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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

D. Craig Brown, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TROY HUNTER,

APPELLANT

APPELLATE CASE NO. 2013-000227

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2012-GS-21-692
	)	
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Troy Darnell Hunter	)	)
<u>DEFENDANT</u>	)	January 14-16, 2013
		Florence, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE; and a jury.

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

MATTHEW OZMENT, ASSISTANT SOLICITOR
Attorney for the State

STEVEN DEBERRY, ESQ.
Attorney for the Defendant

KESHIA REED
Official Court Reporter

1 charges and The State of South Carolina bears the burden
2 of proving him guilty beyond a reasonable doubt. Later in
3 the course of this trial, I will explain the elements of
4 those offenses to you all. But for purposes of our jury
5 selection right now the Court is advising you of what he
6 has been charged with and the fact that Mr. Hunter has
7 pled not guilty. And the State of South Carolina bears
8 the burden of proving his guilt beyond a reasonable doubt.
9 Now, before we go any further in selecting a jury for the
10 trial of the case, there are certain questions that I must
11 ask you before we begin selecting a jury.

12 The indictment, ladies and gentlemen, as I said
13 is -- charges the offense of armed robbery with a deadly
14 weapon and the indictment reads as follows: On the armed
15 robbery charge, it alleges that Troy Darnell Hunter did in
16 Florence County on or about November 30, 2011, while armed
17 with a deadly weapon to wit a .357 handgun take and carry
18 away personal property of Demetrius C. Holloman from or in
19 the immediate presence of Demetrius C. Holloman with the
20 intent to deprive Demetrius C. Holloman of possession by
21 use of force, threats or intimidation in violation of
22 South Carolina Code Section 16-11-330(a).

23 The other charge, ladies and gentlemen, the
24 assault and battery second degree alleges that Troy
25 Darnell Hunter did in Florence County on or about

1 observe the witnesses, to listen to the witnesses and to
2 pay close attention to the attorneys and to the Court.
3 Please don't let your thoughts wonder but give strict
4 attention to the testimony in this case. So that at the
5 end of all the testimony, after the arguments of counsel
6 and the charge on the law by the Court, you will then be
7 in a position to determine what the true facts are and to
8 apply the law to those facts and thus render a true and
9 just verdict. It will be your added duty, Mr. Foreman, to
10 preside in the jury room and be the jury spokesperson here
11 in court. It will also be your duty to write the verdict,
12 but I will give you further instructions about that at the
13 conclusion of this case. Now, in order to preserve
14 everyone's rights, I will give the parties an opportunity
15 to object to anything that I have said.

16 Any exception or objection to anything that I
17 have said to the jury by the State?

18 MR. OZMENT: Nothing from the State, Your Honor.

19 THE COURT: By defense counsel?

20 MR. DEBERRY: No, Your Honor.

21 THE COURT: Ladies and gentlemen, we will now
22 begin the trial of this case.

23 Mr. Ozment, you're recognized for opening
24 statements.

25 MR. OZMENT: Thank you, Your Honor. May it

1 please the Court. Mr. Deberry. Good afternoon, I'm going
2 to try not to walk into this microphone. Fear is a
3 powerful emotion. Think about what motives people to do
4 things, what motivates people to say things, fear, true
5 fear is one of the most powerful things a person can feel.
6 Two examples of this we see Apostle Paul -- excuse me
7 Apostle Petter in all four gospels denied Christ three
8 times out of fear before cock crowed. I was thinking
9 about the scene in Saving Private Ryan. I don't know if
10 you've seen that, but Tom Hanks is leading a platoon to
11 defend a bridge. And platoon of American soldiers, they
12 are under numbered, out gunned, the German army is coming
13 with tanks, heavy artillery. More men. They created a
14 defense for the bridge. They're ready, things are going
15 according to plan as well as could be hoped. There's one
16 member of Hank's platoon of the translator wasn't much of
17 a warrior, wasn't there to carry an arm. He wasn't
18 expecting to be depending a bridge. Well, not much use
19 for a translator in the middle of a battle, so they have
20 him run shells up to the machine gun. If you seen the
21 movie, you will remember that the battle was going on
22 around him. He started to get a little hesitant and he
23 starts getting scareder and scareder of what's going on
24 around him, that's not what he signed up for. He signed
25 up to translate. And eventually he just freezes on the

1 stairs and balls up. German soldiers go right by him up
2 the stairs and go take out the machine gunners after they
3 run out of shells and kill him. The whole time he's
4 crippled with fear.

5 Another instance of fear you are going to see in
6 this case. It's going to be several witnesses that you're
7 going to hear from in this case and I'm going to try to
8 kind of tell it like a story. Different people are going
9 to tell different parts of the story because not many
10 people there for the whole thing.

11 Back on November 30th 2011, Demetrius Holloman,
12 who some people may call Tad or Tad Pole because that's
13 his nickname, and one of his friends Roderick Titus went
14 to a funeral. They got back from the funeral about one
15 o'clock. Roderick ran up in the house. Demetrius walked
16 around to the side of the house. Within a minute or two,
17 Demetrius is standing there, out of no where he feels
18 something come up behind him, hit him in the mouth. Hit
19 him in the mouth so hard, he falls to the ground. He can
20 feel his teeth are coming out. He can feel blood pouring
21 out of his mouth.

22 The testimony will show he sees Troy Hunter
23 standing over him with a gun. Mr. Hunter ask Demetrius
24 for money, pointed the gun at his head, takes the money,
25 some money from Demetrius.

1 Now, if I had a gun pointed at my head, I just
2 had my teeth knocked out in broad daylight, I can tell you
3 I'd be scared. But that wasn't the end of it. Just to
4 make sure Demetrius got the message from Mr. Hunter, you
5 will hear testimony that Mr. Hunter fired the gun twice
6 right next to Demetrius' head. I've never had to go
7 through anything like that, but I can imagine the fear of
8 how the gun fire point blank range right next to my head.

9 After that happened, Demetrius went to the
10 hospital later that night. You're going to hear about
11 that. You're going to hear about his damage to his face.
12 You're going to hear about his teeth getting knocked out.
13 You'll see pictures of his teeth knocked out. He'll even
14 get up on the stand and show you that his teeth come out.
15 No question about that. You're going to hear from three
16 or four witnesses that are going to tell you they were in
17 the house and heard the gunshots. You're also going to
18 hear that Demetrius after this happened was scared.
19 You're going to hear that when the police came he didn't
20 want to tell them who did it. He was scared. He just had
21 his teeth knocked out and a gun shot next to his head. He
22 knew what could happen to him if he was on Troy Hunter's
23 list. You're also going to hear from Demetrius' mom and
24 similar to my mom would be after Demetrius doesn't tell
25 the police who did it, tells the rest of it, Demetrius'

1 mom says Demetrius that's not how you handle things

2 MR. DEBERRY: Objection, Your Honor. I think
3 this is getting way past ---

4 THE COURT: Can you all approach?

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

8 THE COURT: I'll allow it. Go ahead. Objection
9 so noted for the record overruled.

10 MR. OZMENT: Demetrius' mom is going to testify
11 from the stand right here that she talked to Demetrius
12 and told him to go tell the law. And finally, you will
13 hear from Investigator Lee Davis from the police
14 department going to be sitting with me through the trial.
15 Investigator Davis will tell you that's exactly what
16 happened. Demetrius came and did the right thing and told
17 us what happened. That's what bring us here today. I
18 appreciate your attention.

19 THE COURT: Mr. Deberry.

20 MR. DEBERRY: Thank you, Your Honor. Mr.
21 Ozment, Investigator Davis. Ladies and gentlemen, I'm
22 Steven Deberry. I want to first start out by telling you
23 I understand and I know that there's many many places
24 where you rather be than sitting here today. I understand
25 that. And for your service here today, I want to just

1 thank you right off the bat. I want to thank you for
2 paying attention, for giving this trial Mr. Hunter's day
3 in court and for being fair and impartial. You have
4 already told us that you could do that and all we can do
5 is trust that you will be fair and impartial. We ask that
6 you be fair and impartial not only for Mr. Hunter but also
7 to Mr. Holloman and the State of South Carolina because if
8 we can't deliver a fair trial for both sides, then this
9 system flawed right out of the gate. We got a big
10 problem.

11 Now, Mr. Ozment came up here and he gave you a
12 pretty good description of what he believes happened. The
13 judge has already told you what I say nor what Mr.
14 Ozment says not now or any time throughout this trial is
15 evidence. It is not and you can't consider it as
16 evidence. What you have to find the facts on throughout
17 this case comes from that witness stand right there. So
18 let's just see if he can follow up what he's promised to
19 deliver for you because I don't believe he can. I don't
20 believe he can. He failed to tell you that Mr. Holloman
21 finally told Mr. Lee Davis that he came around and told
22 him who knocked his teeth out because that was the only
23 way he could get repaid for it. He forgot to tell you
24 that part and there's many many things he left out. And
25 I'm not going to attempt to even stand here and tell them

1 to you because you can't consider them any way. You got
2 to hear them from here. You got to hear them from here.
3 It's all that you can consider.

4 Now, it's going to be up to you as the judge
5 told you as a jury in this case, it's your job. It's
6 solely your job to determine what took place. And he told
7 you you have to do it from the testimony that comes from
8 that witness stand and evidence that's introduced
9 throughout this trial. When this trial gets over, I can
10 promise you that the amount of evidence that you'll have
11 to consider will be very very little, very little. It
12 will leave you wondering if this even took place. It'll
13 leave you wondering where this took place.

14 The evidence in this trial will leave you
15 wondering when did Mr. Holloman lose these teeth. There's
16 going to be evidence in this trial. There's going to be a
17 doctor who comes in here that's going to tell you one
18 thing. And Mr. Holloman's going to go tell them another
19 thing. All of these things are for you to determine what
20 happened. And in our system of justice and the judge has
21 already told you it's the greatest system of justice in
22 the world, but in this system of justice, you have to find
23 a criminal defendant guilty beyond a reasonable doubt. I
24 know you've all heard that. I know we've seen TV and
25 shows and news and all sorts of things that harp on you're

1 innocent until you're proven guilty and you have to be
2 proven guilty beyond a reasonable doubt.

3 Ladies and gentlemen, I'm -- I don't know how to
4 better get this point across to you because this is a very
5 fabric of this system. This is a very building block,
6 it's the very foundation because if we find people guilty
7 and we're not sure, you will be doing a terrible thing.
8 Now, that's exactly what a reasonable doubt means. It
9 means are you sure. Are you firmly convinced of what
10 happened? That is the very definition of reasonable
11 doubt. It's firmly convinced that all this evidence
12 proves what the State has the burden of proving. Troy
13 Hunter doesn't have to prove anything, doesn't have to do
14 a thing. This system of justice is set up where with
15 government brings these charges. And they have to prove
16 them guilty beyond a reasonable doubt.

17 Do you believe there was a gun? If you have any
18 lightest hesitation whatsoever if there was a gun, armed
19 robbery may be out of the picture. If you have any
20 slightest hesitation about whether any money was taken
21 because Mr. Ozment forgot to tell you that Mr. Holloman
22 said at first nothing was taken. He tried to take some
23 money, but he didn't get any. And then three days later
24 after he finds out it's going to cost \$960 to fix his
25 teeth, he comes back and says, yeah, I got \$900 to pay.

1 And then three months later he comes back and says, yeah,
2 it was a thousand. So what was it? If you don't believe
3 any money was taken, we don't have a robbery, okay. And
4 if you don't believe that it was Troy Hunter because they
5 don't have any evidence to prove that this even happened,
6 then there's no assault and battery.

7 When you go to your jury room for the final time
8 in this case, ladies and gentlemen, it's so important
9 because that is the point in time where you're going to
10 retire to that room with all the evidence in this case and
11 that's the point in time when you're going to determine
12 what your verdict is and a verdict by the very definition
13 of the word verdict means to speak the truth, to speak the
14 truth.

15 Now, there's three possible outcomes that you
16 can come out of that room with at the end of this case, at
17 the end of this trial. One, if you're firmly convinced
18 that they met every burden of proof, every element of both
19 of these crimes, when you come out here and he tells that
20 Troy Hunter is guilty. Two, if you are not sure that is
21 the very definition of a reasonable doubt and the judge
22 will tell you that law is if you have a hesitation to act,
23 if you are not firmly convinced, then you have to find him
24 not guilty. So if you are unsure, it's not guilty, okay.
25 Third, is what we call hung jury, that's where the 12 of

1 you cannot unanimously agree to a verdict of either guilt
2 or not guilty. And when we picked you, ladies and
3 gentlemen, because I believe that each and every one of
4 you will stand up for yourself. But you want be convinced
5 because somebody else thinks one thing or another that
6 this evidence in this case and the way it's provided to
7 you, the way it is given to you from that witness stand
8 that each and every one of you will make up your own mind.
9 And if it's guilty, find him guilty. If you are not sure,
10 then find him not guilty. One of you feels one way and
11 some of you feel another way, it's a hung jury. But I
12 trust that each and every one of you will be fair, that's
13 all that we can ask for. We promise -- I promise not to
14 take any more of your time than is absolutely necessary.
15 It's a very serious case and Mr. Hunter as well as the
16 State of South Carolina deserves a fair and impartial jury
17 to decide the facts in this matter. And we believe that
18 you can do that. I thank you in advance for doing that.
19 Thank you very much.

20 THE COURT: Mr. Ozment, call your first witness
21 please.

22 MR. OZMENT: The State would call Roderick Titus
23 to the stand.

24 THE CLERK: If you will, sir, come to the
25 witness stand, place your left hand on the Bible and raise

1 your right. Do you swear to tell the truth, the whole
2 truth and nothing but the truth so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please be seated right there in the
5 witness chair. And if you will, sir, state your full name
6 for the record.

7 THE WITNESS: Roderick Sicar Titus.

8 WHEREUPON,

9 Roderick S. Titus,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q How are you today, Mr. Titus?

14 A I'm fine.

15 Q You're a little nervous?

16 A No, sir.

17 Q Where you from?

18 A Florence, South Carolina.

19 Q How long have you lived here?

20 A All of my life.

21 Q All right. Where do you live now?

22 A [REDACTED]

23 Q Have you ever lived on Dixie Street?

24 A Yes.

25 Q When did you live on Dixie Street?

1 A From 2009 until 2012.

2 Q What was your address on Dixie Street?

3 A [REDACTED]

4 Q All right. Is that in Florence County?

5 A Yes, sir.

6 Q Mr. Titus, how long have you known Demetrius
7 Holloman?

8 A All of my life.

9 Q Does he have a nickname?

10 A Yes, Tad.

11 Q All right. When you say all of your life, explain to
12 me how y'all first met and got to know each other?

13 A Elementary school.

14 Q Okay. Did y'all live near each other growing up?

15 A Yeah, we lived in the West Florence area.

16 Q Okay. What about the Defendant Troy Hunter, how long
17 have you known him?

18 A I've known him all of my life too.

19 Q How did you know him all of your life?

20 A Grew up in the same neighborhood.

21 Q Okay. When you say grew up in the same neighborhood,
22 give me on the same street, on the same block, give me an
23 idea?

24 A In the same -- I would say within three, four or five
25 block radius.

1 Q How long did y'all live that close?

2 A Off and on.

3 Q Do you know how well Demetrius knew Troy Hunter?

4 A All of us was like brothers. I mean, this whole
5 situation still has me puzzled.

6 Q Okay. Would y'all hang out as friends do stuff
7 together?

8 A Go to clubs, go out to eat, go see women things like
9 that.

10 Q All three of you would.

11 A On occasions whenever we would run cross each other?

12 Q How old are you now?

13 A Thirty-one.

14 Q Okay. Now, in 31 years have you ever gotten in any
15 trouble?

16 A Yes, sir.

17 Q Have you gotten in any trouble in the last ten years?

18 A Yes, sir.

19 Q Tell me about the first thing you been in trouble for
20 in the last ten years?

21 A Distribution of crack cocaine. I received five years
22 for that October 27, 2003.

23 Q Okay. Did you serve that five years?

24 A Yes, sir.

25 Q Did you do that?

1 A Yes, sir.

2 Q Was that up in this courthouse that you pled guilty
3 to it?

4 A Yes, sir.

5 Q When were you release for that?

6 A I was released in January -- December 2008 I believe.

7 Q All right. Now, you been in a little bit of trouble
8 since then; haven't you?

9 A Yes, sir.

10 Q Do you have any pending charges right now?

11 A Yes, sir.

12 Q Tell me what those are?

13 A Trafficking crack cocaine, distribution of crack
14 cocaine and possession of control substance, which is
15 pills.

16 Q Okay. Do you know if you'll face jail time
17 potentially for those charges?

18 A Yes, sir, I will.

19 Q Okay. Now, you -- are you aware you're testifying
20 for the State today?

21 A Yes, sir.

22 Q Have I promised you anything to testify for us?

23 A No, sir.

24 Q Have I told you we're going to drop anything?

25 A No, sir.

1 Q Have I told you we're going to reduce anything?

2 A No, sir.

3 Q Have I ever mention any sort of number to you be it

4 ---

5 A No, sir.

6 Q Have I ever said the word probation to you?

7 A No, sir.

8 Q Okay. Why are you testifying here today then?

9 A Well, I'm a witness I guess.

10 Q Okay. What is the one thing I did tell you I want
11 for you to do for me today?

12 A Be honest and just tell the truth.

13 Q All right. Are you going to do that for us?

14 A Yes, sir.

15 Q Okay. Let's turn to the date that we're talking
16 about November 30th 2011, what was going on that day?

17 A My kids great grandmother passed away and she had a
18 funeral.

19 Q When you say your kids great grandmother, is that
20 your grandmother or your girlfriend's how is that?

21 A My kid's mother grandmother?

22 Q How many kids do you have?

23 A Three.

24 Q All right. What time was that funeral?

25 A I believe between around 11 and one.

1 Q Okay. Where was it?

2 A On the corner of Coit and Sumter Street Majority
3 Baptist Church.

4 Q All right. Who did you go to the funeral with?

5 A Me and Demetrius.

6 Q All right. After the funeral, did you stay with
7 Demetrius?

8 A Yes, we came back to my residence.

9 Q And what residence was that at the time?

10 A That was [REDACTED]

11 Q All right. How did you get from the funeral back to
12 that residence?

13 A We caught a cab.

14 Q All right. About what time did you get to the
15 residence? I realize it was a long time, but you can
16 estimate for me.

17 A I would say after about two.

18 Q All right. Where did the cab pull up outside the
19 residence, let's say this is the front of the house here
20 tell me kind of where the cab pulled up?

21 A They pulled up directly right up in front of the
22 door.

23 Q All right. So just dead middle?

24 A Yeah.

25 Q Did you all get out the cab?

1 A We got out of the cab. Demetrius went walking toward
2 the side of the house.

3 Q Let me pause you. If this is the front of the house,
4 where did Demetrius go?

5 A On the side.

6 Q Over here?

7 A Yes, sir.

8 Q What did you do?

9 A I walked in the front door and went to change clothes
10 and get a cigarette. And I heard a loud noise and my
11 sisters ran in there and said ---

12 Q Let me pause you. So you came in the front door.
13 Could you see Demetrius at that point? Could you see
14 where he went?

15 A After he went around the corner of the house, I
16 couldn't see him any more.

17 Q All right. You came in the front door. Why did you
18 go in the house? What were you going to do inside?

19 A I went in the house to change clothes, get out of my
20 church clothes.

21 Q Okay. You were in the house changing. Tell me what
22 happened next?

23 A While I was changing, I heard a loud noise. My
24 sisters came in the house and said that ---

25 MR. DEBERRY: Objection, Your Honor.

1 MR. OZMENT: Your Honor, I'll rephrase.

2 BY MR. OZMENT:

3 Q Don't tell me what your sisters said. But your
4 sisters came in the house?

5 A Yeah.

6 Q Were they showing any kind of emotion?

7 A Yeah, they were screaming.

8 Q Okay. Did they seem upset?

9 A Yeah.

10 Q Okay. You said you had heard a loud noise. Can you
11 describe what that loud noise was?

12 A Loud bang noise.

13 Q Okay. How loud?

14 A Very loud.

15 Q Like a hand clap? What was it?

16 A Like a crash.

17 Q Okay. What did you do when you heard the loud noise
18 and your sisters came in screaming?

19 A I grabbed my kids immediately and I went out the
20 front door and put them in the car with my aunt. And she
21 dropped us off around the corner.

22 Q All right. Why did you want to get your kids out?
23 Why was that important?

24 A Because I was concerned about their safety.

25 Q Okay. What made you concerned about their safety?

1 A I didn't know what was going on.

2 Q Okay.

3 A Didn't want anyone to get hurt?

4 Q Okay.

5 A My main concern was getting them to safety before I
6 could find out what was going on.

7 Q Okay. Where did you take them?

8 A I took them around the corner on Ingram Street where
9 everybody went from the funeral.

10 Q So there was a house there?

11 A Yes.

12 Q Did you see Demetrius that night after you left your
13 house after the noise with your kids?

14 A Yeah, I believe I saw Demetrius later on after he
15 came from the hospital I believe.

16 Q Okay.

17 MR. OZMENT: Beg the Court's indulgence.

18 (WHEREUPON, a pause in the proceedings.)

19 BY MR. OZMENT:

20 Q Let's go back to a little earlier in the day. When
21 you got in the car and went inside, do you remember seeing
22 anybody around the house?

23 A I saw a few people. I believe I saw Nate. A guy
24 name Nate, couldn't recognize the other guys.

25 Q Okay. But there were a couple of people around kind

1 of on the street there in the yard?

2 A Yeah, lingering.

3 Q Okay, do you know Nate's last name?

4 A No, sir.

5 Q Okay. Did you see Troy Hunter that day?

6 A No, sir.

7 Q Okay. And you don't know what happened -- well, you
8 did not see anything. You don't have any direct knowledge
9 of what happened that day that made the loud noise or any
10 of that?

11 A No, sir.

12 Q Okay. After this day, have you talk to Troy Hunter
13 since then at all?

14 A Yes, I talk to him several times.

15 Q Do you remember how many times you talk to him?

16 A Maybe two or three.

17 Q Okay. When was the first time you talk to Troy
18 Hunter after that day?

19 A It was so long, I can't remember any specific dates.

20 Q Do you know where he was calling you from?

21 A The jail.

22 Q Okay. What did he say to you in that phone call?

23 A He didn't say anything particular. He just ask me
24 did I talk to Demetrius and, you know, just basically
25 saying he didn't know why Demetrius said what he said. I

1 basically told him I didn't have anything to do with it.

2 And I told him that I had love for him and Demetrius just

3 like both of them was my brothers. And if I could make

4 all of this disappear, I would, but I can't.

5 Q Okay. What about the next time you talk to him do
6 you remember when that was?

7 A No, sir.

8 Q Okay. Was that again a phone call?

9 A Yes, each time I talk to him on the phone.

10 Q Okay. What did he say the next time you talk to him?

11 A He just ask me did I see Demetrius again and he ask
12 me was I going to testify against him, that was it?

13 Q So about the same conversation as the first one?

14 A Yes, sir.

15 Q When is the last time you talk to Troy?

16 A Probably about two weeks ago.

17 Q Okay. What did he say in that phone call?

18 A Nothing in particular just basically the same.

19 Q Okay. Have you ever been around gunshots?

20 A Yes, sir.

21 Q You know what they sound like?

22 A Yes, sir.

23 Q The loud noise you heard could it have been a
24 gunshot?

25 A It could have been.

1 Q All right. Is that when you heard the noise did you
2 think at the time that could have been a gunshot?

3 A That's what I thought it was, that's why I grabbed my
4 kids and got them to safety.

5 Q Okay.

6 MR. OZMENT: No further questions, Your Honor.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY MR. DEBERRY:

10 Q How you doing, Mr. Titus?

11 A I'm doing all right.

12 Q You know Investigator Lee Davis?

13 A Yes, sir.

14 Q How long have you known Investigator Lee Davis?

15 A I couldn't tell you. Well, ever since he started
16 coming to my house, questioning me about different things
17 that was going on around my house.

18 Q Okay. Ever question you about this incident?

19 A I can't remember. It was so long ago, he may be
20 have. I can't remember.

21 Q When did you get lined up to come here to testify
22 today? Just last week?

23 A No, some months ago.

24 Q When did you first talk to Mr. Ozment about this
25 case? Was it just last week?

1 A I believe in December.

2 Q You spoke with Mr. Ozment about this case in
3 December?

4 A Well, I got a subpoena and it was last month when I
5 spoke to him.

6 Q You got a subpoena?

7 A I got a subpoena in maybe the first or second week of
8 December.

9 Q Okay. Did that subpoena ask you questions about this
10 case?

11 A No.

12 Q What did that subpoena -- what did you understand
13 that meant?

14 A It just said I had to be here.

15 Q You had to be here?

16 A Yes.

17 Q But have you ever talked to Mr. Ozment about this
18 case, about what happened, about what you knew, about what
19 you saw?

20 A Yes, I talk to Mr. Ozment.

21 Q When?

22 A A few weeks ago.

23 Q A few weeks ago?

24 A Yeah.

25 Q All right. And Mr. Ozment is assign to prosecute

1 your pending drug trafficking charges?

2 A Actually, I don't know who my solicitor is on my
3 case.

4 Q Okay. So you don't know if you're going to receive a
5 deal for this or not, do you?

6 A I'm not.

7 Q Are you sure you're not?

8 A Yes, sir.

9 Q All right. When this happened, I'm curious which
10 police officers came to your house?

11 A I was gone, sir.

12 Q You were gone. They never talk to you, did they?

13 A I believe they probably talk to me a few days later
14 but...

15 Q You can't remember?

16 A It was so long ago. I don't remember but exact
17 incident as far as them questioning me.

18 Q So if I told you Investigator Lee Davis, who's the
19 chief investigator, the lead investigator on this armed
20 robbery and assault and battery case, if I told you he's
21 never interviewed you on this case, you couldn't tell me
22 if I was telling you the truth or not?

23 A I didn't say that. He interviewed me, but I don't
24 know when he interviewed me.

25 Q Okay.

1 A It wasn't the same day because I had left.

2 Q But what you told us before was you known him for
3 quite a while. He's asked you a lot of other things, but
4 you not sure about it if he ask about this case?

5 A Yeah, he ask me about this case, but I don't know
6 when. It wasn't the same day. It was a few days later.

7 Q Okay. What did you tell Mr. Ozment or you just
8 testified that you saw a couple people and you think that
9 one of them was this Nate guy; is that right?

10 A Yeah.

11 Q Well, you testified y'all came to the front of the
12 house in a cab?

13 A Uh-huh.

14 Q That you got out and went into the house, right?

15 A Uh-huh.

16 Q So where was these people standing?

17 A In my backyard. I kept a yard full of people at all
18 times. It was always people in my yard.

19 Q What sort of activity was going on there?

20 A None, just mainly family and friends.

21 Q Family and friends?

22 A That's it.

23 Q So you don't know who was in the backyard?

24 A Actually, I don't.

25 Q Okay. And it's safe to say you can't see through the

1 house or around the house if you got out and went inside,
2 right?

3 A We didn't have a back door. We only had a front door
4 and a side door that was toward the front.

5 Q Okay. Now, you testified you heard a crash?

6 A A loud noise, that's what it sounded like. It could
7 have been anything.

8 Q You're not sure what it was? Could have been
9 anything, okay. Could you tell which direction it came
10 from?

11 A No.

12 Q So it could have come from anywhere?

13 A I was inside the house, sir. I don't know where it
14 came from. I mean, it was so loud it sounded like it was
15 in the house.

16 Q Okay. But you're not sure what it was. Now, you
17 said you testified that you saw Mr. Holloman later that
18 night, right?

19 A Yeah, but he couldn't talk. He already -- he was in
20 too much pain. I guess, he was stitched up or whatever.

21 Q Okay. Do you know if the police came and put crime
22 scene tape in your backyard there?

23 A I'm not aware.

24 Q You're not aware?

25 A I'm not aware.

1 Q How much grass is in your backyard or was there on
2 Dixie Street? Is it mostly dirt?

3 A Mostly dirt and grass, grass is on the outside.

4 Q It's probably mostly dirt because so many people stay
5 back there all the time?

6 A Yeah.

7 Q Okay. So did you -- when is the first time you went
8 in the backyard after the incident supposedly took place?

9 A Probably the next day.

10 Q The next day?

11 A Yes, sir.

12 Q Did you see any evidence of a struggle or if he had
13 some teeth knocked out? Did you find any teeth or blood
14 or bullet casings or anything?

15 A No, I wasn't concerned about any of that. I was
16 thinking that the police would have taken care all of
17 that.

18 Q You would have thought that would have happened? But
19 you never noticed them back there, did you?

20 A No.

21 Q All right. You said you took the kids around the
22 corner on Ingram Street. How far is that away?

23 A About two blocks over.

24 Q Two blocks. What would be between your backyard
25 there on Dixie Street and where you took kids on Ingram

1 very much or houses or what would be between there?

2 A Well, actually where I took the kids was going away
3 from my house?

4 Q Okay. Two blocks away, right?

5 A Yeah.

6 Q Okay. There was a crowd of people there?

7 A Yeah.

8 Q That's where ---

9 A That's where everyone went to after the funeral.

10 Q Anybody there say they heard a loud noise?

11 A Actually, all of these people who were there wasn't
12 at my house. They left the church and went there.

13 Q They were just two blocks away. Just for
14 clarification, can you tell us what trafficking in crack
15 cocaine and distribution of crack cocaine does that
16 involve -- what does that involve?

17 A What does that involve?

18 Q Yes.

19 A Drugs.

20 Q And is that involving selling of drugs?

21 A No, not necessarily because I use drugs too.

22 Q Okay.

23 A But I have sold drugs and I've been caught for
24 selling drugs.

25 Q And is that what you're facing jail time for?

1 A I'm not guilty, yeah.

2 MR. OZMENT: Your Honor, I would object to any
3 factual questions about his pending charges.

4 THE COURT: Objection sustained.

5 MR. DEBERRY: Thank you very much. You have a
6 good day.

7 THE COURT: Any redirect?

8 MR. OZMENT: No redirect, Your Honor.

9 THE COURT: All right, sir, you may step down.
10 Thank you.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 MR. OZMENT: Your Honor, may Mr. Titus be
14 relieved from his subpoena?

15 THE COURT: Any objection?

16 MR. DEBERRY: No, Your Honor.

17 THE COURT: Without objection.

18 Sir, you're free to go. You have no further
19 responsibility with regard to your subpoena. You free to
20 go. Thank you for being here.

