

VOLUME 1 OF 2

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Kristi L. Harrington, Circuit Court Judge

 ORIGINAL

RECEIVED
JUL 11 2014
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RON SANTA McCRAY

APPELLANT,

Appellate Case No. 2012-2133393

RECORD ON APPEAL

JAMES K. FALK
Bush Law Group
3 Broad Street, Suite 450
Charleston, SC 29401
(843) 300 -1047

ROBERT M. DUDEK
Chief Appellate Defender
South Carolina Commission
on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1159
(803) 724-1343

ATTORNEYS FOR APPELLANT

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J ZELENKA
Senior Assistant Deputy Attorney General

KAYCIE TIMMONS
Assistant Attorney General
SC Bar No. 100237

South Carolina Office of Attorney General
PO Box 11549
Columbia, SC 29211-1549
(803) 734-0265

SCARLETT A. WILSON
Solicitor, Ninth Circuit
101 Meeting Street, Suite 400
Charleston, SC 29401
(843) 958-1905
ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
HEARING TRANSCRIPT	1
STATE'S MOTION IN LIMINE	2
OPENING ARGUMENT OF MS. WILLIAMS	6
TESTIMONY	
TONY DANIELS	
Direct Examination by Mr. Alfaro	12
Cross Examination by Mr. Biering	18
JOYCE WRIGHT	
Direct Examination by Ms. Williams	20
Cross Examination by Mr. Biering	25
FELICIA DENISE COAXUM	
Direct Examination by Ms. Williams	27
Cross Examination by Mr. Biering	35
AKEEM ASBY	
Direct Examination by Ms. Williams	37
Cross Examination by Mr. Biering	42
JOYCE WRIGHT	
Direct Examination by Ms. Williams	45
Cross Examination by Mr. Biering	45
FELICIA DENISE COAXUM	
Direct Examination by Ms. Williams	46
TIANNA CHANICE MACK-COLLINS	
Direct Examination by Ms. Williams	47
Cross Examination by Mr. Biering	52
ROBERT PORCHER, JUNIOR	
Direct Examination by Ms. Williams	55
Cross Examination by Mr. Biering	62

MOTION FOR RELIEF REGARDING TESTIMONY OF WRIGHT & COAXUM	65
ROBERT PORCHER, JUNIOR (IN-CAMERA)	
Direct Examination by Mr. Biering	72
MOTION FOR RELIEF REGARDING TESTIMONY OF WRIGHT & COAXUM Cont.	77
JAMES JOE BOYKIN	
Direct Examination by Ms. Williams	80
Cross Examination by Mr. Biering	99
PATRICIA CROOKS	
Direct Examination Ms. Williams	103
Cross Examination by Mr. Biering	109
Redirect Examination by Ms. Williams	111
NIKKI PERRY HUGHES	
Direct Examination by Ms. Williams	112
STEPHANIE STANLEY	
Direct Examination by Ms. Williams	116
Cross Examination by Mr. Biering	134
SUSAN ERIN PRESNELL	
Direct Examination by Ms. Williams	140
Cross Examination by Mr. Biering	170
ADVISEMENT of RIGHTS BY THE COURT	181
MOTION FOR DIRECTED VERDICT BY MR. BIERING	187
MOTION FOR RELIEF REGARDING TESTIMONY OF WRIGHT & COAXUM Cont.	189
COURT'S RULING ON TESTIMONY OF WRIGHT & COAXUM	190
JOSEPH WILLIAMS	
Direct Examination by Mr. Biering	193
Cross Examination by Mr. Alfaro	195
EARNEST BACON	
Direct Examination by Mr. Biering	197
DISCUSSION ON STATE'S MOTION IN LIMINE	198

BARRIE CURRIE (In-Camera)	
Direct Examination by Biering	201
Cross Examination by Mr. Alfaro	206
Redirect Examination by Biering	206
FRANK JACKSON (In-Camera)	
Direct Examination by Mr. Biering	215
COURT'S RULING ON TESTIMONY OF JACKSON AND CURRIE	224
DAVID BRABHAM, JR. (In-Camera)	
Direct Examination by Mr. Biering	225
COURT'S RULING ON TESTIMONY OF BRABHAM	234
CHAVIS WRIGHT (In-Camera)	
Direct Examination by Mr. Biering	241
Cross Examination by Ms. Williams	247
COURT'S RULING ON TESTIMONY OF GEIGER	257
COURT'S RULING ON TESTIMONY OF CHAVIS WRIGHT	270
CHAVIS WRIGHT	
Direct Examination by Mr. Biering	275
Cross Examination by Ms. Williams	281
RON MCCRAY	
Direct Examination by Mr. Biering	293
Cross Examination by Mr. Alfaro	307
CLOSING ARGUMENT FOR STATE by Ms. Williams	338
CLOSING ARGUMENT FOR DEFENSE by Mr. Biering	342
CLOSING ARGUMENT FOR STATE by Mr. Alfaro	355
COURT'S CHARGES TO THE JURY	373
Court's Self-Defense Charge	384
DEFENSE'S OBJECTION TO COURT'S SELF-DEFENSE CHARGE	390
DEFENSE MOTION FOR DIRECTED VERDICT	391

JURY VERDICT	398
DEFENSE REMARKS BEFORE SENTENCING	402
SENTENCE OF THE COURT	407

VOLUME 2

INDICTMENT	409
DEFENDANT'S MOTION FOR DISCOVERY	411
STATE'S AMENDED MOTION IN LIMINE	415
DEFENCE EXHIBIT 1	416
DEFENCE EXHIBIT 2	480
DEFENDANT'S REQUEST TO CHARGE	519
NOTICE OF APPEAL	522
PROOF OF SERVICE	524
VERDICT FORM	525
SENTENCE SHEET	526
CERTIFICATE OF COUNSEL FOR APPELLANT	527

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS
2011-GS-08-0947

STATE OF SOUTH CAROLINA)

Plaintiff)

V.)

RON SANTA MCCRAY,
Defendant.)

TRANSCRIPT OF RECORD

October 29, 2012
through
November 2, 2012

Moncks Corner, South Carolina

B E F O R E:

THE HONORABLE KRISTI HARRINGTON, JUDGE

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

Mr. Brian Alfaro, Assistant Solicitor
Ms. Ann Williams, Assistant Solicitor
Representing the State

Mr. Christopher Biering, Esquire
Representing the Defendant

Anne Bouley Meyer, RPR

Circuit Court Reporter

1 personally, has a close personal relationship with a
2 jailor that has had close contact with my client.

3 My client has been incarcerated pending,
4 detained pending this trial for three years. And we
5 did exercise a strike that potentially could have been
6 utilized further in the calling of the jury.

7 And our position was the Court should have
8 exercised a Court strike for that juror. Thank you.

9 THE COURT: Thank you.

10 I understand there is a motion in limine and
11 Jackson V Denno. Are you prepared to go forward on
12 those issues?

13 MR. BIERING: Can we take 2 minutes?

14 THE COURT: You may take a break, I'm going to
15 sit here.

16 Mr. McCray, do you need a comfort break?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: All right. Mr. Biering, with your
19 client having chains, it just is.

20 MR. BIERING: I understand. I will be very
21 brief.

22 THE COURT: Thank you.

23 (Whereupon, a recess was taken.)

24 THE COURT: All right. Whenever you are ready.

25 MS. WILLIAMS: Your Honor, we can handle the

1 motion limine first. This is the State's motion. And
2 I believe that we did file an amended motion just
3 because the indictment number is wrong.

4 But State is asking that the Court limit any
5 convictions or prior bad acts alleged by the defendant,
6 unless it is -- it was -- I'm sorry, the victim, unless
7 it was directed toward the defendant, or somehow
8 connected to the case.

9 We know that Mr. Biering has subpoenaed a lot of
10 police officers that had prior involvement with the
11 victim from years and years ago. We don't know what he
12 is planning to put up. But we would just ask if he
13 does think there is something relevant that he bring it
14 to the attention of the Court and just give us an
15 opportunity to look at that before he just asks
16 questions or mention it in opening because it's just
17 not relevant, and we think it's highly prejudicial.

18 THE COURT: All right.

19 Mr. Biering, do we need to address this issue
20 now, or when it becomes applicable?

21 MR. BIERING: Your Honor, I think that is
22 something that could be addressed at a later point in
23 the trial. I certainly understand and respect the
24 solicitor's position as it would relates to mentioning
25 of information in opening statement, but certainly

1 opening statements are not testimony, and I'm certainly
2 guarded by and well aware of my ability only to address
3 certain things in opening statement that I would not
4 believe would be of some issue.

5 I'm certainly aware of her motion. But I do
6 think it is something that could be addressed by way of
7 testimony by way of proffer later in the trial.

8 THE COURT: Mr. Biering, just to be clear, you
9 understand what the rules of evidence say about what
10 you can and cannot introduce about the victim's
11 character?

12 MR. BIERING: Your Honor, I would be happy to go
13 through this issue at this point. As it would relate
14 to the limitations, I think that case law does provide
15 for there to be some testimony as it would relate to
16 certain instances of the alleged victim's prior acts,
17 his habits, his routine, his propensity to be a
18 potential threat to my client and to others.

19 THE COURT: Let's do it this way, Mr. Biering.
20 What is it you plan to use in your open statement
21 regarding the victim?

22 MR. BIERING: I don't.

23 THE COURT: All right, thank you.

24 MS. WILLIAMS: We just would point the Court to
25 State v Brown. And the only case I know of that

1 distinguishes Brown which says specifically that the
2 only acts that are related to the defendant or the
3 murder, or whatever crime it is.

4 But State v Day, they did allow a prior act that
5 was four months before, but that act was closely
6 related to the events. Again we just ask that the
7 motion be granted, that anything that comes up
8 involving prior convictions of the victim, prior bad
9 acts of the victim that have nothing to do with the
10 defendant, that he jut -- that we argue it before the
11 Court and not in front of the jury.

12 THE COURT: All right, thank you.

13 Now we have Jackson V Denno as far as the
14 statement?

15 MR. ALFARO: Yes, Your Honor.

16 THE COURT: And where is -- it is a written
17 statement?

18 MR. ALFARO: It is a video statement, Your
19 Honor. It's on the DVD.

20 THE COURT: All right. Call your first witness.

21 MR. ALFARO: State calls Geno Alteri.

22 THE COURT: Mr. Biering, are you requesting that
23 the rule of sequestration be imposed?

24 MR. BIERING: Yes, Your Honor.

25 MR. ALFARO: No objection.

1 case, you will then be in a position to determine what
2 the true facts are, apply the law to those facts, and
3 render a true and just verdict.

4 Ladies and gentlemen, please give your strict
5 attention.

6 MS. WILLIAMS: Thank you, Your Honor.

7 THE COURT: Ms. Williams.

8 MS. WILLIAMS: May it please the Court.

9 Good afternoon. The case that you are going to
10 hear this week is a tragic case. The facts and the
11 evidence will be unfolded to you through witnesses and
12 other evidence. But in some ways it's a very simple
13 case.

14 What the facts and evidence will show is that
15 this was a cold-blooded murder, executed in broad
16 daylight in front of witnesses, some of them children.
17 On September 16th, 2009, Reginald Porcher, the victim
18 in this case, drove his Toyota Tacoma up a driveway to
19 visit with some friends.

20 Now this area that he went was sort of a local
21 community hangout. There was a tree with some chairs
22 and some picnic tables under it. Surrounding the tree
23 and in the whole area there were trailers and houses.
24 A lot of the people that live back there were related.
25 And it was kind of a custom for people to sit around

1 and visit, gossip, just do what people do in the
2 community.

3 At the time that Reggie, as he was known to his
4 family and friends, arrived that day, children had just
5 gotten off the school bus. Elementary school children,
6 and middle school children. So they were playing
7 around the yard. There was probably anywhere from 15
8 to 30 people out there. Some people in the houses,
9 some people out by the tree.

10 He was there with his friends. At which point
11 the defendant, Ron McCray, drove up. He had been
12 looking for Reggie. Drove up with his cousin. Got out
13 of his cousin's car with a sawed-off shotgun in front
14 of all these people. He said, Reggie, I want to talk
15 to you.

16 Reggie, seeing the shotgun, went right to his
17 truck and tried to leave the scene. At that point Ron
18 McCray took the shotgun, put it up, shot through the
19 back of Reggie Porcher's truck and shot him in the
20 back.

21 But he wasn't finished. Because after Reggie
22 Porcher fell on to the ground out of his truck and was
23 laying there bleeding, the defendant went up to him and
24 told him to die. Just mocked him while he was bleeding
25 to death on the ground.

1 At some point he finally, finally gets back in
2 his car. And as he is leaving, and there is all of
3 these people crying after just witnessing this tragedy,
4 he says, I run this place, I run Jack Primis. Taunts
5 them as he leaves.

6 Now the State has the burden of proof in this
7 case. The facts and evidence speak volumes in this
8 case. If you do not get distracted and you watch the
9 witnesses from the stand, you look at the facts in
10 evidence and see how each of it corroborates each
11 other, you will realize that Ron McCray, in cold blood,
12 murdered Reggie Porcher that day, on September 16th.

13 Now the State has to prove, as I said, murder.
14 And that is our burden. Murder is defined, and the
15 Judge will give you this definition at the conclusion
16 of the trial, murder is defined as an unlawful killing
17 of another, with malice aforethought, either express or
18 implied.

19 Now what does that mean? Malice. Malice is
20 something which springs from a wickedness, from
21 depravity, from a heart devoid of social duty and
22 fatally bent upon mischief. What does that really
23 mean? It's just a wicked heart. It's just evil.
24 It's somebody killing another people with evil in their
25 heart.

1 Now I told you, I told you when I first started
2 my short summary of this case that it was a simple
3 case. It is a simple case in many ways, but that
4 doesn't mean there is not a lot of evidence because
5 there is a lot of evidence.

6 You are going to hear from eyewitnesses to this
7 shooting. You are going to see physical evidence. You
8 are going to see the murder weapon. You are going to
9 hear from forensic scientists from the South Carolina
10 Department of Law Enforcement; from gunshot residue
11 experts, firearm experts. And you are going to hear
12 from people that the defendant himself spoke with about
13 this crime. You are going to hear his attitude about
14 this crime.

15 Now if you listen to all of the facts, watch the
16 evidence and carefully look at what happened, there
17 won't be any doubt in your mind that Ron McCray, in
18 cold blood, murdered Reggie Porcher on that day in
19 September.

20 THE COURT: Mr. Biering.

21 MR. BIERING: Your Honor, members of the
22 solicitor's office.

23 Ladies and gentlemen of the jury, my name is
24 Christopher Biering. I represent Ron McCray. Without
25 any doubt has been charged with what I think most would

1 consider the most serious crime one can be charged
2 with.

3 I want you to walk with me for a second, though.
4 And I want us to think about, as we take a walk, a
5 tree. Or a cluster of trees. I have got a picture in
6 my mind. I think people, as they walk through life,
7 have a picture in their mind of a tree, a gathering
8 place, the center of the community, someplace that's
9 important. Someplace that makes us be able to hear
10 sounds, see pictures, maybe even a smell.

11 The tree I see is a massive live oak tree. And
12 it's littered with boards that have been nailed to it,
13 makeshift tree houses. It's littered, unfortunately,
14 with some straws from Capri Suns, and a couple of
15 matchbox cars.

16 Maybe, hopefully not, but on occasion a Coke can
17 or a candy wrapper. It's the tree that I think about.
18 And the sounds that I hear are the sounds of children
19 playing. The smells that I smell, I smell those Capri
20 Suns. Might even smell some stinky little boys that
21 have been playing there under the tree.

22 I need you to walk with me through this trial as
23 we learn about September of 2009. And what I believe
24 that you are going to find is that the evidence that
25 will be presented from that witness stand, if you

1 listen carefully, will present a very different tree
2 than the tree that I present to you that I see in my
3 mind, smells very different than the smells that I
4 smell when I think about that tree.

5 I think you are going to hear testimony from
6 that witness stand that describes a very different tree
7 in 2009 off of Jack Primis road. You might hear
8 testimony that on occasion children might find
9 themselves in that yard. But what you are going to
10 hear, we believe, is testimony that describes a
11 location that unfortunately, unfortunately is regularly
12 visited by numerous people that are armed.

13 The vision that we think that you are going to
14 hear from testimony from that witness stand is a vision
15 not of the boards littered upon the tree to make
16 makeshift tree houses, but the vision of weapons
17 regularly at the scene.

18 The sounds that we believe that the testimony
19 presented will show, will allow you to hear it, will be
20 the sound of gunfire. The smells that we believe that
21 you will hear about from that witness stand will not be
22 the smells of Capri Suns, they will be the smells of
23 alcohol, the smells of drugs.

24 The tree that we believe is going to be
25 presented from that witness stand is not that peaceful,

1 blissful location where little children are playing.
2 It should be. But we don't believe that's what you are
3 going to hear about.

4 what happened September of 2009. What really
5 happened in September of 2009. There are a couple of
6 things that happened. Reginald Porcher died September
7 16th, 2009. There is no question about that. Ron
8 McCray knew Reginald Porcher prior to the shooting
9 September 16th, of 2009.

10 We believe that the evidence and testimony that
11 you will hear, the things that will be presented to
12 you, that at the end of this trial you will determine
13 that Ron McCray, in fear for his life, he acted in the
14 protection of his life.

15 As you listen to the testimony, and you observe
16 the evidence that is presented to you, I hope that you
17 can see the difference in the tree. And I hope that
18 through this trial you will have a clear picture of
19 sight, of sound, of smell to fully understand and
20 appreciate what transpired on September the 16th, 2009.

21 Thank you.

22 THE COURT: Call your first witness.

23 MR. ALFARO: State calls Tony Daniels.

24 TONY DANIELS,

25 after having first been sworn to tell the truth, the

1 whole truth and nothing but the truth testified on his
2 oath as follows:

3 DIRECT EXAMINATION

4 BY MR. ALFARO:

5 Q Officer Daniels, could you please tell the jury
6 where you work?

7 A I work with the City of Charleston Police
8 Department.

9 Q And how long have you been with the Charleston
10 City Police Department?

11 A 21 years and 5 months.

12 Q And what is your current rank and current duty
13 assignment?

14 A Current rank is senior patrol officer. My
15 assignment is to answer calls that are dispatched out.

16 Q And were you working in that capacity on
17 September 16th, 2009?

18 A Yes, I was.

19 Q And what area were you patrolling?

20 A Daniel Island, which includes I guess back by
21 the tennis center, down Clements Fairy Road, and up
22 through Highway 41.

23 Q And you work for Charleston City. Is that area
24 considered Berkeley County or Charleston County?

25 A It depends. Some of it's in the City of

1 Charleston, some of it is in Berkeley County.

2 Q And did you have the opportunity to respond to a
3 shooting in the area of Underlie Road and Jack Primis
4 Road?

5 A Yes, I did.

6 Q Where is that?

7 A Underlie Lane is pretty much, you got Clements
8 Fairy, you turn on to Jack Primis. And probably three
9 quarters of a mile to a mile down on the right-hand
10 side.

11 Q And is that considered Berkeley County?

12 A Yes, it is.

13 Q And is it normal for Charleston City officers,
14 such as yourself, to respond to calls in that part of
15 Berkeley County?

16 A Yes.

17 Q And what types of calls would you respond to?

18 A Alarms, sometimes domestics. We respond to
19 anything that Berkeley asks us to assist them on.

20 Q And what would be the reason Berkeley would ask
21 for assistance in cases such as that?

22 A Simply because they're not in the immediate
23 area.

24 Q And that area of Berkeley County, you've
25 described Clements Fairy, and I don't know if everybody

1 knows where Clements Fairy is. Can you kind of
2 describe, I guess geographically, what other cities or
3 areas are around that area?

4 A The Huger area is basically where it is. Huger,
5 South Carolina, down in that area. Now-a-day Nucor
6 Steel is down there. BP Oil Station is down there in
7 that area.

8 Q And what type of call were you dispatched to on
9 September 16th, 2009?

10 A We were dispatched to a shooting.

11 Q And were other Charleston City officers
12 dispatched as well?

13 A Correct.

14 Q And do you recall approximately what time you
15 were dispatched or got on scene?

16 A 1650 hours, which is 4:50 p.m.

17 Q And when you arrived, were there any other
18 Charleston City officers at the scene?

19 A Yes, there were.

20 Q And do you recall who they are?

21 A Corporal Diaz, Officer Willie Simmons, Heather
22 Gardner and myself.

23 Q And at that point had anybody from the Berkeley
24 County Sheriff's Office arrived at the scene?

25 A No.

1 Q And when you arrived was anyone from EMS, any
2 ambulances there?

3 A No.

4 Q Can you tell the jury what you saw when you
5 arrived at the scene that day?

6 A When I arrived at the scene I saw a black female
7 on the ground on her knees. She had a male's head
8 cradled up next to her body.

9 Q And you said that she had a male's head cradled
10 up to the body. Did you observe anything regarding the
11 condition of the person that she was holding?

12 A There was blood around the body. He didn't
13 appear to be talking. He didn't appear to be
14 conscious. I couldn't tell whether he was breathing or
15 not.

16 Q And was she doing anything other than holding
17 his head?

18 A She was screaming, shot him, shot him, shot him.

19 Q And other than the female that was holding the
20 victim's head, was there anyone else in the area?

21 A There were several other people also gathered
22 around her, kind of like in a semicircle.

23 Q And once you got to the scene after seeing those
24 things, what did you do next?

25 A I basically cleared the people from around her

1 and the body, had them step back towards the back of
2 the driveway. Then I tried to make sure that the
3 shooter was not on scene because we didn't have a
4 description of the suspect. So I made sure everything
5 was clear and it was safe at that point.

6 Q And once you determined that the area at that
7 point was safe, what did you do next?

8 A Then we called in EMS.

9 Q And is it normal procedure that EMS would wait
10 for you to call it to be safe before they came in?

11 A That is correct.

12 Q And what is the purpose for that?

13 A For officer safety and for EMS safety. It also
14 gives us a chance to calm people down.

15 Q And can you tell the jury what you did to go
16 about securing that scene?

17 A What myself and Officer Diaz did was we took
18 crime scene tape and we roped off a big area and tried
19 to tape in everything that was in that immediate area.

20 Q And did you secure the area where the victim was
21 lying?

22 A That is correct, they were inside the tape.

23 Q Were there any vehicles secured inside the tape?

24 A There seemed to be one vehicle in the back, back
25 part of the driveway.

1 Q And in the area around the victim, did you see
2 if there were any weapons near where the victim was
3 lying?

4 A No, no weapons.

5 Q Did anyone else that you saw at the scene when
6 you arrived and while you were securing it have any
7 weapons?

8 A No.

9 Q And after you called in EMS, did they respond to
10 the scene?

11 A Yes, they did.

12 Q And did you stay at the scene until they
13 arrived?

14 A That is correct.

15 Q Other than what you've testified to as far as
16 securing the scene and calling in EMS, did you have any
17 role in the ongoing investigation?

18 A Nothing other than crowd control.

19 Q Thank you. Please answer any questions Mr.
20 Biering has for you.

21 THE COURT: Mr. Biering.

22 MR. BIERING: May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. BIERING:

25 Q Officer Daniels, approximately how long were you

1 at the scene before a member of Berkeley County
2 Sheriff's Department arrived?

3 A Not quite sure.

4 Q Don't know?

5 A Don't know.

6 Q Do you have a list of the people that were at
7 the scene when you arrived, yes or no?

8 A No.

9 Q Do you have any photographs that you took at the
10 scene when you first arrived?

11 A No.

12 Q Do you have a list of people that left the scene
13 prior to your arrival?

14 A No.

15 Q And do you have a list of people that left the
16 scene after your arrival but before Berkeley County
17 sheriffs arrived?

18 A No.

19 MR. BIERING: Thank you very much.

20 MR. ALFARO: No further questions, Your Honor.

21 THE COURT: You may step down. Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: Call your next witness.

24 MS. WILLIAMS: Can he be excused, Your Honor?

25 THE COURT: Any objection, Mr. Biering.

1 MR. BIERING: None.

2 THE COURT: You are excused. Thank you,
3 officer.

4 MS. WILLIAMS: State calls Joyce Wright.

5 JOYCE WRIGHT,

6 after having first been sworn to tell the truth, the
7 whole truth and nothing but the truth testified on her
8 oath as follows:

9 BY MS. WILLIAMS:

10 Q Ms. Wright, where do you live?

11 A [REDACTED], Wando.

12 Q Is that in Wando?

13 A Yes.

14 Q And how long have you lived there?

15 A All my life. Practically all my life.

16 Q Who else lives with you?

17 A My kids, children.

18 Q And can you describe that area where you live?

19 A Nice, quite, family.

20 THE COURT: Ma'am, can you pull that microphone
21 toward you? Thank you.

22 A Quite, family-orientated.

23 Q (By Ms. Williams) And how many houses are
24 around like where your house is?

25 A About four or five.

1 Q Okay. Is there a tree where everybody kind of
2 hangs out there?

3 A Yes.

4 Q And do you know Reggie Porcher?

5 A Yes.

6 Q Did you know Reggie Porcher?

7 A Yes.

8 Q How long did you know him?

9 A Practically all my life.

10 Q Do you know his family?

11 A Very well, yes.

12 Q And how about Ron McCray, seated right over
13 here. Do you know him?

14 A Yes.

15 Q And how long had you known him?

16 A Long, just about all my life. We practically
17 almost grew up together.

18 Q And the day in question that brings us here
19 today, where were you that day that Reggie died?

20 A Sitting on my friend porch.

21 Q And tell me what you remember happening that
22 day?

23 A It was September 16th. It was a nice day, I was
24 just sitting on the porch. And first I was reading. I
25 went in, came back, sit back on the porch, and the kids

1 start coming underneath the tree. You know, my nephew
2 and cousin and friends and stuff, they all start coming
3 under the tree.

4 And then later on, I was just sitting there, and
5 then I saw, okay, I remember Reggie pulled up because
6 some of my nieces -- his nieces live right in the area,
7 they came and talked to him and he hugged one of my
8 little nieces. And then --

9 Q How old is she?

10 A Morgan was around 9, 10 at that time. Yeah.
11 And then when I was in the porch, as they kept coming
12 underneath the tree, after they kept coming underneath
13 the tree, later on I saw somebody tall with a white
14 T-shirt on walking towards the crowd where a lot of
15 kids was at. And he had something long in his hand.

16 And all I heard is the gunshot. And that's when
17 all the kids that was underneath the tree came towards
18 my house. And I said, what happened, what happened.
19 And they say Reggie shot -- I mean Ron shot Reggie.

20 And I told them, I said you all call 911. And I
21 saw him like walking around in a circle, Reggie, like
22 holding his neck. Because I didn't see -- I saw him
23 just -- well I saw him walking in a circle and then I
24 saw him fell. When we got out there he was -- when I
25 got there he was lying on the ground.

1 Q And just to clarify, before you kind of got the
2 names switched up, what did they say?

3 A Ron shot Reggie.

4 MR. BIERING: Objection, hearsay.

5 Q (By Ms. Williams) What was their demeanor like?
6 What were the kids acting like?

7 A They were scared, they were scared. They
8 running toward my house, trying to get in my house.

9 Q Were they crying?

10 A It was yelling and I was scared, upset. I
11 didn't -- and I just told them to call 911.

12 Q And what did they say?

13 MR. BIERING: Objection, hearsay.

14 THE COURT: Overruled.

15 Q (By Ms. Williams) What did the children say?

16 A They said, Ron shot Reggie.

17 Q Okay. And then did you then leave -- how far
18 away would you say your porch was from where Reggie's
19 truck was when you were reading?

20 A About --

21 Q you can do it by distance in the courtroom.

22 A Right here to like the end of the courtroom. A
23 little further.

24 Q Okay. And did you at some point move closer to
25 where Reggie was?

1 A After the fact, when the kids start running
2 toward me, that's when I went out there to see, you
3 know, what was going on. That's when he was lying on
4 the ground.

5 Q Now did you do anything after that?

6 A No, I was just standing there.

7 Q Did you call anyone?

8 A Did I what?

9 Q Did you call anyone?

10 A I did call 911.

11 Q Okay.

12 MS. WILLIAMS: Your Honor, I'm going to show
13 defense counsel what has been previously marked as
14 State's 139. May I approach?

15 THE COURT: You may.

16 Q (By Ms. Williams) Ms. Wright, what is this?

17 A This is the 911 tape that I called. My voice is
18 on there.

19 Q And how do you know that's the tape?

20 A Because I signed it.

21 Q Okay. And is this the whole phone call from
22 beginning to end?

23 A Yes.

24 MS. WILLIAMS: Your Honor, at this time we would
25 offer 139, the 911 tape into evidence.

1 THE COURT: Any objection?

2 MR. BIERING: No, Your Honor.

3 THE COURT: 139 into evidence without objection.

4 (Whereupon, State's Exhibit No. 139 is admitted
5 into evidence.)

6 MS. WILLIAMS: May we publish, Your Honor?

7 THE COURT: You may.

8 (Whereupon, the audiotape is played in open
9 court.)

10 MS. WILLIAMS: Thank you, Ms. Wright. Please
11 answer any questions from the defense.

12 THE COURT: Mr. Biering.

13 CROSS-EXAMINATION

14 BY MR. BIERING:

15 Q Ms. Wright, if we would turn on to Jack Primis
16 Road, and we then take a right onto Underlie, there is
17 a trailer right on your right when you first turn in;
18 is that correct?

19 A Yes.

20 Q And do you know who lives there?

21 A My sister.

22 Q Your sister. And what is her name?

23 A Thelma Coaxum.

24 Q And does anybody else live in that house?

25 A Her son.

1 Q Her son. Do you know what her son's name is?

2 A Eric.

3 Q Eric. And then is there a house over on your
4 left as well?

5 A Yes.

6 Q Who lives in that house?

7 A My nephew.

8 Q What is your nephew's name?

9 A Joseph.

10 Q Joseph?

11 A Asby.

12 Q Joseph Asby. Does Abdullah Fishburne live in
13 either one of those homes?

14 A No.

15 Q Does Abdullah Fishburne regularly visit either
16 one of those homes?

17 A He comes under the tree sometimes to sit with
18 his cousins.

19 Q So your house is back behind both of those
20 houses; is that correct?

21 A Further back, yes.

22 Q Further back?

23 A Not that far.

24 Q I think your testimony was when you were
25 questioned, not the 911 call, but your testimony was

1 that you didn't actually see the shooting; is that
2 correct?

3 A Yes, I did.

4 Q You did see the shooting?

5 A (Affirmative head shake.)

6 Q Did you have any communications, yes or no, with
7 either Ron -- Reginald Porcher or Ron McCray on
8 September 16th, 2009 prior to the shooting?

9 A If I had any kind of communications with them?

10 Q Communications, yes, ma'am.

11 A No.

12 MR. BIERING: Thank you.

13 MS. WILLIAMS: Nothing further, Your Honor. May
14 this witness be excused?

15 THE COURT: Any objection, Mr. Biering?

16 MR. BIERING: None from the defendant.

17 THE COURT: You may step down and you are free
18 to go. Thank you.

19 Next witness.

20 MS. WILLIAMS: State calls Felicia Coaxum.

21 FELICIA DENISE COAXUM,

22 BY MS. WILLIAMS:

23 Q Ms. Coaxum, where do you presently live?

24 A [REDACTED] Goose Creek, South Carolina.

25 Q Back in September of 2009, where were you

1 living?

2 A [REDACTED] [REDACTED]

3 Q And is that near Underlie?

4 A Yes, ma'am.

5 Q And who were you living with?

6 A My mother.

7 Q Who is that?

8 A Thelma Coaxum.

9 Q And that area, do you have other family members
10 that live around that area?

11 A Yes. I have aunts, uncles, cousins.

12 Q And is it all the houses, where are they in
13 terms of pretty close?

14 A We are all in a circle.

15 Q Okay. And did you, when this event occurred,
16 the reason that we are here today, what were you doing
17 at first? Where were you?

18 A At first I was in my mother's room laying down
19 watching TV until I doze off to sleep.

20 Q Were you awakened by something?

21 A Yes.

22 Q What was that?

23 A I had waken up hearing a loud sound, like a boom
24 sound.

25 Q What did you do next?

1 A I looked outside and that's when I saw a black
2 truck was rolling back in the driveway going back
3 towards in the woods.

4 Q Did you know whose truck that was at that time?

5 A Yes, ma'am.

6 Q Whose was it?

7 A Reggie.

8 Q When you say Reggie, who are you talking about?

9 A Reggie -- I can't remember his last name.

10 Q Porcher?

11 A Porcher.

12 Q How long had you known Reggie?

13 A I known Reggie about 10, 20 years or so.

14 Q Before that day had you known Ron McCray?

15 A Yes.

16 Q How long had you known Ron McCray?

17 A About the same time or longer.

18 Q If you could pull that microphone just a little
19 bit closer to you.

20 And you saw the truck rolling back. Tell me
21 what else you saw?

22 A I saw Ron McCray and Reggie. Reggie was down on
23 the ground, and I saw Ron McCray was standing over
24 Reggie stomping him and telling him, die mother-fucker,
25 die.

1 Q And what did -- did Mr. McCray have anything in
2 his hands?

3 A It looked like a -- I didn't know exactly what
4 it was. The only thing I saw was a metal, wooden
5 handle. That's the only part I really saw.

6 Q And after that, did you see where Mr. McCray
7 went?

8 A He jumped in the car and he left.

9 Q Did you hear him say anything besides what he
10 said as Mr. Porcher was laying on the ground?

11 A He asked the other people in the area did they
12 have a problem, and that he's God.

13 Q What was his, when he said, do you have a
14 problem, what was his demeanor like? What was he
15 acting like?

16 A Like if anybody else got anything to say.

17 Q And after that, what happened?

18 A Really I just was trying to find out where my
19 kids was because I had a 3-year-old at the time, she
20 was outside playing.

21 Q How would you describe the scene after Mr.
22 McCray left?

23 A Crazy.

24 Q About how many people were out there?

25 A Well we have about 30 little kids in the area,

1 so I probably say about 30 or 40 more kids.

2 Q And there were some adults?

3 A Yes.

4 Q Some grandparents?

5 A Yes.

6 Q Was it -- what were people doing? I mean what
7 were their emotions like, their demeanor?

8 A Everybody was running around in shock, just
9 scattering and trying to get out of the way.

10 MS. WILLIAMS: Your Honor, I'm going to show
11 defense counsel State's 1, 3, 7 and 8. They have been
12 previously marked. May I approach?

13 THE COURT: You may.

14 Q (By Ms. Williams) Ms. Coaxum, I'm going to show
15 you four pictures. If you could just look through the
16 stack and tell me if these pictures accurately portray
17 what they are of.

18 MR. BIERING: Object to the form of the
19 question.

20 Q (By Ms. Williams) Do they accurately depict
21 what's in the picture?

22 A Yes. This is where --

23 MR. BIERING: Judge --

24 THE COURT: One second. Counsel approach.

25 (Whereupon, a discussion was held at the bench

1 off the record.)

2 THE COURT: Overruled. Ms. Williams.

3 MR. BIERING: Thank you, Your Honor.

4 MS. WILLIAMS: Thank you.

5 Your Honor, at this time we would offer 1, 3, 7
6 and 8 into evidence.

7 THE COURT: 1, 3, 7, and 8; is that correct?

8 MS. WILLIAMS: Yes, Your Honor.

9 THE COURT: Any objection to the admission of 1,
10 3, 7 and 8?

11 MR. BIERING: Objection to foundation.

12 THE COURT: State's 1, 3, 7 and 8 into evidence
13 with that objection.

14 (Whereupon, State's Exhibit Nos. 1, 3, 7 and 8
15 are admitted into evidence.)

16 MS. WILLIAMS: May we publish, Your Honor.

17 THE COURT: You may.

18 Q (By Ms. Williams) Now, Ms. Coaxum, the picture
19 is going to appear behind you. And then if you could
20 just explain to the jury what the picture is when it
21 does appear behind you.

22 Could you just describe what that is?

23 A Right back there, that's where my mother used to
24 live at that trailer right there. And that window
25 right there, that's where I was laying at sleeping.

1 His truck was coming back this way, rolling out,
2 going out towards across the road into the woods.

3 Q Okay.

4 A And the car that Mr. McCray was driving was
5 parked like right up in there.

6 Q Okay. This little pointer will help you. You
7 can point, if you push this red thing it will kind of
8 show.

9 Show us just where Reggie's truck was, if you
10 wouldn't mind.

11 A His truck, his truck was rolling back coming out
12 to the road.

13 Q And what was the trailer you were asleep in?

14 A I was right here. That's my mother's room right
15 there.

16 Q And after you came out, where did you see him
17 standing over Reggie Porcher?

18 A Right up in this area right here.

19 Q And show us where Joyce Wright's house is. It's
20 not in the picture, but.

21 A It's back there.

22 Q Okay. Can you show State's 3.

23 okay. Kind of explain, this is a little bit
24 closer up, if you could just kind of explain where is
25 your trailer in relation to that, and where was

1 Reggie's truck?

2 A Right here. Reggie's truck was rolling, going
3 back out.

4 Q And where -- is the area where he was standing
5 over the victim in this picture?

6 A Like up in this corner, right up in here.

7 Q Okay. And if you could show State's 7.

8 And did you see where the truck wound up?

9 A Yes, back in the woods.

10 Q So from that picture --

11 A It just kept going straight on out into the
12 roadway, and it stopped until it ran into a tree in the
13 back.

14 Q Okay. So at the bottom of this picture, is that
15 the road pretty much?

16 A Yes, ma'am.

17 Q And then State's 1.

18 And this, is that just a better picture of your
19 trailer right there?

20 A Yes, ma'am. My mother's bedroom window is right
21 here.

22 Q Okay, thank you.

23 MS. WILLIAMS: Court's indulgence for just a
24 moment.

25 THE COURT: Yes, ma'am.

1 Q (By Ms. Williams) This area where you lived
2 with your mom at this time where this event took place,
3 is that in Berkeley County?

4 A Yes, ma'am.

5 MS. WILLIAMS: Please answer any questions the
6 defense has.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Mr. Biering.

9 CROSS-EXAMINATION

10 BY MR. BIERING:

11 Q Ms. Wright.

12 A Coaxum.

13 Q I'm sorry, Ms. Coaxum. What adults were at the
14 scene on September 16th, 2009?

15 A It was myself, my aunt.

16 Q And her name?

17 A Joyce Wright. Tianna.

18 Q Can you give a full name?

19 A Tianna Mack. Akeem Asby. Levon Mack. And
20 that's all I really can remember right now.

21 Q Did you make a list of the adults that were
22 there at the scene that day?

23 A No. I didn't have to make a list because
24 everybody was right there. And mostly everybody was on
25 my aunt's porch, besides me.

1 Q Anybody ask you to make a list?

2 A No.

3 Q Are you related to Abdullah Fishburne?

4 A Yes.

5 Q Do you know, does Abdullah Fishburne regularly
6 find himself at the tree?

7 MS. WILLIAMS: Objection, relevance.

8 THE COURT: What is the relevance.

9 MR. BIERING: I will withdraw the question.

10 THE COURT: All right, thank you.

11 Q (By Mr. Biering) Did you have an opportunity to
12 spend a significant amount of time under the tree
13 yourself?

14 A Do I spend? Sometimes I do. Yes, I do.

15 Q Sometimes you do still?

16 A No because I don't live over there, I live in
17 Goose Creek now.

18 Q Did Reginald Porcher spend time under the tree
19 that you observed?

20 A Everyone whenever he comes in the country, yes,
21 he does.

22 Q How about Sleepy?

23 MS. WILLIAMS: Objection, relevance.

24 MR. BIERING: I will withdraw that one too,
25 Judge.

1 THE COURT: All right, thank you.

2 MR. BIERING: Thank you. I don't have any
3 further question for this witness.

4 THE COURT: Ms. Williams?

5 MS. WILLIAMS: Nothing further, Your Honor.

6 THE COURT: Is this witness excused?

7 Any objection?

8 MR. BIERING: No, Your Honor.

9 THE COURT: You may step down, you are free to
10 leave. Thank you.

11 Call your next witness.

12 MS. WILLIAMS: The State calls Akeem Asby

13 AKEEM ASBY,

14 after having first been sworn to tell the truth, the
15 whole truth and nothing but the truth testified on his
16 oath as follows:

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q Akeem, where do you live?

20 A [REDACTED].

21 Q And do you know, did you know Reggie Porcher?

22 A Yes, ma'am.

23 Q Was he a friend of yours?

24 A Yes, ma'am.

25 Q How long had you known him?

1 A All my life.

2 Q And did you know Ron McCray?

3 A Yes, ma'am.

4 Q How long had you known him?

5 A All my life.

6 Q And do you remember the day that Reggie Porcher
7 was killed?

8 A Yes, ma'am.

9 Q Where were you that day?

10 A Right under the tree, like within the same area.

11 Q When you say the tree, how close is that to your
12 house?

13 A Less than a eighth of a mile. It's right down
14 this road.

15 Q And do you have relatives that live around that
16 area?

17 A Yeah, everybody.

18 Q Okay. Tell me what you remember that day. Were
19 you there when Reggie arrived?

20 A Yes, ma'am.

21 Q And who was around at that period of time?

22 A The whole, like bunch of the family members.
23 There was a group of us were just sitting under the
24 tree listening to music, pretty much it.

25 Q What age groups were all around? Were there

1 children and adults?

2 A At first it was mostly adults. But when all
3 that happened it was kids and adults.

4 Q Where does the school bus let off in the area?

5 A Right at the head of the lot.

6 Q Had the school bus come yet?

7 A Yes.

8 Q When did Reggie get there? Let me rephrase
9 that, withdrawn.

10 Tell me what you remember from when Reggie got
11 there.

12 A I mean like all he did was pull up. He was
13 sitting there chilling. A car pull up. Ron jump out
14 with a gun, he Ron.

15 Q Slow down. So you saw Reggie had pulled up.
16 How long was Reggie there before Ron got there?

17 A Probably about 20, 30 minutes.

18 Q And when Ron pulled up, did you see what kind of
19 car he was in?

20 A I saw -- I couldn't see it, but it was behind
21 like a Volvo behind a bunch of bushes.

22 Q Okay. And what happened after Ron pulled up?
23 What did you see?

24 A Ron jump out with a gun.

25 Q What kind of gun was it?

1 A It looked like a shotgun.

2 Q And then what happened?

3 A I Ron He started yelling, where are you going,
4 Reggie I just Ron.

5 Q And did you hear anything or see anything after
6 that?

7 A I heard a gunshot. And I came back after I
8 heard the gunshot.

9 Q And did you see Ron at that point?

10 A No. The car was pulling off when I got back up
11 there. All I saw was Reggie, Reggie came up to me.

12 Q And what -- did you hear Ron say anything?

13 A Something like, God is a faggot. I assure you
14 all I'm God. Things like that.

15 Q And was he saying that as he walked away or in
16 the car? Do you even remember?

17 A No, he was driving off.

18 Q And describe what you saw when you saw Reggie
19 what was he doing?

20 A When I saw him he Ron to me holding his neck,
21 like, you know, blood coming out of his neck telling me
22 to help him. I tell him, I can't help you, nothing I
23 can do.

24 Then he started running around some more. Then
25 he fell. Then he got back up. They pick him up and

1 put him in the car. Tried to take him to the EMS but
2 he jump out of the car and started running again.

3 Then he trip up and fall and that was it. He
4 never got back up.

5 Q Were other people in the area trying to help him
6 at that point?

7 A Yeah.

8 Q Can you describe that?

9 A My cousin, my aunt and them was like holding his
10 neck, wrapping him up with shirts, stuff like that,
11 whatever they could do waiting for the EMS to come.

12 Q What were the adults doing, the women, what were
13 they saying, doing?

14 A All were crying, things like that.

15 Q How about you all?

16 A Ma'am?

17 Q How about the men, how about you all?

18 A We had a few, but we had some that, you know,
19 some people, everybody could cry. It hurt but,
20 everybody was saying, don't cry. I don't know.

21 Q Was it difficult?

22 A Yeah, it was very difficult.

23 Q How many shots did you hear?

24 A One.

25 MS. WILLIAMS: Court's indulgence for just a

1 moment.

2 THE COURT: Yes, ma'am.

3 MS. WILLIAMS: Thank you, Akeem. Could you
4 please answer any questions from the defense.

5 THE COURT: Mr. Biering.

6 MR. BIERING: Just a moment, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BIERING:

9 Q Good afternoon, Mr. Asby. Do you have a written
10 list of the people that were at the scene on September
11 16th, 2009?

12 A No.

13 Q I'm sorry?

14 A No, sir.

15 Q Have you ever prepared a written list of the
16 people that were at the scene on September 16th --

17 A No, sir.

18 Q -- 2009. If you could let me finish my
19 question.

20 Has anyone asked you to provide them a written
21 list of the people that were at the scene of September
22 the 16th of 2009?

23 A No, sir.

24 Q That was a no?

25 A No, sir.

1 Q Was Abdullah at the scene --

2 MS. WILLIAMS: Objection, relevance.

3 THE COURT: What is the relevance, Mr. Biering?

4 MR. BIERING: The relevance is that for us to
5 have a full understanding of what transpired at the
6 scene that day, I think it would be important to know
7 who was actually at the scene for purposes of what they
8 saw and what they heard.

9 THE COURT: Counsel approach.

10 (Whereupon, a discussion was held at the bench
11 off the record.)

12 THE COURT: All right, Mr. Biering, it has been
13 a while. Please, you may ask your question again.

14 MR. BIERING: Thank you, Your Honor.

15 Q (By Mr. Biering) Do you know Abdul or Dulla
16 Fishburne?

17 A Yes, sir.

18 Q Isn't it true that Dulla Fishburne was at the
19 scene that day?

20 A Yes, sir.

21 Q I'm sorry?

22 A Yes, sir.

23 Q He was there.

24 THE COURT: Mr. Asby need you to lean forward or
25 get close to that microphone. Thank you.

1 Q (By Mr. Biering) Do you know, I am going to use
2 two names because I think there are two names. Do you
3 know an Edward Sleepy Mitchell?

4 A Yes, sir.

5 MS. WILLIAMS: Objection, relevance.

6 THE COURT: Overruled.

7 MR. BIERING: Thank you, Your Honor.

8 Q (By Mr. Biering) And isn't it true that Sleepy,
9 as most people know him, was at the scene that day as
10 well?

11 A If I'm not mistaken, he probably came up
12 afterwards, after all that happened. But he wasn't
13 standing with us then.

14 MR. BIERING: Thank you.

15 THE COURT: Ms. Williams, redirect?

16 MS. WILLIAMS: No, Your Honor.

17 THE COURT: May this witness step down and be
18 excused?

19 MS. WILLIAMS: Please, Your Honor.

20 THE COURT: Any objection?

21 MR. BIERING: No, Your Honor.

22 THE COURT: Mr. Asby, you may step down. You
23 are excused, but you're free to remain with us.

24 MS. WILLIAMS: Your Honor, at this time we would
25 recall Joyce Wright.

1 THE COURT: Ms. Wright, I remind you you are
2 still under oath. Thank you.

3 Your witness, Ms. Williams.

4 JOYCE WRIGHT,
5 after having previously been sworn to tell the truth,
6 the whole truth and nothing but the truth testified on
7 her oath as follows:

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q Ms. Wright, I'm very sorry, I forgot to ask you
11 a question that the defense is entitled to know. You
12 have one fraudulent check charge, did you not? You
13 have a fraudulent check charge from 2001?

14 A (Affirmative head shake.) Yes.

15 MS. WILLIAMS: Thank you, that's all. Please
16 answer any questions the defense might have.

17 THE COURT: Mr. Biering.

18 CROSS-EXAMINATION

19 BY MR. BIERING:

20 Q Ms. Wright, do you know Abdullah Fishburne?

21 MS. WILLIAMS: Objection.

22 THE COURT: Mr. Biering, it's limited only to
23 the conviction.

24 MR. BIERING: I'll withdraw, Your Honor.

25 THE COURT: All right, thank you.

1 Ms. Wright, you may step down. Thank you.

2 Ms. Williams.

3 MS. WILLIAMS: The State would recall Felicia
4 Coaxum.

5 THE COURT: Ms. Coaxum, I remind you that you
6 are still under oath. Thank you.

7 Ms. Williams.

8 MS. WILLIAMS: Thank you, Your Honor.

9 FELICIA DENISE COAXUM,
10 after having previously been sworn to tell the truth,
11 the whole truth and nothing but the truth testified on
12 her oath as follows:

13 DIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q Ms. Coaxum, I apologize. I didn't mean to make
16 this so. You have a breach of trust charge from back
17 in 2004; is that true?

18 A Yes, ma'am.

19 MS. WILLIAMS: Thank you, no further questions.

20 THE COURT: Mr. Biering, any questions?

21 MR. BIERING: Your Honor, may we approach?

22 THE COURT: You may.

23 (Whereupon, a discussion was held at the bench
24 off the record.)

25 THE COURT: Mr. Biering, any questions related

1 only to that issue?

2 MR. BIERING: No, Your Honor.

3 THE COURT: All right. You may step down, Ms.
4 Coaxum, thank you.

5 THE WITNESS: No problem.

6 THE COURT: Call your next witness.

7 MS. WILLIAMS: Thank you, Your Honor.

8 State calls Tianna Mack.

9 THE COURT: Ms. Mack, please come forward and be
10 sworn.

11 TIANNA CHANICE MACK-COLLINS,
12 after having first been sworn to tell the truth, the
13 whole truth and nothing but the truth testified on her
14 oath as follows:

15 DIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q Ms. Mack-Collins, where do you work currently?

18 A Be Well Home Services.

19 THE COURT: Ms. Mack-Collins, I'm going to need
20 you to speak clearly into the microphone, and a little
21 more loudly, please. Thank you.

