

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LAURENS COUNTY

Frank R. Addy, Circuit Court Judge

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JUN 21 2013

SC COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

STAKREN JEFFERSON,

APPELLANT

APPELLATE CASE NO 2012-212339

RECORD ON APPEAL

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State of South Carolina)
 vs.) Transcript of Record
)
Stakren Tyrise Jefferson)
 DEFENDANT)

June 18, 2012
Laurens, South Carolina

B E F O R E:

Honorable Frank R. Addy, Judge.

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Attorney for the Defendant

Joy E. Holston
Official Court Reporter

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(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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1 THE COURT: Solicitor, if you will call your first
2 case, please.

3 MR. MOWRY: Your Honor, if it please the Court, the
4 State calls the case of the State versus Stakren Tyrise
5 Jefferson. I believe Your Honor has the indictment.

6 THE COURT: Ladies and gentlemen, we are about to
7 begin the case of the State versus Stakren Tyrise
8 Jefferson. This indictment that I have been presented is
9 indictment 08-GS-30-1165. The indictment charges Mr.
10 Jefferson with the offense of murder. The indictment
11 alleges that Mr. Jefferson did in Laurens County on or
12 about May 16th of 2008 willfully, feloniously with malice
13 aforethought kill Tavares Max Calwise by means of shooting
14 him and that Mr. Calwise did die in Laurens County as a
15 proximate result thereof on or about May 16th of 2008.
16 Now, at the outset, ladies and gentlemen, I want to
17 instruct you that the fact that a person has been indicted
18 or charged with a particular offense is in no way proof of
19 any of the allegations contained in this indictment. An
20 indictment is nothing more, ladies and gentlemen, than a
21 piece of paper. It is a piece of paper by which the
22 formal charges against Mr. Jefferson are brought into this
23 court and of course it is not in any way, shape or form
24 evidence of any of the allegations contained in the
25 indictment. Now in this case, ladies and gentlemen, the

1 State of South Carolina will be represented, Mr. Mowry,
2 you are lead counsel, is that correct?

3 MR. MOWRY: Yes sir, I am.

4 THE COURT: Warren Mowry will be lead counsel for the
5 State. If you would care to introduce yourself as well as
6 anyone else seated at counsel table with you, Mr. Mowry.

7 MR. MOWRY: Thank you, Your Honor. My name is Warren
8 Mowry. I am the Assistant Solicitor for the Eighth
9 Judicial Circuit. I am based here in Laurens. With me at
10 the table here is Chris Newton, he is another Assistant
11 Solicitor also based here in Laurens. And our lead
12 investigator is Mareno Foggie.

13 THE COURT: Thank you, Mr. Mowry. Ladies and
14 gentlemen, the defendant in this case, Mr. Jefferson, is
15 being represented by Scott Robinson. Mr. Robinson, if you
16 would care to stand and introduce yourself and certainly
17 your client to the members of the jury panel, please sir.

18 MR. ROBINSON: Thank you, Your Honor. Good morning,
19 my name is Scott Robinson and I represent Stakren in this
20 case. Stakren, this is Stakren Jefferson.

21 THE COURT: Thank you very much, Mr. Robinson. I now
22 have certain questions to ask you to determine whether or
23 not you are eligible to serve on this particular case.
24 First of all, ladies and gentlemen, if there any member of
25 the jury panel who is currently being represented or has

1 previously been represented by any of the attorneys
2 involved in this case, either Mr. Mowry, Mr. Newton or Mr.
3 Robinson. If so please stand.

4 (No response.)

5 THE COURT: No one is standing. Is there any member
6 of the jury panel related by blood or marriage or has any
7 close, business or familiar relationship with the
8 defendant in this case, Stakren Jefferson. If so please
9 stand.

10 (No response.)

11 THE COURT: No one is standing. Ladies and
12 gentlemen, the State alleges that this incident took place
13 on May 16th of 2008 and I believe that this was up in Gray
14 Court. Is that correct, Solicitor?

15 MR. MOWRY: Yes, sir.

16 THE COURT: Where was it in Gray Court?

17 MR. MOWRY: At Stoddard Trailer Park in Gray Court
18 off of Georgia Road.

19 THE COURT: Off of Georgia Road?

20 MR. MOWRY: Yes, sir.

21 THE COURT: The State alleges, ladies and gentlemen,
22 that this incident took place on May 16th of 2008 at
23 Stoddard Trailer Park off of Georgia Road up in Gray
24 Court, the Gray Court section of Laurens County. Is there
25 any member of the jury panel who has any prior knowledge

1 of or has any information concerning the allegations
2 involved in this particular case. Is there anyone who
3 knows anything or thinks that they may know anything about
4 this particular case. If so please stand. I want you to
5 come forward and if you will come down here next to the
6 Court Reporter and let me know what you know. What is
7 your name?

8 JUROR: Nina Shell.

9 THE COURT: Juror number 121. Yes ma'am, Ms. Shell.
10 Someone has told you something about the case?

11 JUROR: Yes.

12 THE COURT: I am inclined to excuse her.

13 MR. MOWRY: Yes, sir.

14 THE COURT: Ms. Shell, thank you very much for the
15 information. Stay with us but you won't serve on this
16 jury, okay. Go back to your seat. When you go back to
17 your seat don't mention this to anybody else out there.
18 Thank you very much. Ms. Shell, number 121 will not serve
19 on this case. No one else. No one is standing. Ladies
20 and gentlemen of the jury, the potential witnesses in this
21 particular case are the following individuals and again
22 there is no, I may read their name twice but there is no
23 guarantee these individuals will testify but it is
24 possible that they will testify. So I need you to listen
25 carefully to the following possible witnesses because I

1 will ask you after I am done whether you are related by
2 blood or marriage to any of these witnesses or have close
3 friendships or any sort of business relationship with any
4 of these potential witnesses. Here are the possible
5 witnesses in this particular caese.

6 Trezz Foggie, Betty Fuller, Carlos Fuller, Lavario
7 Curenton, C-U-R-E-N-T-O-N; Calvin Goggins, G-O-G-G-I-N-S;
8 John Elliott Rhodes, Lorene Evans, Sharon D. Mack, Marlon
9 Higgenbotham, Bryan Adams, Kenny Kinsey, Michael Ward,
10 Toby Dillard, Nikki Perry Hughes, Jozetta Simpson, Ira
11 Parnell who I think is a SLED agent, is that right?

12 MR. MOWRY: Yes, sir.

13 THE COURT: Kathleen Amick Woodward who is also a
14 SLED agent.

15 MR. MOWRY: Yes, sir.

16 THE COURT: Maryann Boehm, B-O-E-H-M; Matt
17 Pennington, Mareno Foggie, Jason Nelson and Major Chris
18 Hudson. Carlos Fuller, Betty Fuller, Jacory Cannon,
19 J-A-C-O-R-Y Cannon, Corey Carter, Michelle Jefferson,
20 nicknamed Shelle, S-H-E-L-L-E Jefferson, Michelle
21 Jefferson; Valencia Jefferson, Latrece Jefferson,
22 Charlene Owens, Shayla Jenkins, Michael Jones, Fazio
23 Jones, F-A-Z-I-O Jones; Vanessa Spurgeon, Zachary Thomas,
24 Nathaniel Davenport, Sharon Mack, Lorene Evans, Cody
25 Booker, Donovan Payne, Ashford Simmons, Jacory Spurgeon,

1 Lavario Curenton and Jack Stoddard.

2 So again, ladies and gentlemen, is there any member
3 of the jury panel who is related by blood or marriage or
4 has any close, business, personal or familiar relationship
5 with any of those potential witnesses. If so please
6 stand. All right, you are juror number 121, Ms. Shell, is
7 that right?

8 JUROR: Yes.

9 THE COURT: Ms. Shell, you don't have to answer to
10 any more of my questions because you are not going to
11 serve on this case. Thank you very much for standing.

12 Yes ma'am, what is your name, please.

13 JUROR: Melissa Willingham.

14 THE COURT: Ms. Willingham, juror number 145 and
15 which of those witnesses do you know, Ms. Willingham?

16 JUROR: Donovan Payne is my first cousin and Corey
17 Carter is my first cousin.

18 THE COURT: Donovan Payne is your first cousin and
19 who else?

20 JUROR: Corey Carter.

21 THE COURT: Corey Carter. They are both your first
22 cousins?

23 JUROR: Yes.

24 THE COURT: How often do you see them, ma'am?

25 JUROR: Regular.

1 THE COURT: Fairly regular basis?

2 JUROR: Yes.

3 THE COURT: If they were to testify I assume that you
4 might feel a little uncomfortable, is that true?

5 JUROR: I know them.

6 THE COURT: Ms. Willingham, juror number 145, I
7 appreciate that information. I think I am going to decide
8 to not let you serve on this particular jury. Thank you,
9 you can have a seat. Juror number 145 will not serve.

10 Yes, ma'am. What is your name, please.

11 JUROR: Rhonda Davis.

12 THE COURT: Ms. Davis, juror number 32 and which of
13 those witnesses do you know?

14 JUROR: Toby Dillard.

15 THE COURT: Toby Dillard?

16 JUROR: Yes, sir.

17 THE COURT: And how do you know Mr. Dillard?

18 JUROR: His mother and my mother are first cousins.

19 THE COURT: His mother and your mother are first
20 cousins so y'all would be second or third or something
21 like that. Is that right?

22 JUROR: Yes, sir. It has been years since I have
23 seen him.

24 THE COURT: So you don't see him on a regular basis?

25 JUROR: No, sir.

1 THE COURT: If this witness were to testify, ma'am,
2 the fact, if he were to testify could you be fair to both
3 the State of South Carolina and the defendant in this
4 case?

5 JUROR: Yes, sir.

6 THE COURT: You are sure of that?

7 JUROR: Yes, sir.

8 THE COURT: All right. And what was your name again?

9 JUROR: Rhonda Davis.

10 THE COURT: Thank you very much, Ms. Davis. Juror
11 number 32 will serve. Anyone else need to respond to that
12 question? What is your name?

13 JUROR: Michael O'Sullivan.

14 THE COURT: Michael O'Sullivan. You know many of the
15 law enforcement people?

16 JUROR: I work hand and hand with them.

17 THE COURT: I assume that you talk to these folks on
18 a fairly regular basis?

19 JUROR: Yes, sir.

20 THE COURT: That might cause you to be a little
21 uncomfortable in this case. Is that right?

22 JUROR: I work hand and hand.

23 THE COURT: Because you work so closely I appreciate
24 that information. I am going to decide that maybe you
25 shouldn't serve on this jury. I appreciate that

1 information. Juror number 99 will not serve. Thank you
2 very much. Anyone else.

3 (No response.)

4 THE COURT: No one is standing. Is there any member
5 of the jury panel who has, who is or has previously been
6 employed by any state, local or federal law enforcement
7 authority as far as any private security guard or working
8 with any private security agency. Anyone who has
9 previously been employed by any state, local or federal
10 law enforcement authorities for any private security
11 companies. If so please stand.

12 (No response.)

13 THE COURT: No one is standing. Is there any member
14 of the jury panel who has a close family member or any
15 very close friends who have previously been employed by or
16 currently employed by any state, local or federal law
17 enforcement agencies or any private security agencies,
18 private security guard companies. If you have previously
19 responded and I have excused you you don't have to stand
20 again. Yes, ma'am.

21 JUROR: My son-n-law is a police officer.

22 THE COURT: What is your name?

23 JUROR: Anne Babb.

24 THE COURT: And where does your son work at?

25 JUROR: Blacksburg.

1 THE COURT: Blacksburg, is that in South Carolina?

2 JUROR: Just barely.

3 THE COURT: I assume the fact that your son is a law
4 enforcement officer that would not affect your ability to
5 be--

6 JUROR: My son-n-law.

7 THE COURT: Your son-n-law. I apologize. The fact
8 that your daughter's husband is working in law enforcement
9 that won't affect your ability to be fair and impartial?

10 JUROR: No.

11 THE COURT: Are you sure?

12 JUROR: Yes.

13 THE COURT: Thank you very much for that information.
14 Yes, sir.

15 JUROR: I have two brothers that are Laurens County
16 Deputies.

17 THE COURT: What is your name, please, sir?

18 JUROR: Greg Alexander.

19 THE COURT: Mr. Alexander, juror number 2. Mr.
20 Alexander, any of the witnesses that I called out?

21 JUROR: No, sir.

22 THE COURT: You say you have two brothers you say
23 that work with the sheriffs department?

24 JUROR: Yes, sir.

25 THE COURT: The fact that you have two brothers that

1 work for the sheriffs department, would that affect your
2 ability to be fair and impartial to both the State and the
3 defendant in this case?

4 JUROR: It would not affect me.

5 THE COURT: Are you quite certain of that?

6 JUROR: Yes, sir.

7 THE COURT: Thank you very much for that information,
8 Mr. Alexander. You can have a seat. Yes, ma'am.

9 JUROR: Frances Martin. My son was a police officer
10 in Easley.

11 THE COURT: You say he was a police officer. How
12 long has he no longer been employed in Easley.

13 JUROR: I would say about seven years.

14 THE COURT: Seven years. Juror number 86. Ms.
15 Martin, the fact that your son used to work for law
16 enforcement up in Easley, would that affect your ability
17 to be fair and impartial?

18 JUROR: No.

19 THE COURT: You can be fair and impartial to
20 everybody, both the State and the defendant, right?

21 JUROR: Yes.

22 THE COURT: Thank you very much, Ms. Martin. Yes
23 ma'am, in the back.

24 JUROR: My brother works for SLED.

25 THE COURT: What is your name?

1 JUROR: Patricia Reese.

2 THE COURT: Ms. Reese, juror number 112. Ms. Reese,
3 how long has your brother worked for SLED.

4 JUROR: Maybe ten years.

5 THE COURT: He wasn't one of the witnesses that I
6 called out was he, Ms. Reese?

7 JUROR: No.

8 THE COURT: The fact that your brother works at SLED,
9 would that affect your ability to be fair and impartial to
10 both the State and the defendant?

11 JUROR: No.

12 THE COURT: You are quite certain of that?

13 JUROR: Yes.

14 THE COURT: You can have a seat. Yes ma'am, what is
15 your name?

16 JUROR: Regina Bryson.

17 THE COURT: Ms. Bryson, juror number 19. Yes, Ms.
18 Bryson.

19 JUROR: I have a uncle who works for law enforcement.

20 THE COURT: And the uncle who works for law
21 enforcement, where does he work?

22 JUROR: Simpsonville.

23 THE COURT: Simpsonville?

24 JUROR: Yes, sir.

25 THE COURT: Ms. Bryson, the fact that you have this

1 relative who works in law enforcement, would that affect
2 your ability to be fair and impartial to both the State
3 and the defendant?

4 JUROR: No, sir.

5 THE COURT: Thank you very much, Ms. Bryson, you can
6 have a seat. Yes ma'am, what is your name?

7 JUROR: Norma Patterson.

8 THE COURT: Ms. Patterson, juror number 102. Yes,
9 Ms. Patterson.

10 JUROR: My husband works as a first responder and a
11 firefighter.

12 THE COURT: The fact that your husband is a first
13 responder and works for a firefighter, would that affect
14 your ability to be fair to all concerned?

15 JUROR: No, sir.

16 THE COURT: Thank you very much, Ms. Patterson, you
17 can have a seat. Yes, ma'am.

18 JUROR: Katherine Copeland, I have a brother who
19 works for Laurens City Police.

20 THE COURT: Ms. Copeland, juror number 29. You say
21 you have a brother who works for Laurens City Police?

22 JUROR: Yes.

23 THE COURT: The fact that you have a brother that
24 works for Laurens City Police would that affect your
25 ability to be fair and impartial to all concerned?

1 JUROR: No, sir.

2 THE COURT: You are certain?

3 JUROR: Yes, sir.

4 THE COURT: Thank you very much, Ms. Copeland, you
5 can have a seat. No one else is standing. Is there any
6 member of the jury panel who has any close relative or
7 friend, close friend who to your knowledge was ever a
8 victim of a violent crime. If so please stand. Any
9 member of the jury panel who has a friend, a close friend
10 or a close family member who to your knowledge has ever
11 been a victim of a violent crime. If so please stand.
12 Yes, ma'am.

13 JUROR: Amy Gregory.

14 THE COURT: Ms. Gregory, juror number 101. Yes
15 ma'am, how does that question apply to you, ma'am?

16 JUROR: My uncle and aunt who were robbed.

17 THE COURT: How long was this, Ms. Gregory?

18 JUROR: Five years ago.

19 THE COURT: Five years ago. The fact that you have
20 this experience or that your family had this experience
21 would that affect your ability to be fair and impartial in
22 this particular case or could affect your ability to be
23 fair and impartial?

24 JUROR: Yes.

25 THE COURT: It could?

1 JUROR: Yes.

2 THE COURT: I appreciate that information, Ms.

3 Gregory. You won't serve on this jury. Okay. And this
4 is juror number 101. Yes ma'am, what is your name again?

5 JUROR: Bryson.

6 THE COURT: Ms. Bryson, juror number 19. Yes ma'am,
7 Ms. Bryson.

8 JUROR: I had a uncle that was killed back in 1990.

9 THE COURT: In 1990, about 22 years ago.

10 JUROR: Yes.

11 THE COURT: And you were probably about 15 at the
12 time, is that right, Mr. Bryson?

13 JUROR: Yes, sir.

14 THE COURT: Ms. Bryson, the fact that this happened
15 to your uncle would it affect your ability to be fair and
16 impartial or could it affect your ability to be fair and
17 impartial in this case?

18 JUROR: No, sir.

19 THE COURT: You are certain of that?

20 JUROR: Yes, sir.

21 THE COURT: Anyone else. Anyone else who has a close
22 friend or family member, close family member who was a
23 victim of a violent crime. If so please stand. Yes,
24 ma'am.

25 JUROR: Cynthia Hill.

1 THE COURT: Ms. Hill, juror number 63. How does that
2 question apply to you, Ms. Hill?

3 JUROR: My father was killed.

4 THE COURT: I can tell you are a little bit emotional
5 about this, Ms. Hill. Would that affect your ability to
6 be fair and impartial?

7 JUROR: No.

8 THE COURT: Are you sure, you are shaking your head
9 no but I see that you are emotional about this. How long
10 was this, Ms. Hill?

11 JUROR: Two years ago.

12 THE COURT: Two years ago. Is the case still
13 pending, Ms. Hill?

14 JUROR: They don't know who killed him.

15 THE COURT: They haven't developed a suspect yet?

16 JUROR: No.

17 THE COURT: Ms. Hill, you tell me that you can remain
18 fair and impartial.

19 JUROR: Okay.

20 THE COURT: Ms. Hill, understand I have no reason to
21 believe otherwise that you can be fair and impartial and I
22 think that you probably could. But it is obvious to me
23 that this recent event happened to you is maybe a little
24 bit fresh to you and I don't want you to have to go
25 through too much. So I am going to let you not serve on

1 this particular jury. Okay, Ms. Hill, because I can tell
2 you are a little bit unsettled. I apologize for having to
3 ask the question, Ms. Hill. Is there any member of the
4 jury panel who has not previously responded, who has read,
5 seen or heard anything at all about this particular case.
6 Again, it is alleged that this took place at Stoddard
7 Trailer Park back in 2008 on May the 16th of 2008. Is
8 there any member of the jury panel who believes they have
9 read, seen or heard anything about this particular case.
10 If so please stand. Sir, if you will come forward please.
11 I am going to talk to you briefly down here. What is your
12 name?

13 JUROR: 115, Earnest Roach.

14 THE COURT: Yes, sir.

15 JUROR: I remember and I heard about it at meetings
16 but I have heard a lot of the guys down there talking
17 about the event, when it happened over there. But I have
18 heard them talk about it.

19 THE COURT: When you say you have heard a lot of the
20 guys talking about it.

21 JUROR: Guys down at Gray Court shortly after it
22 happened. But I haven't really heard any more since then.

23 THE COURT: But that was four years ago.

24 JUROR: Yes, sir.

25 THE COURT: Do you recall specifically what you

1 heard.

2 JUROR: Well, it was, some of them were bragging
3 about the shooting and there was a lot of allegations of
4 what had happened. They were talking back and forth.

5 THE COURT: Okay.

6 JUROR: But I haven't heard any more since then.

7 THE COURT: So you don't have much in the way of a
8 specific recollection of anything that you heard?

9 JUROR: No, sir.

10 THE COURT: Okay. Mr. Roach, anything that you have
11 heard when you went to on that particular day can you set
12 that aside and judge this case solely on what comes
13 through on the testimony or evidence?

14 JUROR: Yes sir, I can.

15 THE COURT: Are you quite certain of that?

16 JUROR: Yes, sir.

17 THE COURT: Okay. Have you formed or expressed any
18 opinion concerning any issue involved in this case?

19 JUROR: No, I haven't.

20 THE COURT: You are certain about that?

21 JUROR: Yes, sir.

22 THE COURT: Okay. Thank you for that information.
23 Juror number 115 is going to stay with us on this case.
24 Is there any matter or anything at all, no matter how
25 significant, no matter how little that anyone needs to

1 bring to the Court's attention which might affect any
2 member of the jury panel's ability to be fair and
3 impartial in this particular case and treat both sides
4 equally. Is there anything, any concerns, any issues, any
5 hesitancy on the part of any juror about being able to be
6 a fair and impartial juror for both the State and the
7 defendant in this case. If so please stand.

8 (No response.)

9 THE COURT: No one is standing. Additional voir dire
10 from the State?

11 MR. MOWRY: Nothing from the State, Your Honor.

12 THE COURT: From the defense?

13 MR. ROBINSON: No sir, Your Honor.

14 THE COURT: Very good. Strikes will be five and ten.
15 We will use one alternate. Ladies and gentlemen, the way
16 that we select a jury in general sessions court is a
17 little bit different than how we select a jury in civil
18 court. The way that we do it here is if your name is
19 called what I would ask you to do is to bring with you any
20 personal belongings that you may have brought to the court
21 house today, a purse or a book or a binder of whatever.
22 If your name is called what I need you to do is come
23 forward and stand kind of right in front of me and then
24 turn around and face towards the back of the courtroom.
25 At that point and time the State will have an opportunity

1 to either seat or to strike you. If the State opts to
2 seat you the defendant will have an opportunity to either
3 seat you or strike you. I am going to tell you what I
4 tell every jury that I pick. If you happen to be struck
5 by either side for whatever reason do not take offense at
6 it because every lawyer has a different way of selecting a
7 jury and it could be something as simple as the clothes
8 that you have on today. Don't take any offense if you are
9 not asked to serve on this particular jury. All right.
10 Madam Clerk, give us a jury, please.

11 CLERK OF COURT: Juror number 100, Will J. Owings,
12 Jr. What says the State?

13 MR. MOWRY: Present the juror.

14 CLERK OF COURT: What says the defense?

15 MR. ROBINSON: Please excuse this juror.

16 CLERK OF COURT: Number 29, Katherine M. Copeland.

17 What says the State?

18 MR. MOWRY: Present Ms. Copeland.

19 CLERK OF COURT: What says the defense?

20 MR. ROBINSON: Excuse this juror.

21 CLERK OF COURT: Juror number 92, Sandra N. Miller.

22 What says the State?

23 MR. MOWRY: Present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. ROBINSON: Please excuse this juror from the

1 trial of this case.

2 CLERK OF COURT: Number 50, Michelle O. Gibbs. What
3 says the State?

4 MR. MOWRY: Present the juror.

5 CLERK OF COURT: What says the defense?

6 MR. ROBINSON: Please seat this juror.

7 CLERK OF COURT: Number 131, Henrietta C. Szymanski.
8 What says the State?

9 MR. MOWRY: Present the juror.

10 CLERK OF COURT: What says the defense?

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

13 CLERK OF COURT: Juror number 136, Rebecca H. Wall.
14 What says the State?

15 MR. MOWRY: Please present Ms. Wall.

16 CLERK OF COURT: What says the defense?

17 MR. ROBINSON: Please seat this juror.

18 CLERK OF COURT: Juror number 58, Franklin E. Harmon,
19 III. What says the State?

20 MR. MOWRY: Please present Mr. Harmon.

21 CLERK OF COURT: What says the defense?

22 MR. ROBINSON: Excuse this juror from the trial of
23 this case.

24 CLERK OF COURT: Juror number 65, Elizabeth P.
25 Horvath. What says the State?

1 MR. MOWRY: Please present Ms. Horvath.

2 CLERK OF COURT: What says the defense?

3 MR. ROBINSON: Excuse this juror.

4 CLERK OF COURT: Juror number 2, Greg Alexander.

5 What says the State?

6 MR. MOWRY: Please present Mr. Alexander.

7 CLERK OF COURT: What says the defense?

8 MR. ROBINSON: Please excuse this juror.

9 THE COURT: Juror number 54, Jasqueline O. Greene.

10 What says the State?

11 MR. MOWRY: Please excuse this juror from this trial.

12 CLERK OF COURT: Juror number 98, Kristina Oakley

13 Norris. What says the State?

14 MR. MOWRY: Please present the juror.

15 CLERK OF COURT: What says the defense?

16 MR. ROBINSON: Please seat this juror.

17 CLERK OF COURT: Juror number 93, Sandra S. Moore.

18 What says the State?

19 MR. MOWRY: Please present the juror.

20 MR. ROBINSON: Please seat this juror.

21 THE COURT: Hold on just one second. The juror has

22 asked for a moment to speak to me. I am going to step

23 down, you are welcome to come down and join me.

24 (Whereupon, a bench conference was held with a juror

25 in the presence of the jury panel but out of the

1 hearing of the jury panel.)

2 THE COURT: Ms. Moore won't be serving on this jury.

3 CLERK OF COURT: Juror number 66, Kimberly D. Hughes.

4 What says the State?

5 MR. MOWRY: Excuse this juror from this trial.

6 CLERK OF COURT: Juror number 112, Patricia B. Reese.

7 What says the State?

8 MR. MOWRY: Please present Ms. Reese.

9 CLERK OF COURT: What says the defense.

10 MR. ROBINSON: Please excuse this juror.

11 CLERK OF COURT: Juror number 1, Katherine J.

12 Addison. What says the State?

13 MR. MOWRY: Please present Ms. Addison.

14 CLERK OF COURT: What says the defense?

15 MR. ROBINSON: Please seat the juror.

16 CLERK OF COURT: Number 85, Lisa B. Manley. What

17 says the State?

18 MR. MOWRY: Please present Ms. Manley.

19 CLERK OF COURT: What says the defense?

20 MR. ROBINSON: Please seat the juror.

21 CLERK OF COURT: Juror number 105, Michael A.

22 Pennington. What says the State?

23 MR. MOWRY: Please present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. ROBINSON: Please seat the juror.

1 CLERK OF COURT: Juror number 32, Rhonda J. Davis.

2 What says the State?

3 MR. MOWRY: Please present the juror.

4 CLERK OF COURT: What says the defense?

5 MR. ROBINSON: Please seat this juror.

6 CLERK OF COURT: Juror number 19, Regina S. Bryson.

7 What says the State?

8 MR. MOWRY: Please present Ms. Bryson.

9 CLERK OF COURT: What says the defense?

10 MR. ROBINSON: Please seat this juror.

11 CLERK OF COURT: Juror number 10, Elizabeth A. Bell.

12 What says the State?

13 MR. MOWRY: Please present the juror.

14 CLERK OF COURT: What says the defense?

15 MR. ROBINSON: Please seat this juror.

16 CLERK OF COURT: Juror number 56, Mary K. Griffin.

17 What says the State?

18 MR. MOWRY: Please present the juror.

19 CLERK OF COURT: What says the defense?

20 MR. ROBINSON: Please seat this juror.

21 CLERK OF COURT: Juror number 45, Charles D. Gann.

22 What says the State?

23 MR. MOWRY: Please present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. ROBINSON: Please seat this juror.

1 CLERK OF COURT: Juror number 69, Leann F. Iacuone.

2 What says the State?

3 MR. MOWRY: Please present the juror.

4 CLERK OF COURT: What says the defense?

5 MR. ROBINSON: Please seat this juror.

6 THE COURT: Gentlemen; we are going to pick one
7 alternate. Strikes will be one and two.

8 CLERK OF COURT: Alternant, juror number 22, Connie
9 N. Burgess. What says the State?

10 MR. MOWRY: Please present the juror.

11 CLERK OF COURT: What says the defense?

12 MR. ROBINSON: Please seat this juror.

13 THE COURT: Gentlemen, any issues concerning the
14 composition of the selection of the jury from the State?

15 MR. MOWRY: Nothing from the State, Your Honor.

16 THE COURT: From the defense?

17 MR. ROBINSON: Nothing.

18 THE COURT: Very good. Ladies and gentlemen of the
19 jury panel that have been selected on this jury, if you
20 will adjourn for just a brief moment. I am going to have
21 you back in here probably in about five minutes and we
22 will begin at that particular point and time. Don't
23 discuss this case yet, you will hear me say this several
24 times during the course of the trial. Don't talk about
25 this case yet and that should be incredibly easy for you

1 because you know absolutely nothing about this case at
2 this particular point and time. So with that adjourn to
3 your jury room.

4 (Whereupon, the jury was excused from open court.)

5 THE COURT: Let the record reflect the jury is out.
6 Ladies and gentlemen of the jury panel, if you were not
7 selected on this case congratulations, go out and buy a
8 lottery ticket. I appreciate y'all coming in here this
9 morning. I will tell you that you will get a check from
10 our Clerk of Court to compensate you. It doesn't
11 compensate you enough for just the time that we have taken
12 from you this morning, but this little bit of money that I
13 hope you will promptly blow in one particular place, it
14 has been said ladies and gentlemen, that aside from
15 serving your country in times of war there is no greater
16 service that a citizen can give to his State or to his
17 Nation than to serve on a jury. And I agree with that
18 one-hundred percent. Even though you weren't selected on
19 this particular jury understand that the fact that you
20 came in here willing to do your duty it is significant.
21 Nowadays a lot of people talk about all the great rights
22 that we enjoy as citizens, the right to free speech,
23 things of that nature. Nobody talks about the
24 corresponding obligations like jury duty, military service
25 or paying taxes. With every right comes a responsibility

1 and you fulfilled yours this week. By fulfilling it this
2 week you also get a free year get out of jury service free
3 card. If you were to be summoned for jury duty in this
4 court in the next three years you can call the Clerk of
5 Court and let her know that in June of 2012 you were
6 summoned for jury duty and you would prefer not to have to
7 do this again. That does it for me, I want to thank you
8 for coming in here. The Solicitor says we have enough
9 work to do once we finish this case. So you are done for
10 the week. You are excused.

11 (Whereupon, the jury panel was excused from open
12 court at approximately 12:25 p.m.)

13 THE COURT: We will take a brief five minute break
14 and we will give them instructions, we will break for
15 lunch and resume around 2:00 o'clock with openings and
16 jump right in if that is okay with you gentlemen.

17 MR. MOWRY: That will be fine, Your Honor.

18 (Whereupon, a short break was taken.)

19 THE COURT: We will go back on the record. The
20 defendant is present with Mr. Robinson. Anything before I
21 bring the jury out from the State?

22 MR. MOWRY: Nothing from the State, Your Honor.

23 THE COURT: Mr. Robinson?

24 MR. ROBINSON: Your Honor, I just have a motion to
25 sequester the witnesses. I can do that after you excuse

1 the jury if you want me to.

2 THE COURT: Let me go ahead, if it is okay with you,
3 we will take up motions after I give them the preliminary
4 charge and take up motions at that time. Let's have the
5 jury back in.

6 (Whereupon, the jury came into open court at
7 approximately 12:35 p.m.)

8 THE COURT: Let the record reflect that the jury is
9 back. Ladies and gentlemen of the jury, I am going to
10 appoint Ms. Addison as our Foreperson of the jury.
11 Basically, Ms. Addison, your vote will not count any more
12 or any less than the other jurors vote. Your job would be
13 merely to preside over the deliberations and as the jury
14 spokesperson during court. And if there is any need for
15 the jury to communicate with me you will be the one
16 responsible for that. Your primary job is just to make
17 sure as Foreperson is to allow every juror to have their
18 say in this case. And when we come back from lunch I will
19 ask you to sit where the lady in the peach top is sitting.
20 The rest of you can feel free to move about as you need to
21 with the exception of Ms. Burgess. You are our alternate.
22 If you want to stay in that seat that is fine. I need you
23 two to stay in those two seats throughout the rest of the
24 trial. Usually the acoustics in here is pretty good but
25 if you should have any trouble hearing any of the

1 testimony throughout the trial just raise your hand or try
2 to get my attention somehow and I will ask the lawyers to
3 speak up and the witnesses to speak up. Now, ladies and
4 gentlemen of the jury, we are about to start the case of
5 the State of South Carolina versus Stakren Tyrise
6 Jefferson. And before we begin the trial I want to let
7 you know that this trial is probably going to be a little
8 bit different from what you see on trials on TV and what
9 you have read about in books or have seen about in the
10 movies. From what you experience watching trials on TV or
11 reading about them in books you may have come to believe
12 that trials are often filled with drama and emotion and it
13 is all wrapped up neatly within one hour. And certainly
14 during the course of trials sometimes we do see intense
15 drama but more often not. The cases are not neatly
16 wrapped up in an hour and more often than not cases take a
17 good bit of time to try. And the reason for this, ladies
18 and gentlemen, is our primary purpose today is to search
19 for the truth. Sometimes doing that takes a long time, it
20 is a time consuming process and so I regret if this case,
21 I guarantee it is going to last more than an hour. It is
22 probably going to last at least a couple of days. I want
23 to thank you for your service here today and your service
24 to the justice system of South Carolina. In just a moment
25 I am going to ask you stand up so that the Clerk can give

1 each of you your oath to serve as jurors in this case. So
2 if you will just stand where you are and raise your right
3 hand so the Clerk of Court can administer your oath to
4 you. Madam Clerk.

5 (Whereupon, the jury was sworn at approximately 12:40
6 p.m.)

7 THE COURT: Thank you very much. Let the record
8 reflect that all twelve jurors did take the oath. Now,
9 ladies and gentlemen, what I am saying to you now is
10 intended to serve as an introduction to the trial of this
11 case. And these remarks are not a charge on the law that
12 applies in this particular case. I will charge you on the
13 law that applies at the conclusion of the trial and before
14 you retire to consider your verdict. Again, this is just
15 an introduction or an explanation of the procedure that we
16 are going to use so that you will better understand what
17 is going on as we proceed. Now in this case, ladies and
18 gentlemen, Mr. Jefferson is charged by an indictment filed
19 in this court with the crime of murder. The elements of
20 that crime I will explain at a later point. Again, ladies
21 and gentlemen, an indictment is simply the charge by which
22 a case is brought in this court. And it is not in any
23 sense evidence of any of the allegations contained in the
24 indictment. Again, this is merely a piece of paper, it is
25 nothing more, it is an allegation against the defendant.

1 And in this case, ladies and gentlemen, Mr. Jefferson has
2 plead not guilty to this indictment. The State therefore
3 has the burden of each and every one of the elements of
4 the indictment beyond a reasonable doubt and it will be
5 your duty, ladies and gentlemen, to decide whether the
6 State has met that burden of proof. Your purpose as
7 jurors is to find and determine the facts. You are the
8 sole judges of the facts so if at any time I make any
9 comment concerning the facts you must disregard my
10 comment. You must determine the facts from the testimony
11 you hear and the other evidence which is introduced into
12 court. It is up to you to determine the inferences which
13 you feel may be properly drawn from the evidence
14 presented. Now, ladies and gentlemen, it is especially
15 important that you perform your duty of determining the
16 facts diligently and conscientiously because ordinarily
17 there is no way to correct an erroneous determination of
18 facts by a trial jury. Ladies and gentlemen, on the other
19 hand and with equal emphasis the same law that makes you
20 the judge of the facts of the case makes me the Judge of
21 the law of the case. The law is given by the Court as the
22 only law that you may consider. You must accept it and
23 follow it even though you may disagree with it. Again, I
24 am not legally permitted to tell you what the facts are
25 and you cannot disagree with me similarly about what the

1 law is or what the law ought to be. Your job will be to
2 take the law as I give it to you and apply it to the facts
3 that you find and the testimony of the witnesses as well
4 as any other evidence that is produced into the record.
5 After doing that you will render your verdict, a true and
6 just verdict under your oath you took just a few moments
7 ago. Now, ladies and gentlemen, until I advise you to
8 begin your deliberations you must not discuss this case
9 with anyone including your fellow jurors, friends, family
10 members or anyone involved in this case. After the case
11 is submitted to you you must discuss it only in the jury
12 room in the presence of all of your fellow jurors. Again,
13 the lawyers and the parties in this case have been advised
14 that they are to have no contact with you during the
15 course of the trial. So they are not going to talk to you
16 at all. So if you happen to see any of the lawyers or any
17 of the parties coming and going from the court house and
18 they don't even say hello or they don't even smile and
19 waive at you again they are not being rude, they are
20 simply following my instructions to have no contact with
21 you during the trial. Now, ladies and gentlemen, during
22 the trial please do not read, listen to or watch anything
23 on television in the way of news reports about this case.
24 I don't anticipate that there is going to be any press
25 here but I will tell you that my admonition to you not to

1 read or hear anything about the case also includes any
2 sort of internet search. And I am not naive, there very
3 well could be something out there on the internet about
4 this case. I have not checked myself but it very well
5 could exist out there. There have been situations that
6 which have arisen throughout the country recently where
7 jurors who are picked on a case decided to go home that
8 night and just google the name of the victim or google the
9 name of the defendant and they ended up coming up with
10 some information of some old news report that had been
11 archived online. I am telling you right now that that
12 will be a violation of the oath that you have just sworn
13 to. And perhaps more importantly you personally, I will
14 tell you that every Judge who has been confronted with the
15 situation and the Judge had become aware of that the juror
16 had done this, the juror was not very happy for the next
17 couple of days and weeks if you get my drift. I have
18 never been put in the position of having to enforce or
19 discipline a juror of what I just explained to you and I
20 pray that I never will. So please when you go home
21 tonight no internet searches. And the reason for this,
22 ladies and gentlemen, is quite simple. The rules of
23 evidence and the rules of procedure for this Court are
24 designed to try and give you the best information
25 possible. And sometimes when something is printed on

1 paper or sometimes when something is put on line there is
2 nobody checking behind them, there is nobody verifying
3 that the information put out there is true or accurate.
4 And that is the reason why a lot of the information that
5 you see online is simply garbage and it can't be trusted.
6 The testimony, the way it is presented in this court is
7 designed to try and give you the best and most truthful
8 and accurate information possible. So that is the reason
9 that it is very important that you not read anything about
10 this case and that you maintain your objectivity
11 throughout the course of the trial. It is very important
12 that you keep an open mind and not decide any issue in
13 this case until all the evidence has been presented, the
14 parties have made their closing statements and you have
15 heard my charge to you on the law. It is your solemn
16 responsibility to determine the guilt or the innocence of
17 the defendant and your verdict must be based solely upon
18 the evidence that is presented to you during this trial
19 and the law as I instruct you at the close of the trial.
20 Now after lunch, ladies and gentlemen, we are going to
21 resume. The Solicitor will make what is called its
22 opening statement which the Solicitor will explain to you
23 what he believes the issues are in the case and what he
24 asserts the issues are. The attorney for the defendant,
25 Mr. Robinson, will also have an opportunity to make an

1 opening statement if he chooses to do so although he is
2 not required to do so. I will instruct you what the
3 lawyers tell you during their opening statements is not
4 evidence in this case. It is only their contention as to
5 what the evidence will demonstrate. Again, ladies and
6 gentlemen, the evidence in this case will be presented to
7 you from the testimony of witnesses from this witness
8 stand as well as any other exhibits which are introduced
9 during the course of the trial. From time to time, ladies
10 and gentlemen, you may hear one of the lawyers say
11 something, Your Honor, I object or Your Honor, I have an
12 issue of law for the Court. Sometimes I, myself, might
13 find it necessary to ask that you leave us here in the
14 courtroom and I will excuse you to go back in the jury
15 room for a few minutes. The reason I am doing this,
16 ladies and gentlemen, is that very often in ruling on
17 issues of law it is necessary for me to make a comment on
18 or state what facts have been presented in evidence.
19 Because you are the judges of the facts and I am the Judge
20 of the law I don't want anything that I say, ruling on the
21 admissibility of evidence to have any effect on you
22 whatsoever when you determine what the true facts in this
23 case are. So if during those times that I have to pick up
24 an issue of law I will often ask that you just go back in
25 the jury room for a few minutes while I discuss that issue

1 of law with the attorneys so that anything I say in making
2 my ruling will have no effect on you or your determination
3 on what the facts are. Now, ladies and gentlemen, in
4 determining what the facts are in this case you must by
5 definition decide whether or not the testimony of
6 witnesses is believable or not. It will be my
7 responsibility to rule as a matter of law whether certain
8 testimony is admissible or not. But once the testimony is
9 admitted whether or not you choose to believe it is solely
10 for you to determine. In deciding whether to believe a
11 witness, ladies and gentlemen, you have the right to
12 consider the interest of any witness, the biased of any
13 witness and the prejudice of any witness, the opportunity
14 for the witness to have seen the matters and things about
15 which the witness testifies as well as the way the witness
16 acts on the witness stand. You have a right to consider
17 anything which is in the record in this case to help you
18 evaluate the testimony of the witnesses. That means that
19 your duty is to pay close attention to them, to observe
20 them, listen to them and pay close attention to the
21 attorneys in the court, to try to prevent your thoughts
22 from wondering during the course of this trial so at the
23 end of all of the testimony and after the arguments of
24 counsel and my charge to you on the law you will be in a
25 position to determine what the true facts are and apply

1 the law to those facts and thus render a true and just
2 verdict under the oath that you have just made. Now in
3 order to preserve every ones rights before we take a break
4 for lunch I will give the parties an opportunity to object
5 to anything that I have said during my opening remarks to
6 you. Any objections from the State, Mr. Mowry?

7 MR. MOWRY: None, Your Honor.

8 THE COURT: From the defense?

9 MR. ROBINSON: No, Your Honor.

10 THE COURT: Very good. Ladies and gentlemen, we are
11 going to go ahead and take a break for lunch. I am going
12 to ask that you be back in the jury room at 2:15. At that
13 point we will proceed with the trial of the case. If you
14 could be back at 2:15. If you happen to have a cell phone
15 with you or whatever just leave it in the car if you will,
16 please. That is by order of our Chief Justice, she has
17 ordered that all jurors are not to have cell phones in the
18 jury room and she has ordered me to enforce that and all
19 of the other 46 Circuit Judges. And so since my boss is
20 ordering me to do something like any good employee I am
21 going to follow her orders. Make sure you leave the cell
22 phone in the car. With that if you go to lunch with one
23 of your fellow jurors or friend or family member don't
24 discuss the case. Again we have not had the first witness
25 testify. It will be improper to allow your decision in

1 this case to be influenced by anything somebody might say
2 to you. So, if you go to lunch with a fellow juror or
3 friend or family member talk about what great weather we
4 had this weekend, talk about what great weather we are
5 going to have all week, talk about USC's opportunities for
6 chances tonight at 9:00 o'clock on ESPN. You can talk
7 about anything other than this case. With that you are
8 excused for lunch and be back in the jury room at 2:15.
9 Thank you very much.

10 (Whereupon, the jury was excused from open court for
11 a lunch break.)

12 THE COURT: The record should reflect that the jury
13 is out. Mr. Robinson, you had some motions, sir?

14 MR. ROBINSON: May it please the Court.

15 THE COURT: Please.

16 MR. ROBINSON: Your Honor, I would ask, I kept my
17 notes from the last trial we had in December. So I think
18 that perhaps any witnesses would be sequestered in this
19 case.

20 THE COURT: I agreed with that motion last time so
21 the same rules apply this time.

22 MR. MOWRY: Yes, sir. With one exception, my chief
23 investigator is Mareno Foggie and I would ask that he be
24 allowed to stay in the courtroom. And the victim's mother
25 is also, I do not intend to call her as a witness, she is

1 also present.

2 THE COURT: Certainly.

3 MR. MOWRY: And clearly the victim rights in this
4 State would require that she be allowed to be in here.

5 THE COURT: Very good. Certainly she or any other
6 member of the family that you don't anticipate testifying
7 they are more than welcome to stay here as well as the
8 officer. Mr. Robinson.

9 MR. ROBINSON: Your Honor, as well, this will be a
10 motion in limine in terms of, we will ask that there be no
11 mention of any drug charges.

12 MR. MOWRY: Didn't do it last time and won't do it
13 this time, Your Honor.

14 THE COURT: Very good.

15 MR. ROBINSON: And especially the investigator to
16 talk about that or anything like that.

17 MR. MOWRY: And I will simply respond, Your Honor, by
18 saying Investigator Foggie knew about it last time and
19 last time he did not make any mention of it whatsoever. I
20 do not believe that would be an appropriate thing to do
21 and we will not do that.

22 THE COURT: Very good. Just make sure, I think that
23 there were a couple of other law enforcement witnesses. I
24 don't know that they have any independent knowledge of any
25 pending charges against Mr. Jefferson, just double check

1 and we tried it clean last time. I just don't want to see
2 something pop up.

3 MR. MOWRY: Yes, sir.

4 MR. ROBINSON: As well, Your Honor, since this is a
5 retrial of a previous trial I ask that any witnesses be
6 admonished not to talk about the previous trial.

7 THE COURT: And that was something, because I know I
8 think you gentlemen have, I assume that each of you have
9 perhaps obtained portions of the trial transcript from the
10 previous hearing for possibly impeachment purposes. The
11 way that I have done that before is, we did a retrial on
12 the homicide case in Greenwood about a year ago. And any
13 impeachment that was done with the prior transcription or
14 from the prior trial I think we referred to it as previous
15 proceedings or prior proceedings. Isn't it true witness X
16 that in a previous proceeding you testified under oath as
17 to Y and Z. Would that be acceptable to everybody if
18 impeachment were to become necessary?

19 MR. MOWRY: Your Honor, I have a transcript of only
20 one witness. The other civilian witnesses that I intend
21 to call all made written statements and so I would use
22 those as impeachment, not the trial, prior trial testimony
23 except in that one case.

24 THE COURT: Is that okay with you?

25 MR. ROBINSON: It is, it is, Your Honor.

1 THE COURT: If need be, if impeachment is necessary
2 don't refer to it as a previous trial. Let's just refer
3 to it as a prior proceedings or prior hearings, something
4 like that.

5 MR. ROBINSON: Your Honor, we do have one matter.
6 There has been some changes in terms of the NCIC's main
7 witnesses which are the, the gentlemen that made
8 statements in this case. Their charges have dropped
9 completely.

10 MR. MOWRY: I am not quite sure what he is referring
11 to.

12 MR. ROBINSON: I would ask for any updated NCIC.

13 THE COURT: The two citizen witnesses, can y'all grab
14 a new records check.

15 MR. MOWRY: Those would be defense witnesses, Your
16 Honor. And charges against them have been dismissed.
17 They were basically for harboring a fugitive.

18 THE COURT: Are we okay.

19 MR. ROBINSON: That is fine.

20 MR. MOWRY: And just to make sure, Your Honor, I want
21 to put on the record what we have discussed in chambers on
22 one matter. We have a substantial number of exhibits.
23 The court reporter and I have taken a look at them and
24 they are all marked and there is no date or anything like
25 that on there. I don't believe Mr. Robinson has any

1 objection to us as going ahead and using those former
2 numbers and all of these items that have been previously
3 admitted would be admitted again. I note chain of custody
4 as I gather. Is that correct?

5 MR. ROBINSON: Yes, no objection.

6 MR. MOWRY: In those cases, Your Honor, that would
7 cut out about three of our witnesses that would be purely
8 evidence witnesses. So we would be able to streamline the
9 trial to a small degree at any rate.

10 THE COURT: Chain witnesses you mean?

11 MR. MOWRY: Yes, sir.

12 THE COURT: And are y'all going to be able to
13 stipulate to the exhibits or some of the exhibits because
14 it might assist my court reporter ahead of time if there
15 are certain things that just are not an issue if y'all can
16 go ahead and agree as to what those are and just kind of
17 give me a list when we come back. Then I can tell the
18 jury at the getgo that the exhibits have already been
19 marked and that the State and the defense have agreed to
20 exhibits 2, 3, 5, 7, 9, whatever the case may be.

21 MR. MOWRY: As far as that is concerned, Your Honor,
22 if Mr. Robinson has no objection I don't plan to offer
23 anything new. This is going to be not completely a rehash
24 but it is going to be the same physical evidence that we
25 had last time, the same physical and photographic

1 evidence. So if there is no objection we will just put
2 those up.

3 THE COURT: I meant to grab my notes from the last
4 trial before I left the office this morning and I
5 completely forgot to do that. But I don't recall you have
6 a bunch of in the way of issue over many of the exhibits.
7 If you want to mull over that then you can just tell me
8 after lunch.

9 MR. ROBINSON: That will be fine.

10 THE COURT: Did you have any other motions?

11 MR. ROBINSON: We will come back early and I have got
12 some identification exhibits.

13 THE COURT: Okay.

14 MR. ROBINSON: As far as prior statement. That is as
15 far as my motion, Your Honor.

16 THE COURT: Madam Court Reporter, are you going to be
17 able to keep track of all exhibits even though they were
18 previously marked and what is in and what is out.

19 COURT REPORTER: I don't have a list of them but I
20 will write them down as they come in and you admit them.

21 MR. MOWRY: I will create one in the next hour, Your
22 Honor.

23 THE COURT: That will be nice. Anything else before
24 we take a break for lunch.

25 MR. MOWRY: Nothing from the State, Your Honor.

1 MR. ROBINSON: No, Your Honor.

2 THE COURT: Your client stayed out on bond last time.

3 MR. ROBINSON: Yes, he did.

4 THE COURT: The same rules apply. Mr. Jefferson, we
5 have already been through this once before in December,
6 November of last year. Do you understand that if at any
7 point or time you fail to show up for this trial it will
8 continue in your absence. Do you understand that?

9 MR. JEFFERSON: Yes, sir.

10 THE COURT: And obviously I know that Mr. Robinson
11 wants you here because it just doesn't look good in front
12 of the jury for the defendant not to show up any time he
13 is on trial so it would probably be to your advantage to
14 keep coming in. Do you understand that, sir?

15 MR. JEFFERSON: Yes, sir.

16 THE COURT: We will be at ease until around 2:15
17 then.

18 (Whereupon, a lunch break was taken.)

19 THE COURT: Anything before we bring the jury in.

20 MR. MOWRY: Your Honor, I made a list of 32 exhibits.
21 Actually number 1 was a photograph of the victim that we
22 used for identification purposes and I probably will do
23 that again. However, we have substituted for number 1, it
24 is going to be admitted into evidence, a blood trail
25 photograph. It just shows flags, it does not show blood

1 itself. Mr. Robinson has seen it and as I understand it
2 has stipulated to it. So I believe we are squared away on
3 that.

4 THE COURT: Is that correct, Mr. Robinson?

5 MR. ROBINSON: It is, Your Honor. Regarding the
6 picture of the victim in this case, I think we had the
7 same issue last time regarding why that wasn't put in,
8 what the purpose of it. We are all simply here for a
9 murder trial and the victim is deceased.

10 THE COURT: I believe that the way we handled this
11 last time was you showed it to the witness and the witness
12 confirmed that that was it but we did not introduce it
13 into evidence?

14 MR. MOWRY: That is correct, Your Honor.

15 THE COURT: Let's just use the same method this time.

16 MR. MOWRY: That being the case, Your Honor, I would
17 ask before we even get started this photograph just be
18 marked for State's exhibit 33 for identification purposes
19 only.

20 THE COURT: That way we can give it back to the
21 family after the trial. Very good.

22 MR. MOWRY: Your Honor, just a housekeeping matter, a
23 scheduling matter I guess. I talked about this with Mr.
24 Robinson, given our timeframe with opening statements I
25 have five civilian witnesses, four from the trailer park,

1 three that we contend are eyewitnesses, one that was an
2 eyewitness and then the mother of one of the eyewitnesses
3 that I would like to get to today. Past that it is law
4 enforcement and forensics almost exclusively. So if Your
5 Honor please, if we can get through those today I think
6 we would have done a pretty good days work.

7 THE COURT: Let's see how we progress and hope we can
8 get through. I have left something in the back and I will
9 be right back in two minutes.

10 (Whereupon, a short break was taken.)

11 THE COURT: Mr. Robinson, I have been given a list of
12 32 exhibits. Have you had a chance to review this list,
13 are you okay with these 32?

14 MR. ROBINSON: I am, Your Honor. I may have some
15 objections that may arise at some point but that is the
16 list of exhibits.

17 THE COURT: So we are not in agreement that these are
18 in evidence at this point and time. We are or we are not?

19 MR. ROBINSON: I believe those are the exhibits. I
20 don't have the luxury of having the exhibits that they had
21 last time so I want to kind of, if he is saying that these
22 are the exhibits that they had, that these are the same
23 exhibits that they had last time I have no problem with
24 that.

25 MR. MOWRY: They are, Your Honor. I got the numbers

1 for the exhibits off of the sticker that had been applied
2 to them. The photographs and everything.

3 THE COURT: All right. Mr. Robinson, do you want to
4 just deal with them one by one as they come in or do you
5 need to look at them a little bit longer.

6 MR. ROBINSON: Since he is only going to go in with a
7 few different fact witnesses, maybe over the evening I can
8 look at them.

9 MR. MOWRY: Your Honor, this wouldn't take but a
10 minute if you want to go ahead and do this now.

11 THE COURT: Are you okay to do it now, Mr. Robinson,
12 or do you want to take a look at all of the exhibits?

13 MR. ROBINSON: I would like to see the exhibits
14 first.

15 THE COURT: We will go ahead and take about five
16 minutes because I can tell the jury that we have agreed,
17 we have got exhibits marked and in evidence, that will
18 make them happy.

19 (Whereupon, a short break was taken.)

20 THE COURT: In reviewing the exhibits are we in
21 agreement?

22 MR. ROBINSON: I believe based on what I have seen
23 they are the exact exhibits we used in the last trial. So
24 based on his statement to the Court that there are no more
25 exhibits other than these I am fine.

1 THE COURT: Very good. So 1 through 32 will be in
2 evidence. And 33 is the photo for identification.

3 (Whereupon, State's Exhibits 1 through 32 were
4 admitted into evidence.)

5 (Whereupon, State's Exhibit 33 was marked for
6 identification purposes only.)

7 MR. ROBINSON: And I have one issue. This is the
8 transcript that he got, in reviewing them I am at a loss
9 as to how this is relevant, how this is relevant to this
10 case. I don't, other than being hearsay I am not really
11 sure what the relevance is in this case and may eliminate
12 one witness.

