

Volume I of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY

Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT, **SC Court of Appeals**

V.

KELVIN MICHAEL BOWEN,

APPELLANT

Appellate Case No. 2011-185566.

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBITS #65 (CASSETTE TAPE OF RONALD MACK)**

STATE OF SOUTH CAROLINA)
) COURT OF MAGISTRATE
COUNTY OF SUMTER)
THE STATE,)
Plaintiff,)
-vs-) PRELIMINARY HEARING
)
KELVIN MICHAEL BOWEN, JR.,)
RONALD MACK & ANTONIO)
McCLARY,)
)
Defendant.)
_____)

MAGISTRATE: The Ellerbe Ackerman

DATE: June 10, 2009

TIME: 3:55 p.m.

LOCATION: Williamsburg County Courthouse, Kingstree, SC

TAKEN BY: Mr. William E. Jenkinson, III

REPORTER: Andrea R. Kelly

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1 offense of possession of a weapon during the
2 commission of a violent crime. Do you
3 understand that charge?
4 Ronald Mack Yes, sir.
5 Magistrate And under M-060834 with the offense of burglary
6 1st. Do you understand that charge.
7 Ronald Mack Yes, sir.
8 Magistrate An under M-060836 for the offense of murder, do
9 you understand that charge?
10 Ronald Mack Yes, sir.
11 Magistrate And under M-060848 with the offense of armed
12 robbery. Do you understand that charge?
13 Ronald Mack Yes, sir.
14 Magistrate And you are represented by Mr. Carraway. Does
15 the State waive the reading of these warrant
16 affidavits.
17 Ms. Barr We do you Honor.
18 Magistrate Mr. Carraway.
19 Mr. Carraway The Defense waives your Honor.
20 Magistrate Ms. Barr.
21 Ms. Barr We call Investigator Jean Lail.
22 PAMELA JEAN LAIL, HAVING BEEN DULY
23 SWORN, TESTIFIED AS FOLLOWS:
24 DIRECT EXAMINATION BY MS. BARR:
25 Q Investigator Lail, state your name for us please.

- 1 A Pamela Lail.
- 2 Q And who are you employed with?
- 3 A Williamsburg County Sheriff's Office
- 4 Q How long have you been in law enforcement?
- 5 A Since the mid 90's.
- 6 Q What is your current assignment in the sheriff's
7 office?
- 8 A The Investigations Division.
- 9 Q Are you a certified police officer?
- 10 A Yes, I am.
- 11 Q Ma'am, did you become involved in the
12 investigation of a shooting involving Kenyan
13 Dorsey that happened on April 5 of this year?
- 14 A Yes, ma'am.
- 15 Q And tell me where was the actual scene of the
16 shooting?
- 17 A It was at [REDACTED] Kingstree, in the
18 jurisdiction of Williamsburg County.
- 19 Q And what time was law enforcement notified that
20 there had been a shooting?
- 21 A The dispatch time was approximately 2:30 a. m.
- 22 Q 2:30 a.m. Who called the police to let you all
23 know that there had been a shooting?
- 24 A The mother of the victim, Annette Bradshaw.
- 25 Q That's the young lady that is seated here at the

1 prosecution table?

2 A That is correct.

3 Q What is her relationship to the victim?

4 A That was her son.

5 Q How old was Kenyan?

6 A Seventeen.

7 Q Seventeen years old. Tell me how you began
8 your investigation.

9 A Yes, ma'am, upon our arrival officers had already
10 secured the scene, the South Carolina Law
11 Enforcement Division was called to help in the
12 processing of the crime scene.

13 Q Let me do this so I can make sure I hear you. So
14 Ms. Bradshaw telephoned 911 and the
15 Williamsburg County Sheriff's Department came
16 out to her as well as State Law Enforcement
17 Division is that correct?

18 A That is correct.

19 Q And that was approximately 2:30 in the morning?

20 A Yes.

21 Q And will you tell us what Ms. Bradshaw reported
22 to the police officers?

23 A She reported that someone, persons had entered
24 here residence seeing that her son was in the front
25 kitchen area and he had been shot.

1 Q Did you actually go out to the scene?

2 A Yes, ma'am.

3 Q Was the body of Kenyan still there when you
4 arrived?

5 A Yes, ma'am.

6 Q Tell the court how Kenyan's body was positioned
7 when you arrived the scene?

8 A Upon my arrival the back door of the residence
9 once you go into the back door to your left
10 approximately 8 to 9 feet it leads into the dining
11 room, kitchenette area, and the victim was a wing
12 back chair in front of a small TV with an
13 entertainment system. It appeared that he was
14 possibly asleep in the chair, the TV was on, and
15 his clothing and his person and the chair was
16 saturated in blood.

17 Q And did you see where the blood was coming
18 from. Were there signs of obvious injury?

19 A It appeared that the obvious injuries were to the
20 head area and the frontal part of his body.

21 Q What types of wounds were to his head?

22 A It appeared to be more than one gunshot wound to
23 the head.

24 Q Please continue to tell me what Mrs. Bradshaw
25 told you about what happened to her son.

1 A Yes, ma'am. She stated that she was in the
2 bedroom of her residence which is on the adjacent
3 wall from where the victim was sitting, and that
4 she heard a loud noise. It being the middle of the
5 night she thought maybe it was fireworks or a
6 loud noise. She called out her son's name, and
7 she jumped up and she could hear something
8 rumbling or possibly moving. When she went
9 into the kitchen area when she walked into the
10 kitchenette area she could see the back of the
11 chair where her son was sitting. The TV was on,
12 and she reached over to turn the TV off, and when
13 she looked at her son to her right she saw that
14 there was blood.

15 Q And you indicated that she heard something that
16 she thought might have been fireworks?

17 A That's how she described it, yes, ma'am.

18 Q And you indicated that she called out to her son?

19 A That's correct.

20 Q Did she tell you whether or not her son actually
21 responded to her?

22 A No, he didn't.

23 Q He did not respond?

24 A No.

25 Q So she comes out and saw her son in the chair, an

1 she saw blood to his body, is that correct?

2 A That's correct.

3 Q Now, when you arrived at the scene did the victim
4 have a pulse?

5 A No, ma'am.

6 Q And did EMS or the coroner or whoever confirm
7 that he was in fact deceased?

8 A Yes, ma'am.

9 Q Do you know how the assailant or assailants
10 actually gained entry into the residence?

11 A Yes, ma'am, it appeared according to Mrs.
12 Bradshaw the back door of the residence closest
13 to where the victim was sitting, was dead bolted
14 or locked. The front door although it was locked,
15 it was not secure. There was something wrong
16 with the locking mechanism, and in any case it as
17 not locked. It was locked, but it wasn't secure.

18 Q And I will get back to that in just a moment. I'm
19 sure part of your investigation would have
20 involved you interviewing neighbors, friends and
21 that sort of thing?

22 A That's correct.

23 Q Tell me at what point did your investigation lead
24 in the direction of these Defendants.

25 A Upon speaking to the mother, and of course, part

1 of the investigation would be to find out if her son
2 had any problems with anyone or if she knew of
3 any prior disputes. She advised us that he did
4 have a problem with a young man.

5 Q Who was the young man that he had a problem
6 with?

7 A Ronald Mack.

8 Q And which of these individuals is Mr. Mack?

9 A The individual on the far end.

10 Q Far end. How old is Ronald Mack?

11 A Seventeen.

12 Q Did Ronald Mack have a friendship or
13 relationship to the victim?

14 A Yes, he did.

15 Q What was the nature of that friendship or
16 relationship?

17 A They were friends, and they had been friends for a
18 short time. As a matter of fact the victim had
19 attended Kingstree High School for a short time.
20 If I'm not mistaken, that's where they actually
21 met.

22 Q And did your investigation reveal whether or not
23 Mr. Mack had actually been to the home of the
24 victim prior to the night of the shooting?

25 A Yes, ma'am, according to the victim's mother he

- 1 had spent the night there with her son.
- 2 Q So Ronald Mack and the victim Kenyan were
- 3 actually the same age, is that right?
- 4 A That's correct.
- 5 Q And the other indicated that her son at some point
- 6 had some type of dispute with Ronald Mack?
- 7 A That's correct.
- 8 Q And kind of tell me the relationship, if any,
- 9 between Ronald Mack and these other
- 10 Defendants.
- 11 A The other co-Defendant being the female is his
- 12 biological mother.
- 13 Q And that is Tawanda.
- 14 A Tawanda Mack Allen.
- 15 Q Tawanda Allen is Ronald Mack's mother?
- 16 A That's correct. Kelvin B. is Tawanda Mack
- 17 Allen's boyfriend.
- 18 Q Okay.
- 19 A And Mr. Antonio McClary is a friend of Mr.
- 20 Ronald Mack.
- 21 Q Tell me at the time of the shoot where did Ronald
- 22 Mack live?
- 23 A At the time of the shooting he did reside on Dove
- 24 Street.
- 25 Q Here in Kingtree.

1 A Correction, Deer Drive, [REDACTED] but he had
2 had a problem with his father, and he had been
3 staying with a couple of friends of his over I
4 believe at [REDACTED] which is in the same
5 Green Acres subdivision or community.

6 Q What about Mr. McClary where was his residence
7 at the time?

8 A Number [REDACTED] which is a few houses
9 from the friends of Mr. Mack where he was
10 staying.

11 Q What about Mrs. Allen and Kelvin B. where
12 did they live?

13 A They were residing in Glen Burnie, Maryland.

14 Q Were they living together?

15 A To my knowledge, yes, ma'am.

16 Q So we believe that Ronald Mack's mother and her
17 boyfriend were staying together some place in the
18 State of Maryland?

19 A That's correct.

20 Q And tell me about your investigation in terms of
21 interviewing these individuals and what they told
22 you.

23 A Yes, ma'am, initially we made contact with the
24 two friends of Mr. Mack that reside on Dove
25 Street, and Mr. Mack was staying there with them

1 quite often. One of the individuals had advised,
2 who is a juvenile, he advised that they being he,
3 Quadir Wilson, Mr. Antonio McClary and Ronald
4 Mack had gone to Club Jordans on that day which
5 is April 5 at approximately 8:00 o'clock that
6 night, and stayed. Mr. Antonio McClary brought
7 Ronald Mack and the juvenile back to the
8 residence and then he left and returned. Upon his
9 return according to the juvenile Mr. McClary and
10 Ronald Mack then left the residence with Ronald
11 Mack's mother and her boyfriend which is Mr.
12 Bowen.

13 Q Which one of these Defendants did you interview
14 first?

15 A That would have been Mr. Antonio McClary.

16 Q And did Mr. Antonio McClary give you a
17 statement that implicated himself or the other
18 Defendants in connection with the murder of
19 Kenyan?

20 A Yes, ma'am.

21 Q Tell me what he said?

22 A He stated to us that that night or earlier that night
23 while maybe they were at Club Jordans...actually
24 he started out that he had gone over to pick
25 Ronald Mack up from the Hemingway area and

1 while in route back from Hemingway, Mr. Mack
2 was showing he juvenile friend of his as well as
3 telling Mr. McClary about text messages that he
4 and Mr. Bowen were sending back and forth
5 concerning the victim, and that he in fact...he
6 refers to Mr. Bowen as Callie.

7 Q He refers to Mr. Bowen as Callie?

8 A That's correct, that is his a/k/a and we determined
9 that through the investigation. There were
10 numerous text messages that were sent, and it was
11 believed by Mr. Antonio McClary and the
12 juvenile witness that Ronald's mother and Mr.
13 Bowen were in route from Maryland to help
14 Ronald do something. The juvenile witness did
15 not know exactly what. According to Mr.
16 McClary, after they returned from Club Jordans
17 and they were at the juvenile's residence, Mr.
18 Ronald Mack made a comment that he was going
19 to do a lick that night.

20 Q What does that mean, do a lick?

21 A According to Mr. McClary, he took that to mean a
22 robbery. I guess that could be whatever that
23 individual takes it to be, but that's what he stated.

24 Q Okay.

25 A And as a result Mr. McClary told him that he

1 wanted to go with him, and at that time initially
2 he didn't know exactly who, and then prior to
3 them leaving the residence Ronald Mack in fact
4 told him that it was the guy that he had had a
5 problem with, a fight with, a problem of some
6 sort, which Antonio knew to be Kenyan Dorsey.

7 Q Did he give you any other statements with regard
8 to the incident that happened?

9 A Yes, ma'am, he stated that Ronald Mack then got
10 a phone call or a text message or what have you
11 from his mother and/or Mr. Bowen, and they were
12 in fact outside the residence of the juvenile friend.
13 At that time Ronald Mack and Antonio McClary
14 went outside. Mr. Bowen who was sitting in the
15 passenger seat got out, and he and Ronald got in
16 the back seat of Kia Sportage which was
17 described by Mr. McClary. That was later
18 determined to be the Kia Sportage registered to
19 Ms. Tawanda Allen out of Maryland.

20 Q And Mr. Bowen got out of the front passenger
21 seat and got in the rear of the vehicle. Who was
22 driving the car?

23 A Ms. Tawanda Allen was driving.

24 Q She was the driver?

25 A That's correct, and Antonio McClary actually got

1 in the front passenger seat putting^{Kelvin B.}

2 and Ronald Mack in the back seat. According to
3 Mr. McClary that was so they could get the guns
4 loaded.

5 Q Did he talk about what types of guns they were?

6 A Yes, ma'am, he described the gun that Mr. Bowen
7 and Ms. Allen had brought, one to be a shotgun
8 and one to be a handgun.

9 Q And did Mr. McClary tell you where they went
10 after they picked up Mr. Mack and Mr. McClary?

11 A Yes, he said they then went to, and he described
12 Cooper's Store in the Sandridge area, they turned
13 there, and they went down to the road he
14 described as Jaybird Avenue, and stated that Ms.
15 Allen had circled the area with the lights off, and
16 that there was conversation from Ronald Mack
17 that the truck or vehicle was not there which he
18 knew belonged to Ms. Annette Bradshaw. He
19 knew that it was not there so she wasn't home.

20 Q Who said that her truck wasn't home?

21 A According to Ronald Mack he did not believe that
22 anyone was at the residence at that time, but Mr.
23 McClary further said that somehow Ronald Mack
24 had known that Kenyan was in fact there. That he
25 had been to the beach earlier, and that he was

1 there, and according to the mother originally
2 Ronald Mack was supposed to have gone to the
3 beach with them, and he cancelled.

4 Q According to the victim's mother Ronald Mack
5 was supposed to go to the beach with the victim?

6 A That's correct, and at some point cancelled.

7 Q And he cancelled. What did Mr. McClary say
8 happened once they arrived at the house, and did
9 not see the mother's truck.

10 A They then went to the end of the road on Jaybird
11 Avenue in the general vicinity where Ms.

12 Tawanda Allen parked with the lights off, and she
13 was told by Mr. Bowen and Ronald to wait there
14 until they come back, and the three of them being

15 Antonio McClary, Ronald Mack and Kelvin

16 Bowen, got out of the vehicle and then ran up to

17 the residence. According to Mr. McClary they

18 came around, if you are facing the back of the

19 residence, they went to the left hand side between

20 the wooded area and the house, and went around

21 to the front door. Mr. McClary said that Mr.

22 Bowen and Ronald but he kept saying Mr. Bowen

23 wanted him to kick the door in and then Mr.

24 Bowen said well, no, just try it and see if it's

25 open, and it happened to be open. They went in,

1 and originally Mr. McClary said he did not go
2 into the residence, and upon interviewing the
3 other co-defendants it was determined that he did,
4 but according to Mr. McClary he stopped on the
5 porch and then ran.

6 Q Who was actually carrying he weapons when they
7 went into the home of the victim?

8 A According to Mr. McClary at that point in the
9 investigation it was Ronald Mack and Kelvin B.

10

11 Q And when they went into the residence what
12 happened according to Mr. McClary?

13 A According to McClary he stopped on the porch
14 and ran.

15 Q Did he say anything that happened after they
16 came out of the house?

17 A He said that once he started running he heard two
18 shots, but he ran back to the car where Ms.

19 Tawanda Allen was and the car was running. He
20 got in and then within just a few moments Mr.

21 Bowen and Ronald Mack then came and jumped
22 in the vehicle. According to him he said that Mr.

23 Bowen and Ms. Allen took he and Ronald back to
24 the juvenile's residence, and told them they would

25 see them next week, and left and went back to

1 Maryland.

2 Q What happened to the guns according to Mr.
3 McClary?

4 A He stated that as far as he knew they stayed in the
5 vehicle with Kelvin B. and Tawanda Allen,
6 that they were not taken out by him nor Ronald
7 Mack.

8 Q And who is the second Defendant that you
9 interviewed?

10 A Based upon the information that we had obtained,
11 the matter was discussed, warrants were issued
12 for Tawanda Allen and Ronald Mack. We did not
13 have the positive identity of Kelvin B. We
14 then found out that Ronald Mack had in fact been
15 transferred from Kingstree Senior High to I
16 believe it's Old Mill High School in Maryland.
17 Once the warrants were active they were entered
18 into NCIC, and we notified the school resource
19 officer at Old Mill High School, and advised him
20 of the active warrants that were faxed over. We
21 also explained to him that there could possibly be
22 a male subject with Ronald Mack that we needed
23 to identify. Based upon that he told me that
24 particular day that Ronald Mack was not due to
25 come to school until approximately 10:00 o'clock.

1 Shortly after that I was notified that the Kia
2 Sportage belonging and registered to Tawanda
3 Allen had come to the school, and Mr. Ronald
4 Mack was placed under arrest based on the
5 warrants NCIC, and that the individual with him
6 was Kelvin Michael Bowen, Jr. At that time I
7 asked him to E-mail photographs of both
8 individuals to me being Mr. Bowen and Mr.
9 Mack. We brought Mr. McClary over and
10 immediately upon seeing the photographs E-
11 mailed he identified the one individual that was
12 Callie, which the officers on the scene in
13 Maryland identified him as Kelvin Michael
14 Bowen, Jr.

15 Q Let me ask you something, and we will get back
16 to the statement in a moment. Based upon the
17 information you had at that point, did you all ask
18 that a search warrant for Mrs. Allen's residence
19 be issued?

20 A That is correct.

21 Q And was that search warrant executed at her
22 residence?

23 A Yes, it was.

24 Q And did you all obtain anything that might be
25 used as evidence in connection with the murder o

1 Kenyan Dorsey?

2 A Yes, ma'am, I requested a search warrant on the
3 vehicle belonging to Ms. Tawanda Allen as well
4 as the residence. Originally upon speaking to Mr.
5 McClary he described the Kia Sportage inside and
6 outside, and that there was a GPS, so the search
7 warrant that Maryland and Arundo County PD
8 executed on the vehicle turned out to match the
9 description that Mr. McClary had given us along
10 with the GPS showing an address in the Lake City
11 area of South Carolina. Nothing else was found in
12 the vehicle. When they conducted the search of
13 the residence, there was a 12 gauge shotgun that
14 was located in the residence.

15 Q Did any of the Defendants who were arrested and
16 charged in connection with this case, ever identify
17 the shotgun that was recovered by law
18 enforcement as being involved in anyway in the
19 murder of Kenyan Dorsey?

20 A Yes, ma'am. That was Tawanda Allen and Ronald
21 Mack. I might also add that there were shotgun
22 shell casings, and 9 millimeter shell casings that
23 were also retrieved from the residence. Once
24 extradition was signed we brought all three
25 individuals, being Ronald Mack, Tawanda Allen,

1 and Kelvin Bowen back to South Carolina, and
2 we spoke with Ms. Tawanda Allen and she
3 advised that she had talked with her son Ronald
4 Mack prior to this incident, and there were some
5 issues between he and the victim Kenyan. As a
6 result she said that he had been texting Callie
7 which is Mr. Bowen, and she had gone to work on
8 Saturday. Originally she said Friday, but it turned
9 out to be that Saturday, and she had gotten a call
10 from Mr. Bowen and said we need to go to South
11 Carolina that Ronald needs us to take care of
12 something, needs me to take care of something.
13 Correction needs to take care of something.
14 Q Okay.
15 A With that Ms. Allen stated that she got home, and
16 prepared for a baby sitter for the two minor
17 children, and that Kelvin Bowen then retrieved a
18 9 millimeter handgun and the 12 gauge shotgun,
19 she called it a 10 gauge, from the residence,
20 wrapped it in a coat, and put it in the back of the
21 Kia Sportage, and that he had put the 9 millimeter
22 under her seat, the driver's seat. They drove to
23 South Carolina and there were continuous calls
24 made from Ronald during the night asking their
25 whereabouts, and how long it would take them to

1 get there and he was at the club at that time when
2 he was getting messages from her. She then
3 stated that they did pick Ronald and Antonio
4 McClary up from the juvenile's residence, and
5 then they drove to Kenyan Dorsey's residence and
6 they circled and she said she parked and that
7 Kelvin B: Ronald Mack and Antonio

8 McClary went to the residence.

9 Q Let me stop you for just a moment.

10 Approximately how far or how long would it have
11 taken Ms. Allen and Mr. Bowen to drive from
12 their residence in Maryland to Kingstree, South
13 Carolina?

14 A It takes approximately eight hours.

15 Q And during that eight hour period of time Ms.
16 Allen indicated that Ronald Mack had called
17 periodically to find out where they were, and how
18 long it would take them to get to South Carolina?

19 A That's correct.

20 Q And other than Ms. Allen indicating that Callie or
21 Mr. Bowen said that we needed to go take care of
22 something in South Carolina, did she tell you the
23 reason why, or what was her understanding as to
24 the reason why were going to South Carolina with
25 guns?

1 A She stated that the dispute was over money or
2 something between those two, but she did in fact
3 state that their intentions were to kill Kenyan
4 Dorsey.

5 Q She told you that she was aware that when she
6 drove from Maryland to South Carolina they were
7 coming here to kill somebody?

8 A That's correct.

9 Q Tell me what she said happened when she arrived
10 at the home of the victim?

11 A She stated to me that she sat in the vehicle, and
12 the vehicle was running and the three male
13 individuals actually went into the residence, and
14 the next thing she knew just a short time later she
15 heard two shots. Then they ran back and jumped
16 into the vehicle, Ronald getting into the front seat,
17 and Antonio McClary and Kelvin B. in the
18 back seat.

19 Q When she said they went into the residence who
20 was she referring to?

21 A She was referring to Kelvin B. Antonio
22 McClary and Ronald Mack, and then she advised
23 that Kelvin B. had actually given her details
24 as to what occurred inside of the residence on
25 their way back to Maryland.

1 Q What did she say?

2 A She stated that the three of them, being McClary,
3 Bowen and Ronald Mack had gone into the
4 residence. He did in fact say that they didn't have
5 to kick the door in, because it did open, and that
6 once they entered that McClary And Ronald
7 Mack, because Ronald knew the residence or had
8 been there before, went to the right hand side
9 which would have been down the hallway
10 towards Kenyan Dorsey's bedroom, and were
11 checking to see if there was anyone else in the
12 residence. Mr. Bowen in fact went to the
13 bedroom immediately to the left which was
14 determined to be the master bedroom of Annette
15 Bradshaw, and he stated that he attempted to turn
16 the light on, but the light wouldn't come on.
17 Supposedly he had shook the covers and no one
18 was there. At that time he said that Antonio
19 McClary had noticed that in the kitchenette area
20 there was a chair and the TV was on, and when he
21 looked he saw the victim Kenyan Dorsey was
22 asleep in the chair.

23 Q Antonio saw the victim asleep in the chair?

24 A That's correct and he waved for Ronald and
25 Bowen telling them that he was in there.

1 Q So Antonio alerted Ronald and Mr. Bowen that
2 the victim was in a certain area of the house?

3 A That's correct.

4 Q Did she indicate who actually had possession of
5 the shotgun and the handgun when the three of
6 them went inside the home?

7 A She stated to me that Kelvin B. actually had
8 the shotgun and that Ronald Mack had the
9 handgun. Again during this interview with her
10 we had retrieved the shotgun in evidence from
11 Arundo County PD, and she was shown the
12 shotgun and positively identified it as the weapon
13 that belonged to Mr. Bowen that came from
14 Maryland and that was used in the murder.

15 Q Did Ms. Allen say whether or not any of the
16 Defendants told her who actually shot the victim?

17 A She stated to me that Ronald had shot and Kelvin
18 that he had shot, but as far as how many or exact
19 details further than that I do not recall that.

20 Q So her statement to you was both of them, both of
21 the Defendants being Ronald Mack and Kelvin
22 Bowen, actually shot the victim?

23 A That's correct.

24 Q And what happened after they came out according
25 to Ms. Allen?

- 1 A She stated that Kelvin B. and Antonio
2 McClary jumped in the back seat of the Kia, and
3 Ronald jumped in the front and she took them
4 back to the juvenile's residence, and dropped
5 them off.
- 6 Q And then she and Mr. Bowen did what?
- 7 A They went back to Maryland that night.
- 8 Q The same night?
- 9 A That's correct or early morning.
- 10 Q Did Ms. Allen ever indicate there was a
11 conversation between Mr. Mack and Mr. Bowen
12 concerning the presence of Antonio McClary?
- 13 A Initially when they pulled up at the juvenile's
14 residence prior to the shooting, that they were not
15 aware that Antonio McClary was coming with
16 Ronald, and Mr. Kelvin B. somewhat
17 questioned Ronald about who he was and whether
18 he could be trusted and that type thing.
- 19 Q And did anybody ever question Ms. Allen as to
20 why she would participate and allow her son to
21 participate in what really was a hit. Did anybody
22 ask her that question?
- 23 A Yes, ma'am.
- 24 Q What was her response?
- 25 A She said that her son needed her to help him.

1 Q You mentioned that you also spoke Mr. Mack.

2 A That's correct.

3 Q And he gave you a statement?

4 A He did.

5 Q Tell the court what he said?

6 A Yes, ma'am, he stated that he and Kenyan had a
7 dispute over some money, a situation that

8 possibly took place in Florence. He did not

9 elaborate on that, and he stated that earlier that

10 day being the entire Saturday that he had planned

11 to or he was having his mother and Mr. Bowen

12 drive from Maryland, and that Callie being Mr.

13 Bowen, was going to help him take care of the

14 situation with Kenyan.

15 Q Tell me the date that you did the statement for Mr.
16 Mack?

17 A That was May 28 when they were brought back
18 from Maryland if I'm not mistaken.

19 Q I'm sorry, please tell me the nature of any
20 incriminating statements, if any, that he would
21 have made concerning the murder of Kenyan
22 Dorsey?

23 A As he continued his statement he stated that he
24 knew that his mother and Callie were coming
25 from Maryland, and they were in fact going to kill

1 Kenyan. He stated that earlier that night there
2 were texts, and he confirmed that there were texts,
3 and he knew that they were in route. They were
4 supposed to pick him up at the juvenile's
5 residence, and from there go to Kenyan's
6 residence. He stated that once they got to Jaybird
7 Avenue that his mother who was driving, that she
8 sat there with the lights off, the vehicle was
9 running and that he had a 9 millimeter, and that
10 Kelvin B. had the shotgun and that Mr.
11 McClary was unarmed, and that the three of them
12 went to the residence, Kenyan Dorsey's residence,
13 and he stated that prior to them getting to the
14 house they had circled, and he didn't see Ms.
15 Bradshaw's vehicle so he assumed she was
16 working that night, and no one was there. He
17 stated that they did go in, and he said that Antonio
18 more or less followed him into the bedrooms to
19 the right hand side when they entered the front
20 door. He was checking to see if anybody was in
21 there, and that Mr. Bowen went into the bedroom
22 to the left hand side, being Ms. Bradshaw's
23 bedroom. Then Mr. McClary finding Kenyan
24 Dorsey asleep in the chair in front of the TV he
25 flagged them, and alerted them that Kenyan was

1 in fact there in the chair. As a result he stated that
2 he fired three shots to the head area. He was
3 standing behind the wing back chair where the
4 victim was sitting, and there were three shots fired
5 to the head area and that Mr. Bowen fired two
6 shots with the shotgun.

7 Q What did he say they did after the shooting?

8 A He stated that they ran from the residence, and
9 went back to the vehicle where his mother was
10 waiting, and they got in. That Mr. Bowen kept
11 both of the weapons, they dropped he and
12 Antonio McClary off at the juvenile's residence.
13 Shortly after that Mr. McClary had gone on to his
14 residence and he said that he had changed clothes.

15 Q Did anyone give any statements concerning any
16 evidence concerning gunshot residue?

17 A Yes, ma'am. As a matter of fact the following
18 morning Quadir Wilson who resides there with
19 the juvenile at [REDACTED] he stated that he
20 got up to get ready to church, and that Ronald
21 Mack was in the bathroom washing his hands and
22 he said it was somewhat strange because he
23 continued washing his hands, and he said that he
24 asked Quadir to go and get the bleach to pour on
25 his hands. He asked him why would he wash his

1 hands with bleach, and he said it doesn't matter.
2 Twice he made the comment to the juvenile and to
3 Mr. Wilson because they asked him what did you
4 do, and he stated what's done is done. He gave us
5 a statement that he had washed his hands
6 thoroughly with bleach the following morning.

7 Q Did Mr. Mack tell you what the plan was in terms
8 of what they actually were planning to do in the
9 event there were other people there other than
10 Kenyan?

11 A Yes, ma'am, as a matter of fact during his
12 interview, I think it was Lt. Collins asked him
13 when she told him Mrs. Bradshaw was in fact at
14 the residence, and he was adamant that she was
15 not because Callie had told him that there was no
16 one in the room. Then the question was posed if
17 she had walked out, if anyone had been there, and
18 his statement was we would leave a witness.

19 Q Not a live one anyway.

20 A That's correct.

21 Q Was Kenyan's body taken to the Medical
22 University of South Carolina for an autopsy?

23 A That's correct.

24 Q And do you have the autopsy report in your file?

25 A Yes, ma'am.

1 Q Does the autopsy report indicate how many times
2 Kenyan was shot?

3 A It says cause of death shotgun wound, (1) and
4 multiple (3) gunshot wounds.

5 Q So it indicates that he was shot at least once by a
6 shotgun?

7 A Yes, and at least three times.

8 Q And at least three times by a handgun?

9 A That's correct.

10 Q And in any case the manner of death being what.

11 A The manner of death being homicide.

12 Q I beg the court's indulgence

13 Magistrate Yes, ma'am.

14 Q Ma'am, that's all the questions I have. Please
15 answer any questions that defense counsel may
16 have.

17 CROSS EXAMINATION BY MR. PALMER:

18 Q Thank you. I just have a few questions. You have
19 gone into a lot of detail about statements. Are
20 there any other statements in your file from either
21 Defendants or witnesses that you haven't talked
22 about?

23 A No, sir.

24 Q So you have statements from Mr. McClary.

25 A Let me back up. There were statements as far as

1 the vehicle, and then the only way she would
2 know he actually went in, would have been from
3 Mr. Bowen.

4 Q And in the course of your investigation did you
5 ever determine whether there was any indication
6 that Mr. McClary ever had any kind of run-in or
7 dispute with the alleged victim?

8 A Not that I am aware of.

9 Q Thank you.

10 Magistrate Mr. Jenkinson

11 CROSS EXAMINATION BY MR. JENKINSON:

12 Q Is it Investigator Lail?

13 A That's correct.

14 Q I am Billy Jenkinson and I represent Mr. Bowen
15 in this case. My question would be somewhat
16 general but more particularly as it relates to Mr.
17 Bowen.

18 A Okay.

19 Q Up until May 18, 2009 which looking back to
20 April 5, did any person ever step forward and
21 identify Kelvin B. Jr. as a person involved in
22 this case?

23 A No, sir.

24 Q No one ever?

25 A No, sir.

- 1 Q In your investigation some almost seven weeks
2 elapsed before warrants were issued?
- 3 A That's correct.
- 4 Q And when was it that you first had statements
5 which would lead you to believe that Ronald
6 Mack was involved in this murder?
- 7 A That would have been on or about May 18.
- 8 Q That is Ronald Mack.
- 9 A Involved in the actual incident.
- 10 Q Yes, ma'am.
- 11 A Hold on one moment. It was on or about May 18,
12 yes, sir.
- 13 Q What occurred on May 18 that triggered this flow
14 of information.
- 15 A Correction it was on May 13. That's when we
16 initially interviewed the juvenile individual who
17 resides at 161 Dove Street where Mr. Mack was
18 staying and Quadir Wilson who also resides at
19 161 Dove Street.
- 20 Q Would you give us the identity of that juvenile
21 witness?
- 22 A I can, yes, sir.
- 23 Q Who is that?
- 24 A Dontrey Barr.
- 25 Q Where does he live?

1 A [REDACTED]

2 Q

And what information or from whom did you get information that that juvenile Barr had information about this case?

5 A

Actually we didn't have solid information. It's not abnormal in an investigation to re-interview witnesses or individuals that we have already interviewed.

9 Q

The juvenile did he describe the male which led to the arrest of Mr. Bowen in terms of height and weight?

12 A

No, sir.

13 Q

Did you ever have a description of Mr. Bowen or Callie up until the 18th?

15 A

Somewhat, but not a positive identity.

16 Q

Who provided that description?

17 A

We had spoken with Mr. Ronald Mack's father and his girlfriend, but again it was just a general description.

20 Q

Who is Ronald Mack's father?

21 A

Ronald McGee.

22 Q

Where does he live?

23 A

He lives on [REDACTED] in Kingstree.

24 Q

And that is who Ronald was staying with for awhile until he had an argument?

25

- 1 A That's correct, and then he moved in at 161 Dove.
- 2 Actually he was staying at several different
- 3 places.
- 4 Q And his girlfriend what is her name?
- 5 A Diamond Christian who resides in the
- 6 Hemingway area.
- 7 Q And you interviewed both of them?
- 8 A She was interviewed, that's correct.
- 9 Q How about the father was he interviewed.
- 10 A Yes, he was interviewed.
- 11 Q And did either of them give any description of
- 12 Callie, the person who was later arrested and is
- 13 Mr. Bowen?
- 14 A I'm not sure Mr. Jenkinson. I don't have it
- 15 documented so I'm not sure if they gave a
- 16 positive identity.
- 17 Q Somewhere in the file I just learned, and I'm not
- 18 sure where, but there is a person described as
- 19 being about 5'9, 180 pounds, does that sound like
- 20 something you remember?
- 21 A No, sir. That was not described by anyone from
- 22 the initial scene that night, because no one saw
- 23 them. Of course, Mrs. Bradshaw didn't, and I
- 24 think Mr. McClary gave a description of him.
- 25 Q What day did you take the statement of Mr.

1 McClary?

2 A That was also on May 13.

3 Q Where did you take that statement?

4 A That was taken at the Sheriff's Department.

5 Q What information, the juvenile's information led

6 you to Antonio McClary?

7 A Somewhat, yes, sir.

8 Q Any other information that led you to him?

9 A No, sir, not that I can recall at this moment.

10 Q So your first break in the case was the interview

11 with this juvenile that you have just described?

12 A More or less, yes, sir.

13 Q Now, I understand the next connection was you

14 issued the warrant for the arrest of Tawanda

15 Allen.

16 A That's correct.

17 Q Did you name a second person in that proceeding

18 in Maryland to be arrested, and obviously Mr.

19 Mack.

20 A Right.

21 Q Ronald Mack, those two.

22 A That's correct at the beginning.

23 Q However, the Arundo County Police notified you

24 that this third person who was with them turned

25 out to be Mr. Bowen?

- 1 A That's correct.
- 2 Q And they sent you some photographs?
- 3 A That's correct.
- 4 Q And you in turn showed those photographs to
- 5 who?
- 6 A Mr. McClary.
- 7 Q Did you show those photographs in a photo
- 8 lineup or you just showed them one photograph?
- 9 A No, sir, due to the immediate time frame, Mr.
- 10 Bowen was not placed under arrest by Arundo
- 11 County, he was detained strictly for identity
- 12 purposes, so therefore with time limitations we
- 13 didn't have time to actually build a photo lineup.
- 14 Q But the photographs that you had, I think they
- 15 were faxed.
- 16 A They were E-mailed to me.
- 17 Q And you showed those to who?
- 18 A To Mr. Antonio McClary.
- 19 Q Did you show him any other photographs other
- 20 than those two photographs?
- 21 A No, sir.
- 22 Q No photo lineup?
- 23 A No, sir. Time did not permit that.
- 24 Q Do you have those photographs?
- 25 A I do.

1 Q Did the photographs indicate on them the name of
2 the person in the photograph. For example did
3 Mr. Bowen's photograph have his name at the
4 bottom of it?

5 A No, sir, not at all.

6 Q Was this a full length photograph or just of his
7 face?

8 A This was a small photograph that was E-mailed
9 and then when we showed it, it was actually full
10 screen. So there was no written material on it
11 other than the photograph.

12 Q And they were brought down, and the next thing
13 you did was took a statement of Tawanda Allen
14 first.

15 A That's correct.

16 Q And you have her written statement?

17 A We have a transcribed statement, that's correct.

18 Q And that was on the 28th of May?

19 A That's correct.

20 Q And the second statement you had was from her
21 son Ronald Mack?

22 A That's correct.

23 Q At anytime did she and Mr. Mack have a chance
24 to collaborate on their statement?

25 A No, sir. They could have done it prior to us

1 picking them up or being detained by Arundo
2 County, but on the transport back from Maryland
3 and even at the Williamsburg County Detention
4 Center, they were separated.

5 Q Would it surprise you if they weren't separated at
6 the Detention Center?

7 A They were separated from conversation.

8 Q But if in fact they had an opportunity to speak
9 with each other at the Detention Center before
10 giving statements, they certainly could have
11 collaborated then, couldn't they?

12 A No, sir, because we had asked that they not have
13 communication so that it would not taint the
14 interview.

15 Q Were there any inconsistencies between Mr.
16 Mack's statement and the juvenile's statement?

17 A The only inconsistency was that according...oh,
18 the juvenile's statement?

19 Q Yes.

20 A No, sir.

21 Q Were there any inconsistencies between Ronald
22 Mack's statement and Antonio McClary's
23 statement?

24 A Somewhat, yes, sir.

25 Q So what differences were there?

1 A Being that Mr. McClary excluded himself from
2 actually entering the residence.

3 Q Were there any inconsistencies or differences in
4 the statement between Ronald Mack and his
5 mother Tawanda Allen?

6 A Other than Tawanda Allen was not in fact in the
7 residence so she couldn't give details pertaining
8 to what occurred inside the residence. What let
9 up to going to the residence, and all of that was
10 consistent with the exception of course she was
11 not inside so she could not elaborate on that.

12 Q At the crime scene did you find any physical
13 evidence, fingerprints, material left which would
14 tie Callie also know as Kelvin B. to the crime
15 scene?

16 A Other than the shell casings that were collected by
17 SLED.

18 Q There were shell casing at the crime scene?

19 A That's correct from two separate weapons.

20 Q And in the Maryland residence you found a 9
21 millimeter pistol?

22 A No, sir, a shotgun was located in the residence.

23 Q Did you find any shell casings from the shotgun
24 in the residence?

25 A Yes, sir.

1 Q Have you done any analysis to determine that the
2 shotgun shells in the victim's residence that were
3 found were fired by the shotgun that you
4 recovered?

5 A Yes, sir, and they have been sent to SLED
6 forensic.

7 Q Forensic?

8 A Yes.

9 Q And if that come back not the same shotgun that
10 would be a major inconsistency?

11 A It would be inconsistent with Tawanda Allen and
12 Ronald Mack, because they identified that
13 shotgun as one of the weapons that was used in
14 the murder.

15 Q Describe that shotgun?

16 A It was packaged.

17 Q So you have not seen it?

18 A I have seen it, but I couldn't describe it. I didn't
19 take it out and actually make a visual of it.

20 Q Automatic or a double barrel.

21 A It's a single barrel, but I don't want to describe
22 because like I said it was packaged from the
23 evidence custodian at Arundo.

24 Q No description as to what gauge it was or whether
25 it was a pump or an automatic?

1 A I want to say it was a 12 gauge, and the only other
2 fact that I know about it is that the serial number
3 has been scraped off of it.

4 Q Any other physical evidence at the scene other
5 than what you describe?

6 A That would be in the SLED report, but not that I
7 am aware of. Again we are awaiting SLED
8 results.

9 Q Did you obtain any telephone records to find out
10 the existence of the telephone calls that were
11 made, and whether or not they were in fact made?

12 A Yes, sir, we have. We have since found out in the
13 middle of this investigation that Mr. Ronald Mack
14 in fact had two phones. We were not aware of
15 that at the very beginning, so we do not have the
16 records on the second line.

17 Q The records you received were any of those
18 consistent with the statement that there were a
19 bunch of text messages and phone calls being
20 made?

21 A There were text messages and there were phone
22 calls according to the phone company's records.

23 Q I'm talking about to Maryland?

24 A To and from, yes, sir.

25 Q On April 5, 2009?

1 A Yes, sir.

2 Q What time were they?

3 A I do not recall, and I do not have them with me
4 because there were quite a few, it was an
5 excessive amount.

6 Q Do you the second telephone number?

7 A Yes, sir.

8 Q So you are obtaining those records as well?

9 A Yes, sir, if I am not mistaken, we have served a
10 subpoena for those records.

11 Q Did you check any tire tracks to identify the Kia
12 Sportage?

13 A There would not have been...at that time we found
14 what appeared to be a shirt that was in the area
15 that was later determined that Ms. Allen had
16 parked the vehicle, and we found a whit towel
17 outside of the front door. According to the
18 information Ms. Allen had given us, she stated
19 that according to Mr. Bowen when they entered,
20 he, Ronald and Antonio McClary entered the
21 residence that for some unknown reason Mr.
22 McClary started picking up clothes that were on
23 the couch, and in our photographs we do have
24 laundry that was on the couch. It was later
25 determined that this shirt, if I'm not mistaken,

1 belonged to Mrs. Bradshaw that was actually in
2 the roadway. Based upon that there wouldn't have
3 been in tire tracks immediately up at the
4 residence.

5 Q Has the juvenile been asked to identify
6 photographs of Mr. Bowen?

7 A He doesn't know him.

8 Q Has he seen Mr. Bowen?

9 A He does not know him other than from Ronald.
10 Ronald shared with Quadir Wilson, the juvenile
11 and Antonio McClary that Callie was in fact his
12 mother's boyfriend.

13 Q Has the juvenile or Ronald Mack's father, both of
14 whom live in Kingstree, ever identified or seen
15 Kelvin B. before he came to Kingstree on
16 Mother's Day to pick up Ronald Mack?

17 A There is a possibility that Ronald Mack's father
18 may, but I just do not recall that at this time.

19 Q So right now the only identification you have of
20 Kelvin B. is provided by the Co-Defendants
21 in this case?

22 A That's correct.

23 Q All of the Co-Defendants.

24 A All three of the Co-Defendants, that's correct.

25 Q And that is the only identification you have?

1 A That's correct.

2 Q I think that's all I have. The court's indulgence
3 just one minute.

4 Magistrate Yes, sir.

5 Q That's all I have.

6 Magistrate Mr. Carraway.

7 Mr. Carraway Ronald Mack has no questions.

8 Magistrate Thank you. Ms. Barr.

9 Ms. Barr Just one follow-up.

10 REDIRECT EXAMINATION BY MS. BARR:

11 Q Investigator Lail when you took statements from
12 these Defendants how did they identify Mr.

13 Bowen. What do they call him?

14 A Callie.

15 Q The Defendants call him Callie, is that correct?

16 A The Co-Defendant's, that's correct.

17 Q And that is how Ms. Allen would refer to him?

18 A She did.

19 Q What about Mr. Mack?

20 A He referred to him as Callie, and either myself or
21 Lt. Collins, I cannot remember, asked where the
22 nickname had come from, and he's originally
23 from California which his driver's license history
24 if I'm not mistaken, shows an address of
25 California?

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
v.)
KELVIN MICHAEL BOWEN, JR.,)
DEFENDANT.)

TRANSCRIPT OF IDENTIFICATION HEARING
C/A #: 2009-GS-45-00180

WILLIAMSBURG COUNTY COURTHOUSE
Monday, January 31, 2011

BEFORE:

HONORABLE CLIFTON NEWMAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Kimberly Barr
Assistant Solicitor Tyler Brown
Attorneys for State of South Carolina

William E. Jenkinson, Esquire
Amanda Shuler, Esquire
Attorneys for Defendant, Kelvin Michael Bowen, Jr,

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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1 Ms. Barr: Yes sir.

2 The Court: Alright, what else you got?

3 Ms. Shuler: Your Honor may it please the Court?

4 The Court: Yes.

5 Ms. Shuler: This matter is before the Court on a evidence
6 motion and Motion to Suppress the photograph line up. That
7 motion was filed this morning and it should be a part of
8 the Court's record. Your Honor, you're probably pretty
9 familiar with the facts of this case as you've seen ...

10 The Court: You know, you say the Court's record in
11 General Sessions's court, it's not quite the same as
12 in, as in common pleas court where there's a file
13 that's given to the judge prior to a trial. Generally
14 in criminal court, you have an indictment only in the
15 file.

16 Ms. Shuler: You're probably pretty familiar with the facts
17 in this case, so I'm just going to briefly outline the
18 relevant portions of it. The Defendant, Kelvin Michael
19 Bowen has been charged with various crimes of murder,
20 first degree burglary, possession of a weapon during
21 the commission of a violent crime and criminal
22 conspiracy. Ronald Mack has pled guilty to the murder
23 of Kenyon Dorsey that occurred in Williamsburg County.
24 That murder occurred back on April 5th of 2009. The
25 crime remained unsolved for some time, but

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1 approximately after six weeks after it occurred,
2 Antonio McClary gave some information to law
3 enforcement, which led to the issuance of arrest
4 warrants for Ronald Mack and Tawanda Mack Allen. There
5 was also a person of interest connected with that by
6 the name of Callie. They did not know who Callie was,
7 but Antonio McClary provided an oral description of
8 Callie. He said that this person was real tall and
9 scrawny, with Afro-peasy hair that was not low cut,
10 with brown skin. At the time that the warrants were
11 served on Ronald Mack, Ronald Mack was with Kelvin
12 Michael Bowen. Whenever they were arrested in
13 Maryland, investigator Lail called Maryland and said
14 there's a person that we're trying to identify by the
15 name of Callie, who may be with Ronald Mack. Someone
16 in Anne Arundel County, Maryland called down and said
17 there is a person with Mr. Mack. Investigator Lail
18 said send me a picture, email me a picture of both
19 persons and I will have that presented to Antonio
20 McClary and let him identify him. Antonio McClary was
21 shown two pictures. She asked him to identify first if
22 one of those pictures was Ronald Mack and then was
23 shown a second picture, a picture of Kelvin Michael
24 Bowen and she says is this the person you know to be
25 Callie? And at that point in time, he indicated that

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1 yes, in fact it was, but what is important about that
2 is he was shown one single picture. It was not a part
3 of a six person line up. There were no other people
4 there for him to compare this too. It was one, single
5 picture. The Supreme Court has set a standard for the
6 admissibility of testimony concerning an out of court
7 identification and that was done in Neil versus
8 Biggers. It's a 409 United States Supreme County, 188
9 from 1972. The Court held in that case that suggestive
10 confrontations are disapproved, because they increase
11 the likelihood of mis-identification. Unnecessarily
12 suggestive confrontations are condemned because they
13 increase the chance of mis-identification. And Your
14 Honor, what might a suggestive line up be? The Court
15 has consistently held that a single person show up
16 suggestive and strongly dis-favored and in Denno,
17 which is a Supreme Court case from 1967 stated that
18 single person show ups are strongly dis-favored, now
19 absent certain circumstances the Court has said that
20 they need to be called into question and in this case,
21 this is exactly what happened. This was a single
22 person line up, he was shown one picture and asked is
23 this the person you know to be Callie? Now even if the
24 identification procedure was suggestive, it still may
25 be admissible, but the Court must look at the totality

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 27

1 of the circumstances. There are a number of factors
2 that the Court can consider. First he needs to, first
3 you should consider the opportunity of the witness to
4 view the criminal at the time of the crime, the
5 witness' degree of attention, the tendency, the
6 accuracy of the witness' prior description of the
7 criminal and the level of certainty demonstrated by
8 the witness at the confrontation and the length of
9 time between the crime and the confrontation. In this
10 case, the identification was obviously suggestive, he
11 was shown one picture surrounded by law enforcement
12 and asked whether or not this man was the person he
13 knows to be Callie. So, now the Court will need to
14 determine whether or not, based on the totality of the
15 circumstances as to whether the out of court
16 identification is admissible. Ronald Mack was well
17 known, a well known friend of the victim. He was also
18 a good friend of McClary. I think they even lived
19 together at one point in time. He had an opportunity
20 to observe Ronald Mack on a number of occasions, he
21 knew him, he was a friend. However, allegedly, Antonio
22 McClary spent about, just a few moments, if,
23 allegedly, if at all with Kelvin Michael Bowen had he
24 actually, if he had been here. Supposedly, they picked
25 these two people up and drove them out to Kenyon

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 28

1 Dorsey's house, shot Kenyon Dorsey and came back and
2 went back to Maryland. It was dark, it was two to
3 three o'clock in the morning, supposedly, Antonio
4 McClary was sitting in the front seat of the car with
5 Ronald or with Kelvin B. and Ronald Mack sitting in
6 the backseat of the car. He was admittedly scared
7 because supposedly, he thought they were only going
8 out there to rob this guy and then he says he sees
9 guns come out and he's worried about what he's gotten
10 himself into at this point in time. Because there was
11 a handgun that was brought out, a shot gun that was
12 brought out. His degree, his degree of attention was
13 not heightened as to what was going on. In the back,
14 he was worried about himself at that point in time.
15 McClary described Kelvin B. as tall, scrawny, with
16 an Afro-peasy hair and brown skinned. He got one thing
17 right, he got the height right. Kelvin B. is tall,
18 but also Your Honor, tall is a relative term. How tall
19 is tall? To me, everybody's tall.

20 The Court: Well, let me ask you this, you're seeking to
21 have me suppress testimony based on your argument?

22 Ms. Shuler: Yes sir, Your Honor.

23 The Court: Okay, to accept your argument as being fact
24 or what?

25 Ms. Shuler: Your Honor we can call the witnesses and

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 29

1 question the witnesses.

2 The Court: I'm just asking. You want to argue these
3 things that you're saying for me to agree with you and
4 say okay, identification suppressed. He cannot
5 identify his co Defendant.

6 Ms. Shuler: I can reference the statements that have been
7 provided and Your Honor, those would be what would be
8 admitted during the questioning of the witnesses, but
9 Mr. McClary is here and we'd be happy to question him.

10 The Court: All right. Ms. Barr?

11 Ms. Barr: Your Honor, I think clearly counsel's arguments
12 go to the weight of the evidence and not
13 admissibility. That's something that she argue to the
14 jury. Your Honor, this is not a situation where,
15 first of all, it wasn't a situation where the
16 investigator showed him a photo of the Defendant and
17 said is this the guy who was with you that night. And
18 if counsel were present during the trial of Tawanda
19 Allen, she would have heard that what happened was
20 when law enforcement in Maryland emailed Investigator
21 Lail a copy of Kelvin B. photograph, Antonio
22 McClary was actually on the way out or either walking
23 into the investigation room and said where'd you get
24 a picture of Callie. That's how that happened. It
25 wasn't as if they showed him one picture and said this

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 30

1 is the guy that was with you. And Judge, when you
2 look at the factors in determining whether or not a
3 photo i.d. is admissible, first of all, we take the
4 position that this is not that type scenario, but even
5 if you say that it was, and this is not a situation
6 where a victim happened to see this Defendant for a
7 split second, this is his co Defendant. This is the
8 person who was riding in the car with him, this is the
9 person who has engaged into conversation with him,
10 this is a person who goes in a house and sees him kill
11 somebody. You know, this is somebody who clearly had
12 certainly enough opportunity to see the Defendant and
13 so, we would submit that the motion is inappropriate
14 at this time and should be denied. And also, I may
15 just supplement my argument Judge, when you look at
16 the requirement, counsel was right. When the
17 Defendant was in Maryland with Ronald Mack, they
18 didn't know who he was. He was stopped outside in the
19 yard they had enough evidence on Ronald Mack at that
20 point to take him into custody and arrest him, but not
21 this Defendant. If that identification had not been
22 made, the Defendant would have just gotten in the car
23 and just left. He's six or seven hours away in
24 Maryland. If those aren't circumstances, when you're
25 talking about a murder, I don't know what is.

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 31

1 The Court: Alright.

2 Ms. Shuler: Your Honor, the admissibility of the out of
3 court identification requires a pre trial hearing to
4 determine its admissibility, so I would suggest that
5 this is absolutely appropriate for this time. With
6 that said, I'll be happy to question Investigator Lail
7 about the identification procedure.

8 The Court: Okay.

9 Ms. Shuler: If she would ...

10 The Court: She's still under oath. Come back
11 Investigator Lail.

12 DIRECT EXAMINATION OF INVESTIGATOR LAIL BY MS. SHULER:

13 Q: Investigator Lail, did you question Antonio McClary
14 on May 13, 2009?

15 A: If I recall correctly, yes ma'am.

16 Q: Did you question him twice on that day?

17 A: Yes ma'am.

18 Q: Did you get, did you tape those two questionings?
19 Those two interviews, I'm sorry.

20 A: All of the interviews that we have are transcribed and
21 turned over.

22 Q: So you have that interview transcribed?

23 A: Yes ma'am.

24 Q: I'm going to show you the second interview that was
25 conducted on that day at 7:24 pm on May 13, 2009. If

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 32

1 you'll look at page 32 please. What description did
2 Antonio McClary give you of the Defendant?

3 A: He said he's real tall and scrawny and I asked what
4 kind of hair and he said 'hair peasey, like real
5 peasey' and I said is it low cut and he said 'no,
6 Afro. Not low cut, like a Afro.

7 Q: Did he describe his skin color?

8 A: I said is he light skinned and he said brown skinned.

9 Q: Whenever you got the call from Maryland that said
10 there were, that they had arrested Ronald Mack, what
11 was the conversation like that you had with the other
12 officer?

13 A: Well, actually they called and had, if I'm not
14 mistaken, the vehicle stopped that had Ronald Mack and
15 another individual in it.

16 Q: Did you ask them at that time to send you pictures of
17 that other individual?

18 A: I did.

19 Q: And did you receive a picture of that individual?

20 A: Through email on my computer.

21 Q: Did you print that picture out?

22 A: If I'm not mistaken, I did, yes ma'am.

23 Q: Was it in color?

24 A: My printer does not print out color, so if it is in
25 color, if I produced it to the solicitor then we would

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 33

1 have gotten our administrative assistant to do that.

2 Q: I'm going to show you ...

3 Ms. Shuler: If you can mark this please, exhibit 3 for
4 identification purposes.

5 (Defendant's Exhibit Number 3 for identification)

6 Q: Is that the picture that you gave to him?

7 A: Gave to?

8 Q: To McClary.

9 A: No, I never gave him a picture.

10 Q: You never showed a picture to Antonio McClary?

11 A: You're asking me if I gave him a picture.

12 Q: I'm sorry.

13 A: I never gave him a picture. My computer is such that
14 at the back door of the investigations unit, I sit
15 exactly as I'm sitting now with my computer right
16 here. Anyone coming in the back would have access to
17 the screen and he was brought in at the same time by
18 another investigator or whomever.

19 Q: Did you show him the picture on the screen?

20 A: Did I show it to him? No, I did not. It come through
21 my email and I brought it up and as soon as I did, the
22 investigator walked through with Antonio and that's
23 when he looked at it and immediately, spontaneously
24 said where did you get a picture of Callie?'

25 Q: Can you tell, I'm going to show you this picture

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 34

1 again. From this picture that you said that was
2 emailed to you, can you tell whether he's got Afro
3 peasey hair?

4 A: No ma'am. 'I couldn't, he has a stocking cap on.

5 Q: Can you tell if he's tall?

6 A: Ma'am, I can only show you what was sent to me and
7 what the officer described him to be.

8 Q: Can you tell if he's scrawny?

9 A: I can only tell you what I have here.

10 Q: From that picture, does it appear as if he is tall?

11 A: There's no way for me to tell that.

12 Q: From that picture can you tell if he's scrawny?

13 A: No way for me to tell that.

14 Q: And was that the only picture that Antonio McClary
15 saw?

16 A: It was.

17 Q: Did you show him any other pictures that day?

18 A: Not that I recall. And again, to be sure, I did not
19 show him the picture. He walked in and saw the
20 picture.

21 Q: I understand, thank you.

22 Ms. Shuler: I have no further questions for her at this
23 time Your Honor.

24 The Court: Alright. Ms. Barr?

25 Ms. Barr: Yes sir.

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 35CROSS EXAMINATION OF INVESTIGATOR LAIL BY MS. BARR:

Q: Investigator Lail, just a couple of follow up questions if I may. Now, prior to Mr. Bowen's arrest, when Antonio McClary was telling you about his involvement in this case, how did he describe the Defendant Kelvin B. relationship to Tawanda Allen? Didn't he use it that they were boyfriend and girlfriend?

A: Well he did. He mostly referred to Callie as Ronald Mack's step father.

Q: Step father, because he and his mom were living together. Is that correct?

A: That's right.

Q: Now you later came to learn that the Defendant Mr. Bowen had a California driver's license?

A: That's correct.

Q: Is that why you believe he had the nick-name of Callie?

A: It is.

Q: Alright, he also had ties to Kansas. You later came to believe?

A: Yes ma'am.

Q: And when you were talking with the police officers in Maryland, he was actually on a stop there and what they call an investigative stop if you will?

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 36

1 A: That's correct.

2 Q: Alright and so certainly, he would have access to a
3 motor vehicle. He could have just left, is that
4 correct?

5 A: That's correct.

6 Q: Now you were very clear that you did not show Antonio
7 McClary a photograph, he just happened to see it when
8 it came up onto your computer?

9 A: That is correct.

10 Q: And in addition to Antonio McClary identifying Kelvin B.
11 as the individual who was with him that night,
12 did Tawanda Allen also identify the Defendant Kelvin B.
13 as the individual who was with her that night?

14 A: Yes ma'am.

15 Q: Who participated in the murder of Kenyon Dorsey?

16 A: That's correct.

17 Q: And Ronald Mack also identified Kelvin B. as the
18 person who was with them that night and participated
19 in the murder of Kelvin B. I mean of Kenyon
20 Dorsey?

21 A: Kenyon Dorsey, that's correct and both of them
22 referred to him as aka or what we call also known as
23 Callie.

24 Q: Both of them? Ronald Mack and Tawanda Allen.

25 Ms. Barr: That's all the questions that I have.

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 37

1 The Court: Anything further of this witness?

2 Ms. Shuler: Yes sir, Your Honor.

3 RE-DIRECT EXAMINATION OF INVESTIGATOR LAIL BY MS. SHULER:

4 Q: You said that he just saw those photographs on the
5 screen, is that correct? Whenever he was walking
6 through?

7 A: He saw the one photograph because it was an email.

8 Q: I'm going to show you what's a copy from the
9 transcript from the preliminary hearing that was held
10 back on June 10, 2009 on page 42. If you will read
11 lines 17 to 23 into the record please.

12 Ms. Barr: Judge, we would have an objection. That's not a
13 question for the witness, also if she's being
14 questioned about a document, I'd like a copy of it, if
15 Your Honor, please.

16 The Court: Do you have a question you're going to ask
17 the witness?

18 Ms. Shuler: I want, I have a follow up question I want,
19 she can read it and then I'll ask her the question.

20 The Court: Well you need to ask her a question and then
21 if you have some basis to have her read something. She
22 cannot just spontaneously start reading things for us.
23 You have to preface the things in your question.

24 Ms. Shuler: Yes sir, Your Honor, if you'll read lines 17
25 thru 23.

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 38

1 Ms. Barr: Same objection.

2 The Court: Read it to yourself.

3 A: I read it.

4 Q: Mr. Jenkinson asked you if you showed that picture to
5 Antonio McClary is that correct?

6 A: That's correct.

7 Q: And you responded that you did?

8 A: According to this, but again, the only time he saw it
9 was on the computer screen and it was a picture, but
10 there was not an actual photograph Polaroid type
11 picture.

12 Q: And he asked you if you showed him a photo line up and
13 you said no sir, time did not permit that. Is that
14 correct?

15 A: That's correct.

16 Ms. Shuler: That's all I have for her Your Honor.

17 The Court: Alright, anything further of this witness?

18 Ms. Barr: Not from the State Judge.

19 The Court: Alright, you can step down. Any other
20 State's witnesses?

21 Ms. Barr: Not on that issue Judge, no.

22 The Court: Any witnesses from the defense?

23 Ms. Shuler: No sir, Your Honor.

24 The Court: Alright. I find that based on the
25 circumstances the motion should be denied. There's no

Kelvin Michael Bowen, Jr. Vs. State of South Carolina 39

1 indication of any unduly suggestive identification by
2 the State.

3 Ms. Shuler: Thank you Your Honor.

4 The Court: What's next?

5 Mr. Jenkinson: I have another Your Honor, I think we handed
6 up a motion in limine.

7 The Court: Alright.

8 Mr. Jenkinson: Do you have a copy of that?

9 The Court: Yes sir.

10 Mr. Jenkinson: First we would move in limine as to any
11 matters the State may try to bring up about any
12 previous bad conduct, criminal record or bad acts,
13 which would that to be alleged of Mr. Bowen. And the
14 State should be prohibited from discussing any bad
15 acts and criminal violations of this Defendant other
16 than those charged as being prejudicial and having no
17 probative value.

18 The Court: Alright, Ms. Barr?

19 Ms. Barr: Well, Judge, I don't know what he's referring to.
20 I mean obviously I think if there is a matter that the
21 State intends to introduce that we believe is admissible
22 under the rules, then you know, the proper procedure would
23 be to make an objection at that time. I'm not sure what
24 counsel's alluding to. If there's a specific ...

25 Mr. Jenkinson: If there's anything that's in the record of

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

v.

KELVIN MICHAEL BOWEN, JR.,

DEFENDANT.

TRANSCRIPT OF RECORD
C/A #: 2009-GS-45-00180

VOLUME ONE

WILLIAMSBURG COUNTY COURTHOUSE
Monday, January 31, 2011-
February 4, 2011

BEFORE:

HONORABLE CLIFTON NEWMAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Kimberly Barr
Assistant Solicitor Tyler Brown
Attorneys for State of South Carolina

William E. Jenkinson, Esquire
Amanda Shuler, Esquire
Attorneys for Defendant, Kelvin Michael Bowen, Jr.