21 Call your next witness please.

22 MR. OZMENT: The State would call Nate Orgbon to
23 the stand. There's also a matter of law with Mr. Orgbon
24 that we may need to take up outside the presence of the
25 jury.

1 to tell the truth, the whole truth, and nothing but the
2 truth so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please be seated and state your full
5 name for the record.

6 THE WITNESS: Nathan Omar Orgbon.

7 THE COURT: Go ahead, sir.

8 WHEREUPON,

9 Nathan Orgbon,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q How are you today, Mr. Orgbon?

14 A Fine.

15 Q How old are you?

16 A Twenty-five.

17 Q Where do you live?

18 A My address?

19 Q Yeah.

20 A [REDACTED]

21 Q Where is that approximately in the county?

22 A East Florence, West Florence kind of in the middle.

23 Q In the middle of Florence?

24 A Yeah.

25 Q All right. Do you work?

- 1 A No, sir.
- 2 Q You do music?
- 3 A Yes.
- 4 Q Tell me about that?
- 5 A I rap ain't much.
- 6 Q Were you suppose to be working today?
- 7 A Yes, sir, I suppose to be in California actually.
- 8 Q All right. Why aren't you in California?
- 9 A Because I'm here.
- 10 Q I'm sorry. How long have you known Demetrius
- 11 Holloman?
- 12 A For a while.
- 13 Q What do you know him as?
- 14 A Tad, T.P.
- 15 Q All right. And when you say for a while, give me an
- 16 idea?
- 17 A Since, I was young. Since, I was little, you know
- 18 what I mean, but young, you know what I mean, about 17 or
- 19 18, somewhere up in there.
- 20 Q What about Troy Hunter? Do you know Troy Hunter?
- 21 A Yeah, I know him for a while too.
- 22 Q About the same amount of time?
- 23 A No not that long, but I know him for a while
- 24 probably like since I was in my 20's, early 20's.
- 25 Q Okay. On the afternoon of November 30th where were

1 you of 2011? Where were you?

2 A On Dixie Street.

3 Q Okay. Whose house was that at?

4 A The Titus'.

5 Q Okay. What were you doing there?

6 A Chillin.

7 Q Okay. Who were you with?

8 A Myself.

9 Q All right. Did you see Troy Hunter there that day?

10 A Later on that day, but like not right away.

11 Q All right. About what time do you remember first

12 seeing Troy Hunter?

13 A I can't even tell you the time. I don't know the

14 time. We were just ---

15 Q After lunch, before lunch?

16 A Little after lunch, I guess.

17 Q Okay. Where did you first see Mr. Hunter?

18 A In -- well, when I first seen him when he came in the

19 yard.

20 Q Okay. Do you know where he came?

21 A No, sir. I can't really tell you the direction he

22 came from, but I remember when he came back there?

23 Q All right. Let's say this is the front of the house

24 right here and the road's right here, about where were you

25 standing?

1 A You say road where?

2 Q It's like ---

3 A We in the backyard, we in the backyard.

4 Q So this is the house and you're around back here?

5 A I'm on the back.

6 Q Okay. And where did you see -- if you're the road,
7 this is the house, backyard, where did Troy Hunter come
8 from?

9 A From the side like -- kind of from the front yard,
10 but, you know, I couldn't tell cause I was already
11 standing in the backyard?

12 Q All right. So he was walking around the house?

13 A Yeah.

14 Q Okay. Do you remember if he said anything that day?

15 A Yeah, he ask like -- ask where Tad was, but everybody
16 look for Tad, you know what I'm saying. Everybody always
17 looking for Tad, so nobody don't think nothing of it.

18 Q So he ask ---

19 A Did we see him? Yeah, we see him.

20 Q Okay. Did you say anything to him when he asked?

21 A No, sir, somebody else said something to him.

22 Q All right. Did that person let him know where Tad
23 was?

24 A Yeah.

25 Q What did you see after somebody told him where Tad

1 was?

2 A Well, he walked over.

3 Q Okay.

4 A Like walked over to Tad, you know what I'm saying.

5 Q What happened next?

6 A Well, they started fighting, you know what I mean.

7 Like I told you the other day, they started fighting.

8 Q When you say they started fighting, tell me he walks
9 up -- when I say he, Troy Hunter, walks up to Tad, what
10 happens?

11 A He clean clock, you know what I'm saying, with his
12 fist. He just punched the man, you know what I mean, so
13 they fighting.

14 Q Okay. When he hit him, what happened?

15 A I seen Tad go back, so that when I left.

16 Q Okay. How far were you from when he hit him?

17 A The yard over there and I'm still standing in the
18 same spot on the other side of the house.

19 Q And so you're further than me to you?

20 A Yeah, little further.

21 Q All right. Still farther than me to you?

22 A That's about right, about two steps back, that ain't
23 too much further though.

24 Q Maybe about this far?

25 A Yeah.

1 Q Okay. Is that between you and where this happen?

2 A A fence and bushes.

3 Q Okay.

4 A And a barn, a fence, bushes and barn.

5 Q Could you see through those well enough to know what
6 happened?

7 A Yeah.

8 Q Okay. Are you sure that Mr. Hunter is the one struck
9 Tad?

10 A I ain't -- I just see them swinging you feel me, like
11 when I saw them start fighting, that was my cue to leave,
12 so I jump on my little ride and I left.

13 Q When you say fighting is -- you've only told us about
14 one punch being thrown. Did you see any other fighting?

15 A Well, I just seen a punch. I seen a punch. I don't
16 know if they was fighting before that. But like I say, I
17 seen a punch and that's when I left because I know it was
18 gone escalate maybe, you feel me.

19 Q How quick did you get out of there?

20 A Snap of a finger.

21 Q Where did you go from there?

22 A To Cober Heights.

23 Q Okay. Now, I know you're a music guy. Do you walk
24 around with headphones?

25 A Yes, I do all the time.

1 Q Did you have headphones on once you got there?

2 A Yes, I did.

3 Q Okay.

4 A Bumping Yo Gotti.

5 Q Okay. When you say on your ride, did you have a
6 bicycle or a car?

7 A Bicycle.

8 Q Were you hurrying on that bike to getting out of
9 there?

10 A Was I? I know the police was coming.

11 MR. OZMENT: No further questions, Your Honor.

12 THE COURT: Cross-examination.

13 MR. DEBERRY: Court's indulgence.

14 THE COURT: Yes, sir.

15 (WHEREUPON, a pause in the proceedings.)

16 CROSS-EXAMINATION

17 BY MR. DEBERRY:

18 Q I just got a question or two, Mr. Orgbon. You said
19 everybody was there to see Tad or everybody always looking
20 for Tad.

21 A Yeah, everybody always looking for Tad.

22 Q Why is that?

23 A Man, listen, it ain't no secret, man. You feel me.
24 Y'all know why everybody looking for him. Tad, Tad, you
25 know what I'm saying. Everybody always looking for Tad.

1 It is, what it is.

2 Q Okay.

3 MR. DEBERRY: I don't have any further
4 questions. Thank you.

5 THE COURT: Redirect?

6 MR. OZMENT: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q A minute ago when I stood back there and you were
10 telling me how far you were. And you were saying that it
11 was those bushes and the fence. Could you tell if
12 Mr. Hunter had anything in his hand?

13 A No, cause he -- when he walked by -- if he had
14 something in his hand when he walk by the first time, I'd
15 seen it, you know what I'm saying.

16 Q So if he put something in his hand after he walked by
17 you ---

18 A Then, you know what I'm saying, that's on him. I
19 didn't know, I was gone. Like I say, when I seen the
20 ruckus start going, I got light.

21 MR. OZMENT: All right. No further questions,
22 Your Honor.

23 THE COURT: Any recross?

24 MR. DEBERRY: No, Your Honor.

25 THE COURT: Sir, you may step down.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 MR. OZMENT: Your Honor, I would ask that Mr.
4 Orgbon be relieved from his subpoena.

5 THE COURT: Any objection?

6 MR. DEBERRY: No, sir.

7 THE COURT: Sir, you are free to go. You have
8 no further responsibilities under your subpoena. Have a
9 good day. Thank you.

10 MR. OZMENT: Your Honor, the State would call
11 Officer Brown to the stand.

12 THE CLERK: If you will, sir, place your left
13 hand on the Bible and raise your right hand. Do you swear
14 to tell the truth, the whole truth, and nothing but the
15 truth so help you God?

16 THE WITNESS: I do.

17 THE COURT: Please be seated in the witness
18 chair and state your full name for the record.

19 WHEREUPON,

20 Andron Brown,

21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. OZMENT:

24 Q How are you today, Officer Brown?

25 A Not bad. How you doing?

1 Q Pretty good. What do you do for a living?

2 A Florence police officer with the Florence Police
3 Department.

4 Q How long have you been doing that?

5 A Approximately three and a half years somewhere around
6 in there.

7 Q Are you from Florence?

8 A No, not originally.

9 Q Where are you?

10 A Originally from Philadelphia and then I moved to
11 Marion.

12 Q Were you working on November 30th 2011?

13 A Yes, sir.

14 Q You remember responding to a call on Dixie Street in
15 the City of Florence?

16 A Yes, sir.

17 Q Is that in Florence County?

18 A Yes, sir.

19 Q All right. What was the nature of that call?

20 A We responded to the call in reference to a anonymous
21 complaint of a gunshot that was heard around the area.

22 Q Okay. When you got to the scene, do you recall about
23 what time you got to the scene?

24 A About three somewhere around there. A ---

25 Q Go ahead, sorry.

1 A A little bit after three something like that, around
2 three p.m.

3 Q Who was at the scene when you arrived, if you recall?

4 A I remember a Miss -- the owner of the person that
5 lived at the house. I remember Ms. Titus and her sister,
6 Ms. Johnson, was there also, that's who I saw at the
7 scene.

8 Q Okay. Was there a big crowd there?

9 A Not at all.

10 Q Okay. Were there other officers on the scene that
11 day?

12 A Yeah, maybe approximately -- it was a few officers
13 that responded maybe about four or five.

14 Q Okay. Did you speak to the two ladies that were on
15 the scene?

16 A Yes, sir.

17 Q Did you also prior to speaking to them, did you
18 conduct any investigation of the scene?

19 A We walked around the back -- our officers walked
20 around the back of the house where they said they heard
21 the gunshot come from. We walked around the back to see
22 if we saw any shell casings. We weren't able to locate
23 anything.

24 Q Okay. How long were you there looking for any kind
25 of shell casings?

1 A Maybe about five, ten minutes. I'm not sure exactly
2 how long ago.

3 Q How big was the area you were looking in?

4 A Normal size backyard.

5 Q Big as the round part of the courtroom, bigger,
6 smaller?

7 A Yeah, something like that.

8 Q Okay. From your investigation of the scene, were you
9 able to determine if there had been any sort victim as to
10 what had happened?

11 A Yes.

12 Q Who was that?

13 A Mr. Holloman, Demetrius Holloman.

14 Q Were you able to determine what had happened to him
15 at all? Don't tell me what they told you. But were they
16 able to tell what it sounded like had happened?

17 A Yes.

18 Q Were you able to develop a suspect from your
19 investigation that day?

20 A Yes, sir.

21 Q Who was that suspect?

22 A Mr. Hunter.

23 Q Okay. What else did you do while you were at the
24 scene that day?

25 A At the scene like I said, I walked around the back a

1 little bit search for any shell casings or anything of the
2 struggle or anything, went into the house and I spoke with
3 Titus for a second and I spoke with Ms. Johnson. I did my
4 initial report and that was it.

5 Q Okay. Did you contact Investigator Davis any time?

6 A No, not at the time.

7 Q Okay. Did you look for Mr. Holloman at all?

8 A No, I wasn't able to locate him. He wasn't at the
9 scene.

10 Q And what about Mr. Hunter, did you look for him at
11 all?

12 A No.

13 Q Okay. At any time later, did you come in contact
14 with Mr. Hunter?

15 A It was a little while later sometime during December,
16 maybe about two weeks after that. We got an unanimous
17 call about the subject being at the residence at Dixie and
18 Simmons somewhere over in that area.

19 Q When you say the suspect, what do you mean?

20 A I meant Mr. Hunter, I'm sorry.

21 Q Okay.

22 A We got there. He fled the scene on a bicycle,
23 another officer was able to identify him, so we gave
24 chance to find out where he was going. He was on a
25 bicycle, road maybe about a block and a half to the 1,000

1 block of Harmony Street. And he ditched the bike and ran
2 into the woods. K-9 unit was called out. Officer set up
3 a perimeter. And eventually he came out where I was
4 standing at about the 700 block of Alexander Street,
5 which is in the City.

6 Q Okay. And where -- were y'all identified as police?

7 A Yes, sir.

8 Q Were you driving police cars?

9 A Yes, sir.

10 Q Did you have on uniforms?

11 A Yes, sir.

12 Q Have a badge that showed?

13 A Yes, sir.

14 Q About how many police were on scene?

15 A Six, seven, or eight somewhere around there maybe.

16 Q And you say he went in some woods, kind of describe
17 to me be like in a neighborhood?

18 A He actually ran behind a house on Harmony Street
19 1,000 block of Harmony. And behind that house, you can
20 access the woods and he ran into the woods after he ran
21 behind the house. It's in a residential neighborhood
22 though.

23 Q Okay. So you were able to surround the woods?

24 A Yes, sir.

25 Q Okay. I understand. You said he came out where you

1 were. What happened then?

2 A He was taken into custody.

3 Q Okay. How long would you say from the time that he
4 fled the residence until he finally got him into custody,
5 if you can estimate?

6 A About 30 or 45 minutes something like that.

7 Q Okay.

8 MR. OZMENT: No further questions, Your Honor.

9 THE COURT: Cross-examination.

10 MR. DEBERRY: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. DEBERRY:

13 Q Officer Brown, you testified you arrived on the scene
14 at around three o'clock?

15 A Approximately somewhere in that area.

16 Q How did you know where to go?

17 A We got a anonymous complaint to come over there at
18 that address that day of the gunshot in the backyard.

19 Q You testified earlier they may have heard a gunshot
20 in the area?

21 A Yes.

22 Q Is that right?

23 A Yes, sir.

24 Q Did you ever find any evidence of the gunshot?

25 A No.

1 Q Okay. And I guess sometime later you learn that
2 Mr. Holloman supposedly been injured there?

3 A Uh-huh.

4 Q You said you looked around in the backyard for five
5 or ten minutes and didn't find anything; is that right?

6 A Yes, sir.

7 Q Do you know what he claims the extent of his injuries
8 are?

9 A Say that again?

10 Q Do you know what Mr. Holloman claims the extent of
11 his injuries are?

12 A Yes.

13 Q What is your understanding?

14 A My understanding is that he had some -- lost some
15 teeth?

16 Q Okay.

17 A That was the only injuries that I know about that he
18 had lost some teeth.

19 Q Okay. Do you know how many teeth he lost?

20 A I'm not for sure.

21 Q Did you ever speak with Mr. Holloman?

22 A No.

23 Q Okay. Did you ever find any evidence of a fight that
24 happened at [REDACTED] [REDACTED]

25 A No, I didn't.

1 Q Did you put up your police barrier tape and act as if
2 it was a crime scene?

3 A No, we didn't do police tape and all that.

4 Q Why not?

5 A We didn't find anything at the time.

6 Q Was -- can you explain to the jury what the ground
7 looks like behind the house at [REDACTED]

8 A It's a little bit of grass, a little bit of dirt.

9 Actually, a lot of dirt mostly dirt. There's a tree back
10 there and a ditch.

11 Q So it's mostly dirt?

12 A Yes.

13 Q When you went back there, did it appear like a lot of
14 people -- I mean, that the dirt was just kind of fresh
15 dirt where a lot of people walk on it all the time?

16 A I didn't see anything out of the ordinary, it look
17 normal.

18 Q Okay. Did you look for any footprints or anything?

19 A I mean, it was just normal footprints there. I mean,
20 people walk through it.

21 Q Did you see any sign of a struggle?

22 A No.

23 Q Did you see any sign of blood or teeth?

24 A We didn't find anything.

25 Q But you just looked for about five or ten minutes?

1 A Somewhere in that area.

2 Q So you can't say for sure if this took place at [REDACTED]

3 [REDACTED] or if it took place at all, can you?

4 A I can't -- I just got what statements I got that was
5 it.

6 Q Okay. Did you obtain the warrants from Mr. Hunter's
7 arrest?

8 A No, I didn't do that.

9 Q Okay. You testified earlier that you had a tip that
10 somebody knew where Mr. Hunter was?

11 A Uh-huh.

12 Q And y'all, as in the police department, responded to
13 try to capture him?

14 A Yes, sir.

15 Q At that point in time is there any evidence -- do you
16 know of any reason why Mr. Hunter would have thought that
17 he was being looked for?

18 A That he would have thought, I'm not for sure if he
19 would have known that he was being looked for.

20 Q So if he hadn't been involved and he wouldn't have
21 known any reason why police would have been coming from
22 him?

23 MR. OZMENT: Your Honor, I would object, that
24 question calls for speculation.

25 THE COURT: Objection sustained. Rephrase your

1 question.

2 BY MR. DEBERRY:

3 Q Okay. When you made contact with him, you said he
4 fled on bicycle?

5 A Yes, sir.

6 Q Okay. Officer Brown, you said that he kind of went
7 into some wooded area and for sometime you all set a
8 perimeter up and then he just came out; is that right?

9 A I don't think he just was giving up. We were there
10 for may be like I said 30 or 45 minutes. K-9's were
11 walking through. They walked through a wooded lawn and
12 everything with the K-9. And I think we heard noises as
13 if he was coming out and he came out didn't know we were
14 there told him to get on the ground. He got on the ground
15 and he was taken into custody.

16 Q Was he cooperative?

17 A Yes.

18 Q Did he fight you?

19 A No.

20 Q Did you tell him why you were taking him into
21 custody?

22 A Yes.

23 Q What did you find on his person?

24 A Marijuana.

25 Q And did you arrest him for that?

1 A Yes.

2 Q Do you know that he's pled guilty to possession of
3 marijuana?

4 A No, I didn't know that.

5 Q Okay. So is it possible he was fleeing from you
6 because he had drugs in his pocket?

7 A I don't know why he was fleeing.

8 Q But you don't have any knowledge that he knew that he
9 was implicated in this crime?

10 A I don't have any knowledge of that.

11 Q Okay. Did you all -- in an incident report that you
12 wrote about taking Mr. Hunter into custody, it says that
13 you took his shoes and put them -- log them into evidence?

14 A Uh-huh.

15 Q Why did you do that?

16 A Why did I log his shoe into evidence?

17 Q Uh-huh.

18 A He left without the shoes, so I just logged it into
19 evidence. It was left with me, so I logged it into
20 evidence.

21 Q That wasn't for any purpose of investigation whether
22 or not to try to determine if he was ---

23 A No.

24 Q Okay.

25 A He ran, he lost his shoe. He left. I just logged it

1 into evidence instead of keeping it with me.

2 Q All right. You said when you responded to what you
3 thought was the scene, but you're not sure if anything
4 took place there or not, but Mr. Holloman wasn't there?

5 A No.

6 Q Was he at the police station?

7 A At that time?

8 Q Yeah.

9 A Not that I know of.

10 Q Did he report this crime?

11 A Did he what?

12 Q Did he report this crime?

13 A No.

14 Q He never sought relief from the police?

15 A Not at that time I'm not for sure if he did later,
16 but at that time I didn't know where he was.

17 Q Is that unusual?

18 MR. OZMENT: Your Honor, objection that calls
19 for speculation.

20 THE COURT: Rephrase your question.

21 BY MR. DEBERRY:

22 Q Is it unusual that an individual who's been the
23 victim of a crime not report it?

24 A No, it's not unusual.

25 Q So you're saying that happens quite often?

1 A It happens.

2 Q You testified when you arrived there was nobody there
3 at the scene other than a few people in the house?

4 A It was nobody outside, no.

5 Q Did you ever learn that there were a bunch of people
6 there?

7 A No.

8 Q Okay.

9 MR. DEBERRY: We don't have any further
10 questions. Thank you.

11 THE COURT: Any redirect?

12 REDIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q Officer Brown, Mr. Deberry asked you if it was
15 unusual for a person not to report a crime? Have you
16 spoken to people before who were the victim of a crime and
17 choose not to report it?

18 A Yes, sir.

19 Q What would you say is a reason most of those people
20 have for not reporting a crime of violence?

21 A Usually fear.

22 MR. OZMENT: No further questions, Your Honor.

23 THE COURT: Any recross?

24 MR. DEBERRY: Nothing further.

25 THE COURT: Sir, you may step down. Thank you.

1 being here when I asked you to be here this morning, but
2 something came up that I didn't have any control over, so
3 I apologize for that. I hope you all had a good evening
4 last night and are ready to start and resume the trial of
5 this case today. If you'll look out in the audience,
6 you'll see a seventh grade class here today observing
7 what's going on. So if you had any questions about who
8 that was out there wanted to advise you of that as well.
9 All right.

10 Mr. Solicitor, you may proceed, call your next
11 witness.

12 MR. OZMENT: Thank you, Your Honor. Your Honor,
13 the State calls Idena Titus to the stand.

14 THE CLERK: If you will, ma'am, go to the
15 witness stand, stop right there. Place your left hand on
16 the Bible, raise your right hand. Do you swear to tell
17 the truth, the whole truth, and nothing but the truth so
18 help you God?

19 THE WITNESS: I do.

20 THE CLERK: Please be seated in the witness
21 chair and state your full name for the record.

22 THE WITNESS: Idena Ann Titus Simmons.

23 WHEREUPON,

24 Idena Titus-Simmons,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OZMENT:

Q How are you today, Ms. Titus?

A I'm fine.

Q Good. Where do you live?

A [REDACTED] Florence, South Carolina.

Q All right. Did you use to live on Dixie Street?

A Yes.

Q What was that address?

A [REDACTED].

Q Okay. Were you living there on November the 30th
2011?

A Yes.

Q All right. Are you married, Ms. Titus?

A Yes.

Q Kids?

A Yes.

Q Tell me who are your kids?

A I have three children one 31, which is Roderick
Titus. A daughter 23, which is Ashley Titus and my baby
is 18, she's Adrian Simmons.

Q All right. How long have you known Demetrius
Holloman?

A All of his life.

Q How do you know Demetrius?

1 A I went school with his mother and he -- him and my
2 son are cousins.

3 Q What about Troy Hunter, do you know Troy Hunter?

4 A Yes.

5 Q How do you know Troy?

6 A Troy raised up right across the street from where I
7 live.

8 Q All right. How long have you known him?

9 A Every since he was like six or seven.

10 Q All right. Tell me a little bit about your house on
11 Dixie Street? Why did you move from Dixie Street?

12 A Well, first of all, I had to move there because the
13 house that I owned in Darlington had problems with it, so
14 I had to move immediately and that was an available house.
15 So I move there and it went well for like a year. Then
16 after like the first year every day I would home from
17 work, my yard would be swamped. They made a path, there's
18 a path going from one street to the next. And they would
19 be camp out in the yard in the backyard, the front yard.

20 Q Well, tell me like where did this path go like
21 between what streets?

22 A Dixie and Glad Stone.

23 Q Okay. Did the path go through your yard?

24 A I never went through it. It's something back there,
25 people would be traveling back and forth.

1 Q Okay. Did you ever talk to the police about this
2 path?

3 A Well, I told them about the boys in the yard, you
4 know. I didn't mind my son having company, but it got out
5 of hand where it was people I didn't even know that would
6 be in the yard. And I told them that I was afraid when I
7 got home from work, I was afraid that they might have had
8 guns and drugs. And they told me that they couldn't do
9 anything. I put a no trespass sign up and they said that
10 my son had a right to have company.

11 Q Okay.

12 A And I had my granddaughter staying there at the time.
13 My grands came over, so I was afraid. I was afraid to go
14 out and say anything to the guys. I was just really
15 afraid to say anything to them.

16 Q All right. Since, you moved do you still have this
17 problem?

18 A No.

19 Q Okay. Does your son still live with you?

20 A Yes.

21 Q Okay. Let's talk about November 30th 2011, what was
22 going on that day?

23 A My grandchildren's great grandmother was buried that
24 day.

25 Q Okay. Did you go to the funeral?

1 A Yes.

2 Q Do you remember about what time it was?

3 A I think it was at 11 o'clock, I'm not sure. But I
4 got up and we went to the funeral. And I had my
5 grandbaby.

6 Q What time did you get back from the funeral? If you
7 don't remember, I know it was a long time ago?

8 A I really don't remember what time.

9 Q After lunch?

10 A Yeah, somewhere around that time.

11 Q Tell me what happened, what did you do when you got
12 home?

13 A Well, I got home and I went in the house and was
14 talking to, my husband and changing my clothes and then I
15 heard this boom. I said, God, a truck hit a transmitter,
16 that's what I thought had happened. My husband said, no,
17 that sound like a gun.

18 Q Did you -- you said the truck hit -- do you mean it
19 sound ---

20 A I thought something hit, like a pole because it
21 sounded loud.

22 Q Okay. Could you tell what direction it was coming
23 from?

24 A No, it sounded real close though.

25 Q Okay. How loud was it?

1 A It was pretty loud.

2 Q Okay. What did you do when you heard this loud
3 noise?

4 A I started searching for my grands and my children to
5 make sure my doors was locked.

6 Q Okay. Were they all safe?

7 A Yeah.

8 Q All right. What did you do after you made sure they
9 were all safe?

10 A I think I told somebody to call 9-1-1?

11 Q Okay. Do you know if the police were called?

12 A They came.

13 Q Okay. How quick were they there?

14 A Pretty quick.

15 Q All right. Do you remember how many police came?

16 A I think I remember seeing Mr. Lee Davis and maybe two
17 cars. I'm not sure. I didn't ever go outside. I never
18 come in.

19 Q Okay. Were there some guys in uniform there?
20 Officers in police uniforms?

21 A I'm sure it was.

22 Q Okay. But you said you stayed inside?

23 A Huh?

24 Q You stayed inside?

25 A Yeah.

1 Q Okay. Did you ever see Troy Hunter at your house
2 that day?

3 A No.

4 Q Okay. And don't tell me anything anybody's told you.
5 But, you know, only what you know. Do you know what that
6 boom came from?

7 A No.

8 Q Okay. When we're talking about these people hanging
9 out in your backyard -- in your yard. What's your yard
10 like? I mean, what's the surface of that yard on Dixie
11 Street?

12 A I think I had like a driveway, front porch, a little
13 bit of dirt here and then a side porch when you walk
14 around the side. And then it was dirt. Then you go in
15 the back and there was nothing but dirt back there.

16 Q Okay. How often would you have all these people at
17 your house?

18 A Every day.

19 Q Okay. Would it be -- just give me an idea how of
20 many people five people, 30 people?

21 A Twenty.

22 MR. OZMENT: No further questions, Your Honor.

23 THE COURT: Cross-examination please.

24 MR. DEBERRY: Thank you, Judge.

25 CROSS-EXAMINATION

1 BY MR. DEBERRY:

2 Q Do you go by Ms. Titus or Ms. Simmons?

3 A Ms. Titus mostly.

4 Q Well, thank you for being here. Could you tell us
5 how did you get to the funeral that day?

6 A I drove.

7 Q You drove. And what kind of car did you have?

8 A A 2000 Mitsubishi Diamante.

9 Q And do you know if your son went to the funeral that
10 day?

11 A Yes.

12 Q And how did he get there?

13 A Him and Demetrius Holloman -- and I don't know who
14 drove them.

15 Q Okay. Did you arrive back at the house about the
16 same time they did or do you know?

17 A Yes.

18 Q Do you know if -- did you see Demetrius there that
19 day?

20 A Yes.

21 Q At your house?

22 A Uh-huh.

23 Q Okay. And what time was that?

24 A Right after lunch somewhere around that time.

25 Q Okay. Did he come inside your house?

1 A Yes.

2 Q Okay. Do you know why?

3 A No, him and my son was in my son's room.

4 Q Okay. And is there a back door to your house or was

5 there a back door there?

6 A No, a side door.

7 Q Just a side door?

8 A You have to go back up the hall and then it's a side,

9 then it's the front.

10 Q Okay. So you testified that you didn't know this

11 very common for a lot of people to be at your house and

12 that you didn't know who was outside?

13 A No.

14 Q Okay. So and you don't know if Troy Hunter was

15 there, you didn't see him?

16 A No.

17 Q Okay. When did you learn that Demetrius was hurt?

18 A Somebody came in the house and said that Demetrius

19 face was messed up. I don't remember who because I was

20 just all upset when I found there was a side gunshot.

21 Q Okay. And you said there's nothing but dirt in the

22 backyard?

23 A Yeah.

24 Q How long did the police officers stay at your house?

25 A Maybe between 20 to 30 minutes.

1 Q Okay. Do you know if they found anything there? Do
2 you know if they searched around or you know what they
3 did?

4 A They was in the backyard searching, I don't know what
5 they found.

6 Q Okay. All right. And you testified that you don't
7 know what the loud noise was?

8 A No.

9 Q Okay.

10 MR. DEBERRY: Thank you very much.

11 THE COURT: Any direct examination?

12 MR. OZMENT: Nothing from the State, Your Honor.

13 THE COURT: Ma'am, you may step down. Thank
14 you.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 MR. OZMENT: May Ms. Titus be released from her
18 subpoena.

19 THE COURT: Any objection?

20 MR. DEBERRY: No, sir.

21 THE COURT: Ma'am, you are released from any
22 further obligation regarding your subpoena. You are free
23 to go. Thank you for being here.

24 MR. OZMENT: The State would call Deloris
25 Johnson to the stand.

1 THE COURT: Ladies and gentlemen of the jury,
2 the banging you heard a minute ago, they're doing work on
3 the roof of this building. And I had asked them at 9:30
4 to make sure they had stopped doing that. Obviously, they
5 have not, so I apologize for that. Hopefully, they will
6 take care of it now, so it won't disturb you all as you
7 listen to this case.

8 THE CLERK: If you will, ma'am, stop right
9 there. Place your left hand on the Bible and raise your
10 right hand. Do you swear to tell the truth, the whole
11 truth, and nothing but the truth so help you God?

12 THE WITNESS: Yes, I do.

13 THE CLERK: Please be seated in the witness
14 chair and state your full name for the record.

15 THE WITNESS: Deloris Titus Johnson.

16 WHEREUPON,

17 Deloris Titus Johnson,
18 after first having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. OZMENT:

21 Q How are you today, Ms. Johnson?

22 A I'm the best I can, pretty good.

23 Q All right. You feeling a little under the weather?

24 A Yes, I am.

25 Q I appreciate you being up here. We'll try to get you

1 out of here quick. I notice your middle name is Titus are
2 you related to Idena Titus?