13 MR. MOWRY: Not at all, Your Honor. She testified in
14 the last trial and as Your Honor might recall her
15 testimony involved a phone conversation she has with her
16 son, Trezz. Trezz Foggie, the State contends, was an eye
17 witness to the shooting. Detective Foggie was
18 interrogating him or interviewing him, I guess is a
19 better way to put it, since he was not suspected of a
20 crime but he was most reluctant to testify. So Ms. Mack
21 was called by her husband who is the step-father of Trezz,
22 he explained to her what was going on at which point she
23 said, let me talk to Trezz. And she, by her testimony,
24 says whatever you did, whatever you say you tell the truth
25 at which point almost immediately the witness ended up

1 giving a statement, a fairly detailed statement to
2 Detective Foggie. And she testified at the last trial, as
3 I said, the same objections were made last time if I
4 recall and I contend that his reaction after the phone
5 call with her is a very strong indicator that he was
6 following her directive. That is certainly the argument I
7 would make to the jury.

8 MR. ROBINSON: Your Honor, I don't think I made an
9 objection. I think I objected to hearsay. I reviewed
10 this transcript about what the husband told her who is not
11 a witness in this case. What he is trying to do is
12 bolster a witness. And that is what he is trying to do is
13 bolstering the testimony of a witness in this case. And
14 that is impermissible.

15 THE COURT: Do you anticipate calling her before you
16 call him?

17 MR. MOWRY: No, sir. I would call Trezz first.

18 THE COURT: Let's just take it as it comes,
19 gentlemen. If you are going to have an objection, Mr.
20 Robinson, let me suggest we handle it this way. When he
21 calls the mother of Trezz, if I don't, let's do it this
22 way. Solicitor, when you are ready to call Trezz's mother
23 just suggest to me it might be a good time for a break and
24 we will address it at that point and time. And we will
25 see and that way we will have the benefit of what Trezz

1 testified to and how potentially, the degree in which his
2 voracity was attacked and things of that nature. Because
3 that is going to play into the admissibility of her
4 testimony.

5 MR. MOWRY: And I will tell you, Your Honor, I
6 anticipate probably having to impeach him myself.

7 THE COURT: I understand.

8 MR. MOWRY: As she has told me numerous times in the
9 last week or so, Your Honor, she knows absolutely nothing
10 about what went on, she was not there, she did not see it.
11 She is strictly an impeachment witness.

12 THE COURT: We will cross that bridge when we come to
13 it. Let's have the jury back in, please.

14 (Whereupon, the jury came into open court at
15 approximately 2:32 p.m.)

16 THE COURT: Let the record reflect that the jury is
17 back. Ladies and gentlemen of the jury, I trust that you
18 had a pleasant lunch. I appreciate your patience with us
19 back there the last few minutes. Rest assure we have been
20 working and we have actually gotten a few things done
21 chief among which are a number of exhibits have already
22 been marked which will save us time during the course of
23 the trial. And the defense has stipulated to, most if
24 not, pretty much all of the exhibits that we are dealing
25 with in this particular case. So that will save us a lot

1 of time going forward. Again, as I told you before lunch
2 we are at the portion of the trial or that part of the
3 trial where the attorneys will have an opportunity to give
4 you their opening statements to you. Understand that what
5 the lawyers say during their opening statements of course
6 is not evidence, it is simply their contention as to what
7 the issues are in this case or what the evidence will or
8 will not prove. So even though it is not evidence in this
9 case I would ask that you certainly pay attention to the
10 lawyers and what they have to say to you here during their
11 opening arguments and then we will proceed with taking
12 testimony from witnesses. Mr. Mowry, you are recognized,
13 sir.

14 MR. MOWRY: Your Honor, if it please the Court.

15 THE COURT: Yes, sir.

16 MR. MOWRY: Madam Forelady and ladies and gentlemen
17 of the jury, my name is Warren Mowry. I am an attorney, I
18 am a prosecutor, I represent the State in criminal matters
19 that come up in Laurens County. Every criminal case that
20 comes up in South Carolina whether here or in the Court of
21 General Sessions, the high trial court in South Carolina
22 or in Magistrate Court, it doesn't make any difference.
23 Any kind of criminal case is brought in the name of the
24 State of South Carolina. And that is why you always see
25 cases entitled the State versus so and so. In this case

1 we are here to prosecute a murder case. The State is
2 alleging this defendant, Stakren Tyrise Jefferson shot a
3 man to death, shot Tavares Max Calwise to death at
4 Stoddard Trailer Park in Gray Court in Laurens County.
5 Ladies and gentlemen, this case is now more than four
6 years old. This happened back in May of 2008. We will
7 present witnesses to you that will help you understand
8 what was going on, help you understand some of the culture
9 of that trailer park, help you understand the connection
10 between what these eye witnesses say and the evidence that
11 was found at the scene. And I submit to you, ladies and
12 gentlemen, that by the time we conclude you will not be
13 left with any reasonable doubt that this defendant did in
14 fact shoot Tavares Calwise also known, his nickname was
15 Dreek, you will hear him called Dreek. Now, ladies and
16 gentlemen, this is not to say that the State's case is
17 without flaws. It is unfortunate we do have flaws in this
18 case. There are several things that are lacking, I guess
19 you could say, but not, I repeat not to the extent that
20 there is a reasonable doubt of this defendant's guilt.
21 First of all, we have eyewitnesses from the trailer park
22 who do not want to be here, who absolutely do not want to
23 testify in this case. So we are going to have several
24 reluctant witnesses in this matter. But I think by the
25 time you have heard all of the evidence and all of the

1 testimony you will understand that at one point they
2 actually did tell the truth when they gave statements to
3 Officer Foggie.

4 MR. ROBINSON: Your Honor, I have an objection, Your
5 Honor.

6 THE COURT: Yes, sir.

7 MR. ROBINSON: Personal opinion.

8 THE COURT: Mr. Mowry, you are at liberty to give a
9 brief recitation of what you believe the facts are in the
10 case, very brief. Let's avoid vouching for any
11 credibility of anyone that is going to be testifying.

12 MR. MOWRY: Yes, sir. Second of all, ladies and
13 gentlemen, there was no gun found in this case. But
14 Detective Foggie will give you a timeline. You will
15 understand that it was eleven days between the incident
16 itself on May the 16th and the arrest of the defendant.
17 Several days even before his name arose to investigators.
18 So I think the lack of a gun, ladies and gentlemen, will
19 be easy to understand by the time the State completes its
20 case. Now, His Honor instructed you before lunch and you
21 actually took an oath to this effect that you would try
22 this case based on the facts and the law that are given to
23 you. The facts, ladies and gentlemen, are going to come
24 from here. His Honor told you that nothing that the
25 attorneys said is to be taken as evidence and that is

1 true. Nothing that does not come from either a person
2 from this witness stand or through that witness, no
3 exhibit, no testimony, no nothing is to be taken as
4 evidence. The only evidence that you are going to get in
5 this case is going to come from right here. But y'all are
6 the fact finders in this case. Y'all make the
7 determination as to what the truth is, that is your job in
8 this case. Y'all come from different life styles,
9 different backgrounds, different jobs, whatever it may be.
10 But every one of y'all was selected for this case because
11 we believe that you can effectively determine what the
12 truth is in this case. So y'all are the fact finders.
13 His Honor is the law giver. It is from him that you will
14 get the law in this case. He will help you understand
15 what the law is and then you apply those facts to that law
16 and make a determination as to whether or not this
17 defendant is guilty beyond a reasonable doubt. Now, I
18 wanted to give you a little bit of a heads up, I guess is
19 what you could say, on what murder is. Murder is defined
20 in South Carolina as the unlawful killing of a human being
21 with malice aforethought either expressed or implied.
22 Now, ladies and gentlemen, there are sometimes where one
23 human being can kill another, you can do it in
24 self-defense, you can do it as a soldier in war time, you
25 can even have an accident. You are driving down the road

1 or someone is driving down the road obeying all the rules
2 of the road and somebody just comes darting out in front
3 of you, nobody could have stopped, jammed on the brake
4 immediately but still strikes the person and kill that
5 person. That is a pure accident, that is called an
6 excusable homicide. But what we have here is the third
7 type of homicide. You have justifiable, self-defense,
8 excusable with accident, this is a criminal homicide,
9 ladies and gentlemen. A killing without justification or
10 excuse. Now, when you have a killing like that with what
11 is called malice or wickedness or evil intent that is when
12 we have murder. A criminal homicide with murder and that,
13 ladies and gentlemen, I submit to you is what we have in
14 this particular matter. In every criminal case in South
15 Carolina the State has the burden of proving this
16 defendant's or any defendant's guilt. And we must do so
17 beyond a reasonable doubt. Now you may have heard that
18 phrase before, sometimes in the courtroom shows that His
19 Honor was talking to you about. You might hear it beyond
20 any doubt or beyond a shadow of a doubt. Ladies and
21 gentlemen, there is some element of doubt in everything
22 with regarding human beings. I have never been to the
23 Country of Russia, never been there so I have no personal
24 knowledge that it exist. But every world map that I can
25 look at, every atlas, every history book has something

1 about Russia in it. So even though I have never been
2 there, even though I have never had any personal
3 experience with the Country of Russia I can believe that
4 the Country of Russia exist. I might have some element of
5 doubt but no reasonable doubt, I have no reason to
6 disbelieve. Now, ladies and gentlemen, I told you my
7 name, how do I know that. Because my parents told me.
8 What if my parents were lying to me. If I were going to
9 disbelieve that my name is what I told you I would have to
10 think that there had been some elaborate rouse that had
11 been going on during my entire life. That is
12 unreasonable, that is absolutely absurd. So what I am
13 getting at, ladies and gentlemen, you may have some doubt
14 about the defendant's guilt, not to one-hundred percent
15 certainty but as long as you are left comfortable with
16 that defendant's guilt--

17 MR. ROBINSON: Your Honor, I am going to object to
18 this opening statement going through the arguing of this
19 case.

20 THE COURT: I will allow him some latitude. Of
21 course, ladies and gentlemen, again what the lawyers tell
22 you is not evidence in this particular case. You will
23 learn about this case from the witnesses and to the extent
24 that counsel says anything that might disagree with what I
25 tell you the law is obviously you should go with what I

1 say what the law is as opposed to counsel. But I will
2 allow both sides latitude.

3 MR. MOWRY: Thank you, Your Honor. So long as the
4 State can prove to you beyond a reasonable doubt you will
5 be justified of bringing back a verdict of guilt in this
6 case. As I said, ladies and gentlemen, you are the fact
7 finders, His Honor is the law giver but there is one last
8 thing that I would ask you to do, not only listen closely
9 to the evidence and the testimony that comes off of the
10 witness stand but when the close of the trial comes about
11 and His Honor instructs you in the law listen very
12 carefully to that. But when you are doing that use your
13 common sense. As I said, every one of y'all comes from a
14 different lifestyle perhaps, but every single one of you
15 has common sense. Apply that common sense when you are
16 listening to the evidence, apply that common sense when
17 you are listening to the law as His Honor instructs you,
18 apply that common sense when you are deciding your
19 verdict. If you do all of those three things, ladies and
20 gentlemen, I am confident you are going to come back with
21 a just, fair and true verdict and that is all that I ask.
22 Thank you.

23 THE COURT: Mr. Robinson, you are recognized for your
24 opening.

25 MR. ROBINSON: May it please the Court.

1 THE COURT: Yes, sir.

2 MR. ROBINSON: Good afternoon, I am Scott Robinson.

3 I practice in the upstate and it is my pleasure today to
4 represent Stakren Jefferson. Now, I listened pretty
5 closely to the Judge's instructions to you originally and
6 the Judge told you this is about the search for the truth
7 in this case. And Mr. Mowry said that this case is not
8 like a civil case where it is the preponderance of
9 evidence, it's reasonable doubt. That means that the
10 State must prove to each of you every element of their
11 case beyond a reasonable doubt in this case. At the end
12 of its opening Mr. Mowry talked about common sense. I ask
13 you to use your common sense. In the beginning what the
14 Judge talked about was when you look at a witness look at
15 different things, look at reasons why they are testifying
16 how they are, look how they act, look at any sort of
17 movement, anything that you can look at and use your
18 common sense in this case. You see, Stakren Jefferson is
19 innocent. Stakren Jefferson which is my client is going
20 to college, going to school for Business Management. I
21 have his mother in the back along with her fiance,
22 Stakren's father died a couple of years ago. But the
23 burden here is on the State. And look at each of the
24 witnesses. Use your common sense. You are all chosen for
25 a reason. The reason is that we thought that you would

1 all be able to bring to this case all of your experiences
2 and use your common sense. I don't give flashy opening
3 statements. I don't give long opening statements because
4 my job is to speak the truth. If you look at this case
5 and use your common sense and follow the Judge's
6 instructions the burden is going to be clear and very
7 convincing. I was very heartened and surprised that the
8 State at the outset admitted that they had flaws in their
9 case, that is very interesting. That is not really
10 something you hear very often and going through this whole
11 litany of things about what murder is and so forth. What
12 they admitted to you on the record is that they have flaws
13 in their case. Use your common sense, what are these
14 flaws. Again use your common sense, look at the flaws
15 because the standard is not maybe, could have, would have,
16 possibly. It is that they have to prove their case to all
17 of you beyond a reasonable doubt each and every element of
18 this case. They can't do it, they are flaws, there is no
19 physical evidence. Stakren Jefferson is innocent. I ask
20 you to render a verdict in this case that speaks the truth
21 and that is innocent. Thank you.

22 THE COURT: Solicitor, call your first witness,
23 please, sir.

24 MR. MOWRY: I call Carlos Fuller.

25 CARLOS FULLER, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Mowry:

4 Q You are Carlos Fuller?

5 A Yes.

6 Q Carlos, is it safe to say that you just would rather
7 be anywhere else than right here right now?

8 A Yes, that is safe to say.

9 Q And you are here via subpoena, is that right?

10 A Correct.

11 Q Where do you live, Carlos?

12 A 334 Gray Drive Extension, Gray Court.

13 Q In Gray Court. And that is in Laurens County?

14 A Yes, it is in Laurens County.

15 Q Is that part of what we have heard already called
16 Stoddard Trailer Park?

17 A Yes.

18 Q Okay. How long have you lived there?

19 A Since the early '90's.

20 Q So over 20 years or about 20 years.

21 A Yes, sir.

22 Q Who do you live there with?

23 A I live with my mother.

24 Q Do you work?

25 A Yes, sir.

- 1 Q What kind of work do you do?
- 2 A Warehouse work.
- 3 Q Where about?
- 4 A Walmart Distribution Center.
- 5 Q How long have you been working there?
- 6 A 13 years.
- 7 Q What sort of work do you do?
- 8 A I load trucks.
- 9 Q What time of day do you work, what shift do you work?
- 10 A I work first shift.
- 11 Q Back in the middle of 2008, May of 2008 which shift
- 12 were you working?
- 13 A I was working second shift.
- 14 Q Working second shift about four years ago?
- 15 A Yes.
- 16 Q Still living in the same place?
- 17 A Yes.
- 18 Q Are you still working in the same place?
- 19 A Yes.
- 20 Q Do you know the defendant in this case, Stakren
- 21 Tyrise Jefferson?
- 22 A Yes.
- 23 Q How do you know him?
- 24 A I grew up around him.
- 25 Q Does part of his family live close by you?

1 A Yes.

2 Q Do you know the victim in this case, Dreek Calwise?

3 A Yes.

4 Q I am going to show you what has been marked as
5 State's exhibit number 33 for identification. Do you see
6 Dreek Calwise in that picture?

7 A Yes.

8 Q Where is he?

9 A Right here.

10 Q You are pointing to the lefthand side of the
11 photograph, is that right?

12 A Yes.

13 Q That is him?

14 A Yes.

15 Q I want you to think back to May the 16th of 2008,
16 that is the day of the shooting. Did you see the
17 defendant in this case that day?

18 A I think so.

19 Q Did you see the victim, Dreek Calwise that day?

20 A Yes.

21 Q What were you doing when you saw them, where were
22 you?

23 A I was at home.

24 Q Was anybody there with you?

25 A At first I was at home by myself. And then Lavario

1 and Trezz, they came to my house.

2 Q When you say Lavario you are referring to Lavario
3 Curenton?

4 A Lavario Curenton.

5 Q And when you say Trezz, are you talking about Trezz
6 Foggie?

7 A Trezz Foggie.

8 MR. MOWRY: Your Honor, I am just going to do a
9 couple of technical or ask Mr. Newton to do a couple of
10 technical items here.

11 THE COURT: Okay.

12 Q Now, do you recall about what time of day you saw
13 Trezz Foggie and Lavario Curenton?

14 A It was before noon, I guess it was about 10 or 11:00
15 o'clock.

16 Q And you had been working second shift so you didn't
17 get off until what, 11:00 or 12:00?

18 A Not until 2:00 a.m.

19 Q 2:00 a.m. So if you were a late riser that was
20 pretty understandable, is that right?

21 A That is right.

22 Q Can you come down from there for just a second. I
23 just wanted to show you this chart that has been marked
24 already as State's exhibit 27. Does this show Stoddard
25 Trailer Park right here?

1 A Yes.

2 Q And what is that green dot here indicate right in the
3 middle of the photograph?

4 A My home.

5 Q If you will take the stand again, please, sir. You
6 said that Lavario Curenton and Trezz Foggie came by your
7 house late morning. Is that fair to say?

8 A Yes, sir.

9 Q What was their purpose in being there?

10 A We were a rap group and they came, we had a show that
11 night. And they came by, we were going to rehearse and
12 perform and talk about the show and make some CD's and
13 fliers copy them to pass out when we go do the show that
14 night.

15 Q Where was the show going to be?

16 A It was going to be at a night club in Greenville I
17 think.

18 Q How long did this go on?

19 A As in?

20 Q How long did y'all go through this process of making
21 fliers and making CD's and all of that good stuff.

22 A We were going all morning. I had been going the
23 night before because we were trying to make it good.

24 Q Okay. Where were y'all most of this time?

25 A We was in the yard talking and I was in and out of

1 the house. As soon as we got finished I would go put
2 another CD and keep burning. Just in and out of the house
3 drinking beer, I had some beer in the refrigerator and I
4 would go in and get a beer for everybody and come back out
5 in the yard. So just back and forth from the yard in the
6 house.

7 Q So everybody was out in the yard, inside this whole
8 time, is that right?

9 A Yes. I was mostly back and forth in but it was my,
10 you know, I left one of my friends, it don't matter
11 because he can go in and grab a beer and bring me one back
12 too. So we were just in and out of the house like that.

13 Q When you saw Dreek Calwise describe how you saw him
14 that day?

15 A He pulled up in the yard and actually I think when he
16 pulled up I was in the house. Because I didn't just see
17 him in the yard until I came back out, the car was in the
18 yard and he was sort of like walking over to the other
19 street.

20 Q Okay. Let me show you a couple of pictures here and
21 give me just a second. I am going to hand you what has
22 already been marked as State's exhibits 5 and 6 and ask
23 you to just take a look at both of those and tell me if
24 you can identify what is in those pictures?

25 A Dreek's car, my mom's car, both of my mom's cars she

1 had at the time and the car that I had at the time.

2 Q Okay. Now, is this where Dreek Calwise's car was
3 parked when he got there that day?

4 A Yes, sir.

5 Q You said you had been inside but when you came out
6 his car was already parked and he was walking over to the
7 other side, is that right?

8 A Yes.

9 Q Where on this chart, let me turn it a little bit
10 towards you, where on this chart did he head, your house
11 is here.

12 A Okay, come down, come down to that street.

13 Q He headed over here?

14 A Yes, sir.

15 Q So there are a couple of trailers here and he headed
16 over in this direction, is that right?

17 A Yes, sir.

18 Q How long was he gone, do you have any recollection of
19 that?

20 A No, sir.

21 Q Okay. Let me just get this thing warmed up real
22 quick. Carlos, I am going to put this up there, this is
23 State's exhibit number 6. You say that the car that we
24 see in the lower lefthand corner, just the front end,
25 whose case was that?

1 A That is Dreek's car.

2 Q And the two smaller ones, the grayish one to the
3 center and then the beige one, whose are those?

4 A Those were my mother's cars.

5 Q And this other car, looks like a Chevrolet at the far
6 right, do you know whose car that was?

7 A That was my car.

8 Q That was your car. And that is the front of your
9 house, is that right?

10 A Actually the back.

11 Q Is this where Trezz and Lavario were most of the
12 time?

13 A Yes.

14 Q Okay. And you say that when you saw Dreek Calwise he
15 was heading to this street over here?

16 A Yes.

17 Q Do you know who he was going to see?

18 A I can't say for sure because at the time the
19 neighborhood was not like it is now, it was like a lot of
20 people used to just hang around out in the neighborhood.
21 So there used to be people all over the neighborhood.

22 Q Does the defendant in this case, Stakren Tyrise
23 Jefferson, have any relatives that live on that street?

24 A I don't know.

25 Q Okay. How long was it before you saw Dreek Calwise

1 again?

2 A I can't remember.

3 Q What did you do during that time?

4 A Just the same, talking to Lavario and Trezz and in
5 and out of the house.

6 Q Okay. Now, not asking you if it was just minutes or
7 if it was hours or specific numbers of minutes or hours or
8 whatever but was it a lengthy period of time that he was
9 gone or was it a short period of time, how would you
10 characterize it?

11 A I don't know, not too long I don't guess.

12 Q Did he come back with anybody?

13 A I don't know, I am not sure.

14 Q Where were you?

15 A I was in the house probably.

16 Q What were you doing in the house?

17 A Making music but I was just in and out of the house.
18 I think he came back, I think he left and came back again
19 but I know he left and came back again but I am not sure
20 if he was with anybody or not. I can't remember.

21 Q Let me hand you what has been marked as State's
22 exhibit number 28, Carlos, and ask you if you recognize
23 that?

24 A Yes, I recognize this.

25 Q What is that, please, sir?

1 A It is the statement that I have after the incident
2 happened.

3 Q Okay. And who did you give it to?

4 A Officer Foggie, Detective Foggie.

5 Q Okay. And do you remember the date?

6 A No, I don't.

7 Q Is there a date down there?

8 A May the 20th of 2008.

9 Q So that would have been four days after the shooting
10 that we are talking about here, is that right?

11 A Yes, it was four days later.

12 Q And is that your signature right there?

13 A Yes, it is mine.

14 Q Okay. How did you come to give this statement to
15 Detective Foggie?

16 A I think he came, gave me a call at the house or came
17 by or something and told us to come down and give a
18 statement.

19 Q Okay. Go ahead then, if you will, and explain to us
20 what was going on late morning, early afternoon on the
21 16th. Tell us what happened.

22 A Well, like I said Trezz and Lavario came to the house
23 and I was in the house making CD's and fliers. We came
24 out and we were talking about the show, we was in and out
25 of the house and Dreek pulled up and he went to the other

1 street over. And he came back and he was out in the yard,
2 he was talking to Lavario and Trezz and I was in the house
3 then. And that is when I heard a gunshot outside and I
4 went on the floor. And when the gunshots and stuff
5 stopped I got up and ran to the door and I ran into Trezz.
6 He was like, he was running into my house. And everybody
7 else had scattered, you know, when I heard gunshots
8 everybody ran. So I went out and I was like, with the
9 neighborhood shooting, it ain't uncommon, it is common for
10 sure, you know what I am saying. There is a lot of
11 shooting that was in the neighborhood. So we left and we
12 went to a store. And I was like, man, I ain't getting
13 into it, I might as well go back home. And when we came
14 back through the neighborhood that is when I see Dreek
15 laying down at the top of the street. So I am like, wow,
16 somebody got shot because usually when there is a bunch of
17 gunshots nobody gets shot. So when I went in my yard and
18 parked my car I got the phone and I called 911.

19 Q And then what do you say you did?

20 A I got the phone and I walked up the street to where
21 he was laying at.

22 Q Where was he laying referring to State's exhibit
23 number 27? I tell you what let's do, Carlos, if you could
24 come down and put this yellow sticker where you say he was
25 laying.

1 A Here.

2 Q Go ahead and take the stand. Where did the shots
3 come from?

4 A They came from outside of my house and it seemed like
5 it wasn't too far away.

6 Q When you say not too far away, are you talking about
7 a hundred yards, are you talking about fifteen feet?

8 A Yes, it's like, it sounded like in my yard, it is
9 like a football field, it didn't sound like it was that
10 far.

11 Q Did you see who did the shooting?

12 A No, I didn't see who did the shooting.

13 Q Carlos, I want to refer you to State's exhibit number
14 28 now. Let's go through this.

15 MR. ROBINSON: Your Honor, I have got a matter
16 outside of the presence of the jury.

17 THE COURT: Ladies and gentlemen of the jury, I need
18 to take up an issue of law with the attorneys involved in
19 this particular case. If you will go to the jury room for
20 a few moments I will have you back as soon as possible but
21 don't discuss the case. Thank you very much.

22 (Whereupon, the jury was excused from open court.)

23 THE COURT: Let the record reflect that the jury is
24 out. Mr. Robinson.

25 MR. ROBINSON: Your Honor, first of all for one it is

1 hearsay, it is the statement that the police took of this
2 individual at the time. I am surprised that he put that
3 this quickly in, he has established a foundation in this
4 case. It is rank about hearsay as I can get in terms of
5 this case, the jury has an opportunity to see it in this
6 matter.

7 MR. MOWRY: Your Honor, the witness has identified
8 this as the statement that he gave to Detective Foggie.
9 It is an out-of-court assertion but it is a statement that
10 this witness made. He has identified the signature down
11 at the bottom and the date.

12 THE COURT: If you don't mind will you hand me that
13 document since I am having difficulty seeing it on the
14 screen. Thank you.

15 MR. MOWRY: Additionally, Your Honor, this document
16 has already been admitted into evidence.

17 THE COURT: Just give me one second.

18 MR. ROBINSON: I want to address that, Your Honor.

19 THE COURT: Just one moment, please. There is a
20 threshold matter. I am trying to remember where you left
21 off with this particular witness. At this point, Mr.
22 Mowry, have you determined with him that this is a
23 statement that he gave to law enforcement?

24 MR. MOWRY: Yes, sir.

25 THE COURT: Okay.

1 MR. MOWRY: He identified as giving it to Detective
2 Foggie.

3 THE COURT: And what is your next series of questions
4 going to be.

5 MR. MOWRY: I am going to ask him specifically what
6 he said during that statement. He has indicated that he
7 didn't see the shooting, that he didn't know anything
8 about what went on, that it was some distance away and I
9 believe that the statement quite frankly is impeachment.

10 THE COURT: All right. I realize that there is some
11 hearsay in here as far as what other people were saying.
12 Mr. Robinson, you want to speak to this. Again, what is
13 the nature of your objection because obviously he can
14 confront the witness of an inconsistent statement.

15 MR. ROBINSON: I agree with that, Your Honor, but I
16 think he has got to also, didn't you say, what he is doing
17 right now is different.

18 THE COURT: He is putting the cart before the horse,
19 he needs to confront the witness.

20 MR. ROBINSON: Exactly, that is what I am getting to.

21 THE COURT: All right. Very good. Mr. Mowry, I
22 think that probably what you need to ask the, you have
23 asked him, did you give a statement to law enforcement.
24 Certainly show him the statement, I suppose, and he can
25 admit it or deny it and you can put it up and ask him what

1 portions are the same and which portions are not. I am a
2 little concerned about some of the hearsay stuff in there.
3 Are you objecting to that as well. Do you have an issue
4 with some of it.

5 MR. ROBINSON: There is a lot of it that is not, if
6 you can set a foundation, didn't you say, bla, bla, I have
7 no problem with that. But there is a ton of hearsay and
8 putting that up on the--

9 THE COURT: We probably need to address the hearsay
10 as far as we are going to display. I don't think there is
11 any problem. I don't see any evidentiary problem with you
12 putting the statement up there for the benefit of the
13 witness or the jury but we need to look at redacting some
14 of that hearsay as far as what others told him. Because I
15 think that might be getting the hearsay in through
16 improper hearsay and through the statement as opposed to
17 validly admissible hearsay.

18 MR. MOWRY: Well, Your Honor, the hearsay that we
19 have got here is--

20 THE COURT: I saw two statements in there.

21 MR. MOWRY: Yes, the victim is saying I am going to
22 holler at Tyrise. The witness doesn't know that. He says
23 he went back in this direction. We will establish later
24 on that there is a relative of the defendant who lives
25 back on that same street.

1 THE COURT: Okay. Are you saying that that
2 statement, the victim is saying to this witness, I am
3 going to holler at the defendant, Tyrise.

4 MR. MOWRY: Yes, sir.

5 THE COURT: Okay.

6 MR. MOWRY: We are not offering it for the truth of
7 the matter asserted necessarily, we are just offering it
8 for the fact that it was said. The only other comment was
9 Lavario said, man, I am fixing to go home, they crazy.

10 THE COURT: He has already testified that the other
11 guys that he was with him said that, I am going home,
12 something to that. The second statement, I don't know
13 that we need to address that because he has already
14 testified to that. I don't know that that is truthfully
15 impeachment since he has basically admitted to that other
16 fellow that was with him said what he said. Do you want
17 to be heard on the first statement, Mr. Robinson, about I
18 am going to holler at Tyrise.

19 MR. ROBINSON: My feeling on it is he has got to ask
20 him first, did you hear somebody say such and such. But
21 not here is your statement, this is what you said, right.
22 I think that is going to be a problem.

23 THE COURT: Apparently we need to go line by line so
24 if you will do that and then we will lay that foundation.

25 MR. MOWRY: Will it be any problem with me putting it

1 on the LMO, (phonetic), to show him line by line.

2 THE COURT: I think you need to get rid of that
3 second statement, the second hearsay piece before you do
4 that.

5 MR. MOWRY: Which second one.

6 THE COURT: The one, man, this is crazy part.

7 MR. MOWRY: Well, Your Honor, I would submit that if
8 you said something like that it would be just simply res
9 gestae.

10 THE COURT: You got any problem, maybe I am the one
11 raising the hearsay objection before you do.

12 MR. ROBINSON: I see it being hearsay. Your Honor,
13 honestly I have never seen a prosecutor put something on
14 that big screen with, the statement without establishing
15 some foundation.

16 THE COURT: He is going to back up and establish the
17 foundation then we will go from there. I am just trying
18 to anticipate if there is going to be, I want to be able
19 to hearsay now as opposed to have to send the jury back
20 out. Once he establishes that foundation then once we go
21 into the impeachment aspect of it the State has claimed
22 res gestae, excited utterance. As far as the second
23 statement, how is that second statement probative if
24 anything.

25 MR. MOWRY: I don't know what the remedy would be in

1 a situation like that, Your Honor.

2 THE COURT: Let's just redact that second portion,
3 just find a black magic marker and the man, this is crazy
4 thing, that is not really relevant or germane to anything
5 that we are dealing with here. Since we have been out for
6 about an hour we will take five minutes for ourselves and
7 then resume. If you want to step down and use the
8 restroom, sir, feel free, you can't talk about your
9 testimony with anybody while we are on break. We will be
10 at ease for about five minutes.

11 (Whereupon, a short break was taken.)

12 MR. ROBINSON: Your Honor, I have an objection to the
13 hearsay part of this particular statement that was given
14 in this case. I believe it is obviously hearsay in this
15 matter. And putting it on, right in front of the jury as
16 a State's identification. Something that he is putting up
17 there and using it for demonstrative evidence in this case
18 and I think that is extremely prejudicial to the
19 defendant, hearsay and prejudicial.

20 THE COURT: Let's deal with the hearsay first. Which
21 portion of the statement are you talking about that is
22 hearsay?

23 MR. ROBINSON: I think it is the whole statement. It
24 is not a statement offered for the truth of the matter
25 asserted. This particular individual is at the trailer

1 park on that day.

2 THE COURT: The defendant was in the trailer park
3 that day?

4 MR. ROBINSON: Right.

5 THE COURT: I understand your position, Mr. Robinson,
6 at this point and time because the witness, I understand
7 your foundation objection earlier but assuming that we
8 have reached that point where this becomes proper
9 impeachment which I assume that we are going to get there
10 in a second because the witness gave that statement, that
11 statement is different from what he is testifying to
12 today. The statement can then be used as substantive
13 evidence under the rules. I would overrule or my ruling
14 would be to overrule your objection on those grounds for
15 those reasons. Okay.

16 MR. ROBINSON: Thank you, Judge.

17 THE COURT: If we can have the jury back in, please.

18 MR. MOWRY: And, Your Honor, just for my benefit
19 would I be able to use the LMO and go through it line by
20 line?

21 THE COURT: Yes, right.

22 MR. MOWRY: Thank you, sir.

23 THE COURT: Bring the jury in.

24 (Whereupon, the jury came into open court at
25 approximately 3:27 p.m.)

1 THE COURT: Let the record reflect that the jury is
2 back and seated. Mr. Mowry, you may continue, sir.

3 CONTINUE DIRECT EXAMINATION

4 By Mr. Mowry:

5 Q Carlos, you say that late morning, early afternoon
6 you and Trezz and Lavario were at your trailer getting
7 ready for the rap show?

8 A Yes.

9 Q You said that the victim, Dreek Calwise, pulled up in
10 front of your house, is that right?

11 A That is correct.

12 Q And as a matter of fact referring to State's exhibit
13 5, that is his car in front of your place, isn't that
14 right?

15 A Yes.

16 Q All right. Now, you said earlier that you think you
17 had seen the defendant in this case, Stakren Tyrise
18 Jefferson, that day. Explain what you mean by that?

19 A I mean, I think I seen him come through.

20 Q Was that the only time, according to your testimony,
21 that you saw him that day?

22 A I think so.

23 Q Where were you when the shooting took place?

24 A I was in the house.

25 Q You were in the house and where, you testified that

1 Lavario and Trezz were?

2 A They were outside.

3 Q Do you know exactly where they were?

4 A No, sir.

5 Q Let's put State's exhibit number 5 back up there.

6 They weren't somewhere in this area?

7 A Possibly, but I was in the house.

8 Q So you are testifying that you don't know, is that
9 right?

10 A Correct.

11 Q What did you do when you heard the shots?

12 A I rolled on the floor.

13 Q You did what, I am sorry?

14 A I rolled out of the chair onto the floor.

15 Q Rolled out of the chair onto the floor. When did you
16 see Trezz and Lavario again?

17 A I was coming outside and the shots stopped and I was
18 running to the door to see what was going on.

19 Q Which door did you use. Is there a door on the side
20 that we are looking at here on State's exhibit number 5 on
21 this picture?

22 A Yes, there is a door from the inside.

23 Q So you used the door on the other side, is that
24 right, the door that most people use, is that right?

25 A Correct.

- 1 Q All right. What happened then?
- 2 A That is when I met Trezz at the door.
- 3 Q So you met Trezz at the door. How did he appear?
- 4 A Afraid I guess, scared.
- 5 Q Now, y'all have been together for a pretty good
- 6 amount of time, is that right?
- 7 A Yes, that is fair to say.
- 8 Q Did you see either Lavario or Trezz with a gun that
- 9 day?
- 10 A No, sir.
- 11 Q Okay. When you ran into them what happened?
- 12 A When I ran into them?
- 13 Q When you see them as you are testifying coming into
- 14 the door what happened?
- 15 A I had my keys going out the door.
- 16 Q Your keys you say, and where were you going to go?
- 17 A I was just going to leave, like I told you shooting
- 18 was pretty common in the neighborhood. And it was just
- 19 like a common place out there where people getting to
- 20 shooting you just leave.
- 21 Q Why do you leave?
- 22 A Just to keep from getting questioned by a policeman
- 23 or anybody who comes through to ask you about what
- 24 happened.
- 25 Q Where did Lavario live?

- 1 A He lived on the same street where I put the dot at.
- 2 Q Is it this trailer right here?
- 3 A Right.
- 4 Q I am going to put this purple dot up here, is this
- 5 Lavario's trailer right here?
- 6 A Yes.
- 7 Q Okay. Does he still live there?
- 8 A No.
- 9 Q But he was living there back in 2008, is that right?
- 10 A Yes, that is right.
- 11 Q So where did you go?
- 12 A I went to the store.
- 13 Q Who went with you?
- 14 A Trezz.
- 15 Q Which store did y'all go to?
- 16 A Store in Owings.
- 17 Q Store in Owings?
- 18 A A store in Owings, I don't know the name of it.
- 19 Q How far away was that?
- 20 A About two, three miles I guess.
- 21 Q How long were y'all gone?
- 22 A Ten minutes.
- 23 Q Did you return to Stoddard Trailer Park?
- 24 A Yes.
- 25 Q Was the victim's car still there when you got back?

1 A Yes.

2 Q What did you see when you got back?

3 A The car was still in my yard. And when I came
4 through the trailers park on the circle, when I looked to
5 the right it was like I seen somebody leaning. So I went
6 around and pulled into my yard and that is when I got the
7 phone and I walked up the street and I seen somebody
8 laying there.

9 Q Who did you see lying there?

10 A I saw Dreek.

11 Q Did you talk to him at all?

12 A Yes. I told him that it was me and I was calling
13 911, the ambulance.

14 Q Was anybody else there?

15 A I don't know, there was some people out there though
16 like people that lived around the trailer park on that
17 street.

18 Q Do you know John Elliott Rhodes?

19 A Yes.

20 Q Do you recall seeing him at the scene?

21 A I can't remember. Yes, there was some people out
22 there but I can't remember.

23 Q What happened then?

24 A That is when the police came I think, I think the
25 police had came. Yes, I seen John there too and he said

1 that--

2 MR. ROBINSON: Objection, Your Honor, hearsay.

3 THE COURT: Say again.

4 A I remember, yes, I did see John Elliott there,
5 because we said something to each other.

6 THE COURT: Don't say what he said. Continue, Mr.
7 Mowry.

8 Q Now, did you see the defendant in this case, Stakren
9 Tyrise Jefferson?

10 A I don't recall seeing him, at what time?

11 Q Did you see him at any time around the shooting?

12 A I think I seen him walk through the neighborhood
13 before that even happened.

14 Q Okay. Did you see who did the shooting?

15 A No, I didn't see who did the shooting.

16 Q Did you see whether or not the defendant was present
17 when the shooting took place?

18 A No.

19 Q Once again, Mr. Fuller, I am going to ask you if
20 State's exhibit number 28 is a statement that you made to
21 Detective Foggie?

22 A Yes, that is the statement I made.

23 MR. MOWRY: Your Honor, at this time I would like to
24 go through the process of impeaching this witness based on
25 prior inconsistent statement.

1 THE COURT: All right. Show him the statement, you
2 can show it and put it up there and show it to him,
3 whatever. You need to ask him when it was made, do you
4 recall having made that statement to the Lieutenant. Go
5 ahead.

6 Q Carlos, here is the body of your statement. I
7 believe you testified that you remember making that
8 statement on May the 20th of 2008 to Detective Foggie?

9 A Yes, correct.

10 Q Were there other detectives around?

11 A Yes.

12 Q Including Raymond Franklin, a police officer?

13 A Yes.

14 Q Do you recall saying in this statement, Dreek pulled
15 up to my house but he didn't come in or knock on the door?

16 A Yes, I recall that.

17 Q Okay, is that true?

18 A Yes, that is true.

19 Q He went to the top of the hill, is that true?

20 A Yes, that is true.

21 Q Is that this area over in here, is that what you are
22 talking about?

23 A Yes.

24 Q And then Dreek's car left for about ten minutes and
25 then came back. Is that correct?

1 A Yes, that is true.

2 Q Little T, Trezz and Lavario Curenton came to my house
3 while Dreek was gone. Is that true?

4 A They were there before he came so that ain't true.

5 Q But they were there and he was there, is that right?

6 A Correct.

7 Q I looked out the window and told them that I would be
8 out there in a minute. Is that right?

9 A Yes, that is correct.

10 Q I came out and then Dreek pulled up, then Tyrise was
11 walking through the top of the trailer park. Is that
12 true?

13 A Yes, that is correct.

14 Q Dreek said I will be back, I am going to holler
15 Tyrise. Then they both walked back down towards Dreek's
16 car. Is that true?

17 A I can't remember but if it was on the statement it
18 was more fresher then than it is now.

19 Q That was four days after the event, right?

20 A Yes.

21 Q Me and Lavario and Little T was talking about the
22 show we had to do on Saturday. That is correct, isn't it?

23 A Yes, that is correct.

24 Q I went into the house to get a beer or answer the
25 phone then when I came back out the shots started firing.

1 Is that correct?

2 A Correct.

3 Q Tyrise and Dreek was still over by the car. Is that
4 right?

5 A I don't know, I ain't sure.

6 Q It is on the statement, isn't it. And again, that
7 was given four days after the fact, isn't that right?

8 A Yes.

9 Q Lil and Lavario, they were over, they were by my car.
10 Dreek ran toward them and then ran up the hill, Tyrise ran
11 up the street. Is that correct?

12 A That ain't correct. I don't remember, I didn't see
13 that. So I mean, I signed off on the statement but I
14 didn't actually write it myself.

15 Q Let's see. I declare that the voluntary statement is
16 made of my own free will, no hope of reward, without fear
17 or threat of bodily harm, without coercion. Is all of
18 that correct, up at the top?

19 A I read it, I read that after the statement.

20 Q How about that at the bottom. I have read each page
21 of this statement consisting of one page, each page of
22 which bears my signature and corrections, if any, bears my
23 initials and I certify that the facts contained herein are
24 true and correct. Is that also written on there?

25 A Yes, it is written on there.

1 Q And your statement, your signature is down below,
2 isn't that right?

3 A Yes, my signature is on there.

4 Q Tyrise ran up the street. Lavario walked towards, on
5 towards his house. You said this was his house about up
6 here, right?

7 A That is correct.

8 Q I then told Lil T, Trezz, that I was scared and
9 didn't, I didn't think he was gonna die. You were talking
10 about Dreek Calwise. Is that right?

11 A Yes.

12 Q I didn't know where he was shot at. Is that correct?

13 A Yes, that is true.

14 Q I came back about five minutes later to see what was
15 going on and I saw Dreek laid out.

16 A That is true.

17 Q That is when I knew he was hurt for real.

18 A I didn't even know he was shot before I left.

19 Q I don't have any more questions.

20 (Whereupon, Defendant's Exhibits 1, 2 and 3 were
21 marked for identification only.)

22 CROSS-EXAMINATION

Co:

23 By Mr. Robinson:

24 Q Do you agree with me that this is a pretty large
25 trailer park, Stoddard, is that correct?

1 A Yes, correct.

2 Q And a lot of people come in and out of there all of
3 the time, isn't that right?

4 A Yes, that is true.

5 Q And I think you made the statement to the jury that
6 it is not uncommon for shots to be heard in this trailer
7 park, correct?

8 A Yes, that is correct.

9 Q Isn't it true as well that there are many roads that
10 come in and out of this particular trailer park that we
11 are seeing over there, is that correct?

12 A It is a circle, it is one way in from the main road
13 but you know it is walking pathways and stuff too if you
14 are on foot. But it is one way for a car to come in and
15 out.

16 Q And I think you testified that Lavario lived there at
17 the time, is that correct?

18 A Yes, that is correct.

19 Q And I think the victim's body was found near his
20 trailer, is that correct?

21 A Yes, that is correct.

22 Q Now, you didn't see anything. That is what you are
23 telling the jury, are you, you didn't see anything in this
24 case, did you?

25 A No.

1 Q You were actually in your house doing your CD's and
2 DVD's getting ready for a concert, isn't that right?

3 A That's correct.

4 Q And when you heard the shots you went towards the
5 door and as you were going out Lavario was coming in
6 towards you, is that right?

7 A Yes, Trezz.

8 Q Trezz Foggie?

9 A Yes, Trezz Foggie was. That is who I met at the
10 door, the first person.

11 Q Trezz Foggie was coming in at that time, correct?

12 A Correct.

13 Q And I think you said too that you and Lavario, if I
14 am wrong correct me. But you and Trezz Foggie and Lavario
15 got into your car and got your keys and left, right?

16 A Lavario didn't get in the car. Just me and Trezz.

17 Q Where did Lavario go?

18 A I assume he went home. I think he went home.

19 Q And he was in the trailer part at that time, correct?

20 A Yes.

21 Q Now, you went through in detail a statement that you
22 gave to the police four days after this happened. Do you
23 recall that Mr. Mowry put a statement up there and asked
24 you questions on it, correct?

25 A Correct.

1 Q You would agree with me that you didn't type that
2 statement, did you?

3 A Yes, I didn't type it up.

4 Q That statement was actually written or typed out by
5 the police, wasn't it?

6 A Yes.

7 Q Now, you also gave a statement to an investigator in
8 my office, Harvey Black, didn't you?

9 A Yes.

10 Q Do you remember that statement?

11 A Kind of.

12 Q Well, do you recall in that statement when the police
13 came to interview you that you told them that you did not
14 see--

15 MR. MOWRY: Your Honor, I would ask that Mr. Robinson
16 show that to the witness before he begins publishing the
17 contents of it.

18 THE COURT: Do you have the statement as well?

19 MR. ROBINSON: I do, it has been marked for
20 identification purposes.

21 THE COURT: Why don't you go ahead and show it to him
22 and ask him when it was made. He said he recalled
23 speaking to the investigator at your office. Just show
24 him the statement and ask him if that is the statement.

25 Q I would like to have you look at what has been marked

1 as defense exhibit 1 for identification purposes only. Do
2 you recognize that statement?

3 A Yes.

4 Q And is that your signature on the bottom of it?

5 A Yes, it is.

6 Q And that is a statement that you gave to who?

7 A Harvey Black.

8 Q Now do you recall in your statement which has been
9 marked as defense exhibit 1 for identification purposes
10 only, saying that you never saw Tyrise or Stakren that
11 day. Do you recall that?

12 A I think so.

13 Q And didn't you also recall, you said in your
14 statement that you were threatened to sign that statement
15 the police wanted you to sign?

16 A Oh, yes I was, I mean if you call it a threat. I
17 don't know the interrogation techniques or what, I don't
18 know.

19 Q Didn't you say in your statement, I am going to let
20 you see a copy of what is marked defense exhibit number 1
21 for identification purposes only. If you look at what you
22 say in your statement, actually you had to sign this
23 statement because, this is on the third to the last line
24 of your statement and it says, what does it say, but I had
25 to say he was out there to keep me and my, what does that

1 say?

2 A Mom.

3 Q But I had to say he was out there to keep me and my
4 mom out of jail. Right, is that your statement?

5 A Yes, that is my statement.

6 Q And so I told them what I heard happened as if I
7 actually said, but I didn't, actually saw it but I didn't.

8 Is that correct?

9 A Yes, that is true.

10 Q So your statement that you gave to the police four
11 days afterwards, it was typed up by the police and so
12 forth, you were threatened to sign that statement?

13 A They told me they were going to lock me up.

14 Q But you never saw Stakren out there that day, did
15 you?

16 A I can't remember if I seen him or not but I know I
17 didn't see nobody shooting, no, I didn't see the shooting.
18 I don't think I seen him. If I did it was earlier but I
19 am not sure.

20 Q Let's look at the last line of your statement. I
21 actually saw it but I didn't. You didn't see him that
22 day, did you. You didn't see him that day in this trailer
23 park, did you?

24 A I am not sure, I don't think I did but I might have
25 seen him. The trailer park is so busy, it was so busy at

1 the time and if you don't know, you don't know what is
2 going to happen later on. I am just not sure, it is hard
3 to take a mental picture of everybody that you see
4 throughout the whole day. I may have but I am not really
5 sure though.

6 Q I want to make sure I understand this diagram, okay.
7 Lavario is where in this trailer park at the time, I am
8 colorblind so is that red or green?

9 A That is green.

10 Q It is a green dot, is that where Lavario lived?

11 A No, it is where I live.

12 Q You live. And the yellow is Lavario, right?

13 A No, that is where I seen Dreek laying on the ground.

14 Q And Lavario lived in a trailer near by?

15 A Yes.

16 Q The victim is here and Lavario is there, right?

17 A Correct.

18 Q So would it be fair to say in conclusion that you
19 were in the house and Lavario and Trezz were outside the
20 house, right, at the time this shooting happened, right?

21 A Correct.

22 Q That is all I have. Thank you.

23 REDIRECT EXAMINATION

24 By Mr. Mowry:

25 Q Is this statement in your handwriting?

- 1 A Yes.
- 2 Q All of this is your handwriting or did the
3 investigator write that for you?
- 4 A It is my handwriting.
- 5 Q That is your handwriting, okay. And let me ask you
6 this. What was the date down there?
- 7 A May 5th of '09.
- 8 Q May 5th of '09, about a year after this thing
9 happened, isn't that right?
- 10 A Correct.
- 11 Q Which do you think would be more accurate, a
12 statement four days later or a statement made a year
13 later. Where would your memory be fresher?
- 14 A I mean your memory would be fresher after it happened
15 but, yes it would be fresher after it happened. But, I
16 mean, the statement that I gave Officer Foggie, I mean
17 some of it I didn't plan to say and it is the truth.
- 18 Q Do you know what a snitch is?
- 19 A A snitch is when you do a crime with somebody and
20 then they get away and you get caught and you tell on
21 them.
- 22 Q Okay. What is the, you on cooperating with law
23 enforcement at Stoddard Trailer Park?
- 24 A I don't know, I am not sure, I don't know. It ain't
25 good I don't guess.

1 Q Okay. So nobody really wants to talk to law
2 enforcement, isn't that right?

3 A Yes, that is correct.

4 Q No further questions.

5 RECROSS-EXAMINATION

6 By Mr. Robinson:

7 Q If someone is threatening your mother and you,
8 putting your mother in jail, that can also be a big impact
9 on someone's statement, like your statement?

10 A Most definitely.

11 Q Thank you.

12 THE COURT: Thank you, sir, you can step down. Mr.
13 Mowry, call your next witness, please. Can he be excused?

14 MR. MOWRY: Yes, Your Honor.

15 THE COURT: You are free to go.

16 MR. MOWRY: Trezz Foggie.

17 TREZZ FOGGIE, being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Mowry:

21 Q You are Trezz Foggie?

22 A Yes, sir.

23 Q Trezz, where do you live?

24 A [REDACTED], Gray Court.

25 Q Who do you live with?

- 1 A My mother.
- 2 Q And your stepfather?
- 3 A Yes, sir.
- 4 Q What is your mother's names?
- 5 A Sharon Mack.
- 6 Q And as a matter of fact, I believe their house is
- 7 visible right up in here. Isn't it close to Stoddard
- 8 Trailer Park?
- 9 A Yes, sir.
- 10 Q Maybe a half way or so away?
- 11 A Right.
- 12 Q Do you know the fellow that just testified, Carlos
- 13 Fuller?
- 14 A Yes.
- 15 Q Do you know the defendant in this case, Stakren
- 16 Tyrise Jefferson?
- 17 A Yes, sir.
- 18 Q Do you know the victim in this case, Dreek Calwise?
- 19 A Yes, sir.
- 20 Q I am showing you what has been marked for
- 21 identification as State's 33. Is that Dreek right there?
- 22 A Yes, sir.
- 23 Q And on the lefthand side of this photograph, is that
- 24 right?
- 25 A Yes, sir.

1 Q Now, Trezz, I want you to think back for a number of
2 years, think back to May the 16th of 2008. At that time
3 you were how old?

4 A You say in 2008?

5 Q Yes, sir. Spring of 2008, would you have been 19
6 years old?

7 A Yes.

8 Q You are 23 now?

9 A Yes.

10 Q Where were you, say middle of the day that day, where
11 did you go?

12 A In the middle of the day?

13 Q Yes, sir. Late morning, early afternoon, something
14 like that?

15 A Went to the trailer park.

16 Q Who were you going to see over there?

17 A Carlos.

18 Q Carlos Fuller?

19 A Yes, sir.

20 Q And you went to his trailer, is that correct?

21 A Yes, I went to his trailer.

22 Q So you came from your house on Georgia Road and went
23 over to the trailer park?

24 A Yes, sir.

25 Q What was your purpose in going there?

1 A It was just a place to hang there.

2 Q Were you meeting with him for any specific purpose on
3 that day though?

4 A I mean we chill together all the time.

5 Q Let me ask you this, did y'all have a rap show
6 planned?

7 A Yes, it was the next day.

8 Q Okay. And were y'all preparing for that rap show?

9 A Yes, sir.

10 Q So who all was there?

11 A Carlos and Lavario.

12 Q Lavario Curenton?

13 A Yes, sir.

14 Q And Lavario Curenton, where did he live?

15 A In 2008 I ain't sure.

16 Q Okay. At any rate you and Lavario and Carlos met
17 where?

18 A Carlos house.

19 Q You met at Carlos house. You recall about what time
20 of day you got there?

21 A I am not sure what time it was.

22 Q How long did y'all stay there?

23 A I am not sure.

24 Q Did you see the defendant in this case, Stakren
25 Tyrise Jefferson?

- 1 A No, sir.
- 2 Q You did not?
- 3 A No, sir.
- 4 Q At any time that day?
- 5 A No, sir.
- 6 Q Did you see the victim in this case, Dreek Calwise?
- 7 A Yes, sir.
- 8 Q How did you see him?
- 9 A He pulled up in Carlos' yard and went between the
- 10 trailers to the other side.
- 11 Q Does that look like Carlos' trailer. I am referring
- 12 to State's exhibit number 5?
- 13 A Yes, sir.
- 14 Q Whose black car is that over to the lefthand side of
- 15 State's exhibit number 5 where those two men are?
- 16 A That is Dreek's car.
- 17 Q Where were y'all standing?
- 18 A Right at that window.
- 19 Q Right at that window, I will just point, right about
- 20 there?
- 21 A Yes, sir.
- 22 Q So very close to where his car pulled in? Did y'all
- 23 speak to him at all. I am not asking what you said but
- 24 did you speak to him?
- 25 A No, sir. He just got out and walked between those

1 two trailers over there.

2 Q Was this a common event for somebody to pull in there
3 and just park and go walking off?

4 A Yes.

5 Q So nothing unusual about that?

6 A No.

7 Q But he went walking off, referring now to State's
8 exhibit number 27, went walking off in this direction?

9 A Between the trailers.

10 Q Between the trailers here and in this direction?

11 A Yes, to the other street.

12 Q Do you know whether or not the defendant, Mr.

13 Jefferson, has any relatives that live over on that
14 street?

15 A No, I don't know.

16 Q Did you see anything else after that?

17 A No, sir.

18 Q Did you hear anything else after that?

19 A Yes, sir.

20 Q What did you hear?

21 A I heard three shots.

22 Q Where did they come from?

23 A I don't know.

24 Q You don't know. What happened?

25 A When I heard the three shots I ran into the other,

1 the front door, Carlos, to the other side of the house.

2 Q And then what?

3 A And then, I don't know, they like come on, let's go.

4 Q And where did y'all go?

5 A We went to a store.

6 Q All right. Mr. Foggie, I want to hand you what has
7 been marked as State's exhibit 31 for identification and
8 ask you if you can identify that?

9 A Yes, I can identify that.

10 Q What is that please, sir?

11 A That is a statement that I wrote.

12 Q Is that your signature down there at the bottom?

13 A Yes, sir.

14 Q And when did you make that statement?

15 A The 20th.

16 Q The 20th of what month?

17 A May of 2008?

18 Q 2008, about four days after Dreek Calwise was shot,
19 is that right?

20 A Yes.

21 MR. MOWRY: Your Honor, I would like to go through
22 the same litany as we went through a few minutes ago.

23 THE COURT: All right, very good.

24 Q Trezz, I want to refer you now to State's exhibit 31
25 for identification which I am putting up there on the

1 screen. This statement, before your signature there is a
2 paragraph that says I have read each page of this
3 statement consisting of one page, each page which bears my
4 signature and corrections if any bear my initials and I
5 certify that the facts contained therein are true and
6 correct. And then your signature is down below. Okay.
7 So you are promising that what is in there is true and
8 correct. Is that correct, is that right?