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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EXHIBITS

EIGHT (8) PAGES OF RECEIPTS FOR EXHIBITS ATTACHED

Receipt for ExhibitsCase # 2009-GS-45-0180Judge Clifton NewmanPlaintiff The StatePlt's Atty Kimberly BaerDefendant Kelvin Bowen Jr.Def's Atty W. Billy Jenkins
Amanda ShulerDate Trial Started Mon Jan. 31/2011

Date Trial Ended _____

Received of Melissa R. Singleton, Court Reporter for the above case, these exhibits:

- ~~ST 1~~ 1. Photograph
- ~~ST 2~~ 2. Photograph
- ~~ST 3~~ 3. Photograph
- ~~ST 4~~ 4. Photograph
- ~~ST 5~~ 5. Photograph
- ~~ST 6~~ 6. Photograph
- ~~ST 7~~ 7. Photograph
- ~~ST 8~~ 8. Photograph
- ~~ST 9~~ 9. Photograph
- ~~ST 10~~ 10. Photograph
- ~~ST 11~~ 11. Photograph of back door
- ~~ST 12~~ 12. Photograph of exterior residence w/ window
- ~~ST 13~~ 13. Photograph of exterior of residence w/ exit gate
- ~~ST 14~~ 14. Photograph of beneath deck where projectile is located
- ~~ST 15~~ 15. Photograph of projectile under deck
- ~~ST 16~~ 16. Photograph of deck
- ~~ST 17~~ 17. Photograph of wood on deck indicating projectile
- ~~ST 18~~ 18. Photograph
- ~~ST 19~~ 19. Photograph
- ~~ST 20~~ 20. Photograph of back door

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By: Carol S. Williams

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Amanda ShulerDate Trial Started Mon. Jan. 31, 2011

Date Trial Ended _____

Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:

- ☒ 21. Photograph of front door
- ☒ 22. Photograph
- ☒ 23. Photograph of inside - bedroom & living room
- ☒ 24. Photograph
- ☒ 25. Photograph
- ☒ 26. Photograph
- ☒ 27. Photograph of Kitchen Counter w/ Cartridge Case
- ☒ 28. Photograph
- ☒ 29. Photograph of Kitchen where Shotgun shells located
- ☒ 30. Photograph of Shotgun shells
- ☒ 31. Photograph of victim
- ☒ 32. Photograph of Cartridge Case on vent
- ☒ 33. Photograph
- ☒ 34. Photograph
- ☒ 35. Photograph
- ☒ 36. Photograph
- ☒ 37. Photograph of Cartridge case
- ☒ 38. Photograph of victim's body
- ☒ 39. Photograph of wall showing hole by projectile
- ☒ 40. Photograph

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By: Carolyn J. Williams

Receipt for Exhibits

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Amanda ShulerDate Trial Started Monday, Jan. 31, 2011

Date Trial Ended _____

Received of Melissa K. Singletary, Court Reporter for the above case, these exhibits:

- ④1. Photograph
- ④2. Photograph of wall showing pellets
- ④3. Photograph
- ④4. Photograph
- ④5. Photograph
- ④6. Photograph
- ④7. Photograph of license of victim
- ④8. Diagram of Japbird Avenue <Crime scene>
- ④9. pellets, wadding, cartridges
- ④10. Bullets from autopsy & specimens
- ④11. Photograph
- ④12. Photograph of vehicle
- ④13. Photograph of vehicle
- ④14. Photograph of vehicle
- ④15. Photograph of vehicle
- ④16. Photograph of Master bedroom
- ④17. Photograph of dresser drawer
- ④18. Photograph of bedroom
- ④19. Photograph of shotgun under mattress
- ④20. Apartment Lease Agreement

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By: Richard L. Williams

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Case # 2009-65-45-0180

Judge Clifton Newman

Plaintiff The State

Plt's Atty Kimberly Parr

Defendant Kelvin Bowen Jr.

Def's Atty Billy Jerkins
Amanda Shuler

Date Trial Started Mon. Jan 31, 2011

Date Trial Ended _____

Received of Melissa R. Singleton Court Reporter for the above case, these exhibits:

1. Suntrust Bank
2. Copy Driver's Licenses
3. Ed's Ltr to Kelvin Bowen dated 4-13-09
4. Driver's License Reinstatement Notice
5. Tape of Ronald Mack 5-29-09
6. Tape of Tawanda Mack Allen 5-29-09
7. Photograph of Kelvin Bowen
8. Miranda Warning of Ronald Mack 5-29-09
9. Photograph
10. Photograph
11. Photograph of Shotgun
12. Photograph of Shotgun
13. Photograph of Close up image of Shotgun
14. Photograph of right stand
15. Photograph of Close up of Amilimeter rounds
16. Photograph of Shotgun Shells
17. Photograph of Shotgun Shell loaded in shotgun
18. Photograph of GPS
19. Box w/ Shotgun
20. Light Bill

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By: Carol A. Williams

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Amanda ShulerDate Trial Started Mon Jan 31, 2011

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- 81. Class schedule
- 82. Composition
- 83. Class schedule
- 84. 4 unfired 12 gauge shotshells from magazine of shotgun
- 85. 1 Phone - Photo of Ronald Mark
- 86. Photos
- 87. Photos
- 88. Photos
- 89. Photo
- 90. Photo
- 91. Photos
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Amanda ShulerDate Trial Started Mon, Jan 31, 2011

Date Trial Ended _____

Received of Melissa A. Singleton, Court Reporter for the above case, these exhibits:

☒ 100 Photo
☒ 101 Photo
☒ 102 Photo
☒ 103 Photo of victim's head

☒ 104 Photo☒ 105 Photo☒ 106 Photo☒ 107 Photo☒ 108 Photo☒ 109 Photo☒ 110 Photo☒ 111 Photo☒ 112 Document - ~~for~~ Inmate Property Release Form

13. _____

14. _____

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

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By: Arthur J. Williams

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Amurda ShulerDate Trial Started Mon., Jan. 31, 2011

Date Trial Ended _____

Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:DA 1. Statement by Ronald MackDA 2. Statement of Antonio McClaryDA 3. Anne Arunder Police Department Pre InventoryDA 4. Mtn w/ exhibitsDA 5. Order Granting Dr Mtn to QuashDA 6. Photograph of 2 individualsDA 7. PhotographDA 8. PhotographDA 9. PhotographDA 10. PhotographDA 11. PhotographDA 12. Photograph

13. _____

14. _____

CT #1 - State's Responses to Defendant's Rule 5 and16. Brady Motions for DisclosureCT #2 - note from jury

18. _____

19. _____

20. _____

This 4th day of February, 2011Page 7 of 7

Williamsburg County Clerk of Court

By: Christina J. Williams

Receipt for Exhibits

Case # 2009-65-45-0180Judge Clifton NewmanPlaintiff StatePlt's Atty Kim BARR
W. Jenkinson (Bitty)Defendant Kelvin Bowen, Jr.Def's Atty Amanda ShulerDate Trial Started Monday Jan. 31, 2011

Date Trial Ended _____

Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:

- D/S 1. 1 pg investigation page & interview by Lail
 D/S 2. Anne Arundel County Police Taw Vehicle Inventory Report
 D/S 3. Photo of Kelvin Bowen Jr.

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This 4th day of February, 20 11Page 1 of 1

Williamsburg County Clerk of Court

By: Robert J. Williams

HEARING

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1 The Court: Alright, ladies and gentlemen, the
2 panel is now qualified. I want to welcome you here to this
3 weeks' term of general sessions court here in Williamsburg
4 county. General sessions court is also referred to, by
5 some, as criminal court. A court where the cases are heard
6 called by the Solicitor's office. The Solicitor for the
7 third circuit is Ernest "Chip" Finney. I understand their
8 Assistant Solicitor is Kimberly Barr. Mr. Willie
9 Jenkinson, is the Defense attorney here and Mr. LeGrand
10 Carraway, Public Defender and other folks are around,
11 including our Representative Ronnie Sabb, Cesar McKnight,
12 Darwin Harvin, also the Assistant Solicitor. We're going
13 to select a jury in a few minutes. In the first case
14 that's called for trial this week, we're going to take a
15 break of about ten minutes or so before we do the jury
16 selection in the first case. There are restrooms here,
17 located in the back area, for those of you who might need
18 to use them. We'll take a break, say fifteen minutes, and
19 we'll need you back in your seats at four o'clock for jury
20 selections in the first case. Thank you very much.

21 The Court: Okay, Mr. Solicitor, you may call your first
22 case.

23 Ms. Barr: If it please the Court Judge, at this time the
24 State calls indictment number 2009-GS-45-180. It's
25 the State versus Kelvin B. Your Honor this is an

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1 indictment handed down by the Grand Jury on July the
2 second, 2009. The Defendant is charged with murder,
3 burglary in the first degree, possession of a weapon
4 during the commission of a violent crime and criminal
5 conspiracy. He is being represented at trial by Mr.
6 Billy Jenkinson and the State is ready for trial.

7 The Court: Alright, ladies and gentlemen, the State has
8 called for trial the case of the State versus Kelvin
9 Michael Bowen, Jr. This is an indictment returned by
10 the Grand jury of Williamsburg county, charging him
11 with murder, burglary first degree, criminal
12 conspiracy and possession of a weapon during the
13 commission of a violent crime. He has pled not guilty
14 to this indictment, the charges in this indictment.
15 He's presumed to be not guilty of the charges
16 contained in the indictment. He cannot be found
17 guilty of any charge unless the State presents
18 evidence which convinces a jury of his guilt, beyond
19 a reasonable doubt and that's the purpose of the
20 trial. Mr. Kelvin Michael Bowen, Jr. if you will
21 and face the jury panel and his counsel as well, and
22 counsel if you'll introduce yourselves.

23 Mr. Jenkinson: I'm Billy Jenkinson. I practice law across
24 the street at Jenkinson and Jarrett. Here with me is
25 Mandy Shuler, also practicing with us in representing

HEARING

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1 Mr. Bowen.

2 The Court: Alright, thank you and the State is
3 represented through the Solicitor's office. If you'll
4 stand as well Ms. Barr, and introduce yourself as well
5 as anyone else you'd like to introduce.

6 Ms. Barr: Thank you Judge. Please the Court. Good
7 afternoon ladies and gentlemen. My name is Kimberly
8 Barr. I'm going to be prosecuting this particular
9 case, along with the assistance of one of our other
10 assistant solicitors, Mr. Darwin Harvin, who's
11 standing over to my left. In addition, to being
12 prosecutors, I also have a private practice law firm.
13 I practice with the law office of Ronnie Sabb, in
14 addition to Mr. Harvin, myself and Mr. Sabb, and Helen
15 McFadden.

16 The Court: Ladies and gentlemen, if any of you are a
17 friend, a relative, an associate of any of the lawyers
18 in the trial of this case, or anyone who works for
19 them or with them, please stand. Alright, we know Ms.
20 Callahan works with Mr. Jenkinson, so we know her
21 information and Ms. Harvin.

22 The Court: You're related to? And what relation are you
23 to him?

24 Ms. Harvin: Cousins.

25 The Court: First, second, fifth, sixth?

HEARING

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1 Ms. Barr: Yes sir.

2 The Court: Alright, let's see now. We're about through
3 for the day?

4 Ms. Barr: Yes sir.

5 The Court: Alright, 9:15 tomorrow morning.

6 The Court: Bring the jury in, please.

7 (Jury enters the Courtroom)

8 The Court: Good morning.

9 Jury: Good morning.

10 The Court: Welcome back ladies and gentlemen. If you
11 all will stand now and be sworn.

12 (Jurors sworn in by Clerk of Court)

13 The Court: Alright ladies and gentlemen, you have been
14 selected and sworn and taken an oath now to well and
15 duly try this case and render a true verdict according
16 to the evidence. So help you God. You have been
17 summoned to appear for jury duty. You've gone through
18 the jury qualifications process, you've gone through
19 the jury selection process and now you've been sworn
20 as the jury to try this case and determine whether the
21 Defendant is guilty or not guilty of murder, burglary
22 in the first degree, conspiracy, possession of a
23 weapon during a violent crime. As I indicated to you
24 yesterday, the Defendant is presumed to be not guilty.
25 He cannot be found guilty unless the State presents

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1 evidence which convinces each and ever juror of his
2 guilt beyond a reasonable doubt, so needless to say,
3 you play a very important, pivotal role in our process
4 because only you can decide whether the Defendant is
5 guilty or not guilty. And that is your role as
6 jurors. Therefore, it is important that you pay close
7 attention to the evidence and testimony so that at the
8 end of it you will be in a position to deliberate to
9 decide the truth of this matter. Now, just as only
10 you can decide the facts of this case and that's your
11 role as jurors to decide the facts. Just as only you
12 can decide the facts, as the trial Judge, I am the
13 sole judge of the law and you must accept as correct
14 my statement to you at this time and during the trial.
15 At the end of the trial, it will be your duty as
16 jurors to weigh the credibility of the evidence
17 presented during the trial to determine what facts
18 convince you of its truth. Now, later in the process,
19 I will appoint one of you to serve as the foreperson
20 for the jury. That person will be the spokesperson
21 presiding over the jury deliberations and completing
22 the verdict form. You must not discuss this case with
23 anyone including your fellow jurors, friends, family
24 members or anyone about this case. Please no email,
25 texting, face book or any other methods of finding out

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1 anything about this case. You are prohibited from
2 doing that because the case must be decided only by
3 the twelve jurors who have heard the same testimony,
4 seen the same evidence and received the same
5 instructions. Next, the Solicitor, Ms. Barr, will
6 make what's called an opening statement and, of
7 course, she will explain to you the issues in this
8 case or what she thinks is the issues and Mr.
9 Jenkinson will then have the opportunity to do the
10 same on behalf of the Defendant, though the's not
11 required to do so. I will caution you that what the
12 attorneys tell you is not evidence. It's there
13 attention or belief as to the evidence and issues.
14 The evidence will be presented from this witness
15 stand. The exhibits that may be introduced into
16 evidence as well as any stipulations and agreements
17 that may be introduced into evidence as well as any
18 stipulations or agreements that the lawyers may put on
19 the record. From time to time, it will be necessary
20 to discuss matters outside of your presence. They
21 generally take place when the lawyers come here to
22 discuss things with me. I will have you leave the
23 courtroom so we can discuss matters of law outside
24 your presence.
25 We'll proceed now with opening statements. I will do

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1 all I can to make sure you don't have to sit for too long.
2 We'll stand and take a stretch break. If at any point in
3 time you need a break, you think we're going for too long,
4 you just need to have a break just raise your hands and let
5 me know and we'll take a break. All right. Opening
6 statement, Ms. Barr.

7 OPENING STATEMENTS BY MS BARR:

8 Thank you, may it please the Court? Ladies and
9 gentlemen of the jury, good morning. My name is
10 Kimberly Barr. I introduced myself to you all on
11 Monday and I want to thank you all for being here.
12 I've got some good news; I'm not going to stand up
13 here long. We recognize that your time is precious
14 and we certainly want to keep the trial of this case
15 moving. Let me just say one thing and then I'll kind
16 of talk a little bit about the case and then I'll sit
17 down. We appreciate all of the lawyers, the judges,
18 everybody in this courtroom; we appreciate the fact
19 that jury duty is a sacrifice. I'm sure of that, if
20 anybody would ask you all where would you like to be
21 the week of January 31st, I don't think anybody on this
22 jury panel would say I would love to be in General
23 Sessions court for a murder charge and we know that
24 there are a ton of other things that you'd rather be
25 doing, that you need to be doing, than here with us,

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1 but we appreciate the sacrifice. Now, you all may
2 recall that on yesterday, a number of jurors came up.
3 A number of jurors were not selected and let me tell
4 you what I think about that whole process. When the
5 prosecution and the defense are trying to pick a jury,
6 we just want a jury that's going to be fair. We want
7 a jury who will sit and listen to the evidence, listen
8 to the law when the Judge gives it to you, deliberate
9 firmly and faithfully and then render a verdict based
10 on everything that you've heard and often times, when
11 lawyers are making this decision on who to pick, it's
12 never a situation, I don't think, at least not for me,
13 where I say, Well, I don't like this person, I like
14 this person. I just kind of look at the person and
15 say, Do I think this person can be fair? Do I think
16 this is an intelligent juror who can listen and
17 deliberate fairly? And folks, I've got to say in this
18 case, I think that we have it right. I think that we
19 have picked a jury that is intelligent, that will
20 listen and will take the time necessary to dedicate to
21 this case. Now, I'm going to go ahead and tell you
22 about this particular case. I don't know if any of
23 you all have ever served on jury duty before. I
24 imagine that a lot of you would probably have gotten
25 some information about crimes and cases from

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1 television and the tragic thing in this case is this
2 is nothing like t.v. There is no happy ending once
3 this case is concluded. A horrific, horrific murder
4 occurred in our county back in April of 2009. Four
5* people were involved in that murder. Three of those
6 people have already been convicted. There's one
7 person left to be convicted and folks we would submit
8 that after you've heard all of the evidence in the
9 case, you will be convinced that, that person is the
10 Defendant, Kelvin B. Now, you're basically going
11 to hear that one of the Defendants, Ronald Mack had a
12 problem with the victim Kenyan Dorsey. Kenyan Dorsey
13 was a seventeen year old high school student at the
14 time he was killed. His mom, Annette Bradshaw is
15 seated at Prosecution's table with me. Basically, the
16 evidence in the case will establish that Ronald Mack
17 had a problem with Kenyan Dorsey. Ronald Mack sought
18 the assistance of his mother, Tawanda Mack Allen and
19 her boyfriend, Kelvin B. as well as another
20 individual. The evidence is going to show that Mr.
21 Bowen, along with Ms. Allen, came from Maryland, drove
22 down to South Carolina with guns in their vehicle,
23 picked up Ronald Mack, along with another individual,
24 went to the victim's house, burst in this house and
25 shot him in his sleep. Folks, that's the crust of the

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1 case. You will have four charges to consider. One is
2 murder. Murder is the killing of another human being
3 with malice aforethought. Malice aforethought just
4 simply means it's premeditated and you mean to do it.
5 Now, this individual is also charged with burglary
6 first degree and folks, the elements of burglary first
7 degree require that the State prove that they went
8 into the house of the victim, during the night time,
9 without consent, they either had a gun or they caused
10 physical injury. This Defendant is also charged with
11 criminal conspiracy. Criminal conspiracy is when two
12 or more people get together and come up with a plan to
13 do something illegal and obviously the planning of a
14 murder is an illegal act in South Carolina. The last
15 charge for your consideration, is possession of a
16 weapon during the commission of a crime. Folks, in
17 South Carolina, if you commit a violent crime and so
18 that you know, burglary first degree is a violent
19 crime. Murder is classified as a violent crime and if
20 you do it while you possess a weapon, a firearm,
21 that's also a separate charge. So after you've heard
22 all of the evidence in the case, and you are convinced
23 that the Defendant committed the act of murder and
24 burglary in the first degree and criminal conspiracy,
25 you should also find him guilty of possession of a

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1 weapon during a violent crime. Now, we'll have the
2 victim's mom testify, in addition, you'll hear from
3 several of the witnesses who were there that night and
4 also some law enforcement folks who gathered some
5* evidence and will come to court and testify according
6 to their findings. Now again, I'll keep my promise to
7 you, I'm going to be quick, I'm going to sit down. I
8 thank you all again for your time, thank you all most
9 importantly, most importantly for your attention.

10 Thank you.

OPENING STATEMENTS BY MR. JENKINSON:

12 Mr. Jenkinson: May it please the Court Your Honor? Ms.

13 Barr?

14 Ms. Barr: Yes sir.

15 Mr. Jenkinson: Good morning ladies and gentlemen. Ms. Barr
16 said thank you for coming. I'm not going to thank you
17 for coming, you had to be here, you got summoned to be
18 here like I got to be here, but I will tell you we are
19 happy you are here, because it has been a long wait
20 for our client Kelvin B. to come to trial for this
21 day to arrive. We look forward to it and without a
22* jury, we wouldn't be able to try this case, so I'm not
23 going to thank you for coming, but I'm happy that
24 you're here because you didn't just happen to show up,
25 like us, you were told to be here because that's the

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1 way our system of justice works. I'm Billy
2 Jenkinson, I am representing along with Mandy
3 Shuler, one of our lawyers in our office across the
4 street, Kelvin B. That's Kelvin sitting by Mandy.
5 Kelvin B. is from Maryland, he is here with his
6 wife who is, Ms. Bowen stand so they know who you are.
7 Tiffany Bowen, thank you Tiffany and his only child
8 and son Kelvin B. Jr., thirteen. He looks like
9 his daddy. Kelvin B. is charged with murder. He
10 is charged with burglary in the first degree. He is
11 charged with possession of a weapon in a violent
12 crime. He is charged with conspiring with others, or
13 criminal conspiracy to commit this murder. I'll tell
14 you right now, he walks into this court and says I am
15 not guilty and I was not in the State of South
16 Carolina when this occurred and I'm being used and
17 that is for us to show you and unfold how this has
18 happened to you and why he is here. That's why he's
19 here. In a case, I'd like to talk a little bit more
20 about what a jury does. You've heard his Honor give
21 you an excellent explanation, Ms. Barr's tagged on,
22 but when you come here, what do you have at the
23 conclusion of this case when you go in that jury room
24 with you to help you decide a case? And it's
25 important that you listen to these things, because you

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1 take these things into that jury room and that's what
2 you decide on. Not something that occurred on Face
3 book as his Honor's told you, not something that you
4 saw on t.v. or something that you think it ought to
5 be, but what's been proved in a courtroom, beyond a
6 reasonable doubt. Okay, what you take in that
7 courtroom is the testimony that you hear from that
8 witness stand, so it is important to listen carefully
9 as his Honor told you. If you feel drowsy or
10 whatever, stand up. Just, just, you know you can,
11 because it's so important to listen carefully and
12 remember. Because each one of you, when you go in
13 that jury room and start talking and saying well I
14 remember this and one may say I, I don't remember it
15 that way and that's what jurors are for. To have that
16 dialogue and to seek justice and to seek truth. You
17 going to see evidence. Evidence may be photographs,
18 papers, documents, and you going to get to take that
19 into the jury room to assist you. The third thing
20 you're going to take into that jury room is the law as
21 his Honor gives you. That is the law by stating the
22 law that you take of evidence and testimony and the
23 law and put it together to arrive at a verdict. And
24 to be able to do that, you take one more thing into
25 that jury room that you brought with you today. You

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1 brought it yesterday and you're looking at me saying
2 okay, what you talking about? What did I bring? You
3 brought your good, common sense. That's why you're
4 here because it takes good common sense to listen,
5 look and put it to law and arrive at a verdict. So
6 that is what a jury must do in a case in order to seek
7 justice. Now, in taking these things into
8 consideration, his Honor has told you, what are some
9 of the rules of engagement here? Well, his Honor is
10 going to rule on the legal matters, but when it comes
11 down to judging what the witnesses say and the
12 importance or the lack of importance, you become the
13 judges, because you are the judges of the facts of the
14 case. So, you're determining whether or not a
15 victim's witness bring something to you, it's
16 something that is called the credibility or
17 believability of a witness. Each one of them that
18 takes the stand, you can weigh in your mind, do I
19 believe this person? You have a right to believe a
20 little bit of what that person says, a lot of what
21 that person says or you can say I'm going to disregard
22 that. It's not important in my decision. That is
23 your job in weighing it out the believability and
24 credibility of witnesses so it's very important that
25 you listen to these witnesses to make that

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1 determination. Now, what else are you going to be
2 hearing? How many of you been watching on t.v. and
3 see a lawyer stand up and say I object. Well, that is
4 not something that is a concern to you, because what
5* we're doing is we're objecting on legal or law matters
6 for the judge to rule on. The judge is the ruler of
7 the law in a courtroom, so those kinds of things are
8 really not important at all for you to consider.
9 That's a matter for the judge and he'll explain what
10 you need to know about those matters. Now, what is
11 this case about? I joined, with Ms. Barr and Kelvin B.

12 joins with Ms. Barr to say this is a horrible
13 murder. A young, seventeen year old man was killed.
14 He was shot brutally. There is no question that that
15 occurred, but what I want to caution you and his Honor
16 will tell you, you're not to decide the case based
17 upon guilt or innocence on how bad photographs may
18 look. This mother of this young man and this family
19 has lost a relative that's awful. To lose a son is
20 awful, but it's also an awful thing to be accused of
21 something that you didn't do. And that's what your
22* job is, not to be caught up in prejudice, not to be
23 caught up in sympathy, but to be caught up in justice
24 and doing what is right in a case. We admit Kenyan
25 Dorsey was murdered. We admit that he was shot and

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1 brutally murdered, we admit those facts. As a matter
2 of fact, the people responsible for that murder have
3 already been tried or plead guilty right in this
4 courtroom, three of them. Those that are already
5 responsible have already been accountable for what has
6 occurred. So this is not a case without justice as
7 you sit here today. Now, what I found interesting and
8 how many names did you hear his Honor read yesterday
9 that were involved in this case, potential witnesses?
10 A pile of them. So who are the real actors in this
11 case and let me give you some names so you will start
12 recognizing what's going on here, because I think it's
13 important for you to understand. Kenyan Dorsey was
14 the young man who was murdered. His very close friend
15 was Ronald Mack, who has plead guilty to shooting him.
16 Antonio McClary has admitted to his role in this crime
17 and has pleaded guilty. Tawanda Mack, mother of
18 Ronald Mack has been tried and found guilty of her
19 role in this matter. So those are important names for
20 you to understand. Tawanda Mack, Ronald Mack.
21 Actually her names Tawanda Allen, Tawanda Mack Allen
22 and those are the important names just up front to
23 remember because as you, as it unfolds, there's going
24 to be a lot of other people involved but those are the
25 critical people who are involved in this case that you

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1 need to be aware of. Now, one of the critical pieces
2 that you need to remember in this case is something
3 called reasonable doubt. How many of you have watched
4 t.v. and seen cases, well let me tell you something.
5* T.v. is not real life, but forget t.v. This is a live
6 courtroom with South Carolina law with real judges,
7 real lawyers in a case and what is the burden? His
8 Honor is going to tell you that the State of South
9 Carolina, which is the Solicitor and his offices have
10 got to prove their case beyond a reasonable doubt.
11 He'll tell you , his Honor will tell you that Kelvin B.
12 does not have to prove anything to you. A
13 person charged with a crime does not have to prove one
14 single thing under our law. They are innocent, he's
15 innocent as he sits there and he's innocent until he's
16 prove guilty beyond a reasonable doubt. Remember your
17 verdict in this case is not innocent or guilty. It's
18 guilty or not guilty. What not guilty means is that
19 the State has not proved a case against Mr. Bowen
20 beyond a reasonable doubt. So you're looking at me
21 and saying, okay Billy, what's this business about
22 reasonable doubt? How do we know what reasonable
23 doubt is? There's a definition for it and his Honor
24 will help you with and something that I want you to
25 keep in mind as you listen to the evidence and

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1 testimony. What is a reasonable doubt is that doubt
2 that causes a reasonable person to hesitate to act.
3 In other words, if you go back in that jury room and
4 you take that evidence, that testimony and the law and
5 your common sense and your brain says, wait a minute,
6 I'm not quite sure. And you hesitate, that is your
7 common sense and your brain saying the burden of proof
8 has not been met and I must find Kelvin B. not
9 guilty. That's what a reasonable doubt is. So that's
10 what you're listening for and when you walk in that
11 jury room and as you listen as this trial unfolds, the
12 question you ask yourself, is it clear or is it
13 causing me to hesitate? Again, so, that is what you
14 listen for in this case, that is what we're here
15 about. Whether or not there's reasonable doubt.
16 There's no way almost, it's impossible to prove you're
17 absolutely innocent. If you could do that you wouldn't
18 even be in trial, they'd turn you loose. That's why
19 we have trials and that's why you're here to be fair,
20 impartial and to uphold your oath that you took a few
21 minutes ago. Again, I just ask you to just listen
22 carefully to this case, follow the law and pay close
23 attention. Pay close attention for the benefit of
24 the family that's lost a loved one, pay close
25 attention for the benefit to the one who says I am not

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1 guilty and I did not commit this crime knowing that
2 others have pled guilty and been found guilty and
3 admitted their guilt and weigh out what these people
4 have to say. You may even hear from Antonio McClary,
5 you may hear from Ronald Mack and Tawanda Allen and
6 that's when I really want you to start weighing out
7 who you're going to believe and what you're going to
8 believe. So listen carefully, stay tuned because the
9 State gets to go first and we get to go last so I ask
10 that you stay tuned for the rest of the story and
11 listen carefully to all the testimony. Thank you.

12 The Court: Ms. Barr, your first witness.

13 Ms. Barr: At this time Your Honor, we call Annette
14 Bradshaw.

15 -WITNESS IS SWORN IN-

16 DIRECT EXAMINATION OF MS. BRADSHAW BY MS. BARR:

17 Q: Good morning Ms. Bradshaw.

18 A: Good morning.

19 Q: If you would introduce yourself to the ladies and
20 gentlemen of the jury. Tell us where you live and
21 where you work.

22 A: My name is Annette Bradshaw. I live at [REDACTED]
23 [REDACTED] Kingstree.

24 Q: Alright, that's in Williamsburg county?

25 A: Yes.

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1 Q: Okay, how long have you lived at that address?

2 A: Some years.

3 Q: Okay, now Ms. Bradshaw, who lives there with you now?

4 A: Me and my husband.

5 Q: Okay your husband is Heyward Bradshaw?

6 A: Yes.

7 Q: He's in the courtroom with you?

8 A: Yes he is.

9 Q: Okay, alright now, back in April of 2009, who was
10 living at that address with you?

11 A: Just me and Kenyan.

12 Q: Okay and Kenyan is your son?

13 A: Yes.

14 Q: Alright, of course we are here because he was
15 murdered.

16 A: Right.

17 Q: Now, how old was Kenyan at the time of his death?

18 A: He was seventeen years old.

19 Q: Alright, where did he go to school?

20 A: He went to Hemingway High School.

21 Q: Alright, and what grade was he in?

22 A: He was in the twelfth grade.

23 Q: Alright, so he would have been expected to graduate in
24 the next month or two?

25 A: Yes.

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1 Q: Now, were you working outside of the home in April of
2 2009 when this incident happened?

3 A: Yes.

4 Q: Okay, where were you working then?

5 A: At Nanya Plastic.

6 Q: Alright, what kind of work hours did you have?

7 A: I worked two weeks on night and two weeks on day and
8 during that time I was on night shift.

9 Q: Now, there's a question Ms. Bradshaw that you actually
10 do not know Mr. Bowen, do you?

11 A: No, I don't.

12 Q: Okay, but you know Ronald Mack?

13 A: Yes.

14 Q: Alright, tell the jury how it is that you know Ronald
15 Mack?

16 A: The first time I met Ronald Mack he was spending the
17 night at my house whenever I came home from work
18 around 8:00. And he was there and I asked Kenyan who
19 that was and he told me it was his friend Ronald Mack.

20 Q: Okay, as it relates to the timing of your son's death,
21 how far in advance of your son's death did you meet
22 Ronald Mack for the first time? Was it weeks or
23 months or years?

24 A: A week or two.

25 Q: A week or two? Okay, so it had been a week or two

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1 when Kenyan was killed?

2 A: Yes.

3 Q: Alright, now you said during this time you were
4 working night shift?

5 A: Yes.

6 Q: Alright, you said you came home, what time did you get
7 home and notice that Ronald Mack had spent the night
8 at your house?

9 A: It was after eight thirty.

10 Q: In the morning?

11 A: Yes.

12 Q: Okay, were you surprised that he was there?

13 A: Yes I was.

14 Q: Alright, he didn't have your permission to ...

15 A: No he did not.

16 Q: Alright, and you let your son know that you didn't
17 appreciate him bringing him over?

18 A: Yes.

19 Q: Okay.

20 A: I did.

21 Q: So Ronald Mack would have been familiar with your work
22 hours?

23 A: Yes.

24 Q: Okay, now what type of vehicle did you drive during
25 that time?

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1 A: A 1997 Toyota Four Runner.

2 Q: And what color is it?

3 A: Green.

4 Q: Okay now, had Ronald Mack ever seen your vehicle?

5 A: Yes.

6 Q: Okay now, what about your son Kenyan? Did he have a
7 vehicle?

8 A: Yes.

9 Q: Okay, what kind of vehicle did he have?

10 A: He had a 2000 Lincoln LS.

11 Q: Okay and had Ronald Mack ever seen your son's vehicle?

12 A: Yes.

13 Q: Tell us how you felt about Ronald Mack.

14 A: Well, that day when I came home from work, I came home
15 him and Kenyan, my son, was involved in basketball and
16 well he wasn't my husband at the time but he was
17 working on his car ...

18 Q: That's Mr. Bradshaw? Heyward Bradshaw?

19 A: Yes.

20 Q: Yes ma'am.

21 A: And I told him there's something that I don't trust
22 about Ronald.

23 Q: Okay, and that's a comment that you made to your
24 husband?

25 A: Yes.

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1 Q: And where did that come from? Just an overall sense
2 or had he done something?

3 A: No, it's just something that, you know, when I first
4 met him, sometimes you can look at a person and it's
5 just something that you don't trust about them.

6 Q: Okay. Now, the night that Ronald had spent at your
7 house, he and Kenyan were getting along pretty good
8 during that time?

9 A: Yes.

10 Q: Alright, did there come a time when their relationship
11 changed?

12 A: Yes.

13 Q: Okay, tell us about that.

14 A: Well, I heard, I don't know for a fact, but I heard
15 ...

16 Mr. Jenkinson: I'm going to object to what she heard Your
17 Honor, it's hearsay.

18 Ms. Barr: And Judge, I don't know that it's offered for the
19 truth of the matter asserted.

20 The Court: Next question.

21 Q: Let me ask you this, rather than saying what you
22 heard, was there ever a point in time where your son
23 discontinued his contact with Ronald Mack?

24 A: No he didn't.

25 Q: Was there ever a point in time where he stopped taking

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1 his phone calls?

2 A: Yes.

3 Q: Okay, how far in advance of his murder did he stop
4 taking Ronald Mack's phone calls?

5 A: Not quite a month.

6 Q: Okay, alright now, was there, when you say he stopped
7 taking his phone calls, how do you know that?

8 A: Well, Ronald call to the house and ask to speak to
9 Kenyan.

10 Q: Okay.

11 A: And I told Kenyan, Ronald was on the phone and he said
12 ...

13 Mr. Jenkinson: I'm going to object to what he said, Your
14 Honor, again this ...

15 Ms. Barr: Judge, it's not being offered for the truth of
16 the ...

17 Mr. Jenkinson: Can I finish saying what I'm saying?

18 The Court: Just a moment. Let's reiterate the rules. No
19 argument by counsel unless requested by the Court.
20 The objection is sustained. I'm sorry the objection
21 is overruled. You may answer the question.

22 Q: Ma'am, I think I was asking you, you said that Mr.
23 Mack had called the house looking for Kenyan?

24 A: Yes.

25 Q: Alright, and you informed your son that Ronald Mack

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1 was on the phone?

2 A: Yes.

3 Q: Alright and he told you what?

4 A: That he didn't want to talk to him and tell him that
5 he wasn't home.

6 Q: Okay. And was that just a one time incident or were
7 there several times that your son did not want to
8 speak to Mr. Mack?

9 A: Several times.

10 Q: Let me ask you this, did Kenyan have a key to your
11 house?

12 A: No.

13 Q: Okay, tell me how was he able to get back and forth
14 and in and out the house since you work at night?

15 A: He always leave the front door open.

16 Q: Okay, you would leave the front door open for him?

17 A: Yes.

18 Q: Okay, now when you said that on one particular
19 occasion when you came home and you saw that Mr. Mack
20 had spent the night, you said that you got home about
21 eight o'clock. Did you work eight to eight or seven
22 to seven?

23 A: I worked eight to eight.

24 Q: Eight pm to eight am?

25 A: Eight pm to eight am, yes.

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1 Q: Okay, so Mr. Mack would have been familiar with your
2 work schedule?

3 A: Yes.

4 Q: Alright now, let's go to that particular weekend which
5 Kenyan was killed. You remember the day of the week?

6 A: Yes.

7 Q: Alright, which day of the week was it?

8 A: It was that Saturday.

9 Q: Okay, Saturday night leading up to Sunday morning?

10 A: Yes ma'am, yes.

11 Q: Okay, now what was Kenyan doing that weekend?

12 A: It was prom, prom night at the high school.

13 Q: Yes ma'am.

14 A: And he decided he didn't want to go. He wanted to go
15 spend the day on the beach with his friends.

16 Q: Now, which friends did he want to go spend the day at
17 the beach with?

18 A: It was Kendrick and his girlfriend for one and a guy
19 names Jason Grant.

20 Q: Jason Grant?

21 A: Yes.

22 Q: Okay, alright. So with your permission, did he go
23 down to the beach and spend the day there?

24 A: Yes he did.

25 Q: Alright, now do you know whether or not Ronald Mack

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1 was anywhere near him?

2 A: No.

3 Q: Okay, you don't know or he wasn't?

4 A: He wasn't.

5 Q: Okay, alright, now, Ms. Bradshaw, you did not have any
6 weapons in your house did you?

7 A: No.

8 Q: No guns?

9 A: No.

10 Q: You had not had a gun fired inside your home prior to
11 the night that Kenyan was killed?

12 A: No.

13 Q: No shotgun shells or anything like that?

14 A: No ma'am.

15 Q: Now, tell me about when Kenyan returned from the
16 beach.

17* A: It was along about twelve thirty, twelve o'clock or
18 twelve thirty.

19 Q: Okay.

20 A: And he got out and came to his friend Jason.

21 Q: Okay, alright you said it was about one thirty, is
22 that am or pm?

23 A: Twelve thirty.

24 Q: Twelve thirty, I'm sorry. Am or pm? Was it twelve
25 thirty at night or in the morning?

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1 A: It was going into Sunday morning.

2 Q: Okay so twelve thirty am?

3 A: Yes.

4 Q: Alright, where were you when he came back from the
5 beach?

6 A: Well, I was standing up at the back door looking.

7 Q: Okay, alright so he came into the house?

8 A: No, he didn't.

9 Q: Okay, you saw him get out the car?

10 A: Yes.

11 Q: And then go where?

12 A: Next door to Jason Grant's.

13 Q: Okay, were you within walking distance to Jason
14 Grant's house?

15 A: Yes.

16 Q: Alright, and you saw him go to Jason Grant's house?
17 Alright, tell me what happened next.

18 A: When he came back home it was after one thirty and I
19 got up and opened, I had left the front door open for
20 him, when he came around to the back door. When he
21 came around through back door he locked the back door
22 back and I told him, I said, Kenyan you see what time
23 it is when I wake you up in the morning to go to
24 church I don't want to hear your mouth and he said
25 okay mom. So he went and take his, after he lock the

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1 door, he went and take his bag in the bedroom, then he
2 came back in the kitchen and he sat down and turn the
3 t.v. on and I went and got back in the bed.

4 Q: Alright, now you said that when he came back in you
5 told him that because it was so late, alright I don't
6 want to hear your mouth about getting up and going to
7 church the next day right?

8 A: Right.

9 Q: Okay, now what had you been doing during that day?

10 A: All that day I was like cleaning and cooking because
11 Sunday, I think we was going to it was a family or
12 either the --- we had a family reunion singing going
13 on and me and my mom and sisters we were already
14 talking about that so we cooked early you know and
15 then later on that night, you know, and after we had
16 everything prepared and I call them and tell them you
17 know, I had the food and everything prepared. That's
18 what all I did.

19 Q: You said cooking and cleaning. Was laundry a part of
20 your cleaning?

21 A: Yes.

22 Q: Alright, and did you have clothes in a certain
23 location in the house that you were folding up?

24 A: Yes. I took my clothes in the day before and I just
25 throw them in a chair in the bedroom.

1 Q: Okay, now where, what church are you a member of?

2 A: Mount --- In Nesmith.

3 Q: Alright, so you came, you opened the door for your
4 son, he went and sat down and watched television.
5 What room in the house was he in?

6 A: He was in the kitchen.

7 Q: Okay, and you went to your bedroom?

8 A: Yes.

9 Q: Alright, do you know whether or not you locked your
10 bedroom door?

11 A: Yes I did.

12 Q: You did lock your bedroom door?

13 A: Yes.

14 Q: Is that by habit?

15 A: Yes.

16 Q: Okay, tell us Ms. Bradshaw, what is the very next
17 thing that you remembered happening?

18 A: After I went back to bed, I went to sleep. I hear a
19 noise in the hall and I thought it was a firecracker
20 and then after I got up, after the noise wake me up,
21 and after I got up, first call Kenyan when I heard a
22 noise and after I call Kenyan and he didn't answer me,
23 then I got up and went into the kitchen where he was
24 and then after I saw him, after I walked around the
25 corner and saw him, I thought I was like dreaming

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1 because he was sitting in the chair and the t.v. was
2 on. But after I reached down to turn the t.v. off I
3 saw blood on the wall and I looked at him and I
4 noticed he was shot in his head and I run to my mama's
5 house, out the back door and I left the back door
6 open. And my step father came to the door and I tell
7 him somebody just shot Kenyan. And then he said you
8 lying and then he came running over there too and then
9 my mom called 9-1-1.

10 Q: Alright, you said that, and let me just kind of make
11 sure I understand everything you say. You indicated
12 that you heard noise and that's what, that is what
13 woke you up?

14 A: Yes.

15 Q: Alright, you thought it was fire crackers?

16 A: Yes.

17 Q: And you called your son's name?

18 A: Yes.

19 Q: Could you hear anybody inside your home?

20 A: Well, during the time I had called Kenyan, I heard
21 something like people running out the house, you know
22 what I'm saying? Running out the house, that noise.

23 Q: The noise of footsteps?

24 A: Yes.

25 Q: Okay, alright now Ms. Bradshaw, did you see anybody

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1 running out of the house?

2 A: No, I didn't.

3 Q: Okay, alright and you indicated that when you went in
4 where Kenyan was, you noticed that the television was
5 still on?

6 A: Yes.

7 Q: Alright, now as you approached him, when Kenyan was in
8 the chair, was he facing you as you approached him or
9 did you walk up from behind him?

10 A: I walked up from behind.

11 Q: Alright, and as you're walking up from behind him,
12 could you see his face when you were behind him?

13 A: No.

14 Q: Okay, so as you're walking up from behind him, as far
15 as you know, he just looked like he was sleeping?

16 A: Yes.

17 Q: Alright, and then you went to turn the television set
18 off?

19 A: Yes.

20 Q: Alright, the television set was directly in front of
21 him?

22 A: Yes.

23 Q: Alright, and then when you turned off the television
24 set, you indicated that you noticed the blood, noticed
25 that he'd been shot?

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1 A: Yes.

2 Q: Now, you then ran to your mom's house?

3 A: Yes.

4 Q: What's your mother's name?

5 A: Priscilla.

6 Q: Alright, how far does your mom live from you?

7 A: I'd say from here to the street.

8 Q: From where you're sitting now to Main Street?

9 A: Yeah.

10 Q: Okay, I'm curious Ms. Bradshaw, when you were awakened
11 by what you thought to be firecrackers, did you happen
12 to notice what time it was?

13 A: It was about two twenty or twenty two when I got up
14 and opened my room door.

15 Q: When you got up and opened your room door, you have a
16 clock in your bedroom?

17 A: Yes.

18 Q: And you noticed it was about two twenty. This is a.m.
19 still right?

20 A: Yes.

21 Q: Okay, alright as you were running across to your
22 mother's house, did you see anything out of the
23 ordinary in your neighborhood?

24 A: No, when I was running, after I got off the step I
25 just kept looking behind me to make sure nobody wasn't

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1 behind me and I just happened to look toward the
2 highway and I saw a vehicle at the stop sign just
3 pulling off.

4 Q: Okay. Can you describe how that vehicle was pulling
5 out in terms of its speed?

6 A: Well, it was speeding and it really didn't stop. It
7 just came to the stop sign and just pulled on off
8 hearing back towards Kingstree.

9 Q: Alright, now do you recall, were you able to see the
10 make and model of the vehicle or the body type of the
11 vehicle?

12 A: No, but we got a night, got a night light up there,
13 but I know it was dark color, but I'm not sure what
14 kind.

15 Q: Okay. You know it was a dark colored vehicle?

16 A: Yes.

17 Q: Alright, do you know whether it was a Sedan, like four
18 door vehicle? Do you know whether it was an SUV? Do
19 you know whether it was a pick up truck?

20 A: It was a SUV.

21 Q: Dark colored SUV? Ma'am?

22 A: Yes.

23 Q: Okay, now were there any other vehicle around the time
24 that you had run from your house to your mother's
25 house that you noticed out there?

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- 1 A: No.
- 2 Q: Two thirty in the morning it was pretty quiet?
- 3 A: It was.
- 4 Q: Tell us what happened when you got to your mom's
- 5 house.
- 6 A: Well, I got to my mom's house and I told her and my
- 7 step father and he came over there and then my brother
- 8 came and then my mom and then after I got back home I
- 9 called my husband and I told him and he came there and
- 10 then I called my cousin, because he had just had
- 11 brought him home. I guess she started calling some of
- 12 her people.
- 13 Q: Who called the police?
- 14 A: My mom did.
- 15 Q: Okay, now you said your mother came over, when you say
- 16 came over, came over where?
- 17 A: She came over to my house.
- 18 Q: To your house. Did you then to back to your house?
- 19 A: Yes, I did.
- 20 Q: Okay when you went back to your house, was it before
- 21 or after the police arrived?
- 22 A: It was before the policemen was there.
- 23 Q: Alright, at what point in time did your mother call
- 24 the police?
- 25 A: I guess when she called 9-1-1.

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1 Q: Okay. Did she call 9-1-1 once you went over there
2 immediately or was ...

3 A: When I went over there to tell her Kenyan was shot she
4 called 9-1-1.

5 Q: Right then and there?

6 A: Yes.

7 Q: Now when you went back to the house, you didn't take
8 anything out of the house or put anything in the house
9 did you?

10 A: No, I didn't.

11 Q: Ma'am, you've been a part of the proceedings in this
12 case, you've come to court every time. Is that
13 correct?

14 A: Yes.

15 Q: Alright, you were here for the trial of Tawanda Mack
16 Allen?

17 A: Yes.

18 Q: Alright, she was convicted?

19 A: Yes.

20 Q: You were here for the guilty plea of Ronald Mack?

21 A: Yes.

22 Q: And he admitted his involvement in the case?

23 A: Yes.

24 Q: Alright, did that surprise you that he admitted and
25 was part of this?

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1 A: No, it didn't surprise me.

2 Q: A couple more questions and then I'll let you go. At
3 some point, were you give a copy or did you see, I
4 shouldn't say copy, did you see a pink shirt that was
5 brought from the outside?

6 A: Yes.

7 Q: Alright, and who's pink shirt was that?

8 A: Mines.

9 Q: That was your pink shirt?

10 A: Yes.

11 Q: Alright. Ms. Bradshaw, let me do it this way. Judge,
12 may I approach the witness?

13 The Court: Yes.

14 Q: I'm going to hand you what's been marked for
15 identification purposes as State's exhibits one, two,
16 twenty-three, twenty-two, twenty-one and nineteen.
17 Twenty two , twenty one, twenty and nineteen and I'll
18 ask you if you recognize what's depicted in those
19 photographs? Look at each one of them and tell me if
20 you recognize what's depicted in those photographs.

21 Q: Yes.

22 Q: These are photographs of the outside of your home as
23 well as some rooms inside the residence?

24 A: Yes.

25 Mr. Jenkinson: Your Honor, please, we have no objection to

1 forty one, five

2 Ms. Barr: Billy, that's not forty-one.

3 Mr. Jenkinson: I'm sorry, that was a mistake.

4 Ms. Barr: That's okay.

5 Mr. Jenkinson: This one?

6 Ms. Barr: That number.

7 Mr. Jenkinson: Nineteen, twenty, twenty one, twenty two,
8 twenty three, twenty two.

9 Ms. Barr: Your Honor, we would move at this time to admit
10 State's exhibits one, two, nineteen, twenty, twenty
11 one, twenty two, and twenty three. Do you need to see
12 them Judge?

13 The Court: Any objection to any of those photographs?

14 Mr. Jenkinson: No objection.

15 The Court: Be admitted without objection.

16 Ms. Barr: Thank you, Your Honor.

17 Q: Ms. Bradshaw, I need you to step down for just a
18 moment for me please. Come over here with me. Now,
19 tell the jury what's in that, what does that
20 particular photograph show?

21 A: That's on the back porch.

22 Q: And your house is kind of odd. You've got your house
23 numbers, you okay?

24 A: Yes.

25 Q: You have your house number on the rear of the house?

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- 1 A: Yes.
- 2 Q: And you're [REDACTED]?
- 3 A: Yes.
- 4 Q: Alright, is that the door that you went out of when
- 5 you ran to your mom's house?
- 6 A: Yes, that's the door.
- 7 Q: You left it open?
- 8* A: Yes.
- 9 Q: Okay, alright, let me call your attention to exhibit
- 10 number twenty. Is that just a different view from
- 11 that doorway at the rear of the house?
- 12 A: Yes, it's a different view.
- 13 Q: Alright, now, if we kind of look to the right or the
- 14 left, I'm sorry, of that doorway, we see what appears
- 15 to be a china cabinet in there?
- 16* A: Yes.
- 17 Q: What room is that?
- 18 A: That's the kitchen.
- 19 Q: Okay, is that the room where Kenyan was killed?
- 20 A: Yes.
- 21 Q: Tell us about exhibit number twenty one.
- 22 A: That's the front door.
- 23 Q: Okay.
- 24 A: That's a different room.
- 25* Q: Alright, now was that closed when you went in there?

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1 A: Yes, it was closed.

2 Q: Alright, and I'm going to ask you about State's
3 exhibit number twenty three. Tell us the room that
4 that particular house, what's the room of that house
5 that we're looking at?

6 A: The room in the back, that's my bedroom.

7 Q: Okay.

8 A: And that's the living room you can see the clothes on
9 the chair.

10 Q: Alright, and you mentioned that you were doing laundry
11 earlier, are these the clothes that you were talking
12 about?

13 A: Yes, yes.

14 Q: Ms. Bradshaw, I need to show you a faraway picture of
15 Kenyan, can you handle that?

16 A: Yes.

17 Q: I'm going to hand you what's been marked as State's
18 exhibit number thirty eight for identification
19 purposes only. Is this a view of the chair and
20 Kenyan's body as you saw it as you went into the
21 kitchen?

22 A: Yes.

23 Q: Okay, Judge we would move State's exhibit number
24 thirty eight into evidence.

25 The Court: Any objection?

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1 Mr. Jenkinson: No objection.

2 The Court: Admitted without objection.

3 (State's Exhibit Number 38 was entered)

4 Q: Alright, you told us earlier about the kitchen area
5 and there being some little china cabinet in the
6 kitchen area. Is this the kitchen area?

7 A: Yes it is.

8* Q: Okay and is this the view that you would have seen as
9 you went into the kitchen to turn off the television?

10 A: Yes..

11 Q: And this is the chair that your son was seated in?

12 A: Yes.

13 Q: And this is his body there, is that right?

14 A: Yes.

15 Q: And you can't see it on this particular photograph,
16 but where is the t.v. in connection with his body?

17 A: It's right in front.

18 Q: Over here?

19 A: Yeah.

20 Q: Alright. I'm going to hand you what's been marked for
21 identification purposes as State's exhibit number
22 forty nine. Is that your son's driver's license?

23 A: Yes.

24 Q: We would move State's exhibit number forty seven into
25* evidence at this time, Judge.

1 Mr. Jenkinson: No objection.

2 The Court: So admitted.

3 (State's Exhibit Number 47 was entered)

4 Q: Alright, and his driver's license indicates that his
5 birthday is what?

6 A: December 11, 1991.

7 Q: So he was seventeen?

8 A: Yes.

9 Ms. Barr: Alright, Billy do you have any other pictures
10 over there? Are you sure? Can you double check for me?
11 Alright Ms. Bradshaw you can take your seat.

12 Q: Ms. Bradshaw did you have any other children other
13 than Kenyan?

14 A: Yes I have two girls.

15 Q: He was your only son?

16 A: Yes he was.

17 Q: Your oldest child?

18 A: Youngest.

19 Q: Your youngest child. I don't have any other
20 questions. Do you need to take a break?

21 A: Yes ma'am.

22 Ms. Barr: Judge, may we just take a quick break for her?

23 The Court: Ladies and gentlemen, I'm going to have you go
24 to the jury room. Please do not discuss the case. Take a
25 few minutes.

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1 Ms. Barr: Thank you Judge.

2 (Jury takes a break at 10:46)

3 The Court: While the jury is out, of course, in Court we
4 operate under rules and procedures and Rule 18 is an
5 important rule and procedure. Section B of which says no
6 argument shall be made on objection to admissibility of
7 evidence in the conduct of trial unless specifically
8 requested by the Court. That's a rule that we are going to
9 abide by. It is startling to everyone other than the
10 lawyers that when the witness is testifying and questions
11 are asked and then all of a sudden someone starts arguing
12 about something.

13 Mr. Jenkinson: If Your Honor, please. For the record,
14 those photographs ...

15 The Court: That was for you.

16 Mr. Jenkinson: As to Kenyan Dorsey being murdered in his
17 home on Jaybird Avenue on April 5th, as charged in the
18 indictment that he was shot with a nine millimeter round in
19 the back of the head multiple times, whatever it is. I
20 think it was three times. He was shot in his body with a
21 shotgun twice. We would stipulate to the autopsy report
22 because the factual circumstances in this case as far as
23 the murder is not in dispute. What is in dispute is
24 whether the Defendant was present in the State of South
25 Carolina ...

1 The Court: Is this part of the stipulation ...

2 Mr. Jenkinson: By stipulation we're going into a great deal
3 of photographs of them being offered for prejudice and the
4 probative value because probative value is in the
5 stipulation and State vs. Milligan we argued yesterday
6 would apply and we wanted our offer on the record to avoid
7 a blanton trial and going into a lot of material that is
8 not in dispute whatsoever.

9 The Court: All right. Thank you. Ms. Barr, regarding the
10 proposed stipulation?

11 Ms. Barr: Yes, sir. Judge, I think --- we appreciate the
12* stipulation by opposing counsel. I think that the
13 photographs we are seeking to introduce and Your Honor, I
14 will give you the ones that have not been ...

15 The Court: We are in the middle of a witnesses testimony
16 and she's about to be cross-examined. I've ruled on the
17 proffer. If there are issues that need to addressed
18 concerning something that will be offered later then we can
19 talk about that later in the trial.

20 Ms. Barr: Yes, sir.

21 The Court: We have a jury coming in with this witness being
22 on the stand being cross-examined.

23 Ms. Barr: Yes, sir.

24 The Court: Bring in the jury.

25 (Jury enters the courtroom)

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1 (Continue Cross Examination)

2 Q: You ran out the back door. Is the back door here?

3 A: Yes.

4 Q: Alright, now, which one of these windows is to your
5 bedroom?

6 A: The double windows.

7 Q: This here?

8 A: Yes.

9 Q: Okay, alright, and which, what window is, what room is
10 this a window to?

11 A: That's also the bedroom; that's the bedroom.

12 Q: That's the bedroom?

13 A: Yes.

14 Q: Alright, and so you would have run out of here and
15 come down the steps?

16 A: Yes.

17 Q: Alright, I'm going to publish State's exhibit number
18 ten again, this is just the deck that's in the rear of
19 your home?

20 A: Yes.

21 Q: Alright what room is this a window to?

22 A: That's the kitchen.

23 Q: Alright, is this where Kenyan would have been?

24 A: Yes.

25 Q: Alright, what about this particular room?

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1 A: The window at the kitchen sink.

2 Q: Okay, alright and so you came out this open door and
3 came down the steps here?

4 A: Yes.

5 Q: Okay and I'm going to publish number six. Do you
6 recognize that blouse in that photograph?

7 A: Yes.

8 Q: Alright, and is that your blouse?

9 A: Yes that's my sweater.

10 Q: Alright now, I'm wanting to be sure I understood. You
11 said that you would leave the front door open for
12* Kenyan?

13 A: Yes.

14 Q: Did you ever have any problems with that door?

15 A: Yes, the top lock.

16 Q: Okay, it wouldn't work, it didn't work?

17 A: It had a spring break out of it.

18 Ms. Barr: Okay, that's all of the questions that I have.

19 Please answer any questions that Mr. Jenkinson or the Court
20* may have.

21 Mr. Jenkinson: We have no questions.

22 The Court: Alright, you may step down.

23 Ms. Barr: We call Scott Hardee at his time Your Honor.

24 -WITNESS IS SWORN IN-

25 DIRECT EXAMINATION OF MR. HARDEE BY MS. BARR

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- 1 Q: Sir, state your name for me.
- 2 A: Leland Scott Hardee.
- 3 Q: Alright, and tell the ladies and gentlemen of the jury
- 4 where you're employed.
- 5 A: I'm employed with South Carolina Law Enforcement
- 6 Division as a crime scene agent.
- 7 Q: Now you're going to have to make sure to pull the
- 8 microphone up so we can hear you. I'm having a little
- 9 bit of trouble hearing you back here.
- 10 A: Okay, is that better?
- 11 Q: Yes sir. You work with the State Law Enforcement
- 12 Division?
- 13 A: Yes ma'am, I do.
- 14 Q: We commonly call that SLED, is that right?
- 15 A: Correct.
- 16 Q: Alright, what do you do for SLED?
- 17 A: Currently I'm employed as a crime scene analyst for
- 18 about three years.
- 19 Q: Okay, and where were you before you became employed
- 20 for SLED?
- 21 A: I was employed with the Florence Police Department.
- 22 Q: Okay, what did you do there?
- 23 A: I was a patrol officer, crime scene investigator and
- 24 a school resource officer.
- 25 Q: Alright, how long have you been in law enforcement

1 now?

2 A: Eleven years this April.

3 Q: Okay and you're a certified police officer?

4 A: Yes ma'am, I am.

5 Q: Alright, now sir, back on April the 5th of 2009, were
6 you contacted to assist the Williamsburg County
7 Sheriff's office investigating the murder of Kenyan
8 Dorsey?

9 A: Yes ma'am, I was.

10 Q: Alright, can you tell us what all you did to assist
11 this agency?

12 A: Once I arrived on scene, I spoke with the officers on
13 scene and got a briefing. My partner Vickie Hallman,
14 she and I processed the scene. With processing it's
15 documented and we document in the photographs and that
16 nature, then we collect the evidence, preserve the
17 evidence and then it's transported back to our
18 headquarters in Columbia.

19 Q: Allright, now when you say the scene, you're talking
20 about the home that's located at [REDACTED] in
21 Kingstree?

22 A: Yes ma'am.

23 Q: Alright, do you recall what time it was that you
24 actually came out to the residence?

25 A: It was early morning. I would say probably close to

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1 four o'clock and I got there probably right at between
2 five fifteen and five thirty that morning.

3 Q: Okay and you said that one of your co workers, Vicky
4 Hallman assisted with that case?

5 A: Yes ma'am.

6 Q: Alright now, Vicky, Ms. Hallman is actually out on
7 medical leave now, isn't she?

8 A: Yes, she had back surgery.

9 Q: Tell us about the evidence that you collected in
10 connection with this case.

11 A: I collected, of course, photographed the scene. We
12 processed the front door for fingerprints.

13 Q: Okay.

14 A: We collected some shotgun shells and some nine
15 millimeter cartridge cases.

16 Q: Okay. Did you see the body of Kenyan Dorsey while you
17 were at the scene?

18 A: Did I what?

19 Q: Did you see the body of Kenyan Dorsey while you were
20 at the scene?

21 A: Yes ma'am.

22 Q: Tell us about how the body was positioned.

23 A: It was in a chair in the kitchen and like, right in
24 front of the television they hadn't right there. The
25 television was right next to the entrance that led to

1. the laundry room.

2. Q: Okay.

3. A: And he was sitting up, like he'd been watching t.v.
4. and fell asleep watching t.v.

5. Q: So, and we'll get back to the evidence that you
6. gathered and collected in a moment. Let's talk about
7. the photographs. Did you take pictures of the inside,
8. as well as, the outside of the residence?

9. A: Yes ma'am, I did.

10. Q: Okay, let me have you look at these particular
11. exhibits that are marked State's three through forty
12. six and ask if you recognize what's depicted in those
13. photographs. Just look at each of them quickly. You
14. don't have to testify on each of them right now.
15. Alright; these the photographs that were taken on the
16. morning that Mr. Dorsey's body was discovered?

17. A: Yes ma'am.

18. Q: And they were taken, of course, either by you or
19. certainly while you were there in your presence?

20. A: Yes ma'am.

21. Q: And do they accurately depict how the scene looked as
22. well as the body of Mr. Dorsey looked?

23. A: Yes ma'am, it did.

24. MS./ BARR: Alright, Your Honor, for the record, we would
25. move State's exhibits three, four, five, seven, eight,

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1 twelve, eleven, thirteen, fourteen, fifteen, sixteen,
2* seventeen, eighteen, nineteen, I'm sorry. Eighteen, twenty
3 four, twenty five, twenty six, twenty seven, twenty eight,
4 twenty nine, thirty, thirty one, thirty two, thirty three,
5 thirty four, thirty five, thirty six, thirty seven, thirty
6 nine, forty, forty one, forty two, forty three, forty four,
7 forty five and forty six.

8 The Court: Ladies and gentlemen, we're going to take a
9 break now. We'll give y'all about fifteen minutes and
10 the jurors can leave the jury room. If someone wants
11 to smoke. One thing about jury duty, it's not
12 convenient for smokers, because there's no smoking in
13 the courtroom and we can't take a break every time
14 someone want a cigarette. We'll take a fifteen minute
15 break while we review these items and you all, all the
16 jurors can leave the court room and the jury room if
17 you want to. Who wants to smoke? Let's find that
18 out. Alright, well you can all leave the jury room,
19* but you need to be back in fifteen minutes. Just do
20 not mill around the hallway in front of the
21 courthouse. Go to one spot out there. Wherever the
22 bailiff designates and then come back in the jury
23 room. All of the others can leave. You don't have to
24 be that close to the smokers. Please do not discuss
25 the case. Okay, we're talking to the jurors only.

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1 Jurors only, everyone else have a seat.

2 (Jury takes a break at 11:06)

3 The Court: Back to this photograph issue. First, we'll
4 address the issue Mr. Jenkinson as to which
5 photographs you object to or if you object to all of
6* them.

7 Mr. Jenkinson: I'd like to see them, Your Honor.

8 Ms. Barr: So these are not without objection? Are these
9 without objection?

10 Mr. Jenkinson: Yeah ...

11 Ms. Barr: Billy these are?

12 Mr. Jenkinson: Your Honor. I've broke them into three
13 categories for the Court. First, Ms. Barr has in her
14 hands and she will identify now, without objection.

15 The Court: Those are in without objection?

16 Ms. Barr: If it please the Court Judge, it's numbers 43,
17 42, 39, 37, 33, 32, 3, 4, 5, 7, 8, 12, 11, 13, 14, 15,
18 16, 17, 18, 24, 25, 26, 27, 28, 29 and 30 and Judge
19 they're all out of order. I'll try to put them back
20 into order, but those are the ones.

21 The Court: They're in?

22 Mr. Jenkinson: Yes, Your Honor.

23* The Court: Admitted without objection.

24 (State's Exhibit Numbers 43, 42, 39, 37, 33, 32, 3, 4, 5,
25 7, 8, 12, 11, 13, 14, 15, 16, 17, 18, 24, 25, 26, 27, 28,

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1 29 and 30 are entered)

2 Ms. Barr: Thank you Judge.

3 Mr. Jenkinson: Also, previously admitted is number 38,
4 which shows and identified by Ms. Bradshaw, as the way
5 the t.v. and the location of the body, you can
6 actually see the body. Now, the second category of
7 photographs that we agree to fit within our position
8 on State versus Middleton and those having probative
9 value would be numbers 22, 23, 35, 20 and 7. These
10 all show the chair. They have obviously this witness
11 is going to testify about bullet directions, bullet
12 marks, holes in various parts of the body and these we
13 would take the position they do have probative value.
14 I'll pass those up for the Court.

15 The Court: Distinguish those ...

16 Mr. Jenkinson: As to distinguish those from the next
17 batch.

18 The Court: The one ...

19 Ms. Barr: And Judge, I'm sorry.

20 The Court: The ones, numbers 3, 20, 35, 23 and 22.

21 Mr. Jenkinson: We would have no objection to those.

22 The Court: Admitted without objection.

23 Ms. Barr: And Judge, are we sure we're talking about the
24 right exhibit numbers, because there are two exhibit
25 numbers on the back. We're using the white ...

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1 Mr. Jenkinson: The white exhibit numbers are what we're
2 talking about Your Honor.

3 The Court: The i.d. number is white.

4 Ms. Barr: Yes sir.

5 Court Reporter: Yes sir, they didn't want me to mark
6 over it with the old ...

7 The Court: The red number is ...

8 Court Reporter: The white ones are the ones we're
9 using.

10 The Court: The white ones are the ones we're using?

11 Court Reporter: Yes sir.

12 The Court: Okay.

13 Ms. Barr: The red ones are from the other trial Judge.

14 Court Reporter: And they didn't want me to hide them.

15 The Court: What I've been handed is exhibits numbers
16 22, 23, 27, and 35, which are admitted without
17 objection, is that right?