3 A That's my sister.

4 Q Okay. Where do you live?

5 A I live [REDACTED] Street.

6 Q All right. And this may seem -- is Roderick Titus
7 your nephew?

8 A Yes, he is.

9 Q How long have you known Demetrius Holloman?

10 A Most of his life.

11 Q Okay. How do you know Demetrius?

12 A Through his mother. We like be around each other all
13 the time, little family.

14 Q What about Troy Hunter, how long have you known Troy?

15 A I known him most of his life.

16 Q How do you know Troy?

17 A Through his family.

18 Q Okay. You know both of them well?

19 A Yes, sir.

20 Q Turning to look at November 30th 2011, did you go to
21 Dixie Street to your sister's house that day?

22 A Yes, I did, sir.

23 Q What was going on that day?

24 A Well, when I pull in the yard, I got on the phone
25 sitting in the yard on my cell phone talking.

1 Q What about what time was this?

2 A Honestly, it's in the afternoon. I don't remember
3 exactly what time it was, sir.

4 Q All right, go ahead.

5 A And I was sitting in my car on the phone. And I was
6 looking I could see the house, I'm facing the house.
7 These people walking around in the backyard like they
8 normally do.

9 Q All right. How many people about?

10 A I can't see because I was in the front yard. They
11 were in the backyard.

12 Q A bunch of people?

13 A I saw like six or seven people maybe.

14 Q Okay. Go ahead.

15 A And I was sitting in the car and on my cell phone.
16 They back there moving around. And Troy pulled up and the
17 guy like he normally do. They comes there every day, come
18 there every day and got out the car and went in the
19 backyard and they talk for a while. I pay no attention to
20 nothing just sitting here.

21 Q Could you see Troy when he was in backyard?

22 A No, sir, I couldn't. I saw him go back, pass by.

23 Q You just saw him arrive?

24 A Yes, sir.

25 Q Was he with anybody?

1 A He was with a guy.

2 Q Do you know who that guy was?

3 A No, sir, I don't.

4 Q Okay. Do you remember what kind of car they pulled
5 up in?

6 A I think it was a burgundy car, if I'm not mistaken.

7 Q Okay. All right. Troy went in the backyard what
8 happened next?

9 A I'm not sure what happened back there because I
10 wasn't back there, but I heard some gunshots everybody
11 run. And then everybody left out, he left out too, just
12 like normal way.

13 Q Okay. When you say you heard some gunshots, could
14 you tell where they were coming from?

15 A It was probably the backyard.

16 Q Okay. How loud were they?

17 A I think I heard two. I was real loud.

18 Q Have you heard gunshots before?

19 A Yes, that's the neighborhood for that kind of stuff.

20 Q Okay. After the gunshot everybody was leaving, tell
21 me how people were leaving?

22 A Some of them left through the backyard because it was
23 a path, some of them left out the front way.

24 Q Okay. Were they walking, running?

25 A Some of them was walking, some of them people was

1 running.

2 Q Okay. What about Troy do you remember seeing him
3 leave?

4 A Yes.

5 Q How was he leaving?

6 A The ones that came out the front door was walking.
7 The people coming out the front door was walking real
8 fast.

9 Q Okay. But was he walking or running?

10 A He wasn't running. The ones came out the front none
11 of them was running.

12 Q What about the guy that Troy was with, he with him
13 still?

14 A Yes, sir.

15 Q Okay. And what did they do once you saw them walking
16 out?

17 A They left.

18 Q Did they get in the same car that they came in?

19 A Well, if I'm not mistaken, yes, sir, they did.

20 Q Okay. What did you do after everybody left?

21 A I got out the car and went in the house with my
22 sister.

23 Q What happened then?

24 A They were discussing -- I left. They was talking
25 about they scared to call the police. They call the

1 police.

2 Q Did the police come?

3 A Yes, sir.

4 Q Okay. How quick were they there?

5 A I recon, I don't know about ten or 15 minutes. I'm
6 not sure. I don't want to lie.

7 Q Short amount of time?

8 A Short amount of time.

9 Q Do you remember how many police came?

10 A If I ain't mistaken, I think it was two or three.

11 Q Okay. How long were they there?

12 A For a little while. Maybe like 20 minute, 25 give or
13 take a little.

14 Q Did they talk to you while they were there?

15 A Yeah, they talk to us.

16 Q What did you tell them?

17 A I was getting ready to tell them what I thought, but
18 then his father came to the door -- his stepfather ---

19 MR. DEBERRY: Objection.

20 THE COURT: What's your ground for your
21 objection?

22 MR. DEBERRY: Your Honor, I think she's about to
23 get into some hearsay. She's talking about ---

24 THE WITNESS: Right, it is hearsay.

25 THE COURT: Hold on, hold on. When I'm talking,

1 don't talk.

2 THE WITNESS: I apologize, Your Honor.

3 THE COURT: That's okay. You cannot say what
4 somebody else told you, okay. Unless, it falls under one
5 of our hearsay exceptions. I hadn't heard anything that
6 qualify for that.

7 Mr. Ozment, you may continue at this time.

8 BY MR. OZMENT:

9 Q When you're saying his father, who's father came in?

10 A Tad's, Demetrius'.

11 Q Okay. So he came over to house that night?

12 A That day when the officers were there.

13 Q Okay. You saying you were talking to the police,
14 what did you tell the police?

15 A Me and my sister talking with her. I was trying to
16 talk, she was talking. Why we talking his father came in
17 and made a statement to the officers, went back out the
18 door. That was hearsay also because he wasn't there.

19 Q Did you make a statement to the officers?

20 A I don't remember. I was getting ready to make a
21 statement like I said. But before I could say anything,
22 his father open the door and made a comment and my sister
23 said it's her house let her speak.

24 Q Okay.

25 MR. OZMENT: No further questions, Your Honor.

1 THE COURT: Cross-examination.

2 MR. DEBERRY: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. DEBERRY:

5 Q Ms. Johnson, just have a few questions. You stated
6 you saw six or seven people?

7 A Yes, sir.

8 Q But you were in front of the house at that time?

9 A The house like I'm sitting in the yard. The house
10 facing this way. I could see people moving around in the
11 backyard.

12 Q Okay. So you saw six or seven people, but it may be
13 safe to say there could have been more?

14 A Could have been more.

15 Q Okay. And when you heard a loud noise people you say
16 some left by the path, some came out to the front of the
17 house?

18 A Yes, sir.

19 Q Was there any way that Troy Hunter left there that
20 day that was unlike anybody else?

21 A No, no, sir.

22 Q Okay. So you don't know what happened other than
23 what you heard and the people you saw?

24 A Yes, sir.

25 Q And you certainly didn't see anything take place?

1 A Because I'm in the front yard, sir, and they're in
2 the backyard. I couldn't sit here say I could see
3 anything because I didn't.

4 Q Okay. And were you in the -- when you heard the
5 noise, were you inside your car?

6 A Yes, sir.

7 Q Okay. So could you really tell where it came from?

8 A Honestly, I say from the backyard because they ran.

9 Q That's what made you think that?

10 A Yes, sir.

11 Q Okay. But some ran and some walked?

12 A Yes, sir.

13 Q And the ones who ran where did they go?

14 A Through the path behind the house.

15 MR. DEBERRY: I don't have anything further.

16 THE COURT: Any redirect?

17 MR. OZMENT: No redirect, Your Honor.

18 THE COURT: All right. Ma'am, you may step
19 down. Thank you.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 MR. OZMENT: Your Honor, the State would ask
23 that Ms. Johnson be relieved of her subpoena?

24 THE COURT: Any objection?

25 MR. DEBERRY: No, Your Honor.

1 THE COURT: Ms. Johnson, you are free to leave.
2 You have no further responsibilities under your subpoena.
3 Thank you for being here.

4 Call your next witness.

5 MR. OZMENT: Your Honor, the State would call
6 Demetrius Holloman to the stand.

7 THE CLERK: If you will, sir, place your left
8 hand on the Bible and raise your right hand. Do you swear
9 to tell the truth, the whole truth, and nothing but the
10 truth so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Please be seated and state your name
13 for the record?

14 THE WITNESS: Demetrius Holloman.

15 THE COURT: Mr. Ozment.

16 MR. OZMENT: Thank you, Your Honor.

17 WHEREUPON,

18 Demetrius Cottrell Holloman,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. OZMENT:

22 Q How are you today, Demetrius?

23 A Fine.

24 Q Do you have a nickname?

25 A Yes.

1 Q What's that?

2 A Tad, Tad Pole.

3 Q Where do you live, Demetrius?

4 A In Florence, Florence, South Carolina West Florence
5 area.

6 Q All right. Give me your address?

7 A [REDACTED]

8 Q Are you from Florence originally?

9 A Yes, sir.

10 Q All right. How long have you known Troy Hunter?

11 A All my life.

12 Q All right. How did you all first get to knowing each
13 other?

14 A Well, my uncle is married to his aunt. They married
15 in the family, so I know him all my life from being around
16 the family.

17 Q All right. So you all are cousins that would make
18 you?

19 A I thought we were.

20 Q Okay. Did you all go to family events growing up
21 together?

22 A No, sir, I ain't really hang out with him too much
23 unless he came by Dixie Street and I happen to see him on
24 Dixie Street.

25 Q Okay. How old were you do you think you were when

1 you first met him?

2 A Probably about seven or eight.

3 Q Okay. How about Roderick Titus? How long have you
4 known Roderick?

5 A All my life.

6 Q All right. How did you and Roderick get to know each
7 other?

8 A Because my daddy is his cousin, we cousins.

9 Q Okay. Do you all hang out do stuff together?

10 A Yes, sir.

11 Q Let's start talking about November 30th 2011, what
12 was going on that day?

13 A Well, my cousin girlfriend -- her grandma she had a
14 funeral. And then we had went to the funeral, it was like
15 early in the morning.

16 Q Okay. Had you talked to Troy Hunter at all that day?

17 A Yes, sir, he called my phone early that morning right
18 before we went to the funeral.

19 Q What was that phone call about?

20 A Ask me what time the funeral be over, where I'm going
21 to be at, ask me where he gone meet me at after that stuff
22 like that right there.

23 Q Okay. Did you tell him where you were going to be at
24 after the funeral?

25 A I told him I was leaving the funeral and I was gone

1 go to my cousin's house at Roderick house?

2 Q Is that where you went? Where is that house?

3 A That's [REDACTED]

4 Q Okay. Was that -- when was that phone call that day?

5 A That was like 20 minutes before we walk in the
6 funeral?

7 Q Okay. Where was the funeral?

8 A Funeral was at Majority Baptist Church right there on
9 the corner of Sumter and Coit Street.

10 Q All right. You remember about what time the funeral
11 ended?

12 A I think it started at 11 something or right at
13 probably at 12. I know it was over with by lunch time
14 around about one or two though.

15 Q Okay. How did you and Roderick go to and from the
16 funeral?

17 A We rode with a cab. Her grandson and dude Ron John
18 Cannon he drives cabs.

19 Q Okay. About what time did you get back to Dixie
20 Street, if you remember?

21 A Can't remember exactly what time, but I know it was
22 right after the funeral probably like right at about two
23 something around that time.

24 Q Okay. Now, let's say that this table's the front of
25 the house, where did the cab pull up?

1 A The cap pulled up right in here like in the front of
2 the house.

3 Q Okay. When you got out of the cab, where did you go?

4 A First, I got out. Roderick walked in the house. He
5 came to the door and hand me a cigarette. I walked around
6 to the side of the house.

7 Q All right. Now, I know this house has two doors,
8 which door did Roderick go in?

9 A Roderick went in the front door.

10 Q Okay. Do you know why Roderick went in the house?

11 A Yeah, I guess he wanted to take his shoes off, shoes
12 were hurting. He has his church clothes on.

13 Q Okay. Now, you said went -- you did go inside the
14 house? Where did you go?

15 A I went to the door to get a cigarette. He gave me a
16 cigarette and I went to the side of the house to get my
17 phone charger off the side of the house.

18 Q Okay. Which side of the house, if this is the front?

19 A This right side of the house.

20 Q Okay. After you walked around to the side of the
21 house, tell me what happened next?

22 A Well, after I walked right down to the side of the
23 house and then it's a little plug right there on the side
24 of the house, I was snatching off the phone charger out
25 the plug. So I was like kneeling down and I out of no way

1 Mr. Hunter came behind me, swing like he swinging a
2 baseball bat, hit me in the mouth with a .357.

3 Q Did you know Troy Hunter was there when you were
4 walking around the side of the house?

5 A No, sir, but I know they was gone get ready to call
6 him because I know they was gone call him.

7 Q Okay. So you had not seen him before this happened?

8 A No, sir.

9 Q Okay. Were there other people around?

10 A Yes.

11 Q Who do you remember anybody?

12 A Nate, I remember Nate he was here yesterday. A
13 couple more people was out there in the backyard.

14 Q Can you remember who they were?

15 A No, because I never made it to the backyard. I stop
16 right there on the side of the house.

17 Q Okay. And so you were -- described to me you said
18 that he kind of came up, were you facing him or to the
19 side?

20 A No, he came behind him, yes, sir.

21 Q He swung and hit you in the mouth?

22 A With the butt of a .357.

23 Q What happened next?

24 A I fell back, fell to the ground. He hit me right on
25 top of the head again with the gun. I fell all the way to

1 the ground. He stand over me with the gun. And being
2 that the kids here, I can't exactly say what he say cause
3 he curse. He did like say where is it at. And when he
4 say where is it at, I was leaning down on the ground, so
5 he shot right by my head, boom. So I know it wasn't no
6 game because my mouth full of blood. I'm really scared to
7 spit because all my teeth knocked out off the first swing
8 of the gun. So he like where is it at. So I'm laying
9 down on the ground, he like shot right by my head, boom.
10 So he reach right from my pocket right here. I had these
11 church pants on. I was laying on the pants. The church
12 pants so thin, he snatched and ripped everything out my
13 pocket right there. So that how he come about getting the
14 money, so then he stand back over me again with the gun
15 and said, Say something, I'll kill you. Then I say -- I
16 ain't never said nothing cause my mouth was full of blood
17 at the time. But then he stand over me and as he got the
18 money, he stand over me with the gun and say something,
19 I'll kill you. And as he was walking away, I was still
20 laying on the ground and he had the gun pointed at me when
21 he was walking to get back in the car with the boy Charles
22 Hunter in the burgundy car.

23 Q Okay. How do you know it was a .357 Magnum?

24 A Because I was looking straight down the barrel when
25 he was standing over me with it in my face. It was gray

1 and black.

2 Q Was it a revolver?

3 A Yes, sir.

4 Q Were you scared of him?

5 A Scared to death.

6 Q How close were you when that gun was going off?

7 A He was standing right over me probably from right
8 here to the floor.

9 Q Okay. When you say he grabbed your pocket, what was
10 in your pockets?

11 A Cash money that my girl got from the refund check
12 from Tech. It was a thousand dollars cash money.

13 Q Okay. Now, tell me where did that money from came?

14 A It come from like my momma gave me three of it. My
15 girl gave me like seven. Everybody get their school
16 checks around Tech time.

17 Q Tell me what that means school checks from Tech?
18 What is that?

19 A It's like refund checks like to help get their books.
20 It's like 5500. And after they get their books or
21 whatever, they still have about 3500 something like that.

22 Q Okay. Is it like student loan money?

23 A Student loan money.

24 Q Now, you said some of it was from your girlfriend?

25 A Uh-huh.

1 Q How much of it?

2 A Seven Hundred of it from my girl and my momma give me
3 three.

4 Q Was your girlfriend going to Florence Darlington?

5 A Yes, she's in Tech, she's enrolled.

6 Q What is she doing there?

7 A I think she do some kind of physical therapy
8 something like that.

9 Q Okay. And I know you said 300 was from your momma.
10 Why did your momma give you 300?

11 A Because basically was to get my kids transportation.
12 I already have a car, but just happened my motor had died.
13 I was trying to get me another motor and get everything
14 right with my car.

15 Q Okay. And you had it in your pocket?

16 A Yes, sir.

17 Q After Mr. Hunter walked off after pointing the gun at
18 you, what did you do?

19 A Laid right there.

20 Q How long did you lay there?

21 A Until he got close enough to the car to get away.

22 Q Okay. When did you get up?

23 A Right after I seen him got in the car and they was
24 pulling off.

25 Q Where did you get?

1 A I walk towards the front of the house walking down
2 Simmons Street walking toward my momma house on Simmons
3 Street.

4 Q Did you go to your momma's house?

5 A Yes, sir.

6 Q What happened -- don't tell me what your momma said
7 or anybody else said, but what happened when you got to
8 your momma's house?

9 A Well, I walked in the house and I told her what
10 happened. And she couldn't believe it, I guess. So she
11 ran outside and ran toward the door. And I sit there and
12 she finally came back to me. She couldn't believe it, I
13 guess. And then she called a ride or whatever. We went
14 to the hospital.

15 Q Okay. When you got to the hospital, did they gave
16 you some treatment?

17 A Yes, sir.

18 Q I guess, tell me what your injuries were?

19 A I had six teeth knocked out two in the top and four
20 in the bottom.

21 Q Okay. Had you had some teeth knocked loose before?

22 A No, sir.

23 Q Okay. Are your teeth still knocked out?

24 A Yes, sir.

25 Q Can you show us that?

1 A Yes, sir.

2 Q Do you mind taking your teeth out? Show me your --
3 what are you missing there?

4 A Two right here in the top and all four right cross
5 the front of the bottom.

6 Q All right. You can put them back in. Now, other
7 than you teeth, what else was injured?

8 A I think I had a fracture right here across my face.

9 Q Okay. What did you have to do about that?

10 A I first had to go to McLeod. Then once I left
11 McLeod, they send me to Sexton's. And once I got to
12 Sexton's, they start talking about they can't really do
13 nothing for me being that the teeth broke off in the gum,
14 I got to go see a specialist. And once I got to the
15 specialist, they told me they got to do surgery. It's
16 gone be right at 1500 or 2500. And then once they start
17 saying all these prices that I know, I ain't got the money
18 to pay for, that when I made a decision to tell the police
19 what was going on, yes, sir.

20 Q Okay. Let's go back to when you were at the
21 hospital. Did you talk to the police when you were at the
22 hospital?

23 A Yes, I talk to them.

24 Q What did you tell them?

25 A At the time I was scared because if somebody knock

1 six of your teeth out and shot by your head two times, you
2 ain't gone be in no rush to tell on them either, so at the
3 time I told them I ain't know what was going on.

4 Q All right. Why were you scared of Troy Hunter?

5 A Somebody shot by your head and knock all your teeth
6 out, you ain't gone be in no rush to tell on them either,
7 sir.

8 Q Were you afraid that he would retaliate if you got
9 him in trouble?

10 A Yes, sir.

11 Q Why were you afraid he would retaliate?

12 A Because he just did this to me, ain't nothing left
13 but to kill me.

14 Q Okay. When he shot by your head, you think he was
15 trying to kill you?

16 A I thought I was already dead. I ain't gone tell you
17 no story.

18 Q All right. So when you talked to the police at the
19 hospital, after that you went to the doctors. When did
20 you decide to go back and talk to police again?

21 A Once I got to the doctors and this doctor telling me
22 one thing and this doctor telling me all this, but the
23 same time nobody don't know the next day was my son
24 birthday. I had to cancel his party because I had to tell
25 him I can't show up for his party being that I'm sitting

1 in Sexton's fixing to get surgery.

2 MR. OZMENT: All right. Beg the Court's
3 indulgence one moment.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. OZMENT:

6 Q After you came back, tell me about you coming in to
7 tell the police what actually happened?

8 A We was at McLeod. Then when he came in front, he ask
9 me did I know what happened. I still like really because
10 he hit me hard and I'm still kind of puzzled. So at the
11 time, I told him I didn't know who did it. But I know who
12 did it the whole time, I was just scared to tell on him.

13 Q All right. Did you tell your mom who did it?

14 A Yeah, I told her as soon as I got in the house. I
15 told her who did it.

16 Q Okay. But then a couple days later when you did go
17 back and I think you talked to Investigator Davis, what
18 did you tell them then?

19 A I told them that -- I told them at first I wasn't
20 gone tell because I ain't really wanted -- he just did
21 that to me, but I told them I would put everything in the
22 Lord's hand. So I did the right thing and I told them
23 what was going on.

24 Q All right. Were you scared after you had told the
25 police that something's going to happen to you?

1 A Yes, sir.

2 Q So after you told the police, what did you do?

3 A Stayed in the house for about, I believe, two weeks

4 before they called me, stayed in.

5 Q All right. Why did you stay in the house?

6 A Scared from my life, sir. I got two kids. I ain't

7 in no rush to get killed.

8 Q Do you know how eventually he got caught?

9 A Yes, sir, I heard ---

10 Q Don't tell me what you heard.

11 A He fled off on a bicycle.

12 Q Okay. Do you know how they knew that day where to go

13 look for him that he got caught? If you don't know...

14 A No, sir.

15 Q You telling me the truth, Demetrius?

16 A I'm tell you the truth.

17 Q Why are you here today to testify?

18 A To make sure justice get served.

19 Q Okay. Are you in some trouble yourself also?

20 A Yes, sir.

21 Q What are you in trouble for?

22 A Distribution of marijuana.

23 Q Okay. Have you been promised anything on those to

24 testify?

25 A No, sir.

1 Q Were you going to testify before you had those
2 charges?

3 A Yes, sir.

4 Q Have you and I ever discussed those charges?

5 A No, sir.

6 Q Have I promised you anything?

7 A No, sir.

8 Q Ever said the word probation?

9 A No, sir.

10 Q Ever given you a number anything like that?

11 A No, sir, I can go forward with that on my own cause I
12 ain't been in trouble in ten years, so it wouldn't be
13 really that serious.

14 Q Okay.

15 MR. OZMENT: Beg the Court's indulgence one
16 moment.

17 (WHEREUPON, a pause in the proceedings.)

18 MR. OZMENT: No further questions, Your Honor.

19 THE COURT: Can the lawyers approach just a
20 minute please?

21 (WHEREUPON, a bench conference was held in the
22 presence of the jury, but out of the hearing of the
23 jury.)

24 MR. OZMENT: No further questions, Your Honor.

25 THE COURT: Cross-examination please.

CROSS-EXAMINATION

BY MR. DEBERRY:

Q Mr. Holloman, how you doing?

A All right.

Q So to make things clear, you do have a pending charge for distribution of marijuana?

A Yes, sir.

Q And that involves the business of selling marijuana?

A Yes, sir.

Q Okay. And have you been convicted of drug possession before?

A That was over 12 years ago.

Q How about in 2007?

A 2007?

Q Yeah.

A What kind of charge it was?

Q Possession of marijuana second offense where you were convicted in this court, did you forget about that?

A I ain't been in trouble so long, sir. All this trouble ain't start happening what he did to me happen.

Q Well, I'm asking you about 2007.

A I miss that, but it ain't about me. It's about what he did to me.

Q I'm asking you if you remember being in trouble in 2007?

1 A I don't remember, no, sir. No, sir.

2 Q So you're telling me I'm probably lying if I say ---

3 A You probably ---

4 MR. OZMENT: I object.

5 THE COURT: Hold on. When multiple people are
6 talking, I can't have multiple people talking because my
7 court reporter can't take down but one person at the time.

8 Mr. Deberry, rephrase your question -- restate
9 your question.

10 MR. DEBERRY: Thank you, Your Honor. I'll move
11 on.

12 BY MR. DEBERRY:

13 Q Mr. Holloman.

14 A Yes, sir.

15 Q You stated here today that this incident took place
16 on the side of the house?

17 A Yes, sir.

18 Q Is that right?

19 A Yes, sir.

20 Q You stated on November the 30th hours after this
21 supposedly took place, that this took place in the
22 backyard?

23 A No, sir, I said on the side of the house.

24 Q Okay.

25 A I never made it to the backyard, sir.

1 Q You told the officers that it happen in the backyard?

2 A I told you on the side of the house, sir. You
3 defending him. You say whatever it take to defend him.
4 You wasn't looking down the barrel of a gun.

5 MR. DEBERRY: Your Honor, I'm going to object.

6 THE COURT: Answer the question, sir.

7 A What the question was?

8 THE COURT: Restate your question.

9 BY MR. DEBERRY:

10 Q You told the officers the day that this supposedly
11 took place, that it happened in the backyard?

12 A Yes, sir. Sir, if somebody hit you on the side of
13 the head with a pistol, your head be puzzle up, so you
14 wouldn't know exactly what to tell them either.

15 MR. DEBERRY: Objection, Your Honor.

16 THE COURT: Hold on. When I say hold on, that
17 means stop, okay.

18 MR. HOLLOMAN: Yes, sir.

19 THE COURT: Answer his question. Go ahead, Mr.
20 Deberry.

21 BY MR. DEBERRY:

22 Q It's true that you're now telling us a different
23 story?

24 A Yes, sir. Yes, sir.

25 Q It's also true that on November the 30th you say that

1 you were scared for your life. And if this happen, I can
2 understand that. Well, why did you tell the police you
3 weren't robbed?

4 A Why I told the police I wasn't robbed?

5 Q Right.

6 A At first, I told the police I ain't know who did it
7 to me.

8 Q I understand that.

9 THE COURT: Let him finish, Mr. Deberry.

10 A I told him I didn't know who did it to me. Who gone
11 be in a rush to tell on somebody who just hit them side of
12 the head with a gun, sir.

13 Q I understand. I understand, but that's not my
14 question. Mr. Holloman, my question is this, that's a
15 believable story while you may not have told who you
16 thought it was, but why didn't you tell them you were
17 robbed to start with?

18 A I did tell them I was robbed. I ain't tell them I
19 know who it was at first and I ain't tell them what he
20 took from me at first. When I made my statement when I
21 told on him, I told them what really actually happened. I
22 told him what he took out my pocket and what he did to me.
23 That's what I told him, but I ain't told him at first
24 because he just hit me side the head with a gun. I ain't
25 gone be in no rush to tell on nobody.

1 Q Okay. So when did you first tell them you were
2 robbed?

3 A When I first tell them I was robbed, when I met with
4 Sergeant Davis.

5 Q Okay. And when was that?

6 A After I left from the hospital.

7 Q After you left from the hospital?

8 A Not the same day but probably like a day or two later
9 when he called me up into the office and put in for the
10 witness program thing.

11 Q All right. And isn't it true that you told Officer
12 Davis that you went to Sexton's and you had to pay \$65 for
13 an x-ray?

14 A Sir, I end up spending a whole lot of money behind
15 that. And then I ain't wait on the victim's advocate
16 thing to come through. My momma help me pay for that out
17 my pocket. The victim thing ain't came through two or
18 three months later.

19 Q Did you tell Officer Davis that it was \$65 x-ray bill
20 at Sexton's?

21 A I paid like two or three x-rays, sir. Plus, how much
22 it cost to pull my teeth. Plus, how much it cost to put
23 them back in. I paid a couple things.

24 Q I'm gone refresh your memory.

25 A Yes, I paid the x-ray and I paid like \$130 x-ray at

1 Lawhan too.

2 MR. DEBERRY: Objection, Your Honor.

3 THE COURT: Answer the question, sir.

4 A I answer the question. He said did I pay the x-ray,
5 I paid the x-ray. Yes, sir.

6 THE COURT: Thank you.

7 BY MR. DEBERRY:

8 Q That's not -- my question was did you tell
9 Investigator Davis that Sexton's was gone cost you \$65?

10 A I paid that, yes, sir.

11 Q Okay. Did you tell Investigator Davis that the
12 specialist charged you \$145 to talk to him?

13 A I paid that, yes, sir.

14 Q Okay. And did you tell him that it was going to take
15 \$750 to fix your feet?

16 A Yes, sir. Yes, sir.

17 Q Okay. And do you realize what the sums of those
18 three totals are?

19 A Uh-huh.

20 Q How much?

21 A It adding up to -- it can't roughly it off, but it
22 end up to around about thousand dollars, but actually it
23 was more than that because I had pay \$300 for each gold
24 teeth that I got back on there. They ain't had that
25 paperwork in there. It was actually more than that. I

1 just wasn't looing for all the help to get all the money I
2 spent. I was just asking to help me period, get my mouth
3 fix.

4 Q So that just happens to be how much money you're out
5 of?

6 A Over a thousand something dollars.

7 Q Is that how much was stolen from you?

8 A Yes, sir, it was.

9 Q This happen to be the same amount?

10 A Yes, sir.

11 Q Okay. Isn't it true that on the recorded statement
12 with Mr. Davis, you told him you were out of \$900?

13 A No, I told him a thousand dollars, sir. When he
14 knock me side the head the first day and I was so puzzle,
15 I probably could have said 900, but it was a thousand. My
16 girl gave me seven and my mother gave me three.

17 Q Okay. But you told Sergeant Davis it was 900?

18 A I probably could, sir. I probably could. I probably
19 was puzzle. I probably could, but I ain't lying about
20 nothing. I said what he did to me though.

21 Q Okay. And then isn't it true that three months later
22 you came and you said, well, it wasn't 900, it was a
23 thousand?

24 A Sir, from 900 to a thousand, ain't too much. You
25 making a big deal about this. He took that money from me,

1 sir. He took that from me. Plus, he ain't only took that
2 from me. He shot at me and hit me on the side of the head
3 and knock all my teeth out my mouth..

4 Q Let me ask you about your teeth being knocked.

5 A Yes, sir.

6 Q You never had any teeth missing?

7 A I ain't never had no teeth knock out. I ain't
8 nothing but 31 year olds. It ain't time for my teeth to
9 start falling out yet.

10 Q So the gold teeth you're talking about, how did those
11 come about?

12 A Them permanent, them screw-in. They was until he
13 knock them all out..

14 Q So in other words, you had to be missing some teeth,
15 before you could get some screw-ins, right?

16 A Sir, ain't nothing never been wrong with my mouth. I
17 got pictures of me from right now until the day I was
18 born. All my teeth was in my mouth. My teeth got knocked
19 out November the 30th. Once the dentist come in here and
20 show you the chart, he'll show you all that.

21 Q Mr. Holloman, you've told the police, you told
22 Mr. Ozment, you told this jury that you had six teeth
23 knocked out?