9 A I was promised that I was going to be the one to go
10 to jail for it if I didn't sign that.

11 COURT REPORTER: I didn't hear you.

12 THE COURT: Could you repeat that, sir.

13 A I said, I was told that I would be the one to go to
14 jail if I didn't sign that.

15 Q Let me ask you this, Trezz, prior to giving this
16 statement did you have a conversation with your mother?

17 A Yes, I called my mom.

18 Q Who was there, where was this statement given?

19 A At the annex building.

20 Q At the law enforcement annex, is that right?

21 A Right.

22 Q Down at the sheriffs office?

23 A Yes.

24 Q Who was present with you, who went down there with
25 you?

- 1 A My stepfather.
- 2 Q And he was outside the door, wasn't he, when the
- 3 police were talking to you?
- 4 A Yes.
- 5 Q How soon after your mama and you had the conversation
- 6 did you give a statement to Detective Foggie?
- 7 A They already had their statement. I gave them
- 8 another statement and he said, uh-uh, well technically he
- 9 didn't even say uh-uh, he said it is all right. But
- 10 Stephon came in and they said no. You are going to jail
- 11 for it.
- 12 Q How soon after your conversation with your mama did
- 13 you give the statement to law enforcement?
- 14 A I am not sure.
- 15 Q But you gave the statement right after you talked to
- 16 your mother, isn't that right?
- 17 A It was already written up, they had already typed it.
- 18 Q Let's go over this statement. I went to Carlos
- 19 Fuller's house. Then Lavario Curenton came over there
- 20 shortly after I did. Is that true?
- 21 A No, he was already there when I got there.
- 22 Q Let me ask you this. Is your recollection going to
- 23 be better four days after the fact or four years after the
- 24 fact?
- 25 A Probably would be four days after.

1 Q Then Dreek pulled up in his car. Is that correct?

2 A Yes.

3 Q Then Carlos said I will be out there in a minute.

4 Carlos came out and we were talking and we were talking
5 about the show. Is that correct?

6 A No, he never had come outside.

7 Q Again, is your recollection better four days or four
8 years after the fact?

9 A It is probably four days.

10 Q Okay. Carlos went back in the house to get a beer.
11 Is that correct?

12 A Yes, he got a beer.

13 Q Dreek said what's up to me and Lavario and then
14 walked up the hill. Is that correct?

15 A No, sir.

16 Q Between the two abandoned trailers.

17 A He didn't speak, he just walked.

18 Q Sorry?

19 A When he got out of his car he didn't speak, he just
20 walked.

21 Q I see. Again, four days or four years? Which would
22 be a better recollection?

23 A Probably it would be four days.

24 Q Okay. Then he came back in sight facing us and then
25 he turned around with Tyrise. Is that true?

1 A No, sir.

2 Q You are testifying today that is not true.

3 Recollection better four days or four years after the
4 fact?

5 A Probably would be four days.

6 Q I am going to not repeat it, Your Honor, I heard
7 Dreek say, FU, then Tyrise said FU. Is that correct?

8 A No, sir.

9 Q Four days or four years, which is better.

10 A Probably four days.

11 Q Me and Lavario was talking about the show for
12 Saturday. Dreek walked down a little bit but they were
13 still fussing. Is that correct?

14 A Can you please repeat that.

15 Q Yes. Me and Lavario was still talking about the show
16 for Saturday. Dreek walked down a little bit but they
17 were still fussing.

18 A No, sir.

19 Q Is that recollection better four days or four years
20 after the fact?

21 A Did you say that--

22 Q Would your recollection be better four days after the
23 fact or four years after the fact?

24 A Probably four days.

25 Q Four days. Then Tyrise pulled out a gun. Is that

1 true or not?

2 A No, sir.

3 Q Okay. But your statement says it is true, isn't that
4 right?

5 MR. ROBINSON: Your Honor, I am going to object. I
6 think he characterizes as it is your statement. He has
7 testified that he didn't say that at the time.

8 THE COURT: All right. Why don't you ask him that
9 question, if that is what he said.

10 Q Did you make this statement?

11 A He typed that statement.

12 Q He typed it up and you signed it as being true, isn't
13 that true?

14 A At that time they made me sign it.

15 Q It says signature of person giving voluntary
16 statement. Take a look, under your signature doesn't it
17 say that. Signature of person giving voluntary statement.
18 Then Tyrise pulled out a gun and shot about three times.
19 Is that in your statement?

20 A He typed it, that is not true.

21 Q But you are certifying that it is true, isn't that
22 right, isn't that what your signature says. I certify
23 that the facts contained herein are true and correct.

24 A Yes, sir.

25 Q Dreek ran up the hill towards the road. Is that

- 1 true?
- 2 A No, sir.
- 3 Q That is not true. Okay. Would your recollection be
- 4 better four years after the fact or four days after the
- 5 fact?
- 6 A Probably four days..
- 7 Q Thank you. Carlos came out the door and said, man,
- 8 let's go. Excuse me, I left something out. I took off,
- 9 went, running around the house. Is that correct?
- 10 A Yes, I ran around the house.
- 11 Q Carlos came out the door and said, man, let's go.
- 12 A Yes, sir.
- 13 Q Me and Carlos got in the car and went to the store.
- 14 Is that right?
- 15 A Yes, we went to the store.
- 16 Q Then we came back, drove by and saw Dreek laying on
- 17 the ground. Is that right?
- 18 A Yes, sir.
- 19 Q We pulled into Carlos' yard. Is that correct?
- 20 A Yes, sir.
- 21 Q Carlos went in the house and got the phone and called
- 22 911?
- 23 A Yes, sir.
- 24 Q We both walked up the hill to check on Dreek.
- 25 A Yes, sir.

1 Q Carlos told Dreek that if he called, that he called
2 the ambulance for him and then Dreek gave him a thumbs up?

3 A Yes, sir.

4 Q That is true. And then the police got there and told
5 us to get back.

6 A Yes, sir.

7 Q Trezz, do you know what a snitch is?

8 A Yes, sir.

9 Q What is a snitch, what is your definition of it?

10 A Committing a crime with somebody and y'all doing it
11 together and you get caught and he don't and you tell on
12 him.

13 Q Let me ask you this, let me back up a little bit. In
14 the area around Stoddard Trailer Park, is it looked upon
15 highly for people to cooperate with law enforcement?

16 A I am not sure.

17 Q What is your view on it?

18 A I cooperated.

19 Q Once again, Trezz, that is your signature down there
20 at the bottom of State's exhibit 31. Is that right?

21 A Yes, sir.

22 Q Okay. Thank you, that is all I have.

23 THE COURT: Mr. Robinson.

24 CROSS-EXAMINATION

25 By Mr. Robinson:

1 Q Trezz, Mr. Mowry said four days versus some other
2 time. This statement and I think you were eluding to this
3 in your answers, this wasn't a statement that was prepared
4 by you, was it?

5 A No, sir.

6 Q This actually, when Mr. Mowry talks about
7 recollection, this is a police recollection, not your
8 recollection, is that correct?

9 A Yes, sir.

10 Q And when you made this statement you were advised
11 that if you didn't cooperate you would go to jail, is that
12 correct?

13 A Yes, sir.

14 Q Not only you but also your family as well, is that
15 right?

16 A Yes, sir.

17 Q So when you say that this is your signature, this is
18 a signature that is on a plea statement that was given
19 after you were told if you don't sign this we are going to
20 put your family in jail, is that correct?

21 A Can you repeat that one more time.

22 Q Let's establish this. This is not your handwriting
23 here?

24 A Yes.

25 Q This is the police's handwriting, correct?

1 A Yes, sir.

2 Q This is the police recollection, not yours, correct?

3 A Yes, sir.

4 Q Because you never saw Stakren Jefferson out there,
5 did you?

6 A No, sir.

7 Q And that is the truth, isn't it?

8 A Yes, sir.

9 Q Now, when the police came to you they came to you
10 with this typed out statement, didn't they?

11 A Yes, sir.

12 Q Actually this officer and his crew that came in and
13 gave you this statement that had all of this information
14 on it regarding these different things. Is that correct?

15 A Yes, sir.

16 Q I think Mr. Mowry said that he talked about what the
17 statement had on top of it somewhat regarding waiving your
18 right and no hopes and that kind of thing. But you didn't
19 have an attorney with you, did you?

20 A No, sir.

21 Q It was you, this guy and officers with a statement to
22 you saying you sign this statement, Mr. Foggie, or you are
23 going to jail and your family is going to jail, isn't that
24 right?

25 A Yes, sir.

1 Q And you would have signed anything, wouldn't you?

2 A Yes, sir.

3 Q And this statement is not the truth, is it?

4 A No, sir.

5 Q This is not your recollection, it is the police
6 recollection what they put in that statement?

7 A Yes, sir.

8 Q That is all I have. Thank you.

9 REDIRECT EXAMINATION

10 By Mr. Mowry:

11 Q Trezz, I am going to go back with the phone
12 conversation with your mama while you were down there at
13 the law enforcement or at the sheriffs office.

14 MR. ROBINSON: Your Honor, objection, this is going
15 outside the scope.

16 MR. MOWRY: Your Honor, he asked questions about the
17 truthfulness of the matter.

18 THE COURT: The Court will allow it, go ahead.

19 Q You said your stepfather was there, is that right?

20 A Yes, sir.

21 Q Where was he?

22 A He was outside.

23 Q He was sitting just outside the door, isn't that
24 right?

25 A No, he was like in a canteen. I was here and he was

1 like right there at the door.

2 Q So he was close by?

3 A Yes.

4 Q Who came in to give you the phone to talk to your
5 mama?

6 A Nobody, I asked for it. I was in handcuffs and
7 called my mama.

8 Q Okay. And what did your mama tell you?

9 A She said tell the truth.

10 Q Trezz, did you have a gun on May the 16th of 2008 at
11 Stoddard Trailer Park?

12 A No, sir.

13 Q Did Lavarario?

14 A I didn't see one.

15 MR. ROBINSON: Your Honor, objection, this is going
16 beyond the cross-examination in this case.

17 THE COURT: Getting a little far field.

18 MR. MOWRY: One more question, Your Honor, just about
19 Carlos and that is going to be it and I promise I will sit
20 down.

21 THE COURT: Let's hear the question first.

22 Q Did Carlos have a gun.

23 MR. ROBINSON: Your Honor, again--

24 THE COURT: The same objection?

25 MR. ROBINSON: I ask that to be stricken, Your Honor.

1 THE COURT: Sustained. That is beyond the scope of
2 cross-examination.

3 MR. MOWRY: Your Honor, thank you.

4 RECROSS-EXAMINATION

5 By Mr. Robinson:

6 Q You were in handcuffs, weren't you?

7 A Yes, sir.

8 Q Thank you.

9 THE COURT: You can step down, thank you.

10 MR. MOWRY: I ask that this witness be excused, Your
11 Honor.

12 THE COURT: No objection, Mr. Robinson?

13 MR. ROBINSON: No objection.

14 THE COURT: Mr. Foggie, you are free to go. Ladies
15 and gentlemen of the jury, I realize y'all had an
16 opportunity to take some breaks, we haven't had a good
17 opportunity to take one. So we are going to allow a five
18 minute break. You are excused for five minutes. Don't
19 talk about the case.

20 (Whereupon, the jury was excused from open court for
21 a break.)

22 THE COURT: Let the record reflect that the jury is
23 out. Mr. Mowry, I kind of called for the break because I
24 assume that your next witness is going to be the last one,
25 this is his mother.

1 MR. MOWRY: Yes, sir.

2 THE COURT: Or do you intend to call her at this
3 point?

4 MR. MOWRY: Yes, sir.

5 THE COURT: Any objection, Mr. Robinson?

6 MR. ROBINSON: The mother, Your Honor?

7 THE COURT: The mother.

8 MR. ROBINSON: I think he testified on the stand that
9 she told him to tell the truth. If he testified on
10 cross-examination that I never told her that but he is
11 calling her to bolster the testimony. He said on the
12 stand, my mother told me to tell the truth.

13 THE COURT: Refresh my memory from the previous
14 trial. I know that the substance of the witness, the main
15 thing you are wanting her to testify to is that she told
16 her son to tell the truth.

17 MR. MOWRY: Yes, sir.

18 THE COURT: Anything else that is germane because
19 this witness has admitted that he spoke to his mom and his
20 mama told him to tell the truth.

21 MR. MOWRY: She testified that her husband had told
22 her that the police had come to question Trezz and that
23 they were down at the police station. Trezz wasn't saying
24 anything and then she said, ask the police if I can talk
25 to Trezz. And I said, Trezz, tell the truth, tell the

1 truth, if you seen anything tell the truth.

2 THE COURT: Well the last witness testified that he
3 wanted to speak to his mama and ask the police to make
4 that call. Correct. And then she is now saying or in her
5 prior testimony, at the other trial, she said that it was
6 her husband, his stepfather?

7 MR. MOWRY: Yes, sir.

8 THE COURT: I realize that it might be a little bit
9 cumulative. I will let her testify, this will take five
10 seconds and we will move on.

11 MR. ROBINSON: As long as he don't go into hearsay,
12 as part of my husband told me or something along that.

13 THE COURT: That is fine. If you could just caution
14 that witness to limit herself to what her understanding
15 was that was taking place. I received information or I
16 got information that my son at the police department or
17 sheriffs department and then she can testify as to whether
18 she asked to speak to them or he asked to speak and what
19 was said. I think that is valid. We will be at ease for
20 a few moments and I will be right back out.

21 (Whereupon, a short break was taken..)

22 THE COURT: Mr. Robinson, do you have something?

23 MR. ROBINSON: Yes, I am going to ask the prosecution
24 to not discuss this case with other witnesses who have
25 just testified and the ones that are going to testify.

1 THE COURT: If you don't mind, Mr. Newton, obviously
2 the point of having a witness sequestered is to make sure
3 that the one person's testimony doesn't affect another
4 witnesses testimony. I see you have your victim's
5 advocate here, victim witness coordinator. If you could
6 ask him to just caution the witnesses, once they testified
7 they don't need to be, I am assuming that are just leaving
8 the court house. But at the same time it sounds like a
9 lot of these folks live around the same area. If you
10 wouldn't mind just admonishing them that they don't need
11 to be talking with each. We are going to be taking a
12 break some time this evening. I don't want somebody
13 calling this evening and comparing notes.

14 MR. MOWRY: Well hopefully, Your Honor, we will get
15 done then it won't matter after that point to be perfectly
16 honest with you.

17 THE COURT: Well if you don't mind go ahead and let
18 your victim's advocate tell the folks that are back there
19 that obviously they don't need to be talking with anybody
20 about their testimony.

21 MR. MOWRY: I will go ahead and do that myself right
22 now.

23 THE COURT: I appreciate that. Let's have the jury
24 back if we may.

25 (Whereupon, the jury came into open court at

1 approximately 4:30 p.m.)

2 THE COURT: Let the record reflect that the jury is
3 present. Mr. Mowry, please call your next witness.

4 MR. MOWRY: We call Sharon Mack.

5 SHARON MACK, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Mowry:

9 Q You are Sharon Mack?

10 A Yes, sir.

11 Q And, Ms. Mack, you are here under subpoena, aren't
12 you?

13 A Yes, sir.

14 Q Not to be light of it but is there anywhere else on
15 earth you would rather be than here?

16 A Yes, sir.

17 Q So, you would rather not be here?

18 A Yes, sir.

19 Q But you are Trezz Foggie's mom, is that right?

20 A Yes, sir.

21 Q And what is your husband's name?

22 A Darren Mack.

23 Q Darren Mack. Whereabouts do y'all live?

24 A [REDACTED], Gray Court.

25 Q Okay. Now we have heard some testimony about

1 Stoddard Trailer Park right here, how close is your house
2 to Stoddard Trailer Park?

3 A Our house is on the lefthand side, Stoddard's is
4 across the street.

5 Q So this is Georgia Road here, is that correct. I am
6 referring, Your Honor, to State's exhibit number 27.

7 A Yes, sir.

8 Q And your house is up in this area?

9 A Yes, sir.

10 Q So walking distance, would you say?

11 A Yes, sir.

12 Q Okay. Now how long have y'all lived there?

13 A Almost 20 years.

14 Q And has Trezz lived with y'all there most of that
15 time?

16 A Yes, sir.

17 Q Does he still?

18 A No, he don't live with me now.

19 Q Okay. I want to ask you to think back if you would,
20 to the 20th of May of 2008, a little over four years ago.
21 Did anything significant happen on that day?

22 A I got a phone call from my husband saying that Trezz
23 had been drove down to the police station and that he
24 was--

25 MR. ROBINSON: Objection, Your Honor, hearsay.

1 THE COURT: Sustained to the hearsay nature. She can
2 discuss who she had a telephone conversation with.

3 Q Who did you have the conversation with, who was the
4 phone call from?

5 A Darren Mack, my husband.

6 Q Okay. And after the conversation that you had with
7 Darren what did you do?

8 A I asked Darren to ask the police force if I could
9 talk with my son, Trezz.

10 Q Why did you want to talk to Trezz?

11 A Because they say that Trezz wasn't--

12 MR. ROBINSON: Objection, Your Honor, hearsay.

13 THE COURT: Any exception that you can say?

14 MR. MOWRY: Present sense impression, Your Honor.

15 THE COURT: Sustained. What somebody told her what
16 was going on down there that she can relate to the
17 substance of her conversation.

18 Q Once you had had the conversation with your husband
19 what did you ask?

20 A I asked if I could speak with my son.

21 Q Why did you want to speak with him?

22 A Because my son wasn't responding to the police force.

23 Q And what did you want to tell him?

24 A If he know the truth tell the truth.

25 Q Did you in fact get a chance to talk with Trezz?

1 A Yes, I did.

2 Q And what did you tell Trezz?

3 A Trezz, if you know the truth tell the truth.

4 Q Okay. Did you know what the questioning was all
5 about?

6 A I just knew that they said someone had--

7 MR. ROBINSON: Objection, Your Honor, hearsay.

8 MR. MOWRY: I will withdraw the question, Your Honor.

9 Q No further questions. Thank you, Sharon.

10 CROSS-EXAMINATION

11 By Mr. Robinson:

12 Q Ms. Mack, you don't know what the truth is and what
13 the truth isn't, do you?

14 A No, sir.

15 Q And you didn't know at the time that your son was in
16 handcuffs, you didn't know that, did you?

17 A No sir, I sure didn't.

18 Q You didn't see anything about this stuff, did you?

19 A No, sir.

20 REDIRECT EXAMINATION

21 By Mr. Mowry:

22 Q But you did know one thing, isn't that right. You
23 knew what you told Trezz to do.

24 A To tell the truth.

25 Q Thank you, that is all I have.

1 THE COURT: Thank you, Ms. Mack, you can step down.

2 No objection to excusing this witness?

3 MR. ROBINSON: No objection.

4 THE COURT: You are free to go. Call your next
5 witness, please.

6 MR. MOWRY: Call Lavario Curenton.

7 LAVARIO CURRENTON, being

8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Mowry:

11 Q You are Lavario Curenton?

12 A Yes, sir.

13 Q Lavario, how old are you?

14 A 26.

15 Q Where do you live now, Lavario?

16 A Highway 101 in Gray Court with my mother.

17 Q Okay. Did you live there back in May of 2008?

18 A No sir, I stayed at Stoddard's Trailer Park.

19 Q Okay. Referring again to State's exhibit number 27,
20 this is Carlos' trailer here, this green dot. And that
21 this purple dot up here is yours, is that correct?

22 A Yes, sir.

23 Q Okay. Did you know Carlos Fuller?

24 A Yes, sir.

25 Q How well do you know him?

1 A I know him very well, we grewed up in the same
2 neighborhood.

3 Q Do y'all hang together a lot?

4 A Yes, not, I wouldn't say day to day but mostly on the
5 weekend.

6 Q Did you know the defendant in this case, Stakren
7 Tyrise Jefferson?

8 A Yes, sir.

9 Q Did you know the victim in this case, Dreek Calwise?

10 A Yes, sir.

11 Q How well did you know them?

12 A Like I say, we are all from Gray Court. I know him
13 from being around.

14 Q What is your relationship with him. Do you consider
15 them friends or just acquaintances?

16 A Just acquaintance.

17 Q Any kind of animosity or any kind of ill will between
18 y'all?

19 A No, sir.

20 Q Let me ask you to think back to the 16th of May of
21 2008. Did you go over to Carlos' trailer that morning?

22 A Yes sir, I did.

23 Q Who all was there when you were there?

24 A It was Carlos and Trezz Foggie.

25 Q Did you ever see the defendant that day?

- 1 A Yes, sir.
- 2 Q When did you see him?
- 3 A Maybe been around, I couldn't come up with the exact
- 4 time, maybe around noon or somewhere around in there.
- 5 Q Sometime midday?
- 6 A Yes, sir.
- 7 Q Did you ever see the victim in this case?
- 8 A Yes, sir.
- 9 Q Let me show you what has already been admitted as
- 10 State's exhibit number 5. If you will look over your
- 11 shoulder, do you recognize that residence right there,
- 12 that building?
- 13 A Yes, sir.
- 14 Q What is that?
- 15 A It is Carlos Fuller's house.
- 16 Q Carlos Fuller's home?
- 17 A Yes, sir.
- 18 Q Do you recognize the car down here, this black car on
- 19 the lefthand side of the photo?
- 20 A Yes, sir.
- 21 Q Whose car is that?
- 22 A I am guessing it is still Mr. Calwise's car.
- 23 Q So that is Dreek Calwise's car?
- 24 A Yes, sir.
- 25 Q How did you see Dreek Calwise, describe how that came

1 about?

2 A Carlos and Tyrise was in his yard having a few beers
3 talking about our rap concert we had, like that weekend.
4 And Mr. Calwise pulled into the yard, his car in Carlos'
5 yard.

6 Q What did he do?

7 A He got out, spoke with us.

8 Q Don't go into what he said but you had a conversation
9 with him and what did he do?

10 A He stood and talked with us maybe five minutes or so
11 and he walked like I guess between the trailers to the
12 other side of the trailer park.

13 Q Okay. So when you are talking about between the
14 trailers you are talking about these trailers down in
15 here?

16 A Yes sir, by Carlos home.

17 Q And went over this way as far as you could tell?

18 A Yes, I really can't tell about that now.

19 Q Okay. Let me ask you this before I forget. Lavario,
20 did you have a gun?

21 A No, sir.

22 Q You weren't carrying?

23 A No, sir.

24 Q Did you see Trezz with a gun?

25 A No, sir.

1 Q Did you see Carlos with a gun?

2 A No, sir.

3 Q Okay. What did y'all do after Dreek came by and
4 greeted you and spoke with you and walked off in this
5 direction?

6 A In and out of Carlos' house drinking a couple of
7 beers, on the computer, making music, planning out our
8 concert that we had for the weekend.

9 Q What happened then?

10 A I say maybe fifteen or twenty minutes later Mr.
11 Calwise came back down to Carlos' yard and got in his car
12 and left.

13 Q What then?

14 A Me, Carlos and Trezz continued to doing what we was
15 doing before Mr. Calwise came. And I couldn't exactly say
16 where Mr. Calwise went but he came back maybe in ten
17 minutes or so, like he could have went to the store or
18 anywhere in the town and came back to Carlos' yard.

19 Q What did you see after that?

20 A Mr. Calwise got out of his car and went back in the
21 same direction where he came from before he left to go to
22 the store.

23 Q What happened then?

24 A I say, we were still in Carlos' yard like right in
25 front of his window.

1 Q When you say right in front of the window, I wish I
2 had my pointer but let me see if I can do this. You are
3 talking about his window here?

4 A Yes, sir.

5 Q Okay.

6 A And we continued to talk about the show and whatnot
7 and we was going into Carlos' house, Carlos and Trezz had
8 already entered the house and I was going around the back
9 of Carlos' trailer to enter the house, to go in there to
10 get on the computer or whatnot and I heard maybe three or
11 four gunshots as I was going around the trailer, fixing to
12 go into Carlos' home.

13 Q Did you see who did the shooting?

14 A No, sir.

15 Q It wasn't you?

16 A No, sir.

17 Q Was it Trezz?

18 A No sir, he was in the home.

19 Q Was it Carlos?

20 A No sir, he was in his own home.

21 Q Did you see the defendant in this case, Stakren
22 Tyrise Jefferson, at the time you heard the shots?

23 A No, sir.

24 Q Did you see who was getting shot?

25 A No, sir.

1 Q What do you want to testify to that you saw after
2 that?

3 A After what?

4 Q After you heard the shots?

5 A That I went to my home on the street behind the
6 trailers where I stayed at and went to babysit my
7 brother's kids as I had already planned before anything
8 even happened that day.

9 Q So you just heard the shots and walked on off?

10 A Yes, sir. I actually ran.

11 Q Did you see Dreek Calwise after that?

12 A No, sir.

13 MR. MOWRY: Your Honor, could Mr. Robinson and I just
14 approach for a moment?

15 THE COURT: Sure.

16 (Whereupon, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 THE COURT: Ladies and gentlemen, a quick issue of
20 law that I need to take up with the attorneys. This will
21 take about two minutes. Go back to the jury room and
22 don't talk about the case.

23 (Whereupon, the jury was excused from open court.)

24 THE COURT: Mr. Robinson, you and Mr. Mowry is ready
25 to go, you are satisfied with the redactions?

1 MR. MOWRY: Yes, sir.

2 MR. ROBINSON: I am, Your Honor. Mr. Mowry and I
3 have both reviewed the document that is going to be used
4 to question the witness.

5 THE COURT: Very good. Thank you. Let's go ahead
6 and have the jury back, please sir.

7 (Whereupon, the jury came into open court at
8 approximately 4:50 p.m.)

9 THE COURT: Let the record reflect the jury is back.
10 Mr. Mowry, you may continue.

11 CONTINUE DIRECT EXAMINATION

12 Q Lavario, let me just back up and review just a
13 minute. You and Trezz and Carlos at Carlos' trailer, is
14 that right?

15 A Yes, sir.

16 Q Getting ready for a rap show?

17 A Yes, sir.

18 Q Dreek Calwise, the victim in this case pulls up, is
19 that right?

20 A Yes, sir.

21 Q Referring again to State's exhibit number 5, that is
22 his car. How close were y'all to his car that day, y'all
23 were standing under that first window on the trailer, is
24 that right. That single window?

25 A Yes, sir.

- 1 Q So pretty doggone close, is that right?
- 2 A Yes, sir.
- 3 Q Y'all had a little conversation with him, he walked
- 4 off and a few minutes later he comes back and gets in his
- 5 car and drives off and then he comes back?
- 6 A Yes, sir.
- 7 Q And goes in the same direction?
- 8 A Yes, sir.
- 9 Q You are saying that you didn't see anything after
- 10 that, all of a sudden you just started hearing shots, is
- 11 that right?
- 12 A Yes, sir.
- 13 Q How far off were these shots?
- 14 A Maybe like it could have been on the other side of
- 15 the trailer park or maybe at the top, I don't know.
- 16 Around the corner maybe.
- 17 Q But it wasn't you shooting?
- 18 A No, sir.
- 19 Q And it wasn't Trezz, is that right?
- 20 A No, sir.
- 21 Q It wasn't Carlos?
- 22 A No, sir.
- 23 Q Let me hand you what has been marked as State's
- 24 exhibit number 32 for identification. Do you recognize
- 25 that?

- 1 A Yes, sir.
- 2 Q What is that please, sir?
- 3 A It says voluntary statement.
- 4 Q And who is it from?
- 5 A It has my name on it.
- 6 Q It has your name and it has your signature on it too,
- 7 doesn't it?
- 8 A Yes sir, it does.
- 9 Q When was that made?
- 10 A Not sure.
- 11 Q Not sure. That says May 22nd of 2008, does that
- 12 sound about right?
- 13 A Yes sir, it does.
- 14 Q Less than a week after this event took place, is that
- 15 right?
- 16 A Yes.
- 17 Q We are talking about May 16th when the shooting took
- 18 place and now we are talking about May 22nd, so that is
- 19 less than a week later, isn't that right?
- 20 A Yes, sir.
- 21 Q Generally, Lavario, which would you think would be a
- 22 better recollection, something a week after the fact or
- 23 less than a week after the fact or something four years
- 24 later?
- 25 A I would say around a week.

1 Q So let's go over this statement if we could. Can you
2 see that okay?

3 A Kind of, yes.

4 Q I know it is kind of difficult but I will read out
5 part of it. Down at the bottom it says that you have read
6 each of these pages and certified that the facts contained
7 therein are true and correct. A few lines above your
8 signature, isn't that what that says?

9 A I haven't read it before. I guess as to what it
10 says.

11 Q Okay, you just signed it?

12 A Yes, sir. I didn't write it.

13 Q So let me ask you this, me, Trezz Foggie and Carlos
14 Fuller was outside at Carlos's house talking about the
15 show on Saturday. Is that true?

16 A Yes, sir.

17 Q Tyrise Jefferson came down and spoke to us and then
18 went through the abandoned trailers, is that true?

19 A Yes, he came and spoke with us, yes.

20 Q I think he was going over to Vanessa Spurgeon's
21 house?

22 A I am not sure.

23 Q Then he walked between the two abandoned trailers.

24 You didn't know if he was going over to Vanessa Spurgeon's
25 house but that is what you thought, right?

1 A I couldn't see between the trailers.

2 Q Who is Vanessa Spurgeon?

3 A She was a lady that was staying in the neighborhood
4 at the time.

5 Q Okay. Any relation to the defendant in this case?

6 A I am not sure, I don't think so.

7 Q I assume he went to the Spurgeon's house about five
8 or ten minutes later. Dreek came back through the
9 trailers. Is that right?

10 A I don't know the time schedule.

11 Q A short time later though did he come back through
12 the trailers?

13 A When I first came to Carlos' house.

14 Q Again one week or four years, which is the better
15 recollection?

16 A One week.

17 Q And then Tyrise came back through?

18 A No sir, I don't recall that.

19 Q You don't recall that but it is in the statement,
20 isn't it?

21 A I never wrote a statement, no sir.

22 Q But you signed this statement, didn't you?

23 A Yes sir, that is correct.

24 Q Dreek told Tyrise, come here, let me holler at you?

25 A Never heard that, never wrote that statement.

1 Q They were up near the abandoned trailers talking?

2 A Don't recall that.

3 Q Okay. I couldn't hear what they were talking about
4 because we were playing music and someone else was playing
5 music too. I didn't know who but I heard it coming from
6 near the Spurgeon house?

7 A Yes sir, it is correct by we were playing music.

8 Q I heard two or three shots?

9 A Yes, sir.

10 Q I ducked down and I saw Dreek running up the hill?

11 A Don't recall that, sir.

12 Q I didn't see Tyrise anymore. Is that correct?

13 A Yes, sir.

14 Q You didn't see Tyrise anymore after the shooting?

15 A No, I didn't see him before the shooting or after.

16 Q And your trailer is where?

17 A It was Chicago Drive.

18 Q This place right here?

19 A Yes, sir.

20 Q And Dreek Calwise went running up the hill after the
21 shots had been fired and you walked back to your trailer
22 and you say you didn't see him?

23 A No sir, I didn't see him then or I didn't see where
24 he went.

25 Q And then you say I went to my brother's house in

1 Fountain Inn?

2 A Yes sir, I had to babysit my nephew and my niece at
3 the time.

4 Q Okay. Lavario, do you know what a snitch is?

5 A No, sir.

6 Q You never heard the term?

7 A Yes, heard the term.

8 Q What is your understanding of it?

9 A Really it is no understanding for it. Because it is
10 like not a word.

11 Q Let me ask you this then. What is the attitude in
12 Stoddard Trailer Park, the general attitude when you were
13 living there about cooperation with the police?

14 A To tell you the truth, sir, I never seen the police
15 come out there before anything. I never seen them show
16 up.

17 Q Thank you, sir, that is all I have got. If you will
18 answer any questions, Mr. Robinson's questions.

19 THE COURT: Mr. Robinson.

20 CROSS-EXAMINATION

21 By Mr. Robinson:

22 Q Lavario, you would agree that it is very common at
23 this Stoddard Park that shots are fired. Do you agree
24 with that?

25 A Yes, sir.

1 Q It is pretty common at the time when you lived there
2 to hear random shots, it was very common, correct?

3 A Yes, sir.

4 Q Now in response to a question by the prosecutor in
5 this case the statement is the statement that was written
6 by the police, is that correct?

7 A Yes, sir.

8 Q And they actually threatened you when you, gave you
9 this statement to sign, didn't they?

10 A Yes, sir.

11 Q They actually told you in fact that they were going
12 to put you in jail, put your family in jail if you didn't
13 testify, if you didn't sign that statement, is that
14 correct?

15 A Correct.

16 Q So the recollection in this case that is contained in
17 this statement that has been marked State's exhibit for
18 identification number 31, this is the police recollection,
19 not your recollection, correct?

20 A Correct.

21 Q And in fact you gave a statement to my investigator
22 that you never saw Tyrise out there that day?

23 A Correct.

24 Q Thank you.

25

REDIRECT EXAMINATION

1 By Mr. Mowry:

2 Q Lavario, when did you give that statement that Mr.
3 Robinson referred to?

4 A I am not sure the date.

5 Q Could it have been May 5th of 2009?

6 A It may have, I am not sure of the date.

7 Q Okay. Let me just hand you that and ask you if that
8 refreshes your memory?

9 A Yes, sir.

10 Q May 5th of 2009, does that sound right?

11 A Yes, sir.

12 Q So we are talking about nearly a year after the fact,
13 isn't that right?

14 A Yes, sir.

15 Q Thank you, sir.

16 RECROSS-EXAMINATION

17 By Mr. Robinson:

18 Q And when you talked to my investigator you weren't
19 threatened with your family or you being put in jail, were
20 you?

21 A No, sir.

22 Q Thank you.

23 THE COURT: Thank you, sir, you can step down. Mr.
24 Robinson, any objection to this witness being excused?

25 MR. ROBINSON: No, sir.

1 THE COURT: Sir, you are free to go. Thank you very
2 much for coming. Mr. Mowry, do you have a short witness?

3 MR. MOWRY: I do have a short witness, Your Honor,
4 that I would like to do. It is a civilian witness and I
5 would like, if the jury can hang with us, it will not take
6 long.

7 THE COURT: Very good. Call your next witness,
8 please.

9 MR. MOWRY: John Elliott Rhodes.

10 JOHN ELLIOTT RHODES, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Mowry:

14 Q You are John Elliott Rhodes?

15 A Yeah.

16 Q Mr. Rhodes, how old are you?

17 A I am 49.

18 Q Where do you live, please, sir?

19 A Stoddard Trailer Park.

20 Q What number?

21 A Lot 76.

22 Q It is over in this area in Stoddard Trailer Park,
23 isn't that right. Here is Georgia Road over in this area?

24 A Yes.

25 Q Were you at home in the early morning hours, I guess

1 early afternoon hours May the 16th of 2011, 2008, pardon
2 me, 2008?

3 A Yeah.

4 Q Do you work?

5 A Yes.

6 Q Were you working then?

7 A I work on second shift.

8 Q Second shift?

9 A Yes.

10 Q So you were at home early afternoon, is that right?

11 A Yes.

12 Q What were you doing early afternoon on that day?

13 A I was laying on the chair asleep.

14 Q Laying in the chair asleep?

15 A Laying on the chair, I was asleep.

16 Q And what happened that got your attention?

17 A I heard three shots and so I just laid there for a
18 couple of minutes and then I got up and walked down the
19 hallway, looked out the back door and I just seen what you
20 call him just standing on the side of the road. So I just
21 stood--

22 Q What do you call him, who are we talking about
23 standing on the side of the road?

24 A I don't know his name.

25 Q Are we talking about Dreek Calwise?

1 A Yes.

2 Q What was he doing?

3 A He was just standing there and he was just, stared
4 across the road. He just went up between the trailers.

5 Q Are you talking about up this direction?

6 A That road--

7 Q This is Gray, I am sorry.

8 A Chicago Drive.

9 Q What happened then?

10 A I just went back up through, I was in my underwear so
11 and I just went back through there and sat on the chair,
12 put my pants on, my shirt on, my shoes and socks. Then I
13 just walked out the door and walked up through there and
14 seen him laying on the ground. And then he said dial 911
15 so I went around the trailer, went back to the house, got
16 my phone but it was dead so I looked for my girl's track
17 phone and I couldn't find it. So I went back out there
18 and I seen Butch and I said, Butch, dial 911, somebody has
19 been shot.

20 Q Butch is Vanessa Spurgeon, is that right?

21 A I guess that is what they call her. I don't really
22 know her real name. So she ran down through the trailer
23 park, I went back in the house. So I came back out the
24 door and I seen Yate at the trailer park. I said, Yate--

25 Q Yate, I am sorry, we are getting a lot of nicknames.

1 Yate is the nickname for Carlos Fuller?

2 A Yes.

3 Q Okay.

4 A And I said what happened and he said I don't know,
5 man. So I went back down to the house and went in the
6 house and the next thing I know I heard a police car
7 coming in the trailer park. So I went back out the door
8 and stood out the door.

9 Q But you saw the victim in this case up in this area
10 coming across the road going up in this area?

11 A Yes.

12 Q And then you went out there and talked to him and he
13 was still alive?

14 A I didn't talk to him, he just said dial 911. So it
15 is like I said, I just went around the trailer park,
16 around the trailer and came back to the house and got my
17 track phone.

18 Q Thank you, that is all I have for you.

19 MR. ROBINSON: No questions, Your Honor.

20 THE COURT: Sir, thank you very much, you can step
21 down. No objection to excusing this witness from anyone?

22 MR. MOWRY: None whatsoever, Your Honor.

23 MR. ROBINSON: No, sir.

24 THE COURT: Thank you for coming, you are free to go.
25 No more short witnesses, Mr. Mowry?

1 MR. MOWRY: No, sir. This may be a good time to
2 break for the day.

3 THE COURT: Y'all come over here to the side.

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 THE COURT: Ladies and gentlemen, we have reached a
8 good stopping point for the evening. I think 9:30 will be
9 a good time to start in the morning. We will begin at
10 9:30. You have your juror badges with you and wear them
11 home tonight and remember to wear them back here tomorrow
12 morning. The reason for that is it helps the security out
13 front and the bailiffs identify you as jurors and it helps
14 get you at the right place. My constant admonition to you
15 is not to discuss this case or don't talk about this case
16 with anyone. And I am well aware, that your husband,
17 wife, significant other, whatever the case may be, I am
18 quite aware that they know you have jury duty this week
19 and it is going to be natural that they are going to have
20 questions of you such as what kind of case is it, how is
21 it going, things of that nature. Okay. It is perfectly
22 fine to tell them that you have been picked on a jury,
23 that is not a problem. What is very important however is
24 that you not discuss the actual case with them. And the
25 reason for this is you thirteen have been picked as fair

1 and impartial jurors and it is not proper for your
2 opinion, you are going to be the ones that is going to
3 have to be making that call, not your husband, not your
4 wife, not your boyfriend, girlfriend, whatever the case
5 may be. You are the ones that are going to have to make
6 that call and so it is improper for your opinion in this
7 case or your decision in this case to be influenced by
8 anything somebody might say to you. So don't talk about
9 the case with anyone. If they insist on talking about
10 this case with you just say, look, the Judge has told me I
11 can't discuss it, in a couple of days you will be able to
12 tell them everything that went on. With that have a
13 lovely evening, a very restful evening and I will see you
14 back in the jury room at 9:30.

15 (Whereupon, the jury was excused from open court for
16 the day.)

17 THE COURT: This jury is out and we will be at ease
18 in this case until 9:30 tomorrow. One thing I did want to
19 mention to the attorneys, I am assuming, Mr. Mowry, you
20 may seek introductions to certain, some of the statements
21 particularly of the second witness. If there is any
22 research that y'all want to do on that particular question
23 as to whether or not they are admissible or not I am
24 simply assuming that the same witness who basically denied
25 the statement that Mr. Mowry may be seeking introduction

1 of that when the investigator testifies or when he takes
2 the stand. So if there is going to be any research done
3 on that y'all probably need to take a quick glance at that
4 tonight. I will see y'all at 9:30.

5 (Whereupon, the trial will resume the next morning at
6 9:30 a.m.)

7 THE COURT: We are back on the record on case
8 08-GS-30-1165, the State versus Stakren Jefferson. All
9 parties are present, everyone ready to proceed?

10 MR. MOWRY: Yes, sir.

11 THE COURT: Let's have the jury back.

12 MR. MOWRY: Actually, Your Honor, I have a legal
13 matter that I would like to bring up before we bring the
14 jury back in.

15 THE COURT: Go ahead, please.

16 MR. MOWRY: As we had discussed at the end of
17 yesterday I would ask that the written statements
18 themselves from the three men at the trailer park be
19 admitted. There are a number of reasons why. The old
20 rule in South Carolina, of course, is that the State has
21 to show surprise if a witness gave a prior inconsistent
22 statement. But that rather ridiculous stand was remedied
23 with Rule 607 under the Rules of Evidence which says the
24 credibility of a witness may be impacted by any party
25 including the party calling the witness. Additionally,

1 Your Honor, in Rule 613(b), extrinsic evidence of a prior
2 inconsistent statement by a witness is not admissible
3 unless the witness is advised on the substance of the
4 statement, the time and place it was allegedly made, the
5 person to whom it was made and is given the opportunity to
6 explain or deny the statement. Obviously all of those
7 were satisfied with the examination of all three witnesses
8 yesterday. If a witness does not admit that he has made
9 the prior inconsistent statement, extrinsic evidence of
10 such statement is admissible. They did not admit
11 unequivocally that the statements were prior inconsistent.
12 Essentially all of them blamed Detective Foggie for
13 forcing them to sign inconsistent statements. And there
14 are two cases that are controlling in South Carolina. One
15 is State versus Blalock from 2003, it is a Court of
16 Appeals case. It was taken to the State Supreme Court and
17 cert was denied as I understand it. The second is State
18 versus Carmack, a 2010 case also with the Court of
19 Appeals. In essence, Your Honor, the gist of State versus
20 Blalock is that in determining whether a witness has
21 admitted making a prior inconsistent statement and thereby
22 obviated the need for extrinsic proof the Courts of our
23 state and other jurisdictions upheld that the witness must
24 admit making the prior statement unequivocally and without
25 qualification. Generally where the witness is responding

1 with anything less than an unequivocal admission trial
2 courts have been granted wide latitude to allow extrinsic
3 evidence proving the statement. Additionally, Your Honor,
4 in State versus Carmack which cites Blalock a decision to
5 admit extrinsic evidence of a prior inconsistent statement
6 will not be reversed absent a manifest of use of
7 discretion that prejudice the appellant. Extrinsic
8 evidence of a prior inconsistent statement and it goes
9 through a lot of the same litany that I read in rule 613.
10 But in essence, Your Honor, in these cases the issue was
11 not hearsay, the issue was the admissibility of the
12 written statement and in these cases a written statement
13 was admitted. I would submit that the items now that are
14 marked as identification specifically 28, 31 and 32, the
15 statements of Carlos Fuller, Trezz Foggie and Lavario
16 Curenton respectfully should be admitted into evidence at
17 this time.

18 THE COURT: Well I take issue with one thing that
19 you, the very last portion of what you said. I don't know
20 that at this particular point and time it is proper to
21 admit then into evidence simply because the officer who
22 took the statement, I think that that would be the proper
23 witness to allow those statements to come in. And there
24 might be some additional foundational requirements that
25 you would need, some additional foundational hurdles that

1 you would need to jump through. We are all familiar with
2 the Copeland decision from '83. My understanding is that
3 it is still good law. Yes, Copeland, 278, SC 572. I
4 think that what we are dealing with at this particular
5 case, we have three separate statements. I do want an
6 opportunity to look at those statements a little bit more
7 thoroughly and compare them against the testimony that was
8 given because my understanding for the rule for admitting
9 a prior inconsistent statement certainly can be used as
10 substantive evidence. I would tend to agree with you,
11 Solicitor, that the second witness in all likelihood
12 assuming that additional foundational requirements are met
13 that the statement of the second witness--

14 MR. MOWRY: Trezz Foggie?

15 THE COURT: Yes, Foggie, he was a lot more
16 inconsistent that his statement was the product of, for
17 lack of a better word--

18 MR. MOWRY: Creation.

19 THE COURT: Creation.

20 MR. MOWRY: Fabrication perhaps.

21 THE COURT: Fabrication, a narrative on the part of
22 the police that he just simply did not agree with
23 one-hundred percent or even ten percent.

24 MR. MOWRY: And the irony in all cases they agree
25 with large portions that no one would have known about

1 except for the fact that they had told the officers.

2 THE COURT: I understand and certainly that is a
3 point, will be an issue and that will be argued to the
4 jury. But again, gentlemen, remember y'all have had an
5 opportunity, a much greater opportunity to review this
6 evidence even though I have tried this case once
7 previously, y'all are much more familiar with the actual
8 statements themselves. So I would like to take a look at
9 those before we jump through that hoop. But, Mr.
10 Robinson, let me go ahead and hear you just so I can be
11 thinking about that. But let me ask you this, do you
12 anticipate the investigator being your next witness?

13 MR. MOWRY: No sir, he is not going to be my next
14 witness but he will be, I am planning on tieing everything
15 up through him.

16 THE COURT: Let me go ahead and hear from you, Mr.
17 Robinson, on this question about the statements.

18 MR. ROBINSON: Well, Your Honor, I read the Carmack
19 case, also the Copeland case. He has lost his opportunity
20 to bring this up because he should have, see he had the
21 opportunity. He put all of the statements up on the
22 screen there to let the jury look at all of the statements
23 that they have here. He didn't move those into evidence
24 and argue this point at the proper time which would have
25 been through those particular witnesses at that time. He

1 never did that, he never said, he never had a hearing
2 outside the presence of the jury to get those statements
3 in at that time.

4 MR. MOWRY: That is what we are having right now,
5 Your Honor.

6 MR. ROBINSON: If I can argue for one second.

7 THE COURT: Go ahead, please, Mr. Robinson.

8 MR. ROBINSON: And, Your Honor, they, he asked them
9 and he showed them the statement, they agreed they made.
10 They had this statement that was typed out by the officer,
11 they admitted that. They also admitted that he threatened
12 them, he told them he was going to put their mother in
13 jail or whatever it was going to be. He did that. He had
14 the opportunity on direct examination of his own witness,
15 not my witness, his witness, he had the opportunity to put
16 that up on the screen there. He had the opportunity but
17 if you look at the Blalock case, excuse me, the Copeland
18 case and the Carmack case which are cases he cited, they
19 admitted that that was their signature, they had signed
20 it, he went through the whole thing about snitching and
21 all of that information about this. And put a whole big
22 show on about you did this, this is your signature, this
23 is your handwriting, it was the detective's handwriting.
24 And he had the opportunity and I cross-examined them
25 about, well you know, he threatened me, he did such and

1 such. That is something for the jury. Putting that into
2 evidence is not the proper, he lost the opportunity to do
3 that and I think the next step in this whole process the
4 Court considers, I think we have got to go back and look
5 at every single thing, I wrote the notes of these guys.
6 They didn't unequivocally deny they made the statement,
7 they just said, well, the guy was threatening me and all
8 of that kind of stuff. That is cross-examination. And he
9 had the opportunity on redirect to ask them questions
10 about in response to my questions. He had more than an
11 opportunity to do that. Going through this whole litany
12 of things about well, what are snitches, looked at this
13 Stoddard Trailer Park, are they looked at and so forth.
14 The statements, he showed the statements to the jury
15 already, he put the statements there at that time. I
16 think he has lost the opportunity to do that and he didn't
17 move to have those admitted as evidence in this case. And
18 I believe that they admit that they made, they signed the
19 statement and that the statement had been prepared by
20 Officer Foggie. If every time an attorney cross-examines
21 a witness about something and says, well you know, were
22 you threatened, were you this. Each time the prosecution
23 puts in that statement like that as a substantive piece of
24 evidence you might as well not do any cross-examination of
25 someone because it makes it impossible to do that. He

1 went through the whole process of getting the statement,
2 they admit they signed it, he went through the whole thing
3 about snitches. I think they didn't unequivocally deny
4 they made the statement.

5 THE COURT: I want to look at the statements. And
6 since the officer is not going to be the next witness to
7 testify that will afford me an opportunity to do that as
8 well as read the two cases that are provided. As a
9 threshold matter it would appear to me that Mr. Mowry
10 followed the correct procedure in confronting the witness
11 with the statement, informing the witness of circumstances
12 under which he was given, giving the substance of the
13 statement, giving the opportunity, giving the witness an
14 opportunity to admit or deny giving the statement. So as
15 far as the foundational requirements for cross-examining
16 the witness about the statement those appear to have been
17 met in my mind. The question under, the next question is
18 admissibility of the statements as substantive evidence
19 under Copeland. And that turns on the question of the
20 degree to which the witnesses agreed or disagreed with the
21 prior statements. So I believe the foundational
22 requirements were more likely than not been met to
23 introduce at least some of the statements into evidence.
24 But it becomes a question of which ones if not all three
25 are proper for introduction at this point. Because some

1 of the witnesses, the first witness in particular and I
2 haven't had a chance to fully review my notes, it may be
3 necessary for us to go by, go through these witnesses one
4 by one because my understanding, the rule for
5 admissibility of a prior statement under Copeland is that,
6 again, if the witness admits to making the statement and
7 it is inconsistent with trial testimony then for
8 impeachment purposes that is complete. Perhaps then it
9 becomes a question under Copeland if it is being used as
10 substantive evidence, okay, it doesn't come in despite
11 inconsistencies. The one witness who I recall really,
12 really, really having an issue with what was in his
13 statement, his purported statement was the second witness.
14 And again would like to see those statements if y'all
15 wouldn't mind either burning me a copy or just giving me
16 the originals if you are not going to be using them.

17 MR. MOWRY: If the Court doesn't mind I will have
18 someone make a copy right now, Your Honor.

19 THE COURT: One other housekeeping matter, gentlemen,
20 my understanding is that these statements were part of 1
21 through 32 and that there was no objection from Mr.
22 Robinson about 1 through 32 being in evidence yesterday.
23 The Court Reporter has those marked and my notes did
24 reflect that 1 through 32, I have got it checkmarked next
25 to those, collective exhibit.

1 MR. MOWRY: Yes sir, that probably was my fault, Your
2 Honor. But the way they were marked previously was as an
3 exhibit. But that surprised me when I looked at it, I
4 didn't think we had put that in. I thought it was for
5 identification so as, I think Mr. Robinson and I can both
6 agree that these should be for identification purposes at
7 this point.

8 THE COURT: Okay.

9 MR. MOWRY: I just also wanted to add, Your Honor,
10 that Mr. Robinson's claim that my chance to admit these
11 has come and gone is without any merit because the State's
12 case is still going on, we have not rested. And frankly
13 at the very end I can make the motion to admit those into
14 evidence. And you would be well within your discretion to
15 allow that. So that has no merit whatsoever. One more
16 point on this. And I apologize for taking the Court's
17 time.

18 THE COURT: No, you are quite all right.

19 MR. ROBINSON: Finally, Your Honor, the prejudice. I
20 think that the Court also has to determine that the
21 probative value of these, all of the these statements,
22 whatever statement the Court is looking at outweighs the
23 prejudicial value of this case. And I do not believe that
24 the State can show this in this case. Extremely
25 prejudicial.

1 MR. MOWRY: Your Honor, the jury has already seen
2 them on the screen, they have already seen the image on
3 the screen. We have gone through these statements and
4 redacted the objectionable parts that Mr. Robinson claimed
5 were hearsay. So whatever is left I believe Detective
6 Foggie would testify are the statements that the
7 defendants made, not the defendants, the witnesses, pardon
8 me.

9 THE COURT: Allow me to review the statements
10 briefly. I will add a 403 analysis to this as well.
11 Let's go ahead and have the jury back out.

12 (Whereupon, the jury came into open court at
13 approximately 10:00 a.m.)

14 THE COURT: One other housekeeping matter, I know
15 that State's exhibit number 28 is marked 09-1165, that
16 should actually be 08-1165.

17 MR. MOWRY: Yes, sir.

18 THE COURT: We need to fix that.

19 MR. ROBINSON: And, Your Honor, before we go ahead.
20 I am not really sure who this person is, I don't know if
21 they provided it to us in discovery.

22 MR. MOWRY: He testified at the last trial, Your
23 Honor.

24 MR. ROBINSON: Okay. Thank you, Your Honor.

25 THE COURT: Let the record reflect the jury is

1 present and seated. Ladies and gentlemen, I hope y'all
2 had a pleasant evening last night. I apologize for
3 keeping you waiting back there, there was some judicial
4 law that I had to go ahead and take up with the attorneys.
5 Hopefully it will help move the case along a little bit.
6 We will resume the trial in this case. We are still in
7 the State's case-in-chief. So at this point, Mr. Mowry,
8 call your next witness.

9 MR. MOWRY: Call Marlon Higgenbotham.

10 Marlon Higgenbotham, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Mowry:

14 Q You are Marlon Higgenbotham?

15 A Yes, sir.

16 Q And I saw that you were wearing a badge and a gun but
17 not a uniform. By whom are you employed?

18 A Laurens County Sheriffs Office.

19 Q And what is your position with the Laurens County
20 Sheriffs office?

21 A I am lieutenant on uniform patrol.

22 Q Are you a shift supervisor?

23 A Yes, I am.

24 Q How long have you been employed by the Laurens County
25 Sheriffs office?

1 A 13 years.

2 Q And how long have you been a shift supervisor?

3 A Approximately 11 years.

4 Q What are the duties of a shift supervisor on uniform
5 patrol?

6 A Answer calls, respond to some of the larger crimes,
7 larger calls that are more intense, supervise the officers
8 that are on the road, various duties.

9 Q Were you employed in that capacity back on May the
10 16th of 2008?

11 A Yes.

12 Q And which shift were you working that day, sir?

13 A I was working the day shift.

14 Q Okay. Some time in the early afternoon on May 16th
15 did you get a call over the radio?

16 A Yes.

17 Q In response to that call what did you do?

18 A Responded to code three, lights and sirens, as fast
19 as I can get there.

20 Q To where?

21 A To a trailer park in Laurens County off of Georgia
22 Road in reference to a shooting incident.

23 Q Are you talking about Stoddard Trailer Park?

24 A Yes.

25 Q Let me show you this aerial chart that has already

1 been admitted as State's exhibit number 27. Does that
2 appear to be Stoddard Trailer Park right there?

3 A Yes.

4 Q And this is Georgia Road up here?

5 A Correct.

6 Q When you got there what did you find or what did you
7 see?

8 A As I rode up to the scene I seen multiple people in
9 an area, located a person laying face down, I believe it
10 was on Chicago Drive and I rushed to him. As I entered
11 the trailer park--

12 Q Right in here?

13 A Correct.

14 Q Okay.

15 A As I entered the trailer park I looked for any
16 movement that might be trying to escape out of the trailer
17 vehicles or any persons running from the trailer park.