22 Q (By Ms. Williams) And what do you do for them?

23 A Certified nurse assistant.

24 Q How long have you been a certified nurse
25 assistant?

1 A Almost four years.

2 Q And where do you presently live?

3 A [REDACTED].

4 Q And where were you living back in September of
5 2009?

6 A [REDACTED].

7 Q Is that close to Jack Primis Road?

8 A It's on Jack Primis Road.

9 Q Okay. And the day that -- do you know Reginald
10 -- did you know Reggie Porcher?

11 A Yes.

12 Q How long had you known Reggie Porcher?

13 A Just all my life.

14 Q Do you know Ron McCray?

15 A Uh-hum.

16 Q And how long had you known Ron?

17 A All my life.

18 Q And the day that Reggie Porcher died, where were
19 you?

20 A Underneath the hairdryer.

21 Q Do you need a minute? Here is some tissue.
22 And whose house were you under the hairdryer at?

23 A My Aunt Joyce.

24 Q Is that Joyce Wright?

25 A Uh-hum.

1 Q Is that yes?

2 A Yes.

3 Q And I know this is difficult for you. What do
4 you remember happening after you were under the
5 hairdryer?

6 A One of my little cousins and my son came and
7 told me that I needed to come outside because a man had
8 shot Reggie.

9 Q And how old was your son?

10 A I think he was about 7 or 8.

11 Q And what did you do?

12 A I kind of didn't believe him at first. And then
13 I jumped up and I asked him what happened, and my
14 cousin said the bad man Ron, bad man Ron shot Reggie.

15 Q The bad man Ron?

16 A Uh-hum.

17 Q Then what did you do after that?

18 A I got up and I ran outside to see what was going
19 on. Then I started asking where was my kids.

20 Q And what was the scene like when you came out?

21 A People running and screaming.

22 Q And did you see Ron McCray at that point?

23 A Yes.

24 Q What was he doing?

25 A Walking back to his car.

1 Q Did you hear him say anything?

2 A No.

3 Q And did you see Reggie at that point?

4 A I did.

5 Q And can you describe what you saw when you saw
6 Reggie?

7 A When I saw him he was -- when I saw him he was
8 getting out of his truck that went inside the ditch.
9 And my brother had came back in a car and was telling
10 him to get inside the car so that he could take him to
11 my mother.

12 But he didn't get inside the car because I
13 called to him.

14 Q So some people were trying to get him in a car?

15 A Yeah.

16 Q What kind of car was that; do you remember?

17 A My mother's Honda.

18 Q What color was it?

19 A Gold.

20 Q And so after that happened, you said you called
21 him?

22 A Yes.

23 Q Did he come towards you?

24 A Yes.

25 Q Tell us what happened next?

1 A When I called him I was telling him to come here
2 so I could have seen what was going on with him. And
3 he just was like staggering toward me holding his neck.
4 Then I asked him what happened. And he was like, help
5 me, Ron just shot me.

6 And he took his hand from his neck and that's
7 when blood started coming out of his neck.

8 Q And what did you do next?

9 A I just told him to come here so that I could see
10 if I could help him.

11 Q Did you try to help him?

12 A Yes.

13 Q What did you do?

14 A I just, when he came to me I held him. And then
15 he kind of fell on top of me.

16 Q Did you stay with him until the police came?

17 A Yeah.

18 MS. WILLIAMS: Court's indulgence just a moment.

19 THE COURT: Yes, ma'am.

20 Q (By Ms. Williams) Twelve years ago did you have
21 a hot check from 2000?

22 A Yes.

23 Q What -- did see anyone call 911?

24 A I think it was Tanya.

25 Q Did you see anywhere else where blood was coming

1 out of Reggie besides his neck?

2 A Yes.

3 Q Where was that?

4 A Out of his eyes and his nose.

5 Q And after he said, help me, Ron shot me, was he
6 able to say anything else?

7 A No.

8 MS. WILLIAMS: Thank you, Ms. Mack. Please
9 answer any questions from the defense.

10 THE COURT: Mr. Biering.

11 CROSS-EXAMINATION

12 BY MR. BIERING:

13 Q Ms. Mack, you were there when the Charleston
14 County Sheriff's Deputy arrived; is that correct?

15 A Yes.

16 THE COURT: Is that yes?

17 A Yes.

18 Q (By Mr. Biering) And were you there also when
19 the Berkeley County Sheriff's Department arrived?

20 A Yes.

21 Q Do you have a written list of the adults that
22 were at the scene that day?

23 A Do I have what?

24 Q A written list of the adults that were at the
25 scene September 16, 2009?

1 A No.

2 Q Were you asked to write a list of the adults
3 that were at the scene that day?

4 A No.

5 Q Have you provided a list?

6 MS. WILLIAMS: Objection, asked and answered.

7 THE COURT: I'm going to allow this one, let him
8 finish his question.

9 Q (By Mr. Biering) Have you provided in any way a
10 list of the adults that were at the scene that day?

11 A I told them the names.

12 Q You told them the names?

13 A (Affirmative head shake.)

14 Q Do you know Abdullah or Dulla Fishburne?

15 A Yes.

16 Q Would you agree that Dulla Fishburne was at the
17 scene that day?

18 A No.

19 Q You would not agree with that?

20 A (Negative head shake.)

21 Q Do you know Edward Sleepy Mitchell?

22 A Yes.

23 Q Would you agree that Edward Sleepy Mitchell was
24 at the scene that day?

25 A I'm not sure.

1 Q Not sure?

2 A (Negative head shake.)

3 Q You were inside when this incident began; is
4 that correct?

5 A Yes.

6 MR. BIERING: Thank you.

7 MS. WILLIAMS: Nothing further, Your Honor.

8 THE COURT: Is this witness excused?

9 MS. WILLIAMS: Please, Your Honor.

10 THE COURT: Any objection? Mr. Biering, any
11 objection to this witness being excused?

12 MR. BIERING: I'm sorry, if I could have just a
13 moment.

14 No objection.

15 THE COURT: You may be step down. You are
16 excused, but you are also free to remain with us.
17 Thank you.

18 Call your next witness.

19 MS. WILLIAMS: State calls Tanya Asby.

20 LANTANIA RENE ASBY,

21 after having first been sworn to tell the truth, the
22 whole truth and nothing but the truth testified on her
23 oath as follows:

24 THE COURT: Ms. Williams.

25 MS. WILLIAMS: Thank you, Your Honor.

1 THE COURT: Mr. Biering.

2 MR. BIERING: Nothing, Your Honor.

3 THE COURT: Ms. Williams, is this witness
4 excused?

5 MS. WILLIAMS: Please, Your Honor.

6 THE COURT: Any objection?

7 MR. BIERING: No, Your Honor.

8 THE COURT: You're free to leave, but you are
9 also welcome to stay with us. Thank you.

10 Call your next witness.

11 MS. WILLIAMS: State would call Robert Porcher,
12 Junior.

13 ROBERT PORCHER, JUNIOR,
14 after having first been sworn to tell the truth, the
15 whole truth and nothing but the truth testified on his
16 oath as follows:

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q Mr. Porcher, who is Reginald Porcher to you?

20 A Reginald was my baby son.

21 Q He was your youngest.

22 A He was the youngest.

23 Q And do you have other children?

24 A I have two other adult kids.

25 Q Who are they?

1 A Robert the III; and Crystal Marie Porcher.

2 Q And where do you all live?

3 A [REDACTED], wando, South Carolina.

4 Q How long have you all lived there?

5 A We just moved there maybe about six or seven
6 years. We were living on Pinefield Drive at another
7 house, maybe about a mile, half a mile down the road.
8 We were there after we built the new house.

9 Q Have you always lived in the wando area?

10 A Yes.

11 Q And what do you do for a living?

12 A I'm retired right now.

13 Q What did you do for a living?

14 A I worked as an international longshoreman. And
15 I had started from the dock and worked up to the
16 office. And I was, at one time the vice president of
17 the union. And when I retired, I was a container
18 inspector.

19 Q And do you do anything now in your retirement?

20 A My wife keeps me busy around the house.

21 Q Okay. And your older son played professional
22 football; is that correct.

23 MR. BIERING: Objection, relevance.

24 Q (By Ms. Williams) what did your older son do?

25 A My son --

1 THE COURT: Hold on one second, there is an
2 objection.

3 MS. WILLIAMS: Your Honor, I will tie it in, if
4 you will -- we can approach.

5 (Whereupon, a discussion was held at the bench
6 off the record.)

7 THE COURT: Overruled. You may continue, but
8 give you just a little bit of leeway. Thank you.

9 Q (By Ms. Williams) What did your other two
10 children do?

11 A Crystal is a social worker, has a master's
12 degree in social work. And Robert is a -- was a
13 professional football player, but he is retired now.

14 Q Was there something that happened to Reggie that
15 prevented him from playing football at some point?

16 A Yeah. Reginald was in an auto wreck, another
17 car hit him head-on, and the other driver was at fault.
18 And Reginald had both his legs broken, his ankles. And
19 so he was no longer able to participate in sports
20 anymore.

21 Q And did that affect his walking?

22 A Yeah. Yeah. It affected him because one of his
23 ankles had to be fused and it wasn't, with fusing,
24 couldn't buckle and bend it like a normal person
25 anymore.

1 Q And in September of 2009, the day that your son
2 died, did you see him that day?

3 A Yeah. That particular morning Reggie and myself
4 were at the house, because my wife had went to visit
5 the grandchildren in Michigan, Northville, Michigan.

6 and I was on my way to work. I don't know, it
7 had to have been around 8:30, 9 o'clock. And Reginald
8 was already downstairs in the kitchen.

9 And when I came down, came in and he said.

10 MR. BIERING: Objection, hearsay.

11 Q (By Ms. Williams) Without telling us what he
12 said --

13 THE COURT: Sustained, thank you.

14 MS. WILLIAMS: I'm sorry, Your Honor.

15 Q (By Ms. Williams) Without just saying what he
16 said, what was he doing in the kitchen?

17 A Yes, I did see him that morning. He was on the
18 phone trying to get a job.

19 Q And was there plan for him that day? Did you
20 know what his plan was for that day?

21 A Well a part of it was that his mother had gave
22 him an assignment before she left to put some bricks
23 around the palm trees that we had just recently planted
24 in the yard.

25 Q And when did you speak with him next, if you

1 did?

2 A Around 11 o'clock I think that day, that
3 morning. He called and said, pops.

4 MR. BIERING: Objection, hearsay.

5 Q (By Ms. Williams) Without telling us the words
6 he used, did you find out something from him?

7 A Did I speak to him. Yes, I spoke to him around
8 11 o'clock. He called me and said he had a job.

9 MR. BIERING: Objection, hearsay, Your Honor.

10 THE COURT: Mr. Porcher, you cannot testify as
11 to what somebody told you.

12 THE WITNESS: All right. Don't say what Reggie
13 said, okay.

14 THE COURT: Thank you. Ms. Williams.

15 Q (By Ms. Williams) So he had been looking for a
16 job and found a job?

17 A Yes.

18 Q And was that the last time you ever spoke with
19 your son?

20 A Yes.

21 Q When was the next thing that you heard about
22 your son?

23 A I went to visit my mother-in-law who was ill.
24 My brother-in-law was keeping him. And I was at the
25 house because there was nobody at my house, so I

1 stopped by to visit before going home.

2 And while there my brother-in-law phone rang and
3 one of his cousins called and said --

4 Q (By Ms. Williams) without saying what he said.

5 A Okay. One of his cousins called him. And I
6 could hear her on the phone crying. And she did say --
7 she was crying on the phone.

8 Q What was her demeanor like?

9 MR. BIERING: Objection.

10 A She was crying. I could hear her crying.

11 MS. WILLIAMS: Your Honor, we would ask that he
12 be able to say what she said under the excited
13 utterance exception.

14 THE COURT: Yes.

15 Q (By Ms. Williams) What was she saying?

16 A She cried and said, Leroy, Reggie got shot.
17 Reggie got shot. And he's on the phone looking in my
18 eyes because I'm from here to that table from him. And
19 he didn't say anything because he was shocked.

20 And before he could say anything, and before I
21 could ask him what she said, my phone rang. I got a
22 call from one of my church members.

23 Can I say what she said?

24 Q What was her demeanor?

25 A She was in some hysterical state. And she said,

1 Pastor, Reggie got shot in Jack Primis.

2 Q So what did you do next?

3 A Immediately I hung my phone up and told Leroy,
4 Reggie got shot. I got in my car and head to Jack
5 Primis.

6 Q And when you got there, what did you see?

7 A When I got to Jack Primis another one of my
8 niece met me as I was getting out of the car. And she
9 was crying and she said, Ron shot Reggie.

10 And I walked on up to the area where he was. He
11 was laying face-down on the ground. When I got there I
12 could see some bullet holes in his shoulder, and one in
13 his neck. And the other young lady was sitting there
14 by him. And she was crying.

15 And the police had just came up also when I got
16 there. They were pulling some tapes around the area,
17 said they didn't want to contaminate the crime scene.
18 So they asked her to move before I got there and she
19 didn't. So then I'm not sure who the police was but he
20 asked me to ask her to leave so they could cover the
21 scene up and not contaminate any of the evidence.

22 So I went and asked the young lady, and I helped
23 her up, and I waited until EMS came.

24 Q And when was the next time that you saw your
25 son?

1 A When I saw him again was when the funeral
2 director had his body. They had already given an
3 autopsy and my son and myself, and I think my nephew,
4 one of my nephews, we went to view the body and
5 identify it.

6 MS. WILLIAMS: Court's indulgence for just a
7 moment.

8 Q (By Ms. Williams) Mr. Porcher, going back to
9 when you saw your son laying on the ground, was he
10 moving?

11 A No. When I got there Reginald was not moving.
12 And I realized that he was dead because there was no
13 movement at all. And so, no, he wasn't moving.

14 MS. WILLIAMS: Thank you. Please answer any
15 questions the defense might have.

16 THE COURT: Mr. Biering.

17 MR. BIERING: Your Honor, can we approach?

18 THE COURT: Yes.

19 (Whereupon, a discussion was held at the bench
20 off the record.)

21 THE COURT: Mr. Biering your witness..

22 CROSS-EXAMINATION

23 BY MR. BIERING:

24 Q Good afternoon, Mr. Porcher. Mr. Porcher, you
25 know Ron McCray; is that correct?

1 A I know him now.

2 Q You know him now?

3 A Yeah.

4 Q Have you ever on occasion seen him with your son
5 Robert?

6 A No.

7 Q Did you know Ron McCray's wife?

8 A What's her name?

9 Q Did you know -- you don't know Ron McCray's
10 wife?

11 A I don't know what her name is. If you tell me
12 her name, maybe I do.

13 Q When did you first come to know Ron McCray?

14 A After he was involved in my son's death. Now I
15 have heard about him because his mother and I went to
16 school together. But I didn't really know him.

17 MR. ALFARO: Thank you, Mr. Porcher.

18 MS. WILLIAMS: Noting further, Your Honor.

19 THE COURT: Is this witness excused?

20 MS. WILLIAMS: Please.

21 MR. BIERING: I would ask to be able to put the
22 matter on the record we discussed, Your Honor, and the
23 witness not be excused.

24 THE COURT: All right, thank you. Mr. Porcher,
25 you may step down but please stay with us.

1 THE WITNESS: Thank you.

2 THE COURT: Just the scheduling, that's your
3 last witness for the day; is that correct?

4 MS. WILLIAMS: Yes, Your Honor.

5 THE COURT: Ladies and gentlemen, there are some
6 matters unrelated to this case that must be handled.
7 And so just for scheduling this was the last witness.
8 And so we are going to break for the day.

9 Please remember all of my admonitions. Please
10 do not read, watch, listen to any news accounts
11 regarding this case, should there be any. Do not do
12 any independent investigation.

13 It's going to be a little more difficult now
14 because you are going to go home and your significant
15 other, or family or friend is going to ask you what you
16 did today. You may not discuss this case with anyone,
17 and that includes your family members.

18 So I will let you know when you may discuss this
19 case. But until I give you permission to discuss this
20 case, you may not.

21 Ladies and gentlemen, please be back in your
22 jury room at 9:15, and we will begin promptly once all
23 14 of you are here. Thank you.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: Thank you, be seated. There are

1 matters that need to be placed on the record.

2 Mr. Biering, specifically regarding the
3 convictions of Ms. Wright and Ms. Coaxum.

4 MR. BIERING: May it please the Court, Your
5 Honor. Specifically as it relates to those
6 convictions, as late as Friday I made a call to the
7 solicitor's office and inquired, and the solicitor's
8 office is very detailed in their record management from
9 the standpoint of having Bates stamped their discovery,
10 which makes it so much easier. So many times it's just
11 volumes of paper.

12 Had an opportunity to speak with Ms. Williams
13 about discovery. We looked at the Bates stamp numbers
14 confirming what information had been provided by
15 discovery.

16 And I was told at that point that there was some
17 supplemental discovery. And immediately, I didn't
18 immediately, within a short period of time I was over
19 at the solicitor's office, after having gone over to
20 the detention center and met with my client, retrieved
21 that discovery.

22 There were email exchanges through the balance
23 of the afternoon with counsel and with the Court. And
24 I simply wasn't provided that information.

25 The bottom of these records, there is a date

1 December 26, 2012. I was not provided this information
2 prior to my cross-examination of these witnesses that
3 were presented. Had I had this information prior to --
4 had I had it within the realm of I think what discovery
5 should be considered to be provide for within a case of
6 this nature, at least on Friday, I would have been able
7 to tailor my cross-examination in a different way.

8 I was provided that information after the
9 witnesses had been excused. And then when the
10 witnesses were brought back on the stand -- so my first
11 objection is to the issue of potential discovery abuse.

12 My second issue goes to the issue of the
13 limitation of my ability to cross-examine witnesses, a
14 very important component of our system, and I was
15 limited after receiving that information to re-tailor
16 my cross-examination of the witnesses, and I have an
17 objection as it relates to that.

18 The other issue that I have --

19 THE COURT: Let's stay on one issue at a time,
20 Mr. Biering.

21 MR. BIERING: I'm sorry, Your Honor.

22 THE COURT: So what is your proposed remedy?

23 MR. BIERING: I would like to have the
24 opportunity to question these witnesses without any
25 limitations, based on limitation on the issue of just

1 that one small window just for the record. I would
2 like to have a second shot at cross-examination of
3 these witnesses.

4 THE COURT: Mr. Biering, tell the Court what the
5 parameter would be then, what difference it makes as to
6 the conviction as to what you would ask them.

7 MR. BIERING: Quite candidly, Your Honor, I'm
8 not in a position to do that. I think it's something
9 just as I have gone through and calculated what
10 information I would attempt to elicit through
11 cross-examination in my preparation for this trial,
12 it's the type of thing that I will go back to the
13 drawing board and reevaluate how I would cross-examine
14 these witnesses.

15 I'm not in a position at this point to --

16 THE COURT: All right. Mr. Biering, we have
17 broken earlier than I anticipated so you can let me
18 know in the morning if there is any remedy that you
19 wish.

20 Ms. Williams and Mr. Alfaro, are all of the
21 witnesses that you will be calling from this point on,
22 have you provided criminal histories to Mr. Biering?

23 MR. ALFARO: That concludes the lay witnesses
24 that we anticipate. The only other lay witnesses that
25 may testify, or are on the witness list, will be

1 Christopher Cleggett. I believe he has been provided
2 that defendant's rap sheet because he is a codefendant.
3 Felicia Simmons, we will provide him with that. And I
4 believe that's the only lay witnesses -- oh, James
5 Boykin, we will provide him with that as well.

6 Your Honor, just for clarification of the
7 record, in regard to the dates these rap sheets were
8 provided, specifically for Ms. Wright and Ms. Coaxum,
9 those were not produced in December. The date on the
10 bottom of those rap sheets is October 26, 2012.

11 THE COURT: Which was Friday.

12 MR. ALFARO: Which was Friday. So it's not an
13 issue of us running the rap sheets in December and then
14 not turning them over until today. Quite honestly it's
15 a mistake that we would have turned them over prior to
16 their testimony, we forget to do that. I realized it
17 while they were on the stand. They were provided to
18 him.

19 As far as the ability, whether it's some sort of
20 discovery or Brady violation materiality, they were
21 provided to him. He had the opportunity to
22 cross-examine them.

23 If they would have been provided before, the
24 question from the State would have been the same as
25 when they were recalled. Do you have a prior

1 conviction? Yes. Under the rules of evidence, once
2 they acknowledge those convictions, that's all he gets
3 to ask anyway. He doesn't get to ask further details
4 of it.

5 And if they would have denied having those
6 convictions when they were recalled, he would have had
7 the opportunity to cross-examine because that was the
8 reason why they were called back to testify.

9 So we don't believe there is any prejudice or
10 due process violation regarding giving him rap sheets
11 that were run on Friday to him today.

12 THE COURT: All right. Mr. Biering, just let me
13 know if there is any further relief that you are
14 seeking.

15 Any additional matters?

16 MR. BIERING: Just on that one, I must have
17 misspoken. Because I think that they were dated
18 October 26, 2012. There were dated on Friday. That
19 was my understanding as well.

20 THE COURT: You said December.

21 MR. BIERING: I apologize, October 26, 2012.

22 MS. WILLIAMS: Just to clarify the record, Your
23 Honor, since he has brought up that we had a
24 conversation, we had emails about discovery. I'm just
25 saying on the record that I didn't purposely hide these

1 rap sheets. They were pulled by our investigator. It
2 was an oversight.

3 Ordinarily we would have walked into court, we
4 would have given him the rap sheets as soon as we had
5 them. It wasn't something that was purposeful trying
6 not to give Mr. Biering the rap sheets.

7 THE COURT: Please make sure that Mr. Biering
8 has all the rap sheets from this point on for all the
9 witnesses that you anticipate calling.

10 All right, next issue?

11 MR. BIERING: Can I have one other comment on
12 that issue, Your Honor? The state --

13 THE COURT: You can make a comment now or you
14 can make a comment tomorrow. What is your choice, Mr.
15 Biering?

16 MR. BIERING: Thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. BIERING: The second issue is the issue of
19 what we believe to be State opening the door in their
20 questioning of Mr. Porcher.

21 THE COURT: Mr. Biering, do you wish to proffer,
22 do you wish to inquire of Mr. Porcher?

23 MR. BIERING: Yes, Your Honor, I do.

24 THE COURT: Ms. Williams, that was your
25 witnesses. Mr. Biering has indicated that he believes

1 that your statement as to the injuries to Mr. Porcher
2 opened the door to some previous criminal violations.

3 The State's position as to allowing him to place
4 the proffer on the record?

5 MS. WILLIAMS: We have no objection to him
6 placing a proffer on the record. We would just say
7 that our position is that the question was about the
8 physical injuries sustained by Reginald Porcher during
9 a car accident, and how they affect his physical
10 limitations. That's relevant to what the defendant
11 says happened at the murder scene.

12 And we did ask the question if his physical
13 limitations after the accident also prevented him from
14 doing other physical things.

15 THE COURT: Okay.

16 Mr. Porcher, I need you to come forward, please.

17 Mr. Biering, you are limited to the questions
18 with respect to that. I'm not allowing you to
19 cross-examine on any other issues.

20 Mr. Porcher, please come forward. I remind you
21 that you are still under oath. And we are outside the
22 presence of the jury. I need you to speak very loudly
23 into the microphone.

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: Thank you.

1 All right, Mr. Biering.

2 MR. BIERING: May it please the Court.

3 THE COURT: Yes, sir.

4 ROBERT PORCHER, JUNIOR,
5 after having previously been sworn to tell the truth,
6 the whole truth and nothing but the truth testified on
7 her oath as follows:

8 IN-CAMERA EXAMINATION

9 BY MR. BIERING:

10 Q Mr. Porcher, do you recall what year your son
11 graduated from high school? Your son Reginald Porcher
12 graduated from high school?

13 A I'm not sure what year it was because Reginald
14 had graduated from the adult school class at Wando High
15 School.

16 Q You had testified that previously that the car
17 wreck prevented him from being able to continue on and
18 play football; is that correct?

19 A Yes, that's what I said.

20 Q Were there other issues in your son Reginald's
21 life that prevented him from being able to play college
22 football?

23 A I don't know whether he would have played
24 college football or not. I know he wouldn't have been
25 able to play because of the injury.

1 Q Did he have any, prior to his graduation from
2 the adult program at Wando, did he have any arrests?

3 A I'm not sure.

4 Q You are not sure?

5 A No. Because when he went to Wando it was
6 because he had the injury to his leg and he wasn't
7 going to the public school so he went to the adult
8 school where he graduated.

9 Q Do you know how old he was when he was injured?

10 A He was 18 or 19, I'm not sure.

11 Q Do you recall Reginald being arrested for
12 disturbing schools?

13 A Disturbing schools?

14 Q Yes.

15 A What do you mean schools? That's more than one.

16 Q Do you recall Reginald being arrested for
17 burglary?

18 A At the school?

19 Q No, sir. Just do you recall him being arrested
20 for burglary?

21 A Yes.

22 Q And was that in the same proximity of time as
23 his injury?

24 A He has had several injuries, more than one. Are
25 you referring to the first one or the second one?

1 Q You have to tell me, I don't know.

2 A Well I'm not sure what you want. If I speak up
3 then you tell me.

4 Q Let's go with the first injury. Is that in the
5 same proximity of his first injury?

6 A No.

7 Q Was it in the same proximity of the second
8 injury?

9 A Yes.

10 Q Do you recall Reginald being arrested for
11 possession of a firearm?

12 A No.

13 Q Do you have any specific recollection of any of
14 the convictions that Reginald had?

15 A Yes.

16 Q Can you tell us what those recollections are?

17 A Well as I told you he was arrested because he
18 tried to burglarize a service station.

19 Q Other than that, do you have any specific
20 recollections?

21 A Other than that, no. He was, I think he got
22 locked up once because he was in a fight with some kids
23 at a burger shop, Burger King shop or someplace.

24 Q Would you agree that those arrests would also
25 preclude him from being able to play -- move on and

1 play college football?

2 A Would those arrests do what?

3 Q Do you think him being arrested for those types
4 of crimes, do you think those would preclude him or
5 shop him from being able to play college football?

6 A I answered that earlier. I told you he had an
7 injury, so the injury would not have allowed him to
8 play. And I don't know if he would have been able to
9 play college football or not, that would be up to the
10 coach or whoever gave those scholarships.

11 MR. BIERING: I don't have anything else.

12 THE COURT: You may step down, thank you.

13 THE WITNESS: Thank you.

14 THE COURT: Anything further regarding that
15 matter, Mr. Biering?

16 MR. BIERING: No, Your Honor.

17 THE COURT: Thank you.

18 Anything before we break for the afternoon, Mr.
19 Alfaro?

20 MR. ALFARO: No, Your Honor.

21 THE COURT: Mr. Biering?

22 MR. BIERING: No, Your Honor.

23 THE COURT: We need to mark some exhibits; is
24 that correct?

25 MR. BIERING: Yes, Your Honor.

1 MR. BIERING: No, Your Honor.

2 THE COURT: Lieutenant, you are free to go or
3 free to stay with us. Thank you.

4 MR. ALFARO: Can we approach, Your Honor?

5 THE COURT: You may.

6 (Whereupon, a discussion was held at the bench
7 off the record.)

8 THE COURT: Ladies and gentlemen, we are going
9 to go ahead and take our lunch break. Please remember
10 all of my admonitions. Also please make sure you
11 follow the instructions from the bailiff on how to get
12 in and out of the courtroom. It is essential that you
13 follow those proper procedures.

14 Ladies and gentlemen, please remember all my
15 admonitions. Please report back to the door. And the
16 bailiffs will tell you again how to get in and out at
17 1:30, and then we will bring you in promptly once all
18 of you are back.

19 Please rise for the jury.

20 (Whereupon, the jurors exit the courtroom.)

21 THE COURT: Thank you, be seated. Anything
22 before we break for lunch, Mr. Alfaro?

23 MR. ALFARO: Nothing from the State.

24 THE COURT: Mr. Biering?

25 MR. BIERING: Your Honor, I do. I have got --

1 yesterday when we, before we broke Your Honor said that
2 I could be heard again on the issue of Felicia Coaxum
3 and Joyce Wright.

4 THE COURT: Yes.

5 MR. BIERING: Your Honor, I would respectfully
6 request that I be able to recross both of those
7 witnesses without limitation as I was limited after the
8 information was provided to me.

9 A review of the approach that I took towards
10 cross is -- now, based on that new information, I
11 believe that my cross should be handled in a different
12 way. And I believe that I was denied the effective
13 ability to cross-examine the witnesses in this case by
14 the failure of the prosecution to provide the
15 information to me prior to my cross-examination.

16 And the remedy, I believe, is open cross of both
17 of those witnesses. I respectfully request --

18 THE COURT: Mr. Biering, give me an example of a
19 question that you would have asked that you -- now,
20 that you didn't have the opportunity to ask without
21 that information?

22 MR. BIERING: Specifically, Your Honor, I would
23 approached both of these witnesses with very detailed
24 review of their prior statements.

25 THE COURT: And how does the fact that they had

1 a prior conviction, and the State used it to impeach
2 them in theory, how would that impact your decision to
3 go over or not go over the statement?

4 MR. BIERING: It's always difficult to question
5 a person's credibility, Your Honor, when you are not
6 the person that's in a position to actually have time
7 with that witness beforehand, discuss matters with that
8 witness.

9 And knowing their convictions that I think
10 questions their level of truthfulness, I would approach
11 cross-examination very differently. I would ask to
12 reopen --

13 THE COURT: Credibility is always a question and
14 always an issue with any witness whether or not they
15 have a criminal conviction or not.

16 Is that the only relief that you are seeking?

17 MR. BIERING: Only relief that I am seeking is
18 to be able to recross. It's a murder case. I think
19 it's a substantial issue as it relates to my client's
20 ability to have effective cross-examination of
21 witnesses.

22 We were denied information. And I think that
23 the remedy that I am seeking is a very simple, and very
24 mild remedy. And I respectfully request to have
25 recross on both witnesses.

1 THE COURT: I'll take the matter under
2 advisement. I think it would actually confuse the
3 issue for us to recall, even if I grant your request,
4 to recall them today. But I will take this matter
5 under advisement. We will address it at a later time.

6 Thank you, Mr. Biering. Anything further?

7 MR. BIERING: No, Your Honor.

8 THE COURT: All right. We are at ease until
9 1:30. Thank you.

10 (Whereupon, a recess was taken.)

11 (Whereupon, the jurors enter the courtroom.)

12 THE COURT: Thank you, be seated.

13 Call your next witness.

14 MR. ALFARO: State calls Jack Scarborough.

15 JOHN LAUREN SCARBOROUGH,
16 after having first been sworn to tell the truth, the
17 whole truth and nothing but the truth testified on his
18 oath as follows:

19 DIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q Good afternoon. I can see you work for the
22 Charleston County Sheriff's Office.

23 How long have you been with them?

24 A I have been with the Charleston County for 14
25 years.

1 MS. WILLIAMS: State calls James Boykin.

2 JAMES JOE BOYKIN,

3 after having first been sworn to tell the truth, the
4 whole truth and nothing but the truth testified on his
5 oath as follows:

6 THE COURT: Ms. Williams.

7 MS. WILLIAMS: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q Mr. Boykin, are you working right now?

11 A Yes, ma'am.

12 Q And who do you work for?

13 A ILA, the Union Longshoreman's Association.

14 Q And do you know Ron McCray?

15 A Yes, ma'am.

16 Q How long have you known Mr. McCray?

17 A About 20 years, 20, 23, 25 years.

18 Q And during the period of time back in 2009, did
19 you see Mr. McCray frequently?

20 A Yeah, we were working together.

21 Q And did you travel with him out of state?

22 A Yes.

23 Q Where did you go?

24 A To California.

25 Q Do you remember about when that was?

1 A Between May and June.

2 Q Okay. And you have some criminal history; is
3 that correct?

4 A Yes, ma'am.

5 Q You have a fraudulent check from 2011, a drug
6 possession from 2011, and a drug possession from 2001.
7 Is that correct?

8 A Yes, ma'am.

9 Q And at the time in 2001, I'm sorry, in 2009 when
10 you knew Mr. McCray, you said you worked with him.
11 What kind of work would you all do together?

12 A Drywall work.

13 Q And did you know the victim in this case,
14 Reginald Porcher?

15 A Yes, ma'am.

16 Q Before he was murdered, do you remember the last
17 time you had seen him?

18 A It has been a while.

19 Q I'm sorry?

20 A It's been a while.

21 Q So is it fair to say you didn't see Mr. Porcher
22 very often at the time he was murdered?

23 A No, I didn't.

24 MR. BIERING: Objection, Your Honor, may we
25 approach?

1 THE COURT: You may.

2 (Whereupon, a discussion was held at the bench
3 off the record.)

4 THE COURT: Ms. Williams, you may continue.

5 MS. WILLIAMS: Thank you, Your Honor.

6 THE COURT: You may need to rephrase the
7 question.

8 And, Mr. Boykin, I'm going to ask you to speak
9 very loudly. If you need to pull that microphone
10 closer, feel free to. Thank you

11 Q (By Ms. Williams) The last question I asked you
12 you had answered that you hadn't seen Mr. Porcher in a
13 while?

14 A Right.

15 Q Is it fair to say you hadn't -- I can't even
16 remember what the question was -- you were better
17 friends with Mr. McCray?

18 A Yes.

19 Q And when you were working with Mr. McCray, did
20 he ever mention Reggie Porcher to you?

21 A From time to time.

22 Q And what kinds of things would he say?

23 A About how he violated him and he came in his
24 house. I guess tried to rape his girl.

25 Q Did he say anything else about what he did that

1 he was angry about?

2 A It was so long ago I vaguely remember. But I
3 know it was something about he doing something that he
4 shouldn't have done in that aspect.

5 Q So what was his attitude toward Mr. Porcher?

6 A From him trying to rape his girl, whatever, he
7 was angry.

8 Q And did he say what he wanted to do to Mr.
9 Porcher?

10 A Yeah, anyone would probably want to kill him.

11 Q Did he say he wanted to kill him?

12 A At a point in time, yes.

13 Q I'm sorry, can you just --

14 A Yes, he did say he -- yes.

15 Q And he said -- did he -- where were you all when
16 he said.

17 A Which time?

18 Q Like you said you had worked with him, you had
19 also traveled out of town? How many times --

20 A On different occasions. Probably six, seven
21 times, frequent times when we would go back talking
22 about different stuff. And it would all come together
23 and lead to that probably.

24 Q And when you went out of town, what was the
25 purpose of that trip?

1 A He was going to get married.

2 Q Who was he going to get married to?

3 A A young lady Tiffany. I don't really know
4 Tiffany.

5 Q Wasn't he already married?

6 A Some ways I guess here. But we were going to
7 California so I was just driving, that's all my job was
8 to take him there and back.

9 Q Did he get any communications from anyone else
10 during that trip that you were aware of?

11 A Yeah. We sent a young lady some money for the
12 rental car and stuff.

13 Q Who was that?

14 A Her name is Amy. I don't know her last name.

15 Q And who is Amy?

16 A As I found out, his wife here. A wife here I
17 guess.

18 Q And were you in a rental car?

19 A Yes, ma'am.

20 Q So you were sending money for the rental car?

21 A Yes, ma'am.

22 Q And who was on the trip with you?

23 A Me, Ron, and Tiffany and their little baby.

24 Q Whose baby was it?

25 A Mr. McCray and Tiffany's.

1 Q Okay. And what was your relationship with
2 Tiffany?

3 A I didn't have any relationship with Tiffany.

4 Q Had you ever had any relationship with Tiffany?

5 A No.

6 Q And do you remember the date, or do you remember
7 talking with Mr. McCray around the time of when Mr.
8 Porcher was killed?

9 A Yes.

10 Q And tell us about that.

11 A He asked -- first I got a call from my cousin of
12 mine, Chanie (phonetic), and he asked me had I seen Ron
13 and I told him no. He said, well try to get in touch
14 with him. I said, what's going on? He said Ron had
15 shot --

16 MR. BIERING: Objection, hearsay.

17 THE COURT: Is there an exception?

18 MS. WILLIAMS: It's not being offered for the
19 truth of the matter asserted. It's being offered to
20 show --

21 THE COURT: Rephrase your question.

22 Q (By Ms. Williams) Was there something that
23 happened? Were there some people that called you that
24 caused you --

25 A I couldn't --

1 Q -- to get in touch with Ron?

2 THE COURT: Hold on one second. This is my
3 court reporter. She has got the write down everything
4 that you say and Ms. Williams says.

5 And it's very difficult for her to write when
6 you are speaking over each other. So I need you to
7 wait until Ms. Williams finishes her question. And she
8 is going to wait until you finish your response.

9 All right? Thank you.

10 Q (By Ms. Williams) And I will try not to talk
11 over you. I apologize, Mr. Boykin.

12 You didn't really want to be here today, did
13 you, Mr. Boykin?

14 A No, not really.

15 Q You were subpoenaed?

16 A Yes, ma'am.

17 Q So you are here because you were subpoenaed?

18 A Yes, ma'am.

19 Q What precipitated? What happened that made you
20 get in touch with Mr. McCray?

21 A Like I said, Chanie called me, asked me had I
22 seen Ron because he knows --

23 MR. BIERING: Objection, hearsay.

24 THE COURT: Is there an exception?

25 MS. WILLIAMS: I'm just trying to show that he

1 got a call from Mr. Chanie and told him --

2 THE COURT: I am going to sustain it. Thank
3 you.

4 Please don't testify as to what you were told.

5 All right, Ms. Williams.

6 BY MS. WILLIAMS:

7 Q Did you talk to Mr. McCray on the phone?

8 A Yes.

9 Q What did he say to you?

10 A He said, had I heard what happened. I said,
11 about what? And he said that he had shot --

12 MR. BIERING: Objection, hearsay.

13 THE COURT: Sustained as to hearsay.

14 MS. WILLIAMS: He is you talking about Mr.
15 McCray --

16 THE COURT: Ms. Williams, thank you.

17 MS. WILLIAMS: Your Honor --

18 THE COURT: Rephrase your question.

19 Q (By Mr. Williams) What did the defendant say to
20 you on the phone?

21 A Had I seen what happened, and that he had shot
22 Reggie.

23 Q Mr. McCray was saying that?

24 A Yes.

25 Q Tell us the words he used?

1 A I shot that --

2 THE COURT: You may use whatever words that you
3 were told, sir. Do not worry about the decorum in the
4 courtroom. Thank you.

5 A Okay. He said, I shot that mother-fucker.

6 Q (By Ms. Williams) And what else did he say
7 about the fact that he shot him?

8 A I hope he died. He said he spat in his face,
9 kicked him, told him, don't fear God, fear me.

10 Q And did he saying anything about what he was
11 saying when he spit in his face and was standing over
12 him?

13 A He said, die mother-fucker, die.

14 Q After that phone call, did you, during that
15 period of time, anytime in those days, did you see Mr.
16 McCray?

17 A The next morning.

18 Q Tell us about that.

19 A Like I said, we were together for a long time so
20 he came to my house. He said that he needed to go get
21 his check and stuff because he had to handle some
22 business because he knows he was in trouble I guess.

23 Q Let me ask you a question. At that point were
24 you aware of any coverage or any news about the event?

25 A No, no, ma'am. Because I was, like I said, I

1 work at ILA. I ended up going to work.

2 When I got back that next morning I was just
3 getting in. So I hadn't really -- you can't have
4 phones at work because they send you home. So I didn't
5 know, wasn't aware of this.

6 Q And had you received -- without telling us what
7 the communication was -- had you received any word from
8 other people that they were looking --

9 A No. Like I said, I had went to work.

10 Q And was it light or dark when he came to your
11 house?

12 A It was still dark.

13 Q And what was his demeanor like? How was he
14 acting when he came to your house that morning?

15 A Normal Ron.

16 Q Normal Ron?

17 Was he upset?

18 A I don't know.

19 MR. BIERING: Objection, asked and answered.

20 THE COURT: Overruled.

21 A Say again?

22 Q (By Ms. Williams) Was he upset or was he just
23 acting like normal?

24 A I mean just, you know, Ron is kind of
25 unpredictable, he was like mystical.

1 Q And so when he came to your house, what did you
2 all do next?

3 A He asked me to drive him somewhere, so we went
4 to a friend of his to pick up a car from a job.

5 Q Who was the friend?

6 A I don't know the young lady.

7 Q Was it a --

8 A I waited on the outside.

9 Q -- a male or female?

10 A Female.

11 Q Where was it?

12 A In Mount Pleasant by Hickory Shadow at that gas
13 station across from the SC&G place.

14 Q And tell us again what was the purpose of going
15 there?

16 A To retrieve her car.

17 Q What kind of car was that, if you remember?

18 A It was a creamish 300, Chrysler 300.

19 Q And where did you all go next?

20 A Proceeded to go to James Island to a job where
21 he was working. He called his supervisor, whatever.
22 Told him that he needed him to put the check in my name
23 and to let me retrieve his tools so he could take it to
24 Money Man to get some cash off of it so that he could
25 handle his business.

1 Q And why did he want you to go do that? Why
2 couldn't he do that?

3 A Apparently because of what he had done the night
4 before.

5 MR. BIERING: Objection, calls for speculation.

6 THE COURT: Overruled.

7 Q (By Ms. Williams) You can answer.

8 A Apparently from what he had done the night
9 before, the day before.

10 Q So, just backing up. How did he get to your
11 house, if you all had --

12 A He rode his motorcycle.

13 Q So where did you drive to specifically in order
14 to get the check?

15 A He called on the way going to James Island. At
16 that time the owner told him, it was like 7 o'clock or
17 something, he said to wait until about 8:30, 8:00, 8:30
18 or something. So we went to McDonald's on Folly Road.
19 Sat there, had some breakfast.

20 And he went in and used the bathroom. I was in
21 the car. Sat there waited, waited. He came out. He
22 was like, come on let's go.

23 Dropped him off. Went to the house to retrieve
24 the check and the work tools.

25 Q Okay. And what types of items were there? Like

1 what kinds of tools and things?

2 A Stilts. A bazooka. Not the weapon bazooka, but
3 a bazooka you use to drywall with. Stuff to do drywall
4 with.

5 Q Okay. Was there a vacuum there? Do you
6 remember?

7 A I think there was blue vacuum. I don't remember
8 exactly, it was like three or four years ago.

9 Q Do you remember all what kind of tools there
10 were?

11 A I just explained to you just now.

12 Q I'm sorry, could you do that again?

13 A Stilts, a bazooka. I think it was vacuum. I
14 know it was something else to lay mud on the wall.

15 Q Okay. And when you got to -- after McDonald's,
16 did you go directly to the house to get the check?

17 A No, I dropped him off, then I proceeded to go to
18 the house.

19 Q Why did you drop him off?

20 A Because he asked me to.

21 Q Where did you drop him off?

22 A Gas Station, or Piggly Wiggly or something. But
23 it's right by each other. The gas station is right by
24 the Piggly Wiggly.

25 Q And did you know the people he was getting the

1 check from?

2 A I knew the plumber, I used to work for him as a
3 kid at a restaurant. He owned a restaurant, Chip
4 Cuffin (phonetic).

5 And the guy that owned the night club, I met him
6 vaguely.

7 When I got there, they started explaining to me
8 about what they saw on the news. Told me I'm going to
9 go to jail.

10 MR. BIERING: Objection, hearsay.

11 THE COURT: Is there an exception?

12 MS. WILLIAMS: No, Your Honor.

13 THE COURT: All right, thank you. Sustained.

14 Q (By Ms. Williams) Did you know what they were
15 give him a check for?

16 A For work he had done.

17 MR. BIERING: Objection, calls for speculation.

18 THE COURT: If he knows he may answer, then he
19 knows.

20 Q (By Ms. Williams) If you know.

21 A Yes. For work he had done at the house.

22 Q And so when you went in the house without Mr.
23 McCray, did you make a decision to sort of change
24 course, to do something different than what Mr. McCray
25 told you to do?

1 A Yeah. Before I got in the house, Chip Cuffin,
2 who I used to work for, he started talking to me and
3 telling me --

4 Q Don't tell us what he said. But just what was
5 he talking to you about?

6 A For me to call the cops.

7 MR. BIERING: Objection, hearsay.

8 Q (By Ms. Williams) And without saying what he
9 said --

10 THE COURT: Sustained, hearsay.

11 Thank you for rephrasing, Ms. Williams.

12 MS. WILLIAMS: I'm sorry, Your Honor.

13 Q (By Ms. Williams) Did you get some advice from
14 Chip Cuffin?

15 A Yes, ma'am.

16 Q What did you do as a result of that advice?

17 A I asked him for the phone. Then I said -- he
18 said, no, go in the house and talk to the owner and get
19 his advice too.

20 So I went in the house and they said basically
21 the same thing.

22 Q Don't say what they said.

23 A True. So 911, because accessory carries just as
24 much time for murder. Knowing, which I hadn't really
25 known that the guy was dead or nothing.

1 So I dialed 911 like was instructed because I
2 don't need -- I got my own situation going on at home.
3 I don't want to go to prison for somebody else, what
4 they got going on.

5 Q So you call 911?

6 A Yes, ma'am.

7 Q And did they give you instructions on what to
8 do?

9 A Yes, ma'am.

10 Q And what did you do next? Did you get the
11 check?

12 A Yes, ma'am.

13 Q And where did you go?

14 A I went to the bank up on Maybank Highway. And I
15 had to go inside because I had to the thumbprint. And
16 cashed it, came back out, and gave Ron his money.

17 Q And who was the check made out to?

18 A James Boykin, which is who I am.

19 Q And is that how Ron wanted you to do it?

20 A That's what he asked his boss to do, and that's
21 what he did.

22 MS. WILLIAMS: Your Honor, I'm showing defense
23 counsel what's been previously marked as State's 161.

24 May I approach?

25 THE COURT: You may.

1 Q (By Ms. Williams) What is that?

2 A It's a copy of the check, and my thumbprint.

3 Q How much is the check for?

4 A 168.75.

5 Q Okay. And what is the date it's written out on?

6 A 9/17/09.

7 Q And is this the check that you got and gave Mr.
8 McCray the cash for that day?

9 A It's a copy of it, yes, ma'am.

10 MS. WILLIAMS: Your Honor, at this time we would
11 offer State's 161 into evidence.

12 THE COURT: Any objection?

13 MR. BIERING: No objection.

14 THE COURT: State's 161 into evidence without
15 objection.

16 (Whereupon, State's Exhibit No. 161 is admitted
17 into evidence.)

18 Q (By Ms. Williams) After that, did Mr. McCray
19 want you to go somewhere else?

20 A Yes, ma'am.

21 Q Where was that?

22 A To Money Man Pawn Shop.

23 Q And what was he going to do there?

24 A Me to pawn the tools so he could make some more
25 cash.

1 Q What did he need all this cash for?

2 MR. BIERING: Objection, speculation.

3 MS. WILLIAMS: If you know.

4 THE COURT: Sustained as to -- if he knows he
5 may answer if he knows.

6 A Apparently to leave.

7 Q (By Ms. Williams) And if you know, did the
8 police know where you were going next?

9 A Yes, ma'am.

10 Q How did they know that?

11 A Because they told me that, when you cash the
12 check -- because supervisor had already told him I
13 wanted the tools because Ron told them he needed the
14 tools to get some money.

15 So they know we were going to some pawn shop or
16 something. So when they talked to the detective, or
17 whoever was on the phone, asked me --

18 MR. BIERING: Objection, hearsay.

19 Q (By Ms. Williams) So they got that information
20 from --

21 THE COURT: Overruled, continue.

22 A They asked me where were we heading, and what
23 kind of car we were driving. If I'm driving or is he
24 driving.

25 So I explained to them. And when we got there,

1 before I could really pull in, they were rolling up on
2 us, guns drawn and.

3 Q Took you both in?

4 A Yes, ma'am.

5 Q So before you got to Money Man, they knew --

6 A As soon as I pulled in the parking lot of Money
7 Man on Folly Road.

8 Q The police knew what car you would be driving?

9 A Yes, ma'am.

10 Q Knew you'd be there and knew he'd be there?

11 A Yes, ma'am.

12 MS. WILLIAMS: Court's indulgence for just a
13 moment.

14 THE COURT: Take your time.

15 Q (By Ms. Williams) Tell me again when you said
16 you went to California, if you remember?

17 A What about it?

18 Q When was it?

19 A End of May. If I had the contract, the work
20 contract, I could more or less be more pinpoint.

21 I mean it has been so long, and I've had a lot
22 of stuff going on in my own, so it's hard to pinpoint
23 the exact date.

24 I can tell you it's between May, at the end of
25 May and end of June.

1 Q Okay. Was there any event in your family that
2 helped you remember that, a death or a birth?

3 A My nephew had just gotten killed, and it was his
4 birthday coming up on June 30th.

5 Q So you think it was around then?

6 A Yes, on the way coming back. But we left
7 before.

8 MS. WILLIAMS: Please answer any questions the
9 defense might have for you.

10 THE COURT: Mr. Biering.

11 CROSS-EXAMINATION

12 BY MR. BIERING:

13 Q Mr. Boykin, you were asked about your criminal
14 history initially whenever you were being questioned by
15 Ms. Williams.

16 Do you remember that just a moment ago?

17 A Yes, sir.

18 Q You do remember that?

19 A Uh-hum.

20 Q And you have another criminal conviction from
21 2001?

22 A She just said that.

23 Q I'm sorry?

24 A She just said that.

25 Q What was the criminal conviction in 2001?

1 A I don't know, you got the paper.

2 Q Isn't it true you were convicted of sex offender
3 registry violation on March 9, 2001?

4 A Yes, sir because the young lady lied about her
5 age. If you got that, if you know that, I'm sure you
6 got the report with all of that in it.

7 Q How long have you worked for the International
8 Longshoreman's Association?

9 A Since 2003.

10 Q Since 2003?

11 A Yes, sir.

12 Q Do you know Mr. Robert Porcher, Junior?

13 A Yes, sir.

14 Q You do?

15 A Yes, sir.

16 Q Was he officer at ILA whenever you first became
17 employed there?

18 A No, sir.

19 Q Has he been an officer at any time during your
20 employment there?

21 A No, sir.

22 Q Your first communication with -- well first, did
23 you have some communication with -- I think you
24 testified to having communication with Ron on September
25 16th, 2009, correct?