18 Mr. Jenkinson: Yes sir, without objection.

19 The Court: Okay.

20 **(State's Exhibit Numbers 22, 23, 27 and 35 were entered)**

21 Mr. Jenkinson: There are four photographs which are frontal
22 views of the body in the chair, which it's our
23 position, often no probative value, they are in
24 evidence showing his body slumped in the chair. These
25 photographs have, and our position is no probative

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1 value, simply being offered for purposes of prejudice
2 and they are highly prejudicial and we would object to
3 the admission of 31, 34, 35 and 36.

4 Ms. Barr: Judge, he, the court reporter has told me that
5 he's using the wrong id numbers.

6 Court Reporter: The ones you just handed me are not the
7 numbers that match up to what y'all are saying. We're
8 using the id's so it would be nobody mentioned 44 and
9 45.

10 The Court: Let me restate the numbers again.

11 Court Reporter: Yes sir.

12 The Court: It's the red?

13 Court Reporter: It's the white number; the white
14 sticker.

15 The Court: And I stated the red?

16 Court Reporter: Right.

17 The Court: Alright so, the white numbers on the back
18 are the proper numbers 46, 40, 44, 45, 44, are in
19 without objection. Mr. Jenkinson these numbers are
20 36, 35, 34, 31. Right, Ms. Barr? Alright and your
21 responses are?

22 Ms. Barr: Judge, we would take the position that the
23 photographs that are being offered at this time by the
24 State, are not unduly prejudicial. The Court, of
25 course, you know has to make probative value versus

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1 prejudicial effect analysis and Judge, when you look
2 at the photographs, they're not unduly gruesome. I
3 mean, it's a murder case. Obviously all of the
4 photographs of the victim's body are going to be bad
5 pictures to look at but they're certainly not
6 gruesome. They don't show any organs, they don't show
7 any unnecessary blood. Judge, I think that, clearly,
8 the photographs are relevant and they're probative to
9 determine and prove and establish the manner in which
10 this child was murdered. Also, the position of the
11 body that is important to corroborate the testimony,
12 if they are called of the co defendants, who I
13 understand, have all give statements at some point or
14 other, contradicting previous statements and so if the
15 State calls those witnesses to testify, we would
16 certainly take the position that their testimony and
17 the pictures will help to corroborate their testimony
18 as to how this person was murdered and Judge, clearly
19 we think that, when you look at some of the other
20 photographs involved in the case, and when the Court
21 did the analysis in the previous trial, there were
22 pictures that were offered that were excluded and
23 certainly Judge, we would hope that the Court would do
24 a similar analysis and allow those particular
25 photographs in.

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1 The Court: Okay, Mr. Jenkinson?

2 Mr. Jenkinson: Your Honor, if you please. Any photographs
3 can corroborate but the question is the balance test.
4 We would ask the Court does the probative value
5 outweigh the prejudice and we've attempted through
6 selective photographs, showing the location of the
7 body, stipulating the fact that he's dead. These are
8 awful pictures and they're only being introduced
9 because they are awful. There's nothing there that's
10 going to corroborate anybody's testimony. The only
11 testimony that could be offered by the other witnesses
12 is the fact, whether or not the Defendant Bowen was
13 present in South Carolina and at this location. And
14 that has nothing to do with these photographs, so
15 there is no probative value to these photographs as I
16 can see at the minimums, whereas the prejudice is so
17 manifestly apparent and it's not in dispute outweighs
18 that probative value and we would ask that the Court
19 now allow them into evidence.

20 The Court: Ms. Barr, you say that if the State calls
21 certain witnesses, then the photographs will be
22 relevant to corroborate the testimony, if a witness is
23 called?

24 Ms. Barr: I did say that Judge. I will tell you that we
25 know for sure that the pathologist will testify and

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1 obviously with regard to the injuries to the victim's
2 head and to the victim's chest, which resulted in his
3 death, those would be clearly relevant to establish
4 the manner of death and the cause of the death and
5 Judge, we would also site State versus Hayward which
6 is a 2003 Supreme Court case and it stands for the
7 proposition that notwithstanding the fact that autopsy
8 photos may be gruesome and of a gory nature, they're
9 nonetheless admissible when they reveal the true
10 nature of the attack and the jury ... and this was a
11 case involving, obviously a death penalty case, but we
12 would take the position that this kind of attack,
13 which is a heinous attack, when somebody breaks into
14 somebody's home, the true nature of that attack would
15 certainly be corroborated by the photographs and
16 should certain defense witnesses testify, I imagine
17 that Mr. Jenkinson is going to attack very heartedly
18 their credibility if they're able to establish the
19 manner in which the killing occurred, if they testify
20 and I suspect they will, then it would certainly
21 corroborate that testimony.

22 The Court: In effect, you're asking the Court for
23 hypothetical advisory ruling. You want me to rule on
24 the basis of if someone testifies. I'm not going to
25 do that. So, these are photographs that are yet to be

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1 ruled on to be marked for identification only at this
2 point in time, except for State's exhibit number 33,
3 which is admitted with objection.

4 Ms. Barr: Alright.

5 The Court: We will submit for identification only 31,
6 34, 35 for i.d. purposes. The ones that are admitted
7 shows the back of the chair, the probative value is --
8 - prejudicial effect is most likely to corroborate the
9 testimony of witnesses including the mother who has
10 already testified.

11 Ms. Barr: Yes sir.

12 The Court: Alright. Did we give the jury fifteen
13 minutes? Who's the clock-keeper here.

14 Court Reporter: I had them going out at 11:06, Judge.

15 The Court: Pardon me?

16 Court Reporter: I had them going out at 11:06.

17 The Court: 11:06

18 Ms. Barr: Exactly fifteen minutes.

19 The Court: Exactly fifteen minutes. We'll take a two
20 minute stretch and then press on.

21 Ms. Barr: Yes sir.

22 (There was a brief court break taken)

23 The Court: Bring in the jury.

24 (Jury enters courtroom at 11:26)

25 The Court: Okay. Ms. Barr.

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1 (Continuation of witnesses testimony)

2 Q: Let me get you to stand up here with me. We're going
3 to publish those in a minute. That's State exhibit 38
4 and let me get you to step over to the side. Alright,
5* can you show us what's depicted in that photograph?

6 A: Okay, that's the chair where the victim was situated
7 and it's right next to the kitchen counter, the table.

8 Q: Make sure you keep your voice up.

9 A: Oh, I'm sorry. And it, on the other side, right
10 outside of this photo is where the laundry room was,
11 which led to the back door.

12 Q: Okay.

13 A: So right there this little curio cabinet.

14 Q: Alright, I was curious about one thing in the
15 photograph, let me borrow your pointer for a second.
16 Can you tell me what that little piece is there by the
17 little gold piece by the milk jug?

18 A: That's one of the cartridge cases that I collected at
19 the scene.

20 Q: Alright, going to publish State's 36. Tell us what's
21 depicted in that particular photograph.

22* A: This would be the hat of the victim and this is the
23 wingback chair that he had been in.

24 Q: Okay, now, tell us what is going on here in that
25 particular photograph.

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1 A: Okay, this is going to be a shotgun blast which was
2 what caused this right here. This was pellets out of
3 the barrel.

4 Q: Okay, alright, I'm going to publish State's 7. You've
5 testified that you collected casings from the scene,
6 is that where you would have marked with number 2?

7 A: Yes ma'am.

8 Q: Okay, alright, now tell us about State's number 44.

9 A: Okay, this is a photograph showing one of the injuries
10 to the victim.

11 Q: Okay. Is that you picking up his arm or Vickie
12 Hallman?

13 A: It would have been either Vickie Hallman or Jeffrey
14 Scott.

15 Q: And Jeffrey Scott is employed where?

16 A: With Williamsburg County Sheriff's department.

17 Q: Alright, and tell us about State's exhibit number 23.

18 A: This was a photograph showing that the victim's hand
19 was still in his pocket.

20 Q: Okay.

21 A: And it just got some right here, appears to be some
22 pellets.

23 Q: Shotgun pellets?

24 A: Shotgun pellets.

25 Q: Alright, what about, does that appear to be a hole in

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1 the victim's, I guess it would be his left hand?

2 A: Yeah, an injury of some sort.

3 Q: Alright, and tell us about State's exhibit number 21.

4 Is that a close up version of the injury that we just
5 talked about?

6 A: Yes ma'am.

7 Q: And is this his hand in his pocket here?

8 A: Yes, this is his jeans and his tee shirt right here
9 and this would be his wrist right there.

10 Q: Okay.

11 A: Going into his jean pocket.

12 Q: Alright, and does this show the injury to the victim's
13 hand?

14 A: Yes ma'am.

15 Q: Alright. I'm going to publish State's exhibit number
16 4. Going outside of the residence, did you all
17 recover a light pink shirt outside the residence?

18 A: Yes ma'am.

19 Q: Alright, and where did you recover that shirt?

20 A: It was on the, this is Jaybird right here.

21 Q: Yes sir.

22 A: It was over in this area, this section.

23 Q: Okay, so you all placed the cone there to mark where
24 you found the shirt?

25 A: It was placed by officers prior to my arrival.

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1 Q: You photographed what's been marked as State's 11.
2 Tell us the significance.

3 A: This is the back door, with, this is actually the
4 laundry room. This is the deck and the back door of
5 the residence.

6 Q: Yes sir.

7 A: And this, and generally, when I photograph a residence
8 I always photograph the doors.

9 Q: Okay did you see any visible signs of forced entry to
10 the rear door?

11 A: No ma'am.

12 Q: Tell us the significance of State's twelve.

13 A: Okay this is the exterior of the residence.

14 Q: Keep your voice up.

15 A: I'm sorry. This is the exterior of the residence and
16 this is the window that would have been right there
17 near where the victim's chair was, the victim was
18 located.

19 Q: Yes sir.

20 A: And this is where we photographed an exit hole coming
21 out from the house near the deck.

22 Q: You said exit hole. Where a gun was fired?

23 A: Yes ma'am. Where a projectile exited the house.

24 Q: Alright and State's exhibit thirteen showing a closer
25 view of that particular hole?

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1 A: Yes ma'am. This right here is an exit.

2 Q: Alright and did you find any projectiles at the scene
3 that would have been what you suspected if been fired
4 from the residence and came out of the residence?

5 A: Yes ma'am. There was a projectile underneath the deck.

6 Q: Okay, let me show you State's fourteen. Tell me what
7 that depicts.

8 A: Marker six is the, what I use to show where a
9 projectile was located.

10 Q: And does number fifteen show a closer view of that
11 particular projectile?

12 A: Yes it does.

13 Q: And this is under the deck?

14 A: Yes ma'am.

15 Q: Okay. Now, I'm going to show you State's seventeen.
16 Tell us what's in that photograph.

17 A: Well, this would be wood planks to the deck. This is
18 our tape and that would be where the projectile went
19 through the deck.

20 Q: Went through the wall of the house, through the deck
21 and landed underneath there?

22 A: Correct.

23 Q: Alright I'm going to show you, let's go back a little
24 bit. I'm going to show you State's number twenty-
25 seven. I asked you earlier about that little golden

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1 item that struck my curiosity, is that a closer view
2 of that particular picture?

3 A: Yes ma'am. This is the kitchen counter, the chair the
4 victim was in.

5 Q: Okay.

6 A: And this right here was the cartridge case that we
7 located on the scene.

8 Q: Alright and there were other projectiles found in the
9 hall, is that correct?

10 A: Yes ma'am.

11 Q: Alright, going to publish State's twenty-nine and
12 explain to the ladies and gentlemen of the jury what's
13 depicted in that photograph.

14 A: Okay, this is still in the kitchen. Closer to the
15 sink, double windows.

16 Q: Keep your voice up.

17 A: I'm sorry. The, anyway, this is the kitchen to the
18 residence. Three and four were where we located a
19 couple of shotgun shells.

20 Q: Okay, alright and I'm going to publish State's thirty.
21 Is that a closer view of that as well?

22 A: Yes ma'am. This is a, these are the two shotgun
23 shells that we found.

24 Q: Okay, tell us what is depicted in State's thirty-two.

25 A: Okay. Right here, this will be a cartridge case,

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1 located near the, near where the victim was sitting.

2 Q: Okay, alright. Is that the cord that was noted in
3 some of the other photographs by the chair?

4 A: It was. The cord was an extension cord.

5 Q: Alright and I'll publish thirty-seven. Is that also
6 a picture of the cord and the chair?

7 A: Yes ma'am.

8 Q: Okay, alright and there is a projectile by the cord?

9 A: A cartridge casing, yes.

10 Q: I'm sorry, yes. Alright tell us about thirty-nine.

11 A: This is the wall near the chair the victim was in and
12 this was the hole made by a projectile in the
13 residence.

14 Q: Alright I'm going to show you forty-two. Is that
15 here, does that appear to be one of the holes, as well
16 as that? And let me show you forty-three as well. I
17 won't publish that, just

18 A: Okay, this definitely is a shotgun pellets. This I'm
19 having trouble seeing.

20 Q: Okay. The red spots there, does that appear to be
21 blood?

22 A: Yes, suspected blood.

23 Q: Okay. And calling your attention back to the previous
24 exhibit, which is number thirty-nine. There's clearly
25 a hole there surrounded by blood splatter.

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1 A: That photo shows the location of the blood.

2 Q: Alright, you can take your seat now sir. Now, sir as
3 part of your duties you would have collected the
4 projectiles from the scene?

5 A: Yes I would.

6 Q: And you would have packaged them in some sort, some
7 form of packaging until it was ready for analyst, is
8 that correct?

9 A: Yes ma'am.

10 Q: Alright I'm going to have these particular exhibits
11 marked for identification purposes. Now, before I
12 show you these pictures, tell me what all you
13 collected from the scene.

14 A: As I stated previously, I collected a series of
15 photographs, we collected gunshot residue kits for
16 fingerprints, postmortem fingerprints of the victim
17 and also prints we collected from print cards from the
18 front door to the residence. We collected or took
19 custody of the victim's mother's nightgown, the two
20 additional gun shot residue kits and of course the
21 shotgun shells and the cartridge cases and the
22 projectile.

23 Q: Okay. Now, you mentioned something about some
24 fingerprint card?

25 A: Generally, what we do, when I say we, I mean SLED

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1 agents that are assigned to the crime scene, we
2 collect a set of prints, postmortem prints. In this
3 case, the victim's fingerprints.

4 Q: Okay. Alright, what was the purpose obtaining the
5 shot gun shell projectiles from the scene?

6 A: That is evidence that pertained to the nature of the
7 crime and they would be sent to the firearms
8 department or analysis.

9 Q: Okay. Let me show you what's been marked as State's
10 exhibit number forty-nine and State's exhibit number
11 fifty. Can you tell whether or not these particular
12 items are related to this investigation?

13 A: Yes ma'am, this has the lab number 09-04627, the
14 Williamsburg Sheriff's department which is their
15 agency case number. That was exhibit fifty.

16 Q: Alright, what about forty-nine?

17 A: Forty-nine, also has a lab number 09-04267 of the
18 Williamsburg county sheriff's department and their
19 case number 2843.

20 Q: Now Agent Hardy, let me have you look at the log of
21 evidence as it relates to SLED and see whether or not
22 this is the lab number that is assigned to these two
23 exhibits.

24 A: Yes on the top of this page is 09-04267.

25 Q: And for the record, tell us which particular exhibit

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- 1 number you're opening up.
- 2 A: I'll open exhibit fifty.
- 3 Q: Alright.
- 4 A: Okay.
- 5 Q: Alright, do you recognize what was in that envelope?
- 6 A: Well, yes this is a bullet ...
- 7 Q: Okay, alright.
- 8 A: Apparently this is the bullet from the autopsy and
9 specimen.
- 10 Q: Can you tell if these particulars items have been
11 analyzed by SLED?
- 12 A: Yes, they have our lab number.
- 13 Q: That's okay. Tell me if you recognize any of the
14 items that you removed from that particular exhibit.
- 15 A: Okay the first one that's marked with the same lab
16 number. These were the pellets that were recovered at
17 the scene and also has Vickie Hallman's initials.
- 18 Q: Yes sir. If you can tell us about the next one.
- 19 A: The next one is going to be the same lab number, a
20 swap from the chair.
- 21 Q: Okay at [REDACTED] is that correct?
- 22 A: Yes ma'am.
- 23 Q: Alright.
- 24 A: The item number sixteen, same lab number, wading.
- 25 Q: Yes sir.

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1 A: Is going to be from the chair.

2 Q: Okay.

3 A: This one is number ten, marked the same lab number.

4* Q: Yes sir.

5 A: It's going to be the cartridge case.

6 Q: Okay.

7 A: Number nine same lab number the cartridge case and it
8 has my initials on it.

9 Q: Yes sir.

10 A: Number eleven is going to be three shotshells

11 Q: Taken from the scene and marked?

12 A: Yes ma'am.

13 Q: Yes sir.

14 A: And number twelve, same lab number is going to be the
15 twelve gauge.

16 Q: Alright.

17 A: Number thirteen, same lab number is going to be the
18 projectile that was identified in number six on the
19 back porch and it's going to be swabs.

20 Q: All of these items were collected by you or at your
21 direction from the home of Annette Bradshaw and Kenyan
22 Dorsey?

23 A: Yes ma'am.

24 Ms. Barr: Judge we would move State's exhibit number
25 forty-nine, including the items of evidence therein, into

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1 evidence at this time.

2 Mr. Jenkinson: We have no objection.

3 The Court: They are admitted.

4 (State's Exhibit Number 49 was entered)

5 Q: Okay, I'm going to hand you what's been marked for
6 identification purposes as State's exhibit number
7 fifty-one.

8 A: Yes ma'am. This also appears to be evidence from this
9 case.

10 Q: And how do you know that?

11 A: The lab number has been assigned along with
12 Williamsburg County Sheriff's Department agency case
13 number.

14 Q: Now, will you open it for me? Okay, and what items
15 are enclosed in that particular exhibit?

16 A: We have an evidence envelope that is from Anne Arundel
17 Police Department.

18 Q: The items that are contained in that particular
19 exhibit, those also went to SLED for analysis as far
20 as you know?

21 A: Yes ma'am, it's got our lab number on it.

22 Q: And let's just be clear. The items that you're
23 talking about now, as well as the items that you
24 talked about you didn't perform analysis on those?

25 A: No ma'am.

HEARING

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1 Q: Your part of your job is just to collect the evidence,
2 is that correct?

3 A: Yes.

4 Q: Alright let me get those back in there.

5 A: I got it.

6 Q: Thank you Agent Hardy. That's all the questions that
7 I have. Please answer any questions from Mr.
8 Jenkinson or the Court may have for you.

9 A: Yes ma'am.

10 The Court: Mr. Jenkinson.

11 CROSS EXAMINATION OF AGENT HARDEE BY MR. JENKINSON

12 Q: Mr. Hardee, you are an investigator and you collect
13 evidence of the crime scene?

14 A: Yes sir.

15 Q: When you collect evidence in a crime scene, you look
16 for anything to connect people with the crime that may
17 be charged with the crime ultimately?

18 A: Yes sir.

19 Q: In this particular case, you're collecting evidence at
20 a crime scene to determine whether or not Kelvin B.

21 who is seated over here, was in fact at this
22 crime scene where you were located?

23 A: My primary purpose is to collect the evidence so that
24 a suspect can be developed. I have no idea who the
25 suspect could be at the time.

HEARING

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1 Q: I understand, but it's Kelvin B. that's on trial?

2 A: Yes.

3 Q: And you're here testifying about a murder that
4 occurred and you went there on April 5th, 2009?

5 A: Yes sir.

6 Q: Kenyan Dorsey.

7 A: Right.

8 Q: He's on trial for that.

9 A: True.

10 Q: And as you sit there, you investigated and spent hours
11 there checking on things, didn't you?

12 A: Yes sir.

13 Q: Did you find a single fingerprint to tie Kelvin B.
14 to the scene?

15 A: No sir.

16 Q: Did you find a single footprint to tie Kelvin B. to
17 the scene?

18 A: No sir.

19 Q: Did you find any DNA of his on scene that would tie
20 him there?

21 Ms. Barr: I object to that line of questioning. He just
22 testified that he didn't perform any analysis so he's
23 not competent to answer that question. So my
24 objection would be the witness is not competent to
25 answer that question.

HEARING

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1 Mr. Jenkinson: Did you sustain that or what? Do you want
2 to hear me on that?

3 The Court: Yes sir.

4 Mr. Jenkinson: Well ...

5 The Court: A speaking objection, so a speaking argument to
6 the speaking objection, if you would like.

7 Mr. Jenkinson: I would just like to say this is a cross
8 examination of the crime scene investigation and I'm
9 just trying to determine what he found.

10 The Court: Objection is overruled.

11 Q: Did you find a single piece of DNA to tie Kelvin B.
12 to this scene?

13 A: No sir, I didn't. I'm not a DNA analysis and I'm also
14 not a fingerprint analysis. What I collected would
15 have been sent to someone else for analysis.

16 Q: Did you collect DNA that may have been his?

17 A: I did collect, well, Vickie did collect some
18 fingerprints.

19 Q: Okay and as you sit here today, and that was twenty
20 some odd months ago when this occurred. Today are you
21 aware of any evidence collected at the scene that were
22 Kelvin B.

23 A: No, sir.

24 Q: Did you find any property on the scene that you can
25 sit here today and say belonged to Kelvin B.

HEARING

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- 1 A: No, sir.
- 2 Q: I'm not a hunter but I want to ask you. I'm looking
- 3 at exhibit #51, these bullets that you've bought, you
- 4 didn't testify about those did you?
- 5 A: Just that they were collected from Maryland and they
- 6 have our lab number on them.
- 7 Q: And the shell casings that you found, the shotgun
- 8 shell casings ...
- 9 A: They were at the scene?
- 10 Q: Do you own a shotgun?
- 11 A: Yes, sir.
- 12 Q: Is that something that you routinely, buy shotgun
- 13 shells and hunt?
- 14 A: I don't hunt anymore but I occasionally shoot like
- 15 skeet.
- 16 Q: I'm showing you a Remington shell casing out of
- 17 exhibit number 49, okay. Ace Hardware about two
- 18 blocks from here sales shot gun shells. Is it very
- 19 likely that I could go around to Ace Hardware here in
- 20 Kingstree and buy that identical 12 gauge shotgun
- 21 shell that looks exactly like that by Remington?
- 22 A: It's possible.
- 23 Q: This is not an uncommon shell is it?
- 24 A: Not to my knowledge I've assume a lot of stores sell
- 25 them.

HEARING

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1 Q: Have you ever shot a twelve gauge shotgun shell that
2 looked like that?

3 A: Yes, sir.

4* Q: When you're collecting evidence what are you looking
5 for, evidence of a crime?

6 A: Correct.

7 Q: If you would have found a cell phone at a crime scene,
8 would you collect that?

9 A: Yes, if it is no ones in the home. If it belongs
10 there it wouldn't be evidence of a crime.

11 Q: If it didn't belong in the home and it's a strange
12 cell phone laying there, would you collect it?

13 A: Yes, sir.

14 Q: Why is it important to collect a cell phone?

15 A: It can provide information. A contact list. Get the
16 number to find out, get the serial number to find out
17 who it belongs to, who it's registered to.

18 Q: If you wanted to collect information on my cell phone
19 and I had a T-Mobile cell phone, as a crime scene
20 investigator could you contact T-Mobile and say you
21 got Billy Jenkinson's cell phone number and I'd like
22 to subpoena his records.

23 A: That would go outside the scope of my responsibility
24 but it could go to another department and then they
25 could go and take whatever action they needed to get

HEARING

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1 the information.

2 Q: Is that something routinely done at SLED

3 A: I can't testify to that.

4 Q: You've never done that?

5 A: No, I've never done that.

6 Q: But that's a tool that you use?

7 A: Yes, it's a tool that SLED has used.

8a Q: Have you ever seen cell phone records?

9 A: Just my own.

10 Q: That's what I say. Every month, you get one.

11 A: Yes.

12 Q: And if you made a call at 11:58 on February 1st and you
13 talked to somebody off of your cell phone that would
14 show up on your phone record wouldn't it?

15 A: Yes, sir.

16 Q: And it would show the number you called?

17 A: Yes, sir.

18 Q: And if you sent me a text message right now on your
19 phone to me, it would also show up on your phone,
20 wouldn't it?

21 A: Yes, sir.

22 Q: And it's available from telephone companies, isn't it?

23 A: Yes.

24 Q: It would show up on my phone and you would know that
25a I made a phone call from that location?

HEARING

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1 A: Yes, sir.

2 Q: There's other information that is available as well
3 from cell phone companies about cell phones, isn't it
4 in an investigation, right?

5 A: Again, that's out of my scope. I can't testify to
6 everything they can get from a cell phone.

7 Q: And if Kelvin B. would have been talking on the
8 cell phone that night to one of these co-Defendants,
9 that information could be accessed on his cell phone
10 records, couldn't it?

11 A: I guess so.

12 Q: You couldn't say one way or the other?

13 A: No.

14 Q: It should show up on his phone bill, shouldn't it?

15 A: It should.

16 Q: Just like yours and mine. Now, I'm going to show you
17 what has been marked for identification as Exhibit
18 Number 48 from the State, did you prepare that?

19 A: Yes, sir.

20 Q: What is that?

21 A: This is a crime scene diagram of the victims
22 residence.

23 Q: Did you determine in your investigation which bedroom
24 Ms. Bradshaw was in?

25 A: No.

HEARING

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1 Q: So you don't know?

2 A: She wasn't at the residence when I was there, so I
3 don't know what room she was in at the time.

4 Q: If she was staying in the bedroom adjacent to a
5 bathroom. There is only one of those that fits that
6 description.

7 A: Yes, sir.

8 Q: Do you see that?

9 A: Yes, sir.

10 Q: And that's back on the back corner by a deck as shown
11 on your description.

12 A: Yes, sir.

13 Q: Now, looking at that, in terms of a straight line
14 through a wall, how far would Ms. Bradshaw have been
15 from where the actual shooting occurred?

16 A: I can't, I couldn't tell you.

17 Q: Further than me to you?

18 A: Yes.

19 Q: Further than that?

20 A: Through the wall, since this is not to scale I can't
21 make that determination.

22 Q: Okay. I'm just saying from a straight line....

23 A: From here it still looks like it's further.

24 Q: Not a whole lot further than me to you?

25 A: No, sir.

HEARING

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1 Q: Did you collect any fingerprints from Ms. Bradshaw's
2 bedroom?

3 A: No, sir.

4 Q: Did you attempt particularly to collect any
5 fingerprints from her light switch?

6 A: No, sir.

7 Q: Did you determine whether or not the light on the
8 light switch in her bedroom cut on a light or was it
9 burned out or inoperable?

10 A: No, sir.

11 Q: You did not.

12 Mr. Jenkinson: Thank you Agent Hardee.

13 The Court: Ms. Barr.

14 Ms. Barr: Just one question.

15 AGENT HARDEE - REDIRECT BY MS. BARR:

16 Q: Agent Hardee, are you familiar with the window of
17 opportunity in which a person trying to subpoena text
18 messages has to actually get those text messages?

19 A: No, ma'am.

20 Q: You're not sure how much time it would have to take to
21 get it, how soon you would have to request it?

22 A: Correct.

23 Q: Okay. Did you know that these individuals charged
24 with the murder were arrested six weeks after the
25 murder happened?

HEARING

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1 A: No, ma'am, I didn't know when they were arrested.

2 Q: Would that surprise you if I told you they were
3 arrested six weeks later?

4 A: Yeah, actually.

5 Ms. Barr: That's all the questions, I have. Thank
6 you.

7 Witness: Thank you.

8 The Court: Ms. Barr, call your next witness.

9 Ms. Barr: Quadir Wilson.

10 Bailiff: Place your left hand on the Bible and raise your
11 right hand. Do you solemnly swear that the evidence
12 and testimony you will give this Court and jury will
13 be the truth, the whole truth and nothing but the
14 truth, so help you God?

15 A: I do.

16 Bailiff: Have a seat please.

17 EXAMINATION OF MR. QUADIR WILSON BY MS. BARR:

18 Q: Mr. Wilson, you were subpoenaed to testify in this
19 case?

20 A: Yes.

21 Q: Do you know Ronald Mack?

22 A: Yes.

23 Q: How is it that you know Ronald Mack?

24 A: We stayed in the neighborhood and we were close
25* friends and we went to school together.

HEARING

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1 Q: What about Kenyan Dorsey?

2 A: I knew him from senior high.

3 Q: You said you and Ronald use to go to school together?

4 A: Yes.

5 Q: You understand why you were subpoenaed in this case,
6 right?

7 A: Yes.

8 Q: Did you see Ronald Mack, the weekend that Kenyan was
9 murdered?

10 A: It was at the club.

11 Q: Ya'll went to Club Jordan that Saturday?

12 A: Yes.

13 Q: Where is Club Jordan?

14 A: On Highway 52?

15 Q: All right. You went to Club Jordan with Ronald?

16 A: Yes.

17 Q: And who else?

18 A: And Antonio ...

19 Q: McClary?

20 A: Yes.

21 Q: And Dontrey Barr?

22 A: Yes.

23 Q: What time did you all get to the nightclub?

24 A: Probably about nine or ten o'clock.

25 Q: What time did you all leave?

HEARING

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- 1 A: I'd say probably like 1:30.
- 2 Q: Why did you all leave then?
- 3 A: The call was about to end.
- 4 Q: Now, who all did you go to the club with?
- 5 A: We all went together.
- 6 Q: When you say we, who are you talking about?
- 7 A: Tony, Dontrey, Ron ...
- 8 Q: You all were together?
- 9 A: Yes.
- 10 Q: Did you all leave together?
- 11 A: No. Ronnie and Dontrey left at a different time and
- 12 then Antonio came back and pick me up. Then we went
- 13 back.
- 14 Q: When Ronald was at the club, what kind of mood was he
- 15 in?
- 16 A: He seemed like something was bothering him.
- 17 Q: Why would you say that?
- 18 A: He'd be on his cell phone and he'd seem like kind of
- 19 mad.
- 20 Q: Mad?
- 21 A: Yeah.
- 22 Q: What about Antonio McClary, what kind of mood was
- 23 Antonio in?
- 24 A: Antonio was always happen. That's was him.
- 25 Q: Now, what was Ronald doing at the club, what was he

HEARING

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1 doing while he was there?

2 A: He was playing pool.

3 Q: He was on his phone.

4 A: Yeah, we was playing pool and he was on his phone.

5 Q: When you say he was on the phone, who are you talking
6 about?

7 A: Ronald.

8 Q: Ronald?

9 A: Yeah, Ronald Mack, yeah.

10 Q: Did you all discuss Kenyan that night?

11 A: He told me that they had had a argument.

12 Mr. Jenkinson: Objection. I object to what he said,
13 Your Honor.

14 The Court: Objection is sustained.

15 Q: Did Ronald Mack tell you any intentions that he had
16 towards Kenyan?

17 Mr. Jenkinson: Objection.

18 The Court: The basis for the objection.

19 Mr. Jenkinson: Hearsay, Your Honor.

20 Ms. Barr: We take the position under 803 it is a
21 statement, the state of mind, emotion, physical condition
22 such as intent ...

23 Mr. Jenkinson: Your Honor, Rule 803 is known as
24 excited utterance. This would not constitute any kind of
25 excited utterance. It would lead to an impression for

HEARING

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1 somebody to testify as to what somebodies intentions were,
2 which is hearsay.

3 The Court: I overrule the objection.

4 Q: So, you're saying they argued earlier that day. What
5 did Ronald Mack tell you as to his intentions towards
6 Kenyan Dorsey?

7 A: That I'm going to get him.

8 Q: He said what

9 Mr. Jenkinson: Object to that statement.

10 The Court: Objection is overruled.

11 Q: Mr. Wilson, I can barely hear you, he said what?

12 A: He said I'm going to get him but I didn't know what he
13 meant when he said it like that.

14 Q: He said he was going to get him?

15 A: Yes.

16 Q: Did he tell you what he meant by that?

17 A: No.

18 Q: Did he seem to be happy or angry or what kind of mood
19 was he in when he made that statement, I'm going to
20 get him?

21 A: He was angry.

22 Q: What did you all do when you left that club?

23 A: We went to Dontrey's house.

24 Q: Is Dontrey seated in the courtroom today?

25 A: Yes.

HEARING

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1 Q: Can you show us who he is?

2 A: The fellow with the yellow shirt on.

3 Q: You all went back to his house and what happened at
4 that point?

5 A: We was talking and then Dontrey said he was going to
6 go to sleep. That's when Ronald and Antonio left.

7 Q: They left how were they dressed?

8 A: They had changed clothes.

9 Q: They had changed clothes from the ones they were
10 wearing at the club?

11 A: Yes.

12 Q: What did they change into?

13 A: Darker clothes.

14 Q: They changed into dark clothes?

15 A: Yeah.

16 Q: About what time was it when they left?

17 A: I'd say about fifteen minutes after we got there. I'd
18 say fifteen minutes after we got to Dontrey's house.

19 Q: Again, what time was it?

20 A: Somewhere between 1:45 and 2:15; yeah.

21 Q: Do you know where Kenyan was living at the time?

22 A: No, I never knew where Kenyan was living.

23 Q: Do you know where Jaybird Avenue is?

24 A: No.

25 Q: You said you all went to Dontrey's house, where does

HEARING

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1 Dontrey live?

2 A: At the time he was staying in Aynors.

3 Q: Did you ask them where they were going?

4 Mr. Jenkinson: Your Honor, I would object as to the
5 hearsay.

6 The Court: Objection is overruled..

7 Q: So?

8 A: Yes, I asked them.

9 Q: What was the response?

10 A: Don't worry about it.

11 Q: Who told you that?

12 A: Ronald told me that.

13 Q: Even at that point, Mr. Wilson, you kind of suspected
14 this was not a good situation?

15 A: Yes.

16 Q: Were Ronald and Antonio kind of talking to each other?

17 A: I mean we all was talking to each other but I can't
18 really say what all they was talking about.

19 Q: Was there a point in time where they all went off just
20 the two of them on their own to talk?

21 A: Sometimes.

22 Q: When they told you that they were leaving and they
23 told you don't worry about it, what did you say to
24 them?

25 A: I said ya'll don't do nothing stupid.

HEARING

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1 Q: You told them don't do nothing stupid?

2 A: Yes.

3 Q: When was the next time you saw Ronald Mack or Antonio
4 McClary?

5 A: I can't really say.

6 Q: Was it that same night. Could it have been that
7 morning?

8 A: Yeah.

9 Q: How did you see Ronald or Antonio, did they come back
10 to the house?

11 A: They came back to the house.

12 Q: Who came back to the house?

13 A: Antonio and Ronald.

14 Q: What time was it that they came back to the house?

15 A: I can't say.

16 Q: Was it still dark outside?

17 A: Yes, it was still dark.

18 Q: What did Ronald do when he got back to your house?

19 A: He just walked in.

20 Q: What did they say when they came back?

21 A: They didn't say much. They just walked in.

22 Q: What did you say?

23 A: I hope you all didn't do nothing stupid.

24 Q: What did he say?

25 A: We done it, what's done is done.

HEARING

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- 1 Q: How did they leave your house?
- 2 A: They was walking, I believe they was walking. They
- 3 went out the door, I don't believe anyone pulled up.
- 4 Q: Did Ronald do anything with his hands when he got
- 5 back?
- 6 A: He washed his hands.
- 7 Q: With what.
- 8 A: With soap and bleach.
- 9 Q: When Ronald came back he washed his hands with soap
- 10 and bleach, right?
- 11 A: Yes.
- 12 Q: How long did Ronald and Antonio stay?
- 13 A: I can't really say because I wasn't looking at the
- 14 time.
- 15 Q: Now, did they have the same clothes on that they had
- 16 when they left?
- 17 A: Yes.
- 18 Q: When Antonio and Ronald came back to your house, did
- 19 they keep on those same clothes or did they change the
- 20 clothes?
- 21 A: I don't think they changed their clothes when they
- 22 came back. I'm not sure.
- 23 Q: Do you know what happened to the clothes that they
- 24 were wearing when they left?
- 25 A: No, I don't know what happened to them.

HEARING

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1 Q: When did you find out, when was it confirmed for you
2 that Kenyan had, in fact, been murdered?

3 A: I was at church and I got a text that Kenyan was
4 murdered.

5 Q: What did you think when you got that?

6 A: About Ronald.

7 Q: Is Tawanda Mack Allen, who is that?

8 A: Ronald's mother.

9 Q: Ronald's mother?

10 A: Yes.

11 Q: Have you ever met her before?

12 A: I met her one time but it wasn't like actually meet
13 her, I saw her when her and Ronald was talking.

14 Q: Where was she living in April of 2009?

15 A: I believe in Maryland.

16 Q: Have you ever heard the name Callie before?

17 Mr. Jenkinson: Objection as to what he heard, Your
18 Honor. Hearsay.

19 The Court: Ms. Barr.

20 Ms. Barr: Judge, it's not a statement being offered
21 for the truth of the matter. I'm just asking if he's heard
22 the name.

23 The Court: Objection is overruled.

24 A: Yes.

25 Q: You've heard that name before?

HEARING

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1 A: Yes.

2 Q: Before Kenyan was murdered?

3 A: Yes.

4 Mr. Jenkinson: Same objection, Your Honor.

5 The Court: Overruled.

"6 Mr. Jenkinson: ... move to strike.

7 Q: Where did you hear that name from?

8 A: Ronald.

9 Q: Who was Callie?

10 Mr. Jenkinson: Objection. As to his knowledge.

11 The Court: Objection is sustained.

12 Q: Now, let me ask you, Mr. Wilson, when you received the

13 text while you were in church that Kenyan had been

14 shot, the question is why didn't you go to the police

15 and tell them what you knew?

16 A: I figured if Ronald would do that to Kenyan, he might

17 would do the same to me.

18 Mr. Jenkinson: Objection, Your Honor.

19 The Court: I didn't hear it. Sir, restate your

20 answer.

21 A: I said if he would have did it to Kenyan, he might

22 have would of did it to me.

23 The Court: Objection is overruled.

24 Q: You were concerned for your safety?

25 A: Yes.

HEARING

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1 Q: But at some point you actually did give a statement to
2 law enforcement?

3 A: Yes.

4 Q: And you told them what you knew?

5 A: Yes.

6 Ms. Barr: That's all the questions, I have. Please
7 answer any questions that Mr. Jenkinson may have for you.

8 Mr. Jenkinson: I have no questions of this witness.

9 The Court: Okay. You may step down. Next witness.

10 Ms. Barr: We call Dontrey Barr.

11 Bailiff: Place your left hand on the Bible and raise your
12 right hand. Do you solemnly swear that the evidence and
13 testimony you will give this Court and jury will be the
14 truth, the whole truth and nothing but the truth, so help
15 you God?

16 A: I do.

17 Bailiff: Have a seat please.

18 DIRECT EXAMINATION OF DONTREY BARR BY MS BARR:

19 Q: Good afternoon Mr. Barr.

20 A: Good afternoon.

21 Q: Now you came a long way to be here today didn't you?

22 A: Yes I did.

23 Q: Alright, tell me first of all state your full name.

24 A: My name is Dontrey Terrell Barr.

25 Q: And where did you come from to be here today?

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- 1 A: Georgia.
- 2 Q: Alright, you're in the Army?
- 3 A: Yes ma'am.
- 4 Q: How long have you been enrolled in the Army?
- 5 A: Seven months.
- 6 Q: Alright and is Williamsburg county home for you?
- 7 A: Yes ma'am.
- 8 Q: Okay, alright now you were subpoenaed to testify in
- 9 this case, is that right?
- 10 A: Yes ma'am.
- 11 Q: Alright and sir, did you know the victim Kenyan
- 12 Dorsey?
- 13 A: Yes, I knew him.
- 14 Q: Alright and sir did you know one of the defendants,
- 15 Ronald Mack?
- 16 A: Yes, I knew him too.
- 17 Q: And how did, how is it that you knew Mr. Mack?
- 18 A: We were friends from school.
- 19 Q: Okay, you know him from school or the neighborhood or
- 20 what?
- 21 A: Both.
- 22 Q: Okay, alright. Mr. Barr did you see Ronald Mack
- 23 during the weekend that Kenyan was killed?
- 24 A: Yes ma'am, I did.
- 25 Q: Okay tell me what you all were doing that weekend.

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1 A: That we went to Club Jordan and at his girlfriend's
2 house.

3* Q: Who's girlfriend's house?

4 A: Ronald's girlfriend.

5 Q: What's Ronald's girl name?

6 A: Dymon.

7 Q: Dymon? Okay.

8 A: He told me to come pick him up the next day anytime,
9 so we came back and picked him up and he was walking
10 and we passed by him, we recognized him so we turned
11 around to pick him up. He got in the car and he got
12 in the back with me.

13 Q: Alright, slow down for me. You say you came to pick
14 him up the next day. So would this be Saturday, April
15 the 4th?

16 A: Yes ma'am.

17 Q: Okay, where'd you pick him up at?

18 A: In the Hemingway area.

19 Q: Alright, about what time?

20 A: It would be 9:00.

21 Q: Now had you ever met Ronald Mack's mother?

22 A: One time before.

23 Q: Alright, where does she live?

24 A: Maryland.

25 Q: She lives in Maryland? Alright, now how is it that

HEARING

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1 Ronald was living down here and his mom was in
2 Maryland?

3 A: He was living with his father.

4 Q: His father, okay. And his father lives in
5 Williamsburg county?

6 A: Yes ma'am.

7 Q: Alright, now tell me about what time it was that you
8 picked him up.

9 A: It was 9:00, before ten.

10 Q: That night?

11 A: Yes ma'am.

12 Q: Okay, were you with anybody?

13 A: Me, Quadir and Antonio.

14 Q: Quadir Wilson, the young man who just testified?

15 A: Yes ma'am.

16 Q: And tell me, is that who you call, is that Antonio
17 McCLary?

18 A: Yes, ma'am.

19 Q: And what happened when you picked Ronald Mack up?

20 A: He got in the back with me and we got like, further
21 down the road and he was doing text messages.

22 Q: Okay, who was in the backseat with you?

23 A: It was just me and him.

24 Q: You said you and him; who are you talking about?

25 A: Me and Ronald.

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1 Q: Okay. Alright, now, who was driving the vehicle?

2 A: Antonio.

3 Q: What kind of mood was Ronald Mack in?

4 A: He seemed like something was bothering him.

5 Q: Okay, what about Antonio? What kind of mood was he
6 in?

7 A: Regular. Nothing was going on seem like to me.

8 Q: Alright, what type of phone did Ronald Mack have?

9 A: He had an iphone.

10 Q: Sir?

11 A: An iphone.

12 Q: Was he working anywhere?

13 A: He worked at his dad's store.

14 Q: Alright and you indicated that he had shown you some
15 text messages?

16 A: Yes ma'am.

17 Q: Okay, alright and why was he showing you the text
18 messages?

19 A: We were friends.

20 Q: Sir.

21 A: We were friends and he felt like he showed me some.

22 Q: Okay, alright and what did, did you actually see him
23 texting somebody?

24 A: No I didn't.

25 Q: Okay, did you see any incoming text messages?

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1 A: Yes ma'am.

2 Q: Okay, alright and you don't, you 're not sure when the
3 text messages were sent?

4 A: No ma'am.

5 Q: Okay. Did he say to you who had text message using
6 his phone, whether it was him or somebody else?

7 A: Not really ...

8 Mr. Jenkinson: Your Honor, may we be heard on this issue?
9 We do have an objection.

10 The Court: Alright, ladies and gentlemen we'll have you
11 go to the jury room. Please do not discuss the case.

12 (Jury exits Courtroom)

13 The Court: Yes sir?

14 Mr. Jenkinson: There's about to be solicited from this
15 witness information about the text messages. He read
16 the text message, he can say what he read, but what
17 he's going to go further was, is identify that as
18 being sent by a person named Callie, which is only
19 information given to him by another, which would be
20 hearsay. Our objection is to the identity of the
21 sender, because all it was was a text message without
22 any identity and we want to make sure that the
23 inadmissible, hearsay portion, that he's going to
24 testify to appears in this statement that he provided
25 law enforcement. It's hearsay, but the actual, what

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1 he read is not hearsay and we object to him using the
2 identity of the sender.

3 The Court: Alright Ms. Barr?

4 Ms. Barr: Judge, if he, if counsel doesn't object to him
5 saying what he saw, then that may solve a lot of our
6 problems, Judge, as it relates to the identity. He
7 saw something on the phone that relates to the
8 identity, that's clearly admissible. That's not to
9 say that necessarily that this defendant is Callie,
10 just that somebody who Ronald Mack identified on his
11 phone as Callie was the one that was sending him
12 messages and I think at some point, later of course,
13 we'll have to establish that the person who was termed
14 to be Callie was the defendant, but in terms of just
15 doing it that way, clearly is admissible as a
16 statement against co conspirators.

17 The Court: What did you say?

18 A: When we came back, when we was in the backseat, his
19 phone say the name of Callie and saying what up and
20 then Callie text back and said what's up? He was like
21 Kenyan gonna get it, you talking about your friend the
22 one you have beef with and Ronald text back and said
23 yeah. He said you talking two, three, four, five in
24 the morning and he text back and say yeah, okay I'm on
25 my way.

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1 The Court: Alright. Sir did you see that yourself?

2 A: Yes sir.

3 The Court: Alright he said that's what he saw.

4 Mr. Jenkinson: That's what he read but ...

5 The Court: He said he saw the text was from ...

6 A: Callie.

7 The Court: Callie. They went back and forth when the
8 text came in and he saw who the texts were from. Is
9 that right?

10 A: Yes sir.

11 The Court: What's the objection again?

12 Mr. Jenkinson: My objection is he was told by Ronald as
13 opposed to what he actually saw.

14 The Court: Alright I think the question is what did you
15 see on the text?

16 Ms. Barr: Yes sir, it was.

17 The Court: Alright, let's bring the jury in you can go
18 ahead and get them.

19 (Jury enters courtroom at 12:31)

20 The Court: Ms. Barr.

21 Ms. Barr: Yes, thank you.

22 Q: Mr. Barr, you indicated that at some point when you
23 and Antonio and Quadir picked up Ronald Mack in
24 Hemingway, that you sat in the back seat with Ronald
25 Mack?

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- 1 A: Yes ma'am.
- 2 Q: And he showed you his cell phone?
- 3 A: Yes ma'am.
- 4 Q: And you say that you saw some text messages?
- 5 A: Yes ma'am.
- 6 Q: He shared that information with you?
- 7 A: Yes ma'am.
- 8 Q: And tell me what the text messages said, what you saw.
- 9 Not what somebody told you, but what you saw with your
- 10 own eyes.
- 11 A: On the phone it shows at the top it said Callie
- 12 Q: Okay, slow down for a minute. Based on what you saw
- 13 in his phone, you saw that he was conversing with
- 14 someone he called Callie?
- 15 A: Yes ma'am that was the name.
- 16 Q: Okay, that was the name saved in the phone right?
- 17 A: Yes.
- 18 Q: Okay tell me what the test messages said that you saw.
- 19 A: Ronald sent a message that said what's up and then
- 20 Callie sent a text message back and said what's up and
- 21 then Ronald texted back and said Kenyan.
- 22 Q: Wait a minute, say that again.
- 23 A: Ronald text back and said Kenyan got it good.
- 24 Q: Okay.
- 25 A: The dude Callie asked said, what you ...

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- 1 Q: Take your time.
- 2 A: Yes ma'am. Then he text back, he said the --- he said
- 3 yeah and he said then Callie text back and said you
- 4 talking gun play.
- 5 Q: You talking what?
- 6 A: Gun play.
- 7 Q: Gun play.
- 8 A: Yes ma'am.
- 9 Q: And then Ronald text back and say yeah and then the
- 10 dude Callie text back and said two, three, four or
- 11 five in the morning? He said yeah; he said I'm on my
- 12 way and he text back again and he said delete these
- 13 text messages.
- 14 Q: Okay, so the person who was sending the text to
- 15 Ronald, who was saved in his phone as Callie said
- 16 delete these text messages?
- 17 A: Yes ma'am.
- 18 Q: Alright and did Ronald, in fact, delete those text
- 19 messages?
- 20 A: Yes ma'am.
- 21 Q: While you were sitting in the back seat with him?
- 22 A: Yes ma'am.
- 23 Q: Now, when you saw the text messages that he said what
- 24 he wanted to do to Kenyan, you knew who he was talking
- 25 about, being Kenyan Dorsey?

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1 A: Yes ma'am.

2 Q: Okay, alright. Tell me what happened after you saw
3 the text messages and after Ronald deleted them.

4 A: We just kept going down the road until we got to
5 Kingstree. I never even talked to him about it. I
6 was like, I was like, it was over something dumb, but
7 I didn't think that it would go that far.

8 Q: You didn't think he was serious?

9 A: Yeah, yes ma'am.

10 Q: Alright, where did you all go once you picked Ronald
11 up?

12 A: We went straight to Club Jordan.

13 Q: Alright, and how long did you stay there?

14 A: We left there at 1:00.

15 Q: Okay. Alright, now why did you all leave at one? Why
16 you didn't stay later?

17 A: I had a curfew.

18 Q: You had to get home?

19 A: Yes ma'am.

20 Q: You had to be home by one and one was your curfew?

21 A: Yes ma'am.

22 Q: Okay, alright, how long do you, how far do you live
23 from Club Jordan?

24 A: I live like three minutes from it.

25 Q: Okay, alright. And when you left Club Jordan, who was

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- 1 with you?
- 2 A: It was me, Antonio and Ronald.
- 3 Q: Okay. When ya'll got to your house, what happened?
- 4 A: Me and Ronald got out the car.
- 5 Q: Okay, you and Ronald went into the house?
- 6 A: Yes ma'am.
- 7 Q: Okay, then what happened?
- 8 A: I pulled up this program on the computer called Lie to
- 9 Me and I laid down and he laid down. I was in the
- 10 chair and he was in the floor and we was watching t.v.
- 11 Q: You pulled up a what on the computer?
- 12 A: It's a t.v. show.
- 13 Q: And it's called what?
- 14 A: Lie to Me.
- 15 Q: Lie to Me?
- 16 A: Yes.
- 17 Q: Okay, alright. So you were watching a t.v. show on the
- 18 computer?
- 19 A: Yes ma'am.
- 20 Q: And Ronald was doing what now?
- 21 A: He was laying on the floor.
- 22 Q: Okay, alright, now what happened next?
- 23 A: We were watching t.v. about two o'clock ...
- 24 Q: Okay and then what happened when Antonio and Quadir
- 25 came back?

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1 A: We was sitting and talking for a minute and Ronald got
2 up and changed clothes and Antonio switched clothes
3 and they left.

4 Q: Now your voice is lowering a little bit. When Quadir
5 and Antonio came back, who changed clothes?

6 A: Ronald changed clothes and Antonio switched clothes.

7 Q: Okay, they changed from what to what?

8 A: Ronald had on some black and silver pants and a white
9 tee shirt, into like grey pants and some red shoes and
10 a red shirt.

11 Q: Okay. What about Antonio?

12 A: He changed into black pants.

13 Q: Okay, alright, where did they go?

14 A: I'm not sure where they said they was going.

15 Q: Where did they say they were going?

16 A: He told me he was going home.

17 Mr. Jenkinson: Objection to what he said, hearsay.

18 The Court: Ms. Barr?

19 Ms. Barr: Judge we would submit that it falls under the
20 exception that relates to plan, intent and state of
21 mind.

22 The Court: Objection is overruled.

23 Q: Sorry sir. Tell me where he said he was going.

24 A: Antonio said he was going home and Ronald said he was
25 going for a walk.

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- 1 Q: Said he was going for a walk?
- 2 A: Yeah.
- 3 Q: Alright, do you know how it was that they left your
- 4 home?
- 5 A: I assumed walking.
- 6 Q: Okay, they left out of the front door and you didn't
- 7 see anything after that?
- 8 A: No ma'am.
- 9 Q: Okay, alright. Did the two of them, at some point,
- 10 later return to your home?
- 11 A: Yes.
- 12 Q: Okay, about what time would you say it that it was
- 13 when they left?
- 14 A: It was like before two o'clock.
- 15 Q: Okay, alright and what time was it when they came
- 16 back?
- 17 A: Probably like twenty minutes later.
- 18 Q: Twenty minutes later? Do you think it was just that
- 19 short a period of time?
- 20 A: Fifteen or twenty minutes.
- 21 Q: Okay, alright and did you know where Kenyan lived at
- 22 the time?
- 23 A: No, I didn't.
- 24 Q: Okay, do you know where Jaybird Avenue is?
- 25 A: No, I didn't.

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1 Q: Okay. Now when they came back, tell the ladies and
2 gentlemen of the jury what happened when they got
3 back.

4 A: They came back, Ronald sat in the chair and Antonio
5 came in for a quick second and he just left and Ronald
6 was sitting up in the chair and I told him I hope you
7 didn't do nothing stupid and he said what's done is
8 done. I know you hear those sirens.

9 Q: He said I know you hear those sirens?

10 A: Yes ma'am.

11 Q: What kind of sirens was he talking about?

12 A: I guess police or ambulance.

13 Q: You heard those sirens?

14 A: Yes ma'am.

15 Q: Okay and did you hear the sirens pretty quickly after
16 he got back to the house?

17 A: He said it.

18 Q: Okay, alright, now he said that I know you heard those
19 sirens and what else?

20 A: Before he said that h e said what's done is done.

21 Q: Okay. Did you know what he was talking about when he
22 said it?

23 A: I guess what he was saying earlier in text messages.

24 Q: Now, Dontrey let me ask you, at any point in time that
25 night, did you ever see a gun in the possession of

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1 Ronald Mack?

2 A: No I didn't.

3 Q: At any point in time that night, did you ever see a
4 gun in the possession of Antonio McClary?

5 A: No I didn't.

6 Q: Alright. Now Mr. Barr at some point, did you and your
7 mother give a statement to law enforcement?

8 A: Yes we did.

9 Q: And you told them pretty much the same thing that you
10 testified to before this jury?

11 A: Yes ma'am.

12 Q: Alright and so my question to you is going to be the
13 same as it was to Mr. Wilson, having this information,
14 why didn't you immediately go to law enforcement and
15 tell them what you knew?

16 A: I was in fear for my life.

17 Q: You were in fear for your life?

18 A: Yes ma'am.

19 Q: Did you actually go up on your own to talk to law
20 enforcement or did they come to you and request a
21 statement?

22 A: They came to me and requested a statement.

23 Q: Okay and that was the statement that you gave on May
24 3rd, May 13th of 2009?

25 A: Yes ma'am.

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1 Q: This is five or six weeks after Kenyan had been
2 killed?

3 A: Yes ma'am.

4 Ms. Barr: Alright young man, that's all the questions that
5 I have for you. Please answer the questions that Mr.
6 Jenkinson will have for you.

7 CROSS EXAMINATION OF MR. BARR BY MR. JENKINSON

8 Q: Mr. Barr?

9 A: Yes sir.

10 Q: Were you present in court yesterday?

11 A: No, I wasn't.

12 Q: Do you see this man right here?

13 A: Yes sir.

14 Q: Never seen him before in your life?

15 A: I've seen him at a preliminary hearing.

16 Q: At a preliminary hearing?

17 A: Yes sir.

18 Q: That was back on June the 10th, 2009?

19 A: Yes sir.

20 Q: That's the only time you've ever seen him, those two
21 occasions, in your life?

22 A: Yes sir.

23 Q: And he's identified as Kelvin B.

24 A: Yes sir.

25 Mr. Jenkinson: I have nothing further.

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1 The Court: Anything else?

2 Ms. Barr: Just a quick follow up, Judge, if I may.

3 RE-DIRECT BY MS. BARR

4 Q: Mr. Barr now you and I are not related right?

5* A: No ma'am.

6 Q: Okay, you were asked whether or not you had ever seen
7 Kelvin B. before; this defendant. And you said you
8 had not.

9 A: Other than the hearing.

10 Q: Okay. And you did not see Tawanda Mack Allen that
11 night either did you?

12 A: No ma'am.

13 Q: You did not see anything that happened at the
14 residence of Kenyan Dorsey that night did you?

15 A: No ma'am.

16 Ms. Barr: Alright, thank you sir.

17 RE-CROSS BY MR. JENKINSON

18 Q: The first time you ever saw Kelvin B. was in court
19 on June the 10th, 2009, months after this crime?

20 A: Yes sir.

21 The Court: Thank you sir. You may have a seat. Ladies
22* and gentlemen, we're going to break for lunch now and
23 start back at two o'clock. Please do not discuss the
24 case and be back in the jury room at two o'clock.
25 Jury only, jury only, please sit down.

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1 (Jury take lunch break 12:45)

2 The Court: Any other matters before we break for lunch?

3 Ms. Barr: No sir, Judge. Nothing from the State Judge.

4 Mr. Jenkinson: Don't think so. Only other thing we're
5 missing is the sketch that we asked for.

6 The Court: Alright, we're in recess.

7 (Lunch break)

8 (Back on the record 2:13)

9 The Court: Alright, none of the issues or questions and
10 objections to this point seem to involve statements of
11 by Mr. Mack or Ms. Allen, who are co-defendants and
12 who are likewise charged with conspiracy along with
13 this defendant and I want to hear what anyone has to
14 say regarding the co-conspirators exception to the
15 hearsay rule. Ms. Barr.

16 Ms. Barr: Judge, we would take the position that under the
17 applicable rule of evidence that statements made by
18 co-conspirators in furtherance of the conspiracy are
19 admissible.

20 The Court: Those statements made, must be statements
21 made to the co-conspirator or to a third party? It's
22 the same rule, if the same statements are made to a
23 third party.

24 Mr. Jenkinson: I'd like to know what rule.

25 Ms. Barr: 801(d).

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1 Court Reporter: Did you say 801(d)?

2 Ms. Barr: Yes, and 801(d2).

3 The Court: 801(d)?

4 Ms. Barr: Yes sir, d.

5* The Court: A statement by the co-conspirator to the
6 party during the course in furtherance of the
7 conspiracy.

8 Ms. Barr: Yes sir.

9 The Court: And ...

10 Mr. Jenkinson: Can I comment on that?

11 The Court: Yes sir.

12 Mr. Jenkinson: Mr. Mack, statements by a conspirator on the
13 stand about what Mr. Mack said, as far as they relate
14 to Mr. Mack, would fall within that rule, but it's
15 double hearsay when Mr. Mack has said something about
16 that third party. That, that takes it outside 801 and
17 then becomes double hearsay. In other words, it's not
18 the statement. It's a statement by Mr. Mack. Mr.
19 Mack said I killed him, for example, would fall within
20 that rule, but Mr. Mack said I saw somebody else kill
21 him and that becomes double hearsay because he's
22 talking about something that he, that somebody else
23 said to him or something out, further out, in other
24 words, he can testify about what Mr. Mack said, what
25 Mr. Mack did himself. That's within the rule, but

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1 what Mr. Mack starts double hearsaying about other
2 people, then that becomes hearsay.

3 The Court: The Solicitor asked the witness a question
4 about what did Mr. Mack say and Mr. Mack said I'm
5 going to take care of him, made a statement_or gave a
6 inference that Mr. Mack was going to kill Mr. Dorsey,
7 or do him in or whatever. I think those are
8 statements that you are objecting to.

9 Mr. Jenkinson: I was Your Honor.

10 The Court: The statement by the co-conspirator.

11 Mr. Jenkinson: I was objecting to what Mr. Mack said Callie
12 said. I mean, is where I was headed.

13 The Court: And I think I sustained that objection.

14 Mr. Jenkinson: Yes sir.

15 The Court: Alright, now I'll just say in reference,
16 I'm not sure of the basis under which Ms. Barr argued
17 that --- I can't recall which rule you cited. Whether
18 you argued hearsay exception or I think you were
19 arguing Rule 803. 803(3) statements of state of mind,
20 intent and all of that and you know, I think the basis
21 for, for, for overruling the objection and I didn't
22 state the basis, but the basis it may well have
23 applied to both but in the number of instances in
24 which I overrule an objection, actually based on the
25 statement of a co-conspirator and not based on

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1 necessarily on Mr. Mack's intent. I wanted to clear
2 the record as far as that's concerned. I'm sure your
3 mind has gone beyond that, Ms. Barr, I just wanted to
4 clear the record.

5 Ms. Barr: Yes sir, Judge.

6 The Court: Alright, thank you. Alright, now I've just
7 been shown some photographs that were marked for
8 identification. State's exhibits, again, numbers
9 fifty-two through fifty-nine, I think.

10 Ms. Barr: And Judge, there is the matter that we need to
11 take up outside the jury's presence as it relates to
12 the next witness.

13* The Court: Alright.

14 Ms. Barr: Ms. Mack. Ms. Allen.

15 The Court: Who is your next witness?

16 Ms. Barr: Ms. Allen, Tawanda Allen.

17 The Court: Okay.

18 Mr. Jenkinson: We do not object to fifty-two, fifty-three,
19 fifty-four, fifty-five, fifty-six, fifty-eight, fifty-
20 nine and fifty-seven.

21* The Court: They are admitted without objection.

22 (State's Exhibit Numbers fifty-two, fifty-three, fifty-
23 four, fifty-five, fifty-six, fifty-eight, fifty-nine and
24 fifty-seven were entered)

25 Mr. Jenkinson: Seventeen, twenty-five, sixty-five which is

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1 a new statute enacted in June which allows the
2 reduction in sentence for and we would ask the State
3 to disclose whether or not there has been any written
4 or oral communication with this witness, Tawanda Mack,
5 Ronald Mack, Antonio Dorsey, which would involve the
6 reduction of their sentence from their testimony
7 today.

8 Ms. Barr: Antonio McClary? There have been no such
9 negotiations at all.

10 Mr. Jenkinson: With none of those three?

11 Ms. Barr: No sir, none.

12 MMr. Jenkinson: No discussion at all?

13 Ms. Barr: No sir.

14 Mr. Jenkinson: There's no discussion about their testimony
15 and you helping them for the State?

16 Ms. Barr: No sir.

17* The Court: Mr. Jenkinson, you said the statute that was
18 adopted?

19 Mr. Jenkinson: Yes sir. Seventeen, twenty-five, sixty-five.

20 Mr. Barr: Judge, I think we're probably required to
21 disclose that under Brady, but there have been no such
22 discussions.

23 Mr. Jenkinson: It's like rule 35 in the Federal court.

24 The Court: Yes sir. I was in the meeting that proposed
25 the Rule, but of course, otherwise, the court's ---

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1 after ten days or whatever the new trial period. I
2 didn't realize that it had actually been adopted.

3 Mr. Jenkinson: I think maybe some defendants might realize
4 it and that's why we want to understand whether or not
5 they may be prejudice ...

6 The Court: I'll take your word for it. Alright, are
7 we ready for the jury?

8 Ms. Barr: Judge, the next witness has an issue regarding
9 the testimony that we need to take up, I think,
10 outside of the presence of the jury.

11 The Court: Alright.

12 Ms. Barr: She's out in the hallway.

13 The Court: Alright. Do you want her to come in?

14 Ms. Barr: Yes sir, please.

15 Bailiff: Place your left hand on the Bible and raise your
16 right hand. Do you solemnly swear to tell the truth,
17 the whole truth and nothing but the truth, so help you
18 God?

19 A: I do.

20 PROFFER TESTIMONY OF MS. ALLEN BY MS. BARR

21 Ms. Barr: Ma'am, let me get you to state your full name.

22 A: Tawanda Mack Allen.

23 Q: And did you have an issue regarding your testifying in
24 this case today?

25 A: Yes, being that my attorney is not here. I would not

1 like to answer.