18 Q So part of your job there then was to secure the
19 scene, is that right?

20 A Correct.

21 Q What else did you do?

22 A I went to the body, checked the pulse of the body to
23 see if this person was breathing. Yelled out to the
24 crowd, did anybody see anything. Again looking for
25 someone in that immediate area that might have been a

1 suspect.

2 Q Did you get any response?

3 A No, I didn't.

4 Q Had Stoddard Trailer Park been on your area of
5 operations?

6 A Yes.

7 Q For how long would you estimate?

8 A For as long as I have been with the sheriffs office.

9 Q What is your experience with cooperation from, to law
10 enforcement from the people in that area?

11 A Not very cooperative.

12 Q Did you find any signs of life?

13 A Not on the person that was laying face down, no, had
14 no pulse.

15 Q Now you said that there were a number of people
16 around and you asked if anybody had seen anything. How
17 many people would you say were there, just a rough
18 estimate?

19 A At that point and time I would estimate maybe ten.

20 Q And did you receive any response from anybody?

21 A No, I did not.

22 Q What did you do after that?

23 A Another officer arrived. I stayed over the body,
24 again scouring the area for everybody's safety and mine as
25 well in case the shooter was still in the area. I had

1 another officer arrive to secure the scene, did not know
2 exactly where the crime scene was due to no one coming
3 forward and say where this individual came from or where
4 this might occurred. I taped off the immediate area in
5 reference to possible crime scene and tried to keep
6 persons out of that area.

7 Q This area on State's exhibit 27 with the yellow dot?

8 A Correct.

9 Q That is where the body was found?

10 A Yes.

11 Q And that is where you thought the crime scene was?

12 A Correct.

13 Q Did EMS arrive?

14 A Yes, shortly after.

15 Q Do you recall who the officer from EMS was?

16 A Not off the top of my head at this point and time.

17 Q What happened then?

18 A Other officers had arrived as well. EMS come to the
19 body to check the body. I looked around right in that
20 general area for any evidence of where this person might
21 have came from. Footprints were noticed and blood in that
22 general area that apparently that led up to a trailer that
23 was right next to this area where he had fallen.

24 Q And this, on State's exhibit number 27 again marked
25 with the green dot?

1 A No.

2 Q I am sorry. This trailer up here?

3 A Yes.

4 Q Okay. Next to the yellow dot?

5 A Correct.

6 Q Okay. Then what happened?

7 A I noticed blood going up to that trailer and then
8 away from that trailer on the porch and in the ground back
9 to the location where he was, at which time other
10 footprints were noticed coming up to that trailer where he
11 had run from. So we didn't know at that point and time
12 exactly where the crime scene was.

13 Q Did Detective Foggie arrive on the scene at any
14 point?

15 A Yes, he did.

16 Q How soon after you got there do you think Detective
17 Foggie got there?

18 A I can't recall. When we get a call like this
19 multiple officers, just about everyone that is available
20 at that point and time will come to a scene like that to
21 help secure and help try to find out what happened and
22 catch the bad guy.

23 Q So your job was immediately to secure the area around
24 the body where you thought the crime scene was, to see if
25 anybody knew anything. Did you have any investigatory

1 purpose there, was that your job?

2 A At that point and time, as initial responding
3 officer, yes. But there was virtually no time at that
4 point and time to do any investigating other than to
5 holler out to the crowd until a team arrived to make sure
6 that everything was secure and we had people out of the
7 area where we could find the crime scene.

8 Q Who was the primary investigator?

9 A Lieutenant Foggie.

10 Q That is all I have. Answer any of Mr. Robinson's
11 questions.

12 THE COURT: Mr. Robinson.

13 CROSS-EXAMINATION

14 By Mr. Robinson:

15 Q Officer, how long did it take you to get there?

16 A Approximately seven minutes.

17 Q About seven minutes from where you were at Laurens
18 County Sheriffs office to there.

19 A Where ever I was patrolling at at that point and
20 time, I was out on patrol.

21 Q About seven minutes?

22 A Yes, sir.

23 Q And how long after that did other officers start
24 arriving?

25 A I can't give a timeframe. Wouldn't have been that

1 long with a call like that because other officers would
2 have responded lights and sirens as well. So they would
3 have showed up pretty quick.

4 Q That is all I have.

5 THE COURT: Thank you, you can step down. Any
6 objection to releasing this witness, Mr. Robinson?

7 MR. ROBINSON: No sir, Your Honor.

8 THE COURT: You are free to go. Mr. Mowry, I am
9 sorry, Mr. Newton.

10 MR. NEWTON: State calls Matt Pennington.

11 DIRECT EXAMINATION

12 By Mr. Newton:

13 Q Mr. Pennington, where do you currently work?

14 A Laurens County EMS.

15 Q And where were you working back in May of 2008?

16 A Laurens County EMS.

17 Q Did you receive any special training for your job
18 with EMS?

19 A Yes, sir.

20 Q What was that training, if you could just basically
21 describe it for us?

22 A We had to go through several hours of classroom
23 training as well as internships at hospitals and other
24 ambulances.

25 Q Do you have any certifications or licenses or

1 anything like that relating to your work?

2 A Yes, sir. Currently certified as a Nationally
3 Registered and State Certified Paramedic.

4 Q And do you recall having to respond to a call at
5 Stoddard Trailer Park in Gray Court on May 16th of 2008?

6 A Yes, sir.

7 Q If you could tell us about what time you arrived for
8 that call?

9 A According to the report I arrived at 1:38 p.m.

10 Q And that would be the report you prepared after
11 responding to there for purposes of your job?

12 A That is correct.

13 Q And when you arrived on the scene can you describe
14 basically what you saw?

15 A As I arrived on the scene I was directed to a subject
16 laying face down on the ground, had multiple gunshot
17 wounds on different parts of his body.

18 Q Do you recall where those gunshot wounds were?

19 A Three to the upper chest area and one in each leg
20 which possibly could have been the through and through,
21 gunshot wound from one leg to the other.

22 Q And at that point did you attempt to discover any
23 signs of life on the person that you found?

24 A Yes, I did.

25 Q What were you able to discover from that?

1 A He had no heart rate, no breathing on his own. We
2 did place him on the cardiac monitor which showed
3 exitusly, (phonetic), which is no electrical or mechanical
4 heart functions.

5 Q Did you attempt to resuscitate him?

6 A No sir, I did not.

7 Q Okay. Was that because you couldn't find any signs
8 of life in the process you just described?

9 A That is correct. Due to the locations of the gunshot
10 wounds and the amount of time that it transpired it was in
11 my medical opinion that his injuries were incompatible
12 with life at that time.

13 Q Okay. And was that basically your entire roll in
14 this case?

15 A That is correct.

16 Q Did you assist in any movement or transport of the
17 body to or from the scene?

18 A No sir, I did not.

19 Q No further questions, Your Honor.

20 THE COURT: Cross, Mr. Robinson?

21 MR. ROBINSON: I have no questions.

22 THE COURT: Thank you very much for coming. You can
23 step down. Any objection for this witness being excused?

24 MR. ROBINSON: No, Your Honor.

25 THE COURT: You are free to go. Mr. Mowry.

1 MR. MOWRY: I call Kenny Kinsey.

2 DIRECT EXAMINATION

3 By Mr. Mowry:

4 Q You are Kinney Kinsey?

5 A Yes, sir.

6 Q I believe in May of 2008 you were employed by the
7 State Law Enforcement Division commonly known as SLED, is
8 that right?

9 A That is correct.

10 Q Are you still employed with SLED?

11 A I am not.

12 Q Where are you employed now?

13 A I am employed with the Orangeburg County Sheriffs
14 Office.

15 Q And what is your position with the Laurens County
16 Sheriffs office?

17 A Orangeburg, I am the Major of Administration.

18 Q Which county did I say?

19 A You said Laurens.

20 Q I am sorry, Orangeburg County Sheriffs office?

21 A Yes sir, I am Major of Administration.

22 Q Okay. In May of 2008 what was your position with
23 SLED?

24 A I was a special agent assigned to latent print crime
25 scene unit.

1 Q And what was your function as a crime scene, with the
2 crime scene unit?

3 A We would travel across the state to assist various
4 departments, local, state and federal agencies in
5 processing crime scenes, collecting evidence and then also
6 laboratory work, processing the evidence.

7 Q Were you based in Columbia?

8 A That is correct.

9 Q But where in the State would you have to go for this
10 kind of activity?

11 A From border to border, depending on where we were
12 called to assist.

13 Q On May 16th of 2008 were you, did you receive a call
14 to come to Laurens County?

15 A I did.

16 Q Describe the substance of that call, please, sir.

17 A It was reported as a death investigation, more
18 probable a homicide.

19 Q And what did you do in response to that call?

20 A I packed up and came to Laurens.

21 Q Okay. Where had you been directed to go?

22 A We responded I believe to Gray Court, Chicago Drive,
23 a trailer park.

24 Q And this aerial photograph, does that depict the
25 trailer park, State's exhibit number 27, does that appear

1 to show the trailer park?

2 A If you can give me a landmark that I could relate.

3 Q Here is Georgia Road, does that appear to be the
4 trailer park? Let me do it another way.

5 A Please.

6 Q Did you make a sketch of the scene?

7 A Yes, sir.

8 Q Let me show you State's exhibit number 29. This
9 diagram here, does that appear to be a blowup of the
10 sketch that you made?

11 A That is my sketch.

12 Q Okay. And it says down here, Stoddard Trailer Park,
13 Gray Court, not to scale. That is about right?

14 A Yes sir, that is my sketch.

15 Q What did you find when you got there?

16 A Upon my arrival I was briefed by Lieutenant Foggie at
17 the sheriffs office.

18 Q This officer sitting right here?

19 A Yes, sir.

20 Q How long did it take you to get from SLED, once you
21 got the call, to Laurens?

22 A I received the call at approximately 1:50 and
23 probably arrived, if I can refer to my notes.

24 Q Indeed.

25 A Arrived approximately 3:25 p.m.

1 Q 3:25 p.m. Once you had talked to, let me back up for
2 just a second. What kind of specialized training have you
3 had in crime scene analysis or crime scene, I should say,
4 I am at a loss for the word, as a crime scene technician.
5 I will put it that way.

6 A As a crime scene investigator, I have a Bachelor of
7 Science Degree from Clemson University, a Master of
8 Science Degree from Troy University. I am Internationally
9 certified through the International Association for
10 Identification. I have also successfully completed
11 approximately 1500 hours of advanced classes, courses and
12 seminars in crime scene investigation and related
13 disciplines which would be latent print examination,
14 footwear, tire wear, blood stain pattern analysis and
15 crime scene reconstruction.

16 Q And how many crime scenes do you think that you have
17 investigated?

18 A Over 800.

19 MR. MOWRY: Your Honor, as such I would offer this
20 witness as an expert in crime scene investigation and the
21 disciplines that he has enumerated.

22 MR. ROBINSON: I have no objection, Your Honor.

23 THE COURT: All right. Thank you, Mr. Robinson.

24 Ladies and gentlemen of the jury, normally when a witness
25 testifies they have to testify as to something they saw,

1 smelled, heard, observed with one of their five senses.
2 An exception for this rule exist for people who are
3 qualified in certain areas due to education, experience or
4 expertise. Those witnesses are known as expert witnesses
5 and generally an expert witness may give opinion
6 testimony. Of course, because your job is to determine
7 credibility you do not have to accept the opinion of any
8 expert even though it is uncontradicted but it is evidence
9 for you to use in whatever manner you see fit. Now in
10 this case Mr. Kinsey has been qualified as an expert in
11 the field of crime scene investigation therefore he may
12 give his opinion concerning certain matters involved in
13 this case. You may continue, Mr. Mowry.

14 MR. MOWRY: Thank you, Your Honor.

15 Q Once you had spoken with Lieutenant Foggie what did
16 you do as part of your investigation?

17 A At that point we would start the documentation which
18 would be digital photographs.

19 Q We have a number of photographs that have already
20 been admitted into evidence. Did you take these
21 photographs?

22 A I either took them myself or they were taken under my
23 direction.

24 Q Okay. Let me ask you some overall questions, some
25 umbrella questions I guess you could say. Did you know

1 when you arrived there, did anybody determine what the
2 crime scene was, the crime scene itself?

3 A No, sir. But through deductive reasoning and the
4 flow of blood throughout the crime scene you would figure
5 it started on the left down around the congested area, the
6 vehicles. You would, common sense would tell you it
7 started there, that is where your shell casings are at,
8 that is where the victim's vehicle is located. And then
9 the progression of blood up the hill is where it ended.

10 Q Did you make a determination as to who the victim was
11 at this point?

12 A At that point he had been tentatively identified by
13 the sheriffs office as Mr. Calwise, later on confirmed
14 with fingerprints.

15 Q So Tavares Max Calwise was the victim?

16 A That is correct. Yes, sir.

17 Q And his body was here between this trailer and number
18 26 as it is marked on State's exhibit number 29?

19 A That is correct.

20 Q How did you discover, you talked about the trail of
21 blood, how did you discover that?

22 A Well, during the initial, what we call the walk
23 through stage, actually before you even start documenting
24 with photographs. You walk through the crime scene,
25 taking notes of things that you feel are evidentiary in

1 value or may be of evidentiary value. And at that point
2 we work side to side, a grid pattern all the way and we
3 try to encompass the whole crime scene.

4 Q What did you determine that the size of this crime
5 scene was?

6 A It is a pretty large crime scene, approximately 100
7 yards.

8 Q 100 yards from here to where the body was?

9 A That is correct.

10 Q About the length of a football field?

11 A About the size of a football field, correct.

12 Q I want to divide these up a little bit. Now Mr.
13 Kinsey, you talked about the victim's car. Let me show
14 you what has been marked as State's exhibit number 6. I
15 am going to show it on the screen so the jury can see it
16 at the same time. What does that depict?

17 A That is the actual area where the shooting started
18 and the, I believe the victim's vehicle is going to be
19 over here to the left.

20 Q Let me show you what has been marked as State's
21 exhibit or already admitted as State's exhibit number 5.
22 Does that give a better picture of the victim's car?

23 A That does.

24 Q Let me show you State's exhibit number 7. What does
25 that depict?

1 A There are general photographs where we try to take
2 them at different angles to depict the entire area, when
3 you put them all together you have the whole crime scene.

4 Q What does that show?

5 A That is a side view of the victim's Grand Prix.

6 Q That is State's exhibit number 12. And this is
7 State's exhibit number 11, what is that?

8 A A closeup of the license plate.

9 Q Did you run the license plate as well?

10 A I am sure at some point in the investigation I did.

11 Q But you were able to determine that that was in fact
12 the victim's car, is that right?

13 A Yes sir, it was registered to the victim.

14 Q And lastly, well not lastly, next to the last, number
15 8.

16 A That is just the same vehicle from a front view.

17 Q Do you recognize that officer that is standing in the
18 back, you can just see his head up against the gray house?

19 A That is Lieutenant Foggie.

20 Q And did you find anything of interest in the victim's
21 car?

22 A Well, we recovered a pair of snickers belonging to
23 the victim and also a firearm in plain view.

24 Q I am going to place up here a photograph that has
25 been marked as, excuse me, a photograph that has been

1 admitted as State's exhibit number 13. What does that
2 show?

3 A That is a digital photograph of the weapon that I
4 mentioned and it is actually taken and zoomed in through
5 the windshield, that is why it looks kind of hazy.

6 Q Let me hand you this item and we are going to have to
7 get, before we take it any further I just realized that I
8 had not, Your Honor, any kind of prophylactic measures on
9 these firearms. If we can, if you will give me the break
10 to do that, once I am done with Mr. Kinsey I will take
11 care of that.

12 THE COURT: If we could let's do this right now.
13 Ladies and gentlemen of the jury, there are certain
14 guidelines and procedures for safe handling of firearms in
15 the courtroom. And through no one's fault we forgot to
16 follow those this morning. So we are going to take a
17 brief break just to ensure the firearm is completely safe
18 and completely secure. I am sure it is unloaded at this
19 particular point and time. But we are going to follow the
20 procedures by the letter, by the book because again that
21 is what Chief Justice has ordered me to do and she is my
22 boss. So we will take a break, don't talk about the case,
23 we will have you back in about two or three minutes.

24 (Whereupon, the jury was excused from open court for
25 a break.)

1 THE COURT: You can step down, don't talk about your
2 testimony and you can go ahead and inspect the weapon. We
3 will be at ease for a few minutes.

4 (Whereupon, a short break was taken.)

5 THE COURT: Mr. Mowry, you have ensured that the
6 weapons have been inspected, they are unloaded and they
7 have been secured apparently with trigger lock.

8 MR. MOWRY: Yes, sir, we have got the gun locks, these
9 are all revolvers. We have opened the cylinders, for the
10 record all cylinders are empty and we have inserted the
11 gun lock through the cylinder housing so the gun cannot be
12 closed and operated.

13 THE COURT: Very good. Let's have the jury back in
14 if we may.

15 (Whereupon, the jury came into open court at
16 approximately 10:42 a.m.)

17 THE COURT: Let the record reflect the jury is back
18 and seated. Ladies and gentlemen of the jury, I wanted to
19 tell you that we have taken the opportunity to ensure that
20 all firearms are in fact unloaded, they have been secured
21 with gun locks so that the cylinders cannot be closed. At
22 all times, I have explained to the individuals present, at
23 all times the firearms will be pointed either at the floor
24 or at the ceiling if it is necessary for the lawyers and
25 the witnesses to handle any of the firearms. At no time,

1 of course, will they be pointed in your direction and any
2 time they are sitting on the table they will be pointed
3 towards me or towards the back wall opposite where y'all
4 are sitting. The firearms are perfectly safe, I just want
5 to reassure you of that fact. Mr. Mowry, you may
6 continue.

7 CONTINUE DIRECT EXAMINATION

8 MR. MOWRY: Thank you, Your Honor.

9 Q Mr. Kinsey, when we broke you had identified this
10 photograph. Tell us again where that photograph was
11 taken?

12 A That is the driver's seat of the victim's Grand Prix.

13 Q And this is State's exhibit number 13 just for the
14 record. Let me hand you what has been marked or already
15 admitted as State's exhibit number 20. Can you identify
16 that?

17 A Yes sir, that is the weapon of the photograph of the
18 vehicle.

19 Q So State's exhibit number 20 corresponds to the gun
20 seen in the photograph, State's exhibit number 13. Is
21 that right?

22 A That is correct.

23 Q Okay. So that gun was still in the car and a hundred
24 yards away from where the victim's body was found. Is
25 that right?

1 A That is correct.

2 Q What else did you do after you had processed this
3 car. What else did you do at the scene?

4 A Once we processed, well we didn't actually process
5 the vehicle at the scene, we documented the vehicle. We
6 processed it later but at that point once it was
7 documented we progressed through the scene taking closeup,
8 midrange and general photographs of any items of evidence
9 prior to the collection process.

10 Q Before we go any further let me just ask you, was
11 there anything else of real evidentiary interest that was
12 found with respect to the automobile?

13 A The shoes came in handy, we were able to eliminate
14 the shoes at that point from footwear impressions that
15 were around the automobile.

16 Q Where were the shoes found?

17 A Inside the vehicle.

18 Q Let me ask you this. When the victim's body was
19 found how was he clad?

20 A The victim was dressed in only boxers and a shirt and
21 his actual trousers or pants were found nearby with the
22 belt still in them.

23 Q So the body was here?

24 A That is correct.

25 Q Where were the pants?

1 A The pants were at the bottom of the steps..

2 Q Right here?

3 A Yes sir, to the right. Well, in relation to the body
4 to the left if you are looking at the feet.

5 Q Right, correct, sorry. And there is also a notation
6 on here that says, key. On State's exhibit number 29, the
7 diagram. We have the body here, we have the victim's
8 pants at the bottom of the steps nearby and then there is
9 a notation that says key. What does that refer to?

10 A That was actually the key to the victim's vehicle,
11 the Grand Prix where we recovered this handgun.

12 Q And did it in fact fit?

13 A It did.

14 Q Did you try it out?

15 A Yes sir, it was the key to that vehicle.

16 Q Did you make a determination as to whether anybody
17 had taken the victim's pants off? Did anybody come
18 forward and say that?

19 A No sir, they did not.

20 Q Have you ever seen a situation where a shooting
21 victim would have taken his own clothing off?

22 A I actually have.

23 Q Explain what the rationale is as far as you know.

24 A Well I can't really explain why they do it. I can
25 just tell you numerous times I have seen it. It is

1 probably due to the fact that they are injured, all kind
2 of physical things are going on inside the body.

3 Q And had in fact the victim been shot in the legs?

4 A He had.

5 Q What came next?

6 A At that point and time we would collect any evidence,
7 perform a gunshot residue test on the victim and also
8 collect what we refer to as major case prints which are
9 not only fingerprints but we also print the palms as well.

10 Q And whose did you do?

11 A The victim, Mr. Calwise.

12 Q Okay. Did you find any prints, well I will come back
13 to that in a little while. Let me show you what has been
14 marked as State's exhibit or a photograph that has been
15 admitted as State's exhibit number 16 and ask you if you
16 can identify that?

17 A Yes sir, I can.

18 Q What is that please, sir.

19 A Well if you could explain what item you are asking me
20 about.

21 Q What does that show?

22 A That is a general photograph back towards the area
23 where the victim was found and the steps that I mentioned
24 earlier are in the top lefthand corner.

25 Q Right here where my finger is pointing?

- 1 A That is correct.
- 2 Q And the victim's body I think was found in this
3 general area, is that right?
- 4 A That is correct.
- 5 Q I see an evidence, well, there are these flags, these
6 yellow flags there at the bottom of the photograph, what
7 do those indicate?
- 8 A Those are used to mark either blood trail or
9 additional evidence.
- 10 Q And in this case?
- 11 A I am fairly certain that was a blood trail leading up
12 to the weapon.
- 13 Q And there is a placard there that has the number 8 on
14 it. What does that indicate?
- 15 A That is a placard I use to mark a weapon that was
16 recovered.
- 17 Q All right. And I am going to show you now State's
18 exhibit number 15. Was it that please, sir?
- 19 A That is a RG revolver that was located and marked
20 with placard 8.
- 21 Q Did you find anything else on that weapon?
- 22 A The weapon had blood on it and it was fully loaded.
- 23 Q Did you make a determination as to, well, how that
24 blood got onto to the weapon itself?
- 25 A It was a transfer stain.

1 Q What does that mean?

2 A Could have come into contact with a bloody object, a
3 hand or any other type of object.

4 Q If somebody had a bloody foot and had stepped on the
5 revolver, could that have caused it?

6 A That is quite possible but there were no tread marks
7 on there from footwear impressions.

8 Q Was the victim wearing shoes when you found him?

9 A He was not.

10 Q How were his feet clad?

11 A He had no shoes on but I believe he was wearing
12 socks. He was barefoot.

13 Q Okay. Would it have been, could it have been
14 consistent with stepping on the gun with a bloody foot?

15 A It could have been.

16 Q Mr. Kinsey, I want to show you several photographs.

17 Here is a placard on State's exhibit 19, placard number 2.

18 What does that demonstrate?

19 A That is a cartridge case.

20 Q And where was that found?

21 A Placard number 2 was to the, if you were sitting in
22 the victim's vehicle to the left, right at the corner of
23 the mobile home.

24 Q Right here?

25 A That is correct.

1 Q I am going to show you State's exhibit number 9, this
2 photograph with placard number 3. What does that
3 illustrate?

4 A Placard 3 is also a cartridge case or a fired
5 cartridge located on the right front corner of the
6 victim's vehicle.

7 Q In here, is that right?

8 A Yes, sir.

9 Q I am going to show you State's exhibit number 2, what
10 does that demonstrate?

11 A That is item 1 and 2 in relation to their location,
12 both of them would be fired cartridge casings.

13 Q There is a number 3 there as well, is that right?

14 A That is correct.

15 Q Okay. So all of those are fired cartridge casings?

16 A They are.

17 Q And I have got State's exhibit number 4.

18 A Once again it is a midrange photograph of item 1.

19 Q And State's exhibit number 3, is this a closeup of
20 the same view?

21 A That would be a closeup.

22 Q And the item in the middle right under the small
23 number 1 on the placard is the shell casing, is that
24 right?

25 A That is correct.

1 Q How many shell casings did you find?

2 A Actually four in proximity of the victim's vehicle
3 and then several old shell casings out in the middle of
4 the field.

5 Q Let me hand you these cannisters that come from an
6 envelope marked State's exhibit 24 and ask you if you can
7 identify those?

8 A Yes sir, the ones marked number 1, 2, 3 and 6 are
9 single cartridge casings that were located in proximity to
10 the victim's vehicle. The can that is marked item 7 is
11 five weathered cartridge casings that were found more out
12 in the middle of the field.

13 Q Again referring to State's exhibit number 29 would
14 this number 7 out here in the middle near the witness,
15 Carlos Fuller's trailer, would that be where you found
16 those items?

17 A That is correct.

18 Q Now you had, before I go any further, let me ask you,
19 let me refer to State's exhibit number 14, this
20 photograph. What does that illustrate?

21 A That is a bullet impact or bullet defect in a vacant
22 mobile home.

23 Q Do you have any indication as to when that was made?

24 A No sir, you can't age a bullet defect.

25 Q Did it appear to be fresh, I mean very newly made.

1 A I really could not tell. I would assume if it was,
2 my training would tell me that if it was fresh I should of
3 had some paint chips or something around it. But I
4 couldn't just discount it and leave it, I had to document
5 it.

6 Q But as far as your training was concerned what did
7 the absence of those paint chips indicate to you?

8 A That that defect had been there for some time.

9 Q Let me hand you what has been entered into evidence
10 as State's exhibit number 26, can you identify those?

11 A Yes sir, I can.

12 Q What are those please, sir?

13 A This is lead fragments and debris and a damaged lead
14 core that I recovered from this defect.

15 Q From that defect?

16 A Yes, sir.

17 Q Which trailer did you get that from?

18 A Well the lead core was located at the one to the
19 right if you are facing the two and also there was damage
20 to the one to the left.

21 Q And the hole itself?

22 A Is on the left.

23 Q On the left?

24 A Yes, sir.

25 Q Okay. Again on State's exhibit number 29 on this,

1 let me ask you this. Did you make any determination as to
2 whether anyone was living in these two trailers at the
3 time?

4 A Both mobile homes were vacant.

5 Q So there was an old bullet hole, what appeared, could
6 had been an old bullet hole in this trailer and a lead
7 core which was found in this one?

8 A That is correct.

9 Q Now, Mr. Kinsey, with regard to the victim's body,
10 you said that you took fingerprints from him. Before you
11 did that did you do anything else?

12 A I did. I performed a gunshot residue test on the
13 victim.

14 Q Let me hand you what has been already admitted into
15 evidence as State's exhibit number 25, this envelope and
16 its contents. What is inside that envelope?

17 A This is the gunshot residue evidence collection kit
18 that I performed on the victim, Mr. Calwise.

19 Q What did you do once you had taken the gunshot
20 residue swab from him?

21 A After the collection it is processed but after
22 collection it is resealed and submitted to the trace
23 department of the laboratory for further testing.

24 Q That is not something you did?

25 A No sir, not past a collection.

1 Q Explain to the jury, we will have the analyst later
2 on but explain to the jury just basically what gunshot
3 residue is?

4 A There are basically three components to gunshot
5 residue, barium, lead and antimony. Any of those single
6 components by themselves does not constitute gunshot
7 residue, all three have to be present. And through the
8 process the first thing you would do is you have what are
9 adhesive tabs called stubbies and you will get the tops
10 and bottoms of both hands separately. They will be sealed
11 one at a time and then you will go to the next area and
12 then you will also collect the controlled sample off of
13 the body. Once you are through with that you use some
14 swabs which are similar to Qtips but they are really,
15 really small. And you will also go back with nitric acid
16 and collect from the tops of the left hand, the bottom of
17 the left hand, the top and bottom of the right hand and
18 then you will also get a control as far as any gunshot
19 injuries as you can on the body.

20 Q What does gunshot residue generally reveal?

21 A That either the area where it was collected, if it
22 comes up positive as gunshot residue and it contains all
23 three components, either that person fired a weapon or was
24 in proximity to a weapon when it was fired.

25 Q Okay. Mr. Kinsey, before we go any further I want to

1 just make sure, what was the condition of the shell
2 casings that you collected around the victim's car, near
3 Carlos Fuller's trailer. Would you consider them, based
4 on your observation and experience, to be old or new?

5 A Well there was nothing unique or out of the ordinary
6 with them, they were fired cartridge cases that in my
7 opinion would not have been there very long.

8 Q And the ones out in the center here, number 7, that
9 you had talked about?

10 A They were weathered and some of them actually had
11 grass and sand growing out of them.

12 Q Which would indicate what to you?

13 A They had been there for a while.

14 Q Okay. Now, Mr. Kinsey, you had talked about a blood
15 trail earlier. How did you discover that? Visual
16 observations where you were doing your grid search?

17 A Yes, sir.

18 Q Let me show you what has been already admitted as
19 State's exhibit number 18, what does that indicate, sir?

20 A That is a downward angle of the blood trail in the
21 direction, it is coming back toward the camera is the
22 direction the victim traveled.

23 Q It is taking this direction?

24 A Yes but he actually traveled the other direction. He
25 went uphill.

1 Q Right but the photograph is taken from right to left?

2 A That is correct.

3 Q And the trail itself goes left to right?

4 A That is correct.

5 Q What is this blotch down here at the bottom and then
6 a blotch a little bit higher up, what are those?

7 A That is heavy blood, heavy bleeding.

8 Q Was that a footprint?

9 A Could have been, could have been him stumbling. That
10 is one of the possibilities. It did not appear to be
11 aspirated blood.

12 Q You mean breathed--

13 A Yes, sir.

14 Q Let me show you State's exhibit number 17, what is
15 that?

16 A Those are bloody footwear impressions.

17 Q And where were those taken, do you recall?

18 A Also in proximity to the last photograph, a little
19 bit closer and coming from left to right.

20 Q Up in this area?

21 A Yes, sir.

22 Q And finally, Detective Kinsey, on this particular
23 item, let me show you this. What does that photograph
24 illustrate?

25 A Those are actually markers that the sheriffs office

1 used to help us locate the actual path of the victim.

2 Q Were those markers placed at your direction?

3 A In conjunction with my direction, I would probably
4 say.

5 Q And where are, where on State's exhibit number 29,
6 the chart would those come from?

7 A The two mobile homes at the top that we spoke about,
8 the bullet defects starting there and going up the hill.

9 Q Does that indicate to you that the shooting had taken
10 place here?

11 A Not in my opinion.

12 Q What is your opinion?

13 A My opinion the shooting took place closer in
14 proximity to the vehicles and that was the victim's path
15 of escape.

16 Q What leads you to that conclusion?

17 A Well it is going to take a little while. A gunshot
18 wound especially with the handgun, instant incapacitation
19 is very, very rare. It is going to take a little while
20 for that blood to wick through the clothing and actually
21 start dropping off the body. Because blood coagulates and
22 actually has properties that makes it hold together. So I
23 would say that that is a fair distance for the victim, Mr.
24 Calwise, to travel probably at a pretty good rate of speed
25 before he realized how bad he was actually hurt.

1 Q So what is your opinion as to how this came back.
2 Describe it from start to finish.

3 MR. ROBINSON: Your Honor, I am going to object.
4 This has been asked and answered so many times.

5 THE COURT: It might be cumulative. I will go ahead
6 and allow it. Please continue, Mr. Mowry.

7 A Some type of incident took place near the vehicle
8 involving gunshots and an injury in close proximity to
9 those vehicles. And the victim's route of escape was up
10 to the right and he went to the steps of that mobile home,
11 in my opinion, seeking help or assistance.

12 Q And then what?

13 A At that point he bled out.

14 Q Came back and collapsed next to that trailer?

15 A That is correct.

16 Q Mr. Kinsey, let me show you what is now been admitted
17 as State's exhibit number 22, this weapon and ask you if
18 you recognize that?

19 A I do.

20 Q What is that please, sir?

21 A That is a weapon that was submitted by the sheriffs
22 office that I actually processed in relation to this case.

23 Q Who did you get it from, do you recall?

24 A It would have come from our log in.

25 Q What was your function with that particular weapon?

1 A Well at that point it was to be processed for latent
2 fingerprints.

3 Q And did you find any usable prints on that?

4 A There were no ridge characteristics on the weapon.

5 Q What did you do with that gun, what did you do with
6 all three of these guns?

7 A You mean the actual process for developing latent
8 fingerprints?

9 Q Yes, sir.

10 A First they would be visually inspected with oblique
11 lighting at that point and time. There are many different
12 mediums but the medium that I chose to use on these
13 weapons were common black powder. They would have been
14 submerged in a superglue tank which it has got a big fancy
15 name, cyanoacrylate but it is basically superglue where
16 you work off the fumes from the glue. It will adhere the
17 actual latent print which is mostly moisture, believe it
18 or not, to the weapon and at that point you would
19 highlight it or hit it with some type of medium. In this
20 case I chose black fingerprint powder. If you locate a
21 latent impression then you would lift it with lifting
22 tape, place it on a laminated backer and at that point and
23 time it can be examined.

24 Q Did you find anything of evidentiary value on the
25 guns, on the shell casings, anything?

1 A No sir, none of that. The only actual identifiable
2 latent impression that was recovered was on the victim's
3 vehicle and it was made exclusively by the victim.

4 Q Okay. In your experience, so often we see on CSI and
5 the cop shows that are on TV you can find fingerprints on
6 anything. Is that in fact your experience that
7 fingerprints are so readily accessible on pieces of
8 evidence?

9 A Well it depends. It is not really like television.
10 The scientific principles are accurate on television but
11 the way they achieve their goals aren't genuine. A lot of
12 items will not, will not give you a fingerprint. If it is
13 a non-porous item or ridged item. As I mentioned earlier,
14 fingerprints depending on which literature you look at are
15 between eighty-five and ninety-five percent moisture. And
16 what you are getting, you are getting the fat and the
17 lipids and any impurities that adhere to the ridges on
18 your fingers, your palms or the soles of your feet. And
19 some items may hold those ridges and some items may not.

20 Q So did it come as a surprise to you that you did not
21 find fingerprints on these various items?

22 A No sir, they didn't. Because number one, the
23 cartridge cases are heated up to a super, super intense
24 heat. Once those weapons are fired you have a better
25 chance of getting a latent impression off of an unfired

1 cartridge or bullet than you would a fired. But still
2 because of protocol and laboratory polices we still have
3 to try.

4 Q And you didn't find anything?

5 A No sir, I did not find any usable latent prints on
6 any of those items.

7 Q Thank you, I believe that is all I have. If you will
8 answer any of Mr. Robinson's questions.

9 CROSS-EXAMINATION

10 By Mr. Robinson:

11 Q Major, Mr. Mowry has made a statement that you have,
12 I think you testified that you have had over 400 cases, is
13 that right?

14 A I worked over 800 death scenes.

15 Q Over 800 cases?

16 A Yes, sir.

17 Q You are qualified as an expert in this case in crime
18 scene analysis, is that right?

19 A Yes, sir.

20 Q And you worked over 800 cases throughout the whole
21 State, is that correct?

22 A That is correct.

23 Q You received a lot of training, is that right?

24 A I couldn't classify it as a lot.

25 Q You have got certifications?

1 A That is correct.

2 Q All sorts of things to be qualified as an expert and
3 I think that your opinion is very carefully made and you
4 think about it based on your prior experience, is that
5 right?

6 A That is correct.

7 Q And you have had an opportunity to go to that crime
8 scene and look at all of the evidence and look at all of
9 the different items and take pictures and so forth. And
10 you came to an opinion, didn't you, as far as where this
11 identified crime scene, isn't that right?

12 A Yes, sir.

13 Q And actually based on the 800 cases that you have
14 done in the past and based on your qualifications and
15 experience you determined that the crime scene took place
16 at or near the victim's car, isn't that correct?

17 A That is correct.

18 Q And I think you identified, you took pictures which
19 are identified here as State's 5 and 6. This is where you
20 say, looking at State's 5 and 6, this based on your
21 professional qualifications as an expert, this is where
22 the crime scene took place, isn't that right?

23 A That is where the weapon was fired, yes sir.

24 Q And that is where you found the cartridges, is that
25 correct?

1 A That is correct but I cannot tell you where the
2 victim was standing.

3 Q This is where it was coming from, this is where the
4 crime scene was, correct?

5 A In that general area, yes sir.

6 Q Got ya. That is all I have.

7 THE COURT: Thank you, sir, you can step down. No
8 objection to excusing this witness?

9 MR. ROBINSON: No, sir.

10 MR. MOWRY: None whatsoever, Your Honor.

11 THE COURT: Thank you very much. Mr. Mowry, if you
12 will call your next witness, please sir.

13 MR. MOWRY: Michael Ward.

14 MICHAEL WARD, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Mowry:

18 Q Are you Michael Ward?

19 A Yes, sir.

20 Q And what is, how are you employed, Mr. Ward?

21 A I am employed by Pathology Associates of Greenville
22 and by Greenville County as the medical examiner for
23 Greenville County.

24 Q Are you in fact a medical doctor?

25 A I am.

1 Q Where did you receive your education and training?

2 A I have a Bachelors Degree in Biology from the
3 University of Alabama. I received my Masters Degree in
4 Forensic Science from the University of Alabama in
5 Birmingham. My medical degree is from the University of
6 South Alabama which is in Mobile. I did a four year
7 anatomic pathology residency at the Medical University of
8 South Carolina in Charleston and a one year fellowship in
9 forensic pathology at the University of New Mexico.

10 Q When did you receive your medical degree?

11 A 1988.

12 Q And when did you go through the training in pathology
13 that you just described?

14 A From '88 to '92 in Charleston and from '92 to '93 in
15 New Mexico and my fellowship in forensics.

16 Q So for the last 20 years what have you been doing?

17 A Three years after my fellowship I stayed with the
18 Office of the Medical Investigator in Albuquerque, New
19 Mexico, was a medical investigator there. And in 1995 I
20 moved to Greenville and have been the medical examiner in
21 Greenville since.

22 Q What exactly is a pathologist, can you explain that
23 for the jury, please, sir?

24 A A pathologist is a physician whose expertise is in
25 disease and disease processes and how they affect man.

1 Forensic pathology takes that one step further
2 incorporating the disease and disease process to include
3 trauma and determining how and why a person dies and then
4 the presentation of that information in the courtroom.

5 Q And you have been doing that for the last 17 years in
6 Greenville County?

7 A That is correct.

8 MR. MOWRY: Your Honor, I would offer, well let me
9 ask you this.

10 Q Have you been declared an expert in courts on
11 previous occasions?

12 A Yes, I have.

13 Q Approximately how many times?

14 A Well over 100 times.

15 MR. MOWRY: I would offer this witness as an expert
16 in forensic pathology, Your Honor.

17 THE COURT: Any objection?

18 MR. ROBINSON: I have no objection, Your Honor.

19 THE COURT: Again, ladies and gentlemen, usually a
20 person can't give opinion testimony when they testify.
21 Usually they have to testify as to something that they
22 observed with their senses. Of course there is an
23 exception to this rule when someone is qualified because
24 of their education or experience in a particular field.
25 They are permitted to give their opinion in certain areas

1 and certain parties qualify as experts in that area. In
2 this case the doctor has been qualified or stipulated to
3 be an expert in the field of forensic pathology therefore
4 he can give his opinion on that particular area. It
5 doesn't mean you have to accept his opinion, of course,
6 but it is evidence for you to use in which ever way you
7 feel is fit and give it the weight and credibility that
8 you think he deserves.

9 Q Now, as part of your duties did you perform an
10 autopsy on May 17th of 2008?

11 A Yes, I did.

12 Q And who was that autopsy performed on, please, sir?

13 A Tavares Calwise.

14 Q The victim in this case?

15 A Yes, sir.

16 Q About what time did you do that autopsy?

17 A It was begun at 6:00 a.m.

18 Q Who else was present when the autopsy was conducted,
19 do you recall?

20 A Also present was my autopsy technician, Sharon Knight
21 and a representative of the Laurens County Coroners
22 Office.

23 Q Describe the process for the autopsy if you would.

24 A Basically an autopsy is a detailed physical
25 examination performed on a person who is deceased. It

1 begins by examining the outer surface of their body,
2 looking at their clothing, looking at the skin surfaces to
3 identify any marks that may be present, any injuries that
4 may be present and documenting them. Then it progresses
5 to an internal examination, I am looking at the internal
6 organs of the body again for any disease process that may
7 be present or a continuation of trauma from the external
8 surface collecting any evidence that may be found, blood
9 for toxicology and then development of a report indicating
10 the cause and manner of death of that individual.

11 Q How was the victim clad when you saw him?

12 A Mr. Calwise was wearing a pair of multicolored boxer
13 style underwear and a dark blue shirt. The shirt had been
14 cut by emergency personnel for resuscitative purposes.

15 Q So was the clothing collected and then submitted for
16 further examination?

17 A Yes, it was.

18 MR. MOWRY: Your Honor, if I could take just a moment
19 at the bench with Mr. Robinson.

20 THE COURT: Let's step over here.

21 (Whereupon, a bench conference was held in the
22 presence of the jury but out of the hearing of the
23 jury.)

24 Q What did you discover based on your external
25 examination of Mr. Calwise?

1 A That there were four separate gunshot wounds to Mr.
2 Calwise.

3 Q Describe those wounds, if you would.

4 A Three of the wounds are superficial and one would be
5 considered a fatal gunshot wound. The numbered gunshot
6 wounds sequentially, if you will, basically from head to
7 toe and then from front to back. So they are not in my
8 report in the order that I think that they occurred. I
9 generally don't know what order they occurred. The first
10 superficial gunshot wound to Mr. Calwise is labeled there
11 as gunshot wound number one. I am not sure if you can see
12 that. But it is a gunshot wound which enters basically
13 the upper left side of Mr. Calwise.

14 Q You are referring to State's exhibit number 30, this
15 chart of a human body, is that right?

16 A That is correct. On the diagram on the lefthand
17 side, would it be easier if I come down.

18 Q Yes.

19 THE COURT: Speak loud enough so the jury can hear
20 and the court reporter to can hear you, Doctor.

21 A On the left side of this body diagram and on Mr.
22 Calwise is an instance gunshot wound which is labeled here
23 number one entrance which is just beneath the left upper
24 arm on the left side. This superficial gunshot wound
25 passes only through the skin and underlying subcutaneous

1 tissues or fatty tissues beneath the skin. Passing
2 downward and slightly to the back to exit the left side
3 slightly behind and below the entrance wound. So it does
4 not go into the chest cavity, does not damage any
5 underlying organs or any underlying large vessels. This
6 wound exited and I was unable to recover a missile from
7 this wound. The second superficial gunshot would be the
8 one that is labeled in my report as gunshot wound number
9 three. The entrance is on the outside of the left thigh.
10 This area here, it passes downward and to the midline or
11 to the right, passing through the skin and muscle of the
12 right leg, but not impacting the bone and not traumatizing
13 any large vessels to exit the skin just above the left
14 knee. So in from above downward and from left to right.
15 The third superficial gunshot wound is the one that I
16 labeled as number four which is a gunshot wound of
17 entrance on the right anterior thigh passing backward
18 through the musculature missing the femur and exiting the
19 back of the right thigh here. And so for gunshot wound
20 number one, we have an exit, three an exit and four an
21 exit with no missile recovered at the autopsy. The fatal
22 gunshot wound to Mr. Calwise was the one that I labeled as
23 gunshot wound number two. The entrance is the left
24 anterior or the left chest just below and outside the
25 nipple line, here is the left nipple, it is below and to

1 the left of the nipple. This wound penetrates through the
2 skin and musculature of the chest, through the chest wall
3 or through the ribs traumatizing the diaphragm which is the
4 muscle that we use to breathe. Portions of small and
5 large intestines within the abdomen and found free
6 floating or within the abdominal cavity, not within any
7 organ was a medium caliber missile that was recovered.
8 There was 150 milliliters of blood in the left chest
9 cavity and 1,400 milliliters in the abdominal cavity, in
10 the space around the liver and the stomach of the
11 intestinal tract in the abdominal cavity. So gunshot
12 wound number two a missile was recovered. And it went
13 from left to right downward and back.

14 Q Thank you, sir. Doctor, let me show you an item that
15 has already been admitted into evidence as State's exhibit
16 number 23. Do you recognize that item?

17 A Yes, I do.

18 Q And what is that please, sir?

19 A This is a container labeled with Mr. Calwise's unique
20 autopsy number and labeled as missile from abdomen which
21 is the bullet that was recovered at the time of autopsy
22 and sealed with my initials.

23 Q What did you do with this projectile?

24 A That projectile and the decedent's clothing as well
25 as tissues for, I am sorry, blood for toxicology were

1 receipted to the representative of the Laurens County
2 Coroners Office.

3 Q And I believe that was Bryan Adams, is that right?

4 A That is correct.

5 Q Now, Doctor, you talked about the quantities of blood
6 and you referred to it in terms of milliliters. Can you
7 put that into ounces for us non-metric types, just
8 approximately.

9 A A can of coke is roughly 330 milliliters. So in the
10 abdomen was approximately five cans of coke worth of
11 blood. Within the left chest is about a half of a can of
12 coke of blood. When you donate a pint of blood you are
13 donating 1,000 milliliters of blood or roughly 1,000
14 milliliters. So he is close to two pints of blood
15 donated, that you would donate was within the abdominal
16 cavity and the chest cavity.

17 Q Doctor, do you have an opinion based on your autopsy,
18 based on your observations and based on your experience as
19 to the cause of death of Tavares Dreek Calwise?

20 A Yes, sir.

21 Q What is your opinion, please, sir.

22 A Mr. Calwise died as a result of a gunshot wound of
23 the chest.

24 Q And what would the manner of death be?

25 A The manner of death is homicide.

1 Q Doctor, let me ask you, when you observed the body
2 did you also look for what is commonly known as powder
3 stippling?

4 A Examination of the body included a search for gunshot
5 residue which would help us to determine the range of
6 fire. So, yes, we did.

7 Q And did you find any?

8 A No, sir.

9 Q What would that indicate to you?

10 A That the range of fire which is from the muzzle of
11 the gun to the target was greater than approximately two
12 to three feet.

13 Q Doctor, let me give you a hypothetical. Assume that
14 a person received the same wounds as you saw that day.
15 The wound that you labeled number three, the wound to the
16 left leg on State's exhibit number 30. You said it
17 started at the upper thigh and went down, is that right?

18 A That's correct.

19 Q Assume hypothetically that a person was looking at a
20 gun, realizing he was about to be shot and turned his leg
21 this way in order to try to protect himself. Would that
22 be consistent with the wound pattern that you found?

23 A Yes, it would be.

24 Q Assume hypothetically that that person had been shot
25 in the right leg, as you said that was a through and

1 through on the same plane, is that right?

2 A That's correct.

3 Q Roughly the same plane. And also received what you
4 labeled as wound number one, the superficial through and
5 through in the left, the far left side of the chest would
6 that be consistent with the wound that you found?

7 A Yes, with Mr. Calwise flexed at the waste such that
8 his upper body is now relatively parallel to the ground
9 then someone standing in front of him could inflict that
10 type of wound with a body passing downward and to the
11 back.

12 Q With the lack of any powder stippling or gunshot
13 residue around the wounds do you have an opinion as to
14 whether these wounds were self inflicted?

15 A It would be in my opinion that they were not self
16 inflicted.

17 Q Now, Doctor, there has also been testimony that took
18 place in this area and a blood trail referring to number
19 29, Your Honor. A blood trail was discovered here and the
20 blood trail went here and the victim's body was found
21 here, approximately 100 yards away from where the opinion
22 is the shooting took place. Given the wounds that you saw
23 and the amount of blood that had been shed do you have an
24 explanation as to how the victim got from one place to the
25 next. Is that, I mean could he have done that on his own?

1 A The gunshot wound to the chest while it damaged the
2 diaphragm which is used to breathe and certainly damage to
3 vessels within the abdomen did not traumatize any major
4 vessels, did not hit the heart, did not damage the lung,
5 did not traumatize the liver. So Mr. Calwise is basically
6 bleeding to death, both internally and externally. And it
7 would take several minutes for him to bleed out to the
8 part where he would initially become unconscious and then
9 subsequently die. So it would be my opinion that, yes, he
10 certainly could have walked or locomoted this distance
11 before collapsing and then subsequently dieing.

12 Q I believe that is all I have. If you would answer
13 any of Mr. Robinson's questions.

14 THE COURT: Mr. Robinson.

15 MR. ROBINSON: Your Honor, I have no questions.

16 THE COURT: Doctor, thank you very much for coming,
17 sir. No objection to excusing the Doctor?

18 MR. MOWRY: None from the State, Your Honor.

19 MR. ROBINSON: No, sir.

20 THE COURT: Thank you, you are free to go. Mr.
21 Mowry, call your next witness, please.

22 MR. MOWRY: Mr. Newton has the next two, Your Honor.

23 THE COURT: Mr. Newton, call your next witness.

24 MR. NEWTON: Thank you, Your Honor. The State would
25 call Kathleen Woodward.

1 KATHLEEN WOODWARD, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Mr. Newton:

5 Q Ms. Woodward, where do you currently work?

6 A I am currently employed at the South Carolina Law
7 Enforcement Division commonly known as SLED.

8 Q And what department do you work in now?

9 A Now I work in the toxicology department but I have
10 also worked in another department which is called the
11 trace department.

12 Q Were you working trace back in August of 2008?

13 A Yes sir, I was.

14 Q You have a copy of your report with you that you
15 prepared in this particular case?

16 A I do.

17 Q You have your report with you that you performed the
18 test related to this particular case?

19 A I just need to refer to my notes. The testing was
20 performed on July 15th of 2008.

21 Q And that was when you were involved in the trace
22 evidence department?

23 A That's correct.

24 Q What training did you have to prepare you to work in
25 the trace evidence department?

1 A I have a Bachelor of Science Degree in Chemistry from
2 Converse College in Spartanburg. And then when I came to
3 work at SLED I completed extensive in house training
4 program, six months of training and then various testing
5 on instrumentation, things like that. And also did a Mock
6 Court as part of that. And completed that and then
7 started taking cases.

8 Q How many, roughly how many tests have you performed
9 in the trace evidence department in that area?

10 A It is kind of hard to say, probably well over a
11 thousand.

12 Q And how many times have you been qualified as an
13 expert in trace evidence in the courts of South Carolina?

14 A I think it is about 20 times.

15 Q In this particular case what were you asked to do,
16 what particular type of trace evidence test were you asked
17 to perform?

18 A I was asked to perform a gunshot residue analysis.

19 Q And which particular individual, which individual
20 were you asked to test?

21 A I had a gunshot residue kit from Tavares Calwise.

22 Q And when you performed that test could you describe
23 for the jury basically what that test is designed to
24 detect and what the requirements are for you to determine
25 whether or not gunshot residue was present?

1 A Well, gunshot residue is a three component particle
2 that is composed of lead, barium and antimony. And these
3 components in the prima cap of a cartridge which is the
4 hole that the bullet goes into a weapon. And then the
5 hammer comes in contact with the primer cap of the
6 cartridge, it creates a little spark which in turn causes
7 a small explosion with these three components. And that
8 is what you see as the smoke that comes out of the gun
9 when it is fired. That smoke again is composed of lead,
10 barium and antimony and these particles can come to rest
11 on anything that is in the vicinity of that weapon when it
12 is fired. So it can come to rest on your hand if you are
13 firing the weapon and it will come to rest on clothing,
14 anything that is in the vicinity.

15 Q And in performing the test that you did in this case
16 were you able to determine if any gunshot residue was
17 present on Mr. Calwise's samples that were submitted to
18 you?

19 A On the right palm and the right back and the left
20 palm the quantities of metals that I found do not indicate
21 the presence of gunshot residue. And then on the back of
22 his left hand one round lead particle was found and around
23 that particle there is a component of gunshot residue.

24 Q Would that single one round lead particle be enough
25 to say with scientific certainty required by your

1 departement that gunshot residue was present on the back
2 of the left hand?

3 MR. ROBINSON: Your Honor, I am going to object. I
4 think that the foundation has not been set and she has not
5 been qualified.

6 THE COURT: Would you move to qualify this witness as
7 an expert in the field of trace evidence?

8 MR. NEWTON: Certainly, Your Honor.

9 THE COURT: Any objection or voir dire of the
10 witness?

11 MR. ROBINSON: No sir, Your Honor.

12 THE COURT: Ladies and gentlemen, Ms. Woodward in
13 this case has been qualified as an expert in the field of
14 trace evidence. Again, usually a person has to testify to
15 something that they observed. In this case because Ms.
16 Woodward has been stipulated to be an expert in the field
17 of trace evidence she can give her opinion in this
18 particular field. Of course you don't have to accept it
19 but it is evidence for you to use in the way you see fit
20 and give it the weight and creidilbity you feel it
21 deserves. Mr. Newton, you may continue, please.

22 Q As I said before, on the back of the left hand you
23 noted that there was one round lead particle found as part
24 of your test, is that correct?

25 A That's correct.

1 Q Would that one round lead particle be enough for you
2 to determine scientifically that there was gunshot residue
3 present?

4 A No. I cannot say that there was gunshot residue
5 present on his hands. I can say that there was a
6 component of that which is more consistent with being in
7 the vicinity of a weapon when it was fired. But, no, I
8 did not find specifically gunshot residue on his hands.

9 Q And I am going to pose a hypothetical on you based on
10 what you just said. Would that one round lead particle on
11 the back of the defendant's hand be consistent with him
12 raising a hand before his face if someone was firing in
13 his direction?

14 A Yes sir, that would be consistent.

15 Q I have no further questions of this witness, Your
16 Honor. Please answer any questions that the defense has
17 for you.

18 CROSS-EXAMINATION

19 By Mr. Robinson:

20 Q Good morning, ma'am.

21 A Good morning.

22 Q I have got some questions for you regarding GSR,
23 gunshot residue. After something takes place, after a gun
24 is shot how long do you have to test it before it becomes
25 no good?

1 A On a living person our window is six hours. After
2 six hours most people probably have used the restroom and
3 hopefully washed their hands. Also it is absorbed by the
4 skin over time, also through the course of six hours one
5 would expect to touch various things, put your hands maybe
6 in and out of your pockets. And gunshot residue is very
7 delicate evidence and it is easily removed. So on a
8 living person six hours is our time limit after the
9 incident. And then on a deceased victim or an inanimate
10 object it will stay on the surface indefinitely unless it
11 is removed by an outside source.

12 Q So it is probably a good idea for a law enforcement
13 agency that is investigating a scene right after the
14 incident occurred to get GSR from different persons in the
15 area, wouldn't you consider that true?

16 A It is important to collect it within six hours off of
17 a living person and if the person is living and believed
18 that they have been involved. Yes, it would be good to
19 take it within that timeframe.