1 A What date was that?

2 Q You don't know?

3 A No, I don't.

4 Q The day that Mr. Porcher was shot. Did you have
5 communication with Ron McCray?

6 A Yes, I did.

7 Q Did you have that by telephone?

8 A Yes, I did.

9 Q And did you initiate that communication with
10 Ron?

11 A I don't remember if he called me, I called. I
12 think I called him after Chanie called me.

13 Q So after Chanie called, did Chanie instruct you,
14 or did you receive instructions to call Ron from
15 Chanie?

16 A He said if I hear from him, call the cops.

17 Q I'm not asking you what he said.

18 A I just told you. I didn't say he did, so.

19 MR. BIERING: No further questions of this
20 witness at this time.

21 THE COURT: Ms. Williams?

22 MS. WILLIAMS: Nothing further, Your Honor.

23 THE COURT: Is this witness excused?

24 MS. WILLIAMS: Please.

25 THE COURT: Any objection?

1 Mr. Biering, any objection to him being excused?

2 MR. BIERING: No, Your Honor.

3 THE COURT: All right.

4 Sir, you are free to go, but you are welcome to
5 remain with us. Thank you, you may step down.

6 MR. ALFARO: State calls David Owen.

7 DAVID OWEN,

8 after having first been sworn to tell the truth, the
9 whole truth and nothing but the truth testified on his
10 oath as follows:

11 DIRECT EXAMINATION

12 BY MR. ALFARO:

13 Q Good afternoon. Can you tell the jury where you
14 work?

15 A Charleston County Sheriff's Office.

16 Q And how long have you been with the Charleston
17 County Sheriff's office?

18 A 10 years.

19 Q What is your current position with the sheriff's
20 office?

21 A Currently I'm the supervising sergeant in the
22 criminal investigations division.

23 Q And were you working in that same capacity on
24 September 17, 2009?

25 A No, sir, I was not. I was a detective in the

1 whole truth and nothing but the truth testified on her
2 oath as follows:

3 DIRECT EXAMINATION

4 BY MS. WILLIAMS:

5 Q Ms. Crooks, who do you work for?

6 A I work for the South Carolina Law Enforcement
7 Division, also known as SLED.

8 Q What do you do for them?

9 A I'm in the forensic lab in evidence control.
10 And I work strictly in the evidence room.

11 Q And did you handle items of evidence in this
12 case?

13 A Yes, I did.

14 Q And do you have a list of the items of evidence
15 that you handled?

16 A I do.

17 Q Can you just tell us what they are?

18 A Okay. I handled item 1, it's a heat-sealed
19 pouch containing a blood standard described as one tube
20 of blood from Reginald Porcher. Is that Porcher?

21 Q Porcher.

22 A Item 2, one heat-sealed pouch containing buccal
23 swab described as one buccal swab from Ron Santa
24 McCray.

25 Q And who did you get each of those items from, if

1 you don't mind answering.

2 A Item 1, I took custody of that item on February
3 the 25th of 2010 at 9:25 in the morning. And I
4 transferred custody of that item to forensic technician
5 Sheree Brown one minute after I took custody of it.

6 Q Okay.

7 A Item 2. I also took custody of that item and
8 transferred it to Sheree Brown. Item 3 is one
9 heat-sealed pouch containing swabs described as swabs
10 from drive's floorboard from Chrysler 300. I
11 transferred that evidence to Sheree Brown.

12 Item 4 is one heat-sealed pouch containing swabs
13 described as one swab from steering wheel from Chrysler
14 300. And I transferred that item to Sheree Brown.

15 Q If you could skip the Chrysler. Can you just go
16 to the next few items?

17 A Next item I have is item 6, one heat-sealed
18 pouch containing swabs from one swab from JC Higgins
19 16-gauge sawed off shotgun stock. I transferred that
20 to Sheree Brown.

21 Item 7 is another swab from the sawed-off
22 shotgun. I transferred that to Sheree Brown. Item 9
23 is one sealed gun box containing shotgun described as
24 Revelation sawed-off 12-gauge shotgun. Serial number
25 G-272612. That's from the Chrysler 300. I transferred

1 that evidence to Sheree Brown.

2 Q And at some point -- go ahead.

3 A Item 10, I believe that's the one I just read.
4 Item 11, one sealed envelope containing shot shells
5 described as one Remington 12-gauge ought ought buck
6 shotgun shell from scene that was fired. And I
7 transferred that evidence to forensic scientist James
8 W. Green.

9 The next item is item 12, one sealed envelope
10 containing shot shells described as one Remington
11 12-gauge shotgun shell ought ought buck for Chrysler
12 300 unfired. I transferred that to James Green.

13 Item 13, one sealed envelope containing shot
14 shells described as one Remington 12-gauge shotgun
15 shell ought ought buck from Chrysler 300 unfired. I
16 transferred that to James Green.

17 Item 14 -- item 14, one sealed envelope
18 containing shot shells described as one Remington
19 12-gauge shotgun shell, ought ought buck, from Chrysler
20 300 unfired. Transferred that to James Green.

21 Item 15 is one sealed envelope containing shot
22 shells described as one Remington 12-gauge shotgun
23 shell, ought ought buck, from Chrysler 300 unfired. I
24 transferred that to James Green.

25 Item 16, a sealed envelope containing shot

1 shells described as one Remington 12-gauge shotgun
2 shell, ought ought buck, from Chrysler 300 unfired.
3 That as well went to James Green.

4 Item 17, one sealed envelope containing shot
5 shells described as one Remington shotgun shell, ought
6 ought buck, from Chrysler 300 unfired.

7 Item 18, one sealed envelope containing shot
8 shells described as one Remington 12-gauge shot shell,
9 ought ought buck, from Chrysler 300 unfired.

10 Q Is there just like 12 unfired shotgun -- you can
11 just maybe summarize and say like the next four are.

12 A Okay. Item 19, item 20, item 21, item 22, item
13 23, item 24, item 25, item 26, 27, 28, all of these are
14 the shot shells from the Chrysler 300.

15 Q And when you say they're from the Chrysler 300,
16 that's because that's what it said on the report,
17 right?

18 A Yes. That's the way it was described when it
19 was brought in.

20 Q So you don't really know where it came from?

21 A I have no idea.

22 Q If the officer had made a mistake and put the
23 Chrysler 300, that's just how it would come in?

24 MR. BIERING: Objection, calls for speculation.

25 THE COURT: Overruled.

1 A It's entered as it's submitted. So if you put
2 Chrysler 300, or a Ford or something. It's whatever
3 description that item was given at the time it was
4 submitted by the officer.

5 Q (By Ms. Williams) Okay.

6 A Okay. Item 29, one sealed envelope containing
7 pellets described as one lead pellet from sun-visor of
8 victim's car on the driver's side. That also went to
9 James Green.

10 There is item 31 is another envelope with lead
11 pellet from the floor near brake pedal of the victim's
12 car on the driver's side. That went to James Green.

13 Item 32 is one sealed envelope containing wads
14 described as wadding from shotgun shell from dashboard
15 of victim's vehicle. That went to James Green.

16 Item 33, one sealed envelope containing pellets
17 described as one plastic container with 5 lead pellets
18 removed from Reginald Porcher.

19 Item 34, one sealed box containing shoes
20 described as pair of brown Timberline boots, 11M,
21 belonging to victim, Reginald Porcher. The boots,
22 after I took custody of the boots, I transferred those
23 boots to forensic technician Verona Gibson.

24 Item 35, one heat-sealed pouch containing swabs
25 described as one swab from victim Toyota Tacoma truck,

1 left door, outside. That evidence was transferred to
2 forensic scientist Katie Urka.

3 Item 36, one heat-sealed pouch containing swabs
4 described as one swab from ground on Jack Primis Road
5 at scene. That also was transferred to forensic
6 scientist Katie Urka.

7 Item 37, one heat-sealed pouch containing swabs
8 described as one swab from gold Nissan Maxima, back
9 passenger car door. That went to Katie Urka as well.

10 And that's it.

11 Q Is that it?

12 A That's it.

13 Q Thank you very much.

14 MS. WILLIAMS: I have no further questions.
15 Just answer any questions the defense might have.

16 THE COURT: Mr. Biering.

17 MR. BIERING: Your Honor, it's very technical
18 testimony. If we could possibly take about a
19 two-minute recess.

20 THE COURT: We can just sit here for two
21 minutes.

22 MR. BIERING: Thank you, Your Honor.

23 THE COURT: Take your time.

24 Feel free, ladies and gentlemen of the jury, to
25 use this opportunity to stretch if you need to. Thank

1 you.

2 Whenever you are ready.

3 MR. BIERING: Thank you, Your Honor.

4 THE COURT: If you need anymore time, just let
5 me know. It's just so difficult to get 14 in and out.
6 Thank you.

7 MR. BIERING: I understand. Thank you, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MR. BIERING:

11 Q Good afternoon, Ms. Crooks.

12 A Good afternoon.

13 Q I want to make sure that I understand your role
14 at SLED.

15 You said you worked in the lab; is that correct?

16 A I work in the evidence room.

17 Q You work in the evidence room?

18 A Uh-hum.

19 Q And are you the first person to receive
20 evidence? Or do you -- are you a link in between the
21 evidence room and the analysts?

22 A I'm the link between the evidence room and the
23 analysts.

24 Q So it would be your testimony that you did not
25 directly receive any evidence from law enforcement,

1 from the Berkeley County or Charleston County law
2 enforcement of this case; is that correct?

3 A That's correct. That would have been submitted
4 to the login technicians.

5 Q And would that be, I think just a moment ago we
6 heard some testimony from Doris Yarbrough. Doris
7 Yarbrough would be one of those login technicians?

8 A Correct.

9 Q And you've had a chance to review your records
10 in preparation for your testimony today; is that
11 correct?

12 A Correct.

13 Q And I even noticed that you noted in the
14 transfer of evidence, you said something was given to
15 another person at 9:25 a.m.?

16 A Uh-hum.

17 Q Is that correct?

18 A That would have been item 1, which is the tube
19 of blood from Reginald Porcher. I took custody of it
20 at 9:25, and transferred it to Sheree Brown at 9:26.

21 The way that I do that is there is a bar code on
22 the evidence that looks a little bit like this bar
23 code. But this is my personal bar code.

24 So when I remove evidence from the storage bin
25 or shelf or whatever in the evidence room, I scan this

1 bar code indicating I am removing that evidence, and
2 then I scan the bar code that is on the actual
3 evidence, and both of those go in the computer. And
4 that, in turn, shows our electronic chain of custody.

5 So each time evidence is transferred from -- you
6 can't transfer evidence from a location to a location,
7 it has to be from a person -- if it needed to be move
8 within the evidence room for some reason, I would
9 transfer it to myself, to show that I had handled that
10 evidence, and then I would transfer it to a different
11 shelf.

12 Q Ms. Crooks, each time that happens, as you
13 referenced, there would be a time-stamp on that
14 transaction; is that correct?

15 A That is correct.

16 Q You all are a very detailed-oriented lab,
17 correct?

18 A We are.

19 MR. BIERING: Thank you.

20 THE COURT: Ms. Williams.

21 REDIRECT EXAMINATION

22 BY MS. WILLIAMS:

23 Q If anything has been compromised or damaged or
24 if the package has been disrupted, would you transfer
25 it along?

1 A No, I would not.

2 MS. WILLIAMS: Thank you. Nothing further.

3 THE COURT: Mr. Biering, recross?

4 MR. BIERING: No, Your Honor.

5 THE COURT: All right.

6 Is this witness excused?

7 MS. WILLIAMS: Please, Your Honor.

8 THE COURT: Any objection?

9 MR. BIERING: No, Your Honor.

10 THE COURT: Ms. Crooks, you are free to remain
11 with us, but you probably want to head back to
12 Columbia. You are free to leave the courthouse. Thank
13 you.

14 Call your next witness.

15 MS. WILLIAMS: Nikki Perry.

16 NIKKI PERRY HUGHES,
17 after having first been sworn to tell the truth, the
18 whole truth and nothing but the truth testified on her
19 oath as follows:

20 DIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q Ms. Perry, who do you work for?

23 A I'm employed with the South Carolina Law
24 Enforcement Division, commonly known as SLED.

25 Q And what do you do for them?

1 A I'm a forensic technician in the evidence
2 control department. We login, package and transfer
3 evidence that is submitted to the lab for forensic
4 analysis.

5 Q And in this case did you handled some items of
6 evidence?

7 A I did.

8 MS. WILLIAMS: I'm going to approach the witness
9 with what has been previously marked as 158, 159 and
10 160.

11 Q (By Ms. Williams) Do you recognize that item?

12 A I do.

13 Q What is that?

14 A According to my chain of custody, this is
15 container D for L10-02124.

16 Q Who did you receive that from, and what was it
17 labeled as?

18 A I received it from Crystal Spence of the
19 Berkeley County Sheriff's Office on February 7th, 2012.
20 According to my chain, it has several items.

21 Item 35, which is described as one swab from
22 victim Toyota Tacoma truck, left door, outside. Item
23 36, described as one swab from ground on Jack Primis
24 Road at scene. Item number 37, which is described as
25 one swab from gold Nissan Maxima, back passenger car

1 door outside.

2 Q Is that it?

3 A That's it.

4 Q And who did you give it to? Or what did you do
5 with it after that?

6 A I would have logged in the evidence. I would
7 have placed the envelope inside of the heat-sealed
8 pouch. I then sealed the heat-sealed pouch in the
9 presence of the submitting officer, Crystal Spence.

10 And I would have her initial and date the seal,
11 and sign and date the front of the bag. I would log in
12 the items in the computer. Place the label on the
13 outside of the packaging. And then I placed it on the
14 DNA intake shelf 65.

15 Q And for those items, do you see that Patricia
16 Crooks got them next?

17 A Yes, ma'am.

18 Q Okay.

19 MS. WILLIAMS: Thank you, nothing further.
20 Please answer any questions the defense has for you.

21 THE COURT: Mr. Biering.

22 MR. BIERING: Nothing.

23 THE COURT: You may step down, you are free to
24 leave the courthouse. But you are welcome to remain
25 with us. Thank you.

1 THE WITNESS: Thank you.

2 THE COURT: Ms. Williams.

3 MS. WILLIAMS: Sheree Brown.

4 SHEREE BROWN,

5 after having first been sworn to tell the truth, the
6 whole truth and nothing but the truth testified on her
7 oath as follows:

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q Ms. Brown, who do you work for?

11 A State of South Carolina Law Enforcement
12 Division, also known as SLED.

13 Q And what do you do for them?

14 A I'm a forensic technician within the DNA
15 Department.

16 Q And did you handle items 1 and 2 in the case
17 that we are here for today?

18 A Yes, I did.

19 Q And what is item 1?

20 A Item 1 is, according to our log, is a blood
21 standard, one tube of blood from Reginald Porcher.

22 Q And did you get that from Patricia Crooks?

23 A Yes.

24 Q And did you give it to Katie Urka?

25 A Eventually it got to her.

1 THE COURT: Okay. Approach.

2 (Whereupon, a discussion was held at the bench
3 off the record.)

4 THE COURT: Call your next witness.

5 MS. WILLIAMS: The State calls Stephanie
6 Stanley.

7 STEPHANIE STANLEY,
8 after having first been sworn to tell the truth, the
9 whole truth and nothing but the truth testified on her
10 oath as follows:

11 DIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q Ms. Stanley, who do you work for?

14 A I'm employed by the South Carolina Law
15 Enforcement Division which is commonly referred to as
16 SLED.

17 Q And what do you do there?

18 A I'm a forensic scientist assigned to the DNA
19 casework department.

20 Q And how long have you been employed at SLED?

21 A Since February of 2005.

22 Q And how long have you worked in the field of
23 forensic science, and specifically DNA?

24 A Since February of 2005.

25 Q And what are your duties there?

1 A I am responsible for analyzing evidence that is
2 submitted to SLED for the purpose of identifying
3 biological stains which are usually bloody, semen and
4 saliva; attempting to develop a DNA profile from those
5 items; and developing a DNA profile of a known
6 standard; and doing a comparison to see if they match;
7 generating a report; and testifying on my findings.

8 Q And what is your training and experience in the
9 field and educational background?

10 A I have a bachelor of science degree from Clemson
11 University in biological sciences. I have completed
12 SLED's in-house training program under the supervision
13 of court-qualified analysts, where I learned evidence
14 handling, serology, DNA analysis, DNA interpretation
15 and statistics as it relates to DNA analysis.

16 I was trained in courtroom testimony. I have
17 attended training at Marshall University in the
18 National Forensic Science Technology Center, as well as
19 Applied Biosystems.

20 Q And have you testify in court before as an
21 expert?

22 A I have.

23 Q How many times would you say?

24 A Approximately 17.

25 Q And when you testified as an expert, was it in

1 general sessions court?

2 A Yes.

3 MS. WILLIAMS: Your Honor, at this time we would
4 ask that Ms. Stanley be qualified as an expert in the
5 field of forensic science, DNA analysis.

6 MR. BIERING: I would object on the basis of the
7 relevance of this witness's testimony.

8 THE COURT: Overruled. She will be qualified as
9 an expert. Note your exception.

10 MR. BIERING: Thank you, Your Honor.

11 THE COURT: Let me ask you this, Mr. Biering.
12 Do you wish to voir dire her on any of her
13 qualifications?

14 MR. BIERING: Not on the issue of
15 qualifications, but the issue of relevance.

16 But, no, Your Honor.

17 THE COURT: All right, thank you.

18 You may continue.

19 MS. WILLIAMS: Thank you.

20 Q (By Ms. Williams) And do you know who Katie
21 Urka is?

22 A I do.

23 Q And what was her position at SLED?

24 A Katie Urka was a fellow forensic scientist
25 assigned to the DNA casework department.

1 Q And does she still work for SLED?

2 A No, she doesn't.

3 MR. BIERING: Objection, relevance.

4 THE COURT: Overruled.

5 Q (By Ms. Williams) Was Katie Urka the analyst in
6 this case?

7 A Yes. She would have performed the analysis on
8 evidence items.

9 Q And did you review all of the reports by Ms.
10 Urka in this case?

11 A I did.

12 MR. BIERING: Objection, relevance.

13 THE COURT: Overruled.

14 Q (By Ms. Williams) And in SLED, what is a peer
15 review?

16 A A part of the DNA casework department, we
17 analyze evidence and standards that are submitted. We
18 then give our work to another peer. One of my
19 co-workers would review everything that I have done on
20 a case.

21 MR. BIERING: Objection, relevance.

22 THE COURT: Overruled.

23 MR. BIERING: Your Honor, could I approach?

24 THE COURT: You may.

25 (Whereupon, a discussion was held at the bench

1 off the record.)

2 THE COURT: Note your continuing objection to
3 this line of questioning.

4 You may continue.

5 MR. BIERING: On the grounds of relevance, Your
6 Honor?

7 THE COURT: On the grounds of relevance, yes.

8 MR. BIERING: Thank you, Your Honor.

9 Q (By Ms. Williams) And you, yourself, have done
10 reports for DNA analysis; is that correct?

11 A Yes, I have.

12 Q And is peer review a requisite before you can
13 even put a report together?

14 A Before a DNA report is issued, it is reviewed
15 twice. There is a technical review, or a peer review.
16 And then a supervisor also does a review, an
17 administrative review on that report.

18 Q And is that done in all of the analysis?

19 A Every DNA case.

20 Q And is that, if you know, is that part of the
21 requirements for SLED to be certified?

22 A That's a part of SLED's requirements to be
23 accredited, as well as the DNA department has separate
24 requirements.

25 Q And there something called a team leader?

1 A There is.

2 Q And are you a team leader?

3 A I'm the acting team leader over the evidence
4 processing and serology units.

5 Q Have you done peer review on Katie Urka's work
6 before?

7 A Yes, I have.

8 Q And did you do any peer review in this case?

9 A I did.

10 Q And after reviewing all of the reports that Ms.
11 Urka did on blood evidence found in the case, is there
12 anything she did that you haven't done before?

13 A No. I have performed the exact same tests as
14 Katie.

15 Q Now what is a chain of evidence?

16 A A chain of evidence, or a chain of custody would
17 log where an evidence item travels.

18 Specifically when it come to SLED, it's logged
19 into a computer system and given a lab number. It
20 usually begins with an L and it's followed by several
21 digits.

22 All evidence for that case is given an evidence
23 item number. And it's logged into the computer system
24 so we can track exactly where that evidence is in the
25 laboratory.

1 Q And if an analyst, such as yourself or Katie
2 Urka, gets a piece of evidence that has been tampered
3 with or opened, or the integrity has been compromised,
4 would you go ahead and test it?

5 A I would not test that piece of evidence. We
6 would attempt to get another standard or call the
7 agency. But that item would not be tested.

8 Q And if Katie Urka had gotten a piece of evidence
9 in this case, if she was following protocol, what would
10 she have done had it been compromised, tampered with in
11 any way?

12 MR. BIERING: Objection, compound question.

13 THE COURT: Overruled as to compound question.
14 You may answer.

15 A She would not have begun analysis.

16 Q (By Mr. Williams) And did you review a report
17 done by Katie Urka dated March 27, 2012?

18 A Yes, I did.

19 Q Do you have a report with you?

20 A I do.

21 Q And is there any indication in that report that
22 any of the evidence she received was tampered with in
23 any way?

24 A No, there were no notes to such in her case file
25 either.

1 Q And what items of evidence did she test,
2 according to the report?

3 A Can I refer to the report?

4 Q Yes.

5 A On the March 27th report it would have been SLED
6 items 35, swabs from a Toyota Tacoma truck; 36, swabs
7 from ground on Jack Primis Road; and 37, swabs from
8 gold Nissan Maxima.

9 Q Does she come to a conclusion as to who that
10 blood belongs to?

11 MR. BIERING: Objection.

12 THE COURT: What is the basis?

13 MR. BIERING: This witness is testifying about
14 something that's not her report.

15 THE COURT: All right. Counsel, approach.

16 (Whereupon, a discussion was held at the bench
17 off the record.)

18 THE COURT: Thank you.

19 Q (By Ms. Williams) You reviewed all of the work
20 that Katie Urka did in this case; is that correct?

21 A Yes, before testifying.

22 Q And without saying what her conclusions were for
23 the March 27th report, what did you specifically review
24 in order to prepare to give an opinion about the work
25 done in that report?

1 A I would have reviewed her report, all submission
2 forms submitted to SLED, her evidence worksheet, all of
3 her supporting documentation for her DNA analysis.

4 I would have reviewed her profiles that were
5 developed, the data that was developed from those
6 profiles, and her statistical analysis.

7 And then in regards to her report, made a review
8 of that as well.

9 Q And did she follow every step according to
10 protocol in the submission sheets, the notes, all of
11 the items that you just described?

12 A I did not see any indication that she would not
13 have upon my review.

14 Q Can you just go step-by-step as to, based on the
15 documentation that you saw, what she did with each
16 piece of evidence, without giving us the conclusion,
17 based on all of the reports that you reviewed.

18 Like, when get a submission sheet, why is that
19 generated? Things like that.

20 A The submission sheet --

21 MR. BIERING: Your Honor, I would object to this
22 line of questioning.

23 I understand the general question, but as it
24 relates to specific questions, it's hearsay.

25 THE COURT: well she is qualified as an expert

1 so she can testify as to what she is relying on to come
2 up with that opinion.

3 Ms. Williams, continue.

4 Note your objection, Mr. Biering.

5 MR. BIERING: Thank you, Your Honor.

6 Q (By Ms. Williams) Just based on what items you
7 reviewed, what steps did Ms. Urka take in order to
8 analyze this evidence? And what tests did she run on
9 it?

10 A She would have made a small cutting from the
11 items and tested those presumptively for blood. If
12 blood was indicated, she would have continued with DNA
13 analysis and attempts to develop a DNA profile.

14 Q And what items, without giving us the result,
15 were compared to the items that you just described; the
16 swabs from the truck, from Jack Primis Road and the
17 Nissan Maxima?

18 A She compared those items to known standards. A
19 blood standard from Reginald Porcher, and buccal swabs
20 from Ron Santa McCray.

21 Q How do you do that?

22 A We attempt to develop DNA profiles from evidence
23 items. We do the same with standards. And then we
24 would make a comparison just to see if the DNA profiles
25 that we are getting are matching.

1 Q Based on your experience and your expert opinion
2 and reviewing all of the work that Ms. Urka did, did
3 she do that properly and did she follow each and every
4 step?

5 A In my opinion, she did.

6 Q And do you agree with the result that she came
7 up with?

8 A Yes, I do.

9 Q And what is that result?

10 MR. BIERING: Objection, foundation, relevance,
11 hearsay.

12 THE COURT: All right. Ms. Williams, please --

13 MR. BIERING: Confrontation clause.

14 THE COURT: First of all, Ms. Williams, if you
15 would indicate, lay the foundation as to what her
16 involvement was as the team leader in this matter.

17 Q (By Ms. Williams) What was your involvement as
18 a team leader in this matter?

19 A As a team leader, nothing, I'm in charge of a
20 different section in the casework department. As a
21 fellow analyst, we are in charge of reviewing each
22 other's work, performing technical reviews, and
23 administrative reviews prior to issuing reports.

24 Q And as someone that does a peer review, as part
25 of a peer review, do you review all of the work that a

1 person does, like you did with Ms. Urka in this case,
2 and come to an opinion as to whether you agree with her
3 finding or not?

4 A Yes. I have to review everything that another
5 analyst does in a case, from the very beginning to the
6 very end. And, excuse me, issuing the report.

7 If I don't agree --

8 MR. BIERING: Your Honor.

9 THE COURT: Hold up.

10 MR. BIERING: My objection is that the witness
11 is being non-responsive to the question.

12 THE COURT: I disagree.

13 You may continue, thank you.

14 A I have to make sure that I agree before I put my
15 signature on this as a technical reviewer.

16 Q And when you do that, is there anything that you
17 would have access to, if you were doing a peer review
18 on this case, this report, is there anything you would
19 have access to that you didn't have access to in
20 preparation for your testimony in this case?

21 A No, there would not have been.

22 Q So you reviewed every single piece of evidence
23 and every report and everything that was done exactly
24 the way peer review was done?

25 A Yes. I would have reviewed all of her

1 supporting documentation for her analysis, any of her
2 conclusions, her data, everything prior to signing the
3 technical review.

4 Q Did you even review more things in preparation
5 for testimony for this case than you would do in a peer
6 review?

7 A Yes, I did.

8 THE COURT: All right, counsel, approach.

9 (Whereupon, a discussion was held at the bench
10 off the record.)

11 THE COURT: Ladies and gentlemen, there is a
12 matter of law that I must take up outside of your
13 presence. Do not begin your deliberations. Do not
14 discuss this case among yourselves.

15 It's an appropriate time for us to break for the
16 evening. I understand we are going to be doing a fire
17 drill in a few minute anyway, so it's appropriate for
18 us to go ahead and break.

19 Please be back in your jury room at 9:15. Ms.
20 Evelyn will give you the reporting instruction as to
21 where you are to report. Please remember all of my
22 admonitions. Please take your notepads with you.
23 Thank you.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: Thank you, be seated.

1 All right, do we need to inquire of this witness
2 before we let her go for the evening, Mr. Biering?

3 MR. BIERING: You mean do I need to?

4 THE COURT: Is there any outside the presence of
5 the jury? Anything that you wish to inquire?

6 You have been objecting to her qualifications
7 and the report. I am just giving you an opportunity to
8 inquire.

9 MR. BIERING: Your Honor, I don't see why I need
10 to do that outside of the presence of the jury. That
11 simply gives her the ability to understand what my
12 questions are going to be.

13 THE COURT: All right. I will need you back
14 here at 9:10, thank you. Please do not discuss your
15 testimony with anyone. Thank you.

16 I apologize for making you make the trip back
17 and forth. Thank you, you may step down.

18 All right. Anything before we break for the
19 evening?

20 MR. ALFARO: Nothing from the State, Your Honor.

21 THE COURT: Mr. Biering?

22 MR. BIERING: Nothing from the defendant at this
23 time, Your Honor.

24 THE COURT: All right. We are at ease. Thank
25 you.

1 (Whereupon, the proceedings in this matter
2 before the Court were adjourned for the evening.)

3 * * * * *

1 (Whereupon, a discussion was held at the bench
2 off the record.)

3 (Whereupon, the jurors enter the courtroom.)

4 THE COURT: Thank you, be seated.

5 Ms. Williams.

6 MS. WILLIAMS: Thank you, Your Honor.

7 STEPHANIE STANLEY,

8 after having previously been sworn to tell the truth,
9 the whole truth and nothing but the truth testified on
10 her oath as follows:

11 BY MS. WILLIAMS:

12 Q Good morning.

13 A Good morning.

14 Q So, where we left off yesterday. You did the
15 peer review for Katie Urka's March 27th report; is that
16 correct?

17 A Yes, I did.

18 Q And did you review her report?

19 A Yes, I did.

20 Q And what items of evidence, very briefly, did
21 she analyze?

22 A SLED item 35, swabs from Toyota Tacoma truck.
23 SLED item 36, swabs from ground on Jack Primis Road.
24 SLED item 37, swabs from the gold Nissan Maxima.

25 Q And what did she compare them to?

1 A She compared those items to a blood standard
2 from Reginald Porcher, and buccal swabs from Ron Santa
3 McCray.

4 Q So basically she's comparing them to the DNA of
5 those two individuals; is that fair to say?

6 MR. BIERING: Your Honor, I want to note for the
7 record my continuing objection as it relates to this
8 witness's testimony.

9 And specifically at this point an objection on
10 the grounds of hearsay. I'd be happy to be heard
11 further on that argument as we relate to it.

12 THE COURT: Overruled. She is testifying as an
13 expert.

14 You may continue.

15 MR. BIERING: Thank you, Your Honor.

16 Q (By Ms. Williams) What is she trying to figure
17 out?

18 When she is comparing these items to the buccal
19 swabs from Ron McCray and the blood from Mr. Porcher,
20 what is she trying to figure out?

21 MR. BIERING: Objection, calls for speculation.

22 THE COURT: Rephrase your question.

23 Q (By Ms. Williams) What is the purpose of
24 comparing?

25 You've done these reports before. What is the

1 purpose of comparing the swabs to the blood standards
2 and the buccal swab?

3 A We compare evidence profiles that we develop to
4 the DNA profiles of known standards. The purpose is to
5 see if they match. Could they have originated from the
6 same individual.

7 Q And was there a presumptive test for blood from
8 all of the swabs you just described?

9 A Yes, there was.

10 Q And was blood indicated?

11 A Blood was indicated on SLED items 35, 36 and 37.

12 Q Those are basically the swabs from the truck,
13 swabs from the car, and the swabs from the road?

14 A Yes, they were.

15 Q And whose DNA was in that blood?

16 A DNA analysis was performed on those items. The
17 DNA profile developed from items 35, 36, and 37 matches
18 the DNA profile of Reginald Porcher.

19 Q And no blood, no DNA from Ron McCray?

20 A These items matched Reginald Porcher.

21 Q Not Ron McCray?

22 A No.

23 MS. WILLIAMS: Thank you. Please answer any
24 questions from the defense.

25 THE COURT: Mr. Biering.

1 MR. BIERING: May it please the Court.

2 THE COURT: Yes.

3 CROSS-EXAMINATION

4 BY MR. BIERING:

5 Q Ms. Stanley, you have been asked a lot of
6 questions about the March 27th report; is that correct?

7 A Yes, I have answered a few.

8 Q Would you agree that's generally been the focus
9 of all of the questions that have been asked of you,
10 specifically as it relates to evidence in this case?

11 A I believe they have all been about March 27th
12 and peer review.

13 Q Isn't it true that you did not perform -- you
14 did not perform any of the DNA analysis for the March
15 27th, 2012 report; isn't that true?

16 A I did not perform DNA analysis in this case.

17 Q You did not perform DNA analysis in this case,
18 that's what you just said?

19 A No. My job was as a peer reviewer.

20 Q Were you present, physically in the lab, with
21 anyone who performed DNA analysis in this case; yes or
22 no?

23 A Was I observing this case?

24 Q No. Were you present and observing the analysis
25 of DNA evidence in this case; yes or no?

1 A No. That's not something that we would do.

2 Q To your knowledge, who was performing DNA
3 analysis in this case?

4 A Katie Urka.

5 Q Where is Katie Urka?

6 A Katie Urka no longer works for SLED.

7 MR. BIERING: Your Honor, I ask the witness be
8 responsive to my questions.

9 THE COURT: Rephrase your question.

10 Q (By Mr. Biering) Where is Katie Urka?

11 A I haven't talked to Katie since she left SLED.
12 Today, I don't know where she is at.

13 Q At the time that she left SLED, do you know
14 where she was transferring to?

15 A I believe she was taking a position in Michigan,
16 but I'm not sure what position.

17 Q Where are you from, Ms. Stanley?

18 A South Carolina.

19 Q Ever travel on an airplane?

20 A Yes.

21 MS. WILLIAMS: Objection, relevance.

22 MR. BIERING: I will withdraw.

23 THE COURT: Thank you.

24 Q (By Mr. Biering) A moment ago you testified, I
25 did not perform DNA analysis in this case.

1 A No, I did not perform DNA analysis.

2 Q And your name again for the record is?

3 A Stephanie Stanley.

4 Q I would ask that you attempt to go back in time
5 -- let's see what the date is, July 2nd, 2012.

6 were you employed with the South Carolina Law
7 Enforcement Division or the State Law Enforcement
8 Division at that time?

9 A Yes, I was.

10 Q And do you know what you did on July 2nd, 2012
11 in commission of your activities or employment with the
12 State Law Enforcement Division?

13 A Not in particular. If there are some things
14 that I signed off on this report, I'd have to refresh
15 my memory.

16 Q Do you --

17 MR. BIERING: Can I approach the witness, Your
18 Honor?

19 THE COURT: You may. You have continuing
20 permission.

21 Q (By Mr. Biering) Take a moment and review that
22 item.

23 Is that you?

24 A Yes. That appears to be a copy of a report that
25 was generated for the evidence processing section.

1 Q And is your name on it?

2 A Yes.

3 Q And is your name on it as the forensic
4 scientist?

5 A Yes.

6 Q And you have been qualified as an expert in this
7 case, correct?

8 A Yes.

9 Q And you testified a moment ago, I did not
10 perform DNA analysis in this case.

11 A Correct.

12 Q And that report, would you agree, is a report of
13 DNA analysis in this case?

14 A No, I disagree. This is a report for the
15 evidence processing section which is a portion of the
16 DNA casework department.

17 There is a statement above my signature that
18 these examinations were conducted by DNA processing
19 technician Verona Gibson, and were reviewed by forensic
20 scientist Stephanie M. Stanley of the DNA casework
21 department.

22 Q Who signed the report?

23 A I did.

24 Q Were you in charge of that?

25 A In charge of?

1 Q It's your report, correct?

2 A Yes, it is my report.

3 Q And a processing technician, Verona Gibson, she
4 is not a forensic scientist, is she?

5 A Verona Gibson is a forensic technician assigned
6 to the evidence processing section of the DNA casework
7 department.

8 Q Did you sign off on the report?

9 A Yes, I did.

10 Q And does it involve evidence in this case?

11 A Yes, it does.

12 Q And you were not present, again, just to make
13 sure I understand, you weren't present during any of
14 Ms. Urka's analysis, correct?

15 A No, I was not.

16 Q And prior to today, there have been no documents
17 presented that would support any peer review of the
18 March 27th report; is that correct?

19 A Our case review sheet would show that I reviewed
20 her documentation.

21 Q And your testimony under oath today is that that
22 was provided previous to today?

23 A It was not asked for.

24 Q I asked if you provided anything before today
25 regarding peer review, and your answer is no; is that

1 correct?

2 A No, I did not provide that.

3 MR. BIERING: Thank you.

4 MS. WILLIAMS: Nothing further, Your Honor.

5 THE COURT: Is this witness excused?

6 MS. WILLIAMS: Please.

7 THE COURT: Any objection, Mr. Biering?

8 MR. BIERING: No, Your Honor.

9 THE COURT: Ms. Stanley, you are excused. You
10 are free to remain with us. Thank you for traveling
11 back down.

12 Call your next witness.

13 MR. ALFARO: Thank you, Your Honor. State calls
14 Bobby Shuler.

15 BOBBY SHULER,
16 after having first been sworn to tell the truth, the
17 whole truth and nothing but the truth testified on her
18 oath as follows:

19 DIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q Good morning.

22 A Good morning, sir.

23 Q Could you tell us where you work?

24 A Berkeley County Sheriff's Office.

25 Q How long have you been with the sheriff's

1 accurate depiction of the entirety of your recorded
2 interview with the defendant?

3 A Yes, sir.

4 MR. ALFARO: Thank you. Please answer any
5 questions Mr. Biering has for you.

6 THE COURT: Mr. Biering.

7 MR. BIERING: No questions.

8 THE COURT: You may step down. Thank you.

9 MR. ALFARO: Your Honor, we'd ask this witness
10 be excused.

11 THE COURT: Any objection to Sgt. Alteri being
12 excused?

13 MR. BIERING: No, Your Honor.

14 THE COURT: All right, thank you.

15 Feel free to remain with us.

16 MS. WILLIAMS: States calls Dr. Erin Presnell.

17 SUSAN ERIN PRESNELL,

18 after having first been sworn to tell the truth, the
19 whole truth and nothing but the truth testified on her
20 oath as follows:

21 THE COURT: Ms. Williams.

22 DIRECT EXAMINATION

23 BY MS. WILLIAMS:

24 Q Dr. Presnell, where do you work?

25 A I'm a forensic pathologist at the Medical

1 University of South Carolina in Charleston.

2 Q And you are a licensed physician?

3 A Yes. I'm a board certified pathologist.

4 Q And I'm assuming that that's your specialty,
5 then, pathology?

6 A Yes.

7 Q And as part of obtaining a specialty in that
8 area of practice; do you have to obtain certain
9 certification?

10 A Yes. As a pathologist -- a quick rundown on the
11 background of education. To be a pathologist, and I'm
12 a forensic pathologist, you get your college degree.
13 Mine was microbiology at Clemson.

14 Then I went to MUSC for medical school, and
15 that's four years. Then after four years you get your
16 MD and you pick your specialty, like pediatrics,
17 surgery, family medicine.

18 I chose pathology, and it was a five-year
19 training program. That's general pathology. And then
20 I chose to do a subspecialty in pathology in forensic
21 pathology. So that was another year.

22 So after that I took the boards to practice
23 medicine in South Carolina. And also I'm board
24 certified as a general pathologist, but also board
25 certified as a forensic pathologist as well.

1 Q And how long have you worked at MUSC?

2 A Like I said, I went there 1989 and I haven't
3 left. I did all my training there. And I was hired on
4 as faculty in 1999.

5 Q And have you had testified as an expert in the
6 field of pathology before?

7 A Yes.

8 Q How many times would you say?

9 A A hundred maybe. An estimate.

10 Q And have you performed autopsy as part of your
11 duties?

12 A Right. Well autopsies are my primary
13 responsibility, yes. And I estimate around maybe
14 2,000.

15 MS. WILLIAMS: Your Honor, at this time we would
16 move to have Dr. Presnell qualified as an expert in the
17 field of pathology.

18 THE COURT: Any objection?

19 MR. BIERING: Objection, I would -- certainly
20 qualified to be a fact witness in the case. The
21 objection is as it relates to her qualifications to be
22 an expert in the case.

23 THE COURT: Do you need to voir dire this
24 witness as to her qualifications?

25 MR. BIERING: No, Your Honor.

1 THE COURT: All right. Counsel, approach.

2 (Whereupon, a discussion was held at the bench
3 off the record.).

4 THE COURT: The witness will be qualified as an
5 expert. Note your objection for the record, Mr.
6 Biering.

7 MR. BIERING: Thank you, Your Honor.

8 THE COURT: You may continue, Ms. Williams.

9 Q (By Ms. Williams) Now in September of 2009,
10 were you working in your present capacity?

11 A Yes, I was.

12 Q And did you perform an autopsy on Reginald
13 Porcher?

14 A Yes. On September 17th, 2009.

15 Q And about how long did the autopsy take?

16 A Well probably several hours to do the first part
17 of the autopsy. With an autopsy, we don't actually all
18 complete it all on one day.

19 We do -- the preliminary part is the external
20 examine, the internal exam, documenting the injuries,
21 drawing fluids, taking samples of tissues. And then we
22 have a preliminary.

23 But then all the materials we sent out for
24 studies still have to come back to us. So we actually
25 don't finish it up, usually it's a month turn-around

1 time.

2 But for Mr. Porcher, I imagine it was probably
3 three or four hours in the autopsy room for the
4 preliminary part.

5 Q And were any items of evidence transferred, any
6 items removed from the body and then transferred back
7 to the law enforcement agency?

8 A Yes. We transferred five pellets from the
9 shotgun, five shotgun pellets that we recovered from
10 the body, as well as some other materials; the right
11 and left fingernail clippings; we give them some blood
12 and some pulled head hair just for like reference
13 samples; and also a CD of the autopsy photos.

14 MS. WILLIAMS: Your Honor, I was going to show
15 defense counsel what we've previously marked at State's
16 150 and 155.

17 May I approach?

18 THE COURT: You may.

19 Q (By Ms. Williams) If you could just look at
20 this. I'm showing what has been marked as 155, and I
21 think there is an envelope in there.

22 Can you just tell me if you see the packaging
23 that the blood would have been packaged in?

24 A I see the autopsy label that has the deceased's
25 name as well as our autopsy number. And my handwriting

1 that says blood.

2 Q And so you would mark that after you take the
3 blood, and then give it to somebody at the Berkeley
4 County Sheriff's Department?

5 A Correct.

6 Q Do you have note as to who you gave it to?

7 A Officer Renee Ramsey.

8 MS. WILLIAMS: Your Honor, at this time we would
9 offer that exhibit into evidence.

10 THE COURT: The Exhibit number?

11 MS. WILLIAMS: I believe it is number 155.

12 THE COURT: Any objection?

13 MR. BIERING: No, Your Honor.

14 THE COURT: State's 155 into evidence without
15 objection.

16 (Whereupon, State's Exhibit No. 155 is admitted
17 into evidence.)

18 Q (By Ms. Williams) And you also removed five
19 pellets from the victim's body?

20 A Correct.

21 Q So after -- you started to explain a little bit
22 of some of the other things that you did. You removed
23 the pellets, you took some blood, you send off.

24 Could you just kind of go through how -- what
25 are the things you examine and what types of testing

1 you do, notes you take, in order to come up with a
2 conclusion as to the cause of death?

3 A It's probably best explained by just going
4 through steps, the steps of an autopsy in general.

5 I kind of made reference to it earlier. But
6 what happens is the coroner, because we are a coroner
7 state, the coroner will refer a case to us and
8 transport the diseased to us at MUSC.

9 The person will arrive. We will photograph the
10 person as to what condition they are when they arrive.
11 Then like if they have their clothes, we will remove
12 the clothing, photograph them.

13 I clean the person up if there is any blood or
14 whatnot that needs to be washed off. Then photograph
15 any injuries. Also we will take diagrams, will make
16 diagrams so that will assist us in creating the autopsy
17 report at the end.

18 Then we go inside to look to see if there is any
19 diseases, if there is any trauma to the inside of the
20 body. Again document all those findings. When we
21 actually remove all the organs and examine those. Some
22 of these, where we find necessary, we take samples that
23 we are going to look at under the microscope.

24 Then we also draw body fluids, like blood, to
25 send off for toxicology looking for drugs and alcohol.

1 so that's the material that will go out. The
2 toxicology text is sent out. And the samples of tissue
3 that we take to look at under the microscope, they go
4 out to the histology lab.

5 And they actually come back to us. We look at
6 them under the microscope later, then the toxicology
7 results come back.

8 And again, once everything is back we will put
9 everything together in the autopsy report ultimately
10 leading to the cause and manner of death.

11 Q And on the toxicology in this case, what was in
12 Mr. Porcher's system?

13 A He had Delta-9-THC, which is the marijuana. He
14 had a marijuana metabolite. Nicotine, which is of
15 course from Tobacco. And nicotine metabolite, which is
16 a breakdown product. And some caffeine.

17 Q And as part of your training and experience, and
18 as part of evaluating a case, do you often determine
19 range, like a range of how far someone would have been
20 from the shooter, had they been shot?

21 A Yes, we attempt to. Maybe I could just walk
22 through the steps or kind of our findings. Then lead
23 into that.

24 Q Let me strike that.

25 Did you come to a conclusion as to the cause of

1 death?

2 A Yes. There was -- he had a shotgun wound to his
3 kind of right shoulder, back area that went into his
4 body and struck his jugular vein.

5 Q And what type of shotgun -- what type of weapon,
6 if you could determine based on your findings, was
7 used? Or what type of bullets or --

8 A It was a shotgun wound.

9 MR. BIERING: Objection, foundation of
10 qualifications for the witness. This witness has been
11 presented as an expert pathology, not in ballistics.

12 THE COURT: Lay the foundation.

13 Q (By Ms. Williams) Did you dig pellets out of
14 this man's body?

15 A Yes, I did.

16 Q And is that -- do you have experience with other
17 kinds of projectiles that are shot into people's
18 bodies?

19 A Yes.

20 Q And are those different from these?

21 MR. BIERING: Objection, same.

22 THE COURT: Counsel, approach.

23 (Whereupon, a discussion was held at the bench
24 off the record.)

25 THE COURT: You may continue.

1 MS. WILLIAMS: Thank you.

2 Q (By Ms. Williams) You've got experience with
3 cases where you've had other patients who had buckshot
4 in their bodies?

5 A Yes.

6 Q And you've had experience with other patients
7 that have had different types of projectiles; is that
8 right?

9 A Yes.

10 Q And do you use that to determine range? Is that
11 part of what you find out in your report? Is there a
12 section in your report dedicated to range?

13 A There is when it's pertinent. And actually we
14 use the appearance of the injuries on the skin to
15 determine range.

16 We use, if there are any projectiles in the
17 body, we use that to help substantiate what type of
18 wound it is.

19 Q And in general, when you are dealing with
20 buckshot, how is that different in terms of determining
21 range than say a single projectile, like a bullet, that
22 just goes into the skin?

23 MR. BIERING: Your Honor, continuing objection
24 as it relates to the foundation and qualification.

25 THE COURT: Yes, sir.

1 You may answer.

2 A First I feel the need to describe the injury on
3 Mr. Porcher. And then kind of go through the -- what
4 happens once the shotgun pellets once they're fired out
5 of a shotgun. If that's okay?

6 Q Sure.

7 A All right.

8 MR. BIERING: Objection, witness is not
9 responsive.

10 THE COURT: Overruled.

11 Q (By Ms. Williams) And you can give a general
12 description, Dr. Presnell. We are going to go through
13 some pictures of injuries eventually.

14 But just to give a general idea of how you
15 determine range.

16 A Just in general for range of fire, and I
17 apologize if I oversimplify it for anyone.

18 But with shotguns the projectiles, the bullets
19 that are coming out of the end of the barrel are
20 actually composed of a bunch of pellets, a bunch of
21 rounded pellets.

22 So when the pellets come out the end of a
23 barrel, of a shotgun when it's fired, they're all
24 together, they're all in a bunch. And if those pellets
25 are -- say this is a target or an individual, those

1 pellets are close enough, if the barrel is close enough
2 when the pellets are fired, they're all going to enter
3 together and make a large hole, all right?

4 If the barrel is further away, then just because
5 of aerodynamics and all, that group of pellets starts
6 to open up, all right? And so the further away, the
7 less nice of a hole it is. It starts getting more
8 irregular, what we call scalloped edges.

9 Even further away you'll have maybe a small hole
10 entrance with a bunch of individual holes of the
11 pellets entering around that.

12 And even further away, all the pellets are so
13 spread apart that they end up entering individually.
14 You have individual holes. So you have a number of
15 holes from one shotgun blast.

16 However, so we will use that determination of
17 the skin. If it's a hole, if it's a ragged hole, if
18 it's a hole with small entrances around it, or if it's
19 all individual entrance wounds, to give us a judgment
20 of, you know, is it close contact, distant, that type
21 of range of fire.

22 However, what will throw off those estimates
23 are two things, actually. First one is if a sawed-off
24 shotgun is used. Because the barrel is not that long,
25 and the pellets can actually start to spread sooner.

1 But even more importantly, if there was an intermediate
2 target.

3 Say this is the target, or the person or target,
4 and there's something in between the target and the
5 shooting, or where the barrel is, or being shot from.
6 When those pellets come out and actually have hit
7 something else before striking their target, that's
8 going to disperse that fall of pellets.

9 And it will disperse them. And it's going to
10 make all the hole patterns in disarray. So that you
11 can get individual hole entrances even if it's a
12 close-range fire, by having had to go through that
13 intermediate target, like say a piece of grass, or a
14 screen door or a wall.

15 Does that make sense? It's going to get that
16 ball, that cluster to disperse a lot quicker.

17 Q So the presence of a barrier, like the back
18 window of a Toyota Tacoma, when using a sawed-off
19 shotgun, is going to prevent you from determining
20 range?

21 A Correct. At autopsy, yes.

22 Q Because it's a barrier between when it was shot
23 and when it hits the victim?

24 A Right. So the pattern it produces doesn't match
25 the pattern that has been tested, yes.

1 Q And for this individual, we are going to go
2 through the individual wounds, but where was he hit and
3 what actually caused his death? Like for lay people.
4 Did he bleed out? What artery or what part of his body
5 was hit that actually caused the death?

6 A Well the shotgun wound is to his back right
7 shoulder and upper arm area, right here. And the
8 pellets that do enter him, the most of it is soft
9 tissue and muscle, and just soft tissue and muscle.

10 But one of the pellets actually strikes the
11 jugular vein in the neck. And that is his actual cause
12 of death.

13 Q And, Dr. Presnell, as part of your report that
14 you prepared, do you also have a diagram in there that
15 shows where all of the entry wounds and exit wounds
16 are?

17 A Yes. We make a diagram. It's more for our
18 reference when we are dictating the autopsy report to
19 make the descriptions accurate.

20 MS. WILLIAMS: Your Honor, with the Court's
21 permission we are going to put this on an easel and
22 have her illustrate to the jury where the entrance and
23 exit wounds are.

24 I have already shown this to Mr. Biering and
25 told him I would try to position it where he can see,

1 but.

2 And can the witness have permission to come off
3 the stand?

4 THE COURT: You may step down. But I'm going to
5 need you to speak loudly, Dr. Presnell.

6 THE WITNESS: Okay.

7 MR. BIERING: Your Honor, I have previously
8 spoken with counsel about repositioning myself to see
9 the exhibit.

10 THE COURT: You may. I don't know where the
11 best place will be, Mr. Biering. It may be over here
12 there is a chair.