2 Ms. Barr: Judge, I think that's the substance of what her
3 situation is. Your Honor, obviously, we would take
4 the position that the defendant has been convicted;
5 she no longer has the right to remain silent or the
6 right to counsel. I don't believe that she filed an
7 appeal, so we would ask that she be permitted to
8 testify in the absence of a lawyer. I think we did
9 attempt to get a hold of Mr. Barr and we were
10 unsuccessful.

11 The Court: Who's her attorney?

12 Ms. Barr: Verdell Barr.

13 Mr. Jenkinson: May I be heard on this as well?

14 The Court: Yes sir.

15 Mr. Jenkinson: As I understand it, she stood trial and was
16 convicted and I would assume that she now has a
17 pending agreement and if she did not testify at the
18 trial, she's never testified before and because of
19 that, if she won her appeal, then what she's says
20 today could be used against her in a subsequent re-
21 trial and ...

22 The Court: Ms. Barr says there's no appeal.

23 Ms. Barr: I have not been served with a Notice of Appeal.

24 The Court: In any event, where is Mr. Barr? The issue
25* of an order for Mr. Barr to appear. Have you been in

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1 touch with Mr. Barr?

2 Ms. Allen: Not since I been in.

3 The Court: Did you tell him you were coming?

4 Ms. Allen: I didn't know I was coming myself.

5 Ms. Barr: Judge, apparently, Investigator Collins is
6 telling me that there is a problem with the phone
7 lines and when we attempted to contact Mr. Barr the
8 phone lines were down.

9 The Court: It's right down the street.

10 Ms. Barr: Yes sir.

11 Investigator Collins: There was a bad wreck this morning.

12 The Court: Mr. Barr is right down there, you got any
13 walkers?

14 Ms. Barr: I think Investigator Collins is going to go help
15 us with that Judge. Judge, might I inquire if
16 the witness as to whether or not she's filed?

17 The Court: Yes you may.

18 Ms. Barr: Ms. Allen, have you filed an appeal from your
19 conviction?

20 A: Yes I have.

21 Q: When did you get it served?

22 A: When they took me to SCDC and my attorney came.

23 Q: Did your, did you, did your attorney sign some
24 paperwork?

25 A: Yes ma'am, I' signed something.

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1 The Court: Alright, Ms. Allen. Do you have another
2 witness Ms. Barr?

3 Ms. Barr: Judge we'll call Mr. Mack.

4 The Court: Alright, bring the jury.

5 (Jury enters courtroom at 2:32)

6 The Court: The jury is back. Call your next witness
7 please.

8 Ms. Barr: I call Ronald Mack.

9 The Court: Ronald Mack. Come around here Mr. Mack.

10 Bailiff: Place your left hand on the Bible, raise your
11 right hand. Do you solemnly swear to tell the truth,
12 the whole truth and nothing but the truth so help you
13 God?

14 A: Yes ma'am.

15 Bailiff: Okay, step right there.

16 DIRECT EXAMINATION OF RONALD MACK BY MS BARR

17 Q: Sir, state your full name for the record.

18 A: Ronald Mack.

19 Q: And how old are you Mr. Mack?

20 A: Nineteen.

21 Q: You need to make sure you speak up. Do you know
22 Kelvin B.

23 A: Yes ma'am.

24 Q: Alright and did you see your mother leaving the
25 courtroom a few minutes ago?

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- 1 A: No ma'am.
- 2 Q: You didn't see your mother?
- 3 The Court: Just a moment, Ms. Barr.
- 4 The Court: Okay Ms. Barr.
- 5 Q: Sir you have on a South Carolina Department of
6 Corrections jumpsuit, is that correct?
- 7 A: Yes ma'am.
- 8 Q: You need to make sure you speak up nice and clear.
- 9 A: Yes ma'am.
- 10 Q: Alright you are currently serving a fifty year
11 sentence in the department of corrections?
- 12 A: Yes ma'am.
- 13 Q: Alright and you're serving a fifty year sentence
14 because you pled guilty to murder?
- 15 A: Yes ma'am.
- 16 Q: The murder of Kenyan Dorsey?
- 17 A: Yes ma'am.
- 18 Q: Alright now, do you recall being in court during the
19 latter part of August of 2010, right?
- 20 A: Yes.
- 21 Q: Alright, and during that time is when you actually
22 entered your guilty plea, is that correct?
- 23 A: That's right.
- 24 Q: And I was the Prosecutor assigned to that case?
- 25 A: Yes ma'am.

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1 Q: Do you recall coming and standing before Judge Newman
2 and testifying in connection with your guilty plea?

3 A: Yes ma'am.

4 Q: And at some point later that week, you also testified
5 in the trial against your mother, right?

6 A: Yes ma'am.

7 Q: And that time I was also the Prosecutor assigned to
8 that case, correct?

9 A: Yes ma'am.

10 Q: And Judge we would ask at this time that we be allowed
11 to lead or treat the witness as hostile, given that
12 he's a party opponent.

13 The Court: Mr. Jenkinson?

14 Mr. Jenkinson: Your Honor, based upon his previous
15 testimony, and I would think ...

16 The Court: Legal basis for the --- Do you object or?

17 Mr. Jenkinson: I object.

18 The Court: Alright and the legal basis for the objection.

19 The legal basis not factual.

20 Mr. Jenkinson: He's not a party opponent. His case has
21 been deposed of.

22 Ms. Barr? Judge we would of course cite 611(c) and it talks
23 about a party calls a hostile witness, an adverse witness
24 where it is identified with an adverse party and Judge,
25 clearly he was a defendant and I prosecuted him and I

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1 prosecuted his mother ...

2 The Court: Legal response not factual.

3 Ms. Barr: Yes sir, Judge, we would take the position that
4 he has been named as a witness for the defense, and
5 therefore, I prosecuted him, and therefore he is an
6 adverse party ...

7 The Court: Proceed with questions. I will rule by a
8 question by question basis if there is an objection.

9 Mr. Jenkinson: We not calling him as a witness.

10 Ms. Barr: I'm sorry?

11 Mr. Jenkinson: We are not calling him as a witness.

12 Ms. Barr: Judge, he's in their notice of alibi.

13 The Court: Question the witness.

14 QUESTIONING OF MR. MACK BY MS BARR

15 Q: Mr. Mack, you testified during the course of your
16 guilty plea that you and Kenyan had been friends at
17 one point, is that right?

18 A: Yes ma'am.

19 Q: Alright and you testified that back on April the 4th of
20 2009 ...

21 Mr. Jenkinson: Objection, leading.

22 The Court: Objection sustained.

23 Q: Tell me what you told the Court when you pled guilty
24 as to the murder surrounding Kenyan Dorsey.

25 A: I can't remember.

HEARING

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1 Q: You can't remember?

2 A: No ma'am.

3 Q: Alright, how about tell me what you told law
4 enforcement back on May the 28th of 2009 when you gave
5 your statement.

6 A: I can't remember that either.

7 Q: Don't remember? Alright. Now is there something today
8 that effects your memory?

9 A: No ma'am.

10 Q: Have you had any accidents or any illnesses since
11 August that would prohibit you from remembering your
12 testimony just four or five months ago?

13 A: No ma'am.

14 Q: You're looking over there?

15 A: No ma'am.

16 Q: You're not looking over there? Well let me ask, let
17 me see if this refreshes your memory. Do you remember
18 when I was in this courtroom cross examining you?
19 Sir?

20 A: Yes ma'am.

21 Q: Do you remember when I showed you this shotgun?

22 A: Yes ma'am.

23 Q: You remembered that didn't you?

24 A: Yes ma'am.

25 Q: This was the shotgun I showed you back in August?

HEARING

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- 1 A: Yes ma'am.
- 2 Q: What do you call it?
- 3 A: A shotgun.
- 4 Q: You got a nick name for it though, don't you? A
- 5 special nickname?
- 6 A: No ma'am.
- 7 Q: How do you remember this shotgun? This is the one
- 8 that was used to help kill Kenyan?
- 9 A: No ma'am.
- 10 Q: This wasn't the shotgun you used?
- 11 A: No ma'am.
- 12 Q: You don't have any memory of telling the judge and a
- 13 separate jury that this shotgun was used to help kill
- 14 Kenyan?
- 15 A: No ma'am.
- 16 Q: Are you saying it didn't happen or you just don't
- 17* remember?
- 18 A: I can't remember it.
- 19 Q: Can't remember. Alright. Now, do you remember
- 20 telling law enforcement and telling this judge and
- 21 another jury that Kelvin B. had the shotgun?
- 22 A: No ma'am.
- 23 Q: Do you remember telling this judge and another jury
- 24 that you called Kelvin B. and asked him and your
- 25 mom to bring these guns from Maryland to kill Kenyan?

HEARING

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1 A: No ma'am.

2 Mr. Jenkinson: Objection, leading. Not a hostile witness.

3 Ms. Barr: Judge, permission to treat the witness as
4 hostile?

5a The Court: Ladies and gentlemen I'm going to have you
6 go to the jury room, while we discuss a matter outside
7 your presence. Please do not discuss this case.

8 (Jury exits courtroom 2:42)

9 The Court: We'll take a few minutes recess.

10 Ms. Barr: Yes sir.

11 -RECESS-

12 The Court: Mr. Jenkinson raised the question as to the
13 State as to whether any offers had been made to any
14 defendant based on this newly enacted law, 17-25-65
15 called reduction of sentence for substantial
16 assistance to the State and that was enacted and
17 became effective on June 2, 2010. It gives the
18 defendant one year to file for a reduction of sentence
19 if that person provides substantial assistance in
20 investigating or prosecuting another person and the
21 State makes the motion giving the Court the
22 information as to what assistance has been provided so
23 that is a, that's in fact, I was on the committee that
24 proposed the rule and I wasn't aware that that
25 particular rule had passed. I double checked that.

HEARING

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1 That's number one and then secondly, Ms. Barr indicated
2 that she was unaware of an appeal by Ms. Allen and I
3 have the court's file from the clerk's office, showing
4 that Mr. Barr, Verdell Barr filed a Notice of Appeal
5 on September the 10th, September 13th, 2010 provided a
6 cc to Kimberly Barr, Solicitor. The issue now before
7 us is this defendant, first of all Mr. Barr is now in
8 court and he has explained that because of the wreck
9 down the street he was unable to get properly dressed
10 to come to court, but never the less Ms. Allen was on
11 the stand and says she didn't want to testify without
12 her lawyer present. Mr. Barr is now present, we
13 switched witnesses and now Mr. Mack is on the stand.
14 We took a break based on legal objection from Mr.
15 Jenkinson to his testimony.

16 Mr. Jenkinson: My objection was to leading. There's no
17 basis or ground laid for hostility.

18 The Court: Alright, Ms. Barr is arguing response to
19 that, Ms. Barr?

20 Ms. Barr: Judge, we were arguing rule 611©) and also
21 certainly and Judge if you have a witness that's
22 testified in the court as to one matter, four or five
23 months earlier and is now claiming a lack of memory as
24 to those matters, I think that's certainly sufficient
25 grounds, standing alone, to then treat him as a

HEARING

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1 hostile witness.

2 The Court: Alright I find that, Mr. Jenkinson?

3 Mr. Jenkinson: The basis of that hostility would be a
4 transcript of record on which she could examine and that
5 would be the basis of laying the ground work for this
6 hostility rather than her just saying otherwise.

7 The Court: I find that the under 611©) where it says
8 that leading questions should not be used under direct
9 examination except as making necessary to develop the
10 witnesses testimony when a party calls a hostile
11 witness, an adverse party or a witness identified with
12 an adverse party, interrogation may be leading
13 questions. I find that this witness isn't being ---
14 since he was charged as a co defendant of murder,
15 criminal conspiracy, burglary first degree that he is
16 a party. At the very least he is identified with the
17 adverse party, meaning identified with Mr. Bowen and
18 the State can proceed with some leading questions.
19 Alright, bring the jury.

20 (Jury enters courtroom 3:19)

21 The Court: Alright, the jury is back and Mr. Mack. Mr.
22 Mack you're still under oath. You may proceed.

23 Q: Mr. Mack you seem to have a difficult time earlier
24 remembering certain things. Let me see if I can help
25 you out a little bit. Do you remember killing Kenyan?

HEARING

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- 1 Do you remember that part?
- 2 A: Yes ma'am.
- 3 Q: Do you remember Kelvin B. being there with you?
- 4 A: No ma'am.
- 5 Q: You don't remember him being there with you?
- 6 A: No ma'am.
- 7 Q: Do you remember texting him, asking him to come down
- 8 and bring some guns?
- 9 A: No ma'am.
- 10 Q: Alright, do you remember calling Kelvin B. Callie,
- 11 do you remember that?
- 12 A: No ma'am.
- 13 Q: You don't remember any of that? Alright, let me ask
- 14 you this now, you gave a taped confession to law
- 15 enforcement back on May the twenty-eighth of 2009, is
- 16 that right?
- 17 A: Yes ma'am.
- 18 Q: Sir?
- 19 A: I gave a statement, yes ma'am.
- 20 Q: To the police officers right?
- 21 A: Yes ma'am.
- 22 Q: But you don't know if it would be called a confession
- 23 or not?
- 24 A: I wouldn't call it that.
- 25 Q: You wouldn't call it a confession?

HEARING

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1 A: No ma'am.

2 Q: Okay, when you were arrested, you were initially
3 arrested in Maryland, right?

4 A: Yes ma'am.

5 Q: I need you to speak up for me. You were arrested in
6 Maryland?

7 A: Yes ma'am.

8 Q: Alright and Kelvin B. was arrested with you?

9 A: Yes ma'am.

10 Q: And your mom, Tawanda Mack Allen was also arrested, is
11 that right?

12 A: Yes ma'am.

13 Q: And you and Callie were driving your mom's car, right?

14 A: Yes ma'am.

15 Q: Alright and was, who was driving, you or Callie?

16 A: He was.

17 Q: Alright and you all were pulled over by the police
18 there, right?

19 A: Yes ma'am.

20 Q: Okay and they all came out and arrested you?

21 A: Yes ma'am.

22 Q: Alright you, your mom and Mr. Bowen were later
23 extradited to South Carolina, is that right?

24 A: Yes ma'am.

25 Q: And that would have been towards the end of May of

HEARING

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1 2009, is that right?

2 A: That's right.

3 Q: Okay now you said you remember giving a statement, but
4 you wouldn't call it a confession.

5 A: Yes ma'am.

6 Q: Is that your testimony?

7 A: Yes ma'am.

8 Q: Alright and you remember saying in your statement to
9 law enforcement that you texted Kelvin?

10 A: No ma'am.

11 Q: Alright do you remember saying that Callie's real name
12 is Kelvin?

13 A: No ma'am.

14 Q: Alright, speak up now so we can hear you.

15 A: No ma'am.

16 Q: Alright, do you remember saying that Callie was your
17 mom's fiance?

18 A: No ma'am.

19 Q: Okay do you remember saying that your mom and Callie
20 had been dating since December of 2008?

21 A: No ma'am

22 Q: If you said that, would that be true that they were
23 dating since December of 2008?

24 A: Since January I think.

25 Q: Oh, so your memory's getting a little better now?

HEARING

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1. Now, let's see what else we can see if you can
2 remember.

3 A: Alright.

4 Q: Do you remember saying on the night that you planned
5 Kenyan's murder that you called Callie?

6 A: No ma'am.

7 Q: Do you remember saying that you told Callie that you
8 wanted to kill Kenyan?

9 A: No ma'am.

10 Q: Do you remember saying to law enforcement that you,
11 your mom and Callie met around two o'clock in the
12 morning?

13 A: No ma'am.

14 Q: Okay do you remember saying that Antonio McClary was
15 with you?

16 A: No ma'am.

17 Q: Do you remember saying that your mom was driving?

18 A: No ma'am.

19 Q: Your mom, for the record, is now Tawanda Mack Allen
20 right?

21 A: That's right.

22 Q: Alright do you remember saying that they came down in
23 a Kia Sportage vehicle?

24 A: No ma'am.

25 Q: Did your mom own a Kia Sportage?

HEARING

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- 1 A: She did.
- 2 Q: I'm going to show you what's been marked for
3 identification and I understand that there's no
4 objection, State's exhibit sixty, sixty-two, sixty-
5 three, sixty-one. This is your mom's car isn't it?
- 6 A: Yes, ma'am.
- 7 Q: Green, Kia Sportage right?
- 8 A: Yes, ma'am.
- 9 Q: And it's the car that you and Callie were arrested in
10 when ya'll were in Maryland right?
- 11 A: Yes ma'am.
- 12 Q: You remember that part?
- 13 A: Yes, ma'am.
- 14 Q: Okay. And that's the car they were driving when they
15 came down to South Carolina on April 4th and the 5th
16 right? Of 2009? You don't remember that either?
- 17 A: No, ma'am.
- 18 Q: Okay, do you remember telling law enforcement that
19 Callie had guns in the back?
- 20 A: No, ma'am.
- 21 Q: Sir?
- 22 A: No, ma'am.
- 23 Q: Do you remember telling law enforcement that ...
- 24 Mr. Jenkinson: I'm a, I'm a object.
- 25 The Court: The objection is overruled.

HEARING

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1 Q: Sir do you remember saying, telling law enforcement
2 that Callie had the shotgun?

3 A: No, ma'am.

4 Q: Remember telling you had the nine?

5 A: No, ma'am.

6 Q: Okay, do you remember telling law enforcement all
7 three of ya'll went in the house?

8 A: No ma'am.

9 Q: So you don't remember telling law enforcement that
10 you, Callie and Antonio went in the house?

11 A: No ma'am.

12 Q: Alright do you remember saying, telling law
13 enforcement that Kenyan was sleeping?

14* A: No ma'am.

15 Q: Do you remember telling that you let out three rounds
16 in his head?

17 A: No ma'am.

18 Q: You remember doing it though, right?

19 A: No ma'am.

20 Q: You don't remember that part either? Okay. You
21 remembered when they asked you whether or not you were
22 aware that his mom was in the house, you remember that
23 question?

24 A: No ma'am.

25 Q: Okay and you remember saying that you wasn't going to

HEARING

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1 leave any live witnesses?

2 A: No ma'am.

3 Q: Do you remember telling them that you didn't realize
4 she was in the house?

5 A: No ma'am.

6 Q: Now, when you were testifying in the previous trial,
7 do you remember telling me, when I asked you, what
8 would you have done if you realized she was in the
9 house and you would have killed her to? Do you
10 remember testifying to that?

11 A: No ma'am.

12 Q: Do you remember testifying or telling law enforcement
13 that the only thing that bothered you about this whole
14 case was that you got your mom dragged into this?

15 A: No ma'am.

16 Q: Do you remember telling them that you were part of a
17 gang?

18* A: No ma'am.

19 Q: Do you remember telling them that being in a gang
20 there is three things you live by?

21 A: No ma'am.

22 Mr. Jenkinson: Objection.

23 The Court: The question is to this defendant?

24 Ms. Barr: That was my understanding, it was, Judge, may we
25 approach?

HEARING

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1 The Court: Yeah. The objection is overruled. Ladies
2 and gentlemen, I just want to reiterate to you, as
3 I've said before the testimony comes from the witness
4 stand. Statements by the lawyers or questions by the
5* lawyers is not evidence. The evidence is what comes
6 from the witness stands, through witnesses and
7 exhibit. You may proceed.

8 Q: Now, sir, I think the last question that I asked you
9 was, do you remember telling law enforcement that
10 homies in a gang live by three rules. Do you remember
11 that?

12 A: No ma'am.

13 Q: Sir?

14 A: No ma'am.

15 Q: You don't remember telling them that you were in a
16 gang you either go to jail ...

17 Mr. Jenkinson: I object. She's asked the question. He
18 said he does not remember it. There's no basis for the
19 question, no relevance.

20 The Court: The objection is sustained.

21 Q: Sir, during the time that Kenyan was murdered, you
22* were in fact, in a gang, weren't you?

23 A: Yes ma'am.

24 Q: Alright, are you still in a gang?

25 A: No ma'am.

HEARING

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1 Q: You got out?

2 A: Yes ma'am.

3 Q: Since you been in prison?

4 A: No ma'am.

5 Q: When did you get out?

6 A: Before I got locked up.

7 Q: Before you got locked up. At what point in time,
8 after Kenyan was murdered, did you go back to
9 Maryland?

10 A: May.

11 Q: Sir?

12 A: May.

13 Q: When in May? You went to Maryland and you actually
14 enrolled in school there?

15 A: Yes ma'am.

16 Q: And that's actually where the police found you, right?

17 A: Where.

18 Q: You were at school. Didn't they come get you out of
19 school?

20 A: Yes.

21 Q: Did you have a pass or anything in your room to
22 suggest that you had been enrolled in school?
23 Notebooks, books or anything like that?

24 A: No ma'am.

25 Q: Now, one of the things about being in a gang is, you

HEARING

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1 don't snitch, right?

2 A: Yes ma'am.

3 Q: Huh?

4 A: I guess.

5 Q: You guess? You know.

6 Mr. Jenkinson: Objection Your Honor.

7 The Court: Yes sir? Your objection is overruled. The
8 objection is sustained as to questioning argumentative.

9 Ms. Barr: Yes sir, yes sir. Mr. Mack, you know that if
10 you're in a gang, you don't snitch on people,
11 certainly not to the police, right?

12 A: I guess.

13 Q: And, as a matter of fact, the only reason why you gave
14 a statement is because your mother told you to tell
15 the truth, right?

16 A: I can't remember.

17 Q: Can't remember that part either?

18 A: No.

19 Q: Tell me, what made you believe that Mr. Bowen would
20 come down here and help you kill somebody?

21 A: He didn't.

22 Q: What made you comfortable enough to ask him to do
23 that?

24 A: I never asked him.

25 Q: Sir?

HEARING

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1 A: I never asked him.

2 Q: Are you testifying that you never asked him or you
3 don't remember asking him?

4 A: I didn't ask him.

5 Q: Where was he living at the time?

6 A: In Maryland.

7 Q: With your mom?

8 A: (No response)

9 Q: You don't have to think about it, I mean, just tell
10 the truth, was he living with your mom?

11 A: I don't know.

12 Q: Was he staying with your mom from time to time?

13 A: I guess.

14 Q: Sharing a bed with her?

15 A: I guess.

16 Q: Well, I mean you were living there, was he staying in
17 the house over night?

18 A: No.

19 Q: Wait a minute, I thought you told me that he was
20 sharing a bed with her? That's not true. Which is
21 true?

22 A: I told you.

23 Q: He didn't spend the night with your mom on occasion?
24 At her apartment in Maryland?

25 A: Not to my knowledge.

HEARING

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1 Q: Well how did you and he get together in a car that day
2 when the police came out? He didn't spend the night
3 at the house the night before?

4 A: No.

5 Q: No, okay. Is his wife here? Where did his wife go?
6 Would you recognize her if you saw her?

7 A: No.

8 Q: Did you know he was married?

9 A: No.

10 Q: You didn't know he was married?

11 A: No.

12 Q: Sir, when you were picked up in Maryland in May, you
13 indicated that Kelvin B. was with you. Right?

14 A: Yes ma'am.

15 Q: And did the law enforcement officers take a picture of
16 you and Kelvin B. Remember that?

17 A: Yes.

18 Q: Okay, I'm going to hand you what's been marked for
19 identification purposes, State's exhibit number sixty-
20 seven. Is this how Mr. Bowen appeared on the date
21 that you and he were arrested?

22 A: Yes ma'am.

23 Q: That's him, right?

24 A: Yes ma'am.

25 Q: Okay, Judge we would move State's exhibit number

HEARING

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1 sixty-seven into evidence.

2 The Court: Any objection?

3 Mr. Jenkinson: Without objection.

4 The Court: In without objection.

5 Ms. Barr: Move to publish.

6 The Court: You may publish.

7 Q: What happened to the nine millimeter?

8 A: I don't know.

9 Q: You don't know? What did Callie do with the shotgun?

10 A: I don't know.

11 Q: Sir?

12 A: I don't know.

13 Q: Where is he from, by the way?

14 A: California.

15 Q: California, what do you call him?

16 A: Kelvin.

17 Q: Huh?

18 A: Kelvin.

19 Q: You don't call him Callie?

20 A: No.

21 Q: Alright, let me, let me do this. Let me hand you a
22 copy of your statement to law enforcement dated May
23 28, 2009 at 2:09 p.m. I call your attention to page
24 six, line twenty.

25 Mr. Jenkinson: Your Honor, I object to the Solicitor

HEARING

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1 calling Mr. Bowen Callie. Not one person has
2 identified him as Callie. She's the only one.

3 The Court: The objection is overruled.

4 Q: Sir, I'm asking this, and I don't mean to offend you,
5 but I just to know, you can read, right?

6 A: Yes ma'am.

7 Q: Alright, I call your attention to line twenty. Law
8 enforcement asked you who did you call and your
9 response was what?

10 Mr. Jenkinson: Your Honor, object to ...

11 Q: Page six.

12 Mr. Jenkinson: ... the examination upon the statement.

13 It has not been authenticated. She has not laid the
14 groundwork.

15 The Court: Alright, the objection is sustained.

16 Q: Sir do you recall making this statement to law
17 enforcement? Is that your name? Ronald Hazeem Mack?

18 A: Yes ma'am.

19 Q: That's you?

20 A: Yes ma'am.

21 Q: Date of birth 8-24-91?

22 A: Yes ma'am.

23 Q: Last four of your social is 6759?

24 A: Yes ma'am.

25 Q: Alright, now indicates that you were present with

HEARING

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- 1 Investigator Lail, Investigator Whack and Lt. Collins.
2 Those two ladies sitting at the prosecution table.
3 You remember meeting with them right?
- 4 A: Yes.
- 5 Q: Do you remember them pulling out a little tape player,
6 kind of like the court reporter has now?
- 7 A: No.
- 8 Q: You don't remember them doing that?
- 9 A: No.
- 10 Q: Alright, do you remember them going over your rights
11 and you have the right to remain silent and right to
12 have an attorney and all that? Do you remember that?
- 13 A: No ma'am.
- 14 Q: You don't remember that? Do you remember telling them
15 that Callie's real name was Kelvin?
- 16 A: No ma'am.
- 17 Q: If I showed you this particular transcript, page six,
18 line twenty, do you dispute that you told them that
19 Callie's real name was Kelvin?
- 20 A: Yes ma'am.
- 21 Q: Do you dispute that? Are you saying you didn't say
22 that?
- 23 A: Yes ma'am.
- 24 Q: So you deny that?
- 25 A: Yes ma'am.

HEARING

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1 Q: Okay. Judge that's all I have.

2 The Court: Mr. Jenkinson?

3 CROSS EXAMINATION OF MR. MACK BY MR. JENKINSON

4 Q: Mr. Mack, just a few questions. You've seen me before
5 haven't you?

6 A: Yes sir.

7 Q: You actually saw me for the first time on June the 9th,
8 2009?

9 A: Yes sir.

10 Q: And you met with me and your lawyer and Ernest
11 Goldstein(sp), the investigator and your lawyer,
12 LeGrand Carraway, do you remember that meeting?

13 A: Yes sir.

14 Q: And I asked you if you would give us a statement about
15 this case, did I not?

16 A: Yes sir.

17 Q: And was that statement recorded with your permission?

18 A: Yes sir.

19 Q: Was that statement recorded in the presence of your
20 lawyer, Mr. Carraway, whose sitting right there?

21 A: Yes sir.

22 Q: And in that statement, we asked you where you were and
23 you were incarcerated in the Williamsburg county jail,
24 weren't you?

25 A: Yes sir.

HEARING

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1 Q: And all of us, and I asked you did you mind answering
2 my questions, do you remember that?

3 A: Yes, sir.

4 Q: Did you have any discussion before this statement with
5 me, ever in your life?

6 A: No sir.

7* Q: In this statement, you told us you were arrested on
8 May 18th, a Monday?

9 A: Yes sir.

10 Q: And I asked you about your mother and you told us she
11 was Tawanda Allen and lived on Pamela Road in Glen
12 Burnie, Maryland?

13 A: Yes sir.

14 Q: Is that the truth?

15 A: Yes sir.

16 Q: And I want to ask you a little more about this
17 statement. I actually, brought, typed up and brought
18 it to you on June the 10th, matter of fact, back in the
19 grand jury room, did I not? When we had the
20 preliminary hearing?

21 A: Yes sir.

22 Q: Was your lawyer present at that time?

23 A: Yes sir.

24 Q: Did you read and I'm going to show you the original,
25 is this the original statement you signed and

HEARING

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1 initialed every single page?

2 A: Yes sir.

3 Q: I want to show you certificate page where it says I
4 Ronald Mack have given the above statement freely and
5 voluntarily and it is true and correct. Is that your
6 signature?

7 A: Yes sir.

8 Q: The dates left blank, but the, it's notarized on 10-
9 10. Did you see the Notary Public there?

10 A: Yes sir.

11 Q: And his name is, what's his name right there?

12 A: Scott Palmer.

13 Q: And Mr. Palmer was one of the lawyers representing
14 Antonio Dorsey, was he not?

15 A: Yes sir.

16 Q: Antonio Dorsey was in the room, wasn't he?

17 A: Yes sir.

18 Q: Antonio Dorsey was in the room?

19 Ms. Barr: It's not Dorsey.

20 Q: And you read this statement with your lawyer and your
21 lawyer read it over before you signed it, didn't he?

22 A: Yes sir.

23 Q: And you knew this was a very, very important
24 statement, did you not?

25 A: Yes sir.

HEARING

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1 Q: Did you give it freely and voluntarily with advice and
2 consent of your attorney?

3 A: Yes sir.

4 Q: Did anybody make you any promises for doing this?

5 A: No sir.

6 Q: When you gave this statement on June the 9th, was
7 Kelvin B. present?

8 A: No sir.

9 Q: In this statement you gave on page four, I asked you
10 about Kelvin B. that man sitting right there, did
11 I not?

12 A: Yes sir.

13 Q: And I asked you the first time in your whole life that
14 you've laid eyes on him and you said Mother's day
15 weekend in Kingstree.

16 A: Yes sir.

17 Q: That's in May?

18 A: Yes sir.

19 Q: First time you'd ever seen him in your life?

20 A: Yes sir.

21 Q: He and your mother did come to South Carolina on that
22 occasion to pick you up and take you back to Maryland.

23 A: Yes sir.

24 Q: Drove straight down and took you back.

25 A: Yes sir.

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1 Q: You asked your mother to come pick you up did you?

2 A: Yes sir.

3 Q: I asked you if you'd given a statement to law
4 enforcement officers, do you remember that?

5 A: Yes sir.

6 Q: Were you ever shown a copy of that statement?

7 A: No sir.

8 Q: Was your lawyer present when the statement was taken?

9 A: No sir.

10 Q: Did you ever sign the statement?

11 A: No sir.

12 Q: Did you ever swear it to be the truth?

13 A: No sir.

14 Q: And that was the statement that Ms. Barr was just
15 asking you about a few minutes ago?

16 A: Yes sir.

17 Q: And that statement was on Thursday, May 28th? Right?

18 A: Yes sir.

19 Q: And in that, I asked you a question, did you have a
20 conversation with your mother before you gave the
21 statement?

22 A: Yes sir.

23 Q: And did you have a conversation with your mother?

24 A: Yes sir.

25 Q: You and Kenyan Dorsey and your mama were charged with

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1 the murder of, I'm sorry, your mother, you and Antonio
2 McClary were charged with the murder of Kenyan Dorsey.

3 A: Yes sir.

4 Q: I asked you in the statement if the statement that you
5 gave law enforcement was true as to Kelvin B. do
6 you remember me asking you that?

7 A: Yes sir.

8 Q: And what did you say?

9 A: Said it wasn't true.

10 Q: Said it wasn't true, was it? And that was an
11 important statement in your affidavit, wasn't it?

12 A: Yes, sir.

13 The Court: You need to speak louder Mr. Mack.

14 Q: That is your sworn statement?

15 A: Yes sir.

16 Q: Mark it for identification. Mark it as defendant's
17 number one for identification.

18 **(Defendant's Number One was marked for identification)**

19 Q: Now, on April 5th, you also spoke with law enforcement
20 officers.

21 A: Yes sir.

22 Q: That was right after the death of Kenyan Dorsey?

23* A: Yes sir.

24 Q: I believe you spoke with Investigator Lail who's right
25 here.

HEARING

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1 A: Yes sir.

2 Q: Gave her a statement.

3 A: Yes sir.

4 Q: You told her you didn't have anything to do with that
5 crime, didn't you?

6 A: Yes sir.

7 Q: You also told her that you and Kenyan had some
8 difficulties.

9 A: Yes sir.

10 Q: But he was your friend?

11 A: Yes sir.

12 Q: But you'd pled guilty to his murder?

13 A: No sir.

14 Q: You did not plead guilty to his murder?

15 A: I did.

16 Q: You did plead guilty, because you are, in fact,
17 guilty.

18 A: Yes sir.

19 Q: Is the gentlemen, the man seated by Mandy Shuler,
20 which we identified Kelvin B. was he present on
21 April 4th or 5th 2009 and commit the murder, or
22 participate in any way in South Carolina?

23 A: No sir.

24 Q: Speak loud so these ladies can hear you in the very
25 back.

HEARING

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1 A: No sir.

2 Q: We've heard a lot about Callie; Is Kelvin B.
3 Callie?

4 A: No, sir.

5 Q: He is not Callie is he?

6 A: No sir.

7 Q: He was your mama's girlfriend, I mean boyfriend at one
8 time?

9 A: Yes sir.

10 Q: Your mother was with you the night of this crime.

11 A: Yes sir.

12 Q: And Antonio Dorsey was. I'm sorry, Antonio McClary
13 was.

14 A: Yes sir.

15 Q: And those are the ones who were present?

16 A: Yes sir.

17 Q: And Kelvin B. was not present?

18 A: No sir.

19 Q: You never saw him in your life, other, until Mother's
20 day weekend in May?

21 A: Yes sir.

22 Q: And he happened to be with you when you were arrested?

23 A: Yes sir.

24 Q: Those law enforcement officers didn't even know who he
25 was?

HEARING

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1 A: No sir.

2 Q: They weren't even looking for him, were they?

3 A: No sir.

4 Q: Thank you sir.

5 The Court: Ms. Barr?

6 RE-DIRECT OF MR. MACK BY MS BARR

7 Q: Mr. Mack, did your memory suddenly become better when
8 Mr. Jenkinson was asking you the questions?

9⁴ A: No ma'am.

10 Q: Because I thought you were telling me all before you
11 couldn't remember anything. Do you remember stuff
12 now?

13 A: No ma'am.

14 Q: Well, when Mr. Jenkinson asked you about whether or
15 not Kelvin B. was present in South Carolina, you
16 said emphatically no, right?

17 A: Yes ma'am.

18 Q: But when I asked you what all happened with the
19 murder, you didn't remember, right?

20 A: No ma'am.

21 Q: Now, when Mr. Jenkinson came out to the jail and gave
22 you that recorded statement, he said that you had
23 given his client a note, didn't he?

24 A: No ma'am.

25 Q: Well, now didn't you just say that this statement that

HEARING

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1 Mr. Jenkinson handed you, you testified about was the
2 truth, the whole truth and nothing but the truth? Did
3 you even read it?

4 A: Yes ma'am.

5 Q: When did you read it? When did you read this
6 statement?

7 A: Last week.

8 Q: You read it last week. Who gave it to you?

9 A: I got a copy.

10 Q: From where?

11 A: Mr. Jenkinson.

12 Q: Mr. Jenkinson gave it to you last week.

13 A: No.

14 Q: When did he first give it to you?

15 A: June the 10th.

16 Q: Why were you reading it last week? How did you, why
17 were you reading it last week? You were getting
18 ready?

19 A: I read it last week.

20 Q: Alright now.

21 The Court: Pull that mic closer to you.

22 Q: Since you read the statement last week and you signed
23 it and you reviewed it, you would certainly agree with
24 me on page two of the statement, it's noted that
25 Kelvin Michael Bowen received a note from you in the

HEARING

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1 last several days. I mean, you'd at least agree with
2 that, right?

3 A: According to them.

4 Q: You wrote your friend a letter?

5 A: That's right.

6 Q: Mr. Bowen. Right?

7 A: Yes ma'am.

8 Q: And basically, what you looked at, is you basically
9 confessed to the crime, right?

10 A: Yes ma'am.

11 Q: And at this point, I mean, you knew you were going
12 away for a long time, right?

13 A: Yeah.

14 Q: Wasn't a whole lot you could do about that, was there?

15 A: No ma'am.

16 Q: And you are currently in the department of corrections
17 for fifty years, right?

18 A: Yes ma'am.

19 Q: So, you have nothing to lose by standing here trying
20 to help your friend out today, do you?

21 A: That's right.

22 Q: I mean fifty years is fifty years. Even if you commit
23 perjury, that's not going to be a big deal to you, is
24 it?

25 A: Yes ma'am.

HEARING

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1 Q: It's going to be a big deal?

2 A: Yes ma'am.

3 Q: The truth means something to you?

4* A: Yes ma'am.

5 Q: Do you remember when we brought you out here and we
6 put your hand on the Bible?

7 A: Yes ma'am.

8 Q: That mean something to you?

9 A: Yes ma'am.

10 Q: Did you also put your hand on this very same Bible, in
11 this very same courtroom in August of 2010?

12 A: Is that the same Bible?

13 Q: Yeah, you were right here, before that same judge,
14 right?

15 A: Yes ma'am.

16 Q: And you had your lawyer, Mr. Carraway, sitting up in
17 here with you, right?

18 A: Yes ma'am.

19 Q: And you swore to tell the truth then, right?

20 A: Yes ma'am.

21* Q: And you pled guilty to murdering Kenyan, right?

22 A: Yes ma'am.

23 Q: And during the course of your guilty plea, you said
24 your mom was there, Antonio was there and Callie,

25 Kelvin B. was there. You said that when you pled

HEARING

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1 guilty, didn't you?

2 A: I didn't say that.

3 Q: Didn't say that when you pled guilty?

4 A: No ma'am.

5 Q: What about when you sat on the stand and you testified
6 for your mom? Do you remember doing that? Sitting in
7 that exact same chair?

8 A: Yes ma'am.

9 Q: Do you remember swearing on the exact same Bible?

10 A: Yes ma'am.

11 Q: In front of this exact same judge?

12 A: Yes ma'am.

13 Q: Do you remember saying then, identify the shotgun, do
14 you remember doing that?

15 A: Yes ma'am.

16 Q: Okay, your memory is getting a little better. Stay
17 with me. Do you remember saying that that exact same
18 shotgun was used by Mr. Bowen to shoot Kenyan Dorsey?

19 A: No ma'am.

20 Q: You don't remember that part. How many boyfriends did
21 your mama have during this time in April of 2009?

22 A: Two.

23 Q: She had two? What are their names?

24 A: Callie and I can't remember the other one.

25 Q: You can't remember it? Memories bad on that issue

HEARING

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- 1 too? Your mama called Kelvin B. Callie, didn't
2 she?
- 3 A: She always told me his name was Kelvin.
- 4 Q: Did you ever hear her statement that she gave to the
5 police?
- 6 A: No.
- 7 Q: So if I were to try to find this second boyfriend that
8 your mom had supposedly in April of 2009, where could
9 I find him?
- 10 A: Wherever.
- 11 Q: Huh?
- 12 A: Maryland.
- 13 Q: Where?
- 14 A: I don't know.
- 15 Q: Do you have an address for him?
- 16 A: No. Maryland.
- 17 Q: Can you tell me who his family is? What his mama name
18 is, daddy name is?
- 19 A: No.
- 20 Q: Have any kids?
- 21 A: Yeah.
- 22 Q: What kind of car did he drive?
- 23 A: A truck.
- 24 Q: What kind of truck?
- 25 A: I can't remember.

HEARING

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1 Q: Can't remember. He ever spent the night at your mama
2 house?

3 A: Yeah.

4 Q: Don't know his name, I can't reach him. Judge, that's
5 all I have.

6 The Court: Mr. Jenkinson?

7 RE-CROSS OF MR. MACK BY MR. JENKINSON

8 Q: A minute ago, Ms. Barr asked you if you had nothing to
9 gain, you don't have nothing to gain, nothing to lose
10 by your testimony, do you?

11 A: No sir.

12 Q: All you want to do is tell the truth, that's all you
13 can do now can't you?

14 A: Yes sir.

15 Q: I can't hear you.

16 A: Yes sir.

17 Q: Nothing to gain, nothing to lose by being here, right?

18 A: Yes sir.

19 Q: You don't want to your conscience with a not guilty
20 man going to jail with you, do you?

21 A: No sir.

22 Q: Back in April, you say your mama had two boyfriends.
23 Were you up in Maryland to know who your mama was with
24 during that period of time in April and March?

25 A: No sir.

HEARING

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1 Q: You weren't up there, were you?

2 A: No sir.

3 Q: So you don't know what your mama was up to and who she
4 was with, bottom line, do you?

5 A: No sir.

6 Q: That's all I have.

7 The Court: You may step down. Next witness.

8 Ms. Barr: Tawanda Mack Allen.

9 The Court: Let's stand before mama gets in here and let's
10 stretch a little bit. Come around here to be sworn
11 please.

12 Bailiff: Place your left hand on the Bible and raise your
13 right. Do you solemnly swear to tell the truth, the
14 whole truth and nothing but the truth, so help you
15 God?

16 A: I do.

17 Bailiff: Please step around to the witness box.

18 DIRECT EXAMINATION OF TAWANDA MACK ALLEN BY MS. BARR

19 Q: Ms. Allen, would you state your full name for me?

20 A: Tawanda Mack Allen.

21 Q: Ms. Allen, you are the mother of Ronald Mack?

22 A: Yes ma'am.

23 Q: And you are currently in the department of
24 corrections, is that correct?

25 A: Yes ma'am.

HEARING

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1 Q: Alright and you are serving a forty-five year
2 sentence, based on your conviction, related to the
3 murder of Kenyan Dorsey?

4 A: Yes ma'am.

5 Q: Who is Tiffany Bowen?

6 A: I have been advised by my attorney not to testify in
7 this case.

8 Q: Are you going to exercise your right to remain silent?

9 A: Yes ma'am.

10 Q: As it relates to all the questions concerning the
11 identity of Callie, the relationship that you have to
12 Kelvin B. and the murder of Kenyan Dorsey. It is
13 your wish to exercise your right to remain silent?

14 A: Yes ma'am.

15 Q: And you're going to refuse to answer any questions in
16 connection with those subject matters?

17 A: Yes ma'am.

18 Ms. Barr: Judge, that's all the questions that I have for
19 her.

20 The Court: Alright, Mr. Jenkinson?

21 CROSS EXAMINATION OF MS. MACK BY MR. JENKINSON

22 Q: Ms. Allen you are represented by Mr. Verdell Barr who
23 is seated over here?

24 A: Yes sir.

25 Q: And he's been your lawyer through out?

HEARING

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1 A: Yes sir.

2 Q: And you're acting under his advice?

3* A: Yes sir.

4 Mr. Jenkinson: No further questions..

5 The Court: Alright, you can step down. Your next
6 witness.

7 Ms. Barr: I call Lt. Deborah Collins

8 Bailiff: Place your left hand on the Bible and raise your
9 right. Do you solemnly swear to tell the truth, the
10 whole truth and nothing but the truth, so help you
11 God?

12 A: I do.

13 DIRECT EXAMINATION OF LT. COLLINS BY MS. BARR

14 Q: Ma'am, let me get you to state your full name for the
15 record.

16 A: Deborah McElveen Collins.

17 Q: Alright and Ms. Collins will you tell us where you're
18 employed?

19 A: Williamsburg county sheriff's department.

20 Q: And what do you do there?

21 A: I'm the Lieutenant over investigation.

22 Q: Alright. Now, I hate to ask you this question,
23 because it might give away your age, but at the risk
24 of offending you, how long have you been a law
25 enforcement officer?

HEARING

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1 A: Thirty-one years.

2 Q: And can you tell us what your day to day
3 responsibilities are in investigations?

4 A: I assign cases to the investigator that works under
5 me, like burglaries, murder, armed robberies, any
6 criminal cases that the first officers, the uniformed
7 officers go out and work and they need some assistance
8 and passed on to me and I'll assign it to an
9 investigator for follow up.

10 Q: Alright and ma'am, you had an opportunity, over the
11 years, I imagine, to investigate a number of homicide
12 cases?

13 A: Yes ma'am.

14 Q: Alright and you, as a part of your responsibilities,
15 did you participate in the investigation of the murder
16 of Kenyan Dorsey?

17 A: Yes.

18 Q: Alright, you went to the scene?

19 A: Yes ma'am.

20 Q: You interviewed witnesses?

21 A: Yes.

22 Q: Alright, you sat in on interviews of witnesses?

23 A: Yes.

24 Q: Alright, now at some point in May of 2009, your agency
25 had an arrest warrant issued against Tawanda Mack

HEARING

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- 1 Allen, is that correct?
- 2 A: Yes.
- 3 Q: And she was charged in connect to the death of Kenyan
- 4 Dorsey?
- 5 A: Correct.
- 6 Q: Alright and your agency also charged Antonio McClary,
- 7 Ronald Mack and Kelvin B.
- 8 A: Yes ma'am.
- 9 Q: Alright anyone else charged in connection with the
- 10 death of Kenyan Dorsey?
- 11^a A: No.
- 12 Q: Alright, now you all made arrangements to extradite
- 13 Mr. Bowen, Ms. Allen and Mr. Mack from Maryland?
- 14 A: Yes.
- 15 Q: Alright and you actually send deputies up to Maryland
- 16 and have them transported back to South Carolina?
- 17 A: Yes ma'am.
- 18 Q: Alright now, on May the 28th of 2009, did you all
- 19 conduct an interrogation of Tawanda Mack Allen?
- 20 A: Yes.
- 21 Q: And was your interrogation of her recorded?
- 22 A: Yes it was.
- 23 Q: Alright and which other members of your office was
- 24 present during that interrogation?
- 25 A: Investigator Whack and Investigator Lail.

HEARING

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1 Q: Alright, where did that interview take place?

2 A: At the sheriff's office.

3 Q: Now, on t.v. we hear about Miranda warnings and you
4 know, we've seen some officers read from a card. Can
5 you explain to the jurors what is meant by Miranda
6 warnings?

7 A: Prior to taking a statement from anyone that is under
8 arrest or a suspect, we advise them of their Miranda
9 Rights. Advise them that they have the right to talk
10 to us and they have the right to have an attorney
11 present with them. We actually have a form that we
12 read it from. We give them a copy to go along with
13 that and after reading it we get them to sign it.

14 Q: Alright now, one of the things that you would advise
15 Ms. Allen of, at the time, was she had the right to
16 have a lawyer present before you interviewed her?

17 A: Yes.

18 Q: Alright, did she waive that right?

19 A: She waived that right.

20 Q: Did she waive all of her Miranda rights?

21 A: Yes, she also was advised that if she couldn't afford
22 an attorney, one would be appointed to represent her.

23 Q: And she said she didn't want to do all that. She was
24 willing to give a statement?

25 A: Yes ma'am.

HEARING

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1 Q: Alright* now, let me ask you a few questions
2* surrounding that statement, just so I can kind of lay
3 the framework. Now, when you all gave her that
4 statement or when she gave the statement, it was just
5 the, I guess the four of you all in the room?

6 A: Yes.

7 Q: Okay. Alright, was that statement recorded?

8 A: Yes it was.

9 Q: Alright, I'm going to hand you what's been marked for
10 identification purposes as State's exhibit number
11 sixty-six and I'm going to hand it to you and ask you
12 if you recognize that.

13 A: Yes.

14 Q: And tell the jury what that is.

15 A: It's a taped statement from Tawanda Allen Mack.

16 Q: Alright.

17 A: Dated on 5-28-09.

18 Q: Alright, now Lt. Collins, were you present in the
19* courtroom during the trial of Tawanda Mack Allen?

20 A: Yes.

21 Q: Alright, did you hear this tape being played during
22 that trial?

23 A: Yes.

24 Q: And does it accurately reflect the extent of the
25 interrogation of Tawanda Allen Mack back on May the

HEARING

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1 28th, 2009?

2 A: Yes it did.

3 Q: Alright has this cassette tape been in the custody of
4 the clerk of court since Tawanda's trial?

5 A: Yes.

6 Q: And as far as you know, there have been no changes and
7 no deletions at all to this recording?

8 A: I don't think so; I haven't heard.

9 Q: Does it appear to bare an id number from the clerk's
10 office?

11 A: Yes.

12 Q: Alright, Judge we would move State's exhibit number
13 sixty-six into evidence at this time.

14 The Court: What says the defense?

15 Mr. Jenkinson: Your Honor, may we be heard outside of the
16 presence of the jury as to this matter?

17 The Court: Yes sir. Do you object or?

18 Mr. Jenkinson: I do object.

19 The Court: Alright, ladies and gentlemen, I'll have you
20 go to the jury room. Please do not discuss the case.

21 (Jury exits courtroom)

22 The Court: Yes sir Mr. Jenkinson?

23 Mr. Jenkinson: Several stages for this statements not
24 being admissible; first, it is hearsay, because it is
25 being offered for the truth of the matter asserted.

HEARING

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1 the county jail until the trial is over. In the event
2 Mr. Jenkinson wants to confront him further.

3 Mr. Jenkinson: Well ...

4 The Court: That's the ruling of the court. What else
5 do we have while the juries out?

6 Ms. Barr: Nothing else Judge.

7 The Court: Alright, bring the jury.

8 Mr. Jenkinson: Could we have just a bathroom break before?

9 The Court: Alright give the public two minutes.

10 (There was a court break)

11 The Court: You may proceed.

12 Ms. Barr: May it please the Court.

13 CONTINUE EXAMINATION OF LT. COLLINS BY MS BARR

14 Q: Lt. Collins, I was asking you when we sent the jury
15 out about a taped statement of Tawanda Allen. Now I am
16 not permitted to ask you questions about her
17 statement, but I would like to ask you about Ronald
18 Mack. You were in court today when he testified
19 right?

20 A: Yes.

21 Q: Okay and ma'am were you also in court when he
22 testified during his mother's trial in August?

23 A: Yes.

24 Q: Alright and you were in court when he pled guilty that
25 same week?

HEARING

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- 1 A: Yes.
- 2 Q: Alright now was his testimony here today substantially
- 3 different than what the statement was that he gave you
- 4 and Investigator Lail.
- 5 A: Yes it was totally different.
- 6 Q: Okay, alright now, you took a statement of Tawanda
- 7 Allen on May the 28th of 2009. Did you also take a
- 8 statement of Ronald Mack that same day?
- 9 A: Yes ma'am.
- 10 Q: Alright and I'm not going to mark this as an exhibit,
- 11 but I just kind of wanted to lay a foundation of the
- 12 facts. Is that a copy of the transcript from Mr.
- 13 Mack's statement to law enforcement?
- 14 A: Yes it is.
- 15 Q: Alright and it was given May 28th at 2:09 pm?
- 16 A: Yes.
- 17 Q: Alright and who all was present during the course of
- 18 this statement?
- 19 A: Investigator Whack, Investigator Lail and myself.
- 20 Q: Okay along with Ronald Mack?
- 21 A: Ronald Mack.
- 22 Q: Okay, alright and did you also advise him of the same
- 23 Miranda warnings that you gave to his mother?
- 24 A: Yes.
- 25 Q: And to kind of further your testimony in that regard,

HEARING

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1 did you actually have him sign a form waiving his
2 rights?

3 A: Yes.

4 Q: Alright, tell me what that form says and what you all
5 would have advised him of at that time.

6 A: At the top of it, it says Miranda warning and it has
7 the date, which was 5-28-09, place, Williamsburg
8 county sheriff's department, time, 2:09 pm and it says
9 the Constitution requires that we or I inform you that
10 you have the right to remain silent. Anything you say
11 can and will be used against you in a court of law.
12 You have the right to talk to a lawyer and have him
13 present while you are being questioned. If you cannot
14 afford hire an attorney, one will be appointed to
15 represent you before your questioning if you wish.
16 You can decide at any time to exercise these rights
17 and not answer any question or make any statements.
18 Do you understand each of these rights I have
19 explained to you? His answer was yes and he put his
20 initial RM before his answer.

21 Ms. Barr: Okay. Alright Judge, we would ask to have this
22 marked a State's number sixty-eight and admitted into
23 evidence as the Miranda waiver form.

24* The Court: Says the defense?

25 Mr. Jenkinson: I don't object.

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HEARING

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1 The Court: Admitted without objection.

2 (State's Exhibit Number 68 was admitted)

3 Q: Alright and I'm also going to hand you what's been
4 marked for identification purposes State's number
5 sixty-five and ask if you recognize that particular
6 exhibit.

7 A: Yes.

8 Q: Alright, tell the jury what it is.

9 A: It's a taped statement, dated on 05-28-09 from Ronald
10 Mack.

11 Q: Alright is this the same taped statement that you talk
12 about earlier that was done on May the 28th of 2009?

13 A: Yes.

14 Q: At 2:09 pm?

15 A: Yes it is.

16 Q: Alright and is this an accurate recording of the
17 statements made by the deputies at the sheriff's
18 department, along with Ronald Mack that day?

19 A: Yes.

20 Q: Alright and you prepared to play the tape that day?

21 A: Yes.

22 Ms. Barr: Judge, we would move State's exhibit number
23 sixty-five into evidence at this time.

24 Mr. Jenkinson: We would object on the reasons that were
25 previously articulated to the court.

HEARING

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1 The Court: Admitted over objection.

2 (State's Exhibit Number 65 was admitted)

3 Q: Thank you Your Honor. Alright, Investigator Collins,
4 what I'm going to do is, so that the court reporter is
5 not taking down the tape as it's playing and your
6 statements as well, I'm just going to withhold asking
7* any questions until I stop the tape. Fair enough?

8 A: Yes ma'am.

9 (RONALD MACK'S TAPED STATEMENT IS PLAYED)

10 Mr. Jenkinson: Your Honor, please, one further matter.

11 (RONALD MACK'S TAPED STATEMENT WAS PAUSED)

12 The Court: Alright, yes sir?

13 Mr. Jenkinson: May we approach?

14 (Counsel approaches bench)

15 The Court: Ladies and Gentlemen, I want to caution you.

16 What this evidence is being used for is impeachment
17 purposes only as it relates to Mr. Mack and his
18 testimony and not the truth contained therein, but for
19 impeachment purposes only as it relates to that
20 witnesses testimony. You may proceed.

21 Ms. Barr: Yes sir, thank you Your Honor.

22 (RONALD MACK'S TAPE STATEMENT WAS PLAYED)

23 Q: Investigator Collins, you've had another opportunity,
24 of course, to listen to the taped statement of Ronald
25 Mack, is that correct?

HEARING

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- 1 A: Yeah.
- 2 Q: Alright, now when I had asked you earlier whether or
3 not his testimony today, whether or not his testimony
4 today was consistent with what he told law
5 enforcement, you answered that it was substantially
6 different.
- 7 A: Right.
- 8 Q: Did he implicate himself, his mom, and Kelvin B.
9 during his plea?
- 10 A: Yes, he did.
- 11 Q: Alright, what about when he testified in his mother's
12 trial? Did he implicate those three people?
- 13 A: Yes, he did.
- 14 Q: During his mama's trial?
- 15 A: Yes.
- 16 Q: Was his testimony consistent with his statement that
17 he gave to you back on May 28 of 09?
- 18 A: During his mother's trial?
- 19 Q: Yes.
- 20 A: Yeah.
- 21 Q: Inconsistent with what he testified today in court?
- 22 A: Yes, he was different today.
- 23 Q: Now, there was a part of his statement that I need to
24 ask you about, you all, as a part of interviewing
25 witnesses, you are all just kind of gathering facts

HEARING

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1. about a case. Is that right?

2 A: Yes ma'am.

3 Q: Alright and there was a part in his statement that I
4 was curious about, he said that Antonio thought that
5 he was going there to rob Kenyan and he asked you
6 about the warrants. Do you remember that part of his
7 statement about the warrant for attempted robbery or
8 armed robbery?

9 A: Yes, I asked him did he have any question about the
10 warrants and he had a question about the armed robbery
11 warrant.

12 Q: Okay and his response was no we never went there to
13 rob, we just went there to kill?

14 A: Correct.

15 Q: Do you have a copy, copy of the transcript of that
16 statement?

17 A: No ma'am.

18 Q: I'm a hand that to you. Now, you of course, had the
19 benefit of actually being in the room with Mr. Mack
20 when he gave you this statement. If you go with me to
21 page six, you asked him, what's Callie's real name.

22 A: Can you tell me what line you're talking about?

23 Q: Twenty-two and twenty-three, yes ma'am. Do you
24 remember somebody in the room asking him that
25 question?

HEARING

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1 A: Yes ma'am.

2 Q: What was his response?

3 A: Kelvin.

4 Q: Okay, now, we heard a couple of different voices on
5 there. Male voice that we heard was from who?

6 A: Investigator Whack.

7 Q: Alright, we heard your voice there and we had another
8 female's voice. Who was that other female?

9 A: Investigator Lail.

10 Q: Okay, the young lady sitting here?

11 A: Yes.

12 Q: How far would Dontrey Barr have been from where the
13 victim was killed?

14 A: I would say approximately seven to eight miles.

15 Q: Think you could make it there in ten minutes?

16 A: Yes..

17 Q: Okay, that's all the questions I have Lt. Collins,
18 please answer any questions from Mr. Jenkinson.

19 CROSS EXAMINATION OF LT. COLLINS BY MR. JENKINSON:

20 Q: Investigator Collins, I was listening to the statement
21 and I was following along with the transcript of the
22 statement that you have in front of you. Do you have
23 it in your lap? How many pages are in it?

24 A: Thirty-seven.

25 Q: Well, while I was listening to the tape a few minutes

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1 ago, I heard it cut off, about page what?

2 A: I would have to ask you because I wasn't going along
3 with the transcript and page. Tell me what page it
4 is.

5 Q: You was talking about what bothers him ...

6 A: What page are you on?

7 Q: Twenty-three.

8 A: What line sir?

9 Q: Fifteen. Read nine through fifteen. That was the last
10 response I heard on page twenty-three.

11 A: You want me to start with the question at number five
12 or you want me to start with the answer?

13 Q: That was a, this tape that we listened to stopped on
14 page twenty-three of the statement, did it not?

15 A: No.

16 Q: You saying it did not? You saying it went through the
17 entire length of the statement?

18 A: Yes sir.

19 Q: The statement played, was it stopped?

20 A: I stopped the tape.

21 Q: On page twenty-three?

22 A: I'm not sure what page it is.

23 Q: It was not complete? Can we find it where it was last
24 question on there?

25 Ms. Barr: You have to fast forward.

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1 Mr. Jenkinson: I want to know, I wasn't expecting it to
2 stop and I don't know how to operate it and I don't
3 know where.

4 Ms. Barr: Just fast forward.

5 Mr. Jenkinson: No, I don't have to fast forward it, I just
6 want to cut it on and find out what the next question
7 is, so we can identify where it stopped.

8 Ms. Barr: If you, you're free to fast forward it Mr.
9 Jenkinson. It's in evidence, you're free to ...

10 Mr. Jenkinson: She, but I don't know how to operate it,
11 would you kindly just turn it on for me?

12 Ms. Barr: Let me show you. I don't know where, how far you
13 want to go with this.

14 Mr. Jenkinson: I just, let it, I don't want to fast forward
15 it. I just want to stop where you stopped. I want
16 this to be, I want you to start it where you stopped
17 it.

18 The Court: Push play.

19 Ms. Barr: It's at the beginning Judge, it rewound. It's at
20 the beginning. That's why I told him he could fast
21 forward it.

22 Q: You were, you read the statement, the written
23 statement, have you not?

24 A: Yes sir.

25 Q: And if I was following along and stopped on twenty-

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1 three, you don't deny on page twenty-three that's
2 where this tape stopped a few minutes ago?

3 A: I don't know, because I wasn't going along with the
4 transcript. I don't know exactly at what point it
5 stopped.

6 Q: Were you listening to the tape?

7 A: Yes sir.

8 Q: Well turn to page twenty-three. You got page twenty-
9 three?

10 A: Yes sir.

11 Q: I want you to look at line eighteen to the bottom of
12 that page and the next page. Do you hear anything on
13 that tape from that point on?

14 A: Give me a minute. No sir.

15 Q: You did not did you?

16 A: The tape stopped.

17 Q: The tape stopped?

18 A: The tape didn't stop during the taped statement. Ms.
19 Barr cut the tape off before it finished playing.

20 Q: The tape that we, that the jury was listening to,
21 stopped in the middle of page twenty-three?

22 A: I didn't hear from line seventeen on down, so I would
23 agree with you that it did stop on page twenty-three.

24 Q: Okay. So we didn't hear page twenty-four?

25 A: If it stopped on page twenty-three, no sir.

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1 Q: Twenty-five and we didn't hear it right on up through
2 page thirty-seven, the last page, did we?
3 A: No sir.
4 Q: So we didn't hear the full tape and the full statement
5 of it, did we?
6 A: I didn't play the tape.
7 Q: No, I'm just asking you what we heard.
8 A: No sir.
9 Q: And I want you to turn to the last line on page
10 thirty-seven and tell the jury what happened to the
11 statement.
12 A: The last line says tape ran out.
13 Q: Tape ran out. So we don't know what happened after
14 the tape ran out do we?
15 A: That would have been the end of our statement. If
16 not, we would have had a second tape.
17 Q: It does not say, do you have a second tape?
18 A: No sir.
19 Q: It doesn't say it was the end of the statement.
20 A: It just says tape ran out.
21 Q: And he's answering a statement and it says yes, but it
22 wasn't no robbery or nothing it was just that and it's
23 cut off on that last page. Isn't that what it says?
24 A: On line four it says I was just trying to like,
25 basically kill him ...

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1 Q: No ma'am, I didn't ask you that question. I asked you
2 if the last sentence stops in mid sentence and it
3 doesn't, and there's nothing further on that page?

4 A: If I recall, it was basically at the end of his
5 statement and he was like trying to explain that there
6 was no robbery, because a robbery warrant was served
7 on him and he was just explaining that he went there
8 to kill him, not rob him and like you said, it says
9 the tape ran out.

10 Q: The tape ran out, so we don't know what happened after
11 tape ran out on the tape machine do we?

12 A: There's nothing on there where it ran out.

13 Q: I know it and so if he continued to give a statement
14 and was asked questions, we don't, just let me finish
15 my question, then you can answer it all you want.

16 A: Yes sir.

17 Q: We can't hear what he said after the tape ran out can
18 we?

19 A: We didn't ask him anything else, he was just talking.

20 Q: Does the, does the tape indicate that the questioning
21 stopped?

22 A: No sir.

23 Q: And we don't know because it doesn't appear on this
24 statement does it?

25 Ms. Barr: Judge, I'm going to object. That question has

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1* been asked and answered repeatedly.

2 The Court: Overrule the objection.

3 Q: You understand the question?

4 A: I answered the question. Are you going to ask again?

5 Q: Yes ma'am, I said we don't know what he said on the
6 tape because it ran out and we don't know what else he
7 told you that day do we? Because it wasn't recorded.

8 A: No sir, there was nothing else.

9* Q: We have to assume there was nothing that because the
10 tape ran out, right?

11 A: Yes sir, it ran out when he said that he went there to
12 kill him, not rob him and that's when the tape says
13 tape ran out.

14 Q: Okay, now let's go back to the first statement that he
15 gave you, back in April.

16 A: I'd have to see a copy of it to see.

17 Q: Well you weren't present?

18 A: I would like to look at the statement that you are
19 questioning me about.

20 Ms. Barr: Your Honor, to the extent that Counsel seeks to
21 asks questions about the first statement, we would
22 object to hearsay. We object on hearsay grounds.

23 The Court: Alright. Let's stand for a minute. The
24 objection is overruled.

25 Mr. Jenkinson: Thank you Your Honor.

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1 Q: There was a detailed statement given by Mack back on
2 April 5th, was there not?