20 Q Thank you.

21 MR. NEWTON: Your Honor, nothing further and I would
22 ask that she be excused.

23 THE COURT: Any objection.

24 MR. ROBINSON: No objection.

25 THE COURT: Thank you for coming, you are excused.

1 Have a great day. Mr. Newton.

2 MR. NEWTON: Your Honor, the State would call Maryann
3 Boehm.

4 MARYANN BOEHM, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Newton:

8 Q Ms. Boehm, where do you work right now?

9 A I work at the South Carolina Law Enforcement Division
10 commonly known as SLED.

11 Q And what department do you work in now?

12 A I work in the DNA case work department.

13 Q Were you working in that capacity back in 2008, 2009?

14 A Yes sir, I was.

15 Q What sort of training or education have you had to
16 prepare you for the work you do in the DNA evidence
17 department?

18 A I received a Bachelor of Science in Integrated
19 Science and Technology with a concentration in
20 biotechnology from James Madison University which is in
21 Harrisonburg, Virginia. Upon completion of that and
22 employment at SLED I have been trained by a court
23 qualified analyst in proper procedures and techniques used
24 in our laboratory.

25 Q And approximately and I know this is going to be hard

1 to guess but about how many test have you performed for
2 SLED in your capacity in the DNA department?

3 A Thousands.

4 Q And how many times have you been qualified as an
5 expert in courts of law in South Carolina as it relates to
6 DNA?

7 A Approximately 25 times.

8 MR. NEWTON: Your Honor, at this point I would move
9 that she be accepted as an expert witness in this case in
10 the field of DNA analyst.

11 THE COURT: Any objection, Mr. Robinson?

12 MR. ROBINSON: No objection.

13 THE COURT: Again, ladies and gentlemen of the jury,
14 in this case Ms. Boehm is stipulated to be an expert in
15 the field of DNA analysis therefore she is allowed to give
16 her opinion in this particular field. Of course that does
17 not mean you have to accept it, it is evidence for you to
18 use in the way that you see fit. Go ahead, Mr. Newton.

19 MR. NEWTON: Thank you, Your Honor.

20 Q Ms. Boehm, were you asked to perform any test on any
21 particular items in relation to the case involving the
22 victim, Tavares Calwise?

23 A Yes sir, I was.

24 Q And do you recall when you performed those test?

25 A I began DNA analysis on August 20th of 2009.

1 Q As a part of what you do do you perform any sort of,
2 I don't know if they are called pretest or not, but any
3 test to determine whether or not you can obtain a DNA from
4 a particular sample?

5 A Yes. We do screening test which we will look for
6 certain biological fluids such as blood, semen or saliva.
7 In this case I was looking for blood so I did perform some
8 serology test on blood on some of these items.

9 Q What particular items were submitted for you to
10 perform those test?

11 A I received a cutting from a tshirt, a cutting from
12 boxer shorts and swabs from a handgun.

13 Q And in the process in that initial test that you are
14 discussing which of those items show the presence of a
15 bodily fluid you could use to test for DNA?

16 A Blood was indicated on all three of those items.

17 Q And after that initial round describe for us the
18 process that you would use to determine whether, number
19 one, whether a DNA sample was present that you could
20 compare and the process you would use to compare it to a
21 standard sample from, in this case was, Mr. Calwise?

22 A Sure. Once I detected blood on those items I
23 performed DNA analysis. I cut a portion of that cutting
24 or swab, put it into specific chemicals and through a
25 series of instruments I developed a DNA profile. Now to

1 make a comparison I have to do the same thing to a known
2 standard and in this case blood standard from Tavares
3 Calwise was submitted. So I generated a DNA profile from
4 that and I compared that profile to the evidence profile
5 that I generated.

6 Q Let's start with the tshirt cutting. What was the
7 results of your DNA test on the cutting from the tshirt?

8 A The DNA profile developed from item 1.1 which was the
9 cutting from the tshirt matches the DNA profile of Tavares
10 Calwise. The probability randomly selecting an unrelated
11 individual having a DNA profile matching this item is
12 approximately 1 and 4.6 quadrillion.

13 Q So how many zeros would you have in a quadrillion,
14 just for our records?

15 A Fifteen zeros.

16 Q Okay. Let's say if we were to assume that the
17 population area is about seven billion people and that is
18 probably projecting a little high. How many times would
19 seven billion go into that quadrillion number?

20 A It is approximately a million times the world's
21 population.

22 MR. ROBINSON: Your Honor, I am going to stipulate
23 that that is his blood.

24 THE COURT: Okay. Very good.

25 Q Okay, so we have got that. On the second item, let's

1 go with the cutting from the boxer shorts.

2 A The DNA profile developed from item 2.1 which was the
3 cutting from the boxer shorts also matches the DNA profile
4 of Tavares Calwise.

5 Q Okay. With regard to the third item, the swab from
6 the handgun that was found. What was the results of that
7 particular test?

8 A The DNA profile developed from the swabs from the
9 handgun also match the DNA profile of Tavares Calwise.

10 Q Okay. And just so we are clear on what you are able
11 to tell us from those results, you can just tell us that
12 that is his blood. You are not able to determine where
13 that blood came from or how it got on any of those items.
14 Is that correct?

15 A That's correct.

16 Q I have no further questions of this witness. Please
17 answer any questions Mr. Robinson has for you.

18 MR. ROBINSON: I have no questions.

19 MR. NEWTON: I would ask that this witness be
20 released.

21 THE COURT: Any objection?

22 MR. ROBINSON: No, Your Honor.

23 THE COURT: Thank you for coming and you are free to
24 go.

25 MR. MOWRY: Your Honor, for timing can Mr. Robinson

1 and I approach?

2 THE COURT: Sure.

3 (Whereupon, a bench conference was held in the
4 presence of the jury but out of the hearing of the
5 jury.)

6 THE COURT: Ladies and gentlemen of the jury, the
7 trial this morning progressed more rapidly than we had
8 anticipated so we are going to go ahead and take our lunch
9 break at this particular moment in time. Do not discuss
10 the case with anyone. And I also meant to address when
11 you came out a few moments ago. The bailiff approached me
12 and told me one or two or three of you had asked about the
13 possibility of taking notes during the course of this
14 trial. As a general rule and again I sort of adopted this
15 from other Judges that I have observed when I was a trial
16 attorney and the last number of years that I have been a
17 trial Judge I found that very often taking notes that
18 sometimes distract somebody from the testimony and from
19 viewing the witnesses and accessing their credibility. So
20 as a general rule I typically don't permit the taking of
21 notes during the course of trial. I am beginning to
22 rethink that position in light of what some of the other
23 Judges are doing but I haven't quite changed that rule or
24 made an affirmative decision to change that rule and allow
25 the taking of notes by jurors. So instead of taking notes

1 or in lieu of taking notes just pay very close attention
2 to the testimony and hopefully in the next couple of years
3 whoever it is wants to take notes maybe you will get
4 another opportunity to serve on a jury and I will let you
5 take notes at that particular point and time. Have a
6 lovely lunch and be back about 1:15.

7 (Whereupon, the jury was excused from open court for
8 a lunch break.)

9 MR. ROBINSON: Your Honor, if I am correct in my
10 assumption I believe that Mr. Mowry is going to put up Mr.
11 Goggins, I believe, he did the same thing in the last
12 trial. And I am not sure how we approached that the last
13 trial, how the Court approached it because I guess this
14 supposedly concerns a cellmate or something at the Laurens
15 County Detention Center. I don't how the Court handled
16 that last time as far as that information coming out.

17 THE COURT: What is it that y'all are planning on
18 offering again?

19 MR. MOWRY: Mr. Goggins overheard a conversation
20 through what is called the vent that goes from the women's
21 section to the men's section. And you can have a
22 conversation through that vent. It is a ventilation
23 system. And essentially Mr. Goggins overheard a
24 conversation between the defendant and a woman in the
25 women's section and he said a number of incriminating

1 things.

2 THE COURT: What is your concern, Mr. Robinson, about
3 that testimony.

4 MR. ROBINSON: When he says cellmate, this
5 individual, that is going to immediately alert the jury
6 that he was there for some reason. And I think that is a
7 problem that I have because I think at that point the jury
8 may start thinking, because they know nothing about him at
9 this point, about my client. They may at that point start
10 thinking, well, he is in there, what is he in there for.
11 That is my problem with it, that is what I have a problem
12 with.

13 MR. MOWRY: Well, Your Honor,--

14 THE COURT: Based on what he is being tried for I
15 think it would be reasonable for the jury to assume that
16 he is in there on murder. I know reference has been made
17 pending narcotics charges against your client. I don't
18 know if he was in on the homicide charges or in on the
19 narcotics charges when this alleged conversation took
20 place. Do you recall how we handled this last time, Mr.
21 Mowry.

22 MR. MOWRY: I think we just did it, Your Honor.

23 THE COURT: I think we did too.

24 MR. MOWRY: I don't believe this issue was raised
25 last time, if I recall.

1 THE COURT: Out of curiosity how soon after the
2 defendant was charged did this conversation supposedly
3 take place?

4 MR. MOWRY: He was arrested, I believe it was May
5 27th, this occurred on June 29th.

6 THE COURT: I don't think it is unreasonable for a
7 jury to assume that a person charged with murder might be
8 spending a couple of weeks in jail after having been
9 charged before they can arrange bond. And I realize your
10 client has been out on bond for some time now. I don't
11 see where that is unduly prejudicial, really that would
12 seem to be within common experience or common expectation
13 of someone, when one is charged with a homicide they are
14 probably going to be in there a couple of weeks before
15 they are going to arrange bond at least. Is it the
16 prejudicial aspect the primary concern that you had?

17 MR. ROBINSON: I think that I would like to voir dire
18 him or question him outside the presence of the jury to
19 see, I want to make sure he doesn't go into all of this
20 other stuff that has nothing to do with this case that can
21 potentially prejudice my guy.

22 THE COURT: All the other stuff, you mean the
23 narcotics charges?

24 MR. ROBINSON: Correct, anything else, yes.

25 THE COURT: Do you know when those arose, Solicitor?

1 MR. MOWRY: Well, the actual took place, I believe,
2 in 2007 if I am not mistaken. Your Honor, what I am going
3 to limit, Mr. Robinson has had a copy of this quite some
4 time. I am going to limit it to the statement that Calvin
5 Goggins gave to Mareno Foggie. I am not going to go
6 beyond that, I don't want to get into the extraneous
7 stuff. I am planning on getting from him and I will talk
8 to him and make sure that is all he is going to talk about
9 if you like but that is all I am going to be going into,
10 those particular issues. I don't believe we had an issue
11 with it last time.

12 THE COURT: I understand. Mr. Robinson, I have to
13 give you an opportunity to voir dire the witness outside
14 the presence or to proffer the witness' testimony outside
15 the presence of the jury if you want to do so. I
16 anticipate it would be a replay, whatever you want to do
17 though, replay of the last trial.

18 MR. ROBINSON: Your Honor, I think, I am going to
19 trust what Mr. Mowry has informed the Court that he will
20 talk to his witness about this and admonish him not to
21 discuss anything beyond the statement. I would also like
22 to get his current NCIC, if anything has changed. Because
23 last time he had some pending charges and I don't know
24 what happened to those.

25 MR. MOWRY: Those are still pending, Your Honor, but

1 he has got a pretty hefty record that I will go into.

2 THE COURT: Very good. The record that you have then
3 that you provided to the defense, Mr. Mowry, has a current
4 record?

5 MR. MOWRY: Yes, sir. No further convictions.

6 THE COURT: All right.

7 MR. ROBINSON: And I would like, what has changed in
8 this trial versus the last trial is that he has found or
9 someone named Major Hudson, Chris Hudson. I don't have a
10 statement from Mr. Hudson, he is one of their witnesses I
11 guess was--

12 MR. MOWRY: No, he is the director of the law
13 enforcement center, Your Honor. And the sole purpose of
14 his testimony is going to be to explain the presence of
15 the vent and the fact that the defendant and the witness,
16 Goggins, were on the same pod. And then there was a
17 person named Shayla Jenkins who was in the women's area up
18 above.

19 THE COURT: So basically this purpose is to
20 substantiate a lot of what the cellmate is going to
21 testify about location of the event and other stuff.

22 MR. MOWRY: That's all.

23 THE COURT: Okay.

24 MR. ROBINSON: Okay. If that is what it is, if they
25 don't have a statement or what they say--

1 MR. MOWRY: I don't have any statement. I have got
2 an oral interview with him, nothing written.

3 MR. ROBINSON: I may chat with him a little bit
4 before he gets on the stand to just to see what he says.
5 But I am ready, Your Honor.

6 THE COURT: Very good. Just so I understand I don't
7 think it is necessary, apparently as long as you have
8 insurance from Mr. Mowry that he will talk to the
9 individuals and make sure nothing prejudicial or improper
10 comes in. You don't need to have an in camera hearing for
11 the next couple of witnesses. You are okay with
12 proceeding?

13 MR. ROBINSON: I am.

14 THE COURT: Just have that conversation and make sure
15 everyone is on the same sheet.

16 MR. MOWRY: Yes, sir. For the record, Your Honor,
17 those two witnesses, Goggins and Major Hudson and then Ira
18 Parnell who is the firearms analyst from SLED and
19 Lieutenant Foggie, those will be my last four witnesses in
20 this case. I just wanted to put on the record a little
21 bit what our sidebar conversation was. Mr. Parnell had to
22 testify in Florence today. His plan to come here and
23 testify this afternoon and we can still do that. I just
24 need to confirm that with him by telephone. I didn't know
25 what Your Honor's schedule was, I know you have drug court

1 this afternoon. What I thought we could do potentially if
2 you wish to do it this way is get Goggins and Hudson out
3 the way and then do Ira Parnell and Mareno Foggie in the
4 morning and that would be it. If you would like to do Mr.
5 Parnell this afternoon we can do that too. I just think
6 he is going to be a little lengthy.

7 THE COURT: Okay. It took about an hour last time,
8 didn't it.

9 MR. MOWRY: Roughly, yes sir.

10 THE COURT: I would like to get as much in today as I
11 can because we are in a position of being able to start
12 tomorrow morning, the Chief Investigator is probably going
13 to take a little bit of time. I don't know if the defense
14 has changed its mind on how it is going to proceed, I
15 don't need to know, don't care to know. But if we were to
16 start, assuming the defense presents a case and start that
17 first thing in the morning after your chief investigator
18 testifies. If you are not going to present a case, that
19 allows us to go straight into argument and charge and
20 hopefully get this to the jury before lunch time. I would
21 prefer to go ahead and see if Mr. Parnell can come, if he
22 cannot come, if I cannot go to drug court that is fine.
23 If I have to text the drug court coordinator and say,
24 look, it is off today that is not a problem, she is still
25 planning on meeting with the other individuals that are

1 showing up. And if he is not available we will just do it
2 in the morning. Let's just do it like that.

3 MR. ROBINSON: Your Honor, I think the Court would
4 agree that none of these weapons have anything to do, they
5 can't link any of these weapons to this murder, they
6 really can't do that. I am not really sure how relevant
7 Mr. Parnell is in this case. I am not sure what the
8 purpose of spending an hour or two hours when their
9 witnesses have not, no one has testified, no one is going
10 to testify that this, these guns that they have anything
11 to do with this case. And it seems to me, this is a
12 defense attorney, it seems to me to be a tremendous waste
13 of the Court's time and the jury's time to have a so
14 called expert come in and said, well, this is how a gun
15 works, this is how you take it apart. And the only
16 question I would ask is, are these things connected to
17 this case. No. That seems crazy to divert the Court's
18 time for an irrelevant duplicative and completely useless
19 witness to come on the stand to testify about guns.

20 THE COURT: I imagine one of the State's reasons for
21 calling Mr. Parnell is to demonstrate to the jury that
22 they left no stone unturned in this case and I am sure
23 there is another reason.

24 MR. MOWRY: Additionally, Your Honor, the projectile
25 taken from the victim was a .9 millimeter, the shell

1 casing is found next to the victim's car are .9
2 millimeters, all came from the same gun. I hardly
3 consider that useless testimony.

4 MR. ROBINSON: Well, tell you what, Your Honor, I
5 will stipulate that these bullets are .9 millimeter
6 bullets and they came from the same gun.

7 MR. MOWRY: I appreciate Mr. Robinson willingness to
8 do that, Your Honor, but I prefer to try my own case.

9 THE COURT: We heard from Mr. Parnell earlier, late
10 last year and we will hear from him again. We will be at
11 ease until 1:15.

12 (Whereupon, a lunch break was taken.)

13 THE COURT: Let's have the jury in, please.

14 (Whereupon, the jury came into open court at
15 approximately 1:30 p.m.) all right.

16 THE COURT: Let the record reflect that the jury is
17 back. We are still in the case of the State's
18 case-in-chief, ladies and gentlemen. At this point, Mr.
19 Mowry, if you will call your next witness, please.

20 MR. MOWRY: Your Honor, we would call Calvin Goggins
21 to the stand.

22 Calvin Goggins, being
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 By Mr. Mowry:

1 Q You are Calvin Goggins?

2 A Yes.

3 Q Mr. Goggins, I believe you are 45 years old, is that
4 right?

5 A Yes, sir.

6 Q Mr. Goggins, it is not my intention to embarrass you
7 but you have got a pretty hefty criminal record, do you
8 not?

9 A Yes, sir.

10 Q Let me just run down some of it. An aggravated
11 assault and battery from 1984; a reckless homicide from
12 1986; a resisting arrest and possession of a sawed off
13 shotgun in 1990; a failure to stop for a blue light in
14 1991; burglary in 1995; malicious damage to property in
15 2002; a drug conspiracy in 2005; a resisting arrest in
16 2006 and a forgery in 2011. Does that about cover it?

17 A Yes, sir.

18 Q And you were in jail back in the later part of June
19 of 2008, is that right?

20 A Yes, sir.

21 Q Where were you in jail?

22 A Laurens County Detention Center.

23 Q The detention center here in Laurens County?

24 A Yes, sir.

25 Q Do you remember seeing the defendant in this case,

- 1 Stakren Tyrise Jefferson about that time?
- 2 A Yes, sir.
- 3 Q Where was he?
- 4 A Laurens Detention Center.
- 5 Q And how is the Laurens Detention Center broken up?
- 6 A About four different pods.
- 7 Q Four different pods?
- 8 A Yes, sir.
- 9 Q And were you in the same pod with Stakren Tyrise
- 10 Jefferson?
- 11 A Yes, sir.
- 12 Q Did you know him at all from before, had you ever met
- 13 him before?
- 14 A No, sir.
- 15 Q Was there anything unusual about that pod as far as
- 16 the ability to communicate with other pods?
- 17 MR. ROBINSON: Objection, Your Honor, leading.
- 18 MR. MOWRY: That is not leading, Your Honor.
- 19 THE COURT: You can answer that question, Mr.
- 20 Goggins.
- 21 A Yes, there is something different about it.
- 22 Q What is that?
- 23 A You can stand on the commodes and conversate with the
- 24 person below you.
- 25 Q Okay.

1 A Through the vents.

2 Q Through the vents you can talk to the pod below?

3 A Yes, sir.

4 Q And while you were in the same pod with Stakren

5 Tyrise Jefferson do you recall him having a conversation
6 through that vent?

7 A Yes, sir.

8 Q And do you recall the date?

9 A Not right off.

10 Q Let me hand you a written statement, first of all, if
11 I can get the court reporter to mark this for
12 identification. Mr. Jefferson, let me hand you this piece
13 of paper which has now been marked as State's exhibit
14 number 34 for identification. Do you recognize that?

15 (Whereupon, State's Exhibits 34 was marked for
16 identification only.)

17 A Yes, sir.

18 Q What is that, please, sir?

19 A A volunteer statement.

20 Q Who made it?

21 A I did.

22 Q To whom?

23 A Lieutenant Foggie.

24 Q Lieutenant Foggie sitting at the table over there?

25 A Yes, sir.

1 Q Is there a date on there that you made that
2 statement?

3 A July of 2008.

4 Q Okay. Do you have anything written in here as to the
5 conversation that you heard from Mr. Jefferson?

6 A Yes, sir.

7 Q What date is that?

8 A June the 29th.

9 Q June the 29th, a couple of days before this statement
10 was made, is that right?

11 A Yes, sir.

12 Q What did you hear?

13 A Him talking to his girlfriend below.

14 Q Taking to his girlfriend below?

15 A Yes, sir.

16 Q What did you hear him say?

17 A He stated to her to be quiet and everything. The
18 police think they got the right weapon but they does not,
19 that he killed the F, motherfucker.

20 Q Did he say anything else?

21 A He told his brother to tell his mother to call, make
22 sure she called the police and report, he wanted them to
23 know he been calling her, to keep her out of trouble.

24 Q Did he say anything about who was the shooter?

25 A He said he shot him, but they think they got the

1 right gun but they had it wrong.

2 Q Okay. Did he say anything about an individual named
3 Zac?

4 A Yes, he was in the lower part and if he was running
5 his mouth he was going to take care of him.

6 Q Are those the words he used?

7 A I am going to kill the motherfucker.

8 Q Okay. Again, down there at the bottom.

9 A Yes.

10 Q What did he say or what did you report to Lieutenant
11 Foggie?

12 A The boy, he said the boy who was locked that suppose
13 to be our witness, when he get out he is going to make
14 it--

15 COURT REPORTER: I can't hear him. Just speak out
16 real loud.

17 A He said that the boy that was locked up on B side,
18 that he wouldn't make it when he get out.

19 Q Okay. And what was his name?

20 A Zac, I think that is what it was.

21 Q Mr. Goggins, I thank you. Answer any questions Mr.
22 Robinson may have.

23 CROSS-EXAMINATION

24 By Mr. Robinson:

25 Q Mr. Goggins, there also was another cellmate in the

1 room with you as well?

2 A Yes.

3 Q Now, at the time you had pending charges for criminal
4 sexual conduct, didn't you?

5 A Yes.

6 Q And if you would give a statement to help Mr. Foggie
7 that would help you in terms of your charges, wouldn't
8 they?

9 A No.

10 Q Wouldn't help you at all?

11 A No.

12 Q So it didn't help you at all?

13 A I wasn't guilty on the charge.

14 Q Wasn't guilty of the charge but the pending, at the
15 pending time you had pending charges over your head for
16 criminal sexual conduct, is that correct?

17 A Yes.

18 Q Now you are a convicted felon, right?

19 A Yes.

20 Q And you also, I noticed, I think everyone noticed
21 that you have chains on you today, is that right?

22 A Yes.

23 Q And you are currently in jail on pending charges,
24 correct?

25 A Once again, yes.

1 Q Once again, once again. Okay, so you are asking this
2 particular jury to believe a convicted felon in this case.
3 You understand that if you give testimony that you are
4 going to get help, isn't that true?

5 A No it is not.

6 Q You are doing this out of the goodness of your heart?

7 A Yes, I am.

8 Q Okay. So all this past record of yours, it is just a
9 big make believe, right?

10 A I am not guilty of them.

11 Q So all of these charges that you had--

12 A Some was and some wasn't.

13 Q I think Mr. Mowry talked about burglaries, forgeries,
14 resisting arrest, drug conspiracy, those were all, you
15 weren't guilty on any of those, right?

16 A Yes, sir.

17 Q And it is your testimony that you have not been
18 promised anything by Mr. Foggie in this case, is that
19 right?

20 A No, sir.

21 Q Okay. Do you remember a prior proceeding that we had
22 in this case regarding this matter?

23 A No.

24 Q Do you remember being in court back in the later part
25 of 2011 in a proceeding?

1 A Yes.

2 Q Remember that?

3 A Yes.

4 Q And do you remember testifying that you would get a
5 better deal if you testified the correct way?

6 A No, I don't know that.

7 Q So that is not true?

8 A That is not true.

9 Q And you didn't say that they were going to drop their
10 charges?

11 A No, I did not.

12 Q Okay.

13 A No I did not.

14 Q That is all I have, thank you.

15 REDIRECT EXAMINATION

16 By Mr. Mowry:

17 Q You said that Lieutenant Foggie didn't promise you
18 anything?

19 A No, sir.

20 Q In exchange for your testimony?

21 A No, sir.

22 Q Did you contact him or did he contact you?

23 A I contacted him.

24 Q And since that time has Mr. Newton made you any
25 promises?

1 A No, sir.

2 Q Any hope or reward from him?

3 A No, sir.

4 Q Have I?

5 A No, sir.

6 Q Has anybody in the Solicitor's office?

7 A No, sir.

8 RECROSS-EXAMINATION

9 By Mr. Robinson

10 Q And it was you that contacted Mr. Foggie when you had
11 your pending charges not the other way around, isn't that
12 correct?

13 A Yes.

14 Q Thank you.

15 FURTHER REDIRECT EXAMINATION

16 By Mr. Mowry:

17 Q One last thing I meant to ask. Mr. Goggins, the CSC
18 charge, the criminal sexual charge that you were in jail
19 for?

20 A I went to a jury.

21 Q You went to a jury and the case was found not guilty,
22 isn't that right?

23 A Yes.

24 Q Thank you, sir.

25 THE COURT: Mr. Mowry, call your next witness.

1 MR. MOWRY: The State calls Chris Hudson.

2 Chris Hudson, being

3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Mowry:

6 Q You are Chris Hudson?

7 A I am.

8 Q And I believe you are a Major with Laurens County, is
9 that right?

10 A I am, sir.

11 Q What is your duty, or what are your duties with
12 Laurens County?

13 A I serve as the jail administrator.

14 Q For the sheriffs office?

15 A For the sheriffs office.

16 Q How long have you been in that capacity?

17 A Six years.

18 Q Were you in that capacity back in May and June, well
19 June in particular of 2008?

20 A Yes, sir.

21 Q At my request did you examine records from the jail
22 to determine the presence of certain individuals in
23 certain parts of the jail?

24 A I did, sir.

25 Q And did you bring those records with you?

1 A I have them.

2 Q Let me ask you specifically about June 29th of 2008.

3 Can you tell me where Calvin Goggins was located in the
4 Laurens County Detention Center?

5 A He would have been in C-Max which is, in cell C-8.

6 Q In C-8 in C-Max. What about the defendant in this
7 case Stakren Tyrise Jefferson?

8 A He also was in C-8.

9 Q So they were in the same cell, same pod?

10 A Same pod, same cell.

11 Q Explain the difference between a pod and a cell?

12 A Actually his cell would have been, a cell is just
13 one. A pod is a combination of all the cells in that
14 block. And they have a common area per se.

15 Q So each individual inmate has his own cell and then a
16 common area where all of them can mingle, is that right?

17 A That would be correct to a certain degree. They
18 share, since we don't have, we have crowding issues we
19 have to put them combined in certain cells.

20 Q All right.

21 A And they were classified as admin seg so therefore
22 they would have shared the same cell together.

23 Q Is there anything unusual about the particular pod
24 that these two were in?

25 A The only unique thing about the design about that

1 particular part of the detention center is associated
2 with, that is a precast cell and pod area.

3 Q Precast what?

4 A Precast, concrete precast which means it was built
5 off site and trailered into the detention center site
6 which that was built 15 years ago. And so you have a two
7 pod cell precast and then you have a vent flow between the
8 two pods.

9 Q So one on the top of the other and then a vent
10 between?

11 A The vent goes actually in between and runs side by
12 side of another pod section, if you will. So that is the
13 top of C-Max or the bottom and also D-Pod. It is a two
14 story type design.

15 Q And what significance does that have?

16 A They are able to actually communicate between the
17 male portion of C-Max and also the female portion. They
18 can't see one another but they can communicate between the
19 two areas.

20 Q Do they have to yell or can they speak fairly softly?

21 A A combination of both. I mean some of them can speak
22 fairly softly, it is according which cell they are in
23 compared to the other person they are trying to
24 communicate with. You can yell and get through and of
25 course all of them are always looking for the officers

1 because that is a huge violation of disciplinary actions.

2 Q Have you tried, I am guessing this is a design and
3 construction flaw, is that basically correct?

4 A You wouldn't necessary say it is a actually, "flaw",
5 you know per se but it is just the way the design is in
6 order to get the vent system to work accurately to supply
7 all the return air, if you will, out of the building.

8 Q Is there anything that you can do to stop this?

9 A There is some different designs that we could do and
10 add some different vent turns, ninety degree turns and
11 this and that or the other but that will cost a little
12 money.

13 Q Okay. And in these dates and times it is not exactly
14 the best thing to do?

15 A That is correct.

16 Q So something that you can live with?

17 A It is something that we have had to choose to live
18 with.

19 Q Now you said this is a disciplinary offense?

20 A Some of C-Max is disciplinary, this particular time
21 on June the 29th they were actually considered to be admin
22 seg based on, due to charges and within the classification
23 system. So we are required to follow a classification
24 system so therefore that is why they would have been in
25 C-Max under administrative seg.

1 Q You talked about them being in the same cell, in the
2 same pod. Do you have a record for a person named Shayla
3 Jenkins?

4 A I do, sir.

5 Q Was she also at the detention center at that time?

6 A She was.

7 Q And where was she located?

8 A She would have been in the female pod which we call
9 D-Pod and her cell assignment would have been D-2.

10 Q Now, you talked about the communication between the
11 men, that one pod that Jefferson and Goggins were in and
12 the women's pod. Are we talking about the same one that
13 Shayla Jenkins was in?

14 A We are referring to the C-Max which would have been
15 on the bottom floor with D-Pod being on the top floor. So
16 that would be a very good possibility for them to actually
17 communicate because she would have had, "the ability to go
18 from her cell even down to another cell of another inmate
19 during that time of being out for lunch or just in the
20 common area".

21 Q So she could have circulated in there?

22 A She could have.

23 Q Where this conversation could have taken place?

24 A That's right. And that is not uncommon for inmates
25 to move from cell to cell to try to communicate.

1 Q Major, I appreciate it. Answer any questions Mr.
2 Robinson may have.

3 CROSS-EXAMINATION

4 By Mr. Robinson:

5 Q Major, how many, at that time back in 2008 how many
6 individuals were housed at the detention center?

7 A On June 29th there was 222.

8 Q 222. And in this pod they were speaking of, that Mr.
9 Mowry talked about, how many persons or individuals in
10 that pod?

11 A In C-Max, 25 in C-Max.

12 Q 25 individuals, that is males, is that correct?

13 A That's correct, sir.

14 Q Okay. And how many females were in the D-Max?

15 A 27.

16 Q 27 persons. And there are how many guards in each
17 pod?

18 A We don't have anybody assigned specifically to each
19 pod. The way we have to do that is what we call pod
20 remote which you have a main control which is able to see
21 inside of C-Max and D-Pod and then the A-Pod and B-Pod of
22 this particular part of the facility we are talking about
23 back in 2008. And then what we have is a rover that comes
24 in and out of the pods.

25 Q This place, this detention center, would you consider

1 it pretty loud, isn't it pretty loud most of the time with
2 inmates talking back and forth and so forth?

3 A In most of the areas that is correct, sir.

4 Q And you would agree with me that that area we are
5 talking about is a loud area, is that correct?

6 A Some, if you are right above one another and trying
7 to speak on the vent then it is not necessarily really
8 loud, you know, per se. If you are down a couple of other
9 cells and you are having to yell to speak to a person then
10 there may be some issues there.

11 Q Now, you all don't take recordings or tape inmate
12 calls or inmate conversations, do you?

13 A The actual telephone calls?

14 Q Yes.

15 A Yes.

16 Q But you don't do anything regarding if an inmate is
17 talking to another inmate or so forth, do you?

18 A No.

19 Q And you have no idea, you have no evidence that this
20 person, Mr. Jefferson, talked to anybody that day, do you?

21 A No.

22 Q Got nothing like that. You have 25 males and you
23 have got 20 something females in D-Max and you have no
24 idea who is talking to who, isn't that correct?

25 A That is correct.

1 Q Okay.

2 MR. ROBINSON: I beg the Court's indulgence.

3 Q And one last question in terms of the room that these
4 folks were in, I think you testified that Mr. Goggins was
5 in a room with Mr. Jefferson, correct?

6 A Mr. Goggins, that's correct.

7 Q Goggins. Who else was in the room with the two of
8 them?

9 A On that particular day you would have Mr. Goggins,
10 Mr. Jefferson and also Sir Prince Williams.

11 Q Thank you.

12 REDIRECT EXAMINATION

13 By Mr. Mowry:

14 Q Major, Mr. Robinson asked you whether or not you have
15 any recordings or any other evidence of a conversation
16 that took place. My question to you is, was it physically
17 possible on that day for Calvin Goggins to have had the
18 conversation through the vent with Shayla Jenkins?

19 A That's correct.

20 Q Thank you, sir.

21 RECROSS-EXAMINATION

22 By Mr. Robinson:

23 Q But you have no idea of whether the conversation took
24 place or not.

25 MR. MOWRY: I think that was asked and answered

1 already, Your Honor.

2 THE COURT: Overruled.

3 Q You have no idea, you have no proof or evidence that
4 any conversation ever took place?

5 A No, sir.

6 Q Thank you.

7 THE COURT: You can step down. No objection of
8 releasing the Major?

9 MR. MOWRY: No, sir.

10 MR. ROBINSON: No, Your Honor.

11 THE COURT: You are free to go. We are still
12 waiting?

13 MR. MOWRY: Yes, sir. Still waiting on Mr. Parnell.

14 THE COURT: Ladies and gentlemen, there is going to
15 be a brief delay. We are moving along a little bit faster
16 than we anticipated and the next witness had to testify in
17 the lower part of the State this morning. He is on route
18 and should be here any moment. Let's go ahead and take a
19 break. We will get you back as soon as we can. Don't
20 discuss the case.

21 (Whereupon, the jury was excused from open court for
22 a break.)

23 THE COURT: We will take a short break.

24 (Whereupon, a short break was taken.)

25 THE COURT: Let's have the jury back out.

1 (Whereupon, the jury came into open court at
2 approximately 2:10 p.m.)

3 THE COURT: Let the record reflect that the jury is
4 back and seated. Mr. Mowry, call your next witness,
5 please, sir.

6 MR. MOWRY: Your Honor, I call Ira Parnell.

7 IRA PARNELL, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Mowry:

11 Q You are Ira Parnell?

12 A Yes sir, I am.

13 Q And by whom are you employed, Mr. Parnell?

14 A I am employed by the South Carolina Law Enforcement
15 Division also known as SLED.

16 Q I don't mean to embarrass you but how long have you
17 been employed there?

18 A Almost 40 years.

19 Q And what is your occupation at SLED, what kind of
20 work do you do?

21 A I am a firearm and tool mark examiner.

22 Q What does that mean, what is the significance of
23 that?

24 A That involves the examination of guns and fired
25 bullets and fired cartridge cases and tools such as bolt

1 cutters and screwdrivers, plyers and marks that they may
2 or may not have made.

3 Q What is your educational background to train you for
4 this field?

5 A At the time I was hired there was no college program
6 or school that you could go to to learn the discipline of
7 firearm and tool mark identification. So the training was
8 on the job, internship program under three court qualified
9 firearm and tool mark examiners. And during this three
10 year program I assisted other examiners by test firing
11 weapons, looking at what they were looking at, observing
12 the marks that were made by various guns and tools and
13 observing the marks that were left by firearms on fired
14 bullets and cartridge casings. During that time I
15 conducted many thousands of individual comparisons and at
16 the end of that training program I passed an examination
17 and was deemed to be qualified to do my own examinations
18 from that point on. Since that time I have graduated from
19 the FBI National Academy. Other courses at the FBI
20 Academy that involve strictly firearm and tool mark
21 identification, of course the Criminal Justice Academy in
22 Columbia. And I am a member of the Association of Firearm
23 and Tool Mark Examiners which is an International
24 Organization that meets once a year for a week long
25 seminar where we discuss and see presentations involving

1 the latest techniques in firearm and tool mark
2 identification. I have also testified approximately 641
3 times as a firearms examiner. And in Federal Court,
4 Federal District Court, North Carolina State Court and
5 just about every county in South Carolina.

6 Q What is your educational background aside from your
7 SLED training?

8 A I graduated from the University of South Carolina.

9 Q What was your degree?

10 A It was a Bachelor of General Studies which was the
11 precursor to criminal justice at the time.

12 MR. MOWRY: Your Honor, I would offer Mr. Parnell as
13 an expert in the field of firearms and firearms
14 identification.

15 MR. ROBINSON: Your Honor, I have no objection.

16 THE COURT: Again, ladies and gentlemen, in this case
17 Mr. Parnell has been qualified as an expert in the field
18 of firearms and firearms identification. Usually a
19 witness can't testify as to their opinion in a particular
20 area. Since he is an expert in this area however he may
21 give his opinion and you may weigh that opinion and give
22 it the credibility that you feel is appropriate under the
23 circumstances. Solicitor.

24 MR. MOWRY: Thank you, Your Honor.

25 Q Mr. Parnell, can you describe how you came to be

1 involved in this particular case?

2 A It was just a case that I received on rotation. We
3 rotate out every two cases, change examiners and this
4 happened to be one that I caught.

5 Q All right. Did you receive a quantity of evidence in
6 this particular case?

7 A Yes sir, I did.

8 Q Let me give you some specific items here. Did you
9 receive what has been marked as State's exhibit number 21?

10 A Yes, sir. State's exhibit number 21 was received and
11 examined in association with this particular case.

12 Q And what did you determine about that particular
13 firearm there, Mr. Parnell?

14 A That none of the fired specimens that I had received
15 in connection with this case was fired by this particular
16 firearm due to it being a .22 caliber and the other
17 evidence being larger caliber.

18 Q Let me hand you those particular items while we are
19 talking about them. Let me hand you these several
20 cannisters from this envelope, State's exhibit 24.

21 A All of these are included in State's exhibit 24.

22 Q Yes, sir.

23 A Ladies and gentlemen, I will be looking at each one
24 of these items since I individually mark each item with my
25 specimen number, case number and initials. Yes sir, each

1 of the items contained in State's exhibit 24 consisting of
2 ten fired .9 millimeter caliber cartridge cases were
3 submitted in connection with this case and I have
4 microscopically examined all of these items.

5 Q I am going to put up a chart--

6 A Correction, that will be nine fired cartridge cases.

7 Q --of the crime scene. This is State's exhibit number
8 29 just for the jury's reference. I would like you to
9 refer to cannister seven if you would.

10 A I have it.

11 Q What did you discover with regard to cannister seven
12 when you did your identification or you examination, I am
13 sorry.

14 A Cannister number seven contains five fired .9
15 millimeter caliber cartridge cases that are what I would
16 term weathered. They are dull in color, there is dirt
17 residue in each of them and they were not fired by the
18 same firearm that fired the other .9 millimeter cartridge
19 cases received in this case.

20 Q If you would look at cannister two.

21 A Cannister two also contains a weathered fired .9
22 millimeter Luger caliber cartridge casings. It however
23 was fired in my opinion by the same firearm that fired the
24 other three cartridge cases received.

25 Q So number seven is old casings basically?

1 A Yes, sir.

2 Q Number two is an old casing?

3 A Yes, sir.

4 Q Let's go to number three then.

5 A Cannister number three contains a bright or a more
6 recently fired, in my opinion, .9 millimeter Luger caliber
7 cartridge casing.

8 Q And the caliber is the same as the other cartridges
9 you have talked about?

10 A Yes, sir.

11 Q How did it compare with cannister two?

12 A Based on microscopic comparisons that I conducted it
13 was my opinion that the cartridge case for cannister
14 number two and the cartridge case from cannister number
15 three were both fired by one firearm.

16 Q How do you make that determination, sir, can you
17 describe the process that you go through for the jury.

18 A I can. When firearms are made obviously there is a
19 lot of machining that goes on. There are five areas in a
20 handgun that contain microscopic markings that are
21 generally unique to that particular firearm or to a
22 particular firearm. And in this case I used the ejector
23 which is a mechanism that's in the firearm that after a
24 cartridge is fired in a semiautomatic firearm, which I
25 believe these were fired in, when a semiautomatic firearm

1 is fired and you feel the recoy, part of that recoy goes
2 to pull or extract the fired cartridge casing out of the
3 barrel. And when it comes to the rear and reaches its
4 rear most position of travel the ejector is generally a
5 stationary peg or a little perturbation on the inside of
6 the gun that hits the cartridge case and expels it from
7 the gun and ejects it out of the ejection port. And then
8 the slide goes back forward, it picks up a fresh cartridge
9 case from the top of the magazine and loads it into the
10 chamber in what we call in battery or ready to fire
11 position. You pull the trigger again and the same process
12 occurs. The extractor or the hooked device that pulls the
13 cartridge case to the rear pulls it and the ejector hits
14 and kicks the gun and the slide goes forward until the
15 magazine is empty. The other areas of identification are
16 the breach face which is the area around where the firing
17 pin comes out of the face of the bolt. The firing pin or
18 the nose of the firing pin itself and the chamber. So you
19 have firing pin, breach face, extractor and ejector and
20 chamber marks. Chamber marks are left when the cartridge
21 expands on the inside of the chamber in the barrel caused
22 by any number of things, machine marks, rust, grit, dirt,
23 trash may be left in there from previous firing. It
24 leaves also linear marks which are commonly used for
25 identification of firearms.

1 Q And in each case with, add individual firearm, the
2 marks, how would you describe the marks that the
3 individual firearms leave?

4 A They are unique to a particular firearm and this is
5 the premise that my discipline is based on. The markings
6 left on fired bullet and cartridge cases by the guns in
7 which they were fired can be identified to the particular
8 gun that fired the item to the exclusion of others. And
9 that is based on nearly one-hundred years of research and
10 testing and it is proven to be effective.

11 Q Now we talked about a few of the cannisters there, I
12 believe you have five. We talked about number seven,
13 number two and number three. How about number six?

14 A Cannister number six also contains what I would
15 determinate newly fired .9 millimeter Luger caliber
16 cartridge casing.

17 Q How did it compare with the weathered casings or the
18 ones from cannister two or the one from cannister three?

19 A The fired cartridge cases contained in cannister
20 number two which was the other weathered one, cannister
21 three and cannister number six, based on my microscopic
22 comparison to my opinion they were all fired in one
23 firearm.

24 Q Okay. And lastly, number one.

25 A Cannister number one also contains a newly fired .9

1 millimeter Luger caliber cartridge case which was also
2 fired, in my opinion, by the same firearm that fired the
3 cartridge cases in two, three and six.

4 Q Now, Mr. Parnell, you examined, you have already
5 talked about State's exhibit number 20, I believe, pardon
6 me, 21. And you said that that did not fire the
7 cartridges that you examined. How about State's exhibit
8 number 20, did you examine that one?

9 A Exhibit number 20 was also submitted in connection
10 with this case and it is a revolver, it is a .38 caliber
11 revolver and it did not fire the fired cartridge cases in
12 any of the cannisters that we have talked about in one,
13 two, three, six or seven.

14 Q You talked about the shell casings that you examined
15 being fired by a semi-automatic weapon and you
16 characterized that one as a revolver. Can you explain the
17 difference between the two?

18 A A revolver has a cylinder which revolves and we ought
19 to be able to close it before this firearm, State's
20 exhibit number 20, could be fired. At first it would have
21 to be loaded, you would have to pull the trigger to make
22 the hammer come to the rear and go forward to fire
23 cartridges underneath the hammer. Or you would have to
24 manually cock it in what we call single action, squeeze
25 the trigger and make it go forward that way. The

1 cartridge cases remain in the cylinder until the shooter
2 removes them by mashing the ejector, taking them out this
3 way. And once you fired it five times which is all it
4 holds then you have to take the cartridge cases out,
5 manually reload fresh ammunition in it, close it back up
6 and proceed on as we talked about earlier.

7 Q So given that let me hand you State's exhibit number
8 22 and ask you if you can identify that?

9 A Yes, sir. State's exhibit 22 was also received and
10 examined in connection with this case. State's exhibit 22
11 is a .32 caliber, specifically a .32 H&R Magnum caliber
12 revolver. Again, it has a cylinder that you have to
13 manually take the cartridge cases out of and reload. And
14 as I received it several of the internal working parts
15 were missing as they are now. And in order to test fire
16 it they had to take parts out of some of our referenced
17 guns, replace them in here and test fire the firearm. But
18 it is the wrong caliber, it is a smaller caliber than the
19 fired cartridge cases that we talked about earlier in
20 cannisters, one, two, three, six and seven.

21 Q So it did not fire the projectile or the cases that
22 we have already talked about, is that right?

23 A That is correct.

24 Q None of these three guns did?

25 A No, sir.

1 Q All right. Mr. Parnell, let me ask you this. When
2 did you complete your examination and submit your report,
3 what was the date?

4 A Let me see if I have a copy of that report.

5 Q Let me hand you this item and see if that refreshes
6 your memory at all?

7 A I have a copy of that one, that was October the 22nd
8 of 2008.

9 Q October the 22nd of 2008?

10 A Yes, sir.

11 Q Let me also hand you what is marked as State's
12 exhibit number 23. Do you recognize that particular item?

13 A It is heat sealed under my initials and I do
14 recognize this item.

15 Q What is that, please, sir?

16 A It is a fired bullet, specifically a fired .9
17 millimeter Luger caliber bullet.

18 Q How does that bullet there, the projectile compare
19 with the shell casings that we have already talked about?

20 A It would be the caliber and style of bullet I would
21 expect to find in a loaded cartridge of a .9 millimeter
22 Luger caliber as all of the cartridge cases in cannisters,
23 one, two, three, six and seven are.

24 Q Now, Mr. Parnell, you testified as to the caliber of
25 the bullet and the caliber of the shell casings. Can you

1 tell anything about a model of a gun that they might have
2 been used from. Is there any specific marking on those
3 items that might give you an indication as to what kind of
4 gun was used?

5 A Yes, sir. When different brands of firearms are
6 manufactured of course the manufacture wants to have its
7 own type of signature, markings or calibered designations
8 and land and groove patterns that they put in their
9 particular firearms. With regard to the fired cartridge
10 cases in State's exhibit 24 in cannisters, one, two, three
11 and six they all exhibited a particularly specific style
12 of ejector mark. Looks very much like a bulls eye. When
13 I received this case I was not familiar with that style of
14 ejector. Further research and consultation with some of
15 our cohorts and the association of firearm and tool mark
16 examiners as well as on the internet revealed that these
17 cartridge cases were most likely fired in a masterpiece
18 arms brand of firearm. The only one that anybody knew
19 about that exhibited that style of ejector marks. Also in
20 examining the fired bullet, State's exhibit 23, and
21 observing the markings left on the outside of the bullet
22 out of the gun barrel through which it was fired was able
23 to determine it could have been fired in any number of
24 firearms based on its measurements, the measurements of
25 the markings on the bullet. However, included in that

1 list of possible firearms was also a masterpiece arms .9
2 millimeter firearm.

3 Q So it is conceivable that the shell cases you found
4 and the bullet that was recovered from the victim that you
5 are holding right there was fired by the same type of gun?

6 A Yes, sir.

7 Q I want to ask you about gunshot residue and powder
8 stippling. We have had testimony already about gunshot
9 residue but can you explain in a little more in depth
10 about gunshot residue?

11 A Specifically the primer type residue or the ejector
12 from the bore?

13 Q The ejector from the bore?

14 A The gunshot residue that is propelled out of the
15 muzzle of the firearm along with the bullet consist of
16 particles of burned and unburned gunpowder that don't
17 completely consume themselves in the firing process
18 because it is an actual fire inside the barrel or inside
19 the cartridge casings and then out of the end of the
20 barrel. They propel themselves along with the bullet in
21 travel, depending on the length of the barrel, probably up
22 to three feet away from the muzzle. And closer than that
23 you can consumable have a discernable pattern, using that
24 pattern, the measurements of that pattern and test firing
25 a specific firearm you can get an idea of how far in

1 general the muzzle of the firearm was from the target.

2 Q If there was no powder burn or stippling or gunshot
3 residue discovered around the wound or on the body what
4 would that indicate to you?

5 A Was the body clothed at the time?

6 Q Yes.

7 A If there was none on the body then it could have been
8 interrupted by the clothing. If there was none found on
9 the clothing it would or could indicate that the distance
10 of the shot was greater than three or four feet away.

11 Q But if some was found on the body?

12 A It could possibly be within that three or foot range
13 or closer.

14 Q So we are talking short distance?

15 A If there was residue found and there was a
16 discernable pattern discovered then if we had a gun then
17 you could conceivably test that firearm with similar
18 ammunition and make a closer determination but if there
19 was residue there then it was probably four feet in
20 closer.

21 Q Similarly, Mr. Parnell, are you able to, let me ask
22 you this. If there was a suspect gun, a .9 millimeter
23 semiautomatic pistol that might have fired those weapons
24 or those casings fired that projectile would you be able
25 to make a determination as to whether or not that gun

1 itself fired that bullet?

2 A Yes, sir. It is very possible, many things enter
3 into an identification. The first thing is the condition
4 of the evidence. In this case the bullet from State's
5 exhibit 23 is in my opinion good enough condition for an
6 identification should the firearm be submitted. The other
7 question would be is the inside of the gun barrel in good
8 enough condition now to test fire and make microscopic
9 comparisons with. If that were the case, the gun had not
10 been left out to rust or was in reasonably good condition
11 then an identification could conceivably be made.

12 Q Okay. I ask you about these particular items in this
13 bag marked State's exhibit number 26.

14 A Let me refer to my notes, please, sir. Item 21 which
15 is the item contained in the tin in State's exhibit number
16 26 was a lead like fragment and an unidentified fragment
17 of material that was not consistent with being a part of a
18 fired bullet. The lead portion of the item contained in
19 State's exhibit 26 was unsuitable for identification based
20 on the fact that, in my opinion, it was probably the core
21 or the inside part of a fired bullet. As we talked
22 earlier, only the outside of the bullet comes into contact
23 with the gun barrel. Anything that is inside of that
24 jacket is protected and doesn't get scratched by the
25 inside of the gun barrel. So that is what I think the

1 lead portion of the item in State's exhibit 26 is. So had
2 no markings for microscopic comparison. And the other
3 item, it was not a portion of a bullet. The other two
4 things in here are two swabs of debris that I swabbed off
5 of the items in this container here, in State's exhibit
6 26.

7 Q Do you have an opinion as to the age of the items
8 that you referred to in State's exhibit number 26?

9 A No, sir.

10 Q Now, Mr. Parnell, let me just wrap up. I just want
11 to check with you and make sure, you had said that the
12 item in cannister number two was an old weathered casing.
13 Is it possible in your view that even that old weathered
14 casing from cannister two and the casings from three, six
15 and one were fired at the same time?

16 A That would not be my opinion.

17 Q Okay. What is your opinion as far as the timing of
18 the firing of those four cannisters or four cartridges,
19 pardon me.

20 A Based on the discoloration and the mud or the dirt
21 that was in the fired cartridge casing, cannister number
22 two, it would be my opinion that this cartridge case,
23 although it was fired in this same firearm that fired the
24 cartridge cases in cannisters one, three and six, that
25 these three cartridge cases which are bright and shiny and

1 new looking, not have been exposed to much if any weather,
2 that these three were fired at a time after the cartridge
3 casing cannister number two.

4 Q And how would they correlate to the timing of firing
5 with each other, three, six and one?

6 A I can't tell you that.

7 Q Can't tell me. Just to make sure that we are on the
8 same page. As far as State's exhibits, 20, 27 and 21, I
9 just want to make sure that we understand, could the
10 cartridge casings that were found in seven, two, three,
11 six or one be fired by any of those weapons?

12 A No, sir.

13 Q Could the bullet that was recovered from the victim,
14 State's 23, could that have been fired by any of these
15 weapons?

16 A No, sir. The markings that were left on State's
17 exhibit 23 by the gun barrel through which it was fired
18 were different in either caliber or number and size of
19 impressions than would have been left by any of these
20 three firearms here, 20, 21 and 22. We have got a .22
21 caliber, we have got a .32 caliber and we have a .38
22 caliber. Although a .9 millimeter is very close in
23 diameter to a .38 it is .3, 6, 7, inches. It is different
24 in its markings than those markings that were found on
25 State's exhibit 23, this bullet.

1 Q One last question. The shell casings from number
2 three, number one and number six, you had determined that
3 those were fired by, mostly likely fired by what kind of
4 gun?

5 A A masterpiece arms semi-automatic firearm.

6 Q And the projectile recovered from the victim, State's
7 23?

8 A It was also fired by a .9 millimeter caliber firearm.
9 However, the markings that were on the outer surface of
10 State's exhibit 23 could also include a number of other
11 firearms. However, included in the least of possible
12 weapons is a masterpiece arms. So it is conceivable that
13 the fired bullet in 23 and the fired cartridge cases from
14 cannisters, one, three and six could have been fired in
15 one firearm.

16 Q Thank you, that is all I have. Answer any of Mr.
17 Robinson's questions, please.

18 THE COURT: Mr. Robinson.

19 MR. ROBINSON: I have no questions for this witness.

20 THE COURT: Vert good, thank you for coming and no
21 objection to him being excused?

22 MR. MOWRY: No, sir.

23 MR. ROBINSON: No, Your Honor.

24 THE COURT: You are free to go. Solicitor, you have
25 one witness left?

1 MR. MOWRY: One left.

2 THE COURT: That is the one that is going to take a
3 little while?

4 MR. MOWRY: Yes, sir.

5 THE COURT: Ladies and gentlemen of the jury, we are
6 finishing a little bit early today. There is a couple of
7 reasons for that. First of all the next witness we
8 anticipate taking a little while. In all candor, I am in
9 charge of the drug court in the Eighth Circuit. We have
10 our weekly meetings on Tuesday night at 4:30. So I need
11 to get back to Greenwood to address that responsibility.
12 So we are going to call it a day as far as the case is
13 concerned today. I am going to ask that you be back in
14 the jury room tomorrow morning at 9:30 and we will resume
15 with the trial. I anticipate we will be getting this
16 trial to you probably if not sometime if not tomorrow
17 morning certainly tomorrow afternoon for your
18 deliberations. And because you have not heard all the
19 evidence, because you have not heard all of the testimony,
20 you can't make your mind up about anything. Certainly you
21 can't speak to anybody about anything concerning this
22 case. So again do not talk about this case with anyone.
23 With that we will see you at 9:30 in the morning.

24 (Whereupon, the jury was excused from open court for
25 the day.)

1 THE COURT: While the jury is out and we may as well
2 go ahead and address, I think, the statement issues that
3 the State will be seeking to introduce their next witness,
4 namely the three statements that were given by the three
5 witnesses who testified yesterday. I have done a little
6 bit of research in the interim and it would appear that
7 the proper way to introduce those statements would be
8 through a witness, another witness. Whenever a witness
9 denies, there is case law that establishes that where a
10 witness denies the statement proof of it must be made
11 through another witness before the statement is
12 admissible. That is the case of Coffee v. Anderson, 1954
13 decision, 224 SC 477. So insofar as the defense objected
14 to the introduction of the statements through the next
15 witness to be called and felt that the statements should
16 properly be brought in at the time of the testimony of the
17 reported declarant, I am going to overrule that objection,
18 Mr. Robinson, based upon that authority. Now the research
19 I found indicates a number of things. First that the
20 variance between the statement and the trial testimony has
21 to be material. I have to make a finding that it is
22 material. And basically I have come across authority
23 cited in the two cases that an answer along the lines of,
24 I don't remember, is sufficient to allow the writing into
25 evidence similarly where the witness is evasive, is proper

1 to allow it in evidence even if we are merely talking
2 about details which were lacking between the prior
3 statement and the statement at the time of trial. So if
4 the witness maintains that details are lacking in the
5 prior statement then certainly the prior statement might
6 be admissible. Then of course there is a Blalock
7 decision, 357 SC at page 80 that holds that when the issue
8 is whether the witness admitted making the prior
9 inconsistent statement the admission must be unequivocal.
10 Now the question I've got quite honestly for the Solicitor
11 is, with regard to the first witness to testify and the
12 second witness to testify I have reviewed their statements
13 and there appears to be a variance between what was
14 testified at trial and the statements in that the
15 statements reflect, and I have underlined the portions
16 that I think would vary, and this is the statement of
17 Carlos Fuller, State's exhibit 28.