13 MR. BIERING: Thank you.

14 Q (By Ms. Williams) Now if you could just
15 explain, we are going to talk a little bit about this
16 later, but is it possible to determine an entrance
17 wound and an exit wound?

18 A Yes.

19 Q So we will discuss how later. But if you could
20 just show the jury, and you can draw on it if you like,
21 and show them where the entrance wounds were on Reggie
22 Porcher, and how many there were, and where the exit
23 wounds were.

24 A Okay. Well, first I just want to point out this
25 is two-dimensional. So sometimes it's kind of

1 difficult to properly represent the location of the
2 injuries, like when they were doing on the side of the
3 shoulder.

4 And the other thing, and I even get confused on
5 this sometimes, is remembering which one is right and
6 left on him. So this is his right side, left side, and
7 the right side on the back side of the man is on the
8 far side.

9 All right. So his entrance shotgun wound is
10 composed of five holes on the back shoulder, and side
11 shoulder. All right. So these enter in.

12 They enter in the shoulder area. Again go
13 through the soft tissue and musculature of the shoulder
14 and the chest and into the neck. We actually have one
15 of the pellets exit the front right shoulder. So in
16 here one comes out here.

17 We actually have another pellet entering the
18 right neck area. Now just to put it out there, these
19 five that are entering, one actually exits the body,
20 four of the pellets remain in the body. This entrance
21 right here may actually be the same pellet that exited
22 right here, and maybe a re-entrance.

23 This pellet right here travels through the
24 airway and over to the muscles of the left neck where
25 we get the fifth pellet. Keep in mind, too, that this

1 may also be a separate pellet. That the one that
2 exited might have went off, and this could actually be
3 a separate pellet from that group of pellets that were
4 shot at him.

5 One other shotgun injury, and it's actually to
6 the bottom -- not the tip of the chin, I can't draw it
7 on this diagram -- but the bottom of the chin right
8 here. It's a long, elongated wound that is consistent
9 with a graze wound.

10 Then one last component of the shotgun wound is
11 actually to his left hand, his middle finger. And a
12 pellet went through the middle part of the middle
13 finger and fractured that bone.

14 And that's the shotgun injuries.

15 Q And when you say it went through the finger,
16 does that mean there is an entrance wound and an exit
17 wound in that finger?

18 A Correct.

19 Q And what other injuries did you note, either
20 previous to this event or that you associate with this
21 event, were on Mr. Porcher?

22 A He has several scrapes, which we call abrasions,
23 that really is where the skin is scraped.

24 He had two scrapes on the left side of the face,
25 so kind of right over the bony area. A scrape under

1 the left eye. A scrape on the left elbow. A scrape to
2 the lateral part of the right knee. And the one other
3 injury, which was a little bit different than an
4 abrasion or a scrape, is what we call a laceration.

5 which a laceration is where the skin is split
6 from some type of blunt trauma. So some blunt object,
7 not a sharp object like a knife or something like that,
8 but a blunt object strikes the skin and causes it to
9 split, that's a laceration.

10 And he has a laceration on the inside part of
11 his eye. The eye skin next to his nose.

12 Q And if he were kicked somewhere in the face
13 area, is it possible that the abrasions that you
14 described on the side of the face could be from a kick?

15 MR. BIERING: Objection, calls for speculation.

16 THE COURT: Overruled.

17 A So the abrasions are pretty non-specific, it's
18 just a scraping of the skin. And actually some of
19 these abrasions are over what we call bony prominence,
20 so like the cheekbone, or the orbital bone here, which
21 are areas that are vulnerable when, say, somebody is
22 stumbling or falling. So pretty non-specific
23 abrasions.

24 The laceration, thought, that is kind of in a
25 recessed area. That is not something that you normally

1 would strike if you were to fall down. So that would
2 imply some delivered blunt trauma. Something delivered
3 blunt trauma to the inside area around the nose.

4 Q (By Ms. Williams) And did you note if Mr.
5 Porcher had any scars or injuries that would indicate a
6 prior trauma not associate with this event?

7 MR. BIERING: Objection, leading.

8 THE COURT: Overruled.

9 A He had a number of scars. A lot of scars. He
10 had he scars or his knees, down the side of his right
11 leg, on the tops of his feet and ankles. So, yes.

12 Q (By Ms. Williams) All right. I'm going to have
13 you step back to the witness chair.

14 Dr. Presnell, I'm going to show you what has
15 been previously been admitted as State's 37 and 38.
16 And State's 38 shows a vehicle that was at the scene.

17 Would it be helpful to talk about the barrier by
18 looking at that picture and describing to the jury
19 about the barrier for range that we just discussed?

20 A Yes.

21 Q So using the trajectory that has been determined
22 by the Berkeley County Sheriff's Office, can you talk
23 about the barrier --

24 MR. BIERING: Objection to the form of the
25 question.

1 THE COURT: Can you let her finish her question?

2 Q (By Ms. Williams) Just looking at that picture,
3 can you please discuss the issue of a barrier
4 obliterating the range.

5 THE COURT: All right, hold on.

6 What is your objection?

7 MR. BIERING: If that is now her new question
8 and she is no longer asking the previous question, I do
9 not have an objection at this time.

10 THE COURT: All right, thank you.

11 You may answer.

12 THE WITNESS: All right, thank you.

13 A So this is a photograph of the back of a pickup
14 truck and you see the shattered window. This to me is
15 consistent with the window actually being an
16 intermediate target.

17 So what we were talking about, anything that
18 would disrupt the grouping of the pellets together and
19 causing them to spread out further, thereby resulting
20 in a pattern of injury that we can't determine range of
21 fire from.

22 Q (By Ms. Williams) And as a part of your duties,
23 do you regularly determine trajectory when you examine?

24 A We determine the path of the bullets or pellets
25 through the body. And keep in mind, when we are doing

1 that an autopsy, the person is laying down flat, and
2 certainly not in necessarily the position that they
3 were in when they were shot. So we say the pathway
4 through the body is what we describe.

5 For shotguns, because there is a number of
6 projectiles, not just a single one, it's kind of a
7 general grouping. It almost has like a billiard-ball
8 effect. Once the pellets go into the body, they can
9 bounce off each other, so you have a general range.
10 But -- or a general trajectory or a general pathway
11 through the body.

12 So for Mr. Porcher, the pathway through his body
13 entering from the right, traveling to his left. And
14 think about this in the way of where we recovered the
15 pellets. We recovered one on the left neck, two in the
16 right neck, one in the shoulder muscle and one in the
17 chest area.

18 So it's coming from his back forward. From his
19 right to his left. And it's going in an upward
20 direction.

21 Q And if you look at State's Exhibit 37, and
22 knowing that that is the vehicle that the victim was in
23 when he was shot, would that help you explain -- 37 is
24 in front of you -- would that help you explain the
25 trajectory if you could look at that picture so that we

1 can publish it?

2 A Yes, this does.

3 MS. WILLIAMS: Can you please put up State's 37.

4 Q (By Ms. Williams) Now I'm going to give you a
5 hypothetical situation. If Mr. Porcher is sitting in
6 front of that steering wheel, like this, is that
7 consistent with where you saw the shot come in, where
8 they came into the body? Is that consistent with that
9 scenario of him sitting in his car?

10 MR. BIERING: Objection, foundation for the
11 hypothetical.

12 THE COURT: Overruled.

13 A Yes. His shotgun wound is consistent with the
14 scenario of him sitting in the driver's seat with the
15 shotgun coming from behind him into his right.

16 Q (By Ms. Williams) And you talked about the
17 wound on his finger.

18 A Yes.

19 Q If he was holding the steering wheel, would that
20 be consistent with the way that, one scenario, of the
21 bullet going through his finger and out the other side,
22 if he was holding on to the steering wheel?

23 A Yes, it would.

24 MS. WILLIAMS: Court's indulgence for just a
25 moment.

1 THE COURT: Take your time.

2 MS. WILLIAMS: Your Honor, I'm going to show
3 defense counsel what has been previously marked but not
4 admitted, but that we have reviewed as State's 60, 61,
5 62, 63, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77,
6 78, 84, 85, and 86.

7 May I approach, Your Honor?

8 THE COURT: You may. You have continuing
9 permission with this witness.

10 MS. WILLIAMS: Thank you.

11 Q (By Ms. Williams) Dr. Presnell, I'm going to
12 have you thumb through this whole pile and tell me if
13 you took those pictures, and if they accurately depict
14 the victim the way he looked the day that you examined
15 him.

16 A Yes, they do.

17 Q And you took them all?

18 A Yes.

19 MS. WILLIAMS: Your Honor, at this time we would
20 ask to move those photos into evidence. Do you want me
21 to repeat all the numbers?

22 THE COURT: Mr. Biering, do you have an
23 objection as to the photos?

24 MR. BIERING: If she could publish the numbers
25 again.

1 MS. WILLIAMS: No problem. It's 60, 61, 62, 63,
2 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 84,
3 85, and 86.

4 THE COURT: 84, 85 and 86; is that correct?

5 MS. WILLIAMS: Yes, Your Honor.

6 MR. BIERING: Can I have just a moment?

7 THE COURT: Take your time, Mr. Biering.

8 MR. BIERING: Your Honor, without objection
9 except for 65 and 69.

10 THE COURT: 65 and 69. All right, if you bring
11 65 and 69.

12 (Whereupon, a discussion was held at the bench
13 off the record.)

14 THE COURT: State's 65 and 69 into evidence over
15 defendant's objection. I will allow you to put that on
16 the record outside the presence of the jury.

17 MR. BIERING: Thank you, Your Honor.

18 THE COURT: 60, 61, 62, 63, 66, 67, 68, 71, 72,
19 73, 74, 75, 76, 77, 78, 84, 85 and 86 into evidence
20 without objection.

21 You may continue or publish as necessary.

22 MS. WILLIAMS: Thank you, Your Honor.

23 (Whereupon, State's Exhibit Nos. 60, 61, 62, 63,
24 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 84,
25 85, and 86 are admitted into evidence.)

1 Q (By Ms. Williams) Okay. So, Dr. Presnell, if
2 you could just explain to the jury, he is laying on his
3 -- like how he is laying and what we are looking at?

4 A So he is on the autopsy table. And typically
5 they're laying on their back. And what we have done is
6 pulled the right arm up. So his left side is down at
7 the bottom of the table, and his shoulder is up on, not
8 the top of the table, but at the top of what we are
9 viewing right now.

10 And we can see those five holes right there.
11 Those are the five shotgun pellet entrances.

12 Q And you talked a little bit about entrance and
13 exit wounds. How do you determine what is an entrance
14 wound and what is an exit wound?

15 A There is like classic findings, and of course
16 there is all the exception. But these are classic
17 entrance wounds. They're rounded. They actually are a
18 defect in the skin.

19 And not only that, which I don't know if you can
20 appreciate here, see how that hole has a pink scrape
21 around it? Kind of a pink area around it? That's
22 called an abrasion border. And what that is is when a
23 bullet enters into skin, it actually scrapes the edges
24 of the skin on the way in.

25 This is -- and actually destroys the skin and

1 makes the actual hole, the defect on the way in. So
2 that's an entrance wound.

3 An exit wound is when the bullet is coming out
4 of skin, it kind of pushes the skin apart and you can
5 actually -- so it's not necessarily a defect, you can
6 actually put it back together and it would fit back
7 together.

8 The other thing is that an exit doesn't
9 typically have that abrasion. So if the bullet pushing
10 it out from the inside, it doesn't ever hit the outside
11 of the skin. So an exit you don't see that abrasion
12 border.

13 So these are five classic entrances.

14 Q And it's kind of difficult to see in this
15 picture, but can you show the jury where the other
16 wound on his neck is, if you can see it?

17 Can you tell? I can bring you the picture if
18 that would help. This?

19 A All right. You really can't see it on the
20 projected image, but the other entrance wound is right
21 here. You can kind of appreciate that it's in the same
22 alignment as the rest of the entrances.

23 Q And you talked a little bit on the diagram about
24 a wound that could be an entrance wound, but it could
25 be a re-entrance wound. Is that that wound, or is

1 there another one?

2 A No, that's that wound, yes. And the hole on the
3 neck.

4 Q And if it was a re-entrance wound, where would
5 it be coming from?

6 A Just one of these entrance wounds here.

7 Q And tell us again how many pellets were found
8 inside Mr. Porcher's body?

9 A There are five pellets. We have five entering.
10 One of these exiting. And then another pellet
11 entering.

12 So from the five entering here, one exits, so we
13 have four pellets there. Then one enters into the
14 neck, and we have that pellet there. So a total of
15 five.

16 Q And State's 84. And what I'm going to go ahead
17 and give you the actual picture. I think it's easier
18 for you to see in there and you can point out to the
19 jury.

20 A I can see. This is an x-ray of the head and
21 neck, kind of the upper chest area as well.

22 What we are trying to view at the time of
23 autopsy is find the pellets so we can retrieve them.
24 But you can see right here there are three pellets that
25 we can see in this x-ray. And those correspond to the

1 one on the left neck, and the two in the right neck
2 that we got out.

3 Q And if you could put up State's 85.

4 A All right. So this we have an x-ray of the
5 shoulder area. So you can see the ribcage here, and
6 that's the right upper arm.

7 These are the two that are in the right neck
8 area. So we saw those on the last x-ray. And there
9 are the two additional ones here, those are fragments.

10 I'm sorry, there are two additional pellets here
11 we recovered, plus a fragment which we did not.

12 Q And 86, please?

13 What part of the body is this? It's hard for me
14 to tell.

15 A Yeah, can we shrink that down? I don't
16 particularly like this one. Can you shrink down one
17 more?

18 What this is is what we call lateral x-ray, it's
19 an x-ray from the side of the body. So his arms are
20 up. This is his face here, his jaw, his teeth right
21 here. His arms are up. And we can see one of the
22 projectiles right there.

23 It's really hard to visualize the others. You're
24 getting an x-ray across the entire body and all that
25 soft tissue. So some of them don't show up that are on

1 the opposite side.

2 Q And if you could put up State's 77.

3 A These are the five pellets that we recovered.
4 That's just a little fragment of material or something
5 stuck to one of the pellets.

6 Q And 75. Is that just one --

7 A That's one of the pellets with the little piece
8 of fragment stuck to it.

9 Q What is that fragment?

10 A I handed it over. It looks like some material
11 maybe.

12 Q Like from clothing?

13 A Perhaps from clothing.

14 MR. BIERING: Objection, calls for speculation.

15 THE COURT: Sustained.

16 Q (By Ms. Williams) Put up the next.

17 A This is kind of another odd coloring of the
18 picture, but this is the left side of his face, and
19 it's showing the two abrasions. There is one there,
20 and the other one is right around here.

21 Q And lastly, State's 69.

22 This is hard to see. But if you could explain
23 to the jury what we are looking at here?

24 A This is his right eye. You can appreciate his
25 eyebrow. And there is the eye, holding the eyelid

1 down, and there is a tear right here.

2 That's the laceration that I was referring to
3 earlier.

4 Q And what makes you think that this tear is not
5 from just hitting the ground, like that it would be
6 force blunt trauma?

7 A Well, it is blunt trauma because of the
8 splitting of the skin.

9 The only thing is that it is in a recessed area
10 of the body. If you fall on something flat, you are
11 just going hit the area that aren't recessed or dip
12 down.

13 So this is, because it's in a dip-down location,
14 that suggests more than not just a terminal fall type
15 injury.

16 Q And is that consistent with being kicked by a
17 boot or a shoe.

18 MR. BIERING: Objection, calls for speculation.

19 THE COURT: Overruled.

20 MR. BIERING: Objection, asked and answered as
21 well.

22 THE COURT: Overruled.

23 A It certainly could have been caused by a boot or
24 a shoe.

25 MS. WILLIAMS: Thank you, Your Honor.

1 Please answer any questions that the defense
2 might have.

3 THE COURT: Mr. Biering.

4 MR. BIERING: Your Honor, can we approach for
5 purposes of scheduling?

6 THE COURT: You may.

7 (Whereupon, a discussion was held at the bench
8 off the record.)

9 CROSS-EXAMINATION.

10 BY MR. BIERING:

11 Q I have to make sure I say the right thing.
12 Good afternoon, Dr. Presnell.

13 A Good afternoon.

14 Q We put up on the board what I believe is No. 77.
15 And again, what are those?

16 A Buckshot pellets.

17 Q That's what you believe they are?

18 A Yes.

19 Q Do you have copy of your report with you?

20 A I do.

21 Q Are each of those individually labeled?

22 A No.

23 Q Can you differentiate between them in any way?

24 A No.

25 Q Can you differentiate where you found each of

1 those items in Mr. Porcher?

2 A No. I hadn't individually labeled them.

3 Q I'm sorry?

4 A No. I did not individually label them.

5 Q You've made some markings on the board there.

6 In your report, do you provide and describe an actual
7 projection from entry to either exit or entry to where
8 they each item you believe came to rest in Mr. Porcher?

9 A Yes. Again, it's a general, we talked about it
10 earlier with it going from his right to his left, from
11 his back forward and up.

12 Q But specifically for each one?

13 A No. The one of the features of shotgun pellets
14 is upon entering the body, they can what they call a
15 billiard-ball like effect, where they actually can
16 bounce off each other.

17 So we don't actually typically discern the
18 specific pathway for each one. It's kind of entering
19 as a group, and the pathways can crisscross and all.
20 So, no, it's a general, an overall general direction.

21 Q Okay. But there is some distance between these
22 entries; is that correct?

23 A There is, yes.

24 Q They didn't come in together, correct?

25 A Correct. Right.

1 Q So is it your testimony that there was, how did
2 you say it, a billiard-ball effect?

3 A The billiard-ball effect. Let's see, they are
4 -- they're still, even though they are not entering all
5 in one hole, and they are separate, you saw two that
6 were almost right on top of each other. They're still
7 in a very grouped, relatively grouped pattern.

8 So, yes, there is no way to exclude that there
9 isn't some crisscross of the pathways while in the
10 body.

11 Q Do you have description of any pathways?

12 A I have a description of the pellets' pathways;
13 as the pellets go through the body, what is being
14 destroyed or disrupt or broken.

15 Q But when you boil it down, you say that there
16 was a disruption of the internal jugular vein; is that
17 correct?

18 A Correct.

19 Q What do you mean by disruption?

20 A That the pellet went through it and broke it
21 apart.

22 Q And how did you determine that?

23 A How did I determine? Because we open the body
24 and we are looking for the traumatic injuries to see
25 what is disrupted, what is apart.

1 And we documented that the jugular, right
2 internal jugular vein was disrupted.

3 Q Within your toxicology report, did you show
4 evidence of any other type of medications or substances
5 in his system?

6 A There was also atropine, which is a
7 recessitative medication. Something that would be used
8 during recessitative attempts.

9 Q Anything else?

10 A I think we talked about it all; the marijuana,
11 nicotine and caffeine.

12 Q What other things did you see that were on his
13 outside of his body?

14 we talked about there being some scars?

15 A Well, you mean, as injuries or to --

16 MS. WILLIAMS: Objection, relevance.

17 THE COURT: You may answer.

18 A I'm not sure if you are referring to injuries or
19 tattoos, or just everything.

20 Q (By Mr. Biering) Let's start with tattoos.

21 MS. WILLIAMS: Objection, relevance.

22 THE COURT: What is the relevance of tattoos?

23 MR. BIERING: Your Honor, she examined the body,
24 I think we should be able to go through it. I want to
25 cross-examine her on the extent of her examination in

1 this case.

2 THE COURT: All right, you all may approach.

3 (Whereupon, a discussion was held at the bench
4 off the record.)

5 THE COURT: Mr. Biering.

6 MR. BIERING: My understanding is that the
7 State's objection is sustained.

8 THE COURT: Is sustained, yes.

9 Q (By Mr. Biering) Did you package those pellets
10 separately?

11 A No, they are not packaged separately. They're
12 packaged together.

13 Q Have you ever been to the scene where Mr.
14 Porcher was shot?

15 A No, I have not.

16 Q Did you actually physically observe or come in
17 the presence with the Tacoma truck that was shown in
18 that picture?

19 A No, I have only seen the picture.

20 Q And when did you see the picture?

21 A Around the time of autopsy, or maybe it was
22 after. I'm not exactly sure. But not -- but back in
23 2009.

24 Q So --

25 A During the time of the process of autopsy.

1 Q Do you have your notes with you?

2 A I have the report, yes.

3 Q The report?

4 And let's be very specific here. Do you have
5 documentation showing when, by way of date, you saw a
6 picture of the truck, yes or no?

7 A No.

8 MR. BIERING: Court's indulgence.

9 THE COURT: Take your time.

10 Q (By Mr. Biering) You said that you've conducted
11 approximately 2,000 autopsies; is that correct?

12 A Yes.

13 Q When did you first begin doing autopsies?

14 A 1995.

15 Q And not all autopsies -- would it be fair to say
16 that not all autopsies are related to a shooting or
17 some alleged criminal activity?

18 A Correct.

19 Q And would it be fair to say also that autopsies
20 are regularly conducted after a person has been in the
21 hospital?

22 A Regularly, as in a percentage? Frequently
23 somebody has been to the hospital and either lived for
24 a while or didn't. And we do an autopsy after that.

25 Or I would say it's just as frequent, if not

1 more, that they're deceased at the scene and don't
2 actually go to the hospital.

3 Q Okay. In this case specifically, would it be
4 fair to say that Mr. Porcher was transported to a
5 hospital?

6 A Yes. Yes, he was.

7 Q Where was he transported to?

8 A I believe East Cooper Regional. I have in my
9 notes from the coroner that it was East Cooper Regional
10 Medical Center.

11 Q And with particularity, can you describe any
12 specific information that you obtained from the records
13 from East Cooper regarding this case?

14 A No. I don't have records from East Cooper. I
15 can just describe their intervention that they took
16 from what -- from the appearance at the autopsy.

17 Q You don't have records?

18 A No.

19 Q Of East Cooper?

20 A No, I do not have records.

21 MR. BIERING: Thank you.

22 THE COURT: Ms. Williams.

23 MS. WILLIAMS: Nothing further, Your Honor.

24 THE COURT: Is this witness excused?

25 MS. WILLIAMS: Please.

1 THE COURT: Any objection, Mr. Biering?

2 MR. BIERING: Objection as it relates to
3 limitation on our examination. But other than those,
4 no.

5 THE COURT: All right. Do you need her to stay
6 for any particular reason?

7 MR. BIERING: No, Your Honor.

8 THE COURT: Dr. Presnell, you are free to go.
9 You are also free to remain with us. Thank you.
10 Call your next witness.

11 MR. ALFARO: Your Honor, at this time the State
12 rests.

13 THE COURT: Ladies and gentlemen, that indicates
14 to the Court that you have heard all of the testimony
15 that will be presented and received into evidence, all
16 the exhibits that will be made part of the record in
17 this case.

18 There are matters of law that I must take up
19 outside of your presence, and it's also a good time for
20 us to break for lunch.

21 Do not begin your deliberations. Do not discuss
22 this case amongst yourselves. Please be back in your
23 jury room at 2:00 p.m.

24 Thank you. Have a wonderful lunch.

25 Please rise for the jury.

1 (Whereupon, the jurors exit the courtroom.)

2 THE COURT: Thank you, be seated.

3 Mr. Biering, I'd like for you to place on the
4 record your objections to State's 65 and 69, which were
5 the two photographs.

6 MR. BIERING: Your Honor, I believe that the
7 photographs had the potential -- I think they were
8 highly prejudicial in their ability to potentially draw
9 emotion from the jury.

10 I think there was one photograph that showed the
11 decedent's eye opening. The allegations in this case
12 are a gunshot wound. And we do not believe that,
13 number one, their potential to prejudice outweighed the
14 relevance that they would really have in this case.

15 We'd ask that certainly they not be admitted.
16 They were admitted already and published to the jury
17 over our objection.

18 THE COURT: And if you would please place on the
19 record your objection, I limited your inquiry of Dr.
20 Presnell regarding tattoos, allow you to place that on
21 the record.

22 MR. BIERING: Your Honor, the State opened the
23 door by asking this witness visually what she saw on
24 Mr. Porcher, over and above the wounds that were
25 related to the allegations of death in this case.

1 Her report clearly provides specific evidence,
2 beyond just the testimony that was elicited as it
3 relates to injuries that were non-related to the
4 allegations in the case. Tattoos, show improved, baby
5 boy with a Bullhead, living legend, hand holding a ball
6 mid-abdomen, multiple scars -- I'm sorry, tattoo of a
7 man on the upper left chest, tattoo of unbreakable,
8 tattoo of the state with the some specific markings
9 upon it, and a no new limit tattoo.

10 I think we should have been able to have free
11 cross-examination of this witness. And we again were
12 limited in our ability to cross-examine the witnesses
13 that the State has presented in this case attempting to
14 prove their case against my client.

15 I think it's a very basic fundamental right we
16 would have to be able to confront and cross-examine the
17 witnesses. We believe that we have been denied that
18 right.

19 THE COURT: All right. Mr. Biering, was there
20 any indication in the report that you had been given
21 that there was any connection to any of these tattoos
22 with the gunshot wound? Or any infection or anything
23 that would have hastened his death?

24 MR. BIERING: Your Honor, it's our position --
25 the answer to that question is no.

1 THE COURT: All right. And I understand your
2 position was that these tattoos were somehow
3 gang-related. But since she was a doctor, there was no
4 indication from either you or the State at the bench
5 conference that anything about this tattoo medically
6 was related to this death.

7 Anything else we need to place on the record
8 other than those two items, Mr. Biering?

9 MR. BIERING: Your Honor, the issue of gang
10 relation --

11 THE COURT: Mr. Biering, you placed it on the
12 record. Anything other than those two items that need
13 to be placed on the record?

14 Those are the notes I made from this morning of
15 the two items that needed to be placed on the record.

16 MR. BIERING: Your Honor, I had a continued
17 objections as it relates to the qualifications as Dr.
18 Presnell regarding the ballistics.

19 I think that that's sufficiently been placed on
20 the record. I made contemporaneous objections as it
21 relates to that.

22 I do have additional information I believe would
23 be appropriate to place on the record as it relates to
24 the issue of tattoos. But certainly, I'm not at the
25 liberty simply to speak without leave from the Court.

1 THE COURT: All right.

2 And anything further? You have gone over --
3 from the State -- you've gone over all your items?

4 MS. WILLIAMS: Just to clarify the record the
5 State's position on 65 and 69 are just that those were
6 the only --

7 THE COURT: They are already admitted. His
8 objection is noted. I don't need any further
9 explanation. They're clear for the record. Thank you.

10 MS. WILLIAMS: What about for the question was
11 actually that she -- did she note any prior injuries,
12 not in any --

13 THE COURT: It's all in the record, Ms.
14 Williams, thank you.

15 All right. I need you just to check to make
16 sure that all of your exhibits have been made -- have
17 been entered that you think have been entered after we
18 break for lunch. I will give you leave to do that
19 since there were so many exhibits.

20 All right, I need to advise your client of his
21 rights, Mr. Biering. Please swear Mr. McCray.

22 THE CLERK: Please raise your right hand.

23 Do you solemnly swear that the testimony you
24 will give the Court in this matter will be the truth,
25 the whole truth and nothing but the truth, so help you

1 God.

2 THE DEFENDANT: I have a question.

3 THE COURT: Mr. McCray, I'm advising you of your
4 rights. But in order for you to address the Court, I
5 need you to be placed under oath.

6 Do you understand that?

7 THE DEFENDANT: Yes. Yes.

8 THE COURT: All right. And did you understand
9 the oath?

10 THE DEFENDANT: Yes, I did.

11 THE COURT: And do you accept the oath at this
12 time?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: All right.

15 Mr. McCray, I'm only going to probably ask you
16 two questions at this time. You can put your hand
17 down. I'm not going to ask you anything unrelated to
18 whether or not you understand your right to testify.

19 Do you understand that.

20 THE DEFENDANT: Yes.

21 THE COURT: All right. We have reached the
22 stage of the trial where you may present your defense.
23 You have the right to claim the protections given to
24 you by the Fifth Amendment to the constitution of the
25 United States. No person shall be compelled in any

1 criminal case to be a witness against himself.

2 This mean that you cannot be required to
3 testify. You do have the right to testify on your own
4 behalf, however, no one can make you testify. This is
5 a personal right, and no one can waive this right
6 except for you.

7 If you decide to testify, you will be subject to
8 the same rules that govern other witnesses. And you
9 may be examined and cross-examined on any relevant
10 issue in this case.

11 In addition, if you have any convictions
12 involving dishonesty or false statement, or for crimes
13 punishable by imprisonment for more than one year, and
14 the Court determines the probative value of admitting
15 this evidence outweighs its prejudicial effect to you,
16 the solicitor will be able to introduce your record to
17 attack your credibility.

18 Mr. Alfaro, do you have any convictions that you
19 believe will be used to attack his credibility?

20 MR. ALFARO: Your Honor, I don't believe there
21 are any that would be used unless the defendant opened
22 the door to those. I don't believe there are any
23 related to dishonesty.

24 There is a 1998, it's called possession of
25 marijuana out of Texas. I guess based on the weight,

1 would be more appropriate to a possession with intent
2 to distribute here.

3 There is an unlawful carrying of pistol from
4 1991, that again would be outside the 10 years unless
5 the door would be opened. Possession of crack cocaine
6 from 1993, similar circumstances.

7 And that would be the extent of the convictions
8 that the State has possession of at this time.

9 THE COURT: Mr. Biering, have you reviewed your
10 client's rap sheet; is that correct?

11 MS. WILLIAMS: Yes, Your Honor, I have.

12 THE COURT: And you've gone over what could
13 potentially be used only if Mr. McCray testifies and in
14 essence opens the doors to those issues?

15 MS. WILLIAMS: Correct, Your Honor.

16 THE COURT: If you decide to testify, this
17 decision on your part must be freely, voluntarily, and
18 intelligently made with the knowledge of the
19 protections given to you by the Fifth Amendment, and
20 the consequences of your decision to testify.

21 If you decide not to testify, I will instruct
22 the jurors that they are to give no consideration to
23 the fact that you did not testify. There is to be
24 absolutely no prejudice to you because you did not
25 testify.

1 It's left entirely up to you. You may talk with
2 your attorney, your friends, your family members, or
3 anyone else. But the final decision is left entirely
4 up to you.

5 Do you understand what I have explained to you?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you have any questions about what
8 I have explained to you?

9 THE DEFENDANT: I don't have any. I have a type
10 of a matter that was handed down to me by Judge Dennis.
11 But I don't know.

12 THE COURT: As far as whether or not to testify
13 and your Fifth Amendment rights?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Mr. McCray, I'm going to let you
16 discuss that matter with Mr. Biering. I just wanted to
17 -- because we are going to break for lunch. So this is
18 going to give you time to consider what I have
19 discussed with you as the consequences and the benefits
20 of testifying, and to give you time to speak with your
21 attorney, or with whomever else you need speak with,
22 concerning this matter.

23 Do you understand?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And if you have any further

1 questions, Mr. Biering may need to approach the Court
2 in the presence of the solicitor perhaps, and
3 articulate to me any concerns that you may have about
4 that.

5 But at this time, I think it's best that you
6 consult with your attorney.

7 Do you understand that, sir?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: All right. So when we come back
10 after lunch I likely will ask you whether or not you
11 have had time to meet with your attorney, and whether
12 or not you are going to testify.

13 All right, thank you. You may have a seat, Mr.
14 McCray.

15 Mr. Biering, do you have witnesses that you
16 anticipate that you will be calling?

17 MR. BIERING: Yes, Your Honor, I do. I had
18 requested from the scheduling standpoint the ability to
19 be able to begin my defense tomorrow morning.

20 The Court suggested at one of the side bars or
21 prior to beginning, that was something the Court was
22 considering doing.

23 From a scheduling standpoint, I'd ask that we be
24 able to do that. I know we are going to have some
25 motions as it relates to some of our anticipated

1 witnesses that need to be handled this afternoon.

2 Certainly --

3 THE COURT: You have motions concerning
4 witnesses?

5 MR. ALFARO: We have the issue -- some of the
6 witnesses on Mr. Biering's witness list, the officers
7 that we have been informed are going to testify about
8 prior interactions and convictions with the victim that
9 we feel would be inadmissible testimony.

10 I don't know if those may need to be proffered
11 before they testify or are called.

12 THE COURT: All right, Mr. Biering, I had jumped
13 ahead by advising your client. Are you making a motion
14 for directed verdict at this time?

15 MR. BIERING: We are. We do make a motion for
16 direct verdict.

17 THE COURT: Let me hear you on that.

18 MR. BIERING: Your Honor, it's simply our
19 position that the state has failed to produce evidence
20 addressing all elements of the crime. And we would ask
21 the Court to enter a directed verdict of not guilty at
22 this time on the sole charged indictment of murder.

23 THE COURT: All right.

24 MR. ALFARO: Your Honor, the testimony that has
25 been presented, as well as the physical evidence,

1 including the defendant's statement, looking at the
2 evidence in the light most favorable to the State, we
3 have met our burden of proof producing any evidence
4 that would allow a jury to convict the defendant of the
5 charge of murder.

6 we feel we have met that burden and the motion
7 should be denied.

8 THE COURT: Mr. Alfaro, the air just went on.
9 Can you speak up?

10 MR. ALFARO: Your Honor, looking at the evidence
11 in the light most favorable to the State, we feel we
12 have met our burden of producing evidence that would
13 allow a jury to reach a reasonable verdict of
14 convicting this defendant, convicting him of murder
15 beyond a reasonable doubt.

16 We feel we have met that burden. We ask that
17 the motion for directed verdict be denied.

18 THE COURT: Any response?

19 MR. BIERING: No, Your Honor. Again we just do
20 not believe they have met the burden. We do not
21 believe that they have presented sufficient evidence on
22 each of the elements of the crime. We'd ask for a
23 directed verdict at this time on the sole charge of
24 murder.

25 THE COURT: Rule 19 of the rules of criminal

1 procedure the Court is concerned with the existence or
2 non-existence of the evidence and not its weight.

3 In considering, I must view the evidence and all
4 reasonable inferences in the light most favorable to
5 the non-moving party. The defendant is charged with
6 murder, which is the killing of any person with malice
7 aforethought.

8 There has been testimony that the victim is
9 deceased. That there was a gunshot. There has been
10 ample testimony, the witnesses that the State has
11 produced have relayed that Ron shot Reggie. The victim
12 was lying on the ground. Help me, Ron shot me, was the
13 statement.

14 And Ms. Coaxum indicated that she heard the
15 defendant say, die, mother-fucker, die. The testimony
16 that has been presented in the light most favorable to
17 the non-moving party, the State, has met its burden.
18 The case will be presented to the jury.

19 I'll note your objection for the record.

20 Mr. Biering, anything further?

21 MR. BIERING: Your Honor, I do think that left
22 unanswered was the Court's ruling on our requested
23 remedy for Felicia Coaxum and Joyce Wright.

24 THE COURT: All right. And does the State take
25 any position as to that?

1 MS. WILLIAMS: We object, Your Honor. The only
2 question, I think once the conviction came out, the
3 only question he can ask, once they admit to it, I
4 don't even think he gets to ask any questions. The
5 fact that would ever open up anything to
6 cross-examination, if it had been exposed in the
7 original testimony, should be the same analysis we use
8 now.

9 I don't know of anything about having a breach
10 of trust, or an 11-year-old fraudulent check that would
11 prompt more questions. Mr. Biering has exhaustingly
12 cross-examined all of those witnesses.

13 And we would object to them coming back. We
14 think it would be confusing for the jury. And we ask
15 that that not be allowed.

16 THE COURT: Anything further, Mr. Biering?

17 MR. BIERING: The jury is not going to be
18 confused at all by witnesses coming back on the witness
19 stand. They are all lay individuals here. They're not
20 going to be surprised at all to see any witness back.

21 THE COURT: That is not a concern of the Court,
22 but thank you for pointing that out.

23 Once the information was presented to the -- to
24 Mr. Biering and brought to the Court's attention we
25 recalled -- I allowed the State to recall and allowed

1 Mr. Biering to cross-examine on the sole issue of the
2 conviction and the rap sheet that was presented.

3 Based upon my review of the evidence and the
4 rules, as well as current case law, I am denying your
5 motion to recall them for extended cross-examination.
6 Note your exception for the record, thank you.

7 MR. BIERING: Thank you, Your Honor.

8 THE COURT: Anything further?

9 MR. BIERING: Just the scheduling issue.

10 THE COURT: All right. Let's -- we will be back
11 at 2:00. Just approach for scheduling.

12 MR. BIERING: Thank you, Judge.

13 THE COURT: Thank you.

14 (Whereupon, a discussion was held at the bench
15 off the record.)

16 (Whereupon, a recess was taken.)

17 THE COURT: Mr. Biering, are you ready?

18 MR. BIERING: Just let me get my stuff out of my
19 bag, Your Honor. I was meeting with a witness.

20 Your Honor, I have one witness that was here
21 right before we broke for lunch who is not back. I
22 don't have any reason to anticipate he will not be
23 here.

24 If I could have a moment for him to arrive, I
25 would appreciate it.

The following five (5) pages in the Record on Appeal are excerpts from the testimony of Joseph Williams and Ernest Bacon

Joseph Williams Direct Examination by Mr. Biering.....	193 & 194
Joseph Williams Cross Examination by Mr. Alfaro.....	195& 196
Ernest Bacon Direct Examination by Biering.....	197

1 to his vehicle, that's what when he was scuffling for
2 something, from what I saw.

3 Then once I saw what it was, it was a weapon
4 coming out of his hand. And then he turned it back
5 toward --

6 Q Out of his hand, you mean Reginald Porcher's
7 hand?

8 A Yes.

9 Q What happened then?

10 A Then I seen Reginald grab the weapon and point
11 it back towards Mr. McCray. And that's when Mr. McCray
12 let off his shot.

13 Q Did the police question you that day?

14 A No, sir.

15 Q Mr. Williams, prior to September 16th of 2009,
16 did you have occasion to be -- first, let me back up.
17 The area where Reggie and Ron were at that day, they
18 call that the tree, or they call that the hill. What
19 do they call that area?

20 A The area is known as, you know, they call it the
21 tree, a nickname. That's like a little spot where
22 everybody would occasionally hang out, something like
23 that.

24 Q You said they'd hang out?

25 A hang out, yes.

1 Q Did you have occasion to, prior to September
2 16th of 2009, be in close proximity of the tree?

3 A Excuse me?

4 Q Just before that, on other occasions, had you
5 had an opportunity to be at the tree?

6 A Every now and then I would stop, say what's up
7 to the guys, on my way in and out mostly.

8 Q What would go on under the tree on the occasions
9 where you were there?

10 A Like sometimes they be chilling the tree, just
11 chilling out, taking in the shade. Every now and then,
12 you know, drinking. Might be smoking.

13 Q Smoking, smoking what?

14 A Marijuana, cigarettes, various.

15 Q I'm sorry, what?

16 A Various.

17 Q Various things. You got any -- have you ever
18 been convicted of a crime, Mr. Williams?

19 A No.

20 Q So, Mr. Williams, was that a place, while you
21 had seen, you had occasion to see that on, is that
22 someplace that you regularly hung out?

23 A No.

24 Q Why wouldn't you hang out there, Mr. Williams?

25 A Wasn't my cup of tea.

1 time.

2 Q Were you on your end, or had you gone past
3 Underlie?

4 A No, I was my end south coming back north.

5 Q So you hadn't gotten to Underlie yet?

6 A Not all the way. I was still approaching.

7 Q You were 30 yards away?

8 A 30 yards, approaching.

9 Q And you see Ron McCray with a shotgun?

10 A As I was approaching he yelled out. He yelled
11 out and at first I didn't know what was going on, you
12 know. Then I seen both individuals scattered. Then I
13 paused for a moment. Then I continued to walk and
14 that's when I saw Mr. McCray.

15 Q So you are 30 yards up the road on Jack Primis.
16 Where are they standing?

17 A Excuse me?

18 Q Where is the victim and the defendant, where are
19 they standing?

20 A They was in the driveway, where the driveway
21 was.

22 Q Are you familiar with that? You said you're
23 familiar with the tree?

24 A Yes.

25 Q Where they up near the tree?

1 A Close to it. Wasn't right up on it, I would
2 have to say.

3 Q So what kind of gun did the victim supposedly
4 have?

5 A As far as?

6 Q You said you saw a gun, what did you see?

7 A I saw a shotgun.

8 Q The victim had a shotgun?

9 A The victim? No. He had a handgun.

10 Q What color was it?

11 A I couldn't grab the color.

12 Q Do you know the difference between a
13 semiautomatic and a revolver?

14 A If I would see it up close, yeah.

15 Q Which one was it?

16 A Couldn't tell you. I know it was a handgun he
17 pulled out.

18 Q You don't know what color it is. You don't know
19 what kind of gun it is. But you know it's a gun?

20 A Yes.

21 Q 30 yards away, you don't know what color it is?

22 A I was 30 yards and approaching. By the time the
23 incident actually took place, I was closer. I was
24 still approaching.

25 Q So you see two people with guns?

1 Q Can you tell me who you saw at the tree area?

2 A The whole community.

3 Q I'm sorry?

4 A The whole community.

5 Q Anybody specifically that you would --

6 A why so specific?

7 Q Let me ask you this. Did you see Sleepy?

8 A Did I see Sleepy?

9 Q Yes.

10 A No, he was gone.

11 Q He was gone?

12 A Gone.

13 Q Do you have reason to believe that he was there
14 before you got there?

15 A Yes.

16 Q And why do you believe he was there?

17 A Because he was at the house.

18 Q I'm sorry?

19 A He was at the house. He was at Ron's house.

20 Q Did Sleepy have anything with him?

21 MR. ALFARO: Objection.

22 THE COURT: What's the basis?

23 MR. ALFARO: Calls for speculation. He says he
24 didn't see him. He can't testify as to what he had
25 with him if he didn't see him.

1 MR. BIERING: Your Honor, can we approach?

2 THE COURT: Ladies and gentlemen, we are going
3 to take a short break. Do not begin your
4 deliberations. Do not discuss this case amongst
5 yourselves.

6 Please rise for the jury.

7 (Whereupon, the jurors exit the courtroom.)

8 THE COURT: Thank you, be seated.

9 MR. BIERING: Your Honor, I candidly anticipated
10 Mr. Bacon's testimony to go a bit longer than it did.
11 And I possibly erroneously I understood our timeframe
12 for the afternoon to be 3:30.

13 I thought we were going -- there would be a
14 motion argued as well as it relates to some of our
15 others witnesses. I would ask that we be able to be in
16 recess until tomorrow morning with the presentation of
17 the balance of the defense.

18 THE COURT: Mr. Biering, how many more witnesses
19 do you have to call?

20 MR. BIERING: Your Honor, if we look at the
21 potential witness list, the first person -- everyone
22 below Mazzell would be very brief. I'm talking a few
23 moments at best.

24 THE COURT: So are you indicating Currie,
25 Brabam, Jackson, Geiger?

1 MR. BIERING: Would be very brief.

2 THE COURT: And then Graham, Pridgen, and
3 Kenealy?

4 MR. BIERING: Graham, Pridgen and Kenealy would
5 also be brief.

6 As it relates to the other witnesses, Your
7 Honor, I do not anticipate having --

8 THE COURT: Can't we put Currie on? He can be
9 here quickly. Can't we put Currie on? He's just right
10 outside the door.

11 MR. BIERING: We can, Your Honor, but --

12 THE COURT: I said 3:33, Mr. Biering. We have
13 got 15 minutes. Can we not put Currie on?

14 MR. BIERING: Sure. I think he is going to open
15 up a can of worms because that really then goes into
16 the other issue about the --

17 THE COURT: Let's address the issue.

18 MR. BIERING: Your Honor, I have got witnesses
19 that I intend to present. So I don't think I
20 necessarily have to -- I don't have any motion before
21 the court. I just would like --

22 MS. WILLIAMS: It's our motion in limine, Your
23 Honor. And I think that the State would rest on our
24 argument that introducing evidence of each and every
25 conviction or every time that Reginald Porcher came

1 into contact with law enforcement is not admissible,
2 it's not relevant. It's just --

3 THE COURT: Is that what you are intending to do
4 with Lt. Currie.

5 MR. BIERING: My intend with Lt. Currie is to
6 discuss testimony regarding Mr. Porcher's actions,
7 which did result in a conviction, for throwing bodily
8 fluids on a correctional officer and assaulting a
9 correctional officer.

10 THE COURT: And when was that?

11 MR. BIERING: That was in 2007, Your Honor.

12 THE COURT: And how does that relate to this
13 incident?

14 MR. BIERING: Your Honor, the State wants to
15 look solely at the issue of 404, character evidence.
16 And certainly as we look at rule 404(a)(2) that the
17 notes to the rule suggest is a re-statement of the
18 state of the law in South Carolina, referencing back
19 State versus Boyd and the cases that follow that case.

20 I think that's a component of it, but I don't
21 think that's the only issue. I think it also has to be
22 looked at in light of Rule 406. In Rule 406, habit,
23 routine and practice. Evidence of the habit of a
24 person, or the routine practice of an organization,
25 whether corroborated or not, regardless of the presence

1 of eyewitnesses, is relevant to prove the conduct of a
2 person or organization on a particular occasion was in
3 conformity with a habit or routine practice.

4 And we have got multiple -- first let me say
5 this, let me take one thing off the table. There was a
6 suggestion that I would attempt to bring in every --

7 THE COURT: Let's do it this way. Let's bring
8 in Lt. Currie and find out, outside the presence of the
9 jury, what he is going to say.

10 Let's bring him in so we are not speculating as
11 to what we are going to inquire.

12 BARRY CURRIE,
13 after having first been sworn to tell the truth, the
14 whole truth and nothing but the truth testified on his
15 oath as follows:

16 THE COURT: Mr. Biering.

17 MR. BIERING: May it please the Court.

18 DIRECT EXAMINATION

19 BY MR. BIERING:

20 Q Mr. Currie, I'm sorry, your rank again? I'm
21 sorry.

22 A Lieutenant.

23 Q Lieutenant, I'm horrible about remembering
24 ranks. Lt. Currie, how long have you been with
25 Berkeley County?

1 A I was first employed in 1988.

2 Q And have you been employed with them
3 consistently since that time?

4 A I left for about two years and came back.

5 Q Where did you go in between that two years?

6 A I left law enforcement. I was a truck driver
7 for two years and then I came back.

8 Q And in 2007 were you employed with Berkeley
9 County?

10 A I was.

11 Q And specifically, were you assigned to the jail?

12 A I was.

13 Q And what was your capacity and involvement there
14 in the Hill-Finkley Detention Center?

15 A I was the captain or director of the detention
16 center.

17 Q And in September of 2007, first back it up
18 first.

19 MR. BIERING: May I approach the witness, Your
20 Honor?

21 THE COURT: You may, you have permission.

22 Q (By Mr. Biering) In September of 2007, you had
23 supervisory capacity in the jail; is that correct?

24 A Correct.

25 Q What was your role there again?

1 A I was the captain or director of the detention
2 center.

3 Q And if an officer was assaulted within the
4 correctional center, is that something that -- or one
5 of the correctional officers -- is that something that
6 you would be involved with?

7 A I would probably know about it, yes.

8 Q And you have been subpoenaed to be here today;
9 is that correct?

10 A I have.

11 Q And have you had an opportunity to review any
12 records relating to Reginald Porcher?

13 A I have.

14 Q And were you aware at the time, contemporaneous
15 to September of 2007, of an incident with Reginald
16 Porcher and your correctional officers?

17 A I don't remember exact dates but, yes, I
18 remember having problems with him.

19 Q And after having an opportunity to review the
20 incident reports relating to those events, has that
21 refreshed your recollection?

22 A Yes.

23 Q And can you tell us what Reginald Porcher did to
24 your correctional officers?

25 A He, in this case here, he, from his cell, he

1 threw a cup of urine on two officers.

2 Q And to your knowledge, was he convicted as a
3 result of his actions?

4 A To my recollection, yes. I think he received
5 six months.

6 Q Now you have been with Berkeley County Sheriff's
7 Department since 1988; is that correct?

8 A Correct.

9 Q And do you recall when the agency began doing
10 bloodborne pathogen training?

11 A To my best recollection would have been the
12 early '90s.

13 Q And in the training as it relates to bloodborne
14 pathogens, do they also discuss contact with other
15 bodily fluids, and other body components?

16 A They do.

17 Q And you are in a supervisory role at that point.
18 What are some of the concerns -- you have been trained
19 on this. How many times do you think you have gone
20 through bloodborne pathogen training?

21 A A bunch.

22 Q Have you had occasion to give additional
23 training to your correctional officers?

24 A They would receive annual training. It's
25 something that we have to do every year as required by

1 the county.

2 Q You had to follow up and make sure that was
3 completed; is that correct?

4 A Correct.

5 Q And what are some of the concerns with
6 bloodborne pathogens and contact with human products?

7 A Well, being -- not knowing, catching diseases or
8 being infected with any type of deadly, or just any
9 type of disease.

10 Q So you take the being thrown waste products on
11 you very seriously; is that correct?

12 A Oh, yes, sir.

13 Q And is it possible for waste products to enter
14 the body through mouth, eyes, nose? Is it possible for
15 that to occur?

16 MR. ALFARO: Your Honor, I'm not sure honestly
17 if we can object during proffers, but it's
18 objectionable as far as relevance, it's objectionable
19 as far as outside the scope.

20 THE COURT: Mr. Biering, I think we are getting
21 far afield. So if you can bring it back in. Thank
22 you.

23 Q (By Mr. Biering) You said you thought it could
24 be deadly to be in contact with bodily fluids?

25 A Possibly, yes.

1 MR. BIERING: Thank you.

2 THE COURT: Do you have any inquiries to Lt.
3 Currie?

4 MR. ALFARO: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. ALFARO:

7 Q Lt. Currie, did you tell Ron McCray about this
8 incident?

9 A Did I tell him about it?

10 Q Did Ron McCray know about this?

11 MR. BIERING: Objection, calls for speculation.

12 THE COURT: Overruled.

13 Q (By Mr. Alfaro) Lt. Currie, did you tell Ron
14 McCray about this specific incident?

15 A No, sir.

16 MR. ALFARO: Thank you.

17 THE COURT: You may step down.

18 I'm sorry. Do you have any questions based upon
19 the cross-examination?

20 REDIRECT EXAMINATION

21 BY MR. BIERING:

22 Q Prior to September 16th, 2009, did you have any
23 contact with Ron McCray?

24 A I've never had any contact with him that I know
25 of.

1 MR. BIERING: Okay, thank you.

2 THE COURT: You may step down. Thank you.

3 Do not leave until you are told to leave. Thank
4 you.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: That's the testimony that you
7 anticipate from Lt. Currie; is that correct?

