 Q And the person that you know as Jamaal who came
12 running into your house out of breath on that day,
13 is he seated here in the courtroom?

14 A Yes, ma'am.

15 Q And can you point him out for the jury?

16 A (Indicating.)

17 Q Okay. Where is he sitting?

18 A Between his lawyers.

19 Q Between his lawyers?

20 MS. SIMPSON: Let the record reflect that the
21 witness has identified the Defendant.

22 THE COURT: It does.

23 MS. SIMPSON: No further questions.

24 THE COURT: Please answer any questions that
25 Ms. Cleary may have.

1 MS. CLEARY: I have no questions.

2 THE COURT: All right, sir, you may step down.

3 (Witness steps down.)

4 THE COURT: Any objection to this witness
5 being excused?

6 MS. SIMPSON: No, Your Honor.

7 MS. CLEARY: No.

8 (Witness excused.)

9 THE COURT: Please call your next witness.

10 MS. SIMPSON: The State calls Nicole Crudup.

11 THE BAILIFF: Raise your right hand, place
12 your left hand on the Bible, face the clerk.

13 (Witness complies.)

14 THE CLERK: Do you swear or affirm the
15 testimony you give in this case will be the truth,
16 the whole truth, and nothing but the truth, so help
17 you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Please be seated, and
20 state your full name for the record.

21 THE WITNESS: Nicole Crudup.

22 THE COURT: Yes, ma'am?

23 NICOLE CRUDUP,
24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. SIMPSON:

2 Q Afternoon. How old are you?

3 A Thirty-two.

4 Q Thirty-two. And do you work?

5 A Yes.

6 Q Where do you work?

7 A Verizon Wireless.

8 Q Verizon? And what do you do for Verizon?

9 A I work in the call center.

10 Q And are you from Columbia?

11 A No.

12 Q Are you also from New Jersey?

13 A Yes.

14 Q And what is your relationship to Jarrod?

15 A I'm his sister.

16 Q You are his sister? And back on January 16th of
17 2010, where were you living?

18 A In Vineyards Crossing on Baccharis Road.

19 Q I am going to back up for a minute. How long have
20 you been in Columbia?

21 A We have been here since June of 2006.

22 Q Okay. So you came a little bit before Jarrod came
23 down?

24 A We came at the same time.

25 Q Came at the same time?

- 1 A Uh-huh.
- 2 Q I'm sorry, where were you living back in January of
- 3 2010?
- 4 A On Baccharis Drive.
- 5 Q And that is where you live now?
- 6 A Uh-huh, yes.
- 7 Q And what subdivision is that in?
- 8 A Vineyards Crossing.
- 9 Q Do you know the Defendant at all?
- 10 A No.
- 11 Q And did you know the victim, Anthony Salley?
- 12 A No.
- 13 Q I want to turn your attention to the day this
- 14 incident happened. Do you remember what you were
- 15 doing earlier in the day or what you had been doing
- 16 earlier that day?
- 17 A Watching TV.
- 18 Q Watching TV?
- 19 A Uh-huh.
- 20 Q Who was at the house with you?
- 21 A My daughter, Jarrod and Demario.
- 22 Q Demario. And do you know Demario?
- 23 A Yes.
- 24 Q And how do you know him?
- 25 A Through Jarrod and friends.

1 Q Now, on that day at some point in the afternoon did
2 somebody else come into the house?

3 A Yes.

4 Q And tell us about that. What happened? I was --
5 my room is on the second floor in the house. I was
6 laying down watching TV. And I saw a boy walking
7 down the hall, who I guess later was identified as
8 Devan. I had never seen him before. And he was
9 walking towards my room. And then he just
10 turned -- he was on the phone. He turned around
11 and walked back down the hall. And then I heard
12 yelling. Jarrod and Demario were in my daughter's
13 room. And I heard yelling, "Let's go, let's go!"

14 And then I saw the Defendant walk into my
15 daughter's room. And so I got up to go call
16 Jarrod. He didn't have a shirt on. So he was
17 yelling and I was kind of nervous about what was
18 going on. I said, "Well, he needs to go. One, he
19 needs to put a shirt on. My daughter is in the
20 house. And what is going on?"

21 So Jarrod told me he thought they had gotten
22 into a fight. And I heard the siren. And I was
23 like, well, he needs to go.

24 So at one point he goes back, and he gets a
25 shirt out of my brother's room and a jacket, and

1 yells back to Demario, "Let's go!" He goes
2 outside. I go to the window.

3 Q Let me stop you just for a second.

4 A Okay.

5 Q When you heard the sirens and he said, "We gotta
6 go," what were you thinking?

7 A I just felt like something had happened.

8 Q And your daughter was home with you?

9 A Yes. Yes.

10 Q So you wanted them to leave?

11 A Uh-huh.

12 Q Okay. And at that point you went down to the
13 window. What did you see?

14 A I saw Demario and the Defendant standing on both
15 sides of Demario's car. And Devan was walking back
16 towards the house. And then eventually Jamaal and
17 Devan got in -- I mean, Jamaal and Demario got
18 into Demario's car and left.

19 Q And Devan, he didn't leave -- or who did he leave
20 with?

21 A A couple of minutes later my brother's friend
22 Walter came to the house, and he got in the car
23 with Walter and Jarrod and left.

24 Q And at this point -- or let me drop back just a
25 little bit. The two people who ran in the house,

1 the one that came into your room and the one we
2 know, the Defendant, you didn't know them?

3 A No.

4 Q Never seen them before?

5 A No.

6 Q And were you concerned why they were in your house
7 yelling?

8 A Yes.

9 Q Did you eventually learn what the guy's names were?

10 A Yes. When -- when I first talked to Jarrod, we
11 were standing at -- not when I first talked to
12 him -- we were standing at the window and I saw
13 Demario and the Defendant leave. I asked him what
14 the Defendant's name was. And he said Jamaal.
15 Then I asked him what Devan's name was. He said
16 Cush. And I said, what is his real name? And he
17 said Devan.

18 Q And after everyone left, did Jarrod come home
19 later?

20 A Later on that night, uh-huh.

21 Q And what happened when Jarrod got home?

22 A When he got home, he came in my room. And I asked
23 him did he know what happened. And I said -- I
24 said, I think he killed that boy. I said, you know
25 somebody named Amp or Ant that lives around here?

1 And he was like, oh.

2 So we went downstairs. And some of his
3 friends were there. And one of them was Demario.
4 And I asked him where did he take Jamaal. And he
5 said to the gas station. No, he said, I don't want
6 to get involved. I said, where did you take him.
7 He said to the gas station. I said, well why would
8 you take him to the gas station, it is right around
9 the corner, he could have just walked to the gas
10 station. But he said, I'm just not getting
11 involved. I said, well, you need to go if you are
12 not getting involved.

13 Q And did Demario eventually leave?

14 A Yes.

15 Q And do you remember seeing the Defendant with a gun
16 when he came in?

17 A No.

18 Q Were you concerned that there might be a gun?

19 A After I saw the news report I was concerned that
20 there may have been one, because like I said, he
21 didn't have a shirt on, so being that there was a
22 shooting, I said, well, there must be a gun. So I
23 looked for one near my -- around my house.

24 Q And how old is your daughter?

25 A Now she's 11.

1 Q She's 11?

2 A Uh-huh.

3 Q So she was about nine at the time?

4 A Uh-huh.

5 Q Do you remember speaking with law enforcement in
6 this case?

7 A Yes.

8 Q I'm showing you what has been marked as State's
9 Exhibit Number 144. Did they show you some
10 pictures?

11 A Yes.

12 Q And do you remember seeing these pictures?

13 A Yes.

14 Q Was the writing on the page when you first saw
15 them?

16 A No.

17 Q And when they showed you the pictures, did they ask
18 you to see if you saw someone?

19 A Yes.

20 Q And were you able to actually pick out anyone?

21 A I wasn't able to narrow it down to one person.

22 Q But you were able to narrow it down to two people?

23 A Uh-huh, yes.

24 Q And that would be what numbers?

25 A Two and Five.

1 Q Two and Five?

2 MS. SIMPSON: Your Honor, at this time the
3 State would seek to introduce State's Exhibit 144.

4 THE COURT: Any objection?

5 MS. CLEARY: No objection.

6 THE COURT: It will be entered.

7 (WHEREUPON, State's Exhibit No. 144 was
8 marked for identification and received
9 into evidence.)

10 Q And you didn't know the Defendant, right?

11 A No.

12 Q And you didn't know Anthony --

13 A No.

14 Q -- Salley, the victim in this case?

15 A Right.

16 Q But you had a chance to get a pretty good look at
17 the people who came into your house?

18 A Yes.

19 Q That day? In passing?

20 A Uh-huh.

21 Q Which is why you were able to narrow it down to at
22 least two?

23 A Uh-huh.

24 Q And you didn't hear any gunshots?

25 A No.

1 Q You didn't see any fight?

2 A No.

3 Q You just know what happened when they came in?

4 A Yes.

5 Q And do you see the person who came into your house
6 with his shirt off in the courtroom here today? Or
7 are you not really able to recognize him outside of
8 this trial?

9 A Well, I saw his profile, so I never saw him
10 straight on.

11 Q Okay.

12 THE COURT: Please answer any questions that
13 Ms. Cleary has.

14 MS. CLEARY: We have no questions.

15 THE COURT: All right, ma'am, you may step
16 down.

17 (Witness steps down.)

18 THE COURT: Any objection to this witness
19 being excused?

20 MS. SIMPSON: No, Your Honor.

21 THE COURT: Ma'am, you may be excused.

22 (Witness excused.)

23 THE COURT: All right, ladies and gentlemen of
24 the jury, we have been going for about an hour and
25 45 minutes or so, almost two hours. I am going to

1 let you all take a bathroom break. We'll take a
2 break for about ten minutes.

3 All right. Thank you.

4 And if you all recall, yesterday I told you
5 that we would probably work late this evening. And
6 if you need to make any arrangements or phone calls
7 now may be the time to do so.

8 All right. Thank you.

9 JUROR: How late in the evening do you think?

10 THE COURT: Probably about 6:30, no later than
11 7:00.

12 (WHEREUPON, the jury retires to the jury
13 room at 4:00 p.m.)

14 THE COURT: All right, we'll take a break for
15 about ten minutes.

16 (WHEREUPON, a break was taken.)

17 THE COURT: Are you ready to bring them back
18 in? Anything before I bring back in? All right,
19 let's bring them in.

20 (WHEREUPON, the jury came into open
21 court at approximately 4:24 p.m.)

22 THE BAILIFF: The jury is present, Your Honor.

23 THE COURT: All right. Call your next
24 witness.

25 MS. SIMPSON: The State calls Russell Redd.

1 THE CLERK: Raise your right hand, place your
2 left hand on the Bible.

3 (Witness complies.)

4 THE CLERK: Do you swear or affirm the
5 testimony you shall give in this case will be the
6 truth, the whole truth, and nothing but the truth,
7 so help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Thank you. Please have a seat on
10 the witness stand, and please state your full name
11 for the record, please spell your last name.

12 THE WITNESS: Russell Mark Redd.

13 THE CLERK: Spell your last name.

14 THE WITNESS: R-E-D-D.

15 RUSSELL MARK REDD,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SIMPSON:

19 Q Mr. Redd, what do you do?

20 A Paramedic.

21 Q And where are you working?

22 A Right now I work for Williston Rescue Squad in
23 Barnwell County.

24 Q In Marlboro County? How long have you been --

25 A In Barnwell County.

1 Q Barnwell, I'm sorry. And how long have you worked
2 with them?

3 A A little over a year.

4 Q And that is in your capacity as a paramedic?

5 A Yes, ma'am.

6 Q Did you work somewhere else before?

7 A Yes, ma'am, I worked for Richland County EMS from
8 2004 to May of 2010.

9 Q And as a paramedic -- let me back up just a little
10 bit. Were you working in that same capacity in
11 Richland County?

12 A Yes.

13 Q As a paramedic, do you have any special training?

14 A Yes, ma'am.

15 Q What kind of training?

16 A You are required first to become a basic EMT, which
17 is roughly an eight month course, followed by state
18 practicals, state boards. Then you progress
19 through your paramedic training from there.

20 Q And as a paramedic what do you do?

21 A You transport the, you know, sick or injured.

22 You -- at a paramedic level you are able to provide
23 ALF, which is advanced life support, you know,
24 IV's, airways, numerous other advanced -- beyond
25 just bandaging and splinting.

1 Q And did you respond to EMS calls?

2 A Yes.

3 Q And back on January 16th of 2010, did you have
4 occasion to become involved in this case?

5 A Yes, ma'am.

6 Q And how many calls would you say you have actually
7 responded to in your work as a first responder?

8 A Since '97, thousands.

9 Q Okay. And since 2010 you have responded to several
10 calls as well?

11 A Several hundred, yes.

12 Q And do y'all issue some type of report?

13 A Yes.

14 Q And what do these reports document to the police?

15 A They document typical information, the location of
16 the call, responder's names, patient name and
17 demographics, any applicable times, any procedures
18 that were performed, where you took the call from,
19 where you transported to.

20 Q And where did you respond to in this case?

21 A The location we were given to dispatch to was 

22 

23 Q Baccharis? And when you got out there, what did
24 you observe when you arrived?

25 A Reading from my narrative, which was completed the

1 day of the call, we arrived on the scene, the
2 patient was found supine on the ground, meaning he
3 was laying on his back. He was conscious, alert
4 and oriented times three, complaining of shortness
5 of breath secondary to a single gunshot wound to
6 the left upper quadrant of his abdomen.

7 Q So what does that mean kind of in layman's terms?

8 A We got there. He was laying on the ground on his
9 back. He is alert and oriented, but he is having
10 trouble breathing. Patient exam showed after -- we
11 have to exam, cut his shirt off -- that he had a
12 gunshot wound to his left upper abdomen divided
13 into four quadrants. And he was -- his was to the
14 left upper.

15 Q And just for clarification, what was the victim's
16 name?

17 A Anthony Salley.

18 Q When you responded, what did you do when you
19 arrived?

20 A When we arrived, we had a very short scene. I
21 mean, he was -- I, being the crew chief, I
22 classified him as load-and-go patient, which meant
23 that we didn't waste time on the scene. It is
24 basically a triage type situation where you get
25 them in the back of the ambulance and you get to a

1 higher level of care than I can provide.

2 Q So his life was essentially hanging in the balance?

3 A Yes. He had signs consistent with shock,
4 consistent with some internal injuries. If you
5 notice in the report there, it states that his --
6 you will notice a single entrance wound, no exit
7 wound was noted, which in itself tells me that
8 there was the possibility of severe damage inside.
9 His abdomen was rigid, which is another indication
10 of severe internal injuries. He had cool
11 extremities with no radial pulse. A radial pulse
12 is your pulse in your wrist. That indicates that
13 his blood pressure was dropping.

14 Q So essentially he was dying?

15 A That is a pretty fair assessment, yes.

16 Q And when he was loaded in -- and I'm not sure if
17 you said it, did he go into cardiac arrest as he
18 was being loaded for transport or in route?

19 A As we placed him in the unit he was noted to be
20 apneic, which is in respiratory, he had stopped
21 breathing, he was not in full cardiac arrest at
22 this point in time.

23 Q And did y'all have to assist in his breathing?

24 A Yes.

25 Q And where did you all transport him to?

1 A Richland.

2 Q And when you got this call, do you recall when you
3 were dispatched out to Baccharis Drive?

4 A We were dispatched at 14:24.

5 Q That is about 2:24 in the afternoon?

6 A Yes, ma'am.

7 Q Nothing further. Thank you.

8 THE COURT: Please answer any questions Ms.
9 Cleary may have.

10 Yes, ma'am?

11 MS. CLEARY: I have no questions.

12 THE COURT: All right, sir, you may step down.

13 (Witness steps down.)

14 THE COURT: Any objection to this witness
15 being excused?

16 MS. SIMPSON: No, Your Honor.

17 MS. CLEARY: No, Your Honor.

18 THE COURT: Sir, you are free to leave.

19 (Witness excused.)

20 MS. CAMPBELL: Your Honor, we need to take a
21 witness out of order. The State would call Ila
22 Simmons.

23 THE BAILIFF: Raise your right hand, place
24 your left hand on the Bible.

25 (Witness complies.)

1 THE CLERK: Do you swear or affirm the
2 testimony you shall give in this case will be the
3 truth, the whole truth, and nothing but the truth,
4 so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. Please have a seat on
7 the witness stand, and state your full name for the
8 record.

9 THE WITNESS: My name is Ila Simmons. My last
10 name is spelled S-I-M-M-O-N-S.

11 ILA SIMMONS,

12 after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. CAMPBELL:

15 Q Agent Simmons, where are you employed?

16 A SLED's forensic laboratory, the trace evidence
17 department.

18 Q And what is trace evidence department at SLED?

19 A We analyze gunshot residue, look for paint, fiber,
20 glass empiricals, as well as arson debris.

21 Q Can you tell this jury a little bit about your
22 education and your training in the field of trace
23 evidence?

24 A I have a bachelor of science degree in chemistry.
25 After completing that I went to work at SLED.

1 During my first three years there I worked with a
2 court-qualified, SLED-certified trace evidence
3 examiner who taught me how to collect and analyze
4 trace evidence.

5 During that time I had to take a written and
6 practical examination and complete each one with
7 100 percent efficiency.

8 After that I was certified by SLED to analyze
9 trace evidence.

10 Q And have you been qualified before as an expert in
11 trace evidence specifically as to gunshot residue?

12 A Yes, ma'am, I have. In Federal, General Sessions
13 and Civil Court in South Carolina over 200 times.

14 Q Over 200 times?

15 A Yes, ma'am.

16 MS. CAMPBELL: Your Honor, at this time we
17 would offer her as an expert in trace evidence
18 specifically as to gunshot residue.

19 THE COURT: Any objection? Any questions?
20 Any voir dire?

21 MS. CLEARY: No, Your Honor.

22 THE COURT: Any objection?

23 MS. CLEARY: None, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury,
25 normally a person cannot give opinion testimony.

1 Normally when a person testifies they must testify
2 as to what they either saw, heard or sensed by
3 smell or something of that nature. However, there
4 is an exception when someone is qualified because
5 of education or experience. They are permitted to
6 give their opinion in certain areas if the Court
7 qualifies them that way.

8 This witness will be qualified in the area of
9 trace evidence to give opinion testimony in that
10 area. That does not mean that you must accept the
11 opinion, but it is evidence for you to use in any
12 way you see fit and give the weight and credibility
13 you believe is appropriate.

14 Thank you.

15 Yes, ma'am, you may continue.

16 MS. CAMPBELL: May it please the Court?

17 BY MS. CAMPBELL:

18 Q Agent, a gunshot residue kit, basically, can you
19 explain to the jury what kind of evidence you are
20 looking for and testing for in your expertise?

21 A Gunshot residue is a mixture of microscopic
22 chemicals that come out of a gun when it is
23 discharged. It is a mixture of a primer, gunpowder
24 and in any particular metal that may come off a
25 projectile. This comes out in a cone-shaped cloud

1 and can get on anything in close proximity to the
2 gun, including the person whose hands are holding
3 the gun or someone in a very close vicinity to it
4 or anything near.

5 Q And when you say in close proximity to a gun, can
6 you say, depending on the make of the gun, how far
7 an area that the gunshot residue might be deposited
8 after say a gun is fired?

9 A With a handgun, generally with a larger caliber
10 handgun, like a .25, probably not farther than six
11 feet. With a smaller caliber handgun, like a .22,
12 probably within a foot to two feet.

13 Q Okay. You said generally that gunshot residue can
14 get on a person or on an object even if it is in
15 close proximity when a gun is fired. Is that
16 pretty much an accurate statement?

17 A Yes, ma'am.

18 Q And in this -- in the case of gunshot residue, is
19 there a test that can be done that may indicate
20 whether or not a person is, number one, either
21 fired a gun; number two, had handled a gun that had
22 been fired; or, number three, may be in close
23 proximity?

24 A Yes, there is.

25 Q And how is that test administered, specifically as

1 to testing a person's hand?

2 A A standardized kit is made by a company and the
3 company distributes these kits and we distribute
4 these kits from SLED to different agencies
5 throughout the state.

6 The test kit contains two parts. One is a
7 double-sided sticky tape with a handle so that the
8 sticky tape never touches the hand of the person
9 collecting it, only touches the hands of the person
10 who it is being collected from. And the second
11 portion would be Q-tips with a small amount of
12 dilute acid placed on it. They are also swabbed
13 over the hand of whomever is being tested and these
14 two types of tests will pick up any gunshot residue
15 that may be present and they can be tested to see
16 if certain elements are there that are indicative
17 of gunshot residue.

18 Q And in a case where a gun has been fired or alleged
19 to be fired in a certain crime such as a murder
20 case, is it proper protocol to try to get a gunshot
21 residue test from the hands of say either the
22 victim and/or the Defendant in this case?

23 A Yes, ma'am.

24 Q And specifically is it unusual for the gunshot
25 residue kit to be collected at autopsy of a person

1) that has been murdered?

2 A No, ma'am.

3 Q And gunshot residue, how would you describe it as a
4 type of evidence? Does it have a long life once it
5 is deposited? Explain that to the jury.

6 A Gunshot residue has the consistency of salt, so it
7 is very easily removed. Once someone gets it on
8 their hand, if they were to wipe their hand or if
9 their hands were to be washed or cleansed in some
10 way, they could remove the gunshot residue. So it
11 doesn't remain on the hands very long.

12 In fact, on a living person, if someone shoots
13 a gun, gunshot residue begins to fall off
14 immediately. Within six hours there will be no
15 gunshot residue left.

16 Q No matter what. You mentioned that on a living
17 person there is a six hour window in which the test
18 would have to be collect, is that correct?

19 A Yes, ma'am.

20 Q And a person that has been killed or even
21 transported to the hospital and died in close
22 proximity, can the test be conducted at a later
23 date once the person has died?

24 A Yes, ma'am. Once someone is deceased and the heart
25 is no longer beating, the skin is no longer

1 absorbing things. Of course the skin becomes
2 inanimate because it is no longer touching or
3 making contact with things. So it will stay on the
4 skin indefinitely on someone who is deceased or not
5 on someone living.

6 Q So in this case where the gunshot residue kit was
7 collected the next day at autopsy -- we haven't
8 gotten to that testimony yet, we have scheduling
9 issues -- then that would be proper procedure and
10 would be tested?

11 A Yes, ma'am.

12 Q And in any case in your laboratory it would be
13 improper for you to perform any tests if it weren't
14 collected properly or packaged properly for your
15 testing?

16 A That's correct.

17 Q And in this case there was no evidence of any
18 tampering or anything of that nature?

19 A No, ma'am.

20 Q Is that correct? The gunshot residue kit that you
21 got in this case was from the victim, Mr. Salley?

22 A Yes.

23 Q And that is the only evidence you received?

24 A Yes, ma'am.

25 Q And say in this case where the Defendant is not

1 apprehended for weeks afterwards, would there be
2 any probative value to do a gunshot residue kit say
3 even if he is apprehended just 24 hours after the
4 shooting?

5 A No, ma'am.

6 Q And, in fact, would you even test it?

7 A No, we would not.

8 Q In this place -- you mentioned earlier that when
9 doing a gunshot residue kit there were several --
10 there are different areas of the hands that are
11 tested?

12 A Yes, ma'am.

13 Q And specifically there are four different areas, is
14 that correct?

15 A That's correct.

16 Q And the reason it is collected from all four
17 different areas is it can have a different meaning
18 depending on what you find in each area?

19 A That is correct.

20 Q And say if a person has been -- shot a gun and the
21 gunshot residue kit is collected correctly within
22 the six hour period on a living person or at
23 autopsy on a dead person, where typically if that
24 person fired a gun would you expect to find gunshot
25 residue?

1 A If someone were firing with one hand we would find
2 the highest quantity on the back of the hand
3 because the gunshot residue will wrap around and
4 get on the back of hand where this part would be
5 obscured by the gun. If they were firing it with
6 two hands like this, then most of the gunshot
7 residue would be on the back of the hands and only
8 a small amount will fall.

9 Q And are you familiar with say a gun that has been
10 fired, as well as being on the person's hands,
11 would the gunshot residue also get on gun itself?

12 A Yes, it can.

13 Q So if you found gunshot residue say on the palms of
14 someone's hands, would that be indicative of they
15 had handled a gun at some point?

16 A If it was absent from the back of the hand?

17 Q Uh-huh.

18 A Yes, ma'am.

19 Q And if it is on the back and the front, then it may
20 have been fired or whatever, and it would be
21 consistent with that?

22 A That's correct.

23 Q And, again, this all has to be done in a timely
24 manner to insure the integrity of the results, is
25 that correct?

1 A Yes, ma'am.

2 Q In this case, I believe from the right hand you
3 received two different gunshot residue stickies?

4 A Yes.

5 Q And one was from the, I believe the right palm and
6 one from the right back of hand?

7 A Yes, ma'am.

8 Q And what were the results on Anthony Salley,
9 gunshot residue from his right hand, the front and
10 the back as far as whether or not he had handled
11 and/or fired a gun?

12 A There was no metals that would indicate gunshot
13 residue present, so it would not be indicative of
14 him firing a weapon.

15 Q There was nothing there to indicate that?

16 A No, ma'am.

17 Q And when you tested the two items from his left
18 hand, from the back of his left hand and the front
19 of his left hand, what were the results?

20 A Also, the same. There was no metals indicative of
21 gunshot residue, so it was not -- it did not
22 indicate him having handled or fired a weapon.

23 Q In addition to that, with the victim in the case,
24 you indicated it wasn't consistent with him having
25 handled or fired a gun. In this case if the person

1 is in close proximity or if they are putting up
2 their hands in self-defense or something, can
3 gunshot residue also be -- get on their hands if
4 they are in close proximity when someone is
5 shooting?

6 A Yes, ma'am.

7 Q And explain that to the jury how that happens.

8 A If one were to point a gun or throw their hands up
9 in front of the muzzle of the gun, that is where
10 98 percent of the gunshot residue comes out. So if
11 my hands were very close to the muzzle of the gun
12 when it discharged, I would have a very high amount
13 of gunshot residue on my hand, versus if I were to
14 shoot a gun and I was standing behind the gunshot
15 victim. And in this case, again, the results in
16 the front and back of both hands were what?

17 A They were negative. There was no indication that a
18 gun had been handled or fired.

19 Q Thank you. I have nothing further.

20 THE COURT: Please answer any questions Ms.
21 Cleary may have.

22 CROSS-EXAMINATION

23 BY MS. CLEARY:

24 Q Real briefly, Ms. Simmons. If a person had within
25 the last 24 hours swatted at a gun and knocked it

1 out of someone's hand, would you expect there to be
2 any kind of gunshot residue?

3 A It is a possibility, but with such a quick contact,
4 generally it not necessarily could get on the
5 hands. It just depends on how much contact was
6 made and how long the hand made contact with the
7 weapon.

8 Q And you testified that these tests indicate that a
9 person either fired a gun or was close to a gun
10 that was fired?

11 A Yes. Or could have handled a weapon. That is what
12 gunshot residue can determine.

13 Q Okay. But this test doesn't tell you if someone
14 handled a gun earlier in the day or at a different
15 time, it has to be within six hours?

16 A Yes, ma'am. It was only within a six hour window.

17 Q Okay. And if a person was wearing gloves, would
18 that --

19 A If someone were wearing gloves and discharged a
20 gun? Yes, gunshot residue will not permeate cloth,
21 so it would be on the glove, not on the hands.

22 Q Okay. Thank you. That's all the questions I have.

23 MS. CAMPBELL: Just to clarify one point.

24 REDIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q In this case, what were your results?

2 A No gunshot residue was found on any areas of the
3 hands.

4 Q Thank you.

5 THE COURT: All right. You may step down,
6 ma'am.

7 (Witness steps down.)

8 THE COURT: Any objection to this witness
9 being excused?

10 MS. CAMPBELL: None from the State, Your
11 Honor.

12 MS. CLEARY: No, ma'am.

13 THE COURT: You are free to leave.

14 THE WITNESS: Thank you.

15 (Witness excused.)

16 MS. SIMPSON: The State calls Jackie Richburg.
17 And, Your Honor, there is a little bit of set-up
18 required for this witness.

19 THE COURT: All right.

20 MS. SIMPSON: Your Honor, may we approach?

21 THE COURT: Yes.

22 (WHEREUPON, a bench conference was held
23 in the presence of the jury but out of
24 the hearing of the jury.)

25 THE BAILIFF: Raise your right hand, place

1 your left hand on the Bible.

2 (Witness complies.)

3 THE CLERK: Do you swear or affirm the
4 testimony you are about to give in this case will
5 be the truth, the whole truth, and nothing but the
6 truth, so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you. Have a seat on the
9 witness stand, please. State your full name for
10 the record.

11 THE WITNESS: Jacquelyn Richburg,
12 R-I-C-H-B-U-R-G.

13 JACKIE RICHBURG,
14 after being duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. SIMPSON:

17 Q Ms. Richburg, where do you work?

18 A 9-1-1 Communication Center.

19 Q And how long have you been employed there?

20 A Twenty-eight years. I retired and came back last
21 year.

22 Q You retired at the end of last year?

23 A Yes, and came back last year.

24 Q Oh, and came back. And at 9-1-1, what are your
25 duties?

1 A I am the operations officer, so I am responsible
2 for the tape recordings and closed incidents.

3 Q Okay. And with respect to tape recordings and
4 closed incidents, can you explain what that is for
5 the jury?

6 A Well, we have requests from citizens or first
7 responders or attorneys to request information as
8 far as the recording for the phone traffic or the
9 radio traffic and the actual incident when the
10 person calls in to the 9-1-1 system.

11 Q So you're familiar with how these records are
12 compiled and stored?

13 A Yes.

14 Q And are they stored in both written and audio form?

15 A Yes.

16 Q And is this done in the ordinary and normal course
17 of business?

18 A Yes, it is.

19 Q And do the entries in the records that you keep
20 accurately reflect the information that is
21 received?

22 A Yes, they are.

23 Q And what types of information are contained in
24 these records?

25 A Everything that the person calls in, there is a

1 phone call that comes in, everything is recorded,
2 the radio traffic on the radio is recorded, and all
3 the phone traffic is recorded.

4 Q Okay. And where do they get this information from
5 that is recorded on these calls?

6 A It is stored in our database that we keep in --

7 Q All this information on these recordings comes from
8 callers or people calling in to 9-1-1?

9 A Yes.

10 Q And are you aware that a 9-1-1 call was requested
11 and recovered in this case?

12 A No.

13 Q Did -- but you are the custodian of records, right?

14 A Right.

15 Q And these disks -- the calls are kept on disks and
16 recordings, right?

17 A Yes.

18 Q I'm showing you what has been marked as State's
19 Exhibit Number 148, which is the 9-1-1 call from
20 this case.

21 A Uh-huh.

22 MS. SIMPSON: Your Honor, at this time the
23 State would seek to introduce the call.

24 THE COURT: Any objection?

25 MS. CLEARY: No objection.

1 (WHEREUPON, State's Exhibit No. 148 was
2 marked for identification and received
3 into evidence.)

4 MS. SIMPSON: Permission to publish to the
5 jury?

6 THE COURT: Yes, ma'am.

7 MS. SIMPSON: And beg the Court's indulgence.
8 (9-1-1 call played in open court.)

9 MS. SIMPSON: Your Honor, if we may approach
10 briefly?

11 (WHEREUPON, a bench conference was held
12 in the presence of the jury but out of
13 the hearing of the jury.)

14 BY MS. SIMPSON:

15 Q And so, Ms. Richburg, you are the custodian of
16 records?

17 A Yes.

18 MS. SIMPSON: No further questions.

19 THE COURT: Please answer any questions that
20 Ms. Cleary has.

21 MS. CLEARY: I have no questions.

22 THE COURT: All right, ma'am, you may step
23 down.

24 (Witness steps down.)

25 THE COURT: Any objection to this witness

1 being excused?

2 MS. CLEARY: None from the Defense.

3 THE COURT: All right, ma'am, you are free to
4 leave.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 THE COURT: Please call your next witness.

8 MS. CAMPBELL: The State would call
9 Investigator Beeler.

10 THE BAILIFF: Raise your right hand, place
11 your left hand on the Bible.

12 (Witness complies.)

13 THE CLERK: Do you swear or affirm the
14 testimony you are about to give in this case will
15 be the truth, the whole truth, and nothing but the
16 truth, so help you God?

17 THE WITNESS: I do, ma'am.

18 THE CLERK: Thank you. Have a seat in the
19 witness stand, please. State your name for the
20 record.

21 THE WITNESS: Investigator Michael Beeler.

22 MICHAEL BEELER,
23 after being duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q Investigator Beeler, where are you employed?

2 A Richland County Sheriff's Department with the crime
3 scene unit.

4 Q And as part of the crime scene unit, what do your
5 duties includes?

6 A Photography, processing and collection of evidence,
7 basic crime scene reconstruction. Numerous
8 aspects.

9 Q Okay. Can you tell the jury a little about your
10 education and your training in crime scene
11 investigation?

12 A Absolutely. I have an associates degree with
13 Midlands Technical College in criminal justice. I
14 have been in crime scene approximately three and a
15 half years. During that time I completed the
16 fundamentals of crime scene investigation, ethics
17 and forensic sciences, basic and advanced blood
18 pattern analysis, DNA and forensic pathology
19 overviews, documentation and developing and
20 recording of fingerprints, advanced crime scene
21 photography techniques, footwear and tire track
22 development and documentation classes, expert
23 witness testimony classes, advanced blood pattern
24 analysis, forensic anthropology and archaeology
25 classes, crime scene reconstruction, the scan

1 station, and latent fingerprint examination.