18 Fourth line down, Tyrise was walking through the top
19 of the trailer park, Dreek and then there is a word that
20 is obscured by a hole punch, I'll be back, I gone, I gone,
21 holla, h-o-l-l-a at Tyrise. Then they both walk back down
22 towards Dreek's car. And then further down Tyrise ran up
23 the street.

24 So I think based upon my notes and my recollection
25 that would appear to be a portion of the statement that

1 varies from the trial testimony.

2 And then with regard to Mr. Foggie, beginning on line
3 4, then he turned around arguing with Tyrise. I heard
4 Dreek say, expletive U and then Tyrise said, expletive U.
5 Then the next portion, Dreek walked down a little bit,
6 they were still fussing then Tyrise pulled out a gun and
7 shot about three times. Dreek then ran up toward the
8 road.

9 So as far as State's 31 and the statement of Mr.
10 Foggie that seems to be, those portions I have just read
11 seem to be at odds with his trial testimony. Moving onto
12 State's 32, I have reviewed that and I compared that
13 against Mr. Curenton's trial testimony. What portions of
14 this statement, Solicitor, do you feel are different from
15 what was said at trial. Go ahead and look at it because I
16 am trying to find something that varies materially from
17 the trial testimony. And as I read the law, the variance,
18 the material variance is a threshold, a material variance
19 is a threshold requirement for admissibility.

20 MR. MOWRY: Well, one of the things, Your Honor, I
21 asked the defendant, excuse me, the witness. Dreek told
22 Tyrise to come here, let me holler at you. They were up
23 near the abandoned trailers talking, I couldn't hear what
24 they were talking about because they were playing music
25 and someone else was playing music. In that point he

1 said, yes, that is right, we were playing music. But he
2 indicated that the rest of that was not correct, he denied
3 the rest of it the way I recall it.

4 THE COURT: The rest of what, what was it he denied.

5 MR. MOWRY: He denied that the defendant and the
6 victim were up at the abandoned trailers talking together.

7 THE COURT: But the portion that you have redacted on
8 the copy that I have as State's 32 doesn't reference. I
9 just have the redacted portions reads, I think he was
10 going to Vanessa Spurgeon's house. Then Dreek, he walked
11 between the two abandoned trailers. I assume he went to
12 the Spurgeon's house. That is what I am reading.

13 MR. MOWRY: Right, I am talking about later down the
14 page a little bit.

15 THE COURT: I heard two to three shots, I heard two,
16 I think that is suppose to be or. I heard two or three
17 shots, I ducked down, I saw Dreek running up the hill.

18 MR. MOWRY: And my memory is also, Your Honor, denied
19 seeing the victim running up the hill. He also denied
20 seeing the victim lying down outside the trailer when he
21 walked right by it practically, going back to his own
22 residence. That was one of the things that I wanted to
23 bring up because the incident took place here and the
24 victim is found here and the defendant, the witness lived
25 here.

1 THE COURT: Point those out to me again.

2 MR. MOWRY: This green spot on State's 27 was where
3 the incident took place we allege. The victim's body was
4 found at this yellow spot father to the left and then the
5 witness' residence was here. And he denied ever seeing
6 the victim's body. In the statement it says that he ran
7 up the hill. As I recall he denied that he saw the
8 witness, the victim run up the hill. He also denied
9 seeing the victim's body on his way back to his own place.
10 Mr. Newton reminds me also that apparently he denied ever
11 seeing the victim and the defendant together. Basically,
12 Your Honor, all three witnesses have made material, I mean
13 amazingly material deviations from their written
14 statements. All three of them essentially deny ever
15 seeing the defendant and the victim together. Mr.
16 Curenton also stated as I recall that the shots took place
17 over on the other street. I will point that out to Your
18 Honor, quite a distance away. It would have been back in
19 here referring again to State's 27.

20 THE COURT: He testified to that because I don't
21 believe I had a good view of the chart at the time that he
22 was testifying.

23 MR. MOWRY: Yes, sir. I believe the Court Reporter
24 can find it if we had to.

25 THE COURT: Your points are well made.

1 MR. MOWRY: And, Your Honor, I will just point out in
2 Blalock the admission was allowed, the admission of the
3 statement was allowed simply because there was a
4 variation, it was basically a molestation case and the
5 variation was whether or not the defendant had his hand on
6 the back of the victim's thigh or on her buttocks.

7 THE COURT: And apparently the witness in that case
8 was the spouse of the defendant and she backtracked in the
9 trial from what she had, the testimony or the statement
10 that she had initially given to law enforcement.

11 MR. MOWRY: Yes, sir. That was the only variation is
12 what I am getting at. And these witnesses were very
13 widely from what their written statements were.

14 THE COURT: Mr. Robinson, you want to speak to any of
15 this before I rule or do you want some time to think about
16 this.

17 MR. ROBINSON: Your Honor, I have made my objections
18 pretty clearly on the record regarding the rules and the
19 cases that I have been cited. The significance of a
20 mistrial before is that the prosecution can go back and
21 then redo their strategy basically and they have
22 discovered a rule that will allow them if they ask the
23 right questions to get these statements in. It is
24 something that I don't have the capacity, I didn't put the
25 case up last time. But I notice that every question, it

1 was interesting to listen to his questions. I don't know
2 if they spoke to these people before this case, did they
3 contact them, I don't know. But it appears that they took
4 advantage of that rule and these particular witnesses that
5 they subpoenaed in this case. Unfortunately what is going
6 to happen, I think that what could happen as a result of
7 these kind of rulings on these kind of cases it kind of,
8 it puts out to defense attorneys especially, it basically
9 means that you can't attack a witness, you can't attack a
10 person based on why they were coerced or why there were
11 threatened. You can no longer really go into that because
12 the State is going to come back and say, well listen, here
13 is. And I asked them questions and they denied some of it
14 so that means they unequivocally denied the whole thing.
15 I don't think they unequivocally denied the whole thing in
16 this case. There are parts of it of course but that is
17 just part of the examination, it was their witness in this
18 case. And I think it is just a very chilling effect on
19 defense attorneys because I think it is something that the
20 State, while maybe not intentionally, but they can use
21 that to pretty much wipe any sort of cross-examination.
22 You can't really do cross-examination in this case.

23 MR. MOWRY: Your Honor, all that I can say is that if
24 Mr. Robinson thinks there was any kind of collusion
25 between the witnesses and me, he didn't watch either

1 trial.

2 MR. ROBINSON: I didn't say that.

3 MR. MOWRY: They were the least cooperative witnesses
4 I have ever had.

5 THE COURT: I undersaid. I do recall from the first
6 trial that at one point while the jury was deliberating
7 they actually asked for copies of these witnesses
8 statements because we had made reference to them and I
9 know that a question came out shortly after the
10 deliberations began requesting a copy of those statements.
11 I think that we went through the analysis of the
12 statements along the same lines as we did here in that I
13 ruled at that time when we tried this case last year that
14 the prior statements could be use or could be presented
15 and did constitute substantive evidence. Because in my
16 charge that I reviewed today, the charge that I saved from
17 last year the portion dealing with prior inconsistent
18 statements, the portion of that charge obviously makes
19 illusion to that. You have got to determine, the jury can
20 take that prior statement and determine whether to believe
21 the statement now at trial or the earlier statement, they
22 can use that accessing their credibility. So we have got
23 a number of issues floating around there. And I
24 understand the defense's position, Mr. Robinson, that
25 perhaps on retrial this is an unusual situation in that

1 the State normally on retrial the incidence of acquittal,
2 my understanding is statistically go up dramatically.
3 Usually the State has a much harder time on retrial. This
4 might be one of those incidences where the State is maybe
5 doing a better case. Obviously I's are getting dotted in
6 this trial that maybe weren't dotted in the first. So
7 regardless I am looking at the rules and I am looking at
8 the case law. And one of the rules that I have found is
9 that admission of the extrinsic evidence. In this case
10 the statements prove the witnesses made the statements as
11 relevant to the jury's consideration of the witnesses
12 voracity as a witness and the weight their testimony
13 should be afforded. That again goes back to the charge
14 that I had in the last trial and the instructions that I
15 will be giving in this particular trial. So where I am
16 right now based upon what has been presented to me,
17 apparently under rules 801 and 613 I do believe the State
18 would be entitled to introduce, assuming that the proper
19 foundation is made with that witness, the State would be
20 entitled to introduce the three statements, the three
21 written statements into evidence, the redacted version of
22 those three statements into evidence. I considered the
23 403 balancing, whether the prejudicial effect of these
24 statements outweigh their probative value. Seeing as to
25 how under the law the statements may be used as

1 substantive evidence, under the Copeland decision I would
2 find that, in particular State's 31, the probative value
3 would certainly outweigh the prejudicial effect in light
4 of Copeland. And ditto for State's 32 and 28. I am aware
5 by definition all evidence in one way or another is
6 prejudicial to one side or the other. The question is not
7 whether it is prejudicial, it is whether it is unduly
8 prejudicial and I cannot find, especially now that the
9 redacted or the offensive portions of those statements
10 have been redacted, I cannot find where the defendant is
11 unduly prejudice. But your objection, Mr. Robinson, to my
12 decision on that particular point is certainly noted for
13 the record. And at the time, at the time the State moves
14 to introduce this tomorrow, assuming that there is not a
15 foundational objection that you need to bring to my
16 attention, it will be sufficient if you simply say
17 tomorrow when they seek to introduce these, Judge,
18 objection, same grounds as previously stated or something
19 like that just to protect the record and to protect the
20 issue in the event we come to that point.

21 MR. ROBINSON: Your Honor, would you suggest that we
22 proffer Mr. Foggie's testimony outside the presence of the
23 jury to make sure we, so we don't have to go through this
24 whole thing again as far as foundational problems.

25 THE COURT: I am happy to do that right now if y'all

1 want to just limit his testimony to the foundational
2 issues. We have got time.

3 MR. MOWRY: That is fine with me, Your Honor.

4 THE COURT: Let me take two minutes and let them know
5 that I will be on my way in about twenty minutes. Let's
6 take a break.

7 (Whereupon, a short break was taken.)

8 THE COURT: Solicitor, if you will call your next
9 witness please.

10 MR. MOWRY: Lieutenant Foggie.

11 LIEUTENANT MARENO FOGGIE, being
12 first duly sworn, testified as follows:

13 THE COURT: Just so the record is clear it should
14 reflect that this is taking place outside the presence of
15 the jury.

16 PROFFER DIRECT EXAMINATION

17 By Mr. Mowry:

18 Q Lieutenant Foggie, I am going to cut through a lot of
19 the normal introductory matters. But you were the chief
20 investigator on the homicide involving Stakren Tyrise
21 Jefferson and Dreek Calwise, is that right?

22 A Yes, I was.

23 Q How did you become aware of Lavario Curenton, Trezz
24 Foggie and Carlos Fuller as people you wanted to talk to
25 with regard to this case?

1 A I got an anonymous call, phone call.

2 Q For the first several days of this investigation did
3 you have any suspect at all?

4 A None.

5 Q Did you have any witnesses that had come forward and
6 said I can tell you something about this?

7 A None.

8 Q So you were pretty much at a standstill for a little
9 while, weren't you?

10 A Yes.

11 Q When this anonymous tip came through what did you do?

12 A I immediately went to try to find the witness' name
13 from the phone call.

14 Q What did you do after that?

15 A I got in contact first with Carlos Fuller and Carlos'
16 mother.

17 Q Her name is Betty?

18 A Betty Fuller. And they met me at the Annex building
19 which is the Sheriffs office.

20 Q Did that happen on May the 20th of 2008?

21 A Can I see it, please.

22 Q Yes.

23 A Yes, it did.

24 Q How did you go about taking this statement from
25 Carlos?

1 A I explained to Carlos that we had information saying
2 that he was at the scene, he was present during the time
3 of the shooting. And we went from there.

4 Q Now the shell casings were found right outside of his
5 trailer, weren't they?

6 A Yes, sir.

7 Q Who else was present when the statement was being
8 taken?

9 A Lieutenant Raymond Franklin.

10 Q Raymond Franklin?

11 A Yes.

12 Q Okay. What was the atmosphere when y'all were taking
13 the statement from him. How did it go?

14 A At first it wasn't really going too good. Carlos, he
15 was kind of uncooperative, he was reluctant to talk.

16 Q You heard Lieutenant Higgenbotham talk about the
17 cooperative nature or the degree of cooperations from the
18 trailer park, was that pretty accurate in your experience?

19 A Yes, sir.

20 MR. ROBINSON: Your Honor, I am going to object. I
21 know he is giving him some lead way but I think that some
22 of the information is trying to get from him I think is
23 inadmissible.

24 MR. MOWRY: The jury is not here, Your Honor.

25 MR. ROBINSON: I am making the Court aware, I am not

1 objecting as much because of the nature of the testimony.

2 THE COURT: I understand your position. The jury is
3 not present during these proceedings. The primary purpose
4 of this is to establish basically the foundational
5 requirements for admission of these statements into
6 evidence. I will allow the testimony in the way of
7 background as to this witness' experience in dealing with
8 folks at the Stoddard Trailer Park simply because I think
9 that relates to the background and to the general
10 attitude. It confirms the general attitude that he
11 observed with Mr. Fuller, perhaps some of the other
12 individuals who gave statements. So the objection is
13 overruled, certainly any other objections just bring them
14 to my attention. I understand this is non-jury, you may
15 not be inclined to object quite as much, Mr. Robinson, but
16 if you feel like we are crossing over from the gray to the
17 black let me know.

18 MR. ROBINSON: When this is in front of the jury I
19 really have a problem and I will make a motion in limine
20 as far as this so called anonymous tip.

21 THE COURT: I don't know that, you know, I don't know
22 how you are planning on dealing with that tomorrow.

23 MR. MOWRY: Basically, Your Honor, he got the
24 anonymous tip, as a result of that anonymous tip what did
25 you do. That is the way I intend to pursue it.

1 THE COURT: I undersaid. It might be better pursued
2 along the lines of during the course of my investigation I
3 received information and based upon the information I
4 received I then decided to contact Mr. Fuller, et cetera,
5 et cetera. That is a little bit more better than an
6 anonymous tip. An anonymous tip has elements of hearsay
7 to it or implicit hearsay, it is asking the jury to
8 really, really speculate. I think it is a little bit
9 cleaner if you simply say, during the course of my
10 investigation I received information. Based on that
11 information I contacted Fuller, Y, Z.

12 MR. MOWRY: And I respect Your Honor's ruling and I
13 will comply. I just simply want to say for the record
14 that I received an anonymous tip and based on that I went,
15 it is not hearsay.

16 THE COURT: I understand your position. Out of
17 abundance of caution, out of courtesy to the way I have
18 ruled previously I think that is how we may have phrased
19 it in the first trial, I am not quite sure about it but is
20 how I prefer it to be phrased in this trial.

21 MR. MOWRY: And I will comply, Your Honor, thank you.

22 THE COURT: Go ahead.

23 Q In any event, describe the manner in which this
24 statement was taken ultimately?

25 A Well, we have offices upstairs and it is in an

1 investigator's office. Carlos came in and we introduced
2 ourselves and we told him he wasn't a suspect in the case
3 at that time. And we wanted to speak to him about the
4 incident that occurred, he was in the proximity of the
5 yard. From there, you know, he explained to us that he
6 didn't want to be there and he didn't want to appear to be
7 a snitch.

8 Q Did he use that term?

9 A Yes, he did. Then after, you know, talking with him
10 a little further he ended up giving us a statement.

11 Q Did you ever threaten him with any kind of
12 prosecution or anything like that?

13 A No, sir.

14 Q Did you threaten his mother, to lock up his mother?

15 A No, sir.

16 Q He testified to that yesterday, is any of that true?

17 A That is not true.

18 THE COURT: Tomorrow that will be pitting witnesses
19 so that would be, that could be a problem.

20 MR. MOWRY: I understand, I am not going to go into
21 that, I just simply want to bring that out for this
22 hearing, Your Honor.

23 THE COURT: That's fine.

24 MR. MOWRY: I am fully cognizance of that. I will
25 not do that tomorrow.

1 THE COURT: All right.

2 Q In any event, how long did it take you talking to him
3 before he finally gave you this statement?

4 A Approximately ten minutes or so.

5 Q How did you go about writing up the statement. Did
6 you type it up and then bring it to him and say, here sign
7 this or what?

8 A No. We have a system on our computer where, you
9 know, every time we obtain a statement we have to enter it
10 in because it actually goes with the incident report. And
11 it prompts us to advise whoever we are speaking to their
12 rights. And then it gives us a block where the statement
13 can be typed while they tell us what is going on and the
14 purpose that we have been doing that is because, you know,
15 people out there that can't write measurably or cannot
16 write at all.

17 Q So essentially you were a scribe?

18 A Yes.

19 Q You took down what he told you?

20 A Yes.

21 Q And made that part of the statement?

22 A Yes.

23 Q So you weren't making anything up, you were writing
24 down what he was telling you?

25 A Exactly what he was telling me, yes.

1 Q How long did that process take?

2 A From start to finish and this is approximately twenty
3 minutes, twenty-five minutes.

4 Q When you were finished how did you go about having
5 him sign the statement?

6 A I printed the statement off, handed him the
7 statement, asked him to read everything that was on the
8 statement and if that is accurate I told him to give me a
9 signature where I marked the X.

10 Q Did he make any kind of changes, any kind of
11 alterations, deletions, corrections, anything?

12 A No, sir.

13 Q When he signed it how did you get him to do that.
14 Was there any kind of force, any kind of promise, any kind
15 of threat, anything to induce him to sign this statement?

16 A No, sir.

17 Q Okay. What kind of tone did you have with him that
18 whole time?

19 A The same tone I have today.

20 Q Now you heard the testimony from Carlos yesterday?

21 A Yes.

22 Q Was that consistent or inconsistent with what he
23 wrote in his, or what he signed as his statement?

24 A A portion of it that was inconsistent.

25 Q That was not what he told you, is that right?

1 A Right.

2 Q Now, how about for Trezz. Let me hand you State's
3 exhibit number 31, when did you take the statement from
4 him?

5 A I took the statement on the same day.

6 Q The same day?

7 A Yes.

8 Q What was the time difference between the two, do you
9 know?

10 A Roughly about two hours.

11 Q Okay. When Trezz arrived, he came to the police
12 station, right?

13 A Yes.

14 Q Who did he come with?

15 A He came with his step-father.

16 Q Where was the step-father while the statement was
17 being taken?

18 A He was outside of the office, in the same building,
19 same floor but it was, the rooms kind of connect. He was
20 like in the common area between the offices.

21 Q So he was just outside the door then pretty much,
22 right?

23 A Yes.

24 Q Was Trezz in handcuffs?

25 A Not that I can recall.

1 Q Was there any reason to put him in handcuffs?

2 A No, sir.

3 Q He wasn't under arrest?

4 A No.

5 Q He wasn't a suspect in this case?

6 A No.

7 Q What was the manner in which the statement was taken
8 this time?

9 A The same way, he was reluctant to be there. You
10 know, he obviously didn't want to cooperate with us, he
11 didn't want to talk about what happened. Then at some
12 point and time, I can't remember exactly which officer, it
13 could have been Lieutenant Franklin but one of us spoke
14 with the step-father and told him what was going on. And
15 he at that time Called Trezz's mother.

16 Q And did Trezz's mother, was she given an opportunity
17 to speak to him on the phone?

18 A Yes.

19 Q And obviously you don't know more than testimony what
20 the content of the conversation was. But prior to this
21 how would you describe Trezz's degree of cooperation?

22 A After the phone call--

23 Q Before the phone call, prior to it.

24 A He was very cooperative.

25 Q Okay. Subsequent to it, after the phone call what

1 happened?

2 A He said he was going to tell you what happened.

3 Q How quickly thereafter?

4 A As soon as after he got off the phone with his
5 mother.

6 Q So we know from testimony his mother told him to tell
7 the truth and immediately thereafter he gave you this
8 statement?

9 A Yes.

10 Q Describe the manner in which you took the statement?

11 A The same way I took the statement with Carlos. Of
12 course I explained to him that he was not a suspect in the
13 case, read him his rights and then told him to tell us
14 what happened. And then he did, I typed it and printed it
15 off and gave him a copy of it, asked him to read it in
16 which he did. And I told him if it is correct to sign it.

17 Q He testified yesterday that you had something already
18 written up. Did you have anything written up?

19 A No, sir.

20 Q So you went through, you produced this statement in
21 the same way that you did with Carlos?

22 A Yes.

23 Q He would tell you, you would type it down?

24 A Yes, sir.

25 Q Any kind of threats, any kind of promises?

1 A No, sir.

2 Q Any kind of offer or reward or anything like that to
3 induce his statement?

4 A No, sir.

5 Q Was it in your opinion free and voluntary?

6 A It was.

7 Q Did you make any kind of threat against his
8 step-father?

9 A No, sir.

10 Q Any kind of threat against his step-mother?

11 A No, sir.

12 Q Or his mother?

13 A No, sir.

14 Q Okay. You heard Trezz's testimony yesterday, was
15 that consistent or inconsistent with the statement he gave
16 to you, State's exhibit number 31?

17 A Yes, 31. Yes, it was very inconsistent with what he
18 told me.

19 Q Let me hand you State's exhibit number 32. That is
20 the statement for identification, that is the statement
21 from Lavario Curenton. What day did you take a statement
22 from him?

23 A We took it on the 22nd.

24 Q Almost a week after the shooting, is that right?

25 A Yes.

1 Q Describe the manner in which that statement was
2 taken?

3 A He was the same but he wasn't as reluctant as Trezz
4 and Carlos in my opinion. He didn't want to be there, you
5 could tell he didn't want to be there.

6 Q How long did you talk to him?

7 A Maybe about twenty to twenty-five minutes.

8 Q Roughly the same amount of time you did with the
9 other two?

10 A Yes.

11 Q What was the atmosphere while you were talking with
12 them, was there any kind of threats or intimidation
13 involved?

14 A No, sir.

15 Q What procedure did you use in these cases to get them
16 to come through to overcome their reluctance. I mean
17 obviously with Trezz talking to his mama. But Carlos and
18 with Lavario, how did you get them to overcome that
19 obviously reluctance that they had and give you the
20 statement?

21 A Well I told, you know, and I don't know which one I
22 told. Let's just say, X, Y, Z, I told X that Y, Z had
23 already told me what was going, what happened. That is
24 when they kind of came around.

25 Q So you told them that the others had already made

1 statements and that induced them to make a statement, is
2 right?

3 A Yes.

4 Q When you did that did you tell these people what to
5 say?

6 A No, sir.

7 Q You just asked them to give you the information, is
8 that right?

9 A Yes.

10 Q Did you do it the same way with Mr. Curenton?

11 A Yes.

12 Q Describe it again.

13 A You know, brought him in and of course he didn't want
14 to be there and he was very uncooperative at first. And
15 like I said, I told him one or the other, maybe even told
16 him both already gave statements and we already knew he
17 was there and he may as well just come clean.

18 Q And did he do so at that time?

19 A Yes, he did.

20 Q Was there any kind of force or intimidation or
21 threats or promises or anything like that to get him to
22 make a statement?

23 A No, sir.

24 Q Now, you heard his testimony yesterday just like you
25 did the other two. How did that compare with the

1 statement that he gave you on the 22nd of May?

2 A It was inconsistent, the statement that he gave.

3 Q Very or just slightly?

4 A His was, a good part of it was inconsistent, I don't
5 know how much but a good part was.

6 Q Thank you, that is all I have. Answer any of Mr.

7 Robinson's questions.

8 CROSS-EXAMINATION

9 By Mr. Robinson:

10 Q Just a couple of questions, Mr. Foggie. These three
11 folks you got statements from, which one lived in the park
12 at that time, back in 2008, which one is that.

13 A Carlos, I believe Carlos Fuller and Lavario Curenton
14 during that time.

15 Q And they both lived in the park, is that right?

16 A Yes and Trezz was, he lived off of Georgia Road.

17 Q The home that they had this music thing going on,
18 that was Carlos Fuller's, is that right?

19 A Yes.

20 Q I think you testified a moment ago that you took down
21 things and then you typed it. Did you take any notes?

22 A No, no.

23 Q How did you remember what they said to you?

24 A No, I typed it as they were telling it.

25 Q You had a typewriter or a computer in front of you?

1 A Yes.

2 Q Is that right?

3 A Yes.

4 Q Did you keep a copy of the screen?

5 A No, it is all stored on I guess a server, it is at
6 the Sheriffs office.

7 Q So the answer to the question as far as you didn't
8 take any notes, right?

9 A No, I didn't take any notes.

10 Q Was this recorded at all, do you know?

11 A No, sir.

12 Q Not recorded, okay. And there was testimony that one
13 of these guys was in handcuffs, I think it was the person
14 who called his mother. Do you recall that?

15 A I heard the testimony yesterday.

16 Q And he wasn't in handcuffs?

17 A Not that I can recall.

18 Q And who else was there with you, Mr. Franklin, is
19 that right?

20 A Yes.

21 Q Is he an officer with the Laurens Police Department?

22 A He is not now but he was at that time.

23 Q Was at that time?

24 A Yes, sir.

25 Q That is all I have.

1 THE COURT: Just a couple of quick questions.

2 Lieutenant, the statements that you, the statements that
3 you have been referencing, State's 31, 32 and 28, are they
4 a true and accurate reflection of what was told to you on
5 those various dates?

6 A Yes, they were.

7 THE COURT: Okay. And there was no force, no
8 promises, no threats, no coercions, no promises, leniency
9 or any other guarantee or assurances made to any of the
10 individuals at the time the statements were given?

11 A No, sir.

12 Q Thank you, you can step down. Any followup based on
13 my questions?

14 MR. MOWRY: No, sir.

15 MR. ROBINSON: No, sir.

16 THE COURT: You can step down. Based on what I have
17 heard, Mr. Robinson, unless you can point me to authority
18 to the contrary I think the proper foundation has been
19 laid based upon that testimony that we have just heard. I
20 realize, Solicitor, that for obvious reasons you are going
21 to want to touch on bits and pieces of what he has just
22 testified to tomorrow during his direct examination,
23 basically that the non-confrontational nature of the
24 interviews that were conducted. But I think you know
25 where I stand based on where I interjected, where Mr.

1 Robinson interjected as far as any kind of pitting.

2 MR. MOWRY: Yes, sir. I will not do that. For this
3 hearing I thought that was appropriate.

4 THE COURT: I understand and there is no prejudice in
5 this kind of a hearing or there is not as much as there
6 would be in front of a jury. So as I understand we can
7 use that or we can't do that. You want to say something,
8 Mr. Robinson?

9 MR. ROBINSON: Just one point, Your Honor. I am
10 going to object to Mr. Foggie giving his opinion as to
11 whether or not he felt that these were, he said when Mr.
12 Mowry cross-examined, in your opinion did you feel this, I
13 am having a real hard time with the investigator in this
14 case giving a statement deemed to as what he thought about
15 this. Because he is obviously on the prosecutions's side
16 and really he should be a mutual party in this case.

17 THE COURT: Obviously the witness cannot testify as
18 to issues of credibility such as, I mean in this instance
19 he can't say, yes, I believe they were being credible back
20 in May of '08 and they are lying today. Because that is
21 the same problem that we are talking about. He can't give
22 his personnel opinion as to their credibility. What he
23 can do is he can explain the process he went through.
24 They were reluctant, here is what I did, step-daddy called
25 mama, mama spoke to son, the son then gave--

1 MR. MOWRY: Right.

2 THE COURT: That's fine but we are going to need to
3 stay away from obviously anything that would indicate that
4 this witness is vouching for the statements. We also
5 can't have one witness vouching for another.

6 MR. MOWRY: I am trying to figure what Mr. Robinson
7 is referring to, I have no idea what that was.

8 THE COURT: I think what you are getting at and
9 correct me if I am wrong, Mr. Robinson, but the tone or
10 the tenure of some of the questions, the way they were
11 asked had indicated, did it indicate what your concern
12 was?

13 MR. ROBINSON: I think what he did, he asked
14 specifically in your opinion, something of that nature. I
15 didn't object because of the nature of this hearing. But
16 I think that would be very prejudicial.

17 THE COURT: It almost calls for speculation, in your
18 opinion was these people giving you a statement freely.

19 MR. MOWRY: Your Honor, to be perfectly honest with
20 you, in a Jackson versus Denno hearing you would go
21 through the process, were any promises made.

22 THE COURT: That is fair.

23 MR. MOWRY: Was it in your opinion freely and
24 voluntarily given. So I don't quite know--

25 THE COURT: I think if you track the same sort of

1 thing that we would ask in a Jackson v. Denno, and again
2 we are not dealing with a Jackson v. Denno. If you track
3 that sort of line of questioning I think you should be
4 okay tomorrow. Okay. What I want to avoid is pitting, I
5 want to avoid one witness vouching for the voracity of
6 this. And you can dance around it but you can't say, yes,
7 they were lying yesterday but they were telling the truth
8 in May.

9 MR. MOWRY: The purpose of those kinds of
10 questioning, I am not going into that tomorrow. Obviously
11 the purpose of those questions today was to establish
12 there was great inconsistency with their written
13 statements and then the testimony that they gave here in
14 court. That was part of the foundation that I needed to
15 lay. Please correct me if I am wrong but I do not think
16 that I need to do that tomorrow.

17 THE COURT: I think you will, you will need, you are
18 probably going to need to touch on some of that. And I
19 was expecting you to touch on some of it because the
20 circumstances under which these statements were given were
21 attacked by the witnesses. Now you are at liberty to
22 defend that, he is at liberty to testify there was not
23 threats, there was no coercions, I wasn't going to lock
24 mama up, I wasn't going to lock anybody up, he wasn't in
25 handcuffs. He can testify to that, that is fair game.

1 And the other stuff around it. So one more housekeeping
2 matter before I have to leave. Do y'all still have my
3 jury instructions from last time?

4 MR. MOWRY: I do, yes sir.

5 THE COURT: Do you have a copy of them?

6 MR. MOWRY: I believe so.

7 THE COURT: I have not changed them and I don't know
8 that it is going to be any change to them. But let me
9 email those to you. We will start at 9:30.

10 (Whereupon, the trial will resume the next morning at
11 9:30 a.m.)

12 THE COURT: We are here on the case of the State
13 versus Stakren Tyrise Jefferson, case number
14 2008-GS-30-1165. Defendant is present with counsel. I am
15 told the jury is present. Let's bring the jury in.

16 (Whereupon, the jury came into open court at
17 approximately 9:35 a.m.)

18 THE COURT: Let the record reflect the jury is back
19 and seated.. Ladies and gentlemen of the jury, we will
20 resume with the case of the State versus Mr. Jefferson and
21 we are still in the State's case-in-chief. At this point,
22 Mr. Mowry, call your next witness, please.

23 MR. MOWRY: Thank you, Your Honor, I call Mareno
24 Foggie.

25 MARENO FOGGIE, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Mowry:

4 Q You are Mareno Foggie?

5 A Yes, I am.

6 Q First of all, are you any relation to the previous
7 witness, Trezz Foggie?

8 A No, I am not.

9 Q By whom are you currently employed, please, sir?

10 A I am employed with the Palmetto Bank.

11 Q And what is your position with the Palmetto Bank?

12 A I am a fraud investigator.

13 Q How long have you been employed in that capacity?

14 A Since December of last year.

15 Q Up until December of last year previously where had
16 you been employed?

17 A With the Laurens County Sheriffs Office.

18 Q And what was your position with the Laurens County
19 Sheriffs Office?

20 A I was an investigator, Lieutenant over the
21 investigations.

22 Q Were you employed in that capacity as a Lieutenant
23 over investigations in May of 2008?

24 A Yes, I was.

25 Q What is your total law enforcement experience?

1 A Approximately eleven years.

2 Q Were you on duty on May 16th of 2008, sir?

3 A I was.

4 Q And sometime that afternoon did you get a call to
5 respond to Stoddard Trailer Park in Gray Court?

6 A I did.

7 Q And is that in Laurens County?

8 A That is Laurens County.

9 Q First of all, before we proceed, let me show you an
10 aerial photograph of what has been previously been
11 testified to as Stoddard Trailer Park. You have seen this
12 photograph?

13 A Yes.

14 Q Is there anything about this photograph that would
15 have been different from 2008?

16 A Yes, there is a trailer, mobile home right there.

17 Q Right there?

18 A Yes, that was not there during that time.

19 Q So the mobile home?

20 A Yes.

21 Q And it was not there. So basically this was open
22 area, is that right?

23 A Yes.

24 Q What call did you receive, what was the basis of your
25 call and what did you do in response to it?

1 A On May 16th I got a shooting investigation, that is
2 the way it was dispatched to me, that there was a shooting
3 and they needed an investigator.

4 Q About what time of day did you get that, do you
5 recall?

6 A I want to say between 1:30 and 2:00, maybe, p.m.

7 Q What did you do in response to that call?

8 A I contacted Lieutenant Franklin which is another
9 investigator and me and him responded to this in the
10 location.

11 Q How long did it take you to get there?

12 A Approximately about twenty minutes.

13 Q Where were you, do you recall, when you got that
14 call?

15 A I don't recall where I was at that time.

16 Q But it took you about twenty minutes to get there?

17 A Yes.

18 Q What did you see when you got there?

19 A I saw EMS, maybe two or three uniformed patrol
20 officers and maybe about thirty people, you know, standing
21 around.

22 Q I am going to refer again to State's exhibit 27 and
23 point to this yellow dot on 27. Is this basically where
24 the group of people were?

25 A They were, do you mind if I step down?

1 Q No, not at all.

2 THE COURT: Please.

3 A Most of the people were in this general area here.

4 Q What was at the yellow dot?

5 A That was where the victim was laying.

6 Q Why weren't they closer, what had been done to keep
7 them from getting closer?

8 A The area was taped off with crime scene tape.

9 Q Thank you, sir. Was Lieutenant Higgenbotham there?

10 A Yes, he was.

11 Q How many other officers were there, do you recall?

12 A I think it was maybe, uniformed patrol maybe two
13 other officers besides him.

14 Q What did you find aside from this crowd when you got
15 there, what did you see?

16 A Can you explain more where you want--

17 Q You had been called there for a shooting, what did
18 you find in relation to the shooting?

19 A I found our victim, you know, laying down and I went
20 and spoke with, at the time it was Sergeant Higgenbotham
21 and kind of got the basic of what he saw when he got there
22 and got briefed on what was going on.

23 Q At the moment where did you think the shooting had
24 occurred?

25 A Where the victim was laying.

1 Q What did you do next as part of your investigation?

2 A Well next, you know, we generally, you know, look
3 around the area to see, you know, if we could see anything
4 else, you know, any evidence that may have been tied to
5 the shooting. I then initiated a call to SLED crime
6 scene.

7 Q Does Laurens County have its own crime scene unit?

8 A No, generally the investigators do it.

9 Q All right.

10 A Unless it is something complicated or we feel like we
11 need to contact SLED for and call them to assist.

12 Q And was this one of those cases?

13 A Yes, it was.

14 Q Who responded to the scene?

15 A Do you have the report?

16 Q Was that Mr. Kinsey?

17 A Mr. Kinsey.

18 Q What did you and Mr. Kinsey do as part of the
19 investigation at the scene?

20 A When Mr. Kinsey arrived I just briefed him on what
21 was going on and what we had done already. And pretty
22 much I got everybody out of the scene when he got there
23 and allowed him to do all of his crime scene work.

24 Q Now it was a while before Mr. Kinsey got there,
25 wasn't it?

1 A Yes, it was.

2 Q Did you do anything during that time, did you talk to
3 people?

4 A Yes, I did. I talked to, I want to say almost
5 everyone that was there on the scene but didn't no one say
6 they saw anything.

7 Q Did that surprise you given the location?

8 A No, it didn't surprise me.

9 Q What has been your experience as far as cooperating
10 with law enforcement in that community?

11 A We rarely get anybody to cooperate with us in that
12 community.

13 Q How would you characterize the Stoddard Trailer Park,
14 would you say it is a safe area or would you say it is
15 fairly high crime, how would you characterize it from your
16 experience?

17 A It is just a high crime area.

18 Q Once Investigator Kinsey arrived what did you do
19 then?

20 A He was taking photographs of the scene, I was taking
21 photographs as well. Again, you know, I was just speaking
22 to people, you know, assisting him and looking for
23 evidence. Just typical crime scene collection.

24 Q During that time did you come to a different
25 conclusion as to where the shooting might have taken

1 place?

2 A I did.

3 Q What lead you to that conclusion?

4 A Well, you know, preserving the scene, looking, we saw
5 a blood trail that led from another area in the mobile
6 park to where the victim was laying.

7 Q As a matter of fact, there was bloody footprints
8 coming across the road, isn't that right?

9 A Yes, sir.

10 Q Was there anything unusual about the way that the
11 victim was dressed when you got there?

12 A Yes, he was, he didn't have his trousers on or any
13 shoes.

14 Q So he was barefoot?

15 A He was barefoot.

16 Q Where did you find his pants?

17 A They were in proximity to where he was laying.

18 Q But not right directly next to him, is that right?

19 A No, not right directly next to him.

20 Q Was that an unusual sight for you?

21 A Yes, that is the first time I have seen it.

22 Q How long did y'all stay at the scene photographing
23 and collecting evidence?

24 A I am guessing, maybe approximately three hours.

25 Q Got to be a pretty big area, didn't it?

1 A Yes.

2 Q After that what did you do, how did you go about
3 trying to gather information from the people at the
4 trailer park?

5 A Myself and another investigator, I believe it was
6 Lieutenant McIntosh, we just hit the streets, we started
7 knocking on doors and talking to people in the area.

8 Q And did that bear any fruit?

9 A No sir, it didn't.

10 Q Was that the way that you located John Elliott
11 Rhodes?

12 A Yes.

13 Q At that time did you have any suspects to the
14 shooting?

15 A No sir, not at that time.

16 Q At some point shortly thereafter in your
17 investigation did you receive any information that led you
18 to talk to certain individuals?

19 A Yes, I did.

20 Q And as a result of that information what did you do?

21 A I went and talked to Zachary Thomas, Carlos Fuller,
22 Lavario Curenton and Trezz Foggie.

23 Q And did you take statements from them?

24 A I did.

25 Q Let's talk particularly Carlos Fuller, well first of

1 all let me talk about Zachary Thomas. When Calvin
2 Goggins was testifying you mentioned the name, Zac, he
3 said that the defendant had said the name, Zac?

4 A Yes.

5 Q Did Zachary Thomas give you information at that time?

6 A He did, he gave me a statement.

7 Q And how would you characterize the statement that he
8 gave you.

9 MR. ROBINSON: Your Honor, I am going to object. I
10 think it is irrelevant, he is pitting witnesses against
11 each other.

12 THE COURT: You want to speak to that, Solicitor?

13 MR. MOWRY: Your Honor, I am simply asking if they,
14 let me ask it in another way.

15 THE COURT: Why don't you rephrase.

16 Q Based on the information that he gave you did, you
17 didn't get anything of value from it that furthered your
18 investigation?

19 A He gave me a statement and then it turned out to be a
20 not true statement.

21 Q Okay. But let's talk about Carlos Fuller and Trezz
22 Foggie and Lavario Curenton. You say you had gotten
23 information and sought to speak with them. How did you go
24 about contacting them?

25 A I went to their last known address.

1 Q What did you do when you found them?

2 A I asked them to meet me at the Laurens County Annex
3 at the sheriffs office.

4 Q And did they appear?

5 A Yes, they did.

6 Q How would you characterize their attitude?

7 A They didn't want to be there, they were very
8 reluctant to be there.

9 Q What did you do to try to get information out of
10 them, how did you go about speaking with them trying to
11 get a statement from them?

12 A You know, like I said before, they were very
13 reluctant to be there. So for lack of a better word I
14 lied to them, I told them that, you know, just for the
15 purposes, I don't know exactly which one I told but I told
16 them that I had already spoke with persons at the scene
17 and they actually listed them in their statement as being
18 there at the scene.

19 Q And that wasn't true?

20 A No, that wasn't true.

21 Q Is that a fairly common interrogation tactic?

22 A Absolutely.

23 Q When you talked to Mr. Fuller, you said he was
24 reluctant. But he finally agreed to make a statement to
25 you?

1 A Yes, he did.

2 Q When he did so was that a result of any threat that
3 you had made?

4 A No, sir.

5 Q Any promise that you had made to him?

6 A No, sir.

7 Q Did you threaten anybody else like his mother?

8 A No, sir.

9 Q Did you threaten him with arrest?

10 A No, I didn't.

11 Q Was there anything you could have arrested him for?

12 A No.

13 Q Was he ever a suspect in this case?

14 A No, he wasn't.

15 Q There is a form here on which you obtained his
16 statements which is State's exhibit number 28 for
17 identification. Can you describe for the jury how that
18 statement came to be made?

19 A Yes. We have incident reports on our computers where
20 it is all stored--

21 MR. ROBINSON: Your Honor, I am going to object to
22 relevance, it is not in evidence at this time.

23 THE COURT: This is I believe foundational, is that
24 correct, Solicitor?

25 MR. MOWRY: Yes, sir.

1 THE COURT: Go ahead.

2 A We have incident reports that are stored into our
3 computer system and any time we interview a witness the
4 form that is attached to the incident report is a
5 voluntary statement which prompts us to advise each person
6 that we are interviewing their rights. And after we do
7 that and all of the boxes are checked it gives us a space
8 where we can type in the statement that the person is
9 giving us. Then it allows us to print it off and once it
10 is printed off we give it to whoever we are interviewing
11 and ask them to sign it.

12 Q Now normally, Detective Foggie, when you give
13 somebody their rights and I think what you are talking
14 about is you have the right to remain silent and all of
15 those various rights?

16 A Yes.

17 Q Those are commonly known as Miranda Rights?

18 A Yes.

19 Q Do you normally give them to people that are not
20 suspects?

21 A You know, it varies, sometimes we do and sometimes we
22 don't. But I mean, you know, we don't have to. If they
23 are not suspects in the case we don't have to. But we
24 generally do it because the system prompts us to.

25 Q And so out of an abundance of caution?

1 A Right.

2 Q But the form where the statement is created, this is
3 all there, right?

4 A Yes.

5 Q And there is a blank here?

6 A Yes.

7 Q And you have to fill this in?

8 A Yes.

9 Q Did you have that written up before Mr. Fuller got
10 there?

11 A No, sir.

12 Q How did you go about creating that statement then?

13 A He told me, as he told me I typed it up.

14 Q Oaky. So you just basically transcribed what he
15 said?

16 A Yes.

17 Q And is what he told you in that statement his own
18 words or are they his own words?

19 A Yes, they are his own words.

20 Q Did you make up any of this yourself?

21 A No sir, I didn't.

22 MR. MOWRY: Your Honor, I would offer this as a
23 State's exhibit at this time.

24 THE COURT: Subject to your earlier objection?

25 MR. ROBINSON: Yes, sir.

1 THE COURT: That will be admitted as State's exhibit
2 number 28.

3 (Whereupon, State's Exhibit 28 was admitted into
4 evidence.)

5 Q And who did you speak with next. Oh, and what was
6 the date that you spoke?

7 A On 5/20, May the 20th.

8 Q May the 20th?

9 A Of 2008.

10 Q In this statement there is talk about the defendant
11 being there?

12 A Yes.

13 Q Prior to that did you have any information that the
14 defendant had been at the scene?

15 A No, sir.

16 Q And this was four days after the shooting, is that
17 right?

18 A Yes.

19 Q Who did you talk with next?

20 A Trezz Foggie.

21 Q And how long after you spoke with Mr. Fuller did you
22 speak with Mr. Foggie?

23 A I want to say maybe an hour or two, I am not exactly
24 sure.

25 Q They did not arrive together, did they?

- 1 A No, they did not.
- 2 Q Was that on the same date though?
- 3 A That was on the same day.
- 4 Q Let me hand you what has been marked as State's
- 5 exhibit number 31 for identification and ask you if you
- 6 can identify that?
- 7 A Yes, that is the voluntary statement there, Trezz
- 8 Foggie.
- 9 Q Did you go through the same process that you did with
- 10 Mr. Fuller?
- 11 A Exact same process.
- 12 Q When Mr. Foggie arrived at the law enforcement center
- 13 or the sheriffs office was he alone?
- 14 A No, sir. His step-dad brought him.
- 15 Q Who was present when the interview took place with
- 16 Mr. Foggie?
- 17 A Lieutenant Raymond Franklin.
- 18 Q Just the two of y'all?
- 19 A Yes.
- 20 Q Was Mr. Foggie in handcuffs?
- 21 A Not that I am aware of, I don't think he was.
- 22 Q Would that had been unusual?
- 23 A Yes.
- 24 Q Was he a suspect?
- 25 A No sir, he was not a suspect.

1 Q Was he under arrest?

2 A No, sir.

3 Q Where was his step-father during this time?

4 A He was outside the door. There is a common area and
5 then there is offices around the common area. He was in
6 the common area.

7 Q So basically right outside the door, is that right?

8 A Yes.

9 Q How would you characterize Trezz Foggie's willingness
10 to cooperate at that time?

11 A He was reluctant to cooperate, he didn't want to be
12 there.

13 Q Did he say anything to you that indicated to you his
14 unwillingness to cooperate?

15 A Yes. He said he didn't want to be a snitch.

16 Q Okay. When that occurred what did you do. Let me
17 ask you this, did you have a conversation with his
18 step-father?

19 A I did.

20 Q And as a result of that conversation what was done?

21 A His step-father called his mother, Trezz's mother.

22 Q Did you speak with her?

23 A I did not.

24 Q You did not. While they were on the phone did Trezz
25 take part in the conversation?

1 A Yes.

2 Q You were not privy to that conversation, were you?

3 A I could hear him but I couldn't hear her.

4 Q And as a result of that conversation what happened?

5 A He gave a statement.

6 Q How quickly thereafter did he give a statement?

7 A As soon as he got off the phone.

8 Q So a matter of seconds?

9 A Yes.

10 Q Again, was there any force or intimidation used?

11 A No, sir.

12 Q To obtain this statement?

13 A No, sir.

14 Q Any kind of threats or promises by you or anyone
15 else?

16 A No, sir.

17 Q Was his statement voluntary in your opinion?

18 A Yes, sir.

19 MR. ROBINSON: Objection, Your Honor, calls for
20 speculation.

21 THE COURT: Rephrase the question.

22 Q Did you give him his rights as well?

23 A Yes.

24 Q Did he appear in your opinion to understand what you
25 told him?

1 A Yes.

2 Q And did he in fact give you a statement?

3 A Yes, he did.

4 MR. MOWRY: Your Honor, I would offer this again as a
5 State's exhibit.

6 THE COURT: State's 31?

7 MR. MOWRY: Yes, sir.

8 THE COURT: Subject to the earlier objection.

9 MR. ROBINSON: Yes, sir.

10 (Whereupon, State's Exhibit 31 was admitted into
11 evidence.)

12 Q Now I want to refer to State's exhibit number 32 for
13 identification. Let me had you this document and ask you
14 if you can identify that?

15 A Yes, that is a voluntary statement from Lavario
16 Curenton.

17 Q Okay. When was that statement taken?

18 A It was taken on the 22nd of May of 2008.

19 Q Two days after the other two statements, is that
20 right?

21 A Yes.

22 Q Let me back up just a second, Investigator Foggie,
23 and ask you as a result of the statements that you
24 received from Carlos Fuller and from Trezz Foggie what did
25 you do?

- 1 A I went and signed a warrant on the defendant.
- 2 Q An arrest warrant?
- 3 A Yes.
- 4 Q For what charge?
- 5 A For murder.
- 6 Q That was four days after the fact, is that right?
- 7 A Yes, sir.
- 8 Q Did y'all begin looking for him at that time?
- 9 A Yes, we did.
- 10 Q Had you found him on the 22nd?
- 11 A No, sir.
- 12 Q On the 22nd you say you took this statement from Mr.
- 13 Curenton. Explain how that came about?
- 14 A Well Mr. Curenton was listed in Carlos and Trezz's
- 15 statement. It took us a couple of days to find Lavario.
- 16 And, you know, we went through the same process. I think
- 17 I spoke with Lavario on the phone. He called me and I
- 18 asked him to come down to the police station and he did.
- 19 Q Let me back up because there was one thing I meant to
- 20 ask you about Trezz Foggie's statement. When in the body
- 21 of his statement, this central part right here in this
- 22 box. Before he started talking to you did you have stuff
- 23 written down already?
- 24 A No, sir.
- 25 Q Was it blank?

1 A It was blank.

2 Q How did you go about taking that statement from him?

3 A The same way, by the computer. These statements, any
4 time you enter another person on the statement it gives
5 you a blank form so it was blank.

6 Q But you didn't fill out anything and then print it
7 out and say, here, sign this?

8 A No. I of course put his name in there and once he
9 gave me the statement I of course typed it as he was
10 giving it to me and then I printed it off and then gave
11 him the statement and ask him to read it and if that was
12 correct sign it.

13 Q In each of these two cases are they Carlos Fuller's,
14 excuse me, in each of these two cases are they Carlos
15 Fuller's words and Trezz Foggie's words and not yours?

16 A They are their words.

17 Q Now, with regard to Mr. Curenton, two days after
18 that, those two statements were taken. Again if you could
19 go through the process that you used to get the statement
20 from him. First of all, describe his degree of
21 willingness to cooperate?

22 A He didn't want to be there at all. The same way I
23 took the other statements. I of course, I told him the
24 other one's had already named him being there.

25 Q And now it was true, wasn't it?

1 A Right. And then he gave me a statement. I typed it
2 out, gave him a copy of it and he signed it.

3 Q Okay. Any force, intimidation?

4 A No, sir.

5 Q Threats?

6 A No, sir.

7 Q Promises?

8 A No, sir.

9 Q Who else was present with you in the interview room
10 when this was going on?

11 A I believe Lieutenant Franklin.

12 Q If Mr. Curenton had said I don't want to talk to
13 y'all, I ain't going to say nothing. Was there anything
14 y'all could have done?

15 A No, sir.

16 Q Any arrest you could have, any charges you could have
17 made against him?

18 A No sir, there was not.

19 MR. MOWRY: Your Honor, I would offer this as a
20 State's exhibit as well at this time.

21 THE COURT: Subject to your earlier objection, that
22 will be State's 32 in evidence.

23 (Whereupon, State's Exhibit 32 was admitted into
24 evidence.)

25 Q Now, Mr. Foggie, you said y'all had done a door to

1 door canvas in the area, is that right?

2 A Yes, sir.

3 Q Is there any central clearing house for information,
4 anything that lists who lives where that you are aware of?

5 A Not that I am aware of.

6 Q So how did y'all go about the door to door canvas?

7 A You know, of course we didn't have any suspects or
8 any evidence pointed at anybody at the time so, you know,
9 that was a necessary thing for us to do is to try to find
10 someone that knew anything that would be willing to tell
11 us. So we just, in that general area where the crime
12 scene was, anybody that we thought could have seen
13 something we knocked on the door and asked did they see
14 anything.

15 Q During the initial investigation when Investigator
16 Kinsey was there were there any firearms found at the
17 scene?

18 A Yes.

19 Q Let me hand you State's exhibits 21 and 20. This has
20 been testified to as the gun from the victim's car and
21 that has been testified as the gun from the trailer. Is
22 that right?

23 A Yes.

24 Q Did you know at the time whether or not that had been
25 the murder weapon, either one of those had been the murder

1 weapon?

2 A No, I didn't, I didn't know.

3 Q Did you in fact think it was a possibility that one
4 of them was?

5 A Yes.

6 Q At a later time did you come into possession of
7 State's exhibit 22?

8 A Yes, I did.

9 Q How quickly thereafter did you come into possession
10 of that firearm?

11 A That was a few days later.

12 Q And how did that come about?

13 A Just through the investigation, had information that
14 there was a gun on the side of the road and could be
15 connected with this case.

16 Q How far away from the scene was it?

17 A Approximately a mile and a half.

18 Q Okay. Which direction was it. If this is going
19 towards, again referring to 27, Your Honor. If this is
20 going towards Gray Court and this is going away from it?

21 A Going towards Gray Court.

22 Q Going towards Gray Court this way?

23 A Yes.

24 Q And did y'all, were y'all the ones that recovered the
25 gun?

1 A Yes.

2 Q Did you think that might of had a connection with the
3 shooting?

4 A I did.

5 Q So you had three guns in your possession?

6 A Yes.

7 Q And you thought one of them may have been the murder
8 weapon, is that right?

9 A Yes.

10 Q The shell casings were also found when you were
11 present, is that correct?

12 A Yes, sir.

13 Q Did you know whether or not those were connected with
14 the shooting at all?

15 A I did not.

16 Q You just knew that it was there or that the shell
17 casings were there?

18 A Yes.

19 Q What did you do with all three of these guns?

20 A I entered them into evidence and submitted them to
21 SLED for analysis.

22 Q Did you also submit State's exhibit 23, the
23 projectile recovered from the body by Dr. Ward?

24 A I believe I did.

25 Q And did you know what caliber of bullet that was at

1 that time?

2 A I did not.

3 Q What were you waiting on to get that information?

4 A I was waiting on the analysis from SLED.

5 Q When did that come to you, what date?

6 A I can't remember, do you have a report?

7 Q Well, let me ask you this, would October 22nd sound
8 right to you?

9 A Yes, it was around October.

10 Q And had you gotten the report back from Investigator
11 Kinsey at the end of May?

12 A No, I hadn't.

13 Q When did you in fact receive that?

14 A That was in July sometime, let me make sure. Yes, in
15 July, 2008.

16 Q July, do you remember what day?

17 A 16th.

18 Q 16th. So until you received the report from Ira
19 Parnell in October of 2008 to tell you the caliber of the
20 projectile and comparison with these other weapons did you
21 know that any of those guns was not the murder weapon?

22 A No, I didn't.

23 Q Did you know of the potential connection between the
24 shell casings that were found outside of Carlos' trailer
25 and the projectile?

1 A I did not.

2 Q When did you talk with Calvin Goggins?

3 A I believe it was in July of 2008.

4 Q All right. Let me hand you what has been marked as
5 State's exhibit number 34 for identification. Do you
6 recognize that?

7 A I do.

8 Q What is that, please, sir?

9 A It is a voluntary statement from Calvin Goggins given
10 to me on July the 1st of 2008.

11 Q How did that come about?

12 A I got a letter in the mail from Calvin Goggins.
13 There is a request form that inmates have access to and
14 they can fill out that request form if they want to speak
15 to an officer and he sent it by mail to me.