8 MR. BIERING: Yes, Your Honor, it is.

9 THE COURT: And again tell me how it comes in.

10 MR. BIERING: Well, Your Honor, I think that
11 quite candidly I would be calling my witnesses out of
12 order. But I think it's going to come in pursuant to
13 Rule 406, habit, routine and practice.

14 And I also, which is going to require, Your
15 Honor, multiple witnesses to develop a habit or
16 routine. And beyond that, I think that if we go to the
17 case of --

18 THE COURT: All right, Mr. Biering, maybe I'm
19 missing the point because you haven't called all your
20 witnesses. But wouldn't, even assuming that you could
21 establish that that was a habit or routine, how is the
22 scene where the shooting occurred a jail cell, and how
23 is Mr. McCray a law enforcement officer, corrections
24 officer?

25 MR. BIERING: Doesn't have to be an issue, our

1 position is it doesn't have to be an issue about a
2 correctional officer, it has to be -- the issue of
3 reckless disregard for life.

4 And what we have are multiple witnesses that we
5 believe present evidence of Reginald Porcher's reckless
6 disregard for life that go to the issue of
7 self-defense.

8 THE COURT: All right. Mr. Biering, in order
9 for that to be admissible, you are going to have to
10 show that, first of all, either the defendant knew,
11 right? And there was, based upon this witness's
12 testimony, there was no indication that that witness
13 told Mr. McCray that, or that they were directed
14 against the defendant; two years prior is not so
15 closely connected to a point in time or occasion as to
16 indicate state of the mind of the victim; or there was
17 any indication of great bodily harm as identified under
18 the statute that would put Mr. McCray under as to this
19 witness.

20 MS. WILLIAMS: Your Honor, just for
21 clarification purposes, it was five years before. Oh,
22 I'm sorry, Your Honor, you're right. It was two years
23 before.

24 MR. BIERING: Your Honor, I think that there are
25 two things. One, again, I think it has to be looked at

1 -- and I agree as it relates to the issue of knowledge.
2 I think that's a key component. That's why I said I
3 think that I potentially have my witnesses out of
4 order.

5 And it's a scheduling issue that, again, I
6 apologize for my understanding of what --

7 THE COURT: Let me ask you this. Who do you
8 need? I can have them all here this afternoon. You
9 need Brabam, Jackson and Geiger? Is that right?

10 MR. BIERING: Yes, Your Honor.

11 THE COURT: All right.

12 MR. BIERING: But, Your Honor, again I think we
13 would only be proffering that testimony at this point.
14 That's my understanding. I think quite candidly I have
15 to put my client up first before I'm going to be able
16 to put these other people up.

17 THE COURT: Well wouldn't you want to know, Mr.
18 Biering, if their testimony is going to be admissible
19 before you put your client up?

20 Or are you -- you are not ready to put your
21 client up is what you are telling me?

22 MR. BIERING: Your Honor, I have made it clear
23 through the progress of this scheduling that I would
24 ask you begin the defense case Thursday morning. It
25 will go quickly.

1 THE COURT: Yes or no.

2 MR. BIERING: No, Your Honor, I'm not prepared
3 to put my client up at this time.

4 THE COURT: Okay, thank you. Let's bring the
5 jury in.

6 MS. WILLIAMS: Your Honor, I want to put
7 something on the record real quick. Our position is
8 still that even if Ron McCray that Reginald Procher
9 threw urine on someone, it has nothing to do --

10 THE COURT: I understand. I understand your
11 argument.

12 MR. BIERING: I just don't want the issue to be
13 reframed just because --

14 THE COURT: It's not.

15 MS. WILLIAMS: Okay. Just want to make sure the
16 record is clear.

17 (Whereupon, the jurors enter the courtroom.)

18 THE COURT: Ladies and gentlemen, we have
19 reached an appropriate time, some people consider this
20 a very important holiday. So we are going to go ahead
21 and break a little early this afternoon so that you can
22 make your holiday arrangements.

23 Please remember all of my admonitions. Do not
24 begin your deliberations. Do not discuss this case.
25 Do not read, watch, listen to any news accounts

1 regarding this case should there be any.

2 Please be back in the jury room at 9:15. Thank
3 you. You are excused for the evening. Thank you.

4 (Whereupon, the jurors exit the courtroom.)

5 THE COURT: You all may be seated. We are at
6 ease.

7 Mr. Biering, I need to see you all in chambers
8 for scheduling.

9 MR. BIERING: Thank you.

10 THE COURT: We are at ease.

11 (Whereupon, a recess was taken.)

12 THE COURT: Mr. Biering, I understand Lt.
13 Jackson is on his way. Lt. Brabham is on his way. And
14 they're attempting to contact Sgt. Geiger.

15 MR. BIERING: Your Honor, I'm prepared whenever
16 they arrive.

17 THE COURT: So Lt. Jackson I think should be
18 the first one. So if you will just let us know when he
19 is here.

20 But we can address some other issues if you have
21 some issues regarding the records custodian; is that
22 correct?

23 MR. BIERING: Yes, Your Honor, I do.

24 THE COURT: So you plan to call Nadine Pridgen
25 and Janice Kenealy from the Department of Corrections;

1 is that correct?

2 MR. BIERING: Yes, Your Honor, I do.

3 THE COURT: And --

4 MR. BIERING: And, Your Honor, we had issued, or
5 had issued a subpoena in this case. And the return was
6 provided from that subpoena. The subpoena was for the
7 records custodian for the Department of Corrections for
8 both the medical and their disciplinary side.

9 We have on standby, and prepared to be here
10 tomorrow morning, the two records custodian that Your
11 Honor just mentioned, Nadine Pridgen and Janice
12 Kenealy.

13 It is my understanding that the Court would
14 desire that we proffer all of the testimony that we
15 would be eliciting from those witnesses.

16 THE COURT: Right.

17 MR. BIERING: It is my understanding that the
18 State --

19 THE COURT: Tell, Mr. Biering, when those
20 records, the dates of those records?

21 MR. BIERING: The date on the cover sheet, the
22 return, October 15th, 2012.

23 THE COURT: You mean -- I'm sorry, when was the
24 victim in custody? That's what I meant, I'm sorry.

25 MR. BIERING: Records span from early '09 to

1 back into 2008 as it would relate to the medical.

2 I do believe, Your Honor -- I'm sorry to be
3 speaking from my seat. Actually they span from 2009
4 back through 2002, the medical component.

5 The disciplinary component spans I believe to be
6 a full record, Department of Corrections record, span
7 from 2009, January of 2009 back to February of -- I'm
8 sorry, back to September of 2002.

9 THE COURT: All right. Is it one packet or two.

10 MR. BIERING: It's two packets. They came
11 separate because they're medical and disciplinary.

12 THE COURT: Okay, if you will mark the medical
13 as Defendant's 1, and the disciplinary as Defendant's 2
14 for purposes of the record.

15 MR. BIERING: It is my understanding that
16 authenticity is not challenged.

17 THE COURT: Mr. Alfaro, let me hear from you.
18 Do you object to the testimony of, or the admission of
19 these two documents?

20 MR. ALFARO: We don't object to the use of the
21 records for the very limited purpose of the motion in
22 limine as an attempt to proffer what the expected
23 testimony would be.

24 We would like to have copied those. I don't
25 believe we have those.

1 MR. BIERING: I can e-mail those to him in just
2 a moment, it's not a problem, from my desk.

3 THE COURT: Let the court reporter mark them.

4 MR. BIERING: Your Honor, if I'm following
5 correctly, the medical would be Defendant's 1 for
6 purposes of the proffer, and the disciplinary would be
7 Defendant's 2 for purposes of the proffer.

8 (Whereupon, Defendant's Exhibit Nos. 1 and 2 are
9 marked for identification.)

10 THE COURT: And Lt. Jackson is here so, counsel,
11 if your investigator can just make a copy of the
12 record.

13 Cpt. Ollic, you are on the witness list and I
14 don't know if they may call you back.

15 Any objection to Cpt. Ollic remaining in the
16 courtroom?

17 MR. BIERING: I don't have any objection.

18 THE COURT: Any objection?

19 MR. ALFARO: No, Your Honor.

20 THE COURT: Lt. Jackson is here. Let's go ahead
21 and call him in.

22 MR. BIERING: Your Honor, if it would be -- I
23 have got a copy I can send them by e-mail.

24 THE COURT: What would you prefer, Mr. Alfaro?

25 MR. ALFARO: If we can copy them, I can look at

1 them while we are doing these other witnesses.

2 THE COURT: Okay, thank you.

3 FRANK JACKSON,

4 after having first been sworn to tell the truth, the
5 whole truth and nothing but the truth testified on his
6 oath as follows:

7 DIRECT EXAMINATION

8 BY MR. BIERING:

9 Q Lt. Jackson, how long have you been employed
10 with the Berkeley County Sheriff's Department?

11 A Approximately 14 years.

12 Q And prior to being employed with the Berkeley
13 County Sheriff's Department, what did you do?

14 A I was a combination deputy sheriff and captain
15 with the Florida Department of Corrections.

16 Q Are you from Florida?

17 A No, originally from New York.

18 Q Did you ever work in law enforcement in New
19 York?

20 A No, sir. Well I did as a civil air, civil air
21 patrol, civil defense.

22 Q Lt. Jackson were you employed with Berkeley
23 County Sheriff's Department in 2002?

24 A Yes, I was.

25 Q And at that point you were in the detective

1 division; is that correct?

2 A That's correct.

3 Q What is your current capacity?

4 A Right now I'm the accreditation manager at
5 homeland security officer.

6 Q Back in -- let's get right to the heart of
7 things. Back in 2002, January of 2002, did you have
8 occasion to be involved with an investigation for a
9 burglary, a safecracking incident?

10 A Yes, I did.

11 Q And did that investigation involve Reginald
12 Porcher?

13 A Yes, it did.

14 Q And can you tell us what happened for you to be
15 involved in any type of investigation? What was the
16 nature of the event?

17 A The investigation stemmed from the taking of an
18 ATM machine from a convenience store on Daniel Island
19 area.

20 And the subjects, along with two other subjects,
21 had taken the ATM machine out of the store. And they
22 were coming back into the area of Daniel Island. They
23 flipped the vehicle, and they were thrown from the
24 vehicle, and things of that such; ejected from the
25 vehicle.

1 Q And was Mr. Porcher injured in that incident?

2 A Yes, sir, I believe he was.

3 Q Were his injuries severe?

4 A To my knowledge I think it was something that
5 involved his leg or his ankle was broken, something
6 like that. I don't remember clearly, but I know he was
7 hospitalized.

8 Q And, Lt. Jackson, specifically what did you find
9 out happened as it relates to the taking of the ATM
10 machine? Who was there, who was around, what happened
11 specifically; do you know?

12 A May I refer to my notes?

13 Q Certainly.

14 A It's the incident report. Basically a deputy
15 was dispatched to the alarm call out to the Pantry out
16 on Highway 41. And while dispatched he advised that
17 black male subjects had entered, made entry into the
18 Pantry and attempted to steal the ATM machine in the
19 front of the store.

20 They -- central dispatch also advised that the
21 subjects left in a dark in color pickup truck. And
22 upon the deputy's arrival, they saw where the ATM
23 machine was, and it was gone, and the pickup truck had
24 overturned at an intersection.

25 Further investigation showed that the other

1 subjects involved Quincy Lamont Skipper, Reginald
2 Michelle Porcher, and I believe it was a -- I don't
3 have the other subject's name, but there were three of
4 them. And Reginald Porcher.

5 Q Now, you said they were involved in an accident
6 after they had taken the ATM machine; is that correct?

7 A That's correct.

8 Q And prior to that, were they traveling at a high
9 rate of speed? Is that one of the causes of the
10 accident?

11 A It was.

12 Q Do you know if there was an estimate of how fast
13 they were going?

14 A No, sir, I do not.

15 Q And to your knowledge, isn't it true that Mr.
16 Reginald Porcher was thereafter convicted of burglary
17 charges as a result of your investigation of this
18 incident and arrests that were made?

19 A Yes, sir, that's true.

20 Q And isn't it true that he was convicted on
21 burglary second as a violent offense?

22 A Yes, sir, and safecracking.

23 Q And safecracking. Were there any people present
24 at the Pantry when this burglary and safecracking took
25 place?

1 A A gentleman by the name of Drew Eastwick I
2 believe it is, as far as the voluntary statement
3 obtained by one of the deputies.

4 Q So he was present at the scene. Did he work for
5 the Pantry?

6 A What he learned was he heard loud music, as far
7 as the statement, he heard loud music over at his
8 business. Three of his customers had left.

9 And he went to the door only to see the pickup
10 truck, S-10 pickup truck at the curb. The pickup
11 gunned the motor, what have you, and proceeded towing
12 -- towing the ATM. And another fellow attempted to
13 block the truck, the S-10. And the two were quickly
14 following them.

15 And the truck turned over -- in pursuit of the
16 truck, the truck turned over in a field.

17 Q You said they were towing the ATM?

18 A It's kind of blurred under -- it's on the
19 statement. He went to the door only to see the truck,
20 S-10 pickup at the curb. The pickup it -- I think best
21 I can make it out, yes, sir.

22 Q Do you know if there were any people or houses
23 or other vehicles around at the time that they wrecked
24 as they were traveling at a high rate of speed leaving
25 the crime scene?

1 A No, sir, I don't know.

2 Q Don't know?

3 MR. BIERING: No further questions for the
4 witness.

5 THE COURT: Mr. Alfaro, do you have any
6 questions.

7 MR. ALFARO: No, Your Honor.

8 THE COURT: All right.

9 Thank you, Lieutenant, for getting here to
10 promptly you are excused. If you don't mind waiting
11 outside, I'm going to make a ruling on whether or not
12 you will need to be here tomorrow to testify.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Thank you.

15 All right, Mr. Biering, is each of the officer's
16 testimony going to be as to each individual crime
17 charged?

18 Can I make a ruling as to Lt. Jackson's
19 testimony independent of the other two?

20 MR. BIERING: That's up to Your Honor. I mean
21 our position is that they all would come in. But
22 certainly I think that there could be potential
23 testimony that one would say would be different than
24 another one that could potentially allow us bring in
25 one and not the other.

1 THE COURT: Are the other two going to testify
2 to this ATM incident?

3 MR. BIERING: No, Your Honor, they're not.

4 THE COURT: All right. What is the State's
5 position as to the testimony that was presented by Lt.
6 Jackson?

7 MR. ALFARO: Your Honor, again we rely on the
8 motion limine that it's impermissible character
9 evidence regarding the victim. We think it amounts to
10 a general character attack of the victim.

11 There is no indication that it has any
12 connection to the defendant. And it was not involved.
13 There is not indication they have put forth that the
14 defendant had any knowledge of it that would have any
15 bearing on the murder case at hand.

16 THE COURT: Mr. Biering, I will be happy to hear
17 from you.

18 MR. BIERING: Your Honor, as I stated on the
19 record previously, I believe that the actual
20 admissibility of this information arguably would hinge
21 on my client's testimony. And from the order
22 standpoint, I think we are prejudiced in that light.

23 But, as it would relate to this specific issue,
24 again it's not just an issue about 404, it's an issue
25 about habit or routine.

1 And what I think that we are going to present,
2 Your Honor, is a litany that is equivalent to evidence
3 of habit or routine practice that goes back to 2000
4 that involves a violent burglary that was seven years
5 prior to the events here.

6 There is a case, recent case that states that
7 voluntary manslaughter 23 years prior to the event is
8 not within the proximity of time that would be
9 appropriately to be considered. And I'm not asking to
10 bring in something from 23 years ago, it's 7 years
11 prior. And there is a continued pattern of activity.
12 So I think it's admissible.

13 But I think that arguably for the Court to rule
14 as it relates to admissibility, two things have to
15 occur. One, I think that certainly we are in a very
16 different position as it relates to this first
17 component because you are going to have the opportunity
18 to have this information proffered to you, so that I
19 believe you will be able to see the pattern. Or, not
20 necessarily see the pattern, that not the appropriate
21 way to say it, you would be able to see what we believe
22 would be evidence of a pattern or routine.

23 And second, I think you would need to be able to
24 hear my client's testimony.

25 THE COURT: All right.

1 MR. BIERING: Our position is that a ruling at
2 this point would be premature.

3 THE COURT: Mr. Biering -- I'm sorry, Mr.
4 Alfaro, I'm looking at Mr. Biering.

5 Mr. Alfaro, is it the State's position that
6 aren't these or prongs? Does it have to be what he
7 believes? Do I need to hear his testimony first?

8 MR. ALFARO: Your Honor, I don't think that you
9 have to hear his testimony first.

10 I think again under 404, it's impermissible
11 character evidence of the victim. Regarding the
12 argument that it's 406 habit, the only thing that that
13 witness testifies is to related to ATM's and the Panty.
14 There is no indication that the murder took place at
15 either of those locations. There is no indication it
16 had anything to do with that burglary or any other
17 burglary or a theft from an ATM.

18 MR. BIERING: Your Honor, I think we have
19 discussed this, to make it clear for purposes of the
20 record, again I raised the issue of a case of State
21 versus Amburgey.

22 And what we believe to be the third prong, and
23 that third prong would be, or to produce reasonable
24 apprehension of great bodily harm. And again we do
25 have what we believe to be a scrivener's error in the

1 Southeastern Reporter.

2 I went back to the original source, it's the
3 printed Southeastern reporter from -- I won't say which
4 lawyer it's from -- but like from 1945, Judge. So the
5 original printed book from Southeastern Second; or to
6 produce reasonable apprehension of great bodily harm,
7 we believe the third prong. I think again it goes to
8 this pattern.

9 THE COURT: All right. Habit is described as
10 conduct that is situation-specific, or specific
11 particularized conduct capable of almost identical
12 repetition. And that distinguished from character that
13 is a generalized description of a person's disposition
14 of a general trait, such as honesty, temperance or
15 peacefulness.

16 The testimony that has been presented in
17 Defendant's 1, 2 as to the documents, to the testimony
18 of Lt. Jackson, and to the testimony of Lt. Currie,
19 they do not rise to a -- they are situation-specific.

20 We do not have either the victim or the
21 defendant near or around a convenience store or an ATM
22 or in a jail cell or any testimony involving urine.

23 Those two specific incidents of conduct are --
24 the motion in limine, and those two officers, will not
25 be allowed to testify. I do not find that the

1 testimony concerning the victim's behavior at the
2 Department of Corrections is closely connected with the
3 homicide as reasonably to indicate the deceased's state
4 of mind at the time of the homicide.

5 There was nothing to indicate that there was
6 great apprehension of great bodily harm. Again
7 situation-specific, there was no jail cell, no one was
8 in custody at the time. And there is no indication
9 prior to all of the discussion in presenting his
10 defense that the defendant knew, or reasonably would
11 have known, that -- of the instances of violence.

12 I note your exception for the record as to those
13 three. We are waiting now to hear from Lt. Brabham and
14 Sgt. Geiger.

15 Is Lt. Brabham here.

16 MR. ALFARO: I believe he is here.

17 THE COURT: All right. Bring him in.

18 DAVID BRABHAM, JR.,
19 after having first been sworn to tell the truth, the
20 whole truth and nothing but the truth testified on his
21 oath as follows:

22 DIRECT EXAMINATION

23 BY MR. BIERING:

24 Q Good afternoon. And your rank again? I'm
25 sorry.

1 A Lieutenant.

2 Q Lieutenant. I'm going to try to work on
3 remembering ranks.

4 Lt. Brabham, how long have you been employed
5 with Berkeley County Sheriff's Department?

6 A Since August 10, of '98. Roughly 15 years.

7 Q And were you working in a law enforcement
8 capacity before that time, sir?

9 A Yes, sir.

10 Q And where were you working before that time?

11 A I worked for the Moncks Corner Police
12 Department.

13 Q And how long did you work for Moncks Corner
14 Police Department?

15 A Roughly three years, started in '95.

16 Q Prior to '95, did you work in law enforcement?

17 A No.

18 Q And you've work then consistently in law
19 enforcement, except for vacation and holidays, from '95
20 forward; is that correct?

21 A That's correct.

22 Q What is your current role with the Berkeley
23 County Sheriffs Department?

24 A I'm currently assigned as a lieutenant in the
25 patrol division. I'm in charge of one squad.

1 Q And how many people do you supervise?

2 A Roughly 14.

3 Q And back in 2000, were you employed in a
4 different capacity with the sheriff's department?

5 A I was.

6 Q And what was your employment capacity in 2000 at
7 the sheriff's department?

8 A I was a corporal assigned to the drug
9 enforcement unit.

10 Q And did you have occasion to work in the Wando
11 area?

12 A Yes.

13 Q And have you had on occasion the opportunity to
14 be in the Jack Primis area of Wando?

15 A Yes.

16 Q Specifically on June 3rd of 2000, did you have
17 occasion to be in the Wando, Jack Primis area?

18 A Yes.

19 MR. BIERING: Can I approach witness?

20 THE COURT: You may.

21 Q (By Mr. Biering) Have you had an opportunity to
22 review an incident represent from 6/3/00?

23 A Yes, sir.

24 Q It looks like you got the same incident report
25 that I do.

1 What was going on on June the 3rd, 2000 out in
2 the Jack Primis area?

3 A We, and I refer to we as the drug enforcement
4 unit, were conducting a drug checkpoint on Jack Primis
5 Road, which is in the Wando area.

6 Q And that day did you have occasion to come into
7 contact with Reginald Porcher?

8 A Yes.

9 Q And can you tell us the facts and the details
10 relating to your contact that you had with Reginald
11 Porcher?

12 A While conducting the drug checkpoint, a gray in
13 color Honda approached the checkpoint, noticed officers
14 there, made an abrupt turn to elude the checkpoint at
15 which point myself and other officers gave chase.
16 Ended up in a vehicle pursuit with that car up until it
17 voluntarily stopped after it got caught in traffic and
18 the driver was Mr. Porcher.

19 Q And did you take Mr. Porcher into custody?

20 A We did.

21 Q And did you search his person at the time you
22 took him into custody?

23 A Yes, we did.

24 Q And did you search his vehicle?

25 A Yes.

1 Q And did you find anything as a result of those
2 searches?

3 A We did. In the vehicle there was a, excuse me,
4 I'm going to refer to the notes just to make sure. A
5 .38-caliber blue steel Taurus on the passenger seat
6 during the search.

7 Q As a result of your stop, did you make any
8 arrests?

9 A We did. The arrest of Mr. Porcher.

10 Q And what did you arrest Mr. Porcher for?

11 A He was charged with unlawful carrying of a
12 pistol, drive under suspension, and failure to stop for
13 blue light.

14 Q What type of pistol was it?

15 A It was a .38-caliber Taurus.

16 Q What is the safe way to store a handgun?

17 A In a home? In a vehicle? Where?

18 Q From a gun safety standpoint.

19 A Gun safety standpoint.

20 THE COURT: Mr. Biering, this isn't relevant.
21 Let's move on, thank you.

22 Q (By Mr. Biering) How did you find this gun?

23 A It was on the passenger seat just sitting there.

24 Q What condition was the gun in?

25 Let me ask you a question. Did it have a

1 trigger-lock on it?

2 A I don't recall, no.

3 Q No. You would have noted that if it had a
4 trigger-lock on it.

5 Was it loaded?

6 A I believe so. Yes, it was.

7 Q Fully loaded is how you noted it back in 2000;
8 is that correct?

9 A Yes.

10 Q You charged him for failure to stop for blue
11 light. Did you also charge him with driving under
12 suspension?

13 A Yes, sir.

14 Q And you charged him with unlawful carrying of a
15 pistol?

16 A I did.

17 Q And to your knowledge, he was convicted on those
18 charges?

19 A Yes.

20 MR. BIERING: Thank you.

21 MS. WILLIAMS: No questions.

22 THE COURT: What was the exact date, Lieutenant.

23 THE WITNESS: June 3rd, 2000.

24 THE COURT: 2000, thank you.

25 Based upon my question, did you have any further

1 questions?

2 MR. BIERING: No, Your Honor.

3 THE COURT: May this witness be released?

4 MR. BIERING: Yes, Your Honor.

5 THE COURT: Any objection?

6 MR. ALFARO: No, Your Honor.

7 MR. BIERING: Well subject to the Court's
8 ruling, but I think the Court has already --

9 THE COURT: I'm going -- you are still under
10 subpoena, all right?

11 I'm going to make a ruling here in just a few
12 minutes and Mr. Biering will call you and tell you what
13 time you need to appear tomorrow, all right.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Thank you.

16 Thank you for getting here so promptly.

17 All right, let me hear argument on Lt. Brabham.

18 MS. WILLIAMS: Your Honor, Lt. Brabham testified
19 about an incident involving Reggie Porcher, pulled him
20 over in a car, doesn't mention if Ron McCray is
21 anywhere around.

22 He is not doing anything violent. He's carrying
23 a weapon, which was against the law, he was illegally
24 carrying a weapon.

25 Again, we don't think this is relevant to the

1 issue at hand. It has nothing to do with any action
2 against Mr. McCray. It has nothing to do with the
3 events that occurred nine years later at Jack Primis
4 Road.

5 And we would ask that this testimony be
6 excluded. It's prejudicial and not probative.

7 THE COURT: All right.

8 Mr. Biering, let me hear from you.

9 MR. BIERING: Your Honor, I would reiterate the
10 argument that I made previously as it relates to the
11 other testimony. I believe it's an issue not just of
12 Rule 404, but I think it's an issue of Rule 406.

13 Amburgey speaks to the issue of, or to produce
14 reasonable apprehension of great bodily harm. There is
15 a television show, what is it like A Thousand Ways To
16 Die or something like that. The reality is is that
17 great bodily injury doesn't have to just occur at the
18 hand of a gun.

19 And fleeing from police, the reality is that
20 thousands of law enforcement officers have lost their
21 lives as a result of people fleeing and failing to stop
22 for a blue light. Innocent third-parties regularly
23 have lost their lives, and continue to this day to lose
24 their lives as a result of people who fail to stop for
25 a blue light.

1 It is dangerous. Arguably more dangerous than a
2 gunshot. Because the projectile has just a very small
3 window. The vehicle is very wide. But law enforcement
4 officers, innocent bystanders die as a result of this
5 activity.

6 THE COURT: Did they on this occasion, Mr.
7 Biering? Did anyone die on this occasion.

8 MR. BIERING: The issue --

9 MS. WILLIAMS: No, Your Honor.

10 THE COURT: Thank you.

11 MR. BIERING: I believe the Court was addressing
12 was me.

13 It is not the issue of whether or not someone
14 died. It's whether or not the conduct could produce a
15 reasonable apprehension of great bodily harm, Your
16 Honor.

17 THE COURT: So again, Mr. Biering, under the
18 case that you have provided the Court and the citations
19 that both of you have cite, tell me how it comes in.

20 MR. BIERING: It comes in, Your Honor, because
21 he is illegally driving a vehicle with a loaded handgun
22 that he has no legal right to posses, placing at risk
23 of great bodily harm law enforcement, innocent
24 bystanders. And is a component of his habit and
25 routine practice as it would relate to 406..

1 THE COURT: Anything further from the State.

2 MS. WILLIAMS: Just that one incident does not
3 establish a habit or routine, Your Honor.

4 THE COURT: All right. There has been nothing
5 presented as to that that indicates that there was --
6 that the specific instance, there was no indication,
7 and while Mr. Biering has made a very eloquent argument
8 as to failure to stop for blue light, the testimony
9 from Lt. Brabham was that he made an abrupt turnaround,
10 they effectuated a stop, there is no indication that
11 anyone was injured or killed during that traffic stop.

12 So even assuming that it was -- that there was
13 an act of violence involved, they were not directed
14 against the defendant. And the Court finds that there
15 were not so closely connected with the homicide as to
16 indicate the deceased's state of mind.

17 Again, Mr. McCray is not law enforcement, he was
18 not using a blue light. There is no indication that a
19 reasonable apprehension of great bodily harm would
20 flow, even if Mr. McCray knew that.

21 Note your exception for the record. Lt. Brabham
22 will not testify, and the testimony regarding that
23 traffic stop will not be admissible.

24 Understand, Mr. Biering -- well, so I don't
25 know, we weren't able to get in touch with Sgt. Geiger;

1 is that correct?

2 THE OFFICER: Yes, ma'am.

3 THE COURT: What time do you need Sgt. Geiger
4 here?

5 MR. BIERING: As soon as the Court would like to
6 start.

7 THE COURT: The jury comes back at 9:15. You've
8 indicated to me that -- Mr. McCray, do you intend to
9 testify? Have you had time to meet with your attorney.

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: You have? And you will be
12 testifying?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: All right. So we just have Sgt.
15 Geiger here at 9:30, let's say 9:15 just in case Mr.
16 McCray changes his mind about testifying. Sgt. Geiger
17 needs to be here at 9:15.

18 Anything further? Are there any other
19 witnesses? What about the individual that you -- Ms.
20 Hill? Have you been able to get in touch with her.

21 MR. BIERING: We are continuing to work on it.

22 THE COURT: She will need to be here at 9:15.

23 MR. BIERING: All witnesses that we intend on
24 calling, we will have them here by 9:15.

25 THE COURT: Yes.

1 And Mr. Fishburne, has that been worked out?

2 MR. ALFARO: We need to address that with you in
3 chambers, Your Honor.

4 THE COURT: All right, thank you.

5 With that, we are at recess until 9:15.

6 Thank you.

7 (Whereupon, the proceedings in this matter
8 before the Court were adjourned for the evening.)

9 * * * * *

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE COURT: Mr. Biering, I understand that you
2 have Sgt. Geiger; is that correct? Is he present?
3 He is under subpoena.

4 Then let's move to your next witness. And we
5 need to inquire outside the presence of the jury.

6 Is that Mr. Wright?

7 MR. BIERING: Yes, Your Honor.

8 If I could just be heard briefly on the record
9 that while I understand the Court's ruling, desire
10 based on the motion of the State that the testimony be
11 proffered, I believe that that substantially affects
12 our presentation and provides an opportunity for the
13 State to be allowed into the purview of our defense.

14 And that testimony should be, we believe, should
15 be elicited within the case and directly in front of
16 the jury.

17 And I'm prepared to question Mr. Wright at this
18 time.

19 THE COURT: As I understand the testimony, it
20 relates to a prior bad act of the victim?

21 MR. BIERING: No, Your Honor, it does not.

22 THE COURT: What is it? My understanding of
23 what you indicated to the Court in chambers was that it
24 had to do with an incident between this witness and the
25 victim related to the defendant. Is that correct?

1 MR. BIERING: No, Your Honor, that's not what I
2 indicated. What I indicated was that I anticipated
3 that this witness was going to testify about
4 interactions that he had with Reginald Porcher within a
5 few days prior to September 16th, 2009.

6 And that those interactions had direct relation
7 to the events of September 16th, 2009.

8 THE COURT: What is the substance of the
9 interaction, Mr. Biering?

10 MR. BIERING: I believe that he is going to get
11 on the witness stand and say that he went to a location
12 with Reginald Porcher was, purchased drugs, and that
13 learned information that, at that time when he was
14 there to purchase drugs, that directly related to the
15 events of September 16th, 2009.

16 THE COURT: All right, Mr. Biering how does that
17 -- how is that not violative of my prior ruling as to
18 prior bad acts?

19 MR. BIERING: Because we are not presenting the
20 testimony suggesting that Reginald Porcher sold drugs,
21 we are not presenting testimony that says that Mr. -- I
22 don't believe Mr. Wright is going to testify that he
23 was purchasing drugs from Mr. Porcher.

24 What I believe the testimony to be is that Mr.
25 Porcher was present at the time. And at that time this

1 witness, as I understand, learned information about Mr.
2 Porcher that directly relates to the events of
3 September 16th, 2009. I don't think that's a prior bad
4 act.

5 THE COURT: Mr. Alfaro.

6 MR. ALFARO: I think just the portion of the
7 testimony that he has -- that Mr. Biering has proffered
8 regarding the victim being at a location where drugs
9 are being sold, with a witness who may or may not say
10 that the victim was selling drugs, is the walking
11 definition of prior bad acts.

12 That had absolutely nothing to do with the
13 murder on September 16th, 2009. That goes back to the
14 general character attack which is prohibited
15 specifically by the rules.

16 Now there seems to be veiled illusions to
17 something that may be relevant to the murder, I think
18 that's what the purposed of the proffer is in reference
19 -- what they were doing in reference to our original
20 motion in limine.

21 THE COURT: Mr. Biering, how is selling drugs
22 not a prior bad act?

23 MR. BIERING: Your Honor, I don't -- first --

24 THE COURT: Being around drugs. How is that not
25 a prior bad act?

1 MR. BIERING: I think they opened the door to
2 the issue of marijuana anyway. They elicited testimony
3 in their direct examination of the medical examiner
4 that stated that Mr. Porcher had marijuana in his
5 system.

6 I don't think it's any new information. And
7 they have certainly opened the door to it. You know,
8 they didn't make any motions to try to preclude that
9 issue. Nor, did they try to hide that issue from the
10 jury.

11 Your Honor, I am not presenting this witness. I
12 don't care -- I'm not presenting this witness as it
13 relates to a drug transaction. But the context of --
14 the context of where he was at is not relevant as it
15 relates to what he has to say about what transpired.

16 It is relevant, though, as it relates to him
17 being perfectly candid and credible when presenting his
18 testimony to -- because a witness has got to be -- they
19 got to come up and be truthful.

20 THE COURT: All right, let's just do it this
21 way. We are going to proffer his testimony. So let's
22 call your witness.

23 MR. BIERING: Chavis Wright.

24 THE COURT: Who is his attorney?

25 MR. BIERING: I have no idea.

1 MS. WILLIAMS: His attorney? You know what,
2 Your Honor, I'm sorry, I can't remember. He is facing
3 charges of criminal sexual conduct against a minor.
4 And I think, I just cannot remember, but I just had Mr.
5 Heart go check MCMS and he is going to pull the rap
6 sheet and I asked him to look at the date of arrest and
7 the attorney.

8 THE COURT: If he is represented, do you know
9 who his attorney is?

10 MR. BIERING: I do not, Your Honor.

11 THE COURT: Mr. Biering, if he is going to give
12 testimony that he was near or around places where a
13 drug transaction may or may not have occurred, don't
14 you agree he would have the right to have counsel
15 present?

16 MR. BIERING: Your Honor, I don't even mind it.
17 That's really not the point of --

18 THE COURT: Well, Mr. Biering, the point, a
19 constitutional right is the point, all right?

20 Bring him in.

21 CHAVIS WRIGHT,
22 after having first been sworn to tell the truth, the
23 whole truth and nothing but the truth testified on his
24 oath as follows:

25 THE COURT: Mr. Wright, are you represented by

1 -- I understand that you have pending charges; is that
2 correct?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Do you have an attorney?

5 THE WITNESS: No, I have a public defender.

6 THE COURT: All right, a public defender is an
7 attorney. Who is your public defendant.

8 THE WITNESS: Chad Shelton.

9 THE COURT: Chad Shelton? Does Mr. Shelton know
10 that you here testifying today.

11 THE WITNESS: No, ma'am, he does not.

12 THE COURT: And you are not testifying related
13 to your pending charges; is that correct.

14 THE WITNESS: No, ma'am.

15 THE COURT: You understand your right against
16 self-incrimination?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Can you explain that to me, just in
19 a nutshell?

20 THE WITNESS: I'm not testifying on myself.

21 THE COURT: I'm sorry?

22 THE WITNESS: Not testifying on myself.

23 THE COURT: Correct. And do you understand what
24 you are doing here today?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: And we are outside presence of the
2 jury. Mr. Biering has called you to testify in this
3 case. And so he is going to ask you some questions.
4 Do you wish to answer those questions at this
5 time?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: All right.

8 Mr. Biering.

9 MR. BIERING: May it please the Court.

10 THE COURT: Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. BIERING:

13 Q Mr. Wright.

14 A Yes, sir.

15 Q Your full name is?

16 A Chavis Lavon Wright.

17 Q And, Mr. Wright, you are currently over at the
18 Hill-Finkley Detention Center; is that correct?

19 A Yes, sir.

20 Q And you have current pending charges?

21 A Yes, sir.

22 Q Do you have other prior convictions?

23 A I have did some time in the past.

24 Q Mr. Wright, where are you from?

25 A I'm from [REDACTED], South Carolina.

1 Q Can you just -- not your specific address, but
2 are you familiar with the Jack Primis area?

3 A Yes, sir, I am.

4 Q Are you from the Jack Primis area?

5 A No, sir, I'm not from the Jack Primis area.

6 Q Do you have occasion to be in the Jack Primis
7 area?

8 A Yes, sir.

9 Q Did you live in Huger in September of 2009?

10 A Yes, sir.

11 Q And how old are you?

12 A I'm 32.

13 Q And do you, or did you know Reginald Porcher?

14 A Yes, I do know Reginald.

15 Q How long before 2009 had you known Reginald
16 Porcher, do you believe?

17 A All my life pretty much. We went to school
18 together.

19 Q I'm sorry?

20 A All my life. We went to school together.

21 Q Did you have occasion to hang out and be with
22 him at different times?

23 A Yes, sir.

24 Q Did you have occasion in 2009 to hang out and be
25 around Reginald Porcher?

1 A Yes, sir, I did. The night before the incident
2 I was up there.

3 Q So the night before -- so when you said
4 incident, you know Mr. Porcher was shot; is that
5 correct?

6 A Yes, sir.

7 Q So you say that you were up there, when you say
8 up through, you mean in the Jack Primis area?

9 A Yes, sir.

10 Q The night before Reginald Porcher was shot?

11 A Yes, sir.

12 Q And can you tell us about that night?

13 A I went up to there to meet a friend, Abdulla
14 Fishburne. Because I smoke marijuana and I went up
15 there to purchase me a bag of marijuana.

16 I was there with Reggie, Abdulla, and a couple
17 other guys. I'm not familiar with their names, but I
18 know them by face.

19 Q And that night --

20 THE COURT: Hold on one second.

21 Mr. Wright, I feel it incumbent upon the Court
22 to advise you of your right against self-incrimination.
23 And I remind you that you are still under oath.

24 Do you wish to continue?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: All right, thank you.

2 Q (By Mr. Biering) Mr. Wright, did you have any
3 interactions that evening with Reginald Porcher?

4 A The evening of the incident, or the day before?

5 Q The day before. I think we were talking about
6 the day before.

7 A Yes, I did, sir.

8 Q And do you remember approximately how long you
9 were there?

10 A About 10, 15 minutes tops.

11 Q And how would you describe Mr. Porcher that
12 night?

13 A He was very upset and very angry. He was
14 carrying on about the situation with Abdulla and Ron
15 earlier that day.

16 Q And did you learn anything from Reginald Porcher
17 through your interaction that evening with him?

18 A Yes, I learned that he was carrying a concealed
19 weapon.

20 Q Did you see it?

21 A Yes, sir. He pulled it out and shot it in the
22 air a couple times. And he --

23 Q Was it a handgun or a shotgun?

24 A It was a handgun.

25 Q And you saw him take it out and shoot it in the

1 air a couple times you said?

2 A Yes, sir.

3 Q Did you learn anything else that evening during
4 your interaction with Reginald Porcher?

5 A At that time I was trying to get up out of
6 there.

7 Q Did you learn anything -- let me ask you this.
8 Do you know Ron McCray?

9 A I know him. Not as well as everybody do, but I
10 know him through his brother.

11 Q You testified earlier that you had an
12 opportunity to hang out with Reginald Porcher?

13 A Yes, sir.

14 Q Did you have an opportunity to ever hang out
15 with Ron McCray?

16 A No, sir.

17 Q Did you learn anything that night about Reginald
18 Porcher and Ron McCray?

19 A All I learn is that he had animosity towards
20 him, and he was going to retaliate on him the next day.

21 MR. BIERING: No further questions for the
22 witness.

23 THE COURT: Mr. Alfaro. Ms. Williams.

24 CROSS-EXAMINATION

25 BY MS. WILLIAMS:

1 Q Where did you see Reggie Porcher exactly?

2 A It's in Jack Primis on the hill.

3 Q What hill?

4 A I'm not familiar with the name of the area, but
5 that's what they call it, the hill.

6 Q Describe to me where it is?

7 A It's in Jack Primis.

8 Q Can you give me a better description than that?

9 A When you turn on Jack Primis, you go down and
10 you come around the curve it's the second right.

11 Q Keep going. Take the second right, then what?

12 A You take the second right and go down, and it's
13 the little area where the tree is, where we all hang
14 out at the tree.

15 Q And you call it the hill?

16 A That's what everybody calls it.

17 Q And who is hanging out at the hill?

18 A That night it was me, Abdulla, Reggie, and six
19 other guys.

20 Q Do you know any of the six other guys' names?

21 A No, sir, I just know them by face.

22 Q But you grew up with Reggie, right?

23 A Not really grew up with him. I went to school
24 with him.

25 Q So did you know any of the other people that

1 were around him, or just Reggie?

2 A Reggie and Abdulla.

3 Q Didn't all the rest of those people go to school
4 with him?

5 A No, sir.

6 Q And without telling us exactly what you were
7 doing at the hill, it wasn't something that you'd want
8 other people to know you were doing, right?

9 A Not really, but I'm being honest about it.

10 Q And yet Mr. Porcher decided to shoot a weapon in
11 the air?

12 A Yes, sir.

13 Q Wouldn't that bring attention to the area?

14 A Yes, it would.

15 Q What did the gun look like?

16 A I know it was handgun, a revolver.

17 Q What color was it?

18 A I can't tell you what color it was because I was
19 stayed my distance.

20 Q Well, how far away were you from it?

21 A Probably two or three feet away from each there.

22 Q Two or three feet?

23 A Yes, sir.

24 Q It's ma'am.

25 A Ma'am.

1 Q You couldn't tell the color from two or three
2 feet?

3 A It was dark, ma'am.

4 Q What was Abdulla Fishburne's appearance?

5 A Me and him was standing side by side.

6 Q What was his appearance?

7 A His appearance?

8 Q Yeah. Anything unusual about the way he looked
9 that night?

10 A Looked the same as always. He looked upset,
11 other than that.

12 Q What was he upset about?

13 A The situation that happened with him and McCray
14 earlier that day.

15 Q What was that situation?

16 A They had fight.

17 Q Did he have any injuries?

18 A Injuries? I didn't see any injuries.

19 Q And you have been in jail with Mr. McCray?

20 A Yes, ma'am.

21 Q And has he ever asked you to testify?

22 A No, ma'am.

23 Q Oh, you just came up here on your own?

24 A Uh-hum.

25 THE COURT: Is that a yes.

1 THE WITNESS: Yes.

2 THE COURT: She has got to write down what you
3 say. And it's difficult for her to do uh-hum so I need
4 you to say yes or no. Thank you.

5 A Yes.

6 Q (By Ms. Williams) So how does his lawyer know
7 you wanted to testify?

8 A Because I spoke to him.

9 Q How did you get in touch with him?

10 A I spoke to him in the back back there.

11 Q Well haven't you been at Hill-Finkley?

12 A Yes.

13 Q So how would he even know the name Chavis Wright
14 to know that you wanted to testify?

15 A Because Abdulla.

16 Q Okay. So you talked to Abdulla from the jail?

17 A Yes, I do.

18 Q And did you talk to Abdulla on behalf of Mr.
19 McCray?

20 A Not really on the behalf of McCray, but dealing
21 with the situation.

22 Q So you've called Abdulla from the jail?

23 A No, I wouldn't call Abdulla myself. I called a
24 friend of mine and he gave me a three-way.

25 Q Okay. And did you tell Abdulla that Mr. McCray

1 wanted him here to testify?

2 A Told him I want myself here to testify.

3 Q You told -- okay, so you called from the jail to
4 Abdulla Fishburne?

5 A I called a fiend of mine and he made a
6 three-way. And I told Abdulla to make sure that they
7 did get me on the stand.

8 Q And you thought Abdulla had the best direct line
9 to Mr. Biering?

10 A No, I guess not.

11 Q Why wouldn't you just tell Mr. McCray?

12 So you and Mr. McCray have never talked about
13 what you were going to say here today?

14 A Yes, we have talked about it. But I didn't tell
15 him what I wanted to say. I just told him I wanted to
16 come to court.

17 Q Didn't you just say that Mr. McCray didn't tell
18 you that he wanted you to testify?

19 A I didn't say that I told him I wanted to
20 testify, I told him I was coming to court. And he
21 wouldn't ask me to testify.

22 Q Okay. So what did Mr. McCray and you discuss
23 about your testimony?

24 A We didn't discuss nothing.

25 Q And did you ever hear the conversation between

1 Mr. McCray and Abdulla?

2 A No, sir. I mean, ma'am. No, ma'am. I never
3 heard the conversation.

4 Q And did Abdulla ever tell you that Mr. McCray
5 was trying to get him to lie?

6 A No, ma'am.

7 Q Did Abdulla ever tell you that he was scared of
8 Mr. McCray?

9 A No, ma'am.

10 Q But Mr. McCray beat him up that day, didn't he?

11 A I didn't witness the fight, ma'am.

12 Q But you just testified that you knew about
13 everything that was going between them?

14 A Because Abdulla told me about the situation.

15 Q What did he tell you?

16 A He told me that him and Ron got into a fight and
17 he didn't like the fact that --

18 MR. BIERING: Objection, hearsay.

19 THE COURT: Hold on one second. When there is
20 an objection I need you to stop talking to that I may
21 rule on it.

22 Is there an exception?

23 Q (By Ms. Williams) What was Abdulla's demeanor
24 like? How was he acting when he told you?

25 A He was very upset.

1 MS. WILLIAMS: Excited utterance.

2 Q (By Ms. Williams) Had it just happened?

3 A No, it happened earlier that day. I went over
4 there about 6:00, 7:00.

5 MR. BIERING: Same objection.

6 THE COURT: Sustained as to hearsay.

7 MS. WILLIAMS: Court's indulgence.

8 THE COURT: Take your time.

9 MS. WILLIAMS: Nothing further.

10 THE COURT: All right. I think we have
11 established what his testimony will be.

12 Mr. Wright, you may step down. Thank you.

13 Sgt. Geiger is here. You may call Sgt. Geiger.

14 JAMES GEIGER,

15 after having first been sworn to tell the truth, the
16 whole truth and nothing but the truth testified on his
17 oath as follows:

18 THE COURT: Mr. Biering.

19 DIRECT EXAMINATION

20 BY MR. BIERING:

21 Q Good morning, Sgt. Geiger.

22 How long have you been employed with the
23 Berkeley County Sheriff's Department?

24 A 18 years now.

25 Q And what is your current role with the Berkeley

1 properly, I think we may have gotten up to 70 miles an
2 hour.

3 Q Do you recall what the speed limit was?

4 A 45.

5 Q So you are traveling 25 miles an hour,
6 approximately, over the speed limit?

7 A Yes, sir.

8 Q And is it your understanding that a conviction
9 for failure to stop for blue light was the result of
10 that arrest?

11 A I am not sure. I was never notified of the
12 final disposition.

13 MR. BIERING: If I could approach?

14 THE COURT: You may.

15 MR. ALFARO: Objection, Your Honor. The witness
16 has already testified he has no knowledge.

17 He is handing him a document from someplace else
18 that's not authenticated, no foundation for what he is
19 saying, there is no reason for him to be reading of
20 another document.

21 THE COURT: Sustained.

22 MR. BIERING: If I can approach, Your Honor.

23 THE COURT: Approach the witness.

24 MR. BIERING: Approach the Court with the
25 document.

1 THE COURT: Mr. Biering, I am assuming, I've
2 heard testimony that it did result in a conviction.
3 This witness just does not have the independent
4 knowledge to be able to testify to that.

5 MR. BIERING: I just wanted the Court to take
6 judicial notice, I have documentation to that.

7 That's all the testimony that I wanted to elicit
8 on this proffer.

9 THE COURT: Mr. Alfaro, do you have any
10 questions of this witness?

11 MR. ALFARO: No, Your Honor.

12 THE COURT: Thank you.

13 Sergeant, you may step down. Thank you. I ask
14 that you remain outside the courtroom until I have
15 issued my ruling. Thank you.

16 MR. BIERING: Your Honor, for the record, just
17 to make sure it's clear that the -- for the purposes of
18 our proffer, that the Court accept by way of judicial
19 notice that there was a conviction --

20 THE COURT: Mr. Alfaro, did a conviction result
21 -- was there a conviction for failure to stop for blue
22 light as a result of this incident?

23 MR. ALFARO: The conviction shows there was a
24 conviction.

25 THE COURT: Have you pulled the victim's rap

1 sheet?

2 MR. ALFARO: He has a conviction for failure to
3 stop for blue light.

4 THE COURT: All right, thank you.

5 MR. ALFARO: For the record, Your Honor, the
6 objection was based on the fact that it was not to
7 refresh his recollection, he wasn't the witness that
8 testified to that conviction.

9 THE COURT: Thank you.

10 Anything further regarding Sgt. Geiger's
11 testimony, and his ability to testify in this case.

12 MR. BIERING: My position, Your Honor, my
13 argument would be, against their motion in limine,
14 would be the same arguments that I made previously.
15 And if I could re-note those for the record, I don't
16 think that they all need to be spelled out now.

17 THE COURT: Mr. Alfaro.

18 MR. ALFARO: State takes the same position we
19 did in the motion in limine as well when the Court was
20 ruling on Lt. Brabham, Lt. Currie. And we rest on
21 those, Your Honor.

22 THE COURT: I agree. Sgt. Geiger's testimony, I
23 grant your motion in limine, it will not come in.

24 MR. BIERING: Thank you.

25 THE COURT: Mr. Biering, just for scheduling,

1 what is the order of your witnesses for the morning?