2 Q And have you been qualified before as an expert in
3 crime scene investigation?

4 A I have now.

5 MS. CAMPBELL: Your Honor, at this time we
6 would offer him as an expert in crime scene
7 investigation.

8 THE COURT: Any objection? I'm sorry, any
9 voir dire?

10 MS. CLEARY: No. No objection.

11 THE COURT: No objection? All right, ladies
12 and gentlemen of the jury, this witness will be
13 qualified in the area of crime scene investigation.
14 He is an expert.

15 MS. CAMPBELL: Thank you, Judge.

16 BY MS. CAMPBELL:

17 Q Investigation Beeler, did you respond to a murder
18 crime scene back on January 16th of 2010?

19 A Yes, ma'am, I did.

20 Q And where did you respond to?

21 A This was two locations next to each other, [REDACTED] and

22 [REDACTED]

23 Q And --

24 A In Richland County.

25 Q -- can you tell this jury, approximately what time

1 of day was it when you got there to the scene?

2 A I got the call at approximately 2:45 and I arrived
3 about 3:20.

4 Q When you got to the crime scene, what did you find?

5 A It was raining, ma'am. I found a properly secured
6 crime scene with scene log being obtained by Deputy
7 Oliphant, who was on the scene.

8 Q And prior to you getting there, the victim had
9 already been transported by EMS to the hospital?

10 A Yes, ma'am, that was the information I got, that
11 the victim was not on the scene whenever I arrived.

12 Q Once you got to the scene, did you get a history of
13 what deputies knew about what had occurred at the
14 crime scene prior to you doing investigating
15 yourself?

16 A Basic information, some sort of altercation had
17 occurred, and an apparent shooting due to the
18 evidence recovered.

19 Q You mentioned that the crime scene had been
20 properly secured, but it was raining that day,
21 right?

22 A Yes, ma'am.

23 Q And had the deputies taken any steps prior to you
24 getting there to cover up or try to preserve any
25 evidence there at the scene?

1 A Yes, ma'am. A few of the items of evidence,
2 earrings were covered with little plastic cups, and
3 a seashell was used to cover the shell casing that
4 was recovered.

5 Q And where were the earring and the shell casing
6 located?

7 A The earring and the shell casing were at my Markers
8 J and G in the driveway -- in the front yard
9 between the two locations.

10 Q So there is a grassy area between the driveways of
11 the two locations?

12 A Yes, ma'am.

13 Q And that was where the basic crime scene was?

14 A Yes, ma'am. Well, the majority of the items that I
15 recovered were there.

16 Q Whenever you go to a crime scene, prior to
17 collecting any evidence, is it proper for you to
18 try to photograph what is actually there and how it
19 appears when you get there?

20 A Yes, ma'am. Photography, documentations,
21 measurements.

22 Q Things of that nature?

23 A Yes, ma'am.

24 Q And during the course of that afternoon, did you
25 also have other crime scene investigators assisting

1 you in preparing diagrams and things of that nature
2 and helping with some of these tasks?

3 A Yes, ma'am, Investigator Polis and Bouknight
4 responded to the scene.

5 Q To assist you as well?

6 A Yes, ma'am.

7 Q Your primary duties that day I believe were to
8 actually photograph the crime scene as you found
9 it, as well as collect certain items that you had
10 photographed, is that correct?

11 A Yes, ma'am, that's correct.

12 Q The fact that it was an outdoor scene and it was
13 raining, did that, not hamper your abilities, but
14 affect you somewhat in what you were able to
15 process?

16 A Yes, ma'am. Rain can -- the volume of rain can
17 actually move shell casings if it was raining on a
18 hard surface. We weren't necessarily concerned
19 with that incident. The problem rain can bring is
20 trying to preserve and collect it so it is not
21 disturbed by it. Once we were on the scene it
22 continued to light rain.

23 Q Once you got to the scene, do you do anything to
24 help kind of identify items that you find at the
25 scene later and photograph them?

1 A Yes, ma'am.

2 Q Such as marking them?

3 A For photography and documentation purposes -- I
4 will refer to them as my markers typically. We use
5 plastic tent markers, we call them. They have
6 numbers or letters on them. And typically we will
7 scale, up close photography, to give some sort of
8 reference to this item.

9 Q You mentioned that prior to you getting there a
10 shell casing had been recovered. Would that be
11 important in your assessment of the scene?

12 A Yes, ma'am.

13 Q I will show you a series of photographs. And first
14 just ask, is this first one a general photograph
15 and then the other photographs you took of the
16 crime scene that day?

17 A Yes, ma'am.

18 Q And do those fairly and accurately reflect the
19 crime scene as you found them? I believe some are
20 with markers and some are without markers, is that
21 correct?

22 A Yes, ma'am.

23 Q And typically do you photograph the crime scene
24 without the markers first and then go back and put
25 the markers in so you can identify things at a

1 later time?

2 A Yes, ma'am. Usually we like to take photographs
3 before anything has changed in the scene, anything
4 is moved. In certain instances such as this as far
5 as scene preservation, the deputies used plastic
6 cups and the shell, seashell, to try to protect the
7 item from rain and also to mark them so no one
8 disturbs it before we arrive to start collection of
9 it.

10 Q I show you what is marked as State's Exhibit Number
11 149. Is that a photograph you took that day?

12 A Yes, ma'am.

13 MS. CAMPBELL: Your Honor, at this time we
14 would offer it into evidence.

15 THE COURT: Any objection? She didn't --

16 MS. CAMPBELL: She has been provided all of
17 the evidence, Your Honor.

18 MS. CLEARY: I don't remember which one.

19 (Pause.)

20 MS. CLEARY: No objection.

21 THE COURT: All right, you can enter it. That
22 is what number?

23 MS. CAMPBELL: 149.

24 (WHEREUPON, State's Exhibit No. 149 was
25 marked for identification and received

1 into evidence.)

2 BY MS. CAMPBELL:

3 Q What does that show?

4 A This shows the shell casing, ma'am.

5 Q And specifically you mentioned there was a -- what
6 was over it?

7 A The shell casing was covering a fired cartridge
8 casing, a shell casing.

9 Q And finding a shell casing at the scene, is that of
10 significance in your investigation?

11 A Yes, ma'am.

12 Q And how does a shell casing typically get left on
13 the scene, say when a semi-automatic handgun is
14 used?

15 A A semi-automatic handgun, unlike a revolver, does
16 not contain the fire cartridge casing. Typical
17 ejection is to the right. As the handgun is fired
18 the projectile leaves the weapon. The weapon
19 cycles, the slide comes back ejecting the fired
20 cartridge casing. And if there is another magazine
21 in the weapon and the magazine has bullets, it will
22 load an additional round of unfired bullets.

23 Q And when you find a shell casing at a scene, that
24 can't tell you exactly where the gun was when it
25 was fired, but it can show you the general area, is

1 that correct?

2 A Yes, ma'am.

3 Q Or it can't, depending on if it has been moved, or
4 things of that nature?

5 A Yes, ma'am.

6 Q I show you State's Exhibits Number 13 through 21.
7 Are those also additional photographs of that same
8 shell casing up close, both with markers and
9 without?

10 A Yes, ma'am, the shell casing with shell,
11 photographs Number 13 and 14. 15 shows my marker
12 with the shell casing and shell. 16 shows a
13 closer-up version of my Marker A with the shell
14 casing and shell. 17, 18, 19 -- yes, ma'am --

15 Q Through 21?

16 A -- through 21 -- show the shell casing and shell,
17 and also my Marker A with the shell casing and
18 shell.

19 MS. CAMPBELL: Your Honor, at this time we
20 would offer State's Exhibits 13 through 21.

21 MS. CLEARY: No objection.

22 THE COURT: They will be entered without
23 objection.

24 (WHEREUPON, State's Exhibit Nos. 13

25 THROUGH 21 were marked for

1 identification and received into
2 evidence.)

3 Q Showing you State's 149 and State's Exhibit 17, do
4 those show the same general area but from different
5 angles?

6 A Yes, ma'am.

7 Q And does that accurately show the crime scene as
8 you found it once you got there? And you said it
9 had started raining?

10 A Yes, ma'am.

11 Q The shell casing that ultimately you collected that
12 was underneath the shell, is that shown up close in
13 State's Exhibit Number 13 that you are removing the
14 shell and then marked as State's Exhibit 18?

15 A Yes, ma'am.

16 Q And were you able to determine there at the scene
17 that day what caliber bullet this was?

18 A Yes, ma'am. We refer to it as head stamping, but
19 the end of the shell casing opposite the projectile
20 is stamped with the manufacturer typically and
21 caliber.

22 Q And the rest of these photographs that we have just
23 referred to and have been admitted are also
24 close-ups of that same shell casing?

25 A Yes, ma'am.

1 MS. CAMPBELL: Your Honor, permission to
2 publish?

3 THE COURT: Yes, ma'am.

4 (Exhibits published to the jury.)

5 Q There was also an area in the grassy area next to
6 the driveway that was significant or could have
7 been significant in your investigation?

8 A Yes, ma'am.

9 Q I'm going to show you State's Exhibits Number 22
10 through 26 and ask if you recognize those?

11 A Yes, ma'am.

12 Q And do those fairly and accurately depict the crime
13 scene and the grassy area?

14 A Yes, ma'am.

15 Q And specifically in those, what did you think would
16 be of significance in this case?

17 A There was a reddish-brown stain in the grass that I
18 placed my Marker B to indicate location.

19 MS. CAMPBELL: Your Honor, at this time we
20 would offer State's Exhibits 22 through 26, which
21 she has had an opportunity to review.

22 THE COURT: Any objection?

23 MS. CLEARY: No objection.

24 THE COURT: Without objection.

25

1 (WHEREUPON, State's Exhibit Nos. 22
2 THROUGH 26 were marked for
3 identification and received into
4 evidence.)

5 Q Specifically what is shown in the distance in
6 State's Exhibit Number 22 and then in a close-up of
7 State's Exhibit Number 25, you mentioned a
8 reddish-brown stain?

9 A Yes, ma'am.

10 Q And in your experience as a crime scene
11 investigator, what did you think this could be?

12 A It appeared to be a blood stain. Typically we will
13 collect that and let the DNA analyst analyze it to
14 determine if there --

15 Q If it is appropriate?

16 A Yes, ma'am.

17 Q And in this case you were aware that someone had
18 been shot?

19 A Yes, ma'am.

20 Q Therefore the finding of these blood stains was not
21 surprising to you in your investigation?

22 A No, ma'am.

23 MS. CAMPBELL: Your Honor, permission to
24 publish?

25 THE COURT: Yes, ma'am.

1 (Exhibits published to the jury.)

2 Q The next marker -- and I notice the markers each
3 have an individual letter or number on them?

4 A Yes, ma'am.

5 Q And is that so you can go back when you are looking
6 at pictures to kind of orient as to what you are
7 referring to?

8 A Yes, ma'am.

9 Q And Marker A was the shell casing and Marker B was
10 the red stain?

11 A Yes, ma'am.

12 Q What was your Marker C of?

13 A My Marker C was a black and gray jacket and 45
14 cents in U.S. currency next to the jacket.

15 Q I am going to show you State's Exhibit Number 27
16 through 30. Did those show the general area with
17 many markers in them as well as some of the items
18 that you later collected at the scene?

19 A Yes, ma'am.

20 Q And do those fairly and accurately depict, even
21 though you put the markers in, what you found at
22 the scene that day?

23 A Yes, ma'am.

24 MS. CAMPBELL: Your Honor, at this time we
25 would offer 27 through 30.

1 THE COURT: Any objection?

2 MS. CLEARY: No objection.

3 (WHEREUPON, State's Exhibit Nos. 27

4 THROUGH 30 were marked for

5 identification and received into

6 evidence.)

7 Q In State's Exhibit Number 27 I notice that you have
8 got multiple marker in that. Is that a general
9 overview and the closer up --

10 A Uh-huh.

11 Q -- being in State's Exhibit Number 29, of the
12 jacket we referred to?

13 A Yes, ma'am, with my Marker C.

14 Q And, again, that shows the general crime scene and
15 the items. And when you are collecting it at a
16 crime scene, you have little information other than
17 generally what happened?

18 A Correct, ma'am.

19 Q That someone had been shot?

20 A Yes, ma'am.

21 Q So that, when you mark and collect everything, it
22 may or may not be significant later on down the
23 road?

24 A Yes, ma'am. Usually -- the only thing we typically
25 don't collect will be the -- if EMS leaves any sort

1 of -- the packaging for their different bandages
2 and stuff like that. There were none in this
3 instance, but typically we'll mark and collect
4 things that -- they may not be related to the
5 incident -- we mark anything that may be related to
6 the incident.

7 Q And in the back of 27, I notice there are some
8 items there in the driveway?

9 A Yes, ma'am.

10 Q And what were those items?

11 A Those were the bags and things left from EMS
12 treating the victim.

13 Q And that is back here in the driveway?

14 A Back in the driveway.

15 Q And those you didn't collect?

16 A No, ma'am.

17 MS. CAMPBELL: Your Honor, permission to
18 publish?

19 THE COURT: Yes, ma'am.

20 (Exhibits published to the jury.)

21 Q I am going to show you photographs with Marker D,
22 State's Exhibit 31 and 32. What was that item?

23 A Thirty-one and 32 -- 31 is a mid-range shot showing
24 the relationship of multiple items, and 32 is my
25 Marker D with a blue towel.

1 Q Blue towel?

2 A Yes, ma'am.

3 Q And the blue towel appeared to have reddish-brown
4 stains believed to be blood stains.

5 MS. CAMPBELL: Your Honor, at this time we
6 would offer State's Exhibits 31 and 32.

7 THE COURT: Any objection?

8 MS. CLEARY: No objection.

9 (WHEREUPON, State's Exhibit Nos. 31 AND
10 32 were marked for identification and
11 received into evidence.)

12 Q And State's Exhibit Number 31, I believe that is
13 the blue towel with a reddish stain?

14 A Yes, ma'am.

15 Q And State's Exhibit Number 32 is just a close-up of
16 that found at the scene?

17 A Yes, ma'am.

18 MS. CAMPBELL: Permission to publish, Your
19 Honor?

20 THE COURT: Yes, ma'am.

21 MS. CAMPBELL: Thank you.

22 (Exhibits published to the jury.)

23 Q Marker Number E was a pair of shoes?

24 A Yes, ma'am.

25 Q I show you what has been marked as State's Exhibit

1 33 and 34.

2 A Yes, ma'am.

3 Q And were those shoes that were actually found at
4 the scene?

5 A Yes, ma'am, just two different sides.

6 Q Two different angles?

7 A Two different angles, yes, ma'am.

8 Q And, again, those were shoes you found at the
9 scene?

10 A Yes, ma'am.

11 MS. CAMPBELL: Permission -- I need to offer
12 them in evidence.

13 THE COURT: What number is that?

14 MS. CAMPBELL: Thirty-three and 34, Your
15 Honor.

16 THE COURT: Any objection?

17 MS. CLEARY: No objection.

18 (WHEREUPON, State's Exhibit Nos. 33 AND
19 34 were marked for identification and
20 received into evidence.)

21 MS. CAMPBELL: Permission to publish, Your
22 Honor?

23 THE COURT: Yes, ma'am.

24 (Exhibits published to the jury.)

25 Q Marker G showed another item?

1 A Yes, ma'am.

2 Q What item is that?

3 A An earring.

4 Q I show you 35 and 36. Are the earrings reflected?

5 A Yes, ma'am, an earring back.

6 Q An earring back?

7 MS. CAMPBELL: Your Honor, at this time we
8 would offer State's Exhibit 35 --

9 A My Marker G.

10 Q Your Marker G.

11 MS. CAMPBELL: -- 35 and 36.

12 THE COURT: Any objection?

13 MS. CLEARY: No objection.

14 (WHEREUPON, State's Exhibit Nos. 35 AND
15 36 were marked for identification and
16 received into evidence.)

17 MS. CAMPBELL: Permission to publish?

18 THE COURT: Yes, ma'am.

19 (Exhibits published to the jury.)

20 Q I show you what has been marked as State's Exhibits
21 Numbers 37 through 42. Do you recognize those?

22 A Yes, ma'am.

23 Q What do those show?

24 A My Marker G and my Marker F, F also being an
25 earring backing, Marker G being the earring and

1 earring back. A close-up view of my Marker G with
2 earring and earring back, a close-up view of my
3 Marker F with the earring back, another one with my
4 Marker G with earring and earring back, Marker F,
5 earring back. And a very close-up view of my
6 marker.

7 MS. CAMPBELL: Your Honor, at this time we
8 would offer 37 through 42.

9 MS. CLEARY: No objection.

10 THE COURT: All right.

11 (WHEREUPON, State's Exhibit Nos. 37
12 THROUGH 42 were marked for
13 identification and received into
14 evidence.)

15 Q Item 37 I notice here next to it is a cup. Was
16 that the cup that we referred to earlier that was
17 placed there by the deputy?

18 A Yes, ma'am.

19 Q So that was actually a covered item you removed in
20 order to photograph?

21 A Yes, ma'am.

22 MS. CAMPBELL: Permission to publish, Your
23 Honor?

24 THE COURT: Yes, ma'am.

25 (Exhibits published to the jury.)

1 Q Marker Number H, which are Items Number 43 through
2 45 -- excuse me, Exhibits Number 43 through 45.
3 What does that show?

4 A That would be a brown towel with my Marker H,
5 various views of it.

6 Q A brown towel?

7 A Yes, ma'am.

8 Q And then Marker I is what?

9 A What is referred to as a do-rag or a head wrap.

10 Q A head wrap? And that is State's Exhibit Number
11 46?

12 A Yes, ma'am.

13 MS. CAMPBELL: At this time I would offer 43
14 through 46, Your Honor.

15 THE COURT: Any objection?

16 MS. CLEARY: No objection.

17 (WHEREUPON, State's Exhibit Nos. 43

18 THROUGH 46 were marked for

19 identification and received into
20 evidence.)

21 MS. CAMPBELL: Permission to publish, Your
22 Honor?

23 (Exhibits published to the jury.)

24 Q Marker Number J, I show you what has been marked as
25 State's Exhibits 47 through 49. Do you recognize

1 that?

2 A Yes, ma'am. One of the cups, my Marker J, and the
3 earring, close-up of my Marker J with earring, and
4 my Marker J with earring.

5 MS. CAMPBELL: Your Honor, at this time we
6 would offer 47 through 49.

7 THE COURT: Any objection?

8 MS. CLEARY: No objection.

9 (WHEREUPON, State's Exhibit Nos. 47
10 THROUGH 49 were marked for
11 identification and received into
12 evidence.)

13 Q And State's Exhibit Number 47, again, there was
14 reference to the deputy putting the cup over it?

15 A Yes, ma'am.

16 Q And then in State's Exhibit Number 48 you can
17 actually see the item, is that correct?

18 A Yes, ma'am, a close-up view.

19 MS. CAMPBELL: Permission to publish, Your
20 Honor.

21 (Exhibits published to the jury.)

22 Q We are almost through. Marker Number K shows an
23 area adjacent to the crime scene, I believe?

24 A Yes, ma'am. It is the same area.

25 Q Part of the crime scene?

1 A Yes, ma'am. It is closer.

2 Q State's Exhibits 50 through 53, does that show a
3 certain automobile?

4 A Yes, ma'am. A Mazda Protege with a jacket on the
5 back, black and orange jacket.

6 Q And that shows the car as it appeared that day when
7 you got there?

8 A Yes, ma'am.

9 Q As well as the jacket that was displayed on it?

10 A It was laying on it, yes, ma'am, with my Marker K
11 to mark the jacket.

12 MS. CAMPBELL: Your Honor, at this time I
13 would offer 50 through 53.

14 THE COURT: Any objection?

15 MS. CLEARY: No objection.

16 (WHEREUPON, State's Exhibit Nos. 50
17 THROUGH 53 were marked for
18 identification and received into
19 evidence.)

20 Q State's Exhibit Number 50 shows the front of the
21 house, is that correct?

22 A Yes, ma'am.

23 Q And what kind of car is this again?

24 A I believe it is a Mazda Protege.

25 Q A Mazda Protege?

1 A Yes, ma'am.

2 Q And what color?

3 A It was black in color, ma'am.

4 Q I notice also in this State's Exhibit you can
5 actually see that the ground underneath the car is
6 what?

7 A It is dry. The car was covering the driveway.

8 MS. CAMPBELL: Your Honor, at this time
9 permission to publish?

10 THE COURT: Yes, ma'am.

11 (Exhibits published to the jury.)

12 Q Marker L, which was in the driveway towards the
13 street, I show you State's Exhibits 54 through 56.
14 Do you recognize that?

15 A Yes, ma'am.

16 Q And what item is that?

17 A My Marker K showing reddish-brown stains in the
18 driveway.

19 Q And did those stains have any significance to you
20 as you observed them as the rain came down?

21 A Yes, ma'am. There was -- they were not disturbed
22 from the rain. They were -- did not appear to be
23 fresh. They were not believed to be blood stains
24 based off what we saw.

25 Q Did it appear to be consistent with some type of

1 paint?

2 A Yes, ma'am. I actually spoke with Andina Lee about
3 it, and they were old paint stains.

4 Q But you marked them and swabbed them out of an
5 abundance of caution?

6 A Yes, ma'am.

7 Q And that is proper procedure?

8 A Yes, ma'am.

9 MS. CAMPBELL: Your Honor, at this time we
10 would offer State's Exhibits 54 through 56.

11 THE COURT: Any objection?

12 MS. CLEARY: No objection.

13 (WHEREUPON, State's Exhibit Nos. 54
14 THROUGH 56 were marked for
15 identification and received into
16 evidence.)

17 Q Finally, State's Exhibits 57 through 61. What does
18 that show?

19 A This shows the Mazda Protege beside the house with
20 my Marker M to indicate a Nokia cell phone, a
21 close-up of the Nokia cell phone with my Marker M,
22 and rain on the cell phone.

23 Q Okay.

24 MS. CAMPBELL: Your Honor, we offer State's
25 Exhibits 57 through 61.

1 THE COURT: Any objection?

2 MS. CLEARY: No objection.

3 (WHEREUPON, State's Exhibit Nos. 57
4 THROUGH 61 were marked for
5 identification and received into
6 evidence.)

7 Q In State's Exhibit Number 57, I notice that there
8 is an M over there, that is a mulch area next to
9 the car?

10 A Yes, ma'am.

11 Q And then if you look as State's Exhibit Number 60,
12 is that a close-up?

13 A Yes, ma'am.

14 Q And that was a phone that was found there?

15 A Yes, ma'am, my Marker F showing the Nokia phone.

16 MS. CAMPBELL: Your Honor, permission to
17 publish the rest of the photos?

18 THE COURT: Yes, ma'am.

19 MS. CAMPBELL: Thank you.

20 (Exhibits published to the jury.)

21 Q And, again, you wanted to collect everything to
22 make sure that something, even if it may not be
23 significant on the surface, it may later prove to
24 be or not, just depending on the item?

25 A Correct, ma'am.

1 Q Did you also -- or did people assisting you also
2 search the car, the Mazda that was parked in the
3 driveway?

4 A Yes, ma'am, it was checked.

5 Q Some of the items that were collected at the scene
6 were y'all later taken back -- collected at the
7 scene and later processed and had further
8 processing?

9 A Yes, ma'am.

10 Q And explain to is jury why you do it that way.

11 A It is not always feasible to process things on the
12 scene. Some items need to be dried before they can
13 be packaged and also if it is raining you don't
14 want to stand out there on the side of the road and
15 further allow things to degrade. Sometimes under a
16 controlled setting it is easier to process it for
17 collection.

18 Q I want to show you some of the items mentioned in
19 the photographs, State's Exhibit Number 4, 3, 10
20 and 2. Do you recognize those items?

21 A Yes, ma'am.

22 Q What are those items?

23 A The black head wrap from my Marker I, State's
24 Exhibit 4. State's Exhibit 3, the items collected
25 from the right jacket pocket, Marker K, which was a

1 Newport carton pack and eye droops. State's
2 Exhibit 10 is the earring back for Marker F, the
3 earring from Marker G, the earring from Marker J,
4 the Nokia cell phone from Marker M. And also
5 State's Exhibit 2, which was 45 cents change U.S.
6 currency from my Marker C.

7 Q In addition to that, there were some various items
8 of clothing as well as some shoes reflected in
9 State's Exhibits Number 5, which I believe is a
10 blue towel, Marker D?

11 A Yes, ma'am.

12 Q State's Exhibit Number 7, black tennis shoes?

13 A Yes, ma'am, my Marker E.

14 Q State's Exhibit Number 6 is a black and gray
15 jacket?

16 A Yes, ma'am, my Marker C.

17 Q State's Exhibit Number 1, which is a brown towel?

18 A Yes, ma'am, from my Marker H.

19 Q And then State's Exhibit Number 8?

20 A Yes, ma'am, the black and orange jacket from my
21 Marker A.

22 MS. CAMPBELL: Your Honor, at this time I
23 would offer them into evidence.

24 THE COURT: Any objection?

25 MS. CLEARY: No objection.

1 (WHEREUPON, State's Exhibit No. 4 was
2 marked for identification and received
3 into evidence.)

4 (WHEREUPON, State's Exhibit No. 3 was
5 marked for identification and received
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 10 was
8 marked for identification and received
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 2 was
11 marked for identification and received
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 5 was
14 marked for identification and received
15 into evidence.)

16 (WHEREUPON, State's Exhibit No. 7 was
17 marked for identification and received
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 6 was
20 marked for identification and received
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 1 was
23 marked for identification and received
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 8 was
2 marked for identification and received
3 into evidence.)

4 Q And the items without the packaging, all those
5 items, those are what has been captured in the
6 photographs we have published to the jury?

7 A Yes, ma'am they are.

8 Q Finally, as far as items that were collected at the
9 scene, I show you what is marked as State's Exhibit
10 Number 12. What is that?

11 A This would be the fired cartridge casing, shell
12 casing, head stamped RP, .40-caliber Smith and
13 Wesson from my Marker A.

14 Q .40-caliber Smith and Wesson?

15 A Yes, ma'am.

16 Q And that was the one found at the scene there in
17 the driveway?

18 A Underneath of the seashell, yes, ma'am.

19 Q That had been marked by the deputy?

20 A Yes, ma'am.

21 MS. CAMPBELL: Your Honor, at this time we
22 would offer State's Exhibit Number 12 in evidence.

23 THE COURT: Any objection?

24 MS. CLEARY: No objection.
25

1 (WHEREUPON, State's Exhibit No. 12 was
2 marked for identification and received
3 into evidence.)

4 Q Once you processed the scene, did you collect any
5 swabs there at the scene, besides the ones that
6 were paint?

7 A My apologies. I collected a swab of the stain
8 believed to be bloodstains at Marker B, and also
9 the swab of the stains believed to be paint that
10 were on the driveway at my Marker L.

11 Q And depending on what the investigation showed,
12 those can be tested at a later time if it would
13 prove to be probative?

14 A Yes, ma'am.

15 Q Once you had collected the items that we have gone
16 through and talked about, did you then transport
17 those back to your laboratory at headquarters?

18 A Yes, ma'am, I did.

19 Q And the next day did you continue doing some
20 processing in this case?

21 A Yes, ma'am. The next day I went into our forensic
22 lab and processed and packaged some of the items.

23 Q And in certain cases, especially when ID is an
24 issue, the person who did it is not known, is it
25 important to process for fingerprints and/or DNA

1 testing?

2 A Yes, ma'am.

3 Q In order to identify people?

4 A Yes, ma'am, it is our normal course of
5 investigation.

6 Q And you would do it in this case as a common course
7 of action?

8 A Yes, ma'am.

9 Q That would be standard operating procedure?

10 A Yes, ma'am.

11 Q Once you got the items back to headquarters, what
12 if any further processing or swab collecting did
13 you do, if you did anything, that in fact became an
14 issue in this case?

15 A I processed the Nokia cell phone from my Marker M,
16 and also the .40-caliber shell casing from
17 underneath the seashell at Marker A with
18 cyanoacrylate, which is basically super glue, it
19 produces fumes that will -- may adhere to latent
20 fingerprints. And also I used black fingerprint
21 powder, which is also an enhancing agent looking
22 for fingerprints.

23 Q When you are looking for fingerprints, say if I
24 walk up and touch the top of this pedestal here?

25 A Yes, ma'am.

1 Q And put my finger down just like that. Am I
2 necessarily going to leave fingerprints?

3 A Not in every case, ma'am.

4 Q Why not?

5 A Your hand, it is not a fixed surface. It is
6 flexible. The way you touch, the way you grasp.
7 It can smear. Some people don't leave good
8 fingerprints. If you sweat, it produces oil.
9 Depending on the situation, especially if there is
10 rain involved, that can interfere with
11 fingerprints.

12 Q But in this case you attempted to fingerprint
13 certain items that you had collected that day?

14 A Yes, ma'am, the shell casing.

15 Q And specifically the black Nokia phone that you
16 collected there in the mulch area next to the car?

17 A Yes, ma'am.

18 Q At that point you didn't know that that it was the
19 victim's necessarily, you want to go ahead and test
20 it?

21 A That's correct.

22 Q And you did that in this case?

23 A Yes, ma'am.

24 Q And when you dusted that for fingerprints, were you
25 able to get any useable fingerprints for further

1 identification?

2 A No, ma'am, I was not.

3 Q And is that unusual?

4 A No, ma'am.

5 Q And are you familiar with the term smudge or
6 overlap on fingerprints?

7 A Yes, ma'am.

8 Q What does that mean?

9 A Typically it would be a print over print where
10 multiple -- the best way to describe it is, if you
11 go into a dirt parking lot, there will be so many
12 tire tracks over each other. Sometimes it is
13 harder to see a recognizable pattern or because
14 something is handled multiple times it can just
15 wipe away, smears or whatever. So just because
16 someone has touched something doesn't mean they are
17 necessarily going to leave any prints.

18 Q An item that is used or has a high volume of use
19 such as a telephone, can it be -- or like a front
20 door to a convenience store, the fact that people
21 constantly touch it over and over, that can inhibit
22 your results?

23 A Yes, ma'am. I hold my cell phone every day, but I
24 also drop it several times, so --

25 Q And in this case you mentioned that your results

1 were negative. That doesn't mean nobody handled
2 that phone, that just means they didn't leave
3 identifiable fingerprints?

4 A Correct.

5 Q And when I say the term identifiable fingerprints,
6 were there a certain number of ridges or things
7 that typically have to be left for you to be able
8 to use a fingerprint, even if it is a smudge?

9 A There is not necessarily a certain minimum number
10 that we look for.

11 Q And I didn't mean that. I meant just the details
12 that have to be left?

13 A Yes, ma'am. There has to be something identifiable
14 that our latent fingerprint examiners can work
15 with.

16 Q And when you processed the phone in this case in
17 order to get fingerprints, were you able to get any
18 results that were useful?

19 A No, ma'am, I did not.

20 Q Did you also try to get any possible fingerprints
21 on the .40-caliber shell casing?

22 A Yes, ma'am, I did.

23 Q And were you able to get anything off that?

24 A No, ma'am.

25 Q Is that unusual with a shell casing?

1 A Not on a shell casing.

2 Q And why is that?

3 A It is a smooth, round surface. You are trying to
4 place them in a magazine or cylinder. The item
5 moves around. And from my experience, shell
6 casings are not very -- it is hard to get
7 fingerprints off of a shell casing.

8 Q And did you also --

9 A The -- I'm sorry -- the action of the weapon being
10 fired, the gunshot residue, things like that, being
11 ejected, that can cause problems with fingerprints
12 on shell casings as well as laying on the ground in
13 the rain.

14 Q Did you also find some green plant material that
15 appeared to be marijuana in the jacket?

16 A Yes, ma'am, whenever I was packaging the jacket --
17 due to it raining, we allow everything to dry in
18 our drying chamber. I am not going to lay it out
19 in the rain on the grass. And look for defects
20 from projectiles and such to allow it to go to a
21 controlled situation to allow it to dry. And
22 looked for defects from projectiles. And also
23 whenever I was packaging, I found a Karon jacket
24 and a little baggie with plant-like material.

25 Q And in addition to that, once you had everything

1 back at headquarters, did you also try to swab
2 certain items for possible DNA if identification
3 became an issue?

4 A Yes, ma'am. Typically we process things with other
5 methods before we start taking Q-tips and wiping
6 away any other evidence, so typically swabbing for
7 DNA will be the last thing that we do.

8 Q And what are the items you swabbed?

9 A In this case I swabbed the earring, earring backing
10 from my Markers F, G and J, a Nokia cell phone from
11 my Marker M, and also the fired cartridge casing
12 that was underneath the shell, Marker A.

13 Q And just for the record, DNA testing is typically
14 testing body fluids, which is blood, semen, saliva,
15 things like that?

16 A Those are --

17 THE COURT REPORTER: I'm sorry, I didn't hear
18 you.

19 A Oh, I'm sorry. Yes, ma'am. Those are items that
20 they do test for, but also touch DNA, sweat --

21 Q And was there any evidence of any blood on those
22 three items that you tested back at headquarters?

23 A No, ma'am.

24 Q Okay. And as far as touch DNA, just because I
25 handle something, just like with a fingerprint, am

1 I necessarily going to leave any DNA?

2 A Not in every case.

3 Q And in this case, though, you did swab just in case
4 identification became an issue?

5 A It is our normal course of action to typically
6 process certain things.

7 MS. CAMPBELL: Beg the Court's indulgence.

8 (Pause.)