3 A: Yes sir.

4 Q: You weren't present for that statement?

5 A: It says Investigator Lail and Investigator Whack. I
6 was not there.

7 Q: So you weren't in that statement. So we don't know,
8 you weren't there so you can't testify about what you
9 didn't hear. Have you read it?

10 A: I don't think I have. Not recently.

11 Q: So you did not, you did not read it in preparation for
12 the questions you were asking on May 28th?

13 A: No sir. I was, that's when the murder first happened.
14 When Investigator Whack and them started to talk and
15 interview people and that was one of the statements I
16 was not involved in.

17 Q: But you were one of the lead investigators on it?

18 A: I'm in charge of investigations and Investigator Lail
19 is the lead investigator.

20 Q: This lady sitting right here.

21 A: Yes sir.

22 Q: She can tell us about it, right?

23 A: Yes sir, she took the statement.

24 Q: Now, let's go back to May 28th, this statement you
25 heard. This fella Ronald Mack told you that he and

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1 Kenyan Dorsey were robbing people right?

2 A: Yes sir.

3 Q: That he and Kenyan Dorsey were dope dealers?

4 A: He wanted us to believe that he was a dope dealer and
5 a thug. That's what he pretend to be.

6 Q: So he was lying in his statement on the 28th to you?
7 Is that what you're telling us?

8 A: About being a drug dealer?

9 Q: Yes.

10 A: I wouldn't doubt if he was a drug dealer, but I don't,
11 I've never heard of anybody they robbed.

12 Q: Well, in it he said he and Kenyan Dorsey robbed
13 people, didn't he? Rob dealers and were dealing in
14 drugs?

15 A: That's what he said.

16 Q: So, what you're telling us, you believe what you want
17 to believe in this statement, but other things, the
18 rest of it, it's a lie?

19 A: I did not say that. I said he's a want to be drug
20 dealer.

21 Q: Okay, both of them were gang members, meaning Kenyan
22 Dorsey and Ronald Mack?

23 A: I don't know whether Kenyan was a drug, a gang member
24 or not. I don't know that.

25 Q: Well, if you believe what your witness says in this

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1 statement, he must be right?

2 A: Not necessarily.

3 Q: Okay. So you don't believe that either?

4 A: I believe part of what he said and some of it I did
5 not.

6 Q: Okay, so this statement we've heard, you're telling us
7 you believe some of it, you don't believe some of it,
8 the rest of it, we don't hear?

9 A: I don't believe about them going around robbing drug
10 dealers.

11 Q: It happens, doesn't it?

12 A: Yes sir.

13 Q: And if you believe in his statement and believe what
14 he says, then it happened right?

15 A: I believe what he said that Callie assisted him in
16 murdering Kenyan Dorsey.

17 Q: Yeah, you pick out what you want to believe?

18 A: That's true.

19 Q: And he didn't say, he said Callie?

20 A: Callie.

21 Q: Callie, alright, now, in this statement, you've
22 mentioned a few minutes ago, he identified his wife's,
23 his mother's boyfriend and Kevin, right? K-E-V-I-N?

24 A: He said Callie and Investigator Whack asked him what
25 was his real name, he said Kevin.

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- 1 Q: Kevin. And that guys name, sitting by Mandy Shuler
2 over there ain't named Kevin is it?
- 3 A: His name is Kelvin B.
- 4 Q: His name is Kelvin, right?
- 5 A: They both sound the same.
- 6 Q: Well, the Sheriff of Williamsburg county, during this
7 particular time, name was Kelvin, was it not?
- 8* A: His name is Kevin.
- 9 Q: Pardon?
- 10 A: Kevin Washington.
- 11 Q: Kelvin Washington, that's spelled Kelvin, right?
- 12 A: People spell their name different.
- 13 Q: I understand that, but Kelvin B. and the Sheriff
14 spell their name the same way, right?
- 15 A: Yes.
- 16 Q: Well, they're pronounced the same way, Kelvin, right?
- 17 A: That's exactly what I said, you pronounce the name the
18 same way and people spell it different.
- 19 Q: Alright and Kevin and Kelvin is two different names,
20 isn't it?
- 21 A: Callie and Kelvin B. is the same person.
- 22 Q: No ma'am, I didn't ask you that. I said Kevin and
23 Kelvin are two different names aren't they?
- 24 A: They're spelled different. I don't know whether
25* people pronounce it the same.

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1 Q: No ma'am. Listen to what I'm saying. The name Kelvin
2 and Kevin are two different names aren't they?

3 A: They're spelled differently.

4 Q: They spell differently and they're pronounced
5 differently aren't they?

6 A: Yes.

7 Q: And we know, have understood that Tawanda Mack had two
8 boyfriends when all this was going on?

9 A: She only talked about one with us.

10 Q: I know that, but Mr. Mack's talking about two, right?

11 A: That's the first I heard that, today.

12* Q: You don't know what to believe out of this guy do you?

13 A: I believe that they killed Kenyan Dorsey, him and Mr.
14 Bowen.

15 Q: Did you ever hear the name Kelvin B. anywhere in
16 this statement about what we heard and about what we
17 didn't hear? Kelvin B. have you ever heard that
18 name in there?

19 A: No sir, it was ...

20* Q: Never said was it?

21 A: No, it was Callie.

22 Q: Did you ever have Ronald Mack, you had them both at
23 the jail at the same time, didn't you?

24 A: At one point, yes.

25 Q: Did you ever take him over to his cell and say is this

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1 Callie?

2 A: No.

3 Q: Never did. To this day, he's never done it has he?

4 A: No sir.

5 Mr. Jenkinson: No further questions.

6 The Court: Ms. Barr?

7 Ms. Barr: Judge, just a brief follow up, if I may.

8 RE DIRECT EXAMINATION OF LT. COLLINS BY MS. BARR:

9 Q: Lt. Collins, you testified that you believed what Mr.
10 Mack told you in his recorded statement as it relates
11 to the actual carrying out of the murder of Kenyan
12 Dorsey?

13 A: Yes.

14 Q: Alright, was his testimony consistent with the crime
15 scene?

16 Mr. Jenkinson: Your Honor, that's pitting witnesses.

17 The Court: Improper re-direct. Sustained objection for
18 that reason.

19 Q: Did you see evidence that the victim, Kenyan was shot
20 with a shotgun?

21 A: Yes.

22 Mr. Jenkinson: Objection. Not proper cross.

23 The Court: Sustain the objection.

24 Q: Now, you said that you never took Ronald Mack and
25 pointed him in the direction of the Defendant Kelvin

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1 Bowen. You said that you've never done that?

2 A: No.

3* Q: Alright, now you also testified that during the trial
4 of the case, you were here when Mr. Mack plead guilty
5 and you were here when he testified in his mother's
6 case?

7 A: Yes.

8 Q: Were you also here when he was shown this photograph
9 and identified him as Callie?

10 A: In court, yes.

11 Q: Alright that's all I have. Thank you.

12 Mr. Jenkinson: Your Honor, that's, objection. Objection, he
13 never said that's Callie. He said that's a picture of
14 Kelvin B.

15 The Court: The jury heard the testimony and the will
16 recollect the testimony. Anything further from this
17 witness?

18 Ms. Barr: Not from the State Your Honor.

19 The Court: You may step down. Your next witness?

20* Ms. Barr: Your Honor, our folks were in court today and
21 they asked me about four thirty were we going to be
22 able to get to them today and I told them no, so I
23 sent them back to the hotel in Florence.

24 The Court: Alright.

25 Ms. Barr: Judge, we'd ask you to recess for today.

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1 The Court: Time to quit?

2 Ms. Barr: Yes please sir.

3 The Court: Alright, we'll quit for the day and start
4 back at 9:15 tomorrow morning. Please do not discuss
5 the case with anyone.

6 (Jury exits the courtroom for the evening)

7 The Court: Alright anything else before we leave for
8 this day?

9 Ms. Barr: Nothing from the State Judge.

10 The Court: Alright, 9:15. Mr. Jenkinson anything else
11 on behalf of the Defendants?

12 Mr. Jenkinson: Your Honor, in regard to what you said
13 about Mr. Mack. I know the Court's offering me the
14 opportunity to recall him to the stand, but I'm not
15 inclined to do that because that address to the jury that
16 we have a burden of putting him back on the stand and the
17 burden of proof is something and for that reason, we would
18 not want to call him.

19 The Court: Alright, Mr. Jenkinson doesn't want him, so
20 you can take him back to wherever he came from.

21 Ms. Barr: Thank you Your Honor.

22 (Wednesday, February 3, 2011 The State vs. Kelvin B.
23 Jr.)

24 Ms. Barr: Good-morning, Judge. Your Honor, I just have one
25 matter. I think that what has been marked for State

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1 identification purposes only as State's Exhibit Number
2 fifty-one is the items that were taken from the scene of
3 the crime. I believe that Mr. Jenkinson has indicated to
4 me that he has no objection as to chain of custody or as to
5 this exhibit being entered.

6 Mr. Jenkinson: No objection to Exhibit 51.

7 The Court: All right. Bring the jury in:

8 (Jury enters court room 9:56)

9 The Court: Good morning. Ms. Barr, call your next witness.

10 Ms. Barr: We call Antonio McClary.

11* Mr. Jenkinson: Your Honor, it appears, once the witness is
12 in the courtroom there is a matter that we would like heard
13 off the record. I don't know who she will call next.

14 The Court: All right. Ladies and Gentlemen, if you all
15 would go to your jury room, please.

16 (Jury exits that courtroom 9:56)

17 Mr. Jenkinson: The Motion will be argued by Ms. Shuler.

18 The Court: All right. Mister, come right here and stand in
19 front of the Bible and be sworn.

20 Clerk: Place your left hand on the Bible, raise your right
21 hand. Do you solemnly swear or affirm to tell the whole
22 truth and nothing but the truth so help you God?

23 Mr. McClary: Yes.

24 Clerk: Step around to the witness box.

25 (Witness complies)

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1 The Court: All right.

2 Ms. Shuler: Thank you, Honor. May it please the Court.

3 Pursuant to Kigleo(sp) vs. The United States, the defense
4 would like to get on the record as to the plea agreement
5 that was made with the Defendant.

6 The Court: All right. Ms. Barr.

7 Ms. Barr: Judge, there was, I shouldn't say plea agreement.

8 The Defendant plead guilty to burglary and I think he is
9 serving a 12 year sentence.

10 Ms. Shuler: Your Honor, there was a negotiated plea of 12
11 years. There was some sort of agreement that come to
12 between the defense and the prosecution in this case. All
13 of that ...

14 The Court: Are you stating that as a fact or questioning it
15 or ...

16 Ms. Shuler: I'm stating it as a fact.

17 The Court: Based on?

18 Ms. Shuler: Based on the guilty plea that was put on the
19 record. He had a negotiated sentence of 12 years. That as
20 put on the record back --- if your Honor would please I
21 could question that Defendant on that.

22 Ms. Barr: I don't necessarily --- I'm sorry, may I be
23 heard?

24 The Court: Yes.

25 Ms. Barr: Judge, I don't know if it's necessary for him to

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1 have been put on the stand and asked that. I mean, I was
2 the one who handled the plea. There were no negotiations
3 in terms of things being offered to him. He plead guilty
4 to burglary and received a 12 year sentence. There was
5 nothing offered to him or his lawyer in exchange for that
6 plea. She can ask him about that, but that's ...

7 The Court: You can ask him some questions if you want to.

8 Proffer Testimony - Mr. McClary - Examination by Ms.

9 Shuler:

10 Q: Good morning, Mr. McClary.

11 A: Good morning.

12 Q: You were charged in this case with murder, burglary
13 first, possession of a weapon during a violent crime
14 and criminal conspiracy, is that correct?

15 A: Yes.

16 Q: You were represented by Mr. Palmer?

17 A: Yes.

18 Q: You worked out an agreement with the Solicitor's
19* office, did you not?

20 A: Yeah.

21 Q: What were the contents of that agreement?

22 A: Second degree burglary. I got a 12 year sentence.

23 Q: Did she ask you if you would testify against Mr.
24 Bowen?

25 A: No. After I plead then.

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- 1 Q: She asked you after you all agreed to the 12 years
2 whether you would testify against him?
- 3 A: Yes.
- 4 Q: Did she offer you anything in return for that
5 testimony?
- 6 A: No, she did not.
- 7 Q: Did you discuss your testimony with her?
- 8 A: Yes.
- 9 Q: When did you discuss your testimony?
- 10 A: At the plea.
- 11 Q: Did your attorney, Mr. Palmer, advise you that you
12 would be eligible for reduction in sentence if you
13 were to cooperate with the prosecution?
- 14 A: No, he did not.
- 15 Q: What date did you plea?
- 16 A: Excuse me.
- 17 Q: Do you remember the date that you plead guilty?
- 18 A: I don't know the date.
- 19 Q: Would that be on or about October 14, 2010?
- 20 A: Yes.
- 21 Q: And it's your testimony here today that nobody has
22 told you, you would be eligible for reduction in
23 sentence for cooperation with the State?
- 24 A: No. Not one has taken that. No one has told me.
- 25 Ms. Shuler: I have no other questions, Your Honor.

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1 The Court: All right. Anything from the State?

2 Mr. McClary - Cross by Ms. Barr:

3 Q: Sir, when you testified that I discussed your
4 testimony with you, that was about two days ago,
5 right?

6 A: Yes.

7 Ms. Barr: Thank you.

8 The Court: Anything else?

9 Ms. Shuler: Nothing else, Your Honor.

10 The Court: All right. Bring in the jury.

11 (Jury enters the Courtroom)

12 The Court: All right. The jury is back, the witness
13 has been sworn, you may proceed.

14 Ms. Barr: If it please the Court, Your Honor.

15 EXAMINATION OF MR. MCCLARY BY MS BARR:

16 Q: Mr. McClary state your full name.

17 A: Antonio McClary.

18 Q: I appreciate you moving the microphone up and I need
19 you to continue to do that so that everyone can hear
20 what you're saying, okay?

21 A: Alright.

22 Q: Sir, you have on a prison uniform?

23 A: Yes ma'am.

24 Q: And you are currently incarcerated in the South
25 Carolina Department of Corrections, is that right?

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1 A: Yes.

2 Q: Alright, you pled guilty to the burglary of Kenyan
3 Dorsey's residence?

4 A: Yes.

5 Q: And you pled guilty back on October 14, 15 of 2010?

6 A: Yes.

7 Q: You had a lawyer with you at that time?

8 A: Excused me?

9 Q: Did you have a lawyer with you at that time?

10 A: Yes.

11 Q: Alright as a part of your guilty plea, did you tell
12 the Court your involvement in the burglary and the
13 subsequent murder of Kenyan Dorsey.

14 A: Yes.

15 Q: Now, Mr. McClary now you came here and you put your
16 hand on the Bible and the clerk swore you in. Do you
17 remember that?

18 A: Yes.

19 Q: You understand that you have to tell the truth today?

20 A: Yes.

21 Q: Did you also put your hand on the Bible when you pled
22 guilty back in October?

23 A: Yes I did.

24 Q: You remember pleading guilty before this judge or
25 another judge?

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1. A: Yes.

2 Q: Alright, did you tell the truth then when you put your
3 hand on the Bible?

4 A: Yes I did.

5 Q: Now let me get a little bit of background information
6 from you. Don't tell me your address, but did you
7 grow up in Williamsburg county?

8 A: Yes.

9 Q: Did you have brothers or sisters?

10 A: One sister.

11 Q: Okay, how old are you?

12 A: Twenty.

13 Q: Okay. Now do you, are you known by a nickname?

14 A: Yes.

15 Q: What's your nickname?

16 A: Droopy.

17 Q: Droopy?

18 A: Yes.

19 Q: Who, all your friends and your family members call you
20 Droopy?

21 A: Yes.

22 Q: Okay. Now are you a little nervous here today in
23 court?

24 A: Yes, ma'am.

25 Q: Okay, alright. Now, it's okay to be nervous. If you

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1 need to take a break or whatever you just let me know
2 okay?

3 A: Alright.

4 Q: The only thing we require is that you tell the truth.

5 A: Yes ma'am.

6 Q: Alright we heard evidence on yesterday from Ronald
7 Mack that you had been in an accident, is that true?

8 A: Yes.

9 Q: Alright, was it a serious accident?

10 A: Yes it was.

11 Q: Matter of fact, you were in a coma for about a month,
12 right?

13 A: Yes.

14 Q: Had a broken neck?

15 A: Yes.

16 Q: Okay and as a result of that accident, does it kind of
17 affect your mannerisms and how you speak and so forth?

18 A: Yes a little bit.

19 Q: Okay. Now I notice that when you testified ...

20 Mr. Jenkinson: Objection. She's leading.

21 The Court: Don't lead the witness.

22 Ms. Barr: I'm not going to lead him.

23 Q: I notice when you testified, on occasion, you were
24 kind of smiling a little bit. Is that just, tell me
25 why you do that. Is that on purpose or what?

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1 A: Well I have like my nerves they getting worse, it how
2 my emotions ...

3 Q: You're not smiling or laughing because you think any
4 of this is funny?

5 A: No, I'm not.

6 Q: Now sir, how long have you known Ronald Mack?

7 A: I'd say for about, I'd say about four years. Four
8 some years, four years.

9th Q: Did you go to school with him?

10 A: Yes, yes.

11 Q: Alright and you knew the victim Kenyan Dorsey?

12 A: Yes.

13 Q: Okay now, what I want to do is just simply take you to
14 the weekend that Kenyan was murdered, okay? Were you
15 with Ronald Mack that weekend?

16 A: Yes I was.

17 Q: Tell us what you all did that weekend.

18 A: Starting from?

19 Q: Starting from that Friday and Saturday.

20 A: Friday. Okay, Friday Ronald wanted me to take him to
21 his girlfriend's house.

22 Q: What's his girlfriend's name?

23 A: Dymon.

24 Q: Okay.

25 A: And I told him alright. He told me he could offer me

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1 some gas money and I told him alright, so, you know,
2 while we was on the way on 261, on the way going
3 toward Hemingway, he talked to me about his problems
4 with Kenyan.

5 Mr. Jenkinson: Objection to hearsay.

6 The Court: The objection is overruled.

7 Q: Go ahead sir, you can continue to answer.

8 A: He was talking about his problems with Kenyan and what
9 not and I told him, I asked him what was going on and
10 everything and he told me that Kenyan had owed him
11 some money and like I was like, I was like, well, what
12 you going to do about it? And he told me, he said he
13 ain't know right then, he ain't know. I said well
14 just give him time to get you the money. He said he
15 done give him plenty of time. He had sat at day on the
16 money or whatnot. I told him not to worry about it,
17 you know, just tell me how much and I'll pay for it in
18 his place.

19 Q: You offered to give Ronald Mack whatever money that he
20 claimed Kenyan owed him?

21 A: Yes.

22 Q: Okay. At some point, did the conversation between you
23 and Mr. Mack take on a different kind of tone?

24 A: Actually, no it didn't. I mean, it was like, you
25 know, like, he was really serious. He act serious down

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1 with it. He say he had to talk to his home, well his
2 mama boyfriend about it.

3 Q: Okay.

4 A: He said he had to talk to him about it, you know.

5 Mr. Jenkinson: Objection to that conversation.

6 That's third party hearsay.

7 Ms. Barr: Judge, it's the statement of a co-
8 conspirator in furtherance of the conspiracy.

9 The Court: Objection is overruled.

10 Q: Don't tell me what Ronald said that his mother's
11 boyfriend said, okay?

12 A: All right.

13 Q: Just what Ronald said. Did he say what he intended to
14 do to Kenyan?

15 A: No, he didn't. All he said was I intend to go to his
16 house. That's all he said.

17 Q: Alright. Now is this that Friday or is this that
18 Saturday?

19 A: That Friday.

20 Q: Alright, tell me what happened that Saturday.

21 A: Saturday, we went over to the house, well first we were
22 at a club. We was out at the Club Jordan and what not,
23 having some fun.

24 Q: Okay, now. Okay. Slow down for just a second. When
25 you say we were at Club Jordan, who are you talking

HEARING

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1 about? Who are the we that you are talking about?

2 A: Me, myself, Ronald, Dontrey ...

3 Q: Dontrey Barr?

4 A: Yes and Quadir Wilson.

5 Q: Okay, now how did you all get to Club Jordan?

6 A: I drove.

7 Q: You have a vehicle?

8 A: Yes.

9 Q: Alright, okay. How long did you all stay at Club
10 Jordan?

11 A: Dontrey Barr and Ronald Mack stayed until one o'clock.

12 Q: Okay.

13 A: And then cause Dontrey had a curfew of when he had to
14 be home, so I had to go drop, I had drop him and Ronald
15 just wanted to ride, so well wanted to go to Dontrey
16 house as well, so I dropped him and Dontrey off at
17 Dontrey's house.

18 Q: Alright. Tell me as you were in the club with Ronald,
19 did you have any conversations with him about Kenyan?

20 A: Well, it was I told him just chill out, calm down, come
21* just chill out. I told him to calm down, come sit
22 down. He was just walking in and out of the club, you
23 know, on the phone, walking out, walking out and he was
24 just stress out. I tell him to come chill out and
25 leave that along. I told him I'll handle this.

HEARING

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- 1 Q: Alright, then what happened?
- 2 A: Then, you know, then after I had dropped them off I
- 3 went back to the club and picked up Quadir Wilson and
- 4 his home girl we had dropped her off.
- 5 Q: Who was his home girl?
- 6 A: I can't even remember.
- 7 Q: Alright, now were you drinking at the time?
- 8* A: Yes.
- 9 Q: Okay, were you doing any drugs?
- 10 A: No.
- 11 Q: Okay, go ahead and continue.
- 12 A: So I dropped him off over there at the Apartments and
- 13 then kept on going. I asked Quadir if he wanted to go
- 14 and he said no he had to come home he had to retire for
- 15 the night.
- 16 Q: Okay.
- 17* A: And so I took him on back, we all went to Dontrey
- 18 house.
- 19 Q: Okay.
- 20 A: So, we walked in the house and I saw Ronald was getting
- 21 ready and whatnot, you know, and I said, before we ride
- 22 to Dontrey house and I had stopped by the store and I
- 23 got somebody that hang out by the store to go in the
- 24 store and, you know ...
- 25* Q: Alcohol?

HEARING

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1 A: Yes. After that we went to Dontrey house. So, we
2 standing there, drinking, drinking and drinking. I
3 asked Ronald what he been doing, where he was getting
4 ready to go and he said, he told me he was going out
5 there and handle his business.

6 Q: When he said go out there and handle his business, go
7 out where?

8 A: To Kenyan house.

9 Q: Okay, alright tell the jury what happened next.

10 A: And then, I told him, I said why you, I asked him why
11 he going to go out there and he said cause and you
12 know, cause he calling him making threats and
13 everything and, you know, so I was like, I'm going to
14 come with you and he was like, you sure about this, you
15 sure about this droop? He call me droop.

16 Q: He called you Droop?

17 A: Droop. Yeah.

18 Q: Okay.

19 A: He like you sure about this, you sure. I'm sure, I'm
20 sure, I'm sure.

21 Q: Now why did you want to go along?

22 A: Because I didn't believe he would go through all that
23 just for that reason.

24 Q: You thought he was playing?

25 A: Yeah.

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HEARING

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- 1 Q: Alright, now did you change your clothes to go out with
2 him?
- 3 A: Yes, I did
- 4 Q: Okay, alright. Did Ronald Mack change his clothes?
- 5 A: Yes.
- 6 Q: Okay and how did you all get from Dontrey Barr's house
7 to where Kenyan was?
- 8 A: His mother and, his mother and his mother boyfriend
9 pulled up.
- 10 Q: Okay. Now, first of all, let me ask you this. What
11 time was it when the mother and the boyfriend came to
12 the house to get you all?
- 13 A: I'd say had to be about two, two, two forty.
- 14 Q: In the morning?
- 15 A: Yes.
- 16 Q: Your Honor, may I approach the witness?
- 17 The Court: You may.
- 18 Q: May I approach? Mr. McClary I'm going to hand you
19 what's been admitted as State's exhibit number 52. Is
20 that the vehicle, does that look like the vehicle that
21 you all were riding in that night?
- 22 A: Yes.
- 23 Q: A Kia?
- 24 A: Yes.
- 25 Q: Do you know how it was that Ronald Mack's mom and her

HEARING

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1 boyfriend knew to come you all up at Dontrey Barr's
2 house?

3 A: Yes.

4 Q: How do you, how did they know that?

5 A: Ronald had called them off his cell, off the phone.

6 Q: Okay, what kind of phone did he have?

7 A: A I-phone.

8 Q: Alright, so tell me what happened. Did you all, first
9 of all, when you all walked out of Dontrey Barr's
10 house, did you have a gun?

11 A: No.

12 Q: Did Ronald Mack have a gun?

13 A: No.

14 Q: When you walked out of the house did Quadir Wilson go
15 with you?

16 A: I'm sorry?

17 Q: Did Ronald, I'm sorry, did Dontrey Barr go with you?

18 A: No.

19 Q: Tell me what happened when you walked out of his house.

20 A: When we walked out of the house, we approached going to
21 the vehicle. His mama's boyfriend apparently come out
22 the vehicle and he was like, Ronald had talked to him
23 like my boy Droopy said he coming.

24 Q: Okay, slow down for me. When you all walked to the
25 vehicle, who was in the driver's seat?

HEARING

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1 A: Ms. Tawanda.

2 Q: Tawanda Mack Allen?

3 A: Yes.

4 Q: Alright, and where was Callie?

5 A: He was in the passenger seat.

6 Q: Alright and so, when you walked to the vehicle, what
7 seat did you get into?

8 A: The front seat.

9 Q: With Ms. Allen?

10 A: Yes.

11 Q: And what seat did Ronald get into?

12 A: The back seat.

13 Q: Okay, with Mr. --- with Callie?

14 A: Yes.

15 Q: And tell me what happened again as you went there. You
16 said Ronald Mack said --- introduced you to his mother
17 and her boyfriend?

18 A: Yes.

19 Q: Alright, go ahead.

20 A: And then he was like, Callie was like he going to come
21 with us and he looked at me and size me up and
22 everything.

23 Q: Who looked at you?

24 A: Callie did.

25 Q: Like how, what do you mean sized you up?

HEARING

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- 1 A: Looked like, basically mean mugging.
- 2 Q: Like what?
- 3 A: Mean mugging, you know, like mug shot.
- 4 Q: Mean mugging?
- 5 A: Yeah, you know. He like sized me up.
- 6 Q: Okay, alright. Did he express any concerns about you
- 7 being there?
- 8 A: His facial expressions was what he looking like can we
- 9 trust him and you know, stuff like that.
- 10 Q: Now did Ronald Mack provide any assurances to Callie
- 11 that it was okay to bring you along?
- 12 A: Yeah, Ronald Mack told him, he good, he good, he good,
- 13 you know.
- 14 Q: Meaning you?
- 15 A: He was going to use me to kick down the door because I
- 16 use to, he said I use to break down houses and I can
- 17 kick down the door.
- 18 Q: Alright so Ronald Mack told Callie that he could use
- 19 you to break down the door?
- 20 A: Yes.
- 21 Q: Alright. Now tell me what happened as you got in the
- 22 car and you all were going to Kenyan's house.
- 23 A: Okay, we got in the car, we in the car and we were all
- 24 listening to all black.
- 25 Q: Ya'll went all black?

HEARING

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1 A: No we ain't went all black. We was listening to this
2 song, this song titled all black.

3 Q: Oh, okay.

4 A: And, you know, listening and I was drinking and then,
5 you know what I'm saying, we was clubbing and whatnot.
6 My mind wasn't for that frame. My mind was still set
7* for the club, you know, set for clubbing, you know my
8 mind was still set for clubbing. So, you know, he said
9 we was going out to the --- and I turned around in the
10 front seat shaking my head then it hit me that we
11 really about to go down there and so I turned around
12 and try and convince Callie that, you know, try to let
13 him know that I had money, that I pay for it I got the
14 money to pay for whatever to stop all this. I turned
15 around and I noticed they started loading guns up.

16 Q: Now, who started throwing guns up?

17 A: Callie.

18 Q: And who else?

19 A: Ronald.

20 Q: Okay. What kind of guns were being loaded up?

21 A: There was shotgun and it was a nine.

22 Q: Nine millimeter?

23 A: Yes.

24 Q: Alright who had the shotgun and who had the nine
25 millimeter?

HEARING

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1 A: Callie had the shotgun and Ronald had the nine
2 millimeter.

3 Q: Does this appear to be the shotgun that Callie had that
4 night?

5 A: Yes.

6 Q: Did you hear the conversation between Callie and Ronald
7 Mack while you were in front of them?

8 A: No I didn't.

9 Q: Okay. You turned around, you said you saw Callie in
10 the back seat with the shot gun and Ronald Mack with
11 the nine millimeter?

12 A: Yes.

13 Q: How long did it take ya'll to get from Dontrey's house
14 to Kenyan's house?

15 A: I'd say about ten, fifteen minutes.

16 Q: Okay, tell me what happened once you all got there.

17 A: Okay, when we got there Ronald and Callie got out of
18 the vehicle.

19 Q: Did they have the guns with them when they got out?

20 A: Yes.

21 Q: Who had which gun when they got out the vehicle?

22 A: Callie had the shotgun and Ronald had the nine
23 millimeter and then Ronald was like you ready Droop,
24 come on Droop, you ready. Then I got out and while we
25 was approaching the house I said, I said, look we only

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1 come here for one person, one person only because I saw
2 those vehicles, I saw vehicles. First, I asked Ronald,
3 who's there, who's there. And he said oh that Kenyan
4 mother's car it's getting fixed, his mother is at work.

5 Q: Wait a minute, Ronald thought Kenyan's mom was at work?

6 A: Yes.

7 Q: Did ya'll see a Toyota Four Runner in the yard?

8 A: There was, I can't remember now what that was.

9 Q: Okay, that's fine. Okay.

10 A: So, you know, we was approaching, I said, I said we
11 came for one person and one person only. If anybody
12 else in that house I swear to God ya'll going to have
13 to kill me too because we only come for one person.

14 Q: Okay.

15 A: And you know, I started saying our Father prayer as we
16 approached the house and everything.

17 Q: You started doing what?

18 A: Praying. Saying Our Father's Prayer, you know.

19 Q: Okay.

20 A: Then starting approaching the house and Ronald and
21 Callie got up on the porch and they was like come on
22 droop, come on. At first I didn't want to go up on the
23 porch. First I didn't want to go on the porch, then,
24 you know, I was like, you know, man it's three o'clock
25 in the morning. He like try the door knob and see if

HEARING

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1 the doors unlocked.

2* Q: Okay.

3 A: Come to find out it was unlocked.

4 Q: The door was unlocked?

5 A: Yeah.

6 Q: Okay. Let me ask you something, who turned the

7 doorknob to see if it was unlocked?

8 A: Ronald.

9 Q: Was he wearing gloves?

10 A: I think so. Matter of fact him and Callie had them on.

11 Q: Both of them had on gloves?

12 A: Yeah.

13 Q: Okay, alright. Now they turned the door knob, the

14 doorknob was unlocked, then tell the jurors what

15 happened next.

16 A: Then next we all went into the building; we all went

17 into the house and then Callie went to the left into

18 what looked like the master bedroom and Ronald had went

19 to make a right and went down a hallway and I was

20 still, I was still walking and I noticed on the chair

21 it as some clothes on a chair and clothes was on a

22 chair, so I grabbed a shirt and put it across my face

23 so no one wouldn't recognize me and whatnot. Then,

24 when I grabbed that shirt and put it over my face, or

25 whatnot I went walking around the house. And matter of

HEARING

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1 fact, I wasn't far behind Ronald in the hallway, you
2 know, and once he got, once I got in the hallway I was
3 like I couldn't see, I couldn't see, I couldn't see, I
4 couldn't see nothing in the hallway like, it was really
5 completely dark, you know, and I really couldn't see.
6* So, you know, I had waited til he come up so I started
7 backing up into the kitchen like, you know, then I was
8 like dude what are you doing? What are you doing, what
9 are you doing? And stuff like that and he was like,
10 yeah I can't find him, I can't find him.

11 Q: Who said I can't find him, I can't find him?

12 A: Ronald.

13 Q: Alright now, when he was telling you this, did he have
14 a gun?

15 A: Yes, he had a nine millimeter in his hand.

16 Q: All right. When Callie went, you said, in the
17 direction of what you thought to be the master bedroom,
18 did he have a gun?

19 A: Yes.

20 Q: He had a shotgun?

21 A: Yes.

22 Q: Okay go ahead. Take us from where Ronald was saying I
23 can't find him, I can't find him.

24 A: He was saying, okay, Ronald was like I can't find him,
25 I can't find him. Then I looked at Ronald, I looked at

HEARING

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- 1 Ronald like let's be for real. Like come on now, I'm
2 saying. I turned and then I pointed right at him
3 sitting in the chair and he going to act surprise and
4 had a really surprising look.
- 5 Q: Who did?
- 6 A: Ronald did.
- 7 Q: Okay you pointed at who sitting in the chair?
- 8 A: Kenyan.
- 9 Q: Alright, was he awake or was he asleep?
- 10 A: He was asleep.
- 11 Q: Was he sitting in front of the t.v.?
- 12 A: Yes.
- 13 Q: Okay, alright. What happened next?
- 14 A: Then that when Ronald went in front of him and then
15 Callie came around with the shotgun and he asked was
16 that him.
- 17 Q: Who asked was that him?
- 18 A: Callie asked was that him.
- 19 Q: Who did he ask that of?
- 20 A: He asked Ronald was that him.
- 21 Q: Okay.
- 22 A: And then, you know, like, he said I guess they didn't
23 want to wake him up so ...
- 24 Q: You guess they didn't want to wake him up?
- 25 A: Yes.

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1 Q: Okay.

2 A: So then that's when shots was fired, the first shot was
3 fired by Ronald.

4 Q: Okay.

5 A: Then after a while in the shooting, I can't remember
6 how many shots there was that he fired. Then Callie
7 came up and started shooting, shot the shotgun and I
8 can't remember how many times he shot the shotgun at
9 him as well. Then ask me, Callie asked me if I wanted
10 to shoot and I thought, well, I was like, no and I
11 walked out, I walked out of that house and I was like
12 no. Then, you know, I walking, taking my slow time
13 going down to the vehicle my mind twisted and they
14 jumping off the porch, straight off the porch, running
15 fast, Droop come on, Droop come on, Droop come on,
16 shouting come on Droop, come on Droop.

17 Q: Telling you to come on?

18 A: Yes, so I started running.

19 Q: Okay. Now while all of this was going on, where was
20 Tawanda Allen?

21 A: She was in the vehicle.

22* Q: What was she doing in the vehicle?

23 A: I mean, I guess she was being ready. Had the car
24 cranked, had the car cranked.

25 Q: Okay. She was in the driver's seat still?

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1 A: Yes.

2 Q: At any point in time, did you touch either the nine
3 millimeter or the shotgun?

4 A: No.

5 Q: Now, let me ask you some questions. You mentioned that
6 you took something, a shirt or something and wrapped it
7 around your face so nobody could see you.

8 A: Yes.

9 Q: And it was on the pile of clothes that was inside the
10 house?

11 A: Yes.

12 Q: Does that look like the shirt that you took?

13 A: Yes.

14 Q: Alright, I'm going to refer to what has been admitted
15 as States' exhibit number six. You've testified that
16 that's the shirt that you took?

17 A: Yes.

18 Q: Now, it appears that it's on a brown surface in that
19 photograph, what happened to that shirt? Did you take
20 it outside of the residence?

21 A: Yes.

22 Q: Okay, did you drop it?

23 A: Yes.

24 Q: Okay. Alright, I'm going to show you what's been
25 admitted as State's exhibit number seven. Can you tell

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1 me whether that's the front entrance of the house that
2 you all went into or is that the back entrance?

3 A: That's that house, that's the part we went in

4 Q: Alright. Can you tell me, what's depicted in State's
5* exhibit number ten?

6 A: That's the side we went in.

7 Q: So you all went in the front door?

8 A: Yes.

9 Q: I'm going to publish State's exhibit number seven. Mr.
10 McClary, is it your testimony that you all went in
11 through this particular door?

12 A: Yes.

13* Q: Alright and there does seem to be a porch area there.
14 Is that what you talked about Callie and Ronald Mack
15 jumping off of?

16 A: Yes.

17 Q: Okay. I'm going to publish what's been admitted
18 as State's exhibit number twenty-six. Do you recognize
19 that room?

20 A: In the picture?

21 Q: Yes.

22 A: Yes.

23 Q: In this photograph, would Kenyan have been somewhere
24 back here? Or can you tell?

25 A: No, I can't really tell.

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1 Q: Alright let me show you another one. Publish what's
2 been admitted as State's twenty-five. Can you see the
3 t.v. there?

4 A: Yes.

5 Q: Do you see a little chair in the corner?

6 A: Yes.

7 Q: Is that where Kenyan would have been?

8 A: Yes, he was sitting right there.

9 Q: Okay... I'm going to hand you what's been marked for
10 identification purposes, State's exhibit number thirty-
11 one. Is this the position of the chair and Kenyan
12 Dorsey's body once he was shot?

13 A: Yes.

14 Q: Judge, we would move State's thirty-one in at this
15 time.

16 The Court: What say the defense?

17 Mr. Jenkinson: Objection Your Honor. I was under the
18 impression that we had ruled on this?

19 (Counsels approach Bench)

20 The Court: Thirty-One is admitted over objection.

21 (State's Exhibit Number Thirty-One was admitted)

22 Q: Sir, I'm going to publish what's been admitted as
23 State's thirty-one. Is that how Kenyan was when you
24 all came in the house and after he was murdered?

25 A: I don't know. I didn't see him after the shooting. I

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1 ain't saw the body. I was standing behind the chair he
2 was sitting in. So, I never, I haven't seen the body
3 at all since the shooting. I haven't saw the body at
4 all.

5 Q: When you looked at the pictures, is this the position
6 of the chair and the position of the body, when you all
7 entered the residence.

8 A: Yes.

9 Q: Okay, when you entered the residence, and he was in the
10 chair before the shooting, did he look like he was
11 injured in any way?

12 A: No he was sitting up. He was like sitting like
13 straight up.

14 Q: Okay, alright, tell me what happened when you all got
15 back in the car.

16 A: Ronald got into --- he was sitting in the front seat
17 and me and Callie was sitting, Callie and I was sitting
18 in the back seat and Callie was behind Ms. Tawanda and
19 I was behind Ronald.

20 Q: Let me ask you this; was the car running when you all
21 got in?

22 A: Yes.

23 Q: Tawanda was ready to go?

24 A: Yes.

25 Q: Alright, tell me what happened when you all got in the

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1 car.

2 A: We got, okay we dragged out, pull out, you know and we
3 hit 261 starting back towards ...

4 Q: Slow down for me. When ya'll got back in the car and
5 ya'll were pulling off, how was Tawanda driving? Was
6 she driving slow? In a hurry?

7 A: Fast. Like in a hurry, yes. Fast. She was going
8 fast.

9 Q: Okay, slow down a second for me.

10 A: Okay.

11 Q: Where she was parked, was it in front of the house?

12 A: No, she was parked like, on the, on the rocky road it's
13 like ahead of Kenyan house road, you know, she backed
14 in and had the car facing like she about to go, like
15 she getting ready to go.

16 Q: Alright, let me show you what has been admitted as
17 State's Forty-five. Is this kind of like the dirt road
18 that you're talking about?

19 A: Yes.

20 Q: That she was parked?

21 A: Yes.

22 Q: I'm going to publish what's been admitted as State's
23 four. And again Mr. McClary, that's the dirt road that
24 you were talking about that Ms. Allen was parked?

25 A: Yes.

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1 Q: Okay, alright. You got in the front seat with Tawanda
2 and, I'm sorry, Ronald got in the front seat with
3 Tawanda and you were in the back seat with Callie.
4 Tell me what happened then.

5* A: And we start going down 261 coming towards --- coming
6 back towards Kingstree and Ronald had a conversation up
7 front as if she had just picked him up from school, you
8 know, like a regular conversation. She wasn't talking
9 about nothing that was concerning what went on like
10 that. She just was asking him how was his grandmother
11 and all that.

12 Q: She asked him how was his grandmother and how was ...

13 A: Yeah.

14 Q: And talking about school?

15 A: How was her, how was, how was her mother and
16 grandmother, asked how she was doing and, you know,
17 then asked him about school work and school and
18 everything and like when he feel like coming and moving
19 in with her, you know.

20 Q: Okay, now what was going on in the backseat while you
21 and Callie were back there?

22* A: While I was in the backseat, I was looking out, I was
23 looking out my window. At first I was looking out the
24 right side, looking out my window and then you know,
25 something just, you know that feeling like somebody's

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1 looking at you, just came over me and I looked over and
2 I noticed Callie was looking at me like straight, like
3 mean mugging me, like looking at me like, he ain't know
4 whether he can trust me or not, you know.

5 Q: He gave you that same look.

6 A: Yeah, basically, that same look like from the get go.
7 He ain't know if he can trust me or not. And, you
8 know, then I had turned my head back to look out the
9 window then I noticed just like a little reflection,
10 look like a little reflection, you know, in the window
11 at night time you can see yourself and well you know
12 that's how it feel. And I thought, I looked at the
13 reflection and I'm like, you know, it can't be what I
14 think it is. And I had just looked back over at Callie
15 and then you know, I just look down and look down and
16 eased my head back over and he had the nine millimeter
17 point --- he had nine millimeters sitting there, just
18 sitting in his lap and he's steady looking at me like
19 he was waiting on me to say something, you know.

20 Q: How was the nine millimeter? How did he have it? Was
21 it pointing in a certain direction? Did he have it in
22 his ...

23 A: Yeah, it was pointing towards me. You know, but it was
24 like sitting in his lap, like trying to cover it up,
25 like trying to hide it. You know, like trying to hide

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1 it or whatever so I wouldn't see it or whatnot, you
2 know.

3 Q: Okay.

4 A: But I caught a glimpse of it.

5* Q: And he was still staring at you?

6 A: Yes. He, yeah, he was still staring at me.

7 Q: Okay, alright. Then what happened?

8 A: Then she dropped us off at Dontrey Barr's house and you
9 know, I mean, after that, you know, they left, you
10 know, they say their goodbyes and Ronald gave his
11 mother a hug, you know.

12 Q: Ronald gave his mother a hug?

13* A: Yes.

14 The Court: You got a question for him?

15 Ms. Barr: Sorry Judge, it's withdrawn.

16 Q: What happened after he gave his mother a hug?

17 A: You know they kiss and they said their goodbyes and
18 Callie got into the front seat, you know and they had
19 left.

20 Q: What happened to the nine millimeter and the shotgun
21 when you and Ronald was dropped off?

22 A: The shotgun and the nine millimeter they started
23 wrapping, they had already wrapped the shotgun up, they
24 already had wrapped it up by the time we got ...

25 Q: When you say they who are you talking about?

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1 A: Ronald and whatnot. Ronald and Callie, you know,
2 already had the shotgun wrapped up by the time I, by
3 the time I even got in the vehicle and whatnot.
4 Already had that, you know, wrapped up real fast; so
5 the nine millimeter that came out when we came out,
6 when we got dropped off at Dontrey's house, the nine
7 millimeter came out with Callie, you know, saying my
8 assumption was right and he had wrapped that up and put
9* it in the back of the KIA truck.

10 Q: The nine millimeter?

11 A: Yes.

12 Q: Okay, so Ronald didn't take the nine millimeter with
13 him when he came back in the house?

14 A: No.

15 Q: Nor the shotgun?

16 A: No.

17* Q: And I can imagine that it probably seemed like a long
18 time, but how long do you think it took to get in and
19 out? To get in Kenyan's house, kill him and get out?
20 Less than five minutes?

21 A: Less than five minutes, yes.

22 Q: Did you know his mother was in the house?

23 A: Well, at the time I had an idea. I really did,
24 honestly I really had an idea.

25 Q: Okay.

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1 A: Just because from they way Callie had come back out of
2 the master bedroom with a shotgun like he had already
3 had, you know point it at somebody. And you know, then
4 on our way coming back, on our way coming back from
5 Kenya house the police had already on their way there.

6 Q: The police, I'm sorry. The police were already on
7 their way when ya'll left Kenyan's house?

8 A: Yes ...

9 Q: That quick?

10 Q: ... the police were already on their way , that fast.

11 Q: What did that mean to you that the police were there
12 that fast?

13 A: Someone was in that house. Someone else, somebody was
14 in that house.

15 Q: Okay, were there ever any conversations between you and
16 Ronald or you and Ronald and Callie and Tawanda Allen
17 about not telling what happened?

18 A: There was only the conversation between me and Ronald
19 saying ...

20 Q: What was the conversation?

21 A: Ronald told me that if I tell what happened, you know,
22 don't say how I was with him, along with Ronald and
23 Callie, you know, just say basically, just put the
24 blame completely on him.

25 Q: On Ronald?

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1 A: Yeah on Ronald.

2 Q: Alright, so he didn't want you to implicate yourself or
3 Callie, just if you had to tell, just tell what Ronald
4 did?

5 A: Yeah, yeah.

6 Q: Now, at some point in the day or two after the murder,
7 you were contacted by law enforcement, is that right?

8 A: Yes.

9 Q: They wanted to interview you concerning your knowledge
10 of the killing of Kenyan?

11 A: Yes, that's right.

12 Q: They took a statement from you?

13 A: Yes.

14 Q: Now, in that initial statement, you denied knowing
15 anything about what happened to Kenyan?

16 A: I certainly did.

17 Q: Why?

18 A: Because I was scared, you know, I mean, I was like ---
19 I was scared because I saw what could possibly happen
20 or whatnot, you know and how fast, how fast it can
21 happen.

22 Q: And the reality is, Antonio, also in addition to being
23 scared, you didn't want to get yourself in trouble?

24 A: Pretty much, yes.

25 Q: Now, they came back at some point in May and re-

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1 interviewed you.

2 A: Yes.

3 Q: Is that right?

4* A: Yes.

5 Q: And during that time, you told them ...

6 Mr. Jenkinson: Your Honor, that's leading.

7 Ms. Barr: Well, okay ...

8 The Court: The objection is sustained to continuous
9 leading of the witness.

10 Q: When they interviewed you again in May of 2009, did you
11 tell them about ...

12 Mr. Jenkinson: Your Honor, again. She's leading.

13 Q: What did you tell them about your involvement, Ronald
14 Mack's involvement, Tawanda Allen's involvement and
15 Callie's involvement in the murder?

16 A: I told them, first, I told on myself. I told them
17 Ronald and Callie went in the house and his mother
18 picked us up, his mother picked us up at Dontrey's
19 house and we went to they house and killed him, came
20 back, you know, like that. Then they went back to
21 Maryland or something like that. He said he was moving
22 --- he said he was moving and his mother done change
23 his school and everything.

24 Q: Who said that?

25 A: Ronald did.

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1 Q: Alright. Now, when they asked you in that second
2 interview as to whether or not you went in the house,
3 how did you respond to that question?

4 A: Well, at first --- well, I just told them I ain't went
5 in that house. I just told them I didn't went in the
6 house..

7 Q: Okay so you lied at that time?

8* A: Yes.

9 Q: Now during the course of that second interview, that
10 took place at the Sheriff's office?

11 A: Yes it did.

12 Q: And you spoke with Investigator Lail?

13 A: Yes.

14 Q: And I believe maybe Investigator Black or Lt. Collins,
15 there, there were some other deputies that were inside
16 the room at the time?

17 A: Yes.

18 Q: Now, and you probably understood that once you gave a
19 statement, you were going to be arrested?

20 A: Well yes.

21 Q: Alright at some point did you have an opportunity to
22 observe Investigator Lail's computer?

23 A: Yes.

24 Q: Alright. Tell me the significance of that.

25* A: Well, after I said, they came and pick me up from the

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1 County Jail right across the street. They told me they
2 had some more questions to ask me or whatnot and then
3 I was like all right, you know. They took me over
4 there to the, across the street to the Sheriff's
5 station, to the Sheriff's station and I walked in and
6 then, you know, I was like, ya'll, I was like, I said
7 out loud, ya'll already got Callie. I said ya'll
8 already got Callie and they looked at me like and said
9 you know this guy right here. The guy was on the
10 computer. I thought that they had already had him and
11 then they told me they didn't have him.

12 Q: Okay. So, when you walked into the Sheriff's office,
13 when they brought you over from the jail, you saw
14 Investigator Lail's computer?

15 A: Yes.

16 Q: And on that computer you saw a picture of an
17 individual?

18 A: Yes.

19 Q: And you identified that individual to Investigator
20 Collins as who?

21 Mr. Jenkinson: I'm going to object to the leading of the
22 witness.

23 The Court: Objection is sustained.

24 Ms. Barr: Judge, I asked him did he identify that person as
25 who. That's not leading.

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1 The Court: I heard what you asked him.

2 Ms. Barr: Who was the person who you identified on the
3 computer?

4 A: Callie.

5 Q: Now I'm going to show you what's been admitted as
6 State's exhibit number sixty-seven. Is that the
7 photograph that was on Investigator Lail's computer
8 when you walked in?

9 A: Yes.

10 Q: Is that the individual you identified as Callie?

11 A: Yes.

12 Q: Have you been to court in connection with this case a
13 number of times since your arrest?

14 Mr. Jenkinson: Your Honor, note our objection to
15 identification.

16 A: It was ...

17 Ms. Barr: Hold on, hold on.

18 The Court: Objection overruled.

19 Q: Have you been up to this courthouse a couple of times
20 for bond hearings and preliminary hearing and guilty
21 pleas and all that?

22 A: Yes.

23 Q: And during those occasions, have you also had an
24 opportunity to see the person you identified as
25 Callie?

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1 A: Yes.

2 Q: All right and the person who you saw in court, was he
3 one of your co-defendants?

4 A: Yes.

5 Q: And is that person Kelvin Michael Bowen?

6 A: Yes he is.

7 Q: That young man seated over there by Ms. Shuler?

8 A: Yes.

9 Mr. Jenkinson: Objection to the in-court identification.

10 The Court: The objection is sustained as to the leading
11 of the witness.

12 Mr. Jenkinson: Move that that response be stricken.

13 The Court: The response is stricken based on the court
14 sustaining the objection.

15 Ms. Barr: Well, let me ask you this way. Mr. McClary, do you
16 see the person who was with you that night, who shot Kenyan
17 Dorsey with a shotgun in this courtroom?

18 Mr. Jenkinson: Objection to that question.

19 The Court: The objection is overruled.

20 A: Yes.

21 Q: Can you point him out to us?

22 A: Right there. Sitting down.

23 Q: Next to the lawyer Ms. Shuler?

24 A: Yes.

25 Q: Any doubt in your mind?

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1 A: No doubt. There's no doubt.

2 Q: How long did you have to observe him between the time
3 they picked ya'll up at Dontrey's house until they
4 dropped you all back off at Dontrey's house?

5 A: Oh man, I'd say the same time he was sizing me up when
6 he first got there, the same time I was sizing him up

7 Q: Let me ask you about the notion of him sizing you up.
8 Do you recall coming to court at some time during a
9 preliminary hearing?

10 A: Yes.

11 Q: And who all was in court with you in terms of your co-
12 defendants at the time you came for that preliminary
13 hearing?

14 A: It was me, Ms. Tawanda, Ronald and Callie.

15 Q: Alright, did you all have lawyers with you there as
16 well?

17 A: Yes we did.

18 Q: And at some point later, did you all leave the
19 courtroom and go in the back?

20 A: Yes.

21 Q: All of the defendants?

22 A: Yes.

23 Q: What about the lawyers, were they there too?

24 A: Yes they were.

25 Q: Now, at some point in time when you all went in the

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1 back, Mr. Jenkinson was in the back with you?

2 A: Yes.

3 Q: Did there come a time when Mr. Jenkinson asked you a
4 question?

5 A: Yes.

6 Q: What did he ask you?

7 A: He asked me to sign this paper saying that Callie or
8 Mr. Bowen wasn't there at the time.

9 Q: Mr. McClary, does this appear to be the paper that
10 you're talking about?

11 A: Yes. That's it. He wanted me to sign it.

12 Q: And I'll ask you about that in a little bit. Did he
13 also ask you to look at Mr. Bowen to see if you could
14 identify him?

15 A: Yes.

16 Q: And how far was Mr. Bowen from you at the time Mr.
17 Jenkinson asked you to do that?

18 A: Let's see, I was sitting there and Mr. Bowen was right
19 here.

20 Q: As close as I am to you right now?

21 A: No here.

22 Q: Maybe here?

23 A: Yeah, right there.

24 Q: Alright. And when you looked at him, was he looking at
25 you?

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1 A: Yeah, I mean, yeah. With that same intimidating look
2 he had trying to intimidate me or whatever, you know.

3 Q: Okay. Did you sign the paper that Mr. Jenkinson wanted
4 you to sign saying Mr. Bowen wasn't there?

5 A: No I didn't, no.

6 Q: Now, do you remember me showing you this picture that's
7 been admitted as State's sixty-seven when you pled
8 guilty?

9 A: The picture seem like it was in black and white then.

10 Q: Alright, was that a picture of the person you called,
11 identified as Callie?

12 A: Yes.

13 Q: And when you pled guilty before this Court, did you
14 identify that person in that picture as Callie?

15 A: Yes, I did.

16 Q: Now, sir, did I or anyone from the Sheriff's department
17 promise you anything to get you to testify here today?

18 A: No.

19 Q: Did anybody threaten you or force you to testify today?

20 A: No.

21 Q: Have your answers been truthful?

22 A: Yes.

23 Ms. Barr: Beg the Court's indulgence.

24 Q: You mentioned that Ronald was talking on the iphone?

25 A: Yes.

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1 Q: Is this similar to the iphone that Ronald Mack had?

2 A: Yes it is.

3 Q: It looks like the same one?

4 A: Yes.

5 Ms. Barr: Mr. McClary, please answer any questions that
6 Mr. Jenkinson or the Court may have for you.

7 A: Alright.

8 The Court: Is that item in evidence or for identification?

9 Ms. Barr: No sir, no sir.

10 The Court: Cross examination, Mr. Jenkinson.

11 Mr. Jenkinson: Your Honor, may we ...

12 The Court: Alright, we'll take about five minutes or
13 so. Go to your jury room please and do not discuss this
14 case.

15 (Jury Break at 10:53)

16 The Court: Bring them on.

17 (Jury enters courtroom at 11:06)

18 CROSS EXAMINATION OR MR. MCCLARY BY MR. JENKINSON

19* Q: Good morning Mr. McClary. We've met twice haven't we?

20 A: Yes, yes we did.

21 Q: We met on June the tenth when we had your preliminary
22 hearing in this courtroom, didn't we?

23 A: Yes.

24 Q: And you were with your lawyer that entire time that
25 day, weren't you?

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- 1 A: Yes.
- 2 Q: That's Scott Palmer, a lawyer from Santee?
- 3 A: Yes.
- 4 Q: And the second time you saw me was at a bond hearing,
- 5 here in the courtroom?
- 6* A: Yes.
- 7 Q: And both occasions we met at the back with your lawyer?
- 8 A: Yes.
- 9 Q: And your lawyer was present anytime I talked to you?
- 10 A: Yes he was.
- 11 Q: Now, I want to take you back, if you will, first, the
- 12 last time you were in the court was back in October of
- 13 2010. That's when you pled guilty?
- 14 A: Yes.
- 15* Q: And you remember that?
- 16 A: Yes.
- 17 Q: You came into this courtroom that day, charged with
- 18 murder, weren't you?
- 19 A: Yes.
- 20 Q: You came --- you were charged with murder back in May
- 21 2010, right?
- 22 A: Yes.
- 23* Q: Charged with first degree burglary?
- 24 A: Yes.
- 25 Q: You were also charges with possession of a weapon

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1 during a violent crime?

2* A: Yes.

3 Q: And before you came in the court to plead guilty,
4 Ronald Mack had already pled guilty?

5 A: Yes.

6 Q: Forty, and he got fifty years?

7 A: Yes.

8 Q: And after that, in his mother's trial, you did not
9 testify?

10* A: Yes.

11 Q: You did testify?

12 A: No, I did not.

13 Q: Okay. And his mother received a sentence of forty-five
14 years?

15 A: Yes.

16 Q: Was she tried before you or after you?

17 A: I think it was before me.

18 Q: Before you?

19* A: Yes.

20 Q: So, by this time, you knew you were walking, you were
21 looking at forty-five, fifty years, weren't you?

22 A: Yes.

23 Q: And you and your lawyer made a deal to save you, right?

24 A: A plea.

25 Q: You made a deal with the Solicitor, didn't you?

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- 1 A: To plea, yes.
- 2 Q: And you had the murder charge, just went away didn't
- 3 it?
- 4 A: Yes.
- 5 Q: The burglary first charge just magically disappeared
- 6 didn't it?
- 7 A: Yes.
- 8 Q: And all of a sudden, you were only charged with
- 9 burglary second, which carries half the time of
- 10 burglary first, weren't you?
- 11 A: Yes.
- 12 Q: And low and behold, you ended up with twelve years,,
- 13 instead of the fifteen that you could have got?
- 14 A: Yes.
- 15 Q: Twelve years is a lot less than forty-five or fifty,
- 16 isn't it?
- 17 A: Yes.
- 18 Q: A man will do a lot to get a sentence reduced from
- 19 forty-five to fifty years down to twelve years,
- 20 wouldn't he?
- 21 A: Yeah.
- 22 Q: And in that plea and in those negotiations, you agreed
- 23 to come and testify against Kelvin B. didn't you?
- 24 A: No.
- 25 Q: It was discussed, wasn't it?

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1 A: Not until after I signed the plea.

2 Q: Well, I'm going to ask you about it. I'm going to show
3 you a copy of the transcript of your guilty plea on
4 October fourteenth, okay?

5 Ms. Barr: Judge, we would have an objection to that.

6 The Court: What's your objection?

7 Ms. Barr: The transcript purports to be the transcript of
8 the plea, but the witness cannot authenticate it?

9 Mr. Jenkinson: Well, I'm just asking if he recalls it.

10* Ms. Barr: Your Honor, in addition we would ask that if he's
11 going to question the witness about it that we be given a
12 copy of it.

13 Q: Do you recall in that plea, when you pled guilty the
14 question being asked, were you going to testify in the
15 other trial, which this is the only trial? Do you
16 remember that?

17 A: The question being asked?

18* Q: You remember that being asked?

19 A: The question being asked, yes.

20 Q: And do you recall Ms. Barr saying, Judge, we want him
21 to do that?

22 A: No.

23 Q: You don't remember that?

24 A: No, after I signed the plea? After I made the agreement
25 the judge --- I remember those questions being asked

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1 afterwards.

2 Q: And I'm referring to page eleven toward the beginning.

3 Ms. Barr: Judge, same objection.

4 The Court: You object to him ...

5 Q: You recall that statement being made about him
6 testifying in the other trial.

7 The Court: Just a moment, Mr. Jenkinson.

8 Ms. Barr: Judge, we would object. The witness can't
9 authenticate the court's transcript, but also if he's
10 questioning him about it, we think that we're entitled
11 to a copy.

12 The Court: Do you have a copy?

13 Mr. Jenkinson: I can show it to her right now.

14 The Court: There is no obligation to provide the State
15 with a copy. You may proceed.

16 Q: Now, do you recall a statement being made by Ms. Barr,
17 Judge, we want him to do that? Testify in the trial.
18 Do you remember that?

19 A: Yes.

20 Q: And that's why you're here today, right?

21 A: Yes.

22 Q: And as a result for that, you were sentenced to twelve
23 years and not forty-five to fifty years?

24 A: No, that's not a result of that, that was just a
25 voluntary to come. There was no agreement. I had no

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1 agreement. We had no agreement. That was voluntary.
2 I chose to do because I had already signed the plea.
3 My lawyer told me that ...

4 Q: I'm not asking what your lawyer told you. You signed
5 the plea when you came in only to burglary second,
6 right?

7 A: Yes.

8 Q: The deal had been made before you came to court right?

9 A: Yes.

10 Q: And that's why you're here today?

11 A: Yes.

12 Q: Now, I've been listening carefully to your testimony
13 today, because this is, how many times have you told,
14 or been investigated and asked to tell the story about
15 Kenyan Dorsey's death?

16 A: I'd say multiple times.

17 Q: Speak a little louder; I can't quite hear you.

18 A: I would say multiple times. I would say probably about
19 four or five times.

20 Q: Four or five times?

21 A: Yeah.

22 Q: Okay, and the first time was back on April 5th, 2009,
23 the very day he was killed, remember that?

24 A: Yes, yes.

25 Q: And law enforcement came to see you on that day,

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1 particularly Investigator Lail. You remember this lady
2 right here?

3 A: Yes.

4 Q: She's been the lead investigator in all of this hasn't
5 she?

6 A: Yes.

7 Q: Now, you lied to law enforcement that day, didn't you?

8 A: Yes, I did.

9 Q: And never, on that first occasion, on April 5th, did
10 you mention the name Callie, did you?

11 A: No...

12 Q: Now, on May 13th 2009 at six fifty-five pm you gave
13 another statement to Ms. Lail and officer Justin Whack,
14 investigator Whack, right?

15 A: Yes.

16 Q: And that statement was recorded, was it not?

17 A: Yes, it was.

18 Q: How many lies did you tell this time?

19 A: I told one more.

20 Q: You told a number of them didn't you?

21 A: Yes.

22 Q: And you never mentioned Ronald, I mean never mentioned
23 Kelvin B. name, did you?

24 A: No.

25 Q: Now, in that second statement, you started telling

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1 about the trip to Hemingway. Remember going over there
2 on Saturday the 4th to pick up Ronald Mack at his
3 girlfriend's house?

4 A: Yes.

5 Q: Ya'll went over there around, what about eight, about
6 nine o'clock at night?

7 A: Yes.

8 Q: And that's when you picked him up?

9 A: Yes.

10 Q: And during that occasion, you brought him home. You
11 were drunk and throwing up.

12 A: No.

13 Q: You were stopping on the road throwing up weren't you?

14 A: Yes.

15 Q: But you'd been drinking?

16 A: Yes.

17 Q: But you, the throwing up from drinking, that wasn't
18 from drinking is what you telling me?

19 A: I mean, no, it is from drinking, but I'm saying I
20 wasn't like --- I only stopped one time.

21 Q: And you had been worried about Ronald Mack and Kenyan
22 Dorsey, hadn't you?

23 A: Yes.

24 Q: They had been robbing people?

25 A: No.

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- 1 Q: Well there was a lot of money between them that you
2 were worried about right?
- 3 A: Well, if you want to say a lot.
- 4* Q: So, what were they dealing in drugs?
- 5 A: Yes.
- 6 Q: They'd been dealing in drugs, right?
- 7 A: Yes.
- 8 Q: And one wasn't coming up with their share of the money
9 from the drug deals right?
- 10 A: Yes.
- 11 Q: And they were also gang member?
- 12a A: Yes.
- 13 Q: And that was the people you were hanging around with?
- 14 A: Yes.
- 15 Q: And as I recall, you also, in this statement, brought
16 up the fact that there was a conversation between
17 Ronald Mack wanting his mama to come to South Carolina
18 to tend business that night?
- 19 A: Yes.
- 20 Q: And that was at nine-thirty?
- 21* A: Yes.
- 22 Q: And as a result of that phone call, they came to South
23 Carolina at nine-thirty?
- 24 A: Yes.
- 25 Q: And that's when they left Maryland right?

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1 A: Yes.

2 Q: So, because of that phone call you heard, apparently
3 Tawanda Mack and her boyfriend, step father, or
4 somebody, a male came down here, sometime after nine-
5 thirty that night from Maryland?

6 A: Yes.

7 Q: Alright, now. In your statement that you gave at six
8 thirty-four that evening, you were accused of lying
9 weren't you?