24 A Yes, sir.

25 Q But before you said you had all your teeth knocked

1 out ---

2 A Sir, all my teeth in the front, sir.

3 THE COURT: Hold on a minute.

4 A All the ---

5 THE COURT: Hey, hold on a minute. Let him
6 finish his question and then you can answer, okay.

7 MR. HOLLOMAN: All right.

8 BY MR. DEBERRY:

9 Q Is it not true on a recorded statement, you said you
10 had eight teeth knocked out?

11 A Sir, my teeth on my partial. I got four in the
12 bottom knocked out right here, two in the top knocked out
13 right here. I understand what you trying to do about
14 getting this clear, but this ain't your mouth you got to
15 wear this in.

16 MR. DEBERRY: Objection, Your Honor.

17 A This real serious.

18 THE COURT: Hold on a minute.

19 A This a serious problem right here, sir.

20 THE COURT: Hold on a minute. Mr. Holloman,
21 hold on a minute.

22 Ladies and gentlemen, I'm going to ask that you
23 step to the jury room for just a minute while I take
24 something up outside your presence, okay. I will get you
25 right back out here.

1 (WHEREUPON, the jury retire to the jury room.)

2 THE COURT: Mr. Ozment, can you approach for
3 just a minute please.

4 (WHEREUPON, a bench conference was held.)

5 THE COURT: Mr. Holloman, I understand that this
6 is difficult based upon what you testified to, what
7 happened that day, okay. But this is the way that our
8 system works. Mr. Deberry, who represents Mr. Hunter, has
9 a right to what's called cross-examine and ask you
10 questions. And I understand that you may disagree with
11 some of the questions he ask, but under our system, he has
12 a right to ask you questions, okay. It's not a situation
13 where you get to ask him questions, okay. He gets to ask
14 you questions which in turn means that you answer those
15 questions to the best of your ability.

16 Now, and after answering his questions, if you
17 believe or feel as though you need to explain your answer,
18 you certainly have every right to explain your answer.
19 You have every right to do that. However, first and
20 foremost, I want you to answer his question. And if it's
21 a yes or no answer, provide such an answer. But again,
22 you have every right to explain your answer, but you are
23 not as a witness under our system entitled to ask him
24 questions. You are not entitled to ask him questions.

25 Any exceptions or objections to what I have

1 instructed this witness by the State?

2 MR. OZMENT: Not at all, Your Honor.

3 THE COURT: By defense counsel?

4 MR. DEBERRY: No, Your Honor.

5 THE COURT: Anything before I bring the jury
6 back in?

7 MR. OZMENT: Nothing from the State, Your Honor.

8 THE COURT: Mr. Deberry.

9 MR. DEBERRY: No, Your Honor.

10 THE COURT: Mr. Holloman, do you understand what
11 I've explained to you here?

12 MR. HOLLOMAN: Yes, sir, I was trying to answer
13 the question, but he trying to twist me up. He ain't the
14 one been there.

15 THE COURT: I understand.

16 MR. HOLLOMAN: He ain't the one been through
17 surgery.

18 THE COURT: I understand, but just simply answer
19 his questions the best of your ability. This is not a
20 situation where you and he get into a sparring contest
21 over statements.

22 MR. HOLLOMAN: Thank you.

23 THE COURT: All right. If you will bring me the
24 jury back please.

25 Mr. Ozment, Mr. Deberry, could you all come up

1 here a minute please.

2 (WHEREUPON, a bench conference was held.)

3 (WHEREUPON, the jury came into open court.)

4 THE COURT: All right. Mr. Deberry, you may
5 continue with cross-examination.

6 MR. DEBERRY: Thank you.

7 BY MR. DEBERRY:

8 Q I like to start back try to get a time line to
9 establish and just. I'm going to set out a time line and
10 just asking you if that's correct, okay. So
11 November 30th, you say took place, the events of
12 November 30th. The hospital that night then to Sexton's
13 and specialist dentist the next day?

14 A Yes, sir.

15 Q That would have been a Thursday?

16 A Yes.

17 Q And then back to the police station on Friday,
18 December 2nd?

19 A I probably went to the police station before I even
20 went to Sexton's. I went to the hospital first. Then
21 when I went to the hospital, I probably did come to the
22 police station first because I had to do the victim's
23 advocate thing. I don't know which one I went to first,
24 but I know first two or three days I seen all them people
25 the dentists, the doctors, the police and everybody else.

1 Q Okay. And at some point after you realize what was
2 wrong with you and everything, you gave Sergeant Davis a
3 recorded statement, right?

4 A Yes, sir.

5 Q Okay. Now, when you say you went to -- did you say
6 you went to victim's assistance program?

7 A Yes, that's after I talk with Mr. Lee Davis once I
8 told him what was going on, that he was telling me that
9 was obligated -- that you can go through the witness. I
10 ain't know nothing about the witness program. They was
11 telling me that I was probably be qualified for that. I
12 wasn't gone wait on that money because my momma make money
13 herself. She help me go through those dentists and all
14 that. She paid for all that out her pocket, but once he
15 told me the victim thing that I could've did that, then I
16 tried to sign for it. But it still ain't came through,
17 but a couple months later. My son birthday was the next
18 day. I had to get my mouth fix immediately. I couldn't
19 wait on the victim advocate.

20 Q Okay. So you're saying that you told -- you gave
21 this recorded statement before you did the victim's
22 application?

23 A I don't want to get twist up. I know I did it within
24 a couple days, two days. I don't know which one.

25 Q Because on your recorded statement, you said to

1 Sergeant Davis that it was only when you realize that you
2 couldn't get your mouth fix without giving a statement,
3 that you decided to tell that it might have been Troy
4 Hunter?

5 A No, sir. I ain't never quite remember saying that.
6 If I did, I didn't need him to give me no money to get my
7 mouth fix because I don't depend on nobody else. I did
8 that on my own before the victim money even came. Me and
9 my mother had got my mouth fix. I ain't need nothing from
10 Troy Hunter.

11 Q You saying that's not on the recorded statement?

12 A It probably is, sir, but it probably been something
13 he was asking me. He was telling me about the victim
14 thing. I ain't need no money from Troy Hunter. My people
15 work, I got my own mouth fix.

16 Q Okay. So you're telling me that Sergeant Davis told
17 you that if you gave him a name, that he could get some
18 money?

19 A No, sir, no, sir, wasn't even about that. First, I
20 was scared to tell on him for what he did to me. Then I
21 realize I should go and tell on him, I'm afraid what I
22 might do to him, you understand. I ain't scared of him.
23 I'm scared of what I might have to do to him if he come at
24 me again with this.

25 Q Okay. But in your recorded statement, you said that

1 you realize you couldn't get your mouth fix unless you
2 gave a statement?

3 A I know I answer that question for you, but you making
4 it look like I gave you a name just to get my mouth fix,
5 sir. This real a case. My son birthday was yesterday, he
6 had a party. I had to get my mouth fix. I ain't want to
7 say who did what. I ain't wanted to tell on nobody, but I
8 know justice had to be served. Just like that little
9 charge I told you I had, I'm gone handle my own charge.
10 I'm gone pay for that. He need to pay for what he did to
11 me, that's what I'm telling you.

12 Q Tell us how you knew it was a .357?

13 A Cause when he was standing over me shooting it, I
14 look at it. It was long gray and black. We watch movies
15 all day. I know what a .357 is, I'm 31 years old, sir.

16 Q Did anybody else see the .357?

17 A I was the only one standing under the barrel of the
18 gun. Nobody else was down there when he had me at gun
19 point nobody but me.

20 Q There was nobody around?

21 A Sir, you the type of person try to twist something
22 up. Listen to what I'm saying. I say I was the only one
23 there when he hit me in the mouth. I was the only when he
24 was standing over me with that gun. I was the only person
25 there. You try to make it look like I'm the bad guy and

1 this don't got nothing to do with me.

2 MR. DEBERRY: Objection.

3 THE COURT: Hold on. Objection sustained.

4 BY MR. DEBERRY:

5 Q Mr. Holloman.

6 A Yes, sir.

7 Q You testified that you never had any dental problems.
8 It is possible to have a gold tooth without having lost
9 another tooth?

10 A Sir, I don't have screw-ins. I talk too fast, I just
11 have regular teeth. I just got my teeth cement on my
12 white. The gold teeth was cemented on my white teeth.
13 Now, these two still on there. You can still see the
14 white teeth front of it, but the other six that on the
15 partial them got knocked out. The dentist explain all
16 that, them got knocked out. The four in the bottom and
17 the two on the side. These two still real teeth here.
18 These the two that come out.

19 Q So you never lost a tooth before that?

20 A I never had no problems with my health, sir.

21 Q Would it surprise you that the medical records from
22 McLeod will say that you only had three teeth knocked out?

23 A Well, if they show me I got three teeth knocked out,
24 sir, you can dismiss this whole case.

25 MR. DEBERRY: Okay, thank you very much. I

1 don't have any further questions.

2 THE COURT: Any redirect?

3 MR. OZMENT: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. OZMENT:

6 Q Mr. Holmes, will you come down for me. You mind
7 popping your teeth out, so the jury can see.

8 A That's two teeth right here on the side that got
9 knocked out right there when the butt of the gun hit me
10 like I said on this side of the house. And when he swung
11 this way, that's that butt of the gun hit me in the mouth
12 right here. And the whole four teeth in the bottom, the
13 .357 split right through my mouth, that's exactly where he
14 hit me.

15 MR. DEBERRY: Objection, Your Honor.

16 THE COURT: What's your grounds for the
17 objection?

18 MR. DEBERRY: He's not asking a question.

19 THE COURT: You all approach a minute.

20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)

23 THE COURT: Objection overruled.

24 BY MR. OZMENT:

25 Q Mr. Holloman, I'm going to ask you one more question

1 down here. I'm afraid I'm going to make you pop your
2 teeth out one more time.

3 A They already out, sir.

4 Q Would you mind opening your lips for us? Thank you,
5 Mr. Holloman, you can retake the witness stand. Mr.
6 Holloman, why didn't you tell the police what happened to
7 you the first time they talk to you?

8 A Sir, I was scared, sir. He just knocked all my teeth
9 out. I was thinking like I was dreaming being that all my
10 teeth knocked out in the front of my mouth. It's like a
11 dream to me, but once I feel like I don't want to tell on
12 him at first cause he did this to me.

13 Q When you did end up telling Investigator Davis what
14 actually happened, were you still scared of him?

15 A Yes, sir.

16 Q Were you scare of him after that once you knew they
17 were looking for him?

18 A Yes, sir. Cause this ain't no game what happened to
19 me, sir. If that would have happened to one of their
20 son's, they would want justice to get served.

21 Q Are you still scared that he could do something to
22 you even now?

23 A Yes, sir, being that I'm up here on this testifying
24 stand.

25 MR. OZMENT: Thank you, Your Honor. No further

1 questions.

2 THE COURT: Any recross?

3 MR. DEBERRY: Nothing further, Judge.

4 THE COURT: Sir, you may step down. Thank you.

5 (WHEREUPON, the witness leaves the witness
6 stand.)

7 THE COURT: Call your next witness.

8 MR. OZMENT: Your Honor, the State would call
9 Debra Singletary -- Singleton to the stand.

10 THE CLERK: If you will, ma'am, place your left
11 hand on the Bible and raise your right hand. Do you swear
12 to tell the truth, the whole truth, and nothing but the
13 truth so help you God?

14 THE WITNESS: Yes.

15 THE CLERK: Please be seated in the witness
16 chair and state your full name for the record.

17 THE WITNESS: Debra Ann Singleton.

18 THE COURT: Mr. Ozment.

19 WHEREUPON,

20 Debra Singleton,
21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. OZMENT:

24 Q How are you today, Ms. Singleton?

25 A I'm good.

1 Q Where do you live?

2 A [REDACTED] Florence, South Carolina.

3 Q All right. How do you know Demetrius Holloman?

4 A He's my oldest son.

5 Q Okay. Does he live with you?

6 A No.

7 Q Okay. When did he live with you back in 2011?

8 A No, not at that time.

9 Q How do you know Troy Hunter?

10 A Well, through family. My brother and his auntie has
11 been together like 40 something years, you know, family
12 like.

13 Q So through marriage you're family?

14 A Yes.

15 Q Okay. How long have you known Troy?

16 A Probably 20 something years.

17 Q Okay. Going back to November of 2011, had you given
18 Demetrius any money for anything?

19 A Yes, for a big wheeler for my oldest grandson.

20 Q Okay. How much money had you given him?

21 A Probably about 250 and \$300.

22 Q Do you remember the exact amount?

23 A Not exactly.

24 Q Okay. Let's now start talking about November 30th
25 2011, the reason we're here. How did you hear about

1 Demetrius getting injured that day?

2 A Well, not so much of heard. I was home and he came
3 in my house running and I was standing in my kitchen doing
4 dishes and my husband was on the side of me.

5 MR. DEBERRY: Objection, Your Honor. May we
6 approach just a second please.

7 THE COURT: Yes.

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

11 THE COURT: All right. Ladies and gentlemen,
12 I'm going to have to ask you to step to the jury room for
13 just a minute while we take up something outside your
14 presence. Do not discuss the case. I'll get you back out
15 here as quickly as possible.

16 (WHEREUPON, the jury retire to the jury room.)

17 THE COURT: All right. Mr. Deberry, state your
18 grounds for your objection. Nothing has been said as yet,
19 but I certainly side bar understand what your concerns
20 are. Go ahead.

21 MR. DEBERRY: Your Honor, my concerns are that
22 this witness testified that on the day of November 30th
23 her son comes home sometime after an incident takes place
24 says that Troy Hunter assaulted him. Your Honor, Mr.
25 Holloman's already taken the stand. He's already

1 testified to that. So the statement we're talking about
2 is absolutely hearsay and it's from an available witness
3 that's already testified to the facts. So this is merely
4 an to attempt bolster his position -- his credibility and
5 it's purely hearsay. So I think she can testify to what
6 she perceived. She certainly can't testify to what
7 somebody told her. She wasn't there. I mean, if she
8 wants to say he had a bloody mouth or whatever, you know,
9 whatever she perceived, that's fine. But to allow her to
10 say what Mr. Holloman comes home and tells her especially
11 in the like that Mr. Holloman's already testified to that
12 fact, it's unfair and that's purely hearsay.

13 THE COURT: Mr. Ozment.

14 MR. OZMENT: Your Honor, during Mr. Deberry's
15 cross, Mr. Holloman the State would argue that he put
16 Mr. Holloman's credibility at issue. He discussed pending
17 charges he has. He discussed a criminal record he has.
18 He also tried to point out disparities in Mr. Holloman's
19 story and the various times you talked to police including
20 even when he came here today. So the State would submit
21 any questions that we're asking her regarding what
22 Mr. Holloman told her the day this happened are not being
23 submitted for the truthfulness that they are in. They are
24 being submitted to corroborate that he said the statement.
25 And that would fall outside the rule of hearsay.

1 MR. DEBERRY: If I can respond, Your Honor?

2 THE COURT: Yes.

3 MR. DEBERRY: That's -- that is way to dangerous
4 of a statement to admit under that exception saying that,
5 yeah, they're just offering it to say that he said it.
6 You know, that goes to the very core of what they're
7 trying to prove, that's not fair. And it's hearsay and
8 it's already been testified to by the declarant.

9 THE COURT: Mr. Ozment.

10 MR. OZMENT: Your Honor, I'll stand by the
11 previous story about we're not submitting them for the
12 truthfulness. We're submitting them to show that he said
13 them in some ways rebuttal to Mr. Deberry attack on Mr.
14 Holloman's credibility. He didn't just attack the story.
15 He actually attacked his credibility by discussing his
16 charges and his record, which the State did not bring in
17 his record on direct.

18 THE COURT: Let me ask this question,
19 Mr. Deberry, assuming it is hearsay, why does it not fall
20 under one of the hearsay exceptions present sense
21 impression or excited utterance?

22 MR. DEBERRY: I understand, Your Honor. I don't
23 think it's excited utterance or present sense impression
24 because of the time lines between the event and when he
25 might have come to her house. She testified she lived

1 somewhere else. She wasn't there. And it wasn't a
2 freshly committed -- I mean, when you're talking about --
3 when you look at the case law under present sense
4 impression, you're talking about something that's
5 happening immediately?

6 THE COURT: What about excited utterance?
7 There's certainly case law out there that is an extended
8 period of time for somebody to give that kind of
9 statement. It falls under the hearsay exception.

10 MR. DEBERRY: Again, I don't think it's an
11 excited utterance. I think, you know, he didn't want to
12 tell anybody what happened. I mean, he's certainly wasn't
13 excited about it. You know, I don't think it was just a
14 knee jerk reaction that he walked in and said that. I
15 mean, there's certainly no evidence that it is. He's
16 already testified to that fact he went there and he told
17 his mother that. I don't understand how it's fair for
18 them to be able now to put the mother up and say the same
19 thing, that's clearly an out of court statement by another
20 witness, that's hearsay. And I don't believe it falls
21 within an exception.

22 THE COURT: Mr. Ozment, anything further?

23 MR. OZMENT: Your Honor, I would stand by that
24 it's not being admitted for the truth of the statement
25 itself for the matter at issue. Additionally, as an

1 excited utterance -- excuse me -- as a present sense
2 impression the rule says the statement describing or
3 explaining the event or condition may involve the
4 declarant was perceiving the events or condition or
5 immediately thereafter. She's already testified which
6 theoretically right now arguing about things that have not
7 been testified to, but she's already testified that he
8 came running to her house out of breath and his mouth was
9 bleeding. I'm certain it appears that this happened right
10 after also Mr. Holloman testified that he left the yard
11 and went straight to his mother's house.

12 THE COURT: All right. Anything else,
13 Mr. Deberry?

14 MR. DEBERRY: No, Your Honor, other than my
15 opposition that their argument that they're just offering
16 this to prove that he said this. Your Honor, clearly if
17 that's true, then this is not fair. I don't believe that
18 that's true for a minute because it goes to the very heart
19 of what they're trying to prove in this case. It's not
20 linking up any evidence to anything else. It goes to the
21 very heart of, you know, identifying my client and I don't
22 think that's proper. I don't think there's any question
23 that's hearsay and I don't think, you know, that if it
24 happen as soon as he walked around the corner of this
25 house or something, you know, an excited utterance maybe

1 or present sense impression. I just don't believe that it
2 was an exception.

3 THE COURT: All right.

4 MR. OZMENT: Your Honor, I have a couple cases I
5 like to point to.

6 THE COURT: All right.

7 MR. OZMENT: Your Honor, the first and I'm
8 giving these out of the con evidence notes. Burton vs.
9 York County Sheriff's Department 358 South Carolina 339,
10 key cited at 356, 357.

11 THE COURT: Under what rule are you looking at?

12 MR. OZMENT: Your Honor, I'm looking at the 801,
13 the main hearsay rule. This is under hearsay generally,
14 but this is a direct quote from the case. Proof of a
15 statement introduced to show a party heard or acted upon
16 the information is not objectionable hearsay. Again, in
17 the next case down Fields vs. Regional Medical South
18 Carolina Orangeburg 354 South Carolina 445. Again, a
19 direct quote from that case. Proof of a statement
20 introduced to show a party heard or acted upon information
21 is not objectable hearsay. We're submitting this to show
22 that she heard this. We are not submitting it as evidence
23 of what actually happened that day.

24 THE COURT: All right. Bear with me just a
25 minute here. Based upon what I've heard here today and

1 based upon counsel's argument and based upon the testimony
2 that's been presented during the course of this trial,
3 testimony from the victim in this case, Mr. Holloman, was
4 that he was struck in the mouth on the side of this house,
5 that he left the scene and went to his mother's house.

6 During cross-examination, Mr. Deberry certainly
7 questioned the credibility of the victim in questioning
8 him as to why he waited a couple of days thereabout of
9 time frame to tell law enforcement that it was Mr. Hunter.
10 Mr. Holloman certainly testified on direct examination
11 that he had told his mother that the defendant had struck
12 him in the mouth immediately thereafter or after this
13 incident occurred.

14 Under State vs. Whisonant or W-H-I-S-O-N-A-N-T
15 335, S.C. 148, states under Rule 803: First of all,
16 whether or not it's hearsay. The Court does not believe
17 it's hearsay based upon what's been testified here to
18 today. I do not believe based upon what I've heard that
19 it is being offered for the truth of the matter asserted,
20 but simply pursuant to the victim's credibility being
21 attacked here.

22 However, even if it is determined or considered
23 to be hearsay, the mere fact that a hearsay statement was
24 made sometime after the incident occurred, does not mean
25 the statement cannot qualify as an excited utterance

1 provided the circumstances surrounding the statement
2 indicate it's reliability, that's under State vs.
3 Whisonant, which is the 335, S.C. 148. Therefore, the
4 Court will allow her to testify to that. I certainly
5 understand your position on that, Mr. Deberry. And
6 understand that your argument about it being prejudicial
7 or unfair about however under the rules I do believe that
8 it is admissible. Therefore, I will allow it. Anything
9 else at this time?

10 MR. OZMENT: Nothing at this time.

11 THE COURT: And I certainly wanted to -- why I
12 had the jury exit the courtroom. If I'm wrong on it,
13 there's a record of it clearly to make sure that this
14 young man's rights are protected on that. But I think I'm
15 right on it and that's my ruling on it. We'll stand down
16 for about ten minutes, stand down for about ten minutes.

17 MR. OZMENT: Your Honor, you instruct ---

18 THE COURT: Yes; sir.

19 Ma'am, you may step off the stand, but I will
20 tell you you are not allowed to discuss your testimony
21 with anyone. You understand?

22 THE WITNESS: Yes.

23 THE COURT: Thank you.

24 (WHEREUPON, a break was taken.)

25 THE COURT: State ready to proceed?

1 MR. OZMENT: Yes, Your Honor.

2 THE COURT: Defense counsel ready to proceed?

3 MR. DEBERRY: Yes, Your Honor.

4 THE COURT: Bring me the jury please, ma'am.

5 (WHEREUPON, the jury came into open court.)

6 THE COURT: Mr. Ozment, you may continue.

7 MR. OZMENT: Thank you, Your Honor.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. OZMENT:

10 Q I believe we just started talking about when
11 Demetrius had come in your house that night. I think you
12 just said you were washing dishes. I guess start with you
13 washing dishes. What happened next?

14 A Well, when he came in, it was in the evening. He
15 came in I was washing dishes and my husband was fixing a
16 sandwich and he called me. He said, momma, and when I
17 turned to look at him, I just see blood everywhere. And I
18 say what happened to you, He say momma that boy hit me. I
19 say what boy. He say Troy hit me in my mouth with a gun.

20 Q How much blood was there?

21 A It was just pouring.

22 Q Okay. What did you see -- do after he told you?

23 A After that I went towards him and I was getting ready
24 to touch him and I just went hysterical. You know, and
25 ran out the door. My husband came behind me. And he said

1 Troy ---

2 Q Don't tell me what your husband said.

3 A Okay.

4 Q But your husband came out behind you and then what
5 happened? Don't tell me what he said.

6 A I was getting ready to go to the highway to the road
7 and my niece came across the street. And I told her I
8 said I just need to go there. And what I was saying by
9 going there was to my brother's house where all of them be
10 at. And by that time ---

11 Q Your brother's house is that Troy's aunt? .

12 A Yeah, uh-huh.

13 Q Okay, go ahead.

14 A And I said I was going out to his house. I was told
15 no by my husband don't go. And I said, well, we need to
16 talk to him, you know. Because I really wanted to know
17 what caused this and why did he do this because I took him
18 like family, like a little nephew, you know. And when I
19 got there, he wasn't there. So we came back home and
20 Demetrius was in my house, which is my middle son bedroom
21 lying across the bed. And I asked him, I said, you know,
22 you got to get up. You need to go to the emergency room
23 because this part right here was swelling up under his
24 eye. And I said you need to go to the emergency room. He
25 said I don't want to go. And I said, well, you going.

1 Then I said -- I ask something about the cops. He said I
2 don't know if nobody called the cops like that. I said,
3 well, we going to the emergency room and that's when we
4 went to the emergency room.

5 Q Did you go with him to the emergency room?

6 A Yes.

7 Q Do you know if the police came to the hospital?

8 A I know one came in. And one went in to talk to him,
9 but we had to step out in the hall.

10 Q Okay. Did you ever talk to Demetrius about whether
11 or not he had told the police what happened?

12 A Yes, and the reason why I asked because the
13 girlfriend was saying something about he wasn't going to
14 tell. And I said, yes, you do, you need to tell what
15 happened to you. And he told me and he said, well, you
16 know, he didn't -- he said first I didn't want to do
17 anything about it. And I said, well, you gone have to
18 tell. And I said you need to tell about what he did to
19 you and he said he would.

20 Q Okay. How long -- do you know how long it took him
21 to finally tell what happened to him?

22 A I know he didn't say anything that same day. It
23 probably was a day or two later before he did anything.

24 Q Okay. Did he ever tell you or do you know why he
25 didn't want to tell the police?

1 A He just said he just wasn't gone say anything about
2 that. I don't know why, you know, say that.

3 Q Now, you're his mother, you've known him a long time.
4 Did you sense any emotion coming from him as to why he
5 wouldn't want to tell.

6 A Well, when I talked to him a couple of days later
7 before I went to the dentist with him, he told me in the
8 dentist office he wasn't gone say anything because he knew
9 Troy and Troy carries a gun, that's what he told me. And
10 he was kind of scared to say anything.

11 Q Okay. What did you tell him when he said that Troy
12 carried a gun and he was scared?

13 A Because he said, momma, just like he did this, I'm
14 afraid he may come up behind me and he could kill me.

15 Q All right. What did you tell him when he said that?

16 A I told him he need to tell?

17 Q Okay. Were you happy when he finally told?

18 A Yes, I was.

19 Q Okay. Do you know if Demetrius was still scared
20 after he told him?

21 A Well, I kind of sense something because he stayed at
22 my house for about two weeks.

23 Q Did he live at your house normally?

24 A No, he had his own place.

25 Q Okay. Do you know when Mr. Hunter was arrested?

1 A I was at work, I got a call saying that they had him,
2 caught him.

3 Q When did Demetrius move out of your house to go back
4 to living at his house?

5 A He really stayed at my house until after he got his
6 mouth fix, help him get his mouth fix. He must have been
7 there about three weeks.

8 Q Do you know if when Demetrius went back to his house,
9 do you know if that was before or after Mr. Hunter was
10 arrested?

11 A That was after he was arrested.

12 Q Okay.

13 MR. OZMENT: No further questions, Your Honor.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. DEBERRY:

17 Q Mrs. Singleton, when did -- about what time was it
18 when Demetrius came to your house?

19 A It had to be between two and three.

20 Q Between two and three?

21 A Yes.

22 Q All right. You testified earlier it was in the
23 evening or the nighttime?

24 A No, I said in the evening.

25 Q About two or three?

1 A I'm saying around two or three. I know they just
2 came from a funeral and I'm thinking it's in that range
3 two or three.

4 Q Did you notice any teeth?

5 A Sir?

6 Q Did you notice anything about his teeth?

7 A Yes.

8 Q What did you notice?

9 A That he didn't have any.

10 Q Well, how many was he missing?

11 A I know he had the top out and I think two or three to
12 the bottom out.

13 Q When you say the top out, what do you mean?

14 A He was missing teeth from the top of his mouth and
15 the bottom.

16 Q Did he already have dentures at that time?

17 A Did he what now?

18 Q I mean, you saying like his whole top plate or
19 dentures that were out or what?

20 A His own teeth.

21 Q His own teeth?

22 A Yeah.

23 Q When he was growing up, did he ever have any dental
24 problems?

25 A No, never.

1 Q Had he ever lost any teeth?

2 A No.

3 Q Did he have gold teeth at the time?

4 A Yes.

5 Q How -- were those replacement teeth or how did that
6 work, do you know?

7 A I know they went to Florida during a family reunion
8 break and got their mouth done. Now, how he got it done,
9 I don't, but I know he had them done.

10 Q Okay. Did he have his teeth with him?

11 A He had two of them in his hand.

12 Q So two of them must have been back where he lost
13 them?

14 A I beg your pardon.

15 MR. OZMENT: I would object calls for
16 speculation.

17 THE COURT: Rephrase your question.

18 BY MR. DEBERRY:

19 Q All right. So then he only had two teeth with him?

20 A That's what I seen in his hand.

21 Q Okay. He didn't want to go to the hospital?

22 A At first he didn't, no.

23 Q Okay. Was his girlfriend at your house?

24 A No, she was at work.

25 Q Okay. Well, can you explain why he told the police

1 that his girlfriend's mother may ask him to go to the
2 hospital?

3 MR. OZMENT: Your Honor, I object calls for
4 speculation.

5 THE COURT: Objection sustained.

6 BY MR. DEBERRY:

7 Q So you went to the hospital with him?

8 A Yes, I did.

9 Q What was your understanding of what happened to him,
10 you know, what the doctor said at the hospital?

11 A When the doctor came in, I went out into the hall.
12 The doctor talk to him.

13 Q So you don't know?

14 A No, because I had family members coming up there and
15 I went out into the hallway.

16 Q All right.

17 MR. DEBERRY: One second please.

18 (WHEREUPON, a pause in the proceedings.)

19 MR. DEBERRY: Thank you very much for coming.

20 THE COURT: Any redirect?

21 MR. OZMENT: No redirect, Your Honor.

22 THE COURT: Ma'am, you may step down. Thank
23 you.

24 MR. OZMENT: Your Honor, may she be released
25 from her subpoena?

1 THE COURT: Any objection by defense counsel?

2 MR. DEBERRY: No, Your Honor.

3 THE COURT: Ma'am, you are free to go. You have
4 no further responsibilities under your subpoena. Thank
5 you for being here.

6 Call your next witness.

7 MR. OZMENT: Your Honor, the State would call
8 Investigator Lee Davis to the stand.

9 THE CLERK: If you will, sir, place your left
10 hand on the Bible and raise your right hand. Do you swear
11 to tell the truth, the whole truth and nothing but the
12 truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated and state your full
15 name.

16 THE WITNESS: My name is Lee Davis.

17 WHEREUPON,

18 Lee Davis,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. OZMENT:

22 Q How are you today, Investigator Davis?

23 A Very good, thank you.

24 Q What do you do for a living?

25 A I am currently lieutenant with the Florence Police

1 Department. I supervise in the patrol division. When
2 this incident occurred, I was sergeant in investigations
3 unit. In August, I got promoted to lieutenant. Now, I'm
4 currently in the patrol division.