16 Q Okay. And when you received that form what did you
17 do?

18 A I went down to the detention center and spoke with
19 him.

20 Q How did you go about speaking with him, what was the
21 process?

22 A Well, you know, when I got down there I just ask the
23 detention center officers to pull him into an interview
24 room and I spoke with him at the interview room and he
25 gave me a statement.

1 Q What was his demeanor when you met with him. Let me
2 ask you this, what was his demeanor in comparison to
3 Carlos Fuller and Trezz Foggie and Lavario Curenton?

4 A He was open, he wanted to talk. I mean he didn't, he
5 didn't appear like he was nervous or didn't won't to talk
6 to me. I mean he requested me.

7 Q Do you know, we have heard the name Shayla Jenkins in
8 court. Do you know who that was or is?

9 A Yes. At that time she was known to me as Tyrise
10 Jefferson's, the defendant's girlfriend.

11 Q And where was she on the date of the interview with
12 Mr. Goggins?

13 A She was in the detention center.

14 Q And Mr. Goggins was in the detention center?

15 A Yes.

16 Q Was there any kind of promise made to Mr. Goggins to
17 induce his statement?

18 A No.

19 Q Any kind of threats or hope or reward or anything?

20 A No, sir.

21 Q He was facing charges at that time, wasn't he?

22 A I imagine he was.

23 Q Did you make any kind of promise to try to help him
24 out with those to get this statement?

25 A No, I didn't even know he had information on this

1 statement, on this case.

2 Q When he told you the information he told you about
3 the defendant's conversation with Shayla Jenkins, is that
4 right?

5 A Yes.

6 Q Or a female at any rate?

7 A Yes.

8 Q And one of the things that he said was is they think
9 they got the right gun but they don't.

10 MR. ROBINSON: Objection, Your Honor, I have got a
11 matter outside the presence of the jury.

12 THE COURT: Ladies and gentlemen of the jury, there
13 is an issue of law I need to take up with the attorneys.
14 If you will adjourn into the jury room, don't talk about
15 the case and I will have you back in just a few minutes.

16 (Whereupon, the jury was excused from open court.)

17 THE COURT: The jury is out, do you have an
18 objection, Mr. Robinson?

19 MR. ROBINSON: Your Honor, I have a real problem
20 right now because, you know, we took an hour and a half
21 yesterday to go through each of these statements as far as
22 the statements of Foggie, Curenton and Fuller. Those are
23 the three statements. Now we have to go through this same
24 thing with Mr. Goggins because he never mentioned
25 yesterday when we had a lot of time that he was going to

1 use Mr. Goggins statement, his statement as well.

2 MR. MOWRY: Because I am not planning on putting his
3 statement in, Your Honor. I am just simply wanting to
4 connect the content of what he said, which he testified to
5 in court, whether it was public knowledge. And I am sure
6 Mr. Robinson, in closing arguments, is going to make hay
7 of the fact that Calvin Goggins has a terrible record.
8 Your Honor, I would not ask this just to give one moments
9 credence to what Calvin Goggins said except for the fact
10 that he knew information that even Detective Foggie didn't
11 know, that we ain't got the gun.

12 THE COURT: All right. I would agree with you,
13 Solicitor, that under the rules admission of the statement
14 is not proper and I think that you agree with that except
15 for the extent that your objection goes to any effort to
16 him admitting the statement. It sounds as if he is not
17 intending to seek admission of the statement because
18 obviously the witness, Mr. Goggins, testified, is it
19 Coggins or Goggins?

20 MR. MOWRY: Goggins with a G.

21 THE COURT: G, okay. Mr. Goggins testified
22 consistent with his statement that he had given to the
23 Lieutenant here. That is not coming into evidence. My
24 understanding is that he may testify as to the fact that
25 he was unaware that he did not have a gun. Apparently the

1 mindset of the officer at the time he had the conversation
2 with Mr. Goggins was in all likelihood he didn't possess
3 the weapon. Certainly had nothing indicating from SLED
4 that was not in possession of the weapon. Is there an
5 additional objection aside from, I realize you are under
6 that Mr. Mowry was going to introduce the statement. Is
7 there any other objection?

8 MR. ROBINSON: And I think it is hearsay as well,
9 Your Honor.

10 THE COURT: I am sorry, what?

11 MR. MOWRY: No sir, it was in court assertion.

12 MR. ROBINSON: Let me just get to the objection.

13 THE COURT: Go ahead, Mr. Robinson.

14 MR. ROBINSON: I think it is hearsay and it is very
15 self serving because he is pitting, he is getting this
16 particular witness to vouch, basically vouching
17 credibility from Mr. Goggins, is what he is doing. And I
18 don't think that is appropriate in this case.

19 THE COURT: This witness can testify as to what Mr.
20 Goggins told him. Mr. Goggins has been here and he
21 testified and was subject to cross-examination.

22 MR. MOWRY: It is not an out of court assertion made
23 for the truth of the matter asserted, Your Honor. It was
24 an in court assertion.

25 THE COURT: I would tend to agree. The primary

1 purpose of the hearsay rule is the confrontation type of
2 an issue and obviously your client has had the opportunity
3 to confront Mr. Goggins as well as, you will have an
4 opportunity to confront the Lieutenant on the degree to
5 which he may have trusted or not trusted Mr. Goggins. It
6 would also appear that the statement would not constitute
7 hearsay. I will allow him to testify as to what Mr.
8 Goggins told him. We have been at it for about fifty
9 minutes, we will go ahead and take a brief break for
10 ourselves. We will be at ease for about five minutes.

11 (Whereupon, a short break was taken.)

12 THE COURT: We are back on the record. The record
13 should reflect that I had a very brief conversation with
14 the attorneys in chambers a few moments ago concerning
15 what the defense had anticipated the prosecution possibly
16 going into and it was agreed back there that the State
17 would not be discussing or going into any evidence or any
18 suggestion that the defendant had fled from the police,
19 was actively trying to evade capture. There is no
20 evidence of that. What the State is anticipating
21 eliciting from this witness is testimony that
22 approximately eleven days transpired between the time of
23 the shooting and the time that the defendant, Mr.
24 Robinson, was taken into custody or arrested.

25 MR. MOWRY: Mr. Jefferson.

1 THE COURT: I am sorry, Mr. Jefferson. Mr. Jefferson
2 was taken into custody and the reason the State is wanting
3 to go into this is to try and explain that the absence of
4 the weapon that was used as a homicide is that there was
5 plenty of time that Mr. Jefferson could have disposed of
6 the weapon. Obviously Mr. Robinson will be arguing a
7 different theory to the jury. That it was understood that
8 we would not be going into any sort of flight or efforts
9 to evade police type of testimony from the witness. So
10 that is kind of where we stand. Is that an accurate
11 statement, Mr. Robinson, is what we had discussed?

12 MR. ROBINSON: It is, Your Honor.

13 THE COURT: The same for you?

14 MR. MOWRY: Yes, sir.

15 THE COURT: Let's have the jury, please.

16 (Whereupon, the jury came into open court at
17 approximately 10:33 a.m.)

18 THE COURT: Let the record reflect that the jury is
19 back and seated. Mr. Mowry, you may continue, please.

20 MR. MOWRY: Thank you, Your Honor.

21 CONTINUE DIRECT EXAMINATION

22 Q Returning, if we could, to Calvin Goggins statement,
23 I believe that he said essentially that the State had or
24 the police had the wrong gun, is that right?

25 A Yes, he did.

1 Q Did you know that at that time?

2 A I did not.

3 Q Was that fact public knowledge?

4 A No, it was not.

5 Q Did you know that before Ira Parnell's report came to
6 you in late of October of 2008?

7 A No, I did not know that prior to that.

8 Q And once again, when was that statement taken?

9 A This statement from Calvin Goggins was taken on July
10 the 1st of 2008.

11 Q Okay. Now I want to also ask you about Zac Thomas.
12 Zac Thomas you had testified that you had spoken with?

13 A Yes, I did.

14 Q Was that public knowledge?

15 A No, it wasn't.

16 Q Had that been released to anybody?

17 A No, no it wasn't.

18 Q Who all knew that you had spoken with Zac Thomas?

19 A Me and--

20 MR. ROBINSON: Your Honor, objection, cause for
21 speculation.

22 THE COURT: All right. You can ask who this officer
23 may have told he had spoken with or who was present at the
24 time that that information was related to when that
25 conversation took place.

1 MR. MOWRY: Yes, sir.

2 THE COURT: Otherwise the objection is sustained. Go
3 ahead.

4 Q Let me ask you this way then. Was that information
5 released to the public?

6 A No, it was not.

7 Q Who was or is Vanessa Spurgeon?

8 A A lady that lives in Stoddard's Trailer Park.

9 Q How close to the scene did she live there?

10 A Walking distance, maybe a hundred yards, maybe.

11 Q Do you know whereabouts in Stoddard Trailer Park she
12 lived?

13 A Yes, I do.

14 Q Can you come down and point it out on State's exhibit
15 number 27?

16 A Yes. (Witness steps down from witness stand.) Right
17 here.

18 Q Okay. So through the abandoned trailers then?

19 A Yes.

20 Q Okay. Officer Foggie, what kind of firearms training
21 have you had?

22 A Been certified to carry a firearm since 2001. And
23 each year we have to qualify through a written test and
24 actually firing a firearm.

25 Q What kinds of firearms have you shot before?

1 A I mean there are a bunch of firearms that I have shot
2 because I was in the military prior to going into the
3 police.

4 Q Let's limit it to handguns then.

5 A .357, magnum, .38's, .40 Glocks, .9 millimeters,
6 .32's, 22's. Just about any, all caliber handguns.

7 Q Is it safe to say you fired both revolvers and
8 semiautomatics?

9 A Yes, sir.

10 Q I wanted to ask you about the distance of the
11 ejection of the shells. How would you say that varies
12 from one caliber of semiautomatic weapon to another?

13 MR. ROBINSON: Your Honor, this calls for a
14 foundation to be laid to see if this person is qualified
15 in this case.

16 MR. MOWRY: I think a foundation has been laid, Your
17 Honor.

18 THE COURT: What is the question again?

19 MR. MOWRY: The question was the distance of the
20 ejection from one semiautomatic weapon to another. I am
21 asking for his personal experience.

22 THE COURT: He can testify to his personal
23 experience.

24 A Of course a revolver, they don't eject. But a
25 semiautomatic or automatic weapon that I have fired, they

1 usually eject approximately one and a half, two feet.

2 Q Okay. Now, Investigator Foggie, I just want to make
3 sure we have got the dates squared away. The event
4 occurred on May 16th?

5 A Yes, sir.

6 Q You spoke with Carlos Fuller and Trezz Foggie on the
7 20th?

8 A Yes, sir.

9 Q You spoke with Lavario Curenton on the 22nd, is that
10 right?

11 A Yes sir, that's right.

12 Q You spoke with Calvin Goggins on July 1st?

13 A Yes, sir.

14 Q A little over a month later. You say you got the
15 arrest warrant on May 20th?

16 A Yes, sir.

17 Q Once you had obtained the arrest warrant on the
18 defendant what did you do?

19 A We went to try to apprehend.

20 Q Did you know of a permanent residence that he had at
21 that time?

22 A No, sir.

23 Q How did you go about trying to find him?

24 A Contact relatives and girlfriend.

25 Q Which relatives did you go to see?

1 MR. ROBINSON: Your Honor, this is an objection on my
2 part. Can I have a sidebar.

3 THE COURT: Over here, gentlemen.

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 THE COURT: Mr. Mowry, you may continue, please.

8 Q Which relatives of the defendant in this case,
9 Stakren Tyrise Jefferson, did you go to see?

10 A His mother and I believe both of his sisters. I
11 don't know if he had more but I went to two of his
12 sisters.

13 Q Ultimately on what date was he taken into custody and
14 what circumstances?

15 A On the 27th of May of 2008 and he was brought to the
16 sheriffs office.

17 Q By whom?

18 A One of his relatives.

19 Q Okay. Now let me ask you this, Investigator Foggie.
20 The shooting took place outside of Carlos Fuller's
21 trailer, is that right?

22 A Yes.

23 Q Did you ever get a search warrant to go search his
24 trailer?

25 A No, I did not.

1 Q Why did you not?

2 A There was not enough probable cause to search Carlos'
3 trailer. I mean he wasn't a suspect and just because
4 merely shells were left in his driveway was not enough
5 probable cause to search his residence.

6 Q And you did not know of the connection, if any
7 connection existed at that time, did you, between those
8 shell casings and this case?

9 A I did not know.

10 Q Thank you very much. If you would answer any of Mr.
11 Robinson's questions.

12 CROSS-EXAMINATION

13 By Mr. Robinson:

14 Q Officer Foggie, the statements that each of these
15 persons gave, Mr. Foggie, Mr. Curenton and Mr. Fuller,
16 those were not recorded, were they?

17 A No, sir.

18 Q In fact those statements including Mr. Goggins were
19 neither recorded or audio taped, were they?

20 A No, sir.

21 Q The only person that was there with this person was
22 you and no recordings, no audio, nothing, correct?

23 A Well the other Lieutenant, Mr. Franklin.

24 Q That is Mr. Franklin, okay. But he didn't record
25 this or anything or a videotape or anything of that

1 nature, right?

2 A No, sir.

3 Q This trailer park we are speaking of, you said it was
4 a high crime area, is that right?

5 A Yes, sir.

6 Q Now yesterday you heard testimony from one of the
7 SLED agents about the importance of a six hour window for
8 obtaining GSR which is gun powder residue?

9 A Yes.

10 Q And you would agree with me that after a scene or
11 after an incident it would be important to get that kind
12 of information immediately after an incident, wouldn't
13 you. You would agree with that, wouldn't you?

14 A Yes, sir.

15 Q Now the first officer that testified in this case
16 said it took him seven minutes to get to the Stoddard
17 Trailer Park, is that right?

18 A Yes, sir.

19 Q And it took you how many minutes?

20 A I am guessing approximately between twenty and thirty
21 minutes.

22 Q And you were the lead investigator in this case,
23 weren't you?

24 A Yes, sir.

25 Q And you were the person in charge of this whole

1 investigation from the start to finish, is that right?

2 A Yes, sir.

3 Q You didn't call, you didn't have the officers at the
4 scene cording off this trailer park to make sure that no
5 one left the trailer park before any opportunity to speak
6 to them. You didn't do that, did you?

7 A No, sir.

8 Q In fact there is only one entrance out of this
9 trailer park, is that right?

10 A Yes, sir.

11 Q And you did not put up a roadblock to prevent people
12 from going in or out of this trailer park in order to get
13 GSR from anybody that was at this place, is that correct?

14 A At that time, I mean, we couldn't just walk around
15 with GSR people. That had to be voluntarily done unless
16 they were a suspect. We didn't have any suspects at the
17 time.

18 Q But one of the most important things in law
19 enforcement is making sure that a crime scene is both
20 secure and that the, in order to make sure or to make sure
21 you can get evidence if it exist on a situation, isn't
22 that right?

23 A Yes, sir.

24 Q Now when that officer went out there, the first
25 officer, the seven minutes we are talking about. Did he

1 section, did he put a roadblock up to prevent people from
2 leaving this place, do you know?

3 A No, he didn't.

4 Q He didn't do that?

5 A He just put up crime scene tape.

6 Q In that area, is that correct?

7 A Yes, sir.

8 Q But no one else was prevented from leaving or going
9 back and forth, is that correct?

10 A No, sir.

11 Q And you didn't, now you would agree with me that
12 Carlos Fuller's house or home and you heard the testimony
13 from Mr. Kinsey at SLED, you would agree with me that
14 Carlos Fuller's home is right there about two or three
15 feet from the crime scene. You would agree with that,
16 wouldn't you?

17 A Yes, sir.

18 Q Mr. Kinsey got there about two hours after the
19 officer got on the scene, isn't that right?

20 A Yes, sir.

21 Q And Mr. Kinsey deducted because the shells were found,
22 the spent shells were found right around the victim's car
23 that was parked at Carlos Fuller's house, he deducted that
24 that is where the crime was, wasn't that right?

25 A Yes, sir.

1 Q But you didn't take it upon yourself to secure the
2 crime scene and get a search warrant to search the very
3 residence that was right in front of this crime scene.

4 You didn't do that, did you?

5 A No, sir.

6 Q You didn't search this residence of Carlos Fuller to
7 see if he had taken any weapons in the house, whether
8 there was any sort of, anything connected to this crime.
9 You didn't do any of that, did you?

10 A No, I didn't get a search warrant for Carlos' house.

11 Q So you never searched his home at that time, isn't
12 that correct?

13 A Yes, that is correct.

14 Q Now there was two people, two of these people that
15 gave statements actually were there at that time. There
16 was Carlos Fuller and Lavario Curenton, correct?

17 A No, just Carlos was there.

18 Q Carlos was there. But the three of them were there
19 at that time. You recall the statement that Mr. Fuller
20 said, having a beer, having a party. Do you remember
21 that?

22 A Yes, sir.

23 Q Not only did you not block off or put a roadblock up
24 to prevent people from leaving, going back and forth. You
25 didn't take any GSR of any persons that were there at the

1 scene, did you, nothing?

2 A No, sir.

3 Q And you said a moment ago, I think, you took some
4 statements. You didn't take the statement of all of the
5 thirty people there, did you?

6 A I spoke with just about everybody. I didn't get
7 written statements from them because they didn't see
8 anything from what they told me. So I didn't take a
9 written statement that is saying that they didn't see
10 anything.

11 Q So you didn't think it was appropriate to maybe do a
12 little bit more of development of each of the thirty
13 people that you said were out there to see what they had
14 seen, maybe take some GSR reports or something that would
15 kind of maybe lead to more information in this case?

16 A I am not understanding what you are asking me.

17 Q Okay. The first officer came in that testified, he
18 said, if I am wrong because you are sitting the whole
19 time. He said there were ten people standing there at the
20 scene where the body was?

21 A Yes.

22 Q And then you said a moment ago when you came there
23 were thirty people out there. Do you remember that?

24 A I said approximately thirty people.

25 Q So in that meantime between the time that first

1 officer got there which is seven minutes away and when you
2 got there twenty people had also gathered around to look
3 at this crime scene and look at the area. Isn't that
4 right?

5 A Yes.

6 Q So twenty people had access to go to the crime scene
7 at that time, didn't they?

8 A No, they weren't inside the crime scene, they were
9 outside.

10 Q Here is the thing though. You also testified that
11 the crime scene was actually where the body was?

12 A That is what the initial officer taped off, yes sir.

13 Q So none of the other parts of this like up near
14 Carlos Fuller's trailer where Mr. Kinsey said it happened,
15 none of this area was corded off, was it?

16 A Not at that time it wasn't.

17 Q So we had, so you had people between the time you
18 arrived that access to that area, isn't that right?

19 A Yes.

20 Q And you also had, when you got on the scene one of
21 these folks was there, I think it was Carlos Fuller, Trezz
22 Foggie, who was there at that time?

23 A Carlos Fuller.

24 Q Carlos Fuller was there at the time that you arrived,
25 correct?

1 A Yes.

2 Q But you never decided to take any GSR from him to
3 find out if he had any weapons or anything like that or
4 any sort of anything, did you?

5 A No, sir.

6 Q That is all I have.

7 THE COURT: Any redirect.

8 REDIRECT EXAMINATION

9 By Mr. Mowry:

10 Q Mr. Foggie, Mr. Robinson asked you why you didn't
11 block off the entrance to the trailer park and prevent
12 everybody from coming and going. Would that had been
13 legal?

14 A No, it wouldn't have been.

15 Q What would have prevented you from doing that
16 legally?

17 A I mean that is against people's rights, we can't
18 prevent them from leaving if they need to leave. I mean
19 no one was suspects at the time.

20 Q Similarly he asked about the GSR and you had stated
21 that there was about thirty people gathered down here I
22 believe, right?

23 A Yes.

24 Q Referring again to 27?

25 A Yes.

1 Q Could you go and just force people to submit to a
2 gunshot residue test?

3 A No sir, we cannot.

4 Q Once again, why did you not search Carlos' trailer?

5 A Because I did not have enough probable cause to. I
6 mean, just because shell casings is in his yard, that
7 doesn't give you enough probable cause to search his
8 residence. There were shell casings, you know, everywhere
9 in that neighborhood.

10 Q And he was not a suspect?

11 A He was not a suspect.

12 Q And nobody else was a suspect at that time, is that
13 right?

14 A That's right.

15 Q Who was the only suspect that you had in this case?

16 A Tyrise Jefferson.

17 Q That is all I have.

18 RE CROSS-EXAMINATION

19 By Mr. Robinson:

20 Q You didn't have Tyrise Jefferson as a suspect at that
21 time, did you?

22 A Not at that time during, at the scene.

23 Q Thank you.

24 THE COURT: Thank you, sir, you can step down.

25 Solicitor, call your next witness, please.

1 MR. MOWRY: Your Honor, that is the State's case and
2 we would rest at this time.

3 THE COURT: Ladies and gentlemen of the jury, there
4 are some motions that I will need to take up at this
5 particular moment and time. If you will adjourn to the
6 jury room for a few moments. I hope to have you back out
7 here very shortly and we will resume with the trial of the
8 case. Don't talk about this case yet, I will have you
9 back in here in a few minutes.

10 (Whereupon, the jury was excused from open court.)

11 THE COURT: The record should reflect that the jury
12 is out. Mr. Robinson, motions, please. Any motions? If
13 you need a moment to speak to your client take your time.

14 MR. ROBINSON: Your Honor, I make a motion for a
15 directed verdict at this time. Obviously the burden is on
16 me but I believe that the prosecution has put forth a case
17 of mere suspicion, not evidence in this matter, it is mere
18 suspicion. They have guns, they have nothing tying my
19 client to this case, to this murder charge other than four
20 very suspicious witnesses to say the least. Three of them
21 obviously had some motive to lie. But, Your Honor, we
22 believe it has just raised a mere suspicion, nothing more
23 in this matter. The physical evidence does not point to
24 my client as being the perpetrator in this matter. And we
25 believe a directed verdict of acquittal is fair in this

1 matter.

2 THE COURT: This was fully flushed out and in the
3 light most favorable to the State which is of course the
4 standard that I have to use in judging this motion for a
5 directed verdict I would find that there is evidence from
6 which a jury may reasonably conclude that the defendant is
7 guilty of this particular charge. Again I do not pass
8 upon credibility, an issue such as that and what the jury
9 determines the facts to be is wholly within their purview
10 from the side. So for those reasons I will deny your
11 motion for directed verdict at this time, Mr. Robinson. I
12 realize that at the last trial I believe that Mr.
13 Jefferson did not testify. I don't know if you anticipate
14 presenting a defense at this point and time, Mr. Robinson.
15 Do you feel it is necessary that I review with him his
16 rights to testify or his right to remain silent under the
17 Fifth Amendment.

18 MR. ROBINSON: I think just as a matter, I am going
19 to speak to him and his family first.

20 THE COURT: Certainly. You want to talk to them
21 before I talk to him?

22 MR. ROBINSON: Your Honor, can I take a break for a
23 second before you speak to him.

24 THE COURT: If you want to go ahead and talk to his
25 family, that is fine. Just let me know when you are ready

1 to proceed. Do you want to do it privately or do you want
2 to do it here in the courtroom.

3 MR. ROBINSON: In the courtroom.

4 THE COURT: That's fine. Just let me know when you
5 are ready.

6 (Whereupon, a break was taken.)

7 THE COURT: We will go back on the record. Now, Mr.
8 Jefferson, if you would I have got certain questions that
9 I need to ask you about your right to testify or your
10 right to remain silent under the Fifth Amendment. So if
11 you could just raise your right hand so I can put you
12 under oath, please.

13 Stakren Tyrise Jefferson, being
14 first duly sworn, testified as follows:

15 THE COURT: You are Stakren Jefferson, is that
16 correct, sir?

17 MR. JEFFERSON: Yes, Your Honor.

18 THE COURT: Mr. Jefferson, at this time I am going to
19 explain to you certain rights that you have. If you don't
20 understand something that I am telling you ask for a
21 second and I will let you talk to Mr. Robinson or you can
22 ask me and I will try to explain it in more detail, okay.

23 MR. JEFFERSON: Yes, Your Honor.

24 THE COURT: It is very important that you understand
25 what I am telling you so if at any time you are having

1 difficulty of understanding what I am saying just
2 interrupt me and say, Judge, stop and I will let you talk
3 to your lawyer or you can ask me about what I am
4 explaining to you. Now, Mr. Jefferson, at this point we
5 have reached that stage of the trial where you can present
6 a defense and obviously as you are probably quite aware
7 the State has the burden in this case and you don't have
8 to prove anything. So you have certain rights that I am
9 now going to explain to you. You have the right to claim
10 the protections given to you by the Fifth Amendment of the
11 United States Constitution and the corresponding amendment
12 of the South Carolina Constitution. This amendment states
13 that no person can be compelled in any criminal case to be
14 a witness against themselves. What that means is that you
15 can't be required to testify in this case. You cannot be
16 required to testify because you have the right to testify
17 if you want to but no one can make you testify. That
18 means I can't force you to testify, Mr. Mowry can't, Mr.
19 Newton can't, your attorney can't make you testify. No
20 one has any right to force you to testify in this case.
21 Do you understand that, sir?

22 MR. JEFFERSON: Yes, Your Honor.

23 THE COURT: Now this is a personal right that you
24 have and no one can waive this right except for you.
25 Understand, Mr. Jefferson, if you decide to testify you

1 will be subject to the same rules of cross-examination as
2 any other witness and you can be examined or
3 cross-examined on any relevant issue in this.
4 Additionally if you have any convictions for crimes which
5 involve dishonesty or false statements or crimes that are
6 punishable by more than a year in prison and the Court
7 determines that the probative value of these, the
8 probative value of admitting those convictions into
9 evidence outweighs any sort of prejudice to you or the
10 prejudicial effect to you then I would permit the
11 Solicitor to cross-examine you on those convictions in
12 order to attack your credibility. Do you understand that,
13 Mr. Jefferson?

14 MR. JEFFERSON: Yes, Your Honor.

15 THE COURT: Now if you decide to testify, Mr.
16 Jefferson, this decision has to be a decision made freely,
17 voluntarily and intelligently with full knowledge of the
18 protections guaranteed to you under the constitution of
19 our country as well as the consequences of your decision
20 to testify. Do you understand that, sir?

21 MR. JEFFERSON: Yes, Your Honor.

22 THE COURT: If you decide not to testify I will
23 instruct the jurors that they can't give the fact that you
24 did not testify any consideration whatsoever during their
25 deliberations and that there is to be absolutely no

1 prejudice to you because of your failure to testify. Do
2 you understand that, sir?

3 MR. JEFFERSON: Yes, Your Honor.

4 THE COURT: And it is left entirely up to you whether
5 or not you testify. You can discuss this with your lawyer
6 and I encourage you certainly to discuss it with your
7 lawyer and with your friends and family members or anyone
8 else. But you realize that ultimately the final decision
9 on whether or not you testify has to be yours and yours
10 alone. Do you understand that, Mr. Jefferson?

11 MR. JEFFERSON: Yes, Your Honor.

12 THE COURT: Have you understood everything that I
13 have explained to you?

14 MR. JEFFERSON: Yes, Your Honor.

15 THE COURT: And do you have any questions about
16 anything that I have explained to you?

17 MR. JEFFERSON: No, Your Honor.

18 THE COURT: All right. The way I usually, I assume
19 you have had a chance to talk to your lawyer about whether
20 you should testify or not. Is that correct?

21 MR. JEFFERSON: Yes, Your Honor.

22 THE COURT: Now the way that I usually leave this,
23 Mr. Jefferson, is I have no idea if Mr. Robinson and you
24 intend to present a defense at this particular point and
25 time. I will ask him that question in just a moment. But

1 if Mr. Robinson calls you as a witness I would have
2 assumed that you have waived your Fifth Amendment right
3 against self-incrimination. Is that acceptable to you?

4 MR. JEFFERSON: Yes, Your Honor.

5 THE COURT: Okay. So if he calls you to testify that
6 will mean implicitly that you have waived your right
7 against or your right under the Fifth Amendment to remain
8 silent. Is that acceptable to you?

9 MR. JEFFERSON: Yes, Your Honor.

10 THE COURT: Because I am assuming he is going to
11 simply follow your instructions, whatever they are.

12 MR. JEFFERSON: Yes, Your Honor.

13 THE COURT: Very good. Thank you very much, Mr.
14 Jefferson, you can have a seat. Mr. Robinson, at this
15 point do y'all anticipate presenting a defense or have
16 y'all made a firm decision?

17 MR. ROBINSON: We have made a firm decision not to,
18 Your Honor.

19 THE COURT: Okay. Very good, so you will get last
20 argument. What I would prefer to do, we are ten minutes
21 after eleven. If it is acceptable to y'all, Mr. Mowry, I
22 think last time you took about twenty to thirty minutes in
23 closing and you took about fifteen to twenty, I think, Mr.
24 Robinson. Is that about right?

25 MR. MOWRY: Yes, Your Honor.

1 MR. ROBINSON: I am not sure.

2 THE COURT: I actually pulled the file last night and
3 I looked at it and then I left it on the kitchen table.
4 And so I am not doing so good as far as getting the file
5 here from the previous trial. Mr. Robinson, I emailed to
6 you the jury charge that I was going to use. You have had
7 a chance to review that, it is the same one that we used
8 in December.

9 MR. ROBINSON: It is fine, Your Honor.

10 THE COURT: I have the exact same verdict form. It
11 simply asked whether the jury finds Mr. Jefferson
12 unanimously guilty or not guilty, the exact same form. I
13 simply changed the date to today's date. Anything else
14 that we need to discuss about jury charges or anything
15 from the State?

16 MR. MOWRY: No, sir.

17 MR. ROBINSON: No, sir.

18 THE COURT: We will go straight into the argument in
19 just about five minutes. Of course the State will open,
20 you will get last argument. I will charge and we will see
21 where we are. We will take a brief break since this might
22 take about an hour.

23 MR. ROBINSON: Your Honor, could we have some time to
24 prepare a little bit maybe.

25 THE COURT: How much time do you need?

1 MR. ROBINSON: Thirty minutes, whatever the Court
2 thinks.

3 THE COURT: I will give you about fifteen or so. I
4 don't want to keep the jury waiting too long.

5 MR. MOWRY: Your Honor, I just wanted to make it
6 clear that I have got a power point that is based on the
7 one I had last time. It is essentially the same but since
8 I went into such specificity about the calendar of events
9 I have included that in there as well. And I am assuming
10 that that will be permissible this time. I know it was a
11 problem and I removed it last time.

12 THE COURT: I don't think that will be a problem
13 based on what has been presented. This was tried slightly
14 differently so unless there is any objection to it I would
15 tend to give you some latitude on that particular
16 question. Do you have any major problem with that?

17 MR. ROBINSON: Let's make it five minutes then.

18 THE COURT: We will give five to ten minutes.

19 (Whereupon, a short break was taken.)

20 THE COURT: Is the State ready?

21 MR. MOWRY: Yes, Your Honor.

22 THE COURT: The defense?

23 MR. ROBINSON: Yes sir, Your Honor.

24 THE COURT: Let's have the jury, please. When they
25 come out I will turn to you and you can just rest of the

1 record. Okay.

2 MR. ROBINSON: Yes, sir.

3 (Whereupon, the jury came into open court at
4 approximately 11:30 p.m.)

5 THE COURT: Let the record reflect that the jury is
6 back and seated. At this point, Mr. Robinson.

7 MR. ROBINSON: May it please the Court, Your Honor.
8 The defense rest.

9 THE COURT: Ladies and gentlemen, we have reached
10 that portion in the trial where you will be hearing the
11 closing arguments from the attorneys in this particular
12 case. And in the way that we will proceed is that the
13 attorney for the State, Mr. Mowry, will go first to be
14 followed by Mr. Jefferson's attorney, Mr. Robinson. I
15 will remind you that what the lawyers say during their
16 closing statements of course is not evidence in this case.
17 You must judge this case based solely on the evidence and
18 any exhibits introduced into the record, the testimony of
19 witnesses as well as any exhibits which have been
20 introduced. I would anticipate that during their closing
21 arguments the lawyers are going to refer to certain
22 testimony or certain facts which have been introduced into
23 evidence or are in the record in this case. I will remind
24 you that you are the sole judges of the facts in this
25 particular case. So if at any time your recollection of

1 what those facts are differs from what the lawyers say the
2 facts are you should go with what your recollection is.
3 For example, if the lawyer were to say that it was raining
4 on Sunday and your memory was that it was shining on
5 Sunday, the sun was shining you should go with your
6 recollection as opposed to what the attorneys say with
7 regard to any particular fact that is an issue in this
8 particular case. So with that, Mr. Mowry, you are
9 recognized for your closing statement, sir.

10 MR. MOWRY: Thank you, Your Honor. Madam Foreman,
11 ladies and gentlemen of the jury, we have now reached the
12 stage where there is no more evidence. Everything that
13 you will have to determine what the truth is in this case
14 has already been put in. You will have these items,
15 charts, photographs, the physical items with you back
16 there in the jury room to help you make your decision.
17 Our purpose now is to try to summarize all of this
18 evidence. So what I am going to do right now is explain
19 why Stakren Tyrise Jefferson is guilty of murder. Ladies
20 and gentlemen, I don't believe there is any question
21 whatsoever that we have a murder in this case. We have an
22 unlawful killing of a human being with malice aforethought
23 either expressed or implied. I talked about that a little
24 bit in the opening statement. His Honor is going to
25 instruct you exactly what that is. And I don't think that

1 you will have any doubt whatsoever that a murder was
2 committed. It was an unlawful, unjustifiable, inexcusable
3 killing of a human being. That is only one part of the
4 State's burden. I don't think that Mr. Robinson would
5 question that a murder was committed in this case. The
6 question, ladies and gentlemen, is who did it. There is
7 no doubt that a murder was committed, there is no doubt
8 that Dreek Calwise is the victim in this case, he was
9 murdered but who did it is the question, that is the crux
10 of your decision. Now, every defendant that comes into a
11 courtroom in South Carolina or anywhere in the United
12 States charged with a criminal offense is presumed
13 innocent. It is kind of a flowery way of putting it that
14 he is robed with a cloak of innocence and it is our job,
15 mine and Mr. Newton's and Mr. Foggie's, if the truth takes
16 us that direction, to remove that cloak of innocence from
17 that defendant. And I will submit to you, ladies and
18 gentlemen, that is exactly what we have done in this case.
19 And I will explain why. There is a good deal of
20 scientific evidence in this case. Now, does the evidence
21 point directly to this defendant as being the shooter. I
22 will tell you from the outset that no, it does not. But
23 what does point us directly to Stakren Tyrise Jefferson
24 being the shooter in this case are the statements that you
25 will have with you in the jury room from Trezz Foggie,

1 from Carlos Fuller and from Lavario Curenton as well as
2 the testimony that you heard from Calvin Goggins, the
3 cellmate of Stakren Tyrise Jefferson all of whom will tell
4 you that he was the shooter. So the scientific evidence
5 itself will probe to you that a murder was committed. Dr.
6 Ward's testimony, the pathologist's testimony amply
7 demonstrates that. It will prove also that Dreek Calwise
8 died as a result of that shooting, Dr. Ward's testimony
9 included that. It proves where the shooting took place,
10 not only in Stoddard Trailer Park but right down here near
11 Carlos Fuller's trailer. It proves how it occurred and
12 how it did not occur. And by that I mean it was up close
13 and personal. I will go into the gunshot residue and the
14 firearms, the ballistics evidence as well to indicate
15 that. It proves what kind of gun was used. Ira Parnell's
16 testimony as you might recall gives you that evidence.
17 Not only generally, it was a semiautomatic weapon but more
18 specifically from his training, his experience, he was
19 pretty much able to nail it down quite possibly to a
20 single gun but certainly a short list, not only the
21 projectile which the masterpiece arms, .9 millimeter on
22 the short list but the shell casings found at the scene
23 which he said in all probabilty it was a masterpiece arms
24 .9 millimeter. So, ladies and gentlemen, we can pretty
25 much put exactly where the shooting was, how it occurred,

1 whether the victim died of it and what kind of gun was
2 used. Not only that, ladies and gentlemen, but thanks to
3 Mr. Kinsey, the crime scene investigator who teamed up
4 with Detective Foggie, we are able to show the path the
5 victim took after being shot in his desperate search for
6 help as he was bleeding to death. Now, the scientific
7 evidence, as I said, Kenny Kinsey talked about the crime
8 scene processing. Dr. Ward, Michael Ward gave us the
9 medical testimony in his years of experience as a
10 pathologist and a medical examiner. Ira Parnell, nearly
11 four decades as an expert firearms examiner and then the
12 DNA analysis, the gunshot residue evidence from Kathleen
13 Woodward. All of that meshes together, ladies and
14 gentlemen, to give us a very good picture of what happened
15 at the scene. Let's talk about the firearms first. Shell
16 cases were collected from the scene. As Ira Parnell told
17 you they were subjected to microscopic analysis so that he
18 could make a determination as to what kind of gun they
19 came from. All of the relevant shell casings in this
20 crime scene were found right here at the corner of Carlos
21 Fuller's trailer. Here is the victim's car, here are the
22 shell casings. You will have an opportunity to read these
23 statements from these witnesses when you get back there,
24 see how that matches up, ladies and gentlemen. We know
25 that shells eject just a few feet so the shooter must have

1 been close by. This was an upclose and personnel killing,
2 ladies and gentlemen, this was not a driveby. We know
3 that for two reasons. Not only because the shell casings
4 were found there and the blood trail started here and
5 remember Investigator Kinsey's information that the blood
6 trail would not have started down here, it would have
7 taken a while for the blood to wick through the clothing,
8 as he put it, before it would have started dropping. But
9 by the time he got to here, ladies and gentlemen, and
10 crossed this road you have bloody footprints. You can
11 take a look at these pictures. For example this one,
12 State's exhibit number one. You will have these
13 photographs back there with you as well. And you have a
14 blood trail, he was bleeding badly enough by the time he
15 got here that he was dripping and leaving bloody
16 footprints all along the way. Not only do we know because
17 the shell casings were found here but we found out from
18 one of the SLED witnesses that an element of gunshot
19 residue was found on the back, not the palms but on the
20 back of the victim's hand. And Mr. Newton asked the
21 question, is that consistent with raising his hand like
22 this in a defensive wound or a defensive posture I should
23 say and the answer was yes. And then the fresh shell
24 casings found right here, the four wounds that were found
25 by Dr. Ward, three of them basically through and through

1 and then the one fatal wound in the chest, the projectile
2 he was able to recover. So this was not a driveby random
3 shooting, ladies and gentlemen. This was an upclose,
4 personnel, face to face killing and who did the three
5 witnesses tell you was the shooter. Read those statements
6 and make that determination. Ira Parnell's testimony. He
7 talked about these shell casings found right here between
8 the car of the victim's and the trailer ejected by the
9 same, he was able to say it was the same firearm, most
10 likely a masterpiece arms .9 millimeter semiautomatic
11 pistol. Same ejector marks, same microscopic indicators
12 on those shell casings. The projectile recovered from the
13 victim by Dr. Ward. This item right here was again a .9
14 millimeter, a semiautomatic round. And Ira Parnell
15 testified that on a short list of possibilities a
16 masterpiece arms .9 millimeter semiautomatic pistol. So
17 what can we conclude. Once again the shooting took place
18 here outside of Carlos Fuller's residence, the shooter and
19 the victim were close enough to each other that the lead
20 particular, the component of gunshot residue was found on
21 the back of the victim's left hand. And the gunshot
22 residue and the wounds themselves, ladies and gentlemen,
23 are consistent with a defensive stance. You remember not
24 only did Mr. Newton ask the examiner, the trace examiner
25 from SLED about whether or not it was consistent with the

1 defensive posture, I asked Dr. Ward and I went through the
2 litany, how all three shots were, excuse me, all four
3 shots were received. The through and through shot of the
4 right leg, the odd angle in the left leg where it started
5 on a downward track in the upper left thigh and emerged as
6 you can see on the chart down at the knee, turning this
7 way and being shot this way trying to avoid any further
8 injury. The shot in the chest missing this way and then
9 as he is bent over here being shot this way in the left
10 side of the chest the bullet progressing down and coming
11 to rest in his abdomen. The final I would assume, we
12 don't know the order exactly but certainly the fatal
13 wound. But no gunshot residue found on his palms,
14 nothing. This was an out and out murder. Now, as I said
15 the obvious blood trail began here beside one of the
16 abandoned trailers near Carlos' house. But according to
17 Kenny Kinsey the shooting took place down here, that is
18 his expert opinion. As I talked about with Dr. Ward, four
19 wounds, the right leg through and through, the left leg
20 starting high, ending low and the chest, the two wounds,
21 the through and through in the side and then the fatal
22 wound coming down. The DNA, there was DNA evidence
23 retrieved not only from the victim during autopsy but from
24 the gun next to the trailer. This gun, State's exhibit
25 number 21. This gun was found up here, not down here but

1 up here. Now, ladies and gentlemen, the only thing that
2 ties that to the victim is the fact that his blood was
3 found on it. Remember, Mareno Foggie told you that the
4 victim was barefoot when he was found, he had run out of
5 his shoes down here at the scene and his feet were covered
6 with blood, enough to leave bloody footprints all up this
7 way, enough of a trail for the investigators to be able to
8 follow. You can see the pictures yourselves. And I
9 submit to you what happened is, as the victim was
10 staggering around near death he stepped on a discarded
11 gun, this is a rough neighborhood. There is no doubt
12 about it. Now only was that gun lying around but a short
13 distance away we had another gun. This is State's exhibit
14 number 22, the one that Mareno Foggie testified they got a
15 report on, maybe it has got a connection with the crime.
16 And then the third gun, we have got pictures of it. The
17 gun under the defendant, excuse me, the victim's seat in
18 his car. But the fact that the gun was in the victim's
19 car pretty well indicates that gun found next to the
20 trailer wasn't his. That was a throw down, it had been
21 discarded for some reason. Now, take a look when you get
22 back to the jury room at the statements of the individual
23 defendants, excuse me, witnesses, not defendants. The
24 statements of the individual witnesses and compare it to
25 the science. Now, Mr. Robinson I anticipate is going to

1 tell you, oh, the science is worthless. It is great for
2 what it tells you but it doesn't point to anything. Well,
3 compare the science to what the witnesses say and you
4 determine where the truth is. Now they testified in court
5 they were squirming like fish on a hook, ladies and
6 gentlemen. They didn't want to be here. You heard what
7 the comments were from Investigator Foggie. They didn't
8 want to be a snitch, they did not want to testify, they
9 don't want to be looked upon in that neighborhood as
10 cooperating with the police, nobody in that neighborhood
11 does. I told you at the start that you were going to get
12 some insight as to the kind of work that these officers
13 have to do. I think you know now. There are some places
14 that officers don't get any help and this is one of them.
15 But compare the statements with the science. Dreek pulled
16 up to my house, where is the victim's car found. Right
17 there outside of Carlos' trailer. When the shots started
18 firing Dreek and Tyrise were over by the car. Right here,
19 shell casings from the same gun were found in close
20 proximity to the car. A projectile that is consistent
21 with those shell casings is found inside the victim during
22 autopsy. Dreek ran up the hill, low and behold, ladies
23 and gentlemen, he left a trail, we know he did. And then
24 Carlos' statement mentions John Elliott Rhodes, the last
25 of the civilian witnesses that we had there that testified

1 about seeing Carlos on the phone. Lavario's statement
2 says the victim and the defendant were close to Carlos's
3 house. Again, the shell casings found here. Heard two or
4 three shots and saw Dreek running up the hill, the blood
5 trail, ladies and gentlemen. I submit to you, two, three,
6 four, it is multiple gunshots. Once you get past one or
7 two you are probably going to lose count. Okay. Trezz's
8 statement and this is probably the most telling one,
9 ladies and gentlemen, of these three. Again, car pulled
10 up outside of Carlos' trailer exactly where it is found.
11 He said that he went back through the abandoned trailers
12 then came back with the defendant arguing. And I asked
13 Investigator Foggie where Vanessa Spurgeon lived, a girl
14 that in addition to Shayla Jenkins he was, the defendant
15 was seeing apparently and she lived right back in here,
16 right through the abandoned trailers.

17 MR. ROBINSON: Your Honor, I am going to object, it
18 is not in the evidence, testimony in this case.

19 MR. MOWRY: Yes it is, Your Honor.

20 THE COURT: All right. Again, ladies and gentlemen
21 of the jury, it is your job to figure out what is in
22 evidence and what is not in evidence and certainly what
23 evidence you are convinced is true. So, again, if they
24 say something which you do not recall having being
25 introduced into evidence you should go with your

1 recollection that that is not evidence. You may continue.

2 MR. MOWRY: Thank you, Your Honor. Tyrise pulled out
3 a gun and shot about three times, three, four and again he
4 looses count but it is multiple gunshots and he ran up the
5 hill. You head Detective Foggie on how he took those
6 statements. Now did he use a little superfuse, did he use
7 a little trickery, yes he did. He told these guys when
8 they started bucking on him, when they were uncooperative.
9 All the other guys have already told me this, I just want
10 to get your side of it. He didn't threaten them, he
11 didn't use intimidation, they weren't under arrest. Trezz
12 Foggie even tries to convince that he was in handcuffs.
13 If he had been handcuffed, ladies and gentlemen, do you
14 think Mareno Foggie is going to let him talk to his mama.
15 That is just absurd. He was as reluctant as everybody
16 else to talk, they all tried to disown their statements.
17 But his stepfather was right outside. He didn't make any
18 statement until Mareno Foggie allowed him to speak with
19 his mother and you heard his mother's testimony, what did
20 she say. You tell the truth. Now, ladies and gentlemen,
21 I would submit to you if your mama told you to tell the
22 truth or somebody else in the position of authority like a
23 teacher or something like that, if they told you to tell
24 the truth what would you do. You would tell the truth.
25 How quickly did that statement come back. Mareno Foggie

1 said immediately. As soon as the phone conversation was
2 over Trezz Foggie gave a statement that Mareno Foggie
3 transcribed down onto a piece of paper and you will have
4 with you back there in the jury room. Calvin Goggins.
5 Ladies and gentlemen, I apologize. Most of y'all have
6 never probably met somebody with a record like Calvin
7 Goggins. His record is terrible, it is awful, I am the
8 first to admit it. I don't get to choose my witnesses.
9 You got to take them where you find them. If I had an
10 opportunity I would have found somebody else but there was
11 no one else. Calvin Goggins was the card we were dealt.
12 What he heard though, what he testified to I submit to you
13 is not only entirely probable, it is the truth. I am not
14 asking you to like Calvin Goggins, I am just asking you to
15 believe him. And under most circumstances I wouldn't even
16 ask you to do that but look at the quality of the
17 information that he provides. He gives you information
18 that was not known. The shooter would have known it, the
19 killer would have known it but not just somebody that is a
20 cellmate. He overheard the defendant talking through the
21 vent and I think Chris Hudson, the Major from the jail
22 kind of explained that to you. The ventilation system
23 allows communication between the cellblocks on different
24 floors. He gave a statement on July 1st from an event
25 that had happened on June the 29th, that was the

1 testimony. What did the witness tell you. I killed the
2 SOB, that is what Calvin Goggins overheard Stakren Tyrise
3 Jefferson say, I killed the SOB. Now, Calvin Goggins may
4 have known this guy was in jail for murder and wanted to
5 curry. If that is all we had, ladies and gentlemen, I
6 wouldn't have wasted your time with that. Calvin Goggins,
7 I don't think that was private information, I don't think
8 that was privilege information. I think that was public
9 information. But think about the next line, the police
10 think they got the gun but they ain't got nothing. Mareno
11 Foggie told you just a little while ago, we had three
12 guns, we thought we had a murder weapon. You had the gun
13 from the victim's car, you had the gun found by the
14 trailer and you had the gun found a distance away from the
15 trailer park broken as you can see it. You can take a
16 look at the condition of it, like somebody might have
17 tossed it out of the car while in a big hurry. There was
18 every indication that that was the gun. Mareno Foggie
19 didn't know what kind of gun had been used. Ira Parnell
20 hadn't finished his report. Mareno Foggie didn't get that
21 until late October. And we didn't know what kind of
22 projectile it was that was the death instrument for Dreek
23 Calwise. So Mareno could have had every belief that a
24 revolver had been used and that he had the gun. But on
25 July the 1st while a cellmate in the Laurens County

1 Detention with the defendant, Calvin Goggins reports and
2 gives the statement a couple of days later, the police
3 think they got the gun but they ain't got nothing. How
4 did he know that. He knew it because Stakren Tyrise
5 Jefferson knew where the gun was and he knew the police
6 didn't have it. Remember the timeframe, ladies and
7 gentlemen. The shooting takes place on the 16th of May.
8 Officer Foggie didn't get Stakren Tyrise Jefferson's name
9 until he talked with Carlos and Trezz four days later.
10 And then he wasn't placed into custody until the 27th,
11 eleven days after the shooting. That gun could be
12 anywhere. We don't know. You remember this, on July 1st
13 Mareno Foggie thought we got the gun and it wasn't until
14 October when he got Ira Parnell's report, we haven't got
15 the gun. But Calvin Goggins knew it on July 1st because
16 he overheard that man say it who wouldn't have known where
17 the gun was. Now, what is the other thing. Remember
18 Investigator Foggie talked about interviewing Zachary
19 Thomas and what did Calvin Goggins say in that regard. He
20 said that boy, Zac ain't going to make it. How would he
21 know that, that wasn't public knowledge either. So there
22 are two items in Calvin Goggins statement that were not
23 public knowledge that would have been known to the
24 shooter. And the only reason that Calvin Goggins knew
25 that information was because he overheard the conversation

1 between this defendant and Shayla Jenkins. All of the
2 parties were present. I ask Chris Hudson, is that
3 scenario possible. Yes, she was in the cellblock where
4 she could have a conversation. He was in the cellblock
5 where he could have the conversation. Calvin Goggins was
6 in the cellblock where he could overhear the conversation.
7 That is telling, ladies and gentlemen. So what is the
8 State presented. We know where the shooting scene was,
9 the presence of the spent shell casings, the statement
10 from the three witnesses. We know that the defendant was
11 present at the scene from the statement of the three
12 witnesses. We know that the defendant was the shooter,
13 look at the statement from Trezz Foggie and from Calvin
14 Goggins particularly. We know that all of the shell
15 casings come from the same gun and the bullet that killed
16 the victim is consistent with that gun. All of the shell
17 casings are right at the victim's car. All the witnesses,
18 all three of them say that Dreek Calwise run up the hill
19 and the bloody trail confirms that. Nobody ever testified
20 that Dreek Calwise did anything to bring on the shooting
21 except having an argument and throwing insults back and
22 forth with Stakren Tyrise Jefferson. And then the medical
23 and scientific evidence, ladies and gentlemen, support the
24 cause of death and the manner of death, the cause of death
25 being bleeding to death from a bullet wound, the manner of

1 death being homicide, one person killing another. Now, I
2 am anticipating, I don't know for certain but I am
3 anticipating that Mr. Robinson is going to talk about how
4 the evidence doesn't link up. And I am not going to get a
5 chance to get back up, maybe some of y'all are overjoyed
6 about that fact. I don't get a chance to get back up and
7 refute or talk about or rebut anything that he discusses.
8 So let me ask you this question. When he is talking to
9 you, ladies and gentlemen, think about what else law
10 enforcement could have done. They did a door to door
11 canvas of this entire neighborhood asking people, probably
12 knowing the answer in advance, we didn't see anything.
13 But going there and trying to get information from people,
14 they talked with everybody at the scene, ten people. When
15 Lieutenant Higgenbotham arrived thirty people, it is
16 almost like a bad car wreck, you get people to come there
17 to rubberneck, when Lieutenant Foggie arrived there. They
18 talked, think about the search around the trailer, the
19 expansion of the crime scene, they didn't know where the
20 crime scene was, it is normal assumption it is going to be
21 right there where the body is found. And only when they
22 began to realize, oh, my goodness we have got a bloody
23 trail, they realized that it was this whole hundred yard
24 region. They did a painstaking search of the crime scene,
25 think about the evidence they did find in that hundred

1 yard expanse. Think about the autopsy. Think about the
2 other scientific evidence from the SLED agents. Think
3 about the statements from these extraordinarily reluctant
4 witnesses. But which is going to be more likely to be
5 true, what they testified here on the witness stand or
6 Trezz Foggie's statement particularly after he had gotten
7 off the phone with his mama who had told him, you tell the
8 truth. And this statement from Calvin Goggins. No
9 evidence of hope or reward, no evidence of any kind of
10 animosity between him and the defendant. He said I didn't
11 know who he was, he was just in the same cell with me and
12 I overheard a conversation. Mareno Foggie didn't go
13 searching him out. Calvin Goggins went through the normal
14 course of process and got in touch with Mareno Foggie but
15 he had information that was not public knowledge, ladies
16 and gentlemen. The information that he had nobody else
17 knew but the investigators and the killer. Think about
18 the calendar of the event. The 16th the shooting, the
19 discovery of the guns, the statements from the first two
20 witnesses, and then the arrest warrant was obtained. You
21 had Lavario Curenton on the 22nd and then the defendant
22 arrested on the 27th. Now Mr. Robinson asked, why didn't
23 he get a search warrant, why didn't you seal off this area
24 and not let anybody out. Where there is a little problem,
25 ladies and gentlemen, we have got a little thing called

1 the United States Constitution. And Mareno Foggie told
2 you, I didn't have probable cause, I didn't have any basis
3 to do that. Ladies and gentlemen, we ain't living in nazi
4 Germany, we are not living in a totalitarian state. You
5 can't get away with that kind of stuff. And it is ironic
6 that the very activities that most defense attorneys would
7 decry Mr. Robinson is holding Mareno Foggie accountable
8 for not doing. You can't just go around and account
9 people and take GSR, force GSR test on them against their
10 will. You can't hold people inside a trailer park if they
11 want to leave if you haven't got any kind of information
12 or belief or probable cause that they were part of a
13 crime. You just can't do it. So this very idea that
14 Mareno Foggie did something wrong holds no water
15 whatsoever. Now, I told you at the start that your job is
16 to determine whether or not the State has proved this case
17 beyond a reasonable doubt. The Judge again is going to
18 give you the law, he is going to explain to you what
19 reasonable doubt is all about. Essentially a reasonable
20 doubt is one that would leave a reasonable person, you
21 jurors, in an unsettled condition. Is there anything
22 about this case that would leave you unsettled. What
23 could the science had added except for finding a gun.
24 That would have been great but you know, ladies and
25 gentlemen, this defendant had eleven days to get rid of

1 that gun, to bury it, to get rid of it. You have
2 witnesses that are trying to retrack their statements.
3 What did Mareno Foggie say, that one of these witnesses
4 told him, I don't want to be a snitch. Nobody wants to be
5 a snitch, nobody from that neighborhood wants to cooperate
6 with the police because that makes you look bad. There is
7 no testimony of bad blood between the witnesses and
8 Jefferson. Why else would they blame him. Why. Did they
9 just pick him out of thin air. No, ladies and gentlemen,
10 they did it because they saw him do it. They saw him take
11 a gun and shoot a man to death. And they are scared.
12 They got on the witness stand and wanted to wriggle out of
13 those statements, they wanted to disown him as much as
14 possible because they are scared of that man, they had
15 seen him shoot Dreek Calwise four times and kill him dead
16 and they don't want to cross him. Now, a couple of red
17 herrings. An old bullet hole, possible another over here,
18 old shell casings up here and Mr. Robinson I am sure, the
19 good defense attorney that he is is probably going to toss
20 those out there and hope that you will go chasing after
21 those rabbits. Don't do it, ladies and gentlemen. They
22 are not material. We have presented everything to you
23 that we can. They don't have anything to do with this
24 case. As Kenny Kensey said, I believe that these things
25 were old. Yes, this is not a very nice neighborhood. Not

1 trying to cast aspersions on the people that live there
2 but it is a high crime area. There are shootings that
3 happen there. You have the gun with Dreek Calwise's blood
4 on it. Again, he didn't just drop that there, he didn't
5 have that in his pocket, he just simply stepped on it.
6 Think about the character of the neighborhood. And
7 another possible assailant, who. It is not a driveby, it
8 is an upclose and personal. And these three witnesses who
9 statements you will have talking independently and
10 individually to Mareno Foggie, pointed their finger at
11 that man right there. And this is the conclusion, ladies
12 and gentlemen. He might have a cloak of innocence when we
13 started but that cloak has been removed and I will submit
14 to you that he is guilty beyond a reasonable doubt. Now,
15 ladies and gentlemen, I ask you to do three things for me
16 at the start of the trial. Ad you have already done one
17 of them admirably. You listened very carefully to the
18 testimony that has come off of this witness stand and I
19 know sometimes it got a little confusing and I know
20 sometimes it might had been a little hard to follow but
21 you done your job to this point. I ask you to continue to
22 listen very carefully when His Honor instructs you in the
23 law in a just a little while. His instructions are the
24 law that you must take with you back to the jury room. It
25 may be the law that you think it is, it may not be the law

1 as you think it ought to be. But it is the law that you
2 must take with you when you are deciding this case. Then
3 I am going to ask you to do that one last thing. Use your
4 common sense. Common sense will tell you, ladies and
5 gentlemen, there is no other reasonable conclusion that
6 you can draw from the facts and the evidence in this case.
7 There is only one conclusion. And that that man, Stakren
8 Tyrise Jefferson murdered Lavario Dreek Calwise in cold
9 blood and you would be more than justified in bringing
10 back a verdict of guilty in this case. Thank you very
11 much.