10 A: What do you mean?

11 Ms. Barr: I'm sorry Judge. I'm sorry. May I, I didn't hear
12 the statement that counselor is referring to. May I
13 hear that?

14 Mr. Jenkinson: I'll be glad to make it clear. The statement
15 at six-fifty-five.

16 Ms. Barr: I'm sorry, I thought you said six thirty-five, I'm
17 sorry.

18 Mr. Jenkinson: On may 13th. You were accused of lying in
19 that statement, weren't you?

20 A: Yes.

21 Q: Do you remember officer Whack asking you this question
22 in that statement, You can be a witness and cooperate
23 with the State or you can end up getting charged with
24 accessory after the fact of murder, which carries the
25 same thing as murder charge. So what he gets, you going

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1 to get. That's why I was at your house Sunday. Do you
2 remember him telling you that?

3 A: Yes.

4 Q: They were threatening to charge you if you didn't give
5 them a story right?

6 A: Yes.

7 Q: You got scared didn't you?

8 A: Yes.

9 Q: Well they --- they cut the recorder off, didn't they?

10 A: Not to my knowledge.

11 Q: And twenty-seven minutes later, they cut it on and you
12 gave a second statement at seven twenty-four.

13 A: Yes.

14 Q: You remember the time lapse?

15 A: Yes.

16 Q: They were talking to you during that period of time,
17 weren't they?

18 A: Yes.

19 Q: And that wasn't recorded was it?

20 A: No, it wasn't.

21 Q: They were putting big time pressure on you, weren't
22 they?

23 A: Well, no.

24 Q: They weren't?

25 A: Not really big time pressure, but they was talking to

- 1 me.
- 2 Q: Caused you to tell another story didn't it?
- 3 A: True, yes.
- 4 Q: Told a few more lies too didn't you?
- 5 A: Not as many as I did the very first time the second
- 6 time.
- 7 Q: So you lied a lot before and you were lying a little
- 8 bit now, this time?
- 9 A: Well, this time the only part I lied about was entering
- 10 the house. I stated that I did not enter the house.
- 11 Q: Now, I want to understand a few things that you've
- 12 been talking about this morning, because even today,
- 13 it's different from your May statement isn't it?
- 14 A: You know how sometimes you can't say exactly what's
- 15 been said but it's the same thing.
- 16 Q: You told us in a few minutes, several times, as a
- 17 matter of fact, every single occasion today under oath,
- 18 you said that Ronald Mack and this person Callie was
- 19 identified as Tawanda's boyfriend?
- 20 A: Yes.
- 21 Q: That's what you're telling us today?
- 22 A: Yes.
- 23 Q: Because if Mr. Bowen is her girlfriend, or her
- 24 boyfriend, then that sounds better than the truth
- 25 doesn't it?

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1 A: Say it again.

2* Q: You're willing to say whatever's necessary to make your
3 testimony believable aren't you?

4 A: Yes, when it's the truth, yes.

5 Q: I'm going to ask you about that, because in your
6 statement, on seven twenty-four p.m. that was the
7 second statement where you confessed, isn't it?

8 A: Yes.

9 Q: Do You remember that? The second statement in May;
10 that' s when you confessed. That's when you started
11 telling the truth isn't it?

12 A: Yes.

13 Q: And you stand by that statement don't you?

14 A: Yes.

15 Q: Alright, I have a few questions to ask you about it.

16 A: Alright.

17 Q: Do you recall, do you recall being asked by one of the
18 officers, Who is Callie? and your answer was, Kelvin.
19 Do you remember that?

20 A: Yes.

21 Q: And then Investigator Whack asked you, and who is that?
22 Do you remember that?

23 A: Yes.

24 Q: And what did you say?

25 A: I told him I had no idea, I guess it was his mama's

1 boyfriend.

2 Q: Boyfriend? That's what you said?

3 A: Yes.

4 Q: Now, if you're wrong about that and you didn't testify
5 to that, then you're wrong today right?

6* A: Yes.

7 Q: If you said something else back in May.

8 A: Yes.

9 Q: Other than boyfriend, you were right back in May
10 weren't you? And you're wrong today?

11 A: No.

12 Q: Well, I want to show you your statement. I'm asking
13 you if you recall, you said who is that and your answer
14* was that is his step father?

15 A: Yes.

16 Q: Do you remember that?

17 A: Yes.

18 Q: Look at it.

19 A: Yes.

20 Q: See?

21 A: Yes.

22 Q: Now, anywhere in there did you say it was her
23 boyfriend?

24 A: No.

25 Q: A step father?

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1 A: Yes.

2 Q: You understand the difference between a boyfriend and
3 a step father?

4 A: Pretty much.

5 Q: A step father means somebody married to Tawanda Mack
6 Allen right?

7 A: Yes.

8 Q: Was Kelvin B. ever married to her?

9 A: I don't live with Kelvin B. so I don't know.

10 Q: Alright.

11 A: Put it like this, that stepfather also defines
12 relationships, you know that's her boyfriend, step
13 father either way they in a relationship together,
14 okay.

15 Q: But if Ronald Mack told you that was a step father,
16 that means one of her husbands. She had a number of
17 them, didn't she?

18 A: Actually, Ronald didn't tell me that was his
19 stepfather. Ronald did not state that was his
20 stepfather. He told me that that was his mother's
21 boyfriend during that time and by being around officers
22 and whatnot, you know, at that time I might have said
23 that's his stepfather.

24 Q: Let me ask you again, that's his stepfather and his
25 step dad and what did you answer? His stepfather?

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1 A: Yes.

2 Q: Two times in a row, you called him stepfather and
3 stepfather is not a boyfriend is it? And a boyfriend's
4 not a stepfather?

5 A: It started off as a boyfriend.

6 Q: You understand this case is about identification of a
7 person, right?

8 A: Of course.

9 Q: And he wasn't being identified there correctly; was
10 he?

11 A: His picture was around me. So, I mean ...

12 Q: I'm going to come back to that picture in a minute, I
13 promise you, we're going to talk about it.

14 Ms. Barr: I'm sorry, I object to counsel interrupting the
15 witness.

16 The Court: Don't interrupt the witness.

17 Q: Now, again later in the same interview, you were asked
18 again, do you recall, do you know the step dad as
19 Callie?

20 A: Yes.

21 Q: And you said Callie, that's all I know.

22 A: Yes.

23 Q: That's all you knew; step-dad and Callie?

24 A: Yes.

25 Q: A few minutes ago, Ms. Barr was asking you about going

HEARING

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1 into the house.

2 A: Yes.

3 Q: And she asked you if anybody had on gloves?

4 A: Yes.

5 Q: And what did you say?

6 A: I said, I said yeah both of them had on gloves.

7 Q: That's what you said?

8 A: Yeah.

9^a Q: Do you remember Investigator Whack asking you in your
10 second recorded statement back in May, did they have on
11 gloves or anything?

12 A: No, I do not.

13 Q: Do you remember that?

14 A: No.

15 Q: I'll show you the question. Do you remember that?

16 A: Yes.

17_a Q: And do you remember your response?

18 A: Ronald did.

19 Q: Ronald did.

20 A: Yes.

21 Q: Because somebody without gloves would leave
22 fingerprints, wouldn't they?

23 A: Pretty much.

24 Q: And it didn't sound good if this fella Callie, didn't
25 have on gloves would it?

1 A: Pretty much.

2 Q: Makes a better story to tell if he had on gloves.
3 That's why they didn't fingerprints right?

4 A: Yes.

5 Q: But back in May when you were asked this question, did
6 they have on gloves, what was your answer?

7 A: I don't know, Ronald did.

8 Q: Ronald did, not Callie?

9 A: Yes.

10 Q: So, today we've gone from boyfriend, to boyfriend from
11 step dad back in May right?

12 A: Uh-huh.

13 Q: And back in May we've gone from one pair of gloves to
14 two people wearing gloves, I mean one person wearing
15 gloves, to two today.

16 A: Uh-huh.

17 The Court: Use words not uh-huh.

18 A: Yes.

19 Q: Now, in the second recorded, May confession. That's
20 where you confessed and told the truth didn't you?

21 A: Yes.

22 Q: And you were asked by Investigator Lail this lady right
23 here?

24 A: Yes.

25 Q: She asked you what did Callie look like. Do you

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1 remember that?

2 A: Yes.

3 Q: And did you tell them the truth on that occasion?

4 A: I told them if I see him again I'll recognize him right
5 off the top.

6 Q: Well your recollection of what he looked like would
7 have certainly been better in May than it would be
8 later right? It was fresh in your mind in May right,
9 May 2009?

10 A: Yes.

11 Q: Right?

12 A: Yes.

13 Q: Now, what did you tell Investigator Lail what Callie
14 looked like back on May 13th 2009?

15 A: I can't remember quite the description that I gave her.

16 Q: What was the description?

17 A: I'm saying like I can't remember the exact description
18 that I gave.

19 Q: Tell me what you think you said.

20 A: Okay, I said like he was tall, real tall. He had hair,
21 he had hair, matter of fact I think I said he had Afro
22 hair and kind of built, like muscular like. Let's see,
23 that's about, that's about as much as I know.

24 Q: Heavy muscular guy?

25 A: Yeah, kind of muscular.

1 Q: Cause that's the way he looks today doesn't he?

2 A: Pretty much the same.

3 Q: A muscular guy?

4 A: Yes.

5 Q: Tall, muscular guy and had hair. He had an Afro didn't
6 he?

7 A: Yeah.

8 Q: That means a lot of hair?

9 A: Yeah.

10 Q: Now, I want to show you page thirty-two, line one where
11 Investigator Lail asked you that question. This is the
12 first time you've given a description of that guy
13 Callie that we're looking for, right?

14 A: Yeah.

15 Q: You remember the question, what does Callie look like?

16 A: He's tall.

17 Q: And what did you say?

18 A: He's real tall and scrawny with kind of hair ...

19 Q: Let me stop you right there. Real tall and scrawny?

20 A: Yeah.

21 Q: You said nothing about a tall, scrawny person is a
22 little person, isn't it?

23 A: Yeah.

24 Q: And this guy that you know to be Mr. Bowen is a
25 muscular guy?.

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1 A: Yeah.

2 Q: And what else? It says question, do you remember what
3 kind of hair?

4 A: Hair, peezy, like fro, peezy.

5 Q: And is it low cut and you said what?

6 A: No, Afro peezy.

7 Q: Afro peezy. Meaning he had an Afro, a bushed out hair
8 cut? Longer hair?

9 A: Yeah, yes.

10 Q: And that's all that you, that was the only description
11 you gave of this guy that you had spent some time with
12 and showed you a weapon who was a step dad of Ronald's.

13 A: Basically, yes.

14 Q: And he went by the name of Callie?

15 A: Yes. I don't remember the exact description but I told
16 them that he kinda looked like my home boy, he was
17 built like my home boy structure. Still skinny but
18 also muscular skinny.

19 Q: You didn't remember and tell that description to these
20 officers back on May 13th almost two years ago?

21 A: Actually, I told, I told them that how he was kinda
22 like scrawny but he was skinny like.

23 Q: Show me where on this statement that appears. That's a
24 recorded statement of what you said.

25 A: I mean yeah, that's what I'm saying.

HEARING

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1 Q: It ain't in there is it?

2 A: No, it's not.

3 Q: You, you knew that because you saw him on two occasions
4 after he was arrested here, I'm talking about Kelvin B.

5
6 A: Yes.

7 Q: I'm talking about Callie, not Kelvin B. okay? Do
8 you understand that?

9 A: Callie, right.

10 Q: Now, that was on the 13th. The evening of the 13th.
11 You were arrested and charged with murder, and a lot of
12 charges after you gave that statement weren't you?

13 A: Yes.

14 Q: You got the wagon loaded up on you cause you were
15 guilty of those things, weren't you?

16 A: Yes.

17 Q: And you were taken over to the Williamsburg county
18 sheriff's office and shown a picture weren't you?

19 A: Yes.

20 Q: It was a picture on a computer screen?

21 A: Yes.

22 Q: And I wrote this down when you said it and tell me if
23 I'm wrong. Lail said this is the guy right here on the
24 computer. You remember her saying that?

25 A: No.

HEARING

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1 Q: You didn't tell us all that a few minutes ago?

2 A: No.

3 Q: Who said those words?

4 A: I don't know. I walked in and I said yo, ya'll got
5 Callie? I said ya'll got Callie, ya'll got Callie?
6 That's all I said cause as soon as I walked in the
7 picture was posted right there on the computer screen
8 as soon as I walk in. As soon as I walk in. Ya'll got
9 Callie?

10 Q: Alright, you walked over there to identify a picture
11 on a computer didn't you?

12 A: Yea.

13 Q: They told you that they wanted you to look at a picture
14 on a computer?

15* A: No.

16 Q: A picture?

17 A: No not a picture. They wanted me to look at pictures to
18 see if I could pick, they told me it was like nine of
19 them. They said it was going to be pictured.

20 Q: You went to see a lineup, but you didn't get to see a
21 lineup?

22 A: No, I did not.

23 Q: So, when you got there, there was only one picture?

24 A: Yes.

25 Q: And they wanted you to call out Callie, somebody named

1 Callie didn't they?

2* A: Yeah, they did. As soon as I walked in I told them
3 that the picture was right there. That's when I
4 announced real loud, ya'll already got Callie, ya'll
5 already got Callie.

6 Q: Now, you asked if they had him locked up and they said,
7 you remember saying a few minutes ago, we do not have
8 him yet?

9 A: Yes and then that's when my mouth was shut like.

10 Q: You were scared because they didn't even have him
11 arrested?

12 A: Pretty much, yeah.

13 Q: They didn't tell you he was arrested when this picture,
14 which is exhibit sixty-seven, was taken?

15 A: No, they didn't tell me that he was arrested.

16 Q: Alright, I want you to look at this picture and I'm
17 going to ask you some questions about this picture. Do
18 you see an Afro-peezy haircut there?

19* A: I mean no.

20 Q: Have you ever seen an Afro-peezy hair cut on Kelvin B.
21 since you've see him?

22 A: Yeah, of course I seen him with a afro-pezy haircut.

23 Q: When, I'm talking about since this picture was taken?

24 A: Since that picture was taken?

25 Q: Yeah, the times you've seen him in court. Has he ever

HEARING

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1 had an Afro-peezy haircut?

2 A: No.

3 Q: He's got a moustache. He had a, you see? You didn't
4 never describe anybody with a moustache.

5 A: I looked out my eye like that.

6 Q: You didn't, you were sitting right by him and you
7 didn't see that Callie had a moustache?

8 A: Of course, no I didn't say that.

9 Q: You didn't tell the officers that when you were
10 describing Callie did you?

11 A: No, I didn't.

12 Q: This picture, how tall is this person in the picture?

13 A: Tall.

14 Q: You can tell he's tall by looking at the picture?

15 A: I can tell from him standing up.

16 Q: No, I'm talking about this picture you saw. You
17 identified him, is he tall in this picture?

18 A: No, I mean that's a picture, how do you know, come on.

19 Q: Well is that a scrawny man in this picture?

20 A: No.

21 Q: You told the officers, five days before that Callie was
22 tall and scrawny didn't you?

23 A: Yes.

24 Q: And that's nobody scrawny is it?

25 A: No.

1 Q: That's nobody with an Afro-peezy haircut is it?

2 A: No.

3 Q: That's a guy with a moustache isn't it?

4 A: Yeah.

5 Q: And it was the only picture you were shown?

6 A: Yeah.

7 Q: And you were in deep trouble and you had to come up
8 with something didn't you?

9 A: No.

10 Q: Now ...

11 A: Since I already had confessed, come cleaned with it.
12 Might as well confess with everybody too.

13 Q: Okay. Now, let's go forward to June the 10th, 2009,
14 remember the preliminary hearing? You, Tawanda Mack
15 Allen, Ronald Mack, Kelvin B. were brought over here
16 and ya'll sat in the second, third, fourth seats, right
17 there weren't you?

18 A: Yeah.

19 Q: You sat right there?

20 A: Yes.

21 Q: And you were brought over about one o'clock weren't
22 you?

23 A: Yes.

24 Q: And you sat there until your preliminary hearing
25 started at three fifty-five or five minutes to four,

HEARING

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1 didn't you?

2 A: Yes.

3 Q: Your lawyer was here the whole time?

4 A: Yes.

5 Q: Now, after it, and we've been at your preliminary
6 hearing. We sat right over here at this table didn't
7 we?

8 A: Yes.

9 Q: And you sat right by Kelvin B. the whole time didn't
10 you?

11 A: At that table.

12 Q: Yeah.

13 A: No, I wasn't right by him there was somebody in between
14 us.

15 Q: Okay, who?

16 A: It was either, I don't know either my lawyer or I know
17 somebody was sitting there separating us.

18 Q: We all were sitting right there together?

19 A: Yeah.

20 Q: And that went on for about an hour didn't it?

21 A: Yes.

22 Q: Then after the preliminary hearing, we went back in the
23 grand jury room. The lawyers and everybody got together
24 to figure out what we were going to do, didn't we?

25 A: Yes.

- 1 Q: I was sitting at the end of the table right?
- 2 A: Uh-huh.
- 3 Q: Remember that?
- 4 A: Yes.
- 5 Q: You were sitting right next to me, remember that?
- 6 A: No, I wasn't sitting right next to you.
- 7 Q: Well your lawyer and you were sitting to my lefthand
- 8 side, weren't you?
- 9 A: Who was that?
- 10 Q: Scott Palmer.
- 11 A: No, actually we was on your right hand side.
- 12 Q: Okay. Now, that's the right hand side, you facing me?
- 13 A: That's, yeah, from how the table was turned, it was on
- 14 the right hand side.
- 15 Q: Yeah.
- 16 A: We were between, our backs were facing the windows.
- 17 Q: Yeah. And LeGrand Carraway, another lawyer, was
- 18 sitting at the table wasn't he?
- 19 A: Yes.
- 20 Q: He was Ronald Mack's lawyer wasn't he?
- 21 A: Yes.
- 22 Q: And I was Mr. Bowen's lawyer?
- 23 A: Yes.
- 24 Q: And we heard a lot of testimony about Callie in that
- 25 preliminary hearing didn't we? Remember that?

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1 A: Yes.

2 Q: And you remember me looking at you and saying ...

3 The Court: Just a moment, Mr. Jenkinson and Ms. Barr.

4 (Counsels approach bench)

5 Q: Do you remember being asked a question, who is that?

6 Meaning Kelvin B. Do you remember being asked that
7 question?

8 A: On what day?

9 Q: Sir?

10 A: On what day?

11 Q: On the tenth? That meeting we've been talking about.

12 A: That meeting right here.

13 Q: Right. You remember being asked that question?

14 A: Yes.

15 Q: In front of your lawyer?

16 A: Yes.

17 Q: In front of every, all us sitting at the table?

18 A: Yes.

19 Q: Do you remember what you said?

20 A: Yes.

21 Q: What did you say?

22 A: I said that I don't know if he had an Afro and then ---

23 I said I don't know he had a Afro, I said he had hair
24 then.

25 Q: Did you remember saying, I don't know that dude.?

1 A: I don't know him?

2 Q: Yeah.

3 A: Yeah.

4 Q: And you remember being asked if that was Callie and
5 what your response was?

6 A: Yes, I said I don't know.

7 Q: You said you don't know?

8 A: Yes.

9 Q: You don't recall saying that's not Callie?

10 A: No.

11 Q: Do you recall being asked what Callie looked like in
12 that meeting?

13 A: What Callie looked like? No, I was, yeah, I was asked
14 --- I did say that's not Callie. I stated that's not
15 Callie.

16 Q: That's not Callie?

17 A: Yeah.

18 Q: And we're talking about the Callie that committed the
19 murder?

20 A: Yes.

21 Q: And were you asked to tell us what Callie looked like
22 then?

23 A: I don't know.

24 Q: Do you remember saying that Callie was six seven or six
25 eight? A real tall guy?

HEARING

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- 1 A: He was tall, yeah.
- 2 Q: You remember saying that?
- 3 A: Yeah.
- 4 Q: And he was slender built, remember that?
- 5 A: Yes.
- 6 Q: Had an Afro haircut?
- 7 A: Yes.
- 8 Q: Remember that?
- 9 A: Yes.
- 10 Q: And did Kelvin B. have an Afro haircut?
- 11 A: No. It's easy to get a haircut.
- 12 Q: Okay, had a, still had a moustache didn't he? Didn't
- 13 he?
- 14 A: Yeah.
- 15 Q: And do you remember this. Do you remember saying he
- 16 had pierced ears and piercings on his face?
- 17 A: I don't know about piercing on his face.
- 18 Q: Piercing in his ears and piercing on his face, do you
- 19 remember saying that?
- 20 A: No.
- 21 Q: Do you remember the pierced ear?
- 22 A: Yes.
- 23 Q: Okay. Do you recall saying I've never seen this guy
- 24 Bowen before in my life?
- 25 A: Yes.

HEARING

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1 Q: All this was right in front of your lawyer?

2 A: Yes.

3 Q: Everybody around the table was going, What's going on
4 here? do you remember that? The lawyers? Mr.
5 Carraway, even your own lawyer?

6 A: Yes.

7 Q: Do you recall being asked if you would sign a statement
8 if it was prepared of what went on, on the tenth? Do
9 recall being asked to sign a statement, if it was
10 prepared, and did you say you would sign a statement if
11 it was prepared on?

12 A: No.

13 Q: You did?

14 A: I said no.

15 Q: You said no?

16 A: I said no.

17 Q: Well, about two weeks later, there was a bond hearing
18 here. Remember? You got out on bond and do you
19 remember the statement being brought to you by your
20 lawyer ...

21 A: Yes.

22 Q: And asked you to sign it?

23 A: Yes.

24* Q: And you wouldn't sign it?

25 A: Yes.

HEARING

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1 Q: And then later that day he came to you again and asked
2 you again to sign it.

3 A: Yes.

4 Q: Do you think your lawyer would ask you to sign
5 something incorrect?

6 Ms. Barr: Objection, Judge that's an improper question.

7 The Court: Objection sustained.

8 Q: But you wouldn't sign it?

9 A: No, I wouldn't sign it.

10 Q: Let me ask you, you were given a copy of the statement
11 weren't you?

12 A: Yes.

13 Q: I'm asking you if this is a copy of the statement that
14 you were given?

15 A: Yes.

16 Q: That's a copy of it?

17 A: Yeah.

18 Q: And that's a copy of what went on on June the tenth up
19 in the grand jury room, isn't it?

20 A: Yes.

21 Mr. Jenkinson: Mark it for identification.

22 Q: Mr. Bowen in that, that occasion that was the first
23 time that you had seen him on June the tenth wasn't it?

24 A: No.

25 Q: Pardon?

HEARING

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- 1 A: No.
- 2 Q: You had seen him? Well the first time that you had
- 3 seen him at the jail?
- 4 A: At jail?
- 5 Q: In the jail.
- 6 A: Yeah, that was the first time I saw him at the jail
- 7 house, yeah.
- 8 Q: First time you had the chance to talk with him?
- 9 A: Yeah.
- 10 Q: Was the tenth?
- 11 A: No.
- 12 Q: In the jail, first time you had to talk with him.
- 13 A: Yes.
- 14 Q: He never threatened you in this courtroom did he?
- 15 A: No.
- 16 Q: Never threatened you at any of these meetings that we
- 17 had, did he?
- 18 A: No.
- 19 Q: You, everybody had on shackles didn't they?
- 20 A: Yes.
- 21 Q: And were handcuffed; nothing he could have done to you?
- 22 A: You don't know that.
- 23 Q: He was totally handcuffed and nobody, he has never
- 24 threatened you has he?
- 25 A: No, never has threatened.

HEARING

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1 Mr. Jenkinson: Court's indulgence.

2 Q: Now, up until today, when Ms. Barr asked you to
3 identify Kelvin B. you have never been asked by law
4 enforcement to identify him in person have you?

5 A: In person, no.

6 Q: Never have.

7 A: No.

8 Q: Not until today.

9 A: As a matter of fact, it was that same day of the
10 preliminary hearing, there was an officer that asked
11 me, they asked me, you know, who was all in the room.
12 They asked me was that him, was that Callie. I said
13 yeah, and I said yeah, and I told them that. They did
14 ask me that. I can't remember the officers name, but
15 ... I identified him the same way I can identify him.

16 Q: You can't remember his name can you?

17 A: The officer's name, no, because, I mean, the same way
18 I can identify Bowen as Callie, I can identify the
19 officers the same way I can identify him. I can
20 identify the officers.

21 Q: But again, you can't tell us who that was?

22 A: No I can't tell you their name.

23 Q: But the Solicitor, nor any of these investigators have
24 ever asked you to identify him live and in person have
25 they? Not until today.

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1 A: No, I'm telling you, I'm telling you that day, you
2 know, they were like they talk to him as he was going
3 back to --- as we was going to the room is his name
4 Callie, is his name Callie., I told them, I told them
5 yeah that's Callie right there in front of me.

6 Q: Has that ever been recorded or written?

7 A: No, it wasn't recorded or written, no.

8 Q: Now, let me ask you another question. Did this fella
9 Callie have any scars on his face?

10 A: Not to my knowledge, no.

11 Q: Now, Your Honor, please I would like to ask Mr. Bowen
12 to come around cause I want him to look for those
13 piercings on his face and verify that.

14* Ms. Barr: Judge, I'm going to object to that.

15 Mr. Jenkinson: This is on an identification case.

16 The Court: I understand what you're asking. What do you
17 want to do now?

18 Mr. Jenkinson: I simply want Mr. Bowen to walk around here,
19 close where he can see and ask if he sees any evidence
20 of any piercings.

21 The Court: You can do that.

22 Q: Mr. Bowen, come around. Close. Now turn to the side.
23 Do you see the evidence of the pierced ears?

24 A: No.

25 Q: Do you see any evidence of any piercings of his face?

HEARING

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- 1 A: No.
- 2 Q: Do you see the moustache?
- 3 A: Yeah, I see the moustache.
- 4 Q: Just like the ones in the photographs?
- 5 A: Yeah.
- 6 Q: Now, turn again. You see the scar down his jaw-line
- 7 here?
- 8 A: Yes.
- 9 Q: And you've never seen that before?
- 10 A: No.
- 11 Q: But this is a prominent scar across his jaw, about six
- 12 or eight inches, right? On the right side?
- 13 A: Yes.
- 14 Q: Do you remember, again, back to your guilty plea here
- 15 in the courtroom? That was the first time, last
- 16 October, you admitted going in this house and
- 17 participating in this crime in the house wasn't it?
- 18* Ms. Barr: Objection; asked and answered.
- 19 The Court: Objection sustained.
- 20 Q: Do you recall testifying in your guilty plea that you
- 21 actually located Kenyan Dorsey and pointed him out to
- 22 Ronald so he could shoot him?
- 23 A: Yes.
- 24 Q: Is that a no?
- 25 A: I said yes.

HEARING

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1 Q: Yes, you actually pointed him out so he could kill him
2 didn't you?

3 A: Yes.

4 Q: Ms. Barr asked you about this car wreck. You have a
5* brain injury?

6 A: Yes.

7 Q: And it has effected your memory, has it not?

8 A: Somewhat, yes. Yes.

9 Q: It has effected your memory?

10 A: Yes.

11 Q: And your recollection of things, has it not?

12 A: No it has not.

13 Q: It does not?

14 A: No.

15 Q: How long were you in intensive care with your brain
16 injury?

17 A: They said about a month.

18 Q: How many?

19 A: I said about a month, almost a month.

20 Q: How long were you in the hospital?

21 A: About a month and a half.

22* Q: And what year was that?

23 A: '07.

24 Q: That would have been two years before this?

25 A: Yes.

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1 Mr. Jenkinson: That's all I have.

2 The Court: Re-direct.

3 RE-DIRECT EXAMINATION OF MR. MCCLARY BY MS BARR

4 Q: Mr. McClary, are you okay? Do you need a break?

5 A: No ma'am.

6 Q: Okay, now, how did you feel when Mr. Jenkinson had Mr.
7 Bowen come up and stand right in front of you today?

8 A: Intimidated.

9 Q: You felt intimidated?

10 A: Yes.

11 Q: Okay, now that you have had an up close and personal
12 view of Mr. Bowen in court and in the presence of this
13 jury, has that changed your testimony in any regards?

14 A: No it hasn't.

15 Q: Is that man who came up here and stood in front of you
16 for ten or so seconds the same man that went into the
17 house of Kenyan Dorsey and shot him with a shotgun?

18 A: Yes.

19 Q: Any doubt in your mind today?

20 A: No ma'am.

21 Q: Now you talked about the, your accident and how you
22 have some brain damage as a result of that accident two
23 years earlier. Do you remember when Mr. Jenkinson
24 asking you about that?

25 A: Yes.

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1 Q: And he asked you about whether or not the accident
2 effected your memory?

3 A: Yes.

4 Q: Did it effect your memory as it relates to the events
5 that happened on the night that Kenyan was murdered?

6 A: No.

7 Q: Do you remember that free and clear?

8 A: Yes.

9 Q: I mean clearly?

10 A: Yes.

11 Q: Did, now, did you go on after that to get your G.E.D or
12 to get your diploma or anything like that?

13 A: I got my G.E.D.

14 Q: You did get your G.E.D?

15 A: Yeah.

16 Q: Mr. Jenkinson also asked you on cross-examination that
17 when you were in court for the preliminary hearing, was
18 that the first time that you had saw or spoke to Kelvin B.
19 and you said no. You remember that question?

20 A: Yes.

21 Q: When was the time you saw and spoke to Kelvin B.

22 A: The night of the incident.

23 Q: The night of the murder?

24 A: Yes.

25 Q: And you were also asked whether or not your memory, as

HEARING

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1 far as the incident is concerned, was fresher in May of
2 2009 when you gave the statement versus today. Is the
3 incident still fresh in your mind today?

4 A: Yes it is.

5 Q: As you testified?

6 A: Yes.

7 Q: Now the picture that you were shown in court that's
8 been admitted as State's number sixty-seven, of Kelvin B.

9 you were asked a lot of questions about when
10 this picture was taken. Do you actually know when this
11 picture was taken?

12 A: No, I do not.

13 Q: So you don't know whether it was taken the day you were
14 arrested, months earlier or days after?

15 A: No.

16 Q: Okay and how much time went by between the time Kenyan
17 was killed and the time you gave the May 13th statement
18 and confessed?

19 A: A few weeks.

20 Q: Couple few weeks?

21 A: Yes a few weeks.

22 Q: Okay. In this picture of Kelvin B. and marked as
23 States Sixty-seven, can you even see what type hair
24 style he has in that photograph?

25 A: No.

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1 Q: Now, you said that you saw that picture of May 13th on
2 an officer's computer?

3 A: Yes.

4 Q: And you talked about the first time you saw Mr. Bowen
5 in court was when? Sometime in June?

6 A: Yes.

7 Q: I think you said June 10th?

8 A: Yes.

9 Q: So that was a month after you gave your statement
10 still?

11 A: Yes.

12 Q: I think your comment was, How easy is it to get a
13 haircut?

14 Mr. Jenkinson: Your Honor, I'm going to object to, as to
15 the testimony.

16 The Court: You cannot testify Solicitor.

17 Ms. Barr: Yes sir.

18 Q: One last question. Mr. Jenkinson asked you about your
19 May 13, 2009 statement at 6:55 pm. Do you remember him
20 asking you about that?

21 A: Yes.

22 Q: And as I understand it, he asked you whether or not you
23 had ever even mentioned Callie's name in that statement
24 at 6:55pm. Do you remember him asking you that
25 question?

HEARING

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1 A: Yes.

2 Q: Now, I'm going to call your attention to page thirteen
3 of that particular transcript.

4 Mr. Jenkinson: Your Honor, objection as to the manner that
5 that is being presented is suggestive. She can ask the
6 question if you recall something, but as far as showing
7 him what he said would ...

8 The Court: Ms. Barr.

9 Ms. Barr: Judge, if I may, I can ask him if this is a
10 transcript of his statement. I'll ask another question.

11 The Court: Alright.

12 Q: Sir, is this a copy of the transcript of your statement
13 on May 13, 2009?

14 A: Yes.

15 Q: And what time was that statement given?

16 A: 6:55pm

17 Q: And is that as far as you recollect, the time to be as
18 well?

19 A: Yes.

20 Q: And if I will, let me just have you read page thirteen,
21 lines one through ten and see if that refreshes your
22 memory.

23 Mr. Jenkinson: Objection, Your Honor, just reading a
24 statement.

25 Ms. Barr: Read it to yourself. I think that will solve it

1 Judge.

2 Mr. Jenkinson: You cannot publish it. You can ask if he
3 recalls what he said, but you cannot publish it.

4 The Court: Alright, proceed.

5 Q: Sir, let me have you read to yourself lines one through
6 ten and ask you if that refreshes your memory as to
7 this issue of when did Callie's name come up?

8 Mr. Jenkinson: What page are you on?

9 Ms. Barr: Thirteen.

10 Q: Having read that, does it refresh your memory?

11 A: Um, yes. Yes, it does.

12 Q: And, did you in fact, call Callie's name in that
13 particular statement?

14 A: No, I just said Callie.

15 Q: You just called, you just called him Callie?

16 A: Yeah.

17 Q: You didn't say Kelvin B. you just said Callie?

18 A: Yeah.

19 Q: Now, did you know his legal name at that time?

20 A: No, I did not.

21 Q: Did you tell the police that you didn't know his legal
22 name at that time?

23 A: Yes I did.

24 Q: That's all the questions I have.

25 The Court: Anything further?

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RECROSS EXAMINATION OF MR. MCCLARY BY MR. JENKINSON:

1 Q: Is that first statement on May the 15th, the one in
2 which you told all the lies?

3
4 Ms. Barr: Your Honor it's not May 15th.

5 Mr. Jenkinson: I'm sorry, May 13, May 13.

6 Q: The statement you just read from. Is that when you
7 told all the lies?

8 A: No, not all the lies.

9 Q: You didn't tell any lies in that one?

10 A: Yes, I told some lies on that.

11 Q: I'm sorry I couldn't hear.

12 A: Yes, I told some lies.

13 Q: You did tell some lies in that one?

14 A: Yes.

15 Q: Okay, that is the one where you lied?

16 A: Yes.

17 Mr. Jenkinson: No further questions.

18 The Court: You can step down. Next witness?

19 Ms. Barr: We call Detective Luersen.

20 Bailiff: Do you solemnly swear or affirm to tell the truth,
21 the whole truth and nothing but the truth, so help you
22 God?

23 Detective Luersen: Yes.

24 Bailiff: Okay, step right over there to the witness stand.

25 Ms. Barr: Detective Luersen, let me get you to state your

1 full name for us please.

2 A: Detective Steven Luersen.

3 DIRECT EXAMINATION OF DETECTIVE LUERSEN BY MS BARR

4 Q: Alright and tell us where you're employed.

5 A: I work at the Anne Arundel County Police Department,
6 which is in Anne Arundel County, Maryland.

7 Q: What is it that you do there?

8 A: I'm a detective, assigned to criminal investigation.

9 Q: You're a certified law enforcement officer?

10 A: Yes, I am.

11 Q: How long have you been a detective?

12 A: I've been a detective on and off for nine years.

13 Q: Give us a general idea of what you do from day to day
14 at the Anne Arundel County Police Department.

15 A: As a detective my current assignment is to conduct any
16 follow up investigations and commercial robberies ...

17 Q: Alright, now, sir you were subpoenaed to testify in
18 this case?

19 A: Yes.

20 Q: Alright and you and one of your officers drove from
21 Maryland?

22 A: Yes.

23 Q: How long did it take you to drive from Maryland to
24 South Carolina?

25 A: A little over six hours.

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1 Q: Okay. Alright, back in May of 2009, did you assist the
2 Williamsburg County Sheriff's Department in an
3 investigation involving the death of Kenyan Dorsey?

4 A: Yes I did.

5 Q: Tell the ladies and gentlemen of the jury what
6 assistance you provided to law enforcement.

7 A: Our uniformed personnel, they made an arrest of two
8 subjects. I was asked to prepare a search warrant for
9 an apartment and vehicle.

10 Q: Now, you went to a magistrate or some judge in Anne
11 Arundel County and received a search warrant?

12 A: That's right, I went to a Circuit Court Judge.

13 Q: Okay and it allowed you to search what?

14* A: The apartment and the vehicle.

15 Q: Okay, describe the apartment and describe the vehicle.

16 A: May I refer to my notes to give you a better
17 description?

18 Q: Sure, absolutely.

19 A: I obtained one search warrant for both items. The
20 vehicle was a 2006 Kia, Sportage, blue in color. Had
21 a Maryland registration of 10799TME. It had a VIN
22 number of, VIN identification of KNDJB723767153316.

23 The vehicle was located in a parking lot on [REDACTED]

24 [REDACTED] The vehicle was towed from the apartment complex
25 to our police department headquarters and secured into

1* a storage shed for evidence processing. Police
2 personnel also followed that vehicle from the Pamela
3 Road address to the department for processing.

4 Q: Okay, hold on for just a second. I'm going to hand you
5 what's been admitted as State's exhibits fifty-three,
6 fifty-four and fifty-five. Are those photographs of
7 the subject vehicle from which you were able to get a
8 search warrant?

9 A: Yes it is.

10 Q: Alright, now, you indicated that the vehicle was seized
11 from the parking lot of [REDACTED] and where is
12 that apartment complex located?

13 A: The apartment complex is located in Glen Burnie,
14 Maryland.

15 Q: Alright and who was the, that particular vehicle
16 registered to?

17 A: It was registered to a Ms. Allen. Tawanda Allen.

18* Q: Okay, alright now, you talked about the apartment
19 complex. What, I'm assuming, like here, there were
20 several apartments within the complex?

21 A: Yes there were.

22 Q: Alright and your search warrant allowed you to search
23 which particular apartment at [REDACTED]

24 A: Apartment [REDACTED].

25 Q: Apartment [REDACTED]?

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1 A: Yes.

2 Q: Okay now prior to actually executing the search
3 warrant, were you all able to determine who was the
4 official lessor of the apartment? Who leased the
5 apartment?

6 A: It was determined it was leased in Tawanda Mack's name.
7 Tawanda Mack Allen.

8* Q: Did you all recover a copy of that lease pursuant to
9 your search warrant?

10 A: Yes, we did.

11 Q: Alright let me hand you what's been marked for
12 identification purposes as States number sixty. Is
13 that a copy of the apartment lease?

14 A: Yes it is.

15 Q: Alright, and did you get that from the landlord at the
16 apartment complex?

17 A: I did not get this from the landlord, but it was
18 recovered by case personnel.

19 Q: Was that later turned over to the Williamsburg County
20 police department?

21 A: Yes it was.

22 Ms. Barr: Judge, we would move Exhibit number sixty into
23 evidence at this time.

24 The Court: What says the defense?

25* Mr. Jenkinson: Can I look at it? No objection to number

1 sixty.

2 The Court: Without objection.

3 (State's Exhibit Number 60 was entered)

4 Q: Detective Luersen, let me ask you a couple of questions
5 about this exhibit. What is the date of that lease?

6 A: Fifteenth of September, 2007.

7 Q: Alright and the person leasing the apartment would have
8 been who?

9 A: Tawanda Allen.

10 Q: Alright and what is the address that's located on the
11 lease? In terms of the apartment that's being leased.

12 A: Apartment [REDACTED] as in [REDACTED], building known as [REDACTED]
13 [REDACTED]

14 Q: Okay and was this the same address that you all
15 executed a search warrant on that day?

16 A: That's correct, it was.

17 Q: Alright sir, can you see that from where you are? If
18 you cannot you can come on down. Is that better?

19 A: That's better.

20 Q: Alright, can you tell me where the date on that lease
21 can be found?

22 A: Sure, it's right up here across the top. Fifteen day
23 of September, 2007.

24 Q: Alright and can you tell me the address for the
25 apartment that's being rented.

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1 A: Sure, it's in this area here. Apartment [REDACTED], the
2 building known as [REDACTED]

3 Q: Alright. As it relates to the tenant, can you tell me
4 the name and show the jurors where the name of the
5 tenant would be?

6 A: It's signed down here. I can read that as Tawanda
7 Allen.

8 Q: Alright, thank you sir. You can take a seat. Now,
9 when you secured the search warrant from the judge in
10 Maryland, what were you specifically allowed to take
11 pursuant to that search warrant?

12 A: My search warrant requested any and all nine millimeter
13 hand guns, any and all twelve gauge shotguns, any and
14 all nine millimeter shot casings, any and all twelve
15 gauge shotgun shells, any and all nine millimeter
16 twelve gauge projectiles, any and all twelve gauge
17 ammunition, any and all nine millimeter ammunition, any
18 and all clothing that may contain blood, swabs for
19 gunshot residue. Any and all receipts showing the
20 purchase of a firearm or ammunition. Any and all
21 holsters. Any paperwork showing possessory interest in
22 the name of Tawanda Mack Allen. Any and all paperwork
23 showing [REDACTED] Apartment [REDACTED]. Any and all
24 paperwork in the name of Kelvin B. Jr.

25 Q: Okay, alright and only those things that are named in

1 a search warrant are the things that you're allowed to
2 seize?

3 A: That's correct.

4 Q: Alright, now, let's kind of go through that list.
5 Pursuant to search warrant, you were allowed to seize
6 if you found, a nine millimeter hand gun. Is that
7 right?

8 A: That's correct?

9 Q: Did you find any nine millimeter handguns in the
10 residence?

11* A: No we didn't.

12 Q: Alright, you were allowed in the search warrant to
13 seize if you found any twelve gauge shotguns?

14 A: Yes.

15 Q: Did you find any twelve gauge shotguns in the
16 residence?

17 A: Yes, we did.

18 Q: Did you seize the twelve gauge shotgun in the
19 residence?

20 A: Yes.

21 Q: Was the twelve gauge shotgun turned over to law
22 enforcement in Williamsburg county?

23 A: Yes it was.

24 Q: Alright, you were also allowed in the search warrant to
25 seize any nine millimeter shell casings?

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1 A: Yes.

2 Q: Did you find any of those in the residence?

3 A: We did not find shell casings. Nine millimeter shell
4 casings.

5 Q: Now, were you able to find, pursuant to your search
6 warrant, any twelve gauge shotgun shells?

7 A: Yes we did.

8 Q: Alright, did you seize those?

9 A: Yes we did.

10 Q: Alright, did you turn those over to law enforcement?

11 A: Yes they were.

12 Q: Okay did you find in the apartment any nine millimeter
13 or twelve gauge projectiles?

14 A: Not projectiles.

15 Q: Okay, when you say not projectiles, are you qualifying
16 your answer?

17 A: We found rounds, unfired ammunition.

18 Q: Alright what about shotgun shells?

19 A: Yes we did.

20 Q: You also were allowed to seize any receipts for the
21 purchase of any firearms or holsters?

22 A: Yes.

23 Q: Did you find any of those in the apartment?

24 A: No, we did not.

25 Q: Okay you were also allowed under the search warrant, to

1 seize all paperwork in the name of Tawanda Allen,
2 Kelvin B. and Wanda Mack?

3 A: Yes.

4 Q: In the apartment right?

5 A: Yes.

6 Q: Did you find any paperwork inside the apartment of
7 Tawanda Mack?

8 A: Yes.

9 Q: With Tawanda Mack's name on it?

10 A: Yes we did.

11 Q: Alright. What specifically, I can't find the exhibit.
12 What specifically did you find with Tawanda Mack
13 Allen's name on it? And I believe, to kind of help you,
14 I'm looking at your inventory, evidence inventory.

15 A: We found some paperwork of the District Court of
16 Maryland regarding the apartment on Pamela Road Pay
17 Rent Landlord's Application. Tawanda Allen's name was
18 on that.

19 Q: Okay did you seize that?

20 A: We seized that.

21 Q: Did you turn it over to law enforcement of Williamsburg
22 County?

23 A: Yes we did.

24 Q: Alright, did you find any paperwork in the house baring
25 the name of Ronald Mack?

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1 A: Yes we did.

2 Q: Alright, and what did you find baring the name of
3 Ronald Mack. Well, let me strike that. Did you find
4 school material baring the name of Ronald Mack?

5 A: Yes.

6 Q: Did you seize those items?

7 A: Yes we did.

8 Q: And turned them over to law enforcement in Williamsburg
9 County?

10 A: Yes.

11 Q: Alright, now particularly interested in knowing if you
12 all found any paperwork inside the residence that bared
13 the name of Kelvin B.

14 A: We found several pieces of paperwork.

15 Q: Alright, I'm going to, well, let me, before I hand them
16 to you, did you seize those items?

17 A: Yes we did.

18 Q: Did you at some point, turn them over to either
19 Williamsburg County Law Enforcement or the Clerk of
20 Court for Williamsburg County?

21 A: Yes we did.

22 Q: Alright, I'm going to hand you , first of all, what's
23 been marked for identification purposes as State's
24 exhibit number sixty-one and for the purposes of this
25 court, I need you to look at the item numbers on the

1* white tab rather than the red tab. Tell me if you
2 recognize that particular item?

3 A: Yes I do.

4 Q: And how is it that you recognize it?

5 A: It was recovered at the apartment. It's a receipt,
6 paperwork from Suntrust Bank addressed to Kelvin B.

7 Q: Okay what address is listed for that particular item?

8 A: [REDACTED] Apartment [REDACTED], Glen Burnie, Maryland.

9 Q: And is that the apartment and complex or the actual
10 apartment that you all searched that day?

11 A: Yes it is.

12 Q: And is that the actual, original document that was
13 taken out of that apartment?

14 A: Yes it is.

15 Ms. Barr: Judge, we would move exhibit number sixty-one into
16 evidence at this time.

17 The Court: What says the defense?

18* Mr. Jenkinson: No objection.

19 The Court: Submitted without objection.

20 (State's Exhibit Number 61 was entered)

21 Q: Sir, I'm going to publish what's been admitted as
22 State's number sixty-one. Is that the item that you
23 just held in your hand and identified as being from
24 Suntrust Bank?

25 A: Yes it is.

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- 1 Q: And it indicates that the addressee is Kelvin B. at
2 [REDACTED] Apartment [REDACTED] at Glen Burnie, Maryland.
- 3 A: Yes.
- 4 Q: Now, were you actually there when this was found? When
5 this particular item was found or were you simply there
6 when it was taken out of the apartment?
- 7 A: I was there when it was taken out of the apartment.
- 8 Q: Okay. Alright, I'm going to hand you what's been
9 marked for identification purposes as State's exhibit
10 number sixty-three. I'll ask you if you recognize
11 that?
- 12 A: Yes I do.
- 13 Q: How is it that you recognize it?
- 14 A: It is recovered during the search warrant.
- 15 Q: Okay and what is it?
- 16 A: It is a, a congratulations letter from Eady's Ice
17 Cream.
- 18 Q: Okay. It's a congratulation for employment letter?
- 19 A: Yes it is.
- 20 Q: What's the date on it?
- 21 A: The date is April 13, 2009.
- 22 Q: And who is the letter addressed to?
- 23 A: It's to Kelvin B.
- 24 Q: Okay and what address?
- 25 A: [REDACTED] [REDACTED] Glen Burnie, Maryland.

1 Q: Alright and you seized that and at some point turned
2 that over to either Williamsburg County Law Enforcement
3 or Clerk of Court's office?

4 A: Yes.

5 Q: Alright, now, quick question about the ice cream
6 company. Did you all help or arrest or take into
7 custody Tawanda Allen and Ronald Mack?

8 A: Our agency took Ronald Mack in custody, another agency
9 took Tawanda Mack Allen in custody. Howard(sp) County
10 Police Department.

11 Q: Why did that county take her into custody? Where was
12 she at when they took her into custody?

13 A: She was working at that same location ice cream
14 company.

15 Q: She worked at the ice cream company?

16 A: Yes.

17* Q: Alright I'm going to publish what's been admitted as
18 States' number sixty-three. Is, is that the letter
19 that I just handed you Detective Luersen?

20 A: Yes it is.

21 Q: Dated 4/13/2009 from Dreyer's Ice Cream company to
22 Kelvin B.

23 A: Yes.

24 Q: At the address that you searched?

25* A: Yes.

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1 Q: I'm going to hand you what's been marked for
2 identification purpose as State's sixty-four and tell
3 me if you recognize that.

4* A: Yes I do.

5 Q: Alright, tell the court what it is and how you you
6 recognize it.

7 A: It's a State Department of Revenue paperwork driver's
8 license and reinstatement notice to Kelvin Michael
9 Bowen, Jr.

10 Q: And is there a date on it?

11 A: There is. It's May 4, 2009.

12 Q: Alright and was that seized from the residence from
13 which you had the search warrant?

14 A: Yes it was.

15 Q: Okay. Was it turned over to law enforcement for
16 Williamsburg County?

17 A: Yes it was.

18 Ms. Barr: Judge we would move State' exhibit number sixty-
19 four in at this time.

20 Mr. Jenkinson: No objection.

21* The Court: It's admitted.

22 (State's Exhibit Number 64 was entered)

23 Q: Publish exhibits sixty-four. Alright sir, what I have
24 put on the projection screen and placed next to the
25 jury, is that the item that you just testified about?

1 A: Yes it is.

2 Q: Dated May 4, 2009?

3 A: That's correct.

4 Q: Addressed to Kelvin Michael Bowen, Jr.?

5 A: Yes it is at [REDACTED]

6 Q: Glen Burnie, Maryland?

7 A: Yes.

8 Q: Okay now Kelvin Michael Bowen, Jr, was he one of the
9 individuals, on of the three individuals who were taken
10 into custody on the day the search warrant was
11 executed?

12 A: Yes he was.

13 Q: Alright I'm going to hand you State's sixty-two. Tell
14 me if you recognize that.

15 A: I recognize it.

16 Q: Alright, and how is it that you recognize it?

17 A: It's a California identification card for Mr. Bowen and
18 a Maryland driver's license for Ms. Allen.

19 Ms. Barr: Judge, we would move State's exhibit sixty-two
20 into evidence.

21 The Court: What says the defense? Any objection?

22 Mr. Jenkinson: No objection.

23 The Court: Without objection.

24 (State's Exhibit Number 62 was entered)

25 Q: Okay. Sir I'm going to publish State's sixty-two. Is

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1 this particular exhibit that you just testified to in
2 terms of the identification of Ms. Allen and Mr. Bowen?

3 A: Yes.

4 Q: Indicating that he had a California identification
5 card?

6 A: Yes, actually looking a little closer it may have been
7 a driver's license. I know the top one is a Maryland
8 driver's license. It's an identification card. I
9 don't know if it's a driver's license.

10 Q: Okay. Alright well let me bring it up to you just so
11 we can be clear about that point.

12 A: Yes it is an identification card.

13 Q: Thank you. Now, who all was with you carrying out the
14 search of that particular residence?

15 A: Myself, Detective Harding. She was my partner at the
16 time.

17 Q: I'm sorry Detective?

18 A: Detective Kelly Harding.

19 Q: Is she the young lady who's seated all the way in the
20 back?

21 A: She sure is.

22 Q: Alright.

23 A: We had Sergeant Richard ...

24 Q: Okay.

25 A: He was the sergeant that was on scene.

1 Q: Okay.

2 A: We had a corporal and Hardy, they work in the
3 speciality unit and we also had a evidence technician.
4 Her name is Katie Ladue. She was assigned to evidence.

5 Q: Now Katie Ladue was part of your team that day. Is she
6 here in court?

7 A: No she's not.

8 Q: Okay, she have a medical reason for not being here
9 today?

10 A: Yes she did.

11 Q: Did you appear along with Ms. Ladue and Ms. Harding at
12 the trial for the State versus Tawanda Allen?

13 A: Yes.

14 Q: Now, was Ms. Harding present when the shotgun shells
15 were recovered?

16 A: Yes.

17 Q: Was she present when the nine millimeter rounds were
18 recovered?

19 A: Yes.

20 Q: Was she present when the shotgun was recovered?

21 A: Yes.

22 Q: Was she present when photographs of the residence were
23 taken?

24 A: Yes.

25 Q: Was she present when those particular exhibits that I

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1 just published to the jury were taken into evidence?

2 A: Yes.

3 Q: Now you all talked about the search of the vehicle.

4 Did you all take any items out of the vehicle?

5 A: No, we did not.

6 Q: Were there any items in the vehicle that were recovered
7 under your search warrant?

8 A: Can you ask that again.

9 Q: Yes sir. You indicated that there were items that you
10 saw in the vehicle?

11 A: Yes.

12 Q: And you indicated that nothing was taken out of the
13 vehicle, is that right?

14 A: Yes.

15 Q: So, I'm assuming that there were no ...

16 Mr. Jenkinson: Objection to assuming.

17 The Court: Objection sustained.

18 Q: Tell me if there were any guns in the vehicle?

19 A: No there were not.

20 Q: Was there any ammunition in the vehicle?

21 A: No.

22 Q: Any bloody clothes in the vehicle?

23 A: No.

24 Q: Any receipts for the purchase of a gun in the vehicle?

25 A: No.

1 Q: Where exactly was Mr. Bowen and Mr. Mack when they were
2 taken into custody?

3 A: Uniformed officers observed them getting into the
4 vehicle. Mr. Bowen was getting into the driver's seat.
5 Mr. Mack was getting into the passengers seat.

6 Q: And where was the vehicle at the time that Mr. Bowen
7 was getting into the driver's seat and Mr. Mack was
8 getting in the passenger's seat?

9 A: It was parked in the parking lot of the apartment
10 complex; it was actually parked in front of building
11 412.

12 Ms. Barr: Beg the Court's indulgence.

13 Q: Thank you. While I have you on the stand. Sir, does
14 this appear to be the shotgun that was taken from the
15 residence located at [REDACTED] Apartment [REDACTED]?

16 A: Yes.

17 Ms. Barr: That's all the questions I have Your Honor.

18 The Court: Cross examination.

19 Mr. Jenkinson: Yes sir.

20 CROSS EXAMINATION OF DETECTIVE LUERSEN BY MR. JENKINSON

21 Q: Is that your name Luersen?

22 A: Yes.

23 Q: I want to make sure that I have that down correctly.
24 Does, do you, on occasion, use the internet map
25 services to determine distances and locations such as

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1 Google maps or something like Mapquest?

2 A: Yes.

3 Q: And is that something you law enforcement generally
4 relies on?

5 A: Yes.

6 Q: And you find it to be accurate?

7 A: It will give you a ball park.

8 Q: Yes sir.

9 A: The problem I have with Google is sometimes it will
10 take you not the fastest route and it will give you the
11 general idea of the distance.

12 Q: And if you can take Google and Netflix and Mapquest and
13 check them and they should be, that's a good way to
14 double check them, isn't it?

15 A: Google and Netflix?

16 Q: I said this, you can go to Google maps ...

17 A: Okay.

18 Q: And you can go to Mapquest and you can check them
19 against each other and usually they're very close
20 aren't they?

21 A: I use Mapquest, is what I normally use.

22 Q: Okay. Now, you, she asked you about driving time from
23 Glen Burnie, Maryland down to South Carolina.

24 A: Yes.

25 Q: And I'm particularly interested in the driving time

1 from Pamela Road, Glen Burnie. That would be from
2 where Tawanda Mack lived?

3 A: Yes.

4 Q: To Kingstree.

5 A: Yes.

6 Q: Okay and it takes you six hours?

7 A: Yes.

8 Q: Or more.

9 A: That's right.

10 Q: In fact it could be eight hours, couldn't it? To drive
11 from above Washington, DC down to Kingstree, takes
12 about eight hours doesn't it?

13 A: No, we, well we, we drove, we drove from Millersville
14 to Florence.

15 Q: Okay.

16 A: And it took us six hours. Millersville from the
17 apartment complex is not even ten minutes from the
18 apartment complex, so I don't know how much longer it
19 would take to get to Kingstree ...

20 Q: Just ... we printed off on our computer over there and
21 when you said that. We got Mapquest and we got Google
22 just to see how many miles it was from Pamela down to
23 Kingstree. Now, you didn't check it on your odometer
24 did you?

25 Ms. Barr: Judge, we, first of all Judge, we would object to

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1 testimony rewarding what a Google search might show.

2 We think that's hearsay.

3 The Court: Objection is overruled.

4 Q: You didn't check your odometer to check the mileage
5 down here did you?

6 A: Uh, no I didn't.

7 Q: Alright and based on both Google maps and Mapquest,
8 approximately how many, well what are the mileages from
9 Glen Burnie, Maryland, Pamela down to Kingstree?

10 A: Google maps show that as four hundred, eighty-nine
11 miles.

12 Q: Yes.

13 A: And Mapquest shows four hundred and ninety miles.

14 Q: Wow, that's a mile a part.

15 A: Yes.

16 Q: That's pretty close isn't it?

17 A: Yes.

18 Q: And the driving time from Glen Burnie, Maryland down to
19 Kingstree?

20 Ms. Barr: Judge I object, Your Honor.

21 The Court: It's not the same objection. This objection is
22 sustained. Objection sustained.

23 Q: Okay, but you do rely on that?

24 A: Yes.

25 Q: Okay and it would be fair to say that eight hours plus

1 would be the driving time from Glen Burnie, Maryland
2 down to Kingstree wouldn't it?

3 Ms. Barr: Objection, asked and answered.

4 Mr. Jenkinson: It's cross examination, Your Honor.

5 The Court: State the question please.

6 Q: I said if, I said based on what you know, it wouldn't
7 surprise you at all if it took eight hours to drive
8 from above Washington, DC down to Kingstree, driving
9 time, would it?

10 The Court: He can answer.

11 A: I don't know how long it would take to drive to
12 Kingstree, because we didn't try that. I do know that
13 my personal experience in researching for this trip,
14 Mapquest told me it was going to be a seven hour trip;
15 seven hours and maybe four minutes.

16 Q: Okay, so you ...

17 A: And we did it in six hours, a little over six hours.

18 Q: That's what you rely on. Now, if it's from Glen
19 Burnie, Maryland and this address of [REDACTED]
20 using what you usually rely on, and you done Mapquest
21 for this, how far is it, if you know?

22 A: I wouldn't know ...

23 Q: Using Mapquest, how long does it take to drive?

24 A: I don't know how long it's going to take to drive; I
25 know that, that [REDACTED] from our headquarters

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1 building which is the address that I put in, it's not
2 even ten minutes away. The problem I have is I can't
3 tell you because I drove to Florence.

4 Q: You wouldn't deny that Mapquest calls it over eight
5 hours?

6 Mr. Barr: Objection Judge, that's hearsay.

7 The Court: Objection sustained.

8 Q: Alright, exhibit number sixty is the apartment lease
9 agreement?

10 A: Yes.

11 Q: This apartment lease agreement actually, they require
12 you to say who lives there, don't they?

13 A: Can I see what you have. Tawanda Allen ...

14 Q: Those are the occupants?

15 A: Yes.

16 Q: Nothing about Kelvin B. on this is there?

17 A: No, there's not.

18 Q: Now, you identified the shotgun?

19 A: Yes.

20 Q: You checked it for fingerprints didn't you?

21 A: We didn't.

22 Q: You did not?

23 A: No, we did not.

24 Q: Well, if Kelvin B. fingerprints would have been on
25 that shotgun, we would know whether or not he was a

1 participant in this crime wouldn't we?

2 A: Or he just didn't --- we just did not do any processing
3 for this weapon. We recovered and packaged and forward
4 to South Carolina in our investigation.

5 Q: Routinely, as a detective you check for fingerprints
6 though don't you?

7 A: Yes.

8 Q: And if it's a murder weapon suspected, you would
9 certainly check for finger prints wouldn't you?

10 A: If, if we believed there was a reason to have
11 fingerprints on it, yes we would check for prints.

12 Q: And there were no fingerprints, you did not try to take
13 any fingerprints off this weapon when it was in your
14 possession?

15 A: We, at the request we did not process any evidence that
16 was recovered. We packaged it and turned it over to
17 them.

18 Q: Well, if there were fingerprints on it, the packaging
19 itself would in transit, could rub off fingerprints
20 couldn't it?

21 A: I don't have the expertise to tell you that however the
22 item was packaged would possibly degrade fingerprints.
23 Our technicians are trained to package.

24 Q: How long have you been a detective?

25 A: I've been a detective, on and off, for nine years.

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1 Q: And would it be safe to say that for nine years you've
2 been working with fingerprints in your investigations?

3 A: Yes I have.

4 Q: And you took no fingerprints from an alleged murder
5 weapon while it was in your possession?

6 A: That's correct.

7 Q: Did you check the ammunition that you found, the
8 bullets and the shotgun shells for fingerprints?

9 A: No we didn't.

10 Q: If Kelvin B. would have had anything to do with
11 these items, it certainly could have proved it at that
12 point couldn't you? If an investigation as to
13 fingerprints would have taken place?

14 A: Once again, we did not do any processing of anything,
15 any of the evidence items for South Carolina. It was
16 just packaged and forwarded to them for processing.

17 Q: On the eighteenth, I'm sorry. It was the eighteenth of
18 May was when you, all this, you got the first call from
19 Detective, Investigator Lail right here, the lead
20 investigator?

21 A: Yes.

22 Q: And all of this action taken was at her request?

23 A: Yes.

24 Q: And as a result of her phone call, Kelvin B. was
25 detained?

1 A: Yes.

2 Q: Put in custody?

3 A: Yes.

4 Q: But you never were given the name of Kelvin B. by
5 Investigator Lail were you?

6 A: No.

7 Q: Matter of fact, when Kelvin B. shows up you didn't
8 know what to do with him did you?

9 A: Yes, he was, a uniformed personnel stopped him they had
10 no information of him being involved in this.

11 Q: No information whatsoever?

12 A: The only information that they had was that there would
13 be a third person that they had a positive
14 identification on.

15 Q: But, who is this guy Kelvin B. There was no
16 warrant for him was there? Nobody called his name did
17 they?

18 A: No.

19 Q: Now, these two id's that you put up together like they
20 were together. They weren't found in the apartment
21 were they?

22 A: No.

23 Q: They were not found together?

24 A: No.

25 Q: They just happened to be copied on the same piece of

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- 1 paper?
- 2 A: That's correct.
- 3 Q: And you did not recover the id's did you?
- 4 A: That's correct.
- 5 Q: So you don't know where these id's came from?
- 6 A: No, sir.
- 7 Q: And yet you just identified them as id's.
- 8 A: That's correct, they are id's.
- 9 Q: From off these copies?
- 10 A: Yes.
- 11 Q: You've never seen them before other than these copies?
- 12 A: That's correct.
- 13 Q: Now, you actually did an evidence inventory. You write
- 14 every single thing down don't you?
- 15 A: Yes.
- 16 Q: That's what you testified about. You keep a record of
- 17 it and sign it?
- 18 A: Yes.
- 19 Q: Now, the Kia Sportage vehicle likewise was seized.
- 20 A: Yes.
- 21 Q: Do you have the record in your file from the seizure of
- 22 the Kia Sportage?
- 23 A: Yes.
- 24 Q: You actually saw the Kia Sportage?
- 25 A: Yes.

1 Q: Now, tell the jury if you will, what happened to the
2 Kia Sportage on the eighteenth of May 2009. This will
3 refresh your recollection when I hand you this piece of
4 paper. Does this help you out? Is that a copy of
5 something from your file?

6 A: Yes it is.

7 Q: And you're familiar with that aren't you?

8 A: I am. Yes.

9 Q: And that is the information about the Kia Sportage and
10 what happened to it on April 18th, is it not?

11* A: Yes.

12 Q: It says supervisor; that's not your signature is it?

13 A: No.

14 Q: I couldn't tell from the writing. What happened to the
15 driver on this report, based on the report, of the Kia
16 Sportage?

17 A: The driver was arrested.

18 Q: And that was Kelvin B.

19* A: Yes, driver arrested.