5 Q Congratulations. How long have you been in law
6 enforcement?

7 A Fourteen years.

8 Q Has all that been with Florence?

9 A Yes.

10 Q All right. Investigator Davis, before we go into the
11 facts of this specific case, I'm going to ask you if
12 you're familiar with [REDACTED]

13 A Yes, sir, I am.

14 Q Is that where this all happen when we get to...

15 A Yes, it is.

16 Q Is it that in Florence County?

17 A Yes.

18 Q Have you ever been to [REDACTED] before this
19 happened?

20 A Yes, I went there on several occasions. We've had
21 some problems at that location because of the trouble in
22 that neighborhood and a lot of people hanging out there.
23 The homeowner had called law enforcement several times and
24 during the course of one of my investigations, Ms.
25 Titus' youngest daughter, she had a boyfriend who was shot

1 and he was at her house. And we went to her house to talk
2 to her and we located him and that's when I first came
3 into contact with Ms. Titus at that location.

4 Q Was that before all this happened?

5 A Yes, it was before.

6 Q Describe to me what the yard is like there?

7 A It's primarily dirt. There's some concrete around
8 the front area. There's grass, but it's primarily a dirt
9 area in the back where a lot of people hang out in the
10 backyard. I think they make like a barbecue stand or
11 something back there, some seats in the backyard. So it's
12 a lot of people sitting and hanging out back there, so
13 there's not a lot of grass in the backyard, it's primarily
14 dirt. And then there's the ditch that goes right in the
15 back of the yard.

16 Q Is there a path through to Glad Stone Street?

17 A Yes, there is.

18 Q When you had respond out there to calls as to people
19 hanging out and trouble in the past going on, in your
20 experience was there a lot of people in the yard at times?

21 A Yeah, there were quite a few people. Primarily what
22 happened, I was in investigation then. Primarily what
23 happened patrol guys would respond, a lot of guys would
24 take off running. They would go through that path, that
25 carried over to Glad Stone Street. And Ms. Titus even put

1 up some no trespassing signs on her door. She wanted us
2 to kind of come up to her house and tape them to her yard,
3 but we told her is that because her son live there and
4 those were his friends, that he was entitled to have his
5 friends in the yard even though it was her house. He was
6 entitled to have friends there. So she asked us to still
7 have patrol guys come through, get out, talk to people who
8 there, find out why they are there. And if they are not
9 illegal -- I mean, if they are doing something illegal to
10 take them to jail because she didn't want them in her
11 yard.

12 Q Okay. Let's now turn to the case at hand. What --
13 how did you get involved with this case?

14 A I was in investigations. Princess Benjamin she's our
15 victim's witness advocate. And what they do is basically
16 if someone is a victim of a crime, they provide them with
17 some kind of services basically if they need a place to
18 stay. They need money or food or whatever, they provide
19 them with that. Mr. Holloman had contacted her and I
20 think he was trying to get some assistance. What she told
21 him though was that in order for him to get assistance, he
22 had to cooperate with law enforcement as far as the
23 investigation is concern and he came to our office that
24 day. When he came over to the office, I spoke with him.
25 She ask me to come and speak with him. I spoke with him

1 at length and he told me that it was Mr. Hunter who had
2 assaulted him. And I asked him, you know, because what
3 happened was when law enforcement responded the first
4 time, he did not say that at the hospital to talk him. He
5 said -- again, he said he didn't know who did it. And at
6 that point, in order for us to go forward with our
7 investigation, the victim has to cooperate. The victim
8 does not cooperate, then we can't go forward with the
9 case.

10 Q Okay. How long was your conversation with him
11 approximately when he came in that day?

12 A Maybe about 10 or 15 minutes.

13 Q Okay. Did he tell you what had happened that day?

14 A Yes, and we took a recorded statement also and
15 photographs of his -- swelling of his eye and mouth as
16 well, sir.

17 Q All right. Who took the photographs?

18 A Princes Benjamin took the photographs.

19 Q Were you there when they were taken?

20 A I was.

21 Q Do you recall what he looked like the day when they
22 were taken?

23 A His eye was kind of -- in this area was swollen. His
24 mouth was very swollen, so it was really hard to see what
25 was going on inside his mouth. It was very swollen in

1 that area.

2 MR. OZMENT: Your Honor, may I approach?

3 THE COURT: Yes, sir.

4 BY MR. OZMENT:

5 Q Investigator Davis, I'm going to hand you what's been
6 premarked as State's Exhibits 1 through 4. I'm going to
7 ask you to look at them. Please don't show them to the
8 jury yet and just tell me who's what in the photograph
9 first?

10 A Mr. Demetrius Holloman.

11 Q All right. Do you remember those photographs being
12 taken?

13 A I do.

14 Q Are those the photographs you been talking about?

15 A Yes, they are.

16 Q Do they accurately represent his condition on that
17 day?

18 A Yes, they do.

19 MR. OZMENT: Your Honor, at this point, the
20 State would move for State's Exhibit 1 through 4 be moved
21 into evidence.

22 THE COURT: Any objection?

23 MR. DEBERRY: No objection.

24 THE COURT: Without objection State's Exhibits 1
25 through 4 admitted into evidence.

1 (WHEREUPON, State's Exhibits Nos. 1-4 were
2 admitted into evidence.)

3 MR. OZMENT: May I approach again, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. OZMENT:

6 Q Okay. Actually, we will come back to this.

7 Investigator Davis, on the day that you talked to
8 Demetrius, did he -- had he stated to you that a gun was
9 used during this?

10 A Yes, he did.

11 Q Do you remember did he refer to a type of gun?

12 A He said it was a .357 Magnum.

13 Q Now, you been in law enforcement 14 years. Are you
14 familiar with firearms?

15 A Yes, I am.

16 Q Have you ever carried a revolver?

17 A No.

18 Q Are you familiar with revolvers?

19 A Yes, I am.

20 Q On a .357 Magnum, what happens when you fire a shot
21 out of it?

22 A When you fire a shot and the revolver -- the casing
23 stays inside the cylinder. And unlike on a semi, there's
24 an ejection port, so when you fire it, the semiautomatic
25 the casing comes out of the ejection port. So it usually

1 hits the ground, so there's some casing somewhere usually
2 around. On the revolver, that's not the case. You have
3 to actually physically take the cylinder out and empty the
4 shell casing afterwards?

5 Q So a revolver in case you're not familiar, that's
6 what I think of is a cowboy gun, right?

7 A Basically.

8 Q Okay. So if a .357 Magnum was used at the scene that
9 day, would you expect to find any casings?

10 A No.

11 Q Continued with what Demetrius had told you, after you
12 had this conversation with him, what was the next step of
13 your investigation?

14 A After I had a conversation with him about him saying
15 that there were witnesses to the incident, myself and
16 Sergeant Godwin we went over to [REDACTED] I spoke
17 with Ms. Idena Titus and Ms. Johnson. They both were --
18 this is like two days after the incident. I think it
19 happen on a Wednesday it was like on a Friday. They were
20 both there. Mr. Roderick Titus was not there at the time.
21 I spoke with them. They both told me that it was Troy
22 Hunter that was there that day. They said they didn't see
23 him actually physically do it, but they saw him come to
24 the house. They saw him leave the house.

25 Q All right. After speaking with them, what was the

1 next step of your investigation?

2 A At that point, I went to city court. I talked to the
3 city judge about the case and asked for a type of warrant
4 issue based upon those circumstances for armed robbery.

5 At that time, I was granted a warrant for the armed
6 robbery, for the discharging firearm.

7 Q And just explain to me briefly what is a warrant?
8 What's the significance of that?

9 A The arrest warrant is what we use, that's the
10 charging -- what we use to arrest him. But we have to go
11 to city court and speak with the city judge. Basically
12 swear out for the judge what happened. The judge has to
13 believe there's probable cause if they think there's
14 probable cause. Then they will issue us a warrant. If
15 they feel like there is not a probable cause, sometimes
16 they'll deny the warrant or they tell us to go back and do
17 further investigation. But on that day, I was granted the
18 warrant.

19 Q All right. And before you had done the warrant, did
20 you also speak with the other officer that had spoken to
21 Demetrius in the hospital?

22 A Officer Carlson.

23 Q Yes.

24 A No, not at that point.

25 Q Did you speak with him subsequently?

1 A Yes.

2 Q Okay. What about officer -- the officer that
3 responded to the scene that day?

4 A Officer Brown. Yes, I spoke with him also.

5 Q Having been to the house and having looked around,
6 did you feel at that point two days later there was any
7 investigation you could do at the scene beyond what you
8 did?

9 A When we were there Sergeant Godwin and I walked the
10 yard, the backyard, the side of the yard because again
11 like I said it happened two days earlier. There's a lot
12 of foot traffic. There's a lot of people in and out of
13 the yard, but we walk the area. We look back there just
14 to see if there was something maybe patrol officers might
15 have missed when they were there. We didn't see any shell
16 casings. We didn't see any sign of a struggle anything
17 like that, but because it's two days later and because of
18 the heavy traffic, it was kind of hard just to tell what
19 happened or if there was anything there at all.

20 Q Would there have been any usefulness in trying to
21 take shoe prints and that kind of thing?

22 A No, not at that point.

23 Q Okay. After you got the warrant, how long was it
24 before Mr. Hunter was taken into custody?

25 A He was arrested on December 15th. Initially, when I

1 got the warrant, what we do we have our -- what we call is
2 our C.A.T. team, that's community action team. When we
3 got warrants to be served, especially for warrants that
4 are violent in nature, we would have the C.A.T. team go
5 out and try and serve those warrants, locate those people
6 and arrest them. They went out, they attempted to locate
7 Mr. Hunter. After a few days, when we could not locate
8 Mr. Hunter, we made the decision from our department head
9 and my major at the time to do a flier, a want flier with
10 his information on it, give it out to our patrol officers
11 and we also gave it to the media. And they ran that
12 information on TV about week after we looking for him it
13 ran on TV saying that he was wanted and we were looking
14 for him, if there was anybody with that information to
15 contact Crime Stoppers or the Florence Police Department.

16 Q All right. You said that was about a week after it
17 was on TV?

18 A Yes.

19 Q Okay. After that, how was he eventually apprehended,
20 if you know?

21 A There was a call that came to 9-1-1 dispatch
22 anonymously. Someone said that he was at a house on Dixie
23 Street or Simmons Street somewhere in that area. Officers
24 respond to that area. When they got over there,
25 Mr. Hunter fled on a bicycle. At one point, he got off

1 the bicycle and went -- he lost one of his shoes and
2 because of that they called the K-9, so the K-9 could
3 track from the scent of the shoe. They went to the woods
4 area trying to locate him and eventually he came out on
5 the other side of the wood area and he was arrested.

6 Q All right.

7 MR. OZMENT: Beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 (WHEREUPON, a pause in the proceedings.)

10 BY MR. OZMENT:

11 Q Lieutenant Davis, I will touch on one more thing and
12 I will sit down. You were not called out at this scene
13 when this actually happened; correct?

14 A No, I was not.

15 Q Is that unusual when shots fired?

16 A Not really. In some areas, we get a lot of calls for
17 shots fired. What happens when patrol officer will
18 respond to that area, try and locate a scene, if there was
19 a scene to be processed. If they can't locate anything,
20 then we'll just clear and call it unfounded. On this
21 particular day, they didn't find anything at the scene
22 that they process or photograph. So based upon that, they
23 did not call an investigator. So no investigator was
24 called when it first occurred.

25 MR. OZMENT: All right. No further questions,

1 Your Honor.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. DEBERRY:

5 Q Investigator Davis, thank you for being here. To
6 follow-up on Mr. Ozment's final two questions, said you
7 weren't -- you didn't respond to the scene on the day this
8 supposedly took place?

9 A That's correct.

10 Q All right. And we heard earlier -- well, you also
11 know that at some point in time that night or early that
12 evening, your officers made contact with Mr. Holloman at
13 McLeod?

14 A Yes.

15 Q Okay. And you learned from that contact that
16 Mr. Holloman said some things that took place at [REDACTED]
17 [REDACTED]?

18 A That's correct.

19 Q And he told your officers at that point in time that
20 he didn't know who hit him, that somebody come up behind
21 him and hit him?

22 A That's correct.

23 Q And he didn't know who?

24 A That's correct.

25 Q He didn't tell you at that time that he thought it

1 was a .357?

2 A Officer Carlson didn't put that.

3 Q Okay. And he didn't tell you he was robbed; is that
4 right?

5 A That's correct.

6 Q Okay. But he did tell you that it happened in the
7 backyard at [REDACTED]

8 A I'm not sure if he said backyard or if he just said
9 [REDACTED] I am not sure.

10 Q Well, it's in the report in the backyard, so that's
11 safe to say?

12 A Yes.

13 Q Okay. So he did say that there was a shot fired
14 there; correct?

15 A Yes.

16 Q And he said it was fired into the ground?

17 A Yes.

18 Q Okay. And at that point in time, it was evident that
19 he was missing some teeth?

20 A That's right.

21 Q Okay. So at that point in time, it seems to me like
22 it would have been logical to go and do some further
23 investigation at [REDACTED]

24 A Well, if I'm not mistaken that was later that evening
25 when it happened. Basically, how it works with the

1 Florence Police Department is if there was a scene and the
2 responding officers go there and they can't find anything,
3 that is where a scene occurred and you have a victim
4 that's uncooperative, they don't typically have someone an
5 investigator assigned or come out at that point because
6 the victim still not cooperating.

7 Q Well, why would you say that Mr. Holloman was
8 uncooperative at that point?

9 A Because he said he didn't know who did it.

10 Q Well, what if he really didn't know who did it?

11 A Well, I mean, at that point he just told us he didn't
12 know who did it. And we didn't have any way to go with
13 case at that point.

14 Q Isn't it true throughout your investigations and your
15 14 years with law enforcement that quite often we don't
16 know who commits crimes?

17 A That's true.

18 Q But we know they happen?

19 A Right.

20 Q So the information you gathered after the officers
21 responded to [REDACTED] say they didn't see
22 anything?

23 A Right.

24 Q Then there's a whole lot of information that comes in
25 just a couple of hours later. Wasn't a good idea to go

1 back and maybe investigate what Mr. Holloman was telling
2 you?

3 A Not at that point. They had already went there.
4 They look. They took their time and went over the scene.
5 They stayed there for quite sometime trying to find --
6 like I said shell casings basically -- there was a shot,
7 only thing you're going to find at that point maybe is a
8 shell casing. If there's a bunch of foot traffic in the
9 yard and there's a lot of foot traffic at [REDACTED]
10 [REDACTED], you aren't really going to find anything at that
11 point. And they stay there for about 15 minutes that day
12 trying to find something.

13 Q All right. But if they knew what they were looking
14 for maybe if -- in your experience with a .357 if you just
15 fired it straight into the ground, what's it going to do?

16 A It's probably going to make a little hole in the
17 ground.

18 Q It's going to blow a hole in the ground?

19 A I don't know about hole, not a very a big hole, but
20 the size of a bullet.

21 Q Okay. If there's teeth knocked out there, there's
22 going to be some evidence of that?

23 A Certainly, if they leave them there at the scene.

24 Q Certainly could be some blood?

25 A Yes. And they didn't find any. They didn't find

1 anything that led the process, that's why they didn't call
2 an investigator. Typically, if they find something on the
3 scene, they call an investigation and we call crime scene
4 out to photograph or collect it.

5 Q But isn't it true that when they responded there to
6 [REDACTED] first, they didn't really know if
7 anything had happened or not? They didn't know there was
8 even a victim.

9 A What they went to, they responded to the shots being
10 fired called -- I think at that point Ms. Titus spoke to
11 them about what had happened?

12 Q Okay. Ms. Titus...

13 A But they could not locate the victim at that point.
14 You right they could not locate the victim.

15 Q And so they just decided that maybe nothing even took
16 place there?

17 A Well, they did the report. They filed a report as to
18 what Ms. Titus said. And at that point, there was nothing
19 else to do once they could not locate the crime scene.

20 Q The only thing that Ms. Titus told law enforcement
21 was that she heard a loud noise?

22 THE COURT: I need a verbal response please,
23 yes.

24 A I am sorry, yes.

25 Q So how would they know there was a victim?

1 A I think the original does say something about him
2 being injured. And in fact, he was not there, but that's
3 how they know there was a victim. I think, Mr. Holloman's
4 name is in the original report.

5 Q Okay. So if they knew at that time, then they should
6 have roped off the area and look for a shell casing or...

7 A That's why they took the 15 minutes there going
8 through the yard, it's like four or five officers that
9 were there and they went over the area. They went round
10 the side of the house, the back of the house, and they
11 couldn't find anything.

12 Q And they found absolutely nothing?

13 A Right.

14 Q So how many teeth did Demetrius Holloman tell you
15 that he had knocked out on your recorded statement for
16 him?

17 A To be honest with you, it's been over a year and I
18 listen to it once, but I can't recall the details. I
19 think it's maybe four or something like that.

20 Q Would you disagree with me if I told you that he
21 explained to you he had eight teeth missing?

22 A If it's on the statement, I believe you.

23 Q And he told you that he had to go to Sexton's Dental
24 Clinic on the statement, it cost him \$65?

25 A Yes.

1 Q He told you he had to go to a specialist dentist and
2 that it cost him \$145 to speak with him and then the
3 dentist told him it was going to cost him \$750 to fix his
4 teeth?

5 A That's correct.

6 Q And you would agree that that adds up to \$960?

7 A Yes.

8 Q And you would agree that at first not only did he
9 fail to tell you who he thought did this to him, but he
10 also failed to tell you that he was robbed at all?

11 A Yes, sir, he did not convey that to Officer Carlton.

12 Q He said that they got no money, that he was not
13 right?

14 A That's correct.

15 Q Okay. And then after he goes to the dentist and he
16 finds out, it's going to cost him \$960, he comes and talks
17 to the victims' assistant advocate?

18 A Yes, victim witness advocate.

19 Q He tells you on the statement he didn't realize that
20 in order to get money from this program, he's going to
21 have to give you -- he's going to have to cooperate with
22 you. He's going to have to cooperate with you, give you a
23 statement?

24 A That's correct there was a mention of the fact that
25 he had to cooperate with law enforcement in order for them

1 to assist him.

2 Q So in order for him to get money that he needed to
3 fix his mouth, he had to give you a statement?

4 A He didn't have to give a statement, but he had to
5 cooperate with law enforcement as far as if he knew who
6 did it, he had to give us that information, so that we can
7 go and investigate it.

8 Q But it was in his mind because he said on your
9 recorded statement that is when I realize that I had to
10 give you a statement, that I could get my money.

11 A If it's on the statement, yes.

12 Q All right. And then when he realize he had been to
13 Sexton's, he been to the specialist dentist and he realize
14 it's going to cost him so much money, he decides to tell
15 you how much money was gone; is that right?

16 A I think he told us in his statement how much money
17 was gone.

18 Q In a statement he told you, it was \$900?

19 A \$900 that's correct.

20 Q Okay. Now, has he changed that amount since that
21 time?

22 A I'm not sure. He could have I'm not sure. I know it
23 was 900, if I remember that stands out.

24 Q Do you remember a previous bond hearing in this
25 matter?

1 A Yes, I do.

2 Q All right. And in at that bond hearing, did
3 Mr. Holloman tell you that he was out one thousand
4 dollars?

5 A It's possible he could have said that.

6 Q All right. So he really doesn't know either way or
7 we don't know?

8 A There's a difference in the amount.

9 Q When did the -- in the record statement, did you ask
10 who was there at the scene that day?

11 A I'm not sure if I ask him that or not.

12 Q Well, on the recorded statement, you ask Mr. Holloman
13 who was at the scene that day and he gave you a name of
14 Roderick Titus?

15 A That's correct?

16 Q Okay. When did you talk to Roderick Titus?

17 A See I went and talk with -- on that Friday, I spoke
18 with Ms. Titus and Ms. Johnson. And Roderick was not
19 there, so it was probably maybe the following week or so
20 when I finally spoke with Roderick.

21 Q So you did speak with Roderick Titus?

22 A Yes.

23 Q Where is the report from where you investigator spoke
24 with Roderick Titus?

25 A There is no statement.

1 Q Is it in your investigative report?

2 A No.

3 Q Why is that?

4 A Well, I'll go into that. The reason there's not any
5 investigative statement on this is because originally this
6 case was not ever assigned. Typically, what happens the
7 lieutenant assigns cases. When the case first comes out
8 on morning briefings when this report read in briefing at
9 the time, there was no cooperation from the victim.
10 Therefore, the case was never assigned. When he came to
11 speak with Ms. Benjamin requesting assistance from the
12 victim's advocate, she ask that I come over to her office
13 because the victim's advocate cannot sign warrants. So
14 what she ask me to do is come over and take a statement
15 from him. And if there were warrants to be signed, she
16 wanted me to take care of the warrants because once upon a
17 time they could, but they no longer can do that?

18 Q Okay. So if a person is murdered or shot in the City
19 of Florence and the victim says that he didn't see what --
20 who exactly it was, that's a case of not cooperating?

21 A If they're murdered, they can't say who did it.

22 Q Well, what if there's another witness that saw some
23 things, but didn't see exactly who it was is that not
24 assigned?

25 A I understand your point. It was investigated. And

1 there should have been some notes and they're not. It's
2 not there because it was never assigned. The case was
3 never assigned to an investigator. I was assisting
4 Ms. Benjamin.

5 Q And is that because it may have never taken place?

6 A No, it's because at first he wasn't cooperating. He
7 was not cooperating with law enforcement. And in average
8 of a month, an investigator is assigned anywhere from 20
9 to 30 cases. And we get a case where a victim is not
10 really cooperating, we don't spend a whole lot of time on
11 that. We move on to another case where we have to spend
12 time on.

13 Q Why did you -- why do you -- when did you talk to
14 Demetrius Holloman?

15 A When ---

16 Q Isn't it true that the first time you spoke with
17 Demetrius Holloman is when he came and gave you a
18 statement?

19 A Yeah, it was that Friday.

20 Q So how can you tell us that he wasn't cooperating?

21 A The case was initially on Wednesday when it occurred
22 and that's when Officer Carlton went to speak to him at
23 the hospital. And he said that he didn't know who did it,
24 so it's two days later when he came to the police
25 department, that's when I spoke with him.

1 Q I'm just having a hard time not understanding how
2 that's not cooperating.

3 A He didn't cooperate initially on the day that the
4 incident occurred, that's what I'm talking about.

5 Q So it was written off, it wasn't even assign?

6 A No. If the victim doesn't cooperate, we don't assign
7 cases, if there's no victim's cooperation.

8 Q All right. There must have been some inclination
9 that he was not telling you the truth?

10 A No, he wasn't cooperating at all. He said he didn't
11 know who did it.

12 Q Okay.

13 MR. DEBERRY: Just a minute please. If I could
14 approach?

15 THE COURT: Yes, sir.

16 BY MR. DEBERRY:

17 Q Mr. Davis, this is State's Exhibit Number 4.

18 MR. DEBERRY: May I show this to the jury?

19 THE COURT: Yes, sir, it's in evidence.

20 BY MR. DEBERRY:

21 Q Before I do, can you count there one, two, three?

22 A Yes.

23 MR. DEBERRY: And, ladies and gentlemen, ask if
24 you pass see one, two ---

25 MR. OZMENT: Your Honor, I object to him

1 testifying to the jury directly.

2 THE COURT: Objection sustained.

3 MR. DEBERRY: I was going to ask a question
4 question.

5 THE COURT: Ask a question.

6 BY MR. DEBERRY:

7 Q Investigator Davis, how many teeth do you see missing
8 there?

9 A It appears there's three.

10 Q Thank you. I'm going to show you State's Exhibit 2.
11 All right. Investigator Davis, when was this photograph
12 taken?

13 A Friday the 31st. It happen on Wednesday and it was
14 taken on the 31st that Friday.

15 Q Okay. Two days later?

16 A Two days later.

17 Q What do you see that's wrong Mr. Holloman in that
18 picture?

19 A There's -- his lips are swollen and there's swelling
20 around the eye. And his eyes are very red. You can't see
21 it on this photo, but it's swelling around his eye also.
22 I hope that photo shows a lot better.

23 Q Okay. This photo shows swelling?

24 A Yes.

25 Q Where?

1 THE COURT: Please make a reference to what
2 exhibit you're referring to for the record.

3 BY MR. DEBERRY:

4 Q For the record, it's State's Exhibit Number 1.

5 A Right up under the eye there, the swelling maybe the
6 photo didn't reproduce it well, but it was swelling in
7 that area.

8 Q Are there any visual signs from these photographs,
9 Investigator Davis, that there's eight teeth missing?

10 A Can I look at them?

11 Q Sure, yes, sir.

12 A No.

13 Q Are there any signs of a busted lip or any outward
14 appearance of lip been damaged in that photograph?

15 A There's some welling right up in there on that lip
16 right there.

17 Q Okay. That's all you see?

18 A Yes.

19 THE COURT: What exhibit you are referring to?

20 A That was number four.

21 Q Are there any signs in any of those photographs that
22 there's six teeth missing?

23 A No, I only see three.

24 Q Okay. And that's the point in time that he came
25 there, he told you -- that he realize with the victim's

1 assistance program, he was going to have to give a
2 statement on who did this in order to receive money for
3 his teeth?

4 A That's what he told he had to cooperate with law
5 enforcement in order for the program to get him
6 assistance.

7 Q And he also said that he had just come from the
8 dentist and that he didn't have the money that the dentist
9 needed to fix his teeth and so he came there to get it.

10 A Well, I know he said it was going to cost him quite a
11 bit of money to get it fixed. I don't know about the --
12 whether he had the money with him or not, but he said it
13 was going to cost him quite a bit of money to get it
14 fixed.

15 Q And the total was \$965 what he said on the recorded
16 statement?

17 A Yes.

18 Q Did it ever cross your mind when he came there he
19 told you he had eight teeth missing and you took those
20 photographs, that he might not be telling the truth?

21 A No, I think what he said something about some of them
22 was also push down in the gum and that was some of the
23 problem also, that the teeth were push down into gum, some
24 of the teeth were.

25 Q Okay.

1 A And I think he said it was going to require some
2 surgery to get those repaired.

3 Q Now, you believe there was a .357 involved?

4 A I mean, I have no way of saying yes or no.

5 Q You have absolutely no evidence?

6 MR. OZMENT: Your Honor, we object to the
7 speculation.

8 THE COURT: Can you all approach a minute?

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

12 THE COURT: Objection sustain. You may continue
13 with your questioning.

14 BY MR. DEBERRY:

15 Q Investigator Davis, what evidence did you find that
16 there was a gun involved in this case?

17 A We did not find anything at the scene that we could
18 process where there was any evidence.

19 MR. DEBERRY: Court's indulgence.

20 THE COURT: Yes, sir.

21 BY MR. DEBERRY:

22 Q When did you speak with Nathan Orgbon?

23 A I never speak with Nate.

24 Q You never spoke with Nathan Orgbon?

25 A No, I did not.

1 Q When did you determine that he was at the scene?

2 A Mr. Ozment spoke with him.

3 Q So you never spoke with Mr. Orgbon?

4 A That's correct.

5 Q Do you know how Mr. Orgbon's name came into
6 existence?

7 A I'm sorry, I'm sorry. I spoke with on the phone and
8 I put him in contact with Mr. Ozment a couple of days ago.

9 Q Just a couple days ago?

10 A Yes.

11 Q And where did you get the information that lead you
12 to believe that Mr. Orgbon was at the scene?

13 A There was -- I think, Mr. Holloman initially said
14 that there was an investigator who work with us or who use
15 to work with us or whatever. He gave the name of a deputy
16 at the Sheriff's Department that was the wrong. Then we
17 find out it was an investigator use to work with us and
18 who would know Nate's full name and I contacted that
19 investigator and he gave me Nate's name.

20 Q Okay. So you knew about Nate. How did you know
21 about Nate?

22 A That's when I find a couple days ago from Mr. Ozment.
23 He said that he talked to Mr. Holloman. Mr. Holloman had
24 a name of somebody who else was a witness. Initially,
25 there was nobody -- there was no other names other than

1 Ms. Titus and Ms. Titus and her sister that was witnesses.

2 Q Isn't it true that you got Mr. Orgbon's name from Mr.
3 Titus?

4 A I'm not sure. I just remember talking Mr. Ozment
5 about it, I'm not sure whose name it came from.

6 Q All right. So if you got Mr. Orgbon's name from Mr.
7 Titus, that just surface last week?

8 A Yes.

9 Q And this happened over a year ago?

10 A November 30th, 2011.

11 Q So at the final hour just before trial, Mr. Titus
12 comes forward has been charged with a crime, has pending
13 charges here, comes forward with a name for you?

14 A I'm not sure if it was Mr. Titus. I spoke to Mr.
15 Ozment, that's where I got it from.

16 Q Well, you testified that you spoke with Mr. Titus
17 after the incident?

18 A That was when it first happened when they say it
19 first occurred.

20 Q He didn't tell you who was there then?

21 A No, he did not.

22 Q He didn't tell you he saw anything, did he?

23 A That's correct.

24 Q So how did he know he was there?

25 A I don't know.

1 Q And you testified earlier, Investigator Davis, that
2 this is a high traffic area. There's lots of foot traffic
3 there many people hang out there all the time; is that
4 right?

5 A That's correct.

6 Q And throughout your investigation and the year that
7 this case coming to trial, how many people did you talk to
8 that might have been there and might have known who would
9 have been there?

10 A I mean, no one said anything basically. If they were
11 there, they didn't say anything. So the only names we had
12 things we got originally. And then the next we got this
13 week -- last week.

14 Q Did you canvass the area and talk to people who
15 frequent the area and try to find out what happened?

16 A On the date it occurred?

17 Q Or thereafter?

18 A No, not afterwards.

19 Q Never did?

20 A No.

21 Q But you agree there would have been a lot of people
22 there?

23 A I definitely have a lot of people there, but the
24 problem is that those people were not there when law
25 enforcement got there.

1 Q Right. But isn't it a common job and duty as law
2 enforcement or investigator to go out and talk to people
3 to try to find out who was there?

4 A Sure, it is.

5 Q It just wasn't done in this case?

6 A This occurred everybody had already left.

7 Q Okay. Well, I understand that, but I'm asking you
8 you didn't go back in the days following to the crowd that
9 was hanging out there and talk with them?