2 MR. BIERING: Your Honor, I have got Mr. Wright
3 that I intend on calling. And then I have got one
4 other lay witness that my investigator just spoke with.
5 They said they were in Goose Creek. And then I will be
6 call Mr. McCray.

7 THE COURT: Is Mr. McCray, you intend for him to
8 be your final witness; is that correct?

9 MR. BIERING: That is my intent.

10 THE COURT: All right. Mr. Alfaro, let me hear
11 from the State's position as to the testimony of Mr.
12 Wright.

13 MR. ALFARO: Your Honor, the State's position
14 regarding his testimony is that his testimony is more
15 testimony related to a prior bad act.

16 It may be the night before, but there was no
17 testimony or no proper testimony to indicate that a gun
18 was taken from the scene by the victim. There was no
19 indication that the victim made any threats to either
20 get back at Mr. McCray or to defend himself against Mr.
21 McCray.

22 The only testimony was hearsay testimony related
23 to what Abdulla Fishburne had said that the defendant
24 did to him.

25 The specific act of the victim allegedly

1 possessing a gun or firing a gun, there was nothing
2 that connected that to the defendant based off the
3 testimony that was proffered by Mr. Wright.

4 THE COURT: Mr. Biering.

5 MR. BIERING: Your Honor, he testified that
6 within a day of this event that he witnessed an upset
7 and angry Reginald Porcher with a gun. And he also
8 testified that the angry, upset Porcher had animosity
9 towards Ron McCray.

10 This is not an issue of character. This is an
11 issue of very relevant testimony that relates to the
12 scene. We are talking about the exact same location of
13 the events of September 16th. We are talking about --
14 we're not trying to attack the character in this
15 instance of Reginald Porcher, we are describing the
16 scene of this crime.

17 I think it's relevant. I don't think that 404
18 applies. I would ask that the Court allow the witness
19 to testify.

20 THE COURT: Mr. Alfaro, do you have any response
21 to that?

22 MR. ALFARO: Your Honor, I don't see how the
23 testimony that was proffered had any relevance related
24 to describing the area as Mr. Biering indicated.

25 There is just testimony was, as Mr. Biering

1 indicated, that the victim was upset because his friend
2 had been beaten up by the defendant. I don't see how
3 that testimony was relevant.

4 Again, there is no indication that he made any
5 threats or any -- no indication that the connection is
6 attenuated, at best, to the defendant.

7 THE COURT: All right.

8 Mr. McCray, please stand. I remind you that you
9 are still under oath from yesterday.

10 Have you had time to discuss your testimony with
11 your attorney?

12 THE DEFENDANT: Yes, I did.

13 THE COURT: And do you need any additional time
14 to meet with your attorney to discuss your decision to
15 testify?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: All right. How much time do you
18 think you will need, Mr. McCray?

19 THE DEFENDANT: I don't know. I just don't
20 know, Your Honor. Give me ten minutes with him, I
21 guess.

22 THE COURT: All right.

23 Mr. Biering, I'm going to give -- Mr. McCray has
24 asked for additional time to discuss his testimony and
25 his decision to testify or not testify. We are going

1 been determined, that would be better.

2 THE COURT: All right, thank you.

3 MS. WILLIAMS: Thank you.

4 Your Honor, just --

5 THE COURT: Hold on one second.

6 MR. BIERING: No objection, Your Honor.

7 THE COURT: All right, thank you.

8 Yes, ma'am.

9 MS. WILLIAMS: Just to make the record clear,
10 the remedy we are seeking is for the testimony to be
11 stricken.

12 We understand that this is within the sound
13 discretion of the Court, and understand the ruling of
14 the Court and don't have a problem stipulating for the
15 purpose of this hearing that he was in the courtroom.
16 But we are still seeking the Court strike the
17 testimony. But we understand this is within the
18 discretion of the Court.

19 THE COURT: All right. I note your exception
20 and we discussed that was the remedy that you were
21 seeking.

22 And just let me make it clear that the Court, I
23 take very seriously the fact that a court order has
24 been violated. And that two witnesses, that we are
25 aware of, have been in the courtroom during the

1 testimony in violation of the Court's order.

2 Based upon my research, it goes to the
3 credibility and not to the admissibility and that is
4 why I am giving the curative instruction.

5 I will reserve for a later time whether or not I
6 think any further action as related to the defendant's
7 case needs to be addressed. But we will reserve that
8 for a later time.

9 As to the issue of the final witness, Mr.
10 Wright's testimony. We, just for record, we had an
11 in-chambers conference. And I inquired of the State
12 how this should be distinguished, if at all, from Day
13 and it is the Court's understanding that the State's
14 position is that that testimony should not be allowed
15 at all. Is that correct, Ms. Williams?

16 MS. WILLIAMS: Yes, Your Honor. It should not
17 be allowed. And most especially any information about
18 the gun since the gun is not connected.

19 The feelings of the victim toward the defendant
20 were clear. But there was no connection between the
21 gun and the defendant. That's our position.

22 MR. BIERING: May it please the Court, Your
23 Honor.

24 THE COURT: Yes, sir.

25 MR. BIERING: Just for information purposes, I

1 don't think it matters at this point, but Mr. Williams
2 is here.

3 THE COURT: I don't know, Mr. Biering, that we
4 need to have any further testimony regarding Mr.
5 Williams. It has been determined that 10 minutes, or
6 even longer, at this point the Court is going to make
7 the same determination and the same curative
8 instruction.

9 Do you need any further questioning of Mr.
10 Williams?

11 MS. WILLIAMS: No, Your Honor.

12 THE COURT: All right, thank you.

13 MR. BIERING: As it relates to the testimony of
14 Chavis Wright.

15 Your Honor, the testimony that he proffered
16 related to events within a very short timeframe before
17 the actual shooting that we are here to discuss.

18 It is not an attempt to display character. It
19 is a presentation of facts that are contemporaneous to
20 the issues that we have here. There has been prior
21 testimony about possession of a weapon by Mr. Porcher.
22 There has been, now he proffers testimony that he saw,
23 the night before -- make sure I have -- an upset, angry
24 Reginald Porcher. And he said that he, can't remember
25 the word he used, he exhibited, I think what he was

1 trying to say was that he exhibited animosity towards
2 Ron McCray and fired a handgun.

3 I think that it's in such close proximity that
4 it's not an issue of character, it's an issue of the
5 actual facts as they relate to the case that we are
6 involved in. Because it's specific as it relates to
7 animosity towards Ron McCray, the defendant. It has
8 been a day period, it seems like it's within 24 hours,
9 and it puts him with a handgun.

10 Thank you, Your Honor. We'd ask that the
11 testimony be allowed.

12 THE COURT: Since it's your motion in limine, I
13 will allow you last argument, Ms. Williams.

14 MS. WILLIAMS: I'm sorry? On the motion limine?

15 THE COURT: Yes.

16 MS. WILLIAMS: In terms of this testimony?

17 THE COURT: Yes.

18 MS. WILLIAMS: We would just stand on our
19 argument that this is more prejudicial than probative.
20 That the testimony, even if taken at face value, even
21 if you believe Mr. Wright, is that the day before he
22 was angry with the defendant because he beat up his
23 friend, and that also they were doing drugs and he shot
24 a gun in the area.

25 He didn't say he was going to go shoot Mr.

1 McCray. He didn't say that he wanted to get revenge on
2 Mr. McCray. He was just upset that he beat up Abdulla
3 Fishburne. Which that may be relevant. But we think
4 the gun part doesn't connect and it's highly
5 prejudicial.

6 THE COURT: Mr. Biering, I will allow you to --
7 was there testimony indicating that the gun firing was
8 in response, or in an effort to frightened Mr. McCray
9 or this is what I'm going to do?

10 MS. WILLIAMS: No, absolutely not.

11 THE COURT: Do you agree, Mr. Biering?

12 MR. BIERING: I would agree he didn't testify
13 that it was -- that gunfire was directed towards Mr.
14 McCray. He just described an upset and angry man with
15 animosity towards the defendant who is firing a gun at
16 the same location where, you know, the alleged murder
17 took place.

18 And we have got testimony of a gun at the scene.
19 And it's within 24 hours, Judge. I'm not trying to
20 bring in a failure to stop. I understand the Court's
21 ruling on those.

22 THE COURT: Ms. Williams, how does this not go
23 to the state of mind to the deceased?

24 MS. WILLIAMS: Well, first of all, just for
25 clarification, it's not in the same location. It's all

1 a pretty small area, Jack Primis, but it's the hill,
2 and that's a different location.

3 In terms of the state of mind of the deceased,
4 you know, he can testify that he was acting crazy, that
5 he was upset, that he was upset that Mr. McCray had
6 beaten up his friend.

7 But I just think that the gun incident is not
8 related, and it's so prejudicial it's implies that Mr.
9 Porcher then brought a gun to the scene and that's just
10 not true.

11 And I think that if the only connection that was
12 made was that Mr. Porcher was upset with the defendant
13 for beating up Abdulla Fishburne. If Mr. Wright wants
14 to testify to that, that's the only connection that I
15 saw in the testimony.

16 As far as the drugs, that they were doing drugs
17 and that there was a gun there and that he was shooting
18 a gun, we would just argue that it's a 403 argument, in
19 addition to everything else. It's highly prejudicial
20 and it's not connected to the defendant.

21 Court's indulgence.

22 THE COURT: Yes.

23 MS. WILLIAMS: And just to articulate that
24 further, Your Honor, it does go to his state of mind
25 that he was angry, maybe even that he was angry at the

1 defendant.

2 But there is nothing that was testified to that
3 says that he was in the state of mind that he was going
4 take a gun and go and use it against Mr. McCray. And
5 that is the implication.

6 And so that's the connection that wasn't made.
7 We think it's highly prejudicial. And the Court can
8 allow some of his testimony, and not bring in the part
9 that's not connected to the defendant and that would be
10 highly prejudicial.

11 MR. BIERING: Your Honor.

12 THE COURT: Hold on one second.

13 The last thing that you said, Ms. Williams, that
14 I can limit his testimony?

15 MS. WILLIAMS: We would ask that it all be
16 limited. But I think that in all fairness Mr. Wright
17 did make one connection that Mr. Porcher was upset with
18 the defendant about beating up Abdulla Fishburne and
19 that it was his state of mind.

20 The day before he was murdered, he was upset
21 with the defendant because he had beaten up his friend.
22 The fact that he was doing drugs when he was upset, or
23 that there was firearm there, and that he allegedly
24 fired a firearm, you know, this witness could have said
25 that he had the firearm and he was, I'm going to get

1 McCray, or I'm going to use it's against McCray, or
2 that he took the gun with him from the scene or
3 whatever, but that's not what he said.

4 He testified about exactly when Mr. Porcher
5 said. And I think if there was some connection to the
6 gun, and him using the gun against him, then he didn't
7 make it.

8 THE COURT: All right.

9 And you stood up, Mr. Biering.

10 MR. BIERING: I certainly understand their
11 concern about prejudice. But the first issue is
12 whether or not this testimony is probative, whether or
13 not it's relevant.

14 It's within 24 hours, Judge. It's within 24
15 hours. It does go to his state of mind. They opened
16 the door to the marijuana. They asked their witness
17 about the marijuana. The jury is not going to be
18 surprised -- the prosecution is not going to be prejudiced
19 by the fact that they found out there was marijuana
20 near him because they have already brought that in.

21 THE COURT: What is the relevance 24 hours of
22 the victim, or anyone smoking marijuana, with reference
23 to this incident?

24 MR. BIERING: Judge, I said from the beginning
25 that as it related to his testimony that was not -- I

1 don't get to pick what the witness says. I don't get
2 to tell the witness what to say. I don't get to
3 describe the facts as I'd like them to be. I don't get
4 to pick facts overall.

5 I'm informed of a witness that has something to
6 say. Who gets up and says something that's really not
7 good for him. He says it. I asked him, I said, what
8 were you doing there? Because I can't lead him down a
9 path and ask him to say exactly what I want him to say,
10 or answer only my specific questions.

11 I asked him the general questions as to what
12 transpired and what occurred. He outlined those
13 events.

14 I was very careful, Your Honor. and I think the
15 Court would acknowledge this, and the State would too,
16 I was very careful in my attempt not to elicit hearsay
17 testimony. And he presented what he saw, what he
18 heard, what he understood.

19 And it's within 24 hours of this event, and it's
20 directly related to my client. I don't know how much
21 more linked it could be --

22 THE COURT: Let me -- maybe you didn't
23 understand my question.

24 what is the relevance of the victim smoking
25 marijuana 24 hours before this incident.

1 MR. BIERING: I don't believe the witness
2 testified that the Mr. Porcher was smoking marijuana. I
3 think he testified that he was smoking marijuana. That
4 was my recollection of the testimony.

5 That he went there to obtain marijuana. He
6 called it the hill, but then he further described the
7 tree where everybody hung out.

8 I don't think he said -- I don't recall him
9 saying that Mr. Porcher was smoking marijuana. I think
10 he said he went there to buy some marijuana and smoke
11 some marijuana.

12 THE COURT: All right. With reference to --
13 this is all encompassing in the State's motion in
14 limine about prior bad action.

15 Specifically with reference to the testimony of
16 Mr. Wright -- and I notice Mr. Wright's attorney is
17 present in the courtroom on the unrelated matter -- I
18 am granting your motion in limine as to the testimony
19 of drugs, drug use by the victim, and to the mention of
20 the gun, the shooting of the gun. I find that neither
21 are relevant to the situation and to the incident, more
22 than 24 hours before.

23 Mr. Wright may testify that Mr. Porcher, the
24 victim, was upset by Mr. McCray, the defendant, about
25 beating up his friend. I find that any testimony

1 regarding the drugs and the gun are more prejudicial
2 than probative. And there is absolutely no, in this
3 Court's opinion, that there was any indication that
4 they were so closely connected with the homicide as to
5 justify their inclusion.

6 Note your exception for the record.

7 Mr. Shelton, I'm going to ask if you would be so
8 -- if you would indicate to your client what the terms
9 and the limitation of his testimony will be.

10 Any objection to allowing Mr. Shelton?

11 MS. WILLIAMS: No, Your Honor.

12 THE COURT: Mr. Biering?

13 MR. BIERING: Certainly not.

14 THE COURT: All right, thank you.

15 And with that the jury will be here and we will
16 begin promptly at 1:00. You have a witness before Mr.
17 McCray?

18 MR. BIERING: Yes, Your Honor. And I need to go
19 make inquiry about a matter as relates to that witness
20 before I would call that witness.

21 THE COURT: So just for scheduling, I understand
22 you'll call Mr. Wright, then you will call the walk-in
23 witness; is that correct?

24 MR. BIERING: That would be the order if I call
25 either of them.

1 THE COURT: All right. Then you will call Mr.
2 McCray?

3 MR. BIERING: That's when he would have the
4 opportunity, yes, Your Honor, to choose to testify.

5 THE COURT: And then depending upon the time,
6 are you prepared to argue and charge this afternoon?

7 MS. WILLIAMS: We are, Your Honor.

8 MR. BIERING: I am.

9 THE COURT: All right, thank you.

10 Mr. Biering just for scheduling, just to make
11 sure, because the Court will have to make sure that the
12 verdict forms and the charges are complete, if you'll
13 give me some indication as to who, or the final
14 scheduling before the jury comes in so that I can begin
15 preparation. Thank you.

16 We are at ease.

17 (Whereupon, a recess was taken.)

18 THE COURT: Mr. Biering, I noted your request.
19 He will be placed in the box before the jury comes in.
20 And the Court does not have access to clothes and so
21 there is no way to comply with the request. Thank you.

22 MR. BIERING: Thank you, Your Honor.

23 Your Honor, for the record, the advisement as it
24 relates to this witness.

25 THE COURT: Yes.

1 MR. BIERING: Was done outside of my presence
2 first by his attorney, and second I went in and
3 accompanied his attorney. And certainly there was no
4 violation of attorney/client privilege at that point
5 between the two of them.

6 But I just confirmed, because I am presenting
7 this witness, that he was informed of the Court's
8 ruling as it relates to the limitation of his
9 testimony.

10 THE COURT: All right, thank you.

11 MR. BIERING: Thank you, Your Honor.

12 THE COURT: Anything before we bring in the jury
13 from the State?

14 MR. ALFARO: No, Your Honor.

15 THE COURT: From the defendant?

16 MR. BIERING: No, Your Honor.

17 THE COURT: All right.

18 To the members of the audience, just a
19 cautionary tale. This is a courtroom. And as
20 indicated in my instructions and opening to the jury,
21 this courtroom is a place of honor.

22 If you cannot conduct yourself in an honorable
23 fashion, there is no laughing that be will be
24 tolerated, or outbursts that will be tolerated. My
25 bailiff and my deputies have been instructed that if

1 anyone is acting inappropriately, and not respecting
2 the honor and dignity and the serious nature of what
3 goes on in the courtroom, you will be asked to leave,
4 and we will deal with it accordingly.

5 Please bring in the jury.

6 (Whereupon, the jurors enter the courtroom.)

7 THE COURT: Thank you, be seated.

8 Ladies and gentlemen, it has been determined
9 that the witnesses that testified yesterday, Edward
10 Bacon and James Williams, were in the courtroom prior
11 to their testimony. Prior to their testimony
12 testifying.

13 Typically what happens, it's called the rule of
14 sequestration, and what that means is before a trial
15 begins the witnesses may, by order of the Court either
16 on its own motion or motion of counsel for either side,
17 be sequestered. And the purpose for that it to prevent
18 a witness not yet examined from hearing the testimony
19 of any other witness on the stand.

20 The Court had implemented the rule of
21 sequestration in this case. Witnesses Joseph Williams
22 and Edward Bacon violated the rule of sequestration by
23 remaining in the courtroom during testimony prior to
24 their own testimony.

25 If the rule of sequestration is violated by a

1 witness, the violation should be considered by you in
2 determining the weight and credit to be given to the
3 testimony of that witness.

4 Ladies and gentlemen, we will now hear
5 testimony, please, from your next witness. And just
6 procedurally we had already had this witness in the
7 box.

8 So just, will you call his name?

9 MR. BIERING: I will, Your Honor.

10 The next witness is Chavis Wright.

11 CHAVIS LAVON WRIGHT,

12 after having first been sworn to tell the truth, the
13 whole truth and nothing but the truth testified on his
14 oath as follows.

15 THE COURT: Mr. Biering.

16 MR. BIERING: May it please the Court, Your
17 Honor.

18 DIRECT EXAMINATION

19 BY MR. BIERING:

20 Q Good afternoon, Mr. Wright.

21 A Good afternoon.

22 Q Mr. Wright, where are you currently staying each
23 day?

24 A In the Berkeley County Detention Center.

25 Q Okay. And do you have, have you ever been

1 convicted of a crime in the past?

2 A Yes, I have.

3 Q You have?

4 A Yes.

5 THE COURT: Mr. Wright, I need you to lean
6 forward, the jurors are having trouble hearing you.
7 Thank you.

8 A Yes, I have.

9 Q (By Mr. Biering) And do you know what your
10 convictions, for what you have been convicted of?

11 A Armed robbery, financial card theft.

12 Q Thank you. Where are you from?

13 A I'm from [REDACTED].

14 Q And how long have you lived in [REDACTED]

15 A All my life.

16 Q How old are you?

17 A I'm 32.

18 Q Are you familiar with the Jack Primis area?

19 A Yes, I am.

20 Q Have you ever had occasion to be in the Jack
21 Primis area?

22 A Yes, I have.

23 Q In 2009, specifically, did you have any occasion
24 to be in the Jack Primis area?

25 A Yes, sir.

1 Q To be even more specific, in September of 2009,
2 did you have occasion to be in the Jack Primis area?

3 A Yes, sir.

4 Q Mr. Wright, do you know Reginald Porcher?

5 A I do.

6 Q And were you aware that on September 16th, 2009
7 Mr. Porcher was shot?

8 A Yes, sir.

9 Q How long prior to September 16th of 2009 had you
10 known Reginald Porcher?

11 A All my school life.

12 Q In September of 2009, did you see or have any
13 interactions with Reginald Porcher?

14 A Yes, sir.

15 Q When in September of 2009 did you have any
16 interactions with Reginald Porcher?

17 A The night before he got shot.

18 Q And where did you have interactions with
19 Reginald Porcher the night before he was shot?

20 A It's in Jack Primis. I cannot remember the name
21 of the street, but it's an area we all hang out it's
22 called the hill. We all call it the hill.

23 Q Can you describe the hill?

24 A When you get off of Clements Fairy Road, you
25 make a left, go down, come around a sharp curve, it's

1 the second right and you go down like a slope.

2 And it's like maybe three or four trailers out
3 there, a big tree where we all hang out at.

4 Q Underneath the tree?

5 A Yes, sir.

6 Q So that was night before September 16th; is that
7 correct?

8 A Yes, sir.

9 Q And who did you see that night at the hill or
10 the tree?

11 A The ones I know of was Abdulla Fishburne,
12 Reginald, Jeff, and six other guys. I know them by
13 face, not by name.

14 Q Do you know approximately how long you were at
15 the hill or the tree?

16 A I'd say 10 to 15 minutes tops.

17 Q Did you have -- can you describe the
18 interactions that you had with Reginald Porcher during
19 that timeframe?

20 A I was wondering why he was carrying on the way
21 he was carrying on about the situation with Ron and
22 Abdulla earlier that day when they had their fight.

23 Q Did you observe anything about his demeanor or
24 his attitude?

25 A He was very angry.

1 Q Did you observe anything in relation to his
2 anger that would relate to -- let me strike that.

3 Do you know Ron McCray?

4 A I know of him, but I don't know him like that.

5 Q Did you know -- in September of -- September
6 15th, 2009, did you know his name?

7 A I know his name? Yes, I know his name.

8 Q In relation to what you observed from Reginald
9 Porcher and his anger, can you describe anything you
10 may have observed as related to that in relation
11 between Reginald Porcher and Ron McCray, if anything?

12 A His emotions, his anger, and the things he said,
13 the threats he was posing.

14 Q And were those directed towards Ron McCray?

15 A Yes, sir.

16 Q Now you've testified that you know that Reginald
17 Porcher was shot on September 16th, 2009?

18 A Yes, sir.

19 I was phoned by a friend of mine.

20 Q But you weren't there at the time that the shots
21 were fired, were you?

22 A No, sir.

23 Q Did you have occasion on September 16th of 2009
24 to -- go back to the hill or the tree?

25 A As I was on the phone being told that he was

1 shot, at the same time I pulled over and police from
2 the Berkeley County passed me. I followed.

3 MS. WILLIAMS: Objection.

4 THE COURT: Hold on one second. When there is
5 an objection I need you to stop talking.

6 What is the objection?

7 MS. WILLIAMS: May we approach?

8 THE COURT: You may.

9 (Whereupon, a discussion was held at the bench
10 off the record.)

11 THE COURT: Mr. Biering, you may continue.
12 Thank you.

13 MR. BIERING: Thank you very much; Your Honor.

14 Q (By Mr. Biering) Mr. Wright, I think where we
15 were is you had said that September 16th, and you had
16 pulled off the side of the road because there was some
17 police officers coming by you; is that right?

18 A Yes, sir. Yes, sir.

19 Q And where were you headed at the time?

20 A I was leaving work. I was getting off the I on
21 Clements Fairy. I was headed home until I got the
22 phone call. And that's when I had to pull over at the
23 same time the police car was coming by.

24 Q And did you find yourself, after that time, back
25 at hill or the tree?

1 A Yes, sir.

2 Q And can you tell us who you saw there, the
3 people that you know by name, who did you see there
4 when you pulled up?

5 A I first picked up, I drove past, then I turned
6 around and I went to go park. And as I was parking I
7 observed Sleepy standing on the side road with a black
8 bag.

9 And as I got out of the car and I walked down to
10 the hill I observed Abdulla, I observe Reggie and I
11 observed Jeff and a couple other folks out there that I
12 don't know by name.

13 Q Did you say you observed Reggie?

14 A Yes, sir.

15 Q Where was Reggie?

16 A He was sitting in Jeff's car.

17 MR. BIERING: No further questions of this
18 witness.

19 THE COURT: Ms. Williams.

20 CROSS-EXAMINATION

21 BY MS. WILLIAMS:

22 Q Good afternoon, Mr. Wright.

23 A Good afternoon.

24 Q What time did you get off work?

25 A It was around 2:00 or 3 o'clock.

1 Q 3 o'clock?

2 A Around 2:00 or 3:00, in between.

3 Q And where do you work?

4 A I was working at Botany Bay Landscaping at the
5 time.

6 Q Where is that?

7 A Mount Pleasant off of Rifle Range.

8 Q How far down on Rifle Range?

9 A I can't remember the name of the school that's
10 right across from there, the elementary school before
11 you get to the Kangaroo at the end.

12 I don't know if it's a--

13 Q Jennie?

14 A Not Jennie Moore, it's way past that.

15 Q Well how long did it take you to get from your
16 job to Clement Fairy?

17 A About 15 minutes tops, depending on how the
18 traffic is.

19 Q And what part of Clements Fairy did you get to?

20 A A little past Blue Waters.

21 Q Isn't that where the school buses are going?

22 Traffic is pretty bad around 3 o'clock, isn't it?

23 A It all depends.

24 Q Are you sure it's 15 minutes?

25 A 15 minutes tops.

1 Q And you saw police cars?

2 A Yes, ma'am.

3 Q And what direction were they going?

4 A They was headed towards Jack Primis.

5 Q You think they were responding to the scene?

6 A I'm pretty sure.

7 Q And then how much later was it that you got to
8 Jack Primis?

9 A Maybe five, six minutes afterwards.

10 Q After the police?

11 A Yes, ma'am.

12 Q So you get to -- 15 minutes later you get to
13 Clements Fairy, and then you pull over. How long were
14 you pulled over?

15 A Not even five seconds.

16 Q Five seconds? And then you drive to Jack
17 Primis?

18 A Yes, ma'am.

19 Q And the police were on their way because of the
20 shooting?

21 A I'm pretty sure they was.

22 Q And you go there after them?

23 A Yes, ma'am.

24 Q Now you testified that you hardly know Ron; is
25 that right?

1 A Yes, ma'am.

2 Q But don't see him every day? Do you have lunch
3 with him every day?

4 A Now that I'm here.

5 Q So you do know him.

6 A I know of him but I don't know him personally
7 like that. I see him on the route. I don't socialize
8 with everybody like that.

9 Q Do you have lunch with him every day?

10 A I have no choice, but don't mean I sits with him
11 and conversates with him.

12 Q And you've talked to Mr. McCray about your
13 testimony; haven't you?

14 A No, I haven't.

15 Q Do you know what Rule 5 is?

16 A Yes.

17 Q What is that?

18 A All the evidence they have against you.

19 Q And you've never looked at Mr. McCray's Rule 5?

20 A No, that's his personal business.

21 Q So before you got here, you knew absolutely
22 nothing about this case?

23 A Yes, I did, because I was there.

24 Q When you got to -- scratch that.

25 who else was there the night before you --

1 Reggie was murdered?

2 A I observed by name Abdulla Fishburne, I observed
3 Reggie, I observed Jeff, and I observed six other guys
4 that I don't know by name but I know them by their face
5 when I see them.

6 Q Any females?

7 A No. No females don't be around.

8 Q And Mr. Biering asked you about the situation
9 between Abdulla and Mr. McCray.

10 what did Mr. McCray do to Abdulla.

11 MR. BIERING: Objection.

12 Q (By Ms. Williams) If you know.

13 THE COURT: What is the basis?

14 MR. BIERING: Basis is a misstatement of the
15 record.

16 THE COURT: Overruled. You may answers.

17 A Can you repeat the question?

18 Q (By Ms. Williams) If you know, what did -- you
19 said you knew that Reggie was upset because of the
20 situation between Mr. McCray and Abdulla.

21 what did Mr. McCray do to Abdulla?

22 MR. BIERING: Objection, misstatement of the
23 current record before the Court.

24 THE COURT: Counsel, approach.

25 (Whereupon, a discussion was held at the bench

1 off the record.)

2 Q (By Ms. Williams) What did Mr. McCray do to
3 Abdulla?

4 A From my understanding they had fought.

5 Q He beat him up?

6 A I guess he did, I didn't know --

7 Q And he beat him up with a shotgun, didn't he?

8 A I don't --

9 MR. BIERING: Objection.

10 THE COURT: What is your objection?

11 MR. BIERING: Can we approach?

12 THE COURT: You may.

13 (Whereupon, a discussion was held at the bench
14 off the record.)

15 THE COURT: Sustained.

16 Q (By Ms. Williams) You were there long enough to
17 be talking with these guys, right?

18 A Yes, ma'am.

19 Q And you were there long enough to know that
20 Reggie was upset with Ron for beating up his friend,
21 right?

22 A Yes.

23 Q What is Abdulla like?

24 A He is.

25 Q Is he a little slow?

1 A If you want to say that. I'm not one to judge
2 nobody.

3 Q Kind of helpless?

4 MR. BIERING: Objection, call for speculation,
5 asked and answered.

6 THE COURT: If he knows.

7 A I can't say that he is, ma'am.

8 Q (By Ms. Williams) Is Reggie protective of
9 Abdulla?

10 A They are pretty good friends, yeah.

11 Q And so he is upset that Mr. McCray beat up
12 Abdulla. What did he tell you about that fight?

13 A He didn't go into detail. He just said they had
14 a fight and he wasn't going to let it ride.

15 Q Is Abdulla any match for Mr. McCray?

16 A I can't tell you that, ma'am.

17 Q Well you were there, you saw him.

18 A I didn't observe the fight, ma'am.

19 Q But you know Abdulla, and you have lunch every
20 day with Mr. McCray.

21 How old is Abdulla?

22 A He is about 25, 26, something like that.

23 Q Isn't he about 20?

24 A I'm not sure his age. I know he is
25 20-something. 25, 26.

1 Q And you never discussed your testimony with Mr.
2 McCray?

3 A No, ma'am. I never discussed my testimony with
4 Mr. McCray.

5 Q So how did you get here today?

6 A I told you I called a friend of mine.

7 Q Who did you call?

8 A A friend of mind. Do I have to say his name?

9 Q Sure.

10 A His name is Clavis Crumbly (phonetic).

11 Q Okay, and then what?

12 A We gave me a 3-way to Abdulla. I told Abdulla
13 I'm willing to take the stand.

14 Q Why would you have to call Abdulla to testify
15 for Mr. McCray?

16 A Because I wanted to tell him the truth of what
17 really happened.

18 Q Why wouldn't you just tell Mr. McCray because
19 you have lunch with him every day?

20 A Because I'm just now meeting Mr. McCray in
21 Berkeley County. I have seen him several times on the
22 street, but we never exchanged any words.

23 Q You just said you had lunch with him every day.

24 A Yeah, that's in Berkeley County. I said on the
25 street I didn't --

1 THE COURT: Mr. Biering.

2 MR. BIERING: Nothing further.

3 THE COURT: All right. Is this witness excused?

4 MR. BIERING: Yes, Your Honor.

5 THE COURT: Any objection from the State?

6 MS. WILLIAMS: Not from the State.

7 THE COURT: Mr. Mitchell, you are free to go.

8 You may remain with us, but you are also free to leave
9 the courthouse. Thank you, you may step down.

10 Ladies and gentlemen, we are going to take a
11 very brief mid-afternoon break. We will take about 10
12 minutes. If you need longer, just let the bailiff no.

13 Please rise for the jury.

14 (Whereupon, the jurors exit the courtroom.)

15 THE COURT: Thank you, be seated.

16 I am assuming, Mr. Biering, that was all your
17 witnesses except for Mr. McCray. Is that correct?

18 MR. BIERING: Based on the Court's ruling as
19 relates to other matters, Your Honor, that is all of
20 our witnesses except for Mr. McCray, yes.

21 THE COURT: And, Mr. McCray, have you made a
22 decision as to whether or not you will testify.

23 THE DEFENDANT: I will testify, Your Honor.

24 THE COURT: You will testify.

25 THE DEFENDANT: Yes, Your Honor. I will

1 testify.

2 THE COURT: Thank you. We are going to take a
3 short break.

4 And, Mr. McCray, you will need to be seated in
5 the chair when the jury comes back in.

6 Mr. Biering, you've gone over the Court's
7 rulings and limitations on what Mr. McCray may testify;
8 is that correct?

9 MR. BIERING: I have, Your Honor. But I would
10 ask that, for the record, that I would ask that the
11 Court place on the record those limitations as well.

12 I think that from a procedural history of this
13 case, I think that it would be appropriate that on the
14 record the Court's ruling be very clear in the presence
15 of the defendant and the presence of the State so that
16 there is not any room for any issue. And certainly not
17 in a position to where I am pitted against my client as
18 it relates to relating the Court's ruling.

19 I would ask the Court to place on the record the
20 specific rulings, the specific limitations as it
21 relates to his testimony.

22 THE COURT: First I hope Mr. McCray is not under
23 the belief that you are pitted against him when you are
24 relaying to him the court's instruction. I just wanted
25 to make that clear. I do not need further explanation,

1 Mr. Biering.

2 Mr. McCray, one of the purposes of having an
3 attorney, why it is always a benefit to you, is that
4 Mr. Biering has been through law school, has passed the
5 bar, and has been practicing, and he understands the
6 very fine nuances. I can say terms like motion in
7 limine or sequestration, and he understands what that
8 means.

9 So I hope that when he explains to you the
10 Court's ruling, that you understand that you've
11 observed he has objected to most of the Court's rulings
12 and taken exception with a large majority of the
13 Court's rulings throughout this trial.

14 Mr. McCray, just in the simplest, because I do
15 not want to give you the impression that I am telling
16 you what you should say or should not say, but you are
17 limited in certain areas because has the Court has
18 ruled in the State's motion in limine.

19 Do you understand that, sir?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Basically, Mr. McCray,
22 you have been here and heard the testimony that your
23 attorney was attempting to introduce on your behalf
24 concerning prior convictions or incidents with law
25 enforcement involving drugs and guns with the victim.

1 Do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And do you have any questions about
4 that? Do you need any additional time? We have five
5 minutes.

6 THE DEFENDANT: Your Honor, I do have questions.

7 THE COURT: All right. I'm going to -- I
8 believe that it is clear, and you've indicated to you
9 understood, and you were present throughout the Court's
10 rulings on the motions.

11 And so if you have additional questions, I think
12 it's appropriate, not in open court, but that you have
13 those questions for Mr. Biering. Do you understand?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right, thank you.

16 We are at ease. And please make sure that Mr.
17 McCray, we are going to take about seven minutes. So
18 in five minutes -- do you need to go to the restroom.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. Please make sure that is
21 accomplished and give Mr. Biering just a couple of
22 moments with Mr. McCray before he takes the stand.

23 He needs to be in the witness chair when the
24 jury comes in. We are at ease. Thank you.

25 (Whereupon, a recess was taken.)

1 THE COURT: Bring in the jury.

2 (Whereupon, the jurors enter the courtroom.)

3 THE COURT: Thank you, please be seated.

4 Mr. Biering, call your next witness.

5 MR. BIERING: Your Honor, I would call my
6 client, Ron McCray, to the stand.

7 THE COURT: Ladies and gentlemen of the jury,
8 just procedurally Mr. McCray is already seated in the
9 witness box.

10 Please swear Mr. McCray.

11 RON SANTA MCCRAY,
12 after having first been sworn to tell the truth, the
13 whole truth and nothing but the truth testified on his
14 oath as follows:

15 DIRECT EXAMINATION

16 BY MR. BIERING:

17 Q Good afternoon, Mr. McCray.

18 A Good afternoon.

19 Q Mr. McCray, where are you from?

20 A Born in New York.

21 Q And how long did you live in New York?

22 A 10 years.

23 Q I need you to speak up, okay?

24 At some point in time -- let me ask you this
25 question. Do you have family that is from the Jack

1 Primis area of Berkeley County?

2 A Yes, I do.

3 Q And can you describe -- who is your mother?

4 A Evelyn McCray.

5 Q And do you reside on a piece of heirs property,
6 or have a place where you stay?

7 A Yes, I do.

8 Q On a piece of heirs property in the Jack Primis
9 area?

10 A Yes, sir, I do.

11 Q Is that property maintained in the heirs of
12 wigfall?

13 A Yes.

14 Q And are you a direct descendant of Mr. wigfall?

15 A Yes, I am.

16 Q And that's traced through your mother's family?

17 A Yes. My mother's grandmother.

18 Q Through your mother's grandmother?

19 A Yes, Saddle Vanbolt (phonetic), she used to be
20 wigfall. She married into the Vanbolt's family.

21 Q And you lived for a while and had a home in the
22 Jack Primis area; is that correct?

23 A Yes.

24 Q In September of 2009, did you have place in the
25 Jack Primis area?

1 A Yes.

2 Q And where was that located at?

3 A It's on Whitefalls Lane.

4 Q And can you describe the driving directions from
5 Let's say from Clements Ferry to that home?

6 A You would turn off of Clements Ferry, which is
7 Highway 33. Make a left turn, that would be Jack
8 Primis Road. You proceed that about a little over half
9 a mile. And then you would take a right turn on Sarah
10 Lincoln.

11 And then about a 16th on a dirt ride you would
12 make a left turn on Whitefalls Lane. And my house
13 would be facing you.

14 Q Is that near Underlie Lane?

15 A Positioning with my house is, yes. But using
16 the actual roadway, you would go out the opposite way
17 and then you would proceed to go back down.

18 Q So the way the crow flies, as some people would
19 say, or the way the bird flies, they are close?

20 A Well in actuality the distance apart is only
21 like three houses between it. There are trees.

22 Q Are you familiar with area called Underlie
23 Roadway?

24 A Yes.

25 Q What is around Underlie?

1 A well, they don't cut grass, there is no grass.
2 So there is a tree. Guys hang out at the tree.

3 Q It's a regular hangout there. Do some people
4 call it the hill?

5 A Not exactly. I guess you could say people
6 that's not really from there they might say -- probably
7 get the two confused, say under the tree.

8 Q So you call that area the tree; is that what
9 you'd say?

10 A Yes.

11 Q Mr. Porcher -- I'm sorry, Mr. McCray, do you
12 know or did you know Reginald Porcher?

13 A Yes.

14 Q Do you know Christopher Cleggett?

15 A Yes.

16 Q Do you remember September of 2009? Do you have
17 a clear memory of that timeframe?

18 A Pretty, fairly clear.

19 Q Do you recall September 16th, 2009?

20 A Yes.

21 Q Can you tell what transpired on September 16th,
22 2009?

23 A Chris, Christopher Cleggett and I, we were
24 traveling on Jack Primis Road going towards the end.

25 Q You said end, what is the end of Jack Primis

1 Road?

2 A It's like a culdesac.

3 Q I didn't mean to interrupt you. But it's a
4 culdesac. So it's like a dead-end culdesac?

5 A Yeah, it's a roundabout.

6 Q Okay.

7 A And basically we were proceeding that way. And
8 I saw Reggie's truck. And I told Chris, well, let's
9 stop here for a minute. And we stopped. And pulled
10 in.

11 Q That day when you got in car with Chris
12 Cleggett, were you looking for Reginald Porcher?

13 A No.

14 Q You weren't looking for him that day? Had
15 something transpired in the past regarding Reginald
16 Porcher that you wanted to address with him?

17 A About five months, five months prior to that he
18 had an incident with a girl that had a child, we have a
19 child together, an incident happened at my house.

20 You know, something happened a long time ago.
21 And it wasn't like necessarily me, I mean just wasn't.

22 Q You said -- do you remember being interviewed by
23 Detective Alteri?

24 A Yes.

25 Q You stated in your interview that Reginald

1 Porcher raped Tiffany?

2 A From my understanding he tried to sexually
3 assault her.

4 Q Is that something that you wanted to address?

5 A Yes. I happened to see him. I asked him, you
6 know, find out what's up, what's up with it. She could
7 have been lying to go me, I don't know, I wasn't there.

8 My brother was there. He didn't indicate
9 nothing, so I don't know.

10 Q So why did you pull in? why did you have
11 Cleggett pull in?

12 A Because I wanted to talk to him.

13 Q What did you do?

14 A I -- when Chris stopped the car, I got out of
15 the car. And I didn't close the door. I didn't close
16 the door yet. And.

17 Q Were you a passenger in Mr. Cleggett's car?

18 A I was a passenger. I didn't close the door. I
19 got out, had my hand still on the door and I said
20 something, you know, told him, hey, Reggie, I'm coming
21 up to talk to you, something like that.

22 And basically he just took off running. I was
23 close to his truck because of the way I parked. And he
24 wasn't -- he was a distance from his truck. Little
25 more than halfway to the door.

1 Q Did it startle you whenever he ran to his truck?

2 A Yes, it did.

3 Q And what happened?

4 A Well then he started -- I paused. He got to his
5 truck, his door was already open, the driver's side
6 door was already open.

7 He got to his truck and he went down, went under
8 the seat, on top of the seat, whatever, he reached in
9 his truck and he came back out.

10 Q And at the time that he was doing this, what did
11 you think was going on?

12 MR. ALFARO: Objection, leading.

13 THE COURT: Rephrase your question.

14 Q (By Mr. Biering) What were your thoughts about
15 what Mr. Porcher was doing at the time?

16 MR. ALFARO: Objection, still leading.

17 THE COURT: Overruled. You may answer.

18 A I believe he was reaching for a weapon. I say
19 that because I have known him all my life, so.

20 Q (By Mr. Biering) What did he do?

21 A He actually reached in, he dropped back, and I
22 went back to the car. I wasn't -- my hand was still on
23 the actual door handle, the window frame. And I had a
24 shotgun with me.

25 Q When you got out of the car, did you have the

1 shotgun with you?

2 A No.

3 Q I'm sorry?

4 A No, sir, I did not.

5 Q Okay, continue.

6 A I went back to the car. I had a shotgun, it was
7 sitting on the -- right on the passenger, and sitting
8 between the seat and the actual door on the floor.

9 I grabbed the shotgun. I had it wrapped up in
10 something. So I had to unwrap it and basically, you
11 know, everything really transpired fast.

12 Grabbed the shotgun and he was -- he pointed to
13 me what looked like a weapon. I picked my weapon up
14 and I fired.

15 Q And you recall your statement, you recall giving
16 your statement to Sgt. Alteri?

17 A Yes, I do.

18 Q You said in your statement, didn't you, that you
19 shot Reginald Porcher; is that correct?

20 A Yes.

21 Q What happens then?

22 A His truck, there's some reason I don't know, he
23 might have fell into his truck like. And his truck
24 started going backwards, so he tried to stop it.

25 He started running beside his truck, but the

1 door was open, and he fell. The truck ran over his,
2 like, his left leg so you could tell he was on the
3 ground, passed him. And I ran over towards him. I
4 kicked him. I did that to try to take the weapon off
5 of him. And that was it. One time, and that was it.

6 Q At this point was this a heated -- this is
7 heated, at this point?

8 MR. ALFARO: Objection; leading.

9 THE COURT: Sustained as to leading.

10 Q (By Mr. Biering) What were you thinking at this
11 point?

12 A He, by his past actions --

13 MR. ALFARO: Objection.

14 Q (By Mr. Biering) Mr. McCray, I'm asking you --

15 THE COURT: Thank you, Mr. Biering.

16 Q (By Mr. Biering) -- what were you then
17 thinking?

18 A I was thinking he was trying to hurt me.

19 Q I'm sorry?

20 A I was thinking he was trying to hurt me, harm
21 me.

22 Q You said you kicked him to try to disarm him?

23 A Yes.

24 Q Did you disarm him?

25 A I didn't see the gun.

1 Q Okay. Then what happened, Mr. McCray?

2 A That was it. He got up, he went back towards
3 the people that he was standing under the tree with and
4 that was it.

5 Q Did you leave?

6 A I left. He didn't even appear to be shot. He
7 got up. And here he went back to the people that he
8 was standing next to the tree with.

9 I mean, he got shot. He was chased down to his
10 truck. I did kick him. He got back up. He didn't
11 appear to be -- nothing was wrong with him.

12 Q Did you leave?

13 A Yes, I left.

14 Q Now you say you fired the shotgun, what all did
15 you have with you with that shotgun?

16 A I had it wrapped up, so that's it.

17 Q Did you have anything, any other items with the
18 shotgun? Did you have any ammunition?

19 A What was inside the gun.

20 Q Well what was inside the gun?

21 A I guess a couple more shells. I mean I don't
22 know. It has been there for awhile, so I don't know
23 how many.

24 Q So were there more than one shell in the gun?

25 A I really can't answer that, could have been just

1 one. I don't know.

2 Q And, Mr. McCray, you left the scene that day; is
3 that correct?

4 A Yes, I did.

5 Q A lot of discussion in your statement that you
6 provided the video as it would relate to the events in
7 between there. But you'd agree that ultimately you
8 were picked up by the police; is that correct?

9 A Yes.

10 Q And you'd agreed that you told Sgt. Alteri where
11 the gun was located; is that correct?

12 A Yes, I did.

13 Q I am going to ask you some questions, but I want
14 you to be very careful that only asking --

15 MR. BIERING: Your Honor, I ask for some leeway
16 for potential leading of the witness in a very limited
17 area.

18 MR. ALFARO: Can we approach?

19 THE COURT: You may.

20 (Whereupon, a discussion was held at the bench
21 off the record.)

22 THE COURT: You may continue.

23 MR. BIERING: Thank you, Your Honor.

24 Q (By Mr. Biering) Mr. McCray, isn't it true that
25 you've known the Porcher family for a significant

1 portion of your life; is that correct?

2 A Yes.

3 Q And specifically you knew or know his, Mr.
4 Reginald Porcher's, brother; is that correct?

5 A Yes, I do.

6 Q And specifically you've had, would you say,
7 substantial contacts with -- maybe not substantial,
8 have you had numerous contacts and been with him in
9 numerous social settings?

10 A At least I would say four, four or five, yes.

11 Q And you knew Mr. Reginald Porcher; is that
12 correct?

13 A Yes, he is at my house every day.

14 Q And you knew Mr. Reginald Porcher at least, I
15 want to be specific, through the period of 2000
16 certainly through 2000 -- at the time of his passing;
17 is that correct?

18 A Yes, sir.

19 Q And Mr. Porcher was, would it be fair to say, in
20 somewhat regular contact with your brother for many of
21 those years; is that correct?

22 A Yes.

23 Q Mr. McCray, do you know approximately how long
24 you were at the tree on September 16th?

25 A Two minutes, three minutes.

1 Q And your testimony is that when you left
2 Reginald Porcher was doing what?

3 A He was walking.

4 Q Mr. McCray, what else about the events of that
5 day, or those directly related to it, leading up to
6 that day, do you believe is appropriate to tell this
7 jury about?

8 MR. ALFARO: Objection. Can we approach?

9 THE COURT: I'm sustaining your objection.
10 Thank you.

11 Q (By Mr. Biering) Mr. McCray, based on the
12 questions that I have asked you, is there any follow-up
13 information that you need to more fully answer the
14 questions I have asked you today?

15 MR. ALFARO: Objection.

16 THE COURT: Sustained.

17 MR. BIERING: Can we approach, Your Honor?

18 THE COURT: You may.

19 (Whereupon, a discussion was held at the bench
20 off the record.)

21 THE COURT: Move on, Mr. Biering.

22 MR. BIERING: Thank you, Your Honor.

23 If I could approach the witness, Your Honor.

24 THE COURT: You may. You have continuing
25 permission.

1 MR. BIERING: Thank you, Your Honor.

2 Q (By Mr. Biering) Let me show you what has been
3 admitted previously as State's Exhibit 8. It's up on
4 the board as well.

5 Mr. McCray, is this the area you call the tree?

6 A Yes. It's near that car on the camera.

7 Q Do you recall any other people that were there
8 at the time you pulled up on September 16th?

9 A I remember Jarvis was here, Tanner, Roberts was
10 there, Abdulla Fishburne was there. I vaguely
11 remember.

12 Q And where specifically were they?

13 A Well if you were to turn that camera around and
14 facing it coming out, they were sitting on the car.

15 Q All of them? They were all around the car?

16 A Pretty much.

17 Q And not Reginald Porcher, the other people that
18 were there, when you drove up, what if anything did
19 they do?

20 A I don't believe they did anything. They was
21 just standing there talking I guess.

22 Q Before you left that day, what if anything did
23 they do?

24 Were they still there?

25 A No. No, they left.

1 Q I'm sorry?

2 A Did people leave the area?

3 Q Right.

4 A To my knowledge, I mean I left the area.

5 Q No. When you left, could you still see them
6 there?

7 A I left so how can you see someone leave.

8 Q Mr. McCray, was Abdulla fishburne still at the
9 scene when you left?

10 A When I was pulling away, he was still there.

11 Q Did you make note of anybody else that was at
12 the scene before you left?

13 A No, I didn't.

14 Q Okay.

15 MR. BIERING: If I could have just a moment,
16 Your Honor.

17 THE COURT: Take your time.

18 MR. BIERING: No further questions for this
19 witness at this time.

20 THE COURT: All right, thank you.

21 MR. ALFARO: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. ALFARO:

24 Q Mr. McCray, you testified that the problem you
25 had with Reggie Porcher was from five months ago, five

1 month before the shooting?

2 A I didn't have a problem with him. He had a
3 problem with someone else.

4 Q You weren't mad about that?

5 A I was upset at the time.

6 Q So five months before you shot Reggie Porcher
7 you were upset?

8 A Yes.

9 Q All right. But you weren't upset that day when
10 you went there to Jack Primis and saw him?

11 A No.

12 Q Okay. So you had gotten over it, you had, want
13 to say, cooled off between five months and the time of
14 the shooting?

15 A It had been about a thousand times after that.
16 I mean, yes.

17 Q So you all, after that, everything was good?

18 A Yeah. I mean he still comes around. It's not
19 like he, I mean.

20 Q Okay. Well that's good.

21 So that day you just wanted to talk to him?

22 A Yes.

23 Q You wanted to talk to him about that? That
24 incident from five month before?

25 A I never seen him.

1 Q Okay. I thought you --

2 A I just said he still comes to my house but I
3 never seen him.

4 Q Okay. I'm incredibly confused right now.
5 Reggie Porcher, that's the person you shot, do you
6 remember that?

7 A Yes.

8 Q Okay. You're -- the thing that you testified to
9 when you were questioned by Mr. Biering, you said
10 something happened with a girl five months before?