20 Q: Is that Kelvin B.

21 A: Yes.

22 Q: Okay, what else happened to the vehicle?

23 A: Vehicle towed by the tow company.

24 Q: Okay, what else happened?

25 A: Followed the vehicle to headquarters to security.

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1 Q: So Anne Arundel County police actually seized the
2 vehicle and took it to headquarters?

3 A: Yes we did.

4 Q: And the photograph of the Kia Sportage in evidence,
5 which is shown in exhibits fifty-three, fifty-four and
6* fifty-five, I'm going to show you, is that the Kia
7 Sportage vehicle?

8 A: Yes it is.

9 Q: And that is in your custody?

10 A: Yes.

11 Q: Ya'll lock it up?

12 A: Yes..

13 Q: Cause that's evidence, is it not?

14 A: Yes.

15* Q: And whatever is in it is evidence, is it not?

16 A: Yes.

17 Q: And what you're seeking is evidence of a crime?

18 A: Yes.

19 Q: Now, what else, you took an inventory of the vehicle
20 just like you inventoried the apartment, did you not?

21 A: Yes.

22 Q: What did the Anne Arundel Police find in that vehicle?
23* The Kia Sportage that you had locked up on the
24 eighteenth?

25 A: You talking about when the vehicle was towed from the

1 lot or ...

2 Q: Was it inventoried?

3 A: Yes, we do an inventory when we tow a vehicle, we
4 always do an inventory.

5 Q: No, no, I'm talking about your report. Say what I'm
6 asking you about.

7 A: I didn't take any items from the vehicle on my search
8 warrant.

9 Q: Do you still have the piece of paper I handed you?

10 A: I do.

11 Q: Okay, well let me identify that as a copy of what's in
12 your file. That's an original, that's a copy of the
13 original?

14 A: Yes.

15 Q: Mark this for identification. Now, again, Detective
16 Luersen, I'm showing you what has been marked as
17 Defendant's exhibit number five for identification as
18 the Anne Arundel ...

19 Court Reporter: That's three.

20 Q: I'm sorry. What has been marked as Defendant's
21 exhibit for identification number three of the Anne
22 Arundel County Police, vehicle inventory report, right?

23 A: Yes.

24 Q: So what your office is doing is towing in and then go
25 over it very carefully looking for evidence?

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1 A: No, they don't.

2 Q: Well, they inventory it don't they?

3 A: This is just a pre-towing inventory. This officer did
4 a pre-inventory before it's towed.

5 Q: Well, does it say pre-inventory on it anywhere?

6 A: I know it's pre-inventory because this is what the
7 officers are required to do when they tow a vehicle.
8 It's done in the event of having a tow company take
9 something out a vehicle that they're not suppose to,
10 pre-inventory. That's why I was asking you if you were
11 referring to at the parking lot or at headquarters
12 processing there.

13 Q: Well, let me ask you this. When you took it in to your
14 police headquarters ...

15 A: Yes.

16 Q: ... and secured it, were these items located in the
17 vehicle?

18 A: We located ...

19 Q: No, I'm talking about the items that are listed. A T-
20 Mobile Samsung cell phone?

21 A: We located --- let me see if I can find it.

22 Q: I'll call your attention to the middle of the, two
23 thirds of the way down on that exhibit that I just
24 handed you.

25 A: Yes.

1 Q: I point it out right here. Under the report

2 A: Yes.

3 Q: Okay? What items were inventoried in the vehicle which
4 was, I showed you in the pictures, was a Kia Sportage,
5 what was it?

6 A: The items inventoried, you're referring to the pre-
7 towing right?

8 Q: Yeah, what was it?

9 A: Pre-towing was a T-Mobile Samsung, black leather
10 wallet, a GPS and grey Motorola cell phone.

11 Q: Okay, now a GPS unit, if it was used to come to
12 Kingstree, that information would be located within the
13 software of that GPS unit wouldn't it?

14 A: Yes.

15 Q: And you could call it right back up?

16 A: Yes.

17 Q: And you could find out if that Kia Sportage with that
18 GPS unit came to Kingstree, South Carolina couldn't
19 you?

20 A: The GPS unit was portable ...

21 Q: Yes.

22 A: So I could tell you that it was in there, but it was
23 portable and could be moved from car to car.

24 Q: Potentially a very valuable piece of evidence because
25 if it came to Kingstree, wouldn't it?

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1 A: Yes.

2 Q: Alright, if the Samsung T-Mobile cell phone was, it
3 could have been owned by Kelvin B. cause he was in
4 the car when he was arrested right?

5* A: Yes.

6 Q: So if that was his phone and it was seized, a cell
7 phone can be tested immediately to determine where it's
8 been in the last month or two can't it?

9 A: Yes.

10 Q: Matter of fact, you can take, and you've done this with
11 cell phones before in your business, as a detective.

12 A: Yes.

13* Q: That's a valuable piece of information, right?

14 A: Yes.

15 Q: It tells you text messages, if in fact text messages
16 were being sent?

17 A: Yes.

18 Q: And it can be used as evidence of a crime if somebody
19 is texting saying they going to kill somebody, you
20 could have found out if that phone would have been
21 analyzed.

22 A: If the cell company saved the text messages.

23 Q: You routinely subpoena cell phone records from T-Mobile
24 and every cell phone provider in the country don't you?

25 A: Yes.

1 Q: That's so important isn't it?

2 A: Yes.

3 Q: It's critical in a criminal investigation to seize that
4 phone and find out where it's been?

5 A: Yes.

6 Q: And if that phone as been to South Carolina, matter of
7 fact, if it was being used on the way to South Carolina
8 on the 4th and 5th of April of 2009, you would know it
9 in a flash by getting those records wouldn't you?

10 A: Yes.

11 Q: Matter of fact you could follow it down I-95 or however
12 it came because it would be pinging off the towers and
13 you could say, oh my goodness there it goes, right to
14 Kingstree, South Carolina and whoever had that cell
15 phone, we would know where it went, right?

16 A: Right.

17 Q: And if that and if he had that information we would be
18 able to know where that phone went and if it was Kelvin B.
19 phone we would know as well wouldn't we?

20 A: It's Richard Kelvin B.

21 Q: Sad part is that cell phone was just thrown away by
22 ya'll wasn't it?

23 A: We didn't throw the phone away.

24 Q: Well, you just disregarded, you didn't, you didn't send
25 it to Kingstree did you?

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1 A: We didn't request it in the search warrant. We didn't
2 request the cell phone or the GPS unit in the search
3 warrant request.

4 Q: You sent a copy down to Investigator Lail, didn't you?

5 A: A copy of the?

6 Q: In this report.

7 A: Yes I did.

8 Q: And she didn't call you up and say give me that cell
9 phone, we need it because we're investigating some text
10 messages?

11 A: I don't know if Investigator Lail had a copy of that
12 tow slip at the time that this was going on. That was
13 completed by a patrol officer who followed the vehicle
14 and probably turned it in after his shift. I don't know
15 if she would have gotten the information. She might
16 have asked ...

17 Q: She wanted you to impound that vehicle didn't she?

18 A: Yes.

19 Q: And she wanted evidence out of that vehicle didn't she?

20 A: Yes.

21 Q: Do we know whether or not Investigator Lail in fact,
22 checked that telephone out? The black Samsung, T-
23 Mobile, Samsung cell phone on this inventory?

24 A: I don't know.

25 Q: She could have gotten that phone couldn't she? You

1 don't know do you?

2 A: She couldn't have gotten the phone because we didn't
3 request it in our request for a search warrant.

4 Q: Yes. But that would have been an easy exercise wouldn't
5 it?

6 A: Yes.

7 Q: Taken about an hour or so? Right?

8* A: To get the phone?

9 Q: Yeah.

10 A: If it was in the initial search warrant it would have
11 been picked up with the search warrant.

12 Q: She can tell us what investigation was made about this
13 T-Mobile phone and whether or not it came to South
14 Carolina on April 4th and 5th, 2009 in the hands of
15 Kelvin B. can't she?

16* A: She can subpoena the request for cell tower hits, yes
17 she can do hits and registered owner information, she
18 sure can.

19 Q: Hugely important piece of evidence in a crime isn't it?

20 A: Yes.

21 Q: Since you've been in this courtroom have you heard
22 anything about cell phone records off of that cell
23 phone?

24 A: No.

25* Q: Thank you Detective Luersen.

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1 The Court: Re-direct.

2 RE-DIRECT OF DETECTIVE LUERSEN BY MS BARR

3 Q: Yes sir, just a few questions if I may. I want to be
4 clear. The particular cell phone that was noted on the
5 pre-seizure inventory report, that cell phone remained
6 in the vehicle?

7 A: It was a cell phone and a GPS, it shows there were two
8 cell phones.

9 Q: Two cell phones?

10 A: A Samsung T-Mobile and a grey Motorola.

11 Q: I'm sorry and that's important. The T-Mobile and what
12 was the second cell phone?

13 A: A grey Motorola cell phone.

14 Q: Your testimony was that no, as far as you know,
15 pursuant to your search warrant, no cell phone was
16 taken from that vehicle.

17 A: There was no cell phone taken from the vehicle.

18 Q: No cell phone taken from the residence?

19 A: No.

20 Q: And you said a Samsung T-Mobile phone?

21 A: Yes.

22 Q: Now, you were asked a question on cross examination
23 about whether or not you can subpoena test records,
24 text messages and your statement was if the cell phone
25 company saves the messages?

1 A: Yes.

2 Q: Explain that to me.

3 A: You're having, I'm not sure why --- certain companies
4 will not save text messages, although they'll save them
5 for a certain period of time. I don't know if it's
6 storage but some phone carriers will only save messages
7 for a certain period of time, others will not.

8 Q: Now what is the date you actually got the search
9 warrant?

10 A: May 19th

11 Q: May 19th?

12 A: I'm sorry, May 18th

13 Q: May 18, 2009?

14 A: Yes.

15 Q: Alright and were you aware --- and did you place in
16 your search warrant the day Kenyan Dorsey was killed?

17 A: Yes.

18 Q: And what was that date?

19 A: The date was April 5, 2009.

20 Q: So that was the difference of some five, six weeks?

21 A: Yes.

22 Q: Now, you testified that Investigator Lail was looking
23 for a Tawanda Allen and a Ronald Mack?

24 A: Yes.

25 Q: And you talked about a third person?

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1 A: Yes.

2 Q: You didn't know the full name of that third person?

3* A: No.

4 Q: Now, do you note in any of your records or the case
5 file, the use of the name Callie?

6 A: Yes.

7 Q: Was that the third person that was a person of
8 interest?

9 A: Yes.

10 Q: Okay. And in your search warrant, how did you
11* characterize the name of Callie in terms of that
12 relationship to Tawanda Mack? Tawanda Mack Allen?

13 Mr. Jenkinson: Your Honor, I'm going to object. This is not
14 proper re-direct.

15 The Court: The objection is overruled.

16 A: Your question was how did I, how did we connect Callie
17 to Kelvin B.

18 Q: How did you connect Callie or Kelvin B. to Tawanda
19 Allen. Who was she supposed to be to him or who was he
20 supposed to be to Ronald Mack? And let me, may I
21 approach? Let me just kind of help.

22 Mr. Jenkinson: May I see what she's showing him? I'm not
23 sure what that is. Your Honor I'm going to object to
24 the document because that's a document not into
25 evidence and that's a document not generated by this

1 witness. It's outside the scope of this trial.

2 The Court: Ms. Barr?

3 Ms. Barr: Your Honor I'm not trying to move it into
4 evidence. It's simply that he's the chief
5 investigator, Chief detective. I'm just asking him how
6 his agency identified Callie. I'm not trying to admit
7 these documents into evidence.

8 Mr. Jenkinson: I also object under the basis that again,
9 none of these issues have gone into a ...

10 The Court: Objection is overruled.

11 Q: You see what I'm talking about?

12 The Court: You pose a question, the witness has to answer
13 that question.

14 A: Officer Davis, who is one of our resource officer, he
15 was one of the first officers to identify with this
16 case. Mr. Mack was enrolled with his school. He was
17 actually the first contact with the Police Department
18 of South Carolina. We received a fax on the cover
19 sheet that Investigator Lail had he could possibly be
20 Tawanda's husband, Ronald's stepfather.

21 Q: Alright, alright. Now, I want to be clear because it
22 was asked by you was the cell phone seized. The cell
23 phone was not seized pursuant to search warrant?

24 A: No it was not.

25 Q: Okay thank you sir. That's all.

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1 The Court: Anything further of this witness?

2 Mr. Jenkinson: I do Your Honor. They raised the issue about
3 a second cell phone and actually I think ...

4 The Court: Any question for the witness?

5 Mr. Jenkinson: Yes sir. Was there a second cell phone?

6 A: There were two cell phones listed on this tow slip,
7 yes.

8 Q: The second cell phone, were you aware that that cell
9 phone was determined to be purchased on or after May 1st
10 a month after the murder?

11 Ms. Barr: Your Honor, objection the questions assumes facts
12 not in evidence.

13 The Court: Objection is overruled.

14 A: You're asking me if the cell phone ...

15 Q: The second cell phone. Not the Samsung, but the other
16 cell phone that you're referring to. Not the one that
17 was found in the Kia Sportage.

18 The Court: Pause. I overruled the objection. Are you
19 withdrawing the previous question or ...

20 Mr. Jenkinson: No sir, I thought you overruled the
21 objection?

22 The Court: I overruled the objection, so the witness can
23 answer. That doesn't mean ask another question.

24 A: I'm not --- as I said repeat the question.

25 The Court: The witness requested you to repeat the question.

1 Q: The second cell phone was not a Samsung was it?

2 A: I don't know. The cell phone that was recovered in the
3 vehicle. I don't know what that cell phone was. We did
4 not take any cell phone out of the vehicle.

5 Q: Okay, the Sam, the phone that was in the vehicle
6 inventory was a Samsung right?

7 A: A T-Mobile Samsung yes and also a grey Motorola cell
8 phone.

9 Q: Alright and the grey Motorola cell phone, were you
10 aware later that the grey Motorola cell phone, the
11 second phone, was purchased after May 1st? Well after
12 the crime?

13 A: No because we did not do any investigations on the cell
14 phones.

15 Q: If that phone was purchased after May 1 it wouldn't be
16 of any assistance whatsoever as to what occurred in
17 April 5 and 6 in Williamsburg county would it?

18 A: If the phone was purchased after the crime?

19 Q: Yeah.

20 A: No it wouldn't.

21 Mr. Jenkinson: That's it. Thank you Your Honor.

22 The Court: You may step down sir. Right at one o'clock.
23 Time to break for lunch. We're going to take one hour
24 for lunch and I need you back in the jury room at two
25 o'clock. You are not required to stay in the jury

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1 room, but if you leave you need to go all the way out
2* side the building and go wherever you want to go except
3 mill around the hallway or in front of the Court or
4 the courtroom. We've ordered lunch. Is it here?

5 Clerk: I haven't seen it.

6 The Court: Alright you can wait until lunch or come back
7 after you think it's here. Break for lunch, one hour.

8 (Lunch Break)

9 The Court: Alright, are we ready to go?

10 Ms. Barr: Yes sir.

11 The Court: Alright, bring them on.

12 (Jury enters courtroom 2:18)

13 The Court: The jury is back. Next witness?

14 Ms. Barr: We'll call Kelly Harding.

15 Bailiff: Place your left hand on the Bible and raise your
16 right hand. Do you solemnly swear or affirm that to
17 tell the truth, the whole truth and nothing but the
18 truth, so help you God?

19 Detective Harding: I do.

20 Bailiff: Please sit down.

21 DIRECT EXAMINATION OF KELLY HARDING BY MS BARR

22 Q: Ms. Harding, spell your name for the record please.

23 A: Hi, I'm Kelly Harding. I'm a Police officer, Corporal
24 in Anne Arundel County in Anne Arundel, Maryland.

25 Q: Alright and how long have you been in law enforcement?

1 A: April of 1998, so going on, this will be my thirteenth
2 year.

3 Q: And you're a certified police officer?

4 A: Yes I am.

5 Q: And you work as the same agency as Steven Luersen?

6 A: Yes.

7 Q: And ma'am, back in May of 2009 your agency assisted the
8 Williamsburg County Police Department in the
9 investigation of a murder involving Kenyan Dorsey. Is
10 that correct?

11 A: Yes.

12 Q: What was your job assignment at that time?

13 A: My assignment was to help execute search and seizure
14 warrants on [REDACTED] Apartment [REDACTED] located in
15 Glen Burnie, Maryland.

16 Q: Okay and did you in fact help in the execution of that
17 search warrant?

18 A: Yes I did.

19 Q: Now I'm going to show you what's been marked for
20 identification purposes as State's exhibit number
21 sixty-nine or seventy. Tell me if you recognize what's
22 depicted in those pictures.

23 A: Yes, I do recognize. These are our images of the
24 building and images of the door, the building that we
25 had a search and seizure warrant on.

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1 Q: At this time Judge, we would move numbers sixty-nine
2 and seventy into evidence.

3 Mr. Jenkinson: Without objection to seventy or sixty-nine.

4 The Court: Its' been admitted.

5 (State's Exhibits Sixty-Nine and Seventy were entered)

6 Ms. Barr: Thank you Your Honor.

7 Q: Let me give this back to you. I'm going to publish
8 State's sixty-nine. Can you see that from where you
9 are?

10 A: Yes I can.

11 Q: Tell the jury, now that I've published that exhibit,
12 what that shows.

13 A: That shows the outside of the building. [REDACTED]

14 Glen Burnie, Maryland.

15 Q: Alright and now I'm publishing State's seventy and tell
16 us what that is.

17 A: That is showing the door marked clearly with a E, E,
18 Edward, that we executed the search and seizure warrant
19 on.

20 Q: Okay. Now, tell us about the layout of the apartment.

21 A: The apartment is actually located in a community called
22 Corville(sp). The apartment itself, I believe is a two
23 bedroom apartment. There's a living, dining room area
24 and a kitchen and bathroom and I believe two bedrooms.

25 Q: Okay. Alright now, can you describe the contents of

1 the first bedroom and second bedroom. Was there a
2 difference in the sizes or what was inside those
3 bedrooms in terms of furnishings?

4 A: There was a difference. We looked in the bedrooms. One
5* was a grown up bedroom, one was for kids based on,
6 based on toys and the bedding. In one bedroom there
7 were multiple beds.

8 Q: Like bunk beds or something?

9 A: Like bunk beds.

10 Q: Okay, go ahead.

11 A: And the master bed what we labeled bedroom one there
12 was one bed.

13 Q: Okay, alright. And could you, did you find anything
14 inside what you describe to be the master bedroom that
15 would indicate who that bedroom belonged to, or who
16 slept there?

17 A: Yes.

18 Q: Okay, tell the jury about that.

19 A: In the master bedroom or what we refer to as bedroom
20 one. It was clear a man and a woman were ...

21 Mr. Jenkinson: Objection to what is clear.

22* The Court: The objection is overruled.

23 Q: You may proceed Detective.

24 A: A man and a woman lived in that room. We found men's
25 clothing and women's clothing. Men's deodorant,

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1 women's deodorant, such things that would indicate that
2 a woman and a man lived in that one.

3 Q: Alright, now I'm going to hand you what's been admitted
4 as State's Exhibit number fifty-six. Tell me if you
5 recognize what's in that photograph.

6 A: I do recognize it.

7 Q: Okay, tell the jury what it is.

8 A: This is a picture of the master bedroom that we labeled
9 as bedroom one.

10 Q: And I'm going to publish fifty-six and Ms. Harding I
11 need you to come down. Okay, now you indicated that
12 you found men's clothing and women's clothing in the
13 apartment?

14 A: Yes.

15 Q: Okay, alright can you tell us, let me push it up a
16 little bit more. Can you kind of give us a general
17 description of the items that are noted in what you
18 call the master bedroom? You can just point.

19 A: Thanks. Just in this photograph alone, there's a
20 baseball cap; there's, I believe these are house
21 supplements like Creatine.

22 Q: What kind of supplements?

23 A: Creatine health supplements, vitamin supplements. That
24 are generally not used by women.

25 Q: Okay.

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1 A: I believe this is a picture, I'd have to see it a
2 little bit closer ...

3 Q: Okay.

4* A: ... of deodorant. As far as just in this picture,
5 those would be the distinguishing items.

6 Q: Okay, alright and I'm going to hand you what's been
7 admitted as State's number fifty-eight and I'm going to
8 publish it. Is that a different view of the same
9 bedroom?

10 A: Yes it is.

11 Q: Okay now tell us the significance of the items in that
12 particular photograph.

13* A: In this particular photograph, which is just another
14 view, there's stuffed animals, in the corner over here
15 there's laundry and the laundry basket contained both
16 men and women's clothing and there's flowers as well
17 as, I believe these are name tags.

18 Q: Alright, now, what is that there in the photograph?

19 A: That's a stuffed animal.

20 Q: Okay, alright, tell us where the door is to the
21* residence, to that, to the bedroom.

22 A: This is the door, this is the doorframe and this is the
23 door opened.

24 Q: Okay. Alright and as it relates to the previous
25 exhibits, you talk about you saw a baseball cap and

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1 what you describe as some health supplement, how would,
2 what part of the picture would that be reflected in if
3 the picture were large enough to include it?

4 A: It seems that this part of the room was the male's room
5 and the top part of the room was the female's room.

6 Q: Alright, let me hand you State's fifty-seven that's
7 been admitted I'm going to publish State's fifty-seven.
8 Tell the ladies and gentlemen of the jury what's
9 depicted in that photograph.

10 A: Okay there's an ashtray with what appears to be black
11 and mild.

12 Q: Black and mild?

13 A: Black and mild cigars. I say Black and Mild because
14 black and mild are specific in that area, in our area,
15 that when you smoke them, you smoke them with a cigar
16 mouthpiece, this white clip that's shown right here.

17 Q: Okay. Now as it relates to this particular exhibit, is
18 that what you describe as the man's side of the room or
19 the woman's side of the room?

20 A: This would be the night stand on the man's side.

21 Q: Alright, go ahead and tell us what else is in that
22 photograph.

23 A: This is a picture of Bud Light. It looks like a pair
24 of Bud Light boxer shorts.

25 Q: Okay.

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1 A: Also these are t-shirts that would generally be worn by
2 men.

3 Q: Okay.

4 A: And there is some Creatine. Creatine is generally
5 taken by men.

6 Q: For what? Do you know?

7 A: For weight lifting; it's a dietary supplement.

8 Q: Okay

9 A: As well as there's an inhaler.

10 Q: As it relates to that particular photograph, where
11 would the bed be?

12* A: The bed is on this side.

13 Q: Alright, now you were present in court when Detective
14 Luersen testified about certain documents that contain
15 the name Tawanda Mack Allen or Tawanda Mack and Kelvin B.

16 You were present when he testified about that?

17 A: Yes I was.

18 Q: Now as it relates to the Suntrust bank card that was
19 admitted, was that document found inside that bedroom?

20* A: Yes.

21 Q: Alright what about the document that related to the
22 State of Kansas reinstating Kelvin B. driving
23 privileges? Was that found in the bedroom?

24 A: Yes it was.

25 Q: Where in the bedroom?

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1 A: The Suntrust and the Kansas City was found in this
2 night stand.

3 Q: Okay, what about the letter from the ice cream company.
4 The employment letter, where was that found?

5 A: That was actually found on the dresser across the room.

6 Q: Alright, I'm going to publish again now number fifty-
7 eight. Is that the dresser that you're talking about
8 that that letter was found?

9 A: Yes ma'am.

10 Q: Alright now while we have that photograph picked up,
11 kind of tell me what those little gold items are in
12 that photograph.

13 A: Those are ammunition. Those are nine millimeter
14 ammunition.

15 Q: Found in the same location where the Suntrust card was?

16 A: Yes ma'am.

17 Q: Okay, alright let me let you have a seat just a moment.
18 As part of the search warrant, you all were looking for
19 any twelve gauge shotguns?

20 A: Yes.

21 Q: Nine millimeter handguns?

22 A: Yes.

23 Q: Shotgun shells?

24 A: Yes.

25 Q: Nine millimeter rounds?

1 A: Yes.

2 Q: And did you find any of those items that I've just
3* described, inside the residence?

4 A: Why yes we did.

5 Q: Okay in which room did you find those items?

6 A: We found them in the master bedroom?

7 Q: Okay. Alright I'm particularly interested in this
8 exhibit and Madam court reporter, what I'll do is keep
9 that in the box. If you could mark that for i.d. for
10 me. Ms. Harding I'm going to hand you what's been
11 marked for identification purposes State's exhibit
12 seventy-nine and ask you if you recognize this
13 particular item?

14 A: Yes I do.

15 Q: How is it that you can recognize it?

16 A: Well, whenever we recover evidence ...

17 Ms. Barr: Don't print over there.

18 A: When we recover evidence, we label it ...

19 Q: Yes.

20 A: ... with our case numbers immediately and I also
21 recognize this because there's no serial numbers.

22 Q: There's no serial numbers on that shotgun?

23 A: No.

24 Q: Okay, alright now where did you find this particular
25 weapon?

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1 A: I found that underneath the mattress on top of the box
2 spring.

3 Ms. Barr: Alright, Judge at this time we move State's
4 exhibit number seventy-nine into evidence.

5 The Court: What says the defense?

6 Mr. Jenkinson: No objection.

7 The Court: It's admitted.

8 (State's Exhibit Number 79 was entered)

9 Q: Alright I need you to come down from the hot seat again
10 for me, please.

11 Q: You actually found that weapon?

12 A: Yes.

13 Q: Alright, and was the location of the weapon
14 photographed before it was removed from its original
15 location?

16 A: Yes.

17 Q: Alright, I'm going to show you what's been marked as
18 State's fifty-nine. I think it's admitted without
19 objection. State's number fifty-nine, do you recognize
20 that?

21 A: Yes I do.

22 Q: Alright and let me publish it. Tell the ladies and
23 gentlemen of the jury what that shows.

24 A: This is the shotgun. This is the box spring and this
25 is me holding up the mattress so that our evidence guy

1 can take the photograph.

2 Q: Okay, as it relates to dimension and portions where
3 would the headboard be and where would the end of the
4 bed be?

5 A: This is the headboard.

6 Q: Okay.

7 A: This is the footboard and this is the night stand from
8 the previous shots.

9 Q: Alright is that the same night stand in which you
10 recovered the Suntrust card and the nine millimeter
11 round?

12 A: Yes.

13 Q: Alright as it relates to the position of the shotgun,
14 would it been on the side of, you presume where the
15 woman slept or where the man slept?

16 A: Where the man slept.

17 Q: Alright, going to hand you State's exhibit seventy-one,
18 which is for i.d. Tell me if you recognize that.

19 A: Yes I do.

20 Q: And tell me what it shows.

21 A: This is basically another photograph, a close up
22 photograph of the same shotgun.

23 Q: Alright and let me make sure I stand corrected, I think
24 I called the last exhibit number fifty-six and I
25 believe it's number fifty-nine in the white is that

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1 right?

2 A: Yes, fifty-nine in the white.

3 Q: Alright, and this is simply a closer up view of that
4 angle?

5 A: Yes.

6 Q: Okay Judge, we would move State's exhibit number
7 seventy-one into evidence at this time.

8 The Court: What says the defense?

9 Mr. Jenkinson: Without objection to seventy-one.

10 The Court: Without objection.

11 **State's Exhibit Number 71 was entered)**

12 Ms. Barr: Thank you Judge.

13 Q: Alright and for the benefit of the jury, would you
14 please again tell us what's shown?

15 A: This is the shotgun, but a closer view. The shotgun in
16 the previous one and the shotgun that was displayed
17 here.

18 Q: Now, I'm going to hand you what's been marked for
19 identification purposes as State's exhibit seventy-two
20 and ask if you recognize what's in that photograph?

21 A: Yes, I do recognize it.

22 Q: And how do you recognize it and what does it show?

23 A: It's a closer image of the shotgun with the closer
24 image showing that the serial numbers have been
25 obliterated?

1 Q: Okay, they've been filed off?

2 A: Yes.

3 Q: Alright, Judge we would move State's exhibit number
4 seventy-two in at this time.

5 The Court: What says the defense?

6 Mr. Jenkinson: Okay.

7 The Court: It's admitted.

8 Q: Alright and can you show us the area in which you would
9 expect the serial numbers to be as it relates to that
10* weapon.

11 A: This, this is normally where the serial numbers would
12 be found. This is the butt of the gun, as you can tell
13 by the wood and normally serial numbers are found in
14 this area.

15 Q: Okay.

16 A: You can tell by the photograph, you can't see the
17 serial numbers at all.

18 Q: Is there any significance to a firearm having the
19 serial number on it?

20 A: Serial numbers is how we in law enforcement can track
21 and trace firearms. Without a serial number we can't
22 track it or trace it.

23 Q: Okay. Alright I'm going to hand you State's seventy-
24 three that's marked for i.d. Tell us if you recognize

25

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1 it.

2 A: I do recognize it.

3 Q: And what is it?

4 A: It's a close up image of the shotgun showing the model,
5 the revelation, the automatic.

6 Q: Okay. Alright, move to introduce at this time Judge.

7 Mr Jenkinson: No objection.

8 The Court: Alright.

9 Q: Explain to the jury that exhibit.

10 A: Revelation is the model of the shotgun and then the
11 word shotgun is also written right here.

12 Q: Revelation, automatic shotgun?

13 A: Yes.

14 Q: Okay. Alright, now I'm handing you what's been marked
15 for identification as State's number seventy-four.
16 Tell us what's that in that photograph?

17 A: This is a closer photograph of the night stand. The
18 same night stand that we showed in previous photographs
19 that were to the left of the bed, if you're facing the
20 bed.

21 Q: Okay, if you're facing the bed?

22 A: If you're facing the bed, to the left.

23 Q: To the right?

24 A: To the right, sorry. The same night stand on previous
25 photographs. It's a closer picture up, it's a closer

1 picture of the nine millimeter rounds that were
2 recovered, as well as, some shotgun shells.

3 Q: Okay.

4 A: We would have photographed this before we actually
5 removed them from the drawer.

6 Q: Removed the ammunition from the drawer?

7 A: Right.

8 Ms. Barr: Okay. We move State's seventy-four into evidence.

9 Mr. Jenkinson: No objection.

10 The Court: In without objection.

11 Q: I'm going to publish seventy-four and call attention to
12 the jurors, tell them the particulars of where the
13 ammunition was found and identify that for them please.

14 A: This is a nine millimeter round, this is a nine
15 millimeter, this is a nine millimeter, this is a nine
16 millimeter, this is a shotgun shell and this is a shot
17 gun shell.

18 Q: Okay and we see some papers up in here and I believe
19 that you've already testified that some of the
20 documents bearing the Defendant's name was in that same
21 drawer?

22 A: Yes.

23 Q: Okay.

24 A: This appears to be an I-pod holder. Usually, the kind
25 that only goes around your arm when you are working

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1 out. And some miscellaneous business cards.

2 Q: Okay. Alright going to hand you what's been marked for
3 identification as State's number seventy-five. You
4 talked about earlier, photographing the nine millimeter
5 rounds and the shotgun shells before you took them out
6 of the drawer. Tell me about exhibit number seventy-
7 five.

8 A: Seventy-five is a close up shot of all of the nine
9 millimeter rounds together.

10 Q: Okay.

11 A: Out of the drawer.

12 Ms. Barr: Alright, we move State's exhibit seventy-five into
13 evidence.

14 Mr. Jenkinson: No objection.

15 The Court: No objection into evidence.

16 Ms. Barr: And Judge I think, maybe to make this go smoother;
17 it's my understanding Mr. Jenkinson doesn't have
18 any objection to these photographs.

19 Mr. Jenkinson: No objection.

20 Ms. Barr: And Judge, for the record, he has no objection to
21 seventy-five, seventy-six and seventy-seven.

22 The Court: Okay, in without objection.

23 (State's Exhibit Numbers Seventy-five, Seventy-Six, Seventy-
24 Seven is entered)

25 Q: Alright, going to publish what's been admitted as

1 seventy-five. Tell the jurors about that particular
2 photograph.

3 A: These are the close up, this is a close up picture of
4 all of the ammunition that we found in the night stand.
5 Just to simplify, we pulled out the night stand and
6 then took a picture of it and I believe, it's ten
7 rounds. One, two, three, ten rounds of nine millimeter.

8 Q: What surface is that on?

9 A: This is the mattress.

10 Q: Okay, you just simply placed it on the mattress and
11 photographed it?

12 A: Yes.

13 Q: Is the same thing true as it relates to State's
14 seventy-six?

15 A: Yes, these would have been the three shotgun shells
16 that were found in the night stand.

17 Q: Okay and again on the surface of the mattress?

18 A: That's the mattress.

19 Q: Okay, now let me show you seventy-seven.

20 A: Okay.

21 Q: Alright I'm going to publish State's exhibit number
22 seventy-seven. Tell us about that particular exhibit.

23 A: This particular one would have been the one, it's
24 photographed separate because this is one that was
25 loaded inside a weapon.

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1 Q: Okay, you took that out or who took it out?

2 A: The evidence technician took it out.

3 Q: Alright. Now you were present in court when Detective
4* Luersen talked about recovering what looks like to be
5 a light bill in the name of Tawanda Allen?

6 A: Yes.

7 Q: Alright and that item was seized by you all pursuant to
8 a search warrant?

9 A: Yes.

10 Q: Alright is that the original bill that was taken out of
11 the apartment?

12 A: Yes it is.

13 Q: And, let me get that number. Judge we would move
14 State's exhibit eighty in as evidence.

15 Mr. Jenkinson: Objection as to relevance of eighty.

16 The Court: Ms. Barr?

17 Ms. Barr: Judge, we would assert that this document, as well
18 as other documents have been established as the co-
19 defendant's ownership of the residence.

20 The Court: Let me see it.

21 Ms. Barr: Yes sir.

22 The Court: Overrule that objection.

23 (State's Exhibit Number Eighty was entered)

24 Q: And Ms. Harding you can stay right where you are. Is
25 that the electric bill that we're talking about?

1 A: Yes, in Maryland, our primary gas and electric provider
2 is known as GE.

3 Q: Right here?

4 A: Yes.

5 Q: And does it show the name of the co-defendant Tawanda
6 M. Allen, as well as the address?

7 A: Yes it does.

8 Q: Alright now, did you also search the second bedroom?

9 A: Yes.

10 Q: Alright, and did you find any items, well, let me ask
11 it this way. Did you seize any items in that second
12 bedroom?

13 A: Yes we did.

14 Q: Okay. Tell us what you seized from that second bedroom.

15 A: From the second bedroom, we seized a spiral notebook
16 and a class schedule issued to Mr. Ronald Mack.

17 Q: Alright now.

18 A: The spiral notebook and there was a composition that
19 were together.

20 Q: Alright and I'm going to hand you what's been marked
21 for i.d. as State's eighty-one and eighty-two. Are
22 those the items that you're referring to?

23 A: Yes they are.

24 Q: Alright and those were found in the second bedroom, not
25 the master bedroom?

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1 A: That's correct.

2 Q: Judge we would move State's exhibit eighty-one and
3 eighty-two into evidence at this time.

4* Mr. Jenkinson: I just object to relevance.

5 Ms. Barr: Let me let the Judge look at it.

6 The Court: Ladies and gentlemen, I'm going to have you go
7 in your jury room for just a few minutes.

8 (There was a jury break 2:51)

9 The Court: The objection is relevance Ms. Barr.

10 Ms. Barr: Judge, I'm offering the exhibits to establish that
11 the defendant, Ronald Mack, was in the second bedroom
12 as opposed to what we consider the master bedroom,
13 which was where the murder weapon was found.

14 The Court: Response Mr. Jenkinson?

15 Mr. Jenkinson: She's already testified she found the class
16 schedule there, his class notebooks. I mean obviously gang
17 related. You know, I just don't see how it's relevant to the
18 case here. Based on the evidence and testimony presented, I
19 mean, it's bedroom number two. I mean it's been testified to,
20 you know, it's just identification a day later and it's just
21* not relevant. It's just stuff that was found there and it
22 has nothing to do with the charges in this case.

23 Ms. Barr: And, sorry. And Judge, we would certainly submit
24 that the whole motive regarding why this child was shot was
25 because Ronald Mack was a member of a gang and that's just

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1 how they dealt with people they had disagreements with and
2 so certainly that would corroborate the motive as we see it
3 and corroborate his testimony regarding being in a gang.

4 The Court: You're going to establish that motive that you
5 think exists through what witness or through how?

6 Ms. Barr: Judge, I think it's a inference in the evidence
7 that and we can argue in closing. He's admitted that
8 he was in a gang. I even think that Mr. McClary, if
9 I'm not mistaken, said that he was in a gang.

10 The Court: Alright.

11 Mr. Jenkinson: And I would assert, there's no proof that
12 these are Ronald's notebooks. There's nobody to
13 authenticate that they are his. They were just found
14 there. I can write anybody's name in a notebook,
15 anybody can.

16 The Court: Well, I'm going to admit them over objection.

17 Mr. Jenkinson: Also, Your Honor, this contains a lot of
18 stuff I haven't sat down and read and I'm not sure
19 what, there's some writing in there.

20 The Court: It's all gang stuff, seems to me, but if you
21 can, we'll take a break and let him look at it and see
22 if you have anything else to say about it.

23 Mr. Jenkinson: Okay.

24 The Court: Alright.

25 (There was a Court break)

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1 Mr. Jenkinson: After carefully examining it, and I refer to
2 eighty-two first, there is nothing in here, other than
3 Ronald, Ron Mack dated November 2, 2007, that's all.
4 Then when you, it also has some inflammatory language
5 and I particularly refer to and we don't know when it
6 was written says that Leave da crab ass nigger in da
7 funeral home and I don't want that kind of connotation
8 is, but again, it's one kind of writing here and then
9 when you compare it to the eighty-one, eighty-one has
10 no name in it whatsoever. And the handwriting in
11 eighty-one is completely different from the handwriting
12 that appears in eighty-two indicating ownership
13 possibly by others. Now, understand there's two other
14 younger people living in this house as well and we
15 don't know who's it is cause it's not identified. It's
16 just remote and not relevant. I understand what their
17 position is, but who's to say this is Ronald Mack? This
18 appears to be two different people. I'll pass it up
19 for the Court's examination and again, not relevant,
20 inflammatory and perhaps prejudicial outweighing any
21 probative value.

22 The Court: Ms. Barr?

23 Ms. Barr: Judge, clearly the particular exhibit, and I don't
24 remember the number, that has Ronald Mack's name on it,
25 I think that's clear in establishing that he was in

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1 that particular bedroom as opposed to the master
2 bedroom, or what we call is the master bedroom. I
3 don't have any further argument as it relates to the
4 main exhibit, particularly the one that his name is in
5 it. I think it's clearly relevant to establish that
6 one, that he was in a gang, which corroborates his
7 earlier testimony and two, to establish that that was
8 his bedroom as opposed to the master bedroom.

9 The Court: The State has the burden of proving
10 conspiracy, putting the co defendants together, putting
11 the defendants together with the murder weapon. Ronald
12 Mack nor Mr. Bowen, neither one and they were not ---
13 they were arrested outside, of course at this point the
14 reference to gang type symbols and all as it relates to
15 Ronald Mack must be weigh to, Bowen, weighed toward the
16 probative value of the evidence and the Court certainly
17 has to consider that and also the book that Mr.
18 Jenkinson says is in the different handwriting and that
19 one where the word composition is struck through
20 leaving the word Compton, and the Court would take
21 judicial notice that is a city in Southern California.
22 At this point I'm going to admit number eighty-two
23 containing Ronald Mack's name, and leave for
24 identification at this time number eighty-one for
25 identification purposes.

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1 Ms. Barr: Yes sir. I've never had this happen before.

2 The Court: Yeah, take a three minutes stretch.

3 (There was a court break)

4 (Jury enters courtroom 3:09)

5 The Court: Alright the one exhibit is in, number,
6 exhibit admitted is number ...

7 Ms. Barr: Eighty-two.

8 The Court: Eighty-two.

9 Q: Thank you Judge. Ms. Harding I'm going to show you
10 what's been admitted as State's number eighty-two. Is
11 that the notebook that you found in bedroom number two?

12 A: Yes it is.

13 Q: Alright and is there anything that is contained that is
14 in that notebook that would identify with any of the
15 defendants in this case?

16 A: Yes there are.

17 Q: Alright tell us about that.

18 A: In public school, you need a hall pass to walk through
19 the halls. At the beginning of given a academic plan.
20 It's a little spiral notebook and kids loose it so when
21 they do they are still required to carry some sort of
22 notebook and when you're granted a hall pass it's put
23 in the notebook.

24 Q: Okay. And is that a hall pass for Ronald Mack?

25 A: Yes it is. It reads pass to guidance, with the name

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1 Ronald Mack and then there's some sort of signature.

2 Q: I'm just going to publish just that part. Is that what
3 you refer to as pass to guidance, Ron Mack?

4 A: Yes ma'am.

5 Q: Now there's also some other additional information
6 contained within this particular exhibit. Tell us what
7 the additional information is in that particular
8 exhibit.

9 A: In the book there's a lot of writing and the writing
10 appears to be gang writing.

11 Q: Okay.

12 A: For instance ...

13 Mr. Jenkinson: I'm not sure, may I see what she's referring
14 to?

15 The Court: Yes.

16 Mr. Jenkinson: Your Honor, she is, with objection because
17 her impressions of what somebody else wrote or whatever
18 appears there. It speaks for itself.

19 The Court: Ms. Barr?

20 Ms. Barr: Judge, she can talk about it since it's in
21 evidence. I'm not asking for her impressions, I'm just
22 asking what it reads.

23 The Court: The objection is sustained as to foundation.

24 Q: The particular item that you're looking at, is that
25 contained in the notebook that's been admitted as

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1 State's exhibit number eighty-two?

2 A: Yes.

3 Q: And is that the same notebook containing the hall pass
4 for Ronald Mack?

5 A: Yes.

6 Q: And you testified there is what is gang related...

7 Mr. Jenkinson: I'm going to object to that, because there's
8 no basis for that, no foundation was laid for that
9 conclusion.

10* The Court: Objection is sustained Ms. Barr.

11 Ms. Barr: Yes sir.

12 Q: Let me do this, Ms. Harding, let me get you to step
13 down please and bring the exhibit with you. Now, let
14 me publish certain relevant portions of it. Now, first
15 of all, before doing that, do you have any familiarity
16 as a person in law enforcement with gangs in Maryland?

17 A: Yes I do.

18* Q: And tell the Court the extent of your training or the
19 extent of your involvement as a police officer with
20 gangs and the information that you have about it.

21 A: I've been trained. I've received over forty hours of
22 training in gang, as far as identifying gang writings,
23 gang tattoos, gang colors, as well as interviewing gang
24 members. I've also received training in how to
25 investigate gangs as well as I've arrested and

1 successfully prosecuted numerous gang members, bloods,
2 crypts, within Anne Arundel County for an entire
3 relevance, the entire spectrum, every and all crime.
4 Murder, murder for hire, robberies, possession of hand
5 guns, drug related charges. Through my thirteen years
6 I've had the privilege of dealing with multiple gang
7 members and have been taught to recognize gang writing,
8 as well as, how to investigate gangs.

9 Q: Alright, and ma'am when you appeared in South Carolina
10 in the trial of Tawanda Mack Allen, did you testify
11 regarding your experience and your training as it
12 relates to the detection of gang writings and so forth?

13 A: Yes I did.

14 Q: Alright, now , having done that, I'm going to publish
15 certain portions of State's exhibit number eighty-two
16 and ask the witness ...

17 Mr. Jenkinson: Your Honor, I'm going to object at this
18 point on this basis that there is no authentication as
19 to who wrote this, the origins whatsoever.

20 The Court: Objection is overruled.

21 Ms. Barr: Now, kind of show us, first of all, have you
22 reviewed that?

23 A: Yes I have.

24 Q: And of course, you testified and this was taken from
25 the second bedroom?

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1 A: Yes.

2 Q: Alright, based upon your training, your experience in
3 dealing with detecting gangs and gangs activities, does
4 this appear to be gang writing?

5 A: Yes it does.

6 Q: Alright tell us why you say that.

7 A: Immediately because of the word demu. Demu is
8 associated with the Blood gang as far as one of the
9 original members.

10 Q: Okay.

11 A: This is a star on all, the star has five points, as
12 indicated L-O-O. What it would normally is B-L-O-O-D,
13 blood. As well as five popping, meaning five stars,
14 the word, you know, blood is five letters. Six
15 dropping, it basically is saying, other members if
16 you're not Blood, then we're out to get you and right
17 here where the word 'crab' it's actually with a c, but
18 if you notice the c is crossed out because one of the
19 opposing gangs of a Blood is a Crypt, so whenever you
20 see a c, you're suppose to cross the c out. Just as
21 this word right here, where it says can't, the word,
22 the 'c' is crossed out, meaning that the person writing
23 this is associates their self with Blood, not Crypts.

24 Q: Okay. Let me move down a little bit. Tell us about
25 the significance of the lower portion of that exhibit.

HEARING

411

1 A: Well right here it says, 'Rep Blood', meaning, where it
2 says Rep Blood for life. I represent Blood for life,
3 I am with the Blood gang for life, that's who I
4 associate with.

5 Q: What about here, 'Blood of Blood, flesh of flesh'?

6 A: 'Blood of Blood, flesh of flesh', red flags. A red
7 flag indicates red colors, you know, red bandanas, wear
8 red, red shirts, you know. Identify yourself by
9 wearing red. 'Blood of Blood' means basically, if
10 you're a Blood, then if you are a Blood, then I
11 identify with you as well, because I am also a Blood.

12 Q: Okay.

13* A: \ And as well as, as, the writing continues every time
14 there's a 'c'. Right here where it says, 'Never
15 falling, never blocking', the 'c's are of course,
16 crossed out. And then if you notice, whenever there's
17 a 'b', there's kind of like a and accent, you know,
18 because 'b', the beginning letter of 'Blood', so their
19 kind of giving it props, so and then in this word, for
20 instance, 'black', the 'c' is crossed out and you may
21 notice that the 'c's are crossed out with pitchforks.
22 Pitchforks are also another identifying gang, not
23 terminology, but gang symbolism. As well as here, all
24 the 'c's are crossed out with pitchforks.

25 Ms. Barr: Okay. Judge at this time we offer the witness an

HEARING

412

1 expert in the field of gang detection, activity and writing.

2 The Court: Says the defense.

3 Mr. Jenkinson: Based on testimony, yeah.

4 The Court: So admitted.

5 Q: Alright, now, Ms. Harding, do gang members have a code
6 of honor, if you will?

7 A: Yes.

8 Q: As it relates to snitching, what we call snitching.
9 Tell me, when I say snitching, what does that mean to
10 you?

11 A: Snitching is when you tell on somebody.

12 Q: Okay. Alright and what is the, and you are, during the
13 course of your career, of course you are familiar with
14 the gang activities and code of honor as it relates to
15 Bloods? I'm sorry. As it relates to your training in
16 the background, what is the code of honor among gang
17 members as it relates to snitching?

18 A: It's known, it's a well known fact that if you tell on
19 other Blood members, that there will be a violent
20 recourse.

21 Q: You mentioned that, you know, one of the ways that
22 Blood members identified themselves, is they have on
23 red.

24 A: Yes.

25 Q: Is that correct?

1 A: Yes.

2 Q: I'm going to hand you what's been admitted as State's
3 sixty-seven. What color is that person's shirt?

4 A: Red.

5 Q: Is it a dark red or light red?

6 A: I would say bright red.

7 Q: Alright, you've also talked about a class schedule
8 being found out of bedroom number two?

9 A: Yes.

10 Q: I'm going to hand you up what's been marked for
11 identification purposes as State's eighty-three. Is
12 that a copy of that class schedule that was taken out
13 of bedroom number two?

14 A: Yes it is.

15 Q: Who's class schedule is that?

16 A: Issued to Ronald H. Mack.

17 Q: What's the date on it?

18 A: May 15th, 2009.

19 Q: What's the school?

20 A: It doesn't say the school, but I know because my child
21 attends Anne Arundel County public school.

22 Q: Okay.

23 A: This is an example of a Anne Arundel County school ...

24 Q: Okay.

25 A: ... class schedule.

HEARING

414

1 Ms. Barr: Judge, we would move State's exhibit eighty-three
2 into evidence at this time.

3 The Court: Says the defense?

4 Mr. Jenkinson: We would like to see the original of it. We
5 object at this time.

6 Ms. Barr: Judge, I don't have the original.

7 The Court: It's admitted over objection.

8 (State's Exhibit Number 83 was entered)

9 Q: Ms. Harding I'm going to let you stay right where
10 you're at. I'm going to publish it, oh I'm sorry.
11 Alright, am I pointing to Ronald H. Mack's name?

12 A: Yes.

13 Q: Ma'am?

14 A: Yes.

15 Q: And that's the date Friday, May 15th, 2009?

16 A: Yes.

17 Q: And this is the school schedule that you talked about?

18 A: Yes.

19 Q: Just a few more questions and I believe I'll be done.
20 You told me earlier that you were looking for twelve
21 gauge shotguns, nine millimeter handguns, shotgun
22 shells, projectiles and nine millimeter rounds?

23 A: Yes.

24 Q: Now, did you find any handguns, shotguns, any weapons
25 of any kind in bedroom number two?

1 A: No we did not.

2 Q: Any ammunition found in bedroom number two?

3 A: No ma'am.

4 Q: And bedroom number two was the bedroom that you found
5 the school schedule in, as well as, the notebook?

6 A: Yes.

7 Q: Other than the notebooks and the school schedule, was
8 anything else seized out of bedroom number two?

9 A: No.

10 Q: Was there, you know, any firearms found in any other
11 location, other than in the master bedroom?

12 A: No.

13 Q: Any ammunition found in any other location, other than
14 the master bedroom?

15 A: No.

16 Q: Alright, now, we talked about this issue about the cell
17 phone. Detective Luersen testified that there were two
18 cell phones found in the vehicle?

19 A: Yes.

20 Q: Can you explain the, what happened to those cell
21 phones, kind of to us?

22 A: Yes. We have what is called a tow slip. It's not an
23 official. The officers stopped Mr. Mack and Mr. Bowen
24 as they were getting in the car. Before Mr. Mack and
25 Mr. Bowen were detained and removed from the car, the

HEARING

416

1 officer would have looked in and glanced in and quickly
2 jotted down the items that were in the car that were
3 visible.

4 Mr. Jenkinson: Your Honor, I'm going to object to her
5 characterization unless she was there and saw what the
6 officer did. She's assuming what she is stating, she
7 was not present...

8 The Court: Ms. Barr.

9 Ms. Barr: Judge, I'll guide her in the right direction.

10 Q: Would it have been ...

11 Mr. Jenkinson: Your Honor, we ask that it be stricken.

12 The Court: What you're asking, you're rephrasing the
13 question or ...

14 Ms. Barr: Yes sir.

15 The Court: Alright. The jury will disregard the last
16 answer.

17 Q: Would it have been standard for officers, are they
18 trained to note particular items in the vehicle?

19 A: Yes.

20 Q: Now when Kelvin B. was eventually arrested by the
21 Anne Arundel County Police Department, did he have a
22 cell phone in his possession?

23 A: Yes he did.

24 Q: What kind of cell phone was it?

25 A: I believe it was a T-Mobile.

HEARING

417

1 Q: Now, Detective Luersen testified that there was a
2 Samsung T-Mobile taken and a Motorola phone taken. Or
3 not taken, I shouldn't say taken. He noted those two
4 type cell phones.

5 A: The officer completes the tow slip noticed.

6 Q: Alright I understand. And Mr. Bowen had at least one
7 cell phone in his possession when he was arrested by
8 the police?

9 A: Yes.

10 Q: Alright let me hand you what's been marked as State's
11 number seventy-eight.

12 Mr. Jenkinson: Your Honor on number seventy-eight, there's
13 been no basis or foundation as to relevance and to this
14 I'm going to object.

15 Ms. Barr: Judge, I had an agreement with counsel last week
16 that all photographs from Maryland he'd stipulate to
17 their admissibility and put that in writing. That was
18 one of the Maryland photographs. I didn't think we'd
19 have this as an issue.

20 Mr. Jenkinson: I did.

21 The Court: Alright, it's in without objection.

22 Q: Thank you. I'm handing you what's been ...

23 The Court: If that's the case then why are you admitting
24 them through dribs and drabs as we're sitting here as opposed
25 to just pressing on?

HEARING

418

1 Ms. Barr: Well, Mr. Jenkinson said at one point, that he may
2 or may not object to certain ones and that's why we're kind
3 of dealing with the kind of scenario Judge.

4 Q: I'm going to hand you State's number seventy-eight.
5 Tell me what that is.

6 A: This is a photograph of the GPS.

7 Q: And where did that GPS come from?

8 A: The Kia Sportage.

9 Q: Alright and what was the significance of photographing
10 the GPS?

11 A: The ...

12 Mr. Jenkinson: I'm going to object unless she can
13 authenticate it. Her testimony --- the photograph
14 speaks for itself, but if she personally took the
15 picture, we have no objection to the photograph, but
16 I'm not, there's been no basis laid for her testimony.

17 The Court: Alright, Ms. Barr?

18 Ms. Barr: Judge my question was what was the relevance of
19 the photograph?

20 The Court: The photograph is in evidence?

21 Ms. Barr: Yes, what was the relevance of taking the
22 photograph?

23 The Court: Why did she take the photograph?

24 Ms. Barr: Why, yes, what was the relevance in taking it.

25 The Court: She can answer that question.

HEARING

419

1 A: We took a picture of the GPS screen because it shows
2 Lake City, South Carolina address.

3 Q: Okay, alright. And this was the GPS inside the vehicle?

4 A: Yes.

5 Ms. Barr: Beg the Court's indulgence. That's all the
6 questions I have for Ms. Harding. Please answer anything for
7 Mr. Jenkinson.

8 CROSS EXAMINATION OF DETECTIVE HARDING BY MR. JENKINSON

9 Q: Detective Harding a few questions about the
10 photographs. Bedroom number one, master bedroom, you
11 said there was men's clothing stacked in the corner, in
12 a laundry basket. Did you lay any of them out and take
13 a picture of them so we could identify them as such?

14 A: No we did not lay them out.

15 Q: You took some pictures of some Dove Deodorant and it's
16 your position that Dove deodorant is men's deodorant?

17 A: No.

18 Q: That's female typically, is it not?

19 A: Typically.

20 Q: You had a picture of a baseball hat. Your photograph
21 doesn't show what kind of baseball hat it is, does it?

22 A: No it doesn't.

23 Q: Have you ever seen a woman wear a baseball hat?

24 A: Yes.

25 Q: It's frequently done is it not?

HEARING

420

1 A: Yes.

2 Q: Now you made a big to do about a pair of Budweiser
3 boxer shorts. Women wear boxer shorts around the house
4 a lot don't they?

5* A: I suppose.

6 Q: Well, we have no idea what size they are. Whether they
7 are woman's size or a man's size, do we?

8 A: No.

9 Q: They just as well could have been women's clothes as
10 men's clothes?

11 A: It's highly unlikely.

12 Q: Women do wear boxers and even sleep in them don't they?

13* A: I suppose.

14 Q: And women wear t-shirts at night and sleep in them
15 don't they?

16 A: Yes.

17 Q: Now these nine millimeters shells that were found.
18 Were you aware in this investigation that Ronald Mack
19 had a nine millimeter weapon and fired nine millimeter
20 shells into the head of Kenyan Dorsey?

21 A: No.

22* Q: Well if he did, in fact, if that's a part of this case,
23 Ronald Mack was living in that apartment with his
24 mother wasn't he?

25 A: Yes.

HEARING

421

1 Q: And that would tie him to the nine millimeter pistol
2 that he used to kill Kenyan Dorsey, wouldn't it? She
3 can't help you answer.

4 Ms. Barr: Judge, objection. Move to strike counsel's
5 comment.

6 The Court: The jury will disregard the comments.

7 Q: Ronald Mack was living there with his mother wasn't he?

8 A: Yes.

9* Q: Now, this ipod that you found in a drawer, is hooked to
10 an iphone, is it not?

11 A: We did not find an ipod. We found an ipod case.

12 Q: Okay but that's used in connection with an iphone?

13 A: No.

14 Q: It's not?

15 A: An I ...

16 Q: ----It's used with an iphone, right?

17* A: No, not necessarily. That particular ipod case could
18 be used for nanos ...

19 Q: It can be used with an iphone though, can't it?

20 A: I suppose so.

21 Q: And did you know that Ronald Mack had an iphone?

22 A: No.

23 Q: And if he did that would certainly explain the presence
24 of it, wouldn't it?

25 A: No.

HEARING

422

1 Q: This spiral notebook that you testified about, that's
2 exhibit number eighty-two?

3 A: Yes sir.

4 Q: Nowhere in it is any reference to Kelvin B. is
5 there?

6 A: No sir.

7 Q: There's no reference to Callie is there?

8 A: No sir.

9 Q: Now, you talked about Bloods and I understand it
10 because this photograph shows Kelvin B. wearing a
11 red shirt must mean he's a Blood right? Is that what
12 you want us to think?

13 A: No sir.

14 Q: That's not what you want us to think at all is it?

15 A: No, just because you're wearing red does not
16 automatically make you a Blood, no.

17 Q: Are you prepared to testify as a gang expert in any
18 way, shape or form that Kelvin B. is a member of a
19 Blood gang?

20 A: I don't know if he is.

21 Q: You don't know that he is do you?

22 A: I don't know that he's not.

23 Q: You have no evidence to say that he is do you?

24 A: I don't know him, sir.

25 Q: Do you have any evidence to say he is?

HEARING

423

1 A: No.

2 Q: Now there were two cell phones found. One was the
3 Samsung, in the car when it was towed to the police
4 headquarters. You know that don't you?

5 A: I know that there were two cell phones.

6 Q: I'm asking you about the Samsung. I'll ask you about
7 the second one; I don't want to confuse you. There was
8 only one in the car?

9 A: Yes.

10 Q: That's right. And that was a Samsung?

11 A: No.

12 Q: Well, you say no. Why do you say no?

13 A: The only cell phone that was in the car was the grey
14 Motorola.

15 Q: And that would show up on the inventory, correct?

16 A: No.

17 Q: Okay. I'm going to show you what was marked this
18 morning with Detective Luersen to refresh your memory
19 on the towed vehicle inventory report and ask you if it
20 only shows only one cell phone.

21 A: As I explained, that's not the official report. That's
22 a towing slip only.

23 Q: Okay. Well let's talk about how official it is. First
24 it was on Anne Arundel County towed vehicle inventory
25 form. That's one of your police department forms?

HEARING

424

1 A: That is a form.

2 Q: And it lists everything about this case at the top.,
3 which that's important to do, fill in the blank.
4 Right?

5 A: Yes.

6 Q: And at the bottom it says first officer, the officer
7 signs it and then it must be approved by his supervisor
8 you also sign it?

9 A: Yes.

10 Q: That's an official document for the record is it not?

11 A: It's an official document for our records. It is not
12 however a report.

13 Q: It only shows one T-Mobile Samsung phone on that
14 inventory doesn't it?

15 A: It shows, yes.

16 Q: And that was towed in the vehicle to the police station
17 where it was impounded and the pictures were taken,
18 correct?

19 A: Correct.

20 Q: Read what your narrative report says please ma'am.

21 A: That's not my narrative.

22 Q: Well, read what the narrative report says on Exhibit
23 Number 3.

24 Ms. Barr: We object to hearsay, Judge. If that's not her
25 report, and somebody else's statement, it's hearsay.

HEARING

425

1 And I'm not sure it's in evidence.

2 Mr. Jenkinson: It's been testified to by a previous police
3 officer.

4 The Court: You want her to read from a document that's
5 not into evidence? Are you offering the document?

6 Mr. Jenkinson: Not at this time, no sir.

7 The Court: Let me see what you have.

8 Q: Let me ask this question; Do you have this document in
9 your file, exhibit number three for identification?

10 A: I do have a copy of this.

11 Q: And that's a part of the department file?

12 A: Well it's part of an investigation file, yes.

13 Q: Right and from your investigative file, what does your
14 narrative state about the black cell phone found that
15 was located in the car?

16 Ms. Barr: Objection to hearsay Your Honor.

17 The Court: I'm going to overrule the objection.

18 Q: This is under vehicle inspection. Says list general
19 contents of vehicle, valuables removed, significant
20 damage, etc. what is reported there by your office?

21 A: You want me to read the narrative or?

22 Q: Yes ma'am. I want you to read that part, right there.
23 Those three lines.

24 Ms. Barr: And Your Honor, we would ...

25 Mr. Jenkinson: I'm sorry, yeah, yeah.

HEARING

426

1 Ms. Barr: At this time counsel is not asking questions.

2 The Court: You asked a pervious question and now you're
3 moving to another question?

4 Mr. Jenkinson: Well, I'm just trying to get her to read that
5 section.

6 The Court: I overruled the last objection and now you
7 all are talking about something else. What's the
8 question at this moment?

9 Mr. Jenkinson: The question at this moment was she has a
10 report in her hand, I'm asking her to read the
11 narrative as to what was the vehicle inventory.

12 The Court: Alright, you can read it silently.

13 A: Okay.

14 The Court: Now what's the question? What's the question
15 that you have?

16 Mr. Jenkinson: Alright, then it doesn't state there's a T-
17 Mobile, Samsung cell phone in that inventory?

18 A: Yes.

19 Q: It also says a black, leather wallet? Is that what it
20 says?

21 A: Yes.

22 Q: A GPS unit

23 A: Yes.

24 Q: And a grey Motorola cell phone?

25 A: Yes.

HEARING

427

1 Q: Okay and does it further state below that under
2 narrative, I followed the vehicle, I followed the
3 vehicle over to headquarters where the vehicle was
4 secured in the FCU bay at twelve, fifty hours?

5 A: Yes.

6 Q: And that's where the photographs of the SUV were taken
7 that are in evidence?

8 A: Yes..

9 Q: You stated in one of the photographs you saw some
10 Creatine which is a body builder type protein
11 supplement for body builders? It's a container in
12 bedroom number one, do you recall that?

13 A: Yes I do.

14 Q: And Ronald Mack was eighteen years old. He could very
15 easily be taking those kind of substances the Creatine
16 couldn't he?

17 Ms. Barr: Judge, we object, Your Honor, that the question
18 calls for facts not into evidence. There's no evidence
19 of Ronald Mack's age.

20 The Court: Overrule the objection.

21 A: Could you repeat the question?

22 Q: The question is, Ronald Mack is living in that house.
23 He's seventeen, eighteen years old. He could also be
24 taking that Creatine substance that you saw on the
25 dresser as well in bedroom number one?

HEARING

428

1 A: It's possible.

2* Q: Court's indulgence please. Gangs are out there, there
3 are more gangs other than the Bloods. There's also the
4 Crypts. How many other type gangs are there?

5 A: When you say gangs are you talking about --- gangs are
6 you talking about specifically ...

7 Q: What other type, I'll phrase it this way, I'm not a
8 gang expert. Besides the Bloods, are there other
9 gangs?

10 A: Yes.

11* Q: What are their names?

12 A: S13 ...

13 Q: How about the Crypts?

14 A: Yes.

15 Q: Now, gangs don't go together. They don't have anything
16 to do with each other, do they?

17 A: That's incorrect. It's actually what they do. It's
18 called 50/50 love and often times, because
19* unfortunately you can't have a large criminal
20 enterprise without dealing with the wrong, you know,
21 other members. So often we'll find that some Crypts and
22 some Bloods do have to do business together, because
23 otherwise they can't sell their drugs fast enough or
24 buy their guns fast enough. And also, as you may or
25 may not be aware of, in Maryland, we have our own gang

HEARING

429

1 called DMF, Dead Man, Incorporated. They are hired hit
2 men for the BGF, which is the Black Gorilla Family and
3 you may not be aware of the BGF is for black members of
4 the jail and the DMI's are white members. The DMI works
5 specifically for the BGF. They do all of their
6* killings. Now that's called fifty fifty love because
7 the DMI could not possibly have enough killings without
8 the BGF.