10 A The only one I talked to after the event was Mr.
11 Titus.

12 Q Roderick Titus?

13 A Uh-huh.

14 Q And the only reason you talk to him was because Mr.
15 Holloman told you he was with him that day?

16 A Yes, and he gave that name and he gave the name of
17 his mom Ms. Titus and Ms. Johnson.

18 Q Okay. And Mr. Holloman originally told you that Mr.
19 Titus was a witness, didn't he?

20 A I think he said that originally.

21 Q He did. And that's not the case, was it?

22 A That's not what Mr. Roderick Titus testified to.

23 Q Okay. Never made an investigative case report?

24 A No.

25 Q Never recovered any evidence in this case?

1 A None.

2 Q Never found any bullets?

3 A No, sir.

4 Q No evidence that indicates that if there was a gun it
5 was a. 357?

6 A No.

7 Q Did you ever ask Mr. Holloman where he got his money
8 from?

9 A No, I did not.

10 Q Was he working at the time?

11 A I'm not certain he was working or not.

12 Q Did you review the medical report in this case?

13 A No, I did not.

14 Q So you couldn't say that this not true the medical
15 report says there's only three missing?

16 A Right, it's correct. I never seen it, so I can't
17 say.

18 MR. DEBERRY: Just one minute. I may be
19 through.

20 (WHEREUPON, a pause in the proceedings.)

21 MR. DEBERRY: That's all I have. Thank you very
22 much.

23 THE COURT: Any redirect?

24 MR. OZMENT: Yes, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. OZMENT:

2 Q Mr. Deberry talked a lot about Nate. How did you get
3 the name Nate? Let me rephrase that. Who gave you the
4 name Nate?

5 A You did.

6 Q All right. Did you do any leg work in the
7 investigation to find the name Nate?

8 A Yes, I asked some other investigators if they knew
9 anybody by that name who might have been in that area who
10 goes by that name and I think initially we didn't have
11 anybody.

12 Q When did I give you the name Nate?

13 A Probably sometime last week before the weekend.

14 Q All right. Do you know precisely how I got the name
15 Nate?

16 A Not directly, I can't remember.

17 Q You've been an investigator and police officer in
18 Florence a long time. Is it common that in some
19 neighborhoods where crime happens that no matter how many
20 people were there somehow nobody saw it?

21 A Very common.

22 Q All right. What do you attribute that too?

23 A Fear of ---

24 MR. DEBERRY: Objection, Your Honor. I think
25 that calls for speculation.

1 THE COURT: Rephrase your question.

2 BY MR. OZMENT:

3 Q In your personal experiences, have you ever had
4 people who you would call non-cooperating witnesses, but
5 later become cooperating witnesses?

6 A Yes.

7 Q Give me factual example of someone who wouldn't
8 cooperate, maybe why they wouldn't cooperate?

9 MR. DEBERRY: Objection, Your Honor. I don't
10 think it's proper.

11 THE COURT: I'm going to allow it. Go ahead.

12 A I've investigated a case where I had a shooting. I
13 worked a case where someone was shot. He was shot several
14 times as a matter of fact. And initially, he did not want
15 to say who did it. I mean, he was literally at the point
16 of death in the hospital, he refuse to cooperate. And
17 after some time had past, I guess his parents had spoken
18 with him, he changed his mind. He gave us the information
19 and as a result that person was arrested and is in prison.

20 Q All right. Do you think it's possible from your
21 investigation that there were people there that day that
22 saw what happened and just never came forward?

23 A I am certain there were people there who saw it and
24 they will not come forward, they will not testify.

25 Q Okay. And you find that common for instance the

1 neighborhood Dixie Street is?

2 A Yes.

3 Q Okay. Mr. Deberry asked you several questions about
4 a gun being involved and what evidence you had. When you
5 sign a warrant, do you only look at physical evidentiary
6 or are you allowed to look at what people tell you also?

7 A Yes, you could look at what statements from witnesses
8 and factor that into it also.

9 Q And then in court when we talk about evidence, we're
10 talking about both physical evidence and what people say
11 from that witness stand; correct?

12 A That's correct.

13 Q All right. So I'm going to ask you the same question
14 Mr. Deberry did. When you got that warrant, had anyone
15 told you which would be evidence that there was a gun
16 involved?

17 A Yes.

18 Q Had anyone told you they had heard gunshots?

19 A Yes, that's correct.

20 Q Had more than one person told you they heard gun
21 shots?

22 A Yes, that's correct.

23 Q So was there evidence that a gun was used?

24 A Statements, yes.

25 Q Okay. Mr. Deberry also asked you a lot of questions

1 about other people's reports. You were not at the scene
2 that day; correct?

3 A That's correct.

4 Q Were you in the hospital when Demetrius gave a
5 statement to Officer Carlson?

6 A No, I was not.

7 Q How were you familiar with the conversation Demetrius
8 had with Officer Carlson?

9 A I read the supplemental.

10 Q All right. So the questions you answered about did
11 he say this, did he say that. You were not there?

12 A That's correct.

13 Q You do not actually know the substance of that?

14 A That's correct.

15 MR. OZMENT: Very briefly may I approach, Your
16 Honor?

17 THE COURT: Yes, sir.

18 BY MR. OZMENT:

19 Q Looking at these pictures, you agree that you could
20 only see three teeth missing and we ask that that being a
21 disparity? Looking at these pictures, the teeth around
22 the teeth that are actually missing and I'm referring to
23 State's Exhibits 3 and 4, which are similar photos, can
24 you see any damage?

25 A Yeah, they appear to be bent forward and a couple of

1 them look like they may be pushed aside.

2 Q Okay. Did you go to dental school?

3 A No, sir.

4 Q Did you go to medical school?

5 A No, sir, I didn't.

6 Q All right. So you don't know looking at that, you
7 have any opinion on the treatment that should be rendered?

8 A No, I do not.

9 Q You have any idea how many teeth actually got changed
10 out or pulled or surgery or anything like that?

11 A No, I do not.

12 Q Could that number be eight?

13 A Yes, it could.

14 Q Could that number be 30?

15 A Yes.

16 Q All right.

17 MR. OZMENT: No further questions, Your Honor.

18 THE COURT: Any recross?

19 MR. DEBERRY: Have just a few, Your Honor.

20 RE CROSS-EXAMINATION

21 BY MR. DEBERRY:

22 Q Investigator Davis, you mentioned a case where you
23 must have been involved with where an individual was shot
24 and you claim to be uncooperative at first?

25 A Yes.

1 Q And then later you say began to cooperate?

2 A Yes.

3 Q And you were able to convict that person who did
4 that?

5 A Yes.

6 Q Was that case assigned?

7 A Yes.

8 Q Why?

9 A Because it was a major incident where someone was
10 almost killed?

11 Q Okay. So this case isn't a major case?

12 A Well, he was not shot. He was shot at. He was not
13 shot, but if he had been shot, then, yeah, it would have
14 been assigned. If someone's actually shot, that's a high
15 and aggravated situation, so it's a different situation.

16 Q So you're telling me that where shots are fired
17 somebody claims to be hit in the mouth with a gun, all his
18 teeth are knocked out, he's robbed, it's not a major case,
19 got to be shot?

20 A Where he was cooperating as a victim, yes, that's how
21 we handle that because he was not cooperating.

22 Q You testified and Mr. Ozment cleared up some things
23 about the presence of a gun. None of your witnesses where
24 you give evidence that a gun was involved, none of them
25 saw a gun; did they?

1 A That's correct. They heard -- they say they heard
2 gunshots or what they believe was gunshots.

3 Q Okay.

4 MR. DEBERRY: That's all I have. Thank you very
5 much.

6 THE COURT: Thank you, sir. You may step down.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Mr. Ozment, Mr. Deberry, can you all
10 approach a minute please?

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

14 THE COURT: All right. Ladies and gentlemen of
15 the jury, I am going to at this time, I'm going to release
16 you for the balance of today. We have one more witness
17 the State anticipates calling who's a doctor who cannot be
18 here until tomorrow morning. So rather or late this
19 afternoon and rather than make you all come back late this
20 afternoon, I'm going to excuse you for the balance of
21 today. I'm going to ask that you be back in your jury
22 room tomorrow at nine o'clock. I promise you you will not
23 sit back there for 35 minutes before I bring you back out
24 in the morning.

25 I will start as promptly at nine o'clock as

1 night and are ready to continue with the trial of this
2 case today. At this time, Mr. Ozment, you are recognized
3 to call your next witness please.

4 MR. OZMENT: Thank you, Your Honor. The State
5 calls Dr. Mark Lawhan to the stand.

6 THE CLERK: Place your left hand on the Bible
7 and raise your right hand. Do you swear to tell the
8 truth, the whole truth, and nothing but the truth so help
9 you God?

10 THE WITNESS: I do.

11 THE CLERK: Please be seated in the witness
12 chair and state your full name for the record.

13 THE WITNESS: Dr. James Mark Lawhan.

14 WHEREUPON,

15 Dr. James M. Lawhan,
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. OZMENT:

19 Q How are you today, Dr. Lawhan?

20 A Great. Thank you.

21 Q Good. I appreciate you being here. What do you do
22 for a living?

23 A I'm a oral and maxillofacial surgeon.

24 Q I know you had to go to a lot of school to become
25 that.

1 A Fifteen years.

2 Q Okay. Where did you go to college?

3 A I went to Francis Marion. And then I went to
4 M.U.S.C. Dental School. And then I did my surgery
5 training the University of Maryland and also John Hopkins
6 University in Baltimore, Maryland.

7 Q Okay. Are you board certified?

8 A I am.

9 Q Okay. Who certified you for that?

10 A The American Board of Oral and Maxillofacial
11 Surgeons.

12 Q Okay. And then in South Carolina do you have to have
13 some sort of license or certification?

14 A Yes, certified in the state, did the dental process
15 and also a specialist.

16 Q How long have you been practicing after you finished
17 training?

18 A Thirteen years.

19 Q Was all that here in Florence?

20 A Yes.

21 Q Give me an idea kind of what you do, what is your
22 practice?

23 A I do anything from the neck up. The only thing I
24 don't treat is the actual eyeball itself or the brain or
25 the inner ear. Facial fractures, gunshot wounds, cancer,

1 car wrecks, wisdom teeth, from a simple tooth to taking
2 mole and hip grafts, skin grafts, it's pretty broad.

3 Q Okay. Do you primarily do surgery then as oppose to
4 just normal dentist check up?

5 A Yeah, I don't do any what I say normal dentistry
6 stuff like that little more basic.

7 Q Does that mean you have a referral practice being
8 people send things to you?

9 A Yes, my practice is probably 95 percent referral.

10 Q All right. Now, you mentioned gunshot wounds and car
11 wrecks and that sort of stuff. Do you see a lot of trauma
12 type cases?

13 A I do.

14 Q Give me an idea and I realize it's probably going to
15 be a big number, but give me an idea of maybe how many
16 trauma cases you've had in your 14 years of practice?

17 A Probably it's going to be in the thousands, I guess,
18 almost out of both hospitals. I lost count.

19 Q Okay. You mentioned hospitals. Are you on staff at
20 any hospitals?

21 A At McLeod Regional and Carolinas Hospital.

22 MR. OZMENT: Your Honor, at this time, the State
23 would have Dr. Lawhan as an expert in the field of
24 dentistry and facial trauma?

25 THE COURT: Mr. Deberry.

1 MR. DEBERRY: No objection, Your Honor.

2 THE COURT: All right. Ladies and gentlemen,
3 let me advise you of this. Normally, a person cannot give
4 opinion testimony. Normally, when a person testifies,
5 they must testify as to what they either saw, heard or
6 sensed by smell or something of that nature. However,
7 there is an exception when someone is qualified because of
8 education or experience, they are permitted to give their
9 opinion in certain areas if the Court qualifies them that
10 way. This witness will be qualified in the area of
11 dentistry and facial trauma to give opinion testimony in
12 that area. That does not mean that you must accept the
13 opinion, but it is evidence for you to use in any way that
14 you see fit and to give it the weight and credibility you
15 believe is appropriate.

16 Mr. Ozment, you may continue.

17 MR. OZMENT: Thank you, Your Honor.

18 BY MR. OZMENT:

19 Q Okay. Dr. Lawhan, were you practicing back in early
20 December of 2011?

21 A Yes.

22 Q Did you have a chance to see Demetrius Holloman at
23 your office?

24 A Yes.

25 Q What was the nature of that visit?

1 A December 1st 2011, he was referred to me from another
2 general dentist for an evaluation of trauma to his face.

3 Q Okay. Did he come in and you saw him?

4 A Yes, he came in and I examined him.

5 Q Okay... Did you take any x-rays anything like that?

6 A Well, the referring dentist sent me the x-ray they
7 took.

8 Q Okay.. And comparing that x-ray and looking in his
9 mouth did that appear to be an accurate representation?

10 A Yes.

11 Q I guess describe to me the nature of the injuries
12 that you observed in Mr. Holloman that day?

13 A I just refer to my notes. What I saw --

14 MR. DEBERRY: Objection, Your Honor. If I can,
15 can we approach just a second?

16 THE COURT: Yes.

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

20 THE COURT: Ladies and gentlemen, I'm going to
21 have to ask you to step to the jury room for just a
22 minute, I'll get you back out here as quickly as I can.
23 Do not discuss the case.

24 (WHEREUPON, the jury retire to the jury room.)

25 THE COURT: All right. Mr. Deberry, I'll hear

1 Mr. Ozment, you recognize, sir.

2 MR. OZMENT: Thank you, Your Honor.

3 BY MR. OZMENT:

4 Q Dr. Lawhan, I think where we left off I ask what your
5 assessment was of Mr. Holloman when he came in?

6 A Okay. The subjective findings from the patient what
7 he told me that he was hit in the mouth with a gun, went
8 to McLeod which will be yesterday. The day before I saw
9 him. At about 5:00 p.m., they took some x-rays, gave him
10 the x-rays and told him to follow with Sexton Dental
11 Clinic.

12 Q Who referred him to you?

13 A The general dentist from Sexton.

14 Q Then at that point did you do a physical examination?

15 A Yes.

16 Q What did you find on that?

17 A On x-ray, I found that tooth number 24 which was a
18 bottom tooth was fractured. He was missing two adjacent
19 teeth to the right of that, which are completely avulsed
20 and fractured two teeth on the top. If you look at your
21 front teeth, number eight which is to the right, your
22 right-front tooth was fractured and the tooth adjacent to
23 that was fractured. And those were fractured beyond
24 repair.

25 Q All right. I'm going to ask you what these terms

1 mean. You said first one on the bottom was fractured and
2 two on the top fractured. Explain to me what that means
3 fracture?

4 A You could see the tooth visibly where it was just
5 half way about half way three quarters down the tooth. I
6 don't remember exactly, but they were freshly just jagged
7 right across about half way down fractured the top part of
8 the tooth was missing.

9 Q A layman person would say broken off?

10 A That's right.

11 Q Okay. And then the two that were missing -- I know
12 what missing means, but I guess just to clarify?

13 A Right, the two teeth that were missing you could see
14 in the mouth there was two sites where -- if you take a
15 tooth out, you have a blood clot that forms there. And it
16 was a fresh site where the teeth had just been knocked
17 out.

18 Q Okay. And so there were five total teeth that were
19 damage beyond repair or gone in this?

20 A Yes, two knocked out and three fractured beyond
21 repair.

22 Q Okay. What would the treatment be for someone who
23 has three teeth fractured beyond repair? What would you
24 have to do with those?

25 A You'd have to remove them.

1 Q Okay. Were you able to look at or to tell any kind
2 of time frame for when this trauma had happened?

3 A It looked pretty -- like I believe what he was
4 telling me. It happened yesterday type thing. The two
5 teeth that avulsed or knocked out had fresh blood clots
6 where they were. And these other teeth that were
7 fractured look like recent fractures. There were no --
8 the edges were crisp clean and just fractured right off.
9 Usually, the teeth is fractured over a period of time, you
10 begin to get wear. It smooths off, it's not as sharp.

11 Q Okay. What about any kind of swelling or anything
12 like that?

13 A Yes, I noted here that he had some edema of his upper
14 and lower lips.

15 Q Okay. And edema would mean?

16 A The swelling, sorry. The swelling.

17 Q So observing the swelling of already broken teeth,
18 did that combination of observations lead you to believe
19 what kind of time frame?

20 A Yes, it's recent.

21 MR. OZMENT: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes, sir.

24 BY MR. OZMENT:

25 Q Dr. Lawhan, could I have you step down for a moment,

1 come around for me. I'm going to show in a second. I'm
2 going to show the jury State's Exhibits 3 and 4. These
3 were obviously very similar pictures. Do these
4 approximately show how you remember it?

5 A Yes, according to my notes, this the teeth that are
6 fractured are what I documented the teeth are missing is
7 what I documented.

8 Q All right.

9 A These are up in here.

10 Q Right. All I'm asking is this how you remember it
11 and according to your notes?

12 A Yes.

13 THE COURT: And that's what, Mr. Ozment?

14 MR. OZMENT: Three and four.

15 THE COURT: Okay, thank you.

16 BY MR. OZMENT:

17 Q And these pictures do you note -- can you see any
18 swelling that you were talking about in your notes also?

19 A It's hard to tell.

20 Q What's that area of the lower lip on four what could
21 that be?

22 A I mean, it looks like asymmetrical, but it's hard to
23 tell in the picture. It appears to be swollen if you look
24 at this side of the red versus this side, it's
25 asymmetrical.

1 Q And you're referring to State's Exhibits 4 to the
2 asymmetry and the right left side?

3 A This is more narrow and this looks a little more hard
4 to tell that.

5 MR. OZMENT: Your Honor, permission to publish
6 three and four to the jury?

7 THE COURT: So granted.

8 BY MR. OZMENT:

9 Q You could take the stand again, Dr. Lawhan. Dr.
10 Lawhan, when I was asking you about your qualifications,
11 you said seen thousands of trauma cases over your years?

12 A Yes, sir.

13 Q Okay. Have you seen many impacts of the mouth?

14 A Yes.

15 Q These injuries that we have here would they be
16 consistent with just a closed first punch?

17 A When he told me, he was hit with a gun I would tend
18 to have to believe that because if you look at the
19 mechanism of injury, the actual -- if you take a fist, I
20 mean, the average guy fist is about as big as mine. I
21 mean, you're going to create more damage than you would if
22 I could point ahead. But if you have something --
23 mechanisms of injury is about as big a round as this. If
24 you kind of isolate it to one side of the mouth, so I
25 think it would be doubtful that someone could hit someone

1 in the mouth and break off three teeth and avulse two so
2 sharply and not damage the adjacent teeth.

3 Q Okay. And so you said the mechanism of injuries have
4 to be about that big?

5 A It had to be condensed. It couldn't be -- well, it's
6 possible, but I would lean toward more something being
7 more condense versus a fist.

8 Q Okay. And now I realize you weren't there and you
9 can't say, but would it be consistent with a gun butt?

10 A Yes. I would say yes.

11 Q Looking at your notes, are there any other injuries
12 you observed on Mr. Holloman on that day?

13 A Just the three teeth fractured, two teeth missing and
14 swelling of his upper-lower lip where the mechanism was.

15 Q Okay. Now, moving beyond what was wrong with him.
16 Let's move to how you would fix it. What -- after looking
17 at what kind of treatment plan would you or did you use?

18 A I recommended extraction of the three teeth that were
19 broken off, they were kind of beyond repair. A lot of
20 times when you get hit, you have microfractures. You may
21 see half the tooth missing. Some people say they can
22 restore that, but when you're hit with a mechanism like
23 that, you get the microfractures or smaller injuries of
24 the tooth and they just don't last a long time. So in
25 order to keep the bone or the maxilla or mandible top or

1 lower jaw, we take the tooth out and we place implants or
2 some sort of partial or something like that.

3 Q How -- I guess explain to me what the process is for
4 removing three fractured teeth? What would you have to
5 do?

6 A In my practice, they would come in. I would sedate
7 them, I would start an IV, give them medications to where
8 they want remember what's going on. We would cut the
9 three teeth out, let that heal for about four months and
10 we have to come back and restore all the missing teeth.

11 Q Okay. So you would have to use a sedative and put
12 them to sleep?

13 A Yes.

14 Q Okay. And when you say cut the teeth out, I guess
15 what is that?

16 A Well, a lot of times when you get hit, the teeth are
17 fractured. Well, you know, half the tooth maybe seen, but
18 you go grab the tooth and invariably it breaks off at the
19 gum line because you have lack of fractures and you go to
20 squeeze to get the tooth out with an extraction forcep in
21 it, it kind of crumbles. So you have to remove the bone
22 and surgically remove the tooth.

23 Q Okay. Would you say this is surgery then?

24 A Oh, yes.

25 Q And then so after, you said it would remove three,

1 take four months. Now, you have a hole now five in his
2 mouth. What is the process for pairing for those?

3 A In lower jaw the top jaw, you could probably place
4 implants without any bone grafting. In the lower jaw,
5 when you have evulsed teeth, the bone is very thin on the
6 outside of the mandible, so when you get teeth that are
7 avulsed most of that bone is missing. So in my office, I
8 do bone grafting to make the ridge wide enough to place an
9 implant, if he proceeds with dental implants.

10 Q Okay. And would that again require surgery as we
11 would know it?

12 A Yes, to place implant, you would cut through the gum,
13 pull the gum back, drill a hole in the bone. You place
14 either a bone from the hip or a bone from a bone bank with
15 screws and let that heal. It's about a years process to
16 get it done.

17 Q Okay. Now, what about if I didn't want to do that.
18 Is it a way to do it with what I would call like a
19 retainer or some sort of appliance?

20 A Yes, you could have a partial made something you take
21 in and out, that's removeable. I'm not sure about fixed
22 bridge work, that's not kind of like my forte. The
23 general dentist can answer that.

24 Q Okay. Now, did you do surgery on Mr. Demetrius
25 Holloman?

1 A No, I did not.

2 Q But you did do this consult is from you actual
3 examination?

4 A That's right. One of the reasons I think he was sent
5 to me is because when an E.R. doctor sees a patient, they
6 kind of rule out with C.T. scans and all that with major
7 fractures. But when they find out they don't have any
8 life threatening injuries or major fractures of the face
9 or the jaw, they refer it to a general dentist. And I'm
10 usually the last in line when it comes to that. So
11 generally this is a little bit hesitant to treat anybody
12 like this until I examine them. When I examine them say
13 okay I don't see any fractures or I think he's okay to
14 proceed with treatment, I get second -- I give second
15 opinions to some general dentist before they start.

16 Q Okay. And you didn't find any -- I mean, you said
17 you might find a fracture. Are you talking about
18 fractured teeth or fractures...

19 A Microfractures that are within the tooth that you
20 can't see visibly.

21 Q Okay.

22 MR. OZMENT: No further questions, Your Honor.

23 THE COURT: Cross-examination.

24 MR. DEBERRY: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. DEBERRY:

2 Q Dr. Lawhan, thank you for being here.

3 A Sure.

4 Q So you said you only found two fresh places where
5 teeth were missing?

6 A That's correct.

7 Q And then several fractured teeth?

8 A Three fractured teeth.

9 Q Then you -- I say it's safe to say -- well, you said
10 that his story and his injuries are consistent?

11 A Yes.

12 Q Okay. Could it also be if you were hit with a
13 knuckle that be about the same diameter as to what you --
14 as to how you held your hand up earlier?

15 A Yes.

16 Q Okay. So you have no idea really what came in
17 contact with Mr. Holloman?

18 A I can only go by what he told me.

19 Q Correct. You certainly weren't there?

20 A No.

21 Q Okay. And you say that he didn't treat with you; is
22 that right?

23 A That's correct.

24 Q Okay. If he does the partials is that require
25 surgery?

1 A You would have to remove the teeth first to do the
2 partial.

3 Q Okay. And that would require surgery?

4 A Yes, to take the teeth out.

5 Q Okay. Are there any other possibilities besides a
6 gun or a knuckle that could have caused these injuries?

7 A I'm sure there is. I could only condense it down to
8 -- I think it had to be smaller than a fist because when
9 you look at the fist most of them are about the same. I
10 just think we have more injury adjacent to the teeth.

11 Q But that's assuming that you got hit right square
12 with the fist?

13 A Yes.

14 Q Okay. So if there was a glancing blow or something,
15 it certainly could have been a fist?

16 A Well, enamel is the hardest structure in your body.
17 A glancing blow to a tooth probably wouldn't have
18 fractured it. You got to have a pretty good direct hit.
19 To evulse teeth, it would take more than a glancing blow.

20 Q All right. But if -- say if it was just a blow that
21 wasn't dead center, it's a possibility it could have been
22 anything?

23 A I still think it had to be a condense hit because it
24 was just limited to the right side of those teeth.

25 Q Right. When he came to you, did he tell you that he

1 had eight teeth missing?

2 A He just said he had some teeth knocked out when I was
3 examining him, but he didn't really tell me -- I don't
4 have in my note that he was -- I'm sure he said he had two
5 teeth knocked out, which was evident, but I don't have
6 that in my note. I don't remember eight teeth.

7 Q You don't remember anything about six teeth?

8 A I don't have anything in my note about that.

9 MR. DEBERRY: Thank you very much. I don't have
10 anything further.

11 THE COURT: Any redirect?

12 MR. OZMENT: Just very briefly.

13 REDIRECT EXAMINATION

14 BY MR. OZMENT:

15 Q Mr. Deberry asked you about a punch causing this and
16 you responded that enamel is the hardest substance in the
17 body. If you were to punch someone and land a knuckle as
18 Mr. Deberry said and knock out teeth like this, would it
19 damage the hand that did it?

20 A I mean, it would, you know, if the mouth is open or
21 something like, it's going to mess up the knuckles or cut
22 the knuckles usually or bruise the knuckles.

23 MR. OZMENT: All right. No further questions,
24 Your Honor.

25 THE COURT: Any recross?

1 MR. DEBERRY: No, Your Honor.

2 THE COURT: Dr. Lawhan, you may step down.

3 Thank you.

4 (WHEREUPON, the witness leaves the witness
5 stand.)

6 MR. OZMENT: Your Honor, the State would ask
7 that Dr. Lawhan be relieved of his subpoena, so he could
8 go back to work..

9 THE COURT: Any objection?

10 MR. DEBERRY: No, Your Honor.

11 THE COURT: All right. Dr. Lawhan, you are
12 excused. You have no further responsibilities regarding
13 your subpoena. Thank you for being here.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 THE COURT: Mr. Ozment.

17 MR. OZMENT: Your Honor, at this time the State
18 rest.

19 THE COURT: All right. Ladies and gentlemen of
20 the jury, the State has presented its case. And at this
21 time, it's a matter of law that we need to take up outside
22 of your presence. So what I'm going to do is I'm going to
23 ask that you to step back to your jury room. Do not
24 discuss the case and I'll get you back out here as quickly
25 as possible.

1 going to send the jury back out and just renew motions
2 without saying what they are?

3 THE COURT: I'm not sending them back out,
4 that's what I was saying. You ready to go, Mr. Ozment?

5 MR. OZMENT: Yes, Your Honor.

6 THE COURT: All right. You going to open and
7 defense counsel gets final arguments since no evidence
8 introduced during the course of this trial no testimony.

9 Bring me the jury please ma'am.

10 Mr. Deberry, when you rest, just ahead and say
11 we renew all our motions at this time. And I will so note
12 them rather than me addressing and have to come back to
13 you.

14 (WHEREUPON, the jury came into open court.)

15 THE COURT: All right. Mr. Deberry, you're
16 recognize.

17 MR. DEBERRY: Thank you, Your Honor. At this
18 time, the defense rest. We also like to take this
19 opportunity to renew any motions and objections we made
20 throughout this trial.

21 THE COURT: All right. Prior motions and
22 objections are so noted for the record and the Court's
23 rulings as to defense counsel's motions and objections
24 remain the same.

25 All right. Mr. Foreman and ladies and gentlemen

1 of the jury, you all have heard all of the testimony and
2 evidence that you are going to hear in this case. What we
3 are going to do now is we are going to move into closing
4 arguments. And I will charge you on the applicable law in
5 this case for you to determine this decision in this case.
6 I will remind you all, ladies and gentlemen, that closing
7 arguments in this case is not evidence in this case, is
8 not evidence in this case.

9 Mr. Ozment, you're recognized at this time for
10 closing argument.

11 MR. OZMENT: Thank you, Your Honor. May it
12 please the Court.

13 THE COURT: Yes, sir.

14 MR. OZMENT: Mr. Deberry. As in my opening, I'm
15 going to try not to knock over this microphone. Good
16 morning. I started this case talking about fear. I want
17 to end it by talking about the opposite of fear and that's
18 courage. John Wayne said that courage is feeling fear and
19 doing it any way. Mark Twain said courage is resistance
20 to fear, master of fear and not absence of fear.

21 Now, at the beginning, Mr. Deberry said I
22 couldn't tell you who did it, what it was, when it was,
23 where it was, why it was or how it was. So what I'm
24 going to do on this board is answer each one of those
25 questions start with who. There are two people that were

1 involved in this incident. First is Demetrius Holloman.
2 Mr. Holloman was the victim, he testified to that. The
3 doctor testified as to his injury. I don't think there's
4 any question he had his teeth knocked out. Second is Troy
5 Hunter, the defendant. And how do we know who on Troy
6 Hunter? I think the first person who told us they saw
7 Troy Hunter there that day was Nate. If you'll remember,
8 Nate. Nate said Troy Hunter walked up to Dixie Street
9 asked where Demetrius was, walked over popped him in the
10 mouth. That's the first witness who said who Troy Hunter.
11 Who was the next witness? Deloris Johnson sitting in her
12 car saw Troy Hunter walk up, walk around the edge of the
13 house, a minute or two later hears gun shots, see Troy
14 Hunter come back around from the house. Who? Troy
15 Hunter.

16 Finally, we had Demetrius known Troy Hunter
17 since he was a little kid, known him his entire life.
18 What Demetrius Holloman say it's Troy Hunter that walked
19 up. That's three witnesses. Eyewitnesses who saw Troy
20 Hunter there that day. I don't think there's any question
21 as to who.

22 Let's move on to where. [REDACTED] [REDACTED] in the
23 City of Florence and the County of Florence. I think
24 every witness who was up here said it was at [REDACTED] [REDACTED]
25 [REDACTED]. Now, it was in the yard back whether it was

1 inside the yard, the back of the yard I don't think
2 there's any question about [REDACTED] in the yard,
3 side of the back. I'm not sure if that matters.

4 When? I don't know how many witnesses, but it
5 was there about everyone said it happened November 30th
6 2011, after the funeral ended. It was about 2:00 p.m.
7 everybody said that.

8 Now, we're going to get to the meat, if you
9 will. What happened? Well, again, we had Nate saw Troy
10 arrive, saw the fight take place. He said I don't know if
11 he had the gun. He could have had something in his hand.
12 You know, he was 20 yards away from me through some
13 bushes.

14 What? Demetrius Holloman sat there on the stand
15 and told you exactly what happened. He was walked up
16 behind him, popped him in the mouth, fell down, put the
17 gun on him, and remember Demetrius said I can't say what
18 he said because there's a bunch of kids in here. He said
19 give me that stuff, grabbed it out of his pocket, that
20 stuff was money. That's what happened.