9 MS. CAMPBELL: That's all I have, Your Honor.

10 THE COURT: All right. Please answer any
11 questions that Ms. Cleary may have.

12 CROSS-EXAMINATION

13 BY MS. CLEARY:

14 Q Investigator -- is it investigator?

15 A Beeler. Yes, ma'am, investigator.

16 Q Is that the right title?

17 A Yes, ma'am.

18 Q Investigator Beeler, did you diagram on a chart
19 where all these go?

20 A I did not, ma'am. One of other investigators
21 assisted me in that.

22 Q Okay. And do you know who did that?

23 A That would be Investigator Polis and Bouknight, and
24 the majority of the measurements and the scene
25 diagrams.

1 Q Okay. And I think I may have misheard at the
2 beginning. Did you say that the .40-caliber shell
3 casing, that is at Marker A?

4 A Yes, ma'am.

5 Q Okay.

6 A Underneath the seashell.

7 Q So G and J, those were both earrings of some sort?

8 A Yes, ma'am, G and J were earrings and earring
9 backs.

10 Q Okay. And you testified that you sort of have a
11 general idea of where the gun was fired from --
12 based on the location of the shell casings?

13 A Yes, ma'am. Typically in a semi-automatic, unlike
14 a revolver that returns the shell casing to the
15 fired cartridge casing, depending on the way the
16 weapon is held, it will eject the shell casing in a
17 close proximity.

18 Q Like within how many feet?

19 A That I cannot say. It all depends -- my weapon,
20 when I fire a battery fourth round comes back --
21 the cartridge casing comes back and hits me in the
22 head. But typically it will be to the right within
23 a close proximity.

24 Q And it can be moved from rain you said when it is
25 on the sidewalk -- I mean, on a concrete surface.

1 A If it is on an angled surface, then there is
2 pouring rain.

3 Q Okay.

4 MS. CLEARY: Beg the Court's indulgence.

5 THE COURT: Yes.

6 (Pause.)

7 BY MS. CLEARY:

8 Q Okay. And you testified that you found a green
9 plant-like material in the jacket, the orange
10 and -- orange jacket, is that correct?

11 A Let me refer to my notes. I'm sorry, in the --
12 there was a plastic baggie, a plastic material that
13 retained plant-like material.

14 Q Okay.

15 A A leafy plant-like material. Also the filling of a
16 Camel cigarette, but other plant-like material
17 inside.

18 Q Okay.

19 MS. CLEARY: That's all the questions I have.
20 Thank you.

21 THE COURT: All right. Anything else from the
22 State?

23 MS. CAMPBELL: No, ma'am.

24 THE COURT: All right, sir, you may step down.

25 (Witness steps down.)

1 THE COURT: Any objection to this witness
2 being excused?

3 MS. CLEARY: No, ma'am.

4 THE COURT: All right. You may be excused.
5 (Witness is excused.)

6 MS. SIMPSON: The State calls Investigator
7 Polis.

8 THE BAILIFF: Raise your right hand, place
9 your left hand on the Bible.

10 (Witness complies.)

11 THE CLERK: Do you swear or affirm the
12 testimony you are about to give will be the truth,
13 the whole truth, and nothing but the truth, so help
14 you God?

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: State your name for the record.

17 THE WITNESS: My name is Kristin Polis.

18 KRISTIN POLIS,
19 after being duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. SIMPSON:

22 Q Ms. Polis, where are you employed?

23 A With the Richland County Sheriff's Department.

24 Q And what do you do there?

25 A I'm a crime scene investigator.

1 Q How long have you been with Richland County?

2 A I've been with the Sheriff's Department since 2002,
3 and I have been in what we call the crime lab since
4 2006.

5 Q And can you please tell the jury a little bit about
6 your educational background and training?

7 A I have a bachelor's degree from Charleston Southern
8 University in criminal justice, and a bachelor's in
9 psychology. I also have a master's degree from the
10 University of South Carolina in social work.

11 And since I joined the lab, we have an
12 internal training program that we all have to
13 complete, and that program took 20 months for me to
14 work through. It is intensive and goes through
15 every area of processing we are expected to be
16 proficiency in.

17 So fingerprint processing, tire impressions,
18 footwear impressions, blood stain patterns,
19 photography, all those different areas are covered
20 in depth.

21 And we have to test to a level to be
22 proficient both in written testing as well as
23 practical exercises to be able to demonstrate that
24 we are able to do all these things that we have
25 trained to do.

1 Then, in addition to that, I have completed a
2 number of external training courses where we will
3 go to the other leading professionals in our field
4 and get trained in different areas.

5 So basic and advance fingerprint classes,
6 basic and advanced fingerprint classes, basic and
7 advanced photography, blood stain courses, all of
8 those things we would have a good background in.

9 Q And do you take continuing educational training and
10 classes during the course of your work?

11 A We do. We are all members of the international
12 association for identification, and they are
13 oftentimes courses that are offered through there,
14 literature materials that they provide that keep us
15 up to date on things in our field.

16 Q Now, you mentioned a lot of different aspects of
17 the training. What all does crime scene exactly
18 involve?

19 A When we -- we are responsible for responding to any
20 type of crime scene that occurs in Richland County.
21 And when we respond to a crime scene, our main
22 objective is to document what is there.

23 So we do that through photography, sometimes
24 through sketches, we take measurements. We
25 basically need to be able to show exactly how that

1 scene was before anything was done to it. So our
2 goal is to preserve whatever was there.

3 Then, in addition to that, we will collect
4 items. There are things that we can gain and learn
5 from testing the different items that may be at a
6 scene. So we are responsible for collecting items
7 and taking them back for processing.

8 A lot of times we are trying to collect
9 fingerprints or to collect DNA. Sometimes we are
10 looking to identify unknown persons and other times
11 we know and we are basically trying to determine
12 exactly what happened.

13 Q And with respect to the different aspects of
14 collection and processing and testing, are you
15 trained in both collection and processing?

16 A Yes.

17 Q And do you do the testing, or is that usually sent
18 out somewhere else?

19 A We -- I can collect and analyze fingerprints. I do
20 have training in that. But when it comes to things
21 like DNA evidence, we have our lab that handles
22 that. We have a lab that handles trace evidence.
23 So in those instances we are collecting and then we
24 are submitting it to other people who will do the
25 analysis.

1 Q And have you been qualified as an expert before?

2 A Yes.

3 Q About how many times?

4 A Approximately eight.

5 MS. SIMPSON: Your Honor, at this time I would
6 like to qualify Ms. Polis as an expert in crime
7 scene investigation.

8 THE COURT: All right. Any questions of this
9 witness?

10 MS. CLEARY: No, Your Honor.

11 THE COURT: All right. Any objection?

12 MS. CLEARY: No, Your Honor.

13 THE COURT: Ladies and gentlemen, she will be
14 qualified as an expert in crime scene
15 investigation.

16 BY MS. SIMPSON:

17 Q Back on January 16th of 2010, were you -- I know
18 you said you have been in the crime lab for a
19 little while. Were you working in your present
20 capacity?

21 A I was.

22 Q And did you have occasion to become involved in
23 this case?

24 A I did.

25 Q How did you become involved?

1 A I was notified by Investigator Beeler, who was the
2 primary investigator during that time period, that
3 he had a shooting incident, and I responded to
4 assist him in processing that location.

5 Q Where -- do you recall where you responded?

6 A The location was [REDACTED]

7 Q And about what time was that?

8 A I arrived at 3:25 p.m.

9 Q And when you got there, tell the jury a little bit
10 about what you observed.

11 A Investigator Beeler was already on the scene, and
12 he quickly briefed me about what he knew and what
13 had occurred. There was crime scene tape that had
14 been set up to block that location off and secure
15 it so that there were -- you know, so we could
16 control what happened in that area. We had
17 deputies who were maintaining a crime scene log,
18 and basically that is a form where anyone who comes
19 into the actual crime scene has to sign themselves
20 in so we have a document that shows who has been in
21 the crime scene.

22 And as Investigator Beeler said, it was
23 raining that day. There were a number of deputies,
24 line deputies, who were also on the scene and
25 assisting with controlling that area.

1 Q And so a secure scene involves crime scene tape and
2 possibly deputies --

3 A Typically crime scene tape. Usually at an outside
4 scene you are typically going to have crime scene
5 tape, which is recognized just as a barrier that no
6 one can cross, and line deputies are there to keep
7 people from crossing that tape.

8 Q And was the victim there when you arrived, or had
9 he already been transported?

10 A No, he was not there.

11 Q And you said you learned that he had been shot?

12 A Yes.

13 Q Did you learn anything else?

14 A At some point while I was on the scene I was
15 advised that he was deceased.

16 Q And what did you do next once you arrived?

17 A I -- my purpose there was to assist with
18 Investigator Beeler's investigation and, you know,
19 assist him in the tasks that needed to be
20 completed.

21 I collected -- I photographed the scene. We
22 use photography with both digital and 35-millimeter
23 film. So I used a 35-millimeter film camera and
24 took photographs of everything that was there at
25 the location, the items that have already been

1 marked by Investigator Beeler, and I also took some
2 measurements of the items that he identified so
3 that we would have a document of exactly where they
4 were located.

5 Q So both he did photographs and then you did
6 photographs as well?

7 A That's correct.

8 Q And what is the reason again that you want to take
9 photographs of the location?

10 A We want everything documented before anything is
11 changed, and having an additional camera and
12 digital photographs as well as film photographs is
13 just an extra layer of documentation. It shows
14 that what we have on digital pictures is the same
15 as what is there on film.

16 Q At the scene too -- I want to back up just a little
17 bit -- did you confirm that the victim's hand had
18 been bagged at the hospital?

19 A I did. I made contact with one of our criminal
20 investigators who confirmed that someone at the
21 hospital had placed bags over the hands of the
22 victim. Basically what that does is it just
23 preserves any evidence that may be on the skin so
24 that we have an opportunity to go and collect
25 anything that may be there.

1 Q And I'll move forward a bit. The measurements that
2 you took, how did you take those?

3 A We take those basically to show the exact location.
4 We use a method call triangulation where you have
5 one item and you take two measurements from that
6 item to two specific points, typically something
7 that is not going to move. In this case we used a
8 light pole, which is typically not going to go
9 anywhere. We do document exactly the number that
10 is on that pole so we know exactly what we were
11 referring to, and we also used a mailbox.

12 Q Okay. And I believe you said Beeler actually
13 collected all that evidence, right?

14 A He collected the items, yes.

15 Q Did you process anything while you were at the
16 scene?

17 A No.

18 Q And did you have a chance to look at the car, I
19 guess process the vehicle - I may be using the
20 wrong terminology -- with respect to processing?

21 A Yes, I did assist in the search of the vehicle.

22 Q The search.

23 A We searched that vehicle, photographed it, and
24 searched the interior.

25 Q And then on January 17th, did you have the

1 opportunity to attend the autopsy of the victim in
2 this case?

3 A Yes, ma'am.

4 Q And can you tell us what you observed?

5 A When I arrived I observed the victim, he had
6 medical devices in place. Obviously he had been
7 treated at the hospital and some of those devices
8 were still there. He was wearing clothing that had
9 been cut by EMS, but the clothing was still there.
10 A pair of red pants and a pair of black pants.
11 There was also a necklace that was being worn.

12 Q And did you observe anything about the victim's
13 body? His appearance?

14 A There were some injuries that were on the forehead
15 and around the eye. So all those injuries were
16 photographed. And there was also what appeared to
17 be a gunshot wound in the abdomen.

18 Q And did you actually collect some evidence during
19 this autopsy?

20 A I did. We collect several things routinely at an
21 autopsy. And just to quickly list those, we
22 collect hair samples. We also collect what is
23 called a buccal swab, which is a swab of the
24 saliva. It basically gives us DNA so that we would
25 have DNA of the deceased. We collect nail

1 scrapings or nail clippings where we actually
2 scrape underneath the fingernail to see if there
3 are possibly any skin cells or any other type of
4 trace evidence that may be there. And in this case
5 I also clipped using clippers and collected the
6 clippings.

7 As I said before, the hands had been bagged.
8 And so I collected those bags. And once the bags
9 were removed, I collected a gunshot residue kit
10 from his hands. And then the clothing that was
11 being worn, as well as the necklace was collected.

12 And the pathologist removed the projectile
13 from the victim's body, and that was turned over to
14 me as well.

15 Q You don't always have all the information about
16 what happened in a case, right?

17 A That's correct.

18 Q And so you just kind of collect everything that
19 could possibly have evidentiary value, right?

20 A That's correct.

21 Q I am going to show you State's Exhibits 151, 154,
22 153, 152 and 150. If you could just take a look at
23 those and tell me if you recognize them.

24 A Yes. This package contains the buccal swab, which
25 is the saliva swab for DNA.

1 THE COURT: Make sure you refer to which
2 package, or which number it is.

3 A Oh, the number? This is State's Exhibit 150. This
4 also has the nail clippings and a swab that was
5 collected from the victim's necklace. And all
6 these items were submitted to our DNA section.

7 Q And you are able to recognize it with your
8 signature --

9 A That is my packaging.

10 Q -- as far as collection?

11 A Yes.

12 Q And in State's Exhibit 152?

13 A This is the package for the gunshot residue kit
14 that I collected.

15 Q And just moving back to the gunshot residue, is
16 that related to the bagging of the hands as well?
17 Or the kid -- do you actually perform the kit?

18 A I collect the items that are to go in the kit. The
19 kit is a set of tabs, sticky tabs that have
20 adhesive tips on them. And we go over the surface
21 of the hands and the fingers with the pads, and
22 then there are also swabs that are collected from
23 the hand. And all those things are collected and
24 placed into that kit.

25 Q Okay. And you actually performed --

1 A Yes.

2 Q -- the collection?

3 A Yes.

4 Q State's Exhibit 153?

5 A This is the necklace with the pendant that the
6 victim was wearing.

7 Q And State's 154?

8 A This is the projectile that was collected and
9 turned over to me.

10 Q And the projectile, what is the projectile?

11 A The projectile is the portion of the bullet that
12 would actually shoot out of the gun. You have a
13 projectile, which is your bullet, and you have what
14 is called a casing or the fired cartridge, which is
15 like the round that comes out of the gun. If it is
16 a revolver it remains in the weapon. But this
17 would be the portion that we call the bullet that
18 goes out and in this case entered the victim's
19 body.

20 Q Okay. And do you recall where it was recovered
21 from the victim's body?

22 A That was recovered from the pelvic -- right pelvic
23 area by Dr. Marcus.

24 Q State's Exhibit 151?

25 A These are the hair samples and also a set of

1 fingerprints that we take.

2 MS. SIMPSON: Your Honor, at this time the
3 State would introduce State's Exhibit 150, 151,
4 152, 153 and 154 into evidence.

5 THE COURT: Any objection?

6 MS. CLEARY: No objection.

7 THE COURT: Without objection.

8 (WHEREUPON, State's Exhibit No. 150 was
9 marked for identification and received
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 151 was
12 marked for identification and received
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 152 was
15 marked for identification and received
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 153 was
18 marked for identification and received
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 154 was
21 marked for identification and received
22 into evidence.)

23 Q And at the autopsy did you take photographs as
24 well?

25 A I did.

1 Q And I am showing you State's Exhibit 131, 132, 133
2 and 134. Do you recognize these?

3 A Yes, I do.

4 Q And what is depicted in there?

5 A These are all photographs of the bags that were
6 placed on the victim's hand and the signature that
7 was placed over the tape so that it is documented
8 who placed those bags..

9 Q Okay. And you didn't actually place the bags,
10 right?

11 A No, I did not.

12 Q But you removed them?

13 A I did. I cut them off and collected them.

14 MS. SIMPSON: Your Honor, at this time the
15 State would introduce State's 131 through 134.

16 THE COURT: Any objection?

17 MS. CLEARY: No objection.

18 THE COURT: All right.

19 (WHEREUPON, State's Exhibit Nos. 131
20 THROUGH 134 were marked for
21 identification and received into
22 evidence.)

23 BY MS. SIMPSON:

24 Q Did you happen to do anything else in this case?

25 A After I completed the autopsy, I went back to

1 headquarters and collected a swab from the necklace
2 that the victim was wearing. I also placed the
3 clothing into our drying chamber, which is
4 basically a contained area that we have that was
5 invented to protect us from any biohazardous
6 material that might be there. And it will dry
7 items that are wet. So this went into the drying
8 chamber to be dried. And at the time that was
9 dried I photographed the defects on the shirt that
10 was worn by the victim.

11 Q And the drying chamber -- what was the weather like
12 the day that y'all were out there?

13 A At the scene it was raining.

14 Q Okay. And so would the clothes have been dried
15 because they were both wet and possibly had blood
16 or --

17 A Yes.

18 Q And on -- was that the extent of your involvement
19 essentially in this case?

20 A Yes, it was.

21 Q Thank you.

22 THE COURT: Please answer any questions
23 Ms. Cleary might have.

24 CROSS-EXAMINATION

25 BY MS. CLEARY:

1 Q Does your report show what time the hands were
2 bagged?

3 A No, ma'am.

4 Q And did you make a diagram of the scene?

5 A No, ma'am.

6 Q Okay.

7 MS. CLEARY: That's all the questions I have.
8 Thank you.

9 THE COURT: Anything else from the State?

10 MS. SIMPSON: Yes, briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. SIMPSON:

13 Q And this was my mistake. I am showing you State's
14 Exhibit 156. And this actually contains several
15 items. Can you tell the jury what is contained in
16 here?

17 A It is labeled that it contains a pair of red pants
18 that have been cut, a pair of black and gray pants
19 that have been cut, a red shirt that had been cut,
20 and the bags from the right and left hand of the
21 victim.

22 Q And why do you take cuttings of the shirt?

23 A I actually did not take cuttings in this case.
24 They would have been cut by the medical person.

25 Q Okay. And these are all items that you collected?

1 A That's correct.

2 MS. SIMPSON: Your Honor, at this time the
3 State would seek to introduce State's Exhibit 156.

4 THE COURT: Any objection?

5 MS. CLEARY: No objection.

6 (WHEREUPON, State's Exhibit No. 156 was
7 marked for identification and received
8 into evidence.)

9 MS. SIMPSON: Thank you. I have no further
10 questions.

11 THE COURT: Anything else? Anything else?

12 MS. CLEARY: I'm sorry?

13 THE COURT: Anything else?

14 MS. CLEARY: Nothing.

15 THE COURT: All right, ma'am, you may step
16 down.

17 (Witness steps down.)

18 THE COURT: Can I see the lawyers briefly?

19 (WHEREUPON, a bench conference was held
20 in the presence of the jury but out of
21 the hearing of the jury.)

22 THE COURT: All right, ladies and gentlemen of
23 the jury, we're going to take about a ten minute
24 break. It is my understanding we'll probably do
25 one more witness this afternoon and then we'll

1 truth?

2 THE WITNESS: I do.

3 THE CLERK: Have a seat on the witness stand
4 please. State your name for the record.

5 THE WITNESS: Investigator Harold Bouknight.

6 HAROLD BOUKNIGHT,

7 after being duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SIMPSON:

10 Q Investigator Bouknight, what do you do?

11 A I'm a senior crime scene analyst with the Richland
12 County Sheriff's Department Crime Scene Unit. I
13 have been employed with the Sheriff's Department
14 for nine and a half years and in crime scene for
15 six and a half.

16 Q Okay. And as a crime scene investigator, what are
17 your duties?

18 A As a senior analyst, I am responsible for the
19 processing, collection, identification, location
20 and documentation of evidence at crime scenes, and
21 also supervising the other investigators in our
22 crime scene unit. On a three week schedule I
23 rotate with the other supervisor where we are
24 on-call for a week at a time, 24 hours a day. If
25 there is a major scene, such as a homicide, we

1 respond to assist with any questions they may have
2 and to assist them in processing the crime scene.

3 Q So you will assist all the other crime scene
4 investigators that are at the scene?

5 A Yes, ma'am.

6 Q Can you tell the jury a little bit about your
7 educational background?

8 A I have an associate's degree in criminal justice
9 from Midlands Technical College. I have been --
10 when I began my career in the crime scene unit, I
11 went through an 18-month training program and it
12 covered footwear and tire wear examination, crime
13 scene processing, blood stain analysis, crime scene
14 reconstruction, shooting incident reconstruction,
15 and latent print comparisons.

16 Since completing that, I have also been to
17 courses in blood stain pattern analysis, advanced
18 blood stain pattern analysis, crime scene
19 reconstruction, shooting incident reconstruction,
20 expert witness testimony, latent fingerprint
21 comparisons, fundamentals of crime scene
22 investigation, and I am certified through the
23 International Association of Identification as a
24 crime scene investigator and a blood stain pattern
25 examiner.

1 Q Okay. And with all these certifications and
2 training, is this continuous training, like do you
3 routinely engage in more training?

4 A Yes, ma'am, there is always being books being read,
5 tests being taken to keep yourself up to date and
6 proficiency tests every year in the areas of
7 footwear, fingerprints and blood stain examination.

8 Q And as a proficiency test, can you explain to the
9 jury what that means?

10 A An outside agency or company, they have proficiency
11 tests that we use as far as our ASCLD accreditation
12 where every year we take a proficiency test and the
13 same test is given to other people all over the
14 country and we -- it can be from comparing shoe --
15 household comparisons to comparing latent
16 fingerprints known to unknown, and also just
17 examining blood stain patterns and identification
18 of them, and determination of impact dealing with
19 stains, and things like that.

20 Q Now, you mentioned ASCLD certification or
21 accreditation. Can you explain what that means?

22 A It is an international association that accredits
23 crime labs and crime scene units. Basically you
24 follow -- you have a procedures manual and you
25 follow those procedures whenever you perform your

1 duties.

2 Q And is the Richland County Sheriff's Department --

3 A Yes, we are accredited.

4 Q -- accredited? Have you been qualified as an
5 expert before?

6 A Yes, ma'am.

7 Q About how many times?

8 A In various areas, approximately 14 times.

9 Q Okay.

10 MS. SIMPSON: And, Your Honor, at this time I
11 would like to qualify Investigator Bouknight as an
12 expert in crime scene investigation.

13 THE COURT: Any objection?

14 MS. CLEARY: May I ask?

15 THE COURT: Oh, yes, ma'am.

16 VOIR DIRE EXAMINATION

17 BY MS. CLEARY:

18 Q In what areas have you previously been qualified as
19 an expert?

20 A In crime scene investigation, fingerprints,
21 footwear examination, tire wear examination, and
22 blood stain pattern examination.

23 Q Okay, thank you.

24 MS. CLEARY: No objection.

25 THE COURT: All right.

DIRECT EXAMINATION CONTINUES

BY MS. SIMPSON:

Q In January of 2010, were you working in your present capacity as a senior analyst?

A Yes, ma'am, I was.

Q And did you have occasion to become involved in this case?

A Yes, ma'am. I was contacted by Investigator Beeler. It was my day off and I was the supervisor on-call. And I was contacted by Investigator Beeler that we had a homicide and I needed to respond to assist him.

Q Where --

A And --

Q I'm sorry. Where did you respond?

A [REDACTED]

Q And can you describe a little bit about what [REDACTED]

[REDACTED] is, the neighborhood, how --

A It is a neighborhood, yes, ma'am. And it is off of -- it is a new neighborhood, and they are building neighborhoods, and it is off of a main road. Your typical neighborhood, houses right next to each other, things like that. Sidewalks and driveways.

And by the time I got there, I was coming

1 from, you know, the next county over, and by the
2 time I got there, it was -- markers had been laid
3 out and photographs had been taken. And
4 Investigator Polis was in the midst of taking the
5 measurements of those marked items of evidence.

6 So then I assisted her in taking those
7 measurements and creating a rough sketch and a
8 final draft of those sketches.

9 Q And so at this point you said Investigator Polis --
10 everybody is out there, the victim had already been
11 transported?

12 A Yes, ma'am.

13 Q You would consider yourself one of the late
14 arrivals to the scene?

15 A Yes, ma'am.

16 Q What is the purpose of taking measurements at a
17 scene?

18 A So later on we can relocate them on a sketch and
19 show their relationship to each other and other
20 pieces of evidence at the scene.

21 Q And what exactly did you measure? What types of
22 things?

23 A It was the evidence that Investigator Beeler had
24 marked with a letter. Even though some of them --
25 one of them turned out to be paint stains, we still

1 marked those and measured them using the
2 triangulation method and took notes on that. And
3 then whenever -- we make a rough sketch to where
4 you can kind of see where things are, and then
5 whenever I go back to office I can just plug those
6 measurements into a piece of software in our
7 computer and it plots those areas where we need
8 them, and then we can draw in our sketch. It is
9 software made for sketching crime scenes.

10 Q And you did a rough sketch in this case, right?

11 A Yes, ma'am, I did.

12 Q And did you prepare any diagrams?

13 A I prepared a final sketch using our scene gauge
14 software.

15 Q And I am going to show you -- I believe the Defense
16 has already seen these -- State's Exhibit 157. Do
17 you recognize this?

18 A Yes, ma'am, that is a black and white enlargement
19 of my final sketch.

20 Q Okay. And does it fairly and accurately depict the
21 information as you perceived it and put it in?

22 A Yes. It is marked not to scale, so some things may
23 be a little off. The distance between the houses,
24 and things like that, those weren't measured, but
25 the items of evidence are in their general location

1 that they were when I responded to the scene.

2 MS. SIMPSON: Your Honor, at this time the
3 State moves State's Exhibit 157 into evidence.

4 THE COURT: Any objection?

5 MS. CLEARY: No objection.

6 (WHEREUPON, State's Exhibit No. 157 was
7 marked for identification and received
8 into evidence.)

9 Q I am also going to show you what is marked as
10 State's Exhibit 159. Do you recognize this?

11 A Yes, ma'am. Also a black and white enlargement of
12 my final sketch with the evidence marker number
13 letters applied.

14 Q Okay. And the evidence marker letters, those
15 aren't contained in the other one?

16 A No, ma'am.

17 Q Okay. And is that the only thing that is different
18 between this?

19 A Yes.

20 MS. SIMPSON: Your Honor, at this time the
21 State moves State's 159 into evidence.

22 THE COURT: Any objection?

23 MS. CLEARY: No objection.

24 (WHEREUPON, State's Exhibit No. 159 was
25 marked for identification and received

1 into evidence.)

2 Q Finally I am showing you State's Exhibit 158. Do
3 you recognize this?

4 A Yes, ma'am. This is the list of the triangulation
5 measurements that is the identification letter, the
6 description of what is being marked, and the
7 distances that we input.

8 Q Okay. And it fairly accurately reflects the
9 information --

10 A Yes, ma'am.

11 Q -- you received?

12 MS. SIMPSON: Your Honor, at this time the
13 State moves State's Exhibit 158 into evidence.

14 THE COURT: Any objection?

15 MR. O'LEARY: No objection.

16 (WHEREUPON, State's Exhibit No. 158 was
17 marked for identification and received
18 into evidence.)

19 MS. SIMPSON: Your Honor, permission for the
20 witness to step down and publish to the jury?

21 THE COURT: Yes, ma'am, he may.

22 (Witness steps down.)

23 Q And I am showing you State's Exhibit 157. Describe
24 for the jury what we see here.

25 A This is [REDACTED], which was our incident

1 location, and then a neighboring house, [REDACTED]
2 [REDACTED]. And the reason this is in here is the
3 mailbox at [REDACTED] was one of our points we
4 used for triangulation. And then this light pole
5 over here. This -- you probably can't see it from
6 the back, but it is a shell casing that is in the
7 driveway here. And then these are the other items,
8 a jacket and a pair of shoes and some stains, and
9 things like that.

10 Q And the crime scene, I guess the perimeter of it
11 actually expanded between these two locations?

12 A Yes, ma'am. I can't remember exactly how far the
13 crime scene tape was located out there, but I'm
14 pretty sure it incorporated most of [REDACTED] and [REDACTED]

15 [REDACTED]

16 Q Would you say these houses or homes, are they
17 fairly close together?

18 A They are not as close as some neighborhoods, but I
19 would say they are an average distance apart.

20 Q Okay. State's Exhibit 159. I believe this is the
21 one that actually contains the markers, correct?

22 A Yes, ma'am.

23 Q I am also going to show you State's Exhibit 158.
24 Oh, I'm sorry. Can you tell us what is reflected
25 between here in those exhibits?

1 A As you can see here, there is ID letters. These
2 correspond with the letters that Investigator
3 Beeler had placed on them at the scene, which are
4 fired cartridge, probable blood stains, the gray
5 jacket, the blue towel, tennis shoes. All of those
6 correspond with markers he used to keep everything
7 simple. And those markers, you can look on here
8 and see these letters, A, which is the fired
9 cartridge, and all these other letters in here,
10 cell phone, and then you can't -- you can barely
11 see K, and that is the jacket on the back of the
12 Mazda Protege, and then A and B are located here as
13 our point of reference for our triangulation
14 method.

15 Q Okay. And so these measurements.

16 A This reference point one is A, is a light pole; and
17 then reference point two is B, which is a mailbox.

18 Q And that is the distance between the mailbox and
19 that item, or the light pole, whichever it may be.

20 And with respect to the markers, you said
21 these were the ones that Investigator Beeler did.
22 Are they the same lettering, same markers? These
23 are never changed, right?

24 A Yes. It keeps things simple. This one is fairly
25 simple. There are 13 marked items. I have been at

1 scenes where you have got upwards of a hundred
2 marked items and it can get very confusing if you
3 start changing around what you are marking on your
4 sketch as to what is marked on the scene. So it is
5 easier to keep it all simple and go with what the
6 initial person had marked it.

7 Q And did you have some limited information about
8 what happened when you arrived?

9 A I knew that there was a gunshot victim that had --
10 that was deceased and it happened somewhat in this
11 area.

12 Q And what types of evidence -- and you can have a
13 seat.

14 (Witness returns to witness stand.)

15 Q What types of evidence were you looking for when
16 you are called out to a scene?

17 A On any homicide -- any scene really that we're
18 called out to, we are just looking for evidence
19 that can, one, tell us what happened, tell us who
20 was involved, whether it is -- sometimes we have to
21 identify the victim, sometimes we are trying to
22 identify the victim and the suspect, or just the
23 suspect. And anything that can help us understand
24 what happened and who caused it.

25 Q And can weather affect both your ability to collect

1 and process evidence?

2 A Yes, ma'am. Most DNA and fingerprints are fragile
3 transient evidence, and any extreme environmental
4 factors can destroy those.

5 Q And would you consider this crime scene fairly
6 contained as far as how far it went out and --

7 A Yes, ma'am.

8 Q -- what happened there?

9 A Yes, ma'am.

10 Q And there was a car at the incident location,
11 correct?

12 A Yes, ma'am, a black Mazda Protege.

13 Q And did you assist in the search of that car?

14 A Yes, ma'am, I did.

15 Q What did you do?

16 A We received consent to search from Charlotte Lee,
17 and along with Investigator Polis I searched the
18 interior of the vehicle.

19 There were some articles of clothing and some
20 books in the trunk. There was a black Gucci wallet
21 that was in the back driver's seat, or back
22 driver's floorboard. And there was a multi-colored
23 class wallet in the glove compartment with a
24 hundred dollars in it and \$23 in the center console
25 and a hand-rolled cigarette on the dashboard of the

1 vehicle.

2 Q What did you do with any of those items?

3 A I collected the hand-rolled cigarette and the black
4 Gucci wallet and turned it in. The Gucci wallet
5 had the identification of Anthony Salley in it.
6 The multi-colored class wallet and \$123 and the car
7 keys were turned over to Andina Lee, who was the
8 driver of the vehicle.

9 Q Okay. I am showing you State's Exhibit 146. Do
10 you recognize this?

11 A Yes, ma'am.

12 Q What is it?

13 A That is the black Gucci wallet with the ID of
14 Anthony Salley.

15 Q And has it been altered or tampered with in any way
16 since you collected it?

17 A No, ma'am.

18 MS. SIMPSON: Your Honor, at this time the
19 State moves State's Exhibit 146 into evidence.

20 THE COURT: Any objection?

21 MS. CLEARY: No objection.

22 (WHEREUPON, State's Exhibit 146 was
23 marked for identification and received
24 into evidence.)

25 Q And did you really expect to find anything of

1 evidentiary value in the car?

2 A We had -- nobody had related anything to us that
3 anything had occurred within the vehicle, but just
4 out of an abundance of caution, we always search.
5 If there is a vehicle involved or a vehicle near a
6 scene and we can get access to it, we are going to
7 search that vehicle to see if it can help us put
8 the story together.

9 Q Okay. And was that vehicle turned back over?

10 A Yes, ma'am.

11 Q And is that pretty much the extent of your
12 involvement in this case?

13 A Yes, ma'am, it is.

14 Q Thank you.

15 THE COURT: Please answer any questions Ms.
16 Cleary may have.

17 THE WITNESS: Yes, ma'am.

18 CROSS-EXAMINATION

19 BY MS. CLEARY:

20 Q Investigator Bouknight, I'm not going to be too
21 long, but could you explain again what not to scale
22 means?

23 A That means that -- if it was a scale drawing then I
24 would have taken measurements of the houses and
25 things like that, and the driveways and everything,

1 like an architecturally scaled model or blueprint.
2 Being that it is a crime scene sketch and a rough
3 sketch and we're just placing the items of evidence
4 within a scene within that sketch, we don't -- if
5 the house is not involved in it, if there is no gun
6 fire entering the home, then we're not going to
7 measure the whole house and do an architectural
8 scale model of it. We just -- we put that in there
9 in case the house is a little off to make sure that
10 people know that that is not exactly right.

11 Q So this diagram, Exhibit Number 159, you can't tell
12 us the different -- the distance between 
13  and  on this diagram?

14 A No.

15 Q But isn't that information publicly available, you
16 know, with the maps that they have on Richland
17 County's website, that sort of thing?

18 A You may be able to go find it. I didn't have a
19 reason to.

20 Q Okay. So, but because it is not to scale and we
21 don't know these distances, how can we know the
22 distance between say A here and one of these items?