11 A Yes.

12 Q And you testified, to my question, that you
13 weren't mad about that on the day of the shooting,
14 correct?

15 A No, I wanted to question him.

16 Q Okay. So you had hung out with him, he had come
17 over to your house every day, or not every day but a
18 lot between the time of that thing five minute ago and
19 September 16th, 2009?

20 MR. BIERING: Objection, compound question.

21 THE COURT: Overruled as to compound question.

22 A I never hung out with him

23 THE COURT: Mr. McCray, I know it's difficult.
24 But I need you, when I am making a ruling, I need you
25 to stop speaking. It's very important we don't speak

1 over each other so that the record will be complete.

2 Thank you.

3 Mr. Alfaro, you may need to repeat your
4 question.

5 Do you need him to repeat the question, Mr.
6 McCray?

7 THE WITNESS: Yes, please.

8 THE COURT: All right, thank you.

9 Q (By Mr. Alfaro) So that day, on September 16th,
10 2009, you just wanted to talk to him?

11 A Yes.

12 Q And were you going to talk to him about the
13 thing with the girl?

14 A Yes.

15 Q You weren't mad about that?

16 A I have said in my statement, I'm not for sure
17 what happened.

18 Q So all I'm asking is you whether you were mad or
19 not mad on September 16th, 2009. You weren't mad?

20 A No, I wasn't.

21 Q Okay. So you go there to talk to Reggie. And
22 you happen to see him. What was he doing when you
23 first saw him?

24 A He was talking to someone else, I don't -- he
25 had his back turned toward me, and just talking to

1 someone else.

2 Q Okay. And was he talking to Abdulla?

3 A I don't know.

4 Q You don't know, okay.

5 So he is talking to somebody with his back
6 turned to you, and is that when you and Chris stopped
7 the car?

8 A Possibly.

9 Q I'm sorry, I didn't hear you.

10 A Possibly. I can't exactly say.

11 Q When you parked -- because you were riding with
12 Christopher; is that correct?

13 A Yes.

14 Q When Christopher stopped the car, when you got
15 there and you stopped, was that when Reggie was talking
16 to somebody else with his back turned to you?

17 A Yes.

18 Q And what kind of car was that? Do you remember
19 what kind of car Chris was in?

20 A It was a Volvo.

21 Q Volvo. Do you remember what color it was?

22 A Black.

23 Q All right. And so you stop the car, or Chris
24 stops the car, and you get out. And you had a shotgun
25 with you that day, correct?

1 A Yes, I did.

2 Q And where was that shotgun in the car?

3 A It was on the floor between the door and the
4 passenger side, passenger seat.

5 Q Okay. Did Chris see the gun before you got out
6 with it?

7 A I don't think so because I got out of the car
8 before him.

9 Q Okay. So you had it kind of stuck down by the
10 side of the seat?

11 A Right.

12 Q So you get there, you drove there with that
13 shotgun; is that correct?

14 A Yes.

15 Q The shotgun was yours, not Chris's?

16 A It was mine.

17 Q So when you got in the car before Chris, you put
18 that shotgun in the car, correct?

19 A I got in the car, well, before Chris. But,
20 yeah.

21 Q But you were the one that put it in the car?

22 A I'm the one that put it in the car.

23 Q And you all were going to Jack Primis?

24 A No, I was going to West Ashley.

25 Q Okay. Where did -- so you were going to West

1 Ashley from your house?

2 A Yes, from my house. And we headed up the road
3 circled, and I told myself, wait a minute, let's go
4 down the road for a second.

5 Q Okay. And when you got there, you said Reggie
6 was outside of his car, outside of his truck?

7 A Yes, he was about a little more than half the
8 distance from that door of the courtroom.

9 Q From the courtroom? What side of the truck was
10 he on?

11 A He was still on the driver-type side, but he was
12 just way up in front of it.

13 Q Okay. So he was on -- he is probably --

14 A That's good.

15 Q -- about here from you? When you pull up, when
16 you see him --

17 A Right, it's about right there.

18 Q Okay. And you didn't have -- and he ran as soon
19 as he saw you?

20 A Probably as soon as I called him, something like
21 that. Between the two I guess. He turned around and
22 just.

23 Q So you see him cause you want to talk to him?

24 A Yes.

25 Q What did you say to him?

1 A I said, Reggie, look here for a minute, let me
2 talk to you something, something like that. He gone.

3 Q Were you yelling at him?

4 A No, but I say it loud enough so he could hear me
5 because he wasn't close to me.

6 Q So you yell at him for him to come talk to you,
7 and he runs to his truck?

8 A Yes.

9 Q And he ran to the driver's side?

10 A Yes.

11 Q Now was his truck facing up the driveway? Or
12 was it facing toward Jack Primis?

13 A Yes, up the driveway.

14 Q So he would have run from this direction that
15 way?

16 A Yes, right. Past his truck door to come back,
17 yeah.

18 Q And let's just say for example his truck is
19 here.

20 A Okay.

21 Q He runs from there to the passenger side -- or
22 the driver's side, I'm sorry.

23 A Right.

24 Q You are back there?

25 A Yes.

1 Q So you are to the back and to the right of his
2 truck?

3 A Yes. On the passenger side, yes.

4 Q So you are kind of cornered back of his
5 passenger side?

6 A Yes.

7 Q So you see him run to his driver's side. He
8 opens the door and goes in?

9 A The door was already open.

10 Q The door was already open. I want to make sure
11 I'm right on that.

12 Tell me when you are about the distance -- when
13 I'm the distance that you were when he ran to his
14 truck.

15 A Closer than that.

16 Q Closer than that?

17 A Okay.

18 Q Right here? About this distance. So we are
19 still about this angle, right?

20 You are standing here, he is running towards his
21 truck?

22 A Yes. I guess his truck would be more like by
23 where Mr. Biering is sitting I guess.

24 A Okay. So he runs to the driver's side, gets in
25 the car that is already open. And that is when you see

1 him go under the seat for something?

2 A He was on top or under. He reached in.

3 Q Okay. But you all weren't mad at each other,
4 right?

5 A Well, I wasn't mad at him.

6 Q Okay. So you don't know -- I mean it's fair to
7 say, you have no idea why he went into that car at the
8 time?

9 A I would think I would know why he would do
10 something like that.

11 Q Okay. You don't think he might have been just
12 trying to get in his truck to get away?

13 A No. If he would have do that, he would have
14 jumped in the seat.

15 Q But he got into the truck?

16 A He didn't get in the truck.

17 Q Okay. Now do you recall -- I believe you
18 testified that you recall giving a statement to Sgt.
19 Alteri regarding this shooting?

20 A Yes, I did.

21 Q Do you recall telling Sgt. Alteri that Reggie
22 got into his truck, went down and popped up?

23 A He reached into his truck, yes.

24 Q And you shot him through the back window?

25 A Diagonally.

1 Q Diagonally, okay. So it's fair to say that you
2 couldn't see into that truck when he went in?

3 A The windows were tinted, and it appeared like he
4 reached for a weapon and draw back.

5 Q I didn't ask you what it appeared to be, I asked
6 you is it fair to say that you could not see into that
7 truck?

8 A I could see, but I couldn't see clear.

9 Q Okay. So you can see through the tinted windows
10 at an angle, but you can't see clear?

11 A Right.

12 Q And I believe in your statement, your prior
13 statement was that you were about 15 to 20 yards away
14 from his car. That's where you all parked?

15 A Feet.

16 Q Feet, okay. So it's not your testimony today
17 that you had the shotgun in your hand when you got out
18 of that car?

19 A The shotgun was in the car. I grabbed it. I
20 had my hand on the door. I didn't really leave the
21 car. I had my hand on the door and that's when he
22 returned to car to get it.

23 Q Okay. So he didn't run because there was some
24 guy yelling out his name holding a sawed-off shotgun.

25 Q Compared to how you just stood?

1 A I asked you --

2 Q Compared to how you just stood, you couldn't see
3 if I had a gun regardless because I am behind his truck
4 diagonally. So no one could see if I had a gun.

5 Q Okay.

6 MR. ALFARO: Your Honor, we'd like to get
7 State's Exhibit --

8 Q (By Mr. Alfaro) Is this the shotgun you had
9 that day?

10 A Yes, it is.

11 Q And your testimony is he can't see this?

12 A If you hold it up he probably could.

13 Q Can you see it now?

14 A No.

15 Q You can't see this shotgun from there?

16 A You have a truck in between you. You have a
17 truck between you.

18 Q You had a truck in between you. He cannot see
19 you holding this but you can see him going in his
20 truck, but you can't see clearly?

21 A Right, because the windows are tinted.

22 Q Right. And before you shot him you didn't see
23 him holding a gun, did you?

24 A He was holding something in his hand.

25 Q I believe on direct you testified that after you

1 shot him you walked over to him, correct?

2 A Yes.

3 Q And you kicked him?

4 A Yes, I did.

5 Q Because you wanted to disarm him, correct?

6 A Yes.

7 Q And you also testified you didn't see a gun when
8 you did that?

9 A I didn't see one.

10 Q How much times passed between the time that you
11 shot him with that shotgun, and the time you walked
12 over to him, kicked him, and didn't see a gun?

13 A Had to be seconds.

14 Q Seconds?

15 A Seconds.

16 Q So in seconds that gun disappeared?

17 A No. We moved from the area where he got shot.

18 Q Oh, okay.

19 A He got shot in this area. He ran with his truck
20 for about -- ran with his truck for, I don't know,
21 about two car lengths I guess and then he fell.

22 So after he got shot at was not where he ended
23 up. He ended up further away.

24 Q So your testimony was after you shot him he was
25 still moving around, up and moving around?

1 A Yeah, he got up and went back over to the people
2 he was talking to.

3 Q What did you do after you -- so he gets up, and
4 let me back up a minute.

5 You shoot him, he eventually goes down to the
6 ground, correct?

7 A No, he didn't go to the ground.

8 Q Okay. When you kicked him, was he laying down,
9 was he sitting down, was he standing up?

10 A He was getting up because the truck caught his
11 foot. So he was getting up.

12 Q So he is getting up and you kick him back down?

13 A No, I didn't kick him back down. He got up.

14 Q You said you kicked him to disarm him?

15 A Yes, I kicked him. I didn't see a gun right
16 there because he moved from different spots and, well,
17 the truck just kept rolling.

18 But then he just got up.

19 Q There were a lot of other people out there then,
20 weren't there?

21 A There was a lot of people out there.

22 Q And those people had just witnessed you shoot
23 their friend and their family member?

24 A There is not one single person said they
25 witnessed me shoot him. Besides Joseph Williams. You

1 got the records.

2 Q Are you denying that you shot him?

3 A No, I'm tell you I shot him.

4 Q Are you denying that there were people out there
5 when you shot him?

6 A I'm telling you there was people out there.
7 There was people out there.

8 Q But nobody could have seen it?

9 A You got the records. You heard the testimonies.

10 Q I did hear the testimony?

11 A Yeah. Everyone said well we perceive you fired
12 a shotgun, you had a gun.

13 Q But perception aside, you shot him?

14 A Ron Santa McCray shot Reginald Porcher in
15 self-defense, yes.

16 Q All right. So Ron Santa McCray shot Reginald
17 Porcher who he didn't see with a gun?

18 A He had a weapon in his hand.

19 Q You went over there --

20 A -- looked like a weapon. You say he had an ink
21 pen, you say he had an ink pen. Whatever he grabbed,
22 he pointed it my way.

23 Q Okay. Well before I ask this question, if he
24 had an ink pen in his hand, would you have shot him
25 with a shotgun?

1 A No.

2 Q So nobody saw you shoot him. But after you shot
3 him, because you do admit that you shot him, correct?

4 A One person said I shot him.

5 Q You just said -- well two people did because you
6 just said Ron Santa McCray shot Reginald Porcher?

7 A You want to call me another person, that I saw
8 myself shoot him?

9 Q Okay.

10 A I stood outside myself.

11 Q You said seconds after you shot him you walked
12 over to kick him and you didn't see a gun?

13 A Not in that vicinity, no.

14 Q Did you go look in the other vicinity?

15 A No, I did not.

16 Q All those other people out there, their friends
17 and family of Reggie Porcher, and there is a gun laying
18 around?

19 A I don't know if they're related to him. I'm
20 related to the people that's out there.

21 Q All right. But he had to at least know those
22 people, wouldn't you say, since he was standing out
23 there talking to them? Is that fair to say?

24 A I'm sure he does.

25 Q So there is a gun lay around with all of

1 Reggie's friends out there, and you went to disarm him
2 but you didn't feel the need to go find that gun that
3 you supposedly thought he had?

4 A No. Once again after -- when I first saw him, I
5 thought I hit him. But when he started walking around
6 this and that, I said I might have missed him or
7 something because he was walking around.

8 Q You only shot him once, correct?

9 A Once.

10 Q The guy that you were scared of because you
11 thought he had a weapon, you shot him, he is up and
12 moving around, and there is a gun that supposedly is
13 out there somewhere, and you didn't do anything else?

14 A I don't know if you could use that word, scared.

15 Q Okay.

16 A I'd use the word probably felt threatened.

17 Q You weren't scared of Reggie Porcher?

18 A Not afraid of him.

19 Q You had no reason to be afraid of him?

20 A But I have cautions of him.

21 Q Okay. You weren't too cautious of him because
22 you told Sgt. Alteri that you were going there to beat
23 him up?

24 A I was telling him I was going somewhere to beat
25 him up, but I did not know where he was.

1 Q Do you recall telling Sgt. Alteri, now, you
2 know, I can tell you my intentions, I was going to beat
3 him up?

4 A Now I can tell you my intentions.

5 Q In your statement.

6 A Those are not my words.

7 Q Those aren't your words to Sgt. Alteri?

8 A Now I can tell you my intentions?

9 Q You don't recall telling -- you didn't tell Sgt.
10 Alteri --

11 A I think I said if I was just, you know, run
12 across him. I wasn't doing nor more than probably have
13 a fight with him or something like that.

14 Got a lot words in there just now.

15 Q (By Mr. Alfaro) While they're queing that up,
16 so after you went over and kicked him, didn't see the
17 gun, is that when you left?

18 A Yes.

19 Q Okay. And you walked back over to Cleggett's
20 car, Christopher's car, the volvo?

21 A Yes, sir.

22 Q And did you have the shotgun with you when you
23 did that?

24 A Yes, I did.

25 Q And did you say anything to anybody else as you

1 were walking away?

2 A Not that I can recall.

3 Q Now Reggie didn't say anything to you before you
4 shot him, did he?

5 A No, he did not.

6 Q And based off of your statement and your
7 testimony, there was no physical confrontation between
8 the two of you, was there?

9 A No, there was not.

10 Q I think we've got that part where you said
11 before.

12 (Whereupon, a portion of State's Exhibit No. 137
13 is played in open court.)

14 Q (By Mr. Alfaro) Do you recall now saying you
15 were going to beat him up?

16 A I said that already. I am thinking with the
17 words that -- sounded like you added some more words
18 towards that. I said that was my.

19 Q I asked you if you were going to beat him up?

20 A And I said yes.

21 Q Okay.

22 A But in your statement you added more words in
23 there.

24 Q Okay, we will move past that then.

25 So Reggie didn't say anything before you shot

1 him, correct?

2 A No, he did not.

3 Q And it's your testimony that he was up and
4 walking around after you shot him?

5 A Yes.

6 Q And how bad was he bleeding?

7 A He wasn't bleeding at all.

8 Q He wasn't bleeding at all? Was he holding his
9 neck or anything?

10 A He was holding his left hand up. And it looked
11 like he was holding it crossways like.

12 Q Did you think you hit him when you shot at him?

13 A From how he went down in the truck it appeared
14 that I did hit him. When I went over there toward him,
15 he wasn't bleeding.

16 Q And so your testimony is that after you had
17 kicked him, he gets up, he goes back to hanging out
18 with everybody?

19 A He walked towards that way.

20 Q You didn't say anything else to him?

21 A (Negative head shake.) I didn't.

22 Q And you said the truck had rolled back after you
23 shot him?

24 A Yes. It started rolling.

25 Q And after you walked back to Christopher's car,

1 where did you all go?

2 A We went to a friend of mine's house, Felicia,
3 Felicia Simmons.

4 Q And is that where you hid the shotgun?

5 A Yes.

6 Q And where in her apartment did you hide the
7 shotgun?

8 A It was under at the foot of the bed in her
9 bedroom.

10 Q Okay. Did you put anything over it?

11 A Something over it, yes.

12 Q Do you remember what it was you put over it?

13 A I really can't. I don't know.

14 Q After you left Felicia's you at some point came
15 into contact with James Boykin; is that correct?

16 A Late that -- later on that night. Some hours, a
17 lot of hours.

18 Q And you asked James to cash a check for you?

19 A Yes, I was doing a job over at James Island. I
20 wanted to get my tools from off the job.

21 Q And at some point you borrowed Felicia Simmons's
22 car; is that correct?

23 A Yes.

24 Q And is that a white Chrysler 300?

25 A Yellowish, creamish.

1 Q And after you were taken into custody and you
2 met with Sgt. Alteri, he gave you the statement that we
3 just played a part of?

4 A Yes.

5 Q Took your statement?

6 A Yes.

7 Q And before he took your statement, he gave you
8 Miranda rights, correct?

9 A Yes, he did.

10 Q And you indicated that you understood those?

11 A Yes, sir.

12 Q And he didn't threaten you or force you in any
13 way to give that statement?

14 A No, sir, he did not.

15 Q As a matter of fact during the statement you're
16 relaxed enough that you are kind of laughing, and
17 cutting a joke or two in that, aren't you?

18 A Not cutting a joke or two. He was referring to
19 someone else saying how do you think this person might
20 feel about it. And I was like a man, you know,
21 probably, you know.

22 Q I think at some point he asked you --

23 A Yes, he did.

24 Q -- about how you were acting, and you indicated
25 something to the effect that you have a strange way of

1 showing your emotions?

2 A Right. My actions was more to the questions
3 that he was asking me. Because I know he asked me
4 something about some pond that James told him about,
5 some pone. Somebody else was talking about a Durango.
6 I don't know.

7 Q But the shotgun that you hid at Felicia's is the
8 shotgun that you used to shoot Reggie Porcher?

9 A Yes.

10 Q No question about that?

11 A No question about that.

12 Q Okay.

13 MR. ALFARO: All right, thank you.

14 Please answer any questions, follow-up questions
15 Mr. Biering has for you.

16 THE COURT: Mr. Biering.

17 MR. BIERING: I don't have any further questions
18 for this witness at this time.

19 THE COURT: All right.

20 Ladies and gentlemen -- did you have any
21 additional witnesses?

22 MR. BIERING: Your Honor, I am checking on one
23 matter. I believe, if I could approach, Your Honor.

24 THE COURT: You may just for scheduling.

25 MR. BIERING: Yes, ma'am.

1 (Whereupon, a discussion was held at the bench
2 off the record.)

3 THE COURT: Ladies and gentlemen, there is an
4 issue that I must take up outside of your presence.
5 While you are in your deliberations room at this time,
6 we are close to the point where you will hear closing
7 arguments on behalf of counsel and be instructed on the
8 law applicable to this case.

9 Ladies and gentlemen, I will need to know if
10 your preference is to begin your deliberations this
11 afternoon, or to continue those in the morning.

12 So, Madam Foreperson, that will be your task
13 during our break. We are going to take a break. Once
14 you have your answer, if you could please let me know.
15 Thank you.

16 Mr. McCray, stay seated. Please rise for the
17 jury.

18 (Whereupon, the jurors exit the courtroom.)

19 THE COURT: Mr. Biering, are you ready?

20 MR. BIERING: My secretary is literally turning
21 off of Main Street on to --

22 THE COURT: I don't know what that means, Mr.
23 Biering.

24 MR. BIERING: There is an item that she is
25 bringing my office that I require to call this next

1 witness. And it will be very brief.

2 THE COURT: Is that witness here?

3 MR. BIERING: Yes, Your Honor.

4 THE COURT: All right. And is the witness on
5 the witness list?

6 MR. BIERING: Yes, Your Honor.

7 THE COURT: All right. Let's bring Mr. McCray
8 back in.

9 The jury has indicated they wish to begin their
10 deliberations in the morning.

11 Mr. Biering, you have one additional witness?

12 MR. BIERING: Yes, Your Honor, I do.

13 THE COURT: You indicated you needed a document.
14 Can we start the testimony without the document?

15 MR. BIERING: It is so brief that if I did I
16 would just be standing there. I'm going ask to admit a
17 photograph, Your Honor. And it has been provided to me
18 by the State.

19 THE COURT: Is there no way to agree on the
20 admission of the photograph?

21 MR. BIERING: I requested that, Your Honor. I'm
22 comfortable with the stipulation that that photograph
23 would be admitted into evidence.

24 MR. ALFARO: Your Honor, it is a photograph that
25 requires an explanation.

1 For the purposes of the record, it's a
2 photograph that shows a knife that was recovered during
3 the search of the victim's truck that would require, I
4 think, the Crystal Spence would be the best witness for
5 that since she is the one that searched the truck.

6 THE COURT: All right. It was Sgt. Shuler who
7 previously from forensics --

8 MR. ALFARO: No. Mr. Biering, I believe is
9 wanting to use Bobby Shuler as the case agent to
10 testify about that, but.

11 THE COURT: All right. So the photograph is in
12 your possession?

13 MR. BIERING: Your Honor, that's what they are
14 bringing to me is multiple copies of the photograph.

15 Your Honor, can we approach?

16 (Whereupon, a discussion was held at the bench
17 off the record.)

18 THE COURT: Let's bring in the jury.

19 (Whereupon, the jurors enter the courtroom.)

20 THE COURT: Thank you, please be seated.

21 Madam Foreperson, we received your note, it will
22 be marked as Court's Exhibit No. 1. We will break for
23 the afternoon. It's an appropriate time for us to
24 break.

25 Please do not begin your deliberations. Do not

1 discuss this case amongst yourselves. After the
2 completion of any additional testimony and the
3 introduction of any exhibits, you will hear closing
4 arguments on behalf of counsel. And then I will
5 instruct you on the law applicable to this case.

6 Ladies and gentlemen, please remember that you
7 will have all of the exhibits that have been made part
8 of the record in this case in the jury room with you
9 while you are making your deliberations.

10 Since you have indicated you are ready to go
11 home for the afternoon, we are going to break. Please
12 again be back where the bailiff instructs you to return
13 at 9:15 in the morning. Once all of you are here, we
14 will begin with the trial of this case.

15 Please have a wonderful afternoon. Please
16 remember all of my admonitions. Thank you. See you in
17 the morning.

18 (Whereupon, the jurors exit the courtroom.)

19 THE COURT: Have a seat. Thank you.

20 Mr. Biering, we are breaking, it is
21 approximately 3:35 we are going to break.

22 It is my understanding that Ms. Spence is not
23 available to be here in a timely fashion. And given
24 the juror's note that they wanted to leave, we want
25 ahead and took a break.

1 It is my understanding that is the sole
2 additional witness. Is that correct?

3 MR. BIERING: Yes, Your Honor.

4 THE COURT: All right. And the State's concern
5 was that that would be the sole witness because you may
6 have some rebuttal witnesses?

7 MS. WILLIAMS: Yes, Your Honor. We have
8 rebuttal witnesses here, prepared to testify. If his
9 sole witness is Crystal Spence, we are going to release
10 them. But if he decides tomorrow to put on another
11 witness, I can't get them back.

12 THE COURT: Mr. Biering has indicated that Ms.
13 Spence is the sole remaining witness on behalf of the
14 defense.

15 MS. WILLIAMS: Thank you, Your Honor.

16 THE COURT: All right. We have gone over some
17 charges. Mr. Biering, I will await any additional
18 charges that you are requesting.

19 As I indicated to you, I will not be charging
20 voluntary manslaughter based upon the testimony that
21 was presented by Mr. McCray. The copy of the verdict
22 form, if counsel will review. If you will present me
23 any additional charges that you think the Court needs
24 to instruct. I have included the spirit of all of your
25 charges that you have included.

1 It may not be word-for-word, but all of your
2 charges are included. And likewise to the State.

3 Thank you. We are at ease until 9:15.

4 Thank you.

5 MR. BIERING: Thank you, Your Honor.

6 (Whereupon, the proceedings in this matter
7 before the Court were adjourned for the evening.)

8 * * * * *

1 THE COURT: Mr. Biering, I'm going to mark your
2 defendant's request to charge as Court's Exhibit 2.
3 And based upon the testimony as presented at this time
4 will be charging self-defense, including the duty to
5 retreat from your own property.

6 Note the State's objection to that inclusion.
7 Mr. Biering, are you prepared to go forward at that
8 time?

9 MR. BIERING: I am, Your Honor.

10 THE COURT: And we had an in-chambers conference
11 and I indicated to you we would put Ms. Spence on the
12 stand. My understanding is that is your final witness,
13 the State has no rebuttal witnesses, and then we would
14 immediately go into closing.

15 I am reserving your argument concerning all
16 motions and matters that would normally be presented at
17 the close of your case. If, based upon Ms. Spence's
18 testimony, I think that there is a reasonable
19 likelihood that directed verdict will be granted, I
20 will allow you that opportunity.

21 All right.

22 MR. BIERING: Thank you, Your Honor.

23 THE COURT: Is the State ready to proceed and to
24 proceed with closing at the close of Ms. Spence's
25 testimony?

1 MR. ALFARO: Thank you. No further questions.

2 THE COURT: Redirect?

3 MR. BIERING: None, Your Honor.

4 THE COURT: May this witness be excused?

5 MR. BIERING: Yes, Your Honor.

6 THE COURT: Any objection from the State.

7 MR. ALFARO: No, Your Honor.

8 THE COURT: You may step down. Feel free to
9 remain with us. Thank you.

10 Call your next witness.

11 MR. BIERING: Your Honor, the defense rests.

12 THE COURT: All right. Reserving all motions
13 and matters at the close of the defendant's case, does
14 the State have any rebuttal?

15 MR. ALFARO: No, Your Honor.

16 THE COURT: Ladies and gentlemen, you have now
17 heard all of the testimony that will be presented in
18 this case, and received into evidence all of the
19 exhibits that will be part of the record in this case.

20 We have now reached the stage in the trial where
21 you will hear closing arguments on behalf of counsel.
22 The State will open first on the law. The defendant
23 will present his closing argument. And then the State
24 will have an opportunity for rebuttal.

25 Ladies and gentlemen, after you have heard

1 closing arguments, I will instruct you on the law
2 applicable to this case. Please remember what is
3 contained in the attorney's closing arguments is not
4 evidence in this case. It is only their contention as
5 to what the evidence has shown.

6 Please give your attention to Ms. Williams.

7 MS. WILLIAMS: Thank you, Your Honor, may it
8 please the Court.

9 MR. BIERING: Your Honor, can I approach on one
10 issue?

11 THE COURT: You may.

12 (Whereupon, a discussion was held at the bench
13 off the record.)

14 MS. WILLIAMS: Thank you, Your Honor, may it
15 please the Court.

16 THE COURT: Yes, ma'am.

17 MS. WILLIAMS: Mr. Biering.

18 Ladies and gentlemen, I want to start by giving
19 you a very sincere thank you. Because we all realize
20 how tedious some of this testimony has been. And how
21 difficult some of it has been to listen to.

22 I want to apologize in advance for some of the
23 language that was used. And I might have to repeat
24 some of that language. Mr. Alfaro might have to repeat
25 some of that language. It's not language we use, but

1 it's in the case so we apologize in advance for that.

2 I'm going to very briefly tell you a little bit
3 about the law. Then I will sit down, Mr. Biering will
4 speak with you, and then Mr. Alfaro will talk to you
5 about the case.

6 If I say anything that is different than the
7 Judge, please excuse me and defer to the Judge. She is
8 the authority on the law. So if that happens, it's
9 inadvertent and it's not meant to be that way. So
10 please defer to the Judge.

11 Now the State has the burden of proof, and we
12 accept that burden. Murder is what we have to prove.
13 Murder is the unlawful killing of another person with
14 malice aforethought. Seems like a very simple statute,
15 and it is in some ways.

16 Murder, unlawful killing. Ron McCray takes a
17 sawed-off shotgun, shoots it through the back of Reggie
18 Porcher's truck, shoots him in the back and the
19 shoulder and kills him, killed another person.

20 Malice aforethought. Seems like a tricky
21 concept, but it's a concept we deal with everyday. We
22 deal with evil in this world. We deal with hatred. We
23 deal with wicked hearts. Going up to someone who is
24 bleeding on the ground, kicking them in the head and
25 saying, die mother-fucker die. If that's not malice, I

1 don't know what is.

2 Malice can be expressed or implied. Words can
3 be used, or you can imply it from the conduct, showing
4 total disregard for human life. It can also be
5 inferred from the use of a deadly weapon. In this case
6 you saw the deadly weapon over and over again, the
7 sawed-off shotgun.

8 Reasonable doubt. Reasonable doubt is often
9 described by lawyers in very long examples, big words.
10 It is a very interesting concept. It's not that hard
11 to understand if you use your common sense. It's not
12 all doubt. There is nothing in this world, or very few
13 thing, we know beyond any doubt. And that is not
14 required by the law.

15 And when you listen to the Judge's instruction
16 she will say, it is not all doubt. So keep that in
17 mind. If you came in here not knowing anything about
18 this case, and you know now that that man murdered
19 Reggie Porcher, I would submit to you that we have
20 proven it beyond a reasonable doubt.

21 Self-defense. The Judge is going to charge
22 self-defense in this case. That does not mean that
23 this is a case of self-defense. Self-defense is a
24 concept that requires four components. And it's not
25 or, it's and. So every single component has to be

1 there for Mr. McCray to have self-defense.

2 The first one is a very important one for this
3 case. The first element is defendant must not be at
4 fault in bringing on the difficulty. His own testimony
5 was that he went there to beat up Reggie Porcher, at
6 best, if you believe that. He went there with a
7 sawed-off shotgun to beat up Reggie Porcher. He
8 brought on the difficulty.

9 Must have actually believed in imminent danger
10 of losing his life, or serious bodily injury, or have
11 actual imminent danger of losing life or serious bodily
12 injury. So you have to believe that Ron McCray
13 actually thought he was in imminent danger. And you
14 are the sole judges of the credibility.

15 Now the third one I'm not going to read the
16 whole thing, but what it basically says is that it's
17 based on the standard of a reasonable person. The
18 reasonably prudent man. The important concept there is
19 it's not based on Ron McCray's mind, it's based on the
20 reasonable person in society.

21 And then the last one is, defendant had no other
22 probable means of avoiding the danger of losing his own
23 life, or sustaining serious bodily injury. Getting in
24 his car and leaving.

25 The last thing I want to discuss with you is

1 kind of an obvious concept. There are two kinds of
2 evidence; direct and circumstantial. If it's raining
3 outside, and you look out the window and you see rain,
4 that's direct evidence. If people see Mr. McCray shoot
5 Reggie Porcher, that's direct evidence.

6 Circumstantial evidence is if Mr. Alfaro came in
7 here with wet clothing, then you would know it's
8 probably raining outside, and you heard thunder.

9 In this case, Mr. McCray taking the murder
10 weapon, hiding it in a completely other town, and then
11 trying to get money so that he can leave town is
12 circumstantial evidence that he committed murder, that
13 he's trying to hide his crime.

14 I want to thank you again. I so appreciate the
15 time and attention you have given us. And please pay
16 attention to Mr. Biering.

17 THE COURT: Mr. Biering.

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

20 Mr. Alfaro, Ms. Williams, Mr. West.

21 Good morning. It has been a long week of some
22 tedious testimony, numerous breaks, and up and down.
23 And just as Ms. Williams thanked you, we thank you as
24 well for your attention. It's difficult testimony.
25 It's a difficult time to hear about death. It's

1 difficult to think of all the different situations and
2 people that are involved; the fathers, the mothers, the
3 siblings.

4 Death is never easy. When I stood before you
5 earlier this week, I asked you to imagine a tree. I
6 asked you to think about a tree in your life, a
7 gathering place. I asked you to think about the
8 different gathering places that we have in our
9 communities.

10 Makes me think about some of the trees maybe
11 that I have stood under, maybe with people after they
12 are in the midst of grieving a death. I think about
13 pictures under the same tree that I talked to you
14 about, that vision that I have of that tree, that
15 gathering place with the boards nailed to it. The
16 remnants of makeshift tree houses, Capri Suns, those
17 smells, those thoughts.

18 Think about standing there after there has been
19 a death. And again, death is never easy.

20 We talked about that. I also told you that you
21 were going to hear about a different kind of gathering
22 place this week. That you were going to hear not about
23 a tree that was littered with boards from makeshift,
24 makeshift tree houses, but you are going to hear about
25 a different kind of gathering place. And the reality

1 is I think the facts would show that you heard about a
2 different type of gathering place this week.

3 The law provides that you are innocent until
4 proven guilty. You are going to hear that if the State
5 does not prove beyond a reasonable doubt the
6 allegations in this case, that you should render a
7 verdict in favor of the defendant.

8 I look at that as starting at zero. The State
9 having the burden to bring forward evidence that takes
10 you up to a level of reasonable doubt.

11 It is very interesting who we heard from in this
12 case, and who we did not hear from in this case. It is
13 very interesting as to what information was lost within
14 the first few hours on September 16th, 2009 that
15 unfortunately I don't think can ever be recreated.

16 Almost every witness that was asked a question,
17 I think every witness that was asked a question about
18 description of that scene, they described it as
19 chaotic. But there was some consistencies as to what
20 they described and who they described being there.

21 And we heard names Abdulla Fishburne, Jarvis,
22 Lavon. Where is Abdulla Fishburne? Why didn't the
23 State want you to hear from Abdulla Fishburne? Why is
24 it that nobody talked about Abdulla Fishburne unless it
25 was brought up in cross-examination?

1 why didn't they talk about Jarvis? why didn't
2 you hear from him? why didn't you hear from Lavon
3 Mack? Let's go through the people that you heard from.
4 And I'm going to go a good bit longer than Ms.
5 Williams because I only get one opportunity to stand
6 up.

7 First you heard from Charleston Police Officer
8 -- let's walk through the testimony. You heard from
9 Charleston Police Officer Tony Daniels. Tony Daniels
10 responded to the scene and put out tape. That's pretty
11 much what he said he tried to do. He tried to control
12 the scene, understand what was going on there so that
13 he could get EMS there. That's what Tony Daniels did,
14 he put out tape.

15 Joyce Wright testifies. She testifies that she
16 is on her porch. When you look at the photographs of
17 the scene of the events of that day, this is what
18 you're going to see. Looking in from Underlie, if you
19 are in Jack Primis looking into Underlie you're going
20 to see a house, a mobile home over to your right, you
21 are going to see a mobile home over to your left.

22 Joyce Wright is talking about a house father
23 back. That's what she described. Look for that house
24 in the pictures. She is on her porch.

25 Felicia Coaxum was sleeping in her mother's

1 room. Akeem Asby he puts Abdulla and Sleepy at the
2 scene. Tianna Mack-Collins was under her hairdryer.
3 Lantania Asby was in bed asleep. Those are the State's
4 witnesses that they put up to tell you what happened at
5 the scene on September 16th, 2009.

6 That's all they put up. Jennifer Reed testified
7 that she came to the scene and she did what she is
8 trained to do, and everyone is glad to know we have
9 faithful public servants that will come to areas of
10 chaos to provide us care. She is the EMT. She did
11 what she was supposed to do. But she didn't see the
12 events of September 16th, 2009.

13 Crystal Spence, who you just heard from again,
14 Crystal Spence investigated a crime scene that was
15 defined by someone that she was not aware of had
16 defined it based on, this is what she said, the only
17 information I was provided is he was shot in the truck.

18 She investigated a crime scene that was defined
19 by someone that she didn't know based on that sole
20 information.

21 James Riser, James Riser you remember he was the
22 individual who followed the instructions for the GSR
23 kit that he says that he took from -- conducted on the
24 hands of Reginald Porcher.

25 I want to take you back in time, okay. He said,

1 it's simple, I just needed to follow the instructions.
2 This really stuck in my mind. He sat on the witness
3 stand and he couldn't put on rubber gloves. He had to
4 be given trash bags and he wore trash bags on his hands
5 because he couldn't put on robber gloves to handle
6 evidence. But all he had to do was follow the
7 instructions.

8 He couldn't give you the time that he conducted
9 the GSR test. He gave us a range of time that was
10 approximately five hours.

11 You heard the testimony from the expert that was
12 presented to you from SLED who says that she analyzed
13 the GSR kit, that a 6-hour window seems to be an
14 important window. She talked about some issue there
15 about, you know, about how it might not matter as much
16 if the person had passed away.

17 Then she went on to discuss the fact that if the
18 hands were touched, washed, different things could
19 happen to completely, completely take away any
20 potential gunshot residue. And this is what she agreed
21 to. And let me read it.

22 She agreed to a statement from the FBI Law
23 Enforcement Bulletin, a negative finding does not imply
24 that a subject was not in the vicinity of a recently
25 discharged firearm. It only indicates that no evidence

1 or primer residue was found on the items tested.

2 The test itself I think is questionable, and I
3 would ask you to consider how questionable it is
4 considering the person who took it couldn't put on
5 robber gloves, and couldn't tell you when he took it.

6 You heard from Kokinda, he said Crystal Spence
7 did a fine job.

8 The State's next witness is an interesting guy.
9 James Boykin. James Boykin is arrested with Ron
10 McCray. In Ron McCray's statement that he gave to
11 Alteri, the video, those questions made it pretty clear
12 that Alteri asked him that Boykin was probably pretty
13 upset, and didn't really realize that there was
14 anything going on.

15 Boykin, you heard his criminal record. You
16 heard the things he has been involved in. You heard
17 the fact that I had to get back up here and ask him
18 whether or not he actually had been convicted on a
19 failure to register, as he is supposed to each year, as
20 a sex offender. James Boykin wasn't at the scene on
21 September 16th, 2009.

22 You heard from David Owen, from the Charleston
23 County Sheriff's Department, from his forensics unit,
24 who promptly and without incident put on gloves,
25 described that he had gone to a location, per the

1 direction of my client given to Alteri, and recovered a
2 gun without incident.

3 You heard from Scarborough, who actually
4 arrested Ron McCray without incident.

5 You heard from Bobby Shuler who went through, I
6 think twice you will remember, I think the prosecution
7 asked him and then I asked him very open-ended
8 questions that allowed him basically to restate what he
9 believed his entire investigation to be. He was in
10 charge of the crime scene he said. And he talked a lot
11 about what he knew about this case.

12 But until we actually had to point out to him,
13 couldn't seem to remember that he had been told within
14 moments of the events about Abdulla Fishburne, through
15 a statement given to him by Felicia Coaxum, then stated
16 that not only had he been provided that information
17 moments after the incident on September 16th, 2009, but
18 he had met with Reginald Porcher's father, met with the
19 person who had died's father and mother -- and you
20 heard the same testimony from Captain Rick Ollic.

21 And what did they ask him? They asked him,
22 would you look into Abdulla Fishburne, Henry Blaze and
23 Mr. Lincoln. Where is Blaze? Where is Lincoln? Where
24 is the explanation for it?

25 You heard from James Green. Here's what James

1 Green -- remember James Green, the expert from SLED?
2 James Green, the expert from SLED, he couldn't tell you
3 what the items of lead were.

4 He testified that one item, there were five of
5 them, that one of the items was consistent with
6 buckshot. But when asked directly, can you say with
7 any level of certainty what they actually are, couldn't
8 say what they were.

9 Dr. Presnell, the medical examiner comes in.
10 And she presents that there is no tracking of the
11 individual items that were removed from Reginald
12 Porcher's body, as to which actual items were presented
13 for investigation by SLED.

14 So this is where we come down to. We are at the
15 end of the State's case. We are at the end of the
16 State's case. I have just recanted for you an outline
17 of the people that they have presented.

18 They presented fact witnesses from the scene,
19 but fact witnesses from the scene that only talk about
20 events from a certain point forward. They talk about
21 events from a point where Ron McCray is seen with a
22 gun. That's all they talk about.

23 Why don't they want to talk about what happened
24 before? Who did you hear from next? You heard from
25 Joseph Williams. Joseph Williams says he is walking by

1 the scene. Joseph Williams has no prior criminal
2 record. I think two of the State's witnesses that they
3 presented have criminal records.

4 So Joseph Williams has no criminal record. He
5 is walking by the scene. And what does he say that he
6 sees? He sees Ron call to Reggie. And then he
7 describes Reggie running to his vehicle. He describes
8 seeing Reggie with a gun. He describes as well that
9 Ron ran to his vehicle and came back with a gun as
10 well. And he describes Ron McCray shot Reggie Porcher.

11 The question is in those few moments. That's
12 the question.

13 You've heard from Chavis Wright. Chavis Wright
14 described that the night before he had had contact with
15 Reginald Porcher. Chavis Wright described the night
16 before having contact with Reginald Porcher. And what
17 he described was an angry man, an angry man with
18 animosity towards Ron McCray. That's what he
19 described.

20 He described experiencing that at the same
21 location of the events of September 16th that Joseph
22 Williams witnessed. Chavis Wright within 24 hours of
23 the events of September 16th saw Reginald Porcher, an
24 angry man with animosity towards Ron McCray.

25 And Sleepy, Mr. Mitchell. Sleepy testifies that

1 he hears a shot. Sleepy hears a shot. He is a
2 distance away from the events of September 16th, but he
3 is there on Jack Primis. Close enough to hear.

4 And at some point he see Abdulla Fishburne
5 running from the scene with a gun in his hand. What
6 does he do? He takes the gun, he sells it.

7 Sgt. Alteri said something that continues to
8 stick with me. You know, people say things sometimes
9 to you. I don't know if this ever happens to you, but
10 my wife gets on me, she says, I overanalyze things too
11 much and I just need to move on and not worry about
12 things that people say sometimes. But some things just
13 stick with me, and I ponder over them.

14 But this is something that has just stuck with
15 me. He says to Ron McCray in his interview with him on
16 September 17th he says, I just need you basically to
17 give me your side of the story, because, you know,
18 there is two sides to the story. And you got theirs,
19 and yours, and actually, he says, there are three
20 sides. Then you got in the middle, there's the truth.

21 I think one of the reasons that it sticks with
22 me is that lots of times we are in the midst of a
23 situation, we believe just because we are present that
24 we fully understand everything about it. That just
25 because we are in the same room when something happens,

1 that we fully understand everything about it.

2 That's not true, though. And the reason it's
3 not true is that my investigator behind me could be,
4 who knows what he could be doing right now, I have not
5 turned around to look, I don't care to. But I'm in the
6 same room with him.

7 It's about perspective. It's about the
8 different things that we can see. The different things
9 that you can only see from certain locations and
10 certain perspectives. And here is the perspective that
11 I think we need to really focus on. And the
12 perspective that we really need to focus on is the
13 perspective of Joseph Williams.

14 Joseph Williams provided a perspective to the
15 events of September 16th. James Wright put into
16 context a perspective that Joseph Williams had.

17 Ron McCray neither had the perspective that
18 Joseph Williams had, or the context of James Wright.

19 What Ron McCray had was, walks up. He says it
20 has been months. He says he wants to get some answers,
21 he wants to talk to Reginald Porcher. Because you
22 heard what his testimony was. You heard it in the
23 statement that was given on September 17, 2009.

24 Reginald Porcher raped the mother of his child
25 and he wanted answers. He wanted answers.

1 And what he got was a man that instead of
2 talking to him pulled a gun on him and he shot that man
3 in self-defense. The man that he testified that he had
4 known for over a decade. A family he had known almost
5 his entire life.

6 You heard testimony from Ron McCray that he was
7 on his family's property. Heirs property. Heirs of
8 the estate of Joseph Wigfall.

9 You heard him testify that that heirs property
10 was traced to him through his mother's family. And he
11 provided you an outline of how he was an heir to that
12 property, having a right to be on that property.
13 Having a right to occupy that property. Now to the
14 exclusion of other heirs, but certainly to the
15 exclusion of others.

16 What you are going to hear from the Judge is
17 this. You are going to hear from the Judge that there
18 is not a duty to retreat from that property. That's
19 what you are going to hear.

20 We paint a picture of a different tree. We
21 painted a picture of a tree that is not that peaceful,
22 loving tree where we build forts and we drink Capri
23 Suns and we swing on the tire swing. That's not the
24 picture that you have been given.

25 Ladies and gentlemen, I would ask that you

1 consider very carefully, as I know you will, the burden
2 the State must carry. They must prove beyond a
3 reasonable doubt my client, without legal
4 justification, took a life with malice forethought of
5 Reginald Porcher.

6 Ladies and gentlemen of the jury, I presented to
7 you that the fact witnesses that they presented, nor
8 cross-examination that they elicited, provided you with
9 insight into the scene of September 16th, 2009.

10 They have failed to meet their burden, and we
11 would ask that you return a verdict of not guilty in
12 the case against Ron McCray. Thank you.

13 THE COURT: Mr. Alfaro.

14 MR. ALFARO: Die, mother-fucker, die. Don't
15 fear God, fear me. I run Jack Primis. Those are the
16 words of Ron McCray when he went to Underlie Lane with
17 this shotgun and murdered Reggie Porcher for no reason
18 at all.

19 On September 16th, 2009, Reggie Porcher went to
20 Underlie Lane. He went there for his friends, his
21 family, neighborhood kids who had just gotten off the
22 school bus, he went there, was hanging out with them,
23 and everything is fine. Everybody is getting along.
24 There is no problem.

25 The problem started when that man showed up with

1 that shotgun. Because that man was mad about something
2 that happened -- let me rephrase that -- something that
3 may or may not have happened two months, five months
4 ago.

5 Gets out of his car, black Volvo, with that
6 shotgun. He walks up to Reggie, or walks toward
7 Reggie, who is away from his truck, yells at him that
8 he wants to talk to him. He wants to talk to him while
9 he is holding that shotgun. Doesn't sound like a
10 conversation I want to be a part of.

11 He yells at him. Reggie sees Ron McCray
12 carrying that shotgun and does what any reasonable
13 person would do. Any reasonable person would try to
14 get away. He tried to get to his truck and he tried to
15 get out of there.

16 He made it to his truck. But he wasn't fast
17 enough, he didn't get out of there in time because Ron
18 McCray fired that shotgun, that sawed-off 12-gauge
19 shotgun through the back window of his truck. Five
20 pellets, buckshot, lead pellets, hit him in the back,
21 shoulder. One goes in, comes back out severing the
22 jugular vein.

23 He is dying, but he hasn't died yet. He falls
24 down. The truck rolls back across the street. Ron
25 McCray is not done. Ron McCray walks over to him with

1 the shotgun still and, as he testified, as Reggie is
2 trying to get up, struggling for his life, he kicks
3 him, he spits on him, and he says, die mother-fucker,
4 die.

5 He gets in his car, or as he is walking back to
6 his car to leave, he is not done talking to Reggie and
7 the other people that are out there. That's when he
8 says, I run Jack Primis. Don't fear God, fear me.

9 That's what happened on September 16th, 2009.
10 That's what this case is about. This case is not about
11 the tree.

12 Mr. Biering asked you to go on an imaginary
13 journey to this tree. He tells you about one tree
14 where there are kids playing and there's Capri Suns.
15 Then he tells you about another tree, it's supposed to
16 be a darker, evil tree. This doesn't have anything to
17 do with a tree. You know why? Because this could have
18 happened anywhere.

19 Ron McCray had been looking for Reggie Porcher
20 for months. He found him at the tree. He had a
21 sawed-off shotgun, and he murdered him. He did it in
22 broad daylight in front of people that have known him
23 for years. That knew who he was.

24 He did it in broad daylight in front of all
25 those people and that tells us that he would have done

1 that anywhere he ran into him. It just happened to be
2 at the tree. So it's not about the tree, it's not
3 about that.

4 It's about -- it is about the sights and sounds
5 out there, though. It's about what those people that
6 were out there heard.

7 Now one -- there are some other things that this
8 case is not about. This case is not about Abdulla
9 Fishburne. What do we know about Abdulla from the
10 testimony? Ron McCray beat him up the night before.
11 Abdulla is friends with Reggie. Maybe that's why
12 Abdulla is not here.

13 This case is also it's not about now that the
14 victim supposedly brought a knife to a gunfight. He
15 has a knife in his car. It's wedged in the mat pocket
16 in the back seat. Doesn't mean anything. Even more
17 important, Ron McCray doesn't say anything about a
18 knife. Nobody says anything about a knife.

19 It's not about that. It's about what Ron McCray
20 did on September 16th, 2009. And it always not about
21 heirs rights and property. My family used to own a lot
22 of property in Moncks Corner. Doesn't mean that I get
23 to go to that property that they used to own, take a
24 shotgun and start blasting people that I may or may not
25 have had a problem with months ago. It doesn't.

1 And he asked you also to talk about or think
2 about what Joseph Williams said. I think we all
3 remember Joseph Williams. And I will talk a little bit
4 more about Joseph Williams, and Sleepy and Chavis in a
5 little bit.

6 What is important is what Ron McCray did on
7 September 16th, 2009. Ron McCray is guilty of murder.
8 He killed Reggie Porcher on September 16th, 2009 in
9 Berkeley County with malice aforethought. He had
10 hatred, ill will and hostility in his heart.

11 And how do we know that? Malice, as Ann
12 Williams told you, it's expressed or inferred. Here
13 you speak words that express hatred or ill will,
14 prepared to do the act beforehand. You show up --
15 track somebody down, you show up with a sawed-off
16 shotgun, you shoot them, you tell them to die, that's
17 expressed. It doesn't get more expressed malice than
18 that.

19 Infer it from conduct showing total disregard
20 for human life. It can be inferred from the use of a
21 deadly weapon. Shot him with a shotgun, kicked him
22 while he was bleeding and dying, he spit on him.

23 Now we do have the burden of proving this to you
24 beyond a reasonable doubt and we have done that.
25 Reasonable doubt is not all doubt. It's not absolute

1 certainty. Evidence that we have presented should
2 leave you firmly convinced that the defendant is
3 guilty. If you believe that, you are firmly convinced,
4 then he is guilty.