12 THE COURT: Thank you, Mr. Mowry. Mr. Robinson, you
13 are recognized, sir.

14 MR. ROBINSON: Thank you, Your Honor. There is a lot
15 to listen to folks. I don't really speak a lot when it
16 comes to closing statement and this is not a complicated
17 case. It was very surprising to me at the outset and in
18 his closing that the prosecutor admitted there are flaws
19 in his case. The flaws are pretty apparent in this case.
20 And he asked you again about using your common sense.
21 Well if you use your common sense and look at the flaws in
22 this case they haven't proven their case. What they have
23 proved is that they have no evidence, no physical,
24 scientific like fingerprints, no GSR, nothing, they have
25 got nothing. What they do have is testimony from three

1 guys and this is where they were, this is where Carlos
2 Fuller lives, these is where the shells were, this is
3 where all of these cats were when this happened. You
4 listened to Mr. Fuller, he said they were cutting a tape
5 or something, some sort of rap record or something like
6 that. But, you know, the prosecutor never brought anybody
7 in to corroborate what they said. Also two, if you look
8 at where the bullets are, you will get a chance in a
9 minute when you go back to the jury room, if you look at
10 where the crime scene is versus where these guys were. We
11 are talking about Mr. Foggie, Mr. Fuller and Mr. Curenton,
12 they are all right here. And this person, Mr. Foggie, the
13 investigator didn't believe although the crime scene is
14 right, Mr. Kinsey said the crime scene is right here. He
15 didn't feel he had probable cause to go into this home
16 which his right in front of where this crime scene is and
17 check it out, check out to see if there are any bullets,
18 any evidence at all in this case that would give him some
19 information on this. Now, the prosecutor at the outset of
20 this case said he had flaws. The biggest flaw he has got,
21 what he is asking you to believe is to believe the
22 testimony of a convicted felon and I think he said in his
23 closing statement that he has a long record. He is
24 expecting you all to believe that this guy is telling the
25 truth. What he hasn't told you that there is nobody to

1 corroborate what he says because they didn't bring anyone
2 into court, Shayla Jenkins is suppose to be his
3 girlfriend, they didn't bring in the other cellmate that
4 they had that they said was with the three of them. They
5 also had twenty people, there were between twenty to
6 twenty-five women and then twenty-five men in these
7 different blocks. And they all had access to it and they
8 had a guard, I think the officer said that there was a
9 rover that went through and they had cameras up. But no
10 one saw anything, no one reported anything and no one came
11 to court to corroborate what a convicted felon, and you
12 saw him when he came in the courtroom and he had chains
13 on. And why is that. He is in jail, he was in jail at
14 the time. And you really believe these inmates don't have
15 access to TV, to newspapers, to guards around that talk.
16 You really believe that that it is just one big closed
17 area there where they get no information, no knowledge of
18 anything around. But the prosecutor expects you to
19 believe that. So y'all have common sense, a lot of people
20 don't have common sense. But, you know, it is like trying
21 to believe a salesman that comes to your door that wants
22 to sell you an air-conditioner. He is a nice guy, real
23 nice guy but the problem is it doesn't make any sense.
24 Then they have got these three guys, the guys that were at
25 this little shindig or whatever they were doing, having

1 some beer, in and out and Mr. Kinsey testified that the
2 shell casings were right here, right next to the victim's
3 car. All of these guys were the last guys to see these
4 two. Mr. Foggie didn't take the initiative to get any GSR
5 that would indicate anything. And I wasn't recommending
6 that the constitution be breached and all of a sudden we
7 declare a state of emergency, that is not what I was
8 getting towards here. What I was getting towards was,
9 since there is only one entrance to this particular
10 Stoddard Trailer Park that they could check people as they
11 went out to see if they knew anything. Because when the
12 first officer got on the stand he said he took seven
13 minutes to get to the scene and he said there were ten
14 people there and they were up in this area because this is
15 where they thought the crime scene was. When Mr. Foggie
16 came there were thirty people around. What happened to
17 the crime scene during that period of time. I would
18 submit that it was very likely that it was either altered
19 or something may have happened, we don't know. But the
20 only people that ever saw Stakren that day were these
21 three guys that have everything in the world as far as a
22 motive to lie because these guys may have had something to
23 do with this crime. And think about this, did you listen
24 to the testimony of the one guy, Mr. Curenton, he said
25 that he never saw the body of this guy, never saw him when

1 he came back. Never saw the body, he lived there but
2 never saw the body when he came back. Why did he leave.
3 But these three guys have all the motive in the world to
4 lie. But did you notice and there was no testimony, none
5 of those guys were charged. They got every motive in the
6 world to lie in this case. You can read their testimony,
7 you will read their statement, excuse me, and the
8 statements were typed up by Mr. Foggie. Mr. Goggins'
9 statement was also typed up by Mr. Foggie. But these are
10 the guys that would have seen anything and their home was
11 never searched, there is no GSR on these guys and these
12 guys had every reason in the world to lie, they had a
13 motive. The flaws that he talks about in this case are
14 crummy witnesses, crummy people with motives, criminals
15 with a record a mile long. Those are the flaws he has got
16 in this case and he has got no evidence. He has no
17 physical, no fingerprint, nothing, no GSR, nothing.
18 Nobody can come in here and corroborate anything that
19 these guys talk about because no one saw Stakren Jefferson
20 that day, this whole trailer park, no one saw him there
21 that day except these three guys that were right next to
22 the crime scene that Mr. Foggie never took the opportunity
23 to go in to see if they had weapons. They presented no
24 information as far as any bad blood or history between Mr.
25 Stakren and this fellow. There is no evidence that they

1 had a history of bad blood, some sort of dispute going on,
2 nothing about that. And no one saw him there that day.
3 You know, we are all here, the Judge in the beginning of
4 the case talked about the search for the truth. And there
5 is no question that a murder took place but you don't have
6 to fit round or square pegs into round holes just because
7 someone is accused of a crime. If the State has not
8 convinced you beyond a reasonable doubt that Stakren
9 committed this crime he is not guilty. So you have got to
10 make the jump between no evidence that Stakren through a
11 convicted felon and three guys, Foggie, Curenton and
12 Fuller that were right here at the crime scene, right
13 there. The State has presented no evidence in this case
14 that establishes that Stakren Jefferson committed this
15 crime. Someone else but he didn't. Let them prove their
16 case, let them prove their case to you beyond a reasonable
17 doubt but they can't do it in this case. You can't build
18 a house with bad material because if you do that it is
19 going to collapse. They are pitting their whole case on
20 the testimony of a convicted felon and three guys that had
21 every motive in the world to lie, every motive in the
22 world to lie. In conclusion, ladies and gentlemen, you
23 have got to look at this case and use your common sense.
24 And luckily the prosecutor has admitted that he has flaws
25 and one of his main witnesses is a convicted felon, a

1 record a mile long but you should believe him. He is a
2 convicted felon sitting in jail but you should believe him
3 though. But if you look at the evidence and you are
4 careful about it you will see that they cannot pin this
5 crime to Stakren. You can look at my client. I ask you
6 on behalf of Stakren and his family to render a verdict
7 which speaks the truth. A tragedy occurred, no question
8 about it. I ask you to find Mr. Jefferson not guilty.
9 Thank you.

10 THE COURT: Madam Forelady and ladies and gentlemen
11 of the jury, it now becomes my obligation to charge you on
12 the law that applies in this particular case. And as I
13 usually explain to jury's, what I am about to tell you now
14 is not extremely exciting stuff. It can be somewhat dry
15 and I always felt it was a little bit unreasonable for a
16 Judge to sit up here and charge the jury in the
17 conditional way that it has been done. The traditional
18 way has been the Judge sits up here and simply reads to
19 you the law that applies and you are suppose to absorb all
20 of that without any sort of assistance and get it all on
21 the first try and take it all in on the first try. Well,
22 I don't think that is reasonable if it took me three years
23 to get through law school, it is perhaps going to take
24 y'all a little more than fifteen minutes than me telling
25 you what the law is for you to get it. So you will have a

1 copy of these instructions to refer to during the course
2 of your deliberations in the jury room. If you need to
3 refer to these instructions or these charges on the law
4 feel free to do so but of course, of course you must
5 follow the instructions as a whole. You can't follow
6 some, you must follow the instructions as a whole. If you
7 have any questions about the law that applies in this
8 particular case or you need to ask me a question about the
9 law simply send a note and let me know what that question
10 is and I will bring you back in here and I will try to
11 answer your questions to the best of my ability.

12 Now, ladies and gentlemen, I remind you that the
13 indictment in this case charges the defendant with murder.
14 The fact that Mr. Jefferson was arrested, charged and
15 indicted in this particular case is not evidence in this
16 case and cannot be considered by you as evidence of guilt
17 in this case, nor does it create any, nor does it create
18 any presumption or inference of guilt. This document is
19 simply the formal written instrument which contains the
20 charge made against Mr. Jefferson. It is the formal
21 document by which this case is brought into this court.

22 The defendant in this case has pled not guilty to the
23 indictment, and that plea puts the burden on the State to
24 prove the defendant guilty. I instruct you that a person
25 charged with committing a criminal offense in this State

1 is never required to prove himself innocent.

2 It is an important rule of the law that the defendant
3 in a criminal trial, no matter what the seriousness of the
4 charge may be, will always be presumed to be innocent of
5 the crime for which the indictment was issued unless guilt
6 has been proven by evidence satisfying you of that guilt
7 beyond a reasonable doubt. This presumption of innocence
8 does not end when you begin your deliberations, but it
9 accompanies the defendant throughout the trial until you
10 reach a verdict of guilt based on evidence satisfying you
11 of that guilt beyond a reasonable doubt.

12 The presumption of innocence, ladies and gentlemen,
13 is like a robe of righteousness placed about the shoulders
14 of the defendant. That robe remains with the defendant
15 until it has been stripped from him by evidence satisfying
16 you of his guilt beyond a reasonable doubt.

17 The presumption of innocence, ladies and gentlemen,
18 is not a mere legal theory, it is not just a legal phrase.
19 It is a substantial right to which every citizen is
20 entitled unless you, the jury, are satisfied from the
21 evidence of the defendant's guilt beyond a reasonable
22 doubt.

23 What is a reasonable doubt in the eyes of the law. A
24 reasonable doubt is the kind of doubt that would cause a
25 reasonable person to hesitate to act. The State has the

1 burden of proving the defendant guilty beyond a reasonable
2 doubt. Some of you may have served as jurors in civil
3 cases where you were told that it is only necessary to
4 prove that a fact is more likely true than not true, such
5 as by the preponderance or the greater weight of the
6 evidence. In criminal cases the State's proof must be
7 more powerful than that. It must be beyond a reasonable
8 doubt. Proof beyond a reasonable doubt is proof that
9 leaves you firmly convinced of the defendant's guilt.
10 There are very few things in this world that we know with
11 absolute certainty, and in criminal cases the law does not
12 require proof that overcomes every possible doubt. If
13 based on your consideration of the evidence you are firmly
14 convinced that the defendant is guilty of the crime
15 charged you should find the defendant guilty. If on the
16 other hand you think that there is a real possibility that
17 the defendant is not guilty you must give the defendant
18 the benefit of the doubt and you should find him not
19 guilty.

20 I remind you that during this trial you and I have
21 certain duties to perform. As the trial Judge it is my
22 responsibility to preside over the trial of this case.
23 And I also have the duty to rule on the admissibility of
24 the evidence offered during this trial. You are to
25 consider only the competent evidence before you. If there

1 was any testimony stricken from the record in this case
2 you should disregard that testimony because you are to
3 consider only the testimony which has been presented from
4 this witness stand as well as any exhibits which have been
5 made a part of the record in this case. Under the law
6 questions of counsel are not evidence. Similarly
7 statements made by this Court or the attorneys in ruling
8 or arguing any evidentiary matter do not constitute
9 evidence in this case and should not be considered by you
10 during your deliberations.

11 I have the additional duty to charge the law that
12 applies in this case. And as the presiding Judge I am the
13 sole Judge of the law in this case so it is your duty as
14 jurors to accept and to apply the law as I now state it to
15 you. If you already have any idea as to what the law is
16 or what the law ought to be and it disagrees with what I
17 now tell you the law is you must abandon this idea because
18 you are sworn to accept the law and apply it exactly as I
19 now state it to you.

20 In every case tried in this court before a jury the
21 jury becomes the sole and exclusive judge of the facts in
22 a case. A trial Judge cannot intimate, state, comment on
23 or make any statement to a trial jury about the facts in a
24 case. Since you, the jury, are the sole judges of the
25 facts in this case you are not to infer from anything that

1 I have said during the progress of this trial in ruling on
2 the admissibility of evidence or otherwise or anything
3 that I say to you now during the course of these
4 instructions to you that I have any opinion about the
5 facts in this case. Ladies and gentlemen, the law does
6 not allow me to have an opinion about the facts in this
7 case. This is a matter solely for you to determine. As
8 jurors it is your duty to determine the effect, value,
9 weight and truth of the evidence presented during this
10 trial.

11 Now ladies and gentlemen, there are typically two
12 types of evidence which are presented during a trial,
13 direct evidence and circumstantial evidence. Direct
14 evidence is the testimony of a person who claims to have
15 actual knowledge of a fact, such as an eyewitness. It is
16 evidence which immediately establishes the main fact to be
17 proven. Circumstantial evidence is proof of a chain of
18 facts and circumstances indicating the existence of a
19 fact. It is evidence which immediately establishes
20 collateral facts from which the main fact may be inferred.
21 Circumstantial evidence is based on inference and not on
22 personal knowledge or observation. The law makes
23 absolutely no distinction between the weight or the value
24 to be given to either direct or circumstantial evidence.
25 Nor is a greater degree of certainty required of

1 circumstantial evidence than of direct evidence. You
2 should consider, you should weigh all of the evidence in
3 this case and after weighing all the evidence if you are
4 not convinced of the guilt of the defendant beyond a
5 reasonable doubt you must find him not guilty.

6 Necessarily, you must determine the credibility of
7 witnesses who have testified in this case. Ladies and
8 gentlemen, credibility simply means believability. It
9 becomes your duty as jurors to analyze and to evaluate the
10 evidence and determine which evidence convinces you of its
11 truth. In determining the believability of witnesses who
12 have testified in this case you may believe one witness
13 over several witnesses or several witnesses over one
14 witness. You may believe a part of the testimony of a
15 witness and reject the remaining part of the testimony of
16 that same witness. You may believe the testimony of a
17 witness in its entirety or reject the testimony of a
18 witness in its entirety. You may consider whether the
19 witness has exhibited to you any interest, bias, prejudice
20 or other motive in this case. You may also consider the
21 appearance and manner of a witness while on the witness
22 stand.

23 Ladies and gentlemen, we have several individuals
24 testify as expert witnesses in this case. And again, the
25 rules of evidence usually don't permit a witness to

1 testify to opinions or conclusions. An exception to this
2 rule exists for expert witnesses who by education and
3 experience have become experts in some art, science,
4 profession or calling. Such witnesses may state an
5 opinion as to relevant and material matters in which the
6 witness claims to be an expert and may also state the
7 reasons for their opinion. You should consider any expert
8 opinion received in evidence in this case and like any
9 other evidence give it the weight you think it deserves.
10 If you decide the opinion of an expert is not based on
11 sufficient education and experience or if you conclude
12 that the reasons given in support of the opinion are not
13 sound or that the opinion is outweighed by other evidence
14 you may disregard the opinion entirely. An expert
15 witness' testimony is to be given no greater weight than
16 that of other witnesses simply because the witness is an
17 expert. Further you are not required to accept an
18 expert's opinion even though it is not contradicted.

19 Now, ladies and gentlemen, I instruct you and
20 emphasize that the fact the defendant did not testify is
21 not a factor to be considered by you in any way in your
22 deliberations and in your consideration of the question of
23 the guilt or the innocence of the defendant. It must not
24 be considered by you in any manner whatsoever. It should
25 not even be discussed by you in the jury room because the

1 defendant has the constitutional right to remain silent.
2 And the assertion of this right must not be considered by
3 you during your deliberations. I repeat, under your oath,
4 you are to draw no conclusion whatsoever from the fact
5 that the defendant in this case did not testify. The fact
6 that Mr. Jefferson did not testify should not even be
7 discussed by you in the jury room. The burden of proof as
8 I have stated to you is on the State. The defendant is
9 not required to prove his innocence. The burden of proof
10 remains on the State to prove guilt beyond a reasonable
11 doubt.

12 Now in this case, ladies and gentlemen, there has
13 been evidence presented that witnesses have made prior
14 statements which are not consistent with the witnesses
15 present testimony. You may use this evidence to decide
16 whether to believe the witnesses. You may also use the
17 evidence of the earlier contradictory statements to
18 determine the truth of those statements. It is up to you
19 to decide whether to believe the earlier statements or the
20 testimony given at trial. If a witness is shown to have
21 knowingly testified untruthfully concerning any material
22 matter you may consider this in determining whether to
23 trust the witness' testimony as to other matters. You may
24 reject all testimony of that witness or give all or part
25 of the testimony the weight that you think it deserves.

1 Now in this case, ladies and gentlemen, a person who
2 has a prior criminal history and has testified, and I
3 charge you that a person who has a prior criminal history
4 or past criminal history is competent to testify during a
5 trial. A past record does not affect the ability of that
6 witness to testify. The past record may only be
7 considered by you, if at all, in determining the witness'
8 believability. Remember you are the sole judges of the
9 facts in the case and of the believability of any and all
10 of the witnesses who have testified.

11 Now ladies and gentlemen, in this case the defendant
12 is charged with murder. The State must prove beyond a
13 reasonable doubt that the defendant killed another person
14 with malice aforethought. I instruct you that malice is
15 hatred, ill-will or hostility towards another person. It
16 is the intentional doing of a wrongful act without just
17 cause or excuse and with an intent to inflict an injury or
18 under circumstances that the law will infer an evil
19 intent. Malice aforethought does not require that malice
20 exists for any particular time before the act is
21 committed. But malice must exist in the mind of the
22 defendant just before and at the time the act is
23 committed. Therefore there must be a combination of the
24 previous evil intent and the act. Malice aforethought may
25 be expressed or inferred. These terms express and

1 inferred do not mean different kinds of malice but merely
2 the manner in which malice may be shown to exist. That is
3 either by direct evidence or by inference from the facts
4 and circumstances which are proved. Expressed malice is
5 shown when a person speaks words which express hatred or
6 ill-will for another or when the person prepared
7 beforehand to do the act which was later accomplished; for
8 example, lying in wait for a person or any other act of
9 preparation going to show that the deed was within the
10 defendant's mind would be expressed malice. Malice may be
11 inferred from conduct showing a total disregard for human
12 life. If facts are proved beyond a reasonable doubt
13 sufficient to raise an inference of malice to your
14 satisfaction this inference would simply be an evidentiary
15 fact to be taken into consideration by you, the jury,
16 along with other evidence in this case. And you may give
17 it such weight as you determine it should receive.
18 Inferred malice may also arise when the deed is done with
19 a deadly weapon. A deadly weapon is any article,
20 instrument or substance which is likely to cause death or
21 great bodily harm. Whether an instrument has been used as
22 a deadly weapon depends upon the facts and circumstance of
23 each case. The following are examples of instruments
24 which may be deadly weapons, a pistol, a shotgun, a rifle,
25 a dirk, a dagger, a knife, a sling shot, metal knuckles, a

1 razor, gasoline, a fire bomb or lighter fluid.

2 Now, ladies and gentlemen, in this case there are two
3 possible verdicts which you may find and there is no
4 significance whatsoever to the order that I state these
5 verdicts. You may find the defendant guilty of murder or
6 not guilty of murder.

7 Now, I have written up the verdict form, Madam
8 Foreperson, for you to use during the course of your
9 deliberations. It has a very simple statement here. We,
10 the jury in the above captioned case on the charge of
11 murder unanimously find Stakren Tyrise Jefferson and then
12 there is a blank here for guilty and a blank for not
13 guilty. Based upon your review of the evidence in this
14 case if you find that the State has met its burden of
15 proving the defendant's guilt beyond a reasonable doubt,
16 Madam Foreperson, and all twelve jurors agree then you
17 should initial next to the guilty mark, sign right here,
18 knock on the door and let the bailiff know you have
19 finished your deliberations and we will receive you back
20 here into the courtroom. If on the other hand you find
21 that the State has failed to meet its burden of proving
22 the defendant's guilt beyond a reasonable doubt you should
23 sign right here next to, initial right here next to not
24 guilty, sign down here above where it says Forelady, knock
25 on the door and let the bailiff know. Now, ladies and

1 gentlemen, your verdict must be a unanimous one. We do
2 not have majority verdicts in South Carolina and I hope we
3 do not ever have majority verdicts. That means that all
4 twelve of you must agree on the ultimate verdict. Again,
5 when the verdict is decided upon simply knock on the door
6 after signing off on the form, let the bailiff know and we
7 will have you back in here in a few moments. Now, ladies
8 and gentlemen, just a few other things. The statements,
9 some of the statements which are coming into evidence have
10 markings on them, little black markings where the portion
11 of the statement is what we call redacted. The reasons
12 for that is I have ruled as a matter of law that the
13 portion of that statement that is blacked out, if it is
14 blacked out that is simply not relevant evidence for you
15 to consider. So that is the reason I have made a
16 determination because that information is not proper for
17 you to consider and that is the reasons it is blacked out.
18 You should obviously not speculate as to what is
19 underneath that blacked out line on any of the statements
20 that you receive back there. Additionally I believe that
21 we do have several weapons back there, they will remain
22 secure while you, when they go back to you they remain
23 locked the entire time. Again, they are not loaded. Out
24 of an abundance of caution if at any time you are handling
25 the weapon simply point it at the floor or the ceiling if

1 you need to inspect it. I don't know that any live
2 ammunition was introduced into evidence.

3 MR. MOWRY: No, sir.

4 THE COURT: We won't need to address that then.
5 Ladies and gentlemen, I will remind you in the case you
6 have no friends to reward and you have no enemies to
7 punish. The objective here is to render a verdict that
8 speaks the truth pursuant to the oath that you took
9 yesterday or Monday. In a moment I am going to ask that
10 you step back to the jury room but don't begin your
11 deliberations yet. What I am going to do is go ahead and
12 send the Clerk of Court back there, she will take your
13 lunch orders. I understand, Madam Alternate, you will not
14 get a lunch order taken since we are going to be bringing
15 you back out here shortly. I do understand that there is
16 at least one juror who has special dietary needs and we
17 will meet those needs. If any of you have other dietary
18 needs like diabetic or low sodium, we will try to meet
19 those needs. If you are a diabetic I guarantee we can.
20 Low sodium, I am not so sure but we will try, okay. But
21 she will take your lunch in a moment. Your cue to begin
22 your deliberations, Madam Foreperson, will be receipt of
23 all of the evidence that has been introduced in this case
24 back there as well as my copy of these instructions to you
25 and the verdict form. When you get all the evidence and

1 these papers that is when you can begin your deliberations
2 and when I ask the alternate to step out that is when you
3 can start your deliberations. Okay.. Just adjourn briefly
4 to the jury room. There are a few matters I want to take
5 up with the attorneys and the Clerk of Court will follow
6 you back there to get your lunch orders. Don't discuss
7 the case yet.

8 (Whereupon, the jury was excused from open court at
9 approximately 12:40 p.m.)

10 THE COURT: The jury is out, exceptions, additions
11 from the State?

12 MR. MOWRY: None from the State, Your Honor.

13 THE COURT: From the defense?

14 MR. ROBINSON: No sir, Your Honor.

15 THE COURT: Gentlemen, if you can just confirm that
16 we have got everything that is in evidence. I don't
17 believe that the clothing was introduced.

18 MR. MOWRY: No, sir. And I will put on the record as
19 well, Your Honor, the reasons that I did not do that is
20 because of the fear of the biohazard with the bloody
21 clothing.

22 THE COURT: And I think that everything except for
23 the statement of Mr. Goggins probably should be going
24 back.

25 MR. MOWRY: And the photograph of the victim as well,

1 Your Honor. I am going to return that to his family.

2 (Whereupon, the Court Reporter and attorneys go over
3 the exhibits.)

4 MR. MOWRY: I think that is everything, Your Honor.

5 THE COURT: All right.

6 (Whereupon, the jury started deliberations at
7 approximately 12:45 p.m.)

8 THE COURT: Bring the alternate out, please.

9 (Whereupon, the alternate came into the courtroom.)

10 THE COURT: Ms. Burgess, I want to thank you for
11 coming. We appreciate it so much. You are excused and
12 you can go to the Clerk's office if you need an excuse for
13 work. Again, thank you very much.

14 (Whereupon, the alternate was excused from the trial
15 of the case.)

16 THE COURT: We are back on the record of the State
17 versus Jefferson, indictment 08-GS-30-1165. I have
18 received a communication from the jury which I have shared
19 with counsel for the defendant, the record should reflect
20 that the defendant is present. I have also shown this to
21 the Solicitor. The note which I have marked as Court's
22 exhibit number one says, Your Honor, what do we do if we
23 cannot reach a verdict? It seems very unlikely that all
24 twelve of us will agree. And then it is signed by the
25 Forelady. At this point I am inclined to do what we did

1 last time and that is to give an Alan charge and see what
2 happens. That is my intention, objection from anyone. No
3 objection?

4 MR. MOWRY: None from the State, Your Honor.

5 MR. ROBINSON: None from the defense, Your Honor.

6 THE COURT: Let's have the jury, if we may.

7 (Whereupon, the jury came into open court at
8 approximately 3:55 p.m.)

9 THE COURT: Madam Forelady, I have received the
10 communication that you sent to me basically indicating
11 that y'all are having difficulty reaching a decision in
12 this case. Is that correct?

13 MADAM FORELADY: Yes, sir.

14 THE COURT: All right. I am basically going to give
15 you some additional instructions that I am hopeful are
16 helpful to you and it will sort of explain the
17 ramifications of being unable to reach a decision in this
18 particular case. But I am basically going to charge you a
19 few things. Of course you should take this charge in
20 concert with the charge that I gave earlier to you. Of
21 course read that with this in mind. Now, I have been told
22 by y'all that you are unable or having difficulty reaching
23 a verdict in this case. And as I instructed you earlier
24 of course all twelve of you have to agree and the verdict
25 in this case has to be unanimous. And often when a manner

1 is in dispute it isn't possible or it isn't always easy
2 for even two people to agree. So when twelve people have
3 to agree it becomes even more difficult. In most cases
4 absolute certainty cannot be reached or expected however
5 you have a duty to make every reasonable effort to reach a
6 unanimous verdict in this case. In doing this you should
7 consult with one another, certainly express your own views
8 and listen to the opinions of your fellow jurors. Tell
9 each other how you feel and why you feel that way and
10 discuss your differences with open minds. Although the
11 verdict of the jury must be unanimous every one of you has
12 the right to your own opinion. The verdict you agree to
13 must be your own verdict, the result of your own
14 convictions and you should not give up your firmly held
15 beliefs merely to be in agreement with your fellow jurors.
16 The majority should listen to the minorities position and
17 the minority should consider the majorities position. You
18 should carefully consider and respect the opinions of each
19 other and reevaluate your position for reasonableness,
20 correctness and impartiality. You must lay aside all
21 outside matters and reexamine the question before you
22 based on the law and the evidence in this case. Now,
23 ladies and gentlemen, if you do not agree on a verdict in
24 this case I must declare a mistrial. In that case it does
25 not mean that anyone wins, it just means that at some

1 future time I will be back here to try this case again
2 with some other jury sitting exactly where you now sit.
3 The same parties will come and the same lawyers will ask
4 basically the same questions and get basically the same
5 answers and we will go through the whole process again.
6 Now y'all were selected in the same manner and from the
7 same source as any future jury will be and there is no
8 reason for me to suppose that, there is no reason for me
9 to suppose that the case will ever be submitted to twelve
10 people who are most intelligent, impartial or
11 conscientious or competent as jurors than you twelve or
12 that any clearer evidence will be presented on one or
13 either side. For those reasons, ladies and gentlemen,
14 therefore I am going to ask that you return to your
15 deliberations and consider what I have just suggested to
16 you in the way of hopefully or possibly rendering a
17 verdict which is unanimous. So if you would just consider
18 what I have told you and return to your deliberations at
19 this particular moment and time, understanding with what
20 we are dealing with here today. With that thank you very
21 much for your patience and your courtesy. If you will go
22 back and continue your deliberations. Any other thing I
23 can help you with I will be more than happy to try. Okay.

24 (Whereupon, the jury continues deliberations at
25 approximately 4:00 p.m.)

1 THE COURT: We will remain at ease on the State
2 versus Jefferson case for the time being and see where we
3 are.

4 (Whereupon, Court's Exhibit 1 was marked for
5 identification only.)

6 (Whereupon, Court's Exhibit 2 was marked for
7 identification only.)

8 THE COURT: I understand we have a verdict in this
9 case. Gentlemen, anything before we bring the jury in?

10 MR. MOWRY: No, sir.

11 MR. ROBINSON: Your Honor, I would like to say before
12 we get the verdict, I had an engaged with Mr. Mowry a
13 negotiation in this case as far as a resolution to it.
14 There was an offer in this case.

15 THE COURT: I was privy to certain negotiations that
16 involved an Alford plea to voluntary manslaughter with a
17 cap of 15 years is the most recent thing that had been
18 presented to me. And I of course had told counsel in
19 chambers that I would accept an Alford plea under those
20 circumstances but would not find that offensive. But of
21 course he would be capped at 15 years but apparently that
22 is not something that is going to happen today. So we
23 will see what the jury has to say. I will remind everyone
24 who is here, I think I said this in December, the first
25 time that we tried this case. But I have some, I have

1 very few hard and fast rules but one of my hard and fast
2 rules is no emotional display when a verdict is read. And
3 I understand that this can be an emotional time for both
4 sides and if you feel yourself losing your composure or
5 you feel like you are not able to maintain your composure
6 once the verdict is read feel free to simply stand up and
7 walk out of the courtroom until you can gain your
8 composure. Okay. I promise you I will not do any further
9 proceedings until you have calmed down. If someone needs
10 to speak if there are further proceedings but I am not
11 going to go forward with anything else until such time as
12 everyone is calm and we are ready to proceed. I do not
13 want to have to toss anybody in jail over loud outburst.
14 No cheering, no yelling, no sighs. The jury has worked
15 hard and I am not going to have their hard work communed
16 by any displays of agreement or disagreement with whatever
17 their verdict is. I have no idea of what it is going to
18 be. So with that admonition let me go ahead and have the
19 jury, please.

20 (Whereupon, the jury came into open court at
21 approximately 4:35 p.m.)

22 THE COURT: Madam Forelady, I have been told by the
23 bailiff that y'all have reached a verdict, is that
24 correct?

25 MADAM FORELADY: Yes, sir.

1 THE COURT: And all twelve members of the jury agree
2 on that verdict, is that correct?

3 MADAM FORELADY: Yes, sir.

4 THE COURT: If you would hand the verdict to the
5 bailiff, please, for me. Madam Clerk, if you will
6 publish, please.

7 CLERK OF COURT: In the case of the State of South
8 Carolina versus Stakren Tyrise Jefferson, case number
9 2008-GS-30-1165. We, the jury, in the above captioned
10 case on the charge of murder unanimously find Stakren
11 Tyrise Jefferson guilty. Ladies and gentlemen, if that be
12 your verdict please indicate by your upraised right hands.

13 THE COURT: Let the record reflect that all twelve
14 jurors did indicate by raising their right hand that this
15 was their verdict. Anything further from the State in
16 terms of the jury?

17 MR. MOWRY: No, sir.

18 THE COURT: From the defense?

19 MR. ROBINSON: No, sir.

20 THE COURT: Very good. Ladies and gentlemen of the
21 jury, I want to thank you for your patience with us this
22 week and your hard work. I realize that these decisions
23 are not easy decisions. And a lot of the work we do in
24 here involves twelve people like you have to make some
25 very tough calls. I do this every day, this is my life,

1 this is my job and sometimes it is easier because it is my
2 job to make these kind of decisions and these kind of
3 calls. As a Judge I get used to it but it is a lot for
4 the system to expect twelve citizens to come in and have
5 to make the same sort of tough decisions that maybe I am a
6 little bit more accustomed to making. With that said I
7 will tell you that our system functions because of the
8 work that people like you do. And if there is any sort of
9 safety net against guarantee in this country it is the
10 guarantee that twelve jurors are always willing to come
11 in, twelve average citizens are willing to come in and
12 serve their country in the way that you have today. I
13 want to thank you for your attention. I want to thank you
14 for you dedication and most importantly your patience and
15 certainly the work that you have done of the last couple
16 of hours. At this point and time I will tell you that the
17 Clerk has already printed out your paychecks. I am not a
18 big fan of paying jurors for money. My attitude has
19 always been this is kind of like, this is just a
20 responsibility that any good citizen should do, the amount
21 that you get paid actually, it is not a lot. So in my
22 mind it cheapens the value of your service by getting
23 paid. So it is kind of like voting. You show up and you
24 got to vote, that is a duty that you have as a citizen.
25 Sometimes you might, maybe you will get drafted or at

1 least generations ago you get drafted. You didn't have a
2 choice, you had to go. It is a job of a citizen. That is
3 what y'all did this week. You will get paid something for
4 it, she does have your checks. And if you need an excuse
5 for work she will get that for you. What we are going to
6 do is take a brief break. The Clerk will provide you with
7 checks and any work excuses that you may need. We will
8 proceed the sentencing on this case in a few moments. But
9 for various security reasons, if you want to stick around
10 for that that is perfectly fine. I need y'all to sit out
11 there in the gallery and that is just because of security
12 concerns. If you want to go home that is fine too.
13 Regardless I hope y'all have a wonderful afternoon and a
14 great day. Have a good night. Thank you again for
15 everything that you have done. Madam Forelady, we need
16 you to sign off on the indictment. I forgot to do that.
17 The form that you signed is not the actual indictment so
18 the Clerk needs you to sign this.

19 (Whereupon, the jury was excused from open court at
20 approximately 4:40 p.m.)

21 THE COURT: We will be at ease for a few moments.

22 (Whereupon, a short break was taken.)

23 THE COURT: At this point and time, Mr. Robinson, any
24 motions that you would care to make?

25 MR. ROBINSON: I have no motions at this time, Your

1 Honor.

2 THE COURT: The way that I prefer to proceed is
3 certainly anything that the victim's family might want to
4 say to me. We can hear that first.

5 MR. MOWRY: I will defer to Mr. Wiltshire on that,
6 Your Honor.

7 MR. WILTSHIRE: No statements at this time, Your
8 Honor.

9 THE COURT: No statements.

10 MR. MOWRY: I have provided the Court with a victim
11 impact statement from the mother, Bertha Algood but I
12 don't think they wish to say anything in open court at
13 this time.

14 THE COURT: Just give me a moment to review the
15 statement, please.

16 I have reviewed the victim impact statement. Mr.
17 Mowry, would you care to educate me as to any prior
18 criminal involvement Mr. Jefferson may have been involved
19 in?

20 MR. MOWRY: Yes sir, Your Honor. He has a prior for
21 distribution of cocaine, for distribution of cocaine in
22 proximity of a school, for possession of a pistol and for
23 resisting arrest. He has a current charge for
24 distribution of cocaine. It is on video, it is a good
25 video but unfortunatley the chain of custody has been

1 pretty irrevocably damaged so we will not be proceeding on
2 that case. But he has a serious prior record.

3 THE COURT: The distribution charge, when was that,
4 did he serve any time on that?

5 MR. MOWRY: Yes sir, he did. I believe it was in
6 2006. He had his probation revoked on it I think in 2008
7 right after, in late July he served about six months.

8 THE COURT: So he received probation initially?

9 MR. MOWRY: Yes, sir.

10 THE COURT: Mr. Robinson, I am happy to hear anything
11 that you want to present, anything that Mr. Jefferson may
12 want to say or that his family may want to say on his
13 behalf.

14 MR. ROBINSON: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. ROBINSON: Your Honor, this is a very difficult
17 situation. It is a horrible circumstance, my client has
18 always maintained his innocence in this case. He is still
19 a young man, he is only 27 now. He has got a good family,
20 his mother is here with him today as well as his uncle.
21 These are very good people and this is a sad circumstance
22 that this happened when it did. And he is sorry for this
23 situation. In mitigation, Your Honor, we did try a very
24 good case, I thought the jury was hung up at one point.
25 We tried this case once before. And there was some

1 different wrinkles in this case that came in. But we ask
2 the Court for minimum sentence in this case, Your Honor,
3 thank you.

4 THE COURT: Thank you very much, Mr. Robinson. Mr.
5 Jefferson, is there anything that you want to say, sir.
6 You don't have to say anything but if you want to feel
7 free.

8 MR. JEFFERSON: I would just like to say that the
9 minimum sentence is innocent. I am totally innocent. I
10 am sorry it came down to this but honestly the truth is I
11 am innocent, innocent.

12 THE COURT: Thank you, Mr. Jefferson. Mr. Robinson,
13 how much did your client serve in jail before y'all made
14 bond?

15 MR. JEFFERSON: I served 20 months, sir.

16 THE COURT: Does that sound accurate?

17 MR. MOWRY: Part of that time was in the Department
18 of Corrections after a probation revocation apparently,
19 Your Honor. I was actually going to make a phone call
20 down to the detention center when the verdict came in so I
21 did not complete that.

22 THE COURT: All right. We may have to straighten
23 that out at another point and time.

24 MR. MOWRY: Your Honor, I ask the Clerk as to when he
25 got out on bond.

1 MR. ROBINSON: Your Honor, my client informed me that
2 he got out on bond January the 20th of 2010. He has had
3 no problems since then.

4 THE COURT: That is when he was released on bond?
5 June or January?

6 CLERK OF COURT: January the 20th.

7 THE COURT: January the 20th is when he made bond?

8 MR. ROBINSON: Yes, sir. That is correct, Your
9 Honor.

10 THE COURT: All right. That would still include the
11 time that he spent on the probation violation in SCDC or
12 would it not?

13 MR. ROBINSON: I think it would.

14 MR. MOWRY: Yes, sir.

15 THE COURT: It might not be possible to figure that
16 out at this point. We have to simply have, Mr. Robinson
17 may submit to the Court concerning the jail time. All
18 right. Mr. Jefferson, anything before sentencing at this
19 particular point and time? From the State?

20 MR. MOWRY: Nothing more from the State, Your Honor.

21 THE COURT: The defense?

22 MR. ROBINSON: Nothing, Your Honor.

23 THE COURT: Mr. Jefferson, I heard you a moment ago
24 when you asserted your innocence and I appreciate your
25 position in this particular case. In all candor I have

1 had the opportunity to hear the testimony on this case
2 twice and I am quite satisfied that you are guilty of this
3 crime beyond a reasonable doubt. I understand that you
4 take issue with that and that is to be expected. But the
5 jury has spoken and if I had any hesitation concerning
6 your culpability in this matter or your guilt then we
7 wouldn't be proceeding with sentencing. So, that is where
8 we are. What concerns me the most, Mr. Jefferson, is that
9 we have an awful lot of young people who seems to feel the
10 need to carry a gun, use a gun and why they do it I do not
11 know. But it seems like more and more people and even
12 individuals such as the case down in Florida, people are
13 resorting to deadly force first as opposed to a simple
14 fist fight or something else. And when somebody resorts
15 to deadly force it is not unexpected that tragic events
16 like this take place. I have read and I have considered
17 the impact statement that was offered by the decedent's
18 mother, the victim's mother. You understand, Mr.
19 Jefferson, that you didn't just take this young man's
20 life, you also made his daughter an orphan, you also took
21 away somebody's child by what you did. And so there are
22 ramifications that ripple through this whole crime and
23 this entire incident that simply don't involve you. And I
24 am tired of seeing young men throwing their lives away
25 because of stupid violent decisions that they make. And I

1 regret that you have chosen to make that kind of a
2 decision, Mr. Jefferson. In terms of sentencing, I have
3 considered your prior record, I have considered your
4 previous involvement with law enforcement. I have taken
5 those factors into consideration and I have considered the
6 fact of this matter on the victim. In all candor, Mr.
7 Jefferson, the easiest thing for me to do would be to
8 simply sentence you to life in prison because now a life
9 means life and that means you would be going away until
10 you are dead. I am not going to follow that course mainly
11 because you are still relatively a young man and I think
12 there is hope for rehabilitation. But understand, Mr.
13 Jefferson, the sentence that I am giving you today will
14 result in your spending what I consider to be the quality
15 years of your life locked up behind walls with maybe an
16 hour out every day with others dictating to you what you
17 shall eat, when you shall wake up, when you shall bathe,
18 every choice that you have been accustomed to making these
19 27 years will now be made by somebody else. So that will
20 be your life and that will be your existence, not so much
21 as a life but that will be your existence for the next 40
22 years. It is the sentence of the Court that you are
23 committed to the Department of Corrections for a term of
24 40 years. You are to receive time for the credit, or
25 credit for the time that you have previously served before

1 making bond not including the time that you were in prison
2 on the probation violation because according to the
3 statute you are not entitled to that. And, Mr. Jefferson,
4 I wish you luck, sir. God speed, you have got ten days to
5 appeal this matter. And, Mr. Robinson, you will need to
6 file a notice if you intend to appeal and forward the
7 paperwork to the Office of Indigent Defense. Good luck to
8 all concerned.

9 MR. MOWRY: Thank you very much, Your Honor.

10 MR. JEFFERSON: Thank you, Your Honor.

11 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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1 CERTIFICATE OF REPORTER
2
3

4 State of South Carolina)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Laurens, South
14 Carolina on the 18th day of June, 2012.

15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17

18 November 19, 2012
19

20
21 

22 Joy E. Holston, Court Reporter

23 My Commission expires: March 13, 2016
24
25

WITNESSES

Mareno Foggie
Laurens County Sheriff

WARRANT NUMBER

1-808416

*True Bill**Douy Carlin*

Foreman of the Grand Jury

Date: *8/22/08***VERDICT***Guilty**Katherine Addison*

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

August Term, 2008

Indictment # 08GS30- *1165***THE STATE**vs. *I*

Stakren Tyrise Jefferson

INDICTMENT FOR

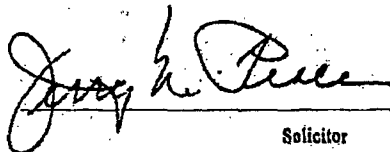
MURDER
16-03-0010

THE STATE OF SOUTH CAROLINA**INDICTMENT FOR****COUNTY OF LAURENS****MURDER
16-03-0010**

At a Court of General Sessions, convened on the 22nd day of August, 2008 the Grand Jurors of Laurens County present upon their oath:

That Stakren Tyrise Jefferson, did in Laurens County, state aforesaid, on or about the 16th day of May, 2008 willfully, feloniously, and with malice aforethought kill one Tavares Max Calwise by means of shooting him with a hand gun and that the said Tavares Max Calwise did die in Laurens County as a proximate result thereof on or about the 16th day of May, 2008, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Solicitor

Your Honor,
What do we do if we cannot
reach a verdict? It seems
very unlikely that all 12 of us
will agree.

Katherine Addison
Foreman



PERSONALLY appeared before me _____ who states:

My name is CARLOS FULLER My address is _____

Date of birth is: _____ Social Security # is: _____ Phone # is: _____

I completed the 12TH grade in school, and ☒ I can ☐ I cannot read and write.

Before answering any questions or making any statements, _____ LT. M. FOGGIE
a person who identified himself as an investigator for the Laurens County Sheriff's Office duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement that I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statements hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make, with out cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any statements, wether or not I have allready answered some questions or made some statements.

I do not want to talk to a lwyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the fallowing staement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

DRECK PULLED UP AT MY HOUSE BUT HE DIDNT COME IN THE HOUSE ARE KNOCK ON THE DOOR. HE WENT TO THE TOP OF THE HILL. THEN DRECK CAR LEFT FOR ABOUT TEN MINUTES AND THEN CAME BACK. LIL T (TREZ), AND VARIO CURITON CAME TO MY HOUSE WHILE DRECK WAS GONE. I LOOKED OUT THE WINDOW AND TOLD THEM THAT I WOULD BE OUT THERE IN A MINUTE. I CAME OUT THEN DRECK PULLED UP THEN TYRECE WAS WALKING THROUGH THE TOP OF THE TRAILER PARK. DRECK ID ILL BE BACK I GONB HOLLA AT TYRECE. THEN THEY BOTH WALKED BACK DOWN TOWARDS DRECK'S CAR. ME, VARIO, AND LIL T WAS TALKING ABOUT THE SHOW WE HAD TO DO ON SATURDAY. I WENT IN THE HOUSE TO GET A BEER OR ANSWER THE PHONE THEN WIEN CAME BACK OUT THE SHOTS STARTED FIRING TYRECE AND DRECK WAS STILL OVER BY THE CAR. LIL AND VARIO THEY WERE BY MY CAR. DRECK RAN TOWARD THEM THEN RAN UP THE HILL. TYRECE RAN UP THE STREET. VARIO _____ WALKED TOWARDS HIS ON HOUSE. I THEN TOLD LIL T LETS GO I WAS SCARED I DIDNT THINK HE WAS GONE DIE. I DIDNT KNOW WHERE HE WAS SHOT AT. I CAME BACK ABOUT 5MINUTES LATER TO SEE WHAT WAS GOING ON AND I SAW DRECK LAID OUT. THATS WHEN I KNEW HE WAS HURT FOR REAL. I CALLED 911 AND WENT TO CHECK ON HIM. DRECK WAS MOVING JOHN L SAID HE BEEN LAYING THERE FOR A MINUTE I AINT GOT NO PHONE THEN I SAID I CALLED THEM ALREADY. I TOLD DRECK DONT MOVE THIS CARLOS THE AMBULANCE IS ON THE WAY, HE GAVE ME A THUMBS UP. HE KEPT ON MOVING. THE POLICE CAME HE ALMOST PASTED AND I MOTIONED FOR THEM. I REMEMBER TELLING LIL T WHEN WE LEFT THE FIRST TIME THAT LETS GO BACK CAUSE WE HAVENT DONE ANYTHING CAUSE THIS IS LIFE.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts conctained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this staement be stopped. I also declare that I was not told or prompted what to say in this statement. This statemet was completed at 1220 hours, on the date of May 20, 2008

SWORN TO AND SUBSCRIBED TO BEFORE ME
THIS 20 DAY OF MAY, 2008

Raymond Franklin
CLERK PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 2/03/2010

X Carlos Fuller
Signature of person giving voluntary statement

witness: _____

witness: _____



STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

421

PERSONALLY appeared before me _____ who states:

My name is TREZ FOGGIE My address is _____

Date of birth is: _____ Social Security # is: _____ Phone # is: _____

I completed the 12TH grade in school, and ☒ I can ☐ I cannot read and write.

LT. M. FOGGIE

Before answering any questions or making any statements, _____
a person who identified himself as an investigator for the Laurens County Sheriff's Office duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement that I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statements hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make, with out cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any statements, wether or not I have allready answered some questions or made some statements.

I do not want to talk to a lwyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the fallowing staement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

I WENT TO CARLOS FULLER'S HOUSE THEN VARIO CURTION CAME OVER THERE SHORTLY AFTER I DID. THEN DREEK PULLED UP IN HIS CAR. THEN CARLOS SAID I'LL BE OUT THERE IN A MINUTE. CARLOS CAME OUT AND WE WERE TALKING ABOUT THE SHOW. CARLOS WENT BACK IN THE HOUSE TO GET A BEER. DREEK SAID WHAT'S UP TO ME AND VARIO THEN WALKED UP THE HILL THEN WENT THROUGH THE TWO ABANDON TRAILERS OUT OF SIGHT. THEN HE CAME BACK IN SIGHT FACING US THEN HE TURNED AROUND ARGUING WITH TYRECE. I HEARD DREEK SAY "FUCK YOU." THEN TYRECE SAID, "FUCK YOU." ME AND VARIO WAS STILL TALKING ABOUT THE SHOW FOR SATURDAY. DREEK WALKED DOWN A LITTLE BIT THEY WERE STILL FUSING. THEN TYRECE PULLED OUT A GUN AND SHOT ABOUT THREE TIMES. DREEK THEN RAN UP TOWARD THE ROAD. I TOOK OFF RUNNING AROUND THE HOUSE. CARLOS CAME OUT THE DOOR AND SAID "MAN LETS GO." ME AND CARLOS GOT IN THE CAR AND WENT TO STEVE'S STORE. THEN WE CAME BACK DROVE BY AND SAW DREEK LAYING ON THE GROUND. WE PULLED IN CARLOS'S YARD. CARLOS WENT IN THE HOUSE AND GOT THE PHONE AND CALLED 911. WE BOTH WALKED UP THE HILL TO CHECK ON DREEK. CARLOS TOLD DREEK THAT HE CALLED THE AMBULANCE FOR HIM THEN DREEK GAVE HIM A THUMBS UP. THEN THE POLICE GOT THERE AND TOLD US TO GET BACK.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials; and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this staement be stopped. I also declare that I was not told or prompted what to say in this statement. This statemet was completed at 1520 hours, on the date of May 20, 2008

SWORN TO AND SUBSCRIBED TO BEFORE ME
HIS 20th DAY OF MAY, 2008

Raymond Brian Klein
CLERK PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2-03-2010

Trez Foggie
Signature of person giving voluntary statement

witness: Raymond Klein

witness: Michael Dill



VOLUNTARY STATEMENT

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

PERSONALLY appeared before me _____ who states:

My name is LAVARIO KENTREL CURENTON My address is _____

Date of birth is: _____ Social Security # is: _____ Phone # is: _____

I completed the 12TH grade in school, and ☒ I can ☐ I cannot read and write.

Before answering any questions or making any statements, _____ LT. M. FOGGIE
a person who identified himself as an investigator for the Laurens County Sheriff's Office duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement that I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statements are hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make, with out cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose; and call for the presence of a lawyer to advise me before continuing any more questioning or making any statements, wether or not I have allready answered some questions or made some statements.

I do not want to talk to a lwyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following staement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever:

ME, TREZ FOGGIE, CARLOS FULLER, WAS OUTSIDE AT CAROL'S HOUSE TALKING ABOUT THE SHOW ON SATURDAY. TYRISE JEFFERSON CAME DOWN SPOKE TO US THEN WENT THROUGH THE TWO ABANDON TRAILERS. I THINK HE WAS GOING TO VANESSA SPERGON'S HOUSE. THEN DREK CAME BACK.

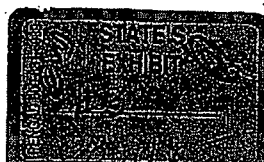
WHEN HE WALKED BETWEEN THE TWO ABANDON TRAILERS, I ASSUMED HE WENT TO THE SPERGON'S HOUSE. ABOUT 5 OR 10 MINS LATER DREK CAME BACK THROUGH THOSE TRAILERS THEN TYRISE CAME BACK THROUGH. DREK TOLD TYRISE COME HERE LET ME TALK AT YOU. THEY WERE UP NEAR THE ABANDON TRAILERS TALKING. I COULDN'T HEAR WHAT THEY WERE TALKING ABOUT BECAUSE WE WERE PLAYING MUSIC AND SOMEONE ELSE WAS PLAYING MUSIC TO I DIDN'T KNOW WHO BUT I HEARD IT COMING FROM NEAR THE SPERGON HOUSE. I HEARD TWO OR THREE SHOTS I DUCKED DOWN I SAW DREK RUNNING UP THE HILL. I DIDN'T SEE TYRISE ANYMORE. I WALKED UP THE HILL TO LEAVE CAUSE MY BROTHER HAD CALLED TO ASK ME TO WATCH HIS CHILD. I DIDN'T SEE WHEN CARLOS AND TREZ LEAVE. I WENT TO MY BROTHER'S HOUSE IN FOUNTAIN INN. THEN LATER ON ABOUT 3PM SOMEONE FROM VANESSA SPERGON'S HOUSE CALLED ME AND SAID THAT DREK WAS DEAD. IT WAS A LADY DON'T KNOW WHICH ONE IT WAS.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement. This statement was completed at 1300 hours, on the date of May 22, 2008

SWORN TO AND SUBSCRIBED TO BEFORE ME

HIS _____ DAY OF _____, 20 _____

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____



X [Signature]
Signature of person giving voluntary statement

witness: [Signature]
witness: _____

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 21st, 2013



David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STAKREN JEFFERSON,

APPELLANT

APPELLATE CASE NO 2012-212339

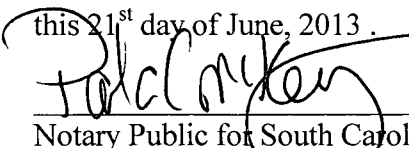
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 21st day of June, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 21st day of June, 2013.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

RECEIVED

JUN 21 2013

SC Court of Appeals