9 Q: So the short answer is yeah they do get along
10 sometimes?

11 A: Yes.

12 Mr. Jenkinson: Thank you ma'am. That's all I have.

13 The Court: Anything further?

14 Ms. Barr: No Your Honor.

15 The Court: Thank you. Next witness.

16 Ms. Barr: We call Suzanne Cromer.

17 Bailiff: Place your left hand on the Bible and raise your
18 right hand. Do you solemnly swear or affirm to the
19 truth, the whole truth and nothing but the truth, so
20 help you God?

21 Ms. Cromer: I do.

22 Bailiff: Go ahead and sit down.

23* Ms. Barr: Your Honor, may counsel and I approach?

24 The Court: Yes.

25 (Counsel approaches bench)

HEARING

430

DIRECT EXAMINATION OF SUZANNE CROMER BY MS BARR

1
2 Q: Ms. Cromer please state your name for the record.

3 A: My name is Suzanne Cromer. C-R-O-M-E-R.

4 Q: And tell the ladies and gentlemen of the jury where you
5 work.

6 A: I'm employed by the South Carolina Law Enforcement
7 Division, commonly known as SLED as a firearm and tool
8 mark examiner.

9 Q: Okay and how long have you been there?

10 A: I've been with SLED since December of 1998.

11 Q: And give us a little information about your educational
12 background and your training with SLED.

13 A: I received a Bachelor's degree from Clemson University.
14 I did graduate work in criminal justice at the
15 University of South Carolina. I graduated from the
16 South Carolina Criminal Justice Academy, I have
17 completed SLED's in-house training program for firearm
18 and tool mark exam. That is a three to five year
19 intense study program. It's more of an apprenticeship,
20 if you will, where I studied under five qualified
21 firearm examiners. We take written tests, oral tests,
22 practical exercises. At the completion of all those
23 tests, we take final exam that is graded upon by your
24 training officer and the Department before we start our
25 casework. I have taken classes through the association

HEARING

431

1 of firearm and tool mark examiners. I've attended
2 some of their annual conferences. Firearm and tool mark
3 examiners is an international association for our
4 profession. I take those classes through the South
5 Carolina chapter of the international association
6 identification. I've also taken classes through the
7 Bureau of Alcohol, Tobacco and Firearms, commonly
8 referred to as the ATF on serial number restoration.
9 I'm a member of the Firearm and Tool Mark Examiners.
10 I'm a member of the South Carolina chapter for
11 international Association of Identification.

12 Q: Alright now, I'm certain with all of the qualifications
13 you've testified as an expert witness in the courts of
14 this state before?

15 A: Yes ma'am, I have.

16 Q: And you've been qualified as an expert witness, as well
17 as this particular Court, but other courts?

18 A: Yes ma'am I have.

19 Q: Alright and what was the field of expertise on which
20 you were declared an expert in?

21 A: I've been declared an expert witness in firearms and
22 tool marking identification.

23 Ms. Barr: Alright, Your Honor, we would, due to the
24 witnesses expert in the field of firearm and tool mark
25 identification.

HEARING

432

1 Mr. Jenkinson: If she isn't , she sure sounds like it.

2 The Court: Alright, so admitted.

3 Q: Now, you were subpoenaed to testify in this case?

4 A: Yes, ma'am.

5 Q: Your agency assisted the Williamsburg County Sheriff's
6 Department in investigating a murder involving Kenyan
7 Dorsey. Is that correct?

8 A: That is correct.

9 Q: And as a result of your participation you received
10 certain evidence in this case?

11 A: That is correct.

12 Q: Did you receive evidence from the crime scene?

13 A: Yes ma'am I did.

14 Q: Alright and did you receive evidence from autopsy?

15 A: Yes ma'am I did.

16 Q: Alright and did you receive firearm, shotgun shells and
17 nine millimeter rounds in this case?

18 A: Yes ma'am I did.

19 Q: Now I'm going to hand you a bunch of exhibit, so I want
20 you to kind of go through them one by one. Let's go in
21 chronological order. Let's start with State's forty-
22 nine. Does that contain the SLED seal?

23 A: Yes ma'am and my initials right there.

24 Q: Let me do this. Let me take the last two --- Tell me
25 what was contained in exhibit number forty-nine.

HEARING

433

1 A: State's forty-nine contains my items nine through
2 sixteen. Nine and ten were two fired nine millimeter
3 cartridge cases. CCI - my items eleven and twelve,
4 which are two fired twelve gauge Remington shotgun
5 shells, my item thirteen, which is a fired nine
6 millimeter bullet; my item fourteen which is bird shot
7 pellets, most consistent with number six bird shot and
8 items fifteen and sixteen, which are consistent with
9 being Remington power piston marks.

10 Q: Okay, now what are power piston marks?

11 A: Power Piston is a brand name, copyrighted by Remington
12 for a specific type of wad and a wad like this, is what
13* is inside shot shells, like this and what it does is
14 this little cut part is over the gun powder and then
15 these little pellets hold your shot. Your bird shot
16 and your buck shot.

17 Q: Alright now where did those items come from?

18 A: I received them from the Williamsburg County Sheriff's
19 office and they were labeled different marker numbers
20 from the scene.

21 Q: From the crime scene?

22 A: Yes ma'am.

23 Q: And that would be [REDACTED]

24 A: I believe so.

25 Q: Okay, alright. Let me have you put those back in there

HEARING

434

1 for me please.

2 A: And they're all still in my sealed containers with my
3 i.d. number.

4 Q: What's the importance of, I'm sorry go ahead. What is
5 the importance of the items being sealed? Having your
6 seal numbers on them?

7 A: When I finish up a case, I seal it, heat seal it and
8 then put my initials and the date that I sealed it so
9 I can tell if someone has opened it before I looked at
10 it again.

11 Q: Okay, now. Tell us about fifty.

12 A: Again this also has my lab number and my initials on it
13 and it's in my sealed case. Again these containers are
14 still sealed with my initials. These, this container,
15 State's exhibit fifty, contains my items seventeen
16 through twenty-two. Which were received from autopsy.

17* Q: Okay, what are they?

18 A: Items seventeen and eighteen are two fired, most
19 consistent with nine millimeter caliber bullets.

20 Q: And you say they were taken from autopsy. The autopsy
21 of who?

22 A: One Kenyan Dorsey.

23 Q: Alright.

24 A: Number nineteen is another fired nine millimeter
25* caliber CCI blazer brass fired cartridge case.

HEARING

435

1 Q: Was that also taken from the autopsy of Kenyan Dorsey?

2 A: It was brought in with the autopsy evidence.

3 Q: Okay.

4 A: And it has where it was located on the packaging.

5 Q: Okay, where does it have on the packaging where it's
6 located?

7 A: On the packaging it says found near and I cannot read
8 the writing, in front of chair near t.v. set.

9 Q: Okay.

10 A: Number twenty, twenty-one and twenty-two are all Bird
11 shot pellets, most consistent with number six.

12 Q: And those are also from autopsy?

13 A: Yes ma'am.

14 Q: Alright. You can put those back in there for me and
15 I'm going to give you number fifty-one.

16 A: Again this is a container with my initials and my
17 sealed tape.

18 Q: What's contained within State's exhibit number fifty-
19 one?

20 A: These were my items thirty-two and thirty-three.

21 Q: Okay and what are they?

22 A: Thirty-two is ten unfired, nine millimeter, Ruger
23 caliber cartridges or ammunition. There were two
24 different brands. Four of them were CCI Blazer Brass
25 and six of them were servian(sp) ammunition PRZVI and

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1 I can't pronounce that.

2 Q: Okay.

3 A: And item thirty-three is four unfired, twelve gauge,
4 two and three quarter inch shotgun shells containing
5 number six bird shot.

6 Q: Alright is there any indication where those items were
7 recovered from?

8 A: When I received the, first they were in this packaging,
9 but they were also in packaging listed from Maryland.

10 Q: Okay, alright. Alright, I'm also going to hand you
11 what's been marked for identification purposes as
12 State's number eighty-four. Kind of tell us what that
13 is.

14 A: State's exhibit eighty-four is four unfired, twelve
15 gauge shot shells that I removed from the magazine from
16 a shotgun that I received in this case.

17 Q: Okay. Alright, and lastly I'm going to, well, let me
18 move to admit State's exhibit number eighty-four.

19 Mr. Jenkinson: No objection to eighty-four.

20 The Court: Alright, eighty-four is in. Let's take a few
21 minutes break. You can go to the jury room. Please do
22 not discuss the case.

23 (Jury break was taken 4:00)

24 The Court: Alright Mr. Jenkinson, earlier on you raised a
25 question about Mr. Cooper as a juror. I think the State is

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1 now used all of it's local witnesses. Is that right Ms. Barr?
2 All of the lay witnesses from around here?

3 Ms. Barr: Yes sir.

4 The Court: Do you want me to question them about whether
5 he knows any of those folks or related to any of them?

6 Mr. Jenkinson: I think, I think that would be appropriate
7 Your Honor.

8 The Court: Alright, do you want to bring him in here in
9 front of? Or do you want to speak with him in chambers
10 or what would you like to do?

11 Mr. Jenkinson: Well, as much as the court reporter is here,
12 I don't mind doing it in here.

13 (Outside Presence of Jury)

14 The Court: And do you want the Defendant in here or do
15 you waive his right to come in here? So I can bring Mr.
16 Cooper in and ask him just a couple of questions about
17 who he knows.

18 (Mr. Cooper enters courtroom)

19 The Court: Mr. Cooper, I think on the beginning of the
20 trial we asked, or I asked the jurors whether they knew
21 any of the people, Mr. Mack, Mr. Mack's parents, Ms.
22 Dozier, Mr. Bradshaw and any other witnesses who are
23 from around here. I don't know whether you said you
24 did or didn't ...

25 Mr. Cooper: I said, I said Ronald McGee was my second

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1 cousin.

2 The Court: Ronald McGee is your second cousin and okay
3 Mr. McGee, the State said that he might be a witness
4 and I believe I asked you whether that will effect your
5 ability to be fair and impartial?

6 Mr. Cooper: No it won't sir.

7 The Court: And since the trial has gone on and you have
8 been able to now see the people testifying who are from
9 around here, do you know any, any, any more of them?
10 Any additional ones?

11 Mr. Cooper: No I didn't.

12 Mr. Jenkinson: Not best friends, I mean just, do you know
13 them?

14 Mr. Cooper: No, I don't know them.

15 The Court: And any other questions you want me to ask
16 him? Have you observed anything during the course of
17 the trial that would effect your ability to be fair and
18 impartial as a juror?

19 Mr. Cooper: Huh-uh.

20 The Court: Very good. Anything further from the State
21 Ms. Barr?

22 Ms. Barr: Nothing from the State Your Honor.

23 The Court: Alright, thank you sir. Now do not discuss
24 with the jurors what we've discussed here.

25 Mr. Cooper: Alright.

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1 The Court: Thank you. Alright says the State?

2 Ms. Barr: Judge, I think he's still qualified.

3 The Court: Defense?

4 Mr. Jenkinson: I still have mixed concerns about his kin. If
5 he's kin to the daddy, he's kin to the son.

6 The Court: Which ones the son?

7 Ms. Barr: Ronald Mack. I don't think he knows that Judge.

8 The Court: You say he's kin to McGee, testified to
9 Ronald McGee.

10 Ms. Barr: Nobody has said that Ronald Mack is Ronald McGee's
11 son. I don't think that was put into evidence. But
12 apparently he didn't know him.

13 The Court: He didn't know any of them. We have two
14 alternate. Alright, Bring him in. Were you unclear
15 about something I may have asked you about?

16 A: I just want to make sure. Ronald McGee is my second
17 cousin.

18 The Court: Ronald McGee?

19 A: Yeah, I didn't know.

20 The Court: Right.

21 A: I think I met him once. I didn't know who he was until
22 I seen him in there. So I really don't know him.

23 The Court: Alright.

24 A: And his mother, I didn't know who his mother was, so I
25 really don't. And I just wanted to make sure --- I

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1 just wanted to be clear on that.

2 The Court: Alright.

3 Mr. Jenkinson: Would that keep you from being fair and
4 impartial?

5 A: No, sir.

6 The Court: We clear about everything now?

7* A: Yes sir.

8 The Court: Okay, very good then. Thank you sir.

9 (Mr. Cooper exits chambers)

10 The Court: Mr. Jenkinson, to confirm the chambers
11 discussion concerning the juror, Mr. Cooper, I
12 understand that you're fine with him serving?

13 Mr. Jenkinson: Yes sir.

14 The Court: And you are as well Ms. Barr?

15 Ms. Barr: Yes sir, Judge.

16 The Court: Alright, please bring the jury. Mr. Cooper,
17 if you'll take that seat, I'm appointing you to sit as
18 the foreperson of the jury. As a foreperson you'll
19 serve as a spokesperson for the jury, preside over the
20 jury deliberations and complete the verdict form
21 representing the unanimous verdict of the jury. Okay?

22 Ms. Barr: Please the Court?

23 The Court: Yes.

24* CONTINUATION OF TESTIMONY:

25 Q: Now, Ms. Cromer what I last asked you, we were talking

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1 about exhibit number eighty-four which were four shot
2 gun shells that you took out of the magazine of another
3 exhibit in the case?

4 A: Yes ma'am.

5 Q: Alright, now, I'm going to had you what's been admitted
6 as State's exhibit number seventy-nine and ask you if
7 you recognize that picture. Do you need to stand up?

8 A: First off, this box has evidence tape with my date and
9 my initials on it.

10 Q: Do you remember opening that box in a previous trial or
11 being here and testifying in a previous trial with
12 Tawanda Allen?

13 A: Yes ma'am.

14 Q: Alright, please proceed.

15 A: Inside I'm going to stand up if you don't mind.

16 Q: Okay.

17 A: I'm checking by sight and by feel to make sure it's
18 unloaded.

19 Q: Okay.

20 A: This is what I labeled as my item number thirty-one. I
21 scribed on it my lab number, my i.d. number and my
22 initials on the barrel and the loading port

23 Q: And what is it?

24 A: This is a universal model, revelation 2071, twelve
25 gauge semi automatic shotgun.

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1 Q: Okay. Alright and do your records reflect where that
2 item came from or originated?

3 A: It originated from Maryland.

4 Q: Okay, alright, now what is the serial number on that?

5 A: A serial number has been obliterated on this gun.

6 Q: That means, what does that mean obliterated?

7 A: That means that when you look at it, you can see that
8 someone intentionally gauged or scratched out the
9 numbers.

10 Q: Now, did you conduct an analysis in this case as it
11 relates to that firearm and what's been admitted as
12 State's exhibit number forty-nine, fifty and I believe
13 fifty-one?

14 A: Yes, when I receive a firearm in a case, what I do is,
15 I take two pages of notes then what I do is I look at
16 what fired evidence I have received in this case. This
17 case it was a twelve gauge Remington shot shells with
18 the number six bird shot and what I do is I shoot. If
19 I don't have that exact ammunition, I shoot similar
20 ammunition in it, so I can see how well the spiral and
21 marks the shot shells. So after I take it to the range
22 and shoot it, I get the shot shells that I know have
23 been fired, I take them back to my computer.
24 Comparison microscope, we have eye pieces that look
25 sort of like binoculars and it allows you to look at

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1 two things side by side and compares them. That's what
2 I do and then once I look at ones I have knowingly shot
3 against each other, then I move to my evidence and once
4 I did that, then I render my conclusion. I have
5 another firearm's examiner come back to agree with my
6 conclusion and then I issue a report.

7 Q: Okay, alright. Tell us about your analysis as it
8 relates to those items in evidence.

9 A: I compared this, the test fires from this shotgun to
10 the two fired shot shells that I received from the
11 scene.

12 Q: From the scene of the murder?

13 A: Yes ma'am.

14 Q: Okay.

15 A: And I concluded in my experience and training that
16 those two shot shells were fired by this firearm.

17 Q: Alright, let me be clear. Take out of exhibit number
18 forty-nine, if you will, the particular item that you
19 tested and concluded was fired by that particular gun.

20 A: My item eleven and twelve in my expert opinion were
21 fired by this firearm.

22 Q: Okay, thank you ma'am. Now, as it relates to the nine
23 millimeter projectile, were you ever given, or do you
24 know if any nine millimeter hand gun was recovered by
25 law enforcement in connection with this crime?

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1 A: No I did not receive a nine millimeter.

2 Q: The shot shells that you reviewed and received in there
3 was consistent with what would be associated in using
4 that shotgun?

5 A: They were the correct caliber, correct length for use
6 in this firearm and they were consistent with the
7 unfired rounds that I received.

8 Q: Okay, now, what about your item number thirty-two? Did
9 you have any opinion as to those ten unfired caliber
10 cartridge and whether or not they were the correct
11 caliber for use in a nine millimeter hand gun?

12 A: Yes, the ten, unfired, nine millimeter caliber
13 cartridges that I received are correct for the use in
14 a nine millimeter firearm.

15 Q: Okay and again when you talk about the ten cartridges
16 those are the ten unfired ones that came from evidence?

17 A: Yes, ma'am.

18 Q: And was the shotgun, was it in working order?

19 A: Yes ma'am. It did have, the stock is cracked and the
20 (coughing) is cracked.

21 Q: What about bird shot pellets? Were you able to perform
22 an analysis on them?

23 A: No ma'am. I can tell you what they're most consistent
24 with but what number of bird shot they are most
25 consistent with.

1 Q: Okay.

2 A: But since ya'll seen that wading, that plastic wading
3 ... since the pellets are inside this wadding, when
4 it's going down the barrel of the gun, the actual
5 pellets never come in contact with the inside of the
6 barrel, so they would not have any markings that we
7 would need for identification purposes.

8 Q: Alright. Now, can you show me the exhibit that relate
9 to the fired shotguns that were taken from the crime
10 scene?

11 A: Those are all consistent with parts of a ammunition
12 component of a shotgun.

13 Q: And I'll have to concede with Mr. Jenkinson, I'm not an
14 expert as it relates to firearms. Tell me what exactly
15 you call these so I can use the correct terminology.

16 A: I call this a fired shot shell.

17 Q: Okay, step down for me. This would have been the fired
18 shot shell located at the scene?

19 A: Yes ma'am.

20 Q: Alright and what's the brand name and size on those
21 shot shells?

22 A: These are Remington and they are twelve gauges and they
23 are two and three quarter length.

24 Q: And those were the ones taken from the crime scene?

25 A: Yes ma'am.

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1 Q: Alright, now I'm going to hand you what's been entered
2 as State's eighty-four. Tell the jury, remind them
3 again what those are. Hold it up so all of them can
4 see.

5 A: These are Remington, unfired shot shells, twelve gauge,
6 two and three quarter loaded with one ounce per shot.

7 Q: In terms of size, were they the same as the ones that
8 were recovered from the scene?

9 A: Yes ma'am.

10 Q: Now of course you don't know any of the parties
11 involved, i.e. the Defendant or victim?

12 A: No ma'am I do not.

13 Q: And the opinions that you've rendered in connection
14 with the testimony are to a reasonable degree of
15 scientific certainty?

16 A: Yes ma'am.

17 Q: Okay. Please answer any questions that Mr. Jenkinson
18 may have. Thank you

19 Re-CROSS EXAMINATION OF MS. CROMER BY MR JENKINSON

20 Q: Ms. Cromer, do you have a shot gun?

21 A: Yes I do.

22 Q: What kind?

23 A: It's an old double barrel shotgun.

24 Q: Have you ever owned a Remington?

25 A: No sir, I haven't. I was issued a Remington 870.

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1* Q: Okay SLED they issued a Remington shotgun? That's the
2 preferred one for law enforcement?

3 A: Correct.

4 Q: Remington is probably one of the largest manufacture's
5 of shotguns in the world?

6 A: It's one of the most.

7 Q: And likewise, they manufacture lots of shotgun shells?
8 Twelve gauge type?

9 A: That's correct.

10* Q: Matter of fact, about a block and a half from here to
11 Ricky Burrows hardware store and True Value we could
12 probably buy Remington twelve gauge shotgun shells,
13 just like the ones you have there and found, right in
14 the store now?

15 A: You can probably buy them at any sporting goods store
16 or Walmart.

17 Q: Matter of fact they're in the store across from us now?

18* A: Yes sir.

19 Q: So there's nothing special about those shotgun shells?

20 A: Just that they were, or happened to be the same or
21 consistent in ---

22 Q: Well, they're really the same because they're all made
23 by Remington right?

24 A: That's correct.

25 Q: Okay, that makes them consistent, right?

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- 1 A: Yeah.
- 2 Q: Okay and that's all you can really say?
- 3 A: That's all I can say about that.
- 4 Q: Matter of fact, you don't even have to be an expert to
- 5 read Remington and know what it is do you?
- 6 A: No sir, you don't.
- 7 Q: And the same way the pistol. You own a pistol I bet.
- 8 A: Yes sir.
- 9 Q: What kind?
- 10 A: A Smith and Weston revolver.
- 11 Q: What kind, what, nine millimeter?
- 12 A: No, it's a thirty-eight special.
- 13 Q: Thirty, alright. Nine millimeter is probably one of
- 14 the most popular and known handguns in America today?
- 15 A: We do see that a lot at work, yes.
- 16 Q: You have officers that carry them?
- 17 A: Most officers carry forty caliber or forty-five now but
- 18 I think there are some agencies that might still carry
- 19 nine millimeters.
- 20 Q: And the standard military pistol is a nine millimeter?
- 21 A: The last time I checked they carry forty-five autos,
- 22 but I'm not positive now.
- 23 Q: Okay, okay, but nine millimeter is something that's
- 24 manufactured by lots of pistol companies across
- 25 America?

1 A: That is correct.

2 Q: And you can probably find nine millimeter rounds,
3 slugs, just like you have there in hundreds, if not
4 thousands of homes up and down the Eastern seaboard?

5 A: Yes. The CCI in Blazer Brass is pretty much a new
6 thing. It hasn't been around very much and the **Servian**
7 ammunition we don't, we don't see a good bit of it at
8 work.

9 Q: But it's still, that's nothing rare and unusual at all?

10 A: No sir.

11 Q: And you weren't really able to, this shotgun you can
12 say just, it was consistent with twelve gauge Remington
13 bird shot?

14 A: No, I can say that those two fired shot shells came
15 from this firearm.

16 Q: Okay, okay and you found, now when this shotgun was
17 examined for fingerprints, was any of Kelvin B.
18 fingerprints found on it?

19 A: I don't examine for fingerprints. I just do the
20 firearms.

21 Q: Okay, well fingerprints on a murder weapon are very
22 important, wouldn't you think, from law enforcement
23 standpoint?

24 A: Like I said, I am not a fire, a fingerprint examiner
25 ...

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- 1 Q: I'm not asking you
- 2 A: ...I'm a firearm examiner.
- 3 Q: I'm just asking you just as a , as a, you certainly a
- 4 certified police officer aren't you?
- 5 A: Yes sir.
- 6 Q: And you go to the police academy?
- 7 A: I did.
- 8 Q: And ya'll learn about fingerprints?
- 9 A: Yes we do.
- 10 Q: Probably spent a lot of time about it?
- 11 A: Yes we do.
- 12 Q: And you don't have to be a certified prints examiner to
- 13 know that fingerprints in a criminal investigation is
- 14 very important do you?
- 15 A: They can be and I also know that they're not found very
- 16 often on firearms.
- 17 Q: Okay. But it can be found?
- 18 A: They can be found.
- 19 Q: If you look for them?
- 20 A: You have to look.
- 21 Q: But if you don't look, you can't find them?
- 22 A: That's right.
- 23 Q: Shotgun shells and bullets that are found can also be
- 24 checked for fingerprints?
- 25 A: Shotgun shells yes. Are you talking about fired bullet

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1 or a unfired piece of ammunition?

2 Q: Well, one of those nine millimeter rounds that you have
3 right there, non fired.

4 A: Non fired? Yes they can be checked.

5 Q: They can be checked for fingerprints?

6 A: Yes sir they ...

7 Q: ... and that way we know who's been handling them?

8 A: That's correct.

9 Q: And that would tell us a lot if we were in a criminal
10 investigation in a murder case, wouldn't it?

11 A: Probably so.

12 Q: And it would be very important if the deceased was shot
13 with a nine millimeter round?

14 A: Yes sir.

15 Q: And if they weren't checked for fingerprints, we'll
16 never know will we?

17 A: I don't know.

18 Q: Good law enforcement investigation is very, very
19 critical in a case, isn't it?

20 A: Yes sir.

21 Q: And if you leave stuff out, and you don't do a proper
22 investigation, you can have wrong results in a case,
23 can't you?

24 A: I don't know. I don't deal with the investigative
25 side. I just get the firearms into evidence, do what

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1 I have to do with it and send it back.

2 Q: I'm not talking about that. I'm talking about you being
3 a certified police officer who's gone to the academy.
4 You learned from investigation, if it's not done
5 properly, you can have a awful result?

6 A: Yes sir.

7 Q: And wrong, you can have the wrong person charged with
8 a crime?

9 A: I'm sure you could.

10 Q: And innocent people could get convicted wrongfully,
11 couldn't they?

12 A: I'm sure that can happen.

13 Mr. Jenkinson: Thank you.

14 RE-DIRECT OF MS. CROMER BY MS BARR

15 Q: Just a follow up, Judge, if I may: Ms. Cromer, you
16 testified that fingerprints are not found very often on
17 firearms. Tell us why you made that statement.

18 A: I made that statement just because in the firearms
19 department, they want anything. If they want it
20 swabbed for DNA or if they want fingerprints, it has to
21 go there first because I handle it, I shoot it. If
22 they check it down for prints, mine would be all over
23 it and just knowing from looking at reports that have
24 firearms that have gone to the latent print section
25 before they have come to me, it just doesn't happen

1 very often.

2 Q: That's all the questions I have. Thank you ma'am.

3 The Court: Anything further?

4 RE-CROSS OF MS. CROMER BY MR JENKINSON

5 Q: So your fingerprints would be found on a shotgun, if
6 they fired a shotgun before you?

7 A: Probably because, oops sorry, excuse me. After I've
8 fired it, when you're firing it, you're causing an
9 extreme heat which can ruin the moisture that's needed
10 for firing, for fingerprints. I handled it a lot since
11 I fired it, so my fingerprints would be all over it.

12 Q: Thank you ma'am.

13 The Court: Anything further?

14 Ms. Barr: Judge, let me get those exhibit if I can. We call
15 Lt. Jeffrey Scott.

16 Bailiff: Do you solemnly swear or affirm to tell the truth,
17 the whole truth and nothing but the truth, so help you
18 God?

19 Lt. Scott: I do.

20 Bailiff: Okay.

21 DIRECT EXAMINATION OF LT. SCOTT BY MS BARR

22 Q: Sir state your name for me.

23 A: Lt. Jeffrey Scott from the Williamsburg county
24 Sheriff's Department.

25 Q: Okay you're a certified police officer?

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1 A: Yes I am.

2 Q: How long have you been employed as a police officer?

3 A: Since 1996, so right on fifteen years.

4 Q: Alright, I've got just a few short questions that I
5 need to ask you. Did you go out to the scene of [REDACTED]
6 [REDACTED] back on April the 5, 2009?

7 A: Yes I did.

8 Q: Of course, your agency was assisted by SLED?

9 A: Yes it was.

10 Q: Alright, now, did you go into the residence and
11 actually see the deceased Kenyan Dorsey?

12 A: Yes I did.

13 Q: Did you go to various rooms throughout the house?

14 A: Yes I did.

15 Q: Now, I'm going to hand you what's been marked as
16 State's number forty-eight.

17 Mr. Jenkinson: No objection to forty-eight.

18 Q: And Lt. Scott, just one time, come down off the witness
19 stand for me. I'm going to have you look at this
20 first.

21 A: Okay.

22 Q: Are you familiar with that diagram?

23 A: Yes I am.

24 Q: Alright it was drafted by Scott Hardee of SLED?

25 A: Yes it was.

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1 Q: Alright, let me publish it please. Alright. Sir this
2 diagram, we always say it's not to scale. Is that fair
3 to say?

4 A: That's true.

5 Q: Alright is this the rear porch of the residence of [REDACTED]
6 [REDACTED]?

7 A: Yes.

8 Q: Alright and that would be depicted in some of the
9 photographs that we previously had admitted?

10 A: Can I see the photographs?

11 Q: Yes sir. You hold this.

12 A: Okay.

13 Q: I'm going to publish State's exhibit number ten. I'm
14 just going to put it over there just for right now.
15 That's the rear of the residence?

16 A: Yes.

17 Q: A little deck?

18 A: Yes.

19 Q: Okay.

20 The Court: You're blocking the jurors.

21 Q: I'm sorry, let me put that back up so they can see.
22 I'm going to publish State's number ten. Is that the
23 rear of the residence?

24 A: Yes.

25 Q: Okay and that's the deck area?

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1 A: That's the deck area, yes ma'am.

2 Q: Now I'm going to go back to the State's exhibit number
3 forty-eight, the diagram. Is that the number six, is
4 that the little deck area that we're talking about?

5 A: Yes, in the rear.

6 Q: Alright, so here where the numbers one and two are
7 marked and three and four, in that area, kind of tell
8 me, first of all, what's the significance of the number
9 six there?

10 A: The number six, you might have heard earlier, from
11 earlier testimony, this is the location, underneath the
12 porch area, where a projectile was located and it was
13 marked for marker number six.

14 Q: Okay, now tell us about the significance of number one,
15 two, three and four.

16 A: One and two are significant because this is where shell
17 casings were located for, such as nine millimeter shell
18 casings. Three and four are where shotgun shells were
19 located and they're indicated by the number, placard
20 number three, four, one, two.

21 Q: Okay and just to be kind of clear, this is, would be
22 the little stove area that we saw in some of the
23 earlier pictures?

24 A: Yes.

25 Q: Okay. Alright so in that particular photograph then,

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1 would that be the chair where the victim was sleeping?

2 A: Yes, this would be the chair and this would be a little
3 t.v. area that you would probably see in some of those
4 earlier photographs that were shown.

5 Q: Okay, alright. Now, you indicated that you went in the
6 house. Tell me what is this particular area here that
7 I'm pointing at?

8 A: This is the master bedroom, right here with a bathroom
9 adjoining it. And this is kind of like the living room
10 or living room area, t.v. area and this is the master
11 bedroom.

12 Q: Okay, what about all these other rooms down here?

13 A: Alright as you come down the hall to the right, as you
14 come out of the living room area, see the kitchen
15 straight across from you. It's kind of like an open
16 airway. A little wall, you can see into the kitchen.
17 You take a right down the hall. These are other
18 smaller bedrooms, like looked like some on the right
19 side, as you went down the hall, that were unoccupied.
20 And this is another bedroom.

21 Q: I'm going to show you what's been admitted as State's
22 number twenty-three. I'm going to publish that. Does
23 that appear to be the opening to the master bedroom?

24 A: Yes it is. If you're coming from the doorway into the
25 living area or where they watched t.v. to the left will

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1 be the opening to the master bedroom area.

2 Q: Okay. Alright, sir, you can take a seat, thank you.

3 Alright, couple of quick questions. Was Annette
4 Bradshaw's Toyota Four Runner at the residence when you
5 all got there?

6 A: Not that I know of.

7 Q: You don't remember seeing the green Four Runner?

8 A: I don't remember.

9 Q: Alright and you all didn't take any guns out of the
10 house did you?

11 A: No.

12 Q: Did you take any drugs out of the house?

13 A: No.

14 Ms Barr: Alright, that's all of the questions that I have
15 sir, thank you. Please answer any questions Mr. Jenkinson
16 has.

17 Mr. Jenkinson: No questions from the defense.

18 The Court: Thank you.

19 Ms. Barr: We call Mr. Joseph Cooper.

20 Bailiff: Do you solemnly swear or affirm to tell the truth,
21 the whole truth and nothing but the truth, so help you
22 God?

23 Mr. Cooper: I do.

24 Bailiff: Okay.

25 DIRECT EXAMINATION OF JOSEPH COOPER BY MS BARR

HEARING

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1 Q: Sir state your full name for me.

2 A: Lt. Investigator Joseph Cooper.

3 Q: Alright and sir, tell me where you're employed?

4 A: Say it again?

5 Q: Tell me where you're employed?

6 A: I'm employed by the Lake City police department.

7 Q: Alright, and what do you do there?

8 A: Now I'm working in the capacity as an investigator. I
9 investigate narcotics and gangs. I'm assigned to
10 several different task forces with the State and also
11 the Federal Government has now decided to the Florence
12 County Sheriff's Office drug unit also with the
13 Florence County Sheriff's Office Drug Task Force.

14 Q: Okay. Now, sir at some point in April fo 2009, did
15 your agency arrest a Ronald Mack?

16 A: Yes we did.

17 Q: Alright and it is the same Ronald Mack that was charged
18 in connection with the murder in our case?

19 A: Yes it is.

20 Q: And at that time, did you all talk to him about his
21 gang related activities?

22 A: Yes we did.

23 Q: Alright, don't tell me what he said, but did he
24 volunteer information to you about gang related
25 activity?

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1 A: Yes he did.

2 Q: Alright, at that time, did he have a cell phone in his
3 possession?

4 A: Yes he did.

5 Q: What type of cell phone was it?

6 A: The phone that was taken was a newer model that just
7 came out a iphone or I four or something like that.

8 Q: Alright, did your agency seize that item?

9 A: Yes we did.

10 Q: Alright I'm going to hand you what's been marked for
11 identification purposes as State's exhibit number
12 eighty-five. Can you tell me, is that the phone that
13 you took from Mr. Ronald Mack?

14 A: This is the phone.

15 Q: Alright and where has that phone been kept since the
16 date that you took it from Mr. Mack?

17 A: In my custody in the evidence room.

18 Q: It never left you?

19 A: No ma'am.

20 Q: You brought it with you today to court?

21 A: Yes ma'am I did.

22 Ms. Barr: Judge we would move State's exhibit number eighty-
23 five into evidence.

24 Mr. Jenkinson: Several matters, Your Honor, outside of the
25 presence of the jury.

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1 The Court: Alright, ladies and gentlemen, I need you to
2 step out.

3 (Jury leaves the courtroom 4:49)

4 Mr. Jenkinson: The name of this officer, the witness, we
5 have never been aware of this phone and we've never
6 seen anything about it in any of the discovery provided
7 to us. We don't even know what it is and we don't know
8 when it was seized. We just know nothing about it. It
9 hasn't been authenticated and as a matter of fact, the
10 other witness is talking or testifying on the day of
11 the murder, Ronald Mack had an iphone. Beyond that we
12 know nothing. We've just never seen it in any
13 discovery whatsoever. We would object to the
14 introduction of this phone or any information about it.
15 Not disclosed.

16 The Court: Ms. Barr?

17 Ms. Barr: Your Honor, first of all, I don't know that
18 there's any requirement that this witness' name be
19 given in advance to the defense. He was placed on the
20 witness list. Moreover, Judge on October the 12th in
21 2009, I served the defense with my Rule 5 and Brady
22 disclosures and item number fifty-nine says color
23 photograph and physical evidence available for your
24 inspection. I've never gotten any request for any
25 inspection of any physical evidence, Judge, we would

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1 like to have this marked as a Court's exhibit.

2 Certainly if they wanted to know all the particular
3 items that are being introduced, they had the
4 opportunity to do so.

5 Mr. Jenkinson: Judge, we have gotten hundreds of
6 photographs and they were provided to us in discovery
7 and if there was some photographs that were not
8 provided to us, it certainly doesn't indicate, nobody
9 put us on notice of what that is when they're giving us
10 hundreds of photographs. Not only the ones that are in
11 evidence today, the ones that have not been introduced,
12 autopsy photographs, we're photographed to death and
13 this was not disclosed to us. That puts us on or
14 nothing, it says color photographs and physical
15 evidence available for your inspection. We asked to
16 see and we were shown the shotgun and we were shown all
17 of these items but this was never even disclosed, other

18 than that very scenic item number fifty-nine and it
19 just says color photographs and physical evidence
20 available for your inspection and we did. We actually
21 went to, I'm not sure, we saw the evidence whether it
22 was in the Solicitor's office or the sheriff's office.
23 We've made a diligent examination of each one of those
24 as you can tell by our preparation in this trial.
25 We've had absolutely no way we could have known that

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1 they would have a phone and color photographs, which
2 were not being referred to. They gave us a disk of it
3 and none of this was included in what they gave us.

4* The Court: Alright Ms. Barr?

5 Ms. Barr: Judge, there was never any such meeting at the
6 Solicitor's office or any place else for the defendant
7 to view the evidence. The physical evidence is, I
8 believe it to be the shotgun, obviously the
9 projectiles, the shotgun shells, as well as anything
10 that you can touch. We don't submit that photographs
11 are part of physical evidence and certainly Judge, if
12 there was an opportunity to view any physical evidence
13 that we would use and they had that opportunity. I
14 think the first time that the shotgun and the
15 projectiles was seen in connection with this case was
16 through the trial.

17 The Court: Anything else?

18 Mr. Jenkinson: We have seen every piece of evidence that has
19 been introduced in this trial and we have examined it
20 and we've even talked to other lawyers who've looked at
21* it. I can't tell you what we haven't done. We've
22 looked at SLED reports about it, but to come up and say
23 this puts us on notice of this particular phone,
24 doesn't say Ronald Mack's phone, it doesn't say
25 anything. It doesn't even say it's a phone. It says

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1 color photographs and physical evidence. You know,
2 we're here about justice and that's what Brady versus
3 Maryland and Rule 5 requires and we're not able to
4 effectively represent our client, we're entitled to
5 this disclosure and this evidence should be excluded.
6 We were not put on notice of it.

7 The Court: The officer has testified that the item was
8* confiscated from the co. defendant Ronald Mack. There's
9 been a great deal of testimony concerning Mr. Ronald
10 Mack's using an iphone. This witness was disclosed as
11 a witness, on the State's proposed witness list stated
12 to the jury. He is listed as number 12. I do not find
13 any Rule 5 violation. I do not find any basis to
14 exclude the evidence based on failure of giving the
15 defense an opportunity to view it. There has been no
16* showing by the defense that the State willfully hid
17 this. The State says physical evidence was available

18 for inspection and that shifts, puts it on the defense
19 to arrange to go see what evidence is in the officers
20 possession. I deny the motion to exclude the exhibit.
21 All right. Let's bring the jury in.

22 Mr. Jenkinson: Can we be heard a little bit further
23 because again we haven't had a chance to discuss this. We
24 don't even know when it was seized.

25 The Court: Are they still in the jury room?

1 Bailiff: Yes, sir.

2 The Court: Hold them a second. Go ahead Mr. Jenkinson.

3 Mr. Jenkinson: Well, there has been no ground work laid
4 in the introduction. We don't know when it was seized from
5 Ronald Mack. Five years ago, ten years ago. There's no basis
6 of relevance and it sounds like it has extreme prejudice or
7 they wouldn't be pulling it up under this surprise manner
8 unless it has prejudice involved in it and there's been no
9 evidence of any probative value shown to lay the proper
10 ground.

11 The Court: Ms. Barr.

12 Mr. Jenkinson: And secondly if the court is going to let
13 it in, I'd like to see what it is.

14 The Court: Is that the same phone that other witnesses
15 have previously identified?

16 Ms. Barr: It is.

17 The Court: I inquired as to whether or not you were
18 going to have it marked for identification purposes. That
19 was yesterday or the day before. Concerning when was it
20 confiscated. You testified a few minutes ago when you
21 arrested Mr. Mack and got the phone from him?

22 A: Yes, I did, Your Honor. If you need a specific
23 date I can get it for you. This was 4-07-2008.

24 Mr. Jenkinson: What was the date, I'm sorry.

25 The Court: April 7, 2009.

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1 Mr. Jenkinson: It's not being marked for identification?

2 The Court: It's being offered into evidence.

3 Mr. Jenkinson: I know. Again, can we look at it. We're
4 at least entitled to look at evidence before it comes in to
5 see what the court is ruling on?

6 The Court: Yes, sir. There it is.

7 Ms. Barr: Judge, we would ask that the witness be
8 instructed not to smash any buttons, we don't want anything
9 being accidentally deleted.

10 Mr. Jenkinson: We just want to cut it on.

11 Ms. Barr: Can we ask the witness to do it, Judge?

12 The Court: All right. Give it to the witness.

13 Ms. Barr: We've got the witness here and of course the
14 jury is not here. He's going to be asking questions and we
15 ask that it be on the record.

16 The Court: Alright, Mr. Jenkinson?

17* PROFFER TESTIMONY OF MR. COOPER BY MR. JENKINSON:

18 Q: This phone has been in your possession since you
19 arrested Ronald Mack?

20 A: Yes sir.

21 Q: And where do you live?

22 A: My residence is Florence County sir.

23 Q: And this phone has been in Florence county ever since

24 ...

25* A: No sir. As I stated earlier I have a evidence room

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1 inside by office at the Lake City Police Department.

2 Q: Alright it's been in Florence county ever since this
3 case, you made the arrest in this case?

4 A: Yes sir.

5 Q: So it wasn't even in Williamsburg county?

6 A: No sir, the arrest was in Lake City. I don't work for
7 Williamsburg County.

8 Q: I understand that. Why did you arrest him?

9 A: Gun violation, simple possession of marijuana.

10 Q: Where at?

11 A: Lake City.

12 Q: On what date?

13 A: 4-7-2009, approximately 5:30 pm. That's his photo and
14 that's his booking number and the ticket number also.

15 Q: None of this has been provided in discovery to the
16 defense has it? None of these booking records, none of
17 this arrest reports?

18 A: I don't know exactly what you have sir that you are
19 referring to. I know this is what was asked of me and
20 this is what we have in our records.

21 Q: Show me what you plan on testifying about on the phone.

22 Ms. Barr: Judge?

23 The Court: Well, Ms. Barr, why don't you tell us what --
24 - Mr. Jenkinson's objection is based on discover. What
25 are you planning to get out of this witness?

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1 Ms. Barr: Just that there was an iphone in the co-
2 defendant's possession and I'll also ask him about
3 contents with contacts, I'm sorry, within that
4 particular phone.

5 The Court: And who is the contacts on the phone do you
6 want him to talk about?

7 Ms. Barr: Several. Several of the people who have testified
8 as witnesses and the identity of some other people that
9 have testified. That would corroborate Dontrey Barr's
10 testimony and Antonio McClary.

11 The Court: And how about the defendant's contact
12 information?

13 Ms. Barr: No sir.

14 Mr. Jenkinson: So there's no contact information with the
15 defendant? Is that what I'm to understand?

16 The Court: Is the defendant's contact information in it?

17 Ms. Barr: Not that I know of Judge.

18 Mr. Jenkinson: Can I look at the pictures?

19 The Court: Can you look at the pictures?

20 Mr. Jenkinson: Yes sir, on the phone.

21 (INAUDIBLE)

22 Court Reporter: Do you want what you're saying on the
23 record, Judge? Because I can't hear them.

24 The Court: No. Mr. Jenkinson, have you had a chance to
25 inspect what's on the phone?

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1 Mr. Jenkinson: We have and after looking at it Your Honor,
2 we now further take the position that it's not
3 relevant.

4 The Court: What's the relevance, Ms. Barr?

5 Ms. Barr: Your Honor, it corroborates the testimony of
6 Dontrey Barr and Antonio McClary. I'm trying to
7 remember whether or not Quadir Wilson also testified
8 about Ronald Mack having a phone. It's particularly
9 relevant in light of the fact that Ronald Mack was
10 arrested two days and had this phone in his possession,
11 two days after the murder of Kenyan Dorsey. Also,
12 Judge, there are contact information in there that
13 relates to some key witnesses in this case and we would
14 think that obviously that information would corroborate
15 that it was Ronald Mack's phone and two that he had
16 familiarity with some of the key players in this case
17 including the victim.

18 Mr. Jenkinson: Have at it.

19 The Court: Alright, bring the jury in.

20 (Jury enters the Courtroom)

21 The Court: The exhibit is in. Your next witness.

22 Ms. Barr: Next witness or next question?

23 The Court: Next question.

24 Ms. Barr: Thank you Judge.

25 Q: Now, this particular phone you have indicated was taken

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1 from the person of Ronald Mack back in April of 2007,
2 is that right?

3 A: Yes ma'am.

4 Q: Alright what particular, specific date was the phone
5 taken?

6 A: April 7, 2009. It was April 7, 2009.

7 Q: I'm sorry, April 7, 2009.

8 A: Yes ma'am.

9 Q: So that would have been two days after Kenyan was
10 killed?

11 A: Yes ma'am.

12 Q: Alright now, you were subpoenaed to testify in this
13 case and bring the phone with you, is that right?

14 A: Yes ma'am.

15 Q: Alright and while you were in my office, did you go
16 through the phone?

17 A: Yes I did.

18 Q: Alright, did you see contact information for somebody
19 called Dymon?

20 A: Yes, I did.

21 Q: Did you see contact information for somebody called
22 Kenyan?

23 A: Yes, I did.

24 Q: Did you see contact information for somebody called
25 Droop?

1 A: Yes, I did.

2* Q: Okay, now I'm curious. Did you see any contact
3 information in the phone for Callie?

4 A: No, I did not.

5 Q: What about Kelvin B.

6 A: No, I did not.

7 Q: What about a Tawanda Allen?

8 A: No, I did not.

9 Q: Alright, did you see anything for mom even?

10* A: No, I did not.

11 Q: No contact for mom or Callie or Kelvin B.

12 A: No.

13 Q: Okay, what about incoming calls?

14 A: None.

15 Q: Pardon?

16 A: None. No incoming calls.

17 Q: No incoming calls? Alright. What about text messages?

18 A: Text messages that's on there appear to stop on the 7th,
19 the day of his arrest.

20 Q: Okay, alright, did you see any text messages at all for
21 April the 5th, 2009? Were there any text messages on the
22 phone?

23 A: Not that I can recall?

24 Q: Not for that day. Can you look back to make sure?

25 A: Yes ma'am. Looking at the iphone in my possession there

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1 are only four on here and they were April 7, 2009.

2 Q: Okay. Alright, that's all the questions that I have.

3 Thank you Lieutenant.

4 CROSS EXAMINATION OF LT. COOPER BY MS. SHULER

5 Q: Investigator, may I see the phone? Did you bring up
6 those text messages you just referred to? What are the
7 dates of those text messages?

8 A: April the 7th, 2009.

9 Q: And how many are there?

10 A: Four.

11 Q: Are there text messages from any other date, other than
12 April the 7th?

13 A: None showing; none that I can recover from this phone.

14* Q: Have you obtained any cell phone records on that phone?

15 A: No, I did not.

16 Q: Have you subpoenaed any records at all?

17 A: No I have not on this phone.

18 Q: Would it be uncommon for somebody to, it would not be
19 uncommon for somebody to delete the text messages on
20 their phone would it?

21 A: You said would it be uncommon?

22* Q: It would not be uncommon for somebody to delete the
23 text messages on their phone, would it?

24 A: Could be.

25 Ms. Shuler: No further questions.

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1* The Court: Anything further?

2 Ms. Barr: Not from the State Judge.

3 The Court: Thank you; you may step down. Alright
4 ladies and gentlemen, I think that's it for this day.
5 Tomorrow we'll need you back at 11, 11 a.m. tomorrow morning.
6 Eleven a.m. tomorrow morning.

7 (Jury excused for the evening)

8 The Court: Alright anything else before we leave?

9 Ms. Barr: No sir, not from the State.

10 Mr. Jenkinson: I'd like to have a conference about tomorrow.

11 The Court: All right.

12 (Court adjourned for the evening)

13 **February 3, 2011**

14 The Court: Anything before the jury comes in?

15 Ms. Barr: Your Honor, we have a couple of photographs that
16 the defense counsel has stipulated to their disability
17 as they're related to the autopsy and Judge we want to
18 have those marked right quick. I'll go ahead and show
19 you while the Court Reporter is getting ready. And
20 Your Honor we have several photographs that they've
21 objected to and I don't know how you want to handle it
22 in terms of marking them as the witness testifies and
23 dealing with the objections as they come at that time
24 or if you want to do it now.

25 The Court: Mr. Jenkinson?

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1 Mr. Jenkinson: First of all no objection to that, no
2 objection to those. Your Honor, we would again offer
3 to stipulate as to autopsy records and testimony about
4 Kenyan Dorsey shot and autopsy records we would object
5 to photographs ...

6 Court Reporter: Your Honor, eighty-six through 91 are
7 in. Photos.

8 The Court: Yes. Ms. Barr?

9 Ms. Barr: Judge, we would take the position that under State
10 vs. Holder, 2009 State Supreme Court case, in that
11 case it was a murder case in which photographs of a
12 child's anus and internal organs were held admissible
13 during the trial of the case. The Supreme Court held
14 that in order for Court to exclude those photographs
15 the Court has to find that they constitute, not just
16 prejudice, but it has to be unfair prejudice such to an
17 extent that it would create an undo tendency to suggest

18 a decision from the jury based on the improper basis
19 commonly known as an emotional one and the Court also
20 went on to hold that although the photographs were
21 graphic. The facts in this case were graphic as the
22 facts in this case are graphic. There was no
23 suggestion about the photographs and their admission
24 intended to suggest to the jury that they needed to
25 base their decision on improper motive and also Judge,

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1 the pathologist testified that the photographs will
2 help her to explain the direction of the bullets, the
3 injury to the victim often times the pathologist
4 testified they used legal terms that the juror would
5 not be well versed in and jurors tend to understand
6 things better when they see them, rather than just
7 hearing someone testify and certainly those photographs
8 would tend to corroborate the pathologist testimony and
9 so we would ask that the pictures be admitted.

10 The Court: Mr. Jenkinson?

11 Mr. Jenkinson: May I respond, Your Honor?

12 The Court: Yes sir?

13 Mr. Jenkinson: The case cited by Ms. Barr is distinguishable
14 and that is the one that was articulating Middleton.
15 In Middleton there was a stipulation about all of the
16 facts in dispute. About the murder, about the autopsy
17 records, which precluded the admission of the
18 photographs. That was not the case as cited by Ms.
19 Barr. That case did not distinguish it from Middleton.
20 I'm sure if Middleton was overruled we would have heard
21 that. Secondly, in this particular case, there's
22 actual photographs from the crime scene showing
23 everything about bullet entries, there's no question
24 and it's uncontradicted that in all the testimony that
25 the deceased met his death as the result of three

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1 bullet wounds in the back of his head while he was
2 sitting in a chair sleeping in front of the t.v. and he
3 also got shot twice with a shotgun blast. That's not
4 in dispute. We also have pictures of sticks going
5 through the chair, showing the projectory. We have the
6 uncontradicted testimony of the officers as to those
7 identical facts and very lay language where we can
8 understand all of which is supported by photographs
9 already in evidence. There's nothing to be learned
10 from really an autopsy, other than A, Mr. Dorsey's
11 dead, B, Mr. Dorsey was shot three times with bullets
12 in his head and he was also shot twice with a shot gun
13 blast and he's deceased. None of that is in dispute.
14 And the only remaining purpose of those photographs
15 would be to show prejudice by emotions, by just simply
16 trying to shock the jury into arriving at a verdict, as
17 opposed to adding any probative value as pointed out in

18 Middleton. For those reason we would ask that they be
19 excluded for the same reasons the Court has excluded a
20 number of photographs. Whatever the pathologist has to
21 say is not in dispute. It is stipulated.

22 The Court: . . . The most recent case, and I think it was just
23 last month when the Supreme Court had to deal with the
24 issue of photographs is the Torrez case in which the
25 Court cautioned the State concerning the use of

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1 photographs and stretching the outer limits of things
2 in order to seek a conviction through the improper use
3 of photographs. I'm not inclined to admit these
4 photographs based on the arguments I've heard at this
5 point. I'll defer ruling until I hear testimony and
6 decide each issue as offered.

7 Ms. Barr: Yes sir.

8 The Court: Have these marked for identification.

9 -JURY ENTERS-

10 The Court: Good morning.

11 Jury: Good morning.

12 The Court: Ladies and gentlemen, the court reporter and
13 I had to go to Bishopville this morning for court,
14 which delayed our starting court here. We are ready to
15 go now?

16 Ms. Barr: Thank you Judge. We call Dr. Ellen Riemer.

17 Bailiff: Do you solemnly swear or affirm to tell the truth,
18 the whole truth and nothing but the truth, so help you
19 God?

20 Dr. Riemer: I do.

21 Bailiff: Have a seat in the witness stand.

22 DIRECT EXAMINATION OF DR. RIEMER BY MS. BARR:

23 Q: Ma'am, let me get you to state your full name please.

24 A: It's Dr. Ellen Riemer.

25 Q: Okay and Dr. Riemer, you were subpoenaed to testify in

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1 this case?

2 A: Yes.

3 Q: Alright, please ma'am, introduce yourself to the ladies
4 and the gentlemen of the jury. Tell us where you work
5 and what you do for a living and give us a little bit
6 of information about your background, your training,
7 education and so forth.

8 Q: Okay. I'm currently employed as a forensic pathologist
9 at the Medical University of South Carolina in
10 Charleston, South Carolina where I have been working
11 for two years and prior to that I worked as a forensic
12 pathologist for six years at Wake Forest University
13 Baptist Medical Center in Winston-Salem, North
14 Carolina. And prior to that I worked for two years in
15 Baltimore, Maryland where I did ... body sub-specialty,
16 fellowship training in forensic pathology at the office
17 of chief medical examiner for the state of Maryland,

18 which is in Baltimore and also an additional year
19 specialty training in cardiovascular and pulmonary
20 pathology, which is heart and lung disease at the Johns
21 Hopkins University School of Medicine and prior to that
22 I did my general training in pathology at the Columbia
23 University College of Physicians and Surgeons in New
24 York and that's where I was for four years and before
25 that I graduated from medical school with an M.D.

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1 degree and prior to that I graduated from college, so
2 I've been to school and training for many years.

3 Q: Alright, and have you had occasion to testify as an
4 expert witness in the state courts for South Carolina
5 or any other state?

6 A: Yes.

7 Q: Okay, how many times have you testified as an expert
8 witness?

9 A: Approximately sixty times, more or less.

10 Q: And what was your field of expertise?

11 A: Forensic pathology.

12 Q: And Judge, we would at this time, tender Dr. Riemer as
13 an expert in the field of forensic pathology.

14 Mr. Jenkinson: Yeah, please we have Dr. Riemer's written
15 report which would stipulates her qualifications as an
16 expert.

17 The Court: Ladies and gentlemen, this witness is an
18 expert witness in the field of forensic pathologist.
19 Although the Rules of Evidence ordinarily do not allow
20 witnesses to offer opinions, except in a limited
21 circumstances. A different rule applies to expert
22 witnesses who are witnesses, who by virtue of their
23 education, training and experience, have some expert
24 knowledge in their particular field in which they are
25 qualified and they are able offer opinions in their

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1 area of expertise. Assuming the testimony, otherwise
2 complies with the rules of evidence, this witness is an
3 expert in forensic pathology. You may proceed.

4 Ms. Barr: Thank you Your Honor.

5 Q: Doctor, kind of explain to us what is meant by the
6 field of pathology and specifically the substantial
7 field of forensic pathology.

8 A: Well, pathology is a sub-specialty of medicine just
9 like surgery or internal medicine or gynecology. So
10 that when physicians graduate from medical school and
11 of course you can't do everything in this world, so
12 most people chose some area in which they want to
13 concentrate and I chose pathology, which is the field
14 where physicians examine tissues in order to diagnose
15 diseases, or injuries as whatever may be present on the
16 body, so it's not just limited to doing autopsies,
17 which is what the people think most pathologist do, but

18 there are pathologist that also, a large number of
19 pathologist, who evaluate biopsies from patients, so if
20 anybody has ever had like a breast biopsy, or a
21 prostate biopsy because there was some abnormality that
22 there was suspicion of and maybe it was cancer or not.
23 Those pieces of tissue bone actually took pathologist,
24 who evaluate the tissue --- Usually they apply certain
25 tests to determine what the correct diagnosis is and

1 then the patient is treated based on that diagnosis.
2 Forensic pathology in particular, doesn't focus on
3 diagnosis of disease processed, but is the field with
4 which pathologist have responsibility and expertise in
5 evaluating injuries that are present on the body and
6 frequently do full autopsies, in order to determine the
7 cause and manner of death of an individual.

8 Q: Okay, now you've used the term quite frequently
9 "autopsy", tell me how an autopsy is performed and
10 specifically what it is designed to determine.

11 A: An autopsy is basically a specialized surgical
12 procedure that begins with a thorough external
13 examination of a person who is deceased and with
14 documentation of any abnormalities like injuries or
15 other abnormalities that may exist on the body and
16 after thorough evaluation of the external, of the
17 findings of the external examination, an internal
18 examination is performed in which every organ, every
19 internal organ in the body is looked out carefully for
20 signs of injury or disease processes and if all of this
21 information, the forensic pathologists are able to
22 determine the cause and manner of death.

23 Q: Okay and of course, as part of your responsibilities,
24 back on April 6th of 2009, you received the body of
25 Kenyan Dorsey?

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1* A: Yes.

2 Q: And your job, of course, would have been to perform an
3 autopsy?

4 A: Yes, which I did.

5 Q: Alright, can you describe the condition of the body
6 when you first received it?

7 A: If it's okay, I'm just going to pull out my autopsy
8 report.

9 Q: Okay

10 A: Okay, when I received this body of Kenyan Dorsey in my
11 autopsy room, I observed that he was a well developed,
12 well nourished adult, black male. And he appeared
13 compatible with the age of seventeen years, which is
14 the age I was told he was and he was wearing some
15 clothes and he was wearing a necklace and a hat and
16 there were, was blood on the body, that indicated that
17 a significant injury had occurred. Injury or injuries

18 and there, otherwise there wasn't anything particularly
19 remarkable about the external appearance except that he
20 had suffered injuries and was covered with blood.

21 Q: Alright, did he have shirt and jeans on as well?

22 A: Yes.

23 Q: Alright now, at some point, did you remove his clothing
24 so that you could begin the autopsy process?

25 A: Yes.

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1 Q: Once you removed his clothing, did you see any evidence
2 of any injuries that he had sustained?

3 A: Yes.

4 Q: Okay, alright now before you start talking about that,
5 I'm going to hand you what's already been admitted as
6 State's exhibit number thirty-one and this is
7 photograph of the victim's body at the scene of the
8 crime. Let me let you look at that right quick. Now,
9 when looking at that particular photograph that's in
10 evidence, does it appear that the victim is injured in
11 some way?

12 A: Yes.

13 Q: Just looking at that particular photograph, can you
14 tell me what the nature of his injuries are?

15 A: Not exactly.

16 Q: Okay, alright. Let me show you what's been admitted as
17 State's thirty-six. Does that appear, can you tell,
18 just from that picture, the nature of the injuries to
19 the victim and what caused them?

20 A: Well I can actually see the little bullet hole on the
21 cap, but I don't see ...

22 Q: On the victim's cap?

23 A: On the cap, yes. Sorry.

24 Q: Yes, alright.

25 A: But I don't see, I don't see, I can't evaluate all the

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injuries.

Q: Okay what about State's exhibit number forty which has been admitted as evidence?

A: Well, this doesn't show me any injuries. It just shows some defect in the chair.

Q: Okay. Alright, what about State's exhibit number forty-one, which is in evidence?

A: That also shows the defect in the chair, but it doesn't display injury to his body except his left lower leg. It doesn't look abnormal.

Q: Okay. What about State's forty-five, which is in evidence?

A: That shows some injury to the right forearm.

Q: Okay.

A: And also an injury to the left, third finger.

Q: Alright, can you tell from that particular photograph whether the victim had any injury to his chest or his

abdomen.

A: No, it doesn't display any of those.

Q: Can you tell from that photograph whether the victim had an injury to his head?

A: No, because the head is not displayed.

Q: Alright, tell me same thing as it relates to exhibit forty six, which is in evidence.

A: This is a picture of the left hand which shows the

1 gunshot wound to the left hand.

2 Q: Alright, can you tell whether or not the victim
3 sustained any injury to the chest or abdomen in that?

4 A: No.

5 Q: What about his face and his head in that photograph?

6 A: No I can not.

7 Q: Alright now, same thing as it relates to exhibit forty-
8 four, which is in evidence.

9 A: This is a photograph of the decedent's forearm from a
10 different angle and I can see a little bit of blood on
11 his shirt, but I can not tell from where that blood is
12 coming.

13 Q: Okay, now one quick question. You said the decedent;
14 make sure you tell the jurors what is meant by that
15 when you say decedent.

16 A: The decedent is the dead individual.

17 Q: So can you tell from this photograph whether the victim
18 had any injuries to his chest, abdomen or to his head?

19 A: No I can not.

20 Q: Now, let's go back to the point in which you received
21 the body of Kenyan Dorsey and you removed his clothing.
22 Tell me about the evidence and injuries that you
23 observed at that point.

24 A: Well, I observed that he had two gunshot wounds to the
25 head. He actually had two entries to the wound and an

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1 exit wound on the left jaw and another entrance wound
2 on the left, the front of the left shoulder area. In
3 addition to that, I observed that there appeared to be
4 a shotgun wound that was extending across the front of
5 the body from the left eye and going down the front of
6 the body to the right hip and then also hitting the
7 right forearm along it's path.

8 Q: Alright, now ma'am, at some point during the course of
9 your autopsy, someone from either SLED or Williamsburg
10 County Sheriff's office took photographs of Kenyan's
11 body?

12 A: Yes.

13 Q: Alright and you indicated that it appeared from his
14 body that he'd been shot with a handgun, a nine
15 millimeter handgun, as well as a shotgun?

16 A: Yes, however by the external examination I could not
17 tell the caliber of the gun ...

18 Q: I understand.

19 A: ... that was involved, because I would need to actually
20 need to look at the bullets and I was not able to
21 recover those until I did the internal examination.

22 Q: Alright ma'am, as it relates to your testimony today,
23 why is it important for you to have the body of the
24 victim photographed? Why is that helpful?

25 A: Because it helps illustrate the findings that are

1 described in an autopsy report and a lot of anatomic
2 landmarks are evident on photographs which are clearly
3* just describing by measurements in the head and it
4 amplifies the findings that I've depicted in the
5 autopsy report.

6 Q: Alright, ma'am, I'm going to show you what's been
7 marked for identification purposes as State's exhibit
8 number ninety-three and ask if you recognize what's
9 depicted in that particular photograph?

10 A: Yes, this is a photograph of Mr. Dorsey's body as he
11* lay on the autopsy table, before he was unclothed by
12 me.

13 Q: Does that particular photograph corroborate your
14 findings as it relates to the victim apparently being
15 the victim of a gunshot, a shotgun wound?

16 A: Yes.

17 Q: Okay, how does it do that?

18 A: Because I can see a path of shotgun pellet injuries on
19 the right side of the abdomen and extending up to the
20* lower chest until where his tee shirt is still covering
21 up his chest.

22 Q: And will the photograph help illustrate to the jury the
23 path of the shotgun pellets, as well as the extent of
24 injury to the victim from that particular weapon.

25 A: It shows part of the injury; it doesn't show the entire

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Clifton Newman, Circuit Court Judge

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V.

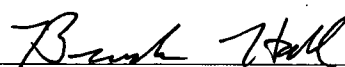
KELVIN MICHAEL BOWEN,

APPELLANT

Appellate Case No. 2011-185566

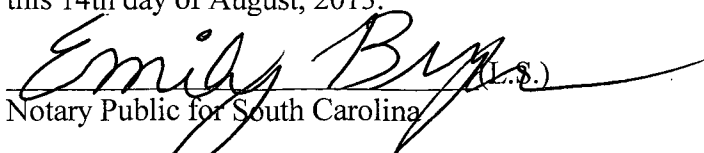
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Brendan J. McDonald, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of August, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of August, 2013.



Notary Public for South Carolina

My Commission Expires: November 16, 2022.