23 A Because those items -- well, we can't know the
24 distance between A and one of the other items, just
25 between where A is located within the scene from

1 Marker A or the reference point A.

2 Q From this mailbox at [REDACTED] --

3 A Yes, ma'am.

4 Q -- and this light pole, is that right?

5 A Yes, ma'am.

6 Q Way over here. Okay. So we can't tell from this
7 what the distance is here?

8 A No, ma'am.

9 Q Did you have any reason to look to see where any
10 property lines were?

11 A No, ma'am.

12 Q Determine where the property lines were. All
13 right. Thank you. That's all the questions I
14 have.

15 A You're welcome.

16 THE COURT: Anything else from the State?

17 MS. SIMPSON: Briefly.

18 REDIRECT EXAMINATION

19 BY MS. SIMPSON:

20 Q Did you all, when you were looking for evidence,
21 did you look for a gun?

22 A Yes, ma'am.

23 Q Were you able to find one?

24 A No, ma'am, not in the immediate area.

25 MS. SIMPSON: Nothing further.

1 THE COURT: Anything?

2 MS. CLEARY: Nothing.

3 THE COURT: Sir, you may step down. And any
4 objection to this witness being excused?

5 MS. SIMPSON: No objection.

6 MS. CLEARY: No objection.

7 THE COURT: All right, sir, may step down.
8 You are free to leave.

9 (Witness steps down and is excused.)

10 THE COURT: All right, ladies and gentlemen of
11 the jury, at this time we'll go ahead and recess
12 for the evening. We will start back in the morning
13 at 9:00 o'clock in the -- so if you will report
14 back to the jury room at 9:00 o'clock in the
15 morning, we will start back at that time.

16 Thank you.

17 (WHEREUPON, the jury was excused for the
18 evening.)

19 THE COURT: All right, we will start back at
20 9:00 in the morning.

21 Well, let me ask you this. Who is your first
22 witness in the morning?

23 MS. CAMPBELL: We would like to take up the
24 people from Atlanta first.

25 THE COURT: I think there is an issue

1 regarding one of the testimony -- I didn't think
2 about that when I told them 9:00.

3 MS. CAMPBELL: I'm sorry, Your Honor, I should
4 have brought that up earlier.

5 THE COURT: We will just start at 9:00. How
6 long do you think that is going to take?

7 MS. CAMPBELL: I think 15 minutes, at the
8 most.

9 THE COURT: We can start at quarter till 9:00
10 and finish by 9:00. So we can start at
11 9:00 o'clock.

12 All right, well, let's just start at
13 9:00 o'clock. We will start at 9:00 o'clock.

14 MS. CAMPBELL: Thank you, Your Honor.

15 THE COURT: All right, y'all have a good
16 evening.

17 (WHEREUPON, the trial adjourned for the
18 evening.)

19 NOVEMBER 16, 2011

20 THE COURT: Juror 226 wants to talk to me. I
21 have no idea why, but I just wanted to let y'all
22 know that. And I'll see if anybody has any
23 objection to me -- I'll take my law clerk with
24 me -- stepping outside to talk to the juror finding
25 out what it is they want to talk to me about and

1 see what it is, and I'll report back.

2 All right, I'll go see what he wants real
3 quick.

4 (WHEREUPON, the Court steps out to speak
5 to Juror 226 in the hallway.)

6 THE COURT: I'm going to bring in Juror 226
7 and let him explain it to you all.

8 (WHEREUPON, Juror 226 enters courtroom.)

9 THE COURT: You can come on down. If you want
10 to stand right there.

11 He has informed me that he does not recognize
12 the name. He did not recognize the name of the --
13 some of the witnesses because he doesn't know them,
14 but he wanted to let us know that he works -- he
15 plays basketball at North Springs and Killian, and
16 he has seen them before. He wanted to know if that
17 was a problem.

18 So I'll ask him, is that correct? Is that
19 what you just told me?

20 JUROR 226: Yes, ma'am.

21 THE COURT: And the fact that you have seen
22 some of the people before, you don't know their
23 name, but you have seen them at the gym, would that
24 affect your ability to be fair and impartial in
25 this trial?

1 JUROR 226: No, ma'am.

2 THE COURT: All right. Anything else before I
3 send him back in the jury room?

4 MS. CAMPBELL: Your Honor, can we inquire
5 which witnesses?

6 THE COURT: Which witnesses?

7 JUROR 226: The one with the --

8 THE COURT: He doesn't know their names.

9 JUROR 226: The one with the dreads.

10 THE COURT: Any of the other ones? Anybody
11 else?

12 JUROR 226: No. That's the only one I know,
13 the one that came up. I played with him not too
14 long ago at the gym.

15 THE COURT: Okay. All right. And the fact
16 that you played with him at the gym, does that
17 affect your ability to be fair and impartial?

18 JUROR 226: No. I don't even know him.

19 THE COURT: All right. Thank you. Thank you.
20 (WHEREUPON, Juror 226 steps out of the
21 courtroom.)

22 THE COURT: All right. Anything from --

23 MS. CAMPBELL: Your Honor, we do have a
24 concern. And I understand he didn't mean to do
25 that or anything, but that would have been one of

1 the witnesses that is friends with the Defendant.
2 Apparently he has some type of at least social --
3 or some type of communication with him playing
4 basketball. It is not his fault or anything like
5 that, but we would be concerned that he does have
6 affiliation with the Defendant in this case or
7 someone closely affiliated with the Defendant, and
8 that would be a grave concern to us. I don't know
9 how the Defense feels about it.

10 MS. CLEARY: Which witness did he say that he
11 knew?

12 MS. CAMPBELL: Jarrod Crudup, whose house they
13 went to afterwards who was friends with the
14 Defendant.

15 MS. CLEARY: He said that he could be
16 impartial. I mean, I think it is vague, but
17 also -- I mean -- and certainly, as you admit, he
18 didn't do it intentionally because he plays
19 basketball with the guy and he did not know his
20 name. And Mr. Crudup is not particularly an
21 important witness. He wasn't an eyewitness,
22 because he said that he came to his house
23 afterwards. I don't know that he testified that
24 they were, you know, very good friends, but there
25 is certainly no indication that he even had a

1 conversation with him, other than playing
2 basketball. And he said he can be fair and
3 impartial, so I don't see any reason why he
4 shouldn't remain, especially since we have already
5 lost one juror.

6 MS. CAMPBELL: The information, if we had it,
7 we would have used -- opted to use a strike on him.
8 We did have enough.

9 In addition to that, Your Honor, he is also --
10 Jarrod Crudup, he is best friends with Demario
11 Evans, whose name has come up in this case. And he
12 is closely affiliated with the Defendant as well.

13 It is of grave concern to the State, and we
14 just feel like had we had this information -- and
15 we're not blaming the juror -- of course it would
16 have been a consideration of use of strikes, and it
17 would have been a neutral reason for us to strike
18 him.

19 THE COURT: I guess my understanding of what
20 both of you are saying, I guess my other concern is
21 that if we do take him off, if we take him off, we
22 are going to be at 12. And of course if something
23 else happens I'm guessing that Ms. Cleary is not
24 going to probably go forward with less than 12.

25 MS. CAMPBELL: And that is the risk we have to

1 take, and that is why we have the number of -- you
2 know, we have already -- and she agreed when one
3 witness came forward and said he knew the players
4 involved, she agreed on that one, that we shouldn't
5 go through the inquiry with him. Our concern is
6 that this person is affiliated or is in contact
7 with friends of the Defendant. And if we had that
8 information and knew, it would have been a
9 consideration on our strikes.

10 THE COURT: All right. Is Evans going to --
11 have y'all sent him back in the jury room yet?
12 Bring him back out. Leave him sitting out here.
13 Has Evans, Demario Evans, is he testifying also?

14 MS. CAMPBELL: He is potentially a witness in
15 this case. He is alluding us at this point. But
16 his name has come up and it will be explained that
17 he is friends with Jarrod Crudup and that he is
18 alluding us at this point and the police have been
19 actively looking for him.

20 And of course the information is already out
21 there that he -- his -- Jarrod's friend, Demario,
22 was at his house at the time of the crime and
23 quote/unquote he went to the house, you know, and
24 helped him escape.

25 THE COURT: All right.

1 MS. CLEARY: May I speak?

2 THE COURT: Yes, ma'am.

3 MS. CLEARY: The juror said that he doesn't
4 know these people, he has seen them and played
5 basketball with them. He doesn't know their name,
6 doesn't know anything about the case. And we've
7 already admitted that Jamaal, you know, ran,
8 escaped. It is not a central -- it is not any real
9 issue in the trial, so I don't know, even if he
10 knows Demario and Jarrod, what relevance it would
11 have. He certainly couldn't be struck for cause
12 because he played basketball with somebody.

13 THE COURT: Yes, but if she had known it she
14 said she would have struck him.

15 MS. CAMPBELL: Your Honor, just our concern is
16 we kept out the whole gang thing and everything at
17 this point, but her client is a very active member
18 of the Folk Nation and the PAN organization within
19 that, so that would be a further concern for us as
20 far as any affiliation. And, you know, whether
21 that would work for us or against us, I don't know.
22 I just think in fairness to everyone that we would
23 ask that he be removed.

24 And he self-proclaimed himself to be a member
25 of the Gangster Disciples, which is coming up with

1 the next witness as well.

2 THE COURT: All right. Let me think about it.
3 Y'all leave him out. Let me take about five
4 minutes.

5 (WHEREUPON, a break was taken.)

6 THE COURT: In an abundance of caution,
7 because I don't know who you all are going to call
8 next, and I just don't want him standing up again
9 saying, oh, I know that person too. He said that
10 he believed -- initially he said he knew some of
11 the witnesses, but when he came in he said he knew
12 one of the witnesses. And he said that a lot of
13 them come and -- he said a lot of the guys come up
14 there and play and they play on a team or something
15 together, so I guess in an abundance of caution I
16 will take him off. And considering we have only
17 one alternate left, I will make that alternate a
18 permanent juror.

19 MS. CLEARY: May I?

20 THE COURT: I'll let you put your objection on
21 the record.

22 MS. CLEARY: I just want to make it clear for
23 the record that we strenuously object to the
24 dismissal of this juror because there is no
25 evidence that he can't be fair and impartial.

1 Mr. Hinson is entitled to a fair and impartial
2 juror of his peers.

3 Certainly I agreed to the dismissal of the
4 first one because it was early in the process, and
5 he seemed to know more than one witness and he
6 seemed to know something about these people.

7 This guy doesn't know anything about any of
8 these people. And very sincerely said it wouldn't
9 affect his ability to be fair and impartial. And I
10 strenuously object to him being excused.

11 THE COURT: All right. Thank you.

12 Yes, ma'am, anything in response?

13 MS. CAMPBELL: If you want me to, I can put it
14 on the record.

15 THE COURT: Yes, ma'am.

16 MS. CAMPBELL: He said he knew witnesses, then
17 he changed it to one witness. She just said that
18 the reason she allowed the first one to be excused
19 is because he knew multiple witnesses. And in
20 addition to that, Your Honor, it would be the
21 Defendant's friends that he knew, and things of
22 that nature.

23 Luckily for her she said that he has a right
24 to a fair trial, and luckily that was an alternate
25 which she put on the jury that would be a fair and

1 impartial juror.

2 THE COURT: All right. Can you bring Juror
3 Number 226 in?

4 Then we have another note. The longer they
5 sit back there the more notes they have. "Can we
6 take notes in the courtroom?"

7 So y'all think about that while I bring him
8 in.

9 You can bring in Juror 226.

10 (WHEREUPON, Juror 226 enters the
11 courtroom at 9:38 a.m.)

12 THE COURT: It is Mr. Rogers, right?

13 JUROR 226: Yes, ma'am.

14 THE COURT: Mr. Rogers, I am going to --
15 because you know the witnesses, and our concern --
16 and my concern is that some of these other
17 witnesses may be people that you know through
18 playing at the -- basketball at the gym.

19 JUROR 226: Yes, ma'am.

20 THE COURT: In an abundance of caution, I am
21 going to go ahead and remove you from service. I
22 appreciate you serving thus far and I know that you
23 have been attentive in listening to the witnesses,
24 but I think in an abundance of caution I'm going to
25 probably -- I'm going to go ahead and remove you

1 from service.

2 JUROR 226: Yes, ma'am.

3 THE COURT: I appreciate you being honest and
4 bringing it to our attention. And everybody
5 understands that you didn't intentionally do this,
6 that you just did not put the names with the faces.
7 And that happens all the time.

8 JUROR 226: Yes, ma'am. I mean, they are
9 kids, and I don't socialize with them kids. I
10 mean, I play ball, but I don't have one-on-one
11 conversation with them.

12 THE COURT: Okay. All right. Thank you.

13 JUROR 226: Yes, ma'am.

14 THE COURT: And he just needs to go back
15 downstairs.

16 (WHEREUPON, Juror 226 was excused from
17 the jury.)

18 THE COURT: Jennifer Waller is our next
19 alternate.

20 All right, there were some issues we needed to
21 take up before we got started today.

22 What is your position regarding taking notes?
23 I'm inclined to say no since we have already
24 started the trial.

25 Any position from either side?

1 MS. CLEARY: No.

2 THE COURT: I may have let them do it if they
3 had asked to do it in the beginning, but at this
4 point, I think we have gotten through a good bit of
5 testimony. I will tell them no.

6 All right. Yes, ma'am?

7 MS. CAMPBELL: Your Honor, as far as our next
8 witness, we can go ahead and just expedite matters.

9 As far as his prior record, we have turned it
10 over to the Defense. As far as what is
11 impeachable, he does have from 2005 a burglary
12 conviction; and 2006 a burglary conviction; and
13 then in 2009 he was convicted of aggravated
14 assault, burglary, and possession of a firearm
15 during the commission or attempted felony.

16 That would be the extent of what I see to be
17 impeachable offenses under the rule. I don't know
18 if she agrees with me or not.

19 THE COURT: Ms. Cleary, any response as to
20 prior record?

21 MS. CLEARY: Is this Richard Johnson?

22 MS. CAMPBELL: Yes.

23 MS. CLEARY: Okay. Yes, I believe those are
24 impeachable, but Mr. Johnson was arrested and then
25 talked to the police once he was in custody. So I

1 (Witness complies.)

2 THE CLERK: Do you solemnly swear or affirm
3 that the testimony you are about to give in this
4 case will be the truth, the whole truth, and
5 nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Please have a seat on the witness
8 stand. State your full name for the record.

9 THE WITNESS: Richard Johnson.

10 RICHARD JOHNSON,
11 after being duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q How old are you?

15 A Twenty-four.

16 Q And where do you live?

17 A Atlanta.

18 Q How long have you been living in the Atlanta area?

19 A All my life.

20 Q So you are from Georgia?

21 A Yes.

22 Q And do you currently work?

23 A No.

24 Q And who do you live in Atlanta with?

25 A Girlfriend, kids.

1 Q I want to turn your attention back to January of
2 2010. Were you living in Atlanta then?

3 A Yes.

4 Q And did you meet someone that you ultimately knew
5 as a guy named Homie?

6 A Yes.

7 Q And tell this jury how you met Homie in Atlanta.

8 A Through acquaintance.

9 Q Through an acquaintance?

10 A Yes.

11 Q And who was the acquaintance?

12 A A dude named Du-Wop.

13 Q Du-Wop?

14 A Uh-huh.

15 Q And prior to -- and this would have been sometime
16 after January 16th of 2010. Had you ever seen
17 Homie before? Had you ever met him?

18 A No.

19 Q And when y'all met up together, how much time did
20 y'all spend together once you met up sometime after
21 January 16th?

22 A About two weeks.

23 Q About two weeks?

24 A (Nods affirmatively.)

25 Q And were y'all actually living together?

- 1 A Yes, he went everywhere I went.
- 2 Q And you can't go into what y'all were doing, but
- 3 basically y'all spent the days and the nights
- 4 together?
- 5 A Yes.
- 6 Q Were y'all staying in hotels at that point?
- 7 A Some area hotels, some girls' house, wherever we
- 8 can go.
- 9 Q Wherever you could go?
- 10 A Yes.
- 11 Q And during that time period when you were in
- 12 Atlanta in that two-week period with the guy you
- 13 knew as Homie, did you learn his real name?
- 14 A No.
- 15 Q So you just knew him as Homie?
- 16 A Yes.
- 17 Q During that time period did y'all strike up some
- 18 kind of friendship or acquaintanceship?
- 19 A Yes.
- 20 Q And did he come to confide in you about certain
- 21 situations he had going on?
- 22 A Yes.
- 23 Q During that time period did he talk to you
- 24 specifically about things that had happened in
- 25 South Carolina?

- 1 A Yes.
- 2 Q Did he indicate that he was from South Carolina?
- 3 A Yes.
- 4 Q And tell this jury what all he told you about a
5 murder that had taken place in South Carolina.
- 6 A He said he had killed somebody in front of
7 somebody.
- 8 Q He said he had killed or murdered somebody in front
9 of somebody?
- 10 A Yes.
- 11 Q And what was his demeanor like when he was telling
12 this?
- 13 A I don't know. He was kind of -- I really can't
14 say. I don't know if he was sad or -- I mean, I'm
15 not sure about it. I don't know.
- 16 Q But he wanted to tell you about it?
- 17 A Yes.
- 18 Q And did he tell you any other details about the
19 murder in South Carolina?
- 20 A Basically he just said that he had -- it was a
21 witness, that somebody seen him do it.
- 22 Q Did he indicate whether it was a girl or a guy?
- 23 A Yes, he said it was a girl.
- 24 Q And did he indicate whether or not -- how he had
25 murdered somebody?

- 1 A He said he shot him.
- 2 Q Shot him? And did he tell you anything about what
- 3 day of the week it was on?
- 4 A Huh-uh. I know he say whenever he did it, four
- 5 hours later he was in Atlanta.
- 6 Q Four hours later he was in Atlanta?
- 7 A Uh-huh.
- 8 Q That is what he told you?
- 9 A Uh-huh.
- 10 Q Did he indicate to you what he had done with the
- 11 gun?
- 12 A He buried it.
- 13 Q Did he indicate where he had buried the gun?
- 14 A No.
- 15 Q Do you remember talking to the police when you came
- 16 forward on this case?
- 17 A Yes.
- 18 Q Do you remember telling them he buried a gun in
- 19 South Carolina?
- 20 A Yes.
- 21 Q And do you remember telling them that he said that
- 22 the murder took place on a Saturday?
- 23 A I don't remember that, but --
- 24 Q You don't remember that?
- 25 A No.

1 Q And those were all details. Did you know anything
2 prior to meeting Homie about the murder in South
3 Carolina?

4 A No.

5 Q And when he was telling you this, what was going
6 through your mind?

7 A Nothing.

8 Q During the course of the two weeks y'all were
9 together, did he tell you this all at once or did
10 he tell you this as your relationship developed?

11 A As the relationship developed.

12 Q During those two weeks you would stay at hotels
13 sometimes?

14 A Yes.

15 Q And the girls' sometimes?

16 A Yes.

17 Q Did he keep in touch with anybody in South Carolina
18 to your knowledge?

19 A Yes.

20 Q And how would he keep in touch with people in South
21 Carolina?

22 A Facebook and phone.

23 Q And the phone?

24 A (Nods affirmatively.)

25 Q Specifically was it a girl or a guy he was getting

1 information from?

2 A I don't know who he was getting his information
3 from.

4 Q Did he have contacts with any other women?

5 A Yes.

6 Q And tell the jury about that.

7 A He was talking to a girl from Texas. That is where
8 he was trying to go.

9 Q He was trying to go to Texas. So his intent was to
10 not return to South Carolina?

11 A No.

12 Q And you can't say how, but it was his intent. Were
13 y'all trying to raise money?

14 A Yes.

15 Q And don't say anything else about that. About two
16 weeks after you met the guy you knew as Homie --
17 and, again, y'all are just hanging out together for
18 this two weeks, right?

19 A Yes.

20 Q You had never seen him before?

21 A No.

22 Q Did you get arrested?

23 A Yes.

24 Q And what did you get arrested for?

25 A Fighting and first degree forgery.

1 Q Fighting and first degree forgery? And when you
2 got arrested, was the guy you knew as Homie, was he
3 with you?

4 A He was with me when the fight broke out, not when I
5 got arrested.

6 Q After you got arrested for first degree forgery --
7 and that was towards the end of January?

8 A Uh-huh.

9 Q The 27th of January? Does that sound about right?

10 A Uh-huh.

11 Q Did you make contact with the police?

12 A Yes.

13 Q And why did you make contact with the police?

14 A I felt like it was his fault.

15 Q It was his fault you got arrested?

16 A Uh-huh.

17 Q When you made contact with the police, what did you
18 tell them?

19 A Basically what I just told you.

20 Q About what he told you?

21 A Uh-huh.

22 Q And at that point you didn't know any specific
23 names of the victim or anything like that?

24 A No.

25 Q Just the information you were able to give this

1 jury?

2 A Yes.

3 Q And when you told the police, did they help you out
4 in any way?

5 A No.

6 Q Did you hope it might help you down the road?

7 A Yes.

8 Q Did it?

9 A No.

10 Q And, by the way, you are under subpoena here today,
11 you don't want to be here?

12 A No.

13 Q Once you gave that information to police, did they
14 follow up on it and check and see if in fact there
15 had been a murder in South Carolina?

16 A Yes.

17 Q And did they come back to you later and show you
18 some photographs?

19 A Yes.

20 Q Once they got their information from South
21 Carolina? And when they showed you -- and this is
22 a copy, the original is still around. State's
23 Exhibit 160. When they showed you those
24 photographs, there wasn't any handwriting on there,
25 was there?

1 A No.

2 Q And when they showed you those photographs, did you
3 recognize anyone in those photographs?

4 A Yes.

5 Q And who did you recognize?

6 A Homie.

7 Q Homie?

8 A Yes.

9 Q And which one was Homie?

10 A Number Five.

11 Q Number Five? And are those -- is that the date and
12 your initials on it right there?

13 A Uh-huh.

14 Q And that would have been on January the 29th,
15 according to this, right?

16 A Uh-huh.

17 Q And when they showed you the pictures, did they
18 tell you who you needed to pick out or anything?

19 A No.

20 Q Did you just recognize him because you had been
21 with him for the two weeks prior to getting
22 arrested?

23 A Yes.

24 MS. CAMPBELL: Your Honor, at this time we
25 would offer State's Exhibit Number 160 into

1 evidence.

2 THE COURT: Any objection?

3 MS. CLEARY: No objection.

4 MS. CAMPBELL: This is a copy. You know that.

5 THE COURT: Entered without objection.

6 MS. CAMPBELL: Thank you.

7 (WHEREUPON, State's Exhibit No. 160 was
8 marked for identification and received
9 into evidence.)

10 Q When you were giving them information once they
11 showed you those photographs, after that did you
12 indicate to the officers that you would be able to
13 help them find the guy you knew as Homie?

14 A Yes.

15 Q Did you make a phone call to one of your other
16 friends or home boys in order to figure out where
17 Homie was?

18 A Yes.

19 Q You can't say what he said to you, but did you then
20 turn that information over to the Atlanta Police
21 Department?

22 A They were listening. They was on the phone.

23 Q They was on the phone too?

24 A (Nods affirmatively.)

25 Q So they heard?

1 A (Nods affirmatively.)

2 Q And at that point they were able to get the
3 information where Homie was?

4 A Uh-huh.

5 Q You didn't participate in the arrest?

6 A No.

7 Q Your prior record -- I'm sorry -- all in Georgia,
8 you were convicted in September of 2005 of
9 burglary, then you were convicted in 2007, December
10 of 2007, of burglary?

11 A Yes.

12 Q Then in December of 2009 you were convicted of
13 aggravated assault?

14 A Yes.

15 Q Burglary?

16 A Yes.

17 Q Possession of a firearm or knife in the commission
18 or attempt to commit certain felonies?

19 A Yes.

20 Q Receipt, possession or transfer of a firearm by a
21 convicted felon?

22 A Yes.

23 Q And then you were arrested for the fighting and the
24 first degree forgery?

25 A Yes.

1 Q And, again, during that two -- or approximate
2 two-week period you stayed with the Defendant,
3 y'all were together for the purpose of getting
4 money?

5 A Yes.

6 Q The person that you knew as Homie that was
7 introduced to you by one of your other -- people in
8 your group, do see him here in the courtroom?

9 A Yes.

10 Q Can you point him out to the jury?

11 A (Indicates.)

12 Q Where is he seated?

13 A Between his lawyers.

14 MS. CAMPBELL: Your Honor, may the record
15 reflect he identified the Defendant.

16 THE COURT: Yes, ma'am.

17 MS. CAMPBELL: Thank you.

18 THE COURT: All right, sir, please answer any
19 questions that Ms. Cleary may have.

20 CROSS-EXAMINATION

21 BY MS. CLEARY:

22 Q Mr. Johnson, you had a pretty lengthy interview
23 with the Atlanta Police Department about this
24 issue?

25 A Uh-huh.

1 Q In a small room and they were taping it?

2 A Yes.

3 Q Did you know they were taping it?

4 A Yes.

5 Q Okay. And you told the Atlanta Police Department
6 that -- and I believe you just said on direct
7 too -- that Homie didn't have money when he came,
8 or y'all needed to get money?

9 A Yes.

10 Q Okay. And do you also remember telling the
11 officers that Homie still had a black eye from the
12 fight?

13 A I don't remember telling them that.

14 Q In your statement when you are talking to the
15 police, you told the officers -- let me find the
16 exact quote -- that about an hour or so into it you
17 said that, Homie still has a black eye that is just
18 now going away?

19 A I might have did say it. That was a year ago.

20 Q You probably did say that? Okay. Do you want me
21 to play the tape back?

22 A That is up to you.

23 Q Okay. But you don't -- do you deny that you said
24 that?

25 A No, I don't deny it.

1 Q Okay. Do you remember that he had a black eye?

2 A I don't remember that either.

3 Q You don't remember that?

4 A Huh-uh.

5 Q Okay. Now, do you remember telling the Atlanta
6 Police Department that Homie, the man you knew as
7 Homie, was trying to get some clothes because he
8 only had like one set of clothes?

9 A Yes.

10 Q Uh-huh. You do remember saying that?

11 A (Nods affirmatively.)

12 Q Okay. Now, was there anywhere in your statement,
13 either the written statement that you did or when
14 you were talking to the police, nowhere you said
15 that Homie was bragging about killing someone?

16 A I don't recall what I really said. If it is
17 written down, then I said it. But I don't recall
18 saying it.

19 Q Okay. So you never told anybody that my client
20 bragged about somebody -- murdering somebody?

21 A Not that I recall.

22 Q Okay. That's all right. All right. Well, on
23 direct you said that Homie told you that he had
24 killed somebody, is that right?

25 A Yes.

1 Q So he didn't say, I murdered someone --

2 A No.

3 Q -- in cold blood?

4 A No, he didn't say that.

5 Q And y'all were together, and you were staying in
6 what kind of motels or hotels?

7 A We were staying in hotels, motels, Holiday Inn.

8 Q Like what sort of -- inexpensive places?

9 A Yes. Urban areas.

10 THE COURT REPORTER: I'm sorry?

11 A In the urban areas.

12 Q Okay. And you told the police that he was trying
13 to get out of Georgia, that Homie was trying to get
14 out of Georgia, but he couldn't because he didn't
15 have any money?

16 A Yes.

17 Q Okay. Thank you.

18 MS. CLEARY: That's all I have.

19 THE COURT: All right. Thank you.

20 Yes, ma'am?

21 REDIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q She asked you about what you didn't say.

24 MS. CAMPBELL: And, Your Honor, beg the
25 Court's indulgence.

1 (Pause.)

2 Q I show you a transcript of your thing, the
3 highlighted portion. What did you say that he told
4 you -- about what he told you?

5 A Homie, I know him because he committed this murder.

6 Q This murder. She also asked you about whether or
7 not you said that he didn't have any money?

8 A Uh-huh.

9 MS. CAMPBELL: Your Honor, we have a matter of
10 law.

11 (WHEREUPON, a bench conference was held
12 in the presence of the jury but out of
13 the hearing of the jury.)

14 BY MS. CAMPBELL:

15 Q And basically you told him that you knew for a fact
16 he didn't have enough money to leave Georgia. And
17 where was he trying to go?

18 A Texas.

19 Q Thank you.

20 THE COURT: Anything else?

21 MS. CLEARY: Nothing further.

22 THE COURT: You may step down.

23 (Witness steps down.)

24 THE COURT: All right. Call your next
25 witness.

1 MS. CAMPBELL: Thank you, Your Honor. The
2 State would call Roland Thomas.

3 THE BAILIFF: Raise your right hand, place
4 your left hand on the Bible, and face the clerk.
5 (Witness complies.)

6 THE CLERK: Do you swear or affirm the
7 testimony you are about to give in this case will
8 be the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Have a seat, and state your full
12 name for the record.

13 THE WITNESS: Roland Thomas, Jr.

14 ROLAND THOMAS, JR.,

15 after being duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q Where are you employed?

19 A City of Atlanta Police Department.

20 Q How long have you been with the Police Department
21 there?

22 A Since 2000.

23 Q And I want to turn your attention back to January
24 of 2010. Did you come in contact with Richard
25 Johnson who just testified?

1 A Yes, ma'am.

2 Q Can you tell this jury how you came in contact with
3 him on that -- at the end of January?

4 A Richard Johnson was arrested at the underground
5 Atlanta, which is a shopping area district, by one
6 of our gang investigators -- gang officers.

7 Q And when you came in contact with him, I believe it
8 was on January 28th, 2010, is that correct?

9 A I think it was the 29th, if I'm not mistaken.

10 Q Is this your report?

11 A This is my case notes, yes. Yes, on the 29th is
12 when I got custody of him.

13 Q You got custody, I'm sorry. You first found out
14 about him or became aware of him on the 28th?

15 A On the 28th, yes, ma'am.

16 Q How did you become aware of him and some
17 information he might have he wanted to give the
18 police?

19 A During the debrief when -- one of our practices in
20 the City of Atlanta is that if somebody is
21 arrested, we just take a shot in the dark and ask
22 them like cursory questions, do they know of any
23 crimes or anything that they can tell the police
24 that they want to get off their chest, or something
25 similar to that.

1 He told one of our officers that arrested him
2 that he knew about a murder that took place inside
3 of South Carolina and that the murder suspect was
4 hiding out inside of Atlanta.

5 Q And that information, certain details were
6 forwarded to you that day?

7 A Not the day he was arrested, but on the 28th, yes.

8 Q On the 28th?

9 A Yes, ma'am.

10 Q And when you got that information, did you take any
11 steps to confirm that in fact there was a murder in
12 South Carolina that corroborated with the
13 information he had?

14 A Yes. At the unit we contacted South Carolina and
15 got in touch with -- I can't remember the guy's
16 name, but got in touch with the investigator that
17 told us about the similar facts that we were
18 talking about.

19 Q Would that have been Investigator Lindler?

20 A Sounds familiar.

21 Q Sounds familiar?

22 A Yes, ma'am.

23 Q And at that point did they forward you any kind of
24 information for you to use in follow-up on another
25 interview with the Defendant?

1 A Yes, a six-pack, a six-person line-up.

2 Q I am going to show you what is a copy of that
3 actual line-up, which is State's Exhibit Number
4 160. Do you recognize that?

5 A Yes, ma'am.

6 Q And when you got that actual line-up, it didn't
7 have any handwriting on it or anything, it would
8 have been blank other than the printed out part?

9 A Yes, ma'am.

10 Q And then on the 29th as you have already testified,
11 did you make contact with the Defendant yourself
12 and have him transported to your headquarters? To
13 your office? The Defendant, Richard Johnson?

14 A Yes, ma'am, on the 29th.

15 Q On the 29th. And at that point, prior to talking
16 to him, did you advise him of his rights?

17 A Yes, ma'am.

18 Q And did he agree to talk to y'all?

19 A Yes, ma'am.

20 Q And those are his Miranda rights, or his right to
21 counsel?

22 A Yes, ma'am.

23 Q And he went ahead and talked to y'all that day?

24 A Yes, ma'am.

25 Q And did you actually question him further about the

1 murder that took place in South Carolina?

2 A Yes, ma'am.

3 Q And his knowledge of it? Was he able to identify
4 by nickname, at least, the person that had given
5 him this information?

6 A Yes, ma'am.

7 Q And what was the name that was used?

8 A Homie.

9 Q Homie?

10 A Yes, ma'am.

11 Q And was he able to give you some specifics -- you
12 can't testify what they were -- but specific
13 details that were corroborated by the information
14 you got from South Carolina?

15 A Not -- I don't think it was -- he -- the stuff that
16 we talked to South Carolina about was the stuff he
17 told, but we never called back per se to confirm
18 that what he was saying was that. When we called,
19 we called to get the information -- they sent back
20 the information saying, yes, we do have a murder
21 suspect -- or a murder that has -- similar to that.

22 Q You actually recorded the conversation y'all had
23 with Richard Johnson that day?

24 A Yes.

25 Q That had the details of what he knew that Homie had

1 told him?

2 A Yes.

3 Q That day after interviewing him, did you also show
4 him that photo line-up?

5 A Yes.

6 Q And did you in any way suggest or tell him who he
7 had to pick?

8 A No.

9 Q Did you influence his decision in any way that the
10 person he recognized as Homie who had told him
11 about committing that murder?

12 A No.

13 Q And that statement is Exhibit Number 160?

14 A Yes.

15 Q And when you showed him State's Exhibit Number 160,
16 or a copy of that, did he recognize anyone?

17 A Yes.

18 Q And which one did he recognize?

19 A Number Five.

20 Q And that is memorialized on that form?

21 A Yes.

22 Q After showing him the line-up, did you also take
23 further steps and at that point was he able to give
24 you information that Homie was still in Atlanta?