21 Armed robbery. Why? Money, that's simple.
22 Now, there's some other why's I want to talk about in
23 here. You've heard some testimony the first time
24 Demetrius gave a statement in the hospital, he didn't tell
25 them it was money. You also heard from his mother that

1 she had given him 250 to \$300, heard from Demetrius that
2 he got money from his mother or his kids, just like his
3 mom said and that he had gotten some money from his
4 girlfriend that gotten that student loan refund from
5 Florence Darlington Tech, that's where the money came
6 from.

7 Now, robbery is pretty simple, people do it for
8 money, but I also want to talk about more money. There's
9 been some implication by Mr. Deberry that Demetrius got
10 up here today for money. Now, in civil court, you can sue
11 somebody to get money. This criminal court, no matter if
12 you find him guilty, not guilty or in between, we're not
13 here to talk about money. No matter what you did Troy
14 Hunter is not going to have to pay Demetrius anything.
15 Demetrius isn't going to have to pay Troy Hunter anything.
16 It doesn't make any since that Demetrius will be here
17 today testifying from that stand for money. It does make
18 sense that on November 30th 2011, Troy Hunter threw
19 Demetrius to the ground and shot next to his head for
20 money now that makes sense.

21 But why money? I run out of room. Last
22 question when, what, where, why and how. How is where the
23 gun? How do we know there's a gun? Idena Titus heard a
24 gunshot. Roderick Titus heard a gunshot. Police were
25 called. What were they called out to gunshots? Deloris

1 Johnson heard a gunshot. Demetrius Holloman he shot right
2 next to my head.

3 Finally, what do we hear today from the dentist,
4 it's consistent with the story that he got hit in the
5 mouth with a gun. A gun was used. I don't believe
6 there's any question. I don't think there's any witness
7 who says anything other than gun, gun, gun, but that's
8 important for armed robbery.

9 Armed robbery requires you of a deadly weapon.
10 The judge is going to close on the law in a minute and
11 he's going to tell you that. But every witness that has
12 testified heard a gun, saw a gun or saw the results of a
13 gun like Dr. Lawhan. This is the who, what, when, where
14 and why and how of what happened.

15 Now, I'm going to go back to fear just for a
16 minute. When Demetrius testified, he got a little
17 animated. He sat here and kept going back to Mr. Deberry
18 was questioning him. He kept saying you don't understand,
19 the man had a gun at me. The man shot next to my head,
20 you don't understand. You're trying to make me look like
21 the bad guy. You're trying to make me look like a liar.
22 What you saw there that passion is that same fear that
23 started on that day. Ever since that day, Demetrius has
24 been scared of Troy Hunter. He said that on the stand. I
25 said are you still scared of him now. Yes, I am. What

1 did his mom say, he came home, he didn't want to tell the
2 police what happened. Police came and talked to him, he
3 didn't tell them what happened. He was scared. He was
4 scared the whole time. What else did his mom say after he
5 finally told the police? He stayed at her house which was
6 weird because he didn't live there. He didn't leave her
7 house. He was scared. There's no question he was scared.
8 Now, he eventually did the right thing because he said I
9 put it in the law's hands. I went finally and told the
10 truth.

11 Now, again, Mr. Deberry believe it was for
12 money, he did that too. Here is my issue with that, just
13 because you go tell the law, we have in this state -- we
14 have a fund that pays victims who have serious medical
15 bills for what happened to him. If they've already paid
16 the bills, who pay them. If they hadn't paid their bills,
17 it pays the hospital. It's available to everyone in this
18 courtroom for the victim of violent crimes. Because he
19 was a victim of a violent crime and because he got some
20 help on his medical bills months later, doesn't mean it
21 didn't happen. Doesn't mean he wasn't scared. Because he
22 persevered through the fear because he had courage as John
23 Wayne would say. That doesn't mean it didn't happen, that
24 doesn't mean that there's a vast conspiracy of witnesses
25 who make this up to get \$900. Sure, he applied for some

1 money, most victims do. There's nothing wrong with that,
2 that doesn't mean it doesn't happen, that doesn't mean he
3 wasn't scared. I doesn't mean that he's not sitting in
4 this courtroom scared to death. Demetrius and we -- I've
5 talked about this since I first stood up here. The first
6 time Demetrius talked to the police, he didn't tell the
7 same story he told in the courtroom, absolutely that's
8 true because he was scared.

9 So I want to talk about truth and what truth is.
10 Verdict, the word verdict, Judge, probably will tell you
11 this word verdict comes from the Latin word for truth.
12 When you deliver that verdict, you're delivering truth in
13 this case. While many witnesses saw parts of this, many
14 saw it at the start, many saw what happened afterwards,
15 many heard things. The only one who could actually
16 testify as to what went down on the ground literally that
17 day was Demetrius.

18 So did he tell us the truth. I think he did.
19 In fact, I know he did. He came, told me the same story
20 he told Lee Davis. Now, whether it was \$900, \$960 or
21 thousand dollars. This was cash, it was taken 11 months
22 ago. It doesn't matter. If Troy Hunter took one dollar,
23 it's armed robbery. It doesn't matter. But Demetrius
24 Holloman sat here and Mr. Deberry hounded him and hounded
25 him and tried to get under his skin and did get under his

1 skin and what Demetrius Holloman stick with, You don't
2 understand. You weren't there that day. You didn't have
3 a gun smack your teeth out. You didn't have a gun fire
4 next to your head. He got upset and I understand why he
5 got upset. If this had happened to me and I had the
6 courage to come forward and tell the police living in
7 Demetrius' neighborhood, I be upset too if somebody put me
8 here and sat there and tried to make it look like I was
9 lying over and over sat there and tried to make me look
10 like I was lying. I understand everything Demetrius felt
11 because Demetrius was sitting here telling you the truth.

12 I'm going to close now. The judge is going to
13 talk to you about reasonable doubt, that's my burden.
14 Troy Hunter sits there innocent until you come back with a
15 verdict. I've proven Troy Hunter guilty beyond a
16 reasonable doubt. The judge is going to say that's going
17 to leave you firmly convinced, that's what reasonable
18 doubt is. It's not all doubt. Now, there always to be
19 some, you know, but firmly convinced. We said who did it.
20 We said where it happened. We said when it happened. We
21 said why it happened. We said how it happened. We had
22 tons of witnesses that heard the gun. We had witnesses
23 that saw it start. But the most telling to me is when
24 Demetrius sat here and told the truth and defended that
25 truth with his mind and certainly defended the truth with

1 his heart.

2 I ask you as the jury, I appreciate you been
3 attentive this whole trial. Sometimes juries sit here and
4 check the ceiling tiles and check the back of their
5 eyelids. You all been paying attention and I appreciate
6 it. I know Mr. Hunter appreciates it. Mr. Deberry
7 appreciates it. But I ask you to go back to that jury
8 room, think about the evidence, think about how this
9 puzzle fits together, think about the who, what, when,
10 where, why and how. And come back with a verdict that
11 speaks the truth and this case that verdict is guilty on
12 armed robbery. I appreciate your attention.

13 THE COURT: Mr. Deberry, you're recognized for
14 closing arguments.

15 MR. DEBERRY: Thank you, Your Honor. Ladies and
16 gentlemen, on the heels of Mr. Ozment's closing, I like to
17 tell you we appreciate very much your attention in this
18 case. And again, we understand and I understand, there's
19 so many other places you probably rather be than here
20 today, but this is such an important case. Although,
21 Investigator Davis didn't really think it was. Some other
22 people must not really thought it was a very important
23 case. I promise you Troy Hunter needs you to take this
24 seriously. He needs your attention and he needs your
25 decision in this case.

1 Fear, passion, courage, that's what he pends on
2 his star witness, Mr. Demetrius Holloman, and that's why
3 he tells you now he is telling you the truth because he
4 was scared, but now he's courageous. All that falls on
5 death ears the minute Mr. Holloman said I wasn't scared of
6 Troy Hunter. I was scared of what I would do to him if I
7 saw him. Come on, ladies and gentlemen, they want you to
8 believe he stayed inside for three weeks after this thing
9 took place because he was scared. He was scared for his
10 life, that's what they want you to believe is that he was
11 scared for his life so much so that he was scared to even
12 come outside. How about that fear -- what happened to
13 that fear when two days later after he realize how much it
14 was gone cost to get his teeth fixed, he came to the
15 victim's assistance program, gave Investigator Davis a
16 statement that says, well, now, since I realize I can't
17 get my mouth fix, I'm going to tell you what happened. If
18 he was scared for his life, what's more important \$960 or
19 your life. What is it?

20 If he is telling the truth now, ladies and
21 gentlemen, the truth never changes. The truth never
22 changes. When he was in the hospital that day, he told
23 them I don't know who did it, nothing was taken. Three
24 days later, I know who did it now and he stole \$900.
25 Never told them then where he had \$900 or why he had \$900,

1 but, you know, he's got pending charges for distribution
2 of drugs. But he wants you to believe that in November of
3 all times of year in November, there was a girlfriend that
4 had a pocket full of money from a student loan. Why is he
5 lying about these things? Why? He's trying to gain from
6 this situation, there's no question about it. Why I have
7 no idea? But if he was telling the truth, he would have
8 told the truth from day one. It would stay the same. He
9 wouldn't have all these inconsistencies.

10 If I can, just let me point some out for you.
11 He can't ever tell you how many teeth he's missing, okay.
12 At the beginning, it was all of his teeth. Then it was
13 eight of his teeth when he came and told Investigator
14 Davis. Then it was when he came to trial it was six of
15 those teeth. And then comes the dentist who says it's
16 three of his teeth. How many was it? We don't know. He
17 even pulled them out and showed you, so who's lying.
18 Who's lying? Somebody is. Somebody's not being truthful.
19 And what is the motive? We don't know. How many people
20 saw a gun? It's only one up here who's proven to be
21 untruthful. Did Nathan see a gun? No, he said he didn't
22 see a gun, came right by him didn't see a gun, went over
23 there in the other yard somewhere. We don't even know
24 where this happened. There's no evidence it happened at
25 [REDACTED]

1 The police looked around there for about five
2 minutes. It wasn't even a case to begin with.
3 Investigator Davis told you it didn't even get assigned.
4 The witness was not cooperating. Yet, he was laying in
5 the hospital and said that he didn't know -- said somebody
6 hit him in the mouth and he didn't know who and that
7 nothing was taken from him. How does he know that that's
8 uncooperating, that that's not cooperating. It doesn't
9 add up. You hear from Deloris Johnson, from Idena Titus,
10 from Roderick Titus, that this [REDACTED] there's
11 20 or 30 people there every day. You hear from Deloris
12 Johnson that people walked off, people ran off. Troy
13 Hunter walked off. No gun. I asked Investigator Davis
14 how many of those people did he find? Well, when the
15 police got there, it was nobody around.

16 Ladies and gentlemen, I will tell you this that
17 I believe that's probably a common situation in law
18 enforcement, that's when you got to go do your job.
19 That's when you need to go and investigate, that's when
20 you need to go find out what happened. How hard would it
21 have been to go around and ask people, to find out who
22 that crowd is that stands around there. Let's go find
23 some more witnesses, let's find out what happened. They
24 didn't do it and now we don't know. But we're here on a
25 serious charge on two serious charges and we don't know

1 what happened. And that, ladies and gentlemen, is a
2 reasonable doubt, that's a reasonable doubt.

3 If you're not sure about what happened, that's
4 the very definition of not being firmly convinced, that's
5 the very definition of hesitating to find this man guilty.
6 And if you hesitate in the slightest amount, the judge is
7 going to tell you you have to find him not guilty. If you
8 don't know, he's not guilty, that's this system of justice
9 that we live in. He's entitle to a not guilty because we
10 don't know what happened.

11 Ladies and gentlemen, I heard a lot of gunshots
12 in my life. I enjoy hunt and fish, being outside around
13 guns. I never heard it sound like -- a gunshot sound like
14 a truck hits a utility pole and a transformer blows up. I
15 never heard a gun shot being described as a loud crash,
16 never heard that. Deloris Johnson says, yeah, she thinks
17 it was a gunshot, but she was in the car on the cell
18 phone. Now, Nathan said I didn't hear any gunshot, I was
19 right there. But I put my headphones on, everybody else
20 was inside. So we don't know what happened, had no idea
21 what happened. And when we don't know what happens in
22 this situation, that is a reasonable doubt. It can't be
23 held against Troy Hunter that the police didn't do any
24 investigation, cant be held against Troy Hunter that
25 Demetrius Holloman wants to profit from this situation.

1 He gave a statement to Investigator Davis agree
2 I didn't realize it, but now I know the only way I can get
3 any didn't realize get any money is if I give you a
4 statement. Again, it goes back to fear. And if you think
5 that's courage, then find him guilty. I ask you to do
6 that. You think this is courage what you saw come from
7 that man, if you think that's the truth, if you think what
8 he's done and his inconsistencies are the result of fear,
9 then find Troy Hunter guilty. But I tell you it's not,
10 it's not. He's lying all across the board.

11 I like to take just a minute and talk to you
12 about this says who. Demetrius Holloman and Troy Hunter,
13 the only thing we know if we believe Nate is that they
14 might have been there and they got in a fight, that's all
15 we know. That's all we know. Nobody else they brought
16 here saw anything. Nathan just came into this existence
17 last week. We're talking about over a year after this
18 thing happened. And he didn't come into existence because
19 of an investigator. He came into existence in this case
20 because of Roderick Titus, who's got trafficking in crack
21 cocaine and distribution charges pending in this court,
22 who decided he's gone give a name about a witness that
23 might have seen something that day at the final hour, the
24 eve before trial. But if you believe Nate, there was no
25 gun. And just a fight between two individuals, that's not

1 armed robbery and that's not assault and battery. That's
2 not what we have.

3 So [REDACTED] absolutely no physical
4 evidence in this case. If shots were fired, we ought to
5 have some physical evidence. They're going to take his
6 words it's a .357 because he saw down the gun end of a
7 barrel, that's incredible. We don't know that. There's
8 no way to know that. When on 11-30, I'll be honest with
9 you, I don't know when he got all his teeth knocked out.
10 I have no idea and there's absolutely nothing in this
11 record that proves when that happened, nothing. Again, if
12 there was a crime scene, a bunch of teeth got knocked,
13 you're going to have some blood, maybe some teeth, maybe
14 it's all dirt, some evidence of a struggle. We don't have
15 it, so we don't know. We have no idea. But they call it
16 an armed robbery. They call it an armed robbery. It's a
17 serious charge. You don't even know if there was any
18 money taken, certainly in any evidence in the record other
19 than what Mr. Holloman tells you after he realize he
20 couldn't get his teeth fixed unless he gave a statement.
21 And then he changes the amount of money that's in his
22 pocket. Then he wants you to believe the money's in his
23 pocket because his momma gave him some to get his car
24 fixed, but then he says his momma says, no, I gave it to
25 him to buy his son a birthday present. And then he says

1 the rest of the money comes because my girlfriend gave it
2 to me, she had just gotten her student loans. Student
3 loans come in September and January. The money, that's
4 exactly why. That's exactly why we're here is because
5 Demetrius Holloman wants money. And that's the only way
6 he figured he could get some.

7 Ladies and gentlemen, think about it when he was
8 in the hospital on 11-30, the police go talk to him. If
9 he was scared, I can understand not going to tell on who
10 did it to you. I'm not going to do that, I'm scared for
11 my life, that's understandable. But why he didn't tell
12 them he was robbed. Why didn't he tell them then that he
13 was robbed, what difference would it have made. Why,
14 that's a reasonable doubt. I tell you why later he told
15 them he was robbed because he comes up here and they tell
16 him, yeah, we got this victim's assistance program. It
17 will pay you for your injuries, but you got to be
18 cooperative. You got to tell us what happened.

19 Ladies and gentlemen, it's not there. It's not
20 there. And how with a gun. It's not evidence of a gun.
21 Most people don't even know what they heard. One of them
22 said they heard it crash. The other one said they heard a
23 transformer, no shell casings. There's no gun. Certainly
24 hadn't been proven that there was a gun. Without that
25 gun, it can't be an armed robbery, can't be armed. So we

1 don't have armed robbery.

2 And then back down to assault and battery second
3 degree, okay. And just a second. In order for you to
4 find this defendant guilty for assault and battery in a
5 second degree, there has to be moderate bodily injury,
6 which means that physical injury requiring treatment to an
7 organ system of the body other than the skin, muscles and
8 connected tissues of the body except when there is
9 penetration of the skin and muscles and connected tissues
10 that require surgical repair of the complex nature or when
11 treatment of the injuries requires use of anesthesia. You
12 all understand that, more power to you. I never
13 understood it. If you believe that they got in a fight,
14 there's no assault and battery if it's mutual. If you
15 believe otherwise, if you believe moderate bodily injury
16 occurred, Mr. Holloman will have you believe that extreme
17 bodily injury occurred and got all his teeth knocked out.
18 We don't even know how it happened or if it happened or
19 who did it. We don't have any idea. We don't have any
20 police work. Thank them for what they do, I know that we
21 need them. Thank the good Lord that we have them, but in
22 a situation where they're bringing these serious charges
23 against a member of the community, we need them to be just
24 a little bit more. We need them to be able to prove what
25 happened.

1 Ladies and gentlemen, they haven't done it.
2 They haven't done it. And if you believe just like --
3 just like Demetrius Holloman told you, that there's only
4 three teeth knocked out, then dismiss this case. Dismiss
5 this case because my six teeth were knocked out. My eight
6 teeth were knocked out. All my teeth were knocked out,
7 but he told you. He said the doctor comes in here and
8 says only three teeth were knocked, then dismiss this
9 case. They want you to believe he told on him because of
10 fear, but then he said, no, I wasn't scared of Troy. I
11 was just scared of what I might do to Troy. It doesn't
12 add up, ladies and gentlemen. It doesn't add up.

13 Now, the judge is gone tell you this is very
14 important. That as jurors in this case, you are the
15 finders of fact, that means you as a jury each and every
16 one of them of the members of the jury decide what
17 happened in this case. You find the facts as you heard
18 from that witness stand and any of the evidence that comes
19 through that witness stand.

20 You find the facts and he's also going to tell
21 you that the credibility of these witnesses is up to you.
22 And what the credibility of the witness means is the
23 believability, how much do you believe a witness. And
24 he's going to tell you that you are entitle by the law to
25 believe any witness you want to. You can believe all of

1 what they say, part of what they say or none of what they
2 say. That's the power of a juror.

3 And when I started this case, I told you that we
4 picked you because we feel like you're all individuals.
5 You all have your own mind and your own ability to make up
6 your own mind. And if there's a doubt in any one of you
7 all minds about what happened and then I ask you to find
8 Troy Hunter not guilty. I ask you to do that because I
9 don't think they have proven what they have to prove to
10 find him guilty of these charges. Thank you very much.

11 MR. OZMENT: Your Honor, the State also have a
12 brief motion, but we can do it at side bar.

13 (WHEREUPON, bench conference was on the record.)

14 MR. OZMENT: The State would like to make a
15 motion for the Court to reconsider the charge for common
16 law robbery.

17 THE COURT: Based upon?

18 MR. OZMENT: Based upon, there's no doubt that
19 whether a gun was used is an issue in this case. Mr.
20 Deberry just outlined the facts that tend to prove the gun
21 was not used. I believe, Your Honor, stated it was based
22 on there is no evidence a gun was not used?

23 THE COURT: I'm not going to, I understand your
24 objection. However, there's no disputed evidence. I
25 understand your position.

1 (WHEREUPON, bench conference ended.)

2 THE COURT: All right. Ladies and gentlemen, it
3 is now my duty as the trial judge under the Constitution
4 of this state to charge and instruct you on the law
5 applicable to this case. It is your duty as jurors to
6 accept and apply the law as I will now state it to you.
7 Furthermore, it is your exclusive duty to decide all the
8 issues of fact in this case and to determine the effect,
9 value, weight and truth of the evidence. Both the State
10 and the defendant have a right to expect that you will
11 carefully consider and evaluate the evidence and apply the
12 law of this case to it, so that in the end both the State
13 of South Carolina and the defendant will receive a fair
14 and impartial trial. I want you to understand that when I
15 use the word defendant, I refer to Mr. Troy Darnell
16 Hunter.

17 Furthermore, it is important to understand that
18 the indictment in this case alleges two different offenses
19 against the defendant. The charges alleged in the
20 indictment are armed robbery and assault and battery in
21 the second degree. To these charges, the defendant has
22 entered a plea of not guilty. This plea of not guilty
23 places the burden of proof on the State to prove the guilt
24 of the defendant to you, the jury, beyond a reasonable
25 doubt.

1 As I mentioned above, the indictment in this
2 case alleges two separate and distinct offenses against
3 the defendant. You must decide each charge separately on
4 the evidence and the law applicable to it, uninfluenced by
5 your decision as to any other charge. The defendant may
6 be convicted or acquitted on any or all of the offenses
7 charged. You will be asked to write a separate verdict of
8 guilty or not guilty for each charge alleged in the
9 indictment.

10 I remind you, ladies and gentlemen, the fact
11 that the defendant was arrested, charged and indicted in
12 this case is not evidence in this case and cannot be
13 considered by you as evidence of guilt in this case, nor
14 does it create any presumption or inference of guilt. The
15 indictment is simply the formal written instrument, which
16 contains the charges made against the defendant. It is
17 the formal document by which this case is brought into
18 this court.

19 Now, during this trial you and I've had separate
20 duties to perform as the trial judge. It is my
21 responsibility to preside over this trial, and I also have
22 the duty to rule upon the admissibility of the evidence
23 offered during the process of this trial. In that regard,
24 you are to consider only the competent evidence before
25 you. And you are to disregard from your mind any

1 testimony ordered stricken from the record of this case
2 during the progress of this trial, if there was any. And
3 you are to consider only the testimony which has been
4 presented from this witness stand together with any
5 exhibits admitted into the record of this case and any
6 stipulations of counsel made into the record, if there
7 were any.

8 Furthermore, I have the additional duty to
9 charge you on the applicable law of this case. And in
10 that regard, I am the sole judge of the law of this case.
11 It is your duty to accept and apply the law as I state it
12 to you. If you have any preconceived ideas as to what the
13 law is or what the law ought to be and it does not agree
14 with what I tell you the law is, you are obligated under
15 your oath to abandon these preconceptions because you are
16 sworn to accept the law precisely as I state it to you.

17 In this trial, you are the sole and exclusive
18 judge of the facts and I am the judge of the law. Do not
19 infer that I have any opinion about the facts in this case
20 from anything I have said during the course of this trial
21 in ruling upon the admissibility of evidence or otherwise
22 or from anything that I say during the course of this
23 charge to you. In this regard, the law simply does not
24 permit me to have an opinion about the facts. As jurors,
25 it is your duty alone to determine the effect, value,

1 weight and truth of the evidence presented to you during
2 the course of this trial.

3 In determining what the facts in this case are,
4 you must judge the credibility, which simply means the
5 believability of the witnesses and the value of weight to
6 be given to their testimony. You alone must decide the
7 force, effect and truth of the testimony. In making this
8 decision, there are many things you may and should take
9 into consideration such as the appearance and manner of
10 the witness on the stand and characteristic often referred
11 to as the demeanor of the witness, was witness the
12 forthright or hesitant, was witness' testimony consistent
13 or did it contain discrepancies, what was the ability of
14 the witness to know the facts about which he or she
15 testified, did the witness have a cause or reason to be
16 biased and prejudiced in favor of the testimony he or she
17 gave, was the testimony of the witness corroborated or
18 made stronger by other testimony and evidence or was it
19 made weaker or impeached by such other testimony and
20 evidence.

21 As jurors please understand, you have the right
22 to believe a small portion of a witness' testimony and
23 disregard the larger portion or vice versa. You may
24 believe all of a witness' testimony or none. You may
25 believe the testimony of a single witness against that of

1 many witnesses or the other way around.

2 In exercising your mental processes and
3 attempting to decide the truth, the law simply requires
4 that you exercise your good judgment, your common sense,
5 your sense of logic and reason, and your experiences in
6 life. You then apply these attributes to the evidence and
7 apply the law as I state it to you and thus arrive at a
8 verdict.

9 Now, it is vital to understand, ladies and
10 gentlemen, that the defendant is presumed under the law to
11 be innocent of these charges. The defendant has no
12 obligation to prove his innocence. It is a fundamental
13 rule of our law that a defendant, irrespective of the
14 seriousness of the charge or charges against him, is
15 always presumed innocent of the crimes for which he is
16 charged, unless and until his guilt has been proven by
17 evidence that satisfies you, the jury, beyond a reasonable
18 doubt.

19 The presumption of innocence is not a mere legal
20 theory or a legal phrase. The presumption of innocence is
21 very important and you need to understand that this
22 presumption accompanies the defendant from the time of his
23 arrest and appearance in this court and continues with the
24 defendant even after you retire to the jury room to
25 deliberate. In other words, the defendant receives the

1 benefit of the presumption of innocence until the very end
2 of this trial. When you, the jury, will deliberate upon
3 the evidence and decide whether the State has proven his
4 guilt beyond a reasonable doubt.

5 Now, ladies and gentlemen, what is a reasonable
6 doubt in the law? A reasonable doubt is the kind of doubt
7 that would cause a reasonable person to hesitate to act.
8 Proof beyond a reasonable doubt is proof that leaves you
9 firmly convinced of the defendant's guilt. There very few
10 things that we know in this world that we know with
11 absolute certainty. So even in criminal cases, the law
12 does not require proof that overcomes every possible
13 doubt. However, if based upon your consideration of the
14 evidence, you are firmly convinced that the defendant is
15 guilty of the crimes charged, you must find him guilty.
16 If on the other hand, you think there is a real
17 possibility that he is not guilty, you must give him the
18 benefit of the doubt and find him not guilty. Jurors
19 please understand that reasonable doubt may arise from
20 evidence which has been presented in the case or from the
21 lack of evidence in the case. It is your responsibility
22 to determine whether or not reasonable doubt exist as to
23 the guilt of this defendant.

24 I charge you that the defendant is entitled to
25 every reasonable doubt arising in the whole case. If upon

1 any issues of fact essential to conviction in a verdict of
2 guilty, you have a reasonable doubt as to how that issue
3 should be resolved. It would be your duty to resolve that
4 reasonable doubt in favor of the defendant.

5 Thus, in summary, it is important to understand
6 that a defendant is not required to prove his innocence.
7 Instead, the State is required by law to prove every
8 essential element of the offenses charged against the
9 defendant by evidence which satisfies you of his guilt
10 beyond a reasonable doubt, only then can you convict the
11 defendant and find him guilty.

12 Now, there are two types of evidence which are
13 generally presented during a trial direct evidence and
14 circumstantial evidence. Direct evidence is the testimony
15 of a person who claims to have actual knowledge of a fact
16 such as an eyewitness. It is evidence which immediately
17 establishes the main fact to be proved. Circumstantial
18 evidence is proof of a chain of facts and circumstances
19 indicating the existence of a fact. It is evidence which
20 immediately establishes collateral facts from which the
21 main fact may be inferred.

22 Circumstantial evidence is based on inference
23 and not on personal knowledge or observation. The law
24 makes absolutely no distinction between the weight or
25 value to be given to either direct or circumstantial

1 evidence. Nor is a greater degree of certainty required
2 of circumstantial evidence than of direct evidence. You
3 should weigh all of the evidence in the case. If after
4 weighing all of the evidence, you are not convinced of the
5 guilt of the defendant beyond a reasonable doubt, you must
6 find the defendant not guilty.

7 Now, during the course of this trial, you heard
8 the testimony of police officers. Please understand that
9 the testimony of a police officer is not entitled to more
10 weight than that of any other witness. You are the sole
11 judges of the credibility of a witness and you are not to
12 give more weight to a police officer's testimony solely
13 because he or she is a police officer. Rather, you should
14 judge an officer's testimony by the same standards that
15 you apply to all other witnesses.

16 You also heard the testimony, ladies and
17 gentlemen, of an individual that was qualified as a expert
18 witness. As I told you when this individual was
19 qualified, the rules of evidence ordinarily do not permit
20 witnesses to testify to opinions or conclusions. However,
21 an exception exist to the rules for individuals who are
22 qualified as expert witnesses. A witness who by education
23 and experience, who has become an expert in some art,
24 science or profession or calling, may state an opinion as
25 to relevant and material matter in which the witness

1 claims to be expert and may also state the reasons for the
2 opinion.

3 You, ladies and gentlemen, should consider any
4 expert opinion received in evidence in this case like any
5 other evidence, give it the weight that you think it
6 deserves. If you decide that the opinion of an expert
7 witness is not based on sufficient education and
8 experience or if you conclude that the reasons given in
9 support of the opinion are not sound or that the opinion
10 is outweighed by other evidence, you may disregard the
11 opinion entirely.

12 Furthermore, an expert witness' testimony is to
13 be given no greater weight than that of other witnesses
14 simply because the witness is an expert. Further, you are
15 not required to accept an expert's opinion even though it
16 is not contradicted.

17 Now, ladies and gentlemen, you heard testimony
18 of individuals who had past criminal records. Let me tell
19 you that an individual who has a past criminal record is
20 competent to testify during a trial. A past record does
21 not affect the ability of that witness to testify. The
22 past record may only be considered by you, if at all, in
23 determining the witness' believability. Remember, you are
24 the sole judge of facts in this case and of the
25 believability of any and all of the witnesses.

1 There's also been evidence presented that
2 witnesses have made prior statements which are not
3 consistent with the witnesses present testimony. You may
4 use this evidence to decide whether to believe the
5 witness. You may also use evidence of earlier
6 contradictory statements to determine the truth of those
7 statements. It is up to you to decide whether to believe
8 the earlier statements or the testimony given at trial.

9 If a witness has shown to have knowingly
10 testified untruthfully concerning any material matter, you
11 may consider this in determining whether to trust the
12 witness' testimony as two other matters. You may reject
13 all the testimony of that witness or give all or part of
14 the testimony the weight you think it deserves.

15 Now, ladies and gentlemen, I instruct you and
16 emphasize that the fact that the defendant in this case
17 did not testify is not a factor, is not a factor to be
18 considered by you in any way in your deliberation and in
19 your consideration on the question of the guilt or
20 innocence of the defendant. It must not be considered by
21 you in any manner whatsoever. A defendant has the
22 constitutional right to remain silent and the assertion of
23 this right must not be considered by you in your
24 deliberations. I repeat under your oath you are to draw
25 no conclusion whatsoever from the fact that the defendant

1 did not testify. The fact that this defendant did not
2 testify should not even be discussed in the jury room.
3 The burden of proof, as I have stated to you, is on the
4 State. The defendant is not required to prove his
5 innocence. The burden of proof remains on the State to
6 prove guilt beyond a reasonable doubt.