5 Mr. Biering brought up self-defense. In order
6 to have self-defense, in order for Mr. McCray to have
7 been acting in self-defense, he has to have all four of
8 those elements. He doesn't have any of them, much less
9 all of them.

10 He cannot be at fault in bringing on the
11 difficulty. Reggie didn't go to Ron. Ron tracked down
12 Reggie. Ron made the decision to stop the car, get out
13 with the shotgun, and murder Reggie Porcher.

14 He has to believe he is in imminent danger of
15 losing his life or suffering bodily injury. He shows
16 up at the scene with a shotgun in his hands. He yells
17 at him to come talk to him. And when he runs, that
18 supposedly puts him in imminent danger.

19 You are the guy with the shotgun, and you are
20 the one that thinks you are in danger. He doesn't have
21 that. No ordinary, reasonable, prudent person would
22 think that they were in danger under that
23 circumstances.

24 And the defendant had not other -- McCray had no
25 other probable means of avoiding the danger. Don't

1 stop. Let this thing go that you are supposedly over
2 anyway. He supposedly cooled off, it's two or five
3 month ago. If he had stayed in that car and kept on
4 going to wherever it was he claims he was going, none
5 of this would have happened.

6 This is not self-defense, this is murder. As I
7 said, he is clearly at fault for brining on the
8 difficulty. He was the only one with the gun. He was
9 the only one that said anything that day. And he is
10 the only one that fired a shot, a gunshot that day.
11 Things we just talked about.

12 And back to that one, that he could have avoided
13 the danger. Don't get out of the car. Know why he got
14 out of the car? Because he is one that had the
15 shotgun.

16 And Mr. Biering went through the list of all, or
17 some of the witnesses who testified for the State. And
18 he is right. No one single witness, other than the
19 defendant, no one single person that was out there that
20 day testified that they saw every single second of
21 those three minutes.

22 But all of those people saw Ron McCray with the
23 shotgun. They heard the one gunshot. They saw Reggie
24 holding his neck bleeding. And they watched Reggie
25 Porcher die at the scene that day.

1 And if there is any part that any of them
2 missed, Ron McCray said it for you. Ronald Santa
3 McCray killed Reggie Porcher. Boykin wasn't out there
4 that day, but Boykin tells you that when he is with
5 McCray, McCray says, I killed him. Die, mother-fucker,
6 die.

7 Now those witnesses, there is one witness that
8 is not listed on there was Mr. Porcher. Reggie's
9 father. He tells you how he got the call, he went to
10 the scene, and he watched his son dying or dead,
11 face-down in the dirt on Underlie Lane.

12 That is what this case is about. And that's
13 what those people that testified, the friends and
14 family that testified, the ones that called 911, they
15 saw McCray with the shotgun. They saw him walking up
16 the driveway with the shotgun. Reggie didn't have a
17 gun. Reggie was there first. Reggie didn't say
18 anything to McCray before McCray shot him.

19 They tell you that and McCray tells you that.
20 One shot fired. They saw McCray standing over Reggie
21 after he shot him with the shotgun, McCray tells you
22 that too. They see him kick him, spit on him, tell him
23 to die. And there is one other thing that the
24 defendant said other than tell everyone there I'm God,
25 it's something about God that I'm not going to repeat.

1 He said it and they heard it.

2 And after McCray leaves they help Reggie up.
3 They call 911. He is bleeding, pouring blood from the
4 neck and shoulder. They put him in the car, the Nissan
5 that's in the pictures. He gets out. He is staggering
6 around, he is begging for help. Help me, Ron just shot
7 me. He staggers in the driveway, he collapses in the
8 dirt.

9 Tianna holds him, sits with him until EMS can
10 get there. He is already dead.

11 Now what is important about -- I mentioned the
12 car so I will talk about it for just a second. McCray
13 tells you that when he went over and kick Reggie he
14 wasn't bleeding, thought he was fine.

15 You will see all that blood. You saw all that
16 blood in the picture in that Nissan. You will see the
17 victim's blood on the outside of his truck. Victim's
18 blood was on the ground, in the road. Victim's blood
19 was in that Nissan.

20 Now what else outside of those witnesses tell
21 you that this is murder? The GSR kit. Mr. Biering
22 made it a point that Detective Riser couldn't get the
23 gloves on, all right. The six-hour window Mr. Biering
24 said that Riser -- as Mr. Biering said, Riser testified
25 that that was within five hours. Clearly within the

1 six hours that you could get it, whether he was alive
2 or dead. But as the expert said, six hours doesn't
3 really matter as much when the person you are taking
4 the swabs from has died.

5 There was no GSR residue found on any part of
6 his hand. And as Mr. Biering said the -- he read
7 something to you from an FBI bulletin that negative
8 result doesn't necessarily mean they weren't in
9 proximity of a gun.

10 Well that's true. Because he was in proximity
11 of a gun. He was in proximity of that shotgun that Ron
12 Mcray shot him with. But what the GSR tells us is that
13 he didn't fire a gun. What the eyewitnesses tell us
14 that he didn't fire a gun. He didn't have a gun.

15 What Ron McCray says is he didn't have a gun.
16 He didn't fire a gone. There are no guns found inside
17 the victim's truck. No guns found on the victim or
18 around the victim. Like I said, there is a knife that
19 he kept in his truck in the back pocket of the back
20 seat.

21 And the trajectory of the pellets. The pictures
22 that you saw, all of the shots showed that the gunshot,
23 the shotgun blast came from the back of the truck into
24 the back of the truck from behind. He shot him from
25 behind. From outside to in. From behind to front.

1 There is damage to the back window frame, it's bent in.
2 Back window shattered, there is glass inside the car on
3 the back seat. The front windshield is cracked.
4 Shotgun pellets, other than the ones that were removed
5 from Reggie, on the front floorboard, one's up in the
6 visor. The wadding from the shotgun is on the
7 dashboard. And there is a hole in the frame of the
8 truck.

9 As Crystal told you, Crystal Spence told you,
10 there is nothing that indicates that any shots were
11 fired from inside of that truck. The only shot fired
12 came from outside, and it came from Ron McCray.

13 EMS told you, Jennifer Reed told you that Reggie
14 was already dead by the time they got there. They
15 tried. They tried CPR. They did all the steps that
16 they could. They got him in an ambulance. Tried to
17 get him -- they got him to East Cooper. They tried to
18 revive him, bring him back to life in the ambulance,
19 couldn't do it. They tried again at East Cooper,
20 nothing. He died on Underlie Lane face-down in the
21 dirt at the hands of Ron McCray.

22 The autopsy evidence Dr. Presnell testified he
23 was shot in the back and the shoulder, five pellets.
24 Mr. Biering was making a point that she couldn't say
25 those were pellets. He got shot with a shotgun.

1 Buckshot. They pulled buckshot out of his shoulder and
2 out of his back.

3 Victim's blood is on the driver's side door of
4 his truck, the driver's side, and on the Nissan and on
5 the ground.

6 And the murder weapon in this case, Ron McCray
7 tells you, that, yeah, the shotgun, I showed him the
8 shotgun, that's the shotgun I used to kill Reggie
9 Porcher. It was a 12-gauge sawed-off shotgun,
10 double-ought buckshot.

11 These are the shotgun shells that were found at
12 Felicia Simmons's house where Ron McCray told you he
13 hid the gun. This is the shotgun shell, fired shell
14 that Crystal Spence found at the scene where Ron McCray
15 shot Reggie Porcher.

16 SLED's firearm expert testified that the
17 buckshot that he analyzed, or the items that he
18 analyzed were most consistent with buckshot. You will
19 be able to look at these back in the jury room if you
20 wish. Remington. Remington. Same shell.

21 We know that's the shells he used because Ron
22 McCray says where he hid the gun. They found the gun
23 where Ron said he hid it. They found the shells where
24 they were. Where the gun was.

25 And wadding that was found on the dashboard of

1 the victim's truck, most consistent with filler wads
2 from 12-gauge shot shells. That's what was used.
3 12-gauge shotgun with those 12-gauge shot shells fired
4 the wadding and the pellets that were recovered.
5 That's what those pellets did, in addition to killing
6 Reggie Porcher.

7 Now Mr. Biering also referenced Sgt. Alteri,
8 there are two sides to a story, then there's a third
9 side, and somewhere in the middle there is the true.
10 well, Yeah. There's everybody else's side, then there
11 is Ron McCray's side. Ron McCray's confession. And
12 then in the middle is the truth.

13 Because Ron McCray's testimony was a little bit
14 different than what he said in his statement. In his
15 confession, been looking for him for two months, here
16 it had been over five months. His confession, doesn't
17 know what if anything happened between Reggie and
18 Tiffany. On the stand he said he doesn't know if
19 anything happened, could have been lying to him.

20 He said he is not scared of Reggie. They were
21 good, they were cool. He had been over to his house
22 multiple times since that happened, supposedly.

23 He said both on the stand and in his statement
24 that he put the shotgun in the Cleggett's car before
25 they went to Underlie Road. He told Cleggett stop, got

1 out of the car with the shotgun. He told Sgt. Alteri
2 that is intentions were he wanted to beat him up. He
3 got on the stand and first he said -- well actually he
4 said, no, no, I just wanted to talk. I didn't want to
5 beat him up. Wasn't mad.

6 Got out of the car with the shotgun, he yelled
7 at Reggie that he wanted to talk to him. On the stand
8 he tells you that he didn't have a shotgun, that Reggie
9 just ran. Reggie, who they were cool, according to
10 him, just ran. Didn't run because of the shotgun,
11 Reggie just ran.

12 Said Reggie ran to his track after he saw
13 McCray, got in the driver's side, ducked down. And in
14 his statement he says, when he popped up McCray shot
15 him. And in his statement, didn't see Reggie's hands,
16 just his head.

17 Now he claims that he had to go back into the
18 volvo to get that shotgun. Now he claims Reggie wasn't
19 in the truck when he shot him. Now he claims that
20 Reggie had something in his hand and pointed it at him.
21 And we went through, and I walked across the courtroom,
22 and I asked, how did you see in the truck? windows are
23 tinted. It's angled. Didn't see where he was going or
24 what he was doing.

25 Truck rolls back. He testified that he walked

1 over to him, he kicked him to disarm him. I asked him,
2 or he says, he kicked him to disarm him. Only problem,
3 there wasn't a gun. Because there never was a gun.

4 He said that he did that seconds after shooting
5 him. I guess we are supposed to believe that while Ron
6 McCray has just shot Reggie Porcher, and has blasted
7 that shotgun in that neighborhood and everybody is
8 running and scattering, that somebody, I guess it's
9 supposed to be Abdulla, ran over and grabbed the gun
10 just a few feet from where Ron McCray is still with the
11 shotgun and takes this gun that doesn't exist.

12 He also tells you that Reggie is not bleeding,
13 that he is up and moving, that wasn't sure if he hit
14 him and Reggie just went back to hanging out. That's
15 not what the witnesses tell you. That's not what the
16 911 tape tells you.

17 You heard the 911 tape. You hear kids screaming
18 in the background. You hear people crying and wailing
19 because they just saw Ron McCray murder Reggie Porcher.
20 He wasn't just hanging out, he was dying.

21 He tells you what he did with the gun after. He
22 went back to Felicia's apartment, hid it under the bed,
23 borrowed her car. Boykin, tells you he is with Boykin
24 and he asks Boykin to go with him to cash a check and
25 go to Money Man. That's matches up with what Boykin

1 says.

2 Part of what your job is as a jury is to judge
3 the credibility of witnesses. And you can judge
4 credibility by their demeanor on the stand, but also
5 how other witnesses and stories match up and
6 corroborate what they say.

7 Boykin tells you that he went to Money Man, the
8 defendant tells you that's what they did. He also says
9 Boykin was on the phone a lot before the cops pull him
10 over. And if you watch that statement you can kind of
11 see it click. Wait a minute, I was with Boykin he was
12 on the phone, next thing we know the cops pull us over.

13 Bobby shuler told you that James Boykin was
14 calling the police and giving them real-time
15 information where they were. Corroboration.

16 On the stand he admitted it was the murder
17 weapon. He confessed to Sgt. Alteri. He told you it
18 was freely and voluntarily given. That's an issue in
19 any case where someone gives a statement, you have to
20 decide whether that statement is freely and voluntarily
21 given.

22 He was read his rights. He told you from the
23 stand that it was voluntary. He is laughing. He is
24 relaxed. He is cutting up. Nothing was forced out of
25 him. He sat in that witness stand, Ron McCray, and he

1 said, Ronald Santa McCray shot Reginald Porcher.

2 Now let talk about those other witnesses.

3 Joseph Wilson (sic), first of all Joseph Wilson was in
4 the courtroom when other people testified. The Judge
5 has instructed you that you can use that in judging his
6 credibility.

7 If you need another reason to doubt his
8 credibility, that's a reason you can use. He claims
9 Reggie had a gun, but he doesn't know what type -- what
10 color it was or what type it was or where he got it
11 from inside the car.

12 Claims Reggie went to the passenger side of his
13 truck. The physical evidence doesn't tell you that,
14 the defendant doesn't tell you that.

15 He claims Reggie was outside facing the
16 defendant when he was shot by the defendant. He got
17 shot in the back and the side, consistent with being in
18 that truck.

19 One shot fired, back window of the truck
20 shattered. He got shot inside that truck, not what
21 Joseph Wilson thinks he saw from 30 yards away when
22 they were supposed to be arguing with each other and
23 all he heard was the defendant say, hey.

24 He did hear one shot, he got that right. But
25 that's the other thing. I told you when Ron McCray

1 came out of that car with the shotgun, and Reggie saw
2 him and he ran to get away, what any reasonable person
3 would do, he would try to get away. That's every
4 person in the world except for Joe Wilson. who sees a
5 guy with a shotgun, and sees somebody else supposedly
6 with a handgun, and he just keeps walking on up the
7 road to see what is going on.

8 He doesn't stay until the police come. No one
9 else mentioned seeing him there. Never called the
10 police. Had to wrong color car. Lifelong friend of
11 Ron McCray.

12 Edward Bacon, also in the courtroom, also
13 violated the sequestration order, also can use that to
14 judge his credibility. Again, if you need another
15 reason to doubt his credibility, first of all he didn't
16 see anything. Wasn't even there. He heard gunfire,
17 multiple shots.

18 Chavis Wright. He testified that Ron McCray,
19 the defendant, beat up Abdulla Fishburne the day before
20 and Reggie didn't like that because they were friends.
21 All right. He also tells you that he was in Mount
22 Pleasant when the shooting happened, coming home from
23 work. Claims he went to the scene and when he got
24 there Reggie was sitting in Jeff's car.

25 Didn't stay and talk to the police. Didn't

1 really have anything to tell them, but he didn't stay
2 to tell them that he didn't have anything to tell them.

3 Sleepy Mitchell wasn't even there. He saw
4 Abdulla with a gun running after the shooting happened.
5 Again, this case is not about Abdulla Fishburne, it's
6 about Ron McCray murdering Reggie Porcher.

7 Ronald Santa McCray shot Reginald Porcher. The
8 eyewitnesses tell you that. The physical evidence
9 tells you that. The defendant's confession and his
10 testimony tell you that.

11 Ladies and gentlemen, the State has the burden
12 of proving to you beyond a reasonable doubt that Ron
13 McCray murdered Reggie Porcher on September 16th, 2009.
14 And we have proven that to you beyond any reasonable
15 doubt.

16 THE COURT: Ladies and gentlemen, we have
17 reached the point in the trial where I will instruct
18 you on the law applicable to this case.

19 I remind you that during this trial you and I
20 have had certain duties to perform. As the trial
21 judge, it is my responsibility to presides over the
22 trial of this case, and I have a duty to rule on the
23 admissibility of the evidence that has been offered in
24 this trial.

25 You are to consider only the competent evidence

1 before you. If there was any testimony order stricken
2 from the record, you must disregard that testimony.

3 You are to consider only the testimony that has
4 been presented from the witness stand, the exhibits
5 that have been made a part of the record in this case,
6 as well as the stipulations of counsel.

7 I have the additional duty to charge you the law
8 applicable to this case. As the presiding judge, I am
9 the sole judge of the law in this case. It is your
10 duty as jurors to accept the law and apply the law
11 exactly as I state it to you now.

12 If you have any idea as to what the law is or
13 what the law ought to be and it does not agree with
14 what I tell you, you must abandon your own idea because
15 you are sworn to accept the law and apply the law
16 exactly as I state it to you now.

17 In every case tried in this court before a jury,
18 the jury becomes the sole and exclusive judges of the
19 facts. A trial judge may not make any comment
20 regarding the facts in this case. You are the sole
21 judges of the facts in this case. Do not think that by
22 anything that I have said or done throughout the
23 progress of this trial, or during the charge on the
24 law, that I have any opinion about the facts in this
25 case. The law does not allow me to have an opinion

1 about the facts in this case.

2 This is a matter solely for you to determine.
3 As jurors it becomes your duty to determine the effect,
4 value, and weight of the evidence presented during this
5 trial. The indictment in this case charges the
6 defendant with the charge of murder.

7 I remind you the fact that the defendant was
8 charged, arrested and indicted in this case is not
9 evidence in this case and cannot be considered by you
10 as evidence of guilt in this case, nor does it create
11 any presumption or inference of guilt.

12 An indictment is simply the formal written
13 instrument by which this case is brought into the
14 court. It is the written document by which this case
15 and the charge are brought and made against the
16 defendant.

17 Just as the indictments in this case are not
18 evidence, any terminology or labels used to refer to
19 the individuals involved in this case cannot be
20 considered as evidence. For example, the use of words
21 defendant and victim are merely formal labels and may
22 not be considered by you as evidence in this case.

23 The defendant has pled not guilty to this
24 indictment. A person charged with committing a
25 criminal offense in South Carolina is never required to

1 prove himself innocent. I charge you it is an
2 important rule of law that the defendant in a criminal
3 trial, no matter what the seriousness of the charge may
4 be, will also be presumed innocent of the crime charged
5 for which the indictment was issued unless guilt has
6 been proven by evidence satisfying you of that guilt
7 beyond a reasonable doubt.

8 This presumption of innocence does not end when
9 you begin your deliberations, but it accompanies the
10 defendant throughout the trial until you reach a
11 verdict of guilt based on evidence satisfying you of
12 that guilt beyond a reasonable doubt.

13 The presumption of innocence is not mere legal
14 theory. It is not just a legal phrase. It is a
15 substantial right to which every defendant is entitle
16 until you, the jury, are satisfied from the evidence of
17 the defendant's guilt beyond a reasonable doubt.

18 The State has the burden of proving the
19 defendant guilty beyond a reasonable doubt. Some of
20 you may have served as jurors before in civil cases
21 where you were told that it was only necessary to prove
22 that a fact is more likely true than not true, such as
23 by a greater weight or preponderance of the evidence.

24 In criminal cases, the State's proof must be
25 more powerful than that. It must be beyond a

1 reasonable doubt.

2 Proof beyond a reasonable doubt is proof that
3 leaves you firmly convinced of the defendant's guilt.
4 There are very few things in this world that we know
5 with absolute certainty. And in criminal cases, the
6 law does not require proof that overcomes every
7 possible doubt.

8 If, based upon your consideration of the
9 evidence, you are firmly convinced that the defendant
10 is guilty of the crime charged, you must find the
11 defendant guilty.

12 On the other hand, if you think there is a real
13 possibility that the defendant is not guilty, you must
14 give the defendant the benefit of the doubt and find
15 him not guilty.

16 There are two types of evidence that are
17 generally presented during a trial; direct evidence and
18 circumstantial evidence. Direct evidence is the
19 testimony of a person who claims to have actual
20 knowledge of a fact, such as an eyewitness. It is
21 evidence which immediately establishes the fact to be
22 proved.

23 Circumstantial evidence is proof of a chain of
24 facts and circumstances indicating the existence of a
25 fact. It is evidence which immediately establishes

1 collateral facts from which the main fact may be
2 inferred. Circumstantial evidence is based on
3 inference and not on personal knowledge or
4 observations.

5 The law makes absolutely no distinction between
6 the weight or value to be given either direct or
7 circumstantial evidence, nor is a greater degree of
8 certainty required of circumstantial evidence, then
9 that of direct evidence.

10 You should weigh all of the evidence in this
11 case. And, after weighing all of the evidence, if you
12 are not convinced of the guilt of the defendant beyond
13 a reasonable doubt, you must find the defendant not
14 guilty.

15 Necessarily, you must determine the credibility
16 of the witnesses who have testified in this case.
17 Credibility simply means believability. It becomes
18 your duty, as jurors, to analyze the facts and
19 determine which convinces of you of its truth.

20 In determining the believability of the
21 witnesses who have testified in this case, you may
22 believe one witness over several witnesses, or several
23 witnesses over one witnesses.

24 You may believe a part of the testimony of a
25 witness, and reject the remaining part of the testimony

1 of that same witness.

2 You may believe the testimony of a witness in
3 its entirety, or reject the testimony of a witness in
4 its entirety. You may consider whether any witness has
5 exhibited to you any interest, bias, prejudice, or
6 other motive in this case.

7 You may also consider the appearance and manner
8 of a witness while on the witness stand.

9 I remind you that the rule of sequestration was
10 implemented in this case. The fact that a witness
11 violated the rule of sequestration by remaining in the
12 courtroom prior to giving testimony should be
13 considered by you in determining the weight and credit
14 to be given to you to the testimony of that witness as
15 any other facts, giving it the weight that you think it
16 deserves.

17 A person who has a past criminal record is
18 competent to testify during trial. A past record does
19 not affect the ability of that witness to testify. The
20 past record may be considered by you, if at all, in
21 determining the witness's believability.

22 Remember, you are the sole judges of the facts
23 in this case, and of the believability of any and all
24 of the witnesses.

25 The rules of evidence ordinarily do not permit

1 witnesses to testify to opinions or to conclusions. An
2 exception to this rule exists for witnesses we call
3 expert witnesses.

4 A witness who by education or experience has
5 become an expert in some art, science, profession or
6 calling may state an opinion as to relevant and
7 material matters in which the witness claims to be an
8 expert, and may also state the reasons for that
9 opinion.

10 You should consider any expert opinion received
11 in evidence in this case, and like any other evidence,
12 give it the weight that you think it deserves.

13 If you decide that the opinion of an expert
14 witness is not based on sufficient education or
15 experience, or if you conclude that the reasons given
16 in support of the opinion are not sound, or that the
17 opinion is outweighed by other evidence, you may
18 disregard that opinion entirely.

19 An expert witness's testimony is to be given no
20 greater weight than that of other witnesses simply
21 because the witness is an expert. Further, you are not
22 required to accept an expert's opinion, even though it
23 is not contradicted.

24 A statement alleged to have been made by the
25 defendant has been admitted into evidence in this case.

1 while the Court has determined that the statement is
2 admissible, I instruct you that you make the ultimate
3 decision of whether or not the defendant made the
4 statement.

5 If the defendant did make the statement, you
6 must determine whether the statement was made by the
7 defendant voluntarily and of his own free will. This
8 means that the statement was not caused by pressure,
9 force, fear, threats, coercion or intimidation, or by
10 hope or a promise of leniency, or a reward of any kind.

11 In determining whether the statement was
12 voluntarily, you should consider both the
13 characteristics of the defendant and the details of the
14 questioning.

15 Some of the factors that you must consider are
16 the age of the defendant; the defendant's education or
17 lack of education; the defendant's mental ability or
18 capacity; the defendant's IQ or intelligence; the
19 defendant's background and environment; the place and
20 length of detention; the nature of the questioning; and
21 the advise or lack thereof to the defendant of his
22 constitutional rights; including, but not limited to,
23 the right to remain silent; that any statement could
24 have been used against him in a court of law; the right
25 to have a lawyer present; that if he could not afford a

1 lawyer, a lawyer would be appointed to represent him
2 without any cost; and that he could stop making a
3 statement at any time.

4 You must carefully consider all of the
5 surrounding circumstances before you give any weight to
6 an alleged statement.

7 The State has the burden of proving beyond a
8 reasonable doubt that the alleged statement was
9 voluntary. If you determine it was, you may give the
10 statement any further consideration you deem proper.
11 You must decide what weight, if any, should be given to
12 the alleged statement.

13 If you determine that the alleged statement was
14 not the free and voluntarily statement of the
15 defendant, you should not consider the statement at
16 all.

17 In order to establish criminal liability,
18 criminal intent is required. For example, the mental
19 state required to be proven by the State for a
20 particular crime might be purpose, intent, knowledge,
21 recklessness or criminal negligence.

22 Criminal intent must be proven by the State
23 beyond a reasonable doubt. Criminal intent is always a
24 matter that must be determined by the jury from the
25 circumstances surrounding the situation.

1 There is no way to prove intent to a
2 mathematical certainty, because there is no way to tell
3 with exact certainty what the person had in mind. The
4 law says that criminal intent may be inferred from the
5 circumstances shown to have existed.

6 This is how you make a determination of whether
7 or not the element requiring intent was present. It is
8 not necessary to establish intent by direct or positive
9 evidence, but intent may be established by inference in
10 the same way as any other fact by taking into
11 consideration the acts of the parties, and all the
12 facts and circumstances of the case.

13 Criminal intent is a mental state. It is a
14 conscious wrongdoing. It is up to you to determine
15 what the defendant intended to do based upon the
16 circumstances shown to have existed.

17 Criminal intent can arise from action, or a
18 failure to act. It may arise from negligence,
19 recklessness or an indifference to duty, or to
20 consequences that is considered by the law to be the
21 equivalent of criminal intent.

22 The defendant is charged with murder. The State
23 must prove beyond a reasonable doubt that the defendant
24 killed another person with malice aforethought. Malice
25 is hatred, ill will, or hostility towards another

1 person. It is the intentional doing of a wrongful act
2 without just cause or excuse, and with an intent to
3 inflict injury, or under circumstances that the law
4 will infer an evil intent.

5 Malice aforethought does not require that malice
6 exist for any particular time before the act is
7 committed. But, malice must exist in the mind of the
8 defendant just before and at the time that the act is
9 committed. Therefore, there must be a combination of
10 the previous evil intent and the act.

11 Malice aforethought may be expressed or
12 inferred. These terms express and inferred do not mean
13 different types of malice, but merely the manner in
14 which malice may be shown. That is either by direct
15 evidence, or by inference from the facts and
16 circumstances which are proved.

17 Express malice is shown when a person speaks
18 words which express hatred or ill will for another
19 person, or when the person prepared beforehand to do
20 the act which was later accomplished. Malice may be
21 inferred from conduct showing a total disregard for
22 human life.

23 The defendant has raised the defense of
24 self-defense. Self-defense is a complete defense, and
25 if it is established you must find the defendant not

1 guilty.

2 The State has the burden of disproving
3 self-defense by proof beyond a reasonable doubt. If
4 you have a reasonable doubt of the defendant's guilt
5 after considering all of the evidence, including the
6 evidence of self-defense, you must find the defendant
7 not guilty.

8 On the other hand, if you have no reasonable
9 doubt of the defendant's guilt after considering all
10 the evidence, including the evidence of self-defense,
11 then you must find the defendant guilty.

12 The following elements are required to establish
13 self-defense. First, the defendant must be without
14 fault in bringing on the difficulty. If the defendant's
15 conduct was the type which was reasonably calculated to
16 and did provoke a deadly assault, the defendant would
17 be at fault in bringing on the difficult, and would not
18 be entitled to an acquittal based on self-defense.

19 The second element of self-defense is that the
20 defendant was actually in imminent danger of death or
21 serious bodily injury, or that the defendant actually
22 believed he was in imminent danger or death or serious
23 bodily injury.

24 If the defendant was actually in imminent
25 danger, it must be shown that the circumstances would

1 have warranted a person of ordinary firmness and
2 courage to strike the fatal blow to prevent death or
3 serious bodily injury.

4 If the defendant believed he was in imminent
5 danger of death or serious bodily injury, it must be
6 shown that a reasonably prudent person of ordinary
7 firmness and courage would have had the same belief.

8 In deciding whether the defendant actually was,
9 or believed he was, in imminent danger of death or
10 serious bodily injury, you should consider all the
11 facts and circumstances surrounding the crime,
12 including the physical condition and characteristics of
13 the defendant and the victim.

14 The defendant does not have to show that he was
15 actually in danger. It is enough if the defendant
16 reasonably believed he was in imminent danger, and a
17 reasonably prudent person of ordinary firmness and
18 courage would have had the same belief.

19 The defendant has the right to act on
20 appearances, even though the defendant's belief may
21 have been mistaken. It is up to you, and for you to
22 decide, whether the defendant's fear of immediate
23 danger death or serious bodily injury was reasonable,
24 and would have been felt by an ordinary person in the
25 same situation.

1 Evidence of prior difficulty between the
2 defendant and the victim may be considered in deciding
3 whether a threat existed, whether the defendant had a
4 reason to believe a threat existed, and how serious
5 that threat was.

6 The intoxication of the victim may be considered
7 in deciding whether the defendant's fear of death or
8 bodily harm was reasonable.

9 The final element of self-defense is that the
10 defendant has no other probable way to avoid the danger
11 of death or serious bodily injury than to act as the
12 defendant did in this particular instance.

13 If the defendant was on his own premises, the
14 defendant had no duty to retreat before acting in
15 self-defense.

16 A person cannot be required to make an exact
17 calculation as to the degree or amount of force which
18 may be needed to avoid death or serious bodily harm.
19 Therefore, in self-defense, the defendant has the right
20 to use the force needed to avoid death or serious
21 bodily harm.

22 The force used in self-defense does not have to
23 be limited to the degree or amount of force used by the
24 victim. The defendant has the right to use so much
25 force, as appeared to be necessary, for complete

1 self-protection in which a person of ordinary reason
2 and firmness would have believed to be needed to
3 prevent death or serious bodily harm.

4 Ladies and gentlemen, I'm now going to go over
5 the verdict form. Madam Foreperson, it is your
6 responsibility to complete the verdict form. The
7 decision must be unanimous, which means all 12 of you
8 must agree on the verdict.

9 In the Court of General Session for the Ninth
10 Judicial Circuit, 2011-GS-08-947, State of South
11 Carolina, County of Berkeley versus Ron Santa McCray,
12 Defendant. Question number one, we the jury find the
13 defendant guilty. Or, we the jury find the defendant
14 guilty of murder.

15 Madam Foreperson, you will sign the verdict form
16 indicating again the unanimous decision of all 12 of
17 you. You will sign it, date it, and at that time you
18 will indicate to the bailiff by knocking on the jury
19 room door that you have reached a unanimous decision
20 and have reached a verdict.

21 Ladies and gentlemen, to the 12, is there any
22 member of the jury panel who cannot complete
23 deliberations at this time, if so please raise your
24 hand?

25 Ladies and gentlemen -- please let the record

1 reflect that all 12 jurors have indicated that they can
2 continue with their deliberations. Madam Foreperson,
3 if any member of the jury, before the bailiff brings in
4 the verdict form and evidence to you, indicates
5 otherwise, please immediately alert the bailiff.

6 Ladies and gentlemen, this will be the last time
7 I indicate this to you. Do not begin your
8 deliberations. Do not discuss this case amongst
9 yourselves. We will be gathering the evidence to come
10 back to you, as well as the verdict form. Once all of
11 those things have been accomplished, the bailiff will
12 indicate to you that you may begin your deliberations.
13 So until that time, do not begin your deliberations.

14 To my two alternates, this completes your
15 service to this case, but I will keep you. Do not
16 begin your deliberations. Do not discuss this case
17 with each other, or with anyone, until I have released
18 you from service.

19 Ladies and gentlemen, you are excused. Please
20 take all your belongings with you.

21 Please rise for the jury.

22 (Whereupon, the jurors exit the courtroom.)

23 THE COURT: Thank you, be seated.

24 Any objection to the charge as read, from the
25 state?

1 MR. ALFARO: None to the charge, Your Honor. I
2 do believe that when you were reviewing the jury form
3 with the verdict, I think you said guilty both times.

4 THE COURT: Do you wish for me to bring them
5 back in?

6 MR. ALFARO: I think probably it's best to do
7 that on record.

8 THE COURT: All right.

9 Any objection to the charge as read?

10 MR. BIERING: Yes, Your Honor. The objection
11 would simply be that I would specifically ask that the
12 Court charge 16-11-440, subsection C, as previously
13 presented.

14 THE COURT: I have marked that as Court's 2.
15 Thank you, bring the jury back in.

16 MR. BIERING: Your Honor, I have got further.
17 Just the issue of we'd also requested that
18 mistake be charged, we would ask that be charged as
19 well.

20 THE COURT: I'm sorry, I did not hear.

21 MR. BIERING: Mistake.

22 THE COURT: Mistake be charged. It was
23 included, Mr. Biering. Thank you.

24 MR. BIERING: Thank you, Your Honor.

25 THE COURT: All right, they are taking a break.

1 Let me know when they are ready.

2 I will allow you to articulate at the close of
3 the defendant's case, any motions or matter.

4 MR. BIERING: At this point now, Your Honor?

5 THE COURT: Yes.

6 MR. BIERING: Your Honor, we would renew our
7 motion for directed verdict at this time.

8 Furthermore, Your Honor, we just take continued
9 exception to our inability to present the evidence that
10 we had that there was a, number one, knowledge by my
11 client. And, number 2, significant numbers of
12 incidents of a pattern, routine of conduct that would
13 have furthered into my client's self-defense argument.

14 And the testimony has been proffered, but we
15 make note of the continuing objection to that.

16 Thank you, Your Honor.

17 THE COURT: Mr. Alfaro.

18 MR. ALFARO: Your Honor, regarding the directed
19 verdict motion, as at the close of the State's case,
20 any evidence, it's the standard totality of the
21 circumstances. Looking at the evidence in the light
22 most favorable to the State, I believe that there was
23 nothing presented during the defense's case which would
24 substantiate a motion for directed verdict being
25 granted.

1 THE COURT: All right.

2 Anything further, Mr. Biering?

3 MR. BIERING: No, Your Honor.

4 THE COURT: There has been nothing presented
5 since the close of the State's case that would indicate
6 that your motion for directed verdict should be
7 granted. In the light most favorable to the State,
8 there was the existence of evidence from which a jury
9 could reasonably infer that the defendant was guilty of
10 murder.

11 Note your exception. There has again been
12 nothing presented that would indicate that the Court
13 would have changed its ruling based upon the prior bad
14 acts of the victim as relates to this matter.

15 Anything further?

16 MR. BIERING: Nothing further, Your Honor, from
17 the defendant.

18 THE COURT: We have marked Court's 2, which was
19 the charge that you presented this morning, requesting
20 -- and I did include the portion of that, just for the
21 record.

22 And is there anything further regarding charges
23 that we need place on the record, Mr. Biering?

24 MR. BIERING: No, Your Honor.

25 THE COURT: All right. Do you believe that the

1 Court instructed substantially similar to your request
2 regarding self-defense?

3 MR. BIERING: With the only exception that I
4 have already made as it relates to the 16-11, the
5 statute that I asked. Yes, Your Honor.

6 THE COURT: And I did include duty to retreat if
7 the defendant was on his own premises, which I believe
8 was the essence of what you requested.

9 With that there is no other request; is that
10 correct?

11 MR. BIERING: Your Honor, it's just our position
12 that, because that has been brought back up by the
13 Court, that the essence of what -- the essence of it
14 would not be sufficient. That we requested that code
15 section statute be presented 16-11-440, subsection (c)
16 would be an appropriate charge.

17 Thank you, Your Honor.

18 THE COURT: All right.

19 And anything further before, and we will just be
20 waiting until the jury comes in so I can go back over
21 the verdict form. My apologizes to all the parties.

22 MR. ALFARO: Your Honor, briefly for the record
23 regarding the statute that Mr. Biering is referencing.
24 The State had opposed the inclusion of the statute
25 itself, feeling it would be unduly confusing for the

1 jury. There had not been any evidence presented that
2 would substantiate that charge being provided to the
3 jury. We have nothing further on that.

4 THE COURT: Thank you.

5 Can you take this time to be gathering the
6 evidence that will go back. At this time my
7 understanding is that there are ammunition; is that
8 correct.

9 MR. ALFARO: Yes, Your Honor.

10 THE COURT: All right. So at this time I'm not
11 going to send back both the weapon and the ammunition.
12 So at this time we will send back only the ammunition.
13 If they request the shotguns, I will then remove the
14 ammunition and we will send the shotguns back.

15 MR. ALFARO: Thank you, Your Honor.

16 MR. BIERING: Thank you, Your Honor.

17 THE COURT: Is all the evidence ready to go
18 back?

19 MR. BIERING: Yes, Your Honor.

20 MR. ALFARO: And the guns have been separated.

21 THE COURT: All right. Thank you.

22 (Whereupon, the jurors enter the courtroom.)

23 THE COURT: Ladies and gentlemen, it was brought
24 to my attention I may have misread the verdict form, so
25 I'm going to go over the verdict form with you one more

1 time just for clarification. But you will have this
2 verdict form with you.

3 In the Court of General Session for the Ninth
4 Judicial Circuit, 2011-GS-08-947, State of South
5 Carolina versus Ron Santa McCray. There are two
6 questions to number one and number two.

7 Number one, we the jury find the defendant not
8 guilty. Or, we the jury find the defendant guilty of
9 murder.

10 And once again, Madam Foreperson, there is a
11 place for you to sign that this is the unanimous
12 decision of the jury. You will sign and date it and
13 indicate to the bailiff that you have reached verdict.

14 Ladies and gentlemen, we have gotten all the
15 evidence together, so it should be just a few moments
16 and then you may begin your deliberation.

17 Madam Foreperson, did any person indicate they
18 were unable to complete their deliberation?

19 A JUROR: No.

20 THE COURT: All right, thank you.

21 Thank you, you are excused.

22 And to my two alternates, they will place in you
23 a separate room together, thank you.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: Any objection to the verdict form as

1 read, from the State?

2 MR. ALFARO: No, Your Honor.

3 THE COURT: From the defendant?

4 MR. BIERING: No, Your Honor.

5 THE COURT: All right, thank you.

6 This will be go back, and all of the evidence.

7 All right, anything further regarding this
8 matter?

9 MR. ALFARO: Nothing from the State, Your Honor.

10 THE COURT: From the defense?

11 MR. BIERING: Nothing from the defendant.

12 THE COURT: All right thank you. We are at
13 ease.

14 (Whereupon, the jury received the evidence at
15 11:18 a.m.)

16 (Whereupon, a recess was taken.)

17 THE COURT: I understand we have a verdict.

18 Anything from the State before we bring in the
19 jury?

20 MR. ALFARO: Nothing from the State.

21 THE COURT: Anything from the defendant?

22 MR. BIERING: Nothing from the defendant.

23 THE COURT: All right.

24 Ladies and gentlemen of the audience, you are
25 free to remain in the courtroom. But the instructions

1 following, I do not have any idea what the verdict is.

2 Please remember, as I have instructed from the
3 very beginning of this trial, this courtroom is a place
4 of honor, and outbursts of any kind will not be
5 tolerated. If you feel that you will be unable to
6 maintain proper decorum, now is the time to leave.

7 Additionally, in order to preserve courtroom
8 security, once the verdict is read the jury will be
9 escorted out, all members of the audience must remain
10 seated until you are alerted by courtroom security that
11 you may leave the courtroom.

12 If you are unable to follow any of those
13 instructions, you may leave now. If you cannot follow
14 the Court's instructions, I may hold you in contempt,
15 and that is punishable by imprisonment for up to one
16 year.

17 So please understand that I am giving these
18 instructions as part of my responsibility to maintain
19 order and decorum in the courtroom. If you cannot
20 follow any of those instructions, now is the time to
21 leave.

22 Let's bring in the jury.

23 Everyone will remain seated.

24 (Whereupon, the jurors enter the courtroom at
25 12:05 p.m.)

1 THE COURT: Madam Foreperson, I understand you
2 have reached a verdict. If you will hand the verdict
3 form to the bailiff. And the bailiff, I need to make
4 sure that the verdict is in order.

5 Mr. McCray, please rise.

6 THE CLERK: State of South Carolina, County of
7 Berkeley versus Ron Santa McCray. Indictment number
8 2011-GS-08-947.

9 We the jury find the defendant guilty of murder.
10 And it was certified by the foreperson.

11 Ladies and gentlemen, is this your verdict?

12 If I have accurately published the verdict,
13 please indicate by raising up your right hand at this
14 time.

15 THE COURT: Thank you. Let the record reflect
16 that all 12 jurors raised their right hand.

17 Anything further required of the jury, Mr.
18 Biering?

19 MR. BIERING: No, Your Honor.

20 THE COURT: From the State?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: Thank you.

23 Have a seat, Mr. McCray. Thank you.

24 Ladies and gentlemen, this completes your
25 service for this matter. It also completes your

1 service for the week. If you will please be escorted
2 into your jury room, I will be there in just a few
3 moments to personally thank you.

4 Please remain seated.

5 (Whereupon, the jurors exit the courtroom at
6 12:07 p.m.)

7 THE COURT: Outside the presence of the jury,
8 anything further requested of the jury?

9 MR. BIERING: No, Your Honor.

10 THE COURT: Any objection to releasing the jury
11 at this time?

12 MR. BIERING: No, Your Honor.

13 THE COURT: From the State?

14 MR. ALFARO: No, Your Honor.

15 THE COURT: All right.

16 And are you prepared to go forward with the
17 sentencing at this time, Mr. Biering.

18 MR. BIERING: I am, Your Honor.

19 MR. ALFARO: Your Honor, may we just have two
20 minutes with the victim's family.

21 THE COURT: Mr. Biering, I'm going to release
22 the jury. If you would take this time to advise Mr.
23 McCray of his appellate rights, that he will 10 days to
24 appeal the jury's decision.

25 We will be at ease. Thank you.

1 (Whereupon, a recess was taken.)

2 THE COURT: Mr. Alfaro, I have the sentencing
3 sheet.

4 Is there anything further from the State?

5 MR. ALFARO: Your Honor, I'm completing the
6 form, if you want that as well.

7 THE COURT: I do not need that at this time.
8 Thank you.

9 MR. ALFARO: Your Honor, the State is ready to
10 proceed with sentencing.

11 You've heard the facts of the case throughout
12 the week. The testimony was that this murder took
13 place in broad daylight, in a community area where
14 there were numerous innocent bystanders, including
15 children, who had just gotten off the school bus.

16 For the defendant to go to that location with a
17 sawed-off shotgun and murder the victim in that place
18 not only obviously took the life of an innocent victim,
19 but he also placed the lives of numerous bystanders in
20 jeopardy as well.

21 His prior record is 1998 possession of marijuana
22 between 5 and 50 pounds, unlawful carrying of a pistol
23 in 1991. That marijuana charge was 1998.

24 Your Honor, based on the facts of the case, as
25 well as the prior gun conviction, the State is asking

1 for a life sentence. We believe it is most appropriate
2 sentence given the nature of the offense, as well as
3 the factors the State has just expressed.

4 The victim's father, mother, as well as his
5 brother and sister are present in the courtroom and
6 would like to address Your Honor at the appropriate
7 time.

8 THE COURT: All right. Let me hear from the
9 family. And they may just stand right where they are.
10 I know this courtroom is somewhat tight.

11 I'm going to need you to speak loudly. State
12 your full name for the record.

13 MR. PORCHER: Your Honor, Robert Porcher, III.

14 Your Honor, our family chain has been broken.
15 Not by sickness, old age, an accident like an auto
16 accident, but by Ron McCray. Who of his own free will
17 made a conscious decision that Reginald Mitchell
18 Porcher did not deserve to live anymore..

19 The impact of such an unexpected death has had a
20 tremendous, a tremendous sadness on our family. And I
21 briefly want to share with this Court just some of
22 life's experiences that Ron Santa McCray robbed
23 Reginald of. A young, healthy 31-year-old male.

24 Reginald will never fall in love and ask a girl
25 to marry him. He has been robbed of working in a

1 that he be put to death.

2 But we are asking that he be given a sentence
3 that everyday he wakes up, after a restless night,
4 everyday he wakes up he will remember the heartache and
5 the pain that he caused my family and myself. And we
6 pray that he have a very miserable time to wherever he
7 is going.

8 And in my closing, I will say to this Court, it
9 will be all over in the morning. Again we thank you
10 for this opportunity.

11 MR. ALFARO: Your Honor, the only other thing I
12 neglected to add and that is the defendant had a 1993
13 possession of crack conviction.

14 Your Honor, I think, as I stated before, the
15 facts of the case, not only the defendant's actions
16 before and during the shooting, but also his conduct
17 after the shooting, we agree with the family, and it's
18 the State's position that a life sentence would be the
19 appropriate sentence for the Court to impose.

20 THE COURT: Thank you.

21 Mr. Biering, I'll be happy to hear from you,
22 your client, or anyone regarding sentencing.

23 MR. BIERING: May it please the Court, Your
24 Honor.

25 Your Honor, here in the courtroom with us in

1 back is my client's mother, Evelyn McCray, her brother,
2 David McCray.

3 My client is 46 years old. As the Court knows,
4 he has been in detention since September 17, 2009,
5 1,140 days.

6 Your Honor, when I first met Mr. McCray, I first
7 met him earlier this year. And what I have discovered
8 was a man who was a craftsman, plasterer and not just a
9 drywaller. When I talked to him about his abilities
10 there, talked to him about the work he's done, some of
11 the projects he has been involved in.

12 I think he describe already to the Court living
13 in a couple of different places.

14 He, Your Honor, he is a father. He 46 years old
15 now. Certainly the minimum the Court could impose is a
16 30 year sentence which would make Mr. McCray a very old
17 man when he would potentially finish that minimum
18 sentence.

19 I do believe that he asks to be able to address
20 the Court at this time. His mother is just not capable
21 of addressing the Court at this time.

22 I'd ask the Court allow Mr. McCray to speak at
23 this point on the issue of sentencing. We are asking
24 the Court impose a 30 year sentence.

25 THE COURT: All right.

1 Mr. Biering, did you advise Mr. McCray of his
2 right to appeal the sentence that I will impose today.

3 MR. BIERING: Yes, Your Honor, we have.

4 THE COURT: All right. And did you advise him
5 that this is a violent and a most serious offense?

6 MR. BIERING: I have in the past, I will again.

7 THE COURT: Okay, thank you.

8 MR. BIERING: Yes, Your Honor. I've reviewed
9 that. In summary reviewed my advise to Mr. McCray.

10 THE COURT: Thank you.

11 And you have advised Mr. McCray that he does not
12 have to address the Court, and I will not consider the
13 fact that he did not address the Court in imposing
14 sentence?

15 MR. BIERING: Yes, Your Honor, I have.

16 THE COURT: Mr. McCray, I will be happy to hear
17 from you.

18 THE DEFENDANT: Thank you, Your Honor.

19 I would like to say that I'm sorry to the family
20 for this incident. I felt as though that my life was
21 being threatened. I would never, and I haven't,
22 imposed no kind of life threats on anyone before, ever.
23 I have never shot anyone.

24 I think that the jury was probably mislead
25 because they never had a chance to see Reginald's prior

1 records. My baby's mother, Tiffany, she made number
2 five that he actually raped her.

3 But, at the same time, I really feel as though
4 the jury was the product of knowing Reginald. In '98
5 he killed Anthony Moultrie. The jury was deprived of
6 knowing him.

7 But at the same time, I am sorry for the actions
8 that happened. And I felt as though that knowing him,
9 knowing his history, he came at me in a violent manner
10 as many people have testified for that.

11 I am a man first. And I respect other people's
12 lives. I won't be charged with rape, or even accused
13 of it. At the same time I have children. And from
14 what I was told later after this arrest, that rape took
15 place in front of my children.

16 But at the same time, you know, like I said, I'm
17 sorry for Reggie dying. At the same time he was high.
18 He does -- very reason he does what he does. I don't
19 have an answer to that. He is totally different
20 people. He has always been sheltered. I have always
21 worked, that's just what I do.

22 I cannot express anymore saying that I believe
23 that the jury was misled. If they were given the
24 chance to really know him.

25 THE COURT: Mr. McCray, I want you to tell me

1 about you. This is not about the victim, I'm imposing
2 sentence upon you.

3 THE DEFENDANT: Yes, ma'am.

4 Your Honor, I do have three children that I
5 love, they love me. I wish to see them again. I wish
6 to watch them grow.

7 One daughter, she is in college. My mother, she
8 is in age, up in age now. Her health is not that well.
9 I have a brother who has been a victim of a violent
10 person. He is in a wheelchair now.

11 Your Honor, I wish to proceed in society and do
12 the good things that I have always been doing. People
13 just don't have bad things to say about me. But I have
14 always respected other people. I have never
15 disrespected people.

16 I just hope that the sentencing you would
17 actually look at both sides. I'm not that type of
18 person. I am just not. I'm just not that type of
19 person. Whether you talk to people that has been
20 around me in this jail, I'm not that type of person.

21 And, Your Honor, please just consider that. I'm
22 not that type of person.

23 THE COURT: Anything further, Mr. Biering?

24 MR. BIERING: Nothing further, Your Honor.

25 THE COURT: All right.

1 Mr. McCray, I have sat here and observed you for
2 the last week. I have heard the testimony. Your
3 attorney has given you, in my opinion, one of the most
4 zealous defenses that I have seen considering the facts
5 and circumstances surrounding this case.

6 He was given additional time to come follow any
7 leads that you had given him, and the assistance of the
8 solicitor's office throughout this trial, to present a
9 very vigorous defense for you.

10 Mr. McCray, the jury has given the opportunity
11 to consider self-defense, and they have found you
12 guilty of murder.

13 Based upon the testimony that I have heard, it's
14 the order of the Court on indictment 2011-GS-08-947,
15 that you be committed to the State Department of
16 Corrections for a term of life. Give you credit for
17 the time that you have served.

18 Good luck to you, Mr. McCray. Thank you.

19 We will take 15 minutes. Thank you.

20 (Whereupon, the proceedings in this matter
21 before the Court were adjourned.)

22 * * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER,
official Court Reporter for the Ninth Judicial
Circuit of the State of South Carolina, do hereby
certify that the foregoing is a true, accurate, and
complete transcript of record, and of all the
proceedings had and evidence introduced in the above
captioned case, relative to appeal, in the Circuit
Court for South Carolina, on the indicated date.

I do further certify that I am neither
of kin, counsel, nor interest to any party hereto.

Anne Bouley Meyer, RPR
Circuit Court Reporter