25 A Yes, ma'am.

1 Q And did you follow up on that information?

2 A Yes, ma'am.

3 Q And tell the jury what you did in order to try to
4 locate Homie.

5 A After he gave us the information about where the
6 gentleman was located, we had him make a phone call
7 to someone and confirm that information further.
8 And we passed on that information to our Fugitive
9 Unit, and our Southeastern Regional Fugitive Task
10 Force went and got up on the house and arrested the
11 gentleman with another male also.

12 Q And the person that the Defendant knew as Homie,
13 were you able to identify him by his real name?

14 A Yes, he was Jamaal Haynes -- Hinson.

15 Q Hinson?

16 A Yes, Hinson.

17 Q And then you forwarded the information Mr. Johnson
18 had given you to the officers here in South
19 Carolina?

20 A Yes.

21 MS. CAMPBELL: And that is all I have, Your
22 Honor.

23 THE COURT: All right. Please answer any
24 questions that Ms. Cleary may have.

25 THE WITNESS: Yes, ma'am.

CROSS-EXAMINATION

BY MS. CLEARY:

Q Investigator Thomas, you didn't actually arrest
Jamaal Hinson, right?

A Not myself, no, ma'am.

Q Do you know who did?

A Somebody from our Southeastern Regional Fugitive
Task Force, ma'am.

Q Okay. That's all I have. Thank you, sir.

THE COURT: You may step down.

(Witness steps down.)

THE COURT: Any objection to this witness
being excused?

MS. CAMPBELL: No, Your Honor.

THE COURT: All right, sir, you are free to
leave.

THE WITNESS: Yes, ma'am.

(Witness excused.)

THE COURT: Call your next witness.

MS. SIMPSON: The State calls Dr. Bradley
Marcus.

THE BAILIFF: Place your left hand on the
Bible, and raise your right hand.

(Witness complies.)

THE CLERK: Do you swear or affirm the

1 testimony you are about to give in this case will
2 be the truth, the whole truth, and nothing but the
3 truth, so help you God?

4 THE WITNESS: Yes.

5 THE CLERK: Please have a seat, and state your
6 name for the record.

7 THE WITNESS: Dr. Bradley J. Marcus,
8 M-A-R-C-U-S.

9 BRADLEY J. MARCUS, M.D.,
10 after being duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SIMPSON:

13 Q Dr. Marcus, where do you work?

14 A I work at Professional Pathology Services here in
15 Columbia, South Carolina.

16 Q And what do you do there?

17 A I'm a forensic pathologist, a general pathologist,
18 and also the chief medical examiner here in
19 Richland County.

20 Q Okay. And are you licensed to practice in your
21 profession?

22 A Yes, I have a South Carolina medical license.

23 Q And how long have you been licensed to practice in
24 pathology?

25 A I've had a license to practice medicine since 2002

1 in South Carolina.

2 Q And do you specialize in any particular field?

3 A Yes, I have a M.D. degree from medical -- from an
4 M.D. medical school, and then after I graduated
5 from medical school I then went on to a residency
6 training program where I specialized in pathology.
7 I learned to be a general pathologist first, which
8 was four years of training. From there I went and
9 passed my general pathology boards in anatomic
10 pathology. Then I passed my boards in clinical
11 pathology. From there I went on and did some
12 fellowships. I did my first fellowship in forensic
13 pathology. All I did was autopsies for one year.
14 And then from that point I passed my forensic
15 boards. And then I went on to another year of
16 training and did cytopathology, where I look at pap
17 smears, and so forth like that. I passed my boards
18 there.

19 So in total I have four board -- four
20 pathology board qualifications.

21 Q What exactly is pathology?

22 A Pathology is the study of diseases in humans. The
23 study of diseases at the gross level, the naked
24 eye, and looking at it from the microscopic point
25 of view.

1 And now with the coming of age is
2 understanding of the genes, understanding of
3 genetics of the disease, and so forth. That is the
4 age coming. In the next 30 years that is going to
5 be the big wave.

6 Q And so with respect to your pathology general, are
7 there different subsets of pathology, different
8 types?

9 A Yes. There is blood banking pathology, there is
10 gastrointestinal pathology, there is forensic
11 pathology, there is cytopathology, and so forth.
12 Many different -- there is a specialty of pathology
13 in that there are subspecialties of pathology.

14 Q And I guess relevant to this case, you actually
15 specialize in forensic pathology?

16 A Yes, that is one --

17 Q That is one of your specialties?

18 A One of my subspecialties is forensic pathology.

19 Q What is forensic pathology?

20 A Forensic pathology deals with death. Okay. We're
21 dealing with cause and matter of death. Cause of
22 death by definition is a disease or injury that
23 brings about death.

24 So a job of a forensic pathologist is anybody
25 that suddenly and unexpectedly dies, that is the

1 job of the forensic pathologist. They get called
2 to determine the cause of death, determine what
3 disease or injury brought about the death.

4 For instance, in that cause of death, there is
5 five manners associated with death: Natural death.
6 Death due exclusively to -- due to disease. For
7 instance, breast cancer, complications of breast
8 cancer. That is a cause of death. Accidental
9 death, car wrecks, and so forth. Suicide, taking
10 of one's own life. Homicide, death at the hands of
11 another person. And then you have undetermined.
12 Sometimes you don't know the circumstances of
13 death, a body found out in the woods, decomposed.
14 You just don't know how they got there and you just
15 don't know. That is sometimes the category it
16 falls in there.

17 So that is our job, to determine the cause of
18 death and the manner of death. And we do that by
19 performing an autopsy, performing a toxicology
20 testing.

21 Q And I believe you said earlier that you are
22 actually the chief medical examiner for Richland
23 County?

24 A Yes.

25 Q What do you do as chief medical examiner?

1 A Basically I work with the coroner here in the
2 county. And basically the coroner, he is in charge
3 of any death investigations, anybody who suddenly
4 dies, he decides what case goes for autopsy and
5 stuff. He orders the autopsy. And then I'm in
6 charge of all the medical aspects of the autopsy.
7 He sends the autopsy to Palmetto Health Richland
8 where myself or my -- I have a colleague, and me or
9 her perform the autopsy, just the two of us that
10 perform the autopsies here in Richland County. And
11 we determine the cause and manner of death and
12 handle -- anything medically related to the case we
13 handle.

14 Q And so the two of you actually perform all of the
15 autopsies in Richland County?

16 A Yes. It depends on who is on service, for
17 instance.

18 Q And how many autopsies would you say you have
19 performed throughout the course of your, I guess
20 education and career?

21 A Actually I can tell you, 1500 exactly.

22 MS. SIMPSON: Your Honor, at this time I will
23 seek to qualify Dr. Marcus as an expert in
24 pathology, as well as specifically forensic
25 pathology.

1 THE COURT: Any voir dire?

2 MS. CLEARY: No.

3 THE COURT: No objection.

4 All right, ladies and gentlemen of the jury,
5 Dr. Marcus will be qualified as an expert in
6 pathology and forensic pathology.

7 BY MS. SIMPSON:

8 Q Did you have occasion to actually perform an
9 autopsy in this case?

10 A I did. Can I get a copy of the autopsy?

11 Q Yes. Would it assist if you have your autopsy
12 report?

13 (Pause.)

14 A Yes, I did perform an autopsy on this case.

15 Q Okay. And who did you perform the autopsy on?

16 A I performed an autopsy on a person named Anthony
17 Salley.

18 Q And when did you perform autopsy?

19 A I performed the autopsy on January 17th, 2010.

20 Q And can you describe for the jury how exactly --
21 the process by which a body may come to you for
22 autopsy?

23 A Sure.

24 Q And timing as to when you might receive it.

25 A Okay, so what happens with an autopsy is I get

1 notified of an autopsy. I don't know what day this
2 January 17th was, but generally what happens is
3 once the autopsy room is clean, that one day, we
4 then do the cases the next day. So I'm not sure
5 when this case came in.

6 So this case, I was called by either the
7 coroner or the deputy coroner about a homicide, so
8 I scheduled the autopsy and we all arrived down at
9 the -- in the autopsy room at a certain time.

10 And from there we go and we start an exam with
11 everybody in place. The first thing we do with an
12 autopsy is I get the history and then we examine
13 the body, how it arrives in the morgue. It is in a
14 body bag. We examine the body, photograph the
15 body. And then we examine the external body with
16 all the clothes on. Then we unclothe the body and
17 look for anything. I take photographs.
18 Photographs are taken by crime scene investigators..
19 In addition, I back everything up with diagrams. I
20 take diagrams of stuff.

21 And from that point onward I look for any
22 injuries or lack of injuries. In this case I
23 noticed a gunshot wound on him. So immediately
24 before I start cutting the body I call X-ray down
25 to take some X-rays of the body just to look for

1 bullets because bullets are, depending on the
2 caliber, extremely difficult sometimes to find in a
3 body. And that is evidence that has to be
4 collected at autopsy. Sometimes the bullets pass
5 through. In this case I didn't see an exit wound
6 so I knew that bullet was in the body.

7 So, again, I called X-ray down and it
8 confirmed by suspicion of a bullet in the body.
9 And from that point onward I then finished my
10 external exam documenting injuries. I found some
11 injuries around the face area. Collecting -- and I
12 collected some evidence. And then I then proceeded
13 to do a full internal exam examining all the
14 organs, taking sections of the organs, looking at
15 them under the microscope.

16 Q And let me stop you just for a second and back up.
17 The preliminary stage in your autopsy is gathering
18 history, basic information?

19 A Yes.

20 Q What types of information do you receive -- are you
21 trying to find?

22 A All right. So in this case, again, this is what --
23 this is my -- I get this from the coroner and this
24 is all preliminary. I put this in my report. So
25 in my case I have, according to the coroner, so

1 this could change. And, again, you know, with a
2 23-year-old black male was involved in a verbal
3 altercation, which he sustained a single gunshot
4 wound to the left abdomen. Came to the hospital at
5 3:30 p.m. Despite resuscitative measures he was
6 pronounced dead at 4:10 p.m. on January 16th, 2010.
7 That was the only history I got.

8 Q Okay.

9 A That is the only --

10 Q And then it just kind of helped you somewhat, but
11 then your examination is what actually --

12 A Right. Determines -- that is what I go by. I go
13 by what I find on my exam. In this case, in my
14 opinion it was very simple, it was one gunshot
15 wound that clearly was the cause of death.

16 Q And let me -- I'm going to show you what has been
17 marked as State's Exhibits 124 through 127. Can
18 you take a look at these and tell me if you
19 recognize them?

20 A Yes, these are some of the -- these are the X-rays.
21 The X-ray came down and took the -- I believe the
22 crime scene investigator took pictures of them,
23 which I told them to take.

24 Q And do they fairly and accurately represent what
25 you received?

1 A Absolutely.

2 MS. SIMPSON: Your Honor, the State would
3 introduce State's Exhibits 124 through 127.

4 THE COURT: Any objection?

5 MS. CLEARY: No objection.

6 (WHEREUPON, State's Exhibit Nos. 124
7 THROUGH 127 were marked for
8 identification and received into
9 evidence.)

10 MS. SIMPSON: Permission to publish to the
11 jury?

12 THE COURT: Yes.

13 (Exhibits published to the jury.)

14 Q If you could, describe exactly what we're seeing in
15 State's Exhibit 124. Would you like to step down?

16 A Yes.

17 THE WITNESS: Can I?

18 THE COURT: Yes, sir.

19 (Witness steps down.)

20 A Okay, so basically like I said about the X-rays,
21 nothing easier to find a bullet in a body than by
22 taking an X-ray machine. The X-ray is pointed
23 right over the body and it is called anterior, over
24 the top of the body, to the posterior of the body.
25 They shoot an X-ray. And clearly any metallic

1 object is going to show up here. So here we have
2 the pelvic -- those are the pelvic wings right
3 there. There is your spine right there. The bowel
4 is right there. Clearly right here you can see a
5 metallic object that is intact, a bullet. Right
6 there.

7 And so if we're looking at my body, that
8 bullet is sitting deep to right about here, okay?
9 On the right side.

10 Q And State's Exhibit 126. And maybe I'll let you go
11 in the order that is easier to explain for you.

12 A Again, here is another close-up of that bullet
13 right there. And then this is a better intact
14 bullet. That is a bullet, no question about it.
15 It is a bullet, very intact for a bullet.

16 Q And you actually had this X-ray done before you
17 started on your cutting or your actual external
18 examination?

19 A I did it while -- before the body was opened and
20 cut open, that X-ray was taken.

21 (Witness returns to witness stand.)

22 Q After the X-rays were done, describe for the jury I
23 guess in detail what occurred next.

24 A After that was done, then we just basically
25 start -- I noticed some injuries around the face

1 area here. I documented all them, measured them
2 out. There were a few abrasions around the eyes.
3 Around the eyebrow. Around the left eye. There
4 was a small contusion around -- I talk about a
5 contusion now, I should define this for you to make
6 sure you understand. A contusion is a black and
7 blue mark. Everybody has had them. They bang into
8 things. That is a -- you know, you get -- you bang
9 your leg into something you basically, you know,
10 you get a bruise. It is a bruise. All right?
11 That is what I call a contusion. All right? That
12 is the medical term for black and blue mark. Okay?
13 So he had a few of those around his eyes and
14 he had one of those around his right interior
15 aspect of his neck. He had some abrasions around
16 his eyes. An abrasion is just a scratch. Again,
17 everybody has had a scratch. You fall down,
18 scratch your hand. Everyone has had those too. So
19 those are the terms that -- those are the injuries
20 that he had around his face.

21 And then he had this single gunshot to his --
22 it was to his left abdomen right there. Right
23 there. I recovered the bullet right in the pelvis
24 right over here. Okay? And I documented all that,
25 top of the body, through the top of the head, left

1 of the midline, and so forth.

2 So from that point on when I opened the body
3 with a Y incision and then opened all the body, I
4 collected blood samples for toxicology testing.

5 And then my first thing is I went and I find
6 that bullet, because once I start moving all the
7 organs around, the bullet can get dislodged and
8 then I can't find it based on where the X-ray is.

9 So I found the bullet. Right away I went in
10 there and I got that bullet out. And I found the
11 bullet.

12 Q And let me stop you right there. I want to show
13 you what has been marked as State's Exhibits 128,
14 129 and 130. Do you recognize these?

15 A Yes. This is the bullet that I pulled out of his
16 pelvis.

17 Q So this is the bullet that you actually recovered?

18 A Uh-huh.

19 Q What do you do -- and I'm sorry, let me back up.
20 Do these fairly and accurately represent the bullet
21 as you saw it on that day?

22 A Yes.

23 MS. SIMPSON: Your Honor, at this time the
24 State would seek to introduce State's Exhibits 128
25 through 130.

1 THE COURT: Any objection?

2 MS. CLEARY: No objection.

3 (WHEREUPON, State's Exhibit Nos. 128

4 THROUGH 130 were marked for

5 identification and received into

6 evidence.)

7 Q If you could just publish these to the jury. Once
8 you actually recover this bullet, what do you do
9 with it?

10 A I basically -- I look at it and then I lay it on my
11 little table here and I let the crime scene
12 investigator photograph this bullet, and then it
13 gets signed over to them and it is gone. It goes
14 to the investigator.

15 Q Okay. So you actually turned --

16 A I turn that over to them.

17 Q -- the bullets over to crime scene. Once you
18 recovered the bullet, I believe you said that is
19 the first thing?

20 A Yes, that is the first thing I try and do. That is
21 my main evidence. I don't want to -- again, if
22 that bullet gets dislodged or worse, thrown away,
23 and then I've got a problem. So that is my main
24 evidence. I have got to recover that first.

25 Q And I believe you said you noted bruising or

1 abrasions and contusions about the victim's face
2 and kind of upper chest, I guess neck area, is that
3 correct?

4 A Right, that's correct.

5 Q Is the type of bruising that you saw consistent
6 with having been in a fight?

7 A It is.

8 Q Possibly?

9 A It is.

10 Q I am going to show you State's Exhibits 116 through
11 123. Would you take a look and tell me if you
12 recognize them?

13 A Yes, this depicts the injuries in my report.

14 Q Okay. And those fairly and accurately represent
15 what you saw?

16 A Yes, ma'am.

17 Q During that autopsy?

18 MS. SIMPSON: Your Honor, at this time the
19 State would introduce State's Exhibit 116 through
20 123.

21 THE COURT: Any objection?

22 MS. CLEARY: No objection.

23 (WHEREUPON, State's Exhibit Nos. 116

24 THROUGH 123 were marked for

25 identification and received into

1 evidence.)

2 MS. SIMPSON: Permission for the witness to
3 step down?

4 THE COURT: Yes.

5 (Witness steps down.)

6 Q And if you could just describe what is in State's
7 Exhibit 116.

8 A Okay. Now, remember I talked about with you guys,
9 I said contusions are also known as black and blue
10 marks. All right. Well, they are considered black
11 and blue marks because after a few days they turn
12 black and blue, but when they initially happen they
13 are red. All right? Because it basically gets a
14 little bit of hemorrhage under the skin, and the
15 way the body re-heals itself, the blood starts to
16 break down and healing -- you can see, this isn't
17 black and blue, it is red, okay? Because it just
18 happened.

19 Now, after two or three days that will break
20 down and turn black and blue, then it will turn
21 yellow, and then it will -- it may be a little
22 green, and then it will disappear. Okay?

23 So this is a contusion. This is what I call a
24 fresh contusion. Okay? This is very fresh, less
25 than a 24-hour wound. Okay?

1 All of his -- and then you can see, he has got
2 one around his eyeball here, he has got one right
3 there, some right there.

4 Q And I believe State's Exhibit 117 depicts some of
5 the same injuries?

6 A Yes.

7 Q Are those consistent with being punched in the
8 face?

9 A Yes.

10 Q Specifically a black eye, about the head as well?

11 A Absolutely. You know, some sort of blunt trauma to
12 the facial region, in my opinion.

13 Q And pretty much all the pictures that we see here
14 are of the face?

15 A Yes, these are all the face area. Yes, ma'am,
16 again of the face here.

17 Q And --

18 A You see here -- remember I said he has got a small
19 contusion here. This is a small scratch right
20 there. That actually broke the skin, a small
21 scratch there. And it looked like -- that would be
22 fresh blood and it is dried blood, it almost forms
23 a little bit of a scab. And that is what it should
24 do.

25 Q And moving to State's Exhibits 121 through 122, can

1 you describe what we're seeing around the neck
2 area?

3 A Okay.

4 Q Of the victim?

5 A Again, here -- again, more of a very, very
6 proficient contusion right here slash abrasion on
7 the neck here.

8 Q And those injuries are consistent with either being
9 punched or hit or some force applied around the
10 neck, shoulder area?

11 A Some sort of blunt trauma around the neck area. I
12 can't say exactly what. But some sort of force.

13 Q Thank you.

14 (Witness returns to witness stand.)

15 Q Dr. Marcus -- and I know I stopped you in the
16 middle -- I believe you were at the Y incision.
17 And then once you open the body, what is the next
18 step?

19 A Okay. So what I did was I found -- I found the
20 bullet, recovered the bullet. Then what I do is I
21 find where the bullet is and then I go backwards
22 and find the wound track of where the bullet was,
23 where the bullet went through. And I noticed the
24 bullet actually -- so I'll start from the outside
25 in and just because it is easier -- so the bullet

1 went through the left abdomen, so it went
2 through -- do you mind if I stand up here?

3 (Witness stands.)

4 A It went through the left abdomen here, went into
5 the abdominal cavity, which I call the peritoneal
6 cavity. It went through small bowel. The small
7 bowel is kind of twisted around itself. And again
8 it perforates that multiple times. Okay. And then
9 this is what -- this is what the fatal injury was.
10 It went through the iliac vessel. The iliac
11 vessel, your aorta comes down and then it splits to
12 go down to your femoral vessel, go down to your
13 main arteries in your legs, and they are arteries
14 and so they are under high pressure. And it hit
15 the iliac vessel. And those are under high
16 pressure. And that is what happened. He bled out
17 basically. And then he bled out. The bullet went
18 right through the vessel. And think of it like a
19 garden hose. You punch that garden hose. The
20 blood starts pumping out until there is no more
21 blood there.

22 And then the bullet continued on and went into
23 the soft tissue of the right pelvis where I
24 recovered that bullet.

25 So we had a thousand milliliters of blood,

1 approximately a thousand milliliters of blood in
2 the peritoneal cavity. And that is what brought
3 about his death, the bleeding out. That is the
4 cause of his death.

5 Q And you reached that conclusion to a reasonable
6 degree of medical certainty?

7 A Uh-huh.

8 Q And exactly tell us what your conclusion was and
9 then kind of break it down in layman's terms what
10 that means as far as cause of death.

11 A Okay, so let me just finish. The remainder of the
12 autopsy, fairly healthy. Nothing else I can tell
13 you about him, other than that being -- other than
14 a healthy male.

15 The toxicology report came back, blood ethanol
16 was completely negative. He had a little bit of
17 marijuana in his blood, nothing to get too excited
18 about, though.

19 So basically the cause of death here, I put
20 the cause of death the iliac vessel perforation, so
21 basically blood vessel perforation due to a single
22 indeterminate range penetrating gunshot wound to
23 the left abdomen. And I mean penetrating because
24 the bullet went into the body and didn't leave.
25 Okay? And single because it is one gunshot wound.

1 Indeterminate range because I can't determine
2 exactly what the range was here because we had --
3 the bullet went through his shirt, okay? And when
4 it goes through, I call it an intermediary target,
5 I can't say exactly what the range is because it
6 went through something. Generally you can tell the
7 range of a bullet when it just goes through the
8 skin, like an open skin, but this time it went
9 through the shirt because I clearly saw a hole in
10 the shirt, so I can't say. So I called it an
11 indeterminate range penetrating gunshot wound to
12 the left abdomen. No question that is what brought
13 about his death.

14 Q Okay. And I'm going to show you what has been
15 marked as State's Exhibits 162, 163, 114 and 115.
16 Can you take a look at those, please, and tell me
17 if you recognize these.

18 A Yes. These are photos of that -- the entrance
19 gunshot wound to the lower left abdomen.

20 Q And they fairly and accurately depict what you
21 observed?

22 A Absolutely.

23 MS. SIMPSON: Your Honor, at this time the
24 State would introduce State's Exhibits 163, 114,
25 115 and 162.

1 THE COURT: Any objection?

2 MS. CLEARY: Without objection.

3 (WHEREUPON, State's Exhibit Nos. 114 AND
4 115 were marked for identification and
5 received into evidence.)

6 (WHEREUPON, State's Exhibit Nos. 162 AND
7 163 were marked for identification and
8 received into evidence.)

9 MS. SIMPSON: And permission to publish to the
10 jury?

11 THE COURT: Yes, ma'am.

12 (Exhibits published to the jury.)

13 Q And I don't know if you want to step down.

14 (Witness steps down.)

15 Q And start with the general --

16 A Okay. So again we are talking about the left
17 abdomen here. And just the hole in the abdomen.
18 There is nothing more I can really say here. I
19 don't see any -- there is no soot around the wound.
20 There is just some blood around the wound. It is
21 an abrasion around the wound. Again, any time you
22 have an object going through the skin, you are
23 going to get a small abrasion, scratch that goes
24 around the skin. You have something harder than
25 the skin.

1 Q You just said you don't observe or see any sooting
2 around the wound. Can you explain to the jury what
3 you are --

4 A Okay. For instance, all right, so when a gun is
5 fired -- when a gun is fired, all right -- when a
6 gun is fired, soot, black carbonation material
7 comes out of that barrel. It comes out no matter
8 what. Every gun is going to have it. It comes out
9 of the barrel. And, again, depending on how far
10 the gun is away, all right, if the gun is away, it
11 leaves a mark. It will leave a mark. If the gun
12 is right -- if the gun is right close, it is going
13 to leave a mark right there. If the gun is like
14 this, it is going to leave little specks around.
15 If the gun is far away it is going to leave
16 nothing. All right? You are not going to see
17 anything. And, again, it all depends on, one, the
18 type of gun and, two, the type of ammo. So if you
19 have the gun and you've got the ammo, you can
20 actually determine the exact distance of a gunshot
21 wound. But you have got to have the gun, you have
22 got to have the exact ammo. If you don't, it is
23 just -- again, you can guess. You know, you know,
24 close contact, you know, close range, up to maybe
25 18 inches where you get what they call stippling

1 around the wound.

2 Q And is it fairly identifiable, the sooting, if it
3 is sooting marks or stippling?

4 A Oh, yes. A very characteristic look. A very
5 characteristic look. Very characteristic.

6 Q And I'm going to show you -- with respect to
7 looking at this wound, I'm going to show you -- I
8 believe you stated you also couldn't determine a
9 range because he was actually wearing a shirt?

10 A That's correct.

11 Q At the time? I'm going to show you what is already
12 in evidence as State's Exhibit 156. And this is
13 going to be the victim's shirt that he was wearing.
14 And if you could step down.

15 (Witness steps down.)

16 Q You had a chance to look at the shirt, correct?

17 A Yes.

18 Q What do you need from me?

19 A Do you mind if I use the back of this?

20 Q That will be fine.

21 THE COURT: Can I see the attorneys?

22 (WHEREUPON, a bench conference was held
23 in the presence of the jury but out of
24 the hearing of the jury.)

25 BY MS. SIMPSON:

1 Q Let me back up just a little bit. Okay, now this
2 is the shirt that the victim was wearing? It is
3 actually cut. Do you cut the shirt off?

4 A No, it was cut. It was cut. I think I mentioned
5 in my report that it was cut. He was brought to
6 Richland Hospital and I believe resuscitated, and
7 usually EMS, they cut the shirt. Luckily in this
8 case they didn't cut -- sometimes they cut the
9 shirt right through the bullet hole, but this time
10 they didn't.

11 So on this case here we've got a nice circular
12 defect in the shirt here. You can see that that is
13 clearly a -- that is classically a textbook example
14 of --

15 THE COURT REPORTER: I'm sorry, I didn't hear
16 what you said.

17 THE WITNESS: Sorry.

18 A So this here is a classic textbook example of a
19 bullet hole in a shirt right here. Okay?

20 Now, around the wound here, this is some blood
21 spatter here. So when I'm examining here, when I
22 examined this wound around this thing, the edges of
23 this wound, I don't see any soot around this thing.
24 From my naked eye, I do not see soot, okay, around
25 this wound.

1 Q And if the shot had been at a close range, you
2 would expect to see sooting?

3 A I would expect to see soot around that. I would
4 expect to see it. But I don't see any soot around
5 here. I see red. It appears to be blood, but I
6 don't see soot.

7 Q And you can put that back in there.

8 (Witness returns to witness stand.)

9 Q So at close range, and just as a for instance, if I
10 turn around and I'm within say 12 to 18 inches of
11 another person and I shoot the gun, would you
12 expect to see sooting around the area?

13 A You would see a stippling pattern. You could see a
14 stippling pattern. Now, you might not be able to
15 see that with the naked eye. You might not be able
16 to see that on -- you might not be able to see that
17 under the naked eye on a shirt.

18 Q Okay.

19 A You might not.

20 Q But you would expect -- and that, on the victim's
21 shirt, those are actually blood stains that you
22 see --

23 A Yes.

24 Q -- with the naked eye?

25 A Those look like blood stains to me.

1 MS. SIMPSON: Beg the Court's indulgence.

2 (Pause.)

3 Q And, Dr. Marcus, is the wound consistent -- it is
4 not a contact wound, is it, it is more consistent
5 with being a longer range, say 12 to 18 or more?

6 A I really can't say because I've got that shirt in
7 my way, you know. I can't definitively say. From
8 my naked eye I can't see soot on that shirt.

9 Q Okay.

10 A I can't see it there.

11 Q But if it were close range, it would be consistent
12 with a close range if you saw the sooting?

13 A Yes, if I saw soot with my naked eye I would say it
14 is a close range shot, if I saw that. But I don't
15 see soot there.

16 Q All right. And tell the jury again what the cause
17 of death was in this case?

18 A The cause of death here is -- again, I put the
19 cause of death as an iliac vessel perforation. The
20 blood vessel got perforated through a single
21 indeterminate range penetrating gunshot wound to
22 the left abdomen. That is the cause of death.

23 Q No further questions. Thank you, Doctor.

24 THE COURT: Please answer any questions that
25 Ms. Cleary may have.

CROSS-EXAMINATION

1
2 BY MS. CLEARY:

3 Q Good morning, Doctor.

4 A Hi.

5 Q Now, you are not testifying that this shot could
6 not have been made from 18 inches? It is your
7 testimony that it is an indeterminate range?

8 A It is an indeterminate range shot.

9 Q Okay. And you testified that there was marijuana
10 in the decedent's blood system?

11 A Yes, ma'am.

12 Q And in your report you said THC. What is THC?

13 A It is Tetrahydrocannabinol.

14 Q Okay. And what is that?

15 A That is a by-product of -- well, it is the main
16 ingredient in marijuana.

17 Q And you said you can't determine the range because
18 it went through the shirt?

19 A It went through the shirt.

20 Q Okay. So the decedent died from the perforation of
21 the iliac vessel?

22 A The iliac vessel, that's correct.

23 Q Okay. And that is sort of in the -- where is that
24 on the body?

25 A That is in the pelvis. Where that bullet was

1 recovered, it is right there.

2 Q Okay. Could I -- and you said that -- and that
3 would be the cause of death, right?

4 A That is the cause of death, yes.

5 Q Can you just explain a little bit about the
6 interplay between your office and the Coroner's
7 Office?

8 A Okay. I work -- all right, very simple. I'm a -
9 work in private practice, okay? I work in the
10 private practice. And so basically my pathology
11 group that I work for, we basically just have a
12 contract and they pay us money to do their
13 autopsies for us. So we do their autopsies for
14 them. Gary Watts, with the coroner, he can send
15 the autopsies anywhere he wants. He can send them
16 out to Newberry, he can send down to MUSC, but for
17 years they have been working sending them to
18 Palmetto Health Richland. So, you know, so there
19 is really nothing -- I'm considered the chief
20 medical examiner. I believe that they have to have
21 a medical examiner after -- every county has to
22 have a certain population of people, and it is a
23 non-paid position that I work for, and that is fine
24 by me.

25 Q Okay. Thank you. That's all I have.

1 THE COURT: Anything else from the State?

2 MS. SIMPSON: No, Your Honor.

3 THE COURT: All right, sir, you may step down.

4 (Witness steps down.)

5 THE COURT: Any objection to this witness
6 being excused?

7 MS. SIMPSON: None from the State.

8 MS. CLEARY: None.

9 THE COURT: You are free to leave, sir.

10 (Witness steps down.)

11 THE COURT: Call your next witness.

12 MS. CAMPBELL: The State calls Terri.

13 Gleason.

14 THE BAILIFF: Place your left hand on the
15 Bible, and raise your right hand, please.

16 (Witness complies.)

17 THE CLERK: Do you swear or affirm the
18 testimony you are about to give in this case will
19 be the truth, the whole truth, and nothing but the
20 truth, so help you God?

21 THE WITNESS: Yes, ma'am.

22 THE CLERK: Please have a seat, and stat your
23 full name.

24 THE WITNESS: Terri Gleason, G-L-E-A-S-O-N.

25 TERRI GLEASON,

1 after being duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Investigator Gleason, where are you employed?

5 A I work with the Richland County Sheriff's
6 Department Forensic Science Unit.

7 Q And how long have you been working with the
8 Sheriff's Department?

9 A It will be four years in January.

10 Q Tell this jury a little bit about your education
11 and your training in your field of expertise.

12 A I have a bachelor of arts in criminal justice and
13 psychology from the University of Georgia and a
14 master of science and forensic science from the
15 University of New Haven.

16 In July of 1999 I began work with the Georgia
17 Bureau of Investigation State Crime Lab in Atlanta,
18 Georgia. At that time I underwent an extensive
19 two-week training program that dealt specifically
20 with firearm and tool mark examinations.

21 During that time, in addition to receiving
22 certification from the State, I also received
23 certification from the Federal Bureau of
24 Investigation and multiple target systems
25 determination and from the Bureau of Alcohol,

1 Tobacco and Firearms and Explosives.

2 Today I have logged over 3,000 hours on the
3 comparison microscope, completed over 2,500 weapon
4 examinations, and approximately 800 actual firearm
5 and tool mark cases.

6 I am also a member of our professional
7 organization, which is the Association of Firearm
8 and Tool Mark Examiners.

9 Q And you have been qualified before as an expert?

10 A Yes, I have.

11 Q And approximately how many times have you been
12 qualified as an expert?

13 A Approximately 40 times here in the State of South
14 Carolina, as well as the states of Georgia and
15 Texas.

16 MS. CAMPBELL: Your Honor, at this time I
17 would offer her as an expert in firearms
18 examination.

19 THE COURT: Any objection? Any questions?

20 MS. CLEARY: No objection.

21 THE COURT: All right, ladies and gentlemen of
22 the jury, this witness will be offered as an
23 expert, admitted as an expert in firearm
24 examination.

25 MS. CAMPBELL: Your Honor, may I approach?

1 around 1:00 o'clock, one-ish.

2 Thank you.

3 We will start back at 11:30.

4 (WHEREUPON, a break was taken.)

5 THE COURT: We will take a break around 1:00
6 o'clock. And it may be an extended break. If you
7 all are in fact finished we'll take a break and do
8 motions and all that.

9 MS. CAMPBELL: I have got Mr. Johnson here. I
10 didn't know if I could make a quick proffer just as
11 far as what his testimony would be about the gang
12 stuff and the robbing.

13 THE COURT: All right. Is he getting ready to
14 leave? Can -- is he leaving now?

15 MS. CAMPBELL: I was hoping for him to leave
16 now.

17 THE COURT: All right. So you want your other
18 witness to step down? All right, you can step
19 down.

20 (Witness steps down.)