7 Now, ladies and gentlemen of the jury in order
8 to establish criminal liability, criminal intent is
9 required. For example, the mental state required to be
10 proven by the state for a particular crime might be
11 purpose, intent, knowledge, recklessness or criminal
12 negligence. Criminal intent must be proven by the State
13 beyond a reasonable doubt. Criminal intent is always a
14 matter that must be determined by the jury from the
15 circumstances surrounding the situation. There is no way
16 to prove intent to a mathematical certainty. There is no
17 way that medical science can dissect a person's brain and
18 determine what the person had in mind. So the law says
19 that criminal intent may be inferred from the
20 circumstances shown to have existed. This is how you make
21 a determination of whether or not the element requiring
22 intent was present. It is not necessary to establish
23 intent by direct and positive evidence. But intent may be
24 established by inference in the same way as any other fact
25 by taking into consideration the acts of the parties and

1 all the facts and circumstances of the case. Criminal
2 intent is a mental state and conscious wrongdoing. It is
3 up to you to determine what the defendant intended to do
4 based on the circumstances shown to have existed.
5 Criminal intent can arise from action or a failure to act.
6 It may arise from negligence, recklessness or an
7 indifference to duty or to consequences that is considered
8 by the law to be the equivalent of criminal intent.

9 Now, the defendant in this case, ladies and
10 gentlemen, is charged with the offense of armed robbery.
11 In order to prove this offense, the State must first prove
12 beyond a reasonable doubt that the defendant took personal
13 property from the person or took personal property which
14 was in the presence of another person. Properties in the
15 presence of a person if it is within the person's reach,
16 inspection, observation or control so that the person
17 could if not overcome with violence or prevented by fear,
18 keep possession of the property.

19 The State must also prove beyond a reasonable
20 doubt that the defendant carried the property away
21 intending to permanently deprive the owner of the property
22 and to keep the property for defendant's own use. The
23 slightest removal of the property or the complete
24 possession of the property even for an instant by the
25 defendant is sufficient to show taking and carrying away

1 of the property. The taking and carrying away of the
2 property must have been done with violence or by putting
3 the owner of the property in fear of violence.

4 Finally, the State must prove beyond a
5 reasonable doubt that the defendant was armed with a
6 deadly weapon during the robbery. A deadly weapon is any
7 article, instrument or substance, which is likely to cause
8 death or great bodily injury whether an instrument has
9 been used as a deadly weapon depends on the facts and
10 circumstances of each case. The following are examples of
11 instruments, which may be deadly weapons a pistol, a
12 shotgun, a riffle, a dirk, a dagger, a knife, a slingshot,
13 metal knuckles, a razor, gasoline, a fire bomb or Molotov
14 cocktail and lighter fluid. A gun may be a deadly weapon
15 even if it is not operating. The defendant, ladies and
16 gentlemen, is also charged ---

17 Can the lawyers approach for just a minute?

18 (WHEREUPON, a bench conference was held in the
19 presence of the jury, but out of the hearing of the
20 jury.)

21 THE COURT: Ladies and gentlemen of the jury, I
22 just gave examples of what can be considered a dead deadly
23 weapon under the armed robbery charge.

24 Let me also tell you this that a fist can be
25 considered to be a deadly weapon. A hand or a fist does

1 not normally, is not normally considered a deadly weapon.
2 However, under some circumstances depending on the manner
3 and means of its use, the wounds inflicted and other
4 relevant facts a hand or a fist may be considered a deadly
5 weapon. It is for you to decide in this case beyond a
6 reasonable doubt whether or not a hand or a fist is a
7 deadly weapon.

8 Now, the defendant is also charged, ladies and
9 gentlemen, with assault and battery in the second degree.
10 A person commits the offense of assault and battery in the
11 second degree if the person unlawfully injures another
12 person or offers or attempts to injure another person with
13 the present ability to do so and moderate bodily injury to
14 another person results or moderate bodily injury to
15 another person could have resulted.

16 Moderate bodily injury means physical injury
17 requiring treatment to an organ system of the body other
18 than the skin, muscles and connective tissue of the body,
19 except when there is penetration of the skin, muscles and
20 connective tissues that require surgical repair of a
21 complex nature or when treatment of the injuries requires
22 the use of regional or general anesthesia.

23 Now, if you find that the State has failed to
24 prove beyond a reasonable doubt that the defendant
25 committed assault and battery in the second degree, you

1 must then determine whether the State has proven beyond a
2 reasonable doubt that the defendant committed the
3 lesser-included offense of assault and battery in the
4 third degree. A person commits the offense of assault and
5 battery in the third degree if the person unlawfully
6 injures another person or offers or attempts injure
7 another person with the present ability to do so.

8 Now, ladies and gentlemen of the jury, I am now
9 drawing near the end of my charge and I want you to
10 clearly understand that you are not partisans or advocates
11 for the State of South Carolina or the defendant. It is
12 your duty by your joint deliberations to determine the
13 truth in this case, giving to the defendant, giving to the
14 defendant the benefit of every reasonable doubt on each
15 and every issue. Then to the facts which you determine to
16 be true, you should take and apply the law which has been
17 given to you by this Court and thus arrive at a verdict
18 which speaks the truth in this case. In fact, the word
19 verdict, which has a Latin derivative means a true saying.
20 Thus, when you have accomplished these responsibilities,
21 you will have satisfied your oath as jurors. And you will
22 have discharged your duty to this court. Now, once you
23 retire to the jury room, the bailiff will give the verdict
24 form to the foreman. When you, the jury, arrive at a
25 verdict as to the offenses charged in this case, the

1 foreman will select the verdict as to each charge on the
2 verdict form. If the State has failed to prove the guilt
3 of the defendant beyond a reasonable doubt, your verdict
4 will be not guilty. Likewise, if the State has proven the
5 guilt of the defendant beyond a reasonable doubt, your
6 verdict will be guilty. Once a decision has been made,
7 the foreman will check whichever choices the verdict of
8 the jury as to each charge.

9 Now, let me tell you this, the verdict, ladies
10 and gentlemen, that you render in this case must be the
11 verdict of each and every juror. It must be your
12 unanimous verdict. All 12 jurors must agree on the
13 verdict which you authorize the foreman to write for the
14 jury.

15 Now, ladies and gentlemen, I want you to further
16 understand that the order in which the choices of verdict
17 appear on the verdict form are not suggestive of any
18 verdict on the part of this court. The verdict in this
19 case is to be determined by you, the jury, not the Court.

20 Furthermore, ladies and gentlemen, please
21 understand that even though I will give the verdict form
22 to the foreman, it is not his verdict alone. It is the
23 verdict of all 12 of you. And I emphasize again it must
24 be unanimous. I'm also going to give you all a copy of
25 these instructions in written form. During your

1 deliberations, you may refer to the instructions to guide
2 your decision making. You must consider the instructions
3 as a whole and not follow some and ignore others. Please
4 return these instructions to the Court at the time that
5 your verdict is rendered.

6 In just a minute, I'm going to ask that you
7 retire to your jury room. And when you go to the jury
8 room, do not begin your deliberations until you are
9 instructed to do so. The law requires that I consult with
10 the attorneys to make sure that I have not left anything
11 out of these instructions. After I have spoken with the
12 attorneys, the bailiff will bring in a copy of these
13 instructions and the verdict form along with any exhibit
14 admitted into evidence. During your deliberations should
15 you have any questions, pen and paper will be provided in
16 the jury room. Any questions that you may have, you all
17 as a jury may have, Mr. Foreman, you are to write those
18 questions out and date and sign it and knock on the door,
19 let the bailiff know you have a question provide that
20 piece of paper to them and they will get it to me and I
21 will address it accordingly. The bailiff will also be
22 outside the door for when you reach a verdict, again knock
23 on the door and let the bailiff know that you all have
24 reached a verdict. He or she will in turn let me know and
25 I will get you back in the courtroom as quickly as

1 possible for that verdict to be announced.

2 Now, before I let you retire to the jury room,
3 this is the verdict form. First question on the verdict
4 form, as to the charge of armed robbery: We, the jury,
5 unanimously find the defendant, Troy Darnell Hunter,
6 either not guilty or guilty. Once that question has been
7 asked, you proceed to question two. Question two, as to
8 the charge of assault and battery in the second degree:
9 We, the jury, unanimously find the defendant, Troy Darnell
10 Hunter, either not guilty or guilty. Below that are
11 further instructions which read if you find the defendant
12 guilty of assault and battery in the second degree, which
13 is question number two, you do not answer question three.
14 However, if you find the defendant not guilty of assault
15 and battery in the second degree, which is question number
16 two, then you do proceed to question number three to
17 determine whether or not the State has proven beyond a
18 reasonable doubt the lesser-included offense. Once you
19 all have reached a verdict and the boxes as to your
20 unanimous decision has been checked, Mr. Foreman, you need
21 to sign the verdict form and date it.

22 Now, ladies and gentlemen, at this time, you may
23 retire to the jury room. Let me ask this question though
24 everybody on the jury feeling okay? For the record, note
25 that everybody has indicated they are okay. You can

1 retire to the jury room, but do not, do not begin your
2 deliberations until you are instructed to do so. Thank
3 you.

4 (WHEREUPON, the jury retire to the jury room.)

5 THE COURT: All right. If the lawyers come
6 forward please. Any exception or objection to the charge
7 by the State?

8 MR. OZMENT: None, Your Honor.

9 THE COURT: By defense counsel?

10 MR. DEBERRY: None, Your Honor.

11 THE COURT: All right. You all -- I had my -- I
12 had to go back down and make a change on the verdict form,
13 none of it's caught initially. There two instances in
14 here under this paragraph under question number two that
15 have reference number three. The first one that you all
16 looked at still had number four up here, so I had to have
17 that changed. I change the one down here not the one
18 before that, so that was a change on the verdict form.
19 You all look at the evidence. Here's the verdict form and
20 the jury charge.

21 Ms. Olivia, I need you to get Ms. Marilyn Gordon
22 and Ms. Chantel Pompey out of the jury room. Once they're
23 out, you can hand them those documents and exhibits that
24 you have. And tell them to begin their deliberations.

25 It's my understanding that these jurors need to

1 MR. OZMENT: No, Your Honor.

2 MR. DEBERRY: No, sir.

3 THE COURT: Without objection Court's Exhibit
4 Number 1. Thank you. We will stand at ease.

5 (WHEREUPON, court at ease.)

6 THE COURT: The jury has sent out a note which
7 will be marked as Court's Exhibit Number 2 note reads as
8 follows: What happens when there is a split decision on a
9 charge? In discussing this matter at side bar with the
10 lawyers, this is what my intention is -- first of all, let
11 me mark this as Court's Exhibit Number 2.

12 (WHEREUPON, Court's Exhibit No. 2 was marked for
13 the record.)

14 THE COURT: It is my intention to bring the jury
15 out and give them an Allen charge from reminding them in
16 response to the charge that they have been unable to reach
17 a decision on. And I remind them that their verdict as to
18 each charge must be unanimous, as to each charge must be
19 unanimous. Bear with me just a second here. The Allen
20 charge reads and I'm not reading it in its entirety right
21 now. But this is what I think is applicable. A portion
22 of it says you have a duty to make every reasonable effort
23 to reach an unanimous verdict. And I think it needs to
24 say that you have a duty to make every reasonable effort
25 to reach an unanimous verdict as to each charge. Any

1 objection to that, Mr. Ozment?

2 MR. OZMENT: That statement no, Your Honor.

3 THE COURT: Mr. Deberry.

4 MR. DEBERRY: Your Honor, I don't have any
5 objection to that. I would like to just ask and make sure
6 -- I mean, that's a fair statement, but also I would like
7 to conclude the fact that, you know, if no unanimous
8 verdict can be reached, then that's a mistrial.

9 THE COURT: I'm getting there, I'm just going
10 through the charge right now. As I'm reading through it,
11 I'm pointing out the discrepancies and what I believe
12 needs to be addressed as it pertains. Just bear with me,
13 okay.

14 The next sentence in doing this you should
15 consult one another, express your own views and listen to
16 the opinions of your fellow jurors, tell each other how
17 you feel and why you feel that way, discuss your
18 differences with open minds. Although, the verdict of the
19 jury must be unanimous, every one of you has the right to
20 your own opinion. The verdict you agree to must be your
21 own verdict. The result of your own convictions. And you
22 should not give up your firmly held beliefs merely to be
23 in agreement with your fellow jurors. The majority should
24 consider the minorities position. And the minority should
25 consider the majorities position. You should carefully

1 consider and respect the opinions of each other and
2 reevaluate your position for reasonableness, correctness
3 and impartiality. You must lay aside all outside matters
4 and re-examine the questions before you based on the law
5 and the evidence in this case. If you do not agree on a
6 verdict in this case -- and it says this if you do not
7 agree on a verdict in this case, I must declare a
8 mistrial. I believe that the appropriate statement there
9 if you do not agree on a verdict as to a particular
10 charge, then the Court would declare a mistrial as to that
11 charge. You disagree with that, Mr. Ozment?

12 MR. OZMENT: I agree with that, Your Honor.

13 (WHEREUPON, a pause in the proceedings.)

14 THE COURT: In that case, it does not mean
15 anybody wins, it just means that at some future time says
16 I will try this case with some other jury sitting where
17 you now sit. And I think the appropriate thing is that
18 charge will be tried with some other jury sitting where
19 you sit. You disagree with that, Mr. Ozment?

20 MR. OZMENT: I agree, Your Honor.

21 MR. DEBERRY: I agree, Your Honor, except where
22 you state retry it.

23 THE COURT: I mean, it's up to them, right.
24 This means that at some future time that charge that you
25 cannot unanimously agree upon will be tried with some

1 other jury sitting where you sit now. The same
2 participants will come and the same lawyers will ask
3 basically the same questions and get basically the same
4 answers and we will go the through whole process again.
5 You were selected in the same manner and from the same
6 source as any future jury will be. There is no reason for
7 me to supposed that the case will ever be submitted to 12
8 more intelligent, impartial, conscientious and competent
9 jurors than you or that more clearer evidence will be
10 produced on one side or the other. I therefore ask you to
11 return to your deliberations. Mr. Ozment.

12 MR. OZMENT: No objection from the State, Your
13 Honor.

14 THE COURT: Mr. Deberry.

15 MR. DEBERRY: No, Your Honor.

16 THE COURT: All right. If you will bring me the
17 jury please, ma'am.

18 (WHEREUPON, the jury came into open court at
19 approximately 2:46.)

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen of the jury, I have received your note asking
22 what happens when there is a split decision on a charge.
23 Pursuant to your inquiry, let me answer that question for
24 you with the following charge to you. When you are unable
25 to agree on a verdict in a case as to each charge, let me

1 remind you that your verdict must be unanimous as to each
2 charge. When a matter is in dispute, it isn't always easy
3 for even two people to agree. So when 12 people must
4 agree, it becomes even more difficult. In most cases,
5 absolute certainty cannot be reached or expected.

6 However, you have a duty to make every reasonable effort
7 to reach a unanimous verdict as to each charge. In doing
8 this, you should consult with one another, express your
9 own views and listen to the opinions of your fellow
10 jurors, tell each other how you feel, and why you feel
11 that way, discuss your differences with open minds.

12 Although, the verdict of the jury must be unanimous as to
13 each charge, every one of you has the right to your own
14 opinion.

15 The verdict you agree to must be your own
16 verdict. The result of your own convictions and you
17 should not give up your firmly held beliefs merely to be
18 in agreement with your fellow jurors. The majority should
19 consider the minorities position. And the minorities
20 should consider the majorities position. You should
21 carefully consider and respect the opinions of each other
22 and reevaluate your position for reasonableness,
23 correctness and impartiality. You must lay aside all
24 outside matters and re-examine the questions before you
25 based on the law and evidence in this case. If you do not

1 agree on a verdict in this case as to a particular charge,
2 I must declare a mistrial as it relates to that charge.

3 In that case, it does not mean that anyone wins.
4 It just means that at some future time that charge that
5 you cannot unanimously agree upon will be tried with some
6 other jury sitting where you now sit. The same
7 participants will come and the same lawyers will ask
8 basically the same questions and get basically the same
9 answers and we will go through the whole process again.

10 You are selected in the same manner and from the
11 same source as any future jury will be. And there is no
12 reason for me to suppose the case will ever be submitted
13 to 12 more intelligent, impartial, conscientious and
14 competent jurors than you or that more or clearer evidence
15 will be produced on one side or the other. I therefore
16 ask that you return to your deliberations. Thank you.

17 (WHEREUPON, the jury retire to the jury room at
18 2:49 pm.)

19 THE COURT: Any exception or objection to what
20 I've instructed the jury, Mr. Ozment?

21 MR. OZMENT: No, Your Honor.

22 THE COURT: Mr. Deberry.

23 MR. DEBERRY: No, Your Honor.

24 THE COURT: All right. We will stand at ease
25 with regards to this case. I have given Keshia that

1 ma'am.

2 (WHEREUPON, the jury came into open court with a
3 verdict at 4:13.)

4 THE COURT: Okay. Madame clerk.

5 THE CLERK: Members of the jury, have you agreed
6 upon a verdict?

7 (WHEREUPON, the jury foreperson gave the jury
8 verdict form to madam clerk.)

9 THE COURT: Madam clerk, you may publish the
10 verdict.

11 THE CLERK: The State of South Carolina vs. Troy
12 Darnell Hunter indictment 2012-GS-21-692, as to the charge
13 of armed robbery, we, the jury, unanimously find the
14 defendant, Troy Hunter, guilty.

15 As to the charge of assault and battery in the
16 second degree, we, the jury, unanimously find the
17 defendant, Troy Darnell Hunter, guilty. Dated January the
18 16th 2013, sign foreperson Howard Godwin.

19 Members of the jury, if this is your verdict,
20 please raise your right hand?

21 That is everyone, Judge.

22 (WHEREUPON, all jurors' hands were raised.)

23 THE COURT: Anything from defense counsel right
24 now, Mr. Deberry?

25 MR. DEBERRY: No, Your Honor.

1 (WHEREUPON, the jury was dismissed.)

2 THE COURT: If you will bring the defendant
3 around for sentencing.

4 MR. OZMENT: Your Honor, I need to get a
5 sentencing sheet. I think Mr. Tucker just went to print
6 it. I would also ask that I have a chance -- Mr. Holloman
7 said he was on his way up here for sentencing. I think he
8 does have a right to be here and be heard.

9 THE COURT: All right.

10 (WHEREUPON, a pause in the proceedings.)

11 MR. OZMENT: May I approach, Your Honor?

12 THE COURT: Yes.

13 MR. OZMENT: Here's some sentencing sheets on
14 each of them. I have shown them to Mr. Deberry. I just
15 spoke with Mr. Holloman and he was in the parking lot, so
16 he should be here momentarily.

17 (WHEREUPON, a pause in the proceedings.)

18 THE COURT: Is the State ready to proceed now?

19 MR. OZMENT: Yes, Your Honor.

20 THE COURT: Mr. Deberry, if you come around with
21 your client for sentencing please. Before I hear from
22 you, Mr. Deberry ---

23 Anything the State wishes to add at this time?

24 MR. OZMENT: Yes, Your Honor. Certainly, I
25 think Mr. Holloman would like to say a word at the

1 appropriate time. Also, I would like to inform the Court
2 as a matter of housekeeping first the other counts of the
3 indictment attempted murder and possession of a firearm
4 for -- by a person convicted of a violent felony will both
5 be nol-prossed for various reasons. As far as
6 Mr. Hunter's record, his N.C.I.C. makes his record look a
7 little worse than it is. Looking at his N.C.I.C., I
8 originally thought this was going to be LWOP case and had
9 every intention of doing. However, once I went to pull
10 sentencing sheets to serve him with LWOP, things were pled
11 down. So this is -- the record I want to give you does
12 necessarily reflect N.C.I.C., but I can tell you anything
13 that differ from his N.C.I.C. is because I personally I
14 looked at a sentencing sheet. 1993 C.D.V., unlawful
15 pistol, 1994 strong armed robbery and burglary third
16 degree, 1996 ---

17 THE COURT: Slow down please, sir. '94 strong
18 arm.

19 MR. OZMENT: And burglary third.

20 THE COURT: Okay.

21 MR. OZMENT: 1996 common law robbery, 1998
22 assault with intent to kill, and discharging a firearm
23 into a dwelling, 2005 conspiracy to commit murder and 2009
24 criminal domestic violence.

25 THE COURT: 2009 C.D.V.?

1 MR. OZMENT: Yes, Your Honor.

2 THE COURT: All right.

3 MR. OZMENT: Certainly, the State would ask for
4 the maximum sentence in this case, the jury has spoken.
5 This individual has a long record of both violent crime.
6 And certainly not -- it's not a drug record. It's all
7 crimes against persons as oppose to what we would say is a
8 victimless crime. So I think this is a pattern of
9 behavior and we would ask that the Court certainly come
10 down harshly here today.

11 THE COURT: All right. Before I turn it over to
12 you, Mr. Deberry...

13 Mr. Holloman, anything you wish to tell me?
14 Anything you do say I want you to direct your statements
15 to me, okay? Not towards Mr. Hunter. Anything you wish
16 to tell me?

17 MR. HOLLOMAN: Yes, I want to ask him how could
18 he do that to me. When I feel like, I got nothing but
19 love for their family. I probably got people in their
20 family who will never speak to me again. And I have
21 nothing but love for their family, so now it's just messed
22 up for both sides of the family right now.

23 THE COURT: Anything else from the State?

24 MR. OZMENT: Nothing from the State, Your Honor.

25 THE COURT: All right. Mr. Deberry, I will be

1 happy to hear from you, sir.

2 MR. DEBERRY: Thank you, Your Honor. Obviously,
3 the jury spoken and delivered a verdict in this case. And
4 we understandably respect that verdict. Judge, we ask
5 that you take into consideration the facts of this case,
6 some of the doubts that may have been present. We
7 understand that he's been convicted. We ask you to just
8 take and consider the words that are posted in this
9 courthouse, To do justly, to love mercy, to walk humbly
10 with God. We ask that you have mercy on Mr. Hunter here
11 today. I personally don't think that anybody should be
12 punished for exercising their right to go to trial. I
13 think that this was a case where a trial was warranted in
14 every fashion. We ask that you don't hold that against
15 Mr. Hunter in any way. We ask that you have mercy on him
16 and not give the maximum on these sentences. Is there
17 anything you want to say? Mr. Hunter does want me to
18 address the Court on the conspiracy to commit murder. His
19 understanding just a general conspiracy. We ask that you
20 take all these things into consideration when you consider
21 your sentence in this matter.

22 THE COURT: All right. Mr. Hunter, anything you
23 wish to tell me? You certainly are not required to say
24 anything and I don't want you say anything that could
25 possibly affect any appellate rights that you may have.

1 THE DEFENDANT: Your Honor, first of all, I know
2 the jury already came back with their verdict. I
3 disagree, but I know it is what it is. But I'm talking
4 about me and this man did get in a fight. All this other
5 stuff was nothing but lies. I know you got the verdict,
6 but I ask that you don't punish me with all that time for
7 a bunch of lies. It don't make no sense. I know I chose
8 to pick 12 and 12 judge me, but I'm talking about -- I
9 don't know what to say. I'm not going to apologize for
10 fighting this man for doing what he did to me. They don't
11 care about the other side of what happened. I know it
12 probably don't matter now. But I don't know, Your Honor,
13 I just whatever you do, I just am just...

14 THE COURT: All right. Anything from the family
15 members that are standing with Mr. Hunter?

16 VICTORIA HUNTER: Yes, sir, I just ---

17 THE COURT: Please state your name for the
18 record.

19 VICTORIA HUNTER: Victoria Hunter. I'm his
20 sister. I just ask that you take into consideration and
21 have mercy on him.

22 THE COURT: Ma'am, anything you wish to say? If
23 so, please state your name for the record.

24 FAMILY MEMBER: No, sir.

25 THE COURT: Why did the State chose this

1 particular case and not to prosecute under the attempted
2 murder and the possession of a firearm by a person
3 convicted of a violent crime.

4 MR. OZMENT: It's a different reason for each of
5 those. The person convicted of a violent felony, Your
6 Honor, simple answer, that's the issue with the N.C.I.C.
7 Once I pulled sentencing sheets, he technically does not
8 have what we now classify as violent felony on his record.
9 So that charge would not have stood. As far as the
10 attempted murder, that was a tactical decision when we
11 decided to go to trial. As I investigated the case
12 preparing for trial speaking to Mr. Holloman, it became
13 more and more evident to me that the shots that were fired
14 that they were not in an attempt to kill Mr. Holloman.
15 They were in an attempt to scare Mr. Holloman. I felt
16 like trying this case in front of the jury, it was better
17 play a strong suit than throw up something that might
18 succeed. But, you know, might just confuse the jury and
19 give the defense meat. So I chose instead to not try to
20 sell those shots as attempting to kill anyone but instead
21 as an act of intimidation as part of the armed robbery.
22 And that's why we decided not to put that in front of the
23 jury.

24 THE COURT: Mr. Hunter, you are 36 years old
25 now?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Where is your mother, Mr. Hunter?

3 THE DEFENDANT: My mother she has breast cancer.
4 I think she had to go to the doctor.

5 THE COURT: How about your father?

6 COURT REPORTER: I didn't hear him, Judge.

7 THE COURT: Speak up for me, okay.

8 THE DEFENDANT: My father he was working in
9 Darlington and they wouldn't let him off today, but he was
10 here the last two days.

11 THE COURT: How many children do you have?

12 THE DEFENDANT: Two, Your Honor.

13 THE COURT: How old are they?

14 THE DEFENDANT: My oldest daughter 21. My
15 youngest is 11.

16 THE COURT: Anything else from the State?

17 MR. OZMENT: Nothing from the State, Your Honor.

18 THE COURT: Anything further from defense
19 counsel?

20 MR. DEBERRY: No, Your Honor.

21 THE COURT: All right. On indictment
22 2012-GS-21-692, which is the assault and battery second
23 degree, the defendant's committed to the state department
24 of corrections for a period of three years.

25 The armed robbery, which is under the same

1 indictment number indictment 2012-GS-21-692, the defendant
2 is committed to the state department of corrections for a
3 period of 30 years, concurrent in all respects. How long
4 has he been in jail?

5 MR. DEBERRY: Defendant been in jail since
6 December the 15th 2011.

7 THE COURT: I need to know -- December 15th?

8 MR. DEBERRY: Yes, sir.

9 THE COURT: Giving him credit for 13 months.
10 That will conclude this matter.

11 MR. OZMENT: Thank you, Your Honor.

12 END OF REQUESTED TRANSCRIPT
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25

WITNESSES

Lee Davis Florence Police Department

Matthew R Ozment

ARREST WARRANT NUMBER

M379110 M379112

3413 3434
2012GS2100692A 2012GS2100692B

ACTION OF GRAND JURY

TRUE BILL

Substantive (DEPUTY)
Foreperson of Grand Jury
Date: 5/31/2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-21-00692

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JUNE TERM 2012

THE STATE

vs.

TROY DARNELL HUNTER

Indictment for

**ARMED ROBBERY,
ATTEMPTED MURDER,
ASSAULT AND BATTERY
SECOND DEGREE,
POSSESSION OF A FIREARM BY A
PERSON CONVICTED
OF A VIOLENT CRIME**

236

236
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.
CERTIFIED: A TRUE COPY
James H. [Signature]

FILED

2012 MAY 31 PM 12:56

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

11/16/13
Nolle Prose
Count 2 & 4
[Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

INDICTMENT FOR
ARMED ROBBERY,
ATTEMPTED MURDER,
ASSAULT AND BATTERY SECOND DEGREE,
POSSESSION OF A FIREARM BY A PERSON
CONVICTED OF A VIOLENT CRIME

At a Court of General Sessions, convened on MAY 31, 2012 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ARMED ROBBERY WITH A DEADLY WEAPON

That TROY DARNELL HUNTER did in Florence County on or about November 30, 2011, while armed with a deadly weapon, to wit: a .357 Handgun, take and carry away personal property of DEMETRIUS C. HOLLOMAN from or in the immediate presence of DEMETRIUS C. HOLLOMAN with intent to deprive DEMETRIUS C. HOLLOMAN of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S.C. Code of Laws, 1976, as amended.

COUNT TWO- ATTEMPTED MURDER

That TROY DARNELL HUNTER did in Florence County on or about November 30, 2011, unlawfully assault with intent to kill the victim, DEMETRIUS C. HOLLOMAN, with malice aforethought, to wit: by shooting twice at the victim, DEMETRIUS C. HOLLOMAN, while he laid on the ground, this being in violation of Section 16-03-029, S.C. Code of Laws, 2010, as amended.

COUNT THREE - ASSAULT AND BATTERY SECOND DEGREE

That TROY DARNELL HUNTER did in Florence County on or about November 30, 2011, unlawfully attempt or offer to commit a violent injury to the victim, DEMETRIUS C. HOLLOMAN, while having the present ability to complete the act, by hitting him in the mouth with the butt of a .357 pistol, causing moderate bodily injury, the blow resulted in several teeth being knocked out as well as a broken jaw requiring surgery, this being in violation of Section 16-03-600, S.C. Code of Laws, 2010, as amended.

**COUNT FOUR- POSSESSION OF A FIREARM BY A PERSON CONVICTED
OF A VIOLENT CRIME**

That TROY DARNELL HUNTER did in Florence County on or about November 30, 2011 knowingly possess or acquire a pistol after having been convicted of a crime of violence defined in Section 16-23-10, S.C. Code of Laws, 2003, as amended, in violation of Section 16-23-0500(A), S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

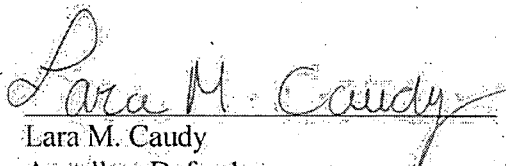


E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 23, 2014


Lara M. Caudy
Appellate Defender

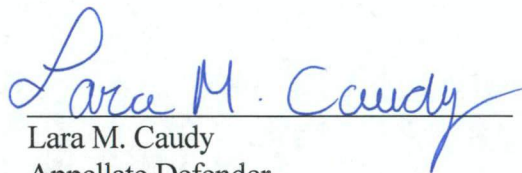
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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April 23, 2014


Lara M. Caudy
Appellate Defender

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APR 23 2014

SC Court of Appeals

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ATTORNEY FOR APPELLANT