21 MS. CAMPBELL: Thank you. Mr. Johnson?

22 RICHARD JOHNSON,
23 after being duly sworn, testified as follows:

24 DIRECT EXAMINATION(JURY OUT)

25 BY MS. CAMPBELL:

1 Q Mr. Johnson, when you met up with Homie, who
2 actually introduced y'all?

3 THE COURT: And let me just remind you, sir,
4 you are still under oath. All right.

5 A His name -- his nickname is Du-Wop, but his name is
6 Jamaal too.

7 Q His nickname is Du-Wop and his name is Jamaal?

8 A (Nods affirmatively.)

9 Q And are y'all all members or affiliated with a
10 gang?

11 A No, ma'am.

12 Q And did the Defendant indicate whether or not he
13 was affiliated with a gang?

14 A Yes, ma'am.

15 Q And what gang did he say he was with?

16 A GD.

17 Q And during the two weeks y'all were together, you
18 mentioned earlier that you discussed you getting
19 money. How were y'all attempting to get money?

20 A Most likely robbing.

21 THE COURT REPORTER: I'm sorry?

22 THE COURT: You have got to speak up, sir.

23 A I said, most likely robbing.

24 Q Robbing people?

25 A Yes.

1 Q And on two occasions prior to this, was there a
2 certain business y'all had attempted to rob?

3 A No, ma'am.

4 Q Do you remember Pseudio?

5 A No, ma'am. Yeah, I remember Pseudio.

6 Q Okay. But you were not successful in robbing it?

7 A No, ma'am.

8 Q But that was the plan on how you were going to get
9 money?

10 A Yes, ma'am.

11 Q And during this time period too, as well, he also
12 had some -- you were asked a question whether or
13 not he had any real money, but did he have
14 counterfeit money on him?

15 A The counterfeit money he had I gave it to him.

16 Q You gave it to him?

17 A (Nods affirmatively.)

18 MS. CAMPBELL: That's all I have, Your Honor.

19 THE COURT: Please answer any questions that
20 Ms. Cleary may have.

21 CROSS-EXAMINATION (JURY OUT)

22 BY MS. CLEARY:

23 Q When did the Defendant tell you that he was a
24 member of GD?

25 A You mean the date?

1 Q How long -- you had known each other for two weeks?

2 A Yes.

3 Q Was it the first day that you met?

4 A I can't -- I don't know that answer.

5 Q It wasn't the first day you met?

6 A It -- the first day I met him, he ain't told me
7 nothing about it. He said he was on the run for
8 probation. I didn't find out until after we was
9 kicking for two weeks, and he started loosening up
10 talking to me.

11 Q Well, how did he tell you that he was GD?

12 A He be on My Space talking to whoever he know up
13 here, and that is how I found out what he was
14 affiliated in and all that type of stuff.

15 Q So did he actually say, "I'm GD"?

16 A No, ma'am.

17 Q Okay. And you sort of assumed that from looking at
18 his My Space?

19 A Kind of like, yeah. He said it, but not just like,
20 "I'm GD." I was like -- we don't really gang-bang
21 or nothing like that, so --

22 Q So he never said, "I'm GD"?

23 A Yes. I think I asked him what he was. And he told
24 me, but he ain't said it like you asking me the
25 question.

1 Q Okay. Well, how did he say it?

2 A He said -- I don't know. It was a year ago. I
3 know that he was affiliated with it.

4 Q And how did you know he was affiliated with it?

5 A From him.

6 Q So how did he tell you that he was GD?

7 A He said that he was in it some type of way. I
8 don't know.

9 Q Okay. And were y'all successful with the robbery
10 of Pseudio?

11 A No, ma'am.

12 Q Okay. So no money was stolen, nobody was hurt?

13 A Nobody was hurt.

14 Q And you said you gave him counterfeit money?

15 A Yes, ma'am.

16 Q He didn't have any money when he came, when you met
17 him?

18 A He probably had a little money. When I met him he
19 was at a hotel. He was already in Atlanta when we
20 met him.

21 Q Thank you.

22 MS. CLEARY: That's all I have.

23 THE COURT: All right. Anything?

24 MS. CAMPBELL: Just one thing I forgot, Your
25 Honor.

1 REDIRECT EXAMINATION(JURY OUT)

2 BY MS. CAMPBELL:

3 Q You mentioned earlier in your testimony that the
4 reason you came forward was because he is the one
5 that got you into the fight?

6 A Yes, ma'am.

7 Q Was he participating in the fight?

8 A Yes, ma'am.

9 Q Thank you.

10 THE COURT: Anything else?

11 MS. CLEARY: Well, first of all, I don't think
12 that it is going to become relevant, but -- or do
13 you want to let him step down?

14 THE COURT: I didn't know if you had anything
15 else.

16 MS. CLEARY: No. I'm sorry.

17 THE COURT: Because she asked another
18 question.

19 MS. CLEARY: I'm sorry, I misunderstood.

20 THE COURT: All right, sir, you may step down.

21 (Witness steps down.)

22 THE COURT: Any objection to him being
23 relieved -- I mean, him being excused?

24 MS. CAMPBELL: None from the State.

25 THE COURT: Anything?

1 MS. CLEARY: No.

2 THE COURT: All right, sir. You are free to
3 leave. Thank you.

4 (Witness excused.)

5 THE COURT: Ms. Cleary, I believe you were
6 about to say something.

7 MS. CLEARY: I can just wait.

8 THE COURT: Okay. All right, we can bring the
9 jurors back in.

10 (WHEREUPON, the jury came into open
11 court at approximately 11:45 a.m.)

12 DIRECT EXAMINATION CONTINUES

13 BY MS. CAMPBELL:

14 Q Investigator Gleason, in this case did you receive
15 two items of evidence for your examination?

16 A Yes, I did.

17 Q I show you what has been marked State's Exhibit
18 Number 12 and what has been marked as State's
19 Exhibit Number 154 and first ask, do you recognize
20 those?

21 A Is it okay for me to open them?

22 Q Yes, please open them.

23 A I recognize and identify State's Exhibit 154 as a
24 fired metal jacket received at the crime lab on
25 January 19th of 2010, and State's Exhibit 12 as a

1 fired cartridge case received on the same date.

2 Q And did you ever receive any type of gun that may
3 have been used in this crime?

4 A I did not.

5 Q And is that unusual in a homicide case involving a
6 shooting?

7 A No, it is not. Frequently they are disposed of in
8 some way. The investigator is not able to locate
9 it.

10 Q Not able to locate it? That is not unusual?

11 A No, it is not.

12 Q And tell this jury what if any examinations you
13 were able to do regarding the shell casing from the
14 scene and the projectile from the autopsy?

15 A Because we did not have a firearm to look at the
16 evidence and try and link it back to, I looked at
17 each of them visually and microscopically for what
18 we term class characteristics, which are
19 essentially just grouping characteristics that
20 allow us to provide as much information about the
21 type of firearm that each of the items may have
22 been fired from.

23 With the bullet, when a firearm is
24 manufactured, it has a set number of grooves that
25 are either cut or formed into the barrel. These

1 grooves will either have a right- or a left-hand
2 twist, and they also have a certain dimension.

3 They are known as rifling, and they are used
4 to impart spin to the bullet, just like a well
5 thrown football, you want to have a tight spiral.
6 With the bullets you want to have a tight spin as
7 well because it has better accuracy as it is going
8 towards its target.

9 When I looked at the information that was on
10 the bullet, I was able to come up with a list of
11 possible firearms based on plugging in the
12 information into a database.

13 Would you like me to go ahead?

14 Q And when you are saying the bullet, do you mean,
15 just to differentiate, are you talking about the
16 shell casings or the projectile itself?

17 A The projectile from the bullet.

18 Q And that be this item here?

19 A Yes.

20 Q And this was with the item that was actually
21 recovered at the autopsy, correct?

22 A Yes.

23 Q And what information were you able to garner when
24 you did your examination of the bullet that was
25 recovered from the body at the autopsy?

1 A I was able to determine that the type of firearm
2 which fired that bullet is most consistent with
3 being a Smith and Wesson, and the specific model is
4 a SW40VE, which is a .40 Smith and Wesson caliber
5 pistol.

6 Q So it would be consistent with having been fired by
7 a .40 Smith and Wesson caliber pistol?

8 A Yes.

9 Q And is that -- what is the difference between a
10 revolver and a semi-automatic first?

11 A A pistol is what she is terming as a
12 semi-automatic. The primary difference between a
13 pistol and a revolver; they are both handguns;
14 however, a revolver gets its name from a revolving
15 cylinder that sits at the rear of the firearm. It
16 holds multiple chambers. Each of those chambers
17 hold an individual piece of unfired ammunition. As
18 you pull the trigger, the chamber aligns with the
19 barrel. And then each particular bullet is fired
20 through.

21 Of importance at a crime scene is the fact
22 that with a revolver most frequently we did not
23 retrieve cartridge cases because they remain inside
24 that chamber.

25 With a pistol, also a handgun, it only has one

1 chamber, and the unfired ammunition is actually
2 held in a magazine that fits in the grip of the
3 firearm.

4 As part of the cycling features and part of
5 the cycle of fire, after the trigger is pulled, the
6 firing pin goes forward causing the explosion of
7 powder expansion. The bullet is forced down the
8 barrel and the force also pushes rearward, which
9 allows the slide to move rearward on the gun
10 ejecting the cartridge case out, so very frequently
11 we will find cartridge cases at the scene when a
12 semi-automatic is used.

13 Q And the cartridge case, as in this case, State's
14 Exhibit Number 12, which is this item?

15 A Yes, it is.

16 Q And that would be located actually on the outside
17 of the bullet before it is expelled?

18 A Well, the different terminology -- just going back
19 to the basics -- an unfired piece of ammunition is
20 termed a cartridge. A cartridge is composed of the
21 bullets that sits in the mouth of the cartridge
22 case, which she is holding there. That is the part
23 that travels down the barrel and towards the
24 target. It is also composed of a primer that sits
25 in the base or the head of the cartridge. That

1 holds an explosive mixture that sparks when the
2 firing pin of the gun hits it. And then inside of
3 the cartridge case is the gun powder, and that is
4 what rapidly expands, the spark hits it causing all
5 the pressure that forces the bullet out of the gun.

6 So we are dealing with just the two pieces,
7 the bullet and the cartridge case.

8 Q So if you find a cartridge case at the crime scene,
9 such as in this case, it would be consistent is
10 with a semi-automatic type of weapon unless someone
11 unloaded a revolver?

12 A Most consistently it would be with a semi-automatic
13 weapon.

14 Q And when you are talking about a revolver, that is
15 the kind of gun that -- you mentioned the round
16 part in the middle where the bullets are loaded?

17 A Yes.

18 Q And that is kind of like what we see on all the
19 cowboy movies, right?

20 A Yes.

21 Q When they spin it, that is a revolver. And a
22 semi-automatic is the one where they pull the
23 chamber back and --

24 A Pull the slide back, yes.

25 Q And that is the one that would typically leave a

1 cartridge -- excuse me, the jacket at the scene, is
2 that correct?

3 A The bullet is going to be at the scene -- well, the
4 bullet is going to be in the target, but the
5 cartridge case would be left at the scene.

6 Q Okay. And in this case you mentioned the type of
7 gun in your examination of the bullet that was used
8 was a Smith and Wesson .40-caliber?

9 A .40-caliber, yes. And the model is SW40VE.

10 Q And would that be a semi-automatic or a revolver or
11 could it be either?

12 A It was a semi-automatic.

13 Q So that would be the type of gun that would
14 typically leave these shell casings at the scene?

15 A Correct.

16 Q When you were able to -- did you also do an
17 independent examination of the shell casing that
18 was recovered at the scene?

19 A I did. Cartridge cases frequently don't leave as
20 much information as the bullet will because it
21 doesn't have as many class characteristics;
22 however, in this case the type of markings that
23 were on the breach face, or the face of the
24 cartridge case that comes into contact with the
25 firearm, actually had markings that are also

1 characteristic of being fired from a .40 Smith and
2 Wesson and the same model as well, the 40 --
3 SW40VE.

4 Q So both of these items in your independent
5 examination -- and I will go a little further --
6 were consistent with having been fired by the same
7 type of gun?

8 A Yes.

9 Q And because you were never provided the gun, you
10 can't match it specifically to a certain gun?

11 A That's correct.

12 Q However, it would be a Smith and Wesson .40-caliber
13 that you just described?

14 A Most consistent, yes.

15 Q And as far as comparing the two items to each
16 either, were they consistent with having been fired
17 by the same gun?

18 A We don't do that examination. It is possible to do
19 the examination, although it is very rarely
20 requested and very rarely successful, so therefore
21 unless it is specifically requested we don't
22 examine to see if they came from the same item.

23 Q However, in this case your conclusions are in your
24 independent testing, you didn't need to go any
25 further, was that both were fired by the same type

1 of gun?

2 A That's correct.

3 Q And without with the gun itself to do any further
4 examination, you can't make any further
5 conclusions?

6 A That's also correct.

7 Q There has been some testimony -- or you testified
8 about how the shell casing is ejected from a
9 semi-automatic weapon there at the scene. Can you
10 tell from where the shell casing is recovered
11 exactly where the person was standing when they
12 shot?

13 A Exactly, no. We do have a ejection pattern
14 analysis that we can do if we are requested in
15 which we use the firearm from the scene as well as
16 the ammunition and we do testing to see where that
17 firearm ejected cartridge cases to.

18 As a general rule of thumb, cartridge cases
19 will eject to the right and rearward of the
20 shooter, but that whole -- many factors constitute
21 it that we can't control. So, you know, assuming
22 that they are holding it in a normal shooting
23 position, and then it also very much depends upon
24 the surface on which it hits. If it is going to
25 hit on a hard surface it is most likely going to

1 bounce and roll; whereas, if it is in a high grass
2 area it might actually stop right where it hits the
3 first time.

4 Q And it also depends on where the person actually is
5 in the scene, how they are standing as to which
6 direction it will eject. You can't say how they
7 were actually standing from where you find a shell
8 casing?

9 A No, not generally speaking.

10 Q And as far as -- you also mentioned that they may
11 bounce and roll. In addition to that, in a
12 homicide case, typically EMS and other people
13 coming to the scene can actually kick the
14 projectile around, move it, inadvertently even?

15 A Uh-huh, that's correct.

16 Q And with only one shell casing at a scene, it is
17 much harder to do any type of analysis on a pattern
18 when you only have one, because it may have been
19 kicked, it may have rolled, it may have bounced off
20 someone, all kinds of factors?

21 A That's true, yes.

22 Q So you can just say generally it is in that general
23 area, you can't be any more specific?

24 A You can't even honestly say that.

25 Q Thank you.

1 MS. CAMPBELL: I don't have anything further,
2 Your Honor.

3 THE COURT: Please answer any questions that
4 Ms. Cleary may have.

5 MS. CLEARY: We have no questions.

6 THE COURT: All right, ma'am, you may step
7 down.

8 (Witness steps down.)

9 THE COURT: Any objection to this witness
10 being excused?

11 MS. CAMPBELL: None from the State.

12 (Witness excused.)

13 THE COURT: All right, please call your next
14 witness.

15 MS. CAMPBELL: The State calls Devan Bailey.

16 THE BAILIFF: Place your left hand on the
17 Bible, and raise your right hand.

18 (Witness complies.)

19 THE COURT: All right. Do you swear or affirm
20 to tell the truth, the whole truth, and nothing but
21 the truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: All right. I am going to ask you
24 to take a seat, speak into the microphone, and
25 speak loudly so that the court reporter can hear

1 what you are saying.

2 THE BAILIFF: State your name.

3 THE WITNESS: Devan Bailey.

4 DEVAN BAILEY,

5 after being duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q Mr. Bailey, how old are you?

9 A Eighteen years old.

10 Q Eighteen years old? And are you currently in
11 school?

12 A Yes, sir -- I mean, yes, ma'am.

13 Q Where are you in school?

14 A Virginia State University.

15 Q Virginia State University?

16 A Yes, ma'am.

17 Q And what year are you at Virginia State University?

18 A Freshman.

19 Q Where did you go to high school?

20 A Blythewood High School.

21 Q And when did you graduate from Blythewood High
22 School?

23 A 2011.

24 Q 2011?

25 A Yes.

1 Q I want to turn attention back to January of 2010,
2 okay? Do you know the Defendant in this case?

3 A Yes.

4 Q How do you know the Defendant?

5 A We went to school together. He was a big
6 brother -- like a big brother.

7 THE COURT: Back up a little bit.

8 A I said we went to school together. He was like a
9 big brother figure.

10 Q He was like a big brother figure to you?

11 A Yes.

12 Q He is a little bit older than you?

13 A Yes, ma'am.

14 Q And you looked up to him?

15 A Yes, ma'am.

16 Q When all this happened in January of 2010, you were
17 what, 16 or 17?

18 A I was 16 years old.

19 Q Sixteen years old?

20 A (Nods affirmatively.)

21 Q And do you also know a young man named Quinton
22 Emerson?

23 A Yes, ma'am.

24 Q And how did you know Quinton Emerson?

25 A He lived down the street from me.

- 1 Q He lived down the street from you?
- 2 A Yes.
- 3 Q And what part of town do you live in?
- 4 A Blythewood.
- 5 Q Blythewood?
- 6 A Yes.
- 7 Q Derrick Diamond, do you know him?
- 8 A Yes, he stayed down the street from me too as well.
- 9 Q Were all these guys a little bit older than you?
- 10 A Yes.
- 11 Q I want to turn your attention to that Saturday
- 12 morning into that afternoon. What were you doing
- 13 that day?
- 14 A What you mean?
- 15 Q Do you remember what you were doing that day?
- 16 A Yes, we was riding -- I was riding with them two.
- 17 Q Okay. How did you come in contact -- tell the jury
- 18 this, how did you first come in contact with
- 19 Quinton Emerson and get a ride from him?
- 20 A I called him.
- 21 Q And what was your intent that day? Where were you
- 22 trying to get to?
- 23 A Trying to get to meet up with my homie.
- 24 Q With your homie?
- 25 A (Nods affirmatively.)

1 Q What is your homie's name?

2 A Jamaal.

3 Q Jamaal?

4 A Yes.

5 Q He is here in the courtroom?

6 A Yes.

7 Q Can you point him out for the jury?

8 A Right there(indicating).

9 Q Right there? And you call him Homie?

10 A Na, I said my homie.

11 Q He's your homie?

12 A Yes.

13 Q And what was the purpose for which you were meeting
14 up with Jamaal that day?

15 A We were -- I was about to smoke.

16 Q You were about to smoke?

17 A Yes.

18 Q And when you say smoke, what were you going to
19 smoke?

20 A Some weed.

21 Q Some weed? And that is marijuana, for some of us
22 older people?

23 A Yes, ma'am.

24 Q And did you exchange a number of phone calls that
25 day in order to set up a meeting with Jamaal?

- 1 A Yes, ma'am.
- 2 Q And you call him Jamaal or Jamaal, I don't mean to
3 mispronounce it.
- 4 A I call him Jamaal.
- 5 Q Jamaal, okay. Did you also make a phone call to
6 Quinton Emerson in order to get a ride to go see
7 him?
- 8 A Yes, ma'am.
- 9 Q And did Quinton come and pick you up?
- 10 A Yes, ma'am.
- 11 Q And where were you when he picked you up that day?
- 12 A I was at home.
- 13 Q You were at home?
- 14 A Yes.
- 15 Q And did he come by your house and get you?
- 16 A Yes, ma'am.
- 17 Q And you had called him for the purpose of getting a
18 ride somewhere?
- 19 A Yes.
- 20 Q In exchange for that were you going to give him
21 some money for gas money?
- 22 A In time. I mean, more or less -- no, I probably
23 wasn't.
- 24 Q Okay. Who was with Quinton when he picked you up,
25 do you remember?

- 1 A It was me, Quinton and Derrick.
- 2 Q Okay. What kind of car was Quinton driving that
- 3 day?
- 4 A A little silver little pickup.
- 5 Q A little pickup truck?
- 6 A Yes.
- 7 Q And does it have one or two seats inside the cab?
- 8 Do you remember?
- 9 A There were three people sitting in the front, so --
- 10 Q And all three of y'all in the front?
- 11 A Yes.
- 12 Q That day, once he picked you up, where did y'all
- 13 go? Do you remember?
- 14 A Went to go -- we went to go meet Jamaal at the gas
- 15 station.
- 16 Q And what gas station were y'all going to that day?
- 17 A The Mobile.
- 18 Q The Mobile?
- 19 A Yes.
- 20 Q And where is that located?
- 21 A By -- it is in Blythewood. It is on Lee Road.
- 22 Q It would be what road?
- 23 A Lee Road.
- 24 Q Lee Road in Blythewood?
- 25 A Yes. I guess it is Blythewood, Columbia region.

- 1 Q Columbia-Blythewood region, Northeast?
- 2 A Yes.
- 3 Q And when you got to the gas station, what happened?
- 4 A I seen -- we -- he got on the back and we went to
- 5 the Vineyards Crossing.
- 6 Q So was the plan to pick him up or were you just
- 7 supposed to meet him there?
- 8 A Just supposed to meet him.
- 9 Q And he ended up, though, getting in the truck with
- 10 y'all?
- 11 A Yes.
- 12 Q And why did he get in truck with y'all that day?
- 13 A To get a ride back to the house.
- 14 Q And whose house was he going to?
- 15 A I don't know.
- 16 Q And it was in Vineyards Crossing, though, you know
- 17 that?
- 18 A Yes, ma'am.
- 19 Q So basically he asked y'all for a ride and y'all
- 20 agreed to take him to Vineyards Crossing?
- 21 A Yes.
- 22 Q Before y'all went to Vineyards Crossing, did he
- 23 want to go anywhere else? Do you remember? His
- 24 house?
- 25 A Oh, he went -- yes, home.

1 Q Okay. And where did he live? What part of town?

2 A It was about two minutes away from the gas station.

3 Q About two minutes away from there?

4 A Yes.

5 Q And y'all went there first?

6 A Yes.

7 Q And do you know why you were going by his house
8 that day, why he needed to go by his house before
9 y'all went to Vineyards Crossing?

10 A Na, I didn't ask any questions.

11 Q You didn't ask any questions?

12 A No.

13 Q And are you under subpoena here today?

14 A Uh-huh.

15 Q You don't want to be here?

16 A No.

17 Q Once you got -- did Quinton drive him to his house?
18 Where was he sitting in the truck?

19 A On the back.

20 Q In the back in the bed?

21 A Yes, where you -- yes, the bed.

22 Q The bed of the truck?

23 A Yes.

24 Q Once y'all went to his house, what did he do, once
25 you got to his house, Jamaal's house?

- 1 A Went inside and came back out.
- 2 Q And did you see what he had gotten while he was in
- 3 the house?
- 4 A No, ma'am.
- 5 Q And at this point had he given you any weed?
- 6 A At the gas station.
- 7 Q Yes?
- 8 A Yes.
- 9 Q Once he got back in the truck, where did y'all go?
- 10 A We went back to Vineyards Crossing.
- 11 Q To Vineyards Crossing?
- 12 A Yes.
- 13 Q And what happened when you got to Vineyards
- 14 Crossing?
- 15 A We got there. We dropped him off. I had forgot
- 16 something, so I called him back. And he came out
- 17 outside. A young man was standing in the driveway.
- 18 He initiated things between him and Jamaal, and
- 19 which they started a fight.
- 20 Q Okay. Let me back up for a second. Jamaal is your
- 21 friend?
- 22 A Huh?
- 23 Q Jamaal is your friend?
- 24 A Yes.
- 25 Q You think of him as a big brother?

- 1 A Yes, ma'am.
- 2 Q And that day you said you dropped him off at a
3 house in Vineyards Crossing?
- 4 A Correct.
- 5 Q Okay. And do you remember what street that was on?
- 6 A No.
- 7 Q When you dropped him off at that house, where did
8 he go?
- 9 A What?
- 10 Q Where did Jamaal go when he got out of the truck?
- 11 A In the house.
- 12 Q In Vineyards Crossing. He went in the house?
- 13 A Yes.
- 14 Q Did you know who lived at that house?
- 15 A No, ma'am.
- 16 Q And then you said you made a phone call to him?
- 17 A Yes, because I forgot to get something from him.
- 18 Q What did you forget to get?
- 19 A A cigarillo.
- 20 Q A cigar?
- 21 A Something to smoke the weed out of.
- 22 Q At that point, were the three of y'all still in the
23 truck?
- 24 A Yes.
- 25 Q And what did you tell Quinton to do? Where did you

1 direct him to go?

2 A Pulled up to the car right there because I thought
3 he was in the car. I didn't see him go into the
4 house. I thought he was in the car. I said pull
5 up to this car here.

6 Q The black car?

7 A Yes, the car.

8 Q Was it the car in the driveway where the two people
9 were sitting, a girl and a guy?

10 A Yes, the two people in the driveway.

11 Q Well, why did you think he was in that car when you
12 dropped him off two doors down?

13 A I don't know. I just thought he was in the car.

14 Q You didn't know that that was Salley's household?

15 A No. No, ma'am.

16 Q But you directed them to stop there?

17 A Yes, because I thought he was right there.

18 Q And when you looked up did you see Jamaal coming
19 towards that car?

20 A No, he was coming from another way. That is when I
21 realized it wasn't him.

22 Q Even though you dropped him off at a house two
23 doors down with a red car in the driveway?

24 A Yes.

25 Q At that point you saw Jamaal walk up to -- did the

- 1 guy and the girl get out of the car?
- 2 A The guy did.
- 3 Q The guy did?
- 4 A Yes.
- 5 Q And then you saw Jamaal walking towards the guy?
- 6 A Yes, ma'am, after he -- after the guy asked me did
- 7 I have a problem.
- 8 Q Do you remember giving statements in this case?
- 9 A Yes, ma'am.
- 10 Q Okay. We'll get back to those in a minute. Once
- 11 you got out of the truck, Jamaal is walking towards
- 12 the guy that got out of the car, right?
- 13 A Yes, ma'am.
- 14 Q At what point do you see him pull out the gun?
- 15 A After they had locked -- after they had locked up.
- 16 I think it was before they locked up.
- 17 Q Before they locked up?
- 18 A Yes.
- 19 Q Do you remember seeing him rack the gun?
- 20 A What does that mean?
- 21 Q That means pull back on the thing to make sure it
- 22 is loaded.
- 23 A I can't say because I don't know.
- 24 Q You don't remember that part?
- 25 A I don't remember that part.

- 1 Q Okay. And then you said that they locked up. Was
2 that after he pulled the gun and pointed it at the
3 guy?
- 4 A Right.
- 5 Q Okay. Then the guy knocked the gun out of his
6 hand?
- 7 A Correct.
- 8 Q Do you remember that?
- 9 A Uh-huh.
- 10 Q And then they started fighting?
- 11 A Right.
- 12 Q Did you see the fight going on?
- 13 A Yes, ma'am.
- 14 Q How far away were you from where the fight was when
15 it was going on?
- 16 A It was pretty close. Close enough.
- 17 Q Was it right there in the grassy area next to the
18 driveway?
- 19 A Yes, ma'am.
- 20 Q And that was the driveway where the black car was
21 parked?
- 22 A What is that?
- 23 Q With the girl?
- 24 A Yes.
- 25 Q Did you see the girl get out of the car?

1 A No, but I just know she was there.

2 Q She was there. And as the fight went on, did you
3 ever get involved in the fight?

4 A Yes. I threw my elbow.

5 Q And why did you go in and throw the elbow to try to
6 help your friend out?

7 A I didn't try to help my friend out. They was
8 coming towards me.

9 Q Oh, you weren't helping them?

10 A The fight was coming towards me, so I threw my
11 elbow.

12 Q Okay. And you just happened to hit Anthony Salley?

13 A No, I threw my elbow to get back.

14 Q Okay. And you knocked him down at that point?

15 A No, he stumbled. I didn't knock him down.

16 Q Stumbled and he fell down. That's your story.
17 What did you see next? What happened next that you
18 saw?

19 A The girl picked up the gun.

20 Q Okay. And where was the gun in relation to where
21 they were fighting?

22 A It was to the side.

23 Q To the side front?

24 A Yes.

25 Q And when she picked up the gun, what did she say to

- 1 you?
- 2 A "Get the fuck back."
- 3 Q And why was she saying that to you?
- 4 A Because she thought I had some involvement in the
- 5 fight.
- 6 Q What did you do when she said -- when she told you
- 7 to get the "F" back?
- 8 A I then tried to go towards her, but I turned
- 9 around.
- 10 Q Why did you try to go towards her?
- 11 A Huh? Because I was going to stop her, but I
- 12 realized she had a gun so I turned around.
- 13 Q And at that point do you remember Jamaal yelling
- 14 something to you about what he wanted you to do?
- 15 A I ran..
- 16 Q Do you remember Jamaal yelling to you to get the
- 17 gun and for you to shoot the gun?
- 18 A No.
- 19 Q You don't remember that part?
- 20 A (No response.)
- 21 Q And then you decided to run?
- 22 A Yes, ma'am.
- 23 Q And why did you decide to run at that point?
- 24 A She had a gun in her hand.
- 25 Q Did you see her throw the gun towards the fence?

- 1 A I seen her toss it. That's when I ran.
- 2 Q So at that point you are running from the scene.
- 3 And where are you running to?
- 4 A I'm running towards -- up the street.
- 5 Q And where are you trying to get to?
- 6 A Somewhere inside at that point.
- 7 Q And why are you -- are you scared?
- 8 A Yes. I was shocked. I was scared.
- 9 Q And were you scared because of something he said to
- 10 you for you to do?
- 11 A No.
- 12 Q Where did you run to?
- 13 A I ran to my home boy's house.
- 14 Q You ran where?
- 15 A To one of my friend's house.
- 16 Q What happened to the gray truck?
- 17 A Oh, it pulled off.
- 18 Q They pulled off already?
- 19 A Yes.
- 20 Q Was that before or after you started running?
- 21 A That was before I started running. They had pulled
- 22 off.
- 23 Q And at some point did you hear the gunshot?
- 24 A Yes.
- 25 Q And where were you when you heard the gunshot?

- 1 A Already running. I was like six feet away. Three
2 to six feet away.
- 3 Q Three to six feet away when you heard the gunshot?
- 4 A Yes.
- 5 Q Well, who shot who?
- 6 A I can't answer that question, my back was turned.
- 7 Q Which direction did you run in?
- 8 A I ran straight, which is up the street.
- 9 Q Did you try and catch up with the truck?
- 10 A Yes.
- 11 Q Did you actually make the phone call to them?
- 12 A To the people in the truck? Yes. And at that
13 point he told me to go somewhere safe and call
14 another ride.
- 15 Q After you hear the gunshot when you were three to
16 six feet away but don't see who does the shooting,
17 then when is the next time you see Jamaal Hinson?
- 18 A In the house.
- 19 Q What house?
- 20 A My friend's house.
- 21 Q And what is your friend's name?
- 22 A Jarrod.
- 23 Q Jarrod? And why did you run to Jarrod's house that
24 day?
- 25 A It was the only person in the neighborhood I knew.

1 Q It was the only person in the neighborhood you
2 knew?

3 A Yes.

4 Q And what was the reason again y'all were in that
5 neighborhood? Who wanted to go to that
6 neighborhood? Who wanted to go to Vineyards
7 Crossing that day?

8 A Oh, Jamaal.

9 Q Does he live in Vineyards Crossing?

10 A No, ma'am.

11 Q Because his house was somewhere else, y'all had
12 already been there?

13 A (No response.)

14 Q Did you run with Jamaal to the house or did y'all
15 just meet up when you got there?

16 A I was ahead of him.

17 Q You were ahead of him?

18 A I already -- I had ran.

19 Q And when he came running up, what did he say to
20 you? Do you remember? You didn't tell the police
21 he said anything. Did he say anything?

22 A No. No, I --

23 Q Did you see the gun in his hand?

24 A When?

25 Q When Jamaal came running up when y'all got to the

- 1 house, to Jarrod's house?
- 2 A No.
- 3 Q Did he have his shirt on or shirt off?
- 4 A It was off.
- 5 Q Once you got to Jarrod's house, what happened?
- 6 A I asked somebody that was over there for a ride,
- 7 Demario for a ride.
- 8 Q And is Demario a friend of yours or a friend of
- 9 Jamaal?
- 10 A He was a friend of Jamaal and mine too.
- 11 Q Yours too?
- 12 A Yes.
- 13 Q And once you got in the house, you asked him for a
- 14 ride?
- 15 A Uh-huh.
- 16 Q Did he give you a ride?
- 17 A No.
- 18 Q Who gave you a ride that day?
- 19 A J.R.
- 20 Q J.R.?
- 21 A It was somebody else.
- 22 Q Somebody else?
- 23 A Yes.
- 24 Q That came up to the house later?
- 25 A Yes.

- 1 Q That was friends with Jarrod?
- 2 A Right.
- 3 Q Did Demario give anybody a ride that day, that you
- 4 know of?
- 5 A He gave Jamaal a ride, he didn't give me a ride.
- 6 Q He gave Jamaal a ride?
- 7 A Yes.
- 8 Q And do you know where Jamaal was heading to?
- 9 A No, ma'am.
- 10 Q Where were you going -- trying to go?
- 11 A Spring Valley Apartments.
- 12 Q And what were you going to do at Spring Valley
- 13 Apartments?
- 14 A I was going to try to go to this girl's house.
- 15 Q You were going to a girl's house?
- 16 A Yes.
- 17 Q And at that point had you called the police or
- 18 anything?
- 19 A No, ma'am.
- 20 Q Did you get a ride with J.R. -- was Jarrod with you
- 21 too?
- 22 A (Nods affirmatively.)
- 23 Q Did you go over to Spring Valley Apartments?
- 24 A Yes, ma'am.
- 25 Q And later that day did you get another phone call

1 from Jamaal?

2 A Yes. Yes, ma'am.

3 Q And where were you when you got the phone call from
4 Jamaal that day?

5 A Spring Valley Apartments.

6 Q And who called who? Did you call Jamaal or did he
7 call you?

8 A Called me.

9 Q He called you? And what did he ask you?

10 A Where I was at.

11 Q What did you tell him?

12 A Spring Valley Apartments.

13 Q Did you see him shortly thereafter?

14 A Yes, ma'am.

15 Q And what happened? How -- do you know how he got
16 over to Spring Valley Apartments to see you?

17 A Some girl.

18 Q Some girl? Do you remember a big black truck?

19 A Yes.

20 Q What did he tell you -- when he got back with you
21 after this shooting, what did he tell you y'all
22 needed to do?

23 A Get our stories together, but after that I stopped
24 listening. I just put my head in my hands.

25 Q So he gets out of the truck and comes to where you

- 1 are at this girl's house at Spring Valley
2 Apartments and he tells you what?
- 3 A We needed to get our stories together.
- 4 Q Get your stories together?
- 5 A Yes.
- 6 Q And did you know what story he meant?
- 7 A No. I didn't listen after that.
- 8 Q And you quit listening after that?
- 9 A Yes. Put my hands --
- 10 Q Why did you quit listening?
- 11 A I was in a state of shock. I had never been
12 through nothing like that, so I was in a state of
13 shock. I couldn't -- I didn't know to deal with
14 it. I just blanked everything out.
- 15 Q Do you remember telling the police that he was
16 telling you a long story of what you needed to say?
- 17 A Did I do what?
- 18 Q Do you remember telling the police, he started
19 telling this long story of what we needed to say?
- 20 A Right. But I didn't listen.
- 21 Q Okay. But it was about the shooting?
- 22 A Yes, but I didn't listen to what he said.
- 23 Q You said you were scared?
- 24 A I was shocked.
- 25 Q Shocked? Excuse me. At some point that afternoon

1 did you call 9-1-1?

2 A Yes, ma'am.

3 Q Why?

4 A Because I was scared.

5 Q And what did you tell the operator?

6 A That somebody had been shot.

7 Q Did you tell them who had done the shooting?

8 A No. I did not go into detail.

9 Q And that wasn't the story you were supposed to

10 tell?

11 A Huh?

12 Q You weren't supposed to tell that story?

13 A No.

14 Q After Jamaal came over and saw you over at Spring

15 Valley Apartments with some girl, did you see him

16 any more?

17 A One more time.

18 Q Where was that?

19 A In the house.

20 Q In whose house?

21 A I don't know whose house it was.

22 Q Was it later that day?

23 A Yes, ma'am. Later that night.

24 Q And after that, you didn't see him any more?

25 A No, ma'am.

1 Q Did you ever go -- other than making the 9-1-1
2 call -- you didn't identify yourself in that call,
3 did you?

4 A Huh-uh.

5 Q Did you ever go to the police yourself?

6 A Did I ever go to the police?

7 Q Uh-huh?

8 A No.

9 Q Did the police come and find you?

10 A Yes.

11 Q Okay. And did you meet with him on at least two
12 occasions?

13 A Yes, ma'am.

14 Q And when you met with them the first time, when
15 they first asked you what you knew about the
16 shooting, you told them a complete lie? At first,
17 right?

18 A Yes, ma'am. I was in -- yes, ma'am.

19 Q Okay. And why did you do that?

20 A I was in shock and I didn't want anything to do
21 with the situation.

22 Q Were you trying to protect Jamaal?

23 A No.

24 Q And then they took a statement from you, a written
25 statement from you on that same date, on the 19th

1 of January?

2 A Yes, ma'am.

3 Q Do you remember that? And, again, it wasn't the
4 truth? Or at least most of it wasn't the truth?

5 Do you remember that?

6 A Yes, ma'am.

7 Q And that was on the same day when you initially
8 told a complete lie, and then you told this
9 version. Is that the version that Jamaal told you
10 to say?

11 A No. I didn't -- I said I wasn't listening to him.
12 I don't know what he told me to say. But this
13 isn't it. This is what happened to my best of my
14 recollection.

15 Q Okay. Then they met with you again on January the
16 27th, right?

17 A Right.

18 Q And at that point I think -- who was with you on
19 that date when you met with the police? Did you
20 have your lawyer?

21 A Oh, yes, my attorney.

22 Q And your dad maybe?

23 A Yes, ma'am.

24 Q And at that point you actually told them more
25 information than you had ever told them about what

1 happened?

2 A Uh-huh.

3 Q Did you also meet with the police and give them --
4 and did they ask you about some phone calls that
5 were made back and forth that day?

6 A Yes, ma'am.

7 Q And did you actually -- I believe you or your
8 father actually provided them with your phone
9 records?

10 A Yes, ma'am.

11 Q I am going to show you what is marked as State's
12 Exhibit 166. Are those some of your phone records,
13 including the phone records from that day?

14 A Yes, ma'am.

15 MS. CAMPBELL: Your Honor, at this time we
16 would offer State's Exhibit 166 into evidence.

17 THE COURT: Any objection?

18 MS. CLEARY: No objection.

19 (WHEREUPON, State's Exhibit No. 166 was
20 marked for identification and received
21 into evidence.)

22 Q And the last phone call that is shows on that day
23 that you make is this [REDACTED] number was that
24 evening around 7:52?

25 THE COURT: Sir, you are going to have to

1 speak up. She is taking down everything you say.

2 A Oh, yes. Oh, yes.

3 Q When you met with the police on the 19th -- you
4 have known Jamaal -- you looked up to him like a
5 big brother. Did they show you some photographs?

6 A Yes, ma'am.

7 Q I am going to show you State's Exhibit Number 167.
8 Do you recognize that?

9 A Yes, ma'am.

10 Q And when they showed you these photographs, there
11 wasn't any of their handwriting on this, was there?

12 A Handwriting?

13 Q The handwritten stuff. Just the printed stuff was
14 on there?

15 A Oh, yes.

16 Q And did they tell you who to pick or anything like
17 that?

18 A No, ma'am.

19 Q And when you looked at the six photographs in this,
20 did you recognize the person, Jamaal Hinson, that
21 had the gun that day?

22 A Yes.

23 Q And did you point him out for the police officers?

24 A Yes.

25 Q And which one is he?

1 A Number Five.

2 Q And that is the one you indicated on here and
3 circled?

4 A Uh-huh.

5 MS. CAMPBELL: Your Honor, at this time we
6 would offer State's Exhibit Number 167 into
7 evidence.

8 THE COURT: Any objection?

9 MS. CLEARY: No objection.

10 (WHEREUPON, State's Exhibit No. 167 was
11 marked for identification and received
12 into evidence.)

13 Q You don't want to be here, do you?

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

15 Q I understand. And you finally told the police on
16 January the 27th pretty much what you testified to
17 here today?

18 A Yes, ma'am.

19 Q And the prior statements you gave to them were not
20 the truth?

21 A They was not the full truth.

22 Q The person that you saw with the gun that was
23 involved in the fight that day, Jamaal, can you
24 point him out for the jury?

25 A (Indicates.)

1 Q The same person you identified earlier?

2 A Yes.

3 MS. CAMPBELL: Your Honor, may the record
4 reflect he identified the Defendant?

5 THE COURT: Yes, ma'am.

6 MS. CAMPBELL: Nothing further.

7 THE COURT: All right, please answer any
8 questions that Ms. Cleary may have.

9 MS. CLEARY: We have no questions.

10 THE COURT: All right. Sir, you may step
11 down.

12 (Witness steps down.)

13 THE COURT: Any objection to this witness
14 being excused?

15 MS. CAMPBELL: None from the State, Your
16 Honor.

17 MS. CLEARY: None from the Defense.

18 THE COURT: Sir, you are free to leave.

19 (Witness excused.)

20 MS. SIMPSON: The State calls Investigator
21 Joyner.

22 THE BAILIFF: Place your left hand on the
23 Bible, and raise your right hand, please.

24 (Witness complies.)

25 THE CLERK: Do you solemnly swear or affirm

1 the testimony you are about to give in this case
2 will be the truth, the whole truth, and nothing but
3 the truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Have a seat, and state your full
6 name for the record.

7 THE WITNESS: Investigator N. Joyner. First
8 initial N., last name Joyner, J-O-Y-N-E-R.

9 N. JOYNER,
10 after being duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SIMPSON:

13 Q Investigator Joyner, where do you work?

14 A City of Atlanta Police Department, but I am
15 assigned to the U.S. Marshal's Task Force.

16 Q And what do you do there?

17 A I'm in the fugitive unit.

18 Q Okay. And as part of the fugitive unit, what are
19 some of your general duties? What are your tasks?

20 A We are tasked to find individuals who are
21 considered to be violent felons with felony
22 warrants out for their arrest.

23 Q And this task force works in conjunction with
24 Atlanta Police Department?

25 A Yes, ma'am, we have several metro agencies which

1 are assigned to the task force, which is headed up
2 by the U.S. Marshal Service.

3 Q And at times do y'all receive information from the
4 Atlanta Police Department regarding certain
5 fugitives or people they may be looking for?

6 A Yes, ma'am, we do.

7 Q Moving your attention back to January and
8 February of 2010, did have occasion to become
9 involved in this case, specifically with a
10 Defendant by the name of Jamaal Hinson?

11 A I did.

12 Q Can you tell the jury how you became involved?

13 A I forget the exact date, you will have to excuse
14 me, but I received a phone call from my sergeant,
15 Sergeant Smith, who advised me to get in touch with
16 our gang unit, which is Investigator Medina.
17 Investigator Medina received information about an
18 individual who was hiding out, supposedly hiding
19 out at 722 Crestwell, which is in Atlanta, the City
20 of Atlanta, a subject by the name of Mr. Jamaal
21 Hinson.

22 I contacted Investigator Lindler, with the
23 South Carolina -- I mean, Richland County Sheriff's
24 office, and he confirmed that Mr. Hinson was
25 wanted. I asked him for a copy of the warrant, and

1 then I started my investigation to find his
2 whereabouts.

3 Q Okay. And as part of your investigation did you in
4 fact find the Defendant at 722 Crestwell Circle?

5 A Yes, ma'am, I did.

6 Q Okay. And can you tell us about the apprehension
7 of the the Defendant? What happened?

8 A Mr. Hinson and two other individuals exited the
9 location, Mr. Jamaal Woods and a Ms. Owens. They
10 got into a silver Mitsubishi Gallant and proceeded
11 out of the complex.

12 I had other units, which is Southeastern
13 Regional Fugitive Task Force, which is the U.S.
14 Marshal's Task Force. I had several agents with
15 me. We followed the vehicle. I contacted City of
16 Atlanta Police Zone 4 to go ahead and do a
17 take-down for us since they were marked units.

18 Once we arrived on the scene, they executed
19 the take-down, we assisted, and apprehended
20 Mr. Hinson, along with the other two individuals.

21 Q So y'all actually worked with local law enforcement
22 as well as yourself, local law enforcement was
23 brought in?

24 A Yes, ma'am.

25 Q But local law enforcement didn't deal with the

1 Defendant, Jamaal Hinson, that was your task,
2 right?

3 A No, ma'am, that was me, yes.

4 Q And you didn't know anything about the actual case,
5 you just knew that he was wanted and had a warrant
6 for his arrest, right?

7 A That was it.

8 Q All right. And is that the extent of your
9 involvement -- well, let me back up. Were you all
10 actually -- once you apprehended him, where did you
11 take him?

12 A Mr. Hinson was transported to the Fulton County
13 Jail by the City of Atlanta Police Department. I
14 went back to the office and closed out the case.
15 That was the extent of my involvement..

16 Q Okay. No further questions. Thank you.

17 THE COURT: Please answer any questions Ms.
18 Cleary may have, sir.

19 THE WITNESS: Yes, ma'am.

20 CROSS-EXAMINATION

21 BY MS. CLEARY:

22 Q Sir, just real briefly, did you file a report in
23 this case?

24 A Not with the City of Atlanta Police Department, no,
25 ma'am.

1 Q Okay. And when you went to arrest Jamaal, did he
2 resist arrest?

3 A No, ma'am, he did not.

4 Q Did he struggle?

5 A No, ma'am.

6 Q Was he cooperative?

7 A Yes.

8 Q Okay. And did you do a pat-down of him at that
9 time?

10 A I can't remember if I did or if one of the Atlanta
11 Police officers did.

12 Q Did you remove any items from him?

13 A No, ma'am.

14 Q From his person? Okay. That's all the questions I
15 have. Thank you.

16 A All right. Thank you.

17 MS. SIMPSON: Nothing further from the State.

18 THE COURT: All right, sir, you may step down.

19 (Witness steps down.)

20 THE COURT: Any objection to this witness
21 being excused?

22 MS. SIMPSON: No objection.

23 MS. CLEARY: None.

24 THE COURT: You are free to leave.

25 THE WITNESS: Back to Atlanta.

1 (Witness excused.)

2 THE COURT: All right, call your next witness.

3 MS. CAMPBELL: Thank you. The State calls
4 Sergeant Ellis, Matt Ellis.

5 THE BAILIFF: Place your left hand on the
6 Bible, and raise your right hand, please.

7 (Witness complies.)

8 THE CLERK: Do you solemnly swear or affirm
9 the testimony you are about to give in this case
10 will be the truth, the whole truth, and nothing but
11 the truth, so help you God?

12 THE WITNESS: Yes ma'am.

13 THE CLERK: Please have a seat, and state your
14 full name for the record.

15 THE WITNESS: Matthew Ellis.

16 MATTHEW ELLIS,
17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. CAMPBELL:

20 Q Sergeant Ellis, where are you employed?

21 A Richland County Sheriff's Department.

22 Q What do there, sir?

23 A I'm currently a supervisor in the major crime unit
24 of the criminal investigative division.

25 Q How long you been in law enforcement?

1 A Approximately 14, 15 years.

2 Q And you have been an investigator for how long?

3 A Ten.

4 Q And I want to turn your attention back to
5 January the 16th of 2010. Did you become involved
6 in the investigation of a murder that occurred on
7 Baccharis Drive here in Richland County?

8 A I did. I was the on-call supervisor for the
9 investigative division. I was actually proceeding
10 to or heading to our office when I heard a call go
11 out of shots being fired and a subject being hit.
12 I started monitoring the radio traffic of this
13 incident. I was close to our office, so I went by
14 our office to see if any of my investigators were
15 in to see what kind of manpower I had already
16 before I might need to call out for additional
17 people.

18 I got to the office and one of my
19 investigators, Mr. Gator Hicks was there, so I had
20 him and myself go ahead and start responding. And
21 I also notified Investigator Lindler or Sergeant
22 Lindler of the incident.

23 Q And you said you then proceeded from the office to
24 the crime scene itself?

25 A That's correct.

1 Q On the way to the crime scene, did you receive any
2 additional information as far as the status of the
3 victim in this case?

4 A I did. I was monitoring the radio traffic and I
5 learned via our radios that the -- our code for a
6 homicide was broadcast over the radio, that the
7 incident had turned into a homicide.

8 Q Homicide?

9 A Yes. So I then called the supervisor who was on
10 the scene to try to guide us on the information on
11 what had happened.

12 Q And you then proceeded to the scene itself?

13 A I did.

14 Q And approximately what time was it when you got to
15 the scene that afternoon?

16 A I believe it was just before 3:00 o'clock when I
17 arrived on the scene.

18 Q At that point had EMS already come and gone and the
19 victim been taken away?

20 A They had. I arrived on the scene and couldn't
21 quite get to the incident location. The deputies
22 had properly secured the scene, including several
23 houses adjacent to the incident location, along
24 with the roadway. So I wasn't able to get down
25 there.

1 When I got there, I inquired as to where the
2 victim was located, and I was told that he had
3 actually been transported in the ambulance and died
4 on the way to the hospital so he was not there at
5 the scene.

6 Q Were there any witnesses that had been secured by
7 the responding officers for you to interview once
8 you got to the scene?

9 A There were. There were two individuals that lived
10 a couple of doors down from this incident location
11 who needed to be interviewed in reference to the
12 individual that was seen shooting. The victim had
13 come from this location, and also the girlfriend,
14 who I was told was the girlfriend of the victim had
15 actually witnessed the incident was still on the
16 scene.

17 Q And the two people that you indicated knowing about
18 his whereabouts before the shooting occurred, what
19 was their name?

20 A I believe it was Kenny, or Kenneth and Lauren
21 Banks.

22 Q Banks?

23 A Banks.

24 Q And how far from the actual house where this
25 occurred was their house where they lived?

1 A Two houses down.

2 Q On the same street?

3 A Yes, same side of the road.

4 Q And you also had information that was given to you
5 about an actual eyewitness to the scene -- to the
6 crime as well?

7 A That's correct.

8 Q And what was her name?

9 A Andina Lee.

10 Q Andina Lee?

11 A Yes.

12 Q And once you got that information, did you then
13 make arrangements to have these witnesses
14 interviewed either there at the scene or
15 headquarters?

16 A I did. Investigator Hicks, who responded with me,
17 was on the scene approximately the same time I was.
18 After I was provided the location of the two
19 witnesses at the house, I had Investigator Hicks
20 respond down to that location to start interviewing
21 them separately while I was waiting on additional
22 manpower to arrive, and also at that time I asked
23 the deputy who had the girlfriend Ms. Lee with her
24 to bring her to my vehicle so I -- there was no
25 need for me to enter the crime scene, so I had them

1 bring her to me. And we sat in my truck and I
2 talked to her.

3 Q What was her demeanor that day?

4 A I'm sorry?

5 Q What was her demeanor that day?

6 A She was very upset. She was emotional.

7 Q Was she able to give you any information about the
8 possible identity of the shooter, the murderer?

9 A She did. She said she knew the first name of the
10 individual that had shot her boyfriend.

11 Q Was she also able to give you a physical
12 description that later became useful in your
13 investigation?

14 A She did.

15 Q And without going into the details of what she told
16 you, was she able to relate to you there at the
17 scene what had happened?

18 A She did.

19 Q Was she able to give you every detail at that
20 point, or was that unreasonable?

21 A She was pretty upset. I got as much as I could
22 from her at the time. She was upset to the point
23 that her mother was actually called and came and
24 actually sat with us during part of it.

25 Q Did you actually transport her down to headquarters

1 to take a formal statement?

2 A I did. We left the location. There was a lot
3 going on there. She had just witnessed her
4 boyfriend being murdered at this location, and I
5 wanted to get her away from that scene. She was
6 very hysterical. To see if that would calm her
7 down.

8 Q And you then transported her or had her transported
9 to headquarters where you took a formal statement?

10 A Went to our office and her mother followed us
11 there.

12 Q And at this point you were one of the lead
13 investigators in the case, along with Sergeant
14 Lindler?

15 A Yes. Sergeant Lindler was the on-call homicide
16 investigator.

17 Q And during the course of that afternoon were other
18 people on the scene coming forward with possible
19 information as to the identity of the shooter?

20 A We did. We had received the name Jamaal and
21 description, age. We reached out to our school
22 resource officers who worked the schools in that
23 area and to see if they might know of a Jamaal that
24 lived or was from that area.

25 And we received a couple of possibilities.

1 And later one of them was determined to be Jamaal
2 Hinson, who in fact other people were providing us
3 the same information.

4 Q And he lived at [REDACTED]

5 A He did.

6 Q Based on the information you were able to get that
7 afternoon and into that evening as far as the
8 identity of the shooter, did you compose a photo
9 line-up?

10 A We had one prepared, a photo line-up consisting of
11 six photos, including Jamaal Hinson.

12 Q And what was the purpose of you getting a photo
13 line-up done that very evening when this happened?

14 A To show the witness the incident.

15 Q And the first thing you need to do is to confirm
16 the identity?

17 A Correct.

18 Q And I am going to show you what has been marked as
19 State's Exhibit Number 135. Is that a photo
20 line-up that was developed in this case?

21 A It is. It is a photo line-up that was developed.
22 And I see where I showed this to Andina Lee on the
23 16th of January.

24 Q That evening?

25 A That evening.

1 Q And when you showed her that line-up -- the line-up
2 itself, when y'all make up these pictures, what do
3 you try to do to make sure that it is a fair
4 line-up?

5 A Look at the characteristics of the individual and
6 try to get them as close as you can with the
7 limited access that we have to gather that
8 information and put it together.

9 Q And that date, State's Exhibit Number 135 was the
10 line-up that you developed in this case was used
11 for multiple witnesses?

12 A It was.

13 Q And did you actually show it to Ms. Lee that
14 evening?

15 A I did.

16 Q While she was at headquarters?

17 A I did.

18 Q And did you do anything to influence her decision
19 or her recognition of the person that had shot and
20 killed her boyfriend?

21 A I did not.

22 Q And tell this jury what happened when you showed
23 her the photo line-up.

24 A I showed her the photo line-up. She immediately
25 picked, without hesitation, Jamaal Hinson, who was

1 Picture Number Five. She circled it, and I had her
2 initial inside of the circle, then she signed the
3 form.

4 Q And the person that she identified in State's
5 Exhibit Number 135 was in fact the person y'all had
6 identified as Jamaal Hinson, who is the Defendant
7 in this case?

8 A Correct.

9 Q Once she was able to identify that, other
10 investigators in your unit had also taken some
11 information from the Banks, is that correct?

12 A That is correct.

13 Q And based on that information, did y'all obtain any
14 warrants at that time?

15 A We did. I collected the information we had from
16 different witnesses or individuals that we
17 interviewed in this case, and I made contact with
18 Deputy Solicitor John Meadors at the time, and gave
19 him a full briefing of the case. We reviewed it,
20 and it was determined that there was probable cause
21 to issue a murder warrant on Jamaal Hinson for this
22 incident.

23 Q And in order to get a murder warrant, do you then
24 have to go and present evidence to a magistrate?

25 A We did. We prepare a warrant worksheet, which is

1 sent to a Magistrate's Office, and the magistrate
2 reviews that. And then we go before him and he
3 swears us to the information that is in the
4 affidavit.

5 Q And based on that, did the magistrate swear out a
6 warrant for murder in this case?

7 A He did.

8 Q And at that point the information you had was
9 coming from the Banks, who were not actual
10 eyewitnesses to the crime, is that correct?

11 A They stated they did not see the crime.

12 Q And Andina Lee?

13 A Correct.

14 Q And as well as at that point in time you are
15 processing things and things of that nature are
16 going on?

17 A Yes, ma'am. There was no one else at the scene for
18 us to interview.

19 Q At that point?

20 A Correct.

21 Q That evening into the next day, did your
22 investigation continue?

23 A Yes, ma'am.

24 Q And y'all got a search warrant for [REDACTED]

25 [REDACTED]

1 A We did. We also prepared a search warrant at the
2 same time we seek the murder warrant for that
3 location. And we would be --

4 Q That location would have been whose residence?

5 A The residence of Jamaal Hinson.

6 Q Jamaal Hinson?

7 A His parents.

8 Q And did y'all execute that search warrant?

9 A We did.

10 Q And were you able to find Jamaal Hinson in his
11 home?

12 A No. His mother was the only one present at the
13 time.

14 Q And what time of day or night was it that you
15 actually executed the search warrant? Do you
16 remember?

17 A It was I believe around 8:00 or 9:00 o'clock in the
18 evening.

19 Q And that was the same evening this occurred?

20 A That's correct.

21 Q And there was no sign of him?

22 A No, ma'am.

23 Q Ad nothing of any evidentiary value as far as this
24 case goes?

25 A Nothing we could locate.

1 Q That evening did you also send out information on
2 the NCIC as well as a wanted poster was prepared?

3 A We did.

4 Q And when you say you put information in the NCIC,
5 can you explain to the jury what that is?

6 A We prepare -- typically with our warrants when we
7 can't find an individual, a wanted poster -- it is
8 a for that has an individual's picture on it, a
9 brief description of the incident, what the
10 incident is, the case number, the case officer's
11 name, and this type of incident, put it into the
12 NCIC, which is the National Crime Information
13 Center. And what that does is that warrant with
14 that individual's information is put into a
15 nationwide computer so if any officer in the United
16 States stops this individual and runs his name and
17 date of birth or his information through that
18 computer, he will come back as wanted and it will
19 show that he is wanted for the particular crime
20 that you have put him in for. You could have
21 caution indicators. You could have all kind of
22 additional information listed in there.

23 Q Okay. And everything we have talked about so far,
24 all that was done the day this occurred, what day
25 of the week?

1 A That was -- I don't know if I recall the day of the
2 week. I think it was a Saturday or Sunday, but I'm
3 not sure. It was a weekend.

4 Q Okay. That Monday, on the 18th, did you continue
5 to follow up the investigation of this case?

6 A We did, yes.

7 Q And over the weekend had certain information been
8 developed that you wanted to follow up on?

9 A Yes, ma'am.

10 Q And did that information involve who?

11 A The Crudups.

12 Q The Crudups?

13 A Yes.

14 Q And that afternoon did y'all actually go to the
15 Crudups' house and make contact with them?

16 A Yes, we did.

17 Q And did you take statements in this case about the
18 information that Nicole and Jarrod Crudup had?

19 A We did, yes.

20 Q And did that information further corroborate the
21 information you had already gotten from Ms. Lee and
22 the Banks?

23 A It did.

24 Q In order to confirm that y'all were talking about
25 the same person, were photo line-ups also then

1 prepared to show to the Crudups?

2 A They were, yes.

3 Q And was specifically Nicole Crudup I think is the
4 one you showed, was she able to identify the person
5 that had come to her house?

6 A Yes, she was.

7 Q Or one of the two? Actually both of them?

8 A Actually --

9 Q At that point?

10 A I think -- I don't have it. I think maybe she
11 narrowed it down between two.

12 Q That's right.

13 A Including him, if I'm not mistaken.

14 Q And Jarrod Crudup was actually able to pick someone
15 out?

16 A Yes.

17 Q The next day, on January the 19th, had y'all also
18 become aware of the person named Devan Bailey that
19 may have information in your case?

20 A We were retained, yes -- we retained that name.

21 Q And without saying how you got it, but did Devan
22 Bailey -- was the request made for him to come and
23 talk to y'all on the 19th?

24 A Yes, ma'am.

25 Q And did he actually come to headquarters with his

1 father, I believe?

2 A He did.

3 Q And at that point did you or investigators in your
4 unit interview Devan Bailey?

5 A We did.

6 Q And was he forthcoming with information?

7 A No.

8 Q And, in fact, did he tell you a story, verbally
9 first, that was a total fabrication?

10 A He did.

11 Q And later he gave you a story with some of the
12 details but, as he said, not the complete truth on
13 that day?

14 A Yes. This was a drawn out process to get what --
15 the information from him that was consistent with
16 what the other witnesses were providing.

17 Q And what was his relationship with the Defendant?

18 A He was -- the information we received, he was with
19 the Defendant at the time of the incident.

20 Q And he was friends with the Defendant?

21 A Yes.

22 Q Was a photo line-up shown to him that day including
23 the Defendant's photo, Jamaal Hinson?

24 A Yes.

25 Q And was he able to identify him?

- 1 A Yes, he was.
- 2 Q So he did at least do that?
- 3 A Yes, he identified Jamaal.
- 4 Q That evening did you receive a phone call from a
5 Derrick Diamond?
- 6 A Yes, ma'am.
- 7 Q And that was after Devan Bailey's father had left
8 headquarters?
- 9 A Yes, ma'am.
- 10 Q And he made contact with you and indicated he may
11 have information y'all needed?
- 12 A He did.
- 13 Q And that evening, based on your telephone
14 conversation with him, did you then proceed to
15 Derrick Diamond's house?
- 16 A I did.
- 17 Q And was he able to give you information about what
18 he knew about this crime?
- 19 A Yes, ma'am. He was very forthcoming.
- 20 Q And did you also show him some photo line-ups,
21 including one of Jamaal Hinson and one of Devan
22 Bailey?
- 23 A I did.
- 24 Q And was he able to identify both of them?
- 25 A He was able to identify both Jamaal and Devan in

1 the photo line-up.

2 Q And, again, in all these photo line-ups we are
3 talking about, y'all didn't do anything to suggest
4 or tell them who to pick or anything?

5 A No, ma'am.

6 Q And did you actually take a formal statement from
7 him that evening?

8 A Yes, ma'am.

9 Q And he was able to identify both of them that
10 evening?

11 A Yes, ma'am.

12 Q Later did y'all arrange for Devan Bailey to come
13 back in and be re-interviewed?

14 A Yes, I believe Sergeant Lindler arranged for him to
15 come back.

16 MS. CAMPBELL: Beg the Court's indulgence.

17 (Pause.)

18 Q And did he come back into headquarters and talk to
19 y'all on the 27th?

20 A He did.

21 Q And who was with him at that point?

22 A His attorney.

23 Q What was the purpose of you calling him back in?

24 A I'm not sure. That was to -- we thought there were
25 still some inconsistencies in the statement that we

1 wanted to iron out, so Sergeant Lindler had him
2 come in to try to work through those issues.

3 Q Okay. And he came back in and gave another
4 statement?

5 A He did.

6 Q During the course of that day on the 27th, did
7 y'all also get information from Atlanta Police
8 Department?

9 A Yes, we did.

10 Q And what information was that? We are talking
11 about January 27th now, right?

12 A That's correct.

13 Q And what were they inquiring about or what were
14 they asking y'all about?

15 A If we were being -- it was inquired as to whether
16 or not we had a murder involving some information
17 that they had received from an individual they
18 arrested.

19 Q And that individual's name was Richard Johnson?

20 A Correct.

21 Q And the information they forwarded to you, did that
22 coincide with this investigation?

23 A They sent it actually to Sergeant Lindler, but,
24 yes, it did, and he sent them a photo line-up to
25 show that individual.

1 Q And later on the 29th did y'all become aware that a
2 Roland Thomas had interviewed Mr. Johnson about the
3 information that had been provided to him by the
4 Defendant in this case?

5 A Correct.

6 Q Then on February 2nd of 2010, did the fugitive team
7 from Richland County proceed to Atlanta and get the
8 Defendant in this case?

9 A They did.

10 Q And he was then booked in on the murder charge?

11 A That's correct.

12 Q Did you also make any attempts in this case to get
13 the 9-1-1 tape to see if it had any information?

14 A I did.

15 Q And you received that?

16 A Yes, we did.

17 Q And were you able to identify two different calls,
18 I believe one from Andina Lee and one from another
19 individual?

20 A Correct.

21 Q What was his name?

22 A Raymond Hall.

23 Q And those are the calls?

24 A Yes, ma'am.

25 Q The Defendant, you actually came face-to-face with

1 him on February 2nd when he was transported back
2 here?

3 A I did.

4 Q Has his appearance changed from the way he was
5 then?

6 A I don't -- I don't recall.

7 Q And in preparation for this trial, did you assist
8 them in attempting to find the Banks who lived two
9 doors down from where this occurred?

10 A They did. I used every resource I had capability
11 to to locate them. And the last I could find, they
12 were somewhere in Texas. And all the addresses and
13 phone numbers that we could use were no good.

14 Q Okay. And they weren't actual eyewitnesses to the
15 actual crime itself, they just had knowledge about
16 seeing him beforehand?

17 A Just before the incident happened.

18 Q And was their information corroborated by the other
19 witnesses?

20 A Yes.

21 Q Also, the relationship to the people involved in
22 this case, the victim versus the Defendant, they
23 were actual friends of the Defendant, weren't they?

24 A Yes. He was at their house.

25 Q There has also been some reference to a witness

1 named Demario Evans who may have seen the Defendant
2 after the shooting.

3 A (Nods affirmatively.)

4 Q What was his relationship to the Defendant?

5 A They are obviously some type of friends. He was at
6 the house that the Defendant ran to after the
7 incident and got a ride with.

8 We have also tried to locate him and we have
9 been unable to locate him after he learned that we
10 were trying to serve a subpoena on him to come to
11 court.

12 Q Is that unusual in a case when they are a friend of
13 the Defendant?

14 A No, it is not.

15 Q There was also at the crime scene some swabs that
16 were taken. Was identification ever an issue in
17 this case?

18 A No, it wasn't.

19 Q Once y'all had completed your investigation, the
20 Defendant was -- had been charged and was still
21 charged with murder?

22 A Yes.

23 Q And that is the appropriate charge in this case?

24 A It is.

25 Q During the course of your investigation -- I'm

1 sorry, I forgot this -- was a decision made to
2 charge Devan Bailey?

3 A Yes.

4 Q And what was he charged with?

5 A Obstruction of justice.

6 Q And was he not forthcoming on a number of occasions
7 as far as his involvement in the fight?

8 A That's correct.

9 Q Thank you. I don't have anything further.

10 THE COURT: All right. Please answer any
11 questions that Ms. Cleary may have.

12 CROSS-EXAMINATION

13 BY MS. CLEARY:

14 Q How are you doing?

15 A Good. How are you?

16 Q You filed a report in this case, correct?

17 A Yes, ma'am.

18 Q And the State provided me with a 11-page report,
19 Case Number 10011370-16?

20 A Yes.

21 Q And you can confirm that is your report?

22 A Uh-huh.

23 Q Is this report complete? Was there anything that
24 happened additional that you need to add or wanted
25 to add?

1 A Not that I was a part of, that I know of, no.

2 Q Okay. And is it accurate?

3 A To the best of my knowledge.

4 Q And it is true to the best of your knowledge?

5 A Yes, ma'am.

6 Q Okay. Did you take any written notes?

7 A During the course of the entire investigation?

8 Q Yes.

9 A Yes, ma'am.

10 Q And where are they?

11 A After I type my follow-up and use my notes, they
12 are destroyed.

13 Q You destroyed them?

14 A Yes, ma'am. I do that on every one of my cases.

15 Q And why do you do that?

16 A Because I -- they are handwritten notes that some
17 people won't be able to read anyway, and I type it
18 out in a formal follow-up that is saved on a
19 computer.

20 Q Did you -- you said you interviewed the people who
21 lived two doors down from the Salleys, right? I'm
22 just going to show you --

23 A No, I said they were interviewed. I did not
24 interview them.

25 Q Oh, okay. I am just going to show you what has

1 previously been entered, 159, because it is a
2 diagram of what we have.

3 So the Banks' house was over here, is that
4 correct, [REDACTED]?

5 A Yes, it would have been this way.

6 Q Okay. So who lived here?

7 A I have no idea.

8 Q Did you interview these people?

9 A There was nobody home.

10 Q Nobody was home? So you went up and knocked on the
11 door and nobody was home?

12 A Yes. The area was canvassed. Other investigators
13 arrived.

14 Q But you tried to talk to -- contact these people or
15 to see if somebody was there that would have heard
16 something?

17 A Me personally? No, I did not.

18 Q Were you in charge of the investigation?

19 A Was I --

20 Q Who was in charge of the investigation?

21 A Well, I was the supervisor that was on the scene at
22 the time.

23 Q Okay.

24 A Until I left with Andina Lee and had the other two
25 witnesses that were on the scene. There was only

1 three people there at the time of the interview.

2 Q Okay. So you -- but you never asked anybody to see
3 if someone was here in this house who could provide
4 some information about the case?

5 A Yes, we had the deputies that were on the scene.
6 And the investigators that arrived knocked on the
7 doors surrounding the location. That house was
8 actually encompassed in the crime scene.

9 Q Okay.

10 A Remember I testified that they had at least a house
11 or two on each side of the residence were taped
12 off.

13 Q Okay. But there is nothing in your report about
14 whether you tried to talk to the people that live
15 here?

16 A I didn't.

17 Q Okay. And you didn't instruct anyone to talk to
18 the people? There is nothing in your report about
19 this house at all, is that correct?

20 A Yes, because I had no involvement with that house.

21 Q Okay. Now, let me ask you this. When you
22 interviewed Andina, did you ask her to show you
23 where people were standing when these things
24 happened, because I know she had said that Devan
25 was there at some point and that Jamaal was there.

1 Did you ever ask her to maybe show you on a diagram
2 some sort of map where everybody was standing when
3 things were happening or when the shots occurred?

4 A If I'm not mistaken, in her statement she said it
5 happened in between -- in the grassy area between
6 the driveways.

7 Q Okay. But you never asked her to kind of show
8 where -- between these two houses where things
9 happened?

10 A I can review -- refer to her statement that she
11 provided.

12 Q Did you ever show her any sort of map so that she
13 could mark --

14 A If I did, it is attached to it. I don't know, was
15 the statement in there, in evidence?

16 Q No, there is no -- nothing.

17 A I mean, I didn't take her into the crime scene.
18 Obviously they would contaminate any evidence that
19 was there.

20 Q Right. So that's why I asked did you perhaps show
21 her a diagram of where the houses were so that she
22 could say where everyone was standing and how far
23 apart they were when things happened.

24 A I don't think she could label on the diagram feet
25 between people.

1 Q But just a general idea of how far away.

2 A I think in the statement she said that they were in
3 the grass area beside the driveway, which is not
4 that tremendously big of an area.

5 Q Okay. And this grassy area between -- this is the
6 Salley's driveway, correct?

7 A Yes.

8 Q Okay. And then this would be the people that live
9 here's driveway, right?

10 A Correct.

11 Q And this is a grassy area?

12 A Right.

13 Q And you don't -- you wouldn't know where property
14 lines are or anything on this grassy area so you
15 can assume --

16 A No, ma'am.

17 Q I mean, you just don't know? You didn't bother to
18 look that up or anything?

19 A No.

20 Q Okay. So we just know it was somewhere in the
21 grassy area? In terms of what Andina told you, she
22 said it was on the grassy area?

23 A I'm sure the crime scene photos will show exactly
24 where it is as far as the --

25 Q Did anybody ever point out where, exactly where

1 Anthony's body was resting? I mean, you have been
2 here throughout the whole time?

3 A I wasn't here yesterday afternoon. I'm not sure
4 what the crime scene people testified to.

5 Q That's fine.

6 A But I think there was some blood collected from
7 somewhere, and I would assume that is where
8 Mr. Salley was laying.

9 Q You would assume that, but there were people there
10 who could tell you exactly where he had been
11 laying, right? But that is not documented anywhere
12 in your report?

13 A They were laying in the grassy area.

14 Q The grassy area is the distance from here to here,
15 but you weren't interested in where on this grassy
16 area that Anthony Salley's body rested?

17 A Without the body there, I don't know if she could
18 tell you that at the time.

19 Q But there were people --

20 A Because the body was transported.

21 Q Andina was there with the body. She could tell
22 you. So there was an officer who testified
23 yesterday who was first on the scene.

24 A Well, I didn't take her back in the crime scene and
25 risk contaminating the crime scene.

1 Q Okay. But you were not --

2 A She can't tell me from a photo where exactly they
3 were at the crime scene. She can tell me they were
4 in the grassy area near the driveway.

5 Q Okay. So we just know that it was in the grassy
6 area?

7 A Correct.

8 Q Okay. Now, did you -- did you get, in the course
9 of your investigation, or did you ask someone to
10 get Devan's actual cell phone or just his records
11 that he produced today, or that he authenticated
12 today? Did you get the actual cell phone from
13 Devan Bailey?

14 A I believe there was a search warrant sent and the
15 company never returned them.

16 Q No, what I want to know is did you get the
17 actual --

18 A Oh, the actual phone itself?

19 Q Yes. You had talked to Devan on the 19th or talked
20 to him again. Did you ask to see his cell phone at
21 that time?

22 A I don't recall if I actually took it.

23 Q You probably didn't. It is not in your report that
24 you asked for it.

25 A I don't recall if I did.

- 1 Q Okay. Did you ask the phone company to provide you
2 text messages from Devan's phone?
- 3 A The general search warrants that I type or have
4 typed, and they normally include it.
- 5 Q Okay. But you did not get any text messages?
- 6 A No, the phone company did not return them.
- 7 Q Have you ever gotten text messages in any of your
8 investigations?
- 9 A I have in the past.
- 10 Q Okay. And so why wouldn't you be able to get them
11 in this case?
- 12 A The phone company didn't send them to us.
- 13 Q Okay. And you weren't interested in what Devan
14 might have been texting before or after this
15 incident?
- 16 A They didn't send it to us. I didn't have it.
- 17 Q Okay. But you weren't interested -- I don't see
18 any -- did you make any effort to try to get it
19 after they said -- after they didn't produce it,
20 did you try to get them -- try to compel them to
21 produce it or --
- 22 A Well, we sent a search warrant and told them.
- 23 Q Okay. And that's all you did?
- 24 A Yes.
- 25 Q Okay. I mean, you didn't feel the need to send

1 what the text messages said? Okay. That's fine.

2 A I don't think -- it never came about.

3 Q Okay. And you said that you had to interview
4 Andina Lee twice, correct?

5 A I interviewed her once I think Sergeant Lindler
6 might have spoken to her a second time.

7 Q Okay.

8 A As I think she testified to that she was concerned
9 about something she didn't tell him or tell me in
10 the first interview because she was physically and
11 emotionally a wreck at the time.

12 Q Okay. Now, did you -- in the course of your
13 investigation did you ask or did you ask any of the
14 other investigators to ask any of the other
15 witnesses if they heard Jamaal say the statement
16 that was introduced earlier from Andina that, "This
17 is exactly what I want."

18 Did you ask Derrick -- Derrick Diamond if he
19 heard that statement? It is not in your report
20 that you asked him.

21 A Yes. In his statement I think -- and he testified
22 to up until a point he heard, if I recall, he is
23 the one that said that the window got put down.
24 The window was up for the most part, so if he was
25 inside the truck he would not have heard that

1 when --

2 Q Okay. Did you ask --

3 A -- he originally came up.

4 Q Did you ask Devan Bailey if he heard that? You
5 interviewed him or he was interviewed three times,
6 I think? Did you ask Devan Bailey if he heard
7 Jamaal say that?

8 A If I can have the statement I will tell you.

9 Q There is nothing in his statement about that.

10 A I don't --

11 Q Did you --

12 THE COURT: Hold on one second. Let him
13 answer the question.

14 A I mean, I can't just take your word for it, I'm
15 sorry. I don't see that actual question asked.

16 Q You had four people that saw at least parts of the
17 fight between Anthony and Jamaal, is that correct?

18 You had Derrick Diamond, Quinton Emerson, Devan
19 Bailey, and Andina Lee, is that correct?

20 A Right.

21 Q And the only person who said that Jamaal said, this
22 is exactly what I want, is Andina Lee, is that
23 correct?

24 A That's correct.

25 Q Okay. So did you learn from any of those

1 eyewitnesses, those four that I just named,
2 anything that would make you think that Jamaal --
3 or that Anthony was the one who started the fight?

4 A Did I learn anything from the four of the witnesses
5 that Anthony was the one that started the fight?

6 Q Yes. Let me -- I'll go through each one. Derrick
7 Diamond, you said he was very forthcoming, is that
8 correct? Isn't that what you testified to on
9 direct?

10 A With me coming out to his house and talking to him?

11 Q Yes?

12 A Yes.

13 Q Did Derrick Diamond say that Anthony stormed up on
14 Jamaal? Did Derrick Diamond tell you all that? Or
15 you learned that in the course of your
16 investigation?

17 A Stormed up on him?

18 Q Uh-huh. You can look at his statement.

19 A Okay. I believe he did say stormed towards them.

20 Q Okay. And did Devan say that Anthony had initiated
21 the fight?

22 A Is that in the first statement? Devan says in the
23 first statement that the man in the red shirt
24 initiated things.

25 In the second statement he says, I saw the guy

1 in the red shirt get out and then I saw Jamaal walk
2 up from behind. I got out the truck. I met
3 Jamaal. And he dumped everything on the ground.

4 Q Okay. So you did have some information, though,
5 certainly from Derrick Diamond, that Anthony had
6 come up and approached Jamaal?

7 A He had used the words --

8 Q In Derrick Diamond's statement he said that Anthony
9 stormed Jamaal, is that correct? Okay. Is that
10 correct?

11 A If you'll give me just a second. I don't have his
12 exact statement. I do have that he was storming in
13 my notes here, or in my follow-up.

14 Q In your typed notes, the one that I have. Okay.
15 Okay.

16 A But, I mean, I don't have his statement in front of
17 me to see, but if I just put that in there if that
18 is what the context of the whole wording was around
19 that.

20 Q So did you have any information from any of the
21 eyewitnesses to make you think or that would make
22 you have any suspicion that Jamaal may not have
23 intentionally shot Anthony?

24 A Any information from the witnesses that Jamaal did
25 not intentionally shoot him?

1 Q Uh-huh?

2 A No.

3 Q Are you absolutely sure about that?

4 A That I had information that he did not
5 intentionally shoot him?

6 Q Uh-huh? Did you have information from anyone who
7 was an eyewitness? Anyone? Did you have any
8 information from Jamaal?

9 A Did I have information from Jamaal?

10 Q Yes?

11 A No.

12 Q Di you have in here that you --

13 MS. CAMPBELL: Objection, Your Honor. May we
14 approach?

15 (WHEREUPON, a bench conference was held
16 in the presence of the jury but out of
17 the hearing of the jury.)

18 THE COURT: The objection is sustained.

19 BY MS. CLEARY:

20 Q Did you -- in the course of your investigation, you
21 said you executed a search warrant on Jamaal's
22 parents' house?

23 A Yes, ma'am.

24 Q And that is where he lived? That is where Jamaal
25 lived?

1 A That is the information we were provided, yes.

2 Q And you didn't find anything that was relevant to
3 your investigation?

4 A No, ma'am.

5 Q And did you ever receive any information about
6 whether Jamaal contacted the warrant division?

7 A I did not.

8 Q Okay. Did --

9 A I know the warrant was put into the nationwide
10 computer that night. And I'm not sure what you are
11 referring to as far as contact.

12 Q Okay. That's all I have for now. Thank you.

13 THE COURT: Thank you. Anything else from the
14 State?

15 MS. CAMPBELL: Just a few, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q She asked you about the telephone that you didn't
19 confiscate from Devan Bailey and whether or not you
20 looked at the text messages. Was there any
21 information that there was anything but phone calls
22 between Devan Bailey and the Defendant in this
23 case?

24 A That's all the information we had at the time.

25 Q And these are the phone records?

1 A That's what was provided.

2 Q She also asked you about -- let me get this
3 right -- asked Devan if what he said, what Jamaal
4 said when he walked up. She asked you about that,
5 what he told you?

6 A Correct.

7 Q And here in the top line that is highlighted, what
8 did he tell you that he observed about Jamaal? The
9 highlighted line at the top?

10 A "I could tell his eyes -- I could tell by his eyes
11 and by the way he was walking something was up."

12 MS. CLEARY: Your Honor, may I --

13 MS. CAMPBELL: Your Honor, she opened the door
14 to that. She asked specifically about what he said
15 as he walked up.

16 THE COURT: What is your objection?

17 MS. CLEARY: Okay. I object because it is
18 inadmissible hearsay and because I did not open the
19 door. I asked him if he asked -- if Devan was able
20 to verify that Andina said -- from what Andina said
21 that Jamaal said, which was --

22 THE COURT: "This is exactly what I wanted,"
23 or something like that. But I think you did open
24 the door by asking -- you asked if any of the
25 witnesses ever said anything else -- anything about

1 what happened when they pulled up, I believe.

2 MS. CLEARY: Well --

3 THE COURT: To him about it.

4 MS. CLEARY: I asked if they said anything,
5 not what their eyes were doing. I think that is
6 irrelevant hearsay. They didn't ask Devan about
7 it.

8 THE COURT: All right, the objection is
9 overruled. I think you opened the door.

10 MS. CAMPBELL: Thank you.

11 Q And that's what he observed. And was Devan Bailey
12 forthcoming in this investigation?

13 A No.

14 Q Is that unusual?

15 A No, it is not.

16 Q Why?

17 A Because people tend to stick to their allies, so to
18 speak, their friends.

19 Q She asked also about Derrick Diamond and his
20 statement about who initiated this fight. In the
21 highlighted part there that she didn't ask you to
22 review, does he indicate who was the first person
23 to pull out a weapon or throw a punch?

24 A It says, "I then saw Jamaal reach down and pull up
25 his shirt. He pulled out a pistol from his waist

1 area. It had a black handle and a chrome top.
2 Jamaal and the light-skinned dude were about to
3 arm's length away from each other, and Jamaal was
4 pointing the gun at his face."

5 Q During the course of your investigation, from every
6 witness in this case, who was the shooter in this
7 case?

8 A Jamaal Hinson.

9 Q And from all of the eyewitnesses that you
10 interviewed at the scene and the four that she
11 mentioned, who did they indicate first initiated
12 any kind of threat and/or blow in this case
13 specifically as to the gun?

14 A The gun? Jamaal Hinson.

15 Q And that was prior to any blows?

16 A Correct.

17 MS. CAMPBELL: I don't have anything further,
18 Your Honor.

19 THE COURT: Anything else of this witness?

20 MS. CLEARY: No, Your Honor.

21 THE COURT: All right, sir, you may step down.

22 (Witness steps down.)

23 MS. CAMPBELL: Your Honor, may we approach
24 about scheduling?

25

CHRIS LINDLER,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Sergeant Lindler, where are you employed?

A Richland County Sheriff's Department.

Q What do you do there, sir?

A I'm a supervisor in the property crimes unit.

Q And how long have you been in law enforcement?

A I've been in law enforcement approximately 15 years.

Q And how long have you been in investigations?

A Since 2004.

Q I want to turn your attention back to January the 16th of 2010. Were you the on-call homicide detective that day?

A I was.

Q And as an on-call homicide detective or investigator with your unit, what do your duties include?

A When there is a shooting which would most likely result in a homicide or death, I am tasked with responding to that scene and investigating that crime.

Q That afternoon did you get notification of a

1 shooting and a person having been shot in the
2 Vineyards Crossing neighborhood?

3 A I did. I was notified by Sergeant Medlin, who was
4 my on-call supervisor that day, in reference to a
5 shooting that had occurred at [REDACTED]
6 in Northeast Richland County. And while responding
7 I would learn that the victim was -- had died in
8 route to the hospital.

9 Q And did you actually respond to the crime scene
10 itself?

11 A I did.

12 Q And, again, what was the residence address?

13 A [REDACTED] in Northeast Richland County.

14 Q And was that the Salley home?

15 A That is the Salley residence.

16 Q When you got to the scene that day, what did you
17 find?

18 A I made -- first made contact with Sergeant Ellis
19 and Investigator Hicks, who were already on the
20 scene. Investigator Hicks was taking a statement
21 from Kenneth Banks, who lived a couple of doors
22 down. Sergeant Ellis was with the victim's
23 girlfriend, who I would later learn was Andina Lee.

24 Q While you were there at the scene that day, were
25 you able to identify the victim in this case?

1 A I was. I learned the victim was Anthony Salley of

2

3 Q And his date of birth was what?

4 A His date of birth was [REDACTED] [REDACTED].

5 Q That day did you also make contact with a Lauren
6 Banks?

7 A I did. Lauren lived at [REDACTED] [REDACTED] which
8 is two houses down on the same side of the street
9 as the Salley residence.

10 Q And did that later become significant in your
11 investigation?

12 A It did. Just before the actual incident took
13 place, we would learn that the shooter had been at
14 her house just prior to the incident taking place.

15 Q And that day, on the day this occurred, she was
16 actually cooperative with you?

17 A She was.

18 Q And since then have you made attempts to find the
19 Banks, both she and her brother that lived two
20 doors down from there?

21 A We have. Sergeant Ellis and I have searched every
22 database available to us and we have not been able
23 to make contact with them.

24 Q That day as Sergeant Ellis was interviewing the
25 Defendant's -- the victim's, I'm sorry, girlfriend,

1 Andina Lee, was he able to come up with at least a
2 first name to prove significant in your
3 investigation?

4 A He was. He was able to come up with the name of
5 Jamaal.

6 Q And based on that information and the information
7 that you were able to get from the Banks, did you
8 do some research and try to identify the person who
9 committed this murder?

10 A I did. I also learned that his -- they knew him
11 as -- the subject as Jamaal. And led to believe
12 that he had gone to Blythewood High School and that
13 he may stay in the Ashley Ridge subdivision. And
14 she further went on to describe him as 5'7" or
15 5'8", light skin and heavyset, with three or four
16 dreads in his hair.

17 I then made contact with -- we got in touch
18 with Investigator Wyatt, and she made contact with
19 the SRO's from Blythewood and Ridgeview High
20 School.

21 Q Are those local high schools in the area?

22 A Yes, ma'am.

23 Q And specifically did you talk to I believe a Barron
24 Williams?

25 A Yes, ma'am.

1 Q SRO? What does SRO mean?

2 A He is a school resource officer for Blythewood High
3 School. And I made contact with Barron Williams,
4 and he called me back a short time later and gave
5 us the name of Jamaal Reginald Hinson, who was a
6 former student at Blythewood High School.

7 Q Based on the information you provided to him?

8 A Based on the information we had given him, yes,
9 ma'am.

10 Q Later that day were you able to track down leads
11 that led you to [REDACTED] or Lee Ridge
12 Court, I believe?

13 A Yes, ma'am. Based on our database searches and
14 jail searches, we were able to establish the
15 address for Jamaal Hinson as [REDACTED]

16 Q That day did you also develop some photo line-ups
17 which were shown to the three witnesses I guess you
18 had at that point, the two Banks and Andina Lee?

19 A We did.

20 Q And were those shown to those people?

21 A They were.

22 Q And were at least two of those people, or all three
23 I guess in this case, able to identify Jamaal
24 Hinson as the person they were referring to?

25 A Yes, ma'am, they did.

1 Q In showing line-ups -- and we have talked about
2 line-ups throughout this case. At any time did
3 y'all influence anyone or try to affect their
4 ability to recognize someone when viewing the
5 line-up?

6 A No, ma'am.

7 Q And there is nothing about the procedures that were
8 used in this case or anything but by the law?

9 A Correct.

10 Q After he was identified through photo line-ups as
11 well as the information you were able to gain
12 through your investigation, did you get some
13 warrants that day, search warrants specifically,
14 and an arrest warrant?

15 A We did. We got an arrest warrant and a search
16 warrant for the -- for Jamaal Hinson's residence
17 and an arrest warrant for Jamaal Hinson himself
18 based on photo line-up pics and the identifications
19 we had gotten.

20 Q That evening did y'all proceed to [REDACTED]
21 [REDACTED] the Hinson household, to conduct -- to
22 execute the search warrants?

23 A We did. Sergeant Ellis and myself and Investigator
24 Hicks along with several marked line units
25 proceeded to that residence around 9:00 p.m.

1 Q Was the Defendant there when you got to the
2 residence that evening?

3 A He was not.

4 Q And did y'all attempt at this point to actively
5 search for him?

6 A We were.

7 Q Were you able to find him that day?

8 A No, ma'am, we were not.

9 Q The next day, I believe the 17th, did you receive a
10 Crime Stoppers tip?

11 A We did.

12 Q And what was that in reference to?

13 A The Crime Stoppers tip came in reference to a
14 Raymond Asberry.

15 Q Raymond Asberry?

16 A Yes, ma'am. And the Crime Stoppers tip referenced
17 that he may be hiding Jamaal out at his parents'
18 house or somewhere closer inbound on Two Notch
19 Road.

20 Q Did you attempt to follow up on that?

21 A We did.

22 Q With no luck?

23 A With no luck.

24 Q You were not able to find him? The next day, that
25 Monday, January 18th, were you trying to get some

1 information on a Demario Evans?

2 A I was. Mr. Evans was referenced on Saturday as
3 being a possible acquaintance of Jamaal Hinson.
4 He -- Jamaal was a student -- excuse me, Mr. Evans
5 was a student at Blythewood High School and was
6 present at the house that Jamaal ran to after the
7 incident took place.

8 Q That day did you also receive additional
9 information about a young man named Jarrod Crudup?

10 A Yes, ma'am. We had a caller call in, would not
11 give his name, but referenced that the subjects
12 that were involved in the shooting ran to [REDACTED]
13 [REDACTED] which is in the same neighborhood
14 as which the incident took place, and that one of
15 the guys at that residence gave Jamaal a ride, gave
16 Jamaal a ride away from that subdivision.

17 Q Later that day did you also receive information
18 about a Joseph Cooper possibly having information?

19 A We did. Ms. Petramorcus(phonetic) had called me
20 and I had gotten her phone number. She is close
21 friends with Jamaal's family. And she called to
22 tell us about a Mr. Joseph Cooper. We researched
23 Mr. Cooper and learned that he was currently in the
24 Alvin Glenn Detention Center, but he was friends
25 with Jamaal, and she said that he may know where he

1 may be headed to or where he may be hiding.

2 Q That day around 5:45 that evening did you and
3 Sergeant Ellis go to [REDACTED] [REDACTED]

4 A We did.

5 Q The Crudups' residence?

6 A We did. We made contact with Jarrod and his
7 sister.

8 Q And did you actually interview Jarrod that day?

9 A I did. I took a statement, written statement from
10 him at headquarters. They accompanied us back
11 to --

12 Q He did not actually witness the event himself, he
13 was just someone he ran to afterwards?

14 A Right.

15 Q But was he able to pick -- was a photo line-up
16 shown to him as well?

17 A He was shown a photo line-up as well as his sister.
18 I showed the photo line-up to Jarrod. He was able
19 to identify Jamaal Hinson as the one that ran into
20 his house later that evening.

21 Q And did you take a statement from him?

22 A I did.

23 Q Turning your attention to the next day, January the
24 19th, did you track down Demario Evans?

25 A I did. He was -- we found him at Blythewood High

1 School. He was in school that day. We made
2 contact with him. And he came back to headquarters
3 with us to give a statement.

4 Q And, again, he was not an eyewitness to the actual
5 event that occurred, but to events afterwards?

6 A He was -- right.

7 Q And at that point he gave you a statement?

8 A Yes, he did.

9 Q And since then have we made attempts in preparation
10 for this trial to find Demario Evans?

11 A We have. And with no luck. He being -- not being
12 cooperative.

13 Q And his relationship is with whom in this case?

14 A He has a relationship with the Defendant, Jamaal
15 Hinson.

16 Q That same day, on the 19th, did you and Sergeant
17 Ellis also interview Devan Bailey and his father?

18 A They did. They came in around 2:00 p.m. that
19 afternoon to speak with Sergeant Ellis and myself.

20 Q And when you first asked Devan Bailey -- and,
21 again, what is Devan Bailey's relationship to the
22 Defendant?

23 A He was with Mr. Hinson when the altercation took
24 place. And we have learned through the course of
25 our investigation that Devan was -- or Jamaal was

1 with him and in the neighborhood and he had asked
2 the boys that Devan was riding with to give him a
3 ride over to that neighborhood.

4 Q And that day when you interviewed him initially,
5 what if anything -- don't say what he said, but did
6 he tell you anything close to the truth?

7 A He did not. It was quite a long drawn out process
8 with Mr. Bailey that afternoon trying to get
9 information from him.

10 Q At some point did his story change somewhat and it
11 was reduced into a written form, or a typewritten
12 form?

13 A It was. At a point that afternoon we got to a
14 point where we put his statement on paper with he
15 and his father present.

16 Q For the record, you actually advised him of his
17 rights prior to talking to him?

18 A We did.

19 Q Did you at some point decide that you needed to go
20 and try to get further clarification from Andina
21 Lee in this case?

22 A Yes, ma'am. Based on the statement we were able to
23 get from Devan Bailey, we felt we needed to go back
24 and talk to Andina Lee again.

25 Q Is that unusual?

1 A No, ma'am, it is not.

2 Q And why is that, sir?

3 A Usually after a traumatic incident we interview
4 witnesses, victims, whatnot, and we go back several
5 days later just to make sure there is nothing that
6 was left out, nothing that they would have
7 remembered over the course of the next few days.

8 Q And the next day -- you can't say what she said to
9 you -- did you go in and take another statement
10 from Andina Lee?

11 A We did.

12 Q That day, on the 20th, did you also make contact
13 with Quinton Emerson's mother?

14 A We did. If I can refer to my notes.

15 Q Uh-huh.

16 A I believe they lived out in Blythewood. We had got
17 the number for her, went out by the house. And
18 Quinton was not at home. And I explained to her
19 why we were there. And I left my card with her for
20 her to call us whenever he returned.

21 Q Two days later did you actually make contact on the
22 22nd with Quinton himself?

23 A We did. Quinton came into the headquarters and sat
24 down with me and gave a statement.

25 Q And in that statement he gave details of what he

1 observed at least leading up to the actual shooting
2 itself?

3 A Yes, ma'am, he did.

4 Q And during the course of this investigation too,
5 was Derrick Diamond also interviewed?

6 A He was. Sergeant Medlin went to find Derrick
7 Diamond and Sergeant Ellis interviewed Mr. Diamond.

8 Q Based on the information you had from Andina Lee,
9 Mr. Diamond and Quinton Emerson, did you feel it
10 prudent to try to talk to Devan Bailey again?

11 A Yes, we did.

12 Q And what was the purpose in asking him to come back
13 in on January 27th?

14 A We had -- based on our conversations with Quinton
15 and Sergeant Ellis' conversations with Derrick, we
16 had noticed quite a few inconsistencies in Devan
17 Bailey's statement, and we wanted to bring him in
18 to clarify those inconsistencies and see if we
19 could get those cleared up.

20 Q And on the 27th, did he come in with his lawyer?

21 A He did. He came in with Matt Bodman, his attorney.

22 Q And at that point did you then go through the
23 events again, and was he more forthcoming at least?

24 A He was.

25 Q During the course of interviewing him, did he

1 indicate that he had made a phone call that
2 evening?

3 A He did. He had told us that he had attempted to
4 call 9-1-1 at some point that afternoon, at some
5 time after 4:00 o'clock, I believe, where he
6 attempted to call 9-1-1, and --

7 Q During the course of interviewing him as well, did
8 he also provide you with some phone records which
9 you then independently verified?

10 A He did. When he came in with his attorney, they
11 gave us his phone records for those.

12 Q And I am going to show you what has been marked as
13 State's Exhibit Number 166. Is that a copy of the
14 phone call?

15 A It is.

16 Q There are phone numbers in there that are
17 highlighted and have a note next to them that says
18 Jamaal. What is that number?

19 A That number is (803) [REDACTED]

20 Q And whose number would that have been?

21 A That would be Jamaal Hinson's cell phone number.

22 Q And it indicates phone calls back and forth during
23 that day?

24 A Yes, ma'am, all --

25 Q And highlighted?

1 A All throughout the day up into the early evening
2 hours.

3 Q There has been some question about y'all didn't get
4 any text messages. Was there any indication from
5 anybody involved in this case that there was
6 anything but phone calls back and forth between the
7 two?

8 A There was no indication of anything other than
9 phone calls.

10 Q That day, on the 27th, did you also receive a phone
11 call from Atlanta?

12 A We did. I received a message to make contact with
13 a homicide sergeant, Lacoste.

14 Q Uh-huh.

15 A In Atlanta, Georgia. In reference to them having
16 possible information on the whereabouts of a
17 possible suspect in our homicide here.

18 She in turn put me in contact with an Officer
19 Luis Medina, who is an officer with the Atlanta
20 Police Department.

21 Q And when you made contact with Officer Medina, was
22 he able to give you information that he had gotten
23 from a Richard Johnson?

24 A He did. He told me they had arrested a young man
25 by the name of Richard Johnson and he had given

1 them some information in reference to an individual
2 that he had been with over the last couple of weeks
3 that had given -- had told him about a murder or
4 homicide that had happened here in Columbia, South
5 Carolina.

6 Q And was the information you were able to get
7 regarding him corroborated by the information you
8 already had?

9 A It was.

10 Q At that point did you then prepare another photo
11 line-up?

12 A We did. And that photo line-up was scanned and
13 e-mailed to Officer Medina in Atlanta, Georgia.

14 Q Mr. Johnson was not able to identify the person by
15 name, real name, is that correct?

16 A Correct.

17 Q But he did have a nickname?

18 A Correct. He had a nickname for him. He would
19 refer to him as Homie.

20 Q That next day were you aware that Investigator
21 Thomas with Atlanta Police Department was
22 interviewing Mr. Johnson?

23 A I was.

24 Q Further. As a result of that interview -- you
25 can't say what he said, but as a result of that

1 interview, were they able to get some information
2 that ultimately led to finding the fugitive,
3 Mr. Hinson?

4 A They were.

5 Q Was that information relayed to you?

6 A It was. Officer Medina would call me back and let
7 me know that they had a possible location on him
8 and that they were getting together with their U.S.
9 Marshal's Fugitive Task Force in an effort to
10 locate Mr. Hinson.

11 Q And then Mr. Hinson I believe was returned to
12 y'all's custody on February 2nd, is that correct?

13 A February 2nd, yes, ma'am.

14 Q Later was there also a decision made about whether
15 or not to charge Devan Bailey with obstruction of
16 justice?

17 A There was. After consultation with the Solicitor's
18 Office, we charged him with obstruction of justice.

19 Q The Defendant's appearance here in court, is it
20 somewhat different from when he appeared back when
21 you made contact with him on February 2nd?

22 A It is.

23 Q How is it different?

24 A He looks to be a little bit skinnier. His hair is
25 cut in a clean-cut manner. Back when he was

1 arrested on February the 2nd, he was a little bit
2 more heavysset and had approximately three to four
3 inch dreads.

4 Q I show you State's Exhibit Number 161. Is that a
5 photograph that fairly and accurately depicts how
6 he looked when you saw him?

7 A Yes, ma'am. This would be the jail photograph that
8 was taken the night he was arrested and brought
9 back into our custody.

10 MS. CAMPBELL: Your Honor, at this time I
11 would offer State's Exhibit 161 in evidence?

12 THE COURT: Any objection?

13 MS. CLEARY: No.

14 (WHEREUPON, State's Exhibit No. 161 was
15 marked for identification and received
16 into evidence.)

17 Q There were a few swabs that were taken from the
18 scene. And we have heard a lot about DNA testing.
19 Was any DNA testing requested in this case based on
20 these facts?

21 A No, ma'am, there was no DNA testing.

22 Q And was identification ever an issue in this case?

23 A Identification was never an issue in this case.

24 Q You actually went out to the crime scene. As a
25 case officer you have reviewed the crime scene.

1 photos, is that correct?

2 A Yes, ma'am, I did.

3 Q There has been some question -- I show you State's
4 Exhibits Number 17, 27 and 31. Does that show
5 areas of the crime scene being processed that day?

6 A Yes, ma'am, it does.

7 Q And does that fairly and accurately depict how the
8 crime scene was that day and the things collected
9 at the scene?

10 A Yes, ma'am. The clothing where it is laid would
11 have been laid there by the EMS personnel. They
12 cut the clothes off of him where he lay on the
13 ground.

14 Q I show you two diagrams, which are just overheads,
15 State's Exhibits Number 164 and 165. Did you have
16 an opportunity to review these?

17 A I did.

18 Q And do those fairly and accurately depict the area
19 we're talking about on Baccharis Drive?

20 A Yes, ma'am, it does.

21 MS. CAMPBELL: Your Honor, at this time we
22 would offer State's Exhibits 164 and 165 in
23 evidence.

24 THE COURT: Any objection?

25 MS. CAMPBELL: These are already in